

## Zoning Commission

1 **Rezoning Application #ZON-21-02**

April 27, 2021

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4 **Rezoning Application #ZON-21-02, Real Property Design and Development LLC**, Requesting to  
5 rezone 4.96 +/- acres of a 5.474 parcel currently zoned Farm Residential District (FR-1) to Planned Elderly  
6 Residential District (PERD) to allow 22 attached residential rental units, restricted to ages 55 and older,  
7 and associated amenities. The subject property is currently owned by Iraj Hagnazari and is located at 8119  
8 South Old State Road, Lewis Center, OH 43035 with parcel number 318-423-01-011-000.

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10 Roll Call: Adam Pychewicz, Dennis McNulty, Christine Trebellas, Ciara Harris, Leslie Pierce

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12 Township Officials Present: Michele Boni, Development and Zoning Director

### 13 MOTION TO RETURN FROM RECESS

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16 Mr. McNulty made a motion to return from recess for Rezoning Application #ZON-21-02, Real Property  
17 Design and Development, LLC; seconded by Ms. Trebellas.

18  
19 Vote on Motion: Mr. Pychewicz-yes, Mr. McNulty-yes, Ms. Trebellas-yes, Ms. Harris-yes, Mr. Pierce-  
20 yes

21 Motion carried

### 22 APPLICANT PRESENTATION/COMMISSION QUESTIONS & COMMENTS

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24  
25 John Wicks, Real Property Design and Development, 15 N. Liberty Street, Powell, Ohio 43065, I'd like  
26 to address the changes that have been made since the previous meeting. As I mentioned in the first  
27 hearing, my proposal was in direct response to the 2018 Land Use Plan published by Orange Township.  
28 In that study there are multiple mentions of lack of housing options for the aging population and even  
29 specific mentions of this part of Orange Township. I feel like this is the perfect site for a PERD type of  
30 housing considering it's got its direct access to the traffic signal on S. Old State and does not have any  
31 vehicular access to the other neighborhoods surrounding the property. It's also adjacent to another PERD,  
32 so in my mind this proposal was born out of the study done by Orange Township and I still feel it's  
33 almost the perfect use for this property. Couple changes that were made since the last hearing, the most  
34 obvious is the addition of a cul-de-sac at the end of Monroe Drive. That was directed by the County  
35 Engineer's Office so the public street didn't terminate into a private street. I met with the Orange  
36 Township Fire Chief and shared this drawing, and he suggested they would do a formal review at a later  
37 date once the plan has been a little bit more formalized. Another change made was a 40% increase in  
38 setback along the north side of the property from 30' to 42'. There's a general shift of the site improve-  
39 ments to the south and west, mostly to make the adjustment for that building setback as well as increase  
40 the distance to the folks to the east as well. We revised the sidewalk configurations so every resident has  
41 direct access to the sidewalk network. We removed the street lights from the proposal altogether, and we  
42 added additional landscaping buffer along the east side of the property. We added some screening trees to  
43 the west side of the property between the northwest building and S. Old State Road because we were not  
44 able to increase that building setback. The inability to do that was because of the fixed distance between  
45 the east and west property lines and the only way to accomplish that was to either reduce the setbacks  
46 between the buildings or reduce the unit sizes themselves which we didn't want to make the footprints  
47 any smaller. The other major change is we are designating these as condominiums now versus  
48 apartments. Many of these changes were in response to public comments that were received at the  
49 previous hearing. I sent letters out to 15 residents in close proximity to the property, and I held a meeting  
50 on the property on April 8. Of the 15 folks invited, 4 people came out, and we had a great discussion,

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51 shared with them the revised plans and showed how I addressed some of the concerns they had. I feel it  
52 was a very productive and positive meeting. After that I became aware of a petition and some other direct  
53 and online correspondence that were being circulated about the proposal and I'd like to address some of  
54 the comment time. Probably the biggest and most apparent comment was the concern for property values  
55 as they relate to apartments and rentals. I want to reiterate that this was not intended to be a standard  
56 apartment project. It is designated as a 55 and over community and I did a little research on that. It's a  
57 Federal designation, persons 55 and over. The 80% rule is directed by that Federal program, so it's not an  
58 Orange Township law, it's not even a State law, it's a Federal regulation that when you have a 55 and  
59 over community the limitations and restrictions they put on that designation are from the Federal level.  
60 Because we are changing the product to condominiums, we talked about that at the first hearing, and after  
61 all the feedback from the Township and folks as well, we decided to make that change. We do reserve the  
62 right that the individual condo owners would reserve their right to rent their units out because there is a  
63 market for folks who want to rent in that age 55 and over demographic. In fact, I received 2 phone calls  
64 today from residents inquiring about this and the potential to be able to rent a unit after they sell their  
65 properties in the area, so that was kind of confirmation for me that this is certainly a product that's in  
66 demand. I want to make it clear that at no point did I ever suggest that this would be a low rent or Section  
67 8 housing. In fact, I did state in the previous hearing that it was going to be market rate rents. There were  
68 some concerns that I was not forthcoming with specific rent amounts and I was as forthcoming as I could  
69 be, meaning it is going to be driven by the cost of the project which we don't have full design plans on  
70 this and we don't know what the requirements are going to be, so the zoning is the first of many steps to  
71 get to that level, to get to that position. But we were never looking to make this a subsidized housing  
72 project. I know there are some folks that are for that and I agree with that; I think there are places where  
73 that is necessary. I just don't feel like this is a good location for that based on its proximity to single  
74 family developments and longstanding neighborhoods. I think there was some question too if I was being  
75 misleading in one of my divergence requests. At no time did I ever state or imply that this project was  
76 going to be affiliated in any way with The Inn at Bear Trail. The point I was trying to make was that  
77 together they are going to be a PERD designation over 10 acres. They are contiguous and they are a  
78 similar type of housing option, one independent living, one assisted living, and they work well together.  
79 So I was not trying to be misleading and in fact the reason why I proposed the divergence was because we  
80 know we are under 10 acres specifically for this parcel. There were some comments or questions about  
81 the existing house, whether or not I was forthcoming with information on what the intent for that was. I  
82 thought I was clear; if I wasn't, I apologize. The existing home which we now show on .488 acres has  
83 never been part of this application. It's always been intended to be split off and sold as a single family  
84 residence, not converted into office space or anything like that. It's just going to remain a single family  
85 home in the neighborhood. In fact, I feel it helps to maintain the character of your drive along Old State  
86 Road as you see some of these older homes that are fronting on the property with the developments back  
87 behind there. That's all that I wanted to go through at this time. I can answer any questions and I also  
88 have my architect, Michael Maistros on the call with us as well as civil engineer Kyle Weber with  
89 Kleingers Group, so if there are some questions I can't answer, they certainly can.

90  
91 Ms. Boni: The Commission at the last meeting asked if we could have legal counsel present, so we do  
92 have Pete Griggs here if you have any legal questions.

93  
94 Mr. McNulty: I like the fact that it's gone to condos and I always thought ownership of this was critical; it  
95 was critical for me. I guess if someone owns a condo and decides to lease or rent it, that's okay. Who  
96 owns that private home that's in front? Is that a private owner that could be sold at some future time?

97  
98 Mr. Wicks: It's all part of the same property right now. It's 5-1/2 acres, it's basically the old house, the  
99 barn and all the open space, and I'll be purchasing, I haven't purchased it yet, my purchase is contingent  
100 on the approval of zoning and due diligence items but once I purchase the property I will do the lot split  
101 as I show with the survey, and I do recognize that we didn't update the survey. I didn't want to go to the

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102 expense of that until we felt we had a positive move forward here. There will have to be minor changes to  
103 the survey because of the cul-de-sac but that would just be sold off as an individual single family lot with  
104 the house on it.

105

106 Mr. McNulty: But you own the property or will own the property at some future time, right?

107

108 Mr. Wicks: Yes, the lot split will not take place until after I purchase it and then I will be the owner of the  
109 house until such time I complete the lot split and sell it to an end user who would use it as a dwelling unit.

110

111 Mr. McNulty: So your intention is to leave that as a single family home and not add more condos to your  
112 development?

113

114 Mr. Wicks: That's correct. If somebody bought the house and wanted to change its designation, they'd  
115 have to come before you and change the zoning on that piece of property. That's not part of the rezoning  
116 application.

117

118 Mr. McNulty: And the private streets, there will be a condo owner's association?

119

120 Mr. Wicks: That's correct.

121

122 Mr. McNulty: And they will maintain all the internal streets?

123

124 Mr. Wicks: Yes.

125

126 Mr. McNulty: I'm glad with the changes you made with the sidewalks and setbacks; those are all good  
127 things.

128

129 Mr. Pychewicz: I couldn't agree more with Dennis. I think you definitely listened to comments from the  
130 Board and the public, increasing setback lines, adding additional screening to the landscaping to really  
131 screen out all those single family residences as you wrap that around on the east side, the sidewalk  
132 connectivity you've added in. I just think these are all good improvements and I agree with you, I think  
133 this is a good fit for this particular lot given what's right next to it.

134

135 Mr. Pierce: I certainly appreciate you reaching out to the residents and connecting with them and certainly  
136 taking their comments into serious consideration and making some changes. You noted that 55 and older  
137 was a Federal designation. Is that something you have to apply for and if so, is that something you've  
138 already done or plan to do?

139

140 Mr. Wicks: I have an email from my attorney who was unable to join us and he basically sent me some  
141 information. It's called housing for older persons and it lists an overview of requirements to qualify as  
142 housing for older persons, the following must be met (these are the criteria through the Federal  
143 Government): at least 80% of unoccupied units must be occupied by 1 person 55 or over. I guess  
144 unoccupied means that if you're trying to adapt an existing facility to meet this criteria when in fact we're  
145 starting out at the get go as 55 and over, so 80% of occupied units must have 1 person of 55 or over  
146 resident. The owner or manager of the community must publish and adhere to policies and procedures  
147 that demonstrate an intent to provide housing for persons 55 and over and the community must comply  
148 with HUD's housing and urban development regulatory requirements for age verification of a resident.  
149 Then there's a list of policies and procedures to accomplish this and what I can tell you today is that we  
150 intend to comply with this. I don't understand most of this, it's mostly legal jargon, but my intent is and  
151 I'm verbalizing this to you, we want this to be a 55 and over community, we're not going to mandate that  
152 it's 100%; we're going to follow the Federal regulations which is what Orange Township appears to have

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153 -adopted, so we'll use phrases like adult living, adult community, those kinds of things published in  
154 common areas. And I'd be happy to share this document with you if you'd like me to send it to you, but I  
155 believe it's my attorney's summary of this Federal policy.

156  
157 Mr. Griggs: Your Code pretty much reiterates the HUD requirements in the housing for older persons act.  
158 Mr. Wicks mentioned some examples of the policies and procedures, I would like to see those included as  
159 examples as part of the development text only from the standpoint that I think that would ensure that it  
160 will be an age restricted community. I'm not saying to hold it up but I talked to Michele and we thought if  
161 the Commission agreed to make that a modification that they would provide those sample policies  
162 showing adherence to verification of the occupancy requirements when they get to the Trustee level to  
163 make that part of the development text. That's just a recommendation from our office, and I think that  
164 would answer any type of questions on enforcement down the line.

165  
166 Ms. Trebellas: I agree. Usually when we have condo developments we require an example of the condo  
167 documents to show not only that you want the development text to show that this is an age restricted  
168 community, the text should also show the intent that this is to be a condo with a condo association so, if  
169 we could have example condo documents to show that this is your intent, I think that will help the debate  
170 over whether this is a condo or rental complex as well.

171  
172 Mr. Griggs: That's very typical of most communities, and we did include that as part of the modification.

173  
174 Ms. Trebellas: I would say that both of them should be included but definitely the age restricted guidance.

175  
176 Mr. Griggs: To be an example. We understand the final documents would vary but I agree an example of  
177 the condo documents and the related policies and procedures that are required by HUD are made a part. I  
178 don't have any issues with enforcing it and, again, if the Commission sees fit, we have included it as a  
179 modification so we can continue to move this application along.

180  
181 Mr. Wicks: I don't have a problem with that; it's fair to want to see those documents at the Trustee level.  
182 It's something we can commit to doing prior to the Trustees' meeting.

183  
184 Mr. Pierce: You indicated, and this is in regard to the rules with HUD, and I like that it's targeted to 55  
185 and older, we're going to condos; what are these going to sell for?

186  
187 Mr. Wicks: All I can really say again, it is based on cost. We're doing this for profit but the sale price on a  
188 property is based on its cost plus some markup and dependent on the market conditions, so I don't even  
189 want to throw a number out there and then be stuck with that down the road. It will be market rate,  
190 whatever the market can bear.

191  
192 Mr. Pierce: I saw a lot of comments regarding Section 8; I wasn't sure what drove the numerous  
193 comments about that. However, you did make a comment, and I just want you to clarify it so I can  
194 understand the translation, that subsidized housing or affordable housing would not be appropriate for this  
195 community for these residents of the single family next to it and the area. What do you mean?

196  
197 Mr. Wicks: I think there is a stigma to the connotation of Section 8 or subsidized housing.

198  
199 Mr. Pierce: Do you agree with that stigma?

200  
201 Mr. Wicks: It's a perception; I don't necessarily agree or disagree with it. I think it's a perception and in  
202 this world, perception is a reality in a lot of cases. You have a lot of proud homeowners here who like that  
203 they have seen their property values increase and would not like to have something come in here and

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204 reverse that direction, and sometimes the stigma of having a subsidized housing adjacent to the  
205 neighborhood does bring a negative vibe. I'm not saying that's my opinion, I'm just saying that's a public  
206 perception and we've heard that from at least a dozen of the letters that I saw.

207

208 Mr. Pierce: But you don't necessarily agree with that, right?

209

210 Mr. Wicks: I don't because I know there are strict procedures in place to vet any persons that are taking  
211 advantage of public assistance for housing but if this were going to be strictly a rental community, I could  
212 see that being more of an issue but since it is now not a rental community, it's a condo community, and  
213 the individual owners are going to be allowed to rent their homes out They can rent it out to whoever they  
214 wish to I suppose as long as they can afford the rents.

215

216 Mr. Pierce: So if someone comes along and they're willing to accept Section 8 or a subsidized voucher, it  
217 still becomes to some degree a subsidized property, right?

218

219 Mr. Wicks: I don't know the specifics of it. At this price point it's unlikely that subsidized housing would  
220 be a component here; however, I don't know the laws. I know due to disparate impact, we can't say  
221 anywhere that there will be no subsidized housing, and we don't plan to say that.

222

223 Mr. Pychewicz: I don't think that that's something that any person can dictate. If someone was to come  
224 over and rent and qualify, it's not something that John Wicks or anyone in his organization able to say yes  
225 or no to, correct?

226

227 Mr. Griggs: Correct. It's going to be no different than any condominium association when it's turned  
228 over; they can impose their own type of rental restrictions, that can't be one of them, but they can restrict  
229 the number of rentals and all those types of things, so it's really something that Mr. Wicks cannot answer  
230 with respect whether someone in the future may qualify.

231

232 Mr. Pychewicz: It's just something that would apply to just about any development such as this. You  
233 couldn't necessarily restrict it because it's against Federal law which is what I think John is stating.

234

235 Mr. McNulty: I looked into Section 8 a little and they would have to apply for it to be Section 8 to the  
236 Federal government and obviously there's no intention from John or his people to do so. I don't believe a  
237 single owner of a condominium could apply for that; I don't think that would fly in the Federal  
238 government.

239

240 Mr. Pierce: That's not accurate.

241

242 Mr. McNulty: I looked into a little bit and I don't have all the facts to that.

243

244 Mr. Pychewicz: I would say it's kind of a moot point at this time just because it's not even something  
245 that's being pursued but it's not something that's also being restricted, so if we can just move on from  
246 that; I think we all have kind of an understanding that it's not the intent but it's also something that  
247 anybody here is saying it's not a possibility.

248

249 Ms. Trebellas: I appreciate that the applicant tried to incorporate a lot of our comments, like the site  
250 blinding they now have, light fixtures on the units, sidewalks were added, more setbacks, more  
251 landscaping, but the original development plan had access for the single family home on S. Old State, the  
252 old farm house that's remaining. What access is being provided now because it looked like originally it  
253 was going to vacate the curb cut on Old State and have to use the public drive or some of your private  
254 streets to get in or out which I'm not opposed to, I just wanted to know if that's still the plan, has that

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255 been removed, and the County Engineer, who really has the final say, have they seen your new site plan  
256 and how this access is going to happen?

257

258 Mr. Wicks: I basically separated the existing driveway from the proposed emergency driveway  
259 completely; that was at the suggestion of the County Engineer. They have a policy typically that if you  
260 have a new development, you have new roads, existing houses have to take access to the new roads. In  
261 this instance, because it's private streets, that's where we ran into kind of an issue, so what we show now  
262 are 2 separate entrances. There is the cul-de-sac that will abut that property and I think the resolution is if  
263 that house is ever torn down and a new house is put up, they have to take access to Monroe Drive and  
264 they have to vacate their access to S. Old State Road.

265

266 Ms. Trebellas: I was curious because I understand the County Engineer is trying to limit curb cuts on Old  
267 State. Has the Fire Department seen it as well? Did they review the new site plan or the old site plan?

268

269 Mr. Wicks: I sat down with lieutenant and looked at this site plan, and he said from what he can tell it's  
270 not going to be a problem but he didn't want to go through the process of measuring everything right now  
271 until he knew this was going to be the plan we're going with, so he said he reserved the right to review it  
272 at a future date.

273

274 Ms. Boni: And I confirmed with Mike Clark from the Fire Department that they did have that meeting  
275 and he was okay with moving forward with it.

276

277 Ms. Trebellas: A lot of times there are letters provided from service providers, like the County Engineer  
278 or Fire Department, saying they have reviewed it, but since they were missing from your application, I  
279 wanted to make sure it was on public record that these meetings had occurred. I know you still have 2  
280 divergences. Normally I'm against divergences but in this case since you're saving the old farm house  
281 instead of tearing it down, I'm going to grant you a couple extra units because you would have been able  
282 to fit them in if you tore down that house, and I like the idea since I'm preservation minded about keeping  
283 the farm house and I tend to agree with Adam in terms of I know the neighbors would like to see single  
284 family homes here but because the access is limited off that public drive that goes in front of the existing  
285 PERD, I don't have a problem with this also being a PERD because I don't know if single family homes  
286 are the best use here, so I do agree this seems like a good compromise, it is age restricted, and if those  
287 documents involving the age restriction and condo documents are in the final development text before it  
288 goes to the Trustees, I'd feel a lot better.

289

290 Ms. Harris: I agree with a lot of what Christine said. I like that the private driveway for the farm house  
291 was removed from that private street, I like the sidewalks that were added, I like the landscaping that was  
292 added, and I like the perception from S. Old State that it's still a single family residence there. My only  
293 comment is about the privacy between that single family house and the 2 buildings that are at the back  
294 facing that single family house. If you could add some additional landscaping for both the future owner of  
295 that farm house and the future owners of those 2 units. I looked on the landscaping plan and I think I only  
296 saw trees, so I would just suggest adding something additional.

297

298 Mr. Wicks: There's a pretty good distance between the back of that house and the property line; I think  
299 it's 50' or 55', so that's all grass at this time. And like you said, we have 4 street trees there proposed. We  
300 could probably throw some additional evergreens along the back of the single family lot. I agree with you  
301 that that would probably provide some more privacy there. We're happy to do that.

302

303 Mr. Pychewicz: Was there any further comment from the Board? None. Then we'll close the meeting for  
304 comment and Michele, was there anything you had before moving forward with the recommendation?

305

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306 Ms. Boni: I know there's a lot of people submitting via chatroom on the YouTube channel and I tried to  
307 relay the message to as many residents as possible throughout today and last week but we did have a  
308 public comment meeting in March regarding this application and the comment was closed after that  
309 meeting. I know a lot of residents were informed after the fact. We are only required to notify residents  
310 within 200' of the subject property, which we did, and we did have residents in attendance for that  
311 meeting. However, everything you email, call, we do take notes and the comments we'll pass along to the  
312 Board of Trustees as we will reopen public comment then. The last thing before we make any  
313 recommendations, I can add the evergreen language if the Board would request that.

314  
315 Ms. Trebellas: I have no objection to it; I think it's a good point. I know most of the comments we've  
316 heard are from neighbors to the north and to the east, but it would make life potentially better and easier  
317 to sell that property if there was that buffer.

318  
319 **RESOLUTION TO RECOMMEND APPROVAL OF ZONING APPLICATION #ZON-21-02 OF**  
320 **REAL PROPERTY DESIGN AND DEVELOPMENT LLC, WITH MODIFICATIONS.**

321  
322 Motion by Ms. Trebellas to recommend to the Board of Township Trustees (the "Board") the  
323 conditional approval of Zoning Application #ZON-21-02 of Real Property Design and Development LLC, the  
324 property owner, requesting the rezoning of 4.96 +/- acres from Farm Residential District (FR-1) to a Planned  
325 Elderly Residential District (PERD), with modifications, upon finding that it is in the interest of the public  
326 convenience, comfort, prosperity, or general welfare, and is sufficiently in accordance with the comprehensive  
327 plan. The version of the application recommended to be approved consists of those materials submitted by the  
328 applicant in a hard copy binder titled *Independent Living at South Old State*, the pages of which are each stamped  
329 RECEIVED with ORANGE TWP. ZONING above and FEB 12 2021 superimposed by Orange Township  
330 Zoning, modified as reflected in the updated Development Plan dated April 20, 2021 (collectively, the  
331 "Development Plan") and including additional modifications listed below:

- 332  
333 1. The Applicant, pursuant to Section 15.03(a)(3) and (4) and Section 15.09(t), shall provide as part of the  
334 development text a sample condominium declaration and related policies and procedures showing  
335 adherence to and verification of the occupancy requirements for an age restricted 55 years of age or  
336 older residential development under the Housing for Older Persons Act.  
337 2. The Applicant shall replace each instance of the phrase "Preliminary Development Plan" with "Final  
338 Development Plan".  
339 3. Provide additional evergreens along eastern property line of existing single-family home (farmhouse).

340  
341 Seconded by Mr. McNulty

342  
343 Vote on Motion: Mr. Pychewicz-yes, Mr. McNulty-yes, Ms. Trebellas-yes, Mr. Pierce-yes, Ms. Harris-yes  
344 Motion carried

345  
346 Meeting adjourned at 7:45 p.m.

347 Minutes prepared by Cindy Davis, Zoning Secretary

348