



Legislation Text

File #: 61878, **Version:** 1

No City appropriation required.

Discontinuing and vacating a portion of the public road right-of-way of Parkside Drive, being located in part of the SE $\frac{1}{4}$ of the SW $\frac{1}{4}$ and also part of the SW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 28, Township 8 North, Range 10 East, City of Madison, Dane County, Wisconsin. (17th AD)

WHEREAS, a four (4) rod road (66 feet wide) was ordered to be laid out by the Town of Burke Supervisors in July of 1857 lying north of the center of Sun Prairie and Madison Road (now known as E. Washington Avenue) and the centerline of said Town Road was located along the center of Section 28, T 8 N, R 10 E, said Town Road ultimately becoming Portage Road and currently City of Madison right-of-way upon its annexation into the City of Madison; and

WHEREAS, the intersection of Portage Road and E. Washington Avenue was moved to the southwest of the original location realigning Portage Road as part of State Highway Commission of Wisconsin Project T 017-2 (15) circa 1957. Related acquisitions of lands adjacent to and lying easterly and westerly of the existing Portage Road right-of-way (former Town Road) were made by Dane County per Document No. 928361 (subsequently conveyed to the State of Wisconsin per Document No. 1878774) and to the State of Wisconsin per Document No. 927256; and

WHEREAS, a portion of Parkside Dr. (formerly Portage Rd per the Resolution) was discontinued and vacated by the City of Madison Common Council by a Resolution adopted on July 27, 1971, Resolution No. 22365, File No. 4600-97 and subsequently recorded and made effective on August 6, 1971 as Document No. 1299258, Dane County Register of Deeds; and

WHEREAS, the above said relocated portion of Portage Road from the intersection with E. Washington Avenue northerly to a point approximately 700 feet north of E. Washington Ave. was renamed Parkside Drive per an Ordinance adopted by the City of Madison Common Council on June 15th, 1973 as Ordinance No. 4254, File No. 5055-76; and

WHEREAS, the Wisconsin Department of Transportation has been leasing surplus right of way (hereinafter WisDOT lease) in the northeast quadrant of the current intersection of Parkside Drive with E. Washington Ave. beginning circa 1984, lease area being Tax Parcel No. 251-0810-284-0502-6 (18212 Parkside Dr.), to the Owner of adjacent lands ("Adjacent Owner") currently Tax Parcel No. 251- 0810-284-0501-8 (4002 E. Washington Ave) for private use for private parking lot improvements. The private parking lot improvements currently still exist within the Wisconsin Department of Transportation lease area; and

WHEREAS, the WisDOT lease incorrectly included City of Madison right-of-way laid out by the Town of Burke in 1857, currently (City of Madison right of way upon annexation). The existing 1857 right of way was excluded from the conveyances to the State of Wisconsin and Dane County relocating Portage Road (now Parkside Dr) per Document No. 928361 (subsequently conveyed to the State of Wisconsin per Document No. 1878774) and to the State of Wisconsin per Document No. 927256; and

WHEREAS, an application was made by the Owner of the lands at 4002 E. Washington (hereinafter "Owner") to City of Madison Zoning Ave for a Minor Alteration to a Conditional Use at 4002 E. Washington Ave (LNDMAC-2020-00052) to modify the conditional use for the modification to existing parking lot and to change existing drive-thru to double drive-thru lanes. The proposed site plan for the conditional use modification does not change the extent of and continues use of the private parking lot improvements currently within the City of

Madison public right-of-way of Parkside Drive; and

WHEREAS, the Owner and the Wisconsin Department of Transportation have come to terms with an agreement for the future disposal and conveyance of excess State of Wisconsin owned right of way to the said Adjacent Owner. The lands to be conveyed by the State of Wisconsin are as shown and noted on Exhibit A, attached hereto and made a part of this Resolution; and

WHEREAS, an application was made by the Owner with the Department of Planning & Community & Economic Development for a Certified Survey Map encompassing the Adjacent Owner's lands, the lands to be conveyed by the Wisconsin Department of Transportation to the Adjacent Owner and adjacent City of Madison Parkside Drive right of way. The proposed Certified Survey Map (CSM) was conditionally approved by the City of Madison Common Council on the 14th of July, 2020 as Enactment Number RES-20-00496, File I.D. Number 60349; and

WHEREAS, a condition of the said CSM approval requires a portion of the existing Parkside Drive right of way, as noted and shown on the Certified Survey Map, to be vacated and discontinued by the City of Madison and a public easements be reserved by the City of Madison for existing public water main and sanitary sewer facilities as part of the vacation and discontinuance to the satisfaction of the City Engineer. The lands required to be vacated and discontinued are as shown on said Exhibit A and described on Exhibit B, attached hereto and made part of this resolution. The required Public Easements for Water Main and Sanitary Sewer to be reserved as part any vacation and discontinuance are as shown on attached Exhibit C, attached hereto and made part of this resolution; and

WHEREAS, a condition of approval for the CSM requires the CSM to reserve lands required by the City of Madison to accommodate a future Bus Rapid Transit (BRT) Station at the intersection of Portage Road and E. Washington Ave. Additionally, the CSM was referred by the Common Council to the Transportation Commission. The Transportation Commission added a condition of approval for the said proposed CSM that that the space needed for the BRT station is dedicated as part of the vacation process of Parkside Dr. The area to be dedicated as public right of way to accommodate the future BRT Station is shown and noted on said Exhibit A; and

WHEREAS, a condition of the said CSM approval requires the dedication lands along Portage Road necessary to accommodate a new 5 foot sidewalk and 8 foot terrace. The area to be dedicated as public right of way to accommodate the required sidewalk and terrace being shown on said Exhibit A; and

WHEREAS, this vacation and discontinuance of the said portions of Parkside Drive 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 Parkside Drive as shown and labeled on the attached Exhibit A, and described on the attached Exhibit B, under Wisconsin ss. 66.1003(4), upon completion of the following conditions:

- In exchange for the partial vacation and discontinuance of Parkside Dr herein described, the Owner shall dedicate the required right of way to accommodate the future BRT Station as shown and noted on said Exhibit A on the proposed CSM to the satisfaction of City of Madison Traffic Engineering.

BE IT FURTHER RESOLVED, that under Section 66.1005(2), the City Of Madison hereby retains a Public Water Main and Sanitary Sewer Easement over the public right-of-way being vacated and discontinued as

shown and dimensioned on attached Exhibit C. The easement area shall be subject to the terms and conditions provided on attached Exhibit C; and

BE IT FURTHER RESOLVED, that under Section 66.1005(2)(a)(1), the City Of Madison hereby releases any rights it may have in Private Drainage Facilities within the area of Parkside Dr being vacated and discontinued as shown on Exhibit D, attached hereto and made a part of this Resolution.

BE IT FURTHER RESOLVED, that under Section 66.1005(2)(a)(1), the City Of Madison releases all easements and rights it may have within the public right-of-ways alleys being vacated and discontinued with the exception of the Public Water Main and Sanitary Sewer easement retained above; 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-way shall continue unless as otherwise provided by statute. Known existing utility improvements other than those owned by the City of Madison being generally shown on Exhibit E, attached hereto and made part of this Resolution; 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, including 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.