

**FOOTHILLS COUNTY  
SUBDIVISION AND DEVELOPMENT APPEAL BOARD  
Subdivision and Development Appeal Board Decision**

**HEARING DATE:** JULY 10, 2026

**BOARD ORDER:** S02/2026

**APPELLANT:** HAMER TREE SERVICES LTD.

**LANDOWNER REPRESENTATIVE:** AUSTIN HAMER

**AGENT:** KRISTI BEUNDER, TOWNSHIP PLANNING + DESIGN INC.

**APPEAL AGAINST:** THE REFUSAL OF SUBDIVISION APPLICATION F2128-06SW

**SUBJECT PROPERTY:** PTN. SW 06-21-28 W4M (THE "PROPERTY")

**BEFORE:** CHAIRMAN, B. ROBSON; BOARD MEMBERS, C. STORMES, B. DAYMENT, T. MILLS, M. REID, AND RECORDING SECRETARY, M. MICHAUD

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**DECISION:**

Having been satisfied that notice of this hearing was provided in accordance with the Municipal Government Act, R.S.A. 2000, Chapter M-26;

And upon having read the materials provided, and upon having heard the representations from the Appellant, the Appellant's Agent, the Planning Officer for Foothills County, and the Subdivision Approving Authority Representative with respect to the appeal filed by the Appellant in accordance with Section 678 of the Municipal Government Act against the refusal of subdivision application F2128-06SW for the creation of four new 3.6 +/- acre to 4.35 +/- acre Agricultural District Lots with an approximately 80.36 acre Agricultural District balance parcel from Ptn. SW 06-21-28 W4M (The "Property").

The Subdivision and Development Appeal Board for Foothills County (the "Board") has decided to:

DENY the appeal and UPHOLD the Subdivision Authority's decision to refuse subdivision application F2128-06SW for the creation of four new 3.6 +/- acre to 4.35 +/- acre Agricultural District lots from Ptn. SW 06-21-28 W4M.

The application is thereby REFUSED.

**APPLICATION HISTORY:**

- (i) The Planning Officer submitted that the subject property is an existing 95.67 acre Agricultural District parcel located west of the Saskatoon Farm, which is also owned by the Appellant. It lies directly north of 338<sup>th</sup> Avenue E, 0.3 km east of 80<sup>th</sup> Street E and 2.0 km east of the Town of Okotoks boundary and Highway 2.
- (ii) The Planning Officer submitted that on November 26, 2025, Foothills County Council refused an application for the redesignation of a 15.31 +/- acre portion of SW 06-21-28 W4M from Agricultural District to Country Residential District to allow for the future subdivision of four new 3.6 +/- acre to 4.35 +/- acre Country

Residential District lots with an approximate 80.36 +/- acre Agricultural District balance parcel.

- (iii) The Planning Officer submitted that the Appellants' Land Use proposal provided a complicated access management strategy beginning on the west side of the property proposing a 30 m wide panhandle, with a common approach to be constructed from 338<sup>th</sup> Avenue E as access to Lot 1 and the panhandle. On the east side of the property, the Appellant proposed to survey out a 30 x 30 metre road plan, providing approach locations for all lots. Lot 4 was to further connect to the road plan block via a 15 metre wide panhandle on the west side of the lot, with additional access to the balance parcel to be provided by a 15 metre wide panhandle. Finally, the Appellant proposed that an access right-of-way be registered over the 15 metre panhandle to Lot 4. This would facilitate the future provision of land if further subdivision were approved and a road needed to be constructed or extended in this location. The access management strategy as proposed by the Appellant did not meet the County's road construction standards. As such, the County's Public Works department provided that should the Appellant's application be approved by the Board, or by Council as the Land Use Authority, access on the west side was acceptable to their department, but access management on the east side of the property needed to meet the County's road construction standards. Public Works provided that in accordance with those standards, an internal road would need to be constructed as access to Lots 2, 3 and 4 and the east balance, with a temporary access right of way over that portion of the cul-de-sac bulb that extends into Lots 3 and 4 and a road acquisition agreement registered over the remainder of the boundary of Lot 4 to extend that road in the future should the need arise.
- (iv) The Planning Officer submitted that the subdivision application was submitted on April 9, 2026, deemed complete on April 20, 2026, circulated to the required government agencies and internal parties on April 30, 2026 and presented for Subdivision Approving Authority consideration on June 3, 2026, at which time the application was refused.
- (v) The Planning Officer submitted that the subdivision application requested that the Subdivision Approving Authority consider the subdivision of four non-compliant Agricultural District lots. The application was refused, as the redesignation required to rezone a portion of the property from the Agricultural District to the Country Residential District had been refused, and therefore, the subdivision could not comply with Section 654(1) and Section 654(2)(b) of the Municipal Government Act, Section 12.1.6.2 of Agricultural District of the County's Land Use Bylaw and could not conform to the minimum parcel size for the Agricultural District of the Land Use Bylaw. The application was also refused as it promoted the fragmentation of agricultural lands, which is discouraged within the policies of the County's Municipal Development Plan 2010.
- (vi) The Planning Officer submitted that an appeal was received from Mr. Austin Hamer, as represented by Ms. Kristi Beunder, on June 15, 2026, against the refusal.

## **ISSUES**

### **The Property**

- (i) The Planning Officer submitted that the topography of the property consists of predominantly flat, slightly rolling grasslands that were at one point in hay

production on the portions north of the yard site. Outside of the grasslands, there is a small area of overland drainage in the northeast corner.

- (ii) The Planning Officer submitted that the yard site contains a residence with a detached garage along with a shop, barn and mezzanine that is attached to the walls of what was once an indoor riding arena, along with a number of horse shelters throughout the yard site. Additionally, a number of tree species have been planted throughout and around the yard site, lining the driveways and east to west between the barn and the eastern boundary of the Property.
- (iii) The Planning Officer submitted that in 2017, first reading was granted to an application to change the land use for this parcel from Agricultural District to Direct Control District #29 to allow for an existing arena to be brought into compliance. The first reading was to allow the 18,000 square foot arena, with a 2,200 square foot attached barn and 800 square foot suite within the mezzanine portion of the structure to be used as a limited public arena based on the parameters of
  - (a) One monthly equine event (up to 100 persons)
  - (b) One weekly event (up to 50 persons)

It has been determined that there are no approvals in place for the existing arena, the suite in the mezzanine, or for the barn addition. A condition of first reading required the Appellant to obtain all applicable code and permit requirements before Council would further consider the permitted number of non-resident users or any continued residential use of the mezzanine. In 2018, the roof of the arena collapsed and Bylaw 95/2017, which granted first reading to that rezoning application and the arena, barn and mezzanine, expired. Currently, the mezzanine is no longer being used for housing; however, the adjacent barn is now being used for employee housing. At the Public Hearing, the landowner's agent provided that all necessary requirements to ensure that the barn could be considered as a second residence on the property would be provided. To date, no applications have been made to bring this use into compliance.

### **Policy:**

- (iv) The Planning Officer submitted that a public hearing in connection to the application for redesignation of a portion of the subject property from Agricultural District to Country Residential District to allow for the future subdivision of four new 3.6 +/- acre to 4.35 +/- acre Country Residential District lots was held on November 25, 2025.
- (v) The Planning Officer submitted that the application was refused by Foothills County Council as they did not find sufficient merit in the proposal to consider removing the subject lands from the Agricultural District. Additionally, in consideration of the criteria noted within Residential Policies 3 and 9 of the MDP2010, Council was of the opinion that the application did not adequately address the cumulative effects of the development, the suitability of the lands for residential construction and the efficient use of the land.
- (vi) The Planning Officer submitted that subsequent to the refusal of the land use redesignation, the Subdivision Approving Authority for Foothills County refused an application for subdivision of four new 3.6 +/- acre to 4.35 +/- acre Agricultural District lots from the subject property. In consideration of the Goals and Objectives of the Agriculture section of the County's Municipal Development Plan 2010 which are to conserve and protect agricultural land, and in accordance with Policy 2 of the Agriculture Section of the MDP2010 and Section 3.3 Supporting Agriculture of the County's Growth Management Strategy, both of which discourage

fragmentation of agricultural land, Council did not find sufficient merit in the proposal to consider further fragmentation of this agriculturally zoned parcel. Additionally, the application for redesignation of a portion of the property legally described as Ptn. SW 06-21-28 W4M from the Agricultural Land Use District to the Country Residential Land Use District required to allow the future subdivision of four 3.6 +/- acre to 4.35 +/- acre Country Residential District parcels was refused by Council on November 26, 2025. The proposed subdivision, therefore, could not comply with Section 654(1)(2) of the Municipal Government Act in accordance with Section 12.1.6.2 of the Agricultural District of the Foothills County Land Use Bylaw 60/2014, as the proposed new lots did not conform with the minimum parcel size for the Agricultural District.

- (vii) The Planning Officer submitted that the application was also inconsistent with the Municipal Government Act Part 17, Division 7 (Subdivision of Land), Section 654(1)(a)(b) and (2)(b).
- (viii) The Planning Officer submitted that the Municipality considered the application to be inconsistent with the Municipal Development Plan 2010.
- (ix) The Planning Officer submitted that with respect to the County's Land Use Bylaw, specifically with respect to Section 6.1.3, Land Use Redesignation is under the authority of the County's Council. In order to redesignate land in Foothills County, the Council must approve and grant three readings to the Bylaw. Accordingly, no Bylaw was approved to redesignate the Property from Agricultural District to Country Residential District. Although the Subdivision and Development Appeal Board may decide the subdivision appeal, it does not have the authority to amend the land use designation.
- (x) The Planning Officer submitted that non-compliant Agricultural District parcels would be contrary to Section 654(2)(b) of the MGA, which states that in order to approve a subdivision, the subdivision must conform with the uses prescribed for that land in the Land Use Bylaw.
- (xi) The Planning Officer submitted that the Appellant's submission included the approval of a two-lot subdivision that was granted first reading on October 7, 2010. This expired on October 7, 2012, as the Applicants did not finalize this approval. This approval was given prior to the adoption of the County's current Land Use Bylaw and before amendments were made to the current Municipal Development Plan.
- (xii) The Planning Officer submitted that it should be noted that Foothills County does not provide decisions based on precedent, but applies policy based on the individual merits of the application. Therefore, past applications have no relevance on the current application.
- (xiii) The Planning Officer submitted that in reviewing recent decisions from the Land and Property Rights Tribunal (LPRT), the board has consistently provided that without the appropriate land use designation in place, the board would not exercise discretion to allow a variance to the minimum parcel size, further providing that the purpose of the Agricultural District is to promote agricultural land uses. Case examples were given where the LPRT was reluctant to accept the variance in parcel size, indicating that allowing further subdivision would continue to erode the parcel's agricultural value and its ability to accommodate the types of operations that are intended under the Agricultural District. The LPRT went further to consider a long-term view of the effects of approving substantially undersized agricultural parcels. The cited LPRT decisions further indicate that varying the minimum parcel size is generally inconsistent with the purpose of the Agricultural District, and allowing Country Residential uses on agriculturally zoned parcels would not meet the provisions of the Agricultural District. The minimum parcel size of the district is established to ensure that there is sufficient land base for agricultural pursuits.

- (xiv) The Planning Officer submitted that in reviewing recent decisions from the Subdivision and Development Appeal Board, the local board also considered a non-compliant Agricultural District parcel. The Boundary Adjustment for this appeal was approved; however, the subdivision was not approved due to the parcels' failure to meet the minimum parcel-size requirements.
- (xv) The Council Representative submitted that a combination of issues contributed to the decision on the application. Firstly, the subdivisions were requested to provide additional housing, making it difficult for Council to consider the proposal given the compliance issues already in place on the property.
- (xvi) The Council Representative submitted that servicing in the area was taken into consideration, as 338<sup>th</sup> Avenue is an extremely busy road, servicing the tourist attraction at the end. The alternate access out of the area is 80<sup>th</sup> Street, which remains MRO, and as such, there are topography issues on that road. Adding more traffic issues to 338<sup>th</sup> would be excessive. Council continues to wait on Alberta Transportation regarding an overpass in the area that may address some of the congestion.
- (xvii) The Council Representative submitted that the parcel is difficult to service due to its proximity to the Highwood River. Emergency access and egress in this area can be complicated.
- (xviii) The Council Representative submitted that the parcel is surrounded on three sides by agricultural operations. While there has been Country Residential development in the area and it is located in the Central District, Council is looking at reducing the strains on the Municipality in the Central District, and considering applications that are accompanied with ASPs (Area Structure Plans) so that the servicing and emergency-service requirements can be properly addressed. The objective is to direct development to appropriate locations, reduce fragmentation of agricultural lands and ensure that Country Residential parcels can be adequately serviced.
- (xix) The Council Representative submitted that it is important to consider that the Growth Management Strategy still has a lot of work to be done. For example, a lot of work needs to be done concerning a district plan for the Central District, as well as taking inventory of the natural capital areas of the Municipality.
- (xx) The Appellant's Agent submitted that the subject property is bordered by Agricultural District lots to the north, east and south; however, there are several Country Residential parcels located to the east and the west.
- (xxi) The Appellant's Agent submitted that the proposed application is suitable for the area, based on the following: four new lots would be added, and the balance would be maintained as Agricultural District. This would result in 27 lots within the quarter section, below the stated maximum density of 32 lots per quarter section under Section 13.1.6.2(a) of the Land Use Bylaw; the subject property is located in the Central District, where the County directs development and is on a quarter section with an established pattern of fragmentation, aligning with the MDP direction to fragment where fragmentation already exists; previous Council had approved two lots, but the approval expired under transfer of ownership; the application received no objections; the subject property is surrounded by Country Residential lots to the west; the proposed lots are not contiguous to any large-scale agricultural operations; the proposed parcels are sized to allow for animal units and hobby farming; the people acquiring the proposed parcels are employed by the Saskatoon Farm, work on the existing farm and can establish small hobby farms; there are no restrictions based on topographic conditions or drainage that preclude diversification and small farm operations at this location.
- (xxii) The Appellant's Agent submitted that the subject property would retain all existing structures including the residence, the detached garage, the horse shelters, the shop, the sea-can and the arena with the attached barn and mezzanine. There are

two existing horse shelters that are to be removed from proposed Lots 3 and proposed Lot 4. As per Table 4.2.1.7A of the Land Use Bylaw, there are no size requirements for accessory buildings located on Agricultural zoned parcels. The existing vegetation would be maintained as much as possible. The subject property has five wells. Two existing wells would serve Lots 1 and 2, three wells would remain on the balance parcel, and two new wells would be drilled for Lots 3 and 4.

- (xxiii) The Appellant's Agent submitted that the proposed lots align with the Land Use Bylaw and have suitable developable areas for single-family dwellings, similar to the existing single-family homes in Highwood Meadows to the immediate west.
- (xxiv) The Appellant's Agent submitted that the proposed configuration is sensitive to the existing development and does not negatively impact the existing agricultural operations.
- (xxv) The Appellant's Agent submitted that the size of the lots would accommodate livestock units.
- (xxvi) The Appellant's Agent submitted that the proposal is intended to support the overall farming operations of the Saskatoon Farm.
- (xxvii) The Appellant's Agent submitted that the proposed lots would not remain titled to the Saskatoon Farm.
- (xxviii) The Appellant's Agent submitted that with regard to the existing arena with mezzanine and barn, the roof had collapsed in 2018 and there was a Development Permit in place, which had lapsed. The barn has since been converted and is now used as employee housing. All necessary Building and Safety Codes permits will be obtained to retain the converted barn and bring it into compliance as a secondary suite for the employees of the farm, and also to allow for indoor storage of equipment. The arena structure will be brought into compliance and retained for storage for agricultural purposes, such as large machinery storage over the winter. This was all to be undertaken as a condition of approval; however, because of the refusal, the landowners were significantly upset and discouraged by the refusal.
- (xxix) The Appellant's Agent submitted that in terms of existing natural features, there is really nothing of concern. The Appellant's Agent suggested that drainage at the northwest corner may originate from the Highwood Meadows subdivision, noting that stormwater management plans were not standard when the subdivision was approved.
- (xxx) The Appellant's Agent submitted that in terms of servicing considerations, each new lot is proposed to be serviced by a groundwater well and two new wells are proposed to be drilled. The Groundwater Reconnaissance Report indicates that the groundwater has been recharging to suitable levels. Wells in the area are producing at sufficient rates to support the residential development in the area. The addition of two new wells is not anticipated to impact the water supply in this area. As water is often a significant concern, it is important to note that there are no concerns with water at all with this proposal, including from the neighbouring residents. The static water level is rising over time, indicating that the aquifer is replenishing itself and not depleting.
- (xxxi) The Appellant's Agent submitted that in terms of the access, the Applicant is willing to work with the County's Public Works Department to construct a road and create a cul-de-sac bulb. However, the appearance of this suggests that this will facilitate more subdivision in the balance of the agricultural land. The application was intended to provide a low-intensity option for access that didn't suggest that the balance might also be subdivided in the future. With the construction of the internal road and cul-de-sac, the County would be responsible for maintenance and upkeep, whereas, with the access proposed in the application, the County would have no maintenance obligations.

- (xxxii) The Appellant's Agent submitted that the existing road conditions include sight distance and a dust-controlled road.
- (xxxiii) The Appellant's Agent submitted that in terms of the traffic considerations, all four proposed lots would add a negligible amount of traffic to 338<sup>th</sup> Avenue. The traffic counts at Highway 2 and 338<sup>th</sup> Avenue were submitted in the evidence package for information. Based on the average daily traffic at the intersection, the additional traffic generated by the addition of four new lots would cause a negligible impact – less than 1% increase over the existing background traffic.
- (xxxiv) The Appellant's Agent submitted that one concern with Council's position with adding traffic to 338<sup>th</sup> Avenue is that there were no comments made when Okotoks proposed and then adopted the Thunderstone Junction Neighbourhood Area Structure Plan. This document provides for interim servicing and immediate light industrial development on Phase I, which is everything around Integrity Post. This means that all of the traffic can occur within the Town of Okotoks onto 338<sup>th</sup> Avenue unabated. They will be required to provide a transportation off-site levy on an interim servicing capacity. They do not have to be connected to pipe, they do not have to have a deep utility structure. They have predetermined where the stormwater goes. There was no comment or concern provided by the County. Correspondence with the Town of Okotoks has been provided in the evidence package.
- (xxxv) The Appellant's Agent submitted that an engagement mailout was undertaken containing a letter as well as the proposed site plan and provided information regarding the application. This was sent to 40 residents within one half mile of the subject property. No responses were received.
- (xxxvi) The Appellant's Agent submitted that the application is generally in alignment with the relevant legislation, including the South Saskatchewan Regional Plan (SSRP), the Foothills County Municipal Development Plan (MDP2010), the Foothills County Growth Management Strategy (GMS), the Foothills County Land Use Bylaw (LUB) and the Municipal Government Act (MGA).
- (xxxvii) The Appellant's Agent submitted that with regard to the SSRP, case law has established that only the Regulatory details are binding (pp 164), and that certain sections are non-binding. Non-binding parts of the regional plan include the SSRP Introduction, Strategic Plan and Implementation Plan. The SSRP Regulatory Details, which are binding, include the following: Part 1: General; Part 2: Air Quality; Part 3: Conservation Areas; Part 4: Conserved Land; Part 5: Surface Water Quality; Part 6: Recreation and Park Areas; and Part 7: Monitoring and Reporting. None of these binding sections apply to the application.
- (xxxviii) The Appellant's Agent submitted that the non-binding strategy section of the SSRP speaks to what Municipalities are to do. The Municipalities are to identify areas where agricultural activities, including extensive and intensive agricultural and associated activities, should be the primary land use in the region. (s.8.19)
- (xxxix) The Appellant's Agent submitted that the Municipality is responsible for limiting fragmentation and premature conversion of agricultural lands. However, the Agent argued that the primary land use in the region is residential planning, policies and tools that promote efficient land use should be applied. The GMS does not consider agriculture to be the primary use in this area, and the quarter section was previously allowed to be subdivided into 22 lots – reducing and eliminating its agricultural future in proximity to cluster Country Residential development.
- (xl) The Appellant's Agent submitted that the Municipality should employ appropriate planning tools to direct non-agricultural subdivision and development to areas where such development will not constrain agricultural activities, or to areas of lower-quality agricultural lands. (s. 8.21) The GMS does this and agricultural

protection policies do this along with the MDP policies that direct fragmentation to already fragmented quarter sections.

- (xli) The Appellant's Agent submitted that to minimize conflicts between intensive agricultural operations and incompatible land uses, appropriate planning tools should be used in addition to setback distances and other mitigating measures. Maintaining an agricultural land base recognizes the value of agricultural land for sustainable growth and diversification of the agricultural industry as well as providing an opportunity for expansion of agricultural production and value-added agribusinesses in the region. (s.8.22) There is no confined feeding operation in the area; the proposal does not adversely affect any ongoing agricultural operations, and in fact, the proposal seeks to assist the Saskatoon Farm, which is an agricultural operation, to stay afloat by having workforce proximity, and enhancing the added tourism, economic development and employment offered by this business to the County.
- (xlii) The Appellant's Agent submitted that the proposal generally aligns with the Growth Management Strategy despite one of the reasons for refusal stating that the application does not align with Section 3.3 – Supporting Agriculture of the GMS, which discourages fragmentation of agricultural land. However, the subject lands are located within the Central District, which is anticipated to experience significant development and additional intensification and currently contains substantial Country Residential development. The application supports employment in the County, and the proposed location of the subdivision is suitable for the location – it is contextually appropriate with the neighbouring Country Residential uses and in alignment with the County's vision to accommodate the most growth in this district. The proposal maintains the rural character of the area by equating parcel sizes in the area. Additionally, the subject lands are near existing infrastructure and are in close proximity to the Town of Okotoks. Further, the proposed application will not have any adverse impacts on agricultural lands, nor does it conflict with any agricultural uses. The intent is to accommodate staff and family of the farm who will support ongoing agricultural operations.
- (xliii) The Appellant's Agent submitted that the Municipality has not prioritized the Central District for a district plan. Specifically, the County has not started undertaking more detailed servicing and infrastructure planning as part of the Central District Plan, identifying future growth areas with municipal neighbours, identifying appropriate areas of the Central District for intensification of development, nor identifying areas of the Central District that are more environmentally sensitive and may require protection.
- (xliv) The Appellant's Agent submitted that in terms of supporting agriculture, the proposal supports the growth of on-farm operations that result in value added to farm produce, such as packing, processing, cooking, tasting and farm gate sales. The proposed lots can sustain livestock units, support gate sales (hens, bees) and provide workforce proximity housing opportunities to support an existing farm-to-table and agricultural operation.
- (xlv) The Appellant's Agent submitted that the proposal generally aligns with the County's Municipal Development Plan by directing growth to a quarter section that has experienced significant fragmentation, is compatible with the surrounding residential context and existing land uses and maintains the rural character of the area.
- (xlvi) The Appellant's Agent submitted that the proposal generally aligns with the guidance and policy contained within approved plans in the Planning Hierarchy.
- (xlvii) The Appellant's Agent submitted that the Foothills County Council refused the application based on Residential Policies 3 and 9 of the Municipal Development Plan, specifically stating concerns over the cumulative effects of development;



however, the County gave no indication of how this development would have negative cumulative effects, and no concerns were received on circulation comments.

- (xlviii) The Appellant's Agent submitted that if approved, the subdivision would be subject to further technical studies, conditions, servicing requirements and proof of water. Any off-site impacts would therefore be mitigated.
- (xlix) The Appellant's Agent submitted a prior case where the cumulative effects of development were stated as a concern, which was also included in the evidence package. The case study shows that there is no definition of "negative cumulative effect" in the MDP and no evidence provided in the County's reports or decision that would suggest that the application had a net negative cumulative effect.
- (l) The Appellant's Agent submitted that in regard to Policy 3.1 and 3.4 which speak to the efficient use of land and suitability for residential development, the proposal seeks to utilize existing infrastructure, it maintains rural character, maintains parcel sizes similar to surrounding residential parcels and provides suitable development area within the proposed lots.
- (li) The Appellant's Agent submitted that in regard to Policy 3.8, the municipal road (338<sup>th</sup> Avenue) provides adequate existing road infrastructure, with no concerns received from Public Works at the land use application.
- (lii) The Appellant's Agent submitted that in regard to Policy 9, the proposed lots would provide suitable developable area with building envelopes for single family dwellings which could be serviced with individual ground water wells and private on-site septic.
- (liii) The Appellant's Agent submitted that the proposal generally aligns with the County's Land Use Bylaw by encouraging the growth and diversification of the existing agricultural operations on the subject parcel. The proposed lots are intended to accommodate single family dwellings, which is a permitted use in the Agricultural District. The proposed lots exceed 3 acres and could support livestock units. The Appellant's Agent submitted that this would be consistent with the 'Agricultural General' use permitted in the Agricultural District.
- (liv) The Appellant's Agent submitted that the proposed lots do not conflict with the uses prescribed in the Agricultural District and that the application seeks only a variance from parcel size standards.
- (lv) The Appellant's Agent referred to submitted that non-compliance with the Land Use Bylaw only exists due to the absence of land use approval. Section 12.1.6.1, which requires approval of a land use bylaw amendment, and Section 12.1.6.2(a) concerning parcel density.
- (lvi) The Appellant's Agent submitted that the Appeal Board may grant an approval for authorized uses even though the subdivision does not conform to the development or subdivision standards imposed in the Bylaw (Planning Law and Practice 2.2(3)(a) Subdivision Approvals).
- (lvii) The Appellant's Agent submitted that there is no business to be run from the subject property. There is no equine business.
- (lviii) The Appellant's Agent submitted that the application also aligns with the purpose and intent of the Country Residential District in that the subject site is suitable for residential development as it is a permitted use in the land use district. The proposed lots are to be serviced by individual water wells and wastewater disposal systems. Additionally, in terms of density, the proposed lots will bring the total lots in the quarter section to 27, which aligns with the parcel density of the Country Residential land use District, which allows for a maximum of 32 lots per quarter section.

- (lix) The Appellant's Agent submitted that the proposal does not contradict the Agricultural, General definition in the Land Use Bylaw, which means systems of tillage and animal husbandry which involve methods used on large areas of land for the raising of crops or the rearing of livestock (provided that the density of the operation does not exceed 1 animal unit per 3 acres of land).
- (Ix) The Appellant's Agent submitted that Agricultural Support Services means the use of land, buildings and structures for the purpose of supplying goods, materials, or services directly and primarily to the agricultural industry. This use would include the sale and storage of seed, feed, fertilizer, chemical products, fuel, and agricultural machinery. This includes families – no family, no farm.
- (Ixi) The Appellant's Agent submitted reasons that the Board could approve the Subdivision Application under the Municipal Government Act, citing MGA s.654(1): A subdivision authority must not approve an application for subdivision approval unless (a) the land that is proposed to be subdivided is, in the opinion of the Subdivision Authority, suitable for the purpose for which the subdivision is intended.
- (Ixii) The Appellant's Agent submitted that the question involving suitability of the application can be answered as follows: the proposed lots are intended for the family and employees of the Saskatoon Farm who will help maintain the existing agricultural uses and operations on the subject parcel; each lot is intended to accommodate a single family dwelling; the subdivision will not interfere with the current agricultural operations of the subject parcel, or the uses of, enjoyment or value of the neighbouring parcels; the proposal will not negatively impact water or other amenities in the neighbourhood; the proposal will not unduly impact the traffic, noise, or have other offsite impacts; the application would integrate with nearby residential uses, in the neighbourhood, no letters of objection were received.
- (Ixiii) The Appellant's Agent submitted that in terms of policy alignment, the proposed subdivision aligns with the SSRP and MDP (statutory plans) and with the uses for the subject parcel identified in the Land Use Bylaw.
- (Ixiv) The Appellant's Agent submitted that the proposal aligns with the Municipal Government Act s.680(2) in that it complies with SSRP Implementation Plan Strategies (Agriculture, Efficient Use of Land), it complies with the Foothills County MDP2010 Agriculture and Residential Policies and it complies with the Foothills County Land Use Bylaw (including the purpose statement of the Agricultural District and the permitted uses).
- (Ixv) The Appellant's Agent submitted that the Board may confirm, vary or revoke the decision and may add to the decision.
- (Ixvi) The Appellant's Agent submitted that cases in the evidence package, including Foothills SDAB Johnson vs. Foothills, MGB – 1802038 AB Ltd vs. Municipal District of Foothills No. 31, MGB – Palmer vs. Foothills and MGB – Fortmueller vs. Foothills, all show how the local SDAB and the Municipal Government Board interpreted Land Use Bylaw s.12.1.6.1 (a)(b) and allowed for a subdivision in spite of the fact the Council had refused the land use.
- (Ixvii) The Appellant's Agent submitted that while the approval of land use is a requirement within the Land Use Bylaw and accordingly the SDAB must have regard for it, they are not bound by it in order to determine whether to exercise its discretion to approve a subdivision notwithstanding the noncompliance.
- (Ixviii) The Appellant's Agent submitted that typically if a decision is overturned on appeal, Council will administratively amend the zoning such that it will conform with the Country Residential District. This was done with both case studies – Elmer

Johnson (staff report in evidence, January 15, 2025) and Russ Deacon (in evidence, MGB 051/17) on an approval by the LPRT on appeal.

- (Ixx) The Appellant's Agent submitted that, in several examples, SDABs allowed appeals and approved Country Residential District lots before Country Residential zoning was in place. The case law and the Provincial Appeal Board have stated that the current Land Use Bylaw subverts the administrative procedures of the MGA. The Agent further submitted that the County subsequently redesignated the parcels after issuance of decisions.
- (Ixxi) The Appellant, Mr. A. Hamer, submitted that the proposal is a critical part of the business growth and development of the Saskatoon Farm.
- (Ixxii) The Appellant submitted that the Saskatoon Farm provides a lot of value to Foothills County.
- (Ixxiii) The Appellant submitted that the landowner (K. Hamer) had spoken with Alberta Transportation and confirmed that 338<sup>th</sup> Avenue will be getting an upgrade up to the Saskatoon Farm. Additionally, it was confirmed that the overpass project will be getting fast-tracked.
- (Ixxiv) The Appellant submitted that the proposal is not a massive development, but rather a way to provide housing for the staff and have opportunities for them to live close and enhance the growth and success of the Saskatoon Farm.
- (Ixxv) The Appellant submitted that the people currently housed in the barn are members of one family employed by the Saskatoon Farm. While the building is in great shape, the intention is to bring it into compliance. This housing situation has occurred due to a lack of space and housing locations.
- (Ixxvi) The Appellant submitted that there are foreign as well as local families that would like to live closer to the Farm. It is important to realistically expand operations to accommodate these.
- (Ixxvii) The Planning Officer submitted that in closing, the County respectfully asks the Appeal Board to uphold Council's decision to refuse the subdivision for the following reasons:
  - the proposal is not consistent with the current Agricultural District designation;
  - the Subdivision Appeal Board does not have the authority to amend the Land Use Bylaw or to redesignate land;
  - the subdivision is premature in advance of the approved redesignation; and
  - the proposal is inconsistent with the applicable planning framework.
- (Ixxviii) The County's Public Works Representative submitted that the access options do not comply with the County's Road Construction Standards, specifically the proposed 30 x 30 metres surveyed out road plan. As such, the County would not assume maintenance. Additionally, the approaches are too close to the intersection. There would not be an appropriate turnaround for County equipment, and a grader would need to be employed to maintain the gravel roadway.
- (Ixxix) The County's Public Works Representative submitted that adherence to the County's road construction standards would be preferred for efficient and appropriate maintenance.
- (Ixxxi) The Council Representative submitted that the four separate titles do not ensure that they remain in control of the Saskatoon Farm and enable the ability to hire workers living in close proximity to the Saskatoon Farm. There are existing policies in place that accommodate dwellings for farm workers that do not involve acreages and four separate titles. There is one on the title that will hopefully be brought into compliance, but there are multiple farm operations in the Municipality that have

temporary dwellings for workers on them. The Town of Okotoks has availability of housing that is also in close proximity to the Saskatoon Farm to satisfy that need.

- (lxxx) The Council Representative submitted that 80<sup>th</sup> Street remains as MRO and while Council has been pushing to see that road improved, the project does keep getting pushed back.
- (lxxxi) The Council Representative submitted that it is the objective of the MDP2010 to protect agricultural land, and it would be difficult to approve placing four parcels in front of a viable agricultural operation, where getting agricultural equipment on and off the road would be very challenging.

## **REASONS FOR DECISION**

The Board is DENYING the appeal and UPHOLDING the Subdivision Authority's decision to refuse subdivision application F2128-06SW SW for the following reasons:

Based on the evidence, the Board determined that they do not have the authority to redesignate the subject lands. That authority rests with Council under the Land Use Bylaw. In the absence of the required land use redesignation, the proposed subdivision does not comply with the Agricultural District requirements of Land Use Bylaw 60/2014.

The Board determined that further fragmentation of the Agricultural zoned parcel is inconsistent with both the Agricultural Section of the Municipal Development Plan 2010 and the County's Growth Management Strategy, which emphasizes the preservation of agricultural land.

Further, the Board finds that the Subdivision Authority's refusal of subdivision application F2128-06SW is consistent with Land Use Bylaw 60/2014 and the Municipal Development Plan 2010 and is appropriate in the circumstances.

The Board considered the Appellant's evidence concerning surrounding fragmentation, employee housing, the absence of objections, parcel suitability, and the prior decisions cited. The Board was not persuaded that those considerations justified four substantially undersized Agricultural District parcels in the absence of approved redesignation. The Board also considered the evidence concerning access, servicing, and the effect of further fragmentation on the continued agricultural use of the lands.

## **CLOSING**

This decision can be appealed to the Court of Appeal on a question of law or jurisdiction. If you wish to appeal this decision, you must follow the procedure found in Section 688 of the Municipal Government Act, R.S.A. 2000, Chapter M-26, which requires an application for leave to appeal to be filed and served within 30 days of this decision.

Dated at the Town of High River, in the Province of Alberta, this 24<sup>th</sup> day of July, 2026. The decision is signed by the Chairman of the Subdivision and Development Appeal Board, who agrees that the content of this document adequately reflects the appeal hearing, deliberations and decision of the Subdivision and Development Appeal Board.



**RELEVANT LEGISLATION**

The Municipal Government Act and associated regulations contain criteria that apply to appeals of subdivision decisions. While the following list may not be exhaustive, some key provisions are provided below.

**South Saskatchewan Regional Plan (SSRP)**

Agriculture (page 111)

Municipalities are expected to:

8.19 Identify areas where agricultural activities, including extensive and intensive agricultural and associated activities, should be the primary land use in the region.

8.20 Limit the fragmentation of agricultural lands and their premature conversion to other, non-agricultural uses, especially within areas where agriculture has been identified as a primary land use in the region. Municipal planning, policies and tools that promote the efficient use of land should be used where appropriate to support this strategy.

8.21 Employ appropriate planning tools to direct non-agricultural subdivision and development to areas where such development will not constrain agricultural activities, or to areas of lower-quality agricultural lands.

**Foothills County Municipal Development Plan (MDP2010)****AGRICULTURE – OBJECTIVES**

1. Make the preservation of agricultural land a priority for the Foothills County.
2. Minimize the loss of agriculturally zoned land by limiting its rezoning to other uses.

**AGRICULTURE – POLICY**

1. All lands in Foothills County are considered to be agricultural lands unless zoned for other uses.
2. Foothills County supports maintaining the integrity of the agricultural land base and discourages the fragmentation of agricultural land, including the subdivision of land into smaller agricultural parcels.
3. Agricultural uses and industries that support agriculture should be encouraged to locate in the Municipality. Non-agricultural uses should only be permitted on lands where the County judges the proposal to have minimal negative impacts on the agricultural resource.
4. When considering the conversion of agricultural lands to other uses the Municipality shall consider the following:
  - 4.1. Guidance and policy contained within the Municipal Development Plan and other approved plans in the Planning Hierarchy found in Appendix A of this MDP.
  - 4.2. Present or proposed use of lands in the vicinity, including that of confined feeding operations.
  - 4.3. Impact the proposed use will have on the existing or potential agricultural use of the property and properties that may be affected.
  - 4.4. Information contained within the farmland assessment records maintained by the Municipality.
  - 4.5. Response to referrals sent to Provincial government departments.

**RESIDENTIAL – POLICY**

3. Proposals for residential parcels should be developed to be compatible with the surrounding area and existing land use. Consideration will be given to the density, design, traffic and the visual impact of the proposal on the adjacent lands. Proposals shall be considered on the basis of the following criteria:
  - 3.1. Impact on agricultural industry, the efficient use of land and the conservation of water.
  - 3.2. Guidance found within this MDP, and other documents as listed in Appendix A, Planning Hierarchy.
  - 3.3. Impact on the natural capital of the Municipality.
  - 3.4. Suitability of the land for residential uses.
  - 3.5. Environmental significance of the land and adjoining properties.
  - 3.6. Environmental Impact.
  - 3.7. Cumulative effect of the development.
  - 3.8. Condition of the Provincial and/or Municipal road servicing the proposed development.

**Foothills County Land Use Bylaw (60/2014)****12.1 AGRICULTURAL DISTRICT****12.1.1 Purpose and Intent**

To promote a wide range of agricultural land uses that encourage growth, diversification and development of the agricultural industry while having regard for the agricultural value and rural character of the area consistent with the policies outlined in the Municipal Development Plan.

**12.1.6 Land Use Requirements**

12.1.6.1 A person who wishes to subdivide land in this district into additional lots must first apply for and be granted approval of a land use bylaw amendment.

**12.1.6.2 (b) Minimum Parcel Size:**

- I. A parcel of land no less than 8.49 Ha (21 acres) in size;

**13.1 COUNTRY RESIDENTIAL DISTRICT****13.1.1 Purpose and Intent**

To provide for acreage development consistent with the policies outlined in the Municipal Development Plan.

**SUBDIVISION AND DEVELOPMENT APPEAL BOARD****S02/26****PAGE 15 of 15****APPENDIX “A”**

PERSONS WHO WERE IN ATTENDANCE, MADE SUBMISSIONS OR GAVE EVIDENCE AT THE HEARING:

|    | <u>NAME</u>  | <u>CAPACITY</u>                              |
|----|--------------|----------------------------------------------|
| 1. | T. Chipchase | Foothills County Planning Officer            |
| 2. | RD McHugh    | Foothills County Council Representative      |
| 3. | P. Antle     | Foothills County Public Works Representative |
| 4. | K. Beunder   | Appellant's Agent                            |
| 5. | A. Hamer     | Landowner Representative                     |

**APPENDIX “B”**

DOCUMENTS RECEIVED PRIOR TO THE HEARING AND MADE AVAILABLE AT THE HEARING:

**NO. ITEM**

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|    |                    |                                                  |
|----|--------------------|--------------------------------------------------|
| 1. | Submission Package | Foothills County Planning Officer - T. Chipchase |
| 2. | Submission Package | Appellant's Agent - K. Beunder                   |

**APPENDIX “C”**

EXHIBITS MADE AVAILABLE AT THE HEARING

**NO. ITEM**

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|    |              |                                                  |
|----|--------------|--------------------------------------------------|
| 1. | Presentation | Foothills County Planning Officer - T. Chipchase |
| 2. | Presentation | Appellant's Agent - K. Beunder                   |