

BY-LAW NUMBER 2019/50

BY-LAW NO. 2019/50 is a by-law of the County of Wetaskiwin No. 10 in the Province of Alberta, to authorize the adoption of an Area Structure Plan for the purpose of providing a framework for subsequent subdivision and development of SE-3-47-27-W4M in accordance with Section 633 of the Municipal Government Act, Chapter M-26.1, Revised Statutes of Alberta 2000, and amendments thereto.

WHEREAS: at the requirements of County Council, an Area Structure Plan has been prepared for SE-3-47-27-W4M.

AND WHEREAS: the proposed Area Structure Plan has been widely circulated and discussed within the County pursuant to Section 230, 606(1), and 633(1) of the Municipal Government Act, 2000, Chapter M-26.1, and amendments thereto.

NOW THEREFORE: the County of Wetaskiwin No. 10, duly assembled, hereby enacts as follows:

The document attached to this By-law as "Appendix A", together with accompanying maps, is hereby adopted for , (SE-3-47-27-W4M).

1. This by-law comes into effect on the date of third reading.

READ: A First time this 8th day of November A.D, 2019.

READ: A Second time this 8th day of November A.D, 2019.

READ: A Third time and finally passed this 8th day of November A.D, 2019.



REEVE



**ASSISTANT CHIEF ADMINISTRATIVE
OFFICER**

**County of Wetaskiwin
Area Structure Plan
SE 3-47-27-4
Landowner: David Ellis**

**Adopted by Bylaw 2019/50
8 November 2019**

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1 Introduction

David Ellis owns the unsubdivided remainder of SE 3-47-27-4, containing 156.02 acres. That is the area left in the quarter after the original yard site was subdivided out by Plan 092 9890. He no longer farms, so he wishes to sell the productive land to a neighbouring farmer and keep a parcel of about 27 acres which includes his residence and about 21 acres of heavy tree cover. The size of the proposed parcel is more than allowed under the County's "second yard site" policy 61-1-7, but qualifies for Rural Conservation zoning. This area structure plan (ASP) sets out the size and use of the proposed parcel, discusses servicing, and examines the effect of subdivision on neighbouring lands.

2 Existing title

The existing quarter section title has a number of encumbrances. The relevant ones are:

- 1976 Easement in favour of Plains Western for local gas line
- 2009 Lease in favour of Forge Oil and Gas Ltd for well and access road
- 2009 Right of way in favour of Forge Oil and Gas Ltd
- 2009 Utility right of way in favour of Evolve Exploration Ltd for exploration

These encumbrances have been taken into account in the design of the proposed subdivision.

There is also a 2016 notification filed by Alberta Health Services, concerning the habitability of a house, but this has been registered on the wrong title. It affects the house on the subdivided lot, and is not relevant to this ASP. The owner is taking action to have it removed from the title of the quarter section.

3 Municipal land use policies

An ASP must take into account several municipal policy documents.

Intermunicipal development plan:

The County and City of Wetaskiwin have adopted an intermunicipal development plan (IDP) which, among other things, commits the County to protecting the City's water supply by regulating development in the watershed. The relevance of this is explained in section 10 of this ASP.

Municipal development plan:

The municipal development plan (MDP) requires that all proposals within one mile of another municipality or a reserve be referred to their councils for comment. In this case the nearest municipalities and reserves are at least eight kilometres (five miles) away, so it was not necessary to consult their councils.

The MDP aims to preserve good soils for agriculture (objective 1.2). Good soils are defined as those with a farmland assessment rating of 30% or more. Municipal assessment sheets show

that the soil at the site proposed for subdivision is rated either 7% or 10% (the assessment map differs from the accompanying written material), so there is no conflict with MDP policies.

Part of the reason for this low farmland assessment is that most of the land is covered in trees. The value of tree cover along a watercourse is recognized in Objective 3.5 of the MDP.

Land use bylaw:

The County's land use bylaw sets the detailed rules for development. At present, the land in question is zoned Agricultural. It will be necessary to rezone it to accommodate the proposed development. This is discussed in section 6.

Non-statutory County policies:

County Policy 61.1.6 sets out what must be covered in an area structure plan. Requirements under that policy have been met in this ASP.

Policy 6615 deals with road access. This is addressed in section 8

4 Senior government policies

Although land use is primarily a municipal responsibility, when it adopts an ASP the County must also consider senior government rules, and in particular the Municipal Government Act and the Subdivision and Development Regulation, AR 43/2002.

MGA Section 633: The MGA sets out the required contents of an area structure plan (see appendix) and the process to be followed to prepare and adopt it. The present document complies.

Sour oil and gas installations A proposal to build or use overnight accommodation or any public facility within 1,500 metres of any sour gas well or pipeline must be referred to the Alberta Energy Regulator (AER) for comments.

AER mapping, confirmed by a ground search in June 2019, show no sour oil or gas installations on or within 1,500 metres of the proposed subdivision.

Active sweet wells: Development is restricted within 100 metres of a sweet oil or gas well, or within the right-of-way of a sweet oil or gas pipeline. (This does not apply to local gas distribution lines.)

The accompanying map shows the locations of all oil or gas wells anywhere near the proposed development. There is one active well on the quarter, operated by Forge Oil and Gas of Calgary, producing coal bed methane. The wellhead is about 300 metres from the existing house. Other wells in the area are even further away. None affect the proposed subdivision.

Abandoned wells: There are no abandoned wells on the subject quarter. There are three on adjacent quarters, but they are all at least 500 metres away, and do not affect the proposed subdivision.

Sewer lagoons: Overnight accommodation must be at least 300 metres away from sewer lagoons.

The closest sewer lagoons are at Falun, 7 km south, and at Mulhurst, 9 km north-west. Sewer lagoons are therefore no obstacle to the proposed subdivision.

Waste disposal sites: Residences must be at least 300 metres away from an active or closed waste disposal site, and no water wells for human consumption may be drilled within 450 metres of such a site.

There is a closed landfill 2,275 metres away in SW 12-47-27-4. The closest active waste handling site is the County transfer station (and former landfill) in NW 7-47-27-4, a distance of 5,145 metres.

Waste handling sites are therefore no obstacle to the proposed subdivision.

Proximity to highways: A municipality must not approve subdivision or development within 1,600 metres of a provincial highway without the prior approval of Alberta Transportation (AT). There are no highways within that distance of the property. The closest is Highway 616, which is 2,400 metres to the north.

Proximity to highways is therefore no obstacle to the proposed subdivision.

Airports: The closest airports are Edmonton International, Wetaskiwin, Rimbey, and Ponoka. There are smaller private strips at Millet (Creekview) and Calmar (Maplelane). No private strips can be seen on air photographs of the immediate area.

Transport Canada designates the area as Class C airspace, with no commercial traffic below 4,600 feet above ground.

The proposed subdivision will not affect or be affected by flight operations.

Historical resources: The Alberta Government's Historical Resources Management Branch (HRMB) has the right to require a historical or archaeological assessment of land which is to be developed.

The department's historic resources data base shows nothing of historical or archaeological interest within a kilometre of the proposed subdivision.

Regional plans: A municipality is bound by a regional plan adopted under the Alberta Land Stewardship Act, but no such plan has been adopted for this part of the province.

In summary, there are no provincial or federal regulations standing in the way of the proposed subdivision.

5 Neighbouring land uses

Most of the land on the adjacent quarters is farmed, but there is a significant amount of original tree cover.

The adjacent quarter sections contain six residences. Three of those are on subdivided lots.

County policy 61.1.6 requires an ASP to identify any intensive livestock operation within two kilometres of the proposed development. The Natural Resources Conservation Board's data base shows one such operation. The Keuper dairy in SE 33-46-27-4, with 110 milking cows plus dries and replacements, is just over 1,000 metres south of the Ellis quarter, and about 1,300 metres south of the proposed subdivision. NRCB decision RA 18052 notes that there is adequate setback from all nearby residences. This is confirmed by the Board's on-line MDS calculator, which indicates that an operation of this type and size should be no closer than 374 metres to residences.

Smaller livestock operations are regulated by the County. A survey at the end of June 2019 did not reveal any such operations within two kilometres. Consequently, intensive livestock operations do not conflict with the proposed subdivision.

6 Proposed development

The owner proposes to subdivide a 27.1 acre parcel. Trees cover 21.2 acres (78% of the total area). The remaining six acres consist of a residential site, an oilfield access road, and a few acres of rough pasture. The forested area includes a ravine containing a year-round watercourse with a beaver dam and lodge.

The valley and the tree cover continue on the adjacent quarters, with the watercourse flowing south-east into Bigstone Creek, and eventually into Coal Lake, which supplies water to the City of Wetaskiwin. Losing the tree cover could result in bank erosion, siltation, and other threats to water quality. A useful wildlife corridor would also be damaged if the trees were cleared.

This situation is well suited to Rural Conservation zoning. To quote the land use bylaw:

The purpose of Rural Conservation District (RCV) is to preserve existing tree cover in the County. The district may be implemented next to significant rivers, streams, and lakes.
[Land use bylaw, section 10.23.1]

Rural Conservation zoning requires a lot to be at least 60% tree covered, with a minimum area of at least ten acres. There is no maximum size. The proposed lot qualifies on all counts. The owner will therefore apply for rezoning to RCV once this ASP is adopted by the County.

It is worth noting that in the area west of Highway 2, north of Highway 13, and east of Pigeon Lake, the County has granted RCV zoning to eight subdivisions containing 26 tree covered parcels with areas varying from 9.76 acres to 64.0 acres. The closest to the Ellis property is a three lot subdivision in SW 31-46-26-4 overlooking Falun Creek just upstream of where it joins Bigstone Creek (RW/01/26). Four parcels zoned Watershed Protection have also been subdivided in NW 32-46-27-4, just over two kilometres west. These subdivisions show the County's commitment to preserving tree cover.

As noted above, RCV zoning would allow the proposed parcel to be re-subdivided, but the present owner has no intention of doing that.

7 Impact on nearby land

The proposed subdivision will have no impact on nearby lands. The trees will remain, and the owner will continue to live in the existing house. There will be no increase in population or road traffic.

8 Road access

The proposed lot is adjacent to RR 272, a gravel road on a 20 metre right-of-way. An approach and culvert were installed by the County a few years ago. There is a separate approach to Forge's gas well. Forge's easement will be carried forward on the title to the new lot.

An approach off TR 470 gives access to the agricultural remainder of the quarter. It was constructed by the landowner at a high spot in the road so there is no flow of water in the ditch, and no culvert was required.

The County normally requires a five metre road widening adjacent to any subdivided lot, but this may be waived when the road is little used. Road widening was not taken when the existing lot on the quarter was subdivided (RW/07/96) or when the two lots across the road in SW 2 were subdivided (RW/99/30). Because RR 272 carries very little traffic, there is probably no need for road widening in this case.

County Policy 6615 requires the developer of a multi-lot subdivision to contribute \$2,000 per lot for the upgrading of municipal roads serving the subdivision. The owner accepts this and will pay the contribution at the time of subdivision.

9 Reserves

When more than one parcel is subdivided from a quarter section, the Municipal Government Act gives the municipality the right to take part of the land into public ownership.

Environmental reserve (ER): Land which is undevelopable may be taken as environmental reserve. This must be kept in its natural state, or used as a public park (MGA sections 664 and 671).

At first sight it seems that the ravine that crosses the property should be dedicated as ER. However, ER is not cost-free to the municipality. It has to be maintained so it does not become a fire hazard. And it is legally open to all, so there may be problems with abuse, and this can expose the County to legal liability.

Additionally, taking the ravine as ER would cut the new parcel in two, and the part lying north-east of the ravine would probably be too small to build on because of the required setbacks from the road and the top of bank. It is better to leave it as an undeveloped part of the 27 acre lot.

The MGA implicitly recognizes these problems and gives municipalities an alternative way of protecting sensitive areas. Instead of taking full ownership, municipalities may register an environmental reserve easement which limits the use of the land, requiring it to be left in its natural state. Easements are allowed by section 661(2) of the MGA and under Policy 3.1.7 of

the County's MDP. They run with the title and are binding on future owners. They have worked very well along Pipestone Creek and around Battle Lake and Coal Lake. This ASP therefore proposes that instead of dedicating land, the County should register an ER easement on undevelopable parts of the property.

Municipal reserve (MR): Environmental reserve applies only to undevelopable land. Additionally, the municipality may require that up to 10% of the developable land being subdivided be dedicated as municipal reserve for parks, schools, and buffer strips separating different land uses (MGA section 666.1).

There is no need for parks or schools here. The owner therefore offers to pay out reserves in cash under section 667 of the MGA, using the values set out in the current version of County Policy 61.1.2. Alternatively, if the County prefers, reserves could be deferred by caveat. This gives the County the option of taking them later if and when the land is further subdivided.

10 Water supply

Where a subdivision will create six or more residential lots on a quarter section, the Water Act requires that the developer provide a report by a professional engineer, geologist, or geophysicist, certifying that a diversion of 1,250 cubic metres of water per year for household purposes for each of the lots within the subdivision will not interfere with any existing household uses, licensees, or traditional agricultural users.

The County imposes a higher standard, and requires evidence of adequate groundwater if there will be three or more lots on a quarter (land use bylaw, sections 9.13.6 and 9.13.8). Evidence may be supplied by a hydrogeological engineer's report. Alternatively, the owner may submit the results of a two hour pump test on an existing well, undertaken by a licensed well driller, showing acceptable drawdown and recovery, with a sustainable flow of at least half a gallon a minute (equivalent to 1,200 m3 per year).

There are two existing wells on the proposed parcel. One serves the house. The other was used at one time to water cattle and is still in working order. Both of these wells, plus one on the previously subdivided parcel, were tested before and after Forge drilled the coal bed methane well referred to above. Copies of these tests have been forwarded to the County under separate cover. They indicate flows of 9.08 litres (two gallons) per minute, which is four times the rate required by the land use bylaw.

No additional wells will be drilled.

11 Sewage treatment

Sewage is treated in a septic tank west of the house. From there it runs further west into a tree covered area where it is discharged on the surface of the land.

The Alberta Private Sewage Systems Standard of Practice, section 8.6.2.1, requires an open discharge point to be at least 50 metres from a water source (such as a well), 45 metres from a watercourse, 90 metres from any property line, and 45 metres from any building. The owner has indicated that the system meets these setback requirements.

Any necessary upgrades can be done following inspection by an accredited plumbing inspector as a condition of subdivision approval.

12 Storm water

Development with a lot of hard surfaces may increase the amount and intensity of runoff from snow melt and heavy rainfall, and this can damage downstream watercourses. Alberta Environment therefore requires that the rate of runoff be no higher than it was before development. Section 7.1 of the County of Wetaskiwin's engineering design guidelines has a similar requirement. The intensity of runoff can then be reduced by running the flow through a detention pond.

In this case the hard surfaced area (buildings and driveways) amounts to only about one acre, which is less than 4% of the total area. This is so small that the runoff is insignificant. There will be no change in the amount or intensity of runoff after subdivision because the tree cover will remain, and the yard site will not be enlarged. Consequently, no detention pond appears necessary.

13 Waste management

Solid waste from the new lot will continue to be hauled to the County's transfer station near Mulhurst. The amount and type of waste will not change as a result of subdivision.

14 Fire protection

The nearest fire halls are at VPL (18.5 km by road) and Mulhurst (11 km by road). This makes for a slow response time. In such circumstances, the County would require the developer of a multi-lot subdivision to construct a pond at which the fire trucks can replenish their supply of water. Normally a fire pond is constructed at the lowest point in the subdivision so that it is filled by surface runoff.

The County does not normally require a fire pond for a single lot subdivision. It is also impractical here because the lowest point on the subdivision will be somewhere in the ravine, where it cannot be accessed by fire trucks. There is no other suitable location.

Consequently, no fire pond is proposed to be built.

15 Public consultation

The County requires a developer to show his plans to his neighbours and get their feedback before taking an ASP to council. The normal practice is to hold an open house.

In view of the small scale of the subdivision -- a single lot, containing an existing house -- it was agreed between the owner and County staff that there was no point in holding an open house. Instead, a summary of the proposal was mailed to the owners of all land on the adjacent eight quarter sections. A total of 15 letters were mailed out. They invited the neighbours to give their comments in writing, by telephone, by email, or at a face-to-face meeting.

Two weeks after mail-out, none of the neighbours had contacted the owner, his agent, or his planner with any concerns.

16 Timing of development

The owner recognizes that, pursuant to County policy 61.1.6, should the proposed lot not be created within two years of the adoption of this ASP, the plan may be subject to any new policy or bylaw adopted by Council after the date of ASP approval and prior to subdivision approval.

Appendix 1: Compliance with section 633 of the MGA

In order to comply with section 633 of the MGA, it is necessary to confirm that this ASP

- *describes the **land uses** proposed for the area, either generally or with respect to specific parts of the area:*

This is done in section 6.

- *Describes the **sequence of development** proposed for the area.*

As a single lot subdivision, development will proceed in a single stage.

- *describes the **density of population** proposed for the area:*

The owner will continue to live in the existing house on the proposed lot. There will be no increase in population.

- *describes the general location of major **transportation routes and public utilities**:*

Road access is described in section 8.

The only public utilities are power (from a line in RR 272) and natural gas (from and existing gas co-op line).

Water and sewer service is described in sections 10 and 11.

- *is consistent with any **intermunicipal development plan**:*

The proposal is consistent with the City / County IDP.

- *is consistent with any **municipal development plan**:*

This is addressed in section 3.

Proposed Subdivision in
County of Wetaskiwin No. 10

SE3 47-27-4



Registered Owner(s): DAVID GORDON ELLIS AND CINDY LOU ELLIS

— denotes titled area

File: RW/20/05

Drawn: MAY 13, 2020

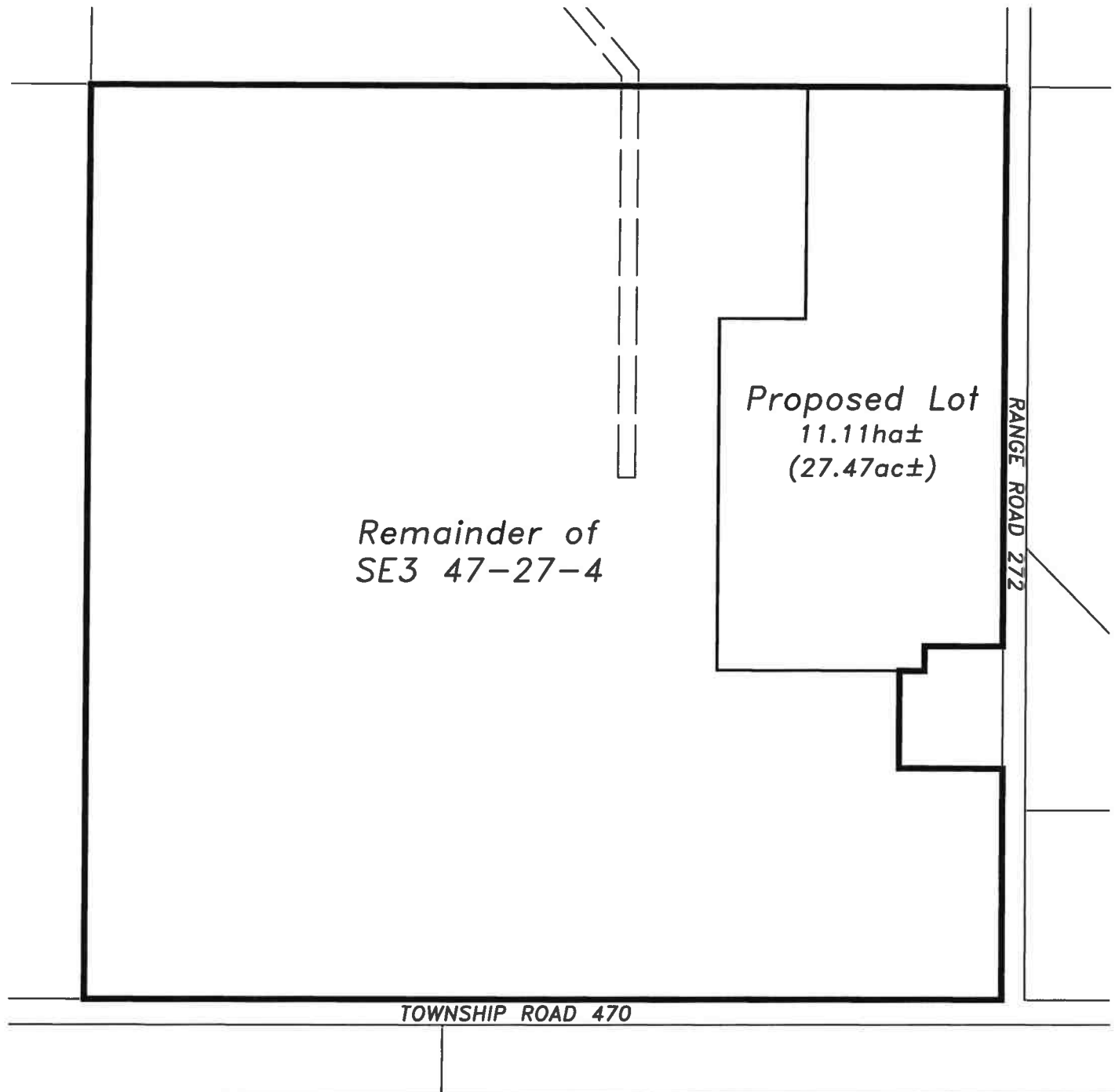
Revised:

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