M E M O R A N D U M

Date: June 26, 2026

To: Meagan Tuttle, Director of Planning

CC: Bill Fruhling, Principal Planner
Katie Bannon, Zoning Administrator
Matt Tucker, Director of the Building Inspection Division
Michael Haas, City Attorney
Regina Vidaver, Alder, District 5

From: Alex Saloutos

RE: **113 Ely Place land division (Legistar 93071): Was Lot 2 confirmed as a legal lot before review of the Certificate of Approval?**

I am writing to ask a threshold question about the Certificate of Approval for the land division at 113 Ely Place (Legistar 93071), which the Landmarks Commission approved at their meeting on June 8, 2026. Before the preservation planner, the Landmarks Commission, and interested neighbors spent time on the Certificate of Approval for this division, did staff confirm that proposed Lot 2 is a legal lot?

Two provisions of the zoning code frame the question. Section 28.135(1)(a)[1] governs when an improved lot may be divided:

> An improved zoning lot shall not be reduced in size or divided into two (2) or more separate lots unless each lot that results from such reduction or division meets all requirements of the zoning district in which it is located.

The parcel is zoned TR-C2.[2] Section 28.043(2) sets the minimum lot area in that district at 4,000 square feet for a single-family detached dwelling and for a two-family two-unit dwelling, and 2,000 square feet per dwelling unit for a two-family twin. Each lot created by a division must meet that minimum.

The Certified Survey Map (Burse Surveying and Engineering, April 20, 2026) divides the parcel into Lot 1 and Lot 2.[3] Lot 2 is a deep residential lot connected to Summit Avenue by a narrow access strip. The map states Lot 2 as 4,001 square feet, one square foot above the minimum, but that figure includes the access strip. Under MGO 28.135(3)(b)3:

> The strip of land of land [sic] between the improved public street and the remainder of the rear lot shall not contain any buildings or structures and said strip of land shall not be used to satisfy any area or yard requirement for the rear

---

1 Madison General Ordinances § 28.135, Lot Division, Creation and Access, https://library.municode.com/wi/madison/codes/code_of_ordinances?nodeId=COORMAWIVOIICH20--31_CH28ZOCOOR_SUBCHAPTER_28IGERE_28.135LODICRAC.

2 City of Madison, Property Information, Parcel No. 070922220060, https://www.cityofmadison.com/assessor/property/propertydata.cfm?ParcelN=070922220060.

3 Certified Survey Map, 113 Ely Place, filed under Legistar File 93071 (Burse Surveying & Engineering, Inc., April 20, 2026), https://madison.legistar.com/LegislationDetail.aspx?ID=8008214&GUID=71EDACCF-D97E-4478-96F4-84962B80FCF6.

> lot. The rear lot shall be connected to the public street by a strip of land no narrower than 10 (ten) feet.

Reconstructing the lot from the bearings and distances on the map, the access strip is about 522 square feet, and the area that remains to satisfy the minimum is about 3,479 square feet. With the strip excluded as required by the ordinance, Lot 2 falls about 521 square feet short of the 4,000-square-foot minimum. Section 28.135(1)(a) does not permit a division unless each resulting lot meets all requirements of its district, and on these numbers, Lot 2 does not meet the minimum lot area. That is the basis for my question.

Nothing in Chapter 41 requires a lot to be legal before the Landmarks Commission considers a Certificate of Approval for its division. That is the point. The ordinance did not force anyone to skip the question, and ordinary judgment would have answered it first. Whether a lot legally exists is the cheapest thing to check and the first thing to check, because everything else depends on it.

It was not checked, as far as I can tell, and the cost of that fell on the public. By the time of the June 8 hearing, the division had drawn 32 registrants, 9 speakers, and 97 pages of written comments from 14 people,[4] and the Commission's decision is now on appeal to the Common Council. Neighbors organized, took time off, prepared comments, and are now carrying an appeal, all to surface a problem that a single check at the counter could have caught before any of it began. Staff time went the same way. When the public spends that kind of effort to find what the City should have found first, the result is more than wasted hours. It is a loss of public confidence in the City.

The cost has not fallen solely on the public. By accepting the application, reviewing it, and approving the Certificate of Approval, the City signaled to the owner at every step that this division was viable. If Lot 2 cannot meet the minimum lot area, that signal was wrong, and the owner has spent time and money pursuing a division that cannot be completed as proposed. The same is true for any lot owner in a historic district who reviews this approval and follows the same path. Those owners are entitled to expect the City to confirm that a lot can legally be divided before it processes the division, not after a hearing and an appeal. Letting an application of this kind run all the way to approval without that check misleads the people who depend on the City to get the basics right.

I am not asking you to relitigate whether the preservation standards are met. I am asking whether the proposed lot is legal, and whether that was confirmed before the process proceeded. If the staff has not verified whether Lot 2 is legal, it would serve everyone, including the City, to resolve this now rather than spend more public and private effort on the appeal if this isn't a legal lot.

Would you let me know in writing at your earliest convenience whether the staff has confirmed that the proposed Lot 2 is a legal lot, and if not, whether that determination can be made before the appeal proceeds? I would appreciate a written response.

If Lot 2 is not a legal lot, I encourage the City Attorney to consider issuing an opinion that the Landmarks Commission's decision is void. That would spare the Common Council a public hearing on an appeal for a lot division that is not legal. It would also avoid potential litigation costs for the City and the public if the Council were to deny the appeal and the appellants sought review by the court.

Going forward, I encourage you to consider a requirement that any request for approval of a land division for a deep residential lot must include the following:

---

[4] Registration and public comment records for Legistar File 93071, Landmarks Commission meeting of June 8, 2026, https://madison.legistar.com/LegislationDetail.aspx?ID=8008214&GUID=71EDACCF-D97E-4478-96F4-84962B80FCF6&Options=ID|Text|&Search=113+ely.

1. The total lot area.

2. The lot area available to satisfy the minimum lot area, excluding the access strip, as required by MGO 28.135(3)(b)3.

3. The lot area of the strip of land between the improved public street and the remainder of the rear lot.

4. The width of the strip between the public street and the rear lot at its narrowest point.

I would like this memo to be included in the Legistar file for 93071 and in the Legistar file created for the appeal.

ADDENDUM A
113 ELY PLACE – PROPOSED LOT 2 (DEEP RESIDENTIAL LOT)
AREA CALCULATIONS AND RECORD OF THE METHOD

Source
Certified Survey Map prepared by Burse Surveying & Engineering, Inc., dated April 20, 2026, submitted under Legistar File 93071. Proposed Lot 2 is the deep residential lot, with an access strip (panhandle) running to Summit Avenue. The figures below were reconstructed from the bearings and distances shown on that map. Prepared June 26, 2026.

Boundary lines used
These are the six lines that bound proposed Lot 2, as read from the CSM. Line 6, the line dividing Lot 1 from Lot 2, is not dimensioned on the map and was recovered by closing the traverse.

#	BOUNDARY LINE OF PROPOSED LOT 2	BEARING	DISTANCE (FT)
1	Rear (north) line	N69°25′48″E	57.76
2	East line down to Summit Avenue	S00°22′48″E	124.67
3	Summit Avenue frontage	S54°27′48″W	12.46
4	Access strip (panhandle) west side	N00°27′46″W	54.69
5	Jog where the lot widens	N89°12′21″W	38.82
6	Dividing line (computed by closure)	N05°34′40″W	56.66

Coordinate computation
Each line was converted to east and north components and summed, starting from a local origin at the northwest (dividing) corner. Units are feet on grid north.

CORNER	ΔEAST	ΔNORTH	EAST	NORTH
P0 NW dividing corner	—	—	0.00	0.00
P1 NE corner	+54.08	+20.29	54.08	20.29
P2 SE corner (D, Summit)	+0.83	−124.67	54.90	−104.37
P3 SW corner (C, Summit)	−10.14	−7.24	44.77	−111.62
P4 reentrant (B, strip top)	−0.44	+54.69	44.32	−56.93
P5 (A)	−38.82	+0.54	5.51	−56.39
close back to P0	−5.51	+56.39	0.00	0.00

Areas
Areas were computed from the coordinates above by the coordinate (shoelace) method.

AREA	SQUARE FEET
Proposed Lot 2, total (closed traverse)	4,000.7
Proposed Lot 2, total (as stated on the CSM)	4,001
Access strip to Summit Avenue (B, B′, D, C)	521.7 (≈ 522)
Deep residential lot, net of the access strip	3,479.0 (≈ 3,479)

Check. The reconstructed Lot 2 totals 4,000.7 sq ft, compared to the 4,001 sq ft stated on the CSM, a difference of 0.3 sq ft (0.008%). That agreement confirms the boundary was read correctly.

Strip. The access strip is the panhandle from Summit Avenue up to the point where the lot widens (corner B). Its top is the line from B across to the east line at B′ (54.59, −57.07). It is about 10.1 ft wide at the street and 54.69 ft long.

Net lot. 4,000.7 − 521.7 = 3,479.0 sq ft. The 4,001 sq ft on the CSM, therefore, includes the access strip; the area remaining after the strip is removed is about 3,479 sq ft.

Governing ordinance
MGO 28.135(3)(b)3:

> The strip of land of land [sic] between the improved public street and the remainder of the rear lot shall not contain any buildings or structures and said strip of land shall not be used to satisfy any area or yard requirement for the rear lot. The rear lot shall be connected to the public street by a strip of land no narrower than 10 (ten) feet.

MGO 28.135(3)(b)4:

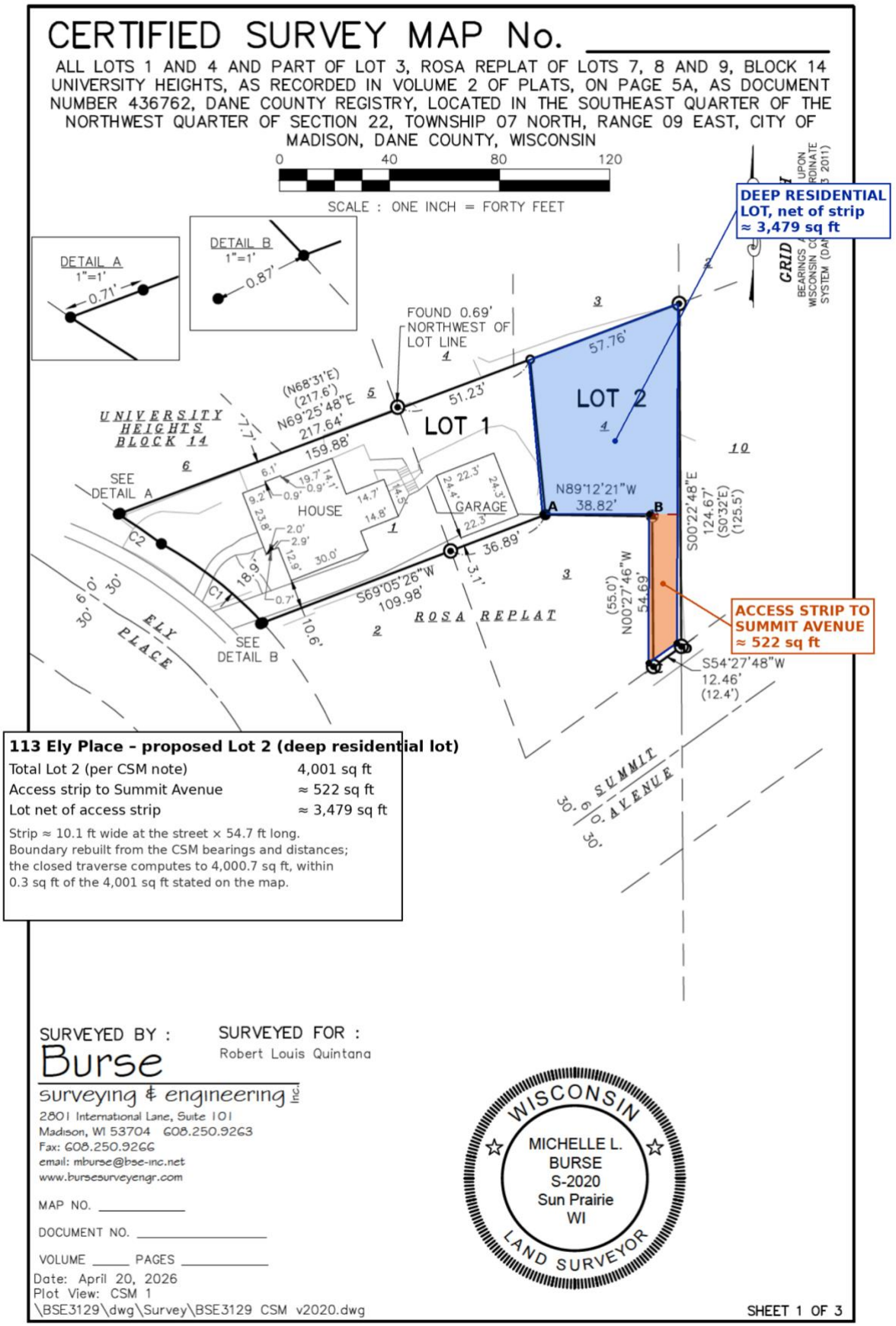
> All of the lots proposed shall comply with the minimum required lot area.

Read together, the strip cannot count toward the lot's area requirement, and the lot must independently meet the minimum required lot area. The area available to satisfy that minimum is therefore about 3,479 sq ft, not 4,001 sq ft.

Method and limitations
Coordinates use grid north and a local origin at the northwest (dividing) corner. Areas were computed by the coordinate (shoelace) method. The CSM provided is a scanned image without a digital data layer, so the dimensions were read from the drawing. Because the total closes to within 0.3 sq ft of the surveyor's stated 4,001 sq ft, the relative geometry is sound; the absolute figures carry a few square feet of uncertainty. The strip area is stable: cutting it at the reentrant corner along the survey's own jog line gives 521.7 sq ft, and along a level line gives 522.4 sq ft.

J
F

Figure 1. Reconstructed boundary and access strip overlaid on the CSM



From: Tuttle, Meagan
To: Cleveland, Julie
Subject: FW: 113 Ely Place land division (Legistar 93071): was Lot 2 confirmed as a legal lot?
Date: Friday, July 10, 2026 3:23:34 PM
Attachments: image003.png
260625_LEGISTAR00000_MEMORANDUM.pdf

Hi Julie,
Can you please attach the below email chain and attached PDF to both Leg 93071 and 93802?

Thanks!
Meagan

Meagan Tuttle, AICP *(she, her, hers)*
Director, Planning Division
City of Madison Department of Planning &
Community & Economic Development
215 Martin Luther King Jr. Blvd., Ste. 017
Madison, Wisconsin 53703
P: 608-266-5974
Email: mtuttle@cityofmadison.com
Web: http://www.cityofmadison.com/dpced/planning/

From: Tuttle, Meagan
Sent: Friday, July 10, 2026 3:21 PM
To: 'Alex Saloutos' <asaloutos@tds.net>
Cc: Bannon, Katie <KBannon@cityofmadison.com>; Tucker, Matthew <MTucker@cityofmadison.com>; Smith, Kate <kmsmith@cityofmadison.com>; Vidaver, Regina <district5@cityofmadison.com>; Firchow, Kevin <KFirchow@cityofmadison.com>; Haas, Michael R <MHaas@cityofmadison.com>; Smith, Kate <kmsmith@cityofmadison.com>
Subject: RE: 113 Ely Place land division (Legistar 93071): was Lot 2 confirmed as a legal lot?

Hi Alex,

The City will make the determination on whether Lot 2 meets the standards for approval when we get a CSM application. As noted below, we do not have such an application so I cannot give you an exact date on when that will be made. For example, we do not have another application deadline for a CSM until July 20. ***If*** an application came in for that deadline it would be reviewed ahead of any PC/Council approvals in late Aug/early Sept, and it is during that review that we confirm the submitted CSM meets the standards for the lot.

While we discussed with the applicant that they will need to confirm/ensure the

proposed lot would meet the standards when the CSM is ultimately submitted, our ordinances do not bar an applicant from seeking other related approvals. The purview of the code and/or BCC associated with those related reviews can surface issues that then prompt changes to an application, so some applicants chose to pursue them in advance. I shared that we have various procedures for how to handle those changes, when needed. The Council's consideration of the appeal will need to consider the same standards that the Landmark Commission used in its decision.

I also want to clarify the Council schedule for the appeal (Legistar 93802). It will be introduced formally on the July 21 agenda, but the hearing will not be until August 4. You can find the hearing date detail if you click on "Action Details" listed in the referral history line.

I will request this email and your memo are attached to the files.

Thanks,
Meagan

Meagan Tuttle, AICP *(she, her, hers)*
Director, Planning Division
City of Madison Department of Planning &
Community & Economic Development
215 Martin Luther King Jr. Blvd., Ste. 017
Madison, Wisconsin 53703
P: 608-266-5974
Email: mtuttle@cityofmadison.com
Web: http://www.cityofmadison.com/dpced/planning/

From: Alex Saloutos <asaloutos@tds.net>
Sent: Wednesday, July 8, 2026 10:28 PM
To: Tuttle, Meagan <MTuttle@cityofmadison.com>
Cc: Bannon, Katie <KBannon@cityofmadison.com>; Tucker, Matthew <MTucker@cityofmadison.com>; Smith, Kate <kmsmith@cityofmadison.com>; Vidaver, Regina <district5@cityofmadison.com>; Firchow, Kevin <KFirchow@cityofmadison.com>; Haas, Michael R <MHaas@cityofmadison.com>; Smith, Kate <kmsmith@cityofmadison.com>
Subject: Re: 113 Ely Place land division (Legistar 93071): was Lot 2 confirmed as a legal lot?

Dear Ms. Tuttle,

Thank you for your July 7 email.

My June 26 memo asked two questions and requested a written answer to each: whether staff confirmed that proposed Lot 2 is a legal lot before the Certificate of Approval was reviewed,

and if not, whether that determination can be made before the appeal proceeds. Your email answers the first only by implication: no determination has been made. It does not address the second at all. It is written around the questions rather than to them. The public is entitled to straight answers to simple questions from its public servants, and answers written around questions are disrespectful to the people who ask them.

So here is the second question again, in present terms. Will the City determine whether proposed Lot 2, as shown on the April 20, 2026, Certified Survey Map, is a legal lot before the Common Council takes up the appeal (Legistar 93802, on the July 21 agenda)? If you cannot make or obtain that determination, tell me who can and what it would take.

There was no legal requirement to determine whether Lot 2 is a legal lot before the Landmarks Commission reviewed the Certificate of Approval. There was also nothing preventing it, and common sense demanded it. It would have spared the applicant, staff, the Commission, and the public everything that has followed. The same is true today. Nothing requires the determination before the Council hears the appeal, and nothing prevents it. The City has had the survey since the application was filed. If Lot 2 is not a legal lot, everyone should know that before the Council spends a hearing on it. If it is, the appeal proceeds on solid ground. Either way, the determination should come first.

Because the appeal is on the July 21 agenda, I would appreciate a written answer by Tuesday, July 14. Please also add my June 26 memo, your July 7 email, and this email to Legistar files 93071 and 93802; as of today, the memo appears in neither.

Thank you,

Alex Saloutos
Phone: (608) 345-9009
Email: asaloutos@tds.net

From: "Tuttle, Meagan" <MTuttle@cityofmadison.com>
Date: Tuesday, July 7, 2026 at 7:56 PM
To: Alex Saloutos <asaloutos@tds.net>
Cc: "Bannon, Katie" <KBannon@cityofmadison.com>, Matt Tucker <MTucker@cityofmadison.com>, "Smith, Kate" <kmsmith@cityofmadison.com>, Regina Vidaver <district5@cityofmadison.com>, "Firchow, Kevin" <KFirchow@cityofmadison.com>
Subject: Re: 113 Ely Place land division (Legistar 93071): was Lot 2 confirmed as a legal lot?

Hi Alex,

Multiple staff in the Division inquired with the applicant about whether the proposed Lot 2 does in fact meet the minimum lot size required in the zoning code before the Landmark Commission review occurred. Staff had communications with the applicant about verifying the lot size with their consulting professionals, and provided guidance about how the documentation would needed to be updated/supplemented before the CSM application is formally submitted. It has not been submitted yet; without the official CSM application, the staff's official review and determination — as you noted-- is limited

to the purview of the Landmark Ordinance. The Landmark Commission has procedures that allow for minor adjustments to prior approvals to be reviewed and approved by staff. If major adjustments are required, it would require another review by the Commission. The applicant was also made aware of this and should not be mistaken about what they're entitled to as a result of the Landmark Commission review and approval.

Thank you,
Meagan

Meagan Tuttle, AICP *(she, her, hers)*
Director, Planning Division
City of Madison Department of Planning &
Community & Economic Development
215 Martin Luther King Jr. Blvd., Ste. 017
Madison, Wisconsin 53703
P: 608-266-5974
Email: mtuttle@cityofmadison.com
Web: http://www.cityofmadison.com/dpced/planning/

From: Alex Saloutos <asaloutos@tds.net>
Sent: Friday, June 26, 2026 1:05 PM
To: Tuttle, Meagan <MTuttle@cityofmadison.com>
Cc: William Fruhling <WFruhling@cityofmadison.com>; Bannon, Katie <KBannon@cityofmadison.com>; Tucker, Matthew <MTucker@cityofmadison.com>; Kim Smith <ksmith@donsimonhomes.com>; Smith, Kate <kmsmith@cityofmadison.com>; Haas, Michael R <MHaas@cityofmadison.com>; Vidaver, Regina <district5@cityofmadison.com>
Subject: 113 Ely Place land division (Legistar 93071): was Lot 2 confirmed as a legal lot?

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

Dear Ms. Tuttle,

Attached is a memo concerning the land division at 113 Ely Place (Legistar 93071), which the Landmarks Commission approved on June 8, 2026. It asks a threshold question: whether staff confirmed that the proposed Lot 2 is a legal lot before the preservation planner, Commission, and interested neighbors spent time on the Certificate of Approval. The memo explains why Lot 2 appears to fall short of the TR-C2 minimum lot area once the access strip is excluded, and it includes an addendum with the calculations and a marked-up survey.

I would appreciate a written response confirming whether this was done and, if not, whether it can be made before the appeal proceeds. I have also asked that this memo be included in the Legistar file for 93071 and in the file created for the appeal.

Thank you,
--

Alex Saloutos
Phone: (608) 345-9009
Email: asaloutos@tds.net