

Subdivision and Development Appeal Board Information Guide



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Subdivision and Development Appeal Board

Introduction

This report was produced as a guide for residents and stakeholders, please consult independent legal advice when developing an appeal.

Contact Greenview's Planning and Development department to inquire further about Greenview's land use policy framework.

Planning and Development

4707 – 50 Street, PO Box 1079

Valleyview, AB T0H 3N0

Phone: 780-524-7639

Email: planning@mdgreenview.ab.ca

Please contact the Clerk of the Subdivision and Development Appeal Board if you would like to make an appeal or have a question regarding the Board.

Clerk, Subdivision and Development Appeal Board

4806 – 36 Avenue, PO Box 1079

Valleyview, AB T0H 3N0

Phone: 780-524-7600

Last updated: March 1, 2023

Acronyms and Definitions

Land and Property Rights Tribunal means the provincial body which hears appeals concerning land use planning and development of provincial concern.

Municipal Government Act (MGA) means the *Municipal Government Act, R.S.A. 2000, c.M-26*, and any amendments thereto.

Refusal or Deemed Refusal means a development authority or subdivision authority which has refused a development or subdivision application. Deemed refusal occurs when an applicant does not receive a decision from a development authority or subdivision authority within the statutory timeline for said application as defined in law or the regulations.

Statutory Plan means plans developed by the municipality in accordance with the Municipal Government Act for the purpose of identifying future plans for development within the municipality and can include Inter-municipal Development Plans, Municipal Development Plans, Major or Minor Area Structure Plans, and Area Redevelopment Plans.

Stop Order means a written order made under section 645 of the *Municipal Government Act* by the development authority or subdivision authority of Greenview. A Stop Order may order the stoppage of all works or activities on the lands and/or require compliance with actions required by the notice to ensure the use of structures on the lands in question are in accordance with the requirements of the *Municipal Government Act*, the land use bylaw, development permit or a subdivision approval.

Subdivision means the division of a parcel of land by an instrument and “subdivide” has a corresponding meaning.

Subdivision and Development Appeal Board (SDAB) means the board which Greenview established pursuant to section 627(1) of the *Municipal Government Act* to hear development and subdivision appeals.

Legislative and Legal Authority

The Subdivision and Development Appeal Board (SDAB) is an administrative tribunal which all municipalities are legally required to organise. The statutory requirement comes from the *Municipal Government Act (MGA)*, and this statute further establishes the legal and procedural expectations of the SDAB.

As an administrative tribunal, the SDAB exercises quasi-judicial functions. This means that the tribunal considers Greenview's planning framework, applies legal principles, and makes findings based in evidence. SDAB decisions are final unless there is a demonstrable error in law or jurisdiction. The appellate court for SDAB decisions is the Court of Appeal of Alberta.

The SDAB is composed of Greenview residents who have been appointed by Council. Any member of the public may apply to become a member of the SDAB provided they adhere to the following qualifications:

- Are a resident of Greenview;
- Are eighteen (18) years or older; and
- Complete the statutory training required by the MGA.

Greenview schedules Subdivision and Development Board hearings on an as-needed basis. Please contact the SDAB Clerk if you have any questions or require additional information.

Legislative Planning Framework

The Municipal District of Greenview’s planning services is guided by several documents. This section will focus on bylaws and policies which are most commonly consulted when starting a development.

Please note that bylaws and policies are regularly reviewed and updated, therefore Greenview makes no obligation that the legislation cited herein is current. Consult the [Policies and Bylaws](#) section of Greenview’s website to ensure you are viewing the most current document versions.

Bylaws

Land use bylaws establish rules for development and regulates how land may be used, such as:

- What types of buildings may be built where;
- Permitted and discretionary land uses;
- The decision-making process for rezoning properties; and
- Which developments require a development permit.

Greenview currently has two Land Use Bylaws which may be applicable depending on the location of the development:

- Bylaw 18-800 “Land Use Bylaw” applies to land throughout Greenview excluding the Hamlet of Grande Cache.
- Bylaw 799 “Land Use Bylaw” applies to land within the Hamlet of Grande Cache.

Greenview has two bylaws which establish the authority to approve or refuse developments. These bylaws are:

- Bylaw 95-159 “Development Authority” for development permits; and
- Bylaw 95-158 “Subdivision Authority” for subdivisions.

Statutory Plans

Depending on the location of the application, the following Statutory Plans may be taken into consideration by the Development or Subdivision Authority when deciding on an application. Further, an SDAB panel must have regard to Greenview’s statutory plans. There are currently several statutory plans which are available on the [Policies and Bylaws](#) section of Greenview’s website, and include:

- Municipal Development Plan;
- Major Area Structure Plans;
- Minor Area Structure Plans; and
- Intermunicipal Development Plans.

Planning and Development Policies

Greenview’s Planning and Development policies establish a standard administrative procedure for planning and development operations. These policies are briefly described in the table below.

Policy Name and Number	Purpose of Policy
Policy 6001 “Minor Area Structure Plan”	Establishes guidelines, roles, and responsibilities related to Minor Area Structure Plans and amendments.
Policy 6002 “Development Enforcement”	Provides a process to uphold all planning documents and a process in which enforcement action is to be taken on apparent illegal, nonconforming, or refused developments.
Policy 6003 “Land Acquisition for Road Right-of-Way for Subdivisions”	Provides guidelines for acquiring road widening along road rights-of-way as part of the subdivision process.
Policy 6004 “Certificate of Compliance”	Establishes a system for issuing a Certificate of Compliance respecting buildings and structures meeting the requirements of the Land Use Bylaw.
Policy 6006 “SDAB Meeting Procedures”	Establishes guidelines on the proceedings of (SDAB) meetings.
Policy 6007 “Subdivision Process”	Defines the subdivision process, sets guidelines and procedures, and outlines the roles and responsibilities of developers and those reviewing applications.

Appeal Process

Development Appeals

Appealing the decision of a development authority is outlined in section 684 of the MGA. An applicant may appeal the decision of the development authority if:

- The applicant's permit is refused or deemed refused;
- The applicant's approval is subject to conditions; or
- A Stop Order is issued.

An appeal of a development authority will generally lie with Greenview's SDAB. However, in certain circumstances an appeal may lie with the provincial Land and Property Rights Tribunal. Appeals filed with the incorrect board are required to be heard as if the appeal was originally filed with the correct board. An appeal is required to be submitted to the Land and Property Rights Tribunal if it:

- Is within the Green Area as classified by the Minister responsible for the *Public Lands Act*;
- Contains, is adjacent to, or is within the prescribed distance of a highway, body of water, a sewage treatment or waster management facility, or a historical site;
- Is the subject of a license, permit, approval, or other authorization granted by the Natural Resources Conservation Board, Alberta Energy Regulator, Energy Resource Conservation Board, Alberta Energy and Utilities Board or Alberta Utilities Commission;
- Is the subject of a license, permit, approval, or other authorization granted by the Minister of Environment and Protected Areas or the Minister of Forestry, Parks, and Tourism; and
- In any other circumstance described in the regulations.

The process of appealing a development decision is outlined in section 686 of the MGA. An applicant may appeal the decision of the development authority by completing a Greenview SDAB Application:

- Within 21-days of receiving a decision from the Development Authority (Development Permit Approval, Deemed Incomplete, Stop Order, Approved with conditions);
- When an application has been deemed complete, with 21-days following the expiry of the 40-day period required to make a decision (Deemed Refused);
- Within 21-days following the expiry of a mutually agreed upon extension between an applicant and a Development Authority.

Subdivision Appeals

Appealing the decision of a subdivision authority is outlined in section 678 of the MGA. The following entities may appeal the decision of a subdivision authority if an application is refused or deemed refused:

- The applicant;
- A Government department if the laws or regulations require that subdivision to be referred to that department;
- Council, provided Council, a designated officer, or the municipal planning commission, are not the subdivision authority.
- A school board, with respect to:
 - i. The allocation of municipal reserve, school reserve, or money in lieu of the reserve;
 - ii. The location of a school reserve allocated to it; or
 - iii. The amount of school reserve, or money in lieu of the reserve.

An appeal of a subdivision will generally lie with Greenview's SDAB. However, in certain circumstances an appeal may lie with the provincial Land and Property Rights Tribunal. Appeals filed with the incorrect board are required to be heard as

if the appeal was originally filed with the correct board. Applications which were refused or deemed refused may apply to the provincial Land and Property Rights Tribunal if the subject land:

- Is within the Green Area as classified by the Minister responsible for the *Public Lands Act*;
- Contains, is adjacent to, or is within the prescribed distance of a highway, body of water, a sewage treatment or waster management facility, or a historical site;
- Is the subject of a license, permit, approval, or other authorization granted by the Natural Resources Conservation Board, Energy Resource Conservation Board, Alberta Energy Regulator, Alberta Energy and Utilities Board or Alberta Utilities Commission;
- Is the subject of a license, permit, approval, or other authorization granted by the Minister of Environment and Protected Areas or the Minister of Forestry, Parks and Tourism; and
- In any other circumstance described in the regulations.

An applicant may appeal the decision of a Subdivision Authority if:

- The application for a subdivision has been refused or deemed refused;
- The application for subdivision has been approved with conditions;
- An application has been deemed incomplete; or
- The Subdivision Authority has failed to issue a decision within 60 days following the application being deemed complete.

An applicant may commence an appeal against a Subdivision Authority by completing Greenview's SDAB application:

- Within 14-days of receipt of the written decision of the Subdivision Authority (receipt is deemed to be 7 days from the date the decision is mailed);
- Within 14 days of expiry of a decision period when a Subdivision Authority fails or refused to issue a decision. This includes the 20-day period required

to deem an application complete or incomplete, the 60-day period required to issue a decision following the issuance of a deemed complete notice, or

- Any other time period agreed upon in writing between the applicant and Subdivision Authority.

Preparing for Your Hearing

It is recommended that applicants consult independent legal advice while developing their appeal. Applicants may also wish to consult the policies and bylaws listed under the Planning Framework section to better understand Greenview's planning legislation. Further, Policy 6006 "SDAB Meeting Procedures" which details the procedure of SDAB hearings.

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, and be prepared to summarize your presentation.
- Be familiar with Greenview's Planning Framework.
- In order to assist the SDAB in understanding your position and the proposal, you may wish to provide photographs, illustrative material, well prepared drawings, or written submissions 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 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 SDAB 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. Doing so will disqualify them from participating in the hearing. SDAB members do not discuss appeal cases with the Development Authority or the Subdivision Authority before hearings.

Following an SDAB Hearing

SDAB Decision

The SDAB must give its written decision 15 days following the conclusion of the hearing. All participants of the SDAB hearing will be forwarded the written decision of the SDAB.

Appealing an SDAB Decision

The decision of the SDAB is generally final. The only time it can be appealed is when the SDAB erred in a question of law or jurisdiction. The appellate court for an SDAB decision is the Alberta Court of Appeal.



SUBDIVISION & DEVELOPMENT APPEAL APPLICATION

Municipal District of Greenview No. 16
4806 – 36 Avenue, Box 1079, Valleyview AB T0H 3N0
T 780.524.7600 F 780.524.4307 Toll Free 1.866.524.7608
www.mdgreenview.ab.ca

FOR ADMINISTRATIVE USE

APPLICATION NO.
DATE RECEIVED
DATE OF APPEAL HEARING

I hereby give notice of appeal to the decision of the Development Officer / Municipal Planning Commission dated _____ on Appeal / Permit No.: _____ and Legal Description: _____

for the following reasons (attached a separate sheet if necessary):

Name(s) of Applicant(s) for Appeal: _____

Address: _____

Telephone: _____

I/We have enclosed the required Appeal Fee of \$500. A written notice of appeal shall contain a statement of the grounds of appeal and will be considered complete upon submission of \$500 appeal fee.

I hereby declare that all information provided by me is to the best of my knowledge true and correct in all respects.

APPELLANT(S) SIGNATURE(S)

DATE

If this appeal is lodged by a company, the President or other authorized officer shall sign this form.

The Secretary, Subdivision and Development Appeal Board
Municipal District of Greenview No. 16
4806 - 36th Ave, Box 1079
Valleyview, Alberta T0H 3N0

The personal information collected on this form is being collected under the authority of Sections 33 and 39(1)(a)(b) of the Alberta Freedom of Information and Protection of Privacy Act, and Section 301.1 of the Municipal Government Act. The information will be used to process your application(s). Your name, contact telephone number and address may be used to carry out current and/or future construction, operating programs, services or activities of the Municipality. If you have any questions about the collection, use or disclosure of the personal information provided, please contact the Freedom of Information and Protection of Privacy Coordinator at 780.524.7600.