PLANNING DIVISION STAFF REPORT

February 27, 2023

PREPARED FOR THE PLAN COMMISSION

Project Address: **4009 Birch Avenue** (11th Alder District - Alder Tishler)

Application Type: Demolition Permit

Legistar File ID # 75708

Prepared By: Colin Punt, Planning Division
Report Includes Comments from other City Agencies, as noted

Reviewed By: Kevin Firchow, AICP, Principal Planner

Summary

Applicant: Meri Tepper; Associated Housewrights; 1217 Culmen St; Madison, WI 53713

Owner: Jim Kenneally; 4009 Birch Ave; Madison, WI 53711

Requested Action: Approval of a demolition permit for a single-family residence at 4009 Birch Avenue.

Proposal Summary: The applicant proposes to demolish a one-and-one-half-story, single-family residence at 4009 Birch Avenue. Upon demolition, the applicant intends to construct a new single-family residence, which is a permitted use and not before the Plan Commission.

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

Review Required By: Plan Commission

Summary Recommendation: The Planning Division recommends that the Plan Commission find that the demolition standards are met and **approve** the request to demolish a single-family residence at 4009 Birch Avenue. This recommendation is subject to input at the public hearing and the conditions recommended by the reviewing agencies.

Background Information

Parcel Location: The 6,000-square foot property is located on the southeast side of Birch Avenue between Westmorland Boulevard and Toepffer Avenue. It is located within Alder District 11 (Alder Tishler) and 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 one-and-one-half-story, 952-square-foot single-family residence with one-stall attached garage built in 1944.

Surrounding Land Use and Zoning:

North: Across Birch Avenue, single-family residences zoned TR-C2 (Traditional Residential - Consistent 2 district);

East: Single-family residences zoned TR-C1 (Traditional Residential-Consistent 1 district);

South: Single-family residences zoned TR-C2; and

West: Single-family residences zoned TR-C2.

Adopted Land Use Plan: The Comprehensive Plan (2018) recommends Low Residential (LR) for the subject site. The Midvale Heights/Westmorland Joint Neighborhood Plan (2009) recommends Low Density Residential.

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

Requirements	Required	Proposed
Lot Area (sq. ft.)	4,000	6,000
Lot Width	40 ft	50 ft

Other Critical Zoning Items	Utility Easements

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, Project Analysis, and Conclusion

The owner applicant is requesting approval to demolish a one-and-one-half-story single-family residence at 4009 Birch Avenue. In the demolition photos (pp 3-5) and letter of intent provided by the applicant, it appears that the existing structure is dated, with deferred maintenance by the previous owner and several safety and spatial deficiencies, though staff is not aware of any significant structural issues. Planning Division Staff has not inspected the building. Following demolition, the applicant intends to construct a two-story single-family residence, a permitted use in this zoning district; this future use is not before the Plan Commission. The applicant intends to begin demolition in May 2023. Construction of the new residence would immediately follow.

Compliance with Adopted Plans

The Comprehensive Plan (2018) recommends Low Residential (LR) for the subject site. LR areas a predominantly made up of single-family and two-family structures, generally at densities less than 15 dwelling units per acre. The Midvale Heights/Westmorland Joint Neighborhood Plan (2009) recommends Low Density Residential. The neighborhood plan also includes a number of general guidelines "to implement additional controls on new construction…in residential areas" beginning on page 59 of the plan document.

Demolition Permit Standards

At its October 5, 2021 meeting, the Common Council adopted Ordinance 21-00065 (ID 67074) to revise the standards and process for demolition and removal permits in Section 28.185 of the Zoning Code to remove consideration of proposed future use as a factor in approving demolition requests. In order to approve a demolition request under the revised standards, the Plan Commission shall consider the seven approval standards in §28.185(9)(c) M.G.O. when making a determination regarding demolition requests. The factors include a finding that the proposed demolition or removal is consistent with the statement of purpose of the demolition permits section and with the health, prosperity, safety, and welfare of the City of Madison.

The Planning Division believes that the standards for Demolition Permits can be met, but provides the following comments regarding standards 1 and 4.

Standard 1 states that "*the applicant has included information related to any efforts to relocate the building, including but not limited to assessing the costs of relocation, the impact of relocation on city terrace trees, and the structural soundness of the building.*" The applicant has indicated in discussions with Planning Division staff the

belief that because of the safety and spatial deficiencies of the house, it does not have value on a residential lot elsewhere in Madison and that the building's condition may limit the feasibility for relocation to another residential lot. Staff have not received or reviewed information regarding costs of moving, impacts on street trees, or the house's structural stability but staff notes that there is an existing street terrace tree directly in front of the house, which may need to be removed as part of a relocation effort.

Staff also makes note of Standard 4, "*That the Plan Commission has received and considered the report of the City's Historic Preservation Planner regarding the historic value of the property as well as any report that may be submitted by the Landmarks Commission.*" At its February 6, 2023 meeting, the Landmarks Commission found that the existing building at 4009 Birch Avenue has no known historic value.

Planning Division staff believe all other standards of approval can be met or are not applicable to this request.

At the time of report writing, staff is not aware of public comment regarding this proposal.

Recommendation

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

The Planning Division recommends that the Plan Commission find that the demolition standards are met and **approve** the request to demolish a single-family residence at 4009 Birch Avenue. 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

Zoning (Contact Jacob Moskowitz, 266-4560)

1. 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).

2. Section 28.185(10) Every person who is required to submit a reuse and recycling plan pursuant to Sec. 28.185(7)(a)5. shall submit documents showing compliance with the plan within sixty (60) days of completion of demolition.

3. Section 28.185(9)(a) A demolition or removal permit is valid for one (1) year from the date of the Plan Commission.

Engineering Division (Tim Troester, 267-1995)

4. Obtain a permanent sewer plug permit for each existing sanitary sewer lateral serving a property that is not to be reused and a temporary sewer plug permit for each sewer lateral that is to be reused by the development. The procedures and fee schedule is available online at http://www.cityofmadison.com/engineering/permits.cfm. (MGO CH 35.02(14))

Engineering Division – Mapping Section (Jeff Quamme, 266-4097)

5. There is a 20' Building Line shown and denoted on the plat of Westmorland lying within this lot (Lot 5, Block 11). The building Lines were not noted as a restriction on that plat as required by a public body and also the plat does not name a public body as a grantee, promisee or beneficiary. Therefore the 20' building line is not

specifically enforceable by the City of Madison but may be by another private entity. The building as shown on the plan is less than 20' from the street right of way. Owner / Applicant / Consultant may wish to obtain opinion from legal counsel.

6. The Owner / Applicant / Consultant is advised to have a professional surveyor confirm the boundaries of the property prior to construction to verify required setbacks are obtained.

Fire Department (Contact William Sullivan, 261-9658)

7. Please consider allowing Madison Fire Dept. to conduct training sequences prior to demolition. Contact MFD Training Division to discuss possibilities: Division Chief Jeff Larson at jtlarson@cityofmadison.com or (608) 2665946.

Forestry Section (Contact Brad Hofmann, 267-4908)

8. An existing inventory of street trees located within the right of way shall be included on the site, demo, utility, landscape, grading, fire aerial apperatus and street tree plan sets. The inventory shall include the following: location, size (diamater at 4 1/2 feet), and species of existing street trees. The inventory should also note if a street tree is proposed to be removed and the reason for removal.

9. All proposed street tree removals within the right of way shall be reviewed by City Forestry before the Plan Commission meeting. Street tree removals require approval and a tree removal permit issued by City Forestry. Any street tree removals requested after the development plan is approved by the Plan Commission or the Board of Public Works and City Forestry will require a minimum of a 72-hour review period which shall include the notification of the Alderperson within whose district is affected by the street tree removal(s) prior to a tree removal permit being issued. Add as a note on the street tree plan set.

10. Contractor shall take precautions during construction to not disfigure, scar, or impair the health of any street tree. Contractor shall operate equipment in a manner as to not damage the branches of the street tree(s). This may require using smaller equipment and loading and unloading materials in a designated space away from trees on the construction site. Any damage or injury to existing street trees (either above or below ground) shall be reported immediately to City Forestry at (608) 266-4816. Penalties and remediation shall be required. Add as a note on the site, grading, utility, demolition, and street tree plan set.

11. As defined by the Section 107.13 of City of Madison Standard Specifications for Public Works Construction: No excavation is permitted within 5 feet of the trunk of the street tree or when cutting roots over 3 inches in diameter. If excavation is necessary, the Contractor shall contact Madison City Forestry at (608) 266-4816 prior to excavation. City of Madison Forestry personnel shall assess the impact to the tree and to its root system prior to work commencing. Tree protection specifications can be found on the following website: https://www.cityofmadison.com/business/pw/specs.cfm Add as a note on the site, grading, utility, demolition and street tree plan sets.

12. Section 107.13(g) of City of Madison Standard Specifications for Public Works Construction (website: https://www.cityofmadison.com/business/pw/specs.cfm) addresses soil compaction near street trees and shall be followed by Contractor. The storage of parked vehicles, construction equipment, building materials, refuse, excavated spoils or dumping of poisonous materials on or around trees and roots within five (5) feet of the tree or within the protection zone is prohibited. Add as a note on both the site and street tree plan sets.

13. On this project, street tree protection zone fencing is required. The fencing shall be erected before the demolition, grading or construction begins. The fence shall include the entire width of terrace and, extend at least 5 feet on both sides of the outside edge of the tree trunk. Do not remove the fencing to allow for deliveries or equipment access through the tree protection zone. Add as a note on both the site and street tree plan sets.

14. Street tree pruning shall be coordinated with City Forestry at a minimum of two weeks prior to the start of construction for this project. Contact City Forestry at (608)266-4816. All pruning shall follow the American National Standards Institute (ANSI) A300 - Part 1 Standards for pruning. Add as a note on both the site and street plan sets.

Water Utility (Contact Jeff Belshaw, 261-9835)

15. 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.

16. 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.

Items not directly related to the demolition permit are reference items for future permitted use site plan review

The Planning Division, Traffic Engineering Division, Parks Division, and Metro Transit have reviewed this request and have recommended no conditions of approval.