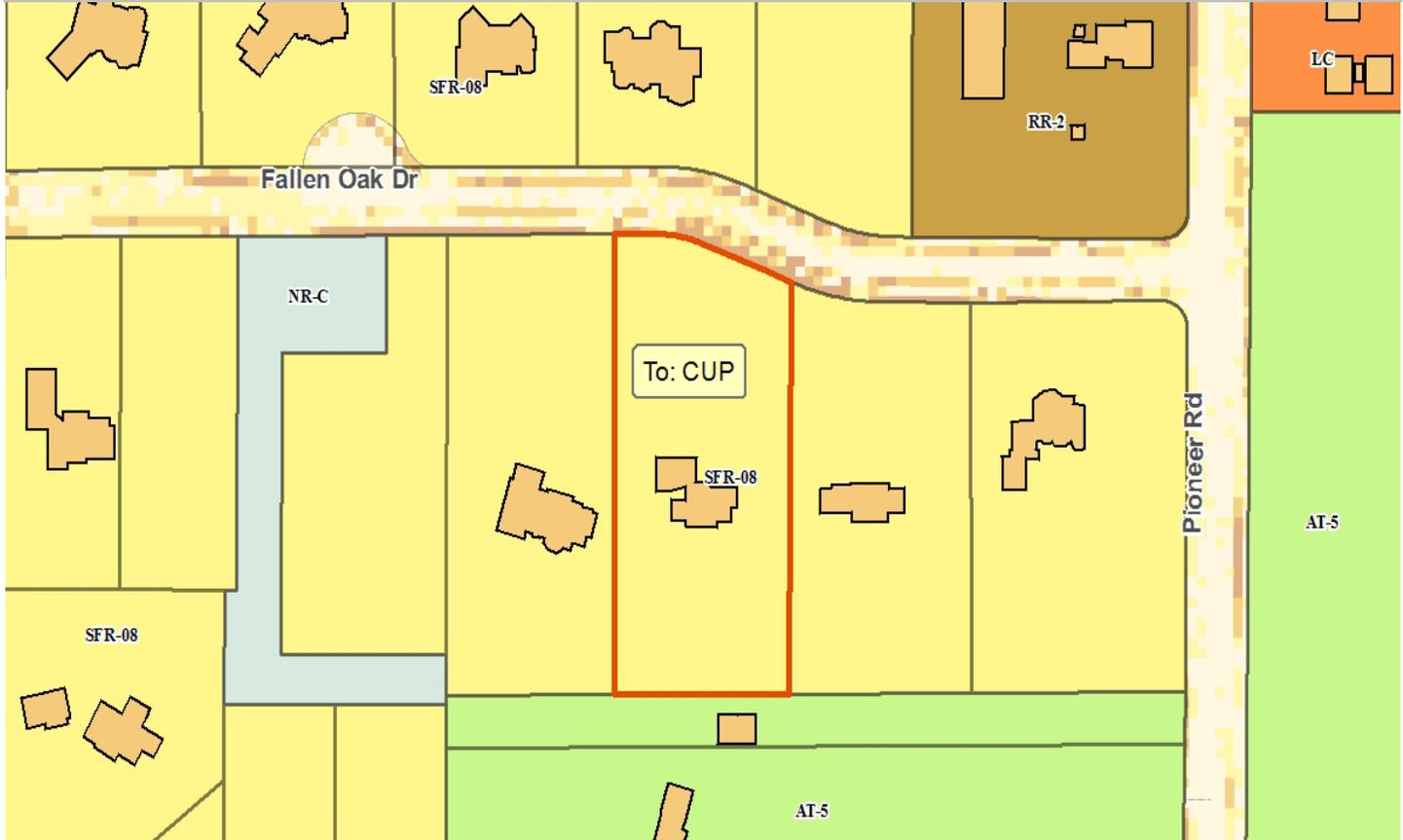


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| Staff Report  Zoning and Land Regulation Committee | <i>Public Hearing:</i> October 26, 2021 | | CUP 02537 |
| | <i>Zoning Amendment Requested:</i> TO CUP: Transient or tourist lodging -VRBO | | <i>Town/Section:</i> MIDDLETON, Section 29 |
| | <i>Size:</i> 1.941 Acres | <i>Survey Required:</i> | <i>Applicant:</i> DUSTIN MAHER |
| | <i>Reason for the request:</i> Transient or tourist lodging -VRBO | | <i>Address:</i> 7537 FALLEN OAK DR., |



DESCRIPTION: Owners are requesting approval of a Conditional Use Permit (CUP) for “transient and tourist lodging” (short term vacation rental). This petition is being submitted to correct a zoning violation – operating the short term vacation rental without the required CUP. The applicant’s proposal would be to rent the dwelling at 7537 Fallen Oak Dr. to a maximum occupancy of 8 individuals and 5-6 vehicles. **(Please see owner letter, emailed 10/29/2021)**

OBSERVATIONS/ FACTUAL INFORMATION: Existing use of the ~2 acre property is residential. Neighboring land uses are residential. The property is located in the Oak Field Estates residential subdivision, which consists of 10 lots. Off street parking is provided for the property. According to permitting records, the septic system serving the property is sized for 4 bedrooms.

TOWN PLAN: The property is located in the town’s residential planning area. There are no specific policies in the plan addressing transient lodging.

STAFF: Transient or tourist lodging is listed as a conditional use in the SFR-08 zoning district. State statutes limit local regulation of short term rentals that are offered for 7-29 days. Local governments may require a permit to be obtained, and can regulate proposals that would involve rental periods shorter than 7 days. For proposals renting for periods of 7-29 days, local governments can require a permit, but may only limit rentals to no less than 180 days (either consecutive

or non-consecutive) in any consecutive 365 day period. The applicant's proposal appears to be for rental periods of less than 7 days.

Note that all such short term rentals must be [licensed](#) through Public Health Madison & Dane County (PHMDC) and inspected annually to verify the operation meets all requirements of Wisconsin law related to general public health. It is unclear if the applicant has obtained the required public health license.

The owner indicates that off-street parking is provided for tenants, and rental rules stipulating no parties, no smoking, no animals, no guests booking under 25, and a 9pm noise curfew is also required.

As noted above, the residence has a septic system designed for 4 bedrooms. Dane County Environmental Health staff indicate that the design capacity of the existing system is based on residential code (150 gallons/day, or 2 adults / bedroom).

If the applicant wishes to offer rental of the residence beyond 8 adults, the existing system would need to be evaluated by a licensed professional and upgraded to meet applicable code standards.

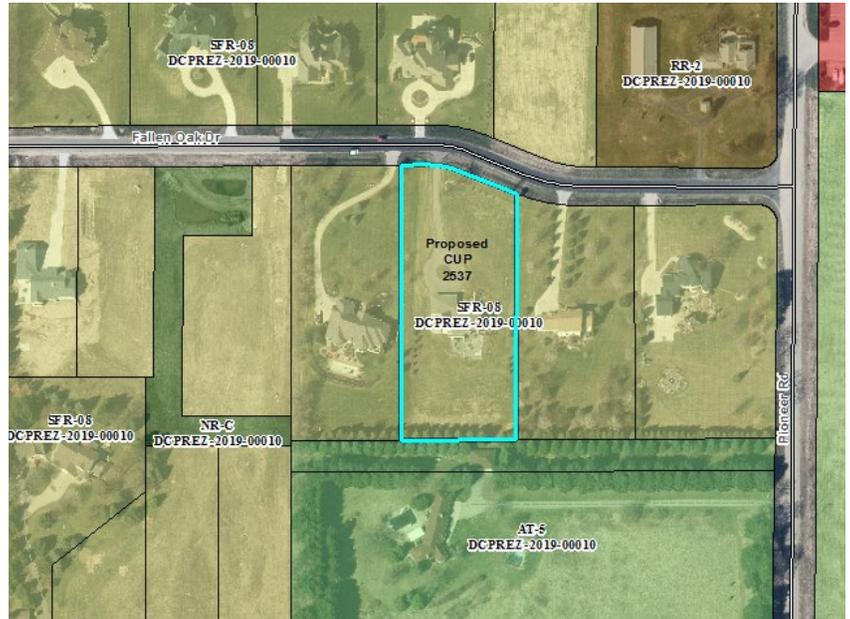
This petition is being filed to resolve a zoning violation. The application materials provide a summary description of concerns raised by neighboring residents over a number of specific incidents involving larger groups renting the residence over holiday weekends partying and generating excessive noise. These concerns echo those expressed during the consideration of other transient and tourist lodging CUP proposals.

A number of neighboring residents have signed a letter of opposition to the proposal, noting a number of concerns and outlining their position that the short term rental may violate the private restrictive covenants that apply to properties within Oak Field Estates. See attached letters of opposition. Note that the county is not party to the restrictive covenants for Oak Field Estates.

Staff recommends approval with Town Conditions. If you have any questions or comments please contact Senior Planner Curt Kodl at (608) 266-4183 or kodl@countyofdane.com

TOWN: The Town approved on 11/15 with the following conditions:

1. This Conditional Use Permit shall expire one (1) year after the effective date. Landowner may renew the CUP by successfully obtaining a new CUP prior to the expiration date.
2. The CUP is granted subject to all standard conditions specified in Dane County Zoning Ordinance Section 1.101(7)(d)2, as applicable;
3. This conditional use permit shall expire in the event the property is sold or transferred to another owner. Continuation or extension of an expired conditional use requires re-application and approval by the Town Board and Dane County.
4. The applicant shall comply with all licensing and permitting requirements for short-term rentals;
5. Landowner will apply for, obtain, and maintain an appropriate transient or tourist lodging rental license from Madison/Dane County Department of Public Health.
6. The rental shall be limited to 8 overnight renters. Use of the property, including rental, shall be in full compliance with the sanitary permit for the property.



7. The maximum number of allowable rental days within a 365-day period is 180 days. The landowner must notify the Town Clerk in writing when the first rental within a 365-day period begins subsequent to issuance of the CUP.
8. Quiet hours shall be 10:00pm to 8:00am, all days of the week.
9. Peak noise levels shall not exceed 40 decibels [dB(a) scale], as measured at the property line, during quiet hours.
10. Peak noise levels shall not exceed 55 decibels [dB(a) scale], as measured at the property line, during hours other than quiet hours.
11. All renter vehicles must be parked on paved driveway surfaces or inside the existing garage at all times, with adequate access for emergency vehicles.
12. No more than two (2) dogs, with the exception of service animals. All dogs brought by renters must either be leashed or contained within adequate fenced areas while outside. Dogs must be kept indoors during quiet hours.
13. Any new outdoor lighting shall be downward-directed, designed to minimize ambient spill, and shall comply with all applicable requirements of the Town of Middleton.
14. Existing onsite wastewater sewage disposal systems, if any, serving the conditional use must be inspected by a licensed plumber to determine its suitability for the proposed or expanded use. Deficient systems must be brought at the owner's expense, into full compliance with the current requirements for new development of the state plumbing code and Chapter 46, Dane County Code.
15. The owner or operator must keep a copy of the conditional use permit, including the list of all conditions, on the site.
16. The Zoning Administrator or designee may enter the premises of the operation in order to inspect those premises and to ascertain compliance with these conditions or to investigate an alleged violation.
17. Failure to comply with any imposed conditions, or to pay reasonable Town/County costs of investigation or enforcement of sustained violations, may be grounds for revocation of the conditional use permit. The holder of a conditional use permit shall be given reasonable opportunity to correct any violations prior to the revocation.
18. If the transient or tourist lodging operation is abandoned for one year or more, this conditional use permit shall be terminated. Future re-establishment of an abandoned conditional use shall require approval of a new conditional use permit.
19. The operation of all-terrain vehicles, ATVs, and snowmobiles by occupants of the transient or tourist lodging operation shall be prohibited on the property.
20. Signage is prohibited.
21. Fireworks are prohibited.
22. The owner, or their designated emergency contact person, must be available within one (1) hour to address any problems.
23. The owner or operator must provide the Town of Middleton Clerk with a copy of the current rental agreement no later than the date of issuance of the CUP. In the event the agreement is modified in any manner, the modified agreement must be provided to the Town of Middleton Clerk within ten (10) calendar days of the date the modified agreement is placed in use.