

LAND USE AMENDMENT
SUNNYSIDE (WARD 7)
NORTH OF KENSINGTON ROAD NW AND EAST OF 10 STREET
NW
BYLAW 24D2017

MAP 21C

EXECUTIVE SUMMARY

This land use amendment application seeks to redesignate the subject parcel from DC Direct Control District to DC Direct Control District to accommodate two additional discretionary commercial uses at grade – Financial Institution and Wine Merchant. The proposed DC Direct Control District will carry forward specific rules and uses of the existing DC Direct Control District to protect the original intent of the proposal, while providing new restrictions around the proposed additional at-grade uses.

PREVIOUS COUNCIL DIRECTION

None.

ADMINISTRATION RECOMMENDATION(S)

2016 November 17

That Calgary Planning Commission recommends **APPROVAL** of the proposed Land Use Amendment.

RECOMMENDATION(S) OF THE CALGARY PLANNING COMMISSION

That Council hold a Public Hearing on Bylaw 24D2017; and

1. **ADOPT** the proposed redesignation of 0.17 hectares \pm (0.41 acres) located at 1075, 1087 and 1099 – 2 Avenue NW (Plan 1611954, Block 1, Lot 47; Plan 1611968, Units 1 to 126; and Plan CA160044, Units 1 to 29) from DC Direct Control District **to** DC Direct Control District to accommodate an additional ground floor use with floor area requirements, and a specialty use, Wine Merchant, in accordance with Administration's recommendation, as amended; and
2. Give three readings to the proposed Bylaw 24D2017.

REASONS FOR RECOMMENDATION:

The proposed amendments to the existing DC Direct Control District are consistent with the policies of the Municipal Development Plan (MDP) and the Hillhurst-Sunnyside Area Redevelopment Plan (ARP). They are supported for the following reasons:

- The proposed amendments are consistent with the intent of the existing DC Direct Control District, approved by Council 2012 November 05;

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- The proposed amendments are consistent with the character and land use districts of the surrounding commercial area; and
- The proposed amendments are consistent with the pedestrian-oriented development envisioned for the area.

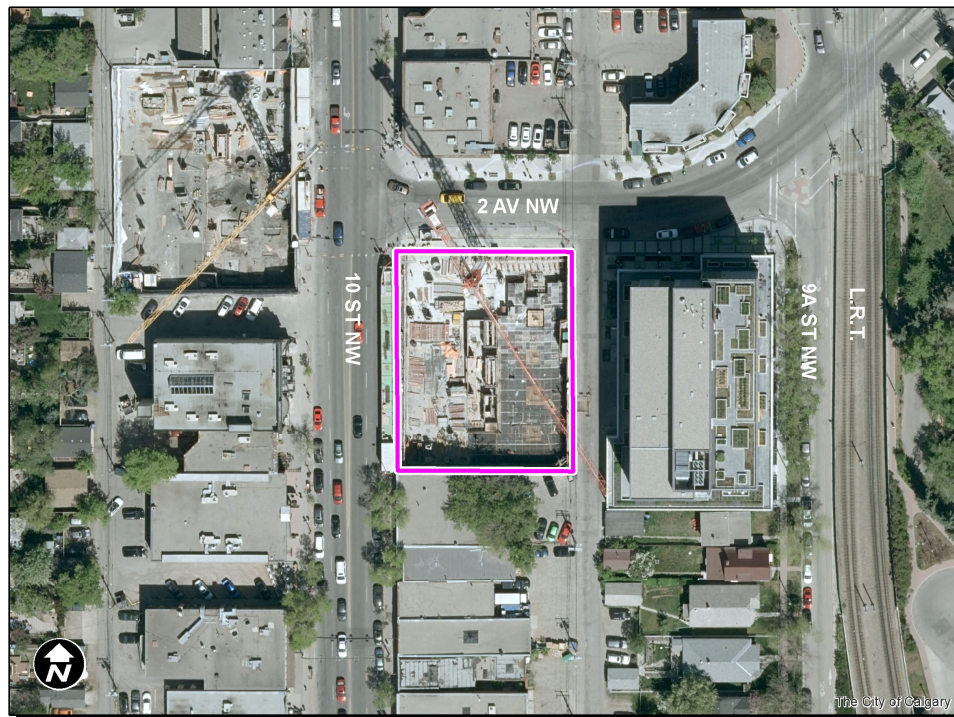
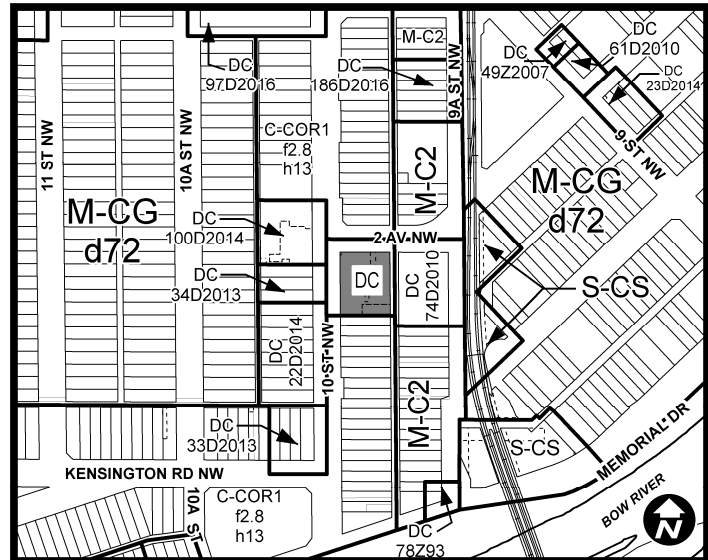
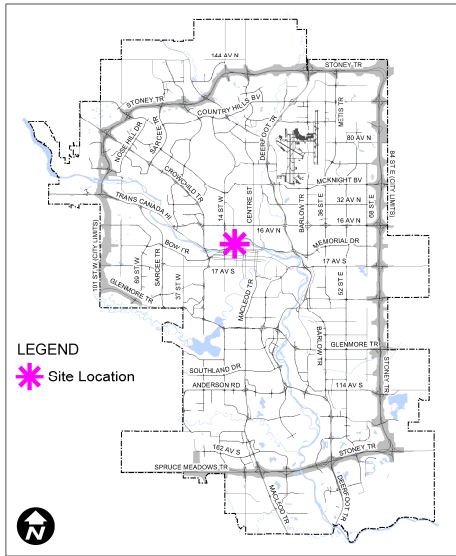
ATTACHMENT

1. Proposed Bylaw 24D2017
2. Public Submission

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LOCATION MAPS



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ADMINISTRATIONS RECOMMENDATION TO CALGARY PLANNING COMMISSION

Recommend that Council **ADOPT**, by bylaw, the proposed redesignation of 0.17 hectares \pm (0.41 acres) located at 1075, 1087 and 1099 – 2 Avenue NW (Plan 1611954, Block 1, Lot 47; Plan 1611968, Units 1 to 126; and Plan CA160044, Units 1 to 29) from DC Direct Control District **to** DC Direct Control District to accommodate an additional ground floor use with floor area requirements, and a specialty use, Wine Merchant, with guidelines (APPENDIX II).

Moved by: R. Wright

Carried: 7 – 0

Reasons for Approval from Mr. Wright:

- The notion of a wine merchant in this location makes sense. However, the 300 metre rule allows for no discretion if it was viewed as a liquor store.
- I believe discretion could have and should have resolved such a situation.
- I hope Council sees the value of this proposal.

2016 November 17

AMENDMENT: Delete Direct Control District guideline 15(1)(h) and renumber the guideline accordingly.

Moved by: J. Gondek

Carried: 4 – 3

Opposed: R. Wright, M. Tita and
G.-C. Carra

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Applicant:

Jennifer Dobbin

Landowner:

The City of Calgary
Various Owners

PLANNING EVALUATION

SITE CONTEXT

Located at the corner of 10 Street NW and 2 Avenue NW in the community of Sunnyside, the subject site was redesignated to DC District in 2012 and, through an approved Development Permit, now accommodates a mixed-use building that features commercial uses at grade, and residential on the remaining floors.

The commercial corridor along 10 Street NW in this vicinity is underdeveloped relative to existing land use and the majority of sites are retail and commercial only without a mixture of uses on site such as residential. Several other large mixed-use buildings exist in the immediate area with at grade commercial uses. Lower density residential development exists further to the east with pockets of multi-residential development.

LAND USE DISTRICTS

Existing DC District

The existing land use district is a DC District (64D2012) approved by Council on 2012 November 5. Based on Commercial – Corridor 1 (C-COR1) District, the intent of the existing DC District is to:

- accommodate a pedestrian oriented mixed-use development in compliance with the policies of the Hillhurst-Sunnyside ARP;
- accommodate a range of uses with development guidelines to maintain the existing small scale retail commercial character along 10 Street NW; and
- implement the density bonus provisions in the Hillhurst-Sunnyside ARP.

Proposed DC District

The main intent of the proposed changes to the existing DC District is to allow for one existing discretionary use to locate at grade, Financial Institution, and allow for an additional specialty discretionary use, Wine Merchant. Additionally section 13(2) of the existing DC District which requires 20 percent of the gross floor area of the building be commercial will become relaxable.

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These adjustments do not affect the intent of the existing DC District as approved by Council in 2012, and no amendments to the density bonusing provision, overall height or intensity in the original DC Bylaw are proposed. Specific rules and uses of the existing DC District will carry forward to protect the original intent of the proposal.

Financial Institution

Financial Institution is a discretionary use in the existing DC District (64D2012), but it is prohibited from being located at grade. The proposed DC District removes that restriction, and allows for Financial Institution as a discretionary use on the ground floor. Restrictions have been added to limit the frontage size and use area for Financial Institution to 7.5 metres and 170.0 square metres, respectively. The existing building is in alignment with these limitations.

Wine Merchant

It is the Applicant's position that a Liquor Store use does not adequately quantify or restrict the use in a way that represents the nature and clientele of a wine merchant. As such they have sought to create a use that allows for a vendor that serves a niche market and is an asset to the streetscape while barring future use as a typical liquor store use.

In 2016 a Development Permit application was made for a Liquor Store on the subject site. On 2016 May 09 the application was refused by the Development Authority, a decision that was upheld at the Subdivision and Development Appeal Board (SDAB). The application was refused as the Development Authority and SDAB were unable to relax the required 300 metre separation from other Liquor Stores.

The Applicant's proposed DC District introduces a new use, Wine Merchant, which has been tailored specifically for this site. The Alberta Gaming and Liquor Commission (AGLC) previously defined the use Wine Merchant in the Gaming and Liquor Act. This definition was deleted prior to 2006, and replaced with the more general Liquor Store use. Wine Merchant means a use:

- Where wine is sold for consumption off the retail outlet premises, that has been licensed by the Alberta Gaming and Liquor Commission; and
- may include the sale of table wine, fortified wine (appetizer, dessert, port and sherry), sparkling wine, crackling wine, bubbling wine champagne, wine coolers, ciders and related accessories.

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The main differences between a Wine Merchant and a Liquor store are:

	Liquor Store	Wine Merchant
Products	Any alcoholic beverage and incidental items	Table wine, fortified wine (appetizer, dessert, port and sherry), sparkling wine, crackling wine, bubbling wine champagne, wine coolers, ciders and related accessories
Separation Distance	300 metres (1P2007 Requirement)	None in proposed DC District
Licensing	AGLC License Required – “Liquor Store”	AGLC License Required – “Liquor Store”
Parking	5 stalls per 100.0 m ² of gross floor area	5 stalls per 100.0 m ² of gross floor area

As shown in the table above, a Wine Merchant would still require a provincial Liquor License from the AGLC, and has identical parking requirements.

Administration generally supports this use as it could contribute positively to the small-scale retail envisioned in the Sunnyside area. Additionally there is broad policy support from the ARP, which is discussed in Legislation and Policy section of this document.

Minimum Required Non-Residential Use Area

The proposed DC District will also introduce a clause allowing the relaxation of a rule that requires a minimum of 20 percent of the building to be non-residential uses. Additionally the site will be required to maintain at least three commercial bays along 10 Street NW and one along 2 Avenue NW.

LEGISLATION & POLICY

Municipal Development Plan (2009) (MDP)

The subject site is identified as a Neighbourhood Corridor and on the Primary Transit Network in the MDP. Neighbourhood corridors are typically the main streets in a community and support a mix of uses within a pedestrian friendly environment. Local Area Plans are to provide the land use framework. Appropriate transitions between Neighbourhood Corridors and adjacent residential areas are required.

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Hillhurst / Sunnyside Area Redevelopment Plan (1988) (ARP)

The subject site is within the Transit Oriented Development Area of the ARP which was revised in 2009 February; it is located in the Urban Mixed-Use Land Use Policy Area of Map 3.1 of the ARP. A variety of policies exist encouraging pedestrian friendly commercial uses at-grade to facilitate the Urban Mixed-Use direction that is compatible with its adjacent residential context.

The ARP indicates that its policies are intended to maintain a mix of shops, restaurants and services. It also notes that it is important to allow flexibility so that a broad range of retail commercial uses may be accommodated.

In policy 3.1.2.7, the ARP states:

- Commercial uses that do not generate significant pedestrian activity, such as financial institutions, may also locate on the ground floor provided store frontages do not exceed 7.5 metres. The remainder of the commercial area should locate on a second floor, basement, or wrapped behind adjacent retail units.

The proposed Financial Institution has been restricted to meet these requirements; proposed use is in alignment with the ARP.

Regarding the proposed Wine Merchant, policy 3.1.2.2 of the ARP states:

- Development within the Urban and Regional Mixed-Use Areas may include a mix of retail, office and residential development up to and including the fourth floor along a commercial street frontage. Street level uses shall consist primarily of retail, personal service and restaurant uses. Above the fourth floor of a building, additional storeys may be added only for residential development.

A Wine Merchant would be considered as a retail use and its inclusion in the proposed DC District is therefore supported by the ARP.

The minimum commercial use area requirement contained in the existing DC District is addressed in the ARP, under sections 3.1.2.3 and 3.1.2.4, which state:

- A minimum of 20 percent of the gross floor area of buildings should contain commercial uses, with the exception of those sites described in policy 3.1.2.4 below.
- For sites that extend from 10 Street NW to 10A Street NW or from 10 Street NW to 9A Street NW, a minimum of 10 percent of the gross floor area of the buildings should contain commercial uses. Commercial uses should only be located on the portion of the site along the 10 Street NW frontage.

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The site, which is located between 10 Street NW and 9A Street NW, falls under Policy 3.1.2.4. Any requested relaxation of the existing rule requiring a minimum of 20 percent commercial uses will be at the discretion of the Development Authority.

South Saskatchewan Regional Plan (SSRP)

The recommendation by Administration in this report has considered and is aligned with the policy direction of the South Saskatchewan Regional Plan (SSRP).

TRANSPORTATION NETWORKS

Pedestrian and cyclist access is available from 10 Street NW and 2 Avenue NW while vehicular access to the underground parkade is available from the lane via 2 Avenue NW.

The subject site is approximately 250 metres from the Sunnyside LRT Station. This site is classified as a Transit Oriented Development area as it is located along frequent transit service. High density, mixed use is encouraged in the Transit Oriented Development area.

UTILITIES & SERVICING

Available servicing is able to accommodate the proposed additional uses. Any future upgrades will be determined at the development permit stage and will be at the expense of the developer.

ENVIRONMENTAL ISSUES

An Environmental Site Assessment was not required.

GROWTH MANAGEMENT

The proposed amendment does not trigger capital infrastructure investment and therefore there are no growth management concerns at this time.

PUBLIC ENGAGEMENT

Community Association Comments

The Hillhurst-Sunnyside Community Association was circulated on 2016 July 27, and City Administration met with them on 2016 October 11. The CA provided comments on 2016 November 02, expressing some concern with the proposed changes (See APPENDIX III). City Administration also met with the Kensington Business Revitalization Zone, which has provided general support for the application.

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Citizen Comments

Seven letters of concern were received during the circulation period. Concerns cited include:

- The potential impact on other businesses in the area;
- Perceived changes to the Area Redevelopment Plan;
- The possibility of big box chains locating in the building; and,
- Parking concerns.

Public Meetings

There were no public meetings held by the Applicant or Administration for this land use proposal.

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APPENDIX I

APPLICANT'S SUBMISSION

Further to the above application, we provide the following updated application rationale for the amendments we seek to achieve through this application:

- **Remove / Redefine a Restricted Ground Floor Use**

We wish to have Section 13 (1) amended to remove '(h) Financial Institution' from the list of uses not permitted on the ground floor of the building while imposing: a 7.5m storefront restriction on the bay width; and a total maximum area of 170m²; to align with the policies of the local ARP.

Rationale: It is the Applicant's position that this use is complementary to the established walkable pedestrian environment and consistent with the intent and character of fine-grain commercial uses within the streetscape with restrictions. The Applicant is amenable to controlling the amount of frontage and total floor space for this use. The ability to attract a wider variety of tenants helps to secure the develop-ability and leasing opportunities that support development while a rhythm of small, active uses is more conducive to a lively streetscape.

- **Non-Residential Uses Minimum**

We wish to amend the 20% gross floor area requirement for non-residential uses to read *"this requirement may be relaxed at the discretion of the development authority"* to section 13 (3) of the current bylaw.

Rationale: Although the ARP/TOD encourages second floor commercial uses, it has been the Applicant's experience that this space is very challenging to lease for commercial use. The Applicant seeks to amend this requirement to allow to build flexibility into the land use to ensure that there is activity in the building and on the main street during this economically challenging times. The units have been built in such a manner as to covert to many uses including both commercial and residential. Allowing greater flexibility of use and conversion opportunities allows this project to remain financially viable. The Applicant notes that previous project DCs in the area have had to apply for similar relaxations. The Applicant is confident that a flexible use of the space aligns with density targets within the MDP and is in alignment with the intent of both TOD policy and the upcoming Developed Areas Guidelines currently in draft.

- **Addition of a Specialty Use: Wine Merchant**

We have defined a new Specialty Use on the ground floor of the building defined as a "Wine Merchant". This Use would allow a Change of Use applicant to apply for a use

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within the building that only sells wine and wine accessories and bars the sale of any other forms of liquor.

Rationale: It is the Applicant's position that a liquor store use does not quantify or restrict the use in a way that represents the nature and clientele of a wine merchant and we seek to create a use that allows for a vendor in the building that services high-end clientele and is an asset to the streetscape while barring future use as a typical liquor store use. It is the applicant's position that a specialty use is required to describe and allow a use within the building that does not operate as a typical liquor store and does not cause the social impact the 300m separation bylaw seeks to reduce.

We look forward to working with the City on this application.

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APPENDIX II

PROPOSED DIRECT CONTROL GUIDELINES

Purpose

- 1 This Direct Control District is intended to:
- (a) accommodate a pedestrian oriented mixed-use **development** in compliance with the policies of applicable the local area redevelopment plan;
 - (b) accommodate a range of **uses** with **development** guidelines to maintain the existing small scale retail commercial character along 10 Street NW; and,
 - (c) implement the **density** bonus provisions in the applicable local area redevelopment plan.

Compliance with Bylaw 1P2007

- 2 Unless otherwise specified, the rules and provisions of Parts 1, 2, 3 and 4 of Bylaw 1P2007 apply to this Direct Control District.

Reference to Bylaw 1P2007

- 3 Within this Direct Control District, a reference to a section of Bylaw 1P2007 is deemed to be a reference to the section as amended from time to time.

General Definitions

- 4 In this Direct Control District:
- (a) “**commercial uses**” means the **uses** listed in Section 6 and 7 of this Direct Control District, except for those **uses** listed in Section 15 (1).

Defined Uses

- 5 In this Direct Control District,
- (a) “**Wine Merchant**” means a **use**:
 - (i) where wine is sold for consumption off the retail outlet premises, that has been licensed by the Alberta Gaming and Liquor Commission; and
 - (ii) may include the sale of table wine, fortified wine (appetizer, dessert, port and sherry), sparkling wine, crackling wine, bubbling wine, champagne, wine coolers, ciders and related accessories.

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Permitted Uses

- 6 The **permitted uses** of the Commercial – Corridor 1 (C-COR1) District of Bylaw 1P2007 are the **permitted uses** in this Direct Control District.

Discretionary Uses

- 7 The **discretionary uses** of the Commercial – Corridor 1 (C-COR1) District of Bylaw 1P2007 are the **discretionary uses** in this Direct Control District with the addition of:

- (a) **Wine Merchant.**

Bylaw 1P2007 District Rules

- 8 Unless otherwise specified, the rules of the Commercial – Corridor 1 (C-COR1) District of Bylaw 1P2007 apply in this Direct Control District.

Floor Area Ratio

- 9 (1) Unless otherwise referenced in subsection (2), the maximum **floor area ratio** is 2.8.
- (2) The **floor area ratio** may be increased to a maximum of 5.0 in accordance with the bonus provisions contained in subsections (4) and (5).
- (3) For the purposes of this section: “Cash Contribution Rate” means: \$17.30 per square metre. The Cash Contribution Rate will be adjusted annually on January 1 by the **Development Authority**, based on the Statistics Canada Consumer Price Index for Calgary.
- (4) A **density** bonus may be earned by a contribution to the Hillhurst/Sunnyside Community Amenity Fund, such that:
- Cash Contribution Amount = Cash Contribution Rate x Total floor area in square meters above 2.8 **floor area ratio**.
- (5) A **density** bonus may be earned by the provision of an off-site improvement in accordance with Section 3.1.5.4 of the Hillhurst-Sunnyside ARP, where the allowable bonus floor area in square metres is equal to the cost of construction of the off-site improvement divided by the Cash Contribution Rate, such that:
- Allowable bonus floor area = Total construction cost of the off-site improvement / Cash Contribution Rate.
- Total construction cost shall not include any construction costs necessary to fulfill the infrastructure requirements of a **development permit** for a **development** equal to or less than a **floor area ratio** of 2.8. Details of the construction cost will be determined through the **development permit** process.

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Building Height

10 The maximum **building height** is 26.0 metres.

Building Orientation

- 11 (1) The main **public entrance** of at **grade uses** must face the **property line** shared with a **street**.
- (2) **Motor vehicle parking stalls** and **loading stalls** must not be located between a **building** and a **street**.

Building Façade

- 12 (1) The length of the **building** façade that faces a **street** must be a minimum of 80.0 percent of the length of the **property line** it faces.
- (2) In calculating the length of the **building** façade, the depth of any required **building setback** will not be included as part of the length of the **property line**.

Vehicle Access

13 Vehicle access to the **parcel** must only be from the **lane**.

Use Area

- 14 (1) Unless otherwise referenced in subsection (3), the maximum **use area** for **uses** on the ground floor of **buildings** in this Direct Control District is 465.0 square metres.
- (2) Unless otherwise referenced in subsection (3), there is no maximum **use area** requirement for **uses** located on upper floors in this Direct Control District.
- (3) The maximum **use area** of a:
- (a) **Catering Service – Minor**, or a **Catering Service – Minor** combined with any other **use**, is 300.0 square metres;
 - (b) **Cinema**, or a **Cinema** combined with any other **use**, is 550.0 square metres;
 - (c) **Financial Institution**, or a **Financial Institution** combined with any other **use**, is 170.0 square metres; and
 - (d) **Supermarket** or a **Supermarket** combined with any other **use** is 2500.0 square metres.

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Location of Uses within Buildings

15 (1) The following **uses** must not be located on the ground floor of **buildings**:

- (a) **Addiction Treatment;**
- (b) **Assisted Living;**
- (c) **Catering Service – Minor;**
- (d) **Child Care Service;**
- (e) **Cinema;**
- (f) **Counselling Service;**
- (g) **Custodial Care;**
- (h) **Fitness Centre**
- (i) **Health Services Laboratory – with Clients;**
- (j) **Instructional Facility;**
- (k) **Medical Clinic;**
- (l) **Office;**
- (m) **Pawn Shop;**
- (n) **Pet Care Service;**
- (o) **Place of Worship – Small;**
- (p) **Post-secondary Learning Institution;**
- (q) **Radio and Television Studio;**
- (r) **Residential Care;**
- (s) **Social Organization;**
- (t) **Supermarket; and**
- (u) **Veterinary Clinic.**

- (2) There must be a minimum of three (3) separate commercial bays containing **commercial uses** along 10 Street NW each with a separate, publically accessible entrance onto the sidewalk.
- (3) There must be a minimum of one (1) commercial bay containing **commercial uses** along 2 Avenue NW with a separate, publically accessible entrance onto the sidewalk.
- (4) The maximum frontage for a **Financial Institution**, or a **Financial Institution** combined with any other **use**, is 7.5 metres.
- (5) Pedestrian access to **uses** situated above the ground floor must not be provided from 10 Street NW.
- (6) A minimum of 20.0 per cent of the **gross floor area** of **buildings** in this Direct Control District must contain non-residential **uses**.

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- (7) The provisions of subsection (6) may be relaxed by the **Development Authority** provided the relaxation test of Land Use Bylaw 1P2007 is met.

Building Setback

- 16 (1) Where a **parcel** shares a **property line** with a **street**, the minimum **building setback** at **grade** is 1.8 metres and the maximum is 5.0 metres.
- (2) Where a **parcel** shares a **property line** with a **lane**, the minimum **building setback** at **grade** is 0.0 metres.
- (3) Where a **parcel** shares a **property line** with another **parcel**, the minimum **building setback** is 0.0 metres.
- (4) The **building setback** may be relaxed by the **Development Authority** to provide for articulation of the **building** façade in terms of the massing guidelines of the applicable local area redevelopment plan.
- (5) For the purpose of this Direct Control District, sections 787, 788 and 789 of Bylaw 1P2007 do not apply.

Parking

- 17 (1) For a **Wine Merchant** the minimum number of **motor vehicle parking stalls** is 5.0 stalls per 100.0 square metres of **gross usable floor area**;
- (2) A minimum of 35 motor **vehicle parking stalls** must be independent of any **use** for the **development** and must be made available for the public.

Bicycle Parking

- 18 (a) A **Wine Merchant** does not require **bicycle parking stalls – class 1**; and
- (b) The minimum number of **bicycle parking stalls – class 2** for a **Wine Merchant** is 1.0 stalls per 250.0 square metres of **gross usable floor area**.

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APPENDIX III

LETTERS SUBMITTED

November 2, 2016

Dear Sir/Madam:

On behalf of the Hillhurst Sunnyside Planning Committee ("HSPC"), we are writing in respect of a proposed land use amendment initiated by the developers of the Lido project or its representatives ("Lido") in respect of the above-referenced address.

Lido is seeking an amendment to the current land use designation to allow a ground floor financial institution. Other changes to the DC are to specify the maximum size and frontage of the ground floor financial institution and to ask for relaxation on the requirement for 20% non-residential uses.

In general, the community is opposed to any changes that would be against the intent of the DC to "maintain the existing small-scale retail character". There is specific concern about the perceived negative impact of financial institutions and specifically that they reduce vibrancy of a building and street. We are pleased to see the requirement for a minimum number of commercial units and a restriction on the size of the financial institution. We are not able to determine the potential impact of the relaxation of the 20% non-residential requirement. Finally, there is also always concern when land use or development permits are "opened up" again after having been negotiated with the community as a stakeholder.

Should you wish to discuss this with us further, we would be happy to continue this consultation.

Thank you for the opportunity to provide comments.

Sincerely,
Kimberly Setrakov and Robert McKercher
On behalf of the Hillhurst Sunnyside Planning Committee