



*Nancy  
FYI  
David*

November 30, 1999

Ron Sabatino, President  
T&R Properties  
6563 Worthington-Galena Road  
Worthington, Ohio 43085

RE: Middlebury Estates White Fencing

Dear Ron,

I have researched your question as to whether T&R Properties is required to install white fencing along the dedicated open space for Middlebury Estates (formerly Powell Place Phase 4). You said that you did not think it was required. Indeed it is required.

The development of Middlebury Estates and the density for that development was predicated on the improvement of the Liberty Road frontage to our "parkway" cross section. The dedicated open space and the frontage along it are part of the Middlebury Estates plan. This includes the development of a bikepath and the white fencing along it. There are several references to this fencing within the minutes of both the Preliminary and the Final Development Plan review. I have enclosed copies of those pages. Especially take note of Mike Shannon's comments at the Preliminary Development Plan which notes that T&R Properties is willing to agree to my recommendations, one of which is stated earlier on that page to include the parkway cross-section with white fencing along it.

Please install this fence as soon as possible. This issue was brought up at the last Council meeting regarding the Conditional Acceptance of the public improvements for this subdivision. Third reading of that ordinance will take place next Tuesday December 7, 1999 at 7:30 pm. I have received a copy of the recorded plat.

Thank you for your assistance with this matter.

Sincerely,

*David M. Betz*  
David M. Betz, AICP  
Director of Development

open space. Staff supports the added open space along Liberty Street.

Mr. Betz said that the plan includes a deceleration lane, which he feels needs to be reviewed. He said that the open space for this development meets the 20% open space requirement, but he questioned whether the basin should be included in the calculation.

Mr. Betz said that Staff would like to see tree preservation easements along the tree line on the final Development Plan. Mr. Betz said there will be sidewalks as part of Powell Place, but Staff would still like to see the bike path continue along Liberty and the creation of that parkway cross-section with white fencing along it. He said that although the density is higher than allowed in the Zoning Code, it is transitional in nature from 80 foot to 90 foot lots. In this revised layout, another Staff concern was addressed in that all the northern most lots are now 90 foot lots.

Mr. Betz said that to the north of this site is an existing non-conforming use of a auto-repair, home occupation business which leaves for some conflicting land use. Staff recommends erecting a fence along that property which could come down if the use should change.

Commissioner Emerick opened the hearing to public comment.

Nancy Rees, 675 Middlebury Way, President, Powell Place Homeowners Association, and she would like to state for the record that the Homeowner's Association neither supports nor opposes the revised plan for 44 lots. They have reviewed this plan as Trustees, but have yet to present this plan to the Homeowners. Mr. Shannon apologized and said he misunderstood.


Chris Kelly, 118 Chenango Drive, asked if Phase 4 will compare with the current Powell Place home layout even with the 3.9 acres "taken out." Mr. Betz said that the houses will be built by the same people as in Phase 3 and that the lot sizes are generally larger. He said that this Section is less dense than Phases 1-3. Mr. Kelly asked about the traffic on Middlebury Way. Mr. Betz said that the road will still be connected to the entry drive, but that it only has 9 or 10 lots on it. He said that 90% of the traffic will head out Sanderling to Liberty rather than use Middlebury. He said the previous layout had the majority heading out the other way.

Mrs. Rees said that she is concerned with the traffic on Middlebury Way. She said that at this time, there are people "shooting down" Middlebury Way at 40-45 mph. She questioned whether speed tables can be installed. Mr. Betz said that the problem with speeders in that area is that they are her neighbors, because there is no other connection there. He recommended that she bring that up at a Homeowner's Association meeting. Mr. Betz said the speed tables that Mrs. Rees recommended have not been generally accepted as solutions for speeding problems.

Mrs. Rees said that she does not think it is her neighbors but rather people bringing children to day care located in homes in the subdivision. Mr. Betz said that in that case, there may be illegal uses within the subdivision of which he needs to be made aware. He said that residents are required to obtain permission to have home occupation.

Rich Zekowski, 832 Bovee Lane, said that he thinks it is important that it be noted on record that the existing tree line should not be disturbed. He said that he is unclear about the density and lot sizes. Mr. Betz summarized that in Powell Place 1-3, there are 150 single family lots on 64 acres, which is a gross density of 2.25 du/acre. He said that with this development there is 19.56 acres and 44 lots, which is a density of 2.35. That number does not include the pond. He said that the lot sizes are still bigger due to the road layout.

Commissioner Wiencek asked what the density is with the pond included. Mr. Betz said that it is 1.9 du/acre.


 Mr. Shannon said that they agree to put in writing the tree preservation as a condition of approval this evening. They are also willing to agree with Mr. Betz's recommendations. They will continue to meet with the Homeowners Association.

Commissioner Dimick asked when the next Homeowners Association meeting will be held. Mrs. Rees said that May 6, the trustees will meet, but they have yet to schedule a meeting for all Homeowners.

Jeff Daly, 704 Middlebury Way, said that they need to review the plan before presenting it to the homeowners.

Commissioner Laming said that if residents are concerned with the plan, they should come to a meeting. He said that the Final Development Plan will be before the Planning and Zoning Commission as well as will have three readings before Council. Commissioner Emerick asked that the Homeowners Association get their information back to the Commission prior to the next hearing.

Commissioner Wiencek asked if Mr. Betz has any concerns about setbacks from the pond to the house. Mr. Betz said that he is concerned about Lot 15 more than the others. He said that the applicant has not submitted the engineering for the pond, and they will have to do that for the final Development Plan. He said that a wet pond is more visually desirable. Commissioner Wiencek agreed.

 **MOTION:** Commissioner Laming moved to approve the Preliminary Development Plan with the recommendations addressed in the Director of Development's Staff Report, and that the issues discussed by the Commission members are addressed.

Commissioner Wiencek said that he wants to make sure that the 3.9 acres of open space is included. The Commission agreed.

Commissioner Dimick seconded the motion. The motion was approved. Yes: Wiencek, Dimick, Emerick, Laming. Abstain: Lackey.

Commissioner Laming left at 11:00.

#### **ZONING TEXT AMENDMENT**

**Applicant:** VILLAGE OF POWELL

**Request:** To Amend Various sections of the Powell Planning and Zoning code, including Section 1123, Definitions; Section 1131 Zoning Map Amendment; Section 1135, Enforcement and Penalty; Section 1143.15 (b) (10), Setbacks in PC, Planned Commercial District; Section 1145.22, Temporary Uses; Section 1145.29, Landscaping; Section 1145.33, Fences; Section 1147.02, Satellite Dish Antennas; Section 1147.08, Home Occupations; Section 1147.12, Preservation and Enhancement of Community Residential Character; Chapter 1149, Parking; Chapter 1151, Signs; New Chapter 1155, Bed and Breakfast Inns.

David Betz, Director of Development, said that Staff has presented the Commission with suggestions for various changes to the Zoning Code. He said that the amendments to the sign code are not included in this section because Staff is still working with the Powell Business Association on that issue. The changes are addressed in a brief synopsis (Exhibit).

A brief discussion was held regarding changes to reduce the number of required votes by Council to overturn or modify a Planning and Zoning Commission recommendation. The Commission did not oppose the changes suggested by Staff.

A discussion was held regarding Building Materials, Section 1147.12. Commissioner Wiencek asked how it is possible to use 50% organic materials. Mr. Betz said that if the windows are not counted, it is possible to have a structure with the sides and the backs in something other than organic materials. He said it would be easier to administer if it was rewritten.

Commissioner Wiencek asked if vinyl is currently allowed in subdivisions other than the Lakes of Powell and Powell Place. Mr. Betz said that it is allowed in Falcon Ridge, Bartholomew Run, and some in Chambers Glen. Commissioner Wiencek said that he is willing to consider saying that all sides should be organic. He said that there will always be vinyl where it has been approved, but that now is the time to draw the line. After further discussion, the Commission agreed that that all exterior walls shall consist of natural materials unless other materials are approved by the Commission. They said that this standard should apply to new or existing homes.

Commissioner Emerick officially declared the public hearing open. Hearing no public comment, he closed the public hearing.

**MINUTES  
PLANNING AND ZONING COMMISSION  
MAY 20, 1998**

A regular meeting of the Village of Powell Planning and Zoning Commission was held on May 20, 1998, at Angelica Cafe and Delicatessen, 5 South Liberty Street, and called to order at 7:32 P.M. by Chairman Art Schultz. Members present were David Lackey, Jack Larning, Don Emerick, and Dan Wiencek. Elmer Meider and John Dimick were absent. Also present were David Betz, Director of Development; Dawn Nauman, Planning and Zoning Clerk, representatives of the press and visitors (Exhibit).

**APPROVAL OF MINUTES**

The minutes of April 22, 1998 were approved as amended.

**HEARING OF VISITORS FOR ITEMS NOT ON THE AGENDA**

There were none.

**FINAL DEVELOPMENT PLAN**

**Applicant:** T&R Properties, Inc.  
Powell Place 4  
**Location:** Located on the West side of North Liberty Street, approximately  
150 feet north of Bovee Lane.  
**Zoning:** PR, Planned Residence District  
**Request:** Approval of a Final Development Plan for 44 single family lots on approximately  
19.56 acres; including a 3.95 acre parcel of open space.

Chuck Ticknor, attorney, and Doug Holz and Ed Bischoff of Bischoff and Associates were present to discuss this issue. Mr. Ticknor said that after reviewing the Staff Report, he feels the only remaining questions regarding this plan have to do with density. He said this section of Powell Place will be less dense than the first three. A bikepath, fencing and landscaping are proposed for the parkway-style street. The street layout has been revised and is consistent with Staff's recommendations. Mr. Ticknor said that this plan includes a 3.96 acre tract of open space. He said they are giving up their ability to develop that site with 3-4 homes. They have also agreed to additional open space in front of the pond.

David Betz presented his Staff Report on this issue (Exhibit).

Commissioner Schultz asked for more detail on the proposed bikepath easements. Mr. Betz said that there is an area between the subdivision and the dedicated open space that represents a gap in the bikepath along Liberty Road. Commissioner Schultz asked if the county has the right of way in this area. Mr. Betz said that he doesn't think they do. Commissioner Schultz asked how a pull off for the bike path proposed in the Staff Report may be accessed. Mr. Betz said that there will be a gap in the fence where the pathway can be brought into the site through the south entrance. He said that eventually, the whole path will be connected.

Commissioner Schultz asked about the bikepath plan for this specific project. Mr. Betz said that there are interior sidewalks planned through the subdivision and a pathway along Liberty Road up to Brighton Drive. He said that will connect to Canterbury's sidewalk system.

Commissioner Schultz asked about building materials. Mr. Betz said that the applicant is requesting the same materials used Phase 3, where the use of a specific vinyl siding is permitted on the sides and rear of the homes.

Commissioner Schultz opened the hearing to public comment.

Nancy Rees, 675 Middlebury Way, said split-rail fencing is proposed for this section, but that the fencing for phases 1 and 2 has not yet been installed. She questioned the developer's ability to put 3-4 homes on the 3.95 acre site. She said that she also heard that the 3.95 acres are going to be given to the Homeowners Association, but that their Deeds and Covenants already state that the pond is theirs. She said that she also questions the 3.95 acres as "additional green space," and she asked whether this will be the green space for all four phases.

than originally submitted. He questioned the condition of the Ordinance that indicates that the Parks and Recreation Advisory Board will make a decision regarding who controls the park. Mr. Molnar said that the recommendation would come back before Council. Mr. Klein asked that be reflected in the Ordinance.

**MOTION:** Mr. Klein moved to amend Ordinance 98-33, Section 1, item 4 to read: *"That the decision whether the park is to be controlled by the Homeowners' Association or by the Village is to be determined by the Parks and Recreation Advisory Board, and approved by Council."* Mr. Kaitsa seconded the motion.

**VOTE:** Y 6 N 0 (Abstain: Guzzo)

Mayor Cline asked about Item 5, which discusses the off-site improvement of the pathway. David Betz, Director of Development, said that the plan includes a bike path from Chenango Drive north and along North Liberty. There is some question about the installation of a bike path between the open space and south property line of Section 4 because easements will be needed in that area and it is in the unincorporated Township. Mayor Cline suggested clearer language for that section. Mr. Shannon did not object to this amendment.

**MOTION:** Mayor Cline moved to amend Ordinance 98-33 Section 1, Item 5, to read *"That the developer shall install a pathway, or escrow with the Village of Powell appropriate funds for such a pathway, from Chenango Drive north to the southern edge of Powell Place Phase 4 as an off-site improvement between the open space and an entry feature to Phase 4."* Mr. Kaitsa seconded the motion.

**VOTE:** Y 6 N 0 (Abstain: Guzzo)

Mr. Chambers asked about the fence identified in Section 1, Item 2. Mr. Betz said there is a legal non-conforming use of a home occupation body shop adjacent to this development. The Planning and Zoning Commission required that a board on board fence be built by the developer if that use is still there at the commencement of construction. Mr. Chambers asked how many acres are associated with this project. Mr. Betz said there are about 20 acres and 42 lots, plus an open space area that is a little less than 4 acres.

\* Mr. Kaitsa asked how the parkway bonus for Liberty Road was justified. Mr. Betz said that there will be improvements needed along Liberty Parkway, which include fencing, landscaping, and mounding. Mr. Kaitsa asked if the park is calculated in the density. Mr. Betz said that it was discussed during the Planning and Zoning process that a park is more desirable than development in that area that could result in curb cuts on Liberty Road.

Mr. Chambers asked if the Commission unanimously approved this plan. Mr. Betz said he believes they did. Mr. Chambers asked is there was any resident opposition to this plan. Mr. Betz said that some residents were concerned about the alignment of Middlebury Way, an existing tree line, and density issues. Those concerns were addressed during the Planning and Zoning process. Mr. Chambers asked if there will be adequate measures to prevent the issues that are of concern regarding Phases 1 and 2 in Phase 4. Mr. Betz said that Mr. Molnar is working on new development agreement language to address those concerns.

**MOTION:** Mr. Kaitsa moved to adopt Ordinance 98-33. Mr. Klein seconded the motion.

**VOTE:** Y 6 N 0 (Abstain: Guzzo)

**SECOND READING: ORDINANCE 98-41: AN ORDINANCE DETERMINING TO PROCEED WITH THE ISSUE OF BONDS AND CERTIFYING SAME TO THE BOARD OF ELECTIONS**

Stephen Lutz, Village Manager, filled in the blanks of Ordinance 98-41 based on last evening's meeting. He said that the bonds will be in the amount of \$2,571,50.00, and that calculates at 1.35 mills, or 13.5 cents for each one hundred dollars of tax valuation.

**MOTION:** Mr. Kaitsa moved to amend Ordinance 98-41 to include the cost information provided by the County auditor. Mayor Cline seconded the motion.

**VOTE:** Y 7 N 0