
Appeal File Numbers:	025-STU-006
Application Number:	2025-S-019
Appeal Against:	Subdivision Authority of Sturgeon County
Appellants:	Loruk Farms Ltd. (Kelly Froese)
Date and Location of Hearing:	August 19, 2025 Council Chambers and Through Electronic Communications
Date of Decision:	September 2, 2025
SDAB Members:	Julius Buski (Chair), Nicole Mackoway, Don Rigney, Lili Terry, and Kristin Toms.

NOTICE OF DECISION

IN THE MATTER OF an appeal by Loruk Farms Ltd. (Kelly Froese) against the Subdivision Authority's refusal to consolidate two parcels and subdivide a 1 hectare parcel and a 1.32 hectare parcel from 48.92 hectares.

- [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;
 - Planning & Development Services Report; and
 - Exhibit 3 – Updated Lot Plan

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 Appellants raised the following grounds of appeal:

- Appealing the Subdivision Authority's decision for refusal based on the number of parcels on this quarter section of land.

RECOMMENDATION OF THE SUBDIVISION AUTHORITY

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

[11] The proposal is to consolidate two existing AG-Major parcels and subdivide two acreage parcels of 1 hectare (2.47 acres) and 1.32 hectares (3.26 acres).

[12] While consolidating two AG – Major parcels on this quarter section will reduce parcel density, the subdivision of two new acreage lots will result in five total parcels. This exceeds the maximum agricultural parcel density of four parcels per quarter-section permitted under Policy 2.3.15 of the Municipal Development Plan, and Part 11.1.3(a) of the Land Use Bylaw.

[13] There are two unconventionally sized AG – Minor parcels on the south half of the quarter section that are 15.74 acres and 25.20 acres. However, Part 11.1.3(d) of the Land Use Bylaw indicates that AG – Minor parcels shall be considered equivalent to an AG – Residential Parcel for subdivision purposes. The resulting parcel configuration would be:

- Four 'small' parcels (AG – Residential or AG – Minor)
- One 'large' parcel (AG – Major)

[14] 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.

[15] The proposal does not conform with Land Use Bylaw 1385/17 as per Part 11.1.3(a), which requires a maximum agricultural parcel density of four parcels per quarter-section.

[16] The proposal does not conform to Policies 2.3.15 and 2.3.16 of the Municipal Development Plan, which states a maximum agricultural parcel density of four parcels per quarter-section and no more than two acreage parcels per quarter section. This parcel would create a density of five parcels per quarter section and four 'acreage' parcels on the same quarter-section.

[17] Mr. Heemskerk provided an historic analysis of changes made to the Land Use Bylaw in 2017. Previously, the Land Use Bylaw did not account for 'natural land fragmentation' of agriculture parcels towards total parcel density. The regulation changed in 2017, which counted fragmented parcels towards the maximum four parcel density.

SUMMARY OF APPELLANTS' POSITION

- [18] The Appellant, Kelly Froese, attended the hearing and submitted that the intention behind the submitted drawings was to keep the subdivided parcel as small as possible. He would like to give proposed Lots 1 and 2 to his family and has no intention to further subdivide or to sell the parcel in the future.
- [19] The changes made to the Land Use Bylaw in 2017 limited future subdivision of the 80 acre parcel due to the inability to consider the fragmented parcel outside of an appeal hearing.
- [20] All conditions are acceptable to the Appellant.

DECISION OF THE BOARD

- [21] The Board GRANTS the appeal and REVOKES the decision of the Subdivision Authority made on July 31, 2025, to refuse subdivision application 2025-S-019 and approves the subdivision with an alternative configuration for proposed Lots 1 and 2 in accordance with Exhibit three (attached to this document), subject to the following conditions:
- a. Pursuant to Provision 654(1)(d) of the MGA, any outstanding taxes on the subject property shall be paid or arrangements be made, to the satisfaction of Sturgeon County, for the payment thereof.
 - b. The applicant shall retain the services of a professional Alberta Land Surveyor, who shall submit a drawing to Sturgeon County resembling Exhibit 3, dated and submit it in a manner that is acceptable to Land Titles. The surveyor shall also prepare a Signed/Stamped Site Plan or Real Property Report to confirm building/septic system locations, to the satisfaction of Sturgeon County.
 - c. Pursuant to Provision 662(1) of the MGA, as illustrated in Exhibit 3 and as required by Sturgeon County Engineering Services, a 5-metre-wide area parallel and adjacent to the boundary of the Proposed Lot 1 and Proposed Lot 2 and the adjacent road shall be dedicated as road allowance via plan of survey at no cost to Sturgeon County.
 - d. Pursuant to Provision 662(1) of the MGA, as illustrated in Exhibit 3 and as required by Sturgeon County Engineering Services, a 5-metre-wide area parallel and adjacent to the boundary of the Remnant Lot and the adjacent road 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).
 - e. 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 in accordance with General Municipal Servicing Standards, before this subdivision is endorsed.
 - f. Pursuant to Provision 666 of the MGA, money in lieu of municipal reserve shall be provided to Sturgeon County respecting 10% of the area of the proposed lot. A payment will be made in place of reserves equal to \$3,360.39 (determined at a rate of \$13,229.90 per hectare X 10% X 2.54 hectares = \$3,360.39). The money-in-lieu calculation will be based on the actual amount of land (in hectares) shown on a plan of survey.

- g. Pursuant to Provision 669 of the MGA, municipal reserves owing on the Remnant Lot shall be deferred by caveat (note: this caveat to be prepared by Sturgeon County).
- h. The applicant is to obtain all necessary permits to comply with the Land Use Bylaw – to the satisfaction of the Development Authority.
- i. A restrictive covenant created by, and to the satisfaction of Sturgeon County shall be registered on the land title certificate of all lots advising the landowner that as per the Land Use Bylaw (1385/17), these parcels are located within the Resource Extraction Overlay and could be potentially located near an incompatible use in the future – resource extraction.
- j. Pursuant to Provision 654(1)(c) of the MGA, the proposed subdivision must result in compliance with the 2021 Alberta Private Sewage Systems Standard of Practice. A certificate of compliance may be required from the County’s Gas & Plumbing Inspector confirming that the existing open discharge septic system and treatment mound septic system either meet the Standard of Practice, the system has been replaced, relocated, or redesigned to comply, or conformation must be provided to Sturgeon County demonstrating that all setback requirements have been achieved. Note: An Alberta Land Surveyor may be required to confirm distances from the septic system to property lines, buildings or other features – to the satisfaction of Sturgeon County.
- k. The approach for proposed Lot 2 shall be in accordance with Exhibit 3, with both proposed lots sharing the same approach. Both proposed lots require a certificate of compliance for each existing septic system. The existing lot line will be consolidated to create a 46.3 hectare remnant lot.

ADVISORY NOTES

- 1) Natural Gas servicing to any new subdivision is the responsibility of the applicant. The applicant will be required to provide the required easements across existing lots or subdivided lots for natural gas servicing, if service is approved by the natural gas provider. Sturgeon County does not allow natural gas servicing lines to be located within the road right of way. Setbacks from the road right of way are required. Easements of private property must be obtained by the applicants or service providers. Any service lines which cross Sturgeon County property will require a crossing agreement with conditions.
- 2) Pursuant to Section 2.4.3 of the LUB, at the development permit stage on any property, it is highly recommended that the developer retain the services of a qualified engineering professional to prepare and submit a geotechnical investigation confirming that the proposed building site on is suitable for development and prescribing any preventative engineering measures to be taken to make the building site suitable for future development or future development suitable for the building site.
- 3) The subject properties shall not be used in any manner or way that impedes or will impede the use of adjacent lands for agricultural purposes or agricultural operations, as defined in the Agricultural Operation Practices Act, RSA 2000 c.A-7.
- 4) *FireSmart* principals should be incorporated into all future construction and development on all lots. Please visit www.firesmartcanada.ca.

REASONS FOR THE DECISION

- [22] The Appellant's request is to consolidate two parcels and subdivide a 1 hectare parcel and a 1.32 hectare parcel from 48.92 hectares. Currently there are four total parcels on this quarter section: two AG major parcels and two AG minor parcels.
- [23] The second acreage on the south half was only approved since the north half would still be allowed to subdivide in the future. However, changes made to the Land Use Bylaw in 2017 included counting fragmented parcels towards the maximum of four allotted, which removed the potential to subdivide the northern parcel.
- [24] The Subdivision Authority refused the subdivision application on the basis that the proposed subdivision was not consistent with the maximum amount of four parcels per quarter section and maximum of two acreages per quarter section. The Board heard that the Subdivision Authority would otherwise support the application with conditions due to the unique nature of the natural fragmentation of the land.
- [25] The Appellant submitted that they would like to subdivide the parcel in order to gift proposed Lots 1 and 2 to family. The Appellant further submitted that the changes made to the Land Use Bylaw in 2017 limited future subdivision of the 80 acre parcel due to the inability to consider the fragmented parcel outside of an appeal hearing. The Appellant has no interest in selling the parcel in the future and agrees to all of the conditions listed by the Subdivision Authority.
- [26] The Board finds that it may approve an application for subdivision approval even though the proposed subdivision does not comply with the Land Use Bylaw if, in its opinion, the proposed subdivision would not unduly interfere with the amenities of the neighbourhood or materially interfere with or affect the use, enjoyment, or value of neighbouring parcels of land, and the proposed subdivision conforms with the use prescribed for that land in the Land Use Bylaw. Having reviewed the evidence and submissions from affected parties, the Board finds that the proposed subdivision would not unduly interfere with the amenities of the neighbourhood or materially interfere with or affect the use, enjoyment, or value of neighbouring parcels of land.
- [27] In weighing the merits of the Appellant's application against the consistent application of land use policies, the Board finds that the changes to the Land Use Bylaw in 2017 created unique unintended consequences which limited future subdivision opportunities for the Appellant due to natural land fragmentation. Further, the Board finds that it is unlikely that the parcel will be subdivided further in the future.
- [28] The Board supports the ongoing recognition of 100-Year Farm Families in Sturgeon County and recognizes that the application provides an opportunity for multi-generational farming on the subject parcel.
- [29] The Board determined that an alternative configuration for proposed Lots 1 and 2, in accordance with Exhibit 3 (attached to this document), is appropriate for the subject lands.
- [30] The Board further finds that the application constitutes a unique, one-off circumstance of the kind for which its discretionary decision-making authority is appropriately exercised.

[31] For all of these reasons, the Board grants the appeal, revokes the decision of the Subdivision Authority to refuse the subdivision, and approves the subdivision subject to the conditions listed above.

Dated at the Town of Morinville, in the Province of Alberta, this 2nd day of September, 2025.

A handwritten signature in blue ink, appearing to read "J. Buski", is centered on the page.

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; and
- Exhibit 3 – Updated Lot Plan

Exhibit 3 [SDAB Decision]

File Number: 2025-S-019



Legal Description: 1723349;1;5 & 8022100;;1

Roll Number: 1323000 & 1323004









Total Acres/Hectares: 120.88ac / 48.92ha

Land Use: AG - Agriculture

Municipal Address: 56507 and 56515 Twp Rd 570

Date: 8/20/2025

Legend

-  Dwelling
-  Existing Approach
-  Farm Building
-  Pump Out
-  Septic Mound
-  Septic Tank
-  Road Widening By Caveat
-  Road Widening By Survey