

City of Columbus
Public Hearing – Philip and Cheryl Nelson Preliminary/Final Plat (PC-13-117)
November 20, 2013

The November 20, 2013 Public Hearing to receive testimony regarding the request by Philip and Cheryl Nelson for a preliminary/final plat subdividing one lot into two lots was called to order at 7:04 p.m. by Chair Barb Hvass at the City Hall. Present were Commission members Andy Anderson, Myron Organ, Pam Wolowski, Jesse Preiner, and Jody Krebs; City Administrator Elizabeth Mursko, 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.

Hvass: Okay, now we will have a Public Hearing and Discussion, Phil and Cheryl Nelson preliminary/final plat application request, pages 1 through 18.

Nelson: Well, good evening.

Hvass: Would you state your name and address for the record?

Nelson: Yes. My name is Cheryl Nelson. Address is 9461 189th Avenue Northeast, Columbus, Minnesota 55025. And my husband is here with me in spirit. You probably don't know, he's a, he's a stroke survivor, so he has limited energy, so he's not here with me tonight. But, he's here with me in...he's here with us in spirit. Okay, so I just asked Karen if she would copy...do you all, did you all get a photocopy just now of...I wanted you to see a legal description of...this is not directly related, but because this is brought up by the City Planner and the City Engineer, I wanted to just clarify what might be some confusion. We had owned 40 acres that was immediately north of our subject 30 acres that we're talking about. And the 40 acres is not landlocked. It has a 66-foot-wide roadway easement accessing it from 189th all the way to the 40 acres. And so I wanted you to see a copy of the legal description that shows the easement – that, the roadway easement, the 66-foot-wide, that's been existing for quite some time. There was confusion over this, because, for whatever reason, many, many years ago, several transactions ago, a clerical error was made in recording the deed, leaving out the easement. So, it's there. We got that cleaned up and cleared up. So, I wanted you to see that, so you know that it's not landlocked. So, just to let you know, it's a little background information. So now to our request. Our request is a very simple request, probably as simple as it can be.

Hvass: Can I back you up for one minute?

Nelson: Oh, yes. Yes, Barbara.

Hvass: We need to read the notice as that appeared in the paper.

Nelson: Oh, all right.

Hvass: Karen?

Notice was read at this time.

Hvass: Thank you. Now you can continue.

Nelson: All right. Thank you Barbara. So this is a...probably as simple a request as it can be, our 30 acres of land that we own, and we have our home on the 30 acres, we are asking for your approval and recommendation to the City Council for us to be able to subdivide one five-acre lot out of that 30. That would leave the existing 25 acres and our existing home, and then a new five-acre buildable lot. We've completed the application. We've conducted all of the tests and all of the reviews - the title opinion - every single thing that's been requested. It shows, you know, we've had the environmental done, the soil testing, the plat drawings, the title opinion, the City Planner has reviewed it, the City Engineer has reviewed it. It has the minimum road frontage required. The soil perks out quite nicely. And so our request is for you to...to respectfully request you to approve this five-acre - new five-acre - lot that we would call Lot 2. And our existing home on 25 acres would be Lot 1. As I looked at the City Planner and the City Engineer's reports, there's a very important matter that we are not requesting and we do not want. We are not seeking any further development of our 25 acres - the res...the exist...the remaining 25 acres. The reason we live here in Columbus is because we love the rural nature. We love the privacy, the quiet, the solitude. Now, sometime in the future, I understand, and especially in talking with Dean Johnson the other day - and, thank you Dean - of course I understand that in the future, population will grow, things will change, there may well be development. And there's nothing to stop somebody in the future from buying our land and maybe - and buying the five acres - and putting together a development however they want. Nothing could stop that. But, we're the landowner. We have no interest, no plan, no desire to do that. All we want is a simple five-acre division out. That's all we're asking for. So, when it comes to the City Planner's findings, paragraph number 18, where he is recommending that Lot 1, being what would be the remaining 25 acres with our house on it, that that's capable of further subdivision, that's outside the scope of our request. We as the landowner do not want that, simply do not want that. And then, additionally, the City Planner's findings in paragraph 19, referring to the 40-acre parcel that borders the north of our land, that's been sold to a couple. That couple is planning to build just one house. They love the privacy. They love the woods. They love the seclusion. And, who knows what they plan to do, but, that's outside the scope of this request. We do not want any type of street easement of any width - 66-foot or otherwise - going right through the center of our property. That would dramatically decrease the value of our property. That would take away our use and enjoyment. That would turn the, what we hope is the brand-new little five-acre lot, it would turn that into a corner lot. It would rip out required, all kinds of beautiful trees. It would take out nice high ground for building, because of the setbacks. So, I ask you, please, we do not want that.

Anderson: May I stop, can I stop you for just a moment?

Nelson: Yes. Yes, Mr. Anderson.

Anderson: Okay. Where is your additional 40 acres? Is that north of Block 1?

Nelson: Yes. Okay, I can show you.

Anderson: Okay. And while you're up there, could you show me how that 40 acres is accessed?

Nelson: This 40 acres is up there (referencing overhead map). It's been...that has been sold. And there is, right on this property – Mr. Hugger owns this property - and there is a 66-foot-wide easement for roadway purposes starting at 189th Avenue that runs all the way up to the top, and then you can faintly see a little square, right there. Yeah. Thank you Elizabeth. That is also a 66-foot square permitting the owners – the new owners - of the 40 acres to improve their driveway over that corner, so that it's not landlocked. The driveway has been there for many decades, 30-40 years at least, and their...so that...but that's...I hope that answers your question.

Anderson: Thank you. And you mentioned a name? You said it was owned by...?

Nelson: Ray and Sherrie Janiski (sp) just purchased that 40 acres.

Anderson: I know, but...

Organ: The Hugger home.

Nelson: Oh, I'm sorry, Rick Hugger. He's the landowner on this property here. And the easement burdens his land for the benefit of the 40.

Anderson: But, but there is a road there right now?

Nelson: Yes. There's a driveway, it's not a road, it's a private drive. Yes. Yes there is.

Anderson: Okay. Thank you.

Wolowski: Is that the only access to the 40 acres?

Nelson: Yes it is. Yes. It has been the only access for many decades. So, since I'm not here every week asking for these kinds of things, and we're not a commercial developer or anything, we're just one little person, do you have questions or comments or discussions for us? Oh, I just thought of...another point I wanted to make is, I noticed also in the City Planner's recommendations about the wetland...permanent wetland buffer plaques to be put on our wetland. Now, first of all, our five-acre request does not disturb any wetland whatsoever. It does nothing to any wetland. But, also, what's important is to know that it's...I know it's...we had the wetland delineation...you call it wetland, but, there are no cattails there. The only time that there's standing water is in the early spring, after the winter snows when they start to melt. We always...we call them...we jokingly refer to them as our seasonal pond. Once a year we get a little pond for a little while, then it's gone, the water's gone, that's as wet as it gets. You can only tell it's a wetland by...it's slightly lower, and the different types of grasses and weeds that grow,

but we don't even get any pretty cattails. It's not that wet. But, the point is, for whoever hopefully purchases that five-acre lot, they'll be before you with building requests or building permits, whatever it might be. That process, that you already have, certainly protects that wetland. There, there's no reason for the buffer plaques. And also, we mow that, we have somebody who comes and hays the land. You know, hays it, cuts it down and bales it. That would just really get in the way of that. And, we also mow the land to keep down invasive species. So, if there are posts and plaques, we have to mow around that, it's going to be ugly, it's going to be inconvenient, and it's completely unnecessary. And so, I wanted to bring that point up as well in my request, for your consideration.

Anderson: Can I ask another question?

Hvass: Yes. Go ahead.

Anderson: Okay. I'm a little confused. You want to split the five acres out of the 30-acre parcel. Your present house is on the 25 acres.

Nelson: Our present house is on the 30 acres.

Anderson: It's on 30 acres.

Nelson: Yes.

Anderson: But you want to split five acres out of that 30, but you don't intend to live on that five acres.

Nelson: No. We will stay in the house on the...

Anderson: You're going to stay on the 25 acres?

Nelson: Yes.

Anderson: Okay. Okay.

Krebs: Can we ask why you're subdividing?

Nelson: Well, for one...medical reasons for one thing. My husband's a stroke survivor and, um, you know, it'd be nice to be able to sell the land, have a little less to take care of and maybe have a little bit more money to deal with all kinds of medical expenses, but, you know, why not? You know, when you're...you know, Columbus is interested in adding rooftops from what I understand, and getting more people here, and it's, it's a really nice lot. There's a lot of mature pine trees and birch. There's a lot of privacy to be enjoyed and appreciated, and a house can be nestled in there and hardly be seen by anybody else. So, why not?

Anderson: Um, did you get Dean Johnson, the City Planner's answer to your various waiver requests.

Nelson: Um, you mean some time ago?

Hvass: Mm-hmm. September.

Anderson: Yes.

Nelson: Oh, I'm sure I did in September. I don't have it in front of me right now, but yes. Yes, I'm sure I did. You've been very good about providing me with information.

Organ: Madam Chair, a question on the easement. Uh, there may be a driveway there now, but will there, is there room for a road to go through there in the future if that ever is developed? Or is there wetland problems there?

Mursko: In my opinion, a road will never go through that area, and that is because there's entirely too much wetland and wetland replacement that would have to go along with that project. Um, I've talked to Anoka Conservation District, so has the new property owner, and, at this point, he will not be able to even widen the driveway without doing wetland replacement. He doesn't even know if he can get the driveway through the wetlands in the north area, because they don't know if there's even an opportunity for him to do that with the type of wetlands they are. So he is still working through the watershed district to see if there is even an opportunity to do that at this time.

Hvass: What watershed is that? Is that Sunrise?

Mursko: Sunrise.

Preiner: Madam Chair, I would like Dean to go down his list of findings of fact with us and explain their opinions. Dean could you please go down your findings of fact, and let's discuss what, what you see.

Johnson: What would you like me to do, read them? I mean were there, were there some issues? I know Mrs. Nelson questioned the relevance of number 18 and 19, but do you want me to...?

Anderson: Well, I think what...

Preiner: Yeah, go through them.

Anderson: ... Jesse's referring to is, like on page 7, where you answer the Nelsons' request for waivers.

Johnson: That's different from the findings.

Hvass: Yes.

Johnson: Are you referring to the September 20 memo or my November 11 memo?

Preiner: I was looking at your November 11th, but that's fine to...

Mursko: Barb, are we in discussion now or are we still in the hearing?

Hvass: We're still in the hearing. Maybe we can do that in discussion?

Preiner: We'll do that in discussion.

Johnson: Okay.

Hvass: Were there some things that you thought should be pointed out?

Preiner: No. Not at this time.

Hvass: Okay. Planning Commission members, are there more questions before we open it up to the public? Okay, we'll open the meeting up to the public if anyone wants to come forward on this matter, regarding this preliminary plat. Come forward so that we can hear you. State your name and address.

L. Brennecke: I'm Linda Brennecke. I live at 9525 189th Avenue. I live right here (referring to map).

Hvass: Okay. You live just...is that east then?

L. Brennecke: Yes.

Hvass: East of the five-acre split.

L. Brennecke: And, um, we also like the privacy and the natural looking area, and, I guess my only question is, is there anything I could say to stop the sale...to stop that five acres from being parsed? Because, obviously then, I will have a house right next door to me, which I never did before. And so, I don't know if there is anything, but...

Hvass: You could buy it.

L. Brennecke: Yeah. We discussed that.

Anderson: Your objection to the five acres is because you live in the five acres adjacent to it?

L. Brennecke: Yes.

Anderson: Okay. And you're objecting to the fact that there potentially could be a house there?

Organ: Where is your house located on the five? Pretty close to the line. Okay.

Mursko: And that's what you're supposed to do in order to get it on the record.

L. Brennecke: Okay.

Hvass: But as long as it's, becomes a legal lot, there's nothing anyone else can do, is there?

Mursko: The Nelsons have the right to subdivide the property. In Columbus we have a subdivision ordinance, and, as long as they meet the requirements and conditions that the Planning Commission meet, generally, you would approve this application.

Nelson: And we're...and certainly I appreciate our neighbors, the Brenneckes' request. Um, they were able to purchase a five-acre parcel, so why would somebody else be prevented from a nice five-acre parcel to live in Columbus?

Hvass: Is there somebody else who wishes to come forward? Would you state your name and your address please?

Diane Denzer: Diane Denzer. 9621 189th Avenue, Forest Lake, or Columbus. I think that this destroys the integrity of the rural feel of our neighborhood. As you were so blunt about when we had the road put in, you just didn't like that deterioration that it was going to cause. I think that this is going to further cause deterioration of the country feel of our neighborhood. I also can see where this is going. I didn't realize that this tome of information was available that I could go through, um, that was up on the board there. And, I feel that this is going in a direction of development. I'm not sure I understand what's going on with that property that used to belong to Kevin Menard (sp), but are there intentions of making lots out of that? Because, as you stated Elizabeth, I was under the impression that there wasn't going to be any more of that kind of break-up of property allowed.

Mursko: My understanding is Kevin Menard sold the land. Um, as far as subdivision of the land for that 40, you know, there isn't anything in the code prohibiting it unless you had proper road frontage and you had legal access. And, at the time, there was not legal access to the property. And, the Nelsons now have granted legal access to the property.

Diane Denzer: I just don't understand this. I think there's an ulterior motive here. Um, I don't agree that this should be sold and that anything should change.

Hvass: Okay. Is there anybody else that wishes to come forward? Okay. State your name and address.

Dave Denzer: Dave Denzer. 9621 189th Avenue. When we bought our place there, it's that Kevin Menard, he wanted to use our property for easement back there, because we're...he had a

right-of-way to get back there. It was all swampy and wet, and I think he threw shingles down and, you know, there's really no access to get back there. I think you guys ought to look at them putting a driveway in there and making it legal size for emergency vehicles and that too. And I don't think it's buildable back there myself.

Anderson: Can I ask you a question? You're referring to the access to the upper 40?

Dave Denzer: Yeah. Is that...that was Menard's old property. He sold that, or...?

Mursko: He did sell it, yes.

Dave Denzer: Okay, 'cause he always wanted to come...Bob Cook always gave him, uh, permission to go through our property to get to it, 'cause it was dry. And he said that other way was too wet and stuff, so, I don't know how you're going to build a driveway on that.

Wolowski: Madam Chair. I have a question for you real quick. Where is your property? Are you right on the...

Dave Denzer: Right there (referring to map).

Wolowski: Okay. So you're on the other side.

Dave Denzer: Where's the five acres going to be, that first square there or...? Okay. How many times can a person subdivide a property? As long as it meets...?

Mursko: As long as it meets the code.

Organ: As long as they're five acres.

Anderson: Five-acre minimum, and 220 feet on the road.

Mursko: 220 feet of road frontage, yes.

Anderson: Yup. Ma'am, (referring to Diane Denzer) could I...where is your property?

Diane Denzer: I live with him.

Wolowski: It's the same last name.

Anderson: Oh. Okay. Thank you. I didn't pick up on that, I'm sorry.

L. Brennecke: There's only five acres. They still have to have 220 feet...(inaudible)? I thought some of that was that other road.

M. Brennecke: So then the driveway is an easement at that point. It's separated from the main portion of the property.

Mursko: The easement, the access easement is...

M. Brennecke: No. I mean the driveway to the 25 acres would be separated from the 220.

Mursko: It would...you would have...this is your parcel. You would still have a driveway and then, I believe this is 16 feet as proposed, and then you would have the five-acre lot, so yes, there'll be your house, a driveway, and then, potentially, another lot, and, right here, this is the house pad, currently as it's proposed.

Nelson: The driveway is 35 feet. We're proposing...yeah, that's right, we're requesting a 35-foot-wide driveway and that's actually, I believe that's the septic area - that perked out...the front part is a septic area and the house pad is a little bit farther back. A little more to the west and more to the north is where the zierke soil test tested out for a house that's really covered by a lot of trees.

Anderson: Is there a confusion...we're talking about road frontage. Do you understand what we're saying?

M. Brennecke: I was confused between...so the driveway usually is contiguous with the road frontage; in this case it's not.

Mursko: Correct. In this case it's not.

Anderson: But according to what I'm looking at here, Elizabeth, this one far strip has 220 feet...

Mursko: That's the road frontage for the existing Nelson home.

Anderson: Yes. And then the next, the five-acre plot would have...

Mursko: 402.

Anderson: ...402 feet of frontage. So they have legal frontage. So...okay?

Hvass: Is there anyone else from the public that wishes to speak? If not, Planning Commission members, do you have additional questions?

Anderson: I've been asking my questions out of turn. I'm sorry.

Hvass: If there are no further questions, I'm going to close the public meeting with the right to re-open it if it becomes necessary.

Hearing closed at 7:30 p.m.

Respectfully Submitted:

Karen Boland, Recording Secretary