



SUBDIVISION AND DEVELOPMENT APPEAL BOARD TOWN OF STONY PLAIN

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HEARING DATE: May 4, 2023
DECISION DATE: May 16, 2023
SUBDIVISION APPLICATION: 2023-SPT-02

NOTICE OF DECISION

INTRODUCTION

On March 21, 2023 the Subdivision Authority for the Town of Stony Plain refused an application to subdivide 53026 Range Road 11 (a portion of NE ¼ Sec. 2-53-1-W5M) ("the Lands") into one lot and a remnant lot.

The subject lands are located at 53026 Range Road 11 in the Town of Stony Plain, which is in the FD-Future Development District under Land Use Bylaw 2654/LUO/22. The Subdivision Authority refused the subdivision application due to the application not meeting regulations of the Town's Land Use Bylaw. The Subdivision and Development Appeal Board (the "SDAB") heard the appeal on May 4, 2023.

PROCEDURAL MATTERS

A. Board Members

At the start of the hearing, the Chair of the SDAB asked if anyone in attendance had any objections or concerns related to the agenda or hearing process. No one came forward. The Chair also asked whether anyone would like to request a postponement of the hearing. No one came forward.

The Chair of the SDAB asked if anyone had any objection to the panel hearing the appeal. The Appellant confirmed he had no objections.

B. Exhibits

The SDAB marked the exhibits as set out at the end of this decision letter.

C. Procedural Matters

The appeal was filed in time, in accordance with Section 686 of the *Municipal Government Act*, RSA 2000, c M-26.

At the end of the hearing, the Chair of the SDAB asked the Appellant if they felt they had an adequate opportunity to present their information. The Appellant confirmed that he had.

The Chair of the SDAB closed the Public Hearing for Subdivision Application 2023-SPT-02 and advised that the SDAB must provide a written decision together with the reasons for the decision within 15 days.

RECOMMENDATION OF THE SUBDIVISION AUTHORITY

The Subdivision Authority provided the SDAB with a written submission, which is contained in the agenda. The Subdivision Authority refused subdivision application 2023-SPT-02 for the following reasons:

I. Rationale for Decision:

- (a) The proposed subdivision application does not comply with the minimum lot size regulation, as stated in section 2.17.4.2.a. of the Town's Land Use Bylaw.
- (b) The proposed subdivision application does not comply with the requirement for preparation and adoption of an area structure plan prior to consideration of an application for redistricting or subdivision, as stated in section 2.17.4.3.a. of the Town's Land Use Bylaw.
- (c) As a member municipality of the EMRB, the Town of Stony Plain is required to support and align with regional plans including both the Growth Plan and RAMP, which discourage premature fragmentation and conversion of agricultural land until a time when it is needed for urban development, and once appropriate studies have been conducted and that required bylaws and approvals are in place.
- (d) The *Municipal Government Act* states that a Subdivision Authority must not approve an application for subdivision unless 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. The subdivision application does not conform to the provisions of the Edmonton Metropolitan Region Growth Plan or the Town's Land Use Bylaw.
- (e) The *Municipal Government Act* authorizes a Subdivision Authority to approve a subdivision that does not conform with the land use bylaw that affects the land proposed to be subdivided 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. The Subdivision Authority was unable to determine if the proposed subdivision application would materially impact the use, enjoyment, or value of neighbouring parcels.

SUMMARY OF APPELLANT'S POSITION:

The Appellant, Luke Adam, submitted that:

- Along with his wife and mother, they farm a fourth-generation farm.
- The SDAB can grant a variance to the Land Use Bylaw and the requirement of an area structure plan based on the Board's authority under the *Municipal Government Act* on having regard to but not being bound by the Subdivision and Development Regulations.
- The subdivision was requested because the farm business requires land within its control to remain productive as it transitions to the fourth generation.
- The dwelling to be subdivided is pre-existing, it is not new growth. The property is fenced.
- The Town of Stony Plain has an opportunity to receive additional tax that it is not currently collecting on the existing property.
- He feels he is protecting prime farmland from development. He wants to keep the prime farmland in farm control until it is needed for urbanization. The LUB's required subdivision size of eight hectares (20 acres) is not small. The requirement to subdivide eight hectares fragments valuable farmland, and he is trying to protect agriculture and prime farmland in the community.
- There are 320 acres of land to be developed before development would reach his farmland.
- The Stony Plain 2020 Municipal Development Plan talks about Stony Plain being unique. With our governance and our partners, we cooperate with our neighbours to creatively and carefully direct development that is consistent with community values to make wise choices for effective resource use. I would argue that our subdivision as applied for provides additional tax revenue with no extra cost to the Town and another revenue source in the form of an off-site levy contract when development finally reaches us.
- The Stony Plain 2020 Municipal Development Plan also states the Town will foster and strengthen partnerships with businesses. I would hope that includes farmers. We are your longest running businesses in town. Our farm has been there since 1908. The Town was formed in 1907. We have been supporting ourselves and each other for over 100 years, and I don't see why we should stop now.

Speaking in Favour of the Appellant:

1. Wil Fraser, adjacent property owner, spoke in favour of the appeal.
2. Deb Goertz, neighbour, spoke in favour of the appeal.

EVIDENCE

Evidence presented to the SDAB included:

- The SDAB Agenda Package dated May 4, 2023
- Presentation by the Appellant
- Verbal support by adjacent landowners
- Petition of support in appellant package
- Information provided by the Subdivision Authority including relevant land use documents.

FINDINGS OF FACT

1. The property is located at 53026 Range Road 11.
2. The property is immediately adjacent to Parkland County.
3. The property has multiple vehicular access points off Range Road 11.
4. The use of the land will not change.
5. There are several existing buildings on the property, including a homestead on the southeast corner and a number of buildings on the northeast portion of the property for agricultural purposes.
6. The size of the proposed lot is 1.07 hectares, which would leave a 62.0-hectare remnant lot.
7. The property is situated in the FD – Future Development District.
8. There is no area structure plan for the property.
9. No municipal reserve dedication has been provided for the Lands.

DECISION OF THE SUBDIVISION AND DEVELOPMENT APPEAL BOARD

In making this decision, the SDAB reviewed all the evidence presented and considered provisions of the following legislation:

- *Municipal Government Act*, ss. 654.(1)b and 654(2)
- Edmonton Metropolitan Region Board Growth Plan - Objective 6.2, Policy 6.2.4
- Regional Agricultural Master Plan - Section 4.3, Policy Area 3, Policies 1 and 2
- Municipal Development Plan 2631/D&P/20 - Policy 6.8.a., 6.8.b., 6.8.e., and 6.8.f.
- Land Use Bylaw 2654/LUO/22 - Sections 2.17.4.2.a. and 2.17.4.3.a.

The SDAB GRANTS the appeal, REVOKES the decision of the Subdivision Authority made on March 3, 2023, to refuse subdivision application 2023-SPT-02, and APPROVES the subdivision with the following terms and conditions:

1. That, pursuant to the *Land Titles Act*, RSA 2000, c L-4, the subdivision shall be effected by a Plan of Survey.
2. That, pursuant to Section 654(1)(d) of the *Municipal Government Act*, any outstanding taxes owing on the subject properties shall be paid, or arrangements satisfactory to the Town of Stony Plain have been made for their payment.
3. The provision of easements in the name of the Town of Stony Plain, as and if required by West Parkland Gas, ATCO Gas, Fortis Alberta, Telus and other utility providers

4. That the area of proposed Block 1 Lot 2 remain as 1.07 hectares in size, and Block 1 Lot 2 continue to have at least 70 metres of continual road frontage along Range Road 11.
5. That, pursuant to Section 669 of the *Municipal Government Act*, a deferred reserve caveat be registered on the proposed remnant lot (remainder of NE ¼ 2-53-1-W5M) in the full amount of municipal reserve owing for the subdivision area (6.47 ha).

REASONS FOR DECISION

The SDAB is of the opinion that:

1. With no objection from neighbours, 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.
2. The proposed development conforms with the use prescribed for the land in the Land Use Bylaw.
3. The proposed subdivision aims to reduce the fragmentation and loss of agricultural lands by encouraging development practices that promote efficient land use.
4. The proposed subdivision will not adversely impact urban settlement and will not be detrimental to future urbanization.
5. The Town will direct growth to non-prime agricultural lands before prime agricultural lands considering efficient extension of infrastructure and contiguous development.

For these reasons, the Board grants the appeal and approves the subdivision application with the conditions noted.

This decision was issued on this 16th day of May 2023, for the Town of Stony Plain Subdivision and Development Appeal Board.



Justin Laurie, Chair
Subdivision and Development Appeal Board

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:
REPRESENTATIONS

PERSONS APPEARING

1. Chelsey Rudolph, Subdivision Authority
2. Luke Adam, Appellant
3. Wil Frazer
4. Deb Goertz

APPENDIX B:
DOCUMENTS RECEIVED AND CONSIDERED BY THE SDAB

	Description	Date	Pages
1.	SDAB Agenda Package	May 1, 2023	138
2.	Presentation by the Appellant, Like Adam	May 4, 2023	17