

AGENDA

INTERMUNICIPAL SUBDIVISION AND DEVELOPMENT APPEAL BOARD (ISDAB)

COUNCIL CHAMBER, LEDUC COUNTY CENTRE, NISKU

Thursday, June 17, 2021

1. **Order and Roll Call** – 9:00 a.m.
2. **Agenda Adoption**
3. **Adoption of Previous Minutes**
 - * May 28, 2021 Intermunicipal Subdivision and Development Appeal Board Meeting
4. **Subdivision and Development Appeal Hearing - D02-021**
 - * a) **9:00 a.m.**

Apellant(s)	Leo and Jennifer LeBlanc
Applicant's / Agent's name	Donna Oliver
Landowner's name	Leo and Jennifer LeBlanc
Leduc County Municipal Roll #	662000
Legal description of subject property	SW-16-50-23-W4
Municipal address	50215 Rge Rd 234
Nature of Subdivision	Subdivide a 1.05 ha (2.59 ac) residential parcel from a previously subdivided quarter section with a title area of 36.82 ha (90.99 ac)
Subdivision application #	SD20-031

5. **Next Meeting Date** at the call of the Chair
6. **Adjournment**


Legend

* Items Attached To Agenda

MINUTES OF THE INTERMUNICIPAL SUBDIVISION AND DEVELOPMENT APPEAL BOARD MEETING, LEDUC COUNTY, HELD ON THURSDAY, JUNE 17, 2021 IN THE COUNCIL CHAMBER OF THE COUNTY CENTRE BUILDING, NISKU, ALBERTA.

Order and Roll Call

The meeting was called to order at 9:01 a.m., Thursday, June 17, 2021 by Chair Mary-Ann McDonald with Board Members Rick Smith, Rod Giles and Rick Hart present.

Present as well were the following:

- Joyce Gavan, Clerk
- Lynn White, Recording Secretary
- Dave Desimone, Senior Planner - Development Services
- Donna Oliver, Ahlstrom Wright Barristers and Solicitors

Agenda Adoption

24-21 Board Member Giles -- that the agenda for the June 17, 2021 Intermunicipal Subdivision and Development Appeal Board meeting be accepted as circulated.

Carried

Adoption of previous minutes - May 28, 2021 Intermunicipal Subdivision and Development Appeal Board meeting

25-21 Board Member Smith -- that the minutes of the May 28, 2021 Intermunicipal Subdivision and Development Appeal Board meeting be confirmed as circulated.

Carried

Appeal by Donna Oliver, on behalf of Leo and Jennifer LeBlanc, relating to refusal by the Subdivision Authority of Subdivision Application SD20-031 - subdividing a 1.05 ha (2.59 ac) residential parcel from a previously subdivided quarter section with a title area of 36.82 ha (90.99 ac) on SW 16-50-23-W4 (50215 Rge Rd 234)

Chair McDonald called the hearing to order at 9:02 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 Donna Oliver, Ahlstrom Wright Barristers and Solicitors, on behalf of Leo and Jennifer LeBlanc relating to the refusal by the Subdivision Authority of Subdivision Application SD20-031 to subdivide a 1.05 ha (2.59 ac) residential parcel from a previously subdivided quarter section with a title area of 36.82 ha (90.99 ac) on SW 16-50-23-W4 (50215 Rge Rd 234).

The reasons for appeal are:

1. Policy 4.2.0.1 which provides that development is to be guided by an Area Structure Plan.
2. Policy 4.5.1.2 which provides that an Area Structure Plan will be developed to guide subdivision to promote interconnected neighbourhoods, transportation and stormwater infrastructure, drainage patterns, natural areas and wildlife habitats.

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 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 SD20-031, highlighting the following:

- On July 9, 2020, Leduc County received an application to subdivide 1.05 ha (2.59 ac) residential parcel from a quarter section with a title area of 36.82 ha (90.99 ac).
- The subject lands are located off of Township Road 502 (Airport Road) and Range Road 234. A 40 acre lot was subdivided in the northeast corner and consolidated with the adjacent lands prior to 1973. In 1974, a 3.61 ha (8.93 ac) parcel was subdivided along the creek in the southeast corner of the quarter section. A 1.59 ha (3.93 ac) parcel on the northwest side of the creek and 6.0 ha (14.82 ac) parcel south of the creek was subdivided in 2008. The 6.0 ha (14.82 ac) parcel south of the creek was subdivided into three parcels in 2012 creating a 1.2 ha (2.96 ac), 1.83 ha (4.52 ac) and 2.65 ha (6.55 ac) parcel.
- This application was referred out on June 15, 2021 for 21 days to internal and external agencies.
- Alberta Health Services responded to the referral of this proposed subdivision that for residential development consisting of 6 or more lots, a hydrogeological report should be completed to determine height of ground water table, soil suitability for the septic systems and the direction of surface and ground water flow.
- Leduc County Agriculture Services responded that this land is relatively capable agricultural land, although it is best suited for hay or pasture. The location of the proposed subdivision does fragment a portion of the agricultural land, although it does minimize it to an extent.
- Leduc County Public Works and Engineering responded that there is already five parcels out of this quarter section and there is to be an internal road when there are three or more parcels.
- Administration is of the opinion that further subdivision of this quarter section should be supported by an Area Structure Plan to further address the potential impacts stated above and ensure the subdivision is in compliance with an overall stormwater management plan and internal access that provides interconnected roadway and the protection of natural areas.
- 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): (a) Policy 4.2.0.1 which states in the Rural County, the Country Residential

area, Local Employment areas, Growth Hamlet, and Lakeshore Communities shall be guided by Area Structure Plans; (b) Policy 4.5.1.2 which states 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.

- An Area Structure Plan is currently being prepared. It is unknown at this time if it will contain this subject property.
- Because this application is for a 6th lot, there must be a potable water study as well water could be affected.

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:

- If this subdivision is approved, future applicants can propose whatever they want, e.g., cistern, mound, access roads, etc. The intent of policies is to look to the future to ascertain what capacity the soil and water can handle, etc.
- If this subdivision is approved, they will still have to apply for a development permit.
- Water regulations apply on the basis of each quarter section.
- Development in this area is currently proceeding case by case in the absence of an Area Structure Plan.

Chair McDonald called upon the appellant Donna Oliver to speak to the proposed subdivision.

Donna Oliver, Ahlstrom Wright Barristers and Solicitors, on behalf of Leo and Jennifer LeBlanc, provided the following:

- The LeBlanc's are 4th generation farmers. Their children want to be involved in the farming operation. The daughter wants to build a house close to where the parents live, on the north side of the creek.
- The southern lots along the quarter section are geographically separated from the rest of the lots, and are totally separate from what they are proposing.
- Asking Board Members to look at this application pragmatically.
- If subdivision is approved, this would make it the 6th lot. The ones that are on the other side are kind of irrelevant.
- Photos show how the lot sits on the quarter section.
- The subject land is zoned Agricultural/Country Residential Transitional District. Treasure Island subdivision is just to the north.
- In discussion with Planning and Development, it was understood there would be an Area Structure Plan completed. Have waited for this for a full year prior to submitting this application.
- This geographical boundary is surrounded by other acreages.
- This is an application for a single lot up in the corner as far away on the quarter section of land that you can get.



- Tried to meet general guidelines in application. Made the proposed lot a little bit wider in case road gets widened in the future.
- There is an existing approach which will need to be upgraded if this application is approved.
- There were no objections from stakeholders or adjacent landowners.
- Land consists of clay and is mostly treed.
- Planning and Development is unable to provide a date when the Area Structure Plan will be completed. Would like to not have to wait that long.
- Any future development will not affect stormwater.

Chair McDonald asked board members if they had any questions for Donna Oliver, and there were none.

Chair McDonald noted there was no one 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:

- An Area Structure Plan would bring the ability to subdivide.
- If the intent is to live on the land, you can have two primary and two secondary residences on the existing property without subdividing.
- Would not be able to ascertain separate title on secondary residence.
- The lack of an Area Structure Plan does not allow subdivisions, however, it will not hold up development.
- An Area Structure Plan will propose how to connect all these lands together in a comprehensive manner and provide guidance on a case by case manner.
- Access should be provided by an internal road. RR 234 is not yet determined as an arterial road.
- If there are multiple accesses on that road, there is potential for issues. Without guidance, it is unknown what the impact will be.
- The subject land is currently undeveloped; there are a couple of buildings.
- The Land Use Bylaw allows development permits for two primary dwellings and two secondary dwellings on 80 acres or larger, e.g., manufactured homes or guest suites.
- If four dwellings are proposed, applications would be required for each development.
- Applications for septic systems, water, etc. are considered on a case by case basis.

Chair McDonald asked the appellant to make final comments.

Donna Oliver provided the following final comments:



- You can't get a mortgage for a second dwelling on the same title so that is not an option in this particular situation.
- The LeBlanc's want to farm into the next generation and that's what this is all about.
- This application is for a small parcel, not multi parcels.
- You can see how, in the practical sense, this will work in that corner of the property.
- This is farmland and the family wants to continue farming it.

Chair McDonald asked appellant Donna Oliver, if she felt she received a fair hearing, and Donna Oliver responded affirmatively.

Conclusion of Public Hearing

Chair McDonald declared the hearing concluded at 9:46 a.m.

In-Camera

26-21 Board Member Giles -- that the Intermunicipal Subdivision and Development Appeal Board meet in-camera.

Carried

The in-camera session commenced at 9:47 a.m.

Revert to Intermunicipal Subdivision and Development Appeal Board Meeting

27-21 Board Member Giles -- 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 10:11 a.m.

Appeal by Donna Oliver, on behalf of Leo and Jennifer LeBlanc, relating to refusal by the Subdivision Authority of Subdivision Application SD20-031 relating to subdividing a 1.05 ha (2.59 ac) residential parcel from a previously subdivided quarter section with a title area of 36.82 ha (90.99 ac) on SW 16-50-23-W4 (50215 Rge Rd 234)

28-21 Board Member Smith -- that the Intermunicipal Subdivision and Development Appeal Board allows the appeal by Donna Oliver, on behalf of Leo and Jennifer LeBlanc and approves the Subdivision Application SD20-031 to subdivide a 1.05 ha (2.59 ac) residential parcel from a previously subdivided quarter section with a title area of 36.82 ha (90.99 ac) on SW 16-50-23-W4 (50215 Rge Rd 234).

Findings of Fact

- 1) The proposed subdivision represents the 6th parcel from this quarter section. The previous subdivisions were created along the creek consistent with the natural severance of the land.
- 2) The intent of the proposed subdivision is to continue the 4th generation family farm by building a house for one of the children to carry on the farming operations.
- 3) The applicant(s) have put off their application for more than a year in anticipation of an Area Structure Plan (ASP) being developed. The County confirmed there is no indication when



an ASP will proceed for this area; an ASP is being developed for the area to the south but would not cover the subject property.

- 4) Precedent has already been set as there is a significant amount of country residential subdivisions in the immediate area, particularly to the north, without an ASP.
- 5) The proposed subdivision would have a minimal drainage impact as development would be located on a knoll to allow drainage to flow down to the slough and the creek to the south.
- 6) The subdivision application indicated the source of potable water would be cistern and the method of household sewage treatment would be a disposal mound.
- 7) The proposed subdivision is in the corner of the quarter section with an existing approach off of Range Road 234 and would easily accommodate future road improvements.
- 8) There were no objections from neighbouring/adjacent landowners.

The Board considered the following legislation in making their decision:

Land Use Bylaw No. 7-08

The subject property is districted AG/CR TR - Agricultural/Country Residential Transitional District in accordance with the Leduc County Land Use Bylaw 7-08 which provides primarily for agricultural operations, while at the same time providing for limited residential and other uses having a secondary role to agriculture.

Municipal Development Plan

The subject lands are located within the Country Residential area in accordance with the Municipal Development Plan; the purpose of the policies to ensure the County's rural character is maintained and valuable agricultural lands are conserved. Country Residential development has historically been concentrated on lower capability soils in the northeast area of the County. To continue to provide rural living opportunities, lands districted Country Residential or designated Country Residential by this Plan will continue to accommodate this type of development.

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

- Precedence has already been set approving extensive development in the area without an ASP. Leduc County has no policy in place to freeze development in this area and development continues to occur.
- The proposed subdivision will not hinder interconnected neighbourhoods, transportation and stormwater infrastructure, drainage patterns, natural areas and wildlife habitats as referenced within the Municipal Development Plan.

Conditional approval conditions

In consideration of the above the Intermunicipal Subdivision and Development Appeal Board approves Subdivision Application SD20-031, subject to the following conditions:

- 1) 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;



- 2) Pursuant to Section 9(a) of the Subdivision and Development Regulation, access to the subdivision and balance of the quarter to be constructed to the standards of Public Works at the Owners/Developer's expense;
- 3) Pursuant to 655(1)(i) of the Municipal Government Act, the applicant/owner shall contribute \$8,741.25 for proposed lot to future surfacing of roadways within the Rural Roads Surfacing Contribution area;
- 4) Pursuant to Section 669(1) of the Municipal Government Act, existing Municipal Reserves in the amount of 5.99 ha (14.80 ac) be further deferred against the title of the larger remnant parcel;
- 5) Pursuant 662(1) of the Municipal Government Act, the applicant/owner shall dedicate, by way of caveat, a 5.0 metre right of way along the west side of both the proposed and remnant parcels adjacent to Range Road 234.
- 6) 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; and
- 7) The subdivision be registered pursuant to Alberta Land Titles requirements.

Carried

Next Meeting

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

Adjournment

29-21 Board Member Hart -- that the Intermunicipal Subdivision and Development Appeal Board meeting be adjourned.

Carried

The Intermunicipal Subdivision and Development Appeal Board meeting concluded at 10:13 a.m.


Chair


Clerk