



City of Racine

City Hall
730 Washington Ave.
Racine, WI 53403
www.cityofracine.org

Meeting Minutes - Final City Plan Commission

*Mayor John T. Dickert, Alderman Gregory Holding
Atty. Jud Wyant, Atty. Elaine Sutton Ekes
Vincent Esqueda, Alderman Eric Marcus, Tony Veranth*

Wednesday, March 30, 2011

4:15 PM

City Hall, Room 205

Call To Order

Mayor John Dickert called the Plan Commission meeting to order at 4:20 p.m.

PRESENT: 5 - John Dickert, Elaine Sutton Ekes, Jud Wyant, Eric Marcus and Tony Veranth

EXCUSED: 2 - Vincent Esqueda and Gregory Holding

Others present: Matt Sadowski, Principal Planner
Jill Johanneck, Associate Planner,
Brian O'Connell, Director of City Development
Rick Heller, Chief Building Inspector & Zoning Administrator
Nicole Loop, Assistant City Attorney
Arnie Gonzales, U.N.I.T. Inspector
Alderman Jim Kaplan

Approval of Minutes for the March 9, 2011 Meeting

Action on the Plan Commission minutes of March 9, 2011 was deferred by Mayor Dickert without objection.

[11-6217](#)

Subject: (Direct Referral) Review of a Conditional Use Permit at 914 Marquette Street - Pedro's Auto Repair.

Principal Planner Sadowski advised complaints by a neighbor have brought potential violations of the Conditional Use approval to the City's attention. The complainant also provided photographs to support these potential violations. Mr. Sadowski provided background information and highlights on the possible violations, including zoning, parking issues, trash issues, repair areas, and unlicensed vehicles. It was noted the parking lot that is leased for this business is a shared with two other businesses and tenants living in the building.

The Commission was advised there is non-compliance with several conditions of approval, and this meeting is to allow them to decide if violations do exist and to advise Staff on how to proceed, be it allowing time to rectify the issues or begin the revocation process.

Mr. Sadowski advised the revocation process for a conditional use as outlined in the zoning ordinance begins with the Chief Building Inspector providing 60-day written notice to the violator to allow them time to comply. If they remain non-compliant, the conditional use permit can be revoked. State Statutes require a hearing be held on the revocation as the next step, before the revocation takes effect, rather than an

appeal to a revocation order as outlined in the zoning ordinance. Staff's request is for the applicant to work with Staff to become compliant with the conditions of the conditional use permit.

Alderman Kaplan spoke. He noted concerns with the parking lot lease agreement, advised he has received complaints from within his district.

Alderman Marcus inquired if the applicant has been advised of the status of the problems and how often. Mr. Sadowski advised Staff met with the applicant last fall and had discussion, and also noted the façade grant was not utilized as approved and the City has since re-captured some the balance of the façade grant funds.

Commissioner Sutton Ekes noted the history of the property indicates an investigation is warranted, and that the business may have outgrown the constraints of the site. She noted there may be a better location for the business to thrive and the City may be able to work with him on finding a more suitable location.

Commissioner Sutton Ekes then moved that the Zoning Administrator initiate the revocation procedure, but also work with the owner to find an alternate business location.

Upon discussion of the motion, Commissioner Wyant noted the State Statute requirements overrule the Zoning Ordinance requirements. Commissioner Sutton Ekes clarified that a 60-day notice would begin the process and agrees a hearing prior to revocation would need to be held to afford the permit holder the ability to defend themselves prior to consideration by the Commission to the revoke the permit.

The motion failed due to lack of a 2nd.

Alderman Marcus requested a review of how the revocation process works under the State Statutes. Mr. Sadowski reviewed this information with the Commission.

Commissioner Wyant moved to direct Staff to work with the applicant and owner to come into compliance within the next 30 days before beginning the revocation process. Seconded by Alderman Marcus.

Discussion of motion ensued. Commissioner Sutton Ekes recommended an amendment to the motion to use a timeframe of 60 days (versus 30 days as was stated in the original motion) to be in line with the wording existing in the Ordinance. Commissioner Wyant and Alderman Marcus did not object to the amendment. The amended motion carried. Ayes – all.

Mr. Sam Azarian, 5924 Leeward Ln., is the building owner and spoke on the item. He noted that the business owner (Pedro) runs a very successful and clean business and feels problems with garbage, unlicensed vehicles, etc. are not Pedro's problems, but that he would do whatever needs to be done to comply.

Mayor Dickert advised that the site was approved for this use with strict conditions due to the size of the site for the type of use, and that if the violations are not the result of Pedro's business, they are then Mr. Azarian's problems to rectify.

A motion was made by Commissioner Wyant , seconded by Alderman Marcus, to direct Staff to work with the applicant and owner to come into compliance within the next 30 days before beginning the revocation process. An amendment of the motion was recommended by Commissioner Sutton Ekes to use a timeframe of 60 days versus 30 days to be in line with the wording

existing in the Ordinance. The motion PASSED by a Voice Vote.

4:30 P.M. PUBLIC HEARING**4:30 P.M. PUBLIC HEARING**

11-6218

Subject: (Direct Referral) Request by Anthony Coey for a Conditional Use permit for 3317 Durand Avenue to operate a used automobile sales lot. (Res.11-2507)

PLAN COMMISSION RECOMMENDATION OF APRIL 13, 2011:

THAT THE REQUEST BY ANTHONY COEY SEEKING A CONDITIONAL USE PERMIT FOR USED AUTOMOBILE SALES AT 3317 DURAND AVENUE BE APPROVED, SUBJECT TO THE FOLLOWING CONDITIONS:

- a. That the applicant continue to work with City Development Staff on completion and submittal of a correct floor plan and revised site plan, which addresses citizen and Staff concerns and requirements, prior to any permits being issued or occupancy granted for the site. If the applicant and Staff are unable to come to consensus on site plan, the request shall be re-scheduled and presented to the Plan Commission for further review and recommendation.
- b. That the hours of operation be from 8:00 a.m. - 6:00 p.m., Monday through Friday, and from 9:00 a.m. - 2:00 p.m. on Saturdays. There shall be no Sunday hours.
- c. That only private passenger vehicles be sold at the location.
- d. That there be no pennants, banners, streamers, advertising flags, antenna sleeves, string lights, spot lights or other forms of attraction devices utilized.
- e. That wheel stops or curbing be installed for parking spaces as required per Section 114-1171 of the Zoning Ordinance.
- f. That the ingress/egress located closest to the intersection of Wheelock Drive and Durand Avenue be closed off, and that this closure be subject to review and approval of the Commissioner of Public Works.
- g. That no inoperable vehicles shall be stored or sold from this location.
- h. That no vehicles for sale be allowed to be parked on either street adjacent to the property. Vehicles for sale or which have been repaired and are awaiting pick-up shall be stored in parking spaces designated for this purpose.

- i. That any waste generated from the vehicle repair, such as oil or other fluids, shall be stored in appropriate containers inside the building while awaiting pickup and proper disposal.
- j. That auto detailing and repair of cars to be sold on-site be allowed within the existing garage. No detailing or repair activities shall take place outside of the building.
- k. That no storage be allowed in the area behind the building, with the exception of the existing storage shed.
- l. That all signage be reviewed and approved by the Director of City Development and all required permits be acquired prior to installation.
- m. That all parking lot lighting shall be shielded downward, and that the illuminated pole sign shall be turned off no later than 10:00 p.m. daily.
- n. That no tow trucks, or similar vehicles used to transport vehicles to and from this site be allowed to park at this location other than to load or unload, and all loading and unloading of vehicles shall take place on-site.
- o. That all vehicles offered for sale are to be confined to the property at 3317 Durand Avenue.
- p. That all codes and ordinances be complied with and required permits acquired.
- q. That no minor changes be made from the conditions of this permit without the approval of the Plan Commission and no major changes be made from the conditions of this permit without the approval of the Common Council.
- r. That this permit is subject to Plan Commission review for compliance with the listed conditions.
- s. That those improvements as required by above conditions shall be fully implemented by August 1, 2011. If the applicant or owner fails to implement the required improvements by August 1, 2011 the applicant or owner shall provide the City with a letter of credit, bond, or other acceptable financial security, equal in value to the required improvements.

The financial security documents shall be submitted for the review and approval of the Director of City Development, shall be issued in the

City's favor, shall be in effect for one year from the date of issuance, shall be extended beyond the expiration date if deemed necessary by the City of Racine, and shall require that the issuer give a 90 day notice to the Department of City Development prior to the expiration of said financial security.

The City is authorized by this conditional use permit to enter the site, implement the plan(s) and draw on the financial security for the cost of implementation if required improvements are not implemented by August 1, 2012. Any costs incurred in excess of the value of the financial security shall be paid by the applicant or owner or shall be imposed as a special charge against the real property in accordance with the applicable statute.

By operating under this conditional use, the applicant and owner give permission to the City to enter upon the property for purpose hereby described.

FISCAL NOTE: N/A

Attachments: [PH Notice - 3317 Durand Avenue](#)

Associate Planner Johanneck reviewed the request to operate a used automobile lot, providing information on the location, zoning of the property (B-2), surrounding zoning and land use, aerial views of the site. She noted the site has functioned as a used auto sales lot for many years as a legal, non-conforming use in the B-2 district, however lost its non-conforming status when the site went into foreclosure and the use ceased for a period of over 12 months. Additionally, the site has been remediated by the removal of underground tanks and soil removal as required by the DNR.

It was noted the Ordinance requires automobile sales in the B-2 to be allowed via conditional use only if accessory to an automobile repair facility. There is also a State Statute requirement requiring repair and service for there to be any sales of automobiles at the site. The applicant owns a property at 2819 S. Memorial Drive, which while off-site, meets the statutory requirement but not the zoning ordinance requirement.

Additional information on hours of operation, number of employees, and the site plan submittal were discussed. The site plan was deemed incomplete upon Staff review, and required more accurate as well as additional information. Staff recommendation was for denial, or if the Plan Commission recommended approval, it was requested Staff be provided time to work with the applicant on a more feasible and complete site plan.

The public hearing opened at 4:50 p.m.

- 1. Robert Underhill, 3211 Durand Avenue, spoke in opposition. He cited concerns for this type of use near the apartment building he owns and other residential properties, and cited problems with the previous owner about when cars were worked on and the intrusion into the lives of his tenants.*
- 2. James Fetek, 823 William St., spoke as the attorney for the applicant. He advised the applicant owns AC Auto Body at 2819 S. Memorial Dr. He stated it is not an auto*

service facility and does not normally engage in repair, but does do repair for accidents and body repair if it's accident-related. He advised this application is for repair along with used auto sales. He advised a car was for sale on the lot within the past 12 months, and questions the loss of the non-conforming status based on this. He noted he wanted to rezone the property to B-3 but was advised by Staff that the B-3 district is going to be eliminated and not to file the request. He advised the conditions of approval are acceptable except item h., as the applicant desires to do repair at this site. They do not want the item to be deferred for two weeks and would like to know if the Commission will recommend approval based on the prior use of the site.

3. Dennis Berg, 4123 Meacham Rd., VP of Community State Bank which currently owns the property, spoke in favor of the request. He advised they did tank removal and remediated the site, added asphalt, had a survey done and storm water infrastructure installed to be able to use this property as a used car lot. He advised Planning required these improvements.

4. Gloria Kosterman, 3304 Durand Ave., spoke in opposition to the proposal, citing concerns for safety, break-ins, and individuals being there throughout the nighttime.

The public hearing closed at 5:10 p.m.

Ms. Johanneck addressed some of the comments from the Public Hearing, stating that though the application indicated the site to be used for repair, when it was discussed with Mr. Fetek on the phone he advised there would be no repair done at this site. It was also noted that the property listed at 2819 S. Memorial is in the yellow pages as a repair facility and that is why it was noted as such in the Staff report. Also, the rezoning to B-3 was not encouraged by Staff due to the upcoming elimination of the district with the zoning ordinance re-write, however the applicant representative was not told he could not apply for it, rather that Staff would not support the request. It was added that Staff is requesting the additional time to work on the site plan with the applicant to address the plans deficiencies.

A correspondence from Alderman Holding was read into the record, which indicated his support of the request to allow used automobile sales and support for deferral to allow Staff time to work on the applicant on the planning issues.

Alderman Marcus asked Mr. Fetek about the car that was for sale on the lot. Mr. Fetek advised the vehicle was removed in late July by City authorities. Alderman Marcus also inquired about state licensing requirements to operate used vehicle sale lots and when did the current license expire. Mr. Fetek did not know when the license expired.

Commissioner Veranth asked Mr. Fetek if the applicant indicated how many cars he wanted to sell at the site. Mr. Fetek was unsure, but advised possibly up to 20.

Alderman Marcus asked Mr. Berg from Community State Bank how much money has been spent on the site improvements to date. Mr. Berg advised around \$59,000. Alderman Marcus then asked if he had been in contact with City Development and if he presented his plans to use this site as a used vehicle sales and repair lot. Mr. Berg advised he had. Mr. Sadowski clarified that Mr. Berg had not contacted the City Development department, but had dealt with the Building department. Ms. Johanneck advised the site clean-up and paving was environmentally driven and not required by City Development. Mr. Berg advised they received no state or federal funds or credits to assist in paying for the clean-up of the property.

Alderman Marcus requested a point of clarification, noting his understanding is that the Building Department is headed by the Zoning Commissioner (Administrator), so

the Zoning Administrator would have spoken to City Development about the project as the normal course. Mr. Sadowski advised that it happens but is not always the case.

Alderman Marcus, in trying to determine how the City knew the lot was proposed to be used again for car sales, questioned Mr. Heller when this discussion occurred and would he normally discuss the proposal with City Development. Mr. Heller advised only if a conditional use required, however he was unaware this was the proposal for this site and had no discussion with the owner or the applicant. Mayor Dickert noted that the lot clean-up was not related to the future use of the site.

Mr. Sadowski indicated that the owner had spoken with a former employee of the Building Department, but this project was not discussed with City Development. Mr. Berg acknowledged they did work with the former Building Department employee and not City Development.

Alderman Marcus then inquired if there is a moratorium on rezoning to B-3 at this time, Ms. Johanneck advised that there is not, and that in the discussion with Mr. Fetek about rezoning advised that Staff would not support the request as it is not appropriate zoning for the area, and that the B-3 district will be eliminated shortly due to zoning ordinance changes, requiring any property re-zoned to B-3 to be rezoned back to B-2.

Commissioner Sutton Ekes expressed potential for screening and landscaping for the property to shield it from the adjacent residential properties and that those things should be looked at in reviewing the site plan.

A motion was made by Commissioner Wyant, seconded by Alderman Marcus, to defer for the site plan issues to be addressed. The motion PASSED by a Voice Vote.

Administrative Business

None.

Adjournment

Mayor Dickert adjourned the meeting at 5:30 p.m.