

Agriculture, Food and Rural Initiatives
Land Use Branch

DATE: July 29, 2010

TO: Marc Brown, Community Planner
Community Planning Services
Department of Local Government
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FROM:

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SUBJECT: **Whitemouth-Reynolds Planning District Development Plan By-law No. 27/10**

On behalf of Manitoba Agriculture, Food and Rural Initiatives, I have reviewed the proposed development plan for the Whitemouth Reynolds Planning District in the context of the Provincial Land Use Policies and *The Planning Act*. *The Planning Act* stipulates that all development plans should be generally consistent with the Provincial Land Use Policies (PLUPs), and this is reflected in our comments as follows. We are generally pleased with this development plan as it promotes sustainable agricultural development and affords protection to the area's agriculture sector. We do have some concerns and suggestions on wording within specific policies under Part 2.2 Rural Mixed Use Corridor Policies and Part 4: Agriculture Green Zone that we have identified below.

Policy 2.2.2.2: Since the Board has specified Rural Residential and Seasonal Residential land uses will be considered "Permitted Uses" within the Rural Mixed Use Corridor 1 Policy Area (RM1), will general agricultural operations be considered as "Permitted Uses" within the RM1 as well? We note that much of the land adjacent to the Whitemouth River throughout the Planning District is under cultivated annual production or under forage. Given the large number of farms that are situated within the RM1 area **MAFRI recommends** these general agricultural operations also be specified as a "Permitted use" within this designation.

Also, does Rural Residential and Seasonal Residential land uses include multiple-lot residential uses? We note the development plan does not include policies guiding multiple lot rural residential or recreational development outside of its Settlement Centres. If the Board wishes to consider proposals for multi-lot rural residential or recreational development, **MAFRI recommends** including policies that outline the criteria under which such proposals will be evaluated. If the Board does not want this type of development within the Planning District, then this should be clearly stated in the development plan.

Policy 2.2.2.4: Livestock operations are defined in *The Planning Act* as being at least 10 animal units (AU) of livestock and therefore this policy should be reworded to say: "New livestock operations ~~over~~ 10 AU **or greater** are not permitted..."

Policy 2.2.2.5: See our comments on Policy 4.2.1.6 below.

Policy 2.2.2.6: Given the definition of livestock operations the following changes must be made:

- "Existing livestock operations ~~greater than~~ **of** 10 AU but less than 200 AU..."
- "Existing livestock operations ~~greater than~~ 200 AU **or greater**..."
- "New livestock operations....~~greater than~~ **of** 10 AU but less than 200 AU
- "...~~greater than~~ 200 AU **or greater**..."

MAFRI recommends the Board consider setting the conditional use threshold at 300 AU and depend on minimum mutual separation distances to regulate expansion, however, **MAFRI** does not object.

Policy 2.2.2.7 is excellent from an agricultural perspective.

Policy 2.2.2.8: While it is clear that the intended use of the RM1 designation is to encourage rural non-farm residential development, **MAFRI recommends** directing this type of development **away from prime agricultural land, viable lower class lands and existing agricultural operations wherever possible and appropriate.**

Criterion e) **must be reworded** to reflect mutual separation distance requirements between single residences and livestock operations based on Provincial Land Use Policies (PLUPs) as 'unacceptable proximity to livestock operations' is vague and open to misinterpretation.

Policy 2.2.2.9: We have no concerns with this policy as written but would prefer it to be reworded to include: "...Lots will be a minimum of two acres but **small enough to not be wasteful of agricultural land**..."

Section 3.4 Hobby Farming: While we understand the desire for the Board to accommodate existing hobby farms within the Planning District, MAFRI would like to clarify that the intent of these policies are to regulate the practice of hobby farming on rural residential parcels as an accessory use and not to regulate the creation of new hobby farm parcels. As such, we suggest the following wording change: "Hobby farming is a common practice **on rural residential parcels** in the Planning District's villages and hamlets..." Also, **MAFRI recommends** including a definition for hobby farm and offers the following definition for the Board's consideration: **A "hobby farm" is hereby defined a rural residential parcel with accessory livestock, generally for personally use.**

Policy 3.4.1.2: We recommend the following wording changes based on the definition of a livestock operation. We'd also like to remind the Board that manure is regulated by the Province and **cannot** be regulated through zoning:

- "The total number of animals as measured by Animal Units (AU) **not exceeding being less than 10 AU**;"
- "Hobby farms **with livestock** operation-including..."
- "Hobby farms **with livestock** operation will be required to meet setbacks and manure management requirements as identified in the Zoning By-law..."
- Hobby Farms with livestock **shall** comply with procedures and guidelines established in the zoning by-law with respect to: the type of animals..., ~~how manure will be disposed,~~...

Part 4: Agricultural Green Zone: The first sentence needs clarification.

Objective 4.1.3 must be reworded, the intent is unclear.

Objective 4.1.5: Are the "Farm Practices Guidelines" what was intended for this objective to reference? The Provincial Land Use Policies don't include guidelines related to sustainable farm practices for livestock.

Objective 4.1.6 is good; however, we would prefer the following wording changes: "...importance for continued use as a food production area for food and fibre production..."

Policy 4.1.1.1 is unclear in intent. We suggest the following: "Incorporate designated agricultural food lands as part of the Planning District's proposed Agriculture Green Zone. This will ensure continued agricultural use and protect designated agricultural lands from the impacts of..."

Policy 4.1.1.2 is excellent from an agricultural perspective.

Policy 4.1.1.4 is good but we do suggest the following: "...80 acres in area, where Subdivision will be discouraged...which are inadequate to sustain the agricultural food land production.

Policy 4.1.1.5 is unclear and requires revision to clarify intent.

Policy 4.1.1.7: We are pleased that the Board has limited farm site subdivisions to one per 80 acre parcel. The PLUPs Subdivision Policy 15 (1) (b) & (c) provide for the subdivision of land in the case of: a retiring farmer who wishes to retire on his or her farm; and an existing farmstead is no longer required as part of a farm. However, managing these types of subdivision as a conditional use under the zoning by-law places an unnecessary administrative burden on the subdivision proponent and on the Planning District. **MAFRI recommends** removing this requirement so that subdivisions for retiring farmers and for consolidating farm lands will not be subject to the conditional use process. We recommend the following wording changes: "Recognize the process of farm consolidations ~~will likely~~ **may** continue in response to economics and market conditions; **and** farmers retiring..." In addition, "existing farm sites" should be defined, either in a separate definitions section or in this policy. An "existing farmstead" should be an existing yardsite defined by shelterbelt or other physical feature, which contains a dwelling in which the farmer currently lives.

Policy 4.1.1.9: We recommend adding "**but should not be wasteful of agricultural land**" to this policy.

Policy 4.2.1.1 needs to be more specific in regard to the direction it provides for the zoning by-law. The policy should clearly state if the separation distances in the zoning by-law will be with respect to the provincial minimum requirements. This will need to be clarified. This applies to **Policy 4.2.1.3** as well. In addition, the PLUPs clearly states that separation distances should be mutually applied to both livestock and residential development. **Policy 4.2.1.8** is clear in this regard.

Policy 4.2.1.5: While *The Planning Act* requires that a development plan include a livestock policy to guide zoning by-laws by dividing the planning district into areas where the expansion or development of livestock operations: of any size are allowed; to a specified maximum are allowed; and are not allowed at any size, these areas must be clearly identified in the development plan. The Whitemouth-Reynolds Planning District Development Plan by-law 27/10 has identified three distinct designations to this end: Rural Mixed Use Corridor 1 Policy Area (RM1) where no new livestock operations are permitted; Rural Mixed Use Corridor 2 Policy Area (RM2) where livestock operations up to a size of 200 animal units are permitted and livestock operations greater than 200 AU are conditional uses; and the Agricultural Green Zone Policy Area (GZ) where livestock operations are permitted up to 300 AU and operations greater than 300 AU are conditional uses. What then is the Board's intent for designated "Livestock Management Areas" and where do these exist within the Planning District? MAFRI does not have a problem with restricting new livestock operations in Rural Settlement Centres or Principal and Transitional Principal Centre Policy Areas but this must be clearly expressed through policy. If the Board wishes to establish buffer areas around these designated Policy Areas in which new and expanded livestock development is limited, then these limitations must also be expressed through policy and buffers must be clearly designated in policy maps.

Policy 4.2.1.6: Based on the livestock information the Board has shared, it appears that there are up to 10 livestock operations ranging from less than 100 AU to greater than 801 AU in size that fall within the Rural Mixed Use Corridor 1 Policy Area (RM1) that will not be able to expand even if the economics of livestock production require them to do so in order to keep the operation going. Seven of these operations are concentrated in the RM1 identified north of Elma. Given the high concentration of livestock operations that fall within the RM1 **MAFRI has serious concerns** with restricting expansion of these operations.

We prefer rewording Policy 4.2.1.6 to say: "where no *new* livestock operations can locate and **where all livestock operations of any size (in existence as of the date of adoption of the development plan) are a conditional use**" (subject, of course, to separation distance requirement in the zoning by-law). If there are already livestock operations existing within these areas, we would prefer that they have the opportunity to be considered for expansion as a conditional use. Alternatively, the Board can eliminate the RM1 area north of Elma to allow the existing livestock operations the opportunity to expand.

We also recommend revising the final sentence in Policy 4.2.1.6 to the following: "New livestock operations will not be permitted in Rural Mixed Use Area 1 if they are greater than 10 AU or greater in size. **Livestock operations that are 10 AU or less will be treated as Hobby Farms and Livestock of less than 10 AU accessory to a primary agricultural or rural residential use** may be approved by Council as a conditional use".

Policy 4.2.1.7: Again, "Livestock Management Areas" have not been defined in policy or designated in policy maps. MAFRI would like to review the intent of the Livestock Management Areas.

Policy 4.2.1.8 is clear with respect to mutual separation distance requirements.

Policy 4.2.1.9 should be re-worded: "Manage the location of new and existing livestock operations in accordance with the Livestock Management policies **Operation Policies** of the RM1 and RM 2..."

Policy 4.2.1.11: Given the definition of livestock operations the following changes must be made:

- e) "Existing livestock operations ~~greater than~~ **of** 10 AU but less than 200 AU..."
- f) "Existing livestock operations ~~greater than~~ **200 AU or greater**..."
- g) "New livestock operations and expansions ~~over~~ **to** 200 AU **or greater** may be considered as conditional uses."

Policy 4.2.1.12: We would like to remind Council of the implications of non-conformity of a livestock operation with a development plan. Legal non-conforming livestock operations may continue to operate, but *cannot* expand (*The Planning Act*). This means existing livestock operators will be unable to expand beyond the imposed limits even if the economics of livestock production require them to do so in order to keep the operation going. Other impacts of non-conformity are restrictions on resuming operation of a livestock operation that has been "discontinued" for 12 consecutive months, and restrictions on re-building a building that has been damaged. Councils can lessen these impacts through the zoning by-law, as provided for under s. 89(2) and s. 91(1) of *The Planning Act*. Local officials should, at minimum, provide existing operators who become legally non-conforming with a 'certificate of non-conformity', which offers an inarguable and persistent record of size, species and location of a legally existing non-conforming use on the day it became a non-conforming use (please see s. 87 of *The Planning Act*).

Policy 4.2.1.14: Manure is regulated by the Province and cannot be regulated in the development plan. "Livestock Production Operations, manure storage facilities and animal containment areas are not permitted within 100 meters of the Ordinary High Water Mark (OHWM) of the Whitemouth River and Birch River."

Policy 4.3.9: While we don't generally have a problem with directing grazing and livestock housing away from waterways, we do have a problem with creating a 100 m buffer in which grazing is not permitted. The size of this in buffer is significantly higher than provincial requirements for restricting grazing and therefore, the wording "grazing" must be removed from this policy.

4.4.1 Farm Subdivision Policies

While we recognize the Board's desire to provide for the development of remnant and residual parcels and to provide for a family farm lot subdivision for a farm family actively involved in the farming operations, **MAFRI has concerns with some of policies and criteria listed under Section 4.4.1.** Agricultural Green Zone Policy 4.1.1.7 clearly limits farm site subdivision to either a retiring farmer or farm consolidation AND to one subdivision per 80 acre parcel in the Agricultural Green Zone Policy Area. **MAFRI recommends** incorporating Policies 4.1.1.7 to 4.1.1.9 under Part 4.4.1 and clearly listing the circumstances under which subdivision will be considered. We offer the following changes for the Board to consider:

Policy 4.4.1.1 ~~Recognize the process of farm consolidation will likely continue in response to economic drivers and that as farms are consolidated or as farmers retire there will be farm sites that become surplus to farm operations. In the "Agricultural Green Zone" Municipal Zoning By-laws will provide opportunities for retiring farmers to separate surplus farm sites from the balance of farm lands and provide farm subdivisions for family members actively participating in the day-to-day farming operation.~~ **the subdivision of land for farm related residential purposes under one of the following conditions:**

- a) **a retiring farmer wishes to retire on his or her farm;**
- b) **an existing farmstead is no longer required as a part of a farm due to farm land consolidation; or**
- c) **a home is required by a family member participating in the operation of the farm and deriving an income from it.**

Policy 4.4.1.2. ~~The subdivision of the surplus farm yard from the balance of the farm holding and the creation of a family farm subdivision lot(s)~~ **New residential sites created under the provision of policy 4.4.1.1** are subject to the following criteria:

- c) **Does not include cultivated lands or land** ~~Represent preferably lands which are not currently used for agriculture crop production;~~
- d) ~~remove 'to the satisfaction of Council'. This does not belong in a policy statement.~~
- e) **Do not injuriously impact the on-going operations of surrounding agriculture enterprises and will meet mutual separation distance requirements from livestock operations;**
- f) & g) ~~are excellent from an agricultural perspective.~~

4.4.2 Remnant and Residual Parcels Policy

We have no concerns with these policies being applied to physically isolated parcels which may no longer be feasibly used for agricultural purposes, but we are uncomfortable with the terminology for "remnant and residual parcels". If the Board wishes to provide for the development of physically isolated parcels, the policies must clearly state the definition of a physically isolated parcel and the criteria by which subdivision of these parcels will be evaluated. We **strongly recommend** that "remnant and residual parcels" be replaced with **physically isolated parcels**. Wood lots are also considered an agricultural land use and are not appropriate for rural residential development. We suggest the following:

Policy 4.4.2.1 "Recognize ~~their~~ **there** are remnant or residual **physically isolated** parcels of land located in the designated "Agricultural Green Zone" that due to size, location or configuration may not be feasibly be farmed. They have been created as a consequence of road or utility right of way alignments, **or** natural meanders in waterway channels ~~or they may be preserved as wood lots...~~"

In **policy 4.4.2.1** and **4.4.2.3**, **MAFRI objects** to the references to "to Council's satisfaction", "Council is satisfied" and "to the satisfaction of Council". These are policies for subdivision which will be used by all reviewing agencies, and all agencies will evaluate the subdivision proposals in light of these policies and use their best judgment in determining whether or not the policies are met. In addition, every subdivision is subject to Council approval, and if Council does not approve, the subdivision can not proceed even if the province has not identified any issues. **Any subdivisions of physically isolated parcels must also meet mutual separation distance requirements from livestock operations.** This should be clarified.

Policy Maps

Map #1 – By our estimation, the Rural Settlement Centres of Molson, Ste. Rita, Richer and Spruce Siding in the RM of Reynolds have increased in size by a combined total of 9,480 acres. Much of this land is treed and not currently under crop production.

Map #2 – Estimate of total farm land newly designated to permit rural and/or seasonal residential uses: 2,195 acres. Based on the information on livestock operations the Board has shared, we have identified at least 10 livestock operations that fall within this RM1 area that will not be permitted to expand.

MAFRI has concerns with restricting the expansion of existing livestock operations and recommends that these operations be permitted to expand as a conditional use.

Maps #3 – By our estimation, 8,960 acres have been designated as RM1 area near the Settlement Centres of Hadashville, Prawda, McMunn and East Braintree. Much of this land is treed and does not represent a significant amount of agricultural land. Based on the livestock information the Board has shared, there may be two livestock operations that fall within this RM1 area. Again, **MAFRI has concerns** with restricting the expansion of existing livestock operations and recommends that these operations be permitted to expand as a conditional use.

Thank you for the opportunity to provide comments on this proposed development plan. Please contact me at 745-0322 if you have any questions or would like to discuss our department's comments. As always, we are available to meet with Council.

Sincerely,



Michelle Erb, P.Ag.
Land Use Specialist

cc Dennis Schindler, MAFRI
Bert Fleming, MAFRI
David Neufeld, MLG

From: Jones, Chuck (STEM)

Sent: Wednesday, July 14, 2010 2:37 PM

To: Brown, Marc (IAF)

Cc: Miskimmin, Barb (STEM)

Subject: FW: Whitemouth-Reynolds Planning District Development Plan By-law no. 27/10

Mines Branch objects to the Development Plan as written. There are many economically valuable aggregate, peat, building stone and base metal deposits located in the planning district that require protection and policy management that is not covered in the Plan. In addition, Manitoba owns the majority of mineral rights in the planning district and has granted numerous mineral dispositions within the planning district. The mineral section does not comply with Provincial land use policy # 9.