

Town of Vermont Conditional Use Permit (CUP) Process and Procedures

June 2019

<https://www.vermonttownship.com/land-use/conditional-use>

I. Overview The issuance of a conditional use permit is governed by both State Statute and County Ordinance. Reference documents may be found under the Section VIII.

CUPs fall under Dane County Zoning (<https://plandev.countyofdane.com/zoning/cup.aspx>) The Town of Vermont (ToV) Planning Commission and the ToV Board evaluates a CUP application using the eight standards listed below. The determination of the ToV Planning Commission and ToV Town Board are then provided to Dane County. In most cases, Dane County follows the recommendations of the Town.

II. The Application Process

The process begins with a Dane County CUP Application submission.

CUP Application https://plandev.countyofdane.com/zoning/pdf/CUP_Application.pdf

As part of the application process applicants must reasonably prove to both the ToV and Dane County that they meet the eight (8) specified standards, listed below.

Criteria 1 The establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety, comfort or general welfare.

Application guideline: Explain how the proposed land use will fit into the neighborhood. If there is going to be lighting, noise, outdoor storage, traffic, or other outside activities, explain how the activities will be limited to a reasonable level.

Criteria 2 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.

Application guideline: Explain how the proposed land use will fit into the neighborhood and what will be done to avoid potential nuisances, such as limiting the hours of operation, noise control measures, paving the parking area, or the screening of outdoor storage.

Criteria 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.

Application guideline: Explain how the proposed land use will not interfere with the development of the surrounding property. It's possible that there may already be limitations on development on the surrounding properties such as being deed restricted to just agriculture.

Criteria 4 . That adequate utilities, access roads, drainage and other necessary site improvements have been or are being made.

Application guideline: Explain what impact the proposed use has on such things as water, septic, storm water, electricity, and traffic. Provide information on improvements that may be needed or if additional buildings are needed.

Criteria 5 Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.

Application guideline: Provide information on vehicle traffic that the proposed use will generate. Include frequency and types of vehicles.

Criteria 6 That the conditional use shall conform to all applicable regulations of the district in which it is located.

Application guideline: Review the ToV Comprehensive Land Use Plan to ensure your project is compliant and in line with land use guidelines.

Criteria 7 That the conditional use is consistent with the adopted town and county comprehensive plans.

Application guideline: Review the ToV Comprehensive Land Use Plan to ensure your project is compliant and in line with land use guidelines.

Criteria 8 If the conditional use is located in a Farmland Preservation Zoning district, the town and zoning committee must also address the findings described in s.10.220(1).

Application guideline: Review the Dane County s.10.220(1) for requirements:

Conditional Use Standards in Farmland Preservation Districts. In addition to the requirements of s. 10.101(7)(d), the zoning committee must find that the following standards are met before approving any conditional use permit in any Farmland Preservation zoning district.

1. The use and its location in the Farmland Preservation Zoning District are consistent with the purposes of the district.
2. The use and its location in the Farmland Preservation Zoning district are reasonable and appropriate, considering alternative locations, or are specifically approved under state or federal law.
3. The use is reasonably designed to minimize the conversion of land, at and around the site of the use, from agricultural use or open space use.
4. The use does not substantially impair or limit the current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use.
5. Construction damage to land remaining in agricultural use is minimized and repaired, to the extent feasible.

Submit CUP applications to Dane County Zoning Division as well as a copy to ToV:

Zoning Division
Room 116, City-County Building
210 Martin Luther King Jr. Blvd
Madison, Wisconsin 53703-3342

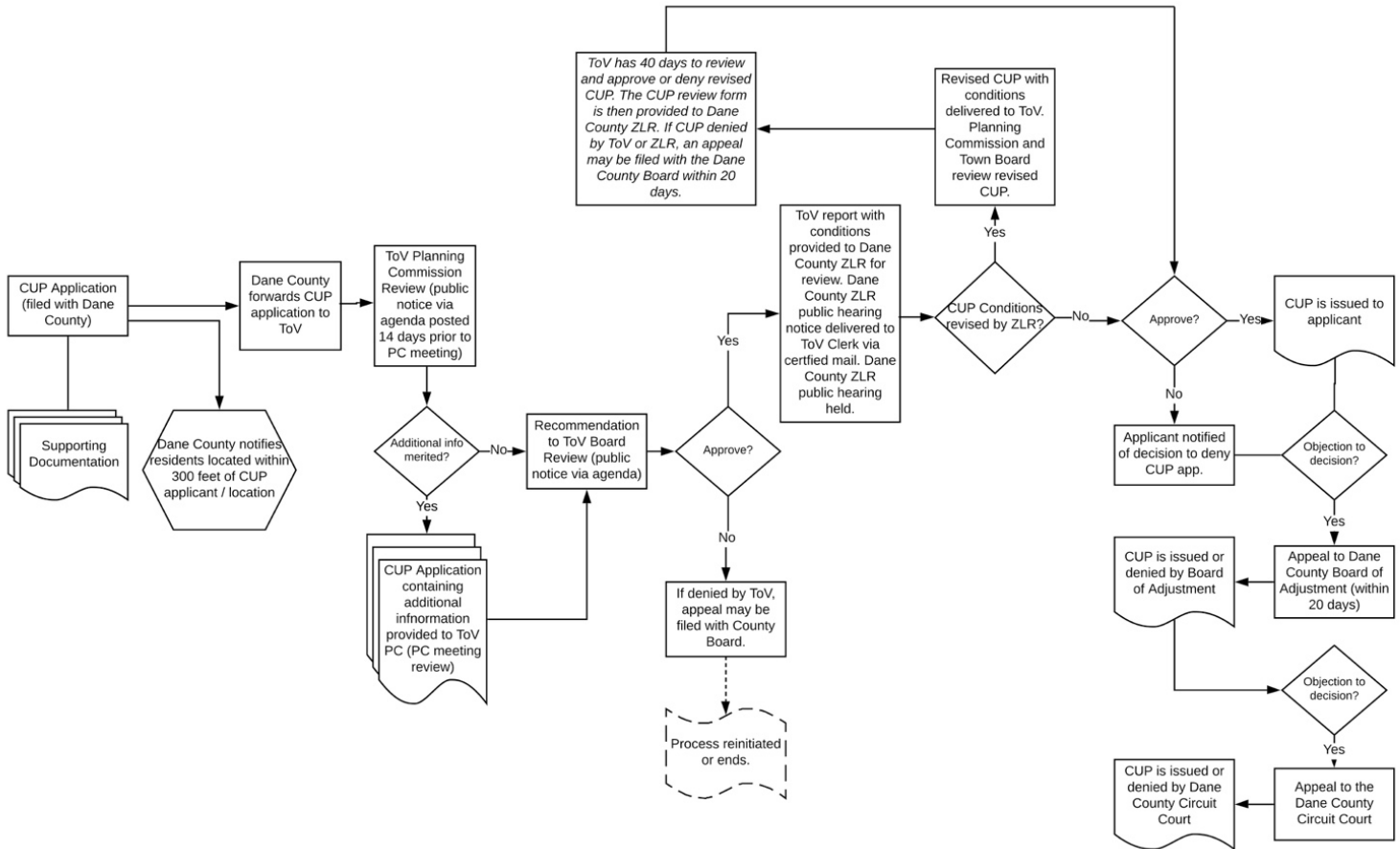
Phone: (608) 266-4266
Fax: (608) 267-1540

Town of Vermont Planning Commission
4017 County Road JJ
Black Earth, Wisconsin 53515

plancommission@townofvermont.com

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III. Dane County / ToV CUP Process Flow



Timeline

Per Dane County CUP guidelines, the Dane County Town governments have 60 days from the date of the Dane County public hearing to act, with the ability to request a 40-day extension.

IV. Notifications

1. Dane County Zoning is responsible for notifying property owners of the proposed CUP that are located within 300 feet of the proposed CUP activities.
2. Notifications of ToV CUP applications under review at the ToV Planning Commission and Town Board will follow the Statutory posting requirements of a Wisconsin Class 2 notification. Agendas are posted 17 days prior to ToV Planning Commission and ToV Board meetings as per Class 2 guidelines.

V. Testimony, Input Submissions and Meeting Guidelines

While Dane County is statutorily responsible for conducting the formal Public Testimony Hearing as part of the CUP application process, the ToV may host a public hearing session as part of a Plan Commission or joint Board and Plan Commission meeting. Some applications may not require a joint meeting.

Individuals that have provided written testimony will have the opportunity to sign up to provide verbal input or testimony 30 minutes prior to the meeting. Testimony and input will be limited to three to five minutes depending upon the number of people that sign up at the beginning of the scheduled meeting. This will be the only time for public testimony. Testimony and input will be recorded and become part of the public record.

Written testimony should be addressed to the ToV Planning Commission:
Via email: plancommission@townofvermont.com

Via mail or courier addressed to:
Planning Commission
Vermont Town Hall
4017 County Road JJ
Black Earth, WI 53515

Written testimony must be received by the day of the meeting, thirty minutes prior to the scheduled meeting time.

Note: All submissions, phone conversations, and email correspondence will become part of the public record and may be posted on the ToV public website. Phone conversations to any ToV officials may be recorded and electronically transcribed to a written document and may also be posted to the ToV public website.

ToV Review of CUP public forum agenda items will adhere to the following process:

1. At the beginning of the meeting, the meeting chair will walk attendees through the format of the meeting and explain the rules the public forum will follow.
2. Written input received prior to the meeting will be discussed by members of the ToV Planning Commission. Verbal input by individuals will not be allowed during this review.
3. Public verbal testimony will be accepted from individuals that have signed up prior to the meeting. Individuals will have the opportunity to address the Planning Commission and provide additional input of three to five minutes maximum, dependent upon the number of individuals that have signed up
 - a. The order of speakers will follow the order of the names indicated on the sign up list. Attendees that have signed up will be called upon to speak for the limited time as noted.
 - b. Attendees will be allowed only one time speak and will be required to keep comments relevant to the item being considered.
 - c. Comments repeating previous points will be limited.
4. The Planning Commission may then deliberate and ask questions among themselves. Individuals are not allowed to ask questions of the Planning Commission during individual testimony and input and are not allowed to interject during individual input or testimony.
5. If individuals are deemed out of order, they may be asked to remove themselves from the premises.
6. The Planning Commission will then make a determination. This could be to approve the CUP, request additional information if the CUP application does not explicitly and clearly address and support the eight CUP criteria, or deny the CUP application.
7. No further input will be allowed if the CUP application is denied or deliberation is tabled to the next meeting.

VI. Substantial Evidence is outlined in 2017 Wisconsin Act 67

59.69 (5e) CONDITIONAL USE PERMITS.

(a) In this subsection:

- II. "Conditional use" means a use allowed under a conditional use permit, special exception, or other special zoning permission issued by a county, but does not include a variance.

III. "Substantial evidence" means facts and information, other than merely personal preferences or speculation, directly pertaining to the requirements and conditions an applicant must meet to obtain a conditional use permit and that reasonable persons would accept in support of a conclusion.

(b) 1. If an applicant for a conditional use permit meets or agrees to meet all of the requirements and conditions specified in the county ordinance or those imposed by the county zoning board, the county shall grant the conditional use permit. Any condition imposed must be related to the purpose of the ordinance and be based on substantial evidence.

2. The requirements and conditions described under subd. 1. must be reasonable and, to the extent practicable, measurable and may include conditions such as the permit's duration, limits on hours, noise, screening, etc. The applicant must demonstrate that the application and all requirements and conditions established by the county relating to the conditional use are or shall be satisfied, both of which must be supported by substantial evidence. The county's decision to approve or deny the permit must be supported by substantial evidence

(c) Upon receipt of a conditional use permit application, and following publication in the county of a class 2 notice under ch. 985, the county shall hold a public hearing on the application.

(d) Once granted, a conditional use permit shall remain in effect as long as the conditions upon which the permit was issued are followed, but the county may impose conditions such as the permit's duration, transfer, or renewal, in addition to any other conditions specified in the zoning ordinance or by the county zoning board.

(e) If a county denies a person's conditional use permit application, the person may appeal the decision to the circuit court under the procedures contained in s. 59.694 (10).

VII. CUP Information and References

Dane County Conditional Use Permit overview:

<https://plandev.countyofdane.com/zoning/cup.aspx>

Class 2 Wisconsin Chapter 985, Publication of Legal Notices; Public Newspapers; Fees:

<https://docs.legis.wisconsin.gov/statutes/statutes/985>

2017 Wisconsin Act 67:

<https://docs.legis.wisconsin.gov/statutes/statutes/59/VII/69/5e>

Town of Vermont Comprehensive Land Use Plan:

https://www.vermonttownship.com/Documents/LandUse/ComprehensivePlan_071017.pdf.

The entire ordinance text can be found on page 64 of the revised Chapter 10:

https://plandev.countyofdane.com/documents/pdf/CompZoningRevision/Ordinance_Text/Chapter_10_Revised.pdf