

MUNICIPAL PLANNING COMMISSION MEETING AGENDA

Banff Town Hall – Virtual Zoom Meeting
Wednesday, February 16, 2022 at 9:00a.m.

PLEASE NOTE:

Due to the extraordinary circumstances and measures being taken to slow the spread of COVID-19, this meeting will be held **electronically** and will be **live streamed** on www.banff.ca/live

MEMBERS OF THE PUBLIC ARE ABLE TO PROVIDE INPUT ON DEVELOPMENT PERMIT APPLICATIONS IN ONE OF THE TWO WAYS LISTED BELOW:

- **Written comments** may be emailed to kerry.macinnis@banff.ca prior to noon on Monday, February 14, 2022.

Submissions received will be included in the agenda package publicly available through www.banff.ca/AgendaCenter. Personal information provided in submissions is collected under the authority of Procedures Bylaw 44-7 and Section 33(c) of the *Freedom of Information and Protection of Privacy (FOIP) Act* of Alberta, for the purpose of receiving public participation in municipal decision-making. If you have questions regarding the collection and use of your personal information, please contact the FOIP Coordinator at 403-762-1209 or at Banff Town Hall, Box 1260, Banff, Alberta, T1L 1A1;

OR

- **Oral submissions** may be made electronically at the meeting during the 'Public Input' portion of each application.

In order to provide oral submissions, you are required to register by emailing kerry.macinnis@banff.ca prior to 4:30p.m. Tuesday, February 15, 2022. Further, you must confirm which application you wish to provide input on.

The live stream is available at www.banff.ca/live

1.0 CALL TO ORDER

The February 16, 2022 Regular Meeting of the Municipal Planning Commission will be conducted virtually using Zoom and will be live streamed on the internet, and recorded, in accordance with Council Policy C8002-1, Video Recording and Live Streaming of Legislated Meetings. It will be made available on the Town of Banff website.

2.0 APPROVAL OF THE AGENDA

- 2.1 Approval of the MPC agenda for February 16, 2022
- 2.2 Declaration of Conflicts

3.0 ADOPTION OF PREVIOUS COMMISSION MINUTES

- 3.1 Minutes of the November 26, 2021 Regular Meeting

4.0 UNFINISHED BUSINESS

5.0 REPORTS

5.1 Home Occupation Renewals for 2022

- i. Staff Presentation
- ii. Public input
- iii. Applicant input

5.2 Bed and Breakfast Renewals for 2022

- i. Staff Presentation
- ii. Public input
- iii. Applicant input

6.0 CORRESPONDENCE

7.0 NEW BUSINESS

8.0 INQUIRIES

9.0 DATE OF NEXT MEETING/ADJOURNMENT

9.1 The next MPC meeting is scheduled for Wednesday, March 9, 2022 at 9:00am.

Barb Pelham	Council Representative	Kelly Gibson	Town Manager
Hugh Pettigrew	Council Representative	Darren Enns	Director, P&D
Bryan Howie	Parks Canada Representative	Dave Michaels	Manager
Leslie Taylor	Public Representative	Emma Sanborn	Planner
Brian Smythe	Public Representative	TBA	Planner
Dana Humbert	Public Representative	Banff Crag & Canyon	
Scott McElhone	Public Representative	Rocky Mountain Outlook	
Stavros Karlos	Public Representative		



**MINUTES OF THE MUNICIPAL PLANNING COMMISSION
of the Town of Banff in the Province of Alberta
Friday, November 26, 2021 at 9:00 a.m.**

COMMISSION MEMBERS PRESENT

Brian Smythe	Public Representative (Chairperson)
Lesley Taylor	Public Representative (Vice Chairperson)
Scott McElhone	Public Representative
Dana Humbert	Public Representative
Stavros Karlos	Public Representative
Bryan Howie	Parks Canada Representative
Barbara Pelham	Council Representative
Hugh Pettigrew	Council Representative

COMMISSION MEMBERS ABSENT

ADMINISTRATION PRESENT

Darren Enns	Director, Planning and Development
Dave Michaels	Manager, Planning and Development
Emma Sanborn	Development Planner
Kerry MacInnis	Administrative Assistant, Planning and Development (MPC Recorder)

PLEASE NOTE: Due to the extraordinary circumstances and measures being taken to slow the spread of COVID-19, this meeting will be held **electronically** and will be **live streamed** on www.banff.ca/live
All Members of MPC will be participating remotely.

1.0 CALL TO ORDER

The secretary to the Municipal Planning Commission called the November 26, 2021, to order at 9:03a.m.

The November 26, 2021, Regular Meeting of the Municipal Planning Commission will be conducted virtually using Zoom and will live streamed on the internet, and recorded, in accordance with Council Policy C8002-1, Video Recording and Live Streaming of Legislated Meetings. It will be made available on the Town of Banff website.

Minutes approved by: _____



1.1 Appointment of MPC Chairperson

MPC21-60 **Moved by** Commissioner Karlos

That Commissioner Smythe be nominated as Chairperson of the Municipal Planning Commission.

For: (8): Commissioner Smythe, Commissioner Taylor, Commissioner McElhone, Commissioner Humbert, Commissioner Howie, Commissioner Karlos, Councillor Pettigrew and Councillor Pelham

MOTION CARRIED

1.2 Appointment of MPC Vice Chairperson

MPC21-60 **Moved by** Commissioner Karlos

That Commissioner Taylor be nominated as Vice Chairperson of the Municipal Planning Commission.

For: (8): Commissioner Smythe, Commissioner Taylor, Commissioner McElhone, Commissioner Humbert, Commissioner Howie, Commissioner Karlos, Councillor Pettigrew and Councillor Pelham

MOTION CARRIED

2.0 APPROVAL OF AGENDA

2.1 Approval of the Municipal Planning Commission agenda for November 26, 2021

MPC21-61 **Moved by** Commissioner Taylor

That the agenda for the November 26, 2021, meeting of the Municipal Planning Commission be approved as presented.



For: (8): Commissioner Smythe, Commissioner Taylor, Commissioner McElhone, Commissioner Humbert, Commissioner Howie, Commissioner Karlos, Councillor Pettigrew and Councillor Pelham

MOTION CARRIED

2.2. Declaration of Conflicts

The Chair asked if any members of the Municipal Planning Commission would be declaring a conflict of interest in hearing today's meeting.

Councillor Pettigrew declared a conflict of interest in hearing agenda item #5.1 Proposed Bed and Breakfast at 433 Cougar Street, 21DP45.

3.0 ADOPTION OF PREVIOUS COMMISSION MINUTES

3.1 Minutes of the September 8, 2021, meeting of the Municipal Planning Commission

MPC21-62 **Moved by** Councillor Pelham

That the minutes of the September 8, 2021, meeting of the Municipal Planning Commission be adopted as presented.

For: (8): Commissioner Smythe, Commissioner Taylor, Commissioner McElhone, Commissioner Humbert, Commissioner Howie, Commissioner Karlos, Councillor Pettigrew and Councillor Pelham

MOTION CARRIED

4.0 UNFINISHED BUSINESS

There was no unfinished business.

Minutes approved by: _____

Councillor Pettigrew left the meeting at 9:09a.m.

5.0 REPORTS

5.1 21DP45

Proposed Bed and Breakfast
433 Cougar Street

- i. Staff Presentation
Administration provided a presentation and overview on the proposal as included in the agenda package.
- ii. Public Input
There was no public input.
- iii. Applicant Input
There was no applicant input.

MPC21-63 **Moved by** Commissioner Humbert

That Municipal Planning Commission approve Development Permit application 21DP45 for the approval of a Bed and Breakfast Home containing one (1) Commercial Accommodation Unit, located at 433 Cougar Street, subject to the conditions of approval attached as Appendix 'A'.

For: (7): Commissioner Smythe, Commissioner Taylor, Commissioner McElhone, Commissioner Humbert, Commissioner Howie, Commissioner Karlos and Councillor Pelham

MOTION CARRIED

Appendix 'A' Conditions of Approval – Application No. 21DP45

- (a) Submit detailed plans, for review and approval of the Development Officer that confirm that no kitchen is proposed in accordance with s.10.3.2.f;
- (b) Submit a Statutory Declaration, to the satisfaction of the Development Officer, confirming that:

Minutes approved by: _____

- i. The owner resides at 433 Cougar Street as their primary residence;
 - ii. The Bed and Breakfast Home will be managed and operated exclusively by the Live-in Owner;
 - iii. The Live-in Owner will not operate the Commercial Accommodation Unit while not in residence at the property; and,
 - iv. The Live-in Owner is aware that any non-conformance with the conditions of approval or non-compliance with the *Land Use Bylaw* will result in the revocation of the Development Permit.
- (c) Enter into a Restrictive Covenant with the Town of Banff to be registered against the Certificate of Title for the property for the purposes of prohibiting the operation more than one (1) Commercial Accommodation Unit and prohibiting the use of any Commercial Accommodation Unit while the owner is not residing at the property. The terms and wording of the Agreement shall be to the satisfaction of the Development Officer. Pay the Town of Banff the Legal Agreement Surcharge of \$600 as established by Town of Banff Development Fee Schedule 'G';
- (d) Submit a revised landscaping plan for the review and approval of the Development Officer, showing realignment of the parking stall to limit required hardscaping and to further reduce the visual impact of the proposed stall;
- (e) Submit a detailed cost estimate, as determined by the Landscape Architect, for all on and off-site landscaping and hardscaping specifying all surface finishes, 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;
- (f) Submit confirmation from the Fire Safety Codes Officer that the property complies with the Alberta Fire Code, including bedroom egress, smoke alarms and placement of fire extinguishers; and,
- (g) Contact Alberta Health Services (Banff Health Unit) at 403.762.2990 regarding the Guidelines for Bed and Breakfast Establishments and to arrange an inspection of the property prior to operation.

(2) Specific Conditions:

- (a) This approval allows a Bed and Breakfast Home containing one (1) Commercial Accommodation Unit.

(3) General Conditions:

- (a) Obtain a valid Business Licence from the Town of Banff for the operation of a Bed & Breakfast Home
- (b) The Development Permit is valid for: a period not to exceed the term of the Business Licence; one (1) year from the date of issuance; or, transfer of the property, whichever first occurs;

- (c) A copy of the Development Permit shall be posted in a prominent and visible place in the home and in each approved guest bedroom at all times;
- (d) On-site parking shall conform to the approved site plan. No parking of guest vehicles is permitted on adjacent public roadways. The owner shall be responsible for ensuring that each guest is advised that they must park in the areas designated on the application and not on a public roadway;
- (e) All signs require a separate Development Permit in accordance with the Town of Banff Land Use Bylaw;
- (f) Vehicular traffic generated by the Bed and Breakfast Home shall not be in excess of what which is characteristic of the neighbourhood in which it is located;
- (g) The owner will maintain a daily guest registry which will include rooms occupied and vehicle license plate information. If a complaint is received, the owner, upon request from the Town shall provide the daily guest registry for inspection and shall provide license plate numbers of permanent resident vehicles. The Town may request this at any time between the hours of 8:00a.m. and 8:00 p.m.;
- (h) The owner shall be responsible for complying with the Alberta Fire Code;
- (i) Contact Alberta Health Services (Banff Health Unit) at 403.762.2990 regarding the *Guidelines for Bed and Breakfast Establishments* and to arrange an inspection of the property prior to operation;
- (j) Non-compliance with any conditions of the Development Permit will result in revocation of the 'Bed and Breakfast Home' permit; and,
- (k) 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*.

Councillor Pettigrew returned to the meeting at 9:35a.m.

5.2 21RZ02

Proposed Land Use Bylaw Amendment
Equipment Rental in the CA: Commercial Accommodation District

- i. Staff Presentation
Administration provided a presentation and overview on the proposal as included in the agenda package.
- ii. Public input
Darren VanMackelbergh and Frank Denouden, Banff Park Lodge, were present to add support for the applicant, Jason Funnell.
- iii. Applicant input
Jason Funnell, applicant, Black Tie Skis, was present to answer questions from the Commission.

MPC took a break from 11:15a.m to 11:25a.m.

Moved by Commissioner Taylor

That the Municipal Planning Commission

1. Forward application 21RZ02 to amend the Town of Banff Land Use Bylaw to include Equipment Rental in the CA: Commercial Accommodation Land Use District as a Discretionary Use to Council; and
2. Recommend to Council the following actions with respect to the LUB in response to the application:
 - a. Delete the existing definition for Equipment Rentals and replace it with two definitions: Sports Equipment Rentals and Equipment Rentals, Other;
 - b. Make both Sports Equipment Rentals and Equipment Rentals, Other discretionary uses in the CS and CD districts;
 - c. Make Sports Equipment Rentals a discretionary use in the CT, CA and CB districts, with appropriate wording in the districts to make it clear that this use is to be granted only where it is accessory to a hotel; and
 - d. When considering the new ARP for the CR district, give positive consideration to include Sports Equipment Rentals as a discretionary use in that district.



MPC21-64 Moved by Commissioner Taylor

That the Municipal Planning Commission

Forward application 21RZ02 to amend the Town of Banff Land Use Bylaw to include Equipment Rental in the CA: Commercial Accommodation Land Use District as a Discretionary Use to Council.

For: (8): Commissioner Smythe, Commissioner Taylor, Commissioner McElhone, Commissioner Humbert, Commissioner Howie, Commissioner Karlos, Councillor Pettigrew and Councillor Pelham

MOTION CARRIED

MPC21-65 Moved by Commissioner Taylor

That the Municipal Planning Commission

Recommend to Council the following actions with respect to the LUB in response to the application:

- a. Delete the existing definition for Equipment Rentals and replace it with two definitions: Sports Equipment Rentals and Equipment Rentals, Other; and,
- b. Make both Sports Equipment Rentals and Equipment Rentals, Other discretionary uses in the CS and CD districts; and,
- c. Make Sports Equipment Rentals a discretionary use in the CT, CA and CB districts, with appropriate wording in the districts to make it clear that this use is to be granted only where it is accessory to a hotel; and,
- d. When considering the new ARP for the CR district, give positive consideration to include Sports Equipment Rentals as a discretionary use in that district.

For: (8): Commissioner Smythe, Commissioner Taylor, Commissioner McElhone, Commissioner Humbert, Commissioner Howie, Commissioner Karlos, Councillor Pettigrew and Councillor Pelham

MOTION CARRIED



Moved by Commissioner Howie

That the Municipal Planning Commission (MPC) recommend that Council consider the following actions with respect to the LUB in response to the application.

- a. Parking and housing requirements specific to Equipment Rental, Other and Sports Equipment Rental; and,
- b. Number of Equipment Rental, Other and Sports Equipment Rental locations; and,
- c. Separation between similar uses.

MPC21-66 **Moved by** Commissioner Karlos to split Commissioner Howie's motions into three separate motions with respect to the LUB in response to the application.

For: (8): Commissioner Smythe, Commissioner Taylor, Commissioner McElhone, Commissioner Humbert, Commissioner Howie, Commissioner Karlos, Councillor Pettigrew and Councillor Pelham

MOTION CARRIED

MPC21-67 **Moved by** Commissioner Howie

That the Municipal Planning Commission (MPC) recommend that Council consider the following action with respect to the LUB in response to the application.

- a. Parking and housing requirements specific to Equipment Rental, Other and Sports Equipment Rental;

For: (8): Commissioner Smythe, Commissioner Taylor, Commissioner McElhone, Commissioner Humbert, Commissioner Howie, Commissioner Karlos, Councillor Pettigrew and Councillor Pelham

MOTION CARRIED



MPC21-68 **Moved by** Commissioner Howie

That the Municipal Planning Commission (MPC) recommend that Council consider the following action with respect to the LUB in response to the application.

- b. Number of Equipment Rental, Other and Sports Equipment Rental locations.

MOTION DEFEATED

Opposed: Commissioner Taylor, Commissioner McElhone, Commissioner Humbert, Commissioner Karlos, and Councillor Pelham

In Favor: Councillor Pettigrew, Commissioner Smythe and Commissioner Howie

MPC21-69 **Moved by** Commissioner Howie

That the Municipal Planning Commission (MPC) recommend that Council consider the following action with respect to the LUB in response to the application.

- c. Separation between similar uses.

MOTION DEFEATED

Opposed: Commissioner Smythe, Commissioner Taylor, Commissioner McElhone, Commissioner Humbert, Commissioner Karlos, Councillor Pettigrew and Councillor Pelham

In Favor: Commissioner Howie



6.0 CORRESPONDENCE

There was no correspondence for this meeting.

7.0 NEW BUSINESS

7.1 Development Updates

Verbal update on: Voyageur Inn redevelopment, steady application numbers for change of uses in our commercial districts/new businesses and Inns of Banff redevelopment.

8.0 INQUIRIES

There were no inquiries for this meeting.

9.0 DATE OF NEXT MEETING and ADJOURNMENT

The next scheduled meeting of the Municipal Planning Commission is scheduled for **Wednesday, January 19, 2022 at 9:00 a.m.**

MPC21-70 **Moved by** Councillor Pettigrew that this Municipal Planning Commission adjourn at 12:04p.m.

For: (8): Commissioner Smythe, Commissioner Taylor, Commissioner McElhone, Commissioner Humbert, Commissioner Howie, Commissioner Karlos, Councillor Pettigrew and Councillor Pelham

MOTION CARRIED

Brian Smythe
Chairperson

Kerry MacInnis
Planning and Development

Minutes approved by: _____

REQUEST FOR DECISION

Subject: Development Permit Renewals for Home Occupations (Type 2) in 2022



Presented to: Municipal Planning Commission

Date: February 16, 2022

Submitted by: Emma Sanborn, Development Planner Agenda #: 5.1

RECOMMENDATION

That Municipal Planning Commission (MPC):

1. Consider the approval of the Development Permits for the Home Occupations (Type 2) listed in Appendix 'A' for a 1-year term through 2022, subject to the conditions of approval attached as Appendix 'C'; and,
2. Consider the renewal of the Development Permits for Home Occupations (Type 2) listed in Appendix 'B' subject to the conditions of approval attached as Appendix 'D'.

BACKGROUND

Reason for Report

To present for the consideration of MPC a list of previously-approved Home Occupations Type 2 for annual Development Permit renewal. The Town of Banff Land Use Bylaw specifies that Development Permits for Home Occupations may be issued for a period not to exceed 1-year and shall be renewed on an annual basis. The Development Permit fees have been paid by all applicants for Home Occupation Type 2 Development Permits.

Summary of Issue

The Town of Banff Land Use Bylaw permits certain types of small-scale home-based businesses in residential land use districts. These are separated into two Types:

Home Occupation Type 1 means an office, Family Day Home or Private Babysitting Facility in a dwelling or accessory building for a person who occupies the dwelling as a principal residence. Typical uses include self-employed persons providing professional, financial and office services, consulting, project management or other sales services not involving any production, or repairs, nor the parking of a commercial vehicle on site.

Home Occupation Type 2 means an occupation, trade, art or craft, Family Day Home or Private Babysitting Facility for gain or support, conducted entirely within the dwelling or related accessory building, by a person who occupies the dwelling as a principal residence. Typical uses include dressmaking, millinery, homecrafts, novelties and souvenirs, handicrafts and individual instruction to students, mobile repairs and installation, and minor household repair services.

Home Occupations (Type 1 and Type 2) are Discretionary Uses within the Land Use Districts in which they are allowed. Section 3.1.2(i) of the Land Use Bylaw states that *a Development Officer may decide upon an application for a home occupation type 1 provided it conforms in every respect to the provisions of the Act, the Banff National Park Management Plan, all applicable statutory plans and this Bylaw.* As such, only Home Occupations Type 2 have been referred to the MPC for renewal.

Home Occupations - Type 2

Development Permits for Type 2 Home Occupations are approved for a period of no more than 1-year and operators apply annually for renewal, in conjunction with annual Business Licence renewal. The renewal process provides the Town of Banff the opportunity to review any complaints or concerns related to the operation of Home Occupations as it pertains to the Land Use Bylaw and

the original conditions of approval in the Development Permit. Administration did not receive any written complaints regarding the operation of any Home Occupations Type 2 in 2021.

Invoices and Development Permit Renewal information was sent by regular mail in December 2021 to all approved Home Occupation Type 2 Development Permit holders.

It is recommended that all Home Occupation Type 2 Development Permits listed in Appendix 'A' be considered for a 1-year term renewal through 2022 in accordance with their original conditions of approval. If the nature of the operation of a Home Occupation changes (eg. enlargement of office/storage; addition of employees; etc.) a new Development Permit will be required. It is recommended that the permits listed in Appendix 'B' be considered for a 1-year renewal through 2022, subject to conditions of Appendix 'D'. Payment for the renewal of the permits in Appendix 'B' has not been received at the time of writing this report.

One Home Occupation Type 2 development permit applicant decided to not renew this year.

DP #	LOCATION OF BUSINESS	TYPE OF BUSINESS
06DP71	514 BUFFALO STREET*	VIOLIN WORKSHOP
10DP18	337 OTTER STREET	GENERAL CONTRACTOR CONSULTANT
16DP08	349 MUSKRAT STREET	OUTDOOR EQUIPMENT SEWING SERVICE
20DP30	231 MARMOT CRESCENT	HOME CRAFTS

*temporarily at 212A Beaver Street during construction of 514 Buffalo Street approved through Development Permit 21DP27

Response Options

The MPC may approve, refuse, or postpone any of the development permit renewals outlined in this report.

IMPLICATIONS OF RECOMMENDATION

Financial

Development renewal fees for Home Occupations (Type 2) and are intended to recover the Town's processing costs. To date the total amount of fees invoiced for 2022 Home Occupation Development Permit Type 2 renewals is \$300.⁰⁰ (4 x \$75.⁰⁰).

Organizational

Approval and compliance monitoring of Home Occupations (Type 2) involves Planning and Development, Bylaw Services, and Fire Department.

Legislation/Policy

Parks Canada maintains that Home Occupations do not provide 'Eligible Resident' status under the National Parks Lease and Licence of Occupation Regulation (1991). Town of Banff administration will continue to make this clear to current Development Permit holders and potential applicants and will outline that jurisdiction and enforcement responsibility rests with Parks Canada.

CONCLUSION

The Town of Banff Land Use Bylaw permits certain types of small-scale home-based business in residential land use districts in Banff. Development Permits for Home Occupations (Type 2) are approved for a period not to exceed 1-year and operators apply annually for renewal.

The renewal process allows MPC the opportunity to review any complaints or concerns relating to the operation of Home Occupations, as it pertains to the Land Use Bylaw and the original

conditions of Development Permit approval. No written complaints were received in 2021.

A total of one (1) Home Occupation (Type 2) has reviewed the Development permit renewal information and submitted payment at the time of writing this report. If subsequent payments are received prior to MPC's consideration, an updated list will be provided.

Recommendation

It is recommended that the Municipal Planning Commission:

1. Consider the approval of the Development Permits for the Home Occupations (Type 2) listed in Appendix 'A' for a 1-year term through 2022, subject to the conditions of approval attached as Appendix 'C'.
2. Consider the renewal of the Development Permits for Home Occupations (Type 2) listed in Appendix 'B' subject to the conditions of Appendix 'D'.

ATTACHMENTS

Appendix 'A' – Recommended Development Permit Renewals for Home Occupations (Type 2) in 2022

Appendix 'B' – Home Occupations (Type 2) requiring further consideration

Appendix 'C' – Recommended Conditions of Approval

Appendix 'D' – Recommended Conditions of Approval

Submitted By:

Emma Sanborn, Development Planner

Reviewed By:

Kelly Gibson, Town Manager

Appendix 'A'

DP application form responses for Home Occupation Type 2 Renewals
UPDATED FEBRUARY 15, 2022*

DP #	LOCATION OF BUSINESS	TYPE OF BUSINESS
06DP71	514 BUFFALO STREET	VIOLIN WORKSHOP
16DP08	349 MUSKRAT STREET	OUTDOOR EQUIPMENT SEWING SERVICE
20DP30	231 MARMOT CRESCENT	HOME CRAFTS

Appendix 'B'

DP application form responses for Home Occupation Type 2 Renewals
UPDATED FEBRUARY 15, 2022*

All DP fees were paid by February 15, 2022.

Appendix 'C'

Recommended Conditions of Approval

(1) Specific Renewal Conditions:

- a) The applicant(s) shall abide by the regulations pertaining to the operation of a Home Occupation as outlined in the *Town of Banff Land Use Bylaw* and any additional conditions specified in the original Development Permit and subsequent renewals;
- b) The Development Permit is valid for a period not to exceed the lesser of the term of the business license, a period of one year from the date of issuance or until transfer/change in ownership of the subject property; and,
- c) The applicant(s) shall maintain a valid *Town of Banff Business License*.

Appendix 'D'

Recommended Conditions of Approval

(1) Specific Renewal Conditions:

- a) This development permit is valid upon payment of the development permit renewal invoice;
- b) The applicant(s) shall abide by the regulations pertaining to the operation of a Home Occupation as outlined in the Town of Banff Land Use Bylaw and any additional conditions specified in the original Development Permit and subsequent renewals;
- c) The Development Permit is valid for a period not to exceed the lesser of the term of the business license, a period of one year from the date of issuance or until transfer/change in ownership of the subject property; and,
- d) The applicant(s) shall maintain a valid *Town of Banff Business License*.

REQUEST FOR DECISION

Subject: Development Permit Renewals for Bed and Breakfast Homes & Inns for 2022



Presented to: Municipal Planning Commission

Date: February 16,

Submitted by: Emma Sanborn, Development Planner 2022 Agenda #5.2

RECOMMENDATION

That Municipal Planning Commission (MPC):

1. Consider the approval of the Development Permits for the Bed and Breakfast Homes & Bed and Breakfast Inns listed in Appendix 'A' for a 1-year term, subject to the conditions of approval attached as Appendix 'C'; and,
2. Consider the renewal of the Development Permits for Bed and Breakfast Homes & Bed and Breakfast Inns listed in Appendix 'B' subject to the conditions of approval attached as Appendix 'D'.

BACKGROUND

Reason for Report

To present for the consideration of MPC a list of previously-approved Bed and Breakfast Home and Inn permits for annual renewal. The Town of Banff approves Development Permits for Bed and Breakfast Homes & Inns for a period not to exceed 1-year, which requires renewal on an annual basis. Bed and Breakfast Homes & Inns are a discretionary use in all Land Use Districts in which they are allowed. The Municipal Planning Commission (MPC) is the Development Approving Authority for all discretionary uses of this type.

Planning and Development have received both payment and applications to renew Development Permits for 42 Bed and Breakfast Home & Inn operations in 2022.

Summary of Issue

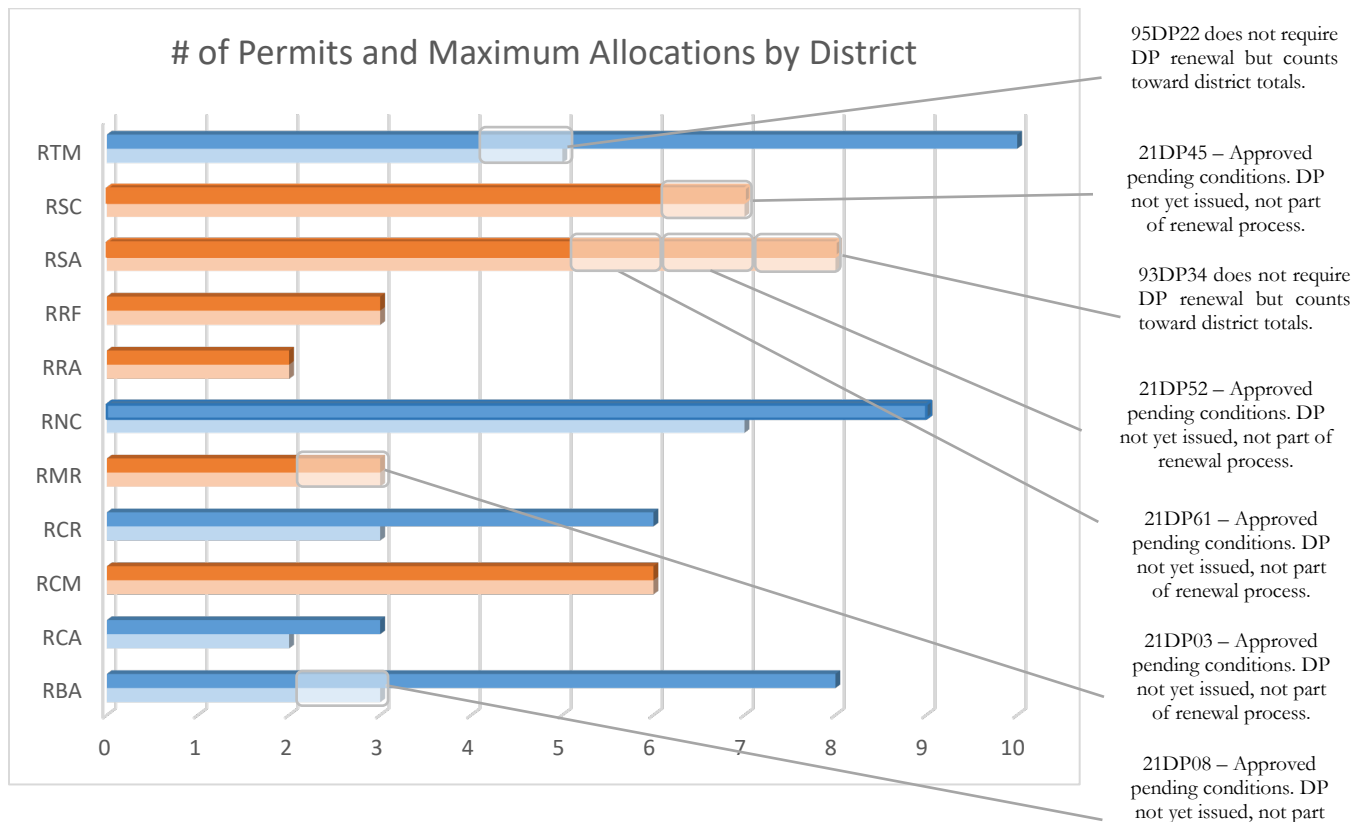
The Town of Banff *Land Use Bylaw* permits commercial accommodation units in residential land use districts through Bed and Breakfast Homes and Bed and Breakfast Inns. Development Permits for Bed and Breakfast Homes & Inns are approved for a period of no more than 1-year and operators apply annually for renewal. The renewal process provides the Municipal Planning Commission the opportunity to review any complaints or concerns related to the operation of Bed and Breakfast Homes & Inns as it pertains to the *Land Use Bylaw* and the original conditions of approval in the Development Permit.

Renewal information and invoices (for development permit renewal fees and business license fees) were sent out to 43 Bed and Breakfast operators this year. Operators were required to review the renewal information and submit payment of the invoice in the case that the renewal details were correct, and they wish to continue operation. Appendix 'A' outlines the operators who have paid their invoice and Appendix 'B' identifies operators who have not yet paid.

Schedule 'D' of the *Land Use Bylaw* limits the total number of Bed and Breakfast Homes and Inns permitted within each residential Land Use District. A maximum of 65 Bed and Breakfasts Homes and Inns are permitted within Banff. Renewal notices were sent out to forty-three (43) previously approved Bed and Breakfast Homes. Forty-two operators (42) have applied for a Development Permit for 2022 and one operator does not wish to renew. Forty-two (42) require renewal: thirty-six (36) have submitted, six (6) have not. In addition, there are four (4) Bed and Breakfast Homes that have outstanding conditions of approval and therefore have not yet been issued a Development Permit, and one (1) that recently met conditions of approval and was issued a Development Permit in early 2022. As such, these additional five (5) Bed and Breakfast Homes do not require consideration for renewal at this time.

There are also two Inns that are outside of the renewal process. The 93DP34 (124 Spray Avenue, a Bed and Breakfast Inn) was removed from the renewal list in 2020 as it was discovered the Inn was located in a Land Use District where Inns are not listed as a use. This makes the Inn a non-conforming use without an original development permit for renewal. A similar situation exists with 95DP22 (452 Muskrat Street, a Bed and Breakfast Inn) located in a Land Use District where Inns are not listed as a use. The Inn is a legal, non-conforming use that may continue to operate in its existing form. As such, only a yearly business license renewal is required for these properties.

The following table shows the maximum number of Bed and Breakfast Homes & Inns permitted as per Schedule 'D' of the *Land Use Bylaw*. Currently a total of 49 Bed and Breakfast Homes & Inns have been approved, and 42 are involved in the 2022 approval process. The seven exemptions from the 2022 renewal process described above, are noted in the table below.



Other Considerations

The renewal of Bed and Breakfast Homes and Inns allows the MPC to consider other potential concerns related to their operation.

Monitoring and Enforcement

In 2021, the following monitoring and enforcement took place:

- A complaint was received about a Bed and Breakfast Home which resulted in a site inspection and subsequent revocation of the Bed and Breakfast Development Permit. The revocation decision was appealed by the applicant but the decision was upheld by the Development Appeal Board. This development permit is not being presented for renewal today.
- An inquiry was received regarding an “entire home” being advertised for an approved Bed and Breakfast property. A virtual site visit of the property and review of relevant advertisements revealed the advertisement options on Airbnb.ca are limited, and can result in misleading advertisements (i.e. “entire home” is advertised, but the live-in owner is in fact on site, in a separate space). The property was confirmed to be in compliance with their development permit.
- Monitoring of short-term accommodation websites resulted in the issuance of one stop order for an apartment home offering two-bedroom accommodation without a valid development permit. The tenant was met with by Planning, Bylaw Services and the Development Compliance Officer, and the homeowner was notified. Immediate compliance was achieved.
- One inquiry was received in 2021 from a neighbour to a Bed and Breakfast property believed to be in violation of public health orders related to COVID-19 restrictions (further explained below). Follow up was conducted by Bylaw Services and the RCMP.
- One development permit application approved by MPC contained both an accessory dwelling and bed and breakfast home. Occupancy has not yet been obtained for the accessory dwelling.

Presently, there are no outstanding complaints or issues with any existing Bed and Breakfast Homes & Inns. If MPC requires specific information about any of the aforementioned inquiries it is recommended they move into a closed meeting to respect *Freedom of Information and Protection of Privacy Act* requirements regarding personal information.

Alberta Health Services

Under the Public Health Act, the Public Health Inspector has the authority to inspect tourist accommodation facilities if food is served to the public or if there is believed to be a health and safety risk. AHS conduct inspections on approval or on complaint however no longer do routine inspections for Bed and Breakfast properties that do not serve food.

The Chief Medical Officer of Health for the province of Alberta issued two Orders in 2020/2021 that were relevant to the operation of a B&B's. Appendix 'E' includes the letter sent out to Bed and Breakfast Home and Inn Operators regarding health restrictions.

Fire Department

The Fire Department are aware of all Bed and Breakfast properties. They have not raised concerns with any of the operations in question.

IMPLICATIONS OF RECOMMENDATION

Financial

Renewal fees are set through Schedule 'G' of the *Land Use Bylaw* at \$300 + \$50/guest room.

Organizational

Approval and compliance monitoring of Bed and Breakfast Homes & Inns involves Planning and Development, Bylaw Services, and the Fire Department. The Development Compliance Officer continues to conduct inspections of Bed and Breakfasts and investigate reports of short-term accommodation rentals without a Bed and Breakfast license.

Administration continues to monitor online advertising for approved Bed and Breakfasts and has not noted any concerns relating to any of the Bed and Breakfasts that MPC is considering for renewal for 2022.

Administration is informed of any changes to ownership of properties in Banff by the Realty Department at Parks Canada and there have been no concerns relating to change in ownership of the previously approved Bed and Breakfasts.

Upon Development Permit renewal, an updated list of Development Permit renewals will be provided to Banff Lake Louise Tourism (BLLT) so that necessary changes can be made to their *'Bed and Breakfast Guide'*. It is the responsibility of operators of Bed and Breakfast Homes and Inns to provide BLLT with up-to-date contact information.

Legislation/Policy

Parks Canada maintains that Bed and Breakfast Homes do not provide *'Eligible Resident'* status to their operators under the provisions of the National Parks Lease and Licence of Occupation Regulations (1991). Jurisdiction and enforcement responsibility rests with Parks Canada with regards to the Eligible Residency requirements. Administration continues to work with Parks Canada with regards to Eligible residency.

A Bed and Breakfast working group was assembled as a result of a report to Council in January 2019 seeking direction on whether any changes should be considered to Bed and Breakfast regulations in the *Land Use Bylaw*. The Governance and Finance Committee directed administration to draft *Land Use Bylaw* amendments based on comments from the working group, MPC and Banff Heritage Corporation. Draft amendments are expected to return to Council by the end of Q1 of 2022. Changes to the regulations would not be applicable until the *Land Use Bylaw* amendments have had first reading, a public hearing, second and third reading, and final approval by Parks Canada.

CONCLUSION

The Town of Banff *Land Use Bylaw* permits certain types of commercial accommodation units in residential land use districts in Banff through Bed and Breakfast Homes and Inns. These are Discretionary Uses in any Land Use District in which they are allowed. Development Permits for Bed and Breakfast Homes and Inns are approved for a period not to exceed 1-year and operators apply annually for renewal. At the time of writing this report, a total of 36 Bed and Breakfast Homes and Inns have requested Development Permit renewals for 2022.

The renewal process allows MPC the opportunity to review any concerns relating to the operation of Bed and Breakfast Homes and Inns as it pertains to the *Land Use Bylaw* and the original conditions of Development Permit approval.

Administration is of the opinion that the applications listed in Appendix 'A' continue to meet the requirements of the *Land Use Bylaw* and are operating as per the original conditions of approval with regards to the number of Guest Rooms being offered.

Response Options

Municipal Planning Commission may approve with any conditions deemed necessary, refuse, or postpone any of the Development Permit renewals identified in this report.

Recommendation

It is recommended that the Municipal Planning Commission:

1. Consider the approval of the Development Permits for the Bed and Breakfast Homes & Bed and Breakfast Inns listed in Appendix 'A' for a 1-year term, subject to the conditions of approval attached as Appendix 'C'; and,
2. Consider the renewal of the Development Permits for Bed and Breakfast Homes & Bed and Breakfast Inns listed in Appendix 'B' subject to the conditions of approval attached as Appendix 'D'.

ATTACHMENTS

Appendix 'A' – Recommended Development Permit Renewals for Bed and Breakfast Homes and Inns in 2022

Appendix 'B' – Bed and Breakfast Homes and Inns requiring further consideration

Appendix 'C' – Recommended Conditions of Approval

Appendix 'D' – Recommended Conditions of Approval

Appendix 'E' – AHS Health Order

Submitted By:

Emma Sanborn, Development Planner

Reviewed By:

Kelly Gibson, Town Manager

Appendix 'A'

Recommended Development Permit Renewals for Bed and Breakfast Homes and Inns in 2022

*UPDATED FEBRUARY 15, 2022

	DP Number	Address	Number of Guest Rooms
1	91DP87	117 SPRAY AVENUE	2
2	95DP08	209 OTTER STREET	1
3	98DP17	104 MOUNTAIN LANE	1
4	15DP59	332 SQUIRREL STREET	4
5	96DP03	214 OTTER STREET	1
6	11DP57/17DP06	116 MOUNTAIN AVENUE	3
7	96DP73	336 BEAVER STREET	4
8	18DP55	138 OTTER STREET	4
9	11DP01	430 BANFF AVENUE	3
10	98DP42	530 CARIBOU STREET	1
11	19DP83	347 GRIZZLY STREET	4
12	03DP72	417 MARTEN ST	4
13	15DP51	119 MOUNTAIN AVENUE	2
14	11DP32	222 Glen Crescent	1
15	14DP51	108 OTTER STREET	2
16	15DP17	128 KOOTENAY AVENUE	1
17	15DP29	443 COUGAR STREET	2
18	15DP35	136 BOW AVENUE	4
19	15DP78	445 COUGAR STREET	2
20	19DP62	137 RAINBOW AVENUE	2
21	19DP10	328 LYNX STREET	4
22	16DP75	115 SPRAY AVE	4
23	17DP60	408 MUSKRAT ST	1
24	17DP39	222 BEAVER STREET	1
25	17DP93	609 CARIBOU ST	1
26	17DP96	118 BEAVER STREET	2
27	19DP15	111 CAVE AVE	2
28	20DP13	312 SQUIRREL STREET	2
29	21DP09	125 WOLVERINE STREET	1
30	19DP86	22 OTTER STREET	1
31	06DP57	137 MUSKRAT STREET	10
32	06DP15	121 CAVE AVENUE	10
33	16DP58	218-220 BEAVER STREET	6
34	93DP17	118 OTTER STREET	8
35	17DP95	223 OTTER STREET	10
36	99DP88	311 MARTEN STREET	7
37	90DP108	2 CASCADE COURT	2
38	17DP76	129 MUSKRAT STREET	4
39	05DP29	437 MARTEN STREET	3
40	18DP17	220 BOW AVENUE	4
41	19DP59	137 LYNX ST	4

Appendix 'B'

Bed and Breakfast Homes and Inns requiring further consideration

*UPDATED FEBRUARY 15, 2022

	DP Number	Address	Number of Guest Rooms
1	18DP07	316 LYNX STREET	4

Appendix 'C'

Conditions of Approval

Application No. xxDPxx

(1) **Specific Renewal Conditions:**

- a) The applicant(s) shall abide by the regulations pertaining to the operation of Bed & Breakfast Homes/Inns as outlined in the *Town of Banff Land Use Bylaw* and any additional conditions specified in the original Development Permit and subsequent renewals;
- b) The total number of commercial accommodation units (guestrooms) is restricted to the number of rooms as specified in the Development Permit;
- c) The Development Permit is valid for a period not to exceed the lesser of the term of the business license, a period of one year from the date of issuance or until transfer/change in ownership of the subject property;
- d) The applicant(s) shall maintain a valid *Town of Banff Business License*;
- e) All parking associated with the operation shall be as per the approved plans. No parking associated with the operation of Bed and Breakfast Homes is permitted on public roadways;
- f) The applicant(s) shall comply with *Alberta Health Bed and Breakfast Health Standards and Guidelines*. If food is served, a health inspection is required every year by Alberta Health Services (403.762.2990); and,
- g) The applicant(s) shall comply with the *Alberta Fire Code*. You may be contacted by the Town of Banff Fire Department to arrange an inspection.

Appendix 'D'

Conditions of Approval

Application No. xxDPxx

(2) **Specific Renewal Conditions:**

- a) This development permit is valid upon payment of the development permit renewal invoice;
- b) The applicant(s) shall abide by the regulations pertaining to the operation of Bed & Breakfast Homes/Inns as outlined in the Town of Banff Land Use Bylaw and any additional conditions specified in the original Development Permit and subsequent renewals;
- c) The total number of commercial accommodation units (guestrooms) is restricted to the number of rooms as specified in the Development Permit;
- d) The Development Permit is valid for a period not to exceed the lesser of the term of the business license, a period of one year from the date of issuance or until transfer/change in ownership of the subject property;
- e) The applicant(s) shall maintain a valid *Town of Banff Business License*;
- f) All parking associated with the operation shall be as per the approved plans. No parking associated with the operation of Bed and Breakfast Homes is permitted on public roadways;
- g) The applicant(s) shall comply with *Alberta Health Bed and Breakfast Health Standards and Guidelines*. If food is served, a health inspection is required every year by Alberta Health Services (403.762.2990); and,
- h) The applicant(s) shall comply with the *Alberta Fire Code*. You may be contacted by the Town of Banff Fire Department to arrange an inspection.

Appendix 'E'

AHS Health Order



Healthy Albertans.
Healthy Communities.
Together.



December 15, 2020

ATTN: B&B Operators
RE: CMOH-42 Order

Please note that the Chief Medical Officer of Health for the province of Alberta has issued two Orders that are relevant to the operation of a B&B, Order-42-2020 and Order-41-2020. Note that Order-42-2020 allows the continued operation of B&Bs under Appendix A (listed in "Businesses and Entities that must schedule an appointment in order to provide services")

However, please also note the following:

- Order-41-2020 states "All persons are prohibited from attending a private social gathering at an indoor public place".
- Order-42-2020 states "... a person who resides in a private residence must not permit a person who does not normally reside in that residence to enter or remain in the residence".

For the purpose of a B&B, we would interpret these Orders to require that guests have separate living areas, including washrooms, from any normal residents of the facility and other guests. In addition, B&Bs must be following guidance for food facilities and provide take-out or to-go breakfast only with no common dining areas. Any common areas of the B&B must be closed to limit social gathering.

Do not hesitate to contact our office if you have any questions regarding Order-42-2020 or Order-41-2020.

Sincerely,

Kori Woodard, B.Sc., CPHI(C)
Public Health Inspector
Alberta Health Services
Kori.Woodard@ahs.ca

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604 Main Street South
Airdrie, AB T4B 3K7
Phone: 403-943-2288

~~Banff~~
Banff Health Centre
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Public Health Building
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