

**ROAD CLOSURE & LAND USE AMENDMENT
HILLHURST (WARD 7)
EAST OF 10 STREET NW AND 2 AVENUE NW
BYLAWS 11C2014 & 100D2014**

MAP 21C

EXECUTIVE SUMMARY

This land use redesignation proposes a minor amendment to the existing DC Direct Control District (34D2013) on the subject site. The application is intended to provide discretionary power to the Development Authority at the Development Permit stage to relax the minimum 20 percent gross floor area requirement for non-residential uses.

The application is further for the road closure and redesignation of a portion of 10 Street NW adjacent to the subject site (233 - 10 Street NW). The closed road will be consolidated and redesignated to a DC Direct Control District consistent with the adjacent lands.

PREVIOUS COUNCIL DIRECTION

No previous direction has been provided by Council with respect to this application.

ADMINISTRATION RECOMMENDATION(S)

2014 July 31

That Calgary Planning Commission recommend **APPROVAL** of the proposed Road Closure and Land Use Amendments.

RECOMMENDATION(S) OF THE CALGARY PLANNING COMMISSION

That Council hold a Public Hearing on Bylaws 11C2014, 100D2014; and

1. **ADOPT** the proposed closure of 0.003 hectares \pm (0.007 acres \pm) of road (Plan 8911577) adjacent to 233 – 10 Street NW, in accordance with Administration's recommendation; and
2. Give three readings to the proposed Closure Bylaw 11C2014.
3. **ADOPT** the proposed redesignation of 0.18 hectares \pm (0.44 acres \pm) located at 233, 301 and 303 – 10 Street NW and the closed road (Plan 5609J, Block J, Lots 12 to 17; Road Plan 8911577) from DC Direct Control District and Undesignated Road Right-of-Way to DC Direct Control District to accommodate a mixed use development, in accordance with Administration's recommendation; and
4. Give three readings to the proposed Bylaw 100D2014.

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REASON(S) FOR RECOMMENDATION:

The DC Direct Control District rule, which requires a minimum of 20 percent of the gross floor area of buildings to contain non-residential uses, is a standard rule in the Commercial – Corridor 1 (C-COR1) District of Bylaw 1P2007. In Land Use Bylaw 1P2007, the Development Authority has the discretionary power to relax this rule. This amendment is thus in keeping with the principals of Land Use Bylaw 1P2007.

The land use redesignation of the proposed road closure is consistent with the adjacent lands and in keeping with the Hillhurst/Sunnyside Area Redevelopment Plan.

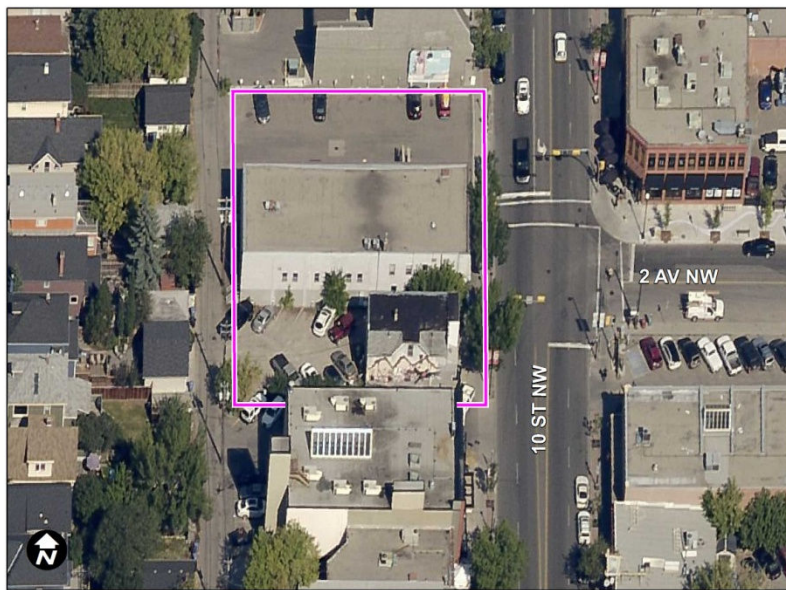
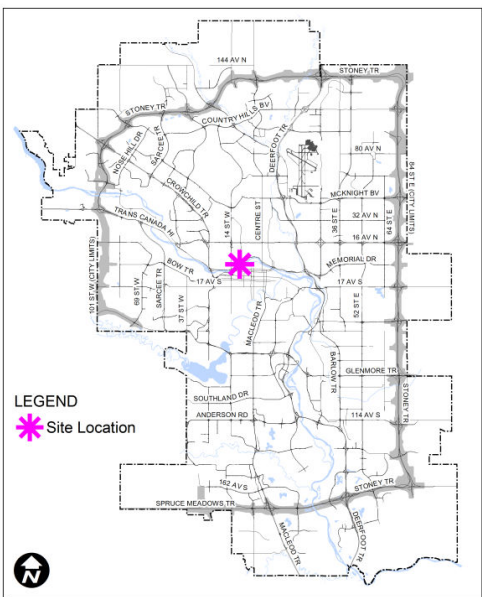
ATTACHMENTS

1. Proposed Bylaw 11C2014
2. Proposed Bylaw 100D2014
3. **Public Submission(s)**

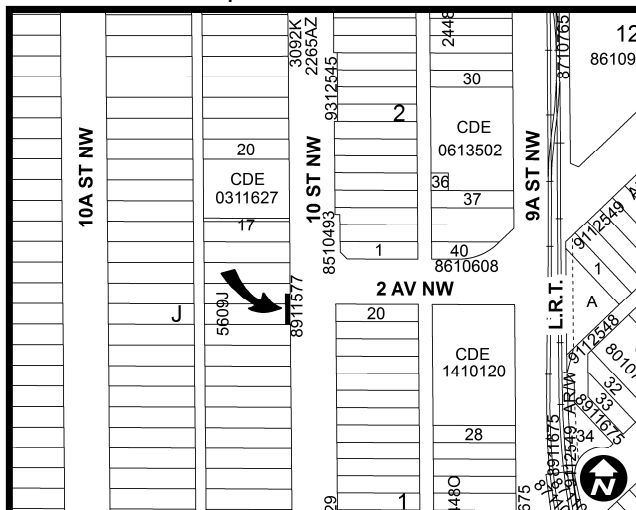
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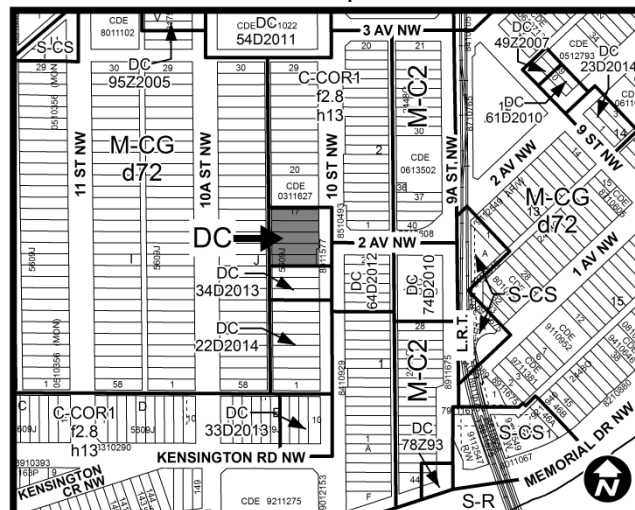
LOCATION MAPS



Road Closure Map



Land Use Amendment Map



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ADMINISTRATIONS RECOMMENDATION TO CALGARY PLANNING COMMISSION

1. Recommend that Council **ADOPT**, by bylaw, the proposed closure of 0.003 hectares \pm (0.007 acres \pm) of road (Plan 8911577) adjacent to 233 – 10 Street NW, with conditions (APPENDIX II).

Moved by: R. Wright

Carried: 6 – 0

Absent: J. Sturgess and R. Honsberger

2. Recommend that Council **ADOPT**, by bylaw, the proposed redesignation of 0.18 hectares \pm (0.44 acres \pm) located at 233, 301 and 303 – 10 Street NW and the closed road (Plan 5609J, Block J, Lots 12 to 17; Road Plan 8911577) from DC Direct Control District and Undesignated Road Right-of-Way to DC Direct Control District to accommodate a mixed use development with guidelines (APPENDIX III).

Moved by: R. Wright

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Absent: J. Sturgess and R. Honsberger

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Applicant:

Casola Koppe

Landowner:

233 10 Street N.W. Ltd
Bucci Union Project Ltd

Planning Evaluation Content	Issue	Page
Density <i>Is a density increase being proposed?</i>	No	1
Land Use Districts <i>Are the changes being proposed housekeeping or simple bylaw amendment?</i>	Yes	3
Legislation and Policy <i>Does the application comply with policy direction and legislation?</i>	Yes	3
Transportation Networks <i>Do different or specific mobility considerations impact this site?</i>	No	4
Utilities & Servicing <i>Is the site in an area under current servicing review and/or has major infrastructure (water, sewer, storm and emergency response) concerns?</i>	No	4
Environmental Issues <i>Other considerations eg. sour gas or contaminated sites?</i>	No	4
Public Engagement <i>Were major comments received from the circulation?</i>	No	4

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PLANNING EVALUATION

SITE CONTEXT

The subject site is situated on 10 Street NW in the commercial area of Hillhurst/Sunnyside. The surrounding area consists of primarily retail commercial uses.

LAND USE DISTRICT

The existing land use district is a DC Direct Control District (34D2013) approved by Council in 2013. This application proposes new DC Direct Control District guidelines to align with the discretionary power existing in Land Use Bylaw 1P2007 to relax a rule, if in the opinion of the Development Authority the proposed relaxation would not unduly interfere with the amenities of the neighbourhood or materially interfere with or affect the use, enjoyment or value of neighbouring properties (Section 36, 1P2007).

This application proposes the discretionary power to relax the rule in section (12), subsection (2) of the approved DC District (APPENDIX III).

Subsection 2 (*existing*) reads as follows:

- (2) A minimum of 20.0 per cent of the **gross floor area** of **buildings** must contain non-residential **uses**.

Subsection 3 (*proposed*) to read as follows:

- (3) The provisions of subsection (2) may be relaxed by the **Development Authority** provided the relaxation test of Land Use Bylaw 1P2007 is met.

ROAD CLOSURE

This application is further to close a parcel of road right-of-way situated between the subject site (233 - 10 Street NW) and the 10 Street NW road right-of-way. The redesignation of the closed road is from Undesignated Road Right-of-Way to DC Direct Control District (APPENDIX III). The closed road would be consolidated with the adjacent lands under one title to allow for future development.

LEGISLATION & POLICY

The land use amendment to allow for the relaxation of a DC Direct Control District rule (Section 12, Subsection 2) is in keeping with the discretionary power delegated to the Development Authority in Land Use Bylaw 1P2007 to relax a standard district rule.

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TRANSPORTATION NETWORKS

Road widening is not required along 10 Street NW and the subject parcel of the road closure has no further purpose as undesignated road right-of-way.

UTILITIES & SERVICING

This application does not have an impact on the utilities or servicing of the subject site.

ENVIRONMENTAL ISSUES

Not applicable

GROWTH MANAGEMENT

Not applicable

PUBLIC ENGAGEMENT

Community Association Comments

No comments have been received from the Community Association at the time of writing this report.

Citizen Comments

Three letters of objections were received against the application with one letter containing 19 names. The objections can be summarized as follows:

- objection against relaxation of use area requirement – this would become a precedent for later projects to ask for the same;
- objection against land use amendment prior to the Developer presenting drawings and commit to a substantial different design in the existing development permit application; and,
- objection against land use amendment since increased residential units will intensify the violation of privacy issues and lane safety.
-

Public Meetings

No public meetings were held for the purpose of this application.

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APPENDIX I

APPLICANT'S SUBMISSION

The proposed concept in DP2014-1432 strives to meet the 20% requirement of non-residential use on the main floor where it makes sense for access, security and on an overall urban and economic level. Unfortunately, even by maximizing the ground floor area as retail / commercial use, the main floor alone falls short by approximately 3%. Adjusting the DC bylaw to allow planning to relax this use area requirement would permit the proposed development to maintain all of its non-residential uses on the main floor and avoid having to complicate the security and access to the second floor with a hybrid/mixed use scenario.

The project as designed proposes a vibrant and open retail street front which will support viable small-scale businesses. This retail space will be readily absorbed when available. A second floor office component, while providing for the remaining 3%, is negatively impacted by insufficient demand coupled with market rental rates that cannot sustain nor justify this product type. This space is better served with continuous residential use on the second-floor and will only account for two additional suites.

We trust this added provision would meet the spirit and intent of the Hillhurst/Sunnyside ARP by ensuring sufficient stock of non-residential uses within the community while maintaining a logistically viable and marketable project model for the proposed development.

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APPENDIX II

PROPOSED ROAD CLOSURE CONDITIONS

1. All costs associated with the road closure shall be borne by the applicant.
2. The protection and/or relocation of any utilities shall be at the Applicant's expense and to the appropriate standards as per Enmax Power Corporation, Shaw Cablesystems Company, Atco Gas and Telus Communications.
3. Utility easements shall be provided where required and utility Right-of-Way plans shall be registered concurrently with the subdivision and to the satisfaction of the Manager, Urban Development, City Solicitor, Enmax Power Corporation, and Atco Gas.
4. The closed road right-of-way shall be consolidated with the adjacent lands located at 233 - 10 Street NW.

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APPENDIX III

PROPOSED DIRECT CONTROL GUIDELINES

Purpose

- 1 This Direct Control District is intended to:
- (a) accommodate a pedestrian oriented mixed-use **development** in compliance with the policies of the local area redevelopment plan;
 - (b) accommodate a range of **uses** with development guidelines to maintain the existing small scale retail commercial character along 10 Street NW; and
 - (c) implement the provisions of the density bonus system in the applicable local area redevelopment plan.

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.

Permitted Uses

- 4 The **permitted uses** of the Commercial – Corridor 1 (C-COR1) District of Bylaw 1P2007 are the **permitted uses** in this Direct Control District.

Discretionary Uses

- 5 The **discretionary uses** of the Commercial – Corridor 1 (C-COR1) District of Bylaw 1P2007 are the **discretionary uses** in this Direct Control District.

Bylaw 1P2007 District Rules

- 6 Unless otherwise specified, the rules of the Commercial – Corridor 1 (C-COR1) District of Bylaw 1P2007 apply in this Direct Control District.

Floor Area Ratio

- 7 (1) Unless otherwise referenced in subsection (2), the maximum **floor area ratio** is 2.8.
- (2) The **floor area ratio** may be increased to a maximum of 4.0 in accordance with the bonus provisions contained in subsections (4) and (5).

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- (3) For the purposes of this section: "Cash Contribution Rate" means: \$17.47 per square metre. The Cash Contribution Rate will be adjusted annually on January 1 by the Development Authority, based on the Statistics Canada Consumer Price Index for Calgary.

- (4) A density bonus may be earned by a contribution to the Hillhurst/Sunnyside Park Improvement Fund, such that:

Cash Contribution Amount = Cash Contribution Rate x Total floor area in square metres above the **floor area ratio** of 2.8.

- (5) A density bonus may be earned by the provision of an off-site improvement in accordance with the Hillhurst/Sunnyside Area Redevelopment Plan, where the allowable bonus floor area in square metres is equal to the cost of construction of the off-site improvement divided by the Cash Contribution Rate, such that:

Allowable bonus floor area =
Total construction cost of the off-site improvement / Cash Contribution Rate.

Total construction cost will not include any construction costs necessary to fulfill the infrastructure requirements of a **development permit** for a **development** equal to or less than a **floor area ratio** of 2.8. Details of the construction cost will be determined through the **development permit** process.

Building Height

- 8 The maximum **building height** is 20.0 metres.

Building Orientation

- 9 (1) The main **public entrance** for **uses** situated at ground floor must face the **property line** shared with a **street**.
- (2) **Motor vehicle parking stalls** and **loading stalls** must not be located between a **building** and a **street**.
- (3) The provision of subsection (1) does not apply to any **Live Work Unit** located on the ground floor.

Building Façade

- 10 (1) The length of the **building** façade that faces a **street** must be a minimum of 80.0 per cent of the length of the **property line** it faces.
- (2) In calculating the length of the **building** façade, the depth of any required **building setback** will not be included as part of the length of the **property line**.

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Use Area

- 11 (1) Unless otherwise referenced in subsection (3), the maximum **use area** for **uses** on the ground floor of **buildings** is 465.0 square metres.
- (2) Unless otherwise referenced in subsection (3), there is no maximum **use area** requirement for **uses** located on upper floors.
- (3) The maximum **use area** of a:
- (a) **Catering Service – Minor**, or a **Catering Service – Minor** combined with any other **use**, is 300.0 square metres;
 - (b) **Cinema**, or a **Cinema** combined with any other **use**, is 550.0 square metres; and
 - (c) **Supermarket**, or a **Supermarket** combined with any other **use**, is 2500.0 square metres.

Location of Uses within Buildings

- 12 (1) The following **uses** must not be located on the ground floor of **buildings**:
- (a) **Addiction Treatment**;
 - (b) **Assisted Living**;
 - (c) **Catering Service – Minor**;
 - (d) **Child Care Service**;
 - (e) **Cinema**;
 - (f) **Counselling Service**;
 - (g) **Custodial Care**;
 - (h) **Financial Institution**;
 - (i) **Fitness Centre**;
 - (j) **Health Services Laboratory – with Clients**;
 - (k) **Instructional Facility**;
 - (l) **Medical Clinic**;
 - (m) **Office**;
 - (n) **Pawn Shop**;
 - (o) **Pet Care Service**;
 - (p) **Place of Worship – Small**;
 - (q) **Post-secondary Learning Institution**;
 - (r) **Radio and Television Studio**;
 - (s) **Residential Care**;
 - (t) **Social Organization**;
 - (u) **Supermarket**; and
 - (v) **Veterinary Clinic**.

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- (2) A minimum of 20.0 per cent of the **gross floor area** of **buildings** must contain non-residential **uses**.
- (3) The provisions of subsection (2) may be relaxed by the **Development Authority** provided the relaxation test of Land Use Bylaw 1P2007 is met.
- (4) A **Live-Work Unit** on the ground floor of a **building** must not face 10 Street NW.

Front Setback Area

- 13
- (1) The **front setback area** must have a minimum depth of 1.8 metres and a maximum depth of 3.0 metres.
 - (2) The **front setback area** may be relaxed by the **Development Authority** for floors above the ground floor to provide for articulation of the **building** façade in terms of the massing guidelines of the Hillhurst/Sunnyside Area Redevelopment Plan, provided the relaxation test from Bylaw 1P2007 is met.

Rear Setback Area

- 14
- (1) The **rear setback area** must have a minimum depth of 5.0 metres.
 - (2) The rear setback area on the ground floor and floors above grade may be relaxed by the Development Authority to provide for articulation of the building façade in terms of the massing guidelines of the Hillhurst/Sunnyside Area Redevelopment Plan, provided the relaxation test from Bylaw 1P2007 is met.

Side Setback Area

- 15
- There is no requirement for **side setback areas**.

Building Stepback

- 16
- (1) The minimum **building** stepback at a **building height** of 12.0 metres is:
 - (a) 3.0 metres from the front façade of the **building** at the closest point to the **front setback area**; and,
 - (b) 3.0 metres from the rear façade of the **building** at the closest point to the **rear setback area**.
 - (2) There is no **building** stepback on **side setback areas**.
 - (3) **Building** stepbacks may be relaxed by the **Development Authority** to provide for articulation of the **building** façade in terms of the massing guidelines of the Hillhurst/Sunnyside Area Redevelopment Plan, provided the relaxation test from Bylaw 1P2007 is met.