



PLANNING

TO: Subdivision Authority

DATE: November 15, 2022 **DIVISION:** 5

FILE: 08308010 & 08308002 **APPLICATION:** PL20220023

SUBJECT: Subdivision: Boundary Adjustment

APPLICATION: To adjust the boundaries between a ± 4.05 hectare (± 10.00 acre) parcel and a ± 60.70 hectare (± 150.00 acre) parcel to create a ± 8.09 hectare (± 20.00 acre) parcel and a ± 56.66 hectare (± 140.00 acre) parcel.

GENERAL LOCATION: Located approximately 0.81 kilometres (0.50 miles) south of Highway 72 on the east side of Range Road 285.

LAND USE DESIGNATION: Agricultural, General (A-GEN) & Residential, Rural District (R-RUR p4.0)

EXECUTIVE SUMMARY: The existing ± 4.05 hectare (± 10.00 acre) parcel is designated as Residential, Rural District (R-RUR p4.0) and is developed with one Dwelling, Single Detached and one Accessory Dwelling Unit. The existing ± 60.70 hectare (± 150.00 acre) parcel is designated as Agricultural, General District (A-GEN) and is developed with one Dwelling, Single Detached. The dwelling on the A-GEN parcel is located within the ± 4.05 hectare (± 10.00 acre) portion that would be transferred to the smaller parcel through the boundary adjustment.

The application was evaluated against the *Municipal Government Act (MGA)*, the *Subdivision and Development Regulation (SDR)*, the Municipal Development Plan (County Plan), and the Land Use Bylaw C-8000-2020. The application is inconsistent with the policies of the County Plan and regulations of the Land Use Bylaw; as such, the application does not comply with Section 654(1) of the MGA. The proposal would not meet the criteria set out within Policy 8.17 of the County Plan relating to first parcel out subdivision, specifically with reference to meeting the definition of a first parcel out and limiting impacts on agricultural operations. If approved, the boundary adjustment would also create a parcel with two land use designations and three dwellings; within the Land Use Bylaw, having three dwellings is not permitted on either R-RUR p4.0 designated parcels, or on A-GEN Districts less than 80 acres in size.

In keeping with the Subdivision and Development Authority Bylaw (C-8275-2022), Section 5(4), Council is the decision-making authority owing to non-compliance with the County Plan and Land Use Bylaw C-8000-2020, and therefore, Section 654(1) of the *Municipal Government Act*.

ADMINISTRATION RECOMMENDATION: Administration recommends refusal in accordance with Option #2.

OPTIONS:

- Option #1: THAT Subdivision Application PL20220023 be approved with the conditions noted in Attachment 'A'.
- Option #2: THAT Subdivision Application PL20220023 be refused for the following reasons:
1. The application does not meet Policy 8.17 of the Municipal Development Plan (County Plan).
 2. The application does not meet the dwelling density requirements of the Residential, Rural District (R-RUR) or the Agricultural, General District (A-GEN) within the Land Use Bylaw C-8000-2020.
 3. The application does not meet the minimum parcel size requirements of the Agricultural, General District (A-GEN) within the Land Use Bylaw C-8000-2020.
 4. The application does not comply with Section 654(1)(b) of the *Municipal Government Act*.

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.

<p>APPLICABLE POLICY AND REGULATIONS:</p> <ul style="list-style-type: none"> • <i>Municipal Government Act;</i> • <i>Subdivision and Development Regulation;</i> • Municipal Development Plan (County Plan); • Land Use Bylaw; and • County Servicing Standards. 	<p>TECHNICAL REPORTS SUBMITTED:</p> <ul style="list-style-type: none"> • None
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Payments and Levies

APPLICABLE FEE/LEVY	AMOUNT OWING (ESTIMATE)
MUNICIPAL RESERVE	Amount Unknown, no appraisal report submitted with the application.

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 does allow the Subdivision Authority to approve an application that does not comply with a Land Use Bylaw if, in their opinion, it meets the following requirements:

- (a) *the proposed subdivision would not*
 - (i) *unduly interfere with the amenities of the neighbourhood, or*
 - (ii) *materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land,*
- and*
- (b) *the proposed subdivision conforms with the use prescribed for that land in the land use bylaw.*

The proposed residential use of the property would align with the use of the R-RUR and A-GEN district as both districts allow for Dwelling, Single Detached as a permitted use. However, the proposed boundary adjustment would not meet the restrictions of the Land Use Bylaw, as explained below.

Subdivision and Development Regulation (SDR)

The application is generally consistent with Section 7 of the SDR with respect to relevant considerations when deciding on whether to approve an application for subdivision. Section 7(i) of the SDR 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 or the Land Use Bylaw.

Pursuant to Section 16, Alberta Transportation provided authorization for the Subdivision Authority to vary the requirements of Section 14 and 15 with respect to approval of applications within the prescribed distance from a highway right of way and the provision of service roads.

Municipal Development Plan (County Plan)

The application proposes an agricultural subdivision that does not meet the definition of a first parcel out and is not supported under Policy 8.17. Specifically, the application does not comply with Policies 8.17 a. and d., which require a first parcel out subdivision to meet the definition of a first parcel out and to minimize the adverse impacts on agricultural operations.

First parcel out subdivision is defined within the County Plan as the subdivision of a single residential or agricultural parcel created from a previously un-subdivided quarter section.

If Council determines the application meets the intent of Policy 8.17 of the County Plan, they may wish to consider approval of the application should they feel the application would meet the notwithstanding clause of Section 654(2) of the MGA.

Land Use Bylaw (LUB)

The proposed ± 8.09 hectare (± 20.00 acre) parcel would hold two land use designations: the northern ± 4.05 hectares (± 10.00 acres) would be designated as Residential, Rural District (R-RUR p4.0) and the southern ± 4.05 hectares (± 10.00 acres) would be designated as Agricultural, General District (A-GEN).

The proposed ± 8.09 hectare (± 20.00 acres) parcel would not meet the minimum parcel size of ± 20.23 hectares (± 50.00 acres) under Section 305 c) of the LUB and would be considered a non-conforming land use district on the southern half of the proposed parcel.

The proposed ± 8.09 hectare (± 20.00 acre) parcel would not meet the maximum dwelling density under Section 306 a) (A-GEN maximum dwelling density) and 320 (R-RUR maximum dwelling density) of the LUB. Under each section, the maximum dwelling density is one Dwelling, Single Detached and one Dwelling Unit that is not a Dwelling, Single Detached. The existing ± 4.05 hectare (± 10.00 acre) parcel meets the maximum dwelling density as it has a Dwelling, Single Detached and an Accessory Dwelling Unit. The proposed inclusion of a second Dwelling, Single Detached through the proposed boundary adjustment would put the proposed parcel into non-compliance with the LUB.

Technical Considerations*Site Servicing*

Both existing properties have a well and septic system that service the existing dwellings on site.

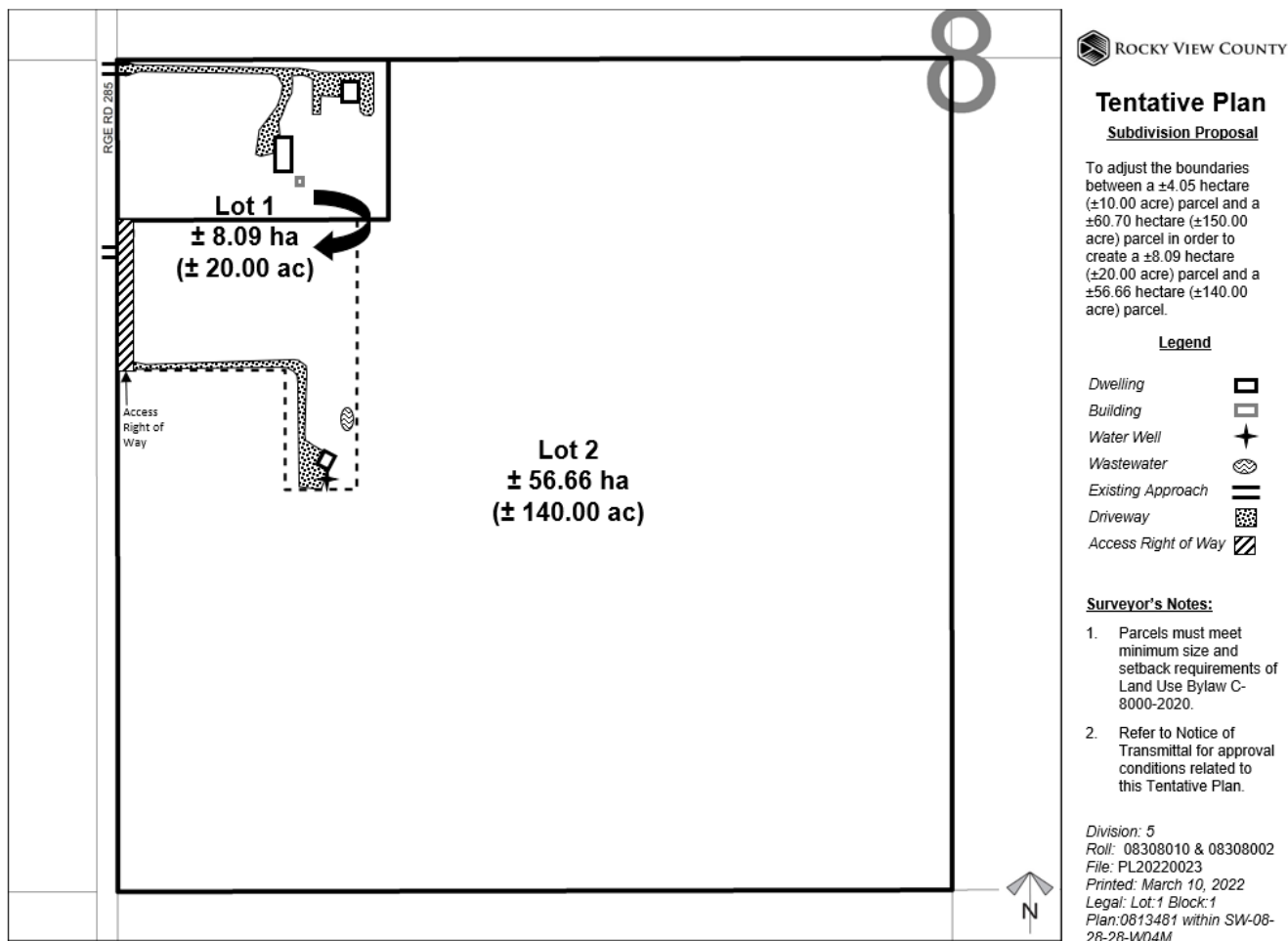
Transportation

Both existing properties have access to Range Road 285 through existing approaches. The proposed boundary adjustment would see creation of a panhandle access to the proposed ± 56.66 hectare (± 140.00 acre) parcel over the existing driveway to the southernmost Dwelling, Single Detached. If Council wishes to support the application, a recommended condition of approval would be the registration of an Access Right of Way and Easement Agreement to provide for continued access to this dwelling through the existing driveway.

Municipal Reserves

An appraisal was not provided with the application. If Council wishes to support the application, a recommended condition of approval would be the registration of a Deferred Reserve Caveat for the 10% Municipal Reserves owing on the ± 4.05 hectares (± 10.00 acres) to be adjusted to create the proposed Lot 1.

Tentative Plan



CONCLUSION:

Due to non-compliance with the *Municipal Government Act*, the Municipal Development Plan (County Plan) and Land Use Bylaw C-8000-2020, Administration recommends refusal of the application.

Respectfully submitted,

"Brock Beach"

Acting Executive Director
Community Services

Concurrence,

"Dorian Wandzura"

Chief Administrative Officer

LC/ac

ATTACHMENTS:

ATTACHMENT 'A': Approval Conditions
ATTACHMENT 'B': Application Information
ATTACHMENT 'C': Map Set