
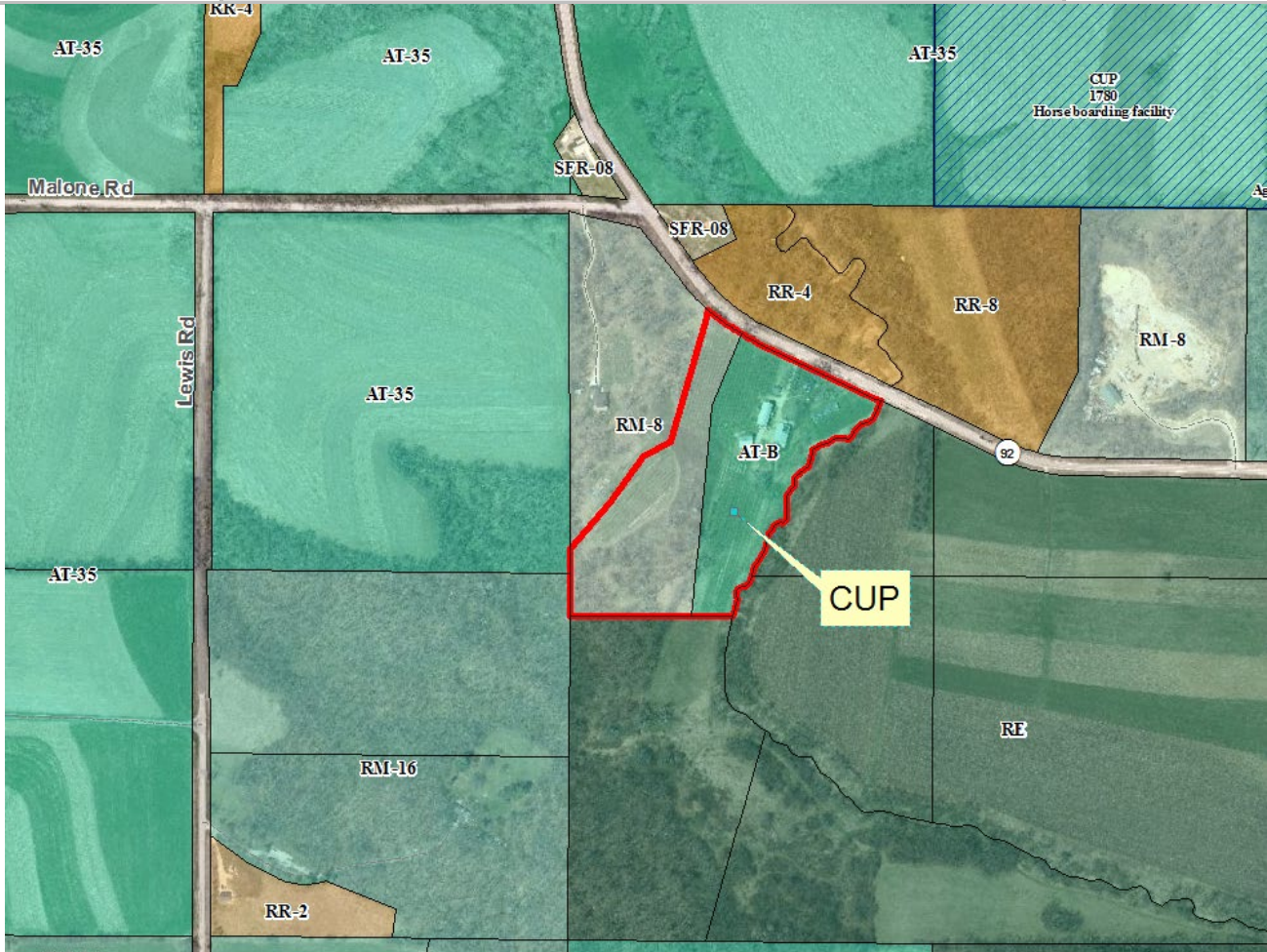


<b>Staff Report</b>    <b>Zoning and Land Regulation Committee</b>	<b>Public Hearing: September 26, 2023</b> <i>Report updated for the November 28, 2023 ZLR meeting</i>	<b>Conditional Use 02603</b>
	<b>Zoning Amendment Requested:</b> <b>TO CUP: TOURIST OR TRANSIENT LODGING, AND LIMITED FARM BUSINESS</b>	<b>Town/Section:</b> <b>SPRINGDALE, Section 29</b>
	<b>Size: 14.5 Acres</b>	<b>Survey Required.</b>
	<b>Reason for the request:</b> <b>TOURIST OR TRANSIENT LODGING, AND LIMITED FARM BUSINESS</b>	



**DESCRIPTION:** Rami Aburomia requests a conditional use permit for transient or tourist lodging (short-term rental) use in the existing farmstead located at 1993 State Highway 92, as well as a limited farm business in order to sell agricultural products produced off-site. The proposal is part of the applicant’s existing farm-orchard business. He sells apples and other produce grown on site, but also wishes to sell products like apple butter and apple sauce that others make from the produce. The applicant has also submitted a separate rezone application ([Rezone Petition 11974](#)) as part of a lot line adjustment to expand the existing lot to 15 acres and rezone it to RM-8 Rural Mixed Use.

**OBSERVATIONS:** The property is located just east of Malone Road and west of Town Hall Road, next to Deer Creek and Dane County’s Donald Park. The surrounding properties are used for rural agricultural and open space uses and contain a mix of AT-35 Agricultural Transition, RR Rural Residential and RE Recreational zoning. The proposed lot expansion meets zoning code requirements for the RM-8 district and provides public road frontage. In the RM-8 district, transient or tourist lodging, and the sale of products produced off-premises both require a conditional use permit. All proposed activities would take place within an existing building; no new construction is proposed.

**RESOURCE PROTECTION:** Much of the lot is within the shoreland zone due to proximity to Deer Creek, a perennial stream that runs along the eastern lot line. Hydric soils are present along the creek, but not under any of the existing buildings. No new development is proposed; however any future development on site would need to comply with applicable shoreland-wetland and floodplain regulations.

**COMPREHENSIVE PLAN:** The subject property is in the Mixed Agricultural/Low Density Residential/Open Space Area of the adopted Town of Springdale Comprehensive Plan/Town of Springdale component of the Dane County Comprehensive Plan. Plan policies allow for the possibility of Limited Farm Businesses and Tourist and Transient Lodging, provided plan standards regarding lighting, noise abatement and other design considerations are met. Given the relatively passive nature of the proposed uses, as well as the size and location of the property, it appears the proposed conditional uses would not negatively impact the rural character of the area.

Pending any concerns identified by the town during the course of its review, or at the ZLR public hearing, the two conditional uses requested under this application appear to be reasonably consistent with the comprehensive plan. (For questions about these comprehensive plan comments, contact either Todd Violante at 608.266.4021, or [violante@countyofdane.com](mailto:violante@countyofdane.com), or Brian Standing at 608.267.4115, or [standing@countyofdane.com](mailto:standing@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 s.10.101(7)(d) of the Zoning Code, and a summary of relevant facts 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 operations plan. The applicants state they would limit the number of people who stay in the farmhouse to 5 adults, with an emphasis on a quiet “farmstay” experience and house rules to reflect this.

Staff notes that the applicant lives next door on adjacent property, and will actively manage the farm and rental-farmstead operation. 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 has not yet obtained 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.***

Applicant states that there is no foreseeable effects outside of this parcel, because the short-term rental would operate from November to August, with most of the rental times anticipated to be during weekends. Additional goods sold from off the farm as proposed with this application should not greatly affect traffic in the area.

**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.***

Applicant states the existing buildings are currently empty and putting them back into use should not affect surrounding properties.

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*. As noted above, no new site development is proposed here and the surrounding area consists of agricultural, rural residential and public parkland properties with a mix of AT, RR and RE zoning. The proposed conditional uses would not appear to impede the development of surrounding properties.

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

Applicant states the farmhouse is in good condition with a septic and well pump that are both less than 5 years old. According to permitting records and filed documentation, the septic system serving the property is sized for 6 people / 3 bedrooms (applicant proposes 5 adults).

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. In addition, the farm store is part of the farm operation and would be used by the short-term rental guests. The applicant estimates that 12-20 vehicles per day may come to the farm during the peak months of September and October. The utilities, access roads, drainage, and other site improvements appear sufficient to support the proposed conditional uses.

**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 on site within the existing driveway and garage. The applicant states that they plan to keep grass in the right-of-way trimmed for good visibility. They propose to have a sign at the driveway warn visitors to exit the site carefully. Given the nature of the property's use as a working farm, and its limited acreage, the proposed conditional uses are expected to have a relatively low impact on existing traffic patterns.

**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 proposed RM-8 zoning district. Short-term rentals and limited farm businesses are allowable conditional uses in the 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 rental operations 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.

Under Dane County Zoning Ordinance section 10.103, there are no special requirements for transient and tourist lodging operations. However, there are special requirements for limited farm businesses. These are not required as "conditions" on the permit, unless the Town or ZLR Committee wish to impose conditions on the operation based on these. See below for staff comments on these requirements:

- (a) Uses are limited to those listed as permitted uses in the LC or GC zoning districts, provided the use does not conflict with the overall purposes of the applicable zoning district.***
- (b) Area dedicated to the Limited farm business use must not exceed 10,000 square feet in indoor floor area.***
- (c) Limited farm businesses must be contained entirely within building(s) in existence prior to April 30, 2005.***
- (d) The landowner must maintain, restore or enhance the existing exterior character of the building(s).***
- (e) No Limited farm business shall employ more than 4 non-family employees.***

In addition, by definition in Chapter 10, a limited farm businesses is an agricultural accessory use that meets all of the following criteria:

- (a) Consists of a business, activity, or enterprise, whether or not associated with an agricultural use, that is conducted by the owner or operator of a farm,***
- (b) Requires no buildings, structures, or improvements other than existing agricultural buildings or a farm residence***
- (c) Employs no more than 4 full-time equivalent employees annually, who are not members of the family residing on the farm, and;***
- (d) Does not impair or limit the current or future agricultural use of the farm or of other protected farmland.***

The Limited Farm Business activity would meet the above criteria, because the uses are permitted in the LC or GC districts, the business use would be conducted in a building that existed prior to 2005 and all previously existing buildings are below the maximum 10,000 SF limit (two buildings, the shed and greenhouse, are newer). The activity would require no new buildings or site improvements. The business would be run by owner/operator of the farm.

Potential conditions of approval specific to this CUP can be developed after public input and deliberation by the Zoning and Land Regulation (ZLR) Committee.

**SEPTEMBER 26<sup>TH</sup> ZLR HEARING:** On September 26<sup>th</sup>, the ZLR Committee held a public hearing on the CUP and postponed action to allow more time for town action, in keeping with the Committee's adopted rules and procedures. No additional information was requested of the applicant or zoning staff.

**TOWN ACTION:** On November 21, 2023 the Town Board approved the conditional uses with 23 conditions, see below.

**STAFF RECOMMENDATION:** At this time, staff believes that the applicant has provided sufficient evidence to address the CUP standards and mitigate the potential concerns. For the short-term rental use this includes: the proposed limit of 6 guests (5 adults), the septic system that is relatively new and adequately sized, and the fact that there are few neighbors in proximity to the property who would be impacted. For the limited farm business use, the evidence includes: the use of existing farm buildings, and the limited scope of the sale of products produced off-site in relation to the overall farm operation. These aspects of the proposal, with the suggested conditions below, would help ensure compatibility with the surrounding neighborhood and the RM-8 zoning district. For both conditional uses, the town's approval with conditions also supports

Pending any comments at the public hearing, staff recommends that the ZLR Committee makes a finding as to whether the proposed conditional use meets the applicable CUP standards. If the Committee agrees that the proposal meets the standards, staff recommends approval with the conditions listed below.

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

***Possible CUP Conditions:***

*Standard Conditions for all Conditional Use Permits*

1. The physical development and operation of the conditional use must conform, in all respects, to the approved site plan, operation plan and phasing plan.
2. New and existing buildings proposed to house a conditional use must be constructed and maintained to meet current requirements of applicable sections of 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 county 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 county 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 and circulation must be provided, consistent with s. 10.102(8) of County Ordinances.
8. If 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 County Zoning Administrator or designee may enter the premises of operation in order to inspect those premises and to ascertain compliance with these conditions or 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 must post, in a prominent public place and in a form approved by the county zoning administrator, a placard with the approval of the 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.
11. 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.
12. 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 reasonable opportunity to correct any violations prior to revocation.

*Conditions Unique to CUP 2603*

13. This conditional use permit shall expire in the event the property is sold or transferred to another owner. Continuation or extension of an expired conditional use requires re-application and approval by the Town Board and Dane County.
14. Landowner will apply for, obtain and maintain an appropriate transient or tourist lodging rental license from Madison/Dane County Department of Public Health.
15. The rental shall be limited to 6 overnight guests including 5 adults.
16. This CUP shall become effective upon Rezone petition 11974 becoming effective for the RM-8 zoning.
17. Lighting must conform to Town of Springdale Dark Sky Lighting Ordinance.
18. No outside amplified music or speakers shall be allowed.
19. No more than 4 full time employees shall be allowed.
20. Limited Farm Business operations are to occur within the 400 SF existing building.
21. Scope of the farm stand is limited to farm business for products produced on and off the farm.
22. The Town retains the option to review and adjust any CUP standards in 24 months.
23. All of the above conditions must be posted inside the premises as required by Dane County.