

REPORT TO THE DEVELOPMENT APPEAL BOARD



Appeal #11-16 and Appeal #13-16 (Melissa's Restaurant)

Presented to: Town of Banff Development Appeal Board

Hearing Date: January 16, 2017

Submitted by: Tara Johnston- Lee, Secretary, Development Appeal Board

Municipal Address: 218 Lynx Street
Legal Description: Lots 20-24, Block 5, Plan 6719BC
Property Owner: Fuji Starlight Express Co. Ltd.
Applicant: Marshall Tittlemore Architects
Date of Decision: December 13th, 2016
Land Use District: CD (Commercial Downtown)

APPEAL BY:

1. Bennett Jones LLP on behalf of Fuji Starlight Express Co. Ltd
2. Shores Jardine LLP on behalf of Arctos & Bird Management Ltd. on behalf of Arctos Holdings Ltd.

FROM A DECISION OF THE DEVELOPMENT AUTHORITY:

Wherein the Municipal Planning Commission approved Development Permit application 16DP81 for a proposed interior and exterior renovation at 218 Lynx Street (Melissa's Restaurant) subject to conditions of approval.

REASON FOR APPEALS:

Appeal #11-16 Appeal by applicant against the conditions of approval imposed by the Development Authority on grounds that conditions 1 and 2(a) are not in accordance with the *Municipal Government Act* (MGA) and planning instruments applicable to subject development.

Appeal #13-16 Appeal against a decision of the Development Authority on grounds that the Development Authority acted outside their jurisdiction by failing to require subdivision approval in conjunction with the consolidation of Lot 20 with Lots 21-24, Block 5, Plan 6719BC, that they failed to properly consider policy objectives of the *Banff National Park of Canada Management Plan 2010* and that they failed to impose appropriate conditions on the development permit

NOTICE GIVEN:

Notice has been given to the appellants and all deemed affected parties pursuant to s. 4.15.0 of the Land Use Bylaw in accordance with the procedures of the Town of Banff Development Appeal Board and the requirements of the *Municipal Government Act*.


ATTACHMENTS:

- A. Notice of Appeal from Fuji Starlight Express Co. Ltd. dated December 19, 2016
- B. Notice of Appeal from Shores Jardine LLP on behalf Arctos and Bird Management Ltd. dated December 23rd, 2016 *See attachment "B" of agenda item 4.1 (Appeal #10-16 & Appeal #12-16 package)*
- C. Letter to Parties from Shores Jardine LLP dated January 11th, 2017 *See agenda item 5.1*
- D. Submission from Arctos & Bird dated January 11th, 2017 *See agenda item 5.1*
- E. Submission from Sheila McNaughtan, Q.C., Reynolds Mirth Richards & Farmer LLP on behalf of the Town of Banff dated January 11th, 2017 *See attachment "D" of agenda item 4.1 (Appeal #06-16 package).*
- F. Notice of Decision dated December 14th, 2016 *See attachment "F" of agenda item 4.1 (Appeal #10-16 and #12-16 package).*
- G. Minutes of Municipal Planning Commission dated December 13th, 2016 *See attachment "G" of agenda item 4.1 (Appeal #10-16 & Appeal #12-16 package).*
- H. Report to Municipal Planning Commission dated December 13th, 2016 *See attachment "H" of agenda item 4.1 (Appeal #10-16 & Appeal #12-16 package).*

The within documents and materials have been made available for public inspection pursuant to section 686(4) of the Municipal Government Act R.S.A. 2000, c. M-26. The documents and materials may be subject to claims of confidentiality, privacy or copyright. Accordingly, the within documents and materials may not be used or copied for any purpose other than the appeal for which they are provided. The Town of Banff Development Appeal Board assumes no liability for any inaccurate, delayed or incomplete information provided. The official documents and materials for appeals may be viewed at Banff Town Hall. In case of any discrepancies between the documents and materials on the website and the official documents and materials at the office of the Development Appeal Board, the official documents and materials at the office of the Board shall prevail.

Notice of Appeal

RECEIVED

Appeal # 11-16
16DP55

TOWN OF Banff
PLANNING and DEVELOPMENT

DEC 19 2016

Appeals of Orders, Decisions, and Development Permits

TOWN OF BANFF
PLANNING and DEVELOPMENT

Attention: Secretary, Development Appeal Board
110 Bear Street, P.O. Box 1260, Banff, Alberta T1L 1A1
T 403. 762.1215 F 403.762.1260 Email kerry.macinnis@banff.ca

www.banff.ca

Save this PDF to your desktop, fill in the required information, and send the completed document to the email listed above.

Civic Address (subject of order, decision, or permit): 218 Lynx Street Unit No.: _____

Legal Description: Lot(s)/Unit: 20-24 Block: 5 Plan(LTO): 6719BC

Land Use District: CD

Name(s) of Appellant(s): Fuji Starlight Express Co., Ltd.

What decision, order, or Development Permit is being appealed? _____

Notice of Decision, File 16DP81

Proposed Interior and Exterior Renovation – Melissa’s Restaurant

What specific aspects of the decision, order, or Development Permit are being appealed? (attach

additional information/pages if necessary) Conditions 1 and 2(a) are not in accordance with the Municipal Government Act and planning instruments applicable to this development; and such other grounds as counsel may advise.

Please state how you are affected by the decision, order, or Development Permit and the reasons for

the appeal: (attach additional information/pages if required) _____

Fuji Starlight Express Co., Ltd. owns Lots 20-24 Block 5 Plan 6719BC.

(continued on next page)

Name of Appellant(s): Fuji Starlight Express Co., Ltd.

Mailing Address: c/o Homestead Inn, 217 Lynx Street, Box 669

City/Province: Banff, AB Postal Code: T1L 1A7 Email: fdenouden@banffparklodge.com

Tel. No.: 403-762-3256 Cell No.: _____ Fax No.: 403-762-4740

Name of Agent for Appellant(s): Bennett Jones LLP

Mailing Address: 4500, 855 2nd Street SW

City/Province: Calgary, AB Postal Code: T2P 4K7 Email: see below

Tel. No.: 403-298-4487 Cell No.: _____ Fax No.: 403-265-7219

Email: andersonb@bennettjones.com

Authorization of Agent

I/We Fuji Starlight Express Co., Ltd. authorize Bennett Jones LLP
(name(s) of appellant(s)) (name of authorized agent)

to act as agent on my/our behalf with regard to the appeal concerning 218 Lynx Street
(civic address of subject property)

Signature(s) of Appellant(s)

Date

X [Signature]

December 19, 2016

For Office Use Only	
File No.: <u>16DR81 - APPEAL 6016</u>	Roll #: <u>00117</u>
Application Fee: <u>100</u>	<u>11-16</u>
Received by: <u>DE</u>	

RECEIVED

DEC 19 2016

TOWN OF BANFF
PLANNING and DEVELOPMENT