

AGENDA

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

Friday, January 25, 2019

1. **Order and Roll Call** – 8:45 a.m.
2. **Organizational Meeting of the Board**
 - a) Nomination of Chair
 - b) Nomination of Vice Chair
 - c) Proposed Meeting Dates (3rd Friday of each month, as required)
3. **Agenda Adoption**
4. **Adoption of Previous Minutes**
 - * December 7, 2018 Subdivision and Development Appeal Board Meeting
5. **Subdivision and Development Appeal Hearing**
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a) 9:00 a.m. SD18-048 Rolls #3446000 & 3446010	Appeal by Rae Braden-Parkin and Duane Parkin to adjust the boundary of a developed ± 1.16 ha (± 2.87 ac) by increasing it to ± 2.12 ha (± 5.24 ac) and further subdivide a developed ± 3.98 ha (± 9.83 ac) parcel for country residential use from a previously subdivided parcel with a titled area of ± 63.58 ha (± 157.10 ac) on Pt. SW 25-47-3-W5th (47415 Rge Rd 31)
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6. **Next Meeting Date** – 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 FRIDAY, JANUARY 25, 2019 IN THE COUNCIL CHAMBER OF THE COUNTY CENTRE BUILDING, NISKU, ALBERTA.

Order and Roll Call

The meeting was called to order at 8:45 a.m., Friday, January 25, 2019 by Garrett Broadbent, Clerk of the Subdivision and Development Appeal Board with Board Members Mary-Ann McDonald, Pat Rudiger, Doug Ruel and Larry Wanchuk present.

Also present was Ms. Joyce Gavan, Recording Secretary and two other individuals.

Organizational Meeting of the Board

Mr. Garrett Broadbent, Clerk, indicated that in accordance with Bylaw No. 13-18 establishing the Subdivision and Development Appeal Board, the Chair and Vice Chair are to be elected at the first meeting of each year.

Nominations for Chair

Clerk Broadbent called for nominations for the position of Chair of the Subdivision and Development Appeal Board.

Board Member Ruel nominated Board Member Mary-Ann McDonald for Chair.

Nominations Cease - Chair

01-19 Board Member Rudiger -- that nominations cease for Chair of the Subdivision and Development Appeal Board.

Carried

Clerk Broadbent declared Board Member McDonald elected, by Acclamation, as Chair of the Subdivision and Development Appeal Board.

Assume the Chair

Chair McDonald assumed the Chair.

Nominations for Vice Chair

Chair McDonald called for nominations for the position of Vice Chair of the Subdivision and Development Appeal Board.

Chair McDonald nominated Board Member Pat Rudiger for Vice Chair.

Nominations Cease - Vice Chair

02-19 Board Member Wanchuk -- that nominations cease for Vice Chair of the Subdivision and Development Appeal Board.

Carried

Chair McDonald declared Board Member Rudiger elected as Vice Chair of the Subdivision and Development Appeal Board.



Recess

The meeting recessed at 8:47 a.m. and reconvened at 9:00 a.m. with Chair Mary-Ann McDonald and Board Members Pat Rudiger, Larry Wanchuk and Doug Ruel present.

Also present were Mr. Garrett Broadbent, Clerk; Ms. Joyce Gavan, Recording Secretary; Mr. Colin Richards, Team Lead Development; Mr. Dave Desimone, Senior Planner; and Mr. Kyle Payne, Planner 1.

Present as well were two other individuals.

Agenda Adoption

03-19 Board Member Rudiger -- that the Agenda for the January 25, 2019 Subdivision and Development Appeal Board meeting be accepted as circulated.

Carried

Adoption of Previous Minutes – December 7, 2018

04-19 Board Member Rudiger -- that the December 7, 2018 Subdivision and Development Appeal Board minutes be confirmed as circulated.

Carried

Appeal by Rae Braden-Parkin and Duane Parkin whereby Subdivision Application SD18-048 was conditionally approved to adjust the boundary of a developed parcel ± 1.16 ha (± 2.87 ac) by increasing it to ± 2.12 ha (± 5.24 ac) and further subdivide a developed parcel ± 3.98 ha (± 9.83 ac) for country residential use from a previously subdivided parcel with a titled area of ± 63.58 ha (± 157.10 ac) on Pt. SW 25-47-3-W5 (47415 Rge Rd 31).

Chair McDonald called the hearing to order at 9:01 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 Secretary to introduce the subject of this appeal.

Mr. Garrett Broadbent, Clerk, advised of the appeal by Rae and Duane Parkin whereby Subdivision Application SD18-048 was conditionally approved to adjust the boundary of a developed parcel ± 1.16 ha (± 2.87 ac) by increasing it to ± 2.12 ha (± 5.24 ac) and further subdivide a developed parcel ± 3.98 ha (± 9.83 ac) for country residential use from a previously subdivided parcel with a titled area of ± 63.58 ha (± 157.10 ac) on Pt. SW 25-47-3-W5 (47415 Rge Rd 31).

The reasons for appeal are as follows:

1. The land is not useful for other reasons.
2. Not able to get a loan for house without owning the land first.
3. There is already power and water on partial.

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

- 1) Staff Report.
- 2) Notice of SDAB hearing package dated January 10, 2019.
- 3) Conditional Approval by Subdivision Authority dated December 19, 2018.
- 4) Subdivision Application SD18-048.

- 5) Application letter dated October 10, 2018.
- 6) Key Plan.
- 7) Tentative Plans of Subdivision.
- 8) Air Photos.

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 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 asked the Board Secretary 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 Rae and Duane Parkin:

1. The subject lands are located off Range Road 31 and Township Road 474.
2. A ± 1.16 ha (± 2.86 ac) parcel was subdivided from the quarter section in 1982.
3. On December 18, 2018 the subdivision authority heard an application to:
 - adjust the boundary of a developed parcel ± 1.16 ha (± 2.87 ac) by increasing it to ± 2.12 ha (± 5.24 ac); and
 - subdivide a developed parcel ± 3.98 ha (± 9.83 ac) for country residential use.

The subdivision authority conditionally approved the application to adjust the boundary of the developed parcel and refused the proposal to subdivide the developed parcel ± 3.98 ha (± 9.83 ac) for country residential use. The conditions of approval were as follows:

- i) Pursuant to Section 655(1)(b) of the Municipal Government Act, the applicant/ owner enter into a development agreement with Leduc County and abide by the terms therein;
- ii) Pursuant to Policy 3.3.1 of the Municipal Development Plan, the proposed subdivision only includes the lot line adjustment, as shown in Exhibit 2;
- iii) Pursuant to Section 654(1)(d) of the Municipal Government Act, the applicant/ owner pay any outstanding property taxes to Leduc County or make satisfactory arrangements with the Council of Leduc County for the payment thereof;
- iv) Pursuant to Section 7(g) of the Subdivision & Development Regulation, the applicant/owner confirms that any existing sewage disposal system(s) on the subject property is/are in compliance with the Private Sewage Disposal System 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;
- v) Pursuant to Section 9(a) of the Subdivision and Development Regulation, the applicant/owner shall provide access to each lot created. Each approach shall be built to Leduc County development standard;

vi) The subdivision be registered pursuant to Alberta Land Titles requirements.

The Farmland Assessment Rating (FAR) established by the County Assessment department indicates the subject land consists of Low Capability Agricultural Land. The Canada Lands Inventory identifies this land as Class 3 lands, which is considered High Capability Lands as per the Municipal Development Plan's definition. Within the subject parcels, the lands are entirely treed with portions removed to facilitate development.

4. There are a number of oil and gas facilities located on the parcel. These pipelines stem from the battery located in the southeast corner of the subject lands. Many of these pipelines are high pressure pipelines, which require a 15 metre setback from residential development. There is also a fourth pipeline located in the southern easterly portion of the parcel. A dwelling is located approximately 60 metres from pipeline right of way 092 5005. There is an existing dwelling located within the existing ± 1.16 ha (± 2.87 ac) parcel. There is an abandoned well located on site.
5. The proposal is to subdivide two parcels:
 - Parcel 1 is ± 1.16 ha (± 2.87 ac) in size and is a boundary adjustment to come into compliance with the setbacks in accordance with Safety Codes septic system.
 - Parcel 2 is a newly created parcel that is ± 3.98 ha (± 9.83 ac) in size to accommodate a residence.
6. The purpose of adjusting the boundary of Parcel 1 is to accommodate the parcel's septic system as the current setbacks do not meet code for the system. The purpose of subdividing Parcel 2 is for a second dwelling subdivision since there are existing services in place. Planning and Development recommended approval of Parcel 1 and refusal of Parcel 2. Parcel 1 conforms to the policies governing the subject lands. There are no policies in place supporting subdivision of Parcel 2. An "Exhibit 2" tentative plan of subdivision has been submitted with this application supporting Planning and Development's position. There are concerns regarding the size of Parcel 2, as it is larger than the 2 ha permitted within Leduc County's Land Use Bylaw.
7. The North Pigeon Lake Area Structure Plan identify these lands as Agricultural Area. These lands are to retain existing land use districting, which is Agriculture (AG). As per the Agriculture Area policies, multi-lot residential development is not permitted.
8. 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 sets precedent for further subdivision and development on the quarter section. The North Pigeon Lake Area Structure Plan states that development shall occur in an orderly manner as per Leduc County policies of the North Pigeon Lake Area Structure Plan.
9. 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.
10. There were no adjacent landowner comments submitted regarding the proposed subdivision.
11. Public Works & Engineering advised of no concerns from engineering regarding the proposed lot however the current access is severely deficient and the landowner had been

issued a letter stating this already. This access will need to be brought up to current Leduc County standard and be inspected.

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

In response to questions by Board Members, administrative staff advised of the following:

- The Farmland Assessment Rating (FAR) is 38% which is considered low capability land; however the Canada Lands Inventory (CLI) identifies these lands as Class 3 lands, which is considered high capability lands as per the Municipal Development Plan's definition.
- There is a drainage ditch going across the property however mainly dry.

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

Mr. and Mrs. Duane and Rae Parkin, Appellants, provided the following information:

- 1) In the previous minutes of the Subdivision Authority the decision by the Subdivision Authority to approve the subdivision of the developed parcel for country residential use was refused due to a tie vote. A letter is submitted from one of the members stating his support of the proposed subdivision.
- 2) The subject lands are not suitable for farming and contain clay soil.
- 3) Clarified that with the existing lot in existence there have been many problems in past. Through some of these problems it was discovered that the septic system was on our property which was then decommissioned. I had stated to the County that if things changed with the circumstances of this lot, I would like to make it legal and have it recommissioned.
- 4) Parcel 1 is owned by new neighbours. They approached us as they have a holding tank and wish to have the sewage system legal. This was approved by the Subdivision Authority.
- 5) With respect to Parcel 2, the boundary to the north is useless and want to come off the lease to the north and then easterly along the pipeline and fence off. This land has already been developed with a driveway and power and water services are in place. The bank requires this parcel to be legally subdivided so my son can get a loan to build the home. The Bank will not provide funding unless it is legal and in my son's name.
- 6) The green lines identified on the map identify different land ratings. The FAR rating ranges from 8 – 30. The lands immediately to the south of my quarter range from FAR 14 – 27 and have been subdivided six times. Do not understand how they were allowed and we were not.
- 7) The Pigeon Lake Area Structure Plan (PLASP) says multi lot residential development is not permitted in the agricultural areas. The County's Land Use Bylaw defines multi lot as a subdivision of 4 or more contiguous lots created. This would only be the second parcel out of the quarter section; therefore feel I do meet the ASP requirements.
- 8) None of the neighbours are against me; nor have any objections been received from oil companies or affected parties.
- 9) Planning advised there were no policies in place supporting the subdivision of Parcel 2; however they have not indicated any policies which are not supporting my subdivision. Each application is to be taken on its own merit under its own circumstances depending on the topography of the land. The number of oil and gas facilities and lines located on the parcel have already bisected the parcel in several directions. Therefore the oil and gas has already dictated where I am able to have development. There is a minimum 15 metre setback which traps this little corner.



- 10) This land would never be farmable due to the pipes and right-of-ways crossing; had to build up our driveway one metre to even cross the parcel due to pipelines. The entire parcel is similar.
- 11) The lands are entirely treed with portions removed to facilitate development. If my lands were within the next quarter, only metres (20 feet) away, they would be districted Lake Watershed (LW) district which allows for residential. This site is an existing old yard site already serviced. Would not be taking any crop land out of production or removing any further trees from growth.
- 12) The Municipal Development Plan requires that new country residential parcels be located on low capability land and this site is all very compatible with adjacent uses as the adjacent lands to the south and to the east are all districted Lake Watershed and therefore allow for subdivisions.
- 13) Feel this is not setting a precedent as the southern parcel has six lots created. It is clearly based upon the land cover and the proposed subdivision is already an existing site. The subdivision does not promote further development of the quarter.
- 14) The Leduc County Land Use Bylaw allows to build 2 dwellings; plus 2 secondary dwellings on a parcel over 80 acres. The proposed subdivision will not change that number of dwellings.
- 15) Our son will then be able to get a mortgage meeting the requirements of the Bank and putting his own name on Title.
- 16) The Municipal Development Plan is changing as we speak and hope to have my land moved into the Lake Watershed area.
- 17) I want to be able to provide the younger generation the opportunity to live in the country; I am not a realtor and simply want to keep this land in our family.

Chair McDonald asked if there were any questions by the Board Members of the appellant(s), and there were none.

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

Chair McDonald asked administrative staff to provide final comments.

Mr. Payne, Planner 1, provided the following closing comments:

- The lands immediately to the south are zoned Lake Watershed.
- The Area Structure Plan speaks to the future intent of the land which is the difference between the two parcels.
- The future Municipal Development Plan is underway however is not yet in effect; the Board cannot give any regard to this plan; consideration of the proposed application must adhere to the current Municipal Development Plan.
- 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. It is the opinion of staff that the proposed subdivision does set precedent for further subdivision on the quarter section.
- There are no policies in place to support Parcel 2 and that is why the Subdivision Authority refused the second parcel.
- The North Pigeon Lake Area Structure Plan states that development shall occur in an orderly manner as per Leduc County policies of the North Pigeon Lake Area Structure Plan.



- With respect to the Subdivision Authority member submitting a letter in support of the proposed subdivision, administration is to present the evidence to the Board and the decision, despite it being a tie vote, was made on behalf of the entire Subdivision Authority.
- Two dwellings are permitted on an 80 acre parcel and a subdivision is not required to put in services.
- Within the Agricultural district and with respect to the number of dwellings, residential use is considered in conjunction with the main dwelling.

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

- If this application is upheld and refused it would force us to re-apply once the new Municipal Development Plan comes into effect. Do not wish to wait until then.
- The proposed land is no different in agricultural capability than the land immediately south which has 6 parcels subdivided.
- Administration has not provided any supporting documentation stating the reasons for refusal.
- The map that was referenced shows my land is surrounded by Lake Watershed districting; not sure why our quarter got missed by this re-zoning as this is all the same land qualities.
- Feel the proposed Parcel 2 should be approved as there is no agricultural land being taken out.
- Services (power and water) were brought in 4-5 years ago and have approved permits; there is an existing house site (was a little cabin but that has been removed).
- The rural addressing sign has also been installed by the County on the second parcel identifying two separate parcels.
- There is no dwelling currently on site – there was a little cabin but that has been removed.
- Are not changing any structure of the land as it is already existing with a driveway.
- This land cannot be developed as farmland due to the numerous pipeline right-of-ways and existing trees.
- The bank loan will not get approved unless the son legally owns the land.

Chair McDonald asked the appellant(s) if they felt they received a fair hearing, and Mr. and Mrs. Parkin responded affirmatively.

Conclusion of Public Hearing

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

Mr. Richards; Mr. Desimone; Mr. Payne, and Mrs. & Mrs. Parkin

Mr. Richards; Mr. Desimone and Mr. Payne; and Mr. & Mrs. Parkin exited the Council Chamber at 9:38 a.m.

In Camera

05-19 Board Member Wanchuk -- that the Subdivision and Development Appeal Board meet In Camera.

Carried

The In Camera session commenced at 9:39 a.m.

Revert to Subdivision and Development Appeal Board Meeting

06-19 Board Member Rudiger -- 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 9:50 a.m.

Appeal by Rae Braden-Parkin and Duane Parkin whereby Subdivision Application SD18-048 was conditionally approved to adjust the boundary of a developed parcel ± 1.16 ha (± 2.87 ac) by increasing it to ± 2.12 ha (± 5.24 ac) and further subdivide a developed parcel ± 3.98 ha (± 9.83 ac) for country residential use from a previously subdivided parcel with a titled area of ± 63.58 ha (± 157.10 ac) on Pt. SW 25-47-3-W5 (47415 Rge Rd 31).

07-19 Board Member Wanchuk -- that Subdivision and Development Appeal Board allow the appeal by Rae-Braden-Parkin and Duane Parkin and conditionally approves Subdivision Application SD18-048 as follows:

Parcel 1

- adjust the boundary of a developed ± 1.16 ha (± 2.87 ac) by increasing it to ± 2.12 ha (± 5.24 ac); and

Parcel 2

- subdivide a developed ± 3.98 ha (± 9.83 ac) parcel for country residential use from a previously subdivided parcel with a titled area of ± 63.58 ha (± 157.10 ac) on Pt. SW 25-47-3-W5, (47415 Rge Rd 31).

Findings of Fact

1. There is an existing dwelling located within the existing ± 1.16 ha (± 2.87 ac) parcel (identified as Parcel 1); the purpose of adjusting the boundary of Parcel 1 is to accommodate the parcel's septic system as the current setbacks do not meet code for the system. The Subdivision Authority conditionally approved the boundary adjustment.
2. The purpose of subdividing Parcel 2 is for a second dwelling subdivision since there are existing services in place. The Subdivision Authority refused this proposed subdivision.
3. Leduc County has approved the services (power and water) currently in place to support the dwelling. The applicant also indicated the County erected the municipal addressing sign which indicates this is a separate parcel.
4. The land is predominantly low capability agricultural land and would not have an impact on agricultural land.
5. The parcel is predominantly treed with portions removed to facilitate development.
6. The parcel immediately to the south has six parcels within the quarter.
7. There are three oil and gas facilities located on the parcel including a fourth pipeline located in southeast corner of the subject lands.
8. The applicants have maintained an appropriate setback to the lease site and considered limiting any fragmentation in the development of the second parcel.
9. There was one letter of support submitted by a member of the subdivision authority, however the Board did not give weight to this letter as the decision of the subdivision authority is intended to be a unified decision.

Conditional Approval Conditions of Parcels 1 & 2

Subdivision Application SD18-048 is approved, subject to the following conditions:

1. Pursuant to Section 655(1)(b) of the Municipal Government Act, the applicant/owner enter into a development agreement with Leduc County and abide by the terms therein;
2. Pursuant to Section 654(1)(d) of the Municipal Government Act, the applicant/owner pay any outstanding property taxes to Leduc County or make satisfactory arrangements with the Council of Leduc County for the payment thereof;
3. Pursuant to Section 7(g) of the Subdivision & Development Regulation, the applicant/owner 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 Section 9(a) of the Subdivision and Development Regulation, the applicant/owner shall provide access to each lot created. Each approach shall be built to Leduc County Development Standard;
5. Pursuant to Section 669(1) of the Municipal Government Act, Municipal Reserves in the amount of ten percent of the title area be deferred against the title of the larger remnant parcel;
6. All new property lines shall meet the minimum building setback requirements, as per Leduc County's Land Use Bylaw; and
7. The subdivision be registered pursuant Alberta Land Titles requirements.

Carried

Next Meeting

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

Adjournment

08-19 Board Member Ruel -- that the Subdivision and Development Appeal Board meeting be adjourned.

Carried

The Subdivision and Development Appeal Board meeting concluded at 9:51 a.m.


Chair


Clerk