
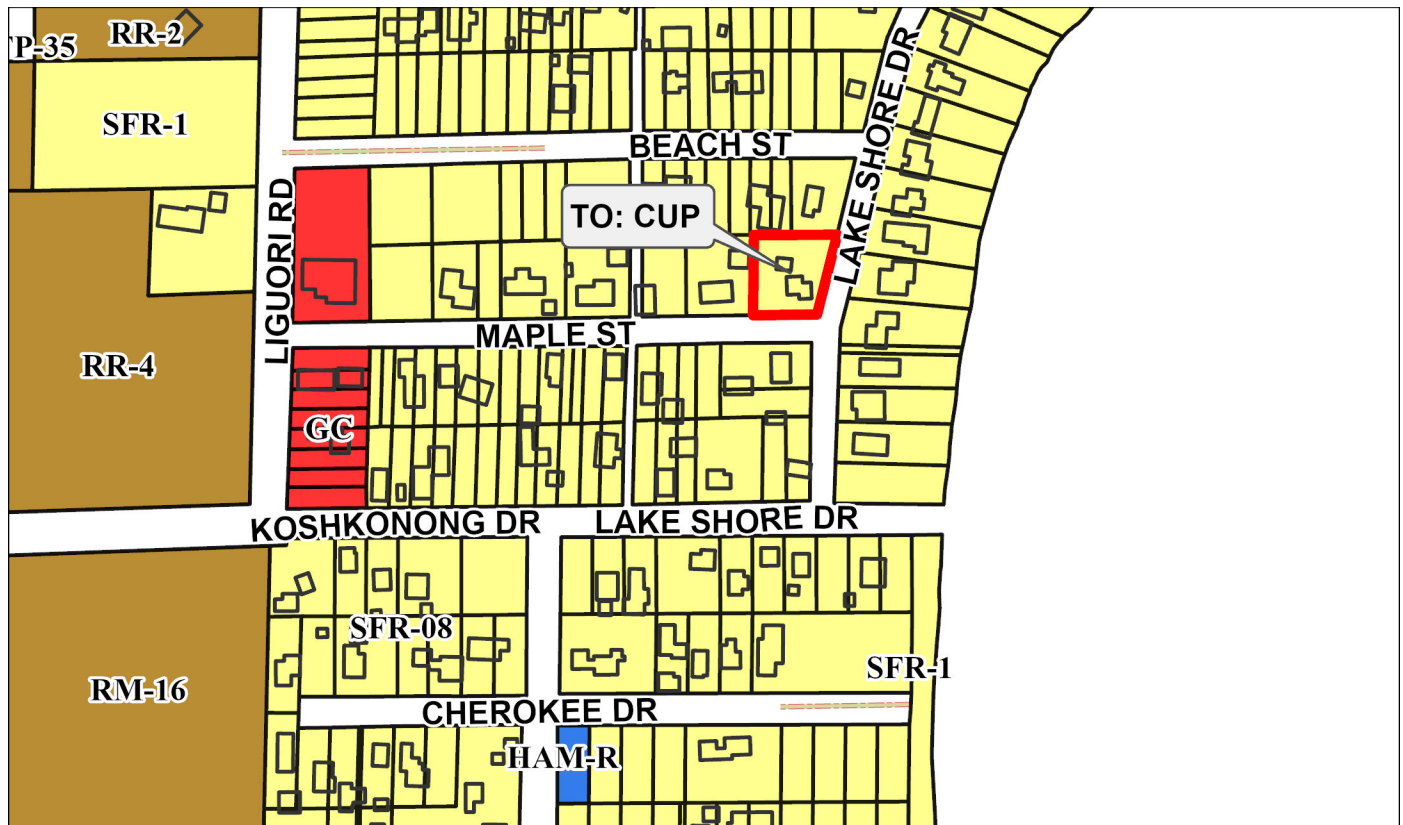


<b>Staff Report</b>    <b>Zoning &amp; Land Regulation Committee</b>	<b>Public Hearing: September 24, 2024 Updated for Oct 8<sup>th</sup> meeting</b>		<b>Conditional Use 02637</b>
	<u>Zoning Amendment Requested:</u> <b>TO CUP: Transient or Tourist Lodging (AirBnB)</b>		<u>Town, Section:</u> <b>ALBION, Section 25</b>
	<u>Size:</u> <b>0.3 Acres</b>	<u>Survey Required:</u>	<u>Applicant:</u> <b>MARTIN AND PAMELA MCNULTY</b>
	<u>Reason for the request:</u> <b>Transient or Tourist Lodging (AirBnB)</b>		<u>Address:</u> <b>349 LAKE SHORE DRIVE</b>



**DESCRIPTION:** The McNultys request a conditional use permit (CUP) for tourist or transient lodging (aka short-term rental) of the home at the corner of Lake Shore Drive and Maple Street.

**OBSERVATIONS:** The property is an existing residential lot, comprised of Lots 6, 7, and 8 of Block 4 of the Edgerton Beach Park Subdivision from 1926. The surrounding properties consist of other similar residential lots.

**RESOURCE PROTECTION:** The property is within the shoreland zone due to proximity to Lake Koshkonong. No concerns, no development is proposed.

**COMPREHENSIVE PLAN:** The property is located within the town's residential / lakeshore neighborhood planning area where public sewer is provided by the Consolidated Koshkonong Sanitary District. Town plan policies do not specifically address short term vacation rentals.

The Town of Albion has a short term rental ordinance which prohibits the rental of any residence for a period of 2 days or fewer, and limits occupancy to no more than 2 persons per bedroom plus an additional 2 persons. The town ordinance does not limit the number of days within a 365 day period that a rental can be offered, and licenses must be renewed annually on or before June 30. In addition to the town license, 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. To operate lawfully, the applicant will need to obtain and maintain both the Albion and PHMDC licenses.

If approved, the property would continue to be used for residential purposes within a residential neighborhood, subject to town ordinance licensing requirements that align with state allowances for short term rentals.

Pending any concerns raised at the ZLR Public Hearing, or by the Town in the course of its review, the proposal appears reasonably consistent with comprehensive plan policies. For questions about the comprehensive plan, please contact Senior Planner Majid Allan at (608) 267-2536 or [allan.majid@danecounty.gov](mailto:allan.majid@danecounty.gov).

**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.***

The CUP application describes the proposed rental operations plan. Applicants state they will limit the rental to 4 guests, with a 2 night minimum, and they have other permits. They would rent now through September, and January-February of 2025.

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 will need to obtain a PHMDC license.

**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 applicants state they will only be renting for 6 months of the next year. They do not anticipate any nuisances such as noise, and have house rules in place. There are existing solar lights in place.

Staff notes that the cabin has already been used as a rental; only recently have owners in Albion become aware that they also need a conditional use permit in addition to town and public health licenses.

**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.***

Applicants state that this standard would be met because this is an existing development area.

This standard pertains to whether the proposed conditional use would affect *how the surrounding properties could be developed and improved, considering what they are currently zoned for*. 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.

**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. The property is on sanitary sewer not a septic system.

**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 that can fit 4 cars. No changes are proposed.

**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 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 typically involve noise, vehicle traffic, and sanitary waste management. The CUP application addresses how these potential nuisances are handled as noted above. In addition, potential conditions of approval specific to this CUP can be developed after public input and deliberation by town and the ZLR Committee. Under Dane County Zoning Ordinance section 10.103, there are no other special requirements for short-term rental operations.

**SEPT 24<sup>TH</sup> ZLR PUBLIC HEARING:** The ZLR Committee postponed the application due to no town action.

**TOWN ACTION:** The Town Board approved the application with no conditions.

**STAFF RECOMMENDATION:** Staff believes that the applicant has provided sufficient evidence to address the CUP standards and mitigate the potential concerns. This includes the information described in the sections above, and is also reflected in the town's approval.

Staff recommends that (1) the ZLR Committee makes a finding of fact as to whether the proposal meets the CUP standards listed above, and (2) we recommend approval with the conditions listed below. The conditions below reflect the general conditions from the Chapter 10 zoning code that apply to all CUPs and 2 conditions specific to CUP 2637.

***CUP 2637 Potential Conditions of Approval***

*Standard Conditions for all Conditional Use Permits from 10.101(7):*

1. The physical development and operation of the conditional use must conform, in all respects, to the approved site plan, operational plan and phasing plan.
2. 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.
3. 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.
4. 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.
5. 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.
6. All vehicles and equipment must access the site only at approved locations identified in the site plan and operations plan.
7. Off-street parking must be provided, consistent with s. 10.102(8).

8. 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.
9. 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.
10. 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.
11. 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.

*Conditions specific to CUP # 2637:*

12. The applicant shall comply with all licensing and permitting requirements for short-term rentals.
13. Landowner will apply for, obtain and maintain an appropriate transient or tourist lodging rental license from Madison/Dane County Department of Public Health.

Please contact Rachel Holloway at (608) 266-9084 or [holloway.rachel@danecounty.gov](mailto:holloway.rachel@danecounty.gov) if you have questions about this petition or staff report