



~ **SUMMARY** ~

Adopted Changes
to
Zoning Ordinance
for
Farmland Preservation

TOWN OF SCOTT

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 Scott 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

Two districts (A-PR and A-1-S) are proposed to be added.

A-1	Prime Agricultural Land District
NEW	A-1-S Prime Agricultural Land District — Small-Scale
NEW	A-PR Prime Agricultural Remnants District
A-2	Agricultural Land District
A-3	Agricultural Land Transition District
A-4	Agricultural-Related Manufacturing, Warehousing and Marketing District
A-5	Agricultural Estate Land District
A-6	Rural Residence District
C-1	Conservation District
C-2	Conservation District
P-1	Recreational Park District
P-2	Institutional Park District
R-1	Single-Family Residence District (unsewered)
R-2	Single-Family Residence District (sewered)
R-3	Multiple-Family Residence District
R-4	Planned Mobile Home Park Residence District
B-1	Local Business District
B-3	Highway Business District
B-4	Planned Commercial-Recreation Business District
M-1	Industrial District
M-2	Heavy Industrial District
M-3	Mineral Extraction District

FARMLAND PRESERVATION ZONING DISTRICT (FPZ)

Three districts make up the FPZ and are eligible for the tax credit: A-1, A-1-S, and A-PR. Special statutory provisions are part of the requirements for these districts, particularly that uses must be agriculturally related*, and four criteria listed in 91.48(1), Wis. Stats., 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.)

Some of the new state provisions, however, 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 of Scott has drafted a customized alternative very similar to one DATCP recently approved for the Towns of Sherman, Plymouth, Mosel, Lima, and Holland.

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.

A-1-S PRIME AGRICULTURAL LAND DISTRICT — Small-Scale (in FPZ)

This new district will be a "mini" A-1 and is part of the FPZ. All of the same uses are allowed in A-1-S as in A-1. The minimum lot size will be 3.0 acres, since this district is intended for small farms or future rezonings out of A-1 for hobby farms or similar uses.

Numerous existing small A-1 properties that were non-conforming lots can now be rezoned to A-1-S, become conforming, and still remain in farmland preservation.

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-1-S lot. No additional lots may be created out of an existing A-1-S lot . . ."

A-PR PRIME AGRICULTURAL 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 60 contiguous vacant acres and decides to divide off one 5-acre lot for a hobby farm/residence, 20 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. (For more about A-PR zoning, see pages 7-8.)

A-2 AGRICULTURAL LAND DISTRICT

The allowable uses and 5-acre minimum lot size will remain the same. The only change is the rear and side yard setbacks for structures used for housing animals, which will decrease from 100 feet to 50 feet.

A-3 AGRICULTURAL LAND TRANSITION DISTRICT

The allowable uses will remain the same. The minimum lot size is decreasing from 35 acres to 3 acres, but there will still only be 1 residence allowed for every 35 acres of A-3 land.

Although A-3 properties will not be eligible for the farmland preservation tax credit due to their proximity to potential growth areas like Beechwood and Batavia, the trade-off is that the division and rezoning of A-3 property will be easier because the four DATCP requirements for rezoning that apply to A-1 will *not* apply to A-3.

A-4 AGRICULTURAL-RELATED MANUFACTURING, WAREHOUSING & MARKETING DIST

Due to a 2008 court case, communities are no longer allowed to declare every use in a district must obtain a conditional use permit. Instead, there must be at least one permitted use. Since A-4 in the Town of Scott had no permitted uses listed, one use (hay baling) is being added.

A-5 AGRICULTURAL ESTATE LAND DISTRICT

The allowable uses, lot size minimum of 10 acres and maximum of 35 acres will remain the same. The only change is the rear and side yard setbacks for structures used for housing animals, which will decrease from 100 feet to 50 feet.

A-6 RURAL RESIDENCE DISTRICT

The allowable uses and 1-acre minimum lot size will remain the same. The only change is the rear and side yard setbacks for structures used for housing animals, which will decrease from 100 feet to 50 feet.

R-4, B-1, B-3, B-4, M-1 and M-2 DISTRICTS

All of the uses listed in these districts were conditional. Each district will now have at least one permitted use.

DEFINITIONS

The update will add 8 terms to the Definitions section and revise 1 other term to bring them up to date with the latest administrative rules from DATCP.

ADULT-ORIENTED ENTERTAINMENT BUSINESSES

In the current version of the ordinance, these businesses are prohibited in all districts. Because such a prohibition is unconstitutional, the updated ordinance will list these businesses as a conditional use in the M-1 District. Several standards for such businesses have also been added to the ordinance.

ZONING MAP REVISIONS (landowners notified by letter)

A-1 Prime Agricultural Land District

- ◆ 66 A-1 properties *within* the proposed Farmland Preservation Zoning (FPZ) were too small to remain A-1 and were therefore non-conforming. These properties will be rezoned to A-1-S if a residence already exists or has a vested right to be built on the property—or A-PR if not. Agricultural uses are still allowed and the farmland preservation tax credit is still an option.
- ◆ 61 A-1 properties *outside* the proposed FPZ were too small to remain A-1 and were therefore non-conforming. These properties will be rezoned to A-2, A-5, A-6, C-1, C-2, or P-2, depending on their size and use. Agricultural uses are still allowed but the farmland preservation tax credit is not an option.
- ◆ The six A-1 properties in “potential growth areas” (typically near Beechwood or Batavia), 74 will become A-3, A-6, or C-1, depending on size and the use of the property. Agricultural uses may be continued as long as the owner wishes. Any future rezoning requests for development are more likely to be approved than if these properties stayed A-1.

A-2 Agricultural Land District

- ◆ Five properties were a combination of A-1 and A-2. These properties will become entirely A-2, A-1-S, or A-PR depending on size, location, and use.

A-5 Agricultural Estate Land District or A-6 Rural Residence District

- ◆ Two properties were a combination of A-1 and A-5; they will become entirely A-5. One property was a combination of A-1 and A-6; it will become entirely A-6.

B-3 Highway Business District

- ◆ Two non-business properties zoned a combination of A-1 and B-3 will become A-1-S and A-6.

Other Districts

- ◆ There are no proposed map changes for any other properties.

A-PR ZONING and DEVELOPMENT RIGHTS

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

A: There are approximately 1,400 parcels in Scott. 15 of these (1%) will become A-PR. The land area of Scott is approximately 23,000 acres, and 313 acres (1.4%) 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 do not impair or conflict with agriculture.

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, Lima, Holland – and Scott – 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?

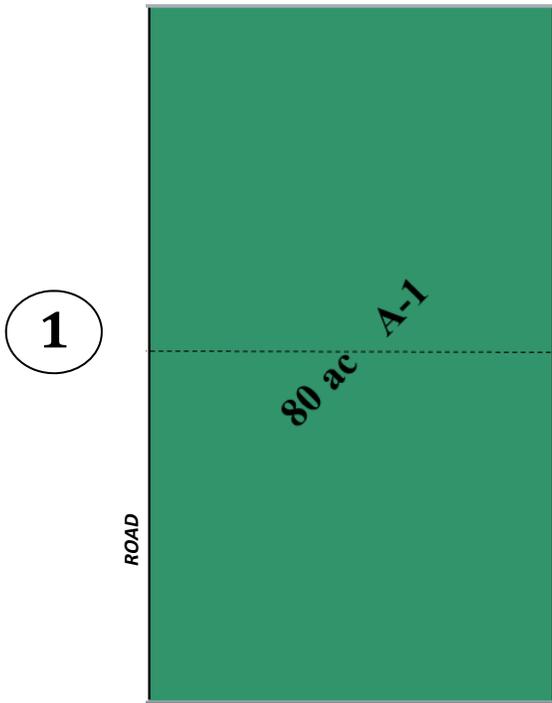
A: A-PR zoning is only used for existing parcels that lack the minimum lot size to be buildable *or* for remnants under 35 acres that are left over after a property’s current development capacity has been reached. In this way the zoning map can be used to easily track where residential development capacity 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 Scott because of A-PR zoning than there would’ve been under the state’s standard farmland preservation zoning?

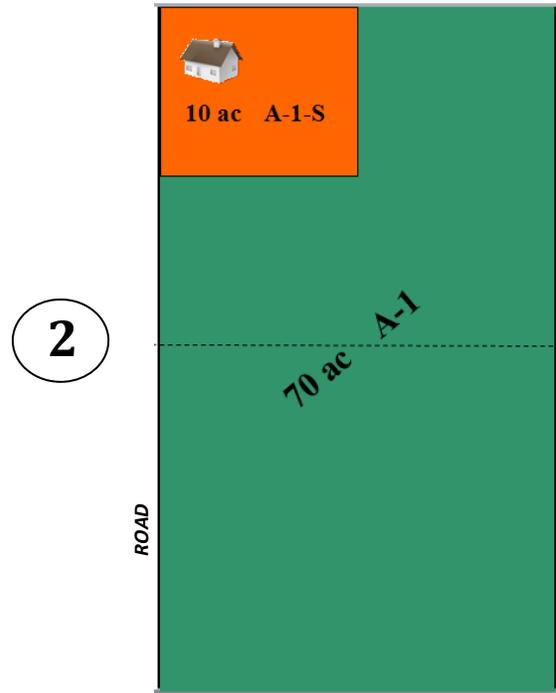
A: In some situations A-PR zoning is more restrictive for development than the state’s Base Farm Tract concept, and in other situations it is less restrictive. In Scott, a landowner with a tract of 175 acres or larger will have more development capacity under the A-PR concept than under the Base Farm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

HOW A-PR ZONING WORKS

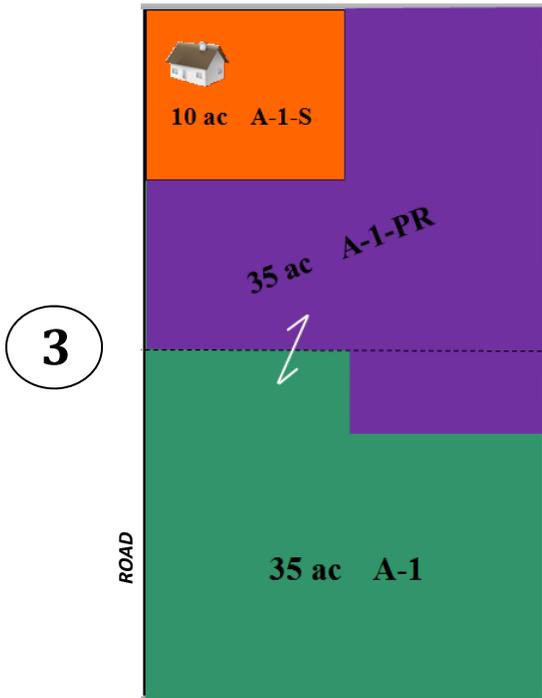
Divide contiguous, commonly-owned A-1 property by the 35-acre minimum lot size in A-1 to determine the potential residential yield. (Subtract 1 for each existing residence.)



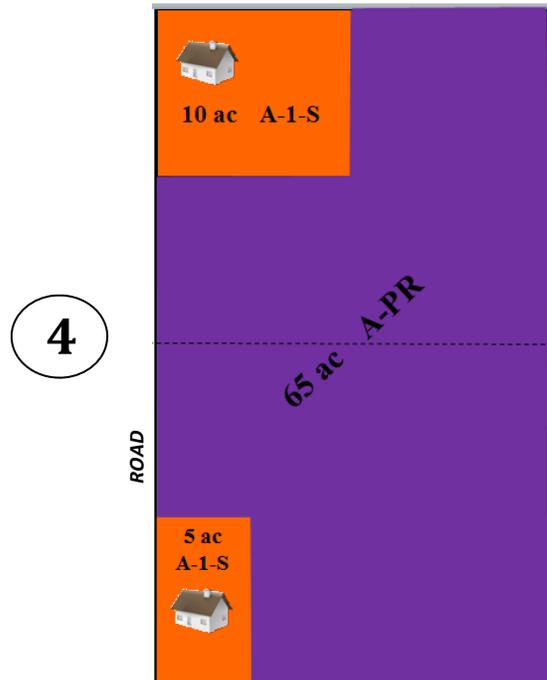
Landowner has 80 acres of vacant A-1 land, and owns no adjacent A-1 land. Yield = 2 residences.



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



As part of the rezoning to A-1-S 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.