

**MINUTES OF THE DEVELOPMENT APPEAL BOARD**  
**of the Town of Banff in the Province of Alberta**  
**Town Hall Council Chamber**  
**Friday, June 24, 2011 at 9:00 am**

**BOARD MEMBERS PRESENT**

Dak Kerr	Public Representatives
Mike Murtha	Parks Canada Representative
Stavros Karlos	Council Representative
Rod Pickard	Parks Canada Representative

**BOARD MEMBERS ABSENT**

Philip Carmody	Public Representative
Ossi Treutler, Jr.	Public Representative
Leslie Taylor	Council Representative

**ADMINISTRATION PRESENT**

Darren Enns	Secretary to the Development Appeal Board
Claire Wilkinson	Planner
Keith Batstone	Planner
Kerry MacInnis	P&D Administrative Assistant (Recording Secretary)

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**1.0 CALL TO ORDER**

The Secretary to the Development Appeal Board called the regular meeting of the Development Appeal Board to order at 9:00 a.m.

**2.0 ELECTION OF CHAIR AND VICE CHAIR**

DAB11-8 Moved by Kerr to elect Karlos as Vice Chair of the Development Appeal Board.

**CARRIED**

**3.0 APPROVAL OF AGENDA**

DAB11-9 Moved Murtha by to approve the agenda of the regular meeting of the Development Appeal Board as presented.

**CARRIED**

**4.0 ADOPTION OF PREVIOUS COMMITTEE MINUTES**

DAB11-10 Moved by Murtha to approve the minutes of the January 20, 2011 regular meeting of the Development Appeal Board as presented.

**CARRIED**

**5.0 APPEALS**

5.1. Appeal #01-11

Appeal of the decision of the Development Officer to approve a development permit application for a Home Occupation Type 1 (Photography Service) at 211 Springs Crescent on grounds that

Minutes approved by: \_\_\_\_\_

Springs Crescent is not designed for higher traffic and that it is not safe for more out of town traffic to use this street.

Declaration of Conflict of Interest by Board Members

No DAB member declared a conflict.

Public Present Objecting to Any Board Member Hearing This Appeal

There were no objections from the public present to any board member hearing this appeal.

Notification to Affected Neighbours and Media Announcement

Notice of the appeal hearing has been given to the appellants, the applicant, the Municipal Planning Commission and all affected parties in accordance with the Municipal Government Act and Banff Land Use Bylaw 31-4.

Development Officer's Comments

An application for a Home Occupation Type 1 was received by the Town of Banff on April 14, 2011. The subject property is located in the RMR (Marmot Rundle) Land Use District in which Home Occupations Type 1 are listed as a discretionary use. The Land Use Bylaw provides under section 3.1.2(i) that a development officer may decide on applications for a Home Occupation Type 1 provided that it conforms in every respect to the provisions of the Municipal Government Act, the Banff National Park Management Plan, all applicable statutory plans and the Land Use Bylaw. Plans accompanying the application demonstrated that the 30m<sup>2</sup> of floor area to be used as office space for photography service would occupy no more than 10% of the gross floor area of the principal building at 211 Springs Crescent. The applicant also provided evidence that they meet the eligible residency requirements under the National Parks Act and submitted a description of the proposed business. This description indicated that the photography service would take place off site and few clients would come to 211 Springs Crescent. The applicant indicated that the office space would be used for the coordination of the photography service (booking, administrative duties). It was indicated that photography services and all meetings for the photography business would take place off site. It is the opinion of the Development Officer that there was nothing from the review of the application submitted to indicate that the applicant did not conform with all requirements of the Land Use bylaw for a Home Occupation Type 1. As such, a Notice of Decision was issued on May 18<sup>th</sup> and advertised in the Banff Crag and Canyon as per the requirements of the Bylaw. One letter of appeal was received on May 30<sup>th</sup>. All information is provided in the Development Officer's report.

Appellant Presentations

The appellant was not present at the hearing. The written submission (item A) was included in the agenda package for this meeting. Supplementary photographs (item B) were also submitted for the Development Appeal Board members to consider. This evidence was presented at the hearing and accepted by the DAB Members.

Those in Favour of the Appeal

No one spoke in favour of the appeal.

### Those Opposed to the Appeal

Brian Merry, the applicant for the Home Occupation Permit provided a verbal concept of his proposed wedding and portrait photography service. He indicated that he proposes to meet clients at the Rundle Room of the Banff Springs Hotel or a coffee shop to maintain separation from his business and his home. He doesn't see that there will be any traffic associated with the Home Occupation. Mr. Merry spoke to the photographic images that were submitted by the appellant and testified that the cars shown in the photos relate to residential use of the site.

### Development Officer's Response

The Development Officer made the following comments regarding parking:

- The Development Officer reviewed existing parking with the appellant and with the applicant to clarify the situation regarding the number of cars parked at the location and the potential for clients to park at the location in the future. At no time during the review of this application did an increase in traffic to Springs Crescent come up as a concern.

### Appellant Rebuttal

The appellant was not present at the hearing.

### Board Discussion

The following information was asked and responded to during Board discussions:

- Pickard asked the applicant if there were parking spots available should a client wish to meet the applicant at his home office at Springs Crescent. Response from applicant was that yes, there are still two additional spots in the drive way at Springs Crescent that a client could use if necessary.
- Kerr questioned if the garage could be utilized to park additional vehicles. Response from applicant was yes, there is space to park vehicles in the garage. It was suggested by Kerr that in the spirit of cooperation, parking could be used in the garage thus creating more parking spots.
- Murtha asked a question to the Development Officer: one of the reasons for the appeal was that it was not safe for out of town traffic to use this residential area. Is there any differentiation in the Land Use Bylaw between local traffic and out of town traffic? Development Officer responded that the Bylaw does not differentiate between local and out of Town traffic and stated that it is difficult to know and to monitor if vehicles are local or visiting. It is not something that the Town monitors. The intent for Home Occupations is to provide services to the Banff community and a photography business may attract business from out of town. Murtha stated that development permits are valid for one year and as such, could we not monitor this and if there was an issue with parking within the first year of operation, we could then be deny the renewal of this home occupation. Development Officer answered yes.
- Stavros requested a verbal confirmation of what the Land Use Bylaw Home Occupation regulations require with respect to parking. Development Officer responded with reference to the Land Use Bylaw section 10.1.1 subsection "g" and subsection "h" as well as 10.1.3.

### Motion to Continue Discussion In-Camera

DAB11-11 Moved by Kerr to go in camera at 9:23am

**CARRIED**

DAB11-12 Motion to Leave In-Camera Discussion  
Moved by Murtha to return to the public meeting at 9:52am

**CARRIED**

Verbal Decision Announced  
Appeal #01-11

It is the decision of the Development Appeal Board to deny Appeal #01-11 and that the approval of Development Permit application 11DP22 be upheld subject to the original conditions of approval attached as schedule A. The Development Appeal Board found that Land Use Bylaw 31-4 does not discriminate between local and out of town traffic. Based on the evidence presented the Development Appeal Board also found that the application for a Home Occupation Type 1 (Photography Service) complies with all applicable sections of the Land Use Bylaw 31-4, in particular, with Sections 10.1.1 (g), 10.1.1(h) and Section 10.1.3 which relate to traffic and parking requirements.

**6.0 CORRESPONDENCE**

No correspondence was received.

**7.0 NEW BUSINESS**

No new business was considered.

**8.0 INQUIRIES**

There were no inquiries.

**9.0 ADJOURNMENT**

DAB11-13 Moved by Kerr to adjourn the meeting at 9:55am

**CARRIED**

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Chair

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Kerry McInnis  
Recording Secretary