

Four Paws 3440 Meadow Road CUP – May 8, 2023 Town Board Meeting

Motion by Supervisor Stemrich, second by Chair Richson, to approve the Conditional Use Permit for Four Paws at 3440 Meadow Road to operate an animal boarding / pet daycare facility in the AT-5 Agriculture Transition -5 acre zoning district, subject to the following as recommended by the Plan Commission on April 12, 2023:

1. That all Town Ordinances are complied with during the life of the CUP.
2. The Conditional Use approval is limited to parcel number 038/0708-321-8211-1, located at 3440 Meadow Rd.
3. The Town finds that the proposed conditional use is consistent with the adopted Town Comprehensive Plan;
4. The Town finds that the proposal meets the general standards for conditional use permits per Dane County Ordinances 10.101(7)(d)1;
5. The CUP is granted subject to all standard conditions specified in Dane County Zoning Ordinance Section 10.101(7)(d)(2) (page 10-25 of Dane County Zoning Ordinance), including:
 - a. Any conditions required for specific uses listed under s. 10.103.
 - b. The physical development and operation of the conditional use must conform, in all respects, to the approved site plan, operational plan, building plans, and phasing plan.
 - c. 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 or Uniform Dwelling Code.
 - d. The applicant shall apply for, receive and maintain all other legally required and applicable local, county, state and federal permits. Copies of approved permits or other evidence of compliance will be provided to the zoning administrator upon request.
 - e. Any ongoing business operation must obtain and continue to meet all legally required and applicable local, county, state and federal licensing requirements. Copies of approved licenses or other evidence of compliance will be provided to the zoning administrator upon request.
 - f. Existing onsite wastewater sewage disposal systems, if any, 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.
 - g. All vehicles and equipment must access the site only at approved locations identified in the site plan and operations plan.
 - h. Off-street parking must be provided, consistent with s. 10.102(8).
 - i. 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.
 - j. 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.

- k. 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.
 - l. 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.
 - m. 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.
6. In addition, the Town specifies the following conditions based on the April 6, 2023 Vierbicher review letter:
- a. This conditional use permit is for Lena and Neva La Fleur, doing business as Four Paws Pet Services LLC located at 3440 Meadow Road. Specifically for domestic pet animal boarding for dogs and cats and including pet daycare, overnight boarding, and ancillary pet grooming/training/veterinary services.
 - b. Per item 1b on page 3, the hours that animals may be in the outside, fenced area shall be limited to 8:00am-5:00pm.
 - c. Quiet hours shall be 5:00 pm to 8:00 am, all days of the week.
 - d. Operating hours for the pet daycare/grooming business shall be limited to 5:00 am to 9:00pm Monday-Sunday, with all scheduled drop-off and pickup times to be from Monday-Friday (no weekend drop-off/pickup times).
 - e. Pet grooming and training services shall only be available for pets staying at the kennel, either for day care or overnight.
 - f. The number of animals kenneled (overnight) shall be limited to 20. Drop off/pick up times for kenneled animals shall be limited to 2 hours on Saturday mornings and two hours on Sunday afternoons.
 - g. The number of animals kept on site at any time shall be limited to 50.
 - h. The existing conditional use shall be terminated within one (1) year of the effective date of the new Conditional Use Permit.
 - i. The CUP expires one year after date of issuance. The landowner may renew the CUP by successfully obtaining a new CUP prior to the expiration date.
 - j. Per item 2b on page 5, that landscaping shall not be provided to mitigate the impacts of customer vehicle headlights on neighboring properties.
 - k. Per item 5b on page 7, that the planned parking is acceptable, as long as the number of stalls identified as handicap accessible meets ADA requirements.
 - l. Per item 5b on page 7, Vehicles shall be one-way around the buildings.
 - m. Per item 6b on page 7, one new unlit sign, replacing the existing sign for the CUP 1701 horse use, is acceptable while meeting Dane County Sign Ordinance.
 - n. Applicant has indicated no new lighting is proposed. If lighting is considered in the future, it must be approved by the Town. Any new outdoor lighting shall be downward-directed, designed to minimize ambient spill and shall comply with all applicable requirements of the Town of Middleton.

7. If the animal boarding operation is abandoned for one year or more, this conditional use permit shall be terminated. Future re-establishment of an abandoned conditional use permit shall require approval of a new conditional use permit.
8. This conditional use permit shall expire in the event the property is sold or transferred to an unrelated third party. Continuation or extension of an expired conditional use requires re-application and approval by the Town Board and Dane County. The Property Owner shall record a deed restriction that includes the conditions of approval, in a form approved by the Town Attorney.

Tied vote: 2 in favor and 2 opposed.



April 6, 2023

Chair and Members of the Town Plan Commission
Town of Middleton
7555 W. Old Sauk Road
Verona, WI 53593

Re: Four Paws CUP at 3440 Meadow Road, Verona, WI 53593

Dear Mr. Hoernke and Plan Commission Members:

The above-referenced Conditional Use Permit (CUP) application was received in our office for review on behalf of the Town of Middleton. The application was submitted by Dan and Marlene La Fleur. The Applicants are requesting a CUP to operate an animal boarding facility in the current horse stable building at 3440 Meadow Rd, tax parcel 038/0708-321-8211-1. We have reviewed the following application materials, all received February 28, 2023, unless otherwise noted:

- Application Checklist Revised
- Arena Floor Plan
- CUP Application Revised
- Current Horse Facility Floor Plan
- Four Paws Business Plan Revised
- North Elevation and Section Plans
- Parking (picture)
- Phase 1 Floor Plan
- Phase 2 Floor Plan
- Scaled Site Plans Revised
- Section Plans
- Site Plan
- State Approved Drainage Plan
- State Approved Overall Site Plan
- Scaled parking drawing, received April 3, 2023

Summary of the Request

The La Fleurs are requesting CUP approval for them to operate an "animal boarding kennel" inside their current horse stable. This new CUP request will allow for the Applicants to host pet daycare and animal boarding services. Currently, Conditional Use Permit 1701 allows activities related to the horse stable on the property; CUP 1701 will be discontinued July 31, 2023, per the Applicant's email dated April 3, 2023 (attached). The Four Paws CUP business is anticipated to be operating September 2023, per the Applicant.

In order to be granted, the CUP would require recommendation from the Town Plan Commission as well as the approval of the Town Board, after a public hearing. The CUP is tentatively scheduled for a public hearing with Dane County at the April 25th Dane County Zoning & Land Regulation (ZLR) Committee Meeting.

vision to reality

Site Information

Location: 3440 Meadow Rd, western edge of Meadow Road and south of Valley View Rd (tax parcel 038/0708-321-8211-1)

Adjacent Land Uses: North / East / West: lands zoned AT-5 (Agriculture Transition - 5 Acres)
South: A (Agricultural District) located within City of Madison

Current Zoning: AT-5 Agriculture Transition - 5 acres (no change proposed)

The three (3) tables below outline the kennel and play area quantities and dimensions in Phase 1, Phase 2, and project totals upon Phase 2 build out.

Phase 1 – Within one (1) year of business opening			
Entity	Quantity	Dimensions (ft)	Total Area Sum (sq. ft.)
Dog Play Area (inside)	5	36' * 12'	2,160
Dog Play Area (inside)	2	24' * 12'	576
Outdoor Play Area	1	18' * 102'	1,836
Kennels (Large-Medium dogs)	28	3' * 6'	504
Kennels (small dogs)	6	3' * 3'	54

Added in Phase 2 – Within five (5) years of business opening			
Entity	Quantity	Dimensions (ft)	Total Area Sum (sq. ft.)
Dog Play Area (inside)	4	24' * 44'	4,224
Dog Play Area (inside)	2	31' * 44'	2,728
Kennels	67 ¹	4' * 4'	1,072

TOTALs (upon Phase 2 completion)	Quantity	Dimensions (ft)	Total Area Sum (sq. ft.)
Indoor Dog Play Areas	13	-	9,688
Outdoor Play Area	1	18' * 102'	1,836
Kennels	= 101 (67+28+6)	Varies	1,630

1. Note: We requested that applicant explain the apparent different sizes of kennels shown on the scaled plans for Phase 2. They responded in an email dated April 3, 2023 that they are all 4' by 4'. Applicant shall provide a clarification of this discrepancy to the Town Plan Commission and Town Board because if the kennels were all 4' by 4', they would not fit the configuration shown.

Conditional Use Permit (CUP) Review Criteria

Section 101(7) of the Dane County Zoning Code lists the requirements for CUP applications and reviews. Conditional uses may or may not be appropriate on a property, depending on the circumstances. Due to the potential for negative impacts to adjacent properties for uses already permitted, conditional uses require special consideration and additional approvals by the Town and County.

After the state legislature enacted the 2017 Wisconsin Act 67, conditional use authority is now specifically addressed within state statutes, with a few key provisions to note:

1. Any decision to approve or deny a CUP application must be supported by "substantial evidence" defined as "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."

2. Any requirements or conditions established by the Town must be related to the purpose of the ordinance, be reasonable, and to the extent practicable, must be measurable. Conditions may include the permit's duration, transfer, or renewal.
3. If an applicant meets or agrees to meet all the requirements and conditions specified in the Town's ordinances or imposed by the Town, the Town must grant the permit. However, the applicant must present substantial evidence demonstrating that the application and all requirements and conditions established by the Town relating to the conditional use are or shall be satisfied.
4. If a CUP application is denied, applicants may appeal directly to the Circuit Court.
5. Under Wis. Stats. 66.1001(2m)(b), a CUP that may be issued by a community does not need to be consistent with the local Comprehensive Plan. (However, local regulations require this.)

In considering a CUP, specific consideration must be given to the substantial evidence that the applicant has provided that the proposed use will meet the CUP standards listed below, from Section 10.101(7)(d) (page 10-25) of the Zoning Code:

1. *The establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the neighborhood's health, safety, comfort, or general welfare.*
 - a. Background: The Applicants noted that the proposed animal boarding and pet daycare activities shall occur in an existing structure that meets commercial building code requirements for the State of Wisconsin. Furthermore, Applicants stated in their business proposal that animals participating in daycare would need to meet temperament, spay/neuter, and vaccination standards (such as rabies) prior to enrollment/ boarding. These underlying requirements are in addition to the physical design of the facility, plus staff training. The Applicants noted animal-related noise will be limited because most of the time, the animals will be within the current, insulated building with limited time spent in the outdoor run area.
 - b. Comments: The Town should determine if noise created by the proposed quantity of animals in Phase 1 (100 dogs) or Phase 2 (400 dogs total including Phase 1) is a concern, including whether the noise from the dogs using the 18' by 102' outdoor play area for limited outdoor time needs to be addressed with this proposed CUP. See the email dated April 3, 2023 from the Applicant for more information regarding dogs staying in daycare versus overnight, number of dogs in a kennel at a time, and whether dogs will be in a kennel or in a play area when on site.
2. *The uses, values, and enjoyment of other properties in the neighborhood already permitted shall be in no foreseeable manner be substantially impaired or diminished by the establishment, maintenance, or operation of the proposed conditional use.*
 - a. Background: The Applicants have detailed that the animals will be inside most of the time, which should limit opportunity for noise incursion on neighboring properties. Similarly, the Applicants' provided Section Plans that detail the building as constructed with eight (8) inches of R-25 fiberglass insulation, providing thermal benefits and the attenuation of sound.

- b. Comments: Figure 1 on page 9 of this letter portrays the distance from the NE corner of the Four Paws building to adjacent properties. There are two (2) farmettes zoned AT-5 within 500 feet of the project site, which triggers Code [10.103\(5\)\(b\)](#), which states:

Each animal shall be provided with an indoor containment area if the use is located within 500 feet of an existing residence or any lot in the Single Family Residential, Two-Family Residential, Multi-Family Residential, Rural Residential or Hamlet districts

It appears this requirement is met, however the Town may want to consider adding a requirement that sound levels are monitored and noise mitigation measures are required if sound levels exceed some specified level.

The Applicants are pursuing this CUP on their AT-5 zoned parcel under Dane County Code 10.235(4) for "Domestic Pet Animal Boarding" on lots greater than five (5) acres. As a point of comparison, comparable kennel CUPs that have gone through the County process are below.

CUP	Year	Owner	Location	Animals	Acreage	Animal Density (dogs per acre)
2467	2019	Trachte	T. Albion	40	38	1.05
2475	2019	Jobe-Larson	T. Cottage Grove	50	3	16.66
2438	2018	Store Master Funding LLC	T. Burke	200	5.7	35.08

Per the Applicants' 'Four Paws Business Plan, below are the values applicable to this CUP application, for Phase 1 as well as Phase 2.

CUP	Year	Owner	Location	Animals	Acreage	Animal Density (dogs per acre)
Four Paws Phase 1	202X	La Fleurs	Town of Middleton	100	15.2	6.57
Four Paws Phase 2	202X+(<5)			400 total		26.31

Page seven (7) of the Four Paws Business Plan notes each dog receives "three play times per day." The Applicants shall clarify for the Town and County how the rotation of the animals will fulfill 10.103(5)(b) and that the kennel spaces, 28 in Phase 1, 101 kennels total by Phase 2, fulfill Dane County Code 10.103(5)(c).

In their April 3, 2023 email, the Applicant indicated their expectation for the number of vehicle trips per day to and from the facility for dogs in daycare. However, no trips per day estimate has been provided for dogs that are boarded. Applicant shall be prepared to provide details on lengths of stay for boarded dogs as these customers also create vehicle trips. Vehicle noise and headlights could negatively impact neighboring properties.

The Town should determine if the intensity (number of dogs and related noise, number of cars and related noise, and impact of headlights) of Phase 1 or Phase 2 of this project will affect the neighboring parcels unreasonably.

3. *The establishment of conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.*
 - a. Background: Property to the east, west, and north is zoned AT-5, with farmettes present. The City of Madison has land zoned A-Agricultural District to the south (owned by City of Madison Engineer Stormwater Utility 533 and City of Madison EDD). The CUP site has its own driveway access onto Meadow Road and is zoned AT-5.
 - b. Comments: Should the adjacent lands develop in the future, it is not anticipated that the confined animal boarding activities under the CUP will hinder neighboring parcels' ability to access Meadow Road. That said, there may be higher uses, such as the future residential use portrayed by the Future Land Use Map in the Town's Comprehensive Plan.
4. *That adequate utilities, access roads, drainage, and other necessary site improvements have been or are being made.*
 - a. Background: The Applicants state on page two (2) of the CUP Application that the site possesses "existing infrastructure that meets Wisconsin commercial building standards." There is existing well and septic on the property, and an enclosed animal waste area.
 - b. Comments: On page one (1) of the "Application Checklist," the Applicants' note a desire to, weather permitting, have the animals be able to access "an outdoor run area," which is an 18' by 102' fenced area south of the building on "Image A" in the "Scaled Site Plans Revised." The Applicants shall follow applicable Town regulations for the construction of the fencing and shade area structure.

This "outdoor run area" that hosts a "shade area" is on the southern façade of the structure. The Applicants shall clarify that the surface present upon business opening will be appropriate for animal paws in the summer. This is in conjunction with comment 2b of this letter, detailing the rotation of animals through the indoor spaces and this outdoor space for play time purposes. If this area will be changed to an impervious surface, the Applicants may need Erosion Control or Stormwater permits from the Town of Middleton and Dane County.

The most recent scaled parking drawing provided with the email from the Applicant dated April 3, 2023 and attached here indicates there may be an increase in impervious surface. The Applicant indicates there is recycled asphalt in some of these areas that are not apparent in the aerial images, however, if not, and impervious surfaces are added to trigger a Dane County stormwater permit, a stormwater management plan will be required to be submitted and approved by the Town of Middleton.

Page two (2) of the "Application Checklist" notes that an "additional dumpster [...] emptied by Waste Management weekly" will be in "the animal waste location of the building." The Applicant shall provide confirmation that this enclosed area attached to the building is accessible by Waste Management with the parking on the site.

5. Adequate measures have been or will be taken to provide adequate ingress and egress so designed as to minimize traffic congestion in the public streets.
 - a. Background: Per page two (2) of the "Application Checklist," the driveway is of recycled blacktop construction. The Applicants report "hundreds of vehicles everyday" access the property and "Meadow Road has not been affected by it for over 20 years." The Applicants indicated the CUP use will have 15 employees maximum and the facility has an area of 20,000 square feet.
 - b. Comments: The Applicants should receive clarification from the County that no traffic study or roadway improvement to facilitate turns into the property is needed. Should the Applicants need to amend the driveway or parking area, Erosion Control or Stormwater permits from the Town of Middleton and Dane County may be necessary.

There is an estimated 1,100 ft driveway that provides access to the site from Meadow Road (see screenshot below). Vehicle queuing *from the site* is **not** anticipated to have any negative effects on Meadow Rd.



Dane County Zoning Code parking requirement [10.102 \(8\)\(e\)\(10\)](#) (on page 10-33) states:

Animal Boarding, Domestic Pet: 1 per 1.3 employees, plus 1 per 1,000 square feet, not including outdoor kennels or exercise areas.

It is estimated that $(15 \text{ employees} / 1.3 \text{ employees per space}) + (20,000 / 1,000 \text{ per } 1 \text{ space}) = 31.5$, or 32 parking spaces are required for the use requested as part of this CUP application. The "Scaled Site Plans" portray thirty-six (36) parking stalls: fifteen (15) stalls southwest of the building, fifteen (15) stalls east of the building, and six (6) west of the building. The "scaled" parking drawing attached to April 3, 2023 email from the Applicant indicates forty-four (44) stalls.

Dane County Zoning Code 10.102(8)(d)(3) specifies parking stall dimensions be at least 8ft (9ft for angled parking) by 17 feet in length for 90-degree or angled parking, and drive aisles to be 24 feet wide for 2-way traffic.

As portrayed in the "scaled" parking drawing attached to April 3, 2023 email from the Applicant, the number of stalls exceeds the number required by Dane County. However, without painted parking stall lines it may be unreasonable to expect 44 parked cars to be parked on-site at the same time. As noted above, the impervious surface may have to be expanded to provide the parking shown on the drawing. The Applicants shall demonstrate that a Waste Management truck or a horse trailer, for the Applicants' personal horses, may negotiate the site with the proposed parking in place. The Town shall determine if signage requiring one-way driving around the property would be beneficial for reduced vehicle dwelling times. The Town shall determine if they find the proposed parking acceptable given these findings.

6. *The conditional use shall conform to all applicable regulations of the district in which it is located.*
 - a. Background: The Application Checklist and CUP application referenced following all applicable regulations. One (1) new sign is to be provisioned, which replaces the sign for the former CUP use.
 - b. Comments: There are no known issues with the existing structures on site in terms of zoning compliance. The AT-5 zoning district allows animal boarding/daycare facilities with the approval of a Conditional Use Permit, per Dane County Code of Ordinances 10.235(4)(d). Applicants shall follow applicable Town Code and Dane County Code 10.800 for signage.
7. *The conditional use is consistent with the adopted Town and County Comprehensive Plans.*
 - a. Background/Comments: The conditional use is consistent with the adopted Town and County Comprehensive Plans. The area is planned for residential/agricultural use, which is the case for all residential properties in the Town, whether they are zoned AT-5 or another district. The Town's Comprehensive Plan does not provide guidance specific to "animal boarding" facilities.
8. *If the conditional use is to be located in a Farmland Preservation District, the conditional use must meet certain findings described in s. 10.220(1).*
 - a. Background/Comments: This is not applicable to the proposed use.

Recommendation

If the Plan Commission requires additional materials, it may table action on the CUP application to a subsequent meeting. A set of recommended conditions is included in meeting packets for potential approval of the CUP. Dane County's Chapter 10 Zoning Ordinance provides general conditions of approval for CUPs, but does not require any specific conditions for this land use under [Section 10.235\(4\)](#).

For action on any CUP, the Plan Commission should determine if, by the substantial evidence presented, that the proposed conditional use satisfies or will satisfy the requirements delineated above. I will be present at the April 12, 2023 Plan Commission meeting to answer any questions that may arise. Sincerely,



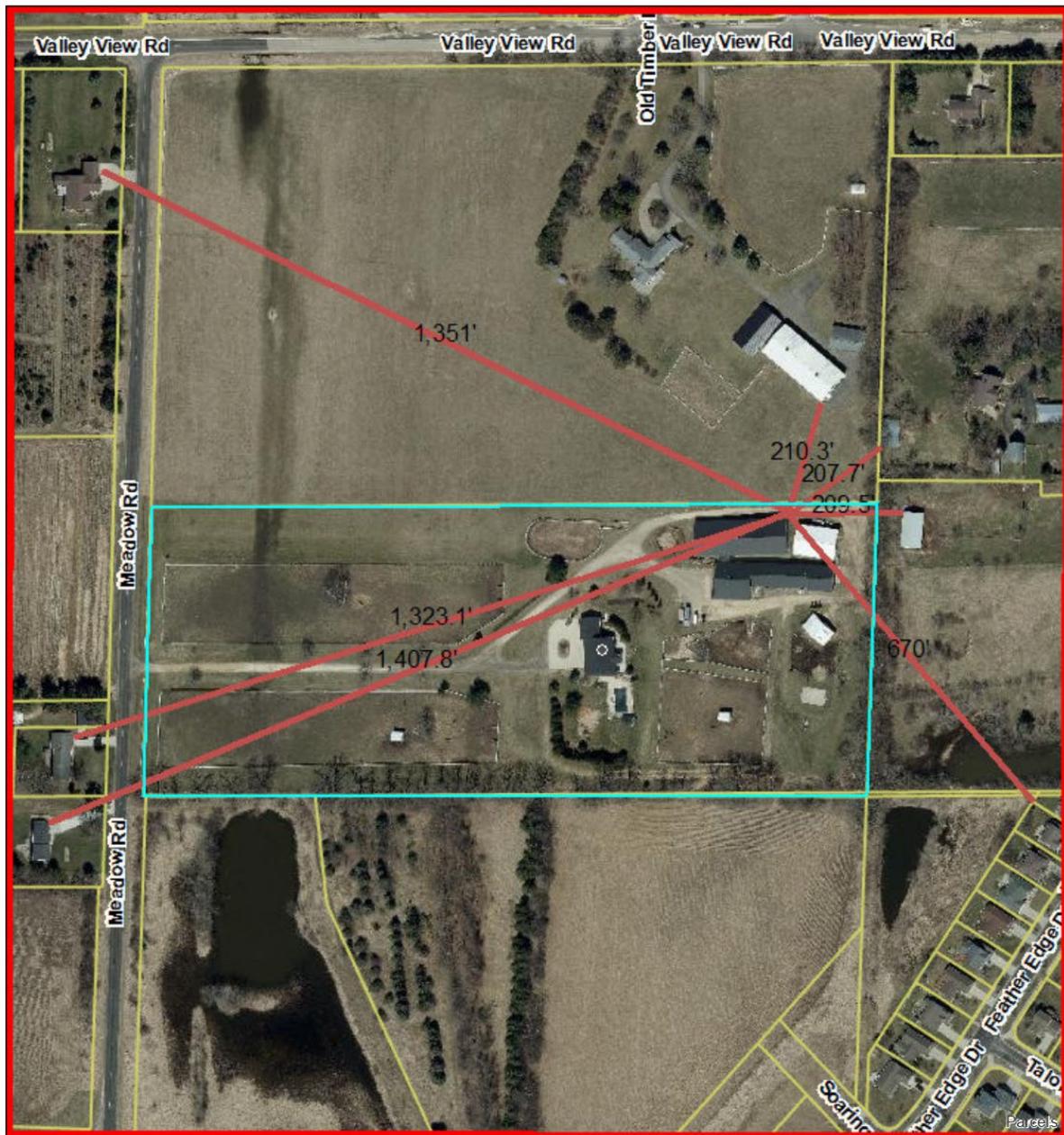
Matthew G. Miller, CNU-A
Vierbicher

April 6, 2023

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cc: Barbara Roesslein, Clerk, Town of Middleton
Megan Hughes, Treasurer, Town of Middleton
Eileen A. Brownlee, Town Attorney, Boardman and Clark LLP
Roger Lane, Zoning Administrator, Dane County
Dan and Marlene La Fleur
Neva La Fleur
Lena La Fleur
Rod Zubella, PE, Vierbicher
Jacquelyn Monfils, PE, Vierbicher

Figure 1: Four Paws CUP Proximity to Neighboring Lands or Structures



February 20, 2023

- Road Names
- Dane County
- Mask Parcels

0 155 310 620 Feet

