Farmland Preservation Plan
Policy Options Summary 10/6/10

1. **Agricultural Enterprise Areas (AEAs)**

   **Program Description:**
   - Farmers may petition DATCP to establish Agricultural Enterprise Areas.
   - Farmers make 15-year commitment to remain in agricultural use.
   - Contiguous areas in agricultural use, consistent with a certified county farmland preservation plan.
   - County support required for application.
   - Farmers in an AEA may sign agreements with state to increase tax benefits from $7.50/acre/year to $10/acre/year.
   - DATCP encouraging counties to include other incentives as part of Farmland Preservation Plan.

   **Policy Options for Farmland Preservation Plan:**

   1. **Establish county review process and criteria for sign-off.**

      **Pros:** Opportunity to set bar for AEA standards higher than state minimums. Standardized review process and expectations will help make sure applications are consistent with county policy. Will help landowners navigate process, increase likelihood of successful application to state. Coordinated process will cut down on last-minute resolutions of support through county board.

      **Cons:** If county criteria are significantly higher than state minimums, may be seen as exclusionary. Agricultural Enterprise Areas are only a 15-year commitment, not permanent, and so may not warrant additional county scrutiny. Decreases time to react to AEA application deadlines. Requires additional staff time.

      _10/6/2010 Farmland Preservation Plan Subcommittee member comments:_
      - Rather than establish additional criteria, county should facilitate or help towns and landowners to submit AEA applications to DATCP.
      - Some advice or guidelines regarding county approval process and scheduling may still be necessary.

   2. **Identify areas (such as near manure digester) where county will solicit landowner petitions and assist with state application process.**

      **Pros:** Help facilitate application process for interested landowners. Coordinated efforts (as in Dunn and Windsor) likely to rank highly in DATCP review, increasing likelihood of successful application. Would help focus county efforts on areas with high potential for agricultural economic success. Would increase the potential to expand agricultural infrastructure (manure digester) use and the opportunity to reduce negative impacts of operations (nutrient loads) on water resources.

      **Cons:** Could be additional workload item for existing county staff with limited resources.

      _10/6/2010 Farmland Preservation Plan Subcommittee member comments:_
      - General support, good idea.

   3. **Establish County/regional incentives for farmers in designated Agricultural Enterprise Areas. Based on similar programs in other states, ideas could include:**

      **a) Urban Service Area protection**
      - Incorporate AEAs into FUDA plans
      - CARPC would not extend urban services to areas in approved AEA (or perhaps establish a secondary buffer for AEAs).
• CARPC interested in “handle” on farmer commitment to agriculture.

**Pros:** Viable agricultural areas would be protected both directly and indirectly from urban development and the challenges it presents in maintaining agricultural operations.

**Cons:** Termination of the AEA agreement after 15 years might create a development rush. CARPC may need to seek legislative authority to enforce.

**10/6/2010 Farmland Preservation Plan Subcommittee member comments:**
- Support, but recognizing that this is a legislative proposal and not an easy one.
- Concern about including policies related to FUDA plans before CARPC policies are developed.
- Would some food processing facilities or other “value-added” agriculture-related operations require urban, or at least limited, services?
- Look to modify language to something like “Explore options with the CARPC and DNR to provide urban service area protections for AEAs.”

b) **County eminent domain protection**

- County could adopt formal policy saying it will not use eminent domain for county highway capacity expansion (not including safety, bicycle or flow improvements) on lands in an AEA.

**Pros:** Viable agricultural areas would be protected from land fragmentation and consumption caused by highway and road development and/or expansion. This could help foster confidence among landowners that agriculture will be a permanent feature of the landscape, leading to reinvestment in farming. Dane County is currently doing little capacity expansion, so formalizing this policy would have little negative impact in the near term.

**Cons:** Could theoretically foreclose county options to address county highway congestion or to develop new road systems if needed. However, the county could simply refuse to sign off on the renewal of an AEA after 15 years, if it needed that area for future road right of way.

**10/6/2010 Farmland Preservation Plan Subcommittee member comments:**
- General support

c) **Targeted economic assistance - Prioritize agricultural enterprise**

- Targeted economic assistance
- Revolving Loan Funds
- ARRA Recovery Zone Facility Bonds
- Priority for new agricultural infrastructure and investment (i.e. fresh market vegetable packing and processing facility, the “next” manure digester).
- Promotional Program combining new Small Area Ag Zoning opportunities in and the Dane County RLF Program.
- Promote the WI Dept. of Commerce tax credit for food processing plants and food warehouses within AEA Areas.
- Fund the Institutional Food Market Coalition to continue to expand and promote the local foods infrastructure through institutional markets and promote these opportunities to Dane County and regional producers.
- Work with UW Madison Beginning Farmer Programs to facilitate their transition to area farms and starting their own agricultural enterprises.
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**Pros:** Helps make sure that public investments are made in areas likely to remain in productive agricultural use and succeed economically. Because AEA designation requires initiative by landowners, helps make sure that offered tools will be used by motivated, receptive partners.

**Cons:** Concentrating resources on a few locations whereas tools could be used to find opportunities on lands that may not be covered under AEA. Farmers outside AEAs may have greater need for economic assistance. Additional workload item for existing county staff with limited resources.

d) **TDR / PACE ranking bonuses**
   - Permanent protection of land in AEA could allow for 1.5 – 2 lots in a TDR receiving area (A.K.A. “Super Sending Area”)
   - PDR/PACE (see below) ranking criteria could favor lands in AEA.

   **Pros:** Provides for limited expansion into non-prime rural lands.
   Provides additional points for PACE grant applications toward permanently protecting additional prime agricultural lands through Conservation Easements.

   **Cons:** Could allow for slightly higher level of rural development in designated TDR receiving areas. May require matching funds to take advantage of PACE grants.

   **10/6/2010 Farmland Preservation Plan Subcommittee member comments:**
   - Language should not establish firm ratios in county-adopted plan. Could be seen as contrary to “voluntary” town participation and town discretion for TDR program.
   - OK with PACE criteria favoring AEAs
   - Needs more discussion.

e) **Targeted cost-share / educational assistance**
   - Work with LWRD and UWEX to provide targeted/priority cost-share or technical assistance to properties in an AEA

   **Pros:** Would make sure public resources are focused on areas with landowner commitment, increase the potential for ongoing stewardship and continued public benefit.

   **Cons:** Targeting educational or other assistance to particular locations may conflict with goals to make such resources universally available. Farmers outside AEAs may have greater need for educational, technical or cost-share assistance.

   **10/6/2010 Farmland Preservation Plan Subcommittee member comments:**
   - Needs more discussion
   - Prioritize agricultural enterprise
11. **Purchase of Agricultural Conservation Easements (PACE)**

*Program Description:*
- State competitive grant process
- Land is protected in permanent conservation easements, with multiple holders
- 50% match, with few restrictions on where match comes from
- Ranking criteria favors productive land under immediate threat
- Requires town and county sign-off on each application
- Must be consistent with certified Farmland Preservation Plan

*Policy Options for Farmland Preservation Plan:*
1. **Establish county review process and criteria for sign-off.**

**Pros:** Make sure public dollars are spent on projects that will achieve public planning and protection goals. Objective review process and criteria would help answer “Why my neighbor and not me?” questions, and increase public acceptance of PACE purchases. Could result in a substantial increase in scoring on PACE grant applications, increasing likelihood of successful grant awards. Provides for additional staff input in the preparation of PACE application materials.

**Cons:** If overly restrictive, county standards could preclude applications that would otherwise score high enough to receive state grant awards. Decreases time to react to PACE application deadlines. Requires additional staff time.

**10/6/2010 Farmland Preservation Plan Subcommittee member comments:**
- Should focus on providing assistance and facilitating town and land trust applications, not adding additional criteria to existing state criteria.

2. **Establish permanent, dedicated funding for county land acquisition / matching grants specifically focused on agricultural, rather than natural resource, lands.**
   a) County could offer 25% of total easement cost as a competitive grant to encourage towns, land trusts and others to develop their own PDR/PACE programs and local funding, or to pursue federal or other grants as well.
   b) Develop ranking criteria, and an objective application process that favors AEAs, designated TDR sending areas and maximizes opportunities to receive state PACE grants.
   c) Could set as a long-term target sufficient protection to create a “critical mass” of farmland to ensure continued presence of ancillary agricultural support enterprises.
   d) Identify funding sources
      (1) Existing conservation fund (design program to maximize potential for additional state grants for projects that serve multiple objectives - stretch dollars further).
      (2) TDR “fees in lieu” (see below).
      (3) GPR tax levy dollars.
      (4) Use-value conversion penalties.

**Pros:** Establishes the county in a “preferred” position for both state PACE grants and even more for NRCS Farm and Ranchland Protection Program funding. Relatively small county investment could leverage many times as much in local, state and federal dollars. Land remains in private hands, and on tax rolls. Farmers receiving payments may reinvest in farming operation or
finance retirement. Decreased cost of easement-encumbered farmland reduces cost of entry and eases transfer to younger generations of farmers.

**Cons:** Budget and fiscal implications of funding county match. Could compete with other county spending priorities, such as funding for natural resource and parks acquisitions.

**10/6/2010 Farmland Preservation Plan Subcommittee member comments:**
- Support dedicated fund for agricultural lands easement purchases.
- State criteria are changing so local support is no longer required.
- If county provided technical application assistance, mapping, easement drafting and/or grants to cover transaction costs, might be able to fund actual easement purchases entirely with a combination of federal and state matching grants.
- Maybe establish guidelines for program in 2011, but look for funds in 2012 or later.
III. Farmland Preservation Zoning

Program Description:

- Counties may be more restrictive than state minimums.
- Counties may now allow a wider variety of agricultural-related economic activities, such as farm processing facilities, expanded limited family businesses, implement dealers, “value-added” operations, etc. in certified farmland preservation zoning districts.
- Counties may now choose any minimum lot size, or no minimum lot sizes whatsoever.
- Counties may now allow some kinds of residential development by conditional use permit.
- Rezones out of a certified farmland preservation zoning district must now pay a state per-acre conversion fee before rezones can become effective. Counties may add an additional fee to cover farmland preservation administrative costs.
- **No farmland preservation zoning permitted in areas outside designated “Farmland Preservation Areas” in certified Farmland Preservation Plan. Will require “blanket” rezones for consistency by 2013.**

Policy Options for Farmland Preservation Plan:

1. Which districts should be certified? (see chart below)

   ![Table](https://via.placeholder.com/150)

   - **Pros:** Certification of AB (agricultural business) district would allow larger ag-related businesses or facilities to qualify for state tax credits and allow initial establishment without costly conversion fees. Decertification of A-3 would allow for continued agricultural use in areas planned for urban or rural development and by removing conversion fees, create a financial incentive to direct development to appropriately planned development areas.

   - **Cons:** Existing areas of A-3 zoning would lose tax credit eligibility.

10/6/2010 Farmland Preservation Plan Subcommittee member comments:
- General support

2. Support amendments to A-1(ex), A-4 and A-B to allow for wider variety of agricultural uses, agricultural accessory uses and agriculture related uses. (i.e., biodiesel plants, processing facilities, limited family businesses, etc.)

   - **Pros:** Expands opportunities for farmers to supplement farm income with “value-added” processing, agricultural or related enterprises and home or farm based businesses.

   - **Cons:** Expanded uses would have to be carefully limited to make sure they remain compatible with rural farming areas.
10/6/2010 Farmland Preservation Plan Subcommittee member comments:

- Strongly object. If there is a need for expanded uses, those proposals can be put into the Chapter 10 Prioritized Revision process. Town governments and neighboring landowners have relied on the list of permitted uses for decades. We should not just expand the list because we can. Ethanol plants?!?
- We don’t know the future of agriculture-related uses, so we should not be too limiting.
- Needs further discussion.
IV. **Transfer of Development Rights**

**Program Description:**
- County TDR ordinance effective March, 2010.
- Implemented through town/county comprehensive planning.

**Policy Options for Farmland Preservation Plan:**
   
   **Pros:** Formalizes existing guidance to town government, becomes part of an adopted county standard. Would result in increased awareness and use of model language.
   
   **Cons:** None.

   **10/6/2010 Farmland Preservation Plan Subcommittee member comments:**
   - Support.
   - Object. Incorporating voluntary guidance into county plan could be seen as a mandate on towns. Inconsistent with way TDR was presented to towns.
   - No need to include guideline in the Farmland Preservation Plan, and would complicate the amendment language.
   - Needs further discussion.

2. Establish TDR “payment in lieu” program.
   
   a) In towns with a TDR program adopted as part of town and county comprehensive plans, allow for developers to pay into a PACE fund instead of negotiating individual conservation easements.
   
   b) Towns could use TDR payments in lieu as local match for county, state and federal PACE grants.

   **Pros:** Would place decision about which lands should be protected in public hands, maximizing consistency with adopted planning and land protection goals. Would provide an attractive option for developers to participate in TDR programs. Would maximize land protection resources by allowing match of TDR-generated funds with local, state and federal grants. Would help stabilize market for development rights by providing steady buyer for easements.

   **Cons:** Could be seen as competition with private sector in development right market. May require legal research to avoid issues with state impact fee law. Managing TDR PACE fund and assuring proceeds are spent in a manner consistent with adopted town plans could be create significant workload for county staff, town officials or both.

   **10/6/2010 Farmland Preservation Plan Subcommittee member comments:**
   - Strongly object. It might sound like a neat idea, but it completely undermines the idea of the market determining the price of the development rights. I understand it isn't a "free market" in any case. But "payment in lieu" would require the government to set a price per acre or price per development right. Without more experience with the TDR process, it could be several kinds of disaster.
V. **Technical Assistance, Cost-Share and Other Programs**

*Program Description:*
1. Law requires that recipients of tax credits must be in compliance with soil and water conservation standards.
2. Coordination with *Land and Water Resource Management Plan, County Comprehensive Plan*

*Policy Options for Farmland Preservation Plan:*
1. **Develop and implement an urban and rural household, commercial, industrial food, and institutional organic waste composting system.**
   
   **Pros:** Could create ‘value-added’ product out of organic waste, and bio-energy byproducts. Would reduce solid waste stream and reduce need for nutrient-laden fertilizer. Build on models elsewhere (San Francisco).
   
   **Cons:** Expensive to establish. Would be a significant ongoing workload for county, regional or local staff.

   *10/6/2010 Farmland Preservation Plan Subcommittee member comments:*
   - Concerns about workload
   - Need further discussion.

2. **Create and maintain a web-based “Preservation Portal”**
   
   a) View and/or access available resources to protect farmland and farm operations
   b) serve as an online network
   c) provide a process for farmland owners and operators interested in working cooperatively with another or participating in land transfer or purchase program (TDR and PDR/PACE for example).

   **Pros:** Provide “one-stop” resource for variety of farm related programs. Increase informal networking and information sharing among agricultural community.

   **Cons:** Staff workload to design and maintain online resources.

   *10/6/2010 Farmland Preservation Plan Subcommittee member comments:*
   - Support
   - Concerns about workload
   - Needs further discussion.
VI. Minimum Density and Siting Criteria in Agricultural Preservation Areas

Program Description:
- S. 91.48, Wis. Stats. requires that the county board make the following findings before rezoning land out of a farmland preservation zoning district.
  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 with 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.
- Dane County Comprehensive Plan includes policy to “establish design guidelines that minimize conversion of agricultural land, support farm operations and allow for agriculture-related businesses.”

Policy Options for Farmland Preservation Plan:
1. Provide minimum standards for density policies and siting criteria in Agricultural Preservation Areas. Allow town plans adopted as part of the Dane County Comprehensive Plan to exceed those standards if towns so choose.

Pros: Would help make sure that findings (1) and (2) under s.91.48, Wis. Stats. are met. Would formalize existing county policy guidance to town plans. Would provide for “fallback” siting and density policy criteria for county-level review of development proposals in towns with older plans that do not include detailed siting or density policies or criteria. Would implement policy in Dane County Comprehensive Plan.

Cons: Could be seen as infringing on town’s abilities to adopt policies as they see fit. However, most modern town comprehensive plans already include policies that would meet or exceed county standards.

10/6/2010 Farmland Preservation Plan Subcommittee member comments:
- Support
- Need further discussion.