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Item #: 10.2  
Attachment 2

- 4.18.0 ~~Subject to s.4.15.7 and s.4.15.8 the~~ The Development Appeal Board may make an order or a decision, or issue or confirm the issuance of a development permit ~~that~~ or approve an application for subdivision approval notwithstanding that the proposed development or subdivision does not comply with this Bylaw if, in its opinion:
- a. the deviation from this Bylaw is minor in nature;
  - b. strict application of the Bylaw would cause unnecessary hardship to the applicant arising out of circumstances peculiar to his land; and
  - c. the deviation from the Bylaw would not unduly interfere with the amenities of the neighbourhood or materially interfere with or affect the use, enjoyment or value of neighbouring properties.
  - ~~d. the proposed development would not unduly interfere with the amenities of the area or materially interfere with or affect the use, enjoyment, safety, aesthetics, or value of neighbouring properties; and;~~
  - ~~e. the proposed development conforms with the use prescribed for that building or land in the district that applies to it; and either,~~
  - ~~f. an unusual site configuration, soil conditions, or other factors, which are peculiar to the site and not common in the district, may result in unnecessary hardship or practical difficulties for the proposed development to comply with the provisions of this Bylaw; or,~~
  - ~~g. approval of the variances may, in the opinion of the Development Approving Authority, substantially improve the quality of design of the development relative to the Banff Design Guidelines; or contribute to the preservation of the heritage value of a recognized historic building or resource.~~
- 4.19.0 The Development Appeal Board shall not approve a development that does not conform with the uses prescribed by this Bylaw.
- 4.20.0 The Development Appeal Board shall not approve a development ~~that does not comply with the requirements of an environmental assessment performed under the Canadian Environmental Assessment Act and shall not approve a development without attaching as conditions those~~ where the requirements for assessment or review under federal environmental legislation have not been completed or where the mitigative measures required by the environmental assessment to minimize any adverse environmental effect of the development are not included as conditions of the permit.
- 4.21.0 When the Development Appeal Board approves a development permit that had been refused by a Development ~~Approving~~ Authority, the decision of the Development Appeal Board is the development permit. When the Development Appeal Board upholds a decision to approve a development permit that has been issued by a Development ~~Approving~~ Authority, the previous development permit shall be modified as provided for in the decision of the Development Appeal Board and the decision is part of the permit.
- 4.22.0 Where the Development Appeal Board refuses a development permit that was previously issued, the development permit is null and void.