
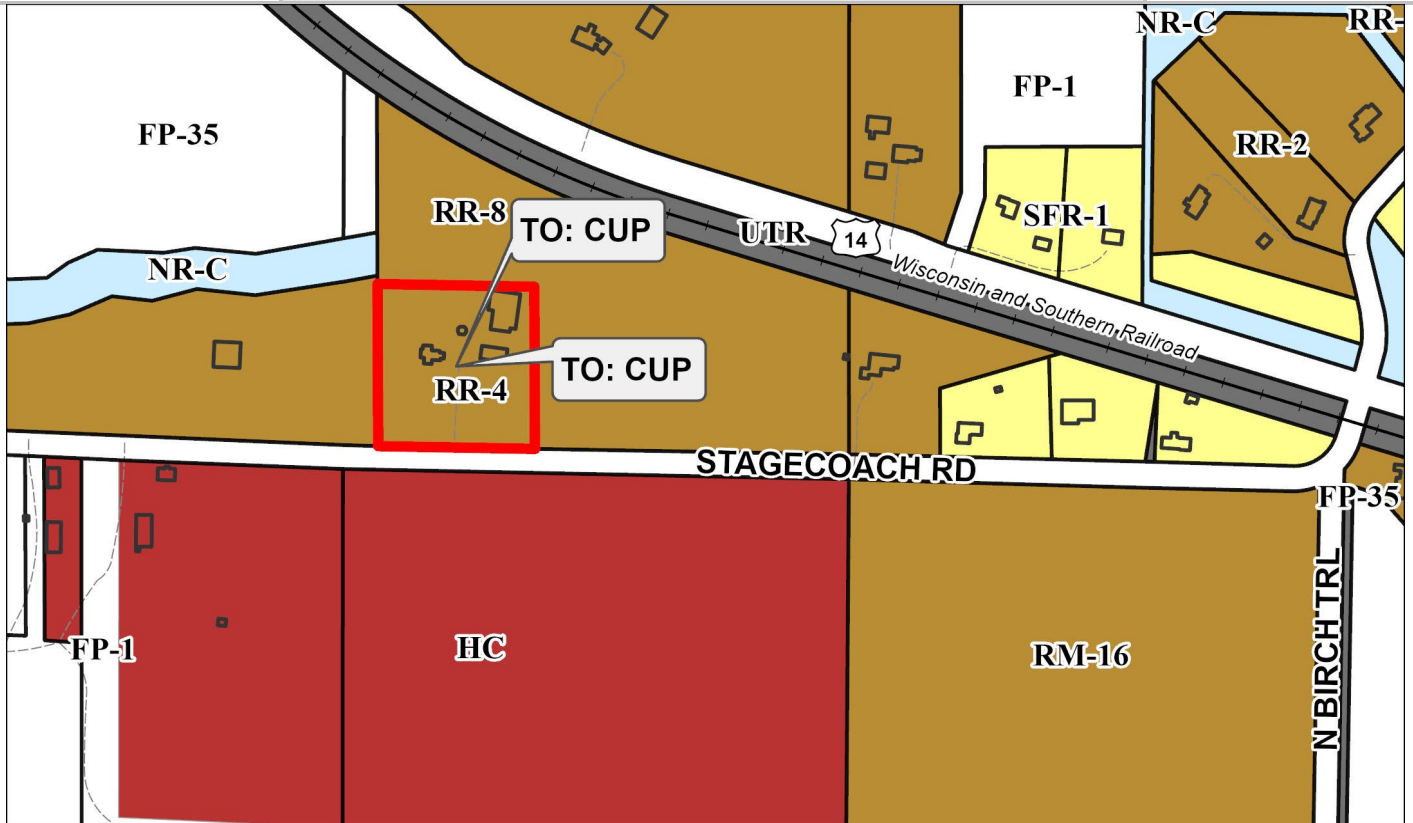


<b>Staff Report</b>    <b>Zoning and Land Regulation Committee</b>	<i>Public Hearing:</i> <b>May 28, 2024</b>	<b>Conditional Use 02615</b>
	<i>Zoning Amendment Requested:</i> <b>TO CUP: Transient or Tourist Lodging (AirBnB)</b>	<i>Town/Section:</i> <b>CROSS PLAINS, Section 11</b>
	<i>Size:</i> <b>4.5 Acres</b> <i>Survey Required.</i>  <i>Reason for the request:</i> <b>Transient or Tourist Lodging (AirBnB)</b>	<i>Applicant:</i> <b>HANEYS TAVERN LLC</b>  <i>Address:</i> <b>8310 STAGECOACH ROAD</b>



**DESCRIPTION:** Jill Riley requests a conditional use permit (CUP) for transient or tourist lodging (a.k.a. short-term rental) in order to rent out a home for short-term stays. The property is zoned RR-4 Rural Residential. The home is the historic Haney’s Tavern which was built in 1840 and was historically used as an inn. It was converted into a farmhouse in the early 1900s and has been remodeled in recent years; it is a Wisconsin State Historical Site.

The applicant has also submitted another CUP application (CUP Petition #2613) for a limited family business in order to hold educational and community workshops on site. Each CUP is being reviewed separately.

**OBSERVATIONS / FACTUAL INFORMATION:** The property is in residential use and is 4.2 acres in size. The neighboring land uses are rural residential on the east and west (including a horse stable to the west and the applicant’s own residence to the east), US Highway 14 and a Wisconsin and Southern Railroad line to the north, and multiple mineral extraction sites to the south.

The applicants are proposing rental periods of unspecified length, throughout the year. Transient or tourist lodging is an allowable conditional use in the RR-4 zoning district. State statutes limit local regulation of short term rentals that are offered for 7-29 days. Local governments may require a permit to be obtained, and can regulate proposals that involve rental periods shorter than 7 days. For rental periods of 7-29 days, local governments can require a permit, but may only

limit rentals to no less than 180 days (either consecutive or non-consecutive) in any consecutive 365 day period. The Town of Cross Plains does not currently have a licensing ordinance for short-term rentals.

**RESOURCE PROTECTION:** The subject property is almost entirely within the shoreland zone due to proximity to Black Earth Creek located to the north running across the adjacent parcel owned by the applicants, and the quarry pond to south across Stagecoach Road. No new construction is proposed in conjunction with this CUP.

**COMPREHENSIVE PLAN:** The property is located in the town's agriculture preservation district. There are no specific policies in the plan addressing transient lodging. (For questions about the town plan, contact Senior Planner Brian Standing at (608) 267-4115 or standing@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 operations plan. The applicant states that tourist lodging is well established in Wisconsin and Dane County, and that they live on the adjacent parcel and will enforce forbidding large gatherings, loud noises and disruptive behavior. The guest house will be offered select dates throughout the year as a quiet retreat for guests.

Staff notes that the applicant lives next door on adjacent property, and will actively manage the rental 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 will need to obtain a license from PHMDC.

**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 applicant states that neighboring properties will not be impaired or diminished in any way. They state the property to the east is their own home and the next house is ¼ mile away, the property to the west is a private horse stable with adequate buffering of trees on the property line, and there is an active quarry to the south with noise, dust, and truck traffic.

Staff notes that there is only one home within 500 feet of the site, which is the applicants' home. This property and most of the surrounding properties are already developed for rural uses that include a very small number of residences, agricultural-related use, and mineral extraction quarries. In addition, the nearby US Highway and railroad by their nature generate noise and other impacts that would likely be more impactful than the proposed rental of the historic farm house building.

**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.***

The applicant states that the tourist lodging use will complement the surrounding properties, and that there is enough distance and screening to buffer the neighboring properties. They state that they will screen their guests through the AirBnB host review process, and only allow guests that have received high reviews from other hosts.

As noted above, this property and most of the surrounding properties are already developed for rural uses. The nearby highway and railroad infrastructure also limits the development of properties in this area.

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

The applicant states that no changes are needed to the existing utilities, access roads, drainage, and other site improvements in order to operate the proposed rental use. The home has 2 bedrooms and has a septic system; the septic system must have capacity for 4 individuals based on the number of bedrooms. This is being verified with the Public Health department.

**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.***

The applicant states that the property has two highly visible entrances to allow for safe ingress and egress, that there will be minimal traffic, and parking on Stagecoach Road is prohibited.

Staff notes that off street parking is provided for the property by the existing driveway, which has space for at least 4 vehicles on a hard paved area. The two driveways referenced include one directly onto this property, and one that comes through the Riley's own residential property to the east, both directly onto Stagecoach Road. A typical residence generates approximately 10 vehicle trips per day; a rental of the home would be expected to generate a similar amount of traffic when rented. This is already an existing historic site with some traffic.

**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 RR-4 zoning district. Transient or tourist lodging is 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 rentals.

**TOWN ACTION:** On April 11, 2024 the Town Board approved the conditional use with no special 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 the sections above, and is also reflected in the town's approval with no additional limitations.

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

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 2615 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.

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)