

The Planning and Development Act, 2007 and The Integrated Subdivision Approval Program

Saskatchewan Land Surveyors Association

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Ministry of Government Relations
Community Planning Branch

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Introduction and Outline

- Citizen expectations and Developer Interests
- *The Planning and Development Act, 2007*
 - *The Statements of Provincial Interest Regulations*
 - *The Subdivision Regulations*
 - *The Dedicated Lands Regulations*
- Integrated Subdivision Approval Program
- Subdivision Online Application (SOLA)

What we do:

- Subdivision is first step in the land assembly process for economic development opportunities in Saskatchewan.
- Approving authority for subdivisions (exception of 10 cities) and new planning bylaws.
- Reviews 1000 to 1,200 subdivision applications annually from landowners, developers, municipalities and surveyors to ensure compliance with federal, provincial and municipal requirements.
- Coordinates subdivision process with 23 ministries and agencies involving more than 100 individuals plus the municipalities.
- Subdivision process ensures suitable sites and appropriate servicing for residential, commercial and industrial development. Result = safe, healthy and vibrant communities.

Citizen Expectations

Proper services –

- proper roads without potholes.
- sewer lines that don't back up into basements.
- water that is safe to drink.
- recreation facilities in good repair
- fire service with equipment to rescue someone and potentially save your valuables.
- police protection that can respond to assist in times of need.

Citizen Expectations

Purchasing a home is a citizen's biggest investment in their lives.

Citizens expect a safe home to raise a family that includes:

- safe building construction that received proper permits for construction, electrical, and plumbing.
- Safe location to build and live that is not affected by **slumping, flooding, ice action** or **erosion**.

Municipal development decisions address and protect the needs of citizens through building permit, development permit and subdivision approval processes.



Developer Interests

- Home Builders' Associations, Association of Saskatchewan Realtors, Saskatchewan Chamber of Commerce express concerns about:
 - Too many regulations
 - Rising cost of servicing fees
 - Desire for government to streamline processes which create unnecessary delays
 - Lack of municipal capacity & fragmented municipal system
- SLSA members would appreciate process improvements including:
 - online submission, payments and access to file information
 - clarification of process requirements and expeditious reviews

The Planning and Development Act, 2007 (PDA)

- System for planning and development
 - Provincial, municipal and landowner interests
 - Economical, environmental, social and cultural
 - Inter-jurisdictional cooperation
 - Public participation
 - Equitable dispute resolution and appeal processes
- Framework for development and subdivision of land
 - Suitability for the purpose intended
 - Conformity with district plan, official community plan and zoning bylaw
 - Servicing agreement with municipality
 - Legal and physical access
 - Compliance with regulations

The Statements of Provincial Interest Regulations, 2012

- Links provincial objectives to municipal land use planning, affecting community development, economic growth and environmental stewardship.
- Requires municipalities to comply both in planning documents and development decisions.
- Provides direction on what kind of policies must be addressed in Official Community Plans and Zoning Bylaws.

The Statements of Provincial Interest Regulations, 2012

- Agriculture and Value-Added Agribusiness
- Biodiversity and Natural Ecosystems
- First Nations and Métis Engagement
- Heritage and Culture
- Inter-municipal Cooperation
- Mineral Resource Exploration and Development
- Public Safety
- Public Works
- Recreation and Tourism
- Residential Development
- Sand and Gravel
- Shore Land and Water Bodies
- Source Water Protection
- Transportation

Effective January 1, 2021 – additional interests

Climate resilience, economic growth and community health and well-being

SPI - 6.5 Public Safety

The province has an interest in ensuring the safety and security of individuals, communities and property from natural and human-induced threats.

“To assist in meeting the province’s public safety interests, planning documents and decisions shall, **insofar as is practical**:

1. Identify potential hazard lands and address their management;
2. Limit development on hazard lands to minimize the risk to public or private infrastructure;
3. **Prohibit the development of new buildings and additions to buildings in the floodway of the 1:500 year flood elevation of any watercourse or water body;**
4. **Require flood-proofing of new buildings and additions to buildings to an elevation 0.5 metres above the 1:500 year flood elevation of any watercourse or water in the flood fringe; ...”**

The Statements of Provincial Interest Regulations

Flood plain

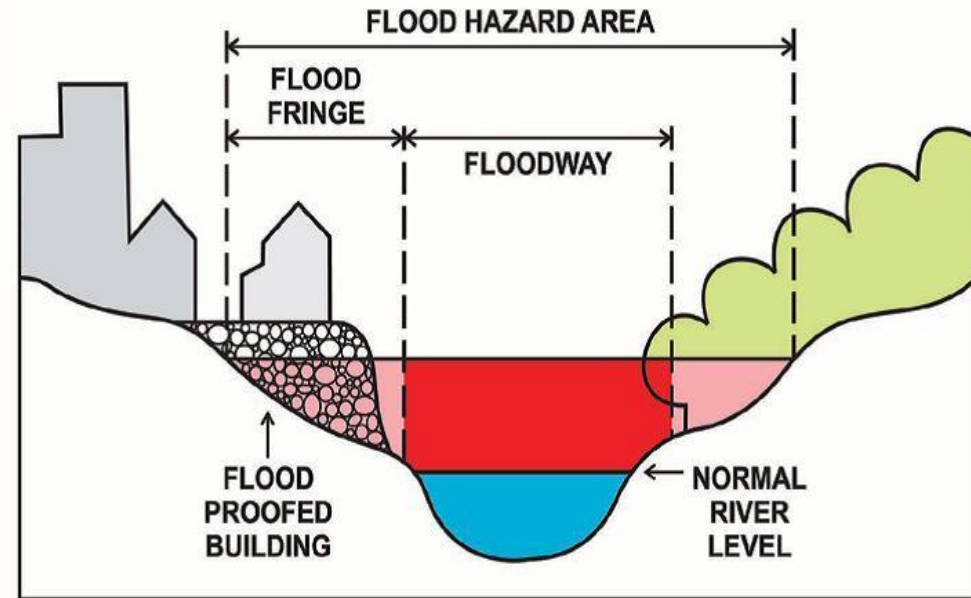
- “the area inundated by water from a watercourse or water body during a 1:500 year flood and is made up of the floodway and the flood fringe.”

Floodway

- “the portion of the flood plain adjoining the channel where the waters in the 1:500 year flood are projected to:
 - meet or exceed a depth of one metre; or
 - meet or exceed a velocity of one metre per second.”

Flood fringe

- “the portion of the flood plain inundated by the 1:500 year flood that is not floodway.”



Risk of Flooding – 1:500

- The 1:500 estimated flood elevation expresses the probability or risk of that elevation being met or exceeded by flooding.
- The 1:500 flood elevation **does not** mean that flooding will occur once every 500 years.
- The probability is a "1/500" probability of flooding each year or about a 10 per cent chance in 50 years.
- The lifespan of a house at 100 years has a probability of 18.14 per cent chance of being flooded at that location.

Flood Risk Probability Estimates

- 1:10 is equivalent to:
 - a 500 % chance of flooding in 50 years; 250% chance in 25 years and 10% chance every year.
- 1:25 is equivalent to:
 - a 200% chance of flooding in 50 years; 100% chance in 25 years and 4% chance every year.
- 1:100 is equivalent to:
 - a 50% chance of flooding in 50 years; 25% chance in 25 years and 1% chance every year.
- 1:500 is equivalent to:
 - a 10% chance of flooding in 50 years; 5 % chance in 25 years and .2% chance every year.

Flood Polices - Other Provinces

- BC – applies 1:200 plus minimum 2 feet of freeboard safety
- Alberta – 1:100 – extensive flooding in Calgary 2013
- Manitoba – 1:700 for the Winnipeg diversion
- Ontario – ranges from 1:200 to Hurricane Hazel



Flood Prone Areas

Why is Managing Development in Flood Prone Areas Important?



Photo credit <http://sain.scaa.sk.ca/>



Image Credit: <http://ideas2market.wordpress.com>

Disaster Assistance Costs

- 2010 to 2014 - Provincial Disaster Assistance Program received 20,622 claims
- Payments have been made for these same five years for approximately \$260 million dollars.
- For the years 2005 through 2009, payments under PDAP totaled \$81 million.
- Payments do not include the personal losses not covered by the program.



2014 Flooding in Melville



Bird's Point 2011



Waldsea Lake Area 2007



Maple Creek



Roche Percee - 1:500 event occurred in 1976 and 2011



Lebret 2011



Beaver Park - 2011



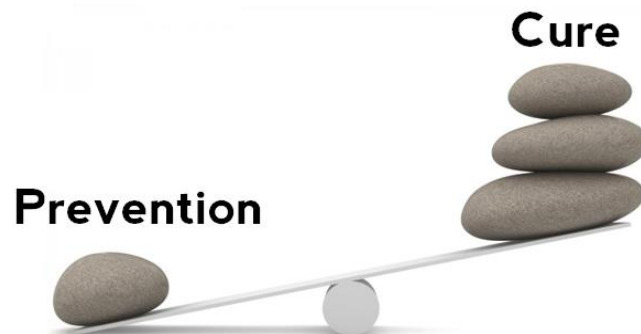
Preventative vs Remedial

Preventative

- * Restrict types of development
- * Land Use Planning
- * Engineering
- * Flood proofing

Remedial

- * Response
- * Clean up
- * Displacement
- * PDAP
- * Overland Flood Insurance



Integrated Subdivision Approval Program (ISAP)

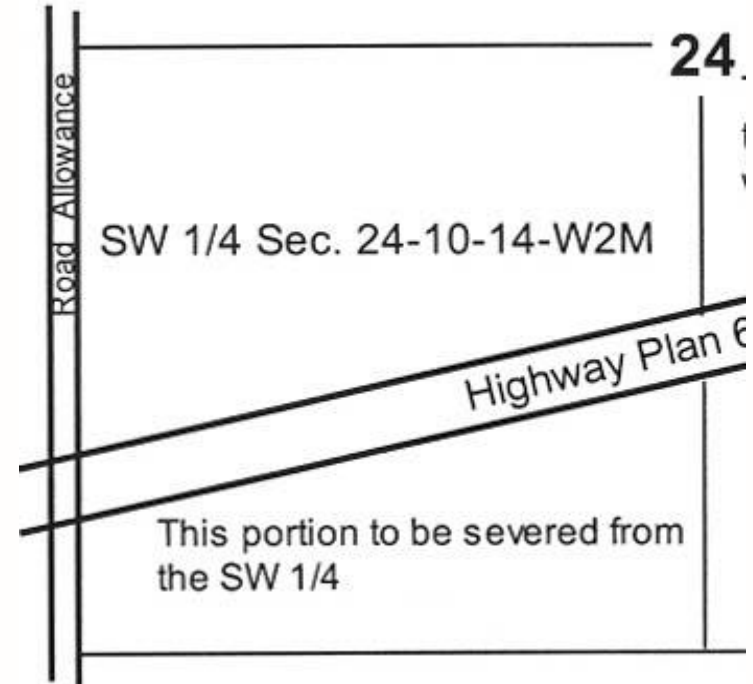
- From April 1, 2007 to March 31, 2020, approved 15,156 applications for 43,856 sites
- Protection of development from hazards
 - Ensures approximately \$100M of development annually is safeguarded from flooding and slope instability
 - Reduces future disaster assistance costs
- Reduction of municipality's infrastructure deficits
- Planning decisions that meet provincial interests
 - Access to natural resources is ensured
 - Protection of public highway corridors
 - Land for public parks, recreation and future school sites is dedicated

Subdivision

- 120(f) “**subdividing instrument**” means an interest that is less than title based on an agreement for sale, easement, lease or mortgage, or any other document or group of documents that:
 - (i) affects or encumbers only part of a parcel;
 - (ii) creates or declares any right, interest or estate in only part of a parcel; or
 - (iii) otherwise has the effect of subdividing land;

Tie code removal is a subdivision

- Pre 2000 title conversion:
 - titles written in the negative
- After title conversion:
 - written in the positive
- Subsection 120(2)
 - A subdivision includes the removal of a parcel tie, legal subdivisions and parcels linked that were held under one title before *The Land Titles Act, 2000*



Subdivision Approval Required

- **121(1)** Subject to section 122, every subdivision or subdividing instrument is to be:
 - (a) made in accordance with this Act and any regulations or bylaws made pursuant to this Act;
and
 - (b) submitted for approval to the appropriate approving authority.

Leases for Part Only of a Parcel

Leases less than 10 years including any renewals (so as not to exceed 10 years) are exempt from subdivision approval.

“122(1) Section 121 does not apply to 122 (1) d) a lease or instrument based on a lease if:

- (i) the term of the lease together with any renewal terms does not exceed 10 years;
- (ii) the lease was entered into before the coming into force of *The Planning and Development Act, 1983*;
- (iii) a renewal or assignment of a lease ... mentioned in subclause (ii)
- (iv) subject to section 123, the lease is for the purposes of surface rights for a well site to be used exclusively in connection with the drilling for, or the producing, recovering ... petroleum, natural gas ...

Applying for Subdivision Approval

Preliminary Consultation

Encourage landowners to contact the municipality for policy plan, zoning and servicing requirements before starting an application.

An application must include:

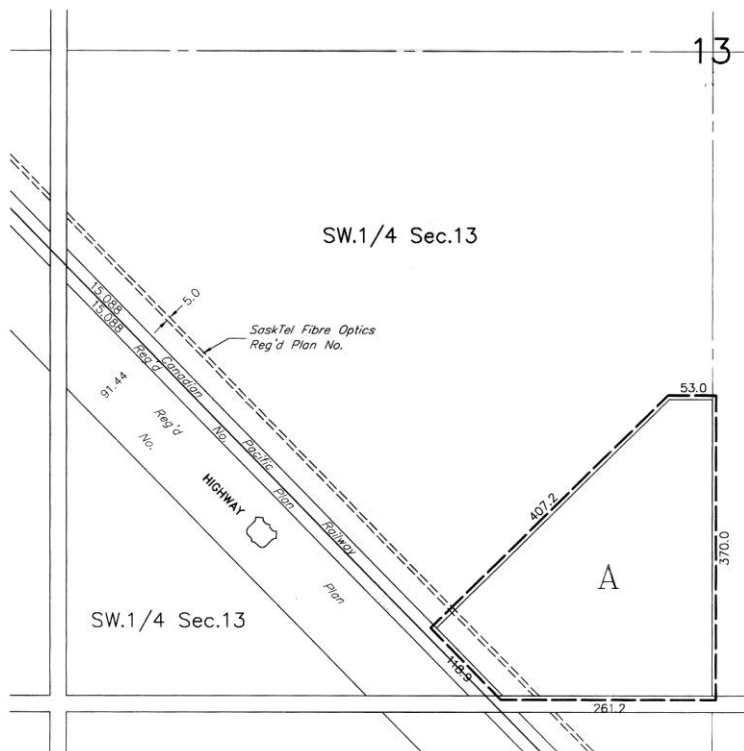
1. A plan of proposed subdivision must be prepared and signed by a Saskatchewan Land Surveyor or Professional Community Planner.
2. A completed Application to Subdivide Land Form A signed by the landowner registered on the title to the land being subdivided or a person authorized to act for the landowner.
3. Fees are \$300 for each proposed lot/application plus \$150 for the Certificate of Approval fee (GST exempt).

Note: public works is only charged the approval fee.

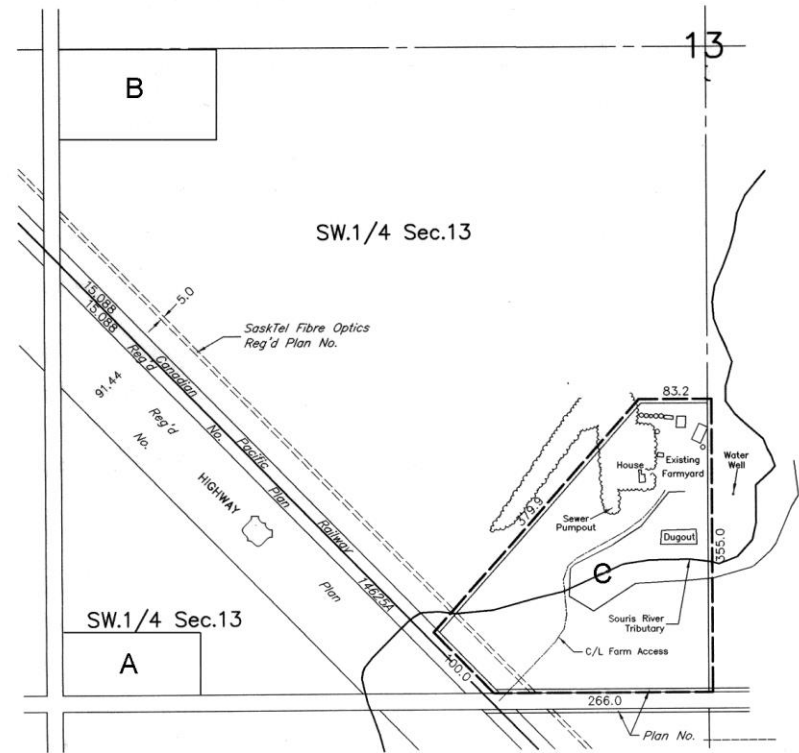
Application

- Plan of proposed subdivision should contain:
 - adjacent subdivision or property lines with all dimensions;
 - lot, block and parcel designations;
 - buildings, structures, utility lines, and any other development on or affecting the land being subdivided;
 - streets, lanes, roads, and highway approaches; and
 - natural features (i.e. water, hills, slopes, trees) including, in some cases, detailed engineering information (e.g. contours, flood elevations).

Application Review Process

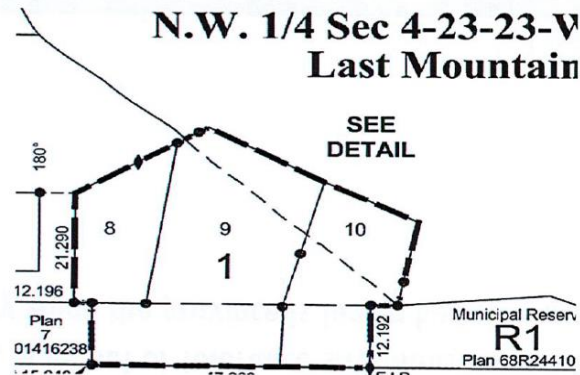
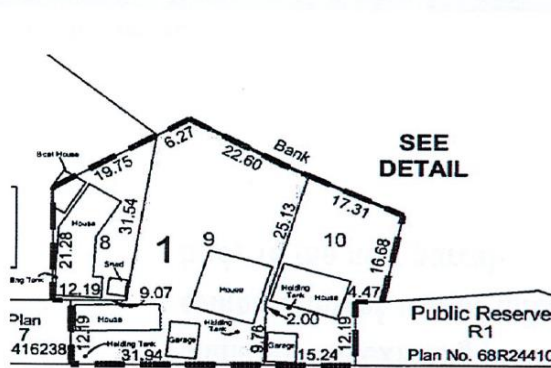


Before



After

Plan of Proposed needs to show previously surveyed and new bank



saskatchewan.ca



Bank

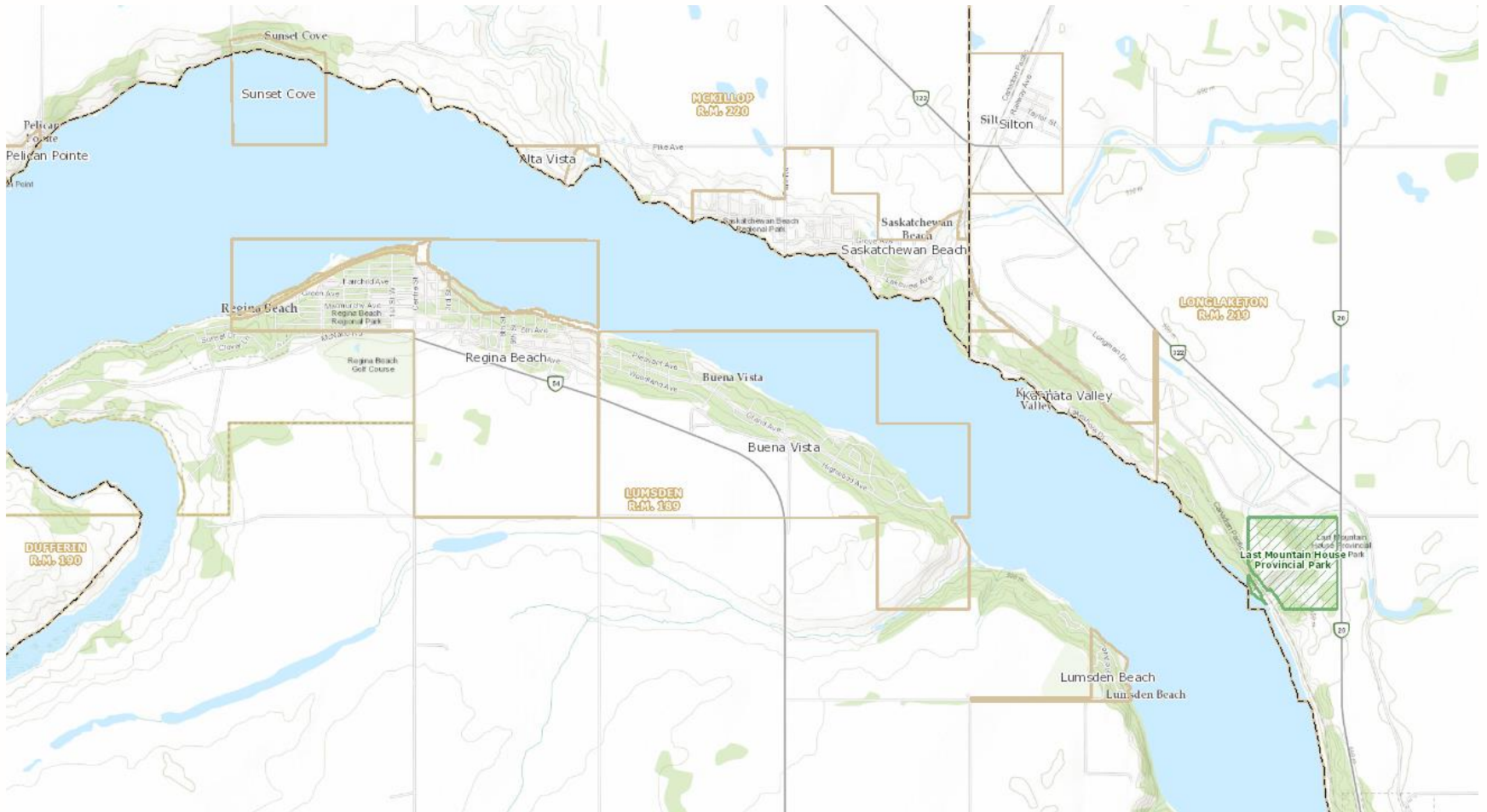
Lakeside Development

Municipal development permit required for any lot development

Alteration permits required on or within 5 metres of lake bed from Ministry of Environment and Department of Fisheries and Oceans



Bank and Municipal Jurisdiction

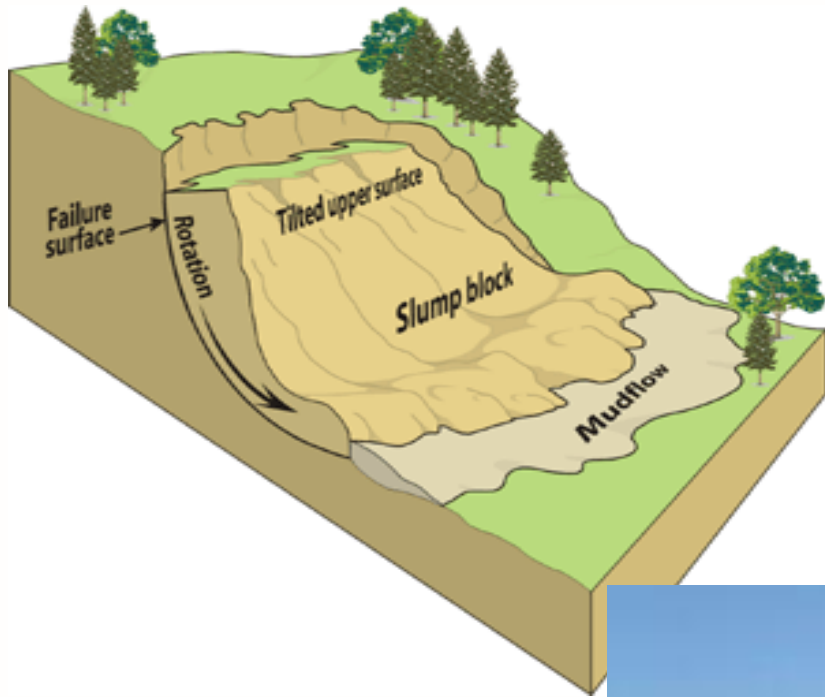


Criteria for Approval – 128(1)

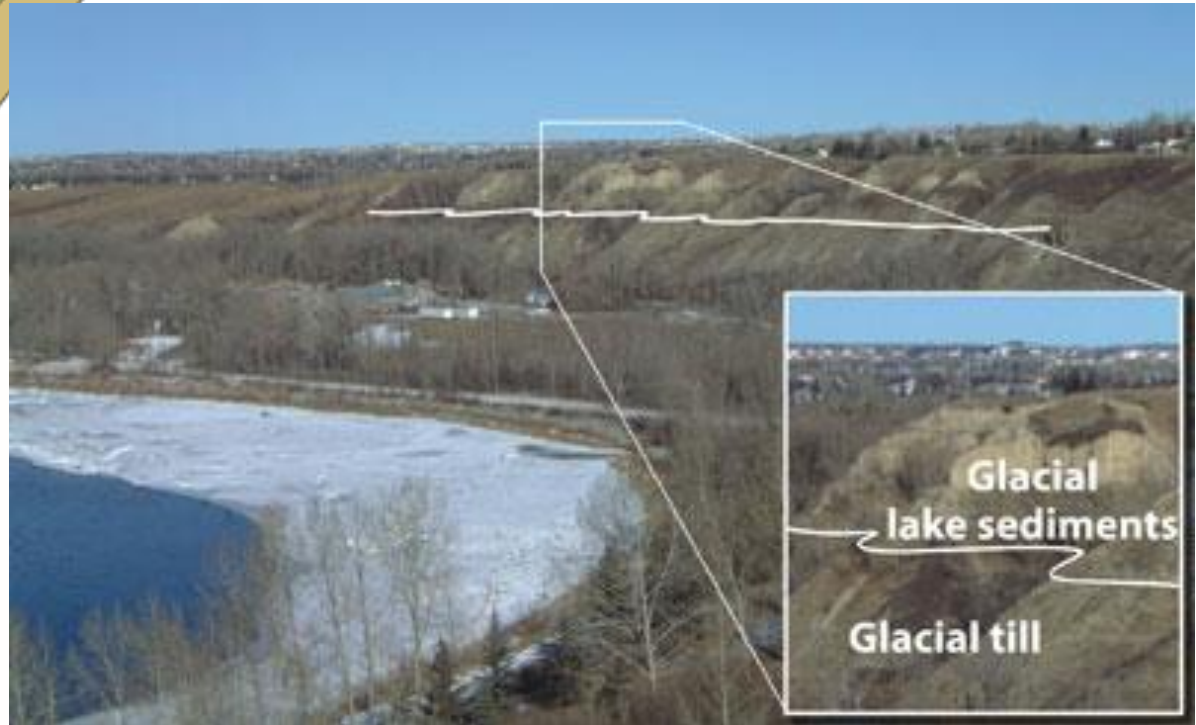
- **Land is suitable** for the intended use – section 14 of *The Subdivision Regulations* clarifies suitability
- **Complies with** district and/or **municipal bylaws**
- **Servicing agreement** has been executed if required by the municipality
- **Legal and physical primary access** – meaning the lot abuts a street

Determining Suitability – 128(1)(a)

- See Sec. 14 of *The Subdivision Regulations*
 - Topography;
 - Parcel design;
 - Water and sewer;
 - Compatibility with surrounding land uses;
 - Highway requirements;
 - Flood protection and slope stability;
 - Provision of public land (i.e. roadways, parks); etc.

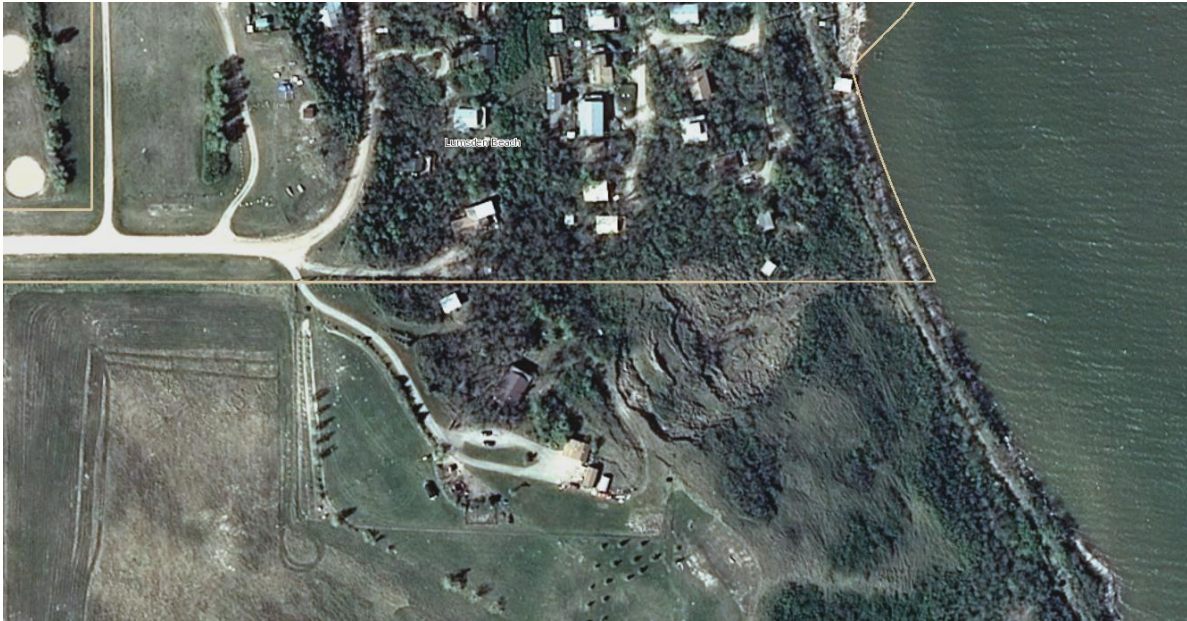


- Geotechnical Report
 - to ensure that proposed development does not adversely affect slope stability



This doesn't happen in Saskatchewan, does it?





Lumsden Beach Area



Grandview Beach – high water and continuous erosion in 2014



Grandview Beach



Image Credit: Government of Saskatchewan

Conformity with Municipal Bylaws

- Municipal council “...*recommend* approval or refusal of a subdivision application to the approving authority.” [subsection 12(5) Subdivision Regulations].
- Approving authority relies on the municipality’s bylaw interpretations/feedback to determine the conformity of a proposed plan of subdivision but has a fiduciary duty to ensure the interpretation is correct.

Conformity with Municipal Bylaws -128(1)(b)

- 128(1)(b) prohibits an approving authority from approving a proposed subdivision plan unless it is in conformity with any applicable district plan, official community plan or zoning bylaw.
- The approving authority is responsible to make the final “conformity call”.

Servicing Agreements

128(c) and 172

- A servicing agreement allows a municipality to ensure it will not be solely responsible for the cost of new roads, utilities and other services needed for a new subdivision, and that its standards for the new services will be maintained.
- The Act provides that an agreement may have performance guarantees, construction specifications, and construction time limits. An agreement may cover on-site and off-site services.

Servicing Agreements - 172

- 172(1) for services and facilities,
- 172(3)(a) to (g) is an exhaustive list
- Can include timing of fee payments, phasing of development, and arbitration
- 172(5) - 90 day timeframe
- Matters excluded from a servicing agreement include: tax exemptions, sales agreements and other matters which are not services and facilities

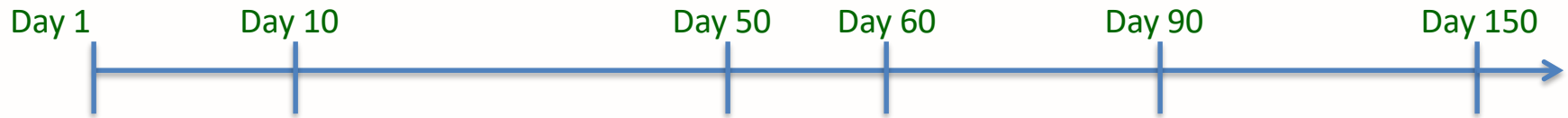
Legal Access – 128(1)(d)

- Access is a key variable in the subdivision depending on the type of land use
- No approving authority is to approve a plan of subdivision unless “...every lot or parcel of land has *legal and physical primary access* as required by the approving authority in accordance with the subdivision regulations....”

Legal Access

- Subsection 16(10) of *The Subdivision Regulations* stipulates that “...every parcel in a proposed subdivision is required to be accessible from a street.”
- Easement arrangement does not constitute “street access”
- The approving authority would have to invoke the authority to waive the street access requirements provided for by section 133 (impractical/unnecessary)
- An easement can form part of the access equation

Timing of the Subdivision Review Process



A. Initial Review Referrals (40 days) Decision

B. Initial Review Referrals Addressing third party requirements Decision

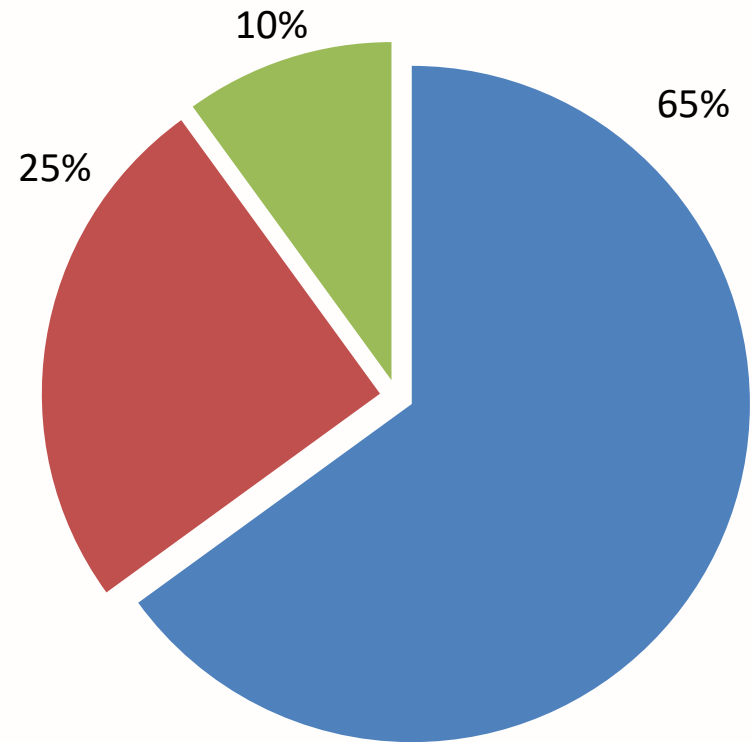
Municipal - bylaw amendment, public process, infrastructure needs study and costs, negotiation of servicing agreement, engineering, legal review, municipal reserve

Developer - address issues identified, geotechnical report, ground water availability, contours, flood protection, municipal requirements

Ministries and Crowns - coordinate provincial requirements for Highways and Infrastructure, Economy, Water Security Agency, Education, Health, utilities

Timing Challenges

- Municipalities require time to adequately address local development requirements (e.g. servicing agreement, zoning amendment, public consultation, road closure, municipal reserve, infrastructure analysis, developer negotiations, solicitor consultation)
- Applicants require time to address developer obligations (submission of fees or additional information such as contour lines, geotechnical report or engineering analysis to address servicing costs)
- Provincial ministries and agencies require time to work out various matters (e.g. utility easements, heritage resource preservation, flood impacts, highway corridors, and other impacts that CPB may need to confirm suitability and servicing)



Considerations to Expedite Reviews

- Completed application forms with as much information as possible contributes to timely subdivision reviews.
- Contour information included on the initial plan of proposed subdivision assists our office and our referral agents timely reviews for site suitability, leading to expeditious decisions.
- Plan revisions, even when not requested by CPB, must be sent to CPB as soon as possible to ensure accurate and timely reviews.
- Planning consultants are available to bounce ideas, seek out solutions and address concerns around regulations, legislation and design.
- Expedient payment of development standards interest or municipal deferral interest fees
- We are a team – complete applications and informed applicants result in a more efficient and effective decision and happier clients for all of us.

Subdivision Online Application Program (SOLA)

- Modernize the Integrated Subdivision Approval Program:
 - providing online services to improve the convenience, transparency, and overall experience for investors (clients), applicants and municipalities.
 - SOLA will improve client and public service availability and accessibility with 24/7/365 online access to submit, pay, update and review applications.
 - Vendor is Tyler Technologies
 - Discussion with some users planned for January 2021
 - Implementation later in 2021.

Questions?

Thanks for working with us to facilitate new development opportunities.

Future workshops to come.

Municipal Leadership Development Program includes an entry course on planning:

<https://www.southeastcollege.org/courses/mldp-community-and-land-use-planning/>



saskatchewan.ca