

MINUTES OF THE MUNICIPAL PLANNING COMMISSION
of the Town of Banff in the Province of Alberta
Town Hall Council Chamber
Wednesday, May 9, 2018 at 9:00 a.m.

COMMISSION MEMBERS PRESENT

Scott McElhone	Public Representative
Richard Church	Public Representative
Brian Smythe	Public Representative (Chairperson)
Ken Riordon	Public Representative (Vice Chairperson)
Corrie DiManno	Council Representative
Bryan Howie	Parks Canada Representative

COMMISSION MEMBERS ABSENT

Amber Wanless	Public Representative
Chip Olver	Council Representative

ADMINISTRATION PRESENT

Darren Enns	Manager, Development Services
Randall McKay	Director, Planning and Development
Jennifer Laforest	Planner
Kerry MacInnis	Administrative Assistant, Planning (MPC Recorder)

1.0 CALL TO ORDER

The Chair to the Municipal Planning Commission called the May 9, 2018 meeting of MPC to order at 9:00a.m.

2.0 APPROVAL OF AGENDA

MPC18-66 Moved by Riordon to approve the agenda of the May 9, 2018 meeting of the Municipal Planning Commission agenda as amended.

New Business:

- 7.1 Mount Royal Hotel – letter from February 26, 2018
- 7.2 Development Appeal Board – update
- 7.3 MPC and DAB Governance and Finance – report

CARRIED

- 2.1 The Chair asked if any members of the Municipal Planning Commission would be declaring a conflict of interest in hearing today's meeting.
No conflict was declared.

Minutes approved by: _____

3.0 ADOPTION OF PREVIOUS COMMISSION MINUTES

MPC18-67 Moved by DiManno to approve the minutes of the April 11, 2018 meeting of the Municipal Planning Commission as presented.

CARRIED

4.0 UNFINISHED BUSINESS

There was no unfinished business.

5.0 REPORTS

- 5.1 Proposed Accessory Dwelling within an Accessory Dwelling at 118 Otter Street – 17DP68
- i. Staff Presentation
Administration provided a presentation and overview on the proposal as included in this agenda package.
 - ii. Public input
Shelley Mardiros, adjacent neighbor, spoke to a written submission which has been added to these meeting minutes.

Michelle Gurney/Robin Borstmayer, adjacent neighbor, submitted a letter for MPC's consideration which has been attached in these meeting minutes.
 - iii. Applicant input
Robin Cowan, representing her mother – Jacqueline Cowan; owner 118 Otter Street. Cowan addressed the MPC on a summary of the proposed development.

MPC18-68 Moved by Howie that the MPC move in camera at 10:06a.m. to deliberate and reach its decision in accordance with section 197(2.1) of the Municipal Government Act and section 3.2.12 of the Town of Banff Land Use Bylaw.

Jennifer Laforest, Planner, Planning and Development; and Darren Enns, Manager, Development Services, attended the closed session.

CARRIED
DiManno Opposed

MPC18-69 Moved by Riordon to return to the public meeting at 10:26a.m.

CARRIED

MPC18-70 Moved by DiManno that the Municipal Planning Commission make a determination as to the principal use of the site at 118 Otter Street. MPC is of the opinion that the principal use of this site is deemed as a Bed and Breakfast Inn as the ratio between the number of commercial accommodation bedrooms are higher than the number of residential use bedrooms.

CARRIED

MPC18-71 Moved by DiManno that the Municipal Planning Commission refuse development permit 17DP68 for a proposed accessory dwelling within an accessory dwelling at 118 Otter Street.

CARRIED

5.2 Proposed Duplex Housing at 1 Kootenay Ridge – 18DP21

i. Staff Presentation

Administration provided a presentation and overview on the renewals included in this agenda package.

ii. Public input

Bill Calvert, adjacent neighbor, spoke to a written submission which has been included in these meeting minutes.

M/M Guy Clarkson, adjacent neighbors, submitted written feedback which has been included in these meeting minutes.

Delores Carroll, adjacent neighbor, addressed MPC regarding her written submission which has been included in these meeting minutes.

Parks Canada – PCA review – written comments received after the MPC package was prepared, have added to these meeting minutes.

iii. Applicant input

John Dowson, Cameriam Properties/Developer, addressed MPC regarding the proposed development.

MPC18-72 Moved by Howie that the Municipal Planning Commission amend the conditions of approval for application 18DP21 as follows:

- 1(q) Submit to the satisfaction of the development officer proof of registration of reciprocal access and utilities easements.

CARRIED

Minutes approved by: _____

- MPC18-73 Moved by Howie that the Municipal Planning Commission amend the conditions of approval for application 18DP21 as follows:
- 2(x) Upon occupancy, an updated statutory declaration listing each occupant of Block 3, Lot 14, LTO#1712504 is to be provided to Parks Canada to confirm that they are 'eligible residents' as defined under the National Park Lease and License of Occupation Regulations.
- CARRIED**
- MPC18-74 Moved by Howie that the Municipal Planning Commission amend the conditions of approval for application 18DP21 as follows;
- 2(y) To illustrate to the satisfaction of the development officer conformance with the Management Plan's policy objective of requiring all new development to incorporate high-quality environmental design and be complimentary to the town's unique location and surrounding context.
- CARRIED**
- MPC18-75 Moved by DiManno that the Municipal Planning Commission amend the conditions of approval for application 18DP21 as follows;
- 1(r) A variance to s.8.16.1(a) recognizing that the variance is minor in nature (38 square feet), does not affect neighbouring properties as it is oriented to Kootenay Avenue, conforms to the allowed use, relates to a unique site configuration in respect to the lot shape, and would improve the building design relative to the Banff Design Guidelines.
- CARRIED**
- MPC18-76 Moved by DiManno that the Municipal Planning Commission (MPC) approve Development Permit application 18DP21 to allow for the construction of Duplex Housing at 1 Kootenay Ridge, subject to the conditions of approval attached as Appendix 'A' as amended.
- CARRIED**

Appendix 'A' – Conditions of Approval

(1) Conditions to be met prior to the issuance of the Development Permit:

- (a) Pay to the Town of Banff the outstanding Development Permit application fee of \$200.⁰⁰ (Duplex Housing = \$1,500.⁰⁰ less \$1,300.⁰⁰ already paid) and MPC Surcharge (\$125.⁰⁰)
- (b) Pay to the Town of Banff off-site levies in the amount of \$10,223.⁹¹ as established by *Town of Banff Off-Site Levy Bylaw 305* (\$21.⁶⁷/m² x 471.8m² gross floor area);

Minutes approved by: _____

- (c) Pay to the Town of Banff \$1,400.00 in-lieu of on-site garbage facilities (\$700.00/dwelling rate) as established by *Town of Banff Waste Bylaw 18-4*;
- (d) Provide to the satisfaction of the Development Officer that Parks Canada has rendered a written Determination of Impacts that the project is not likely to have significant adverse environmental effects, and any mitigations specified in the Determination must be a condition of the project approval;
- (e) Provide to the satisfaction of the Development Officer that Parks Canada has received confirmation whether the owner will undertake a subdivision of the property for the development of a duplex or have the future duplex ownership structured as each side having an undivided ½ interest as ‘tenants in common’ under one lease. Depending on the outcome of the confirmation, further Lease implications and requirements may be issued by Parks Canada;
- (f) Submit three (3) copies of plans showing conformance with the provisions of the *Town of Banff Land Use Bylaw* for the review and approval by the Development Officer, including:
- A revised Landscaping Plan in conformance with the *Recommended Planting Materials List* of the Banff Design Guidelines and incorporating Firesmart considerations as per the Land Use Bylaw which includes additional planting around the driveway areas and along the Kootenay Avenue front yard;
 - An Exterior Lighting Plan showing numbers, types, and locations and technical specifications for individual light fixtures in conformance with Section 8.22.0;
 - A summary of technical specifications demonstrating how New Housing shall conform with the Environmental Design Standards of Section 8.3.3 – Energy Conservation Techniques, Energy Star-certified Window Glazing, Wall and Roof Insulation R-values, Water Efficient Plumbing Fixtures;
- (g) Submit a materials sample board and colour board indicating conformance with the *Banff Design Guidelines* for the final review and approval by the Development Officer;
- (h) Submit a detailed Deep Utilities Servicing Plan to the satisfaction of the Director of Engineering showing:
- connection to existing water service and sanitary sewer
 - details of pipe material(s) and size(s)
 - location of new water meter(s) and remote reading device(s)
 - location of existing/redundant services to be abandoned at main line and removed from the public roadway, if applicable;
- (i) Submit a detailed Shallow Utilities Servicing Plan to the satisfaction of the Director of Engineering showing location of gas, power and communications lines;
- (j) Submit a detailed Stormwater Management Plan to the satisfaction of the Director of Engineering showing detailed specifications for the device(s) which demonstrate that the system can handle a 1:100 year storm event and can contain a 1:25 year storm event on-site, or comparable standard as approved by the Director of Engineering;
- (k) Submit a Construction Site Plan and provide description of soil and erosion control mitigations that will be used during construction;

- (l) Submit a Construction Hoarding Plan for the perimeter of the site including proposed height, colour, location of access points and any off-site encroachments associated with the required construction hoarding. All existing trees to be retained shall be protected by fencing set at the outer canopy (drip line) of the tree during demolition, excavation and construction;
- (m) Submit a proposed Truck Route and Traffic Plan for construction vehicles entering and exiting the site. Show locations of all on-site storage (e.g. material, equipment, etc.) during construction;
- (n) Submit a detailed cost estimate, as determined by the Landscape Architect, for all on and off-site landscaping specifying all plant materials, their size, numbers, location and species. Provide an irrevocable letter of credit in the amount of 125% of the cost of landscaping to secure completion of this work;
- (o) Submit a detailed cost estimate, as determined by the contractor, for all on-site hard-surfaced areas (driveway, parking area, walkways, patios) and repair of off-site surfaces (roadway, sidewalk, curb/gutter, driveway crossing) specifying type of materials and finishes. Provide an irrevocable letter of credit in the amount of 125% of the cost of finishing and repairing all hard surfaced areas to secure completion of this work; and,
- (p) Submit a completed *Subcontractor Information Sheet* to Town of Banff Business Licensing, Corporate Services Department providing a list of the sub-contractors to be employed in the construction of the development (see attached);
- (q) Submit to the satisfaction of the development officer proof of registration of reciprocal access and utilities easements;
- (r) A variance to s.8.16.1(a) recognizing that the variance is minor in nature (38 square feet), does not affect neighbouring properties as it is oriented to Kootenay Avenue, conforms to the allowed use, relates to a unique site configuration in respect to the lot shape, and would improve the building design relative to the Banff Design Guidelines.

(2) General Conditions:

- (a) Any further changes to the approved plans or building shall be submitted for review and approval of the Development Officer prior to implementation on-site;
- (b) It is the responsibility of the project proponent to ensure that all mitigation measures identified in the Parks Canada's *BCS Environmental Screening Determination Using a Class Screening Report and the guidelines identified in the Environmental Guidelines for Development Projects in Banff National Park (Directive 17)* are implemented during construction. The project proponent shall ensure that any hazardous materials discovered during excavation are immediately reported to Parks Canada and properly disposed of according to current regulations (see attached);
- (c) Town of Banff requires all developers to collect all waste, separate into appropriate categories on-site and store appropriately. Dispose trade waste at the Bow Valley Waste Management Commission's Class III landfill (Francis

Cooke) and garbage to the Waste Transfer Station. Ensure that materials and waste being transported are covered with tarps or equivalent material. Please review the Town of Banff How-to Guide to Construction Waste Management (see attached);

- (d) Apply for a Street Use Permit from the Manager of Engineering at least 48 hours prior to any work on Town streets, lanes or sidewalks. Enter into a Temporary Encroachment Agreement with the Town of Banff for the use of municipal property during construction, if necessary;
- (e) Disturbance of public roadways and installation of utility trenches shall be inspected and approved in writing by the Manager of Engineering prior to backfill. Please contact Town of Banff Engineering at 403.762.1210 to arrange for an inspection. All installations shall conform to the standards of the City of Calgary.
- (f) Installation of new services and the termination of redundant services shall be inspected and approved in writing by the Town of Banff Utilities Department prior to backfill. Please contact the Town of Banff Utilities Department at 403.762.1240 to arrange for an inspection. All installations shall conform to the standards of the City of Calgary.
- (g) Management of all uncontaminated (clean) soil excavated from the site shall be arranged through Parks Canada. Contractors must obtain a Restricted Activity Permit in order to dispose of clean fill. Further direction and information about permit approval may be obtained by contacting Banff National Park Dispatch at 403.762.1470;
- (h) All site drainage is to be contained on site. No connection of weeping tile to storm sewer is permitted;
- (i) A water meter and remote reading device shall be installed at each dwelling prior to issuance of an Occupancy Permit. Property owners shall provide free and convenient access to the premises and building at all reasonable times for the purpose of reading meters. The installation of the water meter shall be inspected by the Town of Banff Utilities Department, please call 403.762.1240 to arrange for an inspection;
- (j) All exposed metal flashing, mechanical equipment and flues shall be coordinated to match the building colour;
- (k) No satellite dishes, antennas or other rooftop communication equipment shall be installed without prior written permission of the Development Officer;
- (l) All rooftop mechanical equipment must be screened from view to the satisfaction of the Development Officer;
- (m) Protect all existing services, including landscaping, on adjacent roadways and properties during construction. Assume responsibility and repair all damages to any existing services and landscaping on adjacent roadways and properties;
- (n) All existing trees to be retained shall be protected by fencing set at the outer canopy (drip line) of the trees during demolition, excavation and construction;
- (o) Install hoarding around the perimeter of the site, in accordance with the approved plans, prior to commencing excavation and construction;
- (p) Protect undisturbed land by only stockpiling materials on heavy canvas or polypropylene tarpaulins to protect native

vegetation. All materials will be stored within the confines of the work site. All fuels, oils, lubricants, and other petrochemical products will not be stored within 100m of any waterbody;

- (q) Confine “noise” activities to hours set out in Town of Banff Community Standards Bylaw 260;
- (r) The applicant shall arrange to have the landscaping completed by no later than one year from the date of issuance of the Development Permit. If in the event that this work is not completed by this date, the Town shall cash the Letter of Credit and arrange for the completion of this work at the expense of the owner;
- (s) The applicant shall arrange to have all of the driveway and hard surfaced areas completed, including repairs to off-site areas (roadway), by no later than one year from the date of issuance of the Development Permit. If in the event that this work is not completed by this date, the Town shall cash the Letter of Credit and arrange the completion of this work at the expense of the owner;
- (t) Minimize the idling of construction vehicle engines at all times in accordance with Town of Banff Traffic Bylaw 16-7;
- (u) Ensure that all garbage and food waste is stored in bear-proof bins as per Town of Banff Waste Bylaw 18-4. Construction sites must undergo thorough clean-up, including removal of general litter at project completion
- (v) Obtain all permits required in accordance with the *Province of Alberta Safety Codes Act Revised Statutes of Alberta, Chapter S-1*. The Act requires that all property owners and contractors working in Alberta obtain permits prior to commencing work on buildings covered by the Alberta Building Code or prior to conducting work governed by the regulations of the Canadian Electrical Code, the Alberta Gas Code or the Alberta Plumbing Code;
- (w) Pay the cost of the following, as may be required, in accordance with municipal standards and to the satisfaction of the Development Officer:
 - (i) Construction of new sanitary sewer, storm sewer and water connections, which shall include the cutting off of any redundant connection(s)
 - (ii) Construction of new driveway crossing, concrete sidewalk, curb and gutter, including repair/replacement of all adjacent surfaces;
 - (iii) Rehabilitation and closing of existing and redundant driveway crossing, concrete sidewalk, curb and gutter, including repair/replacement of all adjacent surfaces;
 - (iv) Construction, repair and rehabilitation of street surfacing;
- (x) Upon occupancy, an updated statutory declaration listing each occupant of Block 3, Lot 14, LTO#1712504 is to be provided to Parks Canada to confirm that they are ‘eligible residents’ as defined under the National Park Lease and License of Occupation Regulations;
- (y) To illustrate to the satisfaction of the development officer conformance with the Management Plan’s policy objective of requiring all new development to incorporate high-quality environmental design and be complimentary to the town’s unique location and surrounding context.

6.0 CORRESPONDENCE

There was no correspondence.

7.0 NEW BUSINESS

- 7.2 Mount Royal Hotel – letter from Doyle on February 26, 2018
Administration provided a verbal update on the queries made in this letter and how the renovation of the Mount Royal Hotel renovation is in conformance with the Land Use Bylaw.
- 7.2 Development Appeal Board – verbal update
DAB’s decision to uphold MPC’s decision to refuse the bed and breakfast applications at both 138 Otter Street and 213 Otter Street.
- 7.3 MPC and DAB Governance and Finance – report
Monday, May 14, 2018 governance and finance meeting, administration will provide a Request for Direction on MPC/DAB Remuneration.

8.0 INQUIRIES

There were no inquiries.

9.0 DATE OF NEXT MEETINGS/ADJOURNMENT

The next scheduled meeting of the Municipal Planning Commission is scheduled for Wednesday, June 13, 2018 at 9:00 a.m.

MPC18-77 Moved by Riordon to adjourn the meeting at 11:56 a.m.

CARRIED

Brian Smythe
Chair

Kerry MacInnis
Planning and Development

Minutes approved by: _____

Town of Banff
Planning and Development
110 Bear Street
Banff, Alberta

May 1, 2018

Attention: Darren Enns

Re: Opposition to Development Permit Application for 118 Otter Street

Darren,

We are writing today to express our concerns and opposition to the proposed development associated with the applicant's property at 118 Otter Street. This "Inn" – or business – has 8 commercial units to accommodate 21 guests, in addition to several long-term tenants (three rooms) as well as the property's owner.

Our primary concern regarding the applicant's proposal relates to the site's multiple uses:

1. **Accessory Dwellings not intended for use on a B&B/Inn site:** in section 8.10.5 of the current Land Use Bylaw, it clearly states accessory dwellings "shall be permitted *only* where the principle use of the site is single detached dwelling or duplex." This is the site of an Inn. It is critically important to point out that an Inn is a non-conforming use for this site already. Cumulative uses, such as another accessory dwelling and its accompanying variances should not be allowed.

It is clear the current owner's dwelling is essential to supporting the operation of such a large commercial Inn and it is clearly "attached" to the property labelled "the Bed and Breakfast Inn."

2. **Affordable Housing Strategy quoted but not affected:** as residents, we fully support the need for increased density and understand the housing shortfall. While the housing strategy is quoted, there is no alignment to the recommendation for this application – no additional housing for residents with a need-to-reside will result from this development.

Our secondary challenge to this development can be noted in Section 4.7 of the LUB, which states that a development approving authority may grant a variance (that will allow the applicant to exceed the 50% required parking) as long as 5 factors (a through e) are satisfied. The second factor, b, is of paramount importance to us:

b.) "this proposed development will not unduly interfere with the amenities of the area or materially interfere with, or affect the use, enjoyment, safety, aesthetics, or value of neighboring properties."

As the owners of the neighboring property at 116B Otter Street, we can confirm this statement is untrue. The development of this property, which hinges on the required variance, will leave our property closed in by buildings – eliminating our privacy, the view our family enjoys, and removing our

sense of place. The loss of all mountain vistas from the rear of our property, we feel, is in contradiction to the vision of our Community Plan.

“The Town of Banff is set in a glorious mountain landscape, creating a sense of place that has a powerful effect on those who live and visit here. People come here to be inspired – and often, it’s why they come back. We will cultivate Banff’s uniqueness while embracing opportunities to enhance our economic health, diversity of lifestyles and ecosystem. And above all, we will continue to build on our town’s rich heritage as a source of enchantment and renewal for others... always.”

In closing, we are grateful to live in a place where we have an opportunity to raise a counterpoint to a proposed development. It is our hope the Town, and its decision making authorities, in this case the MPC, will review our points and agree—the redevelopment of 118 Otter Street does not meet the conditions of LUB 8.10.5 or section 4.7.

Our final ask is that prior to this decision being made, the Town ensures:

- Those making final decisions (no member of MPC) shall have a conflict of interest; they have not been part of the permitting process.

We look forward to learning more about the deliberation process and how we can make certain our point of view is equally considered as this application moves forward. Please call us if you have any questions or require further clarity on our position.

Best regards,

Michelle Gurney, Robin and Finn Borstmayer
403.431.0759

Oral Presentation to the MPC by Shelley Mardiros May 9th, 2018

The facts of this case are pretty simple.

LUB 8.10.5 reads:

“An accessory dwelling shall be permitted only where the principal use of the site is a single detached house or duplex or as provided for in Section 12.”

The LUB says Single Detached Housing means “a building containing one principle dwelling, *which is separate from any other dwelling or building.*”

The residential dwelling portion of Tan-y-Bryn is **attached** to the commercial portion of the Inn. It shares an interior wall with the commercial portion of the Inn and there is a connecting door. Tan-y-Bryn is not a single detached house.

The LUB defines principal use as “ the main or primary activity, for which a site or its building are designed, arranged, developed, intended, or for which it is occupied or maintained.”

Tan-y-Bryn’s **principal use** has been tourist accommodation for nearly a century, providing commercial accommodation to travellers, dating back to the 1920s when Mary Schaffer and Billy Warren managed it, while living nearby.

Tan-y-Bryn consists of a 2 storey heritage building entirely devoted to commercial accommodation units with a common kitchen and a common room. There is a one-storey extension that contains another commercial accommodation unit, and another bathroom for the Inn, and a dwelling for the resident owner/manager.

The rooms of Tan-y-Bryn, including its communal kitchen and bathrooms and living room have all been arranged and designed to serve the purposes of an inn; it is intended, occupied and maintained as an Inn. Even the owner’s separate (but attached) dwelling meets the requirements of an Inn, for LUB 10.4.1f specifies that B&B Inns “shall **contain** a separate dwelling for a resident owner or manager...”

The principle use of Tan-y-Bryn is an Inn no matter what criterion one applies.

Indeed, it is because Tan-y-Bryn is a commercial enterprise, and not a mere ancillary use the way B&B Home accommodations are, that managing the business is a recognized need-to-reside. The manager of Tan-y-Bryn is qualified to live in Banff by virtue of the business of Tan-y-Bryn. Managing a B&B **Home** categorically does NOT qualify as a need-to-reside, but managing an **Inn** does.

There is one line in the LUB that describes B&B **Inns** as “B&B **Homes** larger than typical”, but this description cannot be interpreted to mean that everything that applies to a B&B Home applies to a B&B Inn. If that were the case, owning a B&B Inn would not qualify as a need-to-reside.

The Land Use Bylaw makes clear distinctions between B&B Homes and B&B Inns. The regulations laid out in the Land Use Bylaw section 10.3 apply to B&B Homes, and are different (and indeed conflict with) the regulations in LUB section 10.4, which apply to B&B Inns.

B&B homes **must not** have a separate kitchen; B & B Inns **must** have a common kitchen that serves the tourist rooms.

B&B homes are required to supply one parking space **per bedroom**; B&B Inns are required only to supply one parking space **for every 2 bedrooms**.

B&B homes are limited to at most 4 commercial accommodation units; B&B Inns may qualify for up to 10 commercial accommodation units.

And notice also 10.3.2d : “B&B homes shall only be located **within single detached housing** or accessory structures providing that these do not contain a kitchen.”

The parallel regulation for B&B Inns (10.4.1f) is kind of the opposite: “B&B Inns shall **contain** a separate dwelling for a resident owner or manager”.

The B&B Home is a home, a single detached dwelling that contains rental rooms within it as an ancillary use.

The B&B Inn is an inn that contains a manager’s dwelling within it.

Tan-y-Bryn is a B&B Inn. It is not a Single Detached House. It does not meet the requirements of 8.10.5.

Town of Banff
Municipal Planning committee

Building permit application 137 Kootenay

Thank you for the opportunity to address this development permits application.
We would like this building permit to be rejected.

As the development of this property is for four lots we are treating this application as a precedent of what to expect on the other three. We have no communication to indicate otherwise and have seen representations that indicate this.

Firstly we do not support allowing four duplexes to be constructed on this property. The increase in density is unwarranted in this single-family home area. The change from single family to duplex was not adequately communicated to the owners of the existing properties, hence no pushback was encountered. Now that property owners are aware we are responding, we do not want the neighborhood to become high-density duplexes. We purchased our properties because of the existing zoning and development rules in place. Having developments like this will forever change the character of the neighborhood. The policy that single-family homes have no place in this Town is ill founded, there still needs to be areas of single-family homes.

Notice of application for building permit

A result of the MPC meeting on subdivision October 12 2016, was a condition that “Any further proposed development of 137 Kootenay must be submitted to MPC for approval”. It was our understanding of this statement that MPC intended adjacent property owners were to be notified when any applications were submitted.

It was only by coincidence of reading the notice posted at the front of the property that we were aware of the application. And only upon contacting the Planning department were we made aware of the upcoming MPC meeting and provided copies of the plans for the building.

For the previous meeting for subdivision on Oct 12 2016 we were given email notice on Sept 13, a full month ahead. Why were we not notified of this application?

Adjacent property owners should be notified via email of any proposed developments and should have at least two weeks time to prepare for any MPC meeting.

Future development

In relation to the possibility of future development of a suite on the lower garage level we request confirmation of our understanding of the bylaw that the allowable developed area has already been reached; allowable FAR of 5,087 and actual FAR of 5,080. Therefore the possibility of receiving permission for this would is not possible.

As per the Clarkson's concerns, what method of enforcement can be applied to this development to ensure this does not happen?

Orientation

The subdivision plan of this parcel has front yards facing Kootenay Ave. The orientation of the duplex is turned 90 degrees and has the rear of the building facing the existing neighbors' side yard.

The 2nd floor enclosed decks face the side yard; this would enable noise to be directed toward the property next door. Also as these areas are well above ground level; 20 feet for the 2nd floor and 10 feet for the main floor, it could be a "Peeping Tom" scenario. The privacy of the existing adjacent property will be significantly impaired. No areas of congregation should face the side yard of existing properties.

Relieving the housing crisis

If this development represents the Town's policy towards increasing density in all areas to alleviate the housing shortage crisis, in this case duplexes in an area that is single family, then how about requiring a mandatory statutory declaration of the purchasers need to reside for any sale of these properties?

Design Guidelines

We do not believe the project meets the following sections of the Design Guidelines; there are no illustrations of how this building relates and complies with the following guidelines, which we believe it does not.

- 3.0 c) Scale "relative proportion to the neighborhood"
- 3.2 a) Scale and massing "shall relate to the size and shape of the adjacent buildings"
- 3.2 c) Rhythm "the rhythm of buildings along the street shall be respected"
- 3.2e) Setbacks "setbacks and building placement shall be consistent with other buildings on the street"

4.1 a) “the scale, massing, and siting of buildings shall be compatible with directly adjacent properties and the neighborhood as a whole.

4.1 b) “predominant roof profile of the neighborhood shall be respected

The adjacent homes are 1-2 storey, low angle roofs, large landscaped areas surrounding them, with large setbacks from the front street.

It can be said that these “Villa Lots” are a reflection of Banff’s Heritage. Banff is quickly loosing its Heritage, Cave Avenue was once a similar landscape, and you would be hard-pressed to see any resemblance to what was there 30 years ago.

Is it not important to preserve some of Banff’s neighborhoods’ characteristics?

Yours truly,

Bill and Lynn Calvert

May 7, 2018

To: Municipal Planning Commission

RE: Proposed Duplex Housing at 137 Kootenay Ave 18DP21

Hello:

The purpose of this letter is to express our concerns and ask our questions, as adjacent home owners, with regards to the proposed development. These concerns are outlined within this letter for immediate consideration and discussion. Dolores Carroll will be in attendance at the May 9th meeting to advise further with the Commission and the developer.

1. Currently one development permit for one duplex building is being applied for. What are the future plans for the other 3 lots on the site? Increased density on Kootenay Ave is definitely a concern for the vast majority of the current homeowners in this neighborhood. While we realize the Town is facing housing issues and future developments need to address this issue. We feel that not all areas of Banff are adequate for multi-family housing, Kootenay Ave being one of those areas. It is a narrow street, with no sidewalks, limited visibility around the blind corner which is a concern for pedestrian and vehicle traffic. And most importantly a high density development will forever change the character of our neighborhood.

Will there be a confirmation from the developer that no accessory dwellings will be allowed in this development? If each lot becomes a duplex - the potential of 16 families living in this development is unacceptable. Upon review of the plans, there is the potential for accessory dwellings. At the time of the subdivision application the developer assured us that a high density development was not their plan. It is difficult to accept one development permit not knowing what the other 75% of the development will become.

We ask MPC to seriously consider a way to restrict future increased density on this site and to seek clarity as to what the future and final plans of the development will be .

2. As an adjacent homeowner our second concern is the loss of our privacy and quiet enjoyment of our home, our yard and the neighborhood. From the proposed plans the 2 1/2 story elevated duplex will be backing on to our yard with only a minor setback from the property line. The balconies and windows that will be above our fence and looking down on to our yard will definitely take away any privacy that we currently have. And considering the number of trees that have been removed from the property that originally were lining the property line between our home and the development, our yards are now open to each other.

Most neighborhoods have the side of a home facing the side of their neighbor's home with limited windows and no open decks or looming roof lines. I would like to have the developer explain the plans to us or confirm that we will not be looking up into another homeowner's decks and windows and continue to enjoy the view of the mountains that we currently have. We purchased our home for the exposure to the views, the seclusion and the privacy that was offered.

Should this development become 4 duplexes, alongside our yard alone, we will potentially have four family homes with various windows and decks high above our fence line.

I would ask the MPC to consider these plans, walk the property lines and see firsthand what our concerns are.

3. And lastly our third concern is parking on the avenue. I can see from the plans that the developer has allocated 4 tandem parking spots for each side. That is if the home owners are willing to park in tandem, which as we know most homeowners do not park that way. Currently, Kootenay Ave is lined with vehicles parking along the Avenue in designated 'no parking' zones. Should these no parking zones be enforced, there will definitely be major parking issue. Parking on neighbor's yards will be the next option. I can't imagine what the street will become once eight more families move on to the street.

I would ask the MPC to consider the parking situation on Kootenay Ave as an issue of concern during this development permit application process.

4. Further to the letter that Guy and Judy Clarkson submitted on May 4th to the MPC, with regards to this application, we also agree with Guy's sentiments and concerns: It is also our sincere hope that the MPC will be guided by the lengthy process that crafted Banff's By-law 31-3 Sched B: "The scale, massing and siting of buildings shall be compatible with directly adjacent properties and the neighborhood as a whole. Banff is fortunate to have a number of defined neighborhoods, each with its own unique character. Redevelopment should seek to respect, enhance and build on that character."

One last comment, we felt that as adjacent homeowners, we should have been notified of this development permit application, or at least given the respect to have either the Town or the developer contact us and discuss these plans. It is a significant change being made in our neighborhood and as a small community, we felt that this act of goodwill would have been appreciated and our views could have been heard ahead of time.

Respectfully,

Lisa Carroll

For: Lorne and Dolores Carroll,

133 Kootenay Ave

May 4, 2018

To: Municipal Planning Commission

Re: Proposed Duplex Housing at 1 Kootenay – 18DP21

We understand this application specifically concerns a Duplex, however the proposed Duplex plans as drawn clearly allow for future development of an accessory dwelling and this is at the heart of our previous and current issue with increased density and we wish to submit our advance input for the record and consideration by MPC.

In due diligence discussions with the developer and Town it has been clear that duplex housing will be the prime focus of future development on 137 Kootenay Ave. Our primary concern with this proposal is that 4 duplexes with permitted accessory dwellings would potentially increase residential density 16 fold on the existing land base. We believe strongly this is an incompatible and unacceptable level of increased densification in our neighborhood of single-family homes. Kootenay Ave is a narrow street with a blind hill, blind corner and no sidewalks, and this unprecedented level of development would not only irrevocably change the character of our neighborhood forever but also compound existing issues with traffic flow, limited on-street parking and pedestrian safety.

The critical issue for us with duplexes is the challenge of legally limiting development of additional accessory dwellings. We have heard the argument that by limiting parking within a 4 duplex development land base will in turn limit accessory dwelling development, but this is unrealistic. The Town admits to be overwhelmed with development demands and understandably does not have the resources to monitor or enforce compliance issues. We already see this daily in our neighborhood.

We fully appreciate that Banff faces a serious housing shortage and understand that developers are motivated to maximize build out to recover costs and maximize profits. We also appreciate the Town's need to meet the housing demand, however we can only support a maximum development of 8 residential units NOT 16. At the subdivision application stage the developers assured all concerned there was no intent to develop accessory suites in the future and for this reason alone we supported the sub division. Now looking at the proposed duplex floor plans there is no doubt that ample structural space has been crafted to easily allow for future suite development. We believe there is a high potential for future non-compliance with approved plans and therefore ask MPC to please consider a restrictive covenant registered on the property titles.

Finally, it is our sincere hope the MPC will be guided by the lengthy process that crafted Banff's Bylaw 31-3 Sched B: "The scale, massing and siting of buildings shall be compatible with directly adjacent properties and the neighborhood as a whole. Banff is fortunate to have a number of defined neighborhoods, each with its own unique character. Redevelopment should seek to respect, enhance and build on that character."

Respectfully,



Guy and Judy Clarkson
138 Kootenay Ave Banff AB T1L1C5

18DP21 – 1 Kootenay Ridge – PCA Review – May 4, 2018

- A. Parks Canada has reviewed the information provided in circular 18DP21 in the context of the following documents:
- *Canada National Parks Act*
 - *Town of Banff Incorporation Agreement*
 - *Banff National Park Management Plan*
 - *National Parks of Canada Lease and Licence of Occupation Regulations*
 - Lease for the property
- B. Accordingly we note:
- The legal land description for the property on the circulation should read Block 3 Lot 14 LTO#1712504.
 - The application appears incomplete. Specifically:
 - The circulation package did not have a development permit application included, therefore the project data and required authorizations of the registered owner could not be reviewed and confirmed. There was no current Title for the property provided in the circulation package.
 - There is no information provided on the access road for the four lots. Based on the drawings provided, it appears the road would be constructed over the boundaries of the adjoining lots.
 - The circular indicates that development has not demonstrated conformance with the Park Management Plan's objective of incorporating high quality environmental design.
- C. Parks Canada Requirements
- The application and submission package should be completed before further consideration of the project. This includes:
 - Written confirmation that the current owner authorises the application for Development Permit.
 - A current Title for Block 3, Lot 14 LTO# 1712504 be provided by Parks Canada Realty Services.
 - Providing all necessary information to verify conformance with the requirement in the Park Management Plan to demonstrate high quality environmental design.
 - Further, prior to any development approvals, Parks Canada requires confirmation as to whether or not the owner will undertake a further subdivision of the property for the development of a duplex (as this follows a different process) or have the future duplex ownership structured as each side having an undivided ½ interest as tenants in common under one lease for Block 3, Lot 14 LTO# 1712504. Depending on the outcome of the confirmation, further Lease implications and/or requirements may be issued by Parks Canada.
 - Additionally, Parks Canada requires clarification on how ownership/maintenance of the access road will be managed under the separate leases.
 - Parks Canada must also receive a detailed Project Description to determine if an Environmental Impact Analysis (EIA) for the 18DP21 development proposal is required. The EIA determination must also be made prior to the issuance of the development permit.

The proponent is responsible for drafting the project description and providing any other required information to Parks Canada. A guidance document for what to include in the Project Description is attached. For further information on environmental issues or submittals, the proponent can contact Tim Coles in the Banff Environmental Assessment Office at 403-762-1416 or Tim.Coles@pc.gc.ca.

- Upon occupancy of the newly developed property, an updated Statutory Declaration listing each occupant of Block 3 Lot 14 LTO# 1712504 is required to confirm that they are 'eligible residents' as defined under the *National Park Lease and Licence of Occupation Regulations*.

Should more details become available about the project, or should the details of the project change as it proceeds through the development process, the review results above may change.

Thank you.