
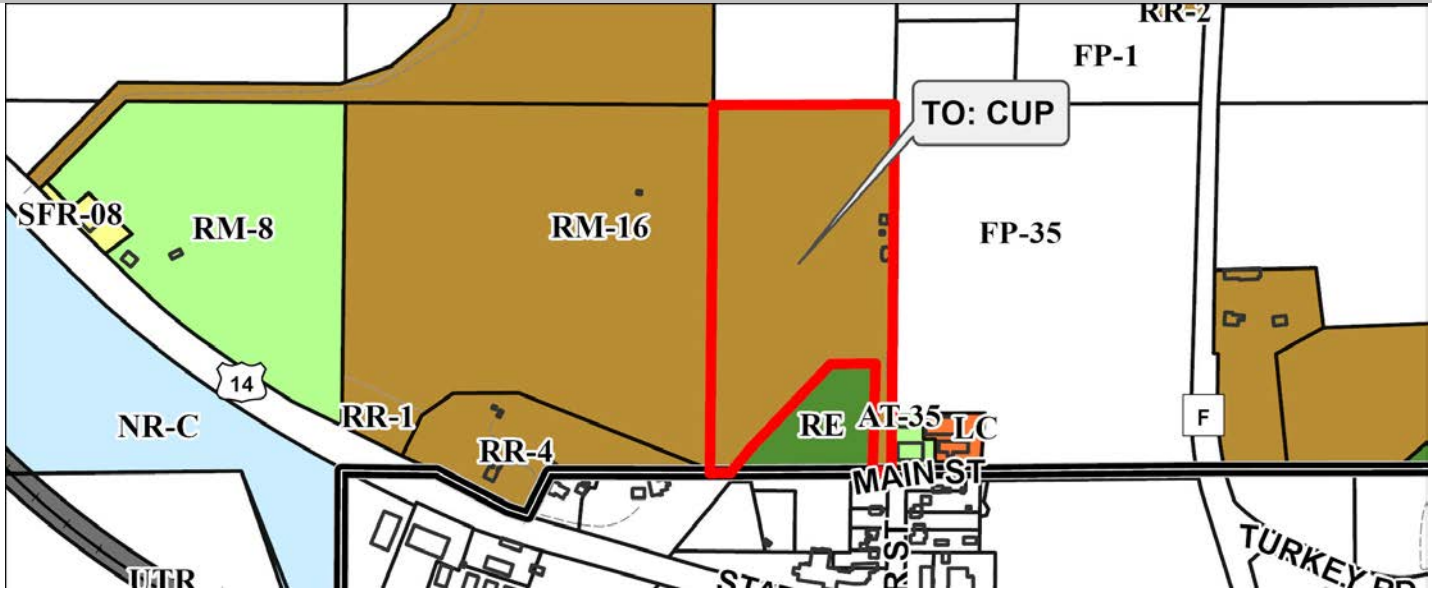


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| <b>Staff Report</b><br><br><br><br><b>Zoning and Land Regulation Committee</b> | <i>Public Hearing:</i> <b>May 28, 2024</b>  | <b>Conditional Use 02616</b> |  |
|   | <i>Zoning Amendment Requested:</i><br><b>TO CUP: Transient or Tourist Lodging (Short-term Rental)</b>   |                              | <i>Town/Section:</i><br><b>BLACK EARTH, Section 26</b> |
|   | <i>Size:</i> <b>16.5 Acres</b>  | <i>Survey Required:</i>      | <i>Applicant</i><br><b>CHRISTINA AND MICHAEL RYAN</b>  |
|   | <i>Reason for the request:</i><br><b>Conditional Use Permit for Transient or Tourist Lodging (Short-term Rental) in the RM-16 zoning district</b> |                              | <i>Address:</i><br><b>124 MAIN STREET</b>              |



**DESCRIPTION:** Christina and Michael Ryan request a conditional use permit (CUP) in order to use an existing residence for short-term rentals (“transient or tourist lodging”). The house is an 1800 square foot, 4 bedroom, 2 bathroom remodeled farm house. Stays would be booked online; the request is for up to 6 adult guests at a time.

**OBSERVATIONS:** The property is a 16.5-acre parcel that has never been part of a plat or certified survey map. This and the properties to the east/northeast are zoned RM-16 Rural Mixed Use. Other nearby properties are zoned for rural residential, agricultural transition, and limited commercial use, as well as urban residential (in the Village of Black Earth). Transient or tourist lodging is listed as an allowable conditional use in the RM-16 zoning district.

Section 66.1014 of [state statutes](#) provides protections that allow the short term rental of residences for periods of 1 week or longer. Local governments may enact ordinances to regulate short term rentals, but may only limit rentals to no fewer than 180 days (either consecutive or non-consecutive) in any consecutive 365 day period. The Town of Black Earth does not have a licensing ordinance for short-term rentals.

**RESOURCE PROTECTION:** Black Earth Creek traverses the property in the south end of the driveway, roughly 350 feet away from the home. This is an existing condition; no new construction is proposed for the conditional use.

**COMPREHENSIVE PLAN:** The property is located in the town’s agriculture preservation planning area. There are no specific policies in the plan addressing transient lodging. (For questions about the town plan, contact Senior Planner Curt Kodl at (608) 266-4183 or [kodl@countyofdane.com](mailto:kodl@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 a 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 and house rules. The applicants state they will live nearby to manage the property and be available, and will enforce quiet hours (from 10:00pm to 7:00am) to ensure there is no negative interference with neighbors. The property is set back from the road, surrounded by woods and farmland. There is no planned construction.

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 be required 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 enforce the no-parties rule and quiet hours, with check-in times after 3:00pm and check-out times at 11:00am so as not to disturb neighbors. They will make sure all guests understand the property boundaries (per the fence line).

Applicants have agreed to limit the number of guests to a maximum of 6 adults at a time. This can be a condition of CUP approval, see staff recommendations below. Limits on the number of guests and establishing quiet hours are commonly used to control noise, which is the most common concern that arises with short-term rentals.

**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 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*. Applicants state the property has 16 acres, has a nice buffer and long driveway set back from any neighbors. They also state that the rental guests will not interfere with the neighboring soybean/corn farm.

The surrounding lands to the north, east and west are undeveloped; however, the proposal is not expected to impede the development of that land. The properties to the south include a conservancy lot owned by the Wisconsin DNR, a landscaping company, and properties in the Village of Black Earth developed for single-family residential, assisted living, and commercial uses.

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

Applicants state the house has been recently remodeled and is up to code and safe for guests, that they have a paved driveway for guests to access the property and have sufficient drainage systems to accommodate the use.

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. According to permit records and the application, the septic system serving the property is sized for 3 bedrooms / 6 adults.

**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.***

Applicants state they have a long driveway well away from the street with enough parking spots for at least 3 cars, including the use of a garage, so there will be no additional congestion in public streets.

**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 RM-16 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 most likely 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.

**TOWN ACTION:** On May 7, 2024 the Town Board approved the conditional use with no conditions or limitations.

**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 the sections above including the location of the home away from other residences, the limited number of guests (6), the provision of adequate parking in the driveway and garage, and the septic system sized for 6 adults.

Staff recommends that (1) the ZLR Committee makes a finding of fact as to whether the proposal meets the CUP standards, and (2) we would 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.

If the Committee requires additional information on which to base a decision, they could request specific information of the applicant or staff at the public hearing.

***CUP 2616 Potential Conditions of Approval:***

*Standard Conditions for all Conditional Use Permits:*

1. Any conditions required for specific uses listed under s. 10.103.
2. The physical development and operation of the conditional use must conform, in all respects, to the approved site plan, operational plan and phasing plan.
3. 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.
4. 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.
5. 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.
6. 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.
7. All vehicles and equipment must access the site only at approved locations identified in the site plan and operations plan.
8. Off-street parking must be provided, consistent with s. 10.102(8).
9. 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.

10. 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.
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.

*Conditions specific to CUP #2616:*

13. The rental shall be limited to 6 overnight guests as requested in the application.

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