



**MINUTES**  
**PLAN COMMISSION**  
August 18, 2015

Plan Commission Members Present: Steve Arnold, Tony McGrath, Rachel Lee, Ron Johnson, Ed Kinney, Bill Tishler, Carol Poole

Others Present: Thomas Hovel – City Planner/Zoning Administrator, Susan Badtke – Community Planner

**1. Call to order and approval of minutes of 7/21/2015.**

Chair Arnold called the meeting to order at 7:10 p.m.

Motion by McGrath, second by Johnson, to approve the minutes of 7/21/2015 was carried unanimously.

**2. Public Appearances – non agenda items – None.**

**3. Agenda Review – No changes.**

**4. Public hearing and consideration of Conditional Use Permit request, CU-2068-15, by Lucas N. Roe, agent for Realty Income Corporation, to allow for alcoholic beverage sales at AMC Theater, 6091 McKee Road, Lots 10 & 11 Fitchburg Commerce Park.**

Chair Arnold opened and closed the public hearing as there were no registrants wishing to speak.

Jeff Butler, 911 Chapel Hill Road Madison, representing AMC Theaters, was available to answer questions.

Frank Lewis, 17825 Elm Grove Road Platte City, MO, representing AMC Theaters, was available to answer questions.

Lucas Roe, 22 E Mifflin Street, Ste 600 Madison, was available to answer questions.

City Planner Tom Hovel provided an overview of the request noting that the theater is installing reclining seats and is looking to serve alcohol to be more competitive with the other theaters. Frank Lewis, representing AMC, explained that beer would be served in plastic cups and no alcohol is served in glass due to safety reasons.

Motion by Poole, second by Kinney, to approve CU-2068-15 with the following conditions:

- 1.) No other permit or approval is waived or deemed satisfied except for the approval provided herein.
- 2.) Applicant shall obtain appropriate liquor license approvals prior to serving any alcohol on the property.

Motion carried unanimously.

**5. Public hearing and consideration of Rezone request, RZ-2071-15, by Adam Helt-Baldwin of Habitat for Humanity, to amend the Planned Development District – Specific Implementation Plan (PDD-SIP) zoning, regarding housing development plans, on property in the First and Second Additions to Renaissance on the Park.**

Chair Arnold opened and closed the public hearing as there were no registrants wishing to speak.

Adam Helt-Baldwin, 1014 Fiedler Ln #29 Madison, representing Habitat for Humanity of Dane County, was available to answer questions.

City Planner Tom Hovel provided the staff report noting that Habitat for Humanity purchased the remaining lots in Renaissance and was requesting modifications to accommodate volunteers. The changes include more single-story house plans with exposed lower levels and some minor changes to the ISR.

Carol Poole noted some concerns regarding street parking in the area and questioned whether all of the houses would have single-car garages. Helt-Baldwin noted that all of the plans call for single-car garages but that the setbacks allow for one vehicle space in the driveway. He noted that the single-story homes provide less room for garage space and a two-car garage would push the building outside the building envelope. Alder Arnold also noted that the area is transit rich and a two-car garage would affect affordability. Ed Kinney suggested that Habitat make the garages deep enough to allow things to be stored behind the vehicle.

Motion by Lee, second by Johnson, to recommend approval of RZ-2071-15, with the following conditions:

- (A) PDD-SIP zoning is hereby amended to allow the development parameters for the referenced lots to be modified in the First and Second Additions to Renaissance on the Park in accord with submitted plans and information which accompanied the rezoning application received on July 21, 2015 and supplemental information provided via email on August 4, 2015, which is hereby made a part of this ordinance, and with the following additional requirements:
1. No other permit or approval is waived or deemed satisfied except for the approval provided herein.
  2. All aspects of Ordinance 2005-O-27 remain in place, except for the amendments provided herein to modify specific development parameters as detailed in the submittal materials of July 21, 2015 with additional information provided on August 4, 2015.
  3. An agreement for subdivision improvements will need to be executed prior to the start of work on any public improvements. Public improvements will need to be installed and accepted prior to the release of any building permits.
  4. Project may be completed in two phases with the following conditions:
    - a. Phase II shall be completed within 12 months of completion of Phase I. A letter of credit will need to be submitted for both phases prior to starting Phase I.
    - b. Phase I and Phase II asphalt surface shall be placed between August 15 and September 15 of the year following the public improvements acceptance of Phase II.
  5. MMSD fees need to be paid prior to the start of construction of public improvements.
  6. Water impact fees are due for each lot prior to the release of a building permit. These fees will be included with the building permit fees. The 2015 water impact fee rate is \$1,104 per residential unit; fee may be adjusted annually.
- (B) This ordinance shall take effect following its publication, or the consent of the property owner, whichever occurs last. However, in accord with section 22-596 of the zoning code, owners shall consent within 30 days of approval for the PDD-GIP zoning to take effect.
- (C) Applicant shall pay cost of publication to avoid a two Council meeting approval process.

Motion was carried unanimously.

**6. Public hearing and consideration of Comprehensive Development Plan request, CDP-2072-15, by Chris Ehlers of William Ryan Homes and James Spahr of Lionshare Group, LLC, agent for William Dunn and O'Brien Family LTD Partnership, for a residential and industrial development in the North Stoner Prairie Neighborhood (O'Brien and Dunn Properties) on the east and west sides of Seminole Highway, north of Lacy Road.**

Chair Arnold opened the public hearing.

James O'Brien, 5995 Ct. D Oregon, registered in support.

Tom Thoresen, 5874 Persimmon Drive Fitchburg, representing Lacy Heights Neighborhood Association and himself, spoke in support of the proposed CDP for Stoner Prairie noting that there was a lot of input throughout the neighborhood planning process. He stated that he supports the current map of roads as it follows the plans and city ordinances but stated that the development should continue to address safety of the school crossings and the City should consider yield signs at intersections with the path.

Bill Nebel, 5888 Persimmon Drive Fitchburg, representing Lacy Heights, spoke in support of the request with suggestions for setback restrictions. He stated that he is supportive of the plan but requested that the rear setback be taken from the edge of the buffer/drainage area rather than the property.

Charlie O'Brien, 662 Rovalin Drive Verona, spoke in support of the request and noted that he is pleased with the direction that the development is going; the developer has listened and planned accordingly.

Catherine Schneider, 403 Melody Lane Verona, representing O'Brien Family Limited Partnership, spoke in support of the request noting that the conditions have lined up for the family and that it is the right time to take care of the property in terms of not passing it on to another generation.

Brad Mullins, 5866 Persimmon Drive Fitchburg, spoke in support of the request. He stated that he feels the developer has been responsive to neighborhood concerns and that it will be well-received. Two areas of concerns include traffic calming and the stormwater management easements.

Bill Dunn, 6055 Whalen Road Fitchburg, spoke in support of the request and thanked the steering committee for the good work that they did on the North Stoner Prairie Neighborhood Plan.

Chris Ehlers, 2980 Edenberry Street Fitchburg, representing William Ryan Homes, spoke in support of the Comprehensive Development Plan to consist of 146 single-family lots, 30 townhomes and some commercial/industrial land. He noted that the single-family home lots will be different sizes but will be family-sized lots. He expressed concern with taking the rear setback from the buffer area, as was suggested by Nebel, as that restricts the size of the house that can be built on the lot. He noted that some of the lots will be sold to outside builders and they will encourage custom, creative house designs.

Jim Spahr, 6817 Fairhaven Rd #8 Madison, representing Lionshare Group, LLC, spoke in support of the request and was available to answer questions. Spahr touched on the townhouse development noting that they are intended for smaller families. He also commented that there is a strong demand for flex-space, which is a combination of commercial and industrial space.

Ehlers provided an overview of the phasing plan noting that there is a tentative 5-year buildout for the project.

Deb Hatfield, 119 S Main St Cottage Grove, representing William Ryan Homes and Lionshare Group, provided an overview of the stormwater management plan that will meet the normal city requirements and also the extra requirements of the North Stoner Prairie Neighborhood Plan.

Kinney questioned whether Spahr had looked at the condition of the McKenna Barn and whether it could be retained as part of the project. Spahr commented that the stone of the barn is completely crumbled and can't even be used for signage and that the upstairs of the barn is not original and has been replaced. He noted that they have carved out a spot for another barn from Verona to relocate for a bike path shelter to the neighborhood. Kinney commented that at some point a demolition permit for the barn would be submitted and that he would like to see the Landmarks Preservation Commission evaluate the barn.

Chair Arnold commented that he would also like to see the barn preserved along with the cheese factory barn. If nothing else, he'd like the Landmarks Commission to take photos and document the history. He asked whether Spahr would be agreeable to working with the City and inviting the Landmarks Commission for a visit. Spahr said he was fine with that. Kinney suggested that perhaps John Frieburger would be a good resource to come look at the structures.

Discussion was had on access to the elementary school. Chair Arnold proposed an alternate street layout to which Spahr commented that preliminary discussions with the school showed a lack of interest and a preference towards a drop off where parents could see their children walking to the front door of the school.

Chair Arnold also encouraged that the developer consider incorporating "home zones" into the street network, where roads that serve only local traffic are posted for 18-20 mph. He also expressed his opposition to the proposed cul-de-sac; Ehlers responded that the neighborhood desires the cul-de-sac.

Chair Arnold closed the public hearing.

City Planner Tom Hovel provided the staff report noting that staff recommended approval with conditions. Hovel commented that the R-L zoning district has a 35 foot rear setback which is taken from the property line; the only situation where this has been altered is on major highways such as McKee Road.

Motion by Poole, second by Kinney, to recommend approval of CDP-2072-15 was approved with the following conditions:

- 1.) No other permit or approval is waived or deemed satisfied except for the approval provided herein.
- 2.) Proposed public shared-use path and mid-block crossings shall be located in 20' wide outlots rather than the proposed easements in locations acceptable to the city Transportation Engineer; the preliminary and final plat shall reflect these areas as outlots. Maintenance and responsibility for any private paths shall be delineated, and acceptable to the Public Works Director and City Attorney prior to approval of the preliminary plat.
- 3.) Rezoning are required to be accomplished prior to the final platting.
- 4.) Seminole Highway Interceptor, McKee Interceptor and MMSD fees shall be paid for at the time of platting.
- 5.) Park calculations and fees will be handled at the time of platting.
- 6.) Applicant shall work with Public Works and Parks to provide the required path along the north edge of the Public Park, connecting Street B east to the existing school bike path.
- 7.) A developer agreement will be needed for the public improvements.
- 8.) Wetland determinations and delineations (and related environmental corridors) shall be accomplished prior to submittal of the preliminary plat.
- 9.) Erosion Control and Stormwater Management Permit, meeting the requirements of City Ordinances and the North Stoner Prairie Neighborhood Plan, shall be submitted and approved prior to construction.
- 10.) A stormwater maintenance agreement will be required for the necessary private stormwater management practices approved by the City.
- 11.) Stormwater Management Plan shall comply with the stormwater performance standards (e.g. 100% stay-on infiltration volume, etc.) described in the North Stoner Prairie Neighborhood Plan.

Carol Poole thanked the developer for bringing single-family homes and potentially the parade of homes to Fitchburg.

Motion carried unanimously.

**7. Public hearing and consideration of Conditional Use Permit request, CU-2073-15, by Andy Fitz of Mastec Network Solutions, to allow for telecommunications upgrades and new generator at 2827 Commerce Park Drive, Lot 1 CSM 11021.**

Chair Arnold opened the public hearing.

Andy Fitz, 1351 E Irving Park Road Itasca IL, representing Mastec/AT&T, was available to answer questions.

Chair Arnold closed the public hearing as there were no registrants wishing to speak.

City Planner Tom Hovel provided the staff memo noting that AT&T was requesting telecommunication upgrades and a new generator on the water tower site.

Ed Kinney questioned whether the generator could be sized to handle future uses so that the city limits the number of generators on the site. Andy Fitz responded that AT&T has not done a communal generator on facilities where it locates its antennas due to liability. He mentioned there is a class 2 enclosure which should, in addition to the proposed fence, do a good job retaining noise. City Planner Tom Hovel commented that this could be handled through the lease agreement with the City.

Arnold questioned whether AT&T would be open to using a communal generator if it was provided by the City or some other party. Fitz stated he could explore this but wasn't certain whether this is something AT&T would agree to. Kinney commented that he is less concerned about this location but would want a better solution in situations where the site is closer to residential uses.

Tony McGrath commented that the City needs to tread cautiously with respect to not allowing additional generators so that we don't violate Chapter 66 State Statute.

Motion by Poole, second by Lee, to approve CU-2073-15 with the following conditions:

- 1.) No other permit or approval is waived or deemed satisfied except for the approval provided herein.
- 2.) Applicant shall address all Public Works items, specifically those identified in their review #1 comments, prior to the issuance of any permit.
- 3.) Approval is based on submitted plans provided July 22, 2015 and responses to staff comments.

Motion carried unanimously.

**8. Architectural Design Review request by AT&T by Andy Fitz of Mastec Network Solutions, to allow for telecommunications upgrades and new generator at 2827 Commerce Park Drive, Lot 1 CSM 11021.**

Motion by Poole, second by McGrath, to approve ADR request with the following conditions:

- 1.) No other permit or approval is waived or deemed satisfied except for the approval provided herein.
- 2.) Applicant shall address all Public Works items, specifically those identified in their review #1 comments, prior to the issuance of any permit.
- 3.) Approval is based on submitted plans provided July 22, 2015 and responses to staff comments.

Motion carried unanimously.

**9. Public hearing and consideration of Comprehensive Development Plan request, CDP-2074-15, by Kevin Unbehaun, agent for Sub-Zero Wolf Inc, for industrial development in the North Stoner Prairie Neighborhood, lands in Section 7 & 8 City of Fitchburg.**

Chair Arnold opened public hearing for items 9 & 11.

Kevin Unbehaun, 6061 Basswood Drive Fitchburg, representing Sub-Zero Group, Inc., spoke in support of the request and was available to answer questions. He provided an overview on the expansion plans.

Ron Klaas, 7530 Westward Way Madison, representing SubZero, spoke in support of the request. Klaas provided an overview of the proposed CSM which would create one large lot for the SubZero expansion and the rezoning to Industrial to allow for the subzero expansion. He also provided an overview of the stormwater management for the development.

Ed Kinney questioned the plan for the proposed lot 3 of the CSM. Unbehaun stated that SubZero intends on retaining both lots 2 & 3 at this time.

Clinton Collins, W8373 County Road K Arlington, representing Sub-Zero, was available to answer questions.

Chair Arnold expressed concern regarding limited circulation and suggested that SubZero consider extending Spoke Drive south from McKee Road. Unbehaun stated there are currently 10 undeveloped acres but they don't have a plan for development. They would not be interested in putting a road in and bisecting the undeveloped land at this point in time.

Chair Arnold closed the public hearing.

City Planner Tom Hovel provided the staff report noting that there are several items that are still a work in progress for all of the Sub-Zero requests but that staff is working to try to keep Sub-Zero on their timeline by adding conditions to approvals that can be working out with staff.

Motion by Johnson, second by Poole, to recommend approval of CDP-2074-15 with the following conditions:

- 1.) No other permit or approval is waived or deemed satisfied except for the approval provided herein.
- 2.) Applicant shall obtain an Erosion Control and Stormwater Management (ECSWM) Permit approval from Public Works. In addition to the normal performance standards from Chapter 30, Article II of Fitchburg's Municipal Code, stormwater performance requirements M1, M5, M7, M8, M10, M11, M13, M14, and M15 from the North Stoner Prairie Neighborhood Plan (Pages 113-116 of <http://fitchburgwi.gov/468/North-Stoner-Prairie-Neighborhood-Plan>) need to be met.
- 3.) The timing of the street improvements needs to be coordinated with the adjacent land owner to the east to ensure street connectivity to Seminole Highway and Marketplace Drive. Until the streets are constructed on the east side of the Badger State Trail, a temporary road shall be provided and maintained to ensure connectivity between Marketplace Drive and Commerce Park Drive.
- 4.) Applicant shall address all public works comments to the satisfaction of the City Engineer.
- 5.) Applicant shall address all planning comments to the satisfaction of the City Planner.

Motion carried unanimously.

**10. Certified Survey Map request, CS-2075-15, by Ronald Klaas, agent for Sub -Zero Wolf Inc., to divide property associated with Lot 1 CSM 9217, Lots 1 & 2, CSM 10031, Lot 2 CSM 11021, vacated/discontinued portion of Marketplace Drive and all of Bud's Drive, into three lots and one outlot, along with new street dedication.**

Motion by Poole, second by McGrath, to recommend approval of CS-2075-15 with the following conditions:

- 1.) No other permit or approval is waived or deemed satisfied except for the approval provided herein.
- 2.) A developer's agreement for all public improvements will need to be executed prior to the City signing of the CSM.
- 3.) Prior to the City signing of the CSM, the applicant shall sign a street tree waiver for street trees to be planted by the City along the public streets.
- 4.) Prior to the City signing of the CSM, applicant shall obtain an Erosion Control and Stormwater Management (ECSWM) Permit approval from Public Works. In addition to the normal performance standards from Chapter 30, Article II of Fitchburg's Municipal Code, stormwater performance requirements M1, M5, M7, M8, M10, M11, M13, M14 and M15 from the North Stoner Prairie Neighborhood Plan (Pages 113-116 of <http://fitchburgwi.gov/468/North-Stoner-Prairie-Neighborhood-Plan>) need to be met.
- 5.) Prior to the City signing of the CSM, applicant shall obtain WisDNR and WisDOT approval for a new street crossing of the Badger State Trail. The final alignment and location will need to be approved and signed off by both agencies.
- 6.) Prior to the City signing of the CSM, applicant shall provide and obtain approval from Public Works of preliminary plan and profile sheets for Street A, Commerce Park Drive and Marketplace Drive

relocation. If not identified on the CSM, provide easements for existing hydrants and public main connection to the Badger Trail.

- 7.) CSM shall be updated to dedicate a 15' wide strip of right-of-way along McKee Road for future I and expansion and a 30' wide strip of right-of-way at the corner of McKee Road and the Badger State Trail for future connection of the sidewalk to the proposed tunnel under McKee Road.
- 8.) If the Badger Trail crossing and the roads east of the Badger Trail are not completed by the time Commerce Park and what is identified as A Street open, the applicant will be required to provide an easement along the east north-south drive for public access.
- 9.) Applicant shall address all public works comments to the satisfaction of the City Engineer prior to the City signing of the CSM.
- 10.) Applicant shall address all planning comments to the satisfaction of the City Planner prior to the City signing of the CSM.
- 11.) Applicant shall provide, prior to the city signing the CSM, a fully executed agreement between them and Payne and Dolan for stormwater storage and limitations on the Payne and Dolan property at a level to handle the back-to-back 100 year storm events for the contributing storm water area. Or, in lieu of the above, the applicant, Sub-Zero, shall show that the current project (see ADR project application) will not cause the storm water storage elevation to be greater than the 1022.6 on the Payne and Dolan property, and if that is the case, shall provide an agreement that they will not construct on lots 2 and 3 of the CSM until a new storm water area is established and consented to through an agreement with the required property owners.
- 12.) To facilitate building construction, the City may allow an approximate 100' section of future public water main to be installed prior to a developer agreement. In order for the City to consider this section of water main for being part of the future public system, the design and installation shall be in accordance with the City of Fitchburg Specifications. The design of the water main section shall be reviewed and approved prior to construction. The City shall be notified a minimum of 48-hours prior to construction in order to allow for observation of the installation. The developer shall reimburse the City for all costs associated with the review and observation of the installation of the water main. The developer shall post a letter of credit at 115% of the cost of the water main construction and City estimated costs.
- 13.) The water main easements for the existing public mains to remain need to extend 10 feet on all sides of the public water system. The public system includes main, hydrants, and services up to and including the service valves. Revise easements on Bud's Drive and at Marketplace, west of the Badger Trail, to meet this requirement.

Motion carried unanimously.

**11. Public hearing and consideration of Rezone request, RZ-2076-15, by Ron Klaas, agent for Sub-Zero Wolf Inc, to rezone property from the Rural Development (R-D) to the Industrial General (I-G) district, Lot 2 CSM 10031.**

Note: public hearing was held in conjunction with item 9.

Motion by Poole, second by Lee, to recommend approval of RZ-2076-15 with the following condition:

- 1.) No other permit or approval is waived or deemed satisfied except for the approval provided herein.

**12. Architectural Design Review and early issuance of permit for construction requests by Boyd E. Coleman, III, agent for Sub-Zero Wolf Inc., for a south building addition and associated site improvements to 2866 Bud's Drive.**

Kevin Unbehaun of Sub-Zero provided an overview of the building renderings and materials. He stated that they intend on planting trees to provide a buffer space and screen the building.

Ed Kinney questioned if the building could be easily divided in the future if it needs to be repurposed for a different use. Unbehaun stated that they intend to occupy the full building but would suggest splitting along column lines and equally dividing dock space if needed.

Motion by Poole, second by McGrath, to approve ADR with the following conditions:

- 1.) No other permit or approval is waived or deemed satisfied except for the approval provided herein.
- 2.) Applicant shall address all public works comments to the satisfaction of the City Engineer prior to the issuance of any permit.
- 3.) Applicant shall address all planning comments to the satisfaction of the City Planner prior to the issuance of any permit.
- 4.) Applicant shall obtain an Erosion Control and Stormwater Management Permit prior to the issuance of any permit.
- 5.) Applicant shall provide proper landscaping, acceptable to zoning administrator, to screen the south side of the building and parking lots from the view from Lacy Road and over the storm water storage area.
- 6.) The building and site improvements shall meet all aspects of the zoning code.
- 7.) Rezoning of the property is approved by the Common Council.
- 8.) The current Marketplace Drive crossing of the Badger Trail shall be abandoned within 90 days of the opening of the proposed east-west street (A street on the CSM) connection to Seminole Highway.
- 9.) Approval includes early issuance of permit for construction, prior to recording of the CSM and completion of public improvements. Prior to any issuance of a permit, applicant shall:
  - a. Obtain written approval from the Fire Department that sufficient water service exists, in the opinion of the fire chief, so that proper fire service can be provided;
  - b. Obtain written approval from the Fire Department and Public Works of an access plan that provides and maintains temporary roads that meet at a minimum the requirements of the fire department and are sufficient to permit access by emergency vehicles;
  - c. All required fees have been paid and proper security posted, and barricades provided;
  - d. Applicant shall provide an agreement to be recorded whereby the subdivider agrees to indemnify and hold the city harmless from any and all claims, actions, demands, or judgments for personal injuries or property damages, together with the actual expenses incurred in connection therewith, arising out of or in any way related to the issuance of such building permits, or construction within the subdivision including any such claim, action, demand or judgment premised upon the negligence of the city or any of its officers, agents, servants or employees; and
  - e. The building owner shall agree in a written affidavit that occupancy shall not occur, nor shall occupancy permits be issued, prior to the completion, inspection and acceptance of all required public improvements.
  - f. Public and private watermain on SubZero's site shall meet the approval of the Fire Department and City Utility Engineer prior to the receipt of any permit.

Motion was carried unanimously.

Carol Poole thanked the applicant for keeping the company in Fitchburg.

**13. Erosion Control and Stormwater Management Permit request by Debbie Hatfield, agent for Saris, for approval to grade out stockpiles of excess material created as part of the Spoke and Sprocket project at 5253 Verona Road.**

City Planner Tom Hovel explained the request to grade out stockpiles that were placed on the Saris property as part of the Spoke and Sprocket construction project.

Jim Spahr, 6817 Fairhaven Road Madison, representing Saris Cycling Group, registered in support and was available to answer questions.

Chair Arnold questioned the impact to the Oak Savannah or mature oak trees; Spahr commented there would be minimal impact on the oak trees.

Motion by Kinney, second by Johnson, to approve Erosion Control Permit request with the following conditions:



- 1.) No other permit or approval is waived or deemed satisfied except for the approval provided herein.
- 2.) Approval is based on submitted materials dated July 21, 2015 and responses to staff comments provided August 4, 2015.

Motion was carried unanimously.

**14. Pre-application request by Robert Williams, agent for Aspen Park Apartments, for the use of Planned Development District (PDD) zoning for a multi-family redevelopment of the Sun Valley Apartments, Breckenridge Court.**

Robert Williams of TDI Associates, Inc., N8 W22350 Johnson Drive Suite B-4 Waukesha, representing the developer/owner, spoke in support of the request. He provided an overview of the request to upgrade the property to a more urban design and explained that PDD zoning works better for the project. The proposed project includes five 5-story buildings with underground parking along Fish Hatchery Road and six 2-story buildings with attached garages. Depending on the market the project would take approximately 5-8 years.

Chair Arnold pointed out some of the drawbacks to using PDD zoning and suggested that he explore the use of SmartCode.

Ed Kinney commented that this project is a fantastic improvement and thanked him for bringing it forward.

Williams commented that he met with one of the Alders who lived in the apartments and he commented that it is extremely challenging to turn left out of or into the site. Williams suggested that the City look at a controlled intersection.

**15. Resolution R-81-15, General Beverage Permit for Parking Within City Property.**

Cindy Jaggi, 1972 Oakwood View Drive Verona, representing the Verona Road Business Coalition, registered in support of the Resolution .

William Haus, 148 E Wilson St. Madison, representing General Beverage, registered in support and was available to answer questions.

Mike Zimmerman, 5520 Lacy Road Fitchburg, representing the Fitchburg Economic Development Department, registered in support and was available to answer questions.

Joel Mlnkoff, McKee Road Fitchburg, representing General Beverage spoke in support of the Resolution and was available to answer questions.

City Planner Tom Hovel explained the Resolution would allow private use of the public rail corridor for the purpose of parking; staff had no recommendation as this is a policy decision.

Ron Johnson stated that the Transportation and Transit Commission reviewed the Resolution and voted 4-0 in favor of approving the Resolution with himself abstaining as he wanted to hear the discussion at Plan Commission.

Bill Tishler stated that he has a problem with private use on public land and that it is not a good public policy decision to make this kind of conversion.

Chair Arnold expressed concern with the Resolution noting that it is a not a good public policy decision to convert the land even though practical considerations lead the city in that direction.

Carole Poole questioned what public use the land is being used for at the present. She stated that the Resolution would allow issuance of a permit to General Beverage, not selling or giving the property itself. She also commented that this plan would help provide a fire lane to the building. She said that the business has been in Fitchburg for a long time and she sees it as an acceptable policy exception.

Tony McGrath commented that he does not see this as a conversion rather it is a permit. He compared it to a sidewalk café where a restaurant may use the sidewalk for seating area, etc.

Ron Johnson stated that the permit would run with the land and is permanent unless the rail is reactivated. He expressed concern about what happens when someone comes in that hasn't been impinged upon and wants to do something on public property – what are the city's standards? McGrath responded that the City could add a whereas clause specifying that the situation is unique and granting of the permit does not set precedence.

Carol Poole questioned whether General Beverage would be open to allowing the parking lot to be used by bikers on the weekend. Minkoff did not appear open to that idea due to issues of theft.

Rachel Lee questioned whether General Beverage has an agreement finalized with the DOT. Minkoff responded that the DOT is still working on a proposal.

Motion by Kinney, second by McGrath, to recommend approval of Resolution R-81-15, with the following amendments:

- Add a new condition 1 to read: "The existing Military Ridge Path alignment will not be altered or impeded by the addition of parking, drives, or any other allowed private use within the railroad corridor." All other conditions would be re-numbered accordingly.
- Add a new whereas clause to read: "Whereas, the situation presented here represents a unique set of facts unlikely to occur elsewhere and this action is not considered precedential."

Motion carried with Tishler and Arnold opposed.

#### **16. Resolution R-82-15, A Resolution Granting An Underground Electric Right-of-Way Grant to Madison Gas and Electric Company on Outlot 16, Nine Springs, City of Fitchburg, Wisconsin.**

City Planner Tom Hovel provided the staff report and explained the Resolution.

Motion by Poole, second by Tishler, to recommend approval of Resolution R-82-15, was carried unanimously.

#### **17. Planning Department Report**

No items to report.

#### **18. Announcements**

Chair Arnold announced that the next Plan Commission meeting is scheduled for September 15, 2015.

#### **19. Adjournment**

Motion by Kinney, second by Lee, to adjourn at 9:57 p.m. was carried unanimously.

Submitted By,  
Susan Badtke, Community Planner

*Approved September 15, 2015*