

## Process for a Conditional Use Permit (CUP)

*Updated January 18, 2018*

High-level Summary: CUPs are considered by the Town Plan Commission, after a required Public Hearing, and then by the Town Board. If denied by the Town Board, the applicant has no further recourse. If approved by the Town Board, then the CUP must be okayed by Dane County Zoning in order to be formally approved. The process from beginning to end usually takes 3 to 4 months.

**Step 1:** The applicant comes to the Town Office and lets the Town Clerk know of their intentions. The applicant may wish to attend a Plan Commission meeting to get feedback prior to continuing the process.

**Step 2:** The applicant goes to Dane County Zoning (via the web at <http://www.countyofdane.com/plandev/zoning/cup.aspx>, or in person at the City-County building on Martin Luther King Jr. Blvd.). An application must be completed; the County charges a fee for this. A copy of this form is given to the Town Clerk. There is no fee collected by the Town for a CUP application.

**Step 3:** At their next meeting the Plan Commission discusses the merits of the CUP. They take into account any unpaid taxes from the property in question. They make sure that there are no zoning issues. The Plan Commission then sets a date for the Public Hearing (which is required).

**Step 4:** The Town Clerk sends notification of the Public Hearing to Town landowners within 300 feet (if urban) or within ¼ mile (if rural) of the property. The Public Hearing notice is also posted around town. These notifications must go out at least 15 days prior to the date of the Public Hearing.

**Step 5:** The Plan Commission holds the Public Hearing. This is usually the next regularly-scheduled Plan Commission meeting, but doesn't have to be.

**Step 6:** Based upon knowledge, factual evidence, and testimony at the Public Hearing, the Plan Commission makes a recommendation to the Town Board. Note that this decision may come the same night as the Public Hearing, but doesn't have to (at the Plan Commission's discretion). The Plan Commission's recommendation can be unconditional approval, approval with conditions, or denial.

Here are the criteria by which the Plan Commission must evaluate the CUP (per County ordinance):

- a) The establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety, comfort or welfare.
- b) 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) 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) Adequate utilities, access roads, drainage and other necessary site improvement have been or are being made.
- e) Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
- f) The conditional use shall conform to all applicable regulations of the district in which it is located.

**Step 7:** The Town Chair decides when this issue is placed on a Town Board agenda. This is usually the Board meeting immediately following the Plan Commission meeting during which the CUP is considered. (Both the Plan Commission and Town Board meet the second Wednesday of the month).

**Step 8:** At their meeting, the Town Board makes a determination on the CUP – taking into account the Plan Commission’s recommendation. The Town Board may choose unconditional approval, an approval with conditions, or a denial. If the Town Board denies the CUP, or approves it with conditions, specific reasons must be provided to the applicant that pertain to one or more of the aforementioned standards, or otherwise be specified in the denial.

**Step 9:** The Town Clerk completes a “Town Board Action Report – Conditional Use Permit” on-line form (thus notifying the Dane County Zoning of the Town’s action). This report includes the vote of both the Plan Commission and the Town Board. This also includes, if the CUP is denied, the completing of the “Findings of Fact for Denied Conditional Use Permits” form. If the CUP is denied by the Town Board, the process is over. If the CUP is approved by the Town Board, then...

**Step 10:** Dane County Zoning makes a final decision on the CUP at their designated meeting date.