

**AGENDA ITEM EXECUTIVE SUMMARY**

Agenda Item number: IIC1

Title:

Motion to approve A Resolution Removing a Portion of Bike Path as a Required Land Improvement for The Reserve of St. Charles Subdivision

Presenter:

Rita Tungare

Meeting: City Council

Date: October 5, 2020

Proposed Cost: N/A

Budgeted Amount: N/A

Not Budgeted: **Executive Summary** (if not budgeted please explain):

On September 14, 2020 P&D Committee recommended 7-1 to approve a request submitted by Omni-Tech LLC, the developer of The Reserve of St. Charles subdivision, to remove the requirement for the developer to construct a 10 ft. wide bike path along the northern portion of the subdivision's Rt. 31 frontage, and to remove the obligation of constructing the bike path from the Letter of Credit. The HOA would receive the funds for landscaping improvements. Committee discussed the City does not need to retain ownership of the strip of land intended for the bike path, nor require an easement to enable its future construction.

Staff has discussed this matter with the City Attorney and has clarified that the City does not own the strip of land identified for the bike path. Rather, the bike path strip was dedicated to the City.

A Resolution removing the bike path as a required land improvement would be sufficient to eliminate the developer's obligation to construct the bike path. The path dedication is non-exclusive and can remain as-is; the HOA, which owns the parcel of land on which the bike path dedication is granted, would have the ability to utilize and landscape within the dedication. Alternatively, a Plat of Vacation could be prepared, formally removing the bike path dedication from the Plat of Subdivision, however the developer and HOA representative did not believe this was necessary.

Staff has prepared a Resolution which takes the following action:

1. Removes the bike path shown on the preliminary plan as a required land improvement.
2. Removes the developer's obligation in the Land Improvement Agreement to construct the bike path.
3. Requires the developer to provide the HOA with funds in the amount being held for the bike path (\$20,700) to be used by the HO for landscaping improvements, prior to the City releasing the Letter of Credit.

If the Resolution is approved by City Council, staff would release the Letter of Credit once the above condition (#3) is met.

**Attachments** (please list):

Resolution

**Recommendation/Suggested Action** (briefly explain):

Motion to approve A Resolution Removing a Portion of Bike Path as a Required Land Improvement for The Reserve of St. Charles Subdivision

**City of St. Charles, Illinois**  
**Resolution No. 2020-\_\_\_\_\_**

**A Resolution Removing a Portion of Bike Path as a Required Land  
Improvement for The Reserve of St. Charles Subdivision**

**Presented & Passed by the  
City Council on \_\_\_\_\_**

WHEREAS, the City of St. Charles (“City”) previously approved Resolution No. 2007-50 “A Resolution Approving the Final Plat for Reserve of St. Charles” and Ordinance No. 2005-Z-4 “An Ordinance Approving the Preliminary Plan for The Reserve of St. Charles”, and said Preliminary Plan depicted a 10 ft. wide bike path along the Rt. 31 frontage of the subdivision within Parcel 1, Parcel 2 and Parcel 3 identified on the Final Plat; and

WHEREAS, on or about July 20, 2009, the City entered into a Land Improvement Agreement between the City and Omni-Tech LLC, the current developer of The Reserve of St. Charles, which identifies the unconstructed 10 ft. wide bike path within Parcel 1 (“Bike Path”) as a required Land Improvement to be completed by the developer, as indicated in Exhibit B “Cemcon Estimates” and as included in the Letter of Credit held by the City for the cost of the outstanding subdivision improvements identified in said Land Improvement Agreement; and

WHEREAS, on or about July 29, 2020, the City received a letter from Gary Janko, Manager of Omni-Tech, LLC, requesting the Bike Path be removed from the Letter of Credit, with the stated intention of allowing The Reserve of St. Charles Homeowners Association to utilize the funds for landscaping improvements within the HOA parcels; and

WHEREAS, on or about September 14, 2020 the Planning & Development Committee of the City Council recommended approval of the request to remove the requirement for construction of the bike path, given the lack of connectivity along Rt. 31 and existing alternative bike routes in the vicinity.

NOW THEREFORE BE IT RESOLVED by the City Council of the City of St. Charles, Kane and DuPage Counties, Illinois:

1. The Bike Path within Parcel 1 depicted on the Preliminary Plan for The Reserve of St. Charles shall not be a required Land Improvement for the subdivision.
2. The Bike Path identified in Exhibit B of the Land Improvement Agreement at an estimated cost of \$20,700.00 may be omitted from the Agreement.
3. The City shall reduce the Letter of Credit for the estimated amount of the Bike Path upon receipt of verification that Omni-Tech LLC has provided The Reserve of St.

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Charles Homeowners Association with funds in the amount of \$20,700.00 to be used for landscaping improvements.

PRESENTED to the City Council of the City of St. Charles, Kane and DuPage Counties, Illinois, this 5th day of October 2020.

PASSED by the City Council of the City of St. Charles, Kane and DuPage Counties, Illinois, this 5th day of October 2020.

APPROVED by the Mayor of the City of St. Charles, Kane and DuPage Counties, Illinois, this 5th day of October 2020.

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Raymond P. Rogina

Attest:

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City Clerk/Recording Secretary

Voice Vote:

Ayes:

Nays:

Absent:

Abstain: