

Background and Planning Evaluation

Background and Site Context

The subject site is located in the community of Banff Trail at the northeast corner of 22 Street NW and 23 Avenue NW. The site is approximately 0.06 hectares (0.14 acres) in size, and is approximately 15 metres wide by 37 metres long. The site is currently developed with a single detached dwelling, and has rear lane access.

Surrounding development is characterized by a mix of single and semi-detached dwellings designated as Residential – Contextual One / Two Dwelling (R-C2) District, and R-CG District. Branton Junior High School is located immediately across 23 Avenue NW to the southeast of the site. The subject site was part of several blocks of parcels along strategic corridors that were redesignated to the R-CG District in 2017 as a result of a City-initiated redesignation to support the implementation of the *Banff Trail Area Redevelopment Plan (ARP)*.

The Banff Trail Community Association is approximately 350 metres (four-minute walk) to the south of the site, and the Banff Trail LRT Station is approximately 350 metres (four-minute walk) to the southwest. The University of Calgary is approximately one kilometre (12-minute walk) to the northwest, and Confederation Park is approximately 900 metres (11-minute walk) to the north. North Hill Mall is approximately 900 metres (11-minute walk) southeast of the site.

In 2019 September, Council adopted Bylaw 56P2019 to:

- remove the Special Study Area overlay from the intersection of Crowchild Trail NW and 24 Avenue NW; and
- express support for redevelopment in alignment with the goals and objectives of the ARP where it conflicts with a restrictive covenant potentially limiting development to one or two dwelling units, as explained below.

Many properties in Banff Trail are subject to a 1952 restrictive covenant restricting the use of affected lots to single and semi-detached dwellings. Restrictive covenants registered against individual properties and entire subdivision plans, such as this one, were used as an early land use planning tool before municipalities adopted land use bylaws and other planning legislation designed to inform land development. While these restrictive covenants are not binding on Council or Administration in making land use or development permit decisions, they present a potential impediment to redevelopment at the time of construction should another landowner choose to enforce the restrictive covenant. A civil case regarding this site and the restrictive covenant currently exists.

Previous Council Direction

In 2017, Council approved redesignation of several blocks of parcels along strategic corridors to the R-CG District as a result of a City-initiated redesignation to support the implementation of the *Banff Trail ARP*.

In 2019 September, Council adopted Bylaw 56P2019 to:

- remove the Special Study Area overlay from the intersection of Crowchild Trail NW and 24 Avenue NW; and
- express support for redevelopment in alignment with the goals and objectives of the ARP where it conflicts with a restrictive covenant potentially limiting development to one or two dwelling units.

Planning Evaluation

Land Use

The existing R-CG District is a low density residential district that allows for two to three-storey (11 metres maximum height) rowhouse developments where one façade of each dwelling unit must directly face a public street. The district provides for a maximum density of 75 units per hectare which would allow up to four dwelling units on the subject site based on parcel area. The R-CG District also allows for a range of other low density housing forms such as single detached, semi-detached, duplex dwellings, and secondary suites, but the intent of the application is to develop a rowhouse.

The proposed DC District is based on the R-CG District and is for rowhouse development that:

- requires a minimum density of 50 units per hectare, which equates to three dwelling units on the subject site; and
- excludes Single Detached Dwelling, Semi-detached Dwelling, Contextual Semi-detached Dwelling, Duplex Dwelling, and Cottage Housing Cluster as uses.

The proposed DC District includes a rule that allows the Development Authority to relax Section 6 of the DC. Section 6 incorporates the rules of the base district in Bylaw 1P2007 where the DC does not provide for specific regulation. In a standard district, many of these rules can be relaxed if they meet the test for relaxation of Bylaw 1P2007. The intent of this DC rule is to ensure that rules regulating aspects of development that are not specifically regulated by the DC can also be relaxed in the same way that they would be in a standard district.

What is the Purpose of the DC?

Section 20 of Land Use Bylaw 1P2007 sets out the requirements for the use of a DC District that include unique characteristics, innovative ideas or unusual site constraints, which require specific regulation unavailable in other land use districts.

The existence of the restrictive covenant creates unusual site constraints that prevent the landowners from building their approved development in accordance with the policies of the ARP. The landowners are seeking a way to move forward with their land use and development permit approvals which would implement the vision of the ARP. The intent of the DC is to address the unusual site constraints and allow the landowner to develop their site.

Achieving the vision and goals contained in the City's statutory plans is in the public interest. The DC will allow for more housing opportunities for inner city living with access to alternative transportation modes and a more efficient use of existing infrastructure.

What Does this Mean for The City?

The applicant has a legal right to make the above noted application to The City. The restrictive covenant on the subject site impacts The City's ability to implement policy in communities where certain restrictive covenants exist that hinder the type of redevelopment envisioned in some local area plans. The City utilizes the policies in place to evaluate the merits of the application when making a planning decision.

The proposed DC District supports redevelopment that aligns with the ARP. The City's approved policy goals and investments may not be realized unless the DC District is supported, which is also required for local area plans to be implementable, and ultimately buildable.

Development and Site Design

If approved by Council, the rules of the proposed DC District and the policies of the *Banff Trail ARP* will enable a rowhouse development on the site.

The corresponding development permit was approved by the Subdivision and Development Appeal Board for a four-unit rowhouse with four secondary suites located in the basement.

Transportation

A Transportation Impact Assessment was not required for this proposal. Pedestrian access is available from the existing sidewalks on 22 Street NW and 23 Avenue NW. Vehicular access to the site will be provided from the existing rear lane. Unregulated on-street parking is available on 22 Street NW and 23 Avenue NW adjacent to the subject site. The subject site is located within Residential Parking Permit Zone E.

The subject site is well served by Calgary Transit service, including bus stops located on 19 Street NW within 400 metres (five-minute walk) of the parcel, and the Banff Trail LRT Station located within 325 metres (four-minute walk) of the parcel.

Environmental Site Considerations

No environmental concerns were identified.

Utilities and Servicing

Water and sanitary mains are available on 22 Street NW. A storm sewer main is available from 23 Avenue NW. No upgrades to the mains would be required based on a future development proposal of a four-unit rowhouse with secondary suites.

Legislation and Policy

South Saskatchewan Regional Plan (2014)

The recommendation by Administration in this report has considered and is aligned with the policy direction of the [South Saskatchewan Regional Plan](#) which directs population growth in the region to cities and towns, and promotes the efficient use of land.

Interim Growth Plan (2018)

The recommendation aligns with the policy direction of the Calgary Metropolitan Region Board's [Interim Growth Plan](#) (IGP). The proposed land use amendment builds on the principles of the IGP by promoting efficient use of land and regional infrastructure, and establishing strong, sustainable communities.

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 proposal contributes to achieving the applicable MDP policies that encourage redevelopment and modest intensification of inner-city communities to make more efficient use of existing infrastructure, public amenities, and transit, while delivering small and incremental benefits to climate resilience. The proposal is a low density proposal in a predominately low density area in close proximity to the existing LRT station.

Transit Oriented Development Policy Guidelines (2004)

The general objectives identified in the [Transit Oriented Development Policy Guidelines](#) provide additional policy support for this project. It should be also noted that many of the applicable transit-oriented development guidelines have been previously incorporated into the ARP, including transit supportive land uses, optimization of density, and pedestrian-oriented design.

Climate Resilience Strategy (2018)

This application does not include any specific actions that address objectives of the [Climate Resilience Strategy](#).

Banff Trail Area Redevelopment Plan (Statutory – 1986)

The subject site is located within the Low Density Rowhouse area as identified on Figure 2: Land Use Plan in the [Banff Trail Area Redevelopment Plan](#) (ARP). The Low Density Rowhouse area is intended to allow for a modest increase in density with a greater variety of housing types. Developments should be grade-oriented. The land use does not propose an ARP amendment as the area has provided policy support for the development of rowhousing.

Section 2.1.2 of the ARP also provides specific comment regarding potential for conflict between the policy goals of the ARP and the caveat (restrictive covenant) affecting this site and Section 2.1.2 Context of the ARP states:

“Many parcels in Banff Trail have a caveat registered against the certificate of title which may restrict development. These restrictions include, but are not limited to, restricting development to one or two-unit dwellings. In some cases this caveat is not in alignment with the goals and objectives of this Plan and where such conflicts occur, The City of Calgary supports the direction of this Plan.”

The proposal is in alignment with the ARP.