

**AGENDA ITEM EXECUTIVE SUMMARY**

Agenda Item number: 4.a

Title:

Presentation to Consider Closing Walkway Path through Lots 5,6,13 and 14 of the Fox Glade Subdivision

Presenter:

Peter Suhr

Meeting: Government Services Committee

Date: September 26, 2016

Proposed Cost: \$0.0

Budgeted Amount: \$0.0

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

In January 2013, the Government Services Committee unanimously approved a motion to approve four (4) Fox Glade Court Indemnification Letters (attachment a). This was requested from four (4) homeowners whose properties share a common side yard easement which is identified on a 1969 plat as a "Walkway Easement" (attachment b). The four property owners reside at 1309, 1227, 1228 and 1310 Fox Glade Ct. and respectively on lots 5, 6, 13 and 14 of the Fox Glade PUD Subdivision Unit No. 1 final plat dated Aug. 4, 1969 (attachment c). In 2013, the four (4) homeowners were concerned about the potential impacts of a public sidewalk on private property. The Indemnification Letters settled their concern once approved, executed and recorded.

Today, the properties are still owned and occupied by the same four (4) families. They have recently submitted an application (attachment d) to the City requesting us to vacate the walkway easement on their private property. The application provides various reasons for the request including increased activity/ concerns about safety, security, privacy, nuisances, disturbances, legal exposure and potential devalued property values.

City staff is prepared to provide more detailed information in a presentation for your consideration of the residents request to vacate the walkway easement.

Attachments *(please list):*

2013 Indemnification Letters * 1969 Fox Glade P.U.D. Subdivision Unit No. 1 Plat * Reference Site Maps * Application to City of Saint Charles, Illinois for Homeowners Requesting Vacate Walkway Easement on Their Private Property

Recommendation/Suggested Action *(briefly explain):*

None – For discussion only

**City of St. Charles Illinois
Resolution No. 2013-7**

**A Resolution Authorizing the City Administrator to Execute
Four Letters Regarding the Fox Glade Court Easements**

**Presented & Passed by the
City Council on February 4, 2013**

BE IT RESOLVED BY THE Mayor and City Council of the city of St. Charles, Kane and DuPage Counties, Illinois, that the city Administrator be and the same hereby authorized to execute four letters regarding the Fox Glade Court Easements.


PRESENTED to the City Council of the City of St. Charles, Illinois, this 4th day of February 2013.

PASSED by the City Council of the City of St. Charles, Illinois, this 4th day of February 2013.

APPROVED by the Mayor of the City of St. Charles, Illinois this 4th day of February 2013.


Donald P. DeWitte, Mayor

ATTEST:


City Clerk

COUNCIL VOTE:

Ayes: 10
Nays: 0
Absent: 0
Abstain: 0



January 21, 2013

Gary and Sherry Fox
1309 Fox Glade Court
St. Charles, Illinois 60174



#1 City for Families
by FamilyCircle® magazine

Re: Walkway located at 1309 Fox Glade Court

Dear Gary and Sherry Fox:

This letter is in reference to the sidewalk on the premises that you own, located at the above-referenced address (the "Premises"). The sidewalk was constructed by the City pursuant to a walkway easement denoted on the plat of subdivision for Fox Glade Unit No. 1. The City Council of the City has authorized me to inform you as follows:

1. So long as the sidewalk remains in existence (including any replacement sidewalk that may be installed), the City shall, at its expense, maintain, repair, renew and replace the sidewalk as from time to time necessary and appropriate to keep it in good condition.
2. The City shall, to the extent permitted by law, indemnify, defend and hold harmless you, as owner of the Premises, and any successor owner of the Premises, from and against all liability arising out of claims for bodily injuries, death or property damage resulting from the use of the sidewalk for its intended purpose. However, nothing set forth in this paragraph shall be deemed a waiver of any defenses or immunities relating to the sidewalk that are, or would be, available by law to the City.
3. Nothing contained in this letter is intended to give rise to any duties or liabilities on behalf of the City which are not set forth herein or authorized by law.
4. Nothing contained in this letter is intended to abrogate the police powers of the City.
5. This letter is intended to benefit you, as owner of the Premises and any successor owner of the Premises.
6. If the City removes and does not replace the sidewalk, it will grade and seed the affected area. Upon such removal, all obligations and undertakings set forth in this letter shall cease and the City may record a document to that effect with the Kane County Recorder's Office.

CITY OF ST. CHARLES, ILLINOIS

By: _____
Brian Townsend, City Administrator

Receipt acknowledged
this 21st day of January 2013

Gary Fox / Sherry Fox

DONALD P. DEWITTE Mayor

BRIAN TOWNSEND City Administrator

January 21, 2013

Hilda Holm
1228 Fox Glade Court
St. Charles, Illinois 60174



#1 City for Families
by FamilyCircle® magazine

Re: Walkway located at 1228 Fox Glade Court

Dear Hilda Holm:

This letter is in reference to the sidewalk on the premises that you own, located at the above-referenced address (the "Premises"). The sidewalk was constructed by the City pursuant to a walkway easement denoted on the plat of subdivision for Fox Glade Unit No. 1. The City Council of the City has authorized me to inform you as follows:

1. So long as the sidewalk remains in existence (including any replacement sidewalk that may be installed), the City shall, at its expense, maintain, repair, renew and replace the sidewalk as from time to time necessary and appropriate to keep it in good condition.
2. The City shall, to the extent permitted by law, indemnify, defend and hold harmless you, as owner of the Premises, and any successor owner of the Premises, from and against all liability arising out of claims for bodily injuries, death or property damage resulting from the use of the sidewalk for its intended purpose. However, nothing set forth in this paragraph shall be deemed a waiver of any defenses or immunities relating to the sidewalk that are, or would be, available by law to the City.
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4. Nothing contained in this letter is intended to abrogate the police powers of the City.
5. This letter is intended to benefit you, as owner of the Premises and any successor owner of the Premises.
6. If the City removes and does not replace the sidewalk, it will grade and seed the affected area. Upon such removal, all obligations and undertakings set forth in this letter shall cease and the City may record a document to that effect with the Kane County Recorder's Office.

CITY OF ST. CHARLES, ILLINOIS

By: _____
Brian Townsend, City Administrator

Receipt acknowledged
this 21st day of January 2013

Hilda Holm
Hilda Holm

DONALD P. DEWITTE Mayor
BRIAN TOWNSEND City Administrator

January 21, 2013

Philip VanAcker
1227 Fox Glade Court
St. Charles, Illinois 60174



#1 City for Families
by FamilyCircle® magazine

Re: Walkway located at 1227 Fox Glade Court

Dear Philip VanAcker:

This letter is in reference to the sidewalk on the premises that you own, located at the above-referenced address (the "Premises"). The sidewalk was constructed by the City pursuant to a walkway easement denoted on the plat of subdivision for Fox Glade Unit No. 1. The City Council of the City has authorized me to inform you as follows:

1. So long as the sidewalk remains in existence (including any replacement sidewalk that may be installed), the City shall, at its expense, maintain, repair, renew and replace the sidewalk as from time to time necessary and appropriate to keep it in good condition.
2. The City shall, to the extent permitted by law, indemnify, defend and hold harmless you, as owner of the Premises, and any successor owner of the Premises, from and against all liability arising out of claims for bodily injuries, death or property damage resulting from the use of the sidewalk for its intended purpose. However, nothing set forth in this paragraph shall be deemed a waiver of any defenses or immunities relating to the sidewalk that are, or would be, available by law to the City.
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6. If the City removes and does not replace the sidewalk, it will grade and seed the affected area. Upon such removal, all obligations and undertakings set forth in this letter shall cease and the City may record a document to that effect with the Kane County Recorder's Office.

CITY OF ST. CHARLES, ILLINOIS

By: _____
Brian Townsend, City Administrator

Receipt acknowledged
this 21st day of January 2013

Philip VanAcker
Philip VanAcker

DONALD P. DEWITTE Mayor
BRIAN TOWNSEND City Administrator

January 21, 2013

Jeff Fox and Christine Carlson-Fox
1310 Fox Glade Court
St. Charles, Illinois 60174



#1 City for Families
by FamilyCircle® magazine

RE: Walkway located at 1310 Fox Glade Court

Dear Jeff Fox and Christine Carlson-Fox:

This letter is in reference to the sidewalk on the premises that you own, located at the above-referenced address (the "Premises"). The sidewalk was constructed by the City pursuant to a walkway easement denoted on the plat of subdivision for Fox Glade Unit No. 1. The City Council of the City has authorized me to inform you as follows:

1. So long as the sidewalk remains in existence (including any replacement sidewalk that may be installed), the City shall, at its expense, maintain, repair, renew and replace the sidewalk as from time to time necessary and appropriate to keep it in good condition.
2. The City shall, to the extent permitted by law, indemnify, defend and hold harmless you, as owner of the Premises, and any successor owner of the Premises, from and against all liability arising out of claims for bodily injuries, death or property damage resulting from the use of the sidewalk for its intended purpose. However, nothing set forth in this paragraph shall be deemed a waiver of any defenses or immunities relating to the sidewalk that are, or would be, available by law to the City.
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6. If the City removes and does not replace the sidewalk, it will grade and seed the affected area. Upon such removal, all obligations and undertakings set forth in this letter shall cease and the City may record a document to that effect with the Kane County Recorder's Office.

CITY OF ST. CHARLES, ILLINOIS

By: _____
Brian Townsend, City Administrator

Receipt acknowledged
this 21st day of January 2013

Jeff Fox - Christine A. Carlson-Fox
Jeff Fox / Christine Carlson-Fox

DONALD P. DEWITTE Mayor
BRIAN TOWNSEND City Administrator

TWO EAST MAIN STREET

ST. CHARLES, IL 60174

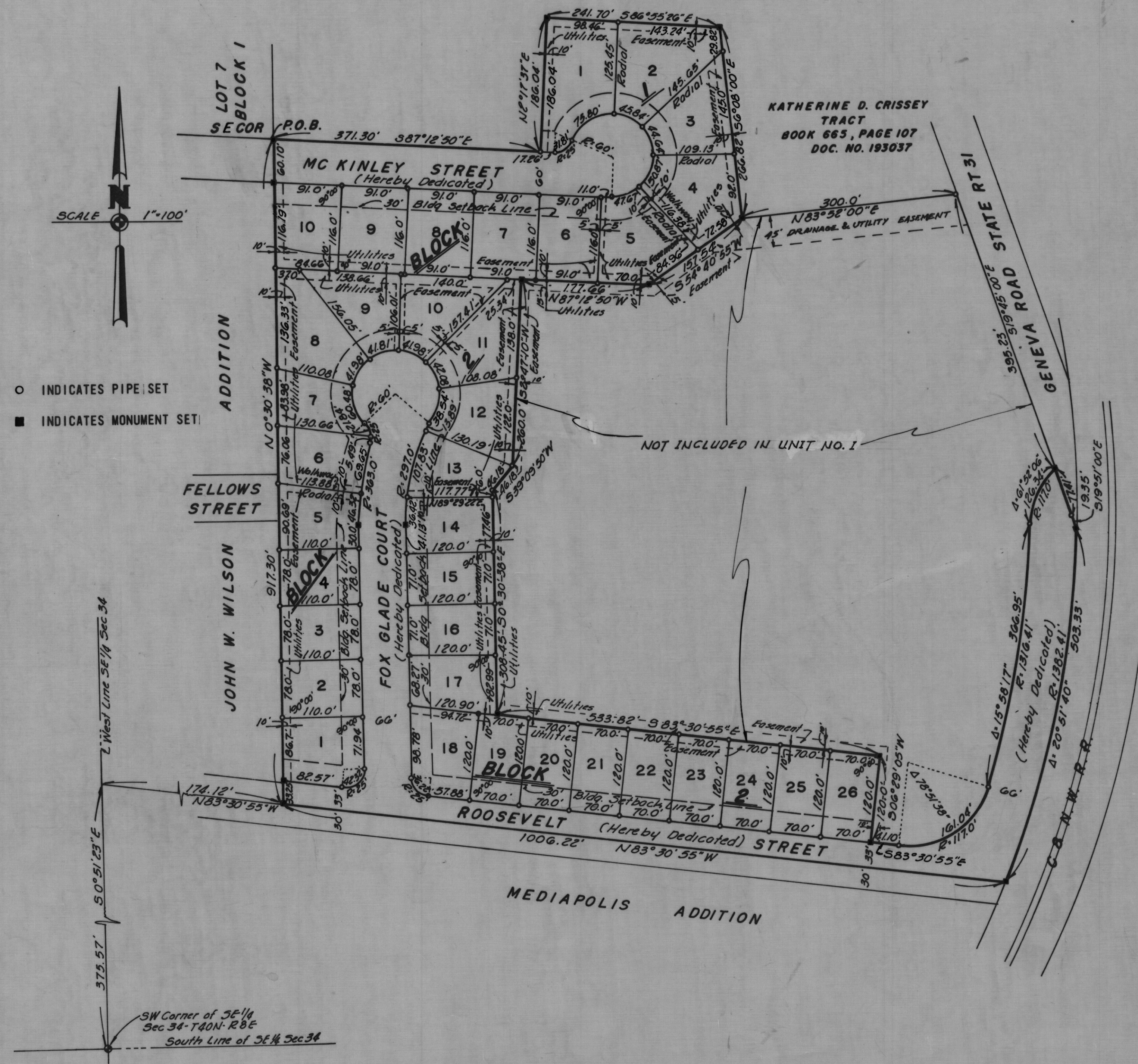
PHONE: 630-377-4400

FAX: 630-377-4440

www.stcharlesil.gov

FOX GLADE P.U.D. SUBDIVISION UNIT NO. 1

ST. CHARLES, KANE COUNTY, ILLINOIS



STATE OF ILLINOIS)
COUNTY OF KANE) ss.
This is to certify that I, JERRY M. DOLPH, Illinois Land Surveyor No. 1893, have surveyed and subdivided the following described property
Lots 2 and 3 of Lang's First Subdivision, in the City of St. Charles, and that part of the Southeast quarter of Section 34, Township 40 North, Range 8 East of
the Third Principal Meridian, described as follows: Beginning at the Southeast corner of Lot 7 in Block 1 in John W. Wilson Addition to St. Charles; thence
South 87°12'50" East along the North line of McKinley Street extended 371.30 feet to the Southeast corner of Lot 1 in Lang's First Subdivision; thence
North 2°17'37" East along the West line of Lot 2 in said Lang's First Subdivision 186.04 feet to the Northwest corner of said Lot 2; thence South 88°55'26" East
along the North line of Lots 2 and 3 of said subdivision 241.70 feet to the Northeast corner of said Lot 3; thence South 8°08' East along the East line of
said Lot 3, 285.82 feet to the Southwest corner of premises conveyed to Katherine D. Crissey by deed dated May 1, 1920 and recorded November 18, 1920 in book
885 page 107 as Document 193037; thence South 54°40'55" West 157.54 feet; thence North 87°12'50" West 177.66 feet; thence South 2°47'10" West 260 feet; thence South
39°09'50" West 48.18 feet; thence South 0°30'38" East 308.45 feet; thence South 83°30'55" East 533.82 feet; thence South 06°29'05" West 120.00 feet; thence South
83°30'55" East 41.10 feet to a point of curvature; thence Northeasterly 181.04 feet along the arc of a curve to the left having a central angle of 78°51'38" and a
radius of 117 feet to a point of compound curve; thence Northerly 366.95 feet along the arc of a curve to the left having a central angle of 15°58'17" and a radius
of 1316.41 feet to a point of reverse curve; thence Northeasterly 126.34 feet along the arc of a curve to the right having a central angle of 61°52'06" and a radius
of 117 feet to a point on the Westerly line of Geneva Road; thence South 19°45'00" East 77.41 feet along said westerly line of Geneva Road; thence South 19°51'00" East
19.35 feet to Westerly right-of-way line of Chicago and Northwestern Railway; thence Southerly along said railway right-of-way line 503.33 feet measured along
the arc of a curve to the right having a central angle of 20°51'40" and a radius of 1382.41 feet to a point on the Northerly line of Mediapolis
Addition; thence North 83°30'55" West along said North line of Mediapolis Addition 1006.22 feet to the Southeast corner of John W. Wilson
Addition; thence North 0°30'38" West along the Easterly line of said John W. Wilson Addition 917.30 feet to the point of
beginning, in the Township of St. Charles, Kane County, Illinois, as shown by the plat hereon
drawn which is a correct representation of said survey and subdivision. All distances are shown in feet and decimal parts thereof. We further certify that the
foregoing is within the Corporate limits of the City of St. Charles, and that said property is not situated within 500 feet of any surface drain or watercourse
serving a tributary area of 640 acres or more.

Given under my hand and seal at Geneva, Illinois, this 12th day of June, A.D. 1967.
Jerry M. Dolph
ILLINOIS LAND SURVEYOR NO. 1893

STATE OF ILLINOIS)
COUNTY OF KANE) ss.
The St. Charles National Bank, a National Banking Association, as Trustee under the provisions of a trust agreement dated October 16, 1967 and recorded as
Trust No. 386 is the owner of record of the land described in the annexed plat, and that it has caused the same to be surveyed and subdivided as indicated
thereon, for the uses and purposes therein set forth, and does hereby acknowledge and adopt the same under the style and title thereon indicated.

The St. Charles National Bank
ATTEST: Edward A. Spick By: M. R. Hoover
Cashier Trust Officer
Dated this 16th day of June, A.D. 1967.

STATE OF ILLINOIS)
COUNTY OF KANE) ss.
I, Jessie Canada, a notary public, in and for said County, in the state aforesaid, do hereby certify that M. R. Hoover, Trust Officer and
Edward A. Spick, Cashier, of the St. Charles National Bank, personally known to me to be the same persons whose names are subscribed to the foregoing
instrument as said officers appeared before me this day in person and acknowledged that they signed and delivered the annexed plat as their own free and
voluntary act for the uses and purposes therein set forth, and as the free and voluntary act of said Bank.
Given under my hand and Notarial Seal this 16th day of June, A.D. 1967, at St. Charles, Illinois.
Jessie Canada
Notary Public

STATE OF ILLINOIS)
COUNTY OF COOK) ss.
The Telegraph Savings and Loan Association of Chicago, Illinois, as Mortgagee under the provisions of a Mortgage dated May 14, 1969, recorded May 16, 1969 as
Document Number 1140331, and that it is the holder of the note recorded thereby, does hereby certify that as holder of Mortgage Interest of the lands herein described
did cause same to be surveyed and subdivided as shown hereon; and approves and accepts the Plat thereon. Dated this 13th day of June, A.D. 1969.
Telegraph Savings and Loan Association
ATTEST: Robert B. Schen By: Wm. G. Stearn
Asst. Secretary President

STATE OF ILLINOIS)
COUNTY OF COOK) ss.
I, Wm. G. Stearn, a notary public, in and for said County, in the state aforesaid, do hereby certify that William G. Stearn,
Robert B. Schen, Asst. Secretary of said Association, personally known to me to be the same persons whose names are subscribed to the foregoing
instrument as said officers appeared before me this day in person and acknowledged that they signed and delivered the annexed plat as their own free and
voluntary act for the uses and purposes therein set forth.
Given under my hand and Notarial Seal this 13th day of June, A.D. 1969, at Chicago, Illinois.
Wm. G. Stearn
Notary Public

STATE OF ILLINOIS)
COUNTY OF KANE) ss.
I, Wm. A. Bellatti, County Clerk of Kane County, Illinois, do hereby certify that there are no delinquent general taxes, no unpaid forfeited taxes
and no redeemable tax sales against any of the land included in the annexed plat.
I further certify that I have received all statutory fees in connection with the annexed plat.
Given under my hand and seal at Geneva, Illinois, this 17th day of June, A.D. 1967.
Wm. A. Bellatti
County Clerk

STATE OF ILLINOIS)
COUNTY OF KANE) ss.
I do hereby certify that there are no delinquent or unpaid current or forfeited special assessments or any deferred installments thereof that have not
been apportioned against the tract of land included in the plat.
Dated at St. Charles, Illinois, this 16th day of Sept, A.D. 1967.
Paul H. Carlson
Collector of Special Assessments

STATE OF ILLINOIS)
COUNTY OF KANE) ss.
This instrument No. 1149771 was filed for record in the Recorder's Office of Kane County, Illinois, on the 25 day of SEPT,
A.D. 1969, at 10 o'clock A.M., and recorded in Book 25 of Plats at Pages 344.
James E. Markham
County Recorder

EASEMENT PROVISIONS
An easement is hereby reserved for and granted to the City of St. Charles, Illinois, the Illinois Bell Telephone Company and the Northern Illinois
Gas Company and their respective successors and assigns in all platted "Easement" areas shown on this plat for the installation, maintenance,
relocation, renewal and removal of sanitary sewers, storm sewers, water mains, manholes, vaults, electrical and communications conduits, cables,
wires, pedestals, transformers, gas mains and all other equipment and appurtenances necessary for the purpose of serving the subdivision and
adjacent property with sewer, water, electrical, telephone and gas service. In addition to the platted easements, a five foot wide public utility
and drainage easement is hereby reserved along all side lot lines. No permanent buildings or trees shall be placed on said easement, but the same
may be used for gardens, shrubs, landscaping and other purposes that do not then or later interfere with the aforesaid uses or the rights herein
granted.

PROTECTIVE COVENANT
Covenant is hereby made to run with the land, that no owner of any lot or lots therein will cause or permit any change, alteration, or obstruction of the
flow of storm or surface water drainage from that established by the surface water drainage pattern approved as a part of this subdivision.

STATE OF ILLINOIS)
CITY OF ST. CHARLES) ss.
Approved this 21st day of July, A.D., 1969.
CITY OF ST. CHARLES PLAN COMMISSION
Edwin E. Swide
Chairman

STATE OF ILLINOIS)
COUNTY OF KANE) ss.
I, JAMES H. DRIESSEN, do hereby certify that the required improvements have been installed, or the required guarantee bond has been posted for the
completion of all required land improvements.
James H. Driesen
Superintendent of Public Works
Dated at St. Charles, Illinois, this 18th day of SEPT, A.D. 1967.

STATE OF ILLINOIS)
COUNTY OF KANE) ss.
Approved and accepted this 4th day of August, A.D. 1969.
CITY COUNCIL OF ST. CHARLES, ILLINOIS
ATTEST: James H. Driesen By: CV Common
City Clerk Mayor



City of St. Charles, Illinois

Two East Main Street St. Charles, IL 60174-1981
Phone: 630-377-4400 Fax: 630-377-4440 - www.stcharlesil.gov

Fox Glade Court Walking Path

RAYMOND ROGINA

Mayor

MARK KOENEN

City Administrator



Data Source:
City of St. Charles, Illinois
Harris County, Illinois
DuPage County, Illinois
Projection: Transverse Mercator
Coordinate System: Illinois State Plane East
North American Datum 1983
Printed on: September 25, 2018 10:42 PM



Overall Site Plan

167 Feet

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Reviewed by: Project 001



City of St. Charles, Illinois

Two East Main Street, St. Charles, IL 60174-1984

Phone: 630-377-4400 Fax: 630-377-4440 - www.stcharlesil.gov

Fox Glade Court Walking Path

RAYMOND ROGINA

Mayor

MARK KOENEN

City Administrator



Data Source:
City of St. Charles, Illinois
Kane County, Illinois
DuPage County, Illinois
Projection: Transverse Mercator
Coordinate System: Illinois State Plane East
North American Datum 1983
Printed on: September 20, 2010 03:52 PM



Enlarged Site Plan

0' 21' 42 Feet

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Prepared by: H&M 10/1/10

September 9, 2016

Application to City of Saint Charles, Illinois for Homeowners Requesting Vacate Walkway Easement On Their Private Properties

Location of Walkway Legal Description:

Lots 5, 6, 13 & 14 of Fox Glade PUD, Block 2, Saint Charles, Illinois

Applicants:

- Gary and Sherry Fox, 1309 Fox Glade Court, Saint Charles, IL 60174 (Lot 5) email: gfoxent@aol.com
- Hilda Holm, 1228 Fox Glade Court, Saint Charles, IL 60174 (Lot 13) email: donhilda@yahoo.com
- Jeff Fox and Christine Carlson-Fox, 1310 Fox Glade Court, Saint Charles, IL 60174 (Lot 14) email: jcfoxz@comcast.net
- Philip VanAcker, 1227 Fox Glade Court, Saint Charles, IL 60174 (Lot 6) email: pavanacker@att.net

Reasons for request: Safety/Security/Privacy/Nuisance/Disturbing the Peace/Devalued Property/Legal

- City population at time of 1969 plat recording was around 9,000, currently 33,000+. General overall quality of walkway users has become less desirable, they are now less conscientious, less respectful to privilege of using the walkway through our yards. Walkway was initially a dirt path.
- Littering along walkway. Used dog waste bags/empty liquor bottles are thrown into bushes along walkway and up against houses. Dog waste is left on walkway, used condom/feminine protection napkin are among items found on walkway as well as frequent cigarette butts and paper litter to be picked up by homeowners. Walkways are sheltered by privacy fences which contribute to abnormal activities occurring on the path compared to open city sidewalks along street parkways.
- A large fire was started by young pedestrians smoking cigarettes and lighting a pile of pine needles five feet from house structure on Lot 6 which had to be extinguished by homeowner. Could have caught house on fire if owner was not home.
- A drunk middle-aged male was found passed out on the path. Resident tried to wake him with no success. Saint Charles Police were called who managed to wake up the person and haul him away.
- Late one night a beer bottle was thrown at house from the walkway waking up the residents on Lot 14 and disturbing their dog.
- Only a fence thickness separates pedestrians from homeowners. Three of the four homeowners along the walkway have dogs. When people use the walkway (especially when walking their own dogs) excessive barking occurs and plants/flowers along inside yards get trampled by homeowner's dogs running along the fences. Some walkway users bark back at dogs or drag sticks down the fences to further antagonized dogs.
- Walkway is open at all times of the day and night causing safety/security issues on our properties. Noisy pedestrians frequently use the walkway in the middle of the night disturbing/waking up homeowners and homeowner's dogs.
- Pedestrians have thrown bags of chicken bones into yards of Lots 13 & 14. Hoping to harm dogs?
- Motor scooters have started using the path and are long gone before possible police contact.
- With the walkway actually in our yards, houses are very close to walkway. Lots 5 and 14 houses are 9 feet from walkway edge, Lot 6 house is 4.5 feet and Lot 13 house, 8 feet. For privacy/security, with house on Lot 6 being less than five feet away from path, requires windows be closed/covered up at all times. On occasions at night, have had pedestrians bang on Lot 6 house and run.

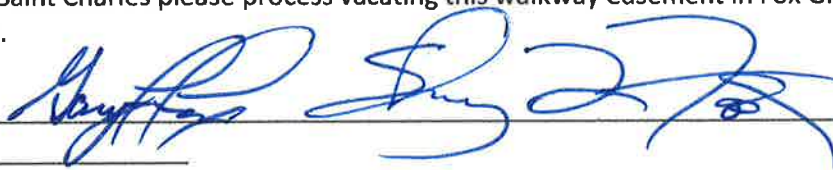
Page 2, Application to City of Saint Charles, Illinois for Homeowners Requesting Vacate Walkway Easement On Their Private Properties

- School buses pick up/drop off kids on nearby Roosevelt Street at Fox Glade Court and White Oaks Circle entrances. No need of walkway for school transportation.
- Presence of walkway though our yards devalues our properties/makes homes locations less desirable to a potential buyer.
- This walkway is not "dedicated" to the City of Saint Charles (only in-use walkway in Saint Charles on private properties), *Block 2* of Fox Glade PUD, 1969 plat on file at the county. This walkway easement is 20 feet wide (10 feet on each lot), the house structures on lots 5 and 6 are less than 18 feet apart from each other.
- There is no Fox Glade PUD *Block 2* walkway easement included on the Oaks Townhomes plat (walkway does not continue through the Oaks), 1975 plat on file at the county.
- A similar walkway easement in *Block 1* of same Fox Glade PUD between lots 4 and 5 (McKinley Street) is closed (not in use), also not dedicated and not continued through Oaks Townhomes (see same 1969 FOXGPUD plat). For an example of a dedicated walkway in Saint Charles please see Mc Clatchey subdivision between lots 7 and 1 (near 7th Street and Fellows Street), plat on file at the county, 1973.

We request the City of Saint Charles please process vacating this walkway easement in Fox Glade PUD, Block 2, along Lots 5, 6, 13 & 14.

Gary and Sherry Fox

Date 9-9-16



Hilda Holm

Date 9-9-16



Jeff and Christine Carlson-Fox

Date 9-9-2016



Philip VanAcker

Date 9-9-2016

