

AGENDA

SUBDIVISION AND DEVELOPMENT APPEAL BOARD LEDUC COUNTY COUNCIL CHAMBER, COUNTY CENTRE, NISKU, ALBERTA

Thursday, September 20, 2018

1. **Order and Roll Call** – 9:00 a.m.
2. **Agenda Adoption**
3. **Adoption of Previous Minutes**
4. **Subdivision and Development Appeal Hearing**
 - * a) 9:00 a.m. SD18-034 Appeal by Peter & Lorraine Maskiewicz – Subdivide a
Roll #2349000 ± 4.86 ha (± 12.01 ac) developed parcel for country
residential use from an unsubdivided quarter section with a
title area of ± 63.94 ha (± 158.00 ac) located on NE 26-48-
28-W4.
5. **Next Meeting Date** – at the Call of the Chair
6. **Adjournment**


Legend
* Items Attached To Agenda

MINUTES OF THE SUBDIVISION AND DEVELOPMENT APPEAL BOARD MEETING, LEDUC COUNTY, HELD ON THURSDAY, SEPTEMBER 20, 2018 IN THE COUNCIL CHAMBER OF THE COUNTY CENTRE BUILDING, NISKU, ALBERTA.

Order and Roll Call

The meeting was called to order at 9:01 a.m., Thursday, September 20, 2018 by Chair Mary-Ann McDonald with Board Members Shirley Jolly, Pat Rudiger, Doug Ruel and Rick Smith present.

Also present were Mr. Garrett Broadbent, Clerk of the Subdivision and Development Appeal Board; Ms. Joyce Gavan, Recording Secretary; Mr. Dave Desimone, Senior Planner; Mr. Kyle Payne, Planner 1; and Ms. Rae-Lynne Spila, Municipal Engineer.

Present as well were two other individuals.

Agenda Adoption

70-18 Board Member Jolly -- that the Agenda for the September 20, 2018 Subdivision and Development Appeal Board meeting be accepted as circulated.

Carried

Previous Minutes

There were no previous minutes for adoption.

Appeal by Peter & Lorraine Maskiewicz whereby Subdivision Permit Application SD18-034 was conditionally approved to subdivide a ± 4.86 ha (± 12.01 ac) developed parcel for country residential use, from an unsubdivided quarter section with a title area of ± 63.94 ha (± 158.00 ac) located on NE 26-48-28-W4.

Chair McDonald called the hearing to order at 9:02 a.m. and introduced Board Members and staff.

Chair McDonald asked if any Board Member felt a need to step down from this hearing within the boundaries of Conflict of Interest, and there was no one.

Chair McDonald asked if anyone had any objection to any of the members of the Subdivision and Development Appeal Board hearing this appeal, and there was no objection indicated.

Chair McDonald explained the purpose of the hearing, the order of presentation and the procedures to be followed.

Chair McDonald then called upon the Clerk to introduce the subject of this appeal.

Mr. Garrett Broadbent, Clerk, advised of the appeal by Peter & Lorraine Maskiewicz whereby Subdivision Permit Application SD18-034 was conditionally approved to subdivide a ± 4.86 ha (± 12.01 ac) developed parcel for country residential use, from an unsubdivided quarter section with a title area of ± 63.94 ha (± 158.00 ac) located on NE 26-48-28-W4. The reasons for appeal are as follows:

- 1) Appealing Condition #1 – *“as per Leduc County policy, the landowner shall remove two of the accesses to the newly created parcel.”*
- 2) The NE $\frac{1}{4}$ 26-48-28-W4 is farmland rented to my son. The subdivision created is a working yard site used by my son for farming purposes.

nmw

- 3) Driveway #1 is used for access to the septic tank because the tree line separates the house and the septic tank.
- 4) Driveway #2 gives me access to my house.
- 5) Driveway #3 gives my son access to the grain bins and fuel tanks.
- 6) Driveway #4 gives my son access to more grain bins and machine shed because #3 and #4 are separated by a natural drainage creek.

Mr. Broadbent advised the following information is attached for the Board:

- 1) Staff Report.
- 2) Notice of SDAB Hearing package dated August 30, 2018.
- 3) Notice of Appeal received August 28, 2018.
- 4) Subdivision Authority Notice of Conditional Approval dated August 22, 2018 w/ conditionally approved site plan.
- 5) Key Plan.
- 6) Subdivision Permit Application SD18-034 w application letter.
- 7) Tentative Plan.
- 8) Proposed Subdivision Air Photo.
- 9) Adjacent landowner letters from Owen Elgert in opposition.
- 10) Leduc County Access Approach Guidelines.

The Board confirmed the appeal was submitted properly and acceptable to the Board.

Chair McDonald called upon the Planning and Development Department to provide background information.

Mr. Kyle Payne, Planner 1, provided a PowerPoint presentation relating to the appeal by Lorraine & Peter Maskiewicz, highlighting the following:

1. On August 22, 2018 the Leduc County Subdivision Authority conditionally approved this application to subdivide a ± 4.86 ha (± 12.01 ac) developed parcel for country residential use, from an unsubdivided quarter section with a title area of ± 63.94 ha (± 158.00 ac) located on NE 26-48-28-W4 subject to the following conditions:
 - 1) Pursuant to Section 655(1)(b) of the Municipal Government Act, the applicant/owner enter into a development agreement with Leduc County and abide by the terms therein;
 - i) As per Leduc County policy, the landowner shall remove two of the accesses to the newly created parcel.
 - 2) Pursuant to Section 654(1)(d) of the Municipal Government Act, the applicant/owner pay any outstanding property taxes to Leduc County or make satisfactory arrangements with the Council of Leduc County for the payment thereof;
 - 3) Pursuant to Section 7(g) of the Subdivision & Development Regulation, the applicant/owner confirms that any existing sewage disposal system(s) on the subject property is/are in compliance with the Private Sewage Disposal Systems Regulation in force at the time of application. Should the existing system(s) not be in compliance, modifications to the existing system(s) or installation of new system(s) shall be required;
 - 4) Pursuant to Section 9(a) of the Subdivision and Development Regulation, the applicant/owner shall provide access to each lot created. Each approach shall be built to Leduc County Development Standard; and

- 5) The subdivision be registered pursuant to Alberta Land Titles requirements.
2. The landowner is appealing Condition One (1) with respect to the removal of two of the accesses to the newly created parcel.
3. As per Leduc County Policy 2.2 within the Access Approach Guidelines, a parcel greater than four (4) hectares in size is permitted up to two accesses in the Agriculture District. The subject parcel currently has four (4) accesses. All of the accesses are via Range Road 281.
4. No prior subdivision of the quarter section has occurred. The Manager of Development Services and the Director of Planning & Development are delegated the authority to approve first parcel out subdivisions. However, administration required the application be brought forward to the Subdivision Authority for a decision since a letter opposing the subdivision was received from an adjacent landowner.
5. Township Road 485 is immediately north of the parcel and Range Road 281 lies to the east. The parcel is sloped south to north. A dugout is located along the south boundary and a pipeline right-of-way (002 1013) lies along the west boundary of the parcel. The Farmland Assessment Rating (FAR) established by the County Assessment Department indicates the subject land consists of high and low capability agricultural land (42.3% and 9%).
6. The policies of the Municipal Development Plan indicate that on high capability agricultural land subdivision shall be limited to one parcel from the quarter section. This parcel is considered the first parcel subdivided from the quarter section.
7. Part 10.1.6 of the Land Use Bylaw states that non-agricultural parcels to be created no larger than required to encompass the area for buildings and natural features considered necessary by the Subdivision Authority for reasonable development and use of the parcel. The proposed subdivision encompasses the existing yard site, including accessory structure for agricultural use, therefore the proposed subdivision conforms to Part 10.1.6 of the Land Use Bylaw and administration supports the larger parcel proposed by the applicant.
8. The proposed subdivision lies within the Rural Area identified in the Edmonton Metropolitan Region Growth Plan. In the Rural Area large contiguous agricultural areas will be protected and maintained to enable efficient agricultural production and to support the agricultural sector in the Region.
9. Administration are of the opinion the proposed parcel met the intent of the Municipal Development Plan and the Land Use Bylaw, therefore conditional approval of the subdivision was recommended by the Subdivision Authority.
10. The subject site is districted Agricultural in accordance with the Leduc County Land Use Bylaw. Access for the proposed and remnant parcel is via Range Road 281.
11. There were two letters received from an adjacent landowner Owen Elgert opposed to the proposed development for the following reasons:
 - All farm buildings should stay to keep buildings in good repair as well as give a view.
 - Concern with weeds – getting out of control as well as a fire hazard with dead grass.
 - There is a natural divide for this and too many jogs with proposal.
 - Suggest the house divided off and some property to north would be best choice.
 - Five driveways seems like a lot for a quarter of land in a ½ mile stretch.
 - The sewer is an issue – too close to RR 281 and property lines.
 - Would be ok with subdivision if all farm buildings and barns, shop stay with the land and the sewer is moved.



- Access to the septic can be obtained from the west side of the trees.
 - Driveway #2 and #3 need bigger culverts.
 - Driveway #4 should stay with the land as well as machine sheds and granaries.
 - If new owners acquire land they will have to add another driveway or two; that would be 6 in ½ mile; if sold the new owners will have a driveway to access the farm land.
12. Public Works & Engineering advised the proposed subdivision is adjacent to Range Road 281 and Township Road 485 which has no immediate to medium plans for upgrading. There are several existing accesses to the proposed and remnant parcel that appear to meet current Leduc County standards. However the proposed parcel will have 4 accesses and is only allowed to have 2 accesses in accordance with the Leduc County Standards. Two of the accesses will need to be removed. The reasons for the restriction of accesses is due to safety issues.
13. The Access Approach Guidelines stipulate:
- 2.2 Parcels of land less than 10 acres (4 ha) that fall within the following districts:
- Agriculture
 - Agriculture / Country Residential
 - Country Residential / Mobile Homes
 - Public Institutional
 - Hamlet
 - Recreation / Open Space
 - Wildlife Habitat
 - Lake Shore
- will be limited to one (1) access approach, unless written authorization to have additional access approaches is granted by Leduc County, Public Works & Engineering.
- Parcels of land greater than 10 acres (4 ha) within the previous mentioned developing districts will be limited to two (2) access approaches, unless written authorization to have additional access approaches is granted by Leduc County, Public Works & Engineering.
14. In accordance with the Municipal Government Act (MGA), Section 654(1)(a)(b) states:
- "A subdivision authority must not approve an application for subdivision approval unless:*
- a) The land that is proposed to be subdivided is, in the opinion of the subdivision authority, suitable for the purpose for which the subdivision is intended.*
 - b) The proposed subdivision conforms to the provisions of any statutory plan and, subject to subsection (2), any land use bylaw that affects the land proposed to be subdivided.*
 - c) The proposed subdivision complies with this Part and Part 17.1 and the regulations under those Parts, and*
 - d) All outstanding property taxes on the land proposed to be subdivided have been paid to the municipality where the land is located or arrangements satisfactory to the municipality have been made for their payment pursuant to Part 10.*
15. In accordance with the Municipal Development Plan (MDP):
- 3.1.1 To protect productive agricultural land for agricultural uses.
- 3.1.2 To minimize the amount of high capability agricultural land removed from farming because of non-agricultural development and the fragmentation of land.

- 3.3.1 *Subject to Policy 3.3.2 on high capability agricultural land, subdivision will be limited to one lot from an unsubdivided quarter section. The subdivided lot must be a suitable size and shape for agricultural (approximately 32 ha) and follow physical barriers where applicable or small enough (approximately 1 ha unless a larger area is required due to the location of existing buildings, trees and shelterbelts, topographic characteristics and/or other site features) to minimize the loss of high capability agricultural land and be easily managed as a residential site.*
- 3.3.14 *Country Residential uses shall only be allowed on low capability land which is compatible with neighbouring land uses without setting a precedent for further subdivision of the surrounding lands.*

Definition

High Capability Agricultural Land means:

- a) cultivated and/or improved land with a farmland assessment rating of 41% or higher; or*
- b) wooded and/or unimproved land with a Canada Land Inventory rating of Class 1, 2 & 3.*

16. The Leduc County Land Use Bylaw No. 7-08, Section 10.1.2 states that the minimum size for agricultural lots in all Land Use Districts should be ± 32 ha (± 80 ac) or such size as results from a physical severance.
17. The Edmonton Metropolitan Region Growth Plan Objective 6.2 – Minimize the fragmentation and conversion of prime agricultural lands for non-agricultural uses.
- Policy 6.2.2 – in the rural area, large contiguous agricultural areas will be protected and maintained to enable efficient agricultural production and to support the agricultural sector in the Region.

Chair McDonald asked Board Members if there were any questions of the administrative staff.

In response to questions by Board Members, Mr. Payne and the appellant provided the following clarification:

- The four existing accesses appear not to have prior approval.
- The three of the four existing accesses to have culverts which were updated by the County.
- The sewage system is a pump-out system which utilizes driveway #1. Servicing (cleaning of tank) required on this pump-out system requires access via driveway #1.
- Condition #3 stipulates that the existing sewage disposal system(s) needs to be in compliance with the Private Sewage Disposal System Regulation; are aware that the septic system will require upgrading and will require access via Driveway #1 to complete that.
- Setback requirements would be part of the conditional approval.
- A requirement of subdivision requires an access to each parcel of land subdivided.
- A shared access could be disrupted should the subject parcel be sold.

Chair McDonald called upon the Appellant(s) to speak to the proposed development.

Mr. and Mrs. Peter and Lorraine Maskiewicz, Appellants, provided the following information:

1. Photographs of all the subject driveways were submitted:
 - Driveway #1 - showing the septic tank and the driveway used to go to the septic tank; this is a dual access for the landowner to enter the field as well.
 - Driveway #2 is the access going into the house.
 - Driveway #3 goes into the shop and curved to go to the shop, fuel tanks and granaries; there is also a creek running between driveway #2 and #3.

- Driveway #4 is access to the field and granaries.
- 2. There is one driveway that was built in 1928 that does not have a culvert and was created upon the settlement. All other driveways have culverts installed by the County.
- 3. Another photo was shown of the drainage creek with up to flows approximately three days every spring.
- 4. An aerial photo was shown with all accesses to subject property via Range Road 281. There is clear access onto Range Road 281.
- 5. This is a long subdivision and the son uses all these accesses for farming purposes.
- 6. This is first year son has taken on farming by himself and requires the grain bins as he has none of his own on his property.

Chair McDonald asked if there were any questions by the Board Members of the appellant.

In response to questions by Board Members, the following clarification was provided:

- There will be a shared access for the subdivision to the north.
- There is also an access to the far south built by the County which was required to access dirt for construction of the road.
- There has not been a traffic count done on Range Road 281; there are not many traffic counts conducted on rural roads.
- As long as the field is kept one field (153 ac) then access could be gained via driveway #3 however not desirable.
- The son wishes to buy the subdivided parcel of land.
- The speed limit on Range Road 281 is 80 km with no obstruction of view from any of the subject driveways.
- Cannot access the septic tank from the west or south as the creek is not crossable.
- The septic system does not comply in accordance with Condition #3 and has to be changed; the truck that brings in septic is heavy and will not cross the creek or travel across the field.
- The far south access (#5) will be utilized.
- This parcel of land was established 125 years ago by Peter's grandfather; this is a 3rd generation farm operation and hope to have our son be the 4th generation.
- There is an old house used as a greenhouse between driveways showing a trail used by the golf cart to go back and forth; no big equipment could travel along that trail.

Chair McDonald noted there was no one in attendance to speak in support or against the appeal, and there was no one.

Chair McDonald asked if there was any additional correspondence submitted, and Mr. Broadbent advised there was none.

Chair McDonald asked if Technical Staff had any final comments.

Mr. Payne, in closing, recommended that the Subdivision and Development Appeal Board uphold the conditions by the Subdivision Authority and limit the number of accesses due to safety and not to set a precedent.

Chair McDonald asked the appellant if he had any final comments, and Mr. and Mrs. Maskiewicz provided the following:

- Range Road 281 is a very busy road and asked the County to put up a counter at Glen Park Road; however that was not done.

- All the driveways are safe to access Range Road 281 as there are no trees obstructing the view.

Chair McDonald asked the appellant if they felt they received a fair hearing, and Mr. Maskiewicz responded affirmatively.

Conclusion of Public Hearing

Chair McDonald declared the Public Hearing concluded at 9:37 a.m.

Mr. Desimone, Mr. Payne, Ms. Spila and Mr. & Mrs. Maskiewicz

Mr. Desimone, Mr. Payne, Ms. Spila and Mr. & Mrs. Maskiewicz exited the Council Chamber at 9:38 a.m.

In Camera

71-18 Board Member Smith -- that the Subdivision and Development Appeal Board meet In Camera.

Carried

The In Camera session commenced at 9:38 a.m.

Revert to Subdivision and Development Appeal Board Meeting

72-18 Board Member Smith -- that the In Camera session revert to the Subdivision and Development Appeal Board meeting.

Carried

The In Camera session reverted to the Subdivision and Development Appeal Board meeting at 9:48 a.m.

Appeal by Peter & Lorraine Maskiewicz whereby Subdivision Permit Application SD18-034 was conditionally approved to subdivide a ± 4.86 ha (± 12.01 ac) developed parcel for country residential use, from an unsubdivided quarter section with a title area of ± 63.94 ha (± 158.00 ac) located on NE 26-48-28-W4.

73-18 Board Member Jolly -- that the Subdivision and Development Appeal Board disallow the appeal by Peter & Lorraine Maskiewicz and alters conditional approval of Condition #1 of Subdivision Permit Application SD18-034 to subdivide a ± 4.86 ha (± 12.01 ac) developed parcel for country residential use, from an unsubdivided quarter section with a title area of ± 63.94 ha (± 158.00 ac) located on NE 26-48-28-W4.

Findings of Fact

- 1) Leduc County's Approach Guidelines Policy 2.2 states that parcels of land less than 10 acres (4 ha) that fall within the following districts will be limited to one (1) access approach, unless written authorization to have additional access approaches is granted by Leduc County, Public Works & Engineering:
 - Agriculture
 - Agriculture / Country Residential
 - Country Residential / Mobile Homes
 - Public Institutional
 - Hamlet

- Recreation / Open Space
- Wildlife Habitat
- Lake Shore

Parcels of land greater than 10 acres (4 ha) within the previous mentioned developing districts will be limited to two (2) access approaches, unless written authorization to have additional access approaches is granted by Leduc County, Public Works & Engineering.

- 2) The subdivided property currently has 4 accesses which is in contravention to the policies of Leduc County
- 3) The appellant indicated the purpose of subdivision is to sell the remnant property; Leduc County policy would allow to have two accesses off the remnant parcel.
- 4) There were two letters submitted from one adjacent landowner opposing the subdivision due to the accesses (5 driveways for a quarter of land in a ½ mile stretch along Range Road 281), sewage and weeds.
- 5) The appellant stated that Range Road 281 is a busy roadway however the accesses are clearly visible.
- 6) The appellant acknowledged the septic system needs to come into compliance with Leduc County standards.

Conditional Approval

Subdivision Permit Application SD18-034 is approved subject to the following conditions:

- 1) Pursuant to Section 655(1)(b) of the Municipal Government Act, the applicant/owner enter into a development agreement with Leduc County and abide by the terms therein;
 - i) As per Leduc County policy, the landowner shall remove Access #1 (most northerly driveway as submitted on the appellants drawing) to the newly created parcel; Accesses #2, #3 and #4 shall remain.
- 2) Pursuant to Section 654(1)(d) of the Municipal Government Act, the applicant/owner pay any outstanding property taxes to Leduc County or make satisfactory arrangements with the Council of Leduc County for the payment thereof;
- 3) Pursuant to Section 7(g) of the Subdivision & Development Regulation, the applicant/owner confirms that any existing sewage disposal system(s) on the subject property is/are in compliance with the Private Sewage Disposal Systems Regulation in force at the time of application. Should the existing system(s) not be in compliance, modifications to the existing system(s) or installation of new system(s) shall be required;
- 4) Pursuant to Section 9(a) of the Subdivision and Development Regulation, the applicant/owner shall provide access to each lot created. Each approach shall be built to Leduc County Development Standard; and
- 5) The subdivision be registered pursuant to Alberta Land Titles requirements.

and further,

Once the above conditions have been satisfied, the applicant may submit one paper print and a digital copy of the plan and required paper affidavits for County endorsement. The digital copy must be in AutoCAD format and can be supplied by CD or by e-mail to pandd@leduc-county.com. This submission must be accompanied by an endorsement fee of \$168.00 per lot created

(excluding reserve lots and public utility lots). However, subdivision fees are subject to change, and if the fee schedule changes prior to submission of the final plan, the new fee will apply.

Please note a Rural Addressing Signage Fee will be charged at the time of endorsement for all new subdivisions.

The conditional approval is valid for one year from the date of the above noted meeting. Pursuant to Section 657 of the Municipal Government Act, an extension beyond this one year time period may be authorized by the Leduc County Council upon formal request, provided just cause is shown.

The developer/owner is advised to contact the appropriate utility companies and any affected pipeline companies regarding site servicing, development setbacks and/or easement requirements.

For new approach installations, approach relocations or removals please contact Leduc County Public Works & Engineering at (780) 955-3555. All approaches are to be applied for and the location approved by Leduc County, constructed by the applicant to Leduc County standards and the final construction approved by Leduc County Public Works & Engineering.

Carried

Next Meeting

The next scheduled Subdivision and Development Appeal Board meeting will be scheduled at the Call of the Chair.

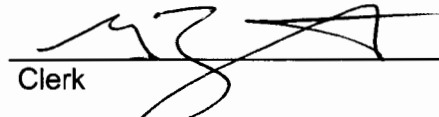
Adjournment

74-18 Board Member Smith -- that the Subdivision and Development Appeal Board meeting be adjourned.

Carried

The Subdivision and Development Appeal Board meeting concluded at 10:08 a.m.


Chair


Clerk