



# City of Racine

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

## Meeting Minutes - Final City Plan Commission

*Mayor John Dickert, Alderman Dennis Wiser,  
Molly Hall, Vincent Esqueda, Tony Veranth,  
Pastor Melvin Hargrove, Attorney Tom Durkin*

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Wednesday, July 8, 2015

4:15 PM

City Hall, Room 205

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### Call To Order

*Mayor John Dickert called the meeting to order at 4:15 p.m.*

**PRESENT:** 6 - Vincent Esqueda, John Dickert, Melvin Hargrove, Dennis Wiser, Tony Veranth and Tom Durkin

**EXCUSED:** 1 - Molly Hall

Others present:

*Matt Sadowski, Assistant Director of City Development/Principal Planner  
Jill Johanneck, Associate Planner  
Ken Plaski, Chief Building Inspector/Zoning Administrator*

### Approval of Minutes for the June 24, 2015 Meeting

**A motion was made by Commissioner Esqueda, seconded by Alderman Wiser, to approve the minutes of the June 24, 2015 meeting. The motion PASSED by a Voice Vote.**

[15-00596](#)

**Subject:** (ZOrd. 002-15) An Ordinance rezoning 1223 Ohio Street, 4601, 4615, 4619 Washington Avenue, and 1212, 1218, 1222 Virginia Street from R-3 General Residence District, R-2 Single Family Residence District, and B-1 Neighborhood Convenience District to B-2 Community Shopping District.

**Recommendation of the City Plan Commission on 7-8-15:** That the ordinance be adopted based on the following findings:

1. The proposed zoning is consistent with the existing uses of property within the general area of the property in question as the site active and intense commercial uses and is close to well-developed retail and commercial businesses along Washington Avenue.
2. The proposed zoning is consistent with the zoning of the other three corners at the intersection of Washington and Ohio and the classification of property within the general area of the property in question.
3. The property in question is currently underutilized and inconsistent with the evolution of Washington Avenue as Racine's commercial

corridor. The proposed use as a neighborhood pharmacy will be an upgrade over the current condition of the property in question and will advance other retail and commercial enterprises in the area.

4. The trend of development in the area of the property is toward increased commercial development along Washington Avenue as Racine's commercial corridor.

5. The proposed zoning is consistent with the objectives of the current land use plan for the city as it will promote the expansion or stabilization of the City's current economic base; maintain and enhance the economic vitality of the City by encouraging a diversified tax base of commercial, industrial and residential uses; and assist in the creation of a range of employment opportunities.

6. The proposed zoning is not detrimental to the public interest and will promote the expansion of the City's current economic base.

**Fiscal Note:** N/A

*Assistant Director of City Development Matt Sadowski provided a review of the presentation presented at past meetings for this request. He reviewed the general area and current zoning, and lots affected by the proposed zoning. He discussed the transitional nature of the zoning in the area and emphasized the lower-intensity zones act as a buffer to the residential in the area. A visual representing the areas of non-binding petition signers of those in favor and opposed was reviewed, with those closest to the development being more in opposition, versus the city-wide petition indicating more support by those individuals located away from the development.*

*One of the petitions received is a binding petition and will require a  $\frac{3}{4}$  vote by the Council to approve the rezoning request. A review of this petition area was provided.*

*He reviewed examples of areas within the City in similar development situations, where less-dense, lower-impact development, more complimentary to nearby residential, has taken place. Less intense re-development is possible within this site as well. Staff continues to feel the proposed B-2 zoning is inappropriate in this area as it is so close to established residential neighborhoods. There are other alternatives for development which would have less of an impact and provide proper buffering between development and the residents.*

*The findings and tests required by the ordinance to support a rezoning request have been addressed by Staff previously and are presented today with the continued recommendation that this proposal does not meet the criteria and therefore recommendation is for denial.*

*Alderman Wisner moved to deny the rezoning request based Staff's analysis and findings for criteria 1. – 5 as stated in the Staff Recommendations. No second – motion failed.*

*Commissioner Hargrove moved to approve the rezoning request, stating his findings. Alderman Wisner requested Commissioner Hargrove clarify his findings. Commissioner Hargrove responded with the following:*

*1. The proposed zoning is consistent with the existing uses of property within the general area of the property in question as the site active and intense commercial uses and is close to well-developed retail and commercial businesses along Washington Avenue.*

2. The proposed zoning is consistent with the zoning of the other three corners at the intersection of Washington and Ohio and the classification of property within the general area of the property in question.

3. The property in question is currently underutilized and inconsistent with the evolution of Washington Avenue as Racine's commercial corridor. The proposed use as a neighborhood pharmacy will be an upgrade over the current condition of the property in question and will advance other retail and commercial enterprises in the area.

4. The trend of development in the area of the property is toward increased commercial development along Washington Avenue as Racine's commercial corridor.

5. The proposed zoning is consistent with the objectives of the current land use plan for the city as it will promote the expansion or stabilization of the City's current economic base; maintain and enhance the economic vitality of the City by encouraging a diversified tax base of commercial, industrial and residential uses; and assist in the creation of a range of employment opportunities.

6. The proposed zoning is not detrimental to the public interest and will promote the expansion of the City's current economic base.

Motion seconded by Commissioner Esqueda.

*Alderman Wisner argued against the motion, stating the proposal is not consistent with existing uses and the volume of development in area's east of this site lower is more compact and architecturally compatible, which is more consistent with this area; that the proposed zoning is not consistent with the existing on surrounding corners to this site; there are underutilized sites in the near vicinity and this property will not sit empty if this is not approved, that there are small business in this area which fit into the development pattern around this proposal; that areas exist both east and west of the site for appropriate development, and to compromise the residential areas to accommodate commercial development is to ignore half of the Commission's responsibilities per the land use plan and that dropping a large store in a residential area is not in the best interest of the property owners in the surrounding neighborhood; and there are other spaces available for this type of development and they do not need to compromise this area, further noting the objection of the individuals who are directly affected and spoke at the public hearings.*

**A motion was made by Commissioner Hargrove, seconded by Commissioner Esqueda, to recommend adoption of the ordinance based on the findings in the recommendation. The motion PASSED by a Voice Vote with Alderman Wisner voting no and Commissioner Durkin abstaining.**

[14-10787](#)

**Subject:** (Direct Referral) A request from Richard Donner of Reinhart Boerner Van Dueren s.c., representing TMC Wisconsin 2 LLC, for a conditional use permit to allow for a CVS Pharmacy on the south side of Washington Avenue in the 4600 Block between Ohio Street and Virginia Street.

**Recommendation of the City Plan Commission on 4-8-15:** That the request for a conditional use permit to allow a CVS Pharmacy on the south side of Washington Avenue in the 4600 block between Ohio Street and Virginia Street be received and filed.

**Recommendation of the City Plan Commission on 8-12-15:** That the request for a conditional use permit to allow a CVS Pharmacy on

the south side of Washington Avenue in the 4600 block between Ohio Street and Virginia Street be received and filed.

**Recommendation of the City Plan Commission on 8-26-15:** That the request for a conditional use permit to allow a CVS Pharmacy on the south side of Washington Avenue in the 4600 block between Ohio Street and Virginia Street be received and filed.

**Fiscal Note:** N/A

**Attachments:** [PH Notice - CVS Pharmacy](#)

*Mr. Sadowski advised the re-zoning issue needs to be resolved before formally reviewing and making a recommendation on the conditional use permit. Further, Staff feels the site design and building architecture needs modification for Staff to complete the review.*

**A motion was made by Commissioner Veranth, seconded by Alderman Wisner, to defer. The motion PASSED by a Voice Vote.**

[15-00576](#)

**Subject:** (Direct Referral) A request by Jon Majdoch, representing Halloween Express for a conditional use permit to allow annual placement of a temporary building for Halloween related sales at 5200 Durand Avenue. (RES. No.15-0295)

**Recommendation of the City Plan Commission on 7-8-15:** That the item be approved subject to conditions.

**Fiscal Note:** N/A

**Attachments:** [PH Notice - 5200 Durand Avenue](#)  
[\(15-00576\) CU 5200 Durand Avenue](#)

*Associate Planner Jill Johanneck indicated this item was presented to the Commission at the June 24th meeting. A review of the project location and plan was provided. She stated this request has been before the Commission for six years, and based on the performance of the applicant with the operation, has consistently been approved. Staff supports the request. It was deferred at the last meeting based on a letter received from a Target representative, stating that language in an Easement, Restriction, and Maintenance agreement prohibits outdoor sales or display on the lot at 5200 Durand Avenue. This concern had not been raised with past reviews or approvals, and the deferral was to allow the applicant to work with Target to rectify any issues.*

*As part of Staff's recommendation for approval, this conditional use and conditions outlined therein would serve as the reviewing document for future requests to be done administratively. Based on the success and performance of past approvals, Staff is comfortable reviewing future annual requests in this fashion. The need for the applicant to rectify any issues with Target remains, and a condition has been written into the Staff Recommendations. If resolved, as part of the annual administrative review the applicant would be required to provide verification that Target authorizes this use. Should he not be able to work out the concerns with Target, this conditional use would be void. If other areas within the mall are pursued by the applicant to locate his operation, a new conditional use would be required due to notification*

requirements for the different address.

Mayor Dickert asked if this request is approved, would he still need approval from Target. Ms. Johanneck advised annual approval from Target would be required based on the verbiage in the Easement, Restriction, and Maintenance agreement.

Commissioner Veranth inquired about the legality of Target's opposition. Ms. Johanneck stated the language is in the document provided by Target, however not being an attorney cannot advise on its legality.

Alderman Sandy Weidner asked if Target does not respond to the outreach from the applicant, would Target's objection still stand. Ms. Johanneck advised it would, and that is the responsibility of the applicant to rectify or clarify the situation and that the applicant is aware of this.

**A motion was made by Commissioner Hargrove, seconded by Commissioner Esqueda, to recommend approval of the request. The motion PASSED by a Voice Vote.**

[15-00597](#)

**Subject:** (Direct Referral) An appeal by Alicia Villa of an Administrative Decision pertaining to a landscaping approval and the City's solid waste ordinance stemming from a Conditional Use approval at 1935 State Street. (PC-15)

Ms. Johanneck advised in December, 2014 the Council approved a conditional use request to allow use of the main level of the building at 1935 State Street as a residence. The conditional use was required as the property is zoned commercial (B-2). One of the conditions of the approval was that the applicant submits a landscape plan for review and approval. The landscaping, which consisted of a large planter to be placed at the front corner of the porch, was approved by Staff. Upon site inspection, Staff identified the approve planter had been placed inside of a painted waste tire. The two issues at hand in this appeal are that the tire was not approved as part of the landscaping for the conditional use, and the tire violates Chapter 42 of the Municipal Code concerning solid waste disposal.

The applicant's request states her use of the tire as a piece of "creative art; that it creates western charm and colors by converting it from waste into art; that it eliminates the dumping of a tire from streets and stockpiles that create Lyme disease; saves tax dollars; and prevents toxic waste from going into the air". The City has never approved waste tires for use in landscaping, whether on commercial, industrial, or private residential properties. The ordinance applies to all of these properties, and the UNIT inspectors will write up violations for waste tires, which then have to be disposed of properly.

Ms. Johanneck provided an additional summary of rationalizations supporting Staff opposition, including: The request is a violation of the solid waste regulations as outlined in the Municipal Code; the tire was not approved by the conditional use permit; if approved, a precedent is set which would undermine Chapter 42 regulations affecting the handling of waste tires in the community, introducing subjectivity to what is considered 'art', and could affect the appearance of design corridors, redevelopment areas, residential areas, and the overall appearance of the City; and as untreated/unprocessed tires biodegrade, they release toxic compounds and hydrocarbons into the ground and eventually our waterways.

The City is a State of Wisconsin DNR licensed tire hauler, and involved in transporting waste tires to centers for regulated recycling. This keeps tires out of landfills and provides for re-use of properly treated and recycled tire materials by

*converting them into usable consumer products. This tire has not been converted into a recycled reusable product.*

*Based on the above analysis, the fact that the tire was not approved by Staff as acceptable landscaping material with the conditional use, and that the tire is in violation of Chapter 42 of the Municipal Code, Staff recommends the request be denied.*

*Discussion ensued. Mayor Dickert asked Ms. Villa why she used the tire when it wasn't approved. Ms. Villa stated people have different ideas on what is art. She stated she found the tire and saved it from a dump, that she wants to maintain her property in the way she sees appropriate, and she put time and creativity in creating her tire art piece. Regarding Staff's comments on setting a precedent, she feels tires are a positive to the neighborhoods.*

*Mayor Dickert stated the City does have a tire issue, and is working on the problem. If tires are found, individuals are fined and there is no law at this time that allows tires to be used in lawn decoration or art. He stated an Alderman could introduce an item to request research into allowing tires to be used as art or landscaping, but this request doesn't meet City law as it is right now. Ms. Villa stated people's opinions should matter more than anything. She requested to keep the tire through the summer, however Mayor Dickert advised the tire is against the law and needs to be removed.*

*Alderman Wisner stated the City is extremely conscious about what goes into the lake, and we pay very close attention to any potential sources of pollution. Commissioner Veranth asked if the tire is removed, could she create a planter/enclosure of wood and paint it. Ms. Villa stated she is not interested in doing that at this time.*

*Discussion between Alderman Weidner and Mayor Dickert concerning meeting protocol ensued. Alderman Wisner clarified regulations regarding discussion of items prior to a motion per Roberts Rules of Order.*

**A motion was made by Alderman Wisner, seconded by Commissioner Veranth, to deny the request. The motion PASSED by a Voice Vote.**

## **Administrative Business**

*None.*

## **Adjournment**

*Mayor Dickert adjourned the meeting at 5:15 p.m.*