

Zoning Commission

1 **Zoning Application #ZON-19-04**

December 17, 2019

LEGAL NOTICE

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5 Notice is hereby given that the Orange Township Zoning Commission will hold a public
6 hearing on Tuesday, December 17, 2019 at 7:00 p.m. to consider the following
7 application:

8
9 **Zoning Application #ZON-19-04, Little Bear Village Homeowners Association**

10 **Inc.** The application is an amendment to the currently effective zoning development
11 plan for +/- 33 acres within the Little Bear Village Single Family Planned Residential
12 (SFPRD) District, approved under application #18609 of Little Bear Development
13 LLC.

14
15 After the conclusion of the hearing, the matter will be submitted to the Orange
16 Township Board of Township Trustees for its action.

17 The hearing will be held at the Orange Township Hall, 1680 East Orange Road, Lewis
18 Center, Ohio 43035.

19 The text and maps of the proposed amendments will be available for examination for a period
20 of at least 10 days prior to the hearing at the Orange Township Zoning Office, 1680 East
21 Orange Road, Lewis Center, Ohio 43035. Zoning Office hours are Monday through
22 Friday, 8 a.m. to 4:30 p.m., except legal holidays.

23 Michele Boni, Planning and Zoning Director is the person responsible for giving notice
24 of the hearing by publication.

25 *Mark Duell, Chairperson*

26 *Michele Boni, Orange Township Zoning*

27
28 *Publish one time on or before Saturday, December 7, 2019 in the Delaware Gazette.*

29
30 Roll: Mark Duell, Christine Trebellas, Adam Pychewicz, Dennis McNulty, Todd Dove

31
32 Township Officials Present: Michael McCarthy Legal Counsel
33 Jeff Beard Zoning Enforcement Officer

34
35 Mr. Duell: We are here for a new application, #ZON-19-04, Little Bear Village Homeowners Association.

36
37 Mr. Beard read the Legal Notice.

38
39 Mr. Duell: We have an email from Scott Sanders of Delaware County Regional Planning Commission
40 where he has indicated that Regional Planning has declined to hear this on their agenda because it is a
41 minor amendment, so we have nothing from Regional Planning.

42
43 **APPLICANT PRESENTATION/COMMISSION QUESTIONS & COMMENTS**

44
45 Brad Wentz, 6490 Pleasantview Drive, Worthington, Ohio. I am before the Zoning Commission trying to
46 get one sentence changed in the zoning about letting people rent space at Little Bear having to live in
47 Orange Township. I look at this as a business opportunity, I see the property has been vacant and I want

Zoning Commission

48 to be able to run the property the way it was meant to be run but be able to open it up to weddings, parties
49 and meetings to people outside of Orange Township, so I am coming before the Committee to see if we
50 can get that changed.

51

52 Mr. Duell: There are a couple of associated uses with that facility other than the meeting space or the
53 reception space.

54

55 Mr. Wentz: Yes.

56

57 Mr. Duell: There's a kitchen associated with a potential restaurant, a fitness facility; was it your plan to
58 open those up as well?

59

60 Mr. Wentz: I had a meeting with the Homeowners' Association (HOA) on Monday the 9th and had about
61 100 people there, so I went through the plans. My plan is to get the golf course up and running, I've been
62 told it's really not in the shape to play; get the pro shop open; try to get the wedding banquet facility
63 going. The bar and grill will be coming. I don't know if I'll do that initially, but I want to do this as
64 quickly as possible but I need to find somebody capable of running it, somebody who knows what they're
65 doing. There was somebody at the HOA meeting who tried to run it for a while under I think the name
66 Hungry Bear, and she kind of struggled because it wasn't open enough, but she has expertise in that
67 space, what she could and couldn't do, so she's willing to help me figure that out. I'll open it as soon as I
68 feel like we can run and operate it. The fitness center is there. There was some verbiage in this where it
69 kind of struck out a line. A homeowner brought this up to me that they'll have to pay to use it and they
70 can't bring any guests. My thoughts for the fitness center is it's their homeowners' dues, they can use the
71 fitness center for free. I don't care if they bring in guests, but I don't want to rent the fitness center out to
72 other people, I don't want to sell memberships, I really don't want anything to do with the fitness center
73 other than it's there for the homeowners to use at their leisure and be able to get in and out.

74

75 Mr. Duell: We have previously spoke and I was under the impression we only wanted to open up the
76 restrictions on renting the space. Some of the changes here would open up both the fitness center and
77 restaurant. It wasn't my intention because, as we've discussed, there's the general prohibition of
78 commercial establishments on the east side of the railroad in Orange Township, other than the special
79 disposition given to Evans Farm through the Comprehensive Land Use Plan. Not really wanting to go
80 there, opening up a restaurant is probably not something I'm all that interested in.

81

82 Mr. Wentz: I'm not interested in running a restaurant; we have the catering service so if we have parties,
83 we'll probably get a caterer. Caterers have come in and used that facility and served the food.

84

85 Mr. Duell: I was under the impression that you weren't really interested in using the kitchen there other
86 than allowing caterers to maybe warm stuff up.

87

88 Mr. Wentz: Is the bar and grill something you're opposed to being open up?

89

90 Mr. Duell: If there was some use associated with the residents as part of the golf course.

91

92 Mr. Wentz: It seemed like in the meeting there were a lot of questions when I said I was going to do the
93 bar and grill; a lot of people ask can we get the bar and grill going, we want to come and have a sandwich
94 or hot dog and sit on the deck. It seemed like that was pretty high on their list; it wasn't high on my list,
95 but it's there, it's functioning, it's got everything it needs to cook some hot dogs, but I certainly don't
96 want a restaurant where people come in, sit down and order food.

97

Zoning Commission

98 Ms. Trebellas: I agree with Mr. Duell. I'm a little concerned that if it's a bar and restaurant that you have
99 people leasing out, it could lead to an Applebee's or somebody's bar, and that is not appropriate as far as
100 I'm concerned. If it's just for the residents like it was, but if it's open to the public, then it becomes a
101 bigger issue because then you have a commercial establishment there.

102
103 Mr. Wentz: I was planning on having it open to the HOA plus anybody else that may play golf there.

104
105 Ms. Trebellas: So is the golf open up to everybody?

106
107 Mr. Wentz: Yes.

108
109 Ms. Trebellas: Then that means the bar and grill is open to everybody then, doesn't it?

110
111 Mr. Duell: I would think so. The golf was open to everybody.

112
113 Mr. Wentz: I'm not expecting to have people just show up at Little Bear and go down to the bar and grill
114 and turn it into a bar, but I don't know how to control that. One thought that I might take, I may give the
115 HOA membership numbers so they don't have to necessarily carry cash and they can just put it on their
116 tab. If I do sell some memberships to the kids for golf, they'll have a membership number, and possibly
117 make it that you have to have a membership number to buy from the bar and grill. That way, if people are
118 coming in and you're not with a member, there is no cash transaction to buy stuff.

119
120 Mr. Duell: Mr. McCarthy, how did this operate prior?

121
122 Mr. McCarthy: I have no idea. I drove through there when the first amendment was made regarding the
123 detached family condos, but I have never been in the clubhouse.

124
125 Mr. Duell: What was the legal setup?

126
127 Mr. McCarthy: The presentation that was made was directed at a desire that Mr. McCorkle had to have a
128 chip and putt course that people could bring their children to teach how to play. I think it's fair to say
129 there was a lot of drama at the time over the concept of the clubhouse but the idea was the people playing
130 golf would be able to get a snack at the snack bar although the fitness center was for the residents, it was
131 not laid out to be used by others. The meeting rooms were to be used in the end I think we ended up with
132 governmental agencies serving the Township, rentals to residents and there might be one other class that
133 I'm not remembering. The primary focus was not on the meeting rooms or the kitchen; there was a
134 horrible amount of discussion on the limitation of the size of the kitchen which was a limitation on the
135 overall size of the kitchen and meeting room areas. I do remember the Zoning Commission was surprised
136 to get the application given the Comprehensive Plan. The surrounding neighborhood showed up and I
137 think we had at least this many people from those areas more or less clamoring for it. The Commission
138 decided to modify the Zoning Resolution to cover the concerns they had and when that was done, they
139 moved forward with the application.

140
141 Mr. Duell: So what does the Zoning Resolution permit with regard to golf courses?

142
143 Mr. McCarthy: Right now Article 10, Golf Course Community, I think it might be 10.09, is in there. This
144 started out as three separate applications; Single Family, Multi-Family, and Planned Commercial, and the
145 Township did not want Planned Commercial there because they had been through a lot of debates and
146 legal threats at the time, and they were not inclined to make it commercial in any manner, at least in terms
147 of the zoning. They did try to wed the use of the facility to the golf course operation but also to the
148 neighbors.

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149 Mr. Wentz: There really isn't much of a kitchen in there, so you certainly couldn't cook for a big party or
150 a meal in that space. You could probably only fix sandwiches and stuff.

151

152 Mr. Dove: So we're not changing the zoning, we're not going to PC, we're leaving the health and fitness
153 to homeowners only, so there'll be a number of some sort, the golf is open to anyone and the banquet
154 center can be open to anyone, and everything else stays the same.

155

156 Mr. Wentz: Yes.

157

158 Mr. Dove: We're not adding buildings, we're not...

159

160 Mr. Wentz: The only thing I ask, what I call the warehouse, some people call it the maintenance building,
161 right now there's tarps on the right hand side because there's some sections that are outside, there's some
162 under roof but exposed to the elements, and at some point I wouldn't mind securing that with a door and
163 putting some material up that would enclose that section, but I don't want to add on anything or build
164 anything on the land. I really don't want anything to do with the land except operate the golf course and I
165 don't know if I would need approval if I decided to change the greens from their current state which is
166 kind of unplayable to a different type of material, whether that be grass or another synthetic. I've been
167 looking at some different types of artificial greens, so I didn't know if I would need to come back to
168 change those.

169

170 Mr. Dove: Would you have any hour restrictions on the banquet center?

171

172 Mr. Wentz: Yes, we're talking about 11:00 or midnight.

173

174 Mr. Dove: Would there be any use restrictions or would it be open to any sort of event?

175

176 Mr. Wentz: I don't know if there are any restrictions currently, but I'm not really interested in having like
177 a bachelor party there or live bands outside, fraternity parties or stuff like that. Personally I would not do
178 that. I explained to the homeowners this really isn't my livelihood so I don't need to make every penny
179 that's possibly there, but I would like it to be more open. I also know there's a place in the fitness center
180 for massages but I'm not interested in having that. That's just going to be something else that's torn
181 down. I'm okay with the restrictions on the property on what I can and can't do; that's not a problem. And
182 I did say outside live bands, and a few of the homeowners said they were okay with having a band here or
183 there but, again, I wouldn't do that late into the night when people are trying to sleep; that might be more
184 of a daytime thing. It's hard for me to market and advertise a wedding or meeting venue, and you have to
185 Google search Orange Township weddings to pop up; I can't do Columbus, Ohio or Delaware. I just
186 don't know how I would market it if that were my restriction, and I certainly don't want to catch me if
187 you can; that's not my style either. I just want this to be official, and I can move forward and do what I
188 want to do.

189

190 Mr. Dove: And you had 110 homeowners show up?

191

192 Mr. Wentz: I would say 110.

193

194 Mr. Dove: How many homeowners are there?

195

196 Audience Member: 145 homes.

197

Zoning Commission

198 Mr. Wentz: And I didn't get any negative feedback. It seemed like everyone was very positive about
199 getting something happening and going again so they can enjoy the fitness center, golf and use that
200 facility.

201
202 Mr. Duell: As I said, anything that was happening before as long as it was consistent with the originally
203 approved zoning is okay with me except taking off the limitation of the residents of Orange Township for
204 the meeting space as discussed. I don't really want to open up or call a restaurant. The clubhouse was
205 entitled to a snack bar and a restaurant lounge not to exceed 1140 square feet.

206
207 Mr. Dove: That was the dining room?

208
209 Mr. McCarthy: There was change by the Trustees to 3950 which also included the kitchen.

210
211 Mr. Duell: Do you need the restaurant lounge if we just leave open the possibility of using a snack bar?

212
213 Mr. Wentz: I really don't know what a restaurant lounge is.

214
215 Mr. Duell: It's kind of broad; I think that's the concern when we take off the limitation on the clubhouse.
216 Restaurant lounge is one of the uses I'm not really excited about. Snack bar is a little different.

217
218 Mr. Wentz: The bar and grill has a little L shape for cooking hot dogs, a little L shape that's the bar and
219 then a T shape room that has 6 or 7 tables in there, and people have used those for birthday parties. I'm
220 assuming that's what they're considering as a restaurant lounge because there's no other place; the top
221 floor is just a banquet facility.

222
223 Ms. Trebellas: For some reason I thought there was a bar in there; is that the lounge versus the snack bar?

224
225 Mr. Wentz: There is a very small L'd off section that is kind of a bar setting that has some coolers
226 underneath and there's still some beers in there and some other stuff. I wouldn't consider that a bar; it's
227 no longer than maybe a table and a half and it's connected to the pro shop. You go out of the pro shop and
228 you can go into this little room that's probably that 1100 square feet. The other side is the exact same L
229 shape and that's where the grill and refrigerators are. I'm assuming that's where you'd make the snacks.

230
231 Mr. Duell: Is the pro shop on the first floor?

232
233 Mr. Wentz: The basement floor. It's a walkout lower, so the top floor is the banquet facility around the
234 back.

235
236 Mr. Duell: How many floors is it?

237
238 Mr. Wentz: Two, the banquet facility in the back, then there's a catering room and then storage, then
239 there's the front entrance and some bathrooms. You go downstairs, it's a walkout, and there's the pro
240 shop, this bar and grill and the fitness center, then there's a theater room.

241
242 Mr. Duell: Can we just take out this reference to the restaurant lounge?

243
244 Mr. McCarthy: If it's agreeable to the applicant and the Commission, yes.

245
246 Audience Member: The homeowners wouldn't like that.

247

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248 Mr. Duell: The proposal would be to leave the snack bar in and take the restaurant lounge out because we
249 don't want it to be commercially available. It's hard for us to control what's going on in individual pieces,
250 so I would rather take the restaurant and lounge out and leave the snack bar in, and make the snack bar
251 kind of the restaurant. It would still be available for stuff associated with...

252
253 Audience Member, Little Bear Condos, if you're changing the restaurant lounge to a snack bar, what
254 limitations, if any, would a snack bar have relative to the current language which is the restaurant?

255
256 Mr. Duell: The snack bar is already in there and all it says is snack bar, so I'm assuming that would be the
257 existing...

258
259 Audience Member: Would there be any limitations on how it was run before?
260

261 Mr. Duell: My intention is that it would be run the same because he's the applicant before us now, but the
262 zoning we make tonight, continues with the property, so if he were to sell or his interest goes somewhere
263 else and it says you can operate a restaurant in there and we take off the limitation that Orange Township
264 residents only or your community only, you don't know what could end up in there. Because we're taking
265 off that limitation, we don't want to be free and loose because we don't want any commercial establish-
266 ment east of the railroad tracks and certainly not in your backyard.

267
268 Jim Kane, 1161 Little Bear Place, Lewis Center, can you clarify that because right across the street from
269 us there's a commercial property there for the nursing home. So is there something different?
270

271 Mr. Duell: There is. They came to us with an application for that facility and they wanted to do a Planned
272 Commercial District, and we told them absolutely not. What we did, he talked about stopping and
273 changing the zoning here for the golf course, but we stopped and added a new type of district in the
274 Township, Planned Elderly Retirement District (PERD) that has extreme limitations on it that that's about
275 the only thing that could go there is what is there. We felt that was good for the community because that's
276 not the type of commercial establishment that has a lot of traffic or any types of problems, so that's what
277 is there; it's a special district, it's not commercial, at least in the eyes of zoning.

278
279 Ms. Trebellas: Which means as a commercial establishment, it cannot move in there, so it wouldn't be all
280 of a sudden you could have restaurants or retail stores or things like that; it has to stay Planned Retirement
281 Community.

282
283 Mr. Wentz: If it stays as a snack bar, will I still be able to serve the beer, alcohol?
284

285 Mr. Duell: Is there a previous alcohol license?
286

287 Mr. Wentz: There's a D5 license that the owner let lapse. The D5 license is a full license; it went back
288 into the hopper. There's 8 people with applications in; there's only 7 D5 licenses left, so we're in the
289 process of getting what's called a D5I license which is a full bar but there's restrictions. You have to have
290 at least a 4000 square foot facility, you have to be able to feed at least 100 people, you can't have more
291 than 25% of your sales be liquor or alcohol, and the property meets all those for a D5I, and we're
292 assuming we'll get one of those. I don't know if I can have too many weddings there if we can't serve
293 alcohol. I understand you have to protect this property if I'm not in the picture any more but I'm trying to
294 make this real easy, and running a restaurant does not sound easy at all. I'm not trying to run a fitness
295 center, but I'm just trying to run a snack bar where people can get a hot dog and if the kids are there, the
296 parents can drop them off, they have their membership, they can get some French fries or pizza, a
297 Gatorade or a pop, people could come, adults could play and grab a snack.
298
299

Zoning Commission

299 Mr. McCarthy: I can't find a definition for snack bar.

300

301 Ms. Trebellas: It's not in our definitions in zoning; I tried to find it; neither is restaurant or lounge defined
302 in our Zoning Text.

303

304 Jerry Miller, 8287 Oak Creek Drive, Lewis Center, I'm the President of the Little Bear HOA. The HOA
305 Board has met with at least six potential buyers. These buyers wanted to do anything from open a four or
306 five story apartment complex to a top golf entity, they wanted to take the golf course and turn it into other
307 things, As a board we were adamantly against it for a number of reasons. We didn't want the light, the
308 noise, and we vetted these individuals, Everything that Brad wants to do, not only is the board unani-
309 mously in favor of it, but there was over 100 people at the meeting which was more people at that
310 meeting than any general HOA meeting we've had. The home values of Little Bear have dropped
311 because it has been sitting vacant since Bill (McCorkle) died. Realtors are talking to each other saying
312 don't buy in Little Bear because it's in such an uproar and they can't have things done. My house was one
313 of the first to be built on the west side. I've been there almost 10 years, it's a custom built \$4-500,000
314 home. I'll address a couple issues differently, but what's considered the bar and grill, there's only 5 or 6
315 chairs in the bar area, and Brad said the counter for that little cook area, if you had 4 people standing side
316 by side, you'd be bumping shoulders. It's not a commercial bar, not a commercial entity, and since the
317 golf course was zoned to be commercial and that anybody can play golf there, it's like telling a resident
318 who lives in Delaware, Columbus or Powell that they can't go to the Wendy's on 23 to buy a sandwich. If
319 the golf course were open, anyone can play there. We're adamantly for this because we want Little Bear
320 revitalized. There have been too many instances where the Board of Health has had to be called out
321 because the small lakes are full of rodents. The golf course was not properly maintained where there was
322 literally just about any kind of wild animal you can envision going through there, so there's health and
323 safety hazards and the intent with Brad is to clean all that up. The other thing is in regard to the golf
324 course, Little Bear has been somewhat laughed at because the greens are artificial. If it's a dry day and the
325 ball hits that green, it's like hitting concrete, it will bounce 20 yards on the first hit. In time Brad would
326 like to convert that over to either normal greens or softened greens that when the ball hits, it will stop like
327 a normal green. The fitness center is also in disarray. Only the HOA residents have key cards; that's the
328 only way you can get in to the fitness area itself. You can't go into the grill or bar area, or anything else
329 through the fitness center. We're in favor of it, we want this to be turned around, we don't want a bar and
330 grill that's advertised like an Applebee's and having people coming in and getting drunk. We want it the
331 way it was when we bought in there. We're in favor of the weddings. The clubhouse was used for 6 or 7
332 years that I know of for Oak Creek meetings which is Franklin County, or commercial realtors or bankers
333 were there every Thursday were at those meetings. So everything that's being asked, and the residents
334 behind me, we want it brought back to the way it was except for that one line taken out to where other
335 than Orange Township can be rented. The Westerville golf or baseball teams used to have their banquets
336 there. Bill did that illegally; it was wrong but he was also stopped from doing it. And all they're asking is
337 to have it where Powell, Westerville, Dublin, etc. people or golf or baseball teams have their meetings
338 there, to have weddings there, etc., to be a viable entity and to bring business and tax structures back to
339 this area. And what's used for the terminology of maintenance shed, that's where the golf carts were kept
340 and that end of the building was open, the golf carts were out in the winter time, visqueen was put up
341 there that is tattered and ugly, he'll beautify it.

342

343 Mr. Dove: That's the one structure you talked about closing in?

344

345 Mr. Wentz: Yes, it's not secure at all.

346

347 Mr. Dove: And then you'll use it for golf cart storage?

348

349 Mr. Wentz: It does look kind of funny because it's all visqueen and...

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350 Mr. Dove: But it's your maintenance/storage area?
351

352 Mr. Wentz: Yes. It looks like it got flooded or hit by a hurricane, they temporarily fixed the windows.
353

354 Mr. Duell: We talked about removing the one sentence on Page 4, the clubhouse shall be rented to only
355 those persons that reside in Orange Township. That's okay. Looking at the restaurant lounge language, it
356 has a limitation of 1140 square feet; that's pretty small. I don't anticipate that that would be an issue, so
357 maybe we'll just let that go. There were a couple of other changes I wanted to ask you about. 10.03 d) you
358 added language; I'm not sure why, the clubhouse shall be permitted to be owned, used and leased in
359 business otherwise conducted, which is pretty broad. I'm not sure why that language would need to be
360 there; perhaps just take it out?
361

362 Mr. McCarthy: We need to define business; many dictionaries do, and business is basically anything you
363 do to make money, so it could be manufacturing, retail, it could be anything, so I did draft some
364 preliminary thoughts, removing that or rephrasing that to eliminate that language is included.
365

366 Mr. Duell: I'm not sure why that needs to be there.
367

368 Steve Cuckler, attorney for the applicant, 1644 Shale Run, Delaware, I didn't hear what provision you
369 were referring to.
370

371 Mr. Duell: 10.03 d) on Page 2.
372

373 Mr. Wentz: Instead of just striking that language, I put that in that just says I can rent it out.
374

375 Mr. Cuckler: It's permissive language so that non-township residents can use this facility.
376

377 Mr. McCarthy: I think the word business is the problem. Steve, I have a draft that I put together that you
378 can look over. I suggested that that same language be revised to read "the clubhouse shall be permitted to
379 be used by persons who are not residents of this Single Family Planned Residential District and is
380 permitted to serve both residents of the Single Family Planned Residential District and persons who live
381 outside of the Single Family Planned Residential District". I basically took out this business stuff. If you
382 look at it, it could be anything. Right now we're talking to Mr. Wentz; you may be talking to someone
383 else down the road and if it's broad, we'll probably have the luck of finding out what could go wrong.
384

385 Mr. Wentz: That's acceptable to me.
386

387 Mr. Duell: On Page 3, 10.03 g), we have struck the language that says the private health facility is for
388 residents of the community and their guests without payment of a membership fee.
389

390 Mr. Miller: What that's in reference to is we pay HOA fees, and the fees are so a resident can go in and
391 use the fitness facility and we can play golf at no additional charge.
392

393 Mr. Wentz: I don't want that to be out; that should stay in, our residents of the community and their
394 guests without payment of a membership fee.
395

396 Mr. Duell: That's struck; that's why I'm asking. I didn't think that's what you wanted.
397

398 Mr. Wentz: Unstrike it.
399

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400 Mr. Duell: We have discussed on Page 4 eliminating that phrase, the clubhouse should be rented to only
401 those persons; that's fine, I'm okay with that as we discussed. 10.07 b), open space.

402
403 Ms. Trebellas: I have concern at the bottom of Page 22, you say "the open space shall be of the size,
404 shape and location that's conducive to use by residents of the property within the Single Family Planned
405 Residential District" and then you have "and residents of other communities at the reasonable discretion
406 of the developer and/or his successors or assigns". I have no problem with residents of other
407 communities; I have a problem with the reasonable discretion of the developer and/or his successors or
408 assigns; that sounds a little vague to me. I don't know what reasonable discretion is, and I'm afraid about
409 how it might be used.

410
411 Mr. McCarthy: If you look at Item 7 on the resolution that I handed out, the stipulations to it, see what
412 you think of that language.

413
414 Ms. Trebellas: What one person might think is reasonable may or may not be reasonable. I get the idea
415 you want to make sure that there's not going to be a bachelor party, strippers or loud bands, but the way
416 it's worded....

417
418 Mr. McCarthy: For the benefit of the folks who are here, the Item 7 language that was drafted, and I'm
419 not saying this is carved in granite, reads as follow: "public or private golf courses and clubhouses
420 incident thereto may be used by residents of the property within this Single Family Planned Residential
421 District and at the reasonable discretion of the developer and/or his successors or assigns by residents of
422 other communities". Does that address it or come close?

423
424 Ms. Trebellas: I'm concerned about what reasonable discretion is but if you lawyers are not worried.

425
426 Mr. McCarthy: The language was intended to separate the residents from the rest of the world and if he's
427 planning on memberships of some sort, he's going to be selling memberships and will use his discretion
428 on who can buy one I suppose, but if there's better language, I'm open to it.

429
430 Mr. Duell: If something goes wrong, it would be up to the judges to decide what's reasonable.

431
432 Mr. McCarthy: Anyway, the residents still get to use it.

433
434 Mr. Duell: There were some changes on Page 27, there's a clause in there that if the golf course were to
435 cease operations for a period of two years, everything reverts to the control of the HOA which is what I
436 think you're trying to avoid right now.

437
438 Mr. Miller: The HOA doesn't want to run that; that's the original language Bill McCorkle put in there.
439 The land itself is owned by the HOA.

440
441 Mr. Duell: Is it on a 99 year lease or something?

442
443 Mr. Miller: Yes, it's a lease that has 80+ years left on it and that was in there in case something did
444 happen, if it went bankrupt or whatever, the HOA would take control, and that was in the original
445 development text as well as the deed restrictions.

446
447 Ms. Trebellas: And it's also in our Zoning Code as part of a golf course community, so it's what our
448 Zoning Text says.

449
450 Mr. Duell: So there's a proposal to exclude the clubhouse from the reverter?

Zoning Commission

451 Mr. Wentz: I was trying not to tie the golf course to the fact that if anyone purchased and bought, it would
452 revert to the HOA and I was just left out on the street. I was having a hard time saying if this doesn't run
453 for two years, then I lose the building. I was trying to protect myself.

454
455 Ms. Trebellas: So basically it's like the banquet facility is linked to the golf course and you want to
456 uncouple that so that even if the golf course is not being used, you can still use the banquet facility?
457

458 Mr. Duell: But it almost insures that the upkeep of the golf course is done.
459

460 Mr. Wentz: You could always say if the upkeep of the golf course doesn't get done, which I don't plan on
461 doing, all they have to do is quit paying their HOA fees to me. I'm just trying to figure out, and I'm open
462 for a way out, how I can protect myself. I understand it's my idea or my decision if the golf course isn't
463 being run, but there could be some scenarios where it's out of my control, I didn't want to lose a structure
464 that I put a lot of money into, so how do I protect myself on that?
465

466 Mr. McCarthy: That's the one caution I state to everyone. If you uncouple that, you will be creating a
467 standalone commercial use within the definition you permitted openly in this application. Just be aware of
468 that.
469

470 Mr. Miller: We want Brad to be successful with this, but the HOA Board, and at the request of the
471 residents, have been withholding the HOA dues to the existing lessee because the golf course as well as
472 the building have not been maintained. We want Brad to be successful, but I think it could be a challenge.
473 If something did happen and he didn't separate the two, that could be an issue for all the residents. I mean
474 that positively, not negatively; we need protection as well.
475

476 Mr. Wentz: If only there's a way that if the golf course is not being run for 2 years, if it's my decision not
477 to maintain the golf course for 2 years, if I make the decision to can it, but there could be some things
478 outside my control possibly...
479

480 Mr. Miller: But that would also mean that you're abandoning it. You decide you don't want to run the
481 golf course for whatever reason; I think there needs to be a reason in the zoning itself originally and in the
482 Orange Township Zoning Code that there is that language in there to protect both sides.
483

484 Mr. Dove: I'm sure this was written in there to protect you guys.
485

486 Ms. Trebellas: Yes, I think it's in there to protect the homeowners so the golf course is being
487 maintained...
488

489 Mr. Wentz: And if you don't, the person who owns the building loses.
490

491 Ms. Trebellas: Then you can find someone else to lease it to, so it's to protect your community since that
492 is sort of set aside as one of your facilities.
493

494 Mr. Wentz: It would mean that after 2 years I would be forced to sell the property versus that it just
495 reverts back to them.
496

497 Ms. Trebellas: Technically you're selling the lease.
498

499 Mr. Wentz: I would be selling the building if I were forced to sell.
500

501 Mr. Duell: I'm not sure we can do that.

Zoning Commission

502 Mr. McCarthy: We try to keep ownership out of things that we mandate; use we regulate.

503

504 Mr. Wentz: I don't really see this coming into play; it's not totally a breaker of this whole thing. I'm just
505 trying to figure out a way that I'm not losing something I paid a lot of money for.

506

507 Mr. Cuckler: Like there's an act of God or an issue for whatever reason that you just can't run a golf
508 course or play golf for a couple of years. I'm not sure what that is; I'm just trying to figure out the worst
509 case scenario.

510

511 Mr. Miller: Does insurance cover a scenario like that if it was an act of God that destroyed the golf
512 course?

513

514 Ms. Trebellas: I don't know.

515

516 Audience Member: Do we have a definition of what abandon means?

517

518 Mr. Miller: That's part of the issue we're encumbered with now because the building and golf course
519 have been abandoned. There haven't been any weddings, etc. for almost a year because the original liquor
520 license, insurance, utilities, etc. were in Bill McCorkle's name only. There were weddings cancelled
521 because they didn't have a liquor license. We want it to be a success, we don't want to see the golf course
522 or building abandoned.

523

524 Mr. Duell: Two years is a pretty long time. I could see one season where something out of your control
525 would keep it from running.

526

527 Mr. Wentz: I can't really foresee a reason why it would but I'd just like to....

528

529 Ms. Trebellas: We're talking like a natural disaster.

530

531 Mr. Duell: I would prefer to go back to the existing language. The existing language is what got us here
532 now because they don't want the reverter to kick in, so they're looking for someone to take it over.

533

534 Mr. Wentz: I guess if I don't run it for 2 years on making my own decision, I'll sell unlike the current
535 owner who doesn't want to run the golf course. If I decide I don't want to run it, at least I'll have 2 years
536 to say let's sell the property and someone else can buy it. I guess that will be a I know the clock's ticking
537 if I decide I don't want to run the golf course any more or banquet, and I'll probably have to put it up for
538 sale versus lose it. I'm good with that.

539

540 Mr. Duell: Further down we have the striking of the memberships; we want to change that. We've already
541 heard from the HOA; any other comments? Please keep them brief and don't be duplicative.

542

PUBLIC COMMENT

543

544 Audience member questioned the addition of any new structures on the golf course.

545

546 Mr. Duell: There is no plan to change anything other than to strike the limitations that the clubhouse has
547 to be used by Orange Township residents; everything else will be the same. There are no new buildings,
548 although he did indicate wanting to enclose the current structure. Do you want to put that in writing that
549 you're going to enclose that structure?
550

551

Zoning Commission

552 Dave Johnson, 1100 Little Bear Loop, Lewis Center, we were either the first or second courtyard built
553 there. I got to know Bill (McCorkle) pretty well while the HOA was being formed. Bill was a developer;
554 he had these great plans for all kinds of things that involved the youth and family oriented activities.
555 You're talking about bars and grills and wild parties, that's not going to happen. Bill never had that intent
556 either. I worked in development for British Petroleum and we worked on long range plans and goals and
557 strategic planning. What I got from the meeting with Brad was how much has this been thought out?
558 When things like greens are going in this way, we're going to get greens keepers, and this, that and the
559 other, so everything we thought could be a yes but, he had a backup plan or alternative for it. I thought to
560 myself, this guy has strategic planning. Bill was a good hearted man, but he was a developer so there was
561 just poor management. Brad has a strategic business plan geared towards you and families, and to us in
562 the neighborhood; it's almost a blessing. It's a win/win situation. We're going to be successful as a
563 neighborhood if he's successful as a businessman, so we don't look at this as us and them; we look at this
564 as a partnership. We're going to do everything we can to support him, and I'm sure he's going to do
565 everything he can to support us. We're not that hungry that we'll sell to anybody. Jerry and others in the
566 group have spent months and months trying to vet out some of these people. We're going to keep this
567 place like we wanted it. From my experience, he has a strong business plan; I guarantee there will not be
568 any wild frat parties. That lounge thing was a hot dog and beer place. I've lived here more than six years
569 and I was never in there when there was more than 4 other people and most of those were from our
570 association. We loved to go there at night, get a glass of wine and sit on the patio; that was the beauty of
571 the place, and I think that's exactly what he's got in mind. He's talked about activities with youth and
572 community involvement, and I would classify it as an absolute blessing to us. We appreciate all your help
573 with this; I think we're all on the same page, but he's going to get our support; his plan will work.

574
575 Mr. Duell: As I previously asked, the building you said that you want to enclose, do you want to commit
576 to doing that?

577
578 Mr. Wentz: Yes. Do I need written approval that I can do that?

579
580 Mr. Duell: We might as well say you may do it, that way it's in the plan.

581
582 Mr. McCarthy: Not will or shall; may.

583
584 Mr. Duell: Then you don't have to come back.

585
586 Mr. Wentz: I could start on this property and understand why it is open space and say it's better to keep
587 that open versus enclosed, but right now I think I want to enclose it, so if it's in there that I may enclose
588 it, that would be great.

589
590 Mr. Duell: If it's kind of an eyesore now....

591
592 Mr. Miller: Just as an FYI, the area with the visqueen around it, imagine a large carport , add a roof over
593 it, that's for the golf carts, so that's what he would be enclosing.

594
595 Mr. Wentz: I would just like them to be a little more secure out of the weather.

596
597 Ms. Trebellas: There's a reason why there's not that many carports up here in the northern climate. It
598 might work fine when you're in Florida at the golf course 365 days of the year but up here, I wouldn't
599 advise leaving the golf carts exposed to the winter elements.

600
601 Mr. Miller: And it got worse because all the batteries froze because he didn't winterize them.

602

Zoning Commission

603 Ms. Trebellas: I'm sure a lot of damage was done, so I understand the need to enclose it, so I have no
604 problem with that.

605
606 Mr. McCarthy: We have modified the disclaimer language since 2005. It brings up two points. Do you
607 want to update the disclaimer and if so, do you want to do it in terms of the template text that is currently
608 in the red-line copy or do you want to have the 2019 version substituted in as the text template? That is
609 something we need to discuss. I talked to Ms. Boni about it today, and she would like to participate in that
610 discussion as well because verifying the copy is a one time painful experience. There are some not
611 proposed in this districts in 10.03 b) and c) sections; I suggest we ask those be made not permitted.

612
613 Mr. Duell: Are those in the existing?

614
615 Mr. McCarthy: Yes. I don't care if we do them or not; these are just thoughts.

616
617 Mr. Dove: Personally I don't want to go backwards. I don't want to tie to the new Code. We're changing
618 one use in this structure.

619
620 Ms. Trebellas: Because what you're asking to do is take this proposal from 2005 and basically upgrade to
621 our current Zoning Code.

622
623 Mr. McCarthy: And take out all the things that have been taken out in the meantime, some of them
624 following litigation.

625
626 Mr. Duell: Just take out the one sentence that needs to come out and the other changes we discussed.

627
628 Mr. McCarthy: Yes, and the change at the top of the second page about the clubhouse, the clubhouse shall
629 be a permitted use by persons not residents of the district, to serve both residents and those who live
630 outside; I think Mr. Wentz indicated that would be okay, so that would stay in. I assume no one had a
631 Word copy of the 2005 application because it looks like OCR was used and OCR can be an adventure.
632 You caught a lot of the adventure items; there are still some remaining, so that's what Item 4 is. The word
633 private, for example, got changed into a capital PRN space at. It's just housekeeping but I think it ought to
634 happen. Pages 12, 16, 17, 18, when the change was made, it lost its bold font or print in the response text;
635 just get that back in as a clear response. It's like one big long section right now. The development tables
636 on Pages 38 and 39, the table kind of disappeared and some of the indications on it basically indicating a
637 null set disappeared as well. I suggest they be put back the way they were in the book. Item #7 concerns
638 use by residents of the property within the district and at the reasonable discretion of the developer, by
639 residents of other communities. I don't know if you want that or not.

640
641 Ms. Trebellas: It's better than the first one, so I will defer to the legal expertise and hopefully that will
642 suffice.

643
644 Mr. McCarthy: In our discussion tonight we have also had that reinserting of the non-payment of fees by
645 the homeowners will be in place where appropriate. I heard the word concerts tonight. One of the
646 concerns I think existed, it's not in the text right now but should it be considered one of the activities
647 conducted at the clubhouse with the exception of golfing having to be within the building because we
648 cannot regulate hours.

649
650 Ms. Trebellas: That means if you're having a party you cannot go out on the patio. From what I
651 understand, that part of the use of the building is the patio. I don't know how others on the Commission
652 feel but you have a patio attached to any banquet venue and generally people go out on that.

653

Zoning Commission

654 Mr. McNulty: Who would police that, who would want to?
655

656 Mr. Miller: The patio is not a 1,000 square foot concrete or pad, there's 20 tables set up out there to have
657 a big party; it's not like that at all. Above the bottom floor is a concrete area where there are chairs and
658 small tables and a couple of small picnic tables for children. It's not a big stamped area or set up for a
659 venue or dance floor or anything like that.
660

661 Mr. McCarthy: So we'll cross that one off.
662

663 Mr. Dove: I wouldn't limit it.
664

665 Mr. McCarthy: The next one I think we did resolve, the clubhouse will not be excluded from the two year
666 provision. For leaving the text template alone, the 6% slope is going to be in there. It's caused trouble in
667 the past, but I understand your point. Inevitably we're going to have to look at that going down the road
668 on others. Maybe it's a question of the degree of changes being requested. There was talk about
669 fraternity/sorority parties, bachelor/bachelorette parties. Is that to be formalized or just accepted?
670

671 Ms. Trebellas: I think the reasonable discretion of the owner. How can you just say no bachelorette
672 parties?
673

674 Mr. McCarthy: A lot of deed restrictions do it; I'm not aware of zoning doing it.
675

676 Ms. Trebellas: I'd leave it to the discretion. I understand the concern, that was my concern.
677

678 Mr. McCarthy: It was a question and we're just looking at it, and it's interesting to actually see
679 homeowners in such support of an applicant; we usually don't get that too much. Just a note to Mr. Wentz
680 as well as the Commission, that even if there is an enclosure, the use of that machine warehouse for golf
681 carts is not being expanded here, so warehousing would not be a permitted use.
682

683 Ms. Trebellas: Isn't it allowed for use for golf course maintenance?
684

685 Mr. McCarthy: Yes. There was some material in the initial meeting that indicated there was some other
686 intent. I just wanted to make it a matter of record that that's not the case.
687

688 Mr. Wentz: I'm buying another building for Buckeye on Piatt Road, and next summer I have to build a
689 warehouse on that property. I told the HOA there might be a little different equipment that I need to put in
690 there while I'm building the new warehouse. I'm not positive, but I didn't want to lie to them and just
691 have a truck come and put some equipment in there just while I'm building the new warehouse. I'm not
692 planning on that, I want to stay where I am but there could be a scenario where I put a few things for
693 Buckeye in there just to store it.
694

695 Mr. Duell: If it's enclosed, I don't care.
696

697 Mr. Wentz: I'm not going to run anything out there.
698

699 Mr. Miller: Mr. Duell, before you call for a motion, I just want to be clear before everybody here that
700 basically the bottom line is that one sentence will be changed or removed to state that people other than
701 Orange Township residents or people who work in Orange Township can rent the clubhouse for
702 weddings, banquets, etc. Is that correct?
703

Zoning Commission

704 Mr. Duell: Yes. The sentence that reads the clubhouse shall be rented to only those people who live or
705 work in Orange Township will be struck.

706

707 Mr. Miller: My reason for asking that is all through the deed restrictions and development text. If
708 somebody is going to sell their house, they're going to have to print 40 pages of this, that and the other,
709 and they want to keep things simple, and I just wanted a simple explanation.

710

711 Mr. Dove: And Jerry, you know it's one line, but you know why we go through this.

712

713 Mr. Miller: Yes, and that's why I want to make sure it's clear.

714

715 Mr. Dove: It's to protect you as well as the homeowners or the next if there is a next.

716

717 Mr. Wentz: That's kind of my reasoning too. Somebody said early on that it would be hard for us to
718 monitor whether you have to go outside of Orange Township, and you can say it's hard to monitor but if
719 someone in 3 years is in your role, so I think it's protection both ways.

720

721 Mr. Duell called a 5 minute recess.

722

723 Mr. Duell: Mr. McCarthy has the proposed stipulations and would like to go through them and make sure
724 everyone is happy with them and get the applicant on record agreeing with them.

725

726 Mr. McCarthy: Stated stipulations:

727

728 1. Modify the response to Section 10.03 d) to be bolded and read as follows: "The clubhouse shall be
729 permitted to be used by persons who are not residents of this Single Family Planned Residential
730 District and is permitted to serve both residents of the Single Family Planned Residential District
731 and persons who live outside the Single Family Planned Residential District."

732 2. The ORC changes; there are six of them, only two of them affect any reading.

733 3. On Pages 12, 16, 17 and 18, bold the responses.

734 4. On Pages 38 and 39, recreate the development data tables to the same format to which they were
735 included in Zoning Application #18609, make certain to include the indication of a void set where
736 no value was inserted.

737 5. On Page 22, delete the proposed change to the text of Section 10.07 b); add the following to the
738 reply to that section: "Public or private golf courses and clubhouses incident thereto may be used
739 by residents of the property within this Single Family Planned Residential District and at the
740 reasonable discretion of the developer or his successors and assigns, by residents of other
741 communities.

742 6. In Section 10.03 g), reinsert the language proposed for deletion.

743 7. In Sections 10.09 a) and 10.09 b), reinsert the language proposed for deletion.

744 8. In Section 10.09 a), delete the proposed excluding language.

745

746 And that completes the listing.

747

748 Mr. Miller: In the original development text, the golf course was considered public for anybody's use.
749 Did I mishear what you said in regard to the golf course being used...

750

751 Mr. Dove: He said clubhouse; he didn't say anything about golf course.

752

753 Mr. Miller: It's the same as the original?

754

Zoning Commission

755 Mr. McCarthy: Yes, that's my position at the moment.

756

757 Mr. Dove: It's the very first paragraph and it's indicated as clubhouse.

758

759 Mr. Miller: But the latter portion was referred to as the golf course.

760

761 Mr. Duell: The original one talked about the open space being for the residents of the district. And then
762 there's a statement that the golf course and the clubhouse will be able to be used by residents of the
763 district and others, so it will still be public.

764

765 Mr. Duell: Mr. Wentz, you said yes to the stipulations?

766

767 Mr. Wentz: Yes.

768

769 **MOTION TO RECOMMEND CONDITIONAL APPROVAL OF REZONING APPLICATION**
770 **#ZON-19-04**

771

772 Moved by Ms. Trebellas to conditionally recommend to the Board of Township Trustees the approval of
773 Rezoning Application #ZON-19-04 of Brad Wentz authorized by Little Bear Hospitality, LLC, the
774 property lessee under 99 year lease and requesting the amendment of Zoning Application #18609 of Little
775 Bear Village Development, LLC as approved by the Board of Township Trustees on July 14, 2005 in
776 Resolution #05-343.

777

778 Further moved that this recommendation is for the amendment in accordance with the changes to the
779 development plan text reflected in the red line version submitted by the applicant in loose form, the pages
780 of which together with those of the Zoning Application form itself are stamped "Received" with Orange
781 Township Zoning above and November 7, 2019 superimposed over Received by the Orange Township
782 Zoning (development plan) as modified by those stipulations listed for correction/modification in the
783 Statement of Stipulations attached hereto as Attachment A and incorporated herein by reference, all of
784 which stipulations have been agreed to by the lessee and the applicant.

785

786 Further moved that all portions of the previously approved application and development plan of Zoning
787 Application #18609 of Little Bear Development, LLC that are not changed herein shall continue in full
788 force and effect.

789

790 Seconded by Mr. Pychewicz

791

792 Vote on Motion: Mr. Duell-yes, Mr. Pychewicz-yes, Ms. Trebellas-yes, Mr. Pychewicz-yes, Mr.

793 McNulty-yes, Mr. Dove-yes

794 Motion carried

795

796

797

798

Attachment "A"

- 799 1. Modify the response to Section 10.03 d) to be bolded and read as follows: "The clubhouse shall be
800 permitted to be used by persons who are not residents of this Single Family Planned Residential
801 District and is permitted to serve both residents of the Single Family Planned Residential District and
802 persons who live outside the Single Family Planned Residential District."
803 2. The ORC changes; there are six of them, only two of them affect any reading.
804 3. On Pages 12, 16, 17 and 18, bold the responses.

Zoning Commission

- 805 4. On Pages 38 and 39, recreate the development data tables to the same format to which they were
806 included in Zoning Application #18609, make certain to include the indication of a void set where no
807 value was inserted.
- 808 5. On Page 22, delete the proposed change to the text of Section 10.07 b); add the following to the reply
809 to that section: “Public or private golf courses and clubhouses incident thereto may be used by
810 residents of the property within this Single Family Planned Residential District and at the reasonable
811 discretion of the developer or his successors and assigns, by residents of other communities.
- 812 6. In Section 10.03 g), reinsert the language proposed for deletion.
- 813 7. In Sections 10.09 a) and 10.09 b), reinsert the language proposed for deletion.
- 814 8. In Section 10.09 a), delete the proposed excluding language.
- 815
- 816

817 Meeting adjourned at 8:30 p.m.

818

819 Minutes prepared by Cindy Davis, Zoning Secretary

820

821 On January 28, 2020, Mr. Pychewicz made a motion to approve the December 17, 2019 minutes of the
822 Orange Township Zoning Commission for Zoning Application #ZON-19-03, Little Bear Village HOA,
823 with the following corrections:

824

- 825 • Line 78: “river” should read “railroad”
- 826 • Line 343: “Mr. Todd” should read “Mr. Dove”
- 827 • Line 403: “s. Trebellas” should read “Ms. Trebellas”
- 828 • Line 1471: “leasee” should read “lessee”
- 829 • Line 1089: “HOIA” should read “HOA”

830

831 Seconded by Mr. McNulty

832

833 Vote on Motion: Mr. Duell-yes, Mr. Pychewicz-yes, Ms. Trebellas-yes, Mr. McNulty-yes, Mr. Doherty-
834 yes

835

836 Motion carried

837

838

839