

January 19, 2011

Village Board  
Village of Fontana  
P.O. Box 200  
Fontana, WI 53125

**Re: Chapters 17 & 18**

Dear Board Members:

The following is a first draft of a list of drafting suggestions for the upcoming chapter 17 and 18 rewrite project. The list continues to grow, and it is entirely possible that there will be more priorities suggested before we conclude this matter. I wanted to at least share my initial thoughts, as follows:

1. Shore Yard Setback. The shore yard set back in the Village is quite a bit different than shore yard set backs in other neighboring communities on Geneva Lake and on other lake communities in Walworth County. The trend is toward larger shore yard set backs which would have the net effect of making existing property non-conforming, but legal, non-conforming.
2. Shore Yard Preservation. In addition to set backs, the Village could consider shore yard preservation requirements which would limit the amount of land disturbance (beyond the limits imposed by the DNR and the Administrative Code) and require perhaps preserving natural features, and preserving native shrubs and trees so as to create a more natural lake front appearance. This type of regulation seems to work better in rural areas. They may not be appropriate for a village setting, but these regulations are growing in a number around the state.
3. Conservation Development. There is a growing trend towards conservancy development. Even Walworth County has some fairly aggressive regulations on the book. This should strongly be considered by the Village.
4. Rear Yard Setback. The Village should consider adopting a rear yard setback. At present, there is nothing on the Village books with regard to a rear yard setback.
5. Reconcile street yard/possible rear yard/shore yard. There is some confusion in our code with regard to reconciling street yards with rear yard with regard to shore yard. A decision should be made as to the direction of the code on these important subjects and the code should be reconciled.

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6. Minimum Road Frontage. The zoning ordinance should have a code section which calls for a minimum road frontage requirement. At present, I believe only the subdivision ordinance has a 50 foot abutment requirement. But it should exist in both, and it should be consistent between the two codes.
7. Road Access. The Village should consider, as a matter of policy, whether to allow a new subdivision to comply with the zoning and subdivision ordinances by creating other than public road access to lots. This is not absolutely consistent among other jurisdictions. The Village has historically allowed lots to be developed if they abut on a public or private road. It should be discussed at least.
8. BSOP v. CUP. The Village should consider whether or not the current building site and operational plan approval requirement is necessary to the full extent of its current requirements or whether some or all of it could be replacement with an easier to understand and follow conditional use permit process.
9. Use Variances. There is a going trend in zoning ordinances to include a flat prohibition against use variances. There is also some law on this subject which is not entirely clear. It should at least be discussed and perhaps made clear in the Village zoning ordinance.
10. Uses by Right. The new ordinance should clearly comply with the most recent case law on this subject of allowing for some uses by right in all zoning districts, including commercial districts. The code cannot limit uses to only conditional uses, according to the most recent case law.
11. Environmental Corridor. The Village was once a leader with regard to environmental corridor regulation, but the regulation environment has moved on well beyond where the Village's code currently stands. The Village should consider much stronger environmental corridor regulations, including a distinction between primary, secondary and isolated natural areas.
12. Wetland Regulations. The Village should consider specifically regulating wetland areas within the Village in a manner which is consistent with State law.
13. Neighborhood Specific Regulations. I think the time has come for the Village to recognize that it has a variety of very distinct residential neighborhoods which ought to be regulated in a neighborhood specific manner. The best example I can give for this is the Williams Bay Cedar Point Park regulations which literally have distinct zoning districts for each phase of development of the Cedar Point Park subdivision. Neighborhood specific regulations should, for example, differentiate in an obvious way between Glenwood Springs and Pheasant Ridge and the lake front and Country Club Estates. These neighborhoods are individual enough and distinct enough that



they should have their own stand alone zoning regulations and not be lumped into a single very broad category. This change would be an important accomplishment for the Village, in my opinion.

14. Lake Front Zoning District. As noted above, I think the lake front should have its own zoning district which recognizes the unique character of the lake front and draws a sharp distinction between the lake front zoning district and other, off lake front residential neighborhoods. As a matter of policy, the Village should make a decision as to whether the lake front has been fully developed or whether to allow flexibility in such a way that future re-development could possibly take place. In other words, the regulation should be drafted to either allow for future re-development of existing developed properties or treat the entire lake front area as fully and completely developed and not available for future re-development.
15. Chapter 17 Jurisdiction. I think the Village's subdivision ordinances should have a jurisdiction section added. This should mirror what is found for local jurisdiction under Section 236.45 Wis. Stats.
16. Condominiums. Condominiums should be specifically addressed and separately regulated in chapter 17. The Village may also wish to consider adding regulations to the zoning ordinances which would apply to the unique characteristics of some condominium projects.
17. Extraterritorial Plat. Extraterritorial platting regulations should be addressed in a way that complies with the most recent changes in case law on this subject. The case law has changed dramatically over the last 15 years and should be taken into consideration.
18. Extraterritorial Zoning. Over the last 12 years the Village's extraterritorial zoning ordinance has, I think, deviated from the ordinances actually adopted by the joint committee and by the Village board. I think most of these changes took place inadvertently when the code was last recodified some years ago. In my opinion, the extraterritorial zoning ordinance must faithfully reflect only what was adopted by the joint committee without change or alteration or addition in the codification process. Any changes made through the last recodification process should be removed and the ordinance should be restored to the form it was in when the joint committee adopted its various changes to the code book.
19. C-4 District. In the C-4 zoning district I believe that non-substantive changes to a previously approved project should be approvable by staff. The phrase "non-substantive" should be carefully defined so that staff has clear guidance as to what is or is not a non-substantive matter. Doing so will enhance the ability of local business to be flexible and deal with changes in their property without the need for



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a more extensive and time consuming approval process.

20. Adult Businesses. The Village should have the strongest adult business zoning regulations possible under current law.
21. Wind Generator. The Village should have the strongest wind generator zoning regulations possible under current law.
22. Cell Tower. The Village should have the strongest cell tower zoning regulations possible under current law.

This is my first set of proposed revisions. I may very well have more as the process moves forward. I look forward to discussing this matter with the Village Board and Village staff as we work toward a first draft of a re-written code book.

Very truly yours,

**THORPE & CHRISTIAN, S.C.**

  
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