

PLANNING DIVISION STAFF REPORT

August 29, 202

PREPARED FOR THE PLAN COMMISSION



Project Address: 9501 Spirit Street (9th Alder District, Ald. Conklin)
Application Type: Conditional Use
Legistar File ID #: [72213](#)
Prepared By: Lisa McNabola, Planning Division
Report Includes Comments from other City Agencies, as noted
Reviewed By: Kevin Firchow, AICP, Principal Planner

Summary

Applicant & Owner: Ryan McMurtie; United Financial Group, LLC; 660 W Ridgeview Drive, Appleton, WI 54911

Contact: Kevin Burrow; Knothe & Bruce Architects; 7601 University Avenue, Suite 201, Middleton, WI 53562

Requested Action: Consideration of a conditional use in the Traditional Residential-Varied 2 (TR-V2) District to allow a residential building complex at 9501 Spirit Drive.

Proposal Summary: The applicant is requesting approval of a residential building complex to develop 31 townhouse units in eight buildings.

Applicable Regulations & Standards: Table 28C-1 in Section 28.032(1) of the Zoning Code identifies residential building complexes as a conditional use in the TR-V2 District. Section 28.183 provides the process and standards for the approval of conditional uses. Residential building complexes are subject to the Supplemental Regulations in Section 28.151. Review by the Urban Design Commission of the residential building complex is required per Section 33.24(4)(c) of the Urban Design Commission ordinance.

Review Required By: Urban Design Commission and Plan Commission

Summary Recommendation: The Planning Division recommends that the Plan Commission find that the approval standards for conditional uses are met and **approve** the request to construct a residential building complex in the Traditional Residential-Varied 2 (TR-V2) District at 9501 Spirit Street. This request is subject to Urban Design Commission approval of the residential building complex, and the input at the public hearing and the conditions recommended by the reviewing agencies.

Background Information

Parcel Location: The 95,455 square-foot (2.19-acre) parcel is bounded by Spirit Street, Bear Claw Way, Paragon Street, and Chaska Drive. It is located within Alder District 9 (Ald. Conklin) and the Middleton/Cross Plains School District.

Existing Conditions and Land Use: Undeveloped land, zoned Traditional Residential-Varied 2 (TR-V2) District.

Surrounding Land Use and Zoning:

North: Undeveloped land, zoned Traditional Residential-Urban 1 (TR-U1) District; single family residences across Elderberry Road, zoned Traditional Residential-Consistent 1 (TR-C1) District and Suburban Residential-Consistent 2 (SR-C2) District; undeveloped land in the Town of Middleton;

East: Undeveloped land, zoned Suburban Residential-Varied 2 (SR-V2) District; single family residences, zoned Traditional Residential-Consistent 3 (TR-C3);

South: Undeveloped land, zoned SR-V2 District and TR-U1; three multifamily residential buildings, zoned Suburban Residential-Varied 2 (SR-V2) District; Blackhawk Church, zoned PD;

West: Undeveloped land, zoned Traditional Residential-Varied 2 (TR-V2), SR-V2 District and Agriculture (A).

Adopted Land Use Plan: The 2018 [Comprehensive Plan](#) recommends Low-Medium Residential (LMR) with a density range between 7-30 units per acre generally recommended. The 2018 [Elderberry Neighborhood Development Plan](#) recommends Residential Housing Mix 2 (HM2) with a density range between 8-20 units per acre generally recommended. More information on the housing types and design recommendations for the HM2 district are included in the 'Analysis' section of this report. The western edge of the subject site includes a small area of Residential Housing Mix 1.

Zoning Summary: The property is zoned Traditional Residential-Varied 2 (TR-V2) District.

Requirements	Required	Proposed
Lot Area (sq. ft.)	1,500 sq. ft./d.u. (46,500 sq. ft.)	95,455 sq. ft.
Lot Width	N/A	239' Chaska Dr
Front Yard Setback	20'	24.3' abutting Chaska Dr (1)
Max. Front Yard Setback	30' or up to 20% greater than block average	24.3'
Side Yard Setback	Exterior end walls: 6'	18.2' north side yard 23.6' south side yard (1)(2)
Rear Yard Setback	Lesser of 25% lot depth or 25'	29.6' (1)
Usable Open Space	100 sq. ft./d.u. (3,100 sq. ft.)	25,849 sq. ft.
Maximum Lot Coverage	90%	60%
Maximum Building Height	3 stories/ 40'	3 stories/ 37'2"

Site Design	Required	Proposed
Number Parking Stalls	Single-family attached dwelling: 1 per dwelling (31)	62 garage stalls (3)
Accessible Stalls	None	None
Loading	Not required	None
Number Bike Parking Stalls	Single-family attached dwelling: 1 per dwelling (31)	31 garage stalls 4 surface (35 total)
Landscaping and Screening	Yes	Yes (4)(5)
Lighting	Yes	Yes
Building Forms	Yes	Single-family attached building, townhouse, rowhouse (6)(7)

Other Critical Zoning Items		
Urban Design	Yes	Residential Building Complex

Barrier Free (ILHR 69)	Yes
Utility Easements	Yes

Table Prepared by Jenny Kirchgatter, Assistant Zoning Administrator

Environmental Corridor Status: The subject site is not within a mapped environmental corridor.

Public Utilities and Services: This property is served by a full range of urban services with the exception of Metro Transit.

Project Description

The applicant is requesting approval of a residential building complex to develop eight (8) three-story townhouse buildings for a total of 31 units. The lot is a 2.19-acre block formed by Spirit Street to the north, Bear Claw Way to the east, Paragon Street to the south, and Chaska Drive to the west. The proposed development includes:

- two (2) three-unit townhouses fronting Spirit Way
- two (2) four-unit townhouses fronting Chaska Drive
- one (1) six-unit townhouse and one (1) four-unit townhouse fronting Paragon Street
- one (1) four-unit townhouse and one (1) three-unit townhouse fronting Bear Claw Way

Each townhouse has two bedrooms, a private deck, and a two-car rear loaded garage. The front entrances are elevated from the street. The interior of the lot can be accessed from Spirit Street and Paragon Street.

Supplemental Regulations

Residential building complexes, which are defined as “a group of two or more residential buildings on a single parcel or tract of land, developed under single ownership and common management” are conditional uses in the TR-V2 District and are subject to the following supplemental regulations in Section 28.151 of the Zoning Code (as applicable):

- (a) Recreational areas may be required to serve the needs of the anticipated population.
- (b) Setback requirements may be reduced as part of the conditional use approval, provided that equivalent open space areas are provided.
- (c) Minimum distances between buildings shall equal the combination of the required side yards for each building, unless reduced by the Plan Commission as part of the conditional use approval.
- (d) An appropriate transition area between the use and adjacent property may be required, using landscaping, screening, and other site improvements consistent with the character of the neighborhood.
- (g) Shall be reviewed by the Urban Design Commission pursuant to Sec. 33.24(4)(c), MGO.
- (h) All Residential Building Complexes shall be submitted with a plan for building placement, circulation, access and parking, and information on the architectural design of the development.
- (i) Each building in a Residential Building Complex shall provide the lot area and usable open space required for the building type by the zoning district.

Analysis and Conclusion

The Planning Division believes that the Plan Commission can find the standards for approval met for the proposed residential building complex.

Conformance with Adopted Plans

The density of the 31-unit complex is 14.15 units per acre. The proposed density is within the density range allowed in the existing TR-V2 zoning of up to 63.6 units per acre for attached single family dwellings up to eight units. Attached single family dwellings up to eight units is a permitted use in the TR-V2 district.

The proposed density is also within the 7-30 unit per acre density recommended by the 2018 Comprehensive Plan. It is also within the 8-20 unit per acre density recommended by the 2018 Elderberry Neighborhood Development Plan, which identifies the subject site and most of the larger Paragon Place subdivision in Residential Housing Mix 2 (HM2). HM2 is recommended as a predominately higher-density single family designation, although other housing types compatible with single-family homes, including duplexes, four units, townhouses, and small-scale apartment buildings (4-8 units) are also recommended. Buildings should include front, side, and rear yards, with a maximum recommended height of three stories. Dwelling unit types in the HM2 zone should be varied, and large areas of one housing unit type should be avoided.

The proposed development with townhouses/single-family attached dwellings reflects the density, bulk, and building characteristics recommended in HM2. It would add to the mix of housing types in this neighborhood, which currently consists of single family and larger multifamily residential buildings.

Supplemental Regulations

The Supplemental Regulations for residential building complexes in Section 28.151 of the Zoning Code state “the minimum distances between buildings shall equal the combination of the required side yards for each building, unless reduced by the Plan Commission as part of the conditional use approval.”

The minimum distance between buildings is 12 feet in the TR-V2 District. The distance between buildings 8 and 9 is 8.51 feet and the distance between 7 and 10 is 8.07 feet. Staff believe the conditional use standards can be found met and recommended the following condition, “The Plan Commission finds that the conditional use standards can be found met and approves a minimum distance between Building 8 and Building 9 and between Building 7 and Building 10 that is less than the combination of the required side yards for each building as shown on approved plans, noting that possible adjustments found to be compatible with the concept approved by the Plan Commission could be considered as a minor alteration after a favorable recommendation from the district alderperson, as allowed in MGO Section 28.183(8).”

Urban Design Commission Recommendation

Review of residential building complexes by the Urban Design Commission is required per Section 33.24(4)(c) of the Urban Design Commission ordinance and the Supplemental Regulations in the Zoning Code. The Urban Design Commission reviewed the proposed residential building complex at its August 17, 2022 meeting and recommended “final approval” with the following conditions:

- The landscape plan shall be updated to incorporate the landscape comments, including:
 - Replacing Barberries with Sun Joy Mini Maroon or Touchdown Teak,
 - Incorporating additional perennials to bulk up the plantings, and
 - Utilizing bark mulch in all planting beds.
- The UDC noted that given the limited size of the central greenspace, if the development team chose to move forward with an unprogrammed greenspace, it would be acceptable provided the landscape plan is updated to include additional canopy trees to provide more shade in the parking area.

The conditions have been included in the recommended conditions of approval.

Conditional Use Standards

The conditional use approval standards state that the Plan Commission shall not approve a conditional use without due consideration of the City's adopted plan recommendations, design guidelines, supplemental regulations, and finding that all of the conditional use standards of MGO §28.183(6) are met. Please note, recent changes to state law requires that conditional use findings must be based on "substantial evidence" that directly pertains to each standard and not based on personal preference or speculation.

The Planning Division believes the other standards can be found met.

In closing, the Planning Division believes that, with the recommended conditions of approval, the Plan Commission may find that the conditional use standards and supplemental regulations are met to allow construction of the residential building complex at 9501 Spirit Street.

Recommendation

Planning Division Recommendation (Contact Lisa McNabola, 243-0554)

The Planning Division recommends that the Plan Commission find the standards met and **approve** a conditional use—residential building complex at 9501 Spirit Street subject to input at the public hearing, and the conditions that follow.

Recommended Conditions of Approval

Major/Non-Standard Conditions are Shaded

Planning Division (Contact Lisa McNabola, 243-0554)

1. The Plan Commission finds that the conditional use standards can be found met and approves a minimum distance between Building 8 and Building 9 and between Building 7 and Building 10 that is less than the combination of the required side yards for each building as shown on approved plans, noting that possible adjustments found to be compatible with the concept approved by the Plan Commission could be considered as a minor alteration after a favorable recommendation from the district alderperson, as allowed in MGO Section 28.183(8).

(Conditions continued on next page)

Urban Design Commission (Contact Jessica Vaughn, 267-8740)

2. The landscape plan shall be updated to incorporate the landscape comments, including:
 - Replacing Barberries with Sun Joy Mini Maroon or Touchdown Teak,
 - Incorporating additional perennials to bulk up the plantings, and
 - Utilizing bark mulch in all planting beds.
3. The UDC noted that given the limited size of the central greenspace, if the development team chose to move forward with an unprogrammed greenspace, it would be acceptable provided the landscape plan is updated to include additional canopy trees to provide more shade in the parking area.

Zoning (Contact Jenny Kirchgatter, 266-4429)

3. The residences The Plan Commission may consider reducing the TR-V2 setback requirements for the proposed residential building complex. Setback requirements may be reduced as part of the conditional use approval, provided that equivalent open space areas are provided.
4. Minimum distances between buildings shall equal the combination of the required side yards for each building, unless reduced by the Plan Commission as part of the conditional use approval. The minimum required distance between the proposed single-family attached buildings is 12 feet. It appears that the distances between buildings 8 and 9 and 7 and 10 are less than 12 feet. The Plan Commission may reduce the minimum distances as part of the conditional use approval.
5. Provide electric vehicle stalls per Section 28.141(8)(e) Electric Vehicle Charging Station Requirements. A minimum of 10% of the residential parking stalls (6 stalls) must be electric vehicle ready, and a minimum of 2% of the stalls (1 stalls) must be electric vehicle installed. Identify the locations of the electric vehicle ready and installed stalls on the plans.
6. Submit the landscape plan and landscape worksheet stamped by the registered landscape architect. Per Section 28.142(3) Landscape Plan and Design Standards, landscape plans for zoning lots greater than ten thousand (10,000) square feet in size must be prepared by a registered landscape architect.
7. Verify whether City issued trash containers will be used by residents of the development. All developments, except single family and two family developments, shall provide a refuse disposal area. If the refuse disposal area is located outside the building, it shall be screened on four (4) sides (including a gate for access) by a solid, commercial-grade wood fence, wall, or equivalent material with a minimum height of six (6) feet and not greater than eight (8) feet. Submit a detail of the trash enclosure if provided outside the building. Note that City issued trash containers are not required to be screened.

8. Provide all four building elevations, including both side elevations, for each building.
9. Provide details demonstrating compliance with bird-safe glass requirements MGO Section 28.129. Bird-safe glass treatment is required for any building or structure over 10,000 sq. ft. in size (floor area of above-grade stories). For building façades where the first sixty (60) feet from grade are comprised of less than fifty percent (50%) glass, at least eighty-five percent (85%) of the glass on glass areas fifty (50) square feet or over must be treated. Of all glass areas over fifty (50) square feet, any glass within fifteen (15) feet of a building corner must be treated. Identify the buildings that are over 10,000 sq. ft. in size, the glass areas that are 50 sq. ft. or greater, and the glass areas that will be treated. Provide a detail of the specific treatment product that will be used.
10. Per Section 28.186(4)(b), the property owner or operator is required to bring the property into compliance with all elements of the approved site plans by the date established by the Zoning Administrator as part of the site and building plan approval. Work with Zoning staff to establish a final site compliance date.
11. Signage approvals are not granted by the Plan Commission. Signage must be reviewed for compliance with Chapter 31 Sign Codes of the Madison General Ordinances. Signage permits are issued by the Zoning Section of the Department of Planning and Community and Economic Development.

Engineering Division (Contact Tim Troester, 267-1995)

12. Enter into a City / Developer agreement for the required infrastructure improvements. Agreement to be executed prior to sign off. Allow 4-6 weeks to obtain agreement. Contact City Engineering to schedule the development and approval of the plans and the agreement. (MGO 16.23(9)c)
13. Construct Madison Standard street and sidewalk improvements for Spirit St & Chaska Dr
14. This development is subject to impact fees for the Elderberry Neighborhood Sanitary Improvement Impact Fee District(\$163.52/1000 sf). All impact fees are due and payable at the time building permits are issued (MGO Ch 20). Add the following note on the face of the plans: LOTS / BUILDINGS WITHIN THIS DEVELOPMENT ARE SUBJECT TO IMPACT FEES THAT ARE DUE AND PAYABLE AT THE TIME BUILDING PERMIT(S) ARE ISSUED.
15. Madison Metropolitan Sewerage District (MMSD) charges are due and payable prior to Engineering sign-off, unless otherwise collected with a Developer's / Subdivision Contract. Contact Mark Moder (608-261-9250) to obtain the final MMSD billing a minimum of two (2) working days prior to requesting City Engineering signoff. (MGO 16.23(9)(d)(4))
16. An Erosion Control Permit is required for this project. See Storm comments for permit specific details and requirements.
17. This site appears to disturb over one (1) acre of land and requires a permit from the WDNR for stormwater management and erosion control. The City of Madison has been required by the WDNR to review projects for compliance with NR216 and NR-151 however a separate permit submittal is still required to the WDNR for this work. The City of Madison cannot issue our permit until concurrence is obtained from the WDNR via their NOI or WRAPP permit process. Contact Eric Rortvedt at 273-5612 of the WDNR to discuss this

requirement. Information on this permit application is available on line:
<http://dnr.wi.gov/Runoff/stormwater/constrformsinfo.htm>.

The applicant is notified that the City of Madison is an approved agent of the Department of Safety and Professional Services (DSPS) and no separate submittal to this agency or CARPC is required for this project to proceed.

18. Revise the site plan 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. (POLICY)
19. Revise the plans to show a proposed private internal drainage system on the site. Include the depths and locations of structures and the type of pipe to be used. (POLICY AND MGO 10.29)
20. Revise the plans to identify the location of the public storm sewer (proposed or existing) that will serve the development show the connection of the private internal drainage system to the public storm sewer. (POLICY AND MGO OVER 10,000 SF OF IMPERVIOUS AREA 10.29 and 37.05(7)(b))
21. Revise plan to show the location of all rain gutter down spout discharge locations. (POLICY)
22. This project will disturb 20,000 sf or more of land area and require an Erosion Control Plan. Please submit an 11" x 17" copy of an erosion control plan (pdf electronic copy preferred) to Megan Eberhardt (west) at meberhardt@cityofmadison.com, or Daniel Olivares (east) at daolivares@cityofmadison.com, for approval.

Demonstrate compliance with Section 37.07 and 37.08 of the Madison General Ordinances regarding permissible soil loss rates. Include Universal Soil Loss Equation (USLE) computations for the construction period with the erosion control plan. Measures shall be implemented in order to maintain a soil loss rate below 5.0 tons per acre per year. The WDNR provided workbook to compute USLE rates can be found online at <https://dnr.wi.gov/topic/stormwater/publications.html>

Complete weekly self-inspection of the erosion control practices and post these inspections to the City of Madison website - as required by Chapter 37 of the Madison General Ordinances.

23. Submit, prior to plan sign-off but after all revisions have been completed, digital PDF files to the Engineering Division. Email PDF file transmissions are preferred to: bstanley@cityofmadison.com (East) or ttroester@cityofmadison.com (West).

Traffic Engineering (Contact Sean Malloy, 266-5987)

24. The applicant shall submit one contiguous plan showing proposed conditions and one contiguous plan showing existing conditions for approval. The plan drawings shall be to engineering scale and include the following, when applicable: existing and proposed property lines; parcel addresses; all easements; vision triangles; pavement markings; signing; building placement; items in the terrace such as signs, street light poles, hydrants; surface types such as asphalt, concrete, grass, sidewalk; driveway approaches, including those adjacent to and across street from the project lot location; parking stall dimensions, including two (2) feet of vehicle overhang; drive aisle dimensions; semitrailer movement and vehicle routes; dimensions of radii; and percent of slope.

25. The Developer shall post a security deposit prior to the start of development. In the event that modifications need to be made to any City owned and/or maintained traffic signals, street lighting, signing, pavement marking and conduit/handholes, the Developer shall reimburse the City for all associated costs including engineering, labor and materials for both temporary and permanent installations.
26. The City Traffic Engineer may require public signing and marking related to the development; the Developer shall be financially responsible for such signing and marking.
27. All parking facility design shall conform to MGO standards, as set in section 10.08(6).
28. All bicycle parking adjacent pedestrian walkways shall have a 2 foot buffer zone to accommodate irregularly parked bicycles and/or bicycle trailers.
29. Per Section MGO 12.138 (14), this project is not eligible for residential parking permits. It is recommended that this prohibition be noted in the leases for the residential units.
30. The applicant shall adhere to all vision triangle requirements as set in MGO 27.05 (No visual obstructions between the heights of 30 inches and 10 feet at a distance of 25 feet behind the property line at streets and 10 feet at driveways.). Alteration necessary to achieve compliance may include but are not limited to; substitution to transparent materials, removing sections of the structure and modifying or removing landscaping elements. If applicant believes public safety can be maintained they shall apply for a reduction of MGO 27.05(2)(bb) - Vision Clearance Triangles at Intersections Corners. Approval or denial of the reduction shall be the determination of the City Traffic Engineer.
31. The applicant shall provide a clearly defined 5' walkway from the front door to the public Right of Way clear of all obstructions to assist citizens with disabilities, especially those who use a wheel chair or are visually impaired. Obstructions include but are not limited to tree grates, planters, benches, parked vehicle overhang, signage and doors that swing outward into walkway.
32. "Stop" signs shall be installed at a height of seven (7) feet from the bottom of the sign at all class III driveway approaches, including existing driveways, behind the property line and noted on the plan. All directional/regulatory signage and pavement markings on the site shall be shown and noted on the plan.
33. The applicant shall enter into a signed developer's agreement through City of Madison Engineering prior to sign off.

Parks Division (Contact Ann Freiwald, 243-2848)

34. Park Impact Fees (comprised of the Park Infrastructure Impact Fee, per MGO Sec. 20.08(2)), and Park-Land Impact Fees, per MGO Sec. 16.23(8)(f) and 20.08(2) will be required for all new residential development associated with this project. This development is within the West Park-Infrastructure Impact Fee district. Please reference ID# 13117.3 when contacting Parks about this project.

Forestry Section (Contact Brandon Sly, 266-4816)

35. As defined by Madison General Ordinance 10.10, City Forestry will assess the full cost of the street tree installation to the adjacent property owner. City Forestry will determine street tree planting sites and tree species type. Street tree planting will be scheduled after there is substantial completion of the new plat development along the street segment.

Water Utility (Contact Jeff Belshaw, 261-9835)

36. The developer shall construct the public water distribution system and services required to serve the proposed subdivision plat/CSM per MGO 16.23(9)(d)(3).
37. All public water mains and water service laterals shall be installed by a standard City subdivision contract / City- Developer agreement. Applicant shall contact City Engineering Division to schedule the development of plans and the agreement. See Engineering Division comments for additional information.

City Engineering Division – Mapping Section (Contact Jeffrey Quamme, 266-4097)

38. Submit a site plan showing all of the townhouse building footprints in PDF format to Lori Zenchenko (lzenchenko@cityofmadison.com) for the development of a complete addressing plan.

The Addressing Plan for the entire project shall be finalized and approved by Engineering (with consultation and consent from the Fire Marshal if needed) PRIOR to the Verification submittal stage of this LNDUSE with Zoning. The final approved stamped Addressing Plan shall be included in said application. Per 34.505 MGO, a full copy of the approved addressing plan shall be kept at the building site at all times during construction until final inspection by the Madison Fire Department. For any changes pertaining to the location, deletion or addition of a unit, or to the location of a unit entrance, (before, during, or after construction), a revised Address Plan shall be resubmitted to Lori Zenchenko to review addresses that may need to be changed and/or reapproved.

The following agencies reviewed the request and recommended no conditions of approval: Fire Department and Metro Transit.