

August 1, 2007

Neighbors of 5314 and 5318 Loruth Terrace,

Today, a Land Division Application was filed with the City of Madison involving 5314 Loruth Terrace and 5318 Loruth Terrace. We are requesting that these two parcels be combined for division into three single-family parcels. Enclosed is a copy of the Certified Survey Map showing this proposed division. After marketing these two lots without success for over one year, we are left with no alternative.

According to the 2007 Plan Commission Schedule, this matter will be heard on September 17. We have attempted to address neighborhood concerns with the proposed Certified Survey Map, and would like to offer you an opportunity to speak with us as a group about the situation. I see that Orchard Ridge holds Neighborhood Association Meetings on the third Sunday of the month. I suggest that we discuss this as a group at the next meeting on August 19.

Also enclosed is a list of all receiving this letter. Ten days prior to the Plan Commission hearing, most of you will receive a notice reminding you of the hearing. September 17 may be subject to rescheduling if that date conflicts with a Board of Estimates meeting on the 2008 budget.

Please feel welcome to contact me by phone, email, or in written form.

Regards,
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5314 & 5318 Loruth Terrace
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Presentation to City of Madison Plan Commission

I.D. #07479

September 17, 2007

Good evening. My name is Scott Harrington and I live at 5210 Whitcomb Drive. In addition to being a neighbor of the proposed project, I am a professional city planner with over 20 years of experience in 5 states, most of which has been as a staff member to city plan commissions. I have a master's degree in urban planning and certification from the American Institute of Certified Planners. I'd like to qualify myself as an expert witness; however, I want to make it clear I am doing this as a concerned individual and not behalf my employer or any paid client.

I wish to review seven of my professional findings with you:

1. A two-lot land division was an explicit condition of approval of the original demolition approval. Therefore, the subject application is not a simple application for a land division; it is an application to amend the original demolition decision and needs to be acted upon as such.
2. Neither the three-lot land division request nor the applicable codes have changed since the Plan Commission made its decision in May of 2006.
3. As noted in the minutes of the May 2006 hearing as already entered into the record tonight, the Plan Commission found the following code provisions apply to the application and that 3 lots did not comply with these provisions.
4. The demolition ordinance requires consideration of the proposed use and its consistency with the **character of the surrounding area**;
5. The land division standards also require that proposed lots be **consistent with the surrounding area**;
6. The demolition criteria include consideration of and compliance with the **purpose and intent of the code** and not merely compliance with the minimum lot dimensions of the applicable zoning district; and
7. The application before you **fails to comply** with several of the applicable standards and, therefore, the application **must be denied**.

To stay within your time limits, I'm going to review the basis of my findings rather quickly. I've passed out copies of my presentation in the event you wish to refer to these code sections later.

Section 28.04(22) of the Madison General Ordinances provides the process and criteria for demolitions. Among the stated purposes in subsection (a) for this process are to:

- Require the Plan Commission to evaluate proposed alternative uses of the

- property before existing buildings are destroyed;
- Aid in the preservation of residential neighborhoods; and
- Foster and encourage adherence to the intent and purpose of the Zoning Code as expressed in Section 28.02.

In Section 28.02, the intents and purposes of the Zoning Ordinance include, among others:

- To protect residential areas from harmful encroachments of incompatible uses;
- To protect the character and maintain the stability of residential areas; and
- To regulate and restrict the location and intensity of use of land for residential uses.

Returning to the demolition regulations in Section 28.04(22), subsection (c) provides that:

- Applications for wrecking permits shall not be approved unless the following conditions are met. Among others, these include **paragraph (2)**:
 - The Plan Commission finds that **both** the requested demolition **and** the proposed use are compatible with the intent and purpose of the zoning district. In making this finding the Plan Commission shall consider and give **decisive weight** to any relevant facts including the effects the proposed demolition and proposed use would have on the **normal and orderly development and improvement** of surrounding properties.

Once again, there is a reference to the purpose and intent, not minimum standards, of the code, and Section 28.08(2)(a), states:

- The R1 single-family district is established to stabilize and protect the **essential characteristics** of certain low density residential areas.

Concerning the land division, Section 16.23(7)(d) of the General Ordinances provides that all land divisions shall comply with all design standards within that section.

The listed design standards for lots **under subsection (8)(d)** include the following:

- **Paragraph 1:** The size, shape and orientation of the lots shall be appropriate for the location of the subdivision; and
- **Paragraph 7:** A proportion of 2:1 shall be normally considered as a desirable ratio. (The proposed lots are only 1:1.)

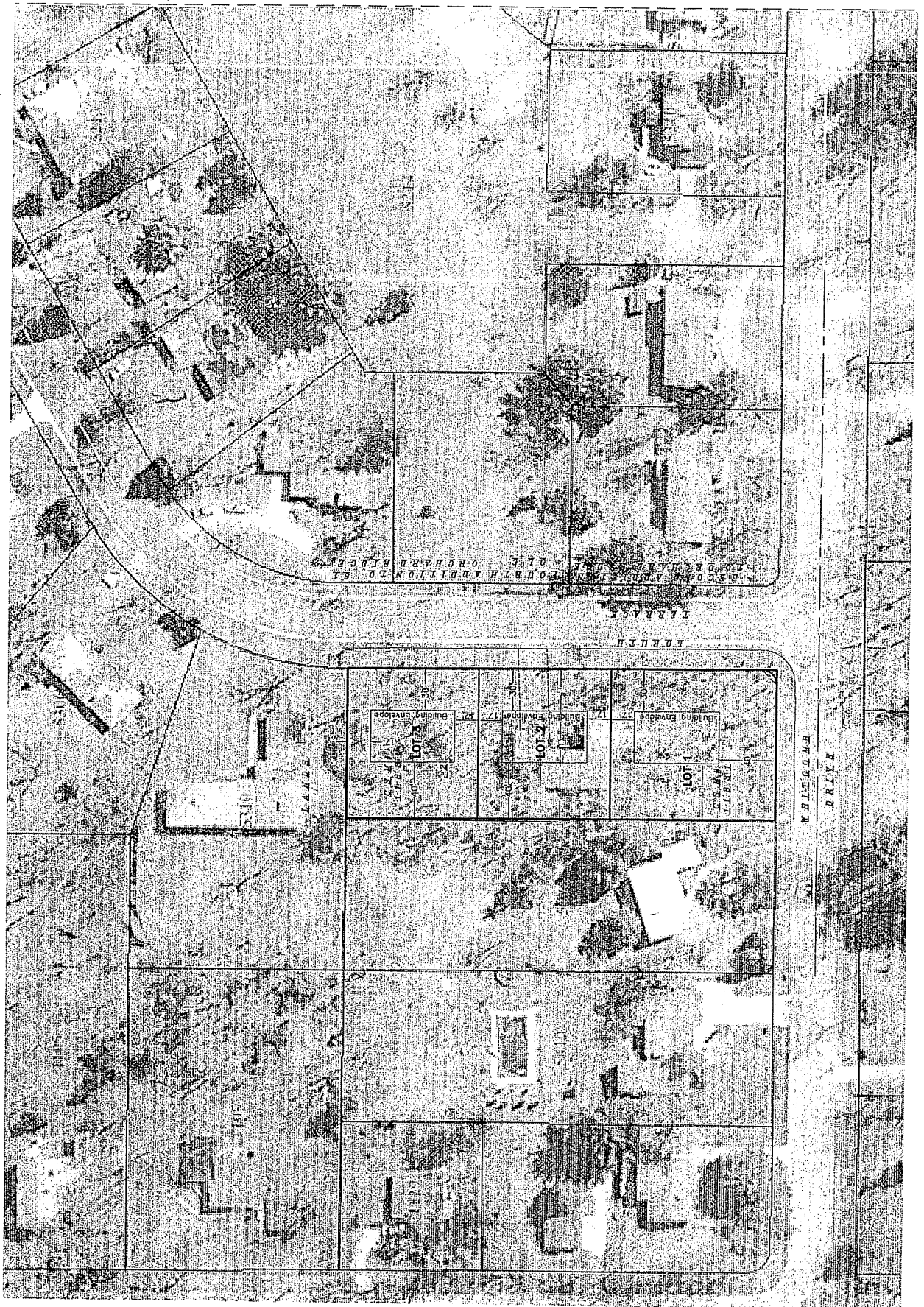
Lastly, please note that none of the applicable sections of the city code include financial feasibility or return on investment as criteria for considering demolition

permits or land divisions. **Therefore, for purposes of the matter at hand, issues of project finances and market feasibility are irrelevant and must be disregarded.**

Based on the criteria I've outlined here and the documented character of the surrounding area as presented by my neighbors, it is my professional opinion that the application does not comply with several of the demolition or land division standards of the Madison General Ordinances. I respectfully request that you deny the application and uphold your previous, unanimous decision.

Thank you.

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