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TO: Plan Commission
DATE: September 23rd, 2024
SUBJECT: 1629 E Main Street, Conditional Use Permits - CUPs

A request by Todd Grady for three Conditional Use Permits: a combination of accessory structures exceeding a total of 1,000 square feet; exceeding the maximum height of an accessory structure; and an exception to exterior construction material standards. Parcel PIN(s): 291-0915-3342-013

SITE DETAILS:

Acres: 2.82
Current Zoning: Single-Family Residential (SR-4)
Existing Land Use: Single-Family Home
Future Land Use Designation: Planned Mixed Use

BACKGROUND AND APPLICATION DESCRIPTION:

The applicant is seeking approval of three Conditional Use Permits (CUPs) to allow for construction of a storage shed on the property. The first CUP request is to exceed the 1,000 sq ft maximum for accessory structures. The proposed shed will be approximately 2,300 square feet. A garden shed of approximately 100 square feet and an attached garage of approximately 575 square feet exist on the property, for a total of approximately 675 square feet of existing accessory structures. The maximum area of the lot that can be covered by accessory structures is 10%. The existing residential lot consists of 122,839 square feet of area of which 10% is 12,284 square feet. The square footage of the existing accessory structures in addition to the proposed accessory structure would not exceed 10% of the lot area. The second CUP request is to exceed the maximum height requirements for accessory structures. The proposed shed would be 22ft high at the peak with 15ft high side walls. A CUP granted for a height exception is required to specifically state the maximum permitted height of the proposed building or structure. The third CUP request is for an exception to exterior construction material standards. The proposed shed is to use corrugated steel siding with a two-tone wainscoting. Corrugated steel siding panels are not considered high quality decorative building materials. The proposed shed is located in a highly visible location.

STAFF EVALUATION:

Land Use and Zoning:

1. Within the Single-Family Residential (SR-4) Zoning District, a 'Private Residential Garage or Shed' is an accessory land use permitted by right *[per § 550-24C(1)(b)]*.
2. Within the Two-Family Residential (TR-6) Zoning District, the maximum accessory building coverage is 10% of the lot area *[per § 550-25F(1)(b)[5]]*.
3. Within Accessory Land Uses, applicable regulations for a 'Private Residential Garage or Shed' are detailed under 'Detached residential garage, carport, utility shed, play structure, or lawn ornament' *[per § 550-56C]*.

Applicable regulations for a 'Detached residential garage, carport, utility shed, play structure, or lawn ornament' land use include the following:

- One attached or detached garage and two accessory structures shall be permitted by right *[per § 550-56C(1)(a)]*.
 - A **conditional use** permit is required for:
 - A combination of accessory structures exceeding a total of 1,000 square feet *[per § 550-56C(1)(b)(1)]*; or
 - More than two accessory structures *[per § 550-56C(1)(b)(2)]*.
4. Within the Single-Family Residential (SR-4) Zoning District, the maximum allowed height of an accessory structure 15 feet. *[per § 550-24F(2)(i)]*.
5. 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.
6. 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 deckline 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.

7. Chapter 550 Zoning, Article XI Performance Standards sets exterior construction material standards for all residential, office, commercial districts, and the PI Zoning District. *[per § 550-121C]* These exterior construction material standards require that only high-quality decorative exterior construction materials be used on the visible exterior of the following portions of all structures and buildings: *[per § 550-121C(1)]*
- (a) Any portion of the building or structure visible from adjacent residentially zoned property;
 - (b) Any portion of the building or structure located within 50 feet of a public right-of-way; or
 - (c) Any other portion of the building or structure visible from a public street and/or situated at an angle of 60° or less from a line which is parallel to the nearest right-of-way (for uncurved rights-of-way) or from a line which is parallel to a chord connecting the right-of-way boundary on the inside side of the curve at points located at, or opposite from, the two outer boundaries of the subject property along the right-of-way line (for curved rights-of-way).
8. Per the exterior construction material standards in Article XI, the following exterior construction materials shall **not** be considered "high quality decorative": nondecorative concrete block or cinder block, nondecorative concrete foundation walls or panels, corrugated walls or panels, nondecorative plywood, asphaltic siding, or other nondecorative surfaces as determined by the Plan Commission. *[per § 550-121C(2)]*

9. Chapter 550 Zoning, Article XI Performance Standards **does allow** for exceptions to the use of material otherwise prohibited through the **conditional use** process. [per § 550-121F]

F. Exceptions. The conditional use process (per § 550-142) may be used to propose the use of a material otherwise prohibited by Subsection C above.

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:

- "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.
- "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)

- 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.
- 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.

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:

Private Residential Garage or Shed CUP Criteria	Applicant Provided Substantial Evidence		Opponent Provided Substantial Evidence		PC Finds Standards Met	
Square footage is below the maximum accessory building coverage of 10% of the lot area.	<u>Yes</u>	No	Yes	<u>No</u>	<u>Yes</u>	No
A conditional use permit is required for a combination of accessory structures exceeding a total of 1,000 square feet.	<u>Yes</u>	No	Yes	<u>No</u>	<u>Yes</u>	No
A conditional use permit is required for more than two accessory structures.	<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.

PLAN COMMISSION OPTIONS:

The following are possible options for the Plan Commission:

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

ATTACHMENTS:

- Application materials

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