



## **SPECIAL MEETING MINUTES**

### **Joint Planning & Zoning Commission/ Architectural Review Board**

Thursday, June 4, 2020

#### **CALL TO ORDER**

Ms. Call, Chair, called the meeting to order at 6:30 p.m. and provided the following opening remarks: "Good evening and welcome to a joint meeting of the City of Dublin Planning and Zoning Commission and the Architectural Review Board. We are living in extraordinary times. Both the State of Ohio and the City of Dublin have declared states of emergency. The Ohio Legislature passed several emergency laws to address the pandemic, including the ability for public entities to have virtual meetings. We appreciate this ability to maintain our continuity of government. For the present time, we are holding our meetings online and live streaming those meetings on YouTube. You can access the live-stream on the City's website. This meeting is for two administrative cases initiated by staff for review and discussion for the Commission and the Board. No votes will be taken tonight. To submit any questions or comments during the meeting, please use the form under the streaming video on the City's website. These questions and comments will be relayed to us by the meeting moderator. We want to accommodate public participation and comment to the greatest extent possible. We welcome your comments, please use a valid name and address when submitting your comments, and please refrain from making any inappropriate comments. This is not a perfect system, but we will do our best in these difficult times. We appreciate your patience."

#### **PLEDGE OF ALLEGIANCE**

Ms. Call led the Pledge of Allegiance.

#### **ROLL CALL**

Commission members present: Mark Supelak, Rebecca Call, Kristina Kennedy, Leo Grimes,  
Jane Fox, Warren Fishman, Lance Schneier  
Board Members Present: Gary Alexander, Kathleen Bryan, Amy Kramb, Frank Kownacki, Sean  
Cotter  
Staff members present: Jenny Rauch, Claudia Husak, Tammy Noble, Greg Jones, Thaddeus  
Boggs

#### **ACCEPTANCE OF DOCUMENTS**

Mr. Grimes moved, Ms. Kennedy seconded to accept the documents into the record.  
Vote: Mr. Supelak, yes; Ms. Kennedy, yes; Ms. Call, yes; Mr. Grimes, yes; Mr. Fishman, yes; Ms. Fox, yes;  
Mr. Schneier, yes; Mr. Alexander, Ms. Bryan, Mr. Kownacki, Ms. Kramb and Mr. Cotter.  
[Motion passed 12-0]

Ms. Call stated the Planning and Zoning Commission and the Architectural Review Board are responsible for review of the Code updates and provide recommendations on next steps.

#### **1. Property Maintenance Code Update, 20-097ADMC, Informal Review**

Ms. Call stated that this is a request for an informal discussion regarding the City's Property Maintenance Code and potential additional requirements that may supplement current Code requirements, including the International Property Maintenance Code and Nuisance Code.

### **Staff Presentation**

Ms. Rauch stated that Tammy Noble, senior planner, and Greg Jones, Code Enforcement supervisor will provide background on previous discussions with City Council on this topic and a recent committee discussion. Feedback is sought regarding the various modifications that could be made and any others that the group would like to suggest.

Ms. Noble stated that this topic focuses on two types of regulations overseen by the City's Code Enforcement team -- the Property Maintenance Code and the Nuisance Code. The most recent discussions of the topic were at the March 16 and April 13, 2020 Council meetings, at which Council passed Ordinance 09-20 adopting the 2018 International Property Maintenance Code. These are the base-line regulations that many communities use to regulate property maintenance. Preceding Council's discussion, the topic was discussed by the Public Services Committee on February 18, 2020. The topic was initially discussed in a Council work session in May 2018. The goal is to make sure that the City's Code is relevant and active in the community. The International Property Maintenance Code is presented by the State to local communities to regulate property maintenance, and approximately 14,000 communities nationwide have adopted it. The Code has minimal State standards that regulate public health and safety conditions; it is not meant to address aesthetic requirements. To supplement that Code, the City also adopts a Public Nuisance Code. These standards are part of the City's Zoning Code and enforceable. The Public Nuisance Code begins to introduce aesthetic qualities through Code Enforcement, for example, by regulating exterior modifications and grass and weed restrictions. The Public Nuisance Code is enforceable in a number of ways, ranging from fines to court procedures. Mr. Jones will provide an example of a recent case, which has been a topic of discussion with neighborhood residents and with which many are familiar.

Mr. Jones stated that the structures on Monterey Drive are a current example of this type of property maintenance issue. The vacated buildings have been secured; windows and doors have been boarded up, per Property Maintenance Code regulations, not the Public Nuisance Code. Currently, the standard for such privately owned structures is the use of plywood as a boarding material. Recent discussions have suggested the use of Plexiglas. "No trespassing" signs have been posted on the vacant properties. Currently, there is no requirement regarding how long a property can be vacant, only that the property be secured at all times. The Public Nuisance Section, 153.076 of the Code addresses the condition of the properties, such as mowing and accumulation of trash and debris.

Ms. Noble stated that, as noted, the Public Service Committee discussed this topic on February 18. The discussion focused on what other communities in the central Ohio region are doing to address property maintenance; national trends that may be contributing to the property maintenance issue; continued utilization of the International Property Maintenance Code; and use of a registration process for vacant properties, including rental properties. We learned that Dublin has substantially lower vacant property rates than most communities, and the City's compliance rates for Code violations regarding rental or vacant properties is 98%. There are certain properties within the City that have been problematic, however. The Committee directed that the options considered be posed to the PZC and ARB for feedback, as these bodies deal with property maintenance zoning regulations. That is the purpose of tonight's discussion. The three discussion points for this meeting are what changes could be made to the Zoning Code that would improve property maintenance; a potential registration process; and a potential bonding program. Potential Code revisions considered by the Committee were requiring the use of Plexiglas instead of plywood to board vacant properties; clarification of the difference between a vacant and an abandoned structure; and improvement of enforcement methods. Franklin County has a registration process, primarily as a means to obtain contact information, should there be a need to have property issues addressed. Communities have a variety of registration processes, some covering insurance, the date of vacancy and inspection processes.

In regard to a bonding process, the City currently has a bonding process in place for sign and landscaping regulations to ensure compliance issues are addressed by the property owner, and if not, the City is able to do so. Staff is not aware of any other communities that have a bonding process for property maintenance, however. To assist with tonight's discussion, the following questions are suggested:

- 1. Do the existing regulations address your concerns about property maintenance and public nuisance?*
- 2. If not, what types of regulations and/or enforcement measures should be investigated to address the concerns?*
- 3. Should the City further investigate the implementation of registration for vacant properties?*
- 4. If so, what registration requirements should be considered?*
- 5. Should the City further investigate the implementation of bonding requirements for properties in disrepair?*
- 6. Other considerations by the Commission and Board.*

Ms. Call inquired if, because she and Mr. Fishman own rental properties within the City, they should request recusal from the discussion.

Mr. Boggs responded that because the discussion concerns topics that are generally applicable, it is not necessary. If at a later discussion, specific measures were to be proposed for a vote, that would be reassessed.

Mr. Supelak noted that for clarity purposes, he also owns rental properties in the City.

#### **Commission and Board Discussion**

- 1. Do the existing regulations address your concerns about property maintenance and public nuisance?*

Consensus of members was that the regulations do not address their concerns.

- 2. If not, what types of regulations and/or enforcement measures should be investigated to address the concerns?*

Ms. Fox stated that there are not enough "teeth" in the regulations, and aesthetically, issues are not addressed whatsoever. There is no strong distinction between a vacant building and an abandoned building. The Property Management Code addresses unsafe structures and structures unfit for habitation, but it does not enable us to do more than board them up and possibly condemn. We cannot do anything to improve them. Neighbors constantly state vacant properties within their neighborhoods bring down their property values, cause safety and well-being concerns. Occasionally, people live in them when they are unsafe. Clear definitions are needed for vacant and abandoned properties. Responsible and accountable owners should have clear guidelines. Aesthetically, she would prefer such properties be unrecognizable as being different from other properties on the street. Uninhabited properties should look the same as inhabited properties. Additional Code provisions are needed to empower the Code Enforcement officers to address the appearance of properties. Does the City ever condemn properties?

Mr. Jones responded that he does not recall any that were condemned. Vacation of properties has been required, however, until the issues were corrected.

Mr. Boggs requested clarification of her interpretation of "condemned."

Ms. Fox responded that Section 108 talks about an unsafe structure, deterioration and neglect. It mentions closure of the properties and emergency measures. Does the 2018 International Property Code provide more power to the City to advance an abandoned or vacant building toward demolition, if the City considers it an unsafe structure?

Mr. Boggs responded that if a structure is unsafe, the fact that it is vacant or occupied is a secondary question. Within the last two years, there was a case of an occupied structure that was determined unsafe. The property was declared a public nuisance, and ultimately, a court order was obtained for demolition by the City.

Ms. Fox responded that demolition does not appear to be the primary issue. It is the aesthetic issue of some long-standing vacant and uncared for structures.

Ms. Kramb stated that if it is in terrible condition, it does not matter if it is abandoned or vacant. Although the legal process Mr. Boggs mentioned authorized the City to demolish the house, there are many other aesthetic issues with that property that the City is unable to address. The Code should address aesthetic issues, regardless of whether or not the property is vacant.

### **Public Comment**

Ms. Call stated that discussion would pause to permit Public Comments to be included.

Ms. Husak read the following public comments into the record:

Balgriffin homeowner, 5000 Hathway Road, Dublin, OH 43016:

"We need stricter nuisance codes where homeowners are fined for not maintaining their homes in a timely matter (Few days vs. weeks), especially damage that makes them uninhabitable. With a police raid on a rental house (5962 Blunden Rd.) in our neighborhood on May 14, 2020, I am greatly concerned that the health, safety and welfare of current residents in the neighborhood is at risk. Most of the windows have been blown out and plastic trash bags hang in the windows allowing rain and weather to further damage the home. These should have been boarded up the day they were broken. It only takes one curious child or teenager to venture into the house and an accident occurs. In addition, this impacts all current homeowners' property values, as it relates to the beautification and maintenance of the property. It is unacceptable that it has taken the owner (SNB Development) this long to fix the windows and front door. Excuses of window companies being backed up and unable to come out to replace them is unacceptable. There are plenty of companies that would do this work in a timely manner and it is the owner's responsibility to the neighbors and city to be diligent in getting them repaired quickly."

Jennifer Adams, 318 Glen Meadow, Dublin, OH 43017:

"In regards to the abandoned homes on Monterey, they need to be torn down immediately. They are lowering our property value. Please do not build more apartments as they will do the same to our property values. They are unkempt and overgrown. The open space could be used to extend the park with a splash pad, build a dog park or extend the cemetery to allow new plots."

Kathy Windau, 264 Odessa Lane, Dublin, OH 43017:

"Good afternoon. I have lived in Waterford Village for 38 years. The houses at the north end of Monterey have been a problem for most of those 38 years. The homes are rundown and look terrible. They do not provide a satisfactory appearance at the entrance to our subdivision from 161. I cannot imagine these structures would be tolerated if they were in Bridge Park. I do not know the code requirements that pertain to these houses, but if a code change is needed to remove them, I strongly encourage the city to revise the code. As a long-time citizen of the city of Dublin, I have been so pleased with the way the city has structured new development and maintained the quality of our city. I hope you will continue this expectation of quality by changing code if necessary to address these eyesores and possible health hazards. Thank you."

Ervin Barnes, 279 Clover Ct., Dublin 43017:

"I am writing concerning the vacated property at Monterey and Route 33. The property has been abandoned now for several years and they continue to deteriorate. The properties were an eyesore before they were abandoned but have gotten much worse. When they were occupied, there were tarps on the roof (secured by rocks) to prevent them from leaking. This property is at the entrance of our neighborhood (Waterford Village) and borders a park that is utilized by many families, and across from the historic Dublin Cemetery. The grounds are poorly maintained and is a sight of individuals that are not supposed to be there. There should be a standard that prevents property owners from allowing "abandoned" properties from deteriorating to a point of presenting a public safety issue. I do appreciate the attention the Dublin Police

have given to the property but they cannot secure it 24/7. I get very concerned about the safety of young children playing at the park. Since there are no streetlights, it makes this area even more dangerous at night and a concern for neighborhood safety. I am not sure what to recommend because a "fix" seems to be apparent, which is to demolish the buildings. I do not know of any neighborhood in Dublin that would consider this condition acceptable. It certainly is not a Dublin standard (and is a few blocks from Historic downtown Dublin). I sincerely appreciate the Planning & Zoning Commission addressing this problem. Thank you."

**[PZC/ARB QUESTIONS CONTINUED]**

Mr. Fishman stated that in many cities, if a property presents a danger, the city can take action – improve it or demolish it – then lien the property. Why has Dublin not considered this solution?

Mr. Boggs responded that during the past year, there have been discussions with the owner of the Monterey properties regarding demolition permits for the property owner to demolish the properties. Perhaps staff can provide an update on that discussion. The City does have the ability under state law to request the court to find conditions at a property to constitute a public nuisance. That is what occurred in the previous example he provided. There have been two other properties for which the City has pursued the same process, bypassing the Mayor's Court. It is correct that there are situations wherein the City can obtain additional authority to enter a property and abate safety issues up to a point of demolition, assessing the costs against the property. That can create separate issues. While there are aesthetic components to the regulations in the Code or that could be put in place, in Ohio, aesthetics alone are not sufficient basis to regulate. There must also be a safety or general welfare issue. Often, that can be demonstrated by the effect of the property on the surrounding housing stock, Police runs to the property and similar issues. Whenever the City takes action, it is necessary to find the property owner, obtain good service, pursue the legal process and obtain a court order to take action. However, Dublin does not have buildings that are at risk of falling down. Rather, the City has buildings that are structurally sound but are aesthetically unattractive, which have a negative impact on the neighborhood. As a governing agency, it is essential that the City follow the appropriate process to give property rights their due, so that the City is not sued. For that reason, it can take months to achieve results.

Ms. Call stated that she believes the examples cited in the public comments and by the members reflect an issue with aesthetics plus a public safety issue. In this discussion, members should keep that distinction in mind.

Mr. Fishman stated that in the City of Columbus, if property owners neglect to mow their grass, the city can mow their grass and lien the property for the costs. The city can do the same to address stormwater gutters that are falling off the structure. A court order is not required to do so, only a letter citing the violation and requiring compliance.

Ms. Call noted that Columbus will bill the property owner for the maintenance that was necessary for the City to perform; but there is no lien, unless the bill remains unpaid.

Mr. Boggs stated that the City of Dublin has a similar process to address property mowing needs.

Ms. Call inquired if the City would have the ability to address a public safety situation without a court order.

Mr. Boggs responded that if there were an emergency situation, the City could act on an emergency basis, and the property owner would have the post action right to a hearing. He is not aware of any occasion in which Dublin has had to address gutter issues or other basic repairs, with or without a court order. When the Court is involved, typically, the Court orders the property owner to address the issue within a reasonable time. If the repair does not occur, the case returns to court for authorization for the City to address. Typically, that is in the form of demolition or removal of rubbish from the property, but not repairs.

Mr. Jones stated that the City also has used contractors to secure a vacant property that the property owner has failed to secure and to remove trash and debris on a property. Those are the only instances in which a third party has been engaged to address a public nuisance issue.

Mr. Fishman stated that the City of Columbus does have ability to address gutter issues. Perhaps Dublin's Code could provide the City the same ability.

Mr. Schneier stated that he is confused about the aesthetics distinction. If a gutter issue were unsightly, would the City have the ability to address that, or would it be an aesthetics issue? In regard to the need to secure a property, could the City require the use of Plexiglas rather than plywood, or could the argument be made that it was aesthetics related? What is the limit of Dublin's authority?

Mr. Boggs responded that stormwater gutters are addressed in the Property Maintenance Code. Although there can be an aesthetic aspect to the issue, ultimately, the failure of the gutter and downspout system affects the integrity of the structure. The City does have ability to regulate that. A similar issue is peeling paint; although it is unattractive, the Property Maintenance Code focuses on the fact that the peeling paint allows penetration and infiltration of water and pests that will damage the structure. In regard to the use of plywood to secure a property, the State prohibits a foreclosing entity from using plywood to secure the structure. This is due to the concern that the appearance of a number of foreclosed properties in an area will cause a community blight effect. It is that secondary effect from unattractive properties that provides the government the justification to regulate.

Ms. Call inquired if Dublin would have the authority to regulate what type of securing material can be used on a vacant or abandoned property.

Mr. Boggs responded affirmatively.

Mr. Kownacki stated that he works for the City of Columbus and part of his job is securing properties. A certain thickness of plywood is required. They also demolish properties and assess the cost of demolition to the property owners. If not paid, the case would proceed to Environmental Court, and eventually the property could revert to City ownership.

Mr. Cotter stated that the existing Code Section 153.076 appears to provide an escalated enforcement procedure for exterior issues that eventually permit corrective measures to be taken by the municipality. Perhaps only clarification or better definition is needed of the existing enforcement language.

Mr. Supelak stated that he is not aware of unaddressed maintenance costs providing eminent domain authority to a jurisdiction. However, the enforcement aspect does require an escalation path that eventually permits Court authorization for the entity to remedy. He believes requiring a particular boarding material to secure a property is a good suggestion.

Ms. Call stated that there is consensus among the members that they are not satisfied with the existing Code. They have indicated an interest in strengthening the Code language to ensure property owners are addressing any property maintenance issues and those issues are not negatively impacting the neighborhood. She believes staff has sufficient input to work on language that will better address those issues. The second discussion topic is registration of vacant properties. Is a property required to register if it is being maintained satisfactorily? After how many days should a property be considered vacant and be required to be registered? How is a vacant property distinguished from an abandoned property? Should a bonding requirement be considered? This would be different from discussions about liening a property if assessed costs to the property owner have been delinquent for a period of time.

Mr. Supelak stated that there are commercial rental properties that can remain vacant for long periods of time. Registration and bonding processes are part of a code enforcement escalation path. There is concern about the temporary process of boarding and securing a structure not remaining a temporary condition. Sometimes, the structures are being inhabited. Mr. Boggs has referred to the possibility such properties causing neighborhood blight. With the Monterey Drive issue, there were eight (8) structures, two of which have been removed. The six remaining structures are boarded up with temporary signage that is no longer temporary. Could the definition of vacant versus abandoned be refined to provide separate enforcement

language? He would be supportive of Code modifications that would provide some of the escalated enforcement measures that have been suggested.

Mr. Fishman stated that he agrees that an escalated enforcement process in the Code is necessary that achieves a solution of the property maintenance issue. In regard to a boarding material, Plexiglas does not secure a building as well as ¾-inch plywood. However, vacant properties can be secured with alarm systems. He utilizes technology to secure his rental properties. He is opposed to registering vacant houses, because that information would become public knowledge. Rental property owners are already required to register the rental properties with the County; that is sufficient. When a house is secured electronically, it is not obvious that the structure is empty.

Ms. Bryan stated that the discussion has been focused on residential properties; however, there are abandoned commercial properties in the historic area of Dublin. Boarded-up buildings in downtown Dublin send a very negative message about an area that we are attempting to revitalize.

Ms. Call stated that the Board and Commission members are not satisfied with the Code as it is. We are concerned with the issues that accompany unoccupied properties. There are differences between residential and commercial properties. A bi-directional escalated enforcement path is needed. To provide next steps, staff should research and provide a recommendation for an escalation timeframe; a clear definition of what constitutes a vacant property versus an abandoned property; and clarification of what constitutes a need for condemnation versus a property with public nuisance or safety issues.

Mr. Schneier stated that he would also like staff to research the extent or limitations of addressing the aesthetics issue. It is important that any steps proposed are able to withstand any legal challenge.

Ms. Kennedy inquired if, in regard to the escalation recommendation, that could become a financial burden for the City. Should that be a consideration of this discussion?

Mr. Boggs responded that the role of PZC and ARB in this discussion is to provide Code recommendations to Council. The monetary considerations thereof would occur at the Council level, as they have responsibility for the budget. Typically, costs can be recovered by invoicing the property owner or by placing a lien on the property. Regarding an escalation path, 98 percent of these issues are resolved prior to a need for filing with the Mayor's Court, and Mayor's Court is usually attempted once before going to Environmental Court. The latter is where injunctive orders can be obtained for repairs to be completed or the City to condemn and demolish the property.

Ms. Fox stated that the Maintenance Code does address some aesthetic-related issues, such as chipped or peeling paint. It seems if that Code were enforced strongly, it would resolve those types of aesthetic issues. The City of Marysville has a Vacant Property Maintenance Code, one of which is registration. However, Dublin has very few vacant residential properties, perhaps 12. The City of Marysville requires that a vacant building be closed up within 48 hours and any broken windows or doors be remedied within 30 days. The properties must be restored to an appearance similar to the neighborhood within 30 days. We could ask for those type of specifics. There are other types of public nuisances that are not aesthetics -- public health issues, such as keeping too many animals on a property, and public safety issues, such as storage of explosives. Other public nuisance issues, such as noise, are not addressed in this Code. It is important to maintain a property to a level that is common in a neighborhood for the public well-being. Would that be a reasonable expectation?

Mr. Boggs inquired if she is asking if requiring a property be maintained to a level of the surrounding neighborhood would be an enforceable Code provision.

Ms. Fox stated that the International Property Maintenance Code Section 304 spells out that all exterior surfaces, trim, paint, gutters, masonry joints and metal surfaces should not have rust; oxidation stains should be removed; and structural members should be maintained and not allowed to deteriorate. That is more than a requirement to board up a property. Those are aesthetic issues.

Mr. Boggs responded that although those issues are aesthetic, they also relate to the integrity of the structure. Those requirements are incorporated into the City's Code by the City's adoption of the International Property Maintenance Code. Those issues are addressed by the City and compliance is typical, as reflected by a 98% overall compliance. The level at which citation occurs can be increased, if that is the desire of the bodies, however. The Board of Health addresses number of animals and interior health and sanitation issues, and the issue of the public peace is addressed by a section of the Ohio Revised Code. A number of felony drug offenses and solicitation of prostitution on a property are addressed with State Code. Several years ago, a hotel in Dublin was sued on that basis and ultimately closed down.

Ms. Fox stated that if an issue is already in the Property Maintenance Code, it would seem that it could be pointed out in the City's Code as specific expectations.

Mr. Jones stated that everything in the International Property Maintenance Code is for the continued maintenance of property, such as chipped or peeling paint. It is not because of the aesthetics of paint; it is because not having the proper coating on the exterior of the structure will cause the wood to rot. Everything that is in the Property Maintenance Code is specific to maintenance, not aesthetics, per se. Nuisance regulations cover issues that are for the public health, safety and welfare.

Mr. Supelak stated that during the economic downturn a few years ago, a partially completed steel structure set back off SR 33 sat in that condition for some time. It eventually was completed and is now Sunrise of Dublin. That type of situation should be part of this consideration.

Ms. Call inquired if the staff had sufficient input to proceed.

Ms. Noble responded that staff does have sufficient input to do so.

## **2. Sign Code Update, 20-098ADMC, Informal Review**

Ms. Call stated that this is a request for an informal discussion regarding an Ohio constitutional, statutory and case law decision requiring that sign regulations remain content neutral.

### **Staff Presentation**

Ms. Rauch stated that this discussion is for the purpose of addressing only the temporary sign component of the City's sign code. There is need to modify the City's Code to be aligned with a recent Supreme Court decision regarding sign content. Mr. Boggs will provide the presentation.

Mr. Boggs stated the case to which we are referring is that of Reed versus the Town of Gilbert, a case decided by the Supreme Court in 2015. In that case, the town was treating temporary, non-commercial signs differently based on their content. Directional signs, ideological and political signs were regulated differently. There were a dozen different classifications based on the content of the sign. The Supreme Court said that under the First Amendment, the government could not make content-based distinctions, unless they could satisfy strict scrutiny. Strict scrutiny is often referred to as being strict in theory and fatal in fact. In the municipal law world, the consensus was that the vast majority, if not all, local sign codes probably ran afoul of this decision. It can be difficult to address because there are classifications, even if not content-based, that are important. For sale signs for homes are different than garage sale signage. The proposed revisions provided for consideration tonight have been revised to not deal with content but with time. Time, place and manner restrictions are more easily justified under the First Amendment. The Reed v. Gilbert case probably has not been applied as expansively in the issue of signs as it has been in other areas related to speech. For instance, First Amendment protection has been extended to panhandling based on the theories espoused in the Reed case, but there have not been expansions of Reed in the sign realm at the Supreme Court level or even in the circuit level, which has regional jurisdiction for Ohio, in the five years since the Reed case was decided. The Community Development Committee (CDC) discussed this on November 6, 2019 and requested that this topic be brought to PZC and ARB, because they are involved in sign regulation. The effort has been made to remove content-based distinctions while maintaining a

framework within which to regulate signage, reserving the City's ability to provide wayfinding, avoid visual clutter, maintain rights-of-way free of unwanted signage and to address specific problems, such as temporary signs that are not temporary.

Ms. Call stated that for clarification purposes, the discussion would focus on Code Section 153.159 exclusively.

Ms. Rauch responded that is the most applicable portion of this draft. The definitions, located at the beginning, have been modified. There is also Section 153.157, which contains general requirements that relate to location, design and color.

Ms. Fox stated that Council identified the need for a discussion about temporary signs during an earlier discussion regarding the large commercial signs that remain in place indefinitely. Today, on Frantz Road, there are 14 such signs between Rings Road and SR161. That is the primary concern today, and she believes that is where the discussion should begin.

Ms. Rauch stated that on page 13, under "H," non-residential sale or leasing signage is addressed. Included are size and location limitations. They are primarily consistent with the existing Code, except that a duration period has been added, per the CDC discussion. The proposed language is that the signage can be displayed no more than 180 days in a calendar year, and should be removed with 14 days of sale, rental or lease. This issue has been discussed for many years, but it is challenging to address due to the regular turnover of tenants in a commercial building.

Ms. Kramb inquired if it is possible to strengthen the requirements about the location of the signs. Property owners will often remove a sign for one day, and then re-locate it on the property for another 180 days. Is it possible to require that only one sign located anywhere on a parcel be permitted only 180 days?

Ms. Call stated that it should be a total of 180 days, even if separated into two 90-day time spans; the clock does not re-set to zero for the second time span.

Mr. Supelak stated that it is important to address this in a way in which the regulation cannot be "gamed."

Ms. Call suggested modifying the language to, "signage may be displayed on the parcel for up to 180 days."

Ms. Kramb responded that language would address the issue.

Ms. Fox stated that size and time periods need to be addressed for commercial leasing signs. She would suggest no more than four occurrences in a year, and not necessarily consecutive. The proposed language in H suggests a 16-square-foot window sign, which is larger than the Code typically permits. Another question is if a 24-square-foot frontage sign is permitted, why is a window sign needed, as well?

Ms. Call stated that she would prefer to limit it to one sign – either a window sign or a frontage sign.

Ms. Kramb stated that she would prefer that it be limited to one sign per parcel.

Ms. Call stated that she would probably offer one sign per parcel up to a certain number of square feet. For a property as large as Cardinal Health, an entire block of property, something larger and perhaps two signs, should be considered. There is no reason for a single commercial property to have more than one sign.

Ms. Kennedy inquired if staff conducted a study to confirm consistency of this requirement with neighboring communities.

Mr. Boggs responded that he does not believe many of the neighboring communities have attempted to address these issues.

Ms. Rauch stated that she would need to check to see if benchmarking against other communities occurred, but she believes staff modified the City's existing Code. However, as staff proceeds with this modification effort, they could look at the surrounding jurisdictions.

Mr. Boggs stated that due to the Reed case issue, staff has been aware of the need for modification of the City's temporary sign code for some time. The initial focus of this was to ensure that the regulation was

content neutral for temporary non-commercial signs; however, language regarding time restriction for temporary commercial leasing signage was added, due to a previous discussion of Council.

Mr. Fishman stated that the discussion has not addressed the aesthetic of the signs. He would prefer a small framed sign versus a large piece of plywood painted white and mounted on two poles. In addition to size, the materials and aesthetics should be considered.

Mr. Supelak stated that the proposed modifications should not only be benchmarked against surrounding communities but against the City's sign code. Temporary signage should not be allowed that is larger than the Code permits for other similar signage.

Ms. Kramb noted that previously, commercial properties experiencing the hardship of vacant space had no other option for advertising their rental. However, you can check on the City's Economic Development website for a database of all available properties. The signs are no longer providing important information; they are primarily an annoyance to the residents. Developers are using the City's website to see what properties are available for lease or for sale. One size-restricted for lease sign is sufficient today.

Mr. Schneier inquired if staff has sought the input of the business community. The priority is economic development, so we do not want to hinder their ability to lease their properties. Although the members here are in agreement, he is concerned that there could be another side to this issue.

Ms. Rauch stated that years ago, there was a similar discussion on temporary commercial leasing signs. Economic development was a concern in the past. As this project proceeds, staff will discuss this with the business community. The City does maintain a robust website database, and businesses are much more technologically focused today, but they will be included in this conversation.

Ms. Call stated that she would like to take time to look at the entire temporary sign provisions to determine if the members have any concerns.

- Banners, community activity signs, construction trailer signs, development period signs

Members expressed no concerns regarding above signs.

- Garage/yard sale signs

Mr. Supelak inquired if a time period should be included, as has been with the other signs.

Mr. Boggs stated that is precluded by the definition of the sign. A yard or garage sale sign is a temporary sign erected only within 24 hours before a yard or garage sale in the vicinity of the sign and removed within two hours of the garage sale ending.

- Inflatable signs or devices.

Ms. Call stated that these signs are tied to special events, so are they addressed as such?

Ms. Rauch stated that they are not included in that definition, but would be added.

- Special events

Mr. Supelak inquired what could constitute a special event – a car dealership sale? Are any additional stipulations needed?

Ms. Call stated that it should address how many times a year a special event could occur.

Mr. Boggs stated that a special event is an activity open to the general public that is nondiscriminatory and supported by the Office of Public Information and Public Events. It must be coordinated through that City office.

- Model home period signs.

Ms. Kramb stated that a time duration should be added.

Ms. Rauch stated that, if missing, staff would consider the duration factor for all of the sign types.

Mr. Boggs stated the duration for model homes is likewise defined in the definition section. The model home sign is permitted only during the period when an approved residential development is permitted to maintain a model home on the parcel.

- Residential for sale or leasing period signs

No changes were requested.

- Seasonal business period signs.

Mr. Schneier inquired the reason this sign type is the only one that addresses colors. Can colors be considered content, and is that enforceable?

Ms. Call stated that, as it was explained to her, colors would not be considered content.

Mr. Boggs stated that color is a nuance issue. The City does have similar limitations on colors elsewhere in the Code. Often, trademarks have multiple colors, and no restrictions are enforced against those. He will take another look at this question from the symbolic speech perspective to see if it is enforceable in this context. Initially, staff thought so, but they will take another look at that. This is a commercial sign, which is a distinction that the Reed ruling has not displaced.

Ms. Fox inquired what is an example of this sign.

Ms. Kramb responded that it would be the Halloween Express store sign and Christmas tree lot sign.

Ms. Fox inquired what is the purpose of the limitation of three colors.

Ms. Rauch stated that previously, the Code has allowed only three colors, including black and white. Temporary signs were restricted to be in line with permanent sign code requirements; however, staff would review this provision, as well.

- Seasonal decorations

Ms. Call stated that there is a restriction of not more than 60 consecutive days, but it does not address signs that are removed, and later, re-installed.

- Other

Ms. Bryan stated that political signs have not been addressed here.

Mr. Boggs responded that political signs are inherently content-based, so it is possible to regulate them by time, place and manner. The size can be regulated, but the sign cannot be regulated in relationship to its message. For example, a requirement restricting political signs to two months prior to an election is illegal.

Ms. Kramb stated that this sign would fall under "Other" temporary signs.

Ms. Kramb stated that, occasionally, businesses have temporary signs while their business signs are being fabricated, and those can be up for an extended period of time; sometimes the quality is inferior. Perhaps this should be a category.

Ms. Rauch indicated staff would consider where to address this, as well.

- Non-residential sale or leasing period signs.

Consensus was to permit only one sign per parcel.

Ms. Call stated that the proposed size is 32 square feet. She would be in favor of 16 square feet for smaller parcels, such as up to one-quarter acre. For a larger parcel, 32 square feet could be permitted, and for very large parcels, a larger size.

Mr. Supelak inquired if the size could be consistent with the permanent sign code, which addresses street frontage and street access.

Ms. Kramb stated that in her opinion, nothing greater in terms of number or size should be permitted for a temporary sign than would be permitted for a permanent sign.

Mr. Fishman stated that he would like consistency to be required in regard to aesthetics.

The majority of members considered a duration of 180 days in a calendar year is too vague; more specificity is needed.

Ms. Call stated that she believes 180 days is too much; 90 days is sufficient.

Mr. Fishman inquired if the days could be tied to the days the property is actually vacant, not before or after.

Mr. Supelak stated that often, spaces can remain vacant for the entire year.

Ms. Call stated that those properties could be listed in the economic development database provided at the website. The City does a good job partnering with its businesses to ensure their success.

Mr. Supelak stated that this is a conversation that staff needs to have with the Economic Development department. Should it be possible for the property owner to pay a fee to have the 90-day timeframe extended?

Mr. Boggs stated that, even with commercial leasing signs, First Amendment considerations exist for commercial speech. Even though this would not be a content-based distinction, because signs are a form of speech, there is need to meet an intermediate level of scrutiny. Justification would need to be provided that shows it is related to significant government interest, and that there are ample alternative means for them to communicate their message. To the point made earlier about other available avenues, that is a good inquiry as we consider a better way to remove the visual clutter that comes with temporary signs. There are more means of communicating their message today than there ever have been. He would caution against a fee to extend the timeframe.

Ms. Kramb stated that as staff is looking into additional modifications of the proposal, she would request that they attempt to achieve consistency. For instance, if a development sign is permitted to be in place for a year, should rental properties be limited to signage for only 180 days or less? There should be a consistency in the duration and in the size of signs. Otherwise, it would appear we are regulating content. Mr. Fishman stated that this aspect is difficult. We do not want to penalize developers. On the other hand, the size of signs should be aesthetically pleasing and there should be reasonable duration periods.

Ms. Kennedy stated that she would like to reiterate her earlier point, which is that the changes in the sign code should not negatively impact economic development. If it is possible, obtain feedback from the marketing teams of business owners who are using this type of signage, and feedback on other methods of advertising they are using.

### **Public Comment**

No public comments were received.

Mr. Fishman stated that the discussion did not address A-frame signs, which are proliferating throughout the City.

Ms. Call inquired if A-frame signs are considered temporary signs.

Ms. Rauch responded that they are not. They are a permanent sign type permitted within the Bridge Street District, including the Historic District.

Mr. Fishman stated that he believes these signs are located outside the Bridge Street District; they are in many other areas.

Ms. Rauch stated that staff would look into the matter and see if the sign type is increasing elsewhere.

Ms. Fox stated that last year the large banner located on the AC Marriott Hotel in the Bridge Street District came before Council for consideration. Council struggled with that. Is that type of sign addressed as a special event sign?

Ms. Rauch responded that approval was a special Council action. That type of sign is not accounted for in this Code amendment. It is a unique scenario for that sign to be permitted in that location by Council.

Ms. Fox responded that although Council can make certain unique decisions, is it possible to include some general suggestions to assist when considering special circumstances? It was difficult for Council to determine if it would be a good idea to permit the sign. Although it turned out to be a great idea, consideration of that banner created significant angst for Council. It would be beneficial for future Councils to have guidelines for permitting special circumstance signs if certain factors are present, such as a significant benefit to the community.

Mr. Supelak stated that would fall under Special Event Signs, because it is not necessarily a City event. There was a partnership involved.

Ms. Rauch stated that the banner suited that site because the large building elevation could accommodate it. However, there is an issue in opening up the opportunity to others. Staff would discuss the pros and cons and provide those thoughts for the Board and Commission to consider.

Ms. Call inquired about the A-frame signs that are being proliferated throughout the City. Would the "Other" category of temporary signs address that? Sections 153.154 and 155 require a permit, but the permit would not be issued because that sign type is not allowed in areas other than the Bridge Street District. If that is the case, then the Code addresses A-frame signs. If there are concerns that sign clutter is being proliferated in the City, perhaps Code Enforcement could be asked to look into that.

Ms. Rauch inquired if that is a sign that the Commission and Board would like to allow elsewhere. That was not part of the direction for this discussion, but it could be proposed.

Ms. Call stated that she would prefer that Ms. Fox leverage her position on Council to suggest that. The current direction from Council is to address the sign clutter, so we would probably not want to allow more signs. That would not be her first approach. However, in order to be a good business partner and ensure a sense of fairness, the Commission and Board could recommend modifications to the Code regarding temporary leasing signs, duration periods, and also to permit A-frame signs in other non-Bridge Street District commercial districts. Perhaps Ms. Fox could gauge Council's interest in entertaining such a recommendation while staff is working on this further.

Ms. Fox stated that Council would want to hear the level of Board and Commissioners' interest in permitting A-frame signs in other commercial districts. Their concern has been the quality of the signs, not so much the signs themselves. She requested members' interest.

Ms. Rauch clarified that A-frame signs are permitted in the Bridge Street District with only a certificate, without approval of the Commission.

Feedback from the members reflected a split opinion. However, if A-frame signs were to be permitted in other commercial districts, there would need to be certain restrictions.

Ms. Call stated that perhaps as we are considering recommendations for the temporary signs, we could also add some quality controls for different signs.

Ms. Rauch responded that staff would prepare modifications for consideration.

## **COMMUNICATIONS**

Ms. Husak reminded Commissioners that the June 18 PZC meeting had been canceled, as there were no cases ready for consideration.

## **ADJOURNMENT**

The meeting was adjourned at 9:00 p.m.

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Chair, Planning and Zoning Commission

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Deputy Clerk of Council