
Ordinance Amendment #23 Regarding the Review Process for Conditional Use Permits

Presented by Majid Allan & Renee Lauber

Dane County Towns Association (DCTA) Meeting

January 15, 2025

Town of Westport

OA #23 Summary Changes

- Brings county code into conformance with WI Act 67, which limits local government discretion over CUPs
- Act 67 does not allow towns to have binding authority to deny CUPs
- Towns are advisory to County
- Maintains Town review and requires ZLR to consider Town recommendation when making decisions on CUPs

1
2 2024 OA-23
3 AMENDING CHAPTER 10 OF THE DANE COUNTY CODE OF ORDINANCES,
4 REGARDING THE REVIEW PROCESS FOR CONDITIONAL USE PERMITS
5
6 The County Board of Supervisors of the County of Dane does ordain as follows:
7
8 ARTICLE 1. Unless otherwise expressly stated herein, all references to section
9 and chapter numbers are to those of the Dane County Code of Ordinances.
10
11 ARTICLE 2. Sections 10.101(7)(c) is amended to read as follows:
12 (c) Review process.
13 1. Hearing on application.
14 a. Upon receipt of a complete and acceptable application, statement, site plan
15 and operational plan, the zoning committee shall hold a public hearing on each
16 application for conditional use. The zoning committee shall establish, by rule, a
17 regular schedule and location for public hearings. The zoning committee may
18 prescribe or amend rules for the conduct of the hearing and preserving a
19 publicly-accessible recording of the proceedings.
20 b. The Department of Planning Development will publish a Class 2 notice of
21 each public hearing, as provided in Chapter 985 of the Wisconsin Statutes. The
22 Department will also provide direct notice to the Town Clerk of any towns
23 affected by the proposed conditional use. The zoning committee shall establish
24 policies governing notice to other parties of interest.
25 2. Town Board Action.
26 a. The Department of Planning and Development shall provide direct notice to
27 the town clerk of the town where a conditional use is proposed.
28 b. The town board may ~~at a properly noticed public meeting recommend that~~
29 ~~the county zoning committee~~ grant, grant with conditions or deny any application
30 for conditional use.
31 i. ~~Any town board recommendation on a conditional use permit shall be~~
32 ~~communicate its position submitted~~ in writing on the conditional use application to
33 ~~the county zoning committee~~ within sixty (60) days of the date of the county
34 zoning committee public hearing.
35 ii. The town board may request an extension of the review period of up to
36 forty (40) days by submitting a written request to the zoning committee.
37 iii. ~~The committee may grant a town board additional time to make a~~
38 ~~recommendation if reasonably necessary to adjudicate the application.~~
39 c. ~~Any town board recommendation ~~is to~~ granting or denying on a~~
40 ~~conditional use application - the town board shall make include written findings of~~
41 ~~a factual, based on evidence for the recommendation presented and issue a~~
42 ~~determination whether the proposed conditional use, with any recommended~~
43 ~~conditions, meets all of the following standards:~~
44 i. ~~General standards for approval of a conditional use under s. 10.101(7)(b);~~
45 ii. ~~Any prescribed standards specific to the applicable zoning district.~~
46 iii. ~~Any prescribed standards specific to the particular use under s. 10.103.~~

Page 1 of 6
24-10[CUP review]101824-LF:D.M

CUP Ad Hoc Work Group

- Comprised of Town Reps & County Staff:
 - Tom Mathies (Verona Sup; now DCTA Pres)
 - Cynthia Richson (Middleton Chair)
 - Eileen Brownlee (Middleton Atty)
 - Renee Lauber (DCTA)
 - Roger Lane (Dane County)
 - Majid Allan (Dane County)
 - Rachel Holloway (Dane County)
 - Todd Violante (Dane County)
- Developed proposed revisions over 6 months (March-October 2024)
- Ensure as much deference as legally possible to town authority and process

OA 23 Benefits

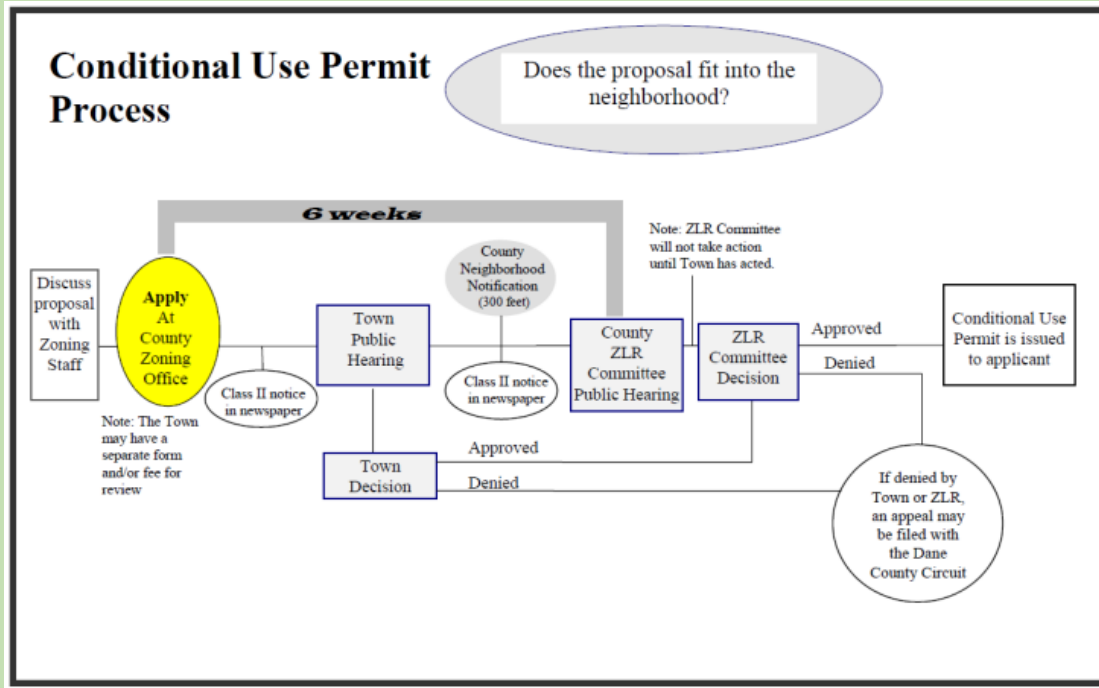
- Meets Act 67 requirements
- County ZLR Committee required to act on all CUPs, and defend decisions on all petitions if appealed to Circuit Court
- Towns still get to review, act, and recommend conditions on CUPs
- Towns have more flexibility: no longer required to hold formal public hearing, maintain CUP record, defend denials in circuit court
- Less legal liability for Towns
- Consistency with comprehensive plan required for CUP to be approved

Conditional Use Process after OA #23

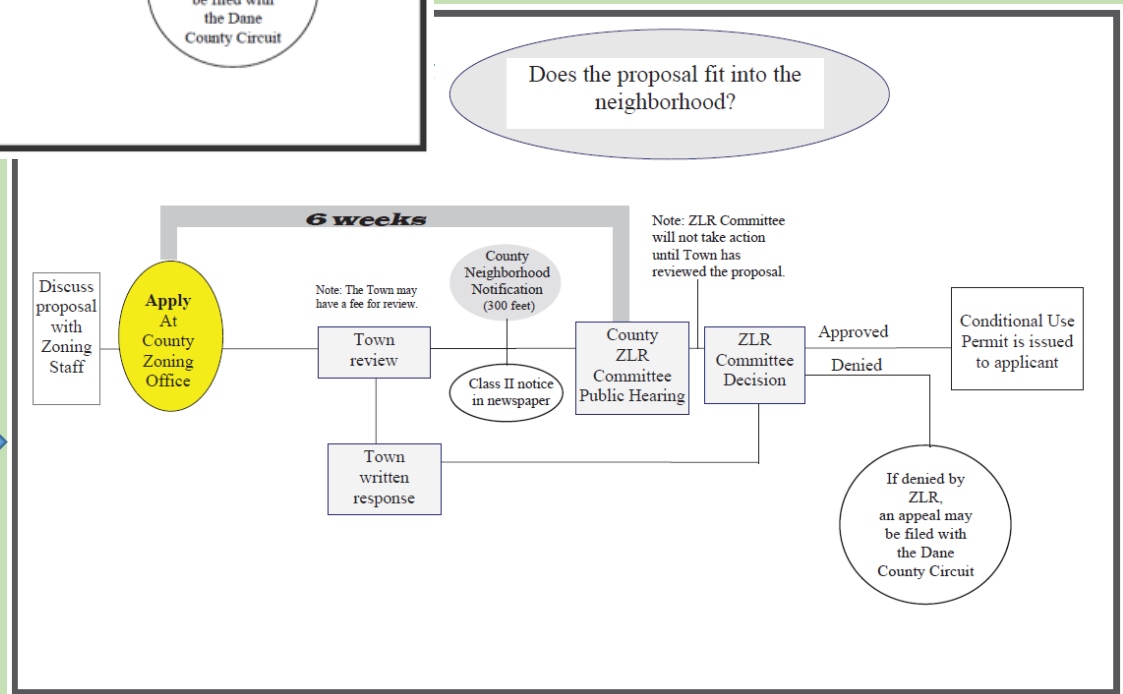
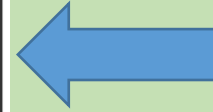
The process to obtain a CUP takes approximately three (3) months. Both the Town and County will be involved in the review process. (See flow chart below.) Please note that the decisions made will be based on factual information and substantial evidence presented.

1. Have an initial discussion with Dane County Planning and Development staff prior to submitting an application.
2. File a [conditional use permit application](#) with the Dane County Zoning Division. An official CUP number will be assigned to the application. The proposal will be scheduled for a public hearing before the Dane County Zoning and Land Regulation Committee. The County's public hearing will be approximately six (6) weeks after filing.
3. Take the CUP application to the respective Town for review. Contact the Town Clerk as soon as possible to obtain information on the Town's CUP review process. Please note that there may be a separate fee or application associated with the Town review process.
4. **The Town will hold a public hearing review the proposal and send a written response to the ZLR Committee. Testimony will be received and the Town will render a decision based on the facts and substantial evidence that were presented. The Town may postpone action on an application to ask for additional information or may require conditions to be placed on the CUP to address concerns. The ZLR Committee will render a decision based on the information received by the Town, application material, and public testimony received at the County public hearing.**
5. Approximately three (3) weeks prior to the County public hearing, the County will notify the neighbors within 300 feet of the Conditional Use Permit application. You may want to discuss the proposal with neighbors prior to the notice being delivered.
6. Approximately two (2) weeks prior to the County public hearing, the County Staff Report will be sent to the applicant. The report may suggest specific conditions for the CUP and will reflect the Town concerns.
7. The County Zoning and Land Regulation Committee (ZLR) will hold a public hearing. All persons speaking will have 5 minutes to present information to support, oppose, or express concerns about the proposal.
 - a. Attendance by the applicant or agent is mandatory at the public hearing.
 - b. The ZLR Chairperson will announce the petition and request that the applicant or agent speak on behalf of the petition. Applicants will need to approach the podium then state their name and location of the property. They will be required to describe the proposal and explain how the proposal meets the eight (8) standards and how the proposal is compatible with the surrounding neighborhood.
 - c. Any other interested persons will be allowed to speak, whether in favor or opposition. Neighbors or other interested parties can submit information expressing their support or opposition.
 - d. After hearing testimony, the ZLR Committee may approve, postpone, or deny the petition. The CUP will be postponed if there is public opposition or town concerns. If postponed, the petition will be scheduled for a subsequent [meeting](#). The applicant is responsible for addressing the concerns to a reasonable level.
8. If approval is granted by ZLR Committee, the action is final. The permit will be issued. The applicant will need to follow the conditions of the permit. If found in violation, the permit will be revoked.
9. If the petition is denied, reasons of the denial will be documented.
10. Any person aggrieved by the approval or denial of the CUP may appeal the decision to Dane County Circuit Court.

CUP Process Flowchart before/after OA #23



Current Process



Post OA 23 Process



Next Steps

- ZLR Public Hearing Tuesday, January 28th
- Towns have until February 27 to act on OA 23
- Towns should review their comprehensive plans and consider amendments to address conditional uses
- County staff available to assist

THANK YOU

Dane County Planning & Development

Website: www.danecountyplanning.com

Phone: 608-266-4266

More Questions? Please contact Majid Allan:

Phone: 608-267-2536(office)/608-720-0167 (cell)

Email: allan.majid@danecounty.gov