

Date: October 10, 2021

To: Town of Middleton – Board of Supervisors
Dane County Zoning and Land Regulation Committee

From: Residents of the Fallen Oak Drive Neighborhood, Town of Middleton as Listed Below

Re: Conditional Use Permit, Transient or Tourist Lodging – 7537 Fallen Oak Drive

Board of Supervisors – Town of Middleton & Dane County Zoning and Land Regulation Committee:

We, the residents of the Fallen Oak Drive Neighborhood, listed below, are writing to voice our strong opposition to the application submitted by Dustin Maher of 7537 Fallen Oak Drive for a Conditional Use Permit for Transient or Tourist Lodging for the following reasons:

1. The Fallen Oak Drive Neighborhood is a residential neighborhood with many families who have raised their families on this quaint street in the Town of Middleton and have chosen to live in a quiet, serene, and more private area of the Town of Middleton.
2. Many of the families in the Fallen Oak Drive Neighborhood have lived here for ten plus years and have enjoyed the street for its neighborly, but not intrusive environment; a very different environment than one would experience living in one of the busier neighborhoods in the Town of Middleton.
3. We have grown accustomed to being aware of every car that drives down our street, every dog that barks, which kids belong to which family, and the general comings and goings of each neighbor; and this affords us a feeling of safety for our family and property.
4. The land in the Fallen Oak Drive Neighborhood is deeded for residential use and has been utilized to date as such, not for Transient or Tourist Lodging. In the covenants for the Oakfield Estates there is a clause that designates the use as single family use. We assume this is what Dustin is applying to change. Our understanding when buying the lot was that we would be in a single-family neighborhood.

USE RESTRICTIONS

Single Family Use: All lots in the Plat shall be restricted to single family residences and outbuildings incidental to residential use approved by the Architectural Review Committee.

5. Altering the original deed for this land to allow for Transient or Tourist Lodging would greatly change the quality of life and the covenants under which we purchased our property in the Fallen Oak Drive Neighborhood. The Town of Middleton and Dane County need to protect and preserve the original terms of our purchase of our land and homes, and not the self-serving interest of one resident and the new-found revenue the Town of Middleton has and will receive for hotel taxes.
6. The below signed residents of the Fallen Oak Drive Neighborhood are greatly concerned for the precedent that will be set in our neighborhood and in the Town of Middleton if the conditional use permit is granted.
7. We, the below signed residents of the Fallen Oak Drive Neighborhood, worry about what Transient or Tourist Lodging will do in terms of safety on our street. There have been incidents with past renters at 7537 Fallen Oak Drive and the Dane County Sheriff was called to investigate excessive late-night noise, having 25+ cars parked on the driveway, street and lawns, and large aerial illegal fireworks that endangered neighboring properties.

8. We, the below signed residents of the Fallen Oak Drive Neighborhood, worry about the impact Transient or Tourist Lodging will have on the valuation of our home, the quality of life in our neighborhood, our safety, and potentially our property taxes.
9. We, the below signed residents of the Fallen Oak Drive Neighborhood, have reviewed the Conditional Use Application submitted by Dustin Maher of 7537 Fallen Oak Drive and feel that we have demonstrated that his application does not meet the eight Standards as set forth for obtaining a Conditional Use Permit.

We, the below signed residents of the Fallen Oak Drive Neighborhood, feel that it would be irresponsible of the Town of Middleton and the County of Dane to issue a Conditional Use Permit for the property at 7537 Fallen Oak Drive and ask that both the Town of Middleton and the County of Dane **deny the request for a Conditional Use Permit** or provide data to the residents of the Fallen Oak Drive Neighborhood in support of Transient and Tourist Lodging that addresses the concerns described above before the issuance of the requested permit.

We thank you for your time and consideration of the concerns expressed by the following residents of the Fallen Oak Drive Neighborhood:

Name: Pat & Yvonne Rowe Address: 7524 Fallen Oak Dr

Name: Marc & Mary Watts Address: 7620 Valley View rd

Name: Ken & Amy Wagner Address: 7555 Fallen Oak Dr.

Name: MALI & TYSON TRAN Address: 7538 FALLEN OAK DR.

Name: Scott & Mary Woodward Address: 7548 Fallen Oak Dr

Name: Sue Coats Darwin

Address: 3535 Pioneer Rd
Verona, WI 53593

Name: Thomas & Patricia Livell

Address: 7541 Fallen Oak Drive

Name: Margaret Knopf

Address: 7542 FALLEN Oak Dr.

Name: Rani Ballandi

Address: 7552 Fallen Oak Dr.

Name: Mike + Janis Parkinson

Address: 7531 Fallen Oak Dr.

3110479

05-07-1999 2:59 PM

Trans. Fee

Rec. Fee 28.00
Pages 10

DRAFTED BY AND RETURN TO:

Attorney Roger W. Boettcher
17 Applegate Court, Suite 11
Madison, WI 53713-3100

001034

Parcel #: 19-0708-293-8221-4
(underlying)

**DECLARATION OF COVENANTS AND RESTRICTIONS
FOR LOTS ONE (1) THROUGH TEN (10) INCLUSIVE,
PLAT OF OAK FIELD ESTATES, TOWN OF MIDDLETON
DANE COUNTY, WISCONSIN**

WHEREAS, Robert F. and Yvonne A. Rowe, as Owner and Robert and Yvonne Rowe, Inc., as Developer, (hereinafter collectively the "Owner/Developer") are the Owner/Developer of Lots One (1) through Ten (10), inclusive, Plat of Oak Field Estates, Town of Middleton, Dane County, Wisconsin.

WHEREAS, the Owner/Developer is desirous of subjecting the above described lots to the conditions, covenants, restrictions, reservations, agreements and hereinafter set forth (hereinafter sometimes referred to as "Covenants"), for the benefit and protection of all owners of said lots, their heirs, successors and assigns.

NOW, THEREFORE, the Owner/Developer hereby covenant, grant, and declare and provide that the above described lots in the Plat of Oak Field estates shall be used for the purposes and in the manner set forth herein.

STATEMENT OF PURPOSE

The general purpose of this Declaration is to help assure that the land will become and remain an attractive community; to preserve and maintain the natural beauty of the land, to insure the most appropriate development and improvement of the land; to guard against the erection thereon of poorly designed or proportioned structures; to obtain harmonious improvements and to encourage and secure the construction of attractive residential structures thereon.

Bob,

Here is what I found.

I was going to ask the town what the easement
is for and why 60 ft.

Tim Gohl 259-9580

10/28

Utilities. All utilities serving any building or site shall be underground. No building or other improvement, shall be erected or placed and no trees shall be planted within any utility easement.

Mailboxes. Mailboxes and newspaper tubes will be installed and maintained by each owner. They shall be installed in accordance with postal regulations.

Lighting. Exterior lighting on each lot shall be of such focus and intensity so as the residents of adjacent lots shall not be disturbed.

Construction Deadline. Each residential structure erected shall have its entire external construction completed, driveway paved and shall be fully landscaped within 12 months from the date of issuance of the building permit except for delays in completion due to inability to obtain building materials, strike, war or act of God.

USE RESTRICTIONS

Single Family Use. All lots in the Plat shall be restricted to single family residences and outbuildings incidental to residential use approved by the Architectural Review Committee.

Parking. Parking of service vehicles, tractors, lawn tractors, trailers, boats, travel trailers, mobile homes, campers, and other recreational vehicles is prohibited unless kept in garages. Semi-tractors and trucks of over one ton capacity shall not be temporarily or permanently kept on any lot except in conjunction with providing services of a temporary nature of the owner of such lot. This shall not prohibit temporary parking of such vehicles for loading and unloading for emergency services or for the construction of residences on the lot or repairs thereon.

Appearance. Each owner shall be responsible for maintaining the land in neat appearance.

Trash. Trash containers must be kept out of sight and may be placed upon the curb only on days of trash collection.

Activities. No profession, business, noxious or offensive activity shall be carried on upon any lot, nor shall anything be done on any lot which may be or may become an annoyance or nuisance to the neighborhood.

Yards. No clothesline or other clothes-drying apparatus shall be permanently installed upon any lot. No wind-powered electric generators, exterior television or radio receiving or transmitting antennae or satellite receiving dishes which exceed 24 inches in diameter shall be installed without prior approval of the Architectural Review Committee.

selection of members of the ARC and transfer the architectural review responsibility to any duly organized Association of owners of lots within the Plat; or, if there is no such association to surrender, the right to selection of Members to all lot owners within the Plat. The ARC shall then consist of three (3) persons designated by an election of all lot owners with each lot to have one indivisible vote in such election. Action of the ARC shall be by majority vote. In the event of the death or resignation of any member of the ARC, the remaining members shall have full authority to act until the vacancy is filled.

APPROVAL OF PLANS

No building shall be erected on any lot or placed thereon until the plans, specifications, landscaping plans, exterior siding and color selections, and plot plan showing the location of such building and lot improvements including driveway location have been approved in writing by the Architectural Review Committee. A copy of such plans and specifications together with a plot plan shall be furnished by the owner for filing with the committee.

The Architectural Review Committee's decision shall be in writing. If the Architectural Review Committee fails to render its decision in writing to the applicant within thirty (30) days after submission of all plans and specifications, approval shall be deemed to have been obtained. Notwithstanding any failure of the Architectural Review Committee to act, any building to be constructed shall conform to all minimum requirements of this Declaration, the requirements of Dane County, Wisconsin Zoning Ordinances as to building type, size and location.

LIABILITY OF ARCHITECTURAL REVIEW COMMITTEE

The Architectural Control Committee and its individual members shall not be liable under any circumstances for any damage, loss or prejudice suffered or claimed on account of:

- A. The approval or disapproval of any plans and specifications, whether or not defective;
- B. The construction or performance or any work, whether or not pursuant to approved plans and specifications; or
- C. The development of any property with the Oak Field Estates Plat.

The approval of any plans or specifications of proposed contractors or builders is not nor shall it be deemed to be a warranty or representation by the Architectural Review Committee as to the soundness, integrity or fitness of any such plan, nor as an endorsement or designation of agency of any such contractor, or as a finding of compliance with any applicable zoning ordinance or building code.

4. By Laws and Articles. The purposes and powers of the Association and the rights and obligations with respect to Owners set forth in this Declaration may and shall be amplified by provisions of the Articles and Bylaws of the Association.

B. Certain rights and obligations of the Association: The Association shall have and may exercise any right or privilege given to it expressly by this Declaration or the Articles or Bylaws, or reasonably to be implied by law, or which may be necessary or desirable to fulfill its duties, obligations, rights or privileges. The Association shall not be empowered or entitled to:

1. Change the pro rata interest or obligations of any individual lot for the purpose of levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards;

3. By act or omission seek to abandon, partition, subdivide, encumber, sell or transfer the Landscape Easement Area.

C. Maintenance of Landscape Easement Area. The Association shall provide for the care, operation, management and maintenance of the Landscape Easement Area including maintenance of all plantings and the mowing of grass. It is intended that the Landscape Easement Area is to be maintained as open space with a rural landscape character. No structures shall be permitted within the Landscape Easement Area. Without limiting the generality of the foregoing, said obligations shall include the keeping of such area in good, clean, attractive and sanitary condition; and making necessary or desirable alterations, additions, betterment or improvements to or on the Landscape Easement Area consistent with its purpose. However, no maintenance of the Landscape Easement Area may limit, restrict, or impair the use and enjoyment of the easement area by the Owner of Lot Ten (10).

D. Assessment for Common Expenses. All Owners, including Owner/Developer, shall be obligated on an annual basis to pay the estimated assessments imposed by the Board of Directors to meet the Common Expenses. "Common Expenses" means and includes all sums lawfully assessed against the members by the Association as expenses of administration, expenses of maintenance of the Landscape Easement Area and other expenses which may be declared as Common Expenses by the Association. The assessments shall be allocated among the lots on an equal basis. Assessments for the estimated Common Expenses shall be due in advance, on the first day of each year. The Board of Directors shall prepare and deliver or mail to each Owner an itemized annual statement showing the various estimated or actual expenses for which the assessments are made. The assessments made for Common Expenses shall be based upon the requirements deemed to be such aggregate sum as the Board of Directors shall from time to time determine is to be paid to provide for the payment of all expenses growing out of or connected with the maintenance of the Landscape Easement Area and Association as applicable, which sum may include, but is not limited to: expenses of management, landscaping and care of grounds; repairs and replacements; legal and accounting fees; capital expenditures; deficits remaining from a previous period; and other costs and expenses relating to the operation of the Association or to the Landscape Easement Area. The omission or failure of the Board of Directors to fix the assessment for any reason shall not be deemed a waiver, modification or a release of the Owners from their obligation to pay same. At the end of any calendar year, the Board of Directors may, but shall not be

Term of Covenants. This Declaration of Covenants and Restrictions shall run with the land and shall be binding upon all land for a period of twenty-five (25) years from the date this Declaration is recorded, after which time it shall automatically stand renewed for successive ten (10) year periods unless an instrument terminating or changing such covenants is executed by all lot owners and recorded in the Office of Deeds for Dane County, Wisconsin.


001042

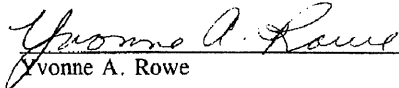
Amendment. Any provision contained in this Declaration may be amended by the recording of a written instrument or instruments specifying the amendment executed by the owners of least seven (7) lots in the Plat, as shown by the Register of Deeds of the County of Dane, Wisconsin, and provided further, that so long as Developer continues to own one or more Lots, which are held for sale, no rights of Owner/Developer contained in this Declaration may be amended or modified without the consent of Owner/Developer. Such action regarding the Declaration shall be, by written agreement, executed by the requisite number of owners and shall become effective when it is recorded in the Office of the Dane County Register of Deeds. Upon and after the effective date of any such change or changes, the same shall be binding upon all owners, and shall and bind all persons claiming by, through or under any one or more of them.

Notwithstanding the foregoing amendment provision, rights of the Town of Middleton or its successors with respect to the possible extension of Fallen Oak Drive, and the provisions for the landscape easement and maintenance thereof, may not be amended or terminated without its written consent. It is expressly understood that the Town of Middleton has no enforcement authority concerning these covenants and restrictions except as such covenants and restrictions relate to land reservation for future extension of Fallen Oak Drive and with respect to maintenance of the landscape easement.

Enforcement Actions. The owners of any lot shall have the right to sue for and obtain a prohibitive or mandatory injunction or any other equitable remedy to prevent the breach of, or to enforce the observance of, the Covenants above set forth, or any of them in addition to the right to bring a legal action for damages.

OWNER:

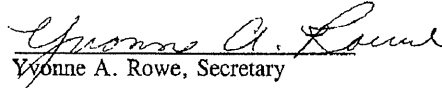

Robert F. Rowe


Yvonne A. Rowe

DEVELOPER:

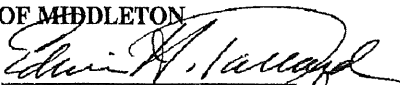
ROBERT AND YVONNE ROWE, INC.

BY: 
Robert F. Rowe, President

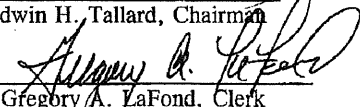

Yvonne A. Rowe, Secretary

APPROVED:

TOWN OF MIDDLETON

BY: 
Edwin H. Tallard, Chairman

ATTEST:


Gregory A. LaFond, Clerk