
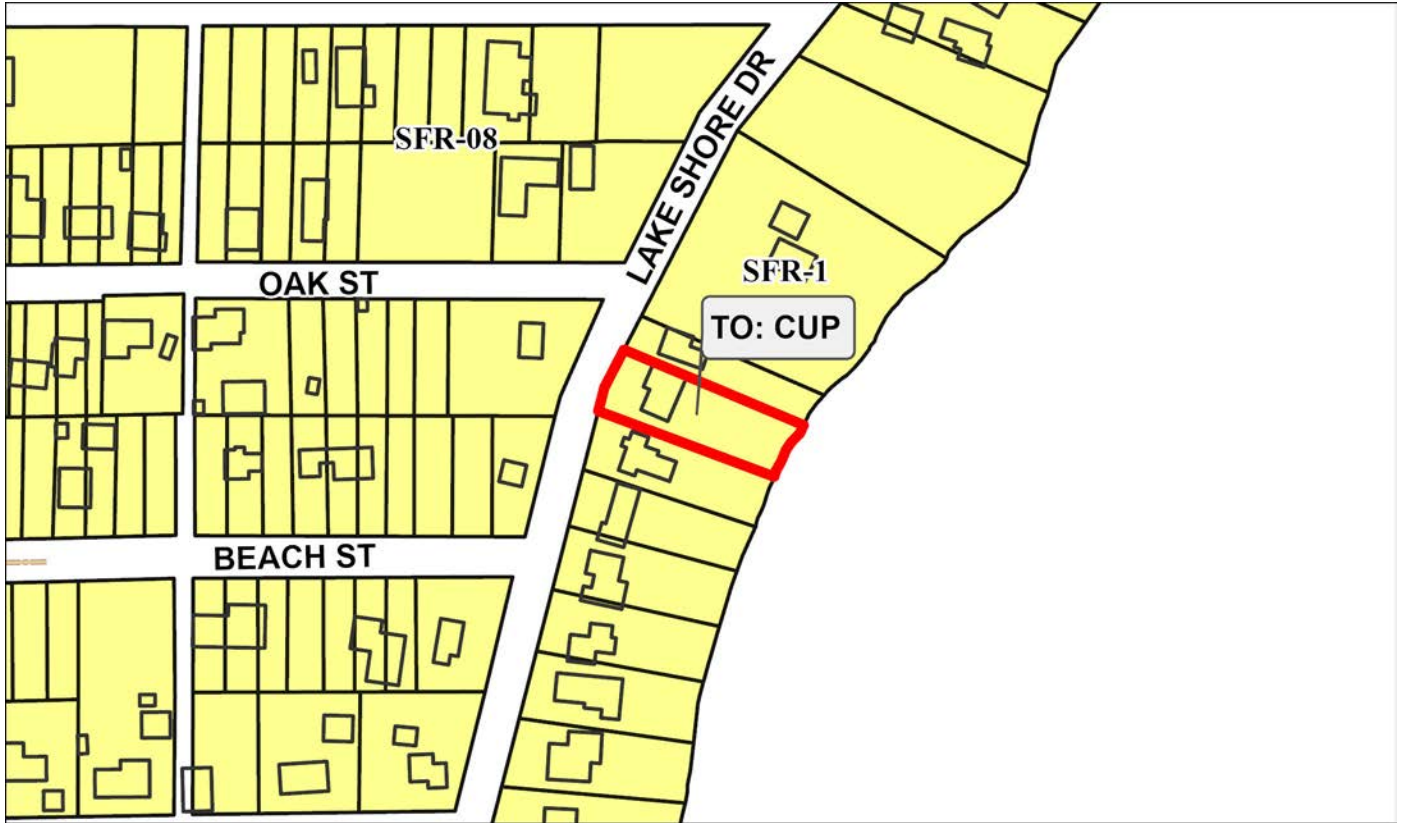


Staff Report  Zoning & Land Regulation Committee	<u>Public Hearing:</u> June 18, 2024	Conditional Use 02619
	<u>Zoning Amendment Requested:</u> TO CUP: TRANSIENT OR TOURIST LODGING (SHORT-TERM RENTAL)	<u>Town, Section:</u> ALBION, Section 25
	<u>Size:</u> 0.3 Acres	<u>Survey Required:</u>
	<u>Reason for the request:</u> TRANSIENT OR TOURIST LODGING (SHORT-TERM RENTAL)	<u>Applicant:</u> FOX LIVING TR (TAMMY FOX)
		<u>Address:</u> 370 LAKE SHORE DRIVE



DESCRIPTION: Applicant Tammy Fox requests a conditional use permit (CUP) for transient or tourist lodging (aka short-term rental) in order to rent out her home on Lake Koshkonong. The request is for rental up to 6 guests. No new construction proposed.

OBSERVATIONS: The property is located in the Edgerton Beach Park neighborhood, which was platted in the 1920s. The surrounding properties are small residential lots zoned and developed for residential use.

Transient or tourist lodging is listed as an allowable conditional use in the SFR-08 zoning district. The property is served by municipal sanitary sewer, so there are no septic system capacity concerns applicable to this conditional use.

COMPREHENSIVE PLAN: The property is located in the town’s lakeshore / limited sewer service area. Town comprehensive plan policies do not address short term vacation rentals, although the town does have a licensing ordinance that applies. It’s important to note that section 66.1014 of [state law 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 180 days (either consecutive or non- consecutive) in any consecutive 365 day period. Local governments may also enact licensing ordinances.

As noted, the Town of Albion has enacted such an ordinance. In addition, 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 Town of Albion ordinance also requires a license which must be

renewed annually and prohibits rentals of less than 2 days. The applicant indicates that off-street parking is provided on site and has provided information about the rules that would apply to guests renting the home.

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 Albion. 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.

RESOURCE PROTECTION: The property is located within the shoreland zone, due to proximity to the lake. However no new construction is proposed; staff has no concerns or additional comments.

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 the rental will be licensed, that guests will be made aware of town and county requirements, and will be used in the same manner as the neighbors use their homes.

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 not yet obtained a PHMDC license but intends to do so.

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 the property will be kept up and maintained in a manner similar to or better than others in the neighborhood, and that parties will not be allowed as it is disruptive to neighbors and the upkeep of the home. Guests will be made aware of quiet hours which are to be determined, under review by the town, and parking on the street will not be allowed.

Some or all of these measures can be made into conditions of approval on the 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.*

The applicant states that no further development of the land is needed in order to rent the home, so neighbors will not see an impact or change. This property and the surrounding properties are already developed and zoned for residential use.

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

The applicant states that no improvements are needed for the rental operation. The utilities, access roads, drainage, and other improvements needed for the proposed use are adequate. The home has 2 bedrooms and is on public sanitary sewer; thus staff has no concerns with septic capacity and the proposed number of guests.

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 a driveway approximately 22x40 feet. The applicant states that no additional traffic should be seen by the proposed rental because it would be the same whether the house is used by an owner or a rental guest. In addition, the paved driveway has space for 2 cars and is 2 cars deep which allows space on site for a boat or trailer if a guest brings one.

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 short-term lodging is an allowable conditional use in the zoning district. Applicant states the rental will have a license from Dane County and the Town of Albion, as well as fire inspection by the Edgerton Fire Department

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 June 4, 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 including the limited number of guests, the driveway that is large enough to accommodate four vehicles, and the sanitary sewer. This is also reflected in the town's approval.

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, 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.

CUP 2619 Potential Conditions of Approval:

Standard Conditions for all Conditional Use Permits:

1. The physical development and operation of the conditional use must conform, in all respects, to the approved site plan, operational plan and phasing plan.
2. 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.
3. 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.

4. 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.
5. 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.
6. All vehicles and equipment must access the site only at approved locations identified in the site plan and operations plan.
7. Off-street parking must be provided, consistent with s. 10.102(8).
8. 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.
9. 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.
10. 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.
11. 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 # 2619:

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

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