

**LAND USE AMENDMENT  
BELTLINE (WARD 8)  
10 AVENUE SW BETWEEN 4 STREET SW AND 5 STREET SW  
BYLAW 100D2015**

**MAP 16C**

**EXECUTIVE SUMMARY**

This land use application seeks to redesignate 517, 524 and 538 10 Avenue SW from the existing Centre City Mixed Use District (CC-X) to a DC Direct Control District based on Land Use Bylaw 1P2007 CC-X District. The proposal intends to:

- Establish a new use – Restaurant Office Building Context;
- Exclude Drinking Establishment – Medium and Night Club uses;
- Create rules to achieve a minimum building height on the subject parcels;
- Specify parking requirements specific to the Restaurant: Office Building Context Use.

**PREVIOUS COUNCIL DIRECTION**

None

**ADMINISTRATION RECOMMENDATION(S)**

2015 May 21

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 100D2015; and

1. **ADOPT** the proposed redesignation of 1.16 hectares  $\pm$  (2.87 acres  $\pm$ ) located at 517, 524 and 538 – 10 Avenue SW (Plan 1210602, Block 69, Lot 42; Plan 1313019, Block 25, Lots 1 and 2) from Centre City Mixed Use District (CC-X) to DC Direct Control District to accommodate a Restaurant: Office Building Context, in accordance with Administration's recommendation; and
2. Give three readings to the proposed Bylaw 100D2015.

**REASON(S) FOR RECOMMENDATION:**

The proposed DC Direct Control District complies with statutory planning policy contained in the Municipal Development Plan and Beltline Redevelopment Plan, and Administration is satisfied that the rules created within the DC Direct Control District will ensure the resultant development is compatible with the surrounding community.

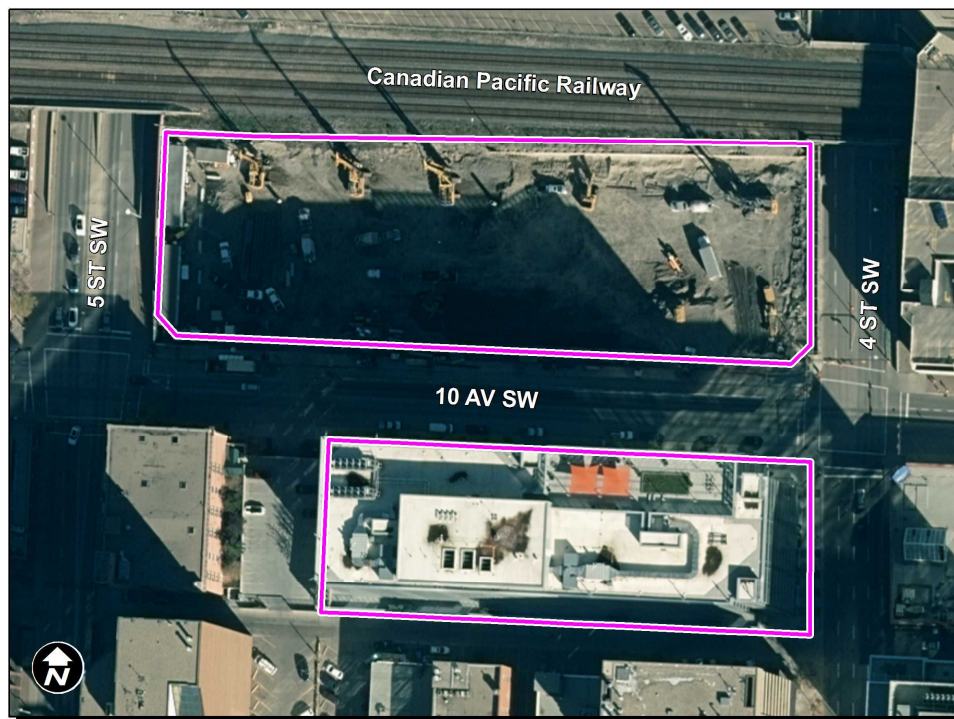
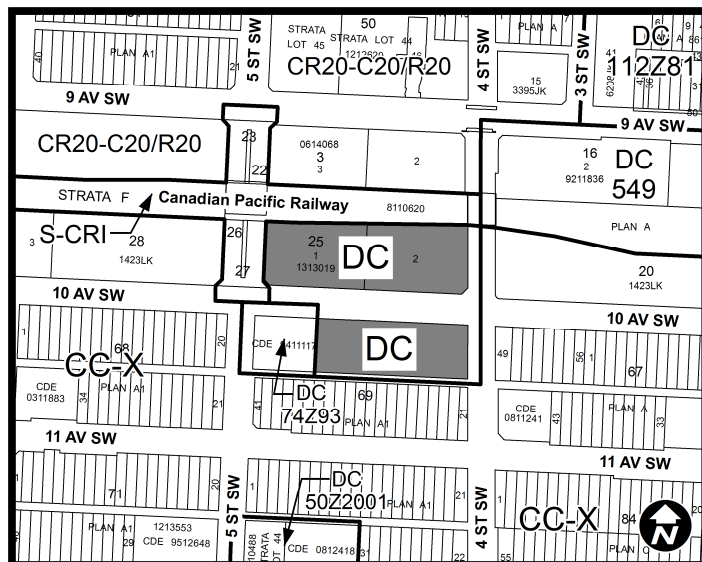
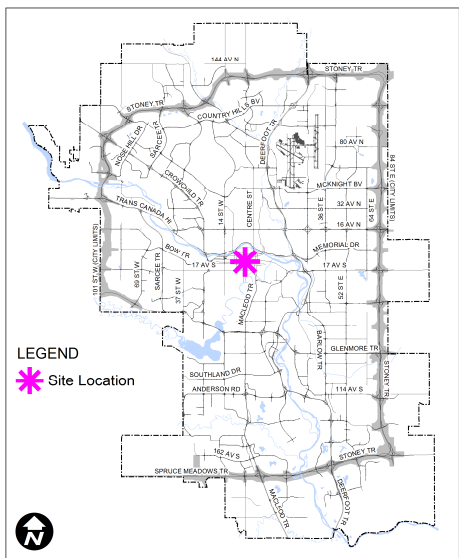
**ATTACHMENT**

1. Proposed Bylaw 100D2015

LAND USE AMENDMENT  
BELTLINE (WARD 8)  
10 AVENUE SW BETWEEN 4 STREET SW AND 5 STREET SW  
BYLAW 100D2015

MAP 16C

LOCATION MAPS



LAND USE AMENDMENT  
BELTLINE (WARD 8)  
10 AVENUE SW BETWEEN 4 STREET SW AND 5 STREET SW  
BYLAW 100D2015

MAP 16C

**ADMINISTRATIONS RECOMMENDATION TO CALGARY PLANNING COMMISSION**

Recommend that Council **ADOPT**, by bylaw, the proposed redesignation of 1.16 hectares  $\pm$  (2.87 acres  $\pm$ ) located at 517, 524 and 538 – 10 Avenue SW (Plan 1210602, Block 69, Lot 42; Plan 1313019, Block 25, Lots 1 and 2) from Centre City Mixed Use District (CC-X) to DC Direct Control District to accommodate a Restaurant: Office Building Context (APPENDIX II).

**Moved by: M. Logan**

**Carried: 5 – 3**

Opposed: M. Wade, R. Honsberger  
and J. Gondek

Reasons for Opposition from Ms. Gondek:

- Eliminating Drinking Establishments and Night Clubs from permitted and discretionary uses is intended to prohibit uses. To further add food service hours and accommodation of minors in a restaurant is overkill and overstepping the City's authority.

Reasons for Opposition from Ms Wade:

- The DC guidelines 4(a)(iv) and 4(a)(vii) should be deleted. It is directing how businesses operate and limiting flexibility in operations which can influence mix in street activities and atmosphere – too prescriptive.

Reasons for Opposition from Mr. Honsberger:

- Don't believe it is appropriate for the municipality to be involved in the operation of a restaurant
  - See DC condition 4(a)(vii)
- Unsure how such a condition is a legal land use condition under the MGA.

**2015 May 21**

**AMENDMENT:** Delete Direct Control Guideline 4(a)(iv) and 4(a)(vii), and renumber the guidelines accordingly

**Moved by: J. Gondek**

**LOST: 5 – 4**

Opposed: R. Wright, C. Friesen,  
M. Logan, R. Honsberger  
and R. Stanley

Reasons for Opposition from Mr. Friesen:

- The goal is to avoid the site becoming a center for noisy disruptive night clubs. These guidelines, although they may be awkward for the owners and difficult to enforce would go some way to limiting uses based primarily on alcohol.

LAND USE AMENDMENT  
BELTLINE (WARD 8)  
10 AVENUE SW BETWEEN 4 STREET SW AND 5 STREET SW  
BYLAW 100D2015

MAP 16C

**Applicant:**

NORR Architects Engineers Planners

**Landowner:**

OPB (Centre 10) Inc  
OPB (Place 10 East) Inc  
OPB (Place 10 West) Inc  
PT East Holdings Corporation  
PT West Holdings Corporation

Planning Evaluation Content	*Issue	Page
<b>Density</b> <i>Is a <b>density increase</b> being proposed.</i>	No	-
<b>Land Use Districts</b> <i>Are the changes being proposed <b>housekeeping</b> or <b>simple bylaw amendment</b>.</i>	No	5
<b>Legislation and Policy</b> <i>Does the recommendation create <b>capital budget</b> impacts or concerns.</i>	No	5
<b>Transportation Networks</b> <i>Do different or specific <b>mobility considerations</b> impact this site</i>	No	7
<b>Utilities &amp; Servicing</b> <i>Is the site in an area under <b>current servicing</b> review and/or has <b>major infrastructure</b> (water, sewer and storm) concern</i>	No	8
<b>Environmental Issues</b> <i>Other considerations eg. sour gas or contaminated sites</i>	None	8
<b>Growth Management</b> <i>Does this site have the appropriate <b>growth management</b> direction.</i>	Yes	8
<b>Public Engagement</b> <i>Were <b>major comments</b> received from the circulation</i>	No	9

\*Issue - Yes, No or Resolved

**LAND USE AMENDMENT  
BELTLINE (WARD 8)  
10 AVENUE SW BETWEEN 4 STREET SW AND 5 STREET SW  
BYLAW 100D2015**

**MAP 16C**

## **PLANNING EVALUATION**

### **SITE CONTEXT**

The subject site involves 3 titled parcels at 517, 524 and 538 10 Avenue SW as follows:

- 517 - 10 Avenue is a 10 storey office building (approximately 355,000 square feet) with retail / restaurant space at grade.
- 524 and 538 - 10 Avenue were previously surface parking lots but have approved development permits in place for two 14 storey office towers (providing approximately 600,000 square feet of office space, with retail space at grade).

All three parcels are designated Centre City Mixed Use District (CC-X) of Land Use Bylaw 1P2007. The subject sites are surrounded by a variety of uses - to the west of 517 - 10 Avenue is a parking lot with a 5 storey apartment building further west. The future office use proposed at 524 and 538 - 10 Avenue, will occupy an entire city block with the northern boundary of the subject parcels adjacent to the CPR tracks.

### **LAND USE DISTRICTS**

The current CC-X land use district on the subject parcels allows for Restaurant: Licensed Medium as a Discretionary Use, where the public area of the restaurant is limited to 300.00 square metres. A DC Direct Control District has been proposed by the applicant to provide for a larger floor area for restaurants across all three subjects sites – creating a new defined use called “Restaurant: Office Building Context” – where the floor area of restaurants on each parcel would be a maximum of 400 square metres.

A DC Direct Control District is appropriate in this context and the proposal satisfies the requirements of Part 2, Division 2, Section 20 of the Land Use Bylaw. The DC Direct Control District provides a minimum building height for uses across all three parcels, seeks to restrict Drinking Establishment - Medium and Night Clubs on the parcels and defers to the CC-X district for use and parking rules.

### **LEGISLATION & POLICY**

The following Planning policy is applicable to the subject parcels and the proposed DC Direct Control District:

#### **Municipal Development Plan**

The MDP identifies the subject sites as part of the Centre City in Map 1 (Urban Structure). Section 3.2.1 (a) of the MDP seeks to reinforce the Centre City as the focus of business, employment, cultural, recreation, retail and high density housing within Calgary. Further Policy ii seeks to develop high density residential and support services.

**LAND USE AMENDMENT  
BELTLINE (WARD 8)  
10 AVENUE SW BETWEEN 4 STREET SW AND 5 STREET SW  
BYLAW 100D2015**

**MAP 16C**

The proposed redesignation application will meet relevant policy in the MDP – by providing an opportunity for restaurant uses in an existing office building and within approved buildings across the three parcels.

Beltline Area Redevelopment Plan

The subject parcels are within the Urban Mixed Use District in the Beltline ARP. This district is characterized by a broad range of uses which are intended to create vibrant pedestrian streets, where the uses provide activity during the day and evening hours, the uses serve the local and broader population and there is compatibility of adjacent uses, both within and among buildings, in particular with respect to residential uses. Restaurants are considered an appropriate use in the Urban Mixed Use area.

The ARP seeks to minimize negative impact associated with restaurants, drinking and entertainment establishments, by seeking to fully enclose the use in a building (with the exception of patio space) and mitigating impacts of noise, odour, vibration, heat and high illumination through development permit applications.

Policy 4.3.2 (b) seeks to reduce potential impacts of excessive clustering of licensed restaurants and drinking establishments by:

- placing limits on the linear frontage of blocks occupied by drinking establishment uses (to be applied at the development permit stage);
- limiting public areas of licensed restaurants and drinking establishments where these uses are adjacent to sites identified as Primarily Residential in Map 3 of the Beltline ARP;
- Placing additional requirements on development permits for licensed restaurants and drinking establishments where new operations exceed 75 square metres **and** these uses are adjacent to sites identified as Primarily Residential in Map 3 of the Beltline ARP (for example requiring measures to mitigate noise/vibration/vehicular and parking access/crowd control and proximity to similar uses).

The inclusion of a new use Restaurant: Office Building Context on the subject parcels is in compliance with relevant policies in the Beltline ARP.

The new use will further activate 10 Avenue SW both during the day and in the evening - with restaurants able to cater to employees of local businesses above grade on the parcels, employees in close proximity to the subject sites and local residents of the Beltline, as well as allowing for a regional draw for Calgarians across the city.

Administration has placed a rule in the Direct Control District requiring a minimum building height of 24 metres across the parcels. Given 524 and 538 - 10 Avenue SW have approvals in place but have not completed development, this sets out a minimum expectation for future development where a minimum building height would be achieved if the current approved

**LAND USE AMENDMENT  
BELTLINE (WARD 8)  
10 AVENUE SW BETWEEN 4 STREET SW AND 5 STREET SW  
BYLAW 100D2015**

**MAP 16C**

development permits are not built to (for example due to economic circumstances) and would avoid a potential scenario of single storey restaurants constructed at 524 and 538 - 10 Avenue SW (which is not considered to be the intent of the Urban Mixed Use District in the ARP).

Administration considers the new use to be appropriate given the uses in close proximity to the site – with office use above 517 - 10 Avenue SW, future office use proposed above grade at 524 and 538 - 10 Avenue SW. Although there are residential uses located west of 517 - 10 Avenue, these uses are designated Urban Mixed Use in the Beltline ARP and are separated from the side elevation of 517 - 10 Avenue by an above grade parking structure. Administration would be able to mitigate any potential harm associated with restaurant uses on the subject parcels by placing conditions on future development permits.

The proposed redesignation application would comply with Policy 4.3.2 (b) of the Beltline ARP:

- the proposed direct control district seeks to exclude Drinking Establishment - Medium and Night Club as a discretionary use; and
- the subject parcels are not adjacent or close to any properties which are identified as Primarily Residential in Map 3 of the ARP.

Land Use Bylaw

Administration considers the proposed redesignation application to complement the mix of uses (designated CC-X) surrounding the subject parcels. Furthermore, Administration is satisfied the exclusion of Drinking Establishment – Medium and Night Club uses from the Direct Control District will minimize the impact of restaurant uses on the subject sites to residential sites in vicinity of the subject parcels.

**TRANSPORTATION NETWORKS**

There are no anticipated impacts to the transportation network as a result of allowing a restaurant of this size in this location. The general rules for Centre City Districts, as outlined in Land Use Bylaw 1P2007, Part 11 Division 4, state that no parking is required for a Restaurant: Licensed – Medium in a location such as this, which can be up to a size of 300 square meters. The proposal for a Restaurant: Licensed – Large would require a parking supply of 114 parking stalls, as per Section 281(e) of LUB1P2007.

DP2011-3321, located at 517 - 10 Ave SW, has a surplus of 486 parking stalls on site, which would adequately accommodate any potential parking requirements triggered by moving from a 300 square meter restaurant to a 400 square meter restaurant.

DP2013-0881 and DP2013-1092, located at 524 and 538 - 10 Avenue SW, will have a parking deficiency of 5 stalls, prior to the proposed land use change. The further deficiency of 114 parking stalls, based on bylaw requirements, is deemed acceptable to Transportation for this location, due to the large surplus of parking available on 517 10 Ave SW. The site is also located in close proximity to high quality transit, and easily accessible by other alternate modes of transportation.

**LAND USE AMENDMENT  
BELTLINE (WARD 8)  
10 AVENUE SW BETWEEN 4 STREET SW AND 5 STREET SW  
BYLAW 100D2015**

**MAP 16C**

**UTILITIES & SERVICING**

Public water, sanitary and storm deep main utilities exist within the adjacent public rights-of-way. Development Servicing will be determined at the Development Permit and Development Site Servicing Plan (DSSP) circulation stages.

**ENVIRONMENTAL ISSUES**

None

**OTHER ENVIRONMENTAL CONSIDERATIONS**

CPR Interface

The northern boundary of 538 and 524 - 10 Avenue SW borders the CPR tracks. The northern elevation of 517 - 10 Avenue is set back from the CPR tracks. Due to the proximity to the rail line Administration circulated details of this redesignation application to CPR, City of Calgary Fire and CEMA.

- CPR responded with no objections.
- City of Calgary Fire responded with the following comment: The file is currently being reviewed by CFD Emergency Management with respect to heavy rail set back requirements. CFD is currently conducting a comprehensive review of all sites adjacent to heavy railways and related setbacks. CFD in conjunction with CEMA will continue to work with Planning on regulations associated with said sites and setbacks.
- CEMA responded with an objection to the application and recommended a risk assessment be provided.

Administration provided a copy of the correspondence received from CPR, City of Calgary Fire and CEMA to the applicant, who is aware of the recommendations provided during the circulation process.

**ENVIRONMENTAL SUSTAINABILITY**

Environmental sustainability would be evaluated by Administration through the development permit process.

**GROWTH MANAGEMENT**

This land use redesignation does not require additional capital infrastructure investment and therefore there are no growth management concerns have been identified.



**LAND USE AMENDMENT  
BELTLINE (WARD 8)  
10 AVENUE SW BETWEEN 4 STREET SW AND 5 STREET SW  
BYLAW 100D2015**

**MAP 16C**

**PUBLIC ENGAGEMENT**

**Community Association Comments**

- BPG find that large format restaurants are entirely appropriate in the transitional area between our community district and the Downtown along 10 Avenue SW.

**Citizen Comments**

- Two letters have been received in opposition to the proposed land use redesignation from residents of the community. Administration would summarize the comments received as:
  - The existing restaurant (La Pampa) has smells coming from the extract ventilation system which impacts existing residents;
  - Residents have sent complaints to the City about the operation of the existing restaurant;
  - Before additional restaurants are allowed the impact on residents from existing restaurants should be investigated;
  - The impact associated with the operation of existing restaurants (impacting on residents) demonstrate that restaurant uses are not compatible with residential uses in a mixed use area
- Administration has considered the comments received and would respond as follows:
  - The existing restaurant in the base of 517 - 10 Avenue SW has an approved development permit, the size of the public area of the restaurant is below the maximum allowed for a Restaurant Licensed Medium (a Discretionary Use in the existing CC-X District).
  - Should residents have concerns associated with the operation of the restaurant, this can be raised with Bylaw Enforcement; however, Administration does not consider this to be reason to refuse LOC2014-0040.

**Public Meetings**

- No public meetings were held

**LAND USE AMENDMENT  
BELTLINE (WARD 8)  
10 AVENUE SW BETWEEN 4 STREET SW AND 5 STREET SW  
BYLAW 100D2015**

**MAP 16C**

**APPENDIX I**

**APPLICANT'S SUBMISSION**

The subject parcels consist of 1.16 hectares (2.87 acres) in the Beltline and involve two comprehensive developments located between 4<sup>th</sup> and 5<sup>th</sup> Streets on 10<sup>th</sup> Avenue SW. Both are Class A office projects with commercial/retail units at grade designed to activate the street and enhance the pedestrian environment.

The Centre 10 development is situated at 517 – 10 Avenue SW, and is a fully constructed and occupied by office tenants on the upper floors. The building is 10 storeys and consists of 33,000 m<sup>2</sup> (355,000 ft<sup>2</sup>) of office space with retail space on the main floor. The Place 10 development is under construction with two development permits in place for 524 and 538 10 Avenue SW (along with a third DP for a +15 connection to the existing CPA parkade). This comprehensive development will consist of two 14 storey towers with approximately 55,740 m<sup>2</sup> (600,000 ft<sup>2</sup>) of Class A office space. Like Centre 10, the objective is to activate the street environment by locating retail uses at grade including restaurants that will support the office space in the towers and surrounding development in the Beltline and downtown.

Both sites are currently designated Centre City Mixed Use (CC-X) District which allows for a mix of commercial, residential, and limited light industrial uses. This district allows medium sized licensed restaurants which restricts the public use area to 300 m<sup>2</sup>. This proposal seeks to redesignate the parcels to a Direct Control (DC) District based on the CC-X rules in order to allow larger restaurants that are more suitable and viable given their office building context. As a result, the proposed land use amendment proposes a new restaurant use - "Restaurant: Office Building Context" that allows a maximum public use area of 400 m<sup>2</sup>.

The reasons for the proposed land use amendment include demonstrated market demand for restaurants which exceed the 300 m<sup>2</sup> restriction in this area, and a need to off-set high construction costs for restaurant space in mid to high rise Class A office buildings with more patrons.

The Applicant understands there are concerns with the potential for restaurants functioning as drinking establishments given the definitions of these uses in the current land use bylaw. This concern is compounded if restaurants functioning as drinking establishments begin to cluster in one area. The owner of the subject developments share this concern and have included rules in the proposed DC district to mitigate these concerns. The proposed rules include:

- the exclusion of Drinking Establishments and Night Clubs from the list of discretionary uses;
- the creation of a new use definition (Restaurant: Office Building Context) which restricts the public area to 400 m<sup>2</sup>;
- a rule requiring the kitchen to remain open until one hour prior to closing with full menu service available; and
- a requirement for minors to be allowed on premises at all times.

**LAND USE AMENDMENT  
BELTLINE (WARD 8)  
10 AVENUE SW BETWEEN 4 STREET SW AND 5 STREET SW  
BYLAW 100D2015**

**MAP 16C**

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The proposed amendment continues to meet the intent and objectives of the Beltline ARP, specifically section 4.3 which encourages a *“wide range and mix of uses in many possible configurations, both within buildings and within the local context, resulting in vibrant, pedestrian streets”* in Urban Mixed Use Areas. The proposed use is consistent with existing development in this location and would contribute to a more vibrant street life both during the day and at night. In addition, the site is not located adjacent to a Primarily Residential Area where ARP restrictions on this type of use would apply.

For the reasons noted above, the Applicant respectfully requests the support of Calgary Planning Commission and Council.

LAND USE AMENDMENT  
BELTLINE (WARD 8)  
10 AVENUE SW BETWEEN 4 STREET SW AND 5 STREET SW  
BYLAW 100D2015

MAP 16C

**APPENDIX II**

**PROPOSED DC DIRECT CONTROL GUIDELINES**

**Purpose**

- 1 This Direct Control District is intended to:
- (a) accommodate a range of **uses** consistent with the Beltline's Urban Mixed-use District;
  - (b) encourage **development** that is pedestrian-oriented at **grade** and includes **street** level **uses** that generally consist of retail, personal service, **office** and restaurant **uses**;
  - (c) provide the use of **Restaurant: Office Building Context**;
  - (d) ensure the resultant development is compatible with residential uses by excluding **uses** that may operate in a manner typical of bars and night clubs; and
  - (e) specify parking requirements for a **Restaurant: Office Building Context** consistent with Bylaw 1P2007 requirements for similar **uses** in the area.

**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.

**Defined Uses**

- 4 In this Direct Control District:
- (a) "**Restaurant: Office Building Context**" means a **use**:
    - (i) where food is prepared and sold for consumption on the premises and may include the sale of prepared food for consumption off the premises;
    - (ii) where the minimum **building height** on the **parcel** is at least 24 metres above existing **grade**;
    - (iii) where the preparation and sale of food occurs within a **building** containing one or more of the following **uses**:

LAND USE AMENDMENT  
BELTLINE (WARD 8)  
10 AVENUE SW BETWEEN 4 STREET SW AND 5 STREET SW  
BYLAW 100D2015

MAP 16C

- (A) **Office;**
  - (B) **Hotel;**
  - (C) **Dwelling Unit;**
  - (D) **Multi-Residential Development;** and
  - (E) **Retail and Consumer Service.**
- (iv) minors are never prohibited; and
  - (v) where the maximum **public area** is 400 square metres;
  - (vi) that may have a maximum of 10.0 square metres of **public area** used for the purposes of providing entertainment for patrons which is ancillary to the service of food; and
  - (vii) the kitchen remains open and full meal items are available until one hour before closing time.

**Permitted Uses**

**5** The **permitted uses** of the Centre City Mixed Use District (CC-X) of Bylaw 1P2007 are the **permitted uses** in this Direct Control District.

**Discretionary Uses**

**6** The **discretionary uses** of the Centre City Mixed Use District (CC-X) of Bylaw 1P2007 are the **discretionary uses** in this Direct Control District:

- (a) with the addition of:
  - (i) **Restaurant: Office Building Context;** and
- (b) with the exclusion of:
  - (i) **Drinking Establishment – Medium;** and
  - (ii) **Night Club.**

**Bylaw 1P2007 District Rules**

**7** Unless otherwise specified, the rules of the Centre City Mixed Use District (CC-X) of Bylaw 1P2007 apply in this Direct Control District.

**Motor Vehicle Parking Stall Requirements**

**8** (1) Unless otherwise specified in this section, the minimum number of required **motor vehicle parking stalls, bicycle parking stalls – class 1** and **bicycle parking stalls – class 2** is the requirement specified in the General Rules for Centre City Commercial Land Use Districts referenced in Part 11, Division 4.

LAND USE AMENDMENT  
BELTLINE (WARD 8)  
10 AVENUE SW BETWEEN 4 STREET SW AND 5 STREET SW  
BYLAW 100D2015

MAP 16C

- (2) For the area bounded by the CPR tracks, the Elbow River, 12 Avenue and 14 Street SW, the ***motor vehicle parking stall*** requirement is:
- (a) no requirement for **Cinema, Dinner Theatre, Drinking Establishment – Small, Performing Arts Centre, Restaurant: Food Service Only – Small, Restaurant: Food Service Only – Medium, Restaurant: Licensed – Small, Restaurant: Licensed – Medium, and Restaurant: Office Building Context;**
  - (b) unless specified in subsection (c), a minimum of 1.0 stall per 100.0 square metres of ***gross usable floor area*** for **Information and Service Provider, Liquor Store, Office, Pet Care Service, Print Centre, Retail and Consumer Service and Take Out Food Service;**
  - (c) no requirement for **Computer Games Facility, Convenience Food Store, Food Kiosk, Liquor Store, Outdoor Café and Retail and Consumer Service** located on the ground floor of a ***building*** where:
    - (i) the ***building*** contains a **Dwelling Unit, Hotel, Multi-Residential Development, or Office** located above the ground floor; or
    - (ii) the ***use area*** is less than 465.0 square metres;
  - (d) a maximum of 1.5 stalls per **Dwelling Unit;** and
  - (e) for all ***uses*** other than **Dwelling Units:**
    - (i) a minimum of 75 percent and a maximum of 100 percent of the required parking stalls shall be provided on site unless limiting transportation and engineering constraints are demonstrated to the satisfaction of the Approving Authority;
    - (ii) a cash-in-lieu payment shall be provided for the difference between the total number of required parking stalls and the number of parking stalls provided within the ***development***. Such payment shall be based on the cost of constructing the required number and type of parking stalls in accordance with **Council's** policy and calculated at a rate per parking stall established by **Council** at the time payment is made.