

Zoning Commission

1 **Rezoning Application #ZON-17-09**

January 10, 2018

2
3 **Rezoning Application #ZON-17-09, CCBI Lewis Center LLC**, Requesting to rezone four (4) parcels
4 totaling 23.3 +/- acres from a Farm Residential (FR-1) District to a Single Family Planned Residential
5 (SFPRD) District to be known as the Lewis Center Ravine Condominium. The subject properties are
6 currently owned by CCBI Lewis Center LLC, Emily K. & Ralph Robert Reid Co Trustees, and Jack E. &
7 Brandy L. Weisenstein. The area being rezoned from FR-1 to SFPRD are located at 374, 390, 426 and
8 544 Lewis Center Road, Lewis Center OH 43035 having permanent parcel numbers 318-220-04-011-000,
9 318-220-04-010-000, 18-220-04-009-000 and 318-220-04-008-000.

10 Mr. Duell called the meeting for Rezoning Application #ZON-17-09 to order at 7:00 p.m.

11
12
13 Roll: Mark Duell, Todd Dove, Christine Trebellas, Katie Stenman, Roy Wilson

14
15 Township Officials Present: Michael McCarthy Township Counsel
16 Jeff Beard Zoning Inspector

17 **MOTION TO RETURN FROM RECESS**

18
19
20 Ms. Trebellas made a motion to return from recess for Rezoning Application #ZON-17-09, CCBI Lewis
21 Center, LLC; seconded by Mr. Dove.

22
23 Vote on Motion: Mr. Duell-yes, Ms. Trebellas-yes Mr. Dove-yes, Ms. Stenman-yes, Mr. Wilson-yes
24 Motion carried

25 **APPLICANT PRESENTATION/COMMISSION QUESTIONS & COMMENTS**

26
27
28 Mr. Duell: We are here to consider the new submission from the applicant.

29
30 Steve Martin, attorney with Manos, Martin & Pergram, 50 N. Sandusky Street, Delaware, Ohio,
31 representing applicant. We received the December 8, 2017 memo from Mr. McCarthy and have
32 endeavored to reply to everything possible. Mr. Cugini and I apologize because, due to logistics of the
33 situation, he and I do not have a full copy of the binder that you have, just the text, but I know the titles of
34 the exhibits and changes that were to be made; I'll walk thru them quickly. #1, complied with. #2,
35 complied with. #3, complied with. #4, complied with. #5, made the language change. #6, complied with.
36 #7, complied with. #8, complied with. #9, the accessory buildings will be demolished before construction,
37 and they're all going to be demolished before work on the infrastructure. #10, density, I would like to
38 address that later because it's going to take a little longer. #11, deleted "natural appearing" and also
39 expanded on the materials that could be used, making a distinction between brick and manufactured brick,
40 and stone and manufactured stone. #12, complied with. #13, complied with except for we have not
41 obtained approval of the Delaware County Engineer's Office (DCEO); they will not give it to us because
42 it's private streets. We have an email relative to that from John Piccin.

43
44 Mr. McCarthy: Are they in agreement with the location of the curb cut directly across from Triple T?

45
46 Mr. Martin: They are, but as for streets, we've got a pavement detail; they are going to be concrete, then
47 asphalt put down after construction as a top coat. On street parking and providing approval from the
48 DCEO, it is a private road and they are not going to reply on it but there is no on street parking. Mr.
49 Clark of the Orange Township Fire Department (FD) indicated streets have to be a minimum of 32' wide
50 for on-street parking to accommodate the outriggers, so there will be no on street parking; it is not. #14,
51 have had communication with the FD. On Phase 1 there will be a construction entrance that serves as an

Zoning Commission

52 emergency access and construction entrance into Phase 1. On Phase 2, the location shown on the plan
53 will be the emergency access and constructed in accordance with the Fire Department's requirements of
54 bollards, etc., and we will seek their approval on the final engineering. #15, complied with. #16, done for
55 everything except for certain of the landscaping exhibits that were added to after the text was drafted. It
56 refers to just "see landscaping exhibits", it doesn't define them by H1, H2, H3. In a couple other places
57 there was specific identification of those. #17, changed the typo. #18, indicated the basin will be wet
58 given the nature of the development, the size, but DCEO will tell us what it will be. #19, we'll comply
59 and maintenance is a Condo Association responsibility. Until built out, the developer will have
60 responsibility. #21, typo, 10.7 as opposed to 10.07. #22, complied with. #23, structure separation is
61 basically 10' with appropriate walls to meet the Fire Code. #24, road classification is D. #25, the
62 developer installs all landscaping, and will be maintained either by the developer or after turnover by the
63 Condo Association. #26, complied but a couple of places I still used in parenthesis "N/A", we're not
64 permitting certain things on golf courses because it's not applicable. #27, it's a building envelope, pad
65 location; although it's single family, it's a condo, they're not lots. #28, complied with. #29, I haven't
66 seen the exhibits, but stream corridor protection should be taken off the exhibits; you no longer have the
67 stream protection rule. It was effectively repealed in March by the new administration but the engineers
68 must not have updated their CAD, so it should be off the exhibits and it is not defined in the text because
69 it now has no legal meaning.

70

71 Mr. McCarthy: It was replaced on one of the drawings with a notation as to an easement to Delaware
72 County. It was in the same location on the plan.

73

74 Mr. Martin: I assume it would be for Soil and Water to protect the stream although you no longer have
75 the stream corridor protection zone. #30, that was received on January 5. We resubmitted on the 3rd, and
76 Ms. Boni sent it to us on the 5th via email. The second paragraph indicates they are private streets and
77 Orange Township has no jurisdiction over them and will not maintain them, but the association will be
78 responsible for snow removal and resurfacing. Under Condo Law, unless specific action is taken, you are
79 required to maintain 10% in your budget for reserves. Adequate storage area for snow, we'll have the
80 engineers look at that. You probably have to have areas for snow placement in reasonably close areas, so
81 conceivably you could use the off-street parking areas that have been disbursed. Adding a sidewalk on
82 the south side of Lewis Center; that's been put on the plan. The initial plan had a 10' wide asphalt bike
83 path as indicated in an email Ms. Boni sent, and it will be between the 6-8' mound with trees and Lewis
84 Center Road; not inside the mound, so it's available for public use. #31, done except in 1 location. It's a
85 specific building, we indicate the building location number, and its 25'. #32, done. #33, is going to be a
86 patio with seating and observation area.

87

88 Mr. Dove: Would you still do that if it's a dry pond?

89

90 Mr. Martin: Not much to observe. If it is a dry pond, we'll come up with some other amenity. #34, those
91 standards don't apply; we've given a typical pavement section which exceeds the requirements of Article
92 VII because concrete is put down, construct the units, then pave. #35, done. #36, I'll have to ask you to
93 look; I haven't seen it. Is it legible?

94

95 Mr. McCarthy: Still not very easy to read.

96

97 Mr. Martin: #37, provided. #38, I believe has been done. #39, I believe has been done.

98

99 Mr. McCarthy: I think that exhibit was deleted.

100

101 Mr. Martin: Yes because the street lighting was deleted. #40, comply with one side but both sides just
102 didn't work. #41, neighbors were contacted and there were discussions with them. The fence, 3' mound

Zoning Commission

103 and trees will not go all the way down to the west boundary; it's going where you have units. At the
104 south end, you would be cutting mature trees and the topography situation to put in a mound and fence is
105 not going to screen the way nature is screening it now. And the choice of going with something other
106 than a 6-8' mound is based upon discussions with the neighbors. #42, done. #43, only trees that are
107 necessary to be removed will be removed. There will be street trees planted and the count is still an
108 estimate because they haven't done the engineering yet, but it is anticipated that the number will exceed
109 the number removed because we're building on the non-forested part of the tract. #44, set forth as to both
110 Phases 1 and 2, and the sequencing of the pavement is going to occur after the construction but you're
111 going to have concrete base street there. #45, one model indicated it would have 18% but in the
112 aggregate of all the buildings' average amount will be in excess of 25%. #47, I believe is in there;
113 there have been emails from John Piccin. #47, that's been done; DCEO wants things to line up. Back to
114 density, we submitted the same density of 2.36. We looked at it hard but this is near commercial sites and
115 if you go to the density, you're running up the cost and these units are going to come in to the range of
116 \$400-\$500,000. Cut 10 units, you cut about \$4 million in taxes; cut 5 units, you cut about \$2 million in
117 valuation if they're \$400 a crack. That yields in the neighborhood of \$48,000-\$60,000 in taxes each year
118 you're losing, and most of that is going to the schools. Then look at what is around it and what is its
119 impact. West you have a 6 house subdivision, and there may be some change to that because of ground
120 costs; immediately west of that fronting on 23 is now working on being in contract to be a commercial
121 development. The corridor at the southwest corner is Ohio Mulch's storage in the rear of their facility.
122 On the north side of Lewis Center Road is a single family condo project whose density is substantially
123 higher than this one; then you've got Triple T where residences have been knocked down, 1 commercial
124 building but it is zoned for 2 more. To the immediate east of it on the north side of the road and across
125 from this tract is part of the Olentangy School System's facility, a metal storage barn and tennis courts.
126 This particular tract with a 6-8' mound, landscaping and sidewalk along Lewis Center Road with a treed
127 area for hundreds of feet to the south, is an enclave. It's in an area that's developed in a number of places
128 at higher density. There's good density and bad density; this is good density, isolated, makes efficient use
129 of the land. It's putting a high dollar value from a tax perspective on a tract with likely to have residents
130 that don't put much demand on the services that are paid by property taxes, so it's a good development
131 and the type of development there is a market for. With new urbanism, and we don't have the mixed use
132 component of it on this site, but you've got a sidewalk to walk to a shopping center in Olentangy
133 Crossing. We have made a diligent and serious attempt to comply with the conditions you have for this
134 project. We feel this will be a benefit to the community and fills a need. The reason you're going to see
135 these is because there's a need for it and it's going to get you a little more diversity. In the demographics
136 when you build single family homes on 1/3, 1/2, 1, 2 acres, you get low density, but not low impact
137 because you have a number of children that are going to be in schools. This development is not going to
138 burden the schools.

139

140 Mr. Dove: Do you think these are going to be empty nesters that go into a 3000 sf house?

141

142 Mr. Martin: That's the maximum.

143

144 Mr. Dove: But it could be 55 units of 3000 sf houses. I know that's not your plan, but you could say I
145 could be across the street, have a pool, walk to Kroger; that's a great place to raise my family.

146

147 Mr. Martin: Unless you're age restricted, you can't stop that. If you're age restricted, you only get 20%.

148

149 Paul Cugini, 155 Green Meadows Drive, Lewis Center, representing CCBI, people want maintenance free
150 units. You're not going to have 1 or 2 families move in with kids because there aren't any other kids to
151 socialize with. I have done it in other areas, and all of the homes don't have kids; it's more designed for
152 empty nesters. Is it possible? It's not impossible but from my experience and for the need, the demand,
153 you're not going to see families with kids coming in.

Zoning Commission

154 Mr. Martin: It's a condo project, you're not going to have swing sets in the backyard, you can't fence the
155 yards, it's just not conducive to a family with children no matter how many bedrooms you have. You put
156 the square footage into a study, a craft room. The target and likely age group are going to use that space.
157 And the fact that you have 3000 sf, and that's max, it's still not going to attract someone with kids.

158
159 Mr. Cugini: It's a big transition for people selling their larger homes and it's mostly a couple who still
160 want room because they don't want to get rid of stuff so still want space for storage.

161
162 Mr. Martin: And if you have several kids, are you going to want to go into a single family home with a
163 backyard where you can have a swing set, maybe fence it and have a dog, or are you going to move into
164 an empty nester project where you can have a patio, maybe a grill, but not any of the things parents with
165 children think they need to have. You've got a swimming pool there but no basketball courts; this is
166 simply not set up to be attractive to or an option for a family with kids in school. You can't keep them
167 from buying it but it's just not likely.

168
169 Mr. McCarthy: The text indicates that accessory buildings are not permitted and we know a building
170 from a structure. There will be a Condo Association composed of the owners. If the owners want a play
171 area, they're going to have one.

172
173 Mr. Martin: If they want to amend the condo documents, they can; no accessory building, that's in the
174 zoning text and can't amend that.

175
176 Mr. McCarthy: My point is that the condo docs in and of themselves are not insurmountable necessarily,
177 so I was referring more to the play set or the swing set, those are not buildings.

178
179 Ms. Trebellas: Am I mistaken in thinking or referring to another project where we talked about how the
180 square footage on the second floor or a story and a half was limited to encourage empty nesters?

181
182 Mr. McCarthy: It may have been brought up here but not been picked up here. I believe that was Clear
183 Creek.

184
185 Mr. Dove: I think it was raised about a two story and it was said there could be a second floor but it's not
186 a traditional two story home.

187
188 Ms. Trebellas: Some of the elevations are 1-1/2 story, some look like 2 story, or 1 story in the front and 2
189 story in the rear but there didn't seem to be any square footage restrictions to encourage empty nesters.

190
191 Mr. Martin: But we also have some empty nesters that just want the square footage. What would you
192 like instead of a maximum of 3000?

193
194 Mr. Dove: I don't have a problem with the 3000, it's just when we have an application and they're trying
195 to push it as an empty nester, they're not going to have anyone at the schools, no one is going to work,
196 and you really don't know that. You're targeting that and that's what you're expecting but you can't say
197 this is an empty nester community.

198
199 Mr. Martin: No, but Paul has built "empty nester" projects and doing so worked a number of times. I've
200 met with condo association's officers and ask how many kids do you have in there. You're more likely to
201 have a grandchild come in rather than a family; it's the type of product that appeals to my age or a little
202 younger, but it's just simply not for families. With all the choices you have in Orange Township/southern
203 Delaware County in the Olentangy School District, if you want to spend \$400-\$500,000 on a family home

Zoning Commission

204 and you have kids in school, you're not going to select this product. It's not the neighborhood you want
205 to be in; there are too many other alternatives.

206
207 Mr. Cugini: I have a project going on right now that has a full floor plan on the first floor with 1800-2100
208 sf to all walk out lots. We'll finish every single one of the lower level, going on to 35-39, over 4000 sf.
209 There are 39 units on this project and they're over half sold and no one has any kids. They want the
210 space. We came in saying 1800-2100 was enough but they're saying it's a hard transition to move from a
211 larger home to a smaller home and it's something they're just not comfortable with, staying small. And it
212 was designed the same way, as an empty nester and there are not kids, it's not desirable for kids. They
213 don't have any playgrounds or anything on the outside that would attract kids.

214
215 Ms. Stenman: Presuming these are empty nesters who have 2 or 3 kids, where are those kids going to
216 park when they come over for dinner with their kids, particularly if it's like right now where we have
217 snow mounds everywhere and you plow the snow into off street parking spaces?

218
219 Mr. Cugini: There's always parking space in the garage and that's what we're seeing on these other
220 projects.

221
222 Ms. Stenman: You have 4 parking spaces here. Presumably these people can't downsize, they're
223 probably going to have at least 2 cars because most couples have their own car, there are 2 spots in the
224 driveway; where are these people going to park?

225
226 Mr. Martin: There is more off street parking or there's parking at the clubhouse, there are 9 spaces.

227
228 Ms. Stenman: Each unit has 4 spaces and 13 spaces are going to accommodate for the holidays these in
229 theory grandparents who are having all their kids and grandkids over?

230
231 Ms. Trebellas: Or someone has a holiday or birthday party? I'm assuming even if you're an empty
232 nester, you're still going to potentially have parties.

233
234 Mr. Cugini: But where do you draw the line, how many spaces do you put in there?

235
236 Ms. Stenman: But there's no on street parking.

237
238 Ms. Trebellas: And that's the issue.

239
240 Mr. Cugini: It's not uncommon from the other developments; we have not run into a problem.

241
242 Ms. Trebellas: And according to our Zoning Code, a parking spot is 9' x 20'. Your text says it's going to
243 be 18' in the driveway in some areas; some areas it says 19'. Either way, neither meets our standards, so
244 it's debatable whether you even have 2 parking spots in the driveway.

245
246 Mr. Martin: The setback said 18', so parking would be at a minimum of 19' at the garage; there's the
247 difference between a setback of a building and of the depth of the driveway.

248
249 Ms. Trebellas: The driveway would be from the sidewalk but it's unclear. Some places say 18, some say
250 19, but parking spot is 20, so you need 20' from the sidewalk, assuming there is a sidewalk, to the garage.
251 It's not clear whether or not we have that.

252

Zoning Commission

253 Mr. Martin: We stated there would be a minimum of 19' depth in the drive. You've got an 18' setback
254 from the structure. Those 2 are compatible, and the garage will not always be on the same flush level as
255 the porch or other parts of the structure.

256

257 Mr. Dove: If your garage is like Unit Type 9, the garage is pulled forward, so from the front face of this
258 garage to....

259

260 Mr. Martin: 19'.

261

262 Mr. Dove: To the edge of the curb or the street I think it says 18'.

263

264 Mr. Martin: Setbacks are 18 and the depth of the parking area is 19.

265

266 Ms. Trebellas: And our Code requires 20.

267

268 Ms. Stenman: And when I show up at my in-laws with my toddler and a hot casserole, I don't want to
269 have to walk a block and half for parking. And that seems unreasonable that there are that many parking
270 spots for this size of home.

271

272 Mr. Dove: What's your street width?

273

274 Mr. Martin: 26'.

275

276 Mr. Wilson: Can't you park on one side?

277

278 Mr. Martin: Not according to your FD. You've got to have 32'

279

280 Mr. Wilson: Last night we were discussing this for another development, I thought it was 26' that you
281 could have parking on one side from the fire hydrants.

282

283 Mr. McCarthy: Last night we were talking about public streets and the Trustees passed a resolution under
284 their road authority, and I forget the minimum width, but permits parking on one side of the street on a
285 public road. These are not public roads, they're private, which are not subject to the Trustees' regulation.
286 The Fire Code does have that kind of gradation, so when you're talking private as opposed to public
287 roadway, you're looking at 2 different animals. So the Trustees have no authority over your roads.

288

289 Mr. Cugini: Why are we treated differently, same roads even though they are private and they don't have
290 to be maintained by the County?

291

292 Mr. McCarthy: Dedicate the roads, that's the short answer. The FD is enforcing the Ohio Fire Code, it's
293 based off the International Code. You might speak with Inspector Clark as to the possibility of
294 requesting a variance or divergence from that Code thru their process. It's been a few years since I
295 looked at it, but I believe that was in there, it would be outside of this process, it's nothing we control and
296 we're not members of that particular body.

297

298 Mr. Martin: After our last hearing we went to roads wider than 26', provided on street parking opposite
299 hydrants, and then there was additional conversation with the FD and I just read you their response and
300 we tore up the plan and left the streets at 26'. Maybe that's the solution because if it's a public street,
301 they would be parking on it and that may happen because under this we're obligated to put the no parking
302 signs up but who is going to enforce the towing on the no parking?

303

Zoning Commission

304 Mr. McCarthy: There is a certain degree of authority they do have and it is my understanding there are
305 certain entities that stand ready to assist them.

306
307 Mr. Martin: We're willing to explore trying to get a variance but if we've got public streets, you have to
308 plow it. On a 26' street you can have parking on one side and leave 24' for their outriggers. What would
309 be the possibility of going forward with the condition that we will endeavor to get a variance? We would
310 prefer to have parking on one side of the street and we could explore going to public streets but then
311 there's the burden on the Township, the maintenance.

312
313 Mr. Duell: I view it as your parking plan is your parking plan; I'm not here to set up a parking plan for
314 the residents. The residents are buying into it knowing what the parking situation is. If that's a problem,
315 that will be on you, not us, and if you're willing to take that economic risk that there's enough parking,
316 I'm fine with it.

317
318 Mr. Dove: We're taking on though that we're not having a 9' x 20' parking space basically.

319
320 Mr. Duell: They asked for a divergence to 19'.

321
322 Mr. McCarthy: I think there's a little confusion on that.

323
324 Mr. Martin: We will clear those up even if I have to put in parenthesis "this is a setback, not a reduction
325 in parking".

326
327 Mr. Duell: The only way I'd be concerned is if there were a possibility that they'd spill out into areas
328 where they're not supposed to.

329
330 Ms. Stenman: And that is my concern, that it ends up on Lewis Center Road.

331
332 Mr. Duell: That's not going to happen.

333
334 Ms. Trebellas: I think what is going to happen is that visitors or residents are going to ignore the no
335 parking signs then you're going to have the issue with who is going to enforce it? Are they going to have
336 neighbors call and complain to the Township or Sheriff because people are parking where they're not
337 allowed or fire trucks can't get thru? So even though it is their responsibility, their plan, then it's the
338 residents' responsibility when enforcement and safety issues arise.

339
340 Ms. Stenman: I agree; then it becomes the Township's problem.

341
342 Mr. Dove: They take the call; I don't know it's their problem.

343
344 Ms. Stenman: Wonder if there's a fire and they can't get thru because people are randomly parked on the
345 streets?

346
347 Mr. Dove: This isn't a Township road.

348
349 Ms. Trebellas: But they're still going to use Township EMS services.

350
351 Mr. Dove: We're doing these as cluster homes, correct?

352
353 Mr. Martin: Yes.

354

Zoning Commission

355 Mr. Dove: In the cluster home, are we adding a fence, a wall? I saw fencing details.
356
357 Mr. Martin: We have mounds and trees on the street.
358
359 Mr. Dove: There are different requirements to make them a cluster home. Are they being attached by a
360 wall, a fence, is that what the fencing details are for?
361
362 Mr. Martin: No, they are not attached.
363
364 Mr. Dove: So what makes this a cluster home development?
365
366 Mr. Martin: We meet all the other criteria.
367
368 Mr. Dove: I don't think you meet any of the criteria. "Attached single family residents or dwellings shall
369 be attached by one of the following means...."
370
371 Ms. Trebellas: I don't think they have to be attached. 10.08 a)1)c) says the number of units so attached
372 will not exceed 4; it doesn't imply all of them have to be attached; it can be in clusters of 4.
373
374 Mr. Martin: Only your attached units have to go thru a) thru c); that applies to attached single units.
375
376 Ms. Trebellas: If you're a cluster dwelling you don't have to be an attached dwelling. You can be and if
377 you are, you can only have 4 units or less attached and you have to attach by various methods.
378
379 Mr. Dove: But it doesn't meet any of the other requirements.
380
381 Ms. Trebellas: Not the yard requirements.
382
383 Mr. Dove: Not the setback or density requirements.
384
385 Mr. McCarthy: 10.08 a) 1) only applies if you're attaching structures; if you're not, then a)1) does not
386 apply; all the rest would apply.
387
388 Mr. Dove: Along with everything in single family which are the provisions...
389
390 Mr. McCarthy: To the extent that single family is not contradicted, yes, I believe that is the intent of
391 10.08 and the break you get is a 25' setback. In #3, they have their 10 acres; a minimum distance of 25'
392 rather than 21.09 typically 30'; 25' between the front of the structure and the public or private street right-
393 of-way; total side yard 25', 12-1/2 each side; rear yards must be at least 35'; utilities underground; open
394 space basically has to make you guys happy. It's fair to say that this is the nature of the clustering of
395 units on one part of a parcel but I think it's difficult to say that it meets the standards of 10.08.
396
397 Mr. Martin: We think it meets most of them. Again, part of it is we are not dealing with lots. We don't
398 want to take down trees.
399
400 Mr. Dove: You talk about cost prohibitive; you're not going to build back there to get over a floodway
401 and a creek, 100 year flood.
402
403 Mr. Martin: One of the criteria is open space, common space and then the cluster area. This is in a
404 common, ordinary neighborhood, and we're clustering these homes on pretty much a flat unwooded area
405 and preserving the stream and the trees.

Zoning Commission

406 Mr. Dove: There's just so much being asked: we're not meeting density, I know we're saying we don't
407 have lots because it's condo; we're not meeting setbacks; parking is or isn't an issue; maximum lot
408 coverage, we've blown out of the water. Is there any reason we went from 1800 to 1500 sf as a
409 minimum? It was 1800 in the last book.

410

411 Mr. Martin: Everyone wants vaulted ceilings. You go a story and a half, and you have the appearance of
412 a larger square footage. You seem to be concerned about maximum.

413

414 Mr. Dove: I was just curious as to why there was a change; we didn't ask for it and it just came in.

415

416 Mr. Cugini: 1800 is standard as a rule of thumb

417

418 Mr. Dove: Is there enough parking for the clubhouse based on our Code? Is that an assembly area? It's
419 not residential. They're considering all other residential and it's per dwelling unit. I would think it's a
420 public assembly area.

421

422 Mr. McCarthy: This would not be a residential use.

423

424 Ms. Trebellas: I'm assuming it's public assembly; what would the Orange Township pool be considered?
425 Public assembly is my understanding.

426

427 Mr. Dove: It's at least an assembly area.

428

429 Mr. Martin: The use of the main development is under 3; all other residential requirements, 3 parking
430 spaces per dwelling unit we're planning for so we basically have....

431

432 Ms. Trebellas: You have 4 and you're requesting a variance to reduce the parking size from 9' x 20' to 9'
433 x 18' or 19', whichever you decide on, correct?

434

435 Mr. Martin: Correct. We're providing 1 additional space per unit.

436

437 Ms. Stenman: And if any of the empty nesters want to drive to the clubhouse, 5 of them could be there at
438 any given time.

439

440 Mr. Dove: 4, and one has to be handicapped.

441

442 Ms. Trebellas: Since it is a closed community, perhaps people will walk there, but there's no guarantee
443 empty nesters are going to want to walk that far.

444

445 Mr. Dove: 21.10, Page 35 of the application talks about non-residential use abutting up against
446 residential; I'm assuming it would fall under that as well?

447

448 Mr. Martin: That requirement is imposed upon the non-residential use abutting a residential district. If
449 we were putting an office park there, that applies to us. It would mitigate the effects of noise, light and
450 other nuisances emanating from a non-residential use.

451

452 Mr. McCarthy: I would agree with Mr. Martin on his interpretation.

453

454 Mr. Dove: I would read it as a clubhouse and pool as a non-residential use.

455

456 Mr. Martin: This goes on a district. The clubhouse is simply a part of this development.

Zoning Commission

457 Mr. Dove: I understand that, but you're not sleeping there, so it's not a residential use; that's the way I'm
458 reading it.

459

460 Ms. Trebellas: What in our Zoning Code are the standards for clubhouses in a residential development in
461 terms of light, noise, etc. impacting the residences?

462

463 Mr. McCarthy: That has been spelled out in various zoning applications in various zoning districts. I
464 don't believe there are any restrictions that are applicable and looking at the other question, I went thru
465 the listing of required parking as to uses listed, and although this Code does not call for it, I am
466 challenged to identify a closely related use from that list. We have a single family planned residential
467 district. This clubhouse use would be accessory to that single family use which would probably require a
468 modification to the response to 10.03 b).

469

470 Mr. Martin: No accessory buildings except the clubhouse; we'll gladly do that.

471

472 Mr. McCarthy: As far as the parking required, if you would look at 10.06 toward the end,

473

474 Mr. Martin: It is my recollection that you defined the definition of accessory building. If we say it's an
475 accessory building, we'll have to make sure that it meets that definition.

476

477 Mr. Dove: Do you know how many square feet it is or proposed?

478

479 Mr. Martin: It's small. The footprint is shown on there.

480

481 Mr. McCarthy: I looked, and accessory building is not defined in 4.01.

482

483 Mr. Martin: We have no problem in changing the response to accessory buildings are not permitted
484 except for a clubhouse and pool.

485

486 Mr. Duell: Say the accessory building is incidental to the principle building or use; I don't want the Code
487 to end up reading that every building can have a clubhouse and pool.

488

489 Mr. McCarthy: If we find it to be an accessory use or permitted use on that list, remember the content of
490 10.07 o), the Zoning Commission and/or Trustees may impose additional special conditions relative to the
491 development in regard to the type and extent of public improvements to be installed; landscaping,
492 development, improvement, and maintenance of common open space; and any other pertinent
493 development characteristics. That's the wild card that I think would probably apply here.

494

495 Mr. Martin: I misspoke about the nature of the basin because we dig that in and there's a special
496 requirement. In the maintained passive open space in the vicinity of the wet pond/basin, there will be a
497 patio seat overlooking the landscaping and basin. So that requirement would require that it be wet.

498

499 Mr. Dove: After the Del-Co letter, there's an exhibit that I'm not quite sure if that's a carryover, it wasn't
500 in your first application but think it got stuck in somehow.

501

502 Ms. Trebellas: I think it was just an attachment to the letter and got left in by accident.

503

504 Mr. Martin: We'll remove it.

505

506 Mr. Duell: These are little nitpicky things because we're trying to put a square peg in a round hole. Our
507 Code does not contemplate detached condos, so that's why you're getting these questions. I have had

Zoning Commission

508 discussions with various people in the Township that we need to add a section in the Code to cover this
509 because we're seeing this more and more.

510

511 Mr. Martin: And you're going to see it more and more. I'm going to be in here with another client that's
512 going to have detached and some single family, and I encountered it when we had the Ravines at
513 McCammon Chase.

514

515 Mr. Dove: Is there anything that could eliminate the Condo Association? In 5 years could they decide to
516 turn it into a typical single family development?

517

518 Mr. Martin: You can terminate a Condo Association with 100% of the residents in agreement; in a condo
519 of this size, effectively it could not happen. And when you de-condo, you've also got to clear all
520 mortgages.

521

522 Mr. Wilson: How does that work; anyone who owns a condo doesn't own any property outside of that
523 building; they don't own anything around it?

524

525 Mr. Martin: They actually, and the Supreme Court will tell you this, own an undivided 100% interest in
526 the home and the Condo Association does not own it. That came up in a case where a Condo Association
527 tried to file a complaint against valuation on the common elements. They were tossed because they didn't
528 have the authority, they didn't own it.

529

530 Mr. Wilson: But could they survive without the Condo Association?

531

532 Mr. Martin: By law, if you have a condominium, you have to have a Condo Association.

533

534 Mr. McCarthy: The concept behind cluster housing is not to increase density, and the language that is
535 currently in the Code relative to cluster housing is the result of an individual Trustee who owned a farm,
536 sold the farm, and before he did that, he wanted this in the Code just in case. He was very open and
537 honest about it, he didn't violate ethics and the change affected the entire Township, not just his property.
538 However, cluster housing makes sense, flood plain, ravines, but, and not arguing any density bonus, the
539 development standards, what essentially do they get? They get 5' shorter driveways and they still have a
540 25' structure separation between buildings, so if they are truly challenged on the topography, it's not
541 helping. You could approach that as a divergence but it strikes me that cluster housing, that 12-1/2, 25, is
542 a killer because you're really talking about needing to preserve something, wanting to bring things closer
543 together so the rest of the site is preserved. Right now, that doesn't do it. Here we've got a density issue
544 that is a different issue for you to resolve in terms of what could you, would you or should you do.
545 Looking at the cluster development standards and having these discussions, 25' that's a reduction from
546 30. It's long enough to get a car in and maybe have a few feet left.

547

548 Ms. Trebellas: I thought they also had provisions for reduced rear yards.

549

550 Mr. McCarthy: I'm not sure; I would have to check that.

551

552 Mr. Duell called a 5 minute recess.

553

554 Mr. Duell called the meeting back from recess.

555

556 Mr. McCarthy: There was a question from Ms. Trebellas as to rear yard setback in a cluster development,
557 and the answer is 35' from the adjoining property. The point I was making was that the standards we
558 have really don't help tonight; you still have the density issue. Looking at these development standards

Zoning Commission

559 vis-à-vis 10.07, you're getting 5' off the driveway. So if we are going to address cluster, including
560 density ultimately, and maintaining your oval gross density, it seems the development standards might be
561 revisited and the tolerance determined as to just how clustered you're willing or wanting to let these
562 things get.

563

564 Mr. Duell: I'm OK with this density given the location, the ravine and protecting them, and the overall
565 scope of the development. Other developments I've had problems with the density, they were much
566 higher and weren't protecting the amount of natural resources; that was density for other reasons.
567 Parking, I'm not concerned about. I view it as the issue is the developer's, not ours and if the developer
568 thinks the parking is sufficient, his buyers will tell him if it's not. The clubhouse, I don't view it as a
569 problem on the accessory use; I think it's called out/spelled out. Again, the accessory building is kind of
570 written in a way based on SFPRD lots, not condos, and it goes back to the idea that our Code just doesn't
571 contemplate detached condos, so we're going to have these little questionable misfit toys as long as we're
572 doing business this way, so either allow it or go back to the drawing board on the Code. That might be
573 draconian for an applicant in this situation.

574

575 Mr. Martin: But the market is driving towards more....

576

577 Mr. Dove: But our Code doesn't, so that's our concern. Everyone is bringing these in and we said 2.36 is
578 good with 18'/19' whatever driveways, then what's the next one, that 2.5 is OK? I'm just going based on
579 our Code.

580

581 Mr. Duell: I think we need the Code revisions sooner rather than later but I also don't think it's fair to
582 hold this specific applicant up.

583

584 Mr. Martin: I think our density qualifies under 10.07 a) because of the intensity of the adjoining use. It
585 says in regard to a Single Family Planned Residential District within the Township contiguous to or
586 directly across the street from an existing Single Family Residential project, which existing project has a
587 maximum density in excess of that otherwise permitted. We could increase that up to 2/3 of the existing
588 development; we're at 55%.

589

590 Mr. McCarthy: In reading that language, the development, The Villas of Olentangy Crossing, is a single
591 family project, detached single family structures, across the street, so if we're concerned about the
592 density, I think Mr. Martin has a point but it's subject to the discretion of this Commission what you're
593 going to do.

594

595 Mr. Duell: I understand your point and I've not wanted to rely on that; I wanted to see the justification so
596 that if we need to grant a divergence, it can stand on its own because what's across the street is not the
597 product of this Commission.

598

599 Mr. Martin: But it's there and we've also got commercial use; we didn't have single family and put in 3
600 offices.

601

602 Mr. Duell: I think you've laid out a fairly compelling argument for the justification for the divergence for
603 the bump in the density, at least in my mind.

604

605 Ms. Trebellas: You're asking for 5' for each unit, 10' between adjacent units.

606

607 Mr. Martin: That's per the Fire Code.

608

Zoning Commission

609 Ms. Trebellas: We had a question on a previous application concerning roof overhangs, egress windows,
610 fire place bump outs, bay window bump outs, things like that, that technically...

611

612 Mr. Martin: Not going to happen.

613

614 Ms. Trebellas: Can you just write it in your development text how....

615

616 Mr. Martin: The Fire Code precludes openings.

617

618 Ms. Trebellas: With the Fire Code, you wouldn't have your 5' separation per Code, you would then have
619 to change the rating on your exterior walls.

620

621 Mr. Martin: We're going to comply with the Fire Code and that precludes openings in that wall.

622

623 Ms. Trebellas: Just make sure in that setback that the roof doesn't overhang, the bump out for the fire
624 place, egress window or bay window doesn't overhang in that setback. Make it clear.

625

626 Mr. Duell: I suspect if the Fire Code says 10', it means 10', then you're probably OK

627

628 Ms. Trebellas: But with the Building Code, you can be less than 10' but then you have to deal with
629 openings and you have to change your rating.

630

631 Mr. McCarthy: One last point on the idea of the cluster, if you were to take your regular density, which
632 right now is a maximum of 2, keep it at 2, but then write the balance of it for single family cluster housing
633 and write that if you are allowing it, this will be the way of it, if you are going in the condo direction,
634 these will be the standards, but keep it all with the idea that you're bringing things together so as to
635 preserve something else. For my comments, I will just read the ones that I think need discussion. #10.
636 density, 1500-3000, that's an issue that needs to be resolved and if it was not previously raised that there
637 was that limitation and it was proposed in Clear Creek where square footages of second story would be no
638 more than 1/2 of the first floor, so that might or might not help you there. I believe I saw that the
639 emergency access was going to be roughed in in Phase 1.

640

641 Mr. Martin: That is going to occur, and the FD has said we can do a construction entrance that will serve
642 as the emergency access within Phase 1.

643

644 Mr. McCarthy: Will you have any other access to Phase 1 at that point?

645

646 Mr. Martin: That will be the street.

647

648 Mr. McCarthy: And the final one gets built later?

649

650 Mr. Martin: Yes. They are just permitting us in Phase 1 to have the second access be an emergency
651 access but also be the construction access, and there are some limitations and restrictions for that also.
652 Secondary fire access shall be 20' width and needs to be in place prior to above ground construction. The
653 secondary fire access road can be used as a construction roadway supporting 70,000 lbs. as long as no
654 construction vehicles or materials block this roadway. Knock down bollards are acceptable for use when
655 the secondary fire access roadway is completed and will no longer be used as a construction roadway.
656 And that's Mike Clark responding to the questions.

657

658 Mr. McCarthy: #16, the only exhibit I didn't see referenced was H-6 which is the Munsell charts. Put
659 that in the response to 10.06 b)3) which is typically where we put it. Exterior materials were specified;

Zoning Commission

660 just bring that in by reference. Ms. Trebellas wanted language that would make 10' 10'. Responsibility
661 for the installation of the unit landscaping right now says it is the responsibility of the builder/developer.

662

663 Mr. Dove: It's their responsibility, but they don't have to submit anything because they're not platting?

664

665 Mr. Martin: We've got a landscape plan that you're approving as a part of this.

666

667 Mr. McCarthy: Increasing the perimeter setback, on the west it's 35', 25' on the east. On the east it is
668 called out in drawings as building setback, and the pond was moved and is depicted now as being outside
669 of that 25' area. The only reference to that drawing I saw was under landscaping. It might be advisable
670 to consider a flat statement that the pond will not be located within that 25' building setback. There was a
671 setback for the private drive and entry feature sign; there was a slight increase from what it was; it will
672 now be 10' from the private drive. Given the small size of the sign, 15' right-of-way, its right where it
673 belongs. #39, the lighting plan says they'll conform with 21.12 but that Section 10.06 b)4) would apply;
674 that is the only lighting plan I saw. This came from some post lights that were being erected in the
675 parking area that were 10' in height with a 22-24" fixture on top; that has been deleted.

676

677 Mr. Martin: Now we say no lighting.

678

679 Mr. McCarthy: #40 did not happen.

680

681 Mr. Duell: It's a private road; I'm fine with that.

682

683 Mr. McCarthy: They have met with the neighbors and a question I had, and I believe the owner is
684 present, it was indicated that Locations 1-8 there would be no direct lighting permitted on the rear. And
685 Location 9, I believe is owned by the gentleman in the audience this evening, and is there any concern on
686 your part as to there being lighting on the rear of that unit on Location 9?

687

688 Mr. Martin: No.

689

690 Woodward Ufferman: We don't want any lighting on the rear at all.

691

692 Mr. Cugini: There are no lights in the area.

693

694 Mr. Dove: Of the units?

695

696 Mr. Cugini: Yes, of the units.

697

698 Ms. Stenman: Not even like a safety light?

699

700 Mr. Cugini: No, unless the patio is on the side.

701

702 Mr. McCarthy: So that would not be a problem just to put a prohibition on 9?

703

704 Mr. Cugini: Right.

705

706 Mr. McCarthy: Natural materials for the front of the structures is at 18% minimum for any particular
707 structure with 25% overall; is that satisfactory?

708

709 Mr. Dove: Sure.

710

Zoning Commission

711 Mr. Martin: The reason for that is that one unit that comes out to about 18.
712

713 Mr. McCarthy: Neighbors adjoining Locations 1-9, have you had the opportunity to see this plan yet?
714 They have made some revisions along the west line.
715

716 Mr. Ufferman: No, I haven't. We wanted a private fence.
717

718 Mr. McCarthy: There is a 6' privacy fence.
719

720 Mr. Ufferman: We don't have a picture or sketch of it, but he also preferred that he didn't put it all the
721 way to my fence line but since it's nothing but woods back in there, I feel we're going to have a bunch of
722 kids using it as a playground, and I need a privacy fence between us and I liked to get a sketch of it.
723

724 Mr. McCarthy: They actually gave us a rendering of the fence.
725

726 Mr. Ufferman: They said they were going to call me back about the septic system because I have a sewer
727 line coming up to my fence, if the Health Department ever changes their mind from the County, they can
728 make us tie into it but they have not gotten back with me yet.
729

730 Mr. McCarthy: That discussion lies between you all and I'm not trying to interfere, but many years ago,
731 developers, when bringing sewers to an area, offered to connect those neighbors where they were brought
732 within that perimeter the EPA has. I don't recall that happening in the last decade at least.
733

734 Mr. Ufferman: Maybe the County says we don't have to but the Health Department has jurisdiction. I
735 just need something to say that if they make us do it before it's built out, they'll pay for it.
736

737 Mr. McCarthy: That's not in the nature of something the Township ever did require; that's in the nature
738 of something the developer wanted to do to avoid trouble.
739

740 Mr. McCarthy called neighbors to table to look at what he considers extensive changes for the neighbors
741 abutting 1-9.
742

743 Mr. Dove: We don't want to take a bunch of trees out to put a fence in.
744

745 Mr. Duell: We're trying to protect those trees.
746

747 Mr. Ufferman: But if they're on the property line, they said they'd take them down.
748

749 Mr. McCarthy: That's the privacy fence they're talking about putting along the property line that I
750 showed you; it is solid, it's not a dog tooth or anything.
751

752 Mr. Duell: But it still all needs protected.
753

754 Neighbor: What were they saying about a mound?
755

756 Mr. McCarthy: Originally you had trees, now you have +/- a 3' mound and then another mound and then
757 a privacy fence running all the way down to the drop off.
758

759 Mr. Buckner: So the privacy fence goes all the way down to the mound?
760

Zoning Commission

761 Mr. Martin: It's on the project a number of feet back from the property line so you've got the mound, and
762 that was designed based upon discussions with the people whose backyard is there.

763

764 Mr. Ufferman: The electric line thru there, do they have the right-of-way?

765

766 Mr. McCarthy: I think there's something in the text that there's a necessity to obtain easements or
767 relocate easements and will undertake that responsibility.

768

769 Mr. Martin: If there is a power line, we have to deal with it. We're going to provide underground utilities
770 in the project.

771

772 Mr. McCarthy: Are you saying there's a transmission line buried in there?

773

774 Mr. Ufferman: No, it's overhead; it serves 3 or 4 neighbors.

775

776 Mr. Dove: Wouldn't that be on your property if it's serving your area?

777

778 Mr. Ufferman: It's right next to the fence line.

779

780 Mr. McCarthy: I recommend you get a copy of the current submittal from the Zoning Office and check
781 that out. Same thing on the east side; there were some adjustments made that probably won't be talked
782 about tonight. There have been responses to both the east and the west; it lies with the Commission as to
783 whether it's adequate.

784

785 Mr. Dove: I believe they pulled the houses farther away too. You have 35' there now for 1-8 and the side
786 yard for 9.

787

788 Ms. Trebellas: Yes, there's an extra 10'.

789

790 Mr. Martin: And the mounding was discussed with the people who were impacted; it's what they wanted.

791

792 Mr. McCarthy: 10.06 b)3), Page 10, manufactured brick has been added to the listing of siding products.
793 Does anyone have an issue with that?

794

795 Mr. Dove: No.

796

797 Mr. McCarthy: You've got 35' height limitation and originally you had language that said you were
798 going to meet it at the front elevation but were probably going to exceed it in some cases where we have
799 walk out basements, and that latter part was taken out. Was that on purpose?

800

801 Mr. Martin: That was from discussion at the last meeting; that's why we took it out.

802

803 Mr. Cugini: Everything is figured at finished floor height going up, not from basement height going to
804 height.

805

806 Mr. Martin: I authored the exception for the walkout basement and my understanding of the discussion
807 was it was needed because you're measuring from the first floor front of the building, and none of them
808 are going to exceed. The only place is if you've got a walkout.

809

Zoning Commission

810 Mr. McCarthy: You've got the language in several places: No building or structure shall exceed 35' in
811 height measured from finish grade established not closer than 15' to the exterior wall of the structure.
812 That's not finished floor.

813

814 Mr. Martin: We will put it back in but the practical fact is, if you have a walkout...

815

816 Mr. McCarthy: It's been included numerous times in applications and this was an obvious one.

817

818 Mr. Martin: I must have misunderstood because I thought you wanted it out, but I'll put it back in
819 because with the walkout basements, it's going to be over 35' in some locations.

820

821 Ms. Trebellas: The Code has it that no building in the district shall exceed 35' in height measured from
822 the finished grade established not closer than 15' to the exterior wall of the structure. I think we've
823 always used it as the front exterior wall.

824

825 Mr. McCarthy: We've always had that walkout language just to be safe. Originally we had 18' from
826 either the edge of pavement or sidewalk. Now in some places in the text it's 18', some places 19'. It
827 needs to be consistent one way or the other.

828

829 Mr. Martin: I think the 19' was regarding the drive and 18' is the front setback. On 22 we're asking for a
830 divergence to 18'. I will check to make sure we're reconciled.

831

832 Mr. McCarthy: There was a discrepancy in 10.07 d), lot depth, this description is what's going to happen
833 for the neighbors. I believe what the situation is is there is a relic on Page 21, 10.07 d).

834

835 Mr. Martin: On 21, c) we're talking about lot width; that needs corrected.

836

837 Mr. McCarthy: Item d) lot depth location and lot depth divergence for Location 1-8 is 35' with trees .
838 We've gone thru trees, mound, privacy fence; that should be consistent with the language. That is stated
839 elsewhere, I believe on Page 10, 10.06 b)2), so those need to match. 10.09, Pages 27-29, indicate in the
840 text the golf course community will not be a permitted use in this district.

841

842 Mr. Martin: On 10.09, rather than saying it's not a golf course community and none of the requirements
843 apply, just say not permitted?

844

845 Mr. McCarthy: Yes, a golf course community will not permitted in this district. 21.05 on Page 32, water
846 impoundments, basically indicates 25' from the street, 50' from Route 23, put a fence around your pool.

847

848 Mr. Martin: The response is in the wrong location.

849

850 Mr. McCarthy: The plans indicate that the right-of-way has gone from a proposed 120' to a proposed 80'.

851

852 Mr. Martin: We will check it; we haven't seen the drawings. My guess is it's staying at 120'.

853

854 Mr. McCarthy: If it's 120, it's 120; if it's 80, I guess that's 120' total, so 20' would be yours, 20' would
855 be the other side; what are you going to do with that 20'?

856

857 Mr. Martin: A lot of time what is happening is the County Engineer is requiring greater right-of-way that
858 they may not use for years.

859

860 Mr. McCarthy: If it was at 120', I wouldn't have a question but it went to 80' all the way thru.

Zoning Commission

861 Mr. Martin: We'll check it.

862

863 Mr. McCarthy: In Exhibit E-1, the utility exhibit, there's a typo. They've got you down for 56 units
864 which skews all the development data on that chart.

865

866 Mr. Duell: There are enough changes that need to be addressed and make 1 more round. We won't have
867 another stipulation meeting; he'll provide the comments, we'll look at them, we'll send them to you then
868 you can make the changes and you'll want to turn around a book with the corrections with the expectation
869 of it being final for a vote.

870

871 Mr. McCarthy: One way or the other.

872

873 Mr. Duell: We have some fixed schedule dates, and I think the next applicable one would be February 13
874 which would give us some time to get those comments reviewed, out to you, get the book resubmitted,
875 give us time to look at it and then we can do the 13th.

876

877 Mr. McCarthy: Let's go with the 13th, and I'll make every effort to dedicate the 22nd to that.

878

879

PUBLIC COMMENT

880

881 None

882

883

MOTION TO RECESS APPLICATION #ZON-17-09

884

885 Mr. Wilson made a motion to recess Application #ZON-17-09, CCBI Lewis Center LLC, until Thursday,
886 February 13, 2018 at 7:00 p.m. at the Orange Township Hall; seconded by Ms. Stenman

887

888 Vote on Motion: Mr. Duell-yes, Ms. Trebellas-yes, Mr. Dove-yes, Ms. Stenman-yes, Mr. Wilson-yes

889

890 Motion carried

891

892 Meeting adjourned at 9:40 p.m.

893

894 On April 24, 2018, Ms. Stenman moved to approve the meeting minutes of the Orange Township Zoning
895 Commission dated January 10, 2018, for Rezoning Application #ZON-17-09, CCBI Lewis Center, with
896 the following corrections:

897

- 898 • Line 385: change the word "implies" to "applies"
- 899 • Line 633: change the word "lotting" to "allowing"

900

901 Seconded by Mr. McNulty.

902

903 Vote on Motion: Mr. Duell-yes, Ms. Stenman-yes, Ms. Ault-yes, Mr. McNulty-yes

904