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SUBJECT: Whitemouth-Reynolds Planning District Development Plan By-law 27/10

The above By-law serves as a comprehensive review of the current Whitemouth River Planning District Development Plan By-law No. 1/96, and once adopted would replace it. Our office has reviewed the By-law to ensure it fulfills the objectives of the Provincial Land Use Policies Regulations (PLUPs) in a reasonable manner.

We have identified the following concerns:

1. The terminology is inconsistent throughout the By-law.
 - a) The By-law variously refers to “livestock operation,” “intensive livestock operation” and “livestock production operation.” The term “livestock operation” should be used consistently. *The Planning Act* defines “livestock operation” as “a permanent or semi-permanent facility or non-grazing area where at least 10 animal units of livestock are kept or raised either indoors or outdoors, and includes all associated manure collection facilities, but does not include an auction mart.”
 - b) The By-law variously refers to “limited livestock operations,” “hobby farm,” “limited livestock husbandry” and “hobby farming small scale livestock operation.” The term “hobby farm” should be used consistently and should be defined as being less than 10 animal units in size. *The Planning Act* defines a small scale livestock operation as 10-299 animal units inclusive in size.
 - c) The By-law variously refers to “farm site,” “farmer lot splits” and “family farm lot.” The term “farmstead subdivision” should be used consistently where applicable. The Provincial Land Use Policies Regulation defines “farmstead” as “that portion of land of an agricultural operation on which is located the residence of the operator.”

- d) The By-law uses the term “food lands,” “agricultural food lands” and “agricultural lands.” The intent of the term “food lands” is unclear.
- e) The By-law variously refers to “non-farm residential uses,” “non-agricultural residential uses,” “non-livestock related residential,” “no-farm” and “rural residential.” The By-law also switches between “seasonal resort residential” and “seasonal residential.”
- f) The By-law requires submissions of “comprehensive development proposals,” “concept plans” and “site development plans.”
- g) The By-law provides for land use designations, but mixes the designation names as listed below:
 - Principal Centres, Principal Settlement Centres and Principal Development Centres;
 - Transitional Development Centres, Transitional Principal Settlement Centres, Transitional Principal Centre Policy Area;
 - “Rural Mixed Use Corridor Area 1,” “Rural Mixed Use Area,” and “Mixed Use Area;”
 - “Economic Development Zone,” “Economic Zone,” “Economic Development Centre,” and “Economic Development Area;” and
 - Livestock Management Area (for which there is no actual area designated).

It is recommended that land use designations be referred to as “designations” or “policy areas” and not “zones.” “Zones” should be reserved for zoning by-laws.

2. Language from the former Act, which was replaced in 2006, was used in the “INTRODUCTION – PURPOSE OF A DEVELOPMENT PLAN” and should be replaced with language from the current *Planning Act*.
3. The By-law contains wording that “suggests” the By-law be reviewed periodically over the 20 year term; however, Subsection 59(1) of *The Planning Act* states that a board must complete a detailed review of its development plan on or before a deadline set out in the By-law or if no deadline for review is given, within five years after adoption of the By-law.
4. Policies regarding development must be consistent with the Onsite Wastewater Management Systems Regulation, and should reference the aforementioned to avoid conflict or confusion.
5. 2.1.1 Objectives 1-3 and 10 are not objectives.
6. The By-law must include livestock operation policies to satisfy the requirements of *The Planning Act*.

- a) The By-law divides the district into areas where livestock operations of any size are allowed, where livestock operations up to a certain size are allowed and where livestock operations are not allowed. However, the policies should be written to address the concerns listed below.
- 2.2.1.2 a) should be consistent with 2.2.4. The former uses the words "not encouraged," while the latter does "not permit" new livestock operations of a certain size.
 - 2.2.4 should be re-written to provide that "New livestock operations of 10 animal units or more are not permitted within the Rural Mixed Use Area 1.
 - 2.2.6 as written, excludes livestock operations of 10 animal units and 200 animal units.
 - 2.2.11 and 4.2.1 provide for hobby farms. Hobby farms should be defined as being less than 10 animal units in size.
 - 4.2.1.10 a) provides that "new and existing livestock production operations, to a maximum of 200 AU are considered permitted uses and livestock operations greater than 300 AU will be treated as conditional uses." This is not in compliance with *The Planning Act* which requires livestock operations of 300 or more animal units require conditional use approval in accordance to Division 2 of the Act.
- b) The By-law must provide clear direction on how zoning by-laws will deal with separation distances between livestock operations and residential developments within rural or seasonal residential area designations and existing, expanding and new livestock operations.
- c) 2.2.5 should identify existing livestock operations within the Rural Mixed Use Area 1 as non-conforming uses in accordance with *The Planning Act*, with restrictions relating to resumption of operation after discontinuance of more than 12 months or re-building after damages. The By-law could include statements to require or encourage Zoning By-laws to include regulation to lessen the impact of both restrictions as allowed by *The Planning Act*.

The Board could issue zoning memorandums before the By-law is adopted or certificates of non-conformity after the By-law is adopted to record type and size of operations and provide proof of non-conformity as a means to alleviate concerns of affected livestock operators.

- d) 4.2.1.7 refers to 'Livestock Management Areas.' This is neither shown on Policy Maps are addressed in policy.

- e) 4.2.1.9 should refer to "livestock operation policies" rather than "livestock management policies" to be consistent with the language of *The Planning Act*.
 - f) The storage, application, transport or use of manure is regulated by provincial acts and regulations including *The Livestock Manure and Mortalities Management Regulation* and *The Nutrient Management Regulation*. Policies should reference provincial acts and regulations.
 - g) Farm subdivision policies must use consistent terminology, and provide clear circumstances in which subdivision may be considered and clear criteria that proposed lots must satisfy.
7. PLUP # 3 provides for the protection, management, production and sustainable use of renewable resources.
- a) It is recommended that the provincial parks, wildlife management areas and protected areas be identified on the maps.
 - b) The By-law has provided information on the extent and effect of the Crown lands within its boundaries. It would helpful to include a section on the administration and control of said lands, as provided in the current Development Plan By-law 1-96.
 - c) The issues relating to the conversion of Crown land to municipal jurisdiction are appreciated; however, the By-law may not be the appropriate venue in which to address the proposed revisions to procedures.
 - d) The planning district is rich with wildlife and habitat, plants and water, yet the By-law is deficient in policies to address these resources.
8. PLUP #9 requires that economically valuable mineral resources shall be protected from land uses that would restrict exploration and development. The By-law does not provide sufficient policies to satisfy the intent of this objective or provide maps to show areas of mineral potential.
9. The Policy Maps should address the following:
- a) Reference Map 1 incorrectly refers to the Whitemouth River Planning District and must be corrected;
 - b) Map legends must correspond with the land use designations as defined within the By-law text;
 - c) Provincial parks, wildlife management areas and ecological reserves should be identified to provide useful context; and
 - d) railroads should be labeled to provide useful context.

Given the above concerns, our office recommends the Board not proceed with Second Reading of the By-law.

Thank you for the opportunity to review the By-law. Please contact me if you have any questions about the above comments.

original sent by email

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