

# Updates Page

The Community Guide to the Planning Process is periodically updated with additional or replacement pages. When an update is provided for a section of the Guide, this page will also be replaced.

Contact the Federation of Calgary Communities or visit their website at [www.calgarycommunities.com](http://www.calgarycommunities.com) for the latest updates, and to join a contact list to be notified of the latest updates.

The Guide is also posted on The City of Calgary website.

If you see something that needs updating, or have a suggestion to add something to the Guide, contact the Federation's community planner.

Updates:

Fourth Edition, September 2008

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# Contacts & Resources

## Federation of Calgary Communities

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Calgary, AB T3C 1E5  
Phone: 403-244-4111 - Community Planner Extension 203  
Fax: 403-244-4129  
Email: [planning@calgarycommunities.com](mailto:planning@calgarycommunities.com)  
Web: [www.calgarycommunities.com](http://www.calgarycommunities.com)

Partners In Planning – upcoming planning workshops  
Web: [www.calgarycommunities.com](http://www.calgarycommunities.com) > Workshops and Events

Other planning information  
Web: [www.calgarycommunities.com](http://www.calgarycommunities.com) > Services Offered > Urban Planning

## City of Calgary - General

All City departments can be reached by calling 3-1-1 within Calgary or 403-268-CITY. The A to Z Topic and Services Index on the front page of The City of Calgary website is a useful way of finding web-based information; [www.calgary.ca](http://www.calgary.ca)

## City of Calgary – City Council

General information and links at [www.calgary.ca](http://www.calgary.ca) > City Hall > Municipal Government  
Agendas and Minutes of Council and its Committees [www.calgary.ca](http://www.calgary.ca) > City Hall > Council Agendas and Minutes  
For administrative information and Council Policy Library, see City Clerks

### Aldermen

Phone: 403-268-2430  
Fax: 403-268-8091 or 403-268-3823  
Email: [alderweb@calgary.ca](mailto:alderweb@calgary.ca)  
Web: [www.calgary.ca/aldermen](http://www.calgary.ca/aldermen)

### Courier Address

The City of Calgary  
Aldermanic Offices (8001)  
700 Macleod Trail South S.E. (Old City Hall)  
Calgary, AB T2G 2M3

### Mailing Address

Aldermanic Offices (8001)  
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Calgary, AB T2P 2M5

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Chapter 6:

# Subdivision & Development Appeals



## Subdivision & Development Appeals

It is always best to resolve issues with development and subdivision applications during the application review process, and try to achieve a project and an approval that everyone can support. Appeals can be a lot of work and there is no guarantee of the outcome. But if circumstances warrant, neighbours or the community association may want to appeal a Development Authority approval to the SDAB, or speak to an appeal filed by other parties.

Note: In June 2008 City Council approved some changes to the operation of the SDAB to help deal with the volume of appeals. Check with the SDAB office for the latest information, and check with the Federation of Calgary Communities to see if there is an update available for this chapter.

### What is the Subdivision and Development Appeal Board?

The SDAB is a quasi-judicial board established in accordance with the Municipal Government Act of the Province of Alberta and City of Calgary Bylaw 25P95. The Board includes up to two aldermen and up to 10 citizen members appointed annually by City Council.

The SDAB hears appeals regarding decisions made by the Development Authority or Subdivision Authority on development and subdivision applications and renders decisions based on relevant planning matters. It also hears appeals regarding **enforcement orders**, although the Board can only render decisions based on whether or not the Authority correctly issued the order. The SDAB's decision can uphold, vary or reverse the Authority's decision.

## What can be appealed to the SDAB?

- A decision of the Development Authority (including the Calgary Planning Commission) regarding a development permit approval, **conditions of approval**, or a refusal.
- A deemed refusal of a development permit, when a decision is not made within 40 days of receipt of an application.
- A decision of the **Subdivision Authority** regarding a subdivision application, conditions, or refusal.
- An **enforcement order** issued by the Development Authority.

Neighbours and community associations can appeal approvals. An Applicant can appeal a refusal, conditions of approval, or an **enforcement order\***. Any affected party can speak at an appeal hearing on any of these matters.

Decisions made by City Council (e.g. on land use) cannot be appealed to SDAB.

## How do I file an appeal?

A Notice of Appeal form must be submitted to the SDAB on or before the final date of appeal. An appeal form can be obtained from the SDAB office or on the SDAB website. The appeal must be received on or before the final date of the appeal period for it to be considered by the SDAB. The appeal period is 14 days long and cannot be extended. The deadline for a development permit application appeal is 14 days from the date of advertisement in the Calgary Herald a week before the hearing. Other deadlines for appeal may vary and should be obtained from the SDAB office.

The SDAB keeps a list of individuals who have been authorized to file appeals and speak on behalf of community associations at SDAB hearings. It is important to keep the list up to date so that the SDAB is confident that the appellant/speaker is actually representing the Community Association. Contact the SDAB office - See the Contacts & Resources section.

## What happens after an appeal is filed?

Once an appeal is filed it will be scheduled for a hearing within 30 days. The hearing date is advertised in the Calgary Herald one week before the hearing. The appellant, applicant, owner of the property, community association and persons initially deemed by the Board to be an **affected person\*** to the appeal will receive written notification of the hearing date at least 5 days prior to the hearing. The notice of hearing letter will include the time of the hearing. Reports are prepared for each item scheduled on the agenda. These reports are sent to the Board prior to the hearing and are available to the public. A copy of the report for any item can be obtained from the SDAB office prior to the hearing. Please contact the SDAB office for availability

**\*An enforcement order** may also be issued to and appealed by the landowner, the person in possession of the land or building, the person responsible for the contravention, or any person considered affected by the enforcement order.



**\* Affected person** is not defined in the MGA. The SDAB determines this on a case-by-case basis. An affected person could be someone who feels the enjoyment, use or value of their property may be affected by a proposed development. The onus is on the person to show they are affected. Any party who feels they will be affected has the right to appear before the SDAB and explain why they are affected. The SDAB will then make a determination as to whether that person is an affected person with respect to the proposed development.

### **Can I discuss an appeal with a member of the Board?**

The SDAB speaks only through its written decisions. The public should not contact any Board member with respect to the merits or outcome of an appeal. Aldermen appointed to the Board cannot render decisions on appeals that relate to a development located in their Ward. If a Board member is contacted regarding an appeal matter, that member would be unable to participate in the appeal proceedings due to bias.

### **Can I discuss an appeal with the Applicant?**

Sometimes development proponents (as applicants) and neighbours or community associations (as appellants) discuss the issues that led to the appeal and attempt to find common ground before the appeal is heard. This can sometimes lead to a request for adjournment and solutions that result in the withdrawal of the appeal.

### **What happens at a hearing of the SDAB?**

Appellants (persons who file an appeal) are expected to make a verbal presentation to the Board. Persons who have been notified of the appeal also have the right to present a verbal, written and/or visual presentation to the Board. Parties may have someone speak on their behalf. If a number of appeals are filed on the same development, it is helpful to select a spokesperson and to organize presentations so that evidence is not repetitive. The Board suggests that all speakers limit their presentation to five minutes.

The Chairman announces each appeal and calls a representative of The City of Calgary Development Authority to present the application or order (i.e., where the site is located, the proposed development and the reasons for the Authority's decision).

The Chairman will then ask for:

- All speakers in favour of the appeal (persons who filed an appeal or support the position of the appellant).
- All speakers opposed to the appeal (persons who oppose the position of the appellant).

When presenting an appeal, keep in mind that the Board does not consider precedent when making its decision. Each application is judged on its own merits. The reason that precedents cannot be used in arguments is that 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 the Land Use Bylaw.

In accordance with the legislation that governs the SDAB, the Board can only consider relevant planning matters when rendering its decision. Some examples of planning matters include design, parking, traffic, compliance

with planning legislation and impact on neighbouring properties. Matters not related to planning include comments regarding a person's character, commercial competition or tenure (e.g. owner-occupied vs. renter-occupied). If persons stray from planning matters, the Chairman will advise accordingly.

After the representative(s) summarize their presentation, Board members may ask questions of any speaker(s) relative to the planning aspects of the appeal.

After all parties have spoken in favour or opposition to the appeal, they will be given the opportunity to present rebuttal information. Rebuttal is not an opportunity for parties to re-argue their case but rather to speak to new evidence raised that could not have reasonably been anticipated.

The SDAB agendas are usually quite large. Some agenda items take longer to review and the withdrawal and adjournment of items makes it difficult to predict the exact time that an item will be heard.

### Requesting an adjournment

If the appellant, property owner or applicant is unable to attend the hearing, a written request for an adjournment (postponement) can be made in advance of the hearing. An adjournment request can also be made verbally at the hearing. Sometimes applicants and appellants jointly ask for an adjournment if they are in discussions that might result in a solution that would end the appeal. Adjournment requests are not granted automatically. It is important that someone attend the hearing and be prepared to discuss the request for adjournment and/or present evidence to the Board in the event the request is denied.

### Withdrawal of an appeal

Should an appellant decide not to proceed with an appeal, a written letter of withdrawal should be faxed or delivered to the SDAB as soon as possible.

### Decision of the SDAB

The SDAB decides on a case-by-case basis whether to deliberate in private or in public on the outcome of an appeal. At the conclusion of the hearing the SDAB may render its decision immediately with a summary of the reasons and issue a written decision in due course. Or the SDAB may decide to reserve its decision and issue a written decision in due course. A verbal decision is not official, nor can it be acted upon, until a written decision is issued. Development Permits will not be released until the written decision has been issued.

Written decisions are posted and archived in a searchable database at [www.calgary.ca/sdab](http://www.calgary.ca/sdab). This can be a useful resource when preparing an appeal. The SDAB is not bound by past decisions as each appeal is unique and evaluated on its own merits. You should exercise caution when reviewing past decisions



and making generalized conclusions. However, past decisions may be useful in understanding the factors the Board considers when rendering its decision.

### **Appeal of the Board's Decision**

An appeal of a decision of the Subdivision and Development Appeal Board lies with the Alberta Court of Appeal on a matter of jurisdiction or law (i.e. that the SDAB erred in the way it made its decision rather than the decision itself). If an appeal of the Board's decision is being considered, it must be filed within 30 days of receipt of the decision.

### **Role of the SDAB Administration**

The SDAB and its associated administration are independent from any other City Business Units.

The roles of the administration are to:

- Ensure compliance with the legislation that governs the SDAB and adhere to established Board policies and procedures
- Carry out all administrative duties of the Board (notification, agenda preparation, writing of decisions, etc.)
- Provide quality customer service to the public.

### **Learning More about SDAB**

Considerable and current information about appeals is on The City website at [www.calgary.ca/sdab](http://www.calgary.ca/sdab), or contact the SDAB office directly. A course on



Photo courtesy Federation of Calgary Communities

Development Appeals is offered annually by the Federation of Calgary Communities and The City through the Partners In Planning certificate program.

## Checklist for Presentations to the SDAB

### Filing an Appeal

- Contact the SDAB office to obtain the proper appeal form or appeal online.

### Research

- Contact the Development Authority/Subdivision Authority, developer and/or applicant to obtain information about the Project
- Obtain a copy of the report from the SDAB Administration, which contains background information about the development, subdivision or order, appeal(s) filed and any correspondence received as a result of the appeal. Copies of the plans that the decision was based on will also be included
- Review all relevant planning documents (Land Use Bylaw, ARPs, ASPs, Infill Housing Guidelines, etc.)
- Host public meetings and document their outcome
- Carefully document, in chronological order, all meetings, discussions, and phone calls which took place throughout the application process  
Identify and document the relevant planning issues
- Seek advice from Ward Alderman and Community Association
- Take photographs of the site and neighbouring area (This may give the Board a visual perspective of what you are referring to)
- Encourage affected parties to attend and be prepared to speak at the hearing. If an affected party cannot attend the hearing, encourage him or her to write a letter outlining their position or compile a letter of objection signed by affected parties
- Familiarize yourself with procedures by attending a session of SDAB

### Presentation

- Plan Your Presentation

- Coordinate your presentation with other speakers to avoid duplication of presentation material. The Board will NOT listen to the same evidence presented twice
- If you plan on speaking at the hearing, please sign the register located at the entrance of the Boardroom.
- Introduce yourself (name and address) and whom you represent
- Explain how you are an affected party
- Provide a brief description of the meetings and contacts made with the community, the applicant and the affected neighbours. The Board may or may not find this relevant.
- Provide planning related reasons for why you support/oppose the appeal
- Show photographs of the site and the surrounding area that is applicable to the appeal. Also, have illustrative material and well-prepared drawings available for your presentation. Exhibits used in your presentation are retained for minimum 60 days and will only be returned after this time frame, if requested.
- You will be provided with an opportunity to rebut any new evidence presented by other parties

### **Presentation Tips**

- Focus on the use, not the users – characteristics of the users of the proposed development are not considered admissible and will not be taken into account in rendering a decision. This rule is also true for issues of economic benefits/losses and property values
- Precedence is not a planning principle and will not be considered by the Board
- Visual aids such as a projector and laptop plug-in are available for use during your presentation. If using visual aids, it is recommended that you have someone assist you with setup ahead of time before the hearing. Contact the SDAB office.
- Practice and time your presentation
- Remember
  - Be informed
  - Stick to relevant planning matters
  - Be prepared
  - Be fair
  - Be respectful