

Process for a Conditional Use Permit (CUP)

Updated July 8, 2014

CUPs are considered by the Town Plan Commission, then the Town Board. If denied by the Town Board, the owner has no further recourse. If approved by the Town Board, then the CUP must be forwarded to and approved by Dane County Zoning.

Step 1: The individual or entity which wants the CUP (“requester”) comes to the Town Office and lets the office staff know of their intentions. A form must be completed; no money is due to the Town.

Step 2: The requester then goes to Dane County Zoning (online at <https://www.countyofdane.com/plandev/zoning/cup.aspx>, or in person at the City-County building on Martin Luther King Jr. Blvd.). A form must be completed; the County charges a fee for this.

Step 3: Town staff places this item on the next Plan Commission agenda. They usually meet the first Tuesday of each month.

Step 4: At the Plan Commission meeting, the Plan Commission discusses the merits of the CUP and take into account any unpaid taxes from the property in question. They also make sure there are no zoning issues. The Commission decides whether or not to hold a Public Hearing (this isn’t mandatory) on the CUP.

Step 5: If there’s a Public Hearing, the Town Office sends notification of it to 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 6: The Plan Commission holds the Public Hearing usually at the next regularly-scheduled Plan Commission meeting.

Step 7: Based upon knowledge, factual evidence, and testimony at the Public Hearing (if any), the Plan Commission makes a recommendation about the CUP 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 8: The Town Chair decides when this issue is placed on a Town Board agenda, usually at the next regularly-scheduled Town Board meeting.

Step 9: At the Board 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 requester that pertains to one or more of the aforementioned standards, or be otherwise specified in the denial.

Step 10: Town staff provides Dane County Zoning with the vote of the Plan Commission and the Town Board by completing the “Town Board Action Report – Conditional Use Permit” form. It 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 11: Dane County Zoning has its public hearing, and then makes a final decision on the CUP.