

**Town of Wascott
Douglas County, Wisconsin**

Resolution 2024-01

**Resolution To Recommend Denial of Conditional Use Application from Brian Tedford
For Expansion of Campgrounds on Parcel WA-032-01826-00**

WHEREAS, the existing conditional use permit (CUP) was issued to Richard and Theresa Maas on July 13, 2011, for Parcel #WA-032-01826-00; and 60; and

WHEREAS, the Douglas County Zoning ordinance 8.0 as amended and effective on April 25, 2022 identifies use categories within zoning districts as follows:

- Campgrounds are not a permitted use allowed by right in any zoning district.
- Small scale campgrounds of less than 25 sites are only allowed as a conditional use in R-2, RR-1, A-1, C-1 and F-1 zoning districts, subject to specific standards under “Uses authorized by conditional permit.” Campgrounds of up to 100 campsites are allowed in RRC-1 zoning district subject to specific standards under “Uses authorized by conditional permit.”
- Uses not specifically permitted by right, or not authorized by conditional permit, are not allowed.

BE IT RESOLVED, the Town Board of the Town of Wascott, Douglas County, **recommends denial** of the CUP application of Brian Tedford dated December 6, 2023, for the following reasons:

1. Approval of the Tedford conditional use application dated December 1, 2023, and received by Douglas County on December 6, 2023, for more than 99 campsites and up to 200 campsites violates the zoning ordinance. It is unlawful for the town to exceed the use conditionally permitted by the zoning ordinance. Approval of the CU application violates the public trust of town residents and taxpayers who have a reasonable expectation that campgrounds of more than 99 campsites are not permitted in the community. (See legal opinion, WI League of Municipalities, attached.)
2. The zoning ordinance adopted March 17, 2022, and effective April 25, 2022, by Douglas County applies to the Town of Wascott under county-wide zoning. The Town of Wascott has the legal right to require Douglas County to comply with all provisions of the zoning ordinance. Notice to the town of all rezoning and conditional use applications prior to public hearing allows for checks and balances on the administration and enforcement of the zoning ordinance by Douglas County.
3. “Uses authorized by conditional permit” criteria in the zoning ordinance provide protection to adjacent property owners and protect the character of the surrounding area. The Town Board supports the continuation of these protections and denies the conditional use application.

NOW, FURTHER BE IT RESOLVED, the Town Board of the Town of Wascott, received public comments from persons in attendance at a public meeting of the Town Board held on January 2, 2024, who were not in support of the CU permit submitted by Brian Tedford for the following reasons – environmental impact of the bodies of water affected by this campground expansion (Minong Flowage, Cranberry Flowage, and the Cranberry Lake); density issues; and the impact on property values.

The town clerk shall file a certified copy of this resolution with the Douglas County zoning agency and the county clerk by the public hearing held by the county in this matter scheduled for January 10,2024.

The town clerk shall properly post or publish this resolution as required under s. [60.80](#), Wis. stats.

Adopted this 2nd day of January, 2024.

Chuck Youngquist, Chairman

Jeff Christensen, Supervisor

Kim Sorensen, Supervisor

Attest: Jeannette Atkinson, Clerk/Treasurer

League of Wisconsin Municipalities
Zoning FAQ 10

Can a municipality issue a valid conditional use permit for a land use activity that is not specifically permitted by the zoning code as a conditional use in the zoning district in which it will be conducted?

No. The Wisconsin court of appeals has noted the general zoning principle that "Zoning ordinances may be permissive in form, permitting specified uses and buildings and prohibiting all others within a district. The mention or listing of things which may be done necessarily implies the **exclusion** of others, unless the ordinance is vague or ambiguous." *Foresight, Inc. v. Babl*, 211 Wis. 2d 599, 281-282, 565 N.W.2d 279 (Ct. App. 1997)(*citing* 8 McQuillin, *Municipal Corporations*, sec. 25.124 at 492 (3d ed. 1991) (emphasis added)). In other words, a proposed land use that is not specifically authorized as a conditional use (or a permitted use) in a zoning district is prohibited in that district. This means that a conditional use permit issued for a use that is not specifically permitted by the zoning code as a conditional use in the zoning district in which it will be conducted is invalid because a conditional use permit only allows a property owner "to put his property to a use which the ordinance **expressly** permits when certain conditions have been met." *State ex rel. Skelly Oil Co. v. Common Council*, 58 Wis. 2d 695, 701, 207 N.W.2d 585 (1973) (*quoting* 2 Rathkopf, *The Law of Zoning & Planning*, 54-4 n.3 (1968) (emphasis added)).