

# PLANNING DIVISION STAFF REPORT

October 19, 2020



PREPARED FOR THE PLAN COMMISSION

**Project Address:** 429 N Paterson Street (2<sup>nd</sup> Aldermanic District, Ald. Heck)  
**Application Type:** Conditional Use  
**Legistar File ID #:** [61672](#)  
**Prepared By:** Colin Punt, Planning Division  
Report Includes Comments from other City Agencies, as noted  
**Reviewed By:** Kevin Firchow, AICP, Principal Planner

## Summary

**Applicant & Property Owner:** Curt Roeming & Brenda Levin; 429 N Paterson St; Madison, WI 53703

**Requested Action:** There are two Conditional Uses requested: 1) approval of a Conditional Use for an accessory dwelling unit [MGO §28.045(1)], 2) approval of a Conditional Use for an accessory buildings exceeding 10% of lot area in a TR District [MGO §28.131(1)(a)], and 3) approval of a Conditional Use for an accessory building exceeding 576 square feet measured at the ground floor in a TR District [MGO §28.131(1)(b)], at 429 N Paterson Street.

**Proposal Summary:** The applicant proposes to use an Accessory Dwelling Unit in the second story of a 700-square-foot two-stall garage in the rear yard of the subject property.

**Applicable Regulations & Standards:** This proposal is subject to the standards for conditional uses [MGO §28.183(6)]. The Supplemental Regulations [MGO §28.151] contain further regulations for accessory dwelling units.

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

**Summary Recommendation:** The Planning Division recommends that the Plan Commission find that the conditional use standards are met and **approve** the requests to allow an accessory dwelling unit, which is also an accessory building greater than 576 square feet and exceeds 10% of lot area in a TR district at 429 N Paterson 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 5,676-square-foot property is located on the northeast side of N Paterson Street, approximately 100 yards northwest of Gorham Street. It is located within Aldermanic District 2 (Ald. Heck) as well as the Madison Metropolitan School District.

**Existing Conditions and Land Use:** The property is zoned Traditional Residential – Consistent 4 (TR-C4) District and is developed with a 1½-story, three-bedroom, one-bathroom, 2,065-square-foot single-family residence built in 1914. A driveway has recently been approved for the property, but there is no garage at this time.

### Surrounding Land Use and Zoning:

**Northwest:** Single- and two-family residences, zoned Traditional Residential – Consistent 4 (TR-C4) District;  
**Northeast:** Two- and three-unit residences, zoned Tradition Residential – Varied 2 (TR-V2) District;

**Southeast:** Single-family residences zoned TR-C4; and  
**Southwest:** Across N Paterson Street, two-family residences, zoned TR-C4.

**Adopted Land Use Plan:** The [Comprehensive Plan](#) (2018) recommends Low-Medium Residential (LMR) uses for the subject parcel. The [Tenney-Lapham Neighborhood Plan](#) (2008) recommends MDR 1 (medium density residential 16-25 units/acre).

**Zoning Summary:** The property is in the Traditional Residential – Consistent 4 (TR-C4) District

Requirements	Required	Proposed
Lot Area (sq. ft.)	4,000	5,676
Lot Width	40 ft	43 ft
Front Yard Setback	20 ft	104 ft
Side Yard Setback	3 ft (accessory building)	3.2 ft
Rear Yard Setback	3 ft (accessory building)	3.2 ft
Usable Open Space	750 sq ft	Unknown (see zoning comment 3)
Maximum Lot Coverage	65%	Unknown (see zoning comment 4)
Maximum Building Height	25 ft (accessory dwelling unit)	24 ft

<b>Other Critical Zoning Items</b>	Utility Easements, Wellhead Protection District
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*Table Prepared by Jacob Moskowitz, 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, Analysis, and Conclusion

The applicants propose to build a 28 foot wide, 25 foot deep accessory building with a two-stall vehicle garage on the first floor and a one-bedroom, one-bathroom, 700-square foot accessory dwelling unit on the second floor. An overhead door on the front façade of the building provides vehicle access to the garage. The ADU is accessed via a door at the front of the accessory building, which also serves the garage, and a stairway up the second floor from said door. Plans show dormer windows to the front and additional windows on both sides, but no windows in the rear. The building is shown to be clad with LP Smartside siding and roofed with asphalt shingles.

The property exhibits significant grade changes with the rear of the lot being considerably higher than the front. The accessory building is proposed to be built into the hill in the rear yard. The ground level at the rear of the structure is nearly at the level of the floor of the upper story, an elevation change of at least eight feet. The height from grade to roofline is approximately 24 feet on the front façade and 15 to 16 feet at the rear corners. The applicant states the rear wall of the garage is planned to also help control erosion from the hillside. The building is proposed to be placed near the minimum side and rear setbacks at 3’2” from the side and rear lot lines.

The applicants have indicated they intend to use the ADU to house aging parents and adult children when they visit, but may also use it as a long term rental unit.

This request is subject to the Conditional Use standards as well as the Supplemental Regulations for accessory dwelling units. This analysis begins with a summary of adopted plan recommendations, and then analyzes conditional use approval standards and supplemental regulations for ADUs.

### **Conformance with Adopted Plans**

The [Comprehensive Plan](#) (2018) recommends Low-Medium Residential (LMR) uses for the subject parcel, which includes a combination of one-, two-, three-unit residences, rowhouses, and some small multifamily buildings. The Low-Medium Residential land use designation generally allows between seven and 30 dwelling units per acre. The proposal also meets the [Comprehensive Plan's](#) Neighborhoods and Housing Strategy 2 Action A regarding the inclusion of "missing middle" housing and Strategy 3 to "increase the amount of available housing," doing so in an incremental manner.

The [Tenney-Lapham Neighborhood Plan](#) (2008) recommends MDR 1 (medium density residential 16-25 units/acre) land use for the site. The neighborhood plan also recommends reinvestment by property owners in their housing stock and the creation of a wide range of affordable, quality housing opportunities. The Design Standard actions for Goal 1 (Restore and preserve the residential character of the Tenney-Lapham neighborhood) states that large backyards should be maintained, but also indicates that garages should not be set in front of residences, but should be flush or set back from the main structure. The plan does not prioritize one of these recommendations over the other. Finally, the neighborhood plan does not make mention or include any specific recommendations in support or opposition to ADUs.

In considering the adopted plan recommendations, the Planning Division believes that the proposed use is generally consistent with the [Comprehensive Plan](#) and the structure's rear-yard placement is consistent with the general guidance for accessory structures included in the [Tenney-Lapham Neighborhood Plan](#).

### **Conditional Use Standards**

The Plan Commission shall not approve a Conditional Use without due consideration of the City's adopted plan recommendations, design guidelines, and finding that all of the conditional use standards of MGO §28.183(6) are met. Staff notes that 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. While ADUs and two-story accessory structures are somewhat uncommon in the surrounding blocks, because of the slope of the rear yard, the proposed two-story building will appear to be one story from the rear. Additionally, several of the nearby properties also have detached garages. Due to the terrain of the area, surrounding structures and similar land uses, and plan recommendations for a mix of dwelling types, staff believes the Plan Commission can find the applicable conditional use approval standards can be met. Staff does note that due to the terrain, potential construction issues may arise, which are addressed in the conditions recommended by the Engineering Division and Engineering Division Mapping Section.

### **Supplemental Regulations for Accessory Dwelling Units**

Accessory dwelling units are also subject to the Supplemental Regulations of MGO Section 28.151. These include regulatory standards and suggested guidelines. 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. Staff believe all the supplemental regulations for ADUs can be found to be met.

## Conclusion

The Planning Division believes the conditional use standards can be found met. As described above, staff believes that the proposed accessory dwelling unit is generally consistent with adopted plans as described above. Further, staff believes the proposal can be compliant with the Zoning Code's supplemental regulations for Accessory Dwelling Units. Due to the terrain and slope within the rear yard and surrounding development pattern, staff believes the applicable conditions and regulations can be met.

At the time of report writing, staff understands that concerns have been raised by nearby neighbors and at least written comment has been received, which has been attached to the packet of materials for this request.

## Recommendation

### Planning Division Recommendation

The Planning Division recommends that the Plan Commission find that the conditional use standards are met and **approve** the requests to allow an accessory dwelling unit, which is also an accessory building greater than 576 square feet and 10 percent of lot area in a TR district at 429 N Paterson 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

### Planning (Contact Colin Punt, (608) 243-0455)

1. The property owner shall execute a restrictive covenant providing that the Accessory Dwelling Unit may only be used when the property is owner-occupied. The form of the restrictive covenant shall be approved by the Planning Division, Zoning Administrator, and City Attorney's Office and shall be recorded with the Dane County Register of Deeds.

2. Material and paint colors shall be shown on the building elevations.

### Zoning (Contact Jacob Moskowitz, (608) 266-4560)

3. Clearly show the useable open space areas on the final plans. A minimum of 750 square feet of usable open space is required. Usable open space at ground level shall be in a compact area of not less than two hundred (200) square feet, with no dimension less than eight (8) feet and no slope grade greater than ten percent (10%). Usable open space cannot include the required front yard setback of 20 feet.

4. Provide a calculation and plan detail for lot coverage with the final submittal. The lot coverage maximum is 65%. 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.

5. The Accessory Dwelling Unit shall comply with the supplemental regulations Section 28.151. Prior to issuance of a building permit for the Accessory Dwelling Unit, the property owner shall execute a restrictive covenant providing that the Accessory Dwelling Unit may only be used when the property is owner-occupied. The form of the restrictive covenant shall be approved by the Zoning Administrator and City Attorney's Office and shall be recorded with the Dane County Register of Deeds.

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

6. Current plan shows less than 4,000 sf disturbed area. If plans are not revised, no Erosion Control or Storm Water Management Permits will be required.
7. The proposed Accessory Dwelling Unit can either have a separate sewer lateral or connect into the plumbing of the existing building. Applicant shall revise plan to 1) show separate sewer lateral connecting to sewer in Paterson St. or 2) note on plan that the sewer lateral for Accessory Dwelling Unit will connect to the plumbing for the existing building.
8. Provide a grading plan that allows for water to drain along the shared property line to N. Patterson Street. Provide elevations of the proposed building, drive and swale(s).

9. Revise plan to show the location of all rain gutter down spout discharge locations and all drain tile discharge locations. (POLICY)
10. Revise plan set to show more information on proposed drainage for the site. Use either spot elevations and drainage arrows or proposed contours to show the required drainage information. 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)
11. Submit, prior to plan sign-off but after all revisions have been completed, a digital CAD file (single file) to the Engineering Division that is to scale and represents final construction with any private storm and sanitary sewer utilities.
12. 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).

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

13. The driveway, as proposed, is to have the southeast edge along the southeast property line. This appears it will require a cut excavation. Also, the foundation of the ADU is proposed within 3.2 feet of the rear and side property lines. That will require approximately a 13 foot deep excavation in order to construct footings and foundation walls. The Applicant shall provide on the final plans for construction, details of how soil retention will be addressed and all proposed grades planned for construction. Any disturbance of any adjacent lands required for excavation of the foundation, grading for the driveway or an earth retaining system extending beyond the property boundaries of this parcel shall require recorded easements and/or agreements with adjacent lands as necessary for the construction as proposed and for future maintenance of the driveway and ADU entry is necessary over adjacent lands.

14. Identify on the plans the lot and block numbers of recorded Plat.

15. Provide a full and complete legal description of the site or property being subjected to this application on the site plan.
16. Considering the location of the proposed improvements planned abutting property lines, the Applicant is advised to have a professional land surveyor locate the parcel boundaries in conformance with the minimum standards of property surveys in the State of Wisconsin.
17. The address of the ADU/garage is 427 N Paterson Street. The site plan shall reflect a proper street address of the property as reflected by official City of Madison Assessor's and Engineering Division records.

**Parks/Forestry Division** (Contact Ann Freiwald, (608) 243-2848)

18. 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 North Park-Infrastructure Impact Fee district. Please reference ID# 20034 when contacting Parks about this project.

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

19. Madison Fire Department recommends the installation of a residential fire sprinkler system in accordance with NFPA 13D. Additional information is available at the Home Fire Sprinkler Coalition website: <https://homefiresprinkler.org/building-residential-fire-sprinklers>.

**Water Utility** (Contact Jeff Belshaw, (608) 261-9835)

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| <ol style="list-style-type: none"><li>20. The proposed Accessory Dwelling Unit can either have a separate water service or connect into the existing water service that serves the existing building. Update the site plan to indicate which option is going to be used to serve the new Accessory Dwelling Unit.</li></ol> |
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21. If a new service option is chosen then below applies. A Water Service Application Form and fees must be submitted before connecting to the existing water system. Provide at least two working days notice between the application submittal and the requested installation or inspection appointment. Application materials are available on the Water Utility's Plumbers & Contractors website (<http://www.cityofmadison.com/water/plumbers-contractors>), otherwise they may be obtained from the Water Utility Main Office at 119 E Olin Ave. A licensed plumber signature is required on all water service applications. For new or replacement services, the property owner or authorized agent is also required to sign the application. A Water Meter Application Form will subsequently be required to size & obtain a water meter establish a Water Utility customer account and/or establish a Water Utility fire service account. If you have questions regarding water service applications, please contact Madison Water Utility at (608) 266-4646.
22. If connecting into the existing service option is chosen then below applies. A Water Meter Application Form and fees must be submitted before connecting to the existing water lateral. Provide at least two working days notice between the application submittal and the scheduled lateral connection/extension. Application materials are available on the Water Utility's Plumbers & Contractors website (<http://www.cityofmadison.com/water/plumbers-contractors>), otherwise they may be obtained from the Water Utility Main Office at 119 E Olin Ave. A licensed plumber signature is required on all water service

applications. For new or replacement services, the property owner or authorized agent is also required to sign the application. If you have questions regarding water service applications, please contact Madison Water Utility at (608) 266-4646.

*The Traffic Engineering Division, Forestry Section, and Metro Transit have reviewed this request and have recommended no conditions or approval.*