



Norfolk County
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October 21, 2019

Environmental Registry of Ontario Submission

ERO Number: 019-0279

Provincial Policy Statement (PPS) Review – Proposed Policies

This comment is provided in conjunction with Norfolk County's planning report, which report was prepared by planning staff at Norfolk County as presented to Norfolk County Council on October 1st, 2019, and provided to Ministry of Municipal Affairs and Housing (Ministry) on October 8th, 2019.

This comment addresses two narrow points: new lots in agricultural areas and the mapping of Provincially Significant Wetlands ("PSW"). This submission is to be read in conjunction with that statement.

New Lots in Agricultural Areas

The existing PPS has very strict provisions for lot creation and adjustments within agricultural areas, reflected in PPS Policy 2.3.4.

The main goals of the PPS to ensure agricultural lands are protected and remain unfragmented, and that conflicts between land users is minimized, are appropriate and should remain.

Prior to these strict provisions, the County had, in accordance with in place policies of the time, authorized the creation of lots within agricultural areas. Many of these lots, for one reason or another, have remained undeveloped and, when developed, would likely result in conflicts and further fragmentation that may not be advisable for the long-term interests and protections of the agricultural land base.

As a response to this, the County has sought to create Official Plan policies that would address the existence of these lots by permitting a "lot swap or relocation", with the intent of ensuring no net loss of agricultural lands and placing a new lot in a better location which would ensure less fragmentation and potential for conflicts; and which could have the effect of using marginal lands where now the lots may affect productive lands. The existing lot of record would be merged back into the agricultural lands from which it was severed.

To achieve its goal, the County included the following language in its 2018 Official Plan, which language was not ultimately not accepted by the Ministry, further to the Minister's decision of October 4, 2018.

4.2.3 Agricultural Lot Creation and Lot Adjustment Policies

a) Consent to sever land may be considered for the following purposes: ...

- vi. technical reasons including minor boundary adjustments, corrections of deeds, quit claims, easements or rights-of-way, or other purposes that do not create an additional separate lot, and which do not change the lot configuration such that a non-agricultural lot is created which would not be in conformity with the policies of this Plan. The relocation of an existing vacant residential-related lot to another location on an adjacent farm parcel from which the lot was originally severed or to another farm parcel shall not be considered as a technical reason and shall be subject to Section 4.2.3 d).

...

d) A residential-related lot relocation consent application shall be subject to all of the following criteria:

- i. The farm parcel from which the residential-related lot was originally severed from will be improved for agricultural production because of the lot relocation;
- ii. Residential-related lot is to be relocated to a different location on the original farm parcel from which it was severed;
- iii. The soils of the proposed lot to which the existing residential-related lot is to be relocated are of the same or lesser soil capability class for agriculture;
- iv. The proposed lot shall be a maximum of 0.4 hectares;
- v. The residential-related lot that is to be consolidated with the farm parcel because of the relocation has not been built upon and can be integrated into the farm operation;
- vi. The proposed lot location complies with the MDS formula and does not potentially limit an existing agricultural livestock operation;
- vii. The area to which the lot is to be relocated is adjacent to an existing residential lot cluster where one exists;
- viii. The area to which the lot is to be relocated minimizes potential traffic hazards;
- ix. Any portion of the area to which the lot is to be relocated is not within a Provincially Significant Wetland, Hazard Lands identified on Schedule "B" to this Plan or an Aggregate Resource Area,

identified on Schedule “C” to this Plan where the aggregate resource has not yet been extracted;

- x. Where any portion of the area to which the lot is to be relocated is in or on adjacent land to the Natural Heritage Features identified on Schedule “C” and/or Tables 4 and 5 or on Schedule “G” and Table 2 of the Lakeshore Special Policy Area Secondary Plan, the proposed lot relocation shall not be approved unless it has been demonstrated that there will be no negative impacts on the natural features or their ecological functions, in accordance with the policies of Section 6.4 (Natural Heritage Systems) and Section 11 (Lakeshore Special Policy Area Secondary Plan) of this Plan; and
- xi. No minor variance or zoning change or Official Plan Amendment shall be permitted to relocate a residential-related lot.

Norfolk County requests that the PPS be modified to allow for some flexibility to address these historical lots, while recognizing the rights of the land owners that were granted under a previous policy regime, for the purpose of an overall better result for agricultural lands.

County staff and elected officials have sought to engage both the Ministry as well as the Ontario Ministry of Agriculture Food and Rural Affairs (OMAFRA) on this issue. The County would be happy to further discuss this with representatives of both OMAFRA and the Ministry to achieve a positive and appropriate outcome.

Provincially Significant Wetlands

This comment does not relate to the policies of the PPS themselves, but rather the process around which the Ministry of Natural Resources and Forestry (MNR) determines what is or is not a PSW.

Following the Ministry’s updated mapping related to PSWs, the County updated its Official Plan to bring its policies in line with the new mapping. Following that, the County planning staff introduced a Zoning By-Law amendment to update the zoning to reflect the new mapping and to provide consistency between the Zoning By-Law and the Official Plan. Though the mapping is wholly outside the municipality’s process and control, the zoning by-law amendment was not approved by Council, flowing from significant public concern about the updated mapping affecting people’s properties. In some cases, some of these changes were very significant. In others, while not significant, the landowners were not aware their properties had long ago been affected by a PSW designation. At the Public Meeting on May 14, 2019, Council directed staff to remove the PSW policies and provisions from the Official Plan and the Zoning By-Law.

The County requests that this process be significantly improved to allow for transparency and better land owner engagement, including, for example, a right of appeal or formal dispute resolution process. This will allow for land owners to be properly informed and engaged where land use designations that affect their property may result.

If further details or information is desired on the planning matters, please contact Alisha Cull, Senior Planner (acull@norfolkcounty.ca; 519-426-5870 ext. 1893) at the County.

We thank you for your attention to these matters.

Yours truly,

Paula Boutis