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Appeal File Numbers:	025-STU-004
Application Number:	2024-S-041
Appeal Against:	Subdivision Authority of Sturgeon County
Appellants:	1221940 Alberta Ltd. Jeff Richardson
Date and Location of Hearing:	April 1, 2025 Council Chambers and Through Electronic Communications
Date of Decision:	April 7, 2025
SDAB Members:	Julius Buski (Chair), Lee Danchuk, Nicole Mackoway, Amanda Papadopoulos, and Kristin Toms.

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### NOTICE OF DECISION

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**IN THE MATTER OF** an appeal by 1221940 Alberta Ltd. against the Subdivision Authority’s refusal of a consolidation and a 1.75 ha parcel at E 32-53-26-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;
  - Planning & Development Services Report; and
  - Appellant’s submission

#### 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 lot line adjustment should be approved due to the shape and layout of the parcel.
- b. This will improve the ability to farm the land and adheres to the intent of the Land Use Bylaw and Municipal Development Plan.

#### **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.

[11] The application proposes to consolidate two large AG – Major parcels and create a new acreage parcel in the northeast corner of 1.74 hectares (4.30 acres). This would result in one AG Major parcel and three AG Residential (acreage) parcels.

[12] While the configuration aligns with the maximum density requirements outlined in the Municipal Development Plan (MDP) and Land Use Bylaw (LUB), it does not align with the following policies and regulations:

MDP Policy 2.3.16, which notes a maximum of two acreage lots for every 64 hectares (quarter section):

*“Shall ensure that the maximum allowable agricultural subdivision layout for a 64 hectares (160 acres) land unit contains two (2) Agricultural Parcels and two (2) Acreage Lots, as further defined within the Land Use Bylaw. 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.”*

LUB Regulation 11.1.3(a) notes 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) in accordance with Paragraph 11.1.3(e) of this Bylaw).*

[13] Section 654(1) of the *Municipal Government Act* (MGA) provides that a subdivision authority must not approve an application for subdivision approval unless:

- (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.

- [14] As this application is inconsistent with a Sturgeon County Statutory Plan (the Municipal Development Plan) and the Land Use Bylaw, the Subdivision Authority was required to refuse this application.

#### **SUMMARY OF APPELLANT'S POSITION**

- [15] The Appellant understands and generally agrees with the MDP, and corresponding subdivision policies set forth in Sturgeon County, in which sustainable agricultural areas and parcels are protected and maintained however, he believes this parcel is an exception.
- [16] As seen from the map provided from Administration and the legal plan attached to this presentation, E -32-52-26 W4 does not have a N or S assigned to it. It is an odd parcel, L shaped, which expands the entire the North-South distance of what two quarter sections would be.
- [17] Effort was made when it was split into the two farmland parcels to maintain the same size but due to the lack of road frontage along Township Road 540, the remnant lot was created as 76 acres, and lot 2 was created as 86 acres. Lot 2 has only 106 feet of frontage along Township Road 540. Getting farm equipment onto the lot is quite limited as you could not turn around and that width extends down along the acreage.
- [18] The application proposes to combine two large agricultural parcels and re-create a larger more efficient parcel of land to farm and maximize its agricultural value. The smaller parcel proposed has a barn, power and some facilities that would encourage acreage living as well as a small-scale hobby farm or diversified agricultural operations.
- [19] The application does not seek to create any additional parcels but rather optimize the value and use of the existing land and preserve agricultural land, which is the basis of the MDP policy.

#### **DECISION OF THE BOARD**

- [20] **The Board GRANTS the appeal, REVOKES the decision of the Subdivision Authority made on February 24, 2025 to refuse subdivision application 2024-S-041 and approves the subdivision subject to the following conditions:**
- 1) Pursuant to section 654(1)(d) of the *Municipal Government Act* (MGA), any outstanding taxes on the subject properties 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 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.
  - 3) Pursuant to section 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 Proposed Lot 1 and the adjacent road shall be dedicated as road allowance via plan of survey at no cost to Sturgeon County.
  - 4) 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 1. A payment will be made in place of reserves equal to \$3,768.75 (determined at a rate of \$21,659.48

per hectare X 10% X 1.74 hectare = \$3,768.75). The money-in-lieu calculation will be based on the actual amount of land (in hectares) shown on a plan of survey.

- 5) Pursuant to Provision 669 of the MGA, municipal reserves owing on the Remnant Lot shall be deferred by caveat proportionately (note: this caveat to be prepared by Sturgeon County).

#### **ADVISORY NOTES**

- 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.
- Pursuant to section 2.4.3 of the Land Use Bylaw (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.
- 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.

#### **REASONS FOR THE DECISION**

[21] The Appellant's request is to consolidate two large AG – Major parcels and create a new 1.74 hectares (4.30 acres) acreage parcel in the northeast corner of the parcel. The proposed acreage lot has an existing barn, power and some facilities that could facilitate acreage living.

[22] 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: (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.

[23] 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)(a) 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)).

- [24] 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).
- [25] The Board heard from the Appellant that the consolidation of the large agricultural parcels would contribute to the long-term viability of agricultural production. The parcel is currently pasture and the intent is to have a grain operation farmed to maximize the agricultural value. Further, the creation of the proposed new acreage lot would not take the land out of production but enable diversified agricultural options such as a small-scale hobby farm. The Board finds that this is consistent with the overall intent of the MDP, which is to preserve agricultural land.
- [26] The Board heard from the Subdivision Authority that each parcel, including the proposed and remnant lots have existing approaches that have been constructed to Sturgeon County engineering standards. Should the acreage lots be sold in the future, access to the agriculture land will remain available.
- [27] The Board heard from the Subdivision Authority that although the application is a variance from the Land Use Bylaw, other than the configuration of 3 acreages and 1 large piece of farmland, the Subdivision Authority has no objections.
- [28] Pursuant to section 654(2)(a)(i) of the MGA, 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 received no evidence from adjacent landowners indicating opposition to the application, 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 and would provide for more efficient use of the agricultural parcels.
- [29] For all of these reasons, the Board grants the appeal, revokes the decision of the Subdivision Authority to refuse the subdivision application, and approves the subdivision subject to the conditions listed above.

Dated at the Town of Morinville, in the Province of Alberta, this 7<sup>th</sup> day of April, 2025.



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Julius Buski, Chair

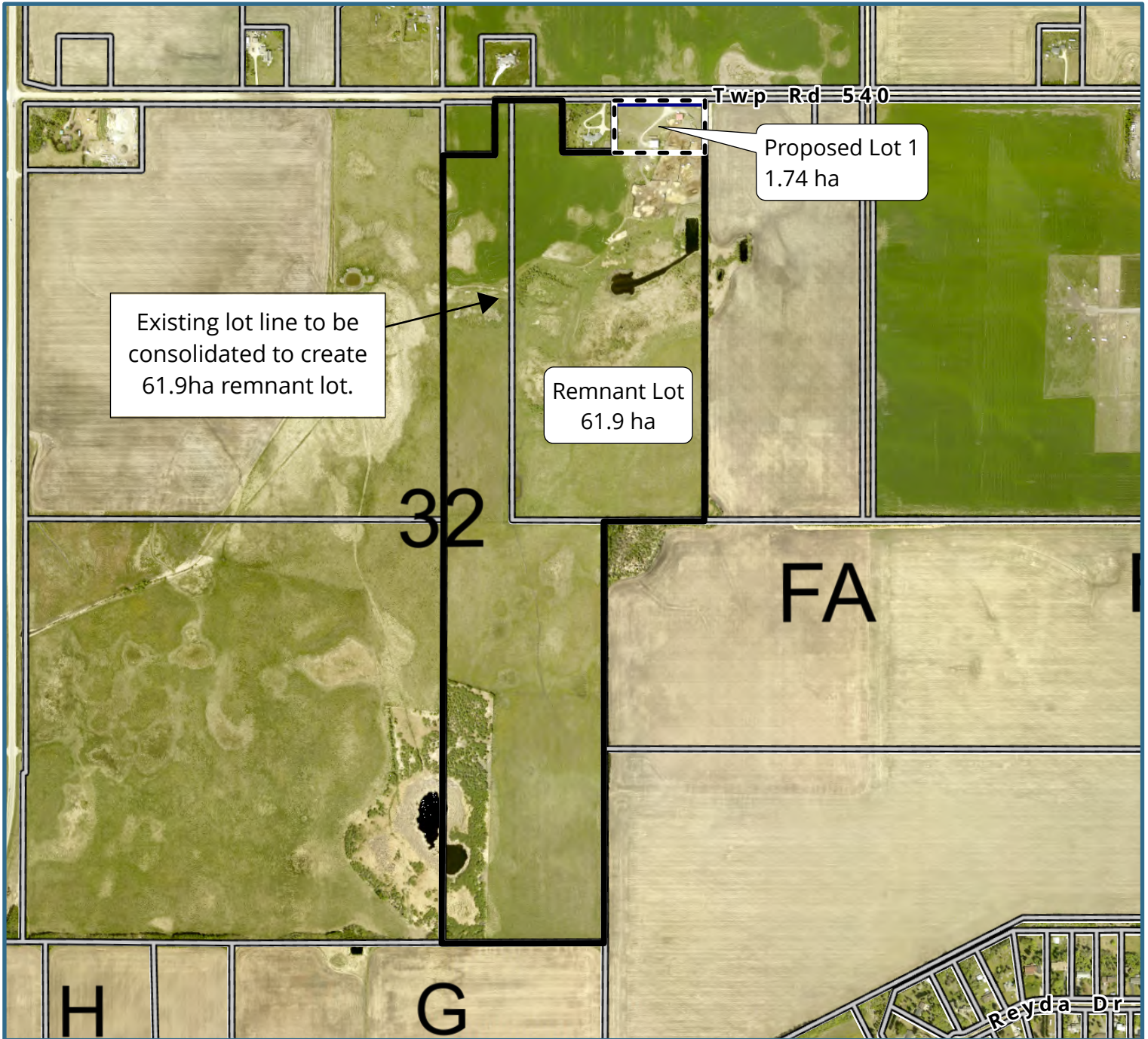
*Pursuant to Section 688(1)(a) of the Municipal Government Act (MGA), an appeal of a decision of the Subdivision and Development Appeal Board lies with the Alberta Court of Appeal on a matter of law or jurisdiction. In accordance with Section 688(2)(a), if a decision is being considered, an application 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
- Appellant's submission.

# Exhibit 3 [SDAB Decision]

File Number: 2024-S-041



Legal Description: 9223219;1

Roll Number: 3527000


Total Acres/Hectares: 156.70ac / 63.41ha

Land Use: AG - Agriculture

Municipal Address:

Date: 4/2/2025

## Legend

-  Road Widening By Survey