

AGENDA

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

Wednesday, June 26, 2019

1. **Order and Roll Call** – 9:00 a.m.
2. **Agenda Adoption**
3. **Adoption of Previous Minutes**
 - * March 29, 2019 Subdivision and Development Appeal Board Meeting
4. **Subdivision and Development Appeal Hearing**
 - * a) 9:00 a.m. D19-075 Appeal by Don Mayer to development an Accessory
Roll #749010 Building Garage – 177.3 sq.m (1908 sq.ft.) with Dwelling
Secondary Suite – 107.0 sq.m (1152 sq.ft.) on Lot 1,
Block 1, Plan 1720481, Pt. SE 8-48-24-W4.
 - * a) 10:00 a.m. SD19-019 Appeal by James Forster to subdivide a developed
Roll #732030 ± 1.49 ha (± 3.69 ac) parcel for country residential use
from a previously subdivided quarter section with a title
area of ± 6.12 ha (± 15.12 ac) on Lot 3, Plan 9222223, Pt.
NW 34-50-23-W4 (50549 – Range Road 233).
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 WEDNESDAY, JUNE 26, 2019 IN THE COUNCIL CHAMBER OF THE COUNTY CENTRE BUILDING, NISKU, ALBERTA.

Order and Roll Call

The meeting was called to order at 9:00 a.m., Wednesday, June 26, 2019 by Chair Mary-Ann McDonald as Chair with Board Members Pat Rudiger, Rod Giles and Rick Smith present.

Also present were Ms. Joyce Gavan, Clerk; Lynn White Recording Secretary; Charlene Haverland, Manager of Development Services; Colin Richards, Team Lead Development; Ata Muhammad, Planner 1; and one other individual.

Agenda Adoption

27-19 Board Member Rudiger -- that the Agenda for the June 26, 2019 Subdivision and Development Appeal Board meeting be accepted as circulated.

Carried

Previous Minutes – March 29, 2019 Subdivision and Development Appeal Board Meeting

28-19 Board Member Giles -- that the March 29, 2019 Subdivision and Development Appeal Board meeting minutes, be accepted as circulated.

Carried

Appeal by Don Mayer whereby Development Permit Application D19-075 was refused for the development of an accessory building garage with dwelling secondary suite on Lot 1, Block 1, Plan 1720481, Pt. SE 8-48-24-W4.

Chair McDonald called the hearing to order at 9:02 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.

Joyce Gavan, Clerk, advised of the appeal by Don Mayer whereby Development Permit Application D19-075 was refused for the development of an accessory building garage – 177.3 sq.m (1908 sq.ft.) with dwelling secondary suite – 107.0 sq.m (1152 sq.ft.) on Lot 1, Block 1, Plan 1720481, Pt. SE 8-48-24-W4.

The reasons for appeal are as follows:

1. The proposed development is 2 story with attached garage.
2. Revised blue prints.
3. Home and garage for personal use – future home for son or daughter.
4. Like to get outside shell up before winter.
5. Would work on inside, myself, for winter project.

Ms. Gavan advised the following information is attached for the Board:

- 1) Staff Report.
- 2) Notice of SDAB hearing package dated June 11, 2019.



- 3) Notice of Appeal received June 10, 2019.
- 4) Notice of reclassification of proposed development dated May 24, 2019.
- 5) Refusal by Development Authority dated May 24, 2019.
- 6) Original Building Plans.
- 7) Site Plan.
- 8) Key Plan.
- 9) Development Permit Application D19-075.
- 10) Revised Building Plans.
- 11) Air Photo.

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

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

Ata Muhammad, Planner 1; and/or Colin Richards, Team Lead Development, provided the following information relating to the appeal by Don Mayer:

1. The subject property is located off Range Road 244 and approximately 800 metres south of Highway 616. The surrounding lands are districted as Agricultural. The area is located within Leduc and Wetaskiwin County's Intermunicipal Development Plan area.
2. On April 16, 2019 the appellant submitted a development permit application for a large shop containing living quarters. The parcel is currently vacant and the appellant intends to build a garage with living quarters in it. According to Part 9.1.1 of the Leduc County Land Use Bylaw No. 7-08, small parcels subdivided from quarter sections in Agricultural (AG) Districts are for creating residential lots, where the principal use shall be residential.
3. Upon preliminary review of the development permit application it was noted that the applicant initially applied for "living quarters with a large garage". Administration classified the proposed development as "Dwelling Detached with Attached Shop".
4. However, upon further detailed review of the submitted plans attached with the application the Development Authority determined that the application was incorrectly classified. The correct classification for the proposed development is an "Accessory Building with Dwelling, Secondary Suite". The Development Authority reviewed the floor plans of the proposed building and noted that the residential component contains a single bedroom on the second floor, and a small area for living area on the main floor. The proposed building has a significantly large size garage at 1908 sq.ft. The garage proposed two bay doors that would open in two different directions, one to the east while the other to the south. The proposed building visually represents a large shop.
5. After careful consideration of the proposal, the development was deemed as Discretionary Use and therefore the application was re-classified and referred to adjacent landowners, adjacent municipality (County of Wetaskiwin) and other departments for comments. No comments were received from adjacent landowners nor from the County of Wetaskiwin.



6. The Development Authority are of the opinion that the proposed development meets the definition of Accessory Building. An accessory building plays an incidental and subordinate role to a principal building/principal use and that an accessory building can only be approved when a principal building or a principal use already exists on the site. Since there are no existing dwelling on the property, the proposed development may not be supported as is. While re-classifying the building as a dwelling, detached with attached garage may be supported in land use terms, the development does not mirror a residential dwelling and therefore creates potential risk for future development of the lands by limiting opportunity for a proposed residential use of the lands such as a dwelling, detached.
7. The proposed development is inconsistent with the size restrictions of a dwelling, secondary suite. Pursuant to the dwelling, secondary suite regulations, a parcel qualifies only for a dwelling secondary suite, if a principal dwelling already exists on the property. A dwelling, secondary suite is not permitted to be larger than 100 sq.m. Since the parcel is vacant and there is no principal dwelling on the lands, the current proposal is inconsistent with the development regulations of the Land Use Bylaw.
8. On May 24, 2019 the Development Authority refused this application for the following reasons:

- 1) The Development Authority considers that the proposed development is an Accessory Building (Garage) with a Dwelling Secondary Suite (living quarters), located within the same building. The Development Authority is of the opinion that the proposed development, if approved in its current form, will result in the proposed accessory building (garage) becoming the principal use, which is contrary to the intent of an accessory building.

Part Eleven – Land Use Bylaw 7-08

Definitions:

Accessory Development means a use or building that is incidental and subordinate to a Principal Use or Principal Building located on the same lot.

Principal Use means the primary purpose for which a building or site is used.

- 2) According to Part 7.12.2 of the Land Use Bylaw, a secondary suite shall be an accessory use to the principle dwelling, and shall have a maximum floor area of 100 sq. m (1076 sq.ft.). The proposed dwelling secondary suite has an area of 107 sq. m (1152 sq. ft.) which is 7 sq.m over the permissible floor area. Part 3.6.2 of the Leduc County Land Use Bylaw states that the Development Authority shall not grant a variance to site coverage, building area, floor area, building height and dwellings per hectare.

Based on the size, design and appearance of the proposed building, it appears to be industrial/commercial in nature, therefore the Development Authority considers that the proposed development would result in a non-residential use being the principal use.

- 3) According to Part 7.12.7 of the Land Use Bylaw, a single dwelling use shall exist on a parcel prior to an application for a development permit for a secondary suite. The subject parcel is vacant therefore the development authority cannot consider a secondary dwelling use as a principle dwelling.
9. On June 7, 2019 the appellant submitted revised building plans and with changes to the proposed building such as: vinyl siding, 2' X 4' windows on the south site and converting a



storage room to another bedroom on the second floor. The Development Authority reviewed the revised building plans and determined that the plans do not materially alter the design and appearance of the building passably to meet the provisions of the Land Use Bylaw, and that the proposed development still appears similar to an accessory building, rather than a typical residential dwelling.

10. In summary, the Development Authority request that the Subdivision and Development Appeal Board uphold the decision of the Development Authority.

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

In response to questions by Board Members, Mr. Muhammad provided the following information:

- Dwelling means self-contained building meant for living. If you look at the current plans, the building does not look like a residential dwelling.
- There were no objections to this development application.

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

Mr. Don Mayer, provided the following information:

1. Has lived in Wetaskiwin County for 49 years.
2. Owner of Don's Sand Hauling.
3. Just acquired the subject land and plan on building on it.
4. Upon refusal of the permit application, changed the building plans as follows:
 - changed the siding to vinyl
 - reduced the height of the garage walls from 12 feet to 10 feet to make it look more like a normal garage
 - added a couple of windows (2X4 ft.), second bedroom and pantry to living space.
5. Have water and sewer on property. Would like to add gas but cannot get gas unless there is a building on the property.

In response to questions from Board Members, Mr. Mayer advised of the following:

1. Will use the property for personal use only; will put trailer and quad in garage. The kids might use it.
2. Have no intention of flipping the property.
3. Might do some projects with barnwood in the garage.
4. Plan on fully developing residential space and constructing the shop himself.
5. The second bedroom on the 2nd floor is small.
6. The garage takes up more square footage than the residential space.
7. Could extend bottom floor of residential space by 4 feet if necessary.
8. Purchased property approximately 1 ½ years ago.
9. Primary use will be work space.

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

Chair McDonald asked administrative staff to provide final comments.

Mr. Muhammad provided the following closing comments:

1. The concern of administration is that if the subject property sells in the future, someone may want to build a larger home.
2. The Development Authority does not have the authority to grant variances as this site exceeds the allowable site coverage.

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

- Would like to construct this building himself while he is still young enough and able to.
- Would start this project in winter time.
- The proposed development may be used by kids in the future.
- This would provide a place to work on quads.
- There are no plans to rent it out.
- Spoke with the neighbor across the road and he indicated no objection and said he doesn't mind checking on the place.

Chair McDonald asked the Clerk to read/present any other relevant information and/or correspondence. Ms. Gavan advised there was no additional correspondence received.

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

Conclusion of Public Hearing

Chair McDonald declared the Public Hearing concluded at 9:34 a.m.

Messrs. Mayer, Muhammad and Richards; and Mrs. Haverland

Messrs. Mayer, Muhammad and Richards; and Mrs. Haverland exited the Council Chamber at 9:35 a.m.

In Camera

29-19 Board Member Smith -- that the Subdivision and Development Appeal Board meet In Camera.

Carried

The In Camera session commenced at 9:36 a.m.

Revert to Subdivision and Development Appeal Board Meeting

30-19 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 9:41 a.m.

Appeal by Don Mayer whereby Development Permit Application D19-075 was refused for the development of an accessory building garage with dwelling secondary suite on Lot 1, Block 1, Plan 1720481, Pt. SE 8-48-24-W4.

31-19 Board Member Rudiger -- that the Subdivision and Development Appeal Board disallow the appeal by Don Mayer and uphold refusal of Development Permit Application D19-



075 for the development of an accessory building garage – 177.3 sq.m (1908 sq.ft.) with dwelling secondary suite – 107.0 sq.m (1152 sq.ft.) on Lot 1, Block 1, Plan 1720481, Pt. SE 8-48-24-W4.

Findings of Fact

- 1) The subject building will not be the primary residence as there are no existing dwellings on the subject property.
- 2) The primary use of the developed accessory building (garage) would be for work use (e.g. barn-wood projects) and storage space.
- 3) The proposed garage takes up more square footage (177.3 sq.m (1908 sq.ft.)) than the dwelling secondary suite (107 sq.m (1152 sq.ft.)).
- 4) The Appellant submitted revised building plans showing vinyl siding, 2' X 4' windows on the south side, 10' foot garage walls as opposed to 12' walls, and converting a storage room to another bedroom on the 2nd floor.
- 5) There were no letters of objection.
- 6) The subject property is designated within the Agricultural (AG) District of the Leduc County Land Use Bylaw 7-08.

The Board considered the following sections of the Leduc County Land Use Bylaw 7-08:

1. Part 11 - Definitions:

Accessory Development means a use or building that is incidental and subordinate to a principal use or principal building located on the same lot.

Use, Principle means the primary purpose for which a building or site is used. There shall be no more than one principal use on a lot unless specifically permitted in this Bylaw.

Principal Building means a building which:

- (a) Occupies the major or central portion of a site,
- (b) Is the chief or main building among one or more buildings on the site, or
- (c) Constitutes by reason of its use the primary purpose of the site.

The Board is of the opinion that the proposed development will result in the proposed accessory building (garage) becoming the principal use, which is contrary to the intent of an accessory building.

2. Part 7.12.2

Dwelling Secondary Suite shall be an accessory use to the principal dwelling, and shall have a maximum floor area of 100 sq.m (1076 sq.ft.).

The Board took into consideration the evidence presented that the proposed garage space will take up more square footage than the residential space. Therefore the Board considered the proposed development would result in a non-residential use being the principal use.

3. Part 3.6.2 states that the Development Authority shall not grant a variance to site coverage, building area, floor area, building height and dwellings per hectare.

The Board is not prepared to grant a variance to the permissible floor area, based on the revised building plans submitted by the applicant.

4. Part 7.12.7

A single dwelling use shall exist on a parcel prior to the application for a development for a secondary suite.

The Board could not consider the proposed dwelling type as a principle dwelling given that the principal use would be for work and storage purposes.

Reasons for Refusal

Development Permit D19-075 is refused for the following reasons:

- 1) The Development Authority considers that the proposed development is an Accessory Building (Garage) with a Dwelling Secondary Suite (living quarters), located within the same building. The Development Authority is of the opinion that the proposed development, if approved in its current form, will result in the proposed accessory building (garage) becoming the principal use, which is contrary to the intent of an accessory building.

Part Eleven – Land Use Bylaw 7-08

Definitions:

Accessory Development means a use or building that is incidental and subordinate to a Principal Use or Principal Building located on the same lot.

Principal Use means the primary purpose for which a building or site is used.

- 2) According to Part 7.12.2 of the Land Use Bylaw, a secondary suite shall be an accessory use to the principle dwelling, and shall have a maximum floor area of 100 sq. m (1076 sq.ft.). The proposed dwelling secondary suite has an area of 107 sq. m (1152 sq. ft.) which is 7 sq.m over the permissible floor area. The Subdivision and Development Appeal Board is not prepared to grant a variance to the permissible floor area, based on the revised building plans submitted by the applicant.

Based on the size, design and appearance of the proposed building, it appears to be industrial/commercial in nature, therefore the Board considers that the proposed development would result in a non-residential use being the principal use.

- 3) According to Part 7.12.7 of the Land Use Bylaw, a single dwelling use shall exist on a parcel prior to an application for a development permit for a secondary suite. The subject parcel is vacant therefore the Subdivision and Development Appeal Board cannot consider a secondary dwelling use as a principle dwelling.

Carried

Recess

The meeting recessed at 9:47 a.m. and reconvened at 9:59 a.m. with Chair Mary-Ann McDonald and Board Members Pat Rudiger, Rod Giles and Rick Smith present.

Also present were Ms. Joyce Gavan, Clerk; Lynn White Recording Secretary; Charlene Haverland, Manager of Development Services; Dave Desimone, Senior Planner; Rae-Lynn Spila, Acting Manager, Engineering and two other individuals.



Appeal by James Forster whereby Subdivision Application SD19-019 was refused to subdivide a developed ± 1.49 ha (± 3.69 ac) parcel for country residential use from a previously subdivided quarter section with a title area of ± 6.12 ha (± 15.12 ac) on Lot 3, Plan 9222223, Pt. NW 34-50-23-W4 (50549 – Range Road 233).

Chair McDonald called the hearing to order at 10:00 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.

Joyce Gavan, Clerk, advised of the appeal by James Forster whereby Subdivision Application SD19-019 was refused to subdivide a developed ± 1.49 ha (± 3.69 ac) parcel for country residential use from a previously subdivided quarter section with a title area of ± 6.12 ha (± 15.12 ac) on Lot 3, Plan 9222223, Pt. NW 34-50-23-W4 (50549 – Range Road 233).

The reasons for appeal are as follows:

1. The house that I wish to subdivide off was built by my Grandfather in 1915 and was originally located where the International Airport is now. Just as my grandparents raised my father in this home, my parents raised me here, my wife and I raised our children, and as my daughter and her husband began a local business in Beaumont (where our children attended school their whole lives) they resided with us while raising their daughter- the 5th generation of our family to grow up in our home.
2. After growing up in it, I moved back into the home in 1979 with my wife, and it has been our folly ever since. We started our tree farm operation in 1991 as a way to off-set our carbon footprint; we planted over 5500 trees. The soil on our parcel does not have a good rating to grow much more than coniferous trees. As a matter of fact, if you refer to the information provided by Leduc County, you will see that 4.17 acres of the land we are discussing has a soil quality rating of 12% and 7.95 acres is rated only 38%.
3. I am 68 this year and now at the point where the amount of work required is too much to keep up with. People tell me that I am the busiest retired guy that they know. My children have grown and have their own families and careers and my wife is disabled. In 2012, I suffered an accident while working on the farm that has left me disabled, making maintaining this operation even more difficult. I have worked hard for the past 38 years, I have grown and supplied thousands of trees to nearby acreages to enhance the public realm by beautify the surrounding lands. I have provided trees to 5 of the acreages on my Range Road and 15 or more acreages within a three mile radius. Now, I would like to have a chance to enjoy the homestead that I dedicated my life to, I would like to keep my home and sell the farm operation.
4. In response to the reasons for refusal:
 - A) As per objective 3.1.7; my subdivision will occur in an orderly manner that is compatible with neighboring land uses and the environment. If you refer to the attached aerial photo for Subdivision File: SD19-019; you will see that this break off of 11.43 acres of planted trees is compatible and consistent with the 6 multi lot country residential subdivisions located on range road 233 between Township Road 510 and Highway 625. The lands directly south of the proposed application are all luxury country residential properties or



multi lot country residential subdivisions. The lands directly North of the proposed application area are both luxury country residential properties. Given that these multi lot country residential subdivisions are the norm in this area, the County of Leduc did not receive any written responses from adjacent landowners opposing this application.

- B) As per policy 3.3.14(a); Subdivision shall be in small scale and will not set a precedent or encourage further subdivision of the surrounding lands; in the last 10 years there have been 4 multi lot residential subdivisions approved directly south of me, therefore my subdivision will certainly not be setting a precedent. The requested subdivision will be in small scale, it would simply subdivide my tree farm operation from my heritage home; allowing the farm operation to continue rather than being abandoned.
- C) As per policy 3.3.14(b) - The country residential use shall be in compliance with an area structure plan;

The vision for the area structure plan for Leduc County North states;

"The Leduc County North plan area will combine respect for the natural environment and built heritage with the future aspirations and desires of residents of Leduc County and surrounding areas for places to work, live and recreate."

This subdivision would be in alignment with the vision of this plan. This proposed subdivision would allow for the preservation of a sustainable farm operation that will continue to provide landscape trees with a 200-400 year life span to the immediate area. It would also allow two lifelong, disabled, senior residents of Leduc County to remain in their heritage home.

- D) Policy 3.3.18(e) In terms of carrying capacity of the land by way of sewage disposal and potable water;

I will be spending \$21,00 to bring my outdated septic system (that is currently grandfathered in) up to current standards; increasing and improving the capacity. Potable water in the area is currently provided by cistern and hauling in water. The County of Leduc has recently conducted a rural water servicing study to determine the feasibility, cost and conceptual design of a potable water system for higher density country residential area. As you will see from the attached map, the proposed subdivision is in this higher density residential area. This study has resulted in 3 different options that will be presented to the public on June 17th and 18th, 2019.

- E) Policy 3.3.18(f) states that there must be an adequate drainage system;

The proposed subdivision area was our tree farm; after many years of observation, I have spent much time and money creating a high quality natural drainage system throughout the property that drains to the dugout.

- F) Policy 3.3.18(f) stating that roadways must be of suitable and economical design;

The proposed subdivision area is our tree farm, there is upgraded driveway access onto range road 233. I have spent time and money creating a high quality heavy duty driveway/ internal roadway access (that runs East to West) for the tree farm equipment. The approval of this subdivision would not increase- or only minimally increase the usage to the roadway. Upon approval of the application I would sign over 10m of my property that fronts the roadway for potential future roadway widening and pay a fee of \$8,335 to the Rural Road Surfacing Contribution. If you refer to the attached map - Exhibit 1, you will note that the East boundary of the property area borders 2 high pressure pipelines and a gas line that run North to South. The right away for these



pipelines is 35m and therefore there is no potential to create an internal roadway to adjacent properties.

5. As per section 654(1)(c) of the MGA and policy 6.2.2 of the Edmonton Metropolitan Region Growth Plan, stating that in rural areas large contiguous agricultural areas will be protected and maintained to enable efficient agricultural production and support the agricultural sector in the region;

We would again like to reiterate that the approval of this subdivision would ensure that this long time, sustainable farm operation be protected and maintained by passing it on to someone who is younger and able to keep up with the operation. It would support the long time, dedicated farmer of the area who has worked hard to establish this farm and support the up and coming farmer in this important, "outside of the box", atypical agricultural venture.

Ms. Gavan advised the following information is attached for the Board:

- 1) Staff Report
- 2) Notice of SDAB hearing package dated June 13, 2019
- 3) Notice of Appeal received June 12, 2019
- 4) Refusal by Subdivision Authority dated May 23 2019 with refused site plan
- 5) Key Plan
- 6) Proposed Subdivision Air Photo
- 7) Subdivision Application SD19-019
- 8) Air Photo
- 9) Site Plan
- 10) Map 4 of Rural County Land Use Concept
- 11) County Residential Area from the Rural County Land Use Concept.

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

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 the appellant if he had any objection to any of the members of the Subdivision and Development Appeal Board hearing this appeal, and Mr. Forster had no objection.

Chair McDonald called upon the appellant to come forward. Mr. James Forster, Appellant, came forward.

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

Dave Desimone, Senior Planner, provided the following information relating to the appeal by James Forster:

1. The subject lands are located off Range Road 233 and Township Road 510. The quarter section was originally subdivided into 4 parcels in 1991 with three parcels adjacent to Range Road 233 and one parcel in the northeast corner of the quarter section. A 5th parcel was subdivided from the quarter section in 1998 creating a 40 acre and 60 acre parcel from the remnant lands.



2. The proposed parcel represents the 6th parcel out of this quarter section. Policy 3.314 of the Municipal Development Plan stipulates country residential use shall be in compliance with an area structure plan or lake management plan. This proposal to further subdivide the quarter represents further fragmentation and incremental, unplanned development which is contrary to the County's planning policies.
3. The Leduc County Land Use Bylaw defines Multi-Lot Residential Subdivision as land containing four (4) or more lots used for residential purposes. As this proposed subdivision would be the 6th parcel out of this quarter section, administration is of the opinion the quarter section would represent primarily country residential development. Policy 3.3.18 of the Municipal Development Plan stipulates that in evaluating a country residential proposal, the County must be satisfied that the density of the subdivision is consistent with the carrying capacity of the land in terms of sewage disposal and for the provision of long term potable water supply; provision for an adequate drainage system has been made; roadway design is suitable for the intended use and can be maintained economically; and the project is designed and serviced in ways which will minimize the cost to the County. The proposed subdivision application does not provide for internal road access, a storm water management plan or the provision of services. It is the opinion of administration that further subdivision of this quarter section in an incremental fashion without the associated technical studies to properly evaluate the application in terms of cumulative impacts is potentially costly to the County with regard to flooding, traffic impacts and a local of adequate servicing.
4. Policy 3.3.14(b) of the Municipal Development Plan stipulates that country residential use shall be in compliance with an area structure plan. There is currently no overarching area structure plan to support this application. Administration recommends that further subdivision of this quarter section should be guided by an area structure plan that would support a redistricting application to an appropriate country residential district in support of further subdivision where servicing, traffic, stormwater and park space could be addressed.
5. Further subdivision of the subject lands are subject to the Rural Road Surfacing Contribution fee as this policy is applied to the fifth and each subsequent parcel from a quarter section.
6. The proposed subdivision is in the Rural Area of the Edmonton Metropolitan Region Growth Plan (EMRGP). Policy 6.2.2 of the EMRGP 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.
7. There were no adjacent landowner comments submitted regarding the proposed subdivision or Notice of Appeal.
8. At the time of writing this Report, Leduc County's revised Municipal Development Plan is scheduled to go before Leduc County Council for a public hearing on June 25, 2019. Bylaw No. 08-19 was given final reading and was adopted on June 25, 2019 regular Council. The Board's consideration of objectives and policies of the new Municipal Development Plan are as follows:

Section 680(2)(a.1) In determining an appeal, the Board hearing the appeal must have regard to any statutory plan.

The subject lands are located within the Country Residential area of the new Municipal Development Plan as indicated on Map 4 – Rural County Land Use Concept.

Policy 4.5.1.2 of the new Municipal Development Plan stipulates one or more Area Structure Plans will be prepared to guide subdivision and development of the Country Residential area as identified in Map 4: Rural County Land Use Concept to promote inter-connected



neighbourhoods, transportation and stormwater infrastructure, drainage patterns, natural areas, and wildlife habitats. There currently is no over-arching area structure plan for these lands.

Policy 4.5.1.6 of the new Municipal Development Plan also states that infill of existing country residential subdivisions must be serviced by water, wastewater, stormwater and transportation infrastructure to the satisfaction of the County and province, where applicable, and not fragment contiguous natural areas or have a negative impact on the adjacent environmentally significant areas. The subject lands are located within the Eagle Rock Environmentally Significant Area.

9. The policies of the Municipal Development Plan that was existing at time of application do not support this proposed subdivision.
10. The Farmland Assessment Rating (FAR) established by the County Assessment Department indicates the subject land consists low capability agricultural land (12% - 38%).
11. The following referral comments were received:

Alberta Health Services – this subdivision would create a total of 7 lots on the quarter section. If not previously completed, a hydrogeological report should be commissioned to determine height of ground water table, soil suitability for the septic systems and direction of surface and ground water flow and submitted to AHS for review prior to subdivision approval (for residential developments consisting of 6 or more lots). Alberta Health has found no records of contaminated sites or landfills associated with this property.

Leduc County Public Works & Engineering – this is adjacent to Range Road 233 which is a paved road. Range Rod 233 is currently being upgraded to a 60m right-of-way to allow future upgrades to the road. A 10m right-of-way along the front of the entire property is required as part of the subdivision. It is County policy to have an internal road when there are three or more parcels. Further fragmentation of this quarter section, with no planning towards an internal road will make it difficult to plan for future subdivisions. The proposed parcel will be the 7th parcel therefore the Rural Road Contribution Fee will be required. The existing accesses meet Leduc County standards, no inspection is required.

12. On May 21, 2019 the Subdivision Authority refused Subdivision Application SD19-019 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) Objective 3.1.7 stipulates that country residential development occurs in an orderly manner that is compatible with neighbouring land uses and the environment;
 - b) 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;
 - c) Policy 3.3.14(b) stipulates country residential use shall be in compliance with an area structure plan or lake management plan;
 - d) Policy 3.3.18(e) states the County must be satisfied that the density of the subdivision is consistent with the carrying capacity of the land in terms of sewage disposal and the provision of a long term potable water supply.
 - e) Policy 3.3.18(f) states the County must be satisfied that there is provision for an adequate drainage system; and

- f) Policy 3.3.18(f) states the County must be satisfied that the roadways are of suitable and economical design.
- 2) 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.
- 3) The policies of the Municipal Development Plan and Edmonton Metropolitan Region Growth Plan are not met by this application.

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

In response to questions from Board Members, Mr. Desimone and Mrs. Haverland provided the following information:

- 1. There is no Area Structure Plan to support this application.
- 2. Leduc County Council adopted the new Municipal Development Plan (MDP) yesterday. This was anticipated and taken into consideration when reviewing this application.
- 3. Administration had conversations with the Appellant about the new MDP and indicated he had the option to wait to submit his application until the new MDP was formalized.
- 4. Access to the three subdivisions to the north of subject property are all accessed via Range Road 233.
- 5. The subject property currently has two approaches.
- 6. There is a residential dwelling on subject property.

Board Member Smith indicated the record reflect that the Subdivision Authority's decision was based on the previous Municipal Development Plan.

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

Mr. James Forster, appellant, provided the following information:

- 1) As per Objective 3.1.7, the proposed subdivision is compatible with neighboring subdivisions. There are now six subdivisions within two miles. Four of those were approved in the last 10-15 years.
- 2) Was told that he would have to complete an Area Structure Plan which does not seem feasible for a one lot subdivision.
- 3) Recently he was contacted about a waterline being constructed in the area.
- 4) As per Policy 3.3.14(a), the proposed subdivision is small in scale and well defined.
- 5) Trying to maintain agricultural aspect and trying to stay in home which has been in the family for generations.
- 6) As per Policy 3.3.18(f), have operated tree farm for 38 years and over time have installed water / drainage system.
- 7) As per Policy 3.3.18(f), the roadway is suitable for this one lot. Contacted Nova and they indicated that a future approach could cross over the pipeline.
- 8) If this application is approved, will have to give up a 10m right-of-way along the front of the entire property and \$8,325 for road improvements.
- 9) There is a new modern access to the remnant property.
- 10) If you look at the Leduc County North Major Area Structure Plan, this proposed subdivision would be compliant.



- 11) We are long-term residents who wish to remain in Leduc County. The dwelling and property have been in the family for 119 years and we would like to maintain it and keep it the family for future generations.
- 12) Willing to spend \$21,000 to bring sewage system up to current codes.
- 13) There is water 230 feet down, however, we had the water tested and it is not suitable for human consumption. Have potable water for drinking and cooking.
- 14) Our parcel is a tree farm with approximately 2,000 trees. Do not want to see it go to waste. Would like someone to take it over and maintain the agricultural aspect of the land.

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

In response to questions by Board Members, Mr. Forster provided the following information:

- There is a well on the property and the water is used for everything except drinking and cooking.
- Only own the one parcel.
- Brother owns one lot to the north where he currently resides and my sister owns one lot also to the north but recently sold it.

Chair McDonald asked the Clerk to read/present any other relevant information and/or correspondence. Ms. Gavan advised there were no submissions.

Chair McDonald asked if there was anyone in attendance to speak in support of the proposed development.

Jaime Forester, daughter of James Forester, provided the following information:

1. Grew up in this heritage home and hope to keep the home within the family.
2. It seems unethical to ask her father to do an Area Structure Plan as it is only one parcel.

Chair McDonald noted there was no one else in attendance to speak to the proposed development.

Chair McDonald asked administrative staff to provide final comments.

Senior Planner Dave Desimone provided the following closing comments:

1. If another development is approved on the remnant parcel, there will now be cisterns, additional road use, multiple turns-offs at each point, rather than one point of entry. One access point would be safer.
2. Area Structure Plans require transportation studies, environmental assessments, stormwater management studies, etc. All these technical studies indicate how land will be impacted by development.
3. This is an unknown and some of the reason why the application was refused.
4. The proposed subdivision does not change anything, however, if approved, the remnant parcel could affect the use of the land.
5. Internal collector roads would take all the properties in the quarter into consideration. Similar quarters would be looked at and taken into consideration as well.

Chair McDonald asked the appellant if he had any final comments, and Ms. Jaime Forester, on behalf of her father James Forester, provided the following closing comments:



- It is not their intention to set any precedent.
- The parents just want to remain as long-term residents in their heritage home and continue to farm.
- Would like future generations to continue this into the future.

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

Conclusion of Public Hearing

Chair McDonald declared the Public Hearing concluded at 10:44 a.m.

Messrs. Forster and Desimone and Mrs. Haverland, Mrs. Spila and Ms. Forester

Messrs. Forster and Desimone; and Mrs. Haverland, Mrs. Spila and Ms. Forester exited the Council Chamber at 10:45 a.m.

Recess

The meeting recessed at 10:46 a.m. and reconvened at 10:49 a.m. with Chair Mary-Ann McDonald and Board Members Pat Rudiger, Rod Giles and Rick Smith present.

Also present were Ms. Joyce Gavan, Clerk and Lynn White Recording Secretary.

In Camera

32-19 Board Member Smith -- that the Subdivision and Development Appeal Board meet In Camera.

Carried

The In Camera session commenced at 10:49 a.m.

Revert to Subdivision and Development Appeal Board Meeting

33-19 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 10:55 a.m.

Appeal by James Forster whereby Subdivision Application SD19-019 was refused to subdivide a developed ± 1.49 ha (± 3.69 ac) parcel for country residential use from a previously subdivided quarter section with a title area of ± 6.12 ha (± 15.12 ac) on Lot 3, Plan 9222223, Pt. NW 34-50-23-W4 (50549 – Range Road 233).

34-19 Board Member Rudiger – that the Subdivision and Development Appeal Board allows the appeal by James Forster and conditionally approves Subdivision Application SD19-019 to subdivide a developed ± 1.49 ha (± 3.69 ac) parcel for country residential use from a previously subdivided quarter section with a title area of ± 6.12 ha (± 15.12 ac) on Lot 3, Plan 9222223, Pt. NW 34-50-23-W4 (50549 – Range Road 233).

Findings of Fact

- 1) The May 21, 2019 decision by the Subdivision Authority was based on the Municipal Development Plan that was in effect. On June 25, 2019 Leduc County Council approved the new Municipal Development Plan. The Subdivision and Appeal Board are bound to consider their decision based on the new Municipal Development Plan.
- 2) The subject lands are located within the Country Residential area of the Municipal Development Plan.
- 3) The Board considered the objectives and policies of the new Municipal Development Plan in relation to this appeal.
- 4) This subdivision is well defined and is compatible with neighboring land uses and the environment.
- 5) There is no Area Structure Plan for this area.
- 6) The two residents residing on the subject property will not negatively impact water and sewage usage.
- 7) There were no letters of objection received.
- 8) The roads are suitably and economically designed.
- 9) The tree farm is not a large and contiguous agricultural production.
- 10) There is an existing access to homestead.

The Board considered the following relevant statutory and planning documents:

Municipal Development Plan

1. *Policy 4.5.1.1* stipulates one or more Area Structure Plans will be prepared to guide subdivision and development of the Country Residential area as identified in Map 4: Rural County Land Use Concept to promote interconnected neighbourhoods, transportation and stormwater infrastructure, drainage patterns, natural areas, and wildlife habitats.
2. *Policy 4.5.1.6* states that infill of existing country residential subdivisions must be serviced by water, wastewater, stormwater and transportation infrastructure to the satisfaction of the County and province, where applicable and not fragment contiguous natural areas or have negative impact on the adjacent environmentally significant areas.

The Board is of the opinion, that the proposed subdivision does not require an Area Structure Plan for the following reasons:

- the subdivision would be done in an orderly fashion;
- is small in scale;
- the density will not hinder the drainage capacity as the applicant has installed a water / drainage system;
- the roadway will not be impacted with one parcel created. There is an access to the remnant property.

Edmonton Metropolitan Region Growth Plan (EMRGP)

1. Objective 6.2 is to minimize the fragmentation and conversion of prime agricultural lands for non-agricultural uses. In rural areas, large contiguous agricultural areas will be protected and maintained to enable efficient agricultural production and to support the agricultural sector in the Region.

The Board is of the opinion, the objective will be met as this is one parcel out which is small scale, well defined and compatible with neighbouring land uses and sensitive areas. Further it

represents a specific case and would not set a precedent as the area consists of country residential parcels.

Conditions for Approval

1. Pursuant to Section 654(1)(d) of the Municipal Government Act, all outstanding taxes are to be paid or make arrangements with Leduc County for the payment thereof;
2. Pursuant to Section 9(a) of the Subdivision and Development Regulation, the applicant/owner shall provide access to the newly created lot and access to the remnant lot. The applicant/owner shall apply for approval of locations of access and each approach shall be built to Leduc County Development Standard.
3. Pursuant to Section 7(g) of the Subdivision & Development Regulation, the applicant/owner confirm 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 662(1) of the Municipal Government Act, the applicant/owner shall dedicate, by way of caveat, a 10 metre right of way along Range Road 233 of both the proposed and remnant parcel;
5. Pursuant to Section 655(1) of the Municipal Government Act, a restrictive covenant shall be registered against the newly created lots prohibiting potable water from any well on the lands unless a Potable Water Study, satisfactory to Leduc County and Alberta Environment has been prepared by a qualified person and demonstrates that the diversion of 1250 cubic metres of water per year for household purposes for the newly created lot on the said lands is sustainable and will not interfere with any uses of ground water existing at the time of the Study.
6. Pursuant to 655(1)(i) of the Municipal Government Act, the applicant/owner shall contribute \$8,325 per lot to future surfacing of roadways within the Rural Roads Surfacing Contribution area.
7. The subdivision be registered pursuant to the Land Titles Act.

Carried

Next Meeting


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


Adjournment

35-19 Board Member Smith -- that the Subdivision and Development Appeal Board meeting be adjourned.

Carried

The Subdivision and Development Appeal Board meeting concluded at 11:02 a.m.


Chair


Clerk