



BUILDING, SAFETY & ZONING DEPARTMENT

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TO: Plan Commission
DATE: January 22nd, 2024
SUBJECT: 806 R Elm Street, Conditional Use Permit - CUP

A request by Thomas Schlieve, agent for Schlieve Rentals, for a Conditional Use Permit (CUP) for a Non-Residential Accessory Structure greater than 1,250 square feet. Parcel PIN(s): 291-0915-3241-008

SITE DETAILS:

Acres: 6.37
Current Zoning: General Industrial
Existing Land Use: Vacant Land
Future Land Use Designation: Planned Mixed Use

BACKGROUND AND APPLICATION DESCRIPTION:

The applicant is seeking approval of a conditional use permit for a Non-Residential Accessory Structure greater than 1,250 square feet. The applicant will be constructing a 4,992 sq ft heated storage building identical to an adjacent previously constructed building. The applicant plans for 12ft concrete aprons in the front of each structure.

STAFF EVALUATION:

Site Plan Review Committee:
See Minutes of January 22nd, 2024.

Land Use and Zoning:

1. Within the General Industrial (GI) Zoning District a 'Non-Residential Accessory Structure' is an Accessory land uses permitted by right *[per § 550-36C(1)(m)]*. A 'Non-Residential Accessory Structure' greater than 1,250 square feet of gross floor area shall require a conditional use permit *[per § 550-56CC(2)]*.

Applicable regulations for 'Non-Residential Accessory Structure' land uses include the following: *[per § 550-56CC]*

- Three total nonresidential accessory structures shall be permitted by right.
 - Nonresidential accessory structures greater than 1,250 square feet of gross floor area shall require a conditional use permit.
 - Shall not exceed the maximum building height of the zoning district.
 - Setback shall not be less than the minimum accessory structure setback of the zoning district. Nonresidential accessory structures in the Central Business Zoning District may have a minimum setback of zero feet.
2. Applicable nonresidential use requirements in the General Industrial Zoning District including building and paving setbacks as well as building separation requirements have been met by the site plan *[per § 550-36G]*.

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Opportunity Runs Through It

3. The plans submitted by the applicant do not include exterior lighting for the Non-Residential Accessory Structure. If exterior lighting is to be installed it must meet the requirements of § 550-110.

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:

Non-Residential Accessory Structure Land Use Criteria	Applicant Provided Substantial Evidence		Opponent Provided Substantial Evidence		PC Finds Standards Met	
	Yes	No	Yes	No	Yes	No
1. Three total nonresidential accessory structures shall be permitted by right.	Yes	No	Yes	No	Yes	No
2. Nonresidential accessory structures greater than 1,250 square feet of gross floor area shall require a conditional use permit.	Yes	No	Yes	No	Yes	No
3. Shall not exceed the maximum building height of the zoning district.	Yes	No	Yes	No	Yes	No
4. Setback shall not be less than the minimum accessory structure setback of the zoning district. Nonresidential accessory structures in the Central Business Zoning District may have a minimum setback of zero feet.	Yes	No	Yes	No	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:
 - a. Any installed exterior lighting must meet the requirements of § 550-110.

ATTACHMENTS:

- Application materials