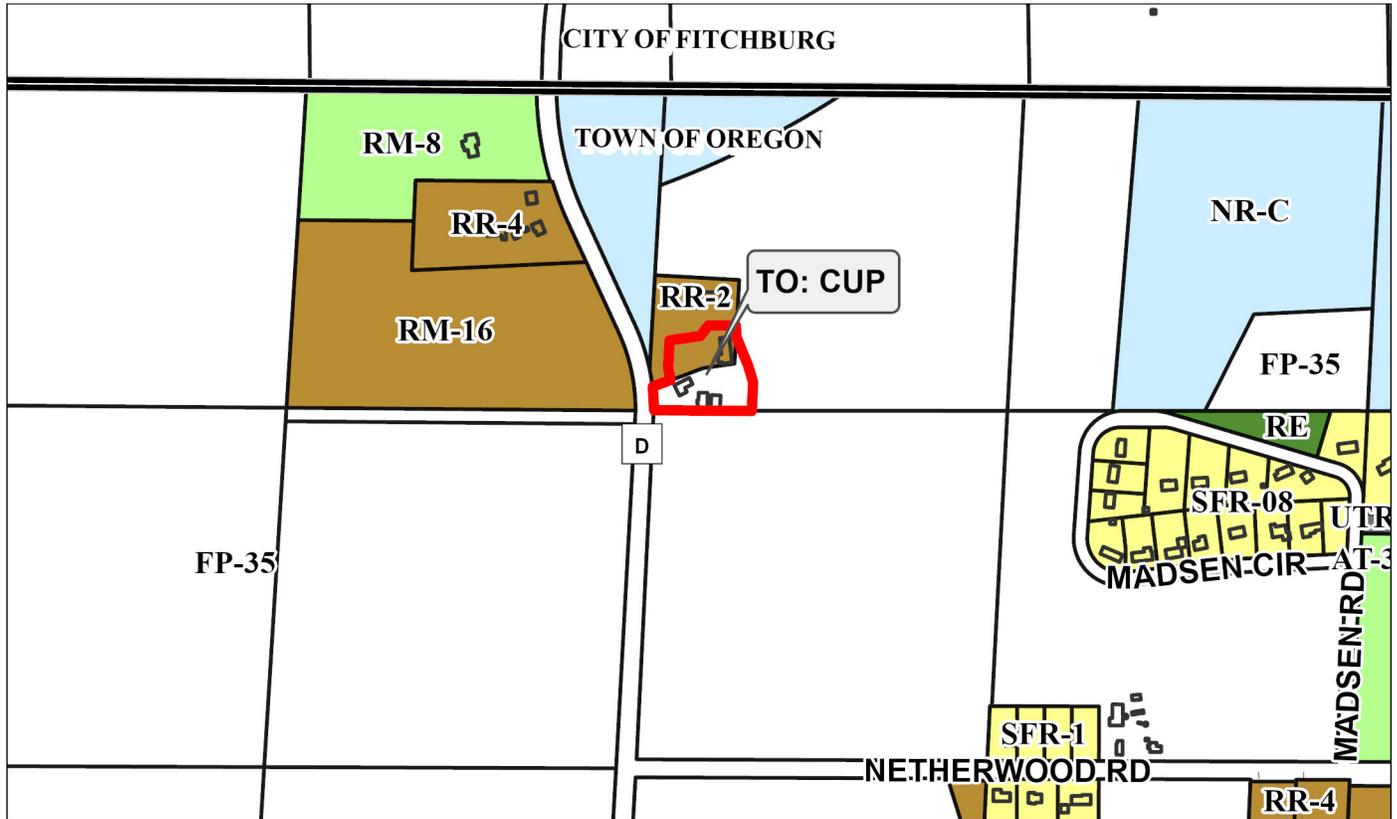


Staff Report  Zoning & Land Regulation Committee	<i>Public Hearing:</i> July 23, 2024	Conditional Use 02627
	<i>Zoning Amendment Requested:</i> Conditional Use Permit (CUP) in the RR-2 zoning district	<i>Town, Section:</i> OREGON, Section 4
	<i>Size:</i> 2.028 Acres	<i>Survey Required:</i>
	<i>Reason for the request:</i> Transient or Tourist Lodging (Short-term Rental)	<i>Applicant:</i> VALKYRIE FARM LLC (KERRI PHILLIPS)
		<i>Address:</i> 1580 COUNTY HIGHWAY D



DESCRIPTION: Kerri Phillips of Valkyrie Farm LLC requests a conditional use permit (CUP) for transient or tourist lodging in order to rent out an existing home for short-term rentals. The owners are in the process of separating the residence, which is addressed at 1580 County Highway D, from the rest of the family farm and rebuilding it so that it can be used by the family as a gathering space and potentially a future home for elderly relatives to live. However, while it is not being used by family members they wish to rent it out for short-term stays to help cover the costs of the house.

The applicants have submitted a separate rezone petition for the creation of the lot with RR-2 zoning (see [Rezone petition #12072](#) which is on the same ZLR agenda but is being reviewed and acted upon separately).

OBSERVATIONS/FACTUAL INFORMATION: The property is a vacant farm residence that is in the process of being rebuilt as a stand-alone rural residence. If rezone petition #12072 is approved, the house will be located on a 2-acre lot that is surrounded by more than 100 acres of farm land.

Transient or tourist lodging is listed as an allowable 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 rental 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 Town of Oregon does not currently have a licensing ordinance for short-term rentals. The applicants are proposing rental periods of less than 7 days.

COMPREHENSIVE PLAN: Property is in a Farmland Preservation Area under the [Town of Oregon / Dane County Comprehensive Plan](#). The plan allows for limited nonfarm uses that are compatible with neighboring land uses and that provide supplemental income for farm families and rural residents. Maximum occupancy limits (not to exceed existing or planned sanitary system capacity) and conditions on outdoor noise levels under s. 10.102(6), Dane County Code, may be necessary to meet plan standards. In addition, off-street parking compliant with s. 10.102(8), Dane County Code, should also be required. For questions about the town plan, contact Senior Planner Brian Standing at standing.brian@danecounty.gov

RESOURCE PROTECTION: There are no resource protection corridors on or within 300 feet of the property.

CONDITIONAL USE PERMIT DECISION MAKING: “Conditional uses” are those land uses which, because of unusual nature and potential for impacts on neighboring lands, public facilities, the environment or general welfare, warrant special consideration and review.

Prior to granting or denying a conditional use, the zoning committee shall make findings of fact based on evidence presented and issue a determination whether the proposed conditional use, with any recommended conditions, meets all of the standards required to obtain a conditional use permit. Below is the list of the applicable standards from Section 10.101(7)(d) of the Zoning Code, and a summary of the relevant facts including the applicant’s testimony with regards to meeting the standards.

1. *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.*

The CUP application describes the proposed rental operations plan. The applicants state they will rebuild the existing house to update it, which will restore public health, safety comfort and general welfare by eliminating a vacant and dilapidated building. The home and lawn are maintained to high aesthetic standards, as the family lives in the neighboring house located on the same farm property.

All 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. The applicant will need to obtain a rental license from PHMDC.

2. *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.*

The owners state that this standard will be met because the flow of traffic and other activities related to the rental will be less than that of a house occupied full-time by a family, and they will keep up the property both inside and out.

Staff notes that limits on the number of guests and establishing quiet hours are commonly used to control noise, which is the most common concern that arises with short-term rentals. This property is located roughly 830 feet from the nearest home, and there are only two homes within 1,000 feet of the site. The house would be limited to 8 rental guests, based on the septic system capacity. The Town of Oregon could impose additional conditions on the CUP if it finds it necessary to meet these CUP standards.

3. *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.*

Applicants state that the flow of traffic and living activities related to the rental will be less than that of a house occupied by a full-time family. Other than the reconstruction of the existing home, no other site modifications are proposed at this time.

This standard pertains to whether the proposed conditional use would affect *how the surrounding properties could be developed and improved, considering what they are currently zoned for*. This property and most of the surrounding properties are already in agricultural use or rural residential use and owned by the applicant’s own family; the proposal is not expected to impede the development of that land.

4. *That adequate utilities, access roads, drainage and other necessary site improvements have been or are being made.*

Applicants state that adequate utilities, access roads, drainage and other necessary site improvements are already in place, or need only moderate updating, to accommodate the conditional use since the new house is simply replacing an existing structure that was occupied until January 2021.

Staff notes that the site improvements needed for the proposed use are comparable to those needed for a single-family house that is not used for short-term rentals. According to permit records, the septic system serving the property is sized for 4 bedrooms / 8 adults. Public 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 owners ever wish to rent to more than 8 adults, the existing system would need to be evaluated by a licensed professional and upgraded to meet applicable code standards.

5. *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.*

Applicants state that ingress and egress is already in place to minimize traffic congestion on public streets since the new house is simply replacing an existing structure. Off street parking is currently provided for by an existing driveway and garage; the new 2-acre lot will continue to be served by the driveway, which will be shared with the family's residence at 1586 County Highway D.

6. *That the conditional use shall conform to all applicable regulations of the district in which it is located.*

Applicants state that the rental use will comply with Public Health department licensing and permitting rules through annual inspections and required licensing.

The proposed use conforms to the applicable regulations of the proposed RR-2 zoning district. Transient or tourist lodging is listed as an allowable conditional use in the district.

7. *That the conditional use is consistent with the adopted town and county comprehensive plans.*

As noted above, the proposal appears consistent with the Town and County Comprehensive Plans.

Applicant states that the construction of a new home to replace the aging structure improves the age of housing stock in the Town of Oregon, which currently has less than 1% of housing stock that is 10 years old or newer. While not directly owner-occupied, the structure is next to a home occupied by the managing partner of the LLC. The Town has 95-98% owner occupied dwellings with a near-zero vacancy rate. This new usage for this property preserves one property on the rolls of available housing, of which the Town is somewhat short.

8. *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).*

Not applicable.

POTENTIAL NUISANCES ASSOCIATED WITH THE CONDITIONAL USE: The potential nuisances that pertain to short-term rentals most likely involve noise, vehicle traffic, and sanitary waste management. The CUP application addresses how these potential nuisances are handled as noted above. In addition, potential conditions of approval specific to this CUP can be developed after public input and deliberation by town and the ZLR Committee. Under Dane County Zoning Ordinance section 10.103, there are no other special requirements for short-term rental operations.

TOWN ACTION: Pending (town meeting scheduled for August 20th).

STAFF RECOMMENDATION: Staff recommends postponement at this time, due to the need for town action per the ZLR Committee's adopted rules and procedures. We also recommend that the ZLR Committee determine whether they have sufficient facts and information from the applicant at this time. If more information is needed it can be requested at the public hearing.

Staff believes that the applicant has provided sufficient evidence to address the CUP standards and mitigate the potential concerns. This includes the information described in the sections above. Pending town action, and any conditions of approval they may impose, staff would recommend approval with the recommended conditions listed

below. These conditions reflect the general conditions from the Chapter 10 zoning code that apply to all CUPs, and some conditions specific to this short-term rental use.

CUP 2627 Potential Conditions of Approval

Standard Conditions for all Conditional Use Permits from 10.101(7):

1. Any conditions required for specific uses listed under s. 10.103 (see below).
2. The physical development and operation of the conditional use must conform, in all respects, to the approved site plan, operational plan and phasing plan.
3. New and existing buildings proposed to house a conditional use must be constructed and maintained to meet the current requirements of the applicable sections of the Wisconsin Commercial Building Code or Uniform Dwelling Code.
4. The applicant shall apply for, receive and maintain all other legally required and applicable local, county, state and federal permits. Copies of approved permits or other evidence of compliance will be provided to the zoning administrator upon request.
5. Any ongoing business operation must obtain and continue to meet all legally required and applicable local, county, state and federal licensing requirements. Copies of approved licenses or other evidence of compliance will be provided to the zoning administrator upon request.
6. 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.
7. All vehicles and equipment must access the site only at approved locations identified in the site plan and operations plan.
8. Off-street parking must be provided, consistent with s. 10.102(8).
9. If the Dane County Highway, Transportation and Public Works Department or the town engineer determine that road intersection improvements are necessary to safely accommodate the conditional use, the cost of such improvements shall be borne by the landowner. Costs borne by the landowner shall be proportional to the incremental increase in traffic associated with the proposed conditional use.
10. 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. Zoning staff conducting inspections or investigations will comply with any applicable workplace safety rules or standards for the site.
11. The owner or operator must keep a copy of the conditional use permit, including the list of all conditions, on the site, available for inspection to the public during business hours.
12. Failure to comply with any imposed conditions, or to pay reasonable county costs of investigation or enforcement of sustained violations, may be grounds for revocation of the conditional use permit.

Conditions specific to CUP #2627:

13. Landowner will apply for, obtain and maintain an appropriate transient or tourist lodging rental license from Madison/Dane County Department of Public Health.
14. The rental shall be limited to 8 overnight guests.

Please contact Rachel Holloway at (608) 266-9084 or holloway.rachel@danecounty.gov if you have questions about this petition or staff report.