Working Lands Initiative

Question and Answers

1. For the base farm tract, what happens if a landowner has land that crosses into two townships?

The zoning authority is responsible for monitoring base farm tracts. Because Dane County administers the zoning, if a base farm tract is located in two separate towns, the county should treat the entire tract as one unit rather than two separate units.

2. Clarify whether the new requirements will take splits away from landowners.

Our understanding is the ability to do splits are as a result of allowing a rezone whereby the landowner is allowed one split for every 35 acres of farmland. You would need to ask Dane County how they intend to move forward regarding their current policy on splits. Also, any rezoning that occurs would trigger the rezone conversion fee.

The new law has the ability for local governments to allow a limited number of non-farm residences through a conditional use process. It is possible that landowners may have less splits under this conditional use process than what they now have under the current county ordinance.

The new law is meant to limit density in farmland preservation zoning districts in order to prevent the conversion of valuable agricultural land to non-agricultural use. Under the new law, landowners in farmland preservation zoning districts can still sell off

parcels of their property. However, any new non-farm residences that an owner wants to build on a parcel in a farmland preservation zoning district must comply with certain restrictions.

The local zoning authority must first allow for the construction of non-farm residences through a conditional use permit process. The ratio of non-farm residential acreage (house and lot) to farm acreage on the base farm tract cannot exceed 1 to 20 and the total number of residences on the base farm tract cannot exceed four non-farm residences or five total residences. The base farm tract is all contiguous land that is part of a single farm when the zoning district is first certified under the law (or on an earlier date specified in the zoning ordinance). This base farm tract never changes despite subsequent farm consolidations or splits.

Landowners who want to split off additional parcels of land have the option of rezoning those acres out of the farmland preservation zoning district and paying a conversion fee based on the number of acres to be rezoned. The new law allows the county to continue their current policy on splits, and in addition adopt the conditional use option.

3. How will the new law interact with NR 151? If a landowner collects farmland preservation tax credits will the landowner lose cost sharing eligibility?

Landowners who collect tax credits will not lose cost sharing eligibility per se, but in order to claim the tax credit, the landowners have to be in compliance with NR 151. A cost share offer is not required for them to come into compliance for FPP.

4. Provide clarification on the permanence of AEA designation but 15-year term limitations on Farmland Preservation Agreements.

AEAs are designated through an administrative rule process. Once the rules designating the areas are written, the rules remain in effect unless and until the rules are modified. As a result, AEAs could potentially exist forever. The AEA designation enables any farmer with land located inside the AEA to enter into farmland preservation agreements with the state. (Please note that the landowner must also meet the gross

farm revenue requirement in order to be eligible to sign an agreement with the state). These agreements are 15-year term agreements. They can be extended or renewed by the landowners provided their land continues to be located within the AEA. These agreements are good options for some who know that they want their land to remain in agricultural use for the near future. The agreements also run with the land, meaning future owners are bound by the terms of the agreement until the agreement expires or is terminated. Landowners can choose to enter into these agreements at any time after AEA designation has been made. This means that the option is simply available to those landowners within the AEA, but there is no requirement that they enter into the agreement.

5. Clarify how rental income fits into eligible landowner requirements and how the landowner determines whether income generated from rental land contributes to the gross farm revenue calculation.

Actual rental income is not included in gross farm revenue for the purpose of determining whether a landowner is eligible. Income from farm products produced from the land by the renter, however, does count in determining gross farm revenue. The owner should obtain a statement of gross farm revenue earned by each renter on their land. The Department of Revenue asks landowners on Schedule FC to fill in the revenue earned by the renter. Exactly how careful the landowner wants to be in documenting this revenue is up to the landowner.

6. Is CRP rental income?

CRP payments do not count toward the Gross Farm Revenue requirement. However, the Department of Revenue is currently revisiting this issue and may have a different answer sometime in the near future.

7. Can the tax credits be pro-rated? How will that work?

The Department of Revenue may adjust tax credit amount between years, as necessary, to keep total costs within appropriation limits. If claims for any tax year

exceed the tax credit appropriation for that year, the Department of Revenue will honor any unpaid claims when funds become available in the next state fiscal year beginning July 1.

8. Will the county charge for compliance checks? How will checking for compliance be covered?

The best thing to do is to check with Dane County. The LCC can require contributions of money for compliance checks under s. 92.07(13), Wis. Stats. Dane County would be better able to tell you, however, how they plan to cover the costs for compliance checks.