
Friends of Leduc Area Greenspace

Changes Recommended To Leduc County May 2007 Draft Land Use Bylaw

The Friends of Leduc Area Greenspace (FLAG) believe that all Canadians are collectively responsible for using our resources sustainably in order to ensure that future generations can benefit from them in the same sustainable manner. We are thus stewards of our land, air, and water as much as we are users of it. Leduc County's most significant and enduring resource is its land base, primarily the County's natural and environmentally significant lands. These lands are irreplaceable and contribute significantly to all Leduc County residents' high quality of life.

The Municipal Development Plan and Land Use Bylaw currently in force in Leduc County were passed in 1983. They display well thought-out protection for environmentally sensitive areas throughout, including the use of three land use districts that restrict the number of uses on thousands of acres of environmentally sensitive land (specifically Wildlife Habitat, Recreation Open Space, and Lake Shoreland.)

Leduc County recently released a third draft of the Land Use Bylaw they propose to replace the current one with. In the opinion of FLAG, all three drafts have been much worse than that currently in force and this third draft is by far the worst. **The third draft has no land use district that requires protection of environmentally sensitive areas.**

In August of 2006, we made recommendations in the hope of helping to improve the second draft. In essence, none of our three recommendations were followed. The recommendations made were general in nature, including a request that Leduc County stakeholders be asked for input on the redraft that was ordered by Leduc County Council at the end of August 2006.

As this third draft has been released without our input being requested, we have now opted to make specific recommendations to improve the draft Land Use Bylaw. We request that Leduc County Council once again send the draft Land Use Bylaw back to administration for a rework—but this time that input from stakeholders such as those represented by FLAG be taken fully into account.

Our recommendations are founded in sustainability and stewardship—that is what over 90% of Canadians support! In a national context, this is supported by an Ipsos Reid/ President's Choice survey in which the results, released April 17 of 2007, found that "the majority of Canadians (92%) feel personally responsible for preserving and protecting the environment in their province, yet only six in ten would give themselves an "A" (12%) or a "B" (48%) on their own personal performance." There is also a much more local survey that was conducted by Parkland County in early 2006 as part of their Municipal Development Plan review. The telephone survey asked a statistically significant portion of county residents: "Using a scale of 1 to 5, where 1 means not at all important and 5 means very important, how important is it to you that the environment be protected in Parkland County?" The result was a mean of 4.7, which means that almost all respondents felt that environmental protection was very important.

General Recommendations

Maintain the Wildlife Habitat Land Use Designation

Leduc County is blessed with a number of natural areas that both deserve and need specific protection. This protection is most effective through a land use designation that makes it clear to prospective purchasers that the land in question is not suitable for invasive or conflictive uses. Basically, the current Wildlife Habitat land use designation should be maintained. We recommend that its permitted and discretionary uses be updated, but of course not expanded to uses that are not consistent with environmental protection. Further, the Wildlife Habitat land use designation should be used for all international and provincial environmentally significant areas as identified in the Westworth Environmentally Sensitive Areas Study (“Westworth ESA Study”), including the lands currently designated as Recreation Open Space (ROS).

Wildlife Habitat land use designation purpose: to protect the integrity of environmentally sensitive areas and minimize adverse environmental impacts while allowing for minimal development of low impact recreational, residential and agricultural uses.

Wildlife Habitat Land Use Designation	
<i>Permitted Uses</i>	<i>Discretionary Uses</i>
<i>Accessory Building ≤ 120.0 m² (1,292 ft²)</i>	<i>Accessory Building > 120.0 m² (1,292 ft²)</i>
<i>Agriculture, Extensive Agriculture</i>	<i>Agricultural Processing, Limited</i>
<i>Agriculture, Horticultural</i>	<i>Animal Care Service</i>
<i>Agriculture, Livestock</i>	<i>Dwelling, Secondary < 32.4ha (80.0 acres)*</i>
<i>Dwelling, Detached</i>	
<i>Dwelling, Manufactured Home</i>	
<i>Dwelling, Moved In</i>	
<i>Dwelling, Secondary * $z \geq 32.4ha$ (80.0 ac)</i>	
<i>Group Home, Limited</i>	
<i>Home Occupation, Type 1</i>	
<i>Utility Service, Minor</i>	

Lands deemed to be environmentally significant shall be protected using a variety of legislative and voluntary techniques such as Environmental Reserve dedication or the placement of Conservation Easements with particular emphasis on protecting the environmental integrity of the County’s rivers, streams and lakes.

A Biophysical Assessment shall be required for a site proposed for a multi-lot subdivision or any development if all or part of the site is located within areas defined as environmentally significant in the Westworth ESA Study, and may be required within 0.8 km of areas defined as environmentally significant in the ESA Study, or if the site contains natural features such as sloughs or extensive tree cover. The biophysical assessment shall identify and evaluate the environmental significance and sensitivity of existing vegetation, wetlands, other water features, wildlife habitat and unique physical features, and shall recommend appropriate measures for protecting all significant features. These measures include requirements such as (but not limited to) retention of shelterbelts, retention of existing vegetation, and siting and building standards to ensure the preservation of natural amenities.

Comment on the politics of this recommendation: we are not recommending anything new here, merely the updating and continuation of protections that are in place in the LUB currently in force. Those who hold such lands are thus no strangers to environmental requirements. Opposition to this recommendation may come from those who either purchased Wildlife Habitat/ROS on speculation of being able to go forward with a monetarily rewarding but environmentally damaging development OR those who have held/inherited the land through its original purpose and now desire to change the purpose to make monetary gains. Should the opposition of those few dictate the land use policies of a local government that must consider the good of all current and future residents? Of course not! Some resistance may also come from current agricultural users who are concerned that their current usage may be curtailed. It would need to be made clear to them that environmentally sound agricultural uses, i.e. those practices recommended by the government bodies responsible regardless of land use district, are allowed under this land use designation.

Prevent Unsound Applications Without Preventing Public Input

FLAG perceives that there is a desire by the county to reduce the time, energy, and ‘noise’ of development applications. We submit that this is a reasonable goal, but the draft LUB goes about achieving it in a suboptimal manner.

The manner selected appears to have been to reduce the number of land use designations and to add a smattering of discretionary uses to the land use designations remaining. Doing so will move the decision making authority on development applications from County Council, and through them the general public, into the hands of administration. By allowing almost any use almost anywhere, the county skips around public notification and hearing requirements and reduces the role of the general public and council in making zoning change decisions.

One only needs to do a headcount of hearing attendees and letters submitted in order to realize that the general public wants to have input on decisions where someone proposes to change a land use designation. In addition to the undesirable effect of reducing the role of the general public and council in making land use decisions, such a policy direction puts administration in the position of having to entertain land use proposals driven by developers rather than by ‘good land use planning.’ For example, by including ‘Campground’ in the discretionary uses of the

Agricultural land use district, owners of land will perceive that a campground is a reasonably feasible use anywhere in the 90%+ area of the county that is covered by the Agricultural land use district. We understand that approval or disapproval of a discretionary use is up to the development authority, BUT we think you can acknowledge that posting a use as discretionary creates a perception that it is 'good' and 'allowed' and the public will perceive the onus to be on the county to prove why something is not a good use in a particular place (putting the county on the defensive).

FLAG believes that purchasers and users of land should be able to have a reasonable expectation of what is going to be happening around them. A resident cannot have such reasonable expectation when there are a total of forty permitted and discretionary uses, including such diverse and conflictive uses as agricultural, natural resource extraction, campground, kennel, and temporary asphalt plant!

FLAG would much prefer to see proactive land planning through proper analysis of generally where uses are sustainable, sensible, desirable, and where conflictive uses are kept apart from each other. The county needs to take a leadership role in land planning instead of the reactionary role that the current draft places them in. The wide open nature of this draft LUB reminds FLAG of the 'non-planning' nature of land use that one sees in areas of Texas, where one can drive by a mobile home park, a manufacturing facility, housing, agricultural land, and a museum all in close proximity to each other.

Unsound applications could be discouraged by increasing the fees for requesting a zoning change to the level that properly reflects the cost that such an application puts on the county for advertising, notifications, administration time, and council time.

Multi Lot Subdivision Location Clarity

We understand from county development staff that multi lot subdivisions are only to be done in the County Residential land use district, meaning that anyone desiring to subdivide into multi lots would need to apply for a land use district change to CR prior to applying for subdivision. This is fine, however we feel that the reliance on the land use district purpose statements to make this clear to residents is insufficient. We would like to see firm and clear language in a suitable location of the LUB that states such restriction on multi lot subdivisions.

Some Uses Not Detailed

A handful of the uses listed in Part Nine are not detailed in Part Seven. In order for residents to understand what is allowed on their land or near their land, we recommend that all uses listed anywhere in Part Nine be detailed in Part Seven. Without performing an audit to catch all that were missed, we noted the following uses in Part Nine that are not detailed in Part Seven: 'Animal Care Service', 'Cemetery', 'Commercial Greenhouse', 'Cultural Facility', 'Dwelling, Communal', 'Education Service', 'Equestrian Facility', 'Guest House', 'Labour Group Housing', 'Local Community Facility', 'Park', 'Recreation, Outdoor', 'Recreational Vehicle Storage', 'Religious Assembly', 'Resort Recreational Facility'

We understand that all or most of these are found in the definitions section at the end of the LUB, however the quick definition does not give a resident an idea of what a typical operation of these types will be like nor of what maximum 'size' these operations can be—which would be detailed if they were present in Part Seven.

Section Specific Recommendations

Part Three Recommendations

3.2.1 (n) this clause should explicitly detail the exclusion of environmentally sensitive areas as per 6.5.12.

3.2.1. (r) perhaps the county should consult with Parkland County on the matter of communication towers, as Parkland appears to have some control over what is going on with them.

3.2.1. (s) Implies that one is allowed to fill water features as long as does not affect flow to neighbors? Is that not a Public Lands Act violation? If one is not allowed to fill or modify water features, perhaps the wording of this clause should be changed or added to so that readers will know they cannot modify water bodies and water courses on their property regardless of whether or not a neighbor is affected.

Insert after 3.4.3: The Development Authority shall notify all persons owning land within a 1.7km radius of any application for a discretionary use or use that is neither permitted nor discretionary. Such notice will be in writing and provide them at least two weeks of time to provide input into the development application decision prior to the Development Authority making a decision. Adverse affects on neighbors, whether monetary or quality of life in nature, shall weigh heavily in the approval or denial of development applications. For uses which may affect neighbors beyond the 1.7km radius, the Development Authority shall notify all potentially affected persons.

Reason for this recommendation: we understand that this has been practice at the county for some time, which is great. We would like to see good practices such as this put into the LUB to ensure that future county administrations continue to perform in the same manner.

Add to 3.5.2: (e) the County's requirement that discretionary uses shall not materially adversely affect neighbors, either monetarily or in quality of life. I.e. existing uses prevail over proposed uses if the proposed use conflicts with the existing.

Reason for this recommendation: we understand that this has been practice at the county for some time, which is great. We would like to see good practices such as this put into the LUB to ensure that future county administrations continue to perform in the same manner.

3.6.2 Comment: to the best of our knowledge the majority of the members of the Subdivision and Development Appeal Board are not elected officials nor are they professional planners. If

so, why give the Subdivision and Development Appeal Board power as detailed in this clause to materially override the LUB, county administration, and council?

Add to 3.7.2: (f) protection of environmentally sensitive features such as, but not limited to, water bodies and watercourses.

Modify 3.8.1 to include definitive notification requirements for neighbors. For example: “shall notify all persons owning land within a 1.7km radius.” For uses which may affect neighbors beyond the 1.7km radius, the Development Authority shall notify all potentially affected persons. *Reason for this recommendation: we like to see less fuzzy language and uses of ‘may’ throughout government documents. Putting a fixed radius in for notification requirements removes some of that fuzziness. These steps toward greater clarity are good for both applicants and residents, as they can be better aware up front of what will be required and what the process is.*

Part Four Recommendations

FLAG recommends that a clause be added to part four empowering the Development Authority to require remediation and if it is not performed within reasonable time, to perform it and charge the costs of such against the tax roll.

Reason for this recommendation: those who damage environmentally sensitive areas have usually done so for monetary gain. The county should be empowered to require them to return the land to its prior status at the cost of the party that did the damage for monetary gain.

Part Five Recommendations

Modify 5.1.3 “all landowners that are the subject of the amendment and those landowners within a 1.7km radius of the area being amended.”

Reason for this recommendation: a LUB amendment affects not only those who own lands being amended, it affects all the neighboring landowners in that their reasonable expectations of what is going to happen close to them will be changing.

Modify 5.1.4 “all landowners within the area and within a 1.7km radius of the area being redistricted shall be notified...”

Reason for this recommendation: a redistricting affects not only those who own lands being redistricted, it affects all the neighboring landowners in that their reasonable expectations of what is going to happen close to them will be changing.

Question about 5.2.3: this clause appears to put the onus of collecting and presenting the opinions of surrounding residents on the applicant. The applicant could thus ‘forget’ to approach or include input from those opposed. Should it not be the responsibility of the Development Authority to collect input from surrounding residents to ensure that unbiased feedback is given by those surrounding residents? The notification and input process should be the same as that for a redistricting instead of being different.

Part Six Recommendations

In section 6.5.1, clarify what top of bank is—to our understanding and desire, it is the edge of where the land begins to descend in the river valley rather than the ever-changing banks of the river's flow. Since the difference is about a kilometer in location of 'top of bank' the issue is material! This same question exists for all bodies of water, with material effect on any bodies of water that travel in a valley or ravine. Perhaps an addition to the definitions section for 'top of bank' would suffice?

In section 6.5.2, clarify what high water mark is. This can differ materially when one is talking about the high water mark today versus the 100 year flood plain. Perhaps an addition to the definitions section for 'high water mark' would suffice? Perhaps sections 6.5.1, 6.5.2, and 6.5.6 could be collapsed together if the real line we are concerned with is 'higher of 100 year floodway, top of bank, top of ravine, or top of valley'?

Section 6.5.5 allows for subjective interpretation of removal allowance. Perhaps "a maximum disturbance/removal allowable shall be specified by the Development Authority to an absolute of 50%."

Modify 6.5.8 to say "The proponent of a development in or near an environmentally sensitive area **shall be required** to submit an environmental impact analysis (i.e. biophysical analysis) if all or part of the site is located within areas defined as environmentally significant in the ESA Study, and **may be required** to submit an environmental impact analysis (i.e. biophysical analysis) if all or part of the site is located within 0.8 km of areas defined as environmentally significant in the ESA Study, or if the site contains natural features such as sloughs or extensive tree cover. The biophysical assessment shall identify and evaluate the environmental significance and sensitivity of existing vegetation, wetlands, other water features, wildlife habitat and unique physical features, and shall recommend appropriate measures for protecting significant features as part of the development permit application.

Reason for this recommendation: make it clear in advance to applicants that a biophysical assessment will be required in certain circumstances and may be in others—reduces their ability to make noise about the requirement and attempt to get around it. Also reduces variability in enforcement between different development officers..

Modify 6.5.10 to say "When considering development involving land in or near an environmentally sensitive area, the Development Authority shall refer the application to all potentially affected provincial departments, public utilities, and other relevant environmental agencies for comments prior to reaching a decision."

Reason for this recommendation: land use can have far reaching effects & it is important to ensure that provincial departments responsible for what goes on in the area have a chance to review and comment on the proposal. More importantly, potentially affected public utilities should have a weighty say on what is going on near their infrastructure or dependencies. For example, the Devon and Edmonton water utilities should have a big say in any use applications

on or near the North Saskatchewan River, as over one million people absolutely depend on that water to live!

Part Seven Recommendations

Modify 7.2.2 to say “Notwithstanding 7.2.1, development of a confined feeding operation shall be consistent with the policies of the Municipal Development Plan. In its submission to the Natural Resources Conservation Board, the Development Authority shall make comment in regards to the policies of the Municipal Development Plan, the potential effect on environmentally sensitive land, and the potential effect on public utilities.”

Comment on 7.7: perhaps the county should consult with Parkland County on the matter of communication towers, as Parkland appears to have some control over what is going on with them. Why should Leduc County desire to have a say? Many reasons, including: proliferation of towers beyond that necessary due to lack of cooperation among telecomm providers (they won't consistently share towers unless you require it), and residents' scenic value harmed by tower location chosen without proper consultation with neighbors.

Comment on 7.21: this section needs to show a lot more concern for the community. Residents within a few miles of the pit will have to contend with the noise and traffic. Residents all along the haul route will have to contend with noise, dust, and extra traffic. We recommend:

- required community consultation be added to this section to include all residents within a 3.4km radius of a proposed pit plus all residents along the haul route (except where the haul route is a secondary or higher highway.)
- the developer, and county be required to work together with affected residents who desire to be a part of the process to determine if the proposed use is reasonable for the land in question and if so, to work out some mutually agreeable operating and hauling terms.

This assumes the zoning even allows natural resource extraction, which is a separate question that must be resolved with the general public in advance. Note that in Parkland, the behavior of the pit operators and gravel trucks was bad enough that Parkland hired a bylaw officer just to enforce operating and hauling regulations! We thus recommend that Leduc County ensure its ability to monitor and charge fines is in place and that the fines are sufficient in size to BOTH pay for the costs of bylaw enforcement and to provide 'encouragement' for operators and haulers to comply with their agreements. Leduc County could also copy Parkland's gravel regulations, but in doing so should make them more resident friendly (Parkland's were developed by a panel with 50/50 representation of residents and operators, which is a mistake seeing that residents bear by far more of the negative repercussions of the operation and get none of the revenue generated!)

Part Nine Recommendations

FLAG is concerned with the large number of uses found in both the Agricultural and Lake Watershed land use districts. The concerns are several:

- Residents in these land use zones cannot have a reasonable expectation of the uses that are allowed beside or near them
- Residents outside the area of direct impact will not be required to be heard if they desire to provide input to the decision
- There are many uses listed that are conflictive with the stated purpose of these land use districts

FLAG recommends that the excess uses be stripped from the Agricultural and Lake Watershed land use districts. Namely, remove: Campground, Cemetery, Child Care Facility, Commercial Greenhouse, Education Service, Group Home, Kennel, Local Community Facility, Natural Resource Extraction, Park, 'Recreation, Outdoor', Recreational Vehicle Storage, Religious Assembly, Resort Recreational Facility, Temporary Asphalt Plant, and Utility Service, Major.

Uses we were unable to evaluate as they were missing from Part Seven and we need more detail than the definition itself prior to making a recommendation: Animal Care Service, Cultural Facility, and 'Dwelling, Communal'.

The uses recommended for removal would fit into a 'Rural Industrial/Commercial' land use district, either a new type of land use district or possibly a modified form of the Industrial/Agricultural Resource (IAR) District. As appears to be the case with IAR, no land would be districted this way proactively, it would merely be the land use district that one would have to request rezoning to in order to apply for a permit for any of the uses listed. The benefit of this recommendation is that all residents of the Agricultural and Lake Watershed land use districts would now have a reasonable expectation of what could happen on their land or neighboring land without their input necessarily being asked AND they (along with the general public) would have an opportunity to give input on any rezoning requests for uses that would be higher impact.

Specifically in regards to 9.17, FLAG recommends that clauses **requiring** a Biophysical Assessment be added for any uses that can affect the lake, tributaries, or the watershed in general.

Part Ten Recommendations

FLAG recommends that the principles of Smart Growth and Rural By Design be implemented in your subdivision design requirements. If you do not have the political will to require them, AT LEAST recommend them as 'the best practices method of subdivision design.'

In Closing

Thanks go to all who have taken the time to read our recommendations. Please feel free to contact us to ask for clarification on any of the points. We look forward to working together with Leduc County to make the fourth draft a keeper!

Kindest Regards,

Friends of Leduc Area Greenspace

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