
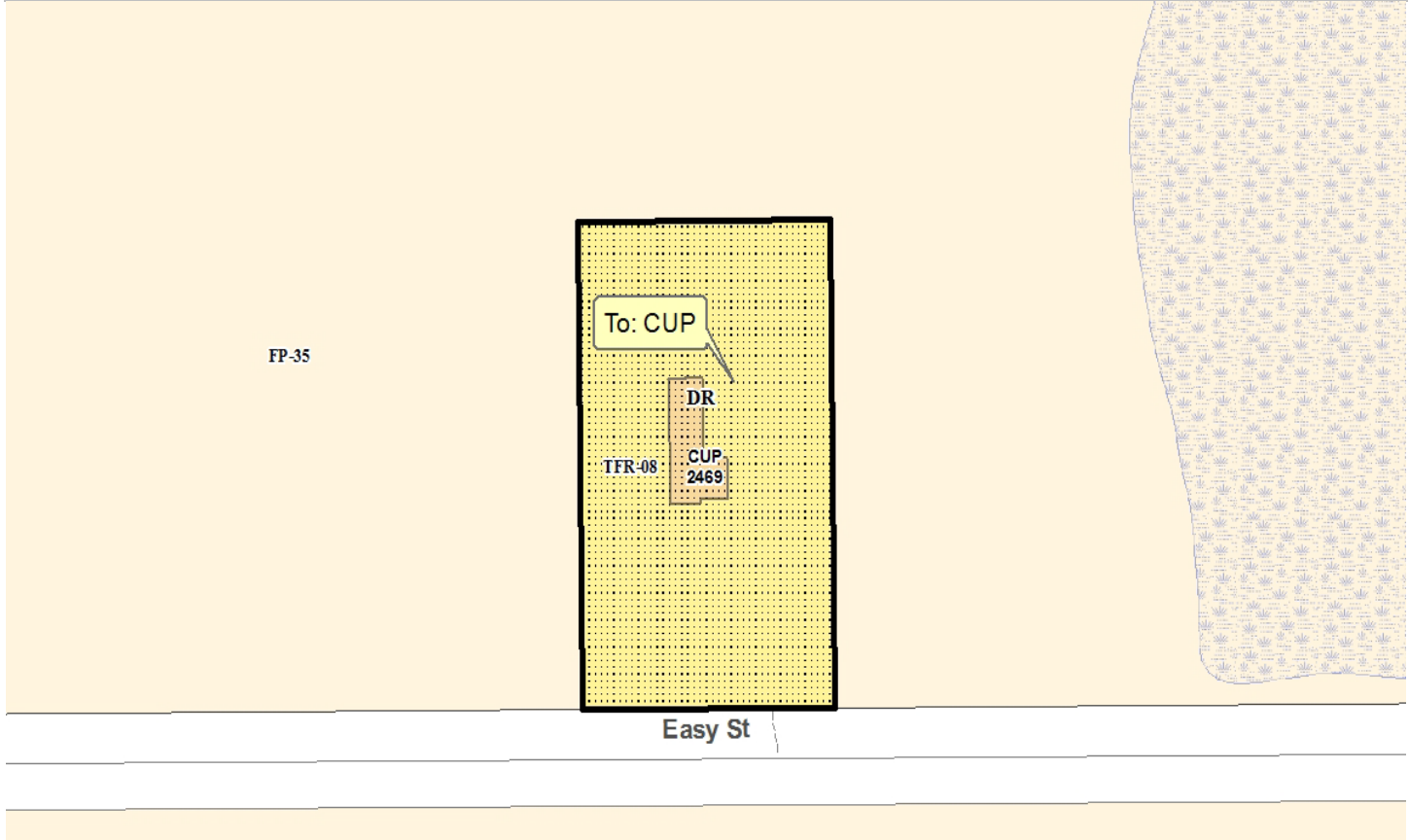


<p><b>Staff Report</b></p>  <p><b>Zoning and Land Regulation Committee</b></p> <p>Questions? Contact: Curt Kodl – 266-4183</p>	<p><i>Public Hearing:</i> <b>June 25, 2019</b></p>	<p><b>CUP 02469</b></p>
	<p><i>Zoning Amendment Requested:</i> <b>TO CUP: ALLOW AN ACCESSORY BUILDING UP TO 16 FEET IN HEIGHT</b></p>	<p><i>Town/Section:</i> <b>VIENNA, Section 35</b></p>
	<p><i>Size:</i> <b>1.4 Acres</b></p>	<p><i>Survey Required.</i></p>
	<p><i>Reason for the request:</i> <b>ALLOW AN ACCESSORY BUILDING UP TO 16 FEET IN HEIGHT</b></p>	<p><i>Applicant:</i> <b>JENNIFER &amp; ANTHONY JAKACKI</b></p> <p><i>Address:</i> <b>5116-5118 EASY STREET</b></p>



**DESCRIPTION:** The applicant would like to request approval of a Conditional Use Permit to add an accessory building larger than the 12' limitation in district TFR-08. Buildings between 16' and 12' are a conditional use in TFR-08 zoning district.

**CONDITIONAL USE PERMIT PROCESS:** Conditional uses are those uses which, because of their unusual nature and potential for impacts on neighboring lands, public facilities, the environment or general welfare, warrant special consideration and review. The zoning ordinance includes specific requirements and standards for review and approval of conditional use permits.

In order to obtain a Conditional Use Permit, an applicant must provide **substantial evidence** to demonstrate that the application, and all requirements and conditions established by the county relating to the conditional use, are or shall be satisfied. 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.”*

Prior to granting or denying a conditional use, the zoning committee shall make written findings of fact based on evidence presented and issue a determination whether the proposed conditional use, with any recommended conditions, meets all of the following standards:

- General standards for approval of a conditional use under s. 10.101(7)(d)
- Any prescribed standards specific to the applicable zoning district
- Any prescribed standards specific to the particular use under s. 10.103

The zoning committee must deny a conditional use permit if it finds that the standards for approval are not met, and must approve if it finds that the standards for approval are met. The decision to approve or deny a conditional use permit must be supported by substantial evidence. Any conditions imposed must be based on substantial evidence, related to the purpose of the ordinance, reasonable, and, to the extent practicable, measurable.

As indicated above, many conditional uses are subject to prescribed standards found in section 10.103 of the ordinance. At a minimum, the zoning committee must find that all the following general standards for approval are met for the proposed conditional use:

- a. That the establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety, comfort or general welfare;
- b. That the uses, values and enjoyment of other property in the neighborhood for purposes already permitted shall be in no foreseeable manner substantially impaired or diminished by establishment, maintenance or operation of the conditional use;
- c. That 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;
- d. That adequate utilities, access roads, drainage and other necessary site improvements have been or are being made;
- e. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets;
- f. That the conditional use shall conform to all applicable regulations of the district in which it is located.
- g. That the conditional use is consistent with the adopted town and county comprehensive plans.
- h. If the conditional use is located in a Farmland Preservation Zoning district, the town board and zoning committee must also make the findings described in s.10.220(1).

## **RELEVANT FACTS & INFORMATION**

Location, size, existing use and characteristics of subject property: The property is located at 5116 Easy St. in section 35 of the Town of Vienna. The property is 1.4 acres located in the southeast corner of the Town less than ¼ mile west of the Hickory Meadows subdivision. Existing uses are a vacant lot with plans to construct a replacement duplex (proposed to be 5116 & 5118 Easy St.) and an associated out building. Adjacent property is farm fields with the nearest residential lot about 400 ft. away, the nearest constructed residence is just under 1000' away. Access would be via two driveways, 1 for the duplex and one for the pole shed. (Please see the proposed concept plan) According to the application, the owner would like the pole shed to be between 12' and 16' for the storage of personal vehicles and equipment, 12' is the maximum allowed in the TFR-08 zoning district.

Utilities, access, drainage, and other necessary site improvements: Applicant has submitted documents showing a planned new residential duplex and a planned new pole shed. (next page) According to applicant's site plan, the out building will be located east of the residence, approximately 10' off the east property line and possibly 15' east of the proposed duplex. Applicant's site plan shows the out building will have separate access and the duplex will have a shared access. Access would be via Easy Street for both drives.

**OBSERVATIONS / FACTUAL INFORMATION:** There is an existing Deed Restriction limits the parcel to “Residential Use Only.” (See Rezone 10229, effective 11/15/2010)

**TOWN COMPREHENSIVE PLAN:** The property is in the Agricultural Preservation Area of the Town Plan.

**RESOURCE PROTECTION:** There appear to be no resource protection areas on the site but there are hydric soil present

**STAFF ANALYSIS:** The primary concern with a taller than permitted out building is usually going to be size and proximity to any neighbors and the road; there are currently no neighbors closer than 950’ to the existing lot. (Empty residential lot is closer than 500’ also) The proposed duplex appears to be within 20’ of the proposed out building. The outbuilding will be the closest structure to Easy St at 30’ from the road ROW, the house will be setback another almost 60’ to the total of 87.’

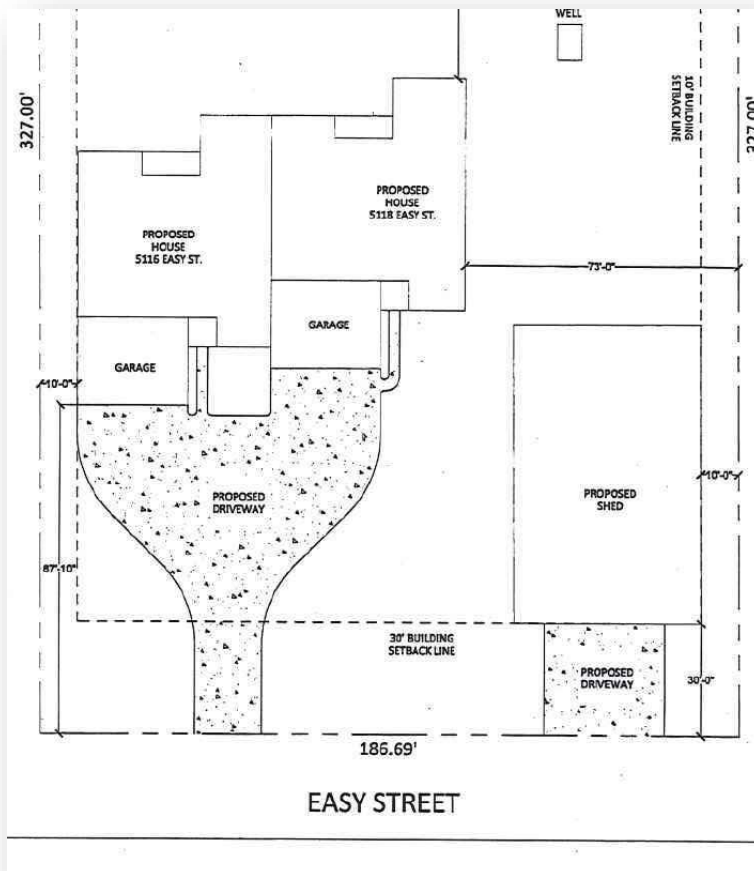
The proposal appears reasonably consistent with town plan policies, which supports rural residential density.

Staff has prepared the following list of conditions based on substantial evidence and which may be applied to ensure the use meets the applicable standards for approval and the purposes of the ordinance. These conditions are in addition to the standard conditions of approval applicable to all conditional use permits and found in section 10.101(7)(d)2 of the Dane County Zoning Ordinance.

1. The conditional use permit shall be for an accessory building taller than 12’.
2. Any and all applicable standard conditions found in section 10.101(7)(d)2a.

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Part of the concept plan:



**TOWN:** The Town of Vienna approved with no conditions on 5/21/2019.