November 30, 2020

Calgary Planning Commission
The City of Calgary
By email: C/O Administrative Assistant Kimberly.Holberton@calgary.ca

To the Attention of the CPC Members:

RE: CPC2020-1343 - Item 7.2.1

An affected property owner, I am writing to ask that the attached pdf files be added as attachments to Item 7.2.1 of the **December 3rd agenda**. The attached pdfs are comments that I submitted on this application, via the 311 system, the development map system and directly to the file manager. Administration has provided a purported summary of those comments at page 2 of its report, under the heading *City-Led Outreach*. That summary does not accurately reflect the points made in my submissions, as regards inadequate public engagement, in particular.

Those points, as listed below and elaborated in the 4 pdfs attached, are relevant to the Commission's decision on this application. A statutory body performing duties delegated under the *Municipal Government Act*, the Commission should appear to also give due consideration to submissions of affected property owners that do not support the application as presented and as accepted by Administration.

- Inadequate notice received September 3rd : affected landowners given only 24 hours to respond. Although the file manager extended that deadline in response to my objection, other affected landowners were not made aware of the extension.
- Contrary to the suggestion made in the file manager's letter received on September 3rd, the previous file manager did not send any notification of the application in April.
- November 13th notification - revised application - inaccurate site description.
- The sign posting on site was not modified after the proposed building floor area and height changed.
- Hillhurst Sunnyside Community Amenity Fund : no annual reporting to Council - no transparency – no public amenities. Current HSCAF Administrative Committee Chair happens to be the file manager's supervisor who concurs with the report now before the Commission.
- Density bonusing in general is still under review pursuant to Council's strategy EAGCS : PFC2020-0381, page 14-15.
- Flood mitigation requirements already factored into maximum height for this site.

I thank you for your assistance in bringing this email and attachments to the attention of the Calgary Planning Commission members.

Sincerely, Ljubica Stubicar, Affected Property Owner 207-217 9A St. NW, Calgary, AB T2N 1T5

Enclosure: 4 pdf files :

“LOC-2020-0045-Form-Submission-May-15-20.pdf”; “loc-2020-0045-sept-14th-request.pdf”; “LOC-2020-Comments-LjStubicar.pdf”; “LOC-2020-0045-Stubicar-20-11-20.pdf”

LOC2020-0045

Additional Comments from Affected Property Owner Ljubica STUBICAR

To FM Steve P. Jones, Community Planning - North Team, The City of Calgary

20-November-2020

The following comments are in addition to the comments that the File Manager received from me on September 25th last and are prompted by:

- the File Manager's notice, by email dated October 29th last, that "[d]ue to issues around the flood levels in the area the applicant has requested additional building height [27 metres instead of 26 metres] in order to accommodate an increased main floor elevation"; and

- the 1-page *Revised Applicant Submission* that the File Manager sent me by email dated November 13, 2020.

Why the Applicant Is Seeking Increased Height Beyond the ARP Maximum Building Height : Amended Overall Site Area

1. The applicant's request for additional building height is an attempt to make up for building floor area lost as a result of the intervening reduction to the overall site area.

2. The *Revised Applicant Submission* shows the subject site to be **223-231 9A Street NW**. That is one parcel less than the description provided in the File Manager's notice dated August 28, 2020, of the deadline for comments "in response to the sixth parcel [219 9A St. NW] being added to the application."

3. This change in the subject site description means that the overall site area is now back to 1880 m2 or 310 m2 less than the overall site area notified effective September 3, 2020 (2190 m2).

4. In terms of overall building floor area, this change in the subject site description translates into a decrease of 1550 m2 of building floor area [9358 m2 instead of 10 908 m2, based on the maximum floor area ratio of 5.0].

5. 9358 m2 is the building floor area shown in the sign still standing on site [photograph attached to my 25-Sept-2020 comments]. The anticipated increase to the overall site area effective August 28, 2020 would have resulted in total building floor area of 10 908 m2.

LOC2020-0045
Additional Comments from Affected Property Owner Ljubica STUBICAR
To FM Steve P. Jones, Community Planning - North Team, The City of Calgary
20-November-2020

Why the ARP Maximum Building Height Cannot Be Increased

6. The whole point of the maximum building height stipulated in the Hillhurst/Sunnyside Area Redevelopment Plan (ARP) that Council adopted under s. 634(1)(b) of the *Municipal Government Act* is to ensure that development on the site does not exceed the maximum height so stipulated.

7. Compliance with those provisions of the Land Use Bylaw 1P2007 pertaining to flood mitigation measures cannot justify non-compliance with the applicable maximum building height stipulated in the ARP that the applicant is requesting in its *Revised Applicant Submission*.

8. Compliance with the Land Use Bylaw 1P2007 and, in particular Part 3, Division 3 thereof, is a standard condition in any Direct Control Bylaw : see Bylaw 186D2016, s. 2, by way of example.

9. The *Municipal Government Act*, s. 641(2), provides that the designation of a direct control district, under s. 20 of the Land Use Bylaw 1P2007, in this case, is “subject to any applicable statutory plan.”

10. The applicable statutory plan in this case, the Hillhurst/Sunnyside Area Redevelopment Plan (ARP), as amended by Bylaw 6P2016, s.2(j) and Schedule H (Map 3.3), effective March 7, 2016, stipulates the maximum building height for this site to be 26 metres.

11. In setting the applicable maximum building height in the cited March 2016 ARP amendment, Council took into account the relevant provisions of the Municipal Development Plan (Policy 4.4) and the Land Use Bylaw 1P2007 (Part 3, Division 3) dealing with flood mitigation measures. Council’s Bylaws 11P2014 and 12P2014, effective June 2014, pre-date the March 2016 ARP amendment setting the applicable maximum building height at 26 metres.

12. Moreover, as previously pointed out, the applicant has not demonstrated why it should be entitled to the applicable maximum allowable height of 26 metres in this case.

LOC2020-0045
Additional Comments from Affected Property Owner Ljubica STUBICAR
To FM Steve P. Jones, Community Planning - North Team, The City of Calgary
20-November-2020

Further Evidence of Inadequate Public Engagement re LOC2020-0045

13. In my earlier comments via, respectively, the City of Calgary development map system, May 15th last, and via the City of Calgary 311 system, September 4th last, I complained about inadequate notice to property owners affected by LOC2020-0045.

14. Whether other affected property owners have received notice of the *Revised Applicant Submission* is not clear. I put the question to the File Manager by email dated November 12th last and have yet to receive a response.

15. The concluding paragraph of the *Revised Applicant Submission* refers to "focused meetings with the Hillhurst-Sunnyside Community Association". A Senior HSCA Member, I was effectively denied the opportunity to participate in those "focused meetings."

16. As stated in my September 4,' 2020 comments made via the City of Calgary 311 system, in his May 11th response to my request to view the circulation package regarding LOC2020-0045, the then HSCA Planning Committee Chair made no mention of the virtual HSCA Planning Committee meeting that had taken place, it turns out, less than a week earlier.

17. That a virtual meeting had taken place on May 5th I only learned last month, when I read the HSCA Planning Committee's letter dated May 22nd to the then File Manager. That letter I received instead of the meeting minutes requested.

18. As for the subsequent virtual meeting of the HSCA Planning Committee regarding LOC2020-0045, held on October 13th last, I did receive, by email from the HSCA Community Planning Coordinator, an invitation to participate, but only as a passive observer. The only questions I could ask had to be in writing, to the attention of the File Manager and the applicant representative Brian Horton, and this prior to the presentation yet to be made. Whether other affected property owners received a similar invitation I have yet to find out.

19. My earlier comments about application LOC2020-0045 dealt at length with the density bonusing proposed in this case in return for a cash contribution to the Hillhurst Sunnyside Community Amenity Fund. In the meantime, on reading the HSCA Planning Committee's May 22nd letter to the previous File Manager, I noted the reference made to the so-called City/Coriolis report as regards the Hillhurst Sunnyside Community Amenity Fund.

LOC2020-0045
Additional Comments from Affected Property Owner Ljubica STUBICAR
To FM Steve P. Jones, Community Planning - North Team, The City of Calgary
20-November-2020

20. Surprisingly, neither the HSCA Planning Committee nor the City of Calgary Community Planning - North Team would provide me a copy of the Coriolis report. I had to make a formal request under the FOIP Act. The processing of that request has been delayed by an apparent misunderstanding as to the report sought. In due course, I may have further comments regarding density bonusing and the Hillhurst Sunnyside Community Amenity Fund in light of the findings made in the report: *Incentive Density Rates for Hillhurst-Sunnyside: Methodology and Suggested Values*.

The above additional comments are made for the File Manager's due consideration, in his exercise of application review powers that Council delegated under s.**20(4)** of the Land Use Bylaw 1P2007.

Faithful residential property tax payer for 207-217 9A St. NW,
Ljubica STUBICAR
213 9A St. NW
Calgary, AB T2N 1T5

LOC2020-0045 - Affected Property Owner Ljubica STUBICAR's Comments
To FM Steve P. Jones, Community Planning - North Team, The City of Calgary
25-Sept-2020

For the reasons set out below, in addition to my earlier comments, via the development map system, May 15th last, and via the 311 system, September 4th last, regarding inadequate notice to affected property owners, I do not support the land use designation application as presented in the sign posting on site since April 2020 (21-Sept-2020 photo attached), the online development map system that closed for comment before the expiry of, respectively, the May 8th and September 4th deadline, the File Manager's 24-hour notice of the September 4th deadline, his response to a subsequent request for site details and the material available for viewing at Property Research, effective August 21st and September 8th, 2020.

Overview

1. The applicant is trying to get the same Land Use Bylaw amendment that Council approved in Bylaw 186D2016, on the same applicant's initiative, for a site at the other end of 9A Street NW, near the north-west corner of 3rd Avenue. The site in this case is located midblock, between 2nd Avenue and Memorial Drive NW.

2. Development of the intensity sought in this application, by reference to the Multi-Residential - High Density Medium Rise (M-H2) land use district of Bylaw 1P2007, may have been considered appropriate in that part of the residential area closest to the urban mixed-use area on 9A Street NW (see ARP Map 3.1 "Land Use Policy Areas"), but that does not mean that it would be appropriate for the midblock site in this case. The M-H2 land use district, by definition, is characterized by "*intense development with higher numbers of dwelling units and traffic generation*": Land Use Bylaw, 1P2007, **s. 646(b)**.

3. The applicant has not provided any details about the number of dwellings to be developed. The applicant is, however, asking that Council waive entirely compliance with the parking requirements which would otherwise be applicable under Part 3 of the Land Use Bylaw. Contrary to what the applicant suggests, the fact that the parking management strategy for the whole TOD area reflects a reduced demand for parking does not mean that there is no parking demand in the area of the subject site. (ARP, 3.4.3 Parking & Loading, page 91) So long as the return trip to IKEA by public transit from the Sunnyside CTrain Station takes the same time as a return trip to Banff (see Calgary Transit printout attached), there will be a parking demand in the area.

4. As it did in applying for Land Use Bylaw 186D2016, the applicant is again asking Council, in the exercise of the power delegated under the *Municipal Government Act*, s. 641(1), for the exercise of *particular control over the use and development of land*, to designate the site a Direct Control District.

LOC2020-0045 - Affected Property Owner Ljubica STUBICAR's Comments
To FM Steve P. Jones, Community Planning - North Team, The City of Calgary
25-Sept-2020

5. The stated purpose for seeking Direct Control designation is to allow for development consistent with the site's land use classification in the Hillhurst/Sunnyside Redevelopment Plan (ARP) and, most importantly, to allow for a cash contribution to the Hillhurst/Sunnyside Community Amenity Fund (HSCAF) in exchange for bonus density under Density Policy 3.1.5#4.*i* of the same ARP (DC Rationale).

6. Whether the stated dual purpose of the Direct Control District sought in this case meets the criteria under s. 20 of the Land Use Bylaw, 1P2007, is a separate issue to be addressed further on.

Density Bonusing and the HSCAF

7. Affected property owners' silence in the past on the desirability of a density bonus in exchange for a symbolic cash contribution to the Hillhurst/Sunnyside Community Amenity Fund (HSCAF) is more telling of the lack of transparency about the actual operation of the fund, as outlined below, than it is of an informed decision on the part of affected property owners not to object to the proposed bargain.

8. In this case double density would translate into an additional 5454 square metres at a symbolic cost of $17.85 per m^2 [the rate referred to in Bylaw 186D2016, s. 8(1)] or a total of $97,354.00 (in an area where a square metre of land is selling for about $1400.00 / m^2). At a symbolic cost of 1.3% of the going price per square metre of land, in other words.

9. It is not reasonable to expect the impact of a high intensity midblock development, in what is still a residential area, to be offset by a contribution of $97,354.00 to a fund which, eight years on since it was first created or four years on in the current revised format, local residents have yet to see used for the intended purpose of *gaining public amenities*.

10. In his last-minute notice to affected landowners of the deadline for submitting directly to him comments on this application, as then recently amended, the file manager (who happens to be the same person as in the 2016 application, LOC2016-0020) not only incorrectly suggested that affected landowners *would have* previously received notice in the mail about this land use designation, but also made no mention of the applicant's request for the density bonus in exchange for a contribution to the HSCAF.

11. Likewise, neither the sign posting (21-Sept-20 photo attached) nor the prematurely closed online development map system (see previous comments about inadequate notice) provided any information about the proposed use of a density bonus.

12. Had I not requested to see the file at Property Research, which for several months, due to the pandemic, it was not possible to do, I would not have known about the applicant's density bonus strategy. Other affected landowners are likely not aware of the proposed use of the density bonus in this case.

13. Moreover, whether *density bonusing* in general should continue to be used in Calgary is a question that has been under review as part of Council's Established Area Growth and Change Strategy (EAGCS) for the past four years, starting two months after the application for Bylaw 186D2016 was granted (see EAGCS 2020: Phase 1 Recommendations, PFC2020-0381), page 14-15).

14. If, four years later, the Established Areas Working Group has not been able to answer in the affirmative the question whether *density bonusing* in general should continue to be used in Calgary, it is safe to conclude that the benefits of *density bonusing* tools such as the HSCAF are not self-evident.

15. Evaluating the performance of the HSCAF as a *density bonusing* tool is particularly difficult in light of the surprising non-compliance by the HSCAF Administrative Committee with the reporting requirements in the *HSCAF Terms of Reference* (TOR). Under those *Terms of Reference*, the HSCAF Administrative Committee is required to report to Council annually on the status of the fund, implemented projects, allocated funds and any changes to the contribution calculation method (TOR, page 11-12).

16. In the just received words of the current HSCAF Administrative Committee Chair (printout attached), "[w]e did not complete a formal report in 2019 (the new TOR was created in late April 2019, so no reporting available in May 2019)." The fact that the HSCAF Committee's *Terms of Reference* remain unchanged since Council first adopted them on June 20, 2016, at its Regular Meeting (PUD2016-0395) suggests that the excuse provided by the current HSCAF Administrative Committee Chair for not reporting in 2019 is not valid. It turns out, again in the just received words of the same Chair (printout attached), that "[t]he first annual reporting for the HSCAF will be at Council in May 2021 (for the years 2020 and 2021)."

LOC2020-0045 - Affected Property Owner Ljubica STUBICAR's Comments
To FM Steve P. Jones, Community Planning - North Team, The City of Calgary
25-Sept-2020

17. There is no evidence that the Hillhurst/Sunnyside Community Amenity Fund has in fact led to any public amenities for the benefit of local residents on whose behalf an undetermined number of density bonus deals would have been made under Density Policy 3.1.5#4.*i* of the ARP.

18. A report submitted in support of the City of Calgary Parks Department 2019 application to Council for the use of the HSCAF balance in excess of the $200,000 limit for the HSCAF to decide on its own, to finance the project for which the fund (previously the Park Improvement Fund) was created in the first place, almost eight years ago, provides some detail (C2019-0457).

19. Effective April 2019, all the contributions to the fund since November 5th 2012, from eight development projects, amounted to a total of $566,931.16. An average amount of $70,866.40 per project, in other words. The total amount accumulated in the fund would only cover 14.2 % of the Parks Department's project estimated to cost 4 million dollars. (C2019-0457, 29-April-2019 Report, pages 3-4/7)

20. The HSCAF *Terms of Reference* refer to the total amount collected by the fund from 2012 to June 20, 2016, that is, $313, 290.75. That tells us that, in the last four years, the fund has only accumulated $253, 640.41. In the absence of annual reporting to Council by the HSCAF Administrative Committee, it is not known from how many development projects that amount derived. What is known is that <u>the fund has just been sitting there, with no gain of public amenities</u>.

21. In the particular circumstances outlined above, Council would have good reason not to use its Direct Control powers to allow for a density bonus contribution to the HSCAF, under Density Policy 3.1.5#4.*i* of the ARP, in this case.

LOC2020-0045 - Affected Property Owner Ljubica STUBICAR's Comments
To FM Steve P. Jones, Community Planning - North Team, The City of Calgary
25-Sept-2020

Direct Control Powers and *Density Bonusing*

22. Whether Council should be using its Direct Control powers to allow for *density bonusing* at all is far from clear, particularly in light of **s. 20(2)(b)** LUB 1P2007 which provides that "Direct Control Districts must not be used : (b) to regulate matters that are regulated by subdivision or development permit approval conditions."

23. Density Policy 3.1.5#4.*i* of the ARP allowing for the bonus in exchange for a cash contribution to the fund is implemented by Administration using its development permit powers, not by Council using its Direct Control powers, contrary to what the applicant is suggesting in its DC Rationale. (PUD2016-0395, page 2/4)

24. A Direct Control Bylaw is not required to implement Council's Density policy. The applicant would have to apply for a development permit made conditional on a contribution to the HSCAF in exchange for a density bonus: see HSCAF *Terms of Reference*, page 4/12, *in fine*, page 9/12 *in fine*.

25. Council has already provided the method for calculating contributions in its ARP Density Policy 3.1.5#4.*i*: "[t]he contribution rate per square metre of floor area above the base density shall be that rate approved by Council and in effect at the time of development approval." In the absence of annual reporting to Council by the HSCAF Administrative Committee, we have to rely on the rate referred to in Bylaw 186D2016, s. 8(1).

Council's Exercise of Direct Control Powers in General

26. Exercising Direct Control powers delegated under the *Municipal Government Act*, **s. 641(1)** for the purported purpose of implementing Council's *density bonusing* policy under the ARP which, in fact, is implemented by Administration in reviewing development permit applications, is contrary to the objective sought in the review process that led to the adoption of Land Use Bylaw 1P2007, that is, to reduce the number of DC districts. *LUB Review - Draft Bylaw Summary,* page 22:

    "The new districts accommodate many of the sites currently designated Direct Control. New rules are aimed at significantly reducing the future use of the DC designation."

27. Direct Control powers delegated under the *Municipal Government Act*, **s. 641(1)** were not intended to be exercised for the purpose of waiving Land Use Bylaw 1P2007 Part 3 parking requirements, a matter meant to be dealt with by Administration in reviewing the development permit application.

LOC2020-0045 - Affected Property Owner Ljubica STUBICAR's Comments
To FM Steve P. Jones, Community Planning - North Team, The City of Calgary
25-Sept-2020

File Manager's Exercise of Application Review Powers

28. In exercising, on behalf of the City Manager, the application review powers that Council delegated under **s.20(4)** of the Land Use Bylaw 1P2007, the file manager will have to "*advise Council as to whether or not the same result could be achieved through the use of a land use district in this Bylaw*."

29. Section **20(2)** of the Land Use Bylaw 1P2007 makes it clear that "Direct Control Districts must not be used: (a) in substitution of any other land use district in this Bylaw that could achieve the same result *either with or without relaxations of this Bylaw."*

30. In reviewing the application, the file manager should therefore have particular regard to the Land Use Bylaw provisions that spell out, respectively, the purpose of the current land use district, M-C2, **s. 595**, LUB 1P2007, compared to the purpose of the land use district sought by the applicant , M-H2, **s. 646**, LUB 1P2007.

31. While the material on file does include the applicant's *DC Rationale* as to the purported necessity of the Direct Control district sought in this case, the applicant has not indicated *why the same result cannot be achieved through the use of a land use district in this Bylaw,* as the applicant must to do under **s. 20(3)** of the Land Use Bylaw 1P2007.

32. Both land use districts, M-C2 and M-H2, allow for multi-residential development in a variety of forms. Intensity of development in each land use district is measured by floor area ratio *to provide flexibility in building form and dwelling unit size* and number: compare **s. 595(c)(e)** and s. **646(c)(e)**, LUB 1P2007.

33. In reviewing the application, the file manager should also have particular regard to the proposed site and building design, the details of which, in this case, for the most part, the applicant has not provided, as shown below, compared to the applicable site and building design policies under the ARP.

Applicable Site and Building Design Policies

34. Section 3.2 of the ARP, "Built Form and Site Design" acknowledges that for the majority of the areas identified for higher density development, on the Land Use Policy Areas Map 3.1, a mid-rise format has been used. Mid-rise format is understood to describe 6 to 8 storeys. (ARP, page 67)

LOC2020-0045 - Affected Property Owner Ljubica STUBICAR's Comments
To FM Steve P. Jones, Community Planning - North Team, The City of Calgary
25-Sept-2020

35. ARP Built Form and Site Design General Policy 3.2.1#2 (page 67)
"**The maximum heights** shown in Table 3.2 (or on Map 3.3) **are not guaranteed entitlements**. In order to achieve these maximums, projects will need to meet high standardsof architectural and urban design quality that ensure projects make positive contributions to the public realm."

36. ARP Built Form and Site Design General Policy 3.2.1#2 (page 67)
"**The maximum densities** Table 3.1 (or on Map 3.2) **are not guaranteed entitlements**. In order to achieve these maximums, projects will need to meet high standards of architectural and urban design quality that ensure projects make positive contributions to the public realm based on conformance to the design policies and guidelines of Section 3.0 of the Plan [pages 56 - 93]."

37. Whether the maximum building height of 16.0 metres in the current land use district M-C2, under **s. 604(1)** LUB 1P2007 could be relaxed in the development permit conditions to accommodate a compromise solution between the 8 - 9 storeys sought by the applicant and the 6 - 8 storey mid-rise format generally applied under the ARP is a relevant consideration pursuant to **s. 20(2)(a)** LUB 1P2007. The same goes for the maximum floor area ratio of 2.5 in the current land use district M-C2, under **s. 599(1)** LUB 1P2007.

38. The site is identified as the Medium-Density Mid-Rise Land Use Policy Area in which:

- higher density development is allowed
"*provided that the project is designed to meet the design principles and guidelines set out in this Plan*." ARP 3.1.3 (page 61)
- *modest increases in height* may be allowed to occur *in key locations* that would highlight gateway entrances into Riley Park". ARP 3.1.3 (page 61 - 62)

Medium-Density Mid-Rise Area Policy 3.1.3	**Applicant's Project**
#1 "New development within the Medium Density Mid-Rise Area should be limited to *medium-density* multi-family residential developments and includes townhouses, apartments, and live/work units." (ARP, page 62)	The applicant wants the site redesignated Direct Control by reference to the Multi-Residential - *High Density* Medium Rise (**M-H2**) District, which, by definition, provides "*intense development*, with higher numbers of dwelling units and traffic generation": **s. 646(b)** Land Use Bylaw, **1P2007** (Applicant Submission / DC Rationale, as viewed at Property Research, on 21-Aug-2020)

LOC2020-0045 - Affected Property Owner Ljubica STUBICAR's Comments
To FM Steve P. Jones, Community Planning - North Team, The City of Calgary
25-Sept-2020

#3"Retail commercial uses *should* be discouraged within residential developments, however, a limited range of support commercial uses *may be permitted*." (ARP, page 62)	The applicant wants the site redesignated DC by reference to the M-H2 district, "to allow for *multi-residential buildings*(e.g. apartment buildings) that *may have commercial storefronts*" (Sign posted on site) The Multi-Residential - *High Density* Medium Rise (M-H2) District, by definition, "*includes* a limited range of support commercial multi-residential uses": **s. 646(h)** Land Use Bylaw, **1P2007**

39. Like all statutory plans, the Area Redevelopment Plan (ARP) must be consistent with the Municipal Development Plan (MDP): **s. 638(2)** of the *Municipal Government Act*, RSA 2000, c M-26. The rules for interpreting the MDP therefore also apply to interpreting the ARP. Section 1.7 of the MDP, Part 1, page 1-12, "*Interpreting the MDP*" provides as follows:

    "**Policies that use the active tense or "should" are to be applied in all situations**, unless it can be clearly demonstrated to the satisfaction of The City that the policy is not reasonable, practical or feasible in a given situation. Proposed alternatives must be to the satisfaction of The City with regards to design and performance standards.

    In some cases, policies are written to apply to all situations, without exception, usually in relation to a statement of action, legislative direction or situations where a desired result is required. The words "**require**", "**must**", "**will**" or "**shall**" are used within these policy statements."

40. Under the ARP, the use of Direct Control districts is intended for those projects that would otherwise be unable to meet the land use and urban design requirements part of the Hillhurst/Sunnyside Area Redevelopment Plan. ARP Land Use Amendments Policy 4.2.1#1.

41. If the applicant's project can be accommodated by relaxing the rules of the existing land use district, in keeping with the applicable site and building design policies under the ARP, the onus is on the applicant to justify Direct Control designation by identifying the project's *unique characteristics*, *innovative ideas or unusual site constraints*, as spelled out in **s. 20(1)** LUB 1P2007.

42. Because the applicant in this case has not provided much detail about the proposed site and building design, as shown below, the project's *unique characteristics*, *innovative ideas or unusual site constraints*, if any, do not appear in the material on file.

LOC2020-0045 - Affected Property Owner Ljubica STUBICAR's Comments
To FM Steve P. Jones, Community Planning - North Team, The City of Calgary
25-Sept-2020

Built Form and Site Design Residential Areas Policies 3.2.3 Medium-Density Mid-rise Area	**Applicant's Project**
#8 To create a consistent streetwall, building facades *should* maintain a uniform cornice line of 3 storeys or a maximum height of 10 metres. Building elements above the 10 metre cornice *should* maintain a minimum stepback of 3 metres. (ARP, page 75)	The applicant has not provided any details.

Built Form and Site Design General Policies 3.2.1 (by way of example)	**Applicant's Project**
#6Buildings *should* be articulated and detailed in a manner that reinforces existing development rhythms. Building materials and colour palettes should be compatible with existing development. (ARP, page 67)	[E]ither a 6-storey wood-frame or 9-storey concrete-frame structure (Notes on file LOC2020-0045, as viewed at Property Research, 21-Aug-2020)
#7 All new residential units *should* be provided with private outdoor amenity space (…). Amenity spaces *should* be located and designed to ensure privacy of adjacent low-density residential areas." (ARP, page 68)	The applicant has not provided any details.
#8 New buildings *should* be designed to ensure universal access for all citizens. (ARP, page 68)	The applicant has not provided any details.
#9 New development *should* strive for a LEED™ rating through consideration of sustainable built forms and an integrated approach to building infrastructure systems. (ARP, page 68)	The applicant has not provided any details.
#13 Where a parcel shares a property line with a parcel designated for residential use, the adjacent yard *should* be soft landscaped. (ARP, page 68)	The applicant has not provided any details.

Parking & Loading Policies 3.4.3	**Applicant's Project**
#2The total amount of parking required for any new development *may* be reduced by employing various Transportation Demand Management (TDM) measures. These *may* include provision of transit reimbursement programs, car-pooling stalls, shared parking with complementary developments, share cars, and cycling facilities including showers and lockers, etc. (ARP, page 91)	The applicant seeks "*no minimum parking requirement*". (Applicant Submission as viewed at Property Research on 21-Aug-20)

LOC2020-0045 - Affected Property Owner Ljubica STUBICAR's Comments
To FM Steve P. Jones, Community Planning - North Team, The City of Calgary
25-Sept-2020

#3 In order to facilitate the delivery of affordable and non-market housing, the Approving Authority *is encouraged* to considerparking relaxations for proposed affordable / non-market housing developmentwhere it is demonstrated that the proposed development would have a reduced automobile ownership rate and that the development is secured through an agreement to ensure long-term use for low-income households. (ARP, page 91-92)	The proposed development is not a "non-market housing development". The applicant seeks "*no minimum parking requirement*". (Applicant Submission as viewed at Property Research on 21-Aug-20)
#4 Underground parking *is strongly encouraged* to accommodate the majority of parking requirements. (ARP, page 92)	The applicant seeks "*no minimum parking requirement*". (Applicant Submission as viewed at Property Research on 21-Aug-20)

Design for Climate Policies 3.3.3	**Applicant's Project**
#2 Weather protection *should* be incorporated into streetscape design. This can be achieved with the use of canopies, shelters and street trees, and by: • maximizing sun exposure for waiting areas (especially in winter months) bycareful location of seating, plantings, building elements and building setbacks and massing. (ARP, page 85)	The applicant has not provided any details.
#6 Design and position buildings to minimize wind tunneling and the creation of uncomfortable microclimates.(ARP, page 85)	The applicant has not provided any details.
#7A highly integrated development pattern with careful spacing of taller building elements*is encouraged* to ensure wind movements are kept at higher levels and 'smoothed' out over low areas. (ARP, page 85)	The applicant has not provided any details.

Street Network Policies 3.4.1	**Applicant's Project**
#4Developers are responsible for street and sidewalk improvements adjacent to their site. Improvements *should* be in accordance with the applicable design guidelines of this Plan. (ARP, page 89)	The applicant has not provided any details.

LOC2020-0045 - Affected Property Owner Ljubica STUBICAR's Comments
To FM Steve P. Jones, Community Planning - North Team, The City of Calgary
25-Sept-2020

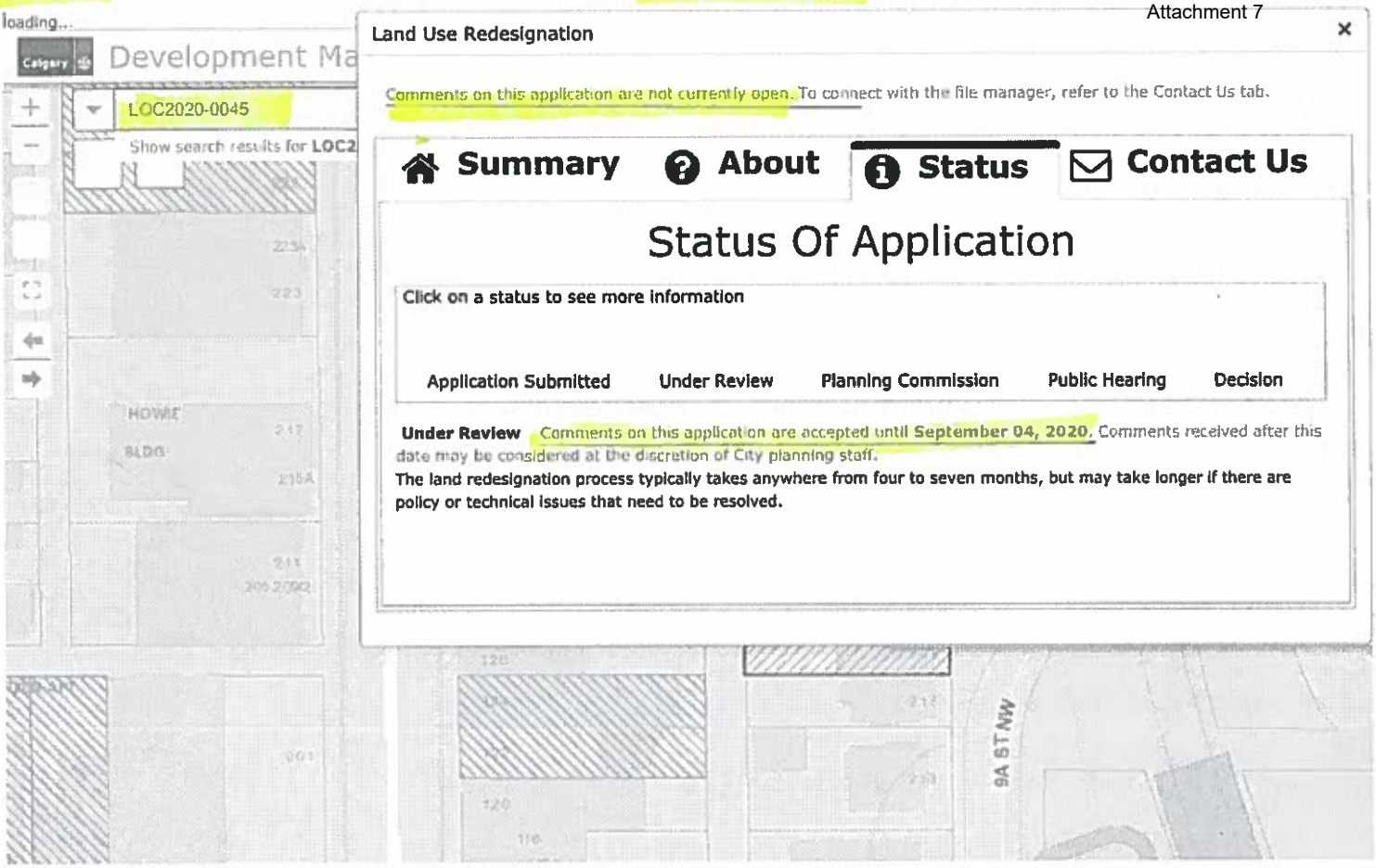
Guiding Principles 2.2.2 **Respect Existing Community Character and Quality of Life**	**Applicant's Project**
• Locate higher density developments in *low impact locations* (e.g., where shadowing and traffic impacts are limited) (ARP, page 53); • Require *well articulated and designed major buildings* (ARP, page 53); • Require *taller buildings to step-back* to reduce perception of mass (ARP, page 53)	The applicant has not provided any details, other than the request for redesignation by reference to the M-H2 land use district, which, by definition provides *intense development* with higher numbers of dwelling units and traffic generation, s. **646(b)** LUB, 1P2007, coupled with the request for "*no minimum parking requirement*."

Guiding Principles 2.2.1 **Increase Housing**	**Applicant's Project**
• *Sensitively increase residential development* within the vicinity of the Sunnyside station and along the study area transportation corridors; (ARP, page 53); • Accommodate a wide variety of housing types and choices to meet residents' needs through various stages of life and economic situations (ARP, page 53); • Create opportunities for *affordable housing*, especially for families with children. (ARP, page 53)	The applicant has not provided any details about the number of units to be developed. Nor is there any mention of affordable housing in the Applicant Submission as viewed at Property Research on 21-Aug-20.

The above comments are made for the File Manager's due consideration, in his exercise of application review powers that Council delegated under s. **20(4)** of the Land Use Bylaw 1P2007.

Faithful residential property tax payer for 207-217 9A St. NW,
Ljubica STUBICAR
213 9A St. NW
Calgary, AB T2N 1T5

Attachments: 3 pdf's (sign-posting-21-Sept-2020; Calgary Transit printout; HSCAF-Committee-Chair-email)


loading...
Development Ma
LOC2020-0045
Show search results for LOC2
HOWE
BLDG
9A ST NW
Land Use Redesignation
Comments on this application are not currently open. To connect with the file manager, refer to the Contact Us tab.
Summary
About
Status
Contact Us
Status Of Application
Click on a status to see more information
Application Submitted
Under Review
Planning Commission
Public Hearing
Decision
Under Review Comments on this application are accepted until September 04, 2020. Comments received after this date may be considered at the discretion of City planning staff.
The land redesignation process typically takes anywhere from four to seven months, but may take longer if there are policy or technical issues that need to be resolved.
20m

Calgary

311 Online Services

Services Home Request Service Status Check

Service Request Status Details Go Back

Service Request Number: 20-00777750

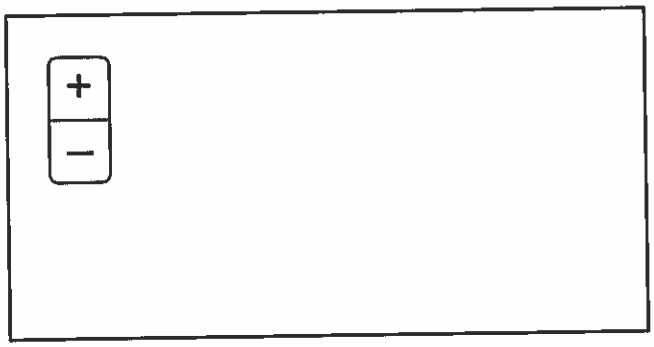
Service Type: Z - Report a Concern Not Listed or Contact Us

Service Location: 219 9A ST NW, CALGARY, AB T2N 1T5

Status: Closed

Created On: Sep 04, 2020 03:51:PM

Comments: 311 Response - Your concern has been forwarded to Calgary's Building Services Department. Calgary Building Services Department is aware and investigating. >>> Irregular Procedure - Planning & Development Map Closed for Comments - LOC2020-0045 - September 4th 2020 : Why is the development map once again closed for comments re LOC2020-0045, this September 4th 2020, 15:29, although the map shows that comments are accepted until September 4th? (see scanned developmentmap printout) The same thing happened last May. I actually went through the trouble of preparing comments regarding the lack of due notice to affected property owners which I intended to post on the development map (comments.pdf attached). Please ensure that my comments are added to the online developmentmap system.



Activities Performed

This section lists the activities performed for the service request.

1. We have received your service request and is being reviewed.

Status: Created Linked Service Request

Completed Date: Sep 05, 2020 02:27:AM

2. Request redirected for more efficient handling by the responsible group.

Status: Completed

Completed Date: Sep 05, 2020 02:31:AM

Details: LINK: 20-00778555 CBS - Planning and Development - After Hours SR LINKED Sep 05, 2020 02:28:17 AM.

3. Your service request has been completed and is now closed.

Status: Completed - Close SR

Completed Date: Sep 05, 2020 02:31:AM

Calgary

311 Online Services

Services Home Request Service Status Check

Service Request Status Details Go Back

Service Request Number: 20-00778555

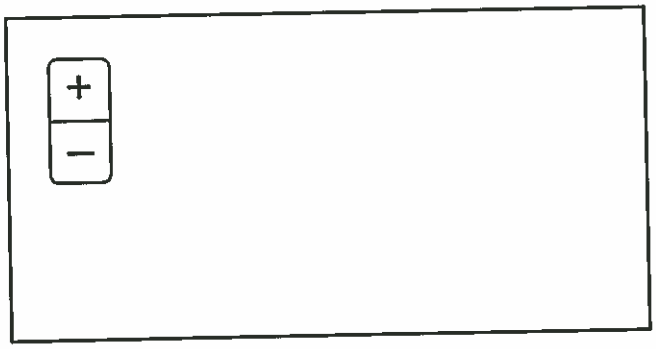
Service Type: CBS - Planning and Development - After Hours SR

Service Location: 219 9A ST NW, CALGARY, AB T2N 1T5

Status: Closed

Created On: Sep 05, 2020 02:28:AM

Comments: Irregular Procedure - Planning & Development Map Closed for Comments - LOC2020-0045 - September 4th 2020 : Why is the development map once again closed for comments re LOC2020-0045, this September 4th 2020, 15:29, although the map shows that comments are accepted until September 4th? (see scanned developmentmap printout) The same thing happened last May. I actually went through the trouble of preparing comments regarding the lack of due notice to affected property owners which I intended to post on the development map (comments.pdf attached). Please ensure that my comments are added to the online developmentmap system.



Activities Performed

This section lists the activities performed for the service request.

1. We have received your service request and it is being reviewed.

Status: Redirect to another Group or Business Unit

Created Date: Sep 05, 2020 02:28:AM

Completed Date: Sep 09, 2020 08:19:AM

Details: Please redirect to community planning for LOC concern. 09/09/20

COMMENTS RE LOC2020-0045 - INADEQUATE NOTICE

By letter received in the mail, yesterday afternoon, September 3rd, 2020, File Manager Steven P. Jones has given me 24-hour notice to provide my written comments regarding Land Use Amendment Application LOC2020-0045 (scanned copies of letter and envelope postmarked 1-Sept-2020 are attached). The File Manager's request for comments on such short notice is not consistent with the duty of procedural fairness that those exercising, on behalf of The City of Calgary, development powers delegated pursuant to s. 624 of the Municipal Government Act, RSA 2000, c. M-26, owe to affected property owners. Once again, lest the notification procedure be seen as a shortcut to a pre-determined result, The City of Calgary must provide affected property owners due notice (surely more than 24-hour notice) of the deadline for submitting comments on application LOC2020-0045, as recently updated.

The File Manager's request for comments on such short notice is part of a pattern of disregard for affected property owners' rights. The City of Calgary online development map closed for comments regarding LOC2020-0045 effective May 8th 2020, 13:34, when the application was still supposed to be "under review". Following my complaints via the 311 online system (SR # 20-00376861 / 20-00380193 / 20-00382042), then File Manager G. Brenkman extended the May 8th deadline by one week, ignoring my complaint that one week was not sufficient in the middle of the pandemic and that, in any event, sign posting and the development map page did not meet the requirements of adequate notice to affected landowners, not all of whom reside in the neighbourhood.

Application LOC2020-0045 is made on behalf of the landowner JEMM Sunnyside Ltd. who has not bothered to send a letter to affected property owners. This fact appears in file LOC2020-0045, as viewed at Property Research on August 21st 2020. According to other notes in the file, the applicant would have participated in a virtual meeting with the Hillhurst Sunnyside Community Association Planning Committee (HSPC). The minutes of that meeting are not available online. Notice of the meeting was not posted online. The HSPC website did show that the circulation package was distributed to HSPC members on or about April 26, 2020. A Senior HSCA member, I contacted then HSPC chair, Matt Crawley, in early May, to get a copy of the material circulated to the committee. In his response which did not provide the requested material, then HSPC chair Crawley made no mention of the virtual meeting to take place or that would already have taken place.

From then File Manager G. Brenkman, on May 12th 2020, I did receive 5 pages of material from the file consisting of more than twenty times that number of pages, as viewed on August 21st 2020 at Property Research whose staff strictly limited my request for copies of relevant material from the file. Property Research has also yet to respond to my request made by voice mail this morning to view the file as updated since August 21st.

While strictly limiting access to information relevant to making informed comments on the merits of LOC2020-0045, the then File Manager G. Brenkman and then HSPC chair Matt Crawley, whether individually or collectively, apparently did not see any problem in sharing my email address, without asking for my permission, with the property owner JEMM Sunnyside Ltd. and its agents, from whom, starting July 27th, I received several unwanted email messages requesting meetings to discuss the sale of my properties.

Ljubica STUBICAR, 213 9A St. NW, Calgary, AB, T2N 1T5

Date: September 4· 2020

Thank you.
Your form submission has been received by The City of Calgary.

Calgary

Land Use Amendment

229 9A ST NW

LOC2020-0045

Your comments will be sent to:

File Manager

What are your comments on this application?

All fields are required unless marked optional

Name

Ljubica Stubicar

Email

ljstubicar@shaw.ca

Address

213 9A St. NW, Calgary, AB T2N1T5

Phone (optional)

Your comments

Site signage and this website are not effective means of reaching all affected property owners who are entitled to a reasonable opportunity to make known their views about this rezoning application. The state of local emergency has been in effect since mid-March. The Planning and Development counter, including Property Research, has been closed the whole time. Property Research is where citizens are allowed to view documents submitted in support of the application that are relevant to making informed comments. After I filed a 311 SR (#20-00376861 - Link # 20-00380193) complaining that the development

File attachment (optional)

Attach

May 8.PDF x

Note: The maximum size of the attachment is 10MB.

The Personal Information on Submissions made regarding this development permit application is collected under the authority of the Alberta Freedom of Information and Protection of Privacy Act, Section 33(c) and the Calgary Land Use Bylaw 1P2007, Part 1, Section 27 and subsequent versions of the Act and Bylaw. The submission may be included in the public meeting agenda of either, or both, the Calgary Planning Commission or the Subdivision and Development Appeal Board and as such the personal information included in the submission will be publicly available, in accordance with Section 40(1) of the FOIP Act. If you have any questions regarding the collection of this information please contact 403-268-5311 for the FOIP Program Administrator, Planning & Development Department, PO Box 2100, Stn 'M', Calgary, AB T2P 2M5.

Your comments assist City staff in reviewing and making a decision on this application and it is the City's practice to keep your comments confidential. However, if the decision on the application is appealed to the Subdivision and Development Appeal Board, all information in our file is disclosed and will

Site signage and this website are not effective means of reaching all affected property owners who are entitled to a reasonable opportunity to make known their views about this rezoning application. The state of local emergency has been in effect since mid-March. The Planning and Development counter, including Property Research, has been closed the whole time. Property Research is where citizens are allowed to view documents submitted in support of the application that are relevant to making informed comments. After I filed a 311 SR complaining that the development map was closed for comments effective May 8th, 13:34, and that the relevant documents were not available for viewing, the file manager followed up, on May 12th, by extending the deadline to May 19th (instead of the original May 8th deadline) and forwarding to my attention a scanned document consisting of 5 pages. An additional week for me to make comments in the current circumstances is not sufficient. As for other affected property owners, it is worth noting that the site sign was put up at a time of public health emergency, when the Chief Medical Officer was telling Albertans to "continue to stay home". Moreover, not all affected property owners live in the neighbourhood. Of the 25 property owners affected by a development permit for a site just across the back alley, on 10th Street, and entitled to notice of my appeal under the Municipal Government Act (SDAB2018-0028), 20 received the notice at addresses outside of the neighbourhood. Lest the notification procedure be seen as a shortcut to a pre-determined result, The City of Calgary should further extend the deadline for submitting comments on this rezoning application and provide all affected property owners notice by letter.