Thomas F. Kuech
3713 Council Crest
Madison, WI 53711
608-770-3362
t_kuech@outlook.com

August 10, 2023

City of Madison Landmarks Commission
Planning Division
215 MLKJ Blvd.
#017
Madison, WI

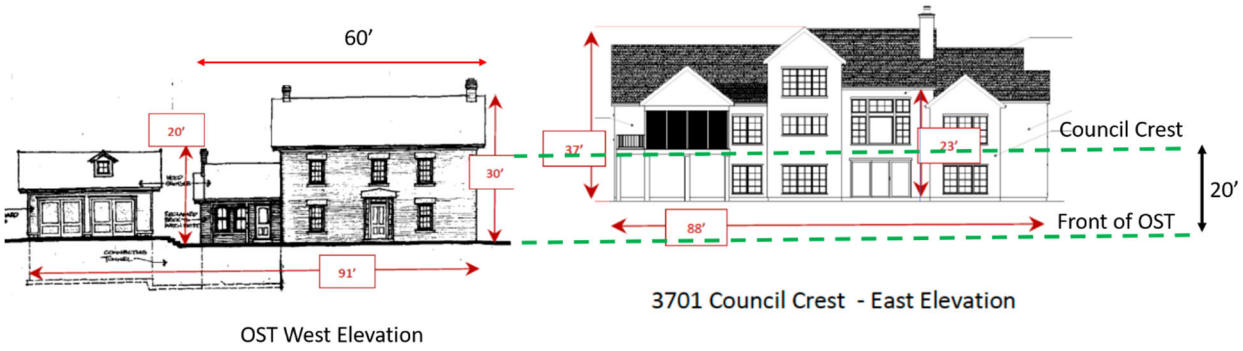
Dear Commission Members:

Re: Application for a Certificate of Appropriateness to Build a New Home at 3701 Council Crest, a Designated City Landmark
Legistar ID No. 79099

I am Thomas Kuech, a 30+ years resident of Nakoma. My background is 30 years of teaching engineering as a Professor at the University of Wisconsin and a member of the US National Academy of Engineering. I am writing in opposition to the present plan before the Landmarks Commission for the property which is a historic landmark area associated with the Old Spring Tavern (OST).

There are issues with the application and the presentation of the impact of the proposed building which I would like to bring to your attention. In trying to understand the impact of the proposed property on the historic landmark, I used the figures supplied in the application to the Landmarks Commission as well as public knowledge associated with the relative elevation of Council Crest to the front door of the Old Spring Tavern, to provide scaled drawings of the two buildings.

The buildings in the figure in the application under bullet 6 are not exactly at the same scale. I have also added the relative elevation of the two buildings given the supplied application drawings and the known relative elevation differences. It should be noted that the historic building, the OST, is actually ~60' not 91' as illustrated if you remove the green space and garage (not part of the original building site).



OST West Elevation

3701 Council Crest - East Elevation

Illustration on same scale and noting elevation difference from Council Crest to the front door of the OST.

A critical view from the adjacent road, Spring Trail, was not supplied with the application. I have generated the figure which illustrates the relative distance and size of the buildings with the actual elevation change noted. Again, all information used in the figure was taken from the application.

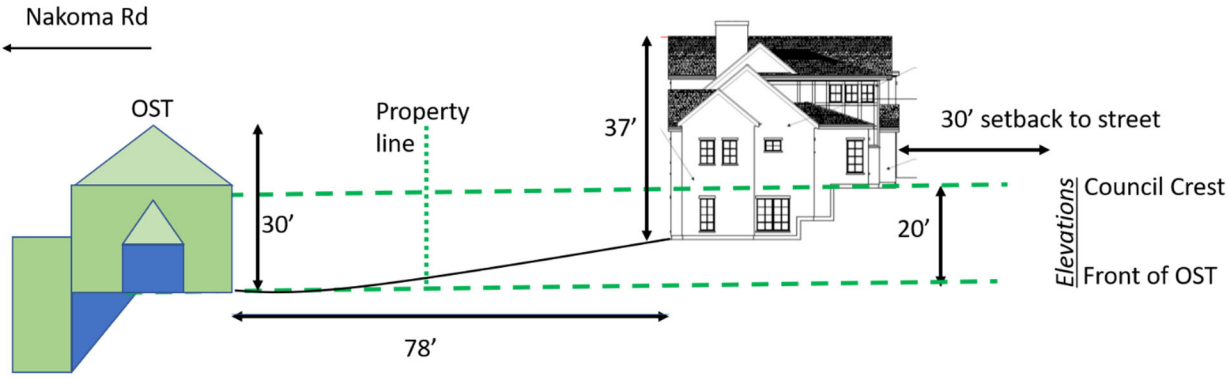


Illustration taken from application information noting the view from Spring Trail and the relative sizes and elevation changes on a common scale.

As can easily be seen in the figure, the new construction neither fits nor complements historic landmark. It overshadows and dominates the property, as currently proposed. It dominates in height and it dominates in volume and diminishes the historic site and its value in a dramatic fashion. The future use, construction on and modification of the intervening property (within the 78') is also not well noted and would additionally 'crowd' the remaining space associated with the historic landmark. This proposed construction does not meet the **Interior's Standards for Rehabilitation for Granting a Certificate of Appropriateness** which require 'minimal change to the defining characteristics of the building and its site and environment'.

In evaluating the proposed work, it is important to use accurate and relevant comparisons. In reading the application, there is are conclusions mixed with data. For example, bullet 6: "**Our Planned Home is Consistent in Scale with the Tavern Residence".** The tavern residence, designated as a landmark, is 60' not 91'. Their bolded text is an interpretation not a fact. Bullet 4 states, '**Preserving Existing Site Elements',** and references retaining the black cast iron fence. While this is laudable, it is not part of the historic site as implied. Bullet 7 states; '**Our Planned Home is Consistent with Adjacent Development.** This is cherry picking comparison sites, principally on Nakoma road, which does not include Council Crest and the immediate neighboring buildings which are most relevant.

I have also looked over the extensive hydrology simulation study, pages 27-114, which forms the bulk of the report. The utility of this model calculation has not been well-presented and is difficult to understand. These numbers are model calculations and are not based on actual water flow measurements from the property. The model does **not** include the OST property and the water flow, both surface and subsurface, to the OST itself, which would be the main point of the study. The type of model, its *applicability*, standards used in comparison, the known accuracy of the model are all missing from the report. The assumptions in the model, are never explained but make a large difference in the model outcome.

Given the three post development construction categories, it is noted that only the *Post Developed-Undetained* has a lower CFS number than the *Predevelopment*. The employment of the planned water management 'rain garden' leads to substantially higher runoff numbers than the predevelopment. This is confusing at a minimum and perhaps contradicts the claim of bullet 9 that lower runoff will be

achieved when the landscaping plan is implemented. Shouldn't the addition of the rain garden lower the runoff and not increase it as claimed in bullet 9? What is different and what is being compared in these simulations?

There is a lack of definition, explanation and a proper summary with implications in the engineering report. I find the report of little value or use as presented. The inclusion of many pages of hydrology graphs and printout sheets without introduction or explanation appears to be an effort to convince by report volume and not substance. It will be difficult for the Landmarks Commission to independently assess any potential water risk to the OST from this report.

While a building on this site may be inevitable, a building which does not dominate and overpower the historic site is needed. The water drainage issue is still open in my assessment as well. I request that the Landmarks Commission deny the current plan.

Sincerely,

Thomas Kuech

3713 Council Crest
Madison, WI 53711

August 10, 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: Application to Develop 3701 Council Crest

Dear Dr. Bailey,

I am writing this letter in support of Jon and Brenda Furlow's application to develop the property at 3701 Council Crest in the Nakoma Neighborhood. I am not writing this as an advocate, but solely as a member of the community.

My wife and I have lived in Nakoma for nearly a quarter century and highly value this neighborhood. We raised our children here. We have participated in the schools and know our neighbors. We know that little section of Nakoma well. The previous owners of the lot adjacent to 3701 held my wife's yoga instructor and I mentored the children that grew up in that house. Four doors down on Council Crest is the former house of our daughter's high school and college girlfriend. And we know the Furlows, with their daughter having been a childhood playmate of our older daughter and Jon and Brenda thoughtfully having checked in and guided our younger daughter when she moved to Minneapolis.

I have also gotten to know the streets and homes in Nakoma. During the pandemic I have battled two bouts with leukemia and my rehabilitation has been slow meandering walks. I have studied the houses and watched as the neighborhood has had multiple changes with renovations galore. We have joined the trend as my walks revealed our house had become a bit of an eyesore and we needed to have a crumbling stoop and rotting siding replaced. This made me look even more intently at the character of the neighborhood and quality of the houses in it. We employed an architect to help us who marveled at the loveliness of the neighborhood.

One of the most special aspects of the neighborhood we and our architect observed was its diversity. We have small houses, large houses, modern renovations, traditional, wood, aluminum, stone, brick, stucco, Tudor, Georgian, and prairie style. We have inspiring beauty and even some questionable design choices. All of it blessed by a wonderful canopy of trees. To walk the neighborhood during the holidays gives one a sense of wonder. Halloween has horrifying displays and comical delights. At Christmastime, the neighborhood is aglow with color and meaning.

So, when I reviewed the materials the Furlow's submitted to the City, it was with a critical eye. How would I feel on my walks seeing this house? When, assuming someday I have grandchildren, and I walk them by the Old Spring Tavern and teach the natural history, the

Native history and settler's history, how will I feel turning the corner and seeing the Furlow's house? Will I be disappointed? Will the kids see something that feels like it's out of the "pick the one that doesn't belong game"?

I examined closely the submitted documents and found a design that fit with the beautiful diversity of the neighborhood and is highly consistent with the evolution of the neighborhood over the years. I can think of many other houses in the neighborhood that far exceed what they propose in size, design, and modernity.

I also admire the thoughtfulness of their application.

First, their efforts to save the Walnut tree. As a Nakoma homeowner who has had to remove three 110 foot locusts from our yard (unfortunately one a little too late after it dropped a branch through our roof), I understand the perilousness of living under an aging tree. We also have a black walnut that has had to undergo a large number of trimmings and so I know how difficult they can be. We also live next door to one of the "100 trees of Wisconsin" and have seen the problems that homeowner has had to deal with as his towering oak presents a constant threat to his property and he has had to deal with the many insurance implications. The consideration of the Furlows to try to preserve the tree is truly to be commended.

Second, to be so thorough and considerate about the flooding issues in the Old Spring Tavern is extraordinary. We live on the downside of Waban Hill and have had to wrestle with basement water, subsiding concrete, etc. I only wish our uphill neighbors had given as much consideration to these questions that the Furlows have to theirs.

I was so taken aback by the strength of the application, and the clear consideration of the Furlows in their application, I was immediately driven to see what the objections could possibly be, so I reviewed the negative public comments. While not doubting the intentions of the authors, I was struck by tone. It felt to me that these individuals do not know Nakoma, at least not like a long-time resident who has been here and seen the growth and evolution of the neighborhood.

That property is going to be developed. Let it be developed by people who clearly care about Nakoma and have had ties to it for decades. I worry for the neighborhood if the Furlows walk away and Nakoma is left with an outsider who shows no such considerations for the true sense of it.

I request that you accept their proposal.

Sincerely,

Brion J Fox
4114 Chippewa Dr.

Bailey, Heather

From: jane pearson <janep2222@gmail.com>
Sent: Thursday, August 10, 2023 6:26 PM
To: PLLCApplications
Subject: 3701 Council Crest, City File #79099

Categories: Heather

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

Dear Landmarks Commission,

As 30 year residents of Nakoma, we support the building of the proposed home at 3701 Council Crest. We've known Jon & Brenda Furlow for many years. They are friends, and great neighbors (we lived 3 houses up the block from them on Oneida for 22 years), as well as engaged and active Madison residents. They have deep roots here.

We talked with the Furlows when they bought the lot nearly a year ago, and later when they shared their plans with us. They've put in a lot of time and effort to thoughtfully work with building experts, engineers, and arborists to create a home plan that we certainly think fits with the surrounding neighborhood. They also met with neighbors to talk about their plans.

In the 3 decades we have lived in the neighborhood, we can tell you that the Nakoma area has changed a great deal to accommodate modern day life. Although we are not historians, what we see walking around the neighborhood are a nice variety of home styles and much bigger homes with lots of modifications/expansions. We also see the backs of many area homes that are built on hills (including our own 2000sq ft home) which look much larger than those constructed on a flat street. The Council Crest/Spring Trail area is the same, with some of the largest houses and house additions in Nakoma. It seems to us that the Furlows' proposed home is consistent in style, design and size with the Tavern and nearby homes. It certainly will blend in just fine.

Sincerely,
Jane & Bob Pearson
729 Oneida Place, Madison

Bailey, Heather

From: Nathan J. Wautier <nwautier@reinhartlaw.com>
Sent: Thursday, August 10, 2023 5:23 PM
To: PLLCApplications
Cc: Figueroa Cole, Yannette
Subject: Support for 3701 Council Crest, City File # 79099

Categories: Heather

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

Dear Members of Landmarks Commission,

My family has lived on Miami Pass in the Nakoma neighborhood since 2015. Given my home's proximity, I walk past 3701 Council Crest and the Spring Hill Tavern on an almost daily basis. Having restored portions of my own home (including exterior façades and interior rooms) to return it the aesthetics of the original blueprints, I believe I have a strong respect for the preservation and historic nature of our neighborhood.

With the above as background, please accept this email as my full support for the new home proposed at 3701 Council Crest.

Sincerely,

Nathan Wautier

This e-mail and any attachments may contain privileged or confidential information. This e-mail is intended solely for the use of the individual or entity to which it is addressed. If you are not the intended recipient of this e-mail, you are hereby notified that any copying, distribution, dissemination or action taken in relation to the contents of this e-mail and any of its attachments is strictly prohibited and may be unlawful. If you have received this e-mail in error, please notify the sender immediately and permanently delete the original e-mail and destroy any copies or printouts of this e-mail as well as any attachments. To the extent representations are made herein concerning matters of a client of the firm, be advised that such representations are not those of the client and do not purport to bind them.

To: Landmarks Commission
Legistar File 79099 [3701 Council Crest]
Commission meeting date: August 14, 2023

From: Kurt Stege, Co-chair of the Advocacy Committee of the Madison Trust for Historic Preservation
August 10, 2023

Susceptibility of black walnut tree (Lot 2 of the Old Spring Tavern) to destruction due to proposed construction project

Introduction

The Certificate of Appropriateness application filed by the Furlows on or about July 24, 2023, (the "application") addresses how the applicants intend to "preserve" the historic black walnut tree found on their lot. **However, they provide almost no detail on what their preservation effort will entail**. (Application memo, page 2.) They state they are taking "reasonable steps" to preserve the nearly 250-year-old tree, but also qualify their probability of success with the phrase that "nothing is guaranteed." This opaque language does nothing to inform the reader of how the Furlows intend to protect the viability of the tree so that it is allowed to exist for even the average lifetime of a black walnut.

In the absence of any supporting information provided by the applicants and knowing that the base of the black walnut is only 15 feet from the closest point of their proposed structure on the landmarked site, I have consulted what is considered "the Bible" for protecting trees during construction. A careful reading of the text generates an informed analysis of whether the tree will survive the construction. The analysis is based on the generally accepted standards of arboriculture as reflected in the text referenced below. Please note that I am not a certified arborist and do not have an undergraduate degree, master's degree or doctorate degree in forestry.

A diagram of the requisite "tree protection zone" for this heritage black walnut tree is appended to this memo along, as is a separate diagram reflecting the deadly damage inflicted on the tree by the project described in the application.

Text serving as the basis for this memo

Managing Trees During Site Development and Construction (3rd Edition). Best Management Practices series of the International Society of Arboriculture. Nelda Matheny, E. Thomas Smiley, Ryan Gilpin, Richard Hauer. Published in 2023. (Referred to below as "**text**."

Abbreviations used:

DBH = Tree trunk diameter at breast height (4.5' above grade)

TPZ = Tree protection zone. Defined as the area within which certain construction-related activities are prohibited or restricted. This zone is initially calculated pursuant to a mathematical formula based on DBH and a multiplication factor that is based upon the species' identified tolerance to construction damage and the age of the tree. The calculation generates a radius dimension of a circular zone. Zone borders may be modified *somewhat* (Text, page 20) depending on soil types, compaction levels, spread of root system, orientation of canopy, visible roots, tree height, and crown spread information.[1] Only if construction activity such as excavation, placement of heavy equipment or materials, or transit of equipment during construction stays outside of the tree protection zone is the tree apt to remain healthy.

Information arguably provided by the applicants (the Furlows).

Age of tree	234 years compared to an "average life expectancy" of 250 years[2]
Species of tree	Black Walnut
Location of tree	Noted on diagrams submitted with the application
Soil type	Dodge (Application, page 35 of 114)
Topography	Steeply sloping hillside
Hydrology (current)	Drainage area map (Application, page 36 of 114)
" (proposed)	Drainage area map (Application, page 37 of 114). This map shows that significant amounts of soil will have to be transported around almost all of Lot 2 in order to grade the lot as indicated on the map. Heavy equipment will be necessary to excavate and move soil so that a much steeper slope is created along nearly the entire eastern border of Lot 2. The hydrology map for the proposed project appears to be relatively consistent with the landscape plan found in the April application.
"Construction zone"	In order to adequately protect the tree, the construction zone must be kept outside of the Tree Protection Zone. A dotted line on the landscape plan submitted with the April application (Legistar 77464, page 23 of 23) is identified as "Limit heavy machinery on walnut tree root zone." This line indicates that approximately 7/8ths of the Applicants' lot would be subjected to unlimited heavy machinery traffic and

[1] "In some cases, increasing the specified [i.e. a non-circular] TPZ on the opposite side of the tree may help compensate for roots lost elsewhere. The specified TPZ should not be reduced to the point where serious tree damage is expected." (Text, page 20.) Also see Figure 5. on page 21.

[2] This number was calculated in the April application (Legistar 77464) using a DBH of 52", even though the same document also referred to a DBH of 48". A 48" DBH would translate to an age of 216 years.

excavation. As calculated below, this translates into heavy compaction or excavation of roughly 40% of the TPZ.

Inconsistent information provided in the applications.

DBH is listed as 52" on page 2 of the April application.

DBH is shown as 48" on site plan of the April application and the July application.

Ambiguous language found in this application.

"Limits of disturbance" found on page 33 of 114 is undefined. Does this line (just outside the perimeter of the residence as designed) equate to the minimal area that will have to be excavated, or does it also include the area in which all construction vehicles (which will otherwise compact the soil and damage the underlying root system) will be prohibited? In other words, does the "limits of disturbance" line identify the limits of the "construction zone"? Based upon the heavy equipment necessary for excavating the new foundation of the proposed structure as well as the machinery for fulfilling the hydrology map and the landscape plan, the "limits of disturbance" line only identifies the limits of excavation necessary for constructing the new home.

See "Construction zone" discussion, above, under "Information arguably provided."

Relevant (per text) but unknown information.

Orientation of tree canopy

Visible roots

Tree height

Crown spread information

Spread of root system

A full description of the excavation depths necessary to construct the building proposed by the Furlows. The drawings of the proposed building (p. 22 of 114) merely indicate: "Foundation Wall Ht. <10 [feet]"

Identification of the requisite "construction zone" (for both construction and for construction equipment) for the proposal, as discussed above.

Calculating the TPZ

The black walnut species has a "low to medium" tolerance of construction damage. More specifically, it has low tolerance to root loss, intermediate tolerance of saturated soils, and low tolerance of mechanical injury due to poor compartmentalization. The tree's ability to respond to damage is constrained by soil aeration and water availability. (Text, page 14.)

The age of this particular tree is "old" for purposes of developing the appropriate multiplication factor. (Text, page 19.)

Based upon the species and the age, the multiplication factor at the "low" tolerance level is 18, while the factor at the "medium" tolerance level is 15. (Text, page 19.) I believe the specific references to the species' tolerance to different types of damage suggests using a factor *no less than* 17.

Multiplying 17 times a DBH of 52" for this tree yields a circular TPZ with a radius of 884" or approximately 74 feet from the tree.[3] **This is the radius shown on the attached diagram entitled "circular Tree Protection Zone."** A 74' radius is approximately the same distance as between the eastern wall of the proposed residence and the western wall of the Old Spring Tavern. The TPZ for the heritage black walnut tree on Lot 2 includes all but the furthest reaches of the lot, approximately 75% of the lot or about 8,100 of the lot's 10,832 square feet. It is a common practice to fence-off the TPZ prior to any construction activity so that it is protected from excavation, material storage, and heavy vehicles.

Comparing the TPZ to the project described in the proposed application

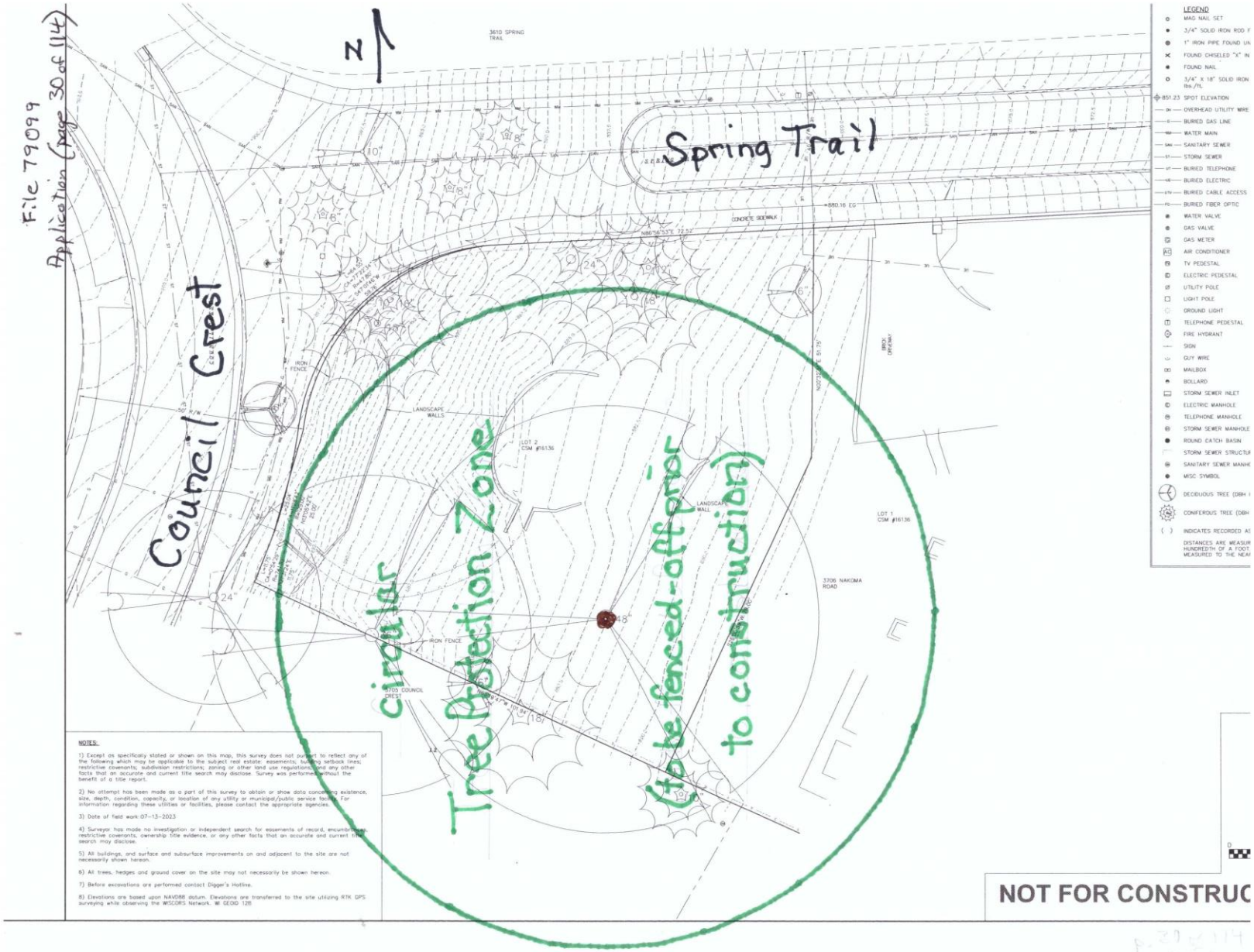
The **second diagram** attached to this memo contrasts the Tree Protection Zone that should be applied to construction on Lot 2 of the Old Spring Tavern site compared to the those areas of Lot 2 that would be: 1) *excavated* to contain the proposed structure as designed; 2) additional areas in Lot 2 that would be *excavated* for constructing the driveway, the brick paver walk, and the brick paver patio; 3) additional areas in Lot 2 that would be *excavated or filled* in order to create the topography behind the hydrology study that is included in the application; and 4) the tiny corner of Lot 2 shown on the landscape plan (that accompanied the April application) designated as *the only portion of Lot 2 where "heavy machinery" will be kept off of the "walnut tree root zone*." .[4]

Conclusion

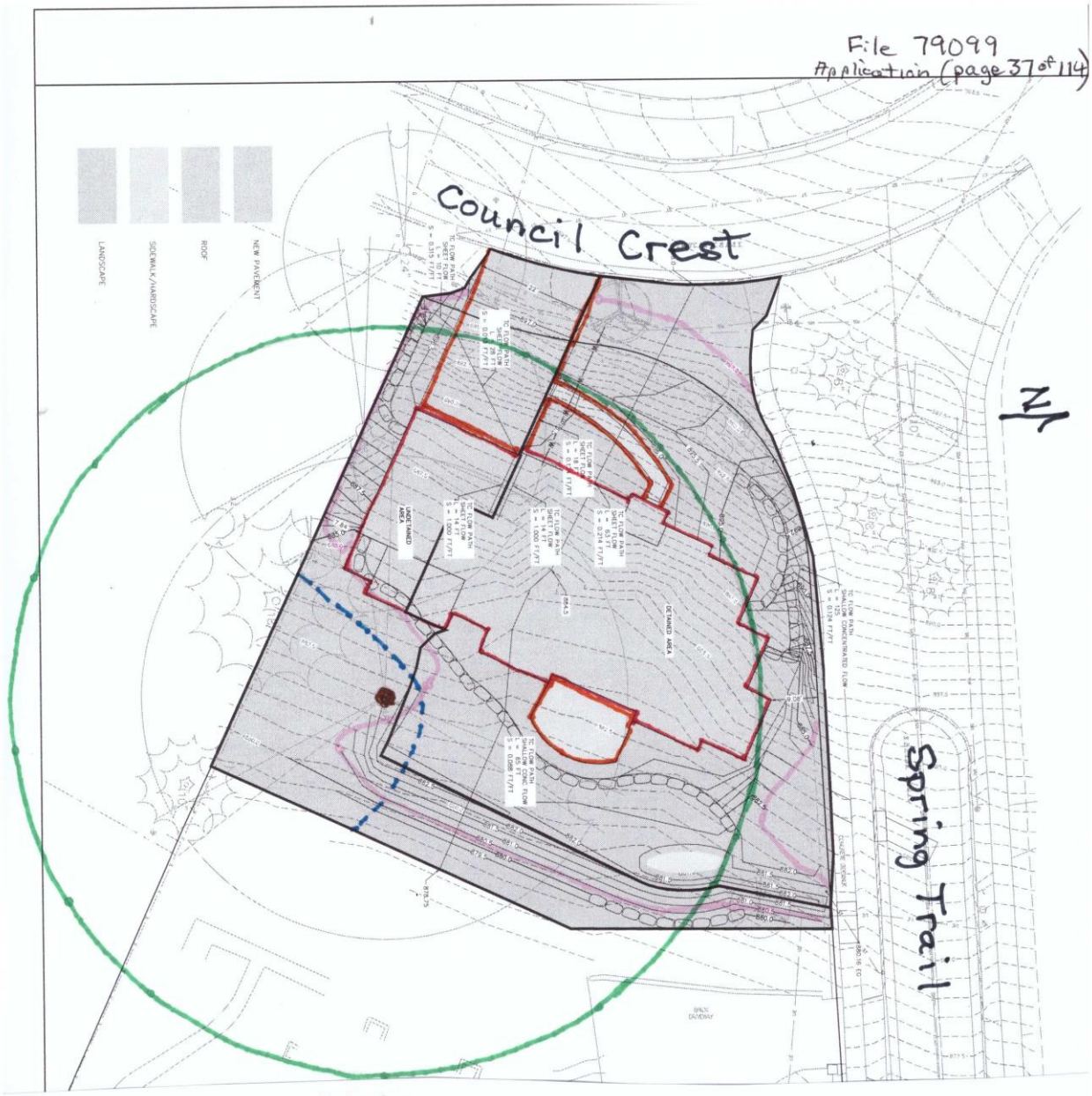
My estimate is that a full 40% of the TPZ would be damaged by the proposed project. I believe this damage would translate to "certain destruction" of the black walnut tree that is central to (and provides context for) the site of the Old Spring Tavern.

[3] If a DBH of 48" is applied, the circular TPZ would be a circle around the base of the tree with a radius of 816" or 68 feet.

[4] Although this landscape plan technically was not part of the application currently before the Landmarks Commission, it is reasonably consistent with the hydrology study and the applicants have not suggested they have rejected it.


File 79099
Application (page 30 of 114)
N
Spring Trail
Council Crest
3610 SPRING TRAIL
3706 NAKOMA ROAD
3705 COUNCIL CREST
LANDSCAPE WALLS
IRON FENCE
CONCRETE SIDEWALK
BRICK DRIVEWAY
LOT 2 CSM #16136
LOT 1 CSM #16136
circular Tree Protection Zone
(to be fenced-off prior to construction)
LEGEND
DECIDUOUS TREE (DBH
CONIFEROUS TREE (DBH
NOTES:
1) Except as specifically stated or shown on this map, this survey does not purport to reflect any of the following which may be applicable to the subject real estate: easements; building setback lines; restrictive covenants; subdivision restrictions; zoning or other land use regulations; and any other facts that an accurate and current title search may disclose. Survey was performed without the benefit of a title report.
2) No attempt has been made as a part of this survey to obtain or show data concerning existence, size, depth, condition, capacity, or location of any utility or municipal/public service facility. For information regarding these utilities or facilities, please contact the appropriate agencies.
3) Date of field work: 07-13-2023
4) Surveyor has made no investigation or independent search for easements of record, encumbrances, restrictive covenants, ownership title evidence, or any other facts that an accurate and current title search may disclose.
5) All buildings, and surface and subsurface improvements on and adjacent to the site are not necessarily shown hereon.
6) All trees, hedges and ground cover on the site may not necessarily be shown hereon.
7) Before excavations are performed contact Digger's Hotline.
8) Elevations are based upon NAVD88 datum. Elevations are transferred to the site utilizing RTK GPS surveying while observing the WISCORS Network. W GEOID 12B
NOT FOR CONSTRUC

File 79099
Application (page 37 of 114)



Color key

- Border of circular Tree Protection Zone (In order to have a reasonable expectation of the survival of the heritage black walnut tree, the area encompassed by this circle should be kept free of construction activity, including heavy equipment and materials.
- Border of proposed structure
- Proposed additional impervious material (requires excavation)
- Edge of areas requiring significant excavation or fill causing root destruction or compaction
- Extent of "limit heavy machinery on walnut tree root zone" shown on landscape plan (Page 23 of 23, April application.)

August 11, 2023

City of Madison Landmarks Commission
Planning Division
215 MLKJ Blvd.
#017
Madison, WI

Dear Commissioners:

RE: Old Spring Tavern Property and Proposed House at 3701 Council Crest, Legistar File ID No. 79099

As a lifelong Madisonian, along with my wife and family and a 35-year homeowner on Council Crest, I am writing to oppose the proposed new home at 3701 Council Crest.

In the words of the new landowners (the Furlows) of 3701 Council Crest, "We are interested in proposing a home that fits within the neighborhood." The proposed new home of 4,500 sq. ft. on a .25 acre lot is more than two times the size of the adjacent home at 3705 Council Crest (2,097 sq. ft.) and two times the house next door at 3709 Council Crest (2,259 sq. ft.).

We do not agree that the proposed home fits within the neighborhood. (The square foot measurements I used are from the City of Madison website and they include total live area, total basement, including unfinished space and porch size.)

Reference is made in the analysis and conclusions section by Heather Bailey of our home at 3702 Council Crest. It states, "The architectural vocabulary of the proposed new structure has strong references to the large house immediately across the street at 3702 Council Crest."

Our home is 3,777 sq. ft. (it includes 2,422 sq. ft. of living area, 550 sq. ft. finished basement, 625 sq. ft. unfinished basement and 180 sq. ft. porch), was built in 1932 and is primarily built out of stone. The new proposed house will be white stucco and will be approximately 20% greater in square footage than our home.

The proposed 4,500 sq. ft. house at 3701 Council Crest will not be compatible with "massing, size, scale and architectural features" and will not protect the historic integrity of the property and its environment. It will overshadow and "loom over" the Madison and national historic property, the Old Spring Tavern that is considered the centerpiece and distinguishing historic feature of the Nakoma neighborhood.

For these reasons, we are opposed to the proposed home at 3701 Council Crest.

Sincerely,
Jim and Mary Alice Van Gemert
3702 Council Crest
Madison, WI 53711

Landmarks Commission
Meeting of August 14, 2023
Agenda #2, Legistar 79099

Old Spring Tavern

The Old Spring Tavern will not be viewable from Council Crest if the proposed house is built. The Old Spring Tavern was designated a landmark due to its history and its architecture. The building's history as a tavern/hotel was from 1854-1895, then it became a private home. While a hotel/tavern, travelers approached the tavern from the road northwest of the tavern (what is now the back side, see below). The historical significance of this former tavern is lost if one cannot see the original front side of the tavern. This would not be a sensitive incorporation of a historic resource. MGO 41.01(2). Nor would the new construction complement the Old Spring Tavern. MGO 41.01(3).

The proposed home and the Old Spring Tavern are on the same landmark site. Part of the Old Spring Tavern's historic environment is the approach and view from the former road. Standard #1 of the Standards for Rehabilitation addresses how a new use (the proposed home) should result in minimal change to the defining characteristics of the Old Spring Tavern site and environment. Standard #9 states new construction "shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment." Though the applicants have a right to build a home on the new lot, they do not have the right to build a home that utterly obliterates any sense of the Old Spring Tavern environment.

The staff report states: "The extreme slope of the proposed building location negates the probability of any road being [northwest of the historic tavern]." I do not believe that probability is negated by the steep slope.

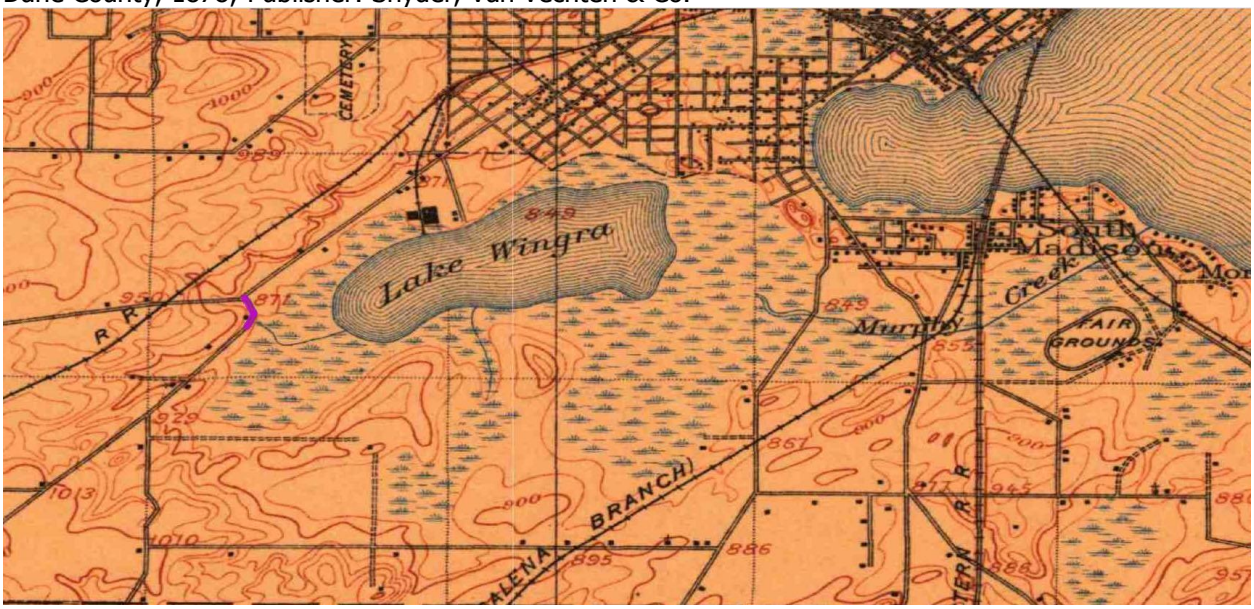
First, Charles E. Brown, a curator of the Museum of the State Historical Society of Wisconsin and a secretary of the Wisconsin Archaeological Society, said the road was originally on the west side: "the country road was then located on the west side of the old brick tavern, running southward through the woods over the site of the present Nakoma School and beyond." The Wisconsin Magazine of History (Volume 10, Number 3, page 300, March 1927)

Second, the 1972 nomination for landmark designation, and the nomination for the National Register listing in 1974, state: "The original entry now faces to the rear of the house …" Both nominations also state: "In terms of siting, the old roadway originally passed along the northwest side of the house, now the rear yard area, and the present road to the southeast was built later." Both also state: "The site's major asset was a large spring behind the house (in its original siting) which served to water horses and oxen." The landmark nomination also states, in reference to the Madison-Monroe Road, that the "road passed in what now is the back of the house, that being the original front." Although, as stated in the staff report, there are statements in the nomination that are oral tradition (e.g., Mrs. LaFollette recalling her husband stopped there for coffee and pastries), the declarations concerning the front/back of the house are not attributed to local oral tradition.

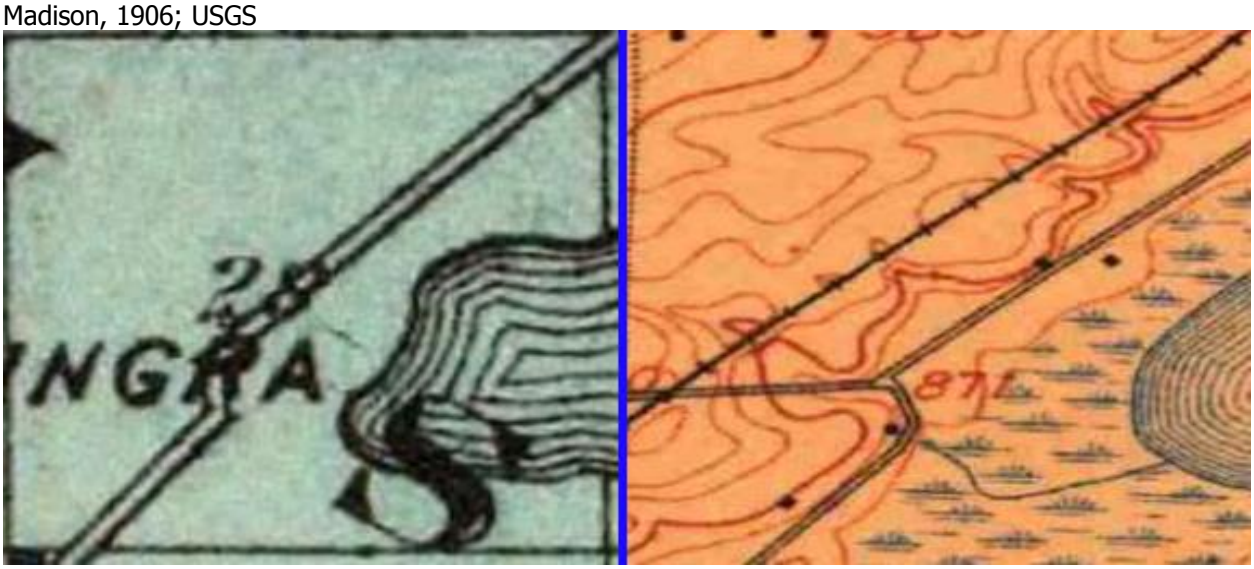
Third, on the easterly side is the marsh. As shown in the 1906 map (below) the bend of the road brushes against the marsh. Flooding could be a good reason why a higher route was used.

Fourth, the maps below reflect the change in the roadway. In 1878 there was a jog (purple) in the road which is a straight line. By 1906 Odana Road had been built extending from Monroe Street (using today's street names), and Nakoma Road had a bend (purple) created. This bend, though probably not any wider than 150 feet, is enough to put the Old Spring Tavern on the other side of the road.

Dane County, 1878; Publisher: Snyder, Van Vechten & Co.

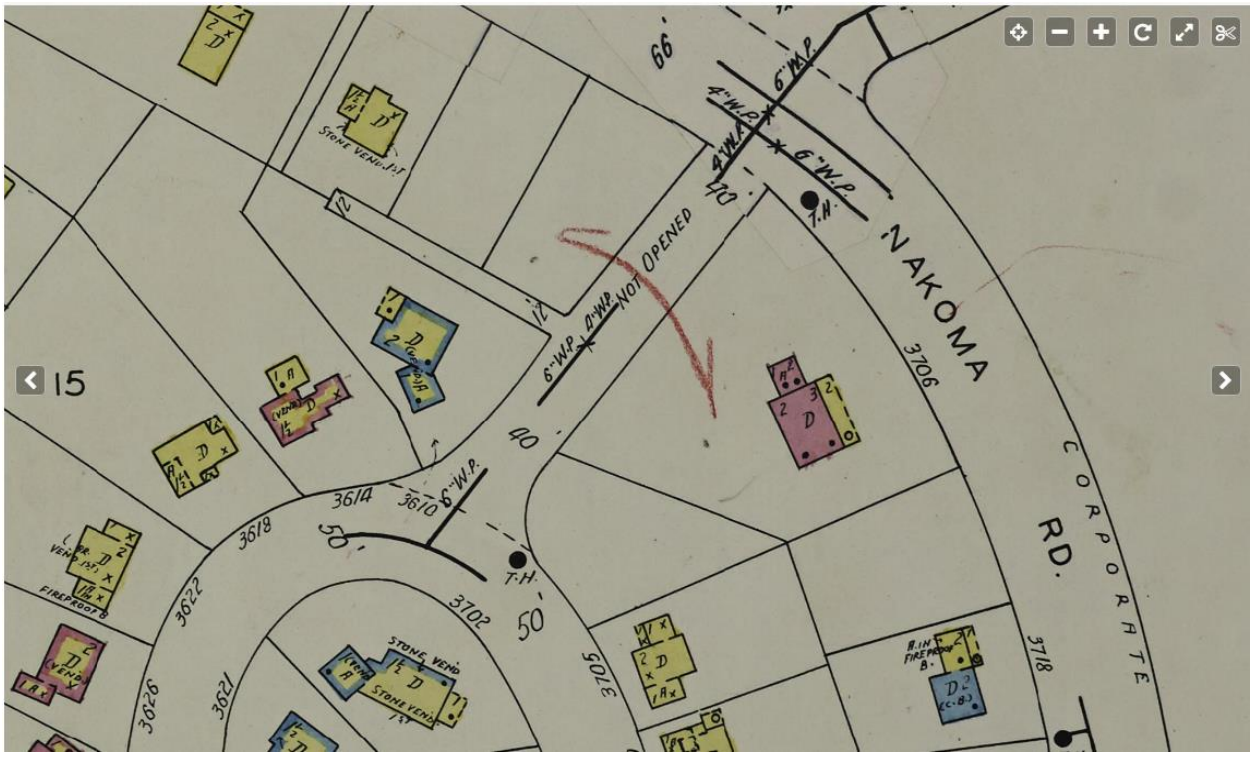


Madison, 1906; USGS



Context

Although the Old Spring Tavern was originally rural, single family homes were built around it. As of 1942, the Sanborn Map reflect the Old Spring Tavern as being relatively isolated. Its nearest neighbors, 3705 Council Crest and 3718 Nakoma, were 100 feet away.



The vacant three lots on Nakoma Road were eventually built upon (1955, 1956 and 1974). These homes are outside the period of significance for the (National Register) Nakoma Historic District, 1915-1946.

The proposed home would have a living area footprint (not including the garage) of 2,156 sq. ft. The average footprint (for homes on the 3700 blocks of Council Crest and Nakoma, plus 3614-3622 Nakoma) is 1,170 sq. ft., so the proposed building footprint would be about 84% larger than neighbors, and 21% larger than the neighbor with the largest footprint (3622 Nakoma). The Old Spring Tavern has a footprint just slightly larger than average, at 1,281 sq. ft.

The average amount of a lot which is covered by living area is 14% for the neighboring properties, while the proposed home's living area footprint would cover 20% of the lot.

The proposed home would have a finished living area of 4,450 sq. ft. The average total living area of the neighboring properties is 1,943 sq. ft. (range of 1302 to 3357).

Black Walnut Tree

The staff report states: "The Landmarks Commission has previously stated that the old black walnut tree on the landmark site is not a part of the commission's review." I cannot find any record of this, though the staff report for Legistar 72243 states: "Bailey pointed out that the Landmarks Commission does not have regulatory authority over the tree."

The tree was not mentioned in the landmarks nomination, but it is covered by the Historic Preservation ordinance. MGO 41.14(1) places a maintenance obligation on "every owner of a landmark, *improvement on a landmark site*, or improvement in a historic district." (emphasis added)

- There is no question that 3701 Council Crest is a "landmark site" since the resolution subdividing the lots, Legistar 72243, placed a condition "that the landmark designation remain on the newly configured lots." Those lots are 3701 Council Crest and 3706 Nakoma.
- The tree is an "improvement." See MGO 41.02
  - Improvement "means any structure, *landscape feature* or object intended to enhance the value or utility of a property (See structure, landscape feature and object.)".
  - A landscape feature "means any improvement to the natural landscape including plants, gardens, parks, greenways and landscaping around structures (see Improvement)."
  - Landscape means "the improvements, topography, plants and open spaces in an area and their arrangement and patterns (see Improvement)."

Trees are plants, thus are a landscape feature, thus are an improvement, thus the owner of the tree has a maintenance obligation to protect the tree against exterior decay and deterioration and an obligation to keep the tree free from structural defects.

Pdf page 23 of the application reflects the extent of the tree's canopy, which also approximates its root system. It seems that there is a potential for at least ¼ of the root system to be disturbed and/or under non-permeable surface. Add to that the amount of pruning that will be needed, whether to accommodate construction or to clear the roof, and this tree would appear to be at risk. The application states the applicants have "worked with arborists to configure and reduce (i.e. notch in) the foundation footprint to mitigate root impacts." But will that mitigation be enough? Perhaps the opinion of the City Forester should be sought.

The applicants are not precluded from building on this site. A smaller home facing the corner (like 3702 Council Crest, the home across the street), could leave some room to view the historic resource from the public street and also protect the historic tree.

Respectfully Submitted,
Linda Lehnertz