



1 Mr. DiNovo recommended replacing the word 'unique' with either 'special', 'limited', or 'restricted'  
2 in Policy 1.1.1. He asked why the phrase 'conversion of prime farmland is minimized' was changed to  
3 'farmland is efficiently used'. Ms. Monte responded the change is proposed because many of the  
4 provisions addressed the efficient use of farmland. Mr. DiNovo then pointed out that the original text  
5 was clearer and that "efficiently" can mean a yield of housing units per acre of farmland sacrifice, and  
6 that a lay person without that background looking at the word "efficiently" doesn't necessarily  
7 understand it in the same way. He said the point of using prime farmland efficiently is to minimize the  
8 conversion.

9  
10 Mr. Langenheim said that flat statements that are not capable of being appealed or being granted  
11 exception by the Board. Mr. DiNovo said that no single policy overrides others and hopefully, the  
12 County Board will not go against all policies. He explained that policies should mean what is intended  
13 and it would do a disservice to adopt policy statements that the Board is not willing to stand behind.

14  
15 Ms. Monte explained that other improvements may be proposed to 1.1 to make it briefer and more  
16 concise.

17  
18 With regard to Policy 1.2, Preserving Unique Soil Resources, Ms. Monte said the question that  
19 underlies this policy is "should farmland preservation focus only on the most productive soils?" She  
20 indicated the newest changes proposed is to limit residential subdivisions on best prime farmland,  
21 allowing for non-residential land uses provided that the land is used in the most efficient way and  
22 minimizing conversion.

23  
24 Ms. Busboom said that this policy is ambiguous and should be clarified. Ms. Monte said that this  
25 policy does not directly address basic development rights, which is addressed directly in Policy 1.3;  
26 and that Policy 1.2 addresses preservation of farmland. Mr. DiNovo explained that the best prime  
27 farmland should stay as that and non-farmland development would be allowed in small amounts on  
28 land. He said that there may be exceptions where small amounts of development by some non-  
29 residential developer would be allowed on best prime farmland. He suggested that we keep the  
30 forthright statement but make a notation that there are specific exceptions to this ruling, which would  
31 be specified in the Zoning rules. He then questioned the use of the word "largely" in this section,  
32 which is not specific.

33  
34 Ms. Busboom requested an explanation of the third paragraph down, the last sentence. Ms. Monte said  
35 that detailed clarification of the policy statements would be included in the ordinance draft. Members  
36 discussed the distinction between horse farms and riding stables, and which is considered agriculture.  
37 Ms. Monte said that the riding lessons portion of a stable would not be considered agricultural use.  
38 Mr. DiNovo suggested exempting all stables, which would be less complicated for staff.

39  
40 Regarding Policy 1.3, Protection of Property Rights, Ms. Monte said this section deals with property  
41 rights related to the establishment of residences. She said a new policy statement will be proposed in  
42 this section to clarify the new direction proposed by the *Ad Hoc* Working Group. She said that a  
43 proposal is under consideration to add a policy assuring landowners that they will retain the right to  
44 establish a single family residence on existing lots that are considered as good zoning lots and that  
45 have been created legally. She said a nonconforming lot is a lot created properly under present zoning  
46 regulations at the time the lot was created, but not in compliance with a current zoning ordinance. Ms.  
47 Monte said that these owners would be guaranteed the right to establish a single family dwelling on  
48 these lots.

49  
50 Discussion took place concerning split lots and whether or not the existing lots, owned by the same  
51 person, would fall under the new zoning regulations. Ms. Monte explained that existing lots of under

1 40 acres would fall under the new zoning regulation and only 1 house would be allowed on any  
2 acreage under 40 acres. Existing lots, if they were approved zoning lots, would remain the same.  
3  
4 Mr. DiNovo said that we are talking about lots that have not been sold or had any development put  
5 upon it. Once a person took steps to comply with the rules, the existing priority of that change will not  
6 be extinguished. Mr. DiNovo said that one must be careful regarding the document of conveyance and  
7 the will or an estate request. He suggested the following language: As of July 1, 2005, there were  
8 otherwise lawful lots would be grandfathered in, but lots created between then and the date of this  
9 option would be subject to the new regulations.  
10  
11 Ms. Busboom asked how we could control someone selling 5 acres to someone who would then sell  
12 back four of those acres to the original owner. Mr. DiNovo said that staff and the State’s Attorney’s  
13 office managed to acquire an important opinion from the Attorney General concerning this type of  
14 action and the loophole was closed. For purposes of financing a dwelling on 40 acres, Mrs. Berry  
15 pointed out that the lot would be split to include the one acre on which the dwelling would be built for  
16 financing purposes only. Ms. Monte said she would clarify this in the language.  
17  
18 Ms. Busboom expressed concern regarding proposed Policy statement 1.3.2, asking for clarification  
19 regarding development that will be allowed by right.  
20  
21 Mr. DiNovo said that basic development rights generally are proportionate to tract size and generally  
22 are 1 dwelling per 40 acres. He said that all of the rest of this section could be explanatory text, and  
23 suggested that the last clause in that sentence be dropped.  
24  
25 Mr. DiNovo said that for proposed Policy 1.3.3, we could take those two statements and make them  
26 two separate policy statements, and that it would be useful to have explanatory text to explain why a  
27 land evaluation score of 85 is important. He said that the County could deny development rights on  
28 best prime farmland because one could earn reasonable return on the investment farming the land.  
29  
30 Ms. Monte said that no changes are proposed to Policy 1.4.  
31  
32 Regarding Policy 1.5, Site Suitability for Development Subject to Discretionary Review, Ms. Monte  
33 said a proposed modification is that clarification be added to the heading to indicate this policy pertains  
34 to development that is subject to discretionary review. She said the distinction between less productive  
35 farmland and productive farmland is no longer relevant because now the distinction is between “best  
36 prime farmland” and “farmland other than best prime farmland”. She said there were no other major  
37 changes to the 1.5 series of policies.  
38  
39 Regarding Policy 1.6, Ms. Monte said that only minor changes are proposed to change the word  
40 ‘permitted’ to either ‘allowed’ or ‘authorized’ .  
41  
42 Regarding Policy 1.7, Ms. Monte said clarification is proposed to distinguish which policy pertains to  
43 by-right or conditional use developments and which policy pertains to development allowed by  
44 discretionary review.  
45  
46 Ms. Monte said that Mr. Fletcher was requested to investigate a question given to him by staff  
47 concerning the administering of these agricultural exemptions with regard to zoning.  
48  
49 Mr. Fletcher said that the short answer is that we cannot define that and cannot set up standards as  
50 there are State laws for this. Minimum farmland income is defined, minimum amount of acreage, etc.  
51 If nothing agricultural is happening on the land, then the agriculture exemptions do not apply.

1  
2 Mr. DiNovo wanted to clarify what is at issue and that is no one is asking that there is ever a  
3 circumstance where an activity, which by itself is agriculture, is not exempt, i.e., keeping a horse,  
4 nursery, anything that itself is agriculture is always exempt and there is no question about that. He  
5 explained that the real issue is houses with the question being - when is a house considered a  
6 farmhouse, which is exempt, versus a non-farmhouse, which is not exempt.  
7  
8 Mr. DiNovo then asked if there is a situation where a person that farms and has a building lot  
9 somewhere else that has been designated as farmland, does that make his house exempt?  
10  
11 Mr. Fletcher said that to the best of his knowledge the farmhouse has to be on or adjacent to a farm.  
12  
13 Mr. DiNovo asked if we were going to exempt houses that aren't on farms, i.e., physical site evidence  
14 versus subdivision and how does staff determine whether or not the owner is actually a farmer.  
15  
16 Mr. Fletcher explained that there is a limitation in place for a farmhouse to be on the property that is  
17 being farmed. He said that the zoning laws deal with the use of the land and State Law prohibits the  
18 definition of farmhouse versus non-farmhouse.  
19  
20 Ms. Monte said that staff could require an affidavit and there would be certain provisions that need to  
21 be met on this affidavit. Mr. Fletcher agreed with this type of requirement.  
22  
23 Mr. DiNovo pointed out that we wanted to see commercial farmland use that generated cash flow.  
24  
25 Mr. Moser explained that the State only requires proof that if you are financially and materially  
26 involved in the management of a farm and you are at risk, you are classified as a farmer.  
27  
28 Mr. DiNovo said that there is a zoning requirement that applies with respect to minimum lot size and  
29 setback from the road so that they would not be subject to side yard set backs, drainage protection,  
30 natural area protection and would be exempt from everything in the ordinance except minimum lot size  
31 and setback from the road.  
32  
33 Mr. Fletcher explained that the operating definition would be the best guess as to what the judge is  
34 going to say and that there is no power to make a policy for what that is going to be. He said that the  
35 Attorney General's opinion is little more than just guidance.  
36  
37 Mr. DiNovo pointed out that according to traditional zoning ordinances, the "farmhouse" must be  
38 accessible to the barn on the property. Mrs. Berry said that filing a "Schedule F", which would show  
39 farm income, could be one of the provisions included on the affidavit. Mr. Moser pointed out that if a  
40 "Schedule F" is filed, that person would be subject to Social Security tax and there is another form that  
41 retired farmers utilize to be exempt from social security taxes.  
42  
43 Concerning riding stables and schools, Mr. DiNovo explained that the agricultural exemption does not  
44 go to the underlying zoning district, it goes to all of the land under the County's jurisdiction, whether it  
45 is zoned residential, industrial, or agriculture.  
46  
47 Ms. Monte said that there were changes proposed to 1.9 but the guidance received with regard to 1.8 is  
48 to perhaps consider an either/or type of situation regarding Schedule F or living on the premises.  
49  
50 Mr. Moser expressed concern on a provision of 1.7 , and specifically the proposed Public Resource  
51 Area Buffer of 250 feet around a park such as Homer Lake. He asked if the next owner would have to

1 give it up. Ms. Monte said that there would be exemptions for existing lots and that this provision is  
2 directed primarily toward new development. Mr. DiNovo said that the only prohibitions associated  
3 with the proposed Public Resource Area Buffer will be new permanent structures larger than 150  
4 square feet and lighting shining directly into the adjacent forest preserve district property.  
5

6 Regarding any proposed change to Policy 1.8 regarding the agriculture exemption, Mr. DiNovo  
7 pointed out that any specification of what agriculture is would go against someone's interests. He said  
8 that we would perhaps do best way by leaving things alone.  
9

10 Mr. DiNovo recommended bringing the proposed revisions to the Land Use Regulatory Policies –  
11 Rural Districts forward to ELUC at the next September meeting.  
12

13 **6. Other business – None**

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15 **7. Adjournment**

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17 The meeting was adjourned at 11:10 a.m.

18  
19 Respectfully submitted,

20  
21 Secretary, Environment and Land Use Subcommittee  
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23