



CITY OF DUBLIN, OH

Land Use and Long Range Planning
5800 Shier-Rings Road
Dublin, Ohio 43016-1236
Phone/ TDD: 614-410-4600
Fax: 614-410-4747
Web Site: www.dublin.oh.us

PLANNING AND ZONING COMMISSION APPLICATION

(Code Section 153.232)

I. PLEASE CHECK THE TYPE OF APPLICATION:

<input type="checkbox"/> Informal Review	<input checked="" type="checkbox"/> Final Plat (Section 152.085)
<input type="checkbox"/> Concept Plan (Section 153.056(A)(1))	<input type="checkbox"/> Conditional Use (Section 153.236)
<input type="checkbox"/> Preliminary Development Plan / Rezoning (Section 153.053)	<input type="checkbox"/> Corridor Development District (CDD) (Section 153.115)
<input type="checkbox"/> Final Development Plan (Section 153.053(E))	<input type="checkbox"/> Corridor Development District (CDD) Sign (Section 153.115)
<input checked="" type="checkbox"/> Amended Final Development Plan (Section 153.053(E))	<input type="checkbox"/> Minor Subdivision
<input type="checkbox"/> Standard District Rezoning (Section 153.018)	<input type="checkbox"/> Right-of-Way Encroachment
<input type="checkbox"/> Preliminary Plat (Section 152.015)	<input checked="" type="checkbox"/> Other (Please Specify): <u>minor development standards text amendment</u>

Please utilize the applicable *Supplemental Application Requirements* sheet for additional submittal requirements that will need to accompany this application form.

II. PROPERTY INFORMATION: This section must be completed.

Property Address(es): 6432 and 6444 Phoenix Park Dr and 6455 Newgrange Dr, Dublin, OH 43016	
Tax ID/Parcel Number(s): 273-004631, 273-004630, 273-004629	Parcel Size(s) (Acres): 3 lots in Lowell Trace Sec 2--Lots 62, 63 & 64 total acreage 1.093 ac
Existing Land Use/Development: Single Family Residential	

IF APPLICABLE, PLEASE COMPLETE THE FOLLOWING:

Proposed Land Use/Development: Unchanged, Single Family Residential
Total acres affected by application: <u>1.093 ac</u>

III. CURRENT PROPERTY OWNER(S): Please attach additional sheets if needed.

Name (Individual or Organization): Benjamin and Karen Hutsell, Bruce and Jill Rothermund, Perry Mostove and Marilee Krick	
Mailing Address: (Street, City, State, Zip Code) Benjamin and Karen Hutsell--6432 Phoenix Park Dr, Dublin, OH 43016 Bruce and Jill Rothermund--6455 Newgrange Dr, Dublin, OH 43016 Perry Mostov and Marilee Krick--6644 Phoenix Park Dr, Dublin, OH 43016	
Daytime Telephone: c/o Christopher Cline, Atty 614-764-0681	Fax: 614-764-0774
Email or Alternate Contact Information: ctc@bhmlaw.om	

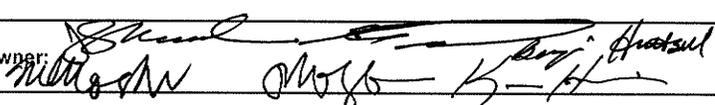
IV. APPLICANT(S): This is the person(s) who is submitting the application if different than the property owner(s) listed in part III. Please complete if applicable.

Name: Christopher T. Cline, Atty	Applicant is also property owner: yes <input type="checkbox"/> no <input checked="" type="checkbox"/>
Organization (Owner, Developer, Contractor, etc.): Blaugrund, Herbert & Martin	
Mailing Address: 300 W. Wilson Bridge Road, Worthington, OH 43017 (Street, City, State, Zip Code)	
Daytime Telephone: 614-764-0681	Fax: 614-764-0774
Email or Alternate Contact Information: ctc@bhmlaw.com	

V. REPRESENTATIVE(S) OF APPLICANT / PROPERTY OWNER: This is the person(s) who is submitting the application on behalf of the applicant listed in part IV or property owner listed in part III. Please complete if applicable.

Name: Christopher T. Cline, Atty.--All contact info same as Item IV, above	
Organization (Owner, Developer, Contractor, etc.):	
Mailing Address: (Street, City, State, Zip Code)	
Daytime Telephone:	Fax:
Email or Alternate Contact Information:	

VI. AUTHORIZATION FOR OWNER'S APPLICANT or REPRESENTATIVE(S): If the applicant is not the property owner, this section must be completed and notarized.

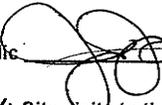
Benjamin & Karen Huttzell, Bruce & Jill Rothermund and Perry Mostov and Marilee Krick, the owner, hereby authorize Christopher T. Cline, Attorney to act as my applicant or representative(s) in all matters pertaining to the processing and approval of this application, including modifying the project. I agree to be bound by all representations and agreements made by the designated representative.	
Signature of Current Property Owner: 	Date: 12/20/12

Check this box if the Authorization for Owner's Applicant or Representative(s) is attached as a separate document

Subscribed and sworn before me this 20th day of December, 2012

State of Ohio

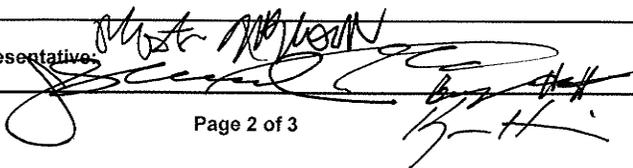
County of Franklin

Notary Public: 

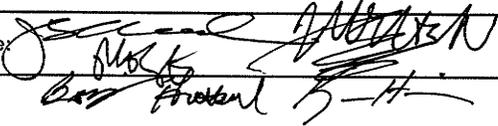


JANICE J. WILLIAMS
Notary Public, State of Ohio
My Commission Expires

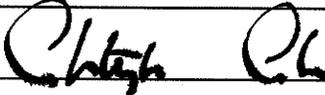
VII. AUTHORIZATION TO VISIT THE PROPERTY: Site visits to the property by City representatives are essential to process this application. The Owner/Applicant, as noted below, hereby authorizes City representatives to visit, photograph and post a notice on the property described in this application.

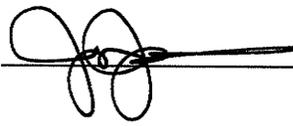
Benjamin & Karen Huttzell, Bruce & Jill Rothermund and Perry Mostov and <u>Marilee Krick</u> , the owner or authorized representative, hereby authorize City representatives to visit, photograph and post a notice on the property described in this application.	
Signature of applicant or authorized representative: 	Date: 12/20/12

VIII. UTILITY DISCLAIMER: The Owner/Applicant acknowledges the approval of this request for review by the Dublin Planning and Zoning Commission and/or Dublin City Council does not constitute a guarantee or binding commitment that the City of Dublin will be able to provide essential services such as water and sewer facilities when needed by said Owner/Applicant.

I, <u>Benjamin & Karen Huttzell, Bruce & Jill Rothermund and Perry Mostov and Marilee Krick</u> , the owner or authorized representative, acknowledge that approval of this request does not constitute a guarantee or binding commitment that the City of Dublin will be able to provide essential services such as water and sewer facilities when needed by said Owner/Applicant.	
Signature of applicant or authorized representative: 	Date: <u>12/20/12</u>

IX. APPLICANT'S AFFIDAVIT: This section must be completed and notarized.

I, <u>Christopher T. Cline, Attorney</u> , the owner or authorized representative, have read and understand the contents of this application. The information contained in this application, attached exhibits and other information submitted is complete and in all respects true and correct, to the best of my knowledge and belief.	
Signature of applicant or authorized representative: 	Date: <u>12/26/12</u>

Subscribed and sworn to before me this 26th day of December, 2012
 State of Ohio
 County of Franklin Notary Public 



Stamp or Seal
Janice J. Williams
 Notary Public, State of Ohio
 My Commission Expires 04-24-2015

FOR OFFICE USE ONLY			
Amount Received:	Application No:	P&Z Date(s):	P&Z Action:
Receipt No:	Map Zone:	Date Received:	Received By:
City Council (First Reading):		City Council (Second Reading):	
City Council Action:		Ordinance Number:	
Type of Request:			
N, S, E, W (Circle) Side of:			
N, S, E, W (Circle) Side of Nearest Intersection:			
Distance from Nearest Intersection:			
Existing Zoning District:		Requested Zoning District:	

Adjoining Property Owners (150 ft)
 Amended Final Development Plan Lowell Trace Section 2

273-004631	Benjamin and Karen Huttsell	6432 Phoenix Park Dr, Dublin, OH 43016
273-004629	Bruce A. Jill S. Rothermund	6455 Newgrange Dr, Dublin, OH 43016
273-004630	Perry D. Mostov and Marilee Krick	6644 Phoenix Park Dr, Dublin, OH 43016
273-000369 273-005324 273-004076	City of Dublin	5200 Emerald Parkway, Dublin, OH 43017
273-004632	Bradley R. and Kelly A. Dufour	6420 Phoenix Park Dr, Dublin, OH 43016
273-004633	Karen E. Guthrie	6408 Phoenix Park Dr, Dublin, OH 43016
273-004641	Michael Casey and Rebecca Casey	6399 Phoenix Park Dr, Dublin, OH 43016
273-004642	Rahim G. Haghghi, Trustee	6411 Phoenix Park Dr, Dublin, OH 43016
273-004643	Derek and Lisa Stone	6433 Phoenix Park Dr, Dublin, OH 43016
273-004644	Patrick McIntyre and Jacquelyn Koerner	6452 Newgrange Dr, Dublin, OH 43016
273-004645	Ryan and Jessica Aldin	6446 Newgrange Dr, Dublin, OH 43016
273-004628	John and Christy Skrobot	4651 Newgrange Dr, Dublin, OH 43016
273-004627	Daniel and Theresa Davis	6447 Newgrange Dr, Dublin, OH 43016
	Lowell Trace Residents Assn c/o Tim Wilcox	6311 Newgrange Dr, Dublin, OH 43016

Lowell Trace Section 2 Lots 62, 63 and 64 Amended Final Development Plan
Operative Changes
October 19, 2012

This Application Proposes The Following Operative Changes to the Final Development Plan:

1. The Plat for Lowell Trace Section 2, recorded in PB 69 Page 5, Records of the Franklin County, Ohio, Recorder is amended as shown on the attached "Replat of the Rear No Build Zone Setback Line For Lots 62, 63 and 64".
2. Pursuant to DC §153.053(E)(4)(b) the text for the Lowell Trace Preliminary Development Plan is amended as follows:

The note on Exhibit "D", "No Build Zone" is amended by the addition of the following text: "Provided however, the no build zone for lots 62, 63 and 64 will be located so as to conform to the No Build Zone boundary on the adjoining lots to the south and east, resulting in a consistent distance from the rear subdivision boundaries to the north and west. "

The revised text will thus read: "Except for corner lots, the rear yard no build zone shall begin at a distance no greater than 100' from the public right of way. *Provided however, the no build zone for lots 62, 63 and 64 will be located so as to conform to the No Build Zone boundary on the adjoining lots to the south and east, resulting in a consistent distance from the rear subdivision boundaries to the north and west.*"

Lowell Trace Section 2 Lots 62, 63 and 64 Amended Final Development Plan
December 26, 2012

Development Plan Statement

A. Explain the Proposed Development and How the Proposal Relates to Existing Development

i) Applicable text provisions. Lowell Trace is a 1988 Planned Unit Development approved by the Village of Dublin. It pioneered the use of No Build Zones (NBZs). The NBZs in this subdivision significantly restrict the use of rear yards as opposed to subdivisions which utilize conventional rear yard building setback lines.

The text of the Preliminary Development Plan (PDP) is minimal overall, and even more so where NBZs are discussed. Section “C” of the PDP in “Additional Development Standards” states “The site will be developed in conformity with...Exhibit D, “No Building Zone”...” Exhibit “D” has an illustrative drawing of an internal NBZ and includes the following short note providing the only language relative to NBZs:

“Except for corner lots, the rear yard no build zone shall begin at a distance no greater than 100’ from the public right of way.” An additional note states “NO BUILD ZONE (No fence/outbuildings)”.

The minimal NBZ text today creates some ambiguity. First, are Lots 62, 63 and 64 “Corner Lots” under the wording of the text, and thus not subject to the 100’ from right of way requirement for NBZ location? Second, does the text note that the NBZ prohibits only fences or outbuildings allow, as a matter of PDP text application, other uses such as at grade stone patios and decks? That question is central to the facts currently in play.

Regardless of the wording of the text, the approved plat appeared to trace the NBZ line for Lots 62, 63 and 64 at the 100’ depth from the right of way (the curved corner between New Grange Dr. and Phoenix Park Drive), leaving the generous rear yards of these lots largely unusable. Additionally, the plat diverged from the PDP text limitation by providing the following more restrictive text note:

“Note “A” No Build Zone: Within the areas designated “NO BUILD ZONE” on this plat no fencing, dwellings or structures shall be constructed. The following are permitted within this “NO BUILD ZONE” Sodding, earthmounds and landscape plantings.”

ii) Current Facts Requiring a Solution The reason for the proposal here presented is that at some time in the past, likely in the early 1990s, a paver patio was built to the rear of the

structure on Lot 64, partially in the NBZ. Additionally, the deck to the rear of the structure on Lot 64 partially protrudes into the NBZ. An older survey used for the building permit for a sunroom in 1994 indicates that there was room for the deck, but, recent surveys are more restrictive and show part of the deck as an encroachment into the NBZ. The current owner as well as the previous owner did not cause the paver patio and deck encroachments. Further, whoever installed the paver patio was arguably acting properly if a paver patio was not considered a “structure” in earlier times, before the zoning code defined NBZ characteristics. Similarly, the deck issue with the early surveys may have been a good faith mistake. The goal at this point in time is to bring the development on Lot 64 into compliance in a reasonable and equitable manner.

iii) Proposed Solution In considering how to solve the issue of the paver patio and deck incursion into the NBZ on Lot 64, it became apparent that Lots 62, 63 and 64 are more severely impacted by the NBZ than the regularly shaped (rectangular) lots in the subdivision. This is because the NBZ cuts across these three corner lots on a diagonal line, proportionally cutting out much more of the available rear yards than the neighboring lots, which have the NBZ a set distance from the rear lot boundary (35’ to the east and 30’ to the south). Since the application of the variance process to a NBZ is not favored, the simple solution proposed by this application is to relocate the NBZ so that it more nearly matches the way adjoining lots rectangular lots to the east and south are treated in terms of distance from the rear property line. Because three lots, 62, 63 and 64 are similarly affected, all three are included in this application. This treatment is in line with the typical zoning code application of rear yard setbacks, which are universally measured from the rear property line, and, essentially conforms these three lots to the approach used on the adjoining rectangular lots.

B. How the Proposal Relates to the Community Plan and the Approved Preliminary Development Plan; Explain any modification to the Preliminary Development Plan

The Community Plan is a future land use plan, separate from the Zoning process (Community Plan page 19). A minor change to a plat and PDP text does not in essence involve the Community Plan, especially if there are no recommended changes in land use. The Lowell Trace subdivision is in an area listed as Residential, Medium Density on the Future Land Use Classification map of the Community Plan (page 83) so the land use is both developed and remains the preferred classification.

Whether the text revision proposed by this application is a modification to the PDP, or simply a clarification, is a point of discussion. In any case, the change is minor and simply provides that the three irregularly shaped lots in question will have their rear yard NBZs match up with the NBZ boundary on the adjoining rectangular lots to the east and south. This is

reasonable and in line with the conventional way that rear yard setbacks are applied by reference to rear boundary lines in Dublin planned and standard districts.

C. How the Proposed development meets the Review Criteria for Final Development Plan Approval

As a developed subdivision of some age, none of the criteria listed in DC 153.055 are specifically applicable. Criteria (4) may be impacted to a small degree. It asks whether “The development preserves and is sensitive to the natural characteristics of the site”. The purpose of the NBZ along the north boundary of Section 2 is not evident in the record, and the “meadow” to the north and west of the three lots in question is not a use that would appear to be negatively impacted by residential uses, whether bordered by a NBZ or a conventional rear yard setback. In any case, the proposed change brings the usable rear yards of the three lots in question no nearer to the rear boundary line than the many rectangular lots to the east and south.

D. How is the Proposal Different from the Approved Final Development Plan

The approved Final Development Plan (FDP) is essentially the Final Plat. The proposed change to the Final Plat relocates the NBZ so that it is a consistent distance from the rear boundary of the three lots in question similar to the way adjoining lots in the subdivision are treated.

E. How is the Proposal Consistent/Inconsistent with the Development Text for the Planned District

As explained in “A” above, the PDP Text contained only a short note on an exhibit which required measurement of NBZs from the right of way, except for corner lots. Whether or not the three lots in question, as outside corner lots, are excepted from this language is arguable. The discussion is made moot however by the clarification in the proposed minor text amendment that conforms the NBZ boundary line on lots 62, 63 and 64 to that of the adjoining lots to the rear and south, essentially applying the measurement from the rear boundary—35’ on the north subdivision boundary and 30’ on the east boundary.