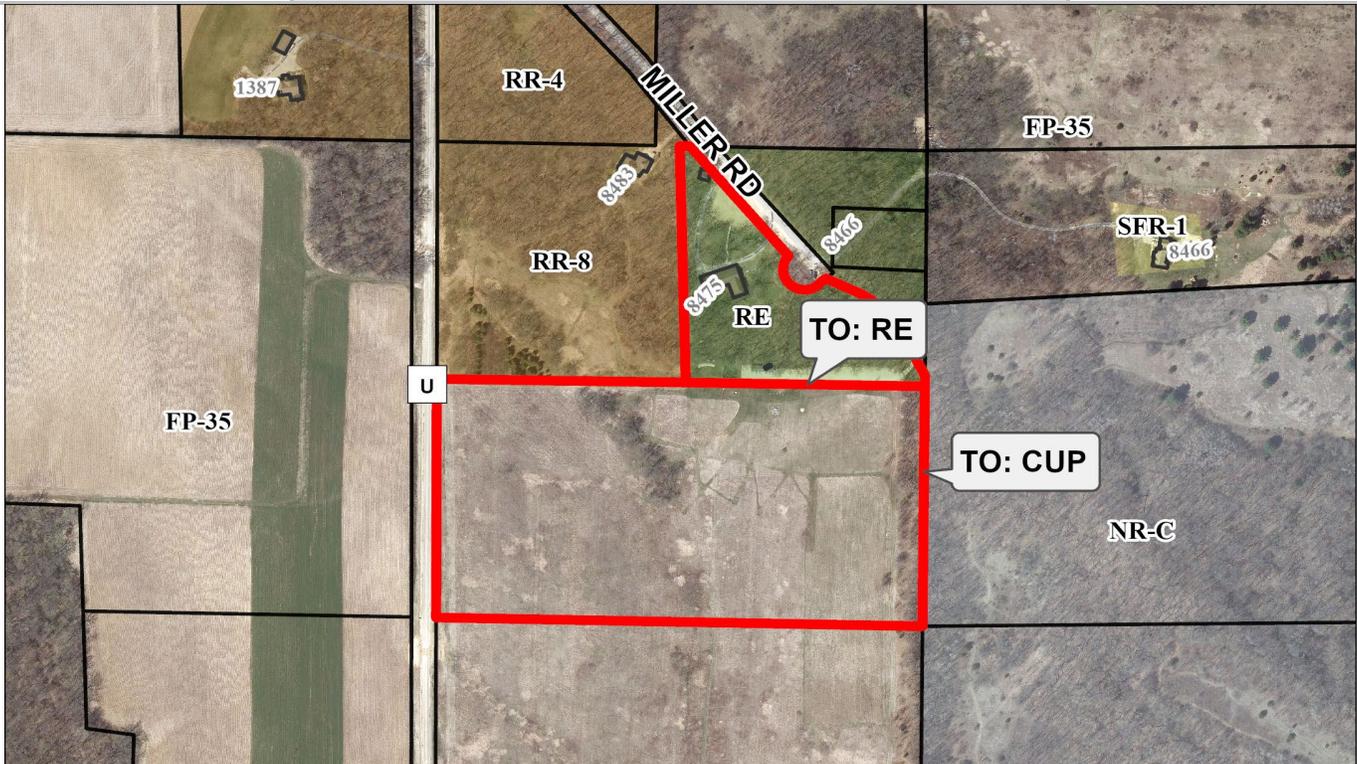


Staff Report  Zoning and Land Regulation Committee	<i>Public Hearing:</i> October 24, 2023	Conditional Use Permit 2607
	<i>Zoning Amendment Requested:</i> TO CUP: Indoor active recreation and outdoor entertainment (sport and conservation club)	<i>Town/Section:</i> PRIMROSE, Section 10
	<i>Size:</i> 25.2 Acres <i>Survey Required.</i>	<i>Applicant</i> DEER CREEK SPORT & CONSERVATION CLUB INC
	<i>Reason for the request:</i> Revise activities for an existing sport and conservation club to allow Indoor active recreation and outdoor entertainment (clubhouse and shooting range)	<i>Address:</i> 8475 MILLER ROAD



DESCRIPTION: The Deer Creek Sport and Conservation Club would like to change the hours of operation of the existing shooting range and be allowed the use the clubhouse for additional indoor recreational activities. They also request that the lands to the south, under proposed Rezoning Petition 11981, be used as part of the shooting range including for archery use. Currently, all of the actual shooting activity is being performed on land that is zoned RE Recreational.

The proposed conditional use permit (CUP) would expand activities to include an elevated shooting stand and a small enclosure/structure for a clay target thrower. The shooting stations would be moved south to provide space at the activity area. The club also wishes to rent the clubhouse out for private events, up to 300 persons, on a limited basis. The club's existing CUP allows shooting on weekends between 9:00am and noon. The proposed operating hours are:

Shooting range / outdoor entertainment:

- Thursday evenings 5:00pm – 8:00pm (from April 15th to September 15th)
- Weekend days 9:00am – 3:00pm (limited to 3 weekends per month, 1 day per weekend) – with an allowance for up to 8 special events per year running to 5:00pm.
- No shooting range activities on Easter, Mother's Day, or the weekends before and after Thanksgiving and Christmas

Clubhouse / indoor active recreation:

- Monday, Tuesday and Thursday 9:00am – 9:00pm (year round)
- Weekend days 9:00am – 7:00pm
- Events (with more than 20 people) limited to 1 day per weekend, from 9:00am – 5:00pm – with an allowance for up to 10 special events per year running to 10:00pm.

The hours proposed above reflect the club's desire to continue the regular small-group gatherings and shooting range activities that have occurred in the past, and expand the hours within certain limits. They request flexibility on weekend scheduling due to the need to work around the schedules of the youth who participate in the club's educational programs. The club proposes to post the club's weekend event dates and times on the club website at least 30 days prior to the event date, and provide the schedule to the Town of Primrose for posting at Town Hall.

OBSERVATIONS: The Sportmans Club has been in operation since 1990. A conditional use permit was obtained to allow skeet shooting on weekends and for the clubhouse to be used for meetings including the serving of alcohol (CUP in prior ordinance). In 1996, the Club met with the Town Board to see if the hours for shooting could be expanded; however, no formal application was submitted to update the conditional use permit.

The club has been used as a space for recreational activities for over 30 years. The building supports a meeting place for 4-H, hunter safety programs, along with the conservation club. The building has also hosted wedding events and post funeral gatherings, however, these activities have halted until additional approvals are obtained. The building and septic system has been designed to hold 200 persons.

The club is located on a dead end road. There are 9 houses within a half-mile of the property. Many of the homes have been constructed after 1990. The property is bordered by DNR lands to the east; Deer Creek stewardship lands to the south; agricultural lands to the west; and five single-family residences to the north. Access to the property is located on Miller Road due to restricted access along County Highway U.

COMPREHENSIVE PLAN: The *Town of Primrose / Dane County Comprehensive Plan* includes provisions to "accommodate recreational facilities of interest to town residents." (For questions about the town plan, contact Senior Planner Brian Standing at (608) 267-4115 or standing@countyofdane.com)

CONDITIONAL USE PERMIT DECISION MAKING: "Conditional uses" are those land uses which, because of unusual nature and potential for impacts on neighboring lands, public facilities, the environment or general welfare, warrant special consideration and review.

Prior to granting or denying a conditional use, the zoning committee shall make findings of fact based on evidence presented and issue a determination whether the proposed conditional use, with any recommended conditions, meets all of the standards required to obtain a conditional use permit. The sections above include facts about the property and its surrounding context. Below is the list of the applicable standards from Section 10.101(7)(d) of the Zoning Code, and a summary of relevant facts including the applicants' testimony with regards to meeting the standards. These sections, as well as the applicants' materials, are intended to provide findings of fact that the Committee can use as a basis for making a decision on the proposed CUP.

1. *That 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 material: 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.

Staff comments: The clubhouse and shooting range has been in existence since 1990. The operation of the clubhouse and range appear to meet the standard, however, limitations will need to be imposed to set the activities to a reasonable level. The proposed hours of operation are difficult to understand and may need to be reformatted. The application lists steps that will be taken to minimize the impact of lead exposure on the property. Staff is suggesting a more formal "best management practice" document be submitted in accordance with EPA best management practice guide. The document should include a defined limit for remediation, a remediation company, vegetative maintenance, and soil PH maintenance.

- 2. That 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.**

Applicant states: 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.

Staff comments: The proposed hours of operation are difficult to understand and may need to be reformatted. A time limit of 10 years may be appropriate so that the activities can be re-evaluated in the future.

- 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.**

Applicant: 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.

Staff comments: The property is located in agricultural preservation planning area. Additional housing is very limited in the area. Properties to the east and south are protected open spaces areas (DNR lands and lands in stewardship program).

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

Applicant: All such improvements are already in place.

Staff comments: Staff is concerned that the current proposal does not meet the standard. The proposal is to allow up to 300 patrons to the site. The current septic system is designed for 200 persons. Additional information is needed to address how adequate sanitary provisions are provided. Alternately, a condition could be placed on the new CUP limiting the capacity to 200 patrons.

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

Applicant: 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.

Staff comments: The proposal appears to meet the standard. The property fronts on a public right-of-way with an established entrance. Parking arrangements have been established for the site that appear to be adequate; CUP conditions could require that all club parking occur on the property and not along Miller Road.

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

Applicant: 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 above.

Staff comments: The application provides adequate information to meet the standard.

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

Applicant: 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.

Staff comments: The property is located in an agricultural preservation planning area. Recreational zoning is listed as an allowable use for the area. Shooting ranges are listed as a conditional use under the RE – Recreational zoning district as an outside entertainment land use.

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

Applicant: As part of the proposal, the portion of property is proposed to be rezoned to the Recreational Zoning District. The Farmland Preservation policies would not apply.

Staff comments: Staff concur with applicant's statement.

POTENTIAL NUISANCES ASSOCIATED WITH THE CONDITIONAL USE: The potential nuisances that typically pertain to shooting ranges and private event venues involve noise, vehicle traffic, parking, and environmental concerns. As part of the application, the applicants have submitted information on how these potential nuisances are proposed to be mitigated; most of this is described above.

Noise – The use of assault style weaponry or thermite / exploding targets may be disruptive to the neighboring surroundings and would be out-of-character with an agricultural area. The application states that only shotguns and guns no larger than .22 caliber rifles will be used for shooting activities. Staff suggests placing a condition on the CUP to limit shooting to shotguns, .22 caliber rifles, and the use of clay tile targets.

Vehicle traffic and parking – A majority of the parking for the property uses public right-of-way. Verification is will be needed from the Town that this is acceptable. It appears that improvements were recently made with the installation of a parking area by the trap stations. Improvements to parking may require an erosion control permit and possible storm water management permit from Dane County Land and Water Resources.

Number of attendees – The application states that a maximum of 300 persons will be attending events and no more than 99 persons outdoors at a time. Limits on the attendees are necessary to avoid congestion on Miller Road in case emergency services are needed. Staff suggests limits attendance to 200 persons unless additional information is provided on sanitary facilities and parking arrangement.

Activity level – The proposal includes approximately 25 acres to be devoted to outdoor entertainment. The information regarding shooting events is vague. Limitations should be placed on the activity level to ensure that the land use is not disruptive to neighboring properties. Staff suggests that additional information be provided to show maximum number of shooting stations and other items associated with the shooting events.

Lead remediation – The application notes some actions that will be taken to address lead containment and reclamation. However, the application lacks information to meet EPA guidelines for best management practices for shooting ranges. Staff suggest a more formal best management practice document be created which addresses the monitoring and adjusting PH of soil to prevent erosion of the lead, preserving vegetation and maintenance, and a definitive timeline for the removal of accumulated lead. It is important to note that Wisconsin Statutes limits municipal engagement with respect to the release of shot. Under Wisc. Stat 895.527, an owner or operator of a sport shooting range is immune from civil liability in any action commenced by a municipality related to the use, release, placement, deposition, or accumulation of any projectiles on or under the sport shooting range or other contiguous real property.

Potential conditions of approval specific to this CUP can be developed after public input and deliberation by the ZLR Committee. Common topics include but are not limited to limiting hours of operation, limiting attendees, and the type of activities.

RESOURCE PROTECTION: The GIS information indicates that there may be an intermittent stream located on the property. County staff has visited the site and found no evidence of a navigable waterway. The property is not subject to shoreland regulations. The GIS information also indicates the presence of a resource protection area. With the absence of a navigable stream and low slope topography (8 – 10% grade) the site does not meet the criteria for a resource protection area under the Town Comprehensive Plan.

TOWN ACTION: The Town held a joint Plan Commission/Board public hearing on the proposed conditional use permit. The application was postponed due to public opposition and the need for additional information regarding lead remediation. There was a consensus that the activities and hours described were difficult to understand.

On October 16, 2023 the Town Board recommended denial of the club's rezone petition and denied the proposed CUP. The Board recommended denial of Rezone petition 11981 based on concerns related to consistency with the town plan and general public health, safety and welfare. The Town Board denied CUP 2607, citing the following findings:

- Condition 1 was not met: There was an inadequate development of a lead, PAH and benzene management plan (for continued and expanding shooting) that would protect public health and safety.
- Condition 2 was not met: The number of events is unclear and, without clarification, many long shooting events and commercial uses of clubhouse will adversely affect the uses, value and enjoyment of what is otherwise a residential neighborhood.
- Condition 5 is not met: Parking, congestion and room for emergency vehicles is an issue on narrow dead end road with proposed 300 person events.
- Condition 7 not met: The proposed rezone of 20 acres of ag. land to recreational land which will then have lead, PAH and benzene contamination is not consistent with the Primrose Comprehensive Plan's protection of land zoned FP. (see also condition 8 below)
- Condition 8 not met: The use will be in land now zoned FP and the shot contamination will prevent it from being returned to agricultural land in the future.

STAFF RECOMMENDATION: At this time, staff believes the applicants have not provided sufficient information to mitigate the potential for nuisances and demonstrate how the proposed use will meet all of the required standards for CUP approval. Additional information is needed to address the concerns raised regarding septic capacity, parking capacity, and lead mitigation on the property.

CUP petition 2607 has been rendered null and void, due to the town's denial action and findings. Under Dane County Zoning Ordinance s.10.101(7)(c)2, if the town board denies a CUP the ZLR Committee need take no further action.

Any questions about this petition or staff report, please contact Roger Lane at (608) 266-9078 or lane.roger@countyofdane.com