



**LAND AND PROPERTY RIGHTS TRIBUNAL**

**Citation:** Humphreys v Mountain View County (Subdivision Authority), 2025 ABLPRT 215  
**Date:** 2025-04-30  
**File No.** S25/MOUN/CO-003  
**Decision No.** LPRT2025/MG0215  
**Municipality:** Mountain View County

**In the matter of** an appeal from a decision of the Mountain View County Subdivision Authority (SA) respecting the proposed subdivision of SE ¼ 34-30-1 W5M (subject land) under Part 17 of the *Municipal Government Act*, RSA 2000, c M-26 (*Act*).

BETWEEN:

E.J. Humphreys  
And  
J. Wesley

Appellant

- and -

Mountain View County Subdivision Authority

Respondent Authority

BEFORE: D. Roberts, Presiding Officer  
G. Dziwenka, Member  
G. Sokolan, Member  
(Panel)

K. Lau, Case Manager

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**DECISION**

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**APPEARANCES**

See Appendix A

This is an appeal to the Land and Property Rights Tribunal (LPRT or Tribunal). The hearing was held by videoconference, on March 17, 2025, after notifying interested parties.

## OVERVIEW

[1] This appeal concerns the SA's refusal of a subdivision application to create a fifth parcel in a previously subdivided quarter section in Mountain View County (County). The quarter lies within the Agricultural Preservation policy area of the Municipal Development Plan (MDP) which only allows for a first parcel out subdivision for residential development. A previous country residential subdivision had created a total of four parcels in 2006, prior to the current MDP being adopted. The SA did not support the application, since the quarter had already been subdivided and developed to its maximum extent and further subdivision would not conform to either the MDP or the Land Use Bylaw (LUB). The Appellant noted the LPRT has discretion to vary the size and density restrictions in these documents. Further, it argued the requested variance will not affect agricultural potential in this case, making approval consistent with the purpose of the LUB and MDP restrictions.

[2] The LPRT denied the appeal, finding the proposal would not be in keeping with the intent of the MDP and LUB to preserve agricultural land, and did not provide sufficient planning reasons to deviate from the intent of the County's established policies for further subdivision of Agricultural lands.

## REASON APPEAL HEARD BY LPRT

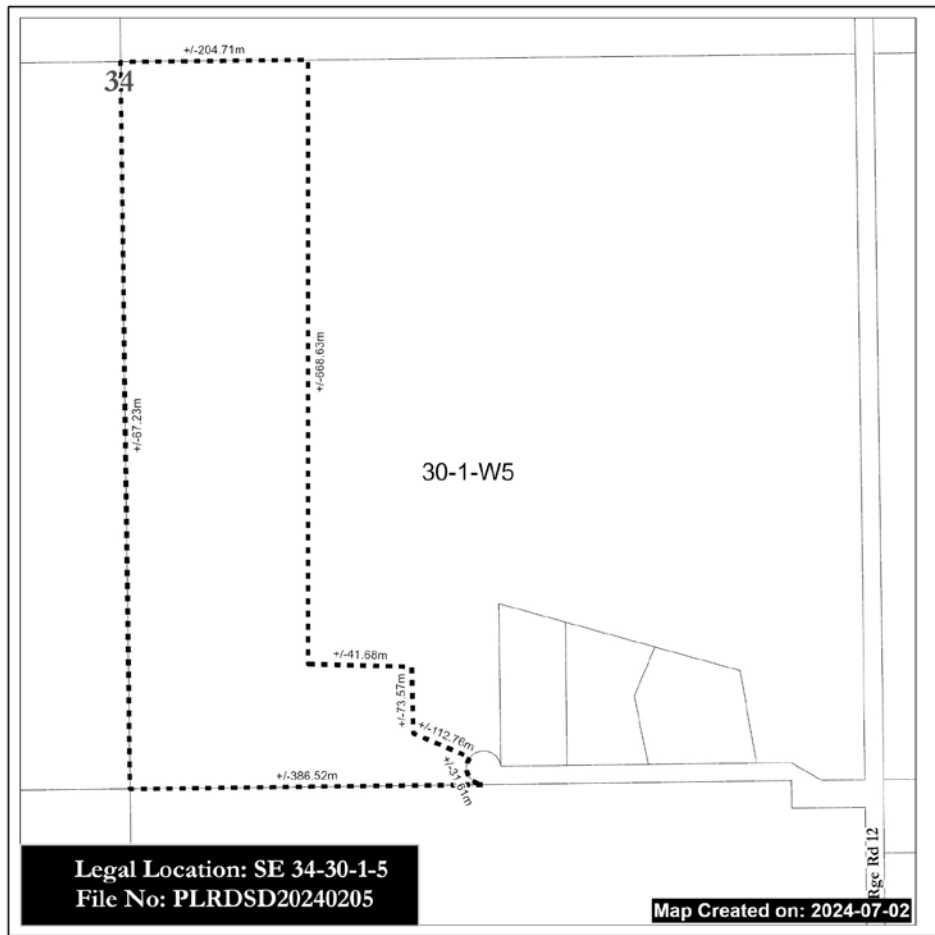
[3] Section 678(2) of the *Act* directs subdivision appeals to the LPRT instead of a subdivision and development appeal board when the subject land is in the Green Area or within prescribed distances of features of interest to Provincial authorities, including a highway, body of water, sewage treatment, waste management facility, or historical site. The distances are found in s. 26 of the *Matters Related to Subdivision and Development Regulation*, Alta Reg 84/2022 (*Regulation*). The LPRT also hears subdivision appeals when the land is the subject of a licence, permit, approval or other authorization from various Provincial authorities.

[4] In this case, the following circumstances apply to the subject land

Body of Water	Wetlands and a seasonal waterbody are on the subject lands
Licensing or Approving Authority	Subject of a licence, permit, approval or other authorization from the Alberta Energy and Utilities Board or Alberta Energy Regulator. An active sour gas pipeline is located in the northern half of the quarter section.

## PROPOSAL

[5] To subdivide a 44.00 acre parcel to be used for agricultural purposes from the SE 34-30-1 W5M, a previously subdivided quarter section, leaving a remainder of approximately 104.66 acres.



## BACKGROUND

[6] The land to be subdivided is a previously subdivided quarter section in Mountain View County, within the rural community of Wessex, approximately 3.5 miles northeast of the Town of Carstairs. In 2006, a three parcel country residential subdivision was approved along the southern boundary of the quarter, leaving an approximate 148.66 acre remainder.

[7] This remainder parcel contains a wide valley that previously housed the Rosebud River, which now flows through adjacent quarter sections to the north and east. At the bottom of the slope on the western side of the valley, there is a seasonal waterbody and wetlands.

[8] The southwestern portion of the quarter contains the Appellant's residence and the previous country residential subdivision. This area is relatively flat but leads to the valley bank. A slope stability analysis, conducted to support the previous country residential subdivision indicated the slope varies from 14% to 40% but is relatively stable. However, relative to the lots proposed by that subdivision, the report recommended no grading resulting in a slope greater than 33% be undertaken and no building should be located closer than 10 meters to the top of bank delineated in the report.

[9] Surrounding lands are similarly designated Agricultural (A) district in the County's LUB with some small agricultural parcels and one residential parcel. The subject quarter is the most intensely

developed, given the Appellant's residence and those residences found within the country residential subdivision. The proposed remnant parcel is intended to be serviced via a water well and septic field.

[10] The SA refused the subdivision for the following reasons:

1. Not [compliant] with the Municipal Government Act (MGA): Section 654 (1) (b) and (c) as the proposal is contrary to the policies of the Municipal Development Plan Bylaw No. 20/20 and the provisions of the Land Use Bylaw No. 10/24.
2. Not [compliant] with the Matters Related to Subdivision and Development Regulation: Section 9(d) as the applicant has indicated that the intent is to have a residential building site in the trees down in the coulee at the east side of the property, which area may not be conducive for development as it would adversely affect slope stability as per comments and recommendations made in the 2005 Slope Stability Investigation.
3. Not [compliant] with Statutory Plans: Municipal Development Plan (MDP) Bylaw No. 20/20. The application required resignation approval by Council to Agricultural (2) District:
  - a. The proposal with the intent to create a fifth parcel exceeds the maximum parcel density allowed in the Agricultural Preservation Area, which policies support only first parcel out.
  - b. On December 11, 2024, County Council refused the redesignation application with Bylaw No. LU 24/24, as such the proposal is not compliant with the redesignation requirements.
4. Not [compliant] with the Land Use Bylaw (LUB) No. 10/24:
  - a. Section 11.1 as the proposal of 44.00 acres in size with an Agricultural District (A) zoning does not meet the required minimum parcel size of 80.0 acres.
  - b. Subdivisions with the intent to create a fifth parcel, in cases where there are four dwellings in a quarter section, is not permitted as per Section 9.8.6.
  - c. A Fifth Dwelling per quarter section is prohibited in areas outside of a Growth Centre and Rural Community Centres, as per Section 9.8.1 & 9.8.6.

[11] The Appellant appealed the decision, offering alternate interpretations of relevant policy provisions and submitted the application merits a variance to the maximum parcel density, the minimum parcel size, and the maximum number of permitted dwelling units in a quarter section such as the subject.

## ISSUES

[12] The LPRT must consider requirements under the *Act*, *Regulation*, the Provincial Land Use Policies (LUP), the Land Use Bylaw (LUB), and any statutory plans. (see ss. 680(2), and 618.4(1) of the *Act*). Against this general regulatory backdrop, the parties focused on the following particular issues:

1. Should the LPRT exercise its discretion to approve the proposed subdivision even though it exceeds the parcel and dwelling density requirements in the MDP (Policy 3)?
2. If yes, is there a suitable building site to allow the development of the intended residence?

## SUMMARY OF THE SA'S POSITION

[13] The SA argued the proposed subdivision is contrary to policies in both the MDP and LUB; the approval would result in a total of five titles within the subject quarter section, providing for a total of five dwelling units.

[14] According to Figure 3 – Growth Management Conceptual Strategy of the MDP the subject quarter section lies within the Agricultural Preservation Area; a policy area which intends to “only allow first parcel out residential development to ensure productive agricultural land in the County is preserved for agricultural purposes.” Without strong justification and supporting evidence, only two titles per quarter section should be allowed. Proposed subdivisions within this policy area that exceed this density, or within the Potential Multi-Lot Residential policy area (which allows up to four titles per quarter section) require concurrent redesignation to an appropriate land use district. Redesignation of the proposed 44.00 acre parcel to Agricultural (2) District was considered and refused by Council under Bylaw No. LU 24/24 on December 11, 2024.

[15] As a result, the proposed subdivision was evaluated under the Agricultural Preservation policy area provisions of the MDP and provisions of the Agricultural (A) District in the LUB, which requires a minimum parcel size of 80 acres. Further, s. 9.8.1 of the LUB stipulates a maximum of four dwelling units per quarter section on lands outside of either a Growth Centre or a Rural Community Centre policy area and s. 9.8.5 prohibits new subdivision and issuance of development permits for additional dwellings on a quarter section where four dwelling units already exist.

[16] The SA evaluated the technical merits of the creation of the proposed 44 acre parcel, relying on the findings of a Slope Stability Investigation by Sabatini Earth Technologies Inc. which was prepared in 2005 to support the subdivision of the three country residential parcels from the quarter section. From this evaluation, the SA concluded the eastern area of the quarter, where a proposed building site is identified by the Appellant, “has significant slope that may not be conducive for development as it would adversely affect slope stability as per the comments and recommendations made in the 2005 report”.

[17] The SA concluded the subject property and vicinity are in the Agricultural Preservation Area as shown on Figure 3 – Growth Management Conceptual Strategy in the MDP, indicating this categorization is based on soil classifications (Canada Land Inventory Class (CLI) 1, 2, and 3 soils and AGRASAIID's Land Suitability Rating System (LSRS) Class 2 & 3 as the 1<sup>st</sup> Dominant or Co-Dominant) in combination with the existence of environmentally significant areas.

[18] Noting the Appellant had referred to the MDP Monitoring Report 2023 (Monitoring Report) in its “Attachment to Humphreys Redesignation and Subdivision Application”, the SA clarified the Monitoring Report is not a statutory plan as defined in the *Act* and, therefore, was not used in the evaluation of this subdivision application. The SA clarified that, as this proposed subdivision lies outside of an approved area structure plan, the MDP is the only document that can guide landowners, Administration, Council and the SA when reviewing and making decisions on development, redesignation and subdivision applications.

[19] In accordance with County Policy 6004 (Subdivision Standard Conditions), the SA provided the suggested conditions of approval, should the LPRT determine it appropriate to approve the subdivision (see Exhibit 2R page 34).

**SUMMARY OF ADJACENT LANDOWNERS' POSITIONS**

[20] The application was circulated to 17 Adjacent Landowners; five letters in opposition and two letters in support were received.

**Letters in Support**

[21] One letter of support was received from a landowner just outside of the circulation area; the other from the landowner of the quarter immediately south of the subject quarter. The latter characterized the subject quarter as being unsuitable for farming, indicating an additional residence here would, accordingly, have less impact on farm operations than having an acreage on every quarter and would provide for another rural residence.

**Letters in Opposition**

[22] Letters in opposition were received from the three landowners residing in the country residential lots within the subject quarter; another was from the landowner of a residential parcel in the quarter immediately southeast of the subject quarter; and the last letter was from the owners of the quarter immediately to the west of the subject. All letters cited the proposal's non-compliance with the County's maximum parcel and dwelling unit density policies, and the residential parcel owners indicated they had purchased their properties with the understanding that no further subdivision or development was allowed under the County's policies.

[23] All letters in opposition indicated concerns with capacity of the existing aquifer to supply an additional residence; their wells are deep, but only supply, on average, 2 gallons/minute or less, requiring the storage of that supply within a cistern to meet household needs.

[24] Increased traffic and accompanying dust and noise were also of concern, as the Adjacent Landowners' current quality of life largely results from living on a small, dead-end cul-de-sac.

**SUMMARY OF APPELLANT'S POSITION**

[25] The Appellant indicated the purpose of the subdivision is to create a parcel within the quarter section that can be sold to resolve business debts accumulated due to COVID.

[26] Given Council's refusal to redesignate the 44 acre parcel to A(2), the Appellant agrees the subdivision exceeds the maximum number of parcels and dwelling units allowed in the subject quarter section, and the minimum parcel size, as identified in the Agricultural (A) district. However, the LPRT has the ability to approve a subdivision even though these parameters are not met, and the Appellant expressed flexibility to find a parcel configuration that would minimize any variances and allow the subdivision to be approved. The Appellant provided two alternate configurations for the subdivision, one displaying a 60 acre and an 88 acre parcel rather than the 44 and 104 acre parcels in the original application; the other showing a 68 acre and an 80 acre parcel. Either of these would reduce the required variance to meet the minimum 80 acre parcel size in the A district of the LUB.

[27] The Appellant argued the subject quarter is not productive agricultural land and should not be characterized as belonging to the Agricultural Preservation policy area. The Appellant submitted the Land Suitability Rating System (LSRS) rates soils on the subject quarter as 5T(8)-5W(2)-severe limitations, 4T(6)-5W(4)-severe limitations and 3H(10)-moderate limitations, with only a small SW portion on the quarter being the latter, rather than the Canada Land Inventory Class (CLI) 1, 2, and 3 soils and AGRASID's LSRS Class 2 & 3 as the 1st Dominant or Co-Dominant noted on Figure 3 – Growth

Management Conceptual Strategy in the MDP. This, in combination with the low environmental sensitivity rating (ESA 4 – Low Sensitivity), as shown on the “Riparian and Ecological Enhancement Map” in the Monitoring Report, leads to a conclusion that the property should not be considered part of the Agricultural Preservation Area.

[28] The Appellant referred to a more detailed map entitled “MDP Subdivision Potential Map (On Dec 31, 2022)” in the Monitoring Report which indicates the subject quarter, and those adjacent quarters that follow the contour of this or other coulees in the area, are actually considered as being within the “Potential Multi-Lot Residential Area” with subdivision potential of up to four parcels per quarter. That would mean the variance required to approve the subdivision would only be from four lots to five, rather than from two lots to five.

[29] To address the concerns of neighbouring property owners regarding the capacity of the aquifer to sustain an additional well, the Appellant commissioned a Phase I Groundwater Supply Assessment by Arletta Water Resources (Exhibit 6A) which indicated:

... based on the available pumping test data, the diversion of 1,250 m<sup>3</sup>/year of water for household purposes under Section 21 of the Water Act for each of the households within the subdivision will not interfere with any household users, licensees or traditional agricultural users who exist when the subdivision is approved (page 4).

[30] In summary, all of the proposed configurations represent a logical division of the parcel to isolate the existing house and approach and the well lease area on one parcel. None of these configurations will remove land from agricultural production or reduce the land’s current agricultural potential; rather, they will provide for exactly the same productivity, which could then be realized by two landowners – allowing cattle to be grazed through poplar tree lined fields in the coulee bottom and also up and down either side of the coulee. At the same time, approval of the proposal would provide for an additional housing unit, which is consistent with MDP goals of making rural residential development economically sustainable for the County and to allow for affordable housing options.

[31] The Appellant believes the application conforms to existing policy sufficiently to support the LPRT’s use of its discretion to approve the subdivision.

## **FINDINGS**

1. Approval of the proposed subdivision would be contrary to MDP and LUB policy direction regarding further subdivision of Agricultural land without sufficient planning reasons for the LPRT to use its discretion to approve the subdivision.

## **DECISION**

[32] The appeal is denied, and the subdivision is refused.

## **REASONS**

### **Issue 1 – Parcel Size and Dwelling Density**

[33] Section 617 of the *Act* provides for the adoption of plans to achieve the orderly, economical and beneficial development of land and patterns of human development. In preparing and adopting its MDP, the County has underlined the importance of the preservation of agriculture to the County’s future. The vast majority of the County has been identified as belonging to the Agricultural Preservation policy area,

whose purpose is to ensure productive agricultural land is preserved for agricultural purposes. This area directs that subdivisions other than first parcel out applications are strongly discouraged, and consideration requires significant justification and supporting documentation. Even the Potential Multi-Lot Residential Development Area restricts development to two or three additional lots with the remainder of the balance of the quarter as the fourth titled lot. Policy 3.3.1 of the Agricultural Land Use Policies reinforces this intent by deeming all lands in the County to be agricultural use unless designated for other uses.

[34] The MDP's Growth Management Conceptual Strategy has been developed to identify where growth and land uses other than agricultural uses are appropriate within the County. It divides lands in the County, which lie outside of Intermunicipal Plan areas, amongst four policy areas

- Growth Centres
- Economic Nodes, including a Special Policy Areas around the Economic node at the intersection of Highways 2 and 27;
- Agricultural Preservation Area and
- Potential Multi-Lot Residential Development Area.

[35] The subject quarter does not lie within the first two areas - Growth Centres or Economic Nodes. Three Growth Centres have been defined within the County and area structure plans have been prepared to support their further development. The subject quarter section is not proximate to any of these three centers. Economic Nodes serve to identify opportunities for economic development along either the Highway 2 or Highway 27 corridors. The subject quarter section does not lie in proximity to either of these highways.

[36] The two remaining areas are the Agricultural Preservation or the Potential Multi-Lot Residential Development policy areas. Figure 3 – Growth Management Conceptual Strategy of the MDP - indicates that the policy area boundaries shown on the map are not exact and must be confirmed or corrected from municipal assessment maps and field investigations and that the Growth Management Conceptual Strategy is identified as a starting point for which development applications will be reviewed and measured. The Appellant argued its lands do not meet the criteria to be considered as Agricultural Preservation lands, referring in support to more detailed maps in the Monitoring Report. The LPRT gave little weight to the Monitoring Report, which is neither contained within nor referenced in a statutory plan. Rather, this Report was prepared as a tool to assist Council in determining the effectiveness of key MDP policies. It would also, in principle, have been available to Council when it refused redesignation – though it is not clear whether it was in fact put before Council at that time.

[37] In any case, assuming the subject quarter is considered part of the Potential Multi-lot Residential Development Policy Area, it has already been subdivided to its maximum allowable extent and developed with the maximum number of dwelling units. Given the MDP deems all lands in the County to be agricultural use unless identified for other uses, the LPRT is not persuaded by arguments that distinguish between the agricultural value of cultivated land and land used for alternate agricultural uses, such as grazing. The development of an additional residence on the remnant parcel will still remove land from the existing agricultural use of the subject parcel and is contrary to the underlying intent of the MDP.

[38] Section 680(2)(a.1) of the *Act* instructs the LPRT, when coming to its decision, to have regard to any statutory plans - in this case, the County's MDP. While not binding on the LPRT, the MDP represents Council's direction concerning further subdivision of identified Agricultural lands; as such, the LPRT considers decisions that deviate from its provisions should be consistent with its underlying intent and supported by sound land use planning reasons. Further evidence of Council's direction is its refusal to redesignate the land to facilitate the subdivision. From the evidence presented, the LPRT did not find



sufficient planning reason to deviate from this policy direction, which is a sufficient reason for the LPRT to refuse the subdivision.

## **Issue 2 – Suitable Site**

[39] The LPRT notes it is unnecessary to evaluate the suitability of any identified building site because the appeal is denied owing to its failure to meet parcel size and density requirements. The LPRT also notes the technical analysis undertaken by the SA relates largely to the 44 acre parcel, rather than equally considering the remaining proposed 104 acre parcel. The analysis relies heavily on a 2005 Slope Stability Investigation by Sabatini Earth Technologies Inc. which specifically states the geotechnical investigation was concerned solely with the stability of the slope adjacent to the then proposed three lot country residential subdivision. The report did not address the geotechnical properties of the remainder of the quarter section, particularly any portion of the lands on the east side of the coulee. Had the LPRT not considered failure to meet MDP parcel size and density requirements as preventing approval, further information to determine the suitability of the proposed building sites would have been required.

Dated at the City of Edmonton in the Province of Alberta this 30th day of April, 2025.

**LAND AND PROPERTY RIGHTS TRIBUNAL**

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(SGD) G. Sokolan, Member

## **APPENDIX A**

PARTIES WHO ATTENDED, MADE SUBMISSIONS OR GAVE EVIDENCE AT THE HEARING:

<b>NAME</b>	<b>CAPACITY</b>
J. Woodruff	Counsel for the Appellant
E. Humphreys	Appellant
J. & S. Wesley	Appellants
M. Bloem	Mountain View County
D. Gonzales	Mountain View County
J. Ross	Mountain View County
K. Bohlmann	Observer
R. Powlousky	Observer
C. Yukes	Observer

## **APPENDIX B**

DOCUMENTS RECEIVED AT OR PRIOR TO THE HEARING:

<b>NO.</b>	<b>ITEM</b>	
1A	Notice of Appeal	18 pages
2R	Information Package	129 pages
3R	SA Appeal Report to LPRT	6 pages
4R	Att 01 Presentation to LPRT	20 pages
5AL	Subdivision Letter	1 page
6A	Elisa Humphreys Phase 1 Groundwater Report	26 pages
7A	CLI Soil Ratings SE 34	1 page
8A	Adjacent Farmer in favour of subdivision	1 page
9A	Parcel size variance map	1 page
10A	2008 Summit report	75 pages
11A	Multi-lot residential map	2 pages
12R	Bylaw No 2020 MDP	76 pages
13R	Bylaw No 10224 Land Use Bylaw	262 pages
14A	68 80 acre configuration	1 page

## APPENDIX C

### LEGISLATION

The *Act* and associated regulations contain criteria that apply to appeals of subdivision decisions. While the following list may not be exhaustive, some key provisions are reproduced below.

#### *Municipal Government Act*

##### Purpose of this Part

Section 617 is the main guideline from which all other provincial and municipal planning documents are derived. Therefore, in reviewing subdivision appeals, each and every plan must comply with the philosophy expressed in 617.

617 The purpose of this Part and the regulations and bylaws under this Part is to provide means whereby plans and related matters may be prepared and adopted

- (a) to achieve the orderly, economical and beneficial development, use of land and patterns of human settlement, and
  - (b) to maintain and improve the quality of the physical environment within which patterns of human settlement are situated in Alberta,
- without infringing on the rights of individuals for any public interest except to the extent that is necessary for the overall greater public interest.

Section 618.3 and 618.4 direct that all decisions of the LPRT must be consistent with the applicable regional plan adopted under the *Alberta Land Stewardship Act* or the Land Use Policies (LUP).

##### ALSA regional plans

618.3(1) Anything done by any of the following under a provision in this Part or a regulation under this Part must be done in accordance with any applicable ALSA regional plan:

- (a) a municipality;
  - (b) a council;
  - (c) a municipal planning commission;
  - (d) a subdivision authority;
  - (e) a development authority;
  - (f) a subdivision and development appeal board;
  - (g) the Land and Property Rights Tribunal;
  - (h) an entity to which authority is delegated under section 625(4).
- (2) If there is a conflict or an inconsistency between anything that is done under a provision of this Part or a regulation under this Part and an applicable ALSA regional plan, the ALSA regional plan prevails to the extent of the conflict or the inconsistency.

##### Land use policies

618.4(1) Every statutory plan, land use bylaw and action undertaken pursuant to this Part by a municipality, municipal planning commission, subdivision authority, development authority or subdivision and development appeal board or the Land and Property Rights Tribunal must be consistent with the land use policies established under subsection (2).

(2) The Lieutenant Governor in Council, on the recommendation of the Minister, may by regulation establish land use policies.

#### Approval of application

Upon appeal, the LPRT takes on the role of the subdivision authority. Pertinent provisions relative to decisions of the subdivision authority include section 654(1) and (2) of the *Act*. The SA (and by extension the LPRT) cannot approve a subdivision unless convinced that the site is suitable for the intended use, as per section 654(1)(a) of the *Act*.

654(1) A subdivision authority must not approve an application for subdivision approval unless

- (a) the land that is proposed to be subdivided is, in the opinion of the subdivision authority, suitable for the purpose for which the subdivision is intended,
- (b) the proposed subdivision conforms to the provisions of any growth plan under Part 17.1, any statutory plan and, subject to subsection (2), any land use bylaw that affects the land proposed to be subdivided,
- (c) the proposed subdivision complies with this Part and Part 17.1 and the regulations under those Parts, and
- (d) all outstanding property taxes on the land proposed to be subdivided have been paid to the municipality where the land is located or arrangements satisfactory to the municipality have been made for their payment pursuant to Part 10.

(1.1) Repealed 2018 c11 s13.

(1.2) If the subdivision authority is of the opinion that there may be a conflict or inconsistency between statutory plans, section 638 applies in respect of the conflict or inconsistency.

(2) A subdivision authority may approve an application for subdivision approval even though the proposed subdivision does not comply with the land use bylaw if, in its opinion,

- (a) the proposed subdivision would not
  - (i) unduly interfere with the amenities of the neighbourhood, or
  - (ii) materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land,and
- (b) the proposed subdivision conforms with the use prescribed for that land in the land use bylaw.

(3) A subdivision authority may approve or refuse an application for subdivision approval.

#### Conditions of subdivision approval

Section 655(1) of the *Act* details the conditions of subdivision approval that may be imposed by the subdivision authority.

655(1) A subdivision authority may impose the following conditions or any other conditions permitted to be imposed by the subdivision and development regulations on a subdivision approval issued by it:

- (a) any conditions to ensure that this Part, including section 618.3(1), and the statutory plans and land use bylaws and the regulations under this Part affecting

the land proposed to be subdivided are complied with;

(b) a condition that the applicant enter into an agreement with the municipality to do any or all of the following:

- (i) to construct or pay for the construction of a road required to give access to the subdivision;
- (ii) to construct or pay for the construction of
  - (A) a pedestrian walkway system to serve the subdivision, or
  - (B) pedestrian walkways to connect the pedestrian walkway system serving the subdivision with a pedestrian walkway system that serves or is proposed to serve an adjacent subdivision,or both;
- (iii) to install or pay for the installation of a public utility described in section 616(v)(i) to (ix) that is necessary to serve the subdivision, whether or not the public utility is, or will be, located on the land that is the subject of the subdivision approval;
- (iv) to construct or pay for the construction of
  - (A) off-street or other parking facilities, and
  - (B) loading and unloading facilities;
- (v) to pay an off-site levy or redevelopment levy imposed by bylaw;
- (vi) to give security to ensure that the terms of the agreement under this section are carried out.

#### Subdivision registration

Section 657 of the *Act* guides the registration of subdivision plans.

657(1) An applicant for subdivision approval must submit to the subdivision authority the plan of subdivision or other instrument that effects the subdivision within one year from the latest of the following dates:

- (a) the date on which the subdivision approval is given to the application;
- (b) if there is an appeal to the subdivision and development appeal board or the Land and Property Rights Tribunal, the date of the decision of the appeal board or the Tribunal, as the case may be, or the date on which the appeal is discontinued;
- (c) if there is an appeal to the Court of Appeal under section 688, the date on which the judgment of the Court is entered or the date on which the appeal is discontinued.

...

#### Appeals

Section 678 of the *Act* sets out the requirements for appeal of a decision by the subdivision authority.

678(1) The decision of a subdivision authority on an application for subdivision approval may be appealed

- (a) by the applicant for the approval,
- (b) by a Government department if the application is required by the subdivision and development regulations to be referred to that department,
- (c) by the council of the municipality in which the land to be subdivided is located if the council, a designated officer of the municipality or the municipal planning commission of the municipality is not the subdivision authority, or

- (d) by a school board with respect to
  - (i) the allocation of municipal reserve and school reserve or money in place of the reserve,
  - (ii) the location of school reserve allocated to it, or
  - (iii) the amount of school reserve or money in place of the reserve.
- (2) An appeal under subsection (1) may be commenced by filing a notice of appeal within 14 days after receipt of the written decision of the subdivision authority or deemed refusal by the subdivision authority in accordance with section 681
  - (a) with the Land and Property Rights Tribunal
    - (i) unless otherwise provided in the regulations under section 694(1)(h.2)(i), where the land that is subject of the application
      - (A) is within the Green Area as classified by the Minister responsible for the Public Lands Act,
      - (B) contains, is adjacent to or is within the prescribed distance of a highway, a body of water, a sewage treatment or waste management facility or a historical site,
      - (C) is the subject of a licence, permit, approval or other authorization granted by the Natural Resources Conservation Board, Energy Resources Conservation Board, Alberta Energy Regulator, Alberta Energy and Utilities Board or Alberta Utilities Commission,
      - or
      - (D) is the subject of a licence, permit, approval or other authorization granted by the Minister of Environment and Parks,
      - or
    - (ii) in any other circumstances described in the regulations under section 694(1)(h.2)(ii),
  - or
  - (b) in all other cases, with the subdivision and development appeal board.
- (2.1) Despite subsection (2)(a), if the land that is the subject-matter of the appeal would have been in an area described in subsection (2)(a) except that the affected Government department agreed, in writing, to vary the distance under the subdivision and development regulations, the notice of appeal must be filed with the subdivision and development appeal board.

...

#### Hearing and decision

Section 680(2) of the *Act* requires that LPRT decisions conform to the uses of land referred to in the relevant land use district of the LUB. It does not require that the LPRT abide by other provisions of the LUB, the MDP or the *Subdivision and Development Regulation*, although regard must be given to them.

- 680(2) In determining an appeal, the board hearing the appeal
  - (a) repealed 2020 c39 s10(48);
  - (a.1) must have regard to any statutory plan;
  - (b) must conform with the uses of land referred to in a land use bylaw;
  - (c) must be consistent with the land use policies;
  - (d) must have regard to but is not bound by the subdivision and development regulations;
  - (e) may confirm, revoke or vary the approval or decision or any condition imposed by the subdivision authority or make or substitute an approval, decision or condition of its own;

(f) may, in addition to the other powers it has, exercise the same power as a subdivision authority is permitted to exercise pursuant to this Part or the regulations or bylaws under this Part.

(2.1) In the case of an appeal of the deemed refusal of an application under section 653.1(8), the board must determine whether the documents and information that the applicant provided met the requirements of section 653.1(2).

(2.2) Subsection (1)(b) does not apply to an appeal of the deemed refusal of an application under section 653.1(8).

...

#### Endorsement of subdivision plan

Section 682 guides endorsement of subdivision plans after an appeal board makes a decision.

682(1) When on an appeal the Land and Property Rights Tribunal or the subdivision and development appeal board approves an application for subdivision approval, the applicant must submit the plan of subdivision or other instrument to the subdivision authority from whom the appeal was made for endorsement by it.

(2) If a subdivision authority fails or refuses to endorse a plan of subdivision or other instrument submitted to it pursuant to subsection (1), the member of the subdivision and development appeal board or Land and Property Rights Tribunal, as the case may be, that heard the appeal who is authorized to endorse the instrument may do so.

### **Matters Related to Subdivision and Development Regulation - Alberta Regulation 84/2022**

#### Application referrals

Section 7 of the *Regulation* deals with application referrals.

7

...

(6) On an application for subdivision being determined or deemed under section 653.1 of the *Act* to be complete, the subdivision authority must send a copy to

....

(e) the Deputy Minister of the Minister responsible for administration of the *Public Lands Act* if the proposed parcel

(i) is adjacent to the bed and shore of a body of water, or

(ii) contains, either wholly or partially, the bed and shore of a body of water;

#### Relevant considerations

While the LPRT is not bound by the *Subdivision and Development Regulation*, it is the LPRT's practice to evaluate the suitability of a proposed site for the purpose intended using the criteria in section 9 as a guide.

9 In making a decision as to whether to approve an application for subdivision, the subdivision authority must consider, with respect to the land that is the subject of the application,

(a) its topography,

(b) its soil characteristics,

(c) storm water collection and disposal,

(d) any potential for the flooding, subsidence or erosion of the land,

- (e) its accessibility to a road,
- (f) the availability and adequacy of a water supply, sewage disposal system and solid waste disposal,
- (g) in the case of land not serviced by a licensed water distribution and wastewater collection system, whether the proposed subdivision boundaries, lot sizes and building sites comply with the requirements of the *Private Sewage Disposal Systems Regulation* (AR 229/97) in respect of lot size and distances between property lines, buildings, water sources and private sewage disposal systems as identified in section 4(4)(b) and (c),
- (h) the use of land in the vicinity of the land that is the subject of the application, and
- (i) any other matters that it considers necessary to determine whether the land that is the subject of the application is suitable for the purpose for which the subdivision is intended.

...

#### Road access

Section 11 deals with road access requirements.

- 11. Every proposed subdivision must provide to each lot to be created by it
  - (a) direct access to a road, or
  - (b) lawful means of access satisfactory to the subdivision authority.

...

#### Distance from highway

- 18. Subject to section 20, a subdivision authority shall not in a municipality other than a city approve an application for subdivision if the land that is the subject of the application is within 1.6 kilometers of the centre line of a highway right of way unless
  - (a) the land is to be used for agricultural purposes on parcels that are 16 hectares or greater,
  - (b) a single parcel of land is to be created from an unsubdivided quarter section to accommodate an existing residence and related improvements if that use complies with the land use bylaw,
  - (c) an undeveloped single residential parcel is to be created from an unsubdivided quarter section and is located at least 300 meters from the right of way of a highway if that use complies with the land use bylaw,
  - (d) the land is contained within an area where the municipality and the Minister of Transportation have a highway vicinity management agreement and the proposed use of the land is permitted under that agreement, or
  - (e) the land is contained within an area structure plan satisfactory to the Minister of Transportation at the time of the application for subdivision and the proposed use of the land is permitted under that plan.

## **ALBERTA LAND USE POLICIES**

Land Use Policies were established by Lieutenant Governor in Council pursuant to section 618.4 of the *Act*.

### 2.0 The Planning Process

#### Goal

Planning activities are to be carried out in a fair, open, considerate, and equitable manner.



## Policies

1. Municipalities are expected to take steps to inform both interested and potentially affected parties of municipal planning activities and to provide appropriate opportunities and sufficient information to allow meaningful participation in the planning process by residents, landowners, community groups, interest groups, municipal service providers, and other stakeholders.
2. Municipalities are expected to ensure that each proposed plan amendment, reclassification, development application, and subdivision application is processed in a thorough, timely, and diligent manner.
3. When considering a planning application, municipalities are expected to have regard to both site specific and immediate implications and to long term and cumulative benefits and impacts.

...

## 6.0 Resource Conservation

### 6.1 Agriculture

#### Goal

To contribute to the maintenance and diversification of Alberta's agricultural industry.

## Policies

1. Municipalities are encouraged to identify, in consultation with Alberta Agriculture, Food and Rural Development, areas where agricultural activities, including extensive and intensive agricultural and associated activities, should be a primary land use.
2. Municipalities are encouraged to limit the fragmentation of agricultural lands and their premature conversion to other uses, especially within the agricultural areas identified in accordance with policy #1.
3. Where possible, municipalities are encouraged to direct non-agricultural development to areas where such development will not constrain agricultural activities.

...

## 7.0 Transportation

#### Goal

To contribute to a safe, efficient, and cost effective provincial transportation network.

#### Policies

1. Municipalities are encouraged to identify, in consultation with Alberta Transportation and Utilities, the location, nature and purpose of key transportation corridors and facilities.
2. Municipalities are encouraged to minimize negative interactions between the transportation corridors and facilities identified in accordance with policy #1 and the surrounding areas and land uses through the establishment of compatible land use patterns.
3. If a subdivision and development is to be approved in the vicinity of the areas identified in accordance with policy #1, municipalities are encouraged to employ appropriate setback distances and other mitigative measures relating to noise, air pollution, and safety, to limit access, and to enter into highway vicinity agreements with Alberta Transportation and Utilities.

## MUNICIPAL BYLAWS AND STATUTORY PLANS

### Municipal Development Plan

#### 2.0 GROWTH MANAGEMENT CONCEPTUAL STRATEGY

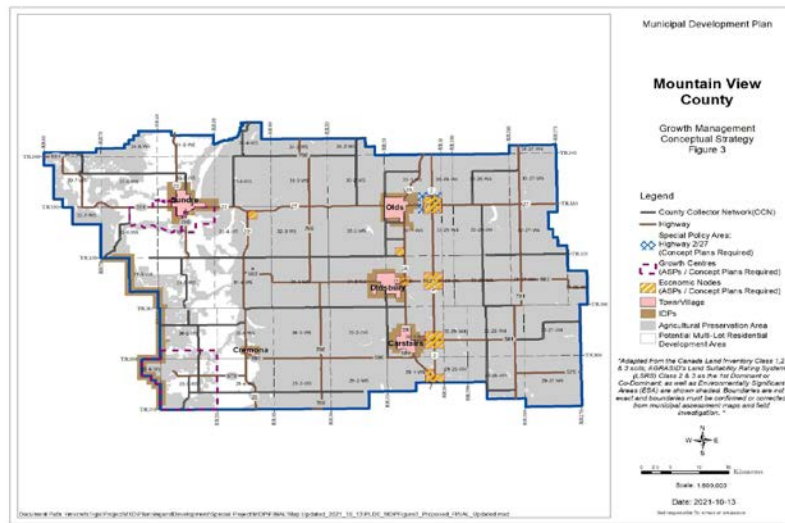
As Mountain View County grows, preserving the agricultural qualities and maintaining the rural lifestyle for residents is paramount. Based on public input through statistically valid surveys, administration's input and direction from Council, a growth management strategy has been developed in the form of a conceptual map. Figure 3 - The Growth Management Concept Strategy is a map of Mountain View County adapted from the Canada Land Inventory Class 1, 2 and 3 soils and Agricultural Regions of Alberta Soil Inventory Database (AGRASID) Land Suitability Rating System (LSRS) Class 2 and 3 soils as the 1st Dominant, or Co Dominant, in combination with Environmentally Significant Areas (ESA) mapping. It is conceptual in nature and is to be used as a baseline to determine where certain types of development should and should not occur within the County. Development applications that may conform to the proposed type of development outlined for a particular area does not necessarily guarantee an approval. Conversely, development applications in areas of the County that do not conform to what is illustrated in the conceptual map does not necessarily mean refusal. Generally, development applications are subject to administration, Council, and public consultation on a case by case, site-specific basis. The Growth Management Conceptual Strategy is a starting point for which development applications will be reviewed and measured.

#### Agricultural Preservation Area

Agriculture continues to be the most important lifestyle and economic activity in Mountain View County. Agriculture is an industry that is becoming much broader and complex than the traditional family operated farm as seen in the past. New farm technologies and farming practices, coupled with the need to achieve economies of scale, have resulted in larger sized farms and intensive forms such as Confined Feeding Operations (CFO's). The intent for the Agricultural Preservation Area is to only allow for first parcel out residential development to ensure productive agricultural land in the County is preserved for agricultural purposes. The majority of this area will be subject to the applicable Agricultural Land Use Policies outlined in Section 3.0 of the MDP, as well as site specific analysis. Subdivision and development applications that deviate from this general policy approach within the Agricultural Preservation Area are strongly discouraged and shall require significant justification and supporting evidence.

#### Potential Multi-Lot Residential Development Area

The illustrated Potential Multi-Lot Residential Development, subject to consultation with local residents and Council and subject to the maximum number of dwelling units that are allowable in a quarter section, may be suitable for multiple lot residential development (two (2) to three (3) lots) with the remainder of the balance of the quarter section as the fourth (4th) titled lot.



### 3.0 AGRICULTURAL LAND USE POLICIES

Approximately one-third of the County’s population derives its livelihood from agriculture; some families have been farming and ranching in the County for generations. The conservation of farmland and ranchland is very important to the history and character of the County. As a starting point, the County has used the Canada Land Inventory Class 1, 2, and 3 soils and Agricultural Regions of Alberta Soil Inventory Database (AGRASID) Land Suitability Rating System (LSRS) Class 2 and 3 soils as the 1st Dominant, or Co Dominant, in conjunction with Environmentally Significant Areas (ESA) mapping (illustrated in Figure 3 – Growth Management Conceptual Strategy) as a baseline assessment to generally identify “productive” farmland that is worth preserving. Future development of agricultural lands shall only occur if it meets the guidelines and criteria set out in the MDP and any other applicable plan. Where “first parcel out” subdivision applications concern viable agricultural land in the County, the County’s Agricultural Services Department shall be circulated for review and comment.

#### 3.1 GOALS

- 3.1.1 To conserve agricultural land and preserve the agricultural nature of the County.
- 3.1.2 To encourage all agricultural operations to employ beneficial management practices.
- 3.1.3 To ensure that agriculture remains an integral and viable component of the County’s economy.
- 3.1.4 To encourage innovative, sustainable, and diversified agricultural activities.

#### 3.2 OBJECTIVES

- 3.2.1 To conserve agricultural land by encouraging the development of long-term preservation strategies for the County’s agricultural/environmental land base.
- 3.2.2 To minimize the loss of agricultural land by limiting the amount of land removed from agricultural use.

#### 3.3 POLICIES

- 3.3.1 All lands in the County are deemed to be agricultural use unless otherwise designated for other uses.
- 3.3.2 MVC supports existing agricultural operations and supports the ‘right to farm’.
- 3.3.3 All new farm residences and other buildings shall be encouraged to locate within the quarter section to minimize the impact on agricultural operations.

- 3.3.4 Non-agricultural uses shall respect the existing agricultural operations, including their hours of operations, the odours and noises emanating from an agricultural operation and traffic movements.
- 3.3.5
  - (a) The “first parcel out” of a previously unsubdivided quarter section may only be supported by the County for the creation of one additional parcel, subject Municipal Development Plan Bylaw No. 20/20 Page 14 to redesignation and subdivision application and the provisions of the Land Use Bylaw and the MDP.
  - (b) A first parcel out subdivision within the Agricultural Preservation Area or the Potential Multi-Lot Residential Development Area shall be evaluated in accordance with section 3.0 of the MDP.
- 3.3.6 The maximum number of titles in the Agricultural Preservation Area should be two (2) titles per quarter section.
- 3.3.7 The minimum parcel size for a newly proposed or existing agricultural parcel that is the subject of a redesignation and subdivision application, and not a fragmented parcel should be (+/-) 40 acres ((+/-) 16.19 ha). Parcel configuration should reflect the existing conditions and use of the land and shall require redesignation to the appropriate land use district and a concurrent subdivision application. Applications for subdivision of new agricultural parcels shall demonstrate the land being subdivided is being used for agricultural purposes to avoid future fragmentation. Agricultural parcel subdivisions that create more than two titles per quarter section may be considered within the Potential Multi-Lot Residential Development Area.
- ...
- 3.3.24 An existing agricultural or existing residential parcel proposing development shall have direct physical and legal access to a developed County road allowance. If a County road allowance is undeveloped, the applicant shall be required to develop the County road allowance to Mountain View County standards. Should the County determine that natural constraints prevent the development of the undeveloped road allowance, the County may accept an access easement agreement that the County is party to as an acceptable means for access to a developed County road allowance.

## Land Use Bylaw

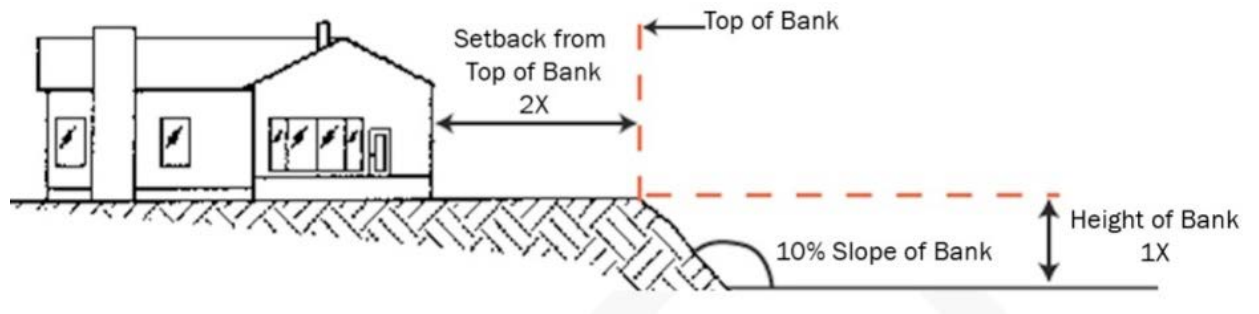
### 9.8 Dwelling Density

- 1. Outside of Growth Centres and Rural Community Centres as defined in the Municipal Development Plan, the maximum number of dwelling units per quarter section shall be four (4).
- ...
- 5. In cases where there are four (4) dwelling units located on a quarter section (inclusive of all parcels) no new subdivisions shall be created and no new Development Permits shall be issued for additional dwellings.

...

### 9.12 Hazard Lands

- 3. For developments adjacent to any bank a geotechnical report addressing slope stability may be required if:
  - a) The bank is greater than 3.0 m (10.0 ft) in height; and/or
  - b) The bank is greater than 10% in slope; and
  - c) The development is proposed within a distance equal to twice the bank height, measured back from the top of bank.



*Illustration 9.12-1 – Setback from Slopes*

*Note: The above illustrations are for clarification and convenience only and do not form part of this Bylaw. All provisions of this Bylaw must be referenced.*