



City of Dublin

**Office of the City Manager**

5555 Perimeter Drive • Dublin, OH 43017-1090  
Phone: 614-410-4400 • Fax: 614-410-4490

# Memo

**To:** Members of Dublin City Council  
**From:** Dana McDaniel, City Manager  
**Date:** July 21, 2020  
**Initiated By:** Jennifer M. Rauch, AICP, Planning Director  
Claudia D. Husak, AICP, Senior Planner  
Zach Hounshell, Planner I  
**Re:** Fee Waiver request for UFIT Conditional Use (Case No. 20-037CU)

## Summary

UFIT, Unique Fitness Independence Training, has submitted a request to waive the \$1,325 application fee required to process a Conditional Use. The organization is located at 6631 Commerce Parkway, Unit L.

## Background

During a Code Enforcement inspection of an adjacent business, Staff became aware of UFIT operating at 6631 Commerce Parkway. The site is zoned SO, Suburban Office and Institutional District. The Zoning Code classifies this use as *Fitness and Recreational Sport Center*, which requires the approval of a Conditional Use by the Planning and Zoning Commission. Staff was not consulted prior to the tenant occupying the space as to what zoning requirements are in place.

## Request

Attached is a letter from Tim Mills, Co-Founder of UFIT, received by the Planning Division on February 24, 2020, which further explains the application fee waiver request, as well as a business description of UFIT.

In researching previous requests for conditional use fee waivers, the following determinations were made:

- August 16, 2004: Emerald City Players was granted a fee waiver for a Conditional Use application for their 501(c)(3) charitable organization. The conditional use application was required for theatrical productions that were proposed to operate within the tenant space.
- August 18, 2003: Vincenzo's was not granted a request for a Conditional Use fee waiver for their existing outside seating area. The applicant was required to apply and pay for the conditional use after the patio improvements were discovered.
- March 4, 2002: LaScala Restaurant was not granted a fee waiver for a Conditional Use for an outdoor patio seating improvement.

Memo re. Application Fee Waiver Request

UFIT

July 21, 2020

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Attached is a summary of the Conditional Use fee waiver requests and actions taken by City Council. Also attached are the supporting documentation for the previous waiver requests.

**Recommendation**

The application fee represents the cost of processing a Conditional Use application, based on fee studies, the recommendation is to deny this Conditional Use application fee waiver.

To: City of Dublin Leadership

This letter is to request that the Conditional Use Application fee (\$1,325) for UFIT be waived.

This fee places hardship on a young and growing business. The owners barely made more than the Conditional Use Application fee in fiscal year 2019.

UFIT is spending considerable resources into investments in staff and future programming for the purpose of having broader impact on persons of special needs. UFIT believes in inclusion and is equipping others for the purpose of impacting an underserved population.

UFIT's pilot site in Dublin was chosen because of the City of Dublin long standing commitment to excellence in the area of Adaptive Education. Many of UFIT's client are current or former Dublin City Schools students.

With all due respect to the Conditional Use Application process, UFIT recently renewed a 2<sup>nd</sup> two (2) lease on the currently space (6631 Commerce Parkway, Unit L, Dublin). UFIT was unaware of the Conditional Use Application process and would ask how a young business could have know that a process like this exists. Awareness of such as process may have influenced our site selection to another "fit for use" location in the Dublin area that achieve the objectives of the conditional use process.

Thank you in advance for consideration of a fee waiver.

Regards,

Tim and Mills

# CONDITIONAL USE APPLICATION

Submitted by: Tim and Peg Mills; co-owners of UFIT Dublin

Date: February 22, 2020

## **OUR HISTORY**

UFIT was started in 2017 by Peggy Mills. Peggy taught Adapted Physical Education to children with disabilities ages 3-22, in the Dublin City School district for over 20 years. Peggy retired early to begin to fulfill her passion of addressing the growing need for quality lifelong fitness programming for adults and students with neurological, physical and developmental needs. Combining her experience and success with the best practices in the field of education, she developed the UFIT2 Visual system. This proprietary system has been tested on hundreds of individuals and is proven to teach independence in developing and incorporating physical lifestyle changes into the lives of those differently abled. Today, a significant portion of UFIT's clients are Dublin students and families. Many of the students with whom Peggy worked with in the past are now clients of hers as adults. Her first employee is a 37-year-old woman with Down Syndrome who she taught at Thomas Elementary school.

## **ABOUT UFIT**

UFIT stands for **Unique Fitness Independence Training**. At UFIT, uniqueness is celebrated through an uncommon passion for those with special neurological, developmental or physical needs. UFIT believes that everyone deserves to experience optimal levels of health and fitness that lead to greater independence, personal growth, and lifelong health.

In less than 2-years of operations UFIT has achieved several important goals. Most importantly, UFIT is empowering individuals to make fitness a part of their lives and has increased their independence while working out at UFIT.

## **OUR CLIENTS**

Clients at UFIT come from all over the city to have access to the expertise of Peggy and the other highly qualified UFIT trainers. Clients range in age from 11-76 years. They are individuals, Adapted PE students on field trips from Dublin schools and surrounding communities, consumers attending adult day programs and families- all coming to UFIT for strength training, open gym memberships, dance, martial arts instruction and adaptive yoga. Some clients drive to the gym by themselves and some clients require 2 staff to accompany them due to significant behavioral concerns. At UFIT, we can cater to the unique needs of anyone, including those with significant disabilities.

## **OUR VISION**

UFIT's vision is to expand its operations through a UFIT2™ licensed training program. The training program will offer two tracks. Track 1 is for educators and will provide .7 CEU's after completion of the 1-day course. Track 2 is for licensed trainers and physical therapists. Upon completion of the two-day course, a licensed trainer will be able to work with a special need client in the area of physical fitness and will be certified as a UFIT2™ System Fitness Professional. This system will be introduced into the market in Q2 of 2020. As this system expands and certifies other trainers in the area, we hope to utilize the 6631 Commerce Parkway Unit L space as a training center and utilize the UFIT2 system in the community centers and fitness centers within the community. Our goal is to ensure that each person with a disability is accessing and benefitting from lifelong fitness within the center that is closest to and most convenient for them.

## **OUR SPACE**

We are currently leasing 1,860 square feet from Klein Realty. The intended use for this space was originally a "pilot" site to test the concept of the UFIT system. The concept has met with incredible success and is being sought out by facilities across the country as well as in Columbus. UFIT hopes to utilize one unit at our current location as a professional training center while continuing to offer personal training and a gym membership for those who prefer a small facility or who require significant support that prevents them from accessing community gyms.

We chose this space due to the proximity to 1) the post-secondary program at Emerald Campus; 2) Dublin high schools, 3) easy access to the community rec center where we hope to offer our certification and course to assist them in providing the absolute best lifelong health for our community members with disabilities. At the time of this application we just received permission to offer our UFIT2 System course approved through the National Academy of Sports Medicine (NASM) and the Aerobics and Fitness Association of America (AFAA). We are also approved to offer UFIT2 System as a 1 semester hour course at Ashland University for physical education and adapted physical education teachers and physical therapists. 4) The location is also close to other gyms in the area that we hope will use our system to best meet the needs of their consumers with disabilities.

## **OUR EQUIPMENT**

UFIT has several types of machines and physical fitness equipment. Several of these are adaptive to meet the unique needs of our clients. All equipment was purchased with the differently abled athlete and client in mind. While UFIT is a fitness center, its design and friendly pricing allows for workouts to be conducted in an inclusive atmosphere. While other gyms make inclusion available, this is truly at the heart of what makes UFIT unique. The space and equipment are centered around the differently abled athlete;

however, it is accommodating to providers, family members and the general public to also workout.

To walk into UFIT, you would get the feel of a CrossFit gym rather than a Lifetime Fitness or Dublin Community Recreation Center. This is due to the cognitive levels of many of our clients. We emphasis the development of independence in our clients, so we hand-picked the equipment to ensure that safety is a priority. That is also why you would not see any cable machines in our space.

## **OUR BUSINESS**

UFIT designed to be of benefit to as many people as possible and can be used by the disabled and non-disabled alike. ANY person embarking on a journey to lifelong health and fitness can use our model. With that in mind, we do not believe we are in competition with anyone in the community.

After doing extensive research throughout the country, we have discovered that we stand alone. There is no program like UFIT. As was the case for me when I was a part of the Dublin Schools education system, this Dublin business is on the cutting edge of serving its community members. We offer fitness programming that is unique, fosters independence, is sustainable for life for someone with or without a disability and hires staff that is second to none. The program is innovative, sought-after by organizations such as Nationwide Children's Autism Center, and poised to attract leaders in the field of disability research. Our conversations with Nisonger Center, local autism schools, adult day programs in Ohio, the County Boards in Central Ohio, to name a few, will bring others to Dublin to see the work that is being accomplished at UFIT and in the gyms who utilize our trademarked system.



**Department of Development  
Division of Planning**  
5800 Shier-Rings Road · Dublin, Ohio 43016  
Phone: 614-410-4600 · Fax: 614-410-4747

# Memo

**TO:** Members of Dublin City Council  
**FROM:** Jane S. Brautigam, City Manager *Jane S. Brautigam*  
**DATE:** August 11, 2004  
**INITIATED BY:** Daniel D. Bird, FAICP, Director of Planning *DD Bird*  
**RE:** **Fee Waiver request for Emerald City Players Conditional Use**  
**(Case No. 04-117CU)**

## SUMMARY:

The Emerald City Players, a 501(c)(3) charitable organization, has submitted a request to waive the \$2,640 fee required for a Conditional Use Application. The organization proposes to locate its theatrical productions in the space formerly occupied by Hearth and Patio in the Dublin Village Center. Emerald City Players currently conducts its theatrical productions at the Abbey Theater located in the Dublin Recreation Center.

Attached is a letter from Richard A. Foster, President of Emerald City Players received by the Planning Division on August 4, 2004, which further explains the organization's request.

In researching previous requests for development related fees, the following determinations were made:

- Two requests have been received for waiver of Conditional Use Application fees and both were denied. (Vincenzo's and LaScala Restaurants).
- Fee waivers have been granted for the following:
  - License Fee for Amusement Devices (Lucky Leprechaun Family Irish Amusement Center)
  - Building Permit Fee (Columbus Crush Junior Hockey Club)
  - Parking Variance Fee (LaScala Restaurant)
  - Special Permit Fee for Temporary Trailer (Dublin Coffman High School)

Attached is a summary of fee waiver requests and actions taken by City Council. Also attached is the supporting documentation for the previous waiver requests.

## RECOMMENDATION:

Based on the record that no previous fee waiver request has been granted for a Conditional Use fee application, and the application fee represents the cost of process such applications based on fee studies, the recommendation is to deny this Conditional use application fee waiver.





P.O. Box 309 \* Dublin, OH \* 43017-0309 \* 614-470-1525

Fax: 614-873-0719 \* Email: info@emeraldcityplayers.com

To: The Dublin City Council

The Emerald City Players respectfully requests a waiver of the \$2640 fee associated with the Conditional Use Permit Application we have submitted for the former Hearth and Patio space in the Dublin Village Shopping Center.

Emerald City Players is a 501(c)(3) charitable organization. We have no paid staff and are an all-volunteer organization. The \$2600 fee represents a great deal of money for our group. If we are required to pay this fee, we will not be able to proceed with this project.

Emerald City Players will be doing theatrical productions in this space. We will be building a platform to use as a stage and a booth that can be used for lighting and sound equipment. Our seating capacity will be less than 200. Our hours of operation will be primarily from 6:00 PM until midnight on nights when we have performances. During a performance, we would have approximately 20 - 25 volunteers on site including the cast of the show. On days when there is no performance we might have a few people on site assembling a set for the next show. We will have no daily hours of operation.

Our proposed use will bring people to the shopping center that might not come otherwise. Our facility will be a destination site in that people will be coming specifically to our facility for a specific purpose. While they are coming to our facility, they are likely to notice other establishments in the shopping center and might come back to patronize those merchants.

We hope you will look favorably on this request.

Sincerely,

*Richard A Foster*

Richard A Foster  
President  
Emerald City Players

AS SUBMITTED TO COUNCIL  
2-11-04 FOR MEETING ON 8-16-04

RECEIVED  
04-116 CU  
AUG 04 2004

CITY OF DUBLIN  
PERMIT DIVISION

Emerald City Players' mission is to enrich Dublin by providing a quality live theater experience that entertains and offers artistic opportunities for the community.

## RECORD OF PROCEEDINGS

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Mr. Hahn agreed that would not be possible. He added that the intent was to complete part of the installation during the annual week of shutdown for the Recreation Center, which is in late August.

Mr. Maurer stated that his understanding was that the problem was caused by a group of companies responsible for design flaws. The City sued them. Was the suit successful, including some compensation?

Mr. Smith stated that this project is part of the effort to correct the problems caused by design inadequacies. The City did win the suit and was awarded \$235,000.

Mr. Reiner moved to dispense with the public hearing and treat this as emergency legislation.

Mr. Keenan seconded the motion.

Vote on the motion: Mr. Keenan, yes; Mr. Reiner, yes; Mrs. Boring, yes; Mr. McCash, yes; Vice Mayor Lecklider, yes.

Vote on the Ordinance: Mr. McCash, yes; Mr. Reiner, yes; Mr. Keenan, yes; Vice Mayor Lecklider, yes; Mrs. Boring, yes.

### INTRODUCTION/PUBLIC HEARING - RESOLUTIONS

#### EASEMENT AGREEMENTS

##### Resolution 33-04

#### Authorizing the City Manager to Execute and Grant an Additional Easement Agreement with AEP for the Development of the Ballantrae Golf Course in the City of Dublin, County of Franklin, State of Ohio.

Mr. McCash introduced the Resolution.

Ms. Brautigam stated that this action would provide electricity to the Dublin Golf Club cart barn.

There were no questions.

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

### OTHER

#### • Fee Waiver Request for Conditional Use Application for Emerald City Players

Mr. Bird stated that the Emerald City Players, a 501C3 charitable organization, submitted a fee waiver request for a conditional use application. His research indicates that Council has received two such requests in the past, both of which were denied. However, Council has in the past granted a waiver for a development-related license, a building permit fee, a parking variance, and a special permit fee for a community organization. His recommendation is based upon the fact that no previous waiver has been granted for a conditional use fee. However, in Section 35.84 of the City Code, "Fee Appeals and Waivers," Council reserves the right to waive any fee in order to encourage development projects that lead to enhancing the City's tax base. Should Council wish to entertain granting this request, Objective 1.5 of the recently adopted Economic Development Strategy indicates a goal to assist in revitalizing under-utilized properties. The property in question here is the Dublin Village Center. The Emerald City Players' conditional use may be considered a transitional use, while the ownership is exploring more optimum use of the property.

Mrs. Boring thanked staff for their recommendation. Although she agrees that it is the correct response for this situation, it should not be considered precedent setting. This is a charitable organization with no paid staff. The case is not similar to others. In addition, there would be no impact on surrounding neighbors, because there are none in Dublin Village Center.

Mr. McCash noted that conditional uses typically have potential impact on adjoining properties, and that is why they are considered "conditional" uses. One

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of the previous requests for fee waivers was for an outdoor seating facility, the elements of which would have an impact on neighbors. This request from a not-for-profit organization for a use in an empty center is due to the fact that a theater is considered a conditional use.

Mr. Bird stated that is correct.

Mr. McCash stated that this should not really be considered a conditional use, as it does not have the potential for impact upon neighbors.

Richard Foster, 6827 Park Mill Drive, Dublin, stated he is president of the Emerald City Players, an all-volunteer organization. The amount of money for this fee would constitute 25% of the budget that the Dublin Arts Council provides to them each year. The Emerald City Players provide available entertainment for the residents of the City, which they would like to continue at a different location.

Mr. McCash noted that, in essence, the City would be charging the fee to itself, as the Dublin Arts Council monies come from a grant from the City to the Arts Council.

Mr. Keenan noted that this move would free up time at the Abbey Theater. The Emerald City Players have had a need for more time at the Abbey Theater than has been available to them. At the new location, the Emerald City Players would not only have the time for necessary rehearsals, but would also be able to build sets. He added that there are several reasons to approve this fee waiver.

Mr. Keenan moved to approve the fee waiver request.

Vice Mayor Lecklider noted that there had been some concerns regarding Building Code issues. He inquired if those have been resolved.

Mr. Keenan responded that he had advised Mr. Foster to contact City staff. He believes the question of whether a theater could be placed in that facility has been addressed.

Mr. Foster stated that the issue has been resolved. They have also discussed with Mr. Price how to meet the various Code requirements.

Mrs. Boring seconded the motion.

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

#### • **Tree Waiver Request – Riverside Woods**

Mr. Bird stated that this is a tree replacement fee waiver request for the Riverside Woods subdivision, which is a 43.5 acre development located on the east side of Riverside Drive and the south side of Hard Road. Staff's recommendation is that the tree for tree replacement fee waiver be granted with the understanding and the condition that the front yard trees, as required by Section 153.133 cannot be counted toward replacement of tree inches.

Greg Chillog, 6253 Riverside Drive, The Edge Group, stated that the letter of request was submitted by Smith & Hale, but they could not be present tonight. He is available to answer any questions Council may have.

There were no questions.

Mrs. Boring moved to approve the 2,635.5-inch tree replacement waiver with the condition that front yard trees, as required in City Code Section 153.133, not be counted toward replacement tree inches.

Mr. Reiner seconded the motion.

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

#### • **Final Plat – Ballantrae Section 7**

Mrs. Boring stated that the materials note that certain reserves are owned by the City of Dublin but are maintained by the homeowner association. What does that mean? If it is on the plat, isn't it an unchangeable legal requirement?

*Denied 8/18/03*  
*Vote*  
*4 opposed*  
*3 favored*



CITY OF DUBLIN

**Department of Development**  
**Division of Planning**  
5800 Shier-Rings Road · Dublin, Ohio 43016  
Phone: 614-410-4600 · Fax: 614-761-6566

# Memo

**TO:** Members of Dublin City Council  
**FROM:** Jane S. Brautigam, City Manager *Jane S. Brautigam*  
**DATE:** August 8, 2003  
**RE:** **Fee Waiver Request for Vincenzo's, Case No. 03-087CU/CDD.**  
**INITIATED BY:** Gary P. Gunderman, Assistant Planning Director *GP* / *gac*

**SUMMARY:**

A Conditional Use/Corridor Development District case 03-087CU/CDD was submitted on August 1, 2003 for an existing 207-square foot outdoor patio at Vincenzo's. Outdoor dining areas are considered conditional uses in all zoning districts, and must be approved by the Planning and Zoning Commission.

The applicant is requesting that the fee, \$2,640, be waived in this case. Please see the attached letter detailing the applicant's rationale.

**AS SUBMITTED TO COUNCIL**  
**8/14/03 FOR MEETING ON 8/18/03**



8/4/2003

Dear Kelly,

Please permit this letter to serve as Vincenzo's request for a waiver for the Conditional Use Permit Fee regarding our outside area. The amount of the fee is \$2,640.00.

The following are the reasons we hope and trust that the Dublin City Council will strongly consider:

1. The hardship Vincenzo's underwent during the Route 161 widening and improvement. First access was severely limited. Secondly, most Route 161 users chose other routes. Third, and probably most harmful, was the complete and total removal of our ingress and egress on several different occasions.
2. The hardship over the last fifteen years with respect to the lack of signage for both the Dublin Sawmill Center and for Vincenzo's.
3. To this day, we still have Dublin residents who come to Vincenzo's, subsequently "fall in love with us" and then ask if "is this your grand opening"? Or "have you just opened recently". When we respond, "we have been open for about fifteen years" our Dublin residents respond incredulously, "I drive by everyday, I have lived in Dublin for 10 years and have never seen you-you kidding".  
As a case in point, during my initial meeting with Chad Gibson and Kelly Dannenfesler outside of Vincenzo's a car drove up to the front of Vincenzo's where we were seated, and a familiar question was asked, "excuse me but could you tell me where Vincenzo's is located"?
4. The extra money spent to upgrade the outside area. The upgraded items include, custom made planters, landscaping sketches, flowers and plants etc., the labor required to complete the work, as well as the ongoing labor required to maintain the area each day.

RECEIVED

AUG 05 2003  
03-087CW/CSS  
CITY OF DUBLIN6393 Sawmill Road, Dublin, Ohio 43017  
614/792-1010

Vincenzo's certainly hopes the items discussed, and presented for you will provide the Dublin City Council with the information adequately to grant us your consideration for the waiver of the fee. We would be deeply grateful for any assistance you may provide. Thank you for your time and your anticipated cooperation.

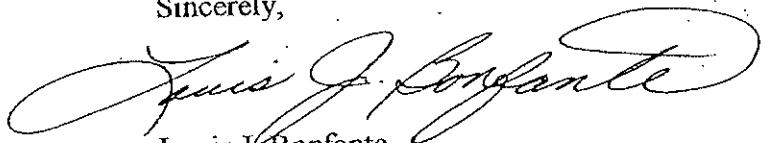
RECEIVED

AUG 05 2003

03-087CW/CDD

CITY OF DUBLIN

Sincerely,



Louis J. Bonfante  
President

8/18/03

Request for Waiver of Fee for BZA Variance – Vincenzo's

Ms. Clarke stated that Vincenzo's has an existing outside seating area which requires a conditional use approval. They have submitted their request for a fee waiver after the fact. The fee for conditional use applications is \$2,640 and is based upon the cost of services study. The applicant has submitted a letter requesting this fee waiver.

Lou Bonfante, owner of Vincenzo's stated that they are requesting a waiver of the fee for a conditional use. It relates to a very small area with a couple of tables, and the fee seems to be fairly high. They have already spent \$1,500 which includes custom-made planters, plus additional tables, chairs and umbrellas. They respectfully request waiver of this fee.

Mr. Reiner asked if this is a flat fee or is based upon square footage.  
Ms. Clarke responded that all conditional uses have the same fee of \$2,640.

Mr. Lecklider asked about their signage – does it meet Code?  
Ms. Clarke responded that as far as she is aware, it does meet Code.  
Mr. Lecklider explained that the letter references the signage in relation to a justification for this conditional use waiver.

Mayor McCash stated that he is confused about the signage issue – it is a wall sign which faces SR 161.  
Ms. Clarke responded that initially, the signage was in a different area and was replaced. She believes it does comply with Code.

Mr. Kranstuber moved to waive the fee for the conditional use application based upon the lack of complexity and other bases outlined in Mr. Bonfante's letter.  
Ms. Chinnici-Zuercher seconded the motion.  
Vote on the motion: Mr. Lecklider, no; Mr. Kranstuber, yes; Ms. Chinnici-Zuercher, yes;  
Ms. Salay, no; Mrs. Boring, no; Mr. Reiner, yes; Mayor McCash, no.



Office of the City Manager  
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CITY OF DUBLIN

# Memo

To: Mayor McCash and Members of Dublin City Council

From: Marsha Grigsby, Interim City Manager *mgs*

Date: February 28, 2002

Re: Fee Waiver Request - LaScala Restaurant

Initiated by: Frank Ciarochi, Asst. City Manager / Dir. of Development *JCC*

Kelly Canter, Planner I *KCC*

Attached is a letter from John Ciotola explaining the concerns of the La Scala Restaurant in their efforts to accomplish an outdoor patio serving area expansion along the western front of the restaurant facility. The patio area is approximately 13' wide and will accommodate outdoor seating for approximately 20 people. Specifically, the 4<sup>th</sup> paragraph of Mr. Ciotola's letter (attached) requests relief in three possible areas:

1. Conditional Use Application Fee (\$2,410):

Outdoor patio seating for restaurants is a Conditional Use review/approval requirement in all Commercial Districts. Based on the fact that La Scala does not have any outdoor serving areas, the Conditional Use Permit review process is necessary. The staff acknowledges that a \$2,410 review fee appears to be significant when compared to the cost of such improvements. However, the staff does not recommend a waiver of the Conditional Use review fee.

2. Parking Variance Application Fee (\$1,850)

While the site is non-conforming from a total parking accommodation perspective, the addition of a 500 square foot outdoor seating area is the reason for a Parking Variance consideration. Several other factors need to be considered:

- (a) The reconstruction of SR161 and the new service drive area necessitated the acquisition of right-of-way from the La Scala site, effectively wiping out about three rows of parking at the front of the facility, which was replaced to the rear area of the parcel.



- (b) The resulting situation leaves no additional land area to accommodate more parking spaces on the site.
- (c) Based on the fact that the City acquired part of their site, and that the owner cooperatively accommodated the relocation of parking, the staff recommends that the \$1,850 Parking Variance fee be waived by City Council so that the property owner can pursue the Parking Variance.

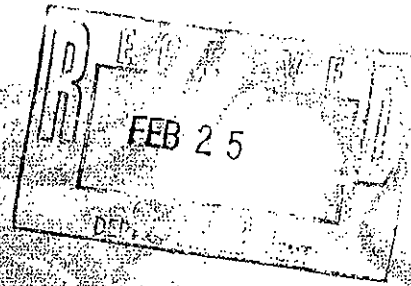
3. Replacing a Non-conforming Sign (\$7,000 - \$8,000):

During the reconstruction of SR161, the City reimbursed the owners to relocate the existing La Scala sign and lower it to comply with sign height requirements (15'). However, the 73 square foot area sign was not reduced to 50 square feet to comply with signage requirements at that time. The staff would recommend that the property owner make his best case to the Planning & Zoning Commission concerning the Code requirement of bringing non-conforming issues into compliance with new improvements to the site, and let the Planning & Zoning Commission decide this issue as a part of the Conditional Use request.

We have also attached a plan to illustrate the patio/outdoor seating area addition to the frontage (along SR161) of the La Scala structure. I trust this information is helpful in your review of this request. Should you have any questions or need additional information, do not hesitate to contact the staff.

February 25, 2002

Frank Ciarochi  
 Director Department of Development  
 City of Dublin  
 5800 Shier-Rings Rd.  
 Dublin, Ohio 43016



Dear Frank,

Throughout the last couple of years we have worked closely with Balbir Kindra and Ken Richardson with the Route 461 road widening project, as well as, the parking lot combination and new service road. We have been extremely cooperative throughout the planning and tolerant and patient throughout a trying construction period. Everyone agrees that the finished product is as nice as the City of Dublin promised it would be.

We have been an established member of the community since 1972. Since we have been here for 30 years, we are no longer the new and exciting place or the topic of people's conversation. In fact, statistics indicate that individual family owned restaurants are decreasing at an alarming rate. Needless to say, we are always trying new menu items and innovative ways to create excitement. We are extremely grateful that our community has supported us for 30 years. Every year for the last 30 years we have donated a 400 person spaghetti dinner for the Dublin PTO. We support both high school's *Commitment To Excellence* program, by offering discounts to Honor Roll students. We offer discounts to Dublin Athletic banquets and have employed thousands of high school students. These are a few ways that we have chosen to give back to our community and thank them for their continued support.

Since the City of Dublin did an exceptional job with the road widening, We felt that this would give us an opportunity to increase our curb appeal, create some renewed excitement and allow us to remain competitive by capitalizing on our industry's latest trends. We have submitted a plan to the City of Dublin that would clean up and beautify the northwest corner of our building by implementing a garden/patio area.

We fully expect the City of Dublin to place some conditions in their staff report. However, the City has placed a couple of stipulations that we do not fully understand and could prove to be too costly and force us to withdraw our application. Our conditional use application costs \$2,400 and now we are being asked to submit a parking variance application costing \$1,800, ultimately bringing the fees to 33% of the total cost of the project. Furthermore, we are being asked to spend \$7,000 - \$8,000 to bring our main sign to code and a couple more thousand in other conditions that were placed.

The conditions that we do not fully understand are as follows:

1. Variance for Parking

In order for the City of Dublin to combine all three parking lots, (La Scala, Frank's, and Tommy's), and place the storm sewer under the three parking lots; we were told that cross - easements needed to be in place so that the storm sewer could be serviced, and so that parking and ingress/egress could

LA SCALA • 4199 W. DUBLIN-GRANTVILLE ROAD • DUBLIN, OHIO 43017 • (614) 889-9431 • FAX 889-8087

be shared. Attached is a copy of this document. As you can see, the agreement makes reference to *Ingress/Egress and Shared Parking*. However, shared parking is not addressed in the text of the document. The fact that it is mentioned could lead one to believe that there was intent. Needless to say, we are confused and somewhat frustrated as to what we have and what was agreed upon.

2. Bring the Business Sign Into Compliance

In the original documents prepared by the City of Dublin and O.D.C.T. it was outlined that our sign needed to be taken down and relocated because its old location is where the new service road will be placed. We were also told that because our sign was 30 years old and "grandfathered" into the old code that we were permitted to erect the same sign. We do not understand how this sign is an issue today when two years ago it was not. Furthermore, we had this same sign taken down last summer so that it could be relocated. It would have been much easier and much more cost effective to bring that sign into compliance at that point.

We are fans of landscaping and we applaud Dublin's effort to improve the city's greenscape. This is one reason we made an effort to make the patio appear as a garden. We would be willing to landscape the sign area with height, so that the area can be beautified and the posts of the sign can be camouflaged.

We would certainly welcome anything that can make our building more appealing and inviting. The fact is, we have a 30 year old stucco building. If were to build a new restaurant today, it would have more character and be more inviting than this one. By asking us to spend \$7,000 - \$8,000 on a new sign that is in compliance will not achieve the building dilemma and will force us to withdraw our application. Ultimately, leaving the both of us with the same 30 year old sign and building.

In conclusion, we have cooperated and supported the Route 161 project. We have 30 years of good standing and have proven our support to the community. We are asking for some latitude on these issues so that we may proceed in a cost effective manner, as well as, enhancing the aesthetic appeal to the City of Dublin.

Sincerely,



John Ciotola

Enclosure: 1

cc: Barbara M. Clarke

LA SCALA - 4109 W. DUBLIN GRANVILLE ROAD - DUBLIN, OHIO 43017 - (614) 889-9431 - FAX 889-8006

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Mrs. Boring agreed that there could be a number of these requests coming forward – the policy was well stated in Resolution 59-01, and she is not interested in revisiting this issue. If they were not tied into the recent capital project and had the line available at a prior date and chose not to tap in, they are not eligible for a rate reduction at this time.

Mr. Kranstuber simply asked that staff take extra care to explain the logic for the policy in place. If there is some extraordinary circumstance in this case, it could certainly be reconsidered.

Mayor McCash asked if future requests where staff needs clarification should be brought to Council or to the Public Services Committee.

Mrs. Boring summarized that staff should provide a notice in the packet of their decision on individual requests; if Council has a concern, it can be brought up by a member at a Council meeting.

2. Dublin City Schools is also requesting a fee waiver for room rentals at the DCRC. They would like to use the rooms for an inservice for parents.

Mayor McCash asked why these couldn't be held at the school, as they are scheduled in the evening.

Mrs. Boring noted that perhaps the school system charges groups for use of the rooms.

Mr. McDaniel stated that staff did not ask why they are requesting a City facility; the Schools will use the facility if a fee waiver is granted. Their dates are flexible.

Ms. Chinnici-Zuercher stated that this is the second fee waiver request this month from the Schools, and this is the second fee waiver request received this year from Dublin Schools. Previous to 2002, the schools were given the reduced rate for rental of rooms, with the exception of the after-prom parties where fees were waived for reasons of public safety. If the intent is to change the policy, perhaps that should be considered. It is important to be consistent, whatever the decision of Council should be in this regard.

Mrs. Boring agreed, noting that this issue was discussed at length in the cost study update.

Mrs. Boring moved to deny the requested waiver of fees by the Dublin Schools.

Ms. Chinnici-Zuercher seconded the motion.

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

3. Mr. Ciarochi noted that LaScala Restaurant on SR 161 is requesting waiver of fees, as outlined in the memo in the packet. Specifically, they are requesting the following:

- (a) Waiver of conditional use application fee of \$2,410 related to an outdoor patio seating improvement. Staff does not recommend a waiver of this fee.
- (b) Waiver of parking variance application fee of \$1,850. Staff believes there are unique circumstances involved, i.e., the widening of SR161 which effectively eliminated three rows of their existing parking. The property owner has worked in cooperation with the City on this project, and staff believes that waiving the fee for this variance is appropriate.
- (c) Waiver of the requirement to replace a non-conforming sign at a cost of \$7-8,000. During the reconstruction of SR 161, the City reimbursed the owners for the relocation of the existing LaScala sign and the lowering of such sign to comply with sign height requirements. However, the non-conforming sign of 73 square feet was not reduced to 50 square feet to comply with signage requirements. Staff is recommending that the applicant make the best case regarding this issue with the Planning & Zoning Commission as part of the conditional use request. The past practice is to require compliance with current regulations when an improvement is done to a site.

Mayor McCash noted that the non-conforming sign had to be relocated due to the right-of-way construction, which was no fault of the applicant. It was non-conforming then and it is non-conforming now. It is not reasonable for staff to now ask them to bring this sign into compliance. There was a similar situation several years ago in Old Dublin with the veterinary clinic sign, and it was permitted to remain. On what legal grounds can the City require compliance with current regulations for this non-conforming sign? Further, he doesn't believe the sign can even be considered within the conditional use application for the outdoor seating.

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Mr. Ciarochi responded that he was advised by Planning staff that the Code section cited indicates the intent to bring items into compliance upon any development reviews. The staff is merely requesting that they bring this sign into compliance, not requiring them to do so.

Mrs. Boring stated that the applicant indicates in their letter that they were advised two years ago that they could keep the non-conforming sign, as it would be "grandfathered" because it was erected 30 years ago. In reviewing the contract, it states that existing signs may be relocated. The City should have addressed this issue two years ago if that was the desire.

Mr. Kranstuber agreed with Mrs. Boring, with the caveat that this should not be interpreted as deviation from current policy. Council generally advocates strict adherence to the sign Code and encourages staff to use any means to bring items into compliance, including non-conforming uses. He does agree that in this particular application, it could be determined to be unfair treatment.

Mr. Lecklider stated that a similar issue was addressed with Immke's at Planning & Zoning Commission.

Ms. Salay stated that she recalls that Immke Honda and Acura were both reviewed by P&Z regarding changes being made in their buildings. In the case of the Acura dealer, the sign was damaged by construction equipment, and they decided to bring the new sign into compliance.

Mayor McCash stated that the Honda dealership is relocating to Sawmill Road, so it would be a non-issue for them.

Mr. Lecklider stated if a commitment was made to allow the non-confirming sign to continue to exist, then that should be carried through by the City. However, a case could be made that the road-widening project has actually enhanced their location in terms of accessibility and their business in terms of being more appealing. He would encourage them to bring the sign into compliance.

Mr. Smith stated that he recalls that LaScala purchased a new sign after permission was obtained to relocate the existing sign. Staff approved the location where the new sign was to be erected.

Mayor McCash stated that under Dublin's Code, they would be allowed to change the sign face without additional approval.

Mr. Smith agreed.

Ms. Chinnici-Zuercher stated that the discussion about bringing the sign into compliance should have taken place at that time.

Mr. Smith summarized that staff is seeking direction of whether the sign should be an issue raised with the applicant.

Mayor McCash moved to grant the fee waiver for the parking variance; deny the fee waiver for the conditional use application; and allow the applicant to keep the sign as it currently exists.

Ms. Chinnici-Zuercher seconded the motion.

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

4. Mr. Ciarochi reported that staff is continuing to work on the Dublin Golf Centre storm drainage issue, and a report should be forwarded by the next Council meeting.
5. Staff is continuing to work on the Perimeter curb cut issue with the property owner and developer. A meeting is scheduled on Friday, and staff is hopeful of bringing a proposal for a joint resolution to Council at the next meeting.

Mr. Smith reported that a memo has been forwarded to Council regarding applicability of the Dublin noise ordinance in adjoining jurisdictions where Dublin residents are being impacted by such noise. This memo was requested by Council.