

Zoning Commission

1 **Zoning Application #ZON-19-05**

January 16, 2020

2
3 **Zoning Application #ZON-19-05, Epcon Lewis Center, LLC.** The application is an
4 amendment to the currently effective zoning development plan for +/- 23.3 acres within the
5 Lewis Center Ravines Single Family Planned Residential (SFPRD) District, approved under
6 applications #ZON-17-09 of CCBI Lewis Center, LLC. The area being amended is located at
7 374, 390, 426 and 544 Lewis Center Road, Lewis Center OH 43035 having parcel numbers 318-
8 220-04-011-000, 318-220-04-010-000, 18-220-04-009-000 and 318-220-04-008-000.
9

10 Roll: Mark Duell, Christine Trebellas, Adam Pychewicz, Dennis McNulty, Dustin Doherty

11
12 Township Officials Present: Michael McCarthy Legal Counsel
13 Jeff Beard Zoning Enforcement Officer
14

15 **MOTION TO RETURN FROM RECESS FOR ZONING APPLICATION #ZON-19-05**

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17 Mr. Pychewicz made a motion to return from recess for Zoning Application #ZON-19-05, Epcon Lewis
18 Center, LLC; seconded by Ms. Trebellas.

19
20 Vote on Motion: Mr. Duell-yes, Mr. Pychewicz-yes, Ms. Trebellas-yes, Mr. McNulty-yes, Mr. Doherty-
21 yes

22 Motion carried
23

24 Mr. Duell: We are just making a minor amendment, and Mr. McCarthy has prepared two amendments to
25 be attached to the motion.
26

27 Mr. McCarthy: We have been working off of scans; the original documents were not available to the
28 applicant or counsel, and hours were spent trying to hash through it. The preferred route when we have
29 the text and the Commission has determined it's a minor amendment, we'll let them just keep using that
30 text. This is kind of a new one; I don't remember this happening before. They don't have the text, and
31 they're not going to get it, in a Word format, so I don't know what the answer is but I fell back to what we
32 did in 2017 for Evans Farm. Basically we said these are the changes we're making; we're not dragging
33 anything else into it. Their book is quite thick and you can imagine the domino affect that's potentially
34 there. I'm not sure what all this will affect, but they seem to be in the same place. I did review all of
35 ZON-19-06 and a little over half of the 20-05. It changes where it leaves out sentences and does all kinds
36 of things that don't make it suitable for use, and I really don't think it will unless someone is put in a
37 room with a computer and not let out until it's over. As to the 20-05 application, there's a listing of
38 recommended amendments. These had to be paraphrased but I believe they're accurate. The first one is
39 the provisions in the development plan text of the approved development plan related to the requirement
40 of a minimum distance of 10' separation between the adjacent buildings without intrusion of any type into
41 that area (e.g., roof overhangs, egress windows, bay windows, bumpouts, etc.) are modified to allow at
42 grade concrete slab or paver patios encroach not more than four feet into such separation between
43 adjacent buildings on one building side only and only on the side initially designed for an outdoor
44 courtyard. I think that tagged the notes I had as to characteristics for that. The second one was a little
45 trickier but I think resolved the comments the Commission made. As to provisions in the development
46 plan text of the approved development plan related to the clubhouse building use are modified to allow
47 the clubhouse building to include a sales office designed to operate within the clubhouse as a permitted
48 use under the following limitations and requirements: the sales office use may continue until such time as
49 all homes are sold by the developer; after such initial sales, the sales office shall cease operations; sales
50 office hours of operation shall be the same as the hours of operation specified for model homes under

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51 Section 10.04 b)1) of the Zoning Resolution; and the clubhouse shall include six dedicated parking
52 spaces. Are you comfortable in moving forward in this manner? I fear they would literally have to proof,
53 which was what I was doing line by line, page by page, but I question if that effort is really warranted in
54 this particular instance. However, it will increase the workload of the Zoning Office. They will have to
55 put this on top of the text and make sure they look at it every time they look at something related to the
56 Courtyard's application back in '17 and 17-09. That is an inconvenience but I can't even guess how long
57 it would take us to get to a problem-free, if we will get to a problem free text, before there's bloodshed.
58

59 Tom Hart, 2 Miranova Place, Columbus, Ohio, representing applicant: if you will recommend the
60 amendments, we will retype the whole thing with the amendments for Trustees because there's no other
61 way to do this. You're a recommending body; you're not actually altering the text; they have to act to do
62 that, but we're asking that you recommend the changes and we can then type it. We've had a large
63 challenge with this conversion but I thought it was more fonts, spacing, changing type size while I did not
64 know it was deleting text.
65

66 Joel Rhoades, Epcon Communities, 500 Stonehenge Parkway, Dublin, Ohio: we're comfortable in
67 proceeding with this tonight and rekeying the whole thing for the Trustees.
68

69 Mr. McCarthy: Honestly you can take a pen and cross it out but it stands.
70

71 Ms. Trebellas: I don't think they need to type it all back in. This isn't that big so it could be done but then
72 you set a precedent like requiring Evans Farm, which is very thick, being typed back in which does not
73 seem feasible.
74

75 Mr. McCarthy: I think going forward you are going to have to pick your poison. I would regard it in this
76 manner, if the applicant has the text and is happy to do it, let the applicant do it. It makes the job of the
77 Zoning Office easier, avoids oversights that can result in errors, errors that are not legalized because they
78 were made by the Zoning Office, and that can be quite problematic. As to something like Evans, actually
79 we're doing that with Evans right now on the Single Family, but they have the text; that's the big
80 difference. They have the text and they can inner interlineate the changes and we can simply adopt that
81 modified development text.
82

83 Ms. Trebellas: But if they didn't have the text...
84

85 Mr. McCarthy: I think that's where you may end up dealing with it on a case by case basis. If it's there
86 and available, there is a positive aspect to not having the Zoning Department searching through a file for
87 three or four amendments laying around in there loose.
88

89 Mr. Duell: I'm generally okay with one page sitting on top of the application. If you make a correction in
90 the back, you don't get a new document.
91

92 Mr. Pychewicz: If I understand this correctly, basically getting the changes into the original text would
93 require retyping everything; it's not a matter of any risk of the text we previously saw is what was
94 approved but then went to the Trustees. They could have, using this patio concrete pavers as an example,
95 said Zoning said 4' was fine but we'd rather have it 2'. That's not something we're concerned about
96 because now that we have the Trustees' comments.
97

98 Mr. McCarthy: That actually happened here, and I believe it was the 20-05 where there were so many
99 stipulations by the Trustees.
100

101 Mr. Hart: It was the Ravines. It didn't get included when they heard it.

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102 Mr. McCarthy: It wasn't presented and again, it was laying around loose I'm sure in the file but that's the
103 downside risk you face. I think the balancing of interest is the reason you guys are here. The first thing I
104 did was check to make sure we got all of that in there.

105
106 Mr. Hart: That was someone else's application; it wasn't ours.

107
108 Mr. Pychewicz: I understood that; I just wanted to see if that was still a possibility.

109
110 Mr. McCarthy: The Trustees can adopt, deny or adopt a modification.

111
112 Mr. Pychewicz: It just makes it more complicated just having this as a piece of paper on top rather than
113 include it.

114
115 Mr. McCarthy: You can get into dueling pieces of paper if you're not careful. They may adopt part of
116 your recommendation but not the whole thing; it could be a significant issue. There are different interests
117 at work and it's for you folks to weigh the interests that compete here of each case and determine whether
118 or not this is the way you want to go. I strongly suggest that the Zoning Office keep a copy of this in the
119 original for reference and after the Trustees act, compare that, make that part of the action the office
120 routinely takes.

121
122 Mr. Duell: The only problem with retyping everything is if a typo is made, it gets approved and all of a
123 sudden it's....

124
125 Mr. McCarthy: You have to proof it very carefully.

126
127 Mr. Hart: I also think there's a legal issue here, unless there's an intent or request to change something
128 here, we can't change what the Trustees pass based on what we're asking for.

129
130 Mr. Duell: We need the book that future people are going to be looking at.

131
132 Mr. McCarthy: Mr. Hart, typically when that is available, it's checked, and if it's correct, we adopt the
133 amended development text and substitute it in the development plan which allows them to take out the old
134 and put in the new. That's something you can't do obviously under this type of regime. I think it still
135 comes down to the community interest and when, when, when and then what is the Township's interest
136 and degree of interest relative to the applicant's interest and degree of interest and the expenditure to be
137 made on both sides. You can see what the issue is but I can't say I think there's one answer.

138
139 Mr. Pychewicz: For the sake of not over complicating it, I think I agree with you that I'm okay with this.

140
141 Mr. Duell: Everyone okay with that?

142
143 Commission agrees.

144
145 Mr. Duell: You're okay with the two amendments the way they're written?

146
147 Mr. Rhoades: Yes.

148
149 **MOTION TO RECOMMEND APPROVAL OF ZONING APPLICATION #ZON-19-05 OF**
150 **EPCON LEWIS CENTER LLC, REQUESTING MODIFICATION OF THE APPROVED**
151 **DEVELOPMENT PLAN FOR THE LEWIS CENTER RAVINE CONDOMINIUM SFPRD,**
152 **WITH STIPULATION.**

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153
154 MOVED by Mr. Doherty to recommend, to the Board of Township Trustees, the approval of Zoning
155 Application #ZON-19-05, of Epcon Lewis Center LLC, owner and applicant, requesting the below stated
156 amendments to the approved development plan for the *Lewis Center Ravine Condominium SFPRD -*
157 *Single Family Planned Residential District*, Zoning Application #ZON-17-09 (“Development Plan”),
158 such amendments modifying certain aspects of the previously approved Development Plan Text of the
159 Development Plan of that zoning district.

160
161 FURTHER MOVED, that this recommendation is for those amendments stated in the *Listing of*
162 *Recommended Amendments* attached hereto as *Attachment "A"*, the content of which is incorporated by
163 reference herein, with the stipulation (agreed to by the applicant) that the applicant submit a final revision
164 of the Development Plan Text of the Development Plan reflecting incorporation of the amendments into
165 the previously approved Development Plan Text prior to the consideration of this application by the
166 Board of Township Trustees.

167
168 FURTHER MOVED that all portions of the Development Plan Text of the Development Plan of the
169 *Lewis Center Ravine Condominium SFPRD - Single Family Single Family Planned Residential District*,
170 Zoning Application #ZON-17-09, not subject to the amendments herein, together with the balance of the
171 Development Plan, shall continue in full force and effect.

172
173 Seconded by Ms. Trebellas
174 Vote on Motion: Mr. Duell-yes, Mr. Pychewicz-yes, Ms. Trebellas-yes, Mr. McNulty-yes, Mr. Doherty-
175 yes
176 Motion carried

Attachment “A”

Listing of Recommended Amendments

177
178
179 **Re: Zoning Application #ZON-19-05 of Epcon Lewis Center LLC, owner and applicant, requesting**
182 **amendments to the Development Plan Text of the approved Development Plan for the *Lewis Center***
183 ***Ravine Condominium SFPRD - Single Family Single Family Planned Residential District*, Zoning**
184 **Application #17-09.**

- 185
186 1) Provisions in the Development Plan Text of the approved Development Plan related to the
187 requirement of a minimum distance of 10’ separation between adjacent buildings without intrusion of
188 any type into that area (e.g., roof overhangs, egress windows, bay windows, bumpouts, etc.) are
189 modified to allow at grade concrete slab or paver patios to encroach not more than four (4) feet into
190 such separation between adjacent buildings on one building side only and only on the side initially
191 designed for an outdoor courtyard.
192
193 2) Provisions in the Development Plan Text of the approved Development Plan related to the clubhouse
194 building use are modified to allow the clubhouse building to include a sales office designed to operate
195 within the clubhouse as a permitted use under the following limitations and requirements: the sales
196 office use may continue until such time as all homes are sold by the developer; after such initial sales,
197 the sales office shall cease operations; sales office hours of operation shall be the same as the hours of
198 operation specified for model homes under Section 10.04 b) 1) of the Zoning Resolution; and the
199 clubhouse shall include six (6) dedicated parking spaces.

200
201 Meeting continued with Zoning Application #ZON-19-06
202 Minutes prepared by Cindy Davis, Zoning Secretary

203

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204 On March 3, 2020, Mr. Pychewicz made a motion to approve the January 16, 2020 minutes of the Orange
205 Township Zoning Commission for Zoning Application #ZON-19-05, Epcon Lewis Center, LLC, with the
206 following corrections:

207

- 208 • Line 34 – “2006” should read “ZON-19-06”
- 209 • Line 34 – “2005” should read “20-05”
- 210 • Line 37 - “2005” should read “20-05
- 211 • Line 56 – “17” should read “17”; “17.09” should read “17-09”
- 212 • Line 57 – “problem free” should read “problem-free”
- 213 • Line 80 – “lineate” should read “interlineate”
- 214 • Line 93 – “we” should read “was”
- 215 • Line 96 – “...now that we have the Trustees’ comments.”
- 216 • Line 98 – “2005” should read “20-05”
- 217 • Line 139 – should read “for the sake of not over complicating....”

218

219 Seconded by Mr. Doherty

220

221 Vote on Motion: Mr. Duell-yes, Mr. Pychewicz-yes, Mr. Doherty-yes

222 Motion carried

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