

Planning Reform Initiative
Ministry of Municipal Affairs
Provincial Planning and Environmental Services Branch
777 Bay St., 14th floor,
Toronto On, M5G 2E5

September 4, 2004

Re: Replacement of handwritten August 30th submission with typed version

To whom it may concern:

Attached is the typed/edited version of the handwritten Green Door Alliance (GDA), response to the Plan Reform initiative which was faxed to you in advance of the August 31 deadline.

As mentioned in that earlier response, given my out of country location, my only recourse was to fax a handwritten response. On my return I contacted you yesterday (Friday) and was told that if I could get a typed response in within a couple of days it would be accepted as a replacement for the earlier submission.

I would appreciate it then if you would replace the earlier handwritten version with the attached typed version.

Thank you for your assistance. We are enthusiastic about the process the Province is entering into, and the changes that are being contemplated, and wish to remain very involved.

Sincerely,

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Comments on Provincial Plan Reform
Green Door Alliance – August 28 2004

A - Bill 26

- 1 We strongly support many of the main proposals particularly:
 - requiring planning decisions to be ‘consistent with’ the PPS.
 - Not allowing OMB appeals of municipal decisions to **not** expand settlement boundaries or create new settlement areas.
 - Giving the Province the authority to confirm, vary or rescind OMB decisions.

- 2 It is absolutely essential for the Province to encourage infilling, intensification and mixed uses. We encourage changes to the Provincial Planning Framework which:
 - a) require municipalities to develop intensification plans as an integral part of their Official Plans. Such plans should be subject to Provincial review and approval. Greenfield expansion should only be allowed in situations where justified. (It may make sense to only apply this requirement in areas of the Province where growth pressures exist)

 - b) allow different uses provided they meet certain performance standards rather than zoning by use alone.

- 3 The province’s greenbelt initiative will form a critical part of the overall Planning Framework as will the province’s Growth Plan for the Greater Golden Horseshoe. We have already made recommendations with respect to the Greenbelt Strategy and will be commenting as well on the Growth Plan.

One of the aspects of the Moraine Plan which we applaud and feel should be reflected in the Greenbelt strategy is to provide permanence to the land use classifications, (as with the Moraine Plan’s core, linkage, countryside and settlement area classifications and their associated permitted uses.)

We feel this approach should be more broadly encouraged at the Official Plan level. For example when Official Plans are broadly reviewed, municipalities should be able to designate areas in Official Plans where development is not allowed both for natural heritage reasons or other reasons such as ease of infrastructure support etc. Such classifications should be reviewed and approved by the Province and not be subject to OMB challenge. It will be difficult enough for Governments to change existing growth patterns and curb sprawl without adding to such difficult by allowing private interests to continually appeal such fundamentally important decisions at great public expense.

B The Provincial Policy Statement

We endorse many of the proposed PPS changes and have the following further comment:

1.1.1.4 a) – We suggest that the word ‘municipality’ be extended to include ‘Municipality or Region’.

There is no need for each municipality to have a 20 year supply of land if land in other municipalities could reasonably accommodate growth in a fashion that might better balance smart growth objectives including protection of prime farmland and natural heritage features.

Furthermore any 20 year supply estimates should obviously reflect intensification plans recommended in A2 above.

1.21 – Most studies comparing the costs to society of sprawl and more compact nodal forms of development, attribute at least half of the additional costs of sprawl to ‘external’ costs associated primarily with transportation (e.g. cost impacts of air quality on human health and the environment; accidents; economic costs associated with congestion etc.)

These costs are recognized by planners world wide. However cost estimates are based on many complex and changing assumptions and are thus difficult to accurately quantify. As a result they are not introduced into more narrow and legally focused forums like OMB hearings.

We strongly believe that if urban sprawl is to be effectively discouraged such impacts on society need to be taken into account.

In order to do so there needs to be some reference to them in the PPS. One way to do so - and there are no doubt better ones would be to change 1.21 as follows, (additions underlined):

“Efficient development and land use patterns which sustain the broad financial well being of the Province, its municipalities, and its citizens, over the long term will be promoted.”

In addition in order to make it more explicit the term “broad financial well-being” could be described in the definition section to include externalities.

1.44 – We suggest that the word ‘full’ in the phrase ‘full range of housing types be changed to ‘broad’. Full may imply all projected so called ‘needs’ need to be met, (such as for example country estate residential that encourages sprawl and conflicts with other objectives).

1.5.4.3 (c – At the end of this section we suggest adding the phrase, “and the municipality has given its approval.”

We believe that private communal systems may make sense in some situations. However large private systems are an integral part of the overall planning infrastructure and should only be allowed to proceed with the consent of the municipality.

2.1.2.3 - In A 3 above we have indicated we feel the municipality be allowed as par of a broad plan review to designate areas where no development is to take place. The municipality should be able to take the features listed in a-e in a no development classification should it so desire. In addition the municipality should also have the power at the time of a broader Plan review to designate Natural heritage features they consider to be **Regionally** Significant and classify them as No development.

At the very least such designations should only be able to be challenged at the time of a more general review of the official Plan. Ideally however such designations should be subject to Provincial Review and Approval at the time of the Plan Review and never subject to OMB appeal.

Creating a situation where apart from the features listed in 2.1.2.2 no natural heritage feature is safe at any time from a development challenge leaves this section far too weak.

Changes should be made both to the Planning framework and more specifically in 2.1.2 and 2.1.3 to tighten this up.

2.3.5 We have concerns that the inclusion of b) could result in the fragmentation and further erosion of prime agricultural areas. Conflicts between aggregate traffic and the movement of farm vehicles is another concern.

Is this section necessary? From a practical point of view are there significant not yet approved aggregate resources within prime agricultural areas? Maintaining Prime Agricultural Areas in the face of growth and development is difficult enough anyway. Why add policies which add to this difficulty.

2.3.1 – We believe that areas that contribute to the viability of a prime agricultural area including buffers and connections between other nearby prime agricultural areas should also be considered part of the prime agricultural area and the definition should make this clear.

C Ontario Municipal Board Reform

1 We believe strongly that OMB jurisdiction on matters of major planning importance should be greatly limited as already more specifically described:

- the requirement that decisions be ‘consistent with’ the PPS and the general tightening of the PPS will limit the OMB.
- The Moraine Plan limits OMB appeals by removing many planning matters contained in the Plan from OMB appeal. Hopefully the Greenbelt legislation and Plan will do the same thing more broadly.
- Not allowing OMB appeals on settlement area expansion or creation where municipalities have decided against them.
- Only allowing certain appeals at the time of the Official Plan Review.
- Greater provincial intervention particularly in setting requirements for and in approving Official Plans, as well as giving the Province the authority to confirm, vary or rescind decisions.

2 – Other Comments

a) “De Novo” hearings

We support the idea that many more hearings – perhaps even the majority should not be ‘de novo’. We don’t go as far as AMO in recommending that hearings only be allowed if there is an error in fact or law. However we don’t feel that on close to call decisions the OMB should be continually starting from scratch and giving little or no weight to municipal decisions.

We believe that before some appeals are granted, based on a preliminary assessment, if a certain hurdle isn’t passed the appeal should be refused.

We believe further that there are other areas where at the outset it can be ascertained that there is a particular make or break issue. In these cases much time and money could be saved if the hearing were staged to deal with the one issue first to assess whether there is any point in going further.

b) Panel Approach and Treatment of witnesses

We have attended OMB hearings where the Panel member has explicitly stated he’s not going to be swayed by anything ‘non experts’ have to say. Other panel members are very sensitive to non experts.

There is clearly a need for experts and in some areas non experts can add little or nothing. However most planning issues do not fall into this category.

Many so called non experts spend a great deal of time on these issues and have the ability to comment thoughtfully and in depth. Surely in such instances the Panel member should be able to judge competence based on the individuals statements and responses to questions.

Effectively forcing parties with little funding to retain experts in situations where individuals know the subject as well or better than the experts they could retain greatly limits the rights of citizens and citizen groups to participate.

Giving the evidence of so called non experts who behave professionally more serious consideration, combined with giving small groups access to an OMB “advisor” would significantly improve the situation. Furthermore in such situations where the playing field isn’t level and the experts are all aligned on one side, the Panel member should be encouraged where he/she feels it is appropriate to summon additional witnesses to provide expert testimony.