



**LAND AND PROPERTY RIGHTS TRIBUNAL**

**Citation:** Stocker v. County of Vermilion River (Subdivision Authority), 2025 ABLPRT 257

**Date:** 2025-05-30

**File No.** S25/VERM/CO-006

**Decision No.** LPRT2025/MG0257

**Municipality:** County of Vermilion River

**In the matter of** an appeal from a decision of the County of Vermilion River Subdivision Authority (SA) respecting the proposed subdivision of NW and SW-30-53-2 W4M (subject land) under Part 17 of the *Municipal Government Act*, RSA 2000, c M-26 (*Act*).

BETWEEN:

M. J. Stocker

Appellant

- and -

County of Vermilion River Subdivision Authority

Respondent Authority

BEFORE: H. Kim, Presiding Officer  
J. Dziadyk, Member  
S. Steinke, 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 April 16, 2025, after notifying interested parties. Written submissions were accepted until May 16, 2025.



**BACKGROUND**

[7] The land to be subdivided is contained within two previously unsubdivided quarter sections in the County of Vermilion River (County). The proposal is to subdivide the existing farmstead, which is located predominantly on the north quarter; however, due to the driveway access and bylaw setbacks, the parcel to be created contains land from both quarters.

[8] The SA approved the application subject to the following conditions:

1. That the proposed subdivision be affected as per the attached revised tentative plan.
2. That, prior to or concurrent with the registration of an instrument affecting this plan, an Environmental Reserve Easement, in a form and affecting an area approved by the Subdivision Authority, be granted to the County of Vermilion River. The drawing to be used to describe the Easement shall include the wetlands (W-A-IV and M-G-II) and setback areas located within proposed Lot 1 as shown on the attached Schedule A and shall be reviewed by the Subdivision Authority prior to being finalized.
3. That prior to the registration of an instrument affecting this plan, the registered owner and/or developer enter into and comply with a development agreement (re: road improvements for Range Road 30) with the County of Vermilion River pursuant to Section 655 of the Municipal Government Act, and Section 3.5(1)(a)(ix) of the County of Vermilion River LUB, which development agreement shall be registered by way of caveat against the title of the proposed lot and remainders.
4. That prior to endorsement of the instrument affecting the proposed plan, the registered owner and/or developer enter into and comply with a land acquisition agreement re: the acquisition of land for road widening adjacent to Range Road 30 with the County of Vermilion River pursuant to Section 650 of the Municipal Government Act, as amended, Policy 3.4.5(c) of the County of Vermilion River Municipal Development Plan and Section 3.2.2(a) of the County of Vermilion River Land Use Bylaw. The land acquisition agreement shall be registered by way of caveat against the titles of the proposed lot and the remainders prior to or concurrently with the registration of the instrument for endorsement affecting the proposed plan.
5. That prior to the endorsement of an instrument affecting this proposed plan, approaches, including culverts and crossings to the proposed lot and the remainders be provided at the owner's and/or developer's expense and to the specifications and satisfaction of the County of Vermilion River.
6. Prior to the endorsement of an instrument affecting this plan, the following fees shall be paid by the landowner/developer to the County of Vermilion River:
  - a. Administrative fee of \$210.00 (plus GST);
  - b. Development agreement fee of \$50.00 (plus GST); and
  - c. Approach inspection fee of \$300.00 (plus GST).
7. That prior to endorsement of an instrument affecting this plan, and in accordance with section 9(g) of the Matters Related to Subdivision and Development Regulation, AR 84/2022, submit to the County of Vermilion River and the Subdivision Authority:
  - a. Real Property Report or a Building Site Certificate, prepared by an Alberta Land Surveyor, indicating the location and distances between the buildings, the private sewage disposal system, any potable water source, shelter belts and above-ground appurtenances on the subject lands, and the existing and proposed property boundaries on the proposed lot; and

- b. certification from a Provincially accredited inspector confirming that the function and location of the existing sewage disposal system on proposed Lot 1, will satisfy the Alberta Private Sewage Systems Standard of Practice, and is suitable for the intended subdivision.
8. That taxes are fully paid when final approval (endorsement) of the instrument affecting the subdivision is requested.

NOTES FOR INFORMATION PURPOSES ONLY: (These are not conditions of approval)

1. In order to expedite consideration of the final approval and endorsement of this proposal, a letter from the County of Vermilion River indicating that Conditions #2, #3, #4, #5, #6, #7, and #8 have been satisfied should accompany any request for final approval or endorsement.
2. The subdivision is being approved because 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, and the proposal is considered by the Subdivision Authority to conform to the provisions of the municipality's Land Use Bylaw. The Subdivision Authority has not verified the availability of water on-site or the suitability of the soils on the site for sewage disposal; however, trucking services for such are available in the region. The matters listed in Section 7 of the Subdivision and Development Regulation and any submission made by adjacent property owners were considered with care.
3. The proposed subdivision is affected by a permanent, naturally occurring body of water (wetlands) or watercourse. The Province has an interest in the Crown ownership of Provincial waterbodies/or Public Land boundaries in Alberta. Development or water diversion may not occur in waterbodies, watercourses or Public Lands without prior consultation and approval from Alberta Environment and Parks. If you have any questions about development on or near water bodies, watercourses or public land please contact Alberta Environment and Parks prior to undertaking any activity within or near the wetland.
4. All new and existing private sewage disposal systems must meet the requirements of the Private Sewage Disposal Regulation, AR 229/1997. In this regard, please contact an accredited private sewage inspector or Alberta Municipal Affairs before any sewage system is either constructed or altered.
5. To avoid unnecessary complications, you are advised that no site work to affect your proposal should be commenced prior to endorsement of a registrable instrument by this office and/or without prior consultation with the County of Vermilion River as to its requirements regarding such development.
6. Buffalo Trail School Division has noted that door-to-door school bus service is not available within subdivisions. Please contact Buffalo Trail Public Schools for bus stop locations. This location is in the Marwayne Transportation Service Area should bussing be required.
7. Cenovus advises of the following:
  - a. Please keep Cenovus Referrals informed of all future plans, including any revised development plans at [cenovusreferrals@bastudies.ca](mailto:cenovusreferrals@bastudies.ca).
  - b. In order to identify the precise alignment of pipelines on the subject lands, a Locate Request must be made prior to any ground disturbance taking place. Locate requestions can be made online at [www.clickbeforeyoudig.com](http://www.clickbeforeyoudig.com) or by calling your

local Utility Safety Partners Centre. Locate requests generally take 72 hours to be completed.

- c. No work may take place within Cenovus's pipeline right-of-way without a Cenovus representative on site.
- d. Any ground disturbance within 30 m of the pipeline, known as the "prescribed area" requires written consent from Cenovus. Ground disturbance is any work, operation, or activity that results in an addition to or reduction of the earth cover on the ground, including but not limited to excavating, digging, ditching, plowing, stripping topsoil, etc.
- e. Permanent structures shall not be installed anywhere on the ROW.
- f. Temporary structures shall not be installed anywhere on the ROW.
- g. All Cenovus third-party consent requests (including crossings) must be submitted to [thirdpartyrequests@cenovus.com](mailto:thirdpartyrequests@cenovus.com). Please be advised of the following:
  - i. For any revisions or follow-up requests - Please send to the original email address you requested from (Cenovus or Husky) and NOT both. We will work on these first.
  - ii. Please do not send revised requests simply changing the name from Husky to Cenovus.
  - iii. For any brand new requests, please send to [thirdpartyrequests@cenovus.com](mailto:thirdpartyrequests@cenovus.com) and ensure to include the following information:
    1. A letter stating the scope/ description of the work to be completed.  
Your letter should:
      - a. Specify the legal location
      - b. Identify Cenovus' facilities affected (eg Plan Number, PLA Number, License Number, etc.)
      - c. Specify the name the agreement should be issued in
      - d. Indicate your expected project start date
    2. For permanent road or temporary access crossing pipeline requests (where no rig mats will be used) or driving along a pipeline ROW, fill out the attached weight sheet and include:
      - a. for tracked vehicles, the ground pressure (kPa)
      - b. For all other vehicles, the maximum weight per axle group (eg single, tandem, tridem)
    3. For pipeline crossing pipeline requests, provide your pipeline specifications listed below:
      - a. Outer diameter of the pipeline
      - b. Wall thickness of the pipeline
      - c. Material of the pipeline
      - d. Grade of the pipeline
      - e. H2S content
      - f. Fluids being transported
      - g. Maximum operating temperature
      - h. Maximum operating pressure
    4. Ensure you include the kV of the line for all Power Line crossings .
    5. A clear copy of a survey plan indicating your proposed project and how your work will impact Cenovus' facilities.
    6. If you request is for road use - please ensure you specify the KMs required for each road.
  - iv. For development near pipelines within Alberta, please refer to the AER's "Safe Excavation Near Pipeline".

- v. A Cenovus representative must be on site to monitor all work taking place in proximity to their infrastructure.
8. In accordance with section 657 of the *Municipal Government Act*, R.S.A. 2000, c. M-26, as amended, this decision is valid for one (1) year. If you are unable to complete your subdivision approval prior to the end of the one-year period, contact our office before your file expires to begin the extension request process. The extension request and fee (\$350.00 + GST) must be received before the file expires. Once a file has expired, an extension request cannot be processed, and a new subdivision application will be required.
9. The following information is provided as required by Section 656(2)(a) of the *Municipal Government Act*, R.S.A. 2000, c. M-26, as amended. Any appeal of this decision lies to the Land and Property Rights Tribunal, whose address is 2nd Floor, Summerside Business Centre, 1229 – 91 Street SW, Edmonton, Alberta, T6X 1E9 (phone 780-427-2444).
10. Please advise your surveyor that the Subdivision Authority for the County of Vermilion River is "Municipal Planning Services (2009) Ltd.".

[9] The Appellant filed an appeal of conditions 3 and 4 stating that RR 30 is a dead-end road with only this acreage to access. Local access does not need or require an upgraded road top or additional widening as there is no heavy truck traffic.

### **Post Hearing Submission**

[10] After the hearing, the SA identified an incorrect MDP reference in condition 4, which should have referenced MDP policies 3.2.4 and 3.2.2. The other parties were provided the opportunity to comment on this correction and no submissions were received.

### **ISSUES**

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

1. Should the subdivision approval include a condition (Condition 3) to enter into a development agreement to upgrade RR 30?
2. Should the subdivision approval include a condition (Condition 4) to provide road widening by caveat?

### **SUMMARY OF THE SA'S POSITION**

[12] The proposed Lot 1 is 6.104 ha (15.08 ac) and is developed with a house, garage, water well, and surface discharge Private Sewage Discharge System. The Province's Merged Wetland Inventory indicates that most of the proposed lot is wetland and includes an intermittent watercourse. A wetland assessment completed by CPP Environmental on May 30, 2024 indicates there is a temporary graminoid marsh and a semi-permanent shallow open water area within the proposed lot. There appears to be a suitable building pocket on the proposed lot outside of the wetlands and the identified setbacks, and an existing approach to the proposed lot from RR 30.

[13] County administration advised the SA that RR 30 is not up to County standards and will require upgrades. The shape of the proposed lot in the original tentative plan was irregular and left a narrow strip of land between the parcel and the southern boundary of the NW quarter, which would fragment the agriculture land. The SA recommended the parcel boundaries be revised to remove the fragment as indicated in the approved plan. The proposed lot appears suitable for the proposed country residential use.

[14] The proposed NW remainder is vacant and includes wetland areas identified on the Province's Merged Wetland Inventory and multiple pipelines and pipeline rights-of-way. There would not be road access to the NW remainder as RR 30 is not developed past the proposed parcel; however, the road could be developed to an agricultural standard.

[15] The proposed SW remainder is also vacant and includes wetland areas identified on the Province's Merged Wetland Inventory and multiple pipelines and pipeline rights-of-way. There appears to be an existing approach to the SW remainder from Township Road (TR) 534. The road access to the NW quarter would not be required to be constructed if the two remainder quarters were consolidated. Any new or existing approaches will need to be to County standard. The remainder quarters appear suitable for the proposed agriculture use - the County assessment sheets show the NW quarter section contains 2.68 acres at 35.9%, 131.32 acres at 64.9%, and 23.00 acres at 7.0%. The SW quarter section contains 2.86 acres at 40.0%, 35.75 acres at 69.0%, 104.39 acres at 69.0%, and 16.20 acres at 7.0%.

[16] The proposal complies with the Agricultural Use policies of the County's Municipal Development Plan (MDP), which states the maximum density per quarter section is four parcels. This is the first parcel out of both quarters and will create one country residential parcel partially within each quarter section. MDP Policy 5.2.7 indicates that subdivision parcel size shall be in accordance with the LUB. MDP Policy 5.2.8 indicates that the general maximum area for residential parcels is 10.1 ha (25.0 ac), and this subdivision would create a total of 6.104 ha (15.08 ac) being removed for residential use from the quarter sections.

[17] MDP Policy 5.2.6 requires that subdivisions shall not be approved where access to existing graded and graveled or paved roads does not exist, or where construction of roadway and access to the County standards to the site is not undertaken primarily by the landowner/developer. The proposed lot has an existing approach from RR 30; however, accesses and approaches and RR 30 need to be upgraded. MDP Policy 5.2.11(a)(iv) requires that the decision include a condition for a development agreement to ensure that the costs associated with required infrastructure improvements are identified and assigned; therefore, with a condition for a development agreement to address road improvements was included.

[18] The condition with respect to acquisition of land for road widening reflects the current County standard, which requires an additional 17 feet on both sides to increase the historic 66 ft standard right of way to the more current 100 ft standard. Road acquisition by caveat is sufficient in this case. It is required on RR 30 but has already been provided along TR 534.

[19] Section 6.2.1 of the LUB notes that the general purpose of the Agriculture District is to provide for the continuing use of land for agricultural activities associated with primary production and ancillary uses while encouraging conservation practices and preserving valuable agricultural land from development that is incompatible with primary production. Section 6.3.3 indicates that the minimum lot area for residential use is 4.06 ha (10.1 ac) and the maximum lot area for residential use is 10.1 ha (25.0 ac). The proposed lot is 6.104 ha (15.08 ac) in size and conforms to the size regulations. In the opinion of the SA, the proposal conforms with the MDP and LUB and was conditionally approved.

[20] The use to the west could be a large cattle operation that qualifies as extensive agriculture, which is a permitted use in the A district and does not require a DP. There is no specific number of cattle for the

County to determine whether it is an ILO; the County relies on Provincial licensing requirements. County administration would follow up and if the operation does appear to be an ILO, a DP would be required and road upgrades could be imposed as a DP condition.

[21] The SA noted that the other subdivisions referenced were approved prior to the change in Council policy in January 2023 for general municipal standards. The prior 2012 policy required a 7 m road top but it was updated to 8 m to be consistent with provincial and federal guidelines.

## **SUMMARY OF APPELLANT'S POSITION**

[22] The Appellant's consultant, the land surveyor applicant, presented evidence and argument, as well as the background and timeline of the subdivision application. The application was submitted in April 2024 but a wetland assessment was required. The requirement for road upgrades was not identified until October 2024. Condition 3 of the approval requires the road upgrade to be completed by the developer due to road specifications not meeting County guidelines of 8 m road top and 1 m ditches. The Appellant argued that this condition is not met on most current Local Standard County roads, especially roads with no through traffic and limited development such as acreages or oil and gas sites.

[23] There is a wellsite 1-25-53-3-W4, which had a developed approach to RR 30. It operated from August 2004, when it was drilled, until October 2018, when it was abandoned. During its 14 years of operation, heavy drill rigs, construction equipment, and trucks used the road frequently. The County would have required a road use agreement, but it appears that no road surfacing, upgrading or widening was completed for this industrial use. This heavy traffic use for the wellsite was considerably more intensive than the light vehicle traffic to and from a house and acreage. The Appellant presented photographs of RR 30 at the well site approach area which is approximately 350 m north of TR 534. They show a good gravel surface, adequate backsloping and plowed snow into ditches along RR30. The well is abandoned but not certified reclaimed.

[24] The Appellant landowner sold the quarter to the west, SE25-53-3-W4, a few years ago. There were cattle on the quarter, but an intensive livestock operation (ILO) appears to have been set up within the last year. There are cattle paddocks and transport of livestock has taken place throughout the year.

[25] The approach for the cattle operation is from the west side of RR 30 approximately 720 m north of the TR 534 junction. It contributes significantly more to traffic on RR 30 than the subject application. The road top measures 5.43 m near the intersection of TR 534, which is less than the 8 m county standard but has served the developments to the north for many years, and over the 800 m length, the road top varies from 4 to 6 m.

[26] The Appellant's consultant has applied for many subdivisions in the area, and presented photographs of roads for other subdivisions that are comparable to the subject. Subdivision Plan 2320926 in SE28-46-1-W4 had similar characteristics to this application and was approved with a 5.3 m road top. No upgrade was required to the 8 m standard and no condition of providing road widening. Subdivision Plan 2120275 in the NE22-52-1-W4 had a 4.6 m road top. It was also under 8 m, and conditions of subdivision approval did not require an upgraded road despite providing access to multiple properties. The Appellant provided photographs showing the condition of RR30 – the road access to the proposed parcel has served the resident for many years and will continue to provide safe and reliable access to the home for years to come.

[27] In summary, the road upgrades and widening are not necessary for the anticipated level of traffic and previous subdivisions have been approved without them. If the two remainder quarters are consolidated, the extension of RR 30 is not required. Therefore, the two conditions should be deleted.

### **SUMMARY OF AFFECTED PERSON'S POSITION**

[28] The landowner to the north, H. L. Parker, provided a written submission. He owns NW and SW 31-53-2W4 immediately north of the subject land. He stated he has a "massive problem" with hunters in the November hunting season driving wherever they choose, including through livestock feeding areas. Trespassers have been seen shooting gophers while the cows and calves are grazing and could potentially accidentally shoot a cow or calf. Fences must be repaired because snowmobilers prefer to cut wires instead of opening and closing gates. Mr. Parker expressed concern that RR 30 upgrades would give such unwanted trespassers easier access to their land, exacerbating their current problems.

### **FINDINGS**

1. A development agreement is necessary to set out road improvements necessary for the subdivision; however, the necessary upgrades can be negotiated with the County subject to determination of other users of the road and whether the north quarter requires access.
2. A road widening agreement by caveat is not onerous and should be a condition of approval.

### **DECISION**

[29] The appeal is denied and the decision of conditional approval of the SA is confirmed as issued:

1. That the proposed subdivision be effected as per the revised tentative plan.
2. That, prior to or concurrent with the registration of an instrument effecting this plan, an Environmental Reserve Easement, in a form and affecting an area approved by the Subdivision Authority, be granted to the County of Vermilion River. The drawing to be used to describe the Easement shall include the wetlands (W-A-IV and M-G-II) and setback areas located within proposed Lot 1 as shown on the attached Schedule A and shall be reviewed by the Subdivision Authority prior to being finalized.
3. That prior to the registration of an instrument effecting this plan, the registered owner and/or developer enter into and comply with a development agreement (re: road improvements for Range Road 30) with the County of Vermilion River pursuant to Section 655 of the *Municipal Government Act*, and Section 3.5(1)(a)(ix) of the County of Vermilion River LUB, which development agreement shall be registered by way of caveat against the title of the proposed lot and remainders.
4. That prior to endorsement of the instrument effecting the proposed plan, the registered owner and/or developer enter into and comply with a land acquisition agreement re: the acquisition of land for road widening adjacent to Range Road 30 with the County of Vermilion River pursuant to Section 650 of the *Municipal Government Act*, as amended, Policies 3.4.2 and 3.2.2 of the County of Vermilion River Municipal Development Plan and Section 3.2.2(a) of the County of Vermilion River Land Use Bylaw. The land acquisition agreement shall be registered by way of caveat against the titles of the proposed lot and the remainders prior to or concurrently with the registration of the instrument for endorsement affecting the proposed plan.

5. That prior to the endorsement of an instrument effecting this proposed plan, approaches, including culverts and crossings to the proposed lot and the remainders be provided at the owner's and/or developer's expense and to the specifications and satisfaction of the County of Vermilion River.
6. Prior to the endorsement of an instrument effecting this plan, the following fees shall be paid by the landowner/developer to the County of Vermilion River:
  - a. Administrative fee of \$210.00 (plus GST);
  - b. Development agreement fee of \$50.00 (plus GST); and
  - c. Approach inspection fee of \$300.00 (plus GST).
7. That prior to endorsement of an instrument effecting this plan, and in accordance with section 9(g) of the *Matters Related to Subdivision and Development Regulation*, AR 84/2022, submit to the County of Vermilion River and the Subdivision Authority:
  - a. Real Property Report or a Building Site Certificate, prepared by an Alberta Land Surveyor, indicating the location and distances between the buildings, the private sewage disposal system, any potable water source, shelter belts and above-ground appurtenances on the subject lands, and the existing and proposed property boundaries on the proposed lot; and
  - b. certification from a Provincially accredited inspector confirming that the function and location of the existing sewage disposal system on proposed Lot 1, will satisfy the Alberta Private Sewage Systems Standard of Practice, and is suitable for the intended subdivision.
8. That taxes are fully paid when final approval (endorsement) of the instrument effecting the subdivision is requested.

**[30] FURTHER, the Appellant shall provide documentation to the County of Vermilion River to demonstrate that the above noted conditions have been met, prior to the endorsement pursuant to sections 657 and 682 of the *Act*.**

**[31] AND FURTHER, this decision is valid for a period of one year from the date of this Order. Under section 657(4) of the *Act*, if the plan of subdivision or other instrument is not submitted to the subdivision authority within the time prescribed by section 657(1) or any longer period authorized by council, the subdivision approval is void.**

## **REASONS**

[32] The subdivision meets the requirements of the MDP and LUB with respect to size and density, and there was no dispute that the proposed subdivision is suitable for its intended purpose. The issues under appeal were whether the road upgrading and caveat for future road widening is necessary.

[33] The requirement for future road widening by caveat allows continued use of the land until circumstances evolve to the point construction is required. It is only at subdivision that such a condition can be imposed. Under the circumstances, the LPRT agrees that the condition for road widening by caveat is appropriate and should be upheld.

[34] With respect to the requirement for road upgrades, the LPRT understands the Appellant's concern that requiring one residential subdivision to be solely responsible for the entire cost of upgrading a half mile of road to County standards is onerous. However, s. 655(1)(b) of the *Act* authorizes the SA to require a development agreement requiring an applicant to pay for a road required to give access to the subdivision. Although the SA has not always required road upgrades in similar circumstances, the

County's road policy has changed since the other subdivisions were approved. It is in the public interest that new parcels have safe and reliable road access, and it is appropriate for the County, which is responsible for care and control of roads, to revisit its standards from time to time.

[35] Having said this, there may be cases in which it is appropriate to relax municipal standards given anticipated levels of traffic and development; mechanisms may also exist whereby costs can be distributed more fairly. The LPRT is of the opinion that the requirement for a development agreement will allow the parties to negotiate the appropriate standard of road, and to explore potential opportunities for costs to be distributed with other road users. In this respect, the LPRT notes the condition requiring the development agreement does not prescribe the contents of the agreement, and the General Municipal Servicing Standards (GMSS) allows some scope for negotiation. Section G transportation states:

- 1.1 This section is intended to provide guidelines to assist the Developer in the design of road, sidewalk and trail improvements that will meet the servicing requirements for commercial, industrial and residential development within The County of Vermilion River. The County of Vermilion River may consider alternative road design variations, approved by the Municipal Engineer, provided that public safety and the County are not at risk.

Under the circumstances, the LPRT finds it appropriate to require a development agreement with respect to road upgrading and provision of access to the northwest quarter, as may be appropriate.

[36] With respect to the road extension, s. 11 of the *Regulation* requires every proposed subdivision have direct access to a road or lawful means of access satisfactory to the SA. The LPRT agrees with the SA's position that unless the two remainder quarters are consolidated, the Appellant must extend the road to provide access to the remainder NW quarter to an access point north of the wetlands due to the location of the wetlands. Consolidation of the remainder quarters may eliminate the necessity of developing the access road to the NW remainder; however, the SA stated that the agricultural access road could also be developed to a lower standard.

### **Other Approvals**

[37] The landowner/developer is responsible for obtaining all applicable permits for development and any other approvals or permits required by other enactments (for example, *Water Act*, *Environmental Protection Act*, *Nuisance and General Sanitation Regulation*, etc.) from the appropriate authority. The LPRT is neither granting nor implying any approvals other than that of the conditional subdivision approval. Any other approvals are beyond the scope of a subdivision appeal.

Dated at the City of Edmonton in the Province of Alberta this 30<sup>th</sup> day of May 2025.

**LAND AND PROPERTY RIGHTS TRIBUNAL**

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(SGD) H. Kim, Member

## **APPENDIX A**

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

<b>NAME</b>	<b>CAPACITY</b>
I. Isackson	Appellant applicant
M. Stocker	Appellant landowner
K. Carlson	Appellant observer
J. Dauphinee	Subdivision Authority
R. Garnett	County of Vermillion River

## **APPENDIX B**

DOCUMENTS RECEIVED PRIOR TO THE HEARING:

<b>NO.</b>	<b>ITEM</b>
1A	Notice of Appeal
2R	Information package
3R	List of Referral Agencies
4R	Municipal Development Plan
5R	Land Use Bylaw
6A	Appellant Submission
7A	Aerial Map showing Well and ILO
8A	Timeline of Appellant Communication
9A	Email showing Revised Tentative Plan
10A	SA Email to Appellant re. Road Upgrades
11A	SA Second Email to Appellant re. Road Upgrades
12A	Plan 2120275 registered Jan. 26, 2021
13A	Plan 2320926 registered March 30, 2023
14A	Full County of Vermilion River General Municipal Servicing Standards (GMSS) and excerpt: Intent of GMSS
15A	Well Site Plan of Survey
16AP	Adjacent landowner submission

## 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.

##### 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;

...

##### 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.

...

Roads, utilities, etc.

- 662(1) A subdivision authority may require the owner of a parcel of land that is the subject of a proposed subdivision to provide part of that parcel of land for the purpose of roads, public utilities or both.
- (2) The land to be provided under subsection (1) may not exceed 30% of the area of the parcel of land less the land taken as environmental reserve or as an environmental reserve easement.
- (3) If the owner has provided sufficient land for the purposes referred to in subsection (1) but the land is less than the maximum amount authorized by subsection (2), the subdivision authority may not require the owner to provide any more land for those purposes.

Reserves not required

663 A subdivision authority may not require the owner of a parcel of land that is the subject of a proposed subdivision to provide reserve land or money in place of reserve land if

- (a) one lot is to be created from a quarter section of land,

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,

...

(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

...

- (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.

#### 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.

#### **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.

...

## MUNICIPAL BYLAWS AND STATUTORY PLANS

### Municipal Development Plan

#### 5.2 Goal: Adequate Subdivision of Land

##### Objective

1. Provide guidance to the Subdivision Authority when considering proposals for the subdivision of land within the County in accordance with the objectives and policies of this Plan, consistent with provincial legislation.
2. Ensure safe and reasonable enjoyment and use of County lands by our residents that benefit both present and future generations.

##### Policies

- 5.2.1 The maximum density per quarter section in the Agricultural Use area shall be four (4) parcels.

...

- 5.2.6 Subdivisions shall be designed to follow the logical extension of existing infrastructure.

- (a) Subdivisions shall not be approved where access to existing graded and graveled or paved roads does not exist, or where construction of roadway and access to County standards to the site is not undertaken primarily by the landowner/developer.
- (b) Access to individual lots within a multi-lot subdivision will be provided by internal roads or service roads developed to meet the County's General Municipal Servicing Standards, and not directly onto Provincial Highways or County main grid roads.
- (c) The assessment of the suitability of a proposed residential subdivision will not take into consideration required setbacks for private sewage disposal systems. Rather, if a subdivision results in the reduction of setbacks between an existing or proposed private sewage disposal system and a property line then the developer will be required to ensure that the existing or proposed private sewage disposal system conforms to all relevant provincial regulations affecting private sewage disposal systems.

...

- (h) Documentation indicating that arrangements satisfactory to the County have been made regarding a development's water supply, sewage disposal, and storm water management systems, including

access to the systems for maintenance and any necessary easements, may be conditions of approval for multi-lot subdivisions and/or development.

- (i) Documentation indicating that satisfactory arrangements have been made regarding a development's sewage disposal system may be a condition of approval for residential subdivision and/or development.

5.2.7 Subdivisions' lot or parcel size shall be in accordance with the lot or parcel size for the Designated Land Use District within the County's Land Use Bylaw.

...

#### 5.2.11 Residential Development

- (a) Residential subdivision and development best practices, consistent with the provisions in the County's Land Use Bylaw, will be generally supported.

...

- (iv) Where a subdivision for residential purposes is proposed, the developer shall be required to enter into a development agreement with the County wherein the developer agrees to be responsible for all the costs associated with the subdivision and development.

### Land Use Bylaw

## 3.2 SUBDIVISION APPLICATIONS DECISIONS

...

### (2) Conditions of Subdivision

- (a) Development agreements, performance bonds, caveats, Easements, covenants and restrictions agreements, and/or restrictive covenants, as applicable, shall be required as a condition of approval for Subdivision of land within the County.

## 3.5 SUBDIVISION DESIGN STANDARDS

### (1) Single-Lot Subdivision Standards

#### (a) Residential

- (i) Single-Lot Subdivisions for Residential Uses are subject to the policies in the Municipal Development Plan and the provisions of Land Use District designated at time of Subdivision, which shall guide the Subdivision Authority.

...

- (iii) In determining, the suitability of an application for single-Lot or Parcel Subdivision for Country Residential Use, Country Residence, Farmstead, or Farm Residence, adequate year-round access by an all-weather Road must be available.

...

- (vii) Subdivisions shall have direct access to Roads.
- (viii) Approach and/or access to a Country Residential Subdivision shall meet the County's General Municipal Servicing Standards requirements.
- (ix) Where a Subdivision for Country Residential Use is proposed, the Developer may be required to enter into a Development agreement with the County wherein the Developer agrees to be responsible for all the costs associated with the Subdivision and Development.

### 6.2.1 Agricultural (A) District

The Purpose of this District is to provide for the continuing Use of land for agricultural activities associated with primary production and ancillary Uses while encouraging conservation practices, and to preserve valuable agricultural land from Development that is incompatible with primary production. Additional provisions apply to lands within the Agriculture Preservation Area (APA) and Environmentally Sensitive Area (ESA) Overlays.