



Room 116, City-County Building, Madison, Wisconsin 53703
Fax (608) 267-1540

DANE COUNTY PLANNING & DEVELOPMENT

April 4, 2023

Barbara Roesslein, Clerk
Town of Middleton
7555 W. Old Sauk Road
Verona, WI 53593

RE: Conditions/Concerns regarding CUP #2585

Dear Ms. Roesslein,

The Dane County Zoning and Land Regulation (ZLR) Committee held a public hearing regarding Conditional Use Permit #2585 on March 25, 2023. At the meeting, the applicant objected to two of the conditions the Town imposed on the proposed short-term rental activity. More information is needed in order for the ZLR Committee to act on the proposal.

The Town's conditions of approval for CUP #2585 are listed below from the Town Board's action on March 20, 2023. Specifically, it appears that the applicant is not willing to accept condition #8 setting a one-year expiration date on the CUP, and condition #25 requiring a minimum five-night stay for each rental.

In order to obtain a CUP, the proposal must meet 8 standards as listed under Dane County's Chapter 10 Zoning Ordinance. Many times, conditions must be placed on the permit to address concerns in meeting these 8 standards. The standards are also listed at the end of this letter.

Note that under Wis. Stat. 59.69(5e)(b)1, "*Any condition imposed must be related to the purpose of the ordinance and be based on substantial evidence.*" The Town of Middleton will need to provide what "substantial evidence" they used in the developing the specific limitations noted above. Unless the conditions can be substantiated, they may appear to be arbitrary.

Please provide your response regarding the above concerns at your earliest convenience. The Town's response will be helpful for the Zoning and Land Regulation Committee in rendering a decision on the conditional use permit.

Regards,

Rachel Holloway
Dane County Assistant Zoning Administrator

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Economic Development*
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CUP 2585 Potential Conditions of Approval

1. The Town finds that the proposal meets the general standards for conditional use permits per Dane County Ordinances 10.101(7)(d)1.
2. The Town finds that the proposed conditional use is consistent with the adopted Town Comprehensive Plan.
3. The CUP is granted subject to all standard conditions specified in Dane County Zoning Ordinance Section 10.101(7)(d)2, as applicable.
4. 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.
5. The applicant shall comply with all licensing and permitting requirements for short-term rentals.
6. Landowner will apply for, obtain and maintain an appropriate transient or tourist lodging rental license from Madison/Dane County Department of Public Health.
7. The rental shall be limited to 8 overnight guests.
8. This Conditional Use Permit shall expire one (1) year after the effective date. Landowner may renew the CUP by successfully obtaining a new CUP prior to the expiration date.
9. 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.
10. Quiet hours shall be 10:00pm to 8:00am, all days of the week.
11. 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.
12. No pets allowed.
13. 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.
14. 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.
15. The owner or operator must keep a copy of the conditional use permit, including the list of all conditions, on the site.
16. 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.
17. Failure to comply with any imposed conditions, or to pay reasonable Town/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.

18. If the transient or tourist lodging operation is abandoned for one year or more, this conditional use permit shall be terminated. Future re-establishment of an abandoned conditional use shall require approval of a new conditional use permit.
19. The operation of all-terrain vehicles, ATVs, and snowmobiles by occupants of the transient or tourist lodging operation shall be prohibited on the property.
20. Signage is prohibited.
21. Fireworks are prohibited.
22. The owner, or their designated emergency contact person, be available within one (1) hour to address any problems.
23. Emergency contact information shall be provided to the neighbors, Applewood Homeowners Association President, the Town of Middleton, and Dane County Zoning Division.
24. 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 of Middleton Clerk within ten (10) calendar days of the date the modified agreement is placed in use.
25. The rental period shall be a minimum of 5 nights.
26. Landowner will conduct a background check on any prospective renter.

8 Standards for Conditional Use Permits

Requirements and standards for conditional use permits

1. *Standards for approval.* Before approving any conditional use permit, the town board and zoning committee must find that all of the following conditions are met:

- a.** 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;
- b.** 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;
- c.** 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;
- d.** That adequate utilities, access roads, drainage and other necessary site improvements have been or are being made;
- e.** 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; and
- f.** That the conditional use shall conform to all applicable regulations of the district in which it is located.
- g.** That the conditional use is consistent with the adopted town and county comprehensive plans.
- h.** 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\(1\)](#).