



# DANE COUNTY PLANNING & DEVELOPMENT

Room 116, City-County Building, Madison, Wisconsin 53703  
Fax (608) 267-1540

**TO: Supervisor Mary Kolar**

**FROM: Roger Lane, Dane County Zoning Administrator**

**SUBJECT: Information regarding Christy's Landing, 2952 Waubesa Avenue, Town of Dunn**

**DATE: May 1, 2014**

**CC: County Board Supervisors**

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Dear Supervisor,

I have assembled the pertinent information regarding Christy's Landing at 2952 Waubesa Avenue in the Town of Dunn per your request. As you are aware, the owner has obtained approvals to bring the existing land use (tavern) into compliance with current zoning regulations including the expansion of outdoor lighted entertainment from one volleyball court to two under CUP #2258. The approval of the expanded outdoor entertainment is being appealed by a neighboring property owner. This matter will be before the County Board on May 15, 2014. The intention of this memorandum is to clarify the issues regarding the history of the property and the changes that have occurred on the property as part of the recent approvals.

## **History**

The tavern has been in operation at 2952 Waubesa Avenue prior to the adoption of zoning by Dane County in 1938. In 1950, the site was assigned the zoning district classification of B-1 Business District to acknowledge the existing tavern.

In 1987, an outdoor lighted volleyball court was added to the property under CUP #621. The CUP allowed a 30' x 60' sand area for the court within a fenced area on the south side of the bar approximately 50 feet away from the lake. The rest of the area was to be sod. There were no conditions imposed under the CUP other than the volleyball court being allowed to be illuminated. There were no standards set for the hours of operation or the design of the illumination.

In 1992, Dane County revised the B-1 Business Zoning District by limiting certain land uses within this zoning district. Taverns, drive-in restaurants, outdoor seating areas, funeral halls, gas stations, and day care centers were removed from the list of land uses. As a result, the tavern and volleyball courts became a legal non-conforming use, in other words "grandfathered".

## **Violation**

In August of 2013, Dane County Zoning Division received a written complaint regarding the activities at 2952 Waubesa Avenue. An inspection revealed that a second volleyball court was being installed on the property. The existing privacy fence was shifted approximately 10 feet, at an angle, to allow for the positioning of the second court. The construction was halted. The owner was given the option of returning the area to the originally approved plan or obtaining approvals for the proposed change.

The landowner pursued the option of obtaining approvals for the installation of a second volleyball court. As part of the approval, the zoning on the property needed to be revised to a zoning district which listed taverns as a land use and also allowed lighted outdoor games.

## **Zoning**

Zoning petition #10639 was submitted to the County to change the zoning of the property from B-1 Business Zoning District to the C-1 Commercial Zoning District. Approximately 2,000 square feet was taken from the adjacent residentially zoned property along the south side to be included in the commercial district. This was necessary to account for the positioning of the second volleyball court. The petition was approved by the County Board on March 20, 2014 limiting the land uses to a tavern, outdoor entertainment, outdoor lighted volleyball, and a marina on the property.

## **Conditional Use Permit**

Conditional Use Permit #2258 was submitted to the County to allow two lighted volleyball courts to be located on the property. As part of the permit, limitations were placed on various aspects of the existing land use. The Zoning and Land Regulation Committee, along with the Town of Dunn approved the conditional use permit. To meet the six standards in order to obtain a conditional use permit, 12 conditions were imposed. These conditions limited the impact on surrounding land uses by requiring a designed lighting plan, additional screening along the south side of the property, limitation on the hours of operation, limiting the number of events, limiting the use of whistles, prohibiting seating areas along the south property line, and limiting noise levels of outdoor entertainment. See attached conditional use permit.

An appeal of CUP #2258 was submitted by Mr. Bruce Lindsay on March 20, 2014. The appellant claims that the six standards to obtain a conditional use permit were not met.

## **Land Division**

The properties owned by Waubesa Beach Club LLC consist of 5 lots of record, Lots 1 through 5 of Block 3 of the Second Addition to Waubesa Beach Subdivision. The 5 lots contain Christie's Landing Bar building and a single-family residence located just south of the bar. As part of the rezoning, the existing property lines needed to be amended to accommodate the 2,000 square-foot expansion to the south. Lots 1 through 3 and a portion of 4 (commercial area) were consolidated into one 32,000 square foot lot. Lots 4 and 5 (residential area) were consolidated into one 13,100 square foot lot. Variances were needed to be obtained for the dimensions of the lots in order to meet the new Shoreland requirements. Variances were obtained and CSM 13695 was approved and recorded to create the consolidated lots.

## **Concerns and Issues**

There have been some concerns regarding the lighting, screening, and noise levels.

### Lighting

The existing lighting was not designed to limit illumination on neighboring properties. This was a concern raised by the public during the conditional use process. Under CUP #2258, the existing lighting will be removed and replaced with a system that reduces the lighting by 50%. The design cuts illumination to 0.5 foot candles within 10 feet of the fence line. The new lighting directs the illumination down directly at the courts. Although Dane County Zoning regulations does not have illumination standards, the design meets municipal standards.

### Screening

The existing volleyball court area was screened by to large hickory trees. Unfortunately, these trees had to be removed in the spring of 2013 as recommended by a certified arborist from Johnson Tree Service. County Staff verified the recommendation. Due to the absence of this natural screening, a concern was raised by the public during the conditional use process. To address the issue, a 12-foot tall retractable screen will be installed along the south property line in addition to the existing 6-foot tall privacy fence. In addition, tables/seating and portable toilets have been prohibited from being installed along the south property line to reduce patrons congregating along the south property line.

### Noise

The existing approval for outside entertainment did not have limitations on noise levels. This was raised by the public during the conditional use process. The concern was addressed by placing a decibel limit on the events. The noise limit was set at 85 decibels at the property line.

The Dane County Ordinance only addresses noise under the requirement regarding disturbance of the peace. It does not specifically address noise limitations and is mostly left up to the County Sheriff responding to the complaint. However, most municipal ordinances have limitations regarding continuous noises. These limitations are geared toward a daily ongoing noise as part of a land use operation. The City of Madison restricts a daily ongoing noise to 65 decibels from a commercial land use at a residential property line. These ordinances are not used for intermittent events. The City of Madison exempts outdoor gatherings, public dances, and outdoor entertainment events from noise limitations.



Lindsay Residence

trees removed

residence owned by  
Waubesa Beach Club  
LLC

Christy's Landing

Waubesa

25 yds

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Pictometry Bird's Eye © 2010 Pictometry International Corp  
Pictometry Bird's Eye © 2010 MDA Geospatial Services Inc.

Start | Internet Explorer | Google Chrome | Christy's landing informa... | Zoning Petition Review... | Bird's Eye - \\Remote

9:08 AM

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9:08 AM



## Dane County Zoning Division

City-County Building  
210 Martin Luther King, Jr., Blvd., Room 116  
Madison Wisconsin 53703  
(608) 266-4266/266-9083 Fax (608) 267-1540

# DANE COUNTY CONDITIONAL USE PERMIT #2258

**THE ZONING AND LAND REGULATION COMMITTEE OF THE DANE COUNTY BOARD PURSUANT TO SECTION 10.255(2) OF THE DANE COUNTY CODE OF ORDINANCES DOES HEREBY:**

**GRANT** Conditional Use Permit #2258 for a tavern, lighted outdoor volleyball, and outdoor entertainment activity under Dane County Code of Ordinances Section 10.13(2) and subject to any conditions contained herein.

### **EFFECTIVE DATE OF PERMIT:**

**THE CONDITIONAL USE SHALL BE LOCATED ON THE PROPERTY DESCRIBED AS FOLLOWS:**

2952 Waubesa Avenue, Town of Dunn

Legal Description: Beginning at the most Northerly Corner of said Lot 1; thence S.52°23'02"E. along the NE Line of said Lot, 205.87 feet to meander corner No. 1; thence S.52°23'02"E. continuing along said NE Line, 20 feet more or less to the Water's Edge of Waubesa Lake; thence Southwesterly along said Water's Edge 160 feet, more or less; thence N.52°40'25"W. 22 feet, more or less to meander corner No. 2; meander corner No. 2 is located S.45°41'25"W. 157.22 feet from meander corner No. 1; thence N.52°40'25"W. 85.65 feet; thence N.26°39'15"W. 103.74 feet to the SE Line of Waubesa Avenue; thence N.33°53'17"E. along said SE Line 66.16 feet; thence N.37°07'24"E. continuing along said SE Line, 45.04 feet to the place of beginning.

### **CONDITIONS OF APPROVAL:**

#### Tavern:

1. Hours of operation shall be from 9:00am until 2:00am on Sunday through Thursday, 9:00am until 2:30am on Friday and Saturday.
2. The number of parking spaces shall be maintained at the existing 55 parking stalls. Waubesa Beach Club LLC shall maintain these parking areas. On-site parking shall not be reduced in any fashion.

#### Lighted Volleyball Court:

1. There shall be no more than two volleyball courts on the property. The courts shall be located as depicted on the attached site plan.
2. The exterior lighting design shall be installed as per the attached lighting plan.
3. Court screening: Screening shall be installed as required in section 10.16(7) of the Dane County Code of Ordinances. In addition, a 12' tall privacy screen that blocks 90% of light shall be installed as shown on the attached site plan, and shall be in the raised position during volleyball play after dark and lowered after volleyball play.
4. Hours of operation (both courts and lighting of courts): Limited to from 8:00 am to 10:00 pm.



5. Noise: Use of whistles must be limited and used only to stop play.
6. Prohibit picnic tables and portable toilets in the area indicated on the attached site plan.

Outdoor Entertainment Activity:

1. Number of Events per year: Music events shall be limited to 25 per year.
2. Hours of operation for events: Events on Thursdays Fridays, and Saturdays limited to 9:00 pm. Events on Sundays limited to 8:00pm. A maximum of 5 identified events limited to 10:00pm.
3. Amplified noise levels: Amplified sounds shall be limited to 85 decibels DbA at property lines.

**THE ZONING AND LAND REGULATION COMMITTEE AFTER PUBLIC HEARING AND IN THEIR CONSIDERATION OF THE CONDITIONAL USE PERMIT MADE THE FOLLOWING FINDINGS OF FACT:**

1. That the establishment, maintenance and operation of the proposed conditional use will not be detrimental to or endanger the public health, safety, morals comfort or general welfare.
2. That the uses, values, and enjoyment of other property in the neighborhood for purposes already permitted will not be substantially impaired or diminished by the establishment, maintenance, and operation of the proposed conditional use.
3. That the establishment of the proposed conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
4. That adequate utilities, access roads, drainage and other necessary site improvements will be made.
5. That adequate measures will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
6. That the proposed conditional use does conform to all applicable regulations of the district in which it is proposed to be located.

**EXPIRATION OF PERMIT**

In addition to any time limit established as a condition in granting this CUP, Section 10.25(2)(n) of the Dane County Code of Ordinances provides that any use for which a conditional use permit has been issued, upon its cessation or abandonment for a period of one year, will be deemed to have been terminated and any future use shall be in conformity with the ordinance.