

**ROCKY VIEW COUNTY
SUBDIVISION AND DEVELOPMENT APPEAL BOARD**

Board Order No.: 2019-SDAB-018

File No.: 04333030; PL20180111

Appeal by: Val Dickie, 816264 Alberta Ltd.

Appeal Against: Development Authority of Rocky View County

Hearing Date: 2019 April 03

Decision Date: 2019 April 18

Board Members: D. Kochan, Chair
I. Galbraith
W. Metzger

DEVELOPMENT APPEAL DECISION

INTRODUCTION

[1] This is an appeal to the Rocky View County Subdivision and Development Appeal Board (the Board) from a decision of the Rocky View County Subdivision Authority issued February 20, 2019. In this decision the Subdivision Authority refused the subdivision of a Residential Two parcel into two Residential Two lots at 283128 Township Road 245A (the Lands).

[2] Upon notice being given, this appeal was heard on April 3, 2019 in Council Chambers of Rocky View County's County Hall, located at 262075 Rocky View Point, Rocky View County, Alberta.

DECISION

[3] The appeal is denied and the decision of the Subdivision Authority is upheld. The proposed subdivision shall not be approved.

BACKGROUND

[4] On September 17, 2018, Dean Guidolin (the Applicant) submitted a subdivision application for the subdivision of a Residential Two parcel to create an approximately 2.34 hectare (5.78 acre) parcel (Lot 1) with an approximately 4.57 hectare (11.29 acres) parcel remainder (Lot 2).

[5] The Lands are located at NW-33-24-28-W4M, approximately four kilometres east of the City of Calgary, immediately east of the Hamlet of Conrich, 0.81 kilometres south of Township Road 250 and 0.81 kilometres west of Range Road 283. The Lands are approximately 6.91 hectares (17.07 acres) in area and are owned by Valetta June Dickie and 816264 Alberta Ltd (the Owners).

[6] The Lands' land use designation is Residential Two District, which is regulated in section 50 of the Rocky View County, *Land Use Bylaw C-4841-97* [the *Land Use Bylaw*].

[7] On February 12, 2019, Rocky View County Council, acting as the Development Authority, refused the subdivision application. On February 20, 2019, the Subdivision Authority issued its refusal of the subdivision application on the following grounds:

- (1) the application is not in compliance with Policy 7.1 of the Conrich Area Structure Plan;
- (2) approving the proposed subdivision would further fragment the area; and
- (3) section 654(1)(b) of the Municipal Government Act states that a subdivision authority must not approve a subdivision application unless the proposal conforms to the statutory plan.

[8] On March 12, Val Dickie, Director of 816264 Alberta Ltd. (the Appellants), appealed the Subdivision Authority's decision. The Notice of Hearing was circulated to 103 adjacent landowners in accordance with the *Municipal Government Act*, RSA 2000, c M-26 [MGA] and Rocky View County Council Policy C-327, *Circulation and Notification Standards*.

SUMMARY OF EVIDENCE

[9] The Board heard verbal submissions from:

- (1) Oksana Newmen, Municipal Planner, for the Subdivision Authority;
- (2) Sean MacLean, Supervisor, Planning and Development, for the Subdivision Authority; and
- (3) Gurbir Nijjar, Municipal Engineer, for the Subdivision Authority.

[10] The Appellant did not appear at the hearing.

[11] The Board received no letters in support or opposition to the appeal.

Development Authority's Submissions

[12] The Lands has two dwellings as well as numerous sheds and wood structures. One of the dwellings appears to be dilapidated. The surrounding area is partially developed a few farmsteads and agricultural areas, in addition to an industrial area to the north.

[13] The Applicant indicated to the Subdivision Authority that they want to build a dwelling on the new parcel out of the Lands.

[14] The Lands are located within “Future Policy Area” in the Conrich Area Structure Plan (ASP). Policy 7.1 of the ASP states that no new subdivision shall be supported within the Future Policy Area until the area has been comprehensively planned. The intent of Policy 7.1 is to prevent further fragmentation in the area until the ASP has been amended.

[15] Council refused the subdivision application on February 12, 2019. Council cited ASP Policy 7.1 and MGA section 654(1)(b) in its reasons. MGA section 654(1)(b) states:

“A subdivision authority must not approve an application for subdivision approval unless 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...”

[16] The Terms of Reference for the Future Policy Area were adopted by Council on November 27, 2018. Planning for this area has commenced and the anticipated adoption of the ASP amendment is anticipated by the end of 2019.

[17] The Subdivision Authority confirmed that site-specific storm water plans are necessary to determine if there are any onsite water concerns and ensure that a sufficient storm water system infrastructure will be built. The levy is for the Applicant’s share of storm water infrastructure.

[18] Regionally significant growth needs to go to the Calgary Metropolitan Regional Board, as per the regional growth plan.

[19] It’s premature to state what will happen on the Lands. It is possible that the Lands may stay zoned for country residential or zoned for commercial uses. The ASP states that no subdivision shall be supported until that is determined by the amendments to the ASP.

[20] No development permits have been issued for commercial operations on the Lands.

[21] There are were no submissions made by adjacent landowners.

[22] Should the Applicant plan to build a new house on the Lands, the Applicant may make an application for a development permit that would allow a third house.

[23] The Subdivision Authority stressed that the Board is to consider section 680(2) of the MGA, which states:

- 680(2) In determining an appeal, the board hearing the appeal
- (a) must act in accordance with any applicable ALSA regional plan;
 - (a.1) must have regard to any statutory plan;
 - (b) must conform with the uses of land referred to in a land use bylaw;
 - (c) must be consistent with the land use policies;
 - (d) must have regard to but is not bound by the subdivision and development regulations.

FINDINGS & REASONS FOR DECISION

[24] The Board finds it has the authority to make a decision on this matter pursuant to section 680(2)(e) of the *Municipal Government Act*.

[25] The Board reviewed all evidence and arguments, written and oral, submitted by the parties and will focus on the most relevant evidence and arguments in outlining its reasons.

[26] The Board finds that the ASP is a statutory plan and the Lands are located in a Future Policy Area of this ASP. The intent of Policy 7.1 is to prevent further fragmentation in this area before the plans for future growth is determined.

[27] The Board considered the Appellant's written reasons for the appeal that were provided with the Notice of Appeal. The Board acknowledges the representations made by the Appellants to this appeal, including the compliance with the current Residential Two District, the unclear timeline for the ASP amendments, Policy 9.1 of the ASP, and the need to address the turn-around at the east end of Township Road 245A.

[28] However, the Board finds that the ASP is a statutory plan and that the Future Growth area, as outlined in paragraph 26 (above), is the determining factor in its reasoning for denying the appeal. Pursuant to MGA section 680(2) and in consideration of section 654(1)(b), the Board finds that the subdivision application cannot be approved at this time.

CONCLUSION

[29] For the reasons set out above, the appeal is denied and the decision of the Subdivision Authority is upheld.

Dated at Rocky View County, in the Province of Alberta on April 18, 2019.

“ Don Kochan ”

Don Kochan, Chair
Subdivision and Development Appeal Board

EXHIBIT LIST

DOCUMENTS PRESENTED AT THE HEARING AND CONSIDERED BY THE BOARD

NO.	ITEM
1.	Development Authority's Report to the Board (31 pages)