



## Legislation Details (With Text)

<b>File #:</b>	33139	<b>Version:</b>	2	<b>Name:</b>	SUBSTITUTE Discontinuing/Vacating of a portion of Dow Court.
<b>Type:</b>	Resolution	<b>Status:</b>	Passed		
<b>File created:</b>	2/14/2014	<b>In control:</b>	BOARD OF PUBLIC WORKS		
<b>On agenda:</b>	4/8/2014	<b>Final action:</b>	4/8/2014		
<b>Enactment date:</b>	4/10/2014	<b>Enactment #:</b>	RES-14-00245		
<b>Title:</b>	SUBSTITUTE - Discontinuing/Vacating of a portion of Dow Court from W. Wilson Street southeasterly to the current southerly terminus, being part of Dow Replat located in the Northwest 1/4 of the Southeast 1/4 of Section 23, Town 7 North, Range 9 East, City of Madison, Dane County, Wisconsin. (4th AD)				
<b>Sponsors:</b>	Paul E. Skidmore, Michael E. Verveer				
<b>Indexes:</b>					
<b>Code sections:</b>					
<b>Attachments:</b>	1. Findorff utility 2014.pdf, 2. Dow Ct Vacation.pdf, 3. JHF NCBE Vacate letter.pdf, 4. bpw mailing affidavit.pdf, 5. Resolution 33139 Original.pdf, 6. Link Ord File 33437, 7. 33139 Register of Deeds cert.pdf				

Date	Ver.	Action By	Action	Result
4/8/2014	2	COMMON COUNCIL	Adopt and Close the Public Hearing	Pass
3/24/2014	2	PLAN COMMISSION	Return to Lead with the Recommendation for Approval	Pass
3/19/2014	1	BOARD OF PUBLIC WORKS	RECOMMEND TO COUNCIL TO ADOPT - REPORT OF OFFICER	Pass
2/25/2014	1	BOARD OF PUBLIC WORKS	Referred	
2/25/2014	1	COMMON COUNCIL	Refer	
2/14/2014	1	Engineering Division	Referred for Introduction	

### Fiscal Note

This vacation/discontinuance of approximately 2,645 sq. ft. of Dow Court public right-of-way for transfer to adjoining land owners to facilitate future development of the site. No expenditure of City funds required.

### Title

SUBSTITUTE - Discontinuing/Vacating of a portion of Dow Court from W. Wilson Street southeasterly to the current southerly terminus, being part of Dow Replat located in the Northwest 1/4 of the Southeast 1/4 of Section 23, Town 7 North, Range 9 East, City of Madison, Dane County, Wisconsin. (4th AD)

### Body

**WHEREAS**, Dow Court was dedicated to the public per the plat of Dow Replat of Lots 4, 5, 6 and S.W. 57' of 7, Block 28, which was recorded January 15, 1912, in Volume 7 of Plats, Page 3, as Document No. 315740, Dane County Registry; and

**WHEREAS**, portions of Dow Court have been previously vacated/discontinued and easement rights retained by the City of Madison on June 6, 2006 per Enactment Number RES-06-00474, File No. 03403, recorded as Document No. 4204089, Dane County Registry and also on December 5, 2000 per Resolution Number 57810, ID Number 28347, recorded as Document No. 3274037, Dane County Registry; and

**WHEREAS**, J. H. Findorff & Son Inc. and the National Conference of Bar Examiners have provided a written

request that the City of Madison vacate/discontinue a portion of a public street known as Dow Court, the written request for vacation/discontinuance is attached hereto and made part of this resolution; and

**WHEREAS**, J.H. Findorff & Son Inc. and the National Conference of Bar Examiners own all the abutting property of the proposed Dow Court vacation/discontinuance area; and

**WHEREAS**, The vacated/discontinued portion of Dow Court is to be incorporated into a proposed development project per Subdivision Application (ID No. 33077) and Land Use Application (ID No. to be determined), both submitted on January 22, 2014 to the City of Madison by J. H. Findorff & Son Inc., the utility plan of the proposed site development is attached hereto and made part of this resolution; and

**WHEREAS**, D'Onofrio Kottke and Associates Inc., the Civil Engineering / Surveying consultant for the project, has prepared the necessary Dow Court vacation/discontinuance map and legal description exhibits which are attached hereto and made part of this resolution; and

**WHEREAS**, the City Of Madison currently has existing public sanitary sewer and public water main facilities within the portion of Dow Court to be vacated/discontinued; and

**WHEREAS**, the City of Madison will not require the perpetuation for public use the existing public street or public storm and public sanitary sewer, and public water improvements within the portion of Dow Court to be vacated/discontinued, and;

**WHEREAS**, the City Engineering Division recommends approval of this street vacation subject to conditions of approval listed later in this resolution.

**NOW THEREFORE BE IT RESOLVED**, that the City Of Madison hereby conditionally vacates and discontinues a portion of Dow Court as shown on attached map and legal description, under Wisconsin ss. 66.1003(2), upon completion of the following conditions to the satisfaction of the City Engineer:

- J.H. Findorff & Sons, Inc. (developer) shall enter into any agreement(s) required by the City of Madison in conjunction with the approval of the proposed development.
- J.H. Findorff & Sons, Inc. (developer) shall provide all required information and fees to the City of Madison Office of Real Estate Services to create the necessary documents to release the public sanitary sewer and water main easements previously retained per Document No. 4204089 and Document No. 3274037, Dane County Register of Deeds.
- ~~J.H. Findorff & Sons, Inc. (developer) shall provide all required information and fees to the City of Madison Office of Real Estate Services to create the subsequent easement/agreement document further defining and memorializing the public sanitary sewer and public water main easements retained by this resolution.~~
- J. H. Findorff & Sons, Inc. (developer) shall obtain conditional Land Division and Land Use approvals for the proposed development that are consistent with, as determined by the City Engineer, the portion of Dow Court being vacated/discontinued.

~~**BE IT FURTHER RESOLVED**, that under Section 66.1005(2), the City Of Madison retains 20 foot wide public easements over all and centered upon the existing public sanitary sewer and public water main facilities located within the portion of Dow Court to be vacated/discontinued. Those easements retained shall be further defined and memorialized by an easement/agreement document drafted by the City of Madison Office of Real Estate Services and recorded at the Dane County Register of Deeds.~~

**BE IT FURTHER RESOLVED**, that under Section 66.1005(2)(a)(1), the City Of Madison discontinues easements and rights in conjunction with the public water, storm and sanitary sewer and street improvements within the portion of Dow Court to be vacated/discontinued. This resulting in the ownership,

maintenance, removal and/or replacement of the abandoned public water, storm-~~sewer~~ and sanitary sewer and street improvements being vested in the owner(s) of the vacated/discontinued lands; and

**BE IT FURTHER RESOLVED**, under Section 66.1005(2), Wisconsin Statutes, other than those easements and rights released above, any other existing easements and rights that exist within the vacated street areas shall continue as part of this vacation/discontinuance; and

**BE IT FINALLY RESOLVED**, upon Common Council adoption of this resolution and completion all street vacation conditions identified above to the satisfaction of the City Engineer, the City Engineer will then authorize the City Clerk to validate this street vacation/discontinuance by recording it 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;