

PROPOSED CHANGES TO THE Town of Primrose Comprehensive Plan 4/28/2022

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II. Agricultural Preservation Area

A. Purpose:

The Town has established the Agricultural Preservation Area, as shown on the Planned Land Use Map (Map 8-3), as a means of preserving agricultural lands and rural character throughout the Town while providing opportunities for limited development. This designation will also serve to promote continued investment in agricultural operations by ensuring that incompatible land uses are directed to areas that will minimize interference with farming activities. The primary land use policy within this district is the density policy, which limits the density of residential development to one dwelling unit per 35 acres. This district encompasses the most land within the town and includes productive farmlands, other agricultural land uses, pastureland, woodlots, and residences and out-buildings. The policies for this district allow for a limited amount of non-farm residential and commercial development in keeping with the overall goals and objectives of the Town to preserve agriculture and rural character.

B. Objectives:

- a) Continue to maintain and encourage production agriculture, agricultural related businesses, forestry, open space, and compatible uses.
- b) Protect farm operations from the encroachment of incompatible uses.
- c) Limit nonfarm development consistent with town density policies.
- d) Direct nonfarm development away from productive agricultural lands.
- e) Maintain and promote eligibility for county, state and federal programs, grants, incentives, cost-share funding and tax credits designed to support farming and maintain land in agricultural use.

C. Appropriate Zoning Districts:

- FP-1 Farmland Preservation
- FP-35 Farmland Preservation
- FP-B Farmland Preservation-Business

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- NR-C Natural Resource Conservation
- RE Recreational

For nonfarm development permitted under town density & siting policies:

- RR-1, 2, 4, 8, 16 Rural Residential
- RM-16 Rural Mixed Use zoning existing prior to March 1, 2024
- LC Limited Commercial, with appropriate conditions that meets

the objectives of this plan.

D. Policies & Programs – Agricultural Preservation Area:

1. **Density Policies** – Within the Agricultural Preservation Area, the density policies will serve as the primary tool for meeting the town’s land use objectives to maintain rural character and preserve agricultural land. The density policy limits the amount of non-farm development and will be used to guide Town decisions when considering rezones out of the **Farmland Preservation**. Density limitations shall apply to residential development, and to other forms of development, including;

- non-farm commercial development created after the date of adoption of this comprehensive plan, and;
- sales of land or easements to public entities unless otherwise indicated in sales contracts, deeds, or recorded agreements.

Under the adoption of the Town of Primrose Comprehensive Plan the number of densities for non-farm development (also referred to herein as, “split” or “density unit”) on a parcel of land are based on the number of contiguous acres held in single ownership as of April 28, 1981. There is one density unit per 35 acres of land. Acreages are not rounded up for this calculation.

Density units are not equivalent to or guarantees of possible building sites. Building site criteria for a proposed nonfarm development also must be met before a density unit may be used.

Landowners may choose from one, but not both, of two density options.

a) **Density Option A:** The density of non-farm development is limited to one non-farm use (also referred to herein as, “split” or “density unit”) per 35 contiguous acres held in single ownership as of April 28, 1981 if the site meets the siting criteria below.

Example: The density standard of one dwelling unit or non-farm use per 35 acres of land owned as of April 28, 1981 means that a 140-acre farm as of that date would be eligible for up to 4 new lots for non-farm development if all other plan policies were met. This policy is not meant to require or encourage

35-acre dwelling unit lots; rather landowners are encouraged to create smaller clustered dwelling unit lots that meet the siting criteria of this plan.

(1) **Density Option A Siting Criteria:** All new or expanded building sites, driveways and public or private roads developed under Density Option A must comply with all of the following:

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- (a) Be entirely on pasture or woodlands as determined as of 1981, and such lands cannot have been cropped since 1981.
- (b) Minimize conflicts with existing agricultural use.
- (c) Avoid any disturbance of lands determined appropriate for long term agricultural preservation based on:
 - (i) Dane County LESA Group I, II, or III soils;
 - (ii) Historical cropping activity;
 - (iii) Commitment of owner to continued agricultural use;
 - (iv) Degree of investment in agricultural operations
 - (v) Natural features, such as significant native woodlands or grasslands, and;
 - (vi) Adjacent land uses.
- (d) All general siting criteria described in 2. below under 'Development siting standards & criteria'.

b) Density Option B:

Densities for option B are determined based on the contiguous acres held in single ownership as of April 28, 1981 that have not been already been used as of the adoption of the May 18, 2010 revision of the Comprehensive Plan. Option B requires using two densities/splits (35x2=70 acres) for *all* remaining builds as of 2010. Once Option A or B are utilized, that option must be used for the rest of the densities on that property. Example: If a property had 6 densities as of April 28, 1981 and used 2 of those before May 18, 2010, it would have 4 remaining densities. If Option B were used, the property would have 2 remaining builds at 1 per 70 acres.

This policy is not meant to require or encourage 70-acre dwelling unit lots; rather landowners are encouraged to create smaller clustered dwelling unit lots that meet the siting criteria of this plan.

(1) **Option B Siting Criteria:** Landowners may cross **no more than 300 linear feet of** historically cropped lands to reach pasture or woodlands with a residential **driveway**, if **all** of the following criteria are met:

(a) The landowner records with the Dane County Register of Deeds either a deed restriction document or a conservation easement that prohibits nonfarm development on 70 acres of agricultural land for each nonfarm lot created. The town will also record deed notice documents on the entire 1981 farm indicating that further nonfarm development on the original farm is limited to no more than one unit per 70 acres.

(b) Deed restrictions or conservation easements must run in favor of, at a minimum, both the Town of Primrose and Dane County Board of Supervisors.

(c) Additional, restricted, density units not used for proposed nonfarm development may be transferred to other properties if the town develops a Transfer of Development Rights (TDR) program, or may be sold as part of a future town Purchase of Development Rights (PDR)

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program, but may not be used for additional development on the original farm.

(d) Driveways shall not cross more than 300 linear feet of historically cropped lands to access an appropriate building site.

(e) All new or expanded building sites, driveways and public or private roads developed under Density Option B shall comply with all general siting criteria described in 2. below under 'Development siting standards & criteria'.

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f) Farm residences:

(1) Existing primary farm residences built before April 28, 1981 and on FP-1-zoned parcels 35 acres or larger shall not count against this density policy. A primary farm residence is the main farm house on an

original farm unit, or base farm tract, usually with the buildings, that was occupied by someone who was farming the land that he or she owned as of April 28, 1981. There will be no more than one primary farm residence per original farm unit, or base farm tract.

(2) All existing residences, other than primary farm residences, shall count against this density policy.

(3) Separation, by certified survey map and rezone, of residences, including

separated primary farm residences, built prior to April 28, 1981 shall count against this density policy.

(4) All residences built after April 28, 1981, including residences for farm owners or operators under sections 10.123(3)(b) and (bm), Dane County Code, shall count against the density policy.

g) Duplexes: Zoning for the construction of new duplex or two-family homes or for the conversion of existing large houses to duplex use will be considered, if the following criteria are met:

(1) Any existing house must have a total floor area of at least 1,800 square feet.

(2) The Public Health agency of Madison and Dane County confirms that the private onsite wastewater treatment system is adequately sized, installed and maintained to accommodate duplex use.

(3) The duplex structure will count as two density units under the density limitation.

“Dependency living arrangements,” as defined in ss. 10.01(19a) & (19b), Dane County Code, and allowed under a conditional use permit, are not considered a duplex under this policy and do not count as an additional density unit.

h) Land transfers after April 28, 1981 and allocation of density units: Land sales of over 35 acres occurring after April 28, 1981, do not result in new allotments of density units. When land sales of more than 35 acres occur after April 28, 1981 without clear documentation or recorded agreement between buyer and seller, or subsequent/current owners, regarding any transfer of splits or density units, the Town shall utilize the following guidelines when considering allocation of any remaining density unit(s):

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(1) Landowners are encouraged to make clear in recorded documentation, such as a sales contract or warranty deed, that a density unit is being transferred or retained when selling tracts of land over 35 acres, **and whether land follows Option A, one build per 35 acres, or B, one per 70 acres.** The Town may request that any supporting documentation be included with development or rezone proposals. Supporting documents may include, but are not limited to, sales contracts, warranty deeds, affidavits, and written agreements.

(2) Landowners who combine portions of different April 28, 1981 farm parcels in order to obtain over 35 acres are not entitled to a nonfarm density unit.

(3) Proportional allocation: In the absence of clearly understood supporting documentation, any remaining splits will be allocated on a proportional basis among current owners of the April 28, 1981 farm unit in keeping with the Town's density policies. Under no circumstances shall the density standard be exceeded on the April 28, 1981 farm unit.

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(2) Vacant, legal, substandard (sometimes referred to as "non-conforming") FP-1 zoned parcels under 35 acres in size in existence since April 28, 1981 may be permitted to rezone to an appropriate district to allow for one single-family home, providing siting criteria are met. Such parcels may not be divided.

(3) Substandard, legally created FP-1 zoned parcels between under 35-acre parcels, with an existing residence, may not be divided.

(4) Illegally created substandard parcels are not permitted to divide.

(5) Illegally created substandard parcels with an existing residence may be permitted to rezone to an appropriate district to bring the parcel into compliance, provided the parcel complies with all density and siting criteria of this plan.

i) **When density units are exhausted:** When eligible density units for an original April 28, 1981 farm have been exhausted, the town shall request the County to record a deed restriction that prohibits further residential development on the balance of the property prior to the issuance of the rezone of said property. Portions of the property intended to remain in agricultural use shall be zoned FP-1 or FP-35.

2. **Development siting standards & criteria:** The Town shall use the following siting standards and criteria when reviewing proposed non-farm rezones or development, land divisions under county and town land division ordinances, and building siting under the town building permit ordinance.

a) **Site plan review:** The Planning Commission and Town Board must approve a site plan for all proposed nonfarm development within the Agricultural Preservation Area. Site plans should show the layout of the proposed lot(s), the location and use of proposed buildings, parking area(s), significant natural features, existing and proposed vegetation and driveway access. Site plans must, in the opinion of the Planning Commission and Town Board, meet all of the following objectives:

(1) Agricultural lands, woodlands and other natural resources are to be

protected. Site plans should minimize the break-up of contiguous tracts of agricultural land, woodlands or environmentally sensitive land.

(a) Unless exempted by the Farmers Retirement house provision (see section (d) below) buildings shall not be located on historically cropped lands.

(b) Residential buildings, driveways, public or private roads and out buildings shall be located in pastures or woodlots in places with the least impact on the surrounding resources.

(c) Driveways and building in woodlots should minimize the destruction of hardwood trees and environmentally sensitive/important areas. Short driveways and building near the edge of woods may be required. No more than 30% or 2 acres (whichever is less) of existing woods on a lot may be cut for the building site and driveway.

(d) New buildings, driveways and public or private roads must comply with Resource Protection Corridor policies.

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(2) Siting should protect the rural character of the township.

(a) Proposed buildings and uses create minimal conflict with neighbors.

(b) New driveways, houses or outbuildings will be located a minimum of 500 feet away from adjacent out-buildings and residences, unless the adjacent residence is also the property of the person proposing the new building and is part of a planned "cluster development." Buildings and driveways must be 100' from existing property lines. At the discretion of the Town Board and Planning Commission, balancing various competing goals and objectives of the town plan, exceptions to this rule may sometimes be allowed. Such exceptions might include situations such as the following:

(i) where the enforcement of the rule is impossible because the parcel is too small;

(ii) where the placement of the new driveway in accordance with the rule would disturb important natural resources such as agricultural land, or;

(iii) if the adjoining landowner has no objection to the structure being placed close to his or her property than the rule would require.

(c) Buildings are to be sited and designed to minimize visual impact when viewed from existing houses and public roads. Buildings are to be hidden from Town roads whenever possible.

(d) On properties with exposed hilltops or ridges, roof lines cannot extend above the hilltop or ridge line, if possible.

(e) Natural vegetation should be left in place to screen new buildings. Where natural vegetation is not present, screening by plantings, berms, or other features may be required to mitigate the impact of residential development.

b) Lot size:

1. Within the Agricultural Preservation Area, the minimum parcel size for proposed new lots shall be 2 acres. Nonfarm zoning parcels shall be the minimum size necessary to accommodate the proposed use, while meeting town driveway standards, minimum road frontage and other criteria of the town comprehensive plan. *NOTE: The town's density policy does not require 35-acre or 70-acre residential lots.*
2. Nonfarm development in woodlands of greater than 20 contiguous acres existing as of 1981, requires **a minimum lot of 10 acres of woodland and is restricted to 1 residential build.**

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c) Driveways and roads:

- (1) New driveways and roads shall be the minimum length necessary to access the site.
- (2) All driveways shall be designed and located to be suitable for emergency vehicle access and safe access onto existing roadways.
- (3) Driveways must comply with the Town Driveway Ordinance, County or State Highway access requirements, as applicable.
- (4) Contractors shall be required to use erosion control measures and return lands to a near normal setting after completion of construction. The Town may require an erosion control and/or stormwater management plan or a preliminary review letter meeting county ordinance standards as a condition of approval. For driveways longer than 125 feet in length, the town will require proof of compliance with county erosion control and stormwater regulations before a driveway permit will be issued.

d) Exceptions for Farmer Retirement Homes:

A farmer may be granted an exception for a retirement home if all of the following criteria are met:

1. **The resident farmer has owned or operated an agricultural operation headquartered in the Town of Primrose for at least 20 years and is at least 55 years of age.**

2. During all of those 20 years the resident farmer must have been actively engaged in production agriculture, which means they earn the majority of their livelihood from that operation. They cannot qualify with passive income such as land rent, MFL, CRP or CREP. The Town reserves the right to ask for verification of income. (The years do not have to have to be consecutive years.)
3. The property must have a density per the township density policy. This lot will only take one density unit from the calculation.
4. The lot granted under this exception may only be used for said farmer's retirement home. The lot may not be used for any other building purpose or sold as a buildable lot.)
5. The approval of the retirement house lot is only valid for two years from the time of Town Board approval. If not constructed within that time frame, the applicant must reapply.
6. If a farmer has building sites that meet the Town siting criteria (e.g., not in or crossing agricultural land etc.), one of those sites must be used for the retirement site. The farmer cannot have sold off sites since 2010 that meet the siting criteria (e.g., in woods or pasture), and then apply for a retirement site in or crossing agricultural land. The only time a retirement site will be allowed in or crossing agricultural land, is if the farmer had no buildable sites as of 2010 by the Town's siting criteria. The site must make minimum disturbance to agricultural land. The driveway cannot exceed 300 feet in length, and buildings cannot be more than 300' from the entry point of the field. All other siting criteria, ordinances, policies, etc., must be met.

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e) Additional criteria may include, as appropriate:

- (1) Manure storage plans and/or farm conservation plans approved by the Dane County Land Conservation Division
- (2) Existing or proposed sanitary systems must be adequately sized to meet the proposed use and meet all current requirements of COMM 83, Wisconsin Administrative Code and Chapter 46, Dane County Code.
- (3) Erosion control and stormwater permits under Chapter 14, Dane County Code.

3. **Commercial Development:** The Town shall follow the following policies regarding proposed new, or expansion of existing, commercial development within the Agricultural Preservation Area:

- a) To allow limited commercial development as is needed to support existing agricultural activities, provide supplemental income for farm families or provide agricultural-related services. Commercial development must not result in environmental degradation, inappropriate traffic volumes or conflict

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with farming operations. Commercial uses will be limited to those allowable under the **Limited Commercial zoning criteria** or as conditional uses in the Zoning Districts.

- b) To limit rezoning to that portion of land which is necessary for the limited commercial use contemplated.

c) To avoid speculation and ensure compliance with previous policies, the applicant must request a specific use **when requesting a rezone**. Due to the permitted uses in **Limited Commercial** districts, the Town may require a condition on the rezoning to allow only the specific use as delineated on an approved site plan. This allows the Town to set specific limits and to review any expansion or new uses.

d) Any rezone to allow nonfarm commercial use shall count against the town density policy. [Brian Standing response]

e) To avoid any substantial expenditure of public funds and the incurrence of municipal debt for the construction or provision of municipal improvements and services usually associated with commercial development.

Other proposed changes to Town Plan or Ordinances to consider:

- i. Shouldn't the farm house count against density?
- ii. Change can't cut into NATURAL slopes of greater than to 20%.
- iii. Change maximum slope of the driveway from 13% (refer to driveway ordinance) Add language to utilities—to make clear that solar/wind installations will count against density and environmentally sensitive cover must be planted
- v. Potentially add a night sky ordinance given survey results. Look at Town of Verona and Perry ordinance.
- vi. Add language about conservation easements, in case this comes up in the future. Town of Dunn.
- vii. Consider prohibiting building within **50 ft.(100)?** of neighboring property line.

viii. Make sure that the Ordinances are consistent with revised Town Plan