

Executive Summary & Board Presentation

Kensington Path Ad-hoc Committee Findings for the January 12th, 2012 KPPCSD Board Meeting

Presenters : Chris Schelling (Path Committee Member)
Tony Lloyd (Committee Chair & KPPCSD Director)
John Gioia (Contract Costa County District 1 Supervisor)
Kensington Path Committee Members – (Nesbitt, Gillfilan,
Barraza, Martin, Kaiser, & Harman)

Agenda

- **Committee Charter**
- **Key Acquisition Questions**
 1. Acquisition of the Paths
 2. Path Maintenance
 3. Construction (on or of) the Paths
 4. Liability and Risk of Acquisition
 5. Neighboring Property Owners
 6. Financial (Grants)
- **Conclusions**

Committee Charter

- **“To determine whether it is legally and economically sustainable, reasonable and feasible for the District to exert any form of ownership and control over the existing Kensington paths.”**
- **Additionally, the Board has expressed its support of efforts to:**
 - i) legally establish title to the paths with the County of Contra Costa and/or such other agency as may be legally empowered and economically able to retain ownership, dominion and control over them;
 - ii) to legally work to restore all of the paths and bring them into compliance with the legal requirements of Contra Costa County regarding their construction and renovation, taking into account the legitimate concerns of adjacent land owners and any other stakeholders for protection of their property during such renovation and future use;
 - and iii) to support the legal efforts of KIC to establish a sustainable source of future funding to augment any sums that are available from the County for such maintenance, repair and improvement as will find public support in Kensington.

Key Acquisition Questions

1. Acquisition of the Paths

1. Regarding the legality of acquiring the paths, included in the findings matrix section is are comments from Hansen Bridgett the Board's outside counsel.
 - It appears that there is a way to acquire the land from the County, and it is the recommendation of this committee that the Board enter into discussions with their counsel to determine what is required to achieve these goals.

Key Acquisition Questions

1. Acquisition of the Paths (cont.)

- Regarding the economic feasibility of acquiring the paths, there are multiple acquisition strategies that can be considered, any of should may meet the needs of the Board, the County and the Community.
 - Option 1 (Committee Choice): Acquire All Paths
 - This scenario provides that the Board seeks to acquire all paths, so that ownership is transferred free and clear to the KPPCSD.
 - Pros: Access to grant money to fund acquisition, maintenance and/or construction;
 - Cons: Costs (TBD), Liability (TBD)
 - Option 2: Endorse Paths
 - This scenario provides that the Board do nothing, so that ownership remains outside the KPPCSD.
 - Pros: Status Quo (no costs, liability);
 - Cons: No access to grant money
 - Option 3: Acquire Individual Paths
 - This scenario provides that the Board seeks to acquire individual paths, so that ownership is transferred to the KPPCSD on a segment-by-segment basis.
 - Pros: liabilities/costs can be managed as funds become available – serves as template for future acquisitions;
 - Cons: grant money available only to paths where ownership is free and clear, costs to acquire may be substantially higher (i.e. lawyer fees, etc).

Key Acquisition Questions

2. Path Maintenance

- **Assuming that all the paths are acquired and transferred free and clear to the KPPCSD, the committee agrees that there are two options regarding costs associated with the maintenance of all paths.**
 - **Option 1: All Volunteer Services**
 - **If volunteers (i.e. KIC) agree to perform annual maintenance on all paths, costs should not exceed \$1,000 per year.**
 - **Option 2: All Professional Services**
 - **If the KPPCSD determines that professional maintenance is required on all paths, then the existing contract with services rendered in the parks should be amended, and should not exceed \$5,000 per year.**
- **In addition to maintenance fees, a Reserve Fund is recommended to account for any non-standard maintenance costs that may occur unexpectedly (i.e. a downed tree). The committee suggests that this fund include both a seed amount (i.e. \$5,000) and an annual accrual amount (i.e. \$100 per path, per year)**

Key Acquisition Questions

3. Construction (on or of) the Paths

- **The committee completed a thorough evaluation of all paths currently in the Kensington system. A matrix of each path with details is included in the Appendix provided.**
- **Given the various conditions – ranging from very good to impassable – the committee recommends segmenting the paths into three categories based on condition and costs:**
 - Paths Requiring Little / No Construction:
 - Path #s: 1, 3, 4a, 4b, 6b, 6c, 6d, 8, 9
 - Paths Requiring Repair:
 - Path #s: 2, 5, 6a
 - Paths with Major Capital Requirements
 - Path #s: 7, 10
 - These paths will require significant funding sources

Key Acquisition Questions

4. Liability and Risk of Acquisition

- **The committee had multiple discussions regarding potential liability associated with ownership of the paths.**
 - While risk liability authority and management is principally the responsibility of KPPCSD Board and its professional advisory resources, California Government code 830. through 831.9 does provide some litigation protection and immunities from prosecution under certain criteria and conditions.
- **According to neighboring communities (i.e. Berkeley, El Cerrito), insurance claims on the paths over the past 10 years have been negligible.**
- **When the committee reached out to the District's Insurance Company, they provided feedback consistent with that which we received from Berkeley, et al – that costs would likely be negligible and that the District's deductible would not likely change (this information was not formal, and therefore, it is the Board's imperative to verify this information).**

Key Acquisition Questions

5. Neighboring Property Owners

- **The committee also had many discussions regarding the rights of the neighboring property owners over the path governance.**
- **The committee finds that the Service District needs to discuss their views and understanding as to the property owner's rights to influence path acquisition board decisions.**
- **It is suggested that participating with the community in a "town hall" on the topic, may be an option of serious consideration for the board.**
- **The committee finds that this is particularly true where financial support of the path acquisition and ownership may require voter approved financing.**

Key Acquisition Questions

6. Financial Support (Grants)

- **A list of potential sources for grant money to fund development activities on the paths is included in the “findings” attachment to this document.**
- **A good example of how a community should apply for, and is awarded, grant money to fund construction and maintenance of paths is Mill Valley’s Steps, Lanes and Paths Program.**

Conclusions

- **In conclusion, the committee believes there are a number of options that need to be considered and properly evaluated to determine the best path forward in the interest of the community.**
- **It is our hope that we have provided the Board a solid foundation on which to continue building a case to acquire the paths, and have outlined the key considerations regarding the feasibility and sustainability of a viable path system for Kensington.**

Next Steps For Board Consideration

- **KPPCSD Board deliberation on findings presentation and reach a decision.**
- **Determine the value of holding community town hall on the subject.**
- **If ownership transfer approved by board identify an implementation team and resources.**
- **Address governance issues of asset management going forward.**
- **Present a “Straw” time line.**

Kensington Ad-Hoc Path Committee Ownership Findings Matrix

As of January 6, 2012

Index Number	Project Critical Success Factor	Committee Finds a/o 9/1/11	Committee Final Findings (Consensus) ¹	Action Required
1	<p>What charter changes, if any, are required for the KPPCSD to acquire additional land? The district has broad authority.</p>	<p><i>Government Code §61060 A district shall have and may exercise all rights and powers... ..(d) To acquire any real or personal property within or outside the district, by contract or otherwise, to hold, manage, occupy, dispose of, convey, and encumber the property, and to create a leasehold interest in the property for the benefit of the district....</i></p>	<p>On 6/1/11 Hanson Bridgett (CSD Council) provided a legal opinion to question # 1, in which they indicate “while it is not prohibited from the district to acquire the path real estate” the district may be open to legal challenge if they do not seek a modification of their authority to do so. That ownership of the paths in their opinion does not specifically come under parks and recreation as defined in the district charter. The process to modify that charter would be to receive authority to do so from LAFCO.</p>	<p>Secure LAFCO consent prior to public comment phase to remove any remaining potential restraints.</p>
2	<p>What uses can KPPCSD acquired land be put to?</p>	<p>The KPPCSD has the same powers as other parks agencies such as the EBRPD:</p> <p><i>Government Code §61060 ... (e) Acquire, construct, improve, maintain, and operate recreation facilities, including, but not limited to, parks and open space, in the same manner as a recreation and park district formed pursuant to the Recreation</i></p>	<p>Adopt committee findings as presented.</p>	<p>Present to KPPCSD board for final decision.</p>

¹ The committee goal was to achieve consensus on each critical success factor wherever possible.

		<p><i>and Park District Law, Chapter 4.</i></p> <p><i>Recreation Code §5780.1</i> <i>"Recreation" means any voluntary activity which contributes to the education, entertainment, or cultural, mental, moral, or physical development of the Individual, group, or community that attends, observes, or participates.</i></p>		
3	<p>What rules can KPPCSD set for use of acquired land?</p>	<p><i>Recreation Code § 5786.1 (j) To adopt and enforce rules and regulations for the administration, operation, use, and maintenance of the recreation facilities, programs, and services listed...</i></p> <p>Such power includes the ability to close the paths, a power the district presently does not hold.</p>	<p>Committee recommends that the board adopt guidelines provided in the recreation code.</p>	<p>Present to KPPCSD board for final decision.</p>
4	<p>How would KPPCSD's insurance rates change with acquisition of path parcels?</p>	<p>The final answer to that question will become clear when a decision is made to determine what land will be entered into the inventory. The district is insured by SDRMA which has issued a statement estimating the cost to be very minimal if any increase is merited at all.</p> <p>Wendy Tucker is the SDRMA Representative, feels SDRMA will not insure the paths if CSD does not own them.</p> <p>Indicates that adding the new parcels as paths would not have an effect on our liability cost of existing CSD recreation space.</p>	<p>The Board should use this statement by SDRMA as a guideline for potential insurance cost impact. They will need to acknowledge that there will be a need to identify what future increases the district might expect due to general rising cost and or claims against the property.</p>	<p>Present to KPPCSD board for final decision.</p>

5	What taxes would apply?	The path land is presently not taxed at all. If the district acquires ownership, our best information is that the tax on assessed value would not apply. Certain minor parcel taxes, such as the Landscape & Lighting district may apply.	It was agreed that the authority here is the tax assessor and that it is still necessary to understand what events could trigger a re-assessment. Also whether a transfer of property to KPPCSD would result in a larger tax assessment.	Tony Lloyd continuing to research with assistance from County. Sent question to Kate Rauch for resource contact information on 1/2/12. Ms. Rauch is assisting in providing the county resources to address questions in this area.
6	What might it cost to complete acquisition?	We believe the minimum cost approach is for the County to deed the land over to the service district using County powers. The County has indicated a willingness to work with the KPPCSD on the transfer. It is difficult for the sub-committee to estimate exact acquisition costs as the amount of legal staff time required will vary depending on the exact nature of the transfer. ^{2 3}	See financial impact Appendix # 1 to this document.	The cost of acquisition and ownership from a board financial budgetary perspective can be found in budget attachment to this document. This committee has provided cost estimates based on its limited abilities. A complete economic business analysis by the district financial committee or other subject matter experts may still be warranted by the service district before arriving at its decision on this finding.
7.	What is community sentiment on the paths, and to what extent does it extend to shifting budget or increased assessment?	The Paths Sub-Committee suggests that a Town Hall meeting on the Topic of Kensington Paths be held to help formally gauge community support for owning and maintaining the paths.	Committee recommends adoption of the language as proposed.	The KPPCSD board of directors may want to consider additional community input prior to reaching its final decision. Included in this document to the best of our ability are the findings and recommendations of the committee views as well as those community members

² Legal cost of LAFCO intervention or position

³ As a separate issue, beyond the 10 studied paths there are a dozen additional designated path parcels in Kensington which dead end or are otherwise undevelopable.

				who attended meetings and offered their input.
8.	What conditions exist on the ground for each path?	See appendix # 2 & #3 matrix attached. Also misc. path photographs and review data in Attachment A	Committee recommends adopting the path condition findings described in the appendix.	Present to the KPPCSD board for final decision.
9.	What are the most significant known issues on the paths?	<p>Of the 10 primary pathways, 7 are in a condition that appears satisfactory to the public.⁴</p> <p>The paths with special conditions are:</p> <ul style="list-style-type: none"> ● Path #8 has two notable problems: a failed drainage pipe, and a tree which re-routes path users onto the private steps of #59 Kenyon. ● Path #7 has significant vegetation growth and has been partially fenced by a resident to form a dog run. The path right of way and neighboring properties are infested by bamboo, a plant which is difficult to remove, and can buckle or crack concrete. ● Path #10 is blocked by a fence, and has a steep drop off. This is estimated to be the most expensive path to develop. ● Inspection of Path # 6 has identified drainage pipe existence as a result of community maintenance effort on the paths. 	Committee recommends adopting the findings for item nine as presented.	Present to the KPPCSD board for final decision.
10.	Would any County or Federal requirements mandate a construction	No, the CSD could choose to hold the land in an unimproved state. The parks code only specifies the land be	Committee recommends adoption of the findings as stated.	Present to the KPPCSD board for final decision.

⁴ Paths 1,7,8,10 could benefit from installing steps. Specifically required for path# 8

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	project be undertaken on newly acquired land?	used for a "lawful purpose" Because the paths provide exclusive access only to private homes, no Fed access requirements apply. County public works has indicated that they would not require construction on the paths.		
11.	What laws or standards apply to construction of pathways?	With recreational trails the best practice is to provide a variety of challenge levels within a park system. Rough dirt trails, wooden steps, pavers and concrete steps are all legitimate and recognized trail types. The current range of trail types and improvements fit within the recognized types of recreational trails currently existing in Kensington.	Committee recommends adoption of the findings as presented.	Present to the KPPCSD board for final decision. The board will need to reply upon its legal counsel as acquisition efforts move forward to help insure path future construction and maintenance complies with statutory requirements.
12.	If the KPPCSD acquires a path parcel, what maintenance requirements apply?	There appears to be one single mandated requirement which is for the service district to be responsible for meeting the fire district vegetation maintenance requirements.	Committee recommends adopting findings language as proposed.	PRESENT TO THE KPPCSD Board for decision.
13.	How do neighboring governmental owners hold or treat paths?	<ul style="list-style-type: none"> • City of Oakland owns 450 paths. The city reconstructs paths that have become hazardous, but does not aggressively develop unimproved paths. • City of Berkeley owns 140 paths. The city essentially outsources path development to a volunteer group. That said the paths prominently feature in the City's pedestrian plan. <p>The city sends out AmeriCorps crews each summer for path work, and on</p>	Committee recommends acceptance of the findings language as presented.	Present to the KPPCSD board for final decision

		<p>occasion city crews help also. The city sponsors grant funding, and occasionally donates money to path development. The city master plan anticipates spending \$11,000 per year over the next 20 years to complete new construction on the path system. New paths are built with wooden stairs, with small concrete sections where the grade is steep.</p> <ul style="list-style-type: none"> ● City of El Cerrito has ignored their 40 or so paths. A volunteer group is engaging with the city on a change to that practice. ● Unincorporated East Richmond Heights has paths in the similar condition to those in Kensington. ● City of Albany maintains their paths with city funds. ● City of Mill Valley has a strong path program, integrated into public safety goals for recreation, transportation, and hillside evacuation. The City has applied for and won significant grants to construct first quality stairways. A volunteer group has worked hard on easement and land use issues. 		
14.	What unexpected costs have neighboring	A survey of public records Oakland, Berkeley, El Cerrito and Kensington	Committee recommends adopting findings language as	Present to the KPPCSD board for final decision

	governments incurred with paths?	revealed no significant path related liability events for any owning agency, and no records of significant crime events due to paths.	presented.	
15.	What funding sources may applicable to paths?	<p>1. East Bay Regional Parks District Measure WW: For 2011 the district was allocated approx. \$258,358 of which \$150K has been spent on the Kensington Park restroom from this source. Eligible categories are: * Acquisition (including Plans, Appraisal/Title/Escrow Fees, Legal Fees & Permits) * Renovation of recreational facilities</p> <p>2. Diablo Fire Safe Council Provides block grants of \$5000 to facilitate fuel hazard reduction. This is the only mentioned grant which will fund a project on non-public land.</p> <p>3. Safe Routes to School (SR2S) / Safe Routes to Transit (SR2T) These programs are meant to improve the safety of walking and cycling to school and transit, through identification of existing and new routes and construction of pedestrian and bicycle safety and traffic calming projects.</p> <p>4. Transportation Enhancement Program The Transportation Enhancement Program provides funds for the construction of projects, beyond the scope of typical</p>	All of the examples are legitimate sources of funding however not every grant applies to every path aspect or necessary improvement.	Present findings to KPPCSD Board for review.

	<p>transportation projects, which enhance the transportation system. Transportation Enhancement Projects may include landscaping, bicycle facilities and streetscape improvements.</p> <p>5. Regional Bicycle and Pedestrian Program (RBPP) The RBPP was created in 2003 as part of the long range Transportation 2030 Plan developed by the Bay Area Metropolitan Transportation Commission. The program — currently funded with Congestion Mitigation and Air Quality funds — funds regionally significant pedestrian and bicycle projects, and bicycle and pedestrian projects serving schools or transit.</p> <p>6. Transportation, Community and System Preservation Program The Transportation, Community and System Preservation (TCSP) Program provides federal funding for transit oriented development, traffic calming and other projects that improve the efficiency of the transportation system, reduce the impact on the environment, and provide efficient access to jobs, services and trade centers. The program is intended to provide communities with the resources to explore the integration of their transportation system with community preservation and environmental activities. TCSP Program funds require a 20% match.</p>		
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		<p>7. Recreational Trails Program The Recreational Trails Program provides funds to states to develop and maintain recreational trails and trail-related facilities for both non-motorized and motorized recreational trail uses. Examples of trail uses include hiking, bicycling, in-line skating, equestrian use and other non-motorized as well as motorized uses. Purchase and lease of trail construction and maintenance equipment; Construction of new trails including unpaved trails; Acquisition of easements or property for trails; State administrative costs related to this program; Operation of educational programs to promote safety...The district can also raise money through extensions of existing assessments or introduction of a new path related assessment. The majority of the funding sources are only available once the ownership is settled.</p> <p>8. Financial Sponsorship From K-Groups</p> <p>Solicit funds from various K-Groups interested in path sponsorship.</p> <p>9. KPPCSD Parks and Recreation Operating Budget</p> <p>10. Special Tax assessment or available funds from existing tax assessments.</p>		
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16.	If the KPPCSD Board decides not to adopt the paths, what are the likely results?	<ol style="list-style-type: none"> 1. Many sources of grant funding would continue to be unavailable to be applied to the upkeep and maintenance of the paths. 2. Without ownership of the paths their maintenance will continue to be an issue for some percent of the community. Lack of ownership will likely have a negative impact on maintenance funding. 	Committee recommends adoption of findings language.	Present findings to KPPCSD Board for review.
17.	What issues are not a consideration for KPPCSD decision?	Eight of the 10 paths are currently open and used for transit. Under the public easement law it is believed they cannot be closed and therefore the current liabilities are the responsibility of the current asset owner.	Requires further legal opinion to authenticate.	Because Kensington currently does not own the paths, the district's liability is limited or non-existent. With ownership the governances most likely fall under California Code 830 through 831.9 which speaks specifically to liability aspects of path ownership.
18.	A list of legal liabilities the district would be subject to if they take ownership of the paths?	KPPCSD legal comment.	<ol style="list-style-type: none"> 1. Legal costs to establish ownership rights; 2. Maintenance costs; 3. Liability for possible tort injuries; and 4. Potential property boundary disputes with residents adjacent to the paths. 	Present findings to KPPCSD Board for review. Source of comment is Hansen Bridgett.
19.	Has there been an investigation of all utility right of ways and presence of their assets on all of the paths?	While maps of the sewer and storm drainage facilities have been procured for the paths, utility ROW has not been ascertained. Underground utility ROW is normally well marked and static in their presence meaning they		Utility coterminous existence with the Kensington Paths is the most prevalent relationships to be concerned with.

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		<p>do not transport material that would structurally undermine the geography. The utilities will provide exact locations of buried underground transport should there be a requirement to excavate in that area. Also utility underground transport is in their own right of way and so path construction over these rights of way could be considered encroachment. In any case the utilities have committed to working with the community to identify the potential of disturbing any underground transport.</p>		<p>Telephone and electrical (which the most likely) to have ROW issues (both underground and aerial) are both very aware of the need to work with local municipalities to prevent service interruptions to their customer. Both PG&E, AT&T and other communications providers in the community have active programs to that allow for ROW coordination. EastBay Mud, Stege Sanitary , and the County has been equally committed to partner with Kensington where the paths are coterminous with their facilities and ROW. The board should consider seeking an MOU with the County that would outline responsibilities of each entity in the event of a transfer of ownership of these properties.</p>
20.	Financial considerations of path ownership?	<ol style="list-style-type: none"> 1. Acquisition <ol style="list-style-type: none"> a. Legal consultation fees b. Legal description c. Other Consultation fees d. Title transfer e. Taxes f. Insurance g. Code compliance h. Registration and permit 	<p>Note: budget estimates are based on best estimates and sourced examples. The ad-hoc committee has not performed any type of econometric financial analysis. The committee finds the inclusion of such detail beyond the scope of our charter and one which should be performed by</p>	<p>See budget appendix # 1</p>

		<ul style="list-style-type: none"> costs <ul style="list-style-type: none"> i. Survey cost j. Environmental cost k. Communications cost. l. Filing Fees 2. Capital expenditures <ul style="list-style-type: none"> a. Repair and construction b. Code compliance c. Transition overhead 3. Taxes and Insurance <ul style="list-style-type: none"> a. Property assessment b. SDRMA premiums 4. Operational cost <ul style="list-style-type: none"> a. Periodic inspection b. Public safety budget upward pressure c. Grounds maintenance d. Administrative and governance. 5. Reserve Funds 	<p>credentialed business advisor(s).</p>	
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Appendix

- 1. Path acquisition budget
- 2. Path map.
- 3. Path conditions assessment
- 4. KPPCSD charter documents.

Attachments

- KPPCSD Board Charter
- Stege sewer runs in Kensington.
- County drain locations relative to paths in Kensington
- KIC work party assessment of path construction requirements.
- Citizen petitions and community communications re the paths.
- Public Tort Liability in California

Path Study Budget Analysis

1. The cost to own and maintain the Kensington paths falls in three basic categories:
 - a. Acquisition – Those onetime costs associated with acquiring the paths.
 - b. Capital Expenditures – Those hard assets if any that have depreciation value i.e. Construction materials and for which long term amortization might be appropriate as well as funding i.e. bonds, warrants, etc.
 - c. Ongoing operational cost – annually expense able cost associated with maintain business operations.
2. How the Service District manages its budget responsibilities.

KPPCSD 2011 /2012 Line Item	Budget	Path Upward Pressure	Percent Increase
Police Salaries & Benefits	1,897,139	None	N/a
Police Expense	316,936	None	N/A
Recreation (Salaries & Benefits) Plus Expense	105,323	\$5,000	Recurring est. 2%
General District Expense	207,815	None	N/A
Capital Outlay	120,000	None	N/A
Total	2,647,213		

Critical communications on the budget aspect of the path ownership:

1. That all of the potential cost elements of the path ownership have been identified.
2. Determine from a budget perspective which ledger lines items those cost will impact.
3. Identify cost that can be potentially absorbed by alternate financing sources i.e. grants, donations, and sweat equity.
4. Identify those items most likely having operating budget impact.
5. Identify % of upward pressure on district operating budget

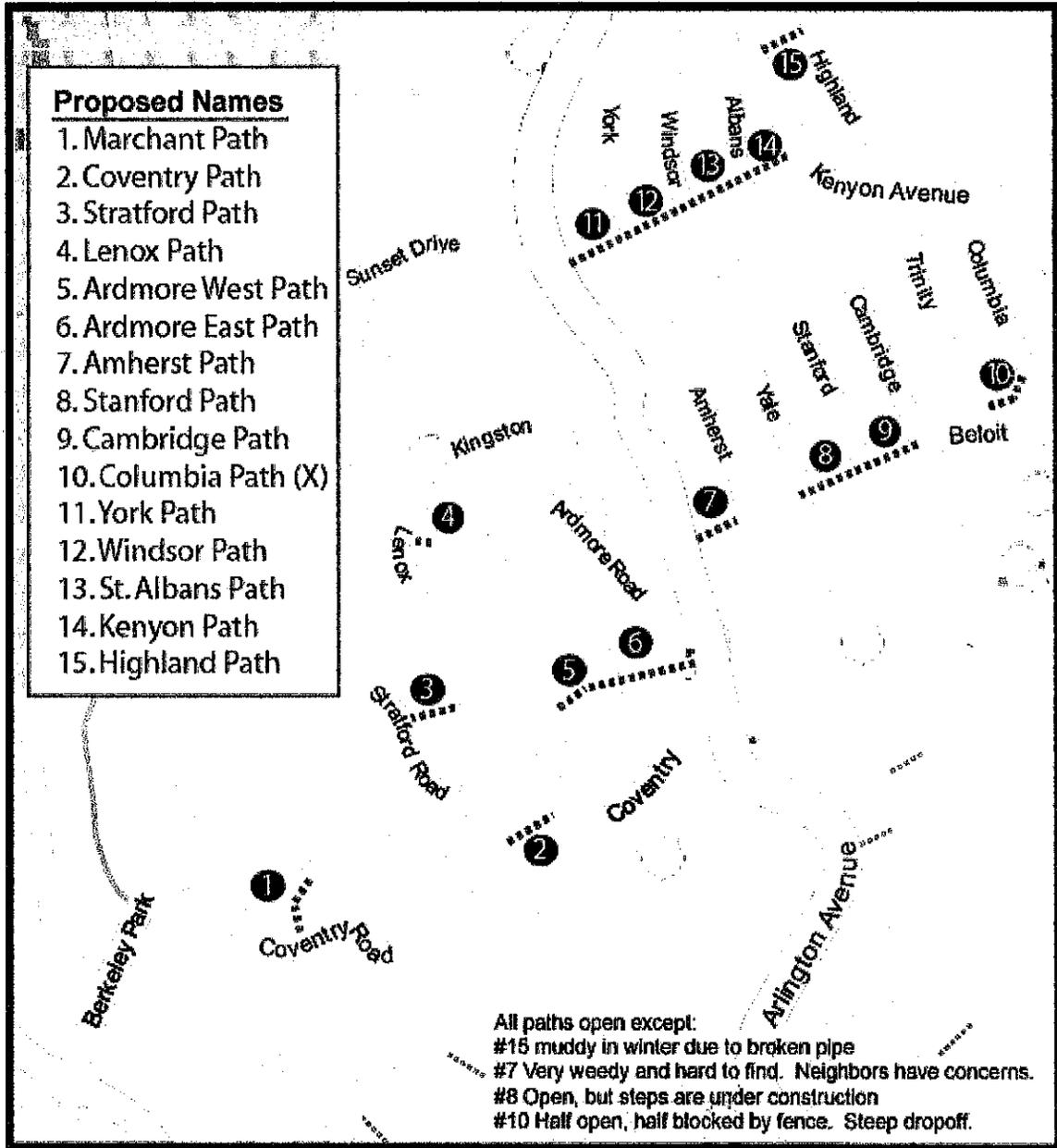
Assuming these assumptions are accurate then this paints an acceptable risk factor for the board to vote favorably for the path adoption from a budget point of view. Assuming buy-in to this methodology it is recommended that the Finance Committee work with the path committee to review our assumptions and cost assessments to vet the final numbers. "Consultancy doesn't have to be paid it just needs to represent "the advice of trusted advisors"

Appendix #2

path number	from to	signage	surface	stairs handrails	fences	apparent utilities	underground drainage	graffiti	width: parcel	width: unobstructed	width: surface	Possible encroachments	maintenance	issues
1	Marchant Coventry		grass, dirt, tree roots	1 RR tie at top. No handrails.	Low fences or building edges border path, lots of visibility.	Stege sewer. No drainage pipe.	no	clear	5'	5' but narrows to 3'3" at top.	N/A	Fence at Marchant end encroaches. Discharge pipe from apparent subdrain empties onto property (from back of 429 Coventry??)	Neighbors cut grass and keep path clear. According to 425 Coventry Realtor, former owner was a path fan and worked on it prior to his death.	Steep and unsurfaced. Wild Grass, mud & leaves could be hazardous under wet conditions (Reported 2011-Apr Ray Barazza). Land may be on tax roles.
2	Stratford Coventry	PUBLIC PATH #2	paved	4 steps, 9 steps. No handrails.	High fences with little visual contact to neighboring homes.	Stege sewer	no	clear	10'	7-9 feet (7' at stairs)	2'	none (other than bamboo escaping a yard and impacting stairs)	No apparent maintenance. Cleared spring 2011 by KIC.	Heavily cracked concrete.
3	Coventry Coventry	PUBLIC PATH #3	paved	14 steps. Upper section w/handrail.	Open fencing, with strong visual contact.	none	no	clear	10'	8-10'	5'	A plastic utility shed is placed immediately at edge of pavement.	Well cared for by adjacent owners. Bench supplied for users to sit on. Neighbor added handrail to upper steps.	Lower path leads directly into ditch. Many path users divert to nearby driveway.
4 a	Coventry Ardmore	ARDMORE PATH	paved	none	Strong visual connection to neighboring homes.	Stege Sewer, EBMUD, PG&E Overhead, PG&E Gas	no	clear	10'	10'	5'	Picket fence leans into ROW.	Neighbors keep path clear.	Cracked concrete especially near Stege manhole. Stege wrote a letter about this in the mid 1980's.
4 b	Ardmore Arlington	ARDMORE PATH	paved	Steep steps with a center handrail.	Fences generally seclude homes, but way is punctuated by multiple home entrances with visual connections to houses.	Stege Sewer, EBMUD, PG&E Overhead, PG&E Gas	no	History of tagging on concrete surfaces.	20'	20'	Dual 3'	none	Neighboring gardeners regularly trim back hedges. Site of KIC work party. Past evidence of major concrete repair.	Straddles Hayward fault trace.
5	Lenox Beverley	PUBLIC PATH #5	paved	8 steps, no handrails. Ramp provides alternative to steps.	No fence on one side. 6' wooden on the other.	Stege Sewer, EBMUD, Overhead PG&E, Others Probable. Overhead power and communication. USA marking for gas line.	no	clear	12'	Minimum clear between fences is 8'10".	6 feet	Front steps of both adjacent houses (9 and 15 Lenox) are built on this strip of land. Backyard fence of 15 Lenox encroaches about 3-1/2' at upper end of walk.	Appears well trimmed and maintained.	Probably built by original subdivider. Ramp bypasses the steps at the lower end. Walk is generally in good condition and usable in all weather. Needs handrails for the steps. About 12' of length needs repair/replacement due to cracking.
6 a	Arlington York	PUBLIC PATH #6, street name stamped in concrete.	paved	about 50 concrete steps, no handrails	wooden fences and some wire fences the entire length	Stege sewer. Storm drain.	no	on southern wood fence; quite a bit (long history of tagging)	10'	9-10'	4 feet	Neighbor's failed retaining wall may have caused some slippage. Some encroaching wire fence and greenery about 1/2 way down	Spotty community trimming. Volunteers replaced two missing concrete steps.	Several cracks; dirt cut-away (4x4). path in decent shape; overgrown in some areas; no handrails; crooked and chipped steps; poison oak clump.
6 b	York Windsor		dirt, wooden steps, mulch.	24 narrow steps, no handrails.	High wooden, wire mesh.	Probable sewer.	yes, confirmed	clear	10'	10 feet	6-9 feet wide. Steps 2 feet wide.	none	Steps installed by resident of 161 York. Dirt path maintained primarily by resident at 136 Windsor.	
6 c	Windsor St. Albans		dirt, trimmed grass.	none	Open, wire mesh.	Probable sewer.	no	clear	10'	10 feet	4-6 feet	"Joint use", stepping stones used as path to house and yard. Rock planter wall may encroach.	Wider at Windsor due to vegetation clearing by resident at 136 Windsor.	
6 d	St. Albans Kenyon	PUBLIC PATH #6	dirt, flagstones.	none	Open, wooden.	Probable sewer.	no	clear	10'	10 feet	2-6 feet	Pine tree planted very close to path at Kenyon Avenue. Rocks divide path into private and public halves, but private half encroaches.	Kept passable by neighbors, but just barely. June 2011 work party cleared it out.	Dirt gullies not easy to walk on when very wet. (Report 2011-Apr Gloria)
7	Arlington Amherst		overgrown	possible buried concrete stairs at Arlington (unverified)	Open, wire mesh	PG&E Overhead, 3 Inch PG&E gas, Communications (AT&T + Comcast). Stege manholes top & bottom but lines do not reach corridor.	no	none	10'			Trees planted in upper half, South West neighbor attempting to prevent public access, previously encroaching porch removed from South West half, flammable dead brush piled across Arlington entrance, trash cans placed across Arlington entrance	Landscaped as part of private yards on East/ upper half. In the middle large thicket of bamboo and Himalayan blackberry (some dead and flammable).	wood retaining wall built across Western (Arlington) entrance
8	Kenyon Highland		dirt	none	High walls on one side, low fences looking into homes on the other.	PG&E Overhead, Stege Sewer, 12" Drainage Pipe.	yes (failed)	none	10'	10 feet	n/a	Private gardening activity in several spots. Tree blocks lower path.	History of neighborhood antagonism, with some blocking and some clearing the path.	Tree was planted on path, diverting foot traffic up a private set of stairs at 59 Kenyon. Significant failed drainage pipe & washout pit.
9 a	Yale Stanford	PUBLIC PATH #9	steep dirt, wooden steps.	Lower: 50 steps no handrails. Upper: 43 steps no handrails	None, hedge, open wire mesh, hedge.	PG&E 3" Gas, AT&T Phone, Comcast Cable, Stege Sewer, EBMUD Water Lateral.	no	Marker graffiti on one step.	10'	10 feet	3 feet	Significant "joint use" of corridor: #245 Yale integrated path into their front yard and for access to back yard.	Neighboring gardeners trim corridor. Corridor is clear of weeds.	
9 b	Stanford Cambridge		Concrete steps, stepping stones, mulch.	Lower: 36 steps, no handrail, uneven cadence. Upper: 32 steps, handrail.	Building edge, high wooden, low wooden, open.	PG&E 3" Gas, AT&T Phone, Comcast Cable, Stege Sewer, EBMUD Water Lateral.	no	clear	10'	10 feet	2-4 feet	"Joint use", as path provides primary access to homes. 4' gate encroachment. One fence line encroaches by 2'. Trash cans and utility meter encroach.	Neighbors keep corridor clear, maintained. Motion sensor light.	Lower flight of steps were built poorly, and have not improved with age.
10	Trinity Columbia		overgrown	partial steps with wood timbers/ dirt path	6' high fences.	Stege Sewer.	no	clear	10'	10 feet / 0 feet	n/a	Upper half is used as private backyard entrance. Lower half is indistinguishable from adjoining property.	None.	Very steep, would require significant investment to open.

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Appendix #3



KENSINGTON POLICE PROTECTION AND COMMUNITY SERVICES DISTRICT

Kensington Police Protection and Community Services District

Resolution of the Board of Directors Regarding Community Paths

Resolution # 2011-04

WHEREAS, the Kensington Improvement Club (KIC) and other community volunteers have undertaken a significant volunteer effort to maintain and improve several pedestrian paths in the community of Kensington.

WHEREAS walking paths in Kensington serve as valuable community resources.

WHEREAS, the Board of Directors of the KPPCSD (the "Board") wishes to determine the correct legal ownership of these paths, and to establish a process for their maintenance, repair and improvement that complies with fundamental notions of legal due process and which is economically and financially sustainable.

NOW THEREFORE BE IT RESOLVED, that the Board do the following: (i) take appropriate steps as may be necessary, including but not limited to formation of an ad hoc committee of the Board and community volunteers to determine whether it is legally and economically sustainable and feasible for the District to exert any form of ownership and control over the paths; and (ii) ask the Real Property Division of the County of Contra Costa to notify the District and KIC should any private party or landowner file papers to vacate any County rights to all or part of any path.

BE IT FURTHER RESOLVED, that the Board hereby support the efforts of the KIC community volunteers and others in the community to do the following: (i) to legally establish title to the paths with the County of Contra Costa and/ or such other agency as may be legally empowered and economically able to retain ownership, dominion and control over them; (ii) to legally work to restore all of the paths and bring them into compliance with the legal requirements of Contra Costa County regarding their construction and renovation, taking into account the legitimate concerns of adjacent land owners and any other stakeholders for protection of their property during such renovation and future use ; and (iii) to support the legal efforts of KIC to establish a sustainable source of future funding to augment any sums that are available from the County for such maintenance, repair and improvement as will find public support in Kensington.

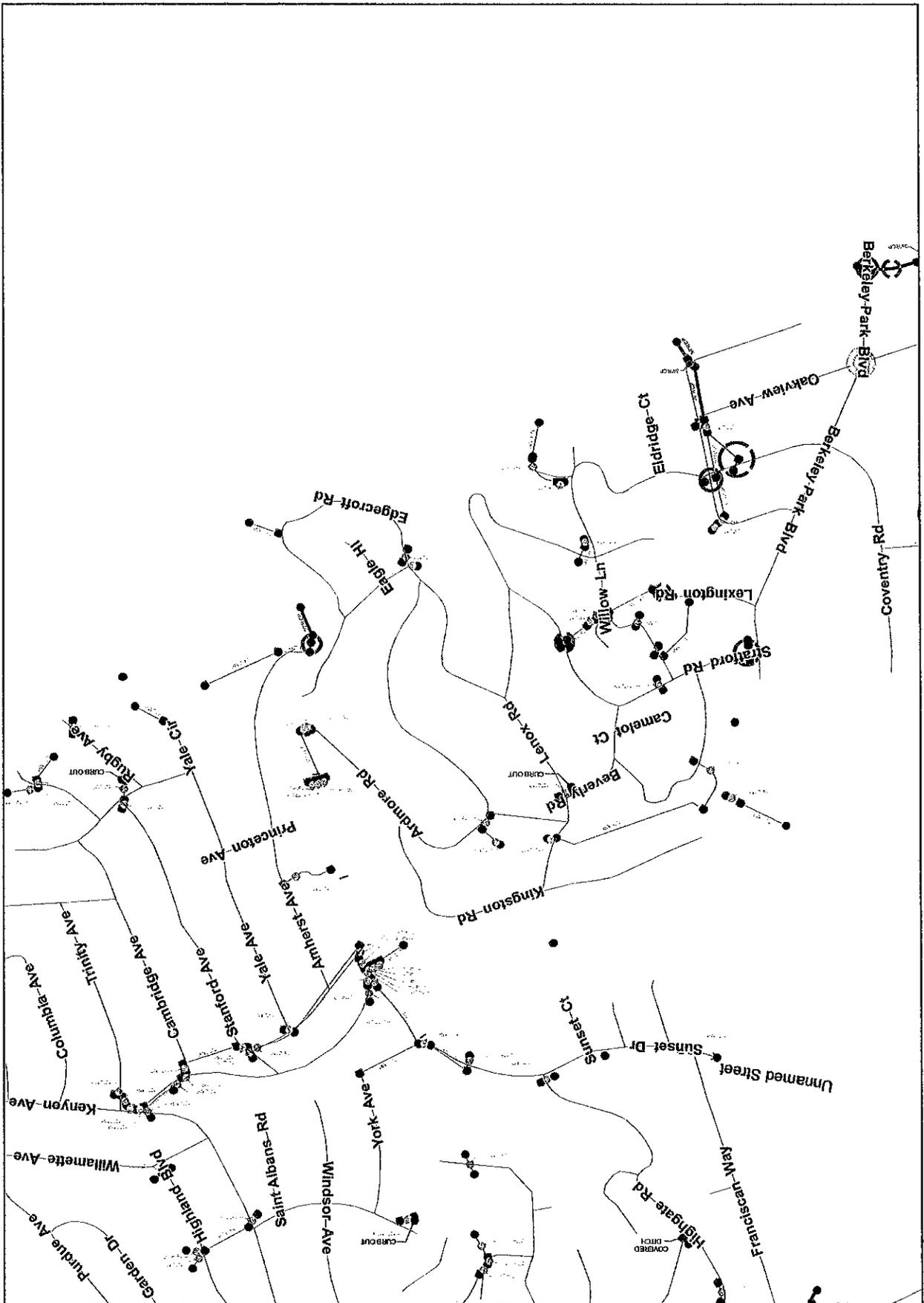
BE IT FURTHER RESOLVED, that the Board urges the County to cooperate with KIC in its efforts as outlined herein.

BE IT FURTHER RESOLVED, that this Board directs the general manager of the District to take such action as may be deemed necessary or proper to affect these resolutions.
KPPCSD Path Resolution 02022011

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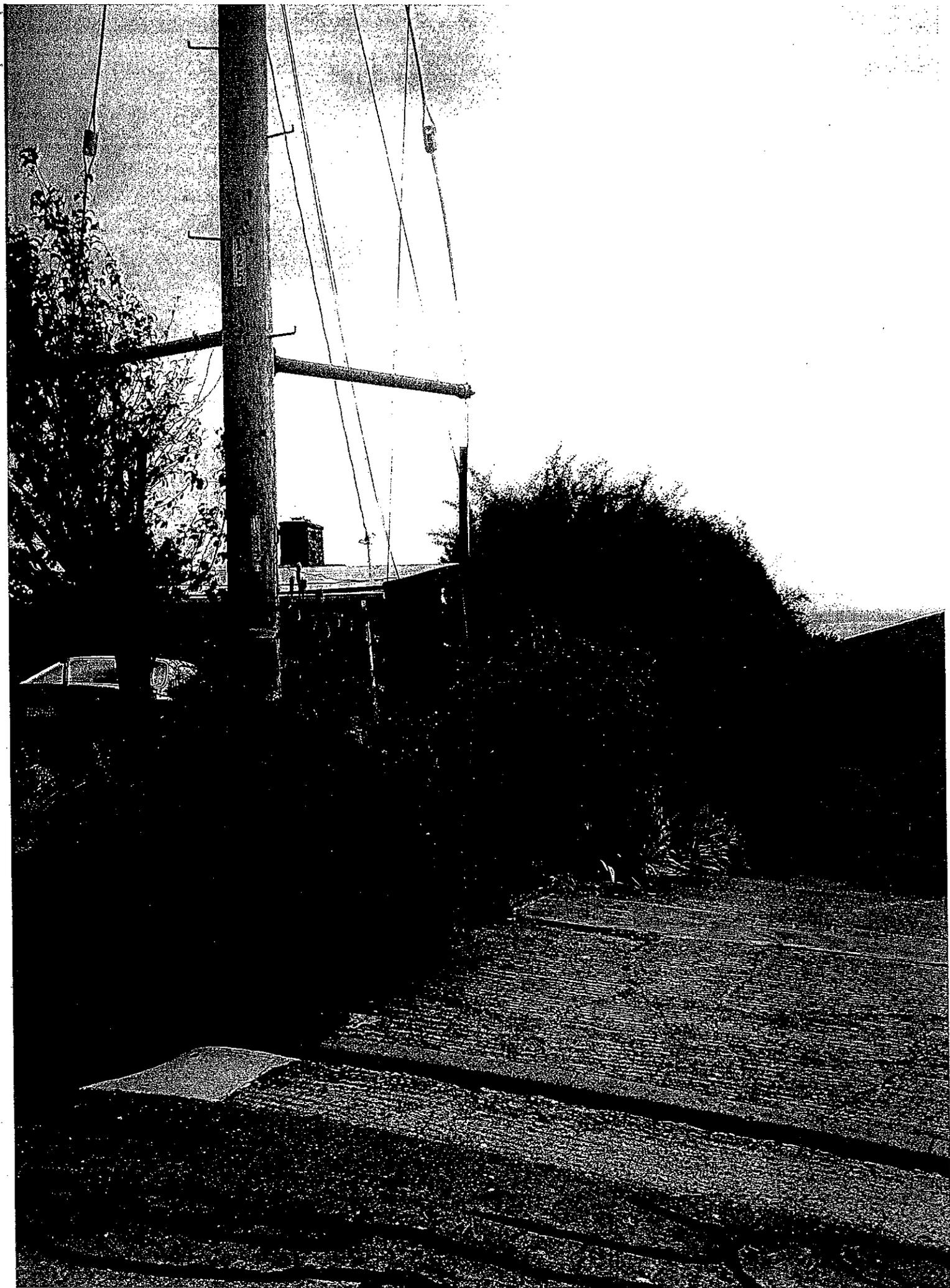
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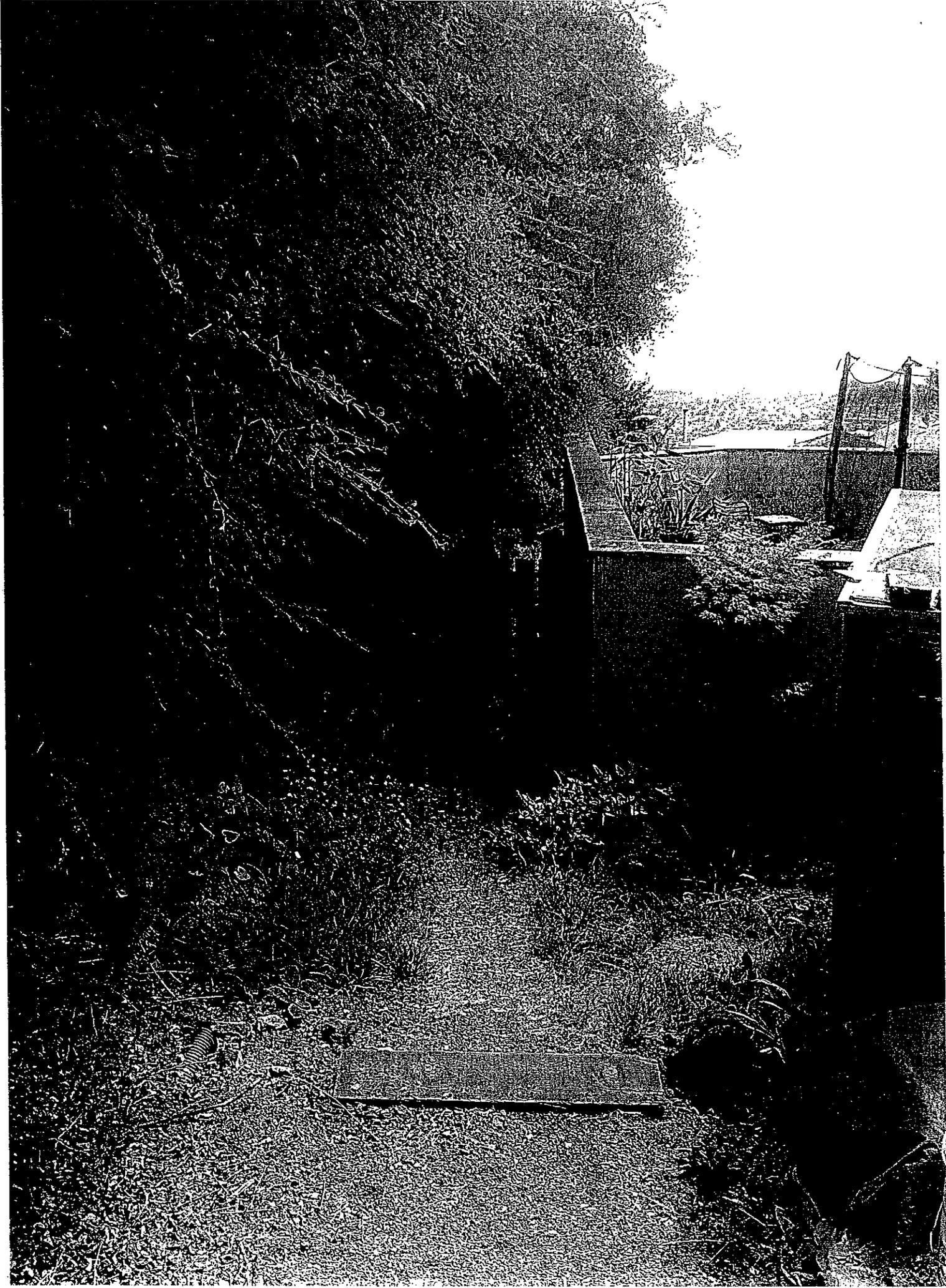


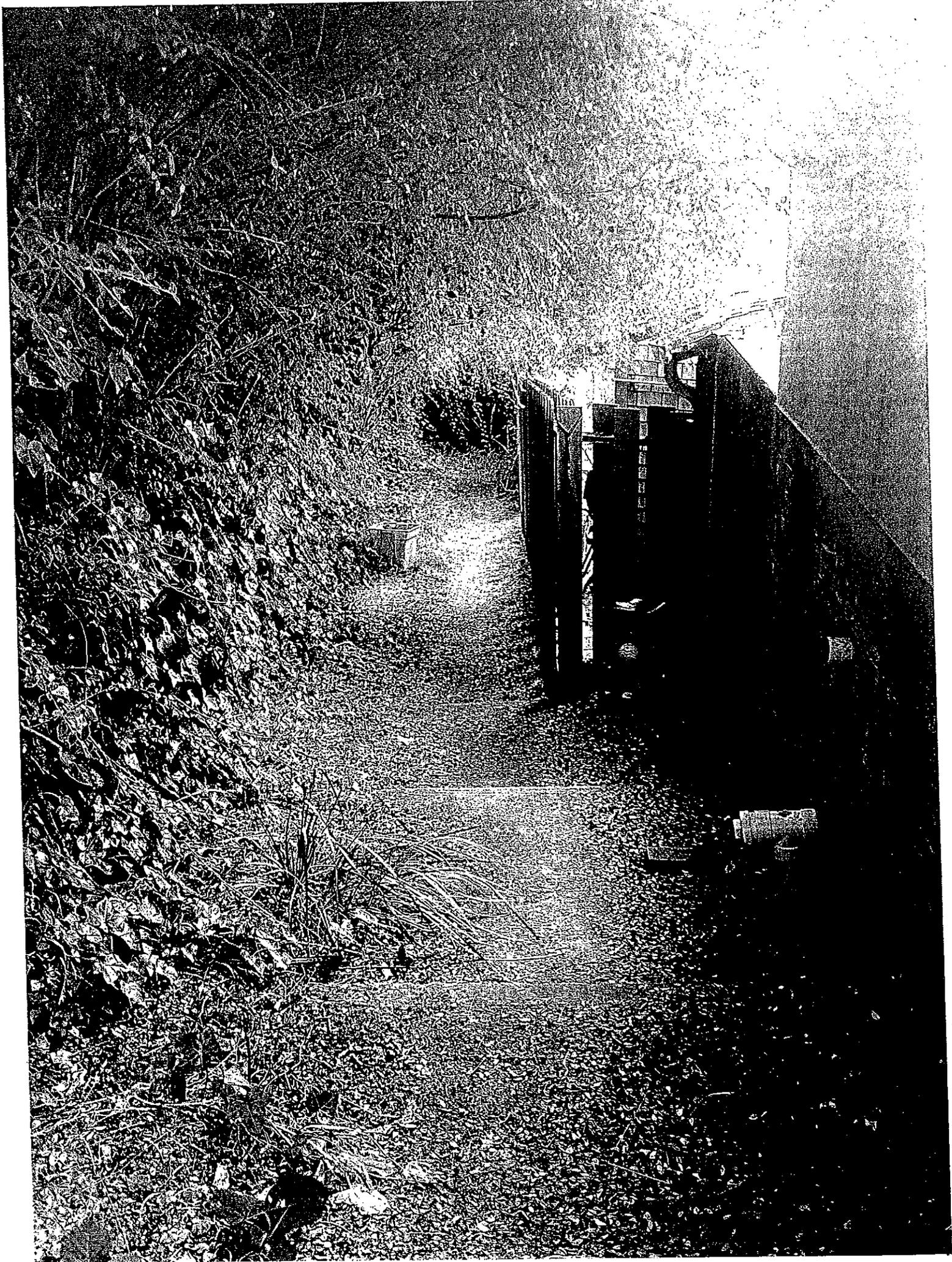


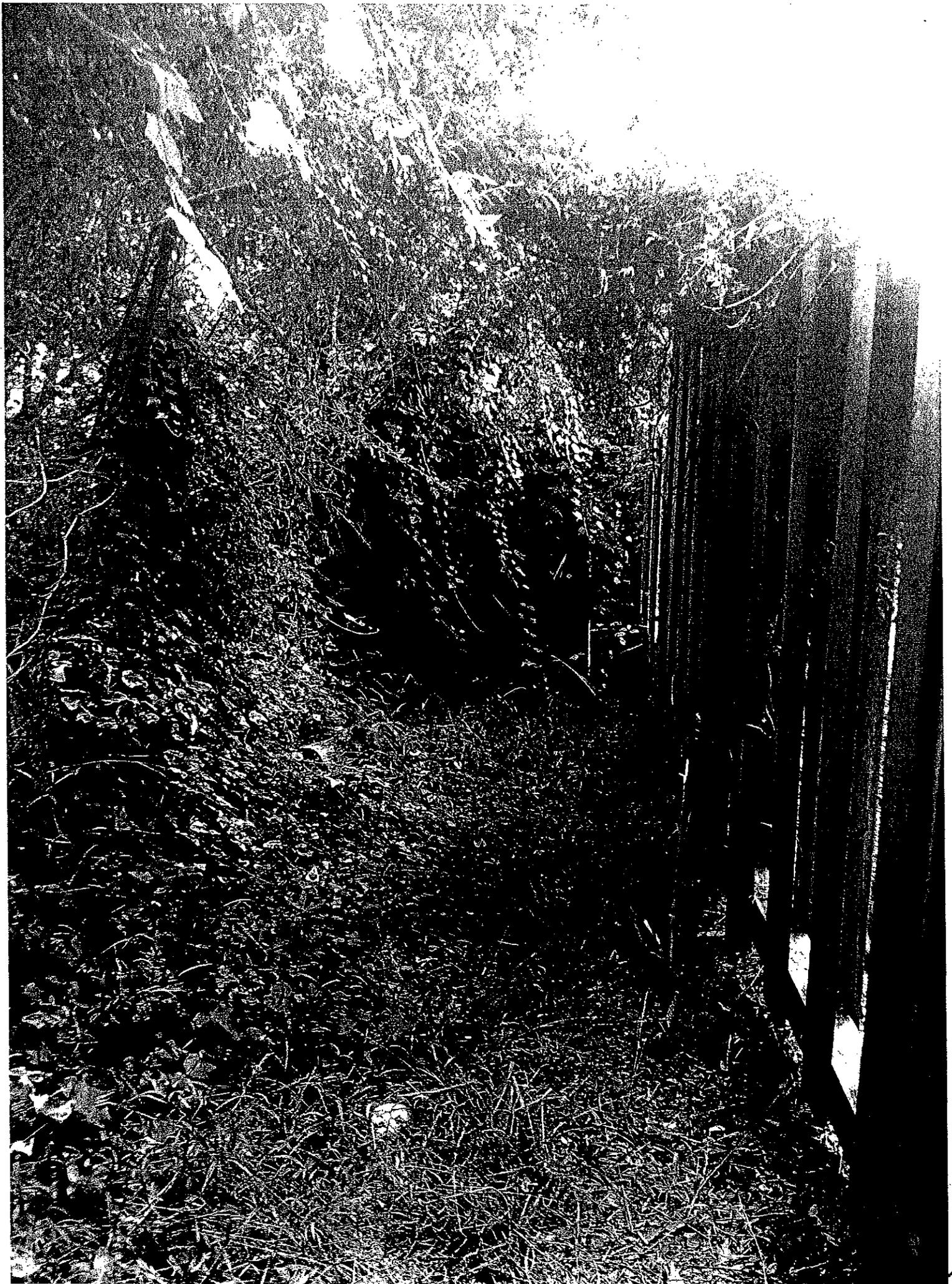




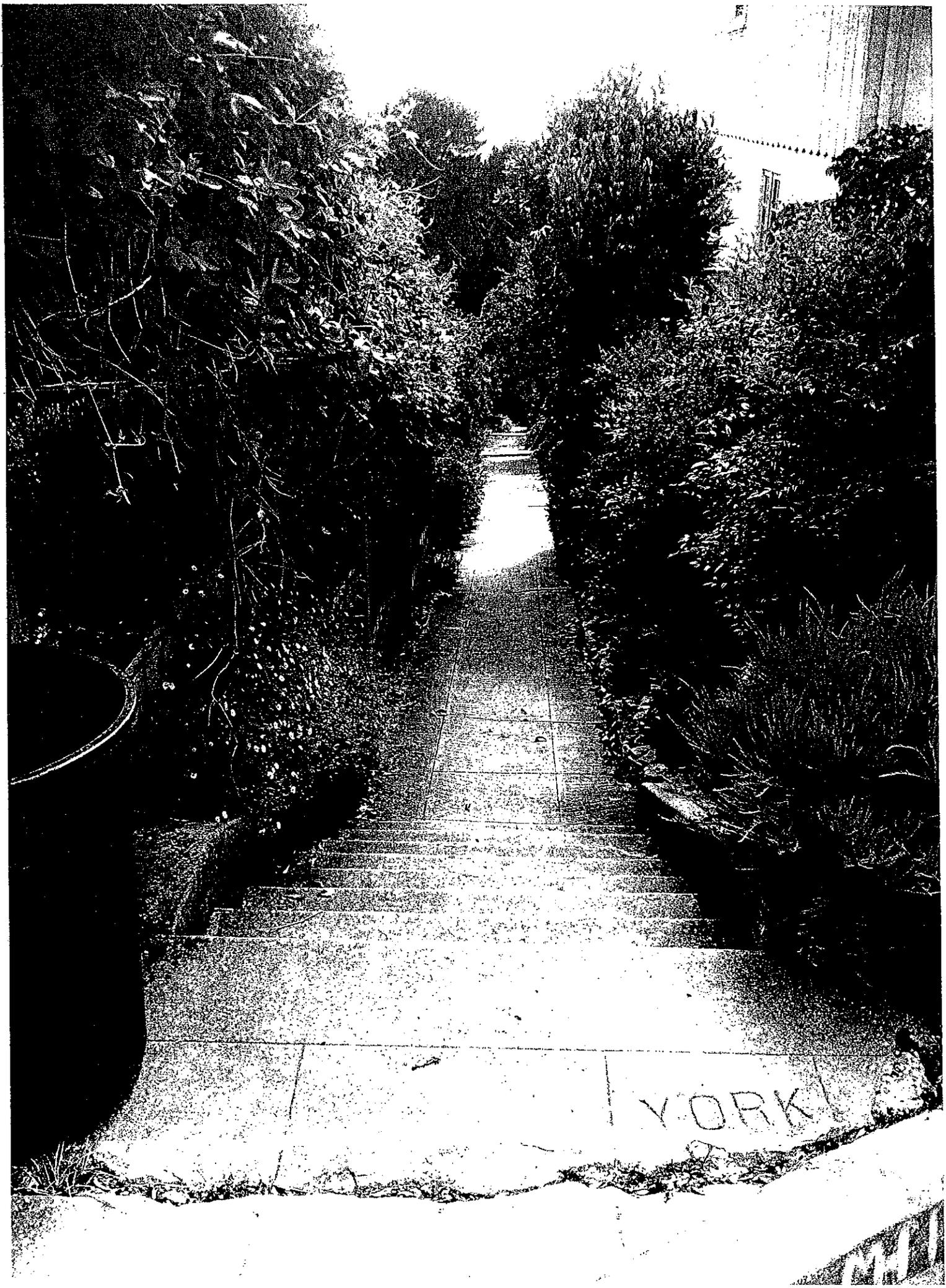












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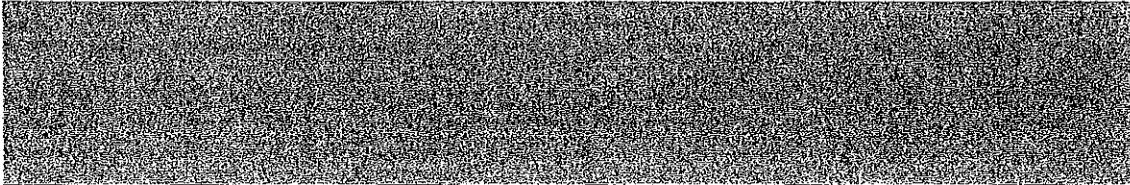


path number	segment letter	connections	signage	surface	stairs handrails
1		Marchant Coventry	none	grass, dirt	1 RR tie at top. No handrails.
2		Stratford Coventry	PUBLIC PATH #2	concrete	4 steps, 9 steps
3		Coventry Coventry Coventry	PUBLIC PATH #3	concrete	2 rails, 14 steps
4 a		Ardmore	ARDMORE PATH		
4 b		Ardmore Arlington	ARDMORE PATH		
5		Lenox Beverley	PUBLIC PATH #5	concrete	8 steps, no handrails. Ramp provides alternative to steps.
6 a		Arlington York	PUBLIC PATH #6	concrete with gap	many steps, no handrails.
6 b		York Windsor	none	Dirt, wooden steps, mulch.	24 narrow steps, no handrails.
6 c		Windsor St. Albains	none	Dirt, trimmed grass.	none
6 d		St. Albans Kenyon	PUBLIC PATH #6	Dirt, flagstones.	none
7		Arlington Amherst	none		
8		Kenyon Highland	none		

9 a	Yale Stanford	PUBLIC PATH #9	Steep dirt, wooden steps.	Lower: 50 steps no handrails. Upper: 43 steps no handrails
9 b	Stanford Cambridge	none	Uneven concrete steps, stepping stones, mulch.	Lower: 36 steps, no handrail, uneven cadence. Upper: 32 steps, handrail.
10	Trinity Columbia	by 268 Columbia/have to walk along driveway to get to path	overgrown w/ivy; steep grade; fence blocking path about 50 steps in all; concrete paved path; several cracks; dirt cut-away (4'x4')	partial steps with wood timbers/ dirt path
11	York Arlington	none; street name stamped in concrete		about 50 concrete steps, no handrails
99 X	Gore Parcel	none	various	18 wooden steps, no handrail
99 X	Kensington park	none	various	various wooden & concrete steps with and without handrails

fences	utilities	graffiti	width: parcel	width: unobstructed
Open mesh, low wood, building edge, medium wood.	Stege sewer. No drainage pipe.	clear	5'	5' but narrows to 3'3" at top.
brick, wood	Stege Sewer	clear	10'	7-9 feet (7' at stairs)
medium wood, open mesh	none?	clear	10'	8-10'
	Stege Sewer, EBMUD, PG&E Overhead, PG&E Gas		10'	10'
	Stege Sewer, EBMUD, PG&E Overhead, PG&E Gas	History of tagging on retaining wall and top of steps.	20'	20'
No fence on one side. 6' wooden on the other.	Stege Sewer, EMBUD, Overhead PG&E, Others Probable. Overhead power and communication. USA marking for gas in Lenox is "aimed" at this walkway.	clear	12'	Minimum clear between fences is 8'10".
Mix of open mesh, building edge, high wooden fence.	Stege sewer. Probable storm drain (not for sure).	History of tagging on wooden fence.	10'	9-10'
High wooden, wire mesh.	Probable sewer.	clear		10 feet
Open, wire mesh.	Probable sewer.	clear		10 feet
Open, wooden.	Probable sewer.	clear		10 feet
	PG&E Overhead, Stege Sewer manholes align with top & bottom of path. Possible PG&E gas inline with #9a and #9b.			
	PG&E Overhead, Stege Sewer, 12" Drainage Pipe.			10 feet

None, hedge, open wire mesh, hedge.	PG&E 3" Gas, AT&T Phone, Comcast Cable, Stege Sewer, EBMUD Water Lateral.	Marker graffiti on one step.	10 feet
Building edge, high wooden, low wooden, open.	PG&E 3" Gas, AT&T Phone, Comcast Cable, Stege Sewer, EBMUD Water Lateral.	clear	10 feet
6' wooden closed	Stege Sewer.	clear	10 feet (eastern half) / completely obstructed (western half)
wooden fences and some wire fences the entire length	Manhole cover 1/4 down (north side of path)	on southern wood fence; quite a bit	10 feet

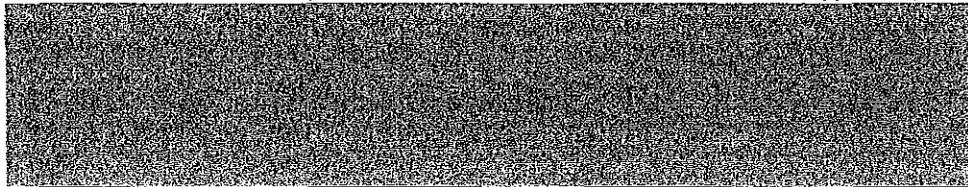


width: surface	encroachments	maintenance
N/A	Yard at Marchant Ct. end. Discharge pipe from apparent subdrain empties onto property (from back of 429 Coventry??)	According to 425 Coventry Realtor: former owner kept path clear. That owner is now deceased.
2'	bamboo, trees	No apparent maintenance. Cleared spring 2011 by KIC. gardens, lower half needs some weed whacking and trimming
5'	small plastic shed	
5'		Neighbors keep path clear. Neighboring gardeners regularly trim back hedges. Site of KIC work party.
Dual 4'	none. "Joint use" at #2 Ardmore Path (front entrance is off path).	
5 feet	Front steps of both adjacent houses (9 and 15 Lenox) are built on this strip of land. Backyard fence of 15 Lenox encroaches about 3-1/2' at upper end of walk. Neighbor's backyard excavation may have undermined the path, causing some slippage.	Appears well trimmed and maintained.
5'		Spotty community trimming. Steps installed by resident of 161 York. Dirt path maintained primarily by resident at 136 Windsor.
6-9 feet for majority. Steps 2 feet wide.	none	Wider at Windsor due to vegetation clearing by resident at 136 Windsor.
4-6 feet	"Joint use", stepping stones used as path to house and yard. Rock planter wall may encroach. Pine tree planted very close to path at Kenyon Avenue. Rocks divide path into private and public halves, but private half encroaches.	
2-6 feet		No apparent maintenance.



3 feet	Significant "joint use" of corridor; #245 Yale integrated path into their front yard and for access to back yard.	Neighboring gardeners trim corridor. Corridor is clear of weeds.
2-4 feet	"Joint use", as path provides primary access to homes. 4' gate encroachment. One fence line encroaches by 2'. Trash cans and utility meter encroach.	Neighbors keep corridor clear, maintained. Motion sensor light.

4 feet	some wire fence and greenery about 1/2 way down	not maintained path in decent shape; overgrown in some areas; cracked; no handrails; crooked and chipped steps
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notes

issues

Steep to very steep. Passage under dry conditions was with great caution. Had to hold onto a tree at one point. Most likely unsafe when wet. (Baeraza)

Unsurfaced. Wild Grass, mud & leaves could be hazardous under wet conditions (Reported 2011-Apr Ray Barazza). Land may be on tax roles.

Per Phillip at 673 Coventry: sign reading "Stratford Path" fell down years ago. Steps at top were rebuilt c1980 by a neighbor who was a bricklayer.

Heavily cracked concrete.
Lower path leads directly into ditch.
Many path users divert to nearby driveway.

Probably built by original subdivider. A ramp bypasses the steps at the lower end. Walk is generally in good condition and usable in all weather. (It was raining lightly while I was there.) Needs handrails for the steps and about 12' of repair in an area that would probably not pass County standards for sidewalk maintenance.

About 12' of length needs repair/replacement due to cracking (Reported 2011-Apr Ray)
Clump of poison oak, 2nd flight of stairs on the right (Reported by Bryce 2011-Apr)

Dirt gullies not easy to walk on when very wet. (Report 2011-Apr Gloria)

Tree was planted on path, diverting foot traffic up a private set of stairs at 59 Kenyon.

none

Lower flight of steps were built poorly,
and have not improved with age.

path extends probably length of one lot
and then it's blocked.

length of 2 parcels

dirt cut-away; cracked steps; no
handrail

Tree growth obscures STOP sign as
you approach. (Report by neighbor
2010-Nov)

Owned by KPPCSD

Owned by KPPCSD