

**BYLAW NUMBER 90D2008**

**BEING A BYLAW OF THE CITY OF CALGARY  
TO AMEND THE LAND USE BYLAW 1P2007  
(LAND USE AMENDMENT LOC2008-0056)**

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**WHEREAS** it is desirable to amend the Land Use Bylaw Number 1P2007 to change the land use designation of certain lands within the City of Calgary;

**AND WHEREAS** Council has held a public hearing as required by Section 692 of the Municipal Government Act, R.S.A. 2000, c.M-26 as amended;

**NOW, THEREFORE, THE COUNCIL OF THE CITY OF CALGARY ENACTS AS FOLLOWS:**

1. The Land Use Bylaw, being Bylaw 1P2007 of the City of Calgary, is hereby amended by deleting that portion of the Land Use District Map shown as shaded on Schedule "A" to this Bylaw and substituting therefor that portion of the Land Use District Map shown as shaded on Schedule "B" to this Bylaw, including any land use designation, or specific land uses and development guidelines contained in the said Schedule "B".
2. This Bylaw comes into force on the date it is passed.

READ A FIRST TIME THIS 9<sup>TH</sup> DAY OF DECEMBER, 2008.

READ A SECOND TIME AS AMENDED THIS 9<sup>TH</sup> DAY OF DECEMBER, 2008.

READ A THIRD TIME AS AMENDED THIS 15<sup>TH</sup> DAY OF DECEMBER, 2008.



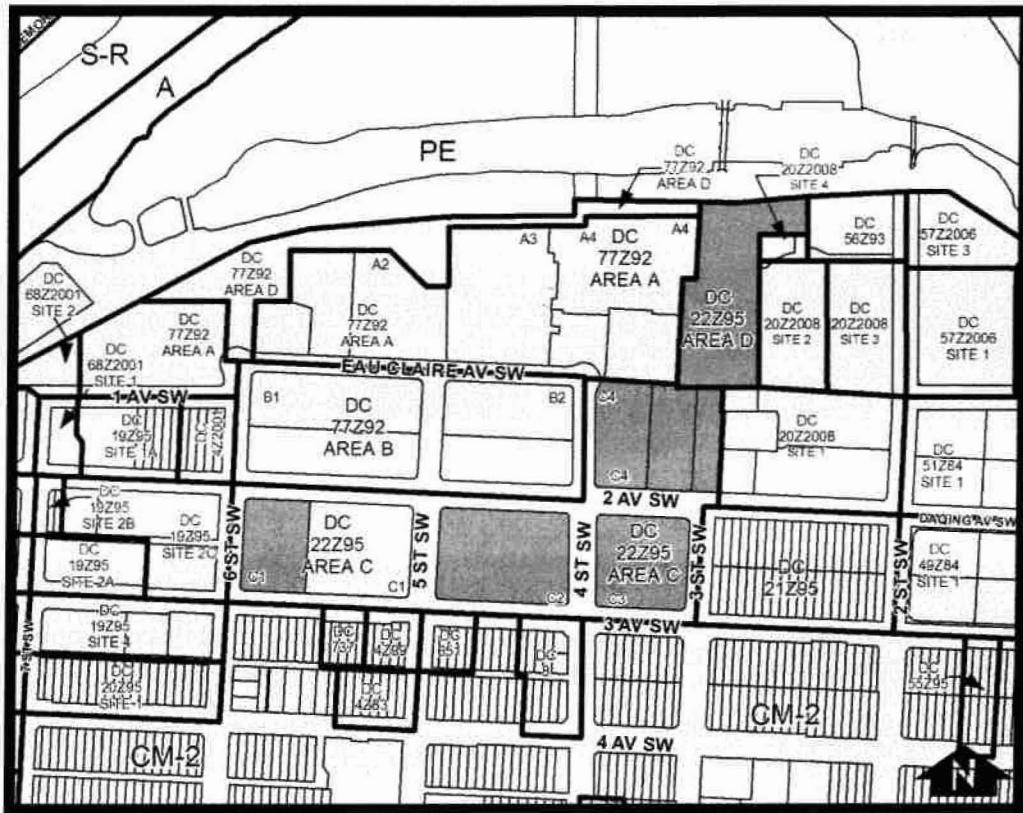
MAYOR  
SIGNED THIS 15<sup>TH</sup> DAY OF DECEMBER 2008.



ACTING CITY CLERK  
SIGNED THIS 15<sup>TH</sup> DAY OF DECEMBER, 2008.

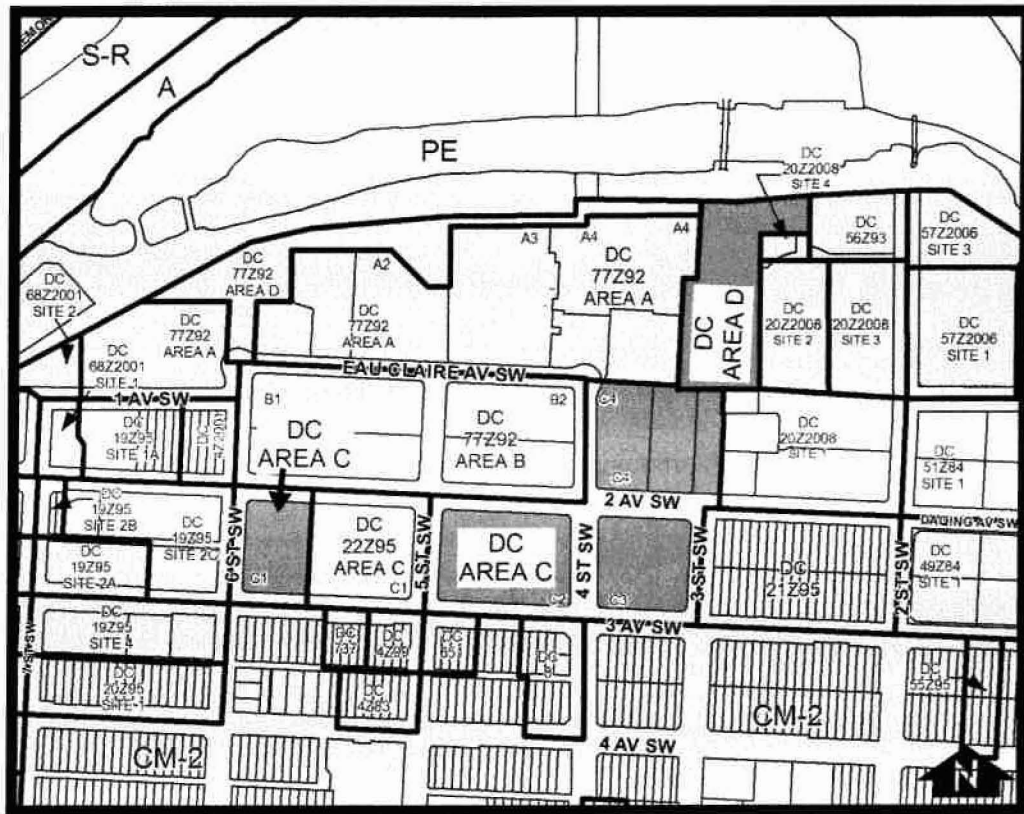
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SCHEDULE A



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SCHEDULE B



**DC DIRECT CONTROL DISTRICT**

**Purpose**

- 1 The lands which are the subject of this Bylaw comprise the "C" lands and part of the "D" lands of the former Eau Claire Estates. The remainder of the former Eau Claire Estates, the "A" and "B" lands and part of the "D" lands, are subject to Bylaw 77Z92, as amended or replaced from time to time. The Objectives and General Development Guidelines Sections are the same for both Bylaws and include references to the "A", "B", "C" and "D" lands.

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**Compliance with Bylaw 1P2007**

**2** Unless otherwise specified, the rules and provisions of sections 1 through 4 of Part 1, sections 21(1),(2) and 22 of Part 2, and Part 10 of Bylaw 1P2007 apply to this Direct Control District.

**Reference to Bylaw 1P2007**

**3** Unless otherwise specified within this Direct Control District, a reference to a section in Part 10 of Bylaw 1P2007 is a reference to the section as it existed on the date of passage of this Bylaw.

**Defined Uses**

**4** In this Direct Control District,

(a) "Adult entertainment establishment" means any premises or part thereof wherein live performances, motion pictures, video tapes, video discs, slides or similar electronic or photographic reproductions, the main feature of which is the nudity or partial nudity of any person, are performed or shown as a principal use or an accessory to some business activity which is conducted on the premises, but does not include an adult mini-theatre.

**Land Definitions**

**5** The land covered by this Bylaw is divided into two areas all of which are legally defined as follows:

Area "C" - Commercial

Block			Legal Description
C1	Lot 1	Block 6	Plan 8811463
C2		Block 5	Plan 8110407
C3		Block 4	Plan 8110407
C4	Lot 14	Block 1	Plan 8310888
	Lot 13	Block 1	Plan 8310888

Area "D" - Public Lands

		Legal Description
Lot 6	Block 1	Plan 8110407
Lot 5 (Ptn.)	Block 1	Plan 8811354
Lot 4 (Ptn.)	Block 1	Plan 8811354
Lot 6 (Ptn.)	Block 1	Plan 8811354

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**Objectives**

- 6** In evaluating Development Permit applications for land covered by this Bylaw, the Approving Authority shall have regard to the following objectives:
- (a) The overall intent of the Eau Claire area is to create an attractive community within the Downtown with a mixture of uses that will contribute to the City's Downtown residential supply and provide opportunities for living, working and recreation Downtown without heavy reliance on the automobile.
  - (b) The location of land uses and the design of structures should provide an attractive physical transition from the Downtown Core to the Bow River and Prince's Island. To this end, the lands are divided into 4 basic areas - Area "A" a residential area adjacent to the Bow River, Area "B" a residential area with the opportunity for a limited amount of non-office commercial uses between Eau Claire Avenue and 2nd Avenue, Area "C" the commercial area, and Area "D" public lands.
  - (c) The design of structures should seek to provide sunlight to public areas, reduce uncomfortable wind conditions in pedestrian areas and provide open spaces that are attractive in both summer and winter.
  - (d) The design of structures adjacent to the open space and riverbank areas south of the Bow River lagoon should be carefully handled to maximize the enjoyment of that space by both adjacent residents and the public at large.
  - (e) The overall design of the development should provide for flexibility to accommodate market trends over time without unduly sacrificing public amenity.
  - (f) The detailed design of the development should enable it to be constructed so as to appear reasonably complete at each stage.
  - (g) The development should provide an attractive terminus for the Plus 15 system.
  - (h) The development should provide housing to accommodate a range of household types and incomes.
  - (i) The development should incorporate amenities to serve the needs of the occupants of the project and visitors to the area; and in so doing, should reflect its unique location adjacent to the Bow River and Prince's Island.

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Area "D" – Public Lands

**Application**

7 The provisions in sections 8 through 9 apply only to Area D.

**Development Guidelines**

8 The Permitted and Discretionary Use Rules of the PE Public Park, School and Recreation District shall apply, as set out in Section 51 in Part 10 of Bylaw 1P2007, subject to the discretion of the Approving Authority.

**Uses**

9 The following uses may be allowed in Area D:

- (a) all forms of public recreational and public park uses;
- (b) pedestrian and vehicular mall, including supporting services and facilities and small commercial kiosks;
- (c) the use of the building known as the "Eau Claire and Bow River Lumber Company" as a restaurant, drinking establishment and ancillary outdoor cafe on Lot 6, Block 1, Plan 8110407.

Area "C" - Commercial

**Application**

10 The provisions in sections 11 through 28 apply only to Area C.

**Development Guidelines**

11 In addition to the General Development Guidelines set out elsewhere in this Bylaw and the General Guidelines for Commercial Districts set out in Section 33 in Part 10 of Bylaw 1P2007, the rules listed below will apply.

**Uses**

12 (1) The following uses may be allowed in Area C:

- (a) offices
- (b) hotels
- (c) personal service business
- (d) financial institutions
- (e) restaurants
- (f) retail stores
- (g) entertainment establishments, excluding adult entertainment establishments
- (h) athletic and recreational facilities
- (i) parks
- (j) temporary parking areas at-grade and parking structures
- (k) residential uses

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- (2) Other supplementary uses may be approved by the Approving Authority provided that, in its opinion, they are compatible with the overall concept and uses listed above.
- (3) The primary use of this area shall be commercial.

**Development Permit**

- 13 Approval of this application does not constitute approval of a Development Permit. Comprehensive plans, including building design, site layout, exterior finishes and colour, landscaping, parking and access shall subsequently be submitted to the Approving Authority as part of a Development Permit application.

**Conditions of Development**

- 14 In addition to the guidelines contained in this DC District, the Approving Authority may impose conditions on a Development Permit as provided for in Section 11(2)(a)(i) in Part 10 of Bylaw 1P2007.

**Shadow**

- 15 The following guideline shall be considered in conjunction with specific height guidelines that apply to individual parcels:
  - (a) No building shall place more of the following areas in shadow, on the dates and times indicated, than was already in shadow as a result of buildings constructed at the date that the Development Permit application is made:
    - (i) An area 20 metres wide throughout abutting the top of the south bank of the Bow River (which in the area of Prince's Island is deemed to be the south bank of the lagoon), as determined by the Approving Authority, from 10:00 a.m. to 4:00 p.m. Mountain Daylight Time on September 21st.

**Parking, Access and Loading**

- 16 Unless otherwise stated below, on-site parking and loading shall be in accordance with the provisions of Section 18 of Part 10 of Bylaw 1P2007 for residential and commercial uses in the Downtown Parking Area, with the following exceptions:
  - (a) Residential Uses: Parking shall be provided at the rate of the highest density Residential District under the Land Use Bylaw in force at the time of application for a Development Permit except for the following:
    - (i) units greater than 1,500 sq.ft. - 1.5 stalls/dwelling unit.

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- (ii) the Approving Authority shall ensure that adequate provision is made for visitor parking (minimum - .15 stalls/dwelling unit).
  - (iii) storage space for bicycles shall be provided at the rate of one space per ten dwelling units and shall be provided in a secure and convenient location on-site in residential buildings.
- (b) Institutional Y.M.C.A. Use: Parking for Y.M.C.A. staff members in the amount of 10 stalls shall be provided within the adjacent blocks of Areas "A", "B", and "C", as surface parking in the interim, and as structured parking once development occurs elsewhere in these areas.
  - (c) All parking areas, except for temporary at-grade parking or visitor parking for residential uses shall be contained in enclosed structures or underground.
  - (d) Parking, service, drop-off and loading areas shall be located to minimize the ingress of commercial traffic into residential areas.
  - (e) All vehicular access ways shall be located so as to minimize the disruption of traffic and pedestrian movements.

**Landscaping/Amenity**

- 17** (1) A landscape plan for a Development Parcel shall be submitted at the time of a Development Permit application. The landscaping plan shall reflect measures for the amelioration of wind conditions, for energy conservation in relation to buildings and for visual appearance during winter months.
- (2) A plan for interim land use and landscaping for the whole area covered by this Bylaw shall be submitted at the time of the first Development Permit application and shall be updated, if required, with each subsequent application. Such plans shall be to the satisfaction of the Approving Authority and be implemented for the entire site in a manner and in accordance with a timetable to the satisfaction of the Development Officer.

**Building Design**

- 18** The Approving Authority shall ensure that the quality of the design proposed for any building matches the overall objectives set out above. In so doing, particular attention will be paid to:
- (a) Individual building massing and design;
  - (b) Inter-relationships between buildings;



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- (c) Building orientation;
- (d) Building finishes - including screening of mechanical or telecommunication equipment;
- (e) Provision of screened parking and service areas.

**3rd Street Mall**

**19** The design of buildings adjacent to 3rd Street Mall shall recognize the role of 3rd Street as an open space and pedestrian mall.

**Floodway and Floodplain Special Regulations**

**20** The development shall conform with the City of Calgary Floodway and Floodplain Special Regulations, Section 19.1 in Part 10 of Bylaw 1P2007 as amended from time to time, to the satisfaction of the Approving Authority.

**Density**

**21** The maximum amount of commercial density that may be located in Area "C" is 4,100,000 square feet which shall be distributed in accordance with the following table:

1	2	3	4
Block	Legal Description	Maximum F.A.R. without use of Density Pool	Maximum F.A.R. with use of Density Pool or Density Transfer
C1	Lot 1, Block 6, Plan 8811463 & Block 6, Plan 8110407	8	12
C2	Block 5, Plan 8110407	8	14
C3	Block 4, Plan 8110407	8	16
C4	Lot 14, Block 1, Plan 8310888 & Lot 13, Block 1, Plan 8310888	8	8

**Density Pool**

**22 (1)** The owner of the land in Area "C" shall be entitled to hold a Density Pool of 1,008,504 square feet of the maximum commercial gross floor area as a Density Pool. Such density may be utilized as additional density over the 8 F.A.R. entitlement of any or all of Blocks gross floor area. Such density may be utilized as additional density over the 8 F.A.R. entitlement of any or all of Blocks C1, C2 and C3 listed in Column 3 above, provided that the use of such density would not result in the total density in that block exceeding the figure quoted in Column 4; except that up to 150,000 sq.ft. of the Density Pool, granted in respect of the development of the YMCA on the Special Site may be allowed over and above the maximums of one or more of the blocks in Area "C".

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- (2) Prior to the approval of a Development Permit for any commercial density in Area "C", the owner of the land shall enter into an agreement with the City of Calgary in a form satisfactory to the City Solicitor, setting out the specific terms and conditions under which this Density Pool will operate. Such agreement shall be registered by caveat on the title of all lands in Area "C".

**Density Transfer (between blocks in Area "C")**

- 23 (1) Notwithstanding the provisions relative to the Density Pool, the owner of the land may transfer between Blocks in Area "C", any commercial density which the "C" blocks are entitled to under Column 3 above, provided that:
- (a) the total density of any individual block in Area "C" does not exceed that indicated in Column 4 above; except with respect to the 150,000 square feet as noted above in 22(1) of "Density Pool".
  - (b) the Approving Authority approves of such transfer; in which case it shall require the owner to enter into a legal agreement with the City in a form satisfactory to the City Solicitor relative to such transfer prior to the release of any Development Permit utilizing it.
- (2) At the time of application for a Development Permit on any block in Area "C", the applicant shall submit for approval a plan, showing in a conceptual way, how the balance of the Area can be developed with the maximum floor space allowed complying with all other guidelines. Such a plan shall be updated and approved with each subsequent Development Permit application.

**Building Design**

- 24 In addition to the requirements of the sunlight standard set out in Section 15 of the General Development Guidelines, the following shall apply:
- (a) No building in Area "C" shall cast a shadow on 3rd Street Plaza north of a line drawn parallel to and 60 feet north of the 1st Avenue right-of-way prior to 2:30p.m. M.D.T. on September 21st.
  - (b) The maximum building height in this area shall be:
    - (i) C1 - 24 storeys to a maximum of 295 ft.
    - (ii) C2 - 27 storeys to a maximum of 330 ft. (west half)  
- 45 storeys to a maximum of 545 ft. (east half)
    - (iii) C3 - 46 storeys to a maximum of 555 ft.
    - (iv) C4 - 25 storeys to a maximum of 305 ft. if there is one tower on the site.
    - (v) 23 and 15 storeys to a maximum of 283 ft. and 183 ft. on the west and east sides respectively, if there are two towers on the site.

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- (c) Buildings should be designed and located so as to minimize the adverse impact in terms of built form and shadow cast on the residential areas to the north, acknowledging that such criteria is secondary to point (a) above.

**Ground Floor Uses Related to 3rd Street Mall**

- 25** (1) Within blocks C3 and C4, a minimum of 25% of the net ground floor area of the building must be occupied by hotel, retail, restaurant, cultural facilities, entertainment establishments, personal service business or other similar uses satisfactory to the Approving Authority. Such uses shall be designed to be visible from and accessible to persons on 3rd Street Mall.
- (2) Development on the 3 Street Mall edge of block C4 shall:
- (a) provide a generally continuous "street frontage" of approximately 1-5 storeys, with individual storefront entries, located within 3.0 m of the property line. This "street frontage" must be distinct from the remainder of the building and may be achieved through: articulation of the facade, fenestration, setback or other architectural techniques satisfactory to the Approving Authority; and
  - (b) contain a minimum of 50% of the uses listed in point (a) above which shall be oriented to, and directly accessible from, the 3rd Street Mall.

**Plus 15**

- 26** (1) The developer shall be responsible for a total of 9 +15 bridges on the following basis:

Four bridges which must be built.

FROM BLOCK	TO BLOCK	MINIMUM WIDTH	
C1	C2	15'	Such bridges must be built at the time of construction of the second building they link into. Prior to release of the Development Permit for the first, building arrangement satisfactory to the Approving Authority must be made to ensure provision of the bridge.
C2	C3	15'	
C3	C4	20'	
C3	Shell Tower	20'	

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One bridge which could be built or cash-in-lieu contribution to +15 Fund

FROM BLOCK	TO BLOCK	MINIMUM WIDTH	
C1 or C2	Property to South	20'	Such a bridge must be built at the time the building it goes from in Eau Claire is built. If that is not possible, arrangements satisfactory to the Approving Authority must be made to ensure its provision prior to release of the Development Permit. If the Approving Authority approves such bridge as part of the development of blocks to the south of 3rd Avenue, then the Approving Authority may take cash-in-lieu of such bridge and the funds will go into the normal +15 Fund.

In lieu of building the four bridges from Area "C" to Area "B", and within Area "B", identified below, the Approving Authority shall require the equivalent cash-in-lieu contribution to improvements to public lands in the area immediately adjacent to or covered by this Direct Control Bylaw.

FROM BLOCK	TO BLOCK	MINIMUM WIDTH	
C4 C2 C1 B2	B2 B2 B1 B1	15' 20' 20' 15'	Arrangements satisfactory to the Approving Authority must be made prior to release of the Development Permit for a building on C1, C2, C4 and B1 or B2, to ensure the required cash-in-lieu payment. Such provision shall specify the amount and timing of such payment.

- (2) The developer shall provide +15 passageways through all "C" blocks in a north/south and east/west direction together with easements, stairs to grade and structural supports to receive a bridge on edges where it is not responsible for building such bridge.
- (3) If the Approving Authority requires a bridge to be provided linking to blocks B1 or B2, the developer shall provide +15 passageways together with easements, stairways to grade and structural supports in such blocks as may be required by the Approving Authority.

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- (4) All +15 bridges and passageways shall be climate controlled, unless otherwise approved by the Approving Authority.

**Landscaped Areas**

- 27 (1) When Area "C" is fully developed, it shall provide a minimum of 76,500 square feet of landscaped public open space in Area "C". Such space shall be provided, in a manner satisfactory to the Approving Authority, at a minimum rate of 1 square foot of landscaping for each 53.60 square feet of commercial space built. Such space shall:
- (a) be at-grade and designed and landscaped to a high quality;
  - (b) provide for a variety of different landscape environments, including provision for active and passive pursuits;
  - (c) be easily accessible and usable by the public;
  - (d) enhance the pedestrian environment of the adjacent 3rd Street Mall or 2<sup>nd</sup> Avenue; and,
  - (e) the hours that it is available to the public shall be determined by the Approving Authority and shall generally be the same as the hours of operation of commercial uses adjacent thereto.
- (2) Commercial uses adjacent to such open space, e.g., retail and restaurants, may be allowed to "spill out" into such space under terms and conditions to be established by the Approving Authority.
- (3) At the time of the first application for a Development Permit in Area "C", the applicant shall submit for approval an overall concept for the provision of this 76,500 square feet of landscaped area and such concept shall be revised with each subsequent application.

**Signs**

- 28 See Sign Appendix in Part 10 of Bylaw 1P2007 and apply relevant sections referencing the CM-2 district.