



Topic: Appeal of Madison Landmarks Commission Decision
3701 Council Crest
Legistar File ID # [80871](#)
Prepared By: Heather Bailey, Preservation Planner, Planning Division
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Landmarks Commission Project Approval

The Landmarks Commission reviewed and approved a proposal for construction of a new house on a lot within the boundary of the Old Spring Tavern designated landmark site. The landmark site contains two lots: one with the historic Old Spring Tavern, and the subject property that is a legally developable vacant lot.

On August 14, 2023, the Madison Landmarks Commission first reviewed plans for a proposed new house at 3701 Council Crest. As a designated landmark site, the proposed new construction needed to meet the Secretary of the Interior's Standards for Rehabilitation (SOI). The Commission referred the project to a future meeting as they found that the proposed new construction did not meet Standard 9 of the SOI, per [MGO 41.18\(1\)](#), because the proposed building was too wide, making it out of scale with the adjacent historic resource, and the Commission gave the applicant guidance on how to modify the design to meet the standard.

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.

The applicant followed guidance from the Landmarks Commission, modified the design to mitigate the visual mass. On November 6, 2023, the Commission approved the revised project as meeting the standards for approval.

Appeal

Neighbors filed an appeal of the Landmarks Commission's project approval on November 14, 2023. The appeal represents that the "applicant failed to meet their burden of proof that the proposed new construction meets the Secretary of the Interior's Standards for Rehabilitation." There is no requirement of a burden of proof on the part of the applicant in the historic preservation ordinance. Instead, the Landmarks Commission is tasked with reviewing applications to ensure that they meet those standards of approval.

For a full analysis of how the project complies with the standards of approval in MGO 41, please see the following staff reports:

[79099 - 3701 Council Crest STAFF REPORT 8-14-23 .pdf](#)

[79099 - 3701 Council Crest STAFF MEMO 11-6-23](#)

Public Interest Expressed in the Historic Preservation Ordinance

Additionally, the appeal states that the project does not comply with [MGO 41.18\(1\)\(d\)](#):

"In the case of any exterior alteration or construction for which a certificate of appropriateness is required, the proposed work will not frustrate the public interest expressed in this ordinance for protecting, promoting, conserving, and using the City's historic resources."

The “public interest expressed in this ordinance” can be found here:

[MGO 41.01 – Policy and Purpose](#)

- (1) Accomplish the identification, protection, promotion, preservation, conservation and use of the City's historic resources, as embodied and reflected in the city's historic districts and landmarks.
- (2) Ensure that the City's growth sensitively incorporates the City's historic resources.
- (3) Enhance the visual and aesthetic character of the City by ensuring that new design and construction, when it happens, complements the City's historic resources.
- (4) Provide a framework for appropriate reinvestment in the City's landmarks and historic districts that ensures new design and construction, when it happens, complements the City's historic resources and conforms to the standards of the historic district.
- (5) Safeguard the City's historic resources and investment in them by establishing an obligation to maintain them, and encouraging the vigorous enforcement of this ordinance.
- (6) Recognize that the city's historic resources are economic assets that can attract residents and visitors, create jobs, stabilize and improve property values, and stimulate business and industry.
- (7) Foster civic pride in the beauty and noble accomplishments of the past.
- (8) Promote the use of and investment in historic districts and landmarks for the education, pleasure and welfare of the people of the City.
- (9) Provide a clear regulatory framework for implementing, balancing, and accomplishing the public policy announced in this chapter.

The ordinance encourages sensitive incorporation of new construction in relation to historic resources and is not intended to prevent development. As part of the approval for the new construction, the Landmarks Commission required that the site design direct water away from the adjacent historic resource, which addresses previous drainage issues on the landmark site that were impacting the Old Spring Tavern. The commission also required archaeological monitoring for the new construction as this project provides a rare opportunity for historic archaeology.

Possible Common Council Actions

Per [MGO 41.20\(4\)](#), “after a public hearing, the Common Council may, by favorable vote of a majority of its members, reverse or modify the decision of the Landmarks Commission with or without conditions, or refer the matter back to the Commission with or without instructions, if it finds that the Commission's decision is contrary to the applicable standards under Secs. 41.18.”

The Common Council may take any of the following actions:

1. Deny the Appeal
Findings: The Landmarks Commission’s decision complied with the standards of approval in MGO 41.18
2. Approve the Appeal and Reverse or Modify the Decision of the Landmarks Commission
Findings: The Landmarks Commission’s decision was contrary to the applicable standards in MGO 41.18
3. Refer Back to the Landmarks Commission
Common Council will need to specify how the Commission should reevaluate the project.