



PREPARED FOR THE PLAN COMMISSION

**Project Address:** 940 East Dayton Street (2<sup>nd</sup> Aldermanic District, Ald. Zellers)  
**Application Type:** Demolition and Conditional Use  
**Legistar File ID #:** [43793](#)  
**Prepared By:** Chris Wells, Planning Division  
Report Includes Comments from other City Agencies, as noted

## Summary

**Applicant/Property Owner:** Adam Gorman; 5451 Whalen Road; Oregon, WI 53575

**Requested Action:** Approval of a demolition permit and conditional use to demolish a two-family residence and construct a single-family residence with accessory dwelling unit.

**Proposal Summary:** The applicant proposes to demolish the existing two-story, two-family residence and then construct a five-bedroom, five-bathroom house as well as a garage with a second floor accessory dwelling unit.

**Applicable Regulations & Standards:** This proposal is subject to the standards for conditional uses (MGO Section 28.183(6)) and demolitions (MGO Section 28.185). Section 28.032(1) of the Zoning Code list an *Accessory Dwelling Unit* as a conditional use in all residential districts and Section 28.131(1)(a) states that the total area of accessory buildings measured at ground floor exceeding 10% of lot area may be allowed by Conditional Use approval. The Supplemental Regulations [Section 28.151] contain further regulations for an accessory dwelling unit.

**Review Required By:** Plan Commission (PC)

**Summary Recommendation:** The Planning Division recommends that the Plan Commission find that the demolition and conditional use standards are met and **approve** the request to demolish a two-family residence and construct a single-family residence with accessory dwelling unit at 940 East Dayton Street. This recommendation is subject to input at the public hearing and the conditions recommended by the Planning Division and other reviewing agencies.

## Background Information

**Parcel Location:** The 4,398-square-foot (0.1-acre) property is located on the north side of East Dayton Street just west of the intersection with North Brearly Street; Aldermanic District 2 (Ald. Zellers); Wellhead Protection District #24; Madison Metropolitan School District.

**Existing Conditions and Land Use:** The property is developed with a two-story, two-bedroom, 1,200-square-foot two-family residence, originally constructed in 1889.

### Surrounding Land Use and Zoning:

North: Single-family residences, zoned Traditional Residential – Varied 1 (TR-V1);

South: Across East Dayton Street are single-family residences, zoned Traditional Residential – Consistent 4 (TR-C4);

East: Single-family residences, zoned TR-V1; and

West: Single-family residences, zoned TR-V1.

**Adopted Land Use Plan:** Both the [Comprehensive Plan](#) (2006) and the [Tenney-Lapham Neighborhood Plan](#) (2008) recommend medium-density residential (MDR) uses for the subject parcel.

**Zoning Summary:** The property is in the Traditional Residential – Varied 1 (TR-V1) District

**TR-V1 ZONING CRITERIA**

Requirements	Required	Proposed
Lot Area (sq. ft.)	3,000 sq. ft.	4,356 sq. ft.
Lot Width	30'	33'
Front Yard Setback	20'	14' <i>(See Comment #9)</i>
Max. Front Yard Setback	30'	14'
Side Yard Setback	3.3'	3.3'
Rear Yard Setback	25'	Adequate
Usable Open Space	500 sq. ft.	1,006 sq. ft.
Maximum Lot Coverage	70%	Less than 70% <i>(See Comment #14)</i>
Maximum Building Height	2 stories/ 35'	34'10" <i>(See Comment #15)</i>

**ADU ZONING CRITERIA**

Requirements	Required	Proposed
Front Yard Setback	20'	Adequate
Side Yard Setback: Accessory Building	3'	3'
Rear Yard Setback: Accessory Building	3'	7'9"
Maximum Building Height: Accessory Dwelling Unit	25'	24'8" <i>(See Comment #15)</i>

**SITE DESIGN CRITERIA**

Requirements	Required	Proposed
Number Parking Stalls	Single-family detached dwelling: 1 (location only) Accessory dwelling unit: None	2 garage stalls
Number Bike Parking Stalls	None	None
Building Forms	Yes	Yes, Single-Family Detached Dwelling

**OTHER CRITICAL ZONING ITEMS**

Utility Easements; Wellhead Protection District (WP-24)
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*Tables Prepared by Jenny Kirchgatter, Assistant Zoning Administrator*

**Environmental Corridor Status:** The subject site is not located in a mapped environmental corridor.

**Public Utilities and Services:** This property is served by a full range of urban services.

**Project Description**

The applicant requests approval to demolish an existing two-family residence for the purpose of constructing a three-story, five-bedroom, four-and-a-half-bathroom single-family house with a finished basement. This request also includes approval to construct a garage with a second story accessory dwelling unit (ADU).

The home proposed for demolition is a two-story, 1,200-square-foot two-family residence, originally constructed in 1889. Interior and exterior photos of the building are included in the submission and can be

viewed online at: [https://www.cityofmadison.com/dpced/planning/documents/940eds\\_photos.pdf](https://www.cityofmadison.com/dpced/planning/documents/940eds_photos.pdf). While there is no specific information to indicate that there are significant structural issues with the residence, the letter of intent makes note of the condition of building being “extremely poor” and “in violation of many building codes.” This has been confirmed by the site visits by the City’s Zoning Administrator and staff from City Building Inspection who performed a visual inspection and noted the significant state of disrepair and deterioration. They also had significant concerns about the possibility of renovation without triggering a technical demolition.

The footprint of the proposed single-family home will generally be in the same location on the site as the one it is replacing, though will be slightly larger (977 square feet compared to 760 square feet). The overall building size will also be larger at 3,437 square feet compared to the existing structure at 3,095 square feet. The submitted floor plans show a bedroom, bathroom, and den in the basement; a living room, kitchen, laundry room, and half bathroom on the first floor; three bedrooms and two bathrooms on the second floor; and a bedroom and bathroom in the attic. Both the first and second floors will have a covered porch along the front façade.

The two-car detached garage with ADU is proposed at the rear of the site. It will be accessed via a new concrete driveway which will replace the existing gravel driveway. The garage will be approximately 1,200 total square feet: 570 square feet on the ground level for the two cars and 650 square feet on the second level for the ADU. The ADU will consist of a living room, kitchen, bedroom, and bathroom and will be accessed via an internal stairwell located along the northeastern façade. Like the principal structure, the garage will have a gable roof facing the street.

Regarding materials, both the home and the garage will be clad in a six-inch cement board siding and asphalt shingles on the roof. Both will also have vinyl windows and metal entry doors. The home will have a composite railing around both front decks.

For landscaping, a number of Spiraeas will be planted in the front yard and alongside the garage. Additionally four Hydrangeas will be planted at the base of the front porch and grass will be planted on the rest of the site. An existing 20-inch Hackberry tree at the back-left corner of the site will remain. It should be noted that no trees/large shrubs will be removed as part of the demolition/new construction.

## Analysis and Conclusion

Accessory Dwelling Units are permitted as a conditional use in the TR-C1 zoning district. As such, they are subject to the Conditional Use review criteria pursuant to Section 28.183(6). Generally, the intent of Conditional Use review is to determine if a site is an appropriate location for a particular use and to evaluate the compatibility of that use with surrounding uses and development as well as for consistency with the provisions within the Zoning Code, goals and policies identified in the Comprehensive Plan and the adopted neighborhood or special area plans.

Accessory dwelling units are also subject to the Supplemental Regulations pursuant to Section 28.151. Generally, the Supplemental Regulations speak to consistency and compatibility of the proposed accessory dwelling unit with the principal residence, including overall size, design/appearance and placement. Furthermore, they outline occupancy requirements of the accessory dwelling unit and accompanying single-family residence.

**Land Use and Plan Consistency** – The Planning Division believes the proposed use is consistent with the Comprehensive Plan (2006) and the Tenney-Lapham Neighborhood Plan (2008). Both the Comprehensive Plan

and the Tenney-Lapham Neighborhood Plan recommend medium-density residential (MDR) uses for the subject parcel. The Comprehensive Plan notes that the average net density range is 16 to 40 dwelling units per net acre for the Medium-Density Residential area as a whole. It also notes that the MDR can contain a large number of houses that subsequently have been converted to contain several dwelling units. In these situations, the Plan recommends that these areas continue to maintain the “house-like” character.

The Tenney-Lapham Neighborhood Plan also recommends Medium-Density Residential (MDR) – specifically its Medium Density Residential 1 (MRD1) designation - which it notes should be 16 to 25 units per acre. The Plan states that new structures must be consistent with the established architectural context (which includes a height limit of 3-stories), while also asserting that multi-unit structures should not have more than one garage space per unit. Furthermore, it gives three specific guidelines for teardown replacements: 1) The ratio of footprint-to-lot-size of replacement residential structures should be comparable to the surrounding neighborhood; 2) Front porches are encouraged; and 3) Consistency of scale, spacing, and general architectural vernacular of the surrounding neighborhood is required. The Plan also states that one of its goals is to increase owner-occupied housing.

The density of the proposed new home and ADU is 20 units per acre, consistent with both plans. In terms of architectural vernacular, the buildings in the immediate vicinity consist of mainly one-, two-, and three-story single-family structures (the majority of which have some type of gabled roof and lap siding), in addition to a few multi-unit apartments (in both “house-like” as well as “apartment-style” buildings). The proposed three-story, single-family home with front-gabled roof and faux-wood siding fulfills the “house-like” character recommendation of the Comprehensive Plan for multi-unit building conversions. Regarding adherence to the Tenney-Lapham Neighborhood Plan’s guidelines for teardown replacements: 1) the proposal’s footprint-to-lot area ratio of 4.5 : 1 is well below the nearby average of 5.9 : 1 (see table below); 2) the proposal includes a two-story front porch; and 3) the proposal is three stories, maintains the same building placement on the site as the existing structure, and its general architectural vernacular (as described above) is compatible with the surrounding neighborhood. Lastly, as the applicant has stated that he plans to live in the ADU after construction, this will satisfy the Tenney-Lapham Neighborhood Plan’s goal of increasing owner-occupied housing.

**Various Information about the Structures in the Immediate Area (Including the Lot Size-to-Building Footprint Ratio)**

Address	Property Use	Stories	Dwelling Units	Beds	Baths	Building Ftprnt (Sq. Ft.)	Lot Size (Sq. Ft.)	Lot Size/ Building Ftprnt (Sq. Ft.) Ratio
940 E. Dayton St	Single-family	2.5	2 *	6 **	5.5 ***	977	4,356	4.5
204 N Brearly St	3-unit apartment	2.5	3	6	3	1,058	2,178	2.1
944 E. Dayton St	Single-family	1.5	1	3	1	893	4,356	4.9
942 E. Dayton St	Single-family	1.5	1	4	1	733	4,356	5.9
938 E. Dayton St	3-unit apartment	1.5	3	3	3	769	4,356	5.7
936 E. Dayton St	Single-family	1.5	1	2	2	811	4,356	5.4
934 E. Dayton St	Single-family	1.5	1	3	2	846	4,356	5.1
943 E. Dayton St	Single-family	2	1	3	1	624	8,712	14.0
941 E. Dayton St	Single-family	1.5	1	3	1	720	4,356	6.1
939 E. Dayton St	Single-family	1.5	2	3	1	720	4,356	6.1
931 E. Dayton St	11-unit apartment	3	11	11	11	2,200	8,712	4.0
<b>Average</b>		<b>1.8</b>	<b>2.5</b>	<b>4.1</b>	<b>2.6</b>	<b>937</b>	<b>5009</b>	<b>5.9</b>
<b>Average without 931 E. Dayton St</b>		<b>1.7</b>	<b>1.6</b>	<b>3.3</b>	<b>1.7</b>	<b>797</b>	<b>4598</b>	<b>6.1</b>

\* = 1 DU (SF Home) + 1 DU (ADU)      \*\* = 5 (SF Home) + 1 (ADU)      \*\*\* = 4.5 (SF Home) + 1 (ADU)

*Data Source: City Assessor's Office*

**Demolition Standards** – The Landmarks Commission, at their July 18, 2016 meeting, found that the building slated for demolition had historic value related to the vernacular context of Madison’s built environment, but the building itself is not historically, architecturally, or culturally significant. Therefore, given the existing structure’s history of neglect which has resulted in the current state of severe dilapidation, the impossibility of any relocation, and the overall compatibility of the proposed structure with the neighborhood, the Planning Division believes that the demolition standards are met and recommend approval of the demolition permit.

**Conditional Use Standards** – The Planning Division believes the conditional use standards are met. Firstly, as described above, staff believes that the proposed accessory dwelling unit is consistent with the Comprehensive Plan and Tenney-Lapham Neighborhood Plan. Secondly, given that the garage will also have a gabled roof and identical materials as the principal building, staff believes it will therefore be architecturally consistent with the surrounding development. Thirdly, as the area is characterized by its predominantly residential character, because the proposed accessory dwelling unit is also a residential use that is subordinate to the principal use, staff believes that the single-family residential land use will remain. As a result, staff does not believe that the proposed accessory dwelling unit will result in negative impacts on the surrounding development. Lastly, staff believes that the proposal is compliant with the Zoning Code’s various requirements for Accessory Dwelling Units.

At the time of report writing, staff was not aware of any concerns related to this request.

## Recommendation

### **Planning Division Recommendation** (Contact Chris Wells, 261-9135)

The Planning Division recommends that the Plan Commission find that the demolition and conditional use standards are met and **approve** the request to demolish a two-family residence and construct a single-family residence with accessory dwelling unit at 940 East Dayton Street. This recommendation is subject to input at the public hearing and the conditions recommended by the Planning Division and other reviewing agencies.

### **Recommended Conditions of Approval**

Major/Non-Standard Conditions are Shaded

### **City Engineering Division** (Contact Brenda Stanley, (608) 261-9127)

1. Applicant shall provide note on plan if the intent is to share the sanitary sewer lateral with the primary dwelling or whether a separate lateral will be installed for the accessory dwelling unit. It is recommended (not required) to have a separate lateral for each building for maintenance.
2. Prior to approval, the owner or owner's representative shall obtain a permit to plug each existing sanitary sewer lateral that serves a building which is proposed for demolition. For each lateral to be plugged the owner shall complete a sewer lateral plugging application and pay the applicable permit fees. The permit application is available on line at <http://www.cityofmadison.com/engineering/permits.cfm>. (MGO CH 35.02(14))
3. The plan set shall be revised to show more information on proposed drainage for the site. This shall be accomplished by using spot elevations and drainage arrows or through the use of proposed contours. It is necessary to show the location of drainage leaving the site to the public right-of-way. It may be necessary to provide information off the site to fully meet this requirement. (POLICY)
4. The Applicant shall replace all sidewalk and curb and gutter which abuts the property which is damaged by the construction or any sidewalk and curb and gutter which the City Engineer determines needs to be replaced because it is not at a desirable grade regardless of whether the condition existed prior to beginning construction. (POLICY)
5. All work in the public right-of-way shall be performed by a City licensed contractor. (MGO 16.23(9)(c)5) and MGO 23.01)
6. All damage to the pavement on E Dayton St, adjacent to this development shall be restored in accordance with the City of Madison's Pavement Patching Criteria. For additional information please see the following link: <http://www.cityofmadison.com/engineering/patchingCriteria.cfm> (POLICY)

### **City Engineering Division - Mapping** (Contact Jeffrey Quamme, (608) 266-4097)

7. The site plan shall identify lot and block numbers of recorded Certified Survey Map or Plat.
8. The site plan shall include a full and complete legal description of the site or property being subjected to this application.

**Zoning Administrator** (Contact Jenny Kirchgatter, (608) 266-4429)

9. Revise the plans so that the proposed single-family detached dwelling meets the minimum front yard setback requirement. The minimum front yard setback in the TR-V1 district is twenty (20) feet. An open front porch may encroach seven (7) feet into the front yard setback, but the attic and basement levels may not encroach into the front yard setback. Front setback averaging may be utilized to reduce the front setback per Section 28.031(1). If front setback averaging is utilized, submit measurements to support the setback.
10. Section 28.185(7)(a)5. requires that if a demolition or removal permit is approved, it shall not be issued until the reuse and recycling plan is approved by the Recycling Coordinator, Bryan Johnson (608-266-4682).
11. Section 28.185(10) Every person who is required to submit a reuse and recycling plan pursuant to Section 28.185(7)(a)5. shall submit documents showing compliance with the plan within sixty (60) days of completion of demolition.
12. Section 28.185(9)(a) A demolition or removal permit is valid for one (1) year from the date of the Plan Commission.
13. Show the second floor cantilever of the accessory dwelling unit on the site plan.
14. Provide a calculation and plan detail for lot coverage with the final submittal. The lot coverage maximum is 70%. Lot coverage is defined as the total area of all buildings, measured at grade, all accessory structures including pools, patios, etc., and all paved areas as a percentage of the total area of the lot, with the following exceptions: sidewalks or paved paths no wider than five (5) feet, pervious pavement, green roofs and decks.
15. Show the height of the proposed single-family dwelling and accessory dwelling unit on the elevations. The maximum height for the single-family dwelling is 35 feet, and the maximum height of the accessory dwelling unit is 25 feet. Height is the average of the height of all building facades. For each facade, height is measured from the midpoint of the existing grade to the highest point on the roof of the building or structure. No individual facade shall be more than fifteen percent (15%) higher than the maximum height of the zoning district.
16. The project shall comply with the supplemental regulations of Section 28.151 for an accessory dwelling unit in districts other than the TR-P district.

**Fire Department** (Contact Bill Sullivan, (608) 261-9658)

17. Madison Fire Department recommends the installation of a residential fire sprinkler system in accordance with NFPA 13D and SPS 382.40(3)(e). Additional information is available at the Home Fire Sprinkler Coalition website: <http://www.homefiresprinkler.org/Consumer/ConsHome.html>
18. Please consider allowing Madison Fire Dept. to conduct training sequences prior to demolition. Contact MFD Training Division to discuss possibilities: Captain Jerry Buechner (608)516-9195.

**Parks/Forestry Division** (Contact Janet Schmidt, (608) 261-9688)

19. There is no net increase in dwelling units for this development therefore no park impact fees are due.
20. Existing street trees shall be protected. Please include the following note on the site plan: Contractor shall install tree protection fencing in the area between the curb and sidewalk and extend it at least 5 feet from both sides of the tree along the length of the terrace. No excavation is permitted within 5 feet of the outside edge of a tree trunk. If excavation within 5 feet of any tree is necessary, contractor shall contact City Forestry (266- 4816) prior to excavation to assess the impact to the tree and root system. Tree pruning shall be coordinated with City Forestry. Tree protection specifications can be found in section 107.13 of City of Madison Standard Specifications for Public Works Construction - <http://www.cityofmadison.com/business/pw/documents/StdSpecs/2013/Part1.pdf>. Any tree removals that are required for construction after the development plan is approved will require at least a 72 hour wait period before a tree removal permit can be issued by Forestry, to notify the Alder of the change in the tree plan.

**Water Utility** (Contact Adam Wiederhoeft, (608) 266-9121)

21. This property is in a Wellhead Protection District–Zone (WP-24). The owner shall provide the Madison Water Utility with evidence that no hazardous and/or toxic materials will be stored on site, and that all proposed uses of this site comply with the City of Madison Wellhead Protection Ordinance. Any future change in use for this property will require review by the Madison Water Utility General Manager or his designated representative.

The Madison Water Utility shall be notified to remove the water meter prior to demolition.

**SUBCHAPTER 28J: SUPPLEMENTAL REGULATIONS****28.151 APPLICABILITY.**

Supplemental regulations are established to address the unique characteristics of certain land uses. The standards and conditions listed for land uses in this chapter are applicable to both permitted uses and uses permitted by conditional use permit, as specified for each zoning district, unless otherwise noted.

Accessory Dwelling Unit in Districts Other than the TR-P District.**(a) Required Standards.**

1. The principal dwelling or the accessory dwelling unit must be owner-occupied except that a temporary absence of up to six (6) months is allowed.
2. The principal dwelling must be a single-family detached dwelling.
3. No more than one (1) accessory dwelling unit may be located on a lot.
4. The number of occupants of the accessory dwelling unit shall not exceed one (1) family or two (2) unrelated individuals.
5. The accessory dwelling unit shall not be sold separately from the principal dwelling.
6. The maximum height of a detached building containing an accessory dwelling unit, including one built above a garage, shall be twenty-five (25) feet. Height shall be measured as a principal building pursuant to Sec. 28.134(1)(b).
7. The maximum size of an accessory dwelling unit shall be seventy-five percent (75%) of the principal dwelling's floor area, up to a maximum size of seven hundred (700) square feet.
8. The minimum setback requirements shall be those for accessory building or structures of the underlying zoning district.
9. Accessory dwelling unit entry ways within a rear or side yard shall be connected to a street frontage by a paved walkway or driveway.
10. The appearance or character of the principal building shall not be significantly altered so that its appearance is no longer that of a single-family dwelling.

**(b) Suggested Guidelines.**

1. The exterior finish material of an accessory dwelling unit shall match the type, size and placement of exterior finish material of the principal dwelling.
2. The roof pitch shall match the predominant roof pitch of the principal dwelling.
3. Trim and projecting eaves shall match those of the principal dwelling.
4. Windows shall match those in the principal dwelling in proportion (relationship of width to height) and orientation (horizontal or vertical).