



To: Members of Dublin City Council
From: Marsha I. Grigsby, City Manager *mb*
Date: October 4, 2012
Initiated By: Steve Langworthy, Director of Land Use and Long Range Planning
Re: Fee Waiver Request for an Administrative Appeal for an Existing Use Determination in the BSC, Bridge Street Corridor – 4056 West Dublin Granville Road

Summary

An applicant has requested a fee waiver of \$1,270 for an Administrative Appeal to the Board of Zoning Appeals to reverse Planning staff's determination that an Existing Use had not been established prior to the property being rezoned to the Bridge Street Corridor Office District (BSC-O). The site is located at 4056 West Dublin Granville Road and was rezoned from PUD, Planned Development District to BSC-O on April 9, 2012 (effective May 9, 2012). The applicant is attempting to establish that the current residential use of the property was an Existing Use under the terms of the Bridge Street District's zoning regulations.

The applicant's request is based on the fact that the Zoning Code in effect prior to the Bridge Street Zoning District did not have a fee established for a determination of a nonconforming use, as provided in Section 153.004(C) *Nonconforming lots, structures or uses*. When the applicant initially contacted Planning, the applicant was informed that the nonconforming use determination by the Board of Zoning Appeals did not require a fee.

However, Section 153.004(C) dealing with nonconforming uses does not apply in the Bridge Street Districts. Rather, Section 153.059(A)(6) is used to determine the status of "Existing Uses" in the Bridge Street zoning districts. Accordingly, for the applicant to be heard on his request to declare the rental of this property for residential use as an Existing Use, an Administrative Appeal is the appropriate application, for which a fee of \$1,270 is established.

Fee Waiver Request

Administrative Appeals allow applicants to appeal to the Board of Zoning Appeals decisions made by Land Use and Long Range Planning or other administrative officials and bodies. The Board reviews the application and makes findings as to whether or not decisions made were appropriate and under the authority granted by the City of Dublin Zoning Code. The Board may affirm, reverse, or modify the decisions made by Land Use and Long Range Planning.

Background

Rezoning to PUD, Planned Unit Development – Case #09-067Z/PDP – Ordinance #04-10

Ordinance 04-10, a request for approval of a rezoning/preliminary development plan to rezone this site of approximately 0.53 acres from R-4, Suburban Residential District, to PUD, Planned Unit Development District for a 5,000-square-foot commercial building and associated site

improvements (Kumon Learning Center) was approved by the Planning and Zoning Commission on December 10, 2009 and by City Council on January 25, 2010.

Final Development Plan – Case #10-031FDP

A Final Development Plan was filed for a one-story building containing 4,921 square feet of office use that would incorporate three tenant spaces. The plan proposed a 290-square-foot patio and a parking lot with 21 parking spaces located to the north of the building. The application was reviewed by Planning and determined to be incomplete. Planning continued to work with the applicant but continued to be deficient of information that was required to proceed to the Planning and Zoning Commission. A Final Development Plan was not approved prior to the area rezoning to the BSC-O, Bridge Street Corridor Office District.

Bridge Street Corridor Area Rezoning - Case #11-021ADM – Ordinance #08-12

On April 9, 2012, Dublin City Council approved an area rezoning for the Bridge Street Corridor, which included this property located at 4056 West Dublin Granville Road. This area rezoning approved the rezoning of the site from PUD, Planned Unit Development District to BSC-O, Bridge Street Corridor Office District. The area rezoning was effective May 9, 2012.

In December of 2011, prior to the area rezoning, the applicant contacted staff to discuss the impacts of the new Bridge Street Corridor zoning district on his property located at 4056 West Dublin Granville Road. This discussion focused on how the proposed rezoning would impact the applicant's site. Staff explained that the BSC-O District would permit a range of office and retail support uses. The applicant followed up this conversation in March 2012 when he specifically asked whether a residential use would be permitted on site as an Existing Use under the Bridge Street Code. Staff gave the applicant a list of the criteria that would be used to make this determination, under the BSC Code, and what process would be required. The written correspondence specified that the Code required the residential use to be in existence 12 months prior to the rezoning. This is the same criteria that the Board of Zoning Appeals will use to determine whether the site has an Existing Use under the BSC code, as the application proceeds on October 18, 2012.

Recommendation

Administration recommends that City Council disapprove the fee waiver request. The request for the Administrative Appeal was caused by the action of the applicant, and no hardship has been demonstrated to warrant a waiver.

26 September 2012

Honorable Mayor Lecklider and Dublin City Council Members,

Re: Request for fee waiver for Board of Zoning Appeal Application

I am requesting that the fee of \$1,270.00 for Board of Zoning Appeal application for pre existing residential property be waived.

Application involves only a single family rental unit, requiring no site plan evaluation. The same fee would be applicable for much larger project where this fee might be more appropriate.

In addition, review would not require much time of staff to review any plans as there are no plans to be submitted for review or appeal.

I respectfully request that a fee waiver be granted for this administrative appeal.

Thanks for your time and positive consideration of this request.

Sincerely,

Sudhir Jindal