

Background Information About Proposed House on
Old Spring Tavern Property, 3701 Council Crest
(Legistar File 80871)

December 20, 2023

We Urge the Common Council to Oppose a Proposed Large New 4,200 Square Foot House on the Historic Old Spring Tavern Property

The Madison Trust for Historic Preservation opposes the proposal to build a large new 4,200 square foot house on the west yard of the landmarked Old Spring Tavern property at 3701 Council Crest, which will be considered by the Common Council on January 9, 2024.

- We respectfully ask the Common Council to vote against the proposal because the applicable standards for approval have not been met. The proposed house is incompatible with the historic Old Spring Tavern and makes unacceptably large changes to the landmark west yard.
- A Certificate of Appropriateness (COA) for the house which would allow construction was approved by the Landmarks Commission on a 3-1 vote with three members absent or not voting and with Alder Amani Latimer Burriss voting no. There are ample legal grounds for reversing the decision.
- If the approval of the proposal for a 4,200 square foot house is reversed, the owners of the west yard can return with a proposal for a smaller house that is compatible with the Old Spring Tavern.

Background on the Old Spring Tavern

The Old Spring Tavern, built in 1854, is one of Madison's oldest and most significant historic sites. The Tavern was originally a stagecoach inn on the road to southwest Wisconsin. It later served as a farmhouse and tavern, and for more than 100 years has been a private residence.

The tavern and the grounds surrounding it were designated as a Madison landmark in 1972, the 16th of 184 local sites to be designated as a landmark. The importance of the Tavern site is shown by the fact that the property is the very first site pictured in the city's official report on Madison's Historic Preservation Plan, which was adopted by the Common Council on May 27, 2020. The Tavern is also listed on the National Register of Historic Places.

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A visit to the tavern property is among the most memorable stops on the historic architecture walking tours conducted by the Madison Trust because of the unique landscape of the property and the fascinating history of the Tavern as an inn during the stagecoach era. If a very large house was built on the west yard, as has been proposed, it would be much harder to understand the historic setting and feeling of the property.

The historic appearance of a solitary inn set on a road in an open, undeveloped landscape has been maintained by a succession of owners over the years and should not be lost due to construction of a very large house that would be completely incompatible with the Tavern itself and would completely change the character and appearance of the historic west yard.

Proposed New House and Landmarks Commission Decision

The owners of the lot at 3701 Council Crest, Jon and Brenda Furlow, initially proposed building a roughly 4,500-square-foot house on the property. The Landmarks Commission did not approve this proposal and asked the Furlows to propose a smaller house that would not be incompatible with the historic tavern. The Furlows then proposed a house that was 5% smaller at about 4,200 square feet, which the Landmarks Commission approved on November 6 on a 3-1 vote.

The proposed new house is massive compared with the historic Tavern. It is wider and taller. Its roofline is 17 feet higher than the roofline of the Tavern. It would be built on a slope above the Tavern, with a base that is ten feet higher than the base of the Tavern. It has a towering three-story rear wall that would be located only 26 yards from the two-story front of the Tavern.

The new house would occupy a large share of the steeply sloping west yard of the Old Spring Tavern property. It would be located very close to a historic 234-year-old black walnut tree, and it is likely that the stress of construction and the destruction of a large part of the tree's root system would result in the death of the tree. It would dramatically alter the historic view of the west yard from the front of the Tavern, and it would almost completely block the historic view of the Tavern from Council Crest, which is the historic front of the Tavern.

Overall, the proposed 4,200 square foot house would loom over the tavern and dramatically change the appearance and feeling of the landmark west yard.

Grounds for Appeal to Common Council

Preservation Planner Heather Bailey has emphasized that under the Madison Ordinances the project needs to be evaluated using the Secretary of the Interior's Standards for Rehabilitation. The applicant has not shown or explained how it qualifies under the standards. Organizations and citizens from throughout Madison have provided extensive evidence of the multiple ways in which it does not comply. We urge the Common Council to look at each of the standards and decide whether this proposal meets them.

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- The proposed house violates Standard 1 because it clearly makes far more than a minimal change to the defining characteristics of the site and environment, as you can see when you view the site from Council Crest, Spring Trail or the front door on the west side of the Tavern.
- It violates Standard 2 because it does not retain and preserve the historic character of the property.
- It violates Standard 9, which requires it to be compatible with the massing, size, scale and architectural features of the Tavern. It's much bigger than the Tavern. Its 4,200-square-foot size, much larger overall mass, taller height, and location on a slope looming above the Tavern all make it dramatically incompatible.
- It violates Standard 10, because its environment would be significantly impaired, and its construction would likely kill the historic 234-year-old black walnut tree on the lot, a defining feature of the site.

Frequently Asked Questions

Question: Don't we need new housing and new development?

Answer: We support development and housing, but they should be compatible with maintaining the special qualities that make Madison a good place to live, including our unique historic properties. A smaller house on this property would provide just as much housing as a 4,200 square foot house built for two people. What is being proposed is not a multi-family dwelling.

Q: Isn't opposing the proposed house an example of NIMBYism?

A: The opponents of the proposed 4,200 square foot house aren't opposing any construction on the site, just construction of a house that is dramatically out of scale with the historic Tavern and that consumes too much of the historic west yard. Also, this isn't just a neighborhood issue. The Old Spring Tavern property is a historic resource for all of Madison. People from all over Madison take walking tours of the neighborhood which feature the Old Spring Tavern property, and are concerned about the preservation of this unique resource.

Q: Lot 2 is a buildable lot. Shouldn't the owners be allowed to build the house they want there?

A: Any house that's built on a buildable lot has to comply with zoning requirements and the historic preservation ordinances. This proposed house should not be approved because it's incompatible with the historic property. The owners knew that they'd have to comply with the historic preservation ordinances when they bought the property. They were told that neighbors and people interested in historic preservation would object to any house that was incompatible with the historic property.

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Q: Don't the owners have a right to build the house they want? They paid a lot of money for the lot.

A: While the owners of the lot have a right to build a house that complies with zoning requirements and the historic preservation ordinances, the owners of the Old Spring Tavern have important rights too. They have a right to protection of their historic property. They bought the historic Tavern with the knowledge that a house would probably be built on the west lot, but with the belief that under the Madison ordinances it would be compatible with the Tavern. They have committed to using their resources to maintain the historic Tavern for future generations. The commitment of the city to protect the historic property from the intrusion of a very large house should be maintained.

Q: Why shouldn't the owners be able to build a big house? The Nakoma neighborhood has quite a few big houses.

A: The proposed 4,200 square foot house would be among the biggest houses in Nakoma. Other houses in the immediate neighborhood of the Tavern are much smaller. For example, the house right beside the west yard at 3705 Council Crest is only 1,300 square feet, and the house beside it at 3709 Council Crest is 1,540 square feet. Many homes along Council Crest and throughout Nakoma are around 2,000 square feet.

Q: The owners say that their house fits in with other houses along Council Crest.

A: The key legal test is not whether the new house is compatible with other houses but whether the new house is compatible with the historic landmark Tavern, which is not the case because it is too massive, too tall, too close to the Tavern and located on a slope looming above the Tavern. Also, the house would be much larger than most of the houses on Council Crest.

Q: Does the Common Council have the legal authority to reverse the approval of the new house by the Landmarks Commission?

A: The Council has ample legal grounds to disapprove the proposed new house. The Madison Ordinances clearly allow the Council to change decisions of the Landmarks Commission. The Secretary of the Interior's Standards for Rehabilitation provide clear grounds to disapprove the new house, as explained by expert testimony at the Landmarks Commission.

Q: Why should the Council be concerned about the water damage issue?

A: The ordinances provide that historic properties like the Tavern should be protected. The risk of water damage from an improperly located house uphill from the Tavern is significant. The owners should be required to present a much more thorough analysis of the drainage issues than they have done. Additionally, the city could consider having the owners of the lot enter into an agreement to make sure that water runoff protection measures are maintained in the future.

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Q: Why should the Council be concerned about the tree? The city generally doesn't get involved if people want to cut down trees or if they damage trees on their lots.

A: The reason to care about the 234-year-old black walnut tree is that it is a key feature of the historic west yard which has landmark protection. While trees in general aren't regulated by the ordinances, the ordinances do provide that historic properties and landscapes should be protected, which includes essential elements of the landscape like the black walnut tree.

Q: Where is the front door of the Tavern?

A: The front door of the Tavern is on the west side of the Tavern, facing the west yard and Council Crest. The current owners and previous owners have consistently used this as the front door. The design and floor plan of the house make it clear that the front door is the door on the west side.

Highlights of Expert Commentary About the Proposed New House

Paul Edmondson, Former President and General Counsel for National Trust for Historic Preservation.

- I share the views of commentators who question the compatibility of the proposed house with the immediate setting of the Old Spring Tavern.
- The National Park Service has a set of "recommended" and "not recommended" practices that apply to construction for historic properties.
 - Recommended practices include locating new construction where it will be minimally visible and will not negatively affect a historic building's site or setting, and ensuring that new construction is secondary to the historic building.
 - Practices that are not recommended include adding new construction on an adjacent site that is much larger than the historic building and results in a loss of historic character of the setting.

Jeffrey Albertini, Certified Arborist.

- It is my professional opinion that the proposed construction will have a substantial, long term adverse impact on the black walnut tree.
- The proposed level of disturbance would be expected to have a negative effect on both immediate performance (growth, etc.), longevity, and other secondary stressor tolerance (i.e., drought-related stress).

Note: These are edited excerpts from expert testimony submitted to the Landmarks Commission. Please see the Legistar file from the Landmarks Commission meeting of November 6, 2023, for complete expert testimony.