

## 2021 ACT-368

Violation of conditions of Conditional Use Permit #2537  
DUSTIN MAHER, 7537 Fallen Oak Drive, Section 29, Town of Middleton.



### Discussion

On January 3, 2022, the Dane County Zoning Division found that Dustin Maher was in violation of the conditions of Conditional Use Permit #2537. The conditional use permit allowed the operation of a transient or tourist lodging at 7537 Fallen Oak Drive in the Town of Middleton.

Under the County Zoning Ordinance, violation of the conditions of a CUP are ground for revocation of the permit. Under Dane County Code of Ordinance Section 10.101(7)(d)2.a.xiv, *“Failure to comply with any imposed conditions, or to pay reasonable 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 a reasonable opportunity to correct any violations prior to revocation.”*

The ZLR Committee will need to decide if Conditional Use Permit should be revoked.

### History

A 4-bedroom house was constructed on the property in 2014. The septic system was designed for a 4-bedroom house which would accommodate 8 persons in the household (design based on 2 persons per bedroom).

On July 12, 2021, a written complaint was lodged with the Dane County Zoning Division regarding the house being rented out using the VBRO website for short term rental. The complaint stated that there were a large number of people at the house over the Fourth of July weekend and the occupants were lighting fireworks.

On July 13, 2021, Dane County Zoning Division informed the landowner, Dustin Maher, that the short term rental of the residence required a conditional use permit. The County requested that operation cease and the advertisement be removed from the VBRO website. We had suggested that the landowner obtain a conditional use permit to allow the short term rental. See attached violation notice.

On August 6, 2021, Dustin Maher submitted a CUP application to allow transient or tourist lodging on the property.

On November 3, 2021, the Dane County Zoning Division made the landowner aware that the on-site septic system was only designed for 8 persons.

On November 5, 2021, the Town of Middleton informed the County that Mr. Maher was still advertising the short term rental on VBRO. Dane County Zoning Division issued a citation for failure to abide by the violation order. See attached citation letter.

On November 15, 2021, the Town of Middleton Board approve CUP #2537 with 25 conditions. As part of the conditions, the owner was to obtain all necessary licenses, limits the rental to 8 persons, and prohibit fireworks.

On December 14, 2021, the Zoning and Land Regulation Committee approved Conditional Use Permit #2537 to allow the operation of transient or tourist lodging to occur at 7537 Fallen Oak Drive. The CUP was approved with 23 conditions. As part of the conditions, the house rental was limited to 8 persons and fireworks were prohibited.

On January 2, 2022, the Zoning and Land Regulation Committee receive complaints from 4 of the neighbors regarding activities that occurred on New Year's Eve at 7537 Fallen Oak Drive. A large group of people were observed on the property that were lighting fireworks.

On January 3, 2022, Dane County Zoning Division investigated the complaint. It was found that Mr. Maher rented the house out to 12 persons. A violation letter was sent to Mr. Maher. See attached CUP violation letter.

On January 4, 2022, the City of Madison/Dane County Department of Health sent a letter to Mr. Maher that he was advertising an apartment/house (tourist rooming house) for rent without a proper license.

In looking at the current house listing on VBRO, the listing does state that the house sleeps eight. However, the listing states "12 beds, sleeps 8". See attached house listing. The language is misleading to the amount of people that can occupy the house.

## **Decision**

After the being notify of the violation on July 13<sup>th</sup>, the landowner has continued to violate various aspects of the land use. The landowner continued to advertise the short-term rental; has exceeded the 8-person limit of the septic system; and has not obtained a license from the Health Department. The rental of the house is still causing complaints from the neighbors. Based on these issues, Staff is suggesting that CUP #2537 be revoked.

If the ZLR Committee feels that revocation is not warranted at this time, Staff suggests that the following remedial actions be imposed:

1. Cancel all rentals until a tourist rooming house license is obtained from Madison/Dane County Department of Health.
2. Provide all rental information to the Dane County Zoning Division of all rentals that will be occurring over the next 3 months. The information shall include the name of the renter and the contact information.
3. Post the Conditional Use Permit conditions inside the house in a conspicuous location.
4. The advertisement of the home rental shall specifically state a "Maximum 8 person occupancy".
5. The occupancy under short-term rental of the house shall not exceed 8 persons or the conditional use permit will be immediately revoked.