



## Legislation Text

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File #: 56279, Version: 1

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### Fiscal Note

This vacation and discontinuance of approximately 18,940 sq. ft. or 0.4348 acres of remaining public street right-of-way of Commerce Park Drive for site development does not require the expenditure of City funds.

### Title

Discontinuing and vacating a remaining portion of the public street right-of-way Commerce Park Drive, being located in the SE ¼ of the SW 1/4 of Section 9, Township 8 North, Range 10 East, City of Madison, Dane County, Wisconsin. (17th AD)

### Body

**WHEREAS**, the plat of Interstate Commerce park was conditionally reapproved by the City of Madison Common by Enactment Number RES-05-00737, File I.D. Number 01909, as adopted on the 6<sup>th</sup> of September, 2005 and the said Enactment provided for the acceptance of the lands dedicated for public street right-of-ways and public alleys; and

**WHEREAS**, the plat of Interstate Commerce Park was subsequently recorded upon the satisfaction of the conditions of approval on the 29<sup>th</sup> of November, 2005 in Volume 58-095A of Plats on pages 485-487, as Document Number 4137450, Dane County Register of Deeds; and

**WHEREAS**, an application was submitted to the City of Madison Planning Department by the Developer for a Certified Survey Map / Land Division, to create the lots and public road right-of-ways necessary for the Development. Said Certified Survey Map was conditionally approved by the Common Council by Enactment Number RES-19-00320, File I.D. Number 54671, as adopted on the 16<sup>th</sup> of April, 2019; and

**WHEREAS**, Resolution RES-19-00186, File ID No. 54383 was adopted on March 5, 2019 conditionally vacating and discontinuing a portion of Commerce Park Drive as required per conditions of the approval of the original Certified Survey Map. The conditions of approval were satisfied and the resolution was recorded as Document No. 5482732 on April 23<sup>rd</sup>, 2019 validating and making effective the said street vacation and discontinuance; and

**WHEREAS**, a Resolution RES-19-00397, File ID No. 55346 was adopted on May 21, 2019 Approving plans and specifications for public improvements necessary to serve the conditionally approved Certified Survey Map and authorizing construction to be undertaken by the Developer, Private Contract No. 8384, Engineering Project No. 12591; and

**WHEREAS**, there is a need for the remaining portion of Commerce Park Drive to be vacated and discontinued lying adjacent Lots 5, 6 and 7 of said Interstate Commerce Park due to the expansion of the proposed development project ("Development") currently under review by City staff as site verification I.D. LNDSPR-2019-00003. A copy of the revised preliminary site plan of the Development is attached hereto and made part of this resolution as Exhibit C showing the proposed development and the portion of Commerce Park Drive to be vacated and discontinued; and

**WHEREAS**, 2020 Madison, LLC has submitted a revised and expanded Certified Survey Map adding to the Certified Survey Map Lots 5, 6, 7 and 15 of said Interstate Commerce Park and the remaining portion of Commerce Park Drive, a copy of the revised Certified Survey Map is attached hereto as Exhibit D and made part of this resolution. A City of Madison Resolution for the approval of the expanded Certified Survey Map is currently being run as Legislative File ID No. 56152; and

**WHEREAS**, on June 10<sup>th</sup>, 2019, a written petition and a copy of the required Lis Pendens per Document No. 5494043 was submitted to the City of Madison Engineer to vacate and discontinue the remaining portion of Commerce Park Drive. The written petition for vacation and discontinuance includes the signatures of all owners of lands abutting the entire remaining portion of Commerce Park Drive to be vacated and discontinued. The petition and Lis Pendens being attached hereto and made part of this resolution; and

**WHEREAS**, the written petition requests that any action approving the vacation and discontinuance to have a condition that Lots 5, 6, 7 and 15 in the Interstate Commerce Park be under common ownership before the vacation resolution is recorded, with evidence to be provided to the City Engineer showing such common ownership prior to recording. This is to assure the private conveyances of properties have been completed as necessary for the Development; and

**WHEREAS**, the portion of the public right-of-way of Commerce Park Drive to be vacated and discontinued is as shown and mapped on Exhibit B and legally described on Exhibit A, both of which are attached hereto and made part of this resolution; and

**WHEREAS**, the proposed Certified Survey Map may not be recorded and the Development approved until that portion of Commerce Park Drive dedicated to the public for street right-of-way purposes has been properly vacated and discontinued under s. 66.1003 Wisconsin Statutes; and

**WHEREAS**, the City Of Madison currently does have public improvements within the eastern most portion of the public right-of-way to be vacated and discontinued; and

**WHEREAS**, this vacation and discontinuance will not result in a landlocked parcel of property; and

**WHEREAS**, the City Engineering Division recommends approval of this partial public right-of-way vacation and discontinuance subject to conditions as noted herein.

**NOW THEREFORE BE IT RESOLVED**, the City Of Madison hereby conditionally vacates and discontinues the remaining public right-of-way of Commerce Park Drive as shown on attached map Exhibit B and described on the attached Exhibit A, under Wisconsin ss. 66.1003(2), upon the following condition being completed the satisfaction of the City Engineer.

- The Lots 5, 6, 7 and 15 in the Interstate Commerce Park shall be under common ownership before the vacation resolution is recorded, with evidence to be provided to the City Engineer.
- The expanded Certified Survey Map shall be conditionally approved by the Common Council, Legislative File ID No. 56152.

**BE IT FURTHER RESOLVED**, that under Section 66.1005(2)(a), the City Of Madison hereby retains temporary public street, sidewalk, water main, sanitary sewer and storm sewer easement for maintenance of the facilities over the public right-of-way being vacated and discontinued until the public facilities have been removed or abandoned per final approved construction plans of Private Contract No. 8384, Engineering Project No. 12591. Upon the removal and/or abandonment of the public facilities, the temporary easement shall terminate without further notice; and

**BE IT FURTHER RESOLVED**, under Section 66.1005(2), Wisconsin Statutes, other than those easements and rights cited above, any other existing easements and rights that exist within the vacated and discontinued public right-of-ways 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 as provided by Statute;

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.