

TO: Plan Commission  
DATE: June 9th, 2025  
SUBJECT: 861 West Street, Conditional Use Permits - CUPs

A request by David Saxby for two Conditional Use Permits: a combination of accessory structures exceeding a total of 1,000 square feet of gross floor area and exceeding the maximum height of an accessory structure. Parcel PIN(s): 291-0815-0531-010

SITE DETAILS:

Acres: 0.77 acres  
Current Zoning: Single-Family Residential (SR-4)  
Existing Land Use: Single-Family Home  
Future Land Use Designation: Single-Family Residential

BACKGROUND AND APPLICATION DESCRIPTION:

The applicant is seeking approval of two Conditional Use Permits (CUPs) to allow for construction of a storage shed. The first CUP request is to exceed the 1,000 S.F. maximum for accessory structures. The property currently contains an existing 576 S.F. garage and two garden sheds of approximately 144 S.F and 63 S.F. The proposed shed (30x50) will be 1,500 S.F. The 63 S.F. garden shed is to be removed when the new storage shed is constructed, resulting in a total of 3 accessory structures remaining on the property. The total S.F. of accessory structures after the project is complete will be approximately 2,220 S.F.

The second CUP request is to exceed the maximum height requirements for accessory structures. Within the Single-Family Residential (SR-4) Zoning District, the maximum allowed height of an accessory structure is 15 feet. The maximum height of the proposed shed would be 22ft high at the peak. A CUP granted for a height exception is required to specifically state the maximum permitted height of the proposed building or structure.

The storage shed will be sided with vinyl siding and will be setback at least 25 ft from the Brentwood Lane ROW and be in-line with the home to the west.

STAFF EVALUATION:

Land Use and Zoning:

1. Within the Single-Family Residential (SR-4) Zoning District, a 'Residential Accessory Structure' is an accessory land use permitted by right [per § 550-24C(1)(b)].
2. Within Accessory Land Uses, applicable regulations are detailed for a 'Residential Accessory Structure' [per § 550-56C].

Applicable regulations for a 'Residential Accessory Structure' land use include the following:

- A **conditional use permit** is required for:
  - Any combination of 'Residential Accessory Structures' that exceeds 1,000 square feet of gross floor area [per § 550-56C(1)(b)[1].
- 3. Within the Single-Family Residential (SR-4) Zoning District, the maximum allowed height of an accessory structure is 15 feet. [per § 550-24F(2)(i)].

4. Exceptions to Maximum Height Regulations are allowed under Section § 550-83C:

C. Any building or structure not otherwise accounted for by Subsection B above may exceed said maximum height regulations with the granting of a **conditional use permit** which specifically states the maximum permitted height of the proposed building or structure.

5. Building height for structures are defined under Section § 550-15:

**Building Height:**

The vertical distance from the lowest elevation of the adjoining ground level or the established grade, whichever is lower, to the top of the cornice of a flat roof, to the decline of a mansard roof, to a point of the roof directly above the highest wall of a shed roof, to the uppermost point on a round or other arch-type roof, or to the midpoint distance of the highest gable on a pitched or hip roof. Unless excepted by specific provisions in this chapter, building height includes the height of any structures attached to a building.

**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 DECISION:**

Residential Accessory Structure CUP Criteria	Applicant Provided Substantial Evidence		Opponent Provided Substantial Evidence		PC Finds Standards Met	
	<u>Yes</u>	No	Yes	<u>No</u>	<u>Yes</u>	No
A conditional use permit is required for any combination of 'Residential Accessory Structures' that exceeds 1,000 square feet of gross floor area.	<u>Yes</u>	No	Yes	<u>No</u>	<u>Yes</u>	No
A conditional use permit is required to exceed the maximum building height regulations.	<u>Yes</u>	No	Yes	<u>No</u>	<u>Yes</u>	No

*If Plan Commission answers "no" to any of the questions, above, the CUP must be denied. Otherwise, proceed to the conditions of approval.*



## BUILDING SAFETY & ZONING DIVISION PLAN COMMISSION STAFF REPORT

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### PLAN COMMISSION OPTIONS:

The following are possible options for the Plan Commission:

1. Deny any or all of the Conditional Use Permit, based on failure to provide substantial evidence to meet one or more of the regulatory standards.
2. Approve any or all of the Conditional Use Permits without conditions, based on successfully providing substantial evidence of regulatory compliance.
3. Approve any or all of the Conditional Use Permits with conditions as identified by the Plan Commission:
  - a. The CUP granted under § 550-83C shall state: The maximum height of the accessory structure (storage shed) shall be no more than 22ft.

### STAFF RECOMENDATION:

- Staff recommends approval of these three Conditional Use Permits with conditions.

### ATTACHMENTS:

- Application materials.