



City of Racine

City Hall
730 Washington Ave.
Racine, WI 53403
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Meeting Minutes - Draft City Plan Commission

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

Wednesday, January 11, 2012

4:15 PM

City Hall, Room 205

Call To Order

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

PRESENT: 6 - Elaine Sutton Ekes, Jud Wyant, Eric Marcus, Tony Veranth, Aron Wisneski and John Dickert

ABSENT: 1 - Vincent Esqueda

Others present: Matthew Sadowski, Principal Planner
Jill Johanneck, Associate Planner
Brian O'Connell, Director of City Development
Ken Plaski, Interim Chief Building Inspector/Zoning Admin

Approval of Minutes for the December 14, 2011 Meeting

A motion was made by Alderman Wisneski, seconded by Alderman Marcus, to approve the minutes of the December 14, 2011 meeting with the removal of a duplicate paragraph under item 11-7148. The motion **PASSED** by a Voice Vote.

12-7262

Subject: (Ord. 15-11) An ordinance to repeal Sec. 114-639, Development Review Committee, and recreate as Sec. 114-639 Development Review of the Racine Municipal Code of the City of Racine, Wisconsin.

Recommendation of the City Plan Commission on 1-11-12: That the proposed ordinance be amended to include the deletion of Sec. 114-638, Land Uses.

That the proposed ordinance be amended to include renumbering Sec. 114-638.5, Applicability, as Sec. 114-638 and to replace the text "access corridor development review committee" with "director of city development."

That the proposed ordinance be amended to rename Sec. 114-639 from "Development Review" to "Development and Design Review", that the provision of Sec. 114-638 regarding land use review be incorporated in this section, and that provisions be added to Sec. 114-639 requiring notification to the local alderperson, chairperson of

business improvement district and registered commercial area improvement organization and allowing them to appeal a decision of the director of city development.

That the proposed ordinance be adopted as amended.

Fiscal Note: Proposed ordinance as amended will reduce administrative time and cost and out-of-pocket costs for applicants.

Director of City Development O'Connell advised this item was before the Commission at the previous meeting and is intended to change the Access Corridor Development & Design review from a committee review to an administrative review to eliminate expenses for the review process. The appeal process was then outlined. It was noted that, in discussion with the Committee members, they were comfortable with this change, but the business operators still want to be able to comment. A consultation process has been added to the language presented in the revision which outlines who will be notified and a timeframe for appeals. He noted two other sections in the Code where the committee is mentioned and proposes to incorporate those sections into this ordinance and eliminate them from their existing locations.

Alderman Wisneski commented on item g. of the ordinance and the appeal language. Alderman Marcus suggested eliminating a portion of the first sentence reading "if the director of city development finds that the proposed activity is not in conformance with the evaluation criteria". It was agreed to remove this text.

Alderman Wisneski asked hypothetically if someone wanted more signage than was available under the code how would that be addressed. Principal Planner Sadowski advised normally through the Board of Appeals, or if it is a conditional use, through the Plan Commission.

Alderman Marcus questioned where the original idea or content exists within the language. Director O'Connell directed the Commission members to the Staff recommendation where it is outlined.

A motion was made by Alderman Wisneski, seconded by Commissioner Wyant, to recommend adoption of the Ordinance with modification to item g. The motion PASSED by a Voice Vote.

Administrative Business

Discussion regarding interpretation and administration of the non-commercial uses provision of the Zoning Ordinance Sec. 114-1(b).

Principal Planner Sadowski advised this discussion is to clarify the interpretation and application of the commercial and non-commercial use section adopted to the zoning code in 2010. This has recently created several questions concerning locating religious institutions in commercial districts.

Mr. Sadowski provided examples of other non-commercial type uses and how the requirements of the ordinance apply, noting the underlying intent is to maintain income-generating business as primary uses and to maintain commercial character in the business districts, especially at the street level, yet allow other types of uses generating little to no commercial-type uses via the conditional use process. It was noted the ordinance actually opened the potential for religious-type uses in

commercial districts subject to conditions, whereas prior they were not allowed. A series of compiled commonly asked questions and answers were then reviewed by Mr. Sadowski.

A comparison to a cinema vs. a religious use being allowed in the same area, even though the cinema does not maintain regular hours as required per the ordinance, was discussed. Alderman Wisneski noted that a cinema, despite restricted hours, is a commercial use, is for profit, and is a money-making use. Mayor Dickert noted any use, if there is too much of it in a concentrated area, can be a detriment and take away from the intent of the mix of businesses in said business district, and this ordinance does not just apply to religious uses.

Alderman Marcus discussed the overall misunderstanding of zoning and land use planning in the community; the perception of personal property rights within the community; that the community perceives conditional uses are restrictive when in fact they are additional permitted uses but are covered with conditions to reduce adverse effects; that this discussion is not focused on religious uses, but on any use which is not permitted or subject to conditions and is not discriminatory; and the use of zoning and land use plans is intended to promote economic growth where appropriate. He also suggests involving the City Attorney's office where there is confusion on code intent.

Commissioner Wyant pointed out they (the Plan Commission) are a recommending body, and the ultimate decision making lies with the Common Council. He feels that forming policy goes beyond what their mandate is and would like guidance from the Council on what they desire regarding this policy.

Director O'Connell noted from the Department of City Development perspective that questions on interpretation of this are coming in from the community, and would like to get a clarification out to Council members as well as others as to how this is being interpreted. He noted, at a minimum, the clarification may go out via a letter to the Council.

Alderman Wisneski indicated he is pleased with the discussion and the documentation that will come out of it, which may assist in explaining the ordinance to others and the reasoning behind saying no to some requests. Not because they are religious in nature, but because the request simply does not meet the ordinance.

Discussion regarding a surety deposit for Certified Survey Maps.

Associate Planner Johanneck briefly discussed that when certified survey maps (CSM's) are approved by the Council, to be a legal document they must be recorded with the register of deeds. Staff is running into situations where these documents are not recorded, where conditions placed upon the approval and recording are not being addressed, and the failure to have a recorded copy of what was approved by the City can result in things not getting addressed, as Staff is not made aware of the outcome of the CSM. The same applies to easements and such which are to have been recorded on CSM's yet are not, causing land use violations they were intended to prevent. Several examples were given where this has been a problem.

Ms. Johanneck advised City Development is searching for ways to get the follow-up documentation required using the least amount of staff time, indicating the applicants are not performing the work they agreed to do and the continuous follow-up is a drain on time and finances within the department. Three ideas which had been formulated by City Development Staff were presented. These included formalizing a process to invalidate a CSM and requiring a financial surety at time of application to cover this

additional Staff time if the information is not received; granting Staff the authority to write citations when there is non-compliance, which is similar to surrounding communities or possibly having the U.N.I.T. inspectors get involved; and requiring a financial surety with submittal and have Staff do the follow-up to verify recording and obtain a copy of the CSM from the register of deeds. The surety would cover this additional Staff time involved in the follow-up.

Mayor Dickert advises this is a concern and does cause problems in decision making, but is cautious of having the Staff 'chasing down' the CSM's due to cutbacks, however the City needs to ensure the maps are done and recorded.

Commissioner Wyant suggested making the approval of the CSM conditional upon being recorded within 60 days of approval, and requiring the applicant provide a recorded copy to City Development within 90 days, or at that point the CSM would be considered invalid.

Commissioner Ekes notes the State Statute has a timeframe for recording plats and CSM's under Chapter 236. This timeframe for CSM's requires recording within 6 months of approval. She inquired about the use of GIS, to which Ms. Johanneck advised the City and County GIS sites differ at times, but believes it may be due to the timeframe in which the information from the County is provided to the City.

An example of an easement not being recorded was provided by Ms. Johanneck, where the applicant was to have recorded the easement 10 years ago, came in last year for a conditional use, was granted the conditional use with a condition to record the easement prior to occupancy permit, yet received the occupancy permit without the easement being recorded. Alderman Wisneski asked why the occupancy permit is not tied to conditions of approval. Ms. Johanneck advised in the new City Works system City Development has been added as a sign-off department for conditional uses, however not all CSM's go through the building department.

Alderman Wisneski continued comment that he approves of the approach where certain requests will not be allowed if the conditions are not met, utilizing the 'big stick' approach to ensure the things that need to be done get done, and eliminate Staff from chasing around for things which could have been prevented early on if departments working together, or following up on the idea of a penalty to encourage applicants to do what they are required prior to receiving authorization to operate their businesses.

Interim Chief Building Inspector/Zoning Administrator Ken Plaski advised City Works has been modified to require City Development sign-off on all occupancies before they are issued.

Commissioner Ekes noted she does not have a problem implementing a requirement for financial sureties to make sure the work is completed, and that if we go to view the CSM documents they will indicate restrictions and recording numbers on the CSM. Ms. Johanneck advised that due to minimal Staffing and time constraints, the preference is to not do all the leg work and follow up for applicants.

Commissioner Wyant added that if the CSM is conditioned that it be recorded within a certain time period, and that a recorded copy is to be provided to Staff within a certain time period, if the applicant attempts to pull a permit the Building Department will be able to deny the request should the requirements not be met. He noted utilizing sureties and getting bonds released is not an easy process and is time consuming. Ms. Johanneck added again that not all CSM's are involved in the building process, so to just rely on that as a way to follow-up will not always be

effective, and that the intention is for Staff to have the information needed to use for our current and future application review purposes, and provide our customers correct information via evidence provided in these documents that things have been done as they were intended.

Alderman Wisneski referred back to the possibilities of City Works to be tied into the process. Ms. Johanneck advised she is unaware of the capabilities of City Works due to lack of training. Mayor Dickert noted the possibilities exist currently to work with other departments to help fix many of the hurdles we encounter such as the CSM issue, and we will continue to follow up on this and other items where City Works may be beneficial.

Reminder - Code Update

Mayor Dickert reminded the Commission the Zoning Code updates available for review and comment on the Department of City Development website.

Adjournment

Mayor Dickert adjourned the Plan Commission meeting at 5:30 p.m. without objection.