

# Dane County Rezone Petition

<b>Application Date</b>	<b>Petition Number</b>
08/18/2023	DCPREZ-2023-11981
<b>Public Hearing Date</b>	
10/24/2023	

<b>OWNER INFORMATION</b>	<b>AGENT INFORMATION</b>
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OWNER NAME DEER CREEK SPORT & CONSERVATION CLUB INC	PHONE (with Area Code) (608) 516-6948	AGENT NAME STAFFORD ROSENBAUM LLP (LARRY KONOPACKI)	PHONE (with Area Code) (608) 358-4500
BILLING ADDRESS (Number & Street) %RAY GILDEN 8475 MILLER RD		ADDRESS (Number & Street) 2964 COUNTY HWY MM	
(City, State, Zip) VERONA, WI 53508		(City, State, Zip) Fitchburg, WI 53711	
E-MAIL ADDRESS hickoryridgeconst@outlook.com		E-MAIL ADDRESS LKonopacki@staffordlaw.com	

<b>ADDRESS/LOCATION 1</b>	<b>ADDRESS/LOCATION 2</b>	<b>ADDRESS/LOCATION 3</b>
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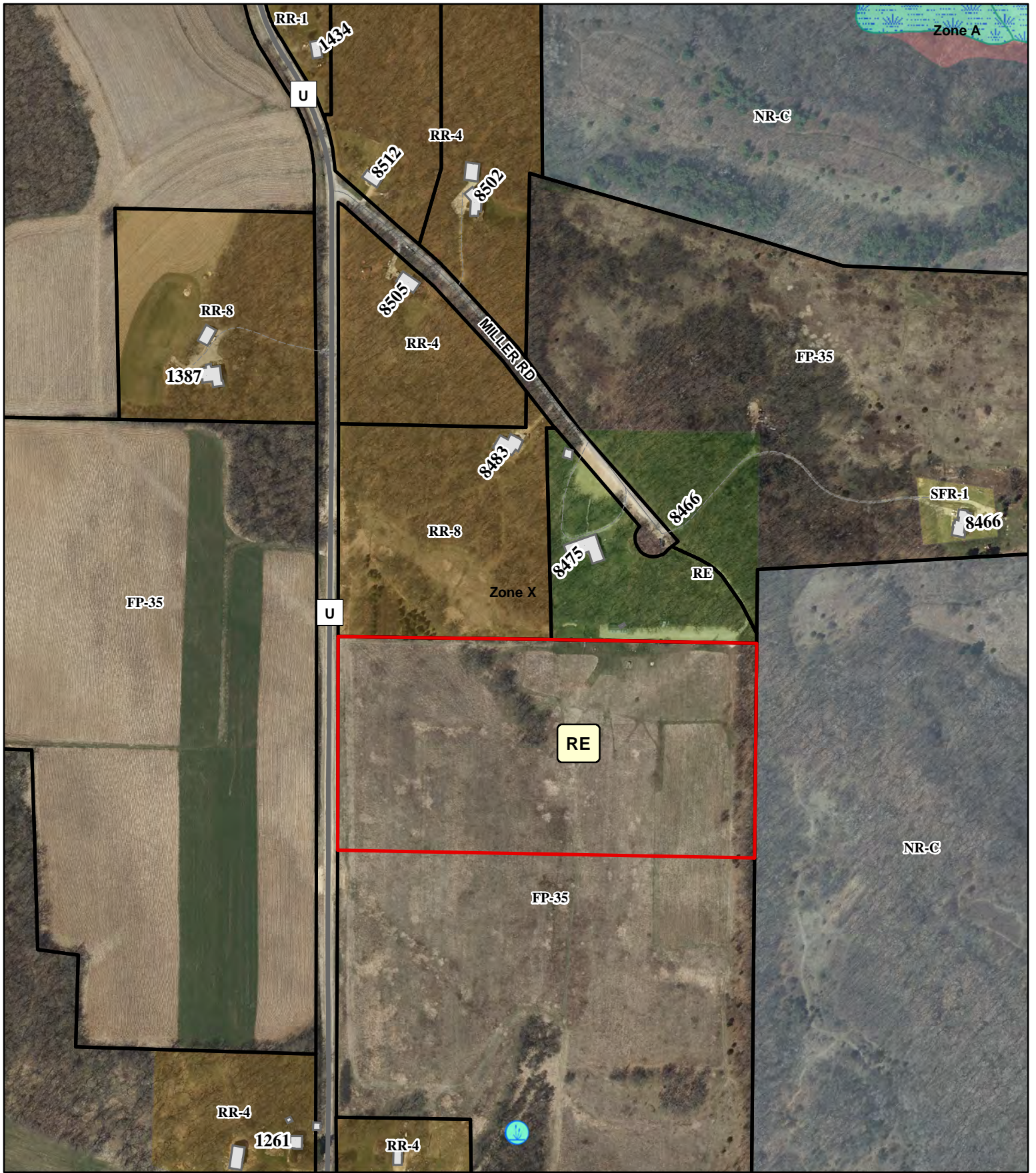
ADDRESS OR LOCATION OF REZONE		ADDRESS OR LOCATION OF REZONE		ADDRESS OR LOCATION OF REZONE	
8475 Miller Rd					
TOWNSHIP PRIMROSE	SECTION 10	TOWNSHIP	SECTION	TOWNSHIP	SECTION
PARCEL NUMBERS INVOLVED		PARCEL NUMBERS INVOLVED		PARCEL NUMBERS INVOLVED	
0507-101-8200-6					

### REASON FOR REZONE




ZONING TO ALLOW FOR RECREATIONAL USE

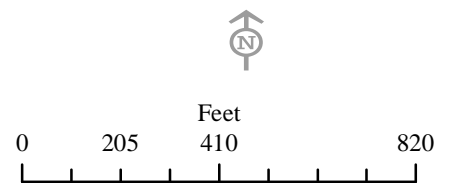
FROM DISTRICT:	TO DISTRICT:	ACRES
FP-35 Farmland Preservation District	RE Recreational District	20

<b>C.S.M REQUIRED?</b>  <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No  Applicant Initials _____	<b>PLAT REQUIRED?</b>  <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No  Applicant Initials _____	<b>DEED RESTRICTION REQUIRED?</b>  <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No  Applicant Initials _____	<b>INSPECTOR'S INITIALS</b>  RUH1	<b>SIGNATURE:(Owner or Agent)</b>    <b>PRINT NAME:</b>    <b>DATE:</b>    
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# REZONE 11981

-  Wetland
-  Floodway Areas in Zone AE
-  Floodplain







**Dane County**  
**Department of Planning and Development**  
 Zoning Division  
 Room 116, City-County Building  
 210 Martin Luther King Jr. Blvd.  
 Madison, Wisconsin 53703  
 (608) 266-4266

Application Fees	
General:	\$395
Farmland Preservation:	\$495
Commercial:	\$545

- PERMIT FEES DOUBLE FOR VIOLATIONS.
- ADDITIONAL FEES MAY APPLY. CONTACT DANE COUNTY ZONING AT 608-266-4266 FOR MORE INFORMATION.

## REZONE APPLICATION

DEER CREEK APPLICANT INFORMATION			
Property Owner Name:	SPORT + CONSERVATION	Agent Name:	LARRY KONOPACKI
Address (Number & Street):	8495 MILLER RD CLUB	Address (Number & Street):	2964 HWY MM
Address (City, State, Zip):	VERONA WI 53508	Address (City, State, Zip):	FITCHBURG WI 52711
Email Address:	HICKORY RIDGE CONST @ OUTLOOK	Email Address:	LKONOPACKI@STANFORDLANE.COM
Phone#:	608 516 6948 .COM	Phone#:	608 358 4500

PROPERTY INFORMATION	
Township:	Primrose
Section:	10
Parcel Number(s):	048-0507-101-8200-6
Property Address or Location:	8495 MILLER RD VERONA WI 53593

REZONE DESCRIPTION	
<p><b>Reason for the request.</b> In the space below, please provide a brief but detailed explanation of the rezoning request. Include both current and proposed land uses, number of parcels or lots to be created, and any other relevant information. For more significant development proposals, attach additional pages as needed.</p> <p style="font-size: 2em; text-align: center;"><i>SEE Attached</i></p>	<p>Is this application being submitted to correct a violation?</p> <p>Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p>

Existing Zoning District(s)	Proposed Zoning District(s)	Acres
FP-35 GENERAL FARMLAND PRESERVATION	RE RECREATIONAL	20

**Applications will not be accepted until the applicant has contacted the town and consulted with department staff to determine that all necessary information has been provided. Only complete applications will be accepted. All information from the checklist below must be included. Note that additional application submittal requirements apply for commercial development proposals, or as may be required by the Zoning Administrator.**

<input checked="" type="checkbox"/> Scaled drawing of proposed property boundaries	<input checked="" type="checkbox"/> Legal description of zoning boundaries	<input type="checkbox"/> Information for commercial development (if applicable) <i>N/A</i>	<input checked="" type="checkbox"/> Pre-application consultation with town and department staff	<input checked="" type="checkbox"/> Application fee (non-refundable), payable to the Dane County Treasurer
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I certify by my signature that all information provided with this application is true and correct to the best of my knowledge and understand that submittal of false or incorrect information may be grounds for denial. Permission is hereby granted for Department staff to access the property if necessary to collect information as part of the review of this application. Any agent signing below verifies that he/she has the consent of the owner to file the application.


Owner/Agent Signature Ray Seldin

Date 8/7/23

# Dane County Map



August 4, 2023

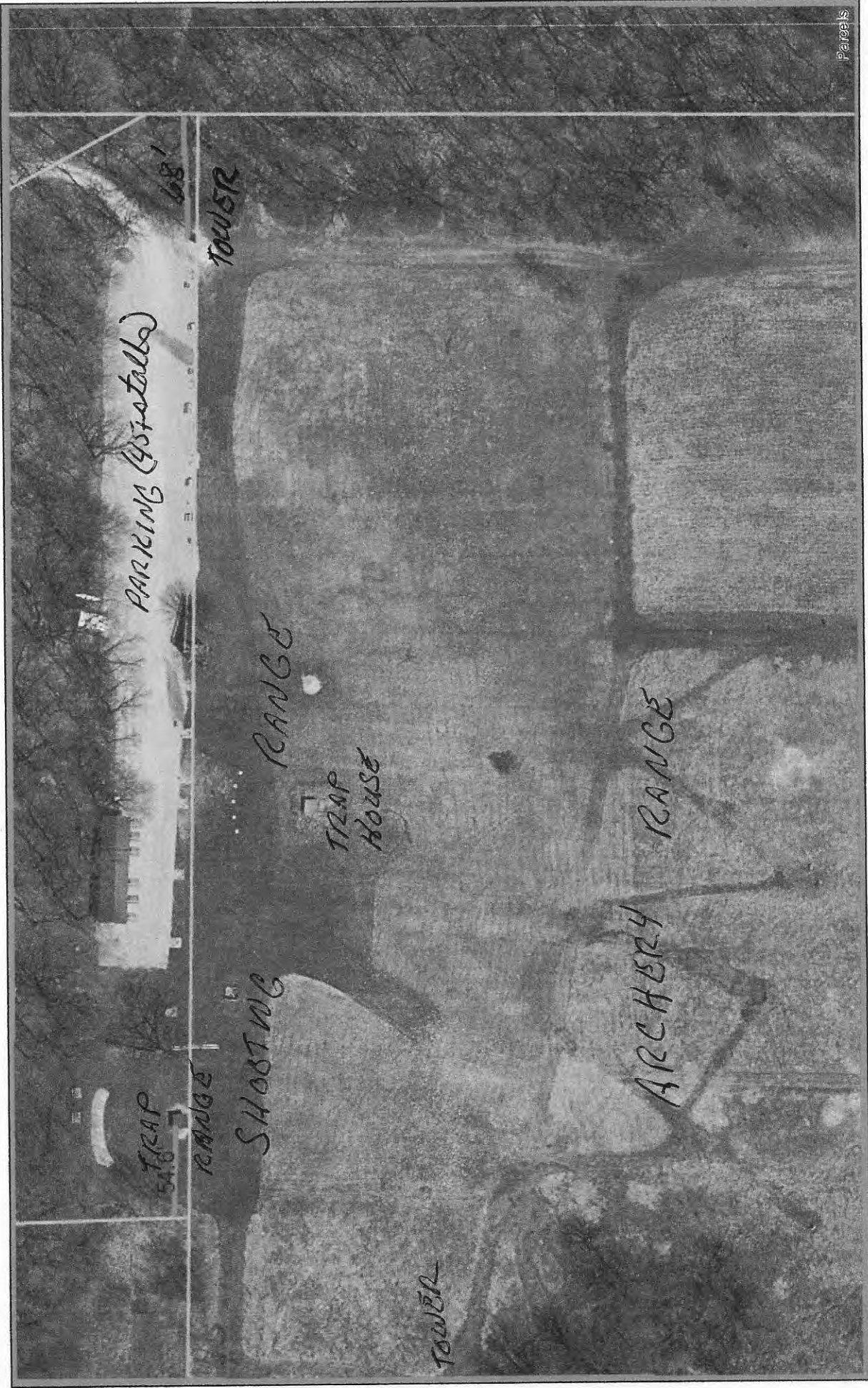
 Parcels

0 62.5 125 250 Feet



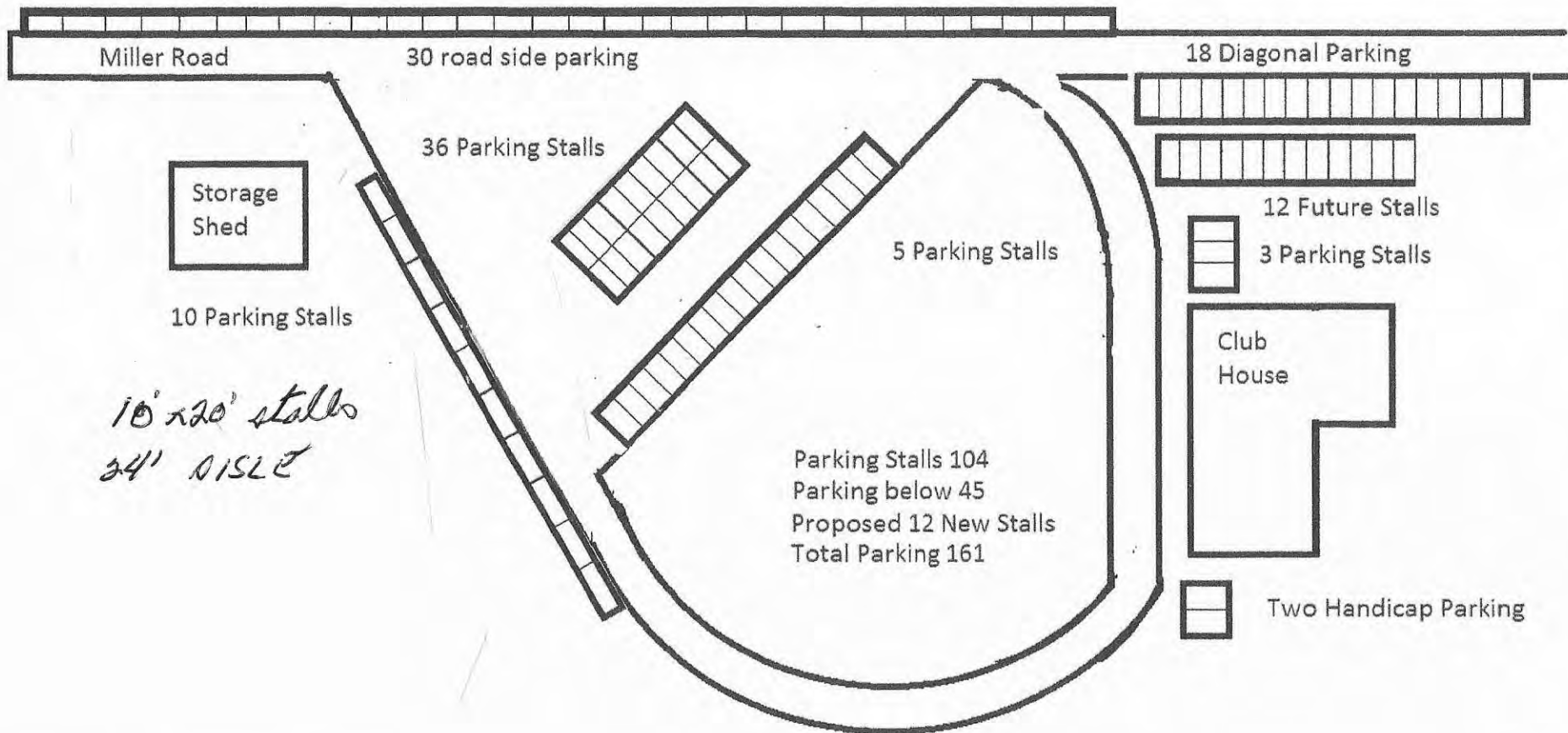


# Dane County Map



August 4, 2023

Parcels



*10' x 20' stalls  
24' aisle*

## Zoning Change/CUP Application Narrative

### Parcels:

048/0507-101-8050-8; the Clubhouse Parcel

048/0507-101-8200-6; the Prairie Parcel

### Current Parcel Status

Parcel #048/0507-101-8050-8 (the “Clubhouse Parcel”) is currently in the RE – Recreational zoning district. The Deer Creek Sport and Conservation Club maintains its clubhouse on this parcel, along with three parking areas, a small storage shed, and a pavilion for its shooting range, along with other accessory structures. The Club has operated on this parcel for more than 30 years. The Club’s activities are authorized by a conditional use permit issued by Dane County in 1990 (CUP #677). The allowed uses listed under this CUP authorize a “sportsmen’s club, shooting range, and sale of alcohol.” CUP #677 limits the Club’s shooting hours to from 9:00am to noon on Saturdays and Sundays. **The Club is requesting a conditional use permit to replace CUP #677 as described below.** The Club is not seeking to have this parcel re-zoned.

Parcel #048/0507-101-8200-6 (the “Prairie Parcel”) is currently in the FP-35 – General Farmland Preservation zoning district. This parcel is adjacent to and immediately south of the Clubhouse Parcel. It is currently used by the Club as the shotfall area for the Club’s shooting range. It is primarily covered with restored native prairie that the Club has established, along with a few small planted wildlife food plots. The Club’s shooting range is located on the Clubhouse parcel along the immediate northern boundary of the Prairie Parcel. There currently exist three structural components of the Club’s shooting range on the far northern edge of the Prairie Parcel (a part of an elevated shooting stand, a small enclosure for a clay target thrower, and a steel pole designed to hold an elevated clay target thrower). These components are currently not in use pending the outcome of this request. **The Club is requesting a conditional use permit to authorize limited specified activities on this parcel, and is seeking to have this parcel re-zoned to provide for such uses.**

### Background

Since the issuance of CUP #677, the Club has engaged in a wide range of conservation and educational activities, along with providing public opportunity for archery skills practice and shotgun skills practice. The Club also owns additional property adjacent to the parcels described above which it also maintains in natural restored prairie cover and over which public access trails are located for snowmobiling, horse riding, and other activities.

At the time that CUP #677 was issued, Club representatives were told by the County staff that if the Club ever wanted to change or expand its allowable shooting hours, it would need to obtain approval from the Town of Primrose. The Town did so in 1996, and the

Town approved expanded shooting hours on weekend days and Tuesday and Thursday evenings. However, the Club did not realize that this approval was also required to be approved by the County and therefore did not seek or receive this additional approval. In good faith and unaware of its mistake, the Club proceeded to operate its shooting range within these expanded hours for more than 20 years. The Club also occasionally rented its clubhouse for private events.

In July of 2018, the Club was notified by the County Department of Planning and Development (the “Department”) that it was operating its shooting range outside of approved times and that rental of its clubhouse to private parties was not allowed under CUP #677 or the general zoning restrictions applicable to its property. The Club immediately opened a dialog with the Department, which determined that in addition to the activities described above, the Club was not allowed to use those small portions of its shooting range that extended across the property line between the Clubhouse Parcel into the Prairie Parcel because CUP #677 only applies to the Clubhouse Parcel and shooting range activities are not allowed under the zoning applicable to the Prairie Parcel. The Department determined that using the Prairie Parcel as a shotfall area for the shooting range is permissible.

The Club immediately terminated its operations that were inconsistent with the CUP. Since that time, the Club has engaged in continued consultation with the Department, Town officials, and Club Neighbors to develop a plan for the Club’s future operations. Those efforts have led to the creation of the plan described in the section of this narrative below describing the CUP request.

**Rezone Request for Parcel #048/0507-101-8200-6 (the “Prairie Parcel”)**

The Club requests that the Prairie Parcel be re-zoned from its current designation as FP-35-General Farmland Preservation to RE-Recreational so that it may apply for a new CUP to continue to use those portions of its shooting range located on this parcel, as described in the Current Parcel Status section above, and subject to the limitations in the section of this narrative below describing the CUP request.

**Conditional Use Permit Request for both Parcel #048/0507-101-8050-8 (the “Clubhouse Parcel”) and Parcel #048/0507-101-8200-6 (the “Prairie Parcel”)**

The Club Requests that a new CUP be issued for both the Clubhouse Parcel and the Prairie Parcel authorizing the operation of a sports and conservation club including the following outdoor entertainment and indoor active recreation uses subject to the following restrictions:

**General Limits and Definitions**

1. Maximum Capacity. No more than 300 people, from all activities combined, shall be on the site at any one time. No more than 99 people may be present at an outdoor



event at any one time.

2. Uses. "Indoor active recreation" which includes indoor archery, youth hunter education, rental of the clubhouse to third parties, and other indoor activities of a sports and conservation club, and "outdoor entertainment" which includes operation of a shooting range, archery, youth hunter education, and other outdoor activities of a sports and conservation club.
3. "Events" or "special events" are defined as any activity or other use of the club property in which more than 20 people participate.
4. Expiration for third party events: Special events involving rental of the clubhouse to third parties shall expire 10 years after the date of the issuance of this conditional use permit; continuation shall require approval of a new CUP.
5. "Shooting range" or "shooting range activities" means the use of the area of the club property developed as a shooting range for firearm shooting activities. The club shall limit the type of firearms used on the shooting range to shotguns, and the use of rimfire rifles of .22 caliber or smaller as part of a hunter safety education program.

### **Operating Days and Hours**

6. General weekday hours: Monday, Tuesday, Thursday 9:00am to 9:00pm year-round (no operating hours Wednesdays or Fridays).
  - o Shooting range weekday operation may only occur Thursdays from 5:00-8:00pm and from April 15 to September 15.
7. General weekend hours: Events may be held at the club property only one weekend day per weekend. General hours of operation are from 9:00am to 7:00pm year-round except that the club may hold weekend events ending at 10:00pm on ten weekend days per year ("extended weekend event hours").
  - o Shooting range weekend events are generally limited to 9:00am to 3:00pm, except that such events may occur from 9:00am to 5:00pm on eight days per year ("extended weekend shooting hours").
  - o Shooting range weekend events shall only occur three weekends per month.
  - o The club shall not operate the shooting range on Easter and Mother's Day or on the weekends before and after Thanksgiving and Christmas.
8. Notification. The dates that the club will hold weekend events, the dates the club will operate under extended weekend event hours, and the dates that the club will operate under extended weekend shooting hours shall be posted on the club website at least 30 days prior to the date of the event and provided to the Town

of Primrose for posting at the Town Hall.

i.

**Additional Restrictions and Conditions**

9. The club may only use targets for its shooting range activities that are non-toxic when used as intended by the manufacturer.
  
10. The club shall implement the following plan for lead containment verification and reclamation to show that lead shot, resulting from discharging shotguns on the clay target range, does not migrate off of the club property and is reclaimed as appropriate when lead concentrations reach a level that allows for reclamation.
  - The club initiated soil sampling in the area of the lead pellet drop zone of the portion of the club property used for the shooting range and to the south (downhill) on November 2, 2018. The soil samples taken at that time showed no lead migration, horizontally or vertically, in the tested area. The club conducted another soil sampling survey on September 19, 2022, which sampled a broader area in the shot drop zone and, again, south of the shot drop zone which verified that no lead has migrated downhill from or away from the shot drop zone.
  
  - The club will repeat the soil sampling protocol used on September 19, 2022 every five (5) years to verify that lead from the shot drop zone does not migrate horizontally or vertically over or in the soil and to determine whether lead concentrations have reached levels to justify reclamation. If testing shows that lead has or is likely to migrate horizontally off of the club property or vertically in a manner that threatens groundwater, the club shall take action deemed appropriate by the Town to address such lead migration.
  
  - When lead concentrations reach minimum levels necessary for the value of the recycled material to pay for commercial reclamation services, the club shall cause such reclamation to be conducted. The club shall also cause such reclamation to be conducted if required by state or federal law.
  
  - The club will annually perform an on-site lead test of the club's well water and share the results with the Town and other interested parties upon request. The club will also pay to have annual water well testing conducted for lead in the same manner on adjacent properties if requested by the property owner. If lead levels in a tested well exceed

state safe drinking water standards, the club shall cause a professional consultant to evaluate the results and determine the cause of such elevated lead concentration. If it is determined that the club's use of lead shot on its property is the cause of the elevated lead concentration, the club shall implement a mitigation plan deemed appropriate by the Town to address the exceedance.

11. The physical development and operation of the conditional use must conform, in all respects, to the approved site plan, operational plan and phasing plan.
12. New and existing buildings proposed to house a conditional use must be constructed and maintained to meet the current requirements of the applicable sections of the Wisconsin Commercial Building Code.
13. The applicant shall apply for, receive and maintain all other legally required and applicable local, county, state and federal permits, including alcoholic beverage permits issued by the Town of Primrose. Copies of approved permits or other evidence of compliance will be provided to the zoning administrator upon request.
14. Any ongoing business operation must obtain and continue to meet all legally required and applicable local, county, state and federal licensing requirements, including alcohol licensing requirements from the Town of Primrose. Copies of approved licenses or other evidence of compliance will be provided to the zoning administrator upon request.
15. Existing onsite wastewater sewage disposal systems serving the conditional use must be inspected by a licensed plumber to determine its suitability for the proposed or expanded use. Deficient systems must be brought, at the owner's expense, into full compliance with the current requirements for new development of the state plumbing code and Chapter 46, Dane County Code.
16. All vehicles and equipment must access the site only at approved locations identified in the site plan and operations plan.
17. At least 161 off-street parking spaces must be provided, consistent with s. 10.102(8).
18. If the Dane County Highway, Transportation and Public Works Department or the town engineer determine that road intersection improvements are necessary to safely accommodate the conditional use, the cost of such improvements shall be borne by the landowner. Costs borne by the landowner shall be proportional to the incremental increase in traffic associated with the



proposed conditional use.

19. The Zoning Administrator or designee may enter the premises of the operation in order to inspect those premises and to ascertain compliance with these conditions or to investigate an alleged violation. Zoning staff conducting inspections or investigations will comply with any applicable workplace safety rules or standards for the site.
20. The owner must post, in a prominent public place and in a form approved by the zoning administrator, a placard with the approved Conditional Use Permit number, the nature of the operation, name and contact information for the operator, and contact information for the Dane County Zoning Division.
21. The owner or operator must keep a copy of the conditional use permit, including the list of all conditions, on the site, available for inspection to the public during business hours.
22. Failure to comply with any imposed conditions, or to pay reasonable county costs of investigation or enforcement of sustained violations, may be grounds for revocation of the conditional use permit. The holder of a conditional use permit shall be given a reasonable opportunity to correct any violations prior to revocation.
23. If any use allowed by an approved conditional use permit is abandoned for one year or more, the associated conditional use permit shall be terminated. Future re-establishment of an abandoned conditional use shall require approval of a new conditional use permit.

### **Compliance with Conditional Use Permit Standards**

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.

The proposed sport and conservation club, shooting range, and archery uses are preexisting and have been occurring safely on this site for more than three decades. The Club maintains and enforces appropriate safety protocols. The noise-generating activities of the shooting range are currently allowed under CUP #677 and the proposed shooting range activities represent a small reduction in the allowable shooting hours at this site. The proposed restrictions on shooting events have been extensively negotiated with the Club's neighbors.

The proposed clubhouse rental use is limited in scope in terms of the number of events and hours of operation as negotiated with the Club's neighbors. All building and fire code

requirements are consistently met and the clubhouse is maintained in a clean and safe condition for users.

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.

See response to number 1 above. The Club and its neighbors have worked together for over three years to outline restrictions on these uses that will protect neighbor's interests. In addition, the proposed clubhouse rental use, if approved, must be re-evaluated after 10 years under this proposal.

3. 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.

The surrounding property is used for and planned to be used for rural residential and agricultural purposes. This use will not have an impact on the orderly development and improvement of surrounding property. To the contrary, the uses proposed in this application provide funding for the Club's efforts to restore its property to native prairie cover which is an attractive land use that may enhance the desirability and property value of neighboring properties.

4. Adequate utilities, access roads, drainage and other necessary site improvements have been or are being made to accommodate the conditional use.

All such improvements are already in place.

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.

Access to Club property is by Miller Road. No increase in volume of traffic to events at the Club property will occur as a result of this CUP. Limits on capacity at events at the Club Property adequately minimize congestion.

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

Subject to the rezoning request that is included with this CUP application, these uses will comply with all regulations of the districts in which the subject property is located, as described ab above.

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

These proposed uses are preexisting and consistent with the open space/agricultural land preservation goals for this property in adopted comprehensive plans. The use proposed here does not include improvements that would preclude future use of the property for agricultural purposes. The environmental benefits of the prairie cover on the subject property further protect water resources from negative impacts from agricultural use.

8. Farmland Preservation Standards:
  - a. Explain how the use and its location in the Farmland Preservation Zoning District are consistent with the purposes of the district:

This use preserves the Club's property as open space and does not include improvements that would preclude future use of the property for agricultural purposes.

- b. Explain how the use and its location in the Farmland Preservation Zoning district are reasonable and appropriate, considering alternative locations:

This use is best situated in agricultural areas where the number of residences in the nearby vicinity are limited. Additionally, this use preserves the Club's property for potential future use as farmland.

- c. Explain how the use is reasonably designed to minimize the conversion of land from agricultural use or open space use:

This proposed use converts no land from agricultural use or open space use to another type of use.

- d. Explain how the use does not substantially impair or limit the current or future agricultural use of surrounding parcels zoned for agricultural use:

This use does not negatively impact the use of surrounding land for agricultural purposes, and instead provides environmental buffering against potential damage to water resources caused by agricultural use.

- e. Explain how construction damage to land remaining in agricultural use is minimized and repaired, to the extent feasible:

There will be no construction that could damage land remaining in agricultural use.



**Legal Description:**

**FP-35 to RE district**

The Northeast  $\frac{1}{4}$  of the Northeast  $\frac{1}{4}$  of Section 10, Town 5 North, Range 7 East, Town of Primrose, Dane County, WI, EXCEPT the following: Commencing at the Northeast corner of said Section 10; thence South 165 feet; thence West 264 feet; thence South 165 feet; thence East 264 feet; thence North 165 feet to the point of beginning; AND ALSO EXCEPT those lands set forth in Vol. 3285 of Records, Page 31, as Doc. No. 1727550, AND ALSO EXCEPT Certified Survey Map No. 6697, AND ALSO EXCEPT Certified Survey Map No. 5671. (approximately the southerly 668 feet of the Northeast  $\frac{1}{4}$  of the Northeast  $\frac{1}{4}$  of Section 10, T5N, R7E, Town of Primrose) 20 acres more or less.