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| <b>Staff Report</b><br><br><b>Zoning &amp; Land Regulation Committee</b> | <u>Public Hearing:</u> <b>March 25, 2025</b><br><b>Report updated for the April 8<sup>th</sup> ZLR work meeting</b> | <b>Conditional Use 02653</b>                          |
|                                                                                                                                                           | <u>Zoning Amendment Requested:</u><br><b>TO CUP: Transient or tourist lodging (short-term rental)</b>               | <u>Town, Section:</u><br><b>MIDDLETON, Section 27</b> |
|                                                                                                                                                           | <u>Size:</u> <b>0.7 Acres</b> <u>Survey Required:</u>                                                               | <u>Applicant:</u><br><b>MELISSA AND CASEY HELBACH</b> |
|                                                                                                                                                           | <u>Reason for the request:</u><br><b>Transient or tourist lodging (short-term rental)</b>                           | <u>Address:</u><br><b>6993 APPLEWOOD DRIVE</b>        |



**DESCRIPTION:** Casey and Melissa Helbach request renewal of their conditional use permit (CUP) for “transient or tourist lodging” (short-term vacation rental), with some modifications. The initial [CUP #2566](#) was approved in 2022, and was renewed in 2023 with [CUP #2585](#), and again in 2024 with [CUP #2612](#). The current CUP will expire on April 25, 2025. For this renewal, the applicants request the following changes to the conditions / terms of the permit:

1. Setting a 3-night minimum guest stay, rather than the 5-night minimum currently required.
2. Setting a 5-year CUP expiration date, so that they would only be required to apply and pay review fees for a permit renewal in 5 years (rather than each year as required by the town for the previous permits).

**OBSERVATIONS/ FACTUAL INFORMATION:** The property is in residential use and is less than one acre in size. The neighboring land uses are residential on most sides (in the Town of Middleton) and agricultural / open space (in the City of Madison) to the south. The property is located in Applewood Hill, a residential subdivision with 43 lots.

Transient or tourist lodging is listed as an allowable conditional use in the SFR-08 zoning district. State statutes limit local regulation of short-term rentals that are offered for 7-29 days. The applicants are proposing rental periods of less than 7 days. The Town of Middleton does not currently have a licensing ordinance for short-term rentals.

**RESOURCE PROTECTION:** There are no resource protection corridors on or within 300 feet of the property.

**COMPREHENSIVE PLAN:** The property is located in the town's residential planning area. There are no specific policies in the plan addressing transient lodging. The property is also in the area designated, per the intergovernmental agreement, to eventually go into the City of Madison. The proposal appears consistent with the Town and County Plans. 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 determine whether the proposed conditional use, with any recommended conditions, meets all of the standards required to obtain a CUP. 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 has obtained a PHMDC license.

The CUP application describes the proposed rental operations plan and house rules. The applicants state they will manage the property, will continue to live in the home, that they will provide their contact information to their neighbors, that there is no planned construction, and that there will be no outdoor signage, no outdoor storage, and no outdoor "activities" on site (though guests would have access to the back yard). The town confirmed with the Dane County Sheriff Department that there were no calls for service to the property in 2024.

**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 and required for tenants, and rental rules stipulate no parties, no events, no large gatherings, no smoking, no animals, minimum age requirement of 25 years to book the rental, and quiet hours from 10:00pm to 8:00am. They have agreed to limit the number of guests to a maximum of eight adults at a time, have restricted use of the outdoor hot tub, and have complied with all other restrictions of their current permit.

Some or all of these measures were made into conditions of approval for the original 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 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 that their guests will not impede the normal and orderly development and improvement of the surrounding properties. 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 south 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. According to permit records and the application, the septic system serving the property is sized for 4 bedrooms / 8 adults. Public Health staff indicate that the design capacity of the existing system is based on residential code (150 gallons/day, or 2 adults/ bedroom). If the owners ever wish to rent to more than 8 adults, the existing system would need to be evaluated by a licensed professional and upgraded to meet applicable code standards.

**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 and garage. No changes are proposed. The applicants provide garage parking for 3 vehicles, require guests to park off-street, and that they will limit the number of guest vehicles to 5 (see CUP conditions below).

**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 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 February 20, 2025 the Town Board approved the CUP with the same conditions as the current permit, including the minimum 5-night guest stay but extending the expiration date to 3 years. The town finds that the proposal meets the general standards for CUPs in DCCO s.10.101(7)(d)1, and is consistent with the comprehensive plan.

**MARCH 25<sup>TH</sup> ZLR PUBLIC HEARING:** Public comments have been submitted in opposition to the proposed changes (see [comments in Legistar](#) from Ross, Bubba, Dudiak, Vreeland, VandeBerg, Van Den Heuvel). All of these neighbors express opposition to reducing the minimum stay to 3 nights, which was a change not approved by the town. Some indicate acceptance of the CUP if the 5-night minimum stay is maintained. However, others are opposed to the short-term rental use entirely. On March 25<sup>th</sup> the ZLR Committee held a public hearing and postponed action, due to public opposition in accordance with the ZLR Committee's adopted rules and procedures.

**STAFF RECOMMENDATION (UPDATED):** Since the public hearing, the applicant has responded to the concerns raised by neighbors (see letter dated March 28, 2025).

Staff believes that the applicant has provided sufficient evidence to address the CUP standards and mitigate the potential concerns. This includes the information summarized above, the fact that there have been no complaints or zoning violations for the rental operation, as well as the town's conditional approval (which maintains the 5-night minimum stay but extends the renewal period to 3 years). If the Committee may request additional information on which to base a decision, if necessary.

Staff recommends that the ZLR Committee (1) makes a finding of fact as to whether the proposal meets the CUP standards above and (2) we recommend approval with the conditions below, which reflect the Town of Middleton's approval.

**CUP 2653 Potential Conditions of Approval:**

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

1. Any conditions required for specific uses listed under s. 10.103 (none).
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. The holder of a conditional use permit shall be given reasonable opportunity to correct any violations prior to the revocation.

*Conditions specific to CUP # 2653:*

13. Review and recommendation from the Town of Middleton Plan Commission shall not be required for renewal of this conditional use permit.
14. 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.
15. The applicant shall comply with all licensing and permitting requirements for short-term rentals. Landowner shall apply for, obtain and maintain an appropriate transient or tourist lodging rental license from Madison/Dane County Department of Public Health.
16. The rental shall be limited to 8 overnight guests.
17. The maximum number of allowable rental days within a 365-day period is 180 days. The landowner must notify the Town Clerk in writing when the first rental within a 365-day period begins.
18. Quiet hours shall be 10:00pm to 8:00am, all days of the week.
19. No more than 5 overnight vehicles shall be on the premises at any one time. All vehicles must be parked on paved driveway surfaces or inside the existing garage and maintain adequate access for emergency vehicles.
20. No pets allowed.
21. Any new outdoor lighting shall be downward directed, designed to minimize ambient spill and shall comply with all applicable requirements of the Town of Middleton.
22. If the transient or tourist lodging operation is abandoned for one year or more, this CUP shall be terminated. Future re-establishment of an abandoned conditional use shall require approval of a new CUP.
23. The operation of all-terrain vehicles, ATVs, and snowmobiles by occupants of the transient or tourist lodging operation shall be prohibited on the property.
24. Signage is prohibited.
25. Fireworks are prohibited.
26. The owner, or their designated emergency contact person, be available within one (1) hour to address any problems.
27. Emergency contact information shall be provided to the neighbors, Applewood Homeowners Association President, the Town of Middleton, and Dane County Zoning Division.

28. The owner or operator must provide the Town of Middleton Clerk with a copy of the current rental agreement no later than the date of issuance of the CUP. In the event the agreement is modified in any manner, the modified agreement must be provided to the Town Clerk within ten (10) calendar days of the date the modified agreement is placed in use.
29. Landowner will conduct a background check on any prospective renter.
30. The rental period shall be a minimum of 5 nights.
31. This Conditional Use Permit shall expire three (3) years after the effective date. Landowner may renew the CUP by successfully obtaining a new CUP prior to the expiration date.

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.