

## PLANNING

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<b>TO:</b>	Subdivision Authority	<b>DIVISION:</b> 4
<b>DATE:</b>	April 11, 2023	<b>APPLICATION:</b> PL20220137
<b>FILE:</b>	07711001	
<b>SUBJECT:</b>	Residential Subdivision: Creation of One New Residential Lot	

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**APPLICATION:** To create a  $\pm 4.20$  hectare ( $\pm 10.38$  acre) parcel with  $\pm 58.12$  hectare ( $\pm 143.62$  acre) remainder.

**GENERAL LOCATION:** Located approximately 13.00 kilometres (8.08 miles) northwest of the city of Calgary, on the south side of Township Road 272, approximately 0.81 kilometres (0.50 miles) east of Highway 766.

**LAND USE DESIGNATION:** Residential, Rural District (R-RUR p4.2)

**EXECUTIVE SUMMARY:** The application proposes to create one additional parcel out of the subject quarter section. A first parcel out subdivision was approved in 1992, which contains a single detached dwelling and accessory buildings. This proposal now seeks to subdivide a second parcel out of the remaining quarter section, immediately west of the first parcel out. The subject portion of land contains an existing dwelling.

On June 28, 2022, the subject portion of land was redesignated from Agricultural, General District (A-GEN) to Residential, Rural District (R-RUR p4.2) to facilitate the subject subdivision application. Administration had recommended the redesignation application be refused, as the application did not meet the Agricultural policies of Section 8.0 or the Country Residential policies of Section 10.0 within the Municipal Development Plan (County Plan).

The application was evaluated against the *Municipal Government Act* (MGA), the *Matters Related to Subdivision and Development Regulation*, the Municipal Development Plan (County Plan), and the Land Use Bylaw C-8000-2020. The application is inconsistent with Sections 8.0 (Agricultural) and 10.0 (Country Residential) of the County Plan; as such, the application does not comply with Section 654(1) of the MGA.

In keeping with Section 5(3) of the Subdivision and Development Authority Bylaw (C-8275-2022), Council is the decision-making authority owing to non-compliance with a statutory plan (the County Plan).

**ADMINISTRATION RECOMMENDATION:** Administration recommends refusal as per Option #2.

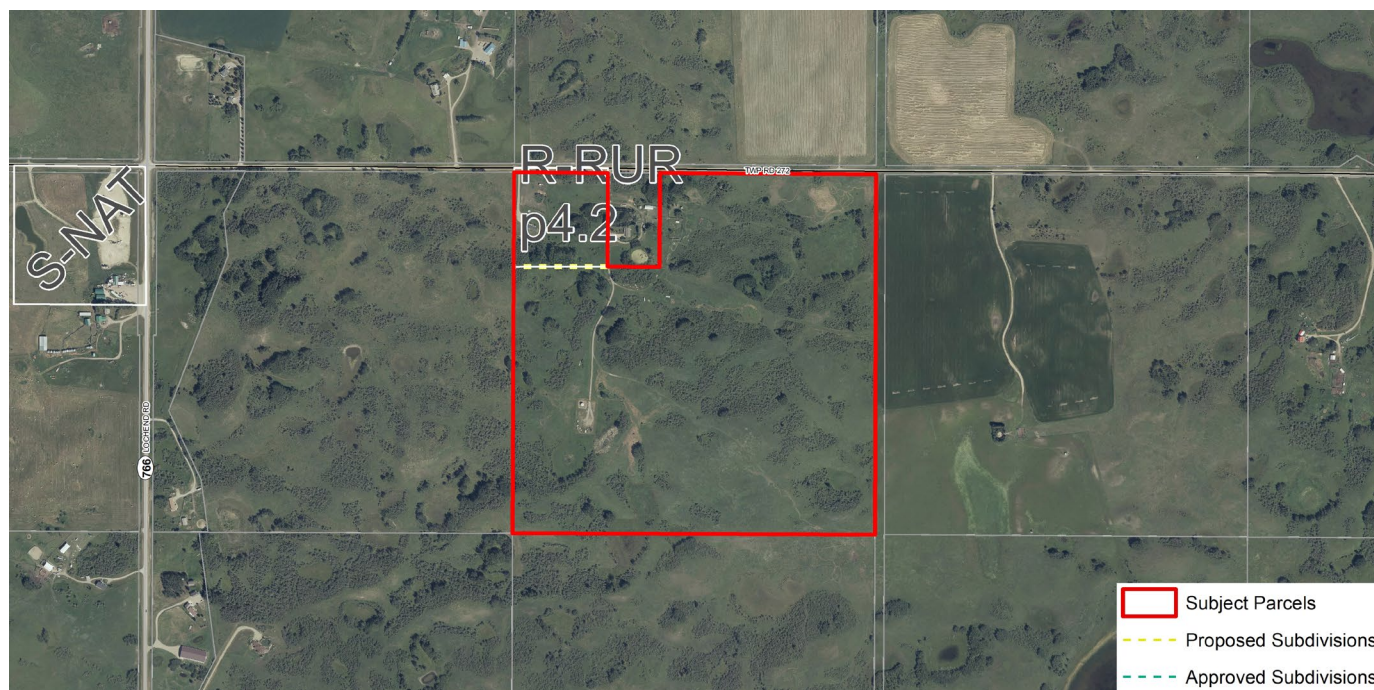
### OPTIONS:

- Option #1: THAT Subdivision Application PL20220137 be approved with the conditions noted in Attachment 'A'.
- Option #2: THAT Subdivision Application PL20220137 be refused for the following reasons:
- 1) The application does not meet the definition of a First Parcel Out within the County Plan and Land Use Bylaw.
  - 2) The application does not comply with the Country Residential or Agricultural policies of the Municipal Development Plan (County Plan).
  - 3) The application does not comply with Section 654(1)(b) of the *Municipal Government Act*.

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### Administration Resources

Christine Berger, Planning & Development

**AIR PHOTO & DEVELOPMENT CONTEXT:**

**APPLICATION EVALUATION:** The application was evaluated based on the technical reports submitted with the application and the applicable policies and regulations.

APPLICABLE POLICY AND REGULATIONS:	TECHNICAL REPORTS SUBMITTED:
<ul style="list-style-type: none"> <li>• <i>Municipal Government Act;</i></li> <li>• <i>Matters Related to Subdivision and Development Regulations;</i></li> <li>• Municipal Development Plan (County Plan);</li> <li>• Land Use Bylaw; and</li> <li>• County Servicing Standards.</li> </ul>	<ul style="list-style-type: none"> <li>• Well Driller's Report (MYRAM DRILLING, August 2010)</li> <li>• Appraisal Report (Black Valuation Group Ltd. November 18, 2022)</li> </ul>

APPLICABLE FEE/LEVY	AMOUNT OWING (ESTIMATE)
<b>MUNICIPAL RESERVE</b> Current Appraisal of Ptn. NE 11-27-3 W5M, Rocky View County, Alberta, Black Valuation Group Ltd., November, 2022. $10.38 \text{ acres} \times 10\% \times \$5,520 = \$5,729.76$	Approximately \$5,729.76

**Policy Review:****Municipal Government Act (MGA)**

Section 654(1) of the MGA states that a Subdivision Authority must not approve an application that does not align with a statutory plan or a land use bylaw. As the application is not supported by the County Plan, the MGA does not permit the Subdivision Authority to approve the application.

Section 654(2) of the MGA includes a notwithstanding clause that allows for a Subdivision Authority to approve an application for subdivision if it conflicts with the Land Use Bylaw, provided certain criteria are met. However, the subject application does not conflict with the Land Use Bylaw; therefore, the notwithstanding clause of Section 654(2) of the MGA does not apply.

### Matters Related to Subdivision and Development Regulation (MRSDR)

The application was reviewed against Section 9 of the MRSDR regarding relevant considerations for a subdivision application. Access to a municipal road, water and wastewater, as well as other relevant matters, have been addressed to a satisfactory extent. However, Section 9(i) of the MRSDR allows the Subdivision Authority to consider any other matters that it considers necessary to determine whether the land that is the subject of the application is suitable for the purpose for which the subdivision is intended. Administration has concerns with the application's ability to meet Section 654(1) of the MGA as it does not comply with the County Plan.

### Municipal Development Plan (County Plan)

The subject parcel is not located within an Area Structure Plan or a Conceptual Scheme area. Therefore, the County Plan is the guiding policy document for this application. The application is not aligned with Section 8.0 (Agriculture) or Section 10.0 (Country Residential) of the County Plan.

The proposal does not meet the definition of a first parcel out subdivision as per Policy 8.17 of the County Plan, as a first parcel out subdivision was registered in 1992 on this quarter to accommodate previous residential development on the parcel. Furthermore, Policy 8.18 of the County Plan clarifies that subdivision after a first parcel out may be considered for new or distinct agricultural operations; however, the subject application is residential in nature and did not provide rationale to support a new or distinct agricultural operation; therefore, the application does not meet this criteria.

Section 10.0 outlines conditions under which country residential development can be supported on agricultural parcels. Policy 10.13 only considers country residential subdivision appropriate within fragmented quarter sections. The subject quarter section does not meet the definition of a fragmented quarter section and the subject lands are greater than 10 hectares (24.7 acres) in size; therefore, the application does not meet the requirements of this policy. As such, the application is not aligned with Section 10 (Country Residential) of the County Plan, and there is no policy framework under which approval of the subject application could be considered.

### Land Use Bylaw (LUB)

The  $\pm 4.20$  hectare ( $\pm 10.38$  acre) portion of land previously received redesignation approval to Residential, Rural District (R-RUR p4.2) at the June 28<sup>th</sup>, 2022 Public Hearing (Application PL20220089). The proposed size of the lot is  $\pm 4.20$  hectares ( $\pm 10.38$  acres); therefore, it meets the minimum parcel size requirement and is aligned with the requirements of the Land Use Bylaw.

### **Technical Considerations:**

#### Transportation

The proposed parcel gains access off Township Road 272. As a condition of subdivision, the Owner shall construct a new gravel approach on Township Road 272 in order to provide access to Lot 2 (remainder).

Township Road 272 is identified as a Network B Road in the Long Range Transportation Network, requiring 30 m Road Right of Way (ROW). The current right of way is 20 m; as a condition of subdivision, the Owner would be required to dedicate, by Plan of Survey, a 5.0 m strip of land as road right of way along the entire northern boundary of subject lands.

Transportation Offsite Levy (TOL) is not applicable as per Regional Transportation Off-site Levy Bylaw (C-8007-2020), as the resulting parcels sizes are more than 7.41 acres.

#### Water and Wastewater

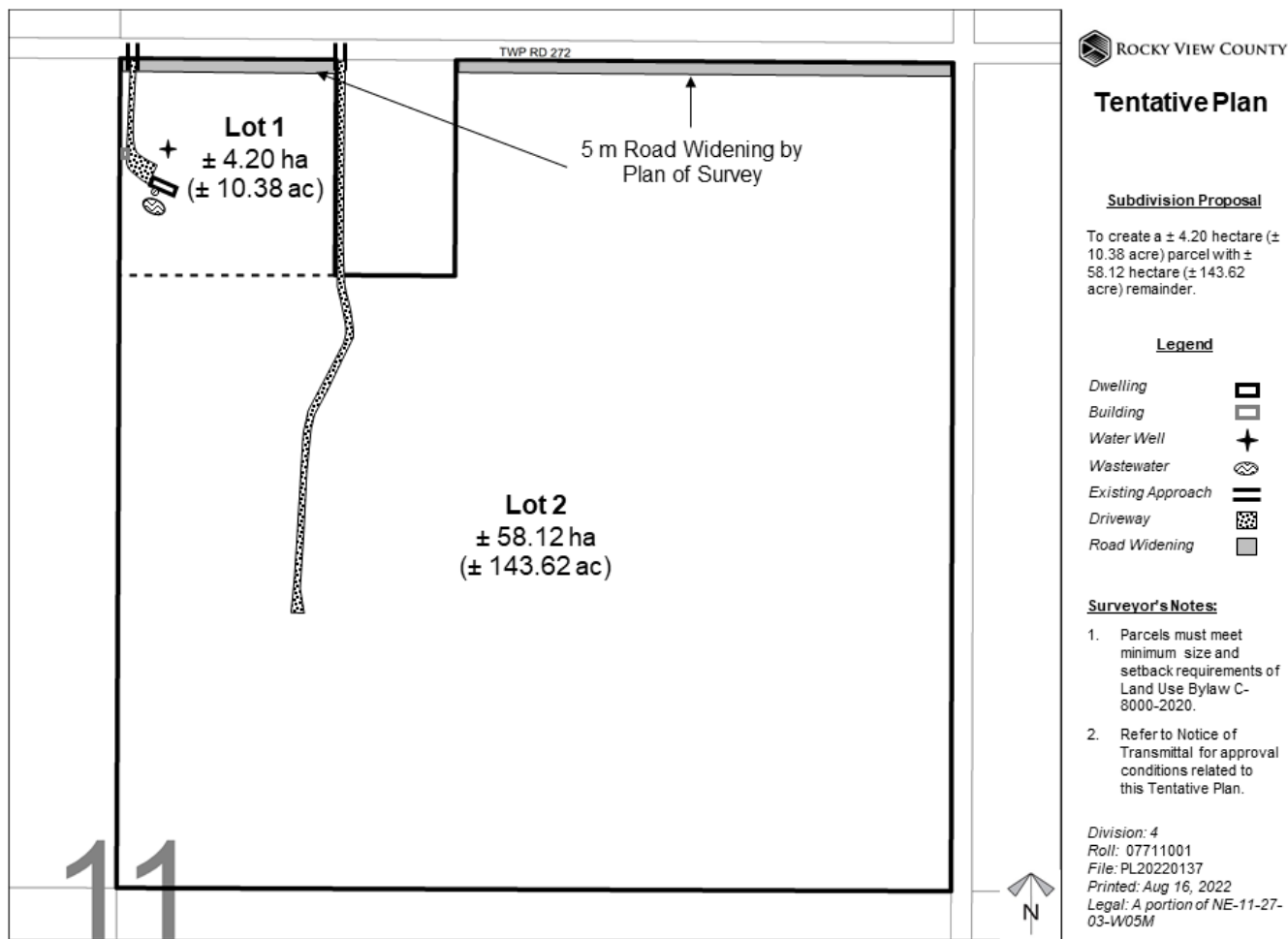
The proposed parcel is currently serviced by a septic field. A water well exists on the proposed parcel and currently services the dwelling on site. The Applicant has provided a Well Driller's Report confirming sufficient flow. Demonstration of adequate servicing is not required for Lot 2 (remainder) due to the size of the subject parcel.

### Municipal Reserves

Municipal Reserve is proposed to be dedicated by way of cash-in-lieu of land over the proposed parcel.

Residential subdivision in this location is not supported by policy; therefore, if Council wishes to support the application, Administration recommends the provision of Municipal Reserve by way of cash-in-lieu of land over the proposed 10.38 acre parcel be paid as a condition of approval for this application.

### Tentative Plan



### **CONCLUSION:**

Based on the above analysis, the application is recommended for refusal.

Respectfully submitted,

“Matt Boscarol”

Executive Director  
Community Services

Concurrence,

“Dorian Wandzura”

Chief Administrative Officer

CB/bs

**ATTACHMENTS:**

ATTACHMENT 'A': Approval Conditions

ATTACHMENT 'B': Application Information

ATTACHMENT 'C': Application Referrals

ATTACHMENT 'D': Map Set