



Land Use and Zoning Meeting Minutes
October 22, 2020

STAFF:	David Radachy
DATE:	October 23, 2020

The Land Use and Zoning Committee met via Webex on April 23, 2020. The Land Use and Zoning Committee hereby finds and determines that all formal actions were taken in an open meeting and that all deliberations of the Land Use and Zoning Committee, which resulted in formal action, were taken in a meeting open to the general public, in full compliance with applicable legal requirements of Section 121.22 of the Ohio Revised Code.

The meeting was called to order at 7:00 PM by Mr. Radachy.

Attendance was taken by roll call. The following members were present: Bernard, Constantine, Diak, Himmelman, Malec, Reppert, Terriaco, and Welch. Staff: David Radachy and Joseph Rose.

Mr. Radachy introduced Dan Himmelman as the new member from Leroy Township. He was taking the place of Anthony Falcone.

Mr. Radachy asked if there was any Public Comment. Hearing none, staff proceeded with the next item on the Agenda.

Mr. Radachy then turned the meeting over to Mr. Rose to present Committee Business. Staff announced there are three text changes, all submitted from Painesville Township.

Painesville Township Text Amendment Sections 5 and 25

Mr. Rose stated that Painesville Township is amending section 5.81 Home Occupation adding that accessory uses shall not include employed contractors such as landscape, yard maintenance, and general contractors or any business which owns vehicles over 2 net ton capacity, multiple commercial vehicles, or employs more than one person full or part time. They are also adding 25.01K "Landscape Contractors, Yard Maintenance Contractors, Tree Service Contractors, General Contractors, Paving Contractors, and Excavating Contractors for General Headquarters, Offices, Employee Parking, Equipment, Material and Supplies Maintenance and Storage, and repair and maintenance of tools and equipment. A provision that there may not be any materials or equipment stored or parked between the road right-of-way and the actual front setback of the nearest building to the road right-of-way under 25.07 Setback Building Line. There is no relevance to the Comprehensive Plan.

Staff stated that the addition to the definition to home occupation does not define anything, they are conditions or requirements. It may be better to put this item into R-1 and R-2 under accessory uses. They are also stating that there are no definitions of landscape contractor, yard maintenance contractor, tree service contractor, paving contractors, or excavating contractors. Staff noted that there is no definition of general contractor, but there is a

definition of general building contractor. Mr. Rose also stated that frontage on dedicated road is not required with an I district lot. How would that effect the restriction of storage of materials between the right-of-way line and the actual building setback on lots that do not have physical frontage and are accessed by easements? The building setback line in I districts is 50 feet. Is the restriction of no storage of materials between ROW and actual building line limit the use of property for lots where the building was built at a greater distance than the 50 feet (for example, 75 feet from the ROW or 100 Feet from ROW)?

Staff recommended to accept the changes to Sections 5 and 25 with the following suggestions:

- Move the language on self-employed contractors from the home occupation definition to Section 14.02A(2) and Section 15.02A(2).
- Add definitions of landscape contractor, yard maintenance contractor, tree service contractor, paving contractors, or excavating contractors.
- Use the term general building contractor instead of general contractor.
- Staff also stated that the language in the existing definition of home occupation may also be considered regulating as opposed to defining the use. A definition should only define the use and not regulate the use. Requirements on floor space, number of employees, using an accessory structure for home occupation, traffic, parking, noise, vibration, glare, odors, or interference with radio or television signals should also be added to 14.02A(2) and 15.02A(2). Mr. Radachy stated that this was noted by staff when they reviewed the definition of home occupation, but there is no official request from Painesville Township to review this part of the home occupation definition.

Ms. Diak made the motion to make the recommendation as stated by staff.

Mr. Terriaco seconded the motion.

Seven voted "Aye".

One voted "Nay".

Motion Passed.

Painesville Township Text Amendment Sections 5 and 6

Mr. Rose stated that Painesville Township is amending section 5 Definitions by adding "Heavy Industrial" as 5.81 and adding a provision to "Home Occupation" renumbered 5.82 stating that accessory uses shall not include self-employed contractors such as landscaping, yard maintenance, excavating, general, or any business that owns vehicles over two net ton capacity, multiple commercial vehicles, and employs more than one person full or part time. They are also Renumbering "Library (Public)" 5.89, adding a definition of "Line of Sight Safety Triangle" as 5.91 and adding an illustration. They are removing "Heavy Industrial" and "Library (Public)" as numbered 5.92 and 5.93, because they are being moved to 5.81 and 5.82.

Mr. Rose went on to state that Painesville Township is amending section 6 General Requirements removing provisions under 6.13(E) Line of Sight Safety Areas regarding fences for corner lots, adding a new provision 6.13(F) "Corner Lots", adding height

limitations for fences on corner lots and they are removing figure 6.1. There is no relevance to the Comprehensive Plan.

The most common way zoning codes show definitions of light industrial and heavy industrial is to call them "Industrial, Heavy" and "Industrial, light" Doing it the other way may be cumbersome.

Staff also felt that Figure 6-1 is a good reference to how fences interact with various lot types. It is not limited to just corner lots. It may be beneficial to keep and try referencing the table in another section. They also thought that the safety triangle in the definitions is a good reference. Has Painesville Township considered putting it in both Section 5 and Section 6?

Staff also stated that there is a twelve to fifteen foot utility easement on all subdivisions platted under the Lake County Subdivision Regulations. These utility easements are where the underground utilities are placed. The proposed regulations may be placing the fences into the utility easement. Current regulations also allow fences twenty feet from the road pavement. That is two feet beyond the right-of-way. This will also allow fences in the utility easement. It was also noted that utility easement only exists on subdivisions created after 1950's. The subdivisions and roads created prior to the adoption of the Lake County Subdivision Regulations would not have the utility easement.

Staff recommends that:

- Change Heavy Industrial to "Industrial, Heavy" and add it to Section 5 as 5.84.
- Change Light Industrial to "Industrial, Light" and add it to Section 5 as 5.85.
- Keep Figure 6-1. Amend the figure to adhere to the new and old requirements and have a reference to Figure 6-1 in 6.13 C 2.
- Add the safety Triangle to Section 6.13.
- Do not allow fences in the utility easement.

Mr. Reppert made the motion to recommend staff's recommendation to accept the text amendment.

Mr. Bernard seconded the motion.

All voted "Aye".

Motion Passed.

Painesville Township Text Amendment Sections 12, 22 and 25

Mr. Rose stated that the last text change was on Sections 12, 22 and 25. In the table of uses in Section 22.02, the text change is renaming "Gas Station Sales & Service" to "Auto & Light Truck Fuel Sales with Convenience Store (No Repair or Maintenance Services)", and "Sales, Services and Leasing of New Motor & Used Motor Vehicle as one integrated business" to "New Auto and Light Truck Dealership (With or without used vehicle sales as a single integrated business entity under same ownership). The word "Automatic" was being removed from "Automatic Car Wash" and "Automotive Service (Including instant oil change)" and being renamed to "Instant Oil Change (Limited to Oil Changes, filter

replacements and topping off fluids and lubricants)” in the table of uses. The text amendment is adding “Auto Parts Retail Sales with no delivery vehicles on premises”.

12.02C, in Section 12; Conditional Uses, “Sales, Services and Leasing of New Motor & Used Motor Vehicle as one integrated business” is proposed to be renamed “New Auto and Light Truck Dealership With or without used vehicle sales as a single integrated business entity under same ownership. The amendment is also renaming 12.02H from Gas Stations to “Retail Sales of Auto & Light Truck Fuels with Convenience Store with No Repair or Maintenance Services, 12.02 I is changed by removing the word automatic from Car Wash and 12.02J is being changed from “Automotive Services (includes instant oil change)” to “Instant Oil Change”.

12.02U “Indoor Climate-Controlled Self Storage Facility in the B-1 Zoning District is being added. This was part of last month’s case. 12.02V “Used auto & truck sales and leasing in the I-1 zoning district” as a new use to Section 25.

Sections 12.05 C, 12.05 C (1)(a) and 12.05 C (1)(b) are being changed to reflect changes in 12.02 C. Section 12.05C(2) is to state “auto and light truck dealership” rather than “car agency”. The amendment is changing Section 12.05C(5)(b) by changing the word “that” to “than”.

They are amending Section 12.05H adding “Retail Sales of Auto & Light Truck Fuels”, “With Convenience Stores excluding any vehicle maintenance or repair services” because this use was added to the table in Section 22.02 and adding 12.05H(j) “No vehicle maintenance or repair services may be offered or conducted on the premises” at the retail sales of Auto & Light Truck Fuel.

Removing the word “Automatic” from 12.05I because of the change to the Table in Section 22.02. They are making a reference that waiting spaces are stacking spaces in this section. The amendment is amending 12.05I(c) requiring services done by hand must not interfere with flow of any automated car wash operation. They are changing 12.05(J) to “Instant Oil Change”. Adding 12.05(J)(d) stating instant oil changes must only perform the removal and replacement of automotive fluids and adding 12.05(U) “Indoor Climate-Controlled Self-Storage Facilities in the B-1 Zoning District as required in section 22.02E, Table of Uses and adding provisions, “Used auto and truck sales and leasing” and adding provisions as 12.05(V).

Indoor Climate-Controlled Self-Storage Facility is being added as a conditional use to section 22 in the table of uses.

There are several changes to Section 25. 25.01H adding additional provisions to Transportation Services. 25.01I “Used Auto and Truck sales and Leasing with Conditional Use Permit” is being added, 25.01L (Previous Draft 20-ZC-06, added as letter K) “Landscape Contractors, Yard Maintenance Contractors, Tree Service Contractors, General Contractors, Paving Contractors, and Excavating Contractors for General Headquarters, Offices, Employee Parking, Equipment, Material and Supplies Maintenance and Storage, and repair and maintenance of tools and equipment.

Staff had some concerns with the text amendments. They noted that there are no definitions of Auto and Light Truck Fuel Sales. They wonder how big is a light truck, what could buy fuel at the auto and light truck fuel retail. Will fuel sales be limited to autos and light trucks? No fueling of backhoes, boats, jet skis, semi-trucks, buses, campers, lawn mowers, etc.?

The New Auto and Light Truck Dealership could limit what can be sold. Do they not want semi-truck sales in the B districts?

Staff was concerned that there is no definition of instant oil change.

It was noted when the table was created, different categories of automotive repair and service were created. The intent of automotive service was to allow for light maintenance to be performed in B districts. These services were included but were limited to instant oil change, replacement of headlights, replacement of brake lights, replacement of filters, replacement of batteries, and replacement of windshields. When the table was created, Automotive Repair was created to handle the heavy automotive repair and body shops and the intent was to put those uses into the I districts. Changing to instant oil change may limit to this use only. This may be a definition issue. Here are examples of better definitions of auto service and automotive repair:

- **AUTOMOTIVE SERVICES (INCLUDING INSTANT OIL CHANGE):** A building, or part of a building which is used for the routine maintenance and service, and the making of *minor* repairs to motor vehicles including instant oil changes, except that repairs described as major repairs in “Automotive Repair” shall not be permitted. Retail sale of lubricants and motor vehicle accessories may also be included as an accessory use. (Concord Township)
- **AUTOMOTIVE REPAIR:** A building or portion of a building in which major repairs are conducted. Major repairs include structural repair, rebuilding or reconditioning of motor vehicles, or parts thereof, including collision service; spray painting; body, fender, clutch, transmission, differential, axle, spring, and frame repairs; major overhauling of engines requiring the removal of the engine cylinder, head or crank case pan; repairs to radiators requiring the removal thereof; or similar activities. (Concord Township)

When the use table was created, the term Car Wash (Automatic) was used to differentiate the use from Car Wash (Self-Serve). There is a definition of car wash automatic, but there is not a definition of car wash self-serve.

Staff recommends:

- Change Gas Station Sales and Service to Gas Station with Convenience Store in sections 12 and 22.
- Change Sales Service and Leasing of New and Used Motor Vehicles to New Motor Vehicle Dealership in Sections 12 and 22 and define the use in Section 5.
- Eliminate “No Delivery Vehicles” from Auto Parts Retail Sales use in the Table of Uses.

- Do not change the use “Auto Service” to “Instant Oil Change”, but redefine the use to make it more understandable of what the use is.
- Do not change the name “Car Wash, Automatic” to “Car Wash”.
- Allow for delivery vehicles for Auto Part Sales.
- Define Heavy Equipment Repair and Maintenance Servicing.
- Leave tire sales in the B Districts.
- Allow for Storage of materials and equipment to be stored between the front setback and the building location if the building is built beyond the front setback.
- Define the term actual frontage.

The committee asked why Painesville Township created this text amendment. Mr. Constantine spoke why the Township was making these changes. They were trying to restructure the uses in the B Districts. They would like to de-emphasize the automotive uses in the B district and move them to the I districts. This was because of the limited width of the commercial districts along Route 20. The Township welcomes comments from the Planning Commission and the LUZ Committee, but they are not going to like some of the comments like not limiting delivery vehicles. They feel that would be a better use in an industrial district. They are trying to figure out ways to retool the prime property.

Staff stated that maybe the township should not single out auto parts delivery. Maybe you should limit all delivery.

Staff stated that the auto parts stores already exist in the corridor and these uses need to be seen. There is a reason why these business have located in Painesville Township. The stores have done their research and know that the residents work on their vehicles. The delivery is just extra service. If you eliminate the use or the delivery service from the use, you will be creating non-conforming uses.

It was stated that U.S. 20 was widened a couple of years ago and the commercial districts were reduced, moving the businesses closer to the residential. The uses are no longer in harmony with neighbors. The uses are now disturbing the neighbors.

The committee was concerned about limiting delivery vehicles. In our current COVID world, delivery is a way life. Staff also stated that they were concerned about just limiting delivery vehicles for one use. Other uses use delivery vehicles. Those uses are mostly food delivery and furniture deliver.

The Committee discussed that there is room for vehicles to park. So it is not an issue of space or limiting customer parking. Are you trying to change this for visual reason? A comment was made that food delivery and furniture delivery do not have as much in and out as the automotive parts delivery vehicles. The committee discussed maybe restricting the number of vehicles and the size and types of vehicles as opposed to eliminating delivery vehicles.

Staff then made a comment that the Village Dodge and Adventure Subaru also have delivery vehicles and they also deliver the same items as auto parts stores.

The Committee seemed to think that the restriction of no delivery vehicles would make it difficult for those businesses to operate.

Mr. Welch motioned to accept the staff comments.

Mr. Terriaco seconded the motion.

- Change Gas Station Sales and Service to Gas Station with Convenience Store in sections 12 and 22.
- Change Sales Service and Leasing of New and Used Motor Vehicles to New Motor Vehicle Dealership in Sections 12 and 22 and define the use in Section 5.
- Eliminate “No Delivery Vehicles” from Auto Parts Retail Sales use in the Table of Uses.
- Do not change the use “Auto Service” to “Instant Oil Change”, but redefine the use to make it more understandable of what the use is.
- Do not change the name “Car Wash, Automatic” to “Car Wash”.
- Allow for delivery vehicles for Auto Part Sales.
- Define Heavy Equipment Repair and Maintenance Servicing.
- Leave tire sales in the B Districts.
- Allow for Storage of materials and equipment to be stored between the front setback and the building location if the building is built beyond the front setback.
- Define the term actual frontage.

All voted “Aye”.

Motion passed.

Mr. Rose stated that was the last case and there was no new or old business and no public comment.

The meeting adjourned at 7:47 pm.