



BYLAW 2022/27

BYLAW 2022/27 is a Bylaw of the County of Wetaskiwin No. 10 in the Province of Alberta, for the purpose of authorizing the adoption of an Area Structure Plan for the purpose of providing a framework for subsequent subdivision and development of a 28.42 hectares (70.23 acre) parcel, located on NE-35-46-27-W4M, in accordance with Section 633 of the Municipal Government Act, Chapter M-26.

WHEREAS the County of Wetaskiwin No. 10 has received an application to for an Area Structure Plan, located within NE-35-46-27-W4M;

AND WHEREAS pursuant to Section 191 of the *Municipal Government Act*, RSA 2000, Chapter M-26, as amended, Chapter M-26 allows for the amendment of Bylaws;

NOW THEREFORE the Council of the County of Wetaskiwin No. 10, in the Province of Alberta, duly assembled, hereby enacts as follows.

1. The document attached to this Bylaw "Schedule A" together with accompanying maps, is here adopted for the County of Wetaskiwin Area Structure Plan ASP22/002, located within NE-35-46-27-W4M:
2. This Bylaw shall come into full force and effect upon passing of the third reading.

READ: First time this 3rd day of May, 2022

READ: A Second time this 3rd day of May, 2022

READ: A Third time and finally passed this 3rd day of May, 2022

REEVE

ASSISTANT CHIEF ADMINISTRATIVE
OFFICER



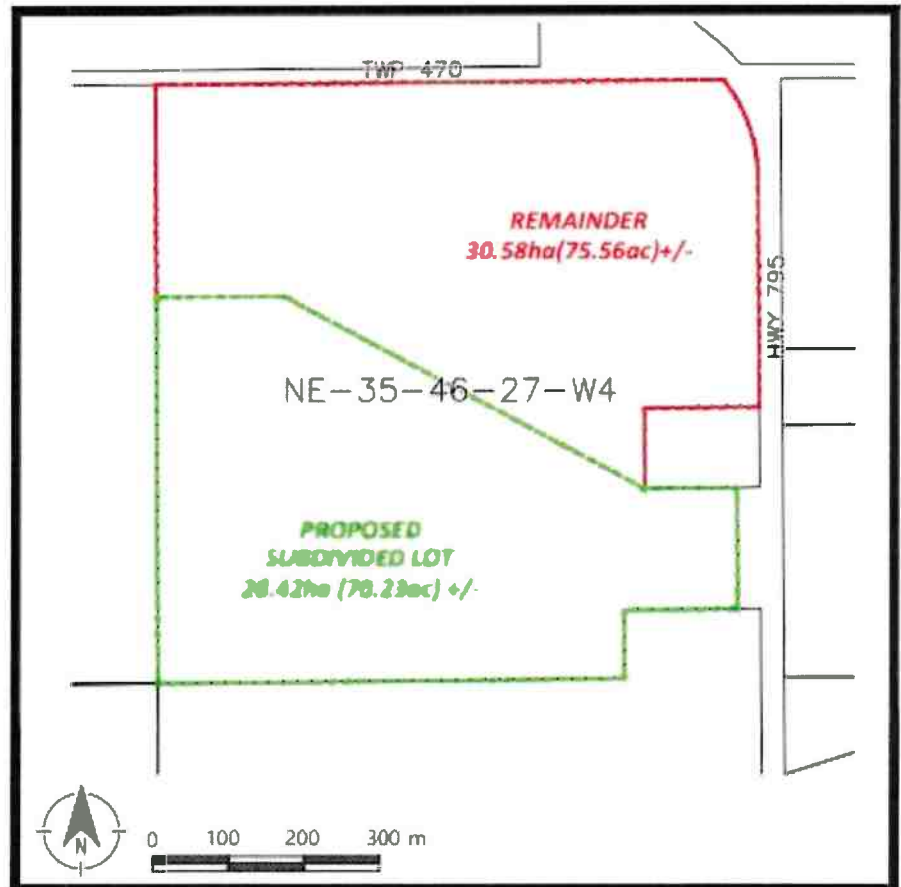
Schedule "A"

Area Structure Plan

Roll # 243300

NE 35-46-27-W4M

Total pages in Area Structure Plan 10





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**County of Wetaskiwin
Area Structure Plan
Pt NE 35-46-27-4**

Landowner: David McAuley

PO Box 14, Falun, Alberta T0C 1H0

Purchasers: Tod and Kelsie Zahara

RR 5 Site 5 Box 5 Wetaskiwin, Alberta T9A 1X2

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1 Introduction

David McAuley owns most of NE 35-46-27-4. Tod Zahara owns 39.24 acres immediately to the south, between the McAuley land and Bigstone Creek, legally described as Lot 1 Block 2 Plan 172 3006.

Map 1 shows the location. It is four miles north of Highway 13 on the west side of Highway 795, locally known as the Calmar Road. It is 25 miles by road from Leduc, 21 miles from Wetaskiwin, and ten miles from Pigeon Lake, all on paved highways.

In 2015 Mr McAuley asked the County of Wetaskiwin to approve an area structure plan for a multi-lot residential subdivision. Council decided this was inappropriate in a farming area, and rejected the proposal.

Mr McAuley now proposes to subdivide a single parcel for sale to Mr Zahara. This will take in most of the tree covered land and a former gravel pit at the southern half of his property, covering about 70 acres, with a weighted-average farmland assessment rating of 14.5%.

Map 2 is a recent air photograph of the land.

As this will be the fourth parcel on the quarter, County policy requires that the owner submit an area structure plan which describes the location of the land, its physical characteristics, proposed lot layout and infrastructure, and how the proposed development will affect neighbouring land.

2 Provincial Jurisdiction

Although land use is a municipal responsibility, the County is bound by the provincial legislation. Constraints are shown on Map 3, which shows the immediate area around the McAuley and Zahara properties.

Sour oil and gas installations:	A proposal to subdivide land within 1,500 metres of any sour gas well or pipeline must be referred to the Alberta Energy Regulator (AER) for comments.
	There are no such installations on or within 1,500 metres of the subject property.
Other Oil and gas installations:	Overnight accommodation (residences, hotels, etc) is not allowed within 100 metres of a sweet oil or gas well, or within the right-of-way of a sweet oil or gas pipeline. No setback is required from the local gas co-op lines.
	There are no oil or gas installations on the McAuley property. The closest line is 491 metres away. The closest active well is 1,028 metres away.



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Abandoned oil wells	<p>The AER requires that space be left around abandoned well sites in case crews need to come in to do remedial work.</p> <p>There are no abandoned oil or gas wells on the property. The closest is 1,130 metres away.</p>
Sewer lagoons:	<p>Certain types of development are not allowed within 300 metres of a sewer lagoon.</p> <p>The closest sewer lagoons are at Falun, about 6.6 km away from the McAuley property, and at Mulhurst, about 11 km away. Locations are shown on Map 1.</p>
Waste disposal sites:	<p>Certain types of development are not allowed within 300 metres of a waste disposal site, and wells for human consumption must be at least 450 metres of such sites.</p> <p>There are former landfills about 2.5 km north in SW 12-47-27-4 and about 7 km south-west in SE 17-46-27-4. Both have been closed for many years. The closest active site is the former County landfill and current waste transfer station in NW 7-47-27-4 between Bonnie Glen and Mulhurst. It is about 8.8 km away from the McAuley property. Locations are shown on Map 1.</p>
Proximity to highways:	<p>A municipality must not approve a subdivision within 1,600 metres of a provincial highway without the prior approval of Alberta Transportation.</p> <p>The subject property is located adjacent to Highway 795. Alberta Transportation's requirements are discussed in section 12 below.</p>
Livestock operations:	<p>The Natural Resources Conservation Board (NRCB) does not allow confined feeding operations close to residences. The County applies this policy reciprocally, and does not allow new residences close to confined feeding operations.</p> <p>There is a dairy with approval for 110 milking cows on SE 33-46-27-4. According to the NRCB, this operation requires a setback of 749 metres from a multi-lot residential subdivision. The actual distance from the barn to the proposed lot is 2,550 metres.</p> <p>There is also a dairy and poultry operation on NW 6-47-26-4. The required separation distance is 678 metres. The actual distance from the barn to the proposed lot is 1,725 metres. Locations of both CFOs are shown on Map 3.</p>



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Airports

There are no licensed airports near the property, and the proposed development is not under any landing or take-off path.

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.

In a letter dated 22 July 2013, the department said that an Historical Resources Impact Assessment was not required. A copy of that letter was forwarded to the County at that time.

Additionally, the current provincial listing of historic resources does not flag the land as having any historic or archaeological significance.

Consequently, it is not necessary to refer the proposal to HRMB under section 6 of the provincial Subdivision and Development Regulation.

Wetlands

There are no watercourses on the proposed lot, and no naturally occurring bodies of standing water, so there is no need to undertake a wetland study or obtain a provincial water licence.

In summary, there is nothing in any senior government regulation to prevent the proposed subdivision once Alberta Transportation gives their consent.

3 Other Municipalities

The property is four and a half miles (overland, not by road) east of the Fishing Station Indian Reserve, six miles south of the Leduc County boundary, seven miles from Silver Beach, and fifteen miles from the City of Wetaskiwin. None of these jurisdictions will be affected by the proposed development, and intermunicipal agreements do not require that they be notified.

4 Past and Present Land Uses

The original 156 acre quarter has been reduced by

- road widening for Highway 795 (1.45 acres),
- a short length of service road (1.19 acres)
- a 4.03 acre residential lot (Faulk)
- 4.00 acres originally a separate lot, but now consolidated in title with the Zahara property to the south.



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This leaves 145.33 acres in Mr McAuley's present title.

Air photographs of the area are available dating back to 1960. A 1993 air photograph shows a gravel operation in the middle of the quarter. The disturbed area appears to be about eight acres. It is still visible, about the same size, in more recent air photos. It is larger than the one acre site noted in the County's assessment sheet. The discrepancy is probably explained by the fact that gravel workings move across the landscape as a deposit is worked out, and one year's assessment will only catch the area being worked at that time.

Gravel extraction ceased before Mr McAuley bought the property in 2012. He has since tested the land, but the remaining seams are too thin to be economic. The former workings have been roughly graded and are currently used as unimproved pasture. The gravel was just below the surface, so there is no pit.

Shortly after buying the land Mr McAuley build a new house plus a shop out of which he ran an oilfield trucking business. The trucking business has since been moved to a site east of Wetaskiwin and the site is now purely residential. A small cow herd grazes on the pasture west of the house.

The air photo record does not show any land uses that might have contaminated the soil or be a hazard to residential use.

5 Soil quality

The Canada Land Inventory rates the land as having Class 5 soil. This is described as having "very severe limitations that restrict their capability to producing perennial forage crops".

The County farmland assessment map confirms the CLI evaluation. The small area of cleared land on the McAuley property is rated 33% and 34% FAR. Tree covered land is rated at 9%. A few small areas of trapped drainage are rated 7%. The former gravel pit is not rated. These ratings are shown on Map 4.

The weighted average farmland assessment rating for the proposed parcel is 14.5%.

Soils rated lower than 30% are not protected by policies in the MDP or land use bylaw.

6 Drainage and flood risk

Map 5 shows one metre contours derived from air photography. They show that about 100 acres of NE 35, including the entire proposed parcel, drain south to Bigstone Creek. There are no defined drainage channels. There are one or two depressions among the trees, but they are not wetlands as defined in provincial legislation.

Local residents have said that during the flood of 1990, Bigstone Creek overflowed Highway 795. The crown of the road at the culvert is a little below 820 metres above geodetic datum, so the flood would not have been any higher than 821 metres. Map 5 shows that only a very small portion of the proposed new parcel lies below 821 metres. Most of it is well above the historic flood level.



7 Environmentally Sensitive Areas

In this part of Alberta, environmentally sensitive areas are of three types: steep slopes, wetlands, and old growth tree cover.

There are no steep slopes on the property: the steepest gradient is only 4%. There is also no standing water anywhere on the land apart from a dugout used to water cattle.

Eldon Grinde, the previous owner of the land, told Mr McAuley that he had taken timber from the land proposed for subdivision. However, the land was not clear cut, and enough saplings were left that the tree cover has since regenerated. Most of the new growth is trembling aspen, about 4" in diameter at breast height, interspersed with larger trees which Mr Grinde did not cut.

In summary, there do not appear to be any areas of special environmental value or interest on the quarter.

It is County policy to retain tree cover along creeks and rivers. Section 3.5.1 of the MDP says that "land within 1.6 km (1 mile) from a river, stream, watercourse or lake is protected for watershed protection and may be re-districted to appropriate land use districts". As shown on Map 4, over 75% of the proposed lot is tree covered. Maintaining these trees will reduce the intensity of runoff into Bigstone Creek and will help buffer it from possible contamination.

8 Shallow groundwater

Alberta Environment requires that a residential lot has a building site which is at least 1.8 metres (6 feet) above the standing water table during the frost-free part of the year, and 2.4 metres (8 feet) during the remainder of the year.

Several test holes were dug when Mr McAuley was evaluating the gravel deposits. All were dry. This is to be expected in gravel-bearing subsoil.

Five additional test holes were dug in the spring and summer of 2014. Their locations are shown on Map 5. Holes 1, 3, 4, and 5 were dry. Hole 2 had water at nine feet (2.74 metres).

A new house can therefore be built on the site to conform with Alberta Environment's guidelines for depth to shallow groundwater.

9 Proposed Land Use and Subdivision Design

The proposal is to create a single 70 acre parcel on land which has little agricultural value. This parcel will be transferred to Mr Zahara, who will build a house on it for his parents. The house will be well back and practically invisible from the highway.

The north boundary of the proposed parcel will follow an existing fence that marks the boundary of farmable land. Land to the north of this line is cleared and is used to pasture cattle. Land to the south is mostly tree covered with a farmland assessment rating of 9%, depressional areas rated 7%, and a few isolated areas of 33% land needed for continuity and access. The present tree cover will be left undisturbed.



10 Zoning

Although the land has low productive value, subdivision of a fourth lot on the quarter may conflict with the present Agricultural zoning. It is recommended that this be changed to Rural Conservation. To quote from the land use bylaw:

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

This zoning requires the land to be at least 60% tree covered. Measurement from current air photography shows that trees cover 63% of the area of the proposed lot, and are growing back naturally in several open areas.

Rural Conservation zoning is appropriate because the adjacent Bigstone Creek is significant as wildlife habitat and (since it feeds Coal Lake) as a source of water for the City of Wetaskiwin. That is recognized in the City/County intermunicipal development plan (County Bylaw 98/66, City bylaw 1420/98). Recent flooding across Canada has further shown the importance of maintaining tree cover along creeks and rivers.

It may be noted that RCV zoning has been applied to 89 parcels across the County. The closest, all draining into tributaries of Bigstone Creek, are three parcels in SW 31-46-26-4, a little over 3 km downstream, and just recently one in SE 3-47-27-4, the same distance upstream.

11 Municipal Reserves

When land is subdivided, the municipality has the right to take ownership of all undevelopable land as environmental reserve, and up to 10% of the developable land as municipal reserve (Municipal Government Act, sections 664 and 665). None of the proposed parcel is undevelopable, so only municipal reserves need be considered.

If the land retains its Agricultural zoning, no reserves will be due (MGA section 663). If it is rezoned to Rural Conservation, municipal reserves could be due. However, subdivision files show that it has often been the County's practice to defer reserves where a parcel is created for watershed protection purposes. If necessary a deferred reserve caveat can be registered to protect the County's interest.

12 Highway Access

Prior to 2013 the quarter had three accesses on to Highway 795, one for each of the subdivided lots, and one for the remainder.

The direct approaches into the two subdivided lots have now been removed, and consolidated into a single approach on to a service road dedicated by Plan 132 1565. This work was paid for by Mr McAuley and done under the supervision of Alberta Transportation.



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The service road now has a simple Type One intersection. AT has stated in a letter to the County dated 22 September 2015 that it will allow up to five new lots to use the intersection as it is now built. As only one new lot is proposed, the intersection need not be upgraded.

13 Municipal Roads

The access off the service road will be built to the standards of the County at the landowner's expense.

County Policy 61.1.15 requires developers to contribute \$2,000 per lot to "help with the improvement of County public roads required to give access to the development or subdivision" (section 2.2.1).

In this case the access will be off a provincial highway, on to a service road that was built to County standards at Mr McAuley's expense. It is requested that the \$2,000 contribution be waived in recognition of Mr McAuley's construction cost.

Once off the public road, the access to the house will be a private driveway, and will be built to the owner's standards.

14 Environmental Impact

The environmental impact of a single parcel subdivision will be minimal. The land has already been disturbed by grazing, logging, and gravel extraction. There are no watercourses crossing the property. There are a few minor depressions that hold water after a storm, but they are not permanent water bodies.

Experience elsewhere shows that owners of rural parcels don't remove trees; they plant trees, or encourage natural re-growth. This subdivision will provide better habitat than if the trees were removed and the land seeded to grass. Maintaining tree cover will protect Bigstone Creek.

15 Storm Water Management

The speed with which water runs off land depends, among other things, on the ground cover. Tree covered land sheds water very slowly. Grassland sheds water more quickly. The fastest runoff is from roofs, roads, and paved land. Rapid runoff can cause downstream flooding and erosion, and the faster water moves, the more silt and contaminants it can carry.

Runoff will not be a problem on the proposed parcel. New hard surfaces (house, driveway, etc) will probably cover only an acre, or about 1.5% of the parcel area. The tree cover will be retained. Additionally, the gravel soil will allow most precipitation and snow melt to soak into the ground instead of running off.

Accordingly, there is no need for a storm water detention pond or other mechanism to control runoff.



16 Water supply

The County's land use bylaw, section 9.13.6, requires a developer to show that there is sufficient water to supply a proposed lot without interfering with any existing household uses, licensees, or traditional agricultural users.

Mr McAuley's 2015 ASP was accompanied by a hydrogeologist's report dated 18 February 2014, which said

It is concluded based on both the original assessment [dated 13 December 2013] and the recently reviewed site specific data, that adequate groundwater resources are available at the site for a 20 lot residential development.

As noted in the introduction, the 2015 ASP was rejected by the County a residential subdivision was considered inappropriate in an agricultural area. However, the water report is still valid. If there was enough water for 20 lots on the quarter, there is certainly enough for the proposed single lot.

It may be noted that Mr McAuley's well, drilled in 2012, was pump tested for two hours at 15 gallons per minute with minimal drawdown.

17 Sewage disposal

Sewage disposal on the new parcel will be governed by the Alberta Private Sewer Systems Standard of Practice.

The test holes discussed in section 8 show that the subsoil conditions are suitable for a private system. Prior to any construction, a licensed plumbing installer will test for percolation rates and will recommend the best system for that location. The system will then be constructed in compliance with the Provincial Safety Codes and with municipal bylaws, standards and policies.

Alternatively, the builder may decide to dispose of sewage by pump-and-haul, with the effluent trucked to Mulhurst for treatment and disposal. In that case the developer will pay the required off-site levy.

18 Fire protection

In a multi-lot subdivision, the County requires a supply of water on site for fire fighting. Four thousand gallons are required for each lot.

In this case there is ample water in the dugout shown on Map 6. This water is also available if necessary to fight fires elsewhere on the quarter.

19 Public consultation

The COVID outbreak made it inadvisable to hold a face-to-face open house where neighbours could discuss the proposal. Instead, County staff mailed a summary and map of the proposal to



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the owners of all properties within one kilometre, a total of 25 properties. Owners were invited to give their comments and concerns.

The letter was mailed on 2 February. By the end of February no letters or enquiries from neighbours had been received. It appears that the neighbours have no concerns.

20 Approvals requested

The owner requests that the County adopt this area structure plan by bylaw. Once that approval is in place, he will seek rezoning as set out in section 10 above.

*Amendment to Section 20 as per Resolution CG20220503.034