



AGENDA

INTERMUNICIPAL SUBDIVISION AND DEVELOPMENT APPEAL BOARD (ISDAB)

COUNCIL CHAMBER, LEDUC COUNTY CENTRE, NISKU

Tuesday, July 20, 2021

1. **Order and Roll Call** – 9:00 a.m.
2. **Agenda Adoption**
3. **Adoption of Previous Minutes**
4. **Subdivision and Development Appeal Hearing - D06-021**
 - * a) **9:00 a.m.**

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|---------------------------------------|--|
| Apellant / Agent | Dale A.S. Moll |
| Landowner's name | Estate of Klara F. Moll |
| Leduc County Municipal Roll # | 1693000 |
| Legal description of subject property | NE-13-49-26-W4 |
| Nature of Subdivision | Subdivide a 32.37 ha (80 ac) parcel from a previously subdivided quarter section with a title area of 61.91 ha (152.98 ac) |
| Subdivision application # | SD21-018 |

5. **Next Meeting Date** - Thursday, August 12, 2021
6. **Adjournment**

Legend

** Items Attached To Agenda*

MINUTES OF THE INTERMUNICIPAL SUBDIVISION AND DEVELOPMENT APPEAL BOARD MEETING, LEDUC COUNTY, HELD ON TUESDAY, JULY 20, 2021 IN THE COUNCIL CHAMBER OF THE COUNTY CENTRE BUILDING, NISKU, ALBERTA.

Order and Roll Call

The meeting was called to order at 9:02 a.m., Tuesday, July 20, 2021 by Chair Mary-Ann McDonald with Board Members Ivan Laing, Rick Hart, Pat Rudiger and Vic Moran present.

Present as well were the following:

- Joyce Gavan, Clerk
- Lynn White, Recording Secretary
- Dave Desimone, Senior Planner - Development Services
- Dale Moll, Appellant
- James Statt, adjacent landowner

Agenda Adoption

47-21 Board Member Rudiger -- that the agenda for the July 20, 2021 Intermunicipal Subdivision and Development Appeal Board meeting be accepted as circulated.

Carried

Appeal by Dale Moll, on behalf of estate of Klara Moll, relating to refusal by the Subdivision Authority of Subdivision Application SD21-018 to subdivide a 32.37 ha (80 ac) parcel from a previously subdivided quarter section with a title area of 61.91 ha (152.98 ac) on NE 13-49-26-W4

Chair McDonald called the hearing to order at 9:03 a.m. and provided introductory remarks.

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

Board Clerk Joyce Gavan advised of the appeal by Dale Moll, on behalf of estate of Klara Moll, relating to refusal by the Subdivision Authority of Subdivision Application SD21-018 to subdivide a 32.37 ha (80 ac) parcel from a previously subdivided quarter section with a title area of 61.91 ha (152.98 ac) on NE 13-49-26-W4.

The reasons for appeal are:

1. The request for subdivision set out in file number SD21-018 is aligned with the spirit of the County's goal of protecting and maintaining agricultural land. This quarter section has been in the family since 1924. Multiple generations have cared for it. The family wish to carry on this tradition of stewardship, farming and agriculture to next generations. This includes granddaughters and great granddaughter who look forward to becoming further involved in agriculture. Sadly, it is not feasible for the family to maintain ownership of the entire 153 acre parcel. However, subdividing would allow the family to continue to care for 73 acres.
2. In the letter from Leduc County Planning and Development department dated June 15, 2021 advising of the refusal by the Leduc County Subdivision authority for subdivision of a portion of NE 13-49-26-W4, the governing legislation is stated as the Municipal Government Act, Section 654(1)(b) and policies of the Municipal Development Plan and



specifically Policy 4.3.1.1 which has 4 criteria -three of which are considered relevant to this appeal and are addressed below:

- a) to minimize potential conflicts with surrounding agricultural uses;
 - b) the amount of agricultural land and specifically prime agricultural land converted to non-agricultural use; and
 - c) fragmentation of agricultural land by locating the subdivision near quarter section boundaries or in close proximity to existing residential sites.
3. The subdivision, as proposed, does not change the characteristic of the land as farmland and the intent is not to change its use from farm land. The proposed boundary of the subdivision does not create a conflict with the surrounding agricultural land.
 4. The subdivision does not have as its purpose nor does it result in the conversion of agricultural land to a non-agricultural purpose.
 5. The proposed boundaries have been drawn as far as possible and feasible from neighbouring quarter section boundaries.
 6. Policies 4.3.1.7 stipulates that the intent is to “conserve large, contiguous tracts of prime agricultural land with minimal fragmentation primarily for intensive cropping operations...”
This policy would appear to be predicated on the “intensive cropping operation” using very large machinery e.g. 60 foot air seeders for cereal grains and oil seeds only.
 7. There are however alternatives to this scenario that are still agricultural operations including use of smaller machinery. A neighbour has indicated that with his machinery he would be available to farm the 73 acre parcel. There are also other types of crops that use smaller machinery e.g. forage crops.
 8. There are numerous quarter sections south of the quarter section in the proposal, and specifically in Section 7 Twp 49 and Range 26, that have been subdivided into 2 X 80 acre parcels, both have been in hay and rotated to a grain cover crop over the last five years.
 9. It is also possible to farm smaller parcels as contiguous, if the same farmer farms adjacent parcels, as has been the case with the subject parcel, for a great number of years.
 10. Policy 4.3.1.8 states that there shall be no more than one subdivision (two title lots) per quarter section in Agricultural Area C: South central/East. In the immediate vicinity of the subject quarter section, there are two quarter sections with three or more titles, SE 24 49 26 W4 (immediately north of subject quarter) and SW 19 49 25 W4 (immediately diagonal to the north east of the subject quarter).
 11. The Moll family wish to uphold the agrarian values Leduc County has mandated and see agriculture thrive in the county for generations to come.

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.

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

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



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

Chair McDonald called upon the administrative staff, on behalf of the Subdivision Authority, to make a presentation.

Senior Planner - Development Services Dave Desimone provided a PowerPoint presentation relating Subdivision Application SD21-018, highlighting the following:

- 1) At the Subdivision Authority meeting on June 15, 2021, it was indicated there were no comments from adjacent landowners. There was a submission which related to two applications and was inadvertently missed and being distributed today as part of this hearing.
- 2) On June 15, 2021, the Subdivision Authority refused a subdivision application for a 32.37 ha (80 acre) agricultural parcel from a previously subdivided quarter section with a title area of 61.91 ha (152.98 ac).
- 3) The subject lands are located off Range Road 260 and a half mile north of Township Road 492. A 2.84 ha (7.02 ac) parcel was subdivided from the northeast corner of the quarter section.
- 4) The Agricultural Land Suitability Rating indicates the subject land consists of Class 2 & 3 soil, with Class 2 & 3 considered Prime Agricultural Land. An Agricultural Impact Assessment was completed with the subdivision application to determine if the proposed subdivision would adversely affect existing or future agricultural activities onsite and in the surrounding area. The applicant's assessment returned a score of 121 which indicates that the proposed subdivision does not accord with planning policy.
- 5) Pursuant to Section 654(1)(b) of the Municipal Government Act, the proposed subdivision does not conform to the following objectives and policies of the Municipal Development Plan (08-19):
 - Policy 4.3.1.1 which stipulates all subdivisions shall be designed and located in a manner that considers the topography of the land and minimizes (a) potential conflicts with agricultural uses; (b) the amount of agricultural land, and specifically prime agricultural land converted to non-agricultural use; (c) fragmentation of agricultural land by locating the subdivision near quarter section boundaries or in close proximity to existing residential sites; and (d) disturbance of environmentally significant areas.
 - Policy 4.3.1.7 which stipulates to conserve large, contiguous tracts of prime agricultural land with minimal fragmentation primarily for intensive cropping operation and to protect existing and future confined feeding operations in Agricultural Area C: South Central/East, subdivision shall be limited to a (a) Physical severance; or (b) Farmstead subdivision.
 - Policy 4.3.1.8 which states there shall be no more than one subdivision (two title lots) per quarter section in Agricultural Area C: South Central/East.
- 6) Pursuant to Section 654 (1)(b) of the Municipal Government Act, the proposed subdivision does not conform to Policy 6.2.2 of the Edmonton Metropolitan Region Growth Plan that 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.
- 7) The application was referred out to adjacent landowners, internal agencies and external agencies.



- 8) One submission was received from a landowner in the area who would like to see the protection of farmland as a priority.
- 9) There were no objections from Alberta Health Services, Fortis Alberta, Alta Gas or Telus Communications Ltd.
- 10) Leduc County Agriculture Services provided the following comments:
 - This is highly capable agricultural land, and should not be fragmented. Subdivision should not be a valid option for estate planning.
 - Agricultural services would not be in support of this proposal.
- 11) Leduc County Public Works and Engineering commented that if this proposal is approved, an access approach will need to be constructed for the remnant parcel.

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

In response to questions by Board members, Dave Desimone advised of the following:

- Referral letters were sent out to approximately one dozen adjacent landowners and the standard referral agencies.
- There appears to be approximately four title areas to the northeast. The current Municipal Development Plan was developed in 2019. Prior to that, 80 acre splits were more common. This is no longer supported in the current Municipal Development Plan.

Chair McDonald called upon the appellant Dale Moll to speak to the proposed subdivision.

Dale Moll, Appellant on behalf of estate of Klara Moll read his submission to the board members and provided the following additional information:

- My wife and I live to the northeast of this property and have been there for 29 years.
- Proposed 73 acre parcel is surrounded by seven other parcels on three sides.

Chair McDonald asked board members if they had any questions for Dale Moll.

Dale Moll provided the following information:

- The natural bush in the northwest corner used to be a wellsite in the 1950's. About 17 years ago, the company wanted to redrill in the same area so it was cleared out again. The lighter green in the aerial photo is grass and the rest is natural bush.
- The farm site in the northeast corner was subdivided out about 30+ years ago.
- Subject land is crop land which is rented out.

Chair McDonald called upon registered speaker James Statt to speak to the appeal.

James Statt, adjacent landowner, spoke in support of the appeal for the following reasons:

- Own the land immediately east of this parcel.
- Have only had it for a few years.
- Received the notice for the hearing and contacted the County to find out what is going on.
- Personally have no concerns with this proposal.



- Appreciates that the County wants to preserve agricultural land but feels that this proposed subdivision would not prohibit this land from being farmed.
- Perhaps younger folks would get more involved in farming if there were smaller parcels of farmland.
- Can see where other parcels in the area have been subdivided.

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

Chair McDonald asked the clerk to read/present any other relevant information and/or correspondence and Ms. Gavan advised there was none.

Chair McDonald called upon administrative staff to provide final comments.

Dave Desimone provided the following closing comments:

- When discussing policies, it is clear that there are different circumstances for each person who farms.
- The Municipal Development Plan aims to conserve large tracts of prime agricultural land with minimal fragmentation. This is a significant parcel of land and is largely cropped.
- The policies of the Municipal Development Plan, Land Use Bylaw and Edmonton Metropolitan Region Growth Plan are not met by the proposed subdivision and therefore this application is not supported.

Chair McDonald asked the Appellant to make final comments.

Dale Moll provided the following final comments:

- There are a number of other parcels in the area. Almost every quarter has been divided.
- There is some inconsistency to how some others have been treated, unless they have been grandfathered in due to previous policies.
- Have had inquiries from farmers who would like to make an offer on the property. Can only speculate if they will continue to farm the land. As the executor for this property, I have to make the best decision for the family.
- I have separate title for my seven acres in the northeast corner.
- If subdivision is not approved, will likely have to put whole 153 acres up for sale.

Chair McDonald asked Board members if they had any further questions of Administrative staff or the Appellant.

In response to a question from a board member, Dave Desimone indicated that if the subdivision is not approved and the subject land is sold, and the future landowner puts in an application for a subdivision, it will also be refused for the same reasons.

Chair McDonald asked appellant Dale Moll, if he felt he received a fair hearing, and he responded affirmatively.



Conclusion of Public Hearing

Chair McDonald declared the hearing concluded at 9:40 a.m.

In-Camera

48-21 Board Member Rudiger -- that the Intermunicipal Subdivision and Development Appeal Board meet in-camera.

Carried

The in-camera session commenced at 9:44 a.m.

Revert to Intermunicipal Subdivision and Development Appeal Board Meeting

49-21 Board Member Hart -- that the in-camera session revert to the Intermunicipal Subdivision and Development Appeal Board meeting.

Carried

The in-camera session reverted to the Intermunicipal Subdivision and Development Appeal Board meeting at 10:02 a.m.

Appeal by Dale Moll, on behalf of estate of Klara Moll, relating to refusal by the Subdivision Authority of Subdivision Application SD21-018 to subdivide a 32.37 ha (80 ac) parcel from a previously subdivided quarter section with a title area of 61.91 ha (152.98 ac) on NE 13-49-26-W4

50-21 Board Member Hart -- that the Intermunicipal Subdivision and Development Appeal Board deny the appeal by Dale Moll, on behalf of estate of Klara Moll, and uphold refusal by the Subdivision Authority of Subdivision Application SD21-018 to subdivide a 32.37 ha (80 ac) parcel from a previously subdivided quarter section with a title area of 61.91 ha (152.98 ac) on NE 13-49-26-W4.

Findings of Fact

- 1) The purpose of the proposed subdivision is for estate planning. The quarter section has been in the family since 1924.
- 2) The Board heard from the appellant that it is not feasible for the family to maintain ownership of the entire 153 acre parcel; subdividing would allow the family to continue to care for 73 acres in an agricultural capacity.
- 3) The appellant resides on a 2.84 ha (7.02 ac) parcel in the northeast corner of the quarter section.
- 4) There was one letter submitted expressing non-support from an area landowner.
- 5) The Board heard from an adjacent landowner expressing support of the proposed subdivision and provided some benefits of agricultural use on smaller parcels.
- 6) The agricultural land suitability rating indicates the subject land consists of Class 2 & 3 soil, which is considered prime agricultural land. The applicant conducted an Agricultural Impact Assessment with a returned score of 121, which indicates that the proposed subdivision does not accord with the County's planning policy.
- 7) The proposed subdivision is located within the Agricultural Area C (South Central/East) where policies are aimed at conserving large tracts of prime agricultural land with minimal fragmentation.

Moll

- 8) The proposed subdivision is within the Rural Area of the Edmonton Metropolitan Region Growth Plan, which stipulates that in the rural area, large contiguous agricultural areas will be protected and maintained to enable efficient agricultural production and support the agricultural sector in the region.

The Board considered the following legislation in making their decision:

Municipal Development Plan Bylaw No. 08-19

Objectives:

1. To conserve agricultural land on a comprehensive basis as a means of ensuring the long-term viability of agriculture.
2. To minimize fragmentation of agricultural land for purposes that is not supportive to the agricultural industry.
3. To minimize the loss of agricultural land by limiting the amount of land converted to a non-agricultural use.

4.3.1.7 - to conserve large, contiguous tracts of prime agricultural land with minimal fragmentation primarily for intensive cropping operation and to protect existing and future confined feeding operations in Agricultural Area C South Central/East, subdivision shall be limited to a:

- a. physical severance; or
- b. farmstead subdivision

4.3.1.8 - there shall be no more than one subdivision (two titled lots) per quarter section in Agricultural Area C. South Central/East.

Edmonton Metropolitan Region Growth Plan

Objective 6.2 - minimize the fragmentation and conversion of prime agricultural lands for non-agricultural uses.

Policy 6.2.2 - in the rural area, large contiguous agricultural areas will be protected and maintained to enable efficient agricultural production and to support the agricultural sector in the Region.

In conclusion, the Board is of the opinion to refuse the appeal for the following reasons:

- The proposed subdivision is for estate planning, and although the appellant indicated 73 acres will stay within the family for agricultural use, the remaining ± 80 acres that will be put up for sale is uncertain for future use;
- the proposed subdivision is located within the Agricultural Area C (South Central/East) where policies are aimed at conserving large tracts of prime agricultural land with minimal fragmentation; and
- the proposed subdivision does not meet the objectives and policies identified within the Municipal Development Plan.

Therefore, Subdivision Application SD21-018 for a 32.37 ha (80 acres) agricultural parcel from a previously subdivided quarter section with a title area of 61.91 ha (152.98 ac) is refused for the following reasons:

1. Pursuant to Section 654(1)(b) of the Municipal Government Act, the proposed subdivision does not conform to the following objectives and policies of the Municipal Development Plan Bylaw No. 08-19:
 - a. Policy 4.3.1.1 which stipulates all subdivisions shall be designed and located in a manner that considers the topography of the land and minimizes (a) potential conflicts with surrounding agricultural uses; (b) the amount of agricultural lands, and specifically prime agricultural land converted to non-agricultural use; (c) fragmentation of agricultural land by locating the subdivision near quarter section boundaries or in close proximity to existing residential sites; and (d) disturbance of environmentally significant areas;
 - b. Policy 4.3.1.7 which stipulates to conserve large, contiguous tracts of prime agricultural land with minimal fragmentation primarily for intensive cropping operation and to protect existing and future confined feeding operations in Agricultural Area C: South Central/East, subdivision shall be limited to a (a) physical severance; or (b) farmstead subdivision; and
 - c. Policy 4.3.1.8 which states there shall be no more than one subdivision (two titles lots) per quarter section in Agricultural Area C: South Central/East.
2. Pursuant to Section 654(1)(b) of the Municipal Government Act, the proposed subdivision does not conform to Policy 6.2.2 of the Edmonton Metropolitan Region Growth Plan that 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, Leduc County Land Use Bylaw and Edmonton Metropolitan Region Growth Plan are not met by the proposed application.

Carried

Next Meeting

The next scheduled Intermunicipal Subdivision and Development Appeal Board meeting will August 12, 2021.

Adjournment

51-21 Board Member Rudiger -- that the Intermunicipal Subdivision and Development Appeal Board meeting be adjourned.

Carried

The Intermunicipal Subdivision and Development Appeal Board meeting concluded at 10:04 a.m.


Chair


Clerk