
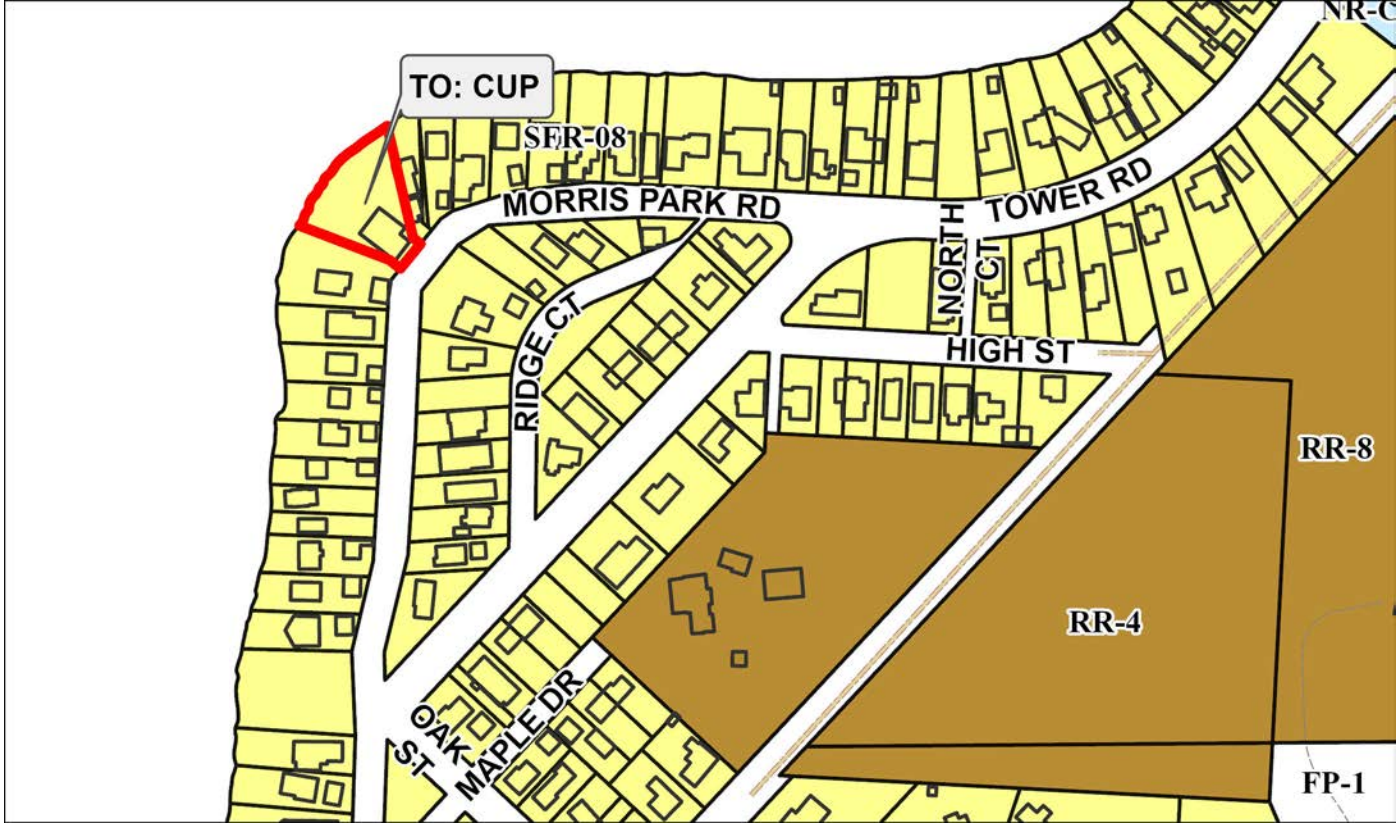


Staff Report  Zoning & Land Regulation Committee	<u>Public Hearing:</u> November 19, 2024 Report updated for the December 17, 2024 ZLR meeting	Conditional Use 02645	
	<u>Zoning Amendment Requested:</u> TO CUP: transient or tourist lodging	<u>Town, Section:</u> DUNN, Section 8	
	<u>Size:</u> 0.2 Acres	<u>Survey Required:</u>	<u>Applicant:</u> Stephen Kuhn
	<u>Reason for the request:</u> transient or tourist lodging		<u>Address:</u> 4216 MORRIS PARK ROAD



DESCRIPTION: Steve Kuhn and Carolyn Weinstein request a conditional use permit (CUP) for transient or tourist lodging (short-term vacation rental) for his second home on Morris Park Road. They propose to rent it out for less than 180 days per year between May and November, for up to a maximum of 10 adult guests. The applicants previously had a short-term rental (CUP #2542) approved in 2021, but the permit expired after not being used for a period of one year or more.

OBSERVATIONS/ FACTUAL INFORMATION: The property is in residential use and is a certified survey map lot that is a half-acre in size. The surrounding properties consist of other similar residential lots. Transient or tourist lodging is listed as an allowable conditional use in the SFR-08 zoning district.

RESOURCE PROTECTION: The property is located in the shoreland zone and mapped floodplain, due to its proximity to Lake Waubesa. No new construction is proposed with this petition; no concerns to note.

COMPREHENSIVE PLAN: The property is located in the town’s limited service area (sewer service area). It is important to note that state law (Wis Stats 66.1014) includes protections allowing 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 rental use to periods of at least 6 months (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, which requires a license and limits rentals to periods of 7 days or more and 180 total days per year. Note that 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 zoning code includes standard conditions of approval that require adherence to all applicable local, state, and/or federal regulations. Based on the information provided in the application materials, it appears the proposed conditional use falls within the protections found in state law and would meet the licensing requirements of the Town of Dunn.

Pending any concerns raised at the ZLR public hearing, or by the town in the course of its review, the proposed conditional use appears reasonably consistent with comprehensive plan policies. For questions about the comprehensive plan, please contact Senior Planner Majid Allan at (608) 267-2536 or allan.majid@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 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.*

The CUP application describes the proposed operations plan. The applicant states that the owner uses the property often, have an inspection scheduled with the Public Health department, and they will pay sales tax via the VRBO website. They propose a maximum of 10 guests and 4 guest vehicles at a time.

All short term rentals must be licensed through Public Health Madison & Dane County (PHMDC) and inspected annually to verify the operation meets all public health requirements. The applicant will need 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 applicant states that all renters will sign a rental contract which includes rules and regulations that include: all the restrictions put forth in ordinances, noise curfew from 10pm-7am, no social gatherings, no weddings, no parties, cleanliness rules, and no renters under 25 years old.

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 they take very good care of the property, visit it weekly, that a landscaping company mows the grass weekly and does other landscaping duties, and professional cleaners maintain the interior.

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*. This property and most of the surrounding properties are already developed and zoned for residential use. There are no other short-term rental CUPs currently active in this neighborhood.

4. *That adequate utilities, access roads, drainage and other necessary site improvements have been / 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. The applicant states the property is located in a residential neighborhood. The property is served by sanitary sewer not septic.

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 by a driveway roughly 24’ wide by 20’ long, with an extra bump-out on the side (see image below). The applicant states that the driveway and garage each fit 2 cars, that they would limit the total number of vehicles on site to four, and that no one will be permitted to park on the public street.



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 zoning district. The applicant states that upon receipt of the CUP they would market the property for rent with the regulations set forth.

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 typically 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 November 11th the Town Board approved the CUP with 12 conditions (see conditions #13-24 below).

NOVEMBER 19th ZLR PUBLIC HEARING: The ZLR Committee postponed action on the petition after its public hearing, due to public opposition per the ZLR Committee's adopted rules and procedures. This allows time for committee members to consider the public testimony heard at the hearing, and for the applicant to respond. At the hearing, one neighbor had submitted written comments expressing concerns about safety for current residents on Morris Park Road, the potential for the applicant to host more than the 10 requested guests and disturb the neighborhood, and indicating there are no other short-term rental properties in the area.

The applicant has provided a response to these concerns (see November 20, 2024 email from Stephen Kuhn). Mr. Kuhn states that they will follow all local laws and regulations, and the town has included its rules as stipulations on the town permit.

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 summarized above, including the applicant's response to concerns from the public hearing, and is reflected in the town's approval of the CUP. 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.

Staff recommends that (1) the ZLR Committee makes a finding of fact as to whether the proposal meets the CUP standards listed above and (2) we would recommend approval with the conditions below.

CUP 2645 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.

Conditions specific to CUP # 2645:

13. The rental period shall be between a minimum of 7 days to a maximum of 29 days.
14. 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.
15. There shall be no advertising that is inconsistent with Condition #13 and Condition #14. Advertisements must be consistent with Condition #13 and Condition #14 prior to the issuance of a Conditional Use Permit.
16. Applicant shall not advertise for, nor accept reservations for, more than 10 guests over 11 years old and no more than 10 total guests.
17. Applicant 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 4 parking spaces. The 4 designated parking spaces shall match the parking map provided in the application, which is 2 spots in the garage and 2 spots in the driveway. Parking space limit shall appear in all advertising for the short-term rental. House rules must instruct guests to park in the designated parking stalls.
18. The applicant shall provide the Town Clerk with the license plate numbers of all guests' vehicles, trailers, and recreational items prior to their arrival.
19. There shall be quiet hours from 10 pm to 7 am, measured as no guest noise that exceeds 40 dBA at the property line.
20. No outdoor amplified music is allowed at the property.

21. 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.
22. The applicant shall provide a phone number to neighbors within 300 feet, which can be reached if there is a problem at the property.
23. 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.
24. The CUP will terminate when the property is sold.

Please contact Rachel Holloway at (608) 266-9084 or holloway.rachel@danecounty.gov if you have questions about this petition or staff report.