



Legistar I.D. #16442

1802 Maplecrest Dr. & 9002 Hawks Reserve Ln.

PUD Rezoning

Report Prepared By:

Timothy M. Parks, Planner

Planning Division

Requested Action: Approval of a request to rezone 1802 Maplecrest Drive and 9002 Hawks Reserve Lane from R4 (General Residence District) to Planned Unit Development-General Development Plan-Specific Implementation Plan (PUD-GDP-SIP) to allow construction of 112 multi-family condominium units in a total of 28 buildings.

Addendum: Subsequent to completion of the Report to the Plan Commission for this application, staff from Planning, Parks, City Engineering, Traffic Engineering, the Office of Real Estate Services and City Attorney's Office met to discuss an issue that has arisen about an easement for a public walkway through the subject site, Lot 53 of the Hawk's Landing Golf Club subdivision. The 10-foot wide walkway easement was dedicated to the City in June 2005 in combination with public water main and sanitary sewer easements needed to serve the 19 residential buildings to be built on the subject site under the February 2005 conditional use approval (see Previous Approvals section of main report). That approval included a condition, which read:

"Walkway easements required in the preliminary and final plat [of Hawks Landing Golf Club] were not provided. Walkway easements to meet the requirement of the preliminary and final plats shall be provided prior to signoff of this conditional use. The condition on the final plat was "Walkways shall be shown as indicated on the neighborhood concept plan. The four walkways accessing the clubhouse area shall be connected to provide a pedestrian through-connection for crossing to the parks and neighborhood on the other side of the golf course." [Condition #27–Si Widstrand, Parks Division–February 24, 2005]

That above condition references provisions in the Mid-Town Road Neighborhood Development Plan that were incorporated into the preliminary and final plat approvals of the Hawks Landing plat in 1999 and 2000 to provide pedestrian circulation and provide a pedestrian/ bike through-connection for crossing to the parks and neighborhood on the other side of the golf course. The June 2005 execution and recording of the public walkway easement, which generally extends due west across the site from Maplecrest Drive to the western edge of Lot 53 before turning north for a distance of 125 feet, satisfied the condition as it pertained to the 2005 conditional use.

However, the walkway has not been constructed to date by the owner of the property as called for in the easement document. Further, the 10-foot wide public easement and future walkway are not shown on the plans submitted with the current application to rezone the site from R4 to PUD-GDP-SIP. An exhibit prepared by Dan Rodman in the Parks Division shows that the public walkway easement extends through the rear yards located between the building envelopes of the duplexes to be constructed on the north side of Silver Oak Court and the south side of Dominus Court, in some cases abutting or slightly encroaching into those proposed envelopes.

In response, staff from the above mentioned listed City agencies recommends that additional conditions of approval be considered for the proposed planned unit development as follows:

1. That the developer construct the public walkway in Public Walk Easement Record Doc. 4062096 according to plans approved by the City Engineering Division and enter into a City-Developer agreement for said construction prior to final approval and recording of the proposed planned unit development.

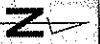
2. That the plan sets be revised per Planning Division approval prior to final approval and recording of the proposed planned unit development to show all proposed duplex building envelopes located entirely outside of the 10-foot public walkway easement. The landscaping and screening of the areas adjacent to the public walkway shall be reviewed and approved as part of the Planning Division staff approval of the final plans for individual duplexes prior to the issuance of building permits.
3. In the event that the developer proposes to relocate the public walkway easement from its current location to accommodate the proposed development, the location, construction, maintenance and operation of the new accommodation shall be approved by Parks Division, Planning Division, Traffic Engineering Division and City Engineering Division staff.
4. Note: Conditions 5 and 6 from the City Engineering Division may need to be modified or deleted based on approval of the three conditions listed above (#1-3).

In addition, staff requests that the following late comment from the Parks Division be included with the conditions of approval for this project:

5. The proposed changes to the development plan for Lot 53 (from 134 multi-family units in 2000 to 38 two-family and 74 multi-family units in 2009) are assessed approximately the same amount of park development fees as was paid as part of the original plat in 2000; no additional park development fees are required.

Public Path Plan for Hawks Landing Golf Club

Prepared 10/30/2009 by City of Madison Parks Div.



 Existing public walk easement per Doc# 4082099, Dane County Registry
 Required public walk easements

this segment not yet constructed (per 2007 aerial photo)

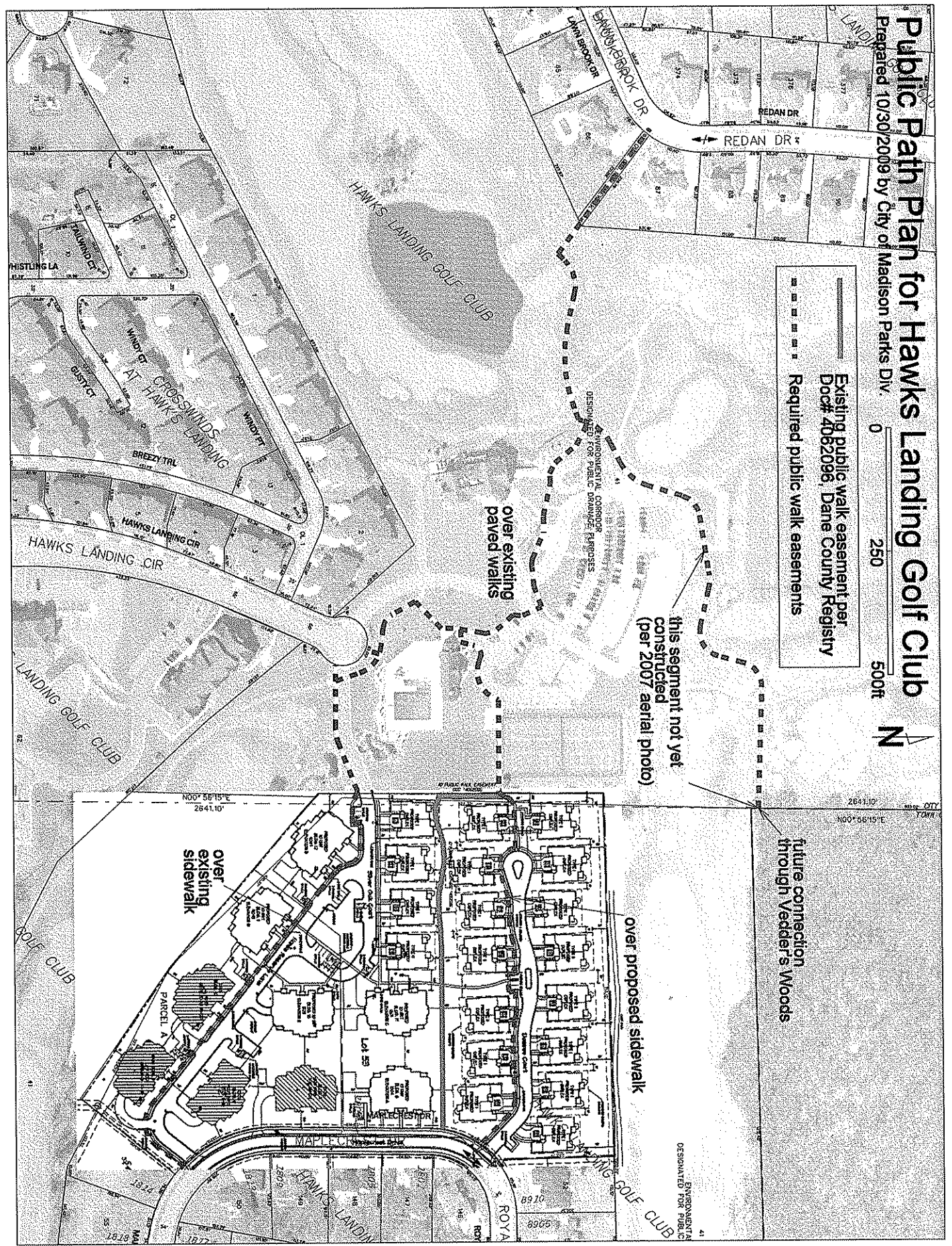
future connection through Vedder's Woods

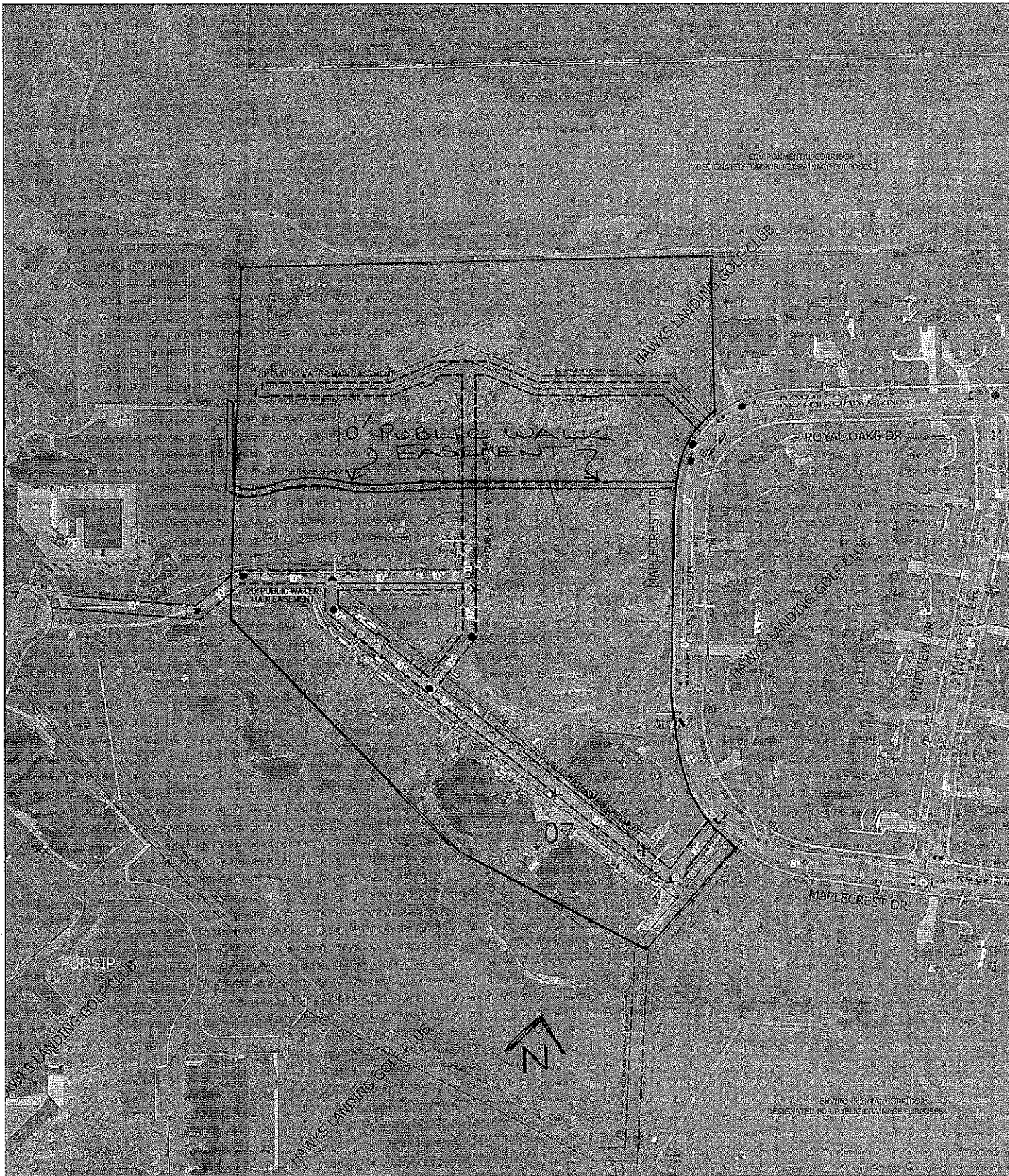
over proposed sidewalk

over existing paved walks

over existing sidewalk

ENVIRONMENTAL CORRIDOR DESIGNATED FOR PUBLIC DRAINAGE PURPOSES





Time: 11/13/09 10:14:22

Session: C:\GTViewer_Sessions\Tim2.gts

City of Madison, WI - GIS/Mapping data

Printed By: pltmp

Disclaimer: The City makes no representation about the accuracy of these records and shall not be liable for any damages

**PUBLIC SANITARY SEWER, PUBLIC WATER
MAIN AND PUBLIC WALK EASEMENT**

Hawks Condominiums Corp., a Wisconsin corporation (the "Owner"), being the owner of the property hereinafter described, in consideration of the sum of Ten Dollars (\$10.00), the receipt whereof is hereby acknowledged, and the benefits that will inure to the Owner by reason of the public walk, sanitary sewer and water main, grants and conveys to the **City of Madison**, a Wisconsin municipal corporation, located in Dane County, Wisconsin (the "City"), its successors and assigns, a perpetual easement for public walk, sanitary sewer and water main purposes, including, but not limited to, the right of ingress and egress; the right to operate, maintain, repair, replace and modify the walk, sanitary sewer and water main facilities and improvements (the "Facilities"); and the right to perform all work incidental thereto in the parcel (the "Easement Area") described in attached Exhibit A and depicted on attached Exhibit B, C & D.

WITNESSETH:

WHEREAS, in accordance with City Engineering Division Project No. 53B2040) and Private Contract No. 2040 (the Contract) by and between the Owner and the City, the Owner has constructed the Public Walk, Public Sanitary Sewer and Public Water Main Facilities within the Easement Area, which are located on the Owner's Property; and

WHEREAS, as required by the Contract, the Owner desires to grant, and the City desires to accept, an easement for walk, sanitary sewer and water main purposes in the Easement Area.

NOW, THEREFORE, the Owner hereby grants to and for the benefit of the City a perpetual Easement for a Public Walk, a Public Sanitary Sewer and a Public Water Main ("Easement").

This Easement is subject to the following terms and conditions

- 1) Construction. The work of initial construction of the Facilities has been performed by the Owner in accordance with the terms of the Contract.
- 2) Restrictions on Use.
 - a) No above-ground improvements shall be located in the Easement Areas by either party, with the exception that grates, sewer access structure (SAS) covers, and other access points to the Facilities shall be permitted at grade level and that pavement and/or concrete for driveway purposes will also be permitted.
 - b) There shall be no grade change to the Easement Areas by the Owner without the prior written approval of the City of Madison Water Utility and City of Madison Engineering Division.
 - c) All areas affected by any work performed by the City will be promptly restored to original grade and vegetation or surface condition, including repair or replacement of pavement and concrete, by and at the expense of the City after completion of said work (or as soon thereafter as weather reasonably permits) and in a manner satisfactory to the Owner.
- 3) Reservation of Use by Owner. The Owner reserves the right to use and occupy the Easement Areas in a manner consistent with the rights herein conveyed, provided that such use and occupancy shall not interfere with or disturb the operation, maintenance, repair, replacement and/or modification of the Facilities.
- 4) Landscaping by Owners. Plantings and landscaping within the Easement Areas shall not obstruct routine maintenance by the City. In the event of repair or reconstruction, plantings and landscaping may be removed by the City without replacement or compensation to the Owner.
- 5) Compliance. The Owner and the City shall comply with all applicable laws, including, but not limited to, any laws, standards, regulations, or permit requirements relating to environmental pollution or contamination or to occupational health and safety.
- 6) Notices. All notices to be given under the terms of this Easement shall be signed by the person sending the same, and shall be sent by certified mail, return receipt requested and postage prepaid, to the address of the parties specified below.



DANE COUNTY
REGISTER OF DEEDS
DOCUMENT #
4862096
06/03/2005 01:44:25PM

Trans. Fee:
Exempt #:
Rec. Fee: 29.00
Pages: 10

002241

THIS SPACE RESERVED FOR RECORDING DATA

Return to: City of Madison
CEDU - Real Estate Section
P.O. Box 2983
Madison, WI 53701-2983

Tax Parcel Nos.: 251-0708-343-0717-0

10/29

002242

For the City: City of Madison Engineering Division
Attention: City Engineer
210 Martin Luther King Jr. Blvd., Room 115
Madison, WI 53703

For the Owner: Jeffrey J. Haen
Hawks Condominiums Corp.
322 Junction Road
Madison, WI 53717

Any party hereto may, by giving five (5) days written notice to the other party in the manner herein stated, designate any other address in substitution of the address shown above to which notices shall be given.

- 7) Amendment. This Easement may not be amended, modified, terminated, or released without the written consent of all the parties hereto, or their respective successors-in-interest.
- 8) Binding Effect. The rights and easement granted herein shall be deemed to be covenants running with the land and shall inure to the benefit of and shall be binding upon the parties hereto and their respective successors and assigns.
- 9) Applicable Law. This Easement shall be construed in accordance with the laws of the State of Wisconsin.
- 10) Severability. If any term or provision of this Easement is held to be invalid or unenforceable by a court of competent jurisdiction, then such holding shall not affect any of the remaining terms and provisions of this Easement and the same shall continue to be effective to the fullest extent permitted by law.
- 11) Public Record. This Easement will be recorded at the office of the Dane County Register of Deeds.

Dated this 2nd day of June, 2005.

Hawks Condominiums Corp.

By: Jeffrey J. Haen (Title)

State of Wisconsin)
) ss.
County of Dane)

Personally came before me this 2nd day of June, 2005, the above named **Jeffrey J. Haen, of Hawks Condominiums Corp.**, known to me to be the person who executed the above and foregoing instrument and acknowledged that they executed the foregoing instrument as such officer as the deed of such corporation, by its authority.

Jill M. Schuman
Notary Public, State of Wisconsin
My Commission: July 3, 2007

Jill M. Schuman

Acceptance of the Public Walk, Public Sanitary Sewer and Water Main Easement is authorized by Resolution No. 05-00490, ID No. 01136, adopted May 17, 2005.

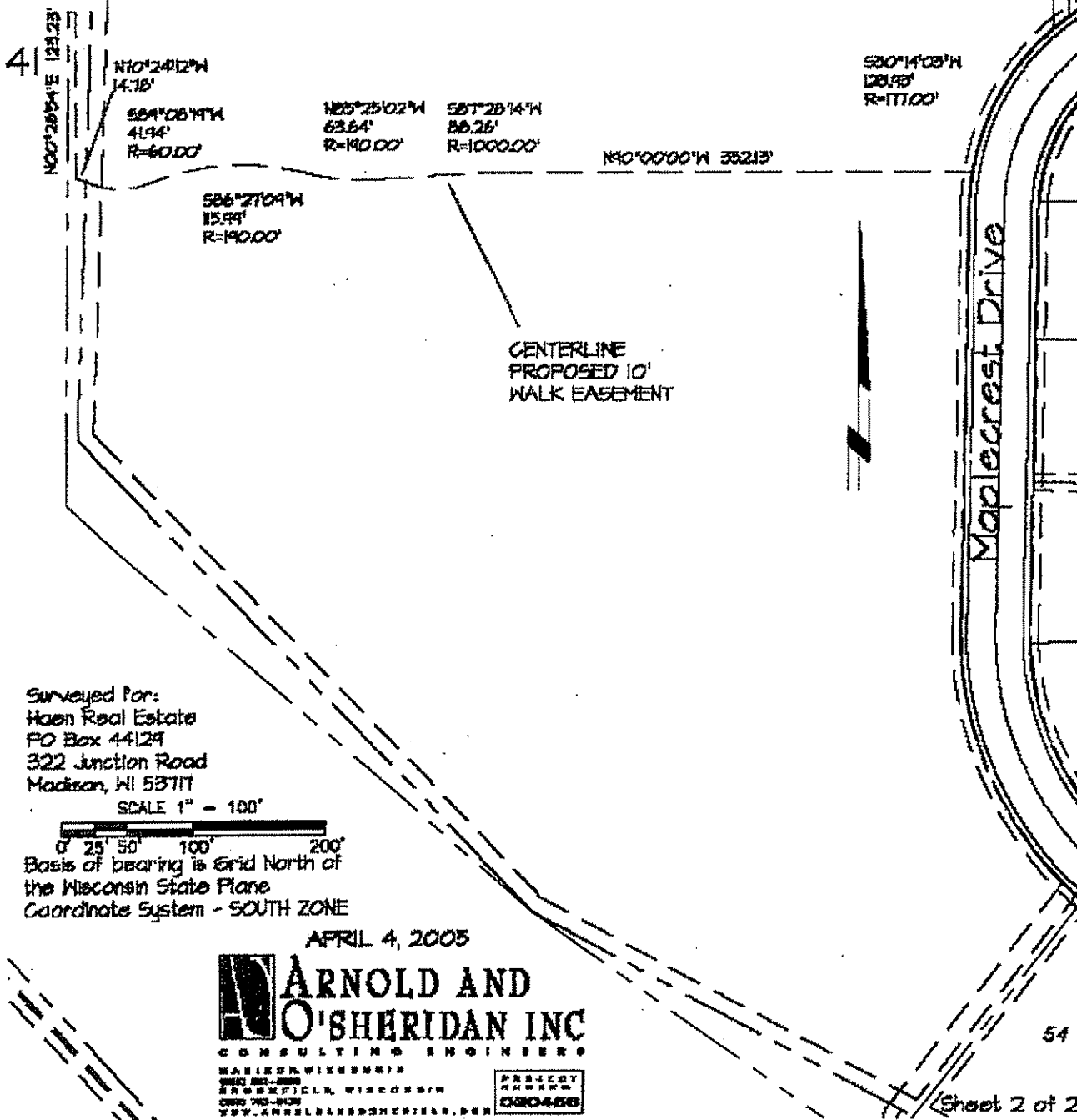
Drafted by the City of Madison Real Estate Section.

Project No. 8176
Engineering Division Project No. 53B2040



MAP OF DESCRIPTION
PUBLIC WALK EASEMENT

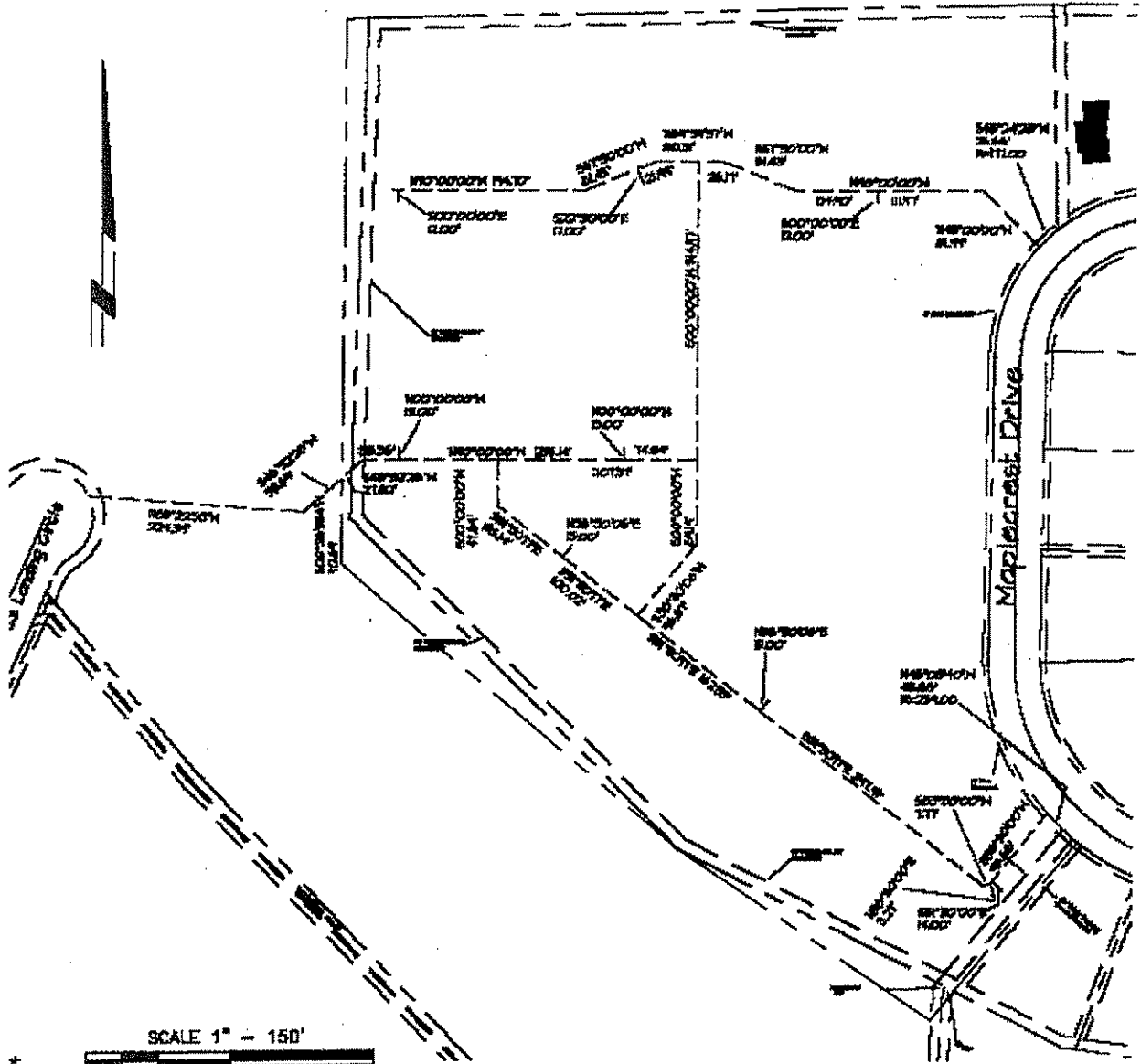
53



Viewers are advised to ignore the
illegible text on this map. It is present

4

MAP OF DESCRIPTION WATER MAIN EASEMENT



Basis of bearing is Grid North of
the Wisconsin State Plane
Coordinate System - SOUTH ZONE

April 22, 2005

Surveyed for:
Haen Real Estate
PO Box 44124
322 Junction Road
Madison, WI 53717

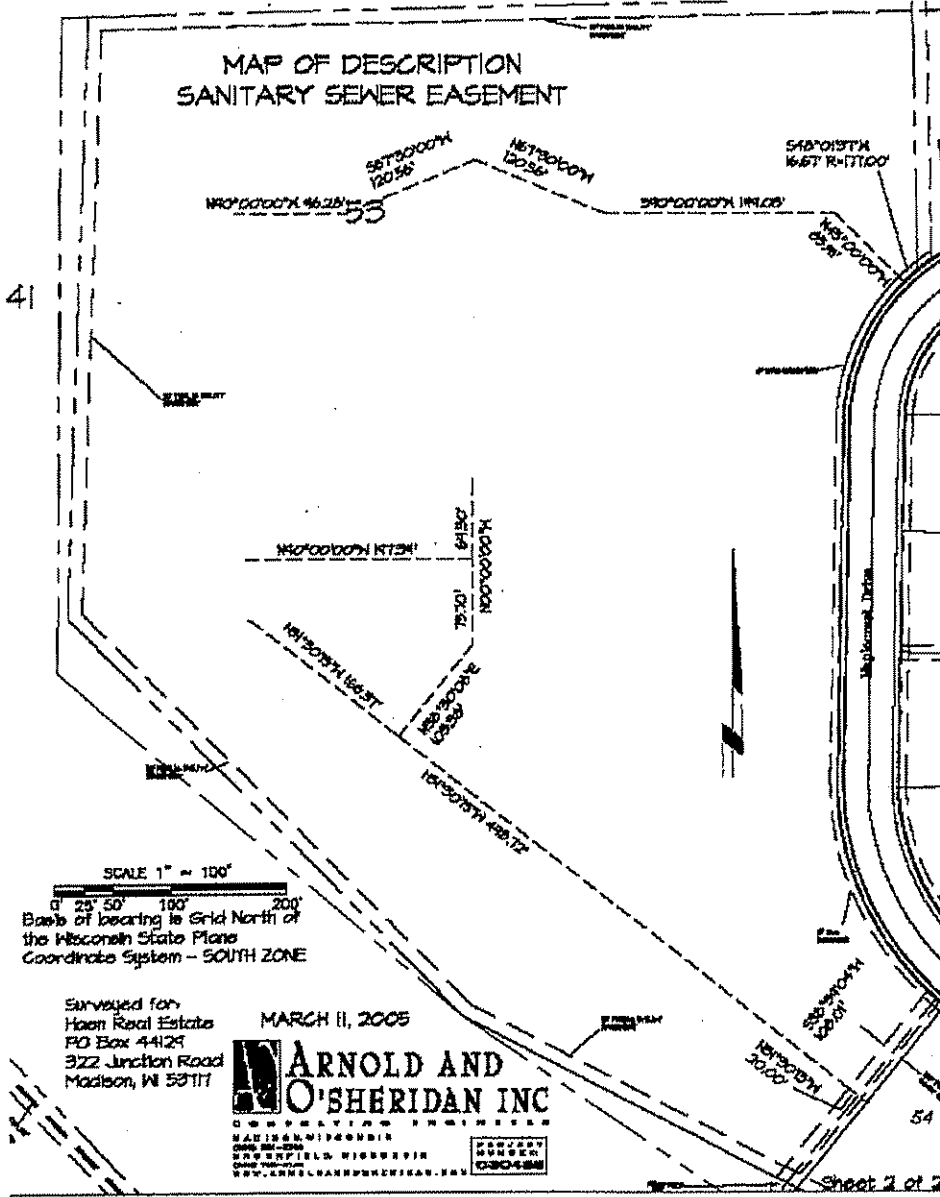
**ARNOLD AND
O'SHERIDAN INC**
CONSULTING ENGINEERS
STATE OF WISCONSIN
PROJ. NO. 050400
BRUSHFIELD, WISCONSIN
WWW.ARNOLDAANDOSHERIDAN.COM

SHEET 4 OF 4

Viewers are advised to ignore the
illegible text on this map. It is presented
to show spatial relationships only.

EXHIBIT B-1
 PUBLIC SANITARY SEWER EASEMENT
 HAWKS LANDING GOLF CLUB CONDOMINIUM DEVELOPMENT

002248



SCALE 1" = 100'
 0' 25' 50' 100' 200'
 Basis of bearing is Grid North of
 the Wisconsin State Plane
 Coordinate System - SOUTH ZONE

Surveyed for
 Haan Real Estate
 PO Box 44124
 322 Junction Road
 Madison, WI 53717

MARCH 11, 2005

ARNOLD AND O'SHERIDAN INC
 SURVEYING ENGINEERS
 MADISON, WISCONSIN
 608.261.2244
 2200 SUNFIELD HIGHWAY
 MADISON, WISCONSIN 53717
 WWW.ARNOLDANDOSHERIDAN.COM

Sheet 2 of 2

Viewers are advised to ignore the illegible text on this map. It is presented to show spatial relationships only.
 Authorized by:
attest

