

# **City of Racine**

*Room 103, City Hall*



## **Meeting Minutes**

**Wednesday, October 25, 2006**

**4:15 PM**

**Room 103, City Hall**

### **City Plan Commission**

*Mayor Gary Becker, Alderman Gregory Holding,  
John Dickert, Elaine Sutton Ekes,  
Vincent Esqueda, Howard Harper, Jud Wyant*

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

**PRESENT:** 7 - Gary Becker, John Dickert, Elaine Sutton Ekes, Vincent Esqueda, Gregory Holding, Howard Harper and Jud Wyant

*OTHERS PRESENT: Brian O'Connell, Director of City Development  
Rick Heller, Chief Building Inspector  
Robert Weber, City Attorney  
Alderman Robert Anderson  
Alderman Ron Hart  
Donnie Snow, Director of Parks Recreation & Cultural Sciences  
Don Rintz, Landmarks Preservation Commission*

**Approval of Minutes for the October 11, 2006 Meeting**

**A motion was made by Vincent Esqueda, seconded by Elaine Ekes that the minutes be approved as distributed. The motion PASSED by a Voice Vote.**

**06-2567**

**Subject:** (Direct Referral). Request by Dan Carmichael of Great Lakes Specialty Finance, Inc. seeking a conditional use permit to locate a Check n Go facility at 2308 South Green Bay Road.

**Recommendation:** That the request by Dan Carmichael of Great Lakes Specialty Finance, Inc. seeking a conditional use permit to locate a Check 'N Go facility at 2308 South Green Bay Road be approved, subject to the following conditions:

- a. That the plans stamped "Received September 11, 2006" and presented to the Plan Commission on September 27, 2006 be approved, subject to the following conditions.
- b. That an occupancy permit and all other applicable permits be requested from the Building Department.
- c. That all yard areas, landscaping, buildings, and grounds be maintained in a professional manner and on a daily basis.
- d. That the maximum hours of operation be Monday through Thursday from 10:00 a.m. to 6:00 p.m., Friday from 10:00 a.m. to 7:00 p.m., Saturday from 10:00 a.m. to 3:00 p.m., and no hours on Sunday.
- e. That all trash, recyclables and dumpsters be stored in stored closed containers and screened from view.
- f. That all signs be professionally made and comply with the plans, as submitted with the conditions that the sign total no more than 35 square feet, and the sign raceway be painted to match the surface that it is to be mounted to.

- g. That all codes and ordinances be complied with and required permits acquired.
- h. 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.
- i. That this permit is subject to review by the Plan Commission for compliance with the listed conditions.

Fiscal Note: N/A

**Attachments:** [2308 S.GreenBayRd.pdf](#)

*Mayor Becker introduced the item, stating that while the matter is not on the agenda as a public hearing, he would allow input from those audience members who are interested in this item. Commission members did not object.*

*Director O'Connell reviewed the history of this matter, indicating EZ Money has claimed vested rights in allowing them to locate at the newly constructed Regency Plaza. He explained that at the request of the Commission, representatives of Check n' Go and EZ Money have submitted briefs outlining their positions as to why they feel they should be allowed to occupy their proposed locations. He reviewed the staff's recommendation and explained that as Check n' Go was the only application actually filed with the Commission, they are recommended for approval.*

*City Attorney Weber explained that the Commission must consider whether the specific facts are strong enough to indicate that either Check n' Go or EZ Money have vested rights in being allowed to locate a facility in this area.*

*In response to Commissioners Wyant and Ekes, Director O'Connell explained that the Regency Plaza Shopping Center is a conditional use permit. He stated that upon issuing of the conditional use permit for said shopping center, a building permit could then be issued followed by the issuance of appropriate occupancy permit for each specific tenant. He explained that in the case where a use is required to obtain a conditional use permit, the fact that the shopping center is a conditional use permit does not absolve a tenant from obtaining the conditional use permit for its specific use.*

*In response to Alderman Holding, Director O'Connell stated that Regency Pointe Shopping Centre has followed the proper procedures in making application for a conditional use permit for the Check n' Go facility.*

*Commissioner Wyant expounded on a decision in the case of Lake Bluff Housing Partnership v. the City of South Milwaukee (1995) in which there is a vested rights claim.*

*Commissioner Ekes felt that a significant fact in this situation, is that the issuance of a conditional use permit is not an administrative function while issuance of a building permit and occupancy permit is an administrative function that may establish a point at which vested rights occur.*

*Steve Schaller, General Counsel for Check n' Go, stated that his client has followed all required procedures outlined by the ordinance, and therefore feels that his client has the right to proceed.*

*Commissioner Wyant explained that another point, that the Commission needs to consider is whether the applicants had reasonable expectations that they would be allowed to obtain appropriate permits.*

*Michael Maistelman, Attorney for EZ Money, outlined his client's argument that in his view the City had been made aware of his client's intent to occupy the Regency Plaza well before the new ordinance affecting the spacial distribution of convenient cash facility was adopted.*

*City Attorney Robert Weber, speaking in response to Attorney Schaller, stated that it is possible for the City to issue a conditional use permit for both EZ Money and Check n' Go, based on "vested rights" even though the spacial distribution requirements would be violated in doing so.*

*Attorney Maistelman stated that he would not object to such a resolution to the matter.*

*In response to Alderman Hart, Mayor Becker stated that restrictions could be placed on the operations as customary, and the operation would then be regulated according to their compliance with those conditions.*

*Commissioner Wyant recommend approval of the Check n' Go facility at today's meeting and suggested that EZ Money apply for a conditional use permit for their desired location, highlining their claim of vested rights.*

*In response to Alderman Holding, Director O'Connell stated that similar situations do exist in the City where spacial distribution requirements are established. He cited the ordinance addressing community based residential facilities and the spacial requirements that apply.*

*Commissioner Ekes observed that if the claim of vested rights by EZ Money is accepted, then the conditional use permit request by Check n' Go should not be allowed due to the spacial distribution requirements.*

*Commissioner Dickert expressed concern that if both facilities were allowed, the violation of 2500 foot separation rule would set an undesirable precedent.*

*Director O'Connell summarized the matter by stating that if the Commission feels that in good faith EZ Money proceeded to consumate their lease requirement for Regency Plaza, then the Commission should find that EZ Money does have vested rights.*

*Commissioner Wyant stated that he did not feel the approval of the two facilities would established a negative precedent in that the situation is so unique that the claim of vested rights would not be applicable in future situations.*

*Director O'Connell reviewed the proposed conditions of approval.*

*In response to Commissioner Ekes, Chief Building Inspector Heller described procedure for the issuance of building permits for tenant's space proposed to be occupied by EZ Money and explained that EZ Money representatives were cautioned that in no way does*

*the issuance of building permit guarantee the issue of occupancy or conditional use permit for the desired tenant space.*

*In response to Attorney Maistelman, Mayor Becker directed him to file a conditional use permit application for his client.*

**A motion was made by Jud Wyant, seconded by Elaine Ekes, that this item be recommended for approval, subject to the listed conditions in the recommendation. The motion PASSED by a Voice Vote, with Commissioner Dickert voting no.**

**06-2592**

**Subject:** Communication from Frank Tingle, member of "Friends of DeKoven Woods", requesting the City create a Conservancy Zone as outlined in the report "Park and Open Space Plan for the City of Racine" passed by the Common Council on 7-15-2003.

**Recommendation:** That the communication be received and filed.

Fiscal Note: N/A

**Attachments:** [L.Friends of DeKoven Woods.pdf](#)

*Director O'Connell explained the staff's research in this matter to date and indicated that a conservancy district may not achieve the desired goal expressed by those concerned with preserving De Koven Woods as open space.*

*Mayor Becker concurred with this analyses and described options available to the De Koven Foundation that may facilitate the preservation of the land more in keeping with the desire of the neighbors. He directed the staff to continue to work on research regarding the development of the conservancy zoning ordinance for areas in the City as identified by the Regional Planning Commission in the Park and Open Plan for the City of Racine.*

**A motion was made by Jud Wyant, seconded by Alderman Gregory Holding, that this item be recommended to be received and filed. The motion PASSED by a Voice Vote.**

**06-2706**

**Subject:** Request by Crispell-Snyder, Inc. representing the Village of Mt. Pleasant, seeking approval of a two-lot Certified Survey Map at 2020 Oakes Road.

**Recommendation:** That the request by Crispell-Snyder, Inc. representing the village of Mt. Pleasant, seeking approval of a two-lot Certified Survey Map at 2020 Oakes Road be approved subject to the following:

- a. That the certified survey map presented to the Plan Commission on October 25, 2006 is approved, subject to the conditions contained herein.
- b. That a 55 foot right-of way reservation for the future extension of

16th Street be extended along the north line of Lot 1.

- c. That rights of access to Lot 1 be described on the face of the CSM.
- d. That full tax key numbers be illustrated on the Lots.
- e. That technical discrepancies as identified by City Staff be addressed.
- f. That this approval is subject to review by the Plan Commission for compliance with the listed conditions.

Fiscal Note: N/A

*Director O'Connell described the proposed Certified Survey Map indicating the relationship to other proposed Certified Survey Maps in the area and the pending Pike River improvements.*

**A motion was made by John Dickert, seconded by Howard Harper, that this item be recommended for approval, subject to the listed conditions in the recommendation. The motion PASSED by a Voice Vote, with Commissioner Ekes abstaining.**

**06-2707**

**Subject:** Request by Crispell-Snyder, Inc. representing the Village of Mt. Pleasant, seeking approval of a two-lot Certified Survey Map at 2140 Oakes Road.

**Recommendation:** That the request by Crispell-Snyder, Inc. representing the village of Mt. Pleasant, seeking approval of a two-lot Certified Survey Map at 2140 Oakes Road be approved subject to the following:

- a. That the certified survey map presented to the Plan Commission on October 25, 2006 is approved, subject to the conditions contained herein.
- b. That rights of access to Lot 1 be described on the face of the CSM.
- c. That full tax key numbers be illustrated on the Lots.
- d. That technical discrepancies as identified by City Staff be addressed.
- e. That this approval is subject to review by the Plan Commission for compliance with the listed conditions.

Fiscal Note: N/A

*Director O'Connell reviewed the item.*

**A motion was made by John Dickert, seconded by Howard Harper, that this file be recommended for approval, subject to the listed conditions in the recommendation. The motion PASSED by a Voice Vote with Commissioner Ekes abstaining.**

**06-2708**

**Subject:** Request by Crispell-Snyder, Inc. representing the Village of Mt. Pleasant, seeking approval of a two-lot Certified Survey Map at 1610 Oakes Road.

**Recommendation:** That the request by Crispell-Snyder, Inc. representing the Village of Mt. Pleasant, seeking approval of a two-lot Certified Survey Map at 1610 Oakes Road be approved subject to the following:

- a. That the certified survey map presented to the Plan Commission on October 25, 2006 is approved, subject to the conditions contained herein.
- b. That a 55 foot right-of way reservation for the future extension of 16th Street be illustrated along the north line of Lots 1 & 2..
- c. That rights of access to Lot 1 be described on the face of the CSM.
- d. That full tax key numbers be illustrated on the Lots.
- e. That technical discrepancies as identified by City Staff be addressed.
- f. That this approval is subject to review by the Plan Commission for compliance with the listed conditions.

Fiscal Note: N/A

*Director O'Connell reviewed the item.*

**A motion was made by John Dickert, seconded by Howard Harper, that this item be recommended for approval, subject to the listed conditions in the recommendation. The motion PASSED by a Voice Vote with Commissioner Ekes abstaining.**

**06-2709**

**Subject:** Request by Nielsen, Madsen & Barber, S.C., representing Richard G. Jensen, seeking approval of a four-lot Certified Survey Map at 1518 Layard Avenue.

**Recommendation:** That the request be received and filed.

Fiscal Note: N/A

*Director O'Connell reviewed the item; however he stated that the application limit of approval for the Certified Survey Map is pre-mature in that the State required time limit of five years is not set to expire until February of 2006, at which time the City can entertain the proposed Certified Survey Map.*

**A motion was made by Elaine Sutton Ekes, seconded by Vincent Esqueda, that this file be recommended to be received and filed. The motion PASSED by a Voice Vote.**

**Public Hearing starting at 4:30 p.m.**

**06-2710**

**Subject:** (Direct Referral). Request by Gregg Thompson of Bukacek Construction, representing Badger Plaza, seeking an amendment to a conditional use permit for a facade remodeling project for a shopping center at 4004 Durand Avenue.

**Recommendation:** That the request by Gregg Thompson of Bukacek Construction, representing Badger Plaza, seeking an amendment to a conditional use permit for a facade remodeling project for a shopping center at 4004 Durand Avenue be approved, subject to the following conditions:

- a. That the plans stamped "Received October 17, 2006" and presented to the Plan Commission on October 25, 2006 be approved subject to the conditions contained herein.
- b. That all applicable permits be requested from the Building Department.
- c. That by June 1, 2007 all walls of the south and east buildings within the center be painted in a uniform fashion and all graffiti painted over.
- d. That prior to December 31, 2006, a revised landscape plan addressing the frontage of Badger Plaza on Durand Avenue be submitted to the Director of City Development for review and approval.
- e. That prior to December 31, 2006, a detailed uniform sign policy be submitted for the review and approval of the Director of City Development that, at a minimum, describes the equitable distribution of the signage budget, the method of construction and illumination of the signage, sign colors to be allowed, and the policy regarding corporate logos and symbols. The policy shall establish consistency in signage between the east-west and north-south portions of Badger Plaza.
- f. That all yard areas, landscaping, buildings, and grounds be



maintained in a professional manner and on a daily basis.

- g. That all signs be professionally made and comply with zoning ordinance requirements.
- h. That all codes and ordinances be complied with and required permits acquired.
- i. 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.
- j. That this permit is subject to Plan Commission review for compliance with the listed conditions.

Fiscal Note: N/A

**Attachments:** [4004 Durand Ave.pdf](#)

*Mayor Becker opened the public hearing at 5:27 p.m., and introduced the item*

*Director O'Connell reviewed the history of the property, describing previous remodeling projects, and describing the current plans.*

*Gregg Thompson, representative for Badger Plaza, stated that Director O'Connell description of the project was accurate, and he had nothing to add.*

*In response to Mr. Becker, Director O'Connell stated that conditions could be added to address the need for a uniform sign package and the update of landscaping.*

*There being no further comments or questions, Mayor Becker closed the public hearing at 5:30 p.m.*

**A motion was made by Jud Wyant, seconded by Vincent Esqueda, that this file be recommended for approval, subject to the listed conditions in the recommendation. The motion PASSED by a Voice Vote.**

## **Adjournment**

*There being no further business before the Commission and hearing no objections, Mayor Becker adjourned the meeting at 5:33 p.m.*