



## Legislation Text

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File #: 51295, Version: 1

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### Fiscal Note

No Appropriation Required. The proposed amendment authorizes a partial vacation and discontinuance of approximately 144,776 sq. ft. or 3.32 acres of public road right-of-way of Schewe Road.

### Title

Discontinuing and vacating a portion of the public road right-of-way of Schewe Road, being located in part of the NE ¼ of the NE ¼ of Section 20, and part of the SW ¼ and NW 1/4 of the NW ¼ of Section 21, Township 7 North, Range 8 East, City of Madison, Dane County, Wisconsin. (9th AD)

### Body

**WHEREAS**, an application was made with the Department of Planning & Community & Economic Development for a rezoning and preliminary plat for lands now within the recorded plat of Autumn Ridge Reserve. The rezoning request and preliminary plat of Autumn Ridge Reserve were conditionally approved by the City of Madison Common Council on the 20th of May, 2014 as Enactment Number ORD-14-00100, File I.D. Number 33592 for the rezoning and Enactment Number RES-14-00424, File I.D. Number 33671 for the said preliminary plat; and

**WHEREAS**, the final plat of Autumn Ridge Reserve was conditionally approved by the City of Madison Common Council by Enactment Number RES-15-00072, File I.D. Number 36297, as adopted on the 20th of January, 2015; and

**WHEREAS**, the final plat of Autumn Ridge Reserve was subsequently recorded upon the satisfaction of the conditions of approval on the 22nd of July, 2015 in Volume 60-039B of Plats on pages 196 - 197, as Document Number 5170337, Dane County Register of Deeds. The recorded plat notes on its face Public Ways (Schewe Road within Outlots 1 and 2 of said Autumn Ridge Reserve) shall be discontinued by the City of Madison upon lands within Autumn Ridge having adequate public access to the north as Determined by the City of Madison Engineer; and

**WHEREAS**, an application was made with the Department of Planning & Community & Economic Development for a rezoning and preliminary plat for lands now within the recorded plat of The Willows II. The rezoning request and preliminary plat of The Willows II were conditionally approved by the City of Madison Common Council on the 5th of January, 2016 as Enactment Number ORD-16-00003, File I.D. Number 40666 for the rezoning and Enactment Number RES-16-00038, File I.D. Number 40392 for the said preliminary plat; and

**WHEREAS**, the final plat of The Willows II was conditionally approved by the City of Madison Common Council by Enactment Number RES-16-00226, File I.D. Number 41543, as adopted on the 15th of March, 2016; and

**WHEREAS**, the final plat of The Willows II was subsequently recorded upon the satisfaction of the conditions of approval on the 22nd of July, 2016 in Volume 60-059A of Plats on pages 307 - 308, as Document Number 5252756, Dane County Register of Deeds. The recorded plat notes on its face that the Public Way of Schewe Road shown within Outlot 3 (of the Willows II) shall be discontinued by the City of Madison upon an adequate public access from the end of Schewe Road in the Town of Middleton going southerly to Elderberry Road being constructed to the satisfaction of the City of Madison Engineer; and

**WHEREAS**, an application was made with the Department of Planning & Community & Economic

Development for a rezoning lands within the conditionally approved plat of Eagle Trace. The said rezoning request was conditionally approved by the City of Madison Common Council on the 16th of January, 2018 as Enactment Number ORD-18-00007, File I.D. Number 49707; and

**WHEREAS**, the revised preliminary plat and the final plat of Eagle Trace were conditionally approved by the City of Madison Common Council by Enactment Number RES-18-00304, File I.D. Number 50678, as adopted on the 10th of April, 2018. A condition of the said approval requires the portion of the existing Schewe Road as noted and shown on the preliminary plat shall be discontinued by the City of Madison and a public road easement retained over those areas until the public road improvements have been constructed and accepted to the satisfaction of the City Engineer; and

**WHEREAS**, the adequate public access connection from Elderberry Road to Schewe Road has been constructed to the satisfaction of the City of Madison Engineer per the said approval requirements of Autumn Ridge Reserve and The Willows II. Also, the City Of Madison has removed the public highway improvements that existed within the Schewe Road public right-of-ways to be vacated and discontinued. The areas to be vacated and discontinued are mapped and labeled on Exhibit A and legally described in Exhibit B and both Exhibits are attached hereto and made part of this resolution; and

**WHEREAS**, an additional portion of Schewe Road right-of-way is to be vacated and discontinued as required by the said conditional approval for the plat of Eagle Trace. The area to be vacated and discontinued is mapped and labeled on Exhibit C and legally described in Exhibit D and both Exhibits are attached hereto and made part of this resolution; and

**WHEREAS**, this vacation and discontinuance of the said portions of Schewe Road will not result in a landlocked parcel of property; 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 of Schewe Road as shown, labeled and described on the attached Exhibit A, Exhibit B, Exhibit C and Exhibit D under Wisconsin ss. 66.1003(4), upon completion of the following condition:

- The Developer of Eagle Trace shall enter into any agreement(s) required by the City of Madison Engineer in conjunction with the approval of the proposed development of Eagle Trace.

**BE IT FURTHER RESOLVED**, that under Section 66.1005(2), the City Of Madison hereby retains a Public Street Easement over the public right-of-way being vacated and discontinued as shown on attached Exhibit C and described on attached Exhibit D. The easement area shall remain in force until the required public road improvements for Schewe Road and White Fox Lane have been constructed, accepted and the necessary street connections have been made to the satisfaction of the City Engineer. Upon said satisfaction, the easement shall then be terminated by the City of Madison by a separate instrument recorded at the Dane County Register of Deeds; and

**BE IT FURTHER RESOLVED**, that under Section 66.1005(2)(a)(1), the City Of Madison releases all easements and rights, other than the temporary easement retained above, it may have within the public right-of-ways alleys being vacated and discontinued; and

**BE IT FURTHER RESOLVED**, under Section 66.1005(2), Wisconsin Statutes, other than those easements

and rights released above by the City of Madison, 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 entitled adjacent properties as set forth by the said Section 66.1005(1), Wisconsin Statutes; 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, thereby authorizing all City agencies to administer the appropriate workflows to complete and finalize all land record database updates.