

# RECORD OF ORDINANCES

Ordinance No. 28-05

Passed \_\_\_\_\_, 20\_\_\_\_

## AN ORDINANCE AMENDING SECTIONS 152.002, 153.002, 153.074(E), AND 153.141 OF THE DUBLIN CODIFIED ORDINANCES REGARDING NO-BUILD ZONES.

**WHEREAS**, a “no-build zone” is an open area where construction is prohibited; and

**WHEREAS**, Council amended the City’s no-build zone policy in 2000 to include “swing sets/play structures” as structures that were explicitly prohibited from being located within a no-build zone; and

**WHEREAS**, Council has revisited the City’s no-build zone policy and no longer desires to include “swing sets/play structures” as structures that are prohibited within a no-build zone; and

**WHEREAS**, Council has determined that the “no build-zone” definitions must be consistent throughout the Dublin Code.

**NOW, THEREFORE, BE IT ORDAINED** by the Council of the City of Dublin, State of Ohio, 7 of the elected members concurring:

**Section 1.** The definition of “no-build zone” set forth in Dublin Codified Ordinances, Section 152.002, is hereby amended to read as follows:

**NO-BUILD ZONE.** An open area where construction is prohibited. All structures including, but not limited to buildings, parking, driveways, sidewalks, sheds, swimming pools, patios, decks or other accessory structures, ~~swing sets/play structures~~, fences, antennae and basketball courts or other sport courts are prohibited in order to preserve open space. A no-build zone is typically found along the rear of a single-family lot. Over lot grading and the placement of underground utilities are permitted within no-build zones.

**Section 2.** Dublin Codified Ordinances, Section 153.002, is hereby amended to add a definition of “no-build zone” as follows:

***NO-BUILD ZONE. An open area where construction is prohibited. All structures including, but not limited to buildings, parking, driveways, sidewalks, sheds, swimming pools, patios, decks or other accessory structures, fences, antennae and basketball courts or other sport courts are prohibited in order to preserve open space. A no-build zone is typically found along the rear of a single-family lot. Over lot grading and the placement of underground utilities are permitted within no-build zones.***

**Section 3.** Dublin Codified Ordinances, Section 153.074(E), is hereby amended to read as follows:

- (E) Required location in residential zoning district.
  - (1) All accessory structures, including swimming pools and associated decking, shall be constructed within the permitted buildable area of a lot, behind all applicable setback lines, and to the rear or side of the principal structure.
  - (2) There shall be a minimum separation of ten feet between a swimming pool and the principal structure. Swimming pools shall not be located within the front setback, forward of any part of the house, or within required side yard, rear yard, or other restricted area of the lot (e.g., a no-build zone).

# RECORD OF ORDINANCES

Ordinance No. 28-05

Passed Page 2, 20  

(3) No swimming pool accessory equipment, including but not limited to pumping equipment, filtering equipment, diving boards, or slides shall be located in any required yard. All such accessory equipment shall be screened with evergreen landscaping to the maximum height of the unit. The maximum permitted height of a diving board or slide shall be 10 feet from the established grade, unless otherwise approved by the Zoning Administrator.

(a) Design of swimming pools in residential areas. No swimming pool shall be so located, designed, operated, or maintained as to interfere unduly with the enjoyment of the property rights of surrounding property owners. Nuisances shall be pursued according to all applicable City Ordinances.

(b) Swimming pool fences. Swimming pool fences shall be installed according to § 153.080.

(4) No Build/No Disturb Zones shall remain free of all *structures including, but not limited to buildings, parking, driveways, sidewalks, sheds, swimming pools, patios, decks or other accessory structures, fences, antennae and basketball courts or other sport courts.* ~~buildings, accessory structures, swimming pools, related equipment, etc.~~ All other plat requirements shall be met.

**Section 4.** The definition of “no-build zone” set forth in Dublin Codified Ordinances, Section 153.141, is hereby amended to read as follows:

**NO BUILD ZONE (NBZ).** *See definition in Dublin Code Section 153.002.* ~~An area designated on a subdivision plat which shall remain free of any structures including, but not limited to, drives, walks, buildings and outbuildings, sheds, fences, swimming pools, decks, swing sets/play structures, satellite dish antennae, basketball courts, etc. Nothing herein shall prohibit overlot grading and drainage facilities and utility lines and utility structures within said No-Build Zones.~~

**Section 5.** This Ordinance shall take effect and be in force from and after the earliest date permitted by law.

Passed this 20th day of June, 2005.

Marilyn Chinnier Zuercher  
Mayor – Presiding Officer

Attest:

Anna C. Clarke  
Clerk of Council

I hereby certify that copies of this Ordinance/Resolution were posted in the City of Dublin in accordance with Section 731.25 of the Ohio Revised Code.

Judith K. Seal  
Deputy Clerk of Council, Dublin, Ohio



CITY OF DUBLIN

**Land Use and Long Range Planning**  
5800 Shier-Rings Road · Dublin, Ohio 43016  
Phone: 614-410-4600 · Fax: 614-410-4747

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# Memo

**TO:** Members of Dublin City Council  
**FROM:** Jane S. Brautigam, City Manager *mb*  
**DATE:** June 13, 2005

**RE: Second Reading – Ordinance #28-05**  
**An Ordinance Amending Sections 152.002, 153.002, 153.074(E), and 153.141**  
**of the Dublin Codified Ordinances Regarding No-Build Zones (Case No. 05-**  
**083ADM)**

**INITIATED BY:** Daniel D. Bird, FAICP, Director Land Use and Long Range Planning *DDB*

## SUMMARY:

Following introduction and a first reading by the City Council on May 16, 2005, Ordinance #28-05 was forwarded to the Planning and Zoning Commission for review. On June 9, 2005 the Planning and Zoning Commission reviewed this amendment and recommended approval by City Council by vote of 7-0.

## RECOMMENDATION:

Adoption of Ordinance #28-05 on second reading.



**PLANNING AND ZONING COMMISSION**

**RECORD OF ACTION**

**JUNE 9, 2005**

**CITY OF DUBLIN.**

**Land Use and  
Long Range Planning  
5800 Chier-Rings Road  
Dublin, Ohio 43016-1236**

**Phone: 614-410-4600  
Fax: 614-410-4747  
Web Site: www.dublin.oh.us**

The Planning and Zoning Commission took the following action at this meeting:

**6. Administrative Request – 05-083ADM – Amendments to the No Build Zone Definition**

**Location:** City Wide.

**Request:** Review and approval of an ordinance to amend the definition of a No Build Zone as stated in Section 152.002, 153.002, 153.074(E) and Section 153.141 of the Dublin Codified Ordinances.

**Applicant:** City of Dublin, c/o Jane S. Brautigam, City Manager, 5200 Emerald Parkway, Dublin, Ohio 43017.

**Staff Contact:** Gary P. Gunderman AICP, Assistant Director Land Use and Long Range Planning.

**Contact Information:** Phone: 410-4682-mail: ggunderman@dublin.oh.us.

**MOTION:** To approve these Code Amendments to the No Building Zone definition.

**VOTE:** 7-0.

**RESULT:** These Code Amendments to the No Build Zone will be forwarded to City Council with a positive recommendation.

**STAFF CERTIFICATION**

Gary P. Gunderman, Assistant Director  
Land Use and Long Range Planning

**AS SUBMITTED TO COUNCIL**

6-15-05 **FOR MEETING ON** 6-20-05

## STAFF REPORT

### DUBLIN PLANNING AND ZONING COMMISSION

JUNE 9, 2005



CITY OF DUBLIN.

Land Use and  
Long Range Planning  
Shier-Rings Road  
Dublin, Ohio 43016-1236

Phone: 614-410-4600  
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**Staff Contact:** Gary P. Gunderman AICP, Assistant Director Land Use and Long Range Planning.

**Contact Information:** Phone: (614) 410-4682/E-mail: [gunderman@dublin.oh.us](mailto:gunderman@dublin.oh.us).

Earlier this year, a few residential property owners contacted staff regarding the ability to construct swing sets/play structures within the No-Build-Zones defined on the subdivision plat. The residents noted that nearby structures seemed to be in violation of the No-Build-Zone Code definition and subsequently, the plat. Code Enforcement staff field verified the locations of these play structures and discovered that these and other properties were indeed in violation of the No-Build-Zone definition. Staff then investigated nine other plat maps, and subdivisions and identified 92 likely locations where swing sets/play structures were erected in No-Build-Zones.

Because of the magnitude of violations, staff placed this item on the April 4, 2005 City Council agenda for discussion and direction. Subsequent discussions were also held on April 18<sup>th</sup> and May 16<sup>th</sup> City Council meetings. (See City Council minutes for April 18 and draft minutes for May 16 City Council meeting). During these discussions, City Council decided not to enforce the No-Build-Zone regulation as presently defined in the Code. To address the immediate violations, Council requested a simple amendment that addressed the location of only swing sets/play structures in No-Build-Zones.

The proposed ordinance language is attached and includes a revised definition of a No-Build-Zone that no longer prohibits swing sets/play structures. Council would like to

The proposed ordinance language is attached and includes a revised definition of a No-Build-Zone that no longer prohibits swing sets/play structures. Council would like to have this ordinance adopted as soon as possible so that current swing sets/play structures concerns can be clarified and immediate issues can be addressed. Only above ground swing sets/play structures would be permitted with these amendments.

This amendment changes the No-Build-Zone Code definition from the 2000 Code amendment currently in effect. The history of this regulation is fairly complex and current discussion suggests that there may be new ramifications that warrant additional study. The definition of No-Build- Zones was revised as part of Ordinance #101-00 as were several other portions of the Code. Minutes of the 2000 Planning and Zoning reviews of that ordinance are included, as well as the 2000 Ordinance.

Council also has indicated that they understand that there are more issues that potentially need to be considered in the meaning and use of the No Build Zone. City Council would like staff and the Planning and Zoning Commission to undertake a more in-depth review of the topic after the adoption of the current amendment.

**STAFF RECOMMENDATION:**

Staff recommends approval of the proposed ordinance.

**6. Administrative Request – 05-083ADM – Amendments to the No-Build Zone Definition**

Mr. Gerber explained that these amendments would permit the construction of swing sets and play structures within no-build zones, provided such structures are not permanently anchored to the ground. He said the Commission is to forward a recommendation to City Council to approve or disapprove this amendment. Mr. Gerber recalled formal no-build zone definition discussions in 1999.

Ms. Boring recalled utilizing no-build zones prior to the year 2000.

Mr. Gerber recalled the Commission discussed no-build zones restrictions in the summer of 2000 or 2001.

The Commissioners agreed that a staff presentation was not necessary on this case.

Ms. Boring said that when this goes for the public hearing, it should be made very clear that this does not allow all residents to place swing sets in the no-build zones. She said sometimes, the development text restricts what is permitted in no-build zones.

Mr. Messineo asked about code enforcement in the no-build zones.

Gary Gunderman said unfortunately, it becomes incumbent on staff to identify swing sets in no-build zones. He said some residents were very conscious and would approach the City and ask what the rules are, and in those cases, staff gets a chance to explain what they can and cannot do. He said a building permit was not necessary, unless there is a very extensive play structure, and footings, etc. are needed. He said in that case, they would not be approved in the no-build zone.

Ms. Boring said the no-build zone sometimes is indicated on the plat.

Mr. Gerber said it could also be in the development text, and possibly in the deed restrictions.

Ms. Boring recalled that in the past, it had been requested that the no-build zone definition be described on plats.

Mr. Messineo clarified that a swing set structure that does not have a foundation, would be permitted in the no-build zones.

Mr. Gerber made the motion to approve this Administrative Request and refer it to City Council with a positive recommendation.

Mr. Zimmerman seconded the motion, and the vote was as follows: Ms. Boring, yes; Ms. Jones, yes; Mr. Sanholtz, yes; Mr. Messineo, yes; Mr. Gerber, yes; Mr. Zimmerman, yes; and Ms. Reiss, yes. (Approved 7-0.)

RECORD OF PROCEEDINGS

Held

Mayor Chinnici-Zuercher expressed thanks to the Muirfield Association on behalf of the City.

**Ordinance 26-05**

**Authorizing the Purchase of a 0.0024 Acre, More or Less, Fee Simple Interest, and a 0.040 Acre, More or Less, Temporary Construction Easement, from Saltergate N-W Investment Co., Ltd., Located East of Sawmill Road and North of Saltergate Drive, City of Columbus, County of Franklin, State of Ohio.**

Ms. Brautigam stated that this is for the extension of Emerald Parkway to Sawmill Road. Mrs. Boring inquired if the City of Columbus is cooperating with Dublin on this project. If Dublin is constructing the intersection, she is surprised that Dublin must also purchase the land.

Mr. Hammersmith responded that Columbus has indicated that if Dublin desires to improve the intersection, Dublin must purchase the right-of-way.

Mr. McCash stated that if Dublin buys this 0.0024 acre section, does Dublin control it, or is it necessary to give control to Columbus?

Mr. Smith stated that it would not be in Dublin's best interest to have the liability for the intersection.

Vote on the Ordinance: Mrs. Boring, yes; Mr. Keenan, yes; Mr. Reiner, yes; Ms. Salay, yes; Mayor Chinnici-Zuercher, yes; Mr. Lecklider, yes; Mr. McCash, yes.

*FEE ORDINANCE AMENDMENT*

**Ordinance 27-05**

**Amending Ordinance 79-04 to Revise the Fees for Season Passes to the Dublin Community Recreation Center in Appendix A of the Schedule of Fees and Service Charges for City of Dublin Services.**

Ms. Brautigam stated this legislation would authorize a five percent increase in the cost of season passes effective January 1, 2006. The last increase was effective July 1, 2004. At the last Council meeting, a question was raised concerning the impact on college students. The college student pass was created by the City for those students who are not included in family memberships. With the season pass, the college student pays a discounted individual rate.

Wallace Maurer, 7451 Dublin Road inquired if the Community Recreation Center charges a walk-in fee, or if fees apply only to participation in Recreation Center activities.

Mayor Chinnici-Zuercher responded that there is no walk-in fee unless someone is using the facilities.

Vote on the Ordinance: Mayor Chinnici-Zuercher, yes; Mr. Keenan, yes; Mr. Reiner, yes; Ms. Salay, yes; Mr. McCash, yes; Mr. Lecklider, yes; Mrs. Boring, no.

**INTRODUCTION/FIRST READING – ORDINANCES**

*CODE AMENDMENT*

**Ordinance 28-05**

**Amending Sections 152.002, 153.002, 153.074(E), and 153.141 of the Dublin Codified Ordinances Regarding No-Build Zones. (Second reading/public hearing to be scheduled following receipt of recommendation from Planning & Zoning Commission)**

Ms. Salay introduced the ordinance.

Mr. Smith stated that this ordinance responds to Council's direction to remove swing sets and play structures from the list of prohibited items in the no-build zones.

Other sections of the Code impacted by the change in wording were also revised.

Mr. McCash noted that Council was concerned about a quick fix to the swing set issue, but they have not addressed some of the bigger issues, such as appropriate location of the swing sets in relationship to adjoining property owners. In addition, the definition of a play structure has not yet been determined. This will be referred to the Planning and Zoning Commission for review. He requested that the Commission develop that definition, and take time for a thorough review and discussion to amend this section to what is appropriate for Dublin.

Ms. Salay agreed. For example, she would assume that any landscaping would be permitted as long as it did not constitute a fence, per City Code.



# RECORD OF PROCEEDINGS

Minutes of

Dublin City Council

Meeting

DAYTON LEGAL BLANK, INC. FORM NO. 10148

May 16, 2005

Page 6  
20

Held

Mr. Smith responded that is another issue still under review. At this point, only the issue of play structures is addressed. This is one of approximately 8 or 9 related issues still under review, including trampolines and playhouses. The additional issues will be addressed in later legislation.

Mr. McCash noted that in the Architectural Review District, the definition of a structure is anything above or below the ground, the installation of which requires review and approval by the Architectural Review Board.

Mayor Chinnici-Zuercher clarified that Ordinance 28-05 would be referred to the Planning Commission for approval of the amendment as written.

Mr. Keenan stated that the definitions are critical, as all future interpretations are dependent upon them.

Mrs. Boring stated that she is disappointed that the Planning Department could not locate the earlier minutes of the Planning Commission discussion regarding swing sets in the no-build zones. She was present at that lengthy discussion.

James McHale, 7513 Maynooth Drive, stated that he has a personal scenario with the play structure issue. The adjoining property owner had placed a trampoline two to three feet over the property line. It extends onto Mr. McHale's property, and is only six feet from his patio. Mr. McHale finds the play structure very intrusive and it greatly diminishes his family's ability to enjoy their backyard from a privacy standpoint and from an entertaining perspective. He would much prefer the neighbor behind him place a play structure in the rear no-build zone, than to have one placed immediately next door, partially in his yard.

Mr. Reiner moved to refer Ordinance 28-05 to the Planning Commission for review and recommendation.

Mrs. Salay seconded the motion.

Vote on the motion: Mayor Chinnici-Zuercher, yes; Mr. Keenan, yes; Mr. Reiner, yes; Mrs. Boring, yes; Mr. McCash, yes; Ms. Salay, yes; Mr. Lecklider, yes.

Ms. Salay inquired about the anticipated timeframe for the legislation on the other related issues.

Mr. Smith responded that Ordinance 28-05 would be scheduled immediately on the Planning and Zoning Commission agenda. He will report back to Council on an anticipated timeframe for the other issues.

A second reading/public hearing will be scheduled following receipt of a recommendation from Planning & Zoning Commission.

## **CASH ON HAND FOR CHANGE FUNDS**

### **Ordinance 29-05**

#### **Establishing the Location and Amount of Cash on Hand for Change Funds and Declaring an Emergency.**

Ms. Brautigam stated that in order to accommodate more efficient and effective cash handling at the City's two outdoor pools during the summer, it is necessary to increase the amount of cash held in those two change funds.

Mayor Chinnici-Zuercher inquired if staff members who handle money are bonded.

Ms. Grigsby responded that the City's liability insurance provides that protection.

Ms. Salay inquired if there are procedures in place to restrict access.

Ms. Grigsby responded that procedures are in place to restrict access, control opening/closing of the safe, daily deposit of cash receipts and close-out at year end.

Mr. McCash asked why this could not be handled as an administrative action, rather than a Council action.

Ms. Grigsby responded that the Auditor's review includes verification of Council's authorization for this change.

**MEMORANDUM**

**TO:** Dublin City Council  
Jane Brautigam, City Manager *jsb*  
Anne Clarke, Clerk of Council

**FROM:** Stephen J. Smith, Law Director  
Daniel Bird, Director of Land Use & Long-Range Planning

**DATE:** May 3, 2005

**RE:** ORDINANCE 28-05 -- No-Build Zones

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A “no-build zone” is an open area where construction is prohibited. Council amended the City’s no-build zone policy in 2000 to include “swing sets/play structures” as structures that were explicitly prohibited from being located within a no-build zone.

At the April 4, 2005 and April 18, 2005 Council meetings, Council revisited the City’s no-build zone policy. A survey of nine (9) newer subdivisions found approximately ninety-two (92) locations that appear to be in violation of the no-build zone policy due to swing sets or play structures. After careful study and analysis, Council members have decided to no longer include “swing sets/play structures” as structures that are prohibited within a no-build zone.

At Council’s request and in consultation with the Planning Department, the Law Department has drafted the attached ordinance to remove “swing sets/play structures” from the list of prohibited structures. We felt this was the simplest and most straight-forward solution. In addition, the definitions for no-build zone have been revised so they are consistent throughout the Dublin Code. The amendments to the ordinance are reflected as follows:

- Deleted language – strike through.
- Additional (new) language – bolded and italicized.
- In Section 4 of the Ordinance, the definition of “no build zone” previously found in Section 153.141 of the Dublin Codified Ordinances (tree preservation section) was deleted and instead a reference was inserted to the new definition of no build zone found in Section 153.002 of the Dublin Codified Ordinances.

As always, please contact this office if you should have any questions or wish to discuss this matter.

RECORD OF PROCEEDINGS

Minutes of

Dublin City Council

Meeting

DAYTON LEGAL BLANK, INC., FORM NO. 10148

Held

April 18, 2005

20

Mayor Chinnici-Zuercher called the regular meeting of Dublin City Council to order at 7:00 p.m. on Monday, April 18, 2005 at the Dublin Municipal Building.

**PLEDGE OF ALLEGIANCE**

Vice Mayor Lecklider led the Pledge of Allegiance.

**ROLL CALL**

Present were: Mayor Chinnici-Zuercher, Vice Mayor Lecklider, Mrs. Boring, Mr. McCash, Mr. Keenan, Mr. Reiner, and Ms. Salay.

Staff members present were: Ms. Brautigam, Mr. Smith, Ms. Grigsby, Mr. Carochi, Mr. Bird, Mr. Hammersmith, Mr. Harding, Mr. Hahn, Ms. Puskarcik and Ms. Richison.

**APPROVAL OF MINUTES**

Approval of the minutes of April 4 was postponed until the May 2 Council meeting.

**SPECIAL RECOGNITION**

Mayor Chinnici-Zuercher presented proclamations to City volunteers Jill and Don Butler in recognition of both Earth Week and National Volunteer Week, which are being observed during the week of April 17-23. She encouraged all citizens to continue to participate in volunteer programs and the activities of Earth Week as well.

Mayor Chinnici-Zuercher then read a proclamation from the Mayor of Hilliard, recognizing Dublin for lending a snow plow in January to the City of Hilliard due to a fire related loss of such equipment in Hilliard.

**CORRESPONDENCE**

The Clerk reported that two Notices to Legislative Authority were received from the Division of Liquor Control related to stock transfers for Jasons Restaurant, 50 W. Bridge Street and Mascot Petroleum, 6777 Sawmill Road. There was no objection from Council to the transfer of these permits.

**CITIZEN COMMENTS**

There were no comments from citizens regarding items not on the agenda.

**DISCUSSION ITEM**

- Swing Sets/Play Structures in No-Build Zones

Mayor Chinnici-Zuercher noted that a discussion has been scheduled regarding the enforcement of swing sets/play structures in no-build zones. Council would like to hear from the citizens regarding their views on this topic. She commented at length about the democratic process which invites citizen participation and which is the hallmark of a democratic society. Council members are also passionate about the community, having chosen to live in Dublin for the very same reasons that those present tonight have made that decision. Careful planning over many years by Council and staff has resulted in actualizing the community plans developed by Council and residents of the City. One of the greatest values of the community is the sense of family, and the City supports many special events and activities in Dublin so that citizens can stay home with their families during the holidays. This and previous Councils have invested large sums of money in planning wonderful parks for the community, with interconnectivity via bikepaths.

Many citizens have indicated a desire to address Council tonight about the no-build zone issue. In reviewing the matter over the past couple of weeks, she believes there is a need to review the existing ordinance and to gain a more comprehensive understanding of the no-build zones that exist in the City. While they provide visual corridors, they also serve such purposes as accommodating utilities or as part of the subdivision grading plan. It should also be noted that Council does not have the authority to alter a subdivision's deed restrictions, which are enforced by the local civic association.

Mayor Chinnici-Zuercher then introduced the following motion:

*Staff is hereby directed to stop enforcement of the swing sets and play structures currently located in the no-build zones until further direction or action is taken by City Council. Staff is also hereby directed to prepare appropriate legislation to amend all necessary code sections to allow swing sets and play structures in the no-build zones. This legislation is to be brought back to Council at the May 16 meeting.*

Mrs. Boring seconded the motion.

RECORD OF PROCEEDINGS

Minutes of

Dublin City Council

Meeting

DAYTON LEGAL BLANK, INC., FORM NO. 10148

April 18, 2005

Page 2

Held

20

It was the consensus of Council to have testimony from the public regarding this issue.

Kevin Walter, 6289 Ross Bend, Belvedere stated that he has resided in Dublin for four years and represents the opinions voiced on the web site, [www.nobuildzone.com](http://www.nobuildzone.com). He has five children who currently play on his non-compliant swing set in the no-build zone. He supports strong zoning regulations and uniform enforcement of such, and opposes unchecked development such as that in adjacent areas to Dublin. Dublin's tradition of proactive zoning enforcement, its insistence on building infrastructure prior to development, and its penchant for approving high quality, well planned development in accordance with the Community Plan is a shining example for other cities. He believes the Planning Commission has the right and duty to set a general tenor, the density and use requirements for developments. It is the right and duty of elected officials to create an environment supporting quality developments through support of the business community, facilitation and funding of community services, and ensuring the rights of the community are balanced against the rights of the individual. It is the right and duty of the citizenry to be informed, to challenge and to hold elected officials accountable. It is also the right and duty of the individual to maintain community standards, to contribute to the betterment of the community, and to be a positive force in bringing change to the community. Given that, in the matter of allowing swing sets and play structures in no build zones, Council has overreached what is right and sensible and has brought governmental regulation into the backyard of every Dublin home. These items set the tone in Dublin and define the community as family friendly. For many, smaller lots sizes and overly large no-build zones preclude them from having play structures or necessitate their placement in awkward locations. He supports the inclusion of sheds, basketball courts and the like in the listing of items prohibited from no-build zones. He does not support the overreach of government demonstrated in regard to swing sets. It is incomprehensible to him that children at play are viewed as a nuisance or detraction from the overall look and feel of the community. He founded the web site to establish a forum for education, community activism and to disseminate a petition in support of this position. On behalf of the 422 residents of Dublin who have electronically signed this petition, he requests that Council take immediate action tonight and that the matter not be referred to Committee or taken under advisement. He requests that Council immediately direct staff to draft new legislation addressing this matter. Dublin needs proactive zoning regulations, but needs to realize when these regulations overstep what is sensible. He presented a petition to Council which reads, "We the undersigned in support of preserving the family friendly nature of Dublin's neighborhoods respectfully request that Dublin City Council amend City Code Section 152.002 to eliminate the words, "swing sets and play structures" from the definition of no-build zone."

Jeannie Vaccari, 6173 Avocet Court, Hawk's Nest subdivision noted that she is a homeowner, mother of three, holds a degree in Building Construction management, and has eleven years of experience in the building industry in Central Ohio. They built on a lot in Hawk's Nest and moved there in October of 2003. The builder did not disclose that a no-build zone existed at the rear of the lot, but she did not view this as an issue as they had no plans to build an addition or a deck that would encroach upon that area. They did install a play set 9 feet from the rear property line, which did not infringe on the utility lines. She is not opposed to the City's goal of having lots of greenspace within the community. But children and homeowners who have purchased homes should not be punished by the enforcement of the no-build provisions. The source of the problem is with the Planning staff and the builders who want to construct homes in Dublin on small lots. The zoning should be changed to require a minimum square footage in the rear lot and to standardize these zoning guidelines. Any submittals for zoning after the restrictions are in place would have to meet the requirements. Existing lots would be grandfathered and would not have to comply with the regulations. If a builder is not willing to comply with these guidelines, he can build in other communities. The visual corridors of the community are not being diminished by the play sets, but by the larger homes being built on smaller lots. Hawk's Nest is currently a very desirable area, but if the City should enforce the restrictions for the no-build zone, it will quickly become non-desirable. Ninety-five percent of the lots would not be compliant with the Code. For them, the issue is with the location of swing sets, as it is not possible to move the sets to a new location on their lot. She is willing to serve on a task force if further analysis of this subject is needed.

RECORD OF PROCEEDINGS

DAYTON LEGAL BLANK, INC., FORM NO. 10148

April 18, 2005

Page 5  
20

Held

There will be a second reading/public hearing at the May 2 Council meeting.

**LAND PURCHASE**

**Ordinance 24-05**

**Authorizing the Purchase of a 0.480 Acre, More or Less, Fee Simple Interest, From Richard W. Anderson, Located West of Wilcox Road, City of Dublin, County of Franklin, State of Ohio.**

Ms. Salay introduced the ordinance.

Mr. Smith stated that this ordinance is related to the settlement of the last land acquisition case in conjunction with the southwest traffic calming. The City was in litigation with the property owner and now has a proposed settlement.

There will be a second reading/public hearing at the May 2 Council meeting.

**INTRODUCTION/PUBLIC HEARING – RESOLUTIONS**

**ADOPTION OF GOALS**

**Resolution 07-05**

**Adopting the City of Dublin's Goals for 2006-2007.**

Ms. Brautigam stated that Council was provided with a report in follow up to the March 11 retreat. She made some minor clarifications to the information. At the retreat, Council had requested that the S.R. 161 corridor plan goal be moved to a higher priority, and that has been done.

Mayor Chinnici-Zuercher thanked Ms. Brautigam for condensing the report into goals for Council to adopt.

Mr. Keenan asked about the S.R. 161 corridor goal and whether the area is defined in a City document.

Ms. Brautigam responded that it has not been clearly defined, but this will be part of the comprehensive plan update effort. In the context of the retreat, her understanding is that it included the area from the river eastward.

Mayor Chinnici-Zuercher agreed that the exact area could be defined within the community plan update work.

Mr. Keenan commented that he would like to revisit that issue when the time is appropriate.

Vote on the Resolution: Mr. Keenan, yes; Mr. Reiner, yes; Mr. McCash, yes; Mr. Lecklider, yes; Ms. Salay, yes; Mrs. Boring, yes; Mayor Chinnici-Zuercher, yes.

**OTHER**

**• Concept Plan - Avery Road Condominiums (Case 04-119CP)**

Mr. Bird stated that this is a concept plan appeal to Council regarding the decision of the Planning and Zoning Commission to deny the plan for what is known as the Avery Road condominiums. The proposed development is located on the east side of Avery Road, just south of Shier Rings Road. The site consists of 25 acres, surrounded to the east, west and south by residential zoning and to the north by Restricted Industrial zoning. The site is currently zoned Restricted Industrial. The Community Plan calls for the site to be used for residential development at a density of five plus units per acre. He showed slides depicting an aerial photo of the site. He noted that Innovation Drive would extend through the site in some fashion, regardless of the zoning. Another important item is the open space park corridor, and the expectation that it would extend through the site. The site is 25 acres, is basically flat in topography and was apparently used for farming in the past. The site plan proposes to construct 22 attached four-family condominium units on approximately 25 acres, a net of 3.5 units per acre. The required open space is indicated at nine acres or 36 percent of the site. He distributed a revised conservation design principle matrix to Council, as the one in the packet was labeled somewhat differently on some of the points. After the applicant first appealed to Council in December of last year following the Planning Commission's decision of 6-0 to deny the concept plan, the staff made the determination that the site, under Resolution 27-04 was not a prime candidate for conservation design. It lacks natural vegetation, steep slopes, or other natural features. However, that does not mean that the applicant should not make every attempt to meet conservation design principles and for this reason the chart is provided. Staff identified 21 criteria from the resolution, and the matrix shows that the applicant has met a significant number of conservation design principles. A couple were not applicable relative to historic landmarks and curvilinear streets to take advantage of topographical changes. There are four areas in which the application does not meet the strict definition

05-083ADM

Swing Sets in No-Build Zone  
Code Amendment

RECORD OF PROCEEDINGS



**CITY MANAGER/STAFF REPORTS**

**• Enforcement of No Swing Sets in No-Build Zones**

Ms. Brautigam stated that staff recently received a complaint from a homeowner regarding a neighbor's swingset located within the no build zone. The City Code does prohibit the placement of any type of swingset within a no build zone. Before proceeding with enforcement of the Code with the homeowner, staff conducted an investigation to determine approximately how many similar cases exist. There are at least 92 occurrences. Staff's plan is to forward a letter to all non-compliant homeowners, but before that occurred, she wanted to share this information with Council. She was not the City Manager at the time the law regarding no build zones was established in 2000. Because she is uncertain of Council's desires regarding this issue, she requests direction from Council at this time.

Mayor Chinnici-Zuercher noted that the memo from Mr. Gunderman regarding the issue did not include the minutes of the September 18, 2000 Council discussion related to the adoption of Ordinance 101-00. Therefore, Council members were unable to review the background on this subject prior to tonight's meeting. She asked staff what had prompted the creation of this provision in Ordinance 101-00.

Mr. McCash responded that the Planning Commission determined that they wanted to ensure that no swingsets, trampolines, basketball courts or other play equipment could be placed in the no build zone. It is a preserved area in which nothing is to be placed.

Mr. Keenan noted that the edge of his deck is at the no build line; however, a large amount of his yard is within that no build zone.

Mr. McCash stated that under the Code, nothing – not a toolshed, play structure, etc. can be placed within that area.

Mr. McKeenan stated that he does not understand that. It may be an illegal take.

Ms. Salay inquired who owns the no build zone.

Mr. Smith responded that the homeowner owns the no build zone. He clarified that the 92 instances of non-compliance are an estimate; a number of subdivisions have not been reviewed. He suggested a couple of possible solutions:

- (1) To enforce this Code requirement throughout the City.

He noted, however, that these are not basic "swingsets," but play structures costing approximately \$5,000 - \$10,000 with poured concrete foundations.

- (2) In the definition of a "structure," it could be clarified that a swingset is not a "structure."

He noted that there are older lots in Muirfield that do not have no build zones; lots in newer areas do have no build zones.

Mr. McCash stated that the no build zones are depicted on the plat and on the property deeds. Homeowners bought their homes understanding that they could not place structures within that area. He assumes that the person making the complaint was fully aware that this is a no build zone

Mr. Smith noted that the City's subdivision regulations state that no structures, including swingsets and play structures, can be placed within the no build zones. The individual who complained is clearly aware of the City's Code requirements and is insisting that the Code be enforced. However, many of the play structures are very large and could not be accommodated in any other location on the lot.

# RECORD OF PROCEEDINGS

Minutes of

Dublin City Council

Meeting

DAYTON LEGAL BLANK, INC., FORM NO. 101-48

April 4, 2005

Page 9

Held

20

Mrs. Boring stated that it would appear from the massive size and expense that these swingsets are structures. No build zones are protected areas. She is concerned that the neighbor who has complained legitimately expected that no structures would be placed in that zone. The Planning Commission was concerned that some people were building outside their lot boundaries and encroaching into adjoining City parkland.

Ms. Salay stated that she recalls discussion regarding use of City parkland. The City was more concerned with swingsets, trampolines, etc. migrating to the City parkland, versus placing them on a no build zone on the homeowner's property. To her, if it can be considered temporary, perhaps it need not be considered a structure. A problem exists with that, though, due to the size of the structure and the current expectations of the neighbors.

Mr. McCash inquired if playhouses were considered. If so, is Council suggesting that all swingsets and playhouses be removed from the no build zone?

Ms. Salay responded that she has always considered a swingset or playhouse that is placed for a child as temporary. In ten years, it would likely be gone.

Mr. Reiner stated that the no build zone is a visual corridor. Could the City enforce the Code in those situations in which there is a complaint and leave the others?

Mr. Smith stated that would constitute selective enforcement.

Mayor Chinnici-Zuercher stated that she agrees that the City should be consistent in the application of regulations. Would it be less offensive if letters were sent to all residents indicating what the rule is and stating that if they have a structure within the no build zone, they are required to move it? Many residents may not be aware of this requirement.

Mr. McCash stated that even if such a letter is sent, the resident may not know if it applies to them or to their neighbor. How do they know who has a no build zone?

Ms. Salay noted that they are different in every neighborhood.

Mayor Chinnici-Zuercher stated that after receiving the notice, it would be the homeowner's responsibility to learn if they have a no build zone.

Mr. Lecklider stated that the City's purpose in creating no build zones was to create a visual corridor.

Mrs. Boring noted that in her neighborhood, no build zones are filled with pine trees, and in order to place structures there, trees would have to be removed.

Mr. Lecklider stated that the newer neighborhoods are not blessed with trees. If everyone's backyard includes 15-foot high structures, the visual corridor would essentially be eliminated. He recalls that Council restricted fences in order to create a visual corridor.

Mayor Chinnici-Zuercher stated that if the consensus of Council is to retain the no build zones, staff should proceed with the notifications to those who are in violation.

Mr. Lecklider expressed concern that the building footprints are so large on many lots that when a no build zone is applied, little land remains available for the homeowner's use.

05-083ADM  
Swing Sets in No-Build Zone  
Code Amendment

**RECORD OF PROCEEDINGS**

Minutes of

Dublin City Council

Meeting

DAYTON LEGAL BLANK, INC. FORM NO. 101-08

April 4, 2005

Page 10

Held

20

Mr. Keenan stated that is the situation with his lot. Twenty percent of it is designated no build, which leaves no space for a play structure.

Mr. Lecklider suggested that perhaps Council needs to look at the planning process, considering these issues.

Mr. Keenan suggested the goal might have been missed in terms of what the City had hoped to accomplish at that time.

Mr. Reiner stated that the City was attempting to create green space behind the houses, and it has been successful. It would be premature for Council to consider amending the law at this point.

Mr. Keenan stated that the complaint might reflect a resident's issues with noise adjacent to his home from children at play.

Mr. Reiner stated that in Muirfield, this type of complaint was handled on an "as needed" basis. If a letter of complaint were received that the open corridor was obstructed, the homeowners association would address it.

Mr. Lecklider stated that homeowners should have an opportunity to have swingsets in their back yards. He also sees the value in a no build zone. This conflict implies there is a problem with the lot size. With the size of the home footprint and a no build zone, insufficient room remains for a swingset.

Ms. Salay stated that many move to Dublin to have a larger home, so the builders are responding to that demand. Dublin relies on the builders to educate their customers that there are no build zones on the lots, and the remaining usable space may preclude decks, fences and swingsets.

Mrs. Boring stated that the City has worked diligently to achieve a green view. If the no build zone fulfills that purpose, it needs to be enforced. Otherwise, there is no need to establish such no build zones.

Ms. Salay stated that over the years she has been confronted with fence restriction issues. She has explained that Council established fence restrictions that were consistent with the desires of the community. If the community wants something different, they can petition Council to revisit the issue.

Mayor Chinnici-Zuercher requested a motion to give direction to staff.

Mr. Lecklider responded that he prefers that the first step consist of a resident notification/information letter.

Mrs. Boring concurred, noting that it should explain Council's goal of open space and a visual corridor.

Mr. McCash suggested that a better method of informing the public would be through the City Manager's column in the local papers.

Mr. Keenan suggested that the City revisit the definition of a no build zone, and simply remove "swing sets and play structures" from the definition.

Mayor Chinnici-Zuercher stated that the original goal of the legislation was to maintain the green vista. So far, that goal has not changed.

Mr. Keenan responded that this is a community of families and their children desire swingsets and play structures. He recommends that Council revisit the issue,



RECORD OF PROCEEDINGS

Minutes of

Dublin City Council

Meeting

DAYTON LEGAL BLANK, INC. FORM NO. 10148

April 4, 2005

Page 11

Held

20

amending that Code section to exclude "swingsets and play structures." Removing those two items out would probably eliminate the issue.

Mayor Chinnici-Zuercher responded that it eliminates the issue for people who want swingsets, but not for those who do not.

Mr. McCash inquired whether a resident is permitted to erect an accessory structure in a residential subdivision.

Ms. Salay responded that it would depend upon the deed restrictions. Does the homeowners association have adequate monies to enforce their deed restrictions?

Mr. McCash stated that he was not concerned about deed restrictions. The no build zone requirements are listed in the deed restrictions of the subdivisions.

Mr. Reiner responded that the play structures are not merely swingsets. They are very large, red, blue and yellow jungle gym boxes. Mr. Keenan's proposed legislation would ruin the view corridors and diminish everyone's property values and the overall aesthetics of the entire City.

Mayor Chinnici-Zuercher pointed out that the City has not said its residents cannot have swingsets, just that they cannot place them in the no build zone.

Mr. Lecklider expressed concern that there is not adequate space in the newer subdivision lots to place swingsets.

Mr. McCash moved to direct staff to proceed with enforcing the current subdivision regulations regarding no swingsets in no build zones, to send notices to property owners in violation of the Code, and that the City Manager address the issue in a future newspaper column.

Mr. Reiner seconded the motion.

Vote on the motion: Mrs. Boring, yes; Mr. Keenan, no; Mr. Reiner, yes; Mayor Chinnici-Zuercher, yes; Mr. McCash, yes; Mr. Lecklider, no; Ms. Salay, no.

• Bid Awards

Ms. Brautigam stated that previously, bid awards have been approved by ordinance, which requires two readings and which are effective 30 days after passage. Often, the public hearing is waived and/or the ordinance is passed by emergency. She suggested the process be shortened by approving bids by resolution.

Mrs. Boring stated that she preferred to have two readings. In the past, Council had three readings. The process has already been shortened to two readings. Although the public usually has no objections concerning bid awards, she prefers the open process that offers the opportunity for public input.

Mr. Keenan suggested the two-reading process continue to be utilized for large projects over a defined amount, but smaller projects could be approved by resolution. That would provide Council with more oversight on the larger projects.

Mr. McCash stated that all these projects have been programmed in the capital improvements plan, which involves a separate hearing process. The amount of the funding for the project is allocated at that time. The bidding element is simply the implementation of what has already been budgeted.

Ms. Salay stated that she prefers not to approve ordinances by emergency. This suggestion would reduce the amount of emergency

# RECORD OF ORDINANCES

Dayton Legal Blank Co.

Form No. 30043

Ordinance No. **101-00 (Amended)**

Passed

YEAR

## AN ORDINANCE AMENDING PORTIONS OF THE SUBDIVISION REGULATIONS TO PROMOTE ARCHITECTURAL DIVERSITY WITHIN SINGLE-FAMILY RESIDENTIAL NEIGHBORHOODS.

WHEREAS, the Community Plan promotes a high quality built environment;

WHEREAS, the Community Plan also promotes both bicycle and pedestrian safety and mobility in and through Dublin;

WHEREAS, Dublin City Council desires to preserve and promote the City's distinct visual character;

WHEREAS, City Council desires architectural diversity within Dublin neighborhoods;

WHEREAS, City Council set neighborhood design standards as a top priority during its 2000 Goal Setting session;

WHEREAS, the Subdivision Regulations are being amended as a component of single-family residential design standards to enhance the livability of Dublin neighborhoods;

WHEREAS, dispersing house designs throughout a development creates a more interesting and livable neighborhood;

WHEREAS, varied lot widths and setbacks provide the opportunity to utilize multiple building types and to create a more interesting streetscape;

WHEREAS, a minimum buildable depth will create lots large enough to accommodate both a house and accessory structures such as pools, sheds, decks, and porches;

WHEREAS, larger lot widths and increased setbacks promote safety throughout residential neighborhoods;

WHEREAS, placing concrete bikepaths along the street in front of houses enhances the livability of a neighborhood;

WHEREAS, requiring larger setbacks along bikepaths increases safety along these paths;

WHEREAS, wider sidewalks will facilitate safer pedestrian activity along through streets and streets carrying higher traffic volumes;

WHEREAS, locating utility boxes towards the rear of properties increases safety by creating a more uncluttered and clearer streetscape, as well as enhances the aesthetic quality of the neighborhood;

WHEREAS, it is necessary from time to time to update the Code and to enact new standards to protect the health, welfare, and safety of the community; and

WHEREAS, the Dublin Planning and Zoning Commission reviewed the proposed amendments on August 10, 2000 and recommends approval.

NOW, THEREFORE, BE IT ORDAINED, by the Council, of the City of Dublin, State of Ohio, 6 of the elected members concurring, as follows:

**05-083ADM**  
**Swing Sets in No-Build Zone**  
**Code Amendment**

# RECORD OF ORDINANCES

Dayton Legal Blank Co.

Form No. 30043

Ordinance No. 101-00 (Amended)

Passed

YEAR

## Page Two

**Section 1.** That the following definitions be added to Section 152.002 and read as follows:

**BOX CUL-DE-SAC-A** typical setback treatment on a cul-de-sac where the building lines for the lots fronting on the bulb, or rounded pavement at the terminus, are placed in straight lines and create right angles to form a partial square or rectangle around the bulb.

**BUILDABLE AREA-**The area of a property where structures may be located.

**BUILDER-**Any company that constructs houses. Any builder that has a parent/subsidiary relationship will be considered the same builder.

**EYEBROW-**A geometric roadway configuration, typically found at street angles 45 degrees or greater, that is used to provide increased lot frontage.

**NO-BUILD ZONE-**An open area where construction is prohibited. All structures including, but not limited to buildings, parking, driveways, sidewalks, sheds, swimming pools, patios, decks or other accessory structures, swing sets/play structures, fences, antennae and basketball courts or other sport courts are prohibited in order to preserve open space. A no-build zone is typically found along the rear of a single-family lot. Over lot grading and the placement of underground utilities are permitted within no-build zones.

**NO-DISTURB ZONE-**An open area that will not be physically disturbed in order to preserve existing natural or new landscape features. Trees or other significant vegetation must remain in their natural condition and may not be removed from such a zone. Grading activities and the placement of utilities are also prohibited within this area. Utilities may cross at right angles through a no-disturb zone, if necessary and designed to minimize impacts. All structures including, but not limited to buildings, parking, driveways, sidewalks, sheds, swimming pools, patios, decks or other accessory structures, swing sets/play structures, fences, antennae, and basketball courts or other sport courts are prohibited within a no-disturb zone.

**Section 2.** That Section 152.048 be amended to read as follows:

Sidewalks and/or bikepaths shall be constructed on both sides of all streets except as waived by Council. Within all residential developments, sidewalks shall be four feet in width, except on "through" or more important streets where five feet will be required.

~~The City Engineer shall determine whether sidewalks or bikepaths shall be constructed.~~

For purposes of this section, bikepaths will be installed in lieu of the required sidewalk. Bikepaths shall be installed in accordance with the adopted Community Plan and to provide connections to all parks, schools, adjacent neighborhoods, etc., as approved by the Planning Commission. When a bikepath is placed along the front of residential lots, the bikepath shall be at least eight feet in width and constructed of concrete. In addition, the front building lines for those lots shall be at least 35 feet behind the bikepath. When bikepaths are required along a side property line of a single-family lot, the house shall not be constructed within ten feet of the bikepath easement, or the bikepath itself, if not contained within an easement.

**Section 3.** That Section 152.053 be added and read as follows:

Within residential developments, utility boxes, transformers, and similar mechanical equipment must be placed in the rear yard, wherever practical. If locating these

**05-083ADM**  
**Swing Sets in No-Build Zone**  
**Code Amendment**

# RECORD OF ORDINANCES

Dayton Legal Blank Co.

Form No. 30043

Ordinance No. **101-00 (Amended)**

Passed

YEAR

## Page Three

structures in the rear yard is not practical as determined by the City Engineer, then they shall be at least 25 feet behind the right-of-way. Such equipment is prohibited from being located within the right-of-way, adjacent to the streets and in no-disturb zones. Such equipment must be screened by landscaping in accordance with Sections 153.077 and 153.133 (C).

**Section 4.** That Section 152.019(C)(6) be added and read as follows: Within all residential subdivisions, including those within a Planned Unit Development District, the minimum front setback will be determined for each street by the zoning district in which the development is located. The setback should be varied among adjacent lots by at least five feet. No more than one-third of the lots within the subdivision may employ the minimum setback line, and the varied setbacks should be reasonably dispersed throughout the subdivision.

The Planning Commission has the discretion to waive or modify this requirement within PUD zoned areas provided it determines such action is warranted to maintain a desired development style or design.

**Section 5.** That Section 152.019(C)(7) be added and read as follows: Within residential subdivisions, including those within Planned Unit Development Districts, a 65-foot minimum "buildable" depth shall be maintained for each lot. This depth will be measured as the minimum perpendicular distance between the front building line and the required rear yard, no-build zone or no-disturb zone, or other applicable setback(s). The "buildable" width is the minimum distance between required side yards and will be measured parallel to the right-of-way line whenever practical and shall not include any portion of no-build zones, no-disturb zones, bikepath easements, or other applicable setback(s), except that the minimum buildable width restriction shall operate to accommodate side-load garages, driveways, and parking areas. The minimum buildable width will be established at the time of zoning. The buildable area of a lot is established to contain the building, any building additions, decks, porches, accessory structures, on-site parking, and any accessory uses.

The Planning Commission has the discretion to waive or modify this requirement within PUD zoned areas provided it determines such action is warranted to maintain a desired development style or design.

**Section 6.** That Section 152.019 (C)(8) be added and read as follows: Variation in lot width shall be required for all subdivisions with more than eight lots, including those within Planned Unit Development Districts. No more than six lots in a row may have the same lot width. There must be a minimum variation of 10 feet. Lots of varying width must be dispersed throughout the subdivision. No more than 50 percent of the lots contained within the preliminary plat shall be of the minimum width. In addition, 15 percent of the lots contained within the preliminary plat must have a width at least 20 feet above the minimum requirement. Corner lots will not be counted toward the 15 percent requirement. When all of the lots within a development are 100 feet or wider, then the varied lot width requirement shall not apply.

The Planning Commission has the discretion to waive or modify this requirement within PUD zoned areas provided it determines such action is warranted to maintain a desired development style or design.

**Section 7.** This Ordinance shall take effect and be in force from and after the earliest date permitted by law.

**05-083ADM**  
**Swing Sets in No-Build Zone**  
**Code Amendment**

RECORD OF ORDINANCES

Dayton Legal Blank Co.

Form No. 30943

Ordinance No. 101-00 (Amended)

Passed

YEAR

Page Four

Passed this 18th day of Sept. 2000.

*[Handwritten Signature]*

Mayor-Presiding Officer

Attest:

*[Handwritten Signature]*

Clerk of Council

Sponsor: Planning Division

I hereby certify that copies of this Ordinance/Resolution were posted in the City of Dublin in accordance with Section 731.25 of the Ohio Revised Code.

*[Handwritten Signature]*  
Asst. Clerk of Council, Dublin, Ohio



**DUBLIN PLANNING AND ZONING COMMISSION**

**RECORD OF ACTION**

**August 10, 2000**

CITY OF DUBLIN

Division of Planning  
5800 Shier-Rings Road  
Dublin, Ohio 43016-1236

Phone/TDD: 614-761-6550  
Fax: 614-761-6566  
Web Site: www.dublin.oh.us

The Planning and Zoning Commission took the following action at this meeting:

**1. 00-071ADM Subdivision Regulations Amendment**

**Request:** Review and recommendation of a Code amendment to promote architectural diversity within single-family residential subdivisions.

**Applicant:** City of Dublin, c/o Tim Hansley, City Manager, 5200 Emerald Parkway, Dublin, Ohio 43017.

**MOTION:** To approve this code amendment because it is a step toward residential design standards to increase architectural diversity and enhance the viability of Dublin neighborhoods, and it codifies several policies typically negotiated during the rezoning and platting processes, with two conditions:

- 1) That Section 3 be revised to state that if locating these structures in the rear yard is not practical as determined by the City Engineer, then they shall be at least 25 feet behind the right-of-way; and
- 2) That both staff and the Law Director review and revise Section 7 to exempt a subdivision with four or more builders from the architectural diversity requirement if a subdivision:
  - (a) Has no more than 150 lots;
  - (b) No builder constructs on more than 35 percent of the lots within the subdivision; and
  - (c) The different builders are reasonably dispersed throughout the subdivision, as approved by staff.

**VOTE:** 5-1.

**RESULT:** This amendment was approved. It will be forwarded to City Council with a positive recommendation.

**STAFF CERTIFICATION**

Holly Susong  
Planner

**05-083ADM**

Swing Sets in No-Build Zone

Commission has the right to amend its agenda. He noted that no staff report was prepared. The Commission is not obligated to hear a case because it was on the published agenda.

Mr. Fishman said Sos Codisoti of Llewellyn Farms gave him copies of plans for the Wuertz property for the other Commissioners, however he did not have them to distribute. He suggested this might be an appropriate subject for a subcommittee. The land use and the future bridge shown in the Community Plan are big issues.

Mr. Lecklider pointed out that the residents would have opportunity to speak about this as it proceeds as a rezoning. He thought forming a subcommittee would be premature. It has not been presented to the Commission as yet. Ms. Clarke said a rezoning application for a single-family subdivision on the Wuertz property has been filed.

Ms. Boring thought all meetings should be scheduled with staff and open to the public. The complete debate should be open, and she was uncomfortable with a subcommittee forum.

Mr. Fishman said he was only delivering a message from the resident. Mr. Sprague noted that sub-committee meetings are public and announced in the newspaper. Ms. Salay agreed.

Mr. Charles Driscoll (the applicant in the Wuertz rezoning case) announced that he does not want a subcommittee.

Mr. Lecklider also announced Case 2 is being postponed.

### **1. Code Amendment 00-071ADM - Subdivision Regulations Amendment**

Ms. Susong said the Commission discussed this case on July 20, 2000. The main issues included the location of utilities, staggered setbacks, and varied lot width. Since then, staff met with the BIA twice. This proposed ordinance concerns architectural diversity within single-family subdivisions. She said this is the first of several issues dealing with architectural diversity, and it involves the changes to the subdivision regulations. Several definitions were added.

Ms. Susong said it establishes a required four-foot sidewalk or concrete bikepath along all streets, in accordance with the Community Plan and to connect to schools, parks, etc. More important streets will have five-foot sidewalks. Setbacks along bikepaths will be increased to ten feet if along a side lot line, or to 35 feet along the front of a lot. She said Section 3 deals with utility boxes. Putting them at the rear of the lot is encouraged, but in no case closer than 25 feet to the right-of-way line. When it is not practical to put them at the rear, this is an alternate.

Ms. Susong said Section 4 requires staggered setbacks. As proposed, only two contiguous lots could have matching setbacks, and then there would have to be a variation of ten feet on the third lot. Section 5 establishes a minimum "buildable depth" of 65 feet. This is to create a lot that is big enough for a house and accessory structures such as decks, within the buildable area. Section 6 deals with varied lot widths. Not more than 50 percent of the lots in the subdivision could have the minimum lot width, and 15 percent of the lots need to be at least 20 feet wider than the minimum. Subdivisions with all 100-foot lots are exempt from this requirement.

Section 7 is the architectural diversity component that assures that a specific model, or one that looked substantially similar, is not repeated more often than every third lot on the same side of the street, and not on the three closest lots on the other side of the street. Each lot affects two lots in each direction plus three houses across the street. Section 8 requires a developer to submit a diversity plan, such as a lot matrix, with the preliminary plat.

Ms. Susong noted a letter from the BIA was distributed. She said specialized developments with the same lot size, or condos and patio homes could be handled through the PUD process.

Ms. Salay asked if this includes the golf course project because it is not officially rezoned. Ms. Clarke responded that this ordinance is not yet in place. She does not know if, and when, it will be made effective by City Council. That is a Council issue to decide. She noted the golf course rezoning is scheduled for City Council vote on August 14.

Ms. Salay wanted to know if this would apply to a subdivision that is half built. Ms. Susong said these specific regulations are applied at the preliminary plat, prior to road construction.

Ms. Salay asked how might more houses be able to be added to Dublin in the future. After checking the Community Plan, Ms. Clarke said if all eligible land is annexed, the buildup will be about 16,700 houses. She estimated there are currently over 9,000 homes in Dublin, and there may be another 2,000 lots in the pipeline. This ordinance will affect at least 5,000 lots.

Ms. Susong said when there is a bikepath running between two lots, it should be installed when the streets are constructed. When the house is built, it should already be in place. Mr. Hammersmith agreed.

Ms. Salay asked how a buyer knows about a bikepath in front of the lot, if it is not installed until later. Mr. Hammersmith said the best notation is on the plat in terms of the bikepath easement. Ms. Salay said some people don't read their plats before they buy.

Ms. Boring said Section 3 states the rear yard for utilities may not be practical in some cases. Who defines practical? Ms. Susong suggested leaving this to the determination of the City Engineer. Mr. Hammersmith said if there is a no-disturb zone, or trees to protect, it would not be practical. You might not want boxes adjacent to a park area.

Ms. Boring thought the reference should be added noting the City Engineer.

Regarding setback variations, Ms. Susong said the staff does not feel the five-foot offset works. Whole streets would be platted at 25, 30, 25, 30, and so on every other lot, and bikepath streets would vary at 35, 40, 35, 40. This would be expected for efficient layouts along lots of the same depth. The 33 percent quota of deeper setbacks would be along the bikepath streets.

Ms. Susong said this was patterned after Donegal Cliffs, which has the 10-foot offsets.



Ms. Boring said the way it is written, any apartments, condos or cluster housing would have to use the PUD. They could not use straight zoning because they could not follow these rules.

Ms. Clarke said most apartment developments did not involve a plat, but staff will check on this.

Ms. Boring said she does agree with the BIA's letter regarding Section 7. It is too vague.

Ms. Susong suggested using an architect on staff to examine each model. Ms. Clarke noted that examining the models themselves would not be done at the time of the platting. It will be done in conjunction with a building permit, and that will be covered in the next ordinance. The definition of what is "substantially similar" will be defined in the next ordinance. Determining which lots will affect the architecture on which other lots is all that is being considered within the subdivision regulation. The hard part is in the next ordinance that will be tied to the building permit process for individual lots within single-family developments.

Ms. Boring thought this issue should be addressed now, perhaps by referencing the future ordinance. Ms. Clarke said she understood the concern. "Substantially similar model" is a term that seems too discretionary. More specific language might be included to give a better understanding how it will be administered.

Ms. Susong said a number of the elements would have to be repeated on two elevations for them to be considered as similar. Ms. Boring was still uncomfortable with this explanation. Ms. Clarke asked if graphics would help. Ms. Boring said yes.

Ms. Clarke said staff has determined what is similar or dissimilar since the first cataloging of models was done with the Commission's approval.

Ms. Boring wanted language in the ordinance about the diversity matrix. Ms. Clarke said it was not referenced because some developers may have a better idea than the matrix to establish diversity standards. Staff wanted to leave that opportunity in the ordinance.

Mr. Fishman stated his concern in administering this. He attended the BIA meeting with staff, and the BIA raised some excellent points about subjectivity. He wanted it to be as specific as possible and easy to administer. He wanted non-subjective wording.

Ms. Susong said staff already administers it this way in several new subdivisions.

Ms. Clarke suggested graphic illustrations to indicate houses that were similar and dissimilar. She noted the current Code has very few graphics, which is a criticism of it. Dublin hired Ratio Architects to rewrite the Code because their graphics package was so strong.

Mr. Sprague noted the use of graphics within the Community Plan and the Road to "Wow!".

Mr. Lecklider said he wants some flexibility so that other options can come forward. Unworkable aspects will be revisited. He said he is sensitive to the builders, and he does not want extremes in subjectivity. Mr. Sprague agreed, and he liked the idea of using graphics.

Ms. Salay said she was not on the Commission in the early stages of dealing with this issue. She likes the idea of having more than just one builder. With three or more builders, the diversity issue takes care of itself. Mr. Lecklider disagreed and said some styles might be repetitious.

Ms. Salay asks if three people pick one house type over a weekend does only the first person get it. Ms. Clarke said yes, she believed it would be based on first application received. The staff currently handles which houses can and cannot be built on which lots based on the design of the front facade, in several new subdivisions.

Ms. Susong said several BIA members noted that several builders have the same footprint, which automatically results in the same sort of elevations. It is part of the building permit process, not the subdivision regulations. However, turn around times can be built into the process.

Ms. Clarke said a quick turn around time is important. A larger builder has a pre-approved list, and it is clear what can go next door to what. The small builder needs to know that a specific house is approved. This would be in advance of the building permit process.

Ms. Salay asked if we should encourage the builders to do an architectural review.

Ms. Clarke said some developers do that now. Folks want individuality in the house they have selected. We'll try to facilitate as many builders as we can.

Mr. Peplow wanted specific guidelines. He disagreed that different builders automatically give diversity. This lays the groundwork for phase two and phase three, and he is concerned about the administrative side of it.

Ms. Susong said the current process seems to work, although it takes more time to administer.

Mr. Fishman does not want subdivisions with flat roofs. Steeper roofs give a better appearance. He said having four or more builders would create diversity.

Ms. Clarke said if there are ten builders on a cul-de-sac and if every house is a salt box, we goofed.

Mr. Fishman said he does not want to make this a nightmare to administer and he wants to assure the small builders will be able to continue in Dublin.

Ms. Boring asked if this would be the appropriate place to incorporate traffic control devices. Ms. Clarke said traffic calming probably does not belong in an ordinance that has a title of architectural diversity. It would also be an amendment to the subdivision code.

Tom Hart, representative of the BIA, said they met with staff and appreciated that opportunity. The BIA has provided both comments and suggestions for amendment, and he distributed a letter. The BIA opposes the ordinance because it will have a large impact on this market. This ordinance puts definitions into code, into law. Explaining how this will work in a future

ordinance is not acceptable. Three or more builders will provide diversity. Production builders can meet this ordinance, the smaller builders may not be able to. Part of the intent of this ordinance was to bring in and encourage small builders and small developments. Removing Section 7 will encourage them to come. He proposes that the ordinance not apply to subdivisions of 20 or fewer lots. There are plenty of our members who build one or two houses a year.

Mr. Hart said they need a fixed time frame for decisions and for appeals. This especially impacts the out of town buyer. We don't understand how these decisions will be made or how the different factors will be weighed against each other. It is unclear what will be similar, and what won't be. That is unclear on the face of this ordinance. He wants design professionals in the decision-making at the staff level and at the appeal level. We would like a quick appeal. He recommended a 3-member panel of design professionals to review staff decisions.

Mr. Hart said the whole approach is way too restrictive. In laying out a subdivision, the planning process is more of an art than is reflected in the ordinance. We would like a much more flexible approach. In terms of laying out subdivisions, they think Dublin will not like the results and there will be some odd looking streetscapes.

Charles Driscoll, Edwards Land Company, said this ordinance is fairly sweeping. His high end subdivisions, such as Coventry Woods, Llewellyn Farms, Amberleigh, and Bristol Commons, would not meet these rules. They would have to be redrawn. He said he is the plan reviewer in Edwards subdivisions, and builders need immediate responses on whether a particular house can go on a specific lot. The process is going to be hard for Dublin to respond timely for these small builders. Big builders will have pre-programmed their product.

Mr. Driscoll said the issue came up because of one-builder production subdivisions. This is to address the way those look. These rules will result in more production subdivisions, not less.

Rich Danko of Duffy Homes said he couldn't understand why Dublin would want this. Every subdivision he builds in already has a developer approval process. It seems like you would be duplicating that same process. The consumer is going to feel the brunt of the ordinance.

Mr. Danko said working with a family to put together a custom or semi-custom home takes weeks or months. Making changes to the facades all add to the house cost. Even for production builders, some of the requirements for the varied setbacks, etc. will lead to higher sale prices for the customer. The process is too subjective as well. Timing is a big issue. After going into contract, they draw the plans with our architect. That process takes about a month. Then we submit them to a municipality for building permit, and that process takes another four to seven weeks. The diversity decision is too late as proposed.

Scott Shively of the Truberry Custom Homes said his company builds high-end custom homes. He thinks that natural competition and consumer demand will address many concerns. Truberry has 286 house plans, but they build many of the same 12 designs due to customer demand. Some homes are designed for rolling terrain, treed lots, etc., but this ordinance notes the building

setback line artificially, without respect for the land. This denies the natural characteristics of the land. He said without knowing how this will be administered, this ordinance is quite scary.

Joe Sullivan, with Sullivan and Bruck Architects, said they do a lot of custom single-family design and also production design. As an architect, he has concerns about the solution prescribed. Design cannot be a prescriptive process. He can come up with some terrible designs to fit any guidelines. A good design has good scale, and proportion, and design principals. Any design solution should start with its site, topography and vegetation. I think that we are going to get superficial solutions to houses that have nothing to do with good design.

An architecture review process should involve trained professionals. Architects would need to have experience in residential work. Without that, we are going to get some unhappy solutions.

Mike Close said he represents the BIA, and he has a lot of experience in how cities develop. He was concerned the process was moving too fast, and the process is not deliberative. He said this is an over reaction due to a problem with one subdivision. He suggested the theory of unintended consequences would apply here. We need to look down the road to see what it does to other things that appear unrelated. He suggested a builder might have only six houses, and he would build each one an equal number of times. It might meet the Code, but it is so artificial that it looks ludicrous. We don't know what problems are being created here. He said a definition of "similar" is needed. There is far too much subjectivity.

Mr. Close said the Commission is making a recommendation on a change in the law. The procedural process and the definitions should be included. The Planning staff is not equipped to administer this and appeals are costly and time-consuming. It will cost \$1,000 in fees plus attorney's fees to petition the Board of Zoning Appeals. It is a very subjective ordinance and will cause many appeals. Prompt decisions and the cost of housing are concerns.

Mr. Close said this needs to be tabled until the whole package is presented for consideration. City Council may be in a hurry, but not if a poor ordinance generates many complaints.

Ms. Boring said the reason for this is to give guidelines. Mr. Hart said that parts of the ordinance deals with laying out the lots of the subdivisions, not the diversity. A developer needs to meet the standard of general diversity as the Commission sees it. He said the commission does not approve things without a lot of scrutiny, and developers feel the process is regulatory enough.

Mr. Hart said Sections 4, 5, and 6 lay out specific numbers and specific requirements without any regard to the land. Ms. Boring agreed and said there is a waiver process in the ordinance. She said exact numbers can be less arbitrary, and Dublin has been criticized for arbitrary decision-making previously.

Mr. Danko said they already have a developer review process, and this is a duplication of effort. He recommended having the developer do the review or use an architectural firm.

Mr. Close said the staff is not homebuilders or developers. He said this is a government step intruding further in the lives of developers.

Ms. Boring said the community wants standards set and they want an overall planning guide. Mr. Close said that is not coming from the community. People keep coming in here because they like the way the community looks.

Ms. Salay said that the BIA understands the purpose of this ordinance and they agree it is a good thing market wise. She asked for their suggestions to achieve these goals. Mr. Close said they have proposed amendments.

Mr. Hart said the production builders can deal with the diversity process, but the custom builders cannot. He fears it is too arbitrary.

Ms. Susong said they would have to establish an appeal process with the building permit. If desired, it could include review time frames.

Ms. Clarke said the time expectation would be no longer than a week for a determination. She thought if it is determined that home buying is a weekend process, perhaps staff could be available on Monday morning for this. If it is an easy yes, it can be done immediately. If it requires more study there could be an answer by Friday or it might be combined with the Wednesday walk-through permits.

Ms. Clarke said she is comfortable that they can come up with a process that is efficient, that has short turn around, and one that has standards that the industry and staff can agree on. She said if it requires employing the services of a residential architect for this purpose, that is a possibility.

Mr. Lecklider said he is not fully aware of the meaning of when ISO certification is achieved, but he assumes it involves timing, customer service and quality. He said the City has demonstrated by achieving a certification that they have the ability to do unusual things.

Ms. Susong said complete architectural diversity is being done in Hudson, a suburb of Cleveland. Ms. Clarke noted that New Albany has largely a developer process.

Mr. Danko said they build in New Albany. The developer, New Albany Communities requires a certificate of appropriateness. There is a preliminary review and final review with the developer. Once you have that you have to attach the certificate to your building permit application or it will not be accepted. The review process with the developer is supposed to take a week, but it normally takes minimum of a month. It involves two architects, two representatives of the developer and a homeowner representative.

Mr. Hart said the goal in New Albany is not diversity it is architecture uniformity, and there is a different price point in the community. He said the goal of the architectural review is to make the houses more expensive. He said the bottom line is that it is a private company doing it by contract, different in his view from the government doing it by code.

Mr. Sullivan said the difference in that process is that there is not a predetermined prescription. He favors some type of review process that works and generally is handled by developers. But,

if you do have a process it should react to the specifics as opposed to some prescription.

Ms. Susong said an appeal would have to be tied to the building permit process and possibly to the Board of Zoning Appeals, but staff will research and address it.

Mr. Fishman said City Council wants this passed. He would like to see it passed and move on to the other ordinance. He said the developers and the builders have made good points. He would like the ordinance passed with an exemption for subdivisions of 100 lots, with four or more builders with dispersed lots, and that one builder can not build on more than 35 percent of the lots.

Mr. Fishman said the builders have said that the large builders can handle this, but the high-end builders have the problem. He said this exemption would encourage the high end builders.

Ms. Clarke asked if there is a minimum representation. If a subdivision is exempt if there is a hundred houses and if you have two of those builders building two houses a piece. Mr. Fishman said it wouldn't work that way, no one builder can build over thirty-five houses in that subdivision. He said this is a minimum number.

Mr. Fishman said in Muirfield the builder submits the plan, and they are told they will get the plan back in two weeks. If they don't get it back within 30 days, the plan is automatically approved, according to the deed restrictions. There is an informal appeal process where the applicant meets with the architect. There is a fee for this process and they work it out.

Ms. Boring said Council is in favor of getting something done. She said they gave the planning staff a very big chore and this is a good solution. She said the average citizen cares and they let you know when you make a mistake. She said the City is spending millions of dollars to make it different. She is uncomfortable with passing an ordinance that says it is dependent on an ordinance. She is going to leave it up to Council. The builders and the BIA can come into Council and request to put the brakes on. It is time to move this one.

Mr. Peplow said he appreciates the direction of Council. He is concerned that developments everyone likes would not fit this as written unless it went through the PUD. He said he is uncomfortable with what this does to the cost of housing in Dublin. He does want diversity, but the question is how are they going to get it. He would prefer to move it forward and send it to Council. He does not think having an architect is going to solve the subjectivity. He said to think an architect is going to make the process automatic does not match his experiences as a Commissioner. He agrees with Ms. Boring and move it forward with the suggestion of Mr. Fishman in regards to section seven and see what happens in Council.

Ms. Salay said she would defer to her senior colleagues, but she is reluctant without seeing the entire package of ordinances. She would hate to see the beginning price point in Dublin be \$250,000. She said she has a problem with the inability to look at each individual piece of land with the natural features. She would favor tabling until they have all the pieces in place. She wants the building community to be more comfortable that it can work.

Mr. Sprague said central Ohio has excellent builders at various price points. He said the builders in Dublin have been providing better and better products and responding to the market. City Council has expressed a clear preference for a well reviewed architectural ordinance in an expeditious manner. He said this is ready for council review. He said he would recommend sending this ordinance to council with a positive recommendation.

Mr. Lecklider said he appreciated all of the comments and staff effort on this. He appreciated Mr. Fishman's involvement in meeting with the BIA.

Mr. Lecklider agreed there are quality builders within the community. He said the intent behind changing the rules is to create a better product. They are confident that the builders can meet the challenge. He thinks these standards would have improved the subdivisions, and they would have still been built and even improved. He said he is confident in the ability of staff to respond. If there is not adequate staffing, the process will break down.

Mr. Lecklider said there needs to be a fair appeals process that can respond in a speedy fashion with any appeal that is raised.

Regarding an exemption, Ms. Susong suggested wording that this section shall not be applicable when four or more builders build in a subdivision and providing that no builder builds on more than 35 percent of the lots and that the builders shall be reasonably disbursed throughout the subdivision. There was consensus on these points.

There was a discussion on the maximum size of a subdivision to qualify for these exemptions: 50 lots, 100 or 150. There was general agreement on a cap at 150 lots.

Mr. Fishman made a motion to approve this Code amendment because it is a step toward residential design standards to increase architectural diversity and enhance the viability of Dublin neighborhoods, and it codifies several policies typically negotiated during the rezoning and platting processes, with two conditions:

- 1) That Section 3 be revised to state that if locating these structures in the rear yard is not practical as determined by the City Engineer, then they shall be at least 25 feet behind the right-of-way; and
- 2) That both staff and the Law Director review and revise Section 7 to exempt a subdivision with four or more builders from the architectural diversity requirement if a subdivision:
  - (a) Has no more than 150 lots;
  - (b) No builder constructs on more than 35 percent of the lots within the subdivision; and
  - (c) The different builders are reasonably dispersed throughout the subdivision, as approved by staff.

Ms. Boring seconded the motion, and the vote was as follows: Ms. Salay, no; Mr. Peplow, yes; Mr. Sprague, yes; Mr. Licklider, yes; Ms. Boring, yes; and Mr. Fishman, yes. (Approved 5-1.)

Ms. Clarke said based upon what has been discussed she needs staff to work on an appeal

process, better define the terminology such as “substantially similar”, and to create graphics for “Similar “ and “dis-similar”. She said it is not fruitful to have the same hours debate in front of City Council that this Commission had. She said they would try to define those things better as they take this forward to City Council.

Mr. Lecklider called for a five-minute break at 9:25 p.m. The meeting resumed at 9:30 p.m.

**2. Final Development Plan 00-059 FDP – McKittrick RUD – Killilea, Section 4, Lots 58 – 80**

This case was postponed prior to issuance of the staff report. There was no discussion and no action taken.

**3. Final Plat 00-074 FR – Belvedere Section 1**

Warren Campbell said Section 1 of Belvedere contains a 20.7-acre section located on the west side of Avery Road, approximately 2,200 feet north of Brand Road. The zoning is PLR, Planned Low Density Residential District, and this is a single-family home subdivision of 38 lots with three acres of open space.

Mr. Campbell showed several slides. An adjacent maintenance building should have some landscaping to screen it from this site. He said regarding the three acres of open space the two front areas would include a bike path that will connect with Shannon Glen.

Mr. Campbell said there are two issues that need to be addressed. He said there is not a final agreement on the exact locations of the floodways and 100-year flood line. Lot 7 is the only lot that can possibly be affected. It might need to be reconfigured dependent upon the actual floodway lines. He said the hope is to not have any flood lines go through that lot. He said staff would like to remove Condition 4.

Mr. Campbell said staff recommends approval with eleven remaining conditions:

- 1) That the left turn lane and widening along Avery Road be designed and installed to the satisfaction of the City Engineer;
- 2) That floodplain/floodway lines be designated on all future plats, plans, and building drawings;
- 3) That the western property line of Lot 7 be adjusted as to not fall within the 100-year floodplain as determined by the City Engineer;
- 4) That the entry feature sign meet Code for placement outside of public right-of-way, sign face materials, and lighting, subject to staff approval;
- 5) That the replacement trees (Belvedere East Replacement Plan) be installed by June 30, 2001;
- 6) That protective tree fencing be installed and maintained during all phases of construction, and that any protected, qualifying trees which die within five years be replaced by the developer;
- 7) That all bikepaths within the reserve areas be installed at the time of road construction;





**PLANNING AND ZONING COMMISSION**

**RECORD OF ACTION**

**JULY 20, 2000**

CITY OF DUBLIN

Division of Planning  
5800 Shier-Rings Road  
Dublin, Ohio 43016-1236

Phone/TDD: 614-761-6550  
Fax: 614-761-6566  
Web Site: [www.dublin.oh.us](http://www.dublin.oh.us)

The Planning and Zoning Commission took the following action at this meeting:

**4. 00-071ADM Subdivision Regulations Amendment**

**Request:** Review and recommendation of a Code amendment to promote architectural diversity within single-family residential subdivisions.

**Applicant:** City of Dublin, c/o Tim Hansley, City Manager, 5200 Emerald Parkway, Dublin, Ohio 43017.

**MOTION:** To table this application and schedule a rehearing no later than September 7, 2000.

**VOTE:** 5-0.

**RESULT:** After a discussion regarding varied lot widths, staggered setbacks, and the location of utility boxes, this application was tabled. The goal is to keep this ordinance moving through the process, and to refer it back to City Council in September. Members of the Commission and staff agreed to meet with the BIA to discuss its concerns prior to the next Commission meeting.

**STAFF CERTIFICATION**

  
Holly Sasong  
Planner

**05-083ADM**  
Swing Sets in No-Build Zone  
Code Amendment

- 2) That the landscape plan conform to Code and the comments contained in this staff report;
- 3) That the third phase of the previously approved landscape plan (street trees) be completed prior to occupancy of this building expansion and that any plant material identified during the landscape inspection conducted on July 3, 2000, be replaced prior to October 16, 2000;
- 4) That parking comply with Code unless a variance is granted by the Board of Zoning Appeals;
- 5) That any future seating expansion, including but not limited to the use of the existing fellowship hall and/or chapel as worship areas, be subject to future review and approval by the Planning Commission;
- 6) That a public access easement be granted for the garden, that all landscaping be removed from the right-of-way, and that the proposed stone/hedge wall be moved outside of any sight visibility triangles, subject to staff approval;
- 7) That all hardscape and landscape materials included within the pocket park/garden be installed prior to the occupancy of this building expansion, subject to staff approval;
- 8) That the design of the parking lot pavement and drives meet the approval of the City Engineer;
- 9) That stormwater management be in compliance with the Dublin Stormwater Regulations, subject to staff approval;
- 10) That the four parcels be combined prior to applying for building permits;
- 11) That the portion of Martin Road (in front of the existing house) be dedicated as right-of-way to the City in conformance with the Thoroughfare Plan (30 feet from centerline);
- 12) That the proposed lighting be in compliance with the Dublin Lighting Guidelines, subject to staff approval; and
- 13) That revised plans be submitted within two weeks and prior to the scheduling of a pre-submittal meeting, subject to staff approval.

Mr. Eastep seconded the motion, and the vote was as follows: Mr. Peplow, yes; Mr. Sprague, yes; Ms. Boring, yes; Mrs. Eastep, yes; and Mr. Fishman, yes. (Approved 5 - 0.)

#### **4. Subdivision Regulations Amendment 00-071ADM**

Holly Susong said City Council has set a priority goal to adopt design quality and diversity in residential areas. Staff has examined the various areas of oversight. Both the house architecture and subdivision design are involved. She said this is the first ordinance, and it covers adjustments to the subdivision regulations. Some of these involve non-codified “policies” that are applied routinely through the negotiation process with developers.

Ms. Susong said increasing setbacks where there is a front bikepath, using concrete for front bikepaths, and placing utility boxes out of view are included in this ordinance. These will be required during the preliminary plat, and they will not need to be negotiated in the future.

Ms. Susong showed a slide of varied setbacks, varied lot width, and minimum building areas. The minimum lot width and setbacks are determined by the underlying zoning. As proposed, no more than two lots could employ the same setback, the third would need to be offset. This will create a more interesting streetscape. The lot width will be treated similarly. The third lot needs to be at least ten feet wider, with not more than half of the lots being platted at the minimum lot width. Also 15 percent need to be at least 20 feet wider than the minimum. She assumed that the minimum lot width will be 80 feet as previously discussed. This provides for a better mix of house types, garage size and orientation.

**05-083ADM**

Swing Sets in No-Build Zone

Code Amendment

Ms. Susong the general diversity standard that the Commission has negotiated on recent subdivisions was incorporated. A specific “model” cannot be repeated more than every third lot on the same side of the street and cannot be repeated on the three closest lots across the street. No model could be repeated on any opposite corner or along the bulb of a cul de sac. This is a bit stricter, and these standards are proposed for codification. A matrix would be submitted with the preliminary plat application.

The standards include establishing a 65-foot “buildable depth” for every lot. This is a new standard to ensure that there is room on the lot for the house and accessory structures. Several definitions are being added to the Code.

She said staff thinks this is more straightforward and will make the expectations for approval clearer. This will make the process more predictable. She said staff recommends approval.

Mr. Peplow asked for examples of “more important streets.” Ms. Susong said Tullymore Drive. Ms. Clarke said any street leading to a major building, school, church, and park. She said it corresponds to the expected level of pedestrian use. She noted wider sidewalks were required through the negotiation process on Hard Road near Scioto High School, for example.

Mr. Peplow asked if this fits with recent plans. Ms. Susong said for architectural diversity, the biggest difference is on the cul de sacs. The buildable area was based on existing plans that work, and most are at least 65 feet deep. The sideyard setbacks are based on Donegal Cliffs.

Mr. Peplow liked the staggered setbacks. He was concerned that requiring 15 percent of the lots to be 20 feet greater (100 feet) might make the price too high. Ms. Susong said staff based the example on a Dublin plan, and only two lots were lost. Mr. Peplow asked if a diversity in cost was wanted. Ms. Clarke said the goal is diversity in the front architecture, and one way to do that is to include houses with a side-load garage. This cannot be done on an 80-foot lot.

Mr. Fishman said one of the problems is that all of Dublin’s subdivisions were developed within a couple of years, not over decades with varying trends. The neighborhoods do not have mature trees. Mr. Fishman said the draft ordinance was an excellent job, and it will promote diversity.

Mr. Eastep asked about not having more than two adjacent lots with the same setback line (Section 4). He preferred requiring the offset on every lot and using five-foot differences instead of the ten-foot offsets as proposed. That would give a variation of three setbacks at 25, 30 and 35 feet instead of 25 feet and 25 feet in a standard subdivision. Ms. Susong said this might set up a repetitious five-foot back and forth situation. Ms. Clarke said staff did not think that five feet would provide enough visual difference. Mr. Eastep suggested that 33 percent of the lots be required at each five-foot interval.

Mr. Eastep asked about the minimum lot width variation of ten feet. He said most subdivisions are developed of like-sized products. They do not group 100-foot rural lots with 60-foot patio homes. He was not sure this would be good. He wanted enough flexibility in the ordinance to permit a patio home retirement community, for instance.

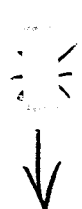
Mr. Eastep said the 50 percent maximum on minimum width lots will raise costs. He wants diversity, nice communities, and natural materials, but not to price Dublin out of the market Ms.



Clarke asked if the Commission would accept lots less than 80 feet in width. There was formerly full agreement that 80 feet would be the minimum width. Mr. Eastep said yes, but for patio homes, and it depends totally on the product.

Ms. Clarke said the goal of codification is to get rid of “it depends.” Mr. Eastep said it makes everyone’s job easier if there is less ambiguity. He said he would like to see 60-foot lots for diversity using Wow! elements which will provide more density. Weatherstone looks great with narrower lots. Under this ordinance, cluster and patio homes will be prohibited.

Mr. Eastep said there may be enforcement issues regarding the no-build zones for swing sets and play structures throughout Dublin.



Ms. Susong said there is inconsistency in no-build zone definitions. Some plats prohibit play structures, and others permit them. The staff goal is to use a consistent standard citywide.

Mr. Eastep said it needs to be clear on the plats. He wants to suggest to Council that more Code Enforcement officers be hired. He said the zoning code cannot be enforced by a single individual. Ms. Clarke said staffing is a different issue. Dublin has had for 15 years, complaint-driven code enforcement, and she had not heard that the policy was changed. Complaints are pursued, but if no one complains about this type of activity, no one investigates. Mr. Eastep said there were too many unaddressed violations existing.

Mr. Sprague suggested consideration of additional staffing for code enforcement, with a timely recommendation to the Commission on the issue. Ms. Clarke agreed.

Ms. Clarke said it is extremely difficult to enforce any Code measure after 20 years of ignoring it. She said Dublin’s code enforcement could be more aggressive than it is. She said Dublin is at the point where another Code Enforcement officer should be added.

Ms. Boring was glad that utility boxes must be in the rear yards. Ms. Susong said they must be at least 25 feet behind the right-of-way line (Section 3). Mr. Eastep said there are times when it cannot be in the rear. Ms. Susong said no-disturb zones prohibit them. The view from the next property should be considered. Ms. Boring asked to add “if at all possible.” Mr. Eastep suggested that it read “...must be placed in the rear yard where practical, and if not, at least 25 feet behind the right-of-way.”

Ms. Boring asked how to accommodate a cluster home neighborhood if that is desired. Ms. Clarke said it could be done in the PUD District which provides for design uniqueness, creativity, etc.

Mr. Sprague said the Commissioners received a letter from Mr. Hardt of the Building Industry Association (BIA).

David Haid said he is a custom home builder, developer, and Dublin resident, and the 2000 President of the BIA. He said the BIA opposes this diversity ordinance and requests a meeting with the staff, Commissioners and Council members to review it and to outline their objections. He said because the ordinance will have a dramatic impact on home building and consumer choice. The input of design professions could be received at such a meeting.

Mr. Haid said the ordinance does not promote builder and developer diversity. In fact, only the largest building companies can satisfy it. They need answers to many questions, such as treatment of cluster/patio homes and rear lot utilities.

Tom Hardt, BIA, is concerned about the operation of the ordinance. They think it is vague, particularly in what constitutes “a specific model type or substantially similar model.” The current diversity practice in Dublin makes them worry about any vagueness in interpretation. He said it will be hard for the independent developer to coordinate different builders to do this. Some models are similar between builders, and it is not clear how this would be coordinated. He requested a meeting with the Commission and staff.

Mr. Eastep agreed that this ordinance was not yet ready for the Commission’s vote and that meetings should be set. He said professional input is needed.

Ben W. Hale, Jr. said M/I Homes had dealt with diversity issues successfully. He expected that they could comply easily with the ordinance, but smaller builders/developers could not. He said if custom builders are required to meet the diversity on lots sold on the weekend, they may lose the sale before staff reviews them.

Ms. Clarke said if a developer takes the responsibility to mix house styles, and there is agreement on that, when the permits come in, staff can issue them because they are already mixed.

Mr. Hale said it may take six to eight weeks for a building permit, and this may be three months after a contract is made. Staff could determine that the house does not work after final design, financing, etc. are complete. This is too late in the process and will the smaller builders.

Ms. Clarke did not agree there would be a problem.

Mr. Fishman said this has been worked on for eight years, and this is the first piece of the puzzle. He will attend any meetings of staff and the BIA to address issues and come to a compromise. He made a motion to table this ordinance with the condition that it be returned to the Commission no later than September 7. He said the Commission valued the BIA’s opinion.

There was additional discussion about the timing. Ms. Boring reiterated that Council had put pressure on staff to move this project forward. The Community Plan is the guide, and the desire is to raise the bar in this community.

Mr. Eastep wanted this to be coordinated with the Road to Wow! Ms. Clarke said City Council has set this as the next priority. She was unaware of any conflict with the Wow! project.

Mr. Peplow seconded the motion. The vote was as follows: Ms. Boring, yes; Mr. Sprague, yes; Mr. Eastep, yes; Mr. Peplow, yes; and Mr. Fishman, yes. (Approved 5-0.)

**5. Tree Preservation Plan and Landscape Buffer - 98-120Z - Cardinal Health South Campus**

Mary Newcomb said this case is not a final development plan although the property is already zoned. It is a required review of a tree preservation plan and landscape rezoning, or preliminary development plan, condition.

**05-083ADM**  
Swing Sets in No-Build Zone  
Code Amendment

RECORD OF PROCEEDINGS

DAYTON LEGAL BLANK, INC., FORM NO. 10126

Held July 10, 2000

(YEAR)

Blazer Parkway has a four-lane, divided median design, requiring twice the amount of lights. The lighting planned for this road is consistent with lighting on other four-lane roads throughout the City.

Mayor Kranstuber moved for passage by emergency.

Mr. Adamek seconded the motion.

Vote on the motion: Mr. Peterson, yes; Mrs. Boring, yes; Mr. Reiner, yes; Mr. Adamek, yes; Mr. McCash, no; Ms. Chinnici-Zuercher, yes; Mayor Kranstuber, yes.

Vote on the Ordinance: Ms. Chinnici-Zuercher, yes; Mayor Kranstuber, yes; Mr. Peterson, yes; Mrs. Boring, yes; Mr. Adamek, yes; Mr. McCash, no; Mr. Reiner, yes.

**Ordinance 100-00 - An Ordinance Waiving Competitive Bidding Requirements, Pursuant to Section 8.04 ("Contracting Procedures"), Paragraph C ("Waiver of Competitive") for the Procurement of Odor Control Chemicals.**

Mayor Kranstuber introduced the ordinance.

Mr. Hansley stated that staff requests that the ordinance be held over for public hearing at the July 24 meeting. Staff also requests that the bidding requirements be waived for the reason that there is one chemical that has been more successful than the others in the treatment of odor problems in Old Dublin associated with the West Branch project. This product is available through only one vendor.

Ms. Chinnici-Zuercher asked if the odor control in Old Dublin will be the responsibility of the City of Columbus in keeping with Dublin's recently executed agreement with Shawnee Hills for sewer services.

Mr. Hansley responded that the commitment made by Columbus was for the design, engineering, and eventual construction of an odor control facility that will address the problem in the Old Dublin area. In the meantime, odor control must be continued, as the problem significantly increases during the late summer months. Although Columbus is officially responsible for the odor control, the City of Dublin will receive the complaints. Staff's anticipation is that Columbus will not provide a short-term resolution of the problem with the provision of chemicals. However, this is a policy issue for Council to decide.

Mr. Adamek suggested approving this expenditure and sending Columbus the invoice.

Ms. Chinnici-Zuercher suggested that staff contact the City of Columbus regarding their obligation to provide this odor control during the short term prior to construction of the facility which will provide a long-term resolution.

Mr. McCash inquired if Columbus has begun the design of the odor control facility and if there is a projected date of completion.

Mr. Hansley responded that they have, and the projected date of completion is May 31, 2001.

Council directed staff to contact the City of Columbus prior to the public hearing on July 24 and request that Columbus purchases the chemicals in lieu of the City of Dublin, and that a written response from the City of Columbus be provided to Council.

**Ordinance 101-00 - An Ordinance Amending Portions of the Subdivision Regulations to Promote Diversity Within Single-Family Residential Neighborhoods. (Case No. 00-071Z)**

Mrs. Boring introduced the ordinance and moved referral to Planning and Zoning Commission.

Mr. Adamek seconded the motion.

Vote on the motion: Mayor Kranstuber, yes; Mr. Adamek, yes; Mrs. Boring, yes; Mr. Peterson, yes; Mr. McCash, yes; Ms. Chinnici-Zuercher, yes; Mr. Reiner, yes.

Mayor Kranstuber asked for clarification from staff of what prompted this ordinance.

# RECORD OF PROCEEDINGS

Minutes of

Dublin City Council Meeting

Page 9

Meeting

Held July 10, 2000

(YEAR)

Mr. Smith responded that it was developed in response to Council's direction at goal setting for Planning staff to draft ordinances for submission to Council within 45 days regarding architectural diversity and setbacks as proposed in the Southwest Area Plan. The earlier draft of this ordinance which was referred to P&Z has undergone revisions. There will be a total of three ordinances necessary to accomplish Council's goal.

Mayor Kranstuber stated that he does not believe that the ordinance in its present form is adequate to meet the purpose. The timeframe established by Council has long passed, even though Mr. Helwig assured Council that the timeframe could be met.

Mr. Hansley suggested that Council provide clarification to Holly Susong, Planner, who is present tonight and is assigned to this project.

Mr. Reiner stated that the direction of Council was to legislate architectural material standards and setbacks. The expectation was that staff would take the usable information derived from the recent study on the Southwest and incorporate that into draft legislation.

Ms. Susong explained that Planning staff's response to Council's direction was, as a first step, to take what could be incorporated quickly into the subdivision regulations, such as the varied setbacks and varied lot widths for different types of housing. The ordinance before Council tonight reflects those, as well as policy issues that Planning Commission typically incorporates during the planned unit development or platting process. The staff report on this for Planning and Zoning Commission also includes comment on the second item requested, specification of architectural materials, with the indication that this is to be provided to Council within the next 90 days.

Mr. Reiner stated that Council is aware that the Planning Division is short-staffed and suggested that this project be subcontracted. Council has attempted to establish these standards for six years. In the absence of Code requirements, subdivisions continue to be developed that do not meet Council's expectations.

Mr. McCash clarified that the guidelines should specify not only types of building materials, but should include provisions for scale, proportion, assurance of diversity, and directions for balancing of those elements.

**Ordinance 102-00 – An Ordinance Providing For a Change in Zoning for 17.32 Acres of Land Bounded on the West by Interstate 270, the North and East By the South Fork of the Indian Run, and the South by Post Road From: CC, Community Commercial District and LI, Limited Industrial District, to: SO, Suburban Office and Institutional District. (Council initiated rezoning)**

Mr. Adamek introduced the ordinance.

Mr. Smith stated that this ordinance was prepared at the request of Council. However, since preparation, staff has been in discussion with representatives of both affected portions of the land, and has determined that it would be advisable not to refer it to Planning and Zoning Commission at this time. Staff therefore recommends that any action on this ordinance be postponed until the next meeting. It is expected that there may be alternate proposals for those sites, including a possibility of land acquisition. He added that the owner is in contract for part of that land, and the referral process may have a negative impact on that negotiation.

Chris Cline, Blaugrand, Herbert & Martin, 5455 Rings Road, Suite 500, Dublin, OH 43017 stated that he is present tonight with Tim Galli, the Chief Financial Operator of MAG, Bill Porter of Vorys, Sater, Seymour, and Pease, and Mark Brentlinger, a principal of MAG. He stated that MAG owns six of the acres involved in this rezoning action, and if this ordinance is referred to Planning and Zoning Commission will result in significant consequences for MAG and may affect the City well.

05-083ADM

Swing Sets in No-Build Zone  
Code Amendment