



Legislation Details (With Text)

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Title: SUBSTITUTE - To establish and execute a fair and participatory process for deciding whether or not and/or how to restrict the flow of motorized vehicular traffic on Edgewood Drive, a remnant of the Park and Pleasure Drive system. The process includes public information, citizen participation, attorney analysis, traffic engineering analysis, consultation with the Edgewood schools and the other abutting property owner and, finally, consideration by the Common Council of any restrictions recommended by the Board of Park Commissioners.

Sponsors: Kenneth Golden

Indexes:

Code sections:

Attachments: 1. City Attorney report on Edgewood Drive.pdf

Date	Ver.	Action By	Action	Result
12/13/2005	2	COMMON COUNCIL	Place On File	Pass
11/9/2005	2	BOARD OF PARK COMMISSIONERS	RECOMMEND TO COUNCIL TO PLACE ON FILE - REPORT OF OFFICER	Pass
11/2/2005	2	BOARD OF PUBLIC WORKS	Return to Lead with the Recommendation for Approval	Pass
10/10/2005	2	Parks Division	Refer	
9/14/2005	2	BOARD OF PARK COMMISSIONERS	Refer	
2/16/2005	2	Finance Dept/Approval Group	Approved Fiscal Note By The Comptroller's Office	
2/9/2005	1	BOARD OF PARK COMMISSIONERS		
2/1/2005	2	COMMON COUNCIL	Refer	
2/1/2005	2	COMMON COUNCIL	Fiscal Note Required / Approval	
2/1/2005	2	COMMON COUNCIL	Refer	Pass
	2			

Fiscal Note

The studies and analyses required by this resolution largely involve the expenditure of staff time, and can be accommodated within the 2005 Operating Budgets of the Parks, City Attorney, and Traffic Engineering agencies. The final clause of the resolution does contain language providing that "the Common Council be charged with adoption of the report and its recommendations, whatever these turn out to be." The fiscal impact of this requirement cannot be reliably estimated until the recommendations are determined and adopted. The Park Superintendent estimates that perhaps \$10,000 will be required for such items as gates, signs, and line painting. This amount would have to be added to the 2005 budget via amendment, or incorporated into the 2006 Capital and Operating Budgets.

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Body

WHEREAS, Edgewood Drive is a remnant of the Madison Park and Pleasure Drive system that is extremely well preserved; and

WHEREAS, this Drive provides access to a stupendous natural environment abutting Edgewood College, including a woodland area between the Drive and Lake Wingra; and

WHEREAS, Edgewood Drive is used by pedestrians, joggers, inline skaters and bicyclists for recreational purposes as a way of experiencing the unique setting, views and atmosphere available; and

WHEREAS, in the past, vehicular traffic has presented a major impediment to the enjoyment of Edgewood Drive; and

WHEREAS, with the implementation of the Edgewood Master Plan and the construction of Edgewood College Drive, this problem has been substantially reduced; but

WHEREAS, the present volume of motorized vehicular traffic still adversely affects the enjoyment of the Drive by those who use it by non-motorized means; and

WHEREAS, an informal "Friends of Edgewood Drive" group has been formed and has advocated the restriction of automobile traffic on the Drive to improve and enhance the pedestrian and bicyclist experience; and

WHEREAS, there are an unknown number of members of the Madison community whose sole access to the Drive is by car and who would, therefore, be expected to oppose such a change; and

WHEREAS, the existence of Edgewood Drive is based on a hundred year old easement granted by the predecessors of Edgewood College to the Madison Parks and Pleasure Drive Association, the predecessor of the City of Madison Parks Commission; and

WHEREAS, the City Attorney's Office has advised the neighborhood, alders and the Board of Park Commissioners in the past that modifying the flow of traffic on Edgewood Drive would be legally challenging and would have to be done carefully to avoid the invoking of a reversion clause in the grant of the easement; and

WHEREAS, in prior conditional use approvals, Edgewood, Inc. has agreed that it would not oppose the modification in the flow of traffic on Edgewood Drive so long as access to existing and approved Edgewood driveways and other entry points for the associated land uses were maintained; and

WHEREAS, it appears that there is a strong interest in resolving the issue of restricting use of motorized vehicles, an issue that has been on the public agenda for upwards of eight years; and

WHEREAS, the Friends of Edgewood Drive group has prepared a paper detailing some of the history of the Drive and the perception of the Friends group about its most appropriate use;

NOW, THEREFORE, BE IT RESOLVED the Common Council directs the Board of Park Commissioners, the stewards of Edgewood Drive, to exercise their stewardship by designing and conducting a process to firmly decide whether or not and how the flow of motorized vehicular traffic on Edgewood Drive shall or shall not be restricted.

BE IT FURTHER RESOLVED that the paper prepared by the Friends of Edgewood Drive is incorporated into this resolution, shall be responded to as a communication by City staff and shall be considered by the Parks Commission in designing and conducting this process.

BE IT FURTHER RESOLVED that the Park Commissioners shall consider creating a process that takes into account the interests of three basic constituencies:

1. The residents who live along Edgewood Drive (Woodrow Street and Edgewood Avenue) who would be directly affected by any form of restriction.

2. The residents who live in the broader Dudgeon-Monroe and Vilas neighborhoods who are the most common users of the Drive.
3. The interests of the entire City of Madison, including those members of the public who seek to experience the drive in their cars.

BE IT FURTHER RESOLVED that the Board of Park Commissioners shall obtain approval from the Common Council prior to conducting this process.

BE IT FURTHER RESOLVED that Parks Division staff, in consultation with Traffic Engineering and the City Attorney's Office, shall execute the process designed by the Park Commissioners to determine if there should be restrictions to vehicular flow on Edgewood Drive and if so, how traffic flow should be restricted.

BE IT FURTHER RESOLVED that the City Attorney is directed to investigate and recommend a course of action whereby the grant of easement and its reversion clause can be legally defended so that the likelihood that the City would lose control of the Drive is substantially minimized or eliminated. Edgewood Schools, Inc. and other abutting property owners shall be involved in this analysis and their agreement shall be solicited.

BE IT FINALLY RESOLVED that when the process is completed, the results of the process along with information about the level of public participation and content of public input be presented to the Common Council in the form of a report and that the Common Council be charged with adoption of the report and its recommendations, whatever these turn out to be.

(park-pleasure dr paper 4-28-03)

PRESERVING THE EDGEWOOD PARK AND PLEASURE DRIVE: A POSITION PAPER AND PROPOSAL

I. Introduction

The Edgewood Park and Pleasure Drive runs behind Edgewood College, from the southern end of Woodrow Street to the southern end of Edgewood Avenue and the entrance to Vilas Park. This relatively little known, lane-like passage is a Madison historical treasure: the last substantial lakeside remnant of the Park and Pleasure Drive system which gave Madison its beautiful central-city parks. We, an informally constituted group of "Friends of the Edgewood Park and Pleasure Drive," have come together around a mission of preservation and restoration:

We envisage the Edgewood Park and Pleasure Drive as a linear park that offers a safe and tranquil refuge for all users and honors the historical intent of its inception, while preserving the Native American mounds and archeological history, the wooded ambiance, and the health of Lake Wingra and its surroundings.

We invite the participation of all members of the local neighborhoods and the wider Madison community in our effort.

We also call on the Madison Board of Parks Commissioners and the Parks Division to give this Park and Pleasure Drive the attention and the preservation which its historic importance and its natural beauty deserve. We feel that such attention is not only warranted historically and aesthetically; in addition, it is mandated by the original legal history of the Drive. We urge the Parks Commission to adopt a more active trusteeship role and to return the Edgewood Park and Pleasure Drive to its original character and purpose.

II. Historical background

No organization in Madison's early history made more important contributions to the city's livability than the Madison Park and Pleasure Drive Association, founded in 1894 with 26 original members. Dedicated to creating new carriage ways to facilitate "pleasure drives" through the scenic undeveloped areas surrounding Madison, the work of this Association of progressive citizens (by 1899, some 400) led to the creation of Madison's most important central parks, including Tenney, Vilas and Brittingham. (Mollenhoff, 232)

Although they were originally out of town, the routes of many of the Association's "pleasure drives" in time were absorbed into the growing city's street system. Examples include Lake Mendota Drive, West Shore Drive, South Shore Drive, Farwell and Woodward Drives, and Wingra Drive. Only one of the "pleasure drives", the half-mile lane currently signed as the Edgewood Park and Pleasure Drive which connects Woodrow Street with the western edge of Vilas Park, remains largely intact in its original form.

This "park and pleasure drive", between Edgewood Campus and the northern shore of Lake Wingra, originated in 1904 as an integral part of the agreements and legal arrangements surrounding the creation of Vilas Park. A one-half mile long, three rod-wide (1 rod = 16.5 ft) perpetual easement "for driveway and park purposes only" was granted by St. Clara College (the predecessor institution of Edgewood College) to the Madison Park & Pleasure Drive Association. (City legal advice memorandum, p. 2.)

The grant of easement was conditional on the original purpose - i.e., its park character and use - being maintained by the Association (now succeeded in its trustee role by the Madison Parks Commission). The agreement provided that "should

said land [the easement] ever be devoted by [the Association or its successors or assigns] to any other use than park and pleasure driving purposes, then, and in that event, the [said land] shall revert to and become the property of [St. Clara College or its successors]. (City legal advice memorandum, pp. 2-3)

As we look at the history of the pleasure drives, the words "drive" and "driveway" in the original language of the time tend to confuse. It is important to understand that these "drives" (originally for horse-drawn conveyances), were essentially park-ways. They did not and were not intended to provide traffic connections. The Edgewood Drive was explicitly a park drive as it was created as a required element of Vilas Park. Other parts of the 1904 documents provided that existing "alleys and streets" within the park-to-be would be "vacated and devoted to park purposes." Clearly, the donors and the Association wished above all to ensure that the Drive, and other parts of Vilas park, would not be used for ordinary transportation purposes; in other words, as city streets. (City legal advice memorandum, pp. 1-3.)

The original means of conveyance on the parkways was horse-drawn vehicles. In the fall of 1903, after an agonizing and protracted debate, The Madison Park and Pleasure Drive Association reluctantly agreed to allow limited automobile access to its system of drives. Only automobiles and their drivers who had been licensed for the purpose by the Madison Park and Pleasure Drive Association were permitted, and a maximum speed limit of 8 MPH was set. Use by these cars was allowed only for portions of two days per week.

Although initially hopeful of increased membership subscriptions from among the 500 Madisonian "automobilists", the 1907 Annual Report chronicled the Association's anger and disappointment engendered by a marked lack of contributions from motorists as well as their disregard for the access rules and for the 8 MPH speed limit.

III. The Problem

Alas, through decades of neglect, and failure to remember and correctly understand the intentions of the founders, the Edgewood Drive gradually took on the character of a city street, albeit a relatively undeveloped one. In 1946 St. Clara College actually brought suit against the City because paving and excess traffic, including large trucks, were violating the "park and pleasure drive" character of the Drive.

As a result of that suit, trucks are barred by signage from using the Drive. No such restrictions exist for automobiles. Automobile traffic is unrestricted and has steadily grown in volume and velocity, as the Drive not only serves Edgewood College's growing student population, but also offers a convenient shortcut from Monroe Street southeast to Fish Hatchery and Park Streets and to the Beltline. Car traffic has made enjoyment of the Drive's parklike character by pedestrians and bicyclists - and even for slow automobile "pleasure driving" -- increasingly difficult and dangerous. Car traffic overwhelmingly is utilitarian in character and is much too fast to be compatible with park enjoyment - either by the drivers or (especially) other users.

Over the same period usage patterns of the Drive itself have changed substantially and have grown more complex. A signed circum-Wingra recreational circuit has proven very popular. Large numbers of runners, bicyclists, and walkers, along with stroller-pushing parents seeking a quieter and more scenic route to Vilas Zoo, use the Drive daily. A recent empirical study carried out by members of our group produced the following ratios of non-car to car users:

Summer Weekday Totals:

464 pedestrians (= walkers, runners, bikers, roller-skaters, wheelchair users, etc.)
263 cars

Summer Weekend Totals:

731 pedestrians
211 cars

These data are good news in that the Drive seems to be spontaneously recovering some of its original character as a park and recreation facility. However, the numbers also underline the extent to which these users routinely must compete with automobiles for a share of the roadway. The net result of these changes is that the situation is increasingly unsatisfactory to **all** user groups. Car drivers find the Drive frustrating to negotiate. Meanwhile, utilitarian car traffic makes it less safe and much less pleasurable for all non-motorized user groups. A 15 MPH speed limit is posted on the Drive (fast, in context). Yet car traffic speeds **average** in the 20s according to City statistics (see Dryer), with 15% considerably exceeding this rate. To respond to this safety problem by widening the roadway (perhaps with separate

bike/ped lanes or sidewalks) would be to completely destroy its character while also (in our opinion) violating both the spirit and legal provisions of the original agreement.

IV. Confused Lines of Responsibility

As the purpose of the Drive has gradually been subverted, City lines of responsibility have become confused. While the Parks Commission remains vested with ultimate responsibility (as it must under the terms of the original grant) the City's Traffic Engineering Division has been drawn into effective day-to-day management and responsibility as the Drive has been allowed to serve the function of a traffic-carrying city street.

The 1946 Dance County Circuit Court decision, the 1947 Wisconsin Supreme Court decision, and a 1997 formal Amendment agreement between the City and Edgewood College have had the unintended effect of further confusing the Drive's status. The courts recognized that cars are the successors to the carriages for which the park and pleasure drive system was intended. Unfortunately, the court was less zealous in defending the **purpose** of driving: to savor nature, and to enter Vilas Park. Unsurprisingly in our car-dominated culture, the court's uncontroversial adjustment for technological change (carriage to car) has been extended by some to be a justification of **utilitarian** car traffic - converting the Drive to a city street - which is precisely what the original grant aimed to prevent. (See City legal advice; and Wisconsin Supreme Court, *St. Clara College v. City of Madison*, 250 Wis. 538 (1947).)

These confusions were clearly visible at a public meeting organized by Alders Ken Golden and Matt Sloan on February 21, 2002 to discuss the City's plans for resurfacing the Drive, which has deteriorated from heavy car traffic. At this meetings the tacit subversion of the Drive as a venue for park and pleasure driving **only** was made clear, as traffic considerations and data dominated the meeting. Even proposed ameliorations were in the category of "traffic calming." The City Attorney's office tabled an advisory opinion which stretches to the maximum the inherent ambiguities of the original grant and subsequent litigation, in favor of utilitarian car traffic. The Parks Division, meanwhile, played a minimal role in the discussion. Survey and traffic data made clear that the car traffic on the Drive overwhelmingly is of a utilitarian character and speeds are often excessive given the Drive's dimension, surface, and multi-use function.

In a focus on details - cars-as-successors-to-carriages, traffic speeds and car numbers, resurfacing and reconstruction alternatives - we as a community have lost sight of the most important thing of all: the **purpose** of the Drive, and the intention of its creators that it serve a park-like recreational function, an entry way and integral part of Vilas Park.

It is in failing to maintain and protect this core function - and not in any possible failure to facilitate car traffic - that the City is in danger of failing in its trust responsibility to the Drive.

V. A Crucial Opportunity

As noted, heavy car traffic has resulted in a badly deteriorated surface. At the February 21, 2002 meeting, City traffic and engineering staff agreed to **resurface** and not to **reconstruct** the surface, not to install curbs and gutters, and not to consistently or substantially widen or straighten the Drive in the process. We appreciate this flexibility.

However, we feel the deteriorated surface raises a much larger question, and presents a crucial opportunity for the Madison community as a whole - one that may well be lost forever if the resurfacing plans are carried forward.

The opportunity is to reestablish the original (and legally mandated) character of the Drive as a park drive, a place to leisurely enjoy natural beauty, and an entrance to Vilas Park.

Research by the City and, in particular, by an informally organized group of "friends of the Drive," has indicated that there is a rare constellation of support for enhancing the park character of the Drive and reducing or eliminating entirely its utilitarian use by car traffic.

- Our initiative to preserve the character of the Drive is strongly supported by our neighborhood associations: Dudgeon-Monroe Neighborhood Association, and Vilas Neighborhood Association.
- While many close-by neighbors presently use the Drive for work and errands, extensive polling shows that the considerable majority value its rural, woodsy character much more highly and would support sharp reductions, or even complete elimination, of utilitarian car traffic.
- Edgewood College, the legal successor to St. Clara College, supports closing the Drive to

through-traffic, as long as there would continue to be access to buildings, and as long as Edgewood does not have to give up land to close the Drive (for example, for a turn-around).

- Data developed by City traffic authorities indicates utilitarian car traffic, while too heavy and too fast **for the Drive**, is very small in relation to the volumes of City arterial traffic (e.g., Monroe Street, which parallels the Drive). It is our understanding that the City Traffic Engineering Division does not consider the Drive to play an essential role within the City's car traffic grid system. (To do so would clearly violate the core intent of the original grant.) (See Dryer, Traffic Data.)
- Contacts with members of the wider Madison community convince us that our initiative will gain broad support from a variety of groups interested in historic preservation, in the heritage of the Native American mounds, in preserving and protecting the Lake Wingra ecology and enhancing its recreational accessibility, and in a wide variety of non-motorized outdoor enjoyments including biking, walking, running, and birdwatching.

VI. A Vision for the Drive

Anyone who walks the half-mile Drive must be struck by its unusual beauty. A rare, primarily undisturbed, mixed woodland in good health borders the Drive, including a number of trees of pre-settlement age and a healthy population of shaded forest wildflowers. The Drive overlooks Lake Wingra, looking across it to the undeveloped shoreline of the Arboretum. Few views in Madison are of such natural beauty, and even fewer are so much as they would have been before urban development.

The Indian mounds that border the Drive hold spiritual meaning and a sacred character for Native Americans. For all of us, the mounds are of great historical importance and educational value. The Edgewood mound group, including both conical and effigy mounds, is now one of Madison's best preserved. We are told that the pioneer historian of native American history Charles E. Brown (first director and full-time curator of the Wisconsin State Historical Society's Museum) found and stopped workmen who were about to destroy mounds as the Drive was first constructed. Along the Drive are seven conical mounds, part of a linear mound, and an important bear effigy mound (originally plotted by Brown early in the 20th Century and recently rediscovered). Nearby is a splendid eagle effigy mound. One can easily imagine why this site would have been selected by the mound builders as a place to commemorate communal values, a place conducive to reflection and reverence for nature.

Fortunately, the Drive can easily be restored permanently to what it was intended to be: a linear park for the benefit of the Madison community as a whole.

Such a park will be heavily used by walkers, runners, bicyclists and other non-motorized modes, including wheel chairs, for precisely the purposes originally intended. It will preserve a green corridor, and will add a further element to the City's growing network for non-motorized transportation.

Why should such a park not be re-named after Charles E. Brown to commemorate his inestimable contribution to the preservation and understanding of our region's past?

VII. Proposal for Action

The burden of our argument is that the Drive was never supposed to be a street at all, and should not have been allowed to become one. The present combination of utilitarian car traffic with non-motorized park-pleasure uses is frustrating to all (including, often, car drivers) and, from a safety standpoint, is a fatal accident waiting to happen.

Specifically, we call for an end to ordinary, through car traffic - utilitarian car traffic -- on the Drive. This may sound a radical proposal. We do not believe it is. Rather, it represents a restoration of the Drive's proper character and function.

Specific ways to accomplish the change, including signage and/or barriers, should be planned with broad consultation of user-groups, neighborhood residents, Edgewood College, and the broader community. The arrangements must guarantee necessary access by Edgewood College for service and emergency vehicles. Consideration may be given, if there is sufficient demand from the Madison community as a whole, to some arrangement that permits limited access by cars for true park-pleasure purposes, perhaps on Sunday as in the case of the Arboretum Drive.

Resurfacing of the Drive in keeping with its park character should likewise be planned with community participation to enhance its beauty, protect the Lake Wingra ecology, and facilitate safe, enjoyable use by walkers, runners, bikers, and

all other non-motorized uses.

We propose to work with the Parks Commission, the Parks Division, the Traffic Engineering Division, and other City authorities, to help accomplish this redefinition and restoration of the Drive and to develop and maintain a permanent base of public support for its maintenance and preservation.

Notes and References

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