

Introduction

This brochure has been prepared for you by your municipality and West Central Planning Agency to help you navigate through the planning system.

Depending on what you want to do, the brochures in this series have been designed to help you understand the various stages of planning and how they relate to each other.

These brochures have also been prepared to explain the relationship between your municipality and West Central Planning Agency.

This brochure introduces you to the planning system in Alberta and your municipality. Whether you're a one-time-only developer, or a full-time land development professional, the basics apply to everyone. The information in this series of brochures is meant to help anyone who needs a planning approval.

Planning Basics

If there's one important thing to know and understand, it's that planning in your municipality begins and ends with your municipality.

County, Town or Village – it doesn't matter. Under the Municipal Government Act, or MGA, the Council of your municipality is the land use authority for the municipality.

Land Use Authority What Does That Mean?

The Council of your municipality must govern your municipality - provincial legislation known as the Municipal Government Act says so. One of the key things your Council has to govern is the land use that goes on in your municipality.

To do this, your Council *may* have adopted a Municipal Development Plan (MDP) that spells out broad land use policies for the municipality. It may say how and where the municipality is going to grow and what kinds of land use will be involved.

Your municipality may or may not have a MDP but it **must** have a Land Use Bylaw – it's the rulebook for land use. The Bylaw will divide the municipality into land use districts (or "zones") and it will say what kinds of land use are allowed in those districts. The Bylaw will also lay out development rules – size of parcels, setbacks, accessory buildings, etc.

The bottom line is that your municipality sets the planning rules for the municipality. Council of your municipality adopts the policies and rules for land use, subdivision, and development. The Administration at your municipality is responsible for administering the policies and rules.

West Central Planning Agency (WCPA) What's Its Role?

First, and most importantly, WCPA is not a planning agency that is independent from your municipality.

When the Battle River Regional Planning Commission was shut down in 1995, West Central Planning Agency was created by the City of Wetaskiwin, the Counties of Wetaskiwin and Ponoka, and the Towns of Millet, Ponoka and Rimbey – they wanted their own planning agency to continue providing planning services. WCPA is still owned by those six municipalities. The Agency provides planning services to the original six, and to a number of other municipalities on contract.

If WCPA isn't independent, what is it? Think of WCPA as an **extension** of the Administration at your municipality. We provide specialized knowledge and expertise in planning, particularly in subdivision, to member and contract municipalities, and to the general public, developers, surveyors and anyone else who asks.

But, the important thing to remember is that WCPA has no legal authority to adopt policies or rules in your municipality, and no legal authority to make decisions on subdivision or other planning applications. If you apply for a planning approval in Ponoka County, the Town of Rimbey or any other municipality

that WCPA serves, the decision on that planning application is going to be made by Ponoka County, the Town of Rimbey and so on.

People sometimes come to us to get a different answer from what they already got from their municipality. They think we're independent. We're not, and we're not going to give you a different answer, because we can't. We're here to serve our member and contract municipalities, and we're bound by the same policies and rules.

I have an Idea – Where do I Start?

With your municipality – that's often the best place to start. Whatever you want to do, you're going to have to live by their rules, so you might as well start there to find out what those rules are. It could be the Development Officer that you need to talk to, or a Planning Assistant. Either way, you should start with your municipality.

We'd be just as happy to see you at WCPA but, depending on what you want to do, we may have to send you back to your municipality to get started. If it's subdivision, we can get you started or point you in the right direction. If it's development or rezoning we're going to have to refer you back to your municipality. The differences between these various planning processes are explained in this brochure series.

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Planning Basics

The Planning Process, Town of Rimbey and
West Central Planning Agency (WCPA)

Brochure No. 1

(In a Series of 5)

West Central Planning Agency

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Introduction

If you haven't read the first brochure in this series (No 1 – Planning 101), we encourage you to. It's an introduction to the planning process and to your municipality's role in that process. It also explains West Central Planning Agency's role.

I Have An Idea – Where Do I Start?

If your municipality has a Municipal Development Plan (MDP), there will be land use policies that apply to the land that you own.

Your municipality will also have a Land Use Bylaw that applies a land use district ("zone") to your land. That district will list land uses that are allowed, and development regulations such as setbacks.

If you want to do something on your land that isn't allowed under the MDP or Land Use Bylaw, you have two options – drop the idea altogether, or try to change the situation.

If you want to try to change the situation, you will have to do this yourself (a lot of developers hire consultants).

Example 1 - you own a quarter section of agricultural land that's in production. You want to develop country residential lots on the quarter section, but your zoning is AG – Agricultural, not CR – Country Residential. AG zoning doesn't allow CR development.

Example 2 - you own a parcel of land in the middle of town on which you want to build a three-storey apartment building. The zoning on the parcel of land is R1 – Residential, not the R-3 Residential that you need.

For both of these examples, your municipality will want, at a minimum, a redistricting ("rezoning") application. You may also be required to do an Area Structure Plan.

Area Structure Plan

An Area Structure Plan (ASP) is a critical step in pre-planning your land. In the two examples above, it's rare for a developer to be able to jump right to the subdivision stage without both the developer and the municipality running into problems. The ASP is meant to sort out all the land use issues *before* getting to the subdivision stage.

Depending on the municipality ASP requirements may vary a bit. Most will want to know a lot of the same things:

- types of land use
- density, design & access
- internal subdivision roads
- suitable building sites
- water supply (rural) or piped waterlines (urban)
- stormwater management
- private sewage capacity (rural) or sewer lines (urban)
- disposition of reserves

Development next to a provincial highway may trigger a mandatory requirement for an ASP from Alberta Transportation.

Redistricting

In the two examples, you are more likely to be required to do an ASP in the Country Residential scenario. In the R1 to R3 scenario the municipality could decide that no ASP is required.

The municipality *will* require for a redistricting ("rezoning") application to change the land use district. You need this to make sure that the land use district allows the density you want, or that it provide the land uses that you want for your development.

Redistricting is referred to as *an amendment to the Land Use Bylaw* because it's the Bylaw that lays out those land use district. Land Use Bylaw amendments can also proposed changes to the rules or standards in the Land Use Bylaw, such as density or setbacks. Amendment applications can be triggered by proposed subdivisions, or by proposed development, or both. The municipality can initiate its own amendments.

Who Makes the Decision on ASPs and Redistricting?

Council does. No one else can.

Brochure No. 1 said that Council is the land use authority for the municipality, and is required to adopt land use policies and rules in the MDP and Land Use Bylaw. It follows that if Council, and only Council could set those policies and rules, only Council can change them. It also follows that only Council can adopt new land use policies under an ASP, as a plan for a specific area of land that then has to be used to guide future subdivision and development in that area.

WCPA's Role

WCPA provides planning advice to municipalities on ASPs and redistricting applications. The amount of time that WCPA can spend on ASPs with the municipality can be considerable. WCPA does not accept applications for either ASPs or redistricting – these processes are administered directly by your municipality.

ASPs – Are They Worth It?

A final note – developers sometimes argue ASPs are an unnecessary delay and expense. Experience proves otherwise.

Rushing into complex land development without thinking through the challenges is asking for trouble, for both municipality and developer. It's not uncommon for an ASP process to lead to a better product for the developer and, for first-time developers, the ASP may help them save money and better manage their financial risk.

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Area Structure Plans & Redistricting

("Rezoning")

The Planning Process, Town of Rimbey and
West Central Planning Agency

Brochure No. 2
(In a Series of 5)

Introduction

If you haven't read the first brochure in this series (No 1 – Planning 101), we encourage you to. It's an introduction to the planning process and to your municipality's role in that process. It also explains West Central Planning Agency's role.

What is Subdivision?

If you have a parcel of land like a quarter section, and you want to divide off the farm site from the balance of the quarter, keep the farm site and sell the balance, that's subdivision. Problem is – there's only *one* title for the quarter section. You want *two*, so you can keep the farm site and sell the balance. The same thing applies in town if you have a large residential lot and you want to split it in half. There's only one title for that large lot, but you want two – to keep one and sell the other. You create that new title through the subdivision process.

Where do I Start?

Subdivision in your municipality doesn't happen in a vacuum. Your municipality approves subdivisions based on the land use policies that Council adopted in the Municipal Development Plan (if there is one), and on the land use rules that Council adopted in the Land Use Bylaw. This is where you start – does my municipality's MDP and Land Use Bylaw allow me to do the subdivision I want to do? Either your municipality or WCPA can help answer this question for you.

For more common and simple subdivisions, like the farm site subdivision or lot split in town mentioned in the previous column, policies and rules that let you do this type of subdivision are probably already on the books. If your subdivision involves multiple lots, or changes in land use, that's explained at the end and in Brochure No. 2.

I Can Subdivide – What Next?

Stage No. 1 / Application & Approval

Apply for your subdivision to WCPA. On behalf of the municipality we:

- refer the application to government departments, utilities and neighbours
- do a site inspection
- review any relevant past subdivision history
- make a recommendation on the application to your municipality, where the decision is made
- send out the decision letter on behalf of your municipality

You now have a subdivision approval – it's an answer from your municipality about the subdivision you wanted. If the answer is "yes" it's come with conditions attached.

It is *your* approval. You decide what to do with it. You don't have to complete the subdivision if things change for you but, remember this - subdivision approval means you still only have *one* title. To get the second title, you have to complete all three stages.

Stage No. 2 / Endorsement

If you want to complete your subdivision you have a year from the approval date to get it done. You need to meet the conditions of approval – most will be conditions that your municipality attached to the approval, so you need to deal with them directly. You need to hire a surveyor to prepare a plan of your subdivision – WCPA can provide a list.

When you have the plan and a letter from your municipality saying the conditions are met, WCPA does the final review to:

- check that the surveyor's plan matches what the municipality approved
- ensure all conditions have been met
- check that any documents to be registered with the plan are accurate and complete

When WCPA finishes this review we *endorse* (i.e. sign) the plan on behalf of the municipality. We then send the plan and any other paperwork to your surveyor so that he can register your subdivision at Land Titles. At this point your municipality and WCPA are not longer involved with your subdivision.

Stage No. 3 / Registration

This stage is between you, your surveyor, (possibly) your lawyer, and Land Titles. Most surveyors will register your subdivision for you at Land Titles and will include this service in their fee. Depending on how you're

registering the subdivision, and whether you're transferring some of the land to a family member or to a buyer, your lawyer may need to prepare the documents that need to be registered at Land Titles.

Once the registration package is ready it goes to Land Titles where they check the package against their standards and, if they're satisfied, they register the subdivision and create the two new titles.

Finally, you now have something to keep, and something to sell. The important thing to realize is that this final all-important step doesn't happen until the very end of the process.

What If I Don't Like the Decision?

When you get your subdivision approval, if you don't like it you can appeal it. See Brochure No. 5 – Appeals, Subdivision and Development.

Multiple Lots, Land Use Change and the Subdivision Process

If you want a multi-lot subdivision, or have to change the land use district (i.e. zoning) for the subdivision you want, the subdivision process is the same. It's what happens before that's critical. Please see Brochure No. 2 – Area Structure Plans & Redistricting, for more information

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Subdivision

The Planning Process, Town of Rimbey and
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Brochure No. 3
(In a Series of 5)

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What's Development?

First, don't confuse development permits and building permits. The difference between them is explained later – for now the focus is on development and development permits.

If you own land and you want to *develop* something on your land, like building a new house, or putting up a new deck, chances are you will need a development permit. Development is about how you use or want to use your land.

Development is defined in the provincial planning legislation - basically, if you want to add something new to your land, or change the way you use your land, or even just dig it up, that's defined as development in the Act.

It's also what your municipality defines as development in their Land Use Bylaw. So, if you're planning to do something on your land, if you're planning to "develop" your land in some way, check with your municipality first. Chances are you will need a "development permit"!

Why Should I Bother?

Some people see development permits as a hassle and not worth the bother. This is short-sighted. If you sell your property in the future, you may need what's known as a compliance certificate from your municipality. They'll check to see if your property complies with your Land Use Bylaw. If you developed something that needed a development permit, and you don't have the development permit for it, you don't comply with the Land Use Bylaw and you may have trouble selling your property.

If you develop something without a permit, it may turn out to be just plain illegal. In this case, the municipality has the legal authority under the MGA to enforce the Bylaw. They can start legal action against you and you could have to go to court.

Think of the development permit as a kind of insurance – it legalizes the way in which you've used the land on your property. Check with your municipality before you start!

Do I Always Need A Development Permit?

Sometimes you don't. It's common for municipalities not to require development permits for minor building repairs. The list of things that don't require development permits will be in the Land Use Bylaw, so check with your municipality.

I Need a Development Permit

What's Next?

You'll need to meet with your municipality's Development Officer to look at what you want to do in relation to the Land Use Bylaw.

One of the first things will be to see whether the land use district, or zone, that your land is located in allows the thing that you want to do. If it is, the next step is to figure out whether the use is *permitted* or *discretionary*. When the Development Officer has completed the review of your development permit application and found that it complies with the Land Use Bylaw, if the use is permitted, the Development Officer must issue the permit to you. If the use is discretionary, the Development Officer has discretion to issue, or not issue, the permit to you.

Regardless, the Development Officer will ask you for an application and for information about the land use and its impacts – site and/or elevation drawings, how much traffic might be generated, how many parking stalls will be required, etc. It will depend on the use (i.e. residential, commercial, industrial, institutional, etc.) and the specific nature of what you want to develop.

Who Makes the Decision?

The Development Officer will make the decision or, in some municipalities, the Development Officer will refer the decision to a Municipal Planning Commission (MPC) for a decision.

What If I Don't Like the Decision?

You can appeal it. See Brochure No. 5 - Appeals, Subdivision and Development.

WCPA's Role

WCPA often provides planning advice on development issues and development permit applications. However, WCPA does not accept development permit applications - the development permit process, start to finish, is carried out by and within your municipality.

Building Permits

"Building" permits are more accurately and broadly known as Safety Codes Permits. They're issued under the Safety Codes Act – provincial legislation that is completely different from the Municipal Government Act.

If you're building a house, you'll need a Safety Codes permit from each one of the four main Safety Codes disciplines – building, plumbing, electrical and gas. Safety Codes permits are like development permits – they operate as a similar form of insurance. Your municipality may issue Safety Codes permits or may have a contract with a Safety Codes agency. Check with your municipality.

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DEVELOPMENT PERMIT

The Planning Process, Town of Rimbey and
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Brochure No. 4
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This brochure also follows from Brochure 3 - Subdivision, Brochure 4 - Development.

I Don't Like the Decision I Got On My Subdivision / Development Permit Application— Can I Appeal?

Yes. You file your notice of appeal with the Secretary of the Subdivision and Development Appeal Board for your municipality. Key points to remember are:

- The notice of appeal *must* be in writing,
- The written notice *must* include reasons for your appeal. You have to do more than say you don't like the decision. You have to say *why* you don't like it - what was wrong with the decision from your point of view,
- If there is an appeal fee, pay it.
- Most important, file your notice on time. Your decision letter will say what the appeal period is, and when it ends. If you miss the deadline, you *lose* your right of appeal.

Who Else Can Appeal?

For subdivision decisions the right of appeal is limited to:

1. the applicant
2. Council, if the subdivision was approved by someone other than Council
3. a provincial government department (usually Alberta Transportation), and
4. a school authority, but only if dedication of reserves is an issue.

Your neighbours can't appeal. The right of adjacent landowners to appeal subdivision decisions was removed from provincial planning legislation in 1995.

A development permit decision can be appealed by:

1. The applicant, and
2. Any person affected by the development permit issued.

This means your neighbours near and far *can* appeal. The exception is for a permit issued for a permitted use where no part of the Land Use Bylaw was relaxed or varied. In this case, there is no right of appeal against that permit.

Who Hears the Appeal?

All development permit appeals are heard by the municipality's Subdivision and Development Appeal Board. This same Board can hear most subdivision appeals, except those involving a "provincial interest" – usually a highway or water body issue. In this

case, the appeal is heard by the Municipal Government Board.

Who's On These Boards?

It varies. The municipal Subdivision and Development Appeal Board can include members of Council, but only in a minority. Members of the public at large usually make up most if not all of the Board. Anyone involved with the subdivision or development decision, like the Development Officer, or the Manager at WCPA, *cannot* be a Board member.

Municipal Government Board members are appointed by the provincial government and come from a range of backgrounds – law, municipal politics, the survey industry, etc.

What Goes On In the Hearing?

Much of this is up to the appellant – the person who filed the appeal. The appellant can make the hearing a very short, or very long affair. It can also depend on what was applied for, what the decision was, and what the appellant's concerns are.

The Board has to handle the hearing in a fair and impartial manner, allowing the appellant and anyone else who wants to speak to the appeal every opportunity to do so. That's because the Board is what's known as a "quasi-judicial" body. The Board has the authority to resolve disputes, so they're a bit

like a court. The standard to which they have to conduct themselves is high.

WCPA's Role

WCPA makes presentations to Appeal Boards locally and at the provincial level, usually on subdivision appeals. WCPA's role is to make the presentation on behalf of the municipality, not the applicant.

WCPA does not accept written appeals – those have to go directly to the municipality.

I Don't Like the Appeal Board Decision – How Do I Appeal to Council?

Simple answer – you don't. In law, there is no right of appeal to Council against a Board decision. Remember - the Board is quasi-judicial. Logically, the decision of one quasi-judicial body should be appealed to a higher judicial body.

A SDAB or MGB decision can only be appealed to the Court of Appeal "on a question of law or jurisdiction" within 30 days of the date of the decision.

If you're thinking of going to this level, get legal help. Hire a lawyer. At this level, appeal rights still exist but an appeal has to meet higher and tougher legal standards to qualify as a full-fledged appeal to the Court of Appeal. And, yes, pursuing an appeal at this level will be expensive and time-consuming.

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APPEALS Subdivision & Development

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