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January 8, 2014

Ken Petersen, Manager
Ministry of Municipal Affairs and Housing
Local Government and Planning Policy Division
Provincial Planning Policy Branch
777 Bay Street, Floor 14
Toronto, ON M5E 2E5

Dear Mr. Petersen,

**RE: Environmental Bill of Rights (EBR) Registry Number 012-0241
Land Use Planning and Appeal System Consultation**

We commend the Ministry of Municipal Affairs and Housing for opening dialogue and leading consultation on Ontario's land use planning and appeals system, seeking input from municipalities and community stakeholders on the effectiveness of existing policies and processes; receiving new ideas and recommendations on how to increase accountability, efficiency and public engagement in these systems; and improving the protection of long-term public interests.

Thank you for the opportunity to engage with this consultation process and share the Ontario Farmland Trust's (OFT) observations, concerns and recommendations related to the land use planning and appeals system. OFT brings a unique perspective to land use planning discussions, as the only province-wide organization specifically dedicated to supporting and advancing the protection of Ontario's rich farmland resources. Our Board of Directors includes stakeholders from the land conservation and agricultural sectors, as well as planners and academics.

OFT recognizes that the protection of Ontario farmland depends largely on land use planning policies, particularly the effective implementation of Provincial Policy Statement objectives and principles through the Planning Act, where farmland and related agricultural economic activities are deemed to be of great provincial interest and are to be protected through municipal Official Plans and local land use decisions.

Unfortunately, farmland loss in Ontario continues to increase at an accelerated rate, now reaching 350 acres per day. With over 2.8 million acres lost since 1976, this trend is not sustainable and must be reversed for Ontario's foundational \$34 billion food and farming sector to remain a strong, vibrant, profitable and productive as a key driver of the provincial economy. OFT supports provincial efforts to strengthen the protection of agricultural land through ongoing development and improvement of land use policies and processes.

Our response to MMAH's land use planning and appeal system consultation includes a number of OFT concerns and related recommendations in three focus areas: municipal planning conformity with provincial land use policy; transparency and accountability in planning and appeal processes; and public engagement in planning processes.

1. Municipal Planning Conformity with Provincial Land Use Policy

1.1 When new provincial plans, like the Greenbelt Plan or the Growth Plan for the Greater Golden Horseshoe, are created, municipalities must update their Official Plans and zoning by-laws to bring them into conformity with these provincial plans. This can be a lengthy and costly process, particularly when new Official Plan policies are challenged and municipalities are forced into Ontario Municipal Board (OMB) hearings. OMB appeals sparked by municipal conformity exercises can be unnecessary when municipalities are required to make specific policy changes and prioritize certain provincial interests that are set out in provincial plans; this includes better protection of farmland through greater land use restrictions and improved urban growth management.

Recommendation: The Planning Act should be amended to prohibit or substantively limit Official Plan policy appeals when municipalities are going through conformity exercises required by new provincial plans. When new provincial plans are introduced, it should be clear what basic changes the province expects in municipal Official Plans. Updated Official Plans, incorporating the new requirements, would then simply need to be approved by the MMAH to ensure harmonization with provincial plans. Any appeal would be limited to issues of involving the broader public interest; no appeals from private interests would be permitted. This would streamline the process immensely and be a much wiser use of public resources.

1.2 Another concern has been municipalities' delay in making updates to Official Plans and zoning by-laws to come into conformity with provincial policy. Delayed implementation of the Growth Plan for the Greater Golden Horseshoe, for example, has resulted in the ongoing loss of tens of thousands of acres of productive agricultural land to the rapid development of low-density urban sprawl at the periphery of nearly every community in the Golden Horseshoe. This comes at a time when protection of farmland in these urban fringe areas has never been more critical, with the local agriculture and agri-food sector at risk of collapse. Municipalities should be able to work with the province more quickly and collaboratively to rein in sprawl, intensify growth in existing settlement areas and protect farmland resources.

Recommendation: MMAH needs to have mechanisms to assist municipalities that are slow to conform to provincial plans or struggling to update Official Plans and zoning by-laws, working with them to determine what challenges and factors are contributing to delayed implementation. MMAH must recognize limited planning capacity in rural municipalities and provide solutions to build capacity and provide human resources needed to support Official Plan conformity processes. Additional provincial input and guidance can help to inform these processes and accelerate local efforts. Any incentives offered by the province to municipalities should be linked to provincial plan implementation and performance measures related to these plans (eg. intensification of urban growth and development), rather than creating incentives to keep Official Plans and zoning by-laws up-to-date, as this tends to be a capacity and human resources issue.

1.3 Municipalities are often required to defend provincial interests, like the protection of prime farmland, at OMB hearings when their Official Plan policies are challenged. There is a need for more support from the province at the OMB when questions of provincial interest are raised.

Recommendation: The province, through MMAH, needs to offer more support to municipalities at the OMB by defending its own provincial plans and policies, and clearly articulating provincial interests. Municipalities and appellants should not be left to create their own definitions and interpretations of provincial interests.

2. Transparency and Accountability in Planning and Appeal Processes

2.1 Municipal councils often make decisions that are contrary to the advice of their planners and undermine their own Official Plans and provincial policy. If council planning decisions are not appealed to the OMB, they stand, at odds with the community's planning vision or the broader public interest. Councillors, who may or may not have a strong understanding of land use planning, need to be accountable to their own Official Plan and provincial policies, and for the planning decisions they make. A council could, for example, be influenced by private land development interests and approve new, low-density residential development on prime farmland with disregard for the protection of this land that was intended in its Official Plan; if unchallenged, the development would proceed.

Recommendation: The Planning Act should be amended to require that municipal planners provide notice to the province, through MMAH, when council decisions relating to Official Plan amendments and plans of subdivision are made that are contrary to their own Official Plan policies and/or provincial policies, and contrary to the local planners' recommendations. Records of such council decisions should be made publically available each year, and MMAH should be given the budget and capacity to be able to review and appeal council decisions when appropriate. This ensures that provincial interests, like farmland preservation, are upheld and local planning decisions are being made with the community's best interests at heart.

2.2 There is a strong perception within Ontario's agricultural community and among the general public that OMB decisions favour development interests over the public interest of protecting agriculture and farmland. This has raised questions about OMB members' qualifications and experience, as related to land use planning policy and agriculture; how apolitical the process is for OMB member appointments; and the extent to which members' make impartial decisions. It is critical that OMB members and OMB decisions are independent and impartial, and separate from local politics and influences, to create an effective public forum to resolve land use disputes.

Recommendation: There should be a thorough evaluation of OMB decisions conducted for cases involving the conversion of farmland to other uses so that the province and the public can gain a better understanding of conformity of OMB decisions with provincial policy objectives that prioritize protection of farmland.

2.3 Related to the points raised in section 1 above, there needs to be more accountability in regard to municipal planning conformity with provincial land use policy. In addition, ministries need to be held accountable in their implementation and monitoring roles to ensure provincial interests and land use planning priorities are upheld. This includes a more active role in the review and appeal of questionable Official Plan amendments flagged by municipal planners, as outlined in 2.1.

Recommendation: A provincial Planning Ombudsman position should be created, separate from any one ministry, that can independently report on the progress being made each year on municipal planning conformity with provincial plans and land use policy directions across Ontario (eg. timely completion of Official Plan updates in the Greater Golden Horseshoe that meet the requirements of the Growth Plan). A Planning Ombudsman could operate in a similar function as the Environmental Commissioner of Ontario: as an officer of the Ontario Legislative Assembly. The Planning Ombudsman could be involved in evaluation of certain OMB decisions, as suggested in 2.2, and ensure ministries are monitoring municipalities' Official Plan developments and pursuing appeals where provincial interests and priorities, like the protection of farmland, are being disregarded. The Ombudsman could also monitor the amount of farmland lost through urban boundary expansions each year, the primary cause of farmland loss in Ontario, and evaluate the justifications for such expansions.

3. Public Engagement in Planning Processes

3.1 When a new planning application or development proposal comes forward, municipalities, community groups and property owners/developers don't always agree or come to a consensus on whether a proposal should be approved or how a development should proceed. Sometimes development proponents will completely side-step community engagement and go straight to the OMB, avoiding public meetings altogether. The OMB process discourages public participation, and can result in deals between municipalities and developers at the expense of the broader public interest.

Recommendation: An appeal to the OMB should not be allowed to proceed until public consultation meetings have been held. Development proponents should be required to take a more proactive consultation approach, hosting community meetings in neutral community spaces with neutral meeting facilitators, and inviting municipal staff and community members to provide input into development proposals before they are submitted. This supports enhanced cooperation and transparency and can result in developments that are more sensitive and responsive to community needs and priorities, including those of agricultural communities where impact on the protection of farmland and local agri-business can be significant. It may also result in fewer cases being brought to the OMB, and would allow community members and public interest groups the opportunity to be engaged in the process and have their concerns heard, even if the proposal does end up at the OMB in the future.

3.2 Regular public participation in the land use planning system at all levels of government is important to creating and improving policy that is in the best public interest, and to ensure local and regional land use decisions are well-informed. Often members of the public do not believe their voices are heard as part of the land use planning decisions and policy development. More could be done to demonstrate how concerns from the public were considered in planning processes and decisions.

Recommendation: Municipal councils, planners and provincial policy-makers should be expected to explain how input from stakeholders was considered during the review of planning and development proposals, and the development of land use plans and policies. To encourage more public engagement and create more accountability, it is important to develop a better mechanism for responding to public concerns and reporting how these concerns were addressed. A primary goal of the land use planning system should be explaining to the public, in plain language, the rationale for how planning decisions were made and how stakeholder input was considered as part of the process. More planning resources may be needed to achieve this. Certain parameters or guidelines should be prepared, however, to avoid burdening planners and other public servants with excessive reporting.

Thank you again for the opportunity to share the Ontario Farmland Trust's observations and recommendations related to the land use planning and appeals system. We look forward to working with the province further to improve the protection of Ontario farmland and our vibrant farming communities through enhanced land use planning policies and processes.

Sincerely,



Norman Ragetlie, Chair
Board Members, Ontario Farmland Trust