

**Objection to Application for Land Division (Aaron Gary)**  
**113 Ely Place – Land Division in the University Heights Historic District (District 5)**  
**Legistar File # 93071**

My spouse and I have resided at 167 N. Prospect Ave for more than 22 years and share a property line with 113 Ely Place. The owner of 113 Ely Pl (“Applicant”) has submitted an application for land division of that property to create “a new buildable lot” that is to be accessed via a “panhandle” strip of land connecting with Summit Ave. We object to the proposed land division because it does not comply with Madison General Ordinances, as discussed below. In particular, the proposed land division would (1) create a new lot incompatible with adjacent lot sizes and the general lot size pattern of University Heights, MGO 41.18, (2) create a landlocked lot, and (3) result in substantial harm to neighboring properties. MGO 16.23.

The application includes no photographs, only maps that do not show the reality of the proposal. A visual image of the location is essential to understanding what the Applicant is actually requesting. We urge you to pause here and view the 32 photos we submitted before continuing.

**The Property**

The property, 113 Ely Place (also referred to as “the Applicant Lot”), is situated in one of the most historically significant blocks in University Heights. The five houses on Ely Place sit at the top of the hill where the first home in University Heights was built. This block, Block 14, is bordered by Ely Place at the top of the hill, N Spooner St at the bottom of the hill, N Prospect Ave to the north, and Summit Ave to the south. (See Attachment I - map.) Block 14 is situated on one of the steepest grades in all of University Heights. The hill drops approximately 50 feet – about as much as a five-story building – in a single block. (See photos 2-4, 5-7, 23-27 (Attachments A, B, F, G) and Attachment K, topographical map.) The steep pitch of the hillside is a critical element of the character of the University Heights historic district and a major reason this block was where the historic district’s first home was built.

There are three houses located on the east side of Ely Place. Built in 1894 and often referred to as “the big red house,” the Buell House (115 Ely) – the first home in University Heights - occupies the corner lot on the north end of Ely, at N Prospect Ave. The Buell House is a listed local landmark property. Across the street from the Buell House is the Gilmore House (120 Ely - commonly known as the Frank Lloyd Wright “airplane house”), which is a listed local landmark property and is also listed in the National Register of Historic Places. The southeast corner of Ely, at Summit Ave, is occupied by the Morehouse House (101 Ely), a 1937 gem of “International Style” architecture designed by George Fred Keck and also a listed local landmark property. (See photos 14-16, 21-23 (Attachments D, F) and Attachment I - map.)

The Applicant Lot is a narrow, irregular shaped lot sandwiched between the Buell House and the Morehouse House on the east side of Ely Place. Access to the Applicant Lot is at the top of the hill on Ely and the lot follows a steep downhill pitch toward N Spooner St, with a panhandle strip extending to Summit Ave. The lot is shaped like a backward “L,” resembling a lower leg

and foot. (See photos 13, 17-21 (Attachments D, E, F) and Attachment I- map.) Our property at 167 N Prospect Ave is adjacent to the calf of the leg. Part of the Morehouse House property is adjacent to the shin and top of the foot. The property at 1806 Summit Ave is at the sole of the foot. There are five properties that share a property line with the Applicant Lot:

1. The Buell House (as noted, a local landmark property).
2. The Morehouse House (as noted, a local landmark property).
3. Our house, the Edward Rose Maurer House, built in 1898 and one of the earliest homes in University Heights. (See Historical Society photo, Attachment L, a view of University Heights showing only the Buell House and Maurer House.) Although the Maurer House is not listed as a local landmark property, it is historically significant. Kitty Rankin, the long-time preservation planner, attributed this Queen Anne style house to the architects Claude & Starck and the house is a contributing structure in the historic district.
4. 1806 Summit Ave, a striking 1923 Tudor style home down the hill and at the foot's sole of the Applicant Lot. This is one of the "properties constructed during the period of significance, 1893-1928" that makes University Heights a historic district. MGO 41.11 (4) (b).
5. 163 N Prospect Ave (known locally as the "Potter House"), which is historically significant because it was owned by Van Potter, a world-renowned cancer researcher credited with pioneering combination drug therapy and coining the term "bioethics" as well as founding that field, and who served as president of the American Association of Cancer Research. (The University Heights historic district designation considered homes of "historic personages" as well as architecture and topography.  
<https://www.cityofmadison.com/dpced/planning/historic-preservation/local-historic-districts/university-heights>)

At the bottom of the hill, on N Spooner St, there are three houses built between 1923 and 1926 (the historic district's "period of significance") that do not share a property line with the Applicant Lot. (See photo 12 (Attachment C) and Attachment I- map.)

The panhandle of the Applicant Lot is a 10-foot-wide by 55-foot-long strip of land extending to Summit Ave that essentially abuts the 1923 house at 1806 Summit Ave. (See photos 9-10, 30, 32 (Attachments C, H) and Attachment I- map.) The Applicant has submitted a Certified Survey Map (CSM) that identifies the proposed new lot as "Lot 2." The Applicant identifies the panhandle strip as the access route to proposed Lot 2, but as discussed below, this narrow strip cannot serve as a driveway and proposed Lot 2 is landlocked.

It is also important to understand that the proposed Lot 2 is an interior space in the center of Block 14 – basically a courtyard of trees and lush vegetation – surrounded by a circle of other owners' property. (See photos 1-12 (Attachments A, B, C.) Lynn, the prior owner of 113 Ely Pl, referred to this steep pitch of hillside greenery as her "urban forest." Her 2022 listing in selling the property emphasized a "wooded" lot and that a "screened porch & upper porch offer outdoor living areas overlooking a lush, .25 acre lot, while providing vistas of the architecturally distinctive neighboring homes." Redfin. <https://www.redfin.com/WI/Madison/113-Ely-Pl-53726/home/89906362>. (Emphasis added.)

Although a picture is worth a thousand words (see photo attachments), there is no substitute for a site visit to see how unsuitable this hillside lot is for division and development.

### **The Applicant's Access Plan is Flawed**

The application for land division states that the 10-foot-wide panhandle strip will serve as the access to proposed Lot 2. The Applicant has informed neighbors that he intends to build a driveway on this strip. However, the Applicant's plan to install an access driveway cannot be accomplished and the land division should be denied.

For context, the average public parking space is 8.5 to 9 feet wide. MGO 28.141 (9) (a) requires a driveway to be at least 8 feet wide and to meet the requirements of MGO 10.08. MGO 10.08 (3) specifies that the driveway entrance should be at least 5 feet from an adjacent property line. *See also* MGO 28.135 (1) (land divisions must meet zoning requirements).

The Applicant states that the panhandle is 10 feet wide, which is an accurate statement. (The CSM shows a *diagonal* of 12.5 feet, which is the hypotenuse of a right triangle having a leg – the width – of 10 feet.) This 10-foot-wide strip of property extending to Summit Ave is bordered on both sides by property of other landowners: the Morehouse House and 1806 Summit. (See photos 5-7, 29-32 (Attachments B, H).) This means a minimum required space of 8 feet for the driveway, plus 5 feet on each side, which totals 18 feet minimum. The 10-foot-wide panhandle strip of land is insufficient to install a driveway providing access to proposed Lot 2. The proposed driveway does not meet ordinance requirements and cannot be constructed.

There is another important reason why the proposed driveway cannot be completed. A mature city-owned tree in the street terrace on Summit Ave is in the path of any access route to proposed Lot 2. (See photos 25-27 (Attachment G).) Installing a driveway would appear to require removal of the city's tree, and the City Forester advises that the city generally does not allow landowners to remove city trees on the street terrace.

Finally, it is important to emphasize how unsuitable the narrow panhandle strip is for vehicular travel. This 10-foot-wide, 55-foot-long strip of land is barely wider than a parking space and abuts a house on one side and an embankment fortified by a historic stone retaining wall on landmark property on the other side. As you can see in the photos identified above, particularly photos 30 and 32, the 1923 house at 1806 Summit Ave (built before modern zoning codes) is within feet of the lot line and the side door overhang and balcony are flush up against the lot line. As the photos show, on the other side of the 10-foot-wide strip, the historic retaining wall of the Morehouse House also abuts the property line. Given the slope and contours of this strip (photo 30), there is no way to install a driveway without significant excavation and grading that would destabilize and damage the stone retaining wall of the Morehouse House, a local landmark property. "Retaining walls are considered a site feature" of historic property so the damage would be considered damage to landmark property. See City of Madison Historic District Standards Illustrated Design Guidelines 2025, p. 18, Figure 36 (and Figure 51).

[https://www.cityofmadison.com/dpced/planning/documents/historic-preservation/2025\\_MadisonWI\\_DesignGuideline\\_r.pdf](https://www.cityofmadison.com/dpced/planning/documents/historic-preservation/2025_MadisonWI_DesignGuideline_r.pdf). Moreover, as you can see in the photos, it would be impossible (without a change to property not owned by the Applicant) to control

storm water coming off the embankment onto a concrete driveway, which would run like a river downhill into the side door area of 1806 Summit. This is in addition to the hazard of allowing vehicles to pass within inches of the house structure (the balcony posts in photo 32). The panhandle strip is too narrow to safely use as an access road or parking location without endangering the historic 1923 home.

**The Applicant Does Not Meet MGO Ch. 41 Requirements**

The application for land division must also be denied because the Applicant has not satisfied the requirements under MGO ch. 41.

A person cannot divide a lot in a historic district without first obtaining a Certificate of Approval. MGO 41.12 (5), 41.16. A land division is such a serious matter in a historic district that the Landmarks Commission must always hold a public hearing on such an application. MGO 41.16 (3) (e). The Preservation Planner may issue a Certificate of Approval “only if the proposed project complies with” all applicable requirements of MGO ch. 41. MGO 41.18 (intro.) An application for land division should be denied if the Landmarks Commission “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.” MGO 41.18 (4). The “new buildable lot” proposed by the Applicant is “incompatible with adjacent lot sizes” and also does not “maintain the general lot size pattern of the historic district.”

The Applicant proposes dividing the Applicant Lot into what is identified in the CSM as Lot 1 and Lot 2. Proposed Lot 1 contains the driveway access from Ely Pl and all existing structures (the house and garage) and is identified on the CSM as 7,347 sq. ft. Proposed Lot 2 contains the “urban forest” and the panhandle strip and is identified on the CSM as 4,001 sq. ft. As explained below, we believe the CSM is not reliable, as it appears to overstate the total area of the Applicant’s lot as 11,348 sq. ft. It is not ascertainable from the CSM how the 4,001 sq. ft. number for proposed Lot 2 was calculated, but a quick view of the dimensions in the CSM suggests that the statement in the Applicant’s narrative that the 4,001 sq. ft. number excludes the panhandle strip is inaccurate. Rather, the CSM dimensions and shape for proposed Lot 2 suggest that the panhandle strip (550 sq. ft.) is included within the 4,001 sq. ft. number and that the usable area of proposed Lot 2 is far less than 4,000 sq. ft. Not only is the panhandle strip unavailable for a driveway or structure, but the northeast corner of proposed Lot 2 also comes to a sharp angle of limited utility. In reality, the useable area of lot 2 is likely less than 3,500 sq. ft.

Yet, even taking at face value the 4,001 sq. ft. area stated in the CSM, proposed Lot 2 is not compatible with “adjacent lot sizes.” The term “adjacent” requires comparison of proposed Lot 2 only with lots that share a lot line. There are three lots in Block 14 that share a lot line with proposed Lot 2, which are those of the following addresses and lot sizes:

- 101 Ely Pl: 9,531 sq. ft.
- 1806 Summit Ave: 7,000 sq. ft.
- 167 N Prospect Ave: 12,737 sq. ft.

(See attachment I - a downloaded city map with lot sizes as stated on the city assessor's website.) The proposed Lot 2 is far smaller than the adjacent lots and is incompatible with these lots. In fact, the average of the adjacent lot sizes is 9,756 sq. ft., so even at 4,001 sq. ft. the proposed Lot 2 is only 41 percent of the average size of adjacent lots. Given that the buildable space on proposed Lot 2 is far less than 4,000 sq. ft., the practical lot size would be tiny compared to the adjacent lots.

Proposed Lot 2 also fails to "maintain the general lot size pattern of the historic district." The Applicant's narrative suggests that there is no lot pattern in University Heights. This assertion is belied by the very document that established University Heights as a historic district. In March 1981, the Madison Landmarks Commission preservation assistant prepared the application to designate University Heights as a historic district. Emphasizing the pattern and relationship between the district's steep slopes and lot sizes, he stated in the application:

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, and which provides magnificent views of Madison and the surrounding Four-Lakes region. 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. The crown of the hill, having the best views and the largest lots, has attracted the largest and most significant houses as well as clients secure enough professionally to afford them. 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.

As one descends the hill one finds an increasing number of buildings of somewhat smaller size occupying the smaller lots around the base of the hill.

National Register of Historic Places inventory—Nomination Form, Section 7. Description (1983), available at <https://npgallery.nps.gov/GetAsset/f5386641-e39b-4f78-94e2-c162500fb79a> (emphasis added).

The general lot size pattern described by the Landmarks Commission's preservation assistant is the pattern still found in Block 14 today: larger lots at the top of the hill along Ely Pl, and smaller lots at the bottom of the hill on the flat along N Spooner St.

As you can see in Attachment I, the properties fronting Ely Pl at the top of the hill have larger lots. Generally, the properties at the bottom of the hill on the flat fronting on N Spooner St have smaller lots. In the mid-point of the hillside of Block 14, where proposed Lot 2 would sit, the lots on either side of proposed Lot 2 would be substantially larger (12,737 sq. ft. and 9,531 sq

ft.). Adding a tiny, island lot in the middle of the hillside of Block 14, surrounded by other properties and recessed far from the street, fails to maintain the general lot size pattern of University Heights. In addition, the proposed reduction of the existing lot along Ely Pl by 35 percent also fails to maintain the general lot size pattern that emphasizes the properties along Ely Pl at the top of the hill.

For the foregoing reasons, the application for land division should be denied.

The Applicant's narrative does not directly address the compatible "adjacent lot size" requirement but instead refers to an "original two-lot configuration" to create the misimpression that the lot has always been intended for sale or development to maximize return-on-investment. To the contrary, it is more likely the division creating lot 4 was intended to protect it from being built on or sold. The historical facts lead to the conclusion that lot 4 was intended to be preserved as a green space, like a tiny "Central Park" in roughly the bullseye of Block 14. It was likely not intended as a parcel to be flipped for profit. (If you are interested in this history, there is detailed discussion in Attachment M.) Moreover, the Applicant's one-house-per-lot presumption is a fallacy in this neighborhood, as owners' lot lines often do not match plat lines. For example, looking at Attachment J (the original plat map for University Heights), Block 14 is divided into 11 plats. These plats provide a means of accurate measurement and do not reflect an intent of one-house-per-lot. The city assessor website provides a legal description of the lots in Block 14 that reference the plat map shown in attachment M. Our house sits on "lot 3 and all of lot 4 [except] the W 31 ft." The Buell House sits on "lot 5 [except] E 29 ft & all of lot 6." The "Rosa Replat" included in the Application materials was a modification recorded in 1924 of plats 7, 8, and 9 of the original plat map. The Morehouse House sits on lot 2 and most of lot 3 of the Rosa Replat. The Applicant Lot sits on lots 1 and 4 and a small part of lot 3 of the Rosa Replat and has been this way for 80 years. There is a pattern for Block 14: the more majestic houses, including those on Ely Place, should have ample property and be situated on approximately two lots each.

The Applicant's narrative also argues in favor of the proposal by emphasizing that it "preserves" 113 Ely Pl as a "single-family residence." But the Applicant does not mention that it is not a single-family residence – the Applicant converted the basement of 113 Ely Pl into an ADU, a separate rental apartment with its own address of 111 Ely Pl. (Follow links under "Site Plan Review Tracking Information," <https://www.cityofmadison.com/development-services-center/resources/site-plan-review-status-information>). The Applicant sacrificed the character of 113 Ely Pl as a single-family residence in the interest of revenue generation and the city should not allow the Applicant to do the same with respect to Block 14 as a whole.

Finally, as discussed in the next section, the Landmarks Commission should consider that the CSM provided by the Applicant may warrant further inquiry before the Commission deems it reliable.

### **The Applicant Does Not Meet Other Applicable MGO Requirements**

A land division in a historic district must satisfy the higher standards under MGO ch. 41 applicable for a historic district, but it is also subject to city's general requirements for land

division under MGO 16.23 and zoning requirements under MGO ch. 28. In other words, MGO 16.23 applies throughout the city, and MGO ch. 41 imposes additional requirements within a historic district. The Applicant fails to meet the standards under MGO 16.23 for land division.

On its face, the application states that it is for a “land division” to create “a new buildable lot” claimed to be 4,001 sq. ft. of “developable area” that is accessed via the 10-foot-wide, 55-foot-long panhandle strip. This is an application for land division as defined in MGO 16.23 (2). All land divisions, whether or not in a historic district, are subject to MGO 16.23 and must conform to applicable ordinances. *See* MGO 16.23 (3) (a) 1. and 2. b., (5) (c) 1. *See also* MGO 28.146 (5) (zoning laws apply). “No land shall be divided which is held by the Plan Commission to be unsuitable for use by reason of flooding, bad drainage, soil or rock formations with severe limitations for development, severe erosion potential, or unfavorable topography, or any other feature likely to be harmful to safety or welfare of future residents or landowners ... of the community.” MGO 16.23 (3) (a) 3. (Emphasis added.) In addition, the Plan Commission may consider the impact on “stands of mature, high-quality trees.” MGO 16.23 (3) (a) 4. As discussed above, Landmarks Commission approval is an additional requirement if the land division is in a historic district. MGO 16.23 (3) (a) 6. A land division requires approval of the secretary of the Plan Commission and of the applicant’s CSM. MGO 16.23 (3) (b), (4) (f).

Proposed Lot 2 is a steeply pitched hillside that is an integral part of the drumlin that gives University Heights its character. (See photos 1-12 (Attachments A, B, C).) To build on this hillside would require massive excavation and grading to flatten the space for the pad. It would decimate the drumlin and destroy the very essence of this block of University Heights.

Development of proposed Lot 2 would also cause substantial damage to any property downhill from the development site, including not only adjacent properties but also those on N Spooner St. The “urban forest” now present catches and absorbs significant amounts of storm water runoff. If proposed Lot 2 were built on, with a cement pad, house, and driveway, the grade is too steep around the lot – and the adjacent houses too close - to adequately control storm water runoff. Storm water would pour from the roof and concrete and flood the neighboring properties down the steeply pitched hillside. In addition to the drainage problems, there would likely be significant erosion. Some of the neighboring properties already have water intrusion problems because of the sloping hillside, and development of proposed Lot 2 would exacerbate those problems. Storm water runoff would seriously impact six downhill properties, but by far the most damage would be to our house and 1806 Summit Ave. Our house is set back on our lot, not much more than 20 feet from the lot line with proposed Lot 2, and the proposed lot hovers above us up a steep hillside. (See photos 1-4 (Attachment A)..) The photos show how steep the pitch is, and if a house is built on proposed Lot 2, the builder will divert all the runoff from proposed Lot 2 around the house. That means directing the water flow north (into us) or south (into 1806 Summit). We will get the runoff from both proposed Lot 1 and Lot 2. Our house cannot withstand this. In 2023, we completed a Landmarks Commission-approved project for the restoration of our original 1898 sandstone foundation, which was crumbling because sandstone is highly porous and vulnerable to moisture. Construction on the proposed Lot 2 is likely to be extremely detrimental to our original sandstone foundation.

The 1923 house at 1806 Summit Ave is in a similar situation. The Applicant's proposed access route, a driveway on the panhandle strip, is literally a few feet uphill from the side door of 1806 Summit, and that side of the house (including the door) is at ground level. (See photos 29, 30, 32 (Attachment H).) The development of proposed Lot 2 risks serious damage to the downhill home at 1806 Summit Ave.

Building on proposed Lot 2 will require tearing out the hillside that gives University Heights its character and clear-cutting the "urban forest" on the lot. This courtyard of green circled by homes includes 4 walnut trees that appear by their size to be a century old. The city may consider the clear-cutting of this green space in making its decision.

The proposed Lot 2 is simply unsuitable for land division and development, which is why, in the 135 years since University Heights was founded, the lot has never been developed. Building on proposed Lot 2, given its "unfavorable topography," steep pitch, expected drainage and erosion problems, and other unsuitable features, would be "harmful to safety or welfare" of neighboring landowners. The city should deny the application under MGO 16.23 (3) (a).

Among the unsuitable features is also the fact that proposed Lot 2 is landlocked (as discussed above), as there is no safe and legal access from Summit Ave. And that problem is not solvable. Even if the Applicant received permission from the Landmarks Commission to demolish the garage on proposed Lot 1, there would be insufficient access from Ely Pl to proposed Lot 2. The house and tree-lined driveway at 113 Ely Pl occupy the entire width of the narrow lot, with no other possible access route. (See photos 18-20 (Attachment E).) If proposed Lot 2 were developed based on an assumption of access from Ely Pl and there were a fire, a fire truck could not safely get past the house to proposed Lot 2. Because our house is around 20 feet from the lot line and the buildable area on proposed Lot 2 is very tight, the burning structure would be 30-50 feet from, and directly above, our historic wood-framed home, raining embers down on us and unreachable by firefighters. The city should ensure this never happens.

Finally, we believe the CSM provided with the land division application should not be relied upon by the Landmarks Commission or Plan Commission without further inquiry. There is a discrepancy in the CSM and other records relating to the size of the Applicant Lot, which may reveal that lot lines in the CSM warrant a closer look. The CSM identifies the total size of the Applicant's Lot as 11,348 sq. ft. (7,347 Lot 1 + 4,001 Lot 2). The narrative, however, claims a lesser lot size of 11,334 sq. ft., which is a figure appearing in an older document included in the application. The city assessor's website shows a far lower lot size of 10,938 sq. ft. The 410 sq. ft. discrepancy between the highest and lowest figure is significant. Further inquiry is warranted to determine which figure is correct. The proposed Lot 2 – at 4,001 sq. ft. - is just 1 sq. ft. more than the minimum lot size of 4,000 (as stated by the Applicant). If it is determined that the Applicant's actual lot size is the smallest figure of the three, in all likelihood the proposed Lot 2 fails to meet minimum lot size requirements for development.


## **Conclusion**

The Applicant has not satisfied MGO requirements for a land division. Moreover, as a practical matter, proposed Lot 2 is unsuitable for division and development. Allowing proposed Lot 2 to

be built on would decimate the hillside in Block 14 and substantially undermine the most distinctive element of University Heights, the topography. It is called "The Heights" for a reason. In addition, building on proposed Lot 2 would cause irreparable damage to the historic homes surrounding and downhill from that lot, all of which are contributing properties built "during the period of significance, 1893-1928" in this historic district. In sum, the Applicant's plan would severely and adversely impact the historic character of the University Heights Historic District.

We are authorized to state that an owner of each of the following neighboring properties also opposes the Applicant's proposed land division: 1806 Summit Ave; 101 and 115 Ely Pl; 163, 173, and 177 N Prospect Ave; and 202 and 206 N Spooner St. These neighbors may also be filing separate written statements and/or appearing at the scheduled hearing. This list includes all properties on Block 14 except the Applicant's, and we are aware of others in the neighborhood or interested in the neighborhood who also oppose the proposed land division.

Respectfully submitted on May 18, 2026,



Aaron R. Gary  
167 N Prospect Ave

Attachments:

Photos (the document was too big to send so we had to break it up into parts):

- Attachment A (Figures 1-4)
- Attachment B (Figures 5-8)
- Attachment C (Figures 9-12)
- Attachment D (Figures 13-16)
- Attachment E (Figures 17-20)
- Attachment F (Figures 21-24)
- Attachment G (Figures 25-28)
- Attachment H (Figures 29-32)

Attachment I: City map of University Heights Block 14, with lot sizes and house dates

Attachment J: Original plat map of University Height Block 14, plus Rosa Replat

Attachment K: Topographical map of University Heights

Attachment L: Wisconsin Historical Society photo of University Heights

Attachment M: Chain of title and history of University Heights Block 14

**From:** [Aaron Gary](#)  
**To:** [Madison Landmarks Commission](#)  
**Cc:** [Plan Commission Comments](#); [Planning](#); [Vidaver, Regina](#)  
**Subject:** Legistar #93071 (email 1 of 4): Gary Objection to 113 Ely land division  
**Date:** Monday, May 18, 2026 8:13:45 PM  
**Attachments:** [Gary Objection 113 Ely Pl land division.pdf](#)  
[Attachment A Photos 1-4.pdf](#)  
[Attachment B Photos 5-8.pdf](#)

---

You don't often get email from aaronrgary@yahoo.com. [Learn why this is important](#)

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

Dear Landmarks Commission:

I am attaching my Objection to the application for land division of 113 Ely Pl in University Heights.

The Applicant's proposed new lot is:

1. Less than half (41%) of the average size of adjacent lots.
2. Landlocked under the zoning code.
3. On a steep hillside in a dense green space at the center of a city block where development would substantially damage the historic homes surrounding it.

All of the other landowners on this city block oppose the proposed land division.

I am submitting 32 photos as attachments to the Objection. Photos are required because, frankly, you have to see it to believe it. I tried putting the photos into one document but it was too big to email, so I am forwarding a number of photo attachments.

I understand that I am submitting more material than the Commission may be accustomed to receiving, but this matter is of great importance to the residents of University Heights. As you will see in the photos, this is an extremely atypical application, and the potential damage to so many downhill properties also makes this application unique.

Although I understand the June 8 hearing is only by the Landmarks Commission, I am also copying the Plan Commission and Planning Division because the Applicant's proposal fails under MGO 16.23 and the zoning code.

This email includes my Objection document and attachments A and B (photos). I will be forwarding attachments C to M by separate email. I would greatly appreciate your confirming the receipt of my submission.

Thank you. Aaron Gary  
cc: Plan Commission  
Planning Division

Alder Vidaver

**Attachment A – Photo Figures 1 - 4**

**Gary Objection to Application**

**113 Ely Place – Land Division in the University Heights Historic District (District 5)**

**Legistar File # 93071**



Figure 1 Our house at 167 N. Prospect Ave. Built in 1898 and attributed to the architects Claude & Starck, it was one of the earliest houses in University Heights. (See WHS photo, attachment L.) Note the significant pitch of the lot. Applicant's proposed Lot 2 is just past the house where you see the trees in the background.



Figure 2 View from the east side of our house looking at proposed Lot 2. The lot line is just past the rock retaining wall, a little over 20 feet from the back of our house.

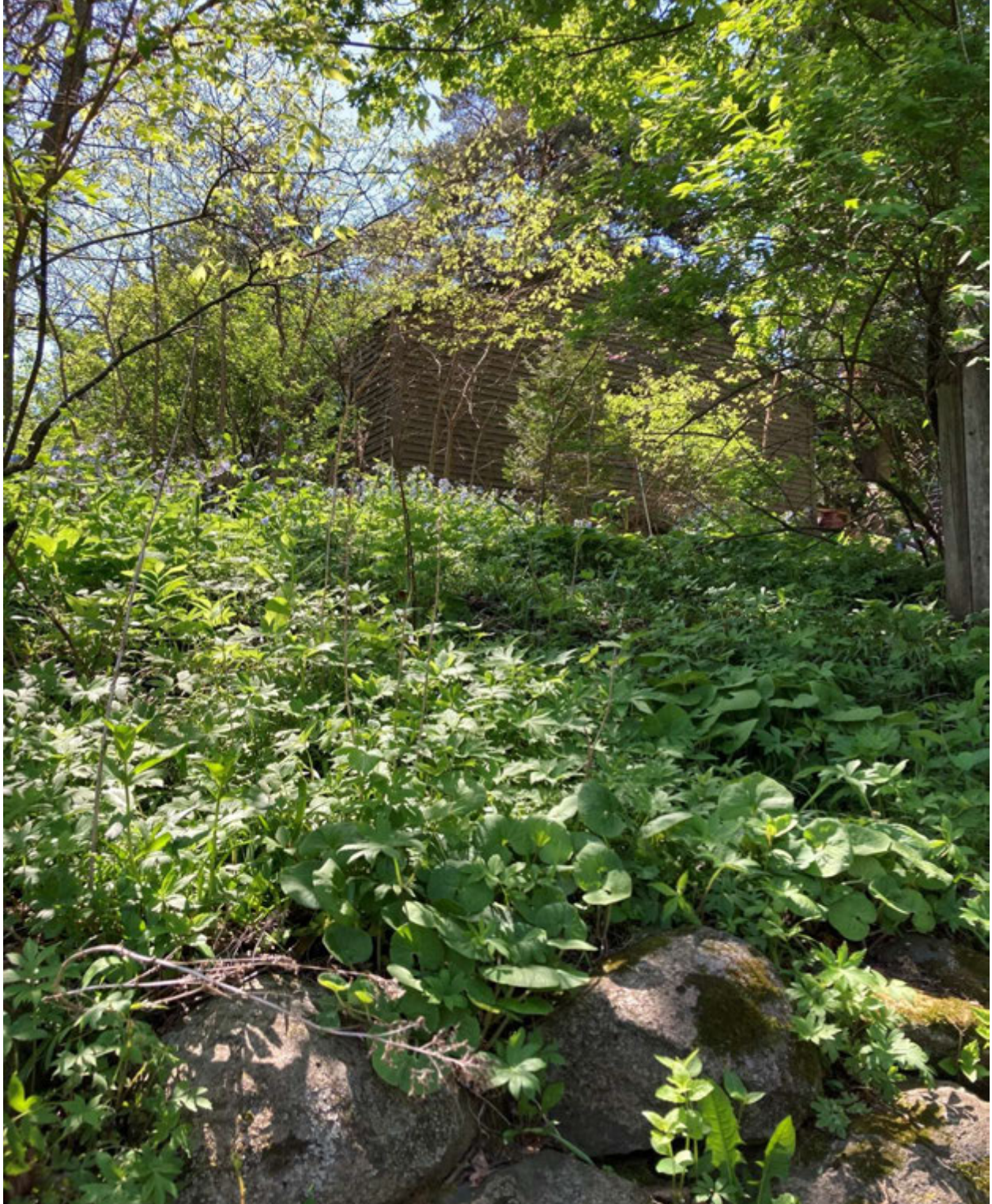


Figure 3 View from our backyard up the hill at the garage shown in the CSM along the border of Applicant's proposed Lot 1 and Lot 2. The far side of the garage is the lot line between the Applicant's property at 113 Ely Pl and the landmark Morehouse House at 101 Ely Pl. Note the steep pitch of the hillside.



Figure 4 View from our yard, looking just to the right/uphill of Figure 3. This shows the garage and back of the home at 113 Ely Pl, far up the hill on this steep section of drumlin.

**Attachment B – Photo Figures 5 - 8**

**Gary Objection to Application**

**113 Ely Place – Land Division in the University Heights Historic District (District 5)**

**Legistar File # 93071**

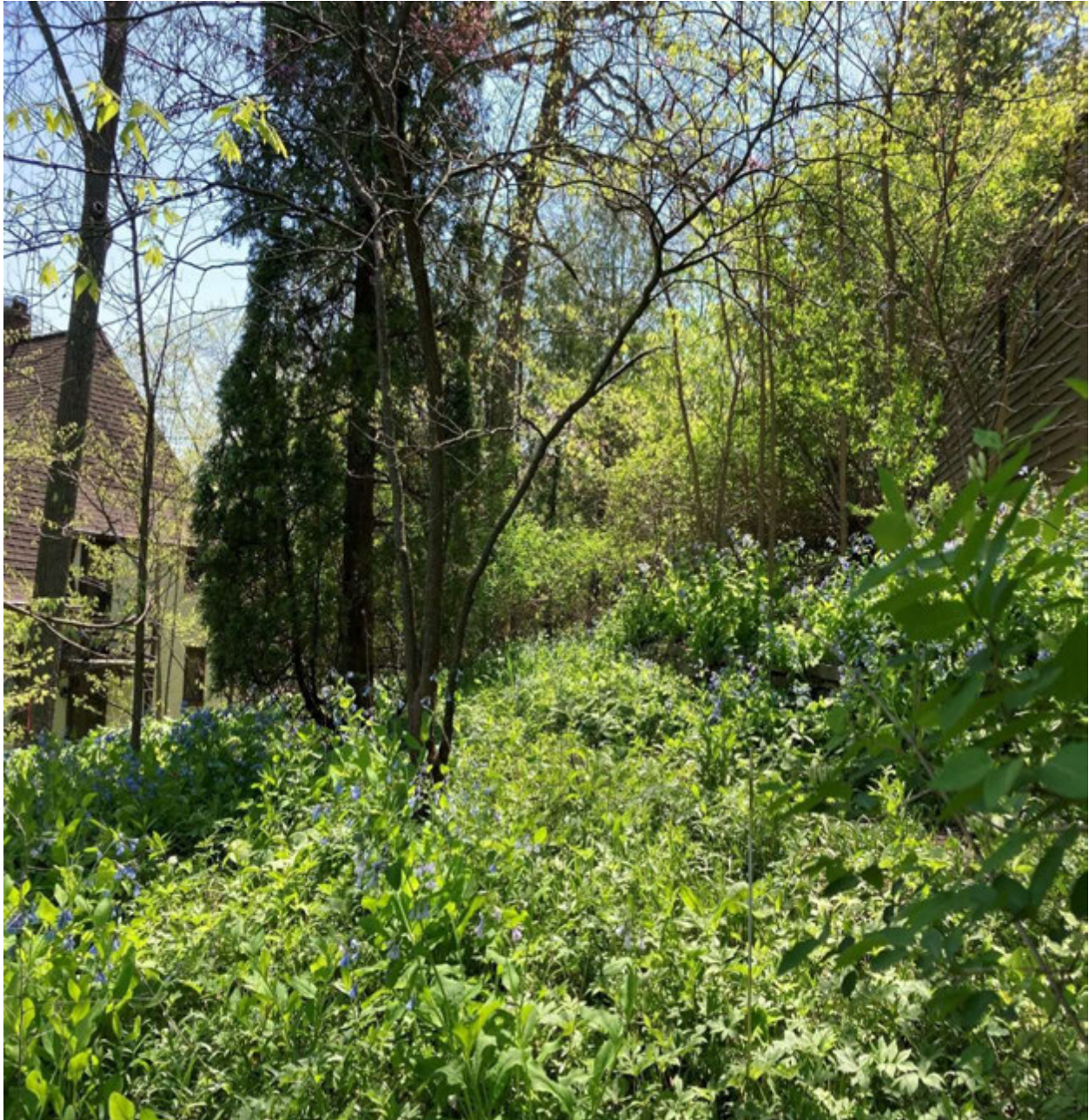


Figure 5 View from our backyard across proposed Lot 2. The background in the photo is not the Applicant's property; it is part of the Morehouse House. The 1923 home at 1806 Summit is to the left. The Applicant's garage is barely visible in the top right of the photo. The lot line runs from the far edge of the garage along an old stone wall toward the large tree to the left.



Figure 6 Similar view to figure 5, looking from our yard across proposed Lot 2 to 1806 Summit. You can see the old stone retaining wall in the middle (also in Figure 7) that is the lot line. The corner of the stone wall is the north end of the 10-foot-wide panhandle strip. The lot line with 1806 Summit runs very close to the house. Note the pitch of the lot and mature walnut trees.



Figure 7 A zoomed in view from Figure 6, with a close up of the stone retaining wall and survey flag marking the lot line between proposed Lot 2 and the Morehouse House lot, as well as the north end of the panhandle strip. Note the trunk size of the walnut tree – that’s an old tree.



Figure 8 View from 1806 Summit Ave lot up the hill across proposed Lot 2 (toward 113 Ely Pl). Our house is on the right. The back of our house is not much more than 20 feet from the lot line of proposed Lot 2. The walnut tree on the left must be well over a century old.

**Attachment C – Photo Figures 9 - 12**

**Gary Objection to Application**

**113 Ely Place – Land Division in the University Heights Historic District (District 5)**

**Legistar File # 93071**



Figure 9 View from lot corner of our house and 1806 Summit Ave, along lot line for 1806 Summit Ave as marked by CSM. The house is only a few feet from the lot line.



Figure 10 Another zoom in across proposed Lot 2 showing the lot line between 1806 Summit Ave and proposed Lot 2.



Figure 11 An “aerial” photo taken from our roof, looking across proposed Lot 2. Looking from right to left, you can see how steep the pitch is going downhill from our fence on the right (the proposed Lot 2 lot line is just to the left of that fence) down the hill toward 1806 Summit Ave. The top of the lot is about even with the 1806 Summit roof, and the bottom ends at the 1806 Summit Ave side door. That’s in the space of 50 feet, and 1806 Summit is a tall house.



Figure 12 Another “aerial” photo taken from our roof, but looking farther downhill at N Spooner St. Through the trees, you can see the rooftops of 202 N Spooner St in the middle and 206 N Spooner St just to the left of that. You can see how much the hill drops off as it descends downward to the flat lots on N Spooner St.

**Attachment D – Photo Figures 13 - 16**

**Gary Objection to Application**

**113 Ely Place – Land Division in the University Heights Historic District (District 5)**

**Legistar File # 93071**



Figure 13 The Applicant property, 113 Ely Pl, a 1928 Tudor style home. University Heights was designated a historic district partly because of the “properties constructed during the period of significance, 1893-1928.” MGO 41.11 (4) (b).



Figure 14 View from the corner of Ely Pl and Summit Ave looking toward N Prospect Ave. The local landmark Buell House (115 Ely) – the first house in University Heights – is the red house in the distance. The local landmark Morehouse House (101 Ely) is to the right on the near corner of Ely Pl and Summit Ave. The Applicant’s property (113 Ely) is partially visible between them.



Figure 15 View from the opposite direction of Figure 14, taken from the corner of Ely Pl and N Prospect Ave and looking toward Summit Ave. The Buell House is to the left and the Gilmore House (120 Ely Pl) – the Frank Lloyd Wright “airplane house” – is just visible to the right.



Figure 16 Another view of the Gilmore House, a local landmark property also listed on the National Register of Historic Places.

**Attachment E – Photo Figures 17 - 20**

**Gary Objection to Application**

**113 Ely Place – Land Division in the University Heights Historic District (District 5)**

**Legistar File # 93071**



Figure 17 View on Ely Pl from in front of the Morehouse House at 101 Ely Pl, looking toward 113 Ely Pl. Note the survey flag between the trees. The property in the foreground is part of the Morehouse House.



Figure 18 View from sidewalk in front of 113 Ely Pl. Proposed Lot 2 is just behind the garage. Note the pink survey flag showing the lot line with the Morehouse House. The existing lot of 113 Ely Pl is narrow, and its lots size results from its length down the hill rather than its width. Note how the house abuts one side of the driveway and the other side of the driveway (and trees) are along the lot line.



Figure 19 View from the sidewalk in front of 113 Ely Pl, on the side toward the Buell House. You can see from the survey flag that the lot line runs close to the north side of the house.



Figure 20 Another view from the sidewalk in front of 113 Ely Pl, with the survey flag to the right indicating that most of the property you see sloping down beyond the stone wall is part of the Buell House lot.

**Attachment F – Photo Figures 21 - 24**

**Gary Objection to Application**

**113 Ely Place – Land Division in the University Heights Historic District (District 5)**

**Legistar File # 93071**



Figure 21 View from the street in front of the Buell House, showing a swath of property belonging to the Buell House, with a bit of 113 Ely Pl showing at the far right.



Figure 22 Side view of the Morehouse House, 101 Ely Pl, taken from Summit Ave near the corner with Ely Pl.



Figure 23 View from corner of Ely Pl, looking down the hill toward N Spooner St, with the Morehouse House on the left. This is one of the steepest hills in University Heights.



Figure 24 Another view down the hill from Ely Pl to N Spooner St. Note that the fencing on the left and the stone retaining wall in the middle of the photo are property of the Morehouse House. The house at the bottom of the hill, on the flatter lots along N Spooner St., is 202 N Spooner.

**Attachment G – Photo Figures 25 - 28**

**Gary Objection to Application**

**113 Ely Place – Land Division in the University Heights Historic District (District 5)**

**Legistar File # 93071**



Figure 25 View from Summit Ave, with 1806 Summit in the background. The stone retaining wall in the foreground belongs to the Morehouse House, not to the Applicant lot. The pink survey flags mark the part of the CSM depicting the 10-foot-wide by 55-foot-long panhandle strip.



Figure 26 Another view showing the Morehouse House property to the left, 1806 Summit Ave in the middle of the photo, 202 N Spooner St down the hill on the corner, and a mature city tree in the street terrace.



Figure 27 Note the survey flags on each side of this city tree in the street terrace. The flags mark where the Applicant is proposing to add a driveway to access proposed Lot 2.



Figure 28 The 1923 Tudor style home at 1806 Summit Ave.

**Attachment H – Photo Figures 29 - 32**

**Gary Objection to Application**

**113 Ely Place – Land Division in the University Heights Historic District (District 5)**

**Legistar File # 93071**

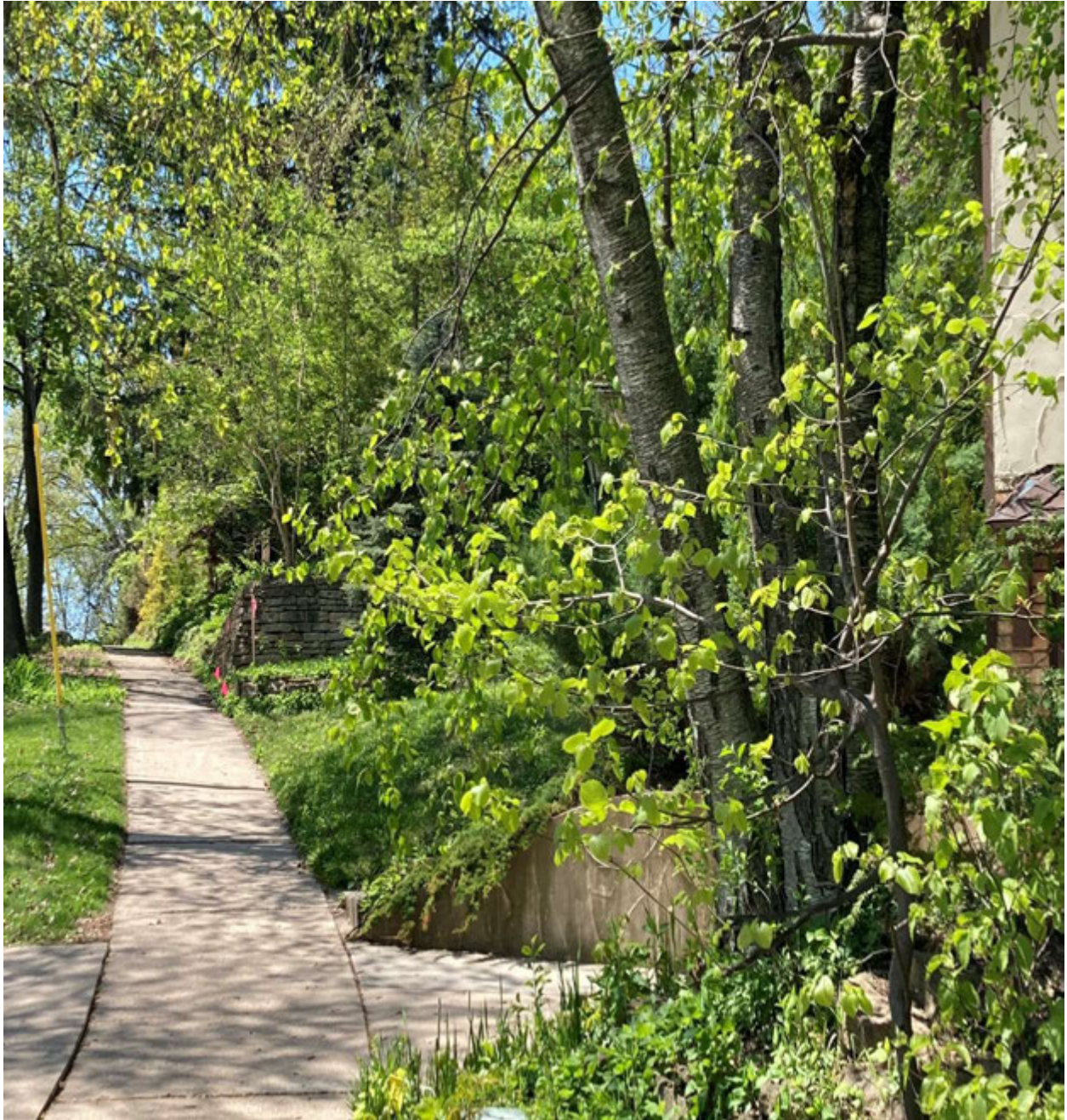


Figure 29 View from in front of 1806 Summit Ave, up the hill toward Ely Pl. You can see the survey flags marking the Applicant’s narrow strip of property, but the stone retaining wall behind the flags belongs to the Morehouse House.



Figure 30 View from Summit Ave, looking toward N Prospect Ave. The pink survey flags on left and right mark the 10-foot-wide strip of proposed Lot 2 that extends for 55 feet to Summit Ave. The stone retaining wall to the left is not part of the Applicant's property; it is part of the landmark Morehouse House. You can also see that the lot line on the right adjacent to 1806 Summit Ave almost abuts the house. Any route of vehicular travel on this strip would endanger the house and excavation would compromise the historic stone wall of the Morehouse House. Note the mature walnut tree in the background.



Figure 31 View farther down the stone wall of the Morehouse House. The wall extends about 55 feet, the length of the panhandle between the Morehouse House and proposed Lot 2.

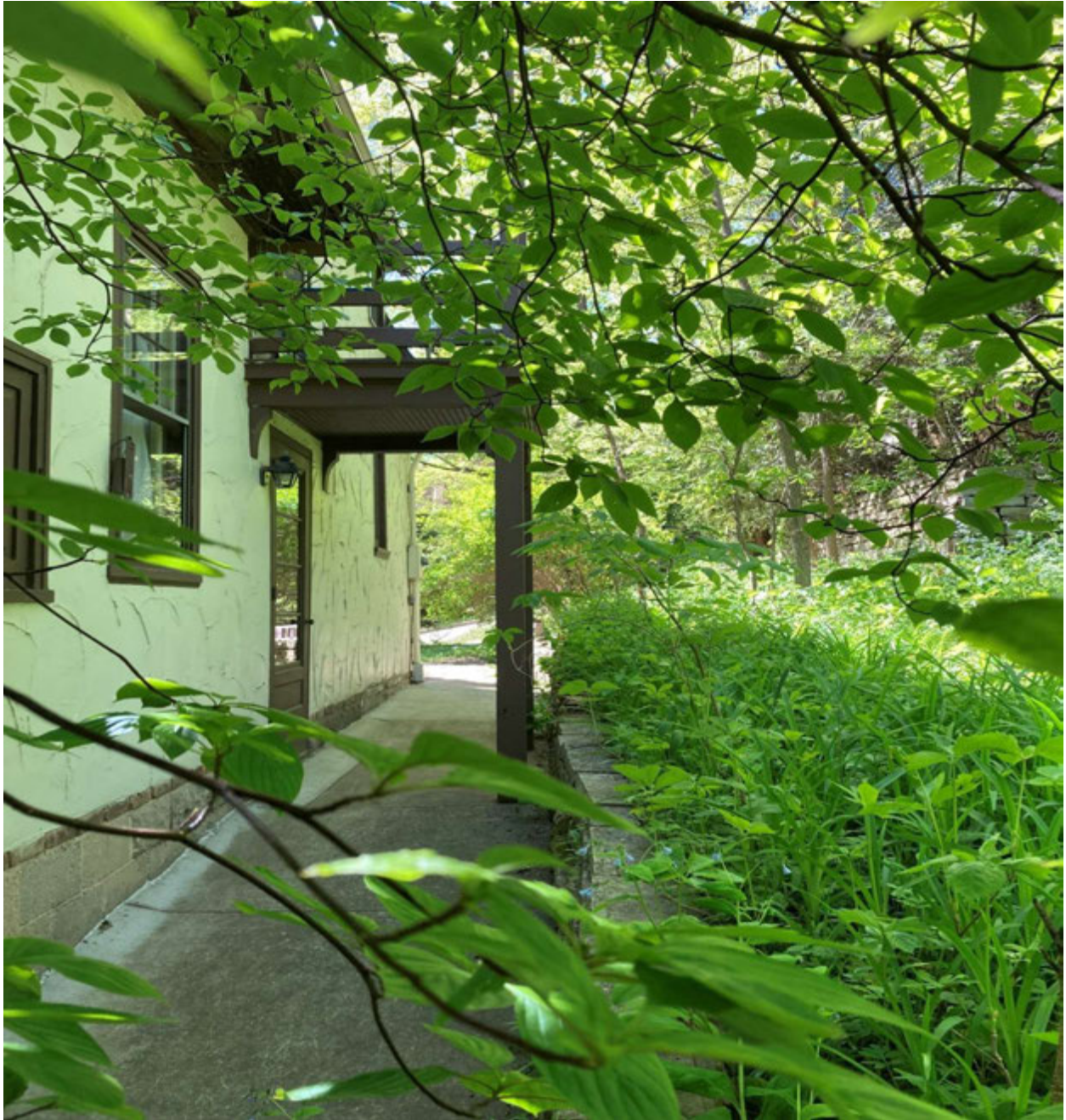


Figure 32 View from opposite direction, looking from the side of 1806 Summit Ave toward the street along the lot line with proposed Lot 2. You can see that the house, built in 1923, is just a few feet from the lot line and the side door overhang and balcony abuts the lot line. This is not a safe route for vehicular travel, in addition to not meeting MGO requirements for the Applicant's proposed driveway.



Attachment I



# Rosa Replat

LOTS 7, 8 & 9, BLOCK 14, UNIVERSITY HEIGHTS

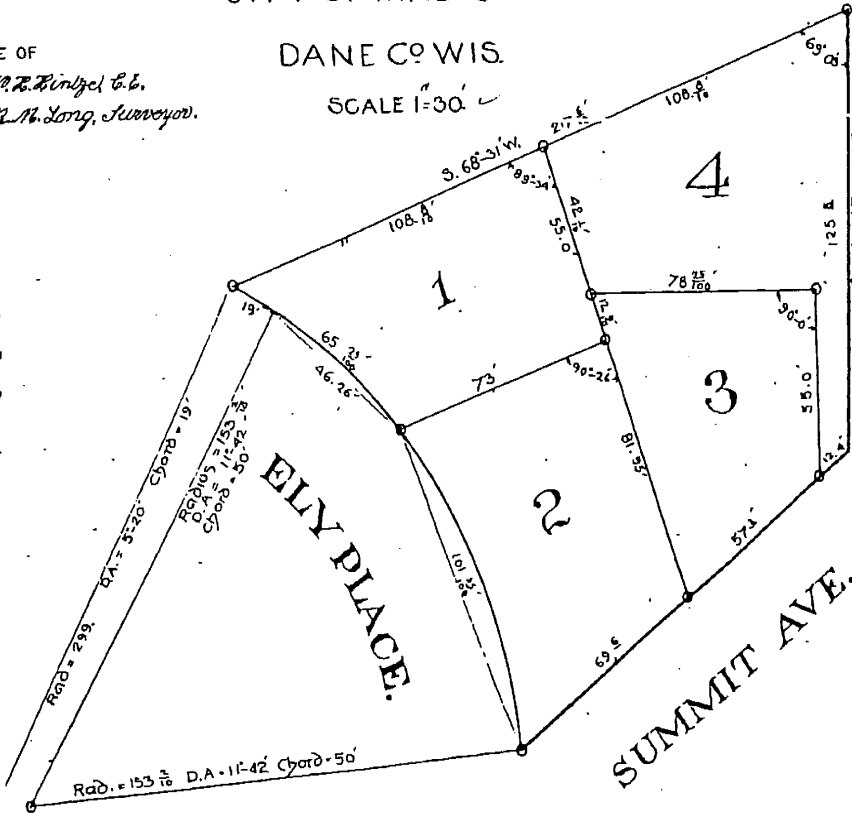
CITY OF MADISON

OFFICE OF

R. M. Long, S. C. E.  
H. M. Long, Surveyor.

DANE CO WIS.

SCALE 1"=30'



I, R. M. Long, Surveyor, hereby certify that by the order, and under the direction of Charles D. Rosa, I have made a survey and plan of the following described premises, to wit: Lots seven (7) Lot eight (8) and Lot nine (9), of Block fourteen (14), of University Heights, situated in the City of Madison, Dane Co. Wis. I also certify that the within plat is a correct representation of the exterior boundaries and subdivisions, as made by me, and I further certify that I have strictly complied with the provisions of Chapter 101 of the Revised Statutes of the State of Wisconsin in surveying and marking the same. Iron stakes have been placed at points indicated on map.

R. M. Long  
Surveyor

Subscribed and sworn to before me this 14th day of June A. D. 1924  
My commission expires Nov 21st A. D. 1926

LAWRENCE O. LARSON  
NOTARY PUBLIC  
DANE COUNTY WIS.

Lawrence O. Larson

Notary Public  
Dane Co. Wis.  
Charles D. Rosa, Owner

State of Wisconsin  
County of Dane I, Charles D. Rosa, hereby certify that I have caused the land described in the foregoing certificate of R. M. Long, Surveyor to be surveyed and subdivided as shown on the above plat

Witness  
Zora D. Howard  
Ruth H. Jones

State of Wisconsin  
County of Dane I, Charles D. Rosa, do hereby certify that on the 13th day of June A. D. 1924, personally appeared before me Charles D. Rosa, known to me to be the person who executed above instrument and acknowledged the same.

ZORA D. HOWARD  
NOTARY PUBLIC  
DANE COUNTY WIS.

Zora D. Howard  
Notary Public, Dane Co. Wis.

Resolved that a plat known as Rosa Replat of Lots 7, 8 & 9 of Block 14 University Heights Madison Wis, which has been filed for approval of the Common Council of the City of Madison, be and here be approved as required by law.  
I hereby certify that the above is a true and correct copy of a resolution adopted by the Common Council on the 23rd day of May, A. D. 1924.

H. C. Buser  
City Clerk.

State of Wisconsin  
County of Dane I, Charles D. Rosa, do hereby certify that on the 3rd day of July, A. D. 1924, at 11:40 o'clock A. M., and recorded in Vol 2 of plats on page 5 A

C. A. Lewis  
Register.

113 Ely Pl



5/4/2026

USGSTopo

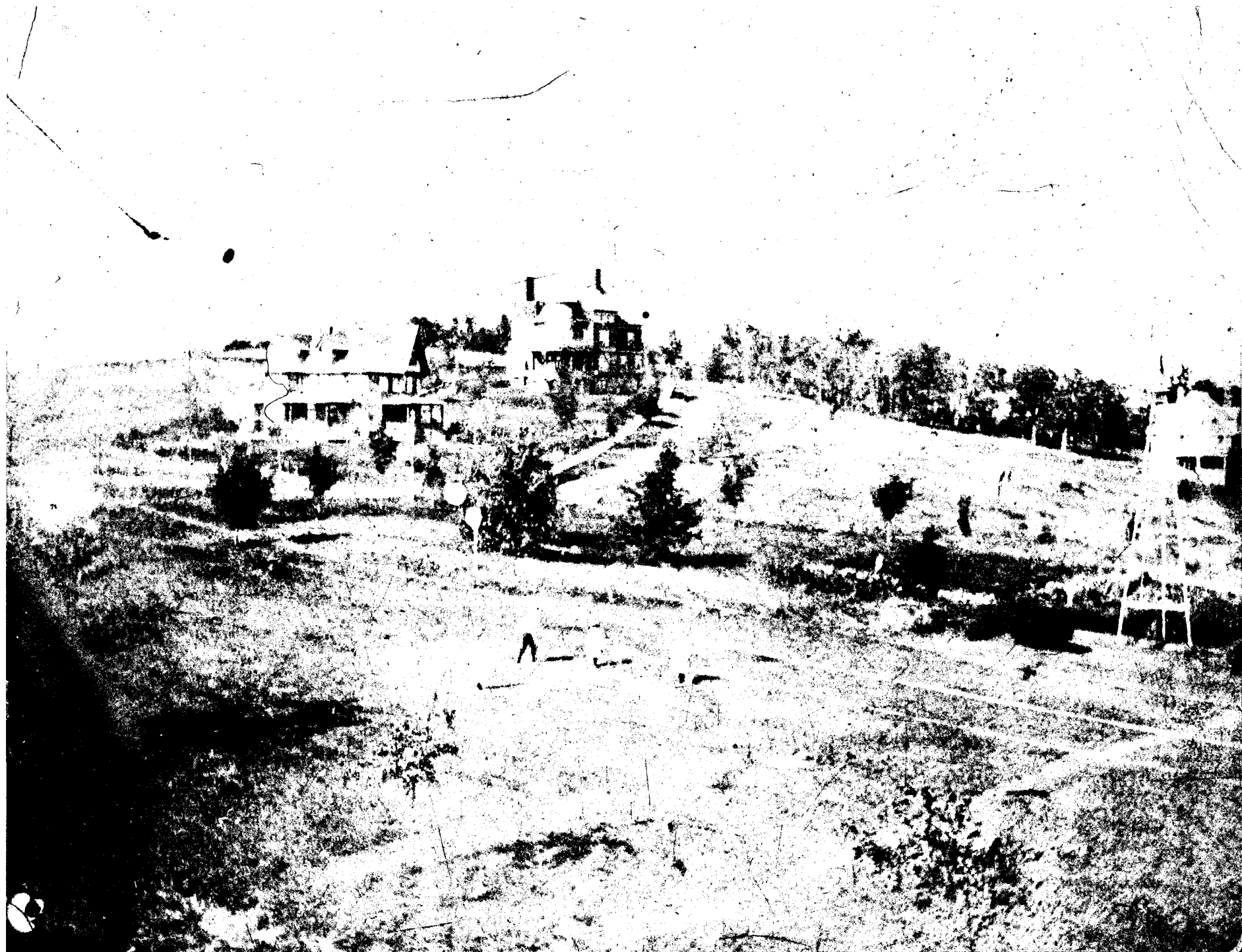
Red: Band\_1

Green: Band\_2

Blue: Band\_3

USGS The National Map: National Boundaries Dataset, 3DEP Elevation Program, Geographic Names Information System, National Hydrography

Attachment K - topographical map



Attachment L

**Attachment M – Chain of Title and History of University Heights Block 14**

**Gary Objection to Application**

**113 Ely Place – Land Division in the University Heights Historic District (District 5)**

**Legistar File # 93071**

To understand the chain of title issues relevant to the Application, one must consider the development of University Heights Block 14 in its historical context. One must harken back to a different era to see the “Rosa Replat” referenced by the Applicant in its historical context. A good starting place is to look at Attachment L, a photo from the Wisconsin Historical Society showing Block 14 at the turn of the century, with only the Buell House and Maurer House present.

The story begins in 1893 as Madison was extending a rail line to the west of the city center, the idea of “suburbs” were catching on, and the University Heights Company began developing the neighborhood. See historic district application linked in Objection. The streets were dirt and the sidewalks were wooden planks. There was no electricity and street lamps were lit by burning lumps of coal. (Our house still has the pipes from its original gas lighting.) Even after the streets and sidewalks were paved around 1910, horse-drawn plows cleared the sidewalks (but not streets) after a snowfall. The mode of transportation was walking. The Buells were the only family in the neighborhood prosperous enough to have their own horse and carriage. Everyone else predominantly walked, except for the occasional use of a horse-drawn street car or rail line. Gail Caskey Winkler, *University Heights, A Neighborhood in Madison, Wisconsin: Its Founders, Its Architecture, Its Interiors 1893-1925*, at 17-36 (master’s thesis, UW Library, 1977).

Block 14 remained as you see it in the photo (Attachment L) for 25 years, from 1898 to 1923, when there was a building boom. The entire block was basically built out in a five-year period, from 1923 to 1928. (See dates in Attachment I.) The Rosa Replat occurred in the midst of this building boom.

In August of 1921, Charles Rosa entered into a land contract to purchase lots 7, 8, and 9 of University Heights Block 14 for \$11,700. The payments were made and the property was transferred to Rosa in August of 1923. (See Dane County Register of Deeds, record locator number (RL#) 403897, 427522.) (See Attachment J for plat map showing Lots 7, 8, and 9.) At the same time, in 1923, the homes at 1806 Summit Ave and 202 N Spooner St were completed. After that, Charles Rosa began working on replatting his three lots into four lots, which was eventually recorded as the “Rosa Replat” in July of 1924. (RL# 436762) At the same time this was occurring, construction of the 1925 house at 173 N Prospect Ave was certainly underway and, in all likelihood, the 1926 houses at 177 N Prospect Ave and 206 N Spooner St were already being planned or were in the site development stage. (See Attachment I for dates.)

Charles Rosa (pronounced “Rosay”) was a prosperous man but he always valued his farming heritage. He was a lawyer, legislator, law professor, and judge, and was considered for appointment to the Wisconsin Supreme Court. He is credited with creating the modern (1913) lyrics to the song *On Wisconsin* and is the namesake of Rosa Road in Madison. Born in 1870, he

grew up on a farm and, during all his life, he never lost his farming roots; in other words, his respect for the land. *See* 1917 Wisconsin Blue Book, at 549; <https://search.library.wisc.edu/digital/AOTX7AEYW2333W82/pages/AT6HXZYTC4Y8Z>; [https://en.wikipedia.org/wiki/Charles\\_D.\\_Rosa](https://en.wikipedia.org/wiki/Charles_D._Rosa); [https://en.wikipedia.org/wiki/On,\\_Wisconsin!](https://en.wikipedia.org/wiki/On,_Wisconsin!); [https://www.channel3000.com/news/local-news/west-side-street-to-see-formal-pronunciation-change/article\\_4b500108-0841-57c6-b8d1-974deba71071.html](https://www.channel3000.com/news/local-news/west-side-street-to-see-formal-pronunciation-change/article_4b500108-0841-57c6-b8d1-974deba71071.html) .

Rosa transferred lot 1 of the Rosa Replat to A.M. Sylvester, who identified himself in August of 1927 as both the owner and general contractor of the 1928 house at 113 Ely Pl. In 1929, Sylvester entered into a land contract with Williams and transferred the property to Williams in 1932. (RL#541151) The 1928 house on lot 1 was then sold from Williams to Belond in 1936. (RL# 577972, 587767) At about the same time, Rosa sold lots 2 and 3 of the Rosa Replat to Morehouse. (RL# 586279)

Rosa sold lots 1, 2, and 3 but not lot 4. He apparently kept lot 4 for himself. As discussed above, at this time, the block was essentially built out. All of the eleven original plats except plats 7, 8, and 9, i.e, the Rosa Replat, had been built on as of 1926. In 1926, after his 1924 replat, Rosa owned the last undeveloped parcels of the originally platted Block 14. He had four lots and three of them were substantially adjacent to the street. When the entire block had already been built out, why would he keep lot 4 – the only bad location for a house – if he intended to build on it? The answer is he did not intend to build on it. He kept it for himself because he wanted it to never be built on. He owned the lot for 25 years, until 1946, and did not sell it or build on it in that time.

A plausible explanation is that he kept the lot for the green space it provided, to allow for a natural courtyard in the center of the completely built-out city block. At the time it was developed, University Heights included some very large lots but, unlike most planned neighborhoods of its time, it did not include any parks or other public green space. *See* historic district application linked in Objection. Given his farming roots and the fact that he did not build on or sell the lot for 25 years, it is reasonable to conclude that the lot was intended as a sanctuary for flora and fauna. As the prior owner’s 2022 property listing stressed, the property is a wooded lot with lush vistas. (See Objection). Until the recent acquisition of the property, we could watch the newborn fox kits emerge in the Spring from their den by the garage. (See photos at the end of this attachment; an international documentary on urban wildlife also captured footage of these foxes.) It is not hard to imagine that Charles Rosa saw this lot for its beauty and splendor and as a habitat for urban wildlife.

Rosa probably platted the narrow panhandle strip in 1924 - when people’s daily travel most commonly consisted of walking - as a foot path. That is why it is so narrow and abuts the pre-existing 1923 house at 1806 Summit Ave. In 1924, automobiles were a luxury and often not used for daily transportation. People walked a lot. The foot path allowed children walking the few blocks up Spooner Street from Randall School (1906) to avoid going around the block. (Our three kids still used the panhandle as a foot path almost a century later - with the prior owner’s consent – to run around and visit their friends on Summit Ave.) At the time, Monroe Street was a thriving commercial district and the foot path would have allowed the residents of Block 14 to

head straight to the back of the house through the back porch “mud room” entrance that was the common entry door at the time. Moreover, the narrow strip of the panhandle allowed public access to the green space preserved by Rosa.

As stated before, Rosa held onto lot 4 for 25 years without building on it or selling it. In his advancing years, at the age of 76, Rosa finally sold lot 4 to someone that he could trust would not flip it for profit. In October 1946, he sold lot 4 to Merle E. Curti. (RL# 735348) Curti had purchased lot 1, the Applicant’s house at 113 Ely Pl, from Belond in August of 1943. (RL# 676902, 676903) It was at this point in 1946 that lot 1 and lot 4 were joined in common ownership and they have been so joined in common ownership for the past 80 years.

When Rosa transferred lot 4 to Curti, there was no such thing as a land trust or conservation easement. The concept of a private land trust or conservation easement did not arise until the 1950s and did not gain any traction until the 1960s, becoming well-accepted in the 1980s. “Most of the land trusts have been created since 1984.” See History of Conservation Easements, <https://conserveopenspace.org/history-of-conservation-easements/> ; Eastern Sierra Land Trusts, <https://eslt.org/2009/02/22/when-in-rome-quick-history-of-land-trusts/>. Rosa’s option was to transfer the property to someone he could trust to not build on lot 4 and to protect it as a green space. Merle Curti was just the person.

Merle Curti was “an American progressive historian.” [https://en.wikipedia.org/wiki/Merle\\_Curti](https://en.wikipedia.org/wiki/Merle_Curti). He was “a pioneer in the fields of social and intellectual history and peace studies and co-founded the American Studies Association.” <https://history.wisc.edu/departments-information/the-history-of-the-history-department/timeline-1944-merle-curtis-pulitzer-prize/> . He won the 1944 Pulitzer Prize in history for his book, *The Growth of American Thought* (1943). He joined the University of Wisconsin faculty in 1942 and co-authored the definitive two-volume work, *The University of Wisconsin: A History, 1848-1925* (1949), to commemorate the university's centennial. “His writings in professional journals shed a liberal perspective on education, immigration, peace movements, intellectual movements and the wrongs of racism.” New York Times obituary (1996), <https://www.nytimes.com/1996/03/17/nyregion/merle-eugene-curti-98-scholar-who-won-pulitzer-for-history.html> . “As a leader in the profession, Curti’s maximum influence came in 1936-54, when he prodded the guild to broaden its intellectual scope, demographic base, and social vision. ... [He] challenged his colleagues’ notorious aversion to theory and called for historians to move beyond the familiar terrain of political, military, and diplomatic history. ... [He] put these exhortations into practice, helping to assemble convention programs that highlighted methodological issues, social and cultural history, and new kinds of sources such as photography and folk music: Curti’s election as [American Historical Association] president in 1953 recognized his central role in this ongoing intellectual and social reorientation.” American Historical Association, In Memoriam (1996), <https://www.historians.org/person/merle-curti/>. One of his areas of interest was philanthropy, and the Ford Foundation, in reaction to the “hostile congressional investigations of foundations of the 1950s,” became the first foundation to support scholarship on philanthropy, hiring Curti to lead the project. <https://hewlett.org/wp-content/uploads/2016/12/50-Years-of-U.S.-Philanthropy.pdf> , at 42. “A leading U.S. historian, Merle Curti studied the complex relationship

of education to democratic values and to capitalist institutions. ... Curti argued that capitalism, with its emphasis on competition and with its hierarchical organization, was a threat to democracy. ... In 1943 he had published an intellectual history of the United States and its colonial past, *The Growth of American Thought*. This book won a Pulitzer Prize, and a poll of historians in 1950 voted it the most important contribution to history between 1936 and 1950. It expressed Curti's belief that ideas should be rooted in social history.”

<https://education.stateuniversity.com/pages/1901/Curti-Merle-1897-1996.html>

Rosa could trust that Curti would not sell off the green space of lot 4 just to make a quick buck. And for the 80 years since, lots 1 and 4 have been under the same ownership with only green space and no hillside demolition of lot 4.

Attached (continue on next pages): images of select title records and cute fox kits



## FOXES AND KITS



Foxes on proposed Lot 2. Note the tracking collar, showing these foxes were studied.