

APPENDIX P

Temporary Occupancy Letter



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Madison, WI 53704



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August 28, 2024

City of Madison
210 Martin Luther King Jr. Blvd.
Madison, WI 53703

RE: Section 4(f) Temporary Occupancy Exception Determination

WisDOT Project ID: 5410-08-01 – Stoughton Road North Corridor Study, WIS 30 to I-39/90/94 – Marsh View Path (Dane County)

WisDOT is writing to request concurrence from the city of Madison for a temporary occupancy exception determination for temporary construction impacts to the Marsh View Path in the city of Madison, Dane County. See attached signature sheets for your use in providing your concurrence.

The Federal Highway Administration is the lead federal agency for the Stoughton Road North Corridor Study. As such, the Marsh View Path is eligible for protection under 23 Code of Federal Regulations (CFR) 774, commonly referred to as "Section 4(f)". Section 4(f) is the federal act that protects publicly owned parks, recreation areas, and wildlife and waterfowl refuges. The intent is to propose a temporary occupancy exemption for impacts to the Marsh View Path with a commitment of continued coordination as design progresses.

Temporary Occupancy Exception

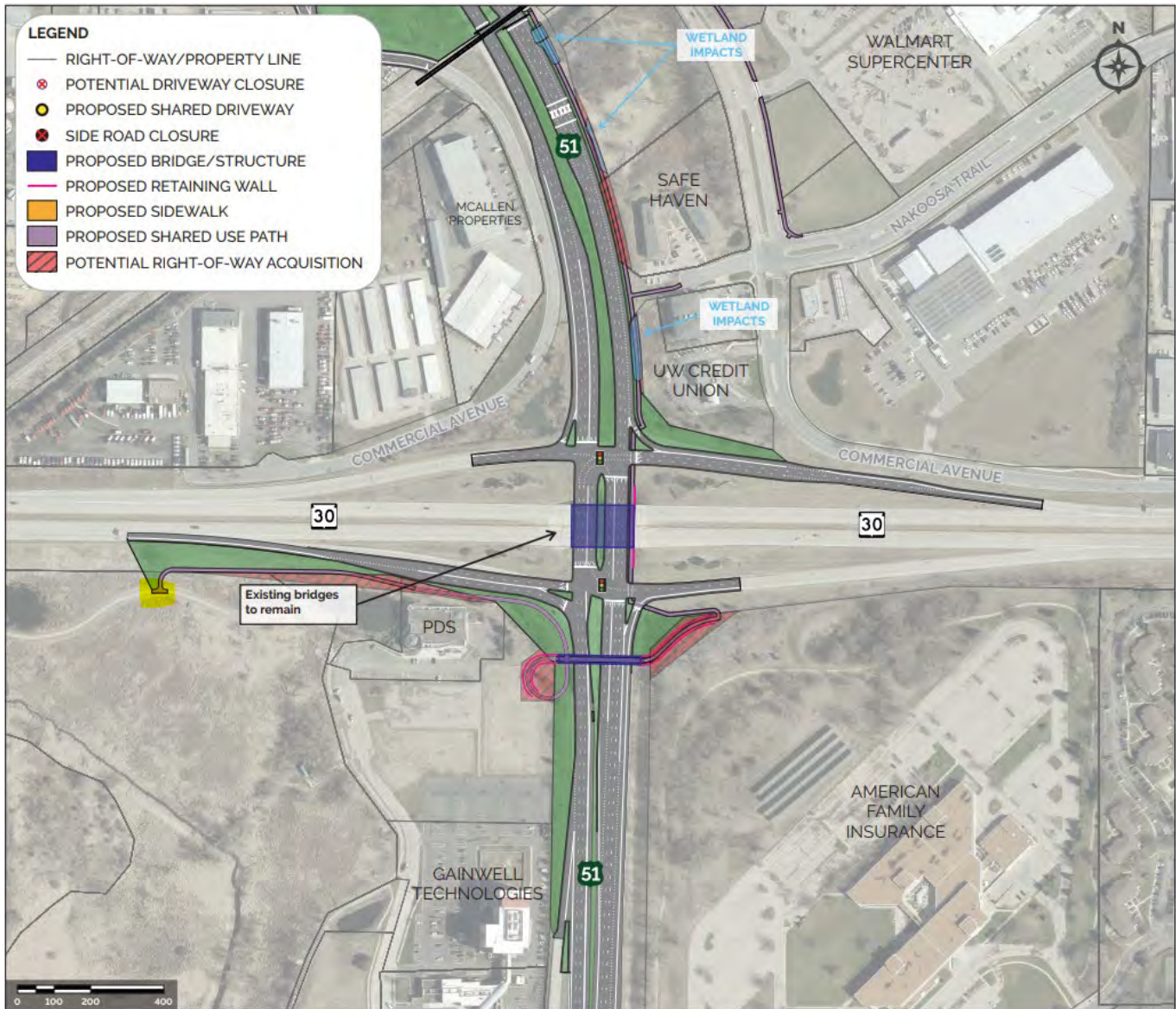
Under the provisions of Section 4(f), FHWA can approve temporary occupancies of Section 4(f) protected properties (in this case, Marsh View Path) if the following provisions in 23 CFR 774.13(d) are met and the property owner (in this case, city of Madison) agrees in writing:

- (i) *Duration must be temporary, i.e., less than the time needed for construction of the project, and there should be no change in ownership of the land.*
- (ii) *Scope of the work must be minor, i.e., both the nature and the magnitude of the changes to the Section 4(f) resource are minimal.*
- (iii) *There are no anticipated permanent adverse physical impacts, nor will there be interference with the activities or purpose of the resource, on either a temporary or permanent basis.*
- (iv) *The land being used must be fully restored, i.e., the resource must be returned to a condition that is at least as good as it was prior to the project.*
- (v) *There must be documented agreement of the official(s) with jurisdiction over the Section 4(f) resource regarding the above conditions.*

Marsh View Path: In the vicinity of the Marsh View Path, WisDOT would construct a new shared use path on the south side of WIS 30 that would connect to a new bicycle and pedestrian bridge over US 51. The proposed new shared use paths can be seen on Figure 1. The portion of work on the Marsh View Path is highlighted on Figure 1.

A temporary closure of the Marsh View Path would be required to construct the connection to the new bicycle and pedestrian trail and the Marsh View Path. Temporary easements would be obtained for construction and the city of Madison would retain ownership of property. Signage for path users would be installed during the temporary closure and safety protocols would be implemented. All disturbed areas would be restored when work is complete.

Figure 1: Proposed Shared Use Paths at WIS 30 and Connection to the Marsh View Path



WisDOT requests the city of Madison's concurrence that the project's temporary impacts to the marsh View Path meet the temporary occupancy exception based on the following:

- (i) *Duration must be temporary, i.e., less than the time needed for construction of the project, and there should be no change in ownership of the land.*

Finding: Temporary easements would be obtained for construction of the proposed improvements, and the city of Madison would retain ownership of the path throughout construction and upon completion. The easements would not be needed longer than it would take to construct the proposed improvements.

- (ii) *Scope of the work must be minor, i.e., both the nature and the magnitude of the changes to the Section 4(f) resource are minimal.*

Finding: The scope of work would be minor; some grading may occur, however, no activities, features or attributes that qualify the parks for protection under Section 4(f) would be affected.

- (iii) *There are no anticipated permanent adverse physical impacts, nor will there be interference with the activities or purpose of the resource, on either a temporary or permanent basis.*

Finding: There would be no permanent adverse physical impacts to the properties and no temporary or permanent interference with amenities on the properties.

- (iv) *The land being used must be fully restored, i.e., the resource must be returned to a condition that is at least as good as it was prior to the project.*

Finding: The property temporarily used during construction would be restored to at least as good a condition as it is prior to construction. In consultation with the city of Madison, WisDOT will restore habitat with seed mixes and vegetation that the city of Madison specifies.

- (v) *There must be documented agreement of the official(s) with jurisdiction over the Section 4(f) resource regarding the above conditions.*

Finding: The attached signature sheets, once signed and returned to WisDOT, will serve as documentation of the City of Madison's agreement regarding conditions (i) through (iv) described above.

WisDOT requests that the city of Madison sign, date, and return the enclosed signature sheets indicating concurrence with the temporary occupancy exemption finding as described in this letter. If the city of Madison concurs, FHWA will apply the temporary occupancy exception finding in 23 CFR 774.13(d) for the Marsh View Path.

The study team is available to discuss any questions you may have about the impacts to the Marsh View Path property. Please direct any questions to me by phone (608) 245-2656 or email jeff.berens@dot.wi.gov. You can also request a meeting at any time to discuss the proposal.

For more information about the study, visit the study website: [US 51 - North Study \(wisconsin.gov\)](http://US51-NorthStudy.wisconsin.gov)

Sincerely,



Jeff Berens
Project Manager

Concurrence

I concur that use of Marsh View Path during construction as described in this letter meets the temporary occupancy exception in 23 CFR 774.13(d). I have also been informed that, based on my concurrence, the FHWA may apply the temporary occupancy exception regarding impacts to the property, thus satisfying the requirements of Section 4(f). If the impacts described should change, the city of Madison reserves the right to revisit this determination.

Name (print): Jim Wolfe, City of Madison, City Engineer

Signature:  _____ Date: 8-29-2024

Please keep a copy for your records and return a signed and dated original to my attention by September 6, 2024 to the following address:

Jeff Berens, P.E., Project Manager
jeff.berens@dot.wi.gov
WisDOT
2101 Wright Street
Madison, WI 53704