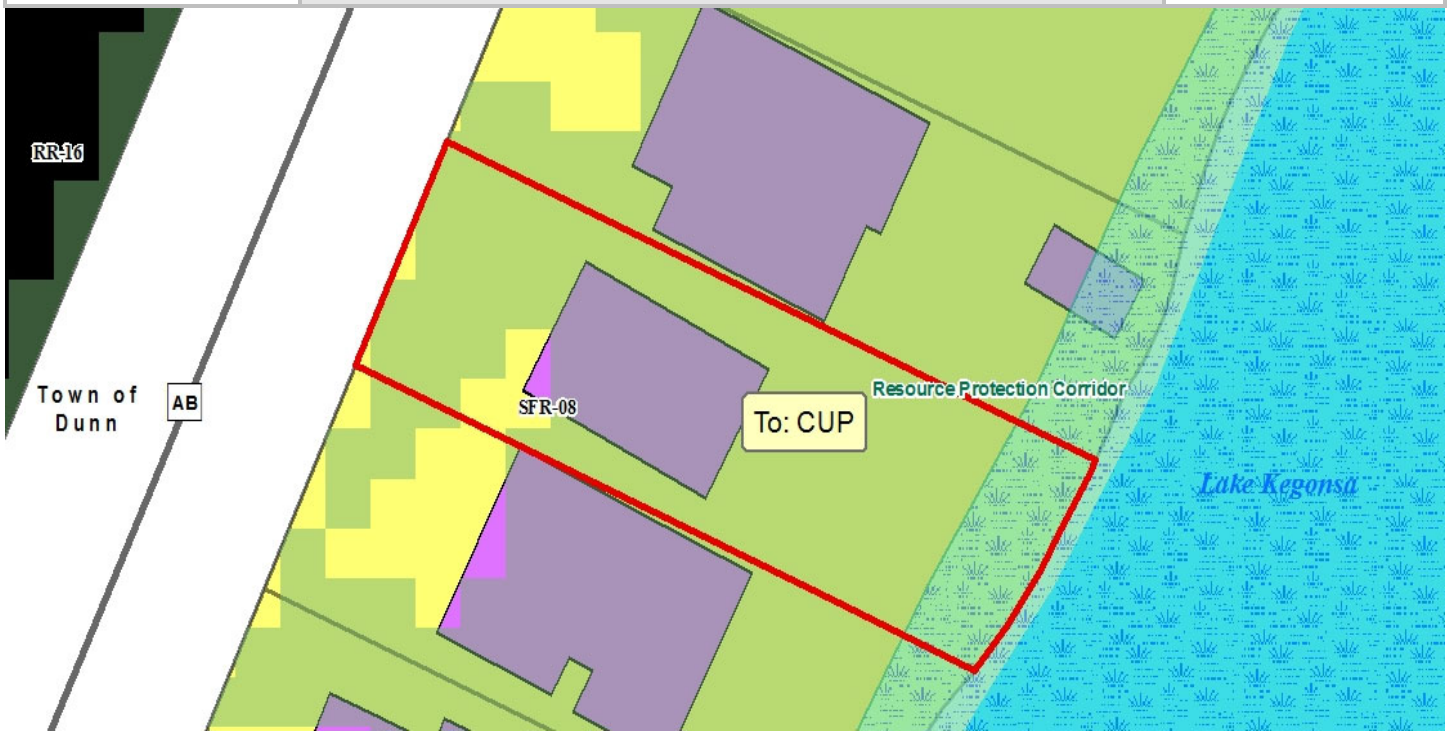
Staff Report Zoning and Land Regulation Committee	*Public Hearing*: **March 28, 2023**		**CUP 02586**
	Zoning Amendment Requested: **TO CUP: Transient or Tourist Lodging (Short-term Rental)**		*Town/Section:* **DUNN, Section 23**
	Size: **0.16 Acres**	*Survey Required.*	*Applicant* **TINGTING & DERIK BINGNER**
	Reason for the request: **Transient or Tourist Lodging (Short-term Rental)**		*Address:* **2290 CTH AB**



DESCRIPTION: Applicants Tingting and Derik Bingner request a conditional use permit (CUP) for transient or tourist lodging" (short-term rental) of their home in the Town of Dunn. The rental use is requested for up to 10 total guests including 8 guests age 12 and older, for 7-29 days per rental and up to 180 days per year. It is a 4-bedroom residence.

OBSERVATIONS/ FACTUAL INFORMATION: The 0.18-acre SFR-08 zoned property is located along the shore of Lake Kegonsa. Existing use is residential, consisting of a 4-bedroom, 1,869-square foot home. Neighboring land uses are residential on both sides with SFR-08 residential zoning, and agricultural and open space across County Highway AB with RR-16 rural residential zoning. The property is served by public sanitary sewer. No new construction is proposed.

Transient or tourist lodging is listed as an allowable conditional use in the SFR-08 zoning district. State statutes provide protections that allow the short term rental of residences for periods of 1 week or longer. Local governments may require a permit to be obtained, but may only limit rental use to periods of at least 6 months (either consecutive or non-consecutive) in any consecutive 365 day period. Local governments may also enact licensing ordinances. The Town of Dunn has enacted such an ordinance. Note that all such short term rentals must be licensed through Public Health Madison & Dane County (PHMDC) and inspected annually to verify the operation meets all requirements of Wisconsin law related to general public health. The applicant has not yet obtained a PHMDC license but will be required to do so.

The Town of Dunn ordinance also requires a license and limits the rentals to periods of 7 days or more and 180 total days per year. The applicant indicates that off-street parking is provided on site and has provided information about the rules that would apply to guests renting the home.

HIGHWAY DEPARTMENT: CTH AB is not a controlled access highway. No new access will be permitted on CTH AB due to this petition. Any change of use or work performed on the existing access requires a new permit from the County Highway Department. No significant increase of traffic expected due to conditional use permit.

RESOURCE PROTECTION: Resource protection corridor associated with the 1% annual flood hazard area of Lake Kegonsa is present on the property. No new development that would impact the environmentally sensitive area.

COMPREHENSIVE PLAN: The property is located in the town's limited sanitary sewer service planning area. (For questions about the town plan, contact Senior Planner Majid Allan at (608) 267-2536 or **allan@countyofdane.com**)

CONDITIONAL USE PERMIT DECISION MAKING: "Conditional uses" are those land uses which, because of unusual nature and potential for impacts on neighboring lands, public facilities, the environment or general welfare, warrant special consideration and review.

Prior to granting or denying a conditional use, the zoning committee shall make findings of fact based on evidence presented and issue a determination whether the proposed conditional use, with any recommended conditions, meets all of the standards required to obtain a conditional use permit. Below is the list of the applicable standards from Section 10.101(7)(d) of the Zoning Code, and a summary of the relevant facts including the applicant's testimony with regards to meeting the standards.

1. ***That the establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety, comfort or general welfare.***

   All short term rentals must be licensed through Public Health Madison & Dane County (PHMDC) and inspected annually to verify the operation meets all requirements of Wisconsin law related to general public health. The applicant must obtain a PHMDC license.

   The CUP application describes the proposed rental operations plan and house rules. The applicants state they will manage the property as their vacation home, that there is no new construction planned for the rental use, that there will be no outdoor signage, and that outdoor lighting will consist of existing floodlight and overhead string lights on the patio as well as motion lights on the entry path for safety. In addition, they have stated that there are security cameras on site in the front, back, and side of the home that the owners will use to monitor the premises.

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.***

   The owners indicate that off-street parking is provided for tenants, and rental rules stipulate no parties, no pets, no smoking, and noise curfew hours of 10pm to 7am (see the "Peaceful Stay Pledge" document provided). The applicants have agreed to limit the number of guests to a maximum of 8 adults / 10 total guests at a time.

   Some or all of these measures can be made into conditions of approval for a CUP, see staff recommendations below. For example, limits on the number of guests and establishing quiet hours are commonly used to control noise, which is a common concern that arises with short-term rental proposals.

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.***

   This property and most of the surrounding properties are already developed as single-family residential lots, and no exterior changes to the property are proposed in association with the proposed conditional use. The lands to the west are undeveloped; however, the proposal is not expected to impede the development of that land.

4. ***That adequate utilities, access roads, drainage and other necessary site improvements have been or are being made.***

   The utilities, access roads, drainage, and other improvements needed for the proposed use are comparable to those necessary for a single-family house that is not used for short-term rentals. As noted above, the home is served by sanitary sewer.

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.***

   Off street parking is provided for the property by an existing driveway / parking pad; there is no garage. No changes are proposed. The applicants state that they provide guest parking on the existing parking pad; however the application does not specify the number of parking spaces.

   Based on publicly available GIS maps the parking area is roughly 40'x20' in area and thus should accommodate 5 passenger vehicles, or a combination of fewer vehicles plus some recreational vehicles. This may be adequate for the proposed number of guests (8 adults / 10 total); however the parking could be a concern depending on how many guest vehicles are brought to the site.

   The applicant has confirmed that the parking pad can fit at least 4 vehicles, and can fit at least one boat. In addition, there is a public boat landing two minutes away from the house that residents and guests may use.

6. ***That the conditional use shall conform to all applicable regulations of the district in which it is located.***

   The proposed use conforms to the applicable regulations of the SFR-08 zoning district. Transient or tourist lodging is listed as an allowable conditional use in the SFR-08 zoning district.

7. ***That the conditional use is consistent with the adopted town and county comprehensive plans.***

   As noted above, the proposal appears consistent with the Town and County Comprehensive Plans.

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).***

   Not applicable.

POTENTIAL NUISANCES ASSOCIATED WITH THE CONDITIONAL USE: The potential nuisances that pertain to short-term rentals most likely involve noise, vehicle traffic, and sanitary waste management. The applicant's CUP application addresses how these potential nuisances are handled, as noted above.

Potential conditions of approval specific to this CUP can be developed after public input and deliberation by the Zoning and Land Regulation (ZLR) Committee. Under Dane County Zoning Ordinance section 10.103, there are no other special requirements for short-tern rental operations. As noted above, the Town of Dunn has additional requirements through its licensing program.

TOWN ACTION: On March 13, 2023 the Town Board recommended approval of the CUP with conditions listed below.

STAFF RECOMMENDATION: We have received public comments expressing concern about the proposed CUP for short-term rentals. Specifically, neighbors have expressed concerns with noise, the potential for guests to have parties and violate boat regulations, and the lack of on-site supervision, concerns about inadequate parking for guests' vehicles and boats, and the potential for impacts to property values.

Staff believes that the applicant has provided sufficient evidence to largely mitigate the concerns. This includes the home's relatively small size (4 bedrooms, 1,869 sq ft), maximum occupancy of 8 adults, off-street parking, the use of security cameras, and other rental terms (e.g., 10pm to 7am "quiet hours"). The proposal complies with both the

allowances provided in state law and the town's licensing ordinance. In addition, the suggested conditions below are intended to ensure the proposal meets the required standards for approval of a CUP.

Staff recommends postponement at this time, due to public opposition per the ZLR Committee's adopted rules and procedures. If the Committee requires additional information on which to base a decision, they could request specific information of the applicant or staff, to be presented at a future meeting.

STAFF UPDATE (4/6/23): At the March 28th ZLR meeting, the Committee postponed action on the CUP petition due to public opposition. No individuals spoke at the public hearing; the neighbors who were opposed had submitted their comments ahead of time in writing. At the hearing, the applicants described the space available to park 4 or 5 vehicles, their house rules, and the on-site cameras that will be used to monitor the property as well as to communicate with guests if needed. The Committee did not request any specific additional information.

Staff believes that, based on the information provided by the applicant as summarized above, as well as the conditions of approval approved by the Town of Dunn, the proposal meets the applicable CUP standards. Staff recommends that the ZLR Committee makes a finding of fact as to whether the proposal meets the CUP standards, and we recommend approval with the conditions listed below.

CUP 2586 Potential Conditions of Approval:

Town of Dunn Conditions

1. The rental period shall be between a minimum of 7 days to a maximum of 29 days.
2. The maximum number of allowable rental days within a 365-day period is 180 days. This 180 day period must run consecutively. The landowner must notify the Town of Dunn Clerk in writing when the first rental within a 365-day period begins.
3. There shall be no advertising that is inconsistent with Condition #1 and Condition #2. Advertisements must be consistent with Condition #1 and Condition #2 prior to the issuance of a Conditional Use Permit.
4. Applicant shall not advertise for, nor accept reservations for, more than 8 guests over 12 years old and no more than 10 total guests
5. Operator shall designate off-street parking spaces for renters on the property and limit the number of renter vehicles, trailers, and recreational items not to exceed the number of parking spaces the operator provides. Parking space limit shall appear in all advertising for the short-term rental.
6. Any external lighting shall be restricted to safety lights at the entrance and exits of buildings. Lighting must be dark skies compliant and no light shall spill over neighboring property line. Small, overhead string lights to light the patio, as described in the CUP application, are allowed as long as this light does not spill over the neighboring property line.
7. Holder of the CUP is required to obtain all necessary local, county, state, and federal permits and licenses related to the transient and tourist lodging operation.
8. The CUP will terminate when the property is sold.

Standard Conditions that apply to all conditional uses (from s. 10.101(7)(d)2)

9. The physical development and operation of the conditional use must conform, in all respects, to the approved site plan, operational plan and phasing plan.
10. New and existing buildings proposed to house a conditional use must be constructed and maintained to meet the current requirements of the applicable sections of the Wisconsin Commercial Building Code or Uniform Dwelling Code.
11. The applicant shall apply for, receive and maintain all other legally required and applicable local, county, state and federal permits. Copies of approved permits or other evidence of compliance will be provided to the zoning administrator upon request.

12. Any ongoing business operation must obtain and continue to meet all legally required and applicable local, county, state and federal licensing requirements. Copies of approved licenses or other evidence of compliance will be provided to the zoning administrator upon request.
13. 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.
14. All vehicles and equipment must access the site only at approved locations identified in the site plan and operations plan.
15. Off-street parking must be provided, consistent with s. 10.102(8).
16. If the Dane County Highway, Transportation and Public Works Department or the town engineer determine that road intersection improvements are necessary to safely accommodate the conditional use, the cost of such improvements shall be borne by the landowner. Costs borne by the landowner shall be proportional to the incremental increase in traffic associated with the proposed conditional use.
17. 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. Zoning staff conducting inspections or investigations will comply with any applicable workplace safety rules or standards for the site.
18. The owner must post, in a prominent public place and in a form approved by the zoning administrator, a placard with the approved Conditional Use Permit number, the nature of the operation, name and contact information for the operator, and contact information for the Dane County Zoning Division.
19. The owner or operator must keep a copy of the conditional use permit, including the list of all conditions, on the site, available for inspection to the public during business hours.
20. 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.

Any questions about this petition or staff report please contact Rachel Holloway at (608) 266-9084 or holloway.rachel@countyofdane.com