

2019

Subdivision and Development Appeal Board Information Guide

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Subdivision and Development Appeal Board

Legislative Services
Parkland County Centre
53109A Hwy 779
Parkland County, AB T7Z 1R1

Subdivision & Development Appeal Board

The Subdivision and Development Appeal Board (SDAB) hears and makes decisions on appeals related to Stop Orders, Development and Subdivisions. A decision related to a development permit application can be appealed by people who may be affected by a decision of the Development Authority. Whereas a decision related to a subdivision application can be appealed by the applicant, government department or a school board.

The board is appointed by County Council and consists of citizens living in Parkland County.

The SDAB meets as required on Mondays in the Parkland County Centre.

Once you have met requirements and filed a proper appeal, this Board presides over your hearing.

An SDAB is a statutory body intended to perform an independent adjudicative function that hears complaints and functions like a court. It is an administrative board mandated by the Municipal Government Act and created by a municipality to carry out appropriate functions and procedures.

SDABs exercise what are called quasi-judicial functions. This means that they make findings of fact based on evidence and then, apply legal rules, as found in the legislation and the planning instruments, to those findings. This process allows the SDAB to make a decision on a subdivision or a development matter after conducting a hearing fairly and in accordance with legislation, administrative law, and the principles of natural justice. The SDAB decisions are final and cannot be overturned unless the board makes an error in some aspect of law or jurisdiction.

Agendas listing appeals and hearing times scheduled for that day are posted in the hearing waiting area. Hearings do not start before the time listed on the schedule.

For more information:

Subdivision and Development Appeal Board

Legislative Services
Parkland County Centre
53109A Hwy 779
Parkland County, AB T7Z 1R1

Phone: 780-968-8471

Fax: 780-968-8328

Email: sdab@parklandcounty.com

Filing a Subdivision or Development Appeal

Grounds for an Appeal

You can appeal a Development Authority's decision if:

- Your application for a development permit has been refused
- Your application for a development permit was approved with conditions that are unacceptable to you
- You have been issued a Stop Order directing you to stop construction or stop the present use of your property
- You will be affected by a new development, or new use of someone else's property
- If a development authority refuses or fails to issue a development permit to a person within 40 days of receipt of the application

You can appeal the Subdivision Authority's decision if:

- Your application for a subdivision has been refused
- Your application for a subdivision was approved with conditions that are unacceptable to you
- If a subdivision authority fails or refuses to make a decision on an application for subdivision approval within 60 days of receipt of the application

Filing an Appeal

Before filing an appeal, talk to the applicant and consult the Development Planner or Planner to ensure that you have all the information about the proposed development or subdivision. SDAB staff is available to answer questions about the appeal process. If you require further assistance, it is recommended that you seek legal advice.

To appeal a decision, you must submit a completed appeal form and pay the required fee within 21 days of the date of the notice of decision. There is an appeal form available from Legislative Services. If an appeal arrives after the 21 day deadline, the Board will decide whether or not it has the right to hear the appeal.

All documentary or photographic evidence and a summary of testimonial evidence must be submitted 7 days prior to the hearing for inclusion in the hearing package to the Board. It is at the discretion of the Board to accept any evidence filed beyond the deadline date at the hearing.

Appeal Fees

A filing fee is required for each of the following appeals to the Subdivision and Development Appeal Board:

	Applicant	Affected Party
Development permit	\$200.00	\$200.00
Stop Order	\$500.00	\$500.00
Subdivision application	\$250.00	Not applicable

The appropriate fee must accompany your appeal or it is not considered complete and will not be processed.

Appeal fees may be paid by cheque payable to Parkland County. Appeal fees may also be paid by using VISA, MasterCard, Debit or Cash in person at the Parkland County Centre, 53109A Hwy 779, Parkland County, Alberta.

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Preparing For Your Hearing

Here are some suggestions for preparing your presentation for the Subdivision and Development Appeal Board (SDAB) hearing:

- Determine the relevant planning issues associated with the appeal. Examples include compliance or non-compliance with the Land Use Bylaw, site context, site layout, parking, traffic, building mass, privacy, shadowing, landscaping, intensity of use, and noise. Examples of non-relevant issues that are outside the Board jurisdiction and cannot be considered by the Board include precedence, business competition, comments regarding someone's character, financial impact on the applicant, financial status of the applicant, and whether the development is occupied by renters or owners.
- Prepare a clear, concise and logical written presentation.
- Be prepared to summarize your presentation.
- Be familiar with the site.
- In order to assist the Board in understanding your position and the proposal, you may wish to provide photographs, illustrative material, well prepared drawings, or written submissions to the hearing as documentary evidence.
- Ask neighbours affected by the proposed development to speak on your behalf at your hearing and write letters outlining their position in support or objection.
- You may seek professional advice or ask someone else to present your case, but citizens often represent themselves. If there is doubt as to whether the Board has the legal right to hear the appeal, you may want to seek professional advice.
- Attend an SDAB hearing before the date of your own hearing in order to observe the process and gain a better understanding of the appeal hearing.
- Review the contents of the SDAB hearing package assembled by the SDAB Clerk.
- Your co-operation and attendance at the hearing will prevent any unnecessary delays for the Board and will help the Municipality use resources effectively. By attending the hearing, the Board is in a position to ask you questions (if any).

You must not speak to members of the Subdivision and Development Appeal Board about an appeal or a potential appeal prior to the hearing, because this will disqualify them from participating in the hearing. Board members do not discuss appeal cases with the Development Authority or the Subdivision Authority before the hearings.

Hearing Process

- Before the appeal hearing begins, those persons who wish to speak or receive a written copy of the Board's decision, are registered by SDAB staff.
- All persons are then asked to enter the hearing room.
- The appeal is introduced by the Board Clerk who reads the appeal into the hearing record.
- Where a development permit has been refused, the Development Authority is heard first, followed by the Appellant.
- Where a development permit has been approved, the Development Authority is heard first, followed by the Appellant and the Respondent.
- In a subdivision appeal, the Subdivision Authority is heard first, followed by the Appellant.
- The Appellant is asked to summarize their reasons for the appeal, and may have others to speak to support their position. Board members may question them.
- The Respondent and other persons in attendance at the hearing with an interest in the appeal will then present their arguments and respond to any questions of the Board.
- The Chair will ask if the Appellant wishes to respond to any new information raised during the hearing.
- The hearing is then closed and the Board goes in to a meeting closed to the public to discuss the appeal.
- The Board will present its decision and reasons in writing within 15 days of the hearing.
- A decision of the SDAB is not final or binding until the decision is issued, in writing, within 15 days of the appeal hearing.

The Board does not, on its own initiative, seek information or evidence. The Board relies on the written evidence presented, as well as verbal submissions at the hearing, as the basis for their decision. Therefore, it is critical that persons appearing before the Board ensure that sufficient evidence is presented to support their respective positions.

When presenting an appeal, keep in mind the Board does not consider precedent when making its decision. Each application is judged on its own merits. The reason is, the Board has no way of knowing if sites presented as a precedent were built with or without the benefit of a development permit, or whether they have another status under Parkland County's Land Use Bylaw.

Exhibits used during a presentation become part of the Board's record of the hearing and must be retained by the Board at the conclusion of the hearing.

Postponing or Not Attending Your Hearing

You may submit a written request to postpone an SDAB hearing including the reasons for the request, either to the Board at the time of the hearing or to the SDAB Clerk prior to the hearing. Hearings will only be postponed at the discretion of the Board.

If you are not in attendance when your appeal is called, the Subdivision and Development Appeal Board may proceed without you. The Board will consider the information presented on the appeal form, any written submissions received, hear presentations for any one in attendance, and then make a ruling on the appeal.

It is important that you describe your position clearly and in detail on your appeal form, or file a written submission ahead of time if you cannot be at the hearing.

Withdrawal of an appeal

A withdrawal should be submitted in writing to the SDAB Clerk as soon as possible. Your cooperation will prevent any unnecessary delays for the Board and will help the County use its resources more effectively.

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Membership and Recruitment

Current Membership List 2019

Jim Philpott	Lillian Helton
Lawrence Niblock	Barb Bundt
Kathleen Linder	Jane Smith
Sam Whitehouse	Dylan Smith
Garry MacDougall	Marlene Chambers

You must not speak to members of the Subdivision and Development Appeal Board about an appeal or a potential appeal prior to the hearing, because this will disqualify them from participating in the hearing. Board members do not discuss appeal cases with the Development Authority or the Subdivision Authority before the hearings.

Recruitment Process

Parkland County invites up to twelve Parkland County citizens to serve on the Subdivision and Development Appeal Board for alternating three-year terms. One or more citizens may also be appointed by County Council as alternate Board members to sit on an as needed basis. Legislative Services coordinates recruitment campaigns to fill citizen-at-large vacancies.

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Agendas and Decisions

The SDAB agenda and hearing package is distributed to the Board, the Development or Subdivision Authority, the appellant, and the applicant by 4:30 p.m. on the Thursday immediately preceding the scheduled hearing date. Affected parties may receive an SDAB hearing package by making a request to the SDAB Clerk.

The SDAB tentatively schedules its meeting for the first and third Monday of each month, these dates are subject to change and it is recommended that interested parties contact Legislative Services staff to confirm hearing dates. Meetings of the SDAB begin at 2 p.m. in the Council Chambers, Parkland County Centre, 53109A Hwy 779. The Board meets until all items on the agenda for that day have been dealt with, or until 9:00 p.m. Agenda items not dealt with are adjourned to the next scheduled meeting.

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Enforcing and Appealing the SDAB Ruling

The Enforcement Services Section of the Community and Protective Services Department enforces the Bylaws, including the decisions made by the Subdivision and Development Appeal Board (SDAB). If you have a bylaw complaint, please contact Enforcement Services at 780-968-8400.

SDAB decisions are final unless it can be shown that the Board erred in law or jurisdiction. You may appeal the Board's decision to the Alberta Court of Appeal. You must apply for leave to appeal a decision of the Subdivision and Development Appeal Board within 30 days of the date that the written decision was issued.

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