



**LAND AND PROPERTY RIGHTS TRIBUNAL**

**Citation:** Gilbert v Sturgeon County (Subdivision Authority), 2025 ABLPRT 49

**Date:** 2025-02-06

**File No.** S24/STUR/CO-025

**Decision No.** LPRT2025/MG0049

**Municipality:** Sturgeon County

**In the matter of** an appeal from a decision of the Sturgeon County Subdivision Authority (SA) respecting the proposed subdivision of NE 7-54-26-W4M (subject land) under Part 17 of the *Municipal Government Act*, RSA 2000, c M-26 (*Act*).

BETWEEN:

M. Gilbert

and

R. Gilbert

Appellants

- and -

Sturgeon County Subdivision Authority

Respondent Authority

BEFORE: D. Thomas, Presiding Officer  
D. Mullen, Member  
P. Yackulic, 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 December 5, 2024, after notifying interested parties. Additional submissions were accepted until December 6, 2024.

## OVERVIEW

[1] This appeal concerns a subdivision proposal that the Sturgeon County (County) SA refused because it exceeds the density provisions in both the Municipal Development Plan (MDP) and the Land Use Bylaw (LUB). In addition, the proposed parcel is accessed from Highway 633, and Alberta Transportation and Economic Corridors (TEC) would not allow approval without a plan to replace the highway access with access to a local road in a location that would not affect TEC's plans to relocate a nearby intersection with Highway 633.

[2] The parties agreed the increase in density resulting from the proposed subdivision would not affect the use and enjoyment of neighbouring properties and would be in keeping with existing area uses. Given TEC's advice that the current highway access will be closed at some point in the future, future physical access will be obtained via Range Road 265. The parties agreed dedication by caveat of a 30 m road right of way to the south of the proposed parcel is appropriate to allow construction of access to the proposed parcels and a parcel to the west of the subject when TEC completes its anticipated highway upgrades. As a result, the LPRT granted the appeal, with conditions for a road right of way to be dedicated by caveat, along with conditions as recommended by the SA.

## REASON APPEAL HEARD BY LPRT

[3] Section 678(2) of the *Act* directs subdivision appeals to the LPRT instead of the local 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*). Subdivision appeals also go to the LPRT when the land is the subject of a licence, permit, approval or other authorization from various Provincial authorities.

[4] In this case, the following circumstance applies to the subject land

Highway:	Highway 633 is within the 1.6 km prescribed distance
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## PROPOSAL

[5] To subdivide a 0.61-hectare parcel from a previously subdivided 2.42-hectare parcel to be used for agricultural purposes.



## BACKGROUND

[6] The subject parcel is adjacent to the Hamlet of Villeneuve in Sturgeon County (County) and is located on the south side of Highway 633 and the west side of Range Road 265. The property consists of 2.42 hectares (6 acres) of predominantly cultivated land and contains a house, garage, barn/shops and a variety of other outbuildings, most of which would remain in the proposed lot.

[7] There are currently seven parcels on this quarter section: two public utility lots; one AG major parcel, two AG minor parcels and two residential (acreage) parcels. The subject has its own access onto the Highway 633 and water and sewer is provided by the municipality.

[8] The Appellants propose to create a new 0.61-hectare (1.5 acres) parcel on the north portion of the subject parcel, fronting the Highway. The Appellants want the new lot line to be north of the barn to keep it with the remnant lot. The Appellants intend to sell the proposed lot and retain the remnant for their family's use.

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

1. Part 654(1) of the Municipal Government Act requires that: *"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."*
  - a. With respect to reason #1 above, this application does not conform to Policy 2.3.15 of the Municipal Development Plan, which requires a maximum agricultural parcel density of four parcels per 64 hectares of land (160 acres).

- b. With respect to reason #1 above, this application does not conform to Part 11.1.3(a) of the Land Use Bylaw, which requires which requires subdivision to result in no more than a maximum of four parcels per 64 hectares of land (160 acres).
2. Part 18 of the Matters Related to Subdivision and Development Regulation requires that Sturgeon County shall not “*approve an application for subdivision if the land that is the subject of the application is within 1.6 kilometres of the centre line of a highway right of way*”, unless certain criteria are satisfied, or unless a variance has been granted by Alberta Transportation and Economic Corridors.
  - a. With respect to reason #2 above, as detailed within Alberta Transportation and Economic Corridor’s letter dated September 27, 2024, this application neither satisfies the applicable criteria nor has it been granted the necessary variance. Pursuant to Section 678(2) of the Municipal Government Act, Alberta Transportation and Economic Corridors requires that any appeal of this subdivision be referred to the Land and Property Rights Tribunal.

[10] The Appellant filed an appeal stating they are willing to relocate the Highway access and the subdivision is in keeping with the character of the area.

## ISSUE

[11] 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 issue:

1. Should the LPRT exercise its discretion to approve the proposed subdivision that exceeds the density provisions in the MDP and LUB?
2. If the subdivision is approved, should the LPRT require provision of a road right of way to address future access to the proposed remnant and adjacent parcel?

## SUMMARY OF THE SA’S POSITION

[12] The SA stated the proposed lot is serviced by municipal water and sewer and servicing is available to the remnant lot. In the long term, this area will likely be residential, but it currently has no Area Structure Plans (ASP) in place.

[13] The SA stated the application is inconsistent with the MDP’s Residential Type 4 policies as well as with the LUB’s AG – Agriculture regulations. The proposed lot would create a sixth agricultural parcel (not including the two Public Utility Lots) on this quarter-section, which exceeds the default maximum agricultural parcel density of 4 parcels per quarter section (160 acres) prescribed by Policy 2.3.15 of the MDP and Part 11.1.3(a) of the LUB. Furthermore, Part 11.1.3(d) of the LUB indicates that AG – Residential parcels (which are all AG parcels less than 9.8 acres) have no further subdivision potential. As the application contradicts both statutory and non-statutory plans, the SA had to refuse it.

[14] The SA explained this proposal does not meet the requirements of s. 18 of the *Regulation* required by TEC. TEC is not in a position to approve a variance of the requirements of s. 18 and indicated it would not consider approval until the approach is removed and relocated. The SA suggested that as long as the access to the highway concerns are satisfied, it would work with the parties.

## SUMMARY OF TEC'S POSITION

[15] The parcel is adjacent to Highway 633 and has a direct highway access. There is insufficient space between the existing location of Range Road 265 and the end of the roundabout treatment at the highway junction to construct more than a Type I treatment on the range road intersection. Therefore, a plan for the construction of a future local road is needed to allow relocation of the current intersection of the range road with Highway 633 to a more suitable location somewhere to the west. Such a road should be located to allow the removal of the direct highway access to Lot 2 PUL Block 1 Plan 032 5617, adjacent to the western property line, and creation of access to the future local road.

[16] TEC is not prepared to approve a variance of the requirements of s. 18 of the *Regulation*, and therefore the application cannot be approved in its current state. It is reasonable for the Appellant to provide a 30m right-of-way (ROW) from Range Road 265 to Lot 2 PUL Block 1 Plan 032 5617, for a future road. TEC stated that a Road ROW could be provided by caveat for use by any future developer.



## SUMMARY OF APPELLANTS' POSITION

[17] The Appellants stated they do not live on site but currently rent it out. They are members of the Hamlet of Villeneuve Community Association, and the Hamlet is looking to grow. Given the recent plan to upgrade to the airport, the area will support 1,000 to 2,000 new jobs over the next 15 years. The proposed subdivision is consistent with parcels in the area. The Hamlet of Villeneuve has many similar sized residential parcels.

[18] The subdivision will not affect any cultivated farmland. The Appellants rent out the land to a farmer to hay crop in both parcels and will not be building on the remnant anytime soon, so will continue to hay the remnant. Additionally, the MDP's maximum of four lots has already been exceeded, since there are currently six agricultural parcels; one more lot will not make a difference.

[19] The Appellants agreed that moving the property line farther south to align with the existing line in the adjacent lot and providing a 30 m road right-of-way is acceptable, and that any out buildings would be contained within the new lot line.

**FINDINGS**

1. Varying the density requirements is in keeping with the existing development in the vicinity and will not interfere with the future orderly development of the area.
2. A 30 m road right-of-way should be dedicated by caveat as a condition of this subdivision.

**DECISION**

[20] The appeal is allowed, and the subdivision is approved subject to the following conditions:

1. Pursuant to Provision 654(1)(d) of the *Act*, any outstanding taxes on the subject property shall be paid or arrangements be made, to the satisfaction of Sturgeon County, for the payment thereof.
2. The applicant shall retain the services of a professional Alberta Land Surveyor, who shall submit a drawing to Sturgeon County resembling the approved configuration from the decision of the Land and Property Rights Tribunal and submit it in a manner that is acceptable to Land Titles (As shown approximately in Schedule A)
3. Pursuant to Provision 662(1) of the *Act*, as illustrated in Exhibit 2 and as required by Sturgeon County Engineering Services, a 5-metre-wide area parallel and adjacent to the boundary of the Proposed and Remnant Lot and the adjacent road (Range Road 265) shall be acquired by Sturgeon County in the future via the terms and conditions of a land acquisition agreement (note: this agreement to be prepared by Sturgeon County).
4. All upgrades to existing culverts and/or existing approaches, and construction/removal of approaches, as determined necessary by the Development Engineering Officer, will be the responsibility of the developer and upgraded to the satisfaction of Sturgeon County Engineering Services and/or Sturgeon County Transportation Services before this subdivision is endorsed.
5. Pursuant to ss. 18/19/20 of the *Matters Related to Subdivision and Development Regulation*, as requested by Alberta Transportation and Economic Corridors to register, dedicated by way of caveat, a 30 m road right-of-way to the satisfaction of Alberta Transportation and Economic Corridors.
6. Pursuant to Provision 669 of the *Act*, municipal reserves owing on the Proposed and Remnant Lot shall be deferred by caveat (note: this caveat to be prepared by Sturgeon County).
7. The applicant is to obtain all necessary permits to comply with the Land Use Bylaw – to the satisfaction of the Development Authority.
8. A restrictive covenant shall be registered on the Remnant Lot, indicating that all connections to required municipal services must be provided prior to development occurring on the parcel. This shall be prepared to the satisfaction of Sturgeon County Utility & Waste Management Services and Sturgeon County Planning and Development Services.
9. The Developer/Owner is responsible for making suitable arrangements with utility companies for provision of services and/or necessary easements.
10. The Developer/Owner shall provide confirmation that suitable arrangements have been made with utility companies for provisions of services and/or necessary easements (i.e. power, gas).



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

[22] 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.

### Schedule A



### REASONS

[23] The goal of Alberta Land Use Policy 7.0 (Transportation) is “To contribute to a safe, efficient, and cost-effective provincial transportation network.” In this case, the parties agreed that Condition 5 be added to meet access requirements for the subject and the lot to west of the subject site and to allow removal of the highway access from the proposed lot at the appropriate time. The LPRT is satisfied future access issues can be addressed by relocating access to the proposed parcel and the lot adjacent to it to Range Road 265 when TEC requires closure of the two accesses to Highway 633. Reducing access to the highway in the long term will be safer for the local residents and traveling public.

[24] The SA was unable to approve the subdivision since it does not meet the density requirements in the MDP and LUB. However, the County is not asking to freeze development for this location; rather,

they wish to ensure access management is planned for. Given the setbacks to the wastewater treatment facility, the potential for this area is limited. There are suitable building sites on both sites provided issues surrounding access are accommodated as described above.

[25] There were no concerns from adjacent landowners, and the LPRT is persuaded that splitting an acreage parcel as proposed will not hinder future development in this case, or have any material effect on neighbourhood amenities or on the use, enjoyment or value of neighbouring parcels. As such, the LPRT is persuaded these are appropriate circumstances to vary the MDP and LUB density requirements as requested.

[26] The LPRT is satisfied the subdivision conditions meet all other requirements as per the SA's subdivision report.

### **Other Approvals**

[27] 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 Town of Okotoks in the Province of Alberta this 6th day of February, 2025.

**LAND AND PROPERTY RIGHTS TRIBUNAL**

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(SGD) D. Mullen, Member



## **APPENDIX A**

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

<b>NAME</b>	<b>CAPACITY</b>
M. Gilbert	Landowner
J. Heemskerck	Sturgeon County Subdivision Authority
R. Lindsay	Transportation and Economic Corridors

## **APPENDIX B**

DOCUMENTS RECEIVED PRIOR TO THE HEARING:

<b>NO.</b>	<b>ITEM</b>
1A	Notice of Appeal
2R	Information Package
3R	County Presentation
4TEC	TEC Presentation
5R	Land Use Bylaw
6R	Municipal Development Plan

## **APPENDIX C**

DOCUMENTS RECEIVED AT THE HEARING:

<b>NO.</b>	<b>ITEM</b>
7R	Servicing Map

## **APPENDIX D**

DOCUMENTS RECEIVED AFTER THE HEARING:

<b>NO.</b>	<b>ITEM</b>
8R	Revised Plan
9TEC	TEC Response to revised plan
10A	Appellant Response to revised plan

## APPENDIX E

### 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*

##### Control of roads

Section 18 of the *Act* indicates that Alberta Transportation has jurisdiction over highways, as such the *Highways Development and Protection Act* applies.

- 18(1) Subject to this or any other Act, a municipality has the direction, control and management of all roads within the municipality.
- (2) Subject to this or any other Act, a municipal district also has the direction, control and management of roads and road diversions surveyed for the purpose of opening a road allowance as a diversion from the road allowance on the south or west boundary of the district although the roads or road diversions are outside the boundaries of the municipal district.
- (3) Nothing in this section gives a municipality the direction, control and management of mines and minerals.

##### 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 618.4 directs that all decisions of the LPRT must be consistent with the Land Use Policies (LUP).

##### 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.

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## Land dedication

Section 661 and 662 of the *Act* discuss the authority for the SA to require the dedication of land at time of subdivision as follows:

661 The owner of a parcel of land that is the subject of a proposed subdivision must provide, without compensation,

- (a) to the Crown in right of Alberta or a municipality, land for roads and public utilities,
- (a.1) subject to section 663, to the Crown in right of Alberta or a municipality, land for environmental reserve, and
- (b) subject to section 663, to the Crown in right of Alberta, a municipality, one or more school boards or a municipality and one or more school boards, land for municipal reserve, school reserve, municipal and school reserve, money in place of

any or all of those reserves or a combination of reserves and money,  
as required by the subdivision authority pursuant to this Division.

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.

## 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

### 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 kilometres 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 metres 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.

#### Service roads

19(1) In this section, “provide” means dedicate by caveat or by survey or construct, as required by the subdivision authority.

(2) Subject to section 20, if the land that is the subject of an application for subdivision is within an area described in section 7(6)(d), a service road satisfactory to the Minister of Transportation must be provided.

(3) Subsection (2) does not apply if the proposed parcel complies with section 18 and access to the proposed parcel of land and remnant title is to be solely by means other than a highway.

#### Waiver

20(1) The requirements of sections 18 and 19 may be varied by a subdivision authority with the written approval of the Minister of Transportation.

### ALBERTA LAND USE POLICIES

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

#### 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

##### Residential Type 4

*Residential Type 4 provides Sturgeon County’s rural population with options that support Primary Industry viability while maintaining a rural character. Residential Type 4 options are available throughout Sturgeon County; however they exclude existing developed areas. For additional policies reflecting the unique needs of each geographic area, refer to individual Neighbourhoods.*

**2.3.15** Shall apply 64 hectares/160 acres as the basic agricultural land unit, and unless otherwise indicated within a Planning Document, the maximum agricultural density is four (4) parcels for every 64 hectares/160 acres.

**2.3.16** Shall ensure that the maximum allowable agricultural subdivision layout for a 64 hectares/160 acre

land unit contains two (2) Agricultural Parcels and two (2) Acreage Lots, as further defined within the Land Use Bylaw (LUB). Where a proposed development exceeds the above subdivision density, the applicant must submit an application for a plan amendment and redistricting for consideration by Council.

## Land Use Bylaw

### PART 11 PRIMARY INDUSTRY DISTRICTS

#### 11.1 AG – AGRICULTURE DISTRICT

##### .1 General Purpose

This district accommodates traditional agricultural operations and the supportive services that are essential to grow and sustain the agricultural industry. This district distinguishes between major, minor

and residential where:

AG-Major are tracts of land 16ha (39.5ac) or larger in size;

AG-Minor are *parcels* between 4ha (9.8ac) and 15.9ha (39.3ac); and

AG-Residential are *parcels* smaller than 4ha (9.8ac).

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##### .3 Subdivision Regulations

(a) Unless otherwise indicated within a *planning document*, a *quarter section* in the AG district of 64.7ha (160ac) shall contain a maximum combined *density* of four *parcels*, comprised of:

- i. two AG – Major *parcels* of approximately 32.4ha (80ac) each or alternative sizes necessary due to *land fragmentation*; and
- ii. two AG – Residential *parcels* (one of which may be subdivided from each AG – Major *parcel* having a minimum size of 32.4ha (80ac) in accordance with Paragraph 11.1.3(e) of this Bylaw).

(b) Notwithstanding Subparagraph 11.1.3(a)(ii), the Subdivision Authority may consider the subdivision of a second AG – Residential parcel from the same 32ha (80 ac) AG parcel when all of the following criteria are met:

- i. no other parcel has been subdivided from the abutting 32ha (80 ac) AG parcel on that same quarter section; and
- ii. no secondary dwelling exists on the abutting 32ha (80 acre) AG parcel on that same quarter section; and
- iii. such a location would assist in preserving agricultural land and/or avoid a site constraint on the abutting 32ha (80 ac) AG parcel on that same quarter section related to access, topography, a pipeline, or other hazard or land use conflict; and
- iv. the landowner of the abutting 32ha (80 ac) AG parcel on that same quarter section provides their written consent and furthermore allows the County to register a restrictive covenant agreeing to forgo any future opportunity for subdivision or a secondary dwelling pursuant to this Bylaw.

(c) Where an AG – Major *parcel* is either smaller or larger than the conventional 64.7ha (160ac) and/or 32.4ha (80ac) *parcel* size (e.g. due to the presence of a redistricted *parcel(s)*, or surveying anomalies due to river lots or *land fragmentation*), the *subdivision* regulations are as follows:

- i. AG – Major *parcels* between 16ha (39.5ac) and 47.9ha (118.4ac) shall be considered equivalent to a 32.4ha (80ac) AG *parcel* (i.e. half a *quarter section*).
- ii. AG – Major *parcels* between 48ha (118.5ac) and 79.9ha (197.5ac) shall be considered equivalent to a 64.7ha (160ac) AG *parcel* (i.e. a full *quarter section*).
- iii. AG – Major *parcels* of 80ha (197.6ac) or larger shall be considered equivalent to a 64.7ha (160ac) AG *parcel* (i.e. a full *quarter section*) plus any additional *subdivision*

potential beyond 64.7ha (160ac) in accordance with the proportions referenced in Subparagraph 11.1.3(c)(i), (ii) or (iii).

- (d) AG – Minor *parcels* shall be considered equivalent to an AG – Residential *parcel* and therefore have no further *subdivision* potential.
- (e) The maximum size of an AG – Residential *parcel* shall be 1ha (2.47ac), unless a larger area is essential to:
  - i. encompass mature *shelterbelts*, existing *buildings* or any other related features associated with an existing *farmstead* (however, additional farmland will not be compromised to accommodate a septic system, the *setback* distances associated with a septic system, a *dugout*, or an extensive area of *fencing*); and/or
  - ii. mitigate any site constraints which could otherwise significantly limit the *development* potential of a 1ha (2.47ac) *parcel* or create land *use* conflicts – such as but not limited to *setback* distances from pipelines, low-lying or steep topography, inaccessible portions of land or *land fragmentation* (however, additional farmland will not be compromised when a site constraint could equally be addressed by modifying the location and/or dimensions of the proposed 1ha (2.47ac) *parcel*).

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