
Appeal File Numbers:	024-STU-012
Application Number:	2024-S-018
Appeal Against:	Subdivision Authority of Sturgeon County
Appellant:	Tilda Ferguson
Date and Location of Hearing:	July 23, 2024 Council Chambers and Through Electronic Communications
Date of Decision:	August 6, 2024
SDAB Members:	Lili Terry (Presiding Officer), Neal Comeau, Lee Danchuk, and Don Rigney.

NOTICE OF DECISION

IN THE MATTER OF an appeal by Tilda Ferguson against the Subdivision Authority’s refusal to subdivide a 2.38-hectare parcel from 6.02 hectares at 9522208; ;1 (NE-18-54-24-W4M) 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”), Sturgeon County’s Municipal Development Plan (MDP), the Sturgeon Valley South Area Structure Plan, and any amendments thereto.
- [3] The following documents were received and form part of the record:
 - a. The Notice of Appeal;
 - b. A copy of the subdivision application with attachments;
 - c. The Subdivision Authority’s written decision;
 - d. Planning & Development Services Report; and
 - e. Written submissions from affected agencies.

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 Presiding Officer.
- [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 requested that the Subdivision Authority's refusal be reversed, and the subdivision application be approved.

RECOMMENDATION OF THE SUBDIVISION AUTHORITY

[10] Jonathan Heemskerk, representative for the Subdivision Authority, provided a presentation which included an issue analysis for the Appellant's proposal and reasons for the Subdivision Authority's refusal of the proposed subdivision.

[11] A historic subdivision registered with Land Titles in 1995 created the current 6.02-hectare parcel. Other historic subdivisions have occurred on this quarter section resulting in a total of six parcels on this quarter section (six AG lots including the subject parcel and one County-owned Open Space Reserve lot).

[12] The application seeks to subdivide a 2.38-hectare parcel (vacant land) from 6.02 hectares. The parcel is considered AG – Minor as defined in the Agriculture District of the Land Use Bylaw which states:

11.1.3(d) AG – Minor parcels shall be considered equivalent to an AG – Residential parcel and therefore have no further subdivision potential.

[13] Given the proposed configuration, this application is inconsistent with Municipal Development Plan (MDP) Residential Type 4 policies, and with the Land Use Bylaw's AG - Agriculture regulations. The proposal does not align with the following policies and regulations:

MDP Policy 2.3.15, which notes a maximum of two acreage lots for every 64 hectares (quarter section):

"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."

Section 11.1.3(a) of the Land Use Bylaw states:

Unless otherwise indicated within a planning document, a quarter section in the AG district of 64.7 hectares (160 acres) 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 32.4 hectares (80 acres) in accordance with Paragraph 11.1.3(e) of this Bylaw).

[14] The application does not conform to the Sturgeon Valley South Area Structure Plan (ASP). Specifically, the proposed parcel is not in alignment with Policy 5.6.1.1 of the ASP which seeks to preserve agricultural lands until the lands are needed for urban development at a minimum of 35 dwelling units per net residential hectare (du/nrha). The proposed parcel

also does not align with Part 18.5.4 of the Urban Reserve Overlay (URO) which allows for interim agricultural subdivision in the Sturgeon Valley South Area Structure Plan if the proposal aligns with the Land Use Bylaw.

[15] Section 654(1) of the *Municipal Government Act* (MGA) provides 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; and

(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.

[16] There are flooding issues on this property, as evidenced by aerial imagery submitted to the Board.

[17] As this application is inconsistent with a Sturgeon County Statutory Plan (the Municipal Development Plan), the Land Use Bylaw, the Sturgeon Valley South Area Structure Plan, and the Urban Reserve Overlay, the Subdivision Authority was required to refuse this application.

SUMMARY OF APPELLANT'S POSITION

[18] The Appellant, Tilda Ferguson, stated that the parcel immediately adjacent to the south boundary was previously subdivided into two lots, which sets a precedent in favour of her proposal.

[19] The regulations allow for only four parcels per quarter section to discourage fragmentation of farmland; however, there are already seven parcels, and the lands are already fragmented.

[20] The Urban Overlay will allow for future high-density residential development, and the land will no longer be regarded as agricultural. Further, the land has not been farmed in thirty years.

[21] The Subdivision Authority raised concerns with flooding in the area; however, there has been no flooding of the property in the thirty years she has lived there.

DECISION OF THE BOARD

[22] **The Board DENIES the appeal and UPHOLDS the decision of the Subdivision Authority made on June 11, 2024 to REFUSE subdivision application 2024-S-018.**

REASONS FOR THE DECISION

[23] A historical subdivision registered with Land Titles in 1995 created the current 6.02-hectare parcel. Other historic subdivisions have occurred on this quarter section resulting in a total of six AG lots including the subject parcel and one County-owned Open Space Reserve lot.

[24] The application seeks to subdivide a 2.38-hectare parcel (vacant land) from 6.02 hectares. The parcel is considered AG – Minor as defined in the Agriculture District of the Land Use Bylaw.

- [25] The Subdivision Authority submitted that, pursuant to section 654(1) of the *Municipal Government Act* (MGA), a subdivision authority must not approve an application for subdivision approval unless 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 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.
- [26] The Subdivision Authority submitted that the proposal does not align with the subdivision regulations in the Land Use Bylaw, specifically Policy 11.1.3(3) which states that unless otherwise indicated within a planning document, a quarter section in the AG district of 64.7 hectares (160 acres) shall contain a maximum combined density of four parcels, comprised of:
- (i) two AG – Major parcels of approximately 32.4 hectares (80 acres) 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 32.4 hectares (80 acres)).
- [27] Further, the Subdivision Authority submitted that the proposal does not conform with the Municipal Development Plan (MDP) (a statutory plan), specifically Policy 2.3.16, which notes a maximum of two acreage lots for every 64 hectares (quarter section) and Policy 2.3.17 which states that acreage lots shall minimize the total amount of agricultural land taken out of production.
- [28] Further, the Subdivision Authority submitted that the proposal does not conform with the Sturgeon Valley South Area Structure Plan (ASP). Specifically, the proposed parcel is not in alignment with Policy 5.6.1.1 of the ASP which aims to preserve agricultural lands until the lands are needed for urban development at a minimum of 35 du/nrha. The proposed parcel also does not align with Part 18.5.4 of the Urban Reserve Overlay (URO) which allows for interim agricultural subdivision in the Sturgeon Valley South Area Structure Plan if the proposal aligns with the Land Use Bylaw.
- [29] The Appellant submitted that, notwithstanding the land use regulations applicable to this land, previous subdivisions on the same quarter section were also non-compliant with Sturgeon County land use planning regulations but were approved. Therefore, the County has set a precedent for approving subdivisions on this quarter section that are non-compliant with County planning documents. Although neither party was able to provide clarity as to how and when the previous subdivisions were approved, the Board finds that it not bound by precedent as each application is considered on its own merits in the current context.
- [30] Further, the Appellant submitted that, although districted as AG – Agriculture land, the parcel has not been actively farmed for at least thirty years. Given the recently approved Sturgeon Valley South Area Structure Plan and Urban Overlay, the County's long-term objective is to develop the lands for residential development, and therefore the provisions of the MDP and LUB seeking to preserve agricultural land should not apply. The Board was persuaded by the Subdivision Authority's submission that the Land Use Bylaw and Municipal

Development Plan provisions discouraging the fragmentation of farmland should be applied as the Board must consider the intent of the district of the land, which is primarily for agricultural purposes.

- [31] The Board heard from the Subdivision Authority that there have been no recent subdivisions on the quarter section, with the most recent approval being in 2001. Since that time, there have been new and significant planning documents approved by Council, particularly the Sturgeon Valley South Area Structure Plan (2021), which the Board must give deference to. This ASP and the Urban Overlay allow subdivisions to occur in the plan area if they are consistent with the Land Use Bylaw, which this application is not.
- [32] Further, new residential development will be subject to minimum density requirements. The Board finds that it would be inappropriate to approve subdivision applications inconsistent with the Land Use Bylaw and the applicable ASP, which would detract from Council's vision of planned and orderly residential development in the Sturgeon Valley South area.
- [33] 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 6th day of August, 2024.



Lili Terry, Presiding Officer

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; and
- Written submissions from affected agencies.