



CITY COUNCIL AGENDA ITEM

Date: November 9, 2010

To: The Honorable Mayor and City Council

From: John Szerlag, City Manager
Mark F. Miller, Acting Assistant City Manager/Economic Development Services
Gary Mayer, Police Chief
Timothy Richnak, Public Works Director

Subject: Windmill Pointe Subdivision Public Walkway

Windmill Pointe Subdivision includes a 12-foot wide public walkway connecting Renshaw Drive to Hill Elementary School, abutting Lots 108, 109 and 110. The public improvements related to the subdivision were constructed in 1968 and did not include the standard sidewalk within the public walkway. Therefore the public walkway provided access to Hill Elementary School for over 40 years without the standard walkway improvements consisting of a concrete sidewalk and a split rail fence to delineate the public walkway from Lots 108, 109 and 110.

The public walkway was historically used by neighborhood residents, mostly school children. This fall the Department of Public Works scheduled the installation of a concrete sidewalk to formalize the walkway. Over the past few years City staff became aware of landscaping encroachments into the walkway. Primarily this occurred from Mr. Lanier, owner of lot 108.

Mr. Lanier contacted the City Manager's Office after he was notified by the Department of Public Works of the proposed construction of a concrete sidewalk within the walkway. The Police Department conducted an investigation into the history of the complaints related to the walkway and its use. In an effort to resolve the neighborhood issue the Police Department negotiated with Mr. Lanier and Hill Elementary School for the installation of a less impactful pathway within the walkway. The City Attorney's Office prepared the necessary legal documents to protect the City's interest for Mr. Lanier to execute, under the belief that the principal of Hill Elementary School, Janice Brzezinski, was in concurrence of the proposal based upon an October 14, 2010 correspondence. The Police Department delivered the documents to Mr. Lanier. City staff sought clarification of the principal's first correspondence. The principal issued a second memo dated October 29, 2010 that specifically requested the City install the concrete sidewalk within the public walkway. Based upon the principal's opinion, City staff notified Mr. Lanier that disposition of this matter would be referred to City Council.

Based upon public safety and access to the Hill Elementary School it is recommended that the concrete sidewalk and split rail fence be constructed.



CITY COUNCIL AGENDA ITEM

We are requesting your direction for one of the following options:

1. City Council authorize the construction of a concrete sidewalk and split rail fence connecting Renshaw and Hill Elementary School, which abuts lots 108, 109 and 110 of Windmill Point Subdivision.
2. City Council authorizes negotiation with the owners of lots 108, 109 and 110 of Windmill Point Subdivision to permit walkway that will not impact abutting lot owners' improvements within the public walkway, i.e., school children will continue to walk on the grass. The necessary documents would then require City Council approval at a future meeting.
3. City Council authorizes vacation of the 12-foot wide public walkway within Windmill Pointe Subdivision connecting Renshaw and Hill Elementary School. A vacation would require City Council action at a future meeting.

Funding for the walkway comes from the capital sidewalk repair and installation program.

Reviewed as to Form and Legality:

Lori Grigg Bluhm, City Attorney



Legend

- Road Centerline
 - Major Road
 - Industrial Road
 - Local Road
- Hydrography Poly
- Hydrography Arc
- Parcels

Aerial Photos - 2008

- Red: Band_1
- Green: Band_2
- Blue: Band_3

Road Centerline

- Major Road
- Industrial Road
- Local Road

Hydrography Poly

Hydrography Arc

Parcels

Aerial Photos - 2008

- Red: Band_1
- Green: Band_2
- Blue: Band_3

1: 2,298



Note: The information provided by this application has been compiled from recorded deeds, plats, tax maps, surveys, and other public records and data. It is not a legally recorded map survey. Users of this data are hereby notified that the source information represented should be consulted for verification.

Notes
Public Walkway connecting Renshaw to Hill Elementary



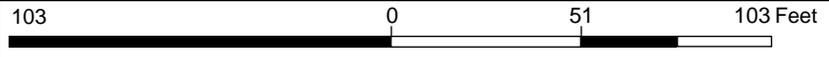
Legend

- Road Centerline
 - Major Road
 - Industrial Road
 - Local Road
- Hydrography Poly
- Hydrography Arc
- Parcels
- Aerial Photos - 2008
 - Red: Band_1
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1: 615



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Notes
Public Walkway connecting Renshaw to Hill Elementary

"Windmill Pointe Sub."

PART OF THE NORTH 1/2 OF SECTION 13, T.2N., R.11 E., CITY OF TROY, OAKLAND COUNTY, MICHIGAN

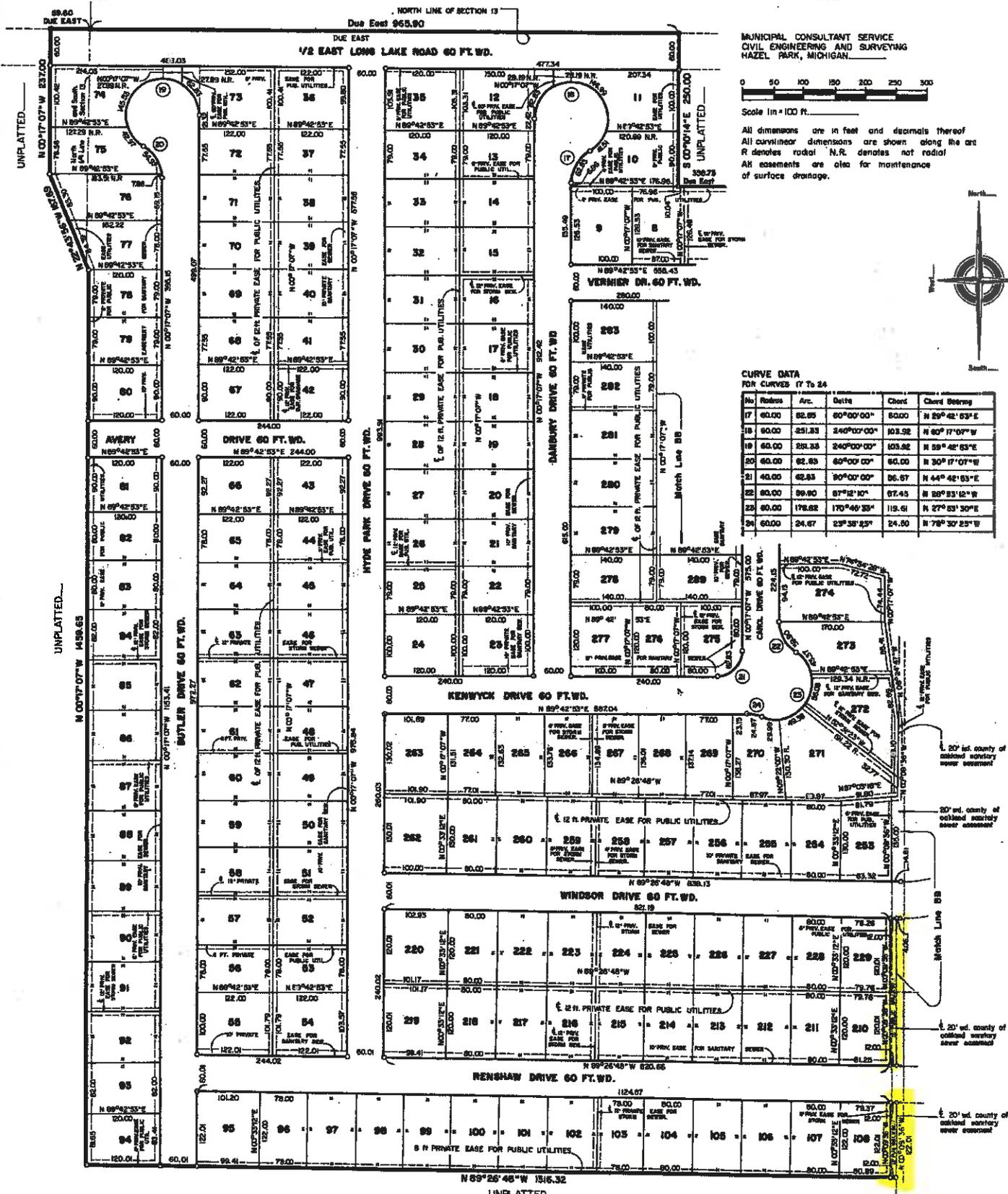
Sheet 2 of 4 Sheets

MUNICIPAL CONSULTANT SERVICE
CIVIL ENGINEERING AND SURVEYING
HAZEL PARK, MICHIGAN



Scale 1" = 100 ft.

All dimensions are in feet and decimals thereof
All curvilinear dimensions are shown along the arc
R denotes radial N.R. denotes not radial
All easements are also for maintenance of surface drainage.



CURVE DATA FOR CURVES 17 TO 24

No.	Radius	Arc	Delta	Chord	Chord Bearing
17	60.00	82.85	60°00'00"	60.00	N 29°42'53"E
18	60.00	251.33	240°00'00"	103.92	N 60°17'00"W
19	60.00	251.33	240°00'00"	103.92	N 59°42'53"E
20	60.00	82.85	60°00'00"	60.00	N 30°17'00"W
21	60.00	42.63	90°00'00"	56.67	N 44°42'53"E
22	60.00	39.80	87°21'10"	57.45	N 56°53'12"W
23	60.00	178.82	170°40'35"	119.61	N 27°53'30"E
24	60.00	24.67	23°38'25"	24.50	N 78°20'25"W

20' wd. county of Oakland sanitary sewer easement

20' wd. county of Oakland sanitary sewer easement

20' wd. county of Oakland sanitary sewer easement

N 89°26'48"W 1346.32

UNPLATTED

"Windmill Pointe Sub."

PART OF THE NORTH 1/2 OF SECTION 13, T.28N., R.11E.,
CITY OF TROY, OAKLAND COUNTY, MICHIGAN

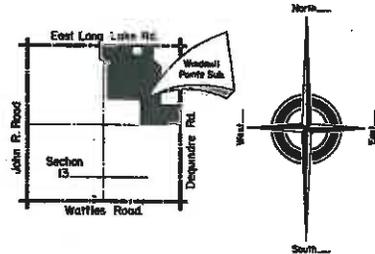
Sheet 1 of 5 Sheets

MUNICIPAL CONSULTANT SERVICE
CIVIL ENGINEERING AND SURVEYING
HAZEL PARK, MICHIGAN



Scale 1 in = 100 Ft.

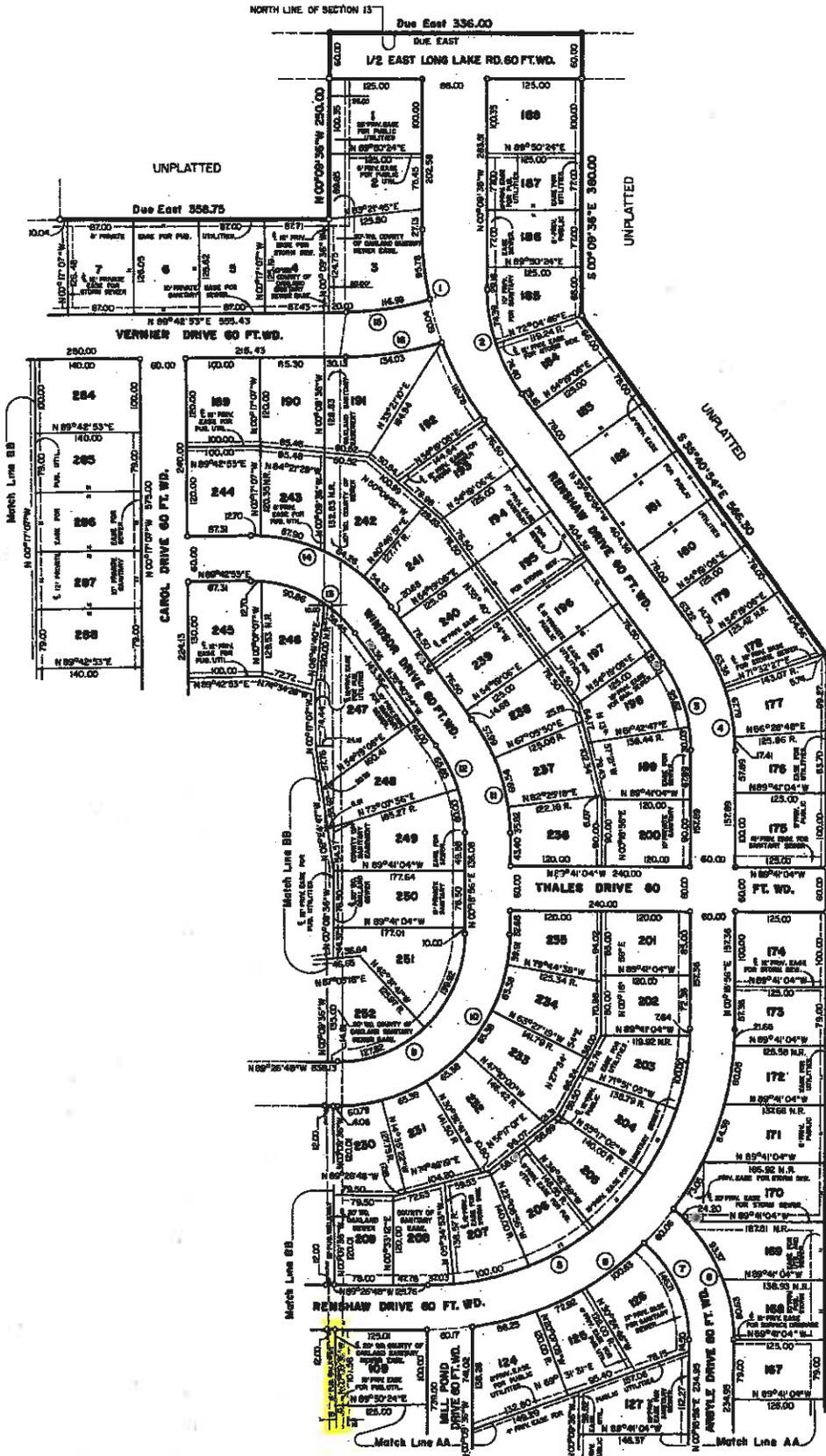
All dimensions are in feet and decimals thereof
All curvilinear dimensions are shown along the arc
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of surface drainage.



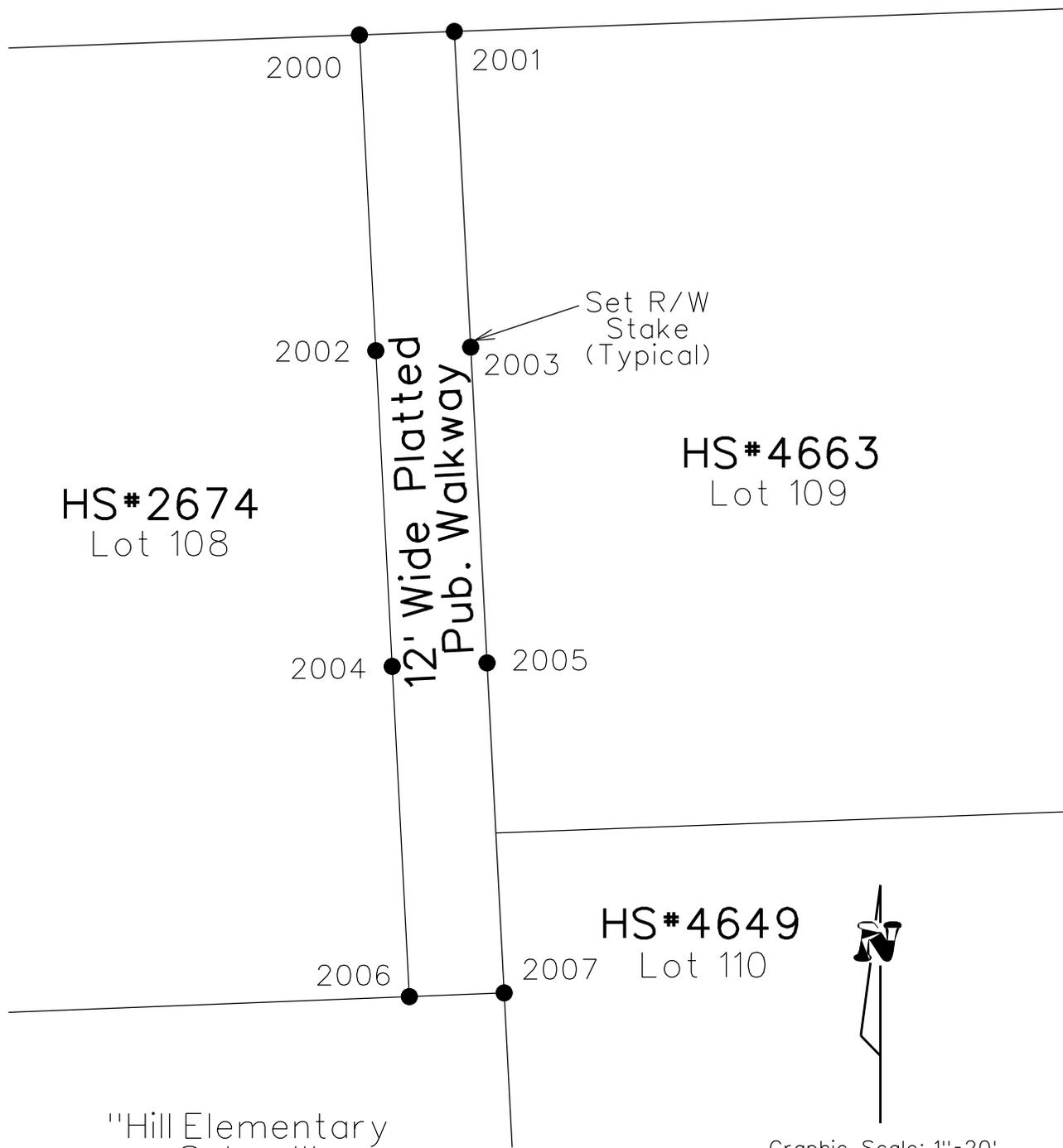
CURVE DATA
FOR CURVES 1 to 16

No	Station	Arc	Delta	Chord	Chord Bearing
1	438.70	272.00	38°31'18"	253.38	N 77°53'13"W
2	240.00	148.79	38°31'18"	146.48	N 77°53'13"W
3	200.00	125.85	38°59'50"	123.60	N 77°40'58"W
4	230.00	153.39	38°59'50"	143.68	N 77°40'58"W
5	345.83	544.07	90°14'18"	490.10	N 48°26'04"E
6	405.83	688.17	90°14'18"	575.13	N 48°26'04"E
7	170.94	146.71	49°30'31"	142.25	N 24°16'20"W
8	230.94	198.30	49°30'31"	182.18	N 24°16'20"W
9	170.00	282.76	90°14'18"	240.52	N 48°26'04"E
10	230.00	342.24	90°14'18"	325.94	N 48°26'04"E
11	250.00	183.35	38°59'50"	180.58	N 77°40'58"W
12	200.00	125.85	38°59'50"	123.60	N 77°40'58"W
13	170.00	182.01	54°55'15"	155.96	N 52°09'00"W
14	230.00	219.18	54°55'15"	203.89	N 52°09'00"W
15	412.08	116.98	18°16'02"	116.80	N 81°34'52"E
16	472.28	134.03	18°16'02"	133.58	N 81°34'52"E

UNPLATTED



Renshaw Dr.

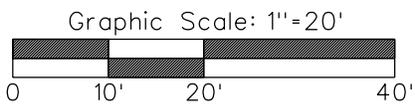
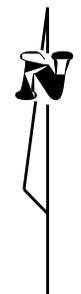


HS#2674
Lot 108

HS#4663
Lot 109

HS#4649
Lot 110

"Hill Elementary
School"



CITY OF TROY
OAKLAND COUNTY, MICHIGAN

12' Wide Pub. Walkway
Staking Sketch

FILE: RW_Staking.DGN			
SCALE	DRAWN BY	NAME GJBIII	DATE 09-20-10
HOR. 1"=20'	CHECKED BY	NAME	DATE XX-XX-XX
VER. 1"=X'	STEVEN J. VANDETTE, P.E.		SHEET NO. JOB NO.
CITY ENGINEER		10F1	N/A

Document Prepared By
George J. Ballard III, P.S.
Land Surveyor

DATE REV.
CONTRACT NO.
N/A



INTEGRITY * RESPECT * LAWS AND THE CONSTITUTION * ACCOUNTABILITY * PROBLEM SOLVING * PROFESSIONALISM

MEMORANDUM

DATE: 10/20/2010

TO: Mark Miller (thru Capt. Scherlinck and Chief Mayer)

FROM: Lt. Redmond

RE: Sidewalk to Hill Elementary

History:

In November of 2008 Officer Kaptur investigated a complaint about Dr. Lanier harassing students using the pathway adjacent to his home at 2674 Renshaw. In her conversation with him, he referred to the area as “his” property and that the students were damaging the lawn. Officer Kaptur explained to him that the area in question was a 12 foot easement belonging to the City of Troy. The school and the parents were in support of a sidewalk being installed. Officer Kaptur worked out an agreement with Dr. Lanier in which he agreed that the property was not his, and that he would leave the students alone. The matter was settled at that time.

In September of this year, a complaint was received from a parent that her children were being harassed by Dr. Lanier when they used the pathway. Officer Kaptur investigated this complaint. She attempt to contact Dr. Lanier, but he did not return her calls. Officer Kaptur then made the recommendation that the sidewalk be installed.

On October 12 and 13, Dr. Lanier sent his e-mails to City Council contesting the paving of the walkway. Officer Kaptur was off on sick leave and unavailable to discuss this issue. At this time, I became involved.

On 10/14/2010 I went to Hill Elementary to check on the walkway adjacent to 2674 Renshaw. At 1540 4 “safeties” used the walkway to go to their posts. One of them had a post right at Renshaw at the end of the walkway, to assist children crossing Renshaw. Five more children used the walkway out to Renshaw. They were accompanied by two parents. One parent, Mrs. Jones (248-689-2748) stated that she was warned by “other” parents that Mr. Lanier has been harassing the kids walking through and that the lawn sprinklers have been turned on at 0845 and 1545 so that the kids won’t be able to cut through. She also stated that parents have volunteered to be in the area to make sure kids don’t walk on the nice landscaping while using the path.

Both parents expressed a desire to have the walkway left open, but that it didn't necessarily have to be "paved". Both are aware of the controversy taking place and indicated that they have concerns for the safety of their children because of Dr. Lanier, and that is why they are walking their kids.

I spoke with Catherine O'Brien, 4649 Mill Pond (248-528-1976). She stated that she has lived in her house for 39 years. She agrees that the walkway should be left open to the students. She hopes that Mr. Lanier backs down so that it can remain a grassy pathway instead of having a sidewalk installed. She also stated that the decision to keep it an "easement" was made by the Troy City Council 38 years ago. I explained to her that her picket fence is on school property and that the end section will have to be removed as it partially blocks the easement. She stated that she knows that it was installed off the property line and has no problem with the end section being removed. She says that she put the fence up because a car drove through her property from the school many years ago.

I also spoke with Ernie Smith, 4663 Mill Pond (248-561-2856). He stated that he agrees that the easement exists and that the students should be allowed to continue using it. He said that on occasion the teenagers gather at the school and use it which causes some concern. I explained to him that he can call us at anytime to report problems with teenagers gathering in the area. He would like to see it remain a grassy area instead of a sidewalk being installed, but is not at all opposed to it remaining an access point to the school. I explained to him what I was trying to accomplish and he asked me to call him back if Dr. Lanier does not back down. Mr. Smith said that he would like one last opportunity to speak with Mr. Lanier. I told him that I would do so.

On 10/15/10 Dr. Lanier came to the station to meet with me. This meeting lasted for about 90 minutes. He denied have any contact with children using the pathway, and denied that his sprinklers were intentionally set to come on when during the hours the pathway is used. I learned from him that at 67 years old he is still working as a Veterinarian, doing surgeries. He owns a veterinarian hospital/clinic in Warren, and another one in Georgia, where he also owns a second home. He travels back and forth between the two homes, and businesses. He also does a lecture circuit around the country each year. He is away from his home in Troy quite a lot. I explained to him that the 12 foot easement is not his property and that he didn't have a chance at succeeding in making it so. He looked at me and said "my attorney agrees with you". I said that I was taking the time to meet with him in one last attempt at resolving this issue. I explained to him that his neighbors on Mill Pond were pleading with him to back down as they did not want to have a sidewalk installed at the rear of their properties, but understood that the City "can" do it. I told him that the City Attorney was going to draw up a document outlining the following: (and anything else the City Attorney deems necessary)

1. No further contact with any students using the pathway.
2. No further incursion onto the easement with flower beds, bushes, or trees.
3. Any future "substantiated" complaint will result in the sidewalk being installed and his shrubbery being removed.

4. No claim of ownership of any part of the easement. (or however it needs to be legally written)

Dr. Lanier agreed to all these issues. He asked that the legal document drafted by the City Attorney be e-mailed to him so that he can forward it to his attorney for review prior to signing it. He understands that his failure to come to a "quick" agreement with the City Attorney will result in the termination of our agreement, and the sidewalk being installed.

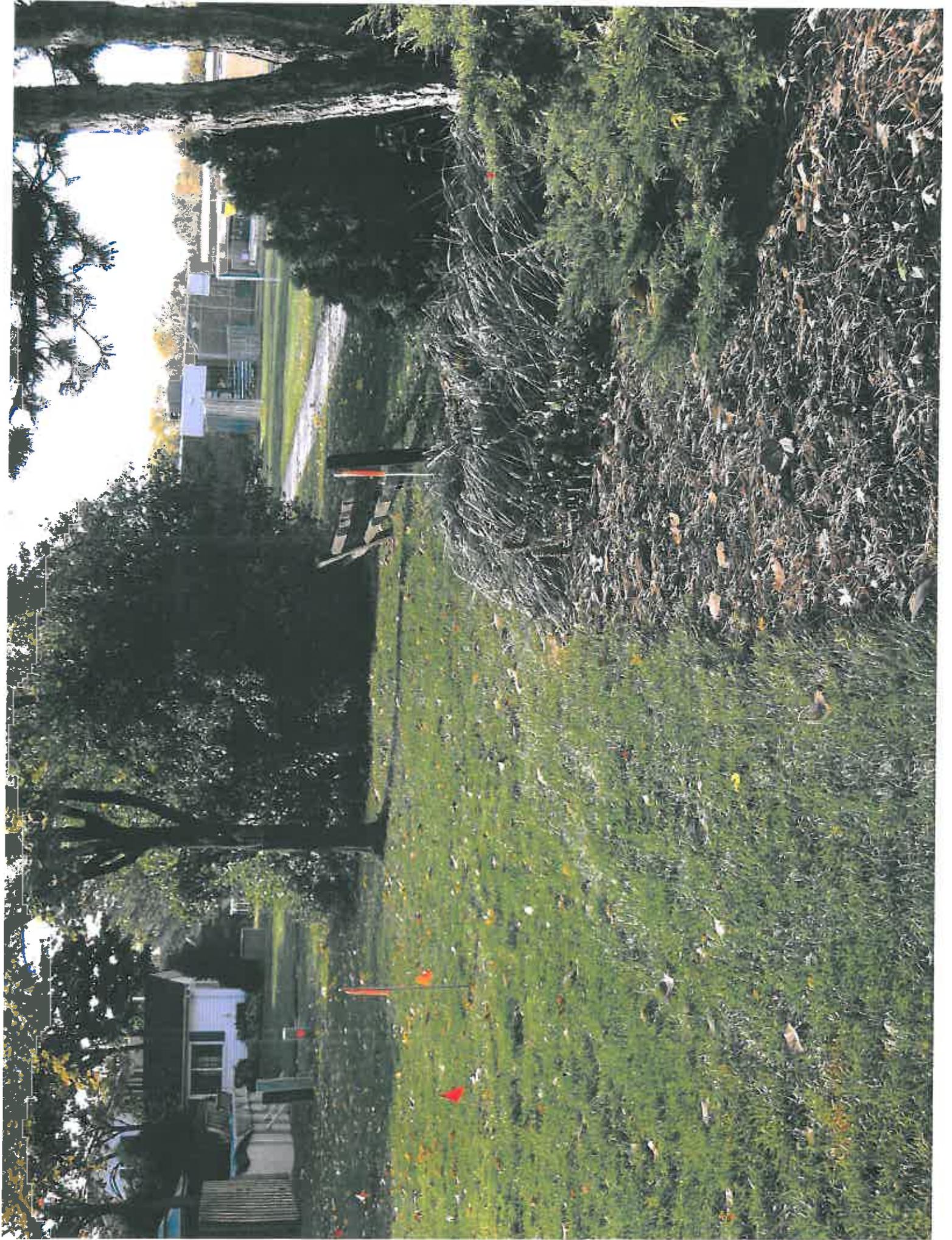
On 10/19/10 I met with Dr. Lanier at his house. I walked the pathway area with him, pointing out to him what bushes needed to be trimmed back, and the boulders that needed to be moved to create a wider opening at the school. At the same time, I met with Catherine O'Brien of 4649 Mill Pond. She agreed to have the last section of her picket fence moved to widen the area to the pathway.

On 10/21/10 Mrs. Jones returned my call. She is the person that made the complaint this year. Neither she, nor her kids, witnessed any of the allegations made about Dr. Lanier. She told me that she heard about the incidents from "other" parents and kids. I did not find any actual witnesses, only those who heard it from others. The story seems blown out of proportion.

On 10/21/10 I met with Janice Brzezinski, Principal of Hill Elementary. Her preference is that the sidewalk be installed. She has sent a letter to that effect. Though she is opposed, she states that she could "live" with the pathway being cleared of the obstructions, and that the children are left alone. She asks for a copy of any legal agreement between Dr. Lanier and the City of Troy.

When I began this assignment, I was of the understanding that I had the authority to "make a deal" with Dr. Lanier if I felt it would solve the problem. It is clear that he has spent a lot of time, effort, and money to have a beautiful home. He agreed to sign a legal agreement with the City. The affected neighbors on Mill Pond ask that the pathway be allowed to remain as is. There hasn't been a sidewalk at this location for about 40 years. Very few students use the pathway. There is a safety posted at the crossing of Renshaw and Mill Pond 100 feet away, with a sidewalk leading right to the school. It is my opinion that the installation of this sidewalk is not needed.







Mary F Redden

From: Richard Lanier [RL@laniergroup.com]
Sent: Tuesday, October 12, 2010 7:39 AM
To: Timothy L Richnak; Thomas E Rosewarne; John Szerlag; John M Lamerato
Subject: Fw: The sidewalk to nowhere. Driving property values down.

----- Original Message -----

From: Richard Lanier
To: Louise.Schilling@troy.mi.gov ; wade.fleming@troy.mi.gov ; rbeltram@wideopenwest.com ; mflowryl@umich.edu ; marykerwin5@hotmail.com ; mmcginnis@dmcginnis.com ; djkslater@aol.com
Sent: Tuesday, October 12, 2010 4:57 AM
Subject: The sidewalk to nowhere. Driving property values down.

Dear Troy Mayor and City Counsel Members,

For 40 years I have lived in this house at 2674 Renshaw Dr. During this time I have maintained my property and paid an estimated \$200,000.00 in property tax.

On Wednesday October 13th the City of Troy wants to place a sidewalk within 8 feet of my dining area and 10 feet from my patio. Gone will be any privacy, not to mention the safety issues at night of a sidewalk to nowhere that ends in my neighbor's backyard.

I have lived next/near the other neighbors for all of these 40 years. We are all senior citizens and see no reason why after 40 years, we need to have our property values negatively impacted and arguably the finest GREEN area in the neighborhood destroyed.

We need your help immediately by contacting..... and put a halt to this matter immediately and move forward to officially vacating this easement.

I know this matter may be difficult to understand and without seeing this layout of properties and the sidewalk to nowhere, I can only ask that this action be delayed.

I am writing this late after a long day of work so I apologize for the format. I can be reached by cell 586.915.0281 voice or text tomorrow. Much of the day I will be with patients and in surgery, so please leave a message if I am unable to pick up.

Thank you for your consideration.

Respectfully,
Richard Lanier

See attached pictures and questions/information.

- Parallel sidewalk 100 feet to the east that goes to school
- This will have children dangerously crossing in the middle of the block.
- Playgrounds at night are edgy places. Bringing this activity so close to my living space in the dark of night is not good.
- If you lived at this address you would think this is insanity?

- This sidewalk will dramatically impact our property values. All are seniors and this will make our homes most difficult to sell.
- The city official pushing this, needs to be questioned about this matter. We suspect there is more to this.
- We have never been advised of our rights in this matter. Is this the way Troy treats citizens? Is this a mini Kelo vs. City of New London?
- Has an environmental impact study been done ___ especially animal species impact
- Is legal action the next step for us? I am sure that deposition of the department in question will reveal some interesting information involving relationships with vendors.



Sidewalk 8 feet from home







Hill Elementary School

4600 Forsyth Dr.
Troy, Michigan 48085
Ph: 248/823-3500 Fax: 248/823-3513



Janice Brzezinski
Principal

An NCA Accredited School

A Michigan Blue Ribbon Exemplary School

October 14, 2010

Re: Installation of Sidewalk in Right-of-Way

To Whom It May Concern:

It is the request of many Hill School parents, students and the Principal for completion of the sidewalk Right-of-Way that leads from Windsor to Renshaw and should continue from Renshaw to the school property. At this time the Right-of-Way from Renshaw to the school property is not easily accessible or visible due to the current landscaping of the resident of the property adjacent to the Right-of-Way. We are requesting that the public easement be completed so students that walk to school can travel through Windmill Point to Hill School property with easier access.

Completion of the sidewalk would allow students/parents to know where the public access is located. At this time many students/parents are unsure where the public access begins and ends with the existing private residences. Continuation of the paved/fenced walkway would clearly mark the way.

Please feel free to contact me at 248-823-3500 if you have any questions.

Sincerely,

Janice Brzezinski
Hill Elementary Principal

Hill Elementary School

4600 Forsyth Dr.
Troy, Michigan 48085
Ph: 248/823-3500 Fax: 248/823-3513



Janice Brzezinski
Principal

An NCA Accredited School

A Michigan Blue Ribbon Exemplary School

October 29, 2010

Mr. Mark F. Miller
Acting Assistant City Manager -
Economic Development Services
City of Troy
500 W. Big Beaver
Troy MI 48084

Re: Installation of Sidewalk in Right-of-Way

Dear Mr. Miller:

I received a letter dated September 29, 2010 that stated that the City of Troy Streets and Drain Department will be installing a 5 foot wide concrete sidewalk that will run from Renshaw Street to the Hill Elementary School property. This would allow pedestrians access to the school property as was the original intention when the subdivision was developed. The concrete walk way has been staked out and an October 13, 2010 date for completion was listed. We were very excited about this news.

It is my understanding that a recent recommendation was made for the walk way to be cleared but left as grass, not a cement walk way. This is clearly unacceptable as the walk way needs to be clearly marked for pedestrian travel. If cleared so that the community can actually see the walk way (which they cannot at this time) the path will be used daily quite frequently. Foot travel and bicycles will create quite a mess during our rainy weather and slushy conditions if the path is left as grass.

We request that this concrete walk way be completed as planned with a cement walk way and fence clearly marking the sidewalk. We have been trying to have this cement walk way completed since the fall of 2008. The completion of this concrete walkway will allow students easy access to and from school property to travel from Windmill Point to Hill School property with easy access. A similar cement walk way already exists between Windsor and Renshaw.

At this time due to the residents' landscaping, fence and rock (on city property), the students and community cannot easily access the school grounds. Many students have been told it is private property and they are not allowed to cut through the yards. Simply clearing the pathway without cement or a fence will not make access easy or visible.

It is our hope that the cement walk way would be completed from Renshaw (on the City of Troy property) to the walking path (on Hill Elementary School property) to make access visible, accessible and safe for our students and community members for daily arrival and dismissal to school. It is also my understanding that the City of Troy and the Troy School District have had the conversation about collaboration on this much needed project.

Please feel free to contact me at 248-823-3500 if you have any questions.

Sincerely,

Janice Brzezinski
Hill Elementary Principal