

## **AGENDA**

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

**Friday, March 15, 2019**

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. D18-095      **Request for Adjournment** by Janice Agrios, Q.C.,  
Roll #2834000      Kennedy Agrios LLP, on behalf of Ruth Hess, Bruce  
Tegart, Wayne Sereda and Strawberry Creek  
Environment Action Committee relating to Development  
Permit Application D18-095 by Carl Brewster,  
Kloovenburg Sports Ltd. for an outdoor recreation facility  
for the provision of shotgun sports, archery, cross-  
country skiing and mountain biking with accessory  
buildings on SW/NWSE 10-50-1-W5 and SE/NE 9-50-1-  
W5.
- \* b) 9:30 a.m. SD18-051      Appeal by Paul & Helene Wentland to subdivide a  
Roll /57000      developed  $\pm 8.55$  ha ( $\pm 21.13$  ac) parcel for country  
residential use, from a title area of  $\pm 23.59$  ha  
( $\pm 58.29$  ac) on NW 30-50-1-W4.

5. **Next Meeting Date** – Friday, March 29, 2019

6. **Adjournment**

\* **Legend**  
Items Attached To Agenda



**MINUTES OF THE SUBDIVISION AND DEVELOPMENT APPEAL BOARD MEETING, LEDUC COUNTY, HELD ON FRIDAY, MARCH 15, 2019 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 9:35 a.m., Friday, March 15, 2019 by Chair Mary-Ann McDonald as Chair with Board Members Pat Rudiger, Doug Ruel, Rod Giles and Larry Wanchuk present.

Also present were Garrett Broadbent, Clerk; Ms. Joyce Gavan, Recording Secretary; Kyle Payne, Planner 1; Charlene Haverland, Manager of Development Services; and one other individual.

**Agenda Adoption**

**15-19** Board Member Wanchuk -- that the Agenda for the March 15, 2019 Subdivision and Development Appeal Board meeting be accepted as circulated, noting that the 9:00 a.m. appeal by adjacent landowners relating to Development Permit D18-095 was not held due to the email received March 14, 2019 advising of withdrawal of the subject development permit application by Connor Smith, Al-Terra Engineering Inc., on behalf of the applicants Carl Brewster, Kloovenburg Sports Ltd.

Carried

**Appeal by Paul and Helene Wentland whereby Subdivision Application SD18-051 was refused to subdivide a developed parcel  $\pm 8.55$  ha ( $\pm 21.13$  ac) for country residential use from a titled area of  $\pm 23.59$  ha ( $\pm 58.29$  ac) on NW 30-50-21-W4.**

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Chair McDonald called the hearing to order at 9:36 a.m. and introduced Board Members and staff.

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

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

Mr. Garrett Broadbent, Clerk, advised of the appeal by Paul & Helene Wentland whereby Subdivision Application SD18-051 was refused to subdivide a developed parcel  $\pm 8.55$  ha ( $\pm 21.13$  ac) for country residential use from a titled area of  $\pm 23.59$  ha ( $\pm 58.29$  ac) on NW 30-50-21-W4.

The reasons for appeal are as follows:

1. Believe that our subdivision application and the Subdivision Authority refusal was not fair.
2. Last time the municipal reserve estimate was missing that is why we did re-apply and provided it this time. The refusal and the discussion was solely focused on Municipal Government Act, Section 654(1)(b) and the not orderly subdivision of the land.
3. We do believe we comply with Land Use Bylaw 7-08 by creating a woodlot property.
4. As well, in our opinion, it is in an orderly manner, trying to preserve the environment by not creating small lots.
5. We hope in a fair review.

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

- 1) Staff Report.
- 2) Notice of SDAB hearing package dated March 4, 2019.



- 3) Notice of Appeal received March 4, 2019.
- 4) Refusal by Subdivision Authority dated February 20, 2019 with refused site plan.
- 5) Subdivision Application SD18-051.
- 6) Application letter.
- 7) Key Plan.
- 8) Tentative Plans of Subdivision.
- 9) Air Photos.
- 10) Adjacent landowner letter dated November 26, 2018 from Lloyd Kadatz expressing concern with roadway.

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

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

Chair McDonald asked the appellant if he 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 asked the Clerk to read/present any other relevant information and/or correspondence, and Mr. Broadbent advised there was none.

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

Mr. Kyle Payne, Planner 1, provided the following information relating to the appeal by Paul & Helene Wentland:

1. The subject properties are located off Range Road 220, intersecting with Township Road 504A. The surrounding existing uses include agriculture and residential parcels. The proposed parcel is developed with a single family dwelling and the remnant parcel is undeveloped.
2. The planning history of the subject property indicates the following subdivision decisions:
  - 1981 - 2.4 ha (5.93 ac) parcel was subdivided from the quarter
  - 1999 - 80 ac parcel was subdivided from the north half of the quarter section
  - 2003 - 1.79 ha (4.42 ac) proposed parcel was refused by the Subdivision Authority.
  - 2004 - 4.38 ha (10.8 ac) parcel was subdivided from the south half of the quarter.
  - 2017 – the proposed subdivision of an 8.85 ha (21.12 ac) parcel was refused by the Subdivision Authority and appealed to the Subdivision and Development Appeal Board where the refusal was upheld. (Note: this is the same application before the SDAB today).
3. The Farmland Assessment Rating (FAR) established by the County Assessment Department indicates the subject land consists of Low Capability Agricultural Land (9-38%).
4. Road access for the proposed parcel and remnant parcel is from Range Road 220. Part 9.3.8 of the Land Use Bylaw stipulates access to individual lots shall in all cases be by internal collector or service roads constructed for the subdivision unless there are three or fewer parcels on any one particular public roadway.

5. On February 19, 2019 the Subdivision Authority refused Subdivision Application SD18-051 by Paul & Helene Wentland to subdivide a developed parcel  $\pm 8.55$  ha ( $\pm 21.13$  ac) for country residential use from a titled area of  $\pm 23.59$  ha ( $\pm 58.29$  ac) on NW 30-50-21-W4 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:
    - a) 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;
    - b) Policy 3.3.14 (b) stipulates country residential use shall be in compliance with an area structure plan or lake management plan;
    - c) Policy 3.1.7 stipulates that country residential development occurs in an orderly manner that is compatible with neighboring land uses and the environment; and
    - d) Policy 3.3.22 stipulates that an area structure, or outline plan may be required for any new country residential proposals.
  - 2) Pursuant to Section 654 (1)(b) of the Municipal Government Act, the proposed subdivision does not conform to the following policies of Land Use Bylaw 7-08:
    - a) Part 10.1.6 which stipulates that unless otherwise provided for in an approved statutory plan or management plan, a non-agricultural lot shall be no larger than is required to include buildings and natural features considered necessary by the Subdivision Authority for reasonable development and use of the lot.
    - b) Part 9.3.8 which stipulates access to individual lots shall in all cases be by internal collector or service roads constructed for the subdivision unless there are three or fewer parcels on any one particular roadway.
  - 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 were not met by this application.
6. The proposed lot would be considered the 4th parcel out of the quarter section. The applicant has stated their reasons for the subdivision is for residential development.
7. The proposed parcel is within the Agriculture area of the Municipal Development Plan which indicates that it shall minimize the amount of agricultural land removed from farming because of non-agricultural development and the fragmentation of land. Leduc County policies do not support incremental unplanned development.

The policies of the Municipal Development Plan indicate that subdivision shall be limited to one lot out of the quarter section. Section 3.3.14 of the Municipal Development Plan requires that new country residential parcels be well defined and compatible with adjacent land uses without setting precedent for further subdivision of the surrounding lands. It is the opinion of staff that the proposed subdivision is precedent setting and removes agricultural land from farming. While the proposed subdivision encompasses a developed farm site, the



subdivision of proposed area would allow for further development of the remnant lands, removing existing agricultural land from production.

Policy 3.1.7 stipulates that country residential development occurs in an orderly manner that is compatible with neighbouring land uses and the environment. Policy 3.3.22 stipulates that an area structure plan, or outline plan may be required for any new country residential proposals.

8. The subject lands are currently districted LW – Lake Watershed under Land Use Bylaw 7-08. The purpose of this district is to protect the integrity of the lakes and watersheds, preserving tree cover, and minimizing adverse environmental impacts while allowing for minimal development of recreational, residential and agricultural uses. Lot sizes in this district shall be between 1.0 ha (2.5 ac) and 2.0 ha (4.9 ac) for a country residential acreage and no less than 8.0 ha (19.8 ac) for a residential woodlot. Notwithstanding the above, the minimum lot size if the site is within 400 m of the land shall be 2. ha (5.0 ac).

Part 10.1.6 – Country Residential of the Leduc County Land Use Bylaw states that unless otherwise provided for in an approved statutory plan or management plan, a non-agricultural lot shall be no larger than is required to include buildings and natural features considered necessary by the subdivision authority for reasonable development and use of the lot.

9. The proposed subdivision is in the Rural Area of the Edmonton Metropolitan Region Growth Plan (EMRGP) – minimize the fragmentation and conversion of prime agricultural lands for non-agricultural uses. Objective 6.2.1 of this plan stipulates that 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.
10. Municipal reserve in the amount of 0.605 ha is registered on the title lands as a deferred reserve caveat. Should the subdivision be approved, the 0.605 ha deferred reserves caveat will remain on the title of the remnant lands. Administration recommends that municipal reserves of the proposed parcel be dedicated as cash in lieu if the proposed subdivision is approved, as further subdivision of the proposed parcel is unlikely. Municipal Reserve dedication is 10% of the developable area of the proposed parcel, which is 0.855 ha.
11. One comment was received for this application - the adjacent landowner was opposed to the subdivision.
12. Referral comments:

Alberta Health Services – the subdivision of this quarter section would create a total of 5 lots on 64 ha. For residential developments consisting of 6 or more lots a hydrogeological report is recommended to provide information on the height of the ground water table, soil suitability for septic systems and the direction of surface and ground water flow.

Leduc Parks & Recreation – do not support this subdivision as the ad hoc nature of it does not allow us to properly dedicate reserves or future parks spaces. Municipal reserves should be dedicated as cash-in-lieu.

Leduc County Agricultural Services – the agricultural capacity of this parcel is not high (FAR less than 40%, CLI #3) although the southwest portion is being hayed.

Leduc County Public Works & Engineering – this will create the 5<sup>th</sup> parcel with no internal road; it is County policy to have an internal road when there are more than three parcels. There is one access into the parcel and another access will have to be constructed. Both must meet Leduc County standards and will require inspections.

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

In response to a question by a Board Member, Mr. Payne advised there are houses located on two of the lots; one on the approved 1981 lot and one on the proposed subdivision lot.

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

Mr. Paul Wentland, Appellant, provided the following information:

- 1) Believe that the suggestion of a small scale subdivision would do more to encourage further subdivision of the surrounding land than our proposed 8.55 ha parcel.
- 2) The proposed subdivision is low capability as shown on the FAR and one of the reasons the previous owner sold the land. Are not removing existing agricultural land from production.
- 3) Part 9.18.1 of the Land Use Bylaw indicates that the lot sizes of no less than 8 ha (19.8 ac) for a residential woodlot is permitted. By doing that, it is our goal to preserve the natural features and minimize environmental impact.
- 4) The proposed subdivision is compatible with surrounding land uses and the environment.
- 5) All existing lots have legal access. The remnant parcel has its own public road access, with culvert in place, and it was already there when we purchased the property.
- 6) We are not setting precedent because there are five (5) multi-lot subdivisions within close distance with their own public road.
- 7) Built this home on the subject property and purchased in 2001.

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

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

- 1) Mr. Wentland indicated his willingness to pay the municipal reserves.
- 2) With respect to the sewage system, it was a requirement to be in compliance with the setback distances for sewage compliance. Mr. Wentland indicated on the map (within PowerPoint presentation by staff) that the sewage is in compliance and will comply with the setback requirements if approved.
- 3) Mr. Payne, clarified that in this case the minimum of 10 acres is required for sewage disposal; plus require a 10 metre setback distance from property line.

Chair McDonald noted there was no one in attendance to speak in support or against the proposed development.

Chair McDonald asked administrative staff to provide final comments.

Mrs. Haverland, Manager of Development Services, provided the following closing comments:

- In 2017 the exact application came forward to the Subdivision and Development Appeal Board; which was refused. This is the same application and there have been no legislative changes to warrant approval.
- Request that the Board uphold the refusal as this is still the same application.

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

- The only reason for refusal by the Subdivision and Development Appeal Board in 2017 was that the applicant did not provide the requirement for an estimate on municipal reserves.

- Mr. Wentland submitted a letter from Kennedy Appraisals 2016 Inc. indicating the value of opinion based on the proposed subdivision.
- We are willing to pay the municipal reserve fees because are not planning any further subdivision.
- The remnant piece of land will be sold.

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

### **Conclusion of Public Hearing**

Chair McDonald declared the Public Hearing concluded at 9:59 a.m.

### **Messrs. Wentland and Payne and Mrs. Haverland**

Messrs. Wentland and Payne and Mrs. Haverland exited the Council Chamber at 10:00 a.m.

### **In Camera**

**16-19** Board Member Wanchuk -- that the Subdivision and Development Appeal Board meet In Camera.

Carried

The In Camera session commenced at 10:04 a.m.

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

**17-19** Board Member Wanchuk -- 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 10:17 a.m.

**Appeal by Paul and Helene Wentland whereby Subdivision Application SD18-051 was refused to subdivide a developed parcel  $\pm 8.55$  ha ( $\pm 21.13$  ac) for country residential use from a titled area of  $\pm 23.59$  ha ( $\pm 58.29$  ac) on NW 30-50-21-W4.**

**18-19** Board Member Ruel -- that Subdivision and Development Appeal Board disallow the appeal by Paul & Helene Wentland and uphold refusal by the Subdivision Authority of Subdivision Application SD18-051 to subdivide a developed parcel  $\pm 8.55$  ha ( $\pm 21.13$  ac) for country residential use from a titled area of  $\pm 23.59$  ha ( $\pm 58.29$  ac) on NW 30-50-21-W4.

### **Findings of Fact**

1. The Board did not hear evidence from the appellant how the proposed development conforms to the following policies:
  - i) Leduc County Land Use Bylaw - Lake Watershed District whereby the purpose of this district is to protect the integrity of the lands and watersheds, preserving tree cover, and minimizing adverse environmental impacts while allowing for minimal development of recreational, residential and agricultural uses.
  - ii) Edmonton Metropolitan Region Growth Plan - Rural Area whereby the objective to minimize the fragmentation and conversion of prime agricultural lands for non-



agricultural use; and to protect and maintain large contiguous agricultural areas in the Region.

- iii) Municipal Development Plan stipulates the country residential development occurs in an orderly manner that is compatible with neighbouring land uses and the environment; and that an area structure plan, or outline plan may be required for any new country residential proposals.
- 2. The Farmland Assessment Rates established consists of low capability land (9-38%).
- 3. The proposed lot would be considered the 4<sup>th</sup> parcel out of the quarter section.
- 4. The applicant indicated he is in compliance with the sewage regulations.
- 5. The applicant provided submission of a letter by Kennedy Appraisals 2016 Inc. indicating a value of opinion on the proposed subdivision to address the municipal reserve.
- 6. Access road from the proposed and remnant parcels is from Range Road 220. There is no internal roadway.
- 7. The applicant indicated the existing subdivisions are in compliance with the sewage requirements.
- 8. There was one letter submitted from a landowner located at 50529 Range Road 220, opposed to the proposed subdivision.

Refusal 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:
  - a) 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;
  - b) Policy 3.3.14 (b) stipulates country residential use shall be in compliance with an area structure plan or lake management plan;
  - c) Policy 3.1.7 stipulates that country residential development occurs in an orderly manner that is compatible with neighboring land uses and the environment; and
  - d) Policy 3.3.22 stipulates that an area structure, or outline plan may be required for any new country residential proposals.
- 2. Pursuant to Section 654 (1)(b) of the Municipal Government Act, the proposed subdivision does not conform to of the following policies of Land Use Bylaw 7-08:
  - a) Part 10.1.6 which stipulates that unless otherwise provided for in an approved statutory plan or management plan, a non-agricultural lot shall be no larger than is required to include buildings and natural features considered necessary by the Subdivision Authority for reasonable development and use of the lot.
  - b) Part 9.3.8 which stipulates access to individual lots shall in all cases be by internal collector or service roads constructed for the subdivision unless there are three or fewer parcels on any one particular roadway.
- 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 were not met by this application.





Carried

**Next Meeting**

The next scheduled Subdivision and Development Appeal Board meeting will be held on Friday, March 29, 2019, commencing at 9:00 a.m.

**Adjournment**

**19-19** Board Member Wanchuk -- that the Subdivision and Development Appeal Board meeting be adjourned.

Carried

The Subdivision and Development Appeal Board meeting concluded at 10:18 a.m.

  
Chair

  
Clerk