

ISSUE DATE:
January 26, 2010



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PL090627

Ontario
Ontario Municipal Board
Commission des affaires municipales de l'Ontario

IN THE MATTER OF subsection 17 (24) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant: The Winery Association of Prince Edward County Inc.
Subject: Proposed Official Plan Amendment No. 45
Municipality: County of Prince Edward
OMB Case No.: PL090627
OMB File No.: PL090627

BEFORE:

J.P. ATCHESON)
MEMBER) Tuesday, the 26th
)
) day of January 2010

THIS MATTER having come on for public hearing and the Board having Issued its Decision on December 30, 2009;

THE BOARD having allowed the appeal in part and withheld its Order pending receipt from the Municipality of Prince Edward County of the amended Official Plan Amendment No. 45, and the Board having now been provided with the amendment;

THE BOARD ORDERS that Official Plan Amendment No. 45 is allowed in accordance with the Board's Decision issued on December 30, 2009 and as set out in Attachment "1" to this Order.

SECRETARY

Attachment "1"

**OFFICIAL PLAN
AMENDMENT NO. 45**

Winery Policy

**MUNICIPALITY OF THE
COUNTY OF PRINCE EDWARD**

**Draft
Amendment No. 45 to the Official Plan
of the
County of Prince Edward**

The attached explanatory text Amendment No. 45 to the Official Plan for The Municipality of the County of Prince Edward was prepared by the Council of the Corporation of the Municipality of the County of Prince Edward under the provisions of Sections 17 and 21 of the Planning Act, R.S.O. 1990, c.P.13, as amended.

The amendment was adopted by the Council of the Corporation of the Municipality of the County of Prince Edward by By-law No. _____ in accordance with Sections 17 and 21 of the Planning Act, R. S.O. 1990, c.P.13, as amended, on the 17th day of June 2009.

Amendment No. 45 is exempt from further approval by the Minister of Municipal Affairs and Housing pursuant to Section 17(9) of the Planning Act, R.S.O. 1990 and Ontario Regulations 525/97 and 344/98. The decision of the Council of the Municipality is final pursuant to Section 17(27) of the Planning Act, R.S.O. 1990, c.P.13 if no appeals are received against Amendment No. 45 within the time allowed for appeal, in accordance with the requirements of Section 17 of the Planning Act, R.S.O., 1990, c.P.13.

Victoria Leskie, Clerk

Leo Finnegan, Mayor

**The Corporation of the Municipality
of the County of Prince Edward**

BY-LAW NO. _____

**Being a By-law to adopt an Amendment to the Official Plan for the
Municipality of the County of Prince Edward**

WHEREAS AMENDMENT NO. 45 to the Official Plan for the Municipality of the County of Prince Edward has been considered and recommended for adoption by the Council of the Municipality of the County of Prince Edward,

AND WHEREAS a Public Meeting on the proposed amendment has been held pursuant to the requirements of Sections 17 and 21 of the Planning Act, R.S.O. 1990, c.P.13, as amended;

NOW THEREFORE the Council of the Corporation of the Municipality of the County of Prince Edward in accordance with the provisions of Sections 17 and 21 of the Planning Act, R.S.O. 1990, c.P.13, as amended, hereby enacts as follows:

1. **THAT Amendment No. 45** to the Official Plan of the Municipality of the County of Prince Edward, consisting of the attached explanatory text is hereby adopted.
2. **THAT Amendment No.45** to the Official Plan of the Municipality of the County of Prince Edward is exempt from the approval of the Minister of Municipal Affairs and Housing pursuant to Section 17(9) of the Planning Act, R.S.O. 1990, c.P.13, as amended and Ontario Regulations 525/97 and 344/98.
3. **THAT Amendment No. 45** will become final and take effect on the day after the last day for filing of appeals has passed provided that no appeals are received in accordance with the provisions of Sections 17 and 21 of the Planning Act, R.S.O. 1990, c.P.13, as amended.
4. **THIS** By-law shall come into force and take effect on the day of final passing thereof.

**THIS BY-LAW READ A FIRST, SECOND AND THIRD TIME, AND FINALLY
PASSED THIS 17th DAY OF June, 2009.**

Victoria Leskie, Clerk

Leo Finnegan, Mayor

Amendment No. 45
Official Plan for the Municipality of the County of Prince Edward

1. Title:

The following text constitutes Amendment No. 45 to the Official Plan for the Municipality of the County of Prince Edward. The Official Plan was approved by the Minister of Municipal Affairs and Housing on January 23, 1998 and December 23, 1998.

2. Purpose and Effect of the Amendment:

The **purpose** of this amendment is to include land use policies in the Official Plan related to wineries generally and to Farm Wineries and Estate Wineries specifically.

The **effect** of the amendment will be to permit Farm Wineries as part of the farm operation and to permit Estate Wineries subject to a site specific zoning by-law amendment.

3. Location of Lands Affected:

The amendment will apply to all lands designated Prime Agricultural and Rural in the Official Plan for the Municipality.

4. Basis of the Amendment:

There is no municipal policy regarding wineries and municipal requirements for new/expanding wineries are not clear. The local wine industry has now evolved to the point where a clear municipal winery policy is needed.

The proposed policy, which is based on Planning Department consultation with a working group comprised of Prince Edward County Winegrowers Association (PECWA) and non-PECWA wineries and Municipal Agricultural Advisory Committee members, is intended to:

- Recognize viticulture and associated wineries as important components of the land use and economy in the County.
- Promote the practice of viticulture and the establishment of wineries in the County.

The classification of wineries (Farm Winery & Estate Winery) is designed to support a wide variety of winery operations in the County. The two classifications provide a mechanism for the municipality to:

- Identify winery operations that are considered agricultural in nature, and those that are considered commercial.
- Permit those winery operations that are agricultural in nature as "as-of-right" Farm Wineries
- Permit those winery operations with ancillary commercial uses and/or no direct connection to the growing of the grapes used in the production of their wine(s) as Estate Wineries subject to municipal council zoning approval.

Prime Agricultural areas are those areas of better agricultural land. The provincial and municipal planning policy context in the County and throughout Ontario is, and has been for some time now, to protect the land base in Prime Agricultural areas for agricultural use and that commercial uses (restaurant, tourist accommodation, etc) are not permitted. Because of the ancillary commercial uses permitted as part of an Estate Winery, the proposed winery policy does not permit Estate Wineries in Prime Agricultural areas.

The Municipality recognizes that the proposed wine policy is new and that there are existing winery operations that have been granted site specific approvals. The proposed policy clearly states that existing approvals will continue to apply.

The objective of the winery policy is to support the wine industry and to support a variety of winery operations which has provided substantial economic investment and employment in Prince Edward County, provided the opportunity for growth in secondary industry such as culinary and hospitality while respecting the cultural and economic agricultural base of the County.

Support for this policy has been obtained from the Ontario Culinary Tourism Alliance, Ontario Federation of Agriculture, the Grape Growers Marketing Board of Ontario, the National Farmers Union, the Agricultural Advisory Committee of Prince Edward County and The Prince Edward County Winegrowers Association who represent more than 85% of the growers and wineries in Prince Edward County.

5. Details of the Amendment:

- a. Part II, Section 2.6 'Vision For Prince Edward County – Agriculture', is hereby amended by adding the following new section after Section 2.6.3:

"2.6.4 Prince Edward County has a long history of agriculture, with it being the mainstay of the economy for centuries. The Official Plan recognizes external pressures on the agricultural sector and supports new economic opportunities and initiatives related to the long-term sustainability of agriculture, and in particular, to the enhancement of locally-grown and locally-made products. As with other regions, market and economic factors have resulted in changes in the local agricultural sector. Viticulture is now one of the top agricultural industries in the County. By 2008 over 700 acres of vines had been planted, there were 17 wineries in the County and several more anticipated in 2009. Ongoing planting and investments in viticulture and wineries continue. This has resulted in a variety of small production wineries producing high quality wines from local vineyards consistent with the County's commitment to the promotion and enhancement of locally-grown and locally-processed farm products.

The practice of viticulture and associated wineries are recognized as an important and rapidly growing agricultural activity in the County that contributes to the long term sustainability of the agricultural sector,

As Prince Edward County matures as a recognized wine producing region, land use policies are needed to support and guide the development of this important part of the agricultural land use and economy of the County.

It is therefore a goal of this Plan to promote the practice of viticulture and the establishment of wineries in the County."

- b. Part III, Section 3.2 'General Development Strategies – Agriculture', is hereby amended by adding the following new section after Section 3.2.4:

"3.2.5 Subject to applicable general Prime Agricultural and Rural policies of this Plan, wineries will be permitted in accordance with the following policies:

- i. Farm Wineries will be permitted in areas designated Rural and Prime Agricultural.
- ii. Estate Wineries will be permitted in areas designated Rural and Prime Agricultural.
- iii. Farm Wineries and Estate Wineries are defined as:
- iv. **Farm Winery (Agricultural Use)** means a building or structure or part thereof, associated with agricultural use(s) on the same farm lot, where wines are produced and may include storage, display, processing, wine tasting, a tied-house licensed by the Alcohol and Gaming Commission of Ontario, and retail, administrative facilities and outdoor patio area, but shall not include a restaurant, banquet facility, or on-site commercial kitchen. Wine tasting and the offering or sale of locally-grown product samples is considered part of the farm winery activity.
- v. **Estate Winery (Agricultural-Related Use)** means a building or structure or part thereof, where wines are produced and may include storage, display, processing, wine tasting, storage, hospitality room, administrative facilities, outdoor patio area, an on-site restaurant, dining facility, commercial kitchen, banquet hall, retail facility or other commonly commercially-zoned amenity.
- vi. The definitions and policies for wineries apply to fruit-wine processing operations with necessary modifications to terminology (e.g. fruit winery vs winery) and with the exception of any requirements for minimum vine plantings.
- vii. All wineries shall comply with the Alcohol and Gaming Commission of Ontario license regulations that govern the sale and production of wine in Ontario.
- viii. All wineries shall comply with all applicable zoning, building, fire, safety, and health regulations.
- ix. In recognition of their investment in compliance with existing policies and by-laws of the County of Prince Edward, all legally existing and operating wineries as of June 17, 2009 will continue to be permitted under the same conditions of approval

granted by the County of Prince Edward, and winery licence(s) issued by the Province of Ontario, as of June 17, 2009. If these existing wineries wish to expand the scope and/or scale of their operations to include uses which require additional municipal planning approvals or Provincial licences, they will become subject to the County policy and by-law requirements in effect at that time.

- x. The following is a list of all existing zoning by-laws that will be carried forward under this policy:

By-law No. 803-2001

By-law No. 867-2002

By-law No. 891-2002

By-law No. 720-2001

By-law No. 1004-2003

By-law No. 1090-2003

By-law No. 1114-2003

By-law No. 1205-2004

By-law No. 1353-2004

By-law No. 1334-2004

By-law No. 1507-2005

By-law No. 1590-2005

By-law No. 1635-2005

By-Law No. 2276-2008

By-law No. 1990-2007

By-law No. 1991-2007

By-law No. 2183-2008

By-law No. 2277-2008

- c. Part IV, Section 5.0 'Land Use Designation Policies – Prime Agricultural' is hereby amended by adding the following new clause after Section 5.2.2 f):

"5.2.2 g) farm winery, as defined herein."

- d. Part IV, Section 5.0 'Land Use Designation Policies – Prime Agricultural' is hereby amended by adding the following new section after Section 5.4.3:

"5.4.4 Farm Winery

- a) Farm Wineries shall be permitted in the implementing zoning by-law as part of the farm operation.
- b) A minimum 2 hectares (5 acres) must be planted with a minimum of 4,000 vines on-site.
- c) Minimum lot sizes referred to in this section of the Plan apply to existing lots and not to the creation of a new lot
- d) The fruit used in the annual production of wine at a Farm Winery shall consist predominately of fruit grown in the County of Prince Edward by that Farm Winery operation. This may be reduced in any one year due to crop failure or damage resulting from causes beyond the control of the winery, such as climate and precipitation abnormalities, with the balance being from Ontario fruit.
- e) The retail sale of wine produced on-site shall be permitted. Provided that it does not conflict with any minimum floor area requirement for licensing approval, on-site tasting room and retail floor space shall not exceed the lesser of 75m²/800ft² or 25 percent of the total winery floor area (excluding any below ground floor area). The on-site retail floor space for non-agricultural and/or non-Prince Edward County agricultural products, shall not exceed 5% of the total retail floor space."

- e. Part IV, Section 6.0 'Land Use Designation Policies – Rural' is hereby amended by adding the following new clause after Section 5.2.1 e):

"5.2.2 f) estate winery, as defined herein."

- f. Part IV, Section 6.0 'Land Use Designation Policies – Rural' is hereby amended by adding the following new section after Section 6.4.3:

"6.4.4 Estate Winery

- a) A minimum 8 hectares (20 acres) must be planted with a minimum of 16,000 vines on-site.
- b) Minimum lot sizes referred to in this section of the Plan apply to existing lots and not to the creation of a new lot.
- c) All Estate Wineries shall be subject to a site specific zoning by-law amendment.
- d) The retail sale of wine and wine related products, and a hospitality room where food and wine is prepared and served, will be permitted when such uses are accessory to and complement the Estate Winery.
- e) The maximum total floor area for retail and hospitality uses shall be 400 m²/4,300 ft² so as not to detract from the main use of the land and not adversely affect other uses permitted in the area.
- f) Estate Wineries shall be required to locate with direct access and frontage onto an improved public roadway maintained year round with sufficient capacity to accommodate the anticipated traffic.
- g) Estate Wineries shall be subject to Site Plan and Site Plan Agreement Approval by the municipality. The following matters must be addressed to the satisfaction of the municipality:
 - i. Water supply and waste disposal.
 - ii. Best practices for drainage and outlets for storm water run-off.

- iii. Entrances and exits to roads.
- iv. Off-street loading, parking spaces.
- v. Outside storage
- vi. Buffering/screening, landscaping
- vii. Outdoor areas to be used by the public (e.g. patios)

6) Implementation & Interpretation:

The provisions of the County Official Plan, as amended from time to time, regarding the implementation and interpretation of the Plan shall apply in regard to this amendment.