



PREPARED FOR THE URBAN DESIGN COMMISSION AND PLAN COMMISSION

Project Address: 9601 Elderberry Road (Lot 2 of the approved Paragon Place plat)
Application Type: Conditional Use
Legistar File ID # [33466](#)
Prepared By: Timothy M. Parks, Planning Division
Report includes comments from other City agencies, as noted.

Summary

Applicant & Property Owner: Ziegler at Elderberry, LLC c/o Ryan McMurtrie, United Financial Group, Inc.; 660 W. Ridgeview Drive; Appleton.

Requested Action: Approval of a conditional use for a residential building complex to allow construction of 146 apartments in 4 buildings on property generally addressed as 9601 Elderberry Road. The site was identified as Lot 2 on the approved final plat of Paragon Place.

Proposal Summary: The applicant is requesting conditional use approval for a residential building complex to allow 146 apartment units to be constructed in 4 buildings and a clubhouse and pool on an approximately 8.8-acre parcel. Construction of the apartment complex will occur in phases beginning in 2015, with completion scheduled for 2016.

Applicable Regulations & Standards: The Zoning Code defines a Residential Building Complex as a group of two or more residential buildings on a single parcel or tract of land, developed under single ownership and common management subject to supplemental regulations in Section 28.151. Table 28C-1 of Section 28.032(1) identifies residential building complexes as a conditional use. Section 28.183 of the Zoning Code provides the process and standards for the approval of conditional use permits. Review by the Urban Design Commission 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 believes that the Urban Design Commission can grant the current request **initial approval** based on the site plan and general massing of the 4 apartment buildings subject to a condition that the building form standards in the Zoning Code are met prior to final review by the UDC. Staff recommends that the Plan Commission find the standards met and **approve** a conditional use for a residential building complex to allow construction of a 146-unit, 4-building apartment complex at 9601 Elderberry Road on Lot 2 of the approved final plat of Paragon Place following a recommendation by the Urban Design Commission and subject to input at the public hearing and the conditions from reviewing agencies beginning on page 6 of this report.

Background Information

Parcel Location: The subject site is an approximately 8.8-acre parcel generally located on the west side of extended Bear Claw Way at future Wilrich Street, approximately a quarter-mile north of Mineral Point Road. The larger Paragon Place development occupies a 40-acre parcel located on the south side of Elderberry Road, approximately three-quarters of a mile west of N. Pleasant View Road in Aldermanic District 9 (Skidmore); Middleton-Cross Plains Area School District.

Existing Conditions and Land Use: Undeveloped land zoned SR-V2 (Suburban Residential–Varied 2 District) pursuant to a 2013 zoning approval.

Surrounding Land Use and Zoning:

North: Undeveloped land in the Town of Middleton; single-family residences in the Sauk Heights subdivision, zoned SR-C2 (Suburban Residential–Consistent 2 District);

South: Blackhawk Church and Blackhawk Church Town Center, zoned PD-GDP and PD-SIP;

East: Existing and future single-family residences in the Woodstone subdivision, zoned TR-C3 (Traditional Residential–Consistent 3 District);

West: Undeveloped land in the Town of Middleton.

Adopted Land Use Plan: The Elderberry Neighborhood Development Plan recommends that the subject site be developed with medium-density and mixed-density residential uses between 12-16 units an acre.

Zoning Summary: The subject site is zoned SR-V2 (Suburban Residential–Varied 2 District):

Requirements	Required	Proposed
Lot Area	2,000 sq. ft. per unit (292,000 sq. ft.)	386,616 sq. ft.
Lot Width	60'	Adequate
Minimum Front Yard	25'	25' from Bear Claw Way
Reversed Corner Side Yard	12'	25.52' north side/ 34.66' south side
Side Yard	10'	10'
Rear Yard	Lesser of 25% lot depth or 30	27.4' – See Zoning Conditions
Maximum Lot Coverage (all bldgs.)	60%	43.9%
Usable Open Space	500 sq. ft./ unit (73,000 sq. ft.)	96,258 sq. ft.
Maximum Building Height	4 stories/ 52'	See Zoning conditions
Building Form	Large multi-family building	DOES NOT COMPLY – See Analysis
Automobile Parking	1 per dwelling unit (146)	311
Accessible Parking	9 total w/ 2 van-accessible	Adequate
Bicycle Parking	1 per dwelling unit (146) & 1 guest space per 10 dwelling units (15)=161	171 – See Zoning conditions
Other Critical Zoning Items		
Yes:	Urban Design (Residential Building Complex), Utility Easements, Barrier Free	
No:	Wellhead Protection, Floodplain, Landmarks, Waterfront Development	
<i>Prepared by: Pat Anderson, Asst. Zoning Administrator</i>		

Environmental Corridor Status: The property is not located within a mapped environmental corridor (Map A8).

Public Utilities and Services: The site is located in the Central Urban service Area and will be served by a full range of urban services as it develops, with the exception of Metro Transit service, which does not currently provide service west of Junction Road.

Previous Approvals

On May 21, 2013, the Common Council conditionally approved request to rezone 33.2 acres of property located at 9601 Elderberry Road from A (Agricultural District) to TR-U1 (Traditional Residential–Urban 1 District), SR-V2 (Suburban Residential–Varied 2 District) and TR-V2 (Traditional Residential–Varied 2 District) and the preliminary plat of “Highlands Community,” containing 6 lots for future residential development with up to 390 dwelling units, 1 lot for unspecified future development, and 2 outlots for stormwater management. A portion of the 40-acre site was not rezoned and remains zoned A.

On March 18, 2014, the Common Council conditionally approved a revised preliminary plat for “Paragon Place,” proposing 7 lots for future residential development with up to 390 dwelling units, 1 outlot for future development, and 1 outlot for public stormwater management, and approval of a final plat creating 2 lots for residential development and the outlot for public stormwater management.

Project Description

The applicant is requesting approval of a conditional use for a residential building complex to allow construction of an apartment development with 146 dwelling units in 4 buildings on an approximately 8.8-acre site at the southeastern corner of a larger 40-acre property generally addressed as 9601 Elderberry Road. The subject site was zoned SR-V2 (Suburban Residential–Varied 2 District) as part of the zoning and subdivision approval for the former Highlands Community, now Paragon Place, subdivision.

The proposed residential building complex will consist of two 32-unit buildings that will extend along the west side of extended Bear Claw Way, which will be extended through the Paragon Place development from Elderberry Road south to Wilrich Street by the applicant. (Bear Claw Way is scheduled to be extended from Wilrich Street to Mineral Point Road in 2014 by a City project.) The 32-unit buildings will include one level of underground parking containing 37 automobile stalls.

The applicant proposes construction of a 44-unit building in the northwestern corner of the subject site, which will extend along the western half of the south side of “Public Street B”, and a 38-unit building to be located midway along the north side of extended Wilrich Street. Those buildings will be served by one level of underground parking containing 51 and 44 automobile stalls, respectively. The proposed 2,300 square-foot clubhouse, pool and pool deck will be located near the center of the site between two stormwater management ponds that will drain west to east across the site toward a public infiltration basin proposed across Bear Claw Way opposite the northeastern corner of the subject property. The letter of intent indicates that the clubhouse and pool amenities will be constructed with the first phase of the apartment development.

The project calls for the 146 apartments to consist of 54 one-bedroom units and 96 two-bedroom units to be served by 171 underground parking stalls and 111 surface stalls to be located throughout the development. The proposed buildings will principally stand 3 stories in height before stepping down to two-story wings at the ends.

Analysis and Conclusion

This application is subject to the conditional use standards of Section 28.183(6). A residential building complex is 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.” The supplemental regulations for a residential building complex (as applicable in the SR-V2 zoning district) are:

- (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 UDC 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.

The Planning Division generally believes that the conditional use standards and the above supplemental regulations can be met for the proposed residential building complex, and that the 16.6-unit per acre density of the apartment development is consistent with the medium-density residential uses (12-16 units per acre) recommended for the property in the Elderberry Neighborhood Development Plan.

However, while the project is generally consistent with the planned density recommendations and conditional use standards, Planning and Zoning staff do not believe that the 4 proposed buildings meet the Zoning Code building design/ form standards for large multi-family buildings in Section 28.172(7) of the Zoning Code. That section states:

Building Type: A multi-story building with combined entrances, stairways and elevators, comprised of single- or two- level occupant spaces stacked on top of each other, typically accessed from a central corridor.

Access and Entry: The principal entry to the building shall be oriented to the primary abutting street. Each building shall include a stoop or porch oriented to the street. Parking, loading and trash disposal may be accessed from an alley or common drive serving one or more buildings.

Massing and Articulation: Massing, proportions and articulation of Large Multi-Family Buildings shall respond to existing residential buildings in their vicinity. Maximum building length parallel to the primary abutting street shall not exceed 160 feet without a significant articulation of the facade. Facades facing a public street shall be vertically articulated at a minimum interval of 40 feet.

As submitted, the street-facing walls of the two 32-unit buildings facing Bear Claw Way ("North East Elevation") contain 2 egress doors from the underground parking garages but no active entrances to either the building or individual units accessible from the public sidewalk. Instead, the primary entrances to both buildings face to the west and the surface parking lots located adjacent. On the south wall of the 38-unit building facing Wilrich Street, doors leading to patios for individual unit are shown, but no building entrances that lead to the public sidewalk. Also, the walkways leading from this building to the public sidewalk on the site plans do not match the door locations on the floorplans or elevations. The 44-unit building on the north side of the site is laid out

similarly to the 38-unit building, with no active entrances facing Public Street B as required by the above section of the Zoning Code, but a prominent entrance facing south towards the surface parking.

Planning staff believes that the project should not receive *final* approval by the Urban Design Commission (UDC) until the plans have been revised to comply with these zoning requirements. However, staff believes that the information submitted may be adequate enough to allow the UDC to recommend initial approval based on the site plan and general massing of the 4 buildings, and for the Plan Commission to approve the conditional use for the residential building complex subject to a condition that the project receives final approval from the UDC prior to the issuance of building permits. In its final review of the project, the Urban Design Commission in consultation with Planning and Zoning staff, would determine if the 4 buildings comply with Section 28.172(7) of the Zoning Code, including entrance orientation and articulation of the buildings, in particular the 38- and 44-unit buildings, which exceed the 160-foot length threshold and therefore require “significant” articulation of the facades.

In the event that the UDC or Plan Commission do not feel that the standards for approval can be met until the building form issues have been addressed, referral of the project would be appropriate.

Recommendation

Planning Division Recommendation (Contact Timothy M. Parks, 261-9632)

The Planning Division believes that the Urban Design Commission can grant the current request **initial approval** based on the site plan and general massing of the 4 apartment buildings subject to a condition that the building form standards in Section 28.172(7) of the Zoning Code are met prior to final review by the UDC. Staff recommends that the Plan Commission find the standards met and **approve** a conditional use for a residential building complex to allow construction of a 146-unit, 4-building apartment complex at 9601 Elderberry Road on Lot 2 of the approved final plat of Paragon Place following a recommendation by the Urban Design Commission and subject to input at the public hearing and the following conditions:

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

1. The site plans, landscaping plans, building floorplans and elevations shall be revised to comply with the building form standards for large multi-family buildings in Section 28.172(7) of the Zoning Code prior to final approval and issuance of building permits. All sidewalks shown on the final plans that extend from a public sidewalk to a building shall lead to a working entrance to the building as reflected on the floorplans and elevations.
2. Prior to final approval and issuance of building permits for the first building, the applicant shall receive approval of the residential building complex from the Urban Design Commission. During its final review of the project, the Commission would determine if the 4 buildings comply with Section 28.172(7) of the Zoning Code, including entrance orientation and articulation of the buildings, in particular the 38- and 44-unit buildings, which exceed the 160-foot length threshold and require “significant” articulation of the facades.

City Engineering Division (Contact Janet Dailey, 261-9688)

3. The primary access to the buildings and clubhouse is from internal private drives. The two private access drives will need to be named in order to have addresses assigned. Submit name suggestions to Lori Zenchenko, Lzenchenko@cityofmadison.com.
 4. The applicant shall build City of Madison Standard Streets & Sidewalks for all public streets adjacent to the proposed site, including Bear Claw Way, Wilrich Street, Public Street C and Public Street B.
 5. The pending final plat application for this property shall be completed and recorded with the Dane County Register of Deeds (ROD) prior to issuance of any building permits. When the recorded plat image is available from the ROD, the Assessor's Office can then create the new Address-Parcel-Owner (APO) data in GEO so that the Accela system can upload this data and permit issuance made available for this new land record.
 6. It is expected that the applicant will subdivide the proposed Lot 6 (which is shown as Lot 1 on the Final Plat) and phase the construction of the improvements. The applicant shall work with City Engineering staff to determine what public improvements are necessary to serve the individual phases of the development and shall enter into development agreements for those corresponding improvements.
 7. The City is proposing the construction of Bear Claw Way in 2014 as an assessable public works contract. The developer has been coordinating this construction with the City and will continue to coordinate for the required needs for this site. In addition, the City is proposing the construction of Wilrich Street in 2015 as an assessable public works contract. The developer shall work cooperatively with the City to coordinate the construction and timing of the public street and infrastructure with the proposed development of this site.
 8. The proposed stormwater management area as shown on the site plans is anticipated to be private with a public easement over it that allows the public water to be conveyed across the site. Public storm sewer and drainage easements for the public storm sewer will also be required. The developer shall enter into a maintenance agreement for the ponds and stormwater management areas and shall provide access easements to any public pipe across the site as determined by the City Engineer. This can be accomplished with the plat approval or by separate recorded easement(s). No permanent above grade improvements or private underground utilities will be allowed within the public stormwater and drainage easements.
 9. Modify the plans to clearly denote what is being requested for approval as part of the site plan submittal.
10. The developer shall enter into a City/Developer agreement for the installation of public improvements required to serve this development. The developer shall be required to provide deposits to cover City labor and materials and surety to cover the cost of construction. The developer shall meet with the City Engineer to schedule preparation of the plans and the agreement. The City Engineer will not sign off on this project without the agreement executed by the developer.
 11. In accordance with 10.34 MGO – Street Numbers: Submit a PDF of each floor plan to Lori Zenchenko in Engineering Mapping (Lzenchenko@cityofmadison.com) so that an interior addressing plan can be developed. If there are any changes pertaining to the location of a unit, the deletion or addition of a unit, or to the location of the entrance into any unit, (before, during or after construction) the addresses may need to be changed. The interior address plan is subject to the review and approval of the Fire Marshal.

12. This development is subject to impact fees for the Elderberry Neighborhood Sanitary Sewer Impact Fee district and the Lower Badger Mill Creek Impact Fee District. All impact fees are due and payable at the time building permits are issued.
13. The approval of this development does not include the approval of the changes to roadways, sidewalks or utilities. The applicant shall obtain separate approval by the Board of Public Works and the Common Council for the restoration of the public right of way including any changes requested by developer. The City Engineer shall complete the final plans for the restoration with input from the developer. The curb location, grades, tree locations, tree species, lighting modifications and other items required to facilitate the development or restore the right of way shall be reviewed by the City Engineer, City Traffic Engineer, and City Forester.
14. The applicant shall provide the City Engineer with a survey indicating the grade of the existing sidewalk and street. The Applicant shall hire a Professional Engineer to set the grade of the building entrances adjacent to the public right of way. The applicant shall provide the City Engineer the proposed grade of the building entrances. The City Engineer shall approve the grade of the entrances prior to signing off on this development.
15. A City-licensed contractor shall perform all work in the public right of way.
16. All damage to the pavement on future Bear Claw Way adjacent to this development shall be restored in accordance with the City's Pavement Patching Criteria.
17. This project falls in the Rock River TMDL Zone and is subject to increased erosion control enforcement as authorized by Resolution 14-00043 passed by the Common Council on January 21, 2014. The project will be expected to meet a higher standard of erosion control than the minimum standards set by the Wisconsin Department Natural Resources (WDNR).
18. The plan set shall be revised to show a proposed private internal drainage system on the site. This information shall include the depths and locations of structures and the type of pipe to be used.
19. 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 7.5-tons per acre per year.
20. Prior to approval, this project shall comply with Chapter 37 of the Madison General Ordinances regarding stormwater management. Specifically, this development is required to: detain the 2- and 10-year storm events; control 80% TSS (5 micron particle) off of new paved surfaces; provide infiltration in accordance with Chapter 37 of MGO, and; complete an erosion control plan and 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 MGO.
21. The applicant shall submit, prior to plan sign-off, digital CAD files to the Land Records Coordinator in the City Engineering Division. (Lori Zenchenko) lzenchenko@cityofmadison.com. The digital copies shall be drawn to scale and represent final construction including: building footprints, internal walkway areas, internal site parking areas, lot lines/ numbers/ dimensions, street names, and other miscellaneous impervious areas. All other levels (contours, elevations, etc.) are not to be included with this file submittal. E-mail file

transmissions are preferred. The digital CAD file shall be to scale and represent final construction. Any changes or additions to the location of the building, sidewalks, parking/pavement during construction will require a new CAD file. The single CAD file submittal can be either AutoCAD (dwg) Version 2001 or older, MicroStation (dgn) Version J or older, or Universal (dxf) format. Please include the site address in this transmittal.

22. The applicant shall submit prior to plan sign-off, electronic copies of any Stormwater Management File including: SLAMM DAT files; RECARGA files; TR-55/HYDROCAD/etc., and; sediment loading calculations. If calculations are done by hand or are not available electronically the hand copies or printed output shall be scanned to a PDF file and provided.
23. The applicant shall submit, prior to plan sign-off, digital PDF files to the City Engineering Division. The digital copies shall be to scale, shall have a scale bar on the plan set, and shall contain the following items: building footprints; internal walkway areas; internal site parking areas; lot lines and right-of-way lines; street names, stormwater management facilities and; detail drawings associated with stormwater management facilities (including if applicable planting plans).
24. All outstanding Madison Metropolitan Sewerage District (MMSD) and City of Madison sanitary sewer connection charges are due and payable prior to Engineering sign-off, unless otherwise collected with a Developer's / Subdivision Contract. Contact Janet Dailey (261-9688) to obtain the final MMSD billing a minimum of two working days prior to requesting City Engineering signoff.

Traffic Engineering Division (Contact Eric Halvorson, 266-6527)

25. Underground parking does not meet parking standards as set by MGO Section 10.08(6). All parking stalls must be 9 x18 feet (large and medium vehicle standards) free of all obstructions including support columns. The plan as submitted does not appear to meet this requirement. A dimension of 24 feet minimum (medium and large vehicles) clear of all obstructions including elevators is required. The applicant prior to final sign off shall submit plans that meet requirements of MGO Section 10.08(6).

26. When the applicant shall submit plans for approval, the applicant shall show the following: items in the terrace as existing (e.g., signs and street light poles), type of surfaces, existing and proposed property lines, addresses, one contiguous plan (showing all easements, all pavement markings, building placement, and stalls), adjacent driveway approaches to lots on either side and across the street, signage, percent of slope, semitrailer movements and vehicle routes, dimensions of radii, aisles, driveways, stalls including the 2 feet overhang, and a scaled drawing at 1" = 20'. Contact City Traffic Engineering if you have questions.
27. 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.
28. 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.
29. All parking facility design shall conform to the standards in MGO Section 10.08(6).

Zoning Administrator (Contact Pat Anderson, 266-5978)

30. The project proposes principal entry into each building that are oriented to the interior surface parking area and not the primary abutting streets. The maximum building length parallel to the primary abutting street shall not exceed 160 feet without significant articulation of the façade as required in section 28.172(7). The proposed project falls short of these requirements.
31. Provide a minimum bike parking spaces for each building distributed as both *Short Term* and *Long Term* bicycle parking, as required per MGO Sections 28.141(4) and 28.141(11). Provide a detail of the bike rack design including any wall mounts. NOTE: Current code requires a maximum of 25% of the bike parking spaces may be structured bike parking (wall-mount or stacked). Identify and dimension required stalls on the final plan. NOTE: A bike-parking stall is 2 feet by 6 feet with a 5-foot access area. Provide a detail of the bike rack to be installed on the final plans.
32. For yard purposes, Bear Claw Way shall be designated as the front yard and Public Street C the rear yard requiring a 30-foot setback. The 44-unit building set at 27.04 feet projects into the required 30-foot rear yard. NOTE: The Plan Commission may reduce setback requirements for this development, provided that equivalent open space areas are provided.

33. Meet all supplemental regulations for a Residential Building Complex in MGO Section 28.151.
34. Provide height details for all buildings pursuant to MGO Section 28.134.
35. Exterior lighting provided shall be in accordance with MGO Section 10.085. Provide an exterior lighting plan and fixture cut sheets with the final plan submittal.

Fire Department (Contact Bill Sullivan, 261-9658)

36. Provide fire apparatus access as required by IFC 503 2012 edition, MGO Section 34.503, as follows:
- a.) The site plans shall clearly identify the location of all fire lanes.
 - b.) MGO 34.503/IFC 503 Appendix D105: Provide an aerial apparatus access fire lane that is at least 26 feet wide, if any part of the building is over 30 feet in height. The near edge of the aerial fire lane shall be within 30 feet and not closer than 15 feet from the structure, and parallel to one entire side. The aerial fire lane shall cover not less than 25% of the building perimeter.
 - c.) Provide a minimum unobstructed width of 26 feet for at least 20 feet on each side of the fire hydrant.
 - d.) Where there is a change in the direction of a fire lane, the minimum inside turning radius shall be at least 28 feet.

Water Utility (Contact Dennis Cawley, 261-9243)

37. All operating private wells shall be identified and permitted and all unused private wells shall be abandoned by the Water Utility in accordance with MGO Section 13.21.

Parks Division (Contact Kay Rutledge, 266-4714)

38. Park impact fees (comprised of the Park Development Impact Fee per MGO Sec. 20.08(2) and the Parkland Impact Fee in lieu of land dedication per MGO Sec. 16.23(8)(f) and 20.08(6)) will be required for all new residential development in this development. The developer must select a method for payment of park fees before signoff on the conditional use. This development is within the Garner park impact fee district (SI29). Please reference ID# 13117.1 when contacting Parks Division staff about this project.

39. Approval of plans for this for this project does not include any approval to prune, remove or plant trees in the public right-of-way. Permission for such activities must be obtained from the City Forester, 266-4816.