

## AGENDA

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

Wednesday, May 16, 2018

1. Order and Roll Call – 1:00 p.m.
2. Agenda Adoption
3. Adoption of Previous Minutes
5. Subdivision and Development Appeal Hearing
  - \* a) 1:00 p.m. SD18-007 Appeal by William Belyea – subdivide a developed  
Roll #1255010 ±1.75 ha (±4.32 ac) parcel for country residential use,  
from a previously subdivided quarter section within a  
title area of ±16.20 ha ±40. ac) on NW 30-48-25-W4th  
(48459 Range Road 260)
6. Next Meeting Date – TBD (or at the call of the Chair)
7. Adjournment

Legend

\* Items Attached To Agenda

**MINUTES OF THE SUBDIVISION AND DEVELOPMENT APPEAL BOARD MEETING, LEDUC COUNTY, HELD ON WEDNESDAY, MAY 16, 2018 IN THE COUNCIL CHAMBER OF THE COUNTY CENTRE BUILDING, NISKU, ALBERTA.**

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**Order and Roll Call**

The meeting was called to order at 1:05 p.m., Wednesday, May 16, 2018 by Chair Mary-Ann McDonald with Board Members Shirley Jolly and Larry Wanchuk present. Board Member Doug Ruel was absent due to medical reasons.

Also present were Mr. Garrett Broadbent, Clerk of the Subdivision and Development Appeal Board; Ms. Joyce Gavan, Recording Secretary; Mrs. Charlene Haverland, Manager of Development Services; and Mr. Kyle Payne, Planner 1.

Present as well were two individuals.

**Agenda Adoption**

**35-18** Board Member Jolly -- that the Agenda for the May 16, 2018 Subdivision and Development Appeal Board meeting be accepted as circulated.

Carried

**Appeal by William Belyea whereby Subdivision Permit Application SD18-007 was refused to subdivide a developed  $\pm 1.75$  ha ( $\pm 4.32$  ac) parcel for country residential use, from a previously subdivided quarter section with a title area of  $\pm 16.20$  ha ( $\pm 40$  ac) located on NW 30-48-25-W4, (48459 Range Road 260).**

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Chair McDonald called the hearing to order at 1:06 p.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 William Belyea whereby Subdivision Permit Application SD18-007 was refused by the Subdivision Authority to subdivide a developed  $\pm 1.75$  ha ( $\pm 4.32$  ac) parcel for country residential use, from a previously subdivided quarter section with a title area of  $\pm 16.20$  ha ( $\pm 40$  ac) located on NW 30-48-25-W4, (48459 Range Road 260). The reasons for appeal are as follows:

- 1) The subdivision of property was denied stating it was farm land. The yard site is not farmable. It has residential gas line, water line, gravel driveway and an old house.
- 2) I am intending to keep the crop field portion to sustain my cattle's need for feed.

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

- 1) Staff Report.

- 2) Notice of SDAB Hearing package dated May 3, 2018.
- 3) Notice of Appeal received April 20, 2018.
- 4) Subdivision Authority Notice of Refusal dated April 18, 2018 w/ refused site plan.
- 5) Key Plan.
- 6) Subdivision Permit Application SD18-007.
- 7) Application letter received February 6, 2018.
- 8) Tentative Plan.
- 9) Air Photo.
- 10) Two letters from neighbouring landowners expressing concern.

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 William Belyea, highlighting the following:

1. The subject lands are located adjacent to Range Road 260 and 0.8 km from Township Road 484. The existing  $\pm 16.20$  ha ( $\pm 40$  ac) parcel was subdivided from the quarter section in 1971.
2. On April 17, 2018 the Leduc County Subdivision Authority refused an application to subdivide a developed  $\pm 1.75$  ha ( $\pm 4.32$  ac) parcel for country residential use, from a previously subdivided quarter section with a title area of  $\pm 16.20$  ha ( $\pm 40$  ac) for the following reasons:
  - 1) Pursuant to Section 654(1)(b) of the Municipal Government Act, the proposed subdivision does not conform to the following policies of the Municipal Development Plan (25-16):
    - a. Policy 3.1.1 stipulates productive agricultural land shall be protected for agricultural use;
    - b. Policy 3.1.2 stipulates that fragmentation and the amount of high capability land removed from production for non-agricultural development shall be minimized;
    - c. Policy 3.3.1 states that on high capability agricultural land, subdivision shall be limited to one lot from an unsubdivided quarter section and must be a suitable size and shape for agricultural use (approximately 32 ha); and
    - d. Policy 3.3.14(a) stipulates the subdivision shall be small in scale and well defined and would not set a precedent or encourage further subdivision of the surrounding lands.
  - 2) Pursuant to Section 654(1)(b) of the Municipal Government Act, the proposed subdivision does not conform to Part 10.1.2 of the Land Use Bylaw No. 7-08 which states that the minimum size for agricultural lots in all Land Use Districts should be 32.4 ha (80 ac) or such size as results from a physical severance.
  - 3) Pursuant to Section 654(1)(c) of the Municipal Government Act, the proposed subdivision does not conform to Policy 6.2.2 of the Edmonton Metropolitan Region Growth Plan which states 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.
  - 4) The policies of the Municipal Development Plan, Land Use Bylaw and Edmonton Metropolitan Region Growth Plan are not met by this application.

3. The Farmland Assessment Rating (FAR) established by the County Assessment Department indicates the subject land consists of high capability agricultural land (41.9%). The policies of the Municipal Development Plan stipulate that subdivision shall be limited to one lot from an unsubdivided quarter section on high capability land. The proposed lot would be considered as 2<sup>nd</sup> parcel out of the quarter section.
4. Policies within the Municipal Development Plan also state that the amount of high capability agricultural land removed from farming because of non-agricultural development shall be minimized. Section 3.3.14 of the Municipal Development Plan requires that new country residential parcels be located on low capability land, well defined and compatible with adjacent land uses without setting precedent for further subdivision of the surrounding lands. The proposed subdivision provides for the opportunity of future development on the remnant lands. It is the opinion of staff that the proposed subdivision sets precedent for further subdivision and development.
5. 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.
6. Two adjacent landowners submitted the following concerns regarding the proposed subdivision:
  - i) March 14, 2018 letter from Verena Peden, farmers within the area for 38 years:
    - Urban sprawl is threatening more and more; the farming community is at a disadvantage and would be nice to keep small holdings in one piece which in the future could offer young people an opportunity to farm, without being surrounded by acreages.
    - Allowing the split will entice others to ask for the same. Properties being bought that no longer farm or the owners purchase them for the sole reason of investment with no farming in mind.
    - With more subdivisions residences will be built and every new residence also needs another well to be drilled.
    - The reasons given for applying for subdivision is deceptive many times and as soon as approved, both parcels get put up for sale. Farmers depend on land to make their livelihood and for producing reasonably priced food. Land and water are the two most important reasons for food production.
    - High urban population means that in the future the farming will be restricted from spreading manure, shooting gophers, etc.
    - Want to see agricultural sustainability as it is important for the future of farming. Land prices go out of control and make it unaffordable for young people wanting to start farming.
  - ii) March 20, 2018 letter from Belinda Brunnenkant, living within the area for the past 10 years:
    - Own Country Kennels Bed & Biscuit which is a dog and cat boarding kennel; being located in a rural area with large spaces between our home and business and our neighbours work well for everyone concerned.
    - Other land owners in the area requesting to subdivide as investment properties instead of keeping the large parcels of farm land that currently make up our lovely



community is concerning. Once a property is divided there are no controls on landowners from selling the property and more homes being built.

- The process of subdivision puts a strain on the land as well with additional wells being drilled and more wear and tear on our road ways and infrastructure.
- The future of farming and rural living is at risk.

7. Referral comments are as follows:

*Leduc County Public Works & Engineering* – adjacent to Range Road 260 which has no immediate to medium plans for upgrading. There appears to be two existing access approaches that will need to be inspected to ensure they meet current Leduc County standards.

8. 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 the regulations under this Part."*

9. In accordance with the Municipal Development Plan 25-16 (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.*
- 3.314 *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.*

10. Agricultural Strategy:

- Leduc County should protect long term priority agriculture areas. The designation of these areas shall be done on a comprehensive and systematic basis considering land suitability, contextual factors, and the protection of large contiguous areas by reducing and managing conflicting land uses.
- Parcel is within Area E of the Agricultural Strategy, which purpose is "to provide a large contiguous area for a broad range of agriculture, including dairy operations that will not be adversely impacted by significant increases in population."

11. 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  $\pm 32$  ha ( $\pm 80$  ac) or such size as results from a physical severance.
12. 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 advised of the following:

- The original parcel was subdivided in 1971. There was a different planning framework at that time and through the adoption of the Leduc County Land Use Bylaw and subsequent amendments this parcel of land became subdivided.
- The rating for lower capability FAR is 40.9% or less. This parcel is close to this designation.
- In 2017 the subject property was used as crop land for Canola.

Chair McDonald called upon the Appellant to speak to the proposed development.

Mr. William Belyea, Appellant, provided the following information:

1. Just over 2 years ago started a cow/calf farming operation on the quarter section.
2. Also own a quarter section one Range Road away and realized more land was required to sustain and grow our operation so purchased the subject property for the crop field only to grow more feed for cows. The subject property included a yard site with house.
3. A friend later asked to purchase the subject yard site so they could build a new house and enjoy the country life. The existing house on subject property is in poor shape. We have a new home (4 years) so were not interested in building a new home at this location.
4. The reason for refusal by the Subdivision Authority was because this is good farm land.
5. Submitted photos of the subject site showing three buildings (one being the house), a dugout, a previous small horse pasture area, gravel driveway and several services e.g. gas line and well and two wet boggy areas making it unfarmable.
6. Appreciate good farm land; after doing some research within a two mile radius there are 26 small acreages, 23 of which are the 2<sup>nd</sup> parcel out or more. There are three original quarters that have been divided five times. Three are also four original yard sites completely abandoned.
7. Rather than having this land being wasted, why not allow the subject subdivision to occur to put it to better use.
8. The original intended yardsite was previously divided by the fence that is in place (as shown in the photos).
9. Are not changing the use of the land, just the legal designation and ask the Board to consider the approval.

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

In response to questions by Board Members, Mr. Belyea clarified the location of his own residence (one Range Road to the west of Range Road 261) and that he owns a quarter section of land.



Chair McDonald called upon anyone wishing to speak in support or against the appeal.

Mrs. Verena Peden, landowner residing (26038 Township Road 484) within the area for 38 years, spoke against the appeal (in favour of refusal) for the following reasons

- Adjacent landowner to property (kiddy-corner to the southwest of subject property).
- Our area is good agricultural area and there are lots of acreages which has set precedent.
- The subdivisions do not seem to stop within a 5 mile radius.
- Many of these subdivided properties get put up for sale and sold for profit.
- There is potential that more subdivisions will come about with this subdivision as there is no restrictions of a house being constructed.
- Feel there are young people that want to take over farming; however with the small fragmentation will not be attractive.
- Our quarter section was subdivided before we bought it and it was only two years before he sold it.
- There is lots of urban sprawl and want to be an advocate for farmers and save for future generations to continue.
- Food is very important to our country along with wildlife.
- Poor quality land can be productive by pasture, shelterbelts, etc. Wonder how many cows the appellant has and suggest that the yardsite could be destroyed and fence the property for grazing on the  $\pm 4$  acres. There is water there already and lots of pasture available.
- Commodity of land and water is vital for future generations.
- Request the Board not to allow further fragmentation to occur.
- The appellant indicated the purpose of buying the subject land was to crop and was not interested in the small piece; however could keep it as pasture or rent it out with a mobile home.
- This area is not best for an acreage as there are many acreages in the area that interfere with farming.

Chair McDonald called upon anyone else wishing 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.

Mrs. Haverland and Mr. Payne provided the following closing comments:

- The planning of previous subdivision was approved in 1971 by the Edmonton Planning Commission with the discretion of County Council.
- In 1983 the Leduc County Land Use Bylaw was created became adopted in 1988.
- The policies are not met by Edmonton Metropolitan Region Board where contiguous agricultural areas will be protected and maintained to enable efficient agricultural production to support the agricultural sector of the region.
- In this area the intent is to preserve Agricultural land and reduce fragmentation.
- By subdividing the future landowner could build one primary and one secondary residence in accordance with the Leduc County Land Use Bylaw.

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

- Reside on next Range Road to the west and have no relevance to the examples cited by Mrs. Peden.
- There will be not be a second house on property; the interested purchaser of this property only wants to build one residence.
- The trend is that 80-90% of farmers are going into grain vs. cattle operation.
- It is not sustainable to actively farm on a 40 acre parcel.
- Do not want to see 10% of the subject land going to waste; if not approved will board up the windows and attempt to keep out thieves and trespassers onto property.
- This portion will be unused as it is not feasible to move a few cattle on site for grazing.

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

### **Conclusion of Public Hearing**

Chair McDonald declared the Public Hearing concluded at 1:50 p.m.

Mrs. Haverland; Mr. Payne; Mr. Belyea and Mrs. Peden

Mrs. Haverland; Mr. Payne; Mr. Belyear and Mrs. Peden exited the Council Chamber at 1:51 p.m.

### **In Camera**

**36-18** Board Member Jolly -- that the Subdivision and Development Appeal Board meet In Camera.

Carried

The In Camera session commenced at 1:52 p.m.

### **Revert to Subdivision and Development Appeal Board Meeting**

**37-18** Board Member Jolly -- 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 2:11 p.m.

**Appeal by William Belyea whereby Subdivision Permit Application SD18-007 was refused to subdivide a developed  $\pm 1.75$  ha ( $\pm 4.32$  ac) parcel for country residential use, from a previously subdivided quarter section with a title area of  $\pm 16.20$  ha ( $\pm 40$  ac) located on NW 30-48-25-W4, (48459 Range Road 260).**

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**38-18** Chair McDonald -- that Subdivision and Development Appeal Board disallow the appeal by William Belyea and upholds the refusal of Subdivision Permit Application SD18-007 by William Belyea to subdivide a developed  $\pm 1.75$  ha ( $\pm 4.32$  ac) parcel for country residential use, from a previously subdivided quarter section within a title area of  $\pm 16.20$  ha ( $\pm 40$  ac) located on NW 30-48-25-W4, (48459 Range Road 260).

### **Findings of Fact**

- 1) On April 18, 2018 the Subdivision Authority refused the proposed subdivision on the subject property.



- 2) The Farmland Assessment Rating (FAR) established by the County Assessment Department designates the subject land as high capability agricultural land (41.9%).
- 3) The subject parcel was cropped farmed in 2017 and canola was grown.
- 4) There were two letters submitted opposing the proposed subdivision and the Board heard the presentation by Mrs. Peden, landowner within the area, expressing opposition to the proposed subdivision.
- 5) The subject parcel became subdivided in 1971 in accordance with the Edmonton Planning Commission.
- 6) The proposed subdivision lies within the Rural Area identified in the Edmonton Metropolitan Region Growth Plan; whereby large contiguous agricultural areas will be protected and maintained to enable efficient agricultural production and to support the agricultural sector in the region.

#### Reasons for Refusal

Subdivision Permit Application SD18-007 is refused for the following reasons|:

1. Pursuant to Section 654(1)(b) of the Municipal Government Act, the proposed subdivision does not conform to the following policies of the Municipal Development Plan (25-16):
  - a. Policy 3.1.1 stipulates productive agricultural land shall be protected for agricultural use;
  - b. Policy 3.1.2 stipulates that fragmentation and the amount of high capability land removed from production for non-agricultural development shall be minimized;
  - c. Policy 3.3.1 states that on high capability agricultural land, subdivision shall be limited to one lot from an unsubdivided quarter section and must be a suitable size and shape for agricultural use (approximately 32 ha); and
  - d. Policy 3.3.14(a) stipulates the subdivision shall be small in scale and well defined and would not set a precedent or encourage further subdivision of the surrounding lands.
2. Pursuant to Section 654(1)(b) of the Municipal Government Act, the proposed subdivision does not conform to Part 10.1.2 of the Land Use Bylaw No. 7-08 which states that the minimum size for agricultural lots in all Land Use Districts should be 32.4 ha (80 ac) or such size as results from a physical severance.
3. Pursuant to Section 654(1)(c) of the Municipal Government Act, the proposed subdivision does not conform to Policy 6.2.2 of the Edmonton Metropolitan Region Growth Plan which states 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.
4. The policies of the Municipal Development Plan, Land Use Bylaw and Edmonton Metropolitan Region Growth Plan are not met by this application.

Carried

#### Next Meeting

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



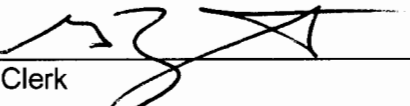
**Adjournment**

**39-18** Board Member Wanchuk -- that the Subdivision and Development Appeal Board meeting be adjourned.

Carried

The Subdivision and Development Appeal Board meeting concluded at 2:13 p.m.

  
Chair

  
Clerk