
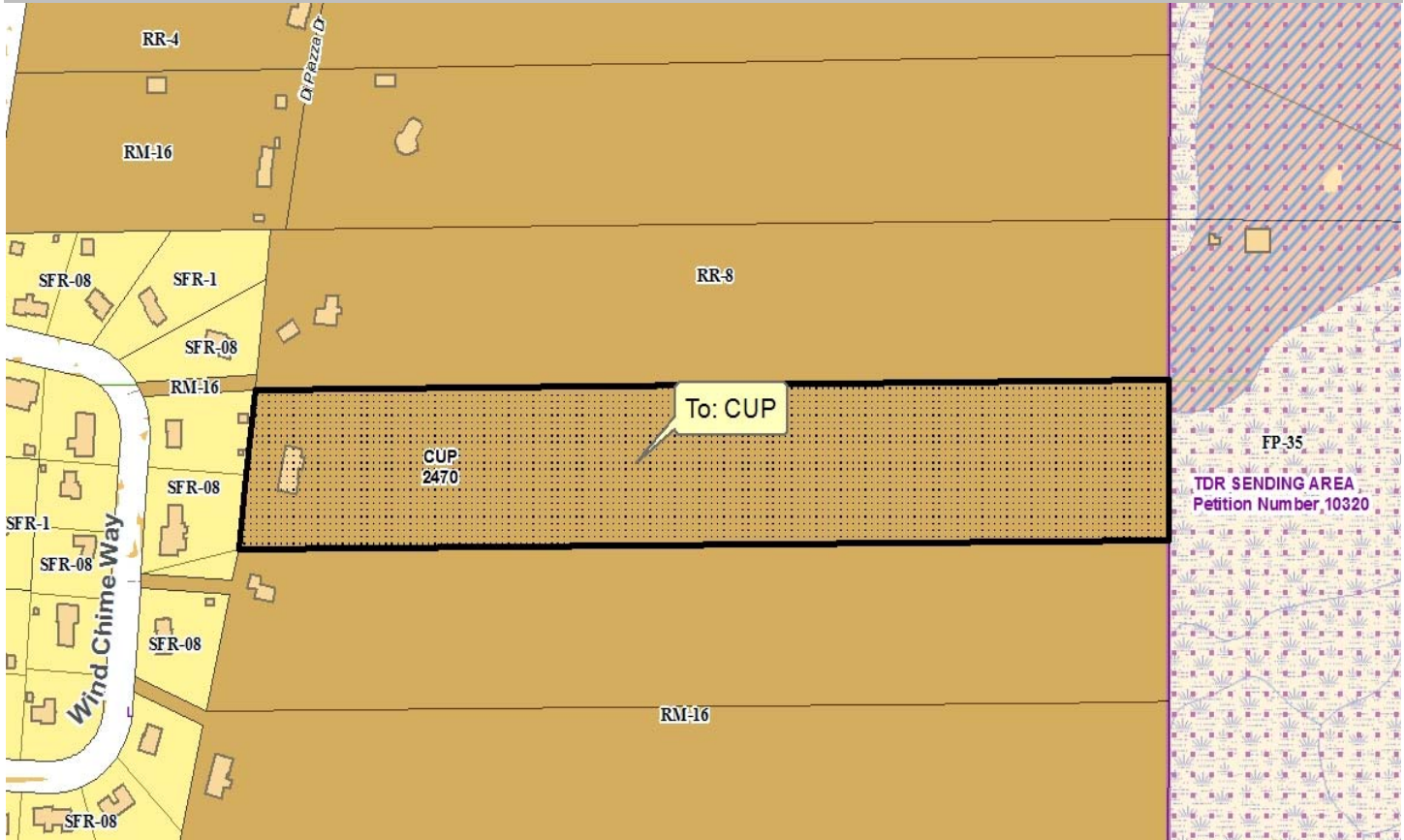


Staff Report  Zoning and Land Regulation Committee	<u>Public Hearing:</u> June 25, 2019	CUP 02470
	<u>Zoning Amendment Requested:</u> TO CUP: TRANSIENT OR TOURIST LODGING	<u>Town/Section:</u> COTTAGE GROVE, Section 11
	<u>Size:</u> 15.7 Acres	<u>Survey Required.</u>
	<u>Reason for the request:</u> TRANSIENT OR TOURIST LODGING	<u>Applicant:</u> GLACIAL DRUMLIN HOUSE LLC <u>Address:</u> 4466 WIND CHIME WAY



DESCRIPTION:

This application is for a CUP for transient or tourist lodging within the RR-8 (rural residential for parcels 8 to 16 acres in size) 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).

OBSERVATIONS / FACTUAL INFORMATION:

Location, size, existing use and characteristics of the property: The property is located in Section 11 of the town of Cottage Grove. It is a long narrow lot approximately 16 acres in size. The single family home on the property has recently been expanded via 2 additions, to provide enough space for up to 20 guests at one time. The home is located in a small rural subdivision containing 25 single family homes located on the same street (Wind Chime Way).

Current zoning and applicable district regulations: Current zoning is RR-8 (Rural Residential). Transient our tourist lodging is allowed as a conditional use in the RR-8 district. This application is in response to a zoning violation. The property has been advertised on AirBnb and VRBO (vacation rental by owner) for quite some time. Tours of the property can be viewed on YouTube. In response to numerous and ongoing complaints, the property has a long violation history.

Violation history:

The Zoning Division received its first complaint on May 18, 2018 stating that the property had been rented out for weekend parties. A link to the Airbnb rental website was emailed to Dane County Zoning. The Airbnb website advertised 5 bedrooms available for 14 guests with a 2 night minimum stay. After conducting an inspection from the driveway of

4466 Wind Chime Way, it was determined that the property matched the photos on the Airbnb website. A violation notice was sent on May 29, 2018. On June 8, 2018, Airbnb and VRBO advertisements of the property for short term rental were removed from the websites.

On October 15, 2018, Dane County Zoning received a complaint stating that the property was again listed on the Airbnb website, and different guests has stayed at the residence during the two prior weekends. The Airbnb website advertised 6 bedrooms available for rent for 16+ guests, with a 2 night minimum stay. A violation notice was sent to the property owner on October 16, 2018.

On October 26, 2018, the property owner met with Dane County Zoning to discuss the violation. The property owner stated that he intended to rent the property for periods of time 7 days or longer, rather than the 2 night minimum that he had previously been advertising on the websites. State Statutes limit the authority of a political subdivision from enforcing an ordinance that prohibits rental of a residential dwelling for 7 consecutive days or longer.

On December 27, 2018, Dane County Zoning received a complaint from a neighbor stating that short term rental of the property was causing problems in the neighborhood, and the property was advertised on the Airbnb website for short term rental. The Airbnb website advertised 6 bedrooms available for 16+ guests, with a 2 night minimum stay. The property owner was not following through on his previously stated intent to advertise rental for periods of 7 days or longer.

On December 28, 2018, a citation was issued to the property owner. A citation letter was sent, giving 7 days to correct the violation. On January 4, 2019, Dane County Zoning received a complaint from a neighbor stating that the property continued to be in violation. The Airbnb website continued to advertise short term rental of the property, with a 2 night minimum stay required. The violation was referred to Dane County Corporation Counsel on January 7, 2019.

On January 9, 2019, Dane County Zoning observed newly constructed additions (a two story rear screen porch, side and rear decks on the upper and lower levels of the residence, and a ramp). No zoning permit had been obtained for the newly constructed additions. A shoreland zoning permit was also required for the additions located within 300 feet of a pond. A stop work order was posted on the property at 4466 Wind Chime Way on January 10, 2019.

On February 20, 2019, the property owner obtained a zoning permit and shoreland zoning permit for the screen porches, decks, and ramp that had all been constructed prior to obtaining permits. Dane County Zoning informed the property owner that he would need to obtain a building permit from the Town of Cottage Grove building inspector.

On April 15, 2019, a conditional use permit (CUP) for transient/tourist lodging was applied for, and scheduled for the June 25th ZLR public hearing. The plans submitted to Dane County Zoning for the CUP application indicate that the residence has a total of 6 bedrooms to accommodate up to 20 persons.

On April 29, 2019, Dane County Zoning received a complaint from the Town of Cottage Grove. A sheriff reported 5 cars with out of state plates were parked on the property over the weekend. A photo was provided of a license from Public Health for a hotel/motel/tourist rooming house (License No LICHMD-2018-00773). The property continued to be advertised on VRBO and Airbnb websites with a 2 night minimum stay.

On May 14, 2019, Dane County Zoning contacted Public Health to obtain information regarding the septic system. The sanitarian provided an email response the following day. The license for a tourist rooming house had been approved for 3 bedroom use. The septic system was not sized for 6 bedrooms. When the sanitarian spoke with property owner Richard King on December 20, 2018, Mr. King stated that there would be no modification to the existing 3 bedroom layout of the home and no more than 6 guests. The property had been advertised as having more than 3 bedrooms to accommodate more than 6 guests since the first zoning complaint received on May 18th of 2018, and possibly earlier.

In recent months, Dane County Zoning has continued to receive complaints from neighbors regarding the use of the property for transient/tourist lodging. The property has continued to be used for short term rental to transient/tourist guests prior to receiving approvals from the Town of Cottage Grove and Dane County Zoning.

Public health: Dane County Public Health reviewed the proposal and determined that the current septic system is insufficient for the number of people residing in the home.

TOWN PLAN: The subject property is in the *Agricultural Preservation and Resource Protection* planned land use categories of the town comprehensive plan.

RESOURCE PROTECTION: Shoreland - described above.

TOWN: The town denied the application, determining that the proposal failed to meet the 6 standards of approving a CUP (see *Town Action Report*).

STAFF: Staff recommends denial citing the Town Action Report for failure to meet the six standards of approving a CUP.