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## **Minutes of Plan Commission Meeting April 2, 2012** Held at the Town Hall on County Highway G Town of Holland, Sheboygan County, Wisconsin

The numbering of the Minutes corresponds to that of the Agenda:

1. Call to order by Chairman Donald Becker at 7:31 p.m.
2. Pledge of Allegiance was recited.
3. Certify that the requirements of the Wisconsin Open Meetings law have been met. Chairman Becker did so.
4. Record retention certification by clerk Syd Rader. Plan Commission records are filed through February 2012.
5. Adopt Agenda as official order of business. As amended the agenda was adopted on a motion by Dave Huenink, supported by Jack Stokdyk, passing by a unanimous voice vote: as amended, item 21 was stricken from the agenda as lacking the required specificity of content.
6. Roll call. Attendees: Chairman Donald Becker, Jan Rauwerdink, David Mueller, Dave Huenink, Jack Stokdyk, Eugene Schmitz, Roy Teunissen. Excused absentees: Nathan Voskuil, Trevor Mentink, Tom Huenink.
7. Approval of DRAFT Minutes of previous meeting on March 5, 2012. (Draft minutes of prior meetings can be found on our web site at [www.townofholland.com](http://www.townofholland.com).) The minutes were approved on a motion by Jack Stokdyk, supported by Roy Teunissen, passing by a unanimous voice vote.
8. Public input:

Kevin Struck of UW-Extension made a presentation, and handed out supporting documents appended hereto, on Working Lands Initiative/County Farmland Preservation Plan. The County would like input from the Town by May 2012 on Farm Preservation Areas.

David Otte appeared at the invitation of the Plan Commission, representing Otte Bus Service Inc. The major parts of the business are located in the Village of Cedar Grove. An asphalt parking lot for buses, 50x300 feet, is located in the Town of Holland, parcel 59006066742 zoned A-1. The PC reckons that this parcel should be rezoned to B-1. The clerk will send Otte a pre-filled application for rezoning and CUP. Town fees will be waived.

Bill Depies appeared at the invitation of the Plan Commission, representing Hy-Way Transit Inc. Depies asked if a new CUP goes with the property, the owner, or the business. The answer is that it usually goes with the property. However, Depies' old CUP, granted about 1985, reportedly goes with the owner. According to the PC, Depies has the option of standing pat on the old CUP or seeking a new one for which Town fees would be waived. The clerk will send Depies a blank application should he choose to

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seek a CUP for gas station, repair shop, and trucking. The Depies property at N905 Sauk Trail Road is properly zoned B-1.

Representing Cedar Ridge Inc, Matt Teunissen appeared at the invitation of the Plan Commission to explain the particulars of his business. The business name was changed from Teunissen Transportation to Cedar Ridge Inc, consolidating the agricultural aspects of the owner's trucking operations. Cedar Ridge Inc is over 50% agricultural, involving the hauling of straw, grain, fertilizer, and equipment. About 20 semi-trailers are parked at any one time at the southeast corner of D and KW, on a parcel zoned A-4. A CUP may be needed at this location. On a nearby A-1 parcel, there is a repair garage and parking for trailers used for agricultural purposes. A house is located at a nearby R-1 parcel. There is an office located at N926 KW zoned A-5. The PC considers Cedar Ridge Inc a legal conforming use. Cedar Ridge doesn't need to seek a new CUP unless growth is envisioned.

Jim Feyereisen of W3124 County Road K appeared to explain the nature of his unincorporated business. He owns one dump truck which is usually in Milwaukee and which is rarely at home. He does not operate out of his home except for administrative work. The Feyereisen property is zoned A-5. The PC did not take issue with Feyereisen's situation.

Kevin Brill of W2450 Hoftiezer Road appeared to explain the nature of his unincorporated business. Brill was reportedly granted a CUP in October 1997 for excavating and septic. He has a dump truck, a pickup truck, a hook truck for dumpsters, about 10 dumpsters, and an excavator. The Brill property is zoned A-5.

9. Public hearing of a request by Teri Hittman, Lamroe Transport LLC, and Robert Lammers for a change of zoning and a conditional use permit for the continuation of transportation-related activities serving the basic agricultural industry. The zoning of parcel 59006061081, located at N2286 County Road KW, would change from A-5 to A-4.

Teri Hittman appeared and spoke in favor of her request. No one spoke against. Robert Lammers did not appear. Teri claimed her business needs at least 5 trucks into order to be viable, hence her asking for 6 trucks. The PC asked how so many tractors and trailers could fit on the parcel. Teri answered that by shifting them around to places directed by her father, Robert Lammers, they could fit tightly. Normally some of the six trucks would be on the road.

Jack Stokdyk moved to close the public hearing. Dave Huenink supported the motion which passed by a unanimous voice vote.

10. Public hearing of a request by Chad Peters for a minor land division of parcel 59006068030 at N543 County Road CC. The proposed land division would form Lot 1 of 3.00 acres to the north and Lot 2 of 5.31 acres to the south. Parent parcel 59006068030 of

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8.31 acres is zoned A-2. Chad Peters appeared and spoke in favor of his request. No one spoke against.

Peters is willing to demolish the silo so that its setback becomes moot. Peters wants to keep animals in the barn of Lot 2, meaning that a 50-foot setback is needed. On the land division drawing that was presented, the barn setback is insufficient. But by moving the boundary line slightly to the north, a 50-foot barn setback can be engineered, while providing a 20-foot setback for the shed in Lot 1 which will not house animals. The distance between the shed of Lot 1 and the barn of Lot 2 is 75 feet, too little for both buildings to house animals. A decision must be made as to which building will house animals. Tentatively, Peters chose to house animals in the barn and none in the shed which he proposes to sell. Peters denied knowledge of any planned business on the part of the prospective buyer of Lot 1. A shed on Lot 1 without a pre-existing residence does not pose any problem in A-2.

Jack Stokdyk moved to close the public hearing. Dave Mueller supported the motion which passed by a unanimous voice vote.

11. Public hearing of a request by Robert and Kari Newkirk for a conditional use permit for a single-family residence on parcel 59006069583. Zoned A-5, Lot 3 of 3.19 acres is located on the east side of TerMaat Road. Robert Newkirk appeared and spoke in favor of his request. No one spoke against. The PC did not identify any problematical issues with the request. Road frontage is sufficient, lot size is sufficient, setbacks are sufficient, the driveway permit is already granted.

Dave Huenink moved to close the public hearing. David Mueller supported the motion which passed by a unanimous voice vote.

12. Discuss/act on the foregoing request by Teri Hittman, Lamroe Transport LLC, and Robert Lammers. The PC needs to see a site plan and plan of operation that addresses truck parking. That work was assigned to Jamie Rybarczyk. Some work was done on a site plan and plan of operation a year ago, but it was not explicitly made part of the new application. The clerk should assemble the relevant documents and send them to Jamie.

Jack Stokdyk moved to table the request in order to provide information to Jamie Rybarczyk for a new staff report. The motion was supported by David Mueller which passed by a unanimous roll call vote.

13. Discuss/act on the foregoing request by Chad Peters. The PC could not approve the proposed land division with the boundary line as shown on the submitted drawing: the boundary does not allow proper setbacks for the keeping of animals in either the shed of Lot 1 or the barn of Lot 2 which are separated by a distance of 75 feet. A building with animals requires a setback of 50 feet in A-2. Peters decided to house animals in his barn. That means a new drawing and certified survey map will need to revise the position of the boundary line separating Lot 1 and Lot 2. A boundary line can be drawn so that the barn is setback at least 50 feet and the shed setback at least 20 feet.

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Dave Huenink moved to recommend to the Town Board to approve Chad Peters' land division based on the following criteria: the proposed, east-west boundary line between Lot 1 including shed and Lot 2 including barn shall be adjusted north such that the shed is set back  $\geq$  20 feet from the boundary line and such that the barn is set back  $\geq$  50 feet from the boundary line, anticipating that the barn will be used to house animals and that the shed will not be used to house animals. Motion supported by Jack Stokdyk and passed by a unanimous roll call vote.

14. Discuss/act on the foregoing request by Robert and Kari Newkirk. The PC did to identify any problematic issues with the request. Everything is in order.

Dave Huenink moved to grant a CUP to Newkirk for a single-family residence, considering that the request is consistent with the Comprehensive Plan and that the setbacks meet the zoning ordinance, with standard conditions attached:

1. This Permit is subject to amendment and termination in accordance with the provisions of the Zoning Code of the Town of Holland.
2. The use permitted shall be in strict conformity to the site plan (including photos and maps) filed in connection with the Application for this Permit, and annexed hereto.
3. Robert and Kari Newkirk and their agents and assigns shall comply with the requirements and provisions of the Town ordinances and State Statutes and all other applicable regulations of any kind.
4. Robert and Kari Newkirk acknowledge that their proposed single-family dwelling will be located or constructed in an agricultural area and they and their successors and assigns shall hold the Town of Holland harmless from any and all claims related to noise, odor or other inconveniences or problems arising from agricultural operations in the vicinity.
5. Robert and Kari Newkirk shall abide by and agree not to contest any of the provisions of the Wisconsin Right to Farm Law, Sec. 823.08, Wis. Stats.
6. A copy of the Land Covenant and Conditional Use Permit, as required by sec. 330-54 of the Town Zoning Ordinance, shall be filed with the Clerk of the Town of Holland Plan Commission within six months of the date of granting of the Permit.
7. Construction of the dwelling must start within one year of the date of the granting of the Permit and the dwelling must be completed and occupied within three years of the date of the granting of the Permit. If these timelines are not complied with, the Permit is subject to termination unless Robert and Kari Newkirk are granted an extension from the Plan Commission.

Roy Teunissen supported the motion which passed by a unanimous roll call vote.

15. Discuss/act Kevin and Michele Hilbelink's request for an auto repair shop. (The public hearing was held on March 5, 2012.) Action may hinge on modifying article 330-55-F of the zoning ordinance.

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The Foth staff report pertaining to Hilbelink was reviewed. Condition 4 was modified to include a one-car garage and an office in the home. A 15<sup>th</sup> condition was added to allow outdoor storage of cars for up to 24 hours.

Chairman Donald Becker moved to approve the requested CUP for an auto repair shop with all the conditions listed in the 3/26/2012 Foth staff report, amending condition 4 to include a single-car garage and use of residence for administrative tasks, and adding condition 15 that Foth provided in its 3/27/2012 email relating to vehicle drop-off and pick-up:

1. This Conditional Use Permit is subject to the provisions of §330-51 (*Amendment of a Conditional Use Permit*) and §330-52 (*Termination of a Conditional Use Permit*) of the Town of Holland Zoning Ordinance, Chapter 330. In the event the petitioner sells the property and/or expands the home occupation, the petitioner shall notify the Town of Holland Plan Commission. At that time, the Town of Holland Plan Commission, at its sole discretion, shall determine if the existing Conditional Use Permit requires an amendment.
2. This Conditional Use Permit is granted for and limited to a 6.4 parcel, taxkey #59006064701.
3. This Conditional Use Permit is for Kevin Hilbelink to allow for a home occupation, more specific, an auto and forklift maintenance shop, as conditional use in the A-5 Agricultural District on the subject property.
4. The operation of the home occupation shall be limited to the existing pole building located on the subject property at the time this Conditional Use Permit was approved by the Town of Holland Plan Commission, and also limited to the single-car garage and home office.
5. The number of employees is limited to one (1) employee, the petitioner.
6. The petitioner shall comply with the requirements of §330-26 (*A-5 Agricultural District*) of the Town of Holland Zoning Ordinance, Chapter 330.
7. The petitioner shall comply with the requirements of Article VII (*Home Occupation*) of the Town of Holland Zoning Ordinance, Chapter 330.
8. The petitioner shall comply with the requirements of Article XIV (*Performance Standards*) of the Town of Holland Zoning Ordinance, Chapter 330.
9. All proposed signage shall comply with the requirements of Article XII (*Signs*) of the Town of Holland Zoning Ordinance, Chapter 330.

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10. The allowed use, per this Conditional Use Permit, shall not create negative impacts, including but not limited to lighting, noise, dust, traffic, stormwater, physical appearance, etc., on the surrounding properties.
11. Land Covenant. As required by §330-54 (*Recording*) of the Town of Holland Zoning Ordinance, Chapter 330, the petitioner shall file a land covenant with the Clerk of the Town of Holland Plan Commission within three (3) months of the date of issuance of this Conditional Use Permit.
12. Property Inspection. As required by §330-50 (*Inspection of Subject Property or Use*) of the Town of Holland Zoning Ordinance, Chapter 330, the petitioner shall agree to allow the subject property to be inspected by representatives acting under the direction of the Town of Holland Plan Commission or Board at any reasonable time.
13. Town Attorney Review. The Town of Holland Plan Commission's recommendation shall not be in full force and effect until such time that the Town Attorney has reviewed the conditions and placed them in final form.
14. Payment of Charges. Any unpaid bills owed to the Town of Holland by the property owner or his or her agents, tenants, operators or occupants, for reimbursement of professional fees; or for real property taxes; or for licenses, permit fees or any other fees owed to the Town of Holland; shall be placed upon the tax roll for the subject property if not paid within thirty (30) days of the billing by the Town of Holland, pursuant to Section 66.0627, Wisconsin Statutes. Such unpaid bills also constitute a breach of the requirements of this conditional approval that is subject to all remedies available to the Town of Holland, including termination of the conditional approval.
15. Outdoor storage of vehicles, forklift, equipment or materials is prohibited on the subject property. The petitioner or a customer may temporarily park (maximum of 24 hours) a vehicle or forklift outside of the existing pole building for pick-up or drop-off.

The motion was supported by Jan Rauwerdink and passed by unanimous roll call vote.

16. Discuss/act on Bruggink request for rezoning and CUPs. (The public hearing was held on January 2, 2012.)

The rezoning issue was already dealt with. The Foth staff report pertaining to Bruggink was reviewed.

Dave Huenink moved to grant a CUP to Bruggink to operate his facility in conformance with all the conditions in the Foth staff report of 3/27/2012:

1. This Conditional Use Permit is subject to the provisions of §330-51 (*Amendment of a Conditional Use Permit*) and §330-52 (*Termination of a Conditional Use Permit*) of the Town of Holland Zoning Ordinance, Chapter 330. In the event the



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petitioner sells the property, adds an additional business to the property, and/or an existing business on the property expand, the petitioner shall notify the Town of Holland Plan Commission. At that time, the Town of Holland Plan Commission, at its sole discretion, shall determine if the existing Conditional Use Permit requires an amendment.

2. This Conditional Use Permit is granted for and limited to a 3.72 parcel, taxkey #59006060360.

3. This Conditional Use Permit is for Brian Bruggink to allow for a multi-tenant commercial development that may include such uses as a repair facility, a contractor's yard, a warehousing and indoor storage facility, the display of construction and farm implements for rent and/or purchase, and other similar uses as determined by the Town of Holland Plan Commission, as conditional uses in the B-1 Business District on the subject property.

4. The petitioner shall comply with the requirements of §330-35 (*B-1 Business District*) of the Town of Holland Zoning Ordinance, Chapter 330.

5. The petitioner shall comply with the requirements of Article XIV (*Performance Standards*) of the Town of Holland Zoning Ordinance, Chapter 330.

6. All proposed signage shall comply with the requirements of Article XII (*Signs*) of the Town of Holland Zoning Ordinance, Chapter 330.

7. The allowed uses, per this Conditional Use Permit, shall not create negative impacts, including but not limited to lighting, noise, dust, traffic, stormwater, physical appearance, etc., on the surrounding properties.

8. Land Covenant. As required by §330-54 (*Recording*) of the Town of Holland Zoning Ordinance, Chapter 330, the petitioner shall file a land covenant with the Clerk of the Town of Holland Plan Commission within three (3) months of the date of issuance of this Conditional Use Permit.

9. Property Inspection. As required by §330-50 (*Inspection of Subject Property or Use*) of the Town of Holland Zoning Ordinance, Chapter 330, the petitioner and tenants shall agree to allow the subject property to be inspected by representatives acting under the direction of the Town of Holland Plan Commission or Board at any reasonable time.

10. Town Attorney Review. The Town of Holland Plan Commission's recommendation shall not be in full force and effect until such time that the Town Attorney has reviewed the conditions and placed them in final form.

11. Payment of Charges. Any unpaid bills owed to the Town of Holland by the property owner or his or her agents, tenants, operators or occupants, for

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reimbursement of professional fees; or for real property taxes; or for licenses, permit fees or any other fees owed to the Town of Holland; shall be placed upon the tax roll for the subject property if not paid within thirty (30) days of the billing by the Town of Holland, pursuant to Section 66.0627, Wisconsin Statutes. Such unpaid bills also constitute a breach of the requirements of this conditional approval that is subject to all remedies available to the Town of Holland, including termination of the conditional approval.

The motion was supported by Jack Stokdyk and passed by a unanimous voice vote.

17. Discuss/act on trucking firms that announced themselves in response to the public notice: Cedar Ridge Inc, Hy-Way Transit Inc, Otte Bus Service Inc. Everything here was covered earlier in 8. Public input.
18. Discuss/act on CG Services' Smies Road site of operations. The Plan Commission was expecting the applicants to provide evidence of an agreement to purchase the Smies Road property, but the applicants had not communicated anything in the past month. Accordingly Jack Stokdyk moved to have Gerry Antoine draft a letter to CG Services, or use his discretion about how to communicate, stating the PC's understanding that CG Services will provide evidence of a signed agreement for purchase of the Smies Road property. Supported by Roy Teunissen and passed by a unanimous voice vote.
19. Review responses to letters sent to trucking firms. Two letters from Gerry Antoine went out in the past month to DeMaster Trucking and to Dan Brill. Both letters were reviewed. Brad DeMaster appeared, representing DeMaster Trucking, in response to his letter. Dan Brill did not appear or provide any response to his letter. Chairman Becker recommended that DeMaster Trucking work with Foth on a site plan and plan of operation, presuming that DeMaster will seek a new conditional use permit for its operations.
20. Discuss/act on a template for business CUPs. Tabled until next month under "on-going issues" on a motion by Dave Huenink. Supported by Jack Stokdyk and passed by unanimous voice vote.
21. Discuss/act on on-going issues. No unresolved issues were outstanding, so this agenda item was passed over. Going forward, on-going issues always need to be specified as a matter of good, legal form.
22. Reports regarding Shoreland Zoning Stakeholders Group. No news or developments were reported. This agenda item may be subsumed under "On-going issues" in future agendas. The topic County Farmland Preservation may be treated as an on-going issue also.
23. Review status of incomplete conditional use permits. Nothing new to report concerning Mamayek Land Covenant and Conditional Use Permit. Clerk should contact Gerry Antoine to obtain progress on Mamayek paperwork.
24. Public input:  
Jack Stokdyk asked that wind turbines be handled as an on-going issue.
25. Review attendance record of March 2012. The attendance record was approved on a motion by Dave Huenink, supported by Roy Teunissen, and passed by a unanimous voice vote.
26. Adjourn. The meeting adjourned at 10:45 p.m. on a motion by Jack Stokdyk, supported by Dave Huenink, and passed by a unanimous voice vote.



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Respectfully submitted,  
Syd Rader, Clerk of the Plan Commission  
April 3, 2012

TOWN OF FOREST VALLEY

\$0.00



\$0.00

Lands  
expected  
to develop  
(Cannot be  
included in  
FPA)



## Determining Boundaries for Farmland Preservation Areas

By Kevin Struck, UW-Extension  
kevin.struck@ces.uwex.edu  
920-459-5900

### 1. Gather the following town-wide maps:

Prime ag soils, topography, wetland/floodplain, future land use, recent aerial photo

### 2. Use these maps to draft the Farmland Preservation Area (FPA) boundary by adhering to the following guidelines:

*Greenway*

- A. Begin by referring to the areas designated as ag on your future land use map. Try to create one contiguous FPA if possible, but if you have 2-3 FPAs, that is permissible. It is okay to have a small number of isolated non-ag existing uses within your FPA.
- B. Try to avoid including substantial areas of steep slopes, wetlands, and floodplain in your FPA. If these “open space” areas are part of active farms, however, it is okay to include them in the FPA.
- C. If at this point you compare your draft FPA map to the prime ag soils map and see large concentrations of prime ag soils outside your FPA, you may want to consider expanding the FPA to add them.
- D. Compare your draft FPA map with the aerial photo. If you see major farm fields or ag-related businesses on the photo that are not already included in your FPA, you may want to consider expanding your FPA map to include them.
- E. Finally, make sure your draft FPA map does not include any areas on the future land use map designated for residential subdivisions, commercial or industrial development, or that fall within a future sewer service area. “Transitional” lands in proximity to cities, villages, growing hamlets, or major highway interchanges cannot be part of an FPA. Ultimately, there must be close to 100% consistency between your FPA, your future land use map, and the ag preservation district of your zoning map.

# Planning for Agriculture

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## Wisconsin Working Lands Initiative

Planning is essential for effective farmland preservation. Through good planning, the best farmland can be preserved and land use conflicts can be minimized. Under the Working Lands Initiative, counties are encouraged to participate in the program through the development of farmland preservation plans. Counties that develop a farmland preservation plan and have it certified by the state Department of Agriculture, Trade and Consumer Protection (DATCP) enable eligible farmers to participate in Working Lands programs.

### Certification expiration dates for existing county farmland preservation plans

Nearly all counties in the state have an existing county plan. According to Ch. 91 of Wisconsin State Statutes, certification of all existing county plans are scheduled to expire by December 31, 2015. The statute establishes a staggered timeframe for plan expirations based upon population growth per square mile from 2000 to 2007. Some county plans, however, will expire based upon a plan certification expiration date attached to their currently certified plan. For plans which have such a certification date currently, this date takes precedence over the statutorily scheduled date, whether it occurs before or after the date identified in the statute.

A table listing the plan certification expiration dates for all counties in the state can be found on the state's website. Visit <http://workinglands.wi.gov> and click on the "Farmland Preservation Planning" page.

### Coordinating planning efforts

If counties fail to update their plan by the date identified in state statute, farmers in the county will lose tax credit eligibility. Under the new statute, a county may request extension of the scheduled expiration deadline for up to 2 years *if this delay is necessary to coordinate with the development of the county's comprehensive planning process.*

To request an extension of a scheduled expiration deadline, a county must submit a written request to the Secretary of the department that demonstrates that the extension would allow the county to concurrently develop a farmland preservation plan and the county comprehensive plan or an update to a comprehensive plan.

In addition to coordinating with county comprehensive planning efforts, it may also be necessary to further coordinate county and town planning. In some cases, amendments to an existing county farmland preservation plan for a specific town or towns may have a certification expiration date that differs from the expiration date specified for the county's full plan. In these cases, the following strategies are recommended:

- If the amendments have a certification expiration date that is later than the certification expiration date for the plan, it is recommended that the county attempt to coordinate revision of the plan and all town plan amendments to ensure that these all have a uniform certification date.
- If the town plan amendment certification expires prior to the county expiration, the county may request an extension of the plan amendment certification to allow coordinated revision of the plan and plan amendments.



Wisconsin Department of Agriculture, Trade and Consumer Protection

Phone: (608)224-4500

Website: <http://workinglands.wi.gov>

Email: [DATCPWorkingLands@wisconsin.gov](mailto:DATCPWorkingLands@wisconsin.gov)

ARM-Pub-202

October 2010

## Plan certification process

Once a farmland preservation plan is developed, the county must apply to DATCP for plan certification. There is no requirement to seek certification from a state level board such as the Land and Water Conservation Board. The application requires the county's corporation counsel and county planning director or county chief elected official to review the farmland preservation plan and certify that it meets state law. DATCP has the authority to conduct additional review of the plan to ensure that the plan meets the working lands initiative standards. If certification requirements are met, DATCP will certify the plan for a period of up to 10 years. If a county plan is denied certification, the county can re-submit a revised application that addresses the issues cited by the department in denying the earlier certification request. DATCP must make a certification decision within 90 days if the application submitted was complete.

The "County Application for Farmland Preservation Plan Certification" is available at <http://workinglands.wi.gov>.

## Farmland preservation planning grant application process

Counties may apply to DATCP to receive a planning grant to assist with the cost of developing a farmland preservation plan. Grant awards will provide reimbursement for up to 50% of the county's cost to prepare a farmland preservation plan, up to \$30,000. Counties selected for reimbursement must enter into a contract with the department to receive grant funds. The contract shall clearly identify the costs that are eligible for reimbursement through the grant. Eligible costs may include, but are not limited to, staff time to develop the plan, consultant fees, and other related expenses. A county may begin working on the plan whenever it is most appropriate, however, any costs incurred prior to award of a planning grant and development of a grant contract will not be eligible for reimbursement.

In awarding grants in a given year, the department shall consider the plan expiration dates identified in Ch. 91 of Wisconsin State Statutes. Those counties with an earlier expiration date will be given a higher priority for grant awards for that year.

When applying for a planning grant, counties will be asked to provide the following information:

- Summary of the county's workplan for developing and adopting a farmland preservation plan, including planning steps and projected dates.
- Explanation of how the farmland preservation planning effort relates to past, current, or future comprehensive planning efforts, if any.
- Detailed description of anticipated costs to develop a farmland preservation plan.

For more information on the availability of farmland preservation planning grants, contact [DATCPWorkingLands@wisconsin.gov](mailto:DATCPWorkingLands@wisconsin.gov).

## Frequently asked questions

### What is the relationship between any existing comprehensive plan and the new farmland preservation plan?

Consistency between plans is a critical element. The county farmland preservation plan should be consistent with any existing county comprehensive plan. The statute requires that if a county comprehensive plan exists, the farmland preservation plan shall be a part of the comprehensive plan. (see s. 91.01 (2), Wis. Stats.) The farmland preservation plan can be adopted separately and incorporated into the comprehensive plan. A county must use the same procedures to adopt a farmland preservation plan that are used to adopt any comprehensive plan, s. 66.1001(4), Wis. Stats.

### What public involvement is required as part of the planning process?

Procedures for adopting the plan shall follow s. 66.1001(4), Wis. Stats.

### How is the farmland preservation plan related to the county land and water resource management plan?

Counties should strive to ensure consistency between all county plans during development of a farmland preservation plan. The county land and water resource management plan addresses issues related to soil and water conservation compliance, a requirement for claiming a tax credit under the farmland preservation program. Counties have a strategy to monitor the compliance of farmland preservation participants with these standards as a part of land and water resource management workplan. County departments should communicate with each other to ensure that there is consistency between plans.

### What is the process for certifying plan amendments?

The same procedures and application form used to request certification of a county farmland preservation plan must also be used to request certification of amendments to that plan. Plan amendments may include amendments to the plan text, the plan map or both.

### What is the town government role in farmland preservation planning?

The county farmland preservation plan is the only plan eligible for certification by the state. It is important for the county and town governments to work together to ensure that the county plan is in agreement with towns plans. This is particularly important if the town wishes to certify a farmland preservation zoning ordinance as the ordinance must be consistent with the county plan.

### What if a county plan is denied certification?

If a county plan is denied certification, the county can re-submit a revised application that addresses the issues cited by the department from denial of the earlier certification request.

### Can we continue to designate transition areas as farmland preservation areas in the plan?

No. The new standards will not certify a plan that includes a request to designate an area planned for development in the next 15 years for farmland preservation. The only exception to this is that a local government may allow some limited nonfarm residential development through a conditional use permit process under farmland preservation zoning (see s.91.46 (2) and (3), Wis. Stats.)



Wisconsin Department of Agriculture, Trade and Consumer Protection

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ARM-Pub-202

October 2010



# Land Use in Farmland Preservation Zoning Districts

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## Wisconsin Working Lands Initiative

September 2009

Following are sections of chapter 91 Wis. Stats. regarding allowable land uses in certified farmland preservation zoning districts. These sections are followed by applicable definitions from chapter 91.

Please note that s. 91.44 permitted uses may be allowed as conditional uses, but conditional uses (s. 91.46) may not be listed as permitted uses.

### Uses

91.42 Land use in farmland preservation zoning districts; general. A farmland preservation zoning ordinance does not qualify for certification under s. 91.36, if the farmland preservation zoning ordinance allows a land use in a farmland preservation zoning district other than the following land uses:

- (1) Uses identified as permitted uses in s. 91.44.
- (2) Uses identified as conditional uses in s. 91.46.
- (3) Prior nonconforming uses, subject to s. 59.69 (10), 60.61 (5), or 62.23 (7) (h).
- (4) Other uses allowed by the department by rule.

### Permitted Uses

91.44 Permitted uses. (1) Except as provided in s. 84.01 (34), a farmland preservation zoning ordinance does not comply with s. 91.42 if the farmland preservation zoning ordinance allows as a permitted use in a farmland preservation zoning district a land use other than the following land uses:

- (a) Agricultural uses.
- (b) Accessory uses.
- (c) Agriculture-related uses.
- (d) Nonfarm residences constructed in a rural residential cluster in accordance with an approval of the cluster as a conditional use under s. 91.46 (1) (e).
- (e) Undeveloped natural resource and open space areas.
- (f) A transportation, utility, communication, or other use that is required under state or federal law to be located in a specific place or that is authorized to be located in a specific place under a state or federal law that preempts the requirement of a conditional use permit for that use.
- (g) Other uses identified by the department by rule.

(2) The department may promulgate rules imposing additional limits on the permitted uses that may be allowed in a farmland preservation zoning district in order for a farmland preservation zoning ordinance to comply with s. 91.42.

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Wisconsin Department of Agriculture, Trade, and Consumer Protection

<http://workinglands.wi.gov>

[DATCPWorkingLands@wisconsin.gov](mailto:DATCPWorkingLands@wisconsin.gov)

## **Conditional Uses**

**91.46 Conditional uses. (1) General.** Except as provided in s. 84.01 (34), a farmland preservation zoning ordinance does not comply with s. 91.42 if the farmland preservation zoning ordinance allows as a conditional use in a farmland preservation zoning district a land use other than the following land uses:

- (a) Agricultural uses.
- (b) Accessory uses.
- (c) Agriculture-related uses.
- (d) Nonfarm residences that qualify under sub. (2) or that meet more restrictive standards in the farmland preservation zoning ordinance.
- (e) Nonfarm residential clusters that qualify under sub. (3) or that meet more restrictive standards in the farmland preservation zoning ordinance.
- (f) Transportation, communications, pipeline, electric transmission, utility, or drainage uses that qualify under sub. (4).
- (g) Governmental, institutional, religious, or nonprofit community uses, other than uses covered by par. (f), that qualify under sub. (5).
- (h) Nonmetallic mineral extraction that qualifies under sub. (6).
- (i) Oil and gas exploration or production that is licensed by the department of natural resources under subch. II of ch. 295.
- (j) Other uses allowed by the department by rule.

**92.46 (1m) Additional Limitations.** The department may promulgate rules imposing additional limits on the conditional uses that may be allowed in a farmland preservation zoning district in order for a farmland preservation zoning ordinance to comply with s. 91.42.

**91.46 (2) Nonfarm Residences.** A proposed new nonfarm residence or a proposal to convert a farm residence to a nonfarm residence through a change in occupancy qualifies for the purposes of sub. (1) (d) if the political subdivision determines that all of the following apply:

- (a) The ratio of nonfarm residential acreage to farm acreage on the base farm tract on which the residence is or will be located will not be greater than 1 to 20 after the residence is constructed or converted to a nonfarm residence.
- (b) There will not be more than 4 dwelling units in nonfarm residences, nor, for a new nonfarm residence, more than 5 dwelling units in residences of any kind, on the base farm tract after the residence is constructed or converted to a nonfarm residence.
- (c) The location and size of the proposed nonfarm residential parcel, and, for a new nonfarm residence, the location of the nonfarm residence on that nonfarm residential parcel, will not do any of the following:
  - 1. Convert prime farmland from agricultural use or convert land previously used as cropland, other than a woodlot, from agricultural use if on the farm there is a reasonable alternative location or size for a nonfarm residential parcel or nonfarm residence.
  - 2. Significantly impair or limit the current or future agricultural use of other protected farmland.

**91.46 (3) Nonfarm Residential Cluster.** A political subdivision may issue one conditional use permit that covers more than one nonfarm residence in a qualifying nonfarm residential cluster. A nonfarm residential cluster qualifies for the purposes of sub. (1) (e) if all of the following apply:

- (a) The parcels on which the nonfarm residences would be located are contiguous.
- (b) The political subdivision imposes legal restrictions on the construction of the nonfarm residences so that if all of the nonfarm residences were constructed, each would satisfy the requirements under sub. (2).

## **Conditional Uses, continued**

**91.46 (4) Transportation, Communications, Pipeline, Electric Transmission, Utility, or Drainage Use.** A transportation, communications, pipeline, electric transmission, utility, or drainage use qualifies for the purposes of sub. (1) (f) if the political subdivision determines that all of the following apply:

- (a) The use and its location in the farmland preservation zoning district are consistent with the purposes of the farmland preservation zoning district.
- (b) The use and its location in the farmland preservation zoning district are reasonable and appropriate, considering alternative locations, or are specifically approved under state or federal law.
- (c) The use is reasonably designed to minimize conversion of land, at and around the site of the use, from agricultural use or open space use.
- (d) The use does not substantially impair or limit the current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use.
- (e) Construction damage to land remaining in agricultural use is minimized and repaired, to the extent feasible.

**91.46 (5) Governmental, Institutional, Religious, or Nonprofit Community Use.** A governmental, institutional, religious, or nonprofit community use qualifies for the purposes of sub. (1) (g) if the political subdivision determines that all of the following apply:

- (a) The use and its location in the farmland preservation zoning district are consistent with the purposes of the farmland preservation zoning district.
- (b) The use and its location in the farmland preservation zoning district are reasonable and appropriate, considering alternative locations, or are specifically approved under state or federal law.
- (c) The use is reasonably designed to minimize the conversion of land, at and around the site of the use, from agricultural use or open space use.
- (d) The use does not substantially impair or limit the current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use.
- (e) Construction damage to land remaining in agricultural use is minimized and repaired, to the extent feasible.

**91.46 (6) Nonmetallic Mineral Extraction.** Nonmetallic mineral extraction qualifies for the purposes of sub. (1) (h) if the political subdivision determines that all of the following apply:

- (a) The operation complies with subch. I of ch. 295 and rules promulgated under that subchapter, with applicable provisions of the local ordinance under s. 295.13 or 295.14, and with any applicable requirements of the department of transportation concerning the restoration of nonmetallic mining sites.
- (b) The operation and its location in the farmland preservation zoning district are consistent with the purposes of the farmland preservation zoning district.
- (c) The operation and its location in the farmland preservation zoning district are reasonable and appropriate, considering alternative locations outside the farmland preservation zoning district, or are specifically approved under state or federal law.
- (d) The operation is reasonably designed to minimize the conversion of land around the extraction site from agricultural use or open space use.
- (e) The operation does not substantially impair or limit the current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use.
- (f) The farmland preservation zoning ordinance requires the owner to restore the land to agricultural use, consistent with any required locally approved reclamation plan, when extraction is completed.

## **Definitions**

91.01 (1) "Accessory use" means any of the following land uses on a farm:

- (a) A building, structure, or improvement that is an integral part of, or is incidental to, an agricultural use.
- (b) An activity or business operation that is an integral part of, or incidental to, an agricultural use.
- (c) A farm residence.
- (d) A business, activity, or enterprise, whether or not associated with an agricultural use, that is conducted by the owner or operator of a farm, that requires no buildings, structures, or improvements other than those described in par. (a) or (c), that employs no more than 4 full-time employees annually, and that does not impair or limit the current or future agricultural use of the farm or of other protected farmland.
- (e) Any other use that the department, by rule, identifies as an accessory use.

91.01 (2) "Agricultural use" means any of the following:

- (a) Any of the following activities conducted for the purpose of producing an income or livelihood:
  - 1. Crop or forage production.
  - 2. Keeping livestock.
  - 3. Beekeeping.
  - 4. Nursery, sod, or Christmas tree production.
  - 4m. Floriculture.
  - 5. Aquaculture.
  - 6. Fur farming.
  - 7. Forest management.
  - 8. Enrolling land in a federal agricultural commodity payment program or a federal or state agricultural land conservation payment program.
- (b) Any other use that the department, by rule, identifies as an agricultural use.

91.01 (3) "Agriculture-related use" means any of the following:

- (a) An agricultural equipment dealership, facility providing agricultural supplies, facility for storing or processing agricultural products, or facility for processing agricultural wastes.
- (b) Any other use that the department, by rule, identifies as an agriculture-related use.

91.01 (19) "Farm residence" means any of the following structures that is located on a farm:

- (a) A single-family or duplex residence that is the only residential structure on the farm or is occupied by any of the following:
  - 1. An owner or operator of the farm.
  - 2. A parent or child of an owner or operator of the farm.
  - 3. An individual who earns more than 50 percent of his or her gross income from the farm.
- (b) A migrant labor camp that is certified under s. 103.92.

sydney rader &lt;clerkplancommission@gmail.com&gt;

**FW: one addition**

1 message

**Don Becker** <donbecker@alphaterra.net>

Tue, Apr 3, 2012 at 1:25 PM

To: "clerkplancommission@gmail.com" <clerkplancommission@gmail.com>, "Dave Huenink (dave@huenink.net)" <dave@huenink.net>, "dmuellers@hotmail.com" <dmuellers@hotmail.com>, "greenacres86@hotmail.com" <greenacres86@hotmail.com>, "jlstokdyk@yahoo.com" <jlstokdyk@yahoo.com>, "Nathan Voskuil (voskuil5@yahoo.com)" <voskuil5@yahoo.com>, "Trevor Mentink (tmentink@frontier.com)" <tmentink@frontier.com>

One addition from Kevin Struck.

Don Becker

Cell: 920-207-6211

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**From:** Struck, Kevin [mailto:kevin.struck@ces.uwex.edu]

**Sent:** Tuesday, April 03, 2012 11:44 AM

**To:** Don Becker

**Subject:** one addition

Hi Don,

One item I forgot to include on the "Determining Boundaries for Farmland Preservation Areas" how-to handout:  
**Your FPA should follow parcel boundaries.**

Kevin

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Kevin Struck

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