

# Excerpt from Dane County ZLR Committee Rules & Procedures

## III. Conduct of Public Hearing

- a. Testimony at the Public Hearing will be recorded on tape and shall be available to the public in the Department. Recordings shall be held for 2 years.
- b. Minutes of the Public Hearing shall only show the names of those appearing and the position they have taken on the proposal.
- c. Attendance of petitioners or their agent at the public hearing is recommended. It is not necessary for anyone to speak regarding the item at the Public Hearing in order for the committee to complete action.
- d. All members of the public who are present at the public hearing on a conditional use permit application or zoning petition may testify at the public hearing on the proposal.
- e. Registered Town official wishing to speak at a meeting will be recognized at the meeting by the Committee Chair to address the Committee regarding the pertinent item.
- f. When individuals wish to speak all persons wishing to speak in favor of the petition shall be heard first. All persons wishing to speak against the petition or ask questions shall be heard second. Review of Town action, staff comments and any other communication concerning the matter will be heard next. Where any comments concerning the matter have been made objecting to the petition or questions have been asked, one representative of the applicant may speak in rebuttal.
- g. All comments during the public hearing shall be directed to the Committee. No exchange between attendees is permitted. Committee members may ask questions of individuals participating in the public hearing as they speak.
- h. In accordance with Dane County Ordinance all speakers are required to fill out a Registration sheet indicating the items they are interested in, their name, their affiliation, or representations.
- i. Individual speakers are limited to no more than five minutes speaking time.
- j. All Public Hearings are considered closed upon completion of the meeting at which the hearing has been scheduled unless otherwise indicated by the Chair.

- k. Once the Public Hearing is concluded no additional oral comments to the committee will be permitted except at future meetings where the item is listed and for the following reasons:
  - 1. Members of the Committee request individuals involved in the item to respond to questions or concerns.
  - 2. The Chair determines that enough new information has been added to the discussion since the public hearing that additional time is needed. The Chair shall determine an amount of time for comments from the public with an equal amount of time being allotted to people speaking in favor and in opposition to the petition.
- l. An opponent to the conditional use permit application or zoning change petition may register as such with the Committee at the public hearing.
  - 1. Where an organization is the lead opponent of an action, that organization may designate one or more points of contact for further actions on the application or petition.
  - 2. Where multiple individuals speaking in opposition to the approval of the permit or petition, committee staff shall attempt to consolidate those individuals so that the committee has one or two primary points of contact as proceedings on the permit going forward.
- m. At subsequent work meetings where a conditional use permit application or zoning petition is discussed further, a registered opponent of the proposal may supplement the record.
  - 1. The Committee may allow limited oral testimony from the register opponent(s) at the work meeting where the proposal is discussed.
  - 2. The register opponent(s) may supplement the record by submitting written testimony at the work meeting where the proposal is discussed at the committee's discretion. If a member of the committee chooses to do so, he or she shall make a motion to enter one or more documents received into the official record.

## IV. Official Record

- a. The Committee acts in a quasi-judicial capacity on applications for conditional use permits or zoning change petitions and shall make its decision based solely on the record.
- b. The "record" is composed of the following sources of information:
  1. All written or documentary evidence submitted to the Committee at the public hearing and received by the Chair.
  2. Testimony heard by the Committee during the public hearing.
  3. The Chair shall have the discretion to exclude evidence that is redundant, immaterial or irrelevant to the application. The Committee may take official notice of the Dane County Code of Ordinances and Comprehensive Plan, town ordinances and plans, the zoning and location of the subject property and geological features or other facts that are common knowledge in the county or can be verified by reference to the public record.
  4. Materials submitted for inclusion in the record shall be no larger than 11 inches x 17 inches.
  5. Except as authorized, information in any form which is presented outside the public hearing is not part of the record. Materials may not be submitted by e-mail for inclusion in the record.
  6. Once the public hearing is concluded no additional evidence or testimony will be received into the record, except as authorized by the Chair at a future meeting where the item is listed as an item of business and there is new information or good cause for the information not to be presented at the public hearing.
  7. Materials received via e-mail prior to or between meetings are not automatically entered into the record. If a member of the Committee chooses to do so, he or she shall make a motion to enter one or more of the documents received into the official record.

## V. Action Items

- a. The Committee shall not take action on rezonings until the applicable Town has completed action on the item. This shall be the Committee policy even though the Town has exceeded its legal action period for rezonings. The Committee may consider action on such items without the Town action 60 days after the date of public hearing on an item, and after contacting the Town and advising the Town of its interest in completing action on the matter.
- b. In general all information which is relevant to any given item must be submitted to the staff of the Department by the Thursday prior to the committee meeting at 12:00 noon in order for that information to be considered. The Department will make packets available to the committee the Friday prior to the Tuesday meetings. Information submitted after 12:00 noon the prior Thursday may not be considered or may cause the item to be deferred to a later meeting. Publicly Noticed Public Hearings will be heard regardless of other information connected to the petition.
- c. Committee agendas shall be prepared by the Department and submitted to the County Clerk's Office on the Friday prior to the Committee meeting.
- d. Items IV and V of the work session agenda shall be reserved solely for petitions with completed town action reports. Town action reports must be received by the department by 12:00 noon the prior Thursday of the scheduled work session. Items without town action and at least 60 days past the public hearing at which the item(s) were first heard, may be placed on the work session agenda at the discretion of the Committee Chair. *(Added 7-8-2008)*
- e. In order to shorten discussion, the following general rules of motion making shall apply.
  1. Unless otherwise indicated a simple **motion to postpone** shall mean that the item shall be deferred until additional information or action by another agency is received at which time it shall routinely be placed back on the agenda as determined by staff or the Chair.
  2. Conditional Rezoning - Unless otherwise indicated a **motion to approve subject to Town Conditions** shall mean the rezoning or CUP is approved or recommended subject to the intent of the Town's conditions as stated in the minutes drafted by staff and approved by the committee. Wherever practical Restrictive Covenants shall be

imposed in a positive manner indicating such things as usage which are permitted.

3. Conditional Use Permits – Unless otherwise indicated, a **motion to approve a Conditional Use Permit**, shall mean that the Committee has made affirmative findings of fact for the standards enumerated in §10.255(2)(h), and, if applicable, the relevant factors in §10.123(3)(a), Dane County Code of Ordinances.
4. Whenever a motion is made to approve a re-zoning or CUP with a condition of a community wastewater system, the condition means that the system shall comply with the nitrate-nitrogen standard established by the federal Maximum Contaminant Level (MCL) and the Wisconsin Groundwater Enforcement Standard (ES). The federal MCL is found in §40 CFR 141.62. The Wisconsin Groundwater Enforcement Standard is found in Wisconsin Administrative Code NR 140.10.

f. Action on Rezoning Petitions and CUPs.

1. Zoning Petitions or Conditional Use Permits (CUP) shall be judged “non-controversial” if they meet the following guidelines:
  - i. No opposition from anyone at public hearing.
  - ii. No unresolved issues by staff.
  - iii. No substantive concerns by the Town in their approval.
  - iv. No committee members in opposition to the petition. (must pass the committee by unanimous vote of all members in attendance and have the agreement of all committee members that it is non-controversial).
2. Rezoning petitions which are non-controversial may be acted upon at the same committee meeting as the public hearing where they are heard and will be referred to the next County Board meeting. The chair shall note as each item is approved if it is a non-controversial item.
3. The Committee shall have the option of taking action on combined rezone / CUP applications at the same meeting. The committee shall utilize the following procedures for approving combined rezone / CUP applications at the same meeting:

- i. Two (2) motions will be required – the first motion will be to recommend approval of the zoning change, and the second motion will be to approve the CUP application.
  - ii. The second motion approving the CUP shall include a statement that committee approval of the CUP is contingent upon the rezoning receiving all necessary town / county approvals and being deemed effective by the zoning administrator. The CUP shall only take effect upon effectuation of the zoning change and, if applicable, compliance with any and all conditions of approval. If the rezoning is denied or becomes null and void, the CUP shall be disapproved.
- g. In all cases where a petition for rezoning areas zoned for exclusive agricultural use are considered the rezoning amendment shall include findings of the County Board that the following conditions exist as required by Wis. Stats. 91.48 (1)(a):
  - 1. The land is better suited for a use not allowed in the farmland preservation zoning district.
  - 2. The rezoning is consistent with any applicable comprehensive plan.
  - 3. The rezoning is substantially consistent with the county certified farmland preservation plan.
  - 4. The rezoning will not substantially impair or limit current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use.
- h. In all cases where a rezoning petition includes a Delayed Effective Date for recording of a plat, the committee recommendation shall include a condition requiring that a subdivision plat conforming to all applicable provisions of Chapter 236 of Wisconsin Statutes and Chapter 75, Dane County Code of Ordinances, be approved by the committee and recorded with the Dane County Register of Deeds within two (2) years of the date of rezoning approval by Dane County.
- i. If no action has been taken on a petition or application within one (1) year of the public hearing at which the item is heard, the application shall be expired and considered withdrawn. However, that period of time is tolled while the petition is in litigation. The applicant shall be notified the application is