

Matthias, Isaac L

From: Jeff Chandler <heyjeffchandler@yahoo.com>
Sent: Tuesday, March 19, 2024 5:15 AM
To: All Alders
Cc: Jeff Chandler
Subject: Support #82175: reverse approval of lot division at 1908 Arlington Pl

Caution: This email was sent from an external source. Avoid unknown links and attachments.

Dear Madison Alders,

Please vote in support of Agenda Item #82175 and reverse the Landmarks Commission's approval of the lot division at 1908 Arlington Place. It is now recognized that this approval was made with incomplete and misleading information and that the Landmarks Commission did not follow guidelines required by the City of Madison when proposing changes to historic neighborhoods.

The house at 1908 Arlington Place now has THREE INCHES OF YARD SPACE AT THE NEW LOT LINE instead of its original larger front yard space. Note that 1908 Arlington Place is oriented 'sideways' in relation to the street, so that its front facade, including its main entrance, has always opened directly onto its side yard space right next to its entrance porch. This entire yard space will be converted into a buildable lot by 'short-changing' the house's yard.

Now, the likelihood of a 'new build' on this new buildable lot will obliterate the gracious effect of the long porch at 1908 Arlington Place, which opens directly onto its yard space -- an average-sized yard for its time, though it likely had a garden, too. This house was built by well-regarded Madison architects Claude & Starck. A 'new build' just feet away from a truly gracious porch will obliterate its contribution to the historical character of the neighborhood along Arlington Place and well into Chamberlain Avenue -- all one curving progression along the south side of the street.

I'm 'the house next door' at 1902 Arlington Place -- the Jennings house built by the NYU-trained UW architect. I am truly distressed to realize how a certificate of appropriateness for land division got past the Landmarks Commission, which this time around did not conduct its due diligence to examine and be able to understand the actual three-dimensional issues facing the neighboring houses along this street -- zero images of the surrounding spaces were examined by the Landmarks Commission, though images don't always convey the actual impact on existing spaces.

As homeowners in one of Madison's historic neighborhoods, we truly rely on the insights and abilities of members of the Landmarks Commission 'to go the extra mile' and to be certain that they understand what the actual situation at hand is all about. This is big because 'new builds' use the standardized materials now available, but which often consist of simulated or lighter gauge materials -- and while I recognize and support the Madison Community's need for more housing, one two-story house on a conventionally-sized lot with six-foot step-backs at each side does not justify 'the breaking of the spell' that guides historically-preserved neighborhoods and draws plenty of tour-going participants. And folks drive over to this street and the neighboring ones to enjoy a walk with their dogs here, too.

Every Madison neighborhood has its best features and its inspiring buildings that most people will be sure to look at while passing by. Now that mid-century modern has become the most desirable design style, several neighborhoods with 1950's/60's/70's-era houses are sporting wild 1960's and 70's-era table lamps in their picture windows -- these are historic neighborhoods as well and we can be sure that their owners recognize this too -- no plaques yet, though.

We along Arlington Place truly need your vote to reverse previous approval granted for a buildable lot: support #82175

Yours very truly, Jeff Chandler, 1902 Arlington Place

Matthias, Isaac L

From: Samantha Crownover <samanthacrownover@sbcglobal.net>
Sent: Saturday, March 16, 2024 6:16 PM
To: All Alders
Subject: Appeal of Landmark's decision for 1908 Arlington Place

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Dear Alders,

Good evening and I am writing to everyone in support of Agenda Item #4, under "PUBLIC HEARINGS"; Legislative File ID #82175, "Appeal of Madison Landmarks Commission granting a Certificate of Appropriateness for a land division at 1908 Arlington Place" at Tuesday's Common Council meeting.

I am a resident of the Regent Neighborhood, which includes University Heights, and I am very involved in the arts in Madison and a friend of historic preservation, among other things. I lived downtown for many years as well.

I attended the Landmarks Commission meeting recently and I was disappointed in the way in which their conclusion was reached on the subject of 1908 Arlington Place's land division. Clearly there were missing elements to the application and there was confusion regarding definitions. I know that serving on City committees and commissions is a tough job and everyone's busy, but the majority of the Landmarks Commission members were just not prepared.

University Heights neighbors, Lester Pines, Jean Halferty, and Monica Messina did a terrific job preparing for the meeting and speaking against the land division, as did many, many other neighbors. I am asking you to prepare for this meeting by reading through the materials provided by my neighbors and to vote in support of the appeal.

I'm grateful for your time and for your service.

Warmly,

Sam

Samantha & Bruce Crownover
2702 Kendall Ave.
Madison, WI 53705
608-238-3577 home
608-576-6696 cell - Sam
608-576-6196 cell - Bruce

Our Airbnbs: airbnb.com/h/artists-house
airbnb.com/h/brisbanehouse

Matthias, Isaac L

From: Roberta Gassman <roberta.gassman@gmail.com>
Sent: Tuesday, March 19, 2024 9:56 AM
To: All Alders
Cc: Lester Pines
Subject: Document I'll cover at 3/19 Comm Council mtg re: Item 4, #82175-Appeal of Mad Landmks Comm U. Hts. Hlst. District Land Div
Attachments: Gassman comments to Mad Comm Council for 3.19 mtg.docx

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Attached are the comments I will be briefly covering at tonight's Common Council meeting seeking your approval of our appeal of the Landmarks Commission's 3/12 action regarding the land division at 1908 Arlington Place by the 1908 Arlington Place LLC in the University Heights historic district.

I will be glad to answer any questions you may have and I hope that you will carefully consider all of the additional supporting material we have submitted to you on this matter including legal research, maps, photographs and more in support of our appeal.

Thank you very much for your public service and consideration of this important matter..

Best, Roberta Gassman

--

Roberta Gassman
1915 Arlington Place
Madison, Wisconsin 53726
608-692-2666
roberta.gassman@gmail.com

To: Madison Common Council

From: Roberta Gassman, 1915 Arlington Place; 608-692-2666; roberta.gassman@gmail.com

Date: March 19, 2024

RE: **SEEKING YOUR SUPPORT OF AGENDA ITEM 4 AT 3/19 MEETING OF MADISON COMMON COUNCIL, #82175: APPEAL OF MADISON LANDMARKS COMMISSION GRANTING A CERTIFICATE OF APPROPRIATENESS FOR A LAND DIVISION AT 1908 ARLINGTON PLACE IN THE UNIVERSITY HEIGHTS HISTORIC DISTRICT**

I appear before you seeking approval of the appeal that 22 neighbors surrounding 1908 Arlington Place, including my husband Lester Pines and me, filed on February 21 in opposition to the Landmarks' Commission's February 12 granting of a certificate of appropriateness for a land division at 1908 Arlington Place in Madison's University Heights Historic District.

Many of our neighbors and interested others have already written and called you about this matter, including me, and a few who've done extensive research on the issues involved will also appear before you tonight. I support their arguments and points. I, however, would like to address 3 related contextual points which I want to make sure you are aware of:

1. This is not about selfish NIMBY "not in my backyard" affluent people who are insensitive to the affordable housing and other needs of vulnerable and struggling Madisonians.
2. This is not an attack on dedicated staff and public servants as well as citizen volunteers on our City boards and commissions whom we value for their hard work and professionalism and who help make our community run well in the most democratic way possible.
3. This appeal is about following the law and recognizing that sometimes errors occur as we don't always get things right at first – when that happens we use the appeals process, specifically provided in the ordinances, to help get things right, ensuring that our laws will be followed, the essence of a democratic society.

WE ARE NOT INSENSITIVE TO THOSE IN NEED

The essence of our life's work has been a commitment to those in need. I am the granddaughter of immigrants who came to this country escaping religious persecution. They spoke no English, had no possessions, no formal education. I was the first in my family to go to college. Lester's father was an immigrant whose native language was Spanish.

We grew up in tiny houses and we worked all through college to help support ourselves, Lester working twenty hours a week with heavy courseloads to graduate early and save tuition costs. We've always been committed to social justice and chose our career paths accordingly, Lester pursuing law and me, social work.

We've helped support low wage family members overcome housing insecurity, eviction and poor health. We understand the lives of the vulnerable, particularly those facing low incomes, unpredictable work hours, poor access to housing, job training, transportation, child care, health care and food security. Given our commitment to addressing these challenges not only in our own

family but in our community, we support numerous initiatives to help the vulnerable including The Road Home, Boys & Girls Club, Urban League and The Black Business Hub, YWCA, Justified Anger, Black Center for Excellence, Goodman Center, and more.

I've had a long career in public service and leadership at the federal, state and local levels, serving in DC as President Obama's Deputy Assistant Secretary of Employment and Training at the Department of Labor, in the Cabinet of Governor Jim Doyle as Wisconsin's longest serving Labor Secretary, as Policy Advisor on Employment and Women's Issues for Governor Tony Earl and as a top aide for a mayor and a county executive. In all of these positions my work has focused on improving the economic status of and opportunities for the vulnerable.

I've served on major non-profit boards – chairing the Madison Community Foundation Board of Trustees where I especially worked to assist children and parents out of school and work due to Covid, Madison's Equal Opportunities Commission working with its much loved director Rev. Jim Wright; and in leadership at United Way of Dane County fighting poverty, Overture Center where I led the effort to raise funds to hire its first director of diversity, Edgewood College working to support diversity, first generation and special needs students. Governor Evers just appointed me to the Wisconsin Judicial Commission.

I have been honored with many top awards including Downtown Rotary's Humanitarian Service Award, Wisconsin Women in Government Legacy Award and Distinguished Alumni Awards from my large public high school and my alma mater, the UW-Madison Graduate School of Social Work.

Throughout his career Lester has represented unions and working people including nurses, nursing assistants, janitors, teachers and office workers and has fought for voting rights, women's reproductive rights, LGBTQ rights, labor rights and has been honored by the NAACP, Fair Wisconsin and others for his social justice advocacy. He has also received numerous local, state and national recognitions and honors throughout his long legal career and he has held numerous leadership roles in multiple professional and community organizations.

WE APPRECIATE AND HONOR PUBLIC EMPLOYEES INCLUDING THOSE IN CITY GOVERNMENT

We know that public employees are dedicated, work hard and do outstanding work for the taxpayers and their communities. We take great offense at those who criticize public employees. We also appreciate that many community volunteers serve on many city boards and commissions providing a vital service to all Madisonians.

WE APPRECIATE THAT OUR ORDINANCES PROVIDE AN APPEALS PROCESS WHEREBY POSSIBLE ERRORS IN DECISION-MAKING BY BOARDS AND COMMISSIONS CAN BE APPROPRIATELY ADDRESSED TO THEREBY BEST FOLLOW CITY LAW AND SERVE OUR CITIZENS

We know that in fast-paced, complex organizations, including units of local government, errors in decision-making sometimes occur. We are thankful that our City ordinances provide an appeals process to ensure that when necessary, citizen appeals such as ours, can be brought to the Common Council, the legislative branch responsible for the oversight and correction of possible errors made by the executive branch. As Lester Pines noted in his March 18 communication to the

Common Council, “the Council has the obligation to carefully consider the law and the facts presented by the citizens who have appealed.”

We appreciate and thank you for your careful consideration of all of the legal arguments, maps, photos and supporting documents that we have provided to you and we hope that you will approve our appeal that is supported by the law and is now before you.

Matthias, Isaac L

From: Ronnie Hess <rlhess@wisc.edu>
Sent: Sunday, March 17, 2024 2:47 PM
To: All Alders
Cc: Vidaver, Regina; council; Rummel, Marsha
Subject: Agenda Item #4

Caution: This email was sent from an external source. Avoid unknown links and attachments.

Dear Madison Alders,

My name is Ronnie Hess and I live at 1819 Summit Avenue, around the corner from 1908 Arlington Place. I've lived at this address for nearly 25 years, and in the Regent neighborhood since 1990.

I am writing to urge you to support [agenda item #4](#) and reject the proposed subdivision of 1908 Arlington Place at Tuesday's Common Council Meeting.

Several positions have brought me to the conclusion that the Landmarks Commission did not do due diligence several weeks ago. The Commission in its review did not do its own independent analysis and confounded the issue of subdivision. The Commission also did not listen to neighbors carefully, in effect siding with an LLC that has no roots in this community, with one LLC member on record as being essentially interested in investment property.

I say this as a resident who lives in a house that was the product of a contentious PUD process in 1982. I am the benefactor of that PUD. Nevertheless, perhaps that gives me experience to argue that one size in lot divisions does not fit all. History is important, intention is important, as are the particulars of a lot size, where it sits on the land as well as in relation to other buildings, and how a possible subdivision could dramatically affect the lives of future owners of the properties.

This is a historic neighborhood where size, shape and character matter. The issue before you is not about infill. We are an open community, sensitive to inclusion and diversity.

Several of my neighbors have worked hard to put key information before you for consideration. Please listen to their arguments closely. The supporting memo by Lester A. Pines, Jean Halferty, and Monica Messina indicates that neither the Landmarks Commission nor the Plan Commission considered the relevant statutes that protect the University Heights Historic District. They argue that the subdivision of 1908 would destroy the character of two significant houses in the Heights.

I hope I can count on your vote to reverse the decision of the Landmarks Commission.

Yours,
Ronnie Hess (she/her)

Matthias, Isaac L

From: BRUCE D KIEFFER <bkieffer@wisc.edu>
Sent: Monday, March 18, 2024 11:39 AM
To: All Alders
Subject: Urging support of Agenda Item #4 ID#82175

Caution: This email was sent from an external source. Avoid unknown links and attachments.

To all Madison Alders,

We are both urging you all to **support** [agenda item #4](#) , ID#82175, and **reject** the proposed subdivision of 1908 Arlington Place.

Monica Kieffer and I have lived at 1914 Arlington Place since 1989. Our house is on the lot that is contiguous with the property at 1908 Arlington Place.

The supporting memo prepared by Lester A. Pines, Jean Halferty, and Monica Messina shows that the Landmarks Commission failed to consider the relevant statutes and procedures intended to protect the University Heights Historic District as well as the other historic districts in the City of Madison!

The proposed subdivision would have been shown to be demonstrably in conflict with the Districts requirements had this proposal been properly documented and considered.

The subdivision of 1908 could significantly alter the character of the Historic District because (to quote the ordinance) it is "incompatible with adjacent lot sizes, or fails to maintain the general lot size pattern of the historic district".

We also believe that Madison is fully capable of choosing other methods to increase its population density (ADU's, conversions to multiple occupancy/ownership, cooperative ownership, too mention just a few) that would retain the character of its historic district's, rather than inserting non-compatible lots into what will most likely only invite the construction of 'MacMansion's', hardly accomplishing the intended objective!

Monica and I are hoping we can count on all of your votes to **reverse** the decision of the Landmarks Commission?

Respectfully,

Monica Kieffer
Bruce Kieffer, Architect
1914 Arlington Place
Madison, WI 53726

Common Council
Meeting of March 19, 2024
Agenda #4, Legistar 82175, Landmarks Appeal

The Landmarks Commission did not base its decision on the standards. The Commission's decision should be reversed, or the matter should be referred back to the Landmarks Commission.

- (1) The Commission looked at parcel size, not lot size.
- (2) There was not a clear sense, as evidenced by those Commissioners who spoke to the issue, of what is an adjacent lot. One Commissioner spoke to two lots on Kendall being adjacent lots (and was not corrected by staff) when what was actually being discussed were two parcels, not lots, parcels that did not adjoin the lot lines of proposed Lot 2.
- (3) A parcel map of the historic district was shown for the general lot size pattern, not a lot map.

MGO 41.18(4) provides, in relevant part: "The commission shall approve a certificate of appropriateness for land divisions, combinations, and subdivision plats of landmark sites and properties in historic districts, unless it finds that the proposed lot sizes ... are incompatible with *adjacent lot sizes*, or *fail to maintain the general lot size pattern* of the historic district.

Lots versus parcels

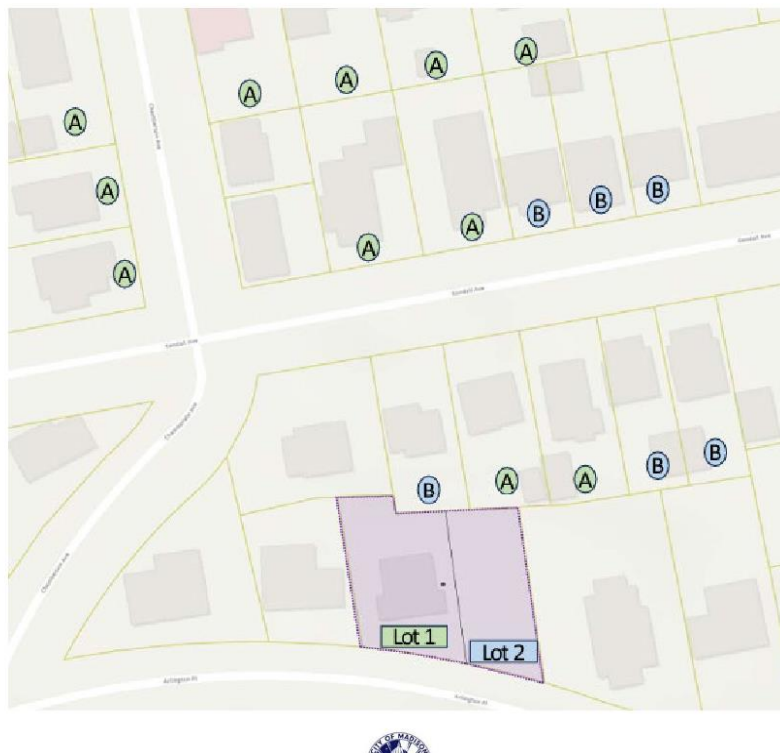
The ordinance does use the word "lots": "... are incompatible with adjacent *lot* sizes, or fail to maintain the general *lot* size pattern of the historic district." Landmarks was clearly informed of the difference between lots and parcels as staff said: a single parcel can have multiple lots, or a single lot can have multiple parcels; a parcel is a property boundary for tax purposes; lots are legal descriptions that have to do with the way an area is platted; and, Landmarks deals with proposed lot lines.

A map was shown that reflects both parcels and lots.



Unfortunately, the discussion that followed focused on parcels.

- Staff showed the 1942 Sanborn map to show how the block has developed over time.
 - The Sanborn map shows parcels.
 - Staff said there are comparables for each of the two proposed lots, while still showing the Sanborn parcel map.
 - Still using the Sanborn parcel map, staff said there are two 40-foot lots at 1911 and 1913 Kendall, and then talked about how across the street (Kendall) there are comparable lot sizes in the overall width of the proposed larger lot and the overall width of the proposed smaller lot.
 - Those 40-foot lots are parcel widths. As shown on page 3 of the staff report for this appeal, the three middle lots along Kendall are 60 feet in width and each lot at the end has 120 feet of street frontage. Across the street on Kendall, all lots have a 60 foot width.
 - Then staff showed a map of the present configuration, again a parcel map. (The applicant provided this map and identified "A" as being comparable to the proposed western lot and "B" as being comparable to the proposed eastern lot.) No comparable map was provided for lot sizes.
-



Analysis of Parcel sizes

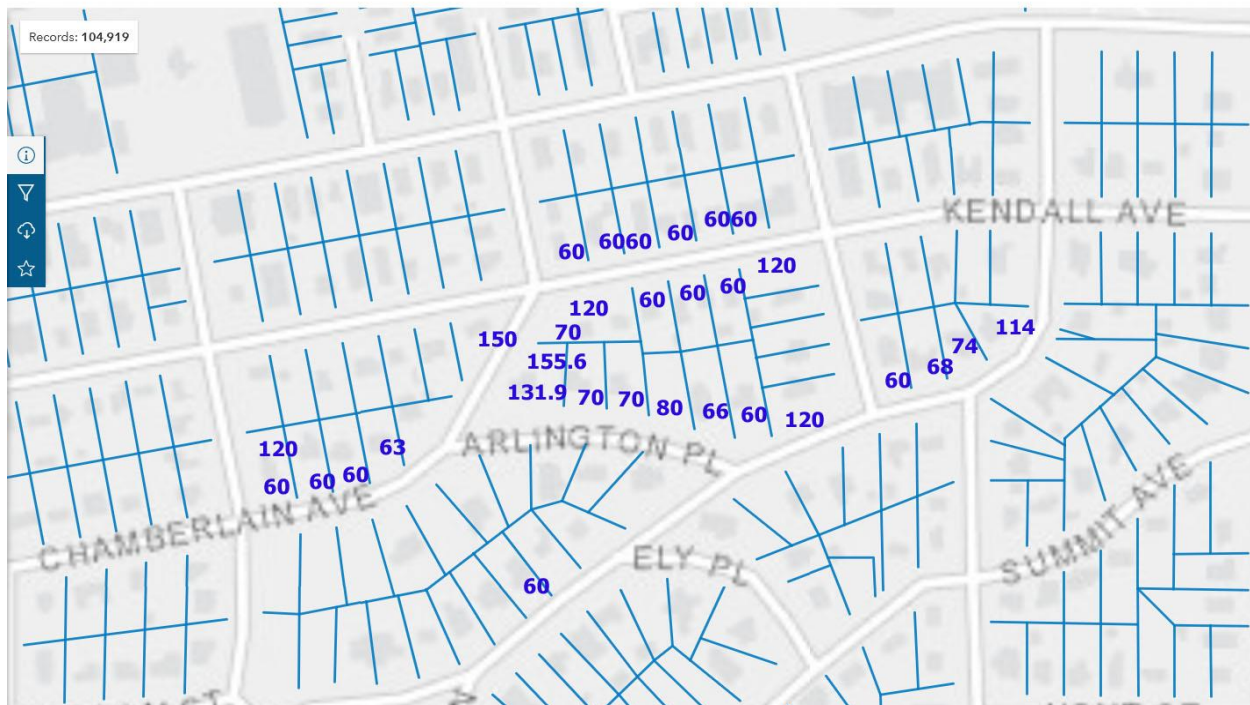
- Staff then showed the slide that contains both the parcel boundaries and the lot lines. Staff said: "For this particular block, the way it was originally platted seemed to have just very minimal to do with how the development actually took place, so we have a lot of these what we call unresolved underlying lot lines. ... People bought different parts of these lots are cobbled together new lots that they then turned into parcels that they built their houses on."

- People did not create lots through their purchases. As explained to Landmarks, lots are legal descriptions that have to do with the way an area is platted. For example, the abbreviated lot description for assessment purposes for 1908 Arlington is (highlight added):
UNIVERSITY HEIGHTS, **BLK 9, PART OF LOTS 8, 9 & 10 DESC AS FOL** - BEG ON NLY LN OF ARLINGTON PLACE AT THE SELY COR OF LOT 9, TH ELY ALG ARLINGTON PLACE 39 FT, TH NLY TO A PT ON N LN OF LOT 10, SD PT BEING 31.2 FT ELY FROM THE NWLY COR OF LOT 10, TH WLY ALG THE N LN OF LOT 10 & A PROLONGATION THEREOF A DISTANCE OF 78.8 FT, TH NLY PARA TO W LINE OF LOT 5, 11.6 FT, TH WLY PARA TO & 10 FT SLY OF N LN OF LOTS 8 & 9, 29.7 FT, TH SLY TO A PT ON ARLINGTON PLACE 10 FT WLY FROM SELY COR OF LOT 8, TH ELY ALG NLY LN OF ARLINGTON PLACE 80 FT TO POB. PART OF LOTS 8, 9 & 10
- Relying upon the 1940's Sanborn parcel map, staff said the subject property was on its "own separate lot" and that the boundary that is very similar to what is being proposed as Lot 2 "was its own separate lot here in 1940." Staff added that proposed Lot 2 will be a little wider, but standards require comparable, not identical.
 - That comparison to the Sanborn map for proposed Lot 2 does not indicate a lot for ordinance purposes. That parcel of land was about half of lot 10 on Block 9, with the other half of lot 10 belonging to 1902 Arlington. Had that little piece of land been its own separate lot at some point in time, the current lot descriptions for 1902 and 1908 would not be using "lot 10."
- In connection with the general pattern of the historic district, staff said: "This particular block has evolved in a particular way where we have a mix of larger and smaller lots in that block. Looking at the surrounding blocks, we have a mix of something very similar"
 - If one is looking at evolution, one is looking at parcels, not at lots.
- When staff was asked about photos, staff replied: "We are looking at the lot configuration, we're not looking at photographs, we're looking at the development pattern of the district and looking at the configurations and sizes of the lots."
 - The development pattern is the parcels, not the lots.
- When asked if there was a list of average sizes, staff said no and continued "in terms of what they are proposing as a width for the lot meets zoning standards and in terms of comparable to other properties in the district, like I said there's two properties on that block, on the other side of it, that are 40 feet wide and of a comparable depth, and then for the next block north there's also several properties that are 40 feet wide of a comparable depth."
 - Those properties that are 40 feet wide are parcels, not lots.
- Staff was asked to pull up a map of the historic district. Below is the map that was shown, again a parcel map, not a map of the lots. A Commissioner said: "There's been a lot of talk of what compatible lot sizes are. And I guess I would [?] Mr. Pines or anyone else to look at this map of parcels and lots and say that what is being created is not compatible. I mean there's every kind of lot size imaginable in this map. So I don't find the argument that the lot size is not compatible to be compelling at all."
 - The Commissioner confused this parcel map to be one that reflects "parcels and lots."



- A Commissioner spoke to the lot being compatible with the lots on Kendall, and that the Commissioner understood those Kendall lots to be considered adjacent lots and, if the lots on Kendall are adjacent, then these lots are compatible.
 - Staff did not correct the Commissioner that the lots on Kendall did not adjoin proposed Lot 2 (the back lot line of proposed Lot 2 would be 72 feet from the nearest parcel line of the closest of those properties, with 1½ parcels intervening).
 - Those 40-foot properties are parcels, not lots.

If one looks at lot sizes, lot sizes are fairly consistent with none under 60 feet in the surrounding area.



And the original plat map also had fairly consistent lot sizes.



<https://www.wisconsinhistory.org/Records/Image/IM118991>

Adjacent lot sizes

A Commissioner asked what was meant by adjacent lots. Staff replied: "Adjacency, in terms of our ordinance, is defined in the Zoning ordinance. So when we're talking about adjacent lots, those mean lots that share a lot line. So we're looking at is this compatible with the immediately surrounding properties." However, when the ordinance was adopted, the meeting minutes (Legistar 23204) reflect that staff told the Commission: "Language for the *subdivision regulations* is appropriate." (emphasis added) The proposed language was then changed from "nearby" to "adjacent."

The record reflects little discussion of adjacent lot sizes. What there was, as shown above, clearly indicates Commissioners did not understand the meaning of adjacent (e.g., that the 40 foot parcels were adjoining lots when they were parcels and did not even abut proposed Lot 2). Although the ordinance does not require that actual abutting lot sizes be provided to the Commission, that would be good information to have rather than just eyeballing boxes.

"Adjacent" may mean something other than "sharing a lot line" under the subdivision ordinance. However, it is useful to look at the parcels which would share a lot line with proposed Lot 2. The sizes of those parcels are: 13,482 sq. ft, 6,578 sq. ft, 5,760 sq. ft., and 5170 sq. ft. The

median of those adjoining parcel sizes is 6,169 sq. ft. Clearly, proposed Lot 2 at 4,494 sq. ft. is smaller than any of the adjoining parcels, and the median parcel size is 37% larger than proposed Lot 2.

The lots that would adjoin proposed Lot 2 are 7200 sq. ft., 6600 sq. ft. and 6578 sq. ft. (There would also be the remaining ½ of Lot 10, which would not become a lot.)

Fail to maintain the general lot size pattern

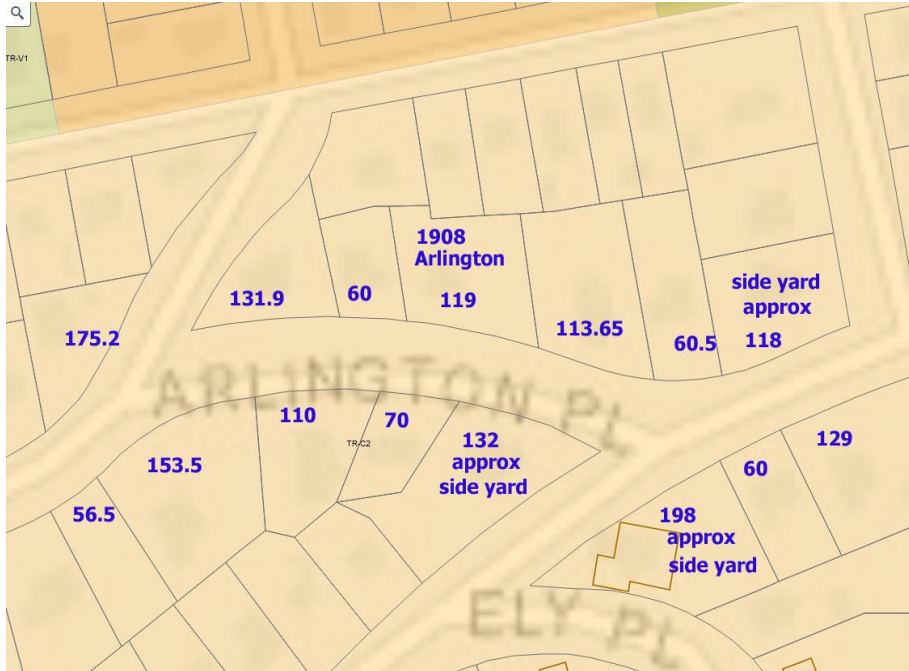
Staff told the Commission: "The precedence for how the Landmarks Commission undertakes these deliberations is to look at what is going on in this area of the historic district, because of what is happening a couple blocks over might have nothing to do with what is going on in this part of the historic district. Where we have done our analysis in the past, we are in particular looking at the block in question, but also of the surrounding area. So that has been our precedent in terms of analysis, review and approval of these projects."

The staff presentation included an Analysis of Parcel Sizes map (as shown above on page 2), but not an analysis of lot sizes. That map showed parcels that are 300 feet to the north, but none to the south. If one looks to the south, parcels within 300 feet to the south are much larger:

15347	11506	6900
12739	10940	6450
12224	10125	6027
11725	9437	4953

When a lot division in Third Lake Ridge came before the Commission in 2021 (Legistar 66286), a different analysis was used. Staff provided information on the block face (1100 block of Jenifer): "The majority of the other parcels fronting on Jenifer for that block contained residential structures on 33-foot wide parcels." (It is worth noting that parcels were compared, not lots - lots are generally 66 feet wide but most have two parcels. It is also worth noting that the back side of the block was not featured as a point of analysis.)

There was not any analysis of the block face for 1908 Arlington. Instead, the Commission was informed that there are lots on the block with 40 feet of street frontage. Unlike the Jenifer land division which looked at lots on the block face of the lot being divided, those 40- foot wide lots are on the back side of the block, both facing Kendall. Below is a map with the street frontages for parcels that could be considered part of the block face.



With respect to the general lot size pattern of the historic district, the meeting minutes say staff told the Commission:

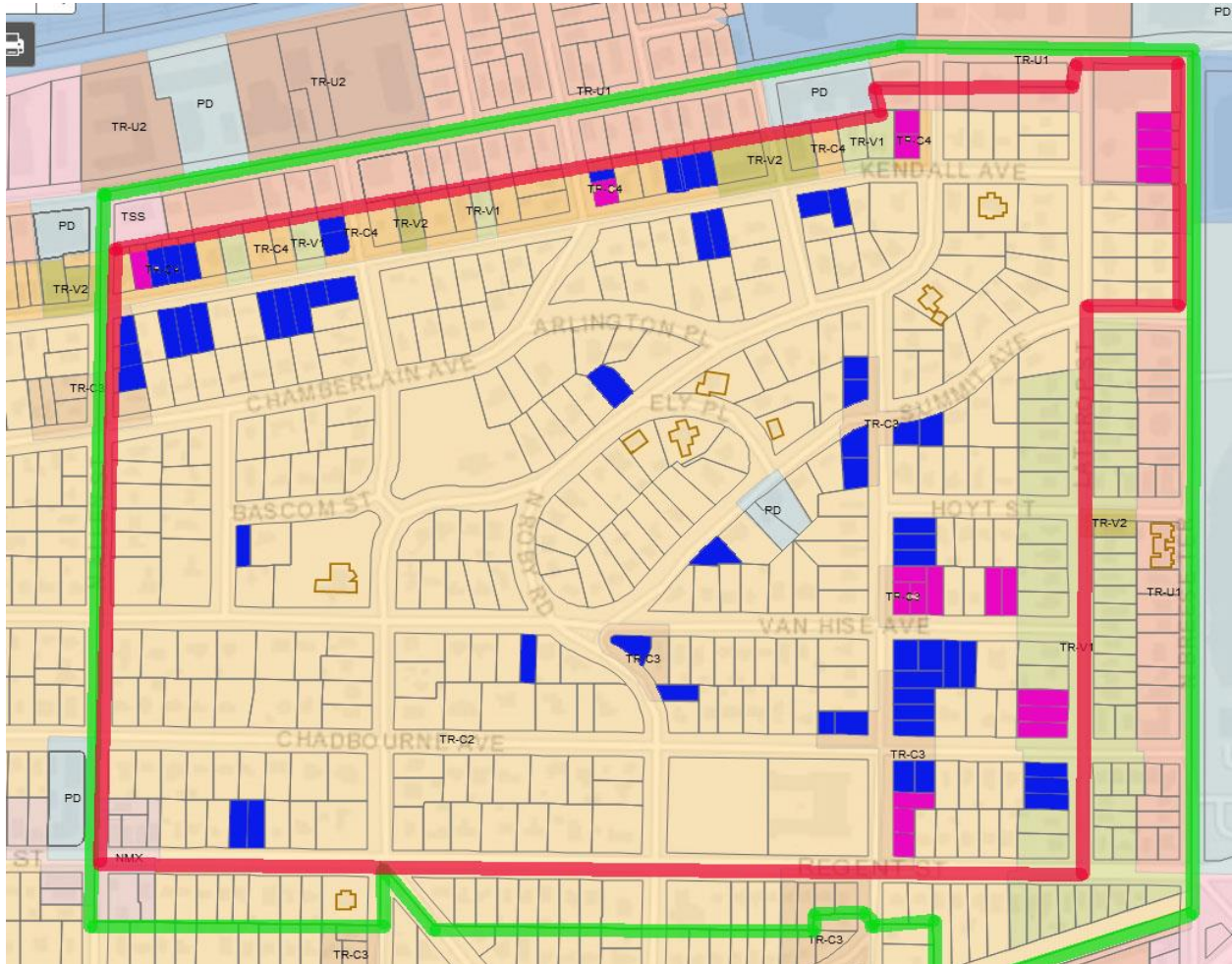
"... the goal was so that they don't create a lot that is out of scale with the surrounding neighbors or fails to maintain the general lot size pattern of the historic district. University Heights has different blocks that have different patterns, so looking at what is happening in one section of the historic district may be different from other parts. The commission's precedent in analyzing these projects is to look at the block in question and the surrounding area."

A map of the historic district was shown to Commissioners. One reportedly commented that there was "every lot size imaginable on the map" and another that "neither lot would end up being an oddball." Proposed Lot 1 (6587 sq. ft.) would not be an oddball in terms of size. Proposed Lot 2 (4494 sq. ft) would be an oddball.

The local University Heights Historic District contains 261 parcels zoned TR-C2 that are single family homes built during the period of significance (1893-1928). Of those parcels, only 28 are on lots that are 5,000 sq. ft. or less. Or, stated another way, proposed Lot 2 would be comparable to 10.7% of the parcels. 75% of the parcels have 6,000 sq.ft. or more. The general lot size pattern for the historic district is one of larger lots.

Below is a map of University Heights Historic District

- The green outline is the local historic district
- The red outline is the National Register district.
- Parcels filled in with blue are single family homes on lots <5000 sq.ft. that were built during the district's period of significance.
- Parcels filled in with pink are multi-family homes on parcels <5000 sq. ft. that were built during the district's period of significance.



What is notable on this map is there are two pockets that contain most of the smaller parcels: one along Kendall; the other along Spooner. When one looks at the interior streets, there are few parcels that are under 5,000 sq. ft. The general pattern of development for the interior streets was larger parcels.

Respectfully Submitted,
Linda Lehnertz

Matthias, Isaac L

From: Fields, Debbie
Sent: Tuesday, March 19, 2024 1:10 PM
To: All Alders
Subject: Handout re: 1908 Arlington Place
Attachments: CC Handout_Messina_3.19.24.pdf

Alders,

Attached please find a handout from Monica Messina regarding agenda item #4, "Appeal of Madison Landmarks Commission granting a Certificate of Appropriateness for a land division at 1908 Arlington Place." Monica is also bringing hard copies to the meeting tonight for all of you.

Thanks,
Debbie Fields
Program Assistant 2
Common Council Office
608-266-4297

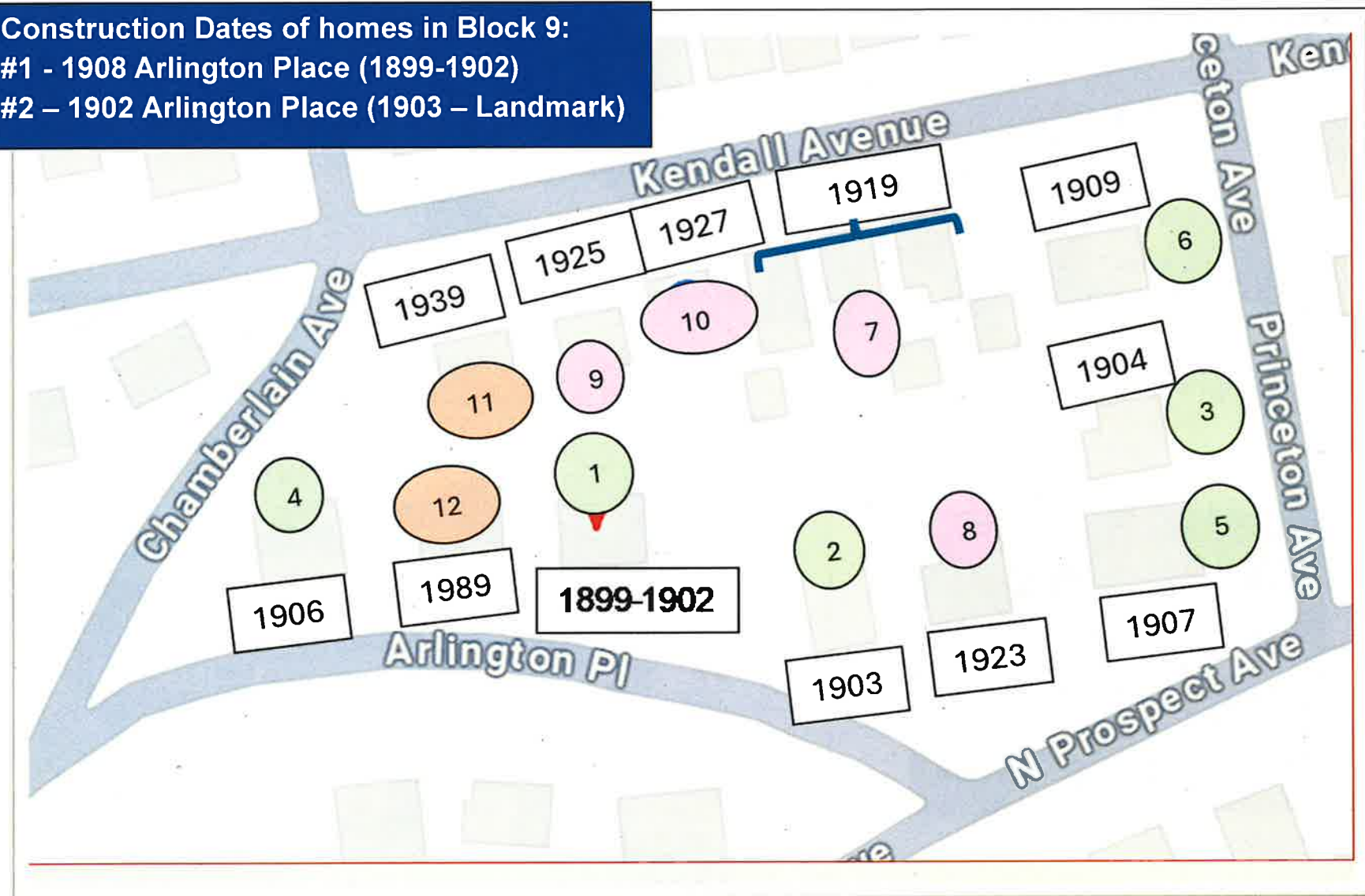
From "University Heights District: A Walking Tour" (emphasis added)

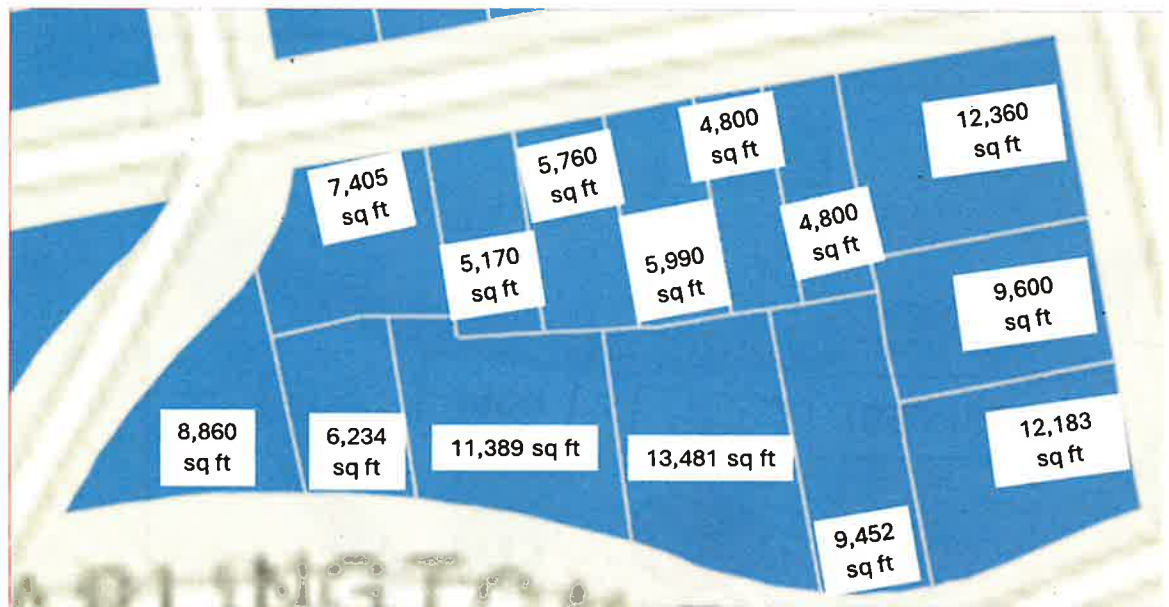
- "In the six year period that followed [the 1894 Buell House], six more large **late Queen Anne** and early colonial revival style houses were built on the **east facing slope** of the Heights."
- "In 1903 the plat was officially annexed by the City of Madison. The advent of city services was the signal for the real growth of the Heights. Between 1900 and 1907 twenty-eight structures were built including the first portion of Randall School."

Construction Dates of homes in Block 9:

#1 - 1908 Arlington Place (1899-1902)

#2 - 1902 Arlington Place (1903 - Landmark)





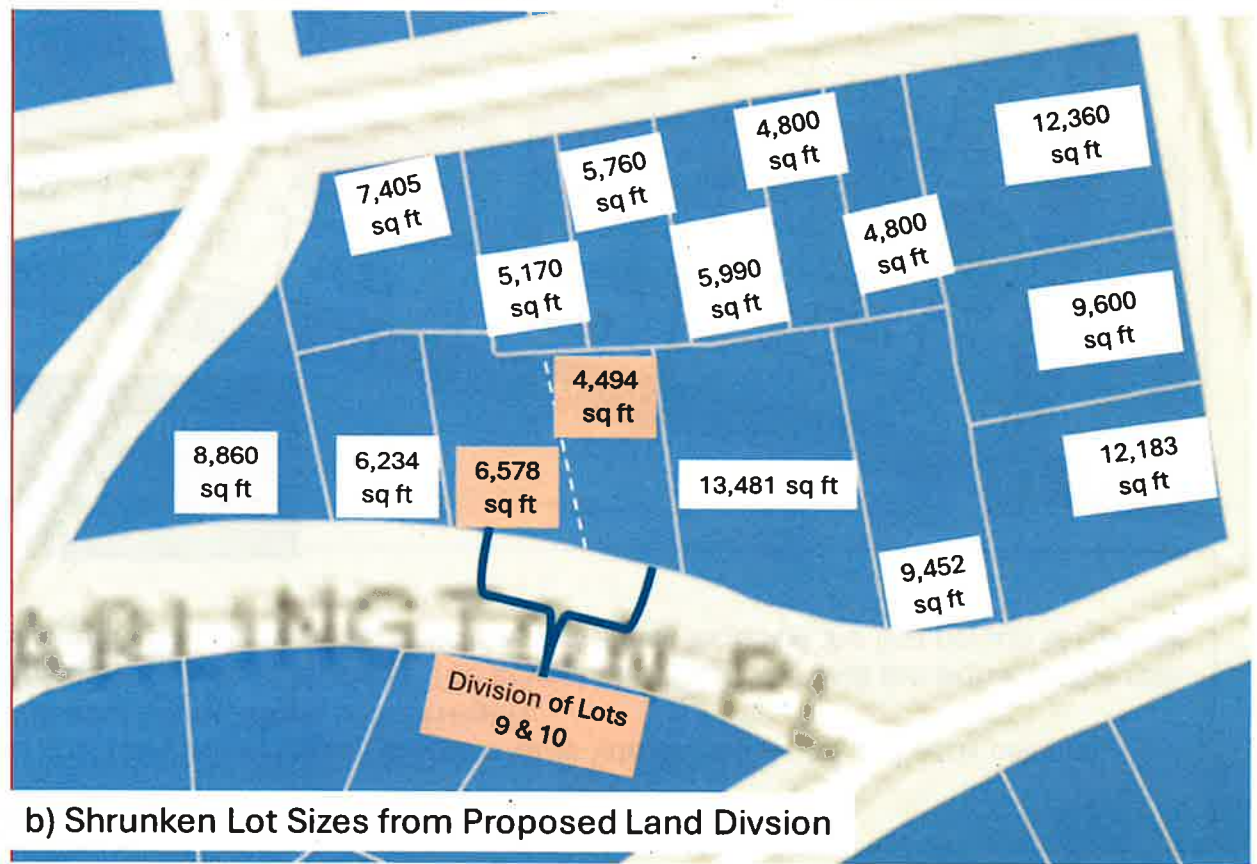
a) Existing Lot Sizes

Square footage of Block 9
lots from City Tax Parcel
maps

a) BEFORE

b) AFTER

proposed land division at
1008 Arlington Place



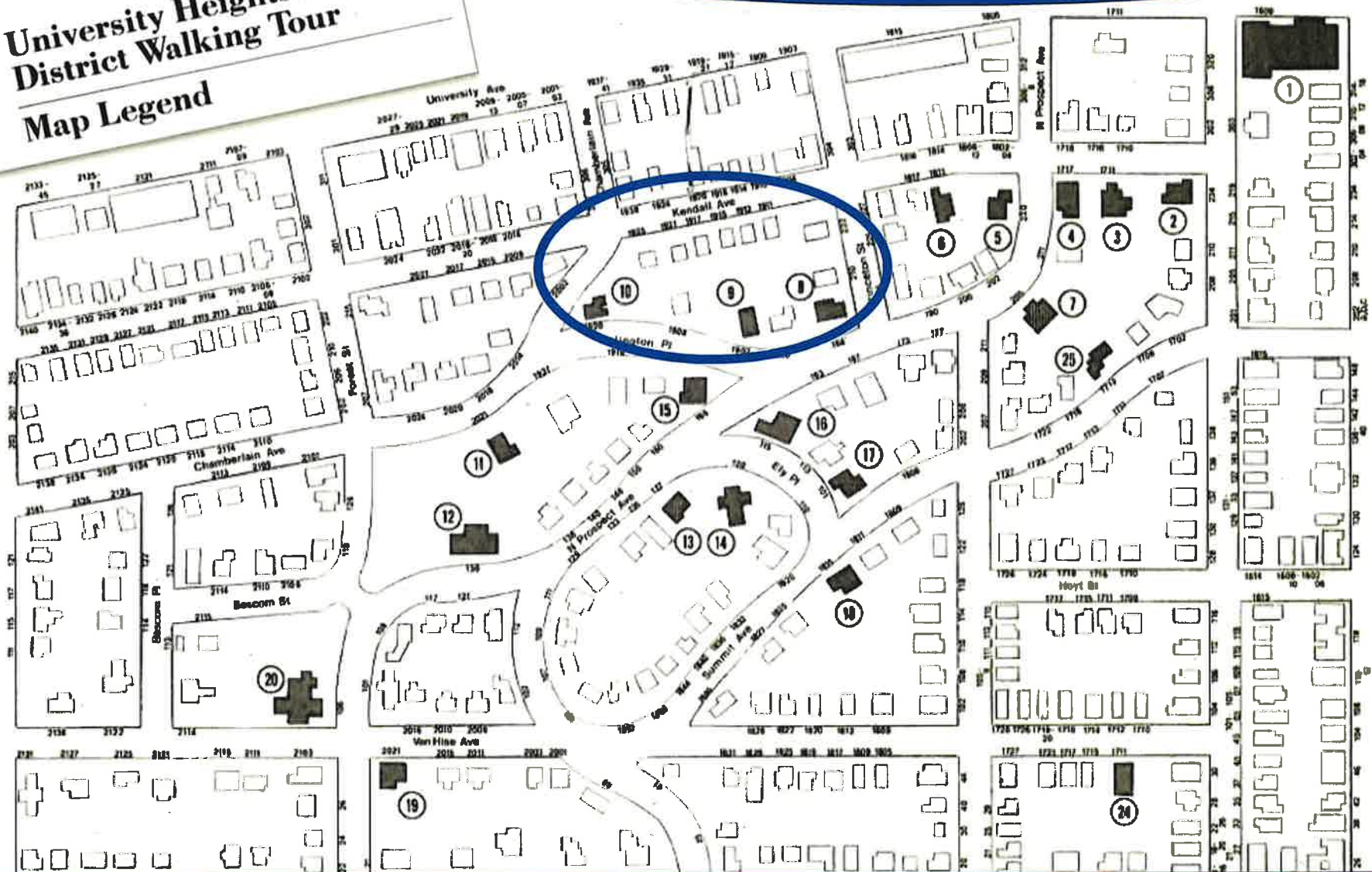
b) Shrunk Lot Sizes from Proposed Land Division

“LOCATION, LOCATION, LOCATION.”

03/19/2024 Madison Common Council Meeting
Handout submitted by Monica Messina, homeowner,
1917 Kendall Ave.

“HISTORY, HISTORY, HISTORY.”

**University Heights Historic
District Walking Tour
Map Legend**



**The University Heights
Historic District:
A Walking Tour**

**Written by Timothy F. Heggland
Edited by Katherine Rankin**

1987

This project funded by the City of Madison, the Dane County Cultural Affairs Commission, the Madison Gas and Electric Foundation, Oscar Mayer Foods Corp., First Realty, Inc., and the Dane County Title Co.

Published by the Madison Landmarks Commission and the Regent Neighborhood Association.

**Madison Architects and
University Heights**

University Heights is best known today for its two outstanding houses designed by Louis Sullivan (20) and Frank Lloyd Wright (14). Sullivan and Wright, however, are only the most famous names on the long list of architects whose identified work constitutes more than one-fourth of all buildings in the Heights. The vast majority of these buildings were designed by leading Madison architects who created some of their best and most characteristic work for their University Heights clientele. The

style designed by excellent local practitioners. But the architectural significance of the Heights lies as much in its intact preservation of an entire suburb built during this period as in its individual buildings. The Heights not only contains excellent examples of the Prairie School for which it is best known but of the other progressive styles such as the Craftsman and Bungalow. Here it is possible to see fine examples of the eclectic historicism of the Queen Anne style, which the Prairie School supplanted, next to outstanding works of the period revival styles which in turn supplanted the Prairie School. This experience is enhanced by the high degree of integrity exhibited by so many

buildings in the Heights, giving the district of today an appearance remarkably like the one it has always had. In recognition of this, the district was listed in the National Register of Historic Places in 1982 and was officially designated a City of Madison Historic District in 1985.

Claude and Starck

Meyer house, 1937 Arlington, 1901
Stevens house, 1908 Arlington, 1901
Giese house, 1707 Summit, 1904
Skinner house, 210 Lathrop, 1905
Whitson house, 1920 Arlington, 1905 (10)
Ross house, 2021 Chamberlain, 1906 (11)
Parkinson house, 303 Lathrop, 1906
Pence house, 168 N. Prospect, 1909 (8)
Tiemann house, 135 N. Prospect, 1910

From: [Ben Passmore](#)
To: [All Alders](#)
Subject: Support for Agenda Item #4 ID#82175
Date: Tuesday, March 19, 2024 7:53:57 AM

Caution: This email was sent from an external source. Avoid unknown links and attachments.

Madison Alders,

My wife and I would like to join our neighbors in urging you to **support** [agenda item #4](#) , ID#82175, and **reject** the proposed sub-division of 1908 Arlington Place.

Susan and I live at 2002 Chamberlain Avenue, and though relative newcomers to the neighborhood (since 2018) we deeply value the character that makes this historic neighborhood special. We take seriously the obligations of living in a historic district and are subject to significant restrictions when even minor exterior alterations or improvements are made to our home.

The memo prepared by our neighbors, Lester A. Pines, Jean Halferty, and Monica Messina, demonstrates that the Landmarks Commission failed to consider the relevant statutes and procedures properly. These exist for the protection of this, the University Heights Historic District, and all of Madison's historic districts. The proposed subdivision is incompatible with the District's requirements. If this proposal had been properly considered this incompatibility would have been evident.

We are sympathetic to the need to increase density and availability of housing, and our home (located at the corner of Kendall and Chamberlain) is adjacent to a number of multiple occupancy homes and small apartments on Kendall Avenue. This is not a question of small-minded NIMBY-ism or resistance to change. Rather, we value the character of this historic district which has always been characterized by a mixture of lots and patterns which reflect the geography and specific history of the area. Greater care and a more thoughtful review was called for. We are confident that you will conclude that this sub-division is not compatible with the historic nature of the district.

We urge you to **reverse** the decision of the Landmarks Commission and preserve the character of a home that ties directly to Madison's rich history.

Thank you for your consideration,
Ben and Susan Passmore

2002 Chamberlain Ave
Madison

Matthias, Isaac L

From: brucekahn1951@gmail.com
Sent: Monday, March 18, 2024 12:02 PM
To: All Alders
Cc: 'Patricia Miles Patterson'
Subject: Support for Agenda Item #4 at the March 19 Common Council Meeting

Caution: This email was sent from an external source. Avoid unknown links and attachments.

To all Madison Alders,

Patricia Miles Patterson and I live at 1911 Kendall Ave., a few hundred feet east and north of 1908 Arlington Place.

We urge you to **support** [agenda item #4](#) and **reject** the proposed subdivision of 1908 Arlington Place.

The supporting memo by Lester A. Pines, Jean Halferty, and Monica Messina shows that **neither** the Landmarks Commission **nor** the Plan Commission considered the relevant statutes nor preservation plan documents that protect the University Heights Historic District.

As residents of the University Heights Historic District and owners of one of the properties within it since 1986, we have always incorporated the rules of the historic district in planning exterior projects. We have attempted to ensure that our projects add a wee bit to the historic character of the University Heights neighborhood. The Landmarks Commission decision approving the 1908 Arlington parcel division and a number of other decisions have not followed these same precepts. **We have been required by the Landmarks Commission to meet expectations that the exterior of our property conform to the original character of our house, despite being on a street considered to be the buffer zone.** For a better articulation of what I mean refer to the **City of Madison Historic Preservation Plan** adopted in May 2020. Many of the same people who approved the decision on 1908 Arlington helped write and concurred in the following which they apparently have either forgotten or ignored in coming to their decision on 1908 Arlington (and a number of other property decisions over the past few years):

“Historic preservation is an activity that preserves historic resources and uses the resources to tell a story of heritage and culture. It includes the identification, evaluation, designation, **protection and retention of significant architectural, historic, and cultural resources in the built and natural environments. Resources range from buildings and structures, sites and districts, to iconic view corridors, landscapes and streetscapes.”**(my bolding) Page 5 of the **City of Madison Historic Preservation Plan**, May 2020.

The subdivision of 1908 would destroy the character of two of the most significant houses in the Heights. Can we count on your vote to **reverse** the decision of the Landmarks Commission?

Best wishes,

Bruce Kahn Patricia Miles Patterson

1911 Kendall Ave.
Madison, WI 53726

Cheers,

Bruce

Read to children. Vote. And never buy **anything** from a man who's selling fear.

— Mary Doria Russell (1950-), American science-fiction writer

From: [Lester Pines](#)
To: [All Alders](#)
Cc: [Jean Halferty](#); [Monica Messina](#); roberta.gassman@gmail.com; brucekahn1951@gmail.com; [Ronnie Hess](#); [Bruce Kieffer](#); [Jeff Chandler](#); [Susan Eichhorn](#); [Rebecca Reed](#); [Samantha Crownover](#); [Mary Vernon](#); [Edward K. Ream](#); [Martin Reed-McBain](#); [Jean Parks](#); [Priya Schnapp](#); patriciamilespatterson615@gmail.com; [Laura Rose](#); williamwaller@charter.net; kdforest@gmail.com; benpass4@hotmail.com; kwdstuff@gmail.com; sksauer@wisc.edu; [Bidar-Sielauff, Shiva](#)
Subject: Response to Landmarks Commission Staff March 14 Report
Date: Monday, March 18, 2024 6:22:58 PM
Attachments: [image001.png](#)
[Memo Supporting Reversal of Landmarks 2.12.24 Decision.pdf](#)

Caution: This email was sent from an external source. Avoid unknown links and attachments.

Dear Alders,

I am writing again about the Tuesday, March 19 hearing before the Council on the appeal of the Landmarks Commission decision to grant a certificate of appropriateness for a land division at 1908 Arlington Place to the 1908 Arlington Place LLC, this time in response to the Landmark Commission staff report that was shared with you on March 14. On that same date, I and my neighbors Jean Halferty and Monica Messina, with the assistance of my wife, Roberta Gassman, sent you a memorandum explaining the serious issues that the appeal we and our neighbors filed about the failure of the Commission to follow the ordinance governing land divisions in an historic district. The Commission's staff report did not respond to our memorandum, a copy of which is attached.

As property owners in the University Heights Historic District, we are obligated to comply with ordinances that minutely regulate what we may do to the exteriors of our homes. We have consistently done so, making us significant stakeholders in the preservation of the historic district. We urge the Council to hold the Landmarks Commission to the very same high standard of compliance with the ordinances as we are held to, and not allow a misinterpretation of law and the disregard of facts to support an improper decision by the Commission.

The Landmarks Commission, even though it has a single Alder on it, Ald. Latimer Burris, (who did, in fact, vote against the land division) is part of the executive branch of city government. As the legislative branch, the Common Council has the obligation to oversee and correct errors made by the executive branch. That is why citizens are allowed to appeal Commission decisions to the Council. Despite being familiar with the members of the Commission, and despite the fact that Alders regularly interact with Plan Department staff who assist the Commission, Alders owe absolutely no deference to any decision of the Commission that has been appealed. When considering an appeal, the Council has the obligation to carefully consider the law and the facts presented by the citizens who have appealed.

Although it may be uncomfortable to reject a decision made by the Commission and

advocated before you by its staff, there are times when you must do so. This appeal is one of those times because the Commission made significant errors of law and disregarded important facts which led it to make an erroneous decision. The following provides additional detail, beyond our March 14 memorandum, that supports our position that the Landmarks Commission decision must be reversed.

Misinterpretation of Law

In our March 14 memorandum we quoted a definition of the word “adjacent” by the United States Supreme Court in 2023. The same definition of “adjacent” was adopted by the Wisconsin Supreme Court in 1955 and cited by the Wisconsin Court of Appeals in 2014: **“The word ‘adjacent’ in its ordinary usage means ‘near to’ or ‘close to,’ but does not imply actual physical contact as do the words ‘adjoining’ or ‘abutting’.”** *Superior Steel Products Corp. v Zbytoniewski*, 270 Wis. 245, 247 (1955) cited by the Wisconsin Court of Appeals in *Manning v Minton Construction Co*, at para. 13, 2013AP1029, 2014 WL 4693131 (Ct App.2014).

The Commission’s staff response to the appeal petition said that the City has for years used the term “adjacent” as meaning “adjoining”. That the City has consistently used an incorrect definition of “adjacent” is irrelevant. Beyond any doubt, in Wisconsin the definition of “adjacent” means “near to” or “close to” not “adjoining”. Consequently, the Council must apply the actual definition of “adjacent” to the proposed land division. By doing so, it will take into account not merely compatibility with a few adjoining lots on Kendall Avenue, but with the lots very “near-by” on Arlington Place, which the maps and photos supplied to the Council in our memorandum show, and come to the obvious and common-sense decision that the proposed land division is not compatible with those nearby lots

Moreover, to reiterate a point made in our March 14 memorandum, if only “adjoining” property is considered in a proposed land division in an historic district, why does MGO 41.20 require an appeal petition to be signed by 20% of the property owners within 200 feet of the property to be divided? Obviously, the answer is that those properties are “nearby” or “neighboring” and impacted by the land division. In other words, they are “adjacent” and should have been considered as such by the Commission and its staff.

Disregard of Facts

The Commission disregarded the plain and known facts about the “general pattern of lots sizes” in University Heights and thereby glossed over the issue set forth in MGO 41.14(4) of the “general pattern of lot sizes” in the University Heights Historic District. Its staff’s March 14 report stated that “[t]he Commission’s review of the maps concluded that the new lots clearly met the **varied lot development pattern of the district** . . . The University Heights Historic

District **does not have a single lot size throughout the district.**"(emphasis added)

However, the issue before the Commission was not whether there was "a varied lot development pattern" or "a single lot size throughout" University Heights. The Commission was supposed to under MGO 41.18(4) ensure that any lot division maintained "the **general lot size pattern** of the historic district." There have always been different sized lots in University Heights, but there is and always has been a "general lot size **pattern**" as described in the 1983 application to the National Register of Historic Locations, as quoted in our March 14 memorandum:

Streets and lots are laid out in, a manner sensitive to the topography of the site with rectilinear streets paralleling the perimeter of the plat at the base of the hill giving way to a more organic, curvilinear plan as one approaches the summit. Lot sizes are greatest on or near the summit and decrease somewhat in size as one approaches the periphery of the plat.

Now, 51 years later, that description remains 100% accurate. Beyond any doubt, there is in 2024 a general lot size pattern in University Heights: smaller lots off the hill and on straight streets, i.e. rectilinear, and the largest sized lots on or near the summit of the hill on the curved streets, i.e. curvilinear, like Arlington Place.

Consequently, the proposed small sized lot for 1908 Arlington Place, which is "near the summit [of the University Heights hill]", is incompatible on a street where the lot sizes are among the "greatest" sized. The lack of compatibility of such lots is obvious to anyone who takes a moment to look at the photos of Arlington Place and compares them to the photos of Kendall Avenue, all of which were attached as Exhibit 2 to our March 14 memorandum,.

One final note: the staff's May 14 report states that the Plan Commission approved the proposed certified survey map (CMS) for 1908 Arlington Place. In fact, the Plan Commission only "conditionally approved" the CMS.

Best regards,

Lester A. Pines

Attorney at Law

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BEFORE THE CITY OF MADISON COMMON COUNCIL
ON MARCH 19, 2024

**Memorandum of Facts and Law in Support of the Appeal of the Decision of the
City of Madison Landmarks Commission Approving on February 12, 2024, a
Certificate of Appropriateness to 1908 Arlington Place LLC for a Land Division at
1908 Arlington Place in the University Heights Historic District**

Lester A. Pines, Jean Halferty, and Monica Messina, signatories on the February 21, 2024 Petition for Appeal of the Decision of the City of Madison Landmarks Commission on February 12, 2024 approving a Certificate of Appropriateness to 1908 Arlington Place LLC for a Land Division at 1908 Arlington Place in the University Heights Historic District (“University Heights”), hereby respectfully submit this Memorandum of Facts and Law in support of the appeal and request that the Common Council reverse the Landmarks Commission’s decision to grant the Certificate of Appropriateness.

I. INTRODUCTION

On February 12, 2024, the City of Madison Landmarks Commission (“the Commission”) approved a Certificate of Appropriateness for a land division at 1908 Arlington Place in University Heights. The Petitioners are all landowners within 200 feet of the property. None of them opposes the Commission’s decision because of a “not-in-my-back-yard” attitude, hostility toward “in-fill” or a general dissatisfaction with the Commission’s decision. Their objection is

that the Commission failed to follow the requirements of Madison General Ordinance (“MGO”) 41.18(4) which states:

Land Divisions and Combinations. The commission shall approve a certificate of appropriateness for land divisions, combinations, and subdivision plats of landmark sites and properties in historic districts, unless it finds that the proposed lot sizes adversely impact the historic character or significance of a landmark, are incompatible with adjacent lot sizes, or fail to maintain the general lot size pattern of the historic district.

This memorandum will explain in detail how the Commission failed to follow MGO 41.18(4). For the ordinance to remain effective and protect historic districts, the Common Council must reverse the Commission’s decision granting the Certificate of Appropriateness for the 1908 Arlington Place LLC (“the LLC”) to sub-divide the property it very recently acquired at that address in University Heights.

II. THE COMMISSION’S HEARING WAS FILLED WITH ERRORS

The analysis presented by the Landmarks staff to the Commission members prior to the vote following the public hearing was flawed and inconsistent. Specific statements were made during the presentation by Dr. Heather Bailey (“Dr. Bailey”), the staff person to the Commission on whom the Commission relied for information, were not supported by the ordinances to which she referred: MGO Sections 28 (Zoning) and 41(Landmarks). The Commission meeting was recorded and can be reviewed here:

<https://media.cityofmadison.com/mediasite/Showcase/madison-city-channel/Presentation/f67565593ca94ad3b4b92797f130cd371d?Mode2=Video>

Those flaws and inconsistencies are evidence of the serious problems with the way the Commission considered the land division proposed by the LLC:

1. **At the 26 minute 20 second mark** Dr. Bailey used the lots on the south side of Kendall Avenue as comparable while ignoring any consideration of properties on Arlington Place. She failed to address the directly adjoining properties of 1914 or 1902 Arlington Place.
2. **At the 28 minute 34 second mark** Dr. Bailey specifically said that in the zoning ordinance “*adjacent*” is defined as “sharing a lot line.” She later, at approximately 1:09, referenced section 28.144 to define *adjacent*. That section does not define *adjacent*. It uses the word *adjoining* as it applies to development on a property that adjoins a landmark or landmark site. (1908 Arlington Place is neither a landmark nor a landmark site.)
 - i. It is important to note in the definition section of the zoning portion of the MGO (Section 28.2 (111)) the word *adjacent* is not defined, nor is *adjoining*. Dr. Bailey did not say she had obtained the opinion of the applicable City Attorney. Instead, this was merely Dr. Bailey’s own interpretation and definition of the ordinance.
 - ii. Furthermore, if sharing a lot line is considered as *adjacent*, the lots at 1914 and 1902 Arlington Place should have been discussed and considered in the analysis but were not.
3. **At the 32 minute 30 second mark** Dr. Bailey expressed that there are lots that are the same width by referencing, as examples, lots on the south side of Kendall. This again goes directly against the definition of *adjacent* that Dr. Bailey herself said must be followed. When answering commission members’ questions, Dr. Bailey displayed the map from the submission of the LLC, not the work of the Commission, or the City. Apparently, Dr. Bailey simply added a city logo to the bottom of the submission. She never stated that this map was the LLC’s submission

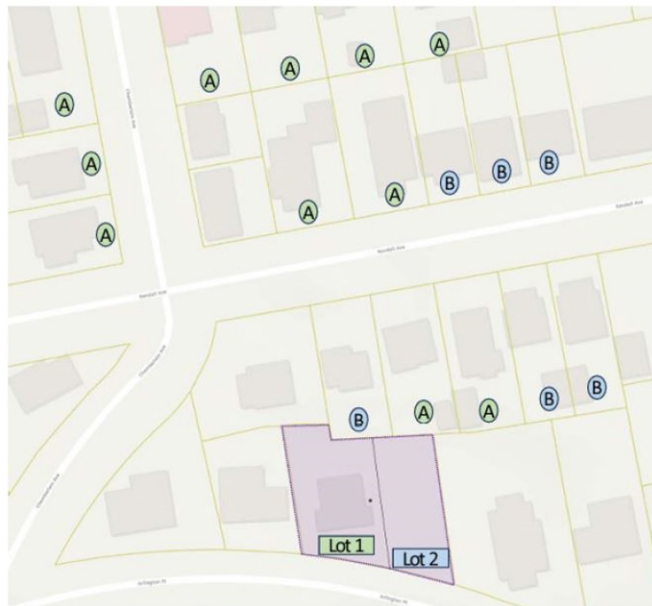
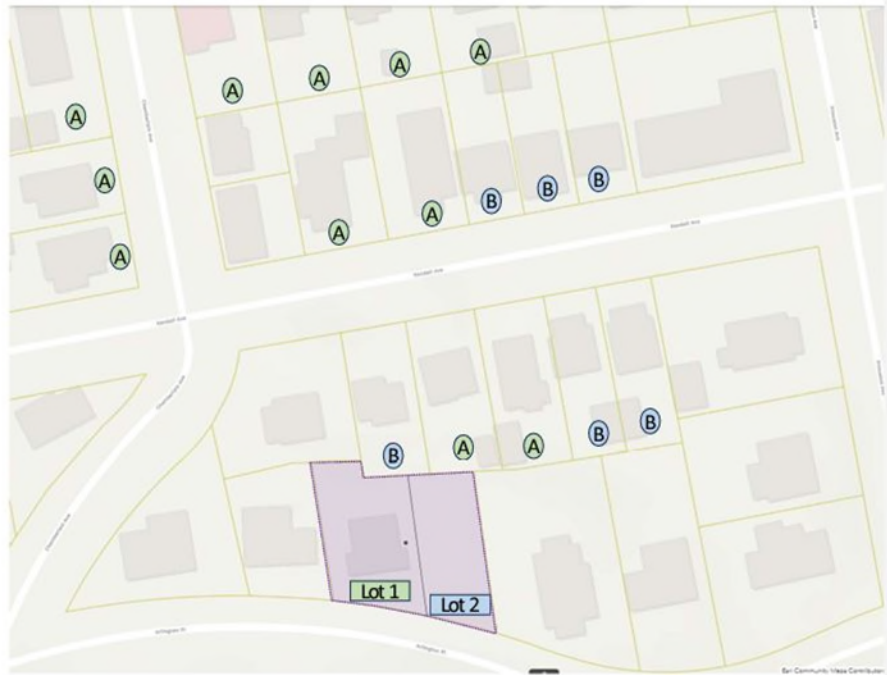
map. With the city logo attached the Commission members may very well have thought that this was Dr. Bailey's work, and they should rely on it.

Shown beginning on the next page are the images submitted by the LLC followed by the very same image presented to the Commission by the staff with the addition of the City of Madison seal on it.

**Madison DCiMap,
current**

This map analysis
demonstrates the
proposed lot sizes are
compatible with
adjacent lot sizes

-  Subject Property
-  Similar size to parcel with
existing home (Lot 1)
-  Similar size to proposed
vacant parcel (Lot 2)



Analysis of Parcel sizes



4. **At the 44 minute mark** Dr. Bailey again referred to the word *adjacent* as defined in the ordinance means needing to share a lot line. She then went on to say that “comparables” must be immediately surrounding. She specifically stated that the goal of the ordinance when drafted was not to create a lot that is out of scale with its surrounding neighbors.

5. **At the 45 minute mark** Dr. Bailey also specifically stated that a couple of blocks over has nothing to do with what is going-on on another block. Yet a house at 202 Forest St., over a 1 ½ blocks away and not on the drumlin that creates University Heights where Arlington Place is, was used by the Commission as a comparator.

6. **At the 45 minute 30 second mark** Dr. Bailey then stated that you should look at the surrounding areas which directly contradicts the definition of *adjacent* that she directed the Commission to follow.

7. **At the 47 minute mark** Alder Vidaver asked if there is any precedent in the area. Dr. Bailey stated that the only one she knows of is on Chadbourne Avenue. (The problem with that statement is that 2012-2020 Chadbourne Avenue is not a precedent. The owners there did not ask that the property be divided. The request was a proposal to combine three lots that comprise the parcel at 2020 Chadbourne and to adjust the lot line between 2020 Chadbourne and 2012 Chadbourne.)

Additionally, a review of the original submission for the land division shows that it was incomplete and, thereby, caused the Commission to lack a full record. Under application submission requirements, the form specifically requires in the submission checklist that photographs be provided with the application. None were provided even though the form had the “photographs” box checked.

Thus, the application was incomplete. It should not have been presented to the Commission until photographs of, at a minimum, the 1908 lot and the other lots on Arlington Place were available to be reviewed.

III. THE COMMISSION USED INAPPROPRIATE MAPS WHICH LED TO ITS FAILURE TO CONSIDER THE “GENERAL LOT SIZE PATTERN” IN UNIVERSITY HEIGHTS.

The general lot size pattern of in University Heights was described in relevant part in the November 3, 1982 application for University Heights to be placed on the National Register of Historic Places Inventory, Section 7, as follows:

University Heights takes its name from the glacial drumlin which rises from the center of the suburb which is adjacent to, and overlooking, the University of Wisconsin. The plat plan of the Heights is superimposed over this steeply sloping hill which rises to a height of 1,060 feet, some 200 feet above the surrounding area . . . **Streets and lots are laid out in, a manner sensitive to the topography of the site with rectilinear streets paralleling the perimeter of the plat at the base of the hill giving way to a more organic, curvilinear plan as one approaches the summit. Lot sizes are greatest on or near the summit and decrease somewhat in size as one approaches the periphery of the plat. . . Those buildings having the greatest historical and architectural significance are most heavily concentrated on the curvilinear streets of Arlington Place, Ely Place, Prospect Avenue, Summit Avenue and Roby Road, all of which surround the crown of the Heights.** (*emphasis added*) (<https://npgallery.nps.gov/GetAsset/f5386641-e39b-4f78-94e2-c162500fb79a> last visited March 13, 2024)

The Commission ignored that general lot size pattern and, instead, relying on a map submitted by the LLC, compared the lot on Arlington Place, which is near the top of the drumlin, to lots on Kendall Avenue, which are below Arlington

Place at the base of the hill on a rectilinear street, not curvilinear one like Arlington Place.

The Landmarks' staff to the Commission displayed an alarming readiness simply to accept the LLC's interpretation of "appropriateness" and comparability. Staff appear not to have gone further than to review the materials (maps, drawings) submitted by the LLC. In other words, there was no evidence of an assessment of the area's development and platting history.

Attached as Exhibit 1 is an analysis of the appropriate maps which the Commission could and should have considered to have gained a true and complete understanding of the general pattern of lots in University Heights.

IV. THE CORRECT DEFINITION OF ADJACENT FOR THE PURPOSE OF ANALYZING A PROPOSED LAND DIVISION IN AN HISTORIC DISTRICT TO ENSURE COMPATIBILITY IS "NEARBY".

Madison General Ordinance 41.18(4) requires, in relevant part, that the Commission approve a proposed land division unless it is "incompatible with **adjacent** lot sizes". As noted above, the Commission staff told the Commission members that "*adjacent*" meant "*adjoining*." However, the meaning of "*adjacent*" in 41.18(4) means "neighboring."

Specifically, as the concurrence of Justices Kavanaugh, Kagan, Sotomayor, and Jackson stated in the recent case entitled *Sackett v Environmental Protection*

Agency, 598 US. 651, 714 (2023): **“One last time: adjacent means neighboring, whether or not touching.”** (emphasis added)

The concurrence at page 718 also quotes from various dictionaries, stating at page 718:

“Adjacent” includes “adjoining” but is not limited to “adjoining.” See, *e.g.* **Black’s Law Dictionary 62 (rev. 4th ed. 1968)** (defining “adjacent” as “lying near or close to; sometime, contiguous; **neighboring; ...may not actually touch**”); **Black’s Law Dictionary 50 (11th ed. 2019)** (defining “adjacent” as “Lying near or close to, but not necessarily touching; see also, *e.g.*, **Webster’s Third New International Dictionary 26 (1976)** (defining “adjacent as “to lie near, border on; “not distant or far off”; **“nearby but not touching)** “adjacent” includes “adjoining: but is not limited to “adjoining.” (emphasis added)

The Common Council should rely on those dictionary definitions and their adoption by justices of the United States Supreme Court to conclude that *adjacent* means “neighboring”. That definition is reinforced by MGO 41.20(1) that requires 20% of landowners within 200 feet of a proposed land division in a historic district to sign a petition for appeal to be effective. This requirement most certainly shows that “*adjacent*” in MGO 41.18(4) means “neighboring” Otherwise, would not that ordinance solely be restricted to “*adjoining*” property owners?

The Commission utterly failed to consider whether the LLC’s proposed land division at 1908 was compatible with the neighboring properties on Arlington Place. Its complete disregard of whether the LLC’s proposed land division was

compatible with the neighboring lots on Arlington Place was fatal to its decision to grant a Certificate of Appropriateness.

V. ATTACHED AS EXHIBIT 2 ARE PHOTOGRAPHS OF ARLINGTON PLACE AND THE NEARBY LOTS THAT THE COMMISSION IGNORED AND THE LLC'S PROPOSED CERTIFIED SURVEY MAP.

The attached photos show the following:

1. Views of the "*adjacent*" i.e. "neighboring" properties on Arlington Place that were excluded from the Commission's consideration of "compatibility". Instead, to match the substantially smaller lot proposed by the land division, comparisons to the lots on Kendall Avenue were accepted and used exclusively for the staff's incomplete and inadequate compatibility analysis.
2. How much smaller the lots on Kendall Avenue are, how far below Kendall Avenue is from Arlington Place and its rectilinear orientation.
3. The curvilinear nature of Arlington Place and the orientation of the lots on it that enhance that feature.
4. The set-back of the houses on Arlington Place on their lots compared to the smaller and more compact lots and houses on Kendall Avenue.

The LLC's proposed certified survey map, when viewed in conjunction with the photo of the existing house at 1908 Arlington Place, shows how close anything built on the small new lot would be to the property line immediately in front of the porch of the existing house. The lot is not even close to compatible with the rest of Arlington Place.

But neither were such photos, nor were the actual proposed land division shown on the certified survey map submitted to or shared with the Commission,

leaving it with only an abstract guess about how the lot at 1908 and the neighboring lots actually exist and how they look and why the land division is not compatible with its neighboring lots.

VI. CONCLUSION

Through this memorandum and its attachments, the Common Council now has before it the relevant information that it needs to reverse the Commission's decision granting the LLC's request for a Certificate of Appropriateness for a land division at 1908 Arlington Place. It should do so and, consequently, also reject the Plan Commission's approval of the certified survey map which was conditioned on the Common Council accepting the Landmarks Commission's Certificate of Appropriateness.

Respectfully submitted,

Lester A. Pines, 1915 Arlington Pl.
Jean Halferty, 1919 Arlington Pl.
Monica Messina, 1917 Kendall Ave

EXHIBIT 1

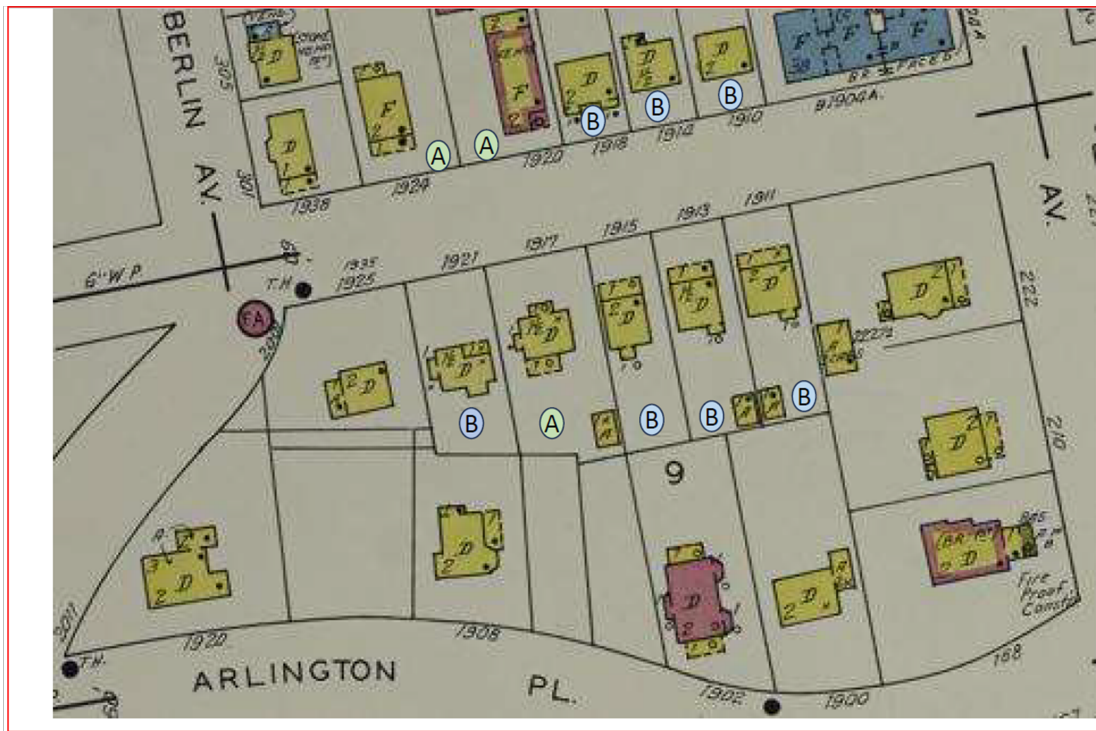
Presented here is evidence of:

- 1) Map Selection
- 2) Block 9's Historic Development (especially in its first 2 decades)
- 3) Inconsistent lot sizing proposal

1) Map Selection

The buyer 1908 Arlington Place LLC, ("the LLC") arbitrarily references **1942 Sanborn Fire Insurance maps** (https://tile.loc.gov/image-services/iiif/service:gmd:gmd412m:g4124m:g4124mm:g09603194202:09603_02_1942-0322/full/pct:25/0/default.jpg)

Figure 1. 1942 Sanborn Fire Insurance Map submitted by Bryan Rieber, new owner of 1908 Arlington Place.



to make the claim that the divided area between 1908 and 1902 is “consistent with the historic platting of the district.” See **Figure 1**. However, the Sanborn maps are **not** land surveying maps, were often revised, and may not accurately reflect the historic platting recorded with the city.

In direct contrast, please see the Lot lines in **Figure 2**, which is an image from the **2017 City of Madison CSM Platting** (<https://data-cityofmadison.opendata.arcgis.com/datasets/cityofmadison::plat-csm-lot-lines/explore?location=43.072149%2C-89.418698%2C17.00>). These lines show 6 drawn lots on Arlington Place with a full-sized lot between 1908 and 1902 Arlington Place which has remained unoccupied by any structure.

Figure 2. 2017 City of Madison Open Data showing Plat CSM Lot Lines on Block 9, University Heights.

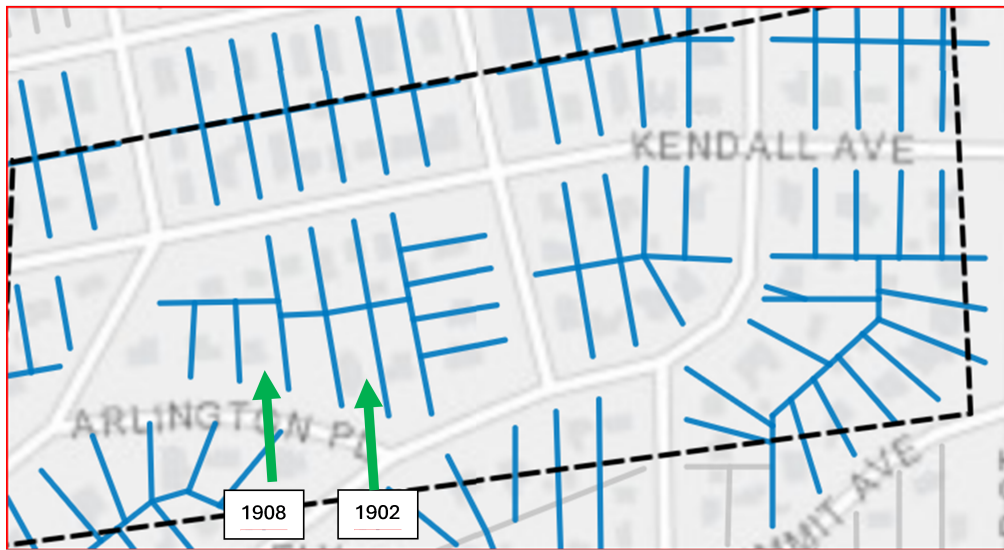
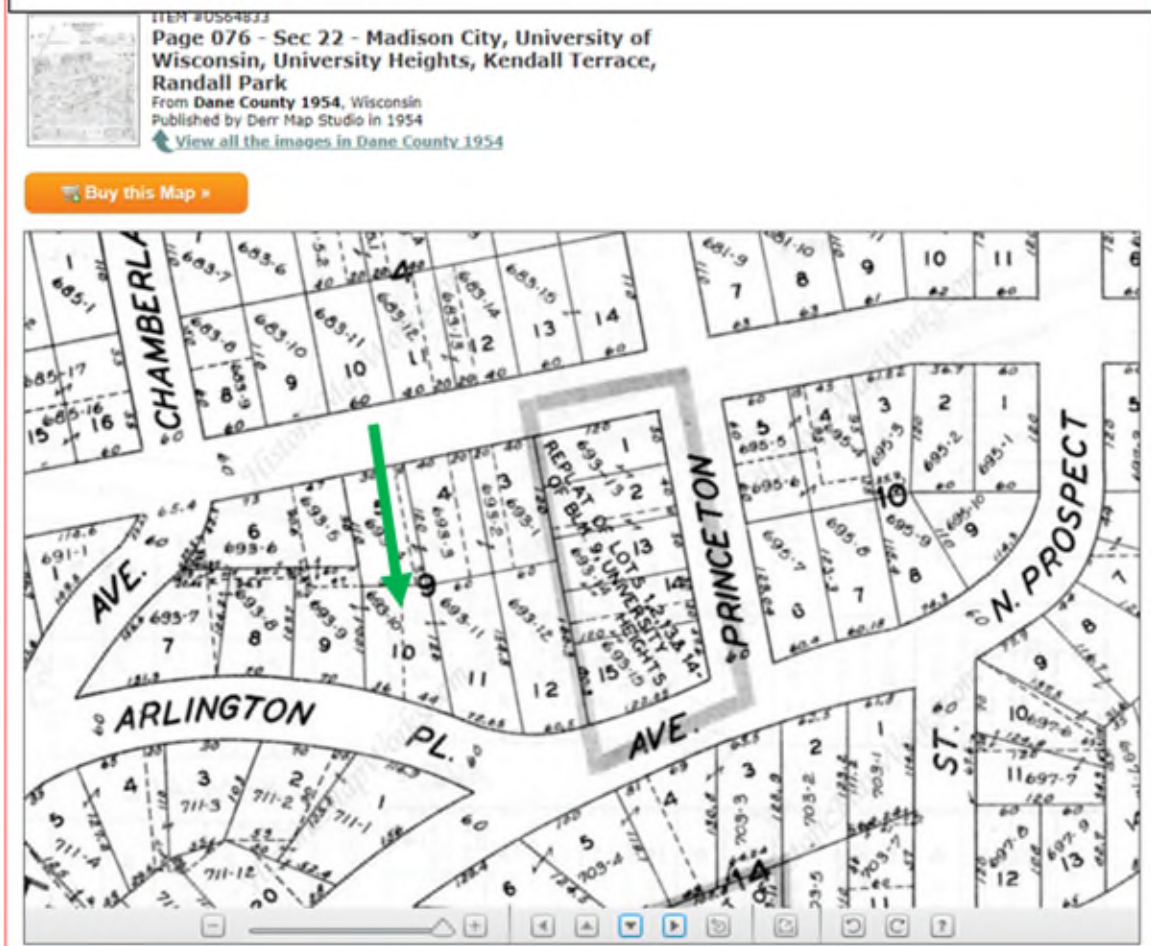


Figure 3. 1954 Derr Map Studio. Lot 9=1908 Arlington Place; Lot 11=1902 Arlington Place; Lot 10 (green arrow)=shared empty lot.



As another example, there are 1954 historical maps (by Derr Map Studio) - <https://historicmapworks.com/Map/US/64833/Page+076+++Sec+22+++Madison+City++University+of+Wisconsin++University+Heights++Kendall+Terrace++Randall+Park/Dane+County+1954/Wisconsin/> that show a **single Lot 10** between 1908 and 1902 Arlington Place with a dotted line presumably indicating shared ownership of this lot. Note: Lot 10 on this map is consistent in size with the other lots on Arlington Place. See **Figure 3** (green arrow added):

Of significance in the 1954 map (Figure 3) is the section of Block 9 along Princeton Ave that is marked as “**Replat of lots 1, 2, 13 & 14,**” which consolidated 4 lots down to 2. As a result, only 3 (rather than 5) homes were sited on this side of Block 9. Arguably, this replatting occurred as a result of the precedent established by the spacious siting of 1908 and 1902 Arlington Place, the **first homes** built in Block 9.

2) Block 9’s Historical Development

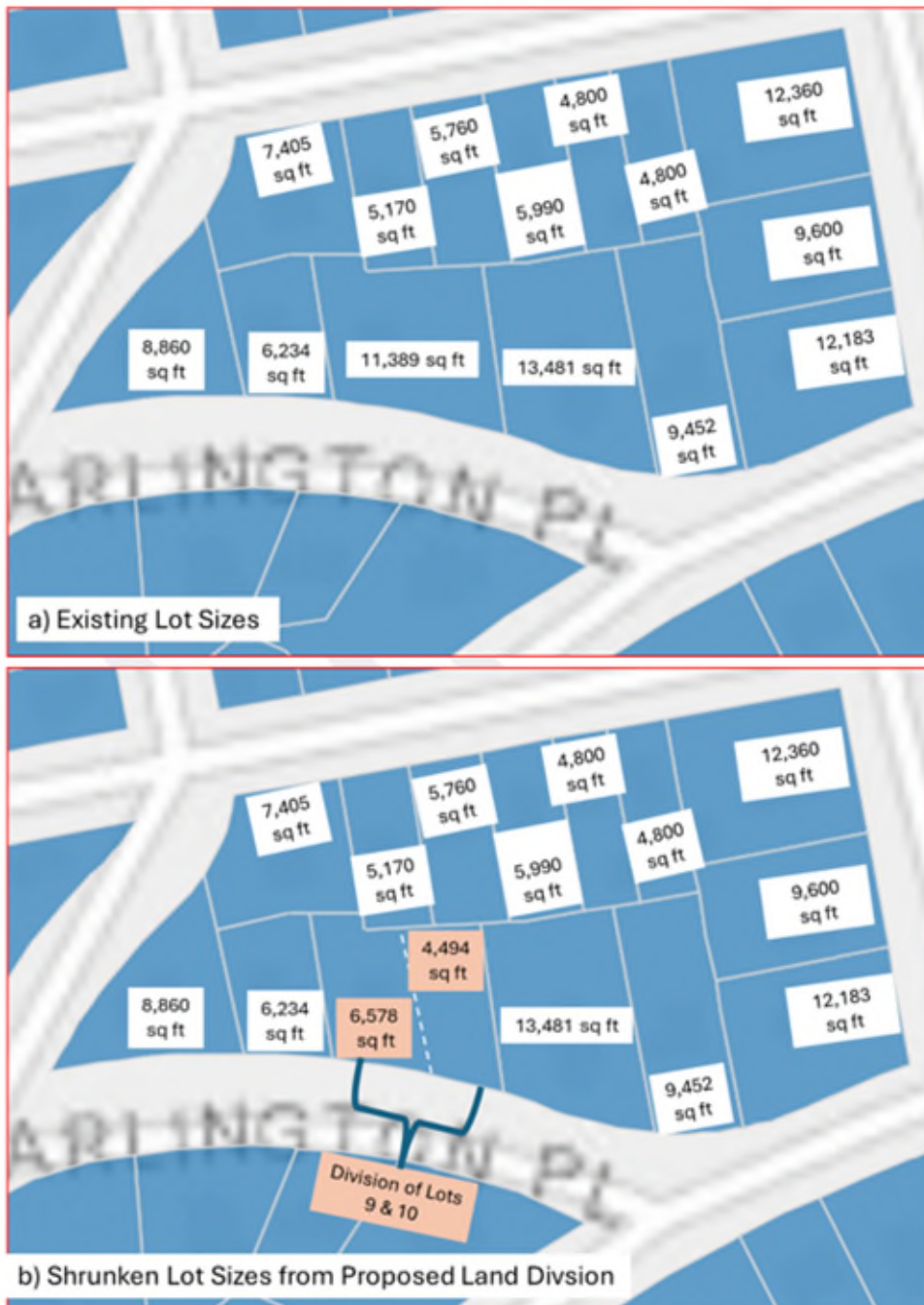
The area’s development history is integral to the character of the district; here is text from the National Register (<https://wisconsinhistory.org/Records/NationalRegister/NR1963>; emphasis

3) Inconsistent Proposed New Lot Size

The LLC has made the claim that their proposed new lot is consistent with the district because the size of those lots are comparable to the smaller lots on the Kendall Avenue side of Block 9. This is false: the **new lot will be the smallest area in Block 9 at only 4,494 square feet in Block 9**. The next smallest lots are not on Arlington Place but at 1911 and 1913 Kendall Avenue and measure **4,800 square feet each**.

Please see **Figure 5** (<https://data-cityofmadison.opendata.arcgis.com/datasets/0338b0638e4749c395f8d38b39a5c466/explore?location=43.071472%2C>

Figure 5. Square Footage of Block 9 Lots from City Tax Parcel Maps



~~-89.417648%~~2C17.80 taken from the city's current tax parcel map showing a) current lot square footage and b) proposed new lot's square footage.

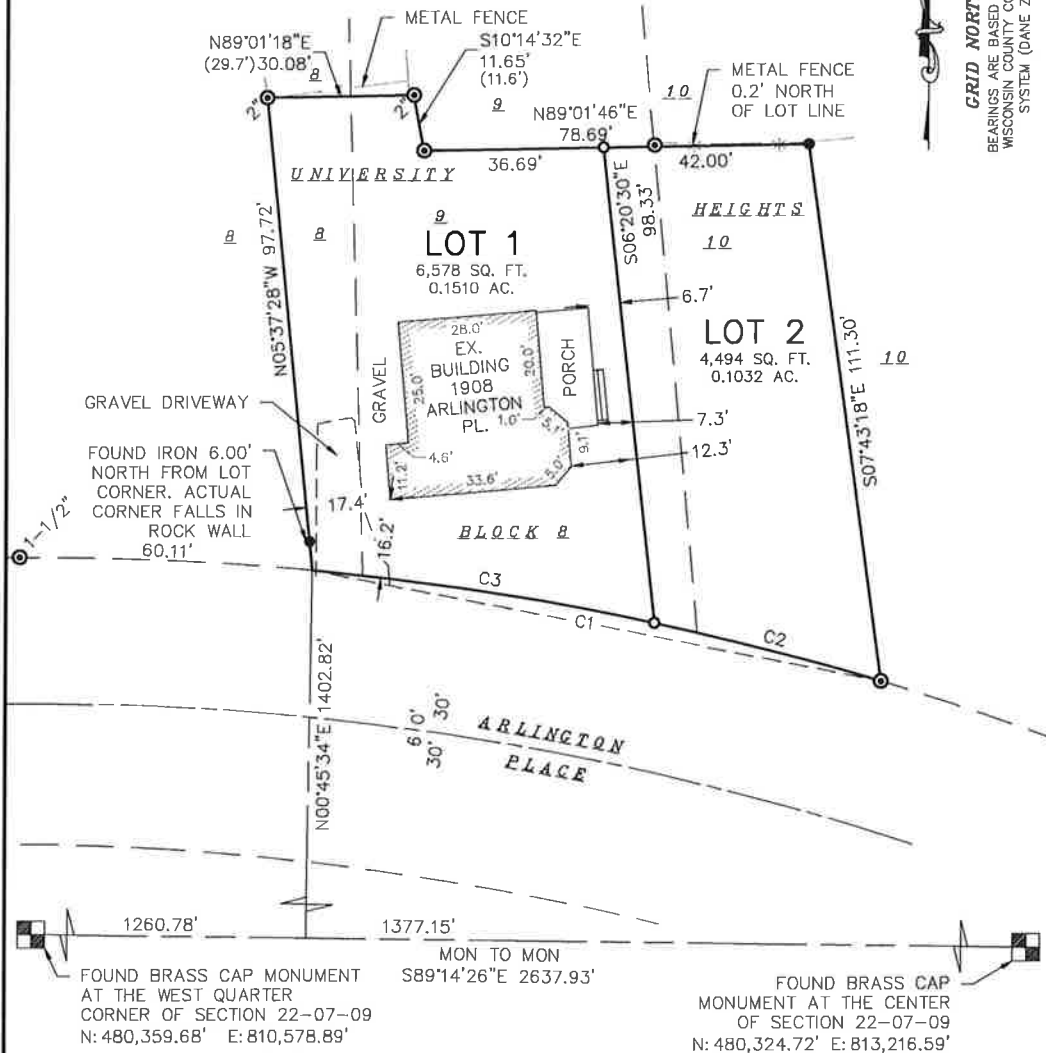
EXHIBIT 2

CERTIFIED SURVEY MAP No.

PART OF LOTS 8, 9 AND 10, BLOCK 9, UNIVERSITY HEIGHTS, AS RECORDED IN VOLUME 1 OF PLATS, ON PAGE 17, AS DOCUMENT NUMBER 197136, DANE COUNTY REGISTRY, LOCATED IN THE NORTHWEST AND NORTHEAST QUARTERS OF THE NORTHWEST QUARTER OF SECTION 22, TOWNSHIP 07 NORTH, RANGE 09 EAST, CITY OF MADISON, DANE COUNTY, WISCONSIN



SCALE : ONE INCH = THIRTY FEET



SURVEYED FOR :
1908 Arlington Place, LLC

SURVEYED BY :

Burse

surveying & engineering LLC

2801 International Lane, Suite 101
Madison, WI 53704 608.250.9263
Fax: 608.250.9266
email: mburse@bse-inc.net
www.bursesurveyengr.com

SEE SHEET 2 FOR LEGEND
AND CURVE TABLE

MAP NO. _____

DOCUMENT NO. _____

VOLUME _____ PAGES _____

Date: December 20, 2023

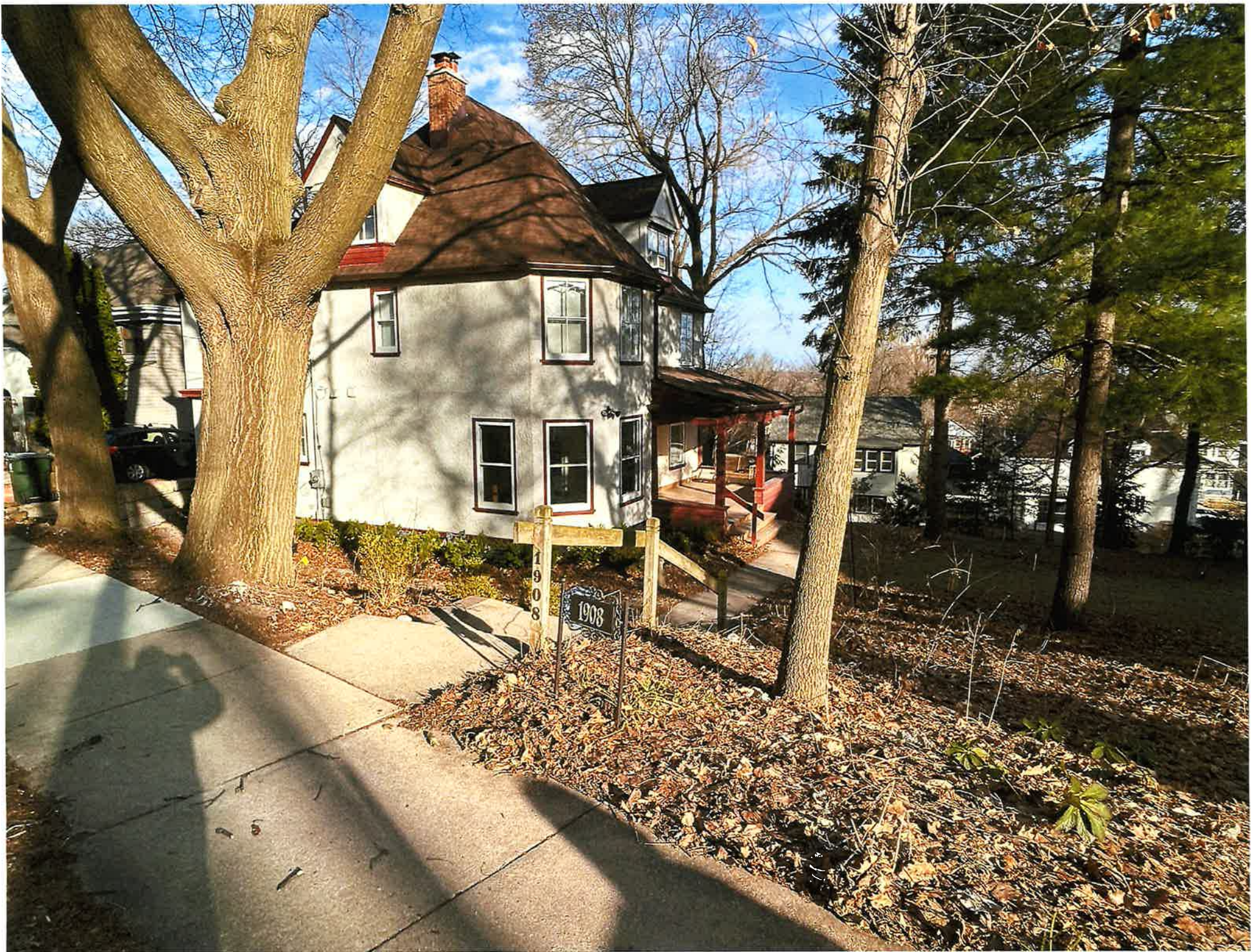
Plot View: CSM

\\BSE2829\\dwg\\Survey\\BSE2829 Survey v2020.dwg



SHEET 1 OF 5































Matthias, Isaac L

From: Edward K. Ream <edreamleo@gmail.com>
Sent: Sunday, March 17, 2024 3:14 AM
To: All Alders
Subject: Please reject the subdivision of 1908 Arlington Place

Caution: This email was sent from an external source. Avoid unknown links and attachments.

To all Madison Alders,

Rebecca Reed and I live at 166 N. Prospect Ave, directly across the street from 1908 Arlington Place.

We urge you to **support** [agenda item #4](#) and **reject** the proposed subdivision of 1908 Arlington Place.

The supporting memo by Lester A. Pines, Jean Halferty, and Monica Messina shows that **neither** the Landmarks Commission **nor** the Plan Commission considered the relevant statutes that protect the University Heights Historic District.

The subdivision of 1908 would destroy the character of two of the most significant houses in the Heights. Can we count on your vote to **reverse** the decision of the Landmarks Commission?

Yours,

Rebecca Reed
Edward K. Ream
166 N. Prospect Ave
Madison, WI 53726

Matthias, Isaac L

From: Rebecca Reed <rebeccareed2000@gmail.com>
Sent: Monday, March 18, 2024 12:30 PM
To: All Alders
Subject: 1908 Arlington

Caution: This email was sent from an external source. Avoid unknown links and attachments.

Dear Alders,

Thank you for contributing your time and energy to the running of our beautiful city.

I urge you to provide a supportive vote for Agenda item #4 ID82175.

On recommending approval for the division of 1908, the landmarks commission failed to consider the general lot size as viewed on Arlington. Any building would obscure the historic detail of this very old interesting house. Though it is not a "landmark", Madison Historic Preservation features it on their walking tour. I have been a neighbor across the street for almost 40 years. When we moved I talked to Roger Schwen (owner of 1908) about how lovely it was to have his greenspace. He said he loved it too, so much he and the Richards (owners next door) split the lot to protect the property. In respect for the vision of the previous owners please support us in preserving the beautiful character of this neighborhood.

Can I count on your vote to reverse the decision of the Landmarks commission?

Rebecca Reed
166 N. Prospect Ave

Matthias, Isaac L

From: Martin Reed-McBain <martinreedmcbain@gmail.com>
Sent: Monday, March 18, 2024 1:22 PM
To: All Alders
Subject: Urging support of Agenda Item #4 ID#82175

Caution: This email was sent from an external source. Avoid unknown links and attachments.

To all Madison Alders,

We are urging you all to **support** [agenda item #4](#) , ID#82175, and **reject** the proposed subdivision of 1908 Arlington Place.

Catherine and I have lived at 1920 Arlington Place since 2018. Our house is situated 3 lots down along Arlington Place to the property at 1908 Arlington Place.

The supporting memo prepared by Lester A. Pines, Jean Halferty, and Monica Messina shows that the Landmarks Commission failed to consider the relevant statutes and procedures intended to protect the University Heights Historic District as well as the other historic districts in the City of Madison!

The proposed subdivision would have been shown to be demonstrably in conflict with the Districts requirements had this proposal been properly documented and considered.

The subdivision of 1908 could significantly alter the character of the Historic District because (to quote the ordinance) it is "incompatible with adjacent lot sizes, or fails to maintain the general lot size pattern of the historic district".

Catherine and I are hoping we can count on all of your votes to **reverse** the decision of the Landmarks Commission?

Respectfully,

Martin and Catherine Reed-McBain
1920 Arlington Place
Madison, WI 53726

From: [STEPHEN K SAUER](#)
To: [All Alders](#)
Subject: #82175 Appeal of Madison Landmarks Commission granting a Certificate of Appropriateness for a land division at 1908 Arlington Place
Date: Monday, March 18, 2024 3:22:45 PM

Caution: This email was sent from an external source. Avoid unknown links and attachments.

Hello -

I am requesting that you vote to approve item #82175 Appeal of Madison Landmarks Commission granting a Certificate of Appropriateness for a land division at 1908 Arlington Place.

Per applicable standards, a lot combination/proposal must ensure that the new configuration has compatible configuration with adjacent lots.

Although the city has previously interpreted adjacent to mean adjoining, two facts bear consideration: 1) These terms are not equivalent, and 2) Adjacent is not defined in the zoning code. Past practices and decisions of the city notwithstanding, this ambiguity in the zoning code prevented the Landmarks Commission from conducting a clear and proper review of the land division request at 1908 Arlington Place.

Further, until descriptive terms are clearly defined and codified in the zoning code, the Landmarks Commission will be unable to conduct a clear and proper review of any future land division request.

Thank you,
Steve Sauer
202 Forest Street
Madison, WI

Matthias, Isaac L

From: WILLA E SCHMIDT <willa.schmidt@wisc.edu>
Sent: Tuesday, March 19, 2024 2:12 PM
To: All Alders
Subject: 1908 Arlington Place subdivision

Caution: This email was sent from an external source. Avoid unknown links and attachments.

Dear Madison Alders:

I would like to join nearby members of the Regent neighborhood in urging you to support Item #4, ID#82175 and reject the proposed subdivision of 1908 Arlington Place.

Thank you,
Willa Schmidt
2020 University Ave.
Madison WI

Sent from my iPhone

Matthias, Isaac L

From: Priya Schnapp <priya.schnapp@gmail.com>
Sent: Sunday, March 17, 2024 8:26 PM
To: All Alders
Subject: Agenda Item #4, ID#82175

Caution: This email was sent from an external source. Avoid unknown links and attachments.

Dear Alders,

As neighbors and former owners of 1908 Arlington Place, we are asking you to SUPPORT Agenda Item #4 at the upcoming Council meeting, the "Appeal of the Madison Landmarks Commission granting a Certificate of Appropriateness for a land division at 1908 Arlington Place."

Based on the significant evidence gathered that will be presented at the meeting, we believe strongly that the initial decision by Landmarks was wrongfully decided without all of the proper contextualizing information and does not adequately take into consideration the unique characteristics of Arlington Place.

After reviewing the facts presented, we are sure that you agree that this issue deserves significantly more consideration than it has been given so far, and we hope that we can count on your vote this week.

Priya and Ben Schnapp
205 N Prospect Ave
Madison, WI 53726

Matthias, Isaac L

From: Mary K Vernon <marykvernon@protonmail.com>
Sent: Tuesday, March 19, 2024 11:57 AM
To: All Alders
Subject: agenda item #4, March 19, 2024

Caution: This email was sent from an external source. Avoid unknown links and attachments.

Dear Madison Alders,

I've lived at 1900 Arlington Place since 1984. My husband and I have raised two sons in this home who are now grown and recently married. I'm one of the many Petitioners on the Appeal in agenda item #4, ID #82175 for your meeting this evening, and I'm writing to urge you to support this Appeal and reject the proposed subdivision of 1908 Arlington Place.

I believe the most salient points in the Appeal, further clarified in the Memorandum of Facts and Law in Support of the Appeal submitted by Lester Pines, Jean Halferty and Monica Messina, and the Response to the Landmarks Commission Staff March 14 Report submitted by Lester Pines, are as follows:

- On Feb 12, the Landmarks Commission used an incorrect definition of the word "adjacent" in MGO 41.18(4), and thereby inappropriately excluded lots to the west, east and south of 1908 Arlington Place when assessing whether the proposed subdivision would create lots that fail to maintain the general lot size pattern of the University Heights historical district.
- On Feb 12, the Landmarks Commission also failed to note that the general lot size pattern in this historic district includes larger lot sizes near the summit, with decreasing lot sizes at the periphery of the plat. In other words, the general lot size pattern includes larger lots on Arlington Place and smaller lots on Kendall Avenue.
- Due to the above errors, the Landmarks Commission failed to realize on Feb 12 that the new lots in the proposed subdivision are incompatible with the larger lot sizes on Arlington Place, and hence the proposed subdivision fails to maintain the general lot size pattern in this historic district. In that case, MGO 41.18(4) specifies that the subdivision does not meet the criteria for a Certificate of Appropriateness.

This is the essence of the legal grounds for rejecting the proposed subdivision of 1908 Arlington Place.

Please also note that when you vote to preserve the existing properties in this historic district, per MGO 41.18(4), you are also voting to preserve affordable family homes that are in demand and benefit all residents in Madison. For example, previous owners who have raised their children at 1908 Arlington Place include a world class liver transplant surgeon, a top-notch Emergency physician, an outstanding non-partisan legislative analyst for our Wisconsin State Legislature, a highly skilled IT engineer at the UW-Madison, and a highly skilled psychiatrist who provides outstanding mental health services at UW Health. Madison can attract the very best professionals in these and other areas of expertise - including business, law, engineering, computer science, social work, dermatology, orthopedic surgery, cancer specialists, faculty in all areas at the UW, and so forth - partly due to how attractive it is to live in this and other nearby neighborhoods when working the exceptionally long hours needed to succeed at the highest skill levels. As an example, my husband and I chose to move to Madison over Santa Barbara, Washington DC, and other attractive places to live, partly because we could afford a nicer and more comfortable home with a short commute time. My husband co-founded a fledgling LLC in 1983, and spent long hours growing that business to 35 employees, ranging from software engineers to marketing specialists to customer service and shipping staff, who worked together in a large office space across from the State Capital. Similarly, I and others in this neighborhood, have put in long hours teaching and mentoring students in top departments at the UW-Madison, founding and leading highly innovative and successful businesses such as nanotech firms, biotech firms, law firms, a very popular restaurant, performing life saving and life enhancing surgeries and other medical treatments, performing in the Madison Symphony Orchestra, and so forth. Many Madison high school graduates

benefit greatly from the world class education available, at in-state tuition costs, at the UW-Madison. All Madison residents benefit greatly from the top medical specialists available in Madison. The popularity and demand for homes in this neighborhood also leads to a high tax base which also benefits the City and all Madison residents. When you vote to preserve the homes in this neighborhood, you're also preserving the ability of Madison to attract top new talent who contribute in this wide variety of ways.

Like many other neighborhoods in Madison, many residents in this historic district come from very modest economic backgrounds. My husband and I could afford the down payment on this home because we had lived for more than two years on my graduate student stipend (\$18,000 per year) while we saved every after-tax dollar of his full-time income at a major corporation for that down payment. We could afford to pay the mortgage on my \$45,000 per year salary as a UW faculty member, while my husband poured his LLC income into hiring further staff, because this home was a "fixer upper" and because my modest salary was quite a bit higher than the stipend we'd been living on. We also chose this neighborhood partly because so many neighbors were highly enthusiastic about the high diversity at the paired Franklin-Randall elementary schools. Our two sons became close friends with their very diverse classmates, which included 55% of students who qualified for free and reduced lunches in the 1990s. As adults who have recently married, they continue to make new friends from very diverse backgrounds. My husband and I, also developed close and very rewarding friendships with the parents of our sons' very diverse friends. For these reasons, and like the other parents in this neighborhood and the broader Franklin-Randall community, we have a deep appreciation for the importance of affordable housing in this city. At the same time, we know that such housing can and should be provided while also preserving the attractive and affordable housing we already have.

If you adhere to MGO 41.18(4) and hence conclude that the proposal to subdivide 1908 Arlington Place must be rejected, the undisclosed, anonymous owners of 1908 Arlington Place will have the option of selling this property to one of the many families who are always making offers on the homes that are available in this neighborhood, which will enable them to develop another property that will enhance and be welcomed by those surrounding neighbors. There are many ways to make a profit without harming others.

For these reasons, I hope you will vote in favor of the Appeal and in favor of rejecting the proposed subdivision of 1908 Arlington Place.

Sincerely,
Mary Vernon
1900 Arlington Place

Matthias, Isaac L

From: Lizhao Zhang <zhanglz7@yahoo.com>
Sent: Monday, March 18, 2024 11:29 AM
To: All Alders
Subject: 1908 Arlington Place

Caution: This email was sent from an external source. Avoid unknown links and attachments.

Dear Alders,

We urge you to support agenda item #4 and **reject** the proposed subdivision of 1908 Arlington Place.

The supporting memo by Lester A. Pines, Jean Halferty, and Monica Messina shows that neither the Landmarks Commission nor the Plan Commission considered the relevant statutes that protect the University Heights Historic District.

The subdivision of 1908 would destroy the character of two of the most significant houses in the Heights. Can we count on your vote to reverse the decision of the Landmarks Commission?

Yours,

Lizhao Zhang

1825 Summit Avenue,
Madison, WI 53726