

A Guide to the Calgary Subdivision and Development Appeal Board



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Introduction

This guide explains the development and subdivision appeal process. To achieve a project that everyone can support, the best course of action is to address issues with development and subdivision applications during the application review process. In cases where this is not possible, neighbours or the community association may want to appeal a Development Authority approval to the Subdivision and Development Appeal Board (SDAB), or speak to an appeal filed by other parties. Appeals can be a lot of work and there is no guarantee of the outcome. However, if you think the development authority made a mistake, the appeal process provides a chance to challenge a decision. (Note: affected persons cannot file an appeal against a subdivision application).

What is the Calgary Subdivision and Development Appeal Board?

The Calgary 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 SDAB is independent from the City of Calgary Planning Department. The Board hears appeals regarding decisions on development permits, subdivision decisions, and enforcement orders. The SDAB make decisions based on submitted evidence.

SDAB Composition

SDAB Board members are citizens with experience in building and development, community involvement, planning, real estate, law, and many other areas. People interested in joining the board can apply during the yearly application period. Applications are reviewed by current SDAB members, and applicants are recommended for appointment to Board based on their skills and experience, and how their strengths can complement the existing Board.

Board members are appointed annually by City Council for one- or two-year terms. The Board consists of a minimum of 15 to a maximum of 25 citizen members. Citizen members cannot be employees of The City of Calgary or members of the Calgary Planning Commission.

For a complete list of the current Board members please visit www.calgarysdab.ca

What is the Mandate of the Calgary SDAB?

The SDAB hears appeals regarding decisions made by The City of Calgary subdivision and development authorities and renders decisions based on the evidence presented. These types of decisions that can be appealed to the SDAB are:

- A decision of the Development Authority (including the Calgary Planning Commission) regarding a development permit approval, conditions of approval, or a refusal.
- A decision of the Subdivision Authority regarding a subdivision application, conditions, or refusal.
- An enforcement order issued by the Development Authority. (Note that the SDAB can only render decisions based on whether or not the Development Authority correctly issued the order.)
- A deemed refusal of a development permit application or subdivision application when a decision is not made within the legislated timelines of receipt of an application.

The SDAB's decision can uphold, vary, or reverse the Authority's decision.

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

The Calgary SDAB is independent from the Development and Subdivision Authority. The SDAB makes decisions in an impartial manner and applies the principles of natural justice and procedural fairness, which includes but is not limited to:

- The right to a public hearing
- A duty to be fair
- The right to be heard by an unbiased, independent and impartial decision maker
- The right to have the opportunity to state your case
- The right to request an adjournment
- The right to be represented by legal counsel or an agent

Who Can File an Appeal?

Neighbours and community associations can appeal development permit approvals. An applicant can appeal a refusal, conditions of approval or an enforcement order. Any person who feels the proposed development will affect them has the right to appear before the Board and explain why they are affected. The Board will determine whether that person qualifies as an “affected person” for the proposed development. The Board determines whether persons are affected on a case-by-case basis.

How Do I File an Appeal?

To appeal a decision of The City of Calgary Planning Department you must submit a Notice of Appeal form, either online, in person, or by mail or email, and pay the \$200 appeal fee within the filing [deadline](#). Anyone submitting an appeal (an appellant) must provide their name when filing subdivision and development appeals. The appeal filing fee is refundable if an appeal is withdrawn before the hearing date, or at the discretion of the Board if the hearing has already occurred.

If a community association is filing an appeal, only the people who have been authorized to file appeals and speak on behalf of the community association can submit the appeal. The SDAB Administration maintains a list of authorized individuals. It is important to keep the list up to date so the Board can confirm the appellant/speaker is officially representing the community association. Contact the SDAB administration to update the information for your community association.

What Happens After an Appeal is Filed?

Once an appeal is filed with the SDAB it will be scheduled for a hearing within 30 days. In accordance with the Municipal Government Act, the Calgary SDAB must give at least 5 days' written notice of the hearing to the parties. The notice of hearing will include the date and time of the hearing.

Additionally, the hearing date of the appeal is advertised online at least five days before the hearing (usually one week before the hearing).

All materials submitted by the parties will be included in the Board Report, which will be available on the SDAB's website by noon on the Friday before the scheduled meeting. Parties are responsible for making sure that they have access to this report during the meeting.

How to Prepare For Your Hearing

Listed below are some suggestions that may assist you in preparing your presentation to the SDAB:

- Download and review the SDAB Board report for your appeal. It will be available approximately six days before the initial hearing and contains everything submitted by all parties involved. Choose Reports & Plans for your appeal in the list of hearings available [online](#).
- Understand the [legislation governing](#) the Board and [land use](#) of the site.
- Determine the relevant planning issues relating to the appeal.
- Review the relevant [planning documents](#) such as [Land Use Bylaw 1P2007](#), Area Redevelopment Plan, Updated Low Density Residential Housing Guidelines for Established Communities, (Infill Guidelines), etc..

- Prepare a clear and concise presentation to summarize the key issues and concerns you wish to communicate to the Board. This can be helpful to guide your verbal presentation at the hearing. Provide a copy of your presentation to the Board by the deadline in the Notice of Hearing letter or communicated by the Board.
- Consider taking photographs of the site and the surrounding area. This may give the Board a visual perspective of what you are referring to.
- Consider asking persons affected by the appeal (neighbours, community association, etc.) to:
 - attend and speak at the hearing,
 - write letters outlining their position, or
 - compile a letter of objection signed by affected parties.
- While it is important to obtain support for your position, the Board considers each application on its own merits and weighs all planning evidence presented. It does not make its decision solely based on the support or opposition from affected parties.
- Consider contacting your community association for its position on the proposed development.
- Familiarize yourself with Board procedures by attending an SDAB hearing prior to your presentation.
- When you are preparing your presentation, consider asking these types of questions:
 - **Development Potential**
 - What are the range of uses available or allowed on the subject site?
 - What density, height and form are possible?
 - **Policy Considerations**
 - Determine the relevant policy plan for your community.
 - Does the project meet those expectations?
 - **Impact of Potential Development**
 - What would be the impact caused by traffic, parking and on-site activities generated by the proposed development or business?
 - What would be the impact from the height, massing, shadowing or other physical features?
 - **Compatibility**
 - How does the proposed development fit into the established streetscape pattern of the community?

Can I Discuss an Appeal with a Member of the SDAB?

The SDAB speaks only through its written decisions. Parties must not attempt to contact Board members to discuss an appeal outside of the hearing. Parties shall not approach Board members before, during, or after a hearing and should instead direct all inquiries to the Board administrative staff. Information provided by Board staff is not legal advice, and should not be taken as a statement or decision from the Board.

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 (solutions that could result in the withdrawal of the appeal). However, it is best to have the Board make a ruling on the revisions to the approved plans to guarantee that the applicant will abide by any agreements.

What Happens at an SDAB Hearing?

At the beginning of an SDAB hearing the presiding Chair announces each appeal and, in some cases, calls a representative of The City of Calgary Development/Subdivision Authority to present the application or order. The Development or Subdivision Authority will provide information on where the site is located, an overview of the proposed development, and the reasons for their decision.

For a development or subdivision appeal, the Chair 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).

For an appeal against an enforcement order, the speaking order is slightly different. A representative for the Development Authority will speak first and then the Chair will ask for:

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

Individuals who have presented their case will be given an opportunity for rebuttal once the Board has questioned the Development/Subdivision Authority on any planning issues raised during the proceedings. Rebuttal is an opportunity to refute information and evidence presented since the last time you spoke that you could not have reasonably anticipated. It is not an opportunity to reargue your case or create new argument.

SDAB hearings are open to the public. Anyone interested in attending should pre-register by sending an email to info@calgarysdab.ca or calling 403-268-5312.

Persons who file an appeal are encouraged 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. If desired, parties may have someone, or an agent, speak on their behalf. If a number of appeals are filed on the same development, it is recommended that a spokesperson be selected to organize presentations so that evidence is not repetitive.

The Board may decide to deviate from the normal hearing process if necessary to ensure an efficient hearing and/or to ensure procedural fairness.

The Board is not an evidence-seeking body. It relies on evidence presented, as well as verbal submissions made at hearings, as the basis for its decisions. It is therefore critical that persons appearing before the Board ensure that sufficient evidence is presented to support their respective positions.

Can I Postpone My Hearing?

If the appellant, property owner, Development Authority, or applicant is unable to attend the hearing or need time to prepare for a 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. Requests for adjournments are not always granted. It is important to attend the hearing in case the request is denied and the hearing proceeds.

How Do I Withdraw an Appeal?

An appellant may withdraw an appeal at any time before the Board issues its decision. A withdrawal of an appeal must be explicit and unconditional. An appellant may withdraw an appeal verbally at the hearing. If the appellant withdraws the appeal before the hearing begins or after the close of the hearing but before the Board issues its decision, the withdrawal must be in writing. If an appeal is withdrawn before the hearing begins, the Board will refund the appellant's appeal fee. If the appeal is withdrawn during or after the hearing, refunds of the appeal fee are at the Board's discretion.

How Does the Board Make Its Decision?

Once the Calgary SDAB has heard from all parties concerning the appeal, the Board will deliberate in private the outcome of the appeal.

How Will the Decision be Released?

At the conclusion of the hearing, the Board may:

- Render its decision immediately with a summary of the reasons and issue a written decision within 15 days of the hearing; or
- Decide to reserve its decision and present its decision and reasons in writing within 15 days of the SDAB hearing.

The Board's decision is not final until it is signed and issued.

Development permits will not be released until the written decision has been issued.

Where Can I Read Previous SDAB Decisions?

Written decisions are archived in a searchable database at [Alberta - Calgary Subdivision & Development Appeal Board | CanLII](#). 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 SDAB considers when rendering its decision.

How Do I Appeal an SDAB Decision?

You may apply for leave to appeal to the Alberta Court of Appeal within 30 days of the date the decision was issued if, in your opinion, the Board erred in a matter of jurisdiction or law. Appeals of the Board's decisions are governed by sections 688 and 689 of the Municipal Government Act. If you are considering an appeal, it is recommended that you consult with legal counsel.

Tips For Presenting

- Please note that the Board is not an evidence-seeking body. It relies on evidence presented, as well as verbal submissions made at hearings, as the basis for its decisions. It is therefore critical that persons appearing before the Board ensure that sufficient evidence is presented to support their respective positions.
- It is the responsibility of the applicant to present evidence to support their application or respond to the issues raised by the appellant(s) or affected parties. The applicant should not rely on the Development/Subdivision Authority to make the case for them.
- Listed below are some suggestions that will assist you in making a presentation to the SDAB:
 - At the beginning of your presentation introduce yourself for the record and state your position (in favour or opposition of the appeal).
 - Introduce your speakers.
 - Hearing etiquette is to address the Presiding Officer as "Mr. Chair" or "Madam Chair".
 - When responding to questions from a side panel member, begin your response with "Through the Chair, ..."
 - All material you wish for the Board to review, or that you intend to present or refer to during the hearing should be provided no later than the deadline specified within the Notice of Hearing (and available on the list of Active Appeals), or by any such other date as directed by the SDAB. Materials submitted after deadline will not be accepted unless there are exceptional circumstances to the satisfaction of the SDAB.
 - Stick to the planning facts and support them with quantifiable (measurable) data. Reference planning policies, traffic studies, parking statistics, sun shadow studies, etc.
 - Present your opinion regarding any errors in fact or interpretation.
 - State the detailed issues about the site in the context of the surrounding properties and the impact on the community.
 - During your presentation, refer the panel to the appropriate pages in the Board report (bold number at top centre of each page).

Learning More about the SDAB

Current information about the SDAB and the appeals process is available at the SDAB website at www.calgarysdab.ca. You can also contact the SDAB administration office directly. A course on Development Appeals is offered annually by the Federation of Calgary Communities and The City through the Partners in Planning certificate program.