



# SPECIAL MEETING MINUTES

## Planning & Zoning Commission

Thursday, September 23, 2021

### CALL TO ORDER

Mr. Supelak, Vice Chair, called the meeting to order at 6:30 p.m. and welcomed everyone to the September 23, 2021 Planning and Zoning Commission meeting. Tonight's meeting can also be accessed at the City's website. Public comments on the cases are welcome. To submit any questions or comments during the meeting, please use the form under the streaming video on the City's website. Questions and comments will be relayed to the Commission by the meeting moderator. The City desires to accommodate public participation to the greatest extent possible.

### PLEDGE OF ALLEGIANCE

Mr. Supelak led the Pledge of Allegiance.

### ROLL CALL

Commission members present: Warren Fishman, Mark Supelak, Kim Way, Jane Fox, Leo Grimes;  
Lance Schneier; Rebecca Call arrived at 7:30 pm.  
Staff members present: Jennifer Rauch, Nichole Martin, Thaddeus Boggs

### ACCEPTANCE OF DOCUMENTS AND APPROVAL OF MINUTES

Mr. Grimes moved, Mr. Way seconded acceptance of the documents into the record.

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

[Motion approved 6-0.]

Mr. Supelak stated that the Planning and Zoning Commission is an advisory board to City Council when rezoning and platting of property are under consideration. In such cases, City Council will receive recommendations from the Commission. In other cases, the Commission has the final decision-making responsibility. Anyone who intends to address the Commission on administrative cases must be sworn in.

Mr. Supelak stated that there are three cases on tonight's Special Meeting agenda. Because they are all associated with the Dublin Corporate Area Plan (DCAP), they will be heard together.

## VII. NEW CASES

### 1. 2. 3. DUBLIN CORPORATE AREA PLAN (DCAP)

#### 19-117ADMC, Administrative Request – Code Amendments, MUR-4

A request for amendments to the City of Dublin Zoning Code to establish the MUR-4, Mixed Use Regional – Llewellyn Farms Office District, which includes the creation of a new zoning district and associated development standards.

**21-086ADMC, Administrative Request – Design Guidelines**

A request for Design Guidelines to complement the proposed MUR-4, Mixed-Use Regional – Llewellyn Farms Office, Zoning District requirements.

**21-087ADMC, Administrative Request – Area Rezoning, MUR-4**

A request for an Area Rezoning accompanying the creation of the MUR-4, Mixed-Use Regional – Llewellyn Farms Office, Zoning District.

**Staff Presentation**

Ms. Rauch stated that tonight’s discussion would be an Informal Review, so no Commission action will be requested. The Dublin Corporate Area Plan (DCAP) was adopted by City Council in 2018. This area is comprised of four districts. These cases focus only on the MUR-4 District, the Llewellyn Farms Office District. The DCAP provides for low-density office uses. Because this area is adjacent to residential, the Plan looks at building height limitations, increased setbacks and landscape buffering. There is one undeveloped parcel within the MUR-4 District – Site 11. The plan provides more specific recommendations for that site to provide buffering for the adjacent residential neighborhood from the low-density office, including building height and additional buffering requirements. Amendments are proposed to the Zoning Code language, Design Guidelines, and an Area Rezoning is requested. These cases were introduced at the June 17 PZC meeting. An Informal Review was conducted by the Commission on July 8, 2021, and tonight, is a second Informal Review. Depending on tonight’s discussion, these cases could be scheduled for PZC review and recommendation to City Council for their final review and approval. Since the July meeting, staff, the Llewellyn Farms neighborhood representatives and representatives for NCR, the Site 11 property owner, have been working on a resolution of the concerns.

- 19-117ADMC, Administrative Request – Code Amendments, MUR-4

The draft zoning regulations have been modified to reflect the resolution proposed by those discussions. A significant number of items have been modified per previous discussions, including:

- Minimum lot size and frontage
- Increased side, rear, and front yard setbacks
- Maximum building height
- Increased landscaping and buffering
- Architectural building design and window placement
- Uses and use specific standards
- Site design guidelines including parking lot locations
- Stream corridor protection
- On-site storm water management
- Public review process through Planning and Zoning Commission

Ms. Rauch presented an overview of the amended Zoning Code sections, including:

153.045 Purpose and Intent: This section outlines the purpose for the proposed amendment, which is to implement the goals within the Dublin Corporate Area Plan (DCAP). Applicability standards and explanation for how the proposed zoning regulations should be used in conjunction with the proposed design guidelines are also included. For MUR-4, the proposed permitted uses include office uses (medical and general), professional and technical training, research and development, banks, day care, government services and parks and open spaces. A number of accessory and temporary uses are included, which would be permitted only in conjunction with a permitted use or approved conditional use.

153.046 Uses: The use section includes permitted, conditional, size, time limited, and accessory uses for the MUR4 District, as well as use specific standards. The section also outlines how existing uses and the expansion of existing uses shall be handled. Updates must ensure that properties are not made non-conforming based on their uses, as that has financial implications to property owners.

153.047 Site Development Standards: The proposed Code includes requirements for site development standards, architectural design, landscaping and tree preservation, parking, circulation and access, signs, lighting and utilities. The site development standards address lot size, width and coverage; building heights; setbacks and parking.

153.048 Review and Approval Process: The review process is based on the application type. The required review body for the application type includes limited staff approvals, with the majority of the review is handled by the Administrative Review Team (ART) and Planning and Zoning Commission (PZC).

Ms. Rauch stated that the proposed MUR-4 Design Guidelines focus on general building and site design elements to supplement the Code requirements, as well as sub-district specific guidelines. The proposed MUR-4 Area Rezoning recommends that 27 parcels currently zoned Community Commercial, Suburban Office and Institutional and Planned Unit Development Districts be rezoned to MUR-4. The Area Rezoning would allow for the implementation of the proposed Zoning Code requirements and Design Guidelines.

During previous reviews, the Llewellyn Farms Civic Association representatives had outlined a list of unresolved concerns regarding maximum building height, minimum building setbacks, and the width of the required landscape buffer. NRI, the owner of the only remaining undeveloped property within the District, expressed concerns that the proposed Code would impose more restrictive requirements for maximum building height, minimum building setbacks, and width of the landscape buffer than their current Suburban Office zoning requirements. NRI had requested previously to be removed from the MUR-4. Per the Commission's direction at its July 8 meeting, staff has worked with neighborhood and NRI representatives to resolve the outstanding issues, which are represented in the proposed draft Code and Guidelines.

A chart was included in the meeting packet, which compares the development standard issue with the current Code provision; the July 8 proposed change; and the new change proposed tonight. No changes were made to the front yard setback, so it remains 15 feet. The primary issues were the side and rear yard building setbacks, which correlate to the building height. The proposed resolution is that in the areas where property is abutting residential for Subarea C (the NRI property), a one-story building at a height of 22 feet would be located at a 75-foot setback; a two-story building could be a height of 32 feet with a minimum setback of 95 feet. Between the 75-foot setback and the 95-foot setback, the building height could be increased up to 32 feet at the following ratio - for every one foot of building height, the building must be set back two feet. When a commercial property boundary does not abut residential, the setback could be 10 feet, because there would be adjacent like uses. The agreement

was that a building could not exceed two stories nor a height of 32 feet, whichever is less. For Subarea D, in the area of Bradenton Road that abuts residential, the existing setback requirements would be maintained.

Ms. Fox inquired when the one-to-two foot ratio would be used.

Ms. Rauch clarified that it would be a factor only between the 75-foot and 95-foot setbacks.

Ms. Rauch stated that the side and rear pavement setbacks were revised from the previous proposal of 35 feet to 25 feet when abutting residential and 10 feet, if abutting non-residential.

Mr. Supelak requested clarification of the 15-foot or a quarter of the sum of the building requirement. Is it the lesser or greater of the two?

Ms. Rauch responded that per the current Code, it would be 15 feet. In most instances, it will be greater than that due to the building height and length.

The resolution of the remaining four issues of concern were:

- Landscape buffer – 25 feet of an augmented landscape buffer with opaque screening six feet in height.
- Building height – tied to the setbacks.
- Permitted and conditional uses – retention of the current MUR-4 Code uses; no additional uses were added.
- Office parking – parking requirements for office and medical office will be consistent with the rest of the Code.

Per the Commission's July 8 discussion, provisions were added to ensure that mechanical screening would not artificially increase the building height. The screening must be within the height requirement. There was also some concern about Minor Project thresholds. The previous draft stated that a 10,000-sq. ft. building would have been reviewed by only ART. That number has been reduced to 3,500 sq. feet. Because larger projects would have greater impact on the surrounding character, they would be reviewed by the Commission. Also included in the meeting packet were a list of the responses provided to the concerns raised by the neighbors.

Tonight's review will be for input on the proposed amendments; no action is requested.

### **Public Comments**

Ms. Rauch stated that the following email was received and included in the meeting packet.

"We are not in agreement with this settlement concerning Llewellyn Farms, Phase 1. This is not good for our neighbors. It is being forced on those who are trying to help. Very few in Phase 1 are in favor of this. They should build with the restrictions they currently have. The people pushing to make a change must have a hidden interest and getting something out of this."

- T. L. Darling

Mr. Supelak inquired if there were also meeting attendees, who wished to comment.

Sven Christiansen, 5765 Settlers Place, Dublin, OH stated that the changes that have been made address many of the concerns the residents raised. In the MUR-4, there are that many locations where residential and commercial uses are in close proximity, and those are some of the more difficult issues to address. They appreciate the response staff has provided to the list of concerns raised by the neighborhood. There are some landscape clarifications that need to be addressed to ensure the landscape buffer/landscaping achieves the primary intent of the screening. We look forward to the final draft, and eventually, to the refresh of this part of Dublin.

Mr. Supelak swore in the next speaker (Mr. Daney).

Clay Daney, 5775 Settlers Place, Dublin OH stated that he would like to provide some context for the landscaping concerns he and many of his neighbors share. A 25-foot landscape buffer is not very deep and limits how many large trees can be placed in that space. Residents supported the original proposal of a 35-foot landscape buffer, which could allow two rows of trees. If left with 25 feet, residents request the language be strengthened to achieve the maximum amount of plantings possible within that buffer. In Llewellyn Farms, there are legacy trees that are 100 – 125 feet in height. The foliage on the trees does not occur, however, until approximately 40 feet up. The trunk of the tree provides no line of sight coverage. He would request the lower areas be filled in with supplemental plantings to buffer the views. [Presented a drawing depicting the concern.] Another issue is that the DCAP Code language regarding permitted and conditional issues is ambiguous. It states that “all uses and buildings that were permitted or conditionally permitted under the zoning applicable to the property immediately prior to its rezoning into the MUR-4 zoning district shall continue to be allowed as permitted or conditionally permitted on the property, including the follow...” Ms. Rauch has clarified that if there is no existing use on the property, once the MUR-4 Zoning Code is in effect, the new MUR-4 Code takes precedence. However, the wording could be misinterpreted. The term, “permitted” can mean to grant. It also is a legal term, which indicates a formal permit for an action. Could a different term be used to reduce the potential for future misconception? The “whichever is less” terminology in the building height language also carries the potential for misconception. Could a statement be included that, “in no situation or circumstance can this building exceed 32 feet. In no circumstance may it be three stories?” Addition of that statement would avoid misinterpretation.

Mr. Boggs requested that Mr. Daney provide a copy of the drawing that he had shown to the Commission, to the Clerk, as well, so it could be included in the record.

### **Commission Discussion**

Mr. Fishman requested confirmation of the statement that the proposed Code provides for PZC to approve waivers to development standards including building height.

Ms. Rauch confirmed that the draft code included an allowance for waiver requests or administrative departures, depending on the specifics of the request.

Mr. Fishman stated that this is an agreement that has been painstakingly reached by the commercial developer and the residents. Future Commissions would not understand that. He would prefer to delete the opportunity to request a waiver. Typically, waivers are not good for the residents.

Ms. Rauch inquired if he was opposed to waivers for any purpose.

Mr. Fishman responded that he was specifically concerned about building height, due to all the discussions that have occurred between the residents and the landowner (NRI) regarding that issue.

Mr. Supelak inquired if waivers are a common element of the Code language.

Ms. Rauch stated that removing the waiver option would be a deviation from what the Code typically permits. There would be criteria by which the Commission would grant the waiver. However, if the Commission feels strongly about building height specifically, we could look at a way to craft that language. This draft language is meant to apply to all the MUR Districts, not just the MUR-4.

Mr. Fishman noted that if there were some significant reason, the applicant could request a rezoning.

Ms. Rauch responded that this will be a standard zoning district, not a PUD. The goal is to establish the standards needed. A waiver is a mechanism by which to request something different than the Code permits.

Mr. Grimes stated that he believes the language of the standards will be quite clear. Requesting a waiver would be an administrative process. The likelihood of the request being approved is very unlikely,

because of the clarity of the standard language. Not allowing a property owner to be heard, although probably denied, might appear too inflexible. The waivers appears to be typical Code language. Perhaps Mr. Boggs would like to comment on this.

Mr. Boggs responded that there is value in providing that flexibility. As in the BSD Code, for example, the waiver procedure is available, and often occurs, to improve projects, subject to approval. He believes it would work in the DCAP Code in a similar fashion, although with a different set of criteria. A waiver has a different set of criteria and standards than a variance. The variance opportunity would continue to be an option, in the event of a unique hardship. Variance requests are heard by the Board of Zoning Appeals (BZA). Their purpose is not to improve the project, as a whole, they are an option for a property owner unable to work with a difficult piece of property within Code requirements. The waiver, on the other hand, is an intermediary step, subject to Planning-related criteria, which is heard by PZC.

Ms. Fox stated that the City has limited abutting residential and commercial development, and historically, Council has treated these areas sensitively to ensure the neighborhood is not negatively impacted. The DCAP amendment process has been arduous, because we have empowered the neighborhood to attempt to work out the issues. To retain the history of this particular area for future Commissions, the description needs to describe exactly what it means to be sensitive to abutting residential. The required setbacks, heights and landscape buffering should not be easily waived. Personally, she believes no waivers should be granted unless there is agreement of the abutting property owner to increase the height, setback or impact a landscape buffer. If the abutting residential is not in agreement, no change should be made solely because the developer has a site with constraints. A second issue is, the language regarding roofs indicates a roof pitch of 6/12 or 12/12. On a 2-story building, a roof with 12/12 pitch is too high. She believes either a 1-story with a 6/12 (perhaps a 12/12) roof or 2-story flat roof should be required. It is important to remember that height is measured from grade to the middle of the eave. Typically, 2-story commercial buildings have flat roofs. She would recommend elimination of the 12/12 roof option. It is important to ensure that it is not possible to exceed a height of 32 feet. Finally, in regard to the landscape buffer, the City's landscape architect has indicated that a width of 35 feet is necessary to achieve an adequate buffer. If existing trees are retained but parking lots are extended up to the buffer, would the root line of existing trees be destroyed? Those three issues need further consideration: waivers adjacent to abutting residential; flat roofs (for 2-story commercial); and width of landscape buffers.

Mr. Supelak inquired if building height is measured to the top of the roof.

Ms. Rauch responded that it would depend on the roof type. A pitched roof is to the mid-point.

Mr. Way stated that he believes there is a benefit to pitched roofs, particularly adjacent to residential areas; they provide a more residential feel. A flat roof would have a totally different feel. Therefore, he would support having both a 6/12 and 12/12 pitch. The difference between the two does not impact height greatly. The sloped roof looks more residential.

Ms. Fox stated that the Mezzo building is 2-story with a very steep roof. On its corner site, it appears to soar in height. Observing that most commercial buildings have flat roofs, she believes the flat roofs address the height issue. Do Lewellyn Farms residents believe the transitional look or a 32-foot height limitation is important?

Mr. Christiansen responded that he believes retaining a capped height would be beneficial. NRI has indicated that is consistent with their inventory.

Ms. Fox requested confirmation that he is stating that the residents' preference would be a flat roof versus a hipped roof for a building height of 32 feet.

Mr. Christiansen responded affirmatively.

[Ms. Call, Chair, arrived at 7:30 pm.]

Mr. Schneier stated that in regard to the waiver, because it is a process ingrained into administrative law, he would prefer to avoid creating an exception. He would be interested in having staff's opinion regarding the language revisions suggested by Mr. Daney.

Mr. Supelak noted that a list of changes made in response to residents' requests was also provided in the packet.

Ms. Rauch stated that in terms of the comments concerning Existing Uses, she would recommend retaining the draft language as presented. It is very consistent to other Zoning Code amendments, including the Bridge Street District and the Historic District. There are financial implications to the property owners, if Code changes make their uses non-conforming uses. From a legal perspective, this is how that issue has been addressed.

Mr. Supelak stated that if uses are grandfathered, there are certain triggers that would cause any changes they wished to make to be heard by PZC.

Ms. Rauch responded that if an existing use in a Community Commercial, CC zoning wished to use another use permitted within the CC zoning, they could do so. However, if they wished to redevelop their building or construct a new building, they would need to obtain PZC review and approval. If it were a Conditional Use, any changes proposed would need to be heard by the Commission. However, the existing CC uses and the DCAP Code uses are not significantly different.

Mr. Supelak inquired if there were existing uses that would need to be "grandfathered in," if this Code were to be adopted.

Ms. Rauch stated that she would pull up the list. Commercially oriented sites would have more differences than Suburban Office.

Ms. Fox inquired if, after adoption of the MUR-4, an existing CC permitted use wished to discontinue that use, they would be able to change to another CC permitted use, assuming there were no changes.

Ms. Rauch responded affirmatively; however, any use-specific standards required by the Code would need to be met. The property owner would be required to mitigate that requirement.

Ms. Fox inquired if there is criteria that would impact either the neighborhood or the intent or purpose of the MUR-4. In addition, would an addition to a structure for a new use require review?

Ms. Rauch stated if it is a Minor Project, the ART provides review and approval of modifications up to 3,500 square feet. Projects exceeding 3,500 square feet are FDPs, would be reviewed and approved by PZC.

Ms. Fox inquired if the proposed amendment would require anything abutting a residential neighborhood to be reviewed by the Commission.

Ms. Rauch read the Minor Project definition, and stated that only projects exceeding the size threshold would come to PZC. The proposed modification would not require that development of any kind that abuts residential must be reviewed by PZC.

Ms. Fox stated that her suggestion would be to make that modification.

Mr. Supelak stated that a permitted use in the CC District is grandfathered in; however, a change of use would trigger the need for review/approval. Could they change from one CC permitted use to another CC permitted use?

Ms. Rauch responded that an existing use could move from one permitted use in the CC District to another use permitted in that District. That is consistent with the Bridge Street District. Typically, these are very minor changes.

Mr. Supelak inquired how the CC uses overlap with MUR-4 uses.

Ms. Rauch responded that CC uses are much more retail oriented. Any site modifications would trigger a review process. Office and Personal Service uses are permitted in the CC zoning. There is also a list of Conditional Uses, which would require a PZC review process.

Mr. Schneier inquired if the word "permitted" is confusing, as noted by the resident. If it is a defined term, a change would not be warranted; otherwise, the point may be well taken.

Mr. Boggs stated that he is unaware if there is a definition for "permitted use" in the General Zoning Code. However, in Planning and Zoning law, a permitted use has a specific meaning, to wit, it is a use allowed as of right. The reason we have developed the existing use type of language, both as it exists and as proposed, is to avoid the alternative, which is an existing use that would become non-conforming upon change of zoning. The intent is that existing uses would remain permitted for purposes of zoning, and would ensure the user's continued ability to obtain financing and invest in that use. The intent is to avoid the hurdles that could be created if the use were nonconforming. From a legal perspective, there is no issue with using this term as proposed. He does not believe it could be successfully interpreted in the general sense of "permitted." There would be concerns with changing the term as it would create inconsistencies with the Bridge Street District Code and result in unintended consequences.

Mr. Schneier stated that the only other resident question concerned the buffer.

Mr. Fishman stated that he concurred with the justification for retaining the right to a Waiver. He also would caution about requiring flat roofs. A sloped, 12/12 pitch roof has a very residential look. In comparison, an area of buildings with flat roofs will have a very industrial feel. The intent is that the commercial sites will blend with the residential areas.

Mr. Christiansen stated that he was under the impression that a sloped roof, measuring the height at the middle point, would result in a building taller than 32 feet. If height were measured at the top, he would agree, as it would be more consistent with the preferred. However, if it could result in a building 38 feet in height, that would not be the preference.

Mr. Way inquired if the measurement is taken from the grade to the middle point of the eave. The grade could be sloping away, so the measurement is a variable based on grade and the type of roof. It is a difficult measurement.

Ms. Rauch stated that the building height is "the vertical distance measured from the grade to the highest point of the coping of a flat roof, to the declivity of a mansard roof, or to the mean height level between the eave and ridge of a gable, hipped, gambrel roof, unless otherwise specified by the chapter."

Mr. Way stated that, concerning the buffer, per the agreement with the residents, the existing Code provision for a six-foot buffer will be increased to 25 feet. Although 35 feet would be better, 25 feet is a reasonable compromise. Mr. Daney also pointed out the lack of opacity of the taller trees. Including the six-foot buffer would provide the desired screening. All trees have a drip line. Many times, a protection is placed at the drip line of trees to protect their root system from new pavement. Is there anything in the City's Landscape Code regarding preservation of the drip lines of trees?

Ms. Rauch responded that she not aware of that specific requirement. However, if there are significant trees involved in a development project, the intent is to accommodate those on the site plans.

Mr. Way recommended that in the language that refers to preservation of existing trees, the language be modified to require preservation of the drip line and root system of the tree. Regarding parking, during the recent pandemic, we have discovered that the role and density of offices will change. The requirement of 4 parking spaces per 1,000 sq. ft. of office is an old standard, and the need for parking spaces likely will diminish further as more people work from home. If the standard parking requirement

is included in the proposed Code, the result could be more surface and parking area than needed. Perhaps there is a newer standard that could be considered.

Ms. Call stated that there are three agenda items to consider. It could be of benefit to review the entire Code, page by page, to ensure all of the input has been taken into consideration.

Ms. Rauch concurred with that approach.

Mr. Supelak stated that a chart was included in the meeting materials that showed alignment of the previous and the current Code drafts on many of the categories. Who participated in that discussion?

Ms. Rauch responded that the discussion was facilitated by herself and the Deputy City Manager with Nationwide Realty Investors (NRI), and the Llewellyn Farms Civic Association Board representatives and community residents. The Llewellyn Farms Civic Association has reviewed the draft Code and indicated support.

Ms. Rauch reviewed the proposed Code by section and Commission members suggested the following additional changes:

- Purpose and Intent. Enhance the language to enable the desired infill development/end product to be visualized; add language that indicates intent to provide appropriate screening for residential and recreational uses.

Ms. Rauch indicated that the recent amendment to the Historic District Code, the associated Design Guidelines included character images. That could be included here, as well.

- Parking spaces. With expansion of a building, parking can be expanded, but should not be more than required for the use. The intent is to have a walkable environment. A Parking Plan permits modification of parking to address the need; it could include phased parking and shared parking.
- Permitted Use Table. Clarify language regarding construction/office trailers, specifically duration (Section 153.097).
- Rooftop mechanicals, including solar energy equipment. Clarify language to require that in areas abutting residential: all rooftop mechanicals must be screened and remain within the required building height; building-mounted renewable energy equipment shall be completely integrated into the architectural character of the principal structures. If not integrated into the architecture, solar energy panels may be mounted, but consistent with other rooftop mechanicals must be screened and remain with the required building height.
- Vehicle charging station - location of sign. Define the term, which would better clarify the location. The intent is that it be physically on the unit or appurtenance to that unit.
- Clarify roofs – what is permitted.
- Building height. In regard to maximum building height of 2 stories, not to exceed 32 feet, replace term “whichever is less” with “maximum of 2 stories, not to exceed 32 feet.”
- Parking Location. Language states that where they can, they serve as a buffer between residential. Replace use of buffer there with another word, so no to confuse with the landscaping buffer.
- Provide clarification of roof pitches and height implications.
- Exterior materials – clarify types of glass and where they may be used.
- Landscape Buffer/Tree Preservation – Incorporate preservation of drip line; combine/consolidate landscape islands to allow a larger grouping of trees in parking lots. [include in Design Guidelines.]
- Parking – Review maximum requirements, ensuring they are appropriate for the use and the area. Considerations: hybridized work trend may impact need for parking; potential redevelopment of large parking lots.
- Parking plans – Include shared parking agreements.

- Vehicle Charging Stations – Consider number of units per parking spaces; engage Ec. Dev. in that determination.
- Loading Docks – Clarify requirements when adjacent to residential areas; if located near, how to mitigate impact to the adjacent residential area; should not be permitted to face any public street.
- Sidewalks/shared use paths - Strengthen language re. access.
- Signs – [Address the preferred character in the Design Guidelines.]
- Light/Light Poles – Remove 3-foot concrete columns.
- Review procedures – most of the changes were made in Minor Projects. Commission indicated they had no objection to the square footage parameters.
- Waiver – Clarify the waiver request/application versus the waiver itself.
- Administrative Approvals – Applications regarding properties abutting residential areas should not be Administrative Reviews; they should be reviewed by the Commission.
- Screening of Daycare Outdoor Recreational Spaces – Re. request to increase from 50% to 100% opacity requirement - determine whether the uses are adjacent to Residential or to Commercial.

### **Public Comment**

John Phillaman, president, Llewellyn Farms Civic Association, 4731 Bellfield Drive, Dublin, OH, inquired about the ability of a property owner to request to increase the height above the required building height of 32 feet. The current language states that the request can be made, although may be denied. In Section I-2, the language states a modification should be no greater than 10% of the building standard related to building dimensions. He requests clarification of the term, "building dimension."

Ms. Rauch responded that building dimensions would include all aspects of the building, including building height.

Mr. Phillaman stated that would seem to state that the height could be greater than 32 feet, potentially 35.2 feet, if 10% were to be requested. He requested clarification of whether any existing use could be grandfathered into the MUR4. When does the 12-month timetable contained in the draft language start/stop?

Ms. Call clarified that the use must first of all be a permitted use. She requested Mr. Boggs to clarify the rules for grandfathering.

Mr. Boggs stated that if the property owner is engaging in a use permitted by their current zoning, they have a property right to continue engaging in that use. If the zoning is changed, so that use is no longer permitted in the new zoning, it would become a nonconforming use, i.e., legally, the use can continue, but it is not a permitted use. As long as these uses are continuous, are not abandoned for a period of 12 months or longer, they are deemed as permitted rather than non-conforming. The intent is to help the property owner to be able to invest in the continuation of that use. That use can continue indefinitely, but should it be stopped for a period of 12 months or longer, then it is no longer a permitted use. going forward, the property owner could engage only a use that is permitted or conditional use under the new zoning.

Mr. Phillaman inquired if the use on the existing property was not in place prior to the rezoning, would the property owner be permitted a different use of the existing zoning.

Mr. Boggs responded that a vacant lot on which there is now no active existing use would be required to comply with all the new rezoning regulations.

Mr. Phillaman inquired if a request for a parking expansion of 25% could be considered as a Minor Project.

Ms. Rauch stated that parking plans that are not associated with a Final Development Plan are considered Minor Project applications and reviewed by the Administrative Review Team. Public notification of that meeting and an opportunity for public comment is permitted. A parking plan associated with a FDP, a larger development project, would be subject to review by the Commission.

Ms. Fox stated that in previous discussions with the neighborhood, she believes there was agreement that any modifications to a property that abutted residential neighborhood would not ever be considered an ART review. That would also be the case with any change that might impact the neighborhood or stimulate resident opinions. She would like the Code to reflect that items that might have neighborhood interest or impact would not have ART review.

Ms. Call stated that she believes better definition of the type of items and the threshold thereof would be needed to identify those items.

Ms. Rauch provided clarification of the reviewing bodies. With an Administrative Review, the Planning Director has the discretion of deciding upon minor improvements, such as lot line adjustments, re-location of elements within a parking lot, minimal building footprint expansions or material substitutions. The next level is a Minor Project, which is reviewed by the ART, a team of directors. The ART reviews applications for revisions to properties 3,500 square feet or less; modifications of not more than 25% of individual building facades; signs, landscaping, parking and other site-related improvements that do not involve the construction of a new principal building; accessory structures and uses; and parking plans, when not associated with an FDP. The next level is a Final Development Plan, which is reviewed by the Planning and Zoning Commission.

Ms. Call stated that for clarification purposes, the ART review involves a public process.

Ms. Rauch confirmed that is confirmed.

Mr. Phillaman thanked staff and the Commission for the clarifications. The Civic Association will continue to work with staff to make additional improvements.

Ms. Call noted that two earlier language clarifications were made to the proposed Code:

- (1) Building height must be two stories or less and not exceed 32 feet.
- (2) Requests for Waivers would be permitted, but would be heard only by the Planning Commission. Any request for an increase in Building Height would be scrutinized heavily, including all the history, and not necessarily granted.

Mr. Phillaman stated that the residents had a concern with the "whichever is less" language associated with building height. There is a desire to remove any ambiguity regarding the potential height.

Ms. Rauch clarified that there are review criteria for granting waivers. A waiver must meet the spirit and intent of the Community Plan, the Dublin Corporate Area Plan, the MUR Design Guidelines, and applicable Zoning Code requirements. Waivers would be reviewed by the Commission.

Mr. Daney inquired if an existing permitted use in the current SO-Suburban Office zoning, which remains continuous, would be permitted at some point in the future to convert to a different permitted use in the current SO zoning, but not permitted in the new MUR4 zoning.

Ms. Call requested Mr. Boggs to clarify if it might be a consideration of deprivation of property rights, if not permitted to convert.

Mr. Boggs responded that a property owner would not be deprived of property rights if not permitted to make a switch in uses. However, if the Code permits them to switch from one formerly permitted use to another formerly permitted use, as long as the existing use had been continuous, they would be required to abide by the use specific standards of the permitted use to which they were converting. Any expansion of space that would be entailed with the conversion of uses would be reviewed by the Commission.

Ms. Call stated the reason for allowing a non-conforming use is to ensure that the City is not depriving someone of their property rights. If not having the ability to convert from a non-conforming use to a different permitted use would not be depriving them of a property right, then could the Commission request Code language be added that allows the existing non-conforming use to continue, but changing it to a different permitted use would not be permitted.

Mr. Boggs stated that from a legal standpoint, a person is not deprived of their property rights should they want to change from a previously permitted use to a different previously permitted use, but are not allowed to make the change because the use is not permitted within the new zoning. He believes the existing use provisions in the Bridge Street District (BSD) Code, which the proposed MUR4 zoning is based on, were adopted because with the area-wide rezoning for the BSD, a number of property owners were concerned about those changes. The Existing Use provision accommodated those expectations, although the provision may be wider than the legal actionable property right.

Ms. Call stated that the Commission desires to have closer scrutiny of those parcels adjacent to the residential neighborhood. To ensure that a use does not change substantially from something not previously engaged in, it is important to protect the property rights of both the owner and the expectations of the adjacent residential property owners.

Matthew Cull, Attorney, Kephart Fisher LLC, 207 N. Fourth Street, Columbus, OH 43215, representing Nationwide Realty Investors (NRI), stated that approximately one month ago, NRI, the Llewellyn Farms Civic Association and City Planning staff came to an agreement. That agreement eventually was reached after a year of effort. For the first portion of tonight's meeting, he was pleased with the residents' comments. However, during the second half of the meeting, certain components of that agreement have been chipped away, such as those pertaining to solar panels and rooftop mechanicals. He is concerned, also, with the targeting of this property, as opposed to looking at everything as a whole. Because this is the only undeveloped property in the MUR4, these changes will impact primarily this property. He is concerned that at this point, we are further away from what the agreement was.

Ms. Call inquired if, in addition to the rooftop panels and rooftop mechanicals, he believes there are other items in need of clarification.

Mr. Cull stated that until he sees the changes, it is difficult to say. There was discussion about location of loading docks, building setbacks, location of parking lots and amount of landscape buffer. He will review the revised draft when available. However, the flexibility in the compromise they thought had been reached has been slowly disappearing tonight.

Ms. Call stated that the Commission has been attempting to ensure the language reflects what was agreed upon between the neighborhood and NRI. The attempt has been to remove ambiguities.

Mr. Cull stated that what he has heard in this discussion was not just removal of ambiguities. For instance, a height of 32 feet is permitted as the maximum, and if a vent were to exceed that by one inch, a waiver must be requested. Until tonight, the draft Code did not reflect that..

Ms. Rauch clarified that including the rooftop mechanicals in the overall height was an issue that was discussed previously. This draft reflects the earlier discussion.

Mr. Schneier inquired if it was NRI's expectation that they would be able to have rooftop mechanical equipment exceeding the 32 feet of height.

Mr. Cull stated that was their expectation. It was their understanding that the building height would be measured as it is throughout the rest of the Code.

Mr. Schneier inquired if the expectation, following the negotiation with the neighborhood, was that the 32-foot height limitation would not include mechanical equipment or solar panels.

Mr. Cull stated that was the expectation. That is not the only item, however, that has changed since the agreement they thought had been reached.

Mr. Schneier noted that all parties would have another opportunity to review another revised draft.

- 21-086ADMC, Administrative Request – Design Guidelines

Ms. Rauch stated that the proposed Design Guidelines include an overview of the four MUR Districts within the intent and applicability sections, but the majority of the Guidelines focus on general building and site design elements to supplement the Code requirements.

Ms. Call inquired if Commissioners had any questions about the intent and applicability sections before moving into discussion of the building and site design elements.

Ms. Fox stated that with a Code, it is important to have aspirational images that provide a picture of what is intended. Illustrations of a variety of expectations provide character and personality to the Code. The Commissioners are citizens. As such, she has struggled with attempting to interpret Code without initially understanding the end point. She would like the Design Guidelines to give a picture of what the Code intends.

Ms. Call expressed agreement. She would suggest that some of the images be of pitched roofs and smaller buildings. Currently, most of the examples are larger buildings with flat roofs.

#### Building Design

Ms. Call stated that she would suggest staff incorporate any information from tonight's discussion regarding materials, including inspirational images to depict where those materials would be acceptable.

Ms. Fox stated that it is also helpful to have descriptions from other Master Plan Developments. Just saying that a building design should have four-sided architecture and avoid single-material monolithic wall planes does not paint a picture. It simply tells you what not to do. Descriptions that show what is desired or how to achieve it encourage creative thought.

Mr. Fishman expressed agreement. When Ms. Fox provided images during a previous BSD zoning review of other projects, the images were very helpful. The next generation of planners need to be able to see what is intended.

Mr. Way stated that as an overview, the Design Guidelines capture a good amount of intent, but there is more detail about the subject matter in other materials. The two documents need to be better married. For instance, there are several ways in which to incorporate landscaping within parking lots. There are statements in the Code that are not reflected in the Guidelines, which could be. The Design Guidelines are the graphic depiction of what should be achieved. The imagery currently in the Guidelines is high level. He believes it is possible to include specific examples of what the Code says we want to achieve.

Ms. Call agreed that the Guidelines should provide examples of what we are looking for. The images also ensure consistency among the reviewing bodies as to what should be achieved.

Mr. Schneier stated that his recollection is that the Historic Dublin Design Guidelines provide for specificity and images. Perhaps that document could be used as a template.

Ms. Rauch responded that those Design Guidelines do provide more specificity, due to the nature of that area. However, it is helpful to have the Commission's input on what level of specificity is desired with the DCAP Design Guidelines.

Ms. Call inquired if there was any additional input. [There was none.]

Mr. Supelak moved, Mr. Schneier seconded to table the three DCAP cases.

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

[Motion approved 7-0]

### **Communications**

Ms. Rauch introduced new City employee, Taylor Mullinax, Planner I.

Ms. Rauch stated that due to the case volume, a special meeting would need to be scheduled next month.

Ms. Martin stated that the tentative Special Meeting date is Tuesday, November 16. Members should check their calendars with the intention that at the next regular meeting on Thursday, October 7, members would confirm if November 16 would be a viable option.

The meeting was adjourned at 10:13 p.m.

*Mark Supelak*

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Vice Chair

*Judith Beal*

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Assistant Clerk of Council