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Others on attached list

Re: Petition: CUP 2513, 2206 Colladay Point Drive, Town of Dunn, WI

Ladies and Gentlemen:

The undersigned residents of Colladay Point Drive (“the Drive”) in the Town of Dunn, Wisconsin (“Respondents”) hereby submit the following written testimony in opposition to the application (“the Petition” or “Application”) of Louisa Enz (“Petitioner” or “Applicant”) for the issuance of a Conditional Use Permit (“CUP 2513”) to allow short term rentals (“STR”) to transients and tourists at 2206 Colladay Point Drive, Dunn, Wisconsin (“the Property”). (While an iteration of this document was drafted prior to the February 22, 2021 hearing on the CUP application, it was not circulated to all interested neighbors before, pending the Town’s action on any CUP application and its ordinance. To save time, we are submitting it with only 6 names, and will supplement with additional neighbors who wish it to represent their views after they have had an opportunity to review it.)¹

¹ We appreciate the opportunity to submit this testimony. As explained at the hearing, we had requested a postponement to permit submission of written testimony, and to permit the Town of Dunn to act on its proposed ordinance and then any CUP application filed with the Town. We were informed by staff that the ZLR procedures would postpone the hearing until the Town had acted. Subsequently, we were provided with staff’s proposed recommendations, which included “that the petition be postponed at the February 23rd county public hearing to provide time for an application to be submitted and considered at the town level, and to receive testimony from interested parties at the county hearing.” (Emphasis added.) We understood that to mean both written and live testimony. For that reason, concerned neighbors did not appear at the hearing on the 23rd. We would therefore appreciate the opportunity to testify at a continued hearing, should any neighbors wish to do so.

It is Respondents' position that the Petition should be denied, as the proposed use is inconsistent with the surrounding uses and character of the neighborhood and present zoning, and will either impair the values and salability of the surrounding properties, or in the alternative, create pressure on the surrounding properties on Colladay Point to be sold to developers for use as short term rental properties.

This will start a cascade of properties converting to STR's, which will indelibly change the neighborhood and price properties out of the reach of residential owners, including families. Thus we have grave concerns that proliferation of short term rentals will ruin the very fabric of our neighborhood.

The proposed use will also interfere with the right of quiet enjoyment of their properties by Respondents. In the event the Committee does not deny the Petition, then in the alternative, we submit that the CUP should have sufficient conditions to protect the rights of the surrounding landowners and maintain the residential character of the existing neighborhood.

NATURE OF THE NEIGHBORHOOD

In order to put the Petition in context, one must first understand the unique nature of the neighborhood and surrounding properties. Colladay Point ("the Point") is, as the name suggests, a point of land in the western part of Lake Kegonsa, extending approximately .3 miles into the lake, bordering Colladay Bay to the north, and Lincoln Park Bay to the south. Numerous Native American effigy mounds protected by state law are sited on the Point, suggesting that its attraction as a spot to live on goes back centuries. The Drive is approximately 23 feet wide, and contains no sidewalks. It is shaded by many mature, tall trees. Every lot on the Point at present has been developed save a few. Many of the properties have underground utility lines, and street poles stop before the end of the Point. Most of the homes are far enough removed from State Highway 51 that residents generally cannot hear traffic on it, and the mature landscaping and trees serve as a buffer to most noise. It is only approximately 32 acres not counting the park.

The Point is the site of 48 residences, ranging from small second homes to large residences. The majority of homes are modest year round residences; 44 out of the 48 homes are occupied by year-round full time residents. A few vacation homes are owned by Wisconsinites or residents of Illinois. We are aware of only a few properties used for long term rentals. We are not aware of any properties on Colladay Point other than The Property that have been used for short term rentals. (Based on a cursory look at recent VRBO listings, there would appear to be other STR's on the lake, which we suspect are illegal, based on a lack of CUP's. We believe there to be at least a dozen STR's now operating on the lake, but a hard count is hard to achieve because none have requested CUPS, and we believe many if not all do not have necessary state and

county permits.) Every parcel on the Point but one is small enough to be zoned SFR-08 – compact residential.

While the majority of residents appear to be retired, young families also reside on the street, and grandchildren visit and sometimes play in the street. Since Colladay Point Drive is not a through street there is very little traffic. In fact, owing to its beauty and quiet, the Drive is used on a daily basis by walkers, bikers, joggers, and those walking their dogs, including not only those living on the Drive, but many other nearby residents as well, including families with children. Since there is no sidewalk, they walk on the narrow roadway. The Point is a family friendly neighborhood comprised of families with young children to retired seniors, from age 1 to 95. Most people know each other.

The outside of the Drive contains homes with lake access. Unusually, the inside homes on the Point also have lake access by virtue of a lot reserved for lake access. (Lot 29 is open land with a bench at the lake's edge.)

At the entrance to the Drive is Colladay Point Park. Approximately 7 acres, it consists of a grassy flat expanse, and wetlands which help contain stormwater drainage from the Point. The primary use of the Park is to exercise dogs of those living in the neighborhood. In 1990, neighborhood residents raised \$50,000.00 out of their own pockets to help acquire the property in order to prevent it from being developed as an out-of-character apartment complex (the total price was \$70,000.00), so that the land is now a Town of Dunn park.

Despite the small footprint of the Point in comparison to all of Dunn (39/22,016 acres or 39.4 sq. miles), in recent years properties on the Drive have accounted for approximately 4.5% of the Town's total assessment valuation and property taxes paid.

In general, the residents of the Drive have worked hard to be able to afford their homes, and have made significant investments in improving and maintaining the appearance and construction of their homes. They are proud to be able to live on the Point. They appreciate its quiet, beauty and safety. While on-street parking is permitted, because of the narrow width (23 feet) of the roadway, most parking is on site on their driveways, and there is little street parking on a daily basis. The majority of lakefront homes have piers maintained for summer boating. In winter, the lake is used for snowshoeing, skiing, skating, and ice fishing, all quiet sports.

The Point is not a "rural neighborhood" as Petitioner states, but is in fact a compact residential neighborhood zoned SFR-08 Single Family Residential District

HISTORY OF APPLICANT'S USE OF THE PROPERTY

In recent years, it became apparent to Respondents that the Property was being used for short term rentals in the summer. It should be noted that Point residents were never approached by Petitioner regarding such use. In fact, they have not been approached to this day. While she maintains that the property is used by her family as a second home Respondents have seen little evidence of such personal use by Petitioner. We believe her VRBO ad in the summer of 2020 did not have dates blocked out for personal use. At the hearing, Petitioner estimated that she rents the property from 140 to 180 days per year, and used the property for only 10% of that time, or 14-18 days a year, further suggesting that the property was acquired solely for investment purposes.

Respondents have observed up to 4 cars parked on the driveway, and after each weekend, trash cans full of beer cans and bottles, suggesting use of the Property for parties. (See enclosed photos taken in August, 2020). We have also observed boat trailers parked on the Property. Petitioner, a realtor who lives in Oregon, owns a total of 7 properties in the county. In addition to her residence and the Property, Petitioner appears to own 2 sites used as rental properties for student housing. Thus it appears that the Property was purchased for investment and income purposes. Petitioner does not reside on the Property.

Despite Petitioner's claim, Respondents have not observed any "improvements" to the appearance of the Property, nor building permits filed with the Town for improvement of the Property. One week, the Property was used to film a commercial movie, with numerous young persons on site, and windows boarded up. While there were suspicions that a racy feature was being created, it was subsequently learned that it was not a "blue" movie that was filmed. Petitioner states that she has a neighbor who has agreed to contact her should it be necessary. However, Respondents have never been informed of any contact person for the Property. Even today, half a year after a complaint was filed, Petitioner has not discussed her proposed use or the CUP Petition with her neighbors, asked them what conditions they might want, or shared any proposed rules for renters.

While Petitioner never sought permits to operate the Property as a short term rental , it appears to have been so used since having been purchased by the Property, and certainly since 2016. Because the Drive is zoned SFR-08, this is not a permitted use, and so for years the Applicants operated it as a short term rental illegally. In the summer of 2020, concerned about the incidence of out-of-state cars parked at the property during the pandemic, having seen a VRBO ("Vacation Rental By Owner") ad online for rental of the Property, and having determined that the STR was not a permissible use, Ken and Ann Axe of 2190 Colladay Point Drive filed a complaint with the County. Subsequently they were informed that the owner had changed the use to long term rentals. They were not informed of the Petition until February 4, 2021, when they received notice of hearing on the CUP. Petitioner seeks to operate a VRBO and/or Air BNB on the Property.

As a licensed realtor and landlord, Petitioner would be expected to know of the zoning restrictions on the property (as well as state licensing requirements) and the fact that its' use was in violation of the Zoning Code. In fact, though Petitioner suggested she may not have known the zoning district of the property, she did admit that she knew a CUP was required. It should be noted that she did not seek to remedy the violation by applying for the CUP until a complaint was filed after years of such violations. Thus, it is reasonable to assume that she would have continued such violations indefinitely but for the filing of the complaint. Moreover, Petitioner also did not obtain the required permit to operate such a "tourist rooming house" from the State Department of Agriculture and Consumer Protection ("DATCP") or the County, and has only decided to seek one as stated in the Petition after having her operation uncovered. See secs. 97.01(15k), 97.605, Stats.; sec. ATCP 72, Wis. Admin. Code. We believe such conduct and lack of good faith should be considered by the Committee in determining whether to grant the CUP.

Similarly, as of February 11, 2021, Petitioner had not applied for a CUP from the Town, as required under the Zoning Code and Dane County procedures for obtaining a CUP. See sec. 10.101 (7)(c)2.c., Dane County Code of Ordinances.

Nor have Respondents been provided with a copy of the alleged rules governing such rentals referred to by Petitioner in her application.

DISCUSSION

I. The Application Should be Denied

A. Petitioner Has Unclean Hands, As She Has Violated the Law for Years, and Only Ceased Nonconforming Use and Applied For a CUP After a Complaint Had Been Filed

As noted above, Petitioner has used the Property for STR for several years without first obtaining a CUP, in violation of the Zoning Code, and with knowledge a CUP was required. She failed to apply for the Permit until a complaint had been filed with the County. She also failed to get the necessary state and local permits or licenses required for short term rentals to transients and tourists. Finally, she has never discussed the use or application with neighbors, or provided them with a name and contact information for herself or any property manager. There has been no effort to solicit input from the neighborhood.

Such brazen defiance of the law and history of ignoring state and local regulation should not be rewarded at this time by issuance of a conditional use permit.

B. The Proposed Use is Inconsistent With the Town's Comprehensive Land Use Plan, the Clear Intent of Which Should be Respected by the Committee

In order to be approved, the application for a CUP must meet each of the 8 "requirements and standards for conditional use permits" set forth by the County in sec. 10.101(7)(d), Dane County Code of Ordinances. See secs. 10.101 (7)(b)1., (c)3.d. of the Code. ("Before approving any conditional use permit, the town board and zoning committee must find that all of the following conditions are met..." Sec. 10.101(7)(d)1, supra.) The burden of proof is on the applicant to show by substantial evidence that all of the conditions have been met. Sec. 59.69(5e), Stats.

These requirements include that the proposed "conditional use is consistent with the adopted town and county comprehensive plans" and conforms to "all applicable regulations of the district in which it is located." Sec. 10.101(7)(d)1.g.,f, Dane County Code of Ordinances.

The Town of Dunn has a long history of acting to protect the character of the Town. Unlike many municipalities in Dane County, the Town values preservation over development, and prioritizes quality of life and preserving the character of Dunn.

In the past Dunn has acted to preserve farmland by buying development rights; fended off construction of a Super Walmart and a massive bio-defense lab within its borders; and fought to preserve Waubesa wetlands. It also purchased the Colladay Point Stormwater Lot with Point residents. The values evinced by these actions are among the reasons Respondents chose to live within the Town.

Such policies and choices are clearly reflected in Dunn's Comprehensive Land Use Plan ("the Plan"), a very thoughtful guide for development and zoning within the Town. The Plan evinces a public interest in the enhancement and maintenance of permanent residential areas.

The Point is not a "rural neighborhood" as Petitioner states, but is in fact a residential neighborhood zoned SFR-08 Single Family Residential District. Under sec. 2.12 of the Town's Plan, entitled "Requirements for Conditional Use Permit Requests", factors to be considered in reviewing CUP requests include, inter alia, consistency with the Plan, whether the use is complementary with adjoining properties, compatibility with permitted use on adjacent lands, impacts of noise, dust, lights, odor, contamination, parking, traffic and other changes related to the use on public safety and the rural character of the Town, and the effect of the proposed use on water or air pollution, soil erosion and rare or irreplaceable natural resources (such as the Lake itself). As discussed below, application of these factors clearly indicates that the Application should be denied.

The Plan provides:

The Town has reviewed the conditional uses listed in the Dane County Zoning ordinance in light of the goals, objectives and policies found in this plan. The conditional uses listed below represent those that, based upon their nature and well-known or anticipated impacts, the Town believes could be reasonably consistent with this plan. ...

(Emphasis added.)

Unlike 9 other zoning districts listed in the Plan (RM-8, RM-16, RR-1, RR-2, RR-4, RR-8, RR-16, SFR-1, and SFR-2), SFR-08, entitled “Single-Family Residential, small lots Zoning District”, does not provide for transient or tourist lodging as a conditional use the Town believes “could be reasonably consistent with th[e] plan.” See Town of Dunn Comprehensive Plan sec. 2.12 at 2-30, 2-32 to 2-34.

Thus the granting of the Permit in this zoning district would be inconsistent with the Town’s Comprehensive Land Use Plan, and so does not comply with the requirements for approval of CUP’s under the Zoning Code, and should therefore be denied.

C. The CUP is Inconsistent With and Contrary to the Character of the Neighborhood

1. The CUP Will Negatively Affect the Health, Safety, Welfare and Quiet of the Neighborhood

Rejection of a CUP is warranted when it will affect the essential character of a neighborhood and the stability of a community, as reflected in the Plan. Moreover, among the standards which must be met for approval of a CUP under the Dane County Zoning Code are the following:

“...[T]he establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety, comfort, or general welfare.” Explain how the proposed land use will fit into the neighborhood. If there is going to be lighting, noise, outdoor storage, traffic, or other outside activities, explain how the activities will be limited to a reasonable level.

“[T]he uses, values and enjoyment of other property in the neighborhood already permitted shall be in no foreseeable manner substantially impaired or diminished by establishment, maintenance or operation of the conditional use.” Explain how the proposed land use will fit into the neighborhood and what will be done to avoid potential nuisances, such as limiting the hours of operation, noise control measures, paving the parking area, or the screening of outdoor storage.

“...[T]he 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.” Explain how the proposed land use will not interfere with the development of the surrounding property. It’s possible that there may already be limitations on development on the surrounding properties such as being deed restricted to just agriculture.

“...[A]dequate measures have been or will be taken to provide [adequate] ingress /egress so designed as to minimize traffic congestion in the public streets”; i.e., the proposed conditional use will not present traffic conflicts. Provide information on vehicle traffic that the proposed use will generate. Include frequency and types of vehicles

“...[T]he conditional use shall conform to all applicable regulations of the district in which it is located.” Provide information on any necessary licensing, or regulations associated with the proposed land use. Explain any buffering or screening that will be installed as part of the proposed use.

Sec. 10.101(7)(d)1.a.,b.,c.de.f., Dane County Code of Ordinances (emphasis added.) and explanation on application for CUP.

Dane County Public Health nicely sums up the problems caused by short term rentals:

When homes convert to STR properties, less homes are available for permanent residents. This increases housing competition, causes property rates and rents to rise, and makes permanent housing less affordable. STR guests are transients who are not invested in the neighborhood, which can reduce neighborhood character if careless noise and trash issues occur, neighbors no longer know each other, competition for street parking increases, and neighbors feel they are living in a hotel district.

<https://www.publichealthmdc.com/documents/~STR%20Getting%20Started-v3.pdf> (Emphasis added.) Such guests are literally here today and gone tomorrow, without engaging in the sort of activities that weld and strengthen a neighborhood. They do not participate in local government or engage in community activities, and have little interest in public agencies or the welfare of the citizenry.

Unfortunately, Colladay Point has learned from experience that transient renters are not invested in the neighborhood, that they are careless with trash, noisy, cause congestion, drive too fast for the neighborhood, abuse the lake, etc. Colladay Point has experienced the operation of 2206 as an unlicensed short term rental for a number of years, and that experience has motivated Respondents to act. (For the past 4-5 months, since filing of a complaint, the Property has been a longer term rental, and the problems described here relate to the time it was a short term rental).

Weekly problems included trash out of the bin, trash bins sitting on the roadside from Monday to Thursday (pickup day), and recycling bin overflows and being left on the roadside for 10 days

(from Monday of one week to the pickup day 10 days later) (See enclosed representative photos). Problems we saw regularly included transient renters parking cars and trailers on the road, having parties, and driving recklessly without regard to pedestrians. Other problems included parties launching water balloons into the lake, and a film being shot in the house (resulting in dozens of cars being parked in the vicinity, numerous deliveries, and papered over windows, as the crew took over the property for a week). In short, the very problems identified by Dane County Public Health have been experienced on Colladay Point due to the Applicant's use of 2206 Colladay Point Drive for short term rental.

The problem is further aggravated where, as here, the owner is not present, and there is no onsite manager. No one is present to protect the neighbors from speeding traffic, untended fires, fireworks, transient strangers who may bother or harass children, loud music and disturbances, barking and defecating animals, immoral or lewd activities, garbage, or unsupervised minors, all of which have been experienced in other neighborhoods where STR's have been present. Boaters and users of jet skis may not know of local lake regulations, such as no-wake rules.

Petitioner acknowledges the potential for mischief and disturbances through use of the Property and nearby amenities such as the easement by transients and tourists in suggesting that she will impose conditions on short term renters in order to stave off such problems. However, the measures suggested are insufficient to avoid or ameliorate expected and experienced problems

Thus Petitioner points to alleged conditions to which renters would be subject. However, they are not requested permit conditions, and there would be no enforcement mechanism. As a practical matter, should the owner receive complaints or even personally observe violations, there would be little she could do, as there would be insufficient time for judicial eviction. This differs from the situation of the nearby full-time resort, Crown Point, where an onsite manager is present, and the owners have taken time to develop a very good working relationship with their neighbors, soliciting their input. Unlike those neighbors, the residents of the Point did not "come to the nuisance"; i.e., purchase their homes with an appreciation of the existence of an STR operation. Their residencies predated the STR requested under the Application.

Furthermore, while Petitioner states there will be a "curfew" and noise limits, no decibel levels are listed, in contrast to those present, for example, in the Plan. Four to six adults 24 years or older will be permitted to rent, but there are no apparent limits on the number of children or pets, and a past VRBO listing for the property permitted 8-10 occupants for the 3 bedrooms and 2 baths property. Nor are there limits on the number of trailers which may be present, or bars to on-street parking of cars, trucks, trailers, and campers. There are no sanctions for violations suggested in the Application.

Moreover, should the Permit be granted, there is likely to be a domino effect, as more homes on the Point, especially the more modest ones, become converted to STR operations, as Dane

County Public Health has recognized is likely to occur based on experiences with STR's elsewhere. This would increase pressure on the easement, lead to congestion on the quiet street, and increase pressure on the lake, parkland and wetlands. Homes now occupied by only 1 or 2 adults would be occupied by 8 to 10 persons, increasing the population density, putting further pressure on the sanitary district, increasing traffic on the Drive, and leading to further drawdowns of the water table through wells. This negative impact on the health, safety, comfort and general welfare of neighborhood residents would violate the Dane County standards, particularly a. and b.. Therefore, the Application should be denied.

2. The Proposed Use Will Either Result in a Reduction of Property Values, or in the Alternative, Change the Essential Character of the Neighborhood from Primarily Residential to Short Term Rentals, Thereby Pricing Residents Out of the Neighborhood.

Short term renters have no incentive to maintain the Property, and even owners of such properties have less incentive than those who live in the neighborhood. While Petitioner lives in nearby Oregon at the moment, nothing would prevent her from moving or the next application to be from an absentee owner living in another state. Moreover, while Petitioner lives nearby, she has not provided for a property manager for those times when she is out of town or even out of the country. An owner who does not live in the house has less incentive to spend on the appearance of the property, and in this case, that shows (though the property is not a "cabin" as Petitioner described it at the hearing). In contrast, the rest of the neighbors have gone to great lengths to improve and maintain the appearance of their properties.

Such nuisances and unrestrained use by transients and tourists as described above will diminish the enjoyment and attractiveness of the neighborhood, resulting in a lowering of property values.

At the same time, as described by Dane County Public Health, experience with STR's elsewhere show that they tend to increase competition for available housing, upping values and taxes and pricing permanent residents out of the market. This would be especially noticeable for the more modest homes on the inside of the loop, for developers could purchase them for less, while still affording lake access to short term renters through overuse of the easement, to the detriment of adjoining property owners. The existence of such access is unusual. Park use would also increase. Thus granting the CUP here would place the neighborhood on a slippery slope, serving as precedent for the next CUP application and conversion to STR, and the next.

Increases in population and such use by transients and tourists would clearly change the essential character of the neighborhood for residents, impairing their right of quiet enjoyment, and the impact on the neighborhood and on property values would be in violation of standards b. and c. of the Zoning Code. Therefore, the Permit application should be denied.

3. The Proposed Use Will Increase Pressure on the Lake and Despoil Natural Resources

Standard d. of the requirements for approval of a CUP under the Dane County Zoning Code requires that:

“...[A]dequate utilities, access roads, drainage, and other necessary site improvements have been made or are being made.” Explain what impact the proposed use has on such things as water, septic, storm water, electricity, and traffic. Provide information on improvements that may be needed or if additional buildings are needed.

Sec. 10.101(7)(d)1.d., Dane County Code of Ordinances, and CUP application.

Similarly, sec. 2.12 of the Plan provides that in considering CUP requests, the Town must consider “the effect of the proposed use on water or air pollution, soil erosion and rare or irreplaceable natural resources.”

The increase in transients and tourists and occupancy of properties on the Point will inevitably increase congestion on the lake and pressure on this precious resource. Tourists do not know of rules to preserve the lake, such as no-wake rules. They have less reason to care about noise caused by boats and trash dumped in the water, and will consume more water and place pressure on the sanitary district. All of this is inconsistent with the intent of and values reflected in the Town’s Comprehensive Plan. It is for that reason that the Plan does not provide for STR by transients and tourists in the STR-08 Zoning District, while expressly permitting such use in other zoning districts within the boundaries of the Town.

For this reason too then, the Application should be denied.

II. In the Alternative, The CUP Should be Subject to Stringent Regulation and Conditions In Order to Protect and Maintain the Character of the Neighborhood.

Respondents contend that they have provided substantial evidence sufficient to justify denial of the CUP under applicable standards of the Zoning Code and the Town’s Comprehensive Land Use Plan. However, in the unlikely event that the Committee finds otherwise, we appreciate this opportunity to submit proposed conditions for such a permit. In general, they deal with density of use, management and maintenance of the property, and the protection of the public welfare, natural resources, and the use and quiet enjoyment of neighboring properties.

We submit it would make the most sense for the Committee to await action by the Town on its proposed ordinance and the recently filed CUP application before it takes action on the county permit. The Town's actions may alleviate some of our concerns, and make some of the permit condition requests moot as no longer necessary. (A hearing on the application is scheduled for March 8; a hearing on the ordinance was held February 22, 2021, and a further hearing is set for March 22, 2021.)

The proposed conditions are:

- 1) The dwelling may be rented for no less than 7 consecutive days at a time, up to 180 days/year, provided it is occupied by the Owner. This condition addresses the problems created when owners are not part of the neighborhood – for example, an owner that occupies the short term rental will be able to ensure that trash is properly taken care of, and cars are parked properly, and shares with residents an interest in preserving the character of the neighborhood. If the Owner does not occupy the dwelling, the dwelling may be rented for no less than 7 consecutive days at a time and no more than 30 days per year. The requirement that the owner be present is consistent with state law, which provides for regulation of STR's, and ordinances such as that of the Town of Westport, sec.11-3-(e)(1), see https://www.townofwestport.org/sites/g/files/vyhlif6051/f/uploads/title_7_chapter_11.pdf, page 3, regulating STR's." See also, Village of McFarland ordinance, Article XI, https://library.municode.com/wi/mcfarland/codes/code_of_ordinances?nodeId=PTIICO_OR_CH11BU_ARTXITOROHO
- 2) Occupancy shall be limited to two occupants per bedroom, and stacking renters in common rooms shall be prohibited by limiting total occupancy to twice the number of bedrooms. This provision will reduce the likelihood of the Property being rented as a "party house", keep the number of renters consistent with the size of the house and maintain the existing population density of the neighborhood.
- 3) Noise levels on the Property, consistent with the Plan, shall be limited to a peak of 60 db at the property lines between the hours of 7 AM to 7 PM, and 40 db between the hours of 7 PM and 7 AM. This will reduce the likelihood of the Property being used for parties, and help preserve the peace of the neighborhood.
- 4) Occupancy shall further be limited to 3 occupants per internal bathroom.
- 5) All vehicles, including trailers, shall be parked on the Property driveway and in the garage. There shall be a maximum of 4 vehicles, including trailer. There shall be no on-street parking of vehicles or trailers.
- 6) Renters shall be allowed one boat or personal watercraft trailer, and may not bring a "cigarette boat" or other boat inconsistent with use of the lake. They shall be allowed to use one boat, or 2 personal watercraft. This limit shall not apply to non-motorized canoes, kayaks, floats, or sailboats.

- 7) There shall be no overnight camping on the property, including in tents, campers, recreational or other vehicles. Outdoor overnight sleeping of guests shall not be permitted.
- 8) There shall be no children or persons under the age of 24 on the Property or running free in the neighborhood without adult supervision by a person over the age of 24.
- 9) Renters shall obey all applicable traffic laws, including speed limits.
- 10) No immoral, lewd, or illegal activities shall be conducted on the premises.
- 11) Social activities on the Property shall be limited to the renters, at all times.
- 12) The Property shall be properly maintained, consistent with the general appearance of other properties in the neighborhood, and shall not have an outside appearance indicating a change of use from the surrounding residential use.
- 13) Outside fires shall not be permitted on the Property unless in a metal or stone fire pit. Grills are not allowed under eaves.
- 14) All trash shall be disposed of in proper receptacles.
- 15) All waste cans shall be kept in or behind the garage, out of sight from the roadway, except on days when the trash is to be collected, in which case they may be put out on the morning of the scheduled trash collection, and shall be put back by no later than noon on the following day. Under no circumstances may waste or litter be disposed of in the lake.
- 16) The Property shall be mowed weekly and weeded in order to maintain its appearance.
- 17) The CUP shall not be transferable to a different owner. Change of ownership shall require a new CUP application by the new owner. The transient or tourist operation shall automatically cease and the Permit expire upon any sale of the Property.
- 18) The CUP shall expire one year from its effective date, and shall not be automatically renewed. The owner shall be required to apply for a new CUP each year before expiration of the existing permit in order to renew the CUP.
- 19) There shall be no operation by renters of a) ATV's or all-terrain vehicles, b) snowmobiles, or c) motorcycles or other vehicles with modified, defective or altered mufflers or exhaust systems on the Property, the adjacent roadway or the lake.
- 20) Renters and the owner shall comply with all federal, state and local laws, applicable licenses and permit conditions while on the Property.
- 21) Owner shall maintain liability insurance covering negligent acts of guests in the amount of at least \$1,000,000.00, and provide proof of such coverage to the Town by the effective date of the CUP.
- 22) Renters shall not be entitled to have any guests, whether for social or other events on the Property.
- 23) Renters may bring no more than one dog to the Property, which animal shall be leashed at all times when outside of the house, and shall pick up and properly dispose of all waste from such dog. Such dog shall not be permitted to engage in excessive barking or the making of other noise on the Property so as to cause a disturbance, and must be kept inside during the hours of 7 PM to 7 AM.

- 24) Owner shall apply for and receive by the effective date of the CUP all necessary permits, approvals, and licenses legally necessary for operation as a lodging site for transients and tourists under applicable law, including but not limited to operation as a tourist rooming house and shall provide copies to the Town upon request.
- 25) Owner shall promptly pay all fees, fines, or assessments levied against her by any governmental authority with respect to operation and ownership of the Property. The Permit may be automatically revoked upon failure to timely pay any fee, forfeiture, special charge, assessment, tax or other debt owed to the Town or County, violation of state or local law, or failure to maintain and comply with all state and local permitting or licensing requirements.
- 26) Commercial and business activities on the Property by renters or Owner (other than STR under a valid CUP), including moviemaking, shall be prohibited.
- 27) The Property may not be sublet by renters.
- 28) Owner and renters shall comply with all federal, state, county and Town public health orders and mandates.
- 29) Owner shall maintain all existing vegetation on or near the Property lines or its equivalent in providing visual screening and sound buffering.
- 30) Renters may not set off any fireworks from the Property or any boat or watercraft, or use floating lanterns.
- 31) Any new outdoor lighting on the Property shall be downward directed, designed to minimize ambient spill and shall be dark skies compliant.
- 32) The Property shall comply with all applicable building codes and public health regulations and laws. Any code violations found by a building inspector shall be promptly remedied and any resulting fees, fines or forfeitures promptly paid.
- 33) The zoning administrator or designee may enter the Property to inspect to ensure compliance with the permit conditions or investigate an alleged violation.
- 34) Failure to comply with imposed conditions or pay reasonable costs of any County or Town investigation or enforcement of sustained violations shall be grounds for revocation of the Permit.
- 35) Outdoor music and speakers for amplification of sound or music on the Property shall be prohibited.
- 36) There shall be no business signage on the Property.
- 37) Owner shall make all reasonable efforts to maintain the residential character of the neighborhood.
- 38) Owner may not own and operate another lodging for transients and tourists within 2000 feet of the Property so long as this CUP is in effect.
- 39) If Owner does not reside on the Property, then she shall provide all property-owners on the Point with the name, address and phone number of a property manager or other responsible person available or accessible to neighbors 24 hours a day to deal with problems any time the Property is occupied by short term renters.
- 40) Renters may not use the Property to host any outdoor events.

- 41) No vehicular traffic shall be generated greater than that normally expected in the residential neighborhood.
- 42) No excessive noise, fumes, dust, glare or vibrations shall be generated during use of the Property by renters.
- 43) Owner may not advertise the property in any media, including but not limited to VRBO and AirBnB listings, before issuance of all necessary permits and licenses, and may not market the Property for a greater number of occupants than the maximum occupancy permitted under the Permit or for any prohibited activity.
- 44) Renters may not use the Property for outdoor storage.
- 45) STR occupants shall not engage in disorderly conduct or disturb the peace and quiet of any nearby neighborhood or person by loud, unusual or excessive noise, tumultuous or offensive conduct, public indecency, public drunkenness, threatening, traducing, quarreling, challenging to fight, fighting or creating a dangerous or physically offensive condition.

Thank you for your kind consideration of this testimony. Should you have any questions, please do not hesitate to let us know.

Very truly yours,

RESPONDENTS

<u>Names</u>	<u>Address</u>
Ken Axe	2190 Colladay Point Drive
Frank Buettner	2170 Colladay Point Drive
Gina Buettner	2170 Colladay Point Drive
Alan J Carlson,	2156 Colladay Point Drive
George Corrigan	2168 Colladay Point Drive
Tiffany Corrigan	2168 Colladay Point Drive
Lindsey Dovichi	2207 Colladay Point Drive
Todd Dovichi	2207 Colladay Point Drive
Eric J. Frey	2222 Colladay Point Drive
Mary Jo Frey	2222 Colladay Point Drive
David Gilles	2182 Colladay Point Drive
Bryan Gladding	2187 Colladay Point Drive
Ann Gorman Axe	2190 Colladay Point Drive
Kathleen Gruber	2157 Colladay Point Drive
Gary Gimmestad	2175 Colladay Point Drive
Susan Gimmestad	2175 Colladay Point Drive
Joe Hansen	2178 Colladay Point Drive
Mark Hansen	2174 Colladay Point Drive
Maryliss Hansen	2178 Colladay Point Drive

John Hendrickson	2163 Colladay Point Drive
Jane Jung	2182 Colladay Point Drive
Nancy P. Lee	2193 Colladay Point Drive
Julie Liddicoat	2147 Colladay Point Drive
Karen Marsh	2160 Zor Ct.
Heidi Miess-Gladding	2187 Colladay Point Drive
Deb Ponti	2192 Colladay Point Drive
Don Ponti	2192 Colladay Point Drive
David Roe	2150 Colladay Point Drive
Patrice Roe	2150 Colladay Point Drive
Joseph Rozak	2159 Colladay Point Drive
Connie Salveson	2148 Colladay Point Drive
Juliette Schick	2166 Colladay Point Drive
Karl G. Schick`	2166 Colladay Point Drive
Ann Stratton	2186 Colladay Point Drive
Jim Stratton	2186 Colladay Point Drive
Bradley R Wagner	2160 Colladay Point Drive
Cindy Wagner	2160 Colladay Point Drive

2 Attachments (Photos)

cc. Town of Dunn Board



