

# PLANNING DIVISION STAFF REPORT

August 12, 2019



PREPARED FOR THE PLAN COMMISSION

**Project Address:** 5781 Cottage Grove Road (District 16 – Ald. Tierney)  
**Application Type:** Demolition Permit  
**Legistar File ID #** [56543](#)  
**Prepared By:** Colin Punt and Mai Xue Vang, Planning Division  
Report Includes Comments from other City Agencies, as noted  
**Reviewed By:** Kevin Firchow, AICP, Principal Planner

## Summary

**Applicant/Owner:** Victor Villacrez; 122 W Washington Ave, Suite 350; Madison, WI 53703

**Requested Action:** Approval of a demolition permit with no proposed use at 5781 Cottage Grove Road

**Proposal Summary:** The applicant proposes to demolish a one-story single-family house at 5781 Cottage Grove Road. No specific site plans or future uses have been proposed at this time.

**Applicable Regulations & Standards:** This proposal is subject to the standards for demolition permits [MGO Section 28.185(7)].

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

**Summary Recommendation:** The Planning Division recommends that the Plan Commission find that the demolition standards are met and **approve** the request to demolish a one-story single-family home at 5781 Cottage Grove Road with no proposed future use. This recommendation is subject to input at the public hearing and the conditions recommended by the reviewing agencies.

## Background Information

**Parcel Location:** The subject property is located on the south of Cottage Grove Road and east of Interstate 90-39. The site is within Aldermanic District 16 (Ald. Tierney), as well as the Madison Metropolitan School District.

**Existing Conditions and Land Use:** The 38,538-square-foot (0.88-acre) subject site includes a one-story, 898-square-foot single family home constructed in 1925, zoned NMX (Neighborhood Mixed-Use) Zoning District.

### **Surrounding Land Use and Zoning:**

**North:** Across Cottage Grove Road, Jupiter Crossing, Chamomile Assisted Living, Stacey Dental, and Great Dane Pub & Brewing Co. Eastside – zoned Planned Development (PD);

**South:** Single-family residential, zoned Suburban Residential – Consistent 1 (SR-C1) and Agricultural, zoned Agricultural (A) District;

**East:** Small parking area, single-family, and 2-unit residential, zoned A; and

**West:** Interstate 90-39; west of the Interstate, 2-unit residences, zoned Suburban Residential – Consistent 3 (SR-C3).

**Adopted Land Use Plan:** The 2018 [Comprehensive Plan](#) recommends Medium Residential uses (two to five stories and 20 to 90 dwelling units per acres) for the subject site. The 2006 [Cottage Grove Neighborhood Development Plan](#) recommends general Neighborhood Commercial uses for the subject site. The commercial site is intended as a convenience center to serve primarily residents of the neighborhood.

**Zoning Summary:** The property is Neighborhood Mixed-Use (NMX) Zoning District. No new development is proposed at this time.

<b>Other Critical Zoning Items</b>	Utility Easements
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*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

The applicant requests approval to demolish a single-family home with no proposed future use at the time at 5781 Cottage Grove Road. The applicant intends to leave the lot as open space for the foreseeable future. The structure proposed for demolition is 898-square-foot that was built in 1925. The building was previously used for commercial purposes, but was most recently used as a residence. The City of Madison Assessor’s Office does not currently have additional residential building information, such as number of bedrooms. Upon removal of the structures, the disturbed area will be graded and seeded.

According to the applicant, the house was vacated by the former tenants earlier in 2019 and has since remained vacant since that time. Further, a building condition assessment was performed by a licensed inspector that has indicated several deteriorated elements including, but not limited to the roof, chimney, walls, windows and foundation. The provided [building condition report](#) of the property suggests the home has some deferred maintenance. The [document](#), too long to include in the Plan Commission packet, is available online, and will be available at the Plan Commission meeting. Code enforcement actions from the Building Inspection Division also call out several instances of deferred maintenance, though these are predominantly exterior issues.

Though the demolition activity will remove a portion of the existing paved driveway, the neighboring property to the south at 5785 Cottage Grove Road will retain access to that property though an existing private shared access drive that runs near the southeast corner of the subject parcel.

The applicant has been in discussions with the Fire Department to provide a “practice burn” structure prior to demolition, following asbestos and hazardous materials evaluations, though this arrangement has not been finalized.

## Project Analysis and Conclusion

This request is subject to the standards for demolition permits, specifically those with no proposed use, as found in Section 28.185(7)(b). The Plan Commission must find that both the requested demolition and the proposed future use are compatible with the purpose of the demolition section and the intent and purpose expressed in the NMX (Neighborhood Mixed-Use) Zoning District:

The NMX District is established to encourage and sustain the viability of commercial nodes that serve the shopping needs of residents in adjacent neighborhoods. The district is also intended to:

- Encourage pedestrian, bicycle and transit use as a means of accessing these commercial areas.

- Encourage diversification of uses, including residential, commercial, and civic uses, in order to enhance the vitality and appeal of these areas.
- Facilitate preservation, development or redevelopment consistent with the adopted goals, objectives, policies, and recommendations of the Comprehensive Plan and of adopted neighborhood, corridor or special area plans.

The statement of purpose in Section 28.185 encourages, in part, that it is “a matter of public policy that the good maintenance and rehabilitation of existing buildings...and the careful consideration and planning of changes in the urban landscape are a public necessity and are required in the interest of the health, prosperity, safety, and welfare of the people. The purpose of this section is to aid in the implementation of adopted City plans, protect neighborhood character, preserve historic buildings, encourage the reuse and/or relocation of existing buildings, discourage buildings falling into a state of severe disrepair from lack of maintenance by the owner, encourage compliance with building and minimum housing codes...” According to Building Inspection Minimum Housing staff, there have been orders issued on this house, but have been granted extensions pending demolition permit review. However, Building Inspection staff have also noted that most issues with the house are due to deferred maintenance and believes there are no serious structural issues facing the house. The Landmarks Commission reviewed the proposed demolition at its May 20, 2019 meeting and found that the building has no known historic value.

The applicant has not provided a proposed use of the site following demolition. In order to approve the demolition of a residential building with no immediate proposed use, the Plan Commission must find that, based on evidence from the Madison Fire Department, Police Department, and/or Building Inspection Division, a potential fire hazard, potential unlawful use of the property, potential public nuisance, or other public health and safety concern supports demolition or removal before a future use is proposed. In the police report included as Attachment 1, the Madison Police Department believes the house to be a potential health and safety concern due to its condition and potential undesirable use made easier due to the fact that it is almost always unoccupied, and exacerbated by its proximity to a few residential homes to the east and south of the subject lot. Due to the Neighborhood Mixed Use zoning of the property and plan recommendations, in order to promote normal and orderly development and compatibility with adopted plans, the Plan Commission has the ability to require that the alternative future use be approved by the Plan Commission prior to the issuance of permits as allowed under Section 28.185(8)(a) MGO. If the Plan Commission does find the standards for the demolition permit are met and approve the request, Planning Division staff recommend a restrictive covenant to this effect be recorded.

Due to the issues outlined above, the deteriorated condition of the structure and the concerns of the Madison Police Department, the Planning Division believes that the standards for Demolition Permits can be met.

At the time of report writing, staff had not received any public comment on this proposal.

## **Recommendation**

### **Planning Division Recommendation** (Contact Colin Punt, 243-0455 or Mai Xue Vang, 267-8732)

The Planning Division believes that the demolition standards can be found met and recommends that the Plan Commission **approve** the request to demolish the existing structure at 5781 Cottage Grove Road with no proposed future use. This recommendation is subject to input at the public hearing and the conditions recommended by the reviewing agencies.

**Recommended Conditions of Approval** Major/Non-Standard Conditions are Shaded

**Planning Division** (Contact Colin Punt, 243-0455)

1. As a future use was not presented at the time of application, the Plan Commission requires that the alternative future use be approved by the Plan Commission prior to the issuance of permits as allowed under Section 28.185(8)(a) MGO. The property owner shall execute a restrictive covenant prior to issuance of the demolition permit, which requires Plan Commission approval of the proposed alternative use of the property prior to issuance of building permits for any new construction. The standards for approval of the proposed alternative use shall be those in contained in Section 28.185 of the Zoning Ordinance. The form of the restrictive covenant shall be approved by the Planning Division and City Attorney's Office.

**Zoning** (Contact Jacob Moskowitz, 266-4560)

2. Section 28.185(7)(a)5. requires that if a demolition or removal permit is approved, it shall not be issued until the reuse and recycling plan is approved by the Recycling Coordinator, Bryan Johnson (608-266-4682).
3. Section 28.185(9)(a): A demolition or removal permit is valid for one (1) year from the date of the Plan Commission.
4. Section 28.185(10) Every person who is required to submit a reuse and recycling plan pursuant to Section 28.185 (7)(a)5. shall submit documents showing compliance with the plan within sixty (60) days of completion of demolition.

**Engineering Division** (Tim Troester, 267-1995)

5. Applicant shall provide proof of septic system abandonment from Public Health- Madison and Dane County as a condition of plan approval. Septic System abandonment application is available online at <http://www.publichealthmdc.com/environmental/septage/>

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

6. Per the letter of intent, access to the parcels to the south at 5785 and 5801 Cottage Grove Road will be provided through the property located to the east of this site at 5809 Cottage Grove Road, under the same ownership as this parcel. Applicant shall provide the copy of the recorded access easement agreement providing legal access rights over the adjacent property for the parcels to the south.
7. The applicant shall demonstrate compliance with Section 37.07 and 37.08 of the Madison General Ordinances regarding permissible soil loss rates. The erosion control plan shall include Universal Soil Loss Equation (USLE) computations for the construction period. Measures shall be implemented in order to maintain a soil loss rate below 5.0 tons per acre per year.
8. For Commercial sites < 1 acre in disturbance the City of Madison is an approved agent of the Department of Commerce and WDNR. As this project is on a site with disturbance area less than one (1) acres, and contains a commercial building, the City of Madison is authorized to review infiltration, stormwater management, and erosion control on behalf of the Department of Commerce. No separate submittal to Commerce or the WDNR is required. (NOTIFICATION)

**Traffic Engineering Division** (Contact Sean Malloy, 266-5987)

9. Developer shall provide a recorded copy of any joint driveway ingress/egress and crossing easements and shall be noted on face of plan.

**Fire Department** (Contact William Sullivan, 261-9658)

10. Please consider allowing Madison Fire Dept. to conduct training sequences prior to demolition. Contact MFD Training Division to discuss possibilities: Division Chief Tracy Burrus at tburrus@cityofmadison.com or (608)266- 5959.

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

11. Prior to commencing with demolition of any structures on this property, the existing private well must be properly abandoned according to the requirements of the Wisconsin Administrative Code, Chapter NR 812, which includes proper filling and sealing of the well. All wells located in the City of Madison or on premises served by the Madison Water Utility shall be abandoned by the owner of the property if there is no valid well operation permit issued by the Madison Water Utility (MGO 13.21 (4)). The purpose of the ordinance is to prevent unused and improperly abandoned wells from contaminating Madison's drinking water aquifer.

As specified in the ordinance, your responsibilities include:

- Contact a licensed well driller or pump installer and schedule the well abandonment.
- Contact the Water Utility, at least 48 hours prior to the abandonment, and provide the scheduled date and time of the abandonment. The contact number is (608) 266-4654.
- Pay for the cost of the abandonment.
- Ensure that a completed copy of the Wisconsin DNR Abandonment Form is provided to the Madison Water Utility within ten (10) days of the completion of the well abandonment. This form will be completed by the well driller or pump installer who performs the abandonment.

The responsibilities of the Water Utility include:

- Witness the abandonment to ensure that the private well is properly filled and sealed.

Contact Madison Water Utility once you confirm date of the abandonment and the licensed well driller or pump installer performing the work. If you have any questions, contact the Madison Water Utility Water Quality Department at 266-4654.

12. The Madison Water Utility shall be notified to remove the water meter at least two working days prior to demolition. Contact the Water Utility Meter Department at (608) 266-4765 to schedule the meter removal appointment.
13. Madison Water Utility will be required to sign off as part of the approval review associated with this Land Use Application/Site Plan Review prior to the issuance of building permits for the proposed development.