



# RECORD OF ACTION

## Planning & Zoning Commission

Thursday, October 1, 2020 | 6:30 pm

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

### 2. Temporary Sign Code Update 20-098ADMC **Administrative Request – Code Amendment**

Proposal: Update the City of Dublin Sign Code to comply with all requirements of the U.S. and Ohio constitutional, statutory, and case law decisions requiring that sign regulations remain content neutral.

Request: Review and recommendation of approval to City Council for proposed amendments to the Zoning Code under the provisions of Zoning Code Sections 153.232 and 153.234.

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

Planning Contact: Jennifer M. Rauch, AICP, Planning Director

Contact Information: 614.410.4690, jrauch@dublin.oh.us

Case Information: www.dublinohiousa.gov/pzc/20-098

**MOTION:** Ms. Kennedy moved, Mr. Grimes seconded, to table the request.

**VOTE:** 7 – 0.

**RESULT:** The Temporary Sign Code Update was tabled.

**RECORDED VOTES:**

Jane Fox	Yes
Warren Fishman	Yes
Kristina Kennedy	Yes
Mark Supelak	Yes
Rebecca Call	Yes
Leo Grimes	Yes
Lance Schneier	Yes

**STAFF CERTIFICATION**

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*Jennifer Rauch*

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Jennifer M. Rauch, AICP, Planning Director



Ms. Call referred to Item C-7a, which states, "A building under active construction/renovation and having a valid building permit(s) at the time of initial inspection shall be exempt from enforcement procedures until the expiration of the longest running, currently active building permit." What are the regulations for how long a building permit can be active or extended, and therefore, qualify for this exemption?

Ms. Noble responded that a building permit is valid for 12 months. The intent is to be flexible with that requirement, as long as progress is occurring.

Mr. Boggs stated that the property owner could obtain a building permit with the intention of completing repairs, but then encounter issues causing the work to languish. Staff will provide clarity to the language of C-7a in regard to "active construction."

Mr. Supelak noted that the building permit process is sufficiently expensive and cumbersome to deter this type of issue.

Mr. Fishman inquired how the requirement for securing windows with glass would impact Code Enforcement, if they are responsible for that securing.

Mr. Boggs responded that Code Enforcement would bill the property owner for the costs.

Mr. Schneier stated that he is concerned about attempting to limit the opportunity to take advantage of the system, which probably would be an exception. Trying to legislate that could cause the City to over-reach and run the risk of being arbitrary. Trying to define "active" could be subject to various interpretations, and attempting to limit it requires too much specificity in the Code. Rather than attempting to write it to address the current issue with the Monterey Drive duplexes, perhaps the language should address more common situations. There are situations where well-meaning efforts can be caught up in a regulatory morass.

Ms. Call stated that the changes that have been requested are to Item C-3a regarding materials to secure vacant materials; Item C-3l modifying the compliance language for Accessory Structures; clarification/tightening of the exemption language in 3-7a regarding "active" building permits; and C-7a removal of a different duration for "for sale" and "for lease" properties.

Ms. Noble stated that she has clear direction as to the modifications the Commission has requested.

Ms. Fox inquired about the advisability of adding language that would permit the City to enter a building in the case of numerous citations that could indicate an internal issue exists, as well.

Mr. Boggs stated that this Code amendment addresses exterior public nuisance conditions. The City would not enter a property without the existence of an immediate emergency or obtaining a Court warrant to do so. Although the number of citations is not germane to the issue, the City's Code would be helpful in pursuing authorization to enter.

Mr. Supelak moved, Mr. Grimes seconded to forward to City Council the proposed amendment to Section 153.076 of the City of Dublin Zoning Code (Property Maintenance) as revised with a recommendation of approval.

Vote: Mr. Fishman, yes; Ms. Kennedy, yes; Mr. Grimes, yes; Ms. Fox, yes; Mr. Supelak, yes; Ms. Call, yes; Mr. Schneier, yes.

[Motion passed 7-0]

## **2. Temporary Sign Code Update, 20-098ADMC, Administrative – Code Amendment**

Ms. Call stated that this is a request for review and recommendation of approval to City Council for an update to Zoning Code Section 153.150 – Temporary Signs, to comply with all requirements of the U.S.

and Ohio constitutional, statutory, and case law decisions requiring that sign regulations remain content neutral.

### **Staff Presentation**

Ms. Rauch stated the Planning and Zoning Commission reviewed and provided feedback on the draft regulations at their August 20, 2020 meeting. The Commission requested clarification/modifications regarding development period signs, non-residential for sale/lease signs, construction fence details, temporary sign material standards, and removal of sandwich board signs. The revised draft includes the following revisions: (1) language added that sign materials should be commensurate with the sign's duration; (2) sign inspections should occur on a regular basis based on the approval/validity timeframes; (3) parameters added for construction fencing sign permit, timeframe and location; (4) clarification that development period signs are limited to one per site; and (5) clarification added regarding non-residential for sale/leasing period signs. In regard to the development period signs, a total of 13 existing signs were identified, including 6 single-family, 2 multi-family and 5 commercial. Only one of those is within the Bridge Street District, and only three sites have two signs on one parcel. In regard to non-residential for sale/lease signs, 132 signs exist, the majority of which are 32 square feet.

### **Public Comment**

No public comment was received regarding this case.

### **Commission Discussion**

Ms. Call inquired how many non-residential for sale/lease properties have multiple signs on one parcel.

Ms. Rauch responded that she does not have that number, but the recommendation is that only sign per parcel be permitted.

Ms. Fox suggested that the lot frontage be increased to at least 200 feet for the smaller non-residential for sale/lease signs.

Mr. Grimes inquired if the electronic listing of available commercial properties is provided at the City's website.

Ms. Rauch responded that Ms. Gilger, the City's Economic Development Director, indicates that although there is an electronic listing, businesses and property owners need the option of a physical sign on the site, as well.

Mr. Grimes inquired if the frontage for these signs should be increased to be greater than 200 feet before a larger sign would be permitted.

Mr. Schneier stated if the frontage were to be increased, there should be some basis for whatever amount is specified.

Mr. Fishman stated that there is a significant amount of sign clutter. Smaller signs of quality materials are preferable.

Ms. Kennedy referred to the Section 153.150 Purpose statement that, "The purpose of this subchapter is to protect the general health, safety, morals and welfare of the community by providing an instrument for protecting the physical appearance of the community and for encouraging high quality, effective outdoor graphics for the purposes of navigation, information and identification." Is there another section that addresses inappropriate sign language?

Mr. Boggs stated that swear or vulgar language is protected under the First Amendment. It is not considered obscene unless it depicts a sexual activity. The City is legally prohibited from restricting crude language.

Ms. Kennedy referred to Section 153.55, Permanent Signs Not Requiring a Permit, (E) Residential Information Signs, which, "...display information necessary for the safety and convenience of residents and

visitors, such as 'Beware of Dog,' and 'No Trespassing.'" It appears there is no oversight of the language used, and no permit is required.

Mr. Boggs responded that the Reed v. Town of Gilbert, AZ decision addressed the legality of temporary sign regulations, not permanent signs; however, it is safe to assume the analysis would be the same in regard to content or viewpoint.

Mr. Schneier referred to the term "morals," used in the Purpose statement, which is probably a vestige from a prior time. Perhaps that term should not be used in the Code update, as the City has no right to regulate the morality of Dublin residents or their signs. He would suggest eliminating any language that appears to regulate conduct or behavior.

Mr. Boggs agreed that the term likely is a vestige from the time in which a morality type of legislation was permitted; however, it is not a direction that current First Amendment jurisprudence has taken. The word can be removed without impacting the remaining language.

Mr. Supelak referred to Section 153.158(O), which states: "(7) Duration. All of the permitted signs are limited to a period of four months." That amount of time seems broad for this category.

Ms. Fox inquired if these regulations are for residential signs as well as commercial signs. Although the content cannot be controlled, can the number and duration be controlled?

Mr. Boggs responded that the challenge is that even content-neutral time, place and manner restrictions must be narrowly tailored to significant government interests and allow ample alternative avenues for communication. Four months is a duration period; it is not content-based and applies equally; it should be the same for number and size. All requirements must be justifiable as being in the municipality's interest, i.e. protecting the residential character of its neighborhoods; avoiding visual clutter; or interference with traffic or communications. Four months could be considered an aggressive requirement. Some signs can be dealt with under the Permanent Sign Code, rather than the Temporary Sign Code.

Ms. Call stated that the language states that there can be up to two temporary signs on a lot or parcel. There is no differentiation for a 5-acre lot/parcel versus several .12-acre lots within a neighborhood. How can the right of homeowners to place signs on their property be balanced against the need not to encourage clutter?

Mr. Boggs responded that even if the requirement is based upon frontage, speech cannot be based upon an economic variable; it could be construed as having an impact on disfavored groups. That is the reason an absolute number has been chosen.

Mr. Supelak requested clarification regarding sign placement on trees. Section (O)(6) states: "Placement. Are not to be affixed to any public utility, pole, tree, or natural object, are not located within a public right-of-way, and do not create a safety or visibility hazard." There is a need to avoid ambiguity. There are cases within the City neighborhoods that we do not want to proliferate across the City.

Ms. Fox inquired if the Temporary Sign Code addresses political signs as an allowed use, as they should not be limited.

Mr. Boggs responded that a political sign category is not permitted by the Reed decision. Court has stated that political speech must be protected; however, Reed states that distinctions based on content are prohibited. Every non-commercial sign must receive the same treatment as a political sign; therefore, no distinction can be made for political signs.

Ms. Fox stated that if so, only two political signs would be permitted.

Mr. Boggs inquired if the number of two was carried over from the previous Code, or a new proposal.

Ms. Rauch responded that she believes it is a carryover.

Mr. Boggs responded that he would not vouch for two as being the right number, but would provide a written opinion, which could help in determining the right number.

Ms. Call referred to (I) Non-residential Sale or Leasing Period Signs., which permits a 32-square-foot sign for parcels with 100+ feet of frontage. Adjacent properties could object to that amount of frontage being

taken up by a sign and drawing attention from their business signs. She would be in favor of limiting the sign to 16 square feet for up to 200 feet of frontage; for frontage 200 feet or greater, a 32-square foot sign could be permitted. For a typical nonresidential parcel with 100 feet of frontage and lot coverage of 50-60 percent, what size building and permanent sign would be anticipated? A temporary sign should not be larger than the permitted permanent sign.

Ms. Rauch stated the maximum size permitted a ground sign would be 50 square feet. That is not based on the site frontage, so 32 square feet would be less than what a permanent ground sign is permitted.

Ms. Call stated that a for sale/lease sign would be in addition to the permanent sign for an existing building however. She inquired fellow Commissioners' opinions.

Ms. Fox stated that the intent is to reduce visual clutter but not to reduce the ability for a property owner to have a for sale/lease sign. Her suggestion would be to reduce the size of the sign to 16 square feet, and not be based upon the amount of frontage. In addition, the property owner is permitted only one of three sign options.

Ms. Call inquired if a large parcel, such as Cardinal Health, should be limited to 16-square-foot signs. Although that site has two frontages, 55-70 mph traffic passes it quickly.

Ms. Fox stated that the large signs on commercial sites along I-270 are not an issue; the problem is with the commercial sites on arterial streets.

Consensus of Commission members was to reduce the size from 32 square feet to 16 square feet for nonresidential for sale/lease signs.

Ms. Fox referred to Section 153.151 – Permit Required, which states that "...Fees may be paid by cash, check, or money order." That sentence should be deleted.

Ms. Rauch suggested that this item be tabled to permit staff to make the requested changes and provide the additional information discussed; the revised amendment would be scheduled at a future meeting for the Commission's recommendation.

Ms. Kennedy moved, Mr. Grimes seconded to table the proposed amendment to Section 153.050 of the City of Dublin Zoning Code (Temporary Signs).

Vote: Ms. Fox, yes; Mr. Fishman, yes; Ms. Kennedy, yes; Mr. Schneier, yes; Mr. Grimes, yes; Mr. Supelak, yes; Ms. Call, yes.

[Motion passed 7-0]

## **INFORMAL DISCUSSIONS**

### **3. Residential Development Standards, Administrative**

Ms. Call stated that this is a continuation of an informal discussion regarding recent trends in residential developments pertaining to lot sizes, side yard setbacks, lot coverage, and density.

#### **Staff Presentation**

Ms. Husak stated that this is a continuation of the Commission's August 20 discussion on Residential Development Standards. Staff has had difficulty finding the requested development standards for neighboring or regional communities. Therefore, this discussion will focus on the City of Dublin. One remaining developable area where development could occur is north of US33. There is a significant amount of vacancy in that area, and staff frequently receives inquiries regarding the type of development acceptable there. Several pages of the Community Plan, including a map of the Southwest Area, were provided in the meeting packet. Development in that area is difficult, as there are plans for the future extension of Tuttle Crossing Boulevard to the west. Although that project is not programmed in the



# RECORD OF ACTION

## Planning & Zoning Commission

Thursday, August 20, 2020 | 6:30 pm

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

### 2. Sign Code Update 20-098ADMC

### Administrative Review Code

Proposal:	An amendment to Sections 153.150-153.164 of the City of Dublin Zoning Code to provide regulations for temporary sign requirements.
Request:	Review and recommendation of approval to City Council.
Applicant:	Dana L. McDaniel, City Manager, City of Dublin
Planning Contact:	Jennifer Rauch, AICP, Planning Manager
Contact Information:	614.410.4690, jrauch@dublin.oh.us
Case Information:	www.dublinohiousa.gov/pzc/20-098

**MOTION:** Ms. Kennedy moved, Mr. Grimes seconded, to table the proposed amendment to the City of Dublin Zoning Code Section regulations, for temporary sign requirements.

**VOTE:** 7 – 0.

**RESULT:** The Sign Code Updates were tabled.

#### RECORDED VOTES:

Jane Fox	Yes
Warren Fishman	Yes
Kristina Kennedy	Yes
Mark Supelak	Yes
Rebecca Call	Yes
Leo Grimes	Yes
Lance Schneier	Yes

#### STAFF CERTIFICATION

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*Jennifer Rauch*

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Jennifer Rauch, AICP, Planning Manager



## **CASE**

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

Ms. Call stated that this is a request for a recommendation of approval to City Council for an amendment to Sections 153.150-153.164 of the City of Dublin Zoning Code to provide regulations for temporary sign requirements.

#### **Staff Presentation**

Ms. Rauch stated that this discussion is for the purpose of reviewing a proposed amendment to the Temporary Sign section of the City's Sign Code. There is need to modify the Code to be aligned with the recent Supreme Court decision regarding the recent Reed v. Town of Gilbert, AZ case concerning temporary sign regulations. Per that decision, temporary sign regulations cannot limit the particular message on a sign or differentiate between temporary noncommercial signs, based on their content. They can focus only on time, place, and manner, such as number of signs, height, sign location, lighting, and time restriction for a particular sign. Draft temporary sign regulations have been developed that align with the Reed v. Gilbert decision; no changes to the permanent Sign Code are proposed. The Community Development Committee (CDC) reviewed an initial draft amendment on November 6, 2019 and, based on their direction, the draft was reviewed and discussed by the Planning and Zoning Commission (PZC) and Architectural Review Board (ARB) at a joint meeting on June 4, 2020. That feedback was incorporated and an updated draft was provided to the ARB on August 12, 2020. That draft included modifications to the non-residential for sale or leasing period signs; clarifications to color requirements and duration requirements added where needed; and revised regulations to permit sandwich board signs City-wide. Research also was conducted to ascertain other communities' regulations regarding nonresidential signage, and input was obtained from the City's Economic Development Department. ARB reviewed the proposed changes, and with some minor modifications and clarifications, made a recommendation of approval to the Commission. Ms. Rauch noted that the first group of pages in the draft provides the complete set of Code Definitions; the Regulations begin on page 45.

#### **Commission Review**

Commission members reviewed the modifications made to the Temporary Sign Code, and requested the following additional modifications to Section 153.158 in the following categories:

(A) Banners – Language that has been added: that "Banners are permitted...during the time between permanent sign permit approval and installation," and in regard to Size and Height, that such signs shall be limited to 30 square feet in area, and if located on the building, it cannot be located higher than 15 feet to the top of the banner."

(C) Construction Trailer Signs – Language added: that "Decorative inserts or wraps on construction or site fencing are not considered a sign."

(D) Development Period Signs – Clarification language added regarding number and timeframe. Under the "Duration" section, as it is currently written, the time period cannot exceed one year. For this sign type, if a longer period is needed, it would be necessary to apply for and obtain an annual extension. This section also states that in residential subdivisions, development signs shall be removed when 75% of the lots in the subdivision have received certificate of occupancy.

Mr. Fishman noted that some of these signs tend to become permanent; there is one such sign on Avery Road.

Ms. Fox responded that if there is not an active permit authorizing it to exist in that location, such a sign would be an enforcement matter. At what point would the City not continue to approve renewal of the temporary sign?

Ms. Rauch responded that if the development had not reached 75%, the developer would be permitted to have the sign.

Mr. Boggs noted that for any new types of signs that do not exist in the current Temporary Sign Code, the enforcement component has not yet be determined. Because the City's existing Code is more content based, the goal is to bring it into compliance with the Reed ruling.

Ms. Call inquired if members had any feedback on the size requirements.

Ms. Rauch noted that the members had requested that this temporary sign type not be permitted to be a greater size than the permanent sign, and this size, 32-square-feet in area and eight feet in height, is less than the 50-square-foot threshold for a permanent ground sign.

Ms. Fox suggested that the requirements be beta tested against a condominium development in an urban, higher density setting. In the past, these signs have been used in single-family housing development.

Ms. Call noted that there are many streets within a condominium complex, and the Code permits a 32-square-foot sign on each of the street frontages. If there were many streets, there could be many signs.

Ms. Fox stated that she would advocate for beta testing in the worst-case scenario.

Mr. Fishman stated that not only the size and number, but the material quality also can be an issue in urban areas. After a year, a fiberboard sign has been affected by the weather and is a poor reflection of Dublin.

Ms. Rauch stated the upkeep of the signs could be considered on a case-by-case basis. Because these signs are intended to be temporary, it would not be advisable to require the use of expensive materials. The language regarding material quality can be revised in a balanced manner, so as not to make the sign costs onerous for the developer.

Mr. Fishman responded that a little better sign quality would reduce the amount of Code Enforcement required.

Ms. Call stated that if beta testing is applied here for the development period signs, staff could identify any instances in which the proposed terms should be revised.

Mr. Schneier noted that "development period sign" is defined, but it does not relate specifically to residential signs. Does the definition need to be changed?

Ms. Rauch stated that the language does specify that approval is for a year in residential subdivisions; this is consistent with the current Code.

Mr. Supelak noted that the proposed requirements seem to be appropriate for a single commercial parcel that has street frontages, but in a residential development with many parcels, could there be a proliferation of signs? Is the language adequate?

Mr. Boggs responded that first there must be an active building permit for the development. This language was designed to address a single large development on a single parcel. Is the question



related to whether a residential subdivision with 100 parcels would be permitted to have a sign for each parcel?

Mr. Supelak responded that there is some confusion as to whether this requirement is addressing a single parcel or a residential subdivision. There are many street frontages in a residential subdivision, but it is not desirable to have a sign on every parcel with street frontage.

Mr. Boggs stated that the initial intent of this sign type was not for individual parcels within a developing residential subdivision, but for an approved PUD. A building in the process of a remodel also can have a temporary sign reflecting the name of the remodeling company performing the work. The language can be revised to provide more specificity and clarification regarding multi-unit buildings. The purpose of these regulations is to address the concerns of visual clutter, ensuring traffic sign visibility and community aesthetics. It can also address general quality and repair issues associated with all the temporary sign types.

Mr. Supelak inquired if the requirements could be tethered appropriately to the sign type's Duration period. The materials appropriate for a 30-day sign, perhaps located under awning, would be different from those for a sign that must remain in good repair for a year in a more exposed setting.

Ms. Call suggested altering the time period from one year to six months for this sign type with a required inspection to renew. Having a minimum standard that matched the Duration would avoid the need for a matrix.

Ms. Fox responded it is not likely six months would be sufficient time for a developer to sell all the homes in a subdivision. The Commission's goal is to reduce sign clutter and improve maintenance of the signs. She would prefer to avoid additional parameters and re-inspections. We can state the general intent and objective, and use a Code Enforcement process to ensure the signs are not ignored. She would like to achieve the desired goal without making the Code more complex.

Mr. Supelak stated he is not advocating for a matrix, but the Duration periods for all the temporary sign types are different. Providing quality specifics for each sign type would be difficult. He would suggest adding general language applicable to all the sign types, such as, "the materials selected must be commensurate with the Duration associated with the sign type." General, broad-brush language could tether the materials and the Duration for all the temporary sign types.

Mr. Grimes stated that there could be a hybrid development, both commercial and residential. This section should be applicable to both types of development.

Mr. Fishman stated that the number of signs permitted in a residential development has not been clarified.

Ms. Call responded that the proposed Code allows one 32-square-foot sign for each 100 feet of street frontage. The language should be applicable to dedicated streets.

Mr. Boggs stated that the language in (4) states 100 feet of frontage on each of two public rights-of-way. Until the street has been dedicated and accepted, it is not a public right-of-way. As a practical manner, the required sequence of events for construction of roads per Engineering standards, inspection and acceptance as a public right-of-way, then home construction and occupancy approval may prevent sign clutter. Staff will not issue sign permits until the requirements for public streets have been met.

Staff will prepare revised language reflective of the Commission's direction.

(E) Garage or Yard Sale Period Signs – Added under Size, Height that “such signs are provided by the City and shall be limited to two square feet in area and one foot in height,” and under Duration, that the sign must be erected within 24 hours before a garage or yard sale and removed not later than two hours after the garage sale has ended.

[The Commission made no additional changes.]

(G) Model Home Period Sign. In (2) Location. “Shall be located only on the lot or parcel where homes are being constructed;” and in (5) “Duration. Shall be permitted during any period when an approved residential development is under construction, until such time as the subdivision or development is complete or the model home is discontinued.”

[The Commission made no additional changes.]

(H) Non-residential Sale or Leasing Period Signs.

- In (2), that One sign is permitted per parcel, either ground, wall, or window;
- In (3) Size, Height, that “Ground-mounted signs are limited to 32 square feet in area and 8 feet in height. Wall signs shall be limited to 16 square feet in area with a maximum height of 15 feet to the top of the sign; Window signs shall not exceed 10% of the total window area of the establishment or 6 square feet, whichever is less;”
- In (5) Duration, “Such signs shall be permitted for 30 number of days contiguously and no more than 90 total days in a calendar year;” and
- In (6) “Materials/Design, such signs shall be professionally designed and constructed. Plywood and cardboard are not permitted materials.”

The Commission requested “contiguously” be revised to “continuously.” They also requested that the Size and Height requirement for ground-mounted signs revert to the previous requirement, to be based upon the amount of street frontage. Staff clarified that the enforcement aspect is generated from a digitally maintained list of issuance/expiration dates of the sign permits.

Regarding the suggestion to place the permit issuance/expiration date on the face of the sign, Mr. Boggs stated that it is important not to infringe upon the right of the sign holder. If only a certain message area is permitted, it should not also be required to include a City message. In practice, it could also look busier and detract from the desired aesthetics, which would be counterproductive. The automated permit list should be sufficient for tracking purposes.

(I) Residential Sale or Leasing Period Sign.

A Duration period has been added indicating that such signs are permitted during any period when any premise or part thereof is actively offered for sale or lease, and removed no later than 30 days after the premises or part thereof is occupied by a new owner or tenant.

[The Commission made no additional changes.]

(J) Sandwich Board Signs.

At PZC and ARB’s request, this new section was added under Temporary Signs. These requirements are consistent with those proposed in the Historic District Code update.

Per discussion, Commission consensus was that permitting sandwich board signs throughout the City would defeat the purpose of reducing sign clutter. The use of sandwich board signs should continue to be permitted only within the Bridge Street and Historic Districts, due to their more urban pedestrian environments. The proposed language will not be included in the Temporary Signs section.

Ms. Rauch stated that no changes were made in the remaining sections of the Code.

Commission consensus was to add parameters and a permitting process to Construction Trailer Banner Signs.

### **Public Comments**

There were no public comments.

### **Commission Discussion**

The Commission thanked Ms. Rauch and Planning staff for incorporating the Commission's feedback into the revised Temporary Sign Code section, which they believe will address the sign clutter.

Ms. Rauch stated that the additional changes requested tonight would be incorporated into a final draft and provided to the Commission at a future meeting for final review and recommendation to Council.

Ms. Kennedy moved, Mr. Grimes seconded to table the proposed amendment to the City of Dublin Zoning Code Sections 153.150-153.164 regulations for temporary sign requirements.

Vote: Ms. Call, yes; Mr. Grimes, yes; Ms. Fox, yes; Mr. Fishman, yes; Mr. Supelak, yes; Mr. Schneier, yes; Ms. Kennedy, yes.

[Motion passed 7-0]

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

~~Ms. Call stated that this is a request for Informal Review and feedback for an amendment to Section 153.076 of the City of Dublin Zoning Code, which provides regulations for enforcement procedures and additional property maintenance.~~

### **Staff Presentation**

~~Ms. Noble provided an overview. On February 18, 2020, the Public Services Committee reviewed the property maintenance topic, and recommended that Council approve an update of the City Code to incorporate the 2018 International Property Maintenance Code. The Committee also recommended that other options be considered by PZC and ARB, as they deal with property maintenance zoning regulations. On April 13, 2020, Council passed Ordinance 09-20, adopting the 2018 International Property Maintenance Code, and at a joint meeting on June 4, 2020, the Planning and Zoning Commission and the Architectural Review Board discussed property maintenance and nuisance abatement regulations. The members discussed options for improving the City's current property maintenance regulations and potentially adding additional methods, such as registration requirements or bonding requirements. Members recommended that regulations to address some continuing issues be included in a future Code modification, specifically: a more definitive enforcement process that includes escalating enforcement measures; a definition for vacant properties; and regulations for securing residential and commercial properties. In response to that direction, staff has drafted Code regulations for the Commission's consideration.~~



## RECORD OF DISCUSSION

# Planning & Zoning Commission Architectural Review Board

Thursday, June 4, 2020 | 6:30 pm

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

### 2. Sign Code Update 20-098ADMC

### Informal Review

Proposal: Informal discussion regarding Ohio constitutional, statutory, and case law decisions requiring that sign regulations remain content neutral.

Request: Review and recommendation regarding proposed amendments to the Zoning Code under the provisions of Zoning Code Sections 153.232 and 153.234.

Applicant: Dana L. McDaniel, City Manager

Planning Contact: Jennifer M. Rauch, AICP, Planning Director

Contact Information: 614.410.4690, jrauch@dublin.oh.us

Case Information: www.dublinohiousa.gov/pzc/20-098

**RESULT:** The Planning and Zoning Commission and the Architectural Review Board provided feedback on a draft Zoning Code amendment revising the temporary sign regulations. The Board and Commission members were supportive of the draft amendments with a request for several additional changes to the sign requirements. The members recommended more stringent restrictions for Non-Residential Sale or Leasing Period Signs including duration, location, and number of signs. The members requested staff also revisit the duration and color requirements for all temporary signs to ensure consistency and appropriateness throughout the draft ordinance. Staff will revise the draft Code based on the feedback and plan to bring forward amendments to the Board and Commission for formal review and recommendation at a future meeting.

#### MEMBERS PRESENT:

Jane Fox	Yes
Warren Fishman	Yes
Kristina Kennedy	Yes
Mark Supelak	Yes
Rebecca Call	Yes
Leo Grimes	Yes
Lance Scheiner	Yes
Gary Alexander	Yes
Kathleen Bryan	Yes
Amy Kramb	Yes
Sean Cotter	Yes
Frank Kownacki	Yes

#### STAFF CERTIFICATION

DocuSigned by:

*Jennifer Rauch*

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Jennifer M. Rauch, AICP  
Planning Director



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.

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. Krumb 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, including 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.

Rebecca Call [Approved 7-09-2020]

Chair, Planning and Zoning Commission

Kathleen Bryan [Approved 07-22-2020]

Chair, Architectural Review Board

Judith K. Beal

Deputy Clerk of Council

### Temporary and Commercial Signs

Ms. Readler stated that the case *Reed v. Town of Gilbert, Arizona*, changed the way that municipalities can regulate temporary signs.

Mr. Boggs stated that regulating temporary signs is necessary to:

- minimize distraction to motorist and pedestrians in the right-of-way;
- reduce visual clutter in neighborhoods and commercial areas; and
- encourage high quality, effective graphics for navigation, information and identification.

Temporary signs are currently regulated by what is being communicated by the sign (political, directional, information, etc.). Mr. Boggs reviewed the *Reed* case and the majority opinion as a result. The majority opinion concluded:

- the distinctions between temporary directional, ideological, and political signs are content-based distinctions
- content-based distinctions are subject to a "strict scrutiny" review
- the Town did not show that its regulation of temporary directional signs as opposed to ideological or political signs was narrowly tailored to a compelling governmental interest.

There were two concurring opinions that:

- Clarifies that regulations based on size, location, lighting, movement, animation, "on-premises and off-premises," would be permissible
- Advocated a more flexible approach

The problem with the Town of Gilbert's code was that these signs were regulated differently.

Mr. Boggs noted the difference with commercial speech is that it is subject to greater potential restriction under the First Amendment. None of the discussion at this meeting concerned traditional commercial signage.

Ms. Readler stated that there is a temporary sign section that deals with more permanent commercial signs.

Mr. Reiner asked about sandwich board signs. Mr. Boggs stated that those are not as highly regulated because what is being advertising is a commercial message.

Ms. Readler stated that billboards are prohibited under Dublin's code.

Ms. De Rosa asked if it were correct to say that this focuses more on form and time than on content. Mr. Boggs stated that was correct.

Mr. Reiner asked about new development announcing a project and whether or not it is allowed. Ms. Readler stated that there is a "development period" sign that this addressed. Mr.

Reiner stated that legal is recommending that this issue go to PZC for review and then on to Council for consideration.

Vice Mayor Amorose Groomes asked if this will help with the lease and for sale signs that are throughout the City.

Ms. Readler stated that, currently, the language addresses this as a sales or leasing period sign. This type of sign is defined as a temporary sign erected only during any period when a premises or part thereof is actively offered for sale or lease and removed no later than 14 days after the premises or part thereof are occupied by a new owner or tenant.

Ms. De Rosa and Vice Mayor Amorose Groomes both expressed concern over the wording "part thereof."

Mr. Boggs stated that perhaps they could place time limits on it.

Ms. Readler stated that including a maximum days per year would be the best way to resolve that.

Ms. De Rosa stated that she didn't see political signs mentioned. Mr. Boggs stated that is the consequence of the *Reed* case. Ms. Readler stated that political speech is one of the most protected levels of speech under the First Amendment.

Mr. Boggs stated that political signs disappear from the code because they all fall under a blanket regulation regardless of the content.

Mr. Reiner moved to advance this topic to Planning and Zoning Commission for consideration.

Vice Mayor Amorose Groomes seconded.

Vote on the motion: Vice Mayor Amorose Groomes, yes; Ms. De Rosa, yes; Mr. Reiner, yes.  
Motion carried.

#### Streetscape/Tree Selection in Historic Dublin

Mr. Earman introduced Mr. Goodall the new City Forester to present the criteria that was used to make some of the decisions about tree plantings on South High Street. Mr. Earman reviewed some of the site limitations that exist on South High Street. Some he mentioned were:

- Compacted clay soils
- Signage
- Light poles
- Narrow tree lawn
- Low soil volume
- Underground utility lines
- Historical relics and others.

Mr. Goodall stated that the landscape architects and Forestry staff worked together to determine what tree species would work well in the area. The Royal Raindrop Crabapple was chosen because of the pink flowering and leaf shape. It would be aesthetically pleasing. There are currently several of these trees planted along Muirfield Drive. The Adirondack Crabapple is very similar to the Royal Raindrop but has a white flower. Both of these species are disease resistant. The other ornamental tree options that staff felt would be good options are the Spring Snow Crabapple and the Ivory Silk Japanese Tree Lilac. They were looking for an option that was the right size and aesthetic due to the power lines and soil volume.

Mr. Reiner stated it is important to trim the limbs so the pedestrian traffic is able to get