



Legislation Details (With Text)

**File #:** 57541      **Version:** 1      **Name:** Discontinuing and vacating multiple public unimproved street right-of-ways within the plat of Southern Addition to Birchwood Point to allow the replatting of a portion the development, being located in the SE 1/4 of the SE 1/4 of Sec 29, T7N R8E, City of

**Type:** Resolution      **Status:** Passed

**File created:** 9/19/2019      **In control:** Engineering Division

**On agenda:** 11/19/2019      **Final action:** 11/19/2019

**Enactment date:** 11/25/2019      **Enactment #:** RES-19-00758

**Title:** Discontinuing and vacating multiple public unimproved street right-of-ways within the plat of Southern Addition to Birchwood Point to allow the replatting of a portion the development, being located in the Southeast 1/4 of the Southeast 1/4 of Section 29, Township 7 North, Range 8 East, City of Madison, Dane County, Wisconsin. (9th AD)

**Sponsors:** Paul E. Skidmore

**Indexes:**

**Code sections:**

**Attachments:** 1. Locator\_Map.pdf, 2. Exhibit\_A.pdf, 3. Exhibit\_B.pdf, 4. Notice\_of\_Lis\_Pendens\_S\_Addn\_Birchwood\_B000705.pdf, 5. Vicinity\_Map\_Discontinuances.pdf, 6. Register of Deeds copy

Date	Ver.	Action By	Action	Result
11/19/2019	1	COMMON COUNCIL	Adopt and Close the Public Hearing	Pass
10/16/2019	1	BOARD OF PUBLIC WORKS	RECOMMEND TO COUNCIL TO ADOPT - PUBLIC HEARING	Pass
10/14/2019	1	PLAN COMMISSION	Return to Lead with the Recommendation for Approval	Pass
10/1/2019	1	BOARD OF PUBLIC WORKS	Refer	
10/1/2019	1	COMMON COUNCIL	Refer	Pass
9/19/2019	1	Engineering Division	Referred for Introduction	

**Fiscal Note**

This vacation and discontinuance of approximately 79,779 sq. ft. or 1.8315 acres of unimproved public street right-of-ways within the plat of First Addition to 1000 Oaks to allow the replatting of a portion the development does not require expenditure of City funds.

**Title**

Discontinuing and vacating multiple public unimproved street right-of-ways within the plat of Southern Addition to Birchwood Point to allow the replatting of a portion the development, being located in the Southeast 1/4 of the Southeast 1/4 of Section 29, Township 7 North, Range 8 East, City of Madison, Dane County, Wisconsin. (9th AD)

**Body**

**WHEREAS**, the plat of Southern Addition to Birchwood Point was conditionally approved by the City of Madison Common Council by Enactment Number RES-18-00303, File I.D. Number 50229, as adopted on the 10th of April, 2018 and the said Enactment provided for the acceptance of the lands dedicated for public street right-of-ways; and

**WHEREAS**, the plat of Southern Addition to Birchwood Point was subsequently recorded upon the satisfaction of the conditions of approval on the 5th of September, 2018 in Volume 60-098A of Plats on pages 537 - 542, as Document Number 5439003, Dane County Register of Deeds; and

**WHEREAS**, an application was made with the Department of Planning & Community & Economic Development for a preliminary and final plat of Western Addition to 1000 Oaks to replat a portion of the plat of Southern Addition to Birchwood Point to reconfigure the lots, Outlots and streets in a more efficient manner within the proposed replat area along with adjacent lands acquired by the Developer; and

**WHEREAS**, the said plat of Western Addition to 1000 Oaks was conditionally approved by the City of Madison Common Council by Enactment Number RES-19-00508, File I.D. Number 55906, as adopted on the 2nd of July, 2019; and

**WHEREAS**, the conditionally approved Western Addition to 1000 Oaks will alter areas dedicated to the public for public street right-of-way, and the replat may not be recorded until those areas dedicated to the public for street right-of-way by the Southern Addition to Birchwood Point have been properly vacated and discontinued under s. 66.1003 Wisconsin Statutes; and

**WHEREAS**, portions of the unimproved public right-of-ways of Old Timber Pass and Sweet Willow pass dedicated by the plat of Southern Addition to Birchwood Point are to be vacated and discontinued. D'Onofrio Kottke and Associates Inc. and City of Madison Engineering Division, have prepared the necessary public right-of-way vacation and discontinuance map (Exhibit A) and legal description (Exhibit B) delineating all of these areas to be discontinued, all Exhibits are attached hereto and made part of this resolution; and

**WHEREAS**, the City of Madison has existing public sanitary sewer improvements constructed in 2016 as part of the Lower Badger Mill creek Sanitary Sewer Interceptor Phase 3, Engineering Project No. 53W1773, within the public right-of-way of Old Timber Pass to be vacated and discontinued; and

**WHEREAS**, the current developer and owner have not constructed, nor has the City of Madison accepted any new public utilities or street improvements in conjunction with the Southern Addition to Birchwood Point within any of the public right-of-ways to be vacated and discontinued; and

**WHEREAS**, this vacation and discontinuance will not result in a landlocked parcel of property due to the current contiguous common ownership of the Lots of the plat of Southern Addition to Birchwood Point adjacent to this proposed vacation and discontinuance; and

**WHEREAS**, the City Engineering Division recommends approval of these public right-of-way vacations and discontinuances subject to conditions as noted herein.

**NOW THEREFORE BE IT RESOLVED**, that since the public interest requires it, the City Of Madison hereby conditionally vacates and discontinues the public right-of-ways as shown on attached maps and legal descriptions, under Wisconsin ss. 66.1003(4), upon completion of the following condition:

- The Developer of Western Addition to 1000 Oaks shall enter into any agreement(s) required by the City of Madison in conjunction with the approval of the proposed development of Western Addition to 1000 Oaks.
- The conditions of approval for the preliminary and final plat for the Western Addition to 1000 Oaks shall be addressed to the satisfaction of the City of Madison Engineer.

**BE IT FURTHER RESOLVED**, that under Wisconsin ss. 66.1005(2)(a) ,the City Of Madison retains a Temporary Sanitary Sewer Easement over the area of this discontinuance. Upon the proposed plat of Western

Addition to 1000 Oaks being recorded at the Dane County Register of Deeds and under Wisconsin ss. 66.1005(2)(a)(1), the said Temporary Sanitary Sewer Easement shall terminate without notice. Also, under Wisconsin ss. 66.1005(2)(a)(1) the City of Madison also releases any other easements and rights it may have within the public right-of-ways being vacated and discontinued; and

**BE IT FURTHER RESOLVED**, under Section 66.1005(2), Wisconsin Statutes, other than those easements and rights retained and released above, any other existing easements and rights that exist within the vacated and discontinued public right-of-ways and unpaved public alleys shall continue unless as otherwise provided by statute; and

**BE IT FURTHER RESOLVED**, under Section 66.1005(1), Wisconsin Statutes, reversionary rights of the public right-of-ways herein vacated and discontinued shall attach to the adjacent properties; and

**BE IT FINALLY RESOLVED**, upon Common Council adoption of this resolution and completion all street vacation and discontinuance conditions identified above to the satisfaction of the City Engineer, the City Engineer will then authorize the City Clerk to validate and make effective this street vacation and discontinuance by recording it with all supplemental map exhibits with the Dane County Register of Deeds, authorizing all City agencies to administer the appropriate workflows to complete and finalize all land record database updates.