

Policy Amendment and Land Use Amendment in Banff Trail (Ward 7) at multiple addresses, LOC2021-0020

RECOMMENDATION(S):

That Calgary Planning Commission recommend that Council:

1. Give three readings to the proposed bylaw for the amendment to the Banff Trail Area Redevelopment Plan (Attachment 2);
2. Give three readings to the proposed bylaw for the redesignation of 0.17 hectares \pm (0.42 acres \pm) located at 2460, 2464, and 2468 – 23 Street NW (Plan 9110GI, Block 5, Lots 15 to 17) from Mixed Use - General (MU-1f3.9h23) District to Direct Control District to accommodate mixed-use development, with guidelines (Attachment 3);
3. Give three readings to the proposed bylaw for the amendment to the Banff Trail Area Redevelopment Plan (Attachment 4); and
4. Give three readings to the proposed bylaw for the redesignation of 0.16 hectares \pm (0.40 acres \pm) located at 2103 and 2107 – 24 Avenue NW (Plan 9110GI, Block 14, Lots 15 and 16) from Mixed Use - General (MU-1f2.9h16) District to Direct Control District to accommodate mixed-use development, with guidelines (Attachment 5).

HIGHLIGHTS

- On 2020 February 03, Council approved the redesignation of the subject sites to the MU-1 District to enable mixed-use and multi-residential development on the sites.
- This application seeks to redesignate the subject sites to address unusual site constraints created by the presence of a restrictive covenant on title by implementing a minimum density requirement for the sites.
- This application enables the transit-oriented vision for the area, and aligns with the *Municipal Development Plan* (MDP) and *Banff Trail Area Redevelopment Plan* (ARP).
- A minor amendment to the ARP is proposed to reinforce the density requirement in the two proposed DC Districts.
- What does this mean to Calgarians? More housing opportunities for inner city living with access to alternative transportation modes, and a more efficient use of existing infrastructure. The sites are within 600 metres of the Banff Trail LRT Station, and Council has made investments in pedestrian and transportation improvements in Banff Trail and along 24 Avenue NW to support the future vision of intensification.
- Why does this matter? By providing more housing choice within existing developed areas, Calgary may have a more diverse population living in close proximity to existing services and facilities.
- Without this redesignation, the policy objectives of the ARP will likely not be realized and contribute to The City's planned and funded public realm improvements.
- Strategic Alignment to Council's Citizen Priorities: A city of safe and inspiring neighbourhoods.

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DISCUSSION

This application, for two subject sites in the northwest community of Banff Trail, was submitted by CivicWorks on behalf of the landowners, Twenty3 Ltd and Twenty4 Ltd, on 2021 February 08.

Both sites are located along 24 Avenue NW, between 19 Street NW and Crowchild Trail NW, an area identified for strategic redevelopment in close proximity to the Banff Trail LRT Station (within 600 metres), the University of Calgary, and Foothills Hospital.

The application proposes two DC Districts with the intent to provide more certainty around the types of development and the minimum densities required to support the transit-oriented development vision for this area and as approved in the *Banff Trail ARP*, as per the Applicant Submission (Attachment 6). The use of a DC District is unique in this case as it is being used to address a restrictive covenant that is in conflict with The City's statutory plans, including the MDP and ARP.

Both sites are subject to a restrictive covenant that restricts the use of, and potential development on, the lots to single and semi-detached dwellings. While 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 time of construction should another landowner choose to enforce the restrictive covenant. A civil case regarding these sites and the restrictive covenant currently exists. For sites subject to a restrictive covenant that is not in alignment with the policy goals, such as for these sites, the ARP supports the direction within its policy under section 2.1.2 Context.

If a DC District approach is not supported, it may mean that City planning policies and goals cannot be achieved in communities where restrictive covenants conflict with the local area plans. The local area plan policy was updated in 2016 and again in 2019. The type of private investment and redevelopment envisioned in this local area plan may not be achievable within 600 metres of the existing LRT station.

Development permits for four-storey and six-storey mixed-use developments were submitted during the review of the previous land use amendment applications for the sites. These applications were put on hold pending discussions around submitting the subject land use amendment application.

Administration is ready to approve the development permits pending Council's decision on the subject land use amendment application. See Development Permit (DP2019-3660) Summary and Development Permit (DP2019-4101) Summary (Attachments 7 and 8) for additional information.

A detailed planning evaluation of the application, including location maps and site context, is provided in Attachment 1, Background and Planning Evaluation.

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STAKEHOLDER ENGAGEMENT AND COMMUNICATION (EXTERNAL)

- Outreach was undertaken by the Applicant
- Public/Stakeholders were informed by Administration

Applicant-Led Outreach

Outreach for this application was limited to information sharing only, which included a mail-out to adjacent residents. Comprehensive outreach was completed by the applicant during the previous land use amendment applications for the subject sites, and included a dedicated project website and email (launched June 2019), on-site signage, two mail drops, and two open house events held jointly with The City. The open houses included several City departments and the applicants of six active applications (including this application) along 24 Avenue NW and were held on 2019 June 11 and 2019 October 24. The purpose of these open houses/information sessions was to inform the community and gather public input on all six proposals along 24 Avenue NW.

The Applicant Outreach Summary is included in Attachment 9.

City-Led Outreach

In keeping with Administration's practices, this application was circulated to stakeholders, notice posted on-site, published [online](#), and notification letters were sent to adjacent landowners.

Administration received 16 letters of opposition and two letters of support from the public. The letters of opposition included the following areas of concern:

- use of a DC District fails to meet the requirements of Section 20 of the Land Use Bylaw;
- application is only being used to subvert the legal proceedings that are currently before the court;
- application is a self-serving land use conflict with the restrictive covenant for the applicant in the civil case;
 - it is possible to comply with the ARP and the restrictive covenant by maintaining the current dwellings on the sites;
- restrictive covenants remain a valid planning tool;
 - a DC District was recently created that took a restrictive covenant into consideration – inconsistency in consideration of restrictive covenants that appears to be arbitrary;
- applications should be reviewed solely on their merits, absent consideration of the restrictive covenant;
- developments do not encourage community or family prosperity/not family friendly; and
- increase in density will further exacerbate traffic congestion and demand for street parking.

The Banff Trail Community Association provided a letter in opposition on 2021 March 12 (Attachment 10) identifying the following concerns:

- proposal provides no legitimate planning rationale, is meritless, unnecessary, and inappropriate;
- does not meet the requirements in the Land Use Bylaw for use of a DC District; and

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- there are current land use approvals for the proposed developments, and reinforcement of these is not necessary or defensible.

Following Calgary Planning Commission, notifications for Public Hearing of Council for the land use amendment/policy amendment application will be posted on-site and mailed out to adjacent landowners. In addition, Commission's recommendation and the date of the Public Hearing will be advertised.

IMPLICATIONS

Social

The proposed application enables redevelopment that will provide more housing options, local retail, and live/work opportunities for Calgarians in a transit-oriented development area, that is also within proximity to major employment centres in the city including Foothills Hospital, Alberta Children's Hospital, and the University of Calgary. The development of these lands will enable a more efficient use of land and infrastructure, supporting surrounding uses and amenities, while introducing additional amenities for the community and greater area.

Environmental

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

Economic

The proposed land use amendment enables the development of two mixed use buildings, one with 89 residential dwelling units, nine live work units, and approximately 224 square metres of commercial space. The other building includes 59 residential dwelling units, 12 live work units, and approximately 87 square metres of commercial space. The developments provide housing opportunity, support local business, and employment opportunities within Banff Trail. The City of Calgary is actively investing in the Banff Trail area through pedestrian and transportation improvements along 24 Avenue NW. Intensification throughout this area is in alignment with the investment strategy to utilize public and private funds to improve the 24 Avenue NW corridor from Crowchild Trail to 14 Street NW.

Service and Financial Implications

No anticipated financial impact.

RISK

The restrictive covenant on the subject sites currently impacts The City's ability to implement the local area plan policy as currently approved. If a DC District is not approved for these sites it may never be possible to develop the sites in accordance with the *Banff Trail ARP*, development of the sites will be restricted to single or semi-detached homes within 600 metres of the existing Banff Trail LRT Station.

**Planning & Development Report to
Calgary Planning Commission
2021 June 3**

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CPC2021-0759
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ATTACHMENT(S)

1. Background and Planning Evaluation
2. Proposed Amendment to Banff Trail Area Redevelopment Plan – Site 1
3. Proposed Direct Control District – Site 1
4. Proposed Amendment to Banff Trail Area Redevelopment Plan – Site 2
5. Proposed Direct Control District – Site 2
6. Applicant Submission
7. Development Permit (DP2019-3660) Summary – Site 1
8. Development Permit (DP2019-4101) Summary – Site 2
9. Applicant Outreach Summary
10. Community Association Response
11. Proposed Improvements to 24 Avenue NW

Department Circulation

General Manager/Director	Department	Approve/Consult/Inform