

**PLANNING REPORT:
ZONING BY-LAW 21-25
RURAL MUNICIPALITY OF SPRINGFIELD
MUNICIPAL BOARD APPEAL
FEBRUARY 15, 16, & 17, 2023**

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Threshold Planning Studio Inc. has been contracted to provide professional advice procured by a group of residents collectively known as the Springfield Taxpayers Rights Corp. (the "Client") to prepare and provide evidence to Municipal Board at the February 15, 16, & 17, 2023 Appeal Hearing, Municipal Board File no. 22B3-0008, in respect to the appeal of the Rural Municipality of Springfield (the "Municipality") by-law no. 21-25 (the "Proposed By-law") which seeks to replace the current Municipality Zoning By-law No. 08/01 and in the matter of objections to the Proposed By-law filed with the Municipality and referral of the objections from the Municipality to The Municipal Board (the "Board") pursuant to Section 77(5) of *The Planning Act* (the "Act").

Jennifer Lim (the "Consultant"), owner and principal planner of Threshold Planning Studio Inc. is to prepare an expert professional planning opinion on the Application being a by-law to regulate and control the use and development of land and buildings within the Municipal limits of the RM. The Consultant is confident in the summary of findings of this report within the area of my professional expertise and further states:

1. I am a Registered Professional Planner retained on behalf of the Client in this action and as such, have personal knowledge of the facts and matters hereinafter deposed to by me except where those facts and matters are stated to be based upon information and belief, in which case I do verily believe them to be true.
2. Attached hereto and marked as Appendix "A" is a copy of my Curriculum Vitae outlining my qualifications, including my specialized experience and expertise to provide the opinions as set out herein.
3. I acknowledge that it is and has been my duty to provide evidence in relation to this proceeding as follows:
 - a. to provide opinion evidence that is fair, objective and non-partisan;
 - b. to provide opinion evidence that is related only to matters that are within my area of expertise; and
 - c. to provide such additional assistance as the board may reasonably require, to determine a matter at issue.
4. I acknowledge that the duty referred to above prevails over any obligation which I may owe to any party by whom or on whose behalf I am engaged, and I accept this duty.

PLANNING SUMMARY

Pursuant to s. 68 of the 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, the Proposed By-law is *generally consistent* with the intents and policies of the R.M. of Springfield Development Plan By-law 18-09, however, sufficient objection was raised and the Proposed By-law was altered prior to Second Reading without Second Public Hearing.

The Provincial Planning Office recommended that Council consider all comments received from government department and agencies, as well as representations made at the public hearing, and make any required changes to the Zoning By-law before proceeding to second reading.

After review of the regulatory by-laws and policy provisions against the comments received by government departments as well as representations made at the public hearing, the Consultant found the alterations to the Proposed By-law shifted the intent of the by-law as well the representations made at the public hearing were not sufficiently addressed.

The Consultant strongly disagrees with the position that these alterations are “minor”. Area residents and stakeholders should be given the opportunity to review the alterations and have their representations heard at a Second Public Hearing as legislated under the Act. Due process should be followed.

Normally for alterations that are not of a minor nature, the Act prescribes a Second Public Hearing. As such, the Consultant is of the opinion that, should Municipal Board agree with the position contained herein, that Municipal administration should be advised to follow the legislated process and conduct a Second Public Hearing for alterations to the Proposed By-law, prior to determining if sufficient objection remains. In addition to following the comments received from government department and agencies, the Proposed By-law should be thoroughly reviewed for conformity with those comments and representations made by the public. Contained within the Planning Analysis are several key findings on matters contained within the Proposed By-law that were relevant to the concerns of the Client.

Table of Contents

PLANNING SUMMARY	2
PLANNING METHODOLOGY AND PRINCIPALS	5
EDUCATION AND PROFESSIONAL EXPERIENCE AND EXPERTISE	5
METHODOLOGY	6
PLANNING PRINCIPALS	6
CODE OF CONDUCT.....	7
REVIEW OF THE APPLICATION	9
PLANNING OVERVIEW	9
PLANNING ISSUE	9
CONTEXT AND PURPOSE	10
BACKGROUND INFORMATION	10
APPROVAL PROCESS	11
APPLICABLE LEGISLATION	13
PROVINCIAL ACTS	13
THE INTERPRETATIONS ACT	13
THE MUNICIPAL ACT	14
THE PLANNING ACT	15
THE PROVINCIAL PLANNING REGULATION	20
THE DEVELOPMENT PLAN BY-LAW.....	21
THE OAKBANK SOUTH SECONDARY PLAN BY-LAW	22
THE WEST PINERIDGE SECONDARY PLAN BY-LAW	23
REVIEW OF ADMINISTRATIVE MATERIALS.....	23
ADMINISTRATIVE REPORT – THE PROPOSED BY-LAW	23
PROVINCIAL COMMENTS.....	23
PUBLIC HEARING.....	24
MUNICIPAL MINUTES	24
PLANNING ANALYSIS.....	25
KEY FINDING #1	25
DISCUSSION	25
KEY FINDING #2	26
DISCUSSION	26

KEY FINDING #3	27
DISCUSSION	27
KEY FINDING #4	27
DISCUSSION	27
KEY FINDING #5	28
DISCUSSION	28
KEY FINDING #6	29
DISCUSSION	29
KEY FINDING #7	29
DISCUSSION	29
KEY FINDING #8	30
DISCUSSION	30
SUMMARY.....	30
CONCLUDING REMARKS.....	31
APPENDIX “A” – CONSULTANT CV AND PROFESSIONAL ERRORS AND OMISSIONS INSURANCE	33

PLANNING METHODOLOGY AND PRINCIPALS

EDUCATION AND PROFESSIONAL EXPERIENCE AND EXPERTISE

The Consultant is a Registered Professional Planner ("RPP") since July 10, 2014, and is a full-member in good standing with the Canadian Institute of Planners ("CIP") under the Manitoba Professional Planners Institute ("MPPI"). The Consultant is educated with a bachelor's degree in environmental design ("Env. D."). The curriculum in Env. D. incorporates planning theory.

The Consultant has a master's degree in landscape architecture with electives taken in the department of city planning, including Planning Theory I and II, Law and Local Government, and Regional Planning Studio. The Consultant was a teacher's assistant for two-years with then-adjunct professor Michael Dudley in the department of city planning.

The Consultant worked in a regulatory land use planning office since 2002/2003 at the Selkirk and District Plan Area Board, becoming a community planning assistant in 2008 and then a community planner in 2014. The Consultant was the community planner for the Red River Planning District (the "RRPD") overseeing the planning portfolios for the Village of Dunnottar and R.M. of St. Andrews (2014-2015); the R.M. of St. Clements and the City of Selkirk (2015, 2017); the R.M. of East St. Paul (2017-2019); and the R.M. of West St. Paul (2018-2019). The Consultant made representation on behalf of the RRPD to Municipal Board in July 2014 related to a subdivision appeal; the matter was decided in favour of the RRPD's position.

The Consultant left the public sector in 2019. The Consultant incorporated Threshold Planning Studio Inc in 2020. As the owner and Principal Planner, the Consultant provides a variety of land use planning services generally focused on lands within the Capital Region including the City of Winnipeg. Scope of services ranges from private property development, public property development, community engagement, ward boundary by-law development, zoning by-law review and amendment, delegation and public hearing advocacy, and expert testimony.

The Consultant has produced four (4) affidavits for application to the Court of King's Bench (formerly Court of Queen's Bench) on matters related to land use regulation and their interpretation and has been contracted by clients to produce planning reports to provide expert opinion to Municipal Board on applications in the Capital Region and in the City of Winnipeg.

The Consultant's expertise as a Registered Professional Planner is within the field of regulatory land use planning and, therefore, the Consultant is duly qualified to conduct and produce a planning analysis and to provide expert testimony on matters related to the Application. The Summary of Findings will be based upon a Planning Analysis that will have considered an extensive review of all regulatory and non-regulatory materials that are applicable to the Application. Findings are written

without bias towards any of the interested parties or member of the public. Given no critical error or omission, the Concluding Remarks will have considered all possible outcomes and, therefore, both the Concluding Remarks and Planning Summary can be understood to provide direction / recommendation that is professionally rigorous and that is balanced against regulatory policies and against best practice as applicable to the Application.

METHODOLOGY

Based on the existence of an established domain of knowledge, the Consultant gathers relevant data, regulatory by-laws and legislation and reviews the components based on the comprehensive model of procedural planning. The Consultant forms expert review on a “classical” approach to comprehensive-systemic planning (a.k.a. rational planning). Available data and regulatory land use policies were surveyed based on the conditions of the Application. Hierarchy of regulatory planning documents was observed, provincial and municipal interest were considered, and public participation at the public hearing was reviewed. After completing an evaluation of all substantive information, the Consultant prepares an expert planning opinion.

PLANNING PRINCIPALS

Taken directly from the PLUPs, the Consultant highlights the following statements:

“Planning is a process all of us use to achieve an objective or goal. We plan for things we want to happen, for things we expect to happen or because we want to prevent undesirable outcomes. Planning is a proactive practice — it is the opposite of waiting to see how things turn out and then responding to what is needed. With a reactive approach, decisions can become rushed, costly and may miss strategic opportunities. Land use planning employs a proactive approach to making decisions about the use and development of land and resources. The focus is on moving toward a common vision or goal that represents the public interest; it is not simply restricting or regulating development.”

“The principles of sound land use planning are reflected throughout the PLUPs and are summarized as follows:

- **Long-term vision** — because land use decisions have long-term impacts, they must be future-oriented and connected to an overall vision or plan. This requires that individual developments be coordinated, strategic, anticipate needs and support the achievement of community priorities. Without a vision, incremental decisions are made in isolation and can lead to unforeseen conflicts and cumulative negative impacts.
- **Public interests** — a traditional motivation for land use planning is the protection of the public interest. The development of land and resources has both costs and benefits; land use and development decisions must balance private gain with the costs that may be incurred by the public, and evaluate short-term profits against long-term costs.
- **Compatibility** — land uses and developments that are planned and designed to be compatible with their surroundings will prevent or minimize conflicts and avoid dangers to public health, safety, and the environment. When land uses are not compatible, they can result in negative impacts on people, property, investment and the environment, such as nuisances, including noise, dust, odours; or financial expenditures by both private operators

and the public to deal with legal issues and complaints; danger to human health and safety and damage to property and investments from hazards, such as flooding, and the resulting public expenditures for evacuation and compensation; o additional development costs to mitigate conflict.

- **Mitigation and adaptation** — the ability to anticipate, mitigate and adapt to change speaks to a community's resiliency. Managing change, such as shifts in population, demographics, economics, ecology, and climatic norms requires that local plans and policies be flexible, not static. It requires local capacity to anticipate challenges and evaluate land use and development decisions on the basis of how well they mitigate the negative effects of change or adapt to those effects.
- **Sustainability** — sustainable development is an approach to land use that views the goals of economic development, quality of life, public health, and environmental protection as interrelated and not "either/or" situations. A sustainable development approach also recognizes and places value on the important functions of the ecosystem and ensures these can be protected from or incorporated into development to provide the best outcomes for both the built and natural environment, both now and into the future.
- **Optimization and efficiency** — the optimal and efficient use of land, resources, and existing public investments, such as infrastructure, can reduce costs to the public, promote innovation and competitiveness and help conserve valuable resources. Land that is developed thoughtfully and strategically can improve affordability, quality of life and services to the public.
- **Comprehensiveness** — land use decisions, policies and programs have impact on and are influenced by a number of interest areas. Planning must consider the interconnections between land use and elements like transportation, housing, social services, and cultural differences. A comprehensive approach that considers a variety of elements, can address multiple issues while ensuring it does not ignore problems or create new ones.
- **Integration** — land use decisions, policies and programs must also be integrated at different scales, levels, and times. Decision makers must consider how land use decisions will influence other planning tools such as financial plans, capital works budgets, programming and initiatives, watershed management plans, climate change action plans and vice versa. Such integration helps to ensure that the resources for implementation are available and that potential barriers are recognized and accounted for.
- **Public participation** — decisions about the use of land affects the way people live, work, and engage in recreational activities and will have long-term implications that will be felt by future generations. As a result, the public has an interest in what decisions are made and for what reasons. Good planning processes provide sufficient opportunities for public consultation that are broad and inclusive. Bringing diverse interests into the planning process is essential to building consensus and making the process more meaningful. It is in the Provincial interest to foster a culture of land use planning throughout Manitoba that is consistent with these principles and with the PLUPs.

CODE OF CONDUCT

Being an RPP, the Consultant is held to a Professional Code of Conduct, requiring that planners conduct ourselves with responsibility to the Public Interest, to Clients and Employers, to the Profession and Other Members.

Key responsibilities of Public Interest include that we, "practice in a manner that respects the diversity, needs, values and aspirations of the public and encourages discussion on these matters", "provide full, clear and accurate information on planning matters to decision-makers and members of the public, while recognizing the employer or client's right to confidentiality and the importance of timely reporting", "acknowledge the inter-related nature of planning decisions and the consequences for natural and human environments", "provide opportunities for meaningful participation and education in the planning process to all interested parties".

Key responsibilities to Clients and Employers include that we, “provide independent professional opinion to clients, employers, the public, and tribunals; perform work only within their areas of professional competence”, “undertake planning services with diligence and render services with appropriate preparation”, “acknowledge the values held by the client or employer in work performed, unless such values conflict with other aspects of this Code”, “respect the client or employer right to confidentiality of information gathered through a professional relationship, unless such right conflicts with other aspects of this Code”, “inform the client or employer in the event of a conflict between the values or actions of the client or employer and those of this Code in a timely manner”, “ensure timely and full disclosure to a client or employer of a possible conflict of interest arising from the Member's private or professional activities”, “not offer or accept any financial or other inducements, including prospective employment, that could, or appear to, influence or affect professional opportunities or planning advice”, “not, as an employee of a public agency, give professional planning advice for compensation to a private client or employer within the jurisdiction of the public agency without disclosure to the agency and written consent”, and “not, as a consultant to a public agency during the period of contract with the agency, give professional planning advice for compensation to others within the jurisdiction of the agency without disclosure to the agency and written consent in situations where there is the possibility of a conflict of interest arising”.

Key responsibilities to the Profession and Other Member include that we, “maintain an appropriate awareness of contemporary planning philosophy, planning theory and practice by obtaining professional education throughout their planning career, including complying with the Institute's continuing professional learning requirements”, “not in professional practice, extra-professional activities or private life, engage in dishonourable or questionable conduct that may cast doubt on the their professional competence or integrity or that may reflect adversely on the integrity of the profession”, “ensure that advertising or promotional activities fairly and accurately communicate the expertise and skills offered, including professional qualifications and affiliations, education and experience”, “act toward other Members and colleagues in a spirit of fairness and consideration and not falsely or maliciously injure the professional reputation, prospects or practice of another Member or other colleagues”, “respect colleagues in their professional capacity and when evaluating the work of another Member, show objectivity and fairness and avoid ill-considered or uninformed criticism of the competence, conduct or advice of the Member”, “not attempt to supplant another Member once made aware that definite steps have been taken toward the other's employment”, “only sign or seal a final drawing, specification, plan, report or other document actually prepared or checked by the Member”, “report to the Institute the behaviour of any Member believed to be in breach of this Code in a timely manner”, “only make public statements on behalf of the Institute if authorized to do so”, “comply with any reasonable request of the Institute for information or for the co-operation of the Member in pursuit of any Institute objective”, and “respect the process and decision of any discipline proceeding affecting a Member”.

REVIEW OF THE APPLICATION

PLANNING OVERVIEW

In preparing a professional planning analysis, the Consultant reviewed and considered the following components:

- ✓ Relevant legislation, including *the Planning Act* (the "Act") and the *Provincial Planning Regulation* (the "PLUPs").
- ✓ Relevant policy regulations, including the Development Plan By-Law No. 18-09 (the "DPBL") and two Secondary Plan By-laws nos. 20-21 and 21-21.
- ✓ The Application report and any public record documents available on the Municipal Website: www.rmofspringfield.ca
- ✓ Any relevant and recent Municipal Board reports.

PLANNING ISSUE

The Application seeks to replace the current Municipality Zoning By-law No. 08/01. Sufficient objection to the Application has triggered an appeal process that is required to be considered by the Province's Municipal Board (the "Appeal Hearing").

The Appeal Hearing is a hearing *de novo*, whereby a panel of board members will consider the Application under the merits of the relevant legislative and policy directives. Municipal Board is operating under *The Municipal Board Act*. The board has all the powers of a court of record. Per the legislation, in dealing with an application the board shall consider:

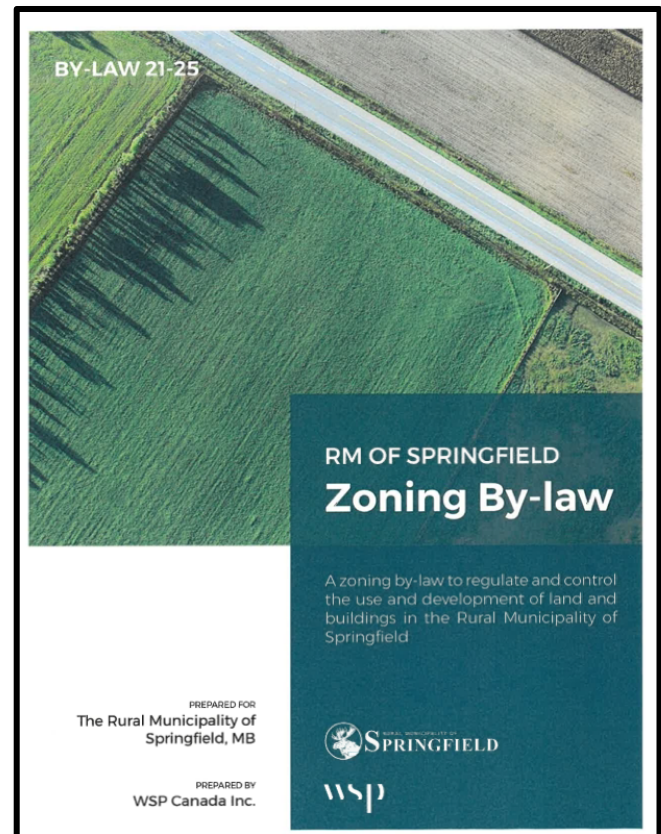


Illustration 1: Title Page, Proposed By-law

- a) the nature of the work, undertaking, or object proposed;
- b) the necessity or expediency thereof;
- c) the financial position of the local authority; and
- d) any other relevant matters;

and may refuse the application or require the local authority to vary the application or may grant the application in whole or in part, or subject to conditions. Municipal Board will consider that the law and by-laws be observed and after holding a related hearing will administer a written order within sixty (60) days of the completion of said hearing. In the matter at hand, Municipal Board's decision is final.

CONTEXT AND PURPOSE

The Proposed By-law applies to all lands in the RM of Springfield as indicated on Map 1 in Part D of the Proposed By-law. The regulations established within the Proposed By-law are deemed necessary to:

- a. Ensure general conformance with the objectives and policies of the RM of Springfield Development Plan (Development Plan) and any Secondary Plans;
- b. Outline the powers and duties of the RM of Springfield Council (Council), the Development Officer and landowners and/or developers as they relate to this By-law; and
- c. Regulate the following:
 - i. All buildings and structures erected hereafter;
 - ii. All uses or changes in use of all buildings, structures, and land established hereafter;
 - iii. All structural alterations or relocations or existing buildings and structures occurring hereafter; and
 - iv. All enlargements or additions to existing buildings, structure and uses.

BACKGROUND INFORMATION

The Proposed By-law held a Public Hearing on October 28, 2021. Sufficient Objection was triggered. Council passed resolution no. 22-250 on June 23, 2022, giving the Proposed By-law Second Reading. The related [minutes](#) do not indicate that Second Reading was given with minor amendment. [The Municipal Board Hearing Notice](#) posted to the Municipal website includes two attachments, being [the Proposed By-law with track changes](#) and a related [change table](#). The change table prepared by the Municipal Planning Consultant indicates "Minor Revisions for Second Reading" for all items listed. The change table document indicates it was created on June 16, 2022.

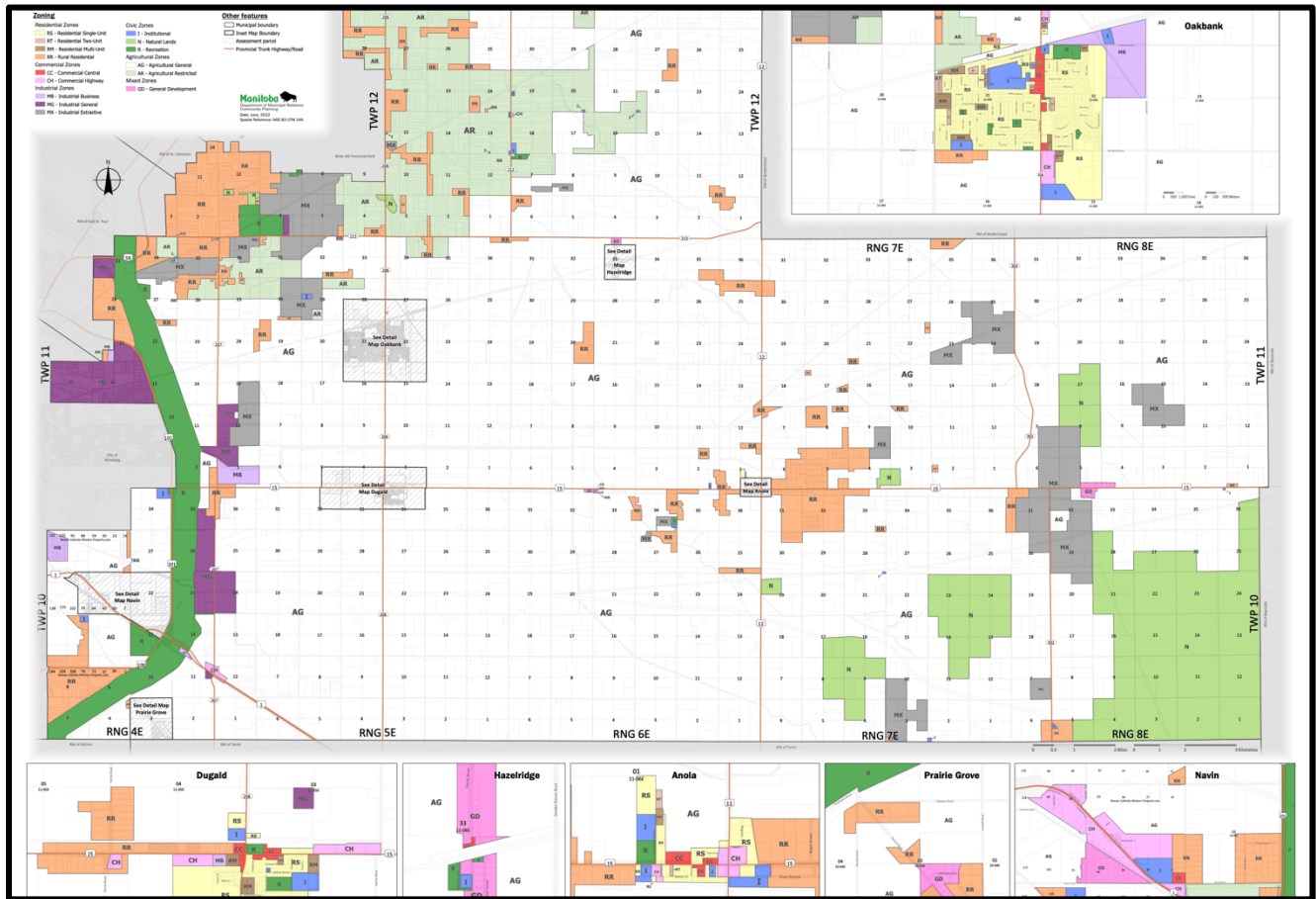


Illustration 2: The Zoning Map ("Map 1, Part D) under the Proposed By-law.

APPROVAL PROCESS

The critical path outlined under the Act to review and adopt a zoning by-law requires the Proposed By-law move through a series of legislated steps for adoption starting at Section 73.1(1) through to Section 77(5). In general, these legislated steps require a public hearing to receive representations from any person on the by-law. If, after the public hearing, the board or council proposes to alter the by-law, a second public hearing must be held to receive representations on the alterations to the by-law, however, a second public hearing is not required if the alteration is a minor one that does not change the intent of the by-law. There are 46 references to "minor" within the Act. Of those references to "minor", the relevant section is:

No hearing for minor alteration

74(3) A second public hearing is not required if the alteration is a minor one that does not change the intent of the by-law.

The purposeful legislative language to distinguish a "minor" alteration from one that is not is that a "minor" alteration "does not change the intent of the by-law".

There are six (6) references in the Act to "intent", however, "intent" is not defined.

In my experience, when the alteration involves a change of a definition; change of policy provisions; change of a use table; and/or change of a map that the alteration is not “minor” and needs to proceed through a Second Public Hearing.

It is my professional opinion that the change are not “minor” alterations, and therefore require a Second Public Hearing prior to further consideration by Council. Council was advised the alterations were minor and therefore gave Second Reading to the Proposed By-law. However, there were sufficient objections and the Act provides that:

Adoption if objections not sufficient

[75](#) Unless there are sufficient objections to the zoning by-law at the hearing held under subsection 74(1), the board or council may

- (a) proceed to give the by-law second and third reading; or
- (b) pass a resolution not to proceed with the by-law.

As there were sufficient objections, Council followed Section 77, which provides:

Objections at board or council hearing

[77\(1\)](#) When sufficient objections to a zoning by-law are received at a hearing held by a board or council under subsection 74(1), the objections must be dealt with in accordance with this section.

Options of board or council

[77\(2\)](#) The board or council may

- (a) give the by-law second reading; or
- (b) pass a resolution not to proceed with the by-law.

Notice to objectors

[77\(3\)](#) If the board or council gives the by-law second reading, it must, as soon as practicable after second reading, send the notice described in section 76(3) to every person who objected to the by-law.

Municipal Board should note that the Municipality did not send the notice described in section 76(3) to every person who objected to the by-law, as I had objected, yet was not sent notice. I followed up with Municipal administration on July 29 by email. It was explained to me that the Municipality “did not forward you a letter regarding a second objection because *the Planning Act* states you need to be an Eligible Person in the Municipality to file an objection to a zoning by-law. Unfortunately, you are not an eligible person as per section 73.1 (1) of *the Planning Act*” (see Appendix “B”). Section 73.1 of the legislation is written to determine if the threshold for sufficient objection is met, not to determine who qualifies as a “person” under section 77(3). Therefore, the Municipality failed in its duty to “send the notice described in section 76(3) to every person who objected to the by-law”. As sufficient objection was confirmed, the Act requires:

Referring objections

[77\(5\)](#) If a board or council receives sufficient objections by the deadline set out in the notice under subsection (3), it must, as soon as reasonably practicable, refer the objections to the Municipal Board.

As such, the Proposed By-law is before Municipal Board. Sections 77.1(1) through 77.1(8) apply.

APPLICABLE LEGISLATION

The applicable legislation is described within this section in hierarchical order where the Provincial Acts form the highest level of legislation, to which the various municipal by-laws must comply, and to which the Application must adhere. Complete copies of referred-to legislation are found as follows, noting that versions are current from the date of application:

- A. *The Interpretations Act*:
<https://web2.gov.mb.ca/laws/statutes/ccsm/i080e.php#:~:text=6%20Every%20Act%20and%20regulation,the%20attainment%20of%20its%20objects.&text=7%20The%20English%20and%20French,of%20the%20Manitoba%20Act%2C%201870>.
- B. *The Municipal Act*: [https://web2.gov.mb.ca/laws/statutes/archive/m225\(2021-05-19\)e.php?df=2021-05-12](https://web2.gov.mb.ca/laws/statutes/archive/m225(2021-05-19)e.php?df=2021-05-12)
- C. *The Planning Act*: [https://web2.gov.mb.ca/laws/statutes/archive/p080\(2022-05-31\)e.php?df=2021-10-29](https://web2.gov.mb.ca/laws/statutes/archive/p080(2022-05-31)e.php?df=2021-10-29)
- D. *The Provincial Planning Regulation*: chrome-extension://efaidnbmnnnibpcajpcgclclefindmkaj/https://web2.gov.mb.ca/laws/regs/current/_pdf-regs.php?reg=81/2011
- E. *Development Plan By-law no. 18-09*: chrome-extension://efaidnbmnnnibpcajpcgclclefindmkaj/https://www.rmofspringfield.ca/Home/DownloadDocument?docId=58fff750-0d2f-4471-bd5b-177d4e9028f1

PROVINCIAL ACTS

THE INTERPRETATIONS ACT

Under *The Interpretation Act* C.C.S.M. c. 180, the Rule of Liberal Interpretation Applies to every Act and regulation.

Under *The Interpretations Act*:

"regulation" means:

- a. a regulation as defined in *The Statutes and Regulations Act*, or part of such a regulation, and
- b. an order, rule, by-law, resolution, form, or tariff of costs or fees made in the execution of a power given by or under an Act, or part of such an order, rule, by-law, resolution, form or tariff of costs or fees;

Per Section 6, “every Act and regulation must be interpreted as being remedial and must be given the fair, large and liberal interpretation that best ensures the attainment of its objects”.

When a by-law is enacted, the policy drafters must consider how existing matters such as planning applications, permits and related approvals will be dealt with. This is relevant in the case of OurWinnipeg being now-repealed and replaced by OurWinnipeg 2045 and Complete Communities being now-repealed and replaced by Complete Communities 2.0

Rules established under *The Interpretation Act* govern these situations.

Amendment is part of what is amended

[44](#) An amendment made to an Act or regulation forms part of the Act or regulation.

Effect of repeal

[46\(1\)](#) The repeal of an Act or regulation, whether or not it is also replaced, does not

- a. revive any Act or regulation or anything not in force or existence at the time the repeal takes effect;
- b. affect the previous operation of the repealed Act or regulation or anything done under it;
- c. affect a right, privilege, obligation, or liability acquired, accruing, or incurred under the repealed Act or regulation;
- d. affect an offence committed in contravention of the repealed Act or regulation or a penalty or forfeiture incurred under it; or
- e. affect an investigation, proceeding or remedy concerning a matter referred to in clause (c) or (d).

Proceedings continue under the new Act

[47\(3\)](#) A proceeding commenced under the former Act or regulation must be continued under the new one, in conformity with the new one as much as possible.

When the new procedure must be used

[47\(4\)](#) To the extent it can be adapted, the procedure established by the new Act or regulation must be followed in the following cases:

- a. in recovering a fine or enforcing a penalty or forfeiture imposed under the former Act or regulation;
- b. in enforcing a right existing or accruing under the former Act or regulation; and
- c. in a proceeding in relation to matters that happened before the repeal or amendment.

THE MUNICIPAL ACT

The Municipal Act is Provincial Legislation that sets out the purposes of a municipality to provide good government; to provide services, facilities or other things that, in the opinion of the council of the municipality, are necessary or desirable for all or a part of the municipality; and to develop and maintain safe and viable communities (See Section [3](#)).

THE PLANNING ACT

The Planning Act is Provincial Legislation that specifically applies to the Municipality and to the Proposed By-law insofar as Part 5 Zoning By-laws and related parts for Notices, Hearings, and Decisions and Miscellaneous Provisions.

PART 5 ZONING BY-LAWS REQUIREMENTS

Zoning by-law required

[68](#) Unless the municipality is part of a planning district that has adopted a district-wide zoning by-law under section 69, a municipal council must adopt a zoning by-law that is generally consistent with the development plan by-law and any secondary plan by-law in effect in the municipality.

Zoning by-law requirements

[71\(1\)](#) A zoning by-law must

- (a) divide the municipality or planning district into zones;
- (b) prescribe permitted and conditional uses for land and buildings in each zone; and
- (c) set out the procedure for applying for, and issuing development permits, non-conforming certificates, zoning memoranda and other similar documents, including the classes of minor development, if any, that do not require a development permit.

General development requirements

[71\(2\)](#) A zoning by-law must prescribe general development requirements for each zone having regard to any permitted or conditional use for the zone, and in prescribing those requirements, the board or council must consider

- (a) the development plan by-law and any secondary plan by-law;
- (b) the character of the zone;
- (c) the nature of the existing or proposed uses of land and buildings in the zone; and
- (d) the suitability of the zone for particular uses.

Contents of zoning by-law

[71\(3\)](#) Without limiting the generality of subsection (2), a zoning by-law may contain provisions prohibiting or regulating any of the following:

- (a) the use of land;
- (b) the construction or use of buildings;
- (c) the dimensions and area of lots, parcels, or other units of land;
- (d) the number, lot coverage, floor area, yard size, dimension, and location of buildings on parcels of land;
- (e) the design details of buildings and building sites and the establishment of committees to approve design details;

- (f) the open space around and between buildings, minimum separation distances between buildings on a site and minimum separation distances between buildings and other buildings or uses;
- (g) the cutting and removal of trees or vegetation;
- (h) the location, height, type, and maintenance of fences and walls;
- (i) landscaping and buffers between buildings and parcels of land, and between different uses of land;
- (j) the placement of pedestrian walkways;
- (k) the removal, excavation, deposit or movement of sand, gravel, soil, or other material from land;
- (l) the location, size, and number of access points to a parcel of land from adjoining public roads;
- (m) the establishment and maintenance of parking and loading facilities;
- (n) the form, type, size, contents, and manner of display of outdoor signs or displays, including interior signs that are visible from the outdoors;
- (o) the grading and elevation of land;
- (p) the outdoor storage of goods, machinery, vehicles, building materials, waste materials and other items;
- (q) the number, dimensions, and density of dwelling units on a parcel of land;
- (r) the outdoor lighting of any building or land;
- (s) waste storage and collection areas, and facilities and enclosures for storing water and other liquids;
- (t) the manner in which any use of land or a building is undertaken, including the hours of operation and the regulation of noxious or offensive emissions such as noise or odours;
- (u) the sequence of development, including commencement and completion;
- (v) the protection of scenic areas, heritage resources and sensitive land;
- (w) the construction, location, or placement of a building on sensitive land;
- (x) the construction of a building within a specified distance of a water body or groundwater source.

Power to prohibit includes power to permit

[71\(4\)](#) The power to prohibit or regulate any land use or development in a zoning by-law includes the power to permit that land use or development.

ADOPTION OF ZONING BY-LAW

Eligible persons

[73.1\(1\)](#) In this section, "**eligible person**" means a person who would be eligible, if a general election were held under *The Municipal Councils and School Boards Elections Act* on the day the objection was made, to vote at an election of members of

- (a) the council of the municipality, in the case of a zoning by-law of a municipality; or
- (b) the council of a member municipality, in the case of a district-wide zoning by-law.

Sufficient objections re adopting a zoning by-law

[73.1\(2\)](#) To be sufficient for the purposes of sections 74 to 79 (adoption of a zoning by-law), objections must be received from at least 25 eligible persons.

Objections on owner's behalf

[73.1\(4\)](#) A person who is authorized in writing by an owner described in clause (3)(b) may make an objection on the owner's behalf.

[S.M. 2018, c. 14, s. 11.](#)

Public hearing

[74\(1\)](#) Before or after a board or council gives first reading of a zoning by-law, a board or council or a planning commission must hold a public hearing to receive representations from any person on the by-law, and give notice of the hearing in accordance with section 168.

Alteration to zoning by-law

[74\(2\)](#) If, after the public hearing, the board or council proposes to alter the by-law, a second public hearing must be held in accordance with subsection (1) to receive representations on the alterations to the by-law.

No hearing for minor alteration

[74\(3\)](#) A second public hearing is not required if the alteration is a minor one that does not change the intent of the by-law.

[S.M. 2021, c. 36, s. 15.](#)

Adoption if objections not sufficient

[75](#) Unless there are sufficient objections to the zoning by-law at the hearing held under subsection 74(1), the board or council may

- (a) proceed to give the by-law second and third reading; or
- (b) pass a resolution not to proceed with the by-law.

[S.M. 2018, c. 14, s. 12;](#) [S.M. 2021, c. 36, s. 16.](#)

When Board or Council Holds Hearing

Objections at board or council hearing

[77\(1\)](#) When sufficient objections to a zoning by-law are received at a hearing held by a board or council under subsection 74(1), the objections must be dealt with in accordance with this section.

Options of board or council

[77\(2\)](#) The board or council may

- (a) give the by-law second reading; or
- (b) pass a resolution not to proceed with the by-law.

Notice to objectors

[77\(3\)](#) If the board or council gives the by-law second reading, it must, as soon as practicable after second reading, send the notice described in section 76(3) to every person who objected to the by-law.

Actions if second objections are not sufficient

[77\(4\)](#) If the board or council does not receive sufficient objections by the deadline set out in the notice under subsection (3), it may

- (a) give the by-law third reading; or
- (b) pass a resolution not to proceed with the by-law.

Referring objections

[77\(5\)](#) If a board or council receives sufficient objections by the deadline set out in the notice under subsection (3), it must, as soon as reasonably practicable, refer the objections to the Municipal Board.

[77\(6\) to \(11\)](#) [Repealed] [S.M. 2021, c. 36, s. 18](#).

[S.M. 2018, c. 14, s. 14](#); [S.M. 2021, c. 36, s. 18](#).

MUNICIPAL BOARD

Requirement for third reading

[77.1\(1\)](#) If the board or council refers an objection under subsection 76(5) or 77(5), it must not give the by-law third reading unless

- (a) the Municipal Board makes an order under clause (4)(a) confirming the parts of the by-law that were the subject of the objection; or
- (b) the board or council, as the case may be, complies with an order of the Municipal Board under clause (4)(b) (alteration of by-law).

Hearing

[77.1\(2\)](#) Subject to subsection 24(3.2) of *The Municipal Board Act*, within 120 days after receiving an objection, the Municipal Board must hold a public hearing to receive representations from any person in respect of the objection.

Notice of hearing

[77.1\(3\)](#) At least 14 days before the hearing, the Municipal Board must

- (a) send notice of the hearing to
 - (i) the applicant,
 - (ii) the board or council that referred the objection,
 - (iii) the regional planning board, if any land within its region is subject to the by-law,
 - (iv) every person who made a representation at the hearing held under subsection 74(1), and
 - (v) any other person the Municipal Board considers appropriate; and
- (b) give public notice of the hearing by publishing a notice on a website available to the public.

Order

[77.1\(4\)](#) The Municipal Board must make an order

- (a) confirming or refusing to confirm any part of the by-law that was the subject of the objection; or
 - (b) directing the board or council to alter the by-law in the manner the Municipal Board specifies to address any representations on the objection made at the hearing.
- The order may be subject to any terms or conditions the Municipal Board considers advisable.

Effect of decision

[77.1\(5\)](#) A board or council must not require the owner of the affected property to enter into a development agreement under section 150 unless the Municipal Board requires a development agreement as a condition under subsection (4).

Notice of decision

[77.1\(6\)](#) The Municipal Board must make the order within 60 days after the hearing is concluded and must send a copy of the order to the board or council that referred the objection and to every person who made a representation at the hearing held under subsection (2).

Delayed decision

[77.1\(7\)](#) If the minister is reviewing a development plan by-law or an amendment to a development plan by-law at the same time as an objection to a zoning by-law for the same area is being considered under this section, the Municipal Board may delay making an order until the minister has made their decision.

Order not subject to appeal

[77.1\(8\)](#) The order of the Municipal Board is final and not subject to appeal.

[S.M. 2021, c. 36, s. 19](#); [S.M. 2022, c. 26, s. 17](#).

General Adoption Matters

Notice of adoption

[79\(1\)](#) As soon as practicable after a board or council adopts a zoning by-law, it must
(a) send a copy of the by-law to the minister; and
(b) send a notice stating that the by-law was adopted to every person who made a representation at the hearing held under subsection 74(1).

Notice of resolution not to proceed

[79\(2\)](#) As soon as practicable after a board or council passes a resolution not to proceed with a zoning by-law, it must send a copy of the resolution to the minister and every person who made a representation at the hearing held under subsection 74(1).

Notice to applicant

[79\(3\)](#) In the case of an amendment to a zoning by-law initiated under clause 80(1)(b), notice under subsection (1) or (2) must also be given to the applicant.

[S.M. 2021, c. 36, s. 21.](#)

GENERAL PROVISIONS

Quashing of by-law

[83](#) After a zoning by-law has been given third reading, it is deemed to have been within the power of the board or council to enact, and any proceeding to quash the by-law must be taken in accordance with Division 1 of Part 12 of *The Municipal Act*.

THE PROVINCIAL PLANNING REGULATION

The Provincial Planning Regulation M.R. 81/2011 (the "PLUPs"):

"represent the provincial interest in land, resources, and sustainable development. They provide policy direction for a comprehensive, integrated and coordinated approach to land use planning that emphasizes the importance the Province places on regular development plan reviews and updating planning policies and land use designations, rather than planning largely through ongoing incremental plan amendments. The PLUPs apply to all land that is subject to *The Planning Act*"

(M.R. 81/2011, pg.9).

A development plan must be generally consistent with the PLUPs. Ultimately, a development plan is a policy document approved by both the Province and the local planning authority that reflects the essence of the PLUPs as they pertain to the circumstances of the planning district. As such, once a development plan has been

adopted, it replaces the PLUPs until the development plan undergoes a periodic review or is amended.

Policy Areas 1 (General Development), 2 (Settlement Areas), 3 (Agriculture), 4 (Renewable Resources, Heritage & Recreation), 5 (Water), 6 (Infrastructure), 7 (Transportation), 8 (Mineral Resources), and 9 (Capital Region) would have all been considered by the Municipality prior to the adoption of the Development Plan by-law no. 18-09. As the Proposed By-law does not deal with an amendment to the Development Plan, a review of the PLUPs is not relevant for the purposes of determining policy compliance for the Proposed By-law.

THE DEVELOPMENT PLAN BY-LAW

Development Plan By-law 18-09 “is a long-range plan that helps direct development and manage change in the municipality. The Development Plan sets out objectives and policies that direct development and provides standards in the context of the goals of the communities. The Planning Act outlines the purpose of a Development Plan, as follows:

1. To set out plans and policies of the municipality respecting its purposes and its physical, social, environmental, and economic objectives;
2. Through maps and statements of objectives, direct sustainable land use and development in the municipality;
3. Set out measures for implementing the plan;
4. To include a livestock operation policy that provides direction to the zoning by-law dealing with livestock operations; and
5. Include such other matters as Council considers advisable.

“The decisions of Council related to land use and development will be based on the goals, objectives, and policies of the Development Plan. The Development Plan will also provide guidance and direction to both the public and private sectors with respect to future development of land and will ensure the timing of such development coincides with the appropriate provision of public services” (pg. 1). General objectives and policies that apply to all lands within the Municipality are organized into the following sections:

- General;
- Transportation;
- Environment;
- Groundwater Protection;
- Hazard Land, Flood Management and Drainage;
- Cultural and Heritage;
- Utilities and Municipal Services;
- Secondary Suites;

- Home Occupations/Home Industries, and
- Livestock Operations.

There are subsequent parts for Rural designations, the West Pine Ridge designation, Residential designations, the Oakbank South designation, General Development designations, Employment designations, Open Space, Recreation, and Natural Resource Areas designations, and Aggregate designations. Each part has a related description, objectives, and policies.

The final part of the Development Plan By-law is Implementation. 12.2 describes the Zoning By-law, wherein it states, “The goals, objectives and policies contained herein are generally implemented through the zoning by-law. Following adoption of the Development Plan, the municipality is required to review their zoning by-law which will set out specific requirements for land use and development. The zoning by-laws identifies zoning districts for certain types of uses. Permitted and conditional uses and development standards are prescribed for each zone. Zoning by-laws must generally conform to a Development Plan. The objectives and policies in the Development Plan provide guidance when preparing or amending the zoning by-law” (pg. 38). Appendices include related mapping for the Development Plan By-law.

It is important to note that a Development Plan By-law does not prescribe entitlement. It cannot grant nor take away any inherent land use rights as prescribed under the active zoning by-law. The Development Plan By-law is a “future / forward-looking” document that provides high-level guidance to be considered for general consistency when a zoning by-law is amended or adopted. It does not trump the zoning by-law in-effect.

THE OAKBANK SOUTH SECONDARY PLAN BY-LAW

The Oakbank South Secondary Plan (“OSSP”) By-law 21-20 seeks to “promote the efficient and orderly expansion of serviced development to the south of Oakbank. It will provide for a full range of land uses including residential, employment, recreational and institutional. Connectivity for active transportation, roads and servicing is critical to ensure the newly developed area complements and enhances the current developed areas”.

It is important to note that a Secondary Plan By-law also does not prescribe entitlement. It cannot grant nor take away any inherent land use rights as prescribed under the active zoning by-law. A Secondary Plan By-law addresses a complex planning issue that needs attention in a localized area.

The OSSP By-law identifies a select planning area and seeks to develop that planning area in a logical and cohesive manner. The OSSP Plan is intended to provide a higher level of detail to facilitate future development in an integrated fashion.

The OSSP By-law provides guidance to be considered for general consistency when a zoning by-law is amended or adopted.

THE WEST PINERIDGE SECONDARY PLAN BY-LAW

The West Pineridge Secondary Plan ("WPSP") By-law 21-21 seeks to "accommodate additional rural residential development. Such development should be compatible with existing and adjacent uses, while maintaining the rural nature of the area. The Plan is intended to ensure that development within the planning area reflects the intentions of landowners and can be implemented in a manner that is economically and environmentally responsible".

As with the OSSP By-law, the WPSP By-law provides guidance to be considered for general consistency when a zoning by-law is amended or adopted.

REVIEW OF ADMINISTRATIVE MATERIALS

ADMINISTRATIVE REPORT – THE PROPOSED BY-LAW

The Consultant reviewed the Administrative Report for the Proposed By-law, prior to the Public Hearing on October 28, 2021. The By-law received First Reading on Thursday, September 23, 2021.

PROVINCIAL COMMENTS

The Consultant reviewed Provincial Comments related to the Public Hearing of the Proposed By-law found under Appendix "C". The Province listed several areas of concern and included related recommendations for alteration to the by-law prior to Second Reading. They include:

1. There are some overlapping definitions where a use might fit under more than one use class. Manitoba Agriculture and Resource Development ("ARD") has the following recommendations to try to minimize the occurrence of overlapping definitions.
2. Seeking definitions be consistent with the Provincial Land Use Policies.
3. Striking the phrase, "in the opinion of council", as this wording really is not appropriate in a zoning by-law due to subjectivity. ARD provides that proposals should be evaluated based on consistency with zoning provisions and Development Plan policies where applicable.

ARD also identifies Peat processing as "a resource-related activity that is better captured under "Aggregate Operation."

PUBLIC HEARING

The Public Hearing for the Application was held on October 28, 2021. Members of the public were permitted to attend in-person if pre-registered and seating was limited; those who could not attend in-person were allowed to register to attend on-line. Audio recording of the Public Hearing is typically available online through the Municipal website, but could not be located by the Consultant.

The Public Hearing was opened and the administration and Municipal Planning Consultant made presentation to Council. Council received written correspondence and a petition. Council received presentations from those in support, in objection and there for information. At the hearing, Council limited presentations to 5 minutes per presenter, with exception for the Municipal Planning Consultant and for one resident in support of the application.

The Municipal Planning Consultant provided rebuttal. The Public Hearing was closed.

MUNICIPAL MINUTES

The Municipal Minutes for the October 28, 2021, Public Hearing are not available on-line. The Minutes for the June 23, 2022, Council Meeting giving the Proposed By-law Second Reading are available on-line. The June 23, 2022, Minutes make no mention of the alterations and do not note that sufficient objection was made at the public hearing. While it is common practice in many rural municipalities to transparently record in the minutes that, for example, "Second Reading was given with alterations as provided under the Change Table and with Sufficient Objection", the Municipal Administration confirmed by email that they,

"contacted two Municipal Services Officers (Mr. Ben Lyle and Ms. Delores Macksymchuk) regarding wording of the second reading to the Zoning By-law 21-25. [Lyle and Macksymchuk] have both advised that the Resolution for the second reading of the Zoning By-law 21-25 does not require the Resolution of Council to say, "as amended". The amended "Zoning By-law 21-25 -Springfield ZB with track changes and Change Table – Springfield ZB" documents were available on the agenda for the Public and Council at the Council meeting of June 23rd, 2022. Council was clear of the wording and version of the Zoning By-law that they granted 2nd reading to. As advised by the Municipal Services Officers, there is nothing in the Municipal Act or the Planning Act that requires the resolution to state "as amended". It may be good practice but it is not required".

PLANNING ANALYSIS

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, the Proposed By-law is *generally consistent* with the intents and policies of the R.M. of Springfield Development Plan By-law 18-09, however, as sufficient objection was raised, the Consultant is bringing forward key findings that warrant the consideration of the Deciding Body for alteration to the Proposed By-law. After carefully reviewed all relevant data, maps, administrative reports, non-regulatory guidelines, handbooks and the like, regulatory by-laws, provincial legislation, and regulation, commenting agency remarks and best practice. The following planning analysis focuses upon key findings and, where relevant, is followed by a related discussion.

KEY FINDING #1

Section 2.11 Non-Conformance

The word “Non-Conforming” is defined under Section 4.2 General Definitions while the words “lawful” or “legal existing” were not, when Section 2.11 clearly switches between these three (3) terms.

DISCUSSION

Section 2.11 Clause 4 states, “Any lawful use of a building, structure or lot, or portion thereof, which does not conform to one or more of the applicable use regulations of the Zone in which it is located, either on the effective date of this By-law or amendments thereto, shall be deemed to be a permitted use and shall be used as if it conformed to all such regulations, in accordance with Section 2.11.5 hereof.” “The Development Officer shall be responsible for interpretation of this By-law...”, however, a lack of consistent language in this Section leaves room for potential challenge. It would be of benefit to clearly define “lawful” and “legal existing” if these terms are used. Another option would be to replace “lawful” and “legal existing” with “Non-Conforming”.

Alternative policy wording may also be considered, and we suggest the following standard language be added:

PREVIOUS VIOLATIONS

“Unless otherwise provided for herein, an existing building, structure or use that was illegal under the provisions of any planning scheme or zoning by-law in force on the effective date of this by-law and amendments thereto shall not become or be made legal solely by reason of the adoption of this by-law; and to the extent that, and in any manner that, said illegal building, structure or use is in conflict with the

requirements of this by-law, said building, structure or use shall remain illegal hereunder."

The suggested wording both provides administration the ability to enforce the by-law on structures that are not non-conforming, as well, it assures area residents that land uses are and will be conducted and structures are developed in accordance with by-law provisions and shall not become or be made legal solely by reason of the adoption of a new zoning by-law.

KEY FINDING #2

Under the Track Changes, the definition of 'Aggregate Operation' was amended to remove reference to peat and include common subordinate and integral uses such as: Storage of aggregate materials, fleet delivery of aggregates and on-site maintenance and office space.

DISCUSSION

On page 2 of the comments received from the Province, it states, "Peat processing is listed as a "typical use" under Agriculture Support Industry but is also included under "Aggregate Operation" ([Proposed By-law] page 21); having it under both definitions is confusing. This is a resource-related activity that is better captured under "Aggregate Operation"".

ARD also suggests that definitions should align with the Provincial Land Use Policies ("PLUPs").

As such, this altered definition (to remove "peat moss") from Aggregate Operation no longer aligns with the recommendation of the Province.

Under the PLUPs, Policy Area 8, Mineral Resources it provides "Other types of quarry mineral extraction, such as sphagnum peat moss harvesting, possess unique land use and planning requirements and considerations" (PLUPs, pg. 39).

Further, the Development Plan By-law provides, "the following land uses may be accommodated in the Aggregate areas: a. Resource developments such as mineral exploration, gravel pits, sand pits, stripping of topsoil and peat moss and any accessory uses" (DPBL pgs. 36 and 37).

As such the Consultant recommends that "peat moss" be reintegrated into the definition of 'Aggregate Operation'.

KEY FINDING #3

Proposed By-law, Final Version, Section 2, Administration page 4 includes a new policy provision, being:

- 1.6.1 Where a use is classified as being conditionally permitted and exists as an allowable use at the date of adoption of this By-law or amendments thereto, it shall be considered as a legally existing conditional use.

DISCUSSION

In discussion with Clients, this appears to be an addition to the Proposed By-law since the Public Hearing; does not appear to be included in the Track Changes. Consultant could not confirm prior to submission of this planning review.

KEY FINDING #4

Under the Proposed By-law, Final Version, Section 4.2 General Definitions, page 10 provides:

Conditional Use means a use or development that may have unique or widely varying operating characteristics, and may have potential operational or other impacts on adjacent properties or site development demands, specified as conditional in this By-law.

Inclusion of the words "or development" is different than the one in the Act which reads, "**conditional use**" means a use of land or a building that may be permitted under a zoning by-law".

DISCUSSION

Under the Proposed By-law, Final Version, Section 4.2 General Definitions, page 11 provides:

Development means:

- a. the construction of a building;
- b. the installation of services and utilities on, over or under land;
- c. a change in the use or intensity of use of a building or land;
- d. the removal of soil or vegetation from land;
- e. the deposit of stockpiling or material on land; or
- f. the excavation of land.

This definition for Development generally aligns with the Act.

Under the Act, "**development**" means

- (a) the construction of a building on, over or under land;
- (b) a change in the use or intensity of use of a building or land;
- (c) the removal of soil or vegetation from land; and
- (d) the deposit or stockpiling of soil or material on land and the excavation of land.

Under the Proposed By-law, Final Version, Section 4.2 General Definitions, there is no definition for "Building".

Under the Act, "**building**" includes a well, pipe line, conduit, cut, excavation, fill, transmission line and any structure or erection, and any part of any of those things, and also includes an addition to or extension of any building or any of those things

and a chattel that is attached to, or installed in or on, any building or any of those things.

Provincial comments indicated that definitions should align with the PLUPs; it would be reasonable to understand that definitions should also align with the Act.

KEY FINDING #5

Under Zoning By-law 08-01, an Agricultural Support Industry is defined as:

“means an industry, commercial service, or retail business in which the major product or service being bought, sold, or processed is intended mainly for, from or by farmers. Typical uses include aerial spraying companies, grain storage including grain elevators, feed mills and seed plants. This Use Class does not include Bulk Storage Facilities or Anhydrous Ammonia Facilities” (Zoning By-law pg. 42).

Under the Proposed By-law an Agricultural Support Industry is defined as,

“means an industry, commercial service, or retail business in which the major product or service being bought, sold, or processed is intended mainly for, from or by farmers. Typical uses include aerial spraying companies, grain storage including grain elevators, feed mills and seed plants. This Use Class does not include ~~Bulk Storage Facilities or Anhydrous Ammonia Facilities~~” (Proposed By-law pgs. 24 & 25).

DISCUSSION

The Proposed By-law removes “Bulk Storage” from the list of uses excluded from an Agricultural Support Industry.

Under Zoning By-law 08-01 provides the following definition:

Bulk Storage Facility means a place for the outdoor storage or tank storage of large quantities of raw materials or industrial related goods such as liquids, fuels, gases, minerals, pipes, gravel, fertilizers, and grain. This Use Class does not include Anhydrous Ammonia Facilities. (Zoning By-law, pg. 40)

The Proposed By-law provides the following definition:

Bulk Storage Facility means a premises for the outdoor storage or tank storage of large quantities of raw materials or industrial related goods such as liquids, gases, minerals, pipes, gravel, fertilizers, or grains. This use does not include facilities used to store anhydrous ammonia. (Proposed By-law, pg. 21)

There are no definitions for these Use Types under the Act or PLUPs.

It is clear from the definition that a Bulk Storage Facility could produce a conflict of use if considered as an available permitted use type under “Agricultural Support Industry”. This is not in keeping with the PLUPs. Bulk Storage Facility should not be deleted from the definition of Agricultural Support Industry under the Proposed By-law.

KEY FINDING #6

Under the Proposed By-law, Final Version, Section 4.2 General Definitions, page 11 provides the following definition:

Farm Based Commerce means a class of business operations that are accessory to a principal farming operation and located on the same site but not necessarily agriculture in nature. Farm Based Commerce may entail occupations or industries related and accessory to the farm only and are intended to diversify on-farm economic activity.

Under the Proposed By-law, Final Version, Section 4.9 Accessory Use Class Definitions, page 26 provides the following definition:

Farm Diversification Operation means a type of farm-based commerce accessory to an active farming operation wherein non-agricultural manufacturing, processing, service, storage, wholesale, retail sales, and distribution uses may be utilized to diversify a farm's economic activity.

DISCUSSION

The definition of Farm Diversification Operation refers to “non-agricultural manufacturing, processing, service, storage, wholesale, retail sales, and distribution uses”, which is not in-keeping with the general intent of related Development Plan policies that seek to preserve and protect agricultural lands for agricultural and agricultural-related use types. Non-agricultural manufacturing, processing, service, storage, wholesale, retail sales, and distribution uses, as accessory to a primary agricultural use type, are not provided for under the development plan objectives or policies for Rural Areas (DPBL, Part 4).

The Consultant acknowledges that a Home Industry or Home Occupation can afford some leniency, but that a Farm Diversification Operation establishes non-agricultural manufacturing, processing, service, storage, wholesale, retail sales, and distribution uses on agricultural lands that are not intended for this use type. The Consultant recommends the removal of this listed use from Table 9-2 (Proposed By-law, pg. 51) and from the listed definitions.

KEY FINDING #7

Under the Proposed By-law, Final Version, Section 6 – Zone Descriptions, a description for General Development is found under the Mixed Zoning Districts (pg. 30); however, under Section 4, each Use Class has a related set of definitions for which Mixed-Use is the only type omitted, along with a related definition for “General Development”.

DISCUSSION

There are no such definitions for “Mixed-Use” or “General Development” found under the Act or the PLUPs. The Development Plan By-law mentions “mixed-use” once,

under the Commercial designations. The Development Plan By-law has a General Development designation, but this designation does not specifically mention “mixed-use” development. The names of designations and zones are not inherently aligned. It is common practice that where a Use Type is listed in a Use Table under a zoning by-law, that there is a related definition within that zoning by-law. To remain in-keeping with the rest of the Proposed By-law, the Consultant suggests the inclusion of a section for “Mixed-Use Class Definitions” under which contains a definition for “General Development”.

KEY FINDING #8

Under the Proposed By-law, Final Version, Table 9-1 Principal Use Table – Agricultural Use Class / Type - Agricultural Support Industry becomes a permitted use in both Agricultural Zones (AG & AR) pg. 49 Proposed Zoning By-law.

Under Zoning By-law 08-01, as amended, an Agricultural Support Industry is a Conditional Use in the AR Zoning District (Zoning By-law pg. 160).

DISCUSSION

The Consultant asks, is it appropriate to have an Agricultural Support Industry listed as permitted use in the Agricultural Zoning Districts under the Proposed Zoning By-law?

Community Planning commented, “As per comments provided by ARD, Council may wish to consider combining and revising the definitions of “Agri-Business” and “Agricultural Support Industry” in line with the Agri-Business definition found in The Municipal Planning Guide to Zoning By-laws in Manitoba. This use could be considered as a conditional use in both the AG and AR zoning districts, given potential nuisances and land use conflicts” (Prov. Comments, page. 7).

As the Council did not wish to combine and revise the definition prior to Second Reading, it would be reasonable to expect an Agricultural Support Industry should be considered as a conditional use in both the AG and AR zoning districts, as it is “in-line with the Agri-Business definition found in The Municipal Planning Guide to Zoning By-laws in Manitoba.

SUMMARY

Key Findings highlighted by the Consultant provide a planning position on matters contained within the Proposed By-law that were relevant to the concerns of the Client. The Provincial Planning Office recommended that Council consider all comments received from government department and agencies, as well as representations made at the public hearing, and make any required changes to the Zoning By-law before proceeding to second reading. After review of the regulatory by-laws and policy provisions against the comments received by government


departments as well as representations made at the public hearing, the Consultant found the alterations to the Proposed By-law shifted the intent of the by-law as well the representations made at the public hearing were not sufficiently addressed. Council gave Second Reading to the Proposed By-law under the advice that the alterations were minor in nature. Eleven definitions have been altered; a Multi-Unit Dwelling has been added as a Conditional Use in the "CH" Commercial Highway Zoning District; a Bulk Storage Facility, a Mill or Forestry Related Establishment, Agricultural Activities have been added as conditional use types in the "MX" Industrial Extractive Zoning District. An Anhydrous Ammonia Storage and Distribution Facility has been added as a conditional use in the "AR" Agricultural Restricted Zoning District. And numerous other use types have been altered. These changes alter the intent of the Proposed By-law.

The Consultant strongly disagrees with the position that these alterations are "minor". Area residents and stakeholders should be given the opportunity to review the alterations and have their representations heard at a Second Public Hearing as legislated under the Act. Due process should be followed. In addition to following the comments received from government department and agencies, the Proposed By-law should be thoroughly reviewed for conformity with those comments.

CONCLUDING REMARKS

It is at the point of adopting a new zoning by-law that residents and stakeholders are immediately impacted by changes to land use. Zoning by-laws provide entitlement that development plans and secondary plans cannot take-away once the zoning by-law is in-effect. Residents and stakeholders have the greatest reason for raising concerns prior to the adoption of a zoning by-law. One's reasonable expectation to the quiet enjoyment of their property is relative to the neighbouring properties' rightful enjoyment. If the entitlements change, upon adoption of the Proposed By-law, the property owner has the right to develop and use the property within the provisions of the zoning. Those rights are set out in the respective regulatory by-laws and legislative acts and are most immediately felt through administration of the zoning by-law.

Adoption of a Zoning By-law is subject to a legislated process that when reviewed by a Deciding Body must consider a fair, large, and liberal interpretation that best ensures the attainment of its objects. In doing so, the Proposed By-law must observe the Development Plan By-law and Secondary Plan By-laws for general consistency. At the same time, the Deciding Body must consider all representations made by property owners. When representations are of a nature where alteration is warranted, to which the Consultant makes representation that such alteration is warranted, then the Deciding Body can order such alterations and to follow the due process.



The Consultant would like to thank the members of the Municipal Board for the opportunity to provide this report for your review and consideration. The Consultant provides the information and findings in good faith, respective of a Code of Conduct and understanding of the requirement to provide evidentiary findings for the Board's consideration.

Sincerely,

Jennifer Lim MCIP, RPP Threshold Planning Studio Inc.

APPENDIX “A” – CONSULTANT CV AND PROFESSIONAL ERRORS AND OMISSIONS INSURANCE

JENNIFER LIM

MCIP RPP



PROFESSIONAL MEMBERSHIP

MANITOBA PROFESSIONAL PLANNING INSTITUTE/
CANADIAN INSTITUTE OF PLANNERS, Full Member in good standing since July 2014

AWARDS

LANDSCAPE ARCHITECTURE GRADUATE FELLOWSHIP
FAUM, 2009/2010

SKILLS & INTERESTS

- Comprehensive understanding of Manitoba *Planning Act* and *Municipal Act*. Adept at resourcing other relevant Acts.
- Excels at Development Plan, Secondary Plan, and Zoning Bylaw review, interpretation, amendment, and administration.
- Research and report writing. Proficient in Microsoft Office Suite, Adobe Suite software,
- Map creation: MapInfo and ArcView Geographic Information Systems mapping software.
- Computer Aided Design: Vectorworks
- Strong interest in community and landscape design and development.

EDUCATION

MASTER OF LANDSCAPE ARCHITECTURE - UNIVERSITY OF MANITOBA, WINNIPEG MB – 2011 Graduate Thesis: The Blindspot: A Thesis in Landscape Architecture

BACHELOR OF

ENVIRONMENTAL DESIGN- UNIVERSITY OF MANITOBA, WINNIPEG MB - 2004

PROFILE

Possess natural ability to develop strong working relationships with clientele, municipal administrations, Council/Board members, and other working professionals. High-level professional writing and oral communication skills. Able to present ideas clearly and confidently. Creative thinker, conscientious in application of policy, organized, and able to prioritize workloads under pressure. Capacity to think critically and objectively. Ability to initiate ideas and make sound judgments. Committed planner with strong professional ethic excelling at evidentiary analysis. Experienced to interpret provincial legislation, associated regulations, local development plan policies, zoning by-laws, and secondary plan by-laws.

WORK EXPERIENCE

OWNER + PRINCIPAL PLANNER, THRESHOLD PLANNING STUDIO INC. WINNIPEG MB, 2020 – CURRENT

Owner + Principal Planner of corporation providing land use and landscape design services for individual land owners, developers, community groups, and municipalities/planning districts. See: www.thresholdplanning.ca

- Municipal Planning:
 - o R.M. of West St Paul – Housekeeping BL 02, 2022 – 06, 2022
 - o R.M. of Brokenhead – Zoning BL 2232/21 10, 2021 – 08, 2022
 - o R.M. of West St. Paul – Ward Boundary BL 12, 2021 – 01, 2022
- Planning Expertise:
 - o Affidavit for Court of Queen’s Bench - Springfield TaxPayers Corp. v R.M. of Springfield 08, 2021
 - o Affidavit for Court of Queen’s Bench – Niata Enterprises v Snowdon Ent. 11, 2021
 - o Submission to Municipal Board – Appeal of Zoning BL 12/20 R.M. of Rockwood 09, 2022
 - o Submission to Municipal Board – Appeal of Subdivision File R.M. of St. Andrews 07, 2015
- Presentation to Council/Planning Board:
 - o River Springs Resident’s Association – River Springs Dr. development appeal to Red River Planning District. 02, 2020
 - o Lac Du Bonnet Resident’s Association – trailer/campground proposed development appeal to Lac du Bonnet Planning District. 02, 2021
 - o Springfield TaxPayers Corp. – residents appeal to R.M. of Springfield. 09, 2020 – 02, 2021

REFERENCES:

JENNIFER FERGUSON
EXECUTIVE DIRECTOR
RED RIVER PLANNING DISTRICT
(204) 482-2950

CARA NICHOLS
COMMUNITY DEVELOPMENT
PLANNER,
R.M. OF EAST ST. PAUL
(204) 594-4407

KAREN TOEWS
MANAGER OF ROADSIDE
DEVELOPMENT, PROVINCE OF
MANITOBA
(204) 945-0324

BRANDON POWELL
CHIEF OPERATING OFFICER,
LOMBARD
NORTH GROUP
(204) 943-3896

KATE MOIR
OWNER + PRINCIPAL PLANNER
MOIR INFORMED DECISIONS
(204) 266-1732

**GURJIT ("GARY")
SIDHU**
LANDOWNER
PRIVATE DEVELOPER
(204) 930-6274

TESTIMONIALS

"I worked with Ms. Lim to re-designate a piece of land that my family held for over 60-years. She was knowledgeable and attentive throughout the process, providing suggestions and solutions as we navigated the response from both the planning authority and local community in advance of the public hearings. Ms. Lim made a very professional application, presentation and rebuttal on my behalf. She takes great care in her professional practice and I'd recommend working with her when making application to develop land. Her strong work ethic and honesty was always 5 Star."

- **Bruce Stemken**, property owner and applicant for land development

"In the development of Highland Professional Centre at 3014 Henderson Highway, East St. Paul, a series of planning approvals and permits were required. We turned to Threshold Planning Studio for the help of a professional planner. Ms. Lim is a leader in her profession. She works well with clients and persistently moves the planning process forward. On more than one occasion, Ms. Lim has helped us move applications forward with successful results. She's responsive and is professional in all her efforts."

- **Greg Michie**, Real Estate Broker and owner. Developer of Highland Professional Centre, East. St. Paul

WORK EXPERIENCE, Con't...

- TexGroup – 858 Red River Dr. – R.M. of Ritchot – Conditional Use Approval continuation 04, 2021 – 06, 2021
- Niata Enterprises Ltd. – Objection to plan approval to LSWK Community Committee, to the SPC, and objection to appeal of SPC decision to Executive Policy Committee, Winnipeg 04, 2021 – 10, 2021
- JMT and DGB proposal to purchase RM land – West St. Paul 07, 2022
- Community Engagement:
 - Amber Trails Community School – Seven Oaks School Division – Playground Redevelopment 08, 2020
- Development Approvals:
 - 4085 Ross Farm Rd – East St. Paul – 19 lot S/D 04, 2021
 - Solvin Rd. - Gimli – Multi-Lot Re-zoning 01, 2021
 - 3014 Henderson Highway – East St. Paul – Variance 10, 2021
 - 4041 Rebeck Rd – East St. Paul – 17 lot S/D + rezoning 03, 2022
 - 37 Ashland Ave – Winnipeg – Lot Grading Violation 04, 2022
 - 2 Guerts Cove – St. Andrews – Conditional Use 02, 2022
 - 456 Bannatyne Ave – Winnipeg – Multi-Family Variance 07, 2022
 - 2344 Henderson Hwy – East St. Paul – Home Based Business 08, 2022
- Landscape Design
 - Amber Trails Community School – Gathering Space 09, 2022

COMMUNITY PLANNER, RED RIVER PLANNING DISTRICT

SELKIRK MB, 2014 – 2019

Provided professional regulatory land use planning services in the area of community planning, land use, and community development to support sound local decision-making by municipalities. Provided advisory services to provincial departments, consultants, and to the public with respect to land use and development. Processed secondary plan by-law and zoning by-law amendments, subdivision, variance and conditional use applications, prepared and presented professional planning reports, maps, and conveyed recommendations to member councils, to the district planning board, and to the Municipal Board. Conducted presentations at public hearings, council and board meetings on a regular basis, overseeing between two to four planning portfolios (City of Selkirk, Village of Dunnottar, and R.M.s of St. Andrews, St. Clements, East St. Paul and West St. Paul).

ASSISTANT COMMUNITY PLANNER, RED RIVER PLANNING DISTRICT

SELKIRK MB, 2008 – 2014

Provided regulatory land use planning services in the areas of by-law enforcement and community planning, to support the work of professional planners and management. Addressed and project managed over 1,000 on-going by-law complaints for the Planning District releasing Request for Compliance, Notice of Violations, Remedy for Contravention, and Orders under *The Planning Act*. Prepared research for the PD's Development Plan Review, prepared amendment and subdivision reports and related mapping for review by the Community Planners.

TESTIMONIALS CON'T

"Actual planning, the work of a professional planner, is very different from simply being able to point to a policy in a by-law and advise someone whether or not they need to seek Council's approval. Jennifer was the real deal. She could not only read the by-law, but she could discern the intent behind it, articulate it meaningfully, and discuss it, when needed, with administration and Council, working towards collaborative solutions."

- **DJ Sigmundson**, former CAO, RM of St. Clements, current CAO, RM of St. Andrews

"Jennifer worked as the community planner for the RM of St. Clements. She was an excellent presenter at Public Hearings. It was clear that she not only listened to the questions Council had, but also understood the information that was being sought, and was very articulate in her response. We always felt confident in her planning leadership"

- **Colleen Sailor**, Assistant CAO, RM of St. Clements

"In the time that I observed Jennifer's work, it was very clear that she was meticulous in her planning practice. She is very astute. Her rigour would frequently catch important information at the beginning of an application, saving applicants the headache of realizing they had potentially made an application that would result in incomplete approvals. It is very clear to me that when Jennifer was on a file I could depend on accurate data. She was always very prepared. She managed her role professionally in a political context."

- **Brent Olynik**, CAO, RM of West St. Paul

"Our Resident's Association sought the assistance of a Planning Firm to help us present our objections at an Appeal Hearing to a proposed development. They had referred us to work with Jennifer. She was highly recommended and for good reason: Jennifer really knows her stuff. It didn't take long to realize our Resident's Association had hit a goldmine of practical and relevant planning information. She helped our association generate a sound approach to conveying our concerns to the Approving Authority. She worked with our lawyer and provided many valuable edits, insights, and advice. She gave us the best shot possible at having the developer address our concerns. Jennifer is clearly well-informed, reliable, professional and a real pleasure to work with. We would gladly refer her services."

- **Henry Bakker** on behalf of the River Springs Resident's Association

PUBLICATIONS

WAREHOUSE JOURNAL 14
2005/06, FAUM

WORK EXPERIENCE, Con't...

VARIOUS POSITIONS, SELKIRK AND DISTRICT PLANNING AREA BOARD

SELKIRK MB, 2003-2008

Inspections of foundations, insulation and vapour barrier, and final residential occupancy; plan review of part 9 and some part 3 building; various mapping development and inquiry (MapInfo and ArcView GIS); prep planning reports and review documents as directed under supervision of Manager.

PROJECT EDITOR, WAREHOUSE JOURNAL ("WHJ") 14, FAUM WINNIPEG MB, 2005-2006

Managed the collection, layout, sponsorship, publication, and sale of a non-profit design journal intended to foster discussion towards the education and activity of design on the prairies through the work of both students and professionals. The 353 page publication collected the work of roughly 120 persons and groups to showcase works completed during the 2004-2005 academic school year. WHJ 14 contained a retrospective of FAUM Dean John A. Russell and included a separate DVD that showcased additional digital works. The publication cost \$18,993.90 to publish 900 copies; raised \$8,350.00 in sponsorship from fourteen private businesses and individuals; and, sold for \$20 per copy.

TEACHING ASSISTANT, VARIOUS POSITIONS, FAUM WINNIPEG MB, 2004-2008

Environmental Design – EVDS 2610 A01 - Theory of Design 3. 01, 2008 – 04, 2008

Environmental Design – EVDS 2610 A01 - Theory of Design 3. 01, 2007 – 04, 2007

Environmental Design – 079.263 L01 – Studio 3 09, 2005 – 12, 2005

COMMUNITY ENGAGEMENT

VOLUNTEER, MANITOBA PROFESSIONAL PLANNING INSTITUTE ("MPPI") STRATEGIC PLANNING COMMITTEE

WINNIPEG MB, 09, 2022 – CURRENT

As part of professional planning in Manitoba, I will review steps taken to-date and provide input on next steps for MPPI Work Plan 2022-2025 as part of a four-person committee to strategize the promotion of pride and excellence in professional planning and engagement of the broader community as it applies to the stewardship of the natural and built environment and to the building of healthy communities.

VOLUNTEER, CANADIAN UNION OF PUBLIC EMPLOYEES ("CUPE") LOCAL 336 CITY OF SELKIRK

SELKIRK MB, 10, 2008 – 06, 2015

Secretary-Treasurer for two terms; President for one term serving a local of less than 100 members containing three (3) bargaining units. Developed a book-keeping system that became the standard Provincially. Negotiated successful contract for the SDPAB employees circa 2012/13. Represented members at grievance hearings.



EVIDENCE OF INSURANCE FOR ERRORS AND OMISSIONS COVERAGE

*THIS DOCUMENT IS ISSUED AS EVIDENCE OF INSURANCE, IT DOES NOT CONSTITUTE
A LEGAL CONTRACT OF INSURANCE*

CIP, as the Master Policyholder, has procured Insurance under a Master Policy in respect of persons who are members of the Master Policyholder. This document is issued to you as evidence that your name has been added as a person insured under the Master Policy.

The coverage provided is in accordance with the terms and conditions contained in the Master Policy. The Master Policy is available for inspection upon application to the Master Policyholder. The details that follow are those shown in the Master Policy as applicable to you. In the event of any discrepancy between the details contained in this document and those shown in the Master Policy then those shown in the Master Policy shall prevail.

Master Policy No: UMR: B1284CB23A199A / Policy Number CB23A199A CB23A199A-C (ii) EO - 01

Effected in accordance with Agreement: B1284CB23A199A with certain Lloyd's Underwriters through Lloyd's approved Coverholder ("the Coverholder"): BMS Canada Risk Services Ltd.

Member Information: Jennifer Lim, RPP, MCIP
31 Lakebourne Dr.
Winnipeg, R2P 1K9

Effective from: Jan 1, 2023 – Jan 1, 2024

both dates 12:01am Standard Time at the address of the Master Policyholder.

Coverage: As Per Master Policy

Territorial Limits: As Per Master Policy

Limits of Liability/Sums Insured: \$5,000,000 Per Claim Limit
\$5,000,000 Aggregate Limit

In the event of a claim under this Evidence of Insurance, please notify:
Crawford & Company
Email: BMSclaims@crawco.ca
Telephone Number: 1-877-805-9168

Dated this Jan 1, 2023

Signed By:  for BMS Canada Risk Services Ltd. on behalf of the Underwriters.

APPENDIX “B” – EMAIL CORRESPONDENCE

From: Dan Doucet ddoucet@rmofspringfield.ca
Subject: Resolution for the second reading of the Zoning By-law 21-25
Date: August 23, 2022 at 5:09 PM
To: Jennifer Lim studio@thresholdplanning.ca
Cc: RM of Springfield info@rmofspringfield.ca, Colleen Draper cdraper@rmofspringfield.ca, Johanne Marin JMarin@rmofspringfield.ca, Larissa Sveinson - Municipal Relations - Community and Regional Planning Branch - Beausejour (Larissa.Sveinson@gov.mb.ca), Larissa.sveinson@gov.mb.ca, Glen Fuhl GFuhl@rmofspringfield.ca, Howard Bredin HBredin@rmofspringfield.ca, Tiffany Fell TFell@rmofspringfield.ca, Val Ralke VRalke@rmofspringfield.ca, Meagan Boles (Meagan.Boles@wsp.com), meagan.boles@wsp.com

DD

External (ddoucet@rmofspringfield.ca)

[Report This Email](#) [FAQ](#) [GoDaddy Advanced Email Security](#), Powered by INKY

Good afternoon Ms. Lim

Thank you for your email of July 29th. We did not respond to you immediately, as our office was in the process of a Planning review for your requests.

Firstly, yes you did make representation at the October Public Hearing relating to By-law 21-25 the Zoning By-law. Our office did not forward you a letter regarding a second objection because the Planning Act states you need to be an Eligible Person in the Municipality to file an objection to a zoning by-law. Unfortunately, you are not a eligible person as per section 73.1 (1) of the Planning Act.

ADOPTION OF ZONING BY-LAW

Eligible persons

73.1(1)

In this section, "eligible person" means a person who would be eligible, if a general election were held under *The Municipal Councils and School Boards Elections Act* on the day the objection was made, to vote at an election of members of

- (a) the council of the municipality, in the case of a zoning by-law of a municipality; or
- (b) the council of a member municipality, in the case of a district-wide zoning by-law.

Secondly, Johanne Marin from our Planning Office had contacted two Municipal Services Officers (Mr. Ben Lyle and Ms. Delores Macksymchuk) regarding wording of the second reading to the Zoning By-law 21-25. They have both advised that the Resolution for the second reading of the Zoning By-law 21-25 does not require the Resolution of Council to say “as amended”. The amended “Zoning By-law 21-25 -Springfield ZB with track changes and Change Table – Springfield ZB” documents were available on the agenda for the Public and Council at the Council meeting of June 23rd, 2022. Council was clear of the wording and version of the Zoning By-law that they granted 2nd reading to. As advised by the Municipal Services Officers, there is nothing in the Municipal Act or the Planning Act that requires the resolution to state “as amended”. It may be good practice but it is not required. Below is the section of the Municipal Act on the process of adopting a by-law.

MUNICIPAL ACT

Proposed by-law to be given three readings

142(1)

Every proposed by-law must be given three separate readings at meetings of the council, and each reading must be put to a vote.

Limit of two readings at one meeting

142(2)

A council may not give a proposed by-law more than two readings at the same council meeting.

Text to be available before first reading

142(3)

Each member present at the meeting at which first reading is to take place must be given, or have had, the opportunity to review the full text of the proposed by-law before the by-law receives first reading.

Text to be available before third reading

142(4)

Each member present at the meeting at which third reading is to take place must, before the proposed by-law receives third reading, be given, or have had, the opportunity to review the full text of the proposed by-law and any amendment passed after first reading.

Meeting Agenda June 23rd, 2022 – Council meeting

5.7

By-law 21-25 - Springfield Zoning By-law (Second Reading) **Res.**



Zoning By-law 21-25 - Springfield Zoning By-law with Tracked Changes



Change Table - Springfield Zoning By-Law

Hope this addresses your concerns.

**Dan Doucet, C.E.T., C.B.C.O.
Director of Planning and Development
Development Officer**

R.M. of Springfield
Planning & Development Dept.
Unit 1 -686 Main Street
Box 219
Oakbank, MB, ROE 1J0
ddoucet@rmofspringfield.ca

APPENDIX “C” - PROVINCIAL COMMENTS



Manitoba Municipal Relations
Community Planning Branch
Box 50, L01-20 First Street, Beausejour, Manitoba R0E 0C0
T (204) 268-6058 F (204) 268-6007
www.manitoba.ca

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-

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

RR zones. The Residential Related Farm Specific Use Standards state the use may include Equestrian Establishments < 10 AU. The contradiction between the Use Table and Use Specific Standards for Residential Related Farm may cause confusion and be difficult to administer.

Equestrian Establishments >10 AU – These are handled in the same way that Livestock Operations are handled based on the Livestock Operation Overlay Districts. The Rural Residential Zones correspond to L4 where livestock operations and therefore equestrian establishments are prohibited. This will result in any equestrian establishments that exist within Rural Residential Zones to become legal non-conforming uses. Council may want to carefully consider the impacts of non-conformity on existing uses. Options to alleviate the negative repercussions of becoming a non-conforming use include listing Equestrian Establishments >10 AU as a conditional use in RR, AG and AR zones rather than relying on the Livestock Operations Overlay Districts.

Table 9-2: Accessory and Temporary Use Table (page 47)

It's not clear why **Farm Diversification Operation** is listed as a conditional use in the agricultural zones when **Home Business** and **Home Industry** are listed as permitted. It is expected that agri-related commercial or industrial developments that are accessory to farm operations would be able to establish in agricultural zones, in particular in the AG zone.

Outdoor Storage – ARD has concerns that outdoor storage as an accessory use is prohibited in agricultural zones. Outdoor storage means the storage of merchandise, goods, inventory, materials or **EQUIPMENT**, or other items that are not intended for immediate sale and do not constitute outdoor display by locating them outside. Does this include agricultural machinery? Farmers often store equipment outdoors, on farm. Why wouldn't this be allowed in agricultural zones? **Outdoor storage should be allowed in agricultural zones as a permitted accessory use.**

Table 9-3 – Livestock Operations Use Table (page 56)

The first two column headings under "Livestock Operations Uses by Animal Unit (AU) Size" begin at 0. These should begin at 10 (AU) to be consistent with the definition of a livestock operation under *The Planning Act* and this zoning by-law; and with the livestock operation policies of the Development Plan.

Provision 9.14.2 states that the TRC Report respecting conditional use livestock operation applications over 300 AU must be made available to the public for a minimum of 30 days prior to the date of the conditional use hearing. *The Planning Act* requires that the site assessment be posted on the public registry for public comment for 30 days but doesn't specify any such requirement for the TRC Report. The TRC Report does get posted to the Public Registry upon completion as per the TRC Regulation. The notification for the public hearing for conditional use applications must be a minimum of 14 days. ARD recommends removing the second sentence of this provision and replacing it with: **Conditional use livestock operation requiring Technical Review will be handled in accordance with the provisions set out under The Planning Act.**

Section 10: Dimensional Standards

Table 10-1 – Residential and Mixed Zoning District Dimensional Standards – It would be helpful to include units of measurement. Under footnote 2, the minimum site area for RR Zoning District within the Red River Floodway is listed as 3.24 ha (4 ac) when 4 acres is equal to 1.6 hectares.

Table 10-3 (page 72) – Civic and Agricultural Zoning District Dimensional Standards (page 70) – The minimum site area for the AR principal uses is 20 acres. The AR zone corresponds to lands designated Rural and Agricultural Area and Policy 4.2.8 sets the parcel size for this designation at 20 acres. No objection.

Also, the provisions refer to CR zoning district and PN zoning district but these are not included in the table, this should be corrected prior to giving the by-law second reading.

Part D: Maps

No significant concerns from an agricultural perspective with the proposed maps. We do note that some of the areas that had been zoned AR or AG under the former zoning by-law (for example, West Pine Ridge, Rural Residential Zone within the Red River Floodway) are now zoned RR under

this proposed by-law. These areas generally correspond to the West Pine Ridge Secondary Plan Area and designated Rural Residential Areas; however, we do caution that given the zoning provisions regulating equestrian establishments in RR zones, any existing establishments may be negatively affected by these changes, as noted above.

General Comment

As a general observation, "in the opinion of council" has been used throughout the by-law. This wording really is not appropriate in a zoning by-law due to subjectivity. Proposals should be evaluated based on consistency with zoning provisions, and Development Plan policies where applicable. ARD recommends striking this phrase wherever it occurs within the document.

2. Bell MTS: No comments.
3. **Conservation and Climate – Environmental Compliance and Enforcement Branch (ECE):** advises that municipal requirements that are not within provincial legislation are outside of Conservation and Climate's jurisdiction to approve and/or enforce. ECE has the following comments:

7.24 – Any building (not only principal buildings) generating domestic wastewater must be connected to municipal sewer, if available, or (in the absence of municipal sewer) an approved onsite wastewater management system, as per the *Onsite Wastewater Management Systems Regulation M.R. 83/2003*.

9.25 and 9.30 – Secondary suites and temporary additional dwellings must be connected to municipal sewer, if available, or (in the absence of municipal sewer) an approved onsite wastewater management system, as per the *Onsite Wastewater Management Systems Regulation M.R. 83/2003*.

9.10.1 – Commercial composting facilities siting setbacks listed do not meet provincial guideline standards for siting and construction of a commercial composting facility, as per the *Waste Management Facilities Regulation M.R. 37/2016* – please see Schedule D (Section 31), which states:

Location Requirements

1 The site of a composting facility at the time the composting facility is established must be at least

- (a) 30 metres from any public road or railway, other than the access road to the facility;
- (b) 100 metres from any building;
- (c) 100 metres from any surface water; and
- (d) 100 metres from any potable water well.

4. Conservation and Climate – Drainage and Water Rights Licensing Branch: No concerns.
5. **Historic Resources Branch (HRB):** notes that there are no references to heritage resources, *The Heritage Resources Act*, potential requirements for heritage resource impact assessments, and municipally, provincially, and federally designated sites. HRB advises planners may wish to incorporate a list of definitions and reference materials pertaining to the municipal designation process under *The Heritage Resources Act* enabling an RM to establish a Municipal Heritage Advisory Committee (MHAC) to advise council on heritage resources of municipal interest including commemoration or protection ("designation"). Reference materials have been provided.
6. Indigenous and Northern Relations – Northern Affairs Branch: No concerns.
7. **Infrastructure– Transportation System Planning & Design:** has the following comments:

Re: 7.10 Projections into Yards (page 35)

For information, a permit is required from Manitoba Infrastructure for any structure/development, including fences (excluding agricultural fences), or to change or intensify the use of an existing structure, proposed within the controlled area adjacent to a provincial highway. A permit is also required from Manitoba Infrastructure for any trees proposed within 15 m of a provincial highway.

Re: 7.20 Fences and Screening (page 42)

As mentioned above for information, a permit is required from Manitoba Infrastructure for any fence (excluding agricultural fences) proposed within the controlled area of a provincial highway.

Re: 7.22 Land Drainage (page 43)

For information, permission is required from Manitoba Infrastructure to drain any water into the highway drainage system. Manitoba Infrastructure prefers to see no increase in storm flows in the highway ditch system. If there is an increase in flow or an adverse impact, the cost of any revisions that may be required to the existing highway drainage system that are directly associated with development, will be the responsibility of the developer.

Re: Table 9-1: Principal Use Table (page 47)

Manitoba Infrastructure has concerns with some of the uses permitted in the Commercial Highway Zone. Only those uses that cater to the traveling public should be included in this zone. Uses such as commercial school, place of worship, general industrial, storage compound, etc., should be located in areas appropriately zoned for these particular uses, such as "Commercial Central," "Industrial," or "Institutional."

Re: 9.19 Farm Diversification Operations (page 59) and 9.20 Home Occupations, Businesses and Industries (page 59)

For information, a permit may be required from Manitoba Infrastructure to intensify or change the use of an existing structure within the controlled area adjacent to a provincial highway or intensify the use of an existing access to a provincial highway.

Re: 9.17.1(d) Car Broker (page 57)

Reference should be made to *The Transportation Infrastructure Act* as opposed to *The Highway Traffic Act*. Under *The Transportation Infrastructure Act*, permits are required from Manitoba Infrastructure for any development or structure proposed within the controlled area adjacent to a provincial highway.

Re: 9.20 Home Occupations, Businesses and Industries (page 59)

For information, a permit may be required from Manitoba Infrastructure to change or intensify the use of an existing structure within the controlled area adjacent to a provincial highway and to intensify the use of an existing access to a provincial highway.

Re: 9.29 Portable Asphalt Batching Plants (page 67)

Manitoba Infrastructure suggests this regulation also include those temporary uses and structures incidental and necessary for highway construction and maintenance such as the temporary placement of both asphalt and concrete batch plants.

Re: Zoning By-law Map

West Pine Ridge – Manitoba Infrastructure has plans for the future improvement of PR 213 in this area which includes intersection improvements that may affect adjacent land. Any new development should obtain access from the municipal road and/or internal road systems.

PTH 15 – Any new development proposed along PTH 15 should not rely on PTH 15 for direct access. Manitoba Infrastructure will not support any new additional accesses to PTH 15 or recommend the intensification of an existing access. Future development should concentrate around the built up area of Dugald, utilizing and expanding on existing internal street systems.

Additional Comments regarding Zoning Map:

For information, as a result of the South Perimeter Safety Study, several accesses to the Perimeter Highway and median openings have been or are planned to be closed. In the future, access to PTH 100 from the "Rural Residential" zone proposed along PTH 100 and north of the Floodway, will be limited to the Symington Road intersection. In addition, any development in the vicinity of the Symington Road/PTH 100 intersection will have to take into consideration the future interchange planned at this location.

Also, Manitoba Infrastructure questions the "Industrial General" zone proposed in SW ¼ 3-11-5E. It does not appear to correspond to the RM of Springfield Development Plan and, from available aerial photography, does not appear to be accommodating existing development. Please advise Manitoba Infrastructure of the purpose of this rezoning.

8. Mineral Tenure and Regulatory Services (ARD): has the following comments:

In the Use Standards section, the "Mill and Forestry Related Establishment" entry on the use table didn't have any corresponding entry in the text. Also, it is not considered a conditional use in the MX designation, which seems like it would be applicable for a processing facility. Also, this category could be expanded to include mineral / aggregate facilities that aren't part of the extractive operation and have very different characteristics.

There is only a reference to aggregate operations, but not to a broader range of mineral production and exploration. The "aggregate operation" definition does include the word "ores," but a more explicit inclusion of mineral interests might be better; even a name change to "aggregate and mineral operations" or "natural resource development" would be a bit clearer. While there are not many traditional mining interests in the area, recent interest has been seen in southern Manitoba for non-traditional mineral product exploration, including in the southeastern part of Springfield.

In townships 10-7E and 10-8E, a number of sections have been designated PN, which would be incompatible with mineral development, but also overlap with a number of active mining claims related to a larger project. For the time being, it would be preferable if parts of the proposed PN area here could instead be designated to support possible mining activity, until the claims are expired. In 10-8E, if the PN area could be limited to the eastern sections (1, 2, 12, 13, 24, 25, 26, 36) that are free of mining claims, this would allow a potential development to proceed on the existing mineral tenure.

In 10-7E, active mining interests overlap the proposed PN areas, and should also be designated for possible mining. Non-conflicting areas could be retained in SW-16, NW-19, E 1/2-8, and NE 24.

9. Municipal Relations – Community Planning Branch: has the following comments:

2.5 Conditions Attached to a Development Permit

Provision 2.5.4 should be consistent with the wording of the Bill 37 amending *The Planning Act* (149.1(1) and (2)), which provides that as a condition of issuing a development permit, council may require the owner of the affected property to enter into a development agreement under section 150 with the municipality in respect of the affected property and any contiguous land owner or leased by the owner in respect of the following: (a) a development permit for a major development; (b) a development permit for a development that requires new construction or expansions of existing sewer and water, waste removal, drainage, public roads, connecting streets, street lighting, sidewalks or traffic controls works.

4.6 Industrial Use Class Definitions

As indicated by the Mineral Tenure and Regulatory Services Branch of ARD, the "Aggregate Operation" definition should be amended to include mineral operations or changed to "Natural Resource Development" for clarity.

A definition for "Natural Resource Development" has not been included, however, it is referenced in the definition for "Agricultural Activities."

Table 9-1 Principal Use Table

"Planned Unit Developments" are identified as a permitted use in the RS, RT, RM, and GD zoning districts. Planned Unit Developments should be listed as conditional uses to ensure public involvement in the development review and the opportunity for the municipality to impose appropriate conditions or development agreements.

Community Planning notes that "mobile home dwellings" are listed as a conditional use in the RR, AG, AR, and GD zones, but "mobile home park" is no longer allowed as a use, and the MHR: Mobile

Home Residential Zoning District in Springfield Zoning By-law 08-01 has been removed in By-law 21-25.

As per comments provided by ARD, Council may wish to consider combining and revising the definitions of "Agri-Business" and "Agricultural Support Industry" in line with the Agri-Business definition found in *The Municipal Planning Guide to Zoning By-laws in Manitoba*. This use could be considered as a conditional use in both the AG and AR zoning districts, given potential nuisances and land use conflicts.

"Gun Clubs, Rifle or Archery Ranges, Outdoor" has been listed as a conditional use in the "MX" Industrial Extractive Zoning District. It is unclear if the intent is to allow an outdoor recreational use in the Industrial Extractive zone or if this was done in error.

Uses such as "Commercial School" and "Special Event Facility" should be directed to General Development and Commercial zones and not be included in the Agricultural General and Agricultural Restricted zoning districts unless the intent is to recognize existing facilities only.

Table 9-2 Accessory and Temporary Use Table

"Bed and Breakfast" is listed as a conditional use in the RS, RT, RR, AR and GD zones, and as a permitted use in the AG zone. It has not been listed in the "RM" or "CR" zones, although Section 9.16 provides bed and breakfast restrictions in reference to these zones. Revision to either Table 9-2 or Section 9.16 is required.

There are references throughout the zoning by-law document to the "RP," "CR" and "PN" zoning districts. These should be revised to concur with the Zoning Districts established in Section 5 and used in the Use and Dimensional Standards Tables.

Zoning Map

The legend and labelling for the Zoning Map includes the "CR" Commercial Recreation zone and "PN" Parks and Natural Lands zone. These were changed in the text portion of the by-law to "R" Recreation and "N" Natural Lands. References to "Family" were also changed to "Unit" in the RS, RT and RM zoning districts and should be revised in the map legend accordingly.

Pursuant to the RM of Springfield Development Plan By-law 18-09, Part 5 West Pine Ridge, "5.2.1 A secondary plan shall be developed for the lands designated as West Pine Ridge, prior to any further subdivision or rezoning." As the West Pine Ridge Secondary Plan has not yet been adopted, the zoning for this area should be reverted to the current zoning pursuant to By-law 08-01, and rezoned by future amendment following third reading of the Secondary Plan.

Please see full departmental comments (attached to this report) for additional information.

RECOMMENDATION:

Community Planning recommends that Council consider all comments received from government department and agencies, as well as representations made at the public hearing, and make any required changes to the Zoning By-law before proceeding to second reading.

After considering any concerns expressed at the public hearing and comments received through the review process, Council may proceed in accordance with one of the following:

- a) If, after the public hearing, council proposes to alter the by-law, a second public hearing must be held to receive representations on the alterations to the by-law.
- b) A second public hearing is not required if the alteration is a minor one that does not change the intent of the by-law.
- c) Unless there are sufficient objections as per S. 73.1(2) of the Planning Act, council may
 - Give the by-law second reading; or
 - Pass as resolution not to proceed with the by-law.

If Zoning By-law 21-25 is given Third Reading, please submit two certified copies of the By-law given Third Reading and the minutes of the public hearing to the Community Planning Office in Beausejour.

Yours truly,

A handwritten signature in black ink, appearing to read 'Larissa Sveinson', with a long horizontal flourish extending to the right.

Larissa Sveinson
Regional Manager

Encl.

