

March 26, 2008

VIA E-MAIL: [bdavis@co.scott.mn.us](mailto:bdavis@co.scott.mn.us)

Brad Davis, Manager  
Scott County Land Use Planning Department  
200 Fourth Ave West  
Shakopee, MN 55379

Re: Comments on Draft 2030 Comprehensive Plan

Dear Mr. Davis:

The Local Harvest Alliance submits the following comments concerning Scott County's proposed 2030 Comprehensive Plan ("2030 Plan").

The Local Harvest Alliance is a group of local food producers and consumers located in Scott County, including the Lower Minnesota River Valley. Our goals are to promote land use development that supports local food production and protects farmland; to develop a vibrant local food economy; and to realize ultimate food security through local food production.

**I. The 2030 Plan Should Endorse Farmland Preservation and the Promotion of Agriculture That Supports Locally Grown Food Production Systems as Plan Goals.**

Research conducted by the county unequivocally establishes that Scott County residents strongly favor preserving farmland within the county. 2030 Plan, Pages II-3-5. Public opinion surveys taken by the county establish that residents favor taking steps to preserve the county's "farming heritage; rural atmosphere; small-town lifestyle and natural landscape." 2030 Plan, Page II-3. Residents also favor "taking more proactive steps to maintain the county's rural atmosphere, including . . . long-term preservation of farmland or open space." 2030 Plan, Pages II-3-II-4. Indeed, an overwhelming majority (73 percent) of respondents to the county's public opinion survey strongly endorsed "permanently retaining agricultural land in Scott County." 2030 Plan, Page II-5.

Despite strong community support for preserving farmland in Scott County, the 2030 Plan fails to include retention of farmland as a plan goal. Rather, the 2030 Plan views the "long-term future of agriculture in the county" as a "strategic challenge" and reclassifies the vast majority of its agricultural lands to other land use categories. 2030 Plan, Pages IV-5, V-43.

The distinction between framing farmland preservation as a plan goal instead of a "strategic challenge" is of critical importance because it fundamentally shifts the focus of

the planning process. If the preservation of farmland is viewed as a plan goal, the plan will prioritize farmland preservation despite the county's need to absorb its share of population growth. In contrast, under the current draft of the 2030 Plan, the accommodation of population growth clearly trumps farmland preservation. As a result, the 2030 Plan requires vast expanses of agricultural land to be re-zoned so as to accommodate population growth, rather than seeking alternative ways to accommodate growth while simultaneously preserving farmland.

By failing to designate farmland preservation as a plan goal, but rather viewing it as a "strategic challenge" that must be negotiated, the 2030 Plan sets up a framework where farm preservation is destined to fail. Given the strong community support for farmland preservation, the 2030 Plan should foster such preservation rather than promise its demise. Consequently, it is imperative that the final 2030 Plan include farmland preservation as an explicit plan goal.

Likewise, the plan should also include promoting agriculture that supports locally grown food production systems as a plan goal. There is no doubt that protecting Scott County's natural resource base is of great concern to area residents. Indeed, over 75 percent of survey respondents "either supported or strongly supported additional regulations to protect environmentally sensitive areas." 2030 Plan, Pages II-6. Moreover, residents envision a community with a diversified economic base—one that allows them to work within the community, rather than outside of it. 2030 Plan IV-4. By delaying its analysis of the long-term future of agriculture in the county until after it finalizes the 2030 Plan, the county misses a prime opportunity to integrate the environmental and economic benefits derived from a locally grown food production system into its 2030 Plan.

Promoting locally grown food production systems would enable the county to satisfy residents' concerns and dovetails with several of its goals. Specifically, locally grown food systems would help to preserve farmland, protect natural resources by encouraging sustainable farming methods, and provide local jobs that would diversify the county's economic base. Nevertheless, the 2030 Plan ignores this opportunity in its entirety. Consequently, the county should make promoting agriculture that supports locally grown food systems a goal of the 2030 Plan.

## **II. Including Farmland Preservation and the Promotion of Agriculture That Supports Locally Grown Food Production Systems is Consistent With the Metropolitan Council's Regional Development Framework.**

The Metropolitan Council's 2030 Regional Development Framework (Development Framework) manifestly does not require counties to subjugate farmland preservation to the accommodation of population growth. Quite the contrary, the Development

Framework expressly recognizes that the preservation of agricultural land is an important part of achieving the Council's policy to "reclaim, conserve, protect and enhance the region's vital natural resources." Development Framework, Pages 14-15. Therefore, the Development Framework strives to concentrate population growth in existing urban areas already possessing the infrastructure needed to support population growth. Development Framework, Pages 6, 10.

Moreover, the Council specifically recognizes the value of prime agricultural land and "supports local communities in their determination of how best to use this land." Development Framework, Page 15. The Council also strives to support local efforts to preserve agricultural land "by forecasting only very small amounts of household and employment growth for agricultural areas and by strictly limiting its investments in regional infrastructure in those areas, focusing instead on investing in efficient and fiscally prudent urban growth." Development Framework, Page 10.

Thus, pursuant to the Development Framework, Scott County is encouraged to promote farmland preservation and agriculture that supports locally grown food production systems (hereafter referred to as "local agriculture") as goals of its 2030 Plan. Neighboring Dakota County provides an example of how agricultural preservation and promotion can be included as comprehensive plan goals in a manner that is consistent with the Metropolitan Council's Development Framework. In its planning process, Dakota County specifically seeks to promote locally grown foods; preserve agricultural land and heritage; promote more sustainable agricultural practices; and protect agriculture by limiting rural residential growth. See, *Dakota County 2030 Visioning Draft Technical Report* (February 2007), pages 31-32, 53, available at <http://www.co.dakota.mn.us/NR/rdonlyres/000010b5/uqahvyczsehwycuqplidwloyxbekufh/DakotaCountyVisioningCompleteDraft.pdf>. Each of these goals falls under the rubric of the Development Framework's policy to conserve, protect, and enhance the region's natural resources. Given the strong public support for farmland preservation in Scott County, and that endorsing such preservation and promoting local agriculture is consistent with the Development Framework, Scott County should adopt goals similar to those endorsed by Dakota County.

### **III. The 2030 Plan Fails to Adequately Preserve Agricultural Land.**

The 2030 Plan repeatedly emphasizes the importance of Scott County's agricultural heritage and its prime farmland. 2030 Plan, Pages II-3-5, III-2, V-16, V-26. Nevertheless, the current draft of the 2030 Plan fails to protect the vast majority of the farmland located within Scott County. Indeed, the plan explicitly reduces the amount of land reserved for long-term agricultural preserves from 23.8 percent to 7.1 percent. 2030 Plan, Page V-43.

The remainder of the farmland that is being preserved by the county (also 7.1 percent) is only being preserved on a temporary basis so that it can later be used for future urban development. 2030 Plan, Pages V-36, V-43.

Moreover, the 2030 Plan is devoid of language protecting agricultural lands. Instead, the Plan limits the scope of its protections to “*agricultural uses and operating farms within the agricultural areas.*” 2030 Plan, Page V-33 (emphasis added). However, given that the 2030 Plan reclassifies the majority of agricultural lands to other land use categories, most of today’s farms will be located outside of the 2030 Plan’s designated agricultural areas. Consequently, any protection offered by the 2030 Plan is illusory, as it applies only to a fraction of current farmland.

#### **IV. Historic Land Use Patterns in Scott County and Neighboring Areas Indicate That the Reclassification of Agricultural Areas Will Result in the Loss of Farmland.**

Although the 2030 Plan allows for specified farm uses in areas not designated as “agricultural areas” (for example, small parcel farms are allowed in urban expansion, urban transition, and rural residential reserve land use areas), that permission alone will not ensure the land remains farmland. Rather, historic land use patterns show that once land is zoned to allow more residential development, the land is unlikely to remain farmland. See, e.g., *Dakota County 2020 Comprehensive Plan*, available at <http://www.co.dakota.mn.us/Departments/Planning/Reports/DC2020.htm>; DeKalb County Farm Bureau, Center for Agriculture, *Farm Viability in DeKalb and Other Urbanizing Counties* (February 18, 2008) (studying the impact of development on agricultural lands in five metro-area counties, including Dakota County), available at [http://www.farmland.org/resources/reports/documents/AFT\\_UrbanEdgeAg\\_PreliminaryResults.pdf](http://www.farmland.org/resources/reports/documents/AFT_UrbanEdgeAg_PreliminaryResults.pdf).

Indeed, land use patterns in Scott County and surrounding counties establish that once land is zoned to allow residential development, large numbers of acres are typically taken out of agriculture and developed, resulting in a high rate of farmland losses. Office of the Legislative Auditor, State of Minnesota, “*Green Acres*” and *Agricultural Land Preservation Programs* (February 2008), available at <http://www.auditor.leg.state.mn.us/ped/2008/greenacres.htm>. During the time period from 1982 through 1992, Scott County lost 56.3 percent of its farmland for reasons generally related to development. See, Minnesota Department of Agriculture, *Cost of Public Services Study*, page 17, available at <http://www.mda.state.mn.us/news/publications/aboutmda/pubservcosts.pdf>. Of the 14,574 acres of agricultural land lost in Scott County during the time period from 1982

through 1992, more than half of Scott County's farmland (approximately 8,200 acres) was converted to residential, commercial or industrial (developed) uses. U.S. Department of Agriculture, *National Resources Inventory*, 1982 and 1992.

Once its remaining agricultural land is lost to development, Scott County will not be able to recoup its prime farmland, and its unique agricultural heritage will be lost. In other words, there is no going back. Should the 2030 Plan be implemented as currently written, Scott County will lose its farms to urban sprawl, and valuable cultural and natural resources will be irrevocably lost. Therefore, the 2030 Plan land use reclassifications should be revamped so as to better preserve agricultural lands in Scott County.

#### **V. The 2030 Plan Deprives Farmers of Legal Protections Offered by State Statutes.**

State laws strive to protect agricultural lands and farming operations by offering certain tax benefits and other legal protections to farms located in agricultural land use zones. Minn. Stats. §§ 561.19, 473H.04, subd. 2 (2007). By reclassifying current farmland to other land use categories, the county will remove the statutory protections for all farms located in the reclassified areas. The 2030 Plan should address how family farms and small farming operations located in the reclassified areas will be protected given that state statutory protections will no longer apply.

##### **A. Minnesota's Right-To-Farm Law**

Minnesota's "right-to-farm" law protects farm operations from nuisance liability provided the farm meets specified criteria (for example, operates according to generally accepted agricultural practices and complies with applicable laws). However, the right-to-farm law does not apply unless the farming operation is located within "an agriculturally zoned area." Minn. Stat. § 561.19, subd. 2 (2007).

By reclassifying current agricultural areas to other land use categories, the 2030 Plan will deprive farms located in the reclassified areas of the legal protections offered by the right-to-farm law. Thus, although the 2030 Plan encourages townships to adopt right-to-farm ordinances "based on state regulations" (see 2030 Plan, Page V-34), any right-to-farm ordinances adopted by the townships will invariably apply only to farming operations located within the limited areas that are agricultural land use zones. Given that much of the land in Scott County will ultimately be reclassified to non-agricultural land use categories, any farms that remain outside of these areas will be subject to nuisance liability, an issue the plan fails to address. To encourage farmland preservation and local food production, the 2030 Plan should afford nuisance protection to family farms and

small farming operations located within the reclassified areas, excepting all industrial livestock and agricultural operations.

### **B. The Metropolitan Preserves Act**

The Minnesota Legislature enacted the Metropolitan Preserves Act for the express purpose of preserving “viable productive farm operations in the metropolitan area.” Minn. Stat. § 473H.01 (2007). The Metropolitan Preserves Act strives to preserve farmland by granting farmers property tax benefits and protections against interference with their farming operations. Minn. Stat. §§ 473H.01; 473H.10; 473H.12 (2007). However, these benefits and protections are only available for farmland located in agricultural zones. 473H.04, subd. 2 (2007). Consequently, by reclassifying agricultural areas to other land use categories, the county is creating a situation in which farms located in the reclassified areas will be operating without the benefit of the legal protections currently offered by state law. The 2030 Plan should retain these benefits and protections for family farms and small farming operations located within the reclassified areas, excepting all industrial livestock and agricultural operations.

The 2030 Plan fails to recognize the legal consequences of its reclassification of agricultural areas to other land use categories. Moreover, the plan also fails to recognize the practical effects of its land use category reclassification—i.e., the loss of farmland. Consequently, should the final plan retain the land use reclassification scheme used in the current draft of the 2030 Plan, the county must, at a minimum, consider specific steps it may take to insulate family farms and small farming operations from the legal and practical effects wrought by its land use category reclassifications.

### **VI. The 2030 Plan Should Include an Economic Analysis of How Local Agriculture Contributes to the County’s Fiscal Health.**

It is well established that locally based agriculture results in the creation of more local jobs. See, e.g., Minnesota Department of Agriculture, *2007 Minnesota Agricultural Statistics*, available at [http://www.nass.usda.gov/Statistics\\_by\\_State/Minnesota/Publications/Annual\\_Statistical\\_Bulletin/agstatbk2007/page1.pdf](http://www.nass.usda.gov/Statistics_by_State/Minnesota/Publications/Annual_Statistical_Bulletin/agstatbk2007/page1.pdf). Currently, demand for locally grown foods is on the rise. As consumer awareness of the benefits of purchasing locally grown foods continues to increase, continued growth is expected in the demand for locally grown food products. Farm Credit Council, *Growing Opportunity: The Outlook for Local Food Systems*, available at [http://www.fccouncil.com/uploads/Growing\\_Local\\_Food\\_Systems.pdf](http://www.fccouncil.com/uploads/Growing_Local_Food_Systems.pdf). Given its prime farmland and its location within the metropolitan area, Scott County is exceptionally well positioned to satisfy the demand for locally grown foods. Thus,

promoting the growth of locally grown food production systems within Scott County could prove to be an economic boon to the county.

Indeed, the 2030 Plan confirms that sustainable farming practices, such as organic farming, are “increasingly being seen as a way to promote rural economic development and support the local economy.” 2030 Plan, Page X-9. In contrast, when food production and purchases are not locally based, the local economy is drained of money that would otherwise be invested locally. 2030 Plan, Page X-9; Ken Meter, Crossroads Resource Center, *A brief history of the “Finding Food in Farm Country” studies* (September 23, 2005).

Regardless of the widespread economic benefits of local agriculture, the 2030 Plan fails to perform any economic analysis of how local agriculture contributes to Scott County’s fiscal health. Instead, the county’s economic goals and development policies focus almost exclusively on creating jobs through commercial and industrial land uses. 2030 Plan, Pages X-17-X-18. Local food production should be considered as an additional job creation tool, as it will help to diversify Scott County’s economic base while simultaneously providing additional jobs to Scott County residents.

As indicated above, Scott County has not yet performed any analysis of local agriculture’s impact on the county’s economy. Nor has the county studied the long-term future of farming in Scott County. Instead, the county proposes to “[s]tudy the changing farm economy and long-term future of farming in Scott County” after it implements the 2030 Plan. Given the benefits that local agriculture is likely to contribute to the fiscal health of the county, it is imperative that local agriculture be considered before the 2030 Plan is finalized, not after. Failing to take local agriculture into account prior to release of the final 2030 Plan ensures local agriculture will not be integrated into the Plan’s fabric, but will instead remain an afterthought, guaranteed to result in a loss of farmland and a lost opportunity to improve the local economy.

Thus, before finalizing the 2030 Plan or reclassifying agricultural land to other land use categories, Scott County should explore the economic benefits of local food production and sales. The Crossroads Resource Center, located in Minneapolis, has conducted studies and published analyses of regional food economies in Southeast, West Central, and Northwest Minnesota, as well as in other states. Similar analysis would be an invaluable tool in planning for Scott County’s future and should be performed before the 2030 Plan is finalized. More information about the studies performed by the Crossroads Resource Center can be obtained through its website, located at <http://www.crcworks.org>.

Comments on Draft 2030 Comprehensive Plan  
Submitted by Local Harvest Alliance  
Scott County Land Use Planning Department  
March 26, 2008  
Page 8

**VII. The 2030 Plan Should Commit to Studying and Implementing Options for Preserving Farmland and Promoting Local Agriculture.**

The 2030 Plan should firmly commit to investigating, evaluating and implementing land use planning tools that could foster agricultural protection. Instead, the 2030 Plan merely states the county “might consider” implementing a Transfer of Development Rights (TDR) program. 2030 Plan, Page V-50. The 2030 Plan should firmly commit to investigating, evaluating and implementing a range of agricultural protection options, including TDR programs and conservation easements.

The Metropolitan Council’s Development Framework explicitly authorizes communities to establish conservation initiatives, integrate natural resources into land use decision-making, and adopt and enforce conservation ordinances, including conservation easements. Development Framework, Pages 19, 24-29. State law also allows for the use of conservation easements for the purpose of preserving agricultural lands. Minn. Stat. § 84C.01(1) (2007). Consequently, the 2030 Plan should require the county to investigate, evaluate and implement land use planning tools that could foster agricultural protection, including TDR programs and conservation easements.

To ensure the county understands the practical impacts and effectiveness of the agricultural protection tools under consideration, the 2030 Plan should require the county to work in conjunction with a farmer advisory group. The group should consist of farmers from a variety of farming operations within Scott County.

Thank you for your consideration of these comments.

Sincerely,

THE LOCAL HARVEST ALLIANCE

Mary Tacheny, SSND  
Dave and Florence Minar  
Jennifer Jensen  
Joe and Michelle Gransee-Bowman  
Heidi Morlock  
Ann Houghton