



Report to the Plan Commission

April 12, 2010

Legistar I.D. #17779
430 W. Dayton Street
PUD Amendment & Demolition Permit

Report Prepared By:
Timothy M. Parks, Planner
Planning Division

Requested Action: Approval of a request to rezone 430 W. Dayton Street from Planned Unit Development-Specific Implementation Plan (PUD-SIP) to Amended Planned Unit Development-General Development Plan-Specific Implementation Plan (PUD-GDP-SIP) to allow the demolition of an existing single-family residence at the rear of the lot and construction of an accessory building with a dwelling unit.

Applicable Regulations & Standards: Section 28.12(9) provides the process for zoning map amendments; Section 28.07(6) of the Zoning Ordinance provides the requirements and framework for Planned Unit Developments; Section 28.12(12) provides the guidelines and regulations for the approval of demolition permits.

Summary Recommendation: The Planning Division recommends that the Plan Commission recommend **approval** of Zoning Map Amendments 3479 & 3480, rezoning 430 W. Dayton Street from PUD-SIP to Amended PUD-GDP-SIP, subject to input at the public hearing and the conditions from reviewing agencies beginning on page 7 of this report.

Background Information

Applicant & Property Owner: Brandon Cook; PO Box 694; Madison.

Proposal: The applicant wishes to replace a detached single-family residence located at rear of the lot behind the four-unit apartment building located on the front half of the site with an accessory building containing a dwelling unit. The applicant wishes to commence construction within 30 days of approval, with completion of the accessory building and dwelling unit anticipated by August 14, 2010.

Parcel Location: A 4,356 square-foot (0.1-acre) lot located at 430 W. Dayton Street between N. Broom and N. Bassett streets, Aldermanic District 4; Transition Area – Downtown Design Zone 2; Madison Metropolitan School District.

Existing Conditions: The site is developed with a four-unit apartment building located at the front of the site and a nonconforming single-family residence located at the rear of the lot.

Surrounding Land Use and Zoning:

North: Two- to four-unit apartments, multi-family apartment building, zoned R6 (General Residence District);

South: Two- to four-unit apartment buildings, zoned R6; Lurican Condominiums, zoned PUD-SIP;

West: Three-unit apartment building, zoned R6; a 10-unit, two-building apartment development, zoned PUD-SIP;

East: Dayton Square Apartments, zoned R6.

Adopted Land Use Plan: This subject site and surrounding area is located in the Mifflin-Bassett Downtown Mixed-Use Sub-district of the Comprehensive Plan, which generally recommends the area bounded by W. Dayton Street on the north, W. Wilson Street on the south, Broom Street on the east and Bedford Street on the west for two- to four-story buildings consistent with the predominant scale of buildings in the area. The Comprehensive Plan recommends that specific recommended densities for individual blocks or properties be established in a detailed, City-adopted neighborhood plan or special area plan, such as the plan adopted for the Bassett Neighborhood south of W. Washington Avenue.

Environmental Corridor Status: This property is not located within a mapped environmental corridor.

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

Zoning Summary: The site is PUD-GDP-SIP. The proposed PUD amendment and demolition permit will be reviewed in the following sections.

Other Critical Zoning Items	
Yes:	Urban Design, Utility Easements, Barrier Free
No:	Landmarks, Floodplain, Wellhead Protection, Waterfront Development
<i>Prepared by: Pat Anderson, Asst. Zoning Administrator</i>	

Previous & Related Approvals

On January 8, 2008, the Common Council approved a request to rezone the subject site from R6 (General Residence District) to PUD-GDP-SIP to allow construction of an apartment in the basement of an existing three-unit building and construction of a one-unit carriage house following the demolition of an existing detached single-family residence.

On March 17, 2009, the Common Council approved a zoning text amendment to allow accessory structures with up to 2 dwelling units in required rear yards in the Transition Zone abutting Downtown Design Zone 2 on W. Dayton Street provided that such accessory structure not exceed 2 stories and be located less than 10 feet from the rear lot line and 3 feet from any side lot line.

Project Review

The applicant is requesting approval of a major alteration to a previously approved PUD-GDP-SIP and a demolition permit to allow a nonconforming single-family residence located at the rear of the parcel to be razed and a two-story accessory building to be constructed. The subject site is a 4,356 square-foot parcel located on the north side of W. Dayton Street midway between N. Broom and N. Bassett streets that is also developed with a 2.5-story structure comprised of one three-bedroom flat on the first and second floors, a three-bedroom apartment located on a third floor below the roof, and a three-bedroom apartment in the basement, which was added following approval of the PUD zoning for this property in 2008.

The residence at the rear of the property to be demolished is a small two-story, two-bedroom single-family house located approximately 36 feet from the rear wall of the three-unit building and 3 feet from the rear property line. The building is clad in gray asphalt shingles and topped with a gable roof, with a small open porch along the southerly elevation. The area between the single-family residence and four-

unit building is a partially improved surface parking area for three vehicles. Access to the rear parking area is provided by an 8-foot wide driveway that extends along the western property line, which is shared with the adjacent three-unit building at 434 W. Dayton Street under an existing easement agreement.

No information has been provided on when the rear-lot residence was constructed. Photos provided by the applicant suggest a myriad of structural deficiencies with the building, including substandard plumbing and electrical fixtures, possible water damage, structural deterioration and the need for cosmetic repairs. The Planning Division has not toured the building, but has visited the property and believes that a conclusion could be reached that demolition of the existing structure is merited. The condition of the rear-lot building does not appear to be substantially different from other two- to four-unit buildings nearby that have been home in recent history to a high number of student occupants, including a handful of other buildings that have been demolished in the last decade to facilitate new developments.

The building proposed to replace the rear-lot single-family residence will be a two-story accessory building, which will include 1 automobile parking stall, 16 bike parking spaces, and trash and laundry facilities for tenants of the entire property on the ground floor. A single five-bedroom residential unit is proposed both above and below the tenant trash/ laundry/ parking floor, with 3 bedrooms, a full bath and kitchen proposed on a full second floor, 2 bedrooms and a half-bath on a partial basement level at the rear of the building, and a living room space on a partial loft level above the second floor. A 4.25-foot deep, 8.5-foot wide balcony is proposed off the kitchen along the southerly wall. The space below the single car parking stall will be unexcavated. The residential unit will have a separate entry from the general tenant area along the westerly wall of the proposed building, with two entry doors and an overhead door shown to provide access into the tenant portion of the building.

The architecture of the proposed accessory building is designed as a modern interpretation of the predominantly Victorian architectural styles present throughout the Mifflin neighborhood, including the four-unit building at the front of the subject property. The proposed building will be primarily clad with horizontal fiber cement lap siding with the exception of two areas along the side walls where vertical siding reveals and smooth-faced panels are proposed. The building will be topped with a two-tiered gable roof that will step down at the rear of the building where the proposed loft space ends.

The new building will be setback 10 feet from the northerly, rear property line and 5 feet from the easterly side property line. The area between the two buildings on the property will be occupied by a permeable drive surface for the parking in the accessory building, with 2 surface bike parking stalls and 2 moped stalls shown adjacent to the eastern property line. The setback areas will be planted with two musclewood trees and two groupings of deciduous shrubs. The area adjacent to the westerly wall of the building will be concrete as part of the driveway shared with the adjoining property.

Analysis & Conclusion

The application before the Plan Commission and Common Council represents the second phase of the development of the subject site first proposed in late 2007. At that time, the applicant proposed rezoning the site to PUD to allow the addition of the fourth dwelling unit in the basement of the three-unit apartment building at the front of the lot and to allow the demolition of the rear-lot single-family residence to accommodate a carriage house with four ground-level parking spaces and a second floor dwelling unit.

In reviewing the original application regarding this property, staff could not determine whether the carriage house could meet the standards of approval for demolition permits and planned unit developments due to the applicant failing to submit details regarding the existing condition of the single-family residence at the rear of the site or details of the proposed carriage house other than its proposed footprint and a note that it will be a three-story building. Additionally, the Zoning Ordinance did not permit the proposed carriage house at the time due to the regulations in the Transition Zone of Downtown Design Zone 2, which sets forth specific bulk and massing requirements for planned unit developments containing residential units. Prior to the 2009 zoning text amendment noted earlier in this report, Downtown Design Zone 2 required new structures to meet specific yards, including a 25-foot rear yard, which the proposed carriage house did not meet.

As a result of the carriage house's failure to meet the required yards in Downtown Design Zone 2 and the lack of details on that building included with this application, the Planning Division recommended that the Plan Commission defer consideration of the future use of the rear of the subject site until the applicant could provide more information on that portion of the proposal. On December 17, 2007, the Plan Commission recommended approval of the PUD rezoning of the site to the Council subject to the conditions contained in the Plan Commission materials, including a Planning Division condition of approval that references to the demolition of the existing single-family residence and construction of a carriage house at the rear of the subject site be eliminated prior to recording of the planned unit development and the issuance of any permits for the fourth dwelling unit (which was noted in the 2007 letter of intent as the applicant's future dwelling unit).

The request before the Plan Commission is generally patterned after the original 2007 plan for the applicant's property with regard to the proposed removal of the nonconforming single-family residence at the rear of the lot to facilitate construction of an accessory building with a residential unit, though the form of the proposed rear-lot accessory building is at least modestly different. As noted in the preceding section, the applicant proposes to construct an accessory building that will contain an automobile parking stall, 16 bike parking spaces, and trash and laundry facilities for tenants of the entire property on the ground floor, and a five-bedroom residential unit, which will occupy three levels, including 2 of the 5 bedrooms on a partial basement level at the rear of the accessory building and a loft living area above the second full floor of the building. The three residential levels of the accessory will contain 1,388 square feet of floor area not counting the floor area devoted to the dwelling unit entrance on the ground floor. The footprint of the accessory building will be 784 square feet, with a total floor area of about 2,172 square feet proposed for the entire structure.

Matt Tucker, the Zoning Administrator, has reviewed the plans for the proposed building and has concluded that it can be considered as an "accessory building" as defined and regulated in the Zoning Ordinance, which defines an accessory building or use as a building or use which:

1. Is customary and clearly incidental to the principal building or principal use;
2. Serves exclusively the principal building or principal use;
3. Is subordinate in floor area, extent or purpose to the principal building or principal use served or is a secondary dwelling unit;
4. Contributes to the comfort, convenience or necessity of occupants of the principal building or principal use served; and
5. Is located on the same zoning lot as the principal building or principal use served, with the single exception of such accessory off-street parking facilities as are permitted to locate elsewhere than on the same zoning lot as the building or use served.

However, Mr. Tucker noted in reviewing the proposed building that he felt that certain operational characteristics needed to be further defined and clarified in the PUD zoning text, including specific language that identified the parking, bicycle parking and laundry facilities as accessory to the principal residential building on the site.

Mr. Tucker has also indicated that floorplan of the accessory building, which includes a mezzanine, complies with the requirement that accessory buildings be limited to two stories. The Zoning Ordinance defines a story as “that portion of a building, other than a basement, loft, or mezzanine, included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between the floor and the ceiling next above it. For the purposes of this ordinance, there shall be only one basement which shall be counted as a story when the front exterior wall of the basement level is exposed more than fifty percent (50%). A loft or mezzanine, as defined in the state building codes, is not a story. Any part of a building that is above the second story and between the eaves and the ridge line of pitched roofs with a slope of 8:12 (33.7 degrees) or greater, is not a story, but may be occupied as long as the requirements for human occupancy are met.” The provision allowing accessory buildings in the Transition Zone of Downtown Design Zone 2 restricts the height of such buildings to 2 stories.

Planning staff believes that while the proposed program for and floorplan of the accessory building may meet the applicable definitions in the Zoning Ordinance, they represent at least a modest departure from what is conventionally thought of with regard to accessory buildings and accessory dwelling units. In general, staff is supportive of dwelling units in accessory buildings and has recommended approval of them in recent years as part of planned unit developments on Jenifer Street, Williamson Street and S. Hancock Street. Secondary dwelling units up to 640 square feet are currently permitted in the Zoning Ordinance on single-family lots in the R2T single-family residential zoning district, and it is anticipated the forthcoming new zoning code currently being reviewed will expand the application of accessory dwelling units in the City.

Staff is also generally supportive of at least the concept of accessory dwelling units on the subject site, which is located on a block that includes a diverse array of building types, including six large apartment complexes of varying vintage and design, approximately 9 converted houses similar to the four-unit building on the front of the site, and a four-unit apartment building constructed circa 2000 at 438-442 W. Dayton Street. The site is also located across W. Dayton Street from a number of two- to four-unit rental properties in converted houses. Most of the buildings on the subject block and in the nearby vicinity are student-oriented rental properties similar to the buildings on the site. An accessory building without a dwelling unit would have been permitted under certain conditions in the R6 zoning the site had prior to the 2008 rezoning of the site to PUD, and the inclusion of a dwelling unit as part of an accessory garage/ storage-type structure on this property does not appear to staff to be inherently inappropriate. Further, the use of a portion of the rear yard for an accessory building on a block otherwise predominated by mostly unimproved rear yard parking areas does not seem inappropriate.

However, Planning staff has some concerns with the size, scale and mass of the proposed accessory building and its dwelling unit as compared to the established context in this area of the City and the precedent that this project would set for future development of other properties in the area. Specifically, staff is concerned about the size and arrangement of the dwelling unit as proposed, which will be spread across three levels of the accessory building *not* counting the level that will be occupied by the general tenant parking and laundry areas on the ground floor, and will include two relatively small bedrooms at the rear of the basement of the accessory building. A similar concern was expressed by the Urban Design Commission when they reviewed the proposed amendment to the planned unit development for this property on March 3, 2010 and recommended initial of the project to the Plan Commission. In their motion, the UDC stated that “[c]oncern be passed on to the Plan Commission

about whether this type of housing with small bedrooms and non-traditional arrangement of units is an appropriate type of housing that the City should be approving.” The February 17 and March 3, 2010 UDC reports are attached.

There is currently no adopted neighborhood plan to guide development in the Mifflin neighborhood. This area is identified in the Mifflin-Bassett Downtown Mixed-Use Sub-district of the Comprehensive Plan, which generally recommends the area bounded by W. Dayton Street on the north, W. Wilson Street on the south, Broom Street on the east and Bedford Street on the west for two- to four-story buildings consistent with the predominant scale of buildings in the area but also recommends that specific recommendations for density and dwelling unit types be established in a detailed, City-adopted neighborhood plan or special area plan, such as the plan adopted in 1997 for the Bassett neighborhood south of W. Washington Avenue, or in the forthcoming Downtown Plan. The Mifflin-Bassett sub-district does not contain specific references to the appropriateness of accessory dwelling units within the mix of housing units in the sub-district, though staff does not believe that this omission precludes their use on a limited basis when such buildings and uses are contextually appropriate.

In reviewing the proposed project against the criteria for approval of planned unit developments, staff notes that the Criteria 1.a. and 1.b. require the Planned Unit Development District, the uses and their intensity, appearance and arrangement to be of a visual and operational character which are compatible with the physical nature of the site or area and would produce an attractive environment of sustained aesthetic desirability, economic stability and functional practicality compatible with the general development plan. This project as proposed, while not incompatible with adopted City plans, may not represent a project of sustained aesthetic desirability. Further, it may not represent functional practicality given the potentially excessive program for the accessory building, which includes a five-bedroom unit with 2 of the bedrooms and a half bath without shower or tub separated from the remainder of the unit by garage level. In considering Criteria 1.a. and 1.b, the Plan Commission should also give consideration to the precedent that approval of the applicant’s accessory dwelling unit using planned unit development zoning may have on other similarly developed properties in the Mifflin neighborhood and other neighborhoods.

However, these concerns could be mitigated by a reduction in the scope and mass of the proposed accessory building project. As currently proposed, the 1,388 square-foot residential component of the accessory building will be nearly double the approximately 784 square feet devoted to “accessory” uses to serve the overall property, and represents approximately 64% of the 2,172 square feet of gross floor area proposed within the structure. Staff believes that reducing the size of the residential component of the building to be more in keeping with the scale of the tenant parking/ trash/ laundry component, including through the elimination of the basement residential areas and a reduction or elimination of the loft living space, may allow the project to better meet the criteria for approval for PUD zoning.

Staff Recommendations, Conditions of Approval & General Ordinance Requirements
Major/Non-Standard Conditions are shaded

Planning Division Recommendation (Contact Timothy M. Parks, 261-9632)

If the Plan Commission can find that the criteria for approval for planned unit developments met with the PUD-GDP-SIP amendment as presented, the Planning Division recommends that the Plan Commission forward Zoning Map Amendment ID 3479 & 3480 regarding 430 W. Dayton Street to the Common Council with a recommendation of approval, subject to input at the public hearing and the conditions from reviewing agencies below.

Should the Plan Commission not be able to find the criteria for approval for planned unit developments met, staff believes that the Commission could recommend to the Common Council that the PUD-GDP-SIP amendment be placed on file, or could recommend approval of the project with modifications it feels could allow the project to meet the criteria for approval, including but not limited to the elimination of the basement residential areas and a reduction or elimination of the loft living space, two changes which staff feels would make this proposed residential unit functionally more practical and would reduce the physical and functional mass of the accessory building.

If the criteria for approval for planned unit developments can be found to be met, the Planning Division believes that the standards for approval for demolition permits can also be met based on the condition of the building and its status as a nonconforming second principal residential use of the property.

If the project is recommended for approval, the Planning Division recommends the following condition:

1. That the zoning text be revised prior to recording of the amended PUD-GDP-SIP as follows:
 - 1a. the permitted uses state: "Multi-family residential uses as shown on the approved plans";
 - 1b. state that the trash, parking and laundry facilities located in the accessory building shall be for use of all of the tenants residing on the subject property;
 - 1c. the height of the building be revised to state "As shown on the approved plans"

The following conditions have been submitted by reviewing agencies:

City Engineering Division (Contact Janet Dailey, 261-9688)

2. Revise the West Elevation plan Sheet A5 to include the correct address of 432 W. Dayton Street for the rear building, not 430 ½ as shown.
3. The property has two dwellings on one lot. The applicant shall either provide two separate sanitary sewer laterals to serve the separate dwellings or shall provide a recorded shared lateral ownership maintenance agreement for the two dwellings utilizing the same lateral.
4. 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.
5. Prior to approval of the conditional use application, the owner shall obtain a permit to plug each existing sanitary sewer lateral that serves a building that is proposed for demolition. For each lateral to be plugged the owner shall deposit \$1,000 with the City Engineer in two separate checks in the following amounts: (1) \$100 non-refundable deposit for the cost of inspection of the plugging by City staff; and (2) \$900 for the cost of City crews to perform the plugging. If the owner elects to complete the plugging of a lateral by private contractor and the plugging is inspected and approved by the City Engineer, the \$900 fee shall be refunded to the owner.
6. Each unit of a duplex building shall be served by a separate and independent sanitary sewer lateral.
7. The site plan shall be revised to show all existing public sanitary sewer facilities in the project area as well as the size, invert elevation, and alignment of the proposed service.

Traffic Engineering Division (Contact John Leach, 267-8755)

8. A condition of approval shall be that no residential parking permits shall be issued for 430 & 432 W. Dayton Street; this would be consistent with other projects in the area. In addition, the applicant shall inform all tenants of this facility of the requirement in their apartment leases. The applicant shall note in the zoning text that no residential parking permits shall be issued for this property. In addition, the applicant shall submit a copy of the lease for 430 & 432 West Dayton Street noting the above condition when submitting plans for City approval. Please contact William Knobloch or Bill Putman, Parking Utility, at 266-4761 if you have questions regarding this condition.
9. Public signing and marking related to the development may be required by the City Traffic Engineer for which the developer shall be financially responsible.

Zoning Administrator (Contact Pat Anderson, 266-5978)

10. Put addresses of the buildings and number of units in each building on the site plans. Address information can be obtained from Lori Zenchenko in City Engineering at 266-5952.
11. Lighting is required and shall be in accordance with MGO Section 10.085: Provide a plan showing at least .5 foot candle on any surface on any lot and an average of .75 footcandles. The maximum light trespass shall be 0.5 footcandle at 10 feet from the adjacent lot line. (See City of Madison Lighting Ordinance).
12. Parking requirements for persons with disabilities must comply with MGO Section 28.11 (3)6.(m) which includes all applicable State accessible requirements, including but not limited to:
- a.) Provide minimum of two accessible stalls striped per State requirements. A minimum of one of the stalls shall be a van accessible stall 8' wide with an 8' striped out area adjacent.
 - b.) Show signage at the head of the stalls. Accessible signs shall be a minimum of 60" between the bottom of the sign and the ground.
 - c.) Show the accessible path from the stalls to the building. The stalls shall be as near the accessible entrance as possible. Show ramps, curbs, or wheel stops where required.
13. Bike parking shall comply with MGO Section 28.11: Provide one bike parking stall for each apartment and one bike stall for each 10 surface parking stalls provided in a safe and convenient locations on an impervious surface to be shown on the final plan. The bike racks shall be securely anchored to the ground or building to prevent the racks from moving. Note: A bike-parking stall is 2' by 6' with a 5-foot access area.
14. Off-street parking requirement shall comply with MGO Sections 28.04 (12) and 28.11: Parking lot plans with greater than twenty (20) stalls, landscape plans must be stamped by a registered landscape architect. Provide a landscape worksheet with the final plans that shows that the landscaping provided meets the point and required tree ordinances. In order to count toward required points, the landscaping shall be within 15' and 20' of the parking lot depending on the type of landscape element. (Note: The required trees do not count toward the landscape point total.)
15. Signage approvals are not granted by the Plan Commission. Signage must be approved by the Urban Design Commission or staff. Sign permits must be issued by the Zoning Section of the Department of Planning and Community and Economic Development prior to sign installations.

Parks Division (Contact Kay Rutledge, 266-4714)

16. The developer is demolishing a single-family home and replacing it with a multi-family unit as part of an accessory building at 432 W. Dayton Street. Neither park dedication nor development fees are due because of this change as proposed. This agency submitted comments noting that while the proposed development is in the Vilas-Brittingham Park Impact Fee District

Fire Department (Contact Scott Strassburg, 261-9843)

This agency did not submit comments for this request.

City Assessor's Office (Contact Maureen Richards, 266-4845)

This agency did not submit comments for this request.

Water Utility (Contact Dennis Cawley, 261-9243)

This Water Utility submitted a response with no conditions of approval for this request but noted that it shall be notified to remove the water meter prior to demolition.

Metro Transit (Contact Tim Sobota, 261-4289)

This agency did not submit comments for this request.