



Public Presenter Form

Applicant Information

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Preferred method of contact: ☒ Email ☐ Phone

Presentation Information

Proceeding Before the Board: RM OF SPRINGFIELD ZONING B/L 21-25 FILE NO

If you are making a presentation to the Board, please check one or more of the following boxes, as applicable: ☐ Written Presentation ☐ Oral Presentation ☒ Both Written and Oral Presentation 22 B 3-008

All Presenters: Please check one of the boxes and specify below your interest in presenting in this proceeding: ☐ Support ☒ Object ☐ Unsure

Written Presentations: Please *briefly* specify the reason(s) for your support or objection regarding the subject matter of the proceeding and provide any relevant information that supports or explains your views. Please attach your written presentation to this form.

Oral Presentations may be limited to 5 minutes. This time limit applies to a presenter who decides to read the written presentation that has been previously submitted to the Board.

If you require service in French or require assistance due to a disability please notify the Municipal Board office 15 days prior to the hearing.

Please note: The Board reserves the right to set time limits for presentations and submissions. Additionally, the Board will not accept any information or evidence after the hearing has been adjourned. The Board may disallow presentations that do not comply with the rules set out in the applicable hearing procedures, or are not relevant to the scope of the hearing.

Please submit the completed Form with attached written presentation, as applicable, to the Manitoba Municipal Board via email, mail, or fax, 10 working days prior to the hearing.

Contact Information: 1144-363 Broadway, Winnipeg, Manitoba R3C 3N9
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If you require additional assistance, please contact our office.

January 28, 2023

Margaret Marion-Akins

email: m3a1026@gmail .com

21115 Oakwood Road

Springfield, Mb R5R 0K4

Manitoba Municipal Board

1144-363 Broadway

Winnipeg, Mb R3C 3N9

Re: Objections to the proposed zoning by-law no. 21-25 of the RM of Springfield File No. 22B3-0008

This is my submission to the above noted matter. In June 2022 when the by-law was given second reading, I had no idea that it would take so long for it to reach the Municipal Board Hearing stage and unfortunately, I am unable to attend because of medical reasons. Please allow Janet Nylen to read into the record this submission on my behalf.

Thank you for this opportunity to speak against this by-law. My name is Margaret Marion-Akins and I live at 21115 Oakwood Road in Springfield. It is a rural residential and agricultural area. I have lived here for 40 years and only became interested in zoning and land use, alarmed really, when a peat moss processing plant was being built across the road from my home. That matter is part of ongoing legal proceedings that I will not go into but will reference because of the impact zoning has had on my family, my neighbours, and will have on future neighbours as well.

I am opposed to this by-law as written because of the following reasons:

1. I feel that the language of the by-law is too permissive and as experienced with the current by-law can be very subjective and inconsistent. The wording "in the opinion of" either council or the development officer who is an employee of council, has led to an ongoing court challenge. I would suggest that where "in the opinion of" or in a number of places where the word "may" occurs that the language be tightened up with the word "shall" or alternately that the text of the by-law include more specific definitions, or where definitions are not included that the municipality will follow provincial definitions.
2. Section 2.11 Non-Conformance raises concerns with the wording of "**lawful** use of a building.... which does not conform to one or more of the applicable use regulations of the Zone". Who and how is lawful determined? This is not clear and as mentioned has led to an ongoing legal challenge. When considering a new by-law regarding land uses, it should not be drafted with the only option open to residents is going to court to determine if a use or interpretation is lawful or not. Non-conforming is defined in the by-law as meaning any use, building, structure or sign, individually or in combination, which is lawfully existed prior to the effective date of this by-law" Again, I ask who and how is lawfully determined? What can happen on land zoned ascertain way, land use, should be more clearly defined and designed to protect nearby

landowners from uses resulting from broad or unreasonable interpretation. For example, if a development officer issued a building permit in error, does it become lawful in by-law # 21-25 simply because a building permit was issued? Lawful or lawfully should be defined in this by-law or in the alternate the definition of non-conformance should be changed to wording used by other planning jurisdictions. For example: something like "unless otherwise provided for herein, an existing building, structure or use that was illegal under the provisions of any zoning by-law shall not become or be made legal solely by reason of the adoption of this by-law."

3. In the comments from Community Planning Branch dated October 26, 2021 regards to by-law #21-25, Regional Manager Larissa Sveinson, (Attachment 1 pages 1 and 2) suggested that Agri-Business and Agriculture Support Industry are similar and recommended deleting Agriculture Support Industry from the by-law and adjusting the definition for Agri-Business with recommended wording for it found under the Municipal Planning Guide to Zoning By-laws in Manitoba. She further went on to suggest that Peat processing, listed as a "typical Use" under Agriculture Support Industry would be better captured under "Aggregate Operation."

In a document obtained under FIPPA, Michelle Erb (see FIPPA-Michelle Reb attachment #2) she wrote: " Under the Environment Act, the Classes of Development Regulation defines "mineral" as "all non living substances formed by the processes of nature which occur on or under the surface of the ground irrespective of chemical or physical stat, and includes peat and peat moss, but does not include agricultural soil, surface water of ground water"

Under the proposed 53 changes to the by-law specific wording "peat" the previous council decided on the removal of "Peat" from both sections but did not adjust the definition for Agri-Business as suggested by Ms. Sveinson. The provincial planning regulation concerning Classes of Development does not list peat harvesting or extraction as an agricultural operation, but rather a resource-related activity. Peat could be mined in agricultural zoned land but there is no reference to it as a resource-related activity in the by-law or for processing and/or packaging it. It should be noted that Aggregate Operation is found under 4.6 Industrial Use Class Definitions and on Table 9-1 Principal Use Table under Ag zoned land is a conditional use. On the same Table under Agricultural: Agriculture Support Industry under Ag zoned land it is a permitted use. I question why it is permitted and not subject to a public hearing process. On page 24 Agriculture Support Industry is defined as: "an industry, commercial service or retail business in which the major product or service being bought, sold or processed is intended mainly for, from farmers". I again ask, who and how would it be determined if a product is intended mainly for, from farmers? These seemingly deliberate actions by the previous council are prime examples of my earlier concerns about by-law # 21-25 as it now stands; concerns of vagueness and open to broad interpretation versus clear language or clear text; able to be exploited. A Zoning By-law should regulate the use, size, height, and location of buildings on properties and based on

consistency with zoning provisions and Development Plan Policies and not open to subjective evaluation.

It must be said as I end my submission the timing of this by-law and part of its contents are not in the best interests of the municipality, it has been targeted to specific aims. First reading to by-law # 21-25 was given in September 2021 which was after a legal challenge had been commenced against Springfield regarding permits issued under by-law # 08-01. There are specific points in by-law # 21-25 that in my opinion were unprofessional and done in bad faith as an attempt by the previous council to circumvent ongoing legal proceedings. I ask that the Municipal Board not approve by-law # 21-25 and order the municipality and its new council to redo the zoning by-law. Should the Board decide to proceed by amending the by-law, that the sections subject to current legal challenge be removed from the by-law.

Respectfully,



Margaret Marion-Akins

From: Eib, Michelle (AGN)
 To: [REDACTED]
 Cc: Heard, John (AGN); Pochalla, Jodie (MR)
 Subject: RE: Peat Moss
 Date: May 13, 2019 11:46:08 AM

Hello [REDACTED]

Further to our telephone call, here are some answers to your questions below.

I confirmed with the Department of Sustainable Development that there has been no re-classification of peat moss as an agricultural product. *The Peatlands Stewardship Act* (<http://web2.gov.mb.ca/laws/statutes/ccsm/p031e.php>), which was proclaimed in June of 2015, transferred authority from Mines and Minerals branch to Sustainable Development, specifically the Forestry and Peatlands branch. Harvesting peat on Crown land requires a Peat Harvest Licence, in addition to Environmental Act licences, water drainage licence, etc. Harvesting peat on private lands would not require a peat harvest licence but would require an Environment Act Licence and possibly a water drainage licence.

Under *The Environment Act*, the Classes of Development Regulation defines "mineral" as "all non-living substances formed by the processes of nature which occur on or under the surface of the ground irrespective of chemical or physical state, and includes peat and peat moss, but does not include agricultural soil, surface water or ground water;" and "mine" as "an opening or excavation in the ground used to remove a mineral or mineral bearing substance, and include an associated milling facility;". Mines are listed as a Class 2 Development and section 11 of the Act requires that all Class 2 Developments obtain a valid licence.

I did ask about licencing requirements for a peat processing plant and was informed that those typically fall under "manufacturing and industrial plant" which is defined as "a plant which manufactures, handles or processes a product and which causes the discharge of a pollutant into the air, water or soil;" and would also need a Class 2 Development Licence.

For your information, *The Environment Act* can be found here:

<http://web2.gov.mb.ca/laws/statutes/ccsm/e125e.php> and the Classes of Development Regulation can be found here: <http://web2.gov.mb.ca/laws/regs/current/pdf-regs.php?reg=164/88>

With respect to the RM of Springfield resolving to amend the definition of agricultural activities to include peat, this would require an amendment to the Municipal Zoning By-law, with public hearing and would be circulated to provincial agencies for review. I would direct you to the definition of an agricultural operation under the Provincial Planning Regulation which does not list peat harvesting or extraction. Peat harvesting or extraction would be considered a resource-related activity, not an agricultural activity.

agricultural operation means an agricultural, horticultural or silvicultural operation that is conducted in order to produce agricultural products on a commercial basis, and includes

- the production of crops, including grains, oil seeds, hay and forages, and horticultural crops, including vegetables, fruit, mushrooms, sod, trees, shrubs and greenhouse crops;
- the use of land for livestock operations and grazing;
- the production of eggs, milk and honey;
- the raising of game animals, fur-bearing animals, game birds, bees and fish;
- the processing necessary to prepare an agricultural product for distribution from the farm gate;
- the operation of agricultural machinery and equipment, including the tillage of land

- and the application of fertilizers, manure, soil amendments and pesticides, whether by ground or aerial application;
- g) the storage, use or disposal of organic wastes for agricultural purposes.

I hope that you find this information useful. If you have any other questions don't hesitate to call or email. For peat harvesting related questions I would direct you to Jane Epp, Forest Development Officer with the Forestry and Peatlands Branch Jane.Epp@gov.mb.ca and for Environment Act licencing related questions, contact Elise Dagdick, Environment Officer with Environmental Approvals Branch elise.dagdick@gov.mb.ca.

Regards,

Michelle

Michelle Erb

Policy Specialist – Land Use

Michelle.Erb@gov.mb.ca

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October 26, 2021

Mr. Dan Doucet
Rural Municipality of Springfield
Box 219
Oakbank MB R0E 1J0

Dear Sir:

RE: **R.M. of Springfield
New Zoning By-law No. 21-25**

INTENT

R.M. of Springfield Zoning By-law 21-25 is intended to replace current Zoning By-law 08-01 and applies to all lands within the R.M. of Springfield.

The zoning by-law divides the municipality into zones, prescribes permitted and conditional uses for land and buildings within each zone, and sets out the procedures for applying for and issuing development permits, non-conforming certificates, zoning memoranda, and similar documents.

DEVELOPMENT PLAN - ZONING BY-LAW

The R.M. of Springfield adopted Development Plan By-law 18-09 on February 5, 2019. Zoning By-laws serve as the means by which to implement the policies of the Development Plan and therefore, pursuant to s. 68 of *The Planning Act*, municipal council must adopt a zoning by-law that is generally consistent with the development plan by-law in effect in the municipality. Overall, By-law 21-25 is generally consistent with the intents and policies of the R.M. of Springfield Development Plan By-law 18-09.

GOVERNMENT DEPARTMENT AND AGENCY COMMENTS

Community Planning circulated the document to government departments and agencies for review and comment. The comments are summarized below and attached to this report for Council's information.

1. **Agriculture and Resource Development (ARD)** notes the following concerns:

Section 4: Definitions

There are some overlapping definitions where a use might fit under more than one use class. ARD has the following recommendations to try to minimize the occurrence of overlapping definitions.

4.2 General Definitions

Livestock (page 13) – For information, provincial legislation defines livestock as animals used for the purpose of food or other products, draft animals, and breeding stock but does not include animals for *boarding, recreation or show purposes*. Board, recreation or show purposes could be removed from this use class definition. The zoning by-law treats Equestrian Establishments as standalone uses, separate from Livestock Operations but regulated by animal units, in the same general way as Livestock Operations. Council may want to consider how this may affect existing equestrian establishments; particularly those falling within the West Pine Ridge Area and within Rural Residential Zones that correspond to L4 Livestock Prohibited Overlay Districts.

4.7 Agricultural Use Class Definitions

Agri-Business and Agriculture Support Industry (page 24) – These two use classes are similar in definition. ARD recommends deleting Agriculture Support Industry and adjusting the definition for Agri-business by removing the reference to *commercial enterprises* so that agri-

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4.8

related industries could also be considered under this use class. For example, ARD recommends the wording for Agri-Business found under *The Municipal Planning Guide to Zoning By-laws in Manitoba*:

Agri-Business means an establishment that provides goods or services to the agricultural sector, including (but not limited to) farm equipment and machinery repair shops, feed operations, livestock auction marts, and commercial seed cleaning plants.

This definition and proposed change is consistent with the Provincial Land Use Policies that describe agri-related commercial or industrial uses (i.e. agri-business) as uses that are intended to:

- i. Provide services, machinery, equipment or goods specifically required by agricultural operations, or
- ii. Store or process products grown or raised by agricultural operations.

These uses, due to their nature or activity may require a location in agricultural zones.

Peat processing is listed as a "typical use" under Agriculture Support Industry but is also included under "Aggregate Operation" (page 21); having it under both definitions is confusing. This is a resource-related activity that is better captured under "Aggregate Operation." Resource-related activities are allowable uses within agricultural zoning districts and supported by Development Plan Policies 4.1.6 and 4.1.15, which accommodate resource developments within agricultural areas, provided the proposals are compatible with existing agricultural operations.

4.9 Accessory Use Class Definitions

Farm Produce Outlet (page 25) – ARD has no concerns with the definition as proposed but this is listed only as an accessory use. There could be instances where this may occur as a primary use – would this be allowed?

Section 9: Use Standards

Table 9-1: Principal Use Table – Policies 4.1.6, 4.1.10 and 4.1.12 of the Development Plan guide the types of uses that will be considered in areas designated and zoned for agriculture. The uses listed are generally consistent with these policies. ARD has comments for the following specific uses:

Special Event Facility – ARD has no concerns with existing uses of this nature being recognized but new uses should be directed to General Development or Commercial Zones.

Commercial School – It's not clear why this use would be listed as C in both AG and AR zones; this use is better directed to areas zoned Commercial or Mixed which should correspond to either lands that are designated *Employment* or *General Development* under the Development Plan.

Place of Worship – Policy 4.1.6 f) directs that Religious Assemblies that cannot be suitably accommodated in urban settlement centres or general development areas may be allowed to establish on existing parcels as a conditional use, subject to the requirements of the zoning by-law and provided that no subdivision is required. It would be helpful to include a footnote (or a use-specific standard) that reflects the direction provided under this policy; i.e. *will only be considered in agricultural zones if they cannot be suitably accommodated in urban settlement centres and will be encouraged to locate adjacent to existing urban centres or rural residential areas and will be directed away from agricultural uses.*

Agri-Business – this use is listed as P in the AG zone and C in the AR zone. Given the nature of some larger scale Agri-Business activities (grain elevators, commercial seed cleaning plants) and potential nuisance factor, Council could consider listing this use as C in both agricultural zones. This would be consistent with guidance provided under *The Municipal Planning Guide to Zoning By-laws*.

Anhydrous Ammonia Storage and Distribution Facility – This should also be listed as a conditional use in Agriculture Restricted zones.

Equestrian Establishments <10 AU – These are only permitted in AG and AR zones. Council may want to consider allowing these as a conditional use in RR zones, taking into consideration existing establishments within the municipality, and given that Residential Related Farms are permitted within