

## CHAPTER 3: GENERAL STRATEGIES

### I. General Goals and Policies for Farmland Preservation

1. *Identify areas of Dane County suitable for long term preservation and viability of diverse agricultural enterprises and resources. Protect or encourage protection of those areas for the benefit and use of current and future generations.*

#### Supporting Objectives

- a) Maintain a sufficient acreage of land in agricultural production in Dane County to economically sustain crucial agricultural support industries.
- b) Minimize the amount of land converted from agricultural use to accommodate permitted non-farm development.
- c) Reduce scattered rural nonfarm development by encouraging clustering of rural development as part of a town farmland preservation strategy.
- d) Encourage future urban development to be compact, adjacent to existing development and consistent with town planning policies.

#### County Actions and Programs

- (1) Develop and implement new tools, such as Purchase of Agricultural Conservation Easements (PACE), Transfer of Development Rights (TDR) and conservation subdivisions to meet agricultural resource goals.
- (2) Implement fees and other financial mechanisms to support agricultural preservation efforts and create a disincentive for unnecessary conversion of agricultural land.
- (3) Establish design guidelines that minimize conversion of agricultural land, support farm operations and allow for agriculture-related businesses.
- (4) Establish maximum lot sizes, with exceptions where necessary due to local land conditions, for all land rezoned out of exclusive agriculture.

### II. General Goals and Policies for Agricultural Enterprise and Development

1. *Maintain Dane County's status as one of the nation's most productive and economically viable agricultural areas. Keep farming economically viable in Dane County through the 21st century.*
2. *Support and promote the development of community, regional, national and international markets for agricultural products to promote and preserve the county's agricultural industry.*

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<sup>1</sup> See also *Dane County Comprehensive Plan*, Chapter 5, pp. 34-37

3. *Support the creation of conventional, organic and sustainable agricultural enterprises in Dane County.*

Supporting Programs and Objectives

a) *Economic Development Program*<sup>2</sup>

(1) Objectives:

- (a) Continue to develop and implement a comprehensive economic development program to support, expand and enhance agriculture as a viable economic activity in Dane County.
- (b) Support and encourage the development of regional agricultural enterprise including: agricultural cooperatives; manufacturing to process soy beans, produce and other farm products, and; new agricultural technologies.
- (c) Support farm marketing programs that promote Dane County agriculture and help farmers improve their profitability.
- (d) Identify and help develop new markets for production agriculture, biotechnology, value-added processing and Community Supported Agriculture (CSA).

b) *University of Wisconsin Extension (UWEX) Services.*

(1) Objectives:

- (a) Continue and expand direct services, marketing assistance and on-demand technical assistance provided to farmers through Dane County University of Wisconsin Extension (UWEX) programs.
- (b) Design and implement education workshops and distribute materials for farmers, developers, landowners and the general public.
- (c) Help entrepreneurs plan, start and grow new enterprises that capture value from agriculture.
- (d) Provide information about agricultural production to foster understanding and tolerance between farmers and their residential neighbors.

c) *Infrastructure and Capital Improvements to Support Agriculture*

(1) Objectives.

- (a) Strengthen transportation infrastructure such as rail transit and roads to support agricultural commerce.<sup>3</sup>
- (b) Support and promote, using targeted investments of public funds where necessary, infrastructure and organizational capacity that serves agriculture and related enterprises.<sup>4</sup>

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<sup>2</sup> See also *Dane County Comprehensive Plan*, Volume I, Chapter 6, pp. 63-64

<sup>3</sup> See also *Dane County Comprehensive Plan*, Volume I, Chapter 3

<sup>4</sup> See also *Dane County Comprehensive Plan*, Volume I, Chapters 3 & 4

*(2) Transportation Infrastructure*

- (a) Include transportation of agricultural goods to market in all long-term planning related to truck, rail and air freight transport.
- (b) Highway shoulders and crossings should be designed to accommodate farm equipment, bicycles and other uses and minimize safety conflicts with automobile traffic.

*(3) Agricultural Processing, Supply, Distribution and Waste Management Infrastructure*

- (a) Support and encourage the development of regional agricultural enterprise including:
  - (i) agricultural cooperatives;
  - (ii) manufacturing to process soy beans;
  - (iii) produce and other farm products, and;
  - (iv) new agricultural technologies.
- (b) Pursue institutional food purchasing policies to provide new markets for area farmers.
- (c) Assist and support the development of organic processing facilities to process organic farm products.
- (d) Use targeted public and private funds to stimulate needed physical and intellectual infrastructure serving the agricultural sector. Develop facilities and institutions that support and incubate the development of local food products and businesses and develop new markets for Dane County products. Examples include:
  - (i) a self-supporting Central Agriculture and Food Facility (CAFF);
  - (ii) a Dane County agricultural enterprise development center;
  - (iii) facilities to process agricultural waste into marketable products or renewable energy, such as the “Cow Power” manure digester program, or;
  - (iv) a packing and wholesale facility for fresh produce.

*d) Zoning and Land Use Regulation Modernization**(1) Objectives.*

- (a) Examine zoning processes, existing and proposed local codes, administration and procedural requirements to:
  - minimize negative impacts on agriculture, and
  - promote a diversity of agricultural, agriculture accessory and agriculture related uses that are both economically productive and compatible with rural areas.

- (b) Ordinances and regulations restricting noise, odors, keeping of animals or other activities that could inhibit typical farm operations, will not apply in Farmland Preservation Areas.
- (c) Consider whether any new county regulations would put Dane County farmers at a competitive disadvantage to farmers elsewhere in the state.
- (d) Amend farmland preservation zoning districts to make it easier to establish agricultural service and other industries that promote appropriate, sustainable rural and farm economic development. Examples include: biotech industries; value-added enterprises; agricultural tourism; forestry and sustainable timber harvest; agricultural supply and product distributors; ethanol plants; soybean and other processing plants; implement dealers, and; mixed use developments involving both traditional agriculture and retail/processing uses.

*(2) Task Force for Prioritized Revision of Chapter 10 (Zoning Ordinance)*

Substitute 1 to Dane County Board Resolution 120, 2006-2007 established the Task Force for Prioritized Revision of Chapter 10 and charged it with establishing priorities and proposing amendments to the Dane County Zoning Ordinance. To date, the county board has adopted all Task Force-sponsored zoning ordinance amendments, including revisions that:

- Require consistency with adopted comprehensive plans for conditional use permit approvals;
- Prevent development from disturbing topography within 5 feet of a property line;
- Limit residential uses permitted in the A-1 (exclusive agriculture) zoning district;
- Establish the A-4 small-acreage exclusive agriculture zoning district;
- Create a Planned Unit Development district;
- Provide for town board consideration of conditional use permits.

Future priorities identified by the Task Force include amendments to bring the county's farmland preservation zoning districts into compliance with recent changes to Chapter 91, Wisconsin Statutes, by the 2012 statutory deadline.

## CHAPTER 4: DESIGNATED PLANNING AREAS

### I. Farmland Preservation Areas

#### A. Rationale for Designation

Farmland Preservation Areas, as shown on the *Dane County Farmland Preservation Plan Map* (Map FPP-10), include lands that meet all of the following criteria:

1. Are predominately in active agricultural, agriculture accessory, agriculture-related or natural resource use;
2. Are planned to support a predominance of agriculture, agricultural accessory, agriculture-related and natural resource uses for twenty years or more;
3. Are clearly shown as “Agricultural Preservation,” “Farmland Preservation” or “Rural Preservation” on Planned Land Use Maps in town, city, village and extraterritorial plans adopted as part of the *Dane County Comprehensive Plan*;
4. Include policies, adopted as part of the *Dane County Comprehensive Plan*, to generally limit new nonfarm development to a density of one unit per 35 acres or fewer, and;
5. Are completely outside designated Urban Service Areas, as shown in the most current version of the *Dane County Water Quality Plan*, as amended and approved by the Capital Area Regional Planning Commission and the Wisconsin Department of Natural Resources.

#### B. Goals and Objectives for Farmland Preservation Areas

1. *Maintain and support production agriculture, agricultural-related businesses, forestry, open space, and compatible uses.*
2. *Maintain eligibility for farmland preservation tax credits under Chapter 91, Wisconsin Statutes.*
3. *Limit new nonfarm development in designated Farmland Preservation Areas to a density of one unit per 35 acres or fewer.*
4. *Direct permitted nonfarm development away from productive agricultural lands.*

#### C. Policies and Programs for Farmland Preservation Areas

##### 1. *Farmland Preservation Zoning Districts*

All Farmland Preservation Areas must be either in a town that has adopted Dane County’s certified Farmland Preservation Zoning ordinance, or in a city, village or extraterritorial area that has adopted its own Farmland Preservation Zoning ordinance certified under s.91.38, Wis. Stats. Within Farmland Preservation Areas, Dane County and its town, city and village partners will seek to maintain at least eighty percent (80%) of the land area (as required by state DATCP review criteria) in a certified Farmland Preservation Zoning district. No areas outside of an Farmland Preservation Area may be in a certified Farmland Preservation Zoning District. In Dane County, Farmland Preservation Zoning Districts include the following:

Yellow highlighted text = from current Dane County Comprehensive or Farmland Pres Plans. Page 5

Green highlighted text = required by statute or by DATCP Certification requirements

Blue highlighted text = from currently adopted county ordinance (Chapters 10, 11, 14, 17, 75 or 82, DCC)

- a) *County Zoning.* Map FPP-11 shows the current zoning in unincorporated Dane County. Dane County intends to request state Farmland Preservation Zoning certification under s.91.38, Wisconsin Statutes for the following county zoning districts.

(1) A-1(ex) Exclusive Agriculture District (s.10.123, Dane County Code).

(2) A-4 Small Lot Agriculture District (s.10.129, Dane County Code).

(3) A-B Agricultural Business District (s.10.112, Dane County Code).

- b) *City and Village Zoning.* Farmland Preservation Zoning districts also include any city, village or extraterritorial zoning ordinances or districts certified by the state Department of Agriculture, Trade & Consumer Protection under s. 91.38, Wis. Stats.

## 2. Other Zoning Districts

- a) *Findings of Fact for Rezones out of Farmland Preservation Zoning Districts.*

Prior to approving any petitions to rezone land from a certified farmland preservation zoning district to any other zoning district, the county board, village board or city common council must make the following findings, consistent with s. 91.48, Wisconsin Statutes.

(1) The land is better suited for a use not allowed in the farmland preservation zoning district.

(2) The rezoning is consistent with applicable town, city, village or extraterritorial comprehensive plans and the *Dane County Comprehensive Plan*.

(3) The rezoning is substantially consistent with the *Dane County 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.

- b) *Conversion Fees.* Landowner-initiated rezones from a certified farmland preservation zoning district to any other zoning district are subject to state conversion fees under s.91.48(1)(b), Wisconsin Statutes and to any county or municipal conversion fees. The county board, village board or city common council may require that such fees be paid within a delayed effective date for any rezone petition.

State, county or municipal conversion fees do not apply to petitions to rezone land from:

- one certified farmland preservation zoning district to another certified farmland preservation zoning district, or;
- a certified farmland preservation zoning district to a certified farmland preservation zoning district with a TDR-S, TDR-R or HD overlay.

Rezone petitions initiated by county, city or village governments to implement the policies of the *Dane County Farmland Preservation Plan* and certified by the Wisconsin Department of Agriculture, Trade and Consumer Protection under

section 91.36, Wis. Stats., are not subject to state, county or municipal conversion fees.

- c) *Conditions on Rezones.* To the extent permitted by county, municipal or extraterritorial zoning ordinances, the county board, village board or city common council may impose additional restrictions on rezone petitions to make sure the findings of fact in 2.a) above are satisfied.
- d) *County Zoning.* Within Farmland Preservation Areas, the county board will consider petitions from landowners to rezone to the following zoning districts to accommodate new development:
- (1) Any certified Farmland Preservation Zoning District;
  - (2) Agriculture, including the A-2, A-2(1), A-2(4), and A-2(8) districts;
  - (3) Residential, including the R-1, R-1a, R-2, R-3, and R-3a districts;
  - (4) Rural Homes, including the RH-1, RH-2, RH-3, and RH-4 districts;
  - (5) The Limited Commercial (LC-1) district;
  - (6) The Conservancy (CO-1) district;
  - (7) The Recreational (RE-1) district;
  - (8) The Historic (HD) overlay district;
  - (9) The Transfer of Development Rights Sending Area (TDR-S) overlay district;
  - (10) The Transfer of Development Rights Receiving Area (TDR-R) overlay district (see limitations in discussion of TDR below).

Policies in town plans adopted as part of the *Dane County Comprehensive Plan* may further restrict the list of appropriate zoning districts in Farmland Preservation Areas.

- e) *City, Village or Extraterritorial Zoning.* Appropriate zoning districts for nonfarm development within Farmland Preservation Areas under city, village or extraterritorial zoning authority are as determined by the city or village comprehensive plan or by the extraterritorial plan.
- f) *Density Caps.* New nonfarm development is generally limited to a density of one unit per 35 acres, or fewer, according to detailed policies established in town, city, village or extraterritorial plans adopted as part of the *Dane County Comprehensive Plan*.
- g) *Existing Nonfarm Development*
- (1) Town, city, village or extraterritorial plans adopted as part of the *Dane County Comprehensive Plan* may provide for limited accommodations or exemptions for pre-existing nonfarm development within Farmland Preservation Areas. For existing uses in an Farmland Preservation Area, the county board, village board or city common council may approve limited rezone petitions to districts not listed in d) or e) above to accommodate the following:
    - make minor adjustments in zoning parcel lines or zoning parcel size;
    - rezone from a less restrictive zoning district to a more restrictive district, or;

Yellow highlighted text = from current Dane County Comprehensive or Farmland Pres Plans. Page 7

Green highlighted text = required by statute or by DATCP Certification requirements

Blue highlighted text = from currently adopted county ordinance (Chapters 10, 11, 14, 17, 75 or 82, DCC)



- allow for limited expansion of existing operations.
- (2) Rezones to zoning districts not listed in 2.d) or 2.e) above to accommodate existing uses should meet, at a minimum, all of the following conditions. Town, city, village or extraterritorial plans adopted as part of the *Dane County Comprehensive Plan* may include additional, or more restrictive, requirements.
- (a) The county board, village board or city common council makes the findings of fact described in 2.a) above.
  - (b) New construction or expansion must meet the siting criteria under 4. below.
  - (c) Zoning parcels containing all existing uses and any proposed expansions are deed restricted or zoned to limit uses to those currently on the site, or to less intensive uses.
  - (d) All existing uses on the site and any proposed expansions are brought into compliance with all current applicable regulations, codes and standards, including, but not limited to: parking, screening, stormwater, erosion control and sanitary disposal standards.
- h) *Lands Remaining in Agricultural Use.* Where possible, portions of properties intended to remain in exclusive agricultural use should remain in a certified farmland preservation zoning district. If remnant agricultural parcels do not meet minimum lot sizes or other standards of county, municipal or extraterritorial farmland preservation zoning districts, they will be zoned in another district appropriate for long-term agricultural use.
- i) *Petitions Initiated by County, City or Village Governments.* The county board, town board, village board, or city council may, as the need arises and as provided in state statute, initiate rezone petitions to accomplish any of the following:
- (1) Make sure parcels in a Non-Farm Planning Area are not in a Farmland Preservation Zoning district, as required by s.91.38, Wis. Stats.
  - (2) Bring nonconforming zoning parcels into current compliance;
  - (3) Implement policies in adopted comprehensive plans or the *Dane County Farmland Preservation Plan*, or
  - (4) Meet certification requirements under s.91.38, Wis. Stats.
- Provided the county board, village board or city council successfully petitions the state Department of Agriculture, Trade and Consumer Protection for certification of the revised zoning map, such amendments are not subject to conversion fees under s.91.48(1)(b), Wis. Stats.

### 3. *Siting Criteria for Development*

All new development, or expansion of existing development, within a Farmland Preservation Area should comply with, at a minimum, the following criteria. Town,



city, village or extraterritorial plans adopted as part of the *Dane County Comprehensive Plan* may include additional, or more restrictive, siting standards.

- a) Do not place new development or expansions of existing uses in wetlands, floodplains, or on slopes exceeding 20% grade (see Resource Protection Corridor Overlay District, below).
- b) Size nonfarm zoning parcels to the minimum necessary to accommodate the proposed use. Parcels must meet minimum lot sizes, local driveway or county or state highway access standards, and minimum road frontage standards under applicable comprehensive plans, zoning ordinances or land division ordinances.
- c) Locate nonfarm building sites to minimize disturbance of productive agricultural soils, and to minimize conflicts with existing agricultural use. Productive agricultural soils are soils classified as Group I or Group II under the Dane County Land Evaluation and Site Assessment system, or as specified in a town, city, village or extraterritorial plan adopted as part of the *Dane County Comprehensive Plan*.
- d) Layout streets or driveways to avoid agricultural land in order to reach non-farm development. Design new driveways and roads to the minimum length necessary to access the site and minimize disturbance of productive agricultural soils. All driveways shall be designed and located to be suitable for emergency vehicle access and safe access onto existing roadways. Driveways must comply with local driveway ordinances, or County or State Highway access requirements, as applicable.
- e) Driveways longer than 125 feet must comply with erosion control and stormwater standards under Chapter 14, Dane County Code. Contractors are required to use erosion control measures and return lands to a near normal setting after completion of construction. The Town, County, City, or Village may require an erosion control and/or stormwater management plan or a preliminary review letter meeting county ordinance standards as a condition of approval.
- f) Compliance with a county, city or village-approved site plan may be required as a condition on a permit, conditional use permit or rezone petition for new development in an Farmland Preservation Area.

#### 4. *Agricultural Enterprise Areas*

- a) *Program Description.* An Agricultural Enterprise Area, or AEA, is an area of contiguous land primarily in agricultural use that has been designated by the Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP) in response to a locally developed petition. Within Agricultural Enterprise Areas, farmers may sign an agreement with the state to keep their property in agricultural use for 15 years. In exchange, farmers are eligible for an additional Farmland Preservation Tax Credit of \$2.50 per acre per year. DATCP designates AEAs through a competitive process. To be eligible for AEA designation, properties must be consistent with the *Dane County Farmland Preservation Plan*, and the county board must pass a resolution in support of the application.

- b) *Conservation Compliance Certification.* Farmers in an AEA entering into a voluntary farmland preservation agreement must meet soil and water conservation standards under ATCP 50, Wis. Adm. Code to claim the additional AEA tax credit. Wisconsin AEA application materials require information about approximate percentage of farmers in the AEA in compliance with conservation standards. Apply directly to the Dane County Land & Water Resources Department for conservation compliance certification, no later than 60 days before the nomination application deadline. Further details are available from the Land Conservation Division.
- c) *County Board Resolutions of Support.* The Dane County Board of Supervisors will consider resolutions supporting AEA petitions, provided target lands are shown in an Farmland Preservation Area in the Farmland Preservation Plan Map (Map FPP-10) of the *Dane County Farmland Preservation Plan*. Send requests for consideration to the Dane County Department of Planning and Development no later than 60 days from the nomination application deadline, to allow time for county review and approval.
- d) *Targeted Agricultural Enterprise Areas.* As resources permit, Dane County Planning and Development staff may work directly with landowners and local governments to solicit petitions and assist in the AEA application process. Assistance may include attending public information sessions, mapping and assistance with application narrative drafting. County-assisted AEA projects should include properties with existing, substantial county, local, state or federal public investment in sustainable agricultural practices. Examples of public investment include, but are not limited to, agricultural infrastructure, cost-share assistance, agricultural development grant or revolving loan fund financing projects wholly or partially funded with public money.
- e) *County/ Regional Benefits to Farmers in an AEA.*
  - (1) *Urban Service Areas.* Dane County will continue to advocate for state legislative changes that would establish objective standards for Urban Service Area approvals that take into account potential agricultural impacts. Dane County will work with the Capital Area Regional Planning Commission and the Wisconsin Department of Natural Resources to explore options that would:
    - (a) protect AEAs from urban service area expansions intended to serve new urban development, while;
    - (b) allowing for limited public sewer or water service needed to support agriculture-related industries.
  - (2) *Targeted economic and technical assistance.* The following programs are available to landowners in designated Agricultural Enterprise Areas.

- (a) Revolving Loan Funds for agricultural and related business creation or expansion in certified Agricultural Enterprise Areas (AEAs).
- (b) As a Recovery Zone under the federal American Recovery and Reinvestment Act, the county will make Recovery Zone Facility Bonds available for projects that fit the criteria for bond issue within AEAs. Projects would have to be substantial in order to meet cost/benefit requirements.
- (c) Dane County will continue to work with the WI Department of Commerce and the Workforce Development Board of South Central WI through their business programs for manufacturing and food processing, as well as job training. These resources will be made available to farmers in Agricultural Enterprise Areas.

## 5. *Agricultural Conservation Easement Programs*

### a) *What Is An Agricultural Conservation Easement?*

Property owners actually own several distinct rights:

- the right to use their property;
- to sell, lease or leave their property to their heirs;
- to borrow money against their property, and
- (subject to reasonable land use regulations) to construct buildings on their property or to mine it.<sup>5</sup>

Conservation easements are a legal instrument landowners use to select one or more of these rights and sell or transfer them to another party. Under Wisconsin law (s.700.40, Wis. Stats.), conservation easements may be used to retain or protect “natural, scenic or open space values of real property, assuring the availability of real property for agricultural, forest, recreational or open space use, protecting natural resources, maintaining or enhancing air or water quality, preserving a burial site, or preserving the historical, architectural, archaeological or cultural aspects of real property.” Conservation easements are recorded with the Register of Deeds, and are a durable property right, like a warranty deed or an access easement. Like other interests in real estate, conservation easements have market value, with prices determined by appraisal and negotiation between buyer and seller.

Agricultural conservation easements are intended to strengthen areas planned and designated as farmland protection areas in a certified county farmland preservation plan. They also support the protection of farmland in Agricultural Enterprise Areas. Land encumbered by an agricultural conservation easement has permanent restrictions placed on its use; these restrictions are designed to ensure that workland is always available for farming. Land with an agricultural conservation easement remains on the property tax rolls and the landowner continues to be responsible for payment of property taxes.

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<sup>5</sup> Farmland Information Center, “Purchase of Agricultural Conservation Easements Fact Sheet,” 2005.  
[http://www.farmlandinfo.org/documents/27751/pace\\_2005.pdf](http://www.farmlandinfo.org/documents/27751/pace_2005.pdf)

Under an agricultural conservation easement, the landowner continues to:

- Privately own and manage the land
- Farm the land according to a farm conservation plan
- Keep title to the property
- Be eligible for farmland preservation income tax credit (if standards are met for tax credit eligibility)
- Control public access to the land.

b) *Goals And Objectives For Agricultural Conservation Easement Programs*

- (1) Support and complement any existing or future PDR, Purchase of Agricultural Conservation Easements (PACE), or transfer of development (TDR) programs developed by the county, local, state or federal governments.
- (2) Encourage inclusion of natural resource lands, farmlands, and woodlands under conservation easement.
- (3) Encourage voluntary participation in easement programs, allowing private landowners to continue to manage their property and with no requirement for public access.
- (4) Focus easement purchases to areas planned for long-term or permanent agricultural or natural resource use.
- (5) Make sure that all land protection is in permanent agreements and conservation easements have secondary easement holders to provide lasting public benefit.
- (6) Allow cities and villages to grow in accordance with local and county comprehensive plans.

c) *County Registry Of Interested Sellers.* Dane County will maintain a voluntary, online database of landowners interested in selling conservation easements on their property.

d) *Purchase of Agricultural Conservation Easements (PACE) Programs*

- (1) *Program Description.* Purchase of Agricultural Conservation Easements, or PACE (also known as Purchase of Development Rights, or PDR) programs use public dollars to compensate landowners who voluntarily limit the development potential of some or all of their property. Government or nonprofit entities negotiate directly with landowners to purchase a conservation easement that prohibits specific uses on the land, such as dividing off a lot and building a home.
- (2) *State and Federal Grant Programs.* The Wisconsin Department of Agriculture, Trade and Consumer Protection's (DATCP) PACE program and the U.S Department of Agriculture's (USDA) Farm and Ranch Lands Protection Program provide state and federal funding for the purchase of agricultural conservation easements. Cooperating local entities (local governments or non-profit conservation organizations) can apply for grants to cover as much as 50% of the cost of the purchase of the easements. State and

local entities (but not the federal government) are co-holders of easements purchased with state and federal funds.

- (3) *PACE Grant Eligibility and Ranking Criteria Maps*. Map FPP-12 shows landholdings ranked by selected Wisconsin Department of Agriculture, Trade and Consumer Protection PACE grant criteria\*

([http://www.datcp.state.wi.us/workinglands/pace\\_application.jsp](http://www.datcp.state.wi.us/workinglands/pace_application.jsp)).

\* Note: does not include qualitative, site-specific or other criteria that cannot be generally mapped

The Dane County Department of Planning and Development maintains this maps, and updates it on an annual basis. Current Wisconsin ranking information will be available online through DCiMap, Dane County's online geographic information system (<http://dcimap.co.dane.wi.us/dcimap/>).

- (4) *Mapping and Appraisal Assistance*. For town, city or village governments, or qualified non-profit conservation organizations under state and federal PACE programs seeking to purchase conservation easements on agricultural lands in Dane County, the Dane County Department of Planning and Development will provide, free of charge:

(a) Density Study Reports to determine development potential under the *Dane County Comprehensive Plan* and help establish appraised values of target properties, and;

(b) A map of the target property showing soils (including percentage of prime and state-significant soils), any specialty crops and any state-qualified unique farmland to meet grant application requirements of the State of Wisconsin or the U.S. Department of Agriculture.

- (5) *Transaction Assistance Grants*. Dane County should consider developing a supplemental grant program to assist successful PACE grant applicants with transaction costs (such as surveys, appraisals or legal work) not covered by state, federal or other PACE grant funds.

- (6) *Conservation Compliance Certification*. Wisconsin PACE grant eligibility standards require that target properties have a qualified farm conservation plan in effect, and that all county, state and federal soil and water conservation standards are met. Conservation certification applications, including appropriate inspection and review fees should be received by the Land Conservation Division of the Dane County Land & Water Resources Department no later than 60 days in advance of the grant application deadline. Further details are available from the Land Conservation Division.

- (7) *County Board Resolutions of Support*. The Dane County Board of Supervisors will consider resolutions in support of PACE grant applications by town, city or village governments or by qualified non-profit conservation organizations under state or federal PACE programs, provided target lands are shown in an Farmland Preservation Area in the Farmland Preservation Plan Map (Map FPP-10) of the Dane County Farmland Preservation Plan. Send requests for consideration to the Dane County Department of Planning and Development

no later than 60 days from the grant application deadline, to allow time for county review and approval.

- (8) *County Acquisition Program.* As funding permits, Dane County may work directly with willing sellers to purchase agricultural conservation easements on agricultural lands within Farmland Preservation Areas. For such projects, Dane County will work on its own or with project partners, and will seek to match its own acquisition funds with local, state and federal grant programs as much as possible. County-funded Purchase of Agricultural Conservation Easement projects should include lands that meet at least one of the criteria below.

- (a) Target lands fall within the boundaries or buffer areas for projects identified in the *Dane County Parks and Open Space Plan*.
- (b) Projects include lands targeted for wetland restoration or streambank easements identified as critical to the protection and enhancement of water quality as part of the *Land and Water Legacy Fund*.
- (c) Projects include lands within designated Agricultural Enterprise Areas.
- (d) Projects are in areas where landowners have demonstrated a commitment to long-term or permanent agricultural use.
- (e) Maintenance of project lands in permanent agricultural or open space use would:
  - (i) minimize boundary conflicts between agriculture and incompatible uses;
  - (ii) result in substantial benefits to ground or surface water quality;
  - (iii) protect significant natural hydrologic functions
  - (iv) prevent productive agricultural lands from irreversible conversion out of agriculture or agriculture-related uses, or;
  - (v) protect agricultural infrastructure, soil and water conservation practices or other significant public or private investments in agriculture or agriculture-related uses.

e) *Transfer of Development Rights (TDR)*

- (1) *Program Description.* Transfer of Development Rights, or TDR, programs are a method to shift residential development from one portion of a community to another, or from one community to another. Local units of government identify sending areas (where development is discouraged) and receiving areas (where development is encouraged). Landowners in sending areas are allocated development rights based on density policies and criteria in adopted plans. Plan policies specify the number of potential building sites or nonfarm development available on a particular property. Landowners seeking to develop in a receiving area must first buy a certain amount of development rights from landowners in a sending area. Once a development right is



purchased and transferred, the landowner in the sending area records a conservation easement that prohibits development on all or a portion of his or her property. Landowners who have transferred development rights retain other rights, including the right to farm, manage and keep their land private.

(2) *Dane County TDR Zoning Ordinance*. Sections 10.158 and 10.159, Dane County Code provide a legal and administrative framework to support town-initiated Transfer of Development Rights (TDR) programs. The ordinance includes two overlay zoning districts.

(a) *TDR-S (s.10.158, Dane County Code)*. The TDR-S district is used to designate TDR sending areas. The TDR-S overlay can be applied to the A-1EX(Exclusive Agriculture) or CO-1 (Conservancy) zoning districts. The TDR-S district does not limit any permitted or conditional uses allowed in the underlying zoning. Instead, the TDR-S district adds a new permitted use allowing landowners to transfer development rights away from their property by recording a conservation easement with the county Register of Deeds.

(i) Transferred development rights must be consistent with adopted town and county comprehensive plans. Depending on adopted town and county plan policies, development rights may be transferred to a receiving area in the same town, or to another town, city or village. Development rights may also be sold to a public conservation agency or nonprofit land trust and extinguished. Landowners in the TDR-S district may choose to sell some, all or none of the development rights allocated to them under the town density policy, and may negotiate whatever price they feel is fair.

(ii) A-1EX (TDR-S) zoned parcels remain eligible for state farmland preservation tax credits. As long as they have not already transferred all their development rights, landowners with land zoned A-1EX(TDR-S) may still rezone and divide their land to create new residential lots, consistent with density caps and other policies in the adopted town, city, village or extraterritorial and county comprehensive plan.

(iii) Sending areas should be within an Farmland Preservation Area as shown on the Farmland Preservation Plan Map (Map FPP-10).

(b) *TDR-R (s.10.159, Dane County Code)*. The TDR-R district is used to designate TDR receiving areas. The TDR-R overlay can be applied to the A-1(non-exclusive), and all the A-2 (Agriculture), R (Residential), and RH (Rural Homes) zoning districts. The TDR-R overlay requires that any change of use (such as a zoning permit or conditional use permit) that would increase residential density must be accompanied by a transferred development right from a parcel in the TDR-S district.



- (i) Before obtaining zoning permits for property in the TDR-R district, developers must present recorded deed notice documents on both the sending and receiving parcels that:
    - (a) track the number of rights transferred;
    - (b) identify the location of the sending parcel, and;
    - (c) reference a recorded conservation easement on an appropriate TDR-S-zoned parcel.
  - (ii) Transferred development rights must be consistent with adopted comprehensive plans. Development in TDR-R districts must comply with any adopted siting criteria, development standards, environmental protection requirements, zoning setbacks or other land development regulations.
  - (iii) Within the Extra Territorial Jurisdiction (ETJ) of a city or village, the town and municipality must comply with adopted intergovernmental cooperation (and if necessary, dispute resolution) procedures in all applicable comprehensive plans before rezoning lands to the TDR-R district.
  - (iv) Except for farm-to-farm transfers as described below, designated receiving areas must be within areas shown as Non-Farm Planning Areas in the Farmland Preservation Plan Map (Map FPP-10) of the Dane County Farmland Preservation Plan.
- (3) *Farm to Farm Transfers.* The county board may consider limited TDR-R overlay zoning within Farmland Preservation Areas as shown on the Farmland Preservation Plan Map (Map FPP-10), provided all of the following criteria are met. Town, city, village or extraterritorial plans adopted as part of the *Dane County Comprehensive Plan* may impose additional criteria or conditions.
- (a) Development is transferred from more productive to less productive agricultural land, as determined by either the Dane County Land Evaluation and Site Assessment (LESA) system, or by equivalent ranking or siting criteria in the adopted town and county comprehensive plan.
  - (b) Resulting development does not cause the proportion of land area under a certified Farmland Preservation Zoning district to fall below 80% of the countywide area of the Farmland Preservation Area, as required by DATCP certification requirements.
- (4) *Town Implementation.* To implement TDR-S or TDR-R overlay districts, town boards must:
- (a) Adopt a resolution saying they wish to apply the TDR ordinance within the town;

- (b) Amend, if necessary, the land use section of their comprehensive plan to establish appropriate TDR policies;
- (c) Have the town comprehensive plan amendment adopted by the county board as part of the *Dane County Comprehensive Plan*, and;
- (d) Rezone individual parcels (either on a case-by-case basis as TDR proposals are made, or by a town-initiated “blanket rezone”) to the TDR-S district, TDR-R district, or both.

The Dane County Department of Planning and Development maintains model local government resolutions and model comprehensive plan language to accommodate several different TDR program options. These documents are available online at:

[http://www.countyofdane.com/plandev/planning/transfer\\_rights.aspx](http://www.countyofdane.com/plandev/planning/transfer_rights.aspx), or by contacting the Department of Planning and Development.

## II. Non-Farm Planning Areas

### A. Rationale for Designation

Non-Farm Planning Areas, as shown on the *Dane County Farmland Preservation Plan Map* (Map FPP-10), include areas in the *Dane County Comprehensive Plan* that are not planned for long-term agricultural use. Such areas do not meet the criteria for Farmland Preservation Areas described above, and are not eligible for Farmland Preservation tax credits or other benefits provided under Chapter 91, Wisconsin Statutes. Non-Farm Planning Areas include:

- Rural Development / Transitional Areas identified in town plans adopted as part of the *Dane County Comprehensive Plan*, and;
- Urban Service Areas identified in the *Dane County Water Quality Plan*.

### B. Goals and Objectives for Non-Farm Planning Areas

1. *Create or encourage compact, mixed-use development to avoid the conversion of agricultural or open space areas.*
2. *Maintain Dane County's rural character and preserve the distinct character and physical separation of Dane County communities.*
3. *Encourage separation of incompatible uses in rural areas.*
4. *Reduce scattered rural nonfarm development by encouraging clustering of rural development as part of a town farmland preservation strategy.*
5. *Promote the redevelopment of lands with existing infrastructure and public services and the maintenance and rehabilitation of existing residential, commercial and industrial structures.*
6. *Encourage land uses, densities and regulations that promote efficient development patterns and relatively low municipal, state government and utility costs.*
7. *Encourage future rural development to be compact, adjacent to existing development and consistent with county, town, city, village and extraterritorial planning policies.*

### C. Policies and Programs for Non-Farm Planning Areas

- a) Limited Services Areas delineated in the Dane County Water Quality Plan may also be approved as "Smart Growth Areas" where appropriate to promote higher density infill development as part of a transfer of development rights program.
- b) Reduce zoning lot size requirements for rural housing settings, including conservation and cluster subdivision, to reduce housing costs.
- c) Establish design guidelines and site plan review procedures for compact development that minimizes the conversion of agricultural land to residential use and the amount of land consumed per unit of new housing in the towns.
- d) Amend the County Land Division Ordinance (Chapter 75, Dane County Code) to create a conservation subdivision ordinance to encourage rural density by

clustering housing development and reducing lot size, in order to conserve the environment and agricultural land.

- e) Seek to maintain or increase housing density, in accordance with local plans.
- f) Promote development clusters based upon historical patterns such as existing hamlets, cross roads communities, subdivisions, and conservation subdivisions, as well as environmental factors such as soils, slopes, and viewsheds.
- g) Commercial and industrial uses that are not agriculturally related will be located in areas identified for such use and where the full range of public services (sewer, water, fire protection and police protection) can be economically provided.
- h) Continue to direct urban development requiring a full range of public services to designated Urban Service Areas. Encourage communities to direct new dwelling units to the Outlying Urban Service Areas (OUSAs) and to the Central Urban Service Area (CUSA) as appropriate to ensure that development occurs in locations with a range of urban services, and where those services can be provided most efficiently.
- i) Work with the DNR and the Capital Area Regional Planning Commission to establish objective standards for Urban Service Area approvals that take into account potential agricultural impacts.
- j) Dedicate resources toward the Dane County Infill Inventory Project to promote the redevelopment of under utilized or unused parcels within urban service areas and promote compact development within these areas to reduce the pace of expansion into undeveloped open space or agricultural areas.

### III. Resource Protection Corridor Overlay

#### A. Rationale for Designation

Resource Protection Corridor Overlays, as shown on the Dane County Farmland Preservation Plan Map (Map FPP-10), include areas that are not suitable for structural development due to environmental sensitivity or because of the presence of fragile, irreplaceable resources. Where Resource Protection Corridors overlap lands in designated Farmland Preservation Areas, properties remain eligible for farmland preservation tax credits and other benefits under Chapter 91, Wis. Stats. and the *Dane County Farmland Preservation Plan*. Resource Protection Corridors apply to areas outside Urban Service Areas as identified in the *Dane County Water Quality Plan* and the *Dane County Comprehensive Plan*. Resource Protection Corridor Overlays include the following categories of lands:

- wetlands, as defined in state statute and including both the shoreland wetland and inland wetland districts under Chapter 11, Dane County Code;
- shoreland setbacks and wetland buffers required under Chapter 11, Dane County Code
- 1% regional floodplains, including the general floodplain district, floodway district and flood storage district, as described in Chapter 17, Dane County Code;
- slopes greater than 20%, as indicated in current Dane County contour data, or as measured on site;
- other areas identified in the *Dane County Comprehensive Plan*, or its component town, city, village or extraterritorial plans, as areas specifically planned to protect natural or cultural resources, and where structural development is strictly limited.

#### B. Goals and Objectives for Resource Protection Corridors

1. *Develop and promote a countywide system of resource protection corridors based on watersheds as a framework to:*

- protect and where possible, restore, the natural environment and scenic values;
- provide outdoor recreation opportunities, and;
- preserve for posterity the nature and diversity of our natural heritage.

2. *Permanently protect key sensitive and critical environmental resources, including, but not limited to: infiltration areas; riparian habitat; in-stream habitat; wetland habitat; wetlands; groundwater recharge areas; open space corridors; spawning grounds; shore cover, and; headwater areas.*

#### C. Policies and Programs for Resource Protection Corridors

- a) Generally prohibit new structures, buildings or urban development and limit impervious surfaces. Continue to redirect non farm development away from, and limit encroachment into, designated Resource Protection Corridors.
- b) Minimize encroachment and adverse impacts of utilities and transportation facilities on land and water resources in Dane County.
- c) Maintain in agricultural, conservation or open space use.

- d) Require erosion control and soil and water conservation practices for all land disturbing activities.
- e) Provided all applicable county and state erosion control, stormwater, shoreland, wetland, floodplain and stream crossing regulations are met, the following may be permitted in the Resource Protection Corridor:
  - (1) New structures specifically permitted within setback areas or below regional flood elevations under Chapter 11, Dane County Code, and Chapter 17, Dane County Code, provided all conditions, standards or mitigation requirements are met.
  - (2) Expansion or improvement of existing accesses or driveways, if necessary to meet current local driveway standards.
  - (3) Replacement of existing structures, unless prohibited by Dane County ordinance, or by state or federal law.
- f) Continue to enforce county or municipal ordinances that meet minimum standards for water quality established by the Dane County Lakes and Watershed Commission and the Dane County Board of Supervisors under Section 33.45, Wis. Stats.
- g) Support programs to restore natural vegetation, remove invasive species and improve habitat.
- h) Where there are disputes over mapped wetlands, floodplains, soil or slope conditions, the county board, village board or common council may refer to detailed studies derived from onsite field conditions to determine actual Resource Protection Corridor boundaries. Any such study must be reviewed and approved by the Wisconsin Department of Natural Resources, the Federal Emergency Management Agency, county or municipal zoning authorities, the Dane County Surveyor, the Dane County Land Conservation Division, or the Capital Area Regional Planning Commission, as appropriate. Developers bear the burden of proof that mapped Resource Protection Corridors are in error.