
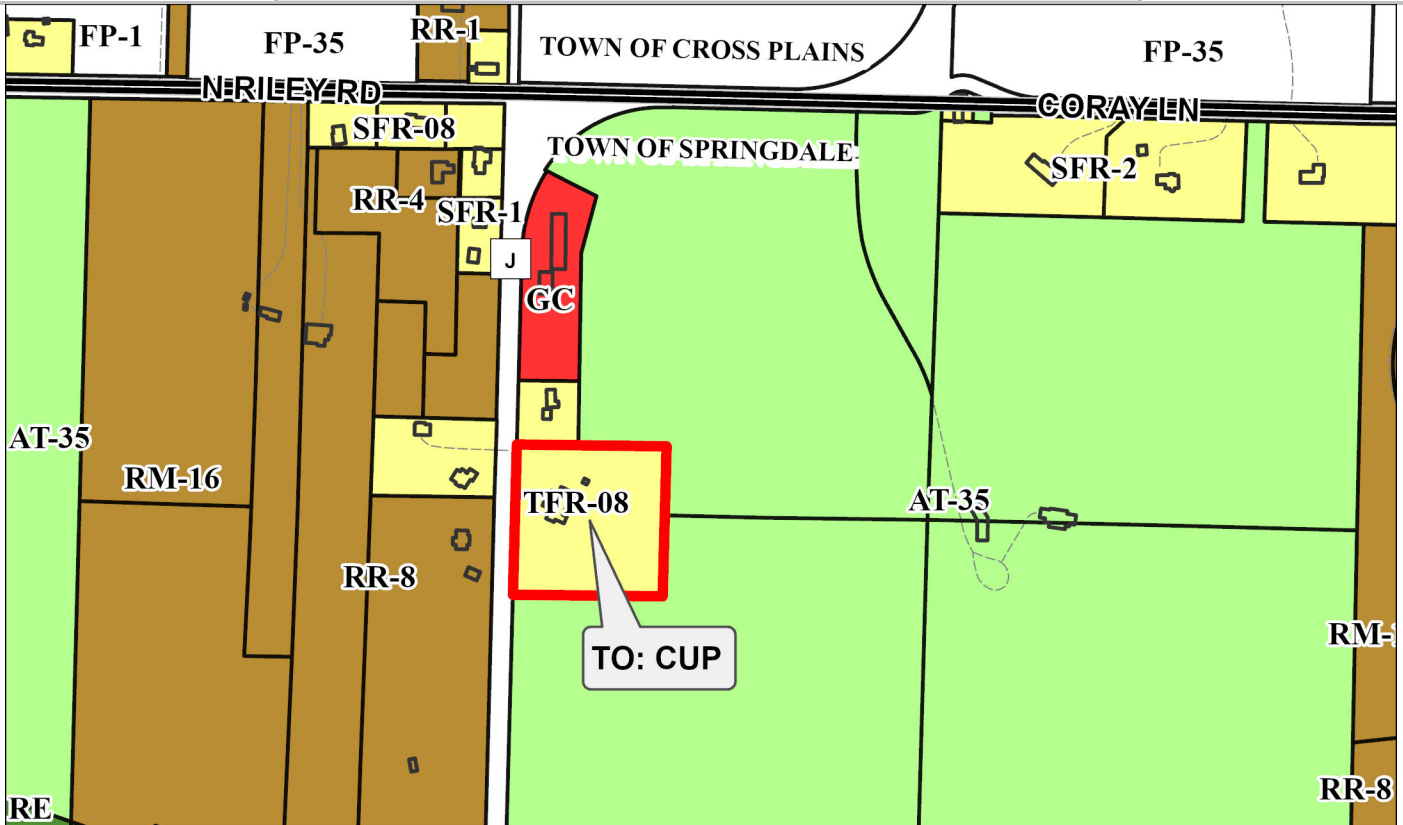


Staff Report  Zoning and Land Regulation Committee	<i>Public Hearing:</i> January 23, 2024 Report updated for March 12, 2024 ZLR meeting	Conditional Use 02610
	<i>Zoning Amendment Requested:</i> TO CUP: Renew CUP to allow transient or tourist lodging (AirBnB)	<i>Town/Section:</i> SPRINGDALE, Section 1
	<i>Size:</i> 5 Acres	<i>Survey Required.</i>
	<i>Reason for the request:</i> Renew CUP to allow transient or tourist lodging (AirBnB)	
		<i>Address:</i> 3160 COUNTY HWY J



DESCRIPTION: Applicant Scott Niebuhr of SN Windy Acres LLC requests a conditional use permit (CUP) for transient or tourist lodging (short-term rental) in an existing duplex home on 10 acres in the Town of Springdale. The home has two units, addressed as 3158 and 3160 County Highway J respectively, and each unit contains 3 bedrooms. The rental use was previously approved in 2020 with [CUP #2504](#) for the unit addressed at 3160 CTH J. It allowed up to 8 rental guests in the unit, and set a two-year expiration so that the CUP expired in November of 2022.

This proposal is to renew the rental operation for the same unit. The application does not specify a number of guests or length of stay, but the applicant says he is requesting up to 10 guests in this unit, because the other dwelling unit has just one long-term renter which means the total number of occupants would be under the limit of what the septic system would serve. The application indicates the unit may be rented all year. No new construction is proposed.

OBSERVATIONS / FACTUAL INFORMATION: The 10-acre property is zoned TFR-08 Two-Family Residential and is located north of the Military Ridge State Trail and the hamlet of Riley, and near the border of the Town of Cross Plains. Neighboring land uses are residential to the north and west, with Single-Family Residential and Rural Residential zoning. The closest homes are 215 feet away to the north and 230 feet away across County Highway J. To the north there is also a 3-acre property with GC General Commercial zoning. Neighboring lands to the east and south are zoned AT-35 and may have further development potential under the Town of Springdale / Dane County Comprehensive Plan. However, lands directly abutting to the east and south contain mapped wetlands and floodplain.

The existing septic system serving the property was designed for a peak capacity of 900 gallons a day, which is based on the duplex's total of 6 bedrooms and two occupants per bedroom, or 12 total occupants.

The lot is wooded on all sides with a mix of deciduous and evergreen trees, except for the driveway entrance. The existing paved two-pronged driveway, plus the existing two-car garages for each unit, would appear to have the capacity for approximately 12 vehicles, based on County zoning code parking dimensional standards.

RESOURCE PROTECTION: Forested wetlands and floodplain of the Sugar River and its intermittent tributary cover approximately 2.4 acres of the eastern portion of the existing lot. The existing residence and yard appear to be adequately removed from resource protection corridors. No new construction is proposed with this petition

COMPREHENSIVE PLAN: The Town of Springdale / Dane County Comprehensive Plan allows for Tourist and Transient Lodging, provided plan standards regarding lighting, noise abatement and other design considerations are met. *(For questions about the town plan, contact Senior Planner Brian Standing at (608) 267-4115 or standing@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 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 are the standards from Section 10.101(7)(d) of the Zoning Code, and a summary of the relevant facts including the applicant's testimony.

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 must obtain a PHMDC license.

The CUP application describes the proposed rental operation. The applicant/owner states that all guests will have a background check by VRBO, and will be in direct communication with him. The owner also states he will remove all trash, that there will be no signage, and that the short-term rental has operated previously with no issues or complaints. Staff is not aware of any complaints or violations associated with this rental operation.

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 rental operation will not change anything on the property, and that having guests will add to the property, that keeping the house clean and safe and maintained will keep the uses, values and enjoyment of other properties in the neighborhood high.

Staff notes that noise is the most common concern that arises with short-term rental proposals. Other properties in the area are in residential, open space, or commercial use as noted above. In addition, CUP conditions to limit the number of guests and establish "quiet hours" are conditions commonly used to control noise. The applicant is requesting up to 10 guests for this short-term rental operation. However, in its approval of the last CUP the town limited the number of guests to 8 within the unit and set quiet hours (10pm to 9am on weekdays, 12am to 9am on weekends). Some or all of these measures can be made into conditions of approval for a new CUP, see staff recommendations below. Note that these conditions are subject to modification based on the town's action on this petition.

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 guests will not change the property, and to attract guests there will be a high standard of maintenance which will increase the appeal and keep up with the standard set by the neighboring properties.

This property and most of the surrounding properties are already developed for residential use, and no exterior changes to the property are proposed in association with the proposed conditional use. The lands to the east 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 applicant states that the residence is up to date on its utilities and can easily manage the number of guests. Staff notes that the utilities, access roads, drainage, and other improvements needed for the proposed use are comparable to those necessary for any single-family or two-family house that is not used for short-term rentals. As noted above, the home is served by a septic system sized for 12 people based on 6 bedrooms (3 per dwelling unit), and the proposed number of guests would be able to be served by the current septic system.

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.*

Applicant states that the number of guests is managed and capped to prevent overcrowding, and the amount of cars will be capped with the number of guests to ensure they will fit in the driveway. Off-street parking is available in the driveway and garage. The existing paved two-pronged driveway plus the two-car garages appear to have the capacity for approximately 12 vehicles.

Dane County Highway Department staff commented that CTH J is not a controlled-access highway. Any future change of use for access would require a permit from the Highway Department. No significant increase of traffic is expected due to this conditional use permit.

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 TFR-08 zoning district. Transient or tourist lodging is listed as 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 applicant's CUP application addresses how these potential nuisances are handled, as noted above.

Potential conditions of approval specific to this CUP can be developed after public input and deliberation by the Zoning and Land Regulation (ZLR) Committee. Under Dane County Zoning Ordinance section 10.103, there are no other special requirements for short-term rental operations. As noted above, the Town of Springdale does not have additional requirements or a licensing program.

TOWN ACTION: On February 20, 2024 the Town Board approved CUP 2610 with 32 conditions (see below).

JANUARY 23RD ZLR HEARING: The ZLR Committee postponed action on the petition at the public hearing, due to no town action per the ZLR Committee's adopted rules.

STAFF RECOMMENDATION (updated March 1, 2024): Staff believes that the applicant has provided sufficient evidence to demonstrate the operation would satisfy the CUP standards. This includes the home's relatively small size (3 bedrooms), adequate off-street parking, code-compliant outdoor lighting, and the lack of business signage. In addition,

conditions similar to those previously approved for this operation would help ensure the proposal meets the standards required for approval of a CUP.

The recommended conditions below are from the town's approval and include limits on the number of guests, quiet hours, noise levels, pets, outdoor amplified music. The applicant requested up to 10 short-term rental guests; the town kept the number of guests limited to 8 within the unit, as it did with the original CUP approval (condition #17 below).

Staff recommends that the ZLR Committee consider whether the proposed conditional use meets the applicable CUP standards. If the Committee requires additional information on which to base a decision, they could request specific information of the applicant or staff. The recommended conditions of approval, from the Town of Springdale's approval, are listed below.

CUP 2610 Potential Conditions of Approval:

Standard Conditions that apply to all conditional uses (from s. 10.101(7)(d)2)

1. The physical development and operation of the conditional use must conform, in all respects, to the approved site plan, operation plan and phasing plan.
2. New and existing buildings proposed to house a conditional use must be constructed and maintained to meet current requirements of applicable sections of 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 county 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 county 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 and circulation must be provided, consistent with s. 10.102(8) of County Ordinances.
8. If 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 County Zoning Administrator or designee may enter the premises of operation in order to inspect those premises and to ascertain compliance with these conditions or 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 must post, in a prominent public place and in a form approved by the county zoning administrator, a placard with the approval of the Conditional Use Permit number, the nature of the operation, name and contact information for the operator, and contact information for the Dane County Zoning Division.
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 revocation.
13. If any use allowed by an approved conditional use permit is not commenced within one year of issuance of the permit or is abandoned for one year or more, the associated conditional use permit shall be terminated. Future re-establishment of an abandoned conditional use shall require approval of a new conditional use permit.

Conditions Specific to CUP 2610

14. Landowner will apply for, obtain and maintain an appropriate transient or tourist lodging rental license from Madison/Dane County Department of Public Health. Such license shall be obtained within 30 days of the effective date of this CUP.
15. Only one side of the duplex shall be rented as transient or tourist lodging. The northern-most unit shall be rented for transient or tourist lodging. The southern-most unit of the duplex may be rented as long-term rental.
16. No more than three bedrooms shall be rented for transient or tourist lodging.
17. No more than 12 people, including both transient guests and permanent residents, shall be on the premises at any one time. The transient or tourist lodging shall have a maximum of 8 people on the premises at any time.
18. No more than 6 vehicles shall be on the premises at any one time. All vehicles must be parked on paved driveway surfaces or inside the existing garage, with adequate access for emergency vehicles.
19. Quiet hours shall be observed between 10 p.m. and 9 a.m. on weekdays, and between 12 a.m. and 9 a.m. on weekends.
20. Peak noise levels shall not exceed 40 decibels [dB(a) scale], as measured at the property line, during quiet hours.
21. Peak noise levels shall not exceed 65 decibels [dB(a) scale], as measured at the property line, during hours other than quiet hours.
22. No more than two dogs, (including those belonging to permanent residents) may be on the premises at any one time. All dogs brought by guests must either be leashed or contained within adequate fenced areas while outside. Dogs must be kept indoors during quiet hours.
23. Landowner will maintain existing trees and other vegetation along the northern, western and southern property lines, or replace such vegetation with landscaping that provides a similar level of visual screening.
24. Any new outdoor lighting shall be downward-directed, designed to minimize ambient spill and shall comply with all applicable requirements of the Town of Springdale Dark Skies Ordinance.
25. The transient or tourist lodging operation shall automatically expire on the sale of the property or the business to an unrelated third party.
26. The operation of all-terrain vehicles, ATVs, and snowmobiles by occupants of the transient or tourist lodging operation shall be prohibited on the property.
27. Signage is prohibited.
28. Outdoor music and speakers for the amplification of sound or music outdoors are prohibited.
29. Commercial activities and business activities, other than transient or tourist lodging and duplex rental, are prohibited.
30. This Conditional Use Permit shall expire two years after the effective date. Landowner may renew the conditional use permit by successfully obtaining a new CUP prior to the expiration date.
31. All advertising for transient or tourist lodging must conform to the terms of this CUP.
32. Additional people beyond the number of allowed transient or tourist guests are prohibited on premises.

Any questions about this petition or staff report please contact Rachel Holloway at (608) 266-9084 or holloway.rachel@countyofdane.com