

**Land Use Amendment in Banff Trail (Ward 7) at 2404 – 22 Street NW, LOC2021-0019**

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**RECOMMENDATION(S):**

That Calgary Planning Commission recommend that Council:

Give three readings to the proposed bylaw for the redesignation of 0.05 hectares  $\pm$  (0.13 acres  $\pm$ ) located at 2404 – 22 Street NW (Plan 9110GI, Block 12, Lot 1) from Residential – Grade-Oriented Infill (R-CG) District to Direct Control District to accommodate a rowhouse development, with guidelines (Attachment 2).

**RECOMMENDATION OF THE CALGARY PLANNING COMMISSION, 2021 JUNE 03:**

That Council hold a Public Hearing; and  
 Give three readings to **Proposed Bylaw 106D2021** for the redesignation of 0.05 hectares  $\pm$  (0.13 acres  $\pm$ ) located at 2404 – 22 Street NW (Plan 9110GI, Block 12, Lot 1) from Residential – Grade-Oriented Infill (R-CG) District to Direct Control District to accommodate a rowhouse development, with guidelines (Attachment 2).

**HIGHLIGHTS**

- In 2017 Council approved redesignation of the subject site to R-CG, as part of City initiated redesignations to support the implementation of the *Banff Trail Area Redevelopment Plan* (ARP).
- This application seeks to redesignate the subject site to address unusual site constraints created by the presence of a restrictive covenant on title by implementing a minimum density.
- This application would enable the transit-oriented vision for the area, and aligns with the *Municipal Development Plan* (MDP) and *Banff Trail ARP*.
- What does this mean to Calgarians? More housing choice for inner city living with access to alternative transportation modes, and more efficient use of existing infrastructure. The site is within 350 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 an approved development is at risk of not being built.
- There is no previous Council direction related to this proposal.
- Strategic Alignment to Council's Citizen Priorities: A city of safe and inspiring neighbourhoods.

**DISCUSSION**

This application was submitted by CivicWorks on behalf of the landowners, Harjinder K. Kundan and Harjinder S. Kundan, on 2021 February 08. The intent is to develop a four-unit rowhouse with secondary suites, as per the Applicant Submission (Attachment 3).

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The site is located in the northwest community of Banff Trail at the northeast corner of 23 Avenue NW and 22 Street NW. The site is in close proximity to the Banff Trail LRT Station (350 metres), the University of Calgary, and Foothills Hospital.

This application proposes a DC District with the intent to provide more certainty around the type of development, and the density required, to support the transit-oriented development vision for this area as included in the ARP. The use of a DC District is unique in this case as it is being used to address a restrictive covenant that may prevent the rowhouse development from proceeding in accordance with The City's statutory plans, including the MDP and the ARP.

The site is subject to a restrictive covenant that restricts the use of, and potential development on, the lot to single and semi-detached dwellings. The restrictive covenant is also hampering progress on construction of a four-unit rowhouse building with an approved development permit. 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 this site 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 this site, the ARP supports the policy direction as set out within the ARP and specifically within its policy under section 2.1.2 Context.

If a DC District approach is not supported, there may be impediments to implementing the ARP. The local area plan policy was updated in 2016 and again in 2019. The type of private investment and redevelopment envisioned in the applicable local area plan may not be achievable within 350 metres of the existing LRT station.

A development permit for a four-unit rowhouse with four secondary suites was approved in 2019. The development permit expires 2022 January 03.

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

**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. As part of the development permit application circulation to the adjacent landowners was completed, and meetings with directly impacted neighbours were held.

The Applicant Outreach Summary is included in Attachment 4.

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### 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 15 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 5) 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
- there is a development approval, and reinforcement of it is not necessary or defensible.

Following Calgary Planning Commission, notifications for Public Hearing of Council for the land use 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 land use allows for a greater diversity of housing options 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.

### Environmental

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

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**Economic**

Council approved a city-led redesignation of the subject parcel to R-CG with the ability to develop up to four dwelling units on site as it is consistent with the ARP policy and makes more efficient use of existing infrastructure and services. 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 and the 2017 City initiated land use amendments.

**Service and Financial Implications**

No anticipated financial impact.

**RISK**

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. Without the proposed DC District, there may be impediments to implementing the ARP.

**ATTACHMENT(S)**

1. Background and Planning Evaluation
2. **Proposed Bylaw 106D2021**
3. Applicant Submission
4. Applicant Outreach Summary
5. Community Association Response
6. **Public Submissions**
7. **CPC Commissioner Comments**

Department Circulation

General Manager/Director	Department	Approve/Consult/Inform