August 31, 2011

Todd Violante
Director of Planning and Development
Room 116, City County Building
Madison, WI 53703

Subject: Review of Dane County Farmland Preservation Plan

On June 23, 2011, the department received an application for review of the Dane County Farmland Preservation Plan for certification under s. 91.16, Wis. Stats. The department sent you a letter confirming that the application was complete dated July 5, 2011. Subsequently, staff reviewed the plan text and map to see if they meet the requirements for certification under ch. 91. We found several issues preventing the plan from meeting ch. 91 requirements; however, this letter details changes or clarifications that, if made, will enable the department to subsequently certify the plan.

Urban Service Areas and Urban Growth Areas and conflicts with lands identified as farmland preservation areas

On p. 50 of the FP plan, the rationale for designation states that FP areas “are completely outside designated Urban Service Areas, as shown in the most current version of the Dane County Water Quality Plan.” However, the town-scale FP maps show areas of overlap between Urban Service Areas (viewed here: www.capitolareaarpc.org/USA_ENV_maps.html) and FP plan areas. Under s. 91.10(1)(d), FP areas cannot include any area planned for nonagricultural development within 15 years after the date on which the plan is adopted. Specifically, this appears to be the case in: the town of Deerfield (southwest Village (V.) of Cambridge USA); town of Blue Mounds (northwest V. Blue Mounds USA); town of Rutland (southeast V. Oregon USA); town of Verona (south City (C.) Verona USA); town of Cottage Grove (northeast V. Cottage Grove USA); town of Medina (northeast, northwest and southwest, V. Marshall USA); town of Cross Plains (southeast V. Cross Plains USA); town of Blue Mounds (northeast V. Mt. Horeb USA); town of Rutland (southwest C. Stoughton USA). Please clarify that these areas of overlap will not be developed within 15 years or remove them from the FP plan areas.

There also appear to be areas of potential conflict outside of the Urban Service Areas. The County Comprehensive Plan shows areas planned for growth where the areas are planned for Farmland Preservation in the FP plan (see Maps LU-2 and LU 3 in the Dane County Comprehensive Plan (DCCP)). It appears that these areas of overlap occur within the towns of Christiana, Deerfield, Berry, Blue Mounds, Dunkirk, Rutland, Verona, Cottage Grove, Black Earth, Westport, Sun Prairie, Medina, Cross Plains, Dunn, Oregon and Springfield. If the County wishes for these areas of overlap to remain, the plan should include an explanation of the planned growth areas as well as clarification that the areas are neither incompatible with FP areas nor a violation of ch. 91 requirements. Alternatively, the County could provide a statement both in the FP plan and the comprehensive plan that the designations of FP areas in the FP plan supersede the comprehensive plan.
A number of the individual town FP maps submitted appear to have existing subdivisions included within FP areas. It is not clear why these subdivisions were not excluded from FP and designated instead as nonfarm planning areas. Are these areas already platted as subdivisions but not planned for development within the next 15 years? If not, these subdivisions should be removed from the FP areas. These subdivisions are shown occurring in the towns of Perry, Albion, Dunkirk, Montrose, Rutland, Dunn, Pleasant Springs, Cottage Grove and Medina.

Use of Countywide Versus Town-Determined Mapping Criteria and Plan Standards for FP Areas

Chapter 91 only recognizes county plans for certification purposes. The department would prefer that the county base the criteria for inclusion of land in FP areas on the priorities of the county, and not based on each town’s policies related to implementing the plan. The towns, under municipal law may decide not to participate in Farmland Preservation programs, as they have in the past, but the county should consider having a single set of countywide standards (rationale) for mapping FP plan areas. The statutes require that the areas planned for FP must coincide with the rationale included in the plan. If the county determines separate rationale for determining FP areas for various towns in the plan, the county should explain in the plan the reason(s) for the variations.

There is some suggestion that town preference may be a large factor governing the planning process for the towns of Bristol and Springdale. Map FPP-1 shows large amounts of land in active farm use in 2005 in Bristol and Springdale. Map LU-3 (Planned Land Use) shows much of this area as Agricultural Preservation. However, on Map FPP-10, the area is designated as a Nonfarm Planning Area. The rationale on p. 50 does not appear to support or explain this discrepancy. Please provide some explanation in the plan to clarify this.

On p. 83, Items B. and C. of the DCCP, Vol.1, the language appears to defer to residential density limits and “detailed land use policies” in town plans adopted by the county board in Agricultural Preservation Areas and transitional areas. This may create internal inconsistencies within the county FP plan and DCCP. No town plans have been submitted to the department as part of the certification request for review. Please reference specifically the provisions in each town plan that were adopted and relied upon for Ag Pres and transitional areas. Please also show how these plans are consistent with the county standards elsewhere expressed.

Exclusion of Lands From FP Areas Which Are Planned for Development Within 15 Years

On p. 61 of the FP plan, the Transfer of Development Rights (TDR) Farm-To-Farm policy may conflict with the requirement of s. 91.10(1)(d) that development planned to occur within 15 years be excluded from FP areas. The TDR Farm-to-Farm transfer policy in Item I. C.5. (c) (3) would allow nonfarm development within FP areas as an exception to the rules otherwise limiting development to 1 DU per 35 acres and otherwise restricting FP areas to “TDR-sending” rather than “TDR-receiving” areas. This section of the TDR policy should be removed from the FP plan or amended to meet ch. 91 requirements. TDR receiving areas should not be allowed with the FP area unless the local government decides to establish a new residential parcel and rezones the parcel based on the required statutory findings in s. 91.48(a), Stats., or the local government allows a conditional use consistent with ch. 91. Absent such specifications, FP areas should in general remain as development rights sending areas, not as receiving areas.

Farmland Preservation Map Format

We received a large-format version of the Dane Co. FP Plan map (Map FPP-10) as well as a series of township-level components of Map FPP-10. The large-format version, FPP-10, must also identify the date produced, the
producer of the map, parcel lines, section numbers, and political boundaries for incorporated areas. In addition, Map FPP-10 should include “Dane County” in its title. Also, the green dots used in Map FPP-10 are not explained in the legend and do not correspond to the diagonal green lines in the legend.

Some of the individual township FP Plan maps also lack parcel lines. Although political boundaries are identified on these maps, there is a discrepancy between the legend and mapped areas for incorporated areas: the legend indicates these areas as grey in color, but on the map these areas are white. These maps should also include section numbers.

The areas labeled as “Agricultural Preservation Areas” on Map FPP-10 and the individual town-scale maps correspond to what are labeled as “Farmland Preservation Areas” in the plan text on pp.50-52, and p.55. The labels on all maps and in the text should be the same.

In accordance with s. 91.10(1)(e), Stats., FP areas must follow parcel lines. The FP area must be delineated so that it is easy to determine whether a parcel is within an identified area. A parcel cannot be planned for both Farmland Preservation and something else. The entire parcel must be either in or out of the area. Multiple plan designations is a problem on both Map FPP-10 and the town-scale maps, specifically Christiana, Dunkirk, Blue Mounds, Cottage Grove, Blooming Grove, Vermont, Berry, Springfield, Westport, Sun Prairie, Medina, Windsor, Roxbury, Mazomanie and possibly Verona.

Reference to Rezone Conversion Fees

The requirement to collect a rezone conversion fee has been removed from the statutes. You should remove the reference to conversion fees such as the one found at the bottom of page 51 and other areas within the plan.

Supplement Demographic and Economic Trend Data

The demographic and economic data and analysis used in the FP plan is mainly within the October 2007 comprehensive plan. This predates the global recession and other changes of the last 4 years, as well as other factors potentially affecting land use trends. We encourage the county to consider supplementing this 2007 data to incorporate potentially major changes in conditions since 2007.

In conclusion, thank you for your submission of the Dane County Farmland Preservation Plan for certification by the department. Although the FP plan is not certifiable in its current form, we look forward to working with you in making any needed changes and completing the certification process. If you have any questions, please contact me at (608) 224-4603 or Mike Wyatt at (608) 224-4645.

Sincerely,

Keith Foye, Chief
Land Management Section

cc: Brian Standing