

## Bailey, Heather

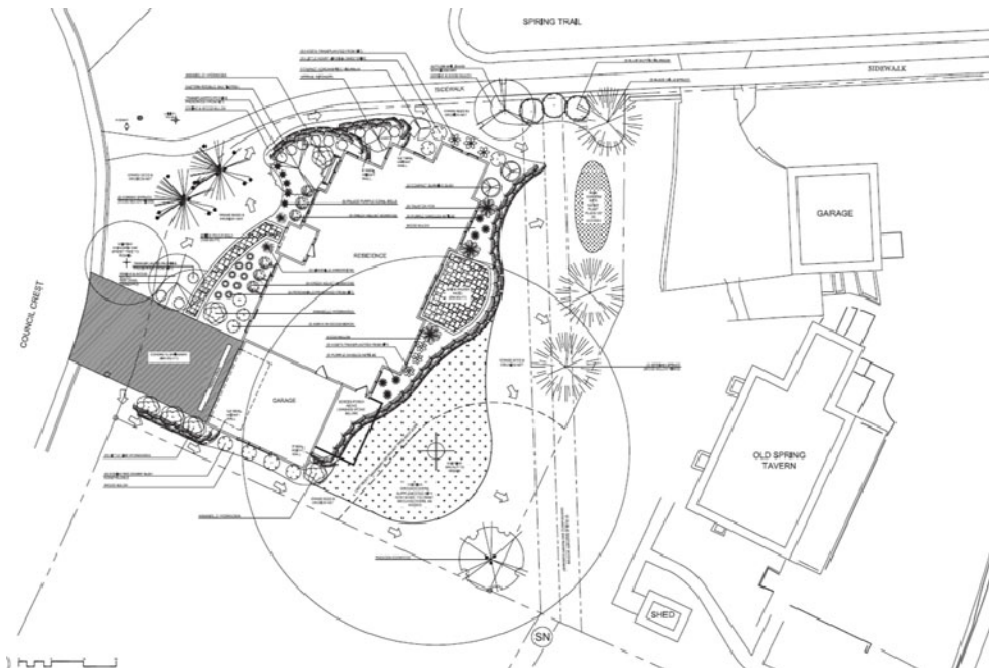
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**From:** Bailey, Heather  
**Sent:** Tuesday, May 2, 2023 4:10 PM  
**To:** 'Stu Levitan'  
**Cc:** Figueroa Cole, Yannette; Rich Arnesen; jon.furlow@gmail.com; bsfurlow71@gmail.com; Kevin Pomeroy; Stouder, Heather  
**Subject:** RE: 3701 Council Crestt

If this were not within the boundary of the landmark site, there would be no commission reviewing this proposal. It would simply be another building permit. And me reaching a different conclusion from you does not make this an illegitimate process. I am not the decider here and the Landmarks Commission is not a rubber stamp, as you well know. I am using my expertise and experience to provide an analysis to that public body and they will make a determination.

Here are the views that I found most pertinent for the review:





And at this point I would encourage you to engage in the public process by participating in the Landmarks Commission's meeting on the 15<sup>th</sup> and provide comments there.



**Heather L. Bailey, Ph.D.** *(she/her)*  
Preservation Planner  
Neighborhood Planning, Preservation + Design Section

Department of Planning + Community + Economic Development  
Planning Division  
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**From:** Stu Levitan <stuartlevitan@sbcglobal.net>

**Sent:** Tuesday, May 2, 2023 3:10 PM

**To:** Bailey, Heather <Hbailey@cityofmadison.com>

**Cc:** Figueroa Cole, Yannette <district10@cityofmadison.com>; Rich Arnesen <rarnesen@stonehousedevelopment.com>; jon.furlow@gmail.com; bsfurlow71@gmail.com; Kevin Pomeroy <urbanist@charter.net>; Stouder, Heather <HStouder@cityofmadison.com>

**Subject:** Re: 3701 Council Crest

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Heather

Thanks for your response, as disheartening as it is.

So the only standards that apply are the Secretary's Standards for Rehabilitation? Which are not even linked in the MGO.

Would there have been more review if 3701 were not on a landmark site but adjacent to a landmark?

I'm not sure what rendering you think show the impact of the new construction on the OST. Could you specify?

I very much hope the commission will insist on proper renderings showing the impact as seen from Nakoma Road.

I accepted without challenge the lot division because I believed there would be a legitimate review of the eventual submission. I am starting to fear my confidence in the process was misplaced.

Stu Levitan

On Tuesday, May 2, 2023 at 01:09:43 PM CDT, Bailey, Heather <[hbailey@cityofmadison.com](mailto:hbailey@cityofmadison.com)> wrote:

Stu,

Thank you for reaching out and I am happy to clarify.

First, let's deal with compliance and applicable process. This proposed development is within the boundary of a designated landmark site (which always contained two lots and now contains two parcels). So the new construction will be reviewed per the Secretary of the Interior's Standards for Rehabilitation, as specified in [MGO 41.18\(1\)](#). The regulations for "Development Adjacent to a Designated Landmark" do not come into play because this is a project that is only being reviewed by the Landmarks Commission (so no reviews by Urban Design Commission or the Plan Commission) as specified in [MGO 28.144](#) and because it is development happening within the boundary of a designated landmark, not adjacent to the property with the designation.

As there is no demolition of a historic structure taking place, there is no State compliance demolition filing to the Wisconsin Historical Society. The National and State Register designations are honorary in nature for private property owners and there is no legal role for the Madison Landmarks Commission to review development in a National Register Historic District beyond the instances where they provide advisory recommendations to Plan Commission on the historic value of a property with a proposed demolition, per [MGO 28.185](#) (and then I would also file the demolition notification and photos to the WHS). National and State Register designations are not regulatory for private property owners. If a neighborhood wants historic property protections and that type of design review from the Landmarks Commission, then it has to take the steps to become a local historic district.

For City-owned properties listed in the NR/SR, then there are State compliance processes for WHS to review physical changes (which only involve the Landmarks Commission if it is also a designated City landmark and then it needs a Certificate of Appropriateness, but the Commission is not involved in the State compliance process). And there are possible Federal compliance processes when there is a Federal nexus for an undertaking. The BRT project was one of those where the Federal funding triggered Section 106 of the National Historic Preservation Act and then the Madison Landmarks Commission was a consulting party, per [36CFR800.2](#), and invited to provide comments on how the undertaking may have effects on NR-designated properties. Neither of these processes are in play with this private development on private property.

Second, in terms of the submittals for the Landmarks Commission's review, a rendering showing the development in context of the historic resource on the larger site would be helpful context. I think that the application materials provide views as would be seen from the back yard of the historic tavern and from Spring Trail. I have asked for the additional renderings from the project team. If the Commission does not believe that they have the information they require to make their evaluation, it is within their purview to ask for more details and refer it to a future meeting. But at the moment, I believe the project team has supplied a complete and sufficient application.



**Heather L. Bailey, Ph.D.** *(she/her)*

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**From:** Stu Levitan <[stuartlevitan@sbcglobal.net](mailto:stuartlevitan@sbcglobal.net)>

**Sent:** Tuesday, May 2, 2023 9:10 AM

**To:** Bailey, Heather <[HBailey@cityofmadison.com](mailto:HBailey@cityofmadison.com)>

**Cc:** Figueroa Cole, Yannette <[district10@cityofmadison.com](mailto:district10@cityofmadison.com)>; Rich Arnesen <[rarnesen@stonehousedevlopment.com](mailto:rarnesen@stonehousedevlopment.com)>; [jon.furlow@gmail.com](mailto:jon.furlow@gmail.com); [bsfurlow71@gmail.com](mailto:bsfurlow71@gmail.com); Kevin Pomeroy <[urbanist@charter.net](mailto:urbanist@charter.net)>

**Subject:** 3701 Council Crestt

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

Heather:

As you know, there are a number of neighbors very concerned about the impact that a large house at 3701 Council Crest would have on the registered landmark Old Spring Tavern. We have closely reviewed the application for a COA, and are struck by the lack of any renderings showing how the post-development landmark and landmark site would look to someone walking or driving on Nakoma



Road or Council Crest. CMNNA Association president Kevin Pomeroy, acting independently, conveyed the same message to the Furlows on Monday.

I do not think the commission could possibly evaluate the application without such documentation; were I still chair, I would request that the matter be referred until these renderings were submitted. In my current status, however, all I can do is ask for your assurance that you agree that these renderings are necessary, and that you will not consider the application complete until they are provided.

And given that this is a landmark site adjacent to a registered landmark in a national historic district, we would also appreciate if you could lay out for us the applicable local and federal ordinances, statutes, and administrative rules applicable to your review and the commission's consideration of the application.

As always, thanks very much. Please let me know if you have any questions concerning my/our interest in this matter.

Yours,

Stu Levitan

## Bailey, Heather

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**From:** Bailey, Heather  
**Sent:** Wednesday, May 3, 2023 4:39 PM  
**To:** 'Kevin Pomeroy'  
**Cc:** Figueroa Cole, Yannette; Rich Arnesen; jon.furlow@gmail.com; bsfurlow71@gmail.com; Stouder, Heather; Stu Levitan  
**Subject:** RE: 3701 Council Crest - Certificate of Appropriateness

Kevin,

My responses are in purple below.



**Heather L. Bailey, Ph.D.** *(she/her)*  
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**From:** Kevin Pomeroy <urbanist@charter.net>  
**Sent:** Wednesday, May 3, 2023 9:51 AM  
**To:** Bailey, Heather <HBailey@cityofmadison.com>  
**Cc:** Figueroa Cole, Yannette <district10@cityofmadison.com>; Rich Arnesen <rarnesen@stonehousedevlopment.com>; jon.furlow@gmail.com; bsfurlow71@gmail.com; Stouder, Heather <HStouder@cityofmadison.com>; Stu Levitan <stuartlevitan@sbcglobal.net>  
**Subject:** 3701 Council Crest - Certificate of Appropriateness

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Hi Heather,

I am the President of the Crawford Marlborough Nakoma Neighborhood Association (CMNNA), where the Old Spring Tavern is located. I met with Jon and Brenda Furlow on May 1 regarding their application for a Certificate of Appropriateness to build a home on a tax parcel which is part of this designated City of Madison landmark. I expect the CMNNA board to take a position on this application prior to Landmarks Commission consideration. I have several questions regarding their application:

1. To clarify, the relevant standards for review of this application are MGO 41.18(1) and MGO 28.144. Is that correct?

No. Only [MGO 41.18\(1\)](#) is involved in this review. The proposal is for new construction on a designated landmark site. Both of the lots are within the boundary of the designated landmark. [MGO 28.144](#) only comes into play for redevelopments that share a property line with a designated landmark (and this is within the boundary of a designated

landmark, not adjacent) and when the review of Plan Commission and/or the Urban Design Commission is required. This project will not require review by either of those bodies.

2. What process has the Landmarks Commission used in the past to verify the proposed work meets the Secretary of the Interior's Standards for Rehabilitation? Are there any other projects in Legistar you can point me to that had to meet this requirement?

The Landmarks Commission has used the Secretary of the Interior's Standards for Rehabilitation for all work on landmark properties since 2015, so there are many examples. Garver Feed Mill may be a good example that involves both a CSM/lot line adjustment and new development in close proximity to the historic resource.

[Legistar 39069](#)

[Legistar 52263](#)

[Legistar 43314](#)

[Legistar 47354](#)

3. The renderings submitted by the applicant do not show the relationship between the home they propose to build and this city landmark, including the land and structure, and adjacent properties. Without scaled 2-dimensional drawings showing all four elevations—which show the proposed building in context—it is impossible to determine if the application meets the applicable standards. Two-dimensional elevations are very important. Three-dimensional perspective drawings can be manipulated and do not give a realistic view of the proposal in context. Using 2-dimensional elevations is a best practice and required as part of the design review process in many municipalities. In my training as an architect, urban planner and preservationist and over 30 years of professional practice in these disciplines I am very familiar with the necessity of accurate drawings and the inherent problems with 3-d renderings. The CMNNA Board met on May 1 and we agreed that their application is incomplete until these drawings are received. While I have read your response to Stu Levitan's email, I respectfully ask again, on behalf of the neighborhood association, that you ask the applicant to submit fully dimensioned 2-d drawings which show the relationships between the proposal, the Old Spring Tavern, the street and adjacent properties of all four elevations before considering their application complete? If not, why?

Please see our submittal requirements on the [application form](#).

4. How long do you anticipate the Secretary of the Interior's Standards for Rehabilitation process to take and when would you estimate this application is on the Landmarks Commission agenda?

The [SOI Standards](#) are what the Landmarks Commission uses to review proposed work on designated landmark sites. Their review is typically completed at the meeting. In some instances they may require more information and will ask for that specifically. But to be clear, these are the standards that the Madison Landmarks Commission uses. The Secretary of the Interior is not involved at all as part of this review.

Many thanks for your time and I look forward to hearing from you soon.

Best regards,  
Kevin

Kevin Pomeroy - President  
Crawford Marlborough Nakoma Neighborhood Association  
[cmnna.org](http://cmnna.org)  
P.O. Box 46481  
Madison, WI 53744

608-438-8968

## Bailey, Heather

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**From:** Bailey, Heather  
**Sent:** Thursday, May 4, 2023 1:39 PM  
**To:** Alex Saloutos  
**Cc:** Stouder, Heather; Mayor; Figueroa Cole, Yvette; jon.furlow@gmail.com; bsfurlow71@gmail.com; rarnesen@stonehousedevelopment.com; Wachter, Matthew; Fruhling, William; Taylorm@firstweber.com; Latimer Burris, Amani  
**Subject:** RE: 3701 Council Crest -- application for CofA

Alex,

The Landmarks Commission will review this proposal at their next meeting on May 15. I am very familiar with the SOI Standards and their implementation, and have trained other professionals on the use of the SOI Guidelines, so I am comfortable in my ability to provide an adequate analysis in the staff report. Thank you for your concern.

I have asked for the project team to provide additional renderings to support their case. They have submitted a complete and sufficient application, but I believe the additional information would be beneficial. I have confirmed with their architect that their submittals are accurate and to scale. I'd encourage you to engage with the public process as part of the public hearing before the Landmarks Commission.



**Heather L. Bailey, Ph.D.** *(she/her)*  
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**From:** Alex Saloutos <asaloutos@tds.net>  
**Sent:** Wednesday, May 3, 2023 11:20 PM  
**To:** Bailey, Heather <HBailey@cityofmadison.com>  
**Cc:** Stouder, Heather <HStouder@cityofmadison.com>; Mayor <Mayor@cityofmadison.com>; Figueroa Cole, Yvette <district10@cityofmadison.com>; jon.furlow@gmail.com; bsfurlow71@gmail.com; rarnesen@stonehousedevelopment.com; Wachter, Matthew <MWachter@cityofmadison.com>; Fruhling, William <WFruhling@cityofmadison.com>; Taylorm@firstweber.com; Latimer Burris, Amani <district12@cityofmadison.com>  
**Subject:** 3701 Council Crest -- application for CofA

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

Hi, Heather!

I see the Furlows applied for a CofA to build a new home on a property designated a City of Madison landmark, Legistar No. 77464. This is a significant and very important application because, if approved, it tells developers and the public, our city landmarks are for sale and can be easily plundered for profit contrary to the public interest and the law. I had a couple of process related questions about this application:



1. At what meeting do you expect this matter will be on the Landmarks Commission agenda? How much time do you need to prepare a thorough staff report for the Commission's consideration considering the depth and breadth of the applicable standards? The application must comply with MGO 41.18(1), including the requirement to meet the Secretary of the Interior's Standards for Rehabilitation. The SOI's [Guidelines](#) for rehabilitation, which are incorporated into the SOI's Standards for Rehabilitation are 135 pages! I can't imagine the amount of time and effort it will take to vet this application meticulously against these standards to prepare a comprehensive and thorough staff report.
2. The application is devoid of any renderings showing the proposed home in situ on this landmarked property. How can you, landmarks commissioners, or the public evaluate if this application is compliant with the relevant standards without these drawings? In addition, the drawings they provided are not accurate or scale. For example, the length of the driveway in the three-dimensional renderings does not match the length of the drive or the location of the sidewalk on the site plans. What else is inaccurate with the drawings provided by the applicant? This is important because of the ramifications of this decision and the precedent it sets for other city landmarks. Have you asked the applicant for drawings of the proposed project in situ, including the entire landmark? If not, will you? This must be done before the application is considered complete. Two-dimensional elevations of all four sides are far better than the manipulated three-dimensional renderings that were submitted with the application. Having worked in real estate development for 35+ years, I'm all too familiar with three-dimensional perspective drawings how they can be skillfully manipulated to alter reality. Considering the quality of the builder the applicant has hired, Hart DeNoble, these are savvy and discerning clients who will pay top dollar for the best work. The fact the drawings submitted with this application fail to show the property in the context of this landmark property appears to be an effort to pull a fast one on the Landmarks Commission and the public. If the applicant is sincerely and genuinely interested in compliance with the standards, I can't see any reason they wouldn't provide two-dimensional elevation drawings of all four sides if asked. The public deserves to know the truth about this application. The applicants paid \$495,000 for this lot and the construction costs are probably in the \$300 to \$400 a sf foot range, putting the budget easily in the \$1.3 million+ range. So, costs shouldn't be an issue. B&W, two-dimensional drawings in situ of the four elevations are a trivial cost on a project like this. It is imperative all of us—you as the preservation planner, landmarks commissioners, and the public—have these drawings to make an informed decision. Evaluating the impact of this application shouldn't be left up to the imagination of the commissioners to fill in the blanks or correct deficiencies with the drawings that were submitted. I can't imagine this application being considered without this information. Wouldn't you agree?

Thank you for all your work on behalf of historic preservation! I look forward to hearing from you soon.

Cheers,

--



Alex Saloutos

**BHHS True Realty**

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Email: [asaloutos@tds.net](mailto:asaloutos@tds.net)

**Carly S. Conway**  
3706 Nakoma Road  
Madison, Wisconsin 53711

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May 5, 2023

Heather L. Bailey, Ph.D.  
Preservation Planner  
Dept. of Planning, Community, & Economic Dev.  
215 Martin Luther King, Jr. Blvd., Suite 017  
Madison, Wisconsin 53701-2985

Re: *Objection to New Home Construction Application for 3701 Council Crest*  
City Legislative File I.D. No. 77464

Dear Dr. Bailey:

My husband and I own the Old Spring Tavern, a city landmark built in 1854 and located at 3706 Nakoma Road. The owners of the adjacent landmark parcel, 3701 Council Crest, recently submitted an application to the Landmarks Commission to construct a new home on the property. Because their proposal does not address the considerable risks to the Tavern posed by drainage, we respectfully urge the Commission to deny the application.

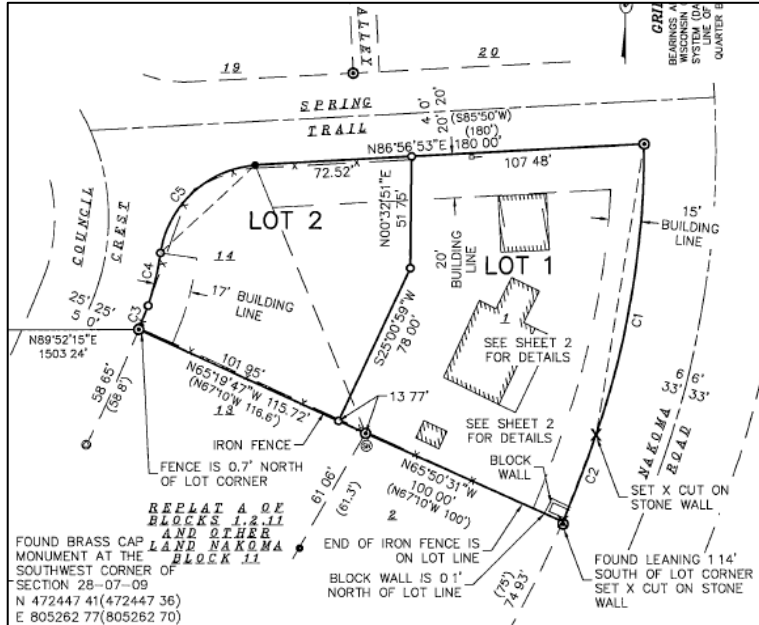
A. Description of Properties

The City designated the Tavern a city landmark in 1972. The property is also listed on the national and state historic registers. Images of the front and back of the home are below:



The Tavern property has long consisted of two unequally-sized parcels with one owner. Last year, however, the Commission approved a lot line adjustment that resulted in two similarly-sized lots—3706 Nakoma Road (Lot 1) and 3701 Council Crest (Lot 2), depicted below:





The City’s landmark designation continues to apply to both Lot 1 and Lot 2. The Tavern sits on Lot 1. The applicants purchased the adjacent Lot 2 in October 2022. Lot 2 is currently an undeveloped parcel consisting entirely of a landscaped hillside that steeply slopes downward toward the Tavern. Below is a depiction of Lot 2 from the Tavern’s front door:



B. Basis for Objection

Under Madison Ordinance § 41.18(1), a proposed new construction on a landmark site must satisfy two requirements for a certificate of appropriateness: (1) the construction must “meet the Secretary of the Interior’s Standards for Rehabilitation,” and (2) the construction must “not frustrate the public interest expressed in this ordinance for protecting, promoting, conserving, and using the City’s historic resources.” The 3701 Council Crest owners’ new home application fails both of these requirements because it does not protect the Tavern against the drainage risks associated with their proposed uphill construction.

Section 8 of the applicants’ letter contains the only mention of their plans with respect to water drainage. In a single short paragraph, they note that their lot has a drainage easement over the Tavern lot; the “Tavern already has water seepage into the basement”; and they are “working with landscape professionals and plan to reduce grass in favor of natural plantings, direct drainage away from the Tavern structure, and install a rain garden.”

As an initial matter, the Tavern does not “already ha[ve] water seepage into the basement.” The Tavern’s basement is sealed, modernized, and dry thanks to substantial investments over the years to protect the foundation from water infiltration. These efforts have included rebuilding window wells, reinforcing interior foundations, laying waterproof membranes, and installing drain tile and sump pumps. However, the most crucial water protection efforts have involved directing runoff and drainage from the uphill lot away from the Tavern. In 2000, the previous Tavern owners began a major renovation of the property that included implementing a comprehensive landscaping, grading, and engineering plan to protect the Tavern against runoff from what is now Lot 2.

Based on our examination of the property and landscaping plans left behind by the prior owners, the existing drainage plan appears to consist of three primary components, all of which are depicted in Attachment A to this letter:

First, the prior owners built three cascading terraced tiers (berms) into the hillside of Lot 2 to capture and re-direct runoff toward a large swale. The swale channels the water away from the Tavern to the southwest corner of the property where it runs down to street level. *See Attachment A, Pg. 1* (berm drainage is marked in green, swale drainage is marked in red); *Pg. 3* (swale’s route to street level).

Second, the prior owners installed a drainage canal that spans the length of the Tavern to catch runoff not already directed toward the swale by the berms. *See Attachment A, Pg. 1* (drainage canal and runoff it captures are marked in blue).

Third, the prior owners installed drainage basins at each corner of the Tavern to collect water from the downspouts and drain it through underground pipes to city sewer. *See Attachment A, Pg. 4*. They also installed a large catch basin between the Tavern and the garage,

which is fed by drain tile that drains any water that evades the swale and drainage canal system down to the city sewer. See Attachment A, Pg. 2.

As is evident, the prior Tavern owners took drainage seriously because it is important for protecting the Tavern's integrity. The existing system has performed well for more than two decades. While it is true that the Certified Survey Map states that Lot 1 is to accept drainage from Lot 2, it is vitally important that any development on Lot 2 have a comprehensive and responsible drainage plan like the one that currently exists. Here, the applicants' proposed construction would eliminate a significant portion of the existing drainage system that has protected the Tavern. In the process, the proposal would remove a large number of uphill trees and natural plantings with absorptive root structures and replace them with thousands of square feet of impervious surface (*e.g.*, roof, driveway, patio). This will invariably increase the amount of water runoff from Lot 2, which could pose a substantial risk to the Tavern unless done with extreme care and planning.

Unfortunately, the pending application does not reflect the requisite care or planning. It does not contain a grading plan, a runoff analysis, or any indication that the applicants have consulted with a professional experienced in civil engineering or hydrology. It lacks even a cursory drainage plan and leaves important questions unanswered. For example, the applicants could significantly reduce the amount of runoff directed at the Tavern by grading the front of their house toward Council Crest so that runoff from the front driveway and front roofline drains toward the Council Crest sewer and away from the Tavern. Likewise, the applicants could minimize the risk of damage to the Tavern by ensuring that the existing swale remains intact and that Lot 2 runoff continues to be channeled away from the Tavern. The pending application is silent on both of these issues.

While we appreciate the applicants' stated intentions to introduce natural plantings, to build a small rain garden, and to direct drainage away from the Tavern, their application contains scant detail about the specifics of these plans or their effect. Rather than setting forth a detailed drainage plan for the Commission to analyze, the applicants have provided only high-level goals, which they ask the Commission to allow them to implement without oversight or approval. This falls short of satisfying either of the requirements under Madison Ordinance § 41.18(1). Absent a comprehensive drainage plan, the proposed work risks frustrating "the public interest . . . for protecting . . . the City's historic resources" (*i.e.*, the Tavern) and fails to meet the Secretary of Interior's Rehabilitation Standard requiring new construction to "be compatible" with the existing historical resource "to protect the integrity of the property and its environment."

In sum, the Commission should deny the pending application because it fails to protect the Tavern from potential damage due to drainage. The Tavern's prior owners installed an extensive drainage system that has protected the Tavern for many years. The Commission should subject any change to the existing system on Lot 2 to exacting scrutiny. At minimum, the application should include a grading plan, a runoff analysis, and a detailed report showing how the proposed landscaping, grading, and construction on Lot 2 will affect the flow of water



onto Lot 1. The Commission should also require any proposed construction to drain the front half of the property toward Council Crest and to direct water away from the Tavern toward the existing swale.

\* \* \* \* \*

We have communicated with the new owners of the 3701 Council Crest property since March 22. We have relayed the concerns outlined in this letter to them, and we have offered to cooperate by granting access to our property for purposes of an analysis. The new owners have recently agreed to work with a professional engineer to try to address some of these concerns. However, the pending application does not meaningfully address drainage, and, therefore, the Commission has no basis upon which to analyze the issue and to ensure that the primary historic resource is protected. For these reasons, we have decided to submit this objection.

We greatly appreciate your kind attention to this matter. We are prepared to assist you and the Landmarks Commission by providing any further information or access necessary to aid in the decision-making process.

Respectfully submitted,



Carly Conway

Enclosure (Attachment A)

# **ATTACHMENT A**

City Legislative File I.D. No. 77464  
New Home Application for 3701 Council Crest

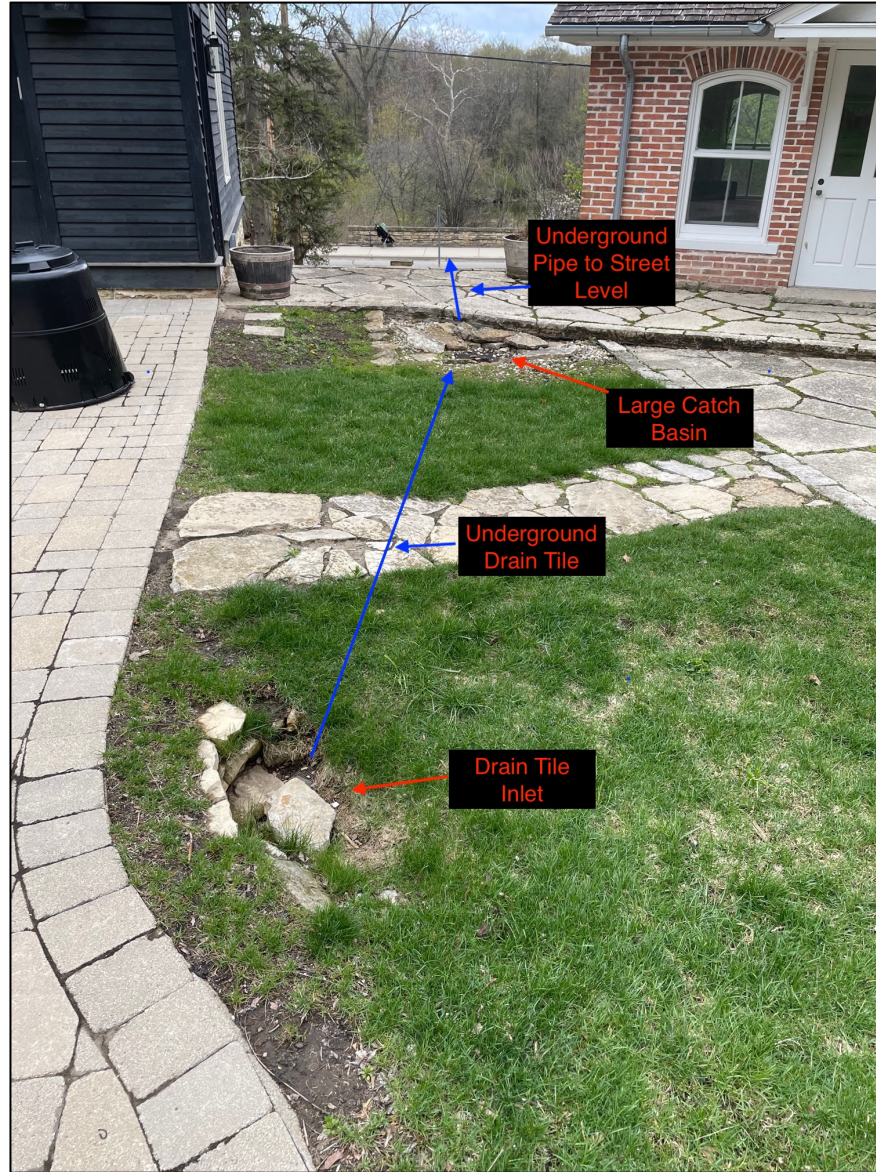


Photographic Diagram of Lot 2 Drainage System





Large Drainage Basin Between House and Garage that Drains to Sewer via Underground Pipe





Southwest Corner of Lot Where Swale Drains to Street Level





Drainage Basins at Corners of Tavern to Drain Downspouts to Sewer Level via Underground Pipes

