

# Town of Blooming Grove Process for a Conditional Use Permit (CUP)

*updated February 21, 2018*

High-level Summary: After a required Public Hearing in front of the Town's Plan Commission, CUPs are considered by the Town Plan Commission and then by the Town Board. If denied by the Town Board, the applicant's only recourse is to go to circuit court. If approved by the Town Board, then the CUP must be approved by Dane County Zoning. 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. It is recommended that the applicant attend a Plan Commission meeting to get general 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 at 210 Martin Luther King Jr. Blvd. A County Zoning application must be completed, and a fee is charged by the County. A copy of this form is then given to the Town Clerk, along with a non-refundable payment of \$150.00 to the Town (to cover administrative costs).

**Step 3:** The Plan Commission Chair sets a date for the Public Hearing – which takes place at a Plan Commission meeting. The Town Clerk sees to it that a notice of the Public Hearing is published in the Wisconsin State Journal for two consecutive days (per state law). These notifications must be posted and published at least 15 days prior to the date of the Public Hearing.

**Step 4:** The Plan Commission holds the Public Hearing. Note that per state law, only substantial evidence shall be considered by the Plan Commission. Hearsay and speculation shall not be considered. The Public Hearing for, and deliberation of, the CUP is now considered quasi-judicial... which means testimony and evidence is necessary – as opposed to people simply expressing opinions.

**Step 5:** After the Public Hearing, the Plan Commission makes a recommendation to the Town Board based on substantial evidence. 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 Dane County ordinance). As noted above, only substantial evidence can be used to determine if these conditions are met.

- 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 6:** Sometime after the Plan Commission has made a recommendation, the Town Chair will have this issue placed on a Town Board agenda. This may be the Board meeting which immediately follows 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 7:** The Town Board makes a decision on the CUP – taking into account the Plan Commission’s recommendation. The Town Board may choose approval, approval with conditions, or denial. If the Town Board denies the CUP, or approves it with conditions, specific reasons must be provided to the applicant. These reasons must pertain to one or more of the aforementioned standards, and be specified in the denial or the conditional approval.

**Step 8:** The day after the Board’s decision has been made, the Town Clerk completes a “Town Board Action Report – Conditional Use Permit” on-line form (thus notifying 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 – unless appealed by the applicant to circuit court. If the CUP is approved by the Town Board, then the process moves to Dane County Zoning.

**Step 9:** Dane County Zoning holds a public hearing of their own, and makes a final decision on the CUP.