

Reasons for Refusal of DP2018-5551



The City of Calgary Planning and Development Community Planning Review

Reasons for Refusal for DP2018-5551

The Reasons for Refusal document is intended to provide a short summary of the development permit review and analysis. Attached to this document is supporting information about the application process; concerns raised by neighbours, other affected parties and the Community Association; the requested relaxations of the Land Use Bylaw; and other information in support of the decision.

Proposed Use

This application is for a discretionary use Assisted Living development at 2436 and 2440 22 Street NW, in the northwest community of Banff Trail. The subject site is comprised of two parcels which are currently designated Residential – Contextual One / Two Dwelling (R-C2) District. A land use redesignation – LOC2017-0097 – proposing Multi-Residential – Contextual Low Profile (M-C1) District is required to allow for this development.

Planning Review and Analysis

During the review the Development Authority considered the Land Use Bylaw, comments received during the circulation and review, and the compatibility of the proposed development with respect to the neighbourhood.

Site Configuration

The proposed site design at the rear (east) of the building provides for an inefficient layout. This is demonstrated by the vehicle access and circulation, and the lack of functionality and direct and convenient access from the loading stall area to a building entrance.

Surface parking provided lacks stalls for pick up / drop or short-term stay, making quick passenger access from a building entrance not feasible.

Enmax has indicated that there is a potential conflict with driving access and the existing pole guy wire / anchor in the lane. The applicant has not demonstrated how these concerns from Enmax could be addressed. Therefore, it is uncertain the resulting impact this could have on the site plan.

Interface

While the building adheres to the proposed land use, it does not go far enough in addressing the interface issues between the proposed development and adjacent developments, and the plans do not clearly demonstrate the project's connection to the Banff Trail Area Improvements project.

There is concern with the negative visual impact of the large paved area at the rear (east) of the building. The lack of soft landscaping and plantings contribute to this impact, and are poorly considered in this area. Better consideration of how to soften this impact and respond through enhanced design efforts to the streetscape improvements that will be occurring is required.

Land Use District

Although it is recognized that the development permit application was concurrent with a land use amendment (LOC2017-0097), the proposed land use amendment has not received second and third readings at Council. Therefore, the development as proposed is not appropriate under the existing land use district (R-C2).

Conclusion

In evaluating the application, the Development Authority determined that from a planning perspective the Assisted Living development, as proposed, is inappropriate to the site.



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Decision

For the above noted reasons, this application is refused.

Paul Donker, Development Authority

15th January 2021

Date

Attachments for DP2018-5551

Site and Context

The proposal is located in the community of Banff Trail, south of 24 Avenue NW and east of 22 Street NW. The subject site consists of two separate parcels, and totals approximately 0.15 hectares (0.36 acres) in size with approximately 40 metres and 50 metres of frontage along 24 Avenue NW and 22 Street NW, respectively. A rear lane exists along the east side of the site.

Each parcel is currently developed with a single detached dwelling. Surrounding development is characterized by a mix of single and semi-detached homes. A large portion of the existing residential community in Banff Trail is designated R-C2 District, but several blocks of parcels along strategic corridors allow for rowhouse buildings under the Residential – Grade-Oriented Infill (R-CG) District as a result of a City-initiated redesignation approved by Council in 2017.

This application represents one of six development projects along 24 Avenue NW in Banff Trail proposing to redesignate and redevelop existing low density residential dwellings. The six applications are in different stages of review and approval. Most recently, three land use redesignations to Mixed Use - General (MU-1) District were approved on 2020 February 03 at the Combined Meeting of Council, and a land use redesignation to DC Direct Control District based on the Multi-Residential – High Density Low Rise (M-H1) District was approved on 2020 December 14.

Process

Notice Posting: Notice Posting was completed as required under section 27 of the Land Use Bylaw 1P2007 for 21 consecutive days using the large format sign. As a result of the Notice Posting summarized comments and concerns submitted are as follows:

- building height and shadowing / loss of light for adjacent properties and impacts to local gardens;
- loss of trees;
- increase in traffic and lack of parking in the area;
- lack of true walkability and bike lanes;
- does not align with the Area Redevelopment Plan;
- conflicts with Restrictive Covenant on title; and
- lack of community engagement by applicant.

Circulation:

Circulated to Ward 7 Councillor:

- comments received June 23, 2020:
 - The proposed development appears largely similar as before. Our comments broadly remain the same.



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- Plans do not clearly demonstrate the project's connection to the Banff Trail Area Improvements project. The recently revised O2 and Davignon Martin project shows the enhanced public realm and relationship to the future cycle tracks. This Development should provide the same.
 - comments received December 20, 2018:
 - General
 - An Assisted Living seniors' residence is an appropriate use for this location. It helps to support a diversity of housing options and provides an opportunity for residents to age in the community they may have called home since its original development.
 - After reviewing a number of renderings over the year, we recognise that the design has improved notably.
 - Design
 - The applicant has worked to transition height and massing from higher intensity adjacent to 24 Av, down to a scale that is response to the neighbouring low-density residential development context.
 - Material differentiation is appropriate and masonry elements serve to better ground the structure at its base.
 - Massing is broken up by the provision of a central courtyard, which should also serve as a valuable amenity space for future residents.
 - Landscaping
 - The central courtyard is appropriately designed.
 - The rooftop patio is attractive and should serve as a valuable resident amenity. Overlooking appears to be eliminated through the use of generous setbacks.
 - Tree plantings and green landscaping are generally appropriate. However, we would encourage more canopy-oriented trees within the 24 Av NW setback.
 - The proposed landscaped and treed south setback provides a more sensitive transition to the adjacent development.
 - We support and appreciate the use of green roofs and solar collectors as sustainability features.
 - We support the use of a Molok system as a space-efficient and attractive waste management system.
 - Mobility
 - We support and appreciate the widening of adjacent sidewalks.
 - Class One and Two bicycle parking provisions are appropriate.
 - Given that Class One stalls are accessed by stairs, the applicant must provide wheel trays on the stairs. Consult Transportation Planning for design recommendations.
 - Automobile parking provisions are reasonable.
 - The proposed at-grade automobile parking stalls are peculiarly oriented. It may be more appropriate to position all stalls perpendicular to the laneway.
 - Existing automobile curb cuts must be rehabilitated to City sidewalk standards at the applicant's cost.
 - The provision of a dedicated car2go stall will improve transportation options.
- Circulated to Building Regulations, comments received:
- Comments provided on potential Alberta Building Code items that would be reviewed at the building permit stage.
- Circulated to ENMAX, comments received:
- Driving access has potential conflict with existing pole guy wire/anchor.
 - Proposed transformer location doesn't meet required clearance from parking location.
- Circulated to the Banff Trail Community Association, comments received:
- The policy goals of the Banff Trail ARP for increased density at this location notwithstanding, community feedback has consistently noted:



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- That the proposed provides for a development which is significantly out of context and inconsistent with the surrounding pattern of development.
- Also, that proposed commercial use is not compatible with the existing neighborhood context at this location, or in line with policy stipulations of the ARP or its spirit and intent.
- Moreover, this particular location is not practicably suitable for an Assisted Living Facility (in particular when there are other much more suitable and proximate locations for such a facility).

The Banff Trail Community Association acting as the “eyes of the community” also has concerns regarding the stated intentions of the applicant. On several lots (7 in total including 1812 17 AVE NW) in the adjacent Community of Capitol Hill, the applicant has received Land-use Resignation and Development Permit approvals from council under the auspices that an Assisted Living Facility was the intended build - DP2015-2602 was approved August 7, 2018. As of July 13, 2020, an Assisted Living Facility has not been built at this location. In fact, the land is currently being sold as an “opportunity to build” under the approved MC-1 land designation (MLS® Number: C4281571). The concern of the Banff Trail Community Association is that the applicant is here again looking to petition Council to change another Land-use designation and further grant a Development Permit not in line with stated intentions of the applicant but simply for possible speculative gain. The appearance or practice of treating the communities and the approval process as a bait and switch, does not foster great communities, promotes cynicism, and is corrosive to best practices and collaborative outcomes.

Given the above the Banff Trail Community Association recommends that Council NOT approve DP2018-5551 or the related Land-use re-designation application LOC2017-0097 also currently under review.

Additionally, the Banff Trail Community Association maintains the position and recommendation outlined in the Briefing Memo provided to members of City Council and City Planning Administration dated January 28, 2020 – attached for reference - and which in part reads:

“the Banff Trail Community Association Board does not support any current re-development applications which require amendment of the Banff Trail Area Redevelopment Plan and / or related municipal statutory policy and recommends that council vote to NOT to approve any such applications or recommendations from Administration or the Calgary Planning Commission.”

Calgary Planning Commission: The application went to the Calgary Planning Commission (CPC) meeting held on 2020 December 17. CPC recommended that the Development Authority refuse the application. Issues raised included:

- Professional involvement (Architect)
- Transportation, accessibility issues; concern with main entrance on 24 Ave NW but no accessible parking; parking off lane may not be barrier free and done in a way to eliminate green space
- Restrictive Covenant on title
- View of asphalt area at rear from 24 Ave NW
- The type / level of care provided unclear
- Operator issues
- Stairwell at basement level that appears to go nowhere / CPTED concerns at potential exit
- Loading zone seems to be oriented in a way that deliveries would be made away from an actual entrance, so temptation to deliver by rolling down ramp and use parking doors
- Green roof and potential structural issues
- Units are small and may not meet Alberta Health Services standards
- Plan lacks details and might not be workable



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Key Land Use Bylaw Provisions

Discretionary Use Development Permit Application

35 When making a decision on a *development permit* for a *discretionary use* the *Development Authority* must take into account:

- (a) any plans and policies affecting the *parcel*;
- (b) the purpose statements in the applicable land use district;
- (c) the appropriateness of the location and *parcel* for the proposed *development*;
- (d) the compatibility and impact of the proposed *development* with respect to *adjacent development* and the neighbourhood;
- (e) the merits of the proposed *development*;
- (f) the servicing requirements;
- (g) access, parking and transportation requirements;
- (h) vehicle and pedestrian circulation within the *parcel*;
- (i) the impact on the public transit system; and
- (j) sound planning principles.

Discretionary Use That Does Not Comply

36 (1) The *Development Authority* may approve a *development permit* application for a *discretionary use* where the proposed *development* does not comply with all of the applicable requirements and rules of this Bylaw if in the opinion of the *Development Authority*:

- (a) the proposed *development* would not unduly interfere with the amenities of the neighbourhood or materially interfere with or affect the use, enjoyment or value of neighbouring properties;

Development Authority's Decision

37 (1) The *Development Authority* may approve, either permanently or for a limited period of time, a *development permit* application for a *discretionary use*, and may impose the conditions enumerated in section 38 of this Part.

- (2) The *Development Authority* may refuse a *development permit* application for a *discretionary use* even though it meets the requirements and rules of this Bylaw.



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Bylaw Discrepancies		
Regulation	Standard	Provided
592 Building Setbacks (min.)	(1) Unless otherwise referenced in subsection (2), the minimum building setback from a property line shared with a street is the greater of: (a) the contextual multi-residential building setback; or	Plans indicate the following setbacks: West to 22 ST NW – 2.54m (-3.79m); and North to 24 AV NW – 0.08m (-4.52m).
549 Projections Into Setback Areas (max.)	(1) Unless otherwise referenced in subsections (2), (3), (4), (5), (6), and (7), a building or air conditioning units must not be located in any setback area.	Plans indicate the building is located in the West and North setback areas.
	(5) Eaves may project a maximum of 0.6m,	Plans indicate eaves that project 4.56m (+3.96m) into the North setback area. Plans indicate eaves that project 3.68m (+3.08m) into the West setback area.
594,13 Building Height and Cross Section (max.)	(3) Where the parcel shares a property line with a street, the max. building height is: (a) 10.0 m. measured from grade within 3.0 m. of that shared property line; and	Plans indicate portions of the building are located in the North and West building height cutbacks.
550 General Landscaped Area Rules	(7) All setback areas adjacent to a street or another parcel, except for those portions specifically required for motor vehicle access, must be a landscaped area.	Plans indicate the building is located in the West setback area.
		Plans indicate the building and motor vehicle parking stalls are located in the North setback area. Plans indicate a loading stall & screened grease area located in the South setback area.
593 Landscaping	At least 90.0 per cent of the required landscaped area must be provided at grade.	Plans indicate 432.70m ² (-96.33m ²) or 73.61% (-16.39%) of the landscaped area is provided at grade.
551 Specific Rules for Landscaped Areas	(3) The max. hard surfaced landscaped area is: (b) 40.0 % of the req. L.S. area, in all other cases.	Plans indicate a hard surfaced landscaped area of 396.34m ² (+161.22m ²) or 67.43% (+27.43%) of the required landscaped area.

Relevant Planning Policy

Municipal Development Plan (Statutory – 2009)

The subject site is located within the Residential - Developed - Inner City area as identified on Map 1: Urban Structure in the *Municipal Development Plan* (MDP). The applicable MDP policies encourage redevelopment of inner city communities that is similar in scale and built form to existing development, including a mix of multi-residential housing such as townhouses and apartments. The MDP also calls for modest intensification of the inner city, an area serviced by existing infrastructure, public amenities and transit. In addition, 'Creating Great Communities' policies of the MDP encourage special care facilities to locate within residential neighbourhoods to



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provide for a broad range of specialized accommodation and care homes to meet diverse community needs including nursing and older adult homes.

The proposal is in keeping with relevant MDP policies as the development provides for greater housing mix and choice within the community, higher densities in proximity to primary transit and optimal use of existing infrastructure.

Banff Trail Area Redevelopment Plan (Statutory – 1986)

The subject site is located within the Medium Density Low-Rise (north parcel), and Low Density Residential (south parcel) areas as identified on Figure 2: Land Use Plan in the *Banff Trail ARP*. The Medium Density Low-Rise area is intended to allow for multi-residential uses and developments compatible with the existing character of the area. The ARP allows for approximately three to four storeys, or 12 metres, in building height on lands directly adjacent to 24 Avenue NW, which includes the northern portion of the site.

As part of the associated land use redesignation application, an amendment to the ARP is proposed to accommodate the southern parcel under the Medium Density Low-Rise category. An amendment to Figure 3: Maximum Building Heights to include a maximum height of 10 metres for the south parcel is also proposed, to ensure any future development on this property steps down in height and building mass along the site's southern edge.

Climate Resilience Strategy (2018)

The *Climate Resilience Strategy* contains the *Climate Mitigation Action Plan* (CMAP) and the *Climate Adaptation Action Plan* (CAAP), which identify actions that will reduce Calgary's greenhouse gas emissions and manage climate risks. This application proposes:

- photovoltaic panels on the roof provide alternate energy systems supporting CMAP Program 3: Renewable and Low-Carbon Energy Systems;
- a green roof covering approximately 15 percent of the building supporting CAAP Program 6: Natural Assets Management;
- one electric vehicle charging station in the parkade supporting CMAP Program 4: Electric and Low Emissions Vehicles; and
- Leadership in Energy and Environmental Design (LEED) Platinum certification supporting CMAP Program 1: Energy Performance Standards in New and Existing Buildings.

Planning Principles for the Location of Care Facilities and Shelters (Non-Statutory – 2011)

Planning Principles for the Location of Care Facilities and Shelters recognizes care facilities as an integral part of complete communities and residential areas. Careful consideration, however, must be given to the local context and land use pattern of a particular area in regard to design, scale, form, and setbacks. Such facilities should also be located within reasonable walking distance to transit and services. Larger facilities within residential areas may be considered appropriate depending on the suitability of individual sites. The proposal generally aligns with the intent of the guidelines and allows for a building form that is compatible with adjacent development.