



HEALTHY COMMUNITIES • SUSTAINABLE COMMUNITIES

May 13, 2015

Draft Guidelines on Permitted Uses
Food Safety and Environmental Policy Branch
Ontario Ministry of Agriculture, Food and Rural Affairs
1 Stone Road West, 3rd Floor
Guelph, ON N1G 4Y2

Re: Draft Guidelines on Permitted Uses in Prime Agricultural Areas

Dear Sir or Madam,

On behalf of the Ontario Professional Planners Institute (OPPI), please find below comments on the Draft Guidelines on Permitted Uses in Ontario's Prime Agricultural Areas. We appreciate this opportunity to provide input.

OPPI is the recognized voice of the Province's planning profession. Our more than 4,000 members work in government, private practice, universities, and not-for-profit agencies in the fields of urban and rural development, community design, environmental planning, transportation, health, social services, heritage conservation, housing, and economic development. Members meet quality practice requirements and are accountable to OPPI and the public to practice ethically and to abide by a Professional Code of Practice. Only Full Members are authorized by the Ontario Professional Planners Institute Act, 1994, to use the title "Registered Professional Planner" (RPP).

What parts of the Guidelines are most helpful?

The Guidelines are well-written and provide examples and illustrations that aid in the understanding of the principles included in the document.

Specifically, the Guidelines clearly articulate the Ministry of Agriculture, Food and Rural Affairs (OMAFRA) distinctions between: agricultural uses; on-farm diversified uses; and agriculture-related uses. Explaining the intent and rationale behind the Provincial Policy Statement (PPS) agricultural use policies and providing clear implementation guidance can greatly assist in informing both the public and decision-makers on how and why prime agricultural areas must be protected for agricultural use over the long term.

How could the document be improved?

General Comments:

The document needs to be clearly supportive of the key role of municipalities in determining how best to implement the policies of the PPS in their particular context (e.g. through locally developed Official Plan policies). As such, the focus of the document should be on providing additional policy direction to assist municipalities in developing local policies that are 'consistent with' the PPS, but that also go beyond the minimum policy direction provided in the PPS in order to provide the level and clarity of

policy direction necessary to achieve an appropriate balance between various PPS objectives in the local context.

The language used throughout the document should be reviewed to ensure it is consistent with the terminology used in the applicable PPS policies and is conveying the required level of policy compliance (e.g. 'shall' versus 'should'). In some areas, slightly different language or terminology is used which could cause confusion.

The Guidelines should avoid providing direction to municipalities on what Planning Act approvals should require for a particular use (e.g. zoning amendment, site plan). Municipalities are in the best position to determine what planning applications and review processes are most appropriate for the evaluation of a particular use.

Agricultural Use Guidelines (Section 2.1):

Clarification is required with respect to the intent and objective of the PPS policy stating that 'all types, sizes and intensities of agricultural use shall be promoted and protected in accordance with provincial standards' to eliminate any potential for misinterpretation (e.g. that the policy supports the creation of all sizes of agricultural parcels).

Additional guidance on the role of natural heritage features in prime agricultural areas should be provided. In particular, how natural heritage features are intended to be dealt with from a PPS policy perspective (e.g. whether such features and areas are intended to be subject to prime agricultural area policies).

Agriculture-related Use Guidelines (Section 2.2):

The intent and objectives of the agriculture-related use policies would benefit from further clarification to ensure an appropriate policy balance can be achieved (e.g. ensure that commercial and industrial uses are directed to settlement areas wherever reasonable and appropriate, while still providing reasonable opportunities to locate agriculture-related uses in prime agricultural areas to support local agricultural operations).

Clearer guidance should be provided on what matters should be taken into consideration in determining whether an agriculture-related use is compatible with and does not hinder surrounding agricultural operations. Also, additional guidance on what types and scales of agriculture-related use are not generally considered to be appropriate for private services would be beneficial and help to ensure consistency with the PPS servicing policies. Perhaps this topic would benefit from its own discussion section in the document rather than simply being referenced as part of the compatibility guidelines.

The Guidelines indicate that limitations on use and scale for agriculture uses may be appropriate and should be assessed on a case by case basis. However, the document then provides little further direction in that regard. Further guidance on how appropriate scale should be determined would be beneficial – especially direction on banquet halls and restaurants as accessory uses to wineries.

The Guidelines state that municipalities may require evidence that an agriculture-related use cannot be located in a settlement area, but then provides no further guidance on this matter. This is an important policy consideration to ensure an appropriate policy balance is achieved. Therefore, the document would benefit from more focus and discussion in the guidelines.

The list of uses that would and would not be permitted as agriculture-related uses should be reviewed and revised to ensure these address the common types of business uses that may be proposed for a rural location (e.g. building contractors/tradesman, excavators, farm drainage, custom farming, well drillers, trucking operations etc.) and whether these would be considered agriculture-related uses. Guide states that Agricultural Related Uses would not include trucking yards. OMAFRA should include some flexibility for trucking yards for the trucking of livestock which may not be appropriate to locate in settlement areas, or for those operations that are directly related to the trucking of agricultural products/produce, and are required in close proximity to farming operations.

On-Farm Diversified Use Guidelines (Section 2.3):

The intent and objective of the on-farm diversified use policies would benefit from further clarification to ensure prime agricultural areas are protected for agriculture use over the long term, while still providing reasonable opportunities for a farmer to establish a secondary business on the farm to supplement their farm income and for value added processing and agriculture tourism uses to be established on a farm. The manner in which the current policy guidance is worded, someone might conclude that these policies are intended to allow for anyone to acquire a farm parcel upon which to locate/re-locate a business that is in no way related to farming. Furthermore, there is no guarantee that the people running the On-Farm Diversified Use have any involvement in the operation of the farm. In order to ensure that On-farm Diversified Uses have a direct connection to the farm and its owners, it should be a requirement that the On-Farm Diversified Use be owned by the same owners as the farm property.

The use of lot area restrictions is potentially a problematic way to limit areas devoted to on-farm diversified uses. An absolute lot area restriction may be preferable to one that is dependent on parcel size. In addition, perhaps both a maximum lot area, and a maximum Gross Floor Area are a more appropriate way to regulate On-Farm Diversified Uses than solely a maximum two (2) percent of the lot area to a maximum of 1 ha (2.47 ac.). Further to this point, the suggested maximum lot area seems from a planning point of view to be too large to permit on-farm diversified uses as part of the farm operation. As the business expands it could grow beyond an appropriate scale to be located in the prime agricultural area. However, due to the significant investment in the business, it is unlikely that the business will ever leave the farm on which it was established. In fact, it could come to a point where the property owner wishes to sever the business from the farm parcel, irrespective of the PPS which does not permit the creation of lots for new non-farm related uses, except as specifically permitted. Most decision-makers will be hard pressed to abide by the PPS and not permit the severance when the applicant is pleading economic hardship.

The Draft Guidelines are opening up prime agricultural areas to non-agricultural uses which do not have to be located on farm parcels. Due to the above-noted 1 ha (2.47 ac.) maximum lot area for these uses, it may be more appropriate for these non-agricultural uses to be located within the settlement areas, in an attempt to balance the protection of prime agricultural lands while promoting rural economic development.

It would be helpful to have a more detailed explanation for the basis of the recommended “50 percent discount” for area restrictions applying to on-farm diversified uses within existing buildings. Although it may make sense to be flexible with

conversions of existing buildings for On-farm Diversified Uses (provided that the provisions of the Building Code are met), it is not clear how uses in existing buildings can be considered to be more or less “limited in area” than those in new buildings. A simple approach should be used to calculate lot area associated with the proposed On-farm Diversified Use, as opposed to the more complicated calculation proposed in the Draft Guidelines. However; the Draft Guidelines should be amended to include a maximum Gross Floor Area of Buildings for On-farm Diversified Uses. Additional guidance should be provided on the potential need to limit the types of on-farm diversified uses that may be permitted to ensure that settlement areas remain the focus of growth and development and that their vitality and regeneration is supported (e.g. the on-farm diversified use policies must not conflict with this PPS policy or any other applicable PPS policy).

The various examples of on-farm diversified uses provided throughout this section should be carefully selected and qualified to ensure these would meet all the PPS criteria for such uses. The examples provided for the purposes of illustrating the ‘limited in area’ criterion should also be reviewed in the context of all the comments provided on the on-farm diversified use Guidelines, particularly with respect to establishing appropriate size and scale limitations to address the secondary to the agricultural use of the property criterion. In addition, the list of uses that would not be permitted as on-farm diversified uses should be carefully reviewed to try to capture the full range of business uses that may commonly be proposed on a farm, but would not be considered on-farm diversified uses. The guideline would also benefit from some explanation as to why such uses would not be considered on-farm diversified uses.

The Draft Guidelines does not specifically address existing non-farm residential properties that are located in prime agricultural areas. At the very least, there should be some reference to these properties to permit home occupations, and home industries, secondary to the non-farm residential use of the property.

The Draft Guidelines suggest that municipalities may wish to consider using partial lot zoning for on-farm diversified uses. However; an unintended consequence of this approach is that it may be the basis of an application for consent to sever the on-farm diversified use from the farm property, irrespective of the PPS, the Guidelines, and Official Plan policies.

The Draft Guidelines also discusses “Nuisance Issues” and suggests “writing warning/ notification clauses into non-agricultural property titles regarding location in agricultural areas and the potential for nuisance effects.” OMAFRA should investigate this suggestion further as it is our understanding that it may not be possible to register “warning/ notification clauses” on title.

Categorization of Permitted Uses (Section 2.4)

The Categorization of Use Permitted table in this section may be misleading, due to simplified nature of the comparison uses provided. This may lead someone to conclude that a certain use is permitted simply because it is listed in a particular category column without being aware of all the additional qualifiers that may be required to ensure it meets the criterion of the PPS for a particular use. If this table is to remain in the document, it would benefit from further review in the context of the comments provided with respect to the various permitted uses, to ensure it is a clear and accurate as possible.

Implementation (Section 2.5)

The Guidelines should avoid trying to provide specific direction to municipalities on what Planning Act approvals these should or should not require for a particular use (e.g. zone change, site plan). Again, municipalities are in the best position to determine what planning applications and review processes are most appropriate for the evaluation of a particular use.

Are there any other comments about the draft Guidelines in general?

OPPI members are providing individual responses to OMAFRA directly regarding a number of technical issues.

Thank you again for the opportunity to provide comments. To further discuss our submission or to schedule a meeting, please contact me at (416) 668-8469 or by email at policy@ontarioplanners.ca

Sincerely,

A handwritten signature in black ink, appearing to read 'L. Ryan', followed by a horizontal line.

Loretta Ryan, MCIP, RPP, CAE
Director, Public Affairs
Ontario Professional Planners Institute