



PREPARED FOR THE PLAN COMMISSION

Project Address: 1824 Vilas Avenue (13th Aldermanic District, Ald. Eskrich)
Application Type: Conditional Use
Legistar File ID #: [49293](#)
Prepared By: Colin Punt, Planning Division
Report Includes Comments from other City Agencies, as noted
Reviewed By: Kevin Firchow, AICP, Principal Planner

Summary

Applicant: Michael Simon; Michael F. Simon Builders; 817 S. Division St.; Waunakee, WI 53597
Contact: Terry Dowell; Michael F. Simon Builders; 817 S. Division St.; Waunakee, WI 53597
Property Owner: Sandi & Tom Rutherford; 1824 Vilas Avenue; Madison, WI 53711

Requested Action: There are two Conditional Uses requested: 1) approval of a Conditional Use to allow construction of an accessory dwelling unit (ADU), and 2) approval of a Conditional Use to allow construction of an accessory building exceeding 576 square feet measured at the ground floor, at 1824 Vilas Avenue.

Proposal Summary: The applicant proposes to construct a two-story accessory building: a one bedroom, one bath accessory dwelling unit (ADU) atop a 672-square-foot, two-stall garage at the rear (north corner) of the subject property.

Applicable Regulations & Standards: This proposal is subject to the standards for conditional uses (MGO §28.183(6)), as §28.032(1) of the Zoning Code lists an *Accessory Dwelling Unit* as a conditional use in all residential districts. Furthermore, §28.131(1)(b) also states that no individual accessory building may exceed 576 square feet at ground level in TR districts except by conditional use approval. The Supplemental Regulations [MGO §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 conditional use standards are met and **approve** the requests to allow construction of an accessory dwelling unit, which is also an accessory building greater than 576 square feet in a TR district at 1824 Vilas Avenue. 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 7,680-square-foot (0.18-acre) property is located on the north corner of Vilas Avenue and Harrison Street. It is located within Aldermanic District 13 (Ald. Eskrich) as well as the Madison Metropolitan School District.

Existing Conditions and Land Use: The property is zoned Traditional Residential – Consistent 2 (TR-C2) District and is developed with a 2½-story, four-bedroom, 3-bathroom, 2,152-square-foot single-family residence. It was

originally constructed in 1907. An existing 532-square-foot (24 feet by 22 feet) detached garage at the northernmost (rear) corner of the lot is served by a rear alley.

Surrounding Land Use and Zoning:

- Northwest: Single-family residences, zoned Traditional Residential – Consistent 3 (TR-C3) District;
- Northeast: Single-family residences, zoned Traditional Residential – Consistent 2 (TR-C2) District;
- Southwest: Across Harrison Street, single-family residences, zoned TR-C3; and
- Southeast: Across Vilas Avenue, single-family residences, zoned TR-C2.

Adopted Land Use Plan: The [Comprehensive Plan](#) (2006) recommends low-density residential (LDR) uses for the subject parcel, defined as less than 16 dwelling units per acre. The [Brittingham-Vilas Neighborhood Plan](#) (1989) recommends retaining the neighborhood’s current density levels and to encourage owner-occupied housing.

Zoning Summary: The property is in the Traditional Residential – Consistent 2 (TR-C2) District

Requirements	Required	Proposed
Lot Area (sq. ft.)	4,000 sq. ft.	7,680 sq. ft.
Lot Width	40’	64’
Front Yard Setback	20’	Adequate
Max. Front Yard Setback	30’ or up to 20% greater than block average	Adequate
Side Yard Setback: Accessory Building	3’	3.1’
Reverse Corner Side Yard Setback: Accessory Building	12’ 28.131(1)(e)5.	Adequate
Rear Yard Setback: Accessory Building	3’	12.1’
Usable Open Space	750 sq. ft.	Adequate
Maximum Lot Coverage	65%	45%
Maximum Building Height: Accessory Dwelling Unit	25’	23’ 9”

28.131(1)(e)5. In the rear yard setback of a reversed corner lot, no closer to the street side lot line than the front yard setback of the adjacent property, for the first twenty-five (25) feet from the common property line. Beyond this distance, the minimum setback shall be equal to the setback required for a principal building in the district.

Site Design	Required	Proposed
Number Parking Stalls	Existing single-family detached dwelling: 1 (location only) Accessory dwelling unit: 0	Detached garage
Number Bike Parking Stalls	None	None
Building Forms	Not required	Accessory building

Other Critical Zoning Items: Utility Easements

Table 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 proposes to demolish an existing 532 square foot detached single-story garage and construct a new 672-square-foot garage with a 708-square-foot second-floor one-bedroom accessory dwelling unit on the northern corner of the lot. The applicant states that the owners' daughter will occupy the ADU.

Like the principal structure, the ADU will have a gambrel roof and dormers. Regarding materials, the applicant has stated that the ADU's materials will be similar to those of the principal structure. To that end, lap siding on the first floor and shake siding on the second floor will be used to match the principal residence, though the applicant has not provided material or paint colors. Similarly, the new building will have double-hung windows and a fiberglass shingles on the roof, similar to those of the principal residence.

The existing garage is served by a rear alley with a short concrete apron; the apron will be repaired and remain. The ADU will be accessed via a new stoop facing the rear alley and a short walkway leading from between the ADU and existing deck and patio of the principal residence. A single-car parking area is adjacent the alley and existing garage and is proposed to remain. A walkway from the principal residence to the parking area will be removed.

Analysis and Conclusion

The applicant requests approval of a conditional use to allow the construction of an accessory dwelling unit at 1824 Vilas Avenue. 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.

Conformance with Adopted Plans

In considering the adopted plan recommendation, the Planning Division believes that the proposed use is generally consistent with the [Comprehensive Plan](#) (2006) as well as the [Brittingham-Vilas Neighborhood Plan](#) (1989). The [Comprehensive Plan](#) recommends low-density residential (LDR) uses for the subject parcel, defined as less than 16 dwelling units per acre. With a density currently at less than six dwelling units per acre, even with the additional proposed dwelling unit, the density with the ADU would be about 11.3 dwelling units per acre, which is consistent with the density recommendations of the [Comprehensive Plan](#). Additionally, the [Comprehensive Plan](#) includes accessory dwelling units on the list of recommended housing types in the LDR District. The proposal also meeting the [Comprehensive Plan](#)'s "Established Neighborhoods" objective to provide a range of housing opportunities, including affordable housing, that will be attractive to both owner and renter households of different sizes, lifestyles, incomes and tastes and the policy to explore alternative and non-traditional housing solutions that will provide greater choice in affordable dwelling units. The [Brittingham-Vilas Neighborhood Plan](#) does not offer specific density or land use recommendations, but does recommend retaining the neighborhood's current density levels and to encourage owner-occupied housing. It also encourages the provision of a variety of housing choices to attract a diverse population to the neighborhood by providing affordable housing opportunities.

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. While ADUs and two-story accessory structures are somewhat uncommon, the Planning Division believes that the proposal can likely be found to meet the Conditional Use standards.

In considering the surrounding context, all six houses along the northwest side of the 1800 block of Vilas Avenue have alley-loaded rear garages. The two houses immediately northwest on Harrison Street (4500 square feet) and the two houses immediately across Harrison Street to the southwest (3600 square feet) are on "half lots." As a measure of compatibility, staff have analyzed the FAR, or floor area ratio, which compares the total building floor area (on all floors) to the lot area. (An FAR of 1.0 would indicate that the total building floor area is equal to the lot area.) The calculated FAR for the subject site is 0.57 (existing) and 0.66 (with the proposed ADU). Even with the ADU, the subject site would still be just below the estimated median FAR of 0.67 for the rest of the study area (all houses on the northwest side of the 1800 block of Vilas Avenue, the 3 houses across Vilas Avenue from the subject property, and all 5 houses on the 1100 block of Harrison Street).

Staff believes that it is important to note that conditional use standard seven states that the conditional use must conform to all applicable regulations of the district in which it is located. Because the proposed ADU is larger than 700 square feet, it does not meet the supplemental regulations regarding Accessory Dwelling Units within this zoning district. However, staff also believes that the proposal can be altered sufficiently to bring the floor area under 700 square feet and satisfy the supplemental regulations and standard seven. Further discussion can be found below.

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. A copy of these supplemental regulations is attached. 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, the standards outline occupancy requirements of the accessory dwelling unit and accompanying single-family residence. The Planning Division believes all but one of the standards can be found met. Standard Seven (7), which requires that the maximum size of an ADU be 75% of the principal dwelling's floor area, up to a maximum of 700 square feet. The proposed ADU is 708 square feet. As noted in Zoning comment #2 below, the ADU must be reduced in size to a maximum of 700 square feet. Staff believes that this change can be addressed as a condition of approval.

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 the Comprehensive Plan and the Brittingham-Vilas Neighborhood Plan. Further, staff believes the proposal can be compliant with the Zoning Code's supplemental regulations for Accessory Dwelling Units if it is reduced to a maximum floor area of 700 square feet in addition to other conditions recommended below. Staff does not anticipate that the proposed ADU will result in negative impacts on the surrounding properties.

At the time of report writing, one neighbor has provided written comments regarding the proposal. This letter is attached.

Recommendation

Planning Division Recommendation (Contact Colin Punt, (608) 243-0455)

The Planning Division recommends that the Plan Commission find that the conditional use standards are met and **approve** the requests to allow construction of an accessory dwelling unit, which is also an accessory building greater than 576 square feet in a TR district at 1824 Vilas Avenue. 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. Material and paint colors shall be shown on the building elevations.

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

2. Reduce the size of the accessory dwelling unit to a maximum of 700 sq. ft. in floor area. Floor area is defined as the sum of all gross horizontal areas under the roof of a building. The floor area of a building includes, but is not limited to:
 - (a) Basement floor space.
 - (b) Elevator shafts and stairwells at each floor.
 - (c) Floor space used for mechanical equipment, except equipment, open or enclosed, located on the roof.
 - (d) Penthouses, attic space used for human occupancy, interior balconies and mezzanines.
 - (e) Enclosed porches;
 - (f) Floor area devoted to accessory uses.
 - (g) Areas used for grade-level parking.
3. The accessory dwelling unit shall comply with the supplemental regulations of Section 28.151 Accessory Dwelling Unit in Districts Other than the TR-P District.
4. 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.

City Engineering Division - Main Office (Contact Tim Troester, (608) 267-1995)

5. Applicant can either install a separate sewer lateral or connect to the sewer lateral of the primary residence. Show sanitary sewer lateral on the plans.

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

6. The address of the ADU is 1109 Harrison St. 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 Janet Schmidt, (608) 261-9688)

7. 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(6) will be required for all new residential development associated with this project. This development is within the Central Park -Infrastructure Impact Fee district. Please reference ID# 17160 when contacting Parks about this project.
8. An existing inventory of trees (location, species, & DBH) and any tree removal plans (in PDF format) shall be submitted to the plans and Brad Hofmann – bhofmann@cityofmadison.com or 266-4816. All proposed street tree removals within the right of way shall be reviewed by City Forestry. Approval and permitting of street tree removals shall be obtained from the City Forester and/or the Board of Public Works prior to the approval of the site plan. Add City of Madison street trees to plans at proper location, labeled with species, and size (DBH).
9. 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 prior to the start of construction. 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.

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

10. 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>

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 Buildings and Structures. Shall comply with Sec. 28.131, MGO. (Am. by ORD-17-00024, 2-20-17)

Accessory Dwelling Unit in the TR-P District.

- (a) No more than one (1) accessory dwelling unit may be located on a lot.
- (b) The lot shall be a corner lot or abut an alley.
- (c) The lot shall have a minimum area of five thousand (5,000) square feet.
- (d) The lot shall have a minimum width of fifty (50) feet for corner lots and sixty (60) feet for interior lots.
- (e) An attached accessory dwelling unit shall be part of the single family dwelling on the same lot for the purpose of the bulk requirements of the district. Any secondary dwelling unit connected to the single-family dwelling is considered attached.
- (f) A detached accessory dwelling unit shall be located only above a detached garage of the single-family dwelling on the same lot.
- (g) A detached accessory dwelling unit shall be located a minimum of five (5) feet from a side or rear lot line, unless the lot is adjacent to an alley, in which case it shall be located a minimum of two (2) feet from the rear lot line.
- (h) The height, lot area per dwelling unit, and usable open space requirements for detached accessory dwelling units shall be as specified for the district.
- (i) The usable open space requirements for a detached accessory dwelling unit shall be fifty percent (50%) of the usable open space requirement in the district.
- (j) The single-family dwelling on the lot shall be owner-occupied.
- (k) The entryway to the accessory dwelling unit shall be connected to a street frontage with a paved walkway.
- (l) The accessory dwelling unit shall have a separate entrance from the single-family dwelling.

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).

Accessory Use: General Retail, Service Business, Restaurant, Coffee Shop, Tea House, Office, Professional and General. In the DR2 and UOR Districts, must be accessory to a multi-family residential use or a permitted commercial use, accessible to the public only through a lobby, and shall not exceed three thousand (3,000) square feet of floor area. (Cr. by ORD-13-00007, 1-15-13)