

# Background and Planning Evaluation

## Background and Site Context

The application consists of two subject sites located in the northwest community of Banff Trail, along the south side of 24 Avenue NW. The western site ("Site 1") is east of 23 Street NW and consists of the properties located at 2460, 2464, and 2468 – 23 Street NW. It is approximately 0.17 hectares (0.42 acres) in size, and has approximately 40 metres of frontage along 24 Avenue NW and 55 metres along 23 Street NW. Site 1 is currently developed with three single detached dwellings with a single car detached garage and a double car detached garage with access from the rear lane.

The eastern site ("Site 2") is west of 20 Street NW and consists of the properties located at 2103 and 2107 – 24 Avenue NW. It is approximately 0.16 hectares (0.40 acres) in size, and has approximately 36 metres of frontage along 24 Avenue NW and 45 metres along 20 Street NW. Site 2 is currently developed with two single detached dwellings with one single car detached garage with access from the rear lane, and one double car detached garage with access directly from 20 Street NW.

Development surrounding both sites is characterized by a mix of single and semi-detached homes. A large portion of the existing residential community in Banff Trail is designated Residential – Contextual One / Two Dwelling (R-C2) District, with several blocks along strategic corridors allowing for rowhouse buildings under the Residential – Grade-Oriented Infill (R-CG) District as a result of a City-initiated redesignation approved by Council in 2017. Several sites along the 24 Avenue NW corridor between Crowchild Trail NW and 19 Street NW have been redesignated in the last two years to accommodate multi-residential or mixed use development under the Mixed Use - General (MU-1) District, Multi-Residential – High Density Low Rise (M-H1) District, or DC District based on M-H1. This is as a direct result of the significant investment made by The City in the existing Banff Trail LRT Station and the fully funded upgrades along Crowchild Trail NW and 24 Avenue NW.

The Banff Trail LRT Station is approximately 300 metres (four-minute walk) from Site 1, and 600 metres (eight-minute walk) from Site 2. Less than 1.7 kilometres away, west of Crowchild Trail NW, are several major centres including the University of Calgary, McMahon Stadium, and Foothills Hospital.

This application includes two of the five projects planned along 24 Avenue NW in Banff Trail. Significant private investment has been attracted to the area due to the location of the LRT and proximity to the major employment areas as noted above. The five projects are proposing to redevelop existing low density residential dwellings for mixed use and multi-residential development. The five projects are in different stages of review and approval. The two subject sites were part of three land use redesignations to MU-1 District approved by Council on 2020 February 03. These original approvals were given with a clear understanding of the mixed-use building forms the applicant intended to construct. A summary of the associated development permit applications was provided at the time, and the vision was supported via the land use approval.

In 2013, Council directed Administration to review the *Banff Trail ARP* to identify areas for modest intensification. As a result of this work, Council adopted Bylaw 11P2016 in 2016 to

amend the ARP to allow for medium density development in both low rise and mid-rise form along 24 Avenue NW. There was a recognition in policy approval that the current low-density corridor would evolve to a mid-density corridor in the future. Council approved policy set this vision which is now coming to fruition.

Further to this, 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 all 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 newer 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 time of construction should another landowner choose to enforce the restrictive covenant. A civil case regarding these sites and the restrictive covenant currently exists.

## Community Peak Population Table

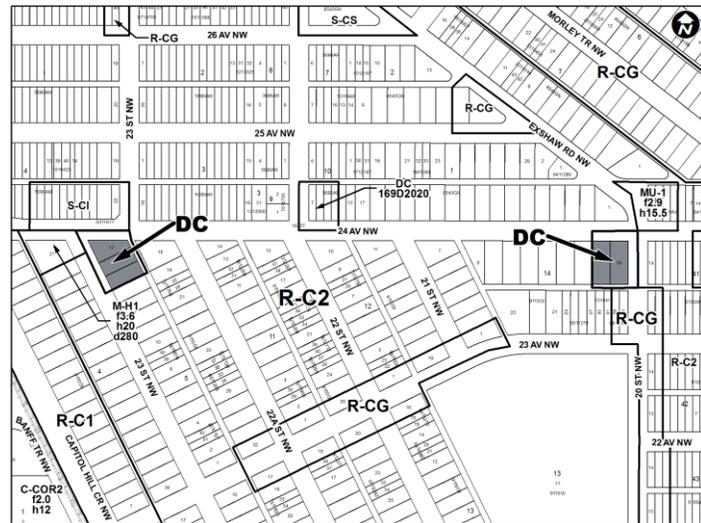
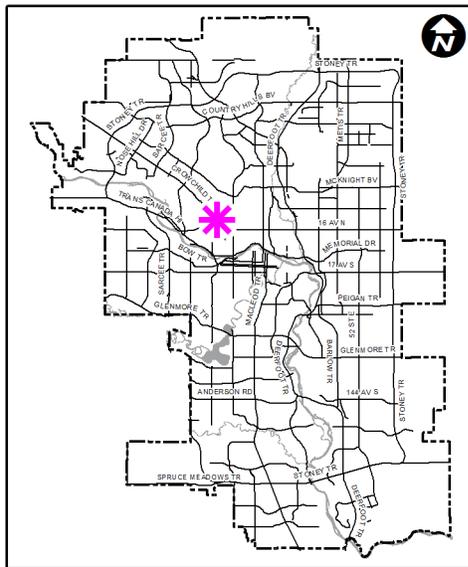
As identified below, the community of Banff Trail reached its peak population in 1968.

<b>Banff Trail</b>	
Peak Population Year	1968
Peak Population	4,883
2019 Current Population	4,153
Difference in Population (Number)	- 730
Difference in Population (Percent)	- 14.9%

Source: *The City of Calgary 2019 Civic Census*

Additional demographic and socio-economic information may be obtained online through the [Banff Trail community profile](#).

# Location Maps





## Previous Council Direction

In 2013, Council directed Administration to review the *Banff Trail ARP* to identify areas for modest intensification. As a result of this work, Council adopted Bylaw 11P2016 in 2016 to amend the ARP to allow for medium density development in both low rise and mid-rise form along 24 Avenue NW.

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.

On 2020 February 03 at the Combined Meeting of Council, Council approved land use redesignations of the subject sites to MU-1f2.9h16 and MU-1f3.9h16 Districts. At that meeting, a Motion Arising was also made to require developer contributions to public realm improvements along 24 Avenue NW:

- That with respect to Reports CPC2019-1507, CPC2019-1508, and CPC2019-1509, the following Motion Arising be adopted:

That Council directs Administration to:

1. Require the developers to contribute to public realm improvements that align with and expand on those provided in the Development Permits associated with CPC2019-1507, CPC2019-1508, CPC2019-1509, and with the improvements identified within the Banff Trail Area Improvements project cross section, for

applications that occur along 24 Avenue NW between Crowchild Trail NW and 14 Street NW, in advance of a more comprehensive plan amendment for the area;

2. Prepare policy amendments regarding 24 Avenue NW that consider additional policy direction that may be required to consistently implement the public realm and mobility improvements of the Banff Trail Area Improvements project, and that establish new land use typologies for commercial/mixed-use development at the time of the next newly submitted 24 Avenue NW Land Use Redesignation or when a local area plan review includes 24 Avenue NW, work plan depending.

The Motion Arising referenced the two subject sites and was in response to multiple land use redesignation applications along 24 Avenue NW proposing mixed use buildings. The intent was to ensure that redevelopment applications along the 24 Avenue corridor contribute to public realm improvements that are consistent and complement the improvements proposed by the Banff Trail Area Improvements project, upgrading 24 Avenue NW between Crowchild Trail NW and 14 Street NW. The Motion Arising directs the improvements to be of at least a standard set by the development permit applications that were associated with those land use redesignations.

The associated development permits for the subject sites still maintain these public realm improvements, which include street trees and signal infrastructure such as rectangular rapid-flashing beacons. The public realm contributions are contingent on the development forms moving forward into building and envisioned at the time of the land use approvals being realized.

Part 2 of the Motion Arising speaks about preparing policy amendments to be included in the ARP. At the time of preparing this report, Administration has not brought those policy amendments forward, as it is intended that the *Banff Trail ARP* will be part of a future multi-community local area plan within the next five years which would include looking at this area and the land use considerations as included in part 2.

## Planning Evaluation

### Land Use

The existing MU-1 District is a mixed-use district that allows for a mix of residential and commercial development in the same building and responds to the local context by establishing maximum building heights for individual parcels. Site 1 has a maximum floor area ratio (FAR) of 3.9 and a height modifier of 23 metres. Site 2 has a maximum FAR of 2.9 and a height modifier of 16 metres. These FAR and height modifiers have been written into the proposed DC Districts for each site to maintain the existing site maximums. No site minimums are included in the stock MU-1 District.

The proposed DC Districts are based on the MU-1 District and are for mixed use and multi-residential development that:

- requires a minimum density of 150 units per hectare, which equates to 25 dwelling units on Site 1, and 24 dwelling units on Site 2;
- removes Dwelling Unit as a use; and
- adds Multi-Residential Development as a discretionary use.

As the Dwelling Unit use in the existing MU-1 Districts would allow for construction of single and semi-detached homes, regardless of area policy, there is a risk that this could be misconstrued as permissive and allowing for development in conformance with the restrictive covenant. The existing land use on the site does not currently contain a minimum density modifier.

The proposed DC District includes a rule that allows the Development Authority to relax Sections 6, 9, 10, and 12 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.

Motor vehicle and bicycle parking stall requirements for Multi-Residential Development are based on the requirements found in the Part 14, Division 1: General Rules for Mixed Use Districts in the land use bylaw. It was necessary to add the rules in the DC as the Multi-Residential Development use's stall requirements reference the general rules for either multi-residential districts (Part 6) or Centre City districts (Part 11), neither of which would apply in this DC as MU-1 is used as the base 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 implementation of the goals contained in the *Municipal Development Plan (MDP)* and *Banff Trail ARP*. The intent of the DC District is to address the unusual site constraints and allow for multi-residential development on the site in furtherance of the *MDP* and *Banff Trail ARP*.

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.

The landowners filed to discharge the restrictive covenant from the subject sites' titles and the court application is still ongoing. The landowners of the subject sites are seeking a way to move forward with the development contemplated as part of the 2020 City Council land use approval to MU-1 District, and develop the land in accordance with the *Banff Trail ARP*.

#### ***Was a Stock District Considered?***

The use of a stock multi-residential district instead of a DC District was considered internally but the multi-residential districts that could accommodate the appropriate height and density requirements of the developments list Single Detached Dwelling, Semi-detached Dwelling, and Duplex Dwelling as discretionary uses, and therefore do not meet the intent and purpose of the land use redesignation.

#### ***What Does this Mean for The City?***

The restrictive covenant on the subject sites impacts The City's ability to implement policy in a meaningful way in communities where certain restrictive covenants exist that hinder the type of redevelopment envisioned in some local area plans. If a DC District is not approved for the sites

it may never be possible to develop the site in accordance with the *Banff Trail ARP*, development of the sites will be restricted to single or semi-detached homes.

If the restrictive covenant is upheld, the vision in the *Banff Trail ARP* for the area cannot be achieved. The key issue is that The City's higher policy goals 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 Districts and the policies of the *Banff Trail ARP* will enable a mixed use developments on the subject sites.

The corresponding development permit for Site 1 proposes a six-storey mixed use building with 89 residential dwelling units, nine live/work units, and approximately 224 square metres of commercial space. The corresponding development permit for Site 2 proposes a four-storey mixed use building with 59 residential dwelling units, 12 live/work units, and approximately 87 square metres of commercial space.

Both applications ensure that units at grade, whether dwelling, live/work, or commercial, are grade-oriented and provide direct pedestrian access to the public sidewalk.

### **Transportation**

The area is well served by Calgary Transit with Banff Trail LRT Station 300 metres (four-minute walk) from Site 1, and 600 metres (eight-minute walk) from Site 2, and bus stops (Routes 65 and 105) located nearby on 19 Street NW providing service to Market Mall, North Hill Mall, Northland Mall, and the downtown. For Site 1, there is currently two-hour parking restrictions (Monday to Friday 07:00 – 23:00) along 23 Street NW adjacent to the site, and parking is restricted along 24 Avenue NW adjacent to the site. For Site 2, on-street parking is unregulated along both 20 Street NW and 24 Avenue NW. The subject sites are located within Residential Parking Permit Zone E.

A Transportation Impact Assessment was submitted in support of the associated development permit applications. This review determined that improvements to signal infrastructure along the 24 Avenue NW corridor are required to accommodate the development proposed with those applications. Infrastructure improvements will include the addition of rectangular rapid-flashing beacons to facilitate pedestrian movements across 24 Avenue NW.

Transportation Infrastructure initiated the planning of a major road construction project called Banff Trail Area Improvements in 2018 and a component of this project includes improvements to the 24 Avenue NW corridor from Crowchild Trail NW to 14 Street NW. Construction is about to be wrapped up for the portion of 24 Avenue NW east of 19 Street NW, with construction between 19 Street NW and 23 Street NW ongoing and scheduled for completion in the 2021 construction season. Proposed transportation and pedestrian realm improvements to the 24 Avenue NW corridor consist of the following, which are shown on a conceptual street cross section in Attachment 11:

- roadway reconfiguration and resurfacing;
- new bicycle pathways on both sides of the street;
- sidewalk improvements on both sides of the street;

- pedestrian crossing improvements which may include curb extensions and rectangular rapid-flashing beacons; and
- the possibility of additional traffic control signals.

The planned 24 Avenue NW street improvements adjacent to the subject sites propose to reconfigure the road right-of-way to include two vehicle travel lanes, one in each direction, with on-street parking along the north side of the street west of 20 Street NW and on-street parking along the south side of the street east of 19 Street NW. New additions to the road right-of-way include new sidewalks and bicycle pathways on both sides of the street to better facilitate active modes, improve the public realm and create a vibrant street interface.

### **Environmental Site Considerations**

No environmental concerns were identified.

### **Utilities and Servicing**

For Site 1, water and sanitary mains are available on 23 Street NW. Storm sewers are unavailable for connection. A sanitary / storm sewer extension is required to service the proposed development at the applicant's expense as part of the associated development permit.

For Site 2, water, and sanitary mains are available on 24 Avenue NW, and water and storm mains are available on 20 Street NW. No upgrades to the mains are required as part of the associated development permit.

## **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 and policy 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 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 modest and incremental benefits to climate resilience.

### **Transit Oriented Development Policy Guidelines (2004)**

The [Transit Oriented Development Policy Guidelines](#) provide direction for the development of areas typically within a radius of 600 metres of a transit station. Both subject sites are located within 600 metres of the Banff Trail LRT Station. The guidelines call for higher density, walkable, mixed use areas around LRT stations to optimize the use of transit infrastructure and create mobility options for local residents. It should also be noted that many of the applicable transit-oriented development guidelines have been previously incorporated into the *Banff Trail ARP*.

### **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)**

Site 1 is located within the Medium Density Mid-Rise area, and Site 2 within the Medium Density Low-Rise area, as identified on Figure 2: Land Use Plan in the [Banff Trail Area Redevelopment Plan \(ARP\)](#). The Medium Density Low-Rise and Mid-Rise typologies are intended to allow for medium density residential development, including townhouses, apartments, and live/work units. The Medium Density Low-Rise typology allows for a maximum building height of four storeys, whereas the Medium Density Mid-Rise typology allows for a maximum building height of six storeys. Both sites have specific policy allowing for neighbourhood scaled commercial that predominately fronts 24 Avenue NW.

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.”*

To further address the conflict with the restrictive covenant, a policy amendment has been proposed to require a minimum density of 150 units per hectare, and to prohibit the development of single detached, semi-detached, and duplex dwellings on both subject sites. These proposed policy amendments are in alignment with the forms and intensities as included in the existing ARP for this corridor. Both the Medium Density Low-Rise and Mid-Rise typologies imply that the corridor will be redeveloped to an intensity outside of the existing single and semi-detached housing forms currently in existence along this corridor.