

**CITY OF COLUMBUS
PUBLIC HEARING
INTERACTIVE TECHNOLOGY MEETING FORMAT
STATUTES SECTION 13D.021
PRELIMINARY AND FINAL PLAT
WALDOCH SECOND ADDITION
12-06-2023**

The 12-06-2023 Public Hearing to consider a request for a Preliminary and Final Plat “Waldoch Second Addition” reconfiguring two (2) existing lots was called to order by Commission Chair Lynn Carver-Quinn at the City Hall at 6:08 PM. Present were Planning Commission members Lynn Carver-Quinn, Barb Bobick, , and Robin Wood, City Council Liaison Jesse Preiner, City Administrator Elizabeth Mursko, Planning and Zoning Tech Eleanor Hahn, Janet Hegland, Ron Hanegraaf, Steve Wagamon, Barb Waldoch, John Waldoch, and Roger Nase.

In attendance via interactive technology was Sue Wagamon.

Absent from the meeting was Planning Commissioner Judy Huntosh.

The meeting was held in an interactive technology meeting format.

Carver-Quinn: Thank you. We'll now open the public hearing and John, did you have anything you would like us to know about?

Waldoch: No, we're just looking to take the large piece of property that we had and split it to be more desirable to try to sell them again. And we needed to combine a couple lots. To get road frontage to make two lots out of that. So, the four-acre piece got combined with a little larger piece to split that into two, and then vacate the drainage easements because the three acre or five-acre lot was part of street smart and then part of one of our other lots. And now that it's bigger, it's going to need its own drainage. So, we needed to vacate the drainage to that lot.

Carver-Quinn: OK. Eleanor, would you like to give your report?

Hahn: Yeah, of course. So, this plat is a pretty simple reconfiguration of two existing lots. Kind of a lot line adjustment, and the drainage and utility easements through the center, where the existing lot line is, needs to be vacated and then new drainage and utilities easements are put in along those new lot lines. They have pretty standard drainage and utility easements. The first Waldoch addition that was approved in 2021, had a pretty hefty watershed permit with Rice Creek, so the only concern would be if this lot line adjustment and those drainage and utility lines moving might have impacted that at all. After contacting Rice Creek watershed district, they assured me that no, this adjustment isn't going to change that existing permit or any of the watershed and drainage concerns that they had on that existing subdivision.

Mursko: Madam Chair and Planning Commission members. What you have before you are the preliminary and final plat, we have combined those applications for you. And again, this is just simply replating and that's why it's called a second edition. So, you have the first plat, where there were seven

lots, and now when you replat it's called the 2nd addition and it's only those lots that you are reconfiguring that's in a plat. So, it's a very streamlined process because you're only looking at this a lot line adjustment and so we don't have the applicants go through a new delineation or new permit process when we're still looking at the same lots and we're just simply moving a line. In this particular case, a vacation of a petition for a drainage and utility easement - that public hearing goes before the Council, so at the last meeting, the City Council called for that hearing on December 13th, and that will happen next Wednesday. And so, we kind of looked at these applications and tried to marry them up with dates in this particular case. So, tonight you are holding the public hearing simply for the preliminary and final plat and the Council will hold the public hearing for the drainage utility easements at the next meeting on Wednesday the 13th.

Hahn: Absolutely. Is there anything else that I can clarify for you guys?

Carver-Quinn: Any discussion? If there's no discussion, I will call for a motion.

Bobick: This is Barb. I'll make a motion to recommend approval of the application for a preliminary plat -

Mursko: Madam Chair, can I just interrupt? Can we open the public hearing first?

Carver-Quinn: Oh, sorry. We'll close the public hearing -

Mursko: Open it.

Carver-Quinn: I did. Oh, sorry. Anybody out in the audience that wants to - OK, sorry, if you want to come up to the table?

Nase: Thank you.

Carver-Quinn: Please state your name and address and speak into the microphone.

Nase: My name is Roger Nase, and we live at 6636 141st St. NE. There is only one thing that I have a concern with and that was on October 6th, 2021, we were, you know, it was COVID time so a different room, but we were all together, going through this to look at the entire 40 acres, or 30 acres, or whatever was left to be subdivided. So that was the subdivision. The original subdivision meeting. And so, at that meeting. I presented this slide and these words and I'm just going to go through it quickly, it won't take me very long. But when we purchased our 20 acres, the 80 acres directly South of our property was residential. We share a 990-foot property line with this property, and it has since been rezoned commercial. And we are requesting a buffer be provided between the Commercial Industrial and residential property similar to that was provided along Zodiac. That was 300 feet. We asked for 50 feet. Currently there is a row of mature trees between our property and the Waldoch property. The property line is about the middle of the trees. We would like to see the trees not disturbed and a 50-foot minimum buffer to a residential property line be provided. This is what we requested in the meeting on October 6th, 2021, and the Waldochs agreed to that request and at the meeting.

And then consistent to how that was applied as far as a buffer goes to the residential property to the West. They put in two residential lots at that time, and those lots were 300 feet by some length, so effectively it was 300 feet of separation between the new CI and what used to be residential. The new CI and the residential property. So consistent with how that was applied to the residential property to the West, the Commercial Industrial drainage and utility easement should lie on the commercial industrial side of the land use buffer.

And what I saw on the map shows the commercial industrial right at my property line is where the drainage utility and the fence and so forth would go and without that Utility and drainage and fence being on the other side of the buffer, there really would be no buffer. There would be a big CI style fence and a utility easement right on the residential property line. The trees that we agreed to keep would have to be at least partially cut down in order to put the fence and drainage utility easement in so that would not be consistent with what we agreed to, and it would be much easier to maintain the fence and utility easement if it were on the CI side of the buffer instead of down the middle of the row of trees.

So that is my request here. I'm OK with the change. We accept that. I'd like to see the easement be put on the other side of the buffer. So that's where the fence would go and the drainage or whatever. Whatever is there would go there. I don't know what it would be at this point, so. But it could be a fence.

Mursko: So, Mr. Nase, just to clarify what you're asking is for a 50-foot buffer from your property line southerly and then an additional 20 feet and that's where you want the drainage and utility buffer to start. So, it's a total of 70 feet.

Nase: I was saying that - the 50 feet is 50 feet. I'm just saying that the easement to that 50 feet would be on the other side. I mean, they can still use all of that easement for whatever they want to do with it. It's their property, all of it's their property. But the buffer would in this case, they wouldn't have to cut down the trees right on the property line, which was the idea to begin with. So, the 50-foot buffer is unchanged. I'm just saying that you don't get a 50-foot buffer if they have the fence right on your property line that you look at. So, the fence would go on the other side of the 50 feet is all I'm saying.

Mursko: OK, so in this case there's a 50-foot buffer. The drainage and utility easement could be Co-located, meaning over the 50-foot, and then you want the fence at the 50 foot line versus the property line. Did I get that right?

Nase: Well, the purpose of the buffer was to provide a buffer and to keep the existing trees. So if that means that they have to cut down the existing trees, then the utility buffer, easement, whatever they do for the utility would go on the commercial industrial side of the fence. You wouldn't want to put the utility easement on the other side of the fence or the utilities you want to have them on the CI side so you can maintain them. So, I think that would make more sense.

Carver-Quinn: So, can you show us? Point on the map.

Nase: So right here, there's the 50-foot conservation easement on the property line here. And then what I'm saying is I'd like to have this, where it says 16 here, drainage and utility easement on this side of the buffer. So, you get a buffer.

Mursko: OK. So just for the Planning Commission, the 16 1/2-foot set back is for the wetland, that's a buffer and that's required by our wetland ordinance. But 10 feet is the drainage and utility easement, which is the smaller dotted line from the property line to out. And so that's where I was trying to understand because right now, they're co-located. So, you want the fence on the 50-foot line?

Nase: Right.

Mursko: OK. So that would be a difference in a condition. In order to provide screening from the commercial property to the residential property.

Carver-Quinn: So, it's residential on the other side there?

Mursko: Mr. Nase, maybe you can show the Planning Commission where your property is. I don't know if they know where it is.

Barrette: Yeah, I see it. His property is right here.

Carver-Quinn: OK.

Barrette: I mean, I don't know. As far as like the people who drew this up, if there's, I don't know what's there and if that would be possible and easily done to switch it. Is there something in the way? I mean, I just don't know what goes into like, deciding what goes where.

Mursko: So established already in the in the first addition of the plat was the 50-foot conservation easement where no development could happen, and Co-located is a drainage utility easement of 10 feet from the property line. So those were established what Mr. Nase is asking for is we require screening between the residential district and the commercial district. And he's asking if the screening can start at the 50-foot line, which is the conservation easement line, versus the property line. He knows that there's a buffer, but it won't work very well if the fence is beyond the buffer.

Barrette: Right.

Carver-Quinn: Yeah, yeah.

Mursko: So, he's asking if the fence could go on the 50-foot line. For screening purposes between - if they're going to have storage or a building or outside storage, or whatever they're going to put or maybe there's nothing. We don't know that because we don't have a development, but he's asking that if there is going to be screening of a fence, and correct me if I'm wrong, to put it on the 50-foot easement line.

Nase: Correct.

Carver-Quinn: So right now, there's nothing there. So, to me, that would be whoever buys that piece of property. That we would have them do that.

Bobick: Wouldn't that be handled at the time the property is sold?

Carver-Quinn: Yeah. When they want to apply for their building permits and design review, and all of that. Because they're the ones that are hopefully going to put up a fence. Not right now when there's nobody there.

Mursko: Dean, I know this is a legal question, but I'm not sure whether you perhaps know. The conservation easement is already established. Can there be a condition on the plat that no encroachment can be made into the conservation easement of screening materials?

Johnson: I'll answer this in a non-legal fashion. I was involved in the plat review, and I want to make clear to the Planning Commission, and to everyone in the meeting, that the conservation easement was not legislated by the city. We have no authority to impose or require that. And so, this was a gesture by the Waldochs in favor of Mr. Nase to establish this 50-foot easement. Our ordinance requires the 10 feet to be on the property line. We're not going to move those. Those are ordinance. And I am hesitant to say we can do anything that is outside of our regular ordinance performance criteria. In other words, whether screening should be on the property line or 50 feet from the property line. It's not our jurisdiction. This was a complementary agreement. It didn't have to be done. It would not have been a plat requirement by the city to establish the easement. That was between two parties. I can understand, Mr. Nase's position, but I'm recommending that this remains a private matter. If somebody buys lot 1, they have to adhere to our ordinance requirements. They also have a conservation easement, that is of record now. We don't really have the ability without a project to even evaluate if screening is better in the middle of this new lot, or whether it would be better elsewhere. It's all based on topography and everything else. In some instances, screening in a certain location that we might prescribe doesn't work because you'd have to have a 20 foot fence, whereas in another location it might be 7. So, I'm reluctant to do anything because this was a gift, if you will, from one party to another and didn't involve the city and complicate it by trying to make additional requirements as a part of this plat procedure. That's a planning response. I'm not the city attorney.

Carver-Quinn: Well, my thought process is just that when somebody does purchase this piece, that's when you would come and get the parties to work together. I don't see how we can impose that.

Wood: This is pretty straightforward. It's just so lot line where nothing is changing otherwise.

Carver-Quinn: My advice to you would be when it gets sold and something is going to happen, that's when you come.

Nase: Well, let me ask this question. Are we establishing the drainage easement at this time or will the drainage easement and location be established when somebody buys it?

Bobick: We have a letter from the city engineer that says doesn't modify site drainage or impact public infrastructure.

Johnson: So, I'll answer that again best they can. There are two forms of easements. They might be called the same thing in some instances, drainage and utility easements. They're placed on property lines and they don't have anything to do with drainage per se when they're on a property line. It's, in a more traditional sense, if you run private utilities, gas, electric, telephone, whatever, you are creating corridors along common properties where those would occur. The other form of easements are required by state law to cover the wetlands, and they are located on the edge of delineated wetlands, which have not changed since the original plat was done. We also require – Elizabeth mentioned this earlier – a one-rod buffer beyond the delineated edge of the wetland. You won't find an exact 16 1/2 feet anywhere here. They do them by straight lines and so in some instances that buffer might be 40 feet. In some instances, it could be the minimum 16 1/2. But that is our ordinance requirement. Nothing in this procedure that we're contemplating tonight, which is changing property lines, is altering any easement with exception of the original lot line between the old Lots 1 and 2, which has to be eliminated, and the City Council is holding the vacation hearing for to eliminate that. Nothing else is affected in this. We have no development proposal and at this point I'm reluctant to say your authority goes further than saying that these new lots, Waldoch Second Addition, are consistent with all of our ordinance requirements, and that's really your recommendation.

Wood: I agree totally.

Carver-Quinn: OK. Thank you for coming. And like I said, if somebody buys it and wants to develop, that's when you come back to us.

Nase: So, when the lots were developed, or when these change the zoning to CI, there wasn't a requirement at that time either, but they came up with the ruling that it would be in the best interest of the property owners, the residential owners. Dean calls it a gift. But the gift might have been changing that property from residential to CI. And that's happened before. I mean, I'm not saying that's going to change. So in order to compensate for us in a small way, a very small way, just to put the fence on the other side is something that we would really appreciate and I think that it's not asking that much to do and it wouldn't hurt the property value and it, like I said when they deemed it required or necessary to put the 300 foot buffer to the properties on the West. There was nothing that required that the City Council came up with that, as that was in the best interest. So, you know, this isn't really any different than that it was a, it was a determination that, yes, we we've got two very different land uses here and we're going to try to make it at least a little bit more comfortable for those folks that have seen that encroach upon their property. So I don't think we're asking for a lot here and I think it better to do it now than to try to do it later, because later on. I know later is always harder.

Carver-Quinn: Here's the problem with doing it now is when a business buys a lot, we look at the design, the material it's made of and we're going to want that fence to match the business. So if we put up a fence now and they come in and it doesn't match, we're stuck. Really, I get it. Everybody wants to do what they want to do with their property, and nobody wants to miss that. Right now, I don't see how we can require that, but when a business buys this property, that's when you can come forward and we can require a fence. But then we have control over what material is used.

Nase: Well, I understand that. I'm not requesting a fence at all, if that's to make that clear, I'm just saying that if a fence was put up in a CI style fence, which isn't like your neighborhood fence, if that fence were put up, it would put up on the other side of the buffer. I would like that to be considered. I just think that that was the original agreement that we had. And it was an agreement so that I would not, I guess personally object to them dividing this, which was one property at the time, into 7 lots. I don't care, but I got a 50-foot buffer and I'm saying that I'm not getting a 50-foot buffer and that I would have objected to that had we not agreed to that 50-foot buffer.

Wood: However, this is not in our purview. This is we have no say in that at this point. The only thing that we are required to do is to OK the split of the lot. We don't care what's going to be on either lot at this point, not at all. When somebody buys that lot. That is when we care about what's going to happen to it, what's going to happen to your property due to that. At that point, then we can then do something. At this point, this is just simply a lot split, nothing more than that. Nothing more is going to happen on the property, so you don't have to worry about that at this point. Is what we're trying to say. We really can't do anything at this point, it's just a lot split and nothing more.

Carver-Quinn: And our role here is not to approve it. Our role here is to make a recommendation to the Council to either approve or deny. There's a limit to what we do.

Bobick: You're worried about the future, but right now, you know, it's just a lot. There's no development plan there. They're just repositioning the lot lines.

Nase: And these easements are there. And it wasn't very long ago that there was somebody in park construction was moving in there, right. And their plan at that time was to put the fence right on our lot line. So, instead of creating that problem and worry, now they're actually changing these properties, changing these lots, and I think there's an opportunity to include that in the change. So that was anyhow, that was just my request. I appreciate you guys. So thank you.

Carver-Quinn: OK. Is there anybody else that would like to address the Planning Commission online? OK. Now we're going to close the public hearing.

At this time, Chair Carver-Quinn closed the Public Hearing. Hearing closed at 6:35.

Eleanor Hahn

Respectfully submitted, Recording Secretary Eleanor Hahn