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NEWS LOCAL

Dunvegan Gardens appealing municipality's stop work order



By Cullen Bird, Today staff

Thursday, January 12, 2017 7:16:22 MST PM



Kids, and their parents, search for Easter eggs at Dunvegan Gardens, located south of Fort McMurray, Alta. on Saturday March 26, 2016. Vincent McDermott/Fort McMurray Today/Postmedia Network

The municipality has issued a stop work order to Dunvegan Gardens owner Brad Friesen, in the latest in a years-long saga of neighbourhood friction surrounding activities at the gardens.

In late September last year Friesen recieved a stop work order from the municipality citing seven bylaw infractions. The gardens near Draper Road are zoned as a "Small Holdings District," meant to provide large lots intended for residential and small-scale agricultural projects.

"There had been ongoing disputes between Dunvegan Gardens and some of the residents in the area, basically related to the uses on the land," said RMWB chief administrative officer Annette Antoniak. "Back on Sept. 23rd of last year the municipality issued the stop work order because of the contraventions of the land use bylaw."

Dunvegan Gardens has chosen to appeal the order, which will be heard by the seven-member Subdivision and Development Appeal Board (SDAB) on Feb. 16.

The seven infractions outlined in the order detail lack of authorization for commercial landscaping, commercial landscaping materials stockpiling, a retaining wall, sale of goods, farm animals and a park. The order is based on two inspections carried out in July last year.

"We can carry on business as usual until the hearing," Friesen said.

The gardens are a popular attraction for Fort McMurray families, and the stop work order has resulted in a "Save Dunvegan Gardens" Facebook page aiming to get 10,000 signatures by Jan. 16 in support of the gardens.

Friesen said since he moved his landscaping business to Prairie Creek Industrial Park in 2012 his relations have improved with his neighbours.

He maintains he has never operated outside the bylaw.

The commercial landscaping charge came from photos taken while he was using company equipment for landscaping on his personal property after the fire, he said.

"You're going to tell me that I'm illegally landscaping when I'm cleaning up my yard after a fire?" he said.

The retaining wall mentioned in the order comes from a photo of the cinderblock haul bins Friesen uses to store topsoil and gravel for his nursery business.

The stop work order also states that his permits don't allow his greenhouse to sell "bedding, household and ornamental plants and related products." Friesen maintains those related products include retail items like the furniture and other goods he sells, similar to other greenhouses in the country.

The municipality has proposed Friesen apply to rezone his land as a Direct Control District, Antoniak said. The rezoning application usually takes about six months, and would come before council for a vote.

Friesen said he was open to the idea, and had worked out a deal with administration to drop the stop work order if he applied for rezoning.

However, on Tuesday his lawyers told him that council had rejected the idea during their in camera meeting, preferring to wait for the SDAB ruling in February.

"They don't want to work with me on rezoning right now, so why would I work with them on rezoning right now?" Friesen said. "We'll deal with that after the SDAB."

Friesen said he is also wary of rezoning the property as a Direct Control District, since this would give council control over development on the land.

"They want me to rezone it as direct control, so why would I trust council?" he said. "I've got no faith in them."

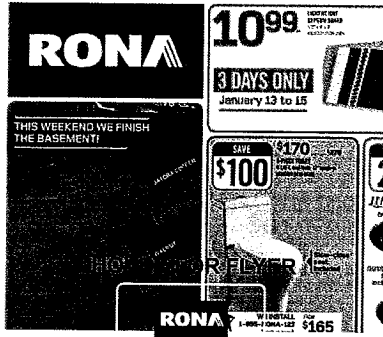
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RMWB orders Dunvegan Gardens to halt operations

Fort McMurray, AB, Canada / MIX 103.7

Elizabeth Priest

January 12, 2017 08:05 am



A nearly seven-year battle between a local business owner, the RMWB and residents in Draper is coming to a head.

"There's been ongoing disputes between Dunvegan Gardens and residents in the Draper area. They've largely been about and related to the uses that are allowed on the land. In September (2016), the Municipality issued a stop work order because there was a contravention of the land use bylaw. Also, there were previous rulings by the Subdivision and Development Appeal Board (SDAB)," said RMWB CAO Annette Antoniuk.

The Draper area, where Dunvegan Gardens is located, has two land use designations within its boundaries: Country Residential and Small Holdings. The intent of these designations is to provide a larger lot while maintaining a quiet, rural atmosphere.

According to the Stop Work Order obtained by Mix News, the lands are located within an area of the Municipality that is zoned "Small Holdings District" under the LUB. The document also shows the order was issued for seven reasons, including unauthorized farm animals, unauthorized commercial landscaping and unauthorized sale of goods.

"So what happened is after all these complaints came in, investigations were carried out by Planning and Development in July of last year and it supported the need for the stop order," Antoniuk told Mix News.

Owner of Dunvegan Gardens Brad Friesen has filed an appeal, which means until a hearing in February, he's able to continue business as usual.

Friesen notes he received a call on Tuesday afternoon saying the RMWB would drop the stop work order following an inspection of the premises on Thursday, however, a few hours later he received a call from the Municipality's lawyer telling him the deal was off the table.

Antoniak says the Municipality wants to wait until the hearing.

"The feeling is, and I don't want to go into a lot of detail, is that the municipality would like to proceed with going through the SDAB and see what the ruling is. But again, we encourage Mr. Friesen to look at what his options are."

However, Friesen says he has all the correct permits and doesn't think he's ever operated illegally.

"I've always applied for permits. In most cases, the Municipality doesn't have a clue. There's too much inexperience within our Municipality, and I think especially in our planning department," said Friesen. "We applied for a permit for keeping of animals, sod farm and tree farm (nursery). So I applied for three things, when I got finished, I got back a permit for trees and sod, I did not get anything for the keeping of animals. So my theory is, why else would they have removed that from my application other than if it isn't required? If you look at section 76.7 of our land use bylaw it talks about the keeping of animals in Sapræ Creek, Conklin, Anzac and other outlying areas, but there is no mention of Draper. When that was written there were no concerns in Draper. It was a farming area and it didn't have people living there."

Antoniak notes re-zoning has been suggested to Friesen on several occasions.

"If he were to apply for a re-zoning that would be dealt with through a public hearing and everybody would have their opportunity to have a say, including people from the Draper area, as well as Mr. Friesen. Our job as a municipality is we want Dunvegan Gardens to be in compliance with a land use bylaw and bylaws are in place to ensure there's an even playing field that's fair and safe for everyone. That's why the stop order and that's why the encouragement to look at re-zoning."

Friesen says he plans to make a presentation to council at a future meeting. Meanwhile, the community has been showing its support for the business for years through a Facebook campaign: Save Dunvegan Gardens. That group has since started a petition, which can be found at dozens of local businesses throughout the municipality, hoping to get 10,000 signatures by January 16th.

Friesen says this shows the city the support they have.

"If we get run out of town and we got all those signatures, it's going to tell all of council and mayor, and any of them that wish to go for re-election, they likely will not get in, because we will have more signatures on our petition to keep us around than any of them got in the last election. To me, the city should be listening, but they don't. It's frustrating."

Friesen adds the whole situation is terrible and hopes it all comes to a conclusion in 2017.

"We're not building a fairground, it's a farm."

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