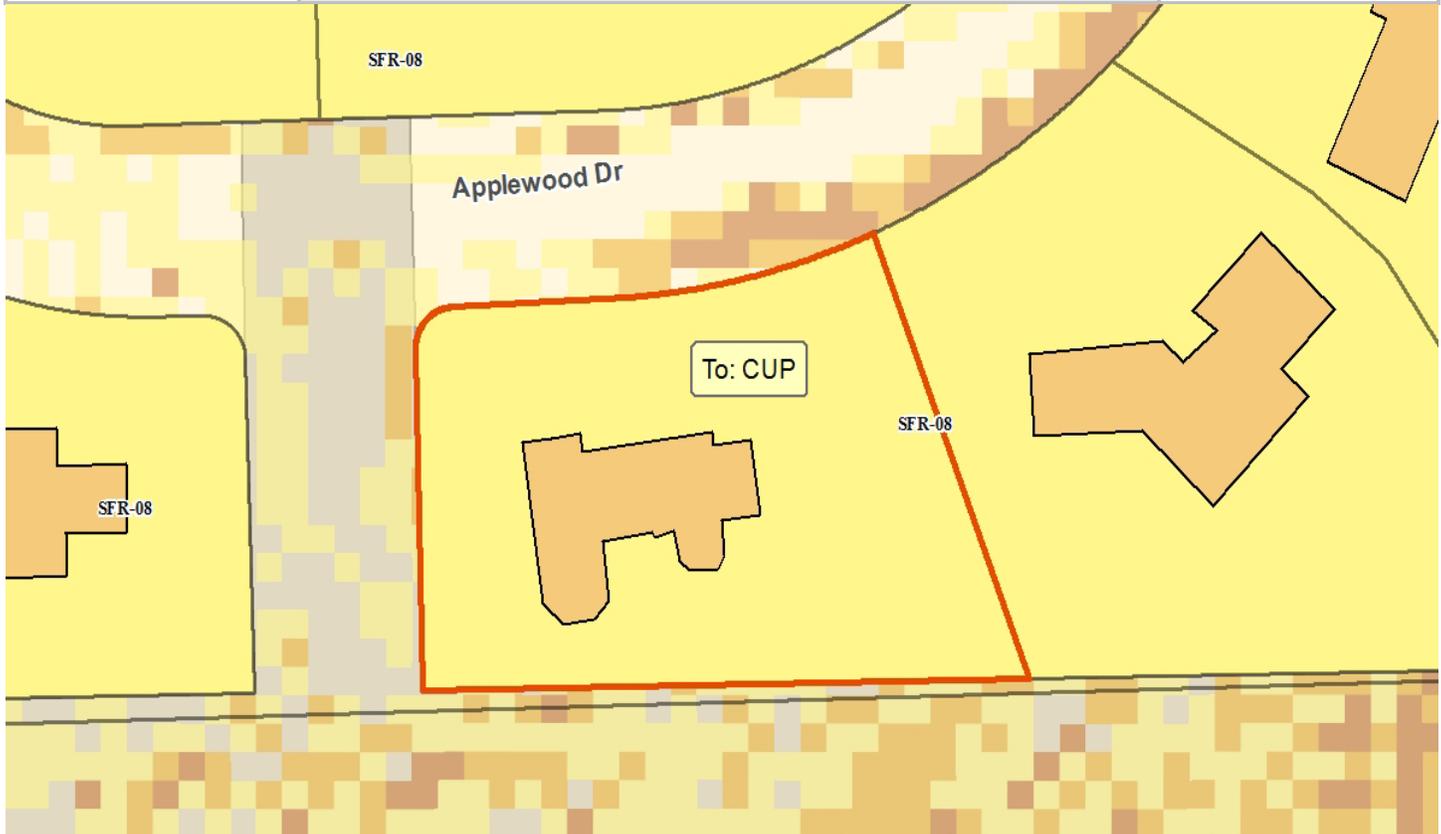


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| Staff Report  Zoning and Land Regulation Committee | <i>Public Hearing:</i> June 28, 2022 | | CUP 02566 |
| | <i>Zoning Amendment Requested:</i> TO CUP: Transient or Tourist Lodging | | <i>Town/Section:</i> MIDDLETON, Section 27 |
| | <i>Size:</i> 0.71 Acres | <i>Survey Required:</i> | <i>Applicant:</i> CASEY AND MELISSA HELBACH |
| | <i>Reason for the request:</i> Transient or Tourist Lodging | | <i>Address:</i> 6993 APPLEWOOD DRIVE |



DESCRIPTION: Owners are requesting approval of a Conditional Use Permit (CUP) for “transient and tourist lodging” (short term vacation rental). The applicant’s proposal would be to rent the dwelling at 6993 Applewood Dr.

OBSERVATIONS/ FACTUAL INFORMATION: Existing use of the less than 1 acre property is residential. Neighboring land uses are residential with existing agricultural uses to the south. The property is located in the Applewood Hill residential subdivision, which consists of 43 lots. Off street parking is provided for the property. According to permitting records and filed documentation, 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. The property is adjacent to the City of Madison and in the area to eventually be part of the City of Madison per the intergovernmental agreement.

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, an application has been submitted.

The owner indicates that off-street parking is provided for tenants, and rental rules stipulating no parties, no events, no large gatherings, no smoking, no animals, no guests booking under 25, and a 10pm - 8 am quiet hours. The applicant has not listed the maximum number of guests allowed on the application.

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.

Staff recommends approval with Town Conditions. Any questions about this petition or staff report please contact Curt Kodl at (608) 266-4183 or kodl@countyofdane.com

STAFF UPDATE: This petition was postponed at the June 28th ZLR public hearing due to written opposition. Opponents expressed concern that the proposal was contrary to private covenants and restrictions that apply to the Applewood Subdivision. The concerns were brought to the attention of the town prior to its approval of the CUP. Staff also reviewed the submitted information, and it does not appear that the provisions cited by the neighbors apply to short term rental of a single family residence. In any case, neither the town or county are party to the private covenants and restrictions, meaning enforcement of any alleged violation is the responsibility of other property owners in the subdivision.

Staff again recommends approval of the CUP with the town conditions listed below.

TOWN: The Town approved with the following conditions on 6/6/2022.

1. The Town finds that the proposal meets the general standards for conditional use permits per Dane County Ordinances 10.101(7)(d)1.
2. The Town finds that the proposed conditional use is consistent with the adopted Town Comprehensive Plan.
3. The CUP is granted subject to all standard conditions specified in Dane County Zoning Ordinance Section 10.101(7)(d)2, as applicable.
4. 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.
5. The applicant shall comply with all licensing and permitting requirements for short-term rentals.
6. Landowner will apply for, obtain and maintain an appropriate transient or tourist lodging rental license from Madison/Dane County Department of Public Health.
7. The rental shall be limited to 8 overnight guests.
8. 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.
9. 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.
10. Quiet hours shall be 10:00pm to 8:00am, all days of the week.



11. No more than 5 overnight vehicles shall be on the premises at any one time. All vehicles must be parked on paved driveway surfaces or inside the existing garage and maintain adequate access for emergency vehicles.
12. No pets allowed.
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, 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.
24. The rental period shall be a minimum of 5 days.
25. Landowner will conduct a background check on any prospective renter.