
Appeal File Numbers:	022-STU-018
Application Number:	2022-S-026
Appeal Against:	Subdivision Authority of Sturgeon County
Appellants:	Harald Pfeiffer
Date and Location of Hearing:	February 21, 2023 Council Chambers and Through Electronic Communications
Date of Decision:	March 7, 2023
SDAB Members:	Julius Buski, Neal Comeau, Amanda Papadopoulos, Don Rigney, Lili Terry and

NOTICE OF DECISION

IN THE MATTER OF an appeal by Harald Pfeiffer against the Subdivision Authority’s refusal to subdivide 5.02 hectares (12.40 acres) from 20.82 hectares (51.45 acres) at Plan 9925738; Block 1; Lot 1 – SW 31-54-27-W4 within Sturgeon County.

- [1] This is the decision of the Sturgeon County Subdivision and Development Appeal Board (the “SDAB” or “Board”) on an appeal filed with the SDAB pursuant to section 678(1) of the *Municipal Government Act*, R.S.A. 2000, c. M-26 (the “MGA” or “Act”).
- [2] In making this decision, the Board reviewed all the evidence presented and considered provisions of the *Municipal Government Act*, Sturgeon County’s Land Use Bylaw 1385/17 (the “Land Use Bylaw” or “LUB”), and Sturgeon County’s Municipal Development Plan (MDP), and any amendments thereto.
- [3] The following documents were received and form part of the record:
- The Notice of Appeal;
 - A copy of the subdivision application with attachments;
 - The Subdivision Authority’s written decision; and
 - Planning & Development Services Report.

PRELIMINARY MATTERS

- [4] There were no preliminary matters addressed at the hearing.

PROCEDURAL MATTERS

- [5] The appeal was filed on time and in accordance with section 678(2) of the MGA.
- [6] There were no objections to the proposed hearing process as outlined by the Chair.
- [7] There were no objections to the composition of the Board hearing the appeal.

[8] The Board is satisfied that it has jurisdiction to deal with this matter.

ISSUES

[9] The Appellant raised the following grounds of appeal:

- a. The land should be subdivided to accommodate the sale of land for a neighbouring family in transition to semi-retirement who would like a smaller house with more land for livestock.
- b. There is no appropriate parcel in close proximity to this community that meets his needs and therefore the subdivision is being sought.

RECOMMENDATION OF THE SUBDIVISION AUTHORITY

[10] Jonathan Heemskerck, representative for the Subdivision Authority, provided a presentation which includes a recommendation that subdivision application 2022-S-026 be refused for the following reasons:

1. The proposal does not align with the Residential Type 4 policies in the Municipal Development Plan (MDP).
 - a) Section 2.3.15 of the MDP prescribes a maximum agricultural density of four parcels for every quarter section unless otherwise indicated in Planning Document.
 - b) Section 2.3.16 of the MDP prescribes a maximum of two acreages for every quarter section.
 - c) Section 2.3.17 of the MDP prescribes that Acreage Lots minimize the total amount of land being taken out of agricultural production. The maximum density for an Acreage Lot shall be one (1) unit per 32 hectares, with a lot size subject to provisions under the Land Use Bylaw.

[11] Section 654(1) of the *Municipal Government Act* requires that a subdivision authority not approve an application for subdivision approval unless the land that is proposed to be subdivided conforms to the provisions of any growth plan under Part 17.1 of the Act, any statutory plan, and subject to section 642(2), any land use bylaw that affects the land proposed to be subdivided.

[12] The proposal for further subdivision on this quarter section would exceed the maximum combined density of four parcels and maximum size allowed for an acreage as outlined under section 11.1.3(a) of the Land Use Bylaw.

[13] This application is inconsistent with the MDP and the Land Use Bylaw; therefore, the Subdivision Authority refused the application and recommends that the Board deny the appeal and uphold the decision of the Subdivision Authority.

SUMMARY OF APPELLANT'S POSITION

[14] He moved to area 2 years ago and is developing a place for himself. He would like to subdivide the property to accommodate a neighbouring family in transition to semi-retirement who share a passion for the land.

[15] There is no appropriate parcel in close proximity and the land proposed to be subdivided is not viable agricultural land.

[16] Subdividing the parcel would not set a precedent and would be reasonable given the circumstances.

[17] He would be amenable to consolidating two of the parcels to keep the total parcel number on the quarter section at 5.

SUBMISSION FROM ADJACENT LANDOWNERS

[18] Mike and Melody Yaceyko, adjacent landowners, spoke in favour of the proposed subdivision, noting that the location of the proposed subdivision was selected with the neighbours in mind.

DECISION OF THE BOARD

[19] **The Board DENIES the appeal and UPHOLDS the decision of the Subdivision Authority made on November 22, 2022 to refuse subdivision application 2022-S-026.**

REASONS FOR THE DECISION

[20] The Appellant's request is to create a 5.02-hectare (12.40 acre) parcel from 20.82 hectares (51.45 acres).

[21] In recommending refusal of the subdivision application, the Subdivision Authority submitted that, pursuant to section 654(1) of the *Municipal Government Act*, a subdivision authority must not approve an application for subdivision approval unless the proposed subdivision conforms to the provisions of any growth plan under Part 17.1, any statutory plan, and any land use bylaw that affects the land proposed to be subdivided.

[22] The Subdivision Authority submitted that the proposal does not conform with the Municipal Development Plan, specifically Policy 2.3.15 which prescribes a maximum agricultural density of 4 parcels for every quarter section, Policy 2.3.16 which outlines a maximum of 2 acreages for every quarter section, and section 2.3.17 which states that Acreage Lots shall minimize the total amount of land being taken out of agricultural production. The proposal for further subdivision on this quarter section would exceed the maximum combined density of 4 parcels, and maximum size allowed for an acreage as outlined under section 11.1.3(a) of the LUB.

[23] The Appellant submitted that permitting this request and subdividing the property would create a residential hobby farm which would benefit the County by contributing to the local tax base. This is not a relevant consideration for the Board as its jurisdiction is limited to the appropriateness of subdivision and development matters in the context of conformance to land use policies while considering the impacts of proposed subdivision and development on adjacent property owners and the community. Therefore, the Board placed no weight on this submission.

[24] The Board finds that the proposal does not conform with Policies 2.3.15, 2.3.16, or 2.3.17 of the MDP or section 11.1.3 of the LUB.

[25] In reaching its decision to refuse this appeal, the Board considered Council's intent of the Residential Type 4 in the MDP, which is to "provide Sturgeon County's rural population with options that support Primary Industry viability while maintaining a rural character". Although

the landowners of an adjacent property attended the hearing and spoke in favour of the application, the Board finds that the limitation on the number of subdivisions permitted on agricultural land is a bona fide regulation with the outcome of maintaining the rural character of these communities.

[26] In weighing the merits of Appellant's application against the consistent application of land use policies that seek to promote the orderly development of the community as a whole, including maintaining the character of rural communities on lands subject to Residential Type 4 in the MDP, the Board determines that the regulations of the MDP and LUB shall be applied to the lands in question.

[27] For all of these reasons, the Board denies the appeal and upholds the decision of the Subdivision Authority to refuse the subdivision application.

Dated at the Town of Morinville, in the Province of Alberta, this 7th day of March, 2023.



Julius Buski, Chair

Pursuant to Section 688(1)(a) of the Municipal Government Act (MGA), an appeal of a decision of the Subdivision and Development Appeal Board lies with the Alberta Court of Appeal on a matter of law or jurisdiction. In accordance with Section 688(2)(a), if a decision is being considered, an application for permission to appeal must be filed and served within 30 days after the issuance of the decision and, notice of the application for permission must be provided to the Subdivision and Development Appeal Board and in accordance with Section 688(2)(b), any other persons that the judge directs.

APPENDIX "A"
List of Submissions

- The Notice of Appeal;
- A copy of the subdivision application with attachments;
- The Subdivision Authority's written decision;
- Planning & Development Services Report