

City of Columbus
Public Hearings – Woodland Development CUP for PUD Application (PC-17-101) and
Preiner Preserve Plat Request (PC-17-102)
(Woodland Development – applicant)
January 18, 2017

The January 18, 2017 Public Hearing to receive testimony regarding both the request for a conditional use permit for a senior housing “planned unit development” (PUD) in the C/R Community Retail district, and to consider a request for a preliminary plat “Preiner’s Preserve” creating thirty new detached townhome lots with an outlot parcel in the C/R Community Retail zoning district was called to order at 7:03 p.m. by Chair Garth Sternberg at the City Hall. Present were Commission members Jim Watson, 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 members Denny Peterson, Mark Daly and Bill Krebs; and Pam Westlund, Byron Westlund, Kris King, Paul Peskar, Emmy Robinson, Rick Robinson, Mary Preiner, Pat Preiner, and Ruth and Darwin Long.

Sternberg: Now we are going to have a Public Hearing and discussion, actually we’re going to have two Public Hearings and discussions, and we’re going to open them at the same time, for the Woodland Development CUP for PUD request and the Preiner Preserve preliminary plat request, pages 1 through 34 and enclosures. And, at this time, I’d like to ask the recording secretary to read both notices as published.

Notices were read at this time by the recording secretary.

Sternberg: Thank you, Karen. And at this time, uh, we’d like to ask the applicants –do you want to recuse yourself?

Preiner: Yup. Mr. Chair, I’d like to recuse myself.

Sternberg: Sounds good. And at this time we’d like to ask the applicants to please come forward and give us some background on what it is that you’re asking. And if you could state your name and add—uh, name and address for the record too?

Westlund: Mr. Chair and Commissioners, I’m Byron Westlund. I’m president of Woodland Development. Um, we’re the applicant of this, um, request. Um, the history on it: this goes back, um, jeez, I think it was just June or July of 2015. It was right after, uh, Mrs. Preiner passed away that we started on this project. So, um, we were introduced to the family, um, by our mutual acquaintance—actually a bank. Uh, since then we’ve been working together to try to come up with a development for part of their property. That’s been talked about. I’ve given testimony here before, worked with Dean on some of the, uh, minimum standards for the housing. Um, we offered some testimony then evidence that was entered into the, um, record with the ordinance that was created to allow for geotechnical information and establishing lowest floor. So, we’ve probably spent the last (cough) –excuse me- about 12 months working through the watershed

permit application and getting through the Army Corps of Engineers, so . . . So, today we're here in front of you, presenting to you what we think is what we can do with the property. Uh, we had hoped for lot—uh, more lots. We started with a concept plan that had 35 lots, or actually 38 lots. It included some lots across the street next to the wellhouse. After getting through, again, the watershed district and the Army Corps of Engineers, what you said on our plat is what we can get. It's not the number we were hoping for; it's less. Um, but still, we think it's something viable for the City of Columbus and viable for us to continue, um pursuing. So, um, I guess I'd entertain any questions at this point.

Sternberg: Any questions for the applicant?

Krebs: Uh, questions, um, you've read the findings of fact and the recommendations that have been, um, written by our Planner, Mr. Johnson?

Westlund: I have. I don't know if you would like to go through those one by one. We do have some comment on some of those. Some of those we agree with, and some of those we don't agree with. So, I guess I'll ask for some direction.

Krebs: Mr. Chair?

Sternberg: Yeah, let's go ahead.

Krebs: I think we should go through each point so that we make sure we cover everything.

Westlund: I received the letter from Mr. Johnson, um, I believe it was on the thirteenth or so of January, so I've had time to review this. I'd go to the second page of his five, which were the recommendations. Um, Item 1 we're okay with. Um, we'll also probably have to go through the Engineer's comments as well, which is a separate sheet. Um, so finding of facts, uh, and recommend approval. Uh, Item 1 we understand; Item 2 would be something that we would agree with. Item 3, um, causes us some concern. Um, we would ask that this not be allowed. We platted this under—uh, what's it called?—a metes and bounds description. Part of the reason for doing that is not causing any more delays. According to our surveyor, uh, if we were to continue to move on as described in the recommendation we need to identify all easement wetlands, uh, etc. on the entire 80-acre parcel of land. Uh, it's, it's costly; it's time-consuming, and not really necessary, because I believe the Preiners are moving forward with an application themselves in the upcoming, uh, very near future, to plat the rest of the property. The metes and bounds description is accepted by the County for recording and it's also accepted by the County Surveyor's office. So we would ask that that, uh, we would not agree to that recommendation. Item 4 we understand; Item 5 we have no problem renaming the street. Item 6, Preiner's Preserve is the latter of those two, so, I think we got that straight. Um, a subdivision development agreement, we would agree to that. We would like—we've been trying to find out what some of the City fees are, and some of the expenses, you know, that we have to reimburse the City for, such as inspections, such as Planner's time, and, uh, Engineer's time, so . . . This is a senior development. The number of lots has gone down, so cost is becoming a factor here for us. And to make it a viable project. We've looked at and through your website, um, your Comprehensive

Plan kind of gives you an idea of what median incomes are. We've used that information. We've had a marketing team look at that as well. Our package we were hoping to be around that 300 to 320,000 range. Um, so we're trying to hold to that. There are some new and exciting things that are happening in the City, but they're also concerns of ours, such as the reconstruction of the bridge. How now are we going to get traffic or people up to our subdivision? So one of the things we've talked about is actually having them come from the westerly way, uh, primarily through Blaine and Lino Lakes. So, but anyway. Uh, the shared driveway access agreement on maintenance--that would be part of the association. Um, if you notice, on the westerly side there are four lots, with a private drive. Off of the private drive is an infiltration basin. We tried to get a public street into there with a cul de sac. Uh, that had impact on wetlands, and, thus this is the only way that we could get additional lots. It's not our preferred way, but, again, you're looking at numbers to help keep the cost down in this project. So, one of the, one of the concerns that we have--and it's also a requirement of the Rice Creek Watershed District—is the infiltration basin that's there. It is collecting water off the private street. That infiltration basin is also piped, though, to a stormwater basin just to the northeast of that. We would ask that the City consider being the responsible party for that infiltration basin. I got the, um, declaration from the Rice Creek Watershed. To me this is an example of what our government has done, is setting up something to fail. So, a homeowner, in this case, or an association in this case, who knows nothing about stormwater management is being asked to take care of something that they know little or nothing about. There's penalties in this clause—in other words if you don't do this and you don't do this we can come in and we're gonna take care of it, and then we'll assess you for it. The City—it's my understanding that the City--will maintain the two stormwater basins, because they're public infrastructure; they're taking the water off of the streets; there's a pipe connecting these two. Is that possible? Again, I'd ask consideration. We find this detrimental. I find this in the Coon Creek Watershed as well. I've got a plat going there where they want the homeowners to take care of an infiltration or basin for stormwater management. To me it's setting somebody up to fail, and get them in trouble. It's recorded on the property; it stays with the property; and every time you sell it, it needs to transfer to the new owner. These people are not educated in stormwater management, don't really know what it is, and, it's just not going to work, in my opinion. I do plan on taking this to the TEP panel at the Coon Creek Watershed for discussion, and I've asked to be placed on the Rice Creek Watershed, um, workshop to discuss this as well. So . . . An application for the partial easement of vacation, um, Lot 1, Block 2—that's down on the entrance onto the subdivision. It's on the east side of the street. Um, part of this is just purely to give that house a little additional room, so they could have a patio off the back, a deck or a porch. Um, my original application, I did have, had checked the vacation of easement as part of my application. Um, when the notice came back that my application was incomplete I, you know, I did not check that. I was told that, I mean, I was told what to fill out. I didn't check it; I didn't call and question it. But, I'd like, you know, I think it still needs to be there, just, again, so that homeowner has the opportunity to have something in the backyard there. I know the Engineer, and that's one of his comments. He talked about possibly shifting stuff around. There's nothing here to really shift around; we have looked at this and looked at this. And to us, this is the best configuration that there is, and I really don't want to reinvent the wheel. It's something that works, the Rice Creek Watershed has already seen it. Um, so maybe there's a different way, other than the variance—or vacation of easement, excuse me. So . . . Uh, the permanent wetland buffer plaques, stormwater pond easement, we're aware of those types of

things, we've done developments in the past where we've done that to typically own the property line corners that are posted. So that's something that's not, uh, we would agree to. Item 13 is the trail or the sidewalk. This project cannot afford the sidewalks, just plain and simple. We can't do it. If it's gonna be a requirement, it, it just won't happen. Um, cash in lieu of park, that's fine. Um, reimbursement of all City expenses, we expect that. Um, we would like to see the opportunity to review invoices from the City as well, just to make sure we understand how they're doing and what they're doing. Um, and with that, I think that took care of all the Planner's comments. Look to the Engineer's, or questions on comments?

Sternberg: Yeah, let's . . . Any questions on what he was talking about here?

Watson: Well, a couple. I'm sorry, Mr. Chair. Um, Dean, addressing the issues that he's brought up?

Johnson: Will I? Do you want me to go back or . . .?

Watson: Sir, how would you want to do this thing? We went through Dean's list.

Sternberg: well, I figured we'd go over this part now, just because, if we go through the Engineer's we're gonna have a . . .

Watson: Two lists.

Sternberg: Two lists. So can we just touch base on what he was talking about here.

Johnson: Sure. I'll go back to, um, under the recommendations Number three, about platting. The, um, City Attorney's position is the subdivision ordinance does not allow the creation of any remnants when you plat property that are left by metes and bounds. And, I know we had all discussed this at one time during the process, and, part of the issue is that we had two different projects. They didn't keep the same pace, and, while they might overlap at some point in time, procedurally, I'm, I'm relaying to you that doing that metes and bounds division of the easterly quarter section is not allowed in the subdivision ordinance. So that's, it's going to be an argument or an issue with the City Attorney, not, not me. That's their interpretation of the ordinance. So, your subdivision ordinance requires platting of all parcels, and it specifically makes reference that, in a plat you don't leave any remnants of property in a metes and bounds description. It's got to be left as an outlier. So that's, that's why that recommendation is there. That, that's an ordinance issue. I merely added in there, because we knew that there's a pending project—we've been meeting with Jim Faulkner about other properties, which certainly requires platting for both sides of 147th Street, if that were convenient. That could be added to this; it could be one large plat. But that other parcel immediately south of this is a separate description now. There's nothing in our ordinance that is suggesting it should be included. I'm just saying if all of that timing was appropriate, it could be included in the plat. But the way the subdivision ordinance reads now, that east forty acres being subdivided for the purpose of this plot, has to be done by platting, not metes and bounds. That's what's in the subdivision ordinance. And, on Item eight—and we've discussed this with Byron in the past—I can clearly understand where

that issue is. In our staff meeting regarding ponding, uh, the City has not accepted much ponding in the past, period. And, when we do or when we establish stormwater easements, they're draining public roadways. The discussion in item number nine about that partial easement vacation, that pond was acquired for ponding for 147th when it was built 10-12 years ago. Um, and so, the Engineer's position is, the two other ponds within the development are essential. They are related to the new public streets, and, therefore they should be maintained by the City. The Engineer's position is that Pond #3, adjacent to the private street, has no public benefit. It's benefiting the impervious surface for that particular development. And, so, his recommendation was that it be privately maintained. It could be done either way. This ultimately becomes a policy decision of the Council. And Item 13, we do have a trail on Zurich, as you're well aware, on the west side of the racetrack, on the west side of Zurich itself. From the start of this development, we had simply talked about options for connecting that. There were even discussions about having, uh, something that might connect the internal streets across the northerly portion of this plat, not adjacent to road right-of-way. And, we haven't had any of those discussions and it wasn't proposed. I merely am putting in here that there needs to be some disposition of that. Our subdivision ordinance doesn't have an outright requirement for it. Otherwise I would have said a trail has to be included, but it doesn't. That's a policy decision by the City. So, I think those were the only three—or four—questions that, um, Byron brought up.

Sternberg: Any questions on this?

Wolowski: Not me.

Sternberg: Okay, let's . . . Have you got any?

Watson: Just, just one, sir. Um, Dean, on Number three, that sounds like it boils down to a dollars and cents situation.

Johnson: Well, I suspect it, it could be timing and money both. I think what Byron's comment was, you've got a lot of other title work that's associated with establishing a property. We have a, we have a—I don't know if it's a certificate of . . .

Westlund: If I could interject, we're gonna have to do a title search on the Preiner, the balance of Preiner's property, the balance of 80 acres that we're not using, in order then to get—like I said—all the easements, and according, and, I'm repeating, the surveyor couldn't be with me here tonight, but, he said they're also required to show wetlands. And that's a requirement by statute. That property is just about all wetland, and we could spend a tremendous amount of time, um, --I mean it's taken us 15 months to get where we are right now, today, on a plat. I can't imagine how much longer it would take to identify the wetlands on the Preiner piece, and to have those surveyed, have them put on a document. Um, for what reason? It's just, and I, I understand what Dean has, but at the same time it's a tremendous expense. You also have . . . you don't wish to impact the Preiners, what they're trying to do with the rest of their property. This opens that up, because other agencies can look at this, this document, this recorded document, and raise questions, so . . .

Mursko: I, I, Mr. Chair. I have talked to the surveyor, and I've had a conversation with him, and, it, it's, what he is proposing, because there's no other way to do this, is, he's only platting partial forty, and then he thinks that we're going to be able to do a lot-line adjustment to include the other 12 portions of the forty that's not being subdivided by plat. And that's going to be conveyed by metes and bounds descriptions. Which means part of your platted lots are going to have lot block, and then you're going to have metes and bounds descriptions to make them whole. And that, I think, that I think there's, unless, unless we can work something out other than that, that is, means that you have to, we have to draft 24 deeds, in order to do that by metes and bounds, to record it. I'm not saying that the surveyor, it's not easier for the surveyor, but when you get to the title company, and have to convey the land, that's when all of the issues start happening when you come to metes and bounds. So, unless we can do--because that's the way he explained it to me on the phone, and I thought 'That's a lot of work, and a lot of legal descriptions to draft.' Because that, that's the process he explained to me on how this was going to be conveyed.

Westlund: Charlie?

Mursko: Yes.

Westlund: So, a metes and bounds description for the possibility of the four lots, a partial easement.

Mursko: Um, my understanding is that the boundary of the plat is this one.

Westlund: Correct.

Mursko: And you have 12 lots that are affected, because lots go to the other side. And that these would be metes and bounds descriptions, and that Preiners would deed that over to you, and then, somehow, you would deed, by metes and bounds, the other extension of those properties. I, I was actually confused by how it would actually work with legal descriptions. Because I don't know how you would convey that property. But again, we can talk about this during discussion, because I'm really concerned over this, because I can tell you, I've done metes and bounds. And I would actually take extra escrow, because I've been at the closing and having conversations, and then costing thousands of dollars because the legal descriptions don't match. And, I'll give you an example of a lot-line adjustment that did not work, that cost an extra thousand dollars, because of it. On the front end it's cheaper; on the back end it's more expensive.

Westlund: Well, I'd like the opportunity to investigate that, because that's not my understanding, so . . .

Mursko: And that's what I'm saying, because, you know what I mean, I would agree. And he's not here tonight to kind of talk about it, so . . .

Sternberg: So, let's move into the Engineer's . . .

Westlund: Okay. Um, basically, I received the Engineer's report yesterday or Monday at, at four o'clock, so we've gone through this . . . um, I'm trying to find where recommendations are, I apologize. The summary of recommendations, Item one is to not vacate. And, again, he's asking us to redesign the plat. Um, again, I think there's, we can do this another way, if possible, than taking and starting over and moving lot lines and streets, etc. I just . . . We've hammered away at this to really try and get the number of lots that we've gotten. Um, so I really don't want to change those lines; I don't want to redo something and have to come back. So, um, one thing that we thought of is possibly maybe we've got to flip the house too, so that can be looked at as well. So . . . Stop signs, we would agree with that. That would be Item two. Item three is the street lights. We are considering that. I need to take the plat up, once we feel comfortable and are moving forward, I would meet with Connexus Energy, and they have a streetlight policy and stuff that we could at least get some idea of cost on that. Um, street patches - we understand that. I don't have any issue with that. Consideration of the sidewalk, again, we would be opposed to that. Um, Item six is one, um, they're asking for a report dated 7/31 of '15. Um, I do not know whose report that is. That is some other person or entity. So, I don't know that I can get that information—just so everybody's aware. So . . .

Krebs: Oh, okay, so it's probably (unintelligible)

Westlund: Um, the lowest floor elevation should be set at a minimum four foot above piezometer's highest seasonal groundwater ratings. Um, I would ask that be three feet. That was discussed, I believe. Uh, I know as this was being looked at by the City--I don't know if it was last year or last summer—uh, we find, we've developed in Andover, Blaine, Ham Lake, East Bethel, um, basically, three feet is the standard. Uh, most of the homes, the majority of the homes out there are going to be slab on grade. So there's very few full basements, and those are up on the northeast end, so . . . Um, Item eight we would agree with. They should match or get, at least get closer. This is two manhole structures. One we're proposing is two feet higher than the other one, so that needs to be adjusted. Item nine is okay. We talked to our, a couple of sewer and water contractors; this is the preferred method. And what I'm talking about is the water main connection, instead of cutting it off and adding Ts they would actually bore holes into it and then put in the Ts, so . . . Item 10 I'm okay with. Um, Item 11 I'm okay with. Item 12, um, we have no intention of abandoning that well. We would like to, you know, not 'would like to,' we plan on using it to irrigate the yards of these townhomes, so they're not coming off of City water. Uh, it's a well that works, and we would like, it's our plan to use it, so . . . um. And, then, Item 13: I believe the septic system's been abandoned, uh, the house has been removed, and, I believe, the well has either been removed—I guess I don't know that one, so, but that's, we understand that would have to be done.

Sternberg: Any other questions? Well, I think I'm gonna open the hearing. I'm going to open the hearing to the public. Anyone from the public want to speak? Okay, I'm going to close the hearing.

Hearing closed at 7:30 p.m.

Respectfully Submitted:

7 of 8

Karen Boland, Recording Secretary