

**City of Columbus
Regular Planning Commission Meeting
November 20, 2013**

The November 20, 2013 regular meeting of the Planning Commission for the City of Columbus was called to order at 7:02 p.m. by Chair Barbara Hvass at the City Hall. Present were Commission members Andy Anderson, Myron Organ, Pam Wolowski, Jesse Preiner, and Jody Krebs; City Administrator Elizabeth Mursko, City Planner Dean Johnson and Recording Secretary Karen Boland.

Also in attendance were City Council member Denny Peterson, Cheryl Nelson, Diane Denzer, Dave Denzer, Dan Hair, and Matt and Linda Brennecke.

AGENDA APPROVAL

Motion by Preiner to approve the Agenda as presented. Second by Krebs. Motion carried.

APPROVAL - REGULAR PC MEETING MINUTES OF NOVEMBER 6, 2013

Motion by Krebs to approve the minutes of the November 6, 2013 regular Planning Commission meeting as written. Second by Wolowski. Motion carried.

PUBLIC HEARING – PHIL AND CHERYL NELSON PRELIMINARY/FINAL PLAT APPLICATION (PC-13-117)

At this time a public hearing was held to receive testimony regarding a preliminary/final plat subdividing one lot into two lots. The property owners and applicants are Philip and Cheryl Nelson. Separate minutes are prepared.

PHIL AND CHERYL NELSON PRELIMINARY/FINAL PLAT DISCUSSION

Planner Johnson outlined more specifics about his findings of fact and recommendations. Many are standard with any preliminary subdivision. Regarding recommendation #5, addressing wetland buffer plaques, Johnson said it is a standard component in all developments where wetlands are delineated or identified by surveyor, that there be minimum buffers from those wetlands. The City requires them, because it is responsible to implement and maintain the protection of wetlands once they've been subdivided and someone has applied for a building permit. State law requires we delineate them and put easements on them.

Johnson also stated that because there's very little buildable land in the City, the PC and CC always look at what options are for future development. The Nelsons have said they have no interest in subdividing. However, if in the future an owner desired to subdivide the property north of Lot 1, there is no road to access it. Recommendation #6 creates an option for current or future owners of Lot 1 to have the right to construct a road in that corridor. That would be a public street, not just a driveway. If that is not preserved today, the only way an owner of Lot 1 in the future could get additional subdivision would be to acquire that easement from the owner of the property, and they may not be able to compel that to happen. There would be no cost to the owner of the 5-acre parcel. Johnson said there is also no evidence that that will diminish the value of the lot. We require easements routinely to preserve that right.

Regarding recommendation #7, Johnson said the 40 acres to the north does have legal access from a 66-foot easement on the west side of the plat. There is a driveway there that serves more than one property. The City Administrator has spoken to the buyers and to the technician at the watershed and there may be serious problems about getting even a driveway constructed from the end of that 66 feet onto this property. The entire southwest corner of the 40 acres is wetland. It's not an impossibility. It is his opinion, however, and that of Mursko and the City Engineer that there's no way you'd ever have a public road there. A 66-foot easement from the northerly line of Lot 2 to the northerly line of Lot 1 has no cost, it just provides the opportunity that if the 40 acres to the north is developed, you have allowed for access. This issue was raised before the sale of the north 40 was completed by the Nelsons. The minutes from the 9/25/13 City Council meeting show that, at that time, Mrs. Nelson indicated they would agree to the easement across the property.

Mrs. Nelson responded that she had very short notice about Planner recommendations prior to the CC meeting on 9/25/13. They had not had the chance to think through what a 66-foot easement down the middle of their property would mean. It is definitely something the Nelsons do not want. They are not looking at further development, and feel the easement would infringe on their ability to use and enjoy their own land. She also believes an easement bordering the new lot would greatly diminish its value, if potential buyers know they may have a City street right next to them. She said no one knows what the future will hold, but in the present, they are taxpaying property owners who don't want City street easements reserved on their property. She doesn't believe that City ordinance can force a private citizen to have a public roadway easement for some potential future benefit of some unknown potential people. She thinks that would be an unconstitutional taking of their property rights. She cited a 2013 U.S. Supreme Court case: *Koontz vs. St. John's River Water Management*. She said her point was that private property owners' rights are protected by the Constitution.

Johnson did not change his recommendation. He said the City Attorney could better address the Supreme Court case. He believes that within this plat the City has the right to reconfigure, realign and make certain that the plat conforms to what's in City ordinance. In this case, the City has consistently attempted to maximize the amount of land available for potential development. Without the easement, you preclude the option for future development of the property north of Lot 2. Krebs noted that the City Engineer concurred with the Planners recommendations. PC members agreed to change recommendation #7 from the current language of, "The City Council should give serious consideration to requiring a 66-foot-wide street easement..." to read "The City Council should require a 66-foot-wide street easement..."

Mursko recommended changes to the identification in finding of fact #12 and recommendation #3, of Sunrise River WMO to Sunrise River LGU. That stands for Local Government Unit. The WMO is not authorized to make determinations. It is the LGU that makes the determination.

Motion by Preiner to forward to the City Council the application of Phil and Cheryl Nelson for a preliminary/final plat with a recommendation for approval based on the findings of fact and recommendations from the Planner's memo dated November 11, 2013, with changes to findings of fact #12, and recommendations #3 and #7, as noted below. Second by Organ. Motion carried.

Mursko said this will go before the CC at their next meeting, which will be Monday, November 25, 2013 at 7 p.m. She said if the Nelsons have anything further they would like to submit, it must be received in the City office by Friday, November 22nd at noon.

Findings of Fact

1. The combined preliminary and final plat application received on October 23, 2013 was found complete for review.
2. The 120-day combined plat review deadline is February 20, 2014.
3. There are 29.96 gross acres in the proposed plat, owned by Philip and Cheryl Nelson, 9461-189th Avenue, located in Section 25, Township 33, Range 22 (Property).
4. The City Council waived certain plat submittal requirements.
5. There is one existing residence on the Property.
6. The Property is currently zoned RR Rural Residential.
7. The purpose of the plat is to create a 5-acre buildable lot (Lot 2) and a 25-acre lot (Lot 1) with existing residence.
8. A total of 0.5 acres of 189th Avenue right-of-way will be dedicated.
9. Both proposed lots have the minimum 220 feet of frontage on 189th Avenue.
10. Both proposed lots meet other minimum dimensional standards for residential use.
11. Both proposed lots include standard drainage and utility easements.
12. A Wetland Conservation Act wetland delineation on Lot 2 has been completed for approval by Sunrise River LGU.
13. A surveyor's wetland delineation and proposed drainage easements are identified on Lot 1.
14. Soil borings have been completed on Lot 2 for potential home and SSTS locations on Lot 2.
15. Access to Lot 1 is provided via a proposed 35-foot-wide corridor attached to Lot 1 that includes the existing driveway to the existing residence.
16. Access to Lot 2 is available directly from 189th Avenue.
17. The Property is not located within a shoreland area. The 100-year flood elevation is contained within the wetland easement areas.
18. Lot 1 is capable of further subdivision for multiple building sites.
19. The Nelsons recently sold a 40-acre parcel to the north of and contiguous to the Property, which has multiple potential building sites that may only be served with public access through the Property.
20. The Planning Commission held a public hearing on the Nelson Acres Preliminary Plat on November 20, 2013.
21. The Nelson Acres Final Plat is consistent with the Preliminary Plat.

Recommendation

1. Recommendations of the City Engineer.
2. Title review and recommendations of the City Attorney.

3. Wetland delineation approval and plat recommendations by Sunrise River **LGU**.
4. The Final Plat shall be consistent with the approved preliminary plat.
5. Permanent wetland buffer plaques shall be installed on wetland easement boundaries of both lots, at intervals and design determined by the City.
6. The driveway corridor on Lot 1 shall be reduced to 33 feet in width and a contiguous 33-foot-wide street, drainage and utility easement shall be created along the easterly lot line of Lot 2.
7. The City Council should **require** a 66-foot-wide street easement to be created on Lot 1, from the northerly lot line of Lot 2 to the northerly lot line of Lot 1, to facilitate the potential future development of the landlocked, 40-acre parcel lying north of Lot 1, as well as future resubdivision of Lot 1.
8. Cash in lieu of park land dedication is required.
9. Future development in the plat is subject to local ordinances and permitting requirements and may be subject to additional review and permitting under the Wetland Conservation Act.

PUBLIC HEARING – DAN HAIR PRELIMINARY/FINAL PLAT APPLICATION (PC-13-118)

At this time a public hearing was held to receive testimony regarding a preliminary/final plat subdividing one lot into one lot and three outlots. The property owner and applicant is Dan Hair. Separate minutes are prepared.

DAN HAIR PRELIMINARY/FINAL PLAT DISCUSSION

Johnson elaborated that Lot 1 is a legal buildable lot which is capable of much further subdivision with extensions of municipal sewer and water. The purpose of Outlot C is strictly for providing access to the billboards. The two billboards and the access road would be contained within Outlot C. There is one more billboard on Lot 1. Mr. Hair will retain only Lot 1 and Outlot C. Some buffer plaques are required on Lot 1. Johnson said that because a new usable property is not being created here, it may not require a parkland dedication. The City Administrator will make that determination. PC members agreed to amend recommendation #8 from the current language of “Cash in lieu of park land dedication is required.” to read, “Cash in lieu of park land dedication if required.”

Motion by Preiner to forward to the City Council the application of Dan Hair for a preliminary/final plat with a recommendation for approval based on the findings of fact and recommendations from the Planner’s memo dated November 11, 2013, with a change to recommendation #8 as noted below. Second by Anderson. Motion carried.

This application will go before the CC at their next meeting, Monday, November 25, 2013 at 7 p.m.

Findings of Fact

1. The combined preliminary and final plat application received on October 23, 2013 was found complete for review.

2. The 120-day combined plat review deadline is February 20, 2014.
3. There are 47.61 gross acres in the proposed plat, owned by Dan Hair and located at 145th Avenue and Hornsby Street in Section 25, Township 32, Range 22 (Property).
4. The City Council waived certain plat submittal requirements.
5. A wetland delineation on the Property has been approved by the Rice Creek Watershed District (RCWD).
6. There are two existing parcels of record on the Property.
7. There is one existing residence and several accessory structures on the Property.
8. There are three existing billboards on the Property.
9. The Property is currently zoned CS Commercial Showroom.
10. Municipal sewer and water are available to the Property.
11. The purpose of the plat is to combine the two existing parcels and re-describe the Property into new lots for future use and sale.
12. The entire easterly plat boundary abuts the former Houle WMA, now owned by RCWD.
13. One commercial lot (4.72 acres) along 145th Avenue and three outlots are proposed.
14. Outlot A (6.89 acres) is primarily wetland, including a 50 feet upland wetland buffer, and will either be retained by the Property owner or donated to RCWD.
15. Outlot B (34.25 acres) is primarily wetland and will be donated to RCWD.
16. Outlot C (1.18 acres) is a 38-foot-wide ingress and egress easement corridor and location for two existing billboards, adjacent to I-35 and Outlot B, which will be retained by the Property owner.
17. A total of 0.57 acres of 145th Avenue right-of-way will be dedicated.
18. There is no development proposed on the Property at this time.
19. Proposed Lot 1 meets all dimensional standards within the CS District and is capable of further resubdivision.
20. Standard drainage and utility easements are located adjacent to all property lines on proposed Lot 1.
21. The Property is not located within a shoreland area. The 100-year flood elevation is contained within the delineated wetlands.
22. Subsequent development within the plat will require stormwater plans, site plans, building permits, and other governmental approvals.
23. The Planning Commission held a public hearing on the Columbus Wilds Preliminary Plat on November 20, 2013.
24. The Columbus Wilds Final Plat is consistent with the Preliminary Plat.

Recommendation

1. Recommendations of the City Engineer.
2. Title review and recommendations of the City Attorney.
3. Plat review recommendations of RCWD.
4. The Final Plat shall be consistent with the approved preliminary plat.

5. Permanent wetland buffer plaques shall be installed on the easterly and southerly lot lines of Lot 1, at intervals and design determined by the City.
6. Drainage and utility easements shall encumber Outlots A and B, unless a different wetland protection or non-development encumbrance is recommended and approved by the City Attorney.
7. Outlot C shall be limited in use as an ingress and egress easement and existing billboard location.
8. Cash in lieu of park land dedication **if** required.
9. Future development in the plat is subject to local ordinances and permitting requirements and may be subject to additional review and permitting under the Wetland Conservation Act.

DISCUSSION – REGIONAL FRAMEWORK

The Met Council, as mandated by State Statute, creates a Regional Plan that is updated every ten years. It comes out in two years. Within three years of that, the City must update its local Comprehensive Plan to be consistent with the Regional Plan. In this plan the Council will put forth a forecast for the year 2040. Right now, they estimate 1960 households in Columbus in 2040. The Council's 2040 forecast estimates less households than we had in our Comp Plan for the year 2030. By December 1st we must send a letter to Met Council either agreeing or disagreeing with their forecast. Johnson recommends sending a letter telling them we think their estimates are a little low. That acts as a placeholder to talk to them further about this in the next six months to a year. If we accept their projections as of December 1st, there will be no opportunity to revisit them. PC members agreed to have Johnson write a letter disagreeing with the projections as being too low.

In joint meetings, the CC has asked the PC to find out how many SAC units are available to the City. Mursko and Johnson said there are too many variables to answer that in definitive numbers. A SAC unit determination is made by Met Council based on use. So, until you know the user, you don't know how many units. Generally more bodies in a facility have more SAC units. There are also calculations based on the physical use of the building, for example, restaurants are among the highest users; retail is among the lowest. When a property invests in SAC, they don't go away. A property never loses SAC units assessed to it. If a user came in and required more, they would only pay for the added units.

Johnson said that any density change would require a change to the Comprehensive Plan. He said the basic standard for rural density (without sewer) is 1 per 10 acres. Columbus was allowed to go to 1 per 5 acres, because of the fact the area is 2/3 water. If the City tries to go to 2.5-acre or smaller lots, they will have a battle because of the departure from the Regional Standard. There was discussion about ways to keep the overall density, but allow more flexibility in lot sizes. Johnson agreed that could be beneficial, particularly with all the wetlands. He cautioned that lot sizes should support individual septic systems. He feels the City should stay away from community drain fields, due to their high rate of failure.

PUBLIC OPEN FORUM

There was no topic raised for discussion for Open Forum.

CITY ADMINISTRATOR'S REPORT

Mursko asked PC members whose terms expire in 2013, to get letters in if they are seeking reappointment.

PLANNING COMMISSION MEMBERS' REPORT

KREBS COMMENT

Krebs said she will not be able to attend the PC meeting on 12/4/13.

ATTENDANCE - NEXT CC MEETING

Anderson is scheduled to attend the City Council meeting on November 25, 2013.

Motion by Krebs to adjourn. Second by Anderson. Motion carried.

Meeting adjourned at 9:52 p.m.

Respectfully Submitted:

Karen Boland, Recording Secretary