City of Dover

MAYOR AND COUNCIL

DRAFT PROPOSED COUNCIL RESOLUTION NO. 2011-02

A RESOLUTION PROPOSING THE VACATING AND ABANDONMENT OF A CERTAIN ALLEY SITUATED IN THE CITY OF DOVER.

BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF DOVER, IN COUNCIL MET:

Section 1. The Council of the City of Dover favors the vacating and abandoning of the following alley:

> Being all that certain piece or parcel of land situated in the City of Dover, Kent County, State of Delaware, being an improved public alley running east to west, lying on the southerly side of and running parallel to East Loockerman Street, said portion of alley beginning at a point identified as the southeast corner of 516 East Loockerman Street, parcel #ED-05-077.06-01-63.00; thence running west toward Bayard Avenue, South 57 degrees 11 minutes 46 seconds West 213.78 feet along the northwest line of said 15' wide alley but stopping at the southwest corner of 512 East Loockerman Street, parcel #ED-05-077.06-01-65.00; thence running perpendicular across said 15' wide alley to a point in the southwest line of a 15' wide alley; thence running North 57 degrees 11 minutes 46 seconds East 213.78 feet along the southwest line of said 15' wide alley to a point at the corner of parcel #ED-05-077.06-01-87.00; thence running 15 feet along the eastern boundary of said 15' wide alley to the point and place of beginning and containing 3,206.70 square feet (0.0736 acres) of land, be the same more or less.

Section 2. The Council of the City of Dover will sit on Monday, February 28, 2011, at 7:30 p.m., in the Council Chambers at City Hall, Dover, Delaware, to hear the objections of such residents of the City or owners of the property affected as shall attend, in accordance with the provisions of Section 27 of the Charter of the City of Dover (Chapter 158, Volume 36, Laws of Delaware).

Section 3. The Clerk of Council is hereby directed to post copies of this Resolution in five (5) or more public places in the City of Dover.

ADOPTED: *

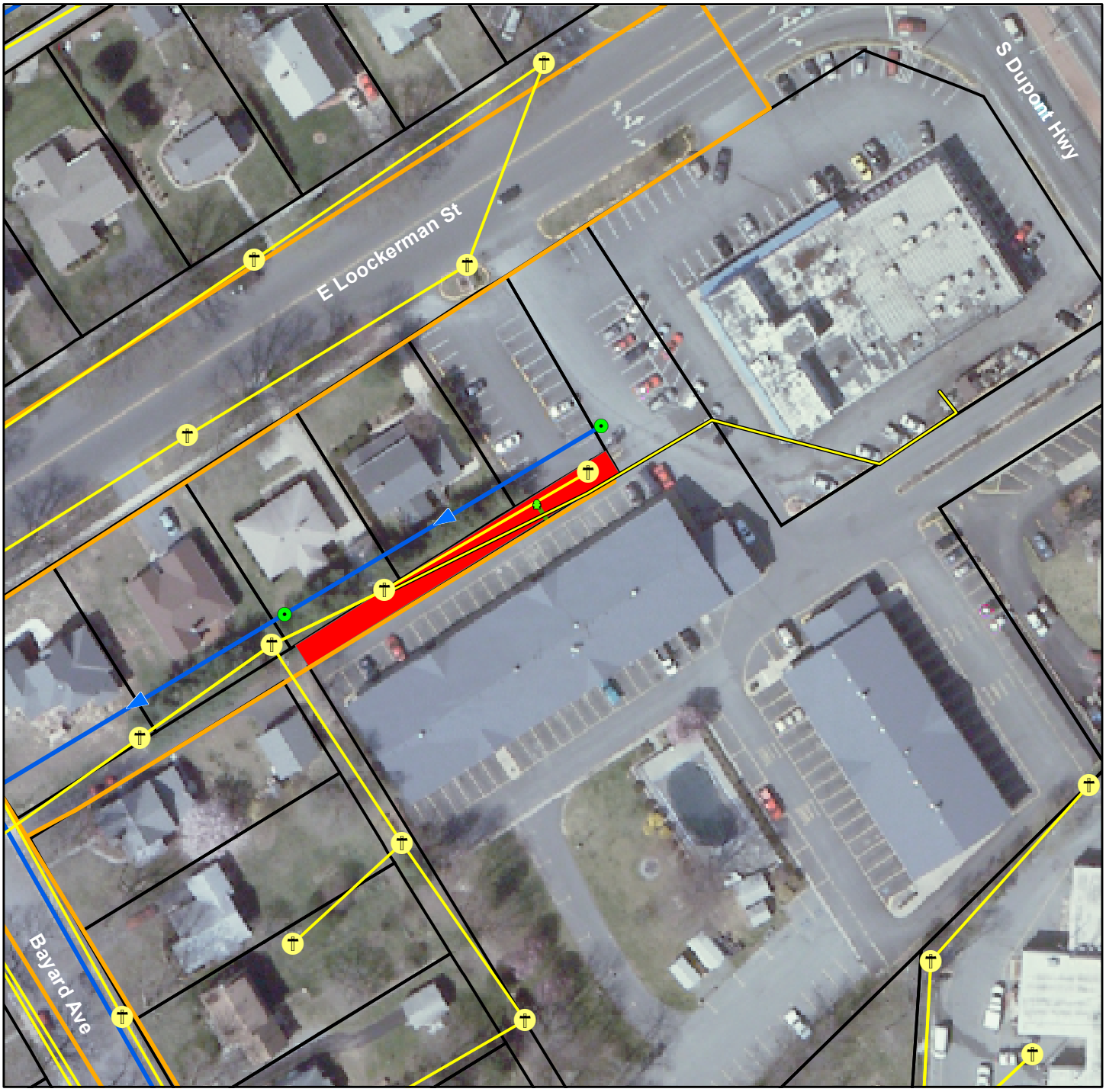
S:\RESOLUTIONS & PROCLAMATIONS\2011\DRAFT\Res. No. 2011-02 - Setting Public Hearing - Alley Abandonment - Adjacent to 514 E Loockerman St and 222 S DuPont Hwy - REVISED.wpd

CARLETON E. CAREY, SR.	KENNETH L. HOGAN
MAYOR	COUNCIL PRESIDENT

Actions History:
February 14, 2011 - Introduced at City Council

Draft

514 East Loockerman Street Alley
Proposed Alley Abandonment



0 65 130 260 Feet

N

Date Printed: November 23, 2010
Date Created: November 23, 2010
File: m:\gis_data\projects\tech_mxds
\st_abandonment_map
Department: Public Services GIS
City of Dover, Delaware

Legend

- Overhead Electric Pole
- Underground Electric Lines
- Overhead Electric Lines
- Water Main
- Hydrant Line
- Hydrants
- Manholes
- Sewer Line
- Right of Way to be Abandoned
- Dover Parcels

CITY OF DOVER
ORDINANCE #2011-01

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF DOVER, IN COUNCIL MET:

That Appendix B - Zoning, Article 5 – Supplementary Regulations be amended by adding a new section 20 as follows:

Section 20. Solar and small wind energy systems.

Solar energy systems and small wind energy systems shall be permitted as accessory uses within all zones subject to the following requirements:

20.1 *Residential Zones.*

20.11 Solar energy systems shall be subject to the following:

(a) Ground-mounted solar energy systems shall be permitted only in the rear yard.

(b) Ground-mounted solar energy systems shall be set back a minimum of five feet from side and rear property lines, or the height of the tallest point on the system, whichever is greater.

(c) Ground-mounted solar energy systems shall not exceed 15 feet in height.

(d) Ground-mounted solar energy systems shall be visually screened from adjacent properties to a height of six feet by either an opaque fence or a dense vegetative screen.

(e) All exterior electrical and/or plumbing lines must be buried below the surface of the ground and placed in a conduit.

(f) Roof-mounted solar energy systems must comply with all building height requirements for the zoning district where the system is to be installed.

20.12 Small wind energy systems in residential zones shall be subject to the following restrictions:

(a) Small wind energy systems shall be set back 1.0 times the turbine height from adjoining property lines. Turbine height means the height of the tower plus the length of one blade.

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(b) The aggregate noise or audible sound of a small wind energy system shall not exceed five decibels above the existing average noise level of the surrounding area and shall be restricted to a maximum of 60 decibels measured at any location along the property line of the parcel where the wind system is located.

(c) Small wind energy systems shall be free from signage, advertising, flags, streamers, decorative items, or any item not related to the operation of the wind turbine. Electric wiring for the turbines shall be placed underground for non-building integrated systems.

(d) Small wind energy systems shall not be permitted within the H (Historic District) Zone.

(e) Any small wind energy system shall be visually screened to a height of six feet by either an opaque fence or a dense vegetative screen from any properties or structures included on the National Register of Historic Places.

20.2 Non-Residential Zones.

20.21 Solar energy systems shall be subject to the following:

(a) For the purposes of this subsection, a use is considered accessory if it is located within a complex or campus that includes one or more contiguous lots under common ownership and management, where the principal use of the complex or campus is other than a solar energy system, and the energy generated by the solar energy system is intended to primarily reduce on-site consumption of utility-supplied energy.

(b) Ground-mounted solar energy systems shall not occupy more than 30 percent of the lot area of the complex or campus for which the solar energy system is proposed.

(c) If ground-mounted solar energy systems are proposed to occupy more than 30 percent of the lot area of the complex or campus, their placement shall be subject to conditional use approval by the Planning Commission.

(d) Ground-mounted solar energy systems shall not be located between the principal structure and the street upon which the principal structure fronts.

(e) All exterior electrical and/or plumbing lines must be buried below the surface of the ground and placed in a conduit.

(f) Solar energy systems, whether roof-mounted or ground-mounted, must comply with all building setback and height requirements for the zoning district where the system is to be installed.

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20.22 Small wind energy systems shall be subject to the following restrictions:

(a) Small wind energy shall be set back 1.0 times the turbine height from adjoining property lines. Turbine height means the height of the tower plus the length of one blade.

(b) The aggregate noise or audible sound of a wind system shall not exceed five decibels above the existing average noise level of the surrounding area and shall be restricted to a maximum of 60 decibels measured at any location along the property line to the parcel where the small wind energy system is located.

(c) Small wind energy systems shall be free from signage, advertising, flags, streamers, decorative items, or any item not related to the operation of the wind turbine. Electric wiring for the turbines shall be placed underground for non-building integrated systems.

(d) Small wind energy systems shall not be permitted within the H (Historic District) Zone.

(e) Any small wind energy system shall be visually screened to a height of six feet by either an opaque fence or a dense vegetative screen from any properties or structures included on the National Register of Historic Places.

20.3 *Decommissioning.*

Solar energy systems and/or small wind energy systems must be maintained and kept in a state suitable for immediate operation. When it can be demonstrated that a solar energy system or small wind energy system, as approved in accordance with this section, is in a state of disrepair and is not suitable for immediate operation, that system shall be removed and the accessory use terminated.

BE IT FURTHER ORDAINED:

That Appendix B – Zoning, Article 12 – Definitions, be amended to add the following definitions:

Solar energy system. Any solar collector or other solar energy device, or any structural design feature, mounted on a building or on the ground, and whose primary purpose is to provide for the collection, storage, and distribution of solar energy for space heating or cooling, for water heating, or for electricity.

Small wind energy system. A wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics which is intended to primarily reduce on-site consumption of utility-supplied energy.

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SYNOPSIS

The proposed ordinance adds solar energy systems and small wind energy systems as accessory uses within all zoning districts; sets standards for these systems to ensure protection of the character of the zones, as well as public health, safety and welfare; and adds definitions for such systems to the *Zoning Ordinance*.

Actions History:

January 24, 2011 – Proposed First Reading - Council

January 10, 2011 – Introduced at Utility Committee and referred back to staff for changes.

DRAFT

Memorandum

Public Services Manager
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City Hall/ The Plaza
Dover, Delaware 19903-0475
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E-mail: skoenig@dover.de.us

TO: Utility Committee Members
City Council Members

FROM: Scott D. Koenig, P.E., Public Services Manager
Anthony J. DePrima, AICP, ICMA-CM, City Manager
Ann Marie Townshend, AICP, Director of Planning & Community Development

DATE: January 3, 2011

SUBJECT: **Development Projects – Performance & Maintenance Bonding Concerns**

As part of a shared performance goal, the City Manager, the Public Services Manager and the Director of Planning & Community Development conducted a series of four (4) internal meetings to brainstorm various ideas regarding concerns raised about Performance & Maintenance Bonding in subdivisions, site plan compliance, ensuring the functionality of homeowners associations (HOAs), and other development project problems. These meetings were held in October, November and December of 2010.

Eight (8) specific problems/concerns were identified. Each problem is listed below along with one or more suggestions to improve the area of concern.

Problem #1 – Active Recreation Areas in some Subdivisions / Site Plans (Apartments) are not being completed in proportion to the lots constructed. Article 5, Section 10.6 of the *Zoning Ordinance* is weak and difficult to enforce. It is difficult to build the recreation areas in proportion to the lots / building permits, as specified by code; therefore, an alternative solution must be developed.

Possible Solutions:

1. Require specific phasing plan for the Active Recreation Plan.
2. Require a Performance Bond / Letter Of Credit (LOC) equal to 150% of the value (or add the active recreation improvements to current infrastructure LOC). LOC is preferred over a bond as the LOC creates more leverage.
   What's the possibility of having the developer build the Active Recreation Area during Ph 1?

Note: A Code amendment is required to accomplish this.

Problem #2 – Some projects are partially built and the construction or the site work has been abandoned. (Examples: Enterprise Business Park, Tall Pines, Dove View)

Possible Solutions:

1. Fund a Demolition Reserve that can be sustained with monies collected from liens and be used to demolish or safely seal construction.
2. Amend Tall Grass & Weed Ordinance (Chapter 114, Article II) to allow the City to regrade or restore the property and place a lien against the property to collect the costs.
3. Amend state law for Demolition Liens to allow for the City to recover costs through sheriff's sale.
4. A Dangerous Building (DB) declaration accelerates tax sale (for delinquent taxes). This is an administrative action that is already in place.
   Is there a way to have the builders set up a Demolition Escrow Account? This way, if the builder defaults, the city already has funding to pay for demolition. If the builder completes, then the builder gets money back.

Problem #3 – Failure of HOA to take over initial responsibilities or HOA does not form or stay formed and therefore fails to function. Common Areas are not maintained. (Example: Four Seasons)

Possible Solutions:

1. Amend assessment section of the code to allow city to bill and lien individual property owners for the common areas that the City is forced to maintain. A formula would need to be developed that would equally distribute cost among homeowners. Perhaps a ratio of total square footage of common area to square footage of homeowners property multiplied by a standard maintenance cost.
2. Amend subdivision ordinance to require an escrow start up account so HOA is capitalized from the beginning.
3. Buyers somehow are notified and certify / acknowledge that they are required to be part of the HOA and that there are maintenance responsibilities for which the HOA is responsible. Possible venues could include requiring that information be posted conspicuously in model homes or the City could send a letter after real estate transfer tax is received. Could these be placed in deed restrictions?
4. Require developer to meet guideline to turn over HOA at 75% of the initial phase of the development.
   - City could facilitate initial HOA meeting – Notice, Public Meeting at City Hall, City representative in attendance
   - Ensure elected official in attendance.
5. Amend subdivision ordinance to include a specific turnover requirement.
6. Amend subdivision ordinance to require a Certified Management Agency.

This is probably the toughest one to resolve.

Problem #4 – Stormwater / Passive Open Space – Not Being Maintained

Possible Solutions:

1. Amend sections of the code addressing special assessment (Chapter 94) and/or amend tall grass and weeds (Chapter 114) to allow staff to hire contractors to maintain the passive open space and/or stormwater management areas and bill the property owners (developer or individual owners) and place a lien against the property to recover costs. Prefereable.
2. Create a Limited Stormwater Utility
    - Unilateral authority to take over facilities that are not being maintaned
    - Start with new developments

    I think this solution would have to be all or none.

Problem #5 – Nuisance issues such as maintenance of buildable lots with homes, partially complete homes, partially complete subdivisions, roll-off trash containers for construction debris, soil stockpiles and material storage areas are degrading the overall quality of various subdivisions (in both dedicated and undedicated subdivisions).

Possible Solutions:

1. Require an upfront agreement and escrow deposit from the developer of the subdivision ($1,000 / lot) to address these issues if they arise.
2. Provide incentives to dedicate infrastructure – Bill developer for Street Light operating costs and pump station maintenance until subdivision is dedicated. Good solution.

Problem #6 – Sidewalk network not complete and the developer wants to dedicate the rights-of-way and infrastructure.

Possible Solutions:

1. Require all sidewalk construction to be complete prior to dedication. This position would maintain the status quo.
2. Add option that developer can go to Safety Advisory & Transportation Committee with a special Letter of Credit for the uncompleted sidewalks on the streets to be dedicated. The uncompleted sidewalks are associated with lots that have not had building permits issued as of that date. Potential enhancement to this option is to require a Public Hearing with notice to all residents and/or property owners in the development. Preferable.

Problem #7 – Snow Removal on uncompleted and/or undedicated streets represents a serious service delivery problem for the City of Dover and residents in these areas.

Possible Solutions:

1. Require a maintenance escrow to be set up by the developer that can be used for snow and ice removal. Preferable.
2. Require a signed contract between the developer and a private contractor responsible for snow removal be shared with the City.

Problem #8 – The City does not provide a full range of services on undedicated streets since they are considered private property. (i.e. – snow removal, street sweeping, speed enforcement)

Possible Solutions:

1. Earlier dedication – city would accept dedication of uncompleted streets and follow up with completion of the infrastructure on a designated time line identified in the dedication action.
2. Require more extensive maintenance agreement with longer time period for coverage.

Based upon the above information, staff is proposing the following next steps:

1) Staff would like to receive feedback from members of the Committee and Council on the possible solutions presented above as well as other items you would like to consider to address the identified problems.
2) Prioritize the problems listed above.
3) Prepare a timeline to address the problems in priority order.
4) Hold focus group with stakeholders (HOAs, Civic Associations, Civic Leaders, the development community, KCD)
5) Develop ordinances / charter amendments / administrative changes

If you have any questions, please contact me.

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