

PLANNING AND DEVELOPMENT SERVICES

TO: Subdivision Authority

DATE: November 26, 2020

DIVISION: 1

APPLICATION: PL20200141

SUBJECT: Subdivision Item: Creation of One Parcel

APPLICATION: To create a ± 24.28 hectare (± 60 acre) parcel (Lot 1) with a ± 32.66 hectare (± 80.70 acre) remainder (Lot 2).

GENERAL LOCATION: Located approximately 4.8 km (3.0 miles) northwest of the community of Bragg Creek, 0.81 km (0.5 mile) north of Township Road 234 and on the west side of Range Road 52.

LAND USE DESIGNATION: Agricultural, Small Parcel District (A-SML p12.1)

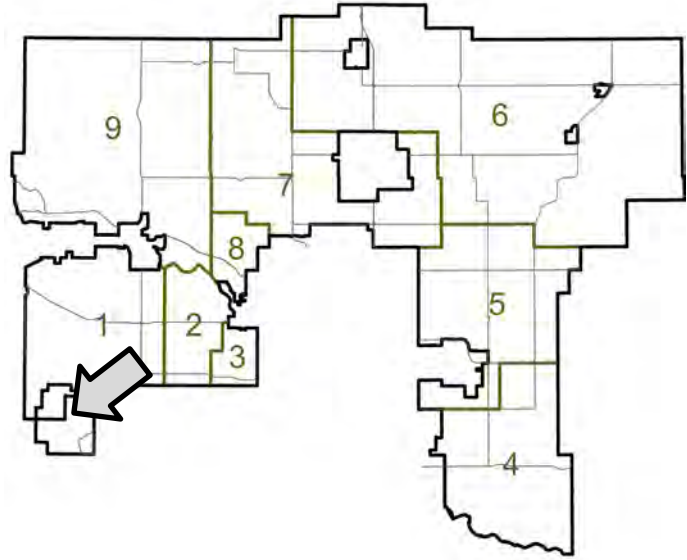
ADMINISTRATION RECOMMENDATION: Administration recommends approval in accordance with Option #1.

OPTIONS:

Option #1: THAT Subdivision Application PL20200141 be approved with the conditions noted in Appendix 'B'.

Option #2: THAT Subdivision Application PL20200141 be refused as per the reasons noted.

AIR PHOTO & DEVELOPMENT CONTEXT:



Administration Resources
Xin Deng, Planning and Development Services



APPLICANT: Jillian Perras and Jaro Wardwell

OWNER: Jillian Perras and Jaro Wardwell

APPLICATION EVALUATION:

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

<p>APPLICABLE POLICY AND REGULATIONS:</p> <ul style="list-style-type: none"> • <i>Municipal Government Act;</i> • Subdivision and Development Regulations; • County Plan; • Greater Bragg Creek Area Structure Plan • Land Use Bylaw; and • County Servicing Standards. 	<p>TECHNICAL REPORTS SUBMITTED:</p> <ul style="list-style-type: none"> • None
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Transportation:

The Applicant proposes to upgrade the existing approach to a mutual approach in order to provide access to both new lot and the remainder. It is noted that Range Road 52 is not constructed to an appropriate standard from Fawn Hills Drive up to the subject lands. The total surface width of Range Road 52 varies between 5 - 6 meters and lacks adequate base material, drainage and has vegetation encroaching near to the driving surface. As a condition of subdivision, the Owner is required to enter into a Development Agreement with the County to upgrade a portion of Range Road 52 (approximately 3.6 km in total length) to a Regional Low Volume Standard as well as construct other required road infrastructure (i.e. road approaches, a cul-de-sac at the termination point of the road, etc.) in accordance with the County's Servicing Standards.

Water and Wastewater:

The Applicant proposes to service the new lot with a new water well and private sewage treatment system. The remainder contains the existing dwelling that is serviced by the existing water well and septic tank and field.

Stormwater:

As the proposed new lot is 60 acres in size, construction of a new house and operation of a new agricultural business on it would have minimum impact to the existing drainage system. Administration has no requirement at this time.

Municipal Reserves:

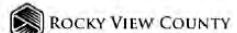
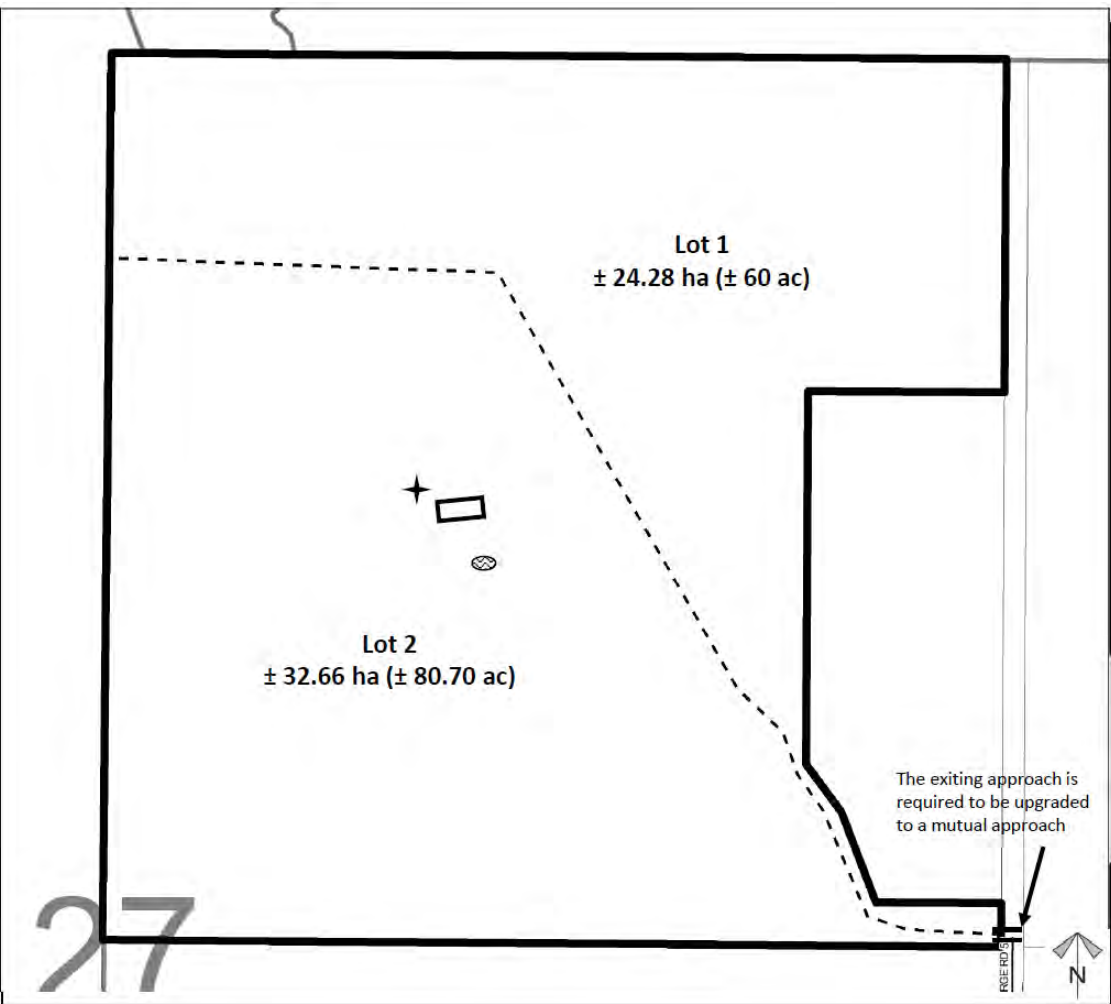
Both the new lot and the remainder are greater than 40 acres in size, Municipal Reserves are exempted in accordance with Section 663 of the Municipal Government Act (MGA). When further subdivision occurs on the subject lands, Municipal Reserve owing might be collected at that time.

Payments and Levies:

Transportation Off-Site Levy is exempted for the proposed new 60 acre lot, as it is considered large agricultural land In accordance with the Regional Transportation Off-Site Levy Bylaw (C-8007-2020).



Tentative Plan - 1



Tentative Plan

Subdivision Proposal

To create a ± 24.28 hectare (60 acre) parcel (Lot 1) with a ± 32.66 hectare (80.70 acre) remainder (Lot 2)

Legend

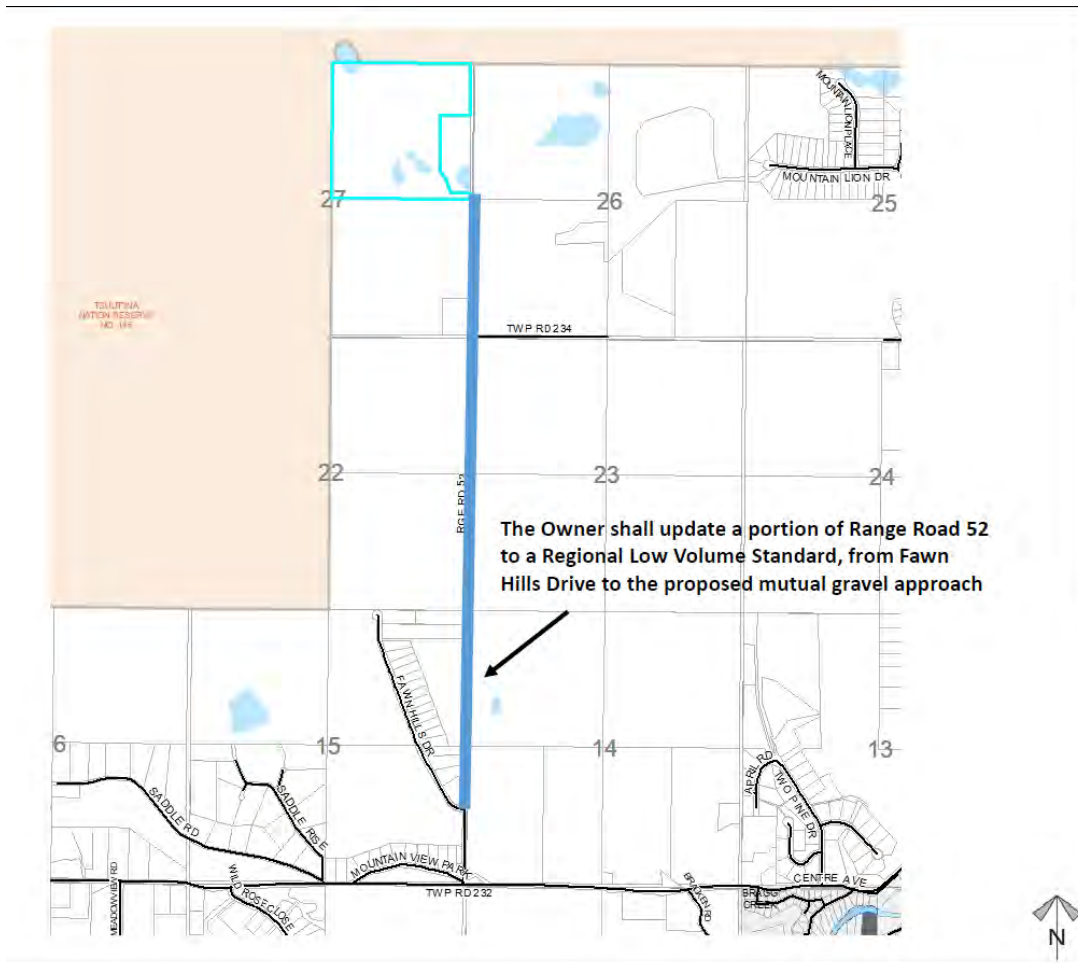
Dwelling	
Building	
Water Well	
Wastewater	
Existing Approach	
New Approach	
Driveway	
Road Widening	
Road Acquisition	

Surveyor's Notes:

1. Parcels must meet minimum size and setback requirements of Land Use Bylaw C-4841-97.
2. Refer to Notice of Transmittal for approval conditions related to this Tentative Plan.

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 Legal: A Portion of NE-27-23-05-W05M
 Printed: October 19, 2020

Tentative Plan - 2



Tentative Plan

Subdivision Proposal

To create a ± 24.28 hectare (60 acre) parcel (Lot 1) with a ± 32.66 hectare (80.70 acre) remainder (Lot 2)

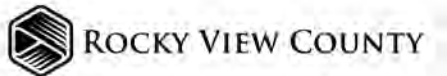
Legend

- Dwelling 
- Building 
- Water Well 
- Wastewater 
- Existing Approach 
- New Approach 
- Driveway 
- Road Widening 
- Road Acquisition 

Surveyor's Notes:

1. Parcels must meet minimum size and setback requirements of Land Use Bylaw C-4841-97.
2. Refer to Notice of Transmittal for approval conditions related to this Tentative Plan.

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CONCLUSION:

Subject to the proposed conditions of approval, the application is recommended for approval in accordance with Option #1.

Respectfully submitted,

Concurrence,

“Theresa Cochran”

“Al Hoggan”

Executive Director
Community Development Services

Chief Administrative Officer

XD/llt

ATTACHMENTS:

ATTACHMENT ‘A’: Maps and Other Information

ATTACHMENT ‘B’: Approval Conditions

ATTACHMENT ‘C’: Public Submissions



ATTACHMENT 'A': MAPS AND OTHER INFORMATION

DATE APPLICATION RECEIVED: October 13, 2020	DATE DEEMED COMPLETE: October 14, 2020
GROSS AREA: ± 140.70 acres	LEGAL DESCRIPTION: A portion of NE-27-23-05-W05M
APPEAL BOARD: Development and Subdivision Appeal Board	
<p>HISTORY:</p> <p><i>September 1, 2020 Redesignation application (PL20200064) was approved to redesignate the subject lands from Agricultural, General District (A-GEN) to Agricultural, Small Parcel District (A-SML p12.1) and Agricultural, Small Parcel District (A-SML), in order to facilitate the creation of a ± 60.00 acre parcel with a ± 80.70 acre remainder.</i></p> <p><i>December 9, 2014 Subdivision application (PL20140034) was approved to create a ± 19.70 acre parcel with a ± 140.30 acres remainder. The remainder land is the subject land in this case.</i></p> <p><i>September 23, 2014 Redesignation application (PL20130026) was approved to redesignate a portion of the quarter section from Ranch and Farm District to Residential Three District, in order to facilitate the creation of a ± 19.7 acre parcel with a ± 140.3 acres remainder.</i></p>	
<p>PUBLIC & AGENCY SUBMISSIONS:</p> <p>The application was circulated to 10 adjacent landowners. 2 letters with comment were received.</p> <p>The application was also circulated to a number of internal and external agencies and, where appropriate, conditions of approval have been proposed based on these comments.</p>	

Development Proposal

Subdivision Proposal

To create a ± 24.28 hectare (60 acre) parcel (Lot 1) with a ± 32.66 hectare (80.70 acre) remainder (Lot 2)



New Lot - Lot 1
± 24.28 ha (± 60 ac)

Remainder - Lot 2
± 32.66 ha (± 80.70 ac)

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Beginning of RR 52 (South End)



Middle Portion of RR 52



North Portion of RR 52



North Portion of RR 52

The surface width of RR 52 varies between 5 – 6 meters, which does not meet the 7 meter width requirement as per county service standard

Site Photos on RR 52

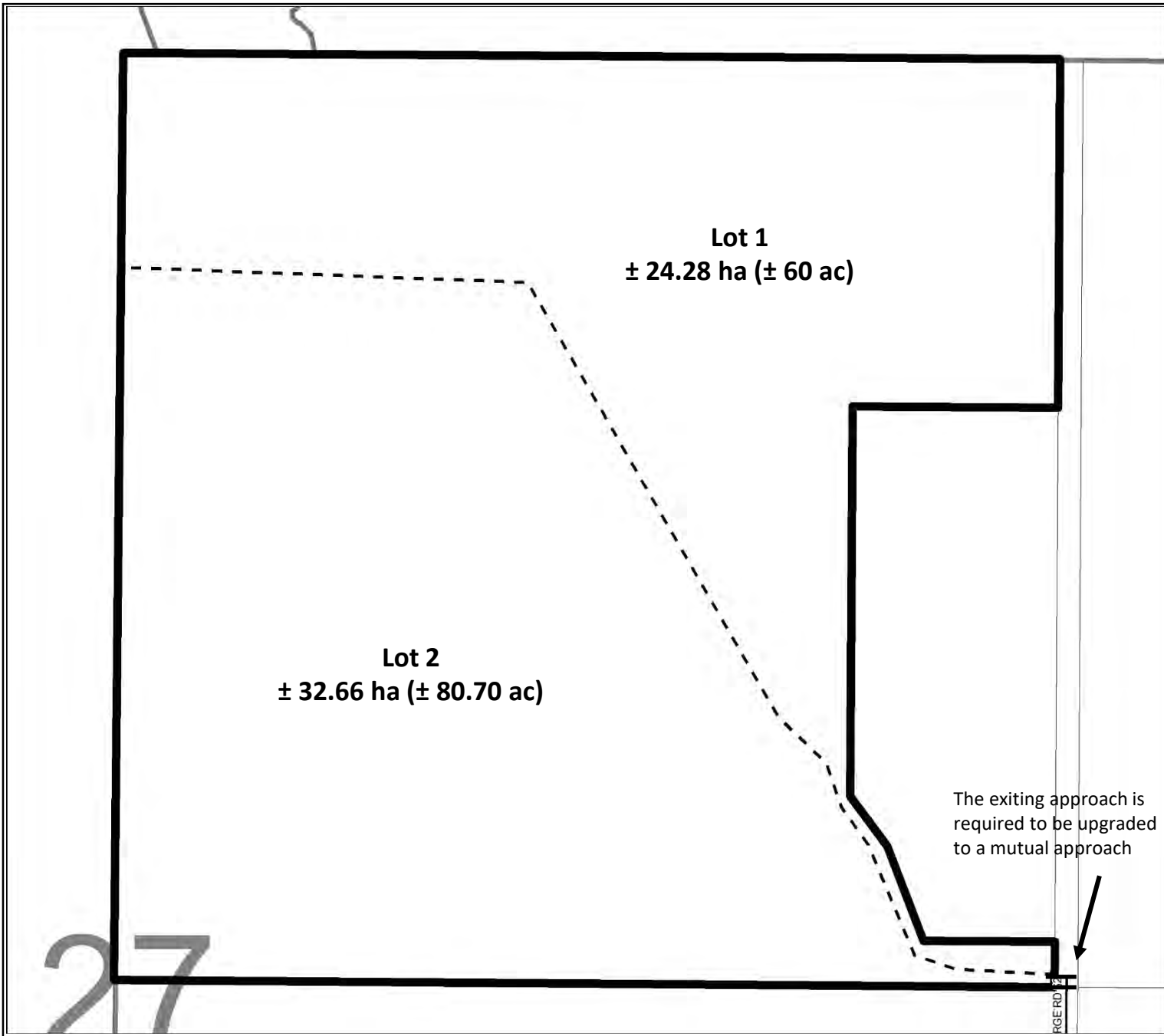
Subdivision Proposal

To create a \pm 24.28 hectare (60 acre) parcel (Lot 1) with a \pm 32.66 hectare (80.70 acre) remainder (Lot 2)

Condition of Subdivision

Subdivision Proposal

To create a ± 24.28 hectare (60 acre) parcel (Lot 1) with a ± 32.66 hectare (80.70 acre) remainder (Lot 2)



Lot 1
 ± 24.28 ha (± 60 ac)

Lot 2
 ± 32.66 ha (± 80.70 ac)

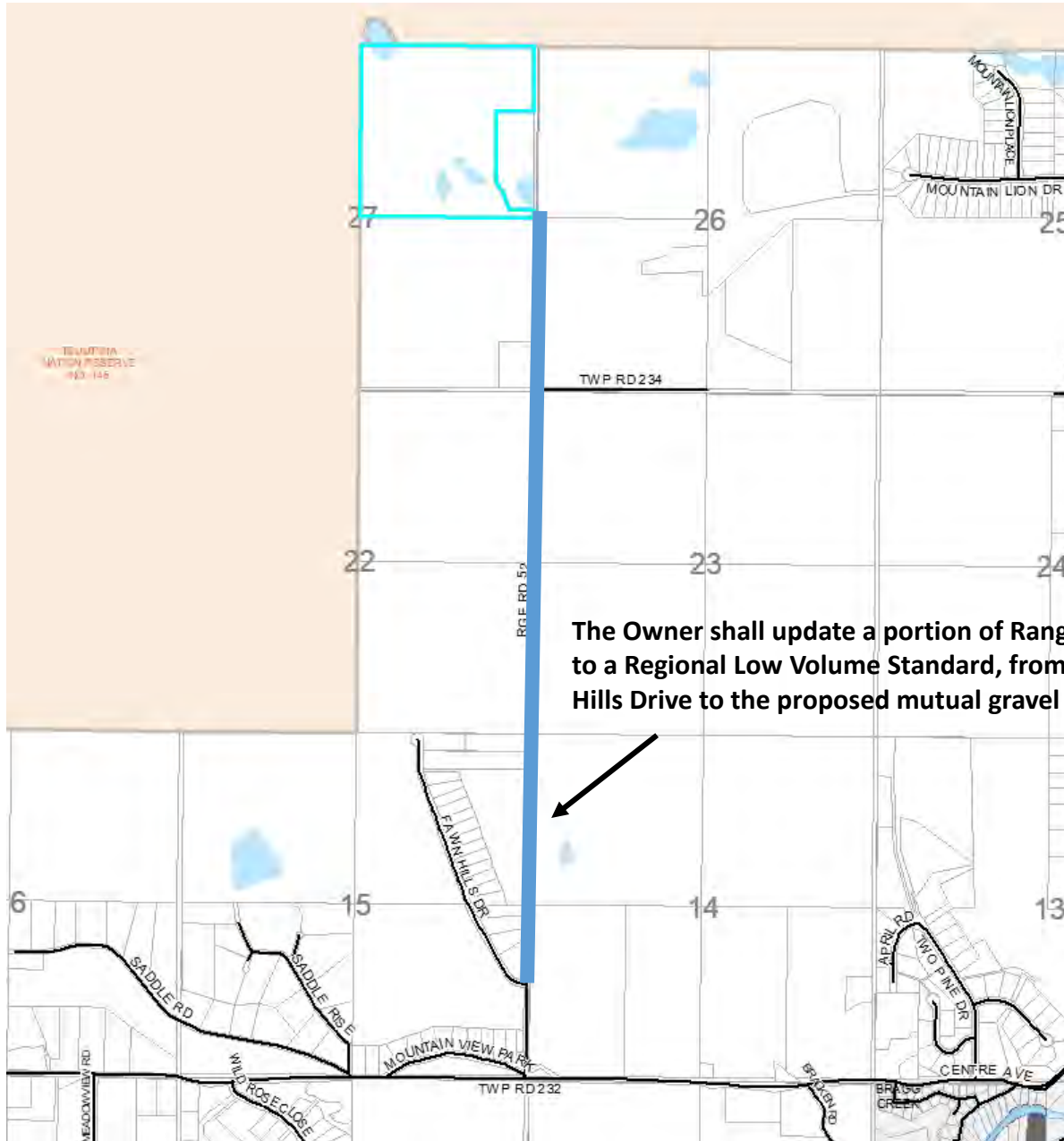
The exiting approach is required to be upgraded to a mutual approach

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Condition of Subdivision

Subdivision Proposal

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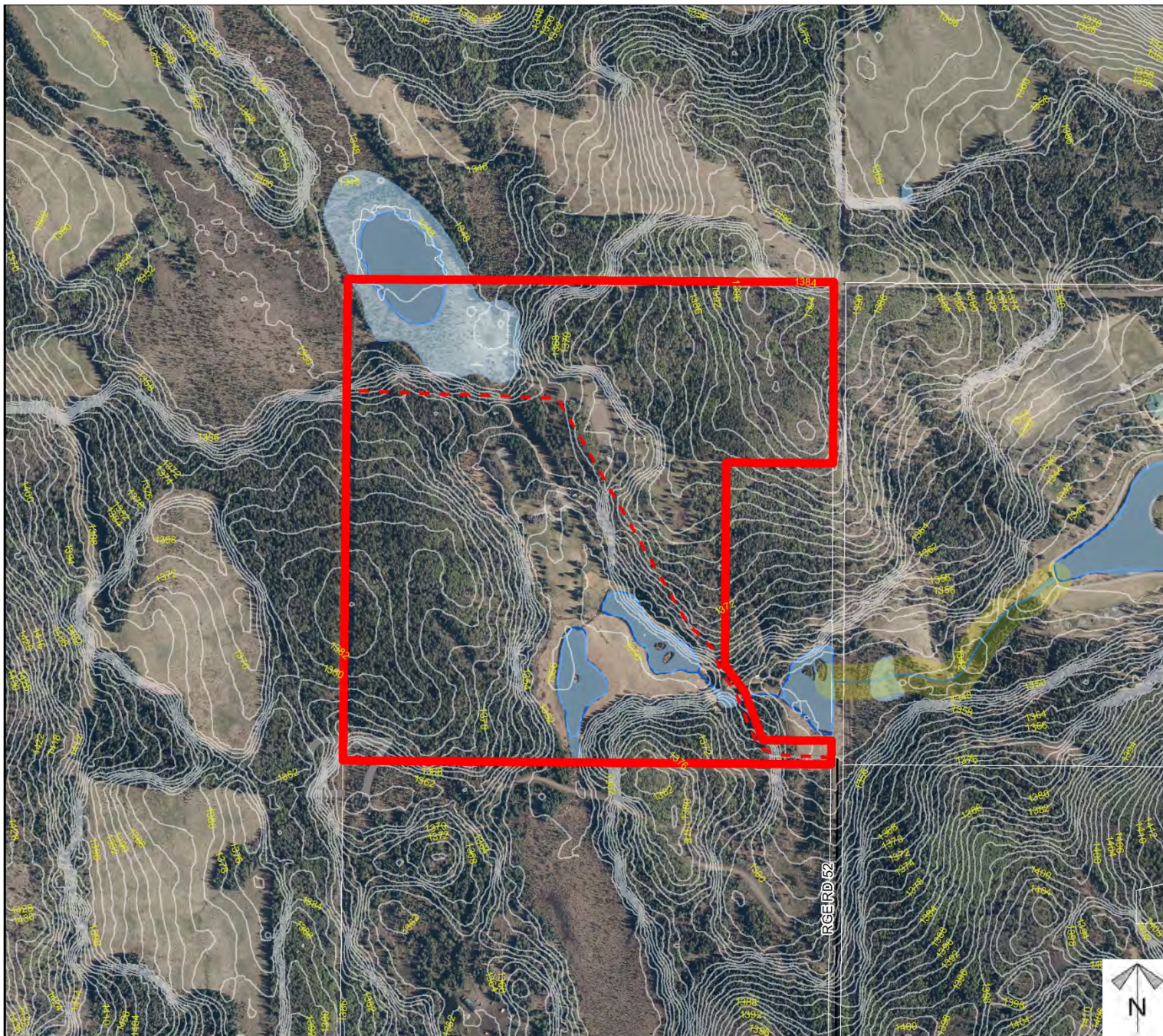


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Environmental

Subdivision Proposal

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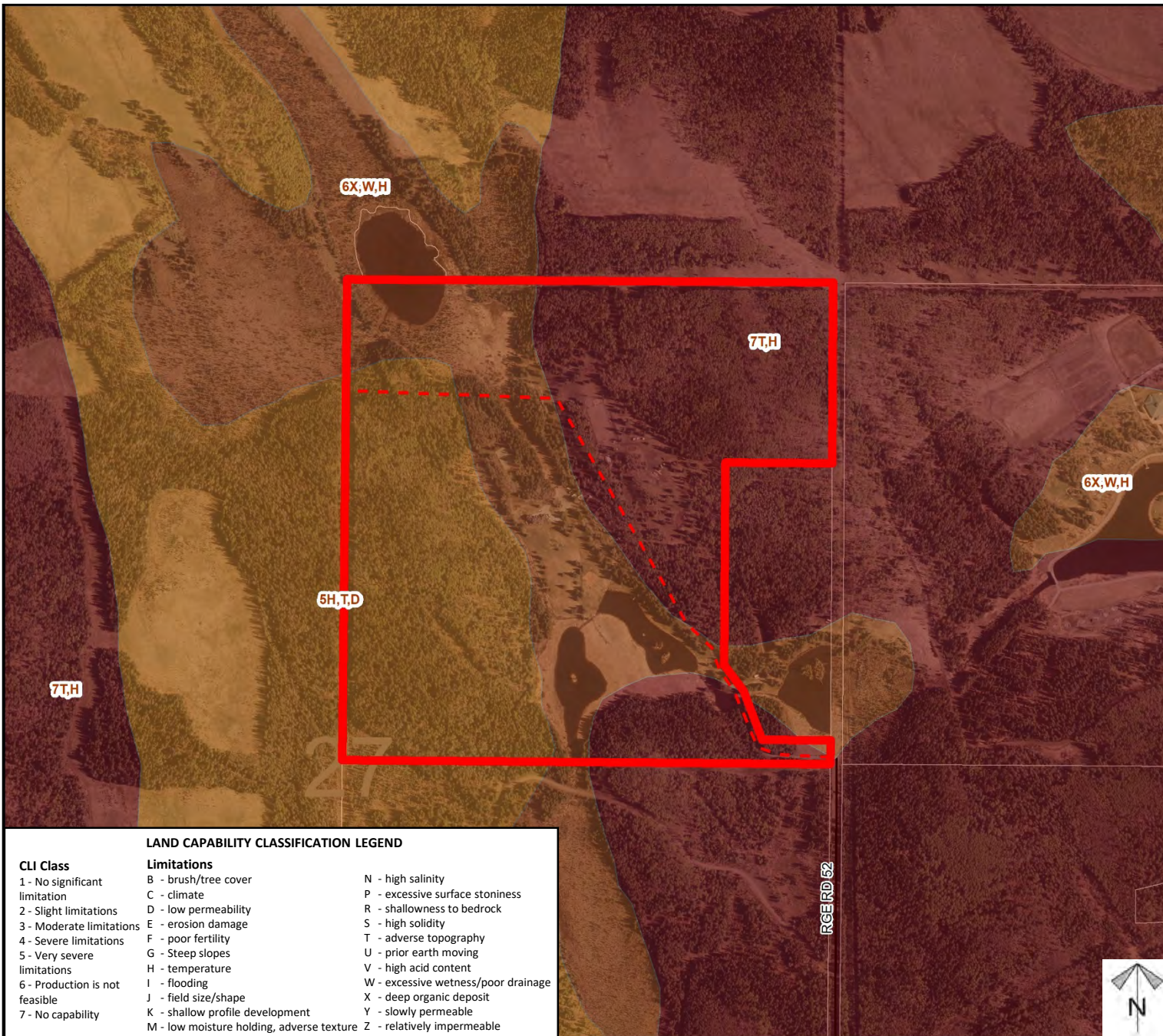
-  Subject Lands
-  Contour - 2 meters
-  Riparian Setbacks
-  Alberta Wetland Inventory
-  Surface Water

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Soil Classifications

Subdivision Proposal

To create a ± 24.28 hectare (60 acre) parcel (Lot 1) with a ± 32.66 hectare (80.70 acre) remainder (Lot 2)



LAND CAPABILITY CLASSIFICATION LEGEND

CLI Class	Limitations	
1 - No significant limitation	B - brush/tree cover	N - high salinity
2 - Slight limitations	C - climate	P - excessive surface stoniness
3 - Moderate limitations	D - low permeability	R - shallowness to bedrock
4 - Severe limitations	E - erosion damage	S - high solidity
5 - Very severe limitations	F - poor fertility	T - adverse topography
6 - Production is not feasible	G - Steep slopes	U - prior earth moving
7 - No capability	H - temperature	V - high acid content
	I - flooding	W - excessive wetness/poor drainage
	J - field size/shape	X - deep organic deposit
	K - shallow profile development	Y - slowly permeable
	M - low moisture holding, adverse texture	Z - relatively impermeable




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Landowner Circulation Area

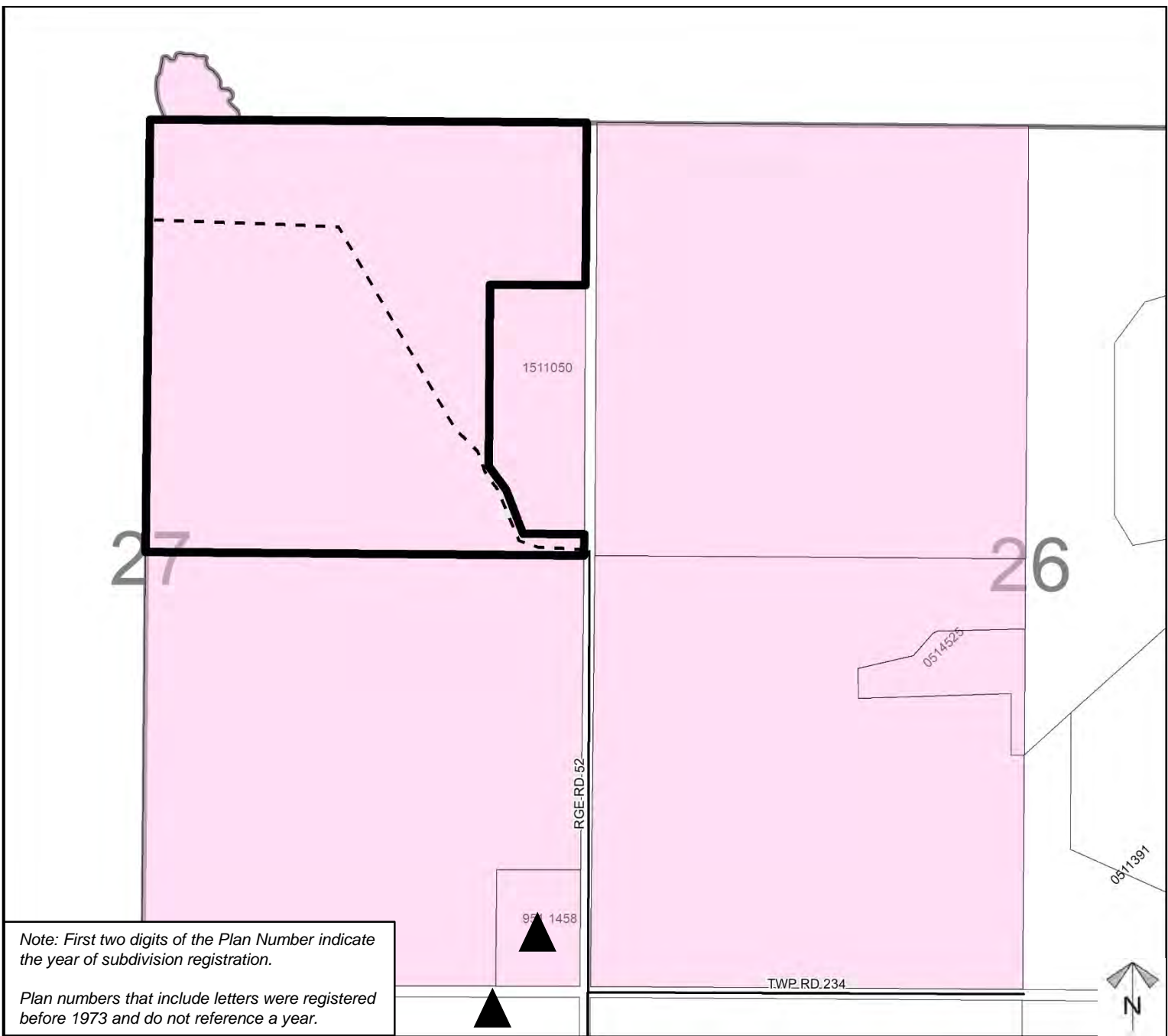
Subdivision Proposal

To create a ± 24.28
hectare (60 acre) parcel
(Lot 1) with a ± 32.66
hectare (80.70 acre)
remainder (Lot 2)

Legend

- Support 
- Opposition 
- Comment (2) 

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23-05-W05M
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Note: First two digits of the Plan Number indicate the year of subdivision registration.

Plan numbers that include letters were registered before 1973 and do not reference a year.

**ATTACHMENT 'B': APPROVAL CONDITIONS**

- A. The application to create a ± 24.28 hectare (± 60 acre) parcel (Lot 1) with a ± 32.66 hectare (± 80.70 acre) remainder (Lot 2) within NE-27-23-05-W05M, having been evaluated in terms of Section 654 of the *Municipal Government Act* and Section 7 of the Subdivision and Development Regulations, and having considered adjacent landowner submissions, is approved as per the Tentative Plan for the reasons listed below:
1. The application is consistent with the Statutory Policy;
 2. The subject lands hold the appropriate land use designation;
 3. The technical aspects of the subdivision proposal have been considered and are further addressed through the conditional approval requirements.
- B. The Applicant/Owner is required, at their expense, to complete all conditions attached to and forming part of this conditional subdivision approval prior to Rocky View County (the County) authorizing final subdivision endorsement. This requires submitting all documentation required to demonstrate that each specific condition has been met, or agreements (and necessary securities) have been provided to ensure the conditions will be met, in accordance with all County Policies, Standards, and Procedures, to the satisfaction of the County, and any other additional party named within a specific condition. Technical reports required to be submitted as part of the conditions must be prepared by a qualified professional, licensed to practice in the province of Alberta within the appropriate field of practice. The conditions of this subdivision approval do not absolve an Applicant/Owner from ensuring all permits, licenses, or approvals required by Federal, Provincial, or other jurisdictions are obtained.
- C. Further, in accordance with Section 654 and 655 of the *Municipal Government Act*, the application shall be approved subject to the following conditions of approval:

Survey Plans

1. Subdivision is to be effected by a Plan of Survey, pursuant to Section 657 of the *Municipal Government Act*, or such other means satisfactory to the Registrar of the South Alberta Land Titles District.

Development Agreement

2. The Owner shall enter into a Development Agreement pursuant to Section 655 of the *Municipal Government Act* in accordance with the approved Tentative Plan and shall include the following:
 - a) Construction of Range Road 52 to a Regional Low Volume Standard from Fawn Hills Drive up to the proposed mutual gravel approach (approximately 3.6 km in total length) with an offset cul-de-sac bulb and any necessary easement agreements, including complete approaches to each lot, as shown on the Tentative Plan, at the Owner's expense, in accordance with Section 400.0 of the Rocky View County Servicing Standards for Subdivision and Road Construction as approved by Council as amended all to the satisfaction of the County;
 - b) Implementation of the Construction Management Plan; and
 - c) Implementation of the Erosion and Sedimentation Control Plan.

Transportation

3. The Owner shall upgrade the existing approach to a mutual gravel approach on Range Road 52 in order to provide access to Lots 1 & 2. In addition, the Owner shall:
 - a) Provide an access right of way plan; and



ROCKY VIEW COUNTY

- b) Prepare and register respective easements on each title, where required.
4. The Owner shall provide a Geotechnical Report that provides recommendations for the pavement structure design for the upgrades to Range Road 52 based on actual onsite CBR value.
5. The Owner shall provide a Construction Management Plan that is to include, but not be limited to, noise, sedimentation and erosion control, construction waste management, fire fighting procedures, evacuation plan, hazardous material containment, construction, and management details.
6. The Owner is to provide a detailed Erosion and Sedimentation Control Plan, prepared by a qualified professional, in accordance with the County Servicing Standards and best management practices to the satisfaction of the County.

Utilities

7. The Owner shall contact utility provider and register required Utility Easements, Agreements and Plans on the new lots (concurrent with a Plan of Survey or prior to registration) to the satisfaction of FortisAlberta.

Payments and Levies

8. The Owner shall pay the County Subdivision Endorsement fee, in accordance with the Master Rates Bylaw, for the creation of one (1) new lot.

Taxes

9. All taxes owing up to and including the year in which subdivision is to be registered are to be paid to Rocky View County prior to signing the final documents pursuant to Section 654(1) of the Municipal Government Act.

D. SUBDIVISION AUTHORITY DIRECTION:

1. Prior to final endorsement of the subdivision, the Planning Department is directed to present the Applicant/Owners with a Voluntary Recreation Contribution Form and ask them if they will contribute to the Fund in accordance with the contributions prescribed in the Master Rates Bylaw.

Date: November 12, 2020

Subject: Subdivision application PL 20200141, File #03927001(NE27, 23-5W5)

Comments from: Alan & Liz Breakey, Residents of NE22, 23-5W5

Attention: Ms.Xin Deng, Municipal Planner, Rocky View County

Dear Ms. Deng:

With reference to the further subdivision of the 140 acre remainder of NW27, 23-W5M (following a 20 acre First Parcel Out) into two parcels of 60 acres and 80 acres, it is extremely important that the Land Use and Subdivision Condition of road upgrade be upheld. As the Road Design Guidelines of the County state, governed by the Transportation Association of Canada (TAC), the Highway Geometric Design Guide of Alberta Transportation and the Servicing Standards of Rocky View County: "Good engineering practice and design is required for all road construction situations" with site variations only to be considered "provided that public safety and the County are not at risk for liability".

Range Road 52, north of the junction with the Fawn Hills Road, is at a point of maximum usage for what was originally utilized as a private access for a few homes: through both history and evolving road standards, it does not meet even the basic standards for "Regional Low Volume Gravel Road" which is its present status. A brief history of how and why ten plus residential and agricultural accesses have evolved on this road, not including the commercial application of the Airbnb and Event Centre (as advertised on the website of the applicant up to July 2020). The subject land of Application PL20200141, previously zoned Agriculture, has not been used for an agricultural purpose, hence the "New and Distinct" land use, as stated by the County Agricultural Services Department "could also be carried out under the current land use designation".

1. Prior to 1988, four parcels of land (NE22,SW23,SE27, and NE27-23-5W5) were held by Lyon Mountain/renamed Wintergreen Estates to be developed as Lyon Mountain Phase 3. An access road existed to our

Page 2:2020-11-12-Breakey-Comments on subdivision application PL202000141

- present gate in the southeast corner of NE22-23-5W5M. In the subsequent bankruptcy disposition, the four quarters were sold to separate individuals.
2. In order to obtain a Development Permit to build our residence, the County deemed it mandatory to enter into a Private (Close and Lease) Road Agreement in 1989 with two of our neighbours including the previous owner of the subject land (NE27). This was done in order to protect the County from any liability related to the road access. The closed road allowance, Range Road 52, as it extended north from the termination of the Lyon Mountain access road at our gate, was then roughly constructed to allow the building of two residences on the two northern quarters (both of which have subsequently taken First Parcel Out subdivisions).
 3. The road agreement stayed in place until the other two parties chose not to renew the agreement for reasons of liability, after three additional homes had been built without having been party to the Road Lease and Closure agreements. In light of the new situation, we also surrendered the lease. Council of the time then deemed the road to be a Municipal Public Road, still with no conditions for upgrade or maintenance.
 4. Presently, under Rocky View County road servicing standards, Range Road 52 is classified as a Regional Low Volume Standard Road. The conditions for the subdivision granted to these applicants, as stipulated by Rocky View County, were to upgrade Range Road 52 as the access to the three subdivided parcels within NW27-25-5WM (the subject lands of PL20200141) from the Fawn Hills intersection to the subject lands to County standards with mandated road approaches, cul de sac and appropriate design criteria.

The convoluted history of the Range Road 52 extension has resulted in a sub-standard road with variably unsafe conditions and continued liability to the County should further commercial/agricultural/residential be approved without upgrades from a developer/applicant. Under the Road Standards of the 2020 Land Use Bylaw, Range Road 52 is classified as a “Regional Low Volume Road”. Table 400-F in the Bylaw defines this type of gravel road as the lowest standard

listed for a two-lane gravel road, generally servicing a small number of residences (presently numbering nine with additional recreational uses on several of the vacant parcels). Minimum standards include: posted maximum speeds of 60 km/hr, a Right of Way of 20 m. with a minimum surface width of 7.0 m., minimum ditching of 1 m. and maximum slopes under 8 percent. None of these conditions are met.

County Infrastructure and Roads has posted Range Road 52 as “Road Impassable At Times”. Road width is well under the mandated 7 m. in the stretch north of our gate and it is often almost impossible to pass oncoming traffic in that section of the road safely. There are at least four blind hills with one hidden intersection; gradients on these hills are well in excess of the maximum 8 percent grades (note: a Fortis employee was killed when he pulled his vehicle over too close to the shoulder just south of the applicant’s gate and his truck rolled over on him). There is no functional ditching and runoff pours down the middle of the road to our gate where the road flattens across the lowland; the road is regularly dangerously rutted. There are artesian breakouts all along the road; the latest is evidenced by the road eruption downhill from our gate caused by a deep canyon developed through fill removal to build the road across the wetland which was later filled in by the owner but still acts as a groundwater breakout channel/seep.

Road maintenance by the County is minimal and consists of one grading per annum under the Road Servicing Standards for a Regional Low Volume Road. We have been fine with this over the thirty plus years we have lived and farmed here. Access on Range Road 52 has been adequate to our quarter section, small farm and residence, primarily as we have not had to deal with the blind hills north of our property with the road being relatively flat to our gate. In our opinion, Range Road 52 is currently at maximum use and, in many sections, is well below the mandated standards. At the very least, the Administration recommendations of a Development Agreement with the County to upgrade the subdivision access to County standard Regional Low Volume gravel road as well as the recommended

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Traffic Impact Assessment must be required both in the context of the proposed agricultural subdivision as well as the commercial aspects of what has operated intermittently as the Air BnB/Event Center over the past two years.

Kindest Regards,

Handwritten signatures of Alan Breakey and Elizabeth Breakey. The signature of Alan Breakey is on the left, and the signature of Elizabeth Breakey is on the right, written in a cursive style.

Alan and Elizabeth Breakey

NE/4,22-23-5-W5M

(1 km south of proposed subdivision off Rge Rd. 52)

WALTER VERKLEIJ
SE-27-23-05-05, 1-9511458

November 13, 2020

VIA EMAIL - xdeng@rockyview.ca

Planning and Development Services Department
Rocky View County
262075 Rocky View Point
Rocky View County, AB T4A 0X2

Attention: Ms. Xin Deng, Municipal Planner

Re: File Number: 03927001
Application Number: PL20200141
Division: 1
Applicants/Owners: Jill Perras and Jaro Wardwell

Dear Ms. Deng:

I am writing to request that the conditions of subdivision, approved by Council on September 1, 2020, in connection with Applicants/Owners' Redesignation Application, remain in full force and effect. In the September 1, 2020, Planning and Development Services report to Council, in connection with the Redesignation Application, it was formally acknowledged "... *that Range Road 52 is not constructed to standard from Fawn Hills Drive up to the subject land.*" (E2, page 3 of 36) To address that finding, the report recommended, and Council agreed, that as a condition of future subdivision, "... *the applicant/owner will be required to enter into a development agreement (DA) with the County to upgrade Range Road 52 (approximately 3.6 km in total length) to a Regional Low Volume Standard as well as construct other required road infrastructure (i.e. road approaches, a cul-de-sac at the termination point of the road, etc.) in accordance with the County's Servicing Standards.*" In the report, it was also recommended that a Traffic Impact Assessment (TIA) be carried out "... *to confirm if traffic generated from the development/business will require upgrade to County Road Network.*" (E2, pages 5 and 6 of 36)

Thus, even though Range Road 52 is categorized by Rocky View County (RVC) as a Low Volume Regional Road, it is recognized that it does not meet the minimum standards RVC has set for this category of road. Indeed, the current conditions of Range Road 52 are such that, among other concerns, it has several blind spots, a hidden intersection at Township Road 234, slopes that exceed the maximum allowable 8 percent grade, and insufficient ditching capacity to deal with rain and annual snow melt. Quite often now courier and other deliveries have had to be cancelled because of poor and unsafe road conditions. It remains uncertain if emergency services will always be able to access my and other properties further along Range Road 52. Also, the

Planning and Development Services Department

November 13, 2020

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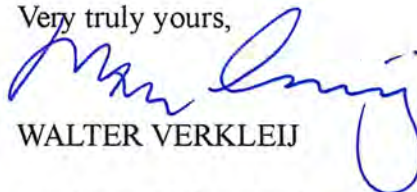
road receives very little maintenance consisting only of one gravel and grading and one snow clearing by RVC annually. Finally, in terms of liability, it appears it would be in the interest of RVC to do a liability analysis (if not done already) to determine its potential exposure should a significant accident, directly linked to the current road conditions, occur on Range Road 52.

The County Plan in 8.18 e of the Redesignation and Subdivision for Agricultural Purposes Section requires “[a]n assessment of the impact on, and potential upgrades to, County infrastructure.” (RVC County Plan, amended April 10, 2018, page 39) In their Redesignation Application, the Applicants proposed a greenhouse and bison farm operation on the new parcel. The Applicants have also operated an Airbnb on their property since 2018. There is little doubt that frequent Airbnb traffic has had a negative impact on the road conditions and that the combined Airbnb and greenhouse and bison farm operations will cause road conditions to deteriorate further. Thus, the condition to upgrade Range Road 52 is entirely appropriate.

When the Applicants appeared before Council in support of their Redesignation Application, they were aware of the conditions of future subdivision recommended by Planning and Development Services. Applicants did not withdraw their application nor did they contest these conditions during their presentation before Council. Applicants’ failure to do so underscores that there is no basis for removal of the conditions. Indeed, removing the Development Agreement condition would allow Applicants to externalize the negative economic costs of their Airbnb and proposed agricultural operations by transferring the burden of the road conditions onto RVC and the surrounding property owners. It is important to recognize that it is not the responsibility of RVC - and by extension of the taxpayer - to ensure the economic viability of the Applicants’ proposed greenhouse and bison farm operation. (Agricultural Master Plan, 2011, page 103) The only way to prevent this transfer is to require Applicants to meet the condition of upgrading the road.

In summary, I respectfully request that the conditions of subdivision remain in effect. At a minimum, the conditions that Applicants enter into a Development Agreement with the County to upgrade Range Road 52 to a Regional Low Volume Standard, and conduct a Traffic Impact Assessment, must remain in effect and be carried out by the Applicants as part of their Subdivision Application approval process.

Very truly yours,



WALTER VERKLEY

Cc: Mark Kamachi, Councillor, Division 1, mkamachi@rockyview.ca
Dominic Kazmierczak, Supervisor Planning (Policy), Planning Services Department,
dkazmierczak@rockyview.ca