

TO: Plan Commission
DATE: March 24th, 2025
SUBJECT: 621 Brookstone Way, Conditional Use Permit - CUP

A request by Randall Miller for a Conditional Use Permit (CUP) for an Accessory Dwelling Unit within the Single-Family Residential (SR-4) Zoning District. Parcel PIN: 291-0815-0533-040

SITE DETAILS:

Acres: 0.24

Current Zoning: Single-Family Residential

Existing Land Use: Single-Family Home with an approved Short-Term Rental

Future Land Use Designation: Single-Family Residential

BACKGROUND AND APPLICATION DESCRIPTION:

The applicant is seeking approval of a conditional use permit for an 'Accessory Dwelling Unit' (ADU) within an existing home in the Single-Family Residential (SR-4) Zoning District. The ADU will be located in the walkout basement of the existing structure. The 'ADU will have one bedroom and be approximately 766 sq. ft. in area with an entrance and stairs located inside the garage. The proposed ADU will utilize an existing finished area previously used for an approved 'Short Term Rental'. The applicant will be giving up the right to utilize this space as a 'Short Term Rental' with the approval of this CUP.

STAFF EVALUATION:

Site Plan Review Committee:

See Minutes of March 24, 2025.

Land Use and Zoning:

1. Within the Single-Family (SR-4) Zoning District an 'Accessory Dwelling Unit' is an accessory land use permitted as a Conditional Use *[per § 550-24C(2)(b)]*. An 'Accessory Dwelling Unit' includes a dwelling unit that is located on the same lot as a principal residential structure to which it is accessory, and that is subordinate in area to the principal dwelling, *[per § 550-56AA]*.
2. Applicable requirements for all accessory dwelling units include the following: *[per § 550-56AA]*
 - a) No more than one accessory dwelling unit shall be allowed on a parcel.
 - b) Rooftop decks shall not be allowed.
 - c) The minimum gross floor area of accessory dwelling units shall be 300 square feet.
 - d) Under no circumstance shall an accessory dwelling unit's square footage exceed the first habitable floor of the principal structure.
 - e) An owner of the property must occupy at least one dwelling unit on the parcel as their primary place of residence.
 - f) Accessory dwelling units shall not be used for short-term rentals under § 550-56Y.
3. Applicable requirements for accessory dwelling units internal to a principal residential structure include the following: *[per § 550-56AA(7)]*
 - a) Internal accessory dwelling units are limited to 800 square feet. In no case shall the floor area of the internal accessory dwelling unit exceed the floor area of the first floor of the primary structure.

- b) The entire internal accessory dwelling unit shall be located on one level.
- c) The creation of the accessory dwelling unit shall not result in additional entrances facing the public street on the principal structure.

WISCONSIN STATUTES:

All Conditional Use Permits are subject to the requirements of Wisconsin Act 67.

Under 2017 Wisconsin Act 67: Section 16. 62.23 (7) (de) Conditional Use Permits.

1. 62.23 (7) (de)(1) In this paragraph:

a. "Conditional use" means a use allowed under a conditional use permit, special exception, or other special zoning permission issued by a city, but does not include a variance.

b. "Substantial evidence" means facts and information, other than merely personal preferences or speculation, directly pertaining to the requirements and conditions an applicant must meet to obtain a conditional use permit and that reasonable persons would accept in support of a conclusion.

2. 62.23 (7) (de)(2)

a. If an applicant for a conditional use permit meets or agrees to meet all of the requirements and conditions specified in the city ordinance or those imposed by the city zoning board, the city shall grant the conditional use permit. Any condition imposed must be related to the purpose of the ordinance and be based on substantial evidence.

b. The requirements and conditions described under subd. 2. a. must be reasonable and, to the extent practicable, measurable and may include conditions such as the permit's duration, transfer, or renewal. The applicant must demonstrate that the application and all requirements and conditions established by the city relating to the conditional use are or shall be satisfied, both of which must be supported by substantial evidence. The city's decision to approve or deny the permit must be supported by substantial evidence.

3. 62.23 (7) (de)(3)

Upon receipt of a conditional use permit application and following publication in the city of a class 2 notice under ch. 985, the city shall hold a public hearing on the application.

4. 62.23 (7) (de)(4)

Once granted, a conditional use permit shall remain in effect as long as the conditions upon which the permit was issued are followed, but the city may impose conditions such as the permit's duration, transfer, or renewal, in addition to any other conditions specified in the zoning ordinance or by the city zoning board.

5. 62.23 (7) (de)(5)

If a city denies a person's conditional use permit application, the person may appeal the decision to the circuit court under the procedures contained in par. (e) 10.

PLAN COMMISSION DECISIONS:

Accessory Dwelling Unit (All) Land Use Criteria	Applicant Provided Substantial Evidence		Opponent Provided Substantial Evidence		PC Finds Standards Met	
	Yes	No	Yes	No	Yes	No
1. No more than one accessory dwelling unit shall be allowed on a parcel.	<u>Yes</u>	No	Yes	<u>No</u>	Yes	No
2. Rooftop decks shall not be allowed.	<u>Yes</u>	No	Yes	<u>No</u>	Yes	No
3. The minimum gross floor area of accessory dwelling units shall be 300 square feet.	<u>Yes</u>	No	Yes	<u>No</u>	Yes	No
4. Under no circumstance shall an accessory dwelling unit's square footage exceed the first habitable floor of the principal structure.	<u>Yes</u>	No	Yes	<u>No</u>	Yes	No
5. An owner of the property must occupy at least one dwelling unit on the parcel as their primary place of residence.	<u>Yes</u>	No	Yes	<u>No</u>	Yes	No
6. Accessory dwelling units shall not be used for short-term rentals under § <u>550-56Y</u> .	<u>Yes</u>	No	Yes	<u>No</u>	Yes	No

Accessory Dwelling Unit (<u>Internal</u>) Land Use Criteria	Applicant Provided Substantial Evidence		Opponent Provided Substantial Evidence		PC Finds Standards Met	
	Yes	No	Yes	No	Yes	No
1. Internal accessory dwelling units are limited to 800 square feet. In no case shall the floor area of the internal accessory dwelling unit exceed the floor area of the first floor of the primary structure.	<u>Yes</u>	No	Yes	<u>No</u>	Yes	No
2. The entire internal accessory dwelling unit shall be located on one level.	<u>Yes</u>	No	Yes	<u>No</u>	Yes	No
3. The creation of the accessory dwelling unit shall not result in additional entrances facing the public street on the principal structure.	<u>Yes</u>	No	Yes	<u>No</u>	Yes	No

If Plan Commission answers “no” to any of the questions, above, the CU permit must be denied. Otherwise, proceed to the conditions of approval.

PLAN COMMISSION OPTIONS:

The following are possible options for the Plan Commission:

1. Deny the Conditional Use Permit, based on failure to provide substantial evidence to meet one or more of the regulatory standards.
2. Approve the Conditional Use Permit without conditions, based on successfully providing substantial evidence of regulatory compliance.
3. Approve the Conditional Use Permit with conditions as identified by the Plan Commission:

STAFF RECOMENDATION:

- Staff recommends approval of this Conditional Use Permit.

ATTACHMENTS:

- Application materials