

City of Columbus
Public Hearing – Waldoch/Joyer Comprehensive Plan Amendment and Rezoning
Application (PC-15-106)
August 19, 2015

The August 19, 2015 Public Hearing to receive testimony regarding requests to amend the City's Comprehensive Plan and for a Rezoning Application for the Waldoch/Joyer Farm was called to order at 7:02 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, Bill Krebs, Jeff Duraine, and Mayor Dave Povolny; Frank Wagamon, Perry Wagamon, Pat Preiner, Mary Preiner, Myron Organ, Jeff Joyer, Sherri and Roger Nase, Todd Voelker, Dorothy Staples, Mike Meyer, Steve Wagamon, and Lani Blake Thorne.

Sternberg: Now we're going to have a Public Hearing and discussion on the Waldoch/Joyer Comprehensive Plan amendment and a rezoning application – pages 1 through 42. And this is going to be a joint meeting. Just so everybody knows, it's on both the Comp Plan amendment and the rezoning application. So we're going to open both meetings at once. We're going to open both meetings at once.

Mursko: Hearings. Hearings.

Sternberg: Hearings, at once. And the public will be, during the public section, will be able to speak on both matters. So at this time I'd like to ask the recording secretary to read both notices.

Notices were read at this time.

Sternberg: Thanks, Karen. At this time I'd like to ask the applicants to please come forward and state your name and address for the record.

Joyer: Hello. This is, uh, Jeff Joyer, 8174 Lake Drive, Lino Lakes.

Sternberg: Thank you, sir. Can you please, uh, tell us what it is that you're asking of us this evening.

Joyer: Okay. Well, we're, we've got the, uh, the Waldoch property where Hay Days was for, for years, obviously. And we're looking to rezone that as just described. And the maps, uh, I guess show pretty clearly that the property west of the currently zoned commercial property, except for, uh, ten acres along Zodiac, is really what we're looking to, uh, rezone to the Commercial/Industrial. So, it's kind of highlighted there (referring to overhead), showing that the property will, will just be - it currently is, adjoins commercial property on two sides. And we just think it makes sense to make it all consistent, and that it, uh, it, in the long run it might be a better use of the property compared to moving in twelve single-family residences backing up to

the currently zoned commercial property. So, what we've done is, where Zodiac comes into the property, we would propose two five-acre residential sites there, to be excluded from this rezoning, so that the properties adjoining the current residences, uh, remain residential. The theory to that being, uh, whoever chooses to build a home on those parcels are going to know in advance that they adjoin commercial property. And, uh, there is a possibility that, uh, the people who . . . Well, kind of part two of all of this is, the people who bought the front 20 acres: Blake Drilling and that group, and I are reconfiguring our ownership lines, if this gets approved, where they will actually control those two five-acre parcels. And so they would, they would control those, and, uh, and a strip of property, uh, you know, to Lake Drive. And their thoughts are there's a possibility that they, one of their group or two, might build on those properties. But they would, they would control it, knowing that they own the adjoining property, and, uh, really wanted to see it developed cohesively in that sense. So it's, tonight we're talking like, you know, we're talking about a kind of part one and part two, but part three, if it's approved through this whole process, is we are going to reconfigure property ownership between the Joyer family and Blake Drilling, so that we have something that guarantees what we're talking about. And that would be a re-plat, and we'll be back here, uh, you know, talking about that, early next year I would guess.

Sternberg: Sure. So it's basically 30 acres, ten acres of residential lots there – two lots would remain residential, 30 acres would be rezoned commercial, plus the additional 38.88 . . .

Joyer: Correct.

Sternberg: . . . up there. Do we have any questions for the applicant?

Wolowski: I just have one.

Sternberg: Sure.

Wolowski: Have you had any inquiries or anything of what might become of this land? Have you had anybody show interest in what, you know, in purchasing it if it's rezoned?

Joyer: Um, actually, zero.

Wolowski: Okay.

Joyer: And, and part of that is, um, people hesitant to get involved not knowing whether it would or wouldn't be rezoned. So it would kind of, uh, . . . it's kind of dead in the water, because of the uncertainty of what we really have there.

Wolowski: So what you're saying is, anybody who has inquired has stepped away based on the, um, zoning currently.

Joyer: Correct.

Wolowski: Thank you.

Sternberg: Any other questions? I just want to make you, I'd like to make you aware – I'm sure you already are – but you probably - whoever ends up – if this goes through – there'd be a buffer zone required there on that 30 acre parcel, butting up to the two five-acre parcels. Right? Residential buffer zone?

Johnson: As part of a development proposal any boundary between commercial or rural residential would require that consideration.

Sternberg: Yeah.

Johnson: Yeah.

Sternberg: Any other questions? Okay, at this time I'm going to open the meeting to the public. So, if you want (referring to Joyer) you can probably take a seat, and . . . We're going to open the meeting to the public. Anybody from the public want to speak on the matters? The Comp Plan amendment or the rezoning?

F. Wagamon: Age before beauty.

(laughter)

Sternberg: Please state your name and address for the record.

P. Wagamon: Couldn't hear a word you said.

Sternberg: Please state your name and address for the record.

P. Wagamon: Thank you.

Sternberg: Thank you.

P. Wagamon: My name is Perry Wagamon. 13640 Zodiac Street, Columbus, Minnesota 55421. Okay?

Sternberg: Yup. Thank you, sir.

P. Wagamon: All right. Now well I want to start off by saying that I don't blame Waldochs a bit for wanting to sell their property for all they can get. Any intelligent person would probably do the same thing. Uh, but I want to remind the City that they have an obligation to see that everybody's treated fair when these things are done. So, theirs is to sell the property to get the property rezoned, yours is to see to it it's done fair. Anyway, other than that, I'm, I'm, to tell my story here, I'm about 80 years old, and I've seen a lot of these situations. Uh, but this particular one . . . I built my home. I spent a ton of time building it for the golden years, when you're

supposed to enjoy your retirement, these particular time. And, I'm telling you, between the City trying to flood me out, and the Waldochs trying to redevelop their property for what it isn't zoned for, so they can get more money, these last ten years, you know – by damaging the neighbors, by the way – these last ten years have been kind of hell, to tell you the truth. And I'm awful happy to see it coming to a head. Whatever happens – if they need the rest of my property to make it work, I think I'll give it to 'em. Uh, now that, the junkyard failed. It didn't fly, because it wasn't fair to the community. And this seems to be a deal where there's an effort to rezone the property without a purpose. And now the City's got the votes to make it work this time. So it seems to me like the next junkyard will go through real easy, if this is allowed to fly the way it is, without any conditions. The next junkyard will go through without any of us pesky neighbors bothering it. We won't be able to cause any problems. And, that isn't right. It shouldn't be rezoned without a purpose. Uh, the south half of the property, with the residential lots and the purpose for rezoning makes sense. However, the residential lots should be set up in some way – and I don't know how you do it, I'm not the lawyer, but somebody should know how to set that up – so those lots remain residential or a buffer. They shouldn't be allowed – here, you're gonna have industrial on both sides and the back of it, and the most likely thing to happen down the road, when somebody decides that that property isn't livable with the industrial property next to it, they'll come in and ask for it to be industrial and it would make sense to do it. So, if there's any way of setting it up so that it can't become industrial, that should be done. As far as the north parcel, it shouldn't be rezoned until there's a purpose other than financial gain. Uh, there's nothing that I see that anybody wants to do with the property except to make more money by infringing on the neighbors. Uh, other than that, you know, the stories I've heard is that they can't make the property work industrially and still provide their own buffer, so they're planning on using us for their buffers, which I don't think is quite right. If they can't make it work as industrial without ruining the neighbors' property, it shouldn't be industrial. It should be used what it's supposed to be for. So I'm here to , I'd like to request that the Commission and the Council realize that this rezone is forever. It isn't just something that happens and then gets over with. The rest of us gotta live with that forever. And it's going to ruin the property. If it isn't done right, it ruins the adjoining property forever. So our grandkids are going to be over here fighting about it. And it, there's no need for that. In my opinion this is an intelligent group of people, and I think everybody here knows right from wrong. And this is a question of right and wrong. And I'm here asking people to think it over. Take your time and do what's right. That's all I have to say. Thank you.

Sternberg: Thank you. Anybody else from the public?

F. Wagamon: Frank Wagamon. 6559 Pine Street. I spared you a few pages this time, so . . . (laughter) Okay. First I'd like to thank the Commission for the opportunity to present my views on these matters. Upon reviewing the proposed rezone, I have noticed that the residential area has been reduced from the original plan presented months ago, and, in the present form, Zodiac Street is once again at the risk of future commercial traffic. The fact that the northernmost parcel is being rezoned completely, surrounds the presumed residential buffer, and therefore puts those two properties at future risk for rezoning to commercial/industrial. I'd like to see Mr. Joyer's residential property more marketable as that is the only safeguard we have for avoiding commercial business and traffic down Zodiac. That would completely surround my property

with commercial/industrial on the northeast side and commercial traffic all around it, completely destroy my property value and livability. By rezoning the northernmost parcel all the way to Zodiac would surround Mr. Joyer's two parcels and give him the same dilemma. The common sense approach, in my opinion, would be to rezone approximately 1000 feet westerly from the center of Lake Drive, including the Voelker property, and make the rest high density or higher density residential all the way to the Nase property on the northern boundary. The Voelker property is contiguous to two-plus-acre lots on Pine Street, and that would make the Voelker property more marketable, would protect the trees and wildlife, and, in my opinion, make the Voelker property more valuable, as well as all the adjoining properties on Pine Street. If Voelker sells commercial/industrial, their house would go, their business would go, the trees and all the wildlife would go. So, really, what's the advantage in all that? Some of my observations and concerns are this: it's not a detriment to the health, safety and welfare of the community, and usable as zoned, so what's the real reason for the rezone? Why are we rezoning for the absolute worst in zoning with no proposals on the table? That's not how other cities do this and that's exactly why there are safeguards against this very thing. It's very damaging to the local residential community. Uh, Planner Johnson stated back in 2008, 'We have more than enough commercial for the next 20 years.' So, time doesn't fly that fast. Um, from your 2030 Comprehensive Plan, page 19, the State said, 'It is the goal of the City of Columbus to protect the rural character in the City, maintain land use patterns which insure compatibility and function of use, protect the health and safety of residents as well as insuring stable residential areas, and protect residential areas from incompatible uses.' On page 24, it states, 'It's the policy of the City of Columbus to prohibit unplanned commercial or industrial uses from developing near residential areas.' Um, Black Law's Dictionary, uh, he finds 'Prohibit is to forbid by law; to prevent, but not synonymous with regulate.' Page 25, 'Minimizes the impacts on future residential use due to area commercial and industrial land uses and freeway proximity.' Other concerns from the League of Minnesota Cities, and from the Standard of Review of Rezoning Applications – uh, this is limitations on City discretion – 'An application for a rezone is a request for an amendment to the zoning ordinance. When reviewing applications for rezoning, the court has ruled that the City continues to act in a legislative capacity even though the rezoning application may only relate to one specific parcel owned by one individual. The existing zoning ordinance is presumed to be constitutional, and an applicant is only entitled to a change if they can demonstrate that the existing zoning is unsupported by any rational basis related to the public health, safety, and welfare.' The Equal Protection clause in the Minnesota State Constitution and 14th amendment of the United States Constitution require that 'one applicant not be preferred over another for the reasons unexpressed or unrelated to the health, safety or welfare of the community, or any other particular permissible standard or conditions imposed by the relevant zoning ordinance, and all similarly circumstanced shall be treated alike.' Now, here are the reasons you gave in your findings of fact in 2008 to deny commercial in the Broadway district. '1. There's no public sewer and water available in this area. 2. Commercial is not compatible with residential. Residents don't want commercial next door. 3. There are no natural boundaries to start and stop a commercial area. 4. There is no apparent reason to rezone except for some residents to sell their land at a higher value. 5. The need for commercial in this area does not seem apparent.' So, how do these differ from this application? All this being said, I can appreciate Mr. Joyer's efforts to lighten the impact with residential buffering. That's exactly the mentality that's been lacking here in the past. The Waldochs and the Joyers are good, honest,

hard-working people, and I hope they can get filthy rich with their investment, but not at the expense of others. There's room to compromise, and there are other approaches that could be a win-win situation for all peoples involved. No one really needs to get hurt here. I think this is a good opportunity for you to talk with the Waldochs, the Joyers, and the Voelkers, and get some incentives to straighten this mess out. A lot of people are being hurt with the direction we're going. So, thank you for your time and consideration.

Sternberg: Thank you. Anyone else from the public care to speak? Please come forward and state your name and address for the record?

Nase: Roger Nase. 6636 141st Avenue North East, Columbus, Minnesota.

Sternberg: Thank you.

Nase: Mr. Commissioner, would it be okay if I talk to about six slides here, a presentation that I put together?

Sternberg: Yeah. You, we already have it loaded there?

Nase: Yeah. She, I, uh, e-mailed it to Elizabeth.

Sternberg: Sure.

Nase: The first slide shows the proximity of our property – I didn't bring a laser pointer – uh, to the property that's proposed for the rezone, so . . . Thank you. Um, so we have a 20-acre parcel on 141st, and we've got a – it's hard to read – but there's a 990-foot shared boundary with the proposed property that they're requesting the rezone on. Um, our property, and, of course, all the adjacent property around us, and around the – to the Wal- or to, uh, the Wagamons is all rural residential as is currently, what's in the red box, is rural residential that's being – a portion of that, 68 acres is being proposed to change to commercial/industrial. Next slide please. So, similarly to what we've heard here tonight so far, um, we oppose the rezone request due to the negative impact that it has on the surrounding residents. Um, you know, we bought our home here in Columbus because we wanted to be away from the City. We wanted to be surrounded by, you know, rural residential properties, and the properties that we bought next to were rural residential. Um, you know, we love our property. It's quiet. It's beautiful, farm-like atmosphere. Um, and it would be a serious impact if 80 acres adjoining our property was changed into an industrial park. Um, we, we share an awful big boundary there – almost a thousand feet. Um, our beautiful setting – that's a personal opinion – is compatible with residential homes. They could put 12 and 14, uh, you know, depending on how they could organize them on the lots there. But, you know, that's what we would like to see down there. Um, and, it's not compatible, our land use is not compatible with, you know, rows of semi-trailers, and bulldozers, and excavators, and, and what they bring with it – you know, piles of dirt and debris. And I know that's all part of what they need to do to get their jobs done, but it's not compatible with the residential neighborhood. Um, and you've got loud semi trucks, you've got diesel engines running, and emissions and alarms, and concrete grinders, and dump boxes that their cleaning out when they

come home at night. And we hear some of that now, and we're, you know, probably almost half away from MUE. Um, you know, you've got smells and other issues. These lots, if they're, if it's rezoned to commercial/industrial they're, you know, they're typically all dirt. They drive over the entire lot. They park on the entire lot. Um, it's not like a residential lot, where you have primarily a grassy area, you know, whether it's kids playing or people mow it or they play baseball on it. Um, in this case, with the commercial/industrial, it's dirt, it blows around, you know. No one really cares too much about the appearance of these, because they're not their home, you know. They don't live there. It's a place they go to work. They've got a job, a tough job. And they park their equipment, they use their equipment, and they go home to their nice home. So they just don't keep 'em up and they're generally messy and unsightly. Um, next slide please. So – excuse me – so, uh, development like this (referring to slide): I just picked kind of a flat area that had, you know, residential lots, large residential lots in Columbus, um, is what it might look like in 20 years or something, after the trees start to grow up if, if we could make this into a residential area. Um, next slide please. And that is compatible. This isn't compatible (referring to slide). This is an example of C/I in Columbus. And you can imagine if any of those boundaries were your property lines, it would . . . It's just not compatible with the rest of the land use in the rural residential area. Next slide. Example 2: just another example of commercial/industrial in another area in Columbus. And, you know, if these are residential homes, um, they would be negatively impacted by the nearby commercial land use, um, in multiple ways – financially, and just enjoyment of the property. Next slide please. So, impact on property value: You know, we've looked at what it might look like if it was commercial, and that really would have a negative impact on property values for those surrounding residents. And our property value would be reduced if this is rezoned. I provide a reference here. Um, you know, some analysis that was done, and, uh, the conclusions of that analysis I've included here, along with acknowledgements to the person that provided the, or did the assessment in the University of Pennsylvania, or however that was. But the key findings in this analysis were that surrounding uses do have an impact on the sale price of nearby parcels. And, one of the findings that they had, is, you know, one implication is that industrial or small-lot residential or multi-family residential will have a negative impact on house prices within 400 meters. So, it's just another reason why, you know, we don't want to have it be rezoned, and would like to keep it rural residential and have it developed as that. So . . . that's all I have.

Sternberg: Thank you, sir.

P. Wagamon: Can I say just a couple more words? There's something I forgot.

Sternberg: Sure, and then we'll give other folks a chance.

P. Wagamon: Elizabeth, can you bring up the picture of the, of the property? The original one, where the properties are shown. (referring to slides)

Mursko: The original in the Power Point?

P. Wagamon: Yeah. The one where it shows the, their, uh, yeah.

Mursko: The, uh, this is the first one.

P. Wagamon: And can you take that 80 acre sign off the front of it?

Mursko: Yup. Hang on a second. Um, you, and what do you want?

P. Wagamon: Pardon me.

Mursko: You want this one or another one?

P. Wagamon: Yeah. I'd like to be able to see the property itself, rather than the sign that says 80 acres.

Mursko: I don't know that I can take it off.

P. Wagamon: You can probably . . . I can explain it.

Nase: Are you exited out of the slide show? Are you in slide show right now?

Mursko: Yeah.

Nase: Then just click on the box, in the 80-acre box. And then hit 'Delete.'

P. Wagamon: It don't have to . . . You can see the top half of it.

Nase: It's okay. Just click on the outside border of the box

Mursko: Okay.

Nase: There you go. And then hit 'Delete.'

P. Wagamon: Okay. You'll notice on his, uh, on his graph, where the first 80 acres stops, that's where the end of Zodiac Street is. And you'll notice, I've had, it's been referred, that back ten acres, the west 10 acres of the first of the southern, er, the northern property?

Sternberg: Yeah.

P. Wagamon: That west ten acres has been referred to as wetlands, and they're talking about using that for a barrier, or for a . . .

Sternberg: Buffer.

P. Wagamon: Buffer.

Sternberg: Yeah.

P. Wagamon: Well, if you look, there's about a couple acres of that that's actually wetlands. The upper portion of it is a beautiful building site for residential. In fact, one of the Waldoch boys was at my house several years ago, and he was gonna build a house there, and – it's a beautiful building site. And the bottom half of it, Smith's been making hay there for years. In fact, and most of it that looks wet right now, most of that was hayed all the time. So, this isn't land that can't be used for, for residential development. And, I've got a nice building site right up on the top corner of it that would be affected by going with industrial at that point. So it does have some . . . That's all . . . The point I wanted to make is that is good residential property, and even if it's let be rezoned to industrial, a prudent business man would no doubt mitigate it, and have ten acres of good industrial land - which is what I'll have to do on the other side of the line in order to salvage any of my property. I'm going to have to mitigate the wetlands in order to build, because the rest of the property has all been ruined by the flood. So, my salvation would be not to have industrial land there, so I can at least use the front half of my property. If you follow me?

Sternberg: Yeah.

P. Wagamon: Okay. I'm sorry to have to come up here to clarify.

Sternberg: No. That's fine. Thanks.

P. Wagamon: Thanks.

Sternberg: Thank you. Please come forward. And, if you could, just state your name and address for the record.

Staples: My name is Dorothy Staples. 13908 Lake Drive. I would like to reply, I had no intention of saying anything, but, I clearly understand the gentlemen's feelings as what's happened to my property. Like Rybak next door, or, across the street from me – two, three, four o'clock in the morning it's trucks banging, noise, it's . . . You don't keep your window open in the summertime. And, the guys next door, the, uh, MUE, they're the sweetest guys you'd ever want to know, but it is noisy. When they grate their whatever they do, my house shakes. I have cracks in my porch from the shaking. And, they don't start work until 6:30, but, when they do, it's noisy. And I don't feel that anybody, who's just an ordinary couple, would want to buy my house, because of the business that's next door and across the street. I think I am very limited on what I can do to sell my property. My husband died a year and a half ago, and I don't know how I can sell my property. Um, I'm told that if a commercial people buy my home they have to use my house or tear it down. MUE was kind of interested until they found, well, they have to tear it down, it's going to cost \$20,000 or better to tear it down. Nobody wants to pay that. So, I feel I'm stuck. So I can understand his feeling that having a noisy business around is not very good. So, I'm sorry to feel that way, but that's the way it is for me.

Sternberg: Thank you. Anyone else from the public want to speak? Okay, at this time, uh, we're gonna continue our discussions.

Boland: Are we closing the public hearings?

Sternberg: Yeah. We're going to close the public hearing with the right to re-open if it becomes necessary.

Hearings closed at 7:36 p.m.

Respectfully Submitted:

Karen Boland, Recording Secretary