



DANE COUNTY PLANNING & DEVELOPMENT

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TO: Town Supervisors & Planning Commissioners

FROM: Majid Allan, Senior Planner

DATE: November 17, 2011

RE: Chapter 10 Task Force request for feedback on draft changes to A-B (Agriculture Business) district regulations

CC: Chapter 10 Task Force Members
Jerry Derr, President, Dane County Towns Association
Tom Jelinek, President, Dane County Farm Bureau

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This memo describes draft changes to the A-B (Agriculture Business) zoning district currently under consideration by the Chapter 10 Task Force. The Task Force is requesting feedback on the draft changes from towns and other interested parties. Please refer to the attached draft ordinance amendment and submit your ideas to me in writing by email at allan@countyofdane.com. You can also submit feedback on the Task Force's website: <http://www.countyofdane.com/plandev/Chapter10.aspx>. Please provide comments by Monday, December 19th and contact me with any questions at 267-2536.

I. BACKGROUND – Why are changes being proposed to the A-B district?

The state's "Working Lands Initiative" resulted in numerous changes to the Farmland Preservation Law (Chapter 91, Wis. Stats.). Communities that participate in the farmland preservation program, like Dane County, are now required to bring their farmland preservation plans and zoning ordinances into compliance with the new statute, and must submit them to the state Department of Agriculture, Trade, and Consumer Protection for certification. Currently, three of the county's zoning districts are certified farmland preservation districts – A-1EX, A-4, and A-3. The Chapter 10 Task Force is proposing changes to the A-B district that would lead to its designation as another certified farmland preservation district. If the ordinance changes are approved, owners of A-B zoned land would be eligible for farmland preservation tax credits.

The Task Force is recommending a performance-based approach to the A-B district, similar to that taken with the LC-1 (Limited Commercial) district. Under this approach, broad permitted and/or conditional use categories are situated within a detailed purpose statement that establishes parameters for the district. This approach provides both flexibility and predictability, as uses are considered in light of the purposes of the district.

Relatively few parcels are zoned A-B, accounting for just under 7% of all commercially zoned parcels in the county. In addition to meeting state farmland preservation certification requirements, the recommended changes to the A-B district are also intended to accommodate a growing range of innovative agriculturally-based businesses and agritourism. For example, farm wineries, cheese-makers, on-farm markets, and similar "value-added" enterprises would now fit in the A-B district instead of requiring C-1 or C-2 zoning. The draft ordinance would utilize the state's new "agricultural accessory", and "agriculture-related" use categories.

Excerpts from revised purpose statement for A-B district:

"Uses in the A-B district may include, but are not limited to, agricultural support services, value-added, or related businesses such as implement dealers; veterinary clinics; farm machinery repair shops; agricultural supply sales, marketing, storage, and distribution centers; plant and tree nurseries; and facilities for the processing of natural agricultural products or by-products, including fruits, vegetables, silage, or animal proteins."

Summary of current A-B district regulations

The existing A-B ordinance includes the following purpose statement:

The A-B Agriculture-Business District is designed to provide for those uses which are commercial in nature; are associated with local agricultural production; require a rural location due to extensive land area needs or proximity of resources; and do not require urban services.

In addition, the current ordinance references a limited number of agricultural commercial uses, listing just 9 permitted uses and 6 conditional uses. While some of the existing permitted and conditional uses could be construed as applying to a larger set of similarly appropriate agribusiness uses, the combination of a non-descriptive purpose statement and short list of specific uses are limiting factors in the usefulness of the district. As a result, many agriculturally related businesses have been required to rezone to B-1, C-1, or C-2 because the proposal did not match one of the limited uses in the A-B district. Consider the following examples:

- Several areas of Eugster's Farm Market in the town of Rutland, are zoned B-1 because of retail sales of farm produce, baked goods, and incidental sales of prepared food to farm visitors (e.g., hot dogs, chili, pop corn).
- A small scale fish farm in the town of Pleasant Springs is zoned C-2 because of limited processing and packaging of fish raised on the property.
- Portions of the Wollersheim Winery in the town of Roxbury are zoned C-1 because of retail sales and occasional tours and events held at the farm.
- The Premier Co-op on Highway 14 in the town of Mazomanie is zoned C-2, partly because they offer retail sales of landscaping materials.

These examples illustrate the fact that the A-B ordinance simply hasn't kept pace with changes in the agricultural economy.

II. DESCRIPTION OF RECOMMENDED CHANGES

The Chapter 10 Task Force is recommending changes to the A-B district that will provide additional flexibility for agriculturally-related businesses, and lead to its certification as a farmland preservation zoning district. Below is a summary of the recommended changes currently under consideration by the Chapter 10 Task Force:

Revised / new definitions:

In accordance with recent changes in the state farmland preservation law, the proposed amendments to the A-B district include revised and new definitions of various terms. These include:

Revised definitions:

- Agricultural Use } Agricultural use definition revised / farm definition added in state statutes.
- Farm } Not substantively different from existing chapter 10 definitions.

New definitions:

- Agricultural Accessory Use } Broad new use categories in state farmland preservation law.
- Agricultural Related Use } Ag accessory uses include farm related activities / businesses.
- Farm Operator } Ag related uses represent more intensive ag commercial uses.
- Farm Residence } Definitions of these terms are being added to match existing
- Substantial Farm Income } code requirements that apply to new farm residences in the A-1EX district.

Revised purpose statement:

Revise the purpose statement for the A-B district to provide a guiding vision for the district and establish parameters against which to judge proposed uses. The existing A-B purpose statement is retained in the first paragraph. Additional details have been added that specify the types of uses, as well as their characteristics and potential impacts, that are appropriate for the district. The new purpose statement would read as follows:

(1) *Purpose.* The A-B Agriculture-Business District is designed to:

(a) Provide for a wide range of agriculture, agriculture accessory and agriculture-related uses, at various scales. The A-B district accommodates uses which are commercial or industrial in nature; are associated with agricultural production; require a rural location due to extensive land area needs or proximity of agricultural resources; and do not require urban services.

In appearance and operation permitted uses in the A-B district are often indistinguishable from an active farm. Conditional uses are more clearly commercial or industrial in nature, and may involve facilities or processes that require a remote location distant from incompatible uses, proximity to agricultural products or suppliers and/or access to utility services or major transportation infrastructure.

Uses in the A-B district may include, but are not limited to, agricultural support services, value-added, or related businesses such as implement dealers; veterinary clinics; farm machinery repair shops; agricultural supply sales, marketing, storage, and distribution centers; plant and tree nurseries; and facilities for the processing of natural agricultural products or by-products, including fruits, vegetables, silage, or animal proteins.

Such uses are characterized by:

- Wholesale or retail sales, and outdoor storage / display of agriculture-related equipment, inputs, and products;
- Parking areas, outdoor lighting, and signage appropriate to the scale of use;
- Small, medium, or large utilitarian structures / facilities / workshops, appropriate to the scale of use;
- Low to moderate traffic volumes;
- Noises, odors, dust, or other potential nuisances associated with agriculture-related production or processing

(b) Meet the requirements for certification as a Farmland Preservation Zoning District under s. 91.38, Wis. Stats.

A-B permitted and conditional uses:

All the uses listed in the existing ordinance were referenced to develop the new purpose statement, and would be retained in the new ordinance. As noted above, changes to the A-B district include utilizing the state's broad new "agriculture accessory" and "agriculture related" use categories, which provide the basis for permitted uses in the district. This will allow a degree of flexibility for the district to accommodate innovative or unique agri-business uses. Conditional uses are limited largely to those currently listed in the ordinance.

Several uses specifically listed in state statutes are included as either permitted or conditional uses, and are highlighted in italics, below. In addition, state statutes require additional standards to be considered when reviewing conditional uses. Those have also been added to the A-B district (see #4, below).

(2) *Permitted uses.*

- (a) Agricultural uses.
- (b) Agriculture accessory uses, except uses listed as conditional uses below.
- (c) Agriculture-related uses, except uses listed as conditional uses below, consistent with the purpose statement for the A-B district.

- New uses from Wis. Stats. {
- (d) *Undeveloped natural resource and open space areas.*
 - (e) *A transportation, utility, communication, or other use that is:*
 - (i) *required under state or federal law to be located in a specific place, or;*
 - (ii) *is authorized to be located in a specific place under a state or federal law that specifically preempts the requirement of a conditional use permit.*

(3) *Conditional uses.*

- (a) Farm residences.
- (b) Plant genetic laboratories, agricultural-related experimental laboratories;
- (c) Dead stock hauling services;
- (d) Sales or storage of agricultural byproducts;
- (e) Stock yards, livestock auction facilities;
- (f) Bio-diesel and ethanol manufacturing;
- (g) Manure processing facilities.
- (h) Biopower facilities for distribution, retail or wholesale sales.

- New uses from Wis. Stats. {
- (i) *Governmental, institutional, religious, or nonprofit community uses.*
 - (j) *Transportation, communications, pipeline, electric transmission, utility, or drainage uses, not listed as a permitted use above.*
 - (k) *Non-metallic mineral extraction operations that comply with s. 91.46(6), Wis. Stats., section 10.191 and chapter 74. The application shall include a description of the operation, a site plan and a reclamation plan.*

(4) *Standards for conditional uses in the A-B (agricultural business) zoning district.* In addition to the requirements of s.10.255(2)(h), the zoning committee must find that the following standards are met before approving any conditional use permit in the A-B (agricultural business) zoning district.

- (a) The use and its location in the A-B agricultural business zoning district are consistent with the purposes of the district.
- (b) The use and its location in the A-B agricultural business 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.

III. ANALYSIS

This section provides a brief staff analysis of the proposed ordinance changes.

- ***Provides for a broader range of agribusiness uses appropriate for rural areas***
The revisions to the A-B district will allow a wider range of uses than permissible under the current regulations. The changes would enable the district to accommodate innovative agriculturally related commercial uses.
- ***Provides both flexibility and predictability***
The changes will provide additional flexibility for much-needed economic opportunities for rural areas and farm families, while also maintaining rural character and minimizing conflicts with agricultural and other rural land uses. Any proposed use would need to be consistent with the detailed purpose statement, providing predictability for the district.
- ***Maintains existing uses and limits conditional uses***
The revisions would retain the existing permitted and conditional uses. Limiting the list of conditional uses largely to those currently listed in the ordinance, ensures that the district would not be open to uses that may be incompatible with a rural / agricultural setting.
- ***Includes additional safeguards for conditional uses***
The inclusion of specific conditional use permit standards is an additional tool to help towns and the county safeguard against uses that may be inappropriate for a given area.

IV. FEEDBACK REQUESTED

As noted at the beginning of this memo, the Chapter 10 Task Force is requesting feedback from town officials and other interested parties on the draft changes to the A-B district. Please review this memo and the attached draft ordinance amendment and submit your ideas and suggestions for modifying / improving the draft changes. I'd appreciate your comments, ideas, and suggestions by Monday, December 19th. Of course, we always welcome your feedback, and will try to take into consideration any recommendations received after that date. If you have questions, please contact me (phone: 267-2536; email: allan@countyofdane.com).

A-B District Draft Ordinance Amendment

Definitions:

(2a) *Agricultural Use* means any of the following activities conducted for the purpose of producing an income or livelihood:

- Crop or forage production.
- Keeping livestock.
- Beekeeping.
- Nursery, sod, or Christmas tree production.
- Floriculture.
- Aquaculture.
- Fur farming.
- Forest management.
- Enrolling land in a federal agricultural commodity payment program or a federal or state agricultural land conservation payment program.

(2b) *Agricultural 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) Farm residences.
- (d) A limited family business under s.10.192 that is entirely within an existing building.

(2c) *Agriculture-Related Use* means:

- (a) An agricultural equipment dealership,
- (b) A facility providing agricultural supplies,
- (c) A facility for storing or processing agricultural products, or
- (d) A facility for processing agricultural wastes.

(23f) *Farm* means all land under common ownership that is primarily devoted to agricultural use.

(23ga) *Farm operator*. A person who, or a family at least one member of which, earns substantial farm income from farm operations on the farm, as defined in section 10.01(50m).

(23gb) *Farm residence*. Any of the following structures that is located on a farm:

- (a) A single-family residence on a farm that is occupied by one of the following:
 - 1. An owner and operator of the farm.
 - 2. 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, Wis. Stats.

A-B District Draft Ordinance Amendment

(50m) *Substantial Farm Income* means a minimum of \$10,400 gross farm income / year for the past three (3) years is currently derived from the farming operation on the farm where the residential use is proposed. Rental income may not be used to meet the income requirement.

Purpose Statement:

10.121 A-B AGRICULTURE BUSINESS DISTRICT. (1) *Purpose*. The A-B Agriculture-Business District is designed to:

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- Small, medium, or large utilitarian structures / facilities / workshops, appropriate to the scale of use;
- Low to moderate traffic volumes;
- Noises, odors, dust, or other potential nuisances associated with agriculture-related production or processing

- (b) Meet the requirements for certification as a Farmland Preservation Zoning District under s. 91.38, Wis. Stats.

(2) *Permitted uses.*

(a) Agricultural uses.

(b) Agriculture accessory uses, except uses listed as conditional uses below.

(c) Agriculture-related uses, except uses listed as conditional uses below, consistent with the purpose statement for the A-B district.

(d) Undeveloped natural resource and open space areas.

(e) A transportation, utility, communication, or other use that is:

- (i) required under state or federal law to be located in a specific place, or;
- (ii) is authorized to be located in a specific place under a state or federal law that specifically preempts the requirement of a conditional use permit.

A-B District Draft Ordinance Amendment

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- (i) Governmental, institutional, religious, or nonprofit community uses.
- (j) Transportation, communications, pipeline, electric transmission, utility, or drainage uses, not listed as a permitted use above.
- (k) Non-metallic mineral extraction operations that comply with s. 91.46(6), Wis. Stats., section 10.191 and chapter 74. The application shall include a description of the operation, a site plan and a reclamation plan.

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- (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.

(5) Rezoning of land in the A-B Agriculture Business District. No land in the Agriculture Business District shall be rezoned except in accordance with s. 91.48, Wis. Stats.

(6) Building height limit.

- (a) For buildings containing offices, sales rooms and service areas and residential buildings, the maximum height shall be two and one-half (2-½) stories or 35 feet.
- (b) For all other buildings such as silos, bins and feed and seed storage facilities, no maximum height.

(7) Area and lot width. A lot shall be not less than 100 feet in width at the building setback line and have an area of at least 20,000 square feet.

A-B District Draft Ordinance Amendment

- 135 (8) *Density*. Buildings shall not occupy more than sixty percent (60%) of the area of an interior or corner
136 lot.
- 137 (9) *Setback requirements*. Buildings that are erected, altered or moved shall be set back not less than is
138 prescribed in section 10.17.
- 139 (10) *Side yard requirements*. Ten (10) feet.
- 140 (11) *Rear yard requirements*. Ten (10) feet.
- 141 (12) *Off-street parking*. Off-street parking shall be provided as required by section 10.18.