

ADDENDUM
PLANNING DIVISION REPORT
DEPARTMENT OF PLANNING AND COMMUNITY
AND ECONOMIC DEVELOPMENT
September 15, 2008

RE: I.D. #11931, Demolition Permit and Conditional Use – 344 S. Yellowstone Drive
- NEIGHBORHOOD SIGN INFORMATION -

The Parkwood Hills Neighborhood has an entry sign at the corner of Yellowstone Drive and Mineral Point Road. The sign would have to be removed or relocated in order to accommodate the new building, as proposed. Alderman Clear and representatives from the neighborhood have been working with the applicant for several months on the future of the sign.

Staff have located a recorded Plat of Survey (from November 1972) with an "Entrance Structure Easement" located on the corner of the property. The proposed building encroaches upon this easement. This easement will need to be terminated prior to the development proceeding.

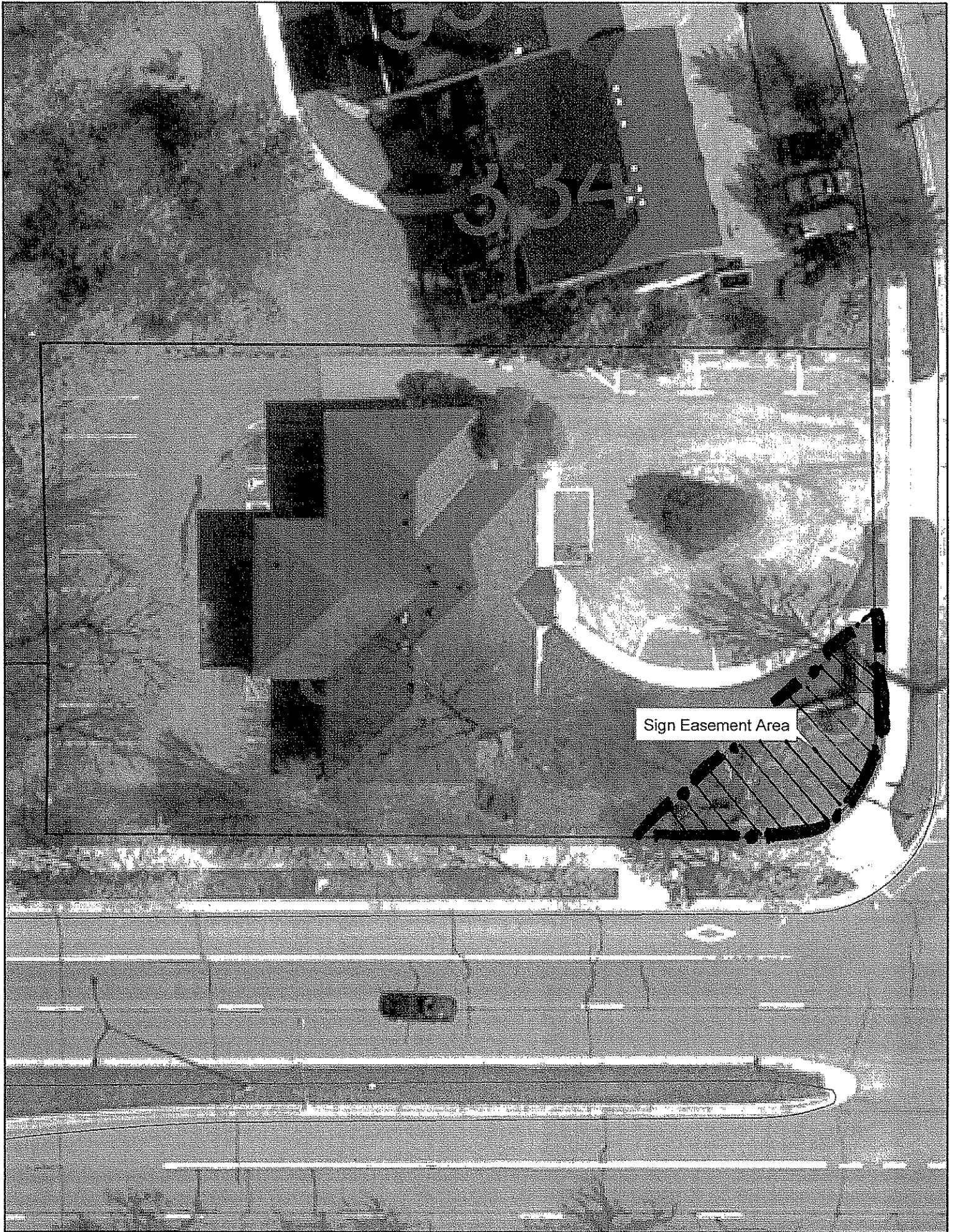
Alderman Clear, the applicant, and the Parkwood Hills Neighborhood Association met on September 14 and reached an agreement to resolve this issue. In summary, the neighborhood association will release any claim it may have to the sign itself or any easement, provided the applicant makes a donation to the neighborhood association to compensate for the loss of the sign. The City Attorney's Office notes that City Real Estate can draft an easement termination/release agreement and the applicant, City, and the neighborhood association should sign this document. (See attached email)

The alderman and staff believe that a referral is not necessary and that approval can be considered on September 15, 2008, with an appropriate condition being added to the approval. Further, the applicant has indicated that a delay would cause significant financial hardship.

RECOMMENDATION

The Planning Division recommends that the Plan Commission find that the demolition and conditional use standards are met and **approve** a demolition permit and conditional use for an office building to allow for the construction a dental office building, subject to input at the public hearing and the following conditions:

1. Comments from reviewing agencies.
2. That the applicant work with Planning staff and revise the Yellowstone Drive elevation to improve the street presence of this facade. The applicant should utilize larger windows that extend closer to the ground or provide other design treatments to address this concern.
3. *(New Condition)* That the sign easement is terminated and the termination document is recorded prior to final agency sign off.



Sign Easement Area

Firchow, Kevin

From: Clear, Mark
Sent: Sunday, September 14, 2008 9:08 PM
To: Firchow, Kevin
Cc: Murphy, Brad; Parks, Timothy; Lund, Jerry; Noonan, Katherine; drdavedds@tds.net; kevin carey; Tim Carey; Tim Budworth
Subject: RE: 344 S. Yellowstone - Demolition / Conditional Use

Kevin,

I met with the applicant and the Parkwood Hills NA this evening and they came to the following agreement.

The applicant will make a donation to the NA to compensate for the loss of the sign, and the NA will release any claim it may have to the sign itself or any easement.

The applicant has indicated that a delay would cause significant financial hardship. Given this agreement, I see no reason for Plan Commission to delay approval; I'm confident any further details can be resolved administratively. I will be at the meeting Monday evening and can explain the situation to the Commission.

Thanks!

Mark C.

Alder Mark Clear
19th District, Madison, WI
district19@cityofmadison.com
608-310-8792

Firchow, Kevin

From: Noonan, Katherine
Sent: Monday, September 15, 2008 10:18 AM
To: Firchow, Kevin
Cc: Murphy, Brad; Clear, Mark
Subject: RE: 344 S. Yellowstone - Demolition / Conditional Use

Kevin - I checked the register of deeds this morning and it seems that the easement was created by the csm. Technically, only public easements, not private easements, can be created by csm notation (as opposed to plats that can create both public and private easements). Any private easement shown on a csm should be backed up by a separate easement document meeting the required legal requirements. I could not find anything other than the notation on the plat, so the implication is that the sign easement is for the benefit of the public, not the plat owners. Given the agreement the owner of 344 S. Yellowstone has made with the neighborhood association, I think that the easement should be officially terminated. That will take a document signed by the owner, the city, (because without any separate easement instrument, the csm easement is presumed to be public) and it would not hurt to have the homeowners' neighborhood assoc. also sign - even though without any documentation of the private nature of the easement, it could be argued that their signature is not necessary. In order to expedite the approval, you could request that a condition be attached that the easement be terminated and the termination document recorded. Real estate staff should be able to draft an easement termination/release. If not, let me know and I can do it. Kitty

From: Firchow, Kevin
Sent: Friday, September 12, 2008 5:12 PM
To: 'Beth Whitaker'; 'Eric Sundquist'; Gruber, Timothy; 'James Boll'; 'Judy Bowser'; 'Judy Olson'; Kerr, Julia; Cnare, Lauren; 'Michael Basford'; 'Michael Heifetz'; Nan Fey
Cc: Clear, Mark; Murphy, Brad; Parks, Timothy; Lund, Jerry; Noonan, Katherine
Subject: 344 S. Yellowstone - Demolition / Conditional Use

Dear Plan Commissioners:

I wanted to provide you a heads-up on a neighborhood sign issue that surfaced today for this project. This information is not in your packets.

The Parkwood Hills Neighborhood has a fairly large entry sign at the corner of Yellowstone and Mineral Point. The sign would have to be removed/relocated in order to accommodate the new building, as proposed. Alder Clear and representatives from the neighborhood have been working with the applicant for several months on the future of the sign. Previously, staff believed this issue should be resolved between these parties, as records indicated the sign was placed on private property, without review and approval from the City.

Earlier today, staff found a recorded Plat of Survey (from November 1972) with an "Entrance Structure Easement" located on the corner of the property. The proposed building encroaches upon this easement, potentially impacting the ability to approve the project. Staff, including the City Attorney's office, are reviewing that document. The applicant has been contacted and does not believe this easement is valid and is working to provide evidence indicating this by Monday.

More information will be provided on Monday, either via email or at your places. Thanks- Have a nice weekend.

Kevin Firchow, AICP
 Planner, Planning Division

City of Madison Department of Planning &
 Community and Economic Development

608.267.1150 (p)

9/15/2008