

Chapter 3

FARMLAND PRESERVATION TOOLS, PLANNING STANDARDS AND RECOMMENDATIONS

FARMLAND PRESERVATION TOOLS

Prior to formulating farmland preservation objectives, standards and recommendations, it is important to have a baseline understanding of some of the various tools available to accomplish farmland preservation. Land use plans, zoning, farmland preservation agreements and tax credits are the more conventional and well known tools that communities in Waukesha County have utilized for a decade or more. Purchase and transfer of development rights are programs that have been utilized extensively in other parts of the country but are still relatively new concepts in Wisconsin. The State's new farmland preservation law also brings forward new programs such as Agricultural Enterprise Areas (AEAs) and Purchase of Agricultural Conservation Easements (PACE) that offer financial tools via a voluntary and competitive process. Below is a brief description of these more commonly used farmland preservation tools and how they may be applied in Waukesha County.

Land Use Plans

Waukesha County adopted the second generation Waukesha County Comprehensive Development Plan (WCCDP) pursuant to Section 66.1001 of the *Wisconsin Statutes*. The State's Comprehensive Planning Law also calls for local municipalities to adopt local land use plans in order for communities to be able to implement zoning, subdivision and official mapping ordinances. Land use plans guide the use of land over time and are critical tools in farmland preservation planning. Most communities in Waukesha County adopted new or revised local land use plans, consistent with the WCCDP, in the past couple of years in response to the State's requirement that all communities adopt a comprehensive plan by January 1, 2010. Local communities will need to again consider reviewing and updating their plans with regards to farmland preservation, as most local plans were adopted prior to the Working Lands Initiative becoming law in 2009. The new farmland preservation law requires consistency between the county farmland preservation plans and county comprehensive plans. Because the county plan is representative of local plan designations, local plan review and update will need to be considered with the adoption of the farmland preservation amendment to the 2009 WCCDP.

Zoning

As noted in Chapter 7 of the 2009 WCCDP, a zoning ordinance divides a community into districts for the purpose of regulating the use of land and structures and seeks to confine certain land uses to areas of the community which are particularly well suited to those uses, thereby encouraging the most appropriate use of land throughout the community. Consequently, zoning is an important tool for protecting farmland.

As noted previously, six communities in Waukesha County currently have Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP) certified agricultural preservation zoning ordinances. Those communities are:

- Town of Eagle
- Town of Mukwonago
- City of Muskego
- City of Pewaukee
- Town of Ottawa
- Town of Oconomowoc

The Towns of Oconomowoc and Ottawa are under the jurisdiction of the Waukesha County Zoning Code and the Waukesha County Shoreland and Floodland Protection Ordinance. The other four communities are certified under local ordinances. Chapter 91 of the *Wisconsin Statutes* specifies that the certification of these ordinances will expire on December 31, 2012. Communities and counties that wish to have a new ordinance certified must comply with the new provisions of the law and submit an ordinance to DATCP for review that complies with Sections 91.36 and 91.38 of the *Wisconsin Statutes*. Pursuant to Chapter 91, farmland preservation zoning ordinances must comply with the following basic standards:

- Farmland Preservation zoning districts where land uses are limited must be clearly designated.
- Maps must clearly identify Farmland Preservation zoning districts.
- Types of land uses allowed in each Farmland Preservation zoning district must be clearly identified.
- The Farmland Preservation Zoning Ordinance must be substantially consistent with the Farmland Preservation Plan.

Communities with lands designated as farmland preservation areas will need to take steps to amend their zoning codes to become compliant with State standards, so that landowners in those areas which are zoned for farmland preservation will be eligible for the available \$7.50/acre tax credit. In Agricultural Enterprise Areas, landowners in a certified farmland preservation zoning district would be eligible for a \$10/acre credit if they also sign an agreement to keep their land in agricultural use for at least fifteen years. Certification of ordinances will remain valid for a maximum of ten years. Communities will need to review and monitor zoning ordinances and consider amendments as needed over time.

Chapter 91 sets forth a new option for accommodating residences in farmland preservation areas. Local municipalities will need to consider whether the Conditional Use option for residences within farmland preservation areas would be effective. In addition, Chapter 91 sets forth some new optional concepts for farmland preservation including Base Farm Tract designation and non-farm residential clusters. The new law establishes a required maximum density standard for farmland preservation zoning districts of one dwelling unit per 20 acres of land.

Agricultural Enterprise Areas (AEA)

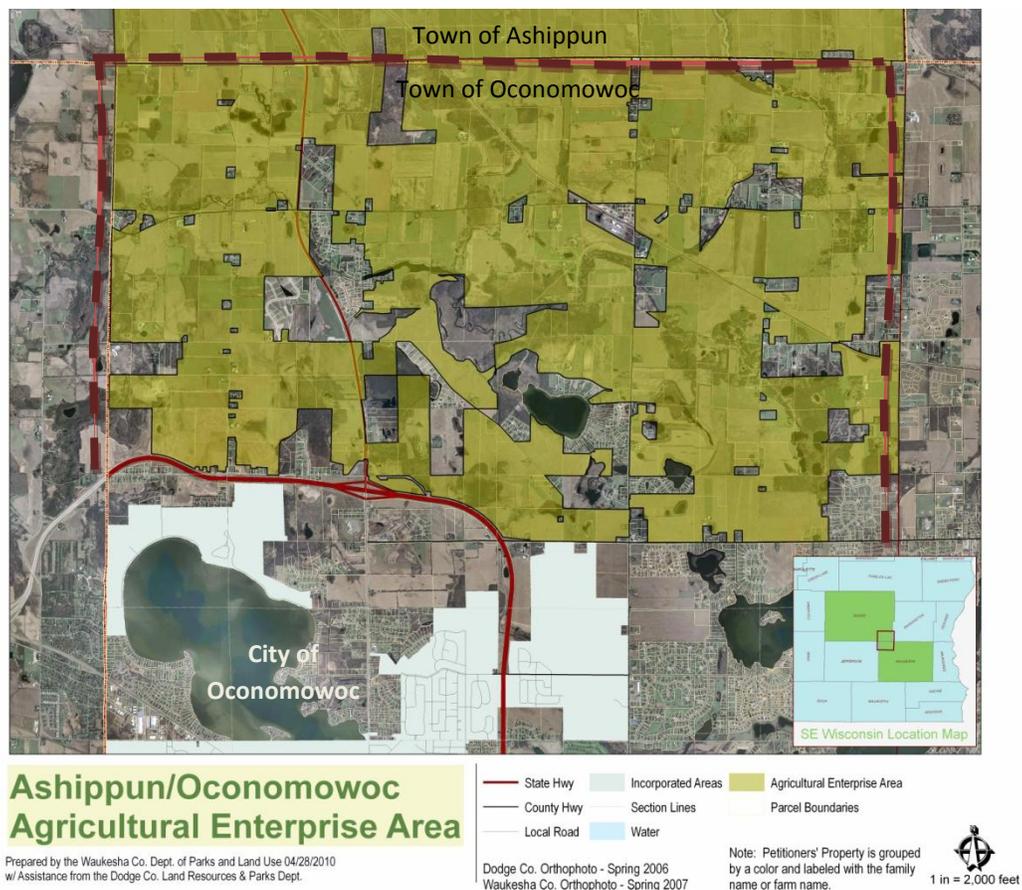
The new farmland preservation law establishes a program that allows for DATCP to designate by administrative rule certain lands as Agricultural Enterprise Areas in order to foster agriculture in certain designated geographic regions. DATCP defines an AEA as a contiguous land area devoted primarily to agricultural use and locally targeted for agricultural preservation and agricultural development.¹ The premise of the AEA program is to support agriculture in targeted areas where there is a commitment to agricultural preservation in order to bolster agricultural investment. Designation as an AEA is voluntary, with those who

¹ Agricultural Enterprise Areas informational piece, Wisconsin Department of Agriculture, Trade and Consumer Protection, July 2009.

elect to participate being eligible for greater tax benefits, as discussed in the following sections. The program allows for a minimum of five individual farm owners to submit a petition for consideration with the support of their local government. There currently is no minimum size for an AEA, but state law requires the DATCP to give higher priority to any AEA application that contains at least 1000 contiguous acres.

In Waukesha County, the Town of Oconomowoc teamed up the Town of Ashippun, their community neighbor to the north in Dodge County, to successfully petition DATCP for AEA designation in 2010. The AEA includes the majority of the Town of Ashippun and a little more than the northern half of the Town of Oconomowoc, which is experiencing significant urbanization pressures in the southern portion. The Waukesha County portion of the AEA encompasses 10,252 acres (16 square miles) in the Town of Oconomowoc, as show in Map D3-1. It is made up of 74% agricultural lands and 23% natural areas, with 85% of the parcels within the AEA being 35 acres of greater. This AEA is discussed more in the planning standards section of this chapter.

**Map D3-1
Town of Oconomowoc Portion of the Ashippun/Oconomowoc Agricultural Enterprise Area**



Farmland Preservation Agreements

A Farmland Preservation Agreement is a contract between the landowner and the State of Wisconsin committing the subject property to remain in agricultural use for at least 15 years. The farmland preservation agreement is recorded on the property through the county Register of Deeds and stays with the property

under any transfer of ownership. An executed agreement made the landowner eligible for an income tax credit based on a sliding scale of income and property taxes.

Thousands of Farmland Preservation Agreements were executed across Wisconsin since they were first offered in 1978. They were primarily targeted to rural counties that did not have zoning ordinances. However, from 1989-1991 they were also offered to other landowners whose property was designated as a farmland preservation area in a certified county Farmland Preservation Plan, but the local community had not adopted a certified exclusive agricultural zoning ordinance. As of 2010, only 2 farmland preservation agreements remain in effect in Waukesha County, which were executed during this three year window.

Under the 2009 revisions to the State's Farmland Preservation laws, only landowners in AEAs can enter into a new Farmland Preservation Agreements or extend existing agreements beyond their original term. The tax credits were also revised. This is discussed in more detail below.

Purchase of Development Rights (PDR)/Purchase of Agricultural Conservation Easements (PACE)

Purchase of Development Rights involves the use of public or private funding to acquire the development rights of privately held land. In exchange for monetary considerations, lands are restricted from being developed in perpetuity. Such programs can be utilized to protect either natural areas or farmland. The Working Lands Initiative provides a new voluntary program for purchase of development rights, which is known as the Purchase of Agricultural Conservation Easement program. Only lands that are designated for farmland preservation within a county's newly certified farmland preservation plan are eligible for participation in the program. DATCP defines agricultural conservation easements as follows: *An agricultural conservation easement prohibits development that would make the land unavailable or unsuitable for agricultural use. Easements are voluntary and allow a landowner to be compensated for limiting development on his or her farmland. Easements are permanent and are carried over to subsequent landowners if the property is sold.*²

The PACE program is currently a State pilot program that provides state funds for up to 50% of the cost of purchasing agricultural conservation easements. Transaction costs can be included in the allowable 50%. Both the development value and the agricultural value of land must be computed, and the difference in the development value versus agricultural value is the maximum amount of the easement value that the State can assist in purchasing.

The PACE program provides funding to interested local government or non-profit organizations that wish to assist in purchasing such easements from willing landowners. The program is entirely voluntary, requiring a willing buyer and a willing seller. Local governments or non-profit organizations may elect to contribute funds towards the 50% of easement value that the State cannot subsidize, or a landowner may donate all or part of the unfunded 50% of the development value. Lands with conservation easements obtained through this program cannot be developed for non-agricultural purposes. Permanent deed restrictions must be recorded against the land through the county Register of Deeds, explicitly stating the restrictions on its future use.

PACE is a competitive program where various criteria are utilized to rank applications for consideration. The State has initially allocated \$12 million for the program during the 2009-2011 state fiscal years. During 2010, nearly half of this allocation was awarded. DATCP has indicated that the program targets lands that

² PACE-Purchase of Agricultural Conservation Easements informational piece, Wisconsin Department of Agriculture, Trade and Consumer Protection, July 2009 (<http://workinglands.wi.gov>).

are under some degree of development pressure but not so much that preserved farms would be an island in an otherwise developed area.

According to a 2004 study by the American Farmland Trust, there were dozens of PDR programs operating across the country and the creation of many more were being discussed. They studied the top 46 well established programs and produced a report that can be found at www.farmland.org. Some highlights of comparisons for the programs they studies include:

1. Most local programs are found in the suburban and semi-rural parts of major metropolitan areas, with county populations of more than 100,000 and rapid population growth.
2. State governments provide most easement funds, with lesser amounts coming from local taxes (counties, towns, special purpose districts/property tax, sales tax, bonding, etc.), federal funds and nonprofit sources. Of the 46 programs, 30 were operated by county governments. Three-fourths of the programs were funded by a combination of funding sources.
3. While there is a potential to use easements to complement local planning and land use policies in protecting farmland, few agricultural easement programs work in this way. One reason is that easement activities and local planning often are managed by separate organizations.
4. On average, the 46 programs had been in operation for 21 years as of 2002.
5. Voters approved bond issues and revenue for 21 programs, on multiple occasions in some communities.
6. As of 2002, the 46 programs held 877,000 farmland easement acres, representing more than 5,800 individual farms at a cost of \$1.8 billion. Easement acquisitions averaged \$2,000 per acre, but varied greatly among programs and often involved partial donations.

Transfer of Development Rights (TDR)

The concept of Transfer of Development Rights is similar to that of purchase of development rights but differs in that with TDR, developers seeking to increase density on a given parcel of land may purchase or transfer development rights from a property that would be preserved and the permissible density on a “receiving” parcel would potentially be increased or other incentives would be provided. Such a program can be complicated to initiate and administer but offers the opportunity for preserving farmland without the need for an outside funding mechanism. This technique has been utilized most heavily on the east coast but is another available option that local communities may wish to consider. A recent study on national TDR programs identified nearly 200 such programs that are active in the United States.³ In addition to the complexity of establishing and administering a TDR program, their limited use may also be due to the lack of State enabling legislation and the complex, and often overlapping, array of planning and zoning authorities among various units and levels of government in Wisconsin

An analysis of TDR programs that was published in the Journal of the American Planning Association suggested that two of the most critical factors leading to the success of TDR programs were adequate

³ What Makes Transfer of Development Rights Work?, Journal of the American Planning Association, Winter 2009, Vol. 75, No. 1

demand for bonus development rights and receiving areas that were very well situated to receive additional density. Given the current economic climate, achieving adequate bonus density development could prove to be challenging. However, such a program may be an option for a community to consider when conditions improve in the absence of a local funding mechanism available to assist in purchase of development rights.

Farmland Preservation Income Tax Credits

As noted earlier, the 2009 state farmland preservation law revisions changed the eligibility requirements for farmland preservation tax credits. The new program directs tax incentives to lands zoned for farmland preservation and lands within AEAs. The income tax benefits available in 2010 are as follows:

- \$5.00 per acre for farmers with a new farmland preservation agreement within an AEA.
- \$7.50 per acre for farmers located within a certified farmland preservation zoning district.
- \$10.00 per acre for farmers located within a certified farmland preservation zoning district and with a farmland preservation agreement within an AEA

FARMLAND PRESERVATION PLANNING STANDARDS AND RECOMMENDATIONS

As noted in Chapter 2 of the 2009 WCCDP, planning can be described as a rational process for formulating and achieving objectives. The WCCDP and this Farmland Preservation Plan amendment draw upon the methodology of the SEWRPC 2035 Regional Land Use Plan for Southeastern Wisconsin in setting forth a planning process that is inclusive of establishing objectives, principles and standards. In concert with SEWRPC terminology, the 2009 WCCDP defines these planning terms as follows:

- Objective: a goal or end toward the attainment of which plans and policies are directed.
- Principle: a fundamental, primary, or generally accepted tenet used to support objectives and prepare standards and plans.
- Standards: a criterion used as a basis of comparison to determine the adequacy of plan proposals to attain objectives.

The formulation of objectives, principles and standards occurs in an incremental fashion so that plan standards and recommendations are established as a means of achieving objectives or goals. Plan implementation recommendations provide a design for the attainment of specific objectives and identify the actions that should be taken by various units of government to bring about plan implementation.

While Chapter 2 of the 2009 WCCDP set forth agricultural preservation objectives, principles and standards, this farmland preservation planning effort revisited these concepts in detail in light of the changes in state law relative to farmland preservation. The following sections represent an update to Chapter 2 of the 2009 WCCDP, describing revised objectives, principles, standards and recommendations used in the development of this Farmland Preservation Plan amendment. It should be noted, that like the 2009 WCCDP, the plan horizon for this plan is also 2035. This helps to ensure consistency between the two documents.

Farmland Preservation Objective #1

Identify sustainable blocks of productive agricultural lands to target for preservation.

Principle

The preservation of productive agricultural land is important for meeting future needs for food and fiber. In addition, well managed agricultural areas can provide wildlife habitat, recharge groundwater aquifers, reduce downstream flooding, and help sustain environmental corridors and an ecological balance between plants, animals and local water resources. The preservation of agricultural areas also contributes immeasurably to the maintenance of the scenic beauty and cultural heritage of the County. Maintaining agricultural lands near urban areas can facilitate desirable and efficient production-distribution relationships, including community-supported agriculture operations. This close proximity may also play a key role as future biofuel technologies are developed.

The preservation of large blocks of productive agricultural land can enable the continuation of commercial farming and agricultural-related businesses, encourage long-term agricultural investments, and minimize land use and transportation conflicts between farming operations and urban or residential areas.

Formulation of Farmland Preservation Standards

Since the standards used to identify and map farmland preservation areas in the county form the foundation of this plan, their formulation demands a thorough and thoughtful consideration of alternatives. Therefore, it should be no surprise that the standards formulation process occupied a major portion of the advisory committee's meeting time during 2010. The farmland preservation planning standards from the 2009 WCCDP were used as the starting point for this planning process. Similar to the preparation of the 1998 draft Farmland Preservation Plan update, the five square mile criteria used to define a "sustainable block" of farmland quickly became the focus of much of the discussion. Some of the 1998 text explaining the difficulties of preserving small blocks of farmland was repeated in the 2009 WCCDP, and remains relevant in 2011 as well:

"While the recognition in a land use plan of smaller blocks of farmland may enable a larger number of farmers to qualify for tax credits, the maintenance of long-term agricultural use within such smaller blocks in an urbanizing region such as Southeastern Wisconsin has proven to be very difficult. Among those reasons frequently cited to explain that difficulty is the following:

- 1. Relatively large blocks of farmland are necessary to support such agriculture-related businesses as distributors of farm machinery and parts and farm supplies. Scattered, relatively smaller blocks of farmland do not provide the critical mass necessary for such agribusiness support enterprises. Consequently, farmers remaining in such smaller blocks must travel ever-increasing distances for support services.*
- 2. In many cases, smaller blocks of farmland are merely remnants of formerly larger blocks which have been subject to intrusion by urban residential development. This intrusion has resulted in significant urban-rural conflicts, including problems associated with the objection by residents of urban-type land subdivision developments to odors associated with farming operations; to the use of fertilizers, herbicides and pesticides, and other agriculturally related chemicals; to the noise associated with the operation of farm machinery during the early and late hours of the day; and to the movement of large farm machinery on rural roads being used increasingly for urban commuting.*
- 3. For most farming enterprises, the economies of scale require relatively large tracts of land, frequently involving many hundreds of acres. The breakup of large blocks of farmland by urban intrusion makes it more difficult for farmers to assemble such larger tracts either through ownership*

or rental arrangements. Tract assembly is thus complicated by scattered field locations, resulting in costly and inconvenient related travel distances and, therefore, in unproductive time and higher fuel consumption.

4. *In agricultural communities on the fringe of urbanizing areas, there is often a declining interest among the next generation of farmers to continue farm operations. This is particularly true where alternative land uses are perceived to be available. This phenomenon is reinforced by the rigors of day-to-day farm life when compared with urban lifestyles.”*

Preserving smaller blocks of farmland is certainly a plausible and even laudable goal for any local community. Generally speaking, the scale of farming operations on smaller farmland tracts, such as raising vegetable crops for local markets, may not pose the same type of land use challenges that larger more commercialized farming operations commonly experience. Objective #1 focuses on maintaining “sustainable blocks” of agricultural lands in an attempt to address the types of concerns stated above. While it will not resolve all these problems, the agricultural sector has recognized that preserving a critical mass of productive farmland in designated areas seems to have the best chance of success.

Nevertheless, there was concern by some on the plan advisory committee that only focusing on preserving large blocks of farmland would unnecessarily preclude landowner participation in the AEA and PACE programs, which were not yet available when the 2009 WCCDP was adopted. To address this concern, a secondary farmland preservation planning standard was developed to support the designation of future AEAs in the county which could be made up of smaller blocks of farmland. The next section describes both sets of farmland preservation standards that were used to develop this plan. Following the “primary” standard is an explanation of revisions made to the criteria compared to the 2009 WCCDP. Similarly, the “secondary” standard is followed by explanation of the revisions made to distinguish it from the primary standard.

Primary Standard - Farmland Preservation Areas (Changes from 2009 WCCDP underlined)

To be included as a “Farmland Preservation Area” in this plan, all agricultural lands must be designated by the Wisconsin Department of Agriculture, Trade and Consumer Protection as an Agricultural Enterprise Area (AEA) ; or the preservation area and all individual tax parcels within it must meet all of the following minimum criteria: ^a

Total Farmland Preservation Area:

1. Planned ^b land use is agricultural, primary/secondary environmental corridor or isolated natural areas;
2. Five (5) square miles of “contiguous” lands, meaning all connecting lands are at least 1000 lineal feet in width - including adjacent communities, but not including transportation corridors;
3. Seventy-five percent (75%) is land ownership parcels of 35 acres or more;
4. Seventy-five percent (75%) is existing agricultural or open/unused (rural) land uses, and ^c
5. Supported by the local government(s). ^d

Every Parcel Within the Farmland Preservation Area:

6. Outside of any planned sewer service area boundary.
- ~~7. Seventy five percent (75%) agricultural or open/unused (rural) land uses; and~~ ^c
7. Fifty percent (50%) of agricultural soils are Land Capability Class I or II, or soils of “Statewide Importance”, as defined by NRCS. ^e

Explanations of Changes made to the 2009 WCCDP Standards:

^a The underlined language in the lead sentence recognizes that an AEA has already been approved by DATCP for the Town of Oconomowoc, and allows for future amendments to this plan if an AEA is approved in another area of the county.

^b All land uses are based on the 2009 WCCDP. The word “planned” was added to FP area criteria #1 to clarify that existing farmland may be planned for other uses in the future. An example is publicly owned land identified in the Town of Oconomowoc for future county park purposes, which is not included in the farmland preservation area or AEA. All land use categories in the criteria are consistent with SEWRPC definitions, except as described in Chapter D-2 for the 2010 agricultural land use update conducted by Waukesha County staff.

^c Moving the 75% rural land use criteria from a parcel-based criteria to a preservation area-based criteria helps minimize remnant or “island” parcels within the preservation area that do not meet the criteria. The intent was to minimize future chances of conflicting land uses being introduced on the remnant parcels.

^d Under state planning law, a county plan is required to incorporate the plans of cities and villages. Waukesha County also prefers not to plan farmland preservation areas in unincorporated areas unless it is supported by the Town Board. This has been standard practice, but was previously not stated in the criteria. Further definition of “Supported by the local government” is provided in the explanation of note “c” in the secondary standard below.

^e Applying this criteria only to soils on agricultural land versus all land, and including soils of “statewide importance” helps minimize “island” parcels within the preservation area that do not meet the criteria. The “statewide importance” category expands the acceptable soils list to include wet and droughty soils and fields with slopes up to 12%. Both changes were made to minimize future chances for conflicting land uses being introduced on those parcels.

Secondary Standard - Unrefined Areas to Consider for Future Agricultural Enterprise Area (AEA) Designation

These areas do not meet one or more of the above noted Farmland Preservation Area criteria. The area boundaries are considered to be draft in nature and would be refined at the request of the local government if and when an AEA was proposed in the future. For these areas, Waukesha County would support a locally led effort to designate an AEA and amend this plan in the future, as long as the proposed AEA meets the following minimum criteria:

Total Agricultural Enterprise Area (changes from “Primary” Farmland Preservation standard underlined)

1. Planned land use is agricultural, primary/secondary environmental corridor or isolated natural areas;
2. One thousand (1000) acres^a of “contiguous” lands, meaning all connecting lands are at least 1000 lineal feet in width - including adjacent communities, but not including transportation corridors;
3. Sixty percent (60%)^b is land ownership parcels of 35 acres or more;
4. Sixty percent (60%)^b is existing agricultural or open/unused (rural) land uses; and
5. Supported by the local government(s).^c

Every Parcel Within the AEA:

6. Outside of any planned sewer service area boundary.
7. Fifty percent (50%) of agricultural soils are Land Capability Class I or II, or soils of “Statewide Importance”, as defined by NRCS.

Explanations of Differences from the “Primary” Standard:

^a The block size was reduced to 1000 acres to allow for smaller farmland preservation block sizes to be proposed for AEA additions to the plan at the request of a local government. This block size was based on the state statutory requirement for DATCP to give higher priority to farmland blocks of at least 1000 acres in size during the ranking of AEA applications.

^b The percent for land parcels of 35 acres or more, and the percent in agricultural land use were both dropped from 75% to 60% for the area criteria to better allow for local AEA proposals. A land information system review of agricultural blocks that did not meet the “primary” standards showed that the 75% thresholds would significantly limit AEA proposals for smaller blocks unless it was reduced. The thresholds for these criteria were not dropped lower than 60% because it may result in AEA proposals geared more toward open space protection rather than true farmland preservation purposes.

^c For both the primary and secondary standards, criteria #5 “Supported by the local government(s)” means the local governing body has incorporated the Farmland Preservation Area or AEA into applicable local plans and ordinances; or they have submitted a letter to Waukesha County committing themselves to do so, consistent with state planning laws. This allows for future additions to be made to the Farmland Preservation Areas upon request by the local units of government through the county’s annual plan amendment process pursuant to the 2009 WCCDP.

Summary of Planned Farmland Preservation Areas (Primary Standard)

Map D3-2 shows the areas of Waukesha County that meet the primary criteria for Farmland Preservation Areas, which is also summarized in Table D3-1. There are 10,314 total farmland acres designated as Farmland Preservation Areas, making up 11% of all farmland in the county as of 2010. Of this total, 7,433 farmland acres are located in the Map Unit #1 in the Town of Oconomowoc, making up 70% of the total. The vast majority of the Oconomowoc lands designated for farmland preservation are located within the existing AEA, as shown earlier on Map D3-1. The other 30% of the lands designated for Farmland Preservation are located in Map Unit #4 along the western borders of the Town of Ottawa (1,048 acres) and the northwestern corner of the Town of Eagle (1,833 acres) for a total of 2,881 acres. It should be noted that the Farmland Preservation Areas in the Town of Ottawa are rather dispersed and only qualify due to the large contiguous area of farmland directly west in Jefferson County, sometimes separated by environmental corridor from the Ottawa farmland.

Exhibit “A”, at the end of this report contains a more detailed view of each of the townships that contain these planned Farmland Preservation Areas, along with a summary table of acres of each farmland category in each township. Lands designated as Farmland Preservation Areas within these maps are also being mapped as “Prime Farmland” areas on the 2009 WCCDP Recommended Land Use Plan Map for Waukesha County. This map is continually updated on the Waukesha County internet mapping site at www.waukeshacounty.gov/landandparks. This plan changes the “Prime Agricultural” land use category to a new “Prime Farmland” category, and the definition of the Prime Agricultural category on Page 7-23 of the 2009 WCCDP is replaced by the criteria specified under the Primary Standard-Farmland Preservation Areas standard of this plan under Farmland Preservation Objective #1. The maximum permissible density for the “Prime Farmland” category remains one dwelling unit per 35 acres.

Summary of Unrefined Areas to Consider for Future AEA Designation (Secondary Standard)

Map D3-2 also shows the areas of Waukesha County that meet the secondary criteria for future AEA designation. There are 24,738 total acres designated in this unrefined farmland preservation area, making up 27% of all farmland in the county as of 2010. The mapped areas are divided into ten map units, as summarized in Figure D3-1.

Map Units 4, 5, 7, 8 and 10 all meet the 5 square mile criteria, but fall short in other areas. The most common reasons for not meeting the criteria is a larger percentage of environmental corridors or lack of support by the local community, as defined above. Unit 2 (Merton) would meet all the Primary Standard criteria as a contiguous extension of Unit 1 (Oconomowoc), except for the lack of community support. A similar situation exists for Map Unit 10 (Fox River/Vernon), especially given that much of the farmland in Vernon is contiguous to large farmland tracts in Racine County to the south. Units 3, 6, 9 and 11 do not meet the 5-square mile criteria. Map Unit 9 (SW Eagle) would meet the larger block size when considering the large contiguous farmland blocks to the south in Walworth County. However, it falls short in other criteria due to high percentage of environmental corridor and lack of support by the local government.

Soils Analysis of all Farmland Preservation Categories

Map D3-3 shows how the different soils classifications are distributed throughout the planned Farmland Preservation Areas and Unrefined Future AEA map units. Under the above noted parcel level standard: *“Fifty percent (50%) of agricultural soils are Land Capability Class I or II, or soils of “Statewide Importance”, as defined by NRCS.”* A detailed GIS analysis of the current Farmland Preservation Areas showed that all parcels mapped in the Farmland Preservation Areas meet this criterion.

While Map D3-3 also shows the soil classifications within the Unrefined Areas to Consider for Future AEA Designation, the actual parcel-by-parcel analysis would not be done until a proposed AEA boundary was submitted to the county for consideration. However, given the expansion of the criteria to include soils of “Statewide Importance”, it is not anticipated to be a difficult standard to meet for the vast majority of parcels within these map units.

Farmland Preservation Plan Amendment Process

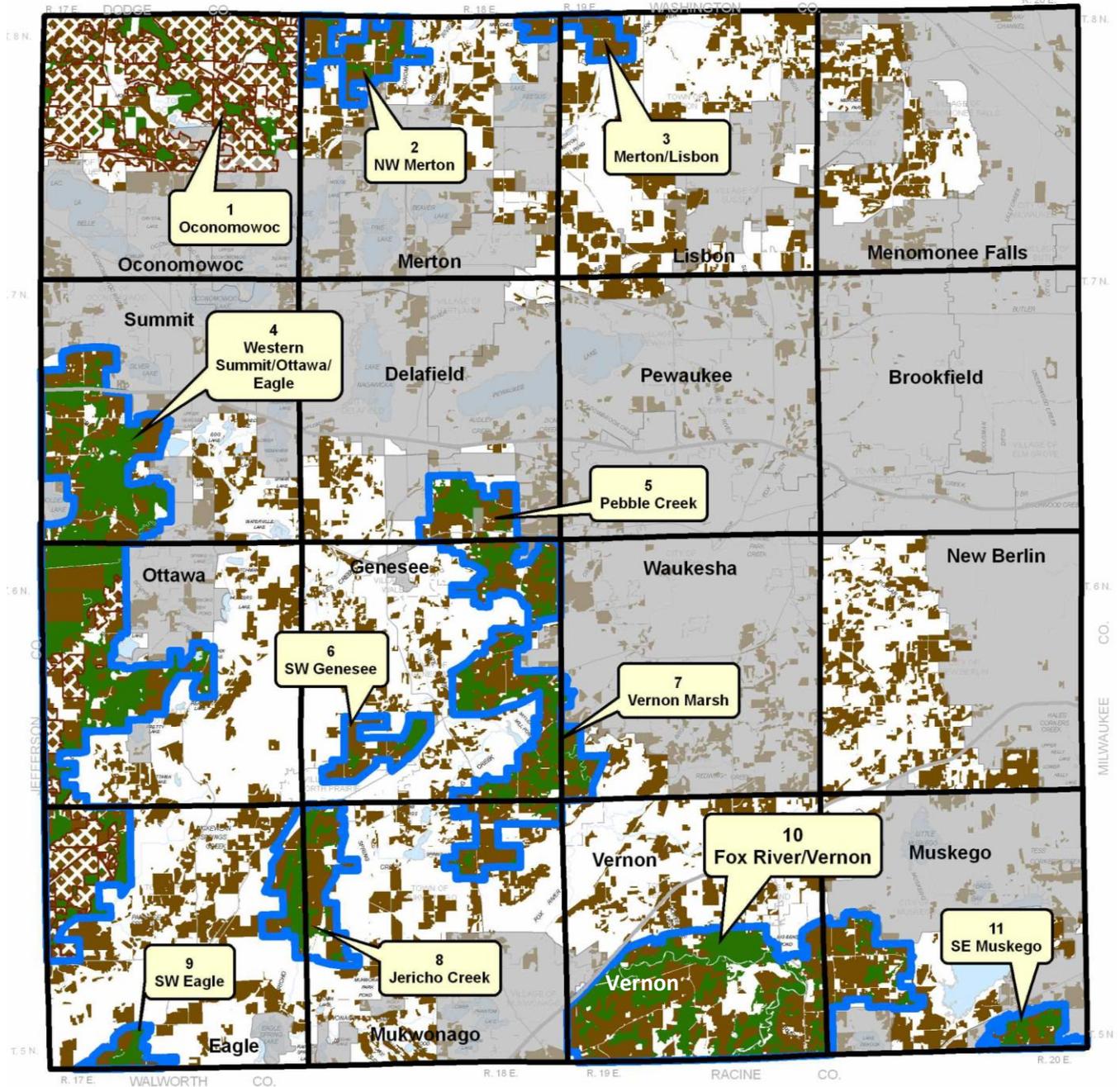
The county process for amending this plan, including adding a future AEA, would include the following:

1. Local government submits a request to the County for support of a proposed AEA application, including a detailed map of the proposed AEA and any supporting documentation.
2. County reviews the proposed AEA to determine compliance with the above noted minimum criteria.
3. If the application meets all the minimum criteria, a resolution would be advanced to the Waukesha County Board of Supervisors to support the AEA application to DATCP.
4. Local government would amend their land use plan and applicable zoning codes to include the AEA.
5. The local government applies to the County for a Farmland Preservation Plan amendment in accordance with the annual plan revision process described in the 2009 WCCDP. (Note: An out of cycle plan amendment can also be done under unique circumstances.)

Note: If the AEA program is eliminated at the state level, or DATCP does not approve the AEA application, the plan amendment process described above would not change, other than the DATCP role in the process would no longer apply and the farmland preservation terminology may change.

Map D3-2

Farmland Preservation Plan and Unrefined Areas to Consider for Future AEA Designation



Legend

-  Unrefined Future AEA Map Units (>1000 acres)
-  Farmland Preservation Area
-  Farmland
-  Environmental Corridor within FP/AEA Map Units
-  Planned Sewer Service Area

Source: Waukesha County & SEWRPC

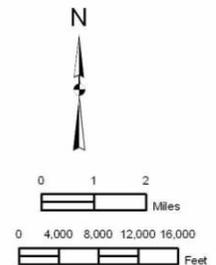


Table D3-1

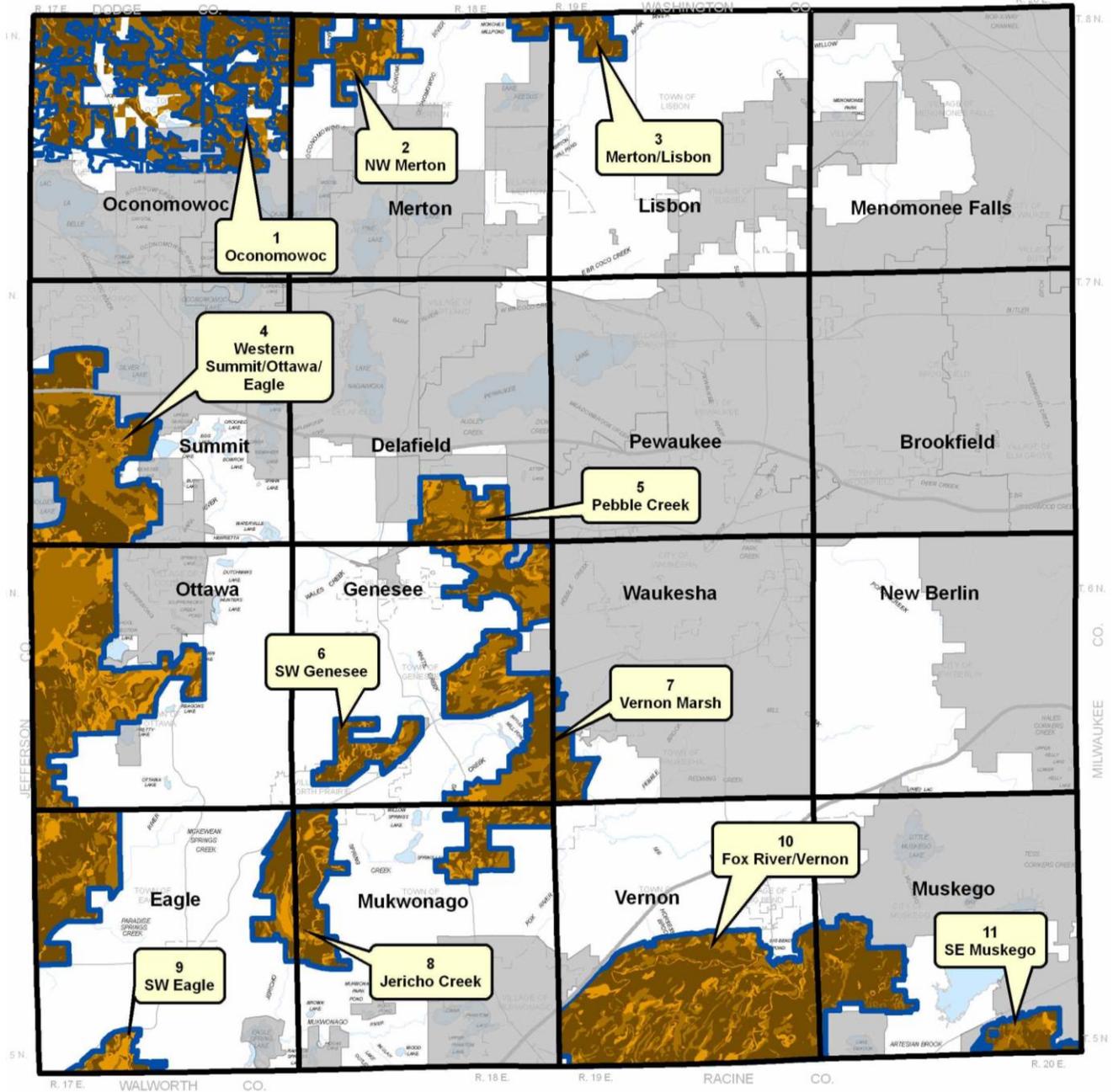
Summary of Map Units: Farmland Preservation Areas and Unrefined Areas for Future AEAs

Map Unit #	Map Unit Name	Map Unit Acres	Square Miles	% Parcels >35 ac.	% Agric. Land Use	Total Farmland Acres	Farm. Pres. Planned Ac. (Community Support)
Farmland Preservation Areas*							
1	Oconomowoc	7,433	12.0	76%	95%	7,433	7,433
Unrefined Areas to Consider for Future Agricultural Enterprise Area Designation							
2	NW Merton	2,048	3.0	84%	79%	1,609	0
3	Merton/Lisbon	1,028	0.6	90%	89%	919	0
4	Western Summit/Ottawa/Eagle	16,869	26.0	77%	51%	5,757	2,881*
5	Pebble Creek	3,898	6.0	64%	60%	2,334	0
6	SW Genesee	1,279	2.0	86%	71%	907	0
7	Vernon Marsh	5,936	9.3	76%	62%	3,659	0
8	Jericho Creek	3,234	5.0	80%	58%	1,875	0
9	SW Eagle	707	1.0	77%	62%	437	0
10	Fox River/Vernon	12,423	19.0	62%	54%	6,720	0
11	SE Muskego	1,006	1.6	74%	52%	521	0
Subtotals:		48,428 ac.	73.5 mi²			24,738 ac.	10,314 ac.

* There are 2,881 acres of Farmland Preservation Areas mapped within the Map Unit #4 (Western Summit/Ottawa/Eagle), which is included in the subtotal at the bottom of the table.

Source: Waukesha County

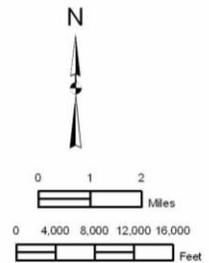
Map D3-3
USDA Soil Classifications for the Waukesha County
Farmland Preservation Plan and Unrefined Areas to Consider for Future AEA Designated



Legend

- Prime Agricultural Soils
- Soils of Statewide Importance
- All Other Soils
- Planned Sewer Service Area
- Farmland Preservation / Future AEA Boundaries

Source: Waukesha County & SEWRPC



Implementation Recommendations for Farmland Preservation and Future Unrefined AEA Areas

1. The Towns of Oconomowoc, Eagle and Ottawa should maintain the farmland preservation land use and zoning designations in the areas identified in Map Units 1 and 4 in Map D3-2 and consider refining the preservation boundaries as needed.
2. The Towns of Merton and Vernon and the City of Muskego should carefully review Map Units 2 and 10, as shown on Map D3-2, consider refining the boundaries to identify sustainable blocks of productive agricultural lands that meet the primary farmland preservation or future AEA criteria noted above, and amend their local land use plans accordingly.
3. Other local communities should review all Map Units identified for future consideration for AEA designation, as shown on Map D3-2 and consider whether they would support preserving any of the remaining blocks of farmland located within their jurisdiction.
4. Farmland Preservation areas should be reviewed periodically to ensure that mapped boundaries are representative of updated sewer service area boundaries and are complimentary to amended or new boundary agreements that contain a land use component. Where such agreements exist, Waukesha County should consider modification of the farmland preservation plan boundaries to reflect future jurisdictional transfers that have been established as part of a binding boundary agreement.
5. If any community has questions about the farmland preservation standards or the resulting map units, or would like assistance with designating a farmland preservation or AEA area within their community, they should contact the Waukesha County Department of Parks and Land Use.

Farmland Preservation Objective #2

Minimize land use conflicts in designated farmland preservation areas.

Principle

Land Use conflicts and intrusion of non-farm uses into areas planned for farmland preservation threatens the continued viability of farming in such areas. Encroachment of non-farm development into such areas can affect site drainage, inflate land values, create more vehicular conflicts for movement of farm equipment and lead to other complaints from non-farm neighbors relative to dust, noise, odors and other farming related activities.

Standard A

All communities that maintain an agricultural land base re-examine local land use plans and zoning codes relative to agriculture, farmland preservation and land use and consider land use plan and zoning code amendments by December 2012 to ensure that the new provisions of the State's farmland preservation law and the County Farmland Preservation Plan are incorporated into their local plan documents and implementing ordinances.

Implementation Recommendations - Land Use Plans

1. Local communities should consider designating lands identified as Farmland Preservation Areas in the County Farmland Preservation Plan in similar local plan categories to maintain consistency between local and county plans and to ensure protection of prime farmland.
2. Communities that contain areas designated in the County Farmland Preservation Plan as either Farmland Preservation Areas or possible Agricultural Enterprise Areas (AEAs) should consider setting forth a process by which they would amend their local land use plans to support locally initiated efforts by land owners to petition for designation of potential AEAs.
3. Land use plan categories should be defined to discourage development of non-agricultural uses in farmland preservation areas.
4. Farmland preservation land use plan categories should be created to allow for no more than one dwelling unit per 20 acres in accordance with Statutory requirements
5. Those communities that wish to preserve agricultural lands that are not designated as farmland preservation areas or potential AEAs within this County Farmland Preservation Plan should consider local land use plan categories to protect additional lands.

Implementation Recommendations - Zoning Codes

1. Communities that have an agricultural land base should consider updating their local zoning ordinances to ensure that the ordinances are consistent with the recommendations of their local land use plans regarding farmland preservation and that ordinances contain appropriate zoning districts to ensure protection of farmland.
2. Local communities that contain lands designated as Farmland Preservation areas or potential AEAs in the County Farmland Preservation Plan should consider amending their zoning ordinances to meet the new provisions of the State's Farmland Preservation law to protect farmland and to make ordinances eligible for certification by DATCP. Certification by DATCP makes farmers with lands zoned for farmland preservation eligible for tax credits.
3. Local communities that wish to have their zoning ordinances certified by DATCP should submit their draft ordinances to DATCP for review at least 90 days in advance of the expiration date of their local ordinances, which in Waukesha County is December 31, 2012. A copy of the draft ordinance should also be sent to the Waukesha County Department of Parks and Land Use for review.
4. Farmland Preservation zoning district standards should strictly restrict non-farm development activities within such zones.
5. Those communities that wish to have their zoning ordinances certified should include language in their ordinances that discloses that, in accordance with State law, a conversion fee must be collected if an owner designated for farmland preservation petitions successfully to rezone out of an agricultural preservation category.

Standard B

All land use and zoning decisions are made in accordance with the adopted County Farmland Preservation Plan.

Implementation Recommendations

1. Land use decisions for areas within and bordering farmland preservation areas should be carefully considered to minimize potential agricultural land use conflicts and to strictly limit non-farm development within farmland preservation areas.
2. Development review checklists for rezoning requests and land use plan amendments should be modified to note a requirement for compliance with the Farmland Preservation Plan.

Standard C

All land use plans and zoning codes should be reviewed to consider removal of barriers to increased housing densities in areas not designated for farmland preservation.

Implementation Recommendations

1. Land Use Plans and Zoning Codes should allow for housing density to be highest in areas served by municipal sewer and other urban services. Heightened permissible densities in urban service areas can lessen development pressure upon agricultural lands elsewhere.
2. Housing density bonuses should be considered for conservation design developments in order to both preserve natural areas and to preserve other undeveloped lands and farmland elsewhere.

Farmland Preservation Objective #3

Encourage agricultural investment and promote farmland incentive programs for areas designated as farmland preservation areas.

Principle

State tax credits and other assistance programs such as PACE and AEAs can help keep agriculture viable by providing financial incentives to farmers to re-invest in their farms and keep their land in agricultural use.

Standard

All communities containing farmland preservation areas adopt a DATCP certified farmland preservation zoning ordinance by December 2012 and establish a process for supporting other agricultural assistance programs by December 2013.

Implementation Recommendations

1. Local and county zoning codes should be amended for certification by DATCP in order to make farmers in farmland preservation areas eligible for enhanced tax benefits.
2. Local units of government and Waukesha County should support viable AEA and PACE applications by establishing a sponsorship process for such applications.
3. Communities should disseminate information to the farm community to make them aware of the potential benefits of being located within a designated AEA or participating in PACE.

4. County and local planning staff should provide technical support to individuals or organizations wishing to pursue an AEA or PACE application.
5. Communities should review local land use plans and zoning codes to remove impediments to agricultural development and investment.
6. Communities that wish to preserve farmland that does not meet the County Farmland Plan criteria should consider investigating alternative methods for farmland preservation such as transfer of development rights.
7. State agricultural non-point source water pollution control standards should be enforced by Waukesha County for all Farmland Preservation Program participants in accordance with state program rules and regulations.

PLAN SUMMARY

As documented in this plan, farmland preservation has remained an elusive endeavor in Waukesha County since the freeway system was constructed in southeast Wisconsin in the 1960's. By the time the first county Farmland Preservation Plan was adopted by the Waukesha County Board in 1984, development patterns around the county were already pretty well established, and the plan did little to change those patterns as related to farmland. When the 1996 County Development Plan was prepared, it focused farmland preservation efforts on large blocks of remaining farmland at that time, making up only about 12% of the farmland within county. To date those efforts have been largely successful, albeit limited in scope. It should be noted however, that other land use regulations over the past 40 years have helped prevent water pollution and related health concerns from failing septic systems, preserved natural areas, floodplains, shorelands and environmental corridors, and minimized runoff pollution, flooding and other environmental damage from construction site erosion and post-construction storm water when development did occur.

This plan was prepared to meet the 2009 state farmland preservation law changes by updating the 1984 Farmland Preservation Plan as an amendment to the 2009 WCCDP. This plan proposes a dual set of farmland preservation standards. The primary standard is consistent with the 1996 and 2009 County Development Plans. This plan also proposes a secondary set of farmland preservation standards that could be applied to farmland blocks of various sizes (>1000 acres contiguous) if a local community would chose to support such an effort. A summary of how both of these standards apply to the total remaining farmland base of Waukesha County is presented in Table D3-2.

Table D3-2 shows that 11% of the county farmland is currently in a farmland preservation land use category and mostly zoned as such. Approximately 27% of farmland is located in areas that could be designated for AEA classification in the future. The remaining 62% of county farmland is either located in a planned sewer service area (23%) from an adjoining urban area, or as of 2010, is segmented into blocks of contiguous farmland less than 1000 acres (39%). Neither of these two farmland categories is targeted for preservation in this plan, but could nevertheless be protected at the local level if there was interest.

Exhibit A presents a township data summary of the proposed farmland preservation plan, followed by individual township maps that contain either Farmland Preservation Areas or Unrefined Areas to Consider for Future AEA's, as proposed in this plan.

**Table D3-2
Summary of 2011 Farmland Preservation Plan for Waukesha County**

Farmland Category/Description	Farmland Acres in Category	Percent of Total Farmland Acres
Farmland Located Within Planned Sewer Service Areas	21,420 ac.	23%
Farmland Located Outside of Planned Sewer Service Area but in Blocks of Less than 1000 Contiguous Acres (Not in Future AEA or Farmland Preservation Areas)	35,774 ac.	39%
Farmland Located in Unrefined Areas to Consider for Future AEA Designation	24,738 ac.	27%
Farmland Currently in Farmland Preservation Land Use Category	10,314 ac.	11%
Total farmland in Waukesha County: 2010	92,246 acres	100.00%