



Unapproved

**MINUTES OF THE DEVELOPMENT APPEAL BOARD
of the Town of Banff in the Province of Alberta Thursday, June 10, 2021**

BOARD MEMBERS PRESENT

Grant Canning	Council Representative
Dak Kerr	Public Representative (Chairperson)
Stavros Karlos	Public Representative
Kane Shepetunko	Public Representative
Lachlan MacIntosh	Public Representative
Sheila Luey	Parks Canada Representative

BOARD MEMBERS ABSENT

Peter Eschenko	Public Representative (Vice Chair)
Ray Horyn	Public Representative
Kendra Van Dyk	Parks Canada Representative
Peter Poole	Council Representative

ADMINISTRATION PRESENT

Darren Enns	Director Planning and Development and Secretary to the Development Appeal Board
Dave Michaels	Manager, Planning and Development
Emma Sanborn	Development Officer
Barbara McNeil	DAB Decision Writer
Kerry MacInnis	Administrative Assistant Planning and Development (DAB Minutes Clerk)

1.0 CALL TO ORDER

The Chairperson to the Development Appeal Board called the Thursday, June 10, 2021 Development Appeal Board hearing to order at 9:00 a.m.

1.1 DAB Hearing Procedure

Mr. Kerr reviewed the DAB hearing procedures as included with this agenda package and introduced the municipal staff and members of the development appeal board.

2.0 APPROVAL OF AGENDA

DAB21-07

Moved by Mr. Karlos to approve the June 10, 2021 Development Appeal Board agenda as presented.

MOTION CARRIED

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3.0 ADOPTION OF PREVIOUS MEETING MINUTES

DAB21-08 Moved by Mr. Shepetunko to approve the minutes of the May 20, 2021 meeting of the Development Appeal as presented.

MOTION CARRIED

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.

Declaration of Conflict of Interest by Board Members

There was no conflict of interest declared by any board members.

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 31-3.

4.0 APPEAL

4.1. APPEAL #02-21

Appeal has been filed with the Development Appeal Board regarding condition 1(b) of the development permit 21DP10A issued on April 29, 2021.

Whereby an appeal by the applicant on the grounds that the shower and tub are used by employees after cleaning the parkade and maintenance of the grounds and building which is guided by Occupational Health and Safety regulations.

Development Officer's Comments

Ms. Sanborn spoke to the written report included in this agenda package:

- 21DP10A – Proposed Washroom and Office Space
- 17DP18 was approved as an application for 25-unit apartment housing
- 16DP64 was successfully appealed under Policy C122
- Land Use Bylaw amendment came about - Bylaw 380
- This property is within the RCR: Cougar/Rabbit District, where Apartment Housing is a permitted use
- The purpose of the RCR district is to provide for redevelopment to a mix of housing types.
- A minimum of 16 stalls required as per section 8.16.1.v of the Land Use Bylaw
- Approved plans show 18 parking stalls and 50 bike parking stalls
- Complaint received for unauthorized development
- September 4, 2020 a property site inspection was conducted
- Stop Order issued for the unauthorized development
- The property owner had the right to appeal this stop order, and they did not appeal this Stop Order
- The Stop Order resulted in the submission of a development permit
- The development permit was then appealed; the condition being appealed is condition 1, b).

Appellant Presentation

Mr. Max Yaremko and Mr. Chris Ferguson, the applicants, spoke to the written submission included in this agenda package:

- Site activity and inspections; we can confirm that both areas in question were used as storage and office space
- These spaces were empty and were never rented out
- Some of the trades working on the site were questioned and confirmed that these spaces were not being occupied
- After an email received from Mr. Enns, we thought we could utilize these spaces as we had additional FAR available to accommodate these areas.

Minutes approved by: _____

- There was a misunderstanding on our part that we thought we could develop these spaces.
- Economics prevail and each time we were asked to change things, the cost of development went up. We wanted to leave the spaces as they were to help keep our costs down.
- We would like this suite to be a short-term rental suite due to its limited size. At this point, it has not been rented out.
- We have an OHS requirement to provide a washroom for our workings. We want to keep the East suite. We just do not have enough money to make these necessary changes. The other suite has met all requirements and should be approved.

Those in Favour of the Appeal

None

Those Opposed to the Appeal

None

Development Officer's Comments

Ms. Sanborn responded to the appellant's submission:

- It is uncommon for outside contractors to be provided washrooms in a building such as this.
- In buildings such as this, there is typically an inhouse manager who utilizes their own condo unit on site as their "office", etc.
- The parkade would be a great space for workers to use to fill buckets, etc to wash mats.
- For OHS standards, time is of the essence and an eye wash station may be better situated in the garage area where the work is being done.

Appellant's Rebuttal

Mr. Yaremko and Mr. Ferguson responded:

- We have an elevator to assist getting workers from the parkade to this suite for ease of access.
- There is just no space in the parking garage to add an office or wash station.
- This suite is to be utilized by our live-in manager's office space.
- Our intention was not to rent out these spaces.

Board Questions

Asked and answered.

Motion to Continue Discussion In-Camera

DAB21-09 Moved by Councillor Canning that pursuant to Sections 24 (advice from officials) of the *Freedom of Information and Protection of Privacy Act* and Section 3.2.12 of the Land Use Bylaw, DAB moved into closed meeting at 10:03a.m., in the Virtual Zoom Boardroom, to deliberate and discuss confidential matters with respect to Appeal #02- 21.

MOTION CARRIED

Administration in attendance during the closed meeting discussions with respect to Appeal #02-21.

Advice: Ms. B. McNeil

DAB reconvened in public hearing at 10:45p.m., with Board Chairperson Kerr in the chair.

Motion to Leave In-Camera Discussion

DAB21-10 Moved by Councillor Canning that the Board rise and report.

MOTION CARRIED

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Verbal Decision Announced

In the matter of appeal #02-21, an appeal against the decision of the Development Officer condition of approval 1(b) of the development permit 21DP10A issued on April 29, 2021, the appeal is denied, and DAB upholds the development officer's decision.

In accordance with the Municipal Government Act, the decision of the Development Appeal Board is not final for 15 calendar days after concluding the hearing. The written decision together with reasons for the decision will be sent to the appellant and to those present who have identified themselves to the Recording Secretary by name and mailing address.

5.0 CORRESPONDENCE

There was no correspondence presented.

6.0 NEW BUSINESS

There was no new business.

7.0 INQUIRIES

There were no inquiries.

8.0 ADJOURNMENT

DAB21-11 Moved by Councillor Canning to adjourn the meeting at 10:50a.m.

MOTION CARRIED

The Banff Development Appeal Board meetings are held only when an appeal has been received. Meetings are tentatively scheduled for the first and third Thursdays of each month.

Mr. Dak Kerr
Chairperson

Ms. Kerry MacInnis
Recording Secretary