

Meeting Date: 05/15/2012

Title:

Discuss Trail Easement at 15620 Krypton Street NW

Background:

In January of 2012 staff was contacted by an individual that was considering purchasing the property at 15620 Krypton Street NW. The main topic of conversation was related to the existing bituminous trail that extends down the east property line and into the backyard. He was inquiring whether there was a purpose for this trail, and when it might be utilized in the future. Reviewing property files it was discovered that this trail was intended for a dual purpose; a maintenance access to the City's sanitary sewer system, and a pedestrian connection.

When WILDLIFE SANCTUARY 3RD was subdivided in 2003 the trail construction was an obligation of the development agreement (see attached development agreement excerpt), and was to be located along the common lot line between lots 5 and 6, Block 3. Extension of a gravity sanitary sewer was also a requirement of the project, such that an existing lift station could be eliminated when a future trunk extension was complete through a neighboring development to the north and west. During construction the sanitary sewer had to be realigned slightly due to environmental constraints, and additional sanitary sewer easements were granted for this new alignment at that time.

It appears the trail was constructed over the top of the sanitary sewer trunk line that will be used in the future, and not along the entire extents of the common lot line, as referenced. The separate recordable trail easement referenced in the development agreement does not appear to exist, therefore we currently only have rights to access the easement area for drainage and utility purposes.

This item was discussed by the Public Works Committee on February 21, 2012, with the direction being to leave things as is until such time that a pedestrian trail easement could be secured. There was also discussion that since this individual was not the property owner there was no ability to negotiate acquisition of such an easement. Staff made contact with the property owner to the east of this lot to determine whether that they would be open to the discussion of a pedestrian trail easement along the common lot line, as was originally proposed within the dedicated drainage and utility easement. The property owner expressed the desire to vacate a portion of the drainage and utility easement along the rear lot line, potentially in exchange for a pedestrian trail dedication along the west lot line. After reviewing the existing sanitary sewer in the rear yard it was determined that the City would not be able to accommodate this request, which was relayed to the resident in early April, and discussed terminated at that point.

City staff relayed this information back to the prospective lot purchaser of 15620 Krypton Street, who then asked that the attached letter be forwarded to the Public Works Committee and Mayor for consideration. It was also discussed that they would soon be closing on the property, which will be occurring on May 25th. They are concerned about having a trail through the center of his backyard forever and are requesting that the City relocate the trail into the easement along the common lot line, as it was originally intended. They understand the dual purpose of the trail and are accepting of its intended use, for utility maintenance and pedestrians, but would like to see it placed on the lot line as intended. The letter outlines a couple of proposed scenarios to resolve this matter within their property and are seeking Committee and Council reaction.

Notification:

Staff has sent notice to both property owners regarding this meeting.

Observations:

From a public works perspective a paved access is preferred for utility maintenance in these situations because we often receive complaints from residents after we access their property with heavy equipment and rut up/damage their lawns and/or irrigation systems. Currently there is no need to access the sanitary sewer in this location, because it will not be utilized until the adjacent area to the north and west develops, or the City decides it wants to construct this gravity system. It will most likely remain in place until such time that development of the adjacent land occurs and the final trunk alignment is reviewed with a land use application. Staff believes it would even be appropriate to require the adjacent future development to be responsible for revisions to the sanitary sewer system that would support their project, and also to construct approximately 100' of trail along the common lot line as a pedestrian connection (if necessary).

A pedestrian trail in this location is currently shown on the City's Master Park and Trail Plan, so this matter will need to be addressed at some point.

Funding Source:

There is no funding request associated with this matter, to date staff time has been used for research and communications.

Staff Recommendation:

Staff would like to know if the Public Works Committee has changed it's stance on resolving this matter in the short term, and whether an agreement can be reached with the property owner on their proposal letter.

Committee Action:

Based upon discussion.

Attachments

[Location Map](#)

[Property Aerial](#)

[Wildlife Sanctuary 3rd Plat](#)

[Development Agreement Excerpt](#)

[Property Owner Letter to the Committee](#)

[Sanitary Sewer Alignment](#)

[Master Park and Trail Map](#)

Form Review

Inbox

Kurt Ulrich

Form Started By: thimmer

Final Approval Date: 05/11/2012

Reviewed By

Kurt Ulrich

Date

05/11/2012 11:52 AM

Started On: 05/08/2012

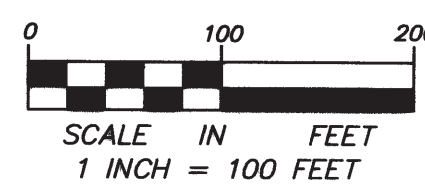


15620 Krypton Street NW Location Map



15620 Krypton Street NW

WILDLIFE SANCTUARY THIRD ADDITION

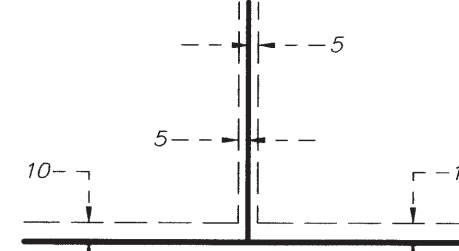


FOR THE PURPOSES OF THIS PLAT, THE SOUTH LINE OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 23, TOWNSHIP 32, RANGE 25 IS ASSUMED TO HAVE A BEARING OF SOUTH 88 DEGREES 59 MINUTES 07 SECONDS WEST.

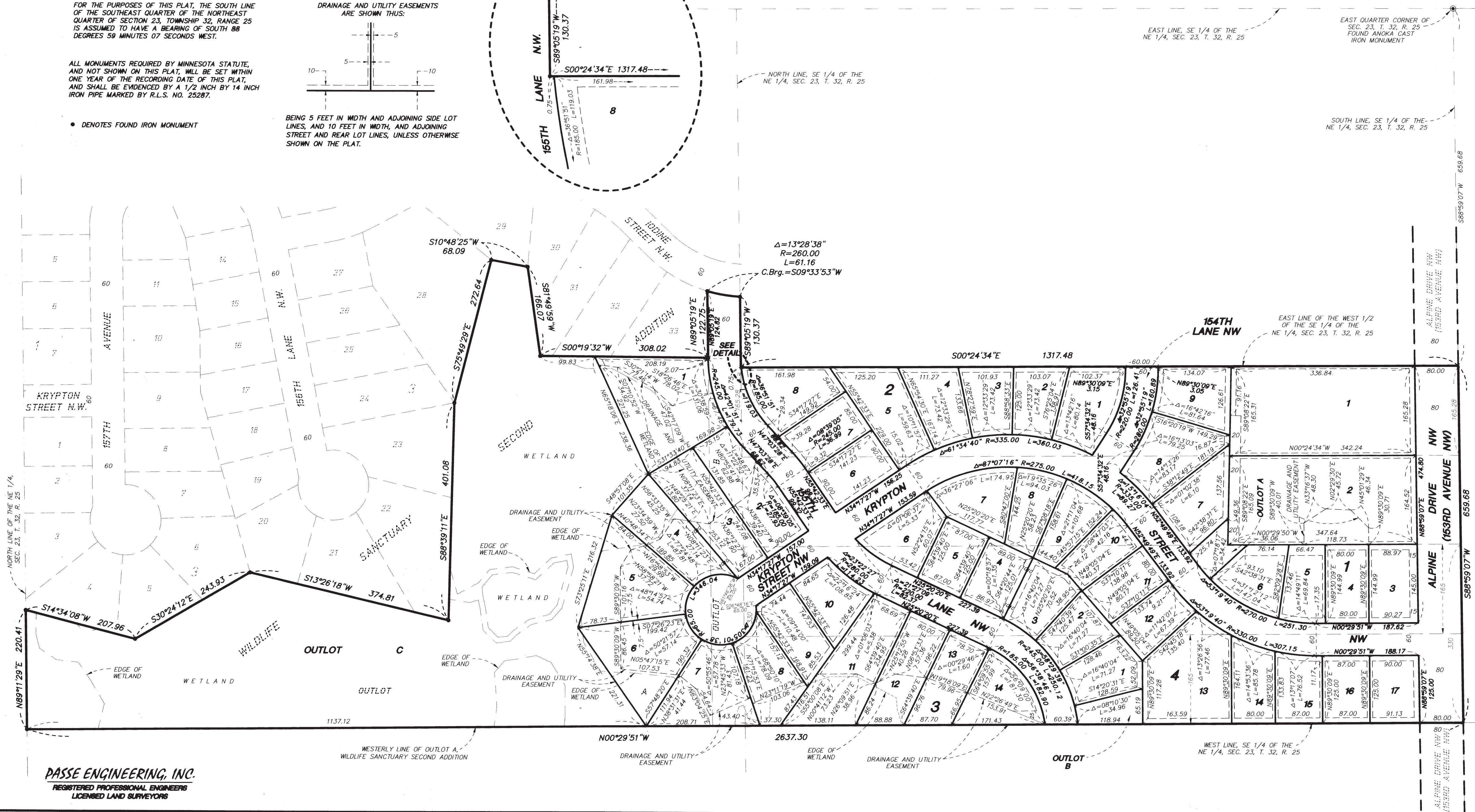
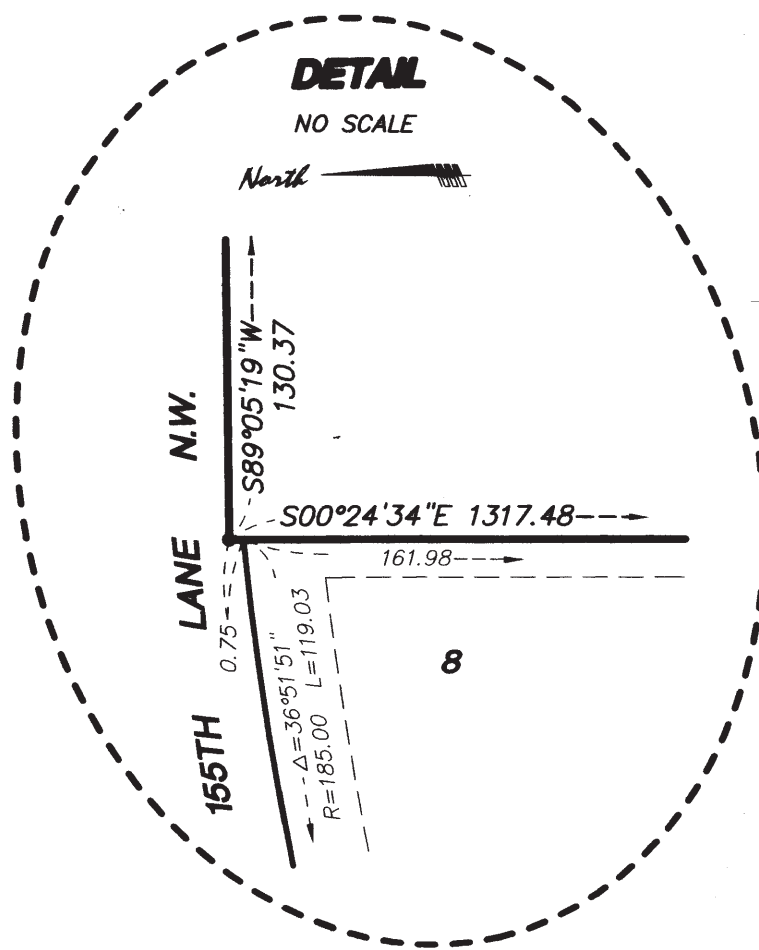
ALL MONUMENTS REQUIRED BY MINNESOTA STATUTE, AND NOT SHOWN ON THIS PLAT, WILL BE SET WITHIN ONE YEAR OF THE RECORDING DATE OF THIS PLAT, AND SHALL BE EVIDENCED BY A 1/2 INCH BY 14 INCH IRON PIPE MARKED BY R.L.S. NO. 25287.

• DENOTES FOUND IRON MONUMENT

DRAINAGE AND UTILITY EASEMENTS ARE SHOWN THUS:



BEING 5 FEET IN WIDTH AND ADJOINING SIDE LOT LINES, AND 10 FEET IN WIDTH, AND ADJOINING STREET AND REAR LOT LINES, UNLESS OTHERWISE SHOWN ON THE PLAT.



PASSE ENGINEERING, INC.
REGISTERED PROFESSIONAL ENGINEERS
LICENSED LAND SURVEYORS

**SECTION V
TRANSPORTATION AND LANDSCAPING**

17. **Park Trail Development and Fees.** The City Council has established a trail development fee in the amount of Four Hundred Seventy Five Dollars and no cents (\$475.00) per lot. The three (3) existing homesteads are exempt from this fee. The amount of trail fees due on the Plat is Twenty One Thousand Dollars Three Hundred Seventy Five Dollars and no cents (\$21,375.00) (45 lots x \$475.00 per lot). The **DEVELOPER** herein agrees to construct a sidewalk along one side of the Krypton Street N.W. cul-de-sac to the common property line of Lots 5 and 6 of Block 3. The **DEVELOPER** also agrees to construct an 8 foot wide bituminous trail along the entirety of the common property line between Lots 5 and 6 of Block 3. The **CITY** herein agrees to credit the trail development fees due on the **Plat** in an amount equal to the surface costs associated with the trail and sidewalk segments described in this paragraph. The amount of the credit shall be One Thousand Eight Hundred Sixty Dollars and no cents (\$1,860.00). Therefore, a payment in the amount of Nineteen Thousand Five Hundred Fifteen Dollars and no cents (\$19,515.00) is due to the **CITY** for this **Plat**.

The **DEVELOPER** herein agrees to provide the City with a separate document, in recordable form, granting the City a fifteen foot (15') wide easement for trail and access purposes on the common property line between Lots 5 and 6 of Block 3.

18. **Sidewalk Construction.** The **DEVELOPER** herein agrees to construct and pave, in accordance with **CITY** standards, a five (5) foot wide concrete sidewalk with pedestrian ramps in locations prescribed by the **CITY**, not to exceed 5% in grade, along the east side of Krypton Street N.W., and the south side of 155th Lane N.W. and 154th Lane N.W. The costs associated with sidewalk construction are not eligible as a credit towards the Trail Development Fees and/or Park Dedication requirements due on the **Plat**.

19. **Tree and Sod Planting Plan.** Sodded boulevards, in addition to yard trees in accordance with the Final Tree Plan dated March 27, 2003, revised April 17, 2003, are required for each lot in the **Plat** prior to issuance of a Certificate of Occupancy. The **DEVELOPER** is required to submit a Final Tree Plan for **CITY** approval that identifies existing tree growth within the **Plat** that will be protected during construction, and the location and species of the new plantings. The trees to be protected must be identified on the grading plan, and the plan must require the installation of 'tree save fences' prior to land clearing or grading. In addition, the requirement for this Plan shall be fulfilled by the **DEVELOPER** as follows:

- a) Minimizing the impact of construction on trees in accordance with Minnesota Extension Service publication "Protecting Trees From Construction Damage" (Publication #NR-FO-6135-S).
- b) For trees intended to be planted between the sidewalk and the street, the specific locations must be staked in advance of planting and approved by the **CITY**. In the event the weather is not conducive to tree or planting sod in the boulevard at the time of Certificate of Occupancy, the Building Permit holder shall place a cash deposit in

Josh & Shawna Dvorak
17131 Nixon Drive NW
Elk River, MN 55330
February 26, 2012

City of Ramsey
Public Works and City Council Members
7550 Sunwood Dr NW
Ramsey, MN 55303

Dear Mr. Himmer:

We wanted to thank you for all of the support you have provided in our pursuit to resolve the issue with the path in the backyard of our future home. We, as the potential homeowners of 15620 Krypton Street NW have developed three proposed scenarios for the dual-purpose utility maintenance and pedestrian trail located on this property. We believe it is best to form a partnership with the city and provide a solution that is consistent with the original plan, but will also be a beneficial and cost effective solution for all parties involved; the city, us as the future homeowner, and the taxpayers of the City of Ramsey.

This correspondence outlines the three potential scenarios for this dual-purpose trail though the backyard at 15620 Krypton Street NW. It outlines the benefits to the city and the homeowner, the concessions that would be made by both, the responsibilities for each, and the estimated costs.

OBJECTIVE

We are proposing a partnership with the City of Ramsey to move the utility path currently located across the middle of the backyard to a straight line following the lot line as documented in the original plans in a way that would meet the needs of all parties involved.

SCENARIO ANALYSIS

Scenario one (most optimal for all involved):

To assist the city achieve their goal for the development of a interconnected pedestrian trail system throughout the city, we would agree to sign the agreement allowing this trail to reside on our property. We suggest the sale of the land to the city at 50% of the fair market value ⁽¹⁾ \$1,365.64 (7.5 * 199 * 1.83 *.50). In this scenario the city would obtain full use of 7.5 ft. of land along the eastern lot line. The City would be responsible for the removal and disposal of the current pavement crossing the yard, back to the easement along the property line. The homeowner would be responsible for restoration of the lawn following the removal. To provide access to service the current and future utility line, a manhole could be installed on the paved trail. As discussed with the city engineer and public works committee, this is a reasonable request and would satisfy the needs of the city.

Though this partnership, the benefits to the city would be:

- City would obtain the legal rights for a pedestrian trail in addition to the utility access needed along the property lot line

- City would not be responsible for lawn restoration
- Pavement removed can be recycled for the pavement needs of future paths, reducing the cost for disposal and materials
- City pays only 50% of fair market value for the pedestrian trail access rights

Though this partnership, the benefits to the homeowner would be:

- Path would be straight, preserving integrity of the backyard
- Homeowner would have less security risks with the path directed away from the property and further from the home vs. in the middle of the backyard (i.e: vandalism, theft, break-ins, etc.)
- Homeowner would have path moved to a more acceptable location

Scenario Two:

This scenario would entail the city waiting for the need to arise for the pedestrian trail development, leaving the path as is until an unknown future date. At that time, the city would be required to approach the property owner to make an offer for the purchase of property for this new use. Due to the delay in resolution for the homeowner, it is uncertain if the property would be made available for the pedestrian access. If the homeowner were to agree to selling the access to the city for a pedestrian trail, the homeowner would require the original design specifications, locating the path along the property line as stated in scenario one, and would require the city to be responsible for removing and disposing of the current pavement, the lawn restoration, and the payment for 100% of the lands full market value.

Just some of the downfalls of this scenario are:

- A higher cost to the City and taxpayers (the City would be responsible for the removal and disposal of pavement as described in scenario one in addition to the cost of lawn restoration)
- Additional cost for the purchase of the property (the City would also be required to pay 100% of fair market value vs. 50% as offered in scenario one)
- The path would be a nuisance for homeowner for extended period of time

Scenario Three:

This scenario would entail the city forcefully obtaining land through eminent domain. This law is used for government utilities, roadways, etc. which provide for the greater need of the community. (Not specifically designed for trails) This scenario would be a long, drawn out process as the city would first have to receive judgment proving that easement is in greater interest of the community adding court costs and time. Homeowner would then have the right to contest which would bring suit back to court adding to the overall cost and time. Upon settlement, assuming the city obtains the rights to the easement, the city would then make offer to

the homeowner for the purchase of the easement. Not inclined to work with the city homeowner would decline the offer bringing the matter back into the legal system where through constitutional law, the judge would rule for the city to pay fair market value at that point in time. Currently this would be approximately \$1.83 per square foot to purchase, or approximately 60-70% of purchase price to obtain easement.

The downfalls of this scenario would be as follows, but not limited to:

- City and homeowner would incur added expense
- This could be a long, drawn out process delaying the plans for the city to move forward with future use of the trail
- City would pay more than 50% which is offered in scenario one
- Depending on easement granted, the city could potential be responsible for removal and disposal of pavement in addition to lawn restoration

CLOSING

I feel I should provide some context around why this is so important for us to find a fair and reasonable resolution to the situation. After being raised in Ramsey, where my parents still reside, I feel that this community with the strong family values is where we want to live and raise our family. We having been looking for a home like this for over a year and we were very excited to find this home. The only thing holding us back is the current location of this trail. As our offer has been accepted by the current homeowner and is now in the hands of the bank, we are ready to move forward provided we can come to an agreement with the future of this trail.

We understand your hesitation to work with us since we do not yet own this home and would like to confirm that any of the solutions above are contingent upon our purchase of this home. Also, please know that we would like to have a resolution and agreement made soon so we can abandon our pursuit for the purchase of this home if necessary.

We appreciate the opportunity and time to work alongside the city to obtain the most beneficial option for all parties involved. If you wish to discuss further please don't hesitate to contact us.

Sincerely,

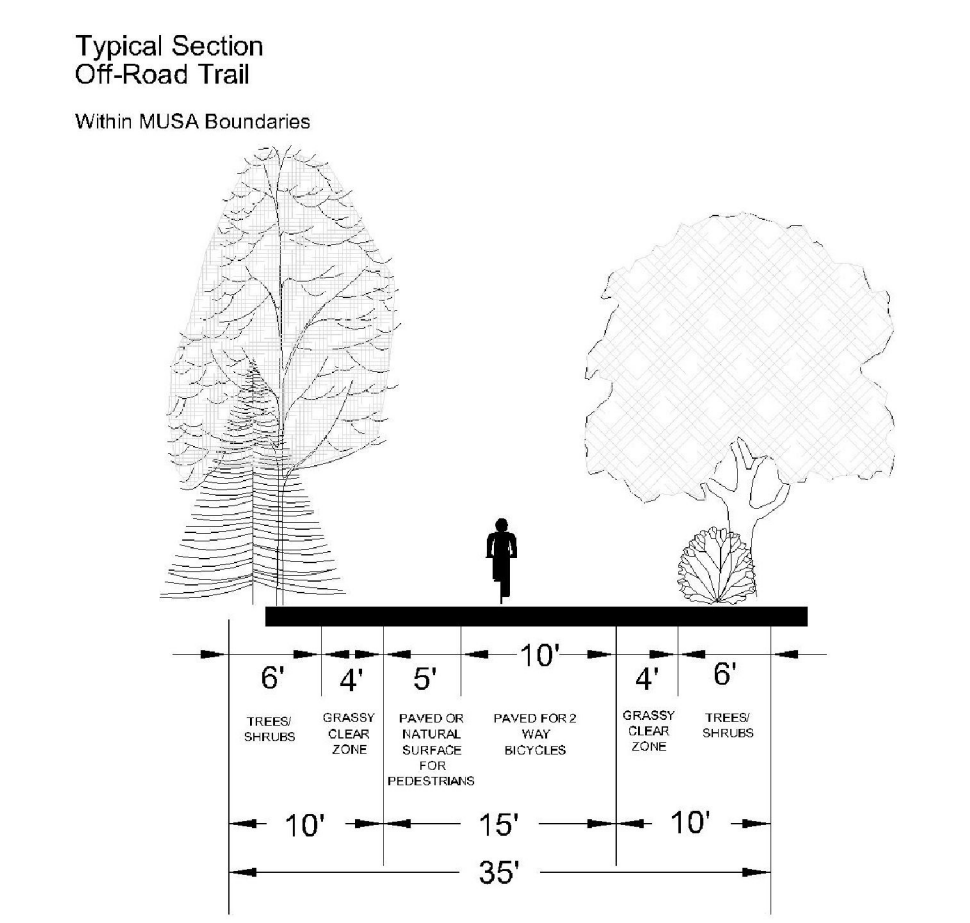
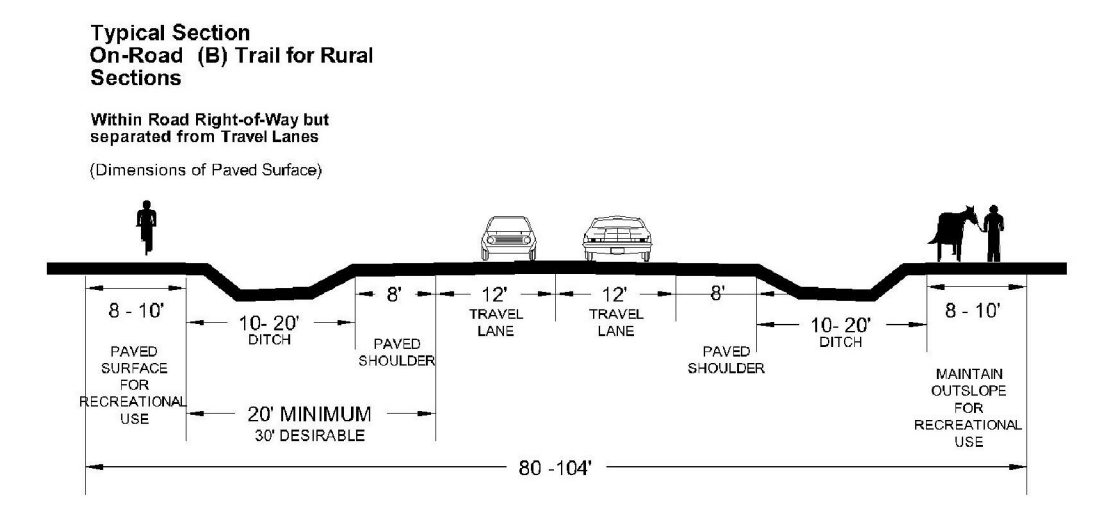
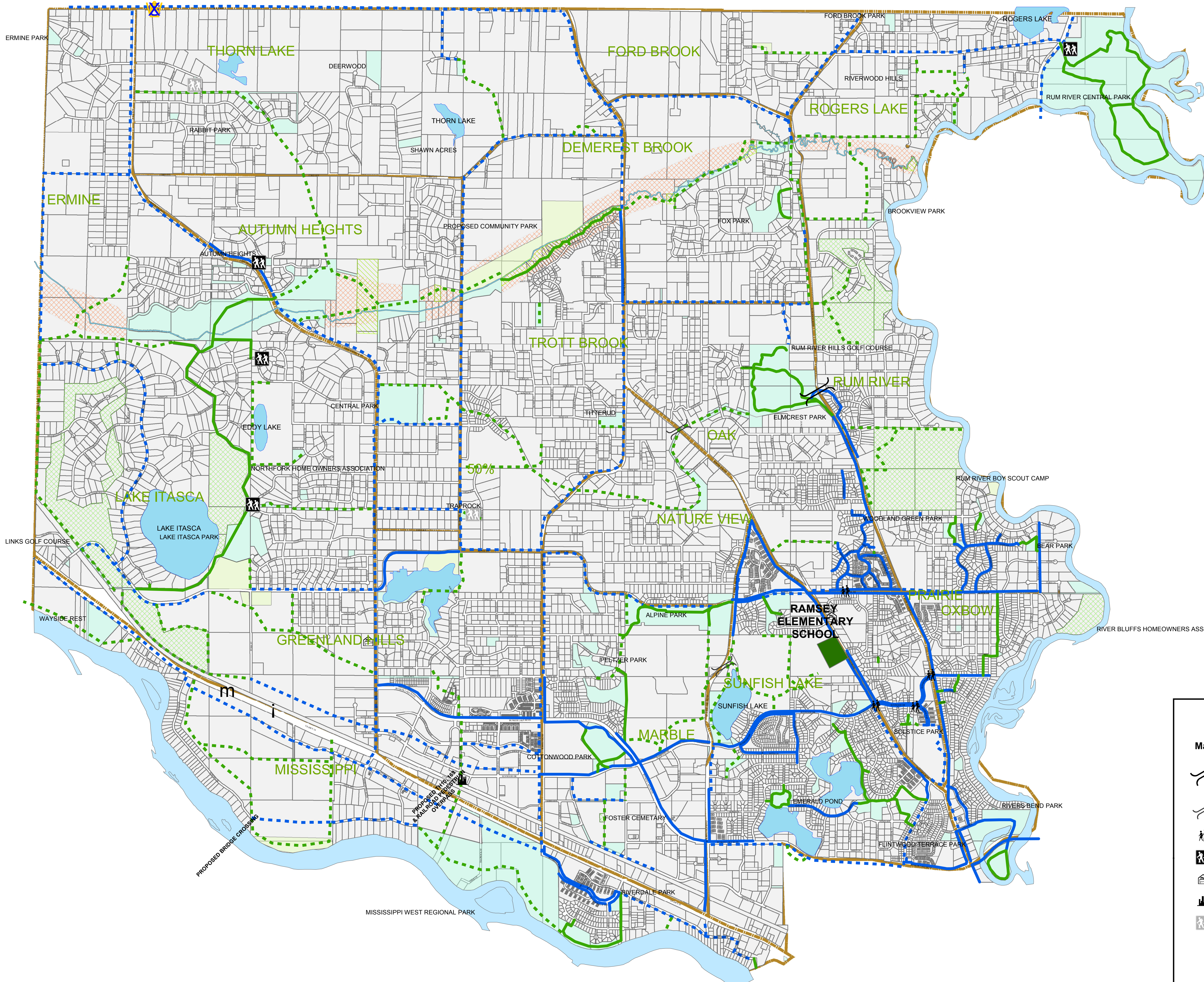


Josh & Shawna Dvorak

Cc: Mayor Bob Ramsey
Cc: Public Works Committee

(1) Estimate based on- numbers provided of city documentation, could vary slightly

City of Ramsey Master Park and Trail Plan



Legend

Map Symbols	Existing Trails
Underpass	Off-Road
Proposed Underpass	On-Road (Separated)
Crosswalk	Proposed Trails
Existing Trailhead	Off-Road
Fire Station	On-Roadway (separated)
City Hall	Conservation Easements
Proposed Trailhead	Parks
	Quasi-Public
	Existing Parks
	Proposed Park
	TROTT BROOK SPECIAL PROTECTION CORRIDOR
	Ramsey Recreation Districts