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**Adopted Changes
to
Zoning Ordinance
for
Farmland Preservation**

TOWN OF LIMA

2016

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Signed into law in 2009, Wisconsin’s **Working Lands Initiative (WLI)** is intended to modernize and revitalize what was previously known as the Farmland Preservation Program. The WLI is designed to help local governments and landowners preserve agricultural land, minimize conflicting land uses, and promote soil and water conservation. Owners of farmland who participate in the program receive income tax credits as incentives.

Towns in Sheboygan County with landowners who wish to participate in the new program must update their zoning ordinance text and map in order to be certified by Wisconsin’s Department of Agriculture, Trade and Consumer Protection as complying with the new state standards.

In the process of updating its zoning map, the Town of Lima has decided to also take the opportunity to correct long-standing issues with errors and non-conforming properties. An error could be something like a zoning district line that doesn’t correctly follow a property line. A non-conforming property might be one that is too small to meet the minimum lot size requirement for the district in which it is zoned. Or, a property might be being *used* in a way that is not allowed in the district in which it is zoned.

Although non-conforming properties that were in existence prior to the Town’s Zoning Ordinance or specific provisions of the Ordinance are “grandfathered” and considered to be legal non-conforming properties, there are advantages to being a conforming property, including the opportunity to expand the uses and structures on the property without a variance. This update to the Ordinance and map will make many non-conforming properties conforming without cost to these property owners.

Throughout this process, as lands are proposed to change to new zoning classifications, the Plan Commission and Town Board’s goal has been and will continue to be to preserve all property rights held by property owners under their current zoning.

Wisconsin’s updated Farmland Preservation Program is overseen by the state’s Department of Agriculture, Trade and Consumer Protection (DATCP) but administered at the county and town level.

ZONING DISTRICTS

One of the district names (A-2) will be slightly changed, one district (R-5 Mobile Home Parks) will be removed, one district (A-PR) will be added, and one district (R-4 PUD) will be absorbed by R-3.

A-1	Prime Agricultural District
A-2	Prime Agricultural District (small-scale)
A-3	Agricultural Transition District
A-4	Agricultural-Related Manufacturing, Warehousing and Marketing District
A-5	Agricultural Living District
A-PR	Agricultural Parcel Remnants District
C-1	Lowland Resource Conservation District
P-1	Recreational Park District
P-2	Institutional Park District
R-1	Single Family Residence District
R-2	Two Family Residence District
R-3	Multiple-Family Residence District
B-1	Local Business District
B-2	Highway Business District
M-1	Industrial District
M-2	Heavy Industrial District
M-3	Mineral Extraction District

FARMLAND PRESERVATION ZONING DISTRICT (FPZ)

Four districts make up the FPZ and will be eligible for the tax credit: A-1, A-2, A-4 and A-PR. Special statutory provisions are part of the requirements for these districts, particularly that uses must be agriculturally related*, and 4 statutory criteria must be met in order to rezone out of the FPZ.

Further, all new residences constructed in the FPZ must obtain a one-time conditional use permit to ensure the siting of any new residence avoids impairing agricultural operations, if possible.

* Home occupations on farms need not be agriculturally related.





A-1 PRIME AGRICULTURAL LAND DISTRICT [in FPZ]

The previous A-1 district conformed to former state farmland preservation program standards. DATCP's Working Lands Initiative has since changed the standards for state certification of a farmland preservation zoning district. (Only land in a certified district is eligible for a tax credit.)

The Town Board made an effort to make the new A-1 district compatible with the new state standards; however, some state provisions were deemed to be difficult to administer and/or not in the best interests of the Town. Fortunately, DATCP allows a town to craft some of its own provisions and be certified if the town can show its ordinance will not convert any more farmland or create any more non-farm residences than would have occurred under strict adherence to DATCP's standards. Working with UW-Extension, the Town Plan Commission and Town Board has created a customized alternative very similar to one DATCP approved for the Towns of Sherman and Plymouth in 2014 and 2015, respectively.

The major differences between the previous A-1 and the proposed A-1 are 1) all permitted and conditional uses must be agriculturally related, 2) all new homes will require conditional use permits to ensure proper siting, and 3) rezoning out of farmland preservation must meet four statutory criteria. The minimum lot size remains 35 acres.

A-2 PRIME AGRICULTURAL LAND DISTRICT (small-scale) [in FPZ]

The revised A-2 district will be a "mini" A-1 and is part of the FPZ. The lot size ranges from 5.0 acres to 34.99 acres, and is intended for small farms or future rezonings out of A-1 for hobby farms or similar uses.

Numerous existing small properties that were non-conforming lots in A-1 will now be conforming in A-2.

To discourage a high density of residential development in agricultural areas, the following provision has been added: "Only one residence is allowed on an A-2 lot, and an A-2 lot may not be divided unless a rezoning to A-1 or A-PR occurs."

A-PR AGRICULTURAL PARCEL REMNANTS DISTRICT [in FPZ]

A-PR does not allow any residential development. It is a simple way to ensure the residential density of a farm tract does not exceed one residence for every 35 acres. If, for example, a landowner has a total of 80 contiguous vacant acres and decides to divide off one 5-acre lot for a hobby farm/residence, 40 acres would be simultaneously rezoned to A-PR, leaving 35 acres of A-1 to indicate that there is still one future residence available for development, if so desired. The A-PR can be located anywhere on the original tract that the landowner wishes. Rezoning out of A-PR can only be done by a super-majority vote of the Town Board.

A-3 AGRICULTURAL LAND TRANSITION DISTRICT

A-3 is for larger rural properties that are within or near Ourtown, Hingham, or Gibbsville. No major changes are proposed for this district except in the new Development District standards for Hingham and Gibbsville that add flexibility to A-3 to ensure that growth occurs on lots small enough to be efficiently served by sanitary sewer, rather than on large parcels.

A-4 AGRICULTURAL-RELATED MANUFACTURING, WAREHOUSING AND MARKETING DISTRICT [in FPZ]

DATCP considers the uses in this district to be integral to maintaining a strong infrastructure for agriculture, and based on its recommendation this district is included in the FPZ. 5 of the 9 existing A-4 properties were outside the farmland preservation area, however, so they were rezoned to other districts. Gibbsville Cheese, for example, will become M-1.

While the allowable uses in the district will remain the same, the lengthy list of individual uses has now been grouped into categories recommended by DATCP.



A-5 AGRICULTURAL LIVING DISTRICT

A-5 provides a district for 1) small lots in the farmland preservation area that are not primarily agricultural, and 2) small lots in the Ourtown, Hingham, and Gibbsville Development Districts that must follow certain restrictions in order to encourage appropriate land transitions and growth. The restrictions and allowable uses in A-5 will not undergo any major changes during the ordinance amendment.

OTHER DISTRICTS

The farmland preservation update is known legally as a “comprehensive” zoning amendment. As such, other changes to the ordinance can be included, even though they have nothing to do with farmland preservation. This is an opportunity for the Town to clean up old errors or make improvements to unclear language, for example.

As a result, 1) at least one permitted use will be added to districts that formerly had none, 2) public right-of-ways will be added to P-2, 3) warehouses will be added to B-1, 4) additional employees will be allowed for a home occupation if a conditional use is granted, 5) Planned Unit Developments will be added to the R-3 District as a conditional use, and 6) the R-5 Planned Mobile Home Park Residence District, which was not supported by the policies of the Town’s 20-Year Comprehensive Plan, will be eliminated.

DEFINITIONS

The update will add 11 terms to the Definitions section. Most of these terms (e.g., “farm,” “contiguous”) follow statutory definitions related to farmland preservation.

FARM CONSOLIDATIONS

The term “farm consolidation” will no longer be applicable. Any divisions of land to split a residence from a larger farm will result in the residence being rezoned to A-2. Such land divisions will require at least 5 acres and the new lot will remain in the FPZ, regardless of whether any agricultural activity is planned for the immediate future. A part of the remaining farm will be rezoned to A-PR to help control residential density and indicate how many future homes can be built.

ZONING MAP REVISIONS

A-1 Prime Agricultural Land District

- ◆ There are 118 A-1 properties within the previous Farmland Preservation Zoning (FPZ) boundary that are too small to be A-1. 37 of these properties will become A-2, and 48 will become A-PR, thus staying within the FPZ. 26 will become A-5 or A-3, and the rest will become C-1, which will remove them from the FPZ.
- ◆ Of the 107 A-1 properties in the Ourtown, Hingham, or Gibbsville Development Districts, 38 will become A-3 and 33 will become A-5, depending on size. Agricultural uses may be continued as long as the owner wishes, but future rezoning requests for development are more likely to be approved than if the properties remain A-1.

A-2 Prime Agricultural Land District (small-scale)

- ◆ 33 A-2 properties in Ourtown will become A-5, and 5 properties will become A-3. In Hingham and Gibbsville, 11 A-2 lots will become A-5, and 2 lots will become A-3.

A-4 Agricultural Related Manufacturing, Warehousing, and Marketing District

- ◆ The 5 properties zoned A-4 that are outside the farmland preservation area will be rezoned to R-1, A-3, M-1, A-3/C-1, and M-1 as appropriate.

A-5 Agricultural Living District

- ◆ Two large A-5 properties will become A-3.

Other Districts

- ◆ There are a small number of miscellaneous map changes, primarily to fix non-conforming uses (e.g., cemeteries from A-1 to P-2).
- ◆ There are no proposed map changes for properties currently zoned B-2, M-1, M-2, M-3, P-1, P-2, R-1, R-2 or R-3.

A-PR ZONING and DEVELOPMENT RIGHTS

Q: *How many of the parcels in the Town of Lima will be rezoned to “A-PR Prime Agricultural Parcel Remnants” District?*

A: There are approximately 1,941 parcels in Lima. 53 of these (2.7%) will become A-PR. The land area of Lima is approximately 22,916 acres, and 963 acres (4.2%) will become A-PR.

Q: *Are residences allowed in A-PR zoning?*

A: No. This is why only properties in farmland preservation zoning that are less than 35 acres and do not already have a residence are proposed to change to A-PR. These non-conforming properties were not able to have a house built on them anyway, due to lacking the minimum lot size.

Q: *Are accessory buildings (e.g., sheds) allowed in A-PR?*

A: Existing accessory buildings are allowed in A-PR. *New* accessory buildings are allowed if they are part of an agricultural use. If not part of an agricultural use, a conditional use permit is required.

Q: *Is A-PR zoning required in state statutes for farmland preservation zoning?*

A: No. The state instead uses a cumbersome mechanism called the Base Farm Tract to limit non-farm residential development. Many towns and counties complained about it, so the state has encouraged communities to develop alternatives if the alternatives are equally effective at preserving large tracts of farmland. A-PR is one alternative that has been certified by the state.

Q: *Where did the A-PR zoning concept come from?*

A: The landowners on the Town of Sherman Plan Commission and Citizen Advisory Committee came up with the A-PR zoning concept and asked UW-Extension to help add it to Sherman’s zoning ordinance in 2014. Town representatives in Plymouth, Mosel, Lyndon, Scott, Holland – and Lima – learned about the Sherman concept and contacted UW-Extension, and now all seven are using A-PR zoning or are proposing to use it.

Q: *What is the purpose of A-PR zoning?*

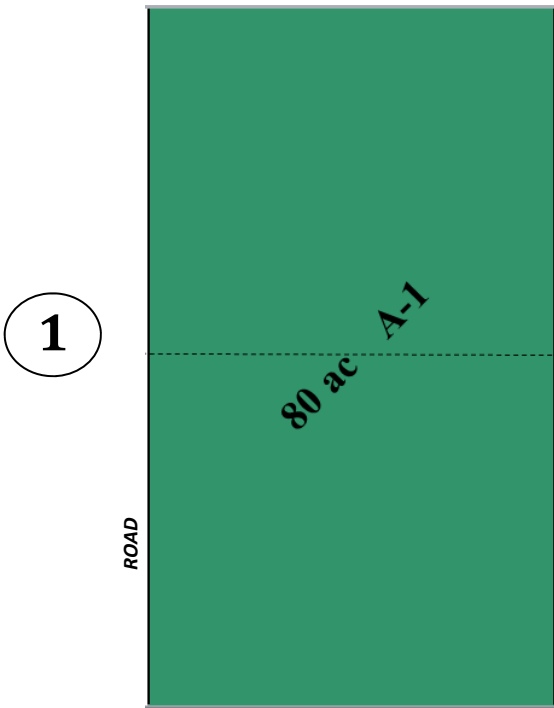
A: A-PR zoning is only used for existing parcels that lack the minimum lot size to be buildable *or* for remnants under 35 acres that are left over after a property’s current development capacity has been reached. In this way the zoning map can be used to easily track where residential development capacity remains and where it has been used. Ultimately, A-PR zoning helps to promote a balance (hopefully) between land preservation and land development.

Q: *Will there be fewer new homes in Lima because of A-PR zoning than there would’ve been under the state’s standard farmland preservation zoning?*

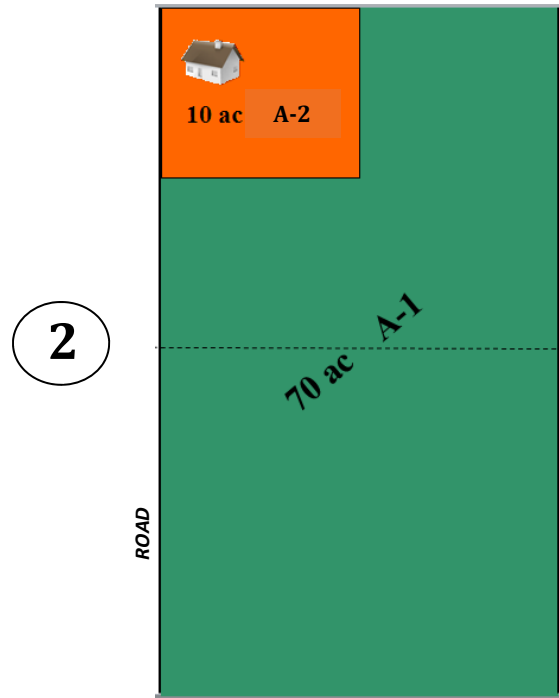
A: In some situations A-PR zoning is more restrictive for development than the state’s Base Farm Tract concept, and in other situations it is less restrictive. In Lima, a landowner with a tract of 175 acres or larger will have more development capacity under the A-PR concept than under the Base Farm Tract concept. A tract of less than 175 contiguous acres will have an equal or lesser development capacity.

HOW A-PR ZONING WORKS

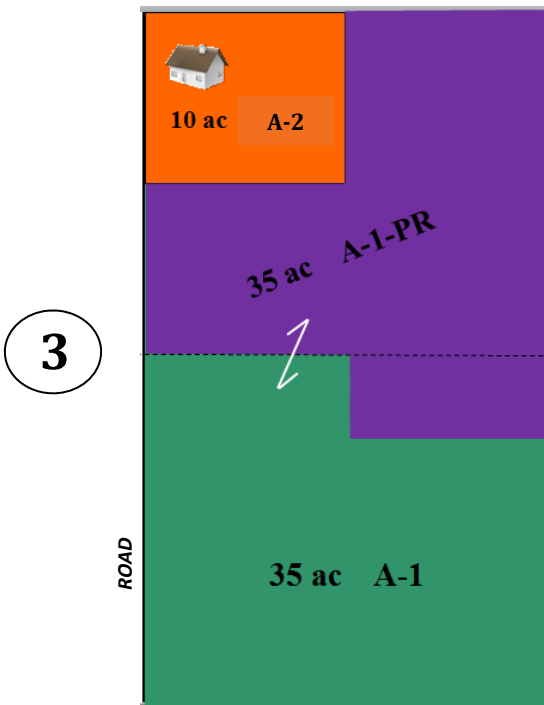
Divide contiguous, commonly-owned A-1 property by the 35-acre minimum lot size in A-1 to determine the potential residential yield. (Subtract 1 for each existing residence.)



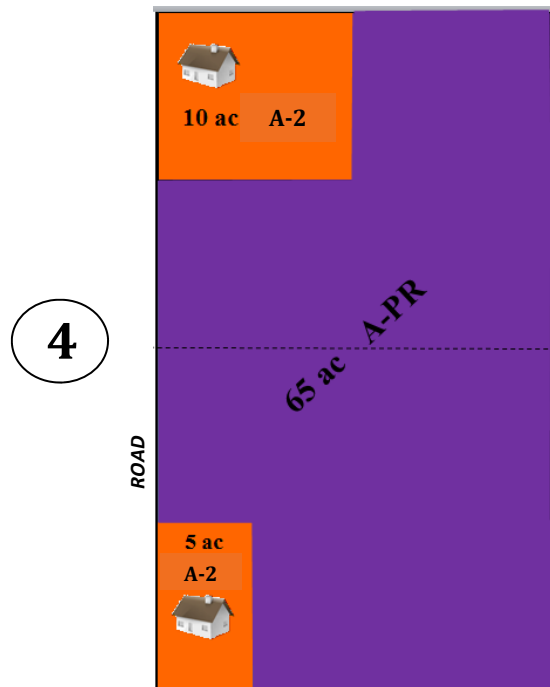
Landowner has 80 acres of vacant A-1 land, and owns no adjacent A-1 land. Yield = 2 residences.



Landowner decides to sell off 10 acres as A-2. 1 residence is subtracted from the yield (whether or not a house is built immediately).



As part of the rezoning to A-2 in Step #2, enough of the A-1 remnant must also be rezoned to leave the multiple of 35 acres of A-1 that indicates how many future houses are still available. (The A-PR land and the A-1 land are one lot with two zonings.)



The 35 acres of A-1 could've been left vacant or had a house built on it. Instead, the owner split off a 5-acre lot. The remainder must become entirely A-PR to confirm no residential development rights remain.