

CITY OF WILLARD
SPECIAL BOARD OF ALDERMEN
& P&Z COMMISSION MEETING
DECEMBER 19TH, 2006
7:00 P.M.

Board and Commission members present: Mayor Thomas J. Keltner, Aldermen Charles Whitehead, Aldermen Bill Caplinger, Aldermen Gordon O'Quinn, Aldermen Richard Simpson, Planning and Zoning members Chairmen Dale Duvall, Executive Secretary Lucille Murray, and Bradley Dalton.

Also in attendance: City Administrator, Fred Gress; City Clerk, Kathy Blakemore; Municipal Court Clerk, Linda Murray; and City Attorney Ken Reynolds.

Guest Present: Ralph Rognstad, Valorie Simpson, Martin & Nancy Simpson, B.J. & Loraine Vernon, Stan & Kathleen Herr, Evans Ross, Jacci Gamble, Joe Cosby, Louie Amodeo, Melissa Smith and daughters.

Mayor Thomas J. Keltner led the Pledge of Allegiance.

City Attorney Ken Reynolds introduced Ralph Rognstad.

Ralph Rognstad discussed Planned Development District

Ralph Rognstad:there were predecessors from the thirties that really got going in the thirties. That's when most of the states adopted what we call an enabling legislation which allowed cities to adopt zoning ordinances. You know, back in thirties in that we had a lot of different issues. We were living much closer together. We had a lot more dirty industries. There were a lot of environmental problems and that's what led to a lot of what happened with zoning. Over time really I guess we got more into the sixties and seventies that's when Planned Developments began to, the Planned Development Districts were beginning to come out. And the difference between a Planned Development District and a Standard District is that the person, the property owner is really proposing their own zoning district and it's completely different usually than any other district in the community. It doesn't have set standards like a residential district with specific setbacks, specific height limitations and everything. And what the whole intent of a Planned Development District is to try to take the unique characteristics of the piece of property and write a district that develops the land the best way for that specific piece of land, and tries to minimize the impact on surrounding development. And it's supposed to sort of provide a way for people to more creative in dealing with issues. You know with the standard zoning district what you try to do is you come more with a recipe of a cookie cutter kind of approach and everything in that districts the same. So everybody has say a twenty five (25) foot setback, thirty five (35) foot height limitation. If it's commercial next to residential you might have a twenty (20) foot buffer yard. But it's all very specific standards and in some cases those things will work, in other cases

those standards don't work as well because either the piece of land that's being developed or the surrounding area there's some issues with it. You know it might be something with topography, it just may be the way the land developed adjoining too, or you don't really have a good, a good fit. You also might have, the use might have say a lot of truck loading docks, and may not be the standard buffer yard may not work as well as if you have something a little bit different. Maybe you'd rather have, you would want to have more screening than that but in a standard district you couldn't do that. They would just come in and do whatever standard buffer yard or standard screen would be. So that's kind of in a nut shell.

Mayor Thomas J. Keltner: Probably open the questions up to the board. I'd start off. Now these planned districts they can be, the restrictions can be less than the usual planning restrictions, but on the other side they can also be more severe or harsher, require more? It can go either way?

Ralph Rognstad: Right. When we meet with a developer what we will tell them is you have to start, let's say they wanted to do what would be basically a highway commercial district in the Springfield zoning ordinance. We would say you need to start with our standards and look at those and then you need to explain why you're going to make them less or you need to explain why you're going to increase the requirement. And we look course very specifically if somebody's going to say well I want to reduce the buffer yard here or something else. You know like one situation we get into we have railroad tracks going through town and some areas are fairly elevated you know it might be on a berm that's ten (10), fifteen (15) feet high. Well on one side it's residential and the other side it's industrial and it doesn't make as much sense to put a forty (40) foot wide buffer yard on the industrial side, which is the normal requirement against the residential district. But if you're developing under the standard district you still have to do the forty (40) foot buffer yard even though you've got this fifteen (15) foot berm with the trains are constantly using it and the impact in that industrial district is insignificant in some cases compared to the trains that are running on that track. So in a case like that if somebody came and proposed a Planned Development you know we would look favorably on reducing that forty (40) foot buffer yard to something less. We would also be willing to waive the shrubs and just have them plant trees cause nobody is going to see the shrubby from the residential side. So there is things like that.

Mayor Thomas J. Keltner: Questions from either board.

Aldermen Richard Simpson: I've got some questions. I've been reading on this and it say's that this Planned Development it supersedes any of our ordinances, at least what it has in ours. What do you think about that? I mean how do you regulate this? What standards do you use? You know, you come in here and say alright we're just setting up a whole different set of rules here or?

Ralph Rognstad: Well it only supersedes it if you specifically address that. For example we have a driveway ordinance where we have specific spacing on driveways and

different standards for driveways. It would have to be in the ordinance that for some reason you were going to modify the driveway ordinance.

Aldermen Richard Simpson: So like say heavy industry got a two hundred (200) foot setback from residential. That won't supersede that unless they specially say we just want to move closer and can prove that it won't have any adverse effect on the surrounding properties?

Ralph Rognstad: Right. Right. You would have to spell out.....The way the Planned Development District works is that the developer proposes what we call the Preliminary Development Plan which I don't know if that's what you call it too. And that is approved and it goes to Commission. Commission makes a recommendation. And then it goes to Council and Council approves that. And those vary in some areas where it is a very large piece of land and there is going to be multiple uses. The Preliminary Development Plan will be somewhat vague and it will be almost like a regular zoning district where it just sets standards for setbacks in that. We have some other Planned Developments that are very specific. We have one that was done a number of years ago at Sunset and Glenstone and it was a lot that was kind of a remnant lot in the neighborhood and it was a single family residential neighborhood but nobody wanted to buy it because there was so much traffic. And the developer came in and they did a office that looked exactly like a house but they came in with very specific drawings of exactly what the office would look like. Exactly what the landscaping would be. So they had a very specific Preliminary Development Plan. After the Preliminary Development Plans approved then the development comes back with Final Development Plan and if the Preliminary Development Plan was very specific like this office one the staff could approve the Final Development Plan. We would just look at it and say yeah he's doing exactly what he had told Council he would do at the Preliminary Development Plan. If its more vague plan then it comes back to Council and Council will approve the Final Development Plan. But in like a case if you were going to reduce, you know it can be intendances where it makes sense to reduce it down from the two hundred (200) feet. Again if it was like a railroad track separating and there was a lot of traffic on the railroad track, if there was a big change in elevation where it didn't make much sense. But that would be laid out in that Preliminary Development Plan you would have a drawing that shows what the setbacks would be or it could be in the text where it would say you know on this property line the setback is only going to be you know a hundred feet, this one it's going to remain two hundred feet. Over on another side it might be down to fifty (50) feet because it's commercial. But they might also propose that where we're going to go down to one hundred (100) feet that they're going to plant a lot of evergreen trees that would provide screening and some buffering all the time You've got to look at what you are concerned about. Trees work well for a kind of breaking up large building and that if there deciduous you know you're not going to have a screen all the time if it's deciduous. If you want to have a solid screen all the time you've got to look at planting evergreen trees. One of the most significant buffer yards we have which is one that was done back in the eighties is behind the hospital on National and they had a hundred foot buffer yard which we don't do that anymore for office or hospitals next to residential. And then they did evergreen trees and now the evergreen trees have grown together and I think they are

maybe forty or fifty feet high but they are tightly together and they go the whole length. And that's a very effective buffer yard. If you're trying to deal with noise you've got to do a berm you can't, you really have to deflect the sound trees don't take care of the noise.

Mayor Thomas J. Keltner: Can I follow up?

Aldermen Richard Simpson: Yeah go ahead.

Mayor Thomas J. Keltner: I want to make sure that I understand your answer to Richard's question. So this does not supersede any ordinances until it's approved by council? And at that time it supersedes because of the agreement that has been reached through the process? Is that correct?

Ralph Rognstad: Right. Right. And it specifically addresses that it doesn't....and you have to be careful of that. I mean we have made mistakes in the past where suddenly we realize we have a conflict. And we didn't really intend it there to be a conflict and we've had to go back and amend it to try and address that.

Aldermen Richard Simpson: When you say staff, how big of a staff does Springfield have? And how long did it take you people say on the PDD that Gressmers has to put into place. I mean I've read your study and everything and it's that thick. We don't have anything like that. We don't have any study. We don't have any experts. How, what do you do?

Ralph Rognstad: Well in the Development review area I have eight (8) people working there. There is really two (2) staff that work on the Planned Developments. And it's if you could do the minimum schedule it takes about eighty (80) to ninety (90) days to get through a Planned Development process. But for example, Gressmers we had a lot of preliminary discussions before hand with him and his attorney and designer because he wanted to make sure it went through smoothly and that there was no disagreement with staff. The biggest problem is if the developer and staff go into a commission meeting and we don't agree then things can really fall apart and slow down quite a bit. Developers always want staff on their side and they also want the neighbors on their side if they can have them because the neighborhoods usually trump staff, but not always. That's why, we now require a neighborhood meeting for any zoning case. Those are good from the standpoint of the neighbors getting an understanding early on of what's going on. Developers don't particularly like to do them. Some of them have been doing them all along but they, the problem we were, we're hearing from them now is that the neighbors feel more empowered because it's required. But we've tried to be very clear that, in this council stand on it too, the developer is suppose to go in and explain what he is trying to do and he is suppose to try and work through any issues if he can. But if there is a point where you just can't work through the issues then he just needs to explain to Commission and Council why he couldn't specifically address those issues. There is a danger from our, staffs side that we've had a few developers negotiate with the neighbors and come up with something that staff couldn't agree to because it was against city policy. And then

ultimately council couldn't agree to it either but so you have some issues like that. But over all I think that's been a good process. And it's maybe slowed the process down a little bit on the front end but over the long term it's gotten a lot better. You know, it does help I guess to have a professional staff but in part you know we don't have any real scientific studies in that. We really don't have time to do that. We've gone and looked at some things that people have done, but in some cases it really is judgment calls in trying to look at what has been done in other area's, and whether or not you think that's been effective. If you have required a buffer yard somewhere else, or setback, or some kind of other design requirement for building, do you think that's worked. And I think that you also have to except that you're going to make mistakes sometimes and things aren't going to work the way you hoped they did. And you hope you learn from that and you move on. It's not a perfect world and we're never going to get to one.

Aldermen Richard Simpson: You've mentioned buffer yards a lot and you said you can leave them the same or decrease them. Can you also increase them?

Ralph Rognstad: Yes. We've had cases where we've had wider buffer yards in which you would in a, say it was a highway commercial use, we've had wider ones then what would be required in the highway commercial district. I mean, it's not, hasn't been extraordinary it might be ten (10) feet. I mean, I think, like between residential and the highway commercial is twenty (20) feet so we might go to thirty (30) feet.

Aldermen Richard Simpson: What about putting specific information you know in the, we're doing this basically to satisfy the quarry. We have a road that goes though the middle of that quarry and we've been fighting over that for thirty (30) years. We finally have it in our ordinances and we've adopted State Statutes that say's you can't close that road. Now if we're going to put a PDD in, should we state that in there? Because.....

Ralph Rognstad: Oh that the road's not going to close?

Aldermen Richard Simpson: Yeah.

Ralph Rognstad: Well you can do that. We require certain improvements and things be done but you could put in there that the road, so long as it's a quarry the road would remain open. And that would be, I mean that they have agreed to that essentially.

Aldermen Richard Simpson: O.k.

Mayor Thomas J. Keltner: Other questions? Do you have more?

Aldermen Richard Simpson: If nobody's going to ask any I'll certainly.....What about these people out here? Are they allowed to ask questions?

Mayor Thomas J. Keltner: Well we don't have that on the agenda.

Aldermen Richard Simpson: O.k. Enforcement, how do you enforce, who enforces, I know you have the Health Department say enforce like.....road years and years ago with all the dust and everything finally the Health Department comes in, very powerful in a sense, and every things cleaned up now. In fact people around.....road, and half the people don't even know there's a quarry there. You know, they did very good. What is a small town like this, how do they enforce it? I mean they have trouble right now enforcing there regulations, right now.

Ralph Rognstad: Well we have trouble enforcing ours as well. It's a constant battle.

Aldermen Richard Simpson: Constant battle. But who usually enforces those? Is it, does the police do it backed up by the ordinances, or do you have a special officer doing that or Health Department or is it a combination of all of them or?

Ralph Rognstad: Well the way our ordinance is set up building development services building permit people are charged with enforcing the ordinance and they write a ticket and then it goes to court.

Aldermen Richard Simpson: The building permit people?

Ralph Rognstad: Right, Building Inspection.

Mayor Thomas J. Keltner: You're Code Enforcement people?

Ralph Rogstad: Our Code Enforcement is in Building Inspection and they enforce the zoning ordinance.

Mayor Thomas J. Keltner: Nick.....area?

Ralph Rogstad: Right, Nick. I think he has two or three people who do that and like I say it's constant battle. We constantly get criticism. We enforce on a complaint basic. They will do some self enforcement, but we don't do what we call systematic enforcement where we go out and we look for problems. If we go somewhere because there is a complaint about something they might look around the neighborhood. If they see the same thing going on at a couple of different places they might write tickets for several of them because we know that as soon as we write a ticket for Mr. Smith he's going to complain about his neighbor Mr. Jones doing the same thing and then we would be out there writing a ticket for that. But then it goes to court and of course that's a real frustrating thing too we have a few people who are very adept at avoiding the whole system and doing anything and if you really want to you can drag things on for years in court. Ken know's that.

Mayor Thomas J. Keltner: So.....

Aldermen Richard Simpson: Go ahead.

Mayor Thomas J. Keltner: I was just going to follow up on your question. So the complaint would come in and then it goes to the Code Enforcement Officer and is he also the one who investigates or does he just go out and.....

Ralph Rognstad: He would investigate. So for example one of the issues that we continually have problem with is buffer yards and maintaining the plantings, particularly the first two or three years. So actually we do, that is one area where we do some systematic enforcement. We will go out and look a year or two later to make sure what plantings where were required to be done, are done. They are experts in the plantings based on our ordinance the developer is suppose to submit a landscaping plan and show where the plantings will be planted, what kind of plantings they are. They know what it is by looking at the tag on the plants from the nursery generally. But they will go out and make sure that they were planted originally and then they go back a couple of years later to make sure the same ones are there, and if there not, then they tell them they've got ten (10) days to....well typically we have a ten (10) day time where you have to do it. On plantings we'll give them more time because we're not going to tell somebody to go out and plant plants in the middle of August. You know we're going to tell them you wait until a later in the fall and you can do it then but then you have to have it done with in a certain period. If they go out, somebody complains about the door on a trash enclosure cause we require that they be screened. We give them ten (10) days to do it and then we will come back and give them a ticket. And then it goes to court if they haven't done it.

Mayor Thomas J. Keltner: What happens if they.....reoccurring problems? If goes to court, he pays his fine, the same thing happens over again.

Ralph Rognstad: Right, pretty much.

Mayor Thomas J. Keltner: Another ticket and back to court?

Ralph Rognstad: Sometimes we can get the judge to maybe raise the fine if the judge can do that but.....

Mayor Thomas J. Keltner: And there is two (2) Code Enforcement Officers for Springfield? Is that what you said?

Ralph Rognstad: I think we have three (3).

Mayor Thomas J. Keltner: Three (3)?

Ralph Rognstad: Two (2) or three (3).

Mayor Thomas J. Keltner: So it's really up to the judge at the point of the reoccurring thing what he does then?

Ralph Rognstad: Right. Yeah we've gotten crosswise with some property owners and we've, in theory we can write a ticket everyday. Judges don't like that. And they will

usually combine all the tickets into one (1). So we don't do that very often but then if it's again.... if we write one you know and he seems to of taken care it and in six (6) months we're back there sometimes the judge will increase the fine if he can, cause some of the fines are set by the ordinances maximum.

Aldermen Richard Simpson: When you say have heavy industries, say like Gressmers rock quarry and it effects the natural resources you know could around, did you people get experts in there to do water studies you know check the recharge areas and everything you know what it was going to do is that all part of this or is it something to be just left to the people to do or?

Ralph Rognstad: Well we had some information but it's, we didn't rely a whole lot on that because it's too difficult to really know what's going on down there. You know, we know Gressmers run a good operation on the east side we assume that they will do a good job on the west side. Of course they are doing kind of mining. They are doing underground with the idea there going to reuse the mine for storage so they have a real vested interest to try and do a good job there. But you know you don't know you get in there and you set off a charge and where you just thought you were blowing away a little bit of a walls and you've got a big hole because there was something under there you didn't know about.

Aldermen Richard Simpson: Specifically recharge areas and things like that where the adjoining neighbors get their water. Do you think that's a big factor I mean determining you know how close something should be or you know on that, or how this industry will you know will effect these people is that a lot to consider? Or should it go in and just heck with the neighbors?

Ralph Rognstad: Well I guess I think they should consider that I'm not really, you know I don't know a lot about geology. Of course in the city with new development we require everybody to hook to city water. We still do have some people who are on wells so that could be an issue.

Aldermen Richard Simpson: But say everybody's on wells and the area that it is going to effect. That would be cause for concern and certainly don't you think you should get a hydrologist?

Ralph Rognstad: Well I could see where you would ask the developer to provide a report. Now we do, course you got to have somebody who could look at it and tell you what's going on. But we require sinkhole reports if there is a sinkhole on the property. You know there are several firms in town that do that. But then we have the staff to look at it. And of course the primary thing that we're looking at from the stand point of the sinkholes is what's the rim, or the one hundred year flood boundary and then we make them stay outside the one hundred year flood boundary and there really just checking to make sure those numbers look somewhat accurate. Cause you got so many things that come into play with a sinkhole I mean you know today it's draining fairly well, tomorrow it's completely plugged up. And it's not, the level going to be a little bit different but

they try to take all that into account. But it I mean it's not unusual for a community to require things like that. I guess there is probably well records where you have somebody to deal with where people are pulling water out of and but yeah I'm just not an expert in that.

Mayor Thomas J. Keltner: That would be the responsibility of the developer to provide that?

Ralph Rognstad: Right.

Mayor Thomas J. Keltner: During the process of applying for the PDD?

Ralph Rognstad: Right. We have, you have the opportunity, at least we do in our ordinance where we can go back and ask them to do more study. But you do have to show some connection between what you're asking them to do the study for. And then you do have to have some ability to review it whether, it may be the community just spends money to hire another consultant to review the work of the first one.

Aldermen Richard Simpson: Kind of checks and balances.

Ralph Rognstad: Right. Right. Cause you've got to get two (2) engineers to agree and that's.....there is a little bit of a professional estimation.....

Mayor Thomas J. Keltner: Has that ever happened?

Ralph Rognstad: Well we got that most of the time. Planners give engineer's a hard time.

Mayor Thomas J. Keltner: Other questions?

Aldermen Bill Caplinger: From the beginning I heard the words flexibility, mitigate, and negotiate. The PDD allows us to do all those three (3) I mean it gives us the flexibility to bend the rules here, go a little further, maybe a little closer. I just wanted to verify that mitigate and negotiate.

Ralph Rognstad: The theory though is the flexibility is to allow you to come up with the best development for that property based on what it's going to be used for. You know I understand the issue here and the quarry of course is there it's a resource that you probably need to take some advantage of. But you don't want to destroy the landscape and the property values around it. And I mean there is no scientific way to get to what's the best development in some ways it becomes a community standard and you try to do the best that you can. You know you look at ordinances and there is no, and you look at the state law and it talks about where you want to provide open space and air and all that but it, try to preserve property values and all that but it doesn't tell you how to do any of that. And you look at everybody's zoning ordinance around the state and everybody's got something a little bit different. Different setbacks, you know you might go one place

where like Springfield ours is twenty five (25) feet for residential. You could go to, find places where it is forty (40) feet. You know we have seven thousand square foot lots and other places the minimum is ten thousand or fifteen thousand and people just set, that's their community standard. They feel like that's how their community ought to develop and at some point somebody made that decision. If you, you know you could also look at buffering and that other places there would be differences in buffering course we didn't have buffer yards outside of Planned Developments until we adopted the ordinance in 95. So most development commercial, if you had a highway commercial district which was called C-3 then you could develop right next to a residential district and there was no screening and buffering. You had a setback but you could put a parking lot in there. And so over time standards change and cause the community wants something different or what they perceive as being better. But there is no right answer. Then when you develop standards there is kind of two ways to look at it. Like with noise you try, people try to do these measurements and that we have some of that in our ordinance and it is very difficult to enforce. But even then with the sound level should be at the property line is going to vary from one community to the other. But you just try and put together maybe what's the best practice by looking at what other communities are doing. It's not a real fine science.

Aldermen Gordon O'Quinn: What other communities around have a PDD? Republic?

Ralph Rognstad: Republic does, I'm pretty sure Nixa has it. Greene County has what they call PAD Plot Assignment District but it's the same as a Planned Development District. And they actually, in areas where were going to annex we'll work with them on their Plot Assignment District to try and make sure that it is acceptable to us. Cause we know at some point it is going to be in the community. So we try to negotiate something that will work for the city as well as the county. Those are the three main ones I know of.

Mayor Thomas J. Keltner: Other questions?

Aldermen Richard Simpson: Yeah what if say if PDD runs in and it seems to be alright and then a little while then it starts having problems. And then say somebody else want's to put one of these in say surrounding neighborhoods, established neighborhoods and then they say well this didn't work very well over here. And this gentlemen comes up and says well you've allowed it over here therefore I should be allowed to do it over there. What's the diff.....I mean, how do you protect yourself on this. I mean can the city just come up and say alright you can do this but we favor you but you can't do this over here because we don't like you or you know. It seems to me like it's open like that you know you could pretty well do that if you wanted to.

Ralph Rognstad: No it's a legislative decision I mean you could have somebody come in and say, well I want to rezone this corner to your retail district, your standard retail district and it could be surrounded by residential and you could say well you know we think that's a good idea. And again you could have problems and you realize that wasn't such a good idea. And then somebody comes over and says I want to do exactly the same thing here and you say well it didn't work over here and you're a very similar situation

and were just not going to do that. So you could do the same thing with a Planned Development. You get into trouble though, you can get into trouble with zoning I mean it goes to court sometimes where it's very obvious that you took into consideration that were not somewhat objective you know because you didn't like somebody. I mean I seen court cases where it was very obvious that for some reason they just ganged up on somebody. Also there is court cases where they left a piece of property zoned residential and they actually zoning everything around it commercial. For some reason they wouldn't rezone it residential the court said well that doesn't make any sense. Why did you zone everything else commercial and now your leaving this one track. But one's where, I mean the courts do tend to put a lot of emphasis on the legislative duties of the council or the Board of Aldermen. They typically do not like to supersede that. I mean cause generally you know a lot of court cases it's done on the record and they look at what happened at the Planning and Zoning Commission and what was said there. How did the commission craft their recommendation to council? Was there any kind of conflict of interest where the brother in law on the Planning Commission got up and argued for you know the developers brother in law you know and that doesn't look good. But if you have a fairly objective record and it looks like your basing your decision on community standards, and community issues the courts will tend to uphold what the council or the board decided.

Aldermen Richard Simpson: So basically it could swing either way? By the same token you say alright you didn't like this guy so you let him do it, but you're not going to let him do it. But the other side of the coin is you know we favor you even though we're letting you have this so it could swing either way?

Ralph Rognstad: Well it can. You need to be careful about it. You need to try and be somewhat objective.

Mayor Thomas J. Keltner: Other questions?

Aldermen Gordon O'Quinn: What do you consider some of the main advantages of a PDD? I know you said flexible. You can do certain things in one area and not the other but what else would you?

Ralph Rognstad: Well the main thing that we can do is that we can get improvements public improvements where we need public improvements. It's harder to do that with a straight zoning district. You're really not supposed to quote, you can put, we put some conditions on it and we do it through the bill not going into effect until the council bill doesn't go into effect until they have made the improvement. Usually it will be something like dedicating more right of way, putting in a turn lane or something. But if we get into a really significant project where somebody's going to have to build a major street you know it's a big commercial project a good example, well a good example of course is the Gressmer one where we're relocating the highway. They're not going to build the highway but they're going to dedicate the right of way for Chestnut it's going to be moved to the north slightly. And then it's going to connect with what will be the airport road that will go to the north. We had another Planned Development out on

Eastgate at Chestnut and what we, and on that one Eastgate is going to swing to the east to get it farther away from the interchange so it was a significant public improvement. But they were also going to have significant commercial development. And working through so of these public improvement issues is a lot easier to do with a Planned Development than it is with a straight zoning district. It also is valuable because it gives you an idea of what, or it can give the community and idea of how it actually how it's going to specifically develop. You know if you just zoned it to straight commercial you end up with a whole laundry list of uses that are allowed in the commercial district. You don't know how it's going to be laid out. If you have concerns about how you want it laid out and you want to narrow down the uses, you don't want to have crematoriums which is one that we, the neighbors tend to want to have taken out and taxidermy and a few of those. You know you can take out those uses. But you can also specifically sight where the buildings are and of course like we've talked about the buffer yards you could draw in. The buffer yards going to be this wide and it's going to have specific plantings. And those are all things that we don't get if we just say zoned it to straight highway commercial or straight general manufacturing.

Aldermen Richard Simpson: You mentioned public improvement. How big of a concern is the safety and welfare of the citizens and property when it involves those decision making processes?

Ralph Rognstad: Well we look at that. What we're dealing with on public improvements is the street system and we try to make sure that it meets the standards that we normally have for the street system. You know if it's going to increase traffic quite a bit then we require more improvements. But we could like I mean, try to look at other things like noise, dust, and that. Course dust seems to be pretty well regulated by DNR but I don't know. We seem to be having more success with them although we've also had more problems lately because of the lack of funding for staff.

Mayor Thomas J. Keltner: Other questions anybody?

Aldermen Bill Caplinger: When a PDD is approved is there a time limit, five (5) years, (10) years, is it wide open?

Ralph Rognstad: It's it's wide open. Now you could set some time limits if you wanted too.

Aldermen Bill Caplinger: The only why it changes is if say we approve the PDD if they want to deviate away from that they have to come back for.....

Ralph Rognstad: They have to amend it right.

Aldermen Bill Caplinger: O.k. And that could be done I mean if it's wide open that could be twenty five (25) years down the road?

Ralph Rognstad: Right. That's like the Gressmer one out there on West Chestnut it's a fairly vague one but it was set up because we knew service development not going to occur for some time. And actually the way it's set up with the service development, when they do the service development there going to have to come back and do a new traffic impact study so that we know what improvements we need for the street system. They don't have a real comfort level right now. They have some areas that are designated commercial and some that are designated industrial but they don't know how over time that area might develop and there could be more industrial demand at that point then there is commercial. There is some issues out there cause there is the flight paths and you can only do certain things in the flight paths. But yeah it go's on forever and it, they can come in and request an amendment at any time. We have a requirement that you can only, once a decision is made you can't come back and rezone property, come back with a new application for six (6) months for the point when the council makes the decision. We had some people wanting to extend that to a year or maybe eighteen months particularly on denials because we have some where it gets denied and they come back basically with the same request. Council can over ride that. They can initiate a case. And also if someone came in with a completely different case so if somebody came in for a piece of property and say it was zoned single family and they wanted to zone it commercial then, and it got turned down by council then they would have to wait six (6) months to come back in with the commercial request. They could come back in with a multi family apartment request, because that would be completely different.

Aldermen Richard Simpson: When you say that they can come back and ask for an amendment, by the same token, or the flip side of the coin, can the city come up and say hey this isn't working, so we want to recommend an amendment to our agenda? Can that work too?

Ralph Rognstad: Our ordinance allows council to initiate a zoning. They can initiate a Planned Development rezoning that would make it more restrictive. They've never done that. They have initiated other rezonings. You just better have a good reason because you're probably going to end up in court. We've done neighborhood plans in the inter city part. And council has gone back and rezoned large areas that were zoning for apartments back to single family. That's essentially how it was developed and that's, the neighbors has wanted to keep that single family character. So we did in an essence down zone it from another use. A lot of that zoning was done in the fifties. There were two things that were done in the fifties that were not very good. One was along all the railroad tracks they went in and rezoned the neighborhoods, single family neighborhoods to industrial. And a lot of those area now we have rezoned back to single family because they never became industrial, and their not going to become industrial because that's not the location issue now. Industry wants to be out on the highway. They don't want to be right on the railroad track. And then around the downtown area they rezoned a lot of single family neighborhoods to real high density apartments with the idea that someday it would be like New York City houses would get torn down and there would be all of these high rises. Well that never happened and through our planning we went back and rezoned all of that. So we have done changes to make it less of zoning but....

Aldermen Richard Simpson: So you're saying even though PDD is in the council has the power?

Ralph Rognstad: They could do that.

Aldermen Richard Simpson: So it's not set in stone so the council.....

Ralph Rognstad: Right.

Aldermen Richard Simpson: O.k.

Mayor Thomas J. Keltner: Other questions?

Aldermen Gordon O'Quinn: Who normally initiates PDD's? Does a developer come to the city and say hey I've looked at your ordinances and I'd like to do something a little different? Or does.....

Ralph Rognstad: Right they do that. They'll come, they'll talk to staff. They say well we want to do apartment buildings. And then we'll look at them and say well we think you ought to do a Planned Development verses a straight rezoning and here are some reasons why we think you ought to do a Planned Development. Or sometimes they just come in and say I want to do a Planned Development. I haven't looked at your ordinances. I have a unique design of the buildings. It will look real nice. I want to be able to show the neighbors that this is what I'm going to build, and it's got a guarantee that I'll build exactly what I'm showing.

Aldermen Gordon O'Quinn: How well does a PDD protect a developer from you know if it's a big development that's going to take several years? How does that protect the developer from changes say in the City Administration?

Ralph Rognstad: Yeah, it would, I mean unless somehow the Planned Development has changed it's pretty well set in stone as to what, how it's going to develop out. And we have one's that are phased. They'll come in and they'll do phases. And sometimes they'll have the phasing set out up front and it will say well I'm going to develop this residential area first and then I'll do the commercial area, unless for some reason you would go back and amend it. And I guess I do remember we did amend a Planned Development. It was a mobile home park that they decided to go back, the density was too great and they reduced the density of the number of mobile homes.

Aldermen Richard Simpson: Did you get sued over it?

Ralph Rognstad: No. It wasn't a whole lot and I think the developer, the mobile home owner just decided to live with what they had. It was one that already existed and they were expanding it. But no it's just like any other ordinance. Unless the ordinance is changed it's set in stone.

Mayor Thomas J. Keltner: Other questions? Hearing none we appreciate your time. Thank you for coming back out. It's most enlightening and we appreciate your time. Thank you.

Ralph Rognstad: Sure, anytime.

Motion made by Gordon O'Quinn with second by Bill Caplinger to adjourn meeting. All votes yes. Motion carried.

Meeting adjourned.

Kathy Blakemore, City Clerk