

PLANNING AND ZONING COMMISSION

RECORD OF ACTION

AUGUST 11, 2016

**3. Public Nuisance Regulations – Code Amendment
16-036ADM**

Administrative Request Code

Proposal: An amendment to the Zoning Code to amend the International Property Maintenance Code and relocating the Nuisance and Health/Safety Related Sections of the Code to Section 153.076, Public Nuisance Regulations.

Request: Request for review and recommendation of approval to City Council for proposed amendments to the Codified Ordinances under the provisions of Zoning Code Section 153.232 and 153.234.

Applicant: City of Dublin, Dana L. McDaniel, City Manager.

Planning Contact: Logan Stang, Planner.

Contact Information: (614) 410-4652, lstang@dublin.oh.us

MOTION: Deborah Mitchell moved, Stephen Stidhem seconded, to table this Administrative Request for a Code Amendment.

VOTE: 5 – 0.

RESULT: This Administrative Request for a Code Amendment was tabled.

RECORDED VOTES:

Victoria Newell	Absent
Amy Salay	Yes
Chris Brown	Yes
Cathy De Rosa	Absent
Robert Miller	Yes
Deborah Mitchell	Yes
Stephen Stidhem	Yes

STAFF CERTIFICATION

Logan Stang
Planner I

- 3) That the high density urethane signs be replaced with etched natural stone, subject to Staff approval.

Ms. Menerey agreed to the above conditions.

The vote was as follows: Mr. Brown, yes; Ms. Mitchell, yes; Mr. Stidhem, yes; Mr. Miller, yes; and Ms. Salay, yes. (Approved 5 – 0)

Motion and Vote

Mr. Stidhem moved, Mr. Brown seconded, to recommend approval to City Council for a Final Plat with three conditions:

- 1) That a note be added to both plats indicating the intent to vacate existing easements through separate amendments, prior to submitting for City Council;
- 2) That the applicant ensures any minor technical adjustments to the plat are made prior to City Council submittal; and
- 3) That the appropriate method for documenting the private drive for the Lakeside at Avondale Woods be determined prior to City Council submittal and subject to approval by the City Engineer.

Ms. Menerey agreed to the above three conditions.

The vote was as follows: Ms. Salay, yes; Mr. Brown, yes; Mr. Miller, yes; Ms. Mitchell, yes; and Mr. Stidhem, yes. (Recommended for Approval 5 – 0)

3. Public Nuisance Regulations – Code Amendment 16-036ADM

Administrative Request

The Vice Chair, Chris Brown, said the following application is a request for an amendment to the Zoning Code to amend the International Property Maintenance Code and relocate the Nuisance and Health/Safety Related Sections of the Code to §153.076, Public Nuisance Regulations. He said this is a request for a review and recommendation of approval to City Council for proposed amendments to the Codified Ordinances under the provisions of Zoning Code §153.232 and §153.234.

Steve Stidhem said he just had one question so a complete presentation may not be necessary. He referenced in the Planning Report...*the elimination of the appeal process from Subsection E as it is no longer applicable*. He asked why the appeals process was being eliminated.

Logan Stang indicated an appeals process was set up for that Code section in reference to weeds and basically stated if a property owner did not want to comply or would not comply with the weed regulations they could appeal to City Council. He said it seemed like an odd appeals process that Council would then be in charge of reviewing someone not taking care of weeds on their property so it did not seem applicable. Instead, in all the relocations, Staff added a penalty section that talks about the degrees

of misdemeanors for repeat offenders. He said the outlining of the violations will also provide an appeals process that is separate from City Council review.

Mr. Stidhem asked if anyone had ever filed an appeal on that. Greg Jones answered we have never had an appeals to the mowing requirements.

Amy Salay said she was trying to understand what the Code states and does not state. She inquired about vans or trucks for businesses parked in front of homes or in driveways. She cited an example of someone parking their heating and air-conditioning business van in front of their house. She asked if that was permitted.

Mr. Jones said the vehicle is not to be stored on private property so if it was in the driveway, it would be a violation Code Enforcement would deal with. He said with the vehicle parked on the street, it is the police department's responsibility.

Ms. Salay clarified that the truck moves every day because the homeowner drives it to work every day.

Mr. Jones said "storing it" means keeping it on the property and if he is parking it in his driveway and driving it to work every day, it is probably there in between times so Code Enforcement would address that. He said anything else would fall under the 72-hour continuous parking regulation.

Ms. Salay inquired about the Home Occupations list as it is quite antiquated and suggested the language be updated. She said we have so many people that work from home now that go beyond this list. She asked if this was pulled from some uniform code.

Steve Stidhem agreed with the out-of-date terms.

Phil Hartmann said Staff can work to revise this code section.

Ms. Salay requested that smoke on property be prohibited or at least regulated. She referenced the Code and asked that it be updated.

Mr. Hartmann indicated it was a fairly old provision and can look into updating it.

Ms. Salay inquired about the maintenance of vacant lots. She asked if that can be enforced through our code.

Mr. Jones said what has been the policy is that any lot that is one acre or larger, we require that it be mowed around the perimeter.

Ms. Salay referenced a property that is probably two acres in size. Mr. Jones said there is a 25-50 foot buffer around the perimeter. Ms. Salay clarified it is mowed around the perimeter and that he is permitted to have a weed patch in the middle. She said she does not need to see vacant lots manicured every week but there is three feet worth of weeds and crops. She indicated it is a large enough area to get around the Code but it is a small enough area and surrounded by development.

Bob Miller agreed it is not an isolated area.

Mr. Stidhem said he thought there was verbiage in the Code that addressed weeds going to seed but suggested having an area mowed before it reached that point.

Vince Papsidero suggested a requirement where under a certain acreage lot size, the entire lot to be required to be mowed. Mr. Jones said, like so much of the Code, it is antiquated. He said primarily it was

put into place so the farmer would not have to mow his hayfield. He suggested a five-acre minimum and have everything mowed up to five acres. He said that would take care of any lot in the City.

The Vice Chair asked if this amendment should be tabled so the Code can be amended further. Everyone agreed this would give legal an opportunity to speak with Mr. Jones and cover any other issues raised. Mr. Papsidero indicated the Code Amendments could come back in September.

Mr. Stidhem said he thought 300 square feet permitted for a Home Occupation seemed really small. Deborah Mitchell said the IRS has standards for people to be able to write off a certain portion of their taxes for a business at home.

Motion and Vote

Ms. Mitchell moved, Mr. Stidhem seconded, to table the Code Amendment. The vote was as follows: Ms. Salay, yes; Mr. Brown, yes; Mr. Miller, yes; Mr. Stidhem, yes; and Ms. Mitchell, yes. (Approved 5 – 0)

Planning Items

Vince Papsidero invited the Commission to attend a meeting on August 24, 2016, at 11 am in the Clarion to discuss signs in the BSD Code.

Bob Miller said he wanted to make sure the Commission heard the applicant this evening expressing his perspective that Staff is confused with what this Commission wants. He said he has heard this in multiple conversations and asked that be addressed if that is truly factual. He said if the Commission is not communicating clearly, it puts Staff in a bad position. He indicated that if Staff is using the Commission to stiff-arm developers then that is a problem.

Mr. Papsidero said Staff tries to anticipate what they believe the Commission will view favorably in all the dealings with applicants. He said applicants try to pressure Staff to circumvent that and become an advocate for their goals. He indicated that often Staff is put in a bind between those and try to work through it. Generally speaking, he said Staff tries to anticipate what they believe is appropriate from a Commission perspective and are conservative with how the Code is interpreted. He indicated that as you move up the ladder, there is discretion at this level and even more at the Council level so staff shows the least discretion.

Chris Brown said there has been a big changeover of personnel in the Commission and with that different perceptions and perspectives prevail. Personally, he said his opinions, perceptions, impressions, and perspectives change all the time the more cases he hears and interacts.

Mr. Papsidero said Staff is tied because those that are AICP certified are tied to a set of Ethics that they have to stay true to and often this is in conflict with our employer. He said they need to be consistent to be true to the profession.

Amy Salay said her expectations of Staff are to be professionals. She indicated the applicant is going to bring what they think they can get away with in a lot of cases.

Mr. Miller said they should be labeled as an independent commission so Staff can say they cannot anticipate how the PZC is going to rule if it is being used as a defense mechanism. He said there is an issue when the applicant gets the sense the Commission is the problem and Staff is off the hook and that is what he would like to avoid.

Mr. Papsidero said hopefully that is not the case. He indicated Staff would probably use the Commission as a tool to force someone to comply with what the Commission's expectations are but they would never throw the Commission under the bus on an issue or shirk our responsibilities. He said the Commission

RECORD OF PROCEEDINGS

Held
March 7, 2016
Page 16 of 21

Mr. Foegler stated that if Dublin Village Center and/or OCLC were to redevelop, as the plan calls for, those projects would easily meet the required threshold.

Ms. Salay moved to authorized the actions as outlined by staff.
Mr. Lecklider seconded the motion.
Vote on the motion: Vice Mayor Reiner, yes; Mr. Keenan, yes; Ms. Salay, yes; Mayor Peterson, yes; Ms. Amorose Groomes, yes; Ms. Alutto, yes; Mr. Lecklider, yes.

STAFF COMMENTS

Mr. McDaniel stated that there are several items in Council’s informational packet that he would like to address:

- Storage of Residential Waste and Recycling Containers

Staff has asked for Council guidance on the information provided in packet.
Ms. Salay stated that she has several questions regarding this item. She notices when receptacles are not screened properly or residents leave them outside the garage, and in Dublin, most residences have garages. Is it in the Historic District that meeting the Code requirements for storage of the containers is an issue, or is it throughout the City? From a community appearance standpoint, this legislation is important. She would like to know more about the issue, perhaps photographs or more detail about where and what the problems are and what the solution might be.

Mr. Papsidero stated that the issue is primarily located in Historic Dublin but also in other parts of the City. It could be due to people not having space in their garages to store the trash receptacles. Both complaints to City staff and routine inspections indicated problems on a regular basis. Last year, Code Enforcement documented 70 violations. Of those, 35 were resolved and 35 letters of trashcan screening violation were sent out. Not all of those were in Historic Dublin, although there are more physical constraints in some Historic Dublin areas. This has been an ongoing concern for Code Enforcement staff. There is a need for more flexibility for homeowners to meet the intent of the Code beyond just the concept of requiring landscaping around every side of the receptacle, similar to what was approved by Council for rain barrels and ground-mounted AC units. The Code allows one side a structure to be open for ease of access. Staff suggests that as the solution. More detail may be needed for the Historic Dublin area in terms of what is an adequate approach. They will look into the details, work with the ARB, and bring back photos and examples of the issues staff has encountered for Council’s consideration.

Ms. Salay stated that would be helpful. Her preference would be to have them stored in the garage, due to the greater issues involved with defining acceptable screening. If it should be necessary to have special accommodations for Historic Dublin, that is not necessarily a solution for the remainder of the community.

Ms. Amorose Groomes concurred. She is not in favor of providing much leeway in this matter. If staff could also provide some examples of the existing problems and their proposed solutions, that would be helpful.

Mr. Lecklider stated that it is important to distinguish between what is inconvenient and what is an impossibility – he is sympathetic to cases where there is an impossibility. As many Dublin residents, he does not have an overly-generous two-car garage, yet stores two vehicles, the large size receptacles and the other usual items. Residents have the option to choose the smaller size receptacles. It appears that the vast majority of the community is able to comply.

Mr. Papsidero indicated staff would provide the information as requested.

- Residential Broadband Internet Services

Mr. McDaniel stated that staff recommends that the City continue to engage residents in an open forum, as they have done. There is more research needed. Staff will engage the industry, Connect Ohio, the Department of Commerce and the residents to understand the need. He prefers to have a more open dialogue with this group of interested residents, as