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November 1, 2023

To: City of Madison Landmarks Commission

Re: Old Spring Tavern property and proposed house at 3701 Council Crest
Legistar File ID No. 79099

Dear Commissioners and Preservation Planner Bailey,

The Madison Trust for Historic Preservation opposes the revised proposal to build a new house on the Old Spring Tavern property at 3701 Council Crest that was submitted to the Landmarks Commission by Jon and Brenda Furlow on September 25, 2023. We respectfully ask the Landmarks Commission to deny a Certificate of Appropriateness (COA) for the proposed new house.

The proposed house would have a significant adverse impact on this historic property, and the proposal fails to meet the requirements for approval of a COA set forth in the Madison Ordinances and the Secretary of the Interior's Standards for Rehabilitation, as explained in further detail below.

Update on Status of Application After August Meeting

At the August 14 Landmarks Commission meeting, the five members who were present all stated that the house design originally proposed by the owners of Lot 2 was too big. They also said that the most important consideration in evaluating the application is whether the proposed house is compatible with the landmark property, not how it compares with the neighboring houses on Council Crest.

The Landmarks Commission in August rejected the original proposal and said the owners should redesign the structure. One specific request was that a revised proposal should have a 20 foot setback from Spring Trail. In addition, the stated consensus that the original proposal was too big and not compatible with the landmark property means that an acceptable revised proposal should also be meaningfully smaller and significantly more compatible with the landmark property.

The revised proposal makes the house slightly narrower, in an attempt to address one specific concern raised by the Commission in August. However, it does not address in any significant

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way the general concerns raised by the Commission about the house being too big and being incompatible with the landmark Tavern.

In fact, the revised proposal is only marginally smaller than the original proposal. The revised proposal is for a 4,218 square foot house, only 5% smaller than the 4,450 square foot design that was reviewed in August. The revised proposal is slightly narrower on the north side, facing Spring Trail. In almost every other dimension, the house is still the same size as the original proposal.

The revised house still relates to the landmark property in the same way as the unacceptable original proposal. It still presents a three-story rear wall that would be only 26 yards from the two-story front of the landmark tavern, situated on a slope above the Tavern. It still has a roofline with a top that is 17 feet higher than the top of the roof of the Tavern. It still is much wider than the Tavern. It still occupies a very large share of the landmark west yard. It still is located dangerously close to the historic black walnut tree. Overall, it still is a very large house that looms over the Tavern and dramatically changes the appearance and feeling of the landmark west yard.

The Landmarks Commission should review the applicable Secretary's Standards and determine whether the revised proposal meets each of them. We believe it fails to meet the Secretary's Standards and should not be approved.

Standards for Approving Certificate of Appropriateness

The relevant provisions of the Madison Ordinances that apply to this application are Sections 41.18(1)(b) and 41.18(1)(d), which has been confirmed to us by Preservation Planner Heather Bailey.

Section 41.18(1)(b) says that the Landmarks Commission shall approve a Certificate of Appropriateness for exterior construction only if, in the case of construction of a structure on a landmark site, the proposed work would meet the Secretary of the Interior's Standards for Rehabilitation.

The relevant parts of the Secretary of the Interior's (SOI) Standards for Rehabilitation include these (with underlining added):

- Standard 1. A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.
- Standard 2. The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.

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- Standard 9. New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.
- Standard 10. New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

In addition, Section 41.18(1)(d) says that the Landmarks Commission shall approve a COA for exterior construction only if the proposed work will not frustrate the public interest expressed in the ordinances for protecting, promoting, conserving and using the City's historic resources.

Reasons for Denying Certificate of Appropriateness

We believe the revised proposal fails to meet Standards 1, 2, 9 and 10 of the Secretary's Standards, for the reasons explained below. The applicants for the COA have not explained or demonstrated how the proposal meets these standards, and they should be required to do so. The COA should not be granted if any one of the standards is not met.

Standard 1. The new use shall require minimal change to the defining characteristics of the building, site and environment. The landmark west yard is being put to a new use, which must involve minimal change to the site and environment. The proposed very large new house would make drastic changes to the appearance and feeling of the historically open west yard which are much more than minimal.

The west yard has been an open space since the Tavern was originally built as a stagecoach inn in 1854, and remained open through its years of use as a farm and tavern. Its historical significance was emphasized in the original landmark nomination adopted by the Common Council in 1972. While other parts of the property surrounding the Tavern have been developed as residential properties over the years, the core open space represented by the west yard has been preserved, and has been designated as a landmark property. Any house built on the property should make modest changes to it, not the extensive changes that a 4,218 square foot house would make.

Standard 2. The historic character of the property shall be retained and preserved. The proposed new house would dramatically change the appearance of the landmark west yard from an open space which reminds people of the historic open, rural setting of the Tavern, to a typical city lot with a very large house on it. It would change the appearance of the historic Tavern from that of a solitary inn with a view of extensive open space outside its front door, to that of a house hemmed in by a much larger house very close to its front door.

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There are three locations from which this historic site can be viewed by the public: Nakoma Road, Spring Trail and Council Crest. While most people are familiar with the property from the Nakoma Road perspective, the views from the other perspectives are more important for understanding the original setting, function and construction of the historic Tavern.

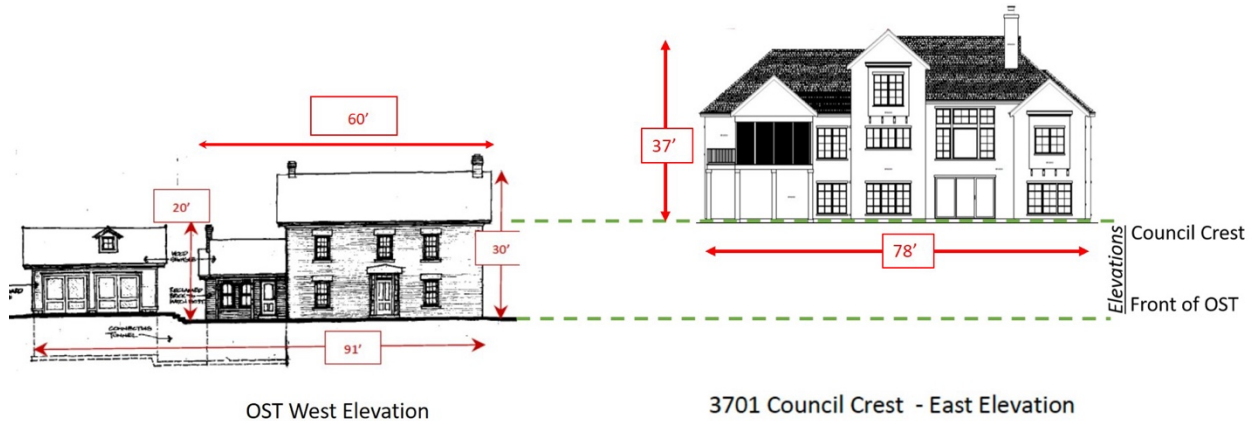
The view of the Tavern and west yard from Council Crest would be almost completely obliterated by the house in the revised proposal, and the view from Spring Trail would be fundamentally and severely compromised by having a very large structure situated very close to the Spring Trail sidewalk. The historic character of the property as a whole would be dramatically altered, not retained and preserved as required by the Secretary’s Standards.

Standard 9. The new work shall be compatible in its massing, size, scale and architectural features to protect the historic integrity of the property. The proposed new house is significantly larger in square footage and mass than the historic Tavern. It is much taller and wider, and its bulk and height are accentuated by the fact that it is situated on a slope with its base ten feet above the base of the Tavern. From the front door and front windows of the Tavern, people would be looking at a three-story building with its base one story above the Tavern’s base, meaning its roofline would be four stories above the base of the front door.

The drawings below show how the proposed house is much taller than the Tavern, with its roofline 17 feet higher than the roof of the Tavern. It is much wider than the Tavern, and it is located only 26 yards from the front door of the Tavern. It is very rare to have another house located so close to the front door of an existing house. All of this makes it completely incompatible with the historic nature of the property.



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A substantially smaller, less massive, narrower and shorter house, with its back wall farther from the front door of the Tavern, would not visually overwhelm the historic Tavern and would leave much more of the west yard with its historic open appearance. However, the proposed very large house is not compatible with or respectful of the historic Tavern and the historic west yard.

Standard 10. New construction should be done in a way so that, if it were removed, the historic property and its environment would be unimpaired. If the proposed house were to be built, it is very likely that the stress of the construction and the elimination of much of its root system would result in the premature death of the currently very healthy historic black walnut tree, which is a distinctive and integral feature of the landmark west yard. If the new house were to be built and then removed, it is highly likely that there would be a major and irrevocable change to the historic west yard.

An arborist we spoke with who closely observed the black walnut tree said that digging a home foundation close to the tree as the Furlows propose would very likely severely damage or kill it. He explained that the root system for a tree extends about 1.5 times further than the tree’s canopy, meaning that the root system for the black walnut tree extends under much of the west yard. Digging a foundation for a large house very close to the tree would inevitably significantly damage the root system and put severe stress on the tree.

The revised application proposes to dramatically re-contour the eastern portion of Lot 2. The additional soil will add to the compaction over the existing root system of the black walnut tree, causing additional stress to the tree.

The black walnut tree has stood in its present location since before the Tavern was built and the west yard was created, and has been a distinctive and defining feature of the landmark property since the Tavern was built in 1854. It has been listed as one of Wisconsin’s most

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significant and historic trees in the well-known 2005 book by arborist Bruce Allison, Every Root an Anchor: Wisconsin's Famous and Historic Trees.

While most trees by themselves aren't protected under Madison's ordinances, a historic tree that is an important and defining feature of a landmark lot qualifies for protection under the Secretary of the Interior's Standards along with the other notable features of the landmark property. Also, while the Furlows argue that trees have finite lifespans, there is a good chance that the currently healthy black walnut tree, if it does not sustain serious damage from construction, will outlive most of the participants in this debate.

Final Points

Here are a few final points:

- It has to be kept in mind that both the Tavern building and the west yard (Lot 2) have landmark status. Any new construction has to be compatible with the Tavern and make minimal changes to the landmark west yard (Lot 2) for the COA to be approved under the Secretary's Standards for Rehabilitation. The historic significance of this site derives from both the Tavern and the surrounding grounds, and both have to be protected.
- As mentioned above, the applicants need to explain how their proposal meets the Secretary's Standards. They have not done this. We have provided multiple reasons why their proposal does not meet the Secretary's Standards.
- There may be a temptation to say that the owners of the west yard have made some changes to their original house proposal by making it slightly narrower, and therefore the revised proposal should be approved in the spirit of compromise. However, the relatively minor changes that make the proposed house 5% smaller do not address the fundamental concerns raised by the Commission about the large mass of the house and its incompatibility with the Tavern. The Commission needs to uphold the Secretary's Standards and should not approve any revised proposal without significant changes that address the fundamental flaws in the original proposal in a meaningful way.
- Some people have said that the owners of the west yard have paid for the lot and should be allowed to build on it. However, any plans for construction have to be consistent with Madison's ordinances. The owners should have known this when they bought the lot. The Madison Trust sent a letter to the prior owner of the lot, David Gordon, and his attorney and Realtor prior to the sale of the lot indicating that any construction on the lot would have to conform to Madison's landmarks ordinances, so that he could disclose this to prospective buyers as a condition affecting the property. The seller and buyers have had ample notice that many people want to make sure that any changes to Lot 2 are consistent with Madison's landmarks ordinances.

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- The Furlows say the site has been altered and developed over time, with landscaping and additions to the Tavern (porches, driveway, patio, garage). The alterations the Furlows refer to were, relatively speaking, very modest changes and preserved the essential appearance and feeling of the property from the time when the Tavern was a solitary inn set in a rural landscape. The proposed very large new house would be a dramatic change that would alter most of the west yard and completely change the look and feel of the historic site.
- The Furlows say there has been a lot of adjacent development and their proposed home is consistent with that development. However, it should be obvious that no other home has been built on the landmark west yard, only 26 yards from the front of the landmark Tavern, so a home in this location is completely inconsistent with prior development. The other houses that have been built have been to the sides of the Tavern and are screened from the Tavern by foliage or are across Spring Trail, and most were built before the Tavern property had landmark status.

Conclusion

The revised application for a Certificate of Appropriateness for the proposed large house on the landmark Old Spring Tavern property should be denied. The proposal has multiple features that disqualify it under at least four of the Secretary of the Interior's Standards for Rehabilitation, including its large mass, proximity to the Tavern and tall height which make it incompatible with the landmark Tavern, its sweeping and extensive changes to the landmark west yard, and its threat to the historic black walnut tree.

In addition, the proposal should be disqualified under the general provisions of Section 41.18(1)(d), which say that the proposed work should not frustrate the public interest in protecting, promoting, conserving and using the City's historic resources. Taken as a whole, the proposal to place a 4,218 square foot house on the landmark west yard very close to the landmark Tavern unquestionably fails to protect and promote this historic site.

We appreciate the Commission's consideration of these points, and we are available to answer any questions or provide additional information.

Sincerely,

Rick Chandler

Rick Chandler
President
Madison Trust for Historic Preservation

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