

PLANNING DIVISION STAFF REPORT

July 13, 2020



PREPARED FOR THE PLAN COMMISSION

Project Address: 1020 Sherman Avenue (District 2 – Ald. Heck)
Application Type: Conditional Use
Legistar File ID # [60664](#)
Prepared By: Sydney Prusak, AICP, Planning Division
Report Includes Comments from other City Agencies, as noted
Reviewed By: Kevin Firchow, AICP, Principal Planner

Summary

Applicant, Contact

& Property Owner: Maura & Michael Crooks; 1020 Sherman Avenue; Madison, WI 53703

Requested Action: The applicants request approval of a conditional use to construct an accessory building on a lakefront property in the Traditional Residential – Consistent 2 (TR-C2) Zoning District at 1020 Sherman Avenue.

Proposal Summary: The applicants propose to construct a 316-square-foot, one-stall detached garage (accessory building). No changes to existing structures are proposed with this development.

Applicable Regulations & Standards: This proposal is subject to the standards for Conditional Uses [MGO §28.183] and Lakefront Development [MGO §28.138]. MGO §28.138(2)(a) states that any accessory building on zoning lots abutting Lake Mendota and associated bays shall require Conditional Use approval.

Review Required By: Plan Commission (PC)

Summary Recommendation: The Planning Division recommends that the Plan Commission find that the standards for conditional uses and lakefront development are met and **approve** the conditional use request to construct an accessory building on a lakefront property in the Traditional Residential – Consistent 2 (TR-C2) Zoning District at 1020 Sherman Avenue. This recommendation is subject to input at the public hearing and the conditions recommended by the reviewing agencies.

Background Information

Parcel Location: The 10,044-square-foot (0.23-acre) subject property is located on the west side of Sherman Avenue near the intersection with N Brearly Street. The site is within Aldermanic District 2 (Ald. Heck) and the Madison Metropolitan School District.

Existing Conditions and Land Use: The subject site includes the existing 2,888 square-foot, two-story single-family home. City Assessor’s records indicate the home was constructed in 1907 and contains three bedrooms and two bathrooms. Currently, the property does not contain a garage (accessory building).

Surrounding Land Use and Zoning:

North: Single and two-family residences, zoned Traditional Residential - Consistent 2 (TR-C2) district;

East: Single-family and three-family residences, zoned TR-C2;

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

West: Lake Mendota

Adopted Land Use Plan: The [Comprehensive Plan](#) (2018) recommends Low Residential (LR) land uses for subject site and surrounding properties, classified as up to 15 dwelling units per acre (du/ac) and up to two stories in height. The [Tenney-Lapham Neighborhood Plan](#) (2008) recommends Low Density Residential (LDR) for the subject site and surrounding properties, also classified at up to 15 du/ac.

Zoning Summary: The property is zoned TR-C2 (Traditional Residential-Consistent 2).

Requirements	Required	Proposed
Lot Area (sq. ft.)	4,000 sq. ft.	10,044 sq. ft.
Lot Width	40'	45'
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' north side Adequate south side
Rear Yard Setback: Accessory Building	3' from OHWM	Adequate
Usable Open Space	750 sq. ft.	Adequate
Maximum Lot Coverage	65%	Less than 65%
Maximum Building Height: Accessory Building	15'	Less than 15'

Site Design	Required	Proposed
Number Parking Stalls	Single-family detached dwelling: 1 (location only)	Detached garage
Landscaping and Screening	Inventory of shoreline vegetation	Yes
Building Forms	Not required	Accessory building

Other Critical Zoning Items	Floodplain; Utility Easements
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Tables Prepared by Jenny Kirchgatter, Assistant Zoning Administrator

Environmental Corridor Status: The subject site is not located in a mapped environmental corridor, though a small portion of the property adjacent to the lake is within the flood storage district. The proposed new construction is not located within this area.

Public Utilities and Services: This property is served by a full range of urban services.

Project Description and Previous Approvals

On April 27, 2020, the Plan Commission reviewed a conditional use request for this property to construct a 700-square-foot accessory building containing a one-stall garage, accessory dwelling unit (ADU), and a rooftop patio. At that meeting, the Plan Commission found that the Conditional Use Standards were not met and voted to place the land use request on file without prejudice. In making their motion, the Plan Commission noted that Approval Standard #3: "The uses, values and enjoyment of other property in the neighborhood for purposes already established will not be substantially impaired or diminished in any foreseeable manner" and Approval Standard #9: "When applying the above standards to any new construction of a building or an addition to an existing building the Plan Commission shall find that the project creates an environment of sustained aesthetic desirability

compatible with the existing or intended character of the area and the statement of purpose for the zoning district. In order to find that this standard is met, the Plan Commission may require the applicant to submit plans to the Urban Design Commission for comment and recommendation” could not be found met [MGO §28.183(6)(a)]. Materials from that application are available [here](#). The revised application currently before the Plan Commission is a response to that finding.

Staff notes that the Plan Commission approved a similar request for an accessory building on this property in 2011. Materials for that application are available [here](#). That accessory building was never constructed and the property has since transferred ownership.

The applicants now proposes to construct a new 316-square-foot accessory building (garage) on a lakefront parcel at 1020 Sherman Avenue. The proposed building will be approximately 12 by 26 feet and will be located behind the primary residence (five feet from the northern property line).

In terms of building materials, the accessory building will be similar to the existing primary structure, with a beige stucco exterior and white trim, a stone base, and a pitched roof. According to the applicant, there will be an overhead garage door on both the front and rear elevations, to allow for driving through the garage. Standing below the 15-foot maximum height requirement, the proposed garage will be significantly shorter than the two-story principal building.

Project Analysis and Conclusion

This proposal is subject to the standards for Conditional Uses [MGO §28.183] and Lakefront Development [MGO §28.138]. MGO §28.138(2)(a) states that any accessory building on zoning lots abutting Lake Mendota and associated bays shall require Conditional Use approval. In regards to the approval 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.

Adopted Plan Recommendations

The [Comprehensive Plan](#) (2018) recommends Low Residential (LR) land uses for subject site and surrounding properties, classified as up to 15 dwelling units per acre (du/ac) and up to two stories in height. The [Tenney-Lapham Neighborhood Plan](#) (2008) recommends Low Density Residential (LDR) for the subject site and surrounding properties, also classified at up to 15 du/ac. The Neighborhood Plan provides additional recommendations for the specific subject area as well as general recommendations for residential areas throughout the neighborhood. These recommendations include, “providing a range of housing choices” and that “extra care should be given to infill projects within these areas of existing housing.” Furthermore, the subject site is included in the Sherman Avenue National Historic District. Heather Bailey, the City’s Preservation Planner, provided the following information regarding the Historic District and the proposed accessory building:

“The subject property is located in the Sherman Avenue National Register Historic District. At the time of designation in 1988, there were 76 contributing primary structures and 42 contributing garages and boathouses. The district is significant for its architecture and is representative of the styles of residential architecture of working and middle class neighborhoods in Madison in the late 19th and early 20th centuries. The description of resources includes the following statement: “garages and boathouses are typically of non-descript design and are located toward the rear of the property.” The proposed accessory building appears to meet that description for style and placement of an accessory structure in this district.

National Register listing is an honorary designation with financial incentives to encourage property owners to rehabilitate historic structures for new and ongoing uses. The Secretary of the Interior's Standards for Rehabilitation have this to say about new structures:

Standard 9: New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.

Standard 10: New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

The proposed new structure appears to meet those standards. Additionally, *the most recent garage proposal seems to be more in character with the rest of the structures in the district.* As such, this proposal would not damage the integrity of the National Register-designated historic district."

In considering the adopted plans, the Planning Division believes that the proposed use is consistent with the low density land use recommendations and meets the National Register standards.

Conditional Use Standards

In regards to the approval 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. The Planning Division believes that the Conditional Use Approval Standards can be found met and provides further discussion on Standards #3, #4, and #13. Staff advises the Plan Commission that in evaluating the conditional use standards, 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.

Conditional Use Standard #3 states, "The uses, values and enjoyment of other property in the neighborhood for purposes already established will not be substantially impaired or diminished in any foreseeable manner." The Planning Division believes that this standard can be found met. Staff notes that the proposed 316-square-foot, one-stall garage meets all the Zoning requirements in regards to setbacks and building placement, and is a similar size to other accessory buildings on the lakefront block face.

Conditional Use Standard #4 states, "The establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district." Staff also believes that this standard can be found met. In keeping with the Preservation Planner's findings, the proposed new structure appears to meet the National Register's Standards as the accessory building has a non-descript design and is located toward the rear of the property. Furthermore, Planning staff does not believe that the new accessory building will disrupt the historic integrity of the Sherman Avenue block face.

Lastly, Conditional Use Standard #13 states, "When applying the above standards to lakefront development under Sec. 28.138, the Plan Commission shall consider the height and bulk of principal buildings on the five (5) developed lots or three hundred (300) feet on either side of the lot with the proposed development." It is important to note that this standard relates to principal buildings. Given that no changes to the principal structure are proposed with this application, the Zoning Administrator determined that this standard does not apply. Many of the surrounding properties have detached garages and boathouses, and the exact size of each structure is not known. The Planning

Division recommends that the Plan Commission consider the other Conditional Use Standards when making their motion and subsequent action.

Lakefront Development Standards

The lakefront development standards were established to further the maintenance of safe and healthful conditions by preserving and enhancing water quality, habitats, viewsheds, and other environmental and aesthetic qualities of lakes. This section includes additional regulations including limitations on the clearing of shoreline vegetation, requirements for public sewer, environmental protections, and additional lot coverage standards. This section also includes the methodology to establish the building setback from the lake. Staff believes the lakefront development standards are met.

Staff notes that the subject site is not located in a mapped environmental corridor, although a narrow area adjacent to the lakefront falls within the flood storage district. No changes are proposed in this area.

Public Input

At their April 9, 2020 meeting, the Tenney-Lapham Neighborhood Association (TLNA) voted to support this the previous proposal for this property, which included an accessory dwelling unit (ADU) and rooftop patio. This revised application did not go before TLNA for a new vote.

At the time of report writing, staff did not receive any public comments for the current proposal before the Plan Commission.

Conclusion

The Planning Division believes that the standards for Lakefront Development and Conditional Uses can be found met. The proposal is believed to be consistent with the [Comprehensive Plan](#) (2018) and the [Tenney-Lapham Neighborhood Plan](#) (2008) Low Density recommendations. Furthermore, given the placement of the structure in the rear of the site, staff does not believe that the accessory building will diminish the integrity or character of the Sherman Avenue National Historic District. The Planning Division believes that this proposal is in keeping with the surrounding pattern of development.

Recommendation

Planning Division Recommendation (Contact Sydney Prusak, (608) 243-0554)

The Planning Division recommends that the Plan Commission find that the standards for conditional uses and lakefront development are met and **approve** the conditional use request construct an accessory building on a lakefront property in the Traditional Residential – Consistent 2 (TR-C2) Zoning District at 1020 Sherman 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

Planning Division (Contact Sydney Prusak, (608) 243-0554)

1. The following information is provided for the reference of the applicant as many lakefront properties are associated with locations of Native effigy mounds and archaeological sites.

Burial Sites Preservation (§ 157.70):

(2r) Site Disturbance Prohibited. Except as provided under subs (4) and (5) and State Statute 157.111 and 157.112, no person may intentionally cause or permit the disturbance of a burial site or catalogued land contiguous to a catalogued burial site.

(3) Report of Disturbed Burial Sites. (a) Except as provided under s. 979.01, a person shall immediately notify the Wisconsin Historical Society (608-264-6502) if the person knows or has reasonable grounds to believe that a burial site or the catalogued land contiguous to a catalogued burial site is being disturbed or may be disturbed contrary to the requirements of subs. (4) and (5).

Many lakefront properties are associated with locations of Native American effigy mounds and archeological sites. This site is known to be associated with archeological and historic resources. The Burial Sites Preservation statute requires that the property owner contact the Wisconsin Historical Society to discuss the location of the proposed project and any possible disturbance of an archaeological or historic resource before the work commences. During the construction work, if a burial site disturbance occurs, the work shall stop immediately until the Wisconsin Historical Society is able to assess the site.

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

2. Show the height of the proposed accessory building on the elevations. The maximum height is fifteen (15) feet. Height is measured from the average elevation of the approved grade at the front of the building to the midpoint of the ridge of a gable, hip, or gambrel roof. The average height shall be calculated by using the highest ridge and its attendant eave. The eave point used shall be where the roof line crosses the side wall.
3. Filling, grading and excavation of the zoning lot may be permitted only where protection against erosion, sedimentation and impairment of fish and aquatic life has been assured. Obtain necessary erosion control permits.

Forestry (Contact Brad Hofmann, (608) 266-4816)

4. 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 prior to the approval of the site plan.
5. 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/2018/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

Engineering Division – Mapping Section (Contact Jeff Quamme, (608) 266-4097)

6. Provide for review the amendment or replacement of the Shared Driveway Easement per Doc No 443488 in order to better represent the actual planned driveway and associated uses. The document(s) shall be executed prior to building permit issuance.