

Staff Report  Zoning and Land Regulation Committee	<i>Public Hearing:</i> October 26, 2021	CUP 02536
	<i>Zoning Amendment Requested:</i> TO CUP: Transient or Tourist Lodging	<i>Town/Section:</i> DUNN, Section 5
	<i>Size:</i> 0.153 Acres	<i>Survey Required:</i>
	<i>Reason for the request:</i> Transient or Tourist Lodging	<i>Applicant:</i> GERARD XAVIER
		<i>Address:</i> 3056 SHAW COURT



DESCRIPTION: Owners are requesting approval of a Conditional Use Permit (CUP) for “transient and tourist lodging” (short term vacation rental) to resolve a zoning violation – operating the short term rental without a CUP. Proposal would be to allow short term rental of the dwelling at 3056 Shaw Ct for periods of time from 7-29 days and up to 180 days / year. Owner indicates that rental is limited to a maximum occupancy of 10 individuals.

OBSERVATIONS/ FACTUAL INFORMATION: Existing use of the property is residential. Neighboring land uses are residential (7 total residences located off of Shaw Ct). The residence totals approximately 3,400 square feet and is served by public sanitary sewer. Off street parking is provided for 6 vehicles.

TOWN PLAN: The property is located in the town’s limited service area.

RESOURCE PROTECTION: The entire property is located within the floodplain of Lake Waubesa. No new development proposed that would impact the resource protection corridor.

STAFF: Transient or tourist lodging is listed as a conditional use in the SFR-08 zoning district. State statutes allow for 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 rentals to no less than 180 days (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. Applicant indicates they have obtained the required town of Dunn and public health licenses.

The applicant indicates that their short term rental would follow state allowances, with a minimum rental period of 1 week, and up to 180 days total, annually. The town of Dunn has granted a license to the operation, including some exceptions to the 1 week minimum rental period required under their licensing ordinance through the end of 2021. Owner indicates that off-street parking is provided for tenants.

The proposal appears reasonably consistent with town plan policies. The town of Dunn has approved the CUP subject to 8 conditions. Pending any concerns or issues raised at the October 26th public hearing, staff recommends approval of the petition with the 8 town conditions as well as the standard conditions of approval for all CUPs found in section 10.101(7)(d)2.

OCTOBER 26th ZLR Meeting: At the public hearing, the applicant had requested changes to the proposed conditions. The applicant requested language be added to Condition 1 & 2 to allow for shorter stays if the Town amended their minimum licensing requirements. The application was postponed to allow staff to contact the Town to see if the Town would be amenable to the changes.

STAFF UPDATE: County Staff has contacted the Town of Dunn regarding changing the conditions. The Town would like to keep the 7 day minimum stay and 180 day requirements. If the Committee finds that the conditional use permit application meets the 8 standards of approval, staff suggests that the following 19 conditions be required (the Town conditions have been incorporated into the 19 conditions).

1. The rental period shall be between a minimum of 7 days to a maximum of 28 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. Garden solar lights that illuminate pathways by the lakefront 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.
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 Uniform Dwelling Code.

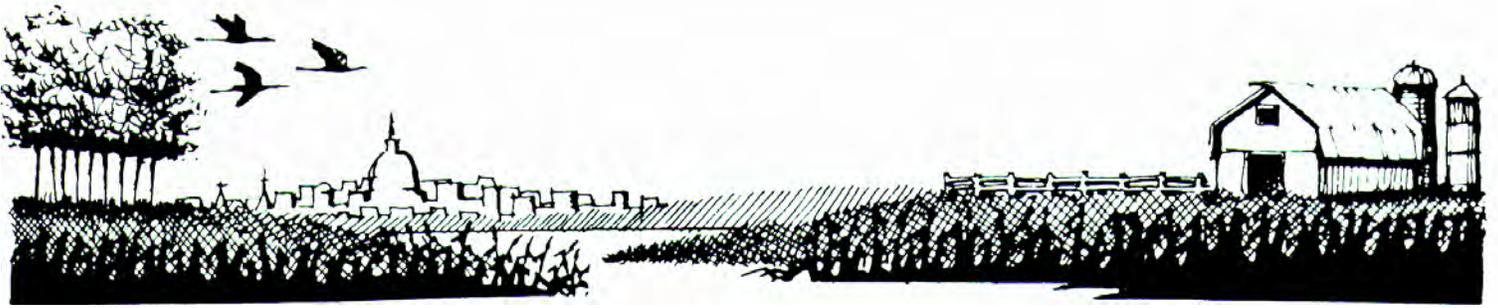
11. The applicant shall apply for, receive and maintain all other legally required and applicable local, county, state and federal permits. Copies of approved permits or other evidence of compliance will be provided to the zoning administrator upon request.
12. Any ongoing business operation must obtain 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. All vehicles and equipment must access the site only at approved locations identified in the site plan and operations plan.
14. At least six off-street parking spaces must be provided, consistent with s. 10.102(8).
15. 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.
16. 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.
17. 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.
18. 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.
19. 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. If any use allowed by an approved conditional use permit is abandoned for one year or more, the associated conditional use permit shall be terminated. Future re-establishment of an abandoned conditional use shall require approval of a new conditional use permit

If you have any questions or comments please contact Senior Planner Majid Allan at (608) 267-2536 or allan@countyofdane.com or Roger Lane at (608) 266-9078 or lane.roger@countyofdane.com

TOWN: The town approved the CUP with the following conditions:

1. The rental period shall be between a minimum of 7 days to a maximum of 28 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. Garden solar lights that illuminate pathways by the lakefront 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.



TOWN OF DUNN - 4156 COUNTY ROAD B, McFARLAND, WI 53558

Website: www.town.dunn.wi.us

E-mail: townhall@town.dunn.wi.us

Phone: (608) 838-1081

FAX: (608) 838-1085

November 1, 2021

Dane County Zoning & Land Regulation Committee
Majid Allan
210 Martin Luther King Jr Blvd
Room 116
Madison, WI 53703

Dear Members of the Dane County Zoning & Land Regulation Committee:

The Town of Dunn was recently made aware that at the October 26, 2021 ZLR meeting, Gerard Xavier and his attorney raised objections with the first two conditions that were included in the Town of Dunn's recommendation for approving CUP 2536. In May 2021, the Town of Dunn passed an ordinance which requires short term rentals to obtain a license and follow certain regulations. One of these regulations requires that if the short-term rental is not the operator's primary residence, or if more than two bedrooms are offered for rent, then the minimum stay shall be 7 consecutive days and the rental may not be operated for more than 180 days in any consecutive 365-day period. The 180 allowable days must run consecutively. The property at 3056 Shaw Court is not Mr. Xavier's primary residence and he is offering four bedrooms for rent, so therefore he must rent out the property according to the 7 day minimum/180 consecutive day maximum regulation (this is also stated on his Town of Dunn permit).

A similar objection was raised at the Town's CUP meeting, with the applicant and his attorney stating that the Town's ordinance could change in the future. While this is true, the Town has no intention of changing the ordinance at this time, and the applicant could reapply for the CUP and have it amended if the ordinance is ever amended. Prior to the Town meeting, neighbors reached out to the Town to state that they were concerned about the change in their neighborhood since there are three short term rentals on one small block. They felt that the area was turning into a hotel district with frequent guest turnover and the increase in noise that is associated with this. Neighbors were very happy to learn that the Town recently passed an ordinance that included regulations on rental lengths, as the residents felt this could mitigate these impacts and they were happy that there would be similar conditions placed on the CUP.

After considering neighborhood input, the Town's ordinance, and that conditions are placed on a CUP to ensure impacts are minimized for neighbors, the Board ultimately decided to keep the 7 day and 180 day conditions. At the meeting, the applicant did agree to the conditions, but wanted to stress that he felt it was a burden. Minutes of the Town Board meeting can be found here:

<https://dunn.civicweb.net/Portal/MeetingInformation.aspx?Org=Cal&Id=465>.

Sincerely,

Ben Kollenbroich