LAND AND PROPERTY RIGHTS TRIBUNAL

Citation: Aurora Peat Products ULC v Athabasca County (Development Authority), 2025 ABLPRT 26
Date: 2025-01-14
File No. D24/ATHA/CO-031
Decision No. LPRT2025/MG0026
Municipality: Athabasca County

In the matter of an appeal from a decision of the Athabasca County Development Authority (DA) respecting the proposed development of SE 16-65-17 W4M and NE 9-65-17 W 4th under Part 17 of the *Municipal Government Act*, Chapter M-26 RSA 2000, *(Act)*.

BETWEEN:

Aurora Peat Products ULC

Appellant

- and -

Athabasca County Development Authority

Respondent Authority

BEFORE: G. Buchanan, Presiding Officer
G. Dziwenka, Member
P. Yackulic, Member
(Panel)

K. Lau, Case Manager

DECISION

APPEARANCES

See Appendix A

This is an appeal to the Land and Property Rights Tribunal (LPRT or Tribunal). The hearing was held via videoconference, on November 26, 2024, after notifying interested parties.

OVERVIEW

[1] This appeal concerns a Development Permit (DP) for a peat harvesting operation in Athabasca County (County). The DA approved the Development Permit with conditions, in accordance with the Municipal Development Plan (MDP) and Land Use Bylaw (LUB).

[2] The Appellant objected to a condition requiring a 28 m wide no disturbance area be provided on all perimeter boundaries. However, it withdrew the objection upon hearing from the DA that:

- the distance was to be measured from the property boundaries,
- reclamation activities in the no disturbance area were allowed, and
- existing disturbances such as access routes and drainage ditches could continue in use.

[3] The DA provided revised conditions to clarify its development requirements, which were accepted by the Appellant.

REASONS APPEAL HEARD BY LPRT

[4] This appeal was filed with the LPRT instead of the local subdivision and development appeal board because s. 685(2.1)(a) of the *Act* and s. 27 of the *Matters Related to Subdivision and Development Appeal Regulation* AR 84/2022 direct development appeals to the LPRT when the land that is the subject of the application is the subject of a licence, permit, approval or other authorization granted by the Natural Resources Conservation Board, Energy Resources Conservation Board, Alberta Energy Regulator, Alberta Energy and Utilities Board, Alberta Utilities Commission, the Minister of Environment and Protected Areas (AEP) or the Minister of Forestry and Parks (AFP).

[5] In this case, the relevant land is the subject of approvals granted by AEP, AFP and a licence issued by the AER.

PROPOSAL

[6] To develop a Natural Resource Extraction (Peat) Operation on two quarter sections in Athabasca County. One parcel is designated Crown Land (CL), the other Agriculture (A) in the County's Land Use Bylaw (LUB), with Natural Resource Extraction and Processing a discretionary use in both districts.

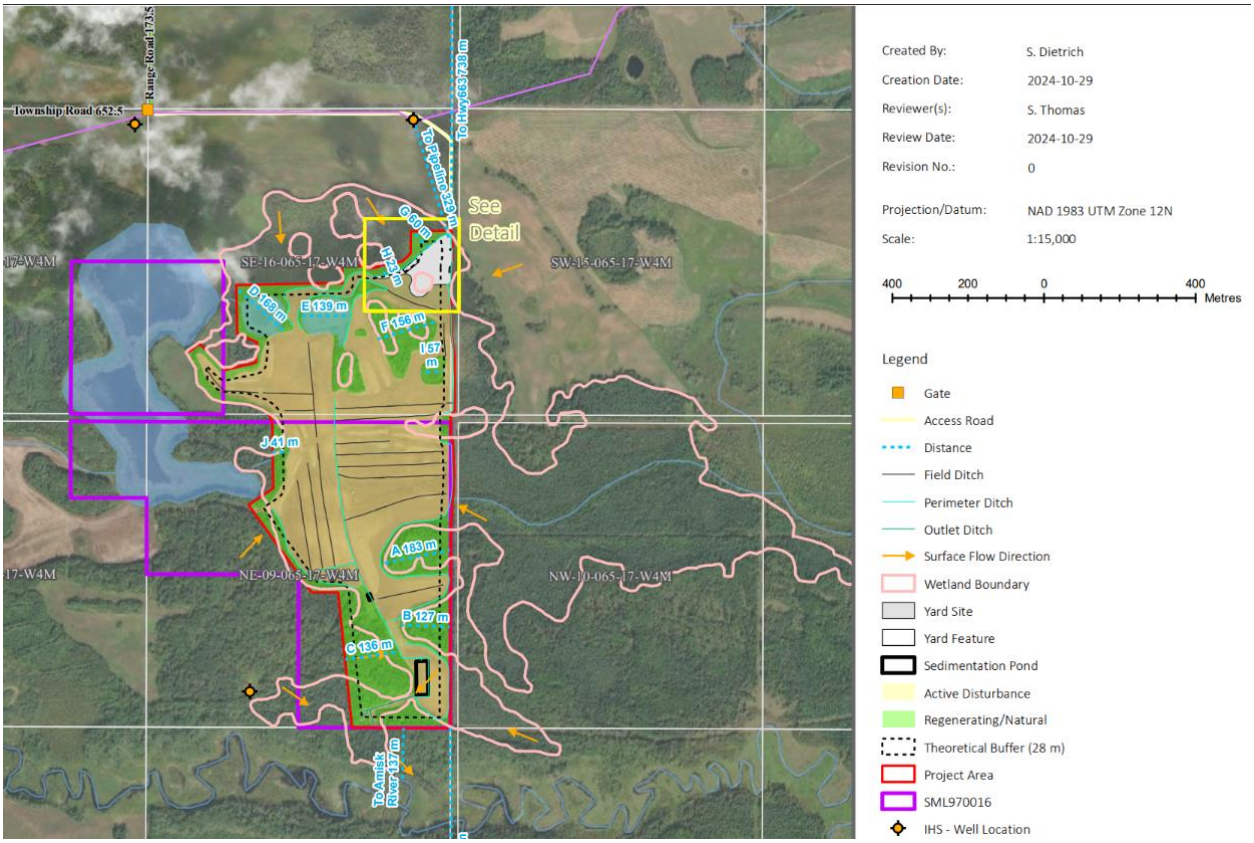


Figure 1: Tentative Plan

BACKGROUND

[7] This is an appeal of a conditionally approved DP for a Peat Harvesting operation of 54.4 hectares on two quarter sections and the intervening road allowance in Athabasca County (County). The land is districted as Agriculture (A) and Crown Land (CL) in the Land Use Bylaw (LUB), where Natural Resource Extraction is a discretionary use.

[8] The site is in the southeastern part of the County, approximately 1 km south of the Hamlet of Caslan. The south limit of development is about 130 m north of the Amisk River. Adjacent land has some agricultural use (crop and pasture), though it is primarily covered by native vegetation.

[9] The site has been used to harvest peat since 1990 without benefit of a Development Permit. The area to be harvested is within the footprint of the past harvesting operation.

[10] The development site occupies 21.7 ha of the SE 16-65-17 W4M and 31.5 ha of the NE 9-65-17 W4M. The SE 16 is privately owned, while the NE 9 is Provincial Crown land, subject to a Surface Materials Lease (SML) and a Department Licence of Occupation (DLO) issued for the peat harvesting. An additional 1.3 ha of the road allowance between the quarter sections is included in the development proposal.

[11] The proponent compiled a comprehensive *Water Act* Application Report, describing the peat harvest operation's history, biophysical conditions, peat development and operations plan, conservation

and reclamation plan, and wetland assessment and impact report. The report was submitted to AEP for the required Water Act approval and provided to the DA in support of the DP application.

[12] The DP was approved, subject to the following conditions:

1. The owner/developer is responsible for ensuring all work related to this development is located within the legal boundaries of this property and ensuring that the drainage, grading and landscaping work related to this development does not negatively affect this property or adjacent properties. Any proposed alterations to the drainage shall be approved by the County.

2. The location of the development is approved as shown on the attached approved site plan.

3. If the development authorized by this permit is not commenced within twelve (12) months from the date of the issue of this development permit, and carried out with reasonable diligence, the permit is deemed to be void, unless an extension to this period is granted by the Development Authority.

4. An accessory building shall not be used to provide living quarters or to be used as an auxiliary guest-house.

5. The owner/developer shall be responsible for the construction or improvement of any accesses, approaches or roadways required to service the development and such work shall be in accordance with the standards and specifications of Athabasca County.

6. The owner/developer shall be responsible for dust control, as per Policy 3405, along the route if the County deems dust control is necessary during the operation of the development.

7. This development permit shall be subject to revocation if, in the opinion of the Development Authority, the development becomes disruptive in any manner to the area in which it is located.

8. The owner/developer shall provide all loading and parking on site. Loading and parking shall meet or exceed the requirements of Land Use Bylaw.

9. There shall be no exterior signage, display or advertisement other than a business identification sign which shall not exceed 1 sq. m (10.8 sq. ft.) in size or be illuminated, without a development permit.

10. No offensive noise, vibration, smoke, dust, odour, heat, glare, electrical or radio disturbance detectable beyond the boundary of the lot on which the development use is located shall be produced by the development/use.

11. The owner/developer must obtain any and all necessary permits and approvals from any and all other regulatory bodies which may have jurisdiction over this proposal. The applicant shall provide copies of any and all approvals to the Athabasca County Planning Department.

12. The owner/developer shall adhere to Designated Haul Route - OHR 2024-08 and update/renew as required by Athabasca County Infrastructure Services Department.

13. The owner/developer shall adhere to, and update/renew as required, the agreement between Aurora Peat Products and Athabasca County Infrastructure Services Department, allowing for overlapping peat harvest operations within undeveloped road allowance Rge Rd 173 - SE 16 & NE 9-65-17 W4 (east boundary) undeveloped road allowance Twp Rd 662 - between NE 9 & SE 16-65-17 W4M.

14. The hours of operation for this development shall be limited to Sunday thru Saturday from 8:00 a.m. to 7:00 p.m., May to October.

15. The hours of operation for hauling for this development shall be limited to Monday thru Friday from 8:00 a.m. to 5:00 p.m.

16. The development shall be securely gated and locked when not in use.

17. The development shall include a 28.0 m (92.0 ft) "no disturbance area" on all perimeter boundaries.

18. The owner/developer shall institute and maintain weed control measures as outlined in the Weed Management outlined in section 4.2.7.1 of the Peat and Development Operations Plan within the Dave and Crown Bog Water Act Application Report, provided to Athabasca County.

19. The development area shall be kept in a clean, tidy and orderly fashion, free from rubbish and non-aggregate debris to the satisfaction of the Development Authority.

20. The owner/developer shall adhere to the Conservation and Reclamation Plan (Section 5 of the Dave and Crown Bog, Water Act Application Report), provided to Athabasca County.

21. The developer shall be responsible for the removal of all garbage, waste, recyclables, and dangerous goods from the lands while following all federal, provincial and municipal regulation and bearing any costs to do so.

22. Any problems with drainage, identified by Athabasca County, and deemed to be a result of this permit, shall be the responsibility of the developer to rectify to the satisfaction of and at no cost to Athabasca County, in perpetuity.

23. The developer shall obtain a fire/burn permit through Athabasca County Emergency Services for ALL burning activities and shall ensure that there is adequate fire equipment and water supply available onsite in order to control and/or extinguish. In the event that the permitted fire becomes out-of-control, the developer must call 911 as soon as possible to report said out-of-control fire; advising 911 of rural address and type of incident.

24. The owner/developer shall adhere to the Dave and Crown Bog Development and Operations Plan (Water Act Application Report) and additional information, provided to Athabasca County, to the satisfaction of the development authority. This development permit shall be subject to revocation if, in the opinion of the Development Authority, the owner/developer is not adhering to their Dave and Crown Bog Peat Development and Operations Plan, as provided.

25. The owner/developer shall adhere to Historical Resources Act approval (HRA Number: 4515-24-0005-001), provided to Athabasca County.

26. The owner/developer shall adhere to Water Act Approval DAUT0017813 provided to Athabasca County.

[13] The County's Infrastructure Services Department authorized the harvest on the road allowance between the parcels.

[14] The Appellant appealed condition 17, which stated "The development shall include a 28.0 m (92.0 ft) "no disturbance area" on all perimeter boundaries." They requested this condition be removed or amended to require operation within the existing active disturbance footprint, with the exception of disturbance to small areas of naturally regenerating vegetation immediately outside of the active disturbance footprint, but still within the Project Area, for the purpose of reclamation.

ISSUE

[15] In all cases, the legislation requires the LPRT to address whether a proposal complies with the *Act*, the *Regulation*, the LUB, any statutory plans, and the Land Use Policies. In this case, the parties focused on the following specific issue:

1. Is the 28 m setback to development as identified in Condition 17 required?

SUMMARY OF THE DA'S POSITION

[16] The use applied for complies with the Municipal Development Plan (MDP) and the Land Use Bylaw (LUB). The DA noted the previous peat harvesting operation did not have a DP and that this type of development does require a permit.

[17] The LUB contains the setback requirement, which is intended to buffer and protect neighbouring properties and the road allowance. This setback requirement has been applied to Natural Resource Extraction developments since its inclusion in the LUB. The DA advised the setback applies to new disturbances resulting from the harvesting operation; however, reclamation activities and existing disturbances in the affected area are allowed. Further, the setback distance is measured from the property lines of the parcels where peat harvesting is to be undertaken.

SUMMARY OF APPLELLANT'S POSITION

[18] The Appellant's submission showed that peat harvesting was initiated in 1998 and carried on through 2022. The original *Water Act* Approval of 2000 expired in 2015. The Appellant engaged consultants in 2023 to prepare reports to obtain approvals and permits to bring the operation into regulatory compliance.

[19] The Appellant initially objected that the required setback would unreasonably restrict their operations; however, upon the DA's clarification of the allowable activities in the setback area and the boundary from which the setback would be measured, the Appellant confirmed their willingness to accommodate the 28 m buffer with no additional disturbance, subject to the revised conditions provided by the DA.

FINDINGS

1. The requirement for a setback to developments of this nature is reasonable, and, upon clarification of its implementation, was found to be acceptable to all parties.

DECISION

[20] The conditional approval of the DA is confirmed, with conditions 17, 20, and 24 varied, and conditions 27 and 28 added, as follows:

1. The owner/developer is responsible for ensuring all work related to this development is located within the legal boundaries of this property and ensuring that the drainage, grading and landscaping work related to this development does not negatively affect this property or adjacent properties. Any proposed alterations to the drainage shall be approved by the County.

2. The location of the development is approved as shown on the attached approved site plan.

3. If the development authorized by this permit is not commenced within twelve (12) months from the date of the issue of this development permit, and carried out with reasonable diligence, the permit is deemed to be void, unless an extension to this period is granted by the Development Authority.

4. An accessory building shall not be used to provide living quarters or to be used as an auxiliary guest-house.

5. The owner/developer shall be responsible for the construction or improvement of any accesses, approaches or roadways required to service the development and such work shall be in accordance with the standards and specifications of Athabasca County.

6. The owner/developer shall be responsible for dust control, as per Policy 3405, along the route if the County deems dust control is necessary during the operation of the development.

7. This development permit shall be subject to revocation if, in the opinion of the Development Authority, the development becomes disruptive in any manner to the area in which it is located.

8. The owner/developer shall provide all loading and parking on site. Loading and parking shall meet or exceed the requirements of Land Use Bylaw.

9. There shall be no exterior signage, display or advertisement other than a business identification sign which shall not exceed 1 sq. m (10.8 sq. ft.) in size or be illuminated, without a development permit.

10. No offensive noise, vibration, smoke, dust, odour, heat, glare, electrical or radio disturbance detectable beyond the boundary of the lot on which the development use is located shall be produced by the development/use.

11. The owner/developer must obtain any and all necessary permits and approvals from any and all other regulatory bodies which may have jurisdiction over this proposal. The applicant shall provide copies of any and all approvals to the Athabasca County Planning Department.

12. The owner/developer shall adhere to Designated Haul Route - OHR 2024-08 and update/renew as required by Athabasca County Infrastructure Services Department.

13. The owner/developer shall adhere to, and update/renew as required, the agreement between Aurora Peat Products and Athabasca County Infrastructure Services Department, allowing for overlapping peat harvest operations within undeveloped road allowance Rge Rd 173 - SE 16 & NE 9-65-17 W4 (east boundary) undeveloped road allowance Twp Rd 662 - between NE 9 & SE 16-65-17 W4M.

14. The hours of operation for this development shall be limited to Sunday thru Saturday from 8:00 a.m. to 7:00 p.m., May to October.

15. The hours of operation for hauling for this development shall be limited to Monday thru Friday from 8:00 a.m. to 5:00 p.m.

16. The development shall be securely gated and locked when not in use.

17. The development shall include a 28.0 m (92.0 ft) “no disturbance area” on all perimeter boundaries excluding undeveloped road allowance Twp Rd 662, the 28.0 m on the southern boundary of SE 16-60-65-17 W4M and the 28.0 m on the northern boundary of NE 9-65-17 W4M, except for reclamation purposes.

18. The owner/developer shall institute and maintain weed control measures as outlined in the Weed Management outlined in section 4.2.7.1 of the Peat and Development Operations Plan within the Dave and Crown Bog Water Act Application Report, provided to Athabasca County.

19. The development area shall be kept in a clean, tidy and orderly fashion, free from rubbish and non-aggregate debris to the satisfaction of the Development Authority.

20. The owner/developer shall adhere to the Conservation and Reclamation Plan (Section 5 of the Dave and Crown Bog Water Act Application Report) provided to Athabasca County, as amended.

21. The developer shall be responsible for the removal of all garbage, waste, recyclables, and dangerous goods from the lands while following all federal, provincial and municipal regulation and bearing any costs to do so.

22. Any problems with drainage, identified by Athabasca County, and deemed to be a result of this permit, shall be the responsibility of the developer to rectify to the satisfaction of and at no cost to Athabasca County, in perpetuity.

23. The developer shall obtain a fire/burn permit through Athabasca County Emergency Services for ALL burning activities and shall ensure that there is adequate fire equipment and water supply available onsite in order to control and/or extinguish. In the event that the permitted fire becomes out-of-control, the developer must call 911 as soon as possible to report said out-of-control fire; advising 911 of rural address and type of incident.

24. The owner/developer shall adhere to the Dave and Crown Bog Development and Operations Plan (Water Act Application Report) and additional information provided to Athabasca County as amended to the satisfaction of the Development Authority. The Development

permit shall be subject to revocation if in the opinion of the development authority, the owner/developer is not adhering to their Dave and Crown Bog Development and Operations Plan and additional information as amended.

25. The owner/developer shall adhere to Historical Resources Act approval (HRA Number: 4515-24-0005-001), provided to Athabasca County.

26. The owner/developer shall adhere to Water Act Approval DAUT0017813 provided to Athabasca County.

27. The owner/developer shall adhere to the Water Management Plan (Dave and Crown Bog Development and Operations Plan Water Act Application Report) and additional information provided to Athabasca County, as amended.

28. The owner/developer shall amend the agreement between Aurora Peat Products and Athabasca County Infrastructure Services Department to exclude any new disturbance within the undeveloped road allowance Rge Rd 173 east of SE 16 & NE 9-65-17-W4M, except for reclamation purposes.

REASONS

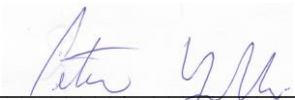
[21] There is no dispute that the application complies with the uses in the LUB and is suitable for the proposed location. The only question raised before the LPRT was the suitability of the DA's setback requirement condition. Upon clarification of the conditions, the Appellant found they could accommodate them in their development without adverse impacts. The revised wording clarifies the intent of the conditions to the satisfaction of both parties.

Other Approvals

[22] The landowner/developer is responsible for all other applicable permits or approvals required by other enactments (for example, *Water Act*, *Nuisance and General Sanitation Regulation*, building permit, etc.) from the appropriate authority. The LPRT is neither granting nor implying any approvals other than that of the development permit. Any other approvals are beyond the LPRT's scope of a development appeal. Satisfaction of such requirements are the responsibility of the landowner/developer.

Dated at the City of Edmonton in the Province of Alberta this 14th day of January 2025.

LAND AND PROPERTY RIGHTS TRIBUNAL



P. Yackulic, Member

APPENDIX A

PARTIES WHO ATTENDED, MADE SUBMISSIONS OR GAVE EVIDENCE AT THE HEARING

NAME	CAPACITY
B. Gilroyed	Appellant's Representative
A. Murata	Appellant's Representative
C. Williams	Appellant's Representative
T. LeMessurier	Athabasca County DA Representative
C. Wilkinson	Athabasca County DA Representative

APPENDIX B

DOCUMENTS RECEIVED PRIOR TO THE HEARING

NO.	ITEM
1A	Notice of Appeal (40 pp)
2R	Athabasca County Submission (7 pp)
3R	SIR #1 Responses (76 pp)
4R	SIR#2 Responses (20 pp)
5R	SIR#4 Responses (5 pp)
6R	Water Act Application Report (345 pp)
7R	Adjacent Landowners with Map (2 pp)
8R	Referral Agency Contact List (1 pp)
9A	#1 D24_054 Approved Development Permit Redacted (33 pp)
10A	#2 Dave and Crown Bog Development Authority Appeal Submission Redacted (38 pp)
11A	#3 Dave and Crown Bog Water Act Application Report and SIR Responses Redacted (447 pp)
12A	#4 Water Act Approval DAUT0017813 (8 pp)
13A	Aurora Peat and Paragon Soil Presentation (7 pp)
14R	Municipal Development Plan (66 pp)
15R	Land Use Bylaw (164 pp)

APPENDIX C

DOCUMENTS RECEIVED AT THE HEARING

NO.	ITEM
16R	Revised Wording Condition 28

APPENDIX D

LEGISLATION
The *Act* and associated regulations contain criteria that apply to appeals of planning decisions. While the following list may not be exhaustive, some key provisions are reproduced below.

Municipal Government Act

Purpose of this Part

Section 617 is the main guideline from which all other provincial and municipal planning documents are derived. Therefore, in reviewing development appeals, every proposal must comply with the philosophy expressed in 617.

> 617 The purpose of this Part and the regulations and bylaws under this Part is to provide means whereby plans and related matters may be prepared and adopted
> (a) to achieve the orderly, economical and beneficial development, use of land and patterns of human settlement, and
> (b) to maintain and improve the quality of the physical environment within which patterns of human settlement are situated in Alberta,
> without infringing on the rights of individuals for any public interest except to the extent that is necessary for the overall greater public interest.

Permitted and discretionary uses

> 642(1) When a person applies for a development permit in respect of a development provided for by a land use bylaw pursuant to section 640(2)(b)(i), the development authority must, if the application otherwise conforms to the land use bylaw and is complete in accordance with section 683.1, issue a development permit with or without conditions as provided for in the land use bylaw.
> (2) When a person applies for a development permit in respect of a development that may, in the discretion of a development authority, be permitted pursuant to section 640(2)(b)(ii), the development authority may, if the application is complete in accordance with section 683.1, issue a development permit with or without conditions as provided for in the land use bylaw.
> (3) A decision of a development authority on an application for a development permit must be in writing, and a copy of the decision, together with a written notice specifying the date on which the written decision was given and containing any other information required by the regulations, must be given or sent to the applicant on the same day the written decision is given.
> (4) If a development authority refuses an application for a development permit, the development authority must issue to the applicant a notice, in the form and manner provided for in the land use bylaw, that the application has been refused and provide the reasons for the refusal.

...

Section 683 deals with the responsibilities of a municipality regarding issuance of a development permit.

Permit

683 Except as otherwise provided in a land use bylaw, a person may not commence any development unless the person has been issued a development permit in respect of it pursuant to the land use bylaw.

Development applications

683.1(1) A development authority must, within 20 days after the receipt of an application for a development permit, determine whether the application is complete.
(2) An application is complete if, in the opinion of the development authority, the application contains the documents and other information necessary to review the application.
(3) The time period referred to in subsection (1) may be extended by an agreement in writing between the applicant and the development authority or, if applicable, in accordance with a land use bylaw made pursuant to section 640.1(a).
(4) If the development authority does not make a determination referred to in subsection (1) within the time required under subsection (1) or (3), the application is deemed to be complete.
(5) If a development authority determines that the application is complete, the development authority must issue to the applicant an acknowledgment in the form and manner provided for in the land use bylaw that the application is complete.
(6) If the development authority determines that the application is incomplete, the development authority must issue to the applicant a notice in the form and manner provided for in the land use bylaw that the application is incomplete and that any outstanding documents and information referred to in the notice must be submitted by a date set out in the notice or a later date agreed on between the applicant and the development authority in order for the application to be considered complete.
(7) If the development authority determines that the information and documents submitted under subsection (6) are complete, the development authority must issue to the applicant an acknowledgment in the form and manner provided for in the land use bylaw that the application is complete.
(8) If the applicant fails to submit all the outstanding information and documents on or before the date referred to in subsection (6), the application is deemed to be refused.
(9) If an application is deemed to be refused under subsection (8), the development authority must issue to the applicant a notice in the form and manner provided for in the land use bylaw that the application has been refused and the reason for the refusal.
(10) Despite that the development authority has issued an acknowledgment under subsection (5) or (7), in the course of reviewing the application, the development authority may request additional information or documentation from the applicant that the development authority considers necessary to review the application.

Grounds for appeal

Section 685 addresses grounds for appeal by an Applicant of a decision by the Development Authority

685(1) If a development authority
(a) fails or refuses to issue a development permit to a person,
(b) issues a development permit subject to conditions, or
(c) issues an order under section 645,
the person applying for the permit or affected by the order under section 645 may appeal the decision in accordance with subsection (2.1).
(1.1) A decision of a development authority must state whether an appeal lies to a

subdivision and development appeal board or to the Land and Property Rights Tribunal.
(2) In addition to an applicant under subsection (1), any person affected by an order, decision or development permit made or issued by a development authority may appeal the decision in accordance with subsection (2.1).
(2.1) An appeal referred to in subsection (1) or (2) may be made
(a) to the Land and Property Rights Tribunal
(i) unless otherwise provided in the regulations under section 694(1)(h.2)(i), where the land that is the subject of the application
(A) is within the Green Area as classified by the Minister responsible for the Public Lands Act,
(B) contains, is adjacent to or is within the prescribed distance of a highway, a body of water, a sewage treatment or waste management facility or a historical site,
(C) is the subject of a licence, permit, approval or other authorization granted by the Natural Resources Conservation Board, Energy Resources Conservation Board, Alberta Energy Regulator, Alberta Energy and Utilities Board or Alberta Utilities Commission,
or
(D) is the subject of a licence, permit, approval or other authorization granted by the Minister of Environment and Parks,
or
(ii) in any other circumstances described in the regulations under section 694(1)(h.2)(ii),
or
(b) in all other cases, to the subdivision and development appeal board.
(3) Despite subsections (1) and (2), no appeal lies in respect of the issuance of a development permit for a permitted use unless the provisions of the land use bylaw were relaxed, varied or misinterpreted or the application for the development permit was deemed to be refused under section 683.1(8).
(4) Despite subsections (1), (2) and (3), if a decision with respect to a development permit application in respect of a direct control district
(a) is made by a council, there is no appeal to the subdivision and development appeal board, or
(b) is made by a development authority, the appeal is limited to whether the development authority followed the directions of council, and if the subdivision and development appeal board finds that the development authority did not follow the directions it may, in accordance with the directions, substitute its decision for the development authority's decision.

Appeals

Section 686 identifies procedures that a board hearing an appeal must follow

686(1) A development appeal is commenced by filing a notice of the appeal, containing reasons, with the board hearing the appeal
(a) in the case of an appeal made by a person referred to in section 685(1)
(i) with respect to an application for a development permit,
(A) within 21 days after the date on which the written decision is given under section 642, or
(B) if no decision is made with respect to the application within

the 40-day period, or within any extension of that period under section 684, within 21 days after the date the period or extension expires,
or

(ii) with respect to an order under section 645, within 21 days after the date on which the order is made,
or

(b) in the case of an appeal made by a person referred to in section 685(2), within 21 days after the date on which the notice of the issuance of the permit was given in accordance with the land use bylaw.

(1.1) Where a person files a notice of appeal with the wrong board, that board must refer the appeal to the appropriate board and the appropriate board must hear the appeal as if the notice of appeal had been filed with it and it is deemed to have received the notice of appeal from the applicant on the date it receives the notice of appeal from the first board, if

(a) in the case of a person referred to in subsection (1), the person files the notice with the wrong board within 21 days after receipt of the written decision or the deemed refusal, or

(b) in the case of a person referred to in subsection (2), the person files the notice with the wrong board within 21 days after the date on which the notice of the issuance of the permit was given in accordance with the land use bylaw.

(2) The board hearing an appeal referred to in subsection (1) must hold an appeal hearing within 30 days after receipt of a notice of appeal.

(3) The board hearing an appeal referred to in subsection (1) must give at least 5 days' notice in writing of the hearing

(a) to the appellant,

(b) to the development authority whose order, decision or development permit is the subject of the appeal, and

(c) to those owners required to be notified under the land use bylaw and any other person that the subdivision and development appeal board considers to be affected by the appeal and should be notified.

(4) The board hearing an appeal referred to in subsection (1) must make available for public inspection before the commencement of the hearing all relevant documents and materials respecting the appeal, including

(a) the application for the development permit, the decision and the notice of appeal, or

(b) the order under section 645.

(4.1) Subsections (1)(b) and (3)(c) do not apply to an appeal of a deemed refusal under section 683.1(8).

(5) In subsection (3), "owner" means the person shown as the owner of land on the assessment roll prepared under Part 9.

Hearing and Decision

Section 687 identified procedures to be followed at a hearing for a development permit appeal

687(1) At a hearing under section 686, the board hearing the appeal must hear

(a) the appellant or any person acting on behalf of the appellant,

(b) the development authority from whose order, decision or development permit the appeal is made, or a person acting on behalf of the development authority,

(c) any other person who was given notice of the hearing and who wishes to be heard, or a person acting on behalf of that person, and

(d) any other person who claims to be affected by the order, decision or permit and that the subdivision and development appeal board agrees to hear, or a person acting on behalf of that person.

(2) The board hearing the appeal referred to in subsection (1) must give its decision in writing together with reasons for the decision within 15 days after concluding the hearing.

(3) In determining an appeal, the board hearing the appeal referred to in subsection (1)

(a) repealed 2020 c39 s10(52);

(a.1) must comply with any applicable land use policies;

(a.2) subject to section 638, must comply with any applicable statutory plans;

(a.3) subject to clauses (a.4) and (d), must comply with any land use bylaw in effect;

(a.4) must comply with the applicable requirements of the regulations under the Gaming, Liquor and Cannabis Act respecting the location of premises described in a cannabis licence and distances between those premises and other premises;

(b) must have regard to but is not bound by the subdivision and development regulations;

(c) may confirm, revoke or vary the order, decision or development permit or any condition attached to any of them or make or substitute an order, decision or permit of its own;

(d) may make an order or decision or issue or confirm the issue of a development permit even though the proposed development does not comply with the land use bylaw if, in
its opinion,

(i) the proposed development would not

(A) unduly interfere with the amenities of the neighbourhood, or

(B) materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land,
and

(ii) the proposed development conforms with the use prescribed for that land or building in the land use bylaw.

(4) In the case of an appeal of the deemed refusal of an application under section 683.1(8), the board must determine whether the documents and information that the applicant provided met the requirements of section 683.1(2).

MUNICIPAL BYLAWS AND STATUTORY PLANS

Athabasca County Municipal Development Plan
Section 10 Natural Resource Extraction
Athabasca County Land Use Bylaw
Section 3.4.9 Natural Resource Extraction Application Requirements
Section 9.6 Developer's Responsibility
Section 9.23 Site Grading and Drainage
Section 9.24 Site Conditions
Section 10.25 Natural Resource Extraction and Processing
Section 11.3 Agriculture (A) District