

Report PDR-PCD-18-15

To: Chair Wright and Members of the Planning and Community Development Committee

From: Randy Scherzer, Sarah Morrison, Alisha Buitenhuis, and Scott Taylor

Meeting Date: April 21, 2015 and updated April 28, 2015

Subject: **Permitted Uses in Ontario's Prime Agricultural Areas Guidelines**

Status: Recommendation adopted by Committee as amended per Resolution PCD60-15; Report amended to include information on establishing an additional tax class for some on-farm commercial and industrial uses; Endorsed by County Council May 5, 2015 per Resolution CC72-15;

Recommendation(s)

WHEREAS the Provincial Policy Statement (PPS) 2014 update provided further direction on permitted uses within prime agricultural areas,

AND WHEREAS the County's Economic Development Strategy recognizes the importance of a healthy rural economy and permitting compatible on-farm businesses,

AND WHEREAS the Province has drafted '*Guidelines on Permitted Uses in Ontario's Prime Agricultural Areas*', and is seeking comments on the document by May 13, 2015,

NOW THEREFORE BE IT RESOLVED THAT Report PDR-PCD-18-15 is hereby received,

AND THAT the report be forwarded onto the Ontario Ministry of Food, Agriculture and Rural Affairs as the County of Grey comments on the '*Guidelines on Permitted Uses in Ontario's Prime Agricultural Areas*' document,

AND THAT staff be directed to further explore permitted uses in the agricultural and rural areas through the County's forthcoming housekeeping amendment to the County Official Plan, in a manner consistent with Provincial Policy and Guidelines, and supportive of the County's Economic Development Strategy,

AND THAT this report be forwarded onto member municipalities within Grey for their information.

Background

During the review process for the 2005 Provincial Policy Statement (PPS) the Province heard feedback with respect to allowing for further on-farm business opportunities, as well as allowing for complimentary land uses in prime agricultural areas. Through the 2014 PPS update the Province responded by broadening the range of uses permitted both in prime agricultural areas and rural areas. The Ontario Ministry of Agriculture, Food, and Rural Affairs (OMAFRA) has also now drafted a companion document to the 2014 PPS, which further expands on the types of uses municipalities can consider in prime agricultural areas.

The County of Grey has a history of supporting a diversified rural economy. In the review of the County's Official Plan completed in 2012, the County further expanded the range of uses, and the allowable building sizes of said uses, permitted in the Agricultural, Special Agriculture, and Rural designations. A number of member municipalities have since 'followed-suit' by also amending their policies to mimic the County Plan. The County's Economic Development Strategy, which was supported by Council on April 7, 2015, recognizes the importance of these uses to the rural economy.

County staff are however cognizant that allowing for diversified uses in prime agricultural areas must maintain a balanced approach, in order to avoid land use conflicts, and in order to maintain the health of settlement areas. In some parts of the County, the increased permissions for building sizes and ranges of permitted uses has been met with some opposition from existing rural residents. In some cases both the size and concentration of on-farm businesses have left some questioning whether or not the rural areas are turning into 'de-facto industrial parks'. The consultant who completed the County's Economic Development Strategy has also noted that there will be cases where an on-farm business becomes so successful that it may be time to move off the farm, and possibly into a settlement area.

A link to the '*Guidelines on Permitted Uses in Ontario's Prime Agricultural Areas*' (hereafter referred to as GOPAA) document has been included in the 'Attachments' section of this report.

The purpose of this Report is to provide a summary of the proposed Guideline, as well as to provide some staff commentary on the implications of the draft document. Although this report speaks specifically to prime agricultural areas, for the purposes of the County Official Plan, such uses could be interpreted to fit in either the Agricultural, Special Agriculture, or Rural designations. In addition, there may be some instances in the County's Rural designation that some additional permitted uses, including some recreational uses, can also be further explored.

Guidelines on Permitted Uses in Ontario's Prime Agricultural Areas

Summary

In the PPS 2014 permitted uses in prime agricultural areas are defined as follows;

1. *“Agricultural uses: means the growing of crops, including nursery, biomass, and horticultural crops; raising of livestock; raising of other animals for food, fur or fibre, including poultry and fish; aquaculture; apiaries; agro-forestry; maple syrup production; and associated on-farm buildings and structures, including, but not limited to livestock facilities, manure storages, value-retaining facilities, and accommodation for full-time farm labour when the size and nature of the operation requires additional employment.*
2. *Agriculture-related uses: means those farm-related commercial and farm-related industrial uses that are directly related to farm operations in the area, support agriculture, benefit from being in close proximity to farm operations, and provide direct products and/or services to farm operations as a primary activity.*
3. *On-farm diversified uses: means uses that are secondary to the principal agricultural use of the property, and are limited in area. On-farm diversified uses include, but are not limited to, home occupations, home industries, agri-tourism uses, and uses that produce value-added agricultural products.”*

In the GOPAA the Province is clear that all types and intensities of ‘agricultural uses’ shall be permitted in prime agricultural areas. Municipalities cannot impose restrictions on the size or scale of such agricultural uses, beyond those limitations imposed by the *Nutrient Management Act* (NMA) or Minimum Distance Separation (MDS) formulae. Municipalities can dictate where farming is or is not a permitted use, but where farming is permitted, further limitations on a maximum size or scale of farm cannot be imposed. Municipalities are however required by the PPS to limit lot creation within prime agricultural areas, to prevent non-farm parcels from being created. In some instances mapped environmental areas or drinking water source protection areas may also impose some restrictions on agriculture.

The GOPAA are also clear however that because the PPS explicitly allows for ‘agriculture-related uses’ and ‘on-farm diversified uses’, so to must municipal planning documents, otherwise they would be considered in conflict with the PPS. However, the notable difference between items two and three listed above, versus item one, is that municipalities can set criteria, and in some cases limitations, for both agriculture-related uses, and on-farm diversified uses. Table One below, which has been derived from the GOPAA, breaks out the three items listed above and gives examples of permitted uses for each category.

Table 1: Permitted Uses in Prime Agricultural Areas

Agricultural Uses – provided all PPS criteria can be met	Agriculture-related Uses – provided all PPS criteria can be met	On-farm Diversified Uses – provided all PPS criteria can be met
<ul style="list-style-type: none"> • cropland, • pastureland, • feedlot, • livestock, • fish farm, • Christmas trees and nurseries, • barns, manure storages and other associated buildings and structures, • feed storages e.g. bunkers, silos, or gravity bins for livestock, • accommodation for full-time farm labour, • cold storage (for own farm’s use), • mushroom farm, • washing, sorting, grading (of own farm’s products), • machine shed (for own farm’s use), • greenhouse for growing plants, • minimum amount of processing to make a produce saleable (e.g. evaporating maple sap), • horse farm (breeding, raising, boarding, maintaining, training) including stables and indoor or outdoor riding arena/tracks, • tobacco kiln or smoke barn. 	<ul style="list-style-type: none"> • apple storage and distribution centre, • farmers’ market selling local produce, • food processing plant for local produce (e.g. cider-making, pitting, canning, quick-freezing, packing), • grain dryer serving several local farmers, • agricultural research centre, • winery using local grapes, • abattoir processing and selling local meat, • flour mill for local grain, • farm equipment repair shop, • livestock assembly yard or stock yard for local farmers, • auction for local produce, • farm implement supplier (e.g. feed, seeds, fertilizer). 	<ul style="list-style-type: none"> • value-added uses (e.g. processor, packager, winery, cheese factory, bakery, abattoir), • home occupations (e.g. professional office, bookkeeper, land surveyor, art studio, hairdresser, massage therapist, daycare, veterinary clinic, kennel, classes or workshops), • home industries (e.g. sawmill, welding or woodworking shop, manufacturing/fabrication, equipment repair, seasonal storage of boats or trailers, biomass pelletizer), • agri-tourism uses (e.g. farm vacation suite, bed and breakfast, hay rides, petting zoo, farm-themed playground, horse trail rides, corn maze, seasonal events, equine events, wine tasting), • retail uses (e.g. farm market, antique business, seed supplier, tack shop), • café/small restaurant, cooking classes, food store (e.g. cheese, ice cream).

Each of the above-listed permitted uses is caveated with the ‘provided all PPS criteria can be met’. The PPS criteria relates to;

- general land use compatibility (i.e. meeting MDS formulae),
- the ability to service the use with well and septic systems (i.e. for processing plants, small restaurants etc.) and the level service provided by rural infrastructure such as roads, hydro, gas, etc.,

- being directly related to farms in the area, benefits from proximity to farms, and supporting agriculture (in the case of agriculture-related uses), and
- being limited in area, on a farm and a secondary use (in the case of on-farm diversified uses).

Appendix 2 to the GOPAA gives some examples of how a municipality may choose to limit the size of on-farm diversified uses. The examples given in this example would recommend placing limits on the size of the use relative to the size of the farm parcel, i.e. for a 15 hectare parcel the total area for the on-farm diversified use could be 1,000 m², whereas for a 50 hectare parcel the total area for the on-farm diversified use could be 4,036 m². Note in these examples it is slightly different to how the County currently calculates the total area of an on-farm business, which in the County's model only includes building area and outdoor storage areas. However in the GOPAA areas listed above it would include the total area of buildings (related to the business), outdoor storage, parking, landscaped areas and driveways devoted to the business. In the GOPAA it does recommend that the total on-farm diversified use be 'capped' at an upset limit of one hectare for the on-farm diversified use.

The GOPAA also notes that there are some mobile and non-stationary uses that generally would not require a building permit or land use change, which if they are normal farm practices would be promoted in prime agricultural areas (e.g. portable cider press, pelletizer, hoof trimmer, and seed cleaner).

The GOPAA also gives guidance on how municipalities should designate and zone such on-farm uses, and when it is appropriate to require an official plan amendment (only when going above and beyond what is listed in Table 1 above) and zoning by-law amendments (should be permitted 'as-of-right' for agricultural uses, but there may be instances where agriculture-related uses or on-farm diversified uses would necessitate the use of a zoning by-law amendment or a temporary use by-law). There are instances where it is also appropriate to consider the use of site plan control to regulate such uses.

Similar to the PPS, the GOPAA notes that lot creation may only be permitted for;

1. new farm lot creation (provided new and remaining lots are of size sufficient to maintain flexibility for future changes),
2. agriculture-related uses, and
3. a residence surplus to a farming operation.

The County Official Plan currently allows for lot creation for items one and three above, but would not currently permit lot creation for an agriculture-related use. Updates to the County policy in this regard can be explored further through the County's housekeeping official plan amendment.

The GOPAA also provides criteria for assessing other permitted uses in prime agricultural areas, which would not be permitted 'as-of-right' but may be considered via an amendment to the official plan and zoning by-law. In looking at other such permitted uses it is necessary to demonstrate the need for the permitted use in that area, with the exception of aggregate extraction. The GOPAA notes that this demonstration of need and the search for alternatives would be relative to the type of use being proposed. For example if one were looking to site a golf course in a prime agricultural area it would be necessary to demonstrate that there are no other suitable locations outside of prime agricultural areas within a 50 – 60 kilometre radius. This radius is derived from the distance golfers are willing to drive for an 18-hole course. Whereas if one were looking to site a new school for those segments of the population which rely on horse-drawn transportation, one may only search for alternatives in a much smaller radius, based on the travel constraints placed upon this segment of the population. The golf course example generally would not apply to Grey County, as we have areas within the Rural or Recreational Area designations which could avoid the use of prime agricultural lands within that radius. However the institutional example would be particularly relevant to Grey County.

Commentary on Guidelines on Permitted Uses in Ontario's Prime Agricultural Areas

In general County staff are very supportive of the GOPAA. The document will prove to be a valuable tool for updating official plans and zoning by-laws, but also for assessing individual 'one-off' planning applications in the future. County staff would commend OMAFRA for the work that has gone into this document and its comprehensiveness. The only further comments or improvements County staff could recommend for the GOPAA would be as follows;

1. Some consideration being given to the cumulative impact of on-farm diversified uses. For example under the current County Official Plan policy a farm of 20 hectares or greater would qualify for an industrial shop of up to 750 m². Individually each 750 m² shop has little impact on neighbours or infrastructure (roads, bridges, etc.) however the cumulative impact of successive shops in close proximity can have much greater impacts, and can lead to land use conflicts. Current official plans and zoning by-laws do not have great mechanisms for addressing cumulative impact in this regard, based on the piece-meal basis of when development applications are submitted for on-farm diversified uses.
2. Similar to item one above the determination of whether an on-farm diversified use is 'secondary' or not becomes tough to regulate in municipal official plans and zoning by-laws. On a 20 hectare farm, when a 750 m² shop is developed which employs five people, it can be tough to suggest that the shop is still

secondary to the farm, or at the very least this question becomes somewhat subjective.

3. Some guidance on medical marihuana facilities within the GOPAA would also be useful. Some people have taken the interpretation that medical marihuana facilities are simply an agricultural use (i.e. growing of a crop), or similar to a greenhouse, and as such should be permitted in prime agricultural areas with no limitation on their size. One of the concerns over considering such uses to be an agricultural use is the size of the buildings needed, and the numbers of employees such uses would employ. Others seem to have taken the interpretation that because such uses do not rely on local climatic or soil conditions that they are not required to be in a prime agricultural area, and would be better suited in a business park of a settlement area. County staff see merits to both approaches, and are not advocating for one over the other, but a Provincial position on this matter could help clear up some of the confusion.
4. Based on the broad range of uses permitted in the agricultural, agriculture-related, or on-farm diversified uses categories, it may become difficult for local planning documents to direct some uses to settlement areas. While County staff are clear that certain uses need to be in rural areas, and should be permitted on-farm, there are other such uses which should likely be directed to settlement areas. County have had proposals for places of employment (e.g. an engineering shop/office) that were proposed in the countryside, which realistically do not need to be located in the countryside, but were proposed as a 'secondary use' (or in today's language an on-farm diversified use). The balance between supporting the rural economy and supporting our settlement areas could be tough to achieve in local planning documents.
5. It may also be helpful to have one list or table in the GOPAA document of uses which could not be considered in any of the agricultural, agriculture-related, or on-farm diversified uses categories. There are instances in the GOPAA where such uses are listed individually and noted that they may not be appropriate in certain categories, but for ease of interpretation a comprehensive listing of those uses that would not be considered in any of the three categories would be beneficial.

Impacts on the County Official Plan resulting from the Guidelines on Permitted Uses in Ontario's Prime Agricultural Areas

Overall the GOPAA, along with the PPS 2014, should be viewed as beneficial to the rural economy and will serve to strengthen the County Official Plan. In order to realize the benefits of these two documents it will be necessary to amend the County's Plan in

this regard. County staff have flagged a few areas where the County Plan may need some adjustments below:

1. Updating terminology to align with PPS 2014 – the County Plan currently uses the terms ‘agricultural’, ‘agriculture-related’, and ‘secondary uses’, whereas under PPS 2014 it uses agricultural, agriculture-related, and on-farm diversified uses.
2. Consideration being given to allowing for severances for agriculture-related uses.
3. Consideration being given to allowing for agriculture-related uses on existing non-farm parcels. Currently in the Agricultural designation in the County Plan agriculture-related uses are only permitted on farm sized parcels.
4. Consideration being given to the appropriate size limitations for on-farm diversified uses, and what is included in this calculation. Cumulative impacts and the impact on infrastructure may also need to be considered in this regard.
5. Currently the County Plan applies the size restrictions to both agriculture-related and secondary uses; whereas the GOPAA would only have municipalities apply such size restrictions to on-farm diversified uses (which used to be called secondary uses), not to agriculture-related uses. The County Plan will need to be updated accordingly.
6. Updating the Plan to require an official plan amendment for new institutional uses in prime agricultural areas. The County Plan would currently contemplate such uses on existing lots via a zoning by-law amendment.

County Planning staff will work with Economic Development staff to consider some of the above points and prepare some options for Committee and Council to consider in this regard.

Additional Considerations Related to On-farm Uses

On April 21st, the Planning and Community Development Committee discussed the size, and infrastructure impacts, of some on-farm commercial and industrial uses. At the meeting Committee suggested that it may be beneficial to establish a new tax classification for such businesses. In cases where there is a large on-farm business, the portion of the farm devoted to the business could be assessed and taxed at this ‘special’ rate, and the rest of the farm would be at a standard agricultural rate.

Following the Committee meeting, County Finance and Planning staff had a chance to review this matter with staff from the Municipal Property Assessment Corporation (MPAC). MPAC staff noted that on-farm businesses were generally already being taxed at industrial and commercial rates, where such businesses were known to MPAC. County staff reviewed some known examples across the County where there were multiple tax classes on a single property. For example, for a farm with a business and a dwelling on it, there was an agricultural tax rate, an industrial tax rate, and a residential tax rate, each capturing different components of the same property. MPAC and County Finance staff noted that the industrial tax rate being used for the on-farm business was

the same as the industrial tax rate being used for an industrial property in a town or village. As a result of the discussions with MPAC staff, County staff concluded that there would be no need for a distinct tax class for on-farm businesses, as the existing rates are already the same as other parts of the County, and thus equitable to all businesses.

In addition, staff also discussed the need to ensure that MPAC is aware that such businesses are being operated on farms, such that these uses can be taxed appropriately. In some cases MPAC may receive this information through; building permits on the properties, planning applications, or municipal business licenses (where municipalities require such licenses). However where MPAC is not made aware of such businesses, then tax rates are not adjusted accordingly. In reviewing their planning, economic development, and infrastructure needs, municipalities should consider processes which ensure that they are;

- a) aware of any existing on-farm businesses being operated,
- b) aware of any new on-farm businesses being opened, and
- c) ensuring that MPAC is made aware that existing and new on-farm businesses have commenced operations.

In taking the above steps, municipalities can ensure that commercial and industrial tax rates are equitable across the County, such that the impacts on infrastructure from on-farm businesses can be partially offset by increased tax assessment.

Financial / Staffing / Legal / Information Technology Considerations

There are no financial, staffing, legal or information technology (IT) considerations arising from this report. As noted above, the changes to the permitted uses in prime agricultural areas may result in some changes being needed to the County Official Plan. These changes can be implemented in the form of a housekeeping amendment, which would combine them with other changes, and therefore not result in any additional staffing or financial needs. County Planning staff will work with County Economic Development staff to bring a report back to the Planning and Community Development Committee, with some further options for updating the County Official Plan policies regarding permitted uses in the countryside.

Link to Strategic Goals / Priorities

Action 2.10, under Goal 2 of the County's Strategic Plan, speaks to the continued management of growth, and the application of sound land use planning principles. Other actions speak to fostering growth and a healthy economy. Further municipal autonomy from the Province to permit a diversified rural economy to reflect the modern realities of farming, is a positive step forward in this regard. Upon the finalization of the

draft GOPAA document, County staff would look to update the County Official Plan accordingly.

Attachments

[Draft Guideline on Agricultural Permitted Uses](#)

Respectfully submitted by,

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Director of Planning, Intermediate Planner, Planner, and Senior Planner

Director Sign Off: *Randy Scherzer*