



March 25, 2025

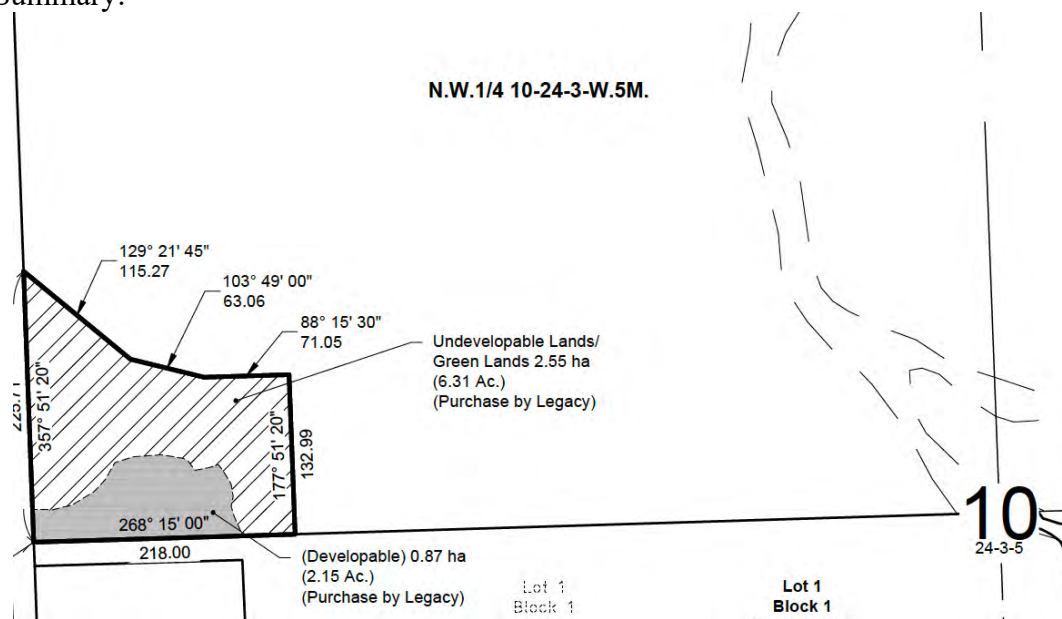
PL20190105 – Subdivision Application

To: Rocky View County Councillors
From: Barrett Gervan - Director of Legacy at Elbow Valley Ltd – The Applicant
Subject: Subdivision Application PL20190105

Dear Councillors,

Please accept this letter on behalf of Legacy at Elbow Valley Ltd. to provide supporting rationale for this subdivision application.

Brief Summary:



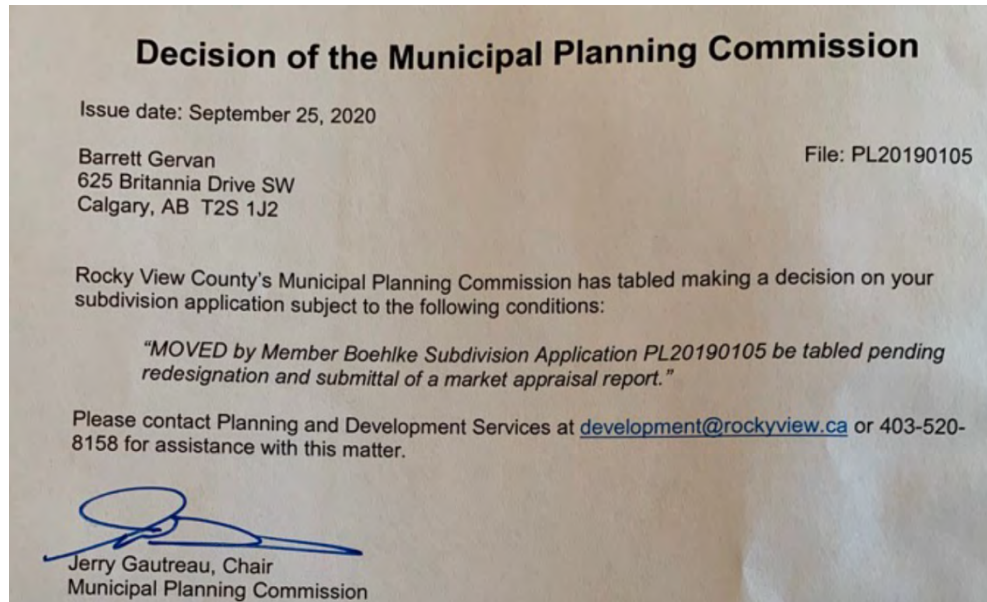
In 2017, Legacy at Elbow Valley Ltd. ("Legacy") purchased the 8.45 acres of land shown in the SW corner of this parcel from the current owners Vernon and Kathi Pointen. Until the land is subdivided out, both parcels were placed into a bare trustee corporation, 2056598 Alberta Ltd. which is co-owned by Legacy and the Pointen's.

Legacy attempted to subdivide this parcel as a first parcel out in 2020 but did not meet the requirement of an unsubdivided quarter section due to 8 acres being taken out of the NE corner of this quarter in the 1970's. The decision provided by the Municipal Planning Commission is as follows:



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Legacy proceeded with the Redesignation Application and on November 9, 2022, RVC approved the Redesignation. Legacy has also completed and submitted the market appraisal report in conjunction with the Subdivision Application.

Legacy is now looking to finalize this process and complete the application so that we can remove the land from the Co-ownership corporation and make use of the land. This intent for use of this land has remained consistent, to allow for residential use.

Legacy supports the Alternate Conditions of Approval suggested by Administration to allow for subdivision.

Thank you for your time and consideration on this file.

Kindest Regards,

Barrett Gervan
Director – Legacy at Elbow Valley Ltd.

ELGART LAW

March 26, 2025

Sent By Electronic Mail

Rocky View County

Legislative Services
262075 Rocky View Point
Rocky View County, AB, T4A 0X2

Dear Members of Council:

Re: PL20190105 – Subdivision Application NW-10-24-3-W5M (the “NW10”)

Please accept this submission on behalf of our clients, Kathi and Vernon Pointen (the “Pointens”) regarding the subject subdivision application.

The Pointens support Legacy’s right to apply to subdivide Lot 1 from the NW10. However, the application fails to provide direct legal and physical access to the NW10 remainder (the “Remainder”),¹ which will be conveyed to the Pointens following subdivision.

The Pointens request direct legal and physical access from a developed County road. The Remainder will continue to be used for the Pointens’ ranching operation. Their family members also intend to develop complementary uses and understand the Springbank Off-stream Reservoir may expand future uses for the flood fringe area.

While County Administration has recommended refusal, it has also provided an alternative of approval with a mutual approach and an easement over Lot 1 to provide access to the Remainder. Unfortunately, easement access is not acceptable to the Pointens.

The agreements that grant Legacy the right to subdivide the NW10 also require:

- Separate titles to be conveyed to Legacy and the Pointens following subdivision. An easement would bind the resulting titles together in perpetuity. Easement access would also impair the Remainder’s utility, value, and future marketability, and can be expected to spawn disputes and litigation.
- Legacy to bear all subdivision costs, which includes the costs of providing physical access to the subdivided lots.² The NW10 has direct physical access to a County road, and the Remainder requires equivalent access. However, none is proposed.

The Pointens request that Council ensure direct legal and physical access to the Remainder.

¹ Matters Related to Subdivision and Development Regulation sections 9 (e) and 11.

² Additionally, County Policy 406, which authorizes cost recoveries, was approved the year after the parties’ 2004 Options Agreement. It has no application to this application.

Options

Four viable options appear to be available for this subdivision:

1. **Approve** the subdivision and **require Legacy to develop the RR33 extension and an approach** to the Remainder. This is within Legacy's contractual rights and requires no further agreement or process. [In 2019, County Engineering provided this requirement in circulation comments. Following Legacy's advocacy, the County agreed that a RR33 extension was not ideal because of the steep grade. Because of the grade, Legacy's predecessor had proposed to realign RR33.]
2. **Approve** the subdivision of a **revised Lot 1** and **require Legacy to develop and dedicate a 20-metre wide east-west County standard road, along with a turnaround, and an approach** to the Remainder.³ This is within Legacy's contractual rights and requires a zoning amendment to allow a smaller Lot 1.
3. **Approve** the subdivision of a **revised Lot 1** and **require the inclusion of a 20-metre wide east-west panhandle** in the Remainder. This would require an agreement under which the Pointens would acquire the panhandle, and Legacy would construct and fund perpetual maintenance of an all-weather County standard road within it. It would also require a zoning amendment to allow a smaller Lot 1.
4. **Table** the subdivision **pending the Court's determination** of whether the parties' agreements allow Legacy to compel the Pointens to accept easement access and to encumber the Remainder. This would require Legacy to apply to the Court for an interpretation of the agreements.

The Pointens support any of these options. We will be available at the subdivision meeting to answer any questions that may arise.

Thank-you for considering this submission.

Respectfully,

ELGART LAW



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³ Per County Engineering, this is the only location with a sub-15% grade – other than the existing onsite path, which cuts diagonally through Lot 1.