

TOWN BOARD ACTION REPORT – CONDITIONAL USE PERMIT

Regarding Petition # DCPCUP-2021-02537 Dane County ZLR Committee Public Hearing Tuesday, October 26, 2021

Whereas, the Town Board of the **Town of Middleton** _____ having considered said conditional use permit application, be it therefore resolved that said conditional use permit is hereby (check one): **APPROVED**

DENIED (IF DENIED, PLEASE COMPLETE FINDINGS SECTION ON PAGE 2)

PLANNING COMMISSION VOTE: 6 **In Favor** 0 **Opposed**

TOWN BOARD VOTE: 5 **In Favor** 0 **Opposed**

Whereas, in support of its decision, the Town Board has made appropriate **findings of fact** that the standards listed in section 10.101(7) (d) 1, Dane County Code of Ordinances, and section 10.222 (3) (a), if applicable, are found to be (check one):

SATISFIED

NOT SATISFIED (PLEASE COMPLETE FINDINGS SECTION ON PAGE 2)

THE CONDITIONAL USE PERMIT IS SUBJECT TO THE FOLLOWING CONDITION(S):

- Motion to approve the Conditional Use Permit for Dustin Maher at 7537 Fallen Oak Drive by the Town Board for the Town of Middleton, for Transient or Tourist Lodging in the SFR-08 / Single Family zoning district, subject to the following:
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 1.101(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 renters. Use of the property, including rental, shall be in full compliance with the sanitary permit for the property.
 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 subsequent to issuance of the CUP.
 10. Quiet hours shall be 10:00pm to 8:00am, all days of the week.
 11. Peak noise levels shall not exceed 40 decibels [dB(a) scale], as measured at the property line, during quiet hours.
 12. Peak noise levels shall not exceed 55 decibels [dB(a) scale], as measured at the property line, during hours other than quiet hours.
 13. All renter vehicles must be parked on paved driveway surfaces or inside the existing garage at all times, with adequate access for emergency vehicles.
 14. 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.
 15. 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.
 16. 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.
 17. The owner or operator must keep a copy of the conditional use permit, including the list of all conditions, on the site.
 18. 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.
 19. 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.
 20. 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.
 21. The operation of all-terrain vehicles, ATVs, and snowmobiles by occupants of the transient or tourist lodging operation shall be prohibited on the property.
 22. Signage is prohibited.
 23. Fireworks are prohibited.
 24. The owner, or their designated emergency contact person, must be available within one (1) hour to address any problems.
 25. 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.

PLEASE NOTE: The following space, and additional pages as needed, are reserved for comment by the minority voter(s), **OR**, for the Town to explain its approval if the decision does not comply with the relevant provisions of the Town Plan.

I, Barbara Roesslein, as Town Clerk of the Town of Middleton, County of Dane, hereby certify that the above resolution was adopted in a lawful meeting of the Town Board on Monday, November 15, 2021

Town Clerk Barbara Roesslein **Date** Wednesday, November 17, 2021

FINDINGS OF FACT FOR DENIED CONDITIONAL USE PERMITS

If the Conditional Use Permit application is denied, please complete the following section. For each of the standards, indicate if the standard was found to be satisfied or not satisfied. Please note the following from sections 10.101 (7) (c) 2 f g and 10.101 (7) (c) 3 d e :

“The zoning committee or applicable town board must deny a permit if it finds that the standards for approval are not met, and must approve a permit when the zoning committee and applicable town board determine that the standards for approval are met.”

PLEASE INDICATE THE APPROPRIATE FINDING FOR EACH STANDARD (CHECK ONE / STANDARD)

- | | |
|---|---|
| 1. That the establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public health, safety, comfort or welfare. | 1. <input checked="" type="checkbox"/> SATISFIED / <input type="checkbox"/> NOT SATISFIED |
| 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. | 2. <input checked="" type="checkbox"/> SATISFIED / <input type="checkbox"/> NOT SATISFIED |
| 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. | 3. <input checked="" type="checkbox"/> SATISFIED / <input type="checkbox"/> NOT SATISFIED |
| 4. That adequate utilities, access roads, drainage and other necessary site improvements have been or are being made. | 4. <input checked="" type="checkbox"/> SATISFIED / <input type="checkbox"/> NOT SATISFIED |
| 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. | 5. <input checked="" type="checkbox"/> SATISFIED / <input type="checkbox"/> NOT SATISFIED |
| 6. That the conditional use shall conform to all applicable regulations of the district in which it is located. | 6. <input checked="" type="checkbox"/> SATISFIED / <input type="checkbox"/> NOT SATISFIED |
| 7. That the conditional use is consistent with the adopted town and county comprehensive plans. | 7. <input checked="" type="checkbox"/> SATISFIED / <input type="checkbox"/> NOT SATISFIED |
| 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). | 8. <input checked="" type="checkbox"/> SATISFIED / <input type="checkbox"/> NOT SATISFIED |

THIS SECTION IS RESERVED FOR FURTHER EXPLANATION OF THE FINDINGS:

Motion to approve the Conditional Use Permit for Dustin Maher at 7537 Fallen Oak Drive by the Town Board for the Town of Middleton, for Transient or Tourist Lodging in the SFR-08 / Single Family zoning district, subject to the following:

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 1.101(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 renters. Use of the property, including rental, shall be in full compliance with the sanitary permit for the property.
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 subsequent to issuance of the CUP.
10. Quiet hours shall be 10:00pm to 8:00am, all days of the week.
11. Peak noise levels shall not exceed 40 decibels [dB(a) scale], as measured at the property line, during quiet hours.
12. Peak noise levels shall not exceed 55 decibels [dB(a) scale], as measured at the property line, during hours other than quiet hours.
13. All renter vehicles must be parked on paved driveway surfaces or inside the existing garage at all times, with adequate access for emergency vehicles.
14. 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.
15. 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.
16. 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.

17. The owner or operator must keep a copy of the conditional use permit, including the list of all conditions, on the site.
18. 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.
19. 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.
20. 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.
21. The operation of all-terrain vehicles, ATVs, and snowmobiles by occupants of the transient or tourist lodging operation shall be prohibited on the property.
22. Signage is prohibited.
23. Fireworks are prohibited.
24. The owner, or their designated emergency contact person, must be available within one (1) hour to address any problems.
25. 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.