

# WHISTLER

## AGENDA

### **PUBLIC HEARING OF MUNICIPAL COUNCIL TUESDAY, APRIL 14, 2015 STARTING AT 6:00 PM**

**In the Franz Wilhelmssen Theatre at Maurice Young Millennium Place  
4335 Blackcomb Way, Whistler, BC V0N 1B4**

The Public Hearing is convened pursuant to Section 890 of the Local Government Act R.S.B.C. 1996, c. 323 to allow the public to make representations to Council respecting matters contained in "Zoning Amendment Bylaw (Heidi Haus Pension) No. 2073, 2015" (the "proposed Bylaw").

Everyone present shall be given a reasonable opportunity to be heard or to present written submissions respecting matters contained in the proposed bylaw. No one will be discouraged or prevented from making their views known. However, it is important that remarks be restricted to matters contained in the proposed Bylaw.

When speaking, please commence your remarks by clearly stating your name and address.

Members of Council may, ask questions following presentations however, the function of Council at a Public Hearing is to listen rather than to debate the merits of the proposed Bylaw.

As stated in the Notice of Public Hearing,

Zoning Amendment  
Bylaw (Heidi Haus  
Pension) No. 2073, 2015

#### **PURPOSE OF ZONING AMENDMENT BYLAW (HEIDI HAUS PENSION) NO. 2073, 2015**

In general terms, the purpose of Zoning Amendment Bylaw (Heidi Haus Pension) No. 2073, 2015 is to rezone a 182.8 square metres portion of the subject lands from LCB1 (Leisure Conservation Buffer One Zone) to TP4 (Tourist Pension Four), to accommodate the existing pension (8 guestrooms and a caretaker's suite).

Explanation

An explanation by municipal staff concerning the proposed Bylaw.

Submissions

Submissions by any persons concerning the proposed Bylaw.

Correspondence

Receipt of correspondence or items concerning the proposed Bylaw.

#### **ADJOURNMENT**

## PUBLIC HEARING DOCUMENT INDEX

Zoning Amendment Bylaw (Heidi Haus Pension) No. 2073, 2015		
Document Type	Date	Details
Public Hearing Document Index		
Notice of Public Hearing		Notice of Public Hearing
Bylaw	March 17 ,2015	Zoning Amendment Bylaw (Heidi Haus Pension) No. 2073, 2015
Council Minutes	January 13, 2015	Minutes of the Regular Meeting of Council.
Council Report	January 13, 2015	Administrative Report 15-010 to Council.
Presentation Slides	January 13, 2015	Presentation slides by R. Brennan, Planner.
Council Minutes	March 17 ,2015	Minutes of the Regular Meeting of Council.
Council Report	March 17 ,2015	Administrative Report 15-038 to Council.
Presentation Slides	March 17 ,2015	Presentation slides by R. Brennan, Planner.
Correspondence		Correspondence will be included as it is received.



THE RESORT MUNICIPALITY OF WHISTLER  
4325 Blackcomb Way TEL 604 932 5535  
Whistler, BC Canada V0N 1B4 TF 1 866 932 5535  
[www.whistler.ca](http://www.whistler.ca) FAX 604 932 8109

## **NOTICE OF PUBLIC HEARING**

**TUESDAY, APRIL 14, 2015 – 6:00 P.M.**

MAURICE YOUNG MILLENNIUM PLACE  
Franz Wilhelmsen Theatre, 4335 Blackcomb Way, Whistler BC

### **ZONING AMENDMENT BYLAW (Heidi Haus Pension) NO. 2073, 2015**

#### **SUBJECT LANDS: 7115 Nesters Road, Whistler, BC**

More specifically these lands are described as: Lot 15, District Lots 4752 and 4753, Group 1, NWD Plan LMP44921, PID: 024-713-937 and as shown on the map attached to this notice.

#### **PURPOSE:**

In general terms, the purpose of the proposed Bylaw is to rezone a 182.8 square metres portion of the subject lands from LCB1 (Leisure Conservation Buffer One Zone) to TP4 (Tourist Pension Four), to accommodate the existing pension (8 guestrooms and a caretaker's suite.)

#### **INSPECTION OF DOCUMENTS:**

A copy of the proposed Bylaw and relevant background documentation may be inspected on our website at [www.whistler.ca/events](http://www.whistler.ca/events) (see April 14, 2015), or visit the Reception Desk at Municipal Hall at 4325 Blackcomb Way, Whistler, BC, during regular office hours of 8:00 a.m. to 4:30 p.m., from Monday to Friday (statutory holidays excluded).

#### **PUBLIC PARTICIPATION:**

All persons, who believe their interest in the property is affected by the proposed Bylaw, will be afforded a reasonable opportunity to be heard by Council at the Public Hearing.

Written comments must be addressed to "Mayor and Council", and may be submitted prior to the public hearing (by 4:30 p.m. on April 14, 2015):

**Email:** [corporate@whistler.ca](mailto:corporate@whistler.ca)  
**Fax:** 604-935-8109  
**Hard Copy:** Legislative Services Department  
4325 Blackcomb Way  
Whistler BC V0N 1B4

Submissions received for the proposed Bylaw will be included in the information package for Council's consideration, which will also be available on our website at [www.whistler.ca](http://www.whistler.ca) with other associated information.

At the conclusion of this Public Hearing, no further information on this topic can be considered by Council.

Shannon Story  
Corporate Officer



**RESORT MUNICIPALITY OF WHISTLER**  
**ZONING AMENDMENT BYLAW (Heidi Haus Pension) NO. 2073, 2015**  
**A BYLAW TO AMEND THE RESORT MUNICIPALITY OF WHISTLER**  
**ZONING AND PARKING BYLAW NO. 303, 1983**

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**WHEREAS** the Council may in a zoning bylaw pursuant to the *Local Government Act*, divide all or part of the area of the Municipality into zones, name each zone and establish the boundaries of the zone, regulate the use of land, buildings and structures within the zones and require the provision of parking spaces and loading spaces for uses, buildings and structures;

**NOW THEREFORE** the Council of the Resort Municipality of Whistler, in open meeting assembled, ENACTS AS FOLLOWS:

1. This Bylaw may be cited for all purposes as “Zoning Amendment Bylaw (Heidi Haus Pension) No. 2073, 2015”.
2. The land that is the subject of this Bylaw is a portion of Lot 15, District Lots 4752 and 4753, Group 1, New Westminster District, Plan LMP44921, shown outlined in heavy black line on the sketch plan attached as Schedule 1 to this Bylaw.
3. Schedule “A” to Zoning and Parking Bylaw No. 303, 1983 is amended by changing the zoning designation of the land described in Section 2 of this Bylaw from Leisure Conservation Buffer One (LCB1) to Tourist Pension 4 (TP4).
4. Section 15 of Zoning and Parking Bylaw No. 303 is amended by deleting subsection 2.6.2 and substituting the following:

“The minimum permitted side setback is 6 metres, provided that the minimum permitted side setback on the portion of the land legally described as Lot 15, District Lots 4752 and 4753, Group 1, New Westminster District, Plan LMP44921 that is within the TP4 Zone is 3 metres.”

Given first and second reading this 17<sup>th</sup> day of March, 2015.

Pursuant to Section 890 of the *Local Government Act*, a Public Hearing was held this \_\_ day of \_\_\_\_\_, \_\_\_\_\_.

Given third reading this \_\_ day of \_\_\_\_\_, 2015

Approved by the Minister of Transportation and Infrastructure this \_\_ day of \_\_\_\_\_, \_\_\_\_\_.

Adopted by the Council this \_\_ day of \_\_\_\_\_, \_\_\_\_\_.

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Nancy Wilhelm-Morden  
Mayor

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Shannon Story  
Corporate Officer

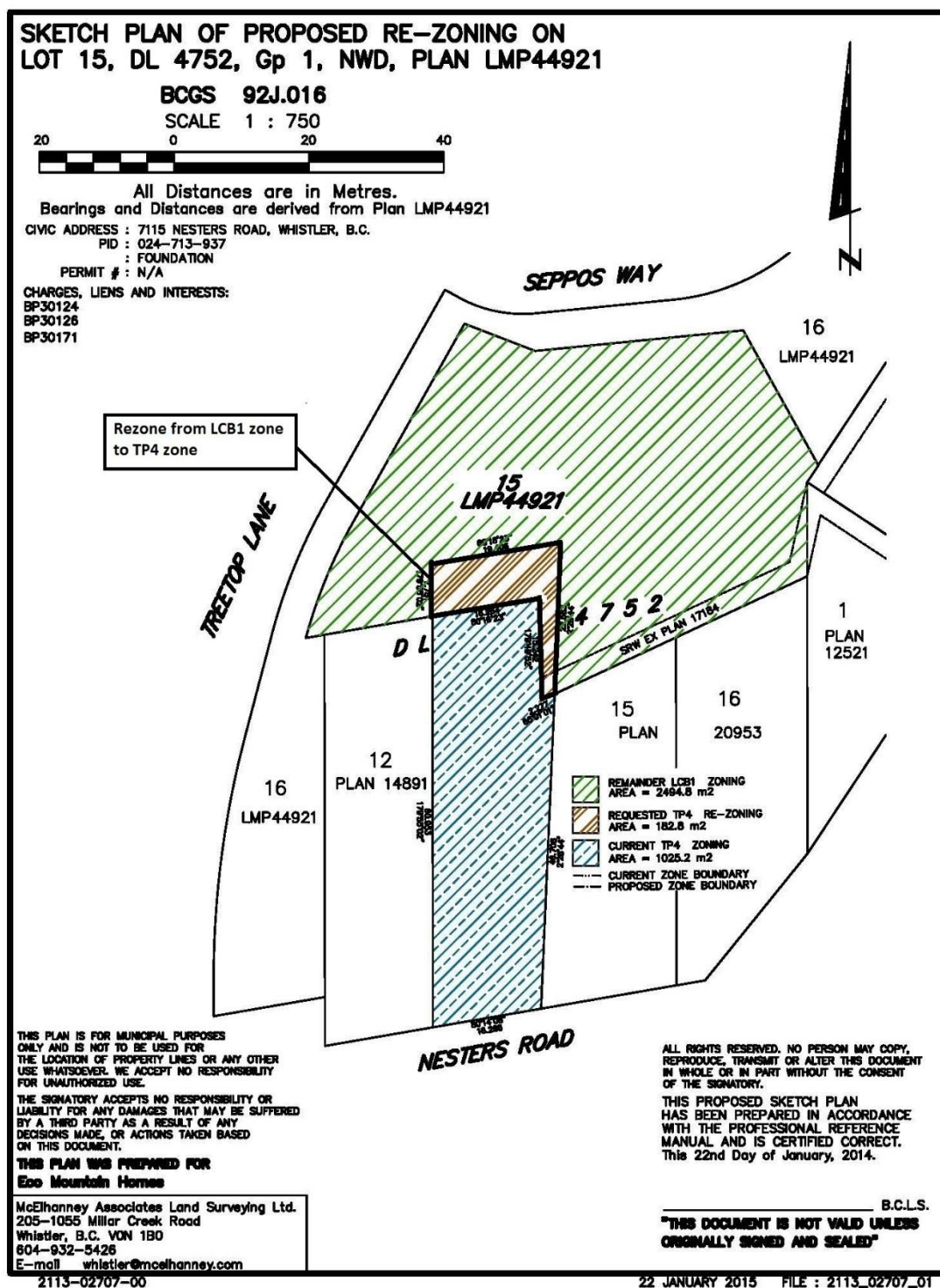
**"Zoning Amendment Bylaw (Heidi Haus Pension) No. 2073, 2015"**

I HEREBY CERTIFY that this is a true  
copy of "Zoning Amendment Bylaw  
(Heidi Haus Pension) No. 2073, 2015"

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Shannon Story  
Corporate Officer

Schedule A to Zoning Amendment Bylaw (Heidi Haus Pension) No. 2073, 2015



DVP 1093 – 4280  
Mountain Square –  
Longhorn Sign  
Variances  
Report No. 15-005  
File No. DVP 1093

Moved by Councillor S. Maxwell  
Seconded by Councillor A. Janyk

**That** Council approve Development Variance Permit DVP 1093 for two proposed signs for the Longhorn, located at 4280 Mountain Square to:

1. Install a third fascia sign for the Longhorn on the south frontage of the building; and
2. Install a projecting sign for the Longhorn on the east elevation of the building

as shown on the Sign Drawings prepared by 3DS/Three Dimensional Services Inc., dated Sept. 29, 2014 attached as Appendix "B" to Administrative Report No. 15-005.

CARRIED

DVP 1094 – 3804  
Sunridge Place – Front  
Setback Variance  
Report No. 15-006  
File No. DVP 1094

Moved by Councillor J. Ford  
Seconded by Councillor S. Maxwell

**That** Council approve Development Variance Permit 1094 to vary the front setback from 7.6 metres to 5 meters for the existing basement space of the detached dwelling as shown on the Basement Media Plan, Sheet A1.02, dated October 22, 2014 and attached to Administrative Report No. 15-006 as Appendix B.

CARRIED

7115 Nesters Road –  
Rezoning Proposal to  
Regularize Existing  
Pension Use  
Report No. 15-010  
File No. RZ1091

Moved by Councillor J. Ford  
Seconded by Councillor S. Maxwell

**That** Council endorse further review of Rezoning Application No. 1091; and further,

**That** Council direct staff to prepare the necessary zoning amendment bylaw for Council consideration.

CARRIED

Zoning Amendments -  
Development Permit  
Exemptions  
Report No. 15-011  
File No. RZ 1101

Moved by Councillor J. Grills  
Seconded by Councillor S. Maxwell

**That** Council consider giving first and second readings to Zoning Amendment Bylaw (Development Permit Exemptions) 2071, 2014; and further,

**That** Council authorize the Corporate Officer to schedule a public hearing regarding Zoning Amendment Bylaw (Development Permit Exemptions) 2071, 2014.

CARRIED



## REPORT | ADMINISTRATIVE REPORT TO COUNCIL

**PRESENTED:** January 13, 2015  
**FROM:** Resort Experience  
**SUBJECT:** 7115 NESTERS ROAD – REZONING PROPOSAL TO REGULARIZE  
EXISTING PENSION USE

**REPORT:** 15-010  
**FILE:** RZ1091

### COMMENT/RECOMMENDATION FROM THE CHIEF ADMINISTRATIVE OFFICER

**That** the recommendation of the General Manager of Resort Experience be endorsed.

### RECOMMENDATION

**That** Council endorse further review of Rezoning Application No. 1091; and further,

**That** Council direct staff to prepare the necessary zoning amendment bylaw for Council consideration.

### REFERENCES

**Location:** 7115 Nesters Road  
**Legal Description:** Lot 15 District Lots 4752 and 4753 Group 1 NWD Plan LMP44921  
**Applicant:** Jim Gruetzke, owner repetitive  
**Zoning:** TP4 (Tourist Pension Four) and LCB1 (Leisure Conservation Buffer One Zone)  
**Appendices:** “A” Location Map  
“B” Zoning designations  
“C” Building plans  
“D” Correspondence  
“E” Photographs of property

### PURPOSE OF REPORT

This report describes rezoning application RZ1091 an application to legitimize an existing pension development located at 7115 Nesters Road commonly known as Heidi Haus. This report seeks Council’s endorsement for further review and preparation of the necessary zoning amendment bylaw for Council consideration.

### DISCUSSION

#### Background

The Heidi Haus pension is an existing pension development that has been in operation for approximately 35 years.

The subject land of the rezoning application is located at 7115 Nesters Road. It is a large (0.3703 ha) irregularly shaped property east of the intersection of Nesters Road and Treetop Lane as shown on the Location Map in Appendix “A”. The request is to rezone a 182.8 square metres portion of the split-zoned lot from LCB1 (Leisure Conservation Buffer One) zone to TP4 (Tourist Pension Four)

zone to create sufficient lot area for the TP4 zoned portion of the parcel to comply with the Floor Space Ratio (FSR) of 0.35 and parcel size required to have eight guestrooms as contained within the existing pension. The applicant, Mr. Jim Gruetzke, is acting on behalf of the new owners and was the previous property owner and operator of the pension for over 35 years.

The Heidi Haus pension was constructed under three building permits issued between 1978 and 1986 for construction and alterations to the dwelling on the property at 7115 Nesters Road with an original lot size of approximately 1,025 square metres (0.1025 ha).

In April 1996, Council adopted Zoning Amendment Bylaw No. 1167, 1996, which amended the TP4 zoning regulations regarding required frontage (minimum 24 metres), setbacks (6 metres sides, 7.6 metres for front and rear) and linked the number of permitted guestrooms to the size of the property. At the time, staff noted the Heidi Haus property had a 16 metre frontage, 3 metre side yard setbacks, and a parcel size of 1,025 square metres. With the adoption of Zoning Amendment Bylaw No. 1167, the property became legally nonconforming, with respect to noncompliance with the new frontage, rear and side setback requirements. The new regulations created the requirement for a larger property area to permit a maximum of 8 guestrooms for a pension use.

In April 1999, a rezoning application (RA256) was submitted for lands owned by Mr. Gruetzke and the Crown for a proposed subdivision located north of Heidi Haus. At that time Mr. Gruetzke also owned Heidi Haus. The rezoning proposal included a 0.27 ha portion of these lands being added to the pension property. The additional land was to preserve a green buffer between the pension and the proposed resident restricted housing driveway to the north (Nesters Hill Resident Housing at 7525 and 7531 Seppos Way). See Appendix A.

In September 1999, Zoning Amendment Bylaw No. 1378, 1999 was adopted in relation to the RA256 application. The amending bylaw created the larger (0.3703 ha) split zoned parcel (TP4 and LCB1 zones) for Heidi Haus and added new regulations regarding Split Zoned Parcels and how to calculate permissible density of uses, buildings and structures. The new LCB1 zone does not permit structures or buildings on this portion of the property. In addition, a tree protection covenant was registered over the LCB1 zoned portion of the property as part of this rezoning application.

In November 2013, the property and pension business were sold to new owners. In December 2013, an inspection was completed of the property for the new business license. The fire department notified the new owners that renovations were undertaken in the building that were beyond the scope of the issued open permits. The building and planning department staff advised the new owners that a rezoning application was required to rezone a portion of the property to create a sufficient land area zoned TP4 under the current zoning regulations to legitimize the amount of existing gross floor area and to permit a total of eight guestrooms on the property.

## **Rezoning Proposal**

In May 2014, the applicant submitted a rezoning application to rezone an approximate 300 sq.m portion of the property from LCB1 to TP4. Further discussions between the applicant and staff resulted in a reduction in the amount of property to be rezoned from 300 square metres to 182.8 square metres to create the minimum land area necessary to make the existing pension compliant with TP4 zoning requirements. The proposal will increase the TP4 zoned portion on the property

from 1,025.2 square metres to 1,208 square metres and conversely decrease the portion zoned LCB1 from 2,677.6 square metres to 2,494.8 square metres. The approximate location of the 182.8 square metres area for rezoning is illustrated in Appendix B attached to this report.

The TP4 zone permits a maximum density of 465 square metres of gross floor area (GFA) or a floor space ratio (FSR) not to exceed 0.35, whichever figure is lower. For the owners to keep the existing 422.6 square metres of gross floor area in Heidi Haus, the minimum lot area required is 1,208 square metres ( $422.6 / 0.35 = 1,208$ ) to be compliant with the permitted 0.35 FSR.

The TP4 zone has a second density measure which requires a minimum parcel area of 1,045 square metres to permit a maximum of eight guestrooms. The Heidi Haus portion of the property zoned TP4 is 1025.2 square metres which is only large enough for seven guestrooms. The proposed minimum lot area (1,208 square metres) to be zoned TP4 would permit the existing eight guestrooms.

The legitimization of the guestrooms will not require additional parking to be provided on site as the property already provides the required 8 parking spaces.

## WHISTLER 2020 ANALYSIS

W2020 Strategy	TOWARD Descriptions of success that resolution moves us toward	Comments
Economic	<p>Whistler has a diversified and year-round tourism economy.</p> <p>The Whistler economy provides opportunities for achieving competitive return on invested capital.</p> <p>Whistler proactively seizes economic opportunities that are compatible with tourism, and effectively adapts to changing external conditions.</p> <p>Whistler's core accommodation base and long-term investments made in the community are protected</p>	<p>The reallocation of the portions of the lot between the TP4 and LCB1 zones for the existing pension would permit the current owners to regularize the operation of a pension with eight guestrooms as one type of tourist accommodation available in Whistler for an established long term pension use.</p>
Visitor Experience	<p>Visitors perceive Whistler products, services and activities to be excellent value.</p> <p>The resort community's authentic sense of place and engaging, innovative and renewed offerings attract visitors time and time again.</p>	<p>The proposed reallocation of a portion of the existing lot from LCB1 to TP4 would permit the owner to obtain the appropriate building permits and complete building works to regularize this successful long term pension as a continued type of tourist accommodation experience in Whistler.</p>

W2020 Strategy	AWAY FROM Descriptions of success that resolution moves away from	Mitigation Strategies and Comments
	Not applicable	

## OTHER POLICY CONSIDERATIONS

### Zoning and Parking Bylaw No. 303

The property will remain split zoned but the proposed rezoning would rezone a 182.8 square metres portion of the lot area from LCB1 to TP4 to legitimize the existing pension development.

To ensure the nonconforming building and pension business could be reconstructed if more than 75% destroyed by fire a development variance permit should be considered by Council for the existing legal non-conforming side yard setbacks for the building, a lower deck on the northeast side of the building behind the carport, and a landscape retaining wall adjacent to the LCB1 buffer zone.

The existing shed will be relocated and the lawn area and wooden landscape retaining wall will all be within the proposed rezoned TP4 area to be compliant with permitted uses on the TP4 portion of the property.

All other aspects of the TP4 and LCB1 zoned portions of the property will meet all other requirements of the zones.

If Council authorizes further processing of the rezoning application these variance issues will be confirmed and outlined in the report to Council with the necessary bylaw for first and second readings.

### Official Community Plan

Whistler's 1993 OCP outlines specific items for review with respect to rezoning applications. A brief summary follows in Table 1. The proposal complies with applicable OCP policies.

**Table 1: 1993 OCP Criteria for Evaluating Proposals for Zoning Amendments**

OCP Criteria	Comments
Proposals that increase the bed unit capacity of the municipality will only be considered if the development: provides clear and substantial benefits to the resort; is supported by the community in the opinion of Council; will not cause unacceptable impacts on the community, resort or environment; and meets all applicable criteria set out in the OCP.	The proposal does not increase the bed unit capacity.
Capable of being served by Municipal water, sewer and fire protection services.	Yes.
Accessible via the local road system.	Yes.
Comply with Environmental Impact Assessment process in Schedule O.	Per Schedule M and N of the OCP, the site does not have any environmental constraints or development constraints.
Traffic volumes and patterns on Highway 99 and the local road system.	The proposal does not increase the number of units or the parking requirements on site.

Overall patterns of development of the community and resort	The lands are identified on Schedule B – Development Areas and per Policy 4.1.1, the lands outlined in Schedule B are designated for development of accommodation.
Municipal Finance	Works and service charges will be payable on the permitted gross floor area at time of building permit.
Views and Scenery	n/a
Existing Community and Recreation Facilities	n/a
Employee Housing	On site suite for manager is provided
Community greenhouse gas emissions	Impact on community greenhouse gas emissions is considered negligible.as the floor area is existing.
Heritage Resources	n/a
High standards of design, landscaping and environmental sensitivity.	Existing structure, not subject to DP guidelines. Existing pension is of a unique character and high quality design.
Negative impact on a designated Municipal trail system, recreation area, or open space.	No impact.

## Pension Policy

Whistler's Pension Guidelines Policy G-4 was adopted on May 30, 1983 and revised on January 10, 1996. It outlines specific items for review with respect to rezoning applications. A brief summary follows in Table 2. The proposal complies with applicable guidelines of the Pension Policy.

**Table 2: Pension Guidelines for Evaluating Proposals for Zoning Amendments**

Criteria	Comments
<b>Location guidelines</b>	
1.1 In the designated Short Term Development Area as shown in the OCP.	Existing pension
1.2 In an area which is currently zoned Single Family, Duplex or Rural Resource.	Complies
1.3 Municipal sewer and municipal or community water systems shall service a pension	Complies
<b>Site Guidelines</b>	
2.1 Maximum grade of a road, proving vehicle access to a pension site, is eight (8) percent.	Complies
2.2 New pension not be located within 100 metres of another pension site in residential zones only.	Existing pension.
2.3 Significant excavation or alteration of a pension site to provide necessary off-street parking is prohibited unless at least six (6) parking spaces are provided in a parking structure which is partially hidden from view at street elevation and/or contained within a pension building.	No excavation for parking required. Existing site has sufficient surface required parking spaces.
<b>General Guidelines</b>	
3.1 Sale and consumption of alcohol to the general public prohibited.	Complies
3.2 Strata-titling of a pension is prohibited.	Complies
3.3 Designated a mandatory Development Permit area in consideration of the OCP	Existing pension

3.4 Some of required off-street parking should be provided within a pension building or a garage/carport	Carport being removed to restore 3 metre side setback and to meet building code requirement.
3.5 Shall be designated <u>Resort Lands</u> (i.e. mandatory membership on the Whistler Resort Association)	Existing pension
3.6 All surface off-street parking areas should be screened or broken up from direct view of the street or abutting properties by landscaping, fencing or hedges	Complies
3.7 To be used for temporary lodging by visitors that includes guestrooms, common areas, including a dining room intended for the use of guests, and an auxiliary residential dwelling unit.	Complies
3.8 Guestroom means one habitable room that is used for temporary accommodation and may include a bathroom, but excludes cooking facilities	Complies as shown on application drawings
3.9 A commercial restaurant catering to the general public is prohibited	No restaurant in the existing building or proposed.
3.10 Shall comply with regulations contained in the <u>Health Act</u>	Required
3.11 The maximum number of guests shall be regulated.	Will comply with TP4 zone provisions for a maximum of 8 guestrooms.

### Green Building Policy

Per the municipality's Green Building Policy G-23, the following information can be required for the processing and adoption of a zoning amendment:

- Registration of a Section 219 covenant to ensure future development is consistent with any project checklist and with the objectives and goals of the Green Building Policy; and
- A project completion report detailing the implementation of the green building practices required by the Section 219 covenant.

It is recommended that a green building covenant not be a condition of adoption of the zoning amendment bylaw as this is an existing development.

### Tree Covenant Area

On February 8, 2000, a tree covenant (BP030171) was registered at Land Title Office which covers the LCB1 portion of 7115 Nesters Road. The intent of the covenant is to maintain the LCB1 area as a Tree Retention Area. However, the covenant does permit the owner of the property to cut a tree within the Tree Retention Area where a tree is diseased, dead, or damaged, and in the reasonable opinion of the owner, the tree poses an immediate risk or danger to persons or property, provided that where a tree is cut down, the Owner shall notify the Municipality and revegetation as may be reasonably required by the Municipality in accordance with plants types identified in the covenant.

In 2010, according to the applicant's October 20, 2014 letter in Appendix D, he removed 4 trees from the LCB1 zone portion of the property as they posed a danger to the pension. In the attached letter it states he planted 12 replacement trees on the LCB1 portion of the property.

As a condition of rezoning this covenant will be modified to exclude the proposed portion to be rezoned from LCB1 to TP4 to reflect that it is no longer part of the Tree Retention Area.

## **BUDGET CONSIDERATIONS**

All costs associated with staff time for the rezoning application, public hearing, notices, and legal fees will be paid by the applicant and all fees will be required to be paid in full as a condition of adoption of the zoning amendment bylaw.

If the rezoning is supported the applicable building permit fees and works and services charges to legitimize the unauthorized guestrooms and internal construction will be applied at time of building permit application.

## **COMMUNITY ENGAGEMENT AND CONSULTATION**

The required rezoning application site information sign is posted on the property.

The proposed zoning amendment bylaw will be subject to a public hearing statutory public notice requirements.

Correspondence both in opposition and support have been submitted and are attached for Council's reference in Appendix D to this report.

Staff have noted the following issues in the correspondence:

### Encroachment on to private property (7111 Nesters Road)

The existing unauthorized carport and screened in deck area above encroach by 0.03 m and 0.27 metres respectively, on to the adjacent residential lot located at 7111 Nesters Road. This information was forwarded to the applicant and owners. On December 3, 2014, the property owner submitted an email confirming the carport and outdoor deck area will be demolished as soon as the demolition permits are obtained and these encroachments eliminated.

### Encroachment into the LCB1 portion of the property

There is an existing storage shed and lawn area at the rear of the pension which are located on the LCB1 portion of the property. The LCB1 zone does not permit any structures and under the registered tree covenant is intended as a treed buffered area. The previous owner's October 20, 2014 letter in Appendix D, outlines that in 2010, after one tree had snapped, in the owner's opinion, four dangerous trees were removed and an agreement was reached with RMOW staff that 12 replacement trees in the tree retention area would meet the requirements of the tree covenant and these were planted by the owner. The LCB1 portion of the property remains forested in nature as shown in the photographs in Appendix E.

### Pension operations and noise levels

Concerns with the current pension operation and the noise levels on the outdoor deck area above the carport are noted in correspondence in Appendix D. Copies of the correspondence were given to the applicant to discuss solutions with the owners. The applicant's October 20, 2014 response letter is included in Appendix D. It describes the new owners' commitment to addressing these issues.

The existing TP4 zone regulations do not require a manager on site at all times. The October 21, 2014 applicant letter confirmed the owner's commitment for a manager residing full-time on site in the suite shown on the drawings in Appendix C.

Staff researched noise complaints and found that between 2006 and 2014, there was one call in 2008 to the RCMP regarding a party which was resolved with the officers' arrival at the premise, and in 2014 a message left on the non-emergency RCMP number which could not be authenticated as it was not received until the following day.

## **SUMMARY**

This report requests authorization to further review the rezoning request and preparation of a zoning amendment bylaw for Rezoning Application No. 1091: 7115 Nesters Road.

Respectfully submitted,

Robert Brennan, MCIP RPP  
PLANNER  
for  
Jan Jansen  
GENERAL MANAGER OF RESORT EXPERIENCE

LOCATION MAP

7115 Nesters Road – Heidi Haus



# SKETCH PLAN OF PROPOSED RE-ZONING ON LOT 15, DL 4752, Gp 1, NWD, PLAN LMP44921

BCGS 92J.016

SCALE 1 : 750

20 0 20 40

All Distances are in Metres.  
Bearings and Distances are derived from Plan LMP44921

CIVIC ADDRESS : 7115 NESTERS ROAD, WHISTLER, B.C.

PID : 024-713-937

: FOUNDATION

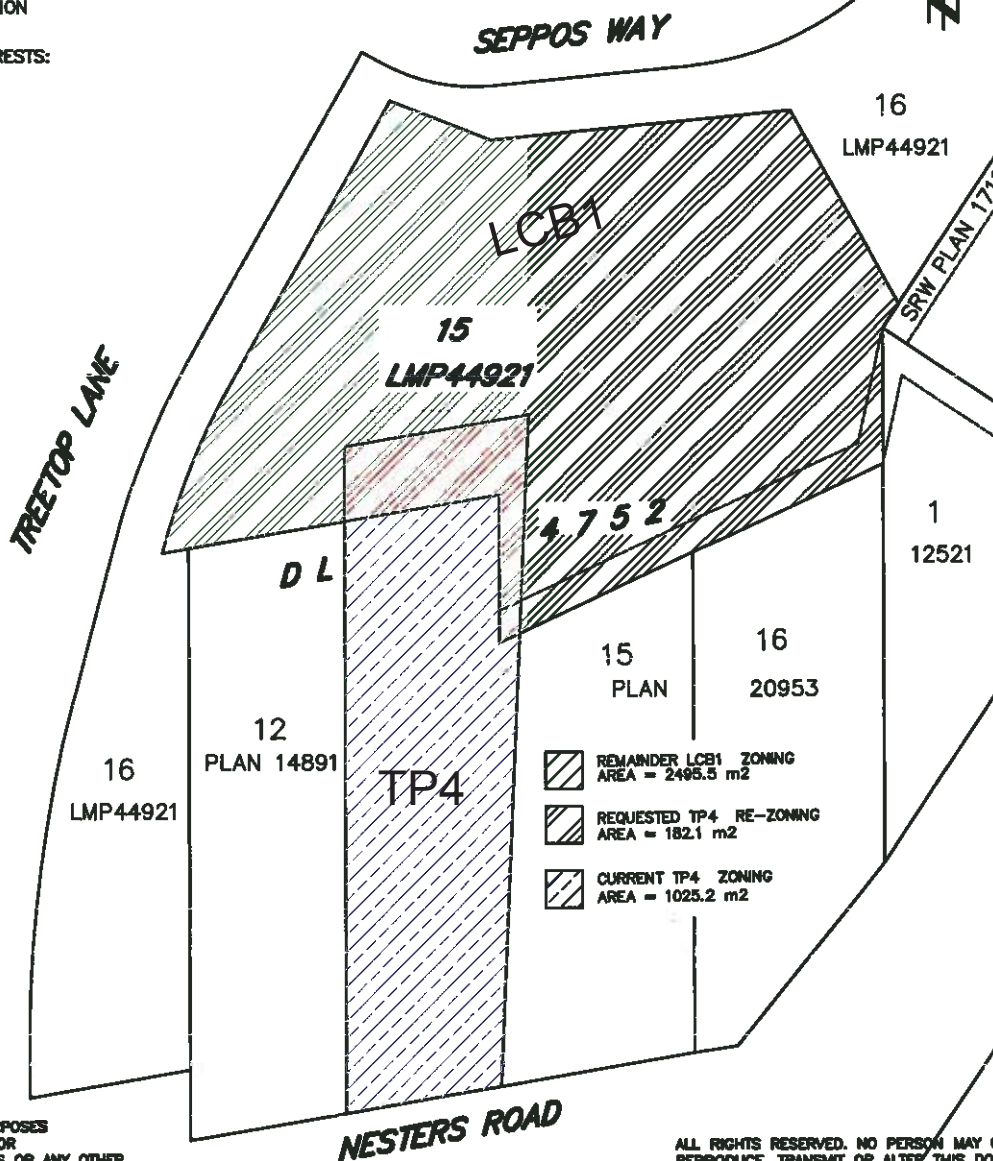
PERMIT # : N/A

CHARGES, LIENS AND INTERESTS:

BP30124

BP30126

BP30171



THIS PLAN IS FOR MUNICIPAL PURPOSES ONLY AND IS NOT TO BE USED FOR THE LOCATION OF PROPERTY LINES OR ANY OTHER USE WHATSOEVER. WE ACCEPT NO RESPONSIBILITY FOR UNAUTHORIZED USE.

THE SIGNATORY ACCEPTS NO RESPONSIBILITY OR LIABILITY FOR ANY DAMAGES THAT MAY BE SUFFERED BY A THIRD PARTY AS A RESULT OF ANY DECISIONS MADE, OR ACTIONS TAKEN BASED ON THIS DOCUMENT.

THIS PLAN WAS PREPARED FOR  
**Jim Gruetke**

R. B. Brown Land Surveying Ltd.  
Professional Land Surveyors  
P.O. Box 13, Whistler, B.C. VON 1B0  
604-932-5426 Fax 604-938-1361  
E-mail [rbbrown@telus.net](mailto:rbbrown@telus.net)

J14006



ALL RIGHTS RESERVED. NO PERSON MAY COPY, REPRODUCE, TRANSMIT OR ALTER THIS DOCUMENT IN WHOLE OR IN PART WITHOUT THE CONSENT OF THE SIGNATORY.

THIS BUILDING LOCATION CERTIFICATE HAS BEEN PREPARED IN ACCORDANCE WITH THE PROFESSIONAL REFERENCE MANUAL AND IS CERTIFIED CORRECT. This 28th Day of March, 2014.

B.C.L.S.

**"THIS DOCUMENT IS NOT VALID UNLESS  
ORIGINALLY SIGNED AND SEALED"**  
© R.B. Brown Land Surveying Ltd. 2014.

Site Plan & Key Plan  
w/ Descriptive Survey

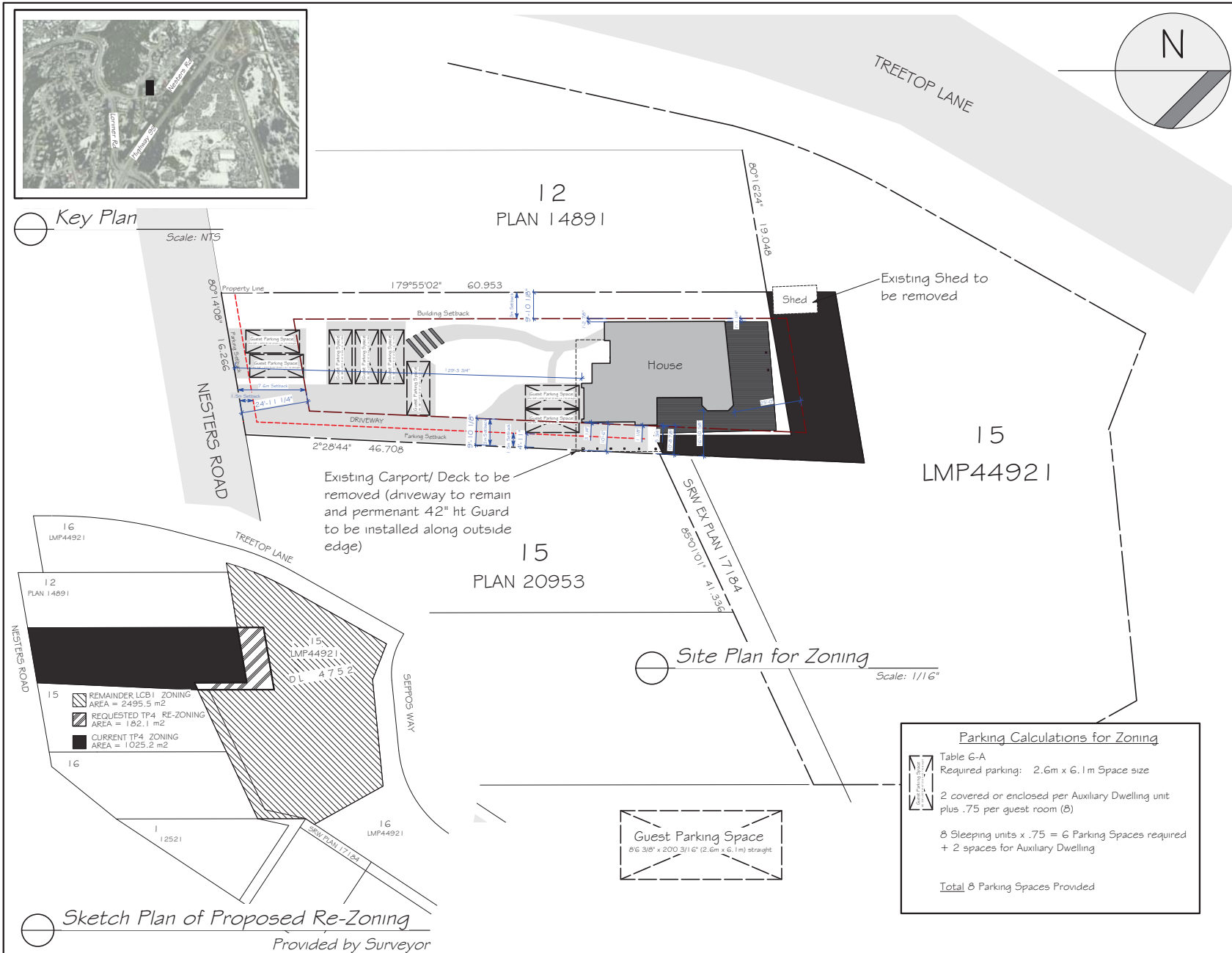
1/16" (Imperial Scale)

A-0001

2. Issue for Zoning Permit. Oct 21, 2014.

Drawn By:  
Scott Densmore

Exercises	
1.	
2.	
3.	
4.	
5.	
6.	
7.	
8.	
9.	
10.	



Heidi Haus Pension  
Re Zoning Application  
7115 Nesters Road  
Whistler, BC.

Floor Plan & Project  
Information/ Statistics

Nov 15, 2014.

1/4" (Imperial Scale)

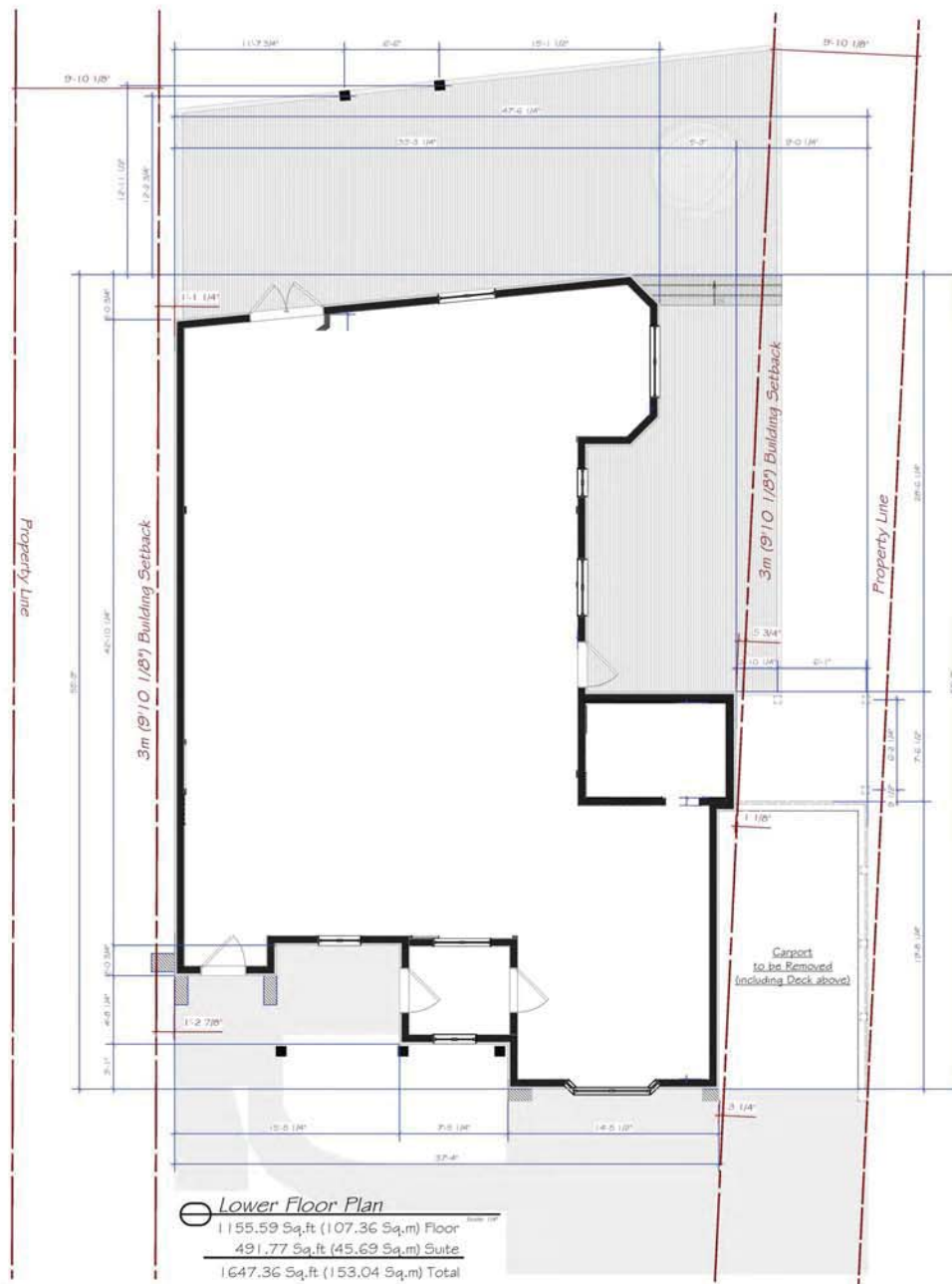
A-101

1, Issue for Design Approval, April, 2014.

2. Issue for Zoning Permit, Oct. 21, 2014.

Scott Densmore

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**ECO MOUNTAIN HOMES**  
House Design-Additions-Renovations  
**604-966-7044**  
ecomountainhomes.com  
scotttensmore@hotmail.com

Heidi Haus Pension  
Re Zoning Application  
7115 Nesters Road  
Whistler, BC.

# Floor Plans

Nov 15, 2014.

1/4" (Imperial Scale)

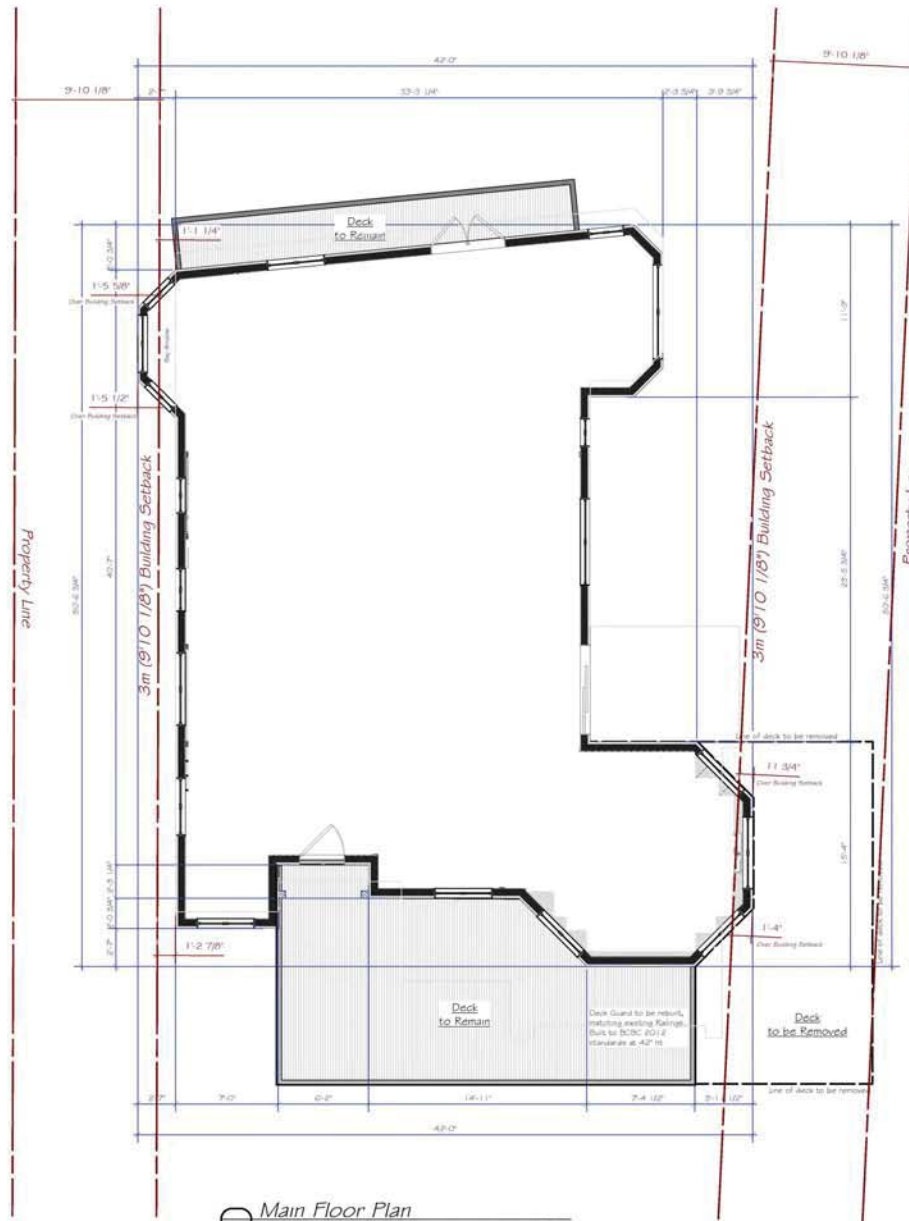
**A-102**

Issue 1: Issue for Design Approval. Apr 1, 2014.

Issue 2: Issue for Zoning Permit. Oct 21, 2014.

Issue 3:  
Scott Densmore

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○ Main Floor Plan  
1443.17 Sq.ft (134.07 Sq.m) Total

## Floor Plans

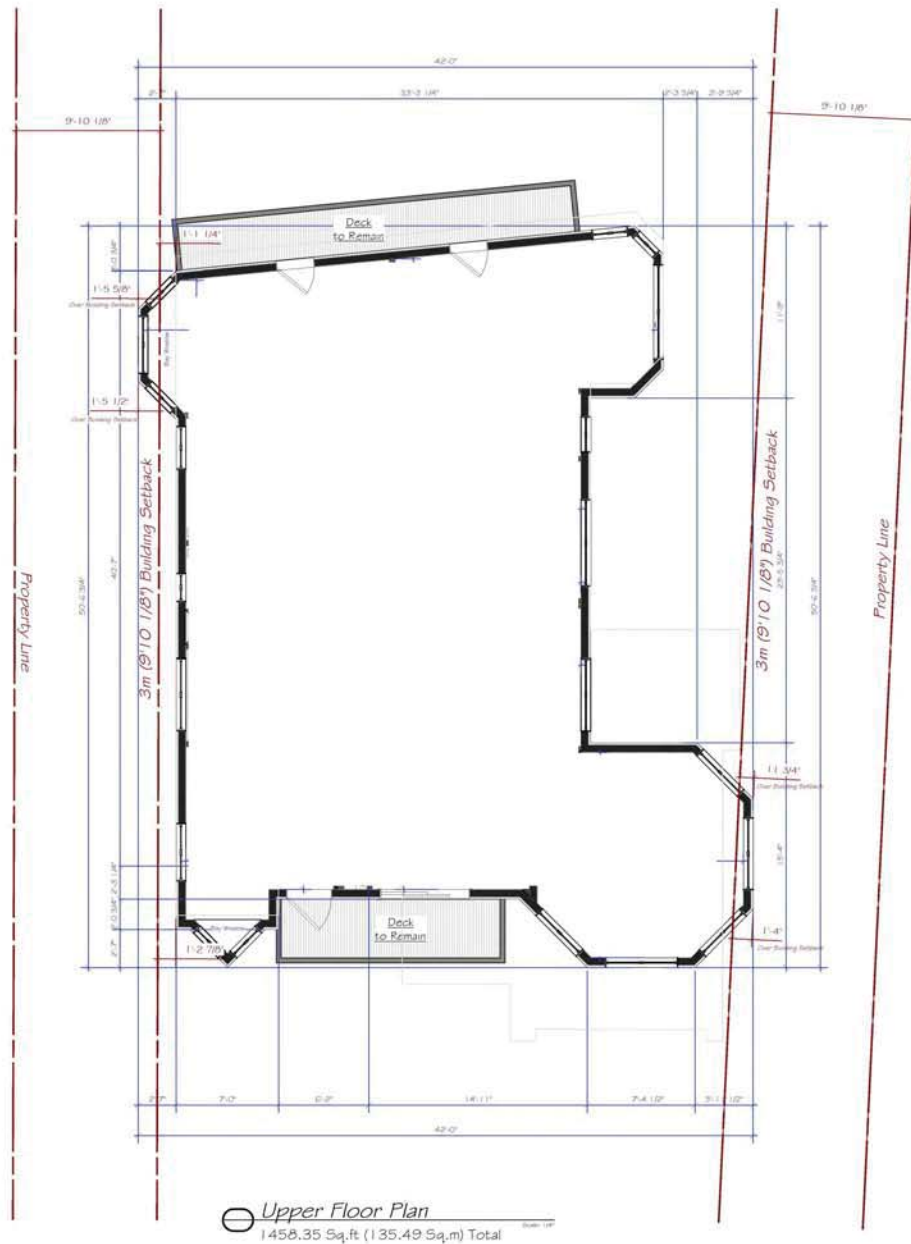
1/4" (Imperial Scale)

A-103

2. Issue for Zoning Permit, Oct 21, 2014.

Drawn By:  
Scott Densmore

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**Robert Brennan**

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**From:** Robert Brennan  
**Sent:** Monday, November 17, 2014 8:48 AM  
**To:** 'Sean'  
**Cc:** jagswhistler@shaw.ca  
**Subject:** RE: 7115 nester's rd.

Good morning Mr. Graham and Mr. Gruetzke,

Thank you Mr. Grahame for your letter regarding the rezoning application at 7115 Nesters Road for the Haus Heidi pension.

This letter will be included in the report to Council for their consideration when they review the rezoning application.

I've also forwarded a copy of your email to the applicant (Mr. Jim Gruetzke) to discuss the noise concerns with the current owners and request they response to the issue.

Cheers.

Robert Brennan, MCIP  
**RESORT MUNICIPALITY OF WHISTLER**  
 TEL: 604-935-8159

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**From:** Sean [mailto:sean-graham@hotmail.com]  
**Sent:** Sunday, November 16, 2014 10:24 AM  
**To:** Robert Brennan  
**Subject:** 7115 nester's rd.

Hi Mr Brennan,

My name is Sean Graham and I am the owner at 7119 nesters rd. and live here also.

I am contacting you regarding 7115 nester's rd. my next door neighbour.

I received a letter from Carlee Price regarding the new ownership that have taken over from Jim and Trudy.

Carlee is concerned about the noise and the application for zoning.

I personally have no concern over the zoning but a big concern over the noise.

Since the start of may every fri and sat night until thanksgiving this year I have been awoken in the middle of the night(between 3-5am) by party people.

I personally have never called the police or bylaw but will in the future if it is not rectified.

If the zoning approval they are looking for will increase the potential for continued disturbance then i'm against the zoning application they are asking for as well

Needless to say, I'm very sad that Jim and Trudy left. in the 4 yrs as their neighbour i have never had an issue with them, noise or otherwise.

My cell # is 905-8663

Thanks,

Sean Graham  
North Face Painting Ltd.  
604-932-3005

October 6, 2014

Building Department  
[buildingdept@whistler.ca](mailto:buildingdept@whistler.ca)



Re: 7115 Nesters Road Rezoning Application setbacks

Good Morning.

I am writing to you today regarding the Rezoning application for the parcel located at 7115 Nesters Road.

You are of course aware that the new owners of this property are looking to bring into compliance some modifications made to the building years ago. They are doing this by requesting an expansion of the portion of their lot categorized as TP4. I understand that one part of your department's role in the process is to recommend to Planning as part of their review, setbacks that might apply to this newly described lot.

Further that these setback recommendations will ideally strike a balance between the building that exists today (zero setback, abutting the northern property line) and the regulations that would apply were the building built new today (6m setback I believe).

I own the home at 7111 Nesters Road and so your decision has an immediate and lasting impact on my ability to peaceably enjoy my property, as well as its ongoing value.

I understand the status quo argument here: that the building has been standing in its current form for many years without a problem. Why fix what isn't broken? I can assure you, however, that the recent change in ownership, the recent change in operation of this property have very clearly revealed the flaws that have perhaps always existed with this arrangement, and serve to underscore the role of setbacks in maintaining safe and healthy neighbourhoods.

New Owner has taken to hosting large, unsupervised groups at his Pension. These groups are loud (a concern we've taken up with law enforcement and bylaw) and enjoy activities such as tossing cigarettes off their balcony into my yard. New Owner was also, for a period of time, housing guests in a portion of his building that had been built without permits and declared to him by the Fire Department as uninhabitable. As luck would have it, this portion of his home also lies right along my property line. You can understand these types of practices pose an immediate and real risk to the safety and security of my property.

I understand that we cannot control the behavior of individuals in private residences, nor should we. I understand that Bylaw is limited in its ability to restrict New Owner's conduct in operating his business. What I ask is that you do what you are able in mitigating the risk that such behaviours -- which we can

fairly expect to continue unabated, as does Owner's pursuit of monetary return on his property – pose to neighbours and neighbouring properties.

This safety and security of person and property is the core intent of such things as setbacks as I understand it.

I understand recommending and enforcing a greater-than-zero setback will result in meaningful modification being required to the building. If the alternate is that the entire thing burns down, taking neighbouring structures with it, we may get there in any case.

Thanks for your consideration. I can be reached as below with any follow up or addition questions.

Warm Regards,



Carlee Price  
[carleprice@gmail.com](mailto:carleprice@gmail.com)  
7102 Nesters Road  
(604) 902-4106

Mr. Robert Brennan, Planner MCIP  
Resort Municipality of Whistler



October 25<sup>th</sup> 2014

By e-Mail

Dear Mr. Brennan,

Further to our Rezoning Application 1091 and responses thereto, we, as the Owners of Haus Heidi Pension are fully committed to prevent any disturbances to the neighbourhood from occurring. We therefore have initiated the following measures to achieve this goal:

1. Advise all clients of the no-noise after 10:00pm bylaws which must be adhered to. Failure to do so, shall result in penalty fines of \$200/day, plus payment of any fines or damage penalties levied by the Resort Municipality of Whistler.
2. Signs will be prominently placed in five (5) different locations of the house stating : NO Noise after 10pm – By-Law RMOW
3. The outdoor hot tub will be off limits for use after 10pm
4. Resident Manager will monitor activities more stringently than before.
5. A Security Guard will visit the premises at 10pm to make guests aware that Whistler has a no-noise after 10pm By-Law and that guests must refrain from causing a disturbance outdoors.

Thank you for your attention

Dr. Yuen Mo and Andreas Bernet  
Owners

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October 20<sup>th</sup> 2014

Mr. Robert Brennan, Planner MCIP  
Resort Municipality of Whistler B. C.

Dear Mr. Brennan,

On September 4<sup>th</sup>, 2014 you received a copy of a letter addressed to Mayor and Council, from Mr. C. Steele of 7107 Nesters Rd., with his objection to rezoning permit #1091.

The content of his letter is both offensive and misleading.

First of all, allegations of out of control parties with bass thumping through the bedrooms with drunken people screaming and urinating off the balcony are not only unsubstantiated, but we believe these to be false. There is a manager on the property. We have never received any complaints regarding parties and noise from Mr. Brennan prior to this letter of his.

Further, there was nothing resembling clear cutting as stated.

Four years ago, we had removed 4 dead and dying trees as they posed a clear danger to the safety of our guests and property, as per Paragraph C Section 3 to this covenant.

A tall tree on the property snapped, fell over and severely damaged part of the deck and the roof of the house. When we inspected the trees in the area more closely, it was clear that 4 trees needed to be disposed of. We forgot completely that this particular area of our property was not on our side of the split zoning of LCB 1 and TP4 as per the agreement we had signed some 10 years earlier as the peripheral areas were landscaped and maintained together, given their close proximity to the house. The yard behind the house was always grassed and level.

When the By-Laws Officer came to inspect the property, an agreement was reached for us to plant 12 replacement trees in the area and the wood from the cut ones used partly as firewood for ourselves and our neighbours, with the remainder used in securing the land from further erosion.

There was never at any time any bulldozers on the property, nor did we extend our lot, nor did we construct any buildings as mentioned in the letter. That shed has been on our property for the past 26 years and is used for the storage of bicycles, skis, and garden furniture.

Permit me to give you some background on the property:

In 1984 we bought 23 acres of land, located behind Haus Heidi on Nesters Road which was zoned RR1.

In the mid nineties there was an urgent need for employee housing and as we were within walking distance to the Village, our land was chosen from 14 entries, to become NESTERS POND - 63 apartments were create, and an additional 8 acres of land was donated to the RMOW as parkland for the enjoyment of everyone.

A short while later, TREE TOPS subdivision was created with 22 single family lots, in 1999, whereby 3/4 of an acre was annexed to Haus Heidi Pension. Extensive tree planting was done to create a buffer to the west (Tree Top Lane) and to the north (Seppos Road) to assure neighbouring properties are sheltered from traffic noise.

In 2002 we, the owners of Haus Heidi, voluntarily put an LCB 1 designation on this part of our property, to ensure that this greenbelt is preserved.

As far as Mr. Steele is concerned, his property benefits greatly from our 3/4 acre of greenbelt. There are many wonderful trees lining the way beyond his property line, for him and his family's enjoyment. When we first moved into Haus Heidi in 1978, I had planted over 22 trees across the property, and it is very evident today that there is an abundance of these and well maintained greenery.

I hope this gives a somewhat better understanding of the history behind this small but wonderful parcel of land.

The new owners do apologize to their neighbours who feel they may have been affected in a negative way allegedly due to rare occasions of noise from visitors.

Although there is no record of any complaints made to us or to the RCMP or By-Laws for noise infractions regarding this property, we will definitely take

measures to ensure not to disturb the peace and quiet enjoyment of the properties as it is in everyone's interest to do so.

Sincerely yours

Jim Gruetzke

(for and on behalf of owners Mr. Yuen Mo, Mr. Andreas Bernet)

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October 20<sup>th</sup> 2014

Mr. Robert Brennan, Planner MCIP  
Resort Municipality of Whistler B.C.



Dear Mr. Brennan,

Thank you for giving us the opportunity to reply to the two letters, written October 6<sup>th</sup>, 2014 from Ms. Carlee Price, addressed to the By Law department and the Building Department.

Ms. Price raised several issues regarding the property and their guests:

- Large, loud, and unsupervised groups being housed
- Underage drinking
- Illicit drug use
- Housing guests in uninhabitable buildings built without permits
- setbacks
- that she wants to have the ability to peacefully enjoy her property adjacent, which was purchased a year ago, neighbouring an existing Pension

Fact is, there is a manager residing on the premises, who responsibly takes care of guests once they arrive at the resort, to ensure these types of issues do not happen. We would also wonder how Ms. Price could possibly have experienced these events as she does not reside in the house next door, but rents it out full time, year round. We regard the other items listed as speculations and note that our full time manager denies these allegations to have taken place.

In regards to set backs: When Ms. Price purchased the property, there were never any queries, concerns or objections raised to the carport from her or the previous owners. Prior to them, we owned the property.

Haus Heidi Pension was established in 1978 and has been part of this neighbourhood for 37 years, even before the mentioned Children's Centre. The carport has weathered inspections, renovations and rezoning without objections ever being filed or noted and is part of the architecture of the house. I find it very peculiar that in particular this item, after decades, is now subject to discussion, especially given the remote placement of the carport – set well back and far behind Ms. Price's house - I feel that the unsubstantiated complaints and fabrications of Ms. Price and those of Mr. Steele regarding the removal of dangerous trees and existence of a 26 year old shed may be part of a cooperative nuisance effort to hinder further operations or rezoning since the property has sold.

I have operated this Pension for 34 years without ever any encountering objections or disturbances. To the information provided me, neither the RCMP nor By-Laws have any records of receiving noise or party complaints to this property to date.

The new owners have already addressed these as potential barriers to the peaceful enjoyment of the property and those neighbouring it, by instituting greater supervision and managerial attention to the property and its clients. It is not in anybody's interest to hold or live in the vicinity of a property known as a "party house" and we will certainly endeavor to ensure this is not the case.

Thank you for your time and attention,

Sincerely yours

Jim Gruetzke - on behalf of Mr.Yuen Mo, Mr.Andreas Bernet

Date: August 29, 2014  
To: Whistler City Council  
From: Charles Steele, 604-902-4115  
Re: Objection to Rezoning Permit 1091



Dear Mayor and City Councillors:

I am writing to ask that Rezoning Application 1091 submitted by the business at 7115 Nesters Rd., called "Haus Heidi" be rejected.

This business has clear-cut the LCB1 tree reserve, built a retaining wall to fill and level the forest floor, and expanded their lot and built on it.

We purchased nearby property on the basis of the zoning map below, and the expectation of a permanent greenbelt enforced by municipal bylaws in the LCB1 zoned lot. Instead, Haus Heidi has clear-cut, filled, and built on it. Note the original small boundary between the back of Haus Heidi and the LCB1 zone.



And here is the new backyard created after the trees were removed, the fill brought in, and grass planted



Haus Heidi was instructed by by-law enforcement to restore what they had cut, but instead they brought in a bulldozer with loads of fill, built a retaining wall out of the trees they cut and scrap plywood in order to hold the fill to create a level backyard, added grass, and built a new building.

Is this allowed? Can any of the homes adjacent to the LCB1 zone cut the trees to expand the yards and add buildings?



Is it allowed to build retaining walls in an LCB1 zone with the trees one cuts in an LCB1 zone in order to expand ones yard and build more structures?



Our house was designed with nice touches like windows next to bathtubs and other elements that relied on privacy from the trees which are now gone. Not only is Haus Heidi's new back yard very visible, but even properties on Treetops Lane that were completely hidden by the reserve are now visible.



All of this is an eyesore.

Furthermore, there are very large Cottonwood Trees (it is unclear whose property they are on), which are now subject to much more extreme swaying in the wind due to the removal of so many trees from the LCB1 land that had previously sheltered them. These very large trees may now need assessment by an arbourist and may also now require removal, though they are some of the last visual barrier remaining.





This business should not be given zoning permission to expand, not only because it flouts the municipal bylaws, but also because it is highly disruptive to the neighbourhood. There does not appear to be any management or other supervision on the property when it is rented out to large groups of partiers who get completely out of control. Several times this summer we have been kept awake with bass thumping through the bedrooms – sometimes until 3:30 am – with drunken people screaming and urinating off of the balcony. And then woken again on Sunday morning. We have young children and this is an expensive residential neighbourhood. Phone calls to Haus Heidi were met with a full voicemail box. Is there supposed to be any management or staff at a place like that or anyone to contact other than the RCMP?

I ask the Council to enforce the bylaws upon which we relied when we purchased a home in Whistler. The retaining wall should be removed, the fill brought in should be removed, the forest floor should be returned to its natural elevation and grading, the excess building should be removed, the forest should be restored, and the excessive footprint of the facility and lot should return to what it is supposed to be.

Yours truly,  
Charles Steele  
7107 Nesters Rd.  
Tel: 604-902-4115



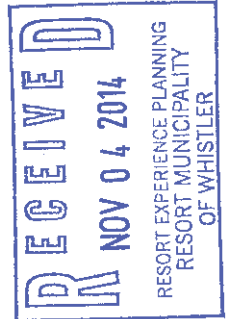
RZ1091



7115 Nesters Rd  
Haus Heidi Pension  
Surrounded by trees  
Oct. 8/14

7111 Nesters Rd.  
Front yard

Haus Heidi on the left



RZ1091

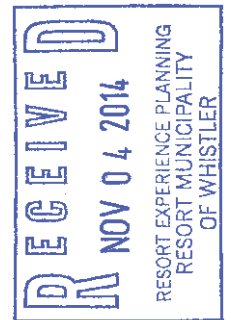
7115 Nesters Rd.  
Back yard

Haus Heidi on the left



710 + Nesters Rd.  
Back yard

Haus Heidi on the left

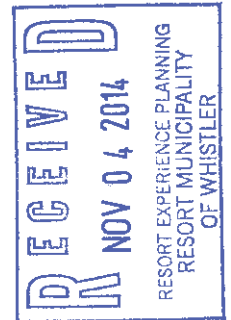


RZ1091

7115 Nesters Rd. Haus Heidi  
Back yard looking towards 7107 Nesters Rd



7115 Nesters Rd  
Backyard

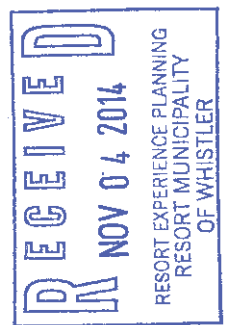


RZ1091

7115 Nesters Rd  
Backyard looking towards 7107 Nesters Rd



7119 Nesters Rd. Haus Heidi on the right, shed  
behind the trees, totally invisible

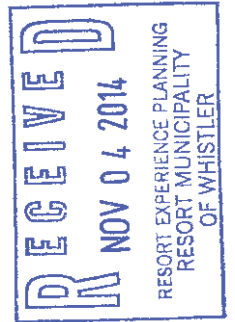


RZ1091

Tree Top Lane towards shed



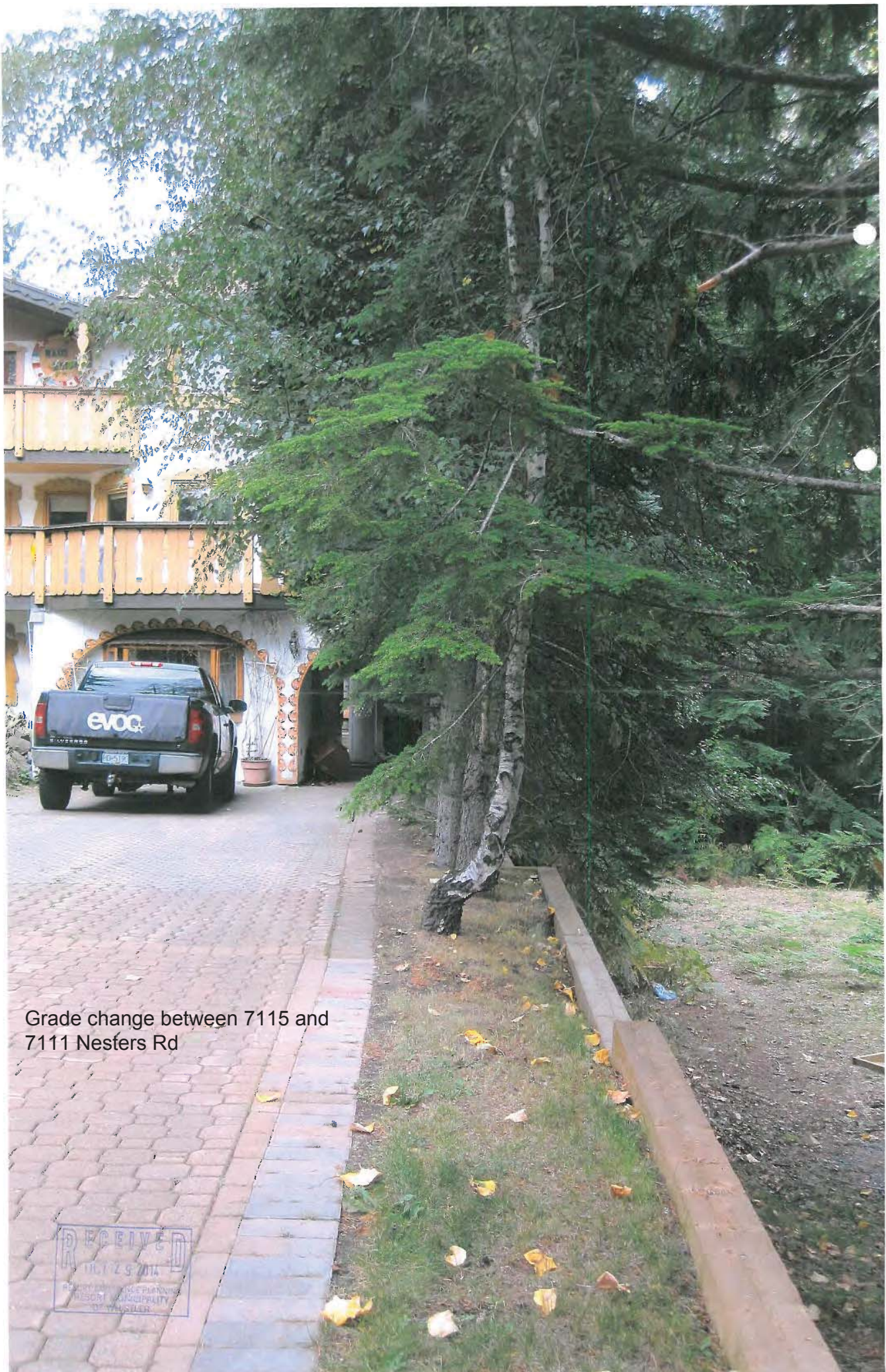
7115 Nesters Rd. Haus Heidi carport front



RZ1091

Haus Heidi carport + deck (back)





Grade change between 7115 and  
7111 Nesters Rd





Existing side yard  
retaining wall between 7115  
and 7111 Nesters Rd



View of Heidi Haus carport  
and deck to be removed from the rear  
yard of 7111 Nesters Road

# RZ1091 – Heidi Haus Pension 7115 Nesters Road - rezoning

Council Presentation  
January 13, 2015

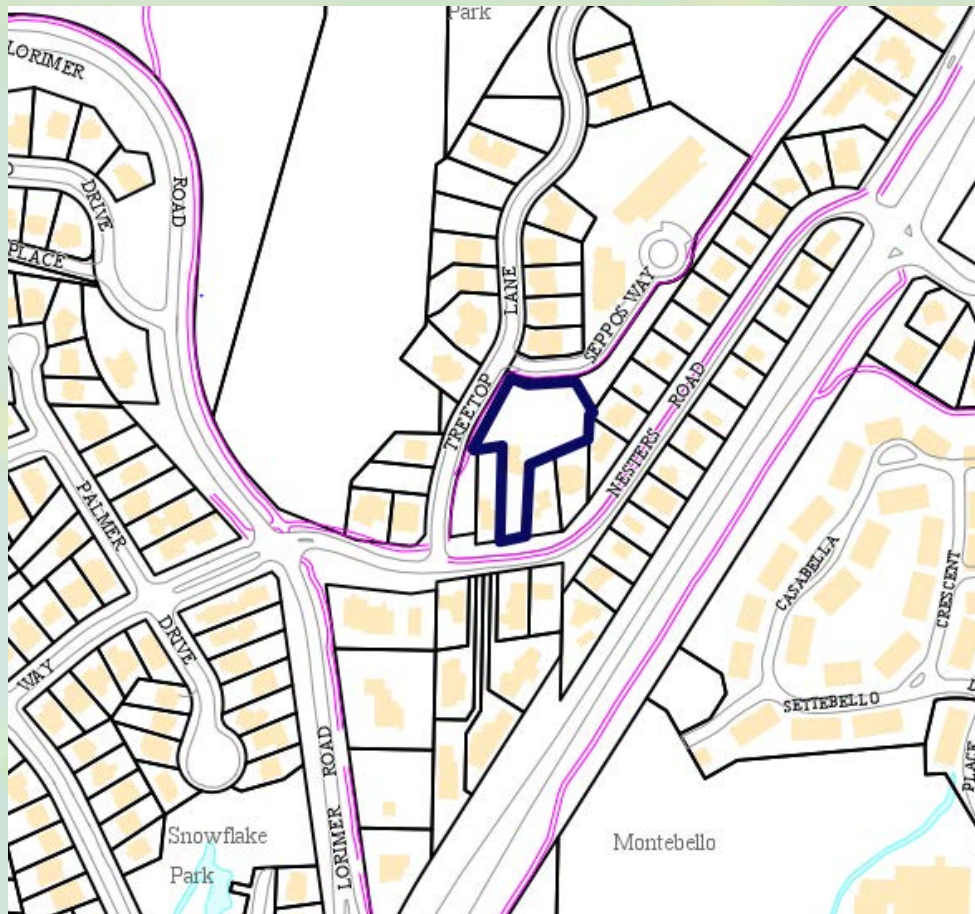
## RESORT MUNICIPALITY OF WHISTLER

4325 Blackcomb Way  
Whistler, British Columbia  
Canada V0N 1B4  
[www.whistler.ca](http://www.whistler.ca)

**TEL** 604 932 5535  
**TF** 1 866 932 5535  
**FAX** 604 935 8109



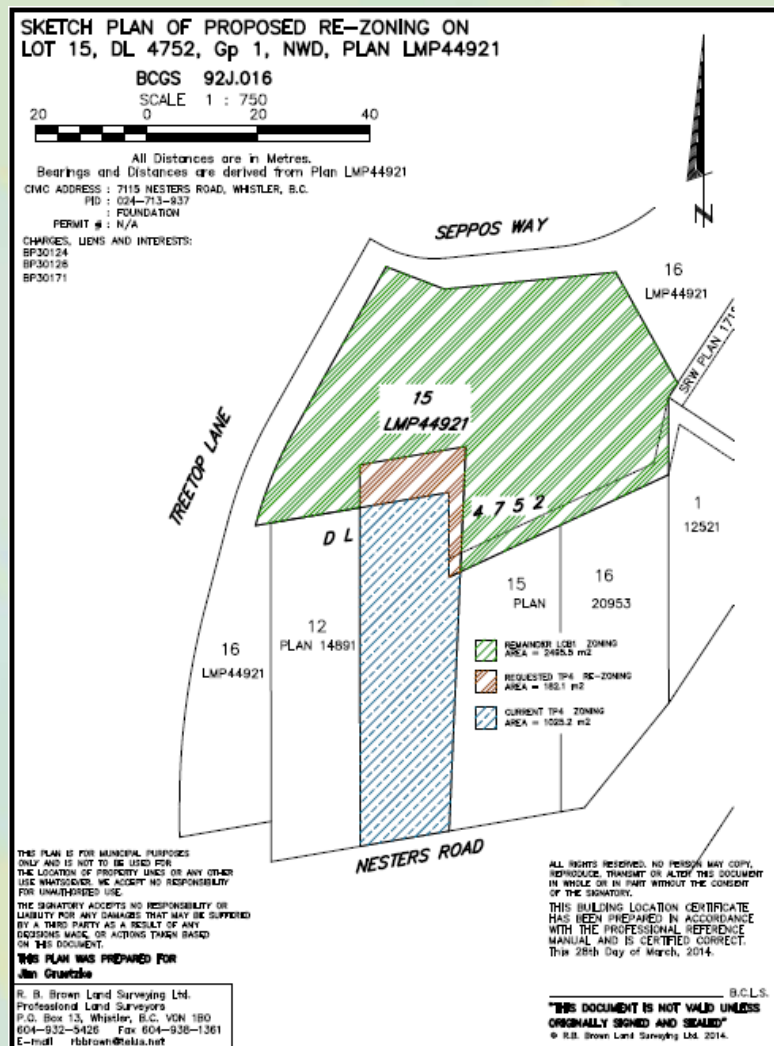
# Subject Lands



- 7115 Nesters Rd
- Existing pension use (35 years)
- Split zoned parcel:
  - ✓ TP4 – Tourist Pension Four
  - ✓ LCB1 – Leisure Conservation Buffer One



# Rezoning Proposal



- To permit existing construction to comply with density provisions of TP4 zone
- Increase TP4 zoned portion of parcel by 182.8 sq.m to permit existing gross floor area of 422.6 sq.m and allow 8 guestrooms.

# Background

- Between 1978 and 1986 – three building permits issued authorizing pension development
- April 1996 – Council adopts Bylaw No. 1167, 1996 which amended the TP4 zone regulations:
  - ✓ Increased requirements for side setback (to min. of 6 metres) and lot frontage (min. 24 metres)
  - ✓ Noted existing Heidi Haus became legally nonconforming:
    - Existing 3 m side setbacks and 16 m lot frontage.
  - ✓ Also linked the number of permitted guestrooms to parcel size (max. 8)
    - Existing parcel size sufficient for 7 guestrooms
- Sept 1999 – Council adopts Bylaw No. 1378, 1999 for Nesters Hill which resulted in;
  - ✓ Heidi Haus being located on the larger split zoned parcel which exists today (note: did not address min. TP4 parcel requirements for existing Heidi Haus)

## Background (continued)

- Nov 2013 – New owners purchase property.
- Dec 2013 - Inspection for new business license identifies unauthorized construction:
  - ✓ 8 guestrooms
  - ✓ Total gross floor area greater than permitted FSR of 0.35 is 63.98 square metres
  - ✓ Carport and rooftop deck area
  - ✓ Storage shed and lawn area in tree buffer area
- Current proposal seeks to legitimize existing development to conform with TP4 zone.
- Proposal will also require:
  - ✓ building permits,
  - ✓ tree covenant area modification and
  - ✓ may require development variance permit for setbacks.

# Policy considerations

- Consistent with Whistler 2020 economic and visitors experience descriptions of success.
  - ✓ Is a longstanding Pension operation of unique mountain character, maintains diversity of visitor accommodation supply
- Consistent with OCP policies:
  - ✓ No impact on bed unit capacity, utilizes existing infrastructure and roads, located within an area designated for accommodations
- Consistent with Pension Policy G-4 Guidelines:
  - ✓ Provides suite for manager
  - ✓ Incorporates a specific and unique alpine lodge design to building
  - ✓ Existing use established prior to Resort Land designation requirements – consistent with other existing B&B and Pension accommodations
- Tree Covenant for LCB1 portion
  - ✓ Tree removal and replanting completed according to the terms of the Covenant

# Community Engagement

- Rezoning Information sign posted on site
- Public Hearing is required after 2<sup>nd</sup> reading of amending bylaw

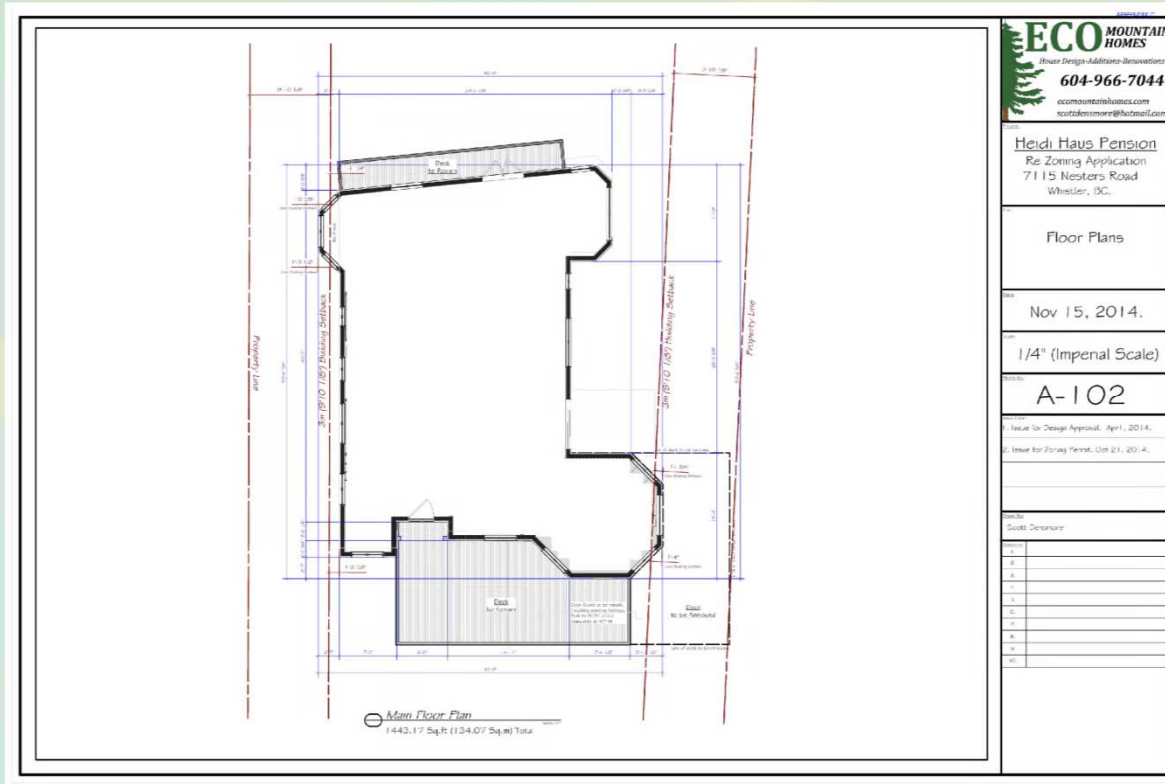
# Public comment and owner response

- **Encroachment on to private property**
  - ✓ Demolition permits applied for to remove carport and associated outdoor deck in side yard setback area.
- **Structure and lawn encroachment on LCB1 portion**
  - ✓ Previous tree removal & replanting completed according to Covenant
  - ✓ Lawn area will be incorporated into TP4 zone portion of property
  - ✓ Shed will be relocated & reduced in size to conform with TP4 zone portion of property.
- **Operation of pension**
  - ✓ Owners will remove carport and associated outdoor deck
  - ✓ Owners confirmed manager on site
  - ✓ Residents can contact RCMP at time of the disturbance to register complaint

# Recommendation

- That Council endorse further review of Rezoning Application No. 1091; and further
- That Council direct staff to prepare the necessary zoning amendment bylaw for council consideration.

# Variance issues



- A development variance permit may be required by Council for:
  - ✓ Setbacks for building & structures
  - ✓ Height for landscape retaining wall adjacent to the LCB1 buffer

to further improve the design. For more information, visit [whistler.ca/skatepark](http://whistler.ca/skatepark).

Mayor Wilhelm-Morden reported that tomorrow, Wednesday, March 18, is Transit Driver Appreciation Day. Customers are encouraged to thank bus drivers or to visit [transitdriveerday.org](http://transitdriveerday.org) to personalize and print a card for their driver. On behalf of Council and the Resort Municipality of Whistler, Mayor Wilhelm-Morden thanked the bus drivers for providing great service year-round throughout our community.

Mayor Wilhelm-Morden congratulated Whistler Blackcomb for being named Top Overall Resort in Freeskier's resort guide. This is the ninth time Whistler Blackcomb has won this award.

Mayor Wilhelm-Morden congratulated Pierre Marc Jette for skiing 4,175,000 feet so far this season. He has broken the world record for vertical feet skied in one year to raise money for the Alzheimer's Society of BC. Mayor Wilhelm-Morden attended the media event on Saturday morning when he crossed the finish line to set the record. Donations can be made online to contribute to his financial goal of raising over \$400,000 for Alzheimer's.

Mayor Wilhelm-Morden reported that in the closed meeting earlier today, Council appointed four people to the May Long Weekend Committee for one year terms:

- Steve LeClair as the Whistler RCMP Representative
- Peter Humig as the Accommodation Sector Representative
- Terry Clark as the Food and Beverage Sector Representative
- Nicole Shannon as the Community Member-at-Large Representative

## ADMINISTRATIVE REPORTS

RZ1091 – 7115 Nesters  
Road – First and  
Second Readings of  
Zoning Amendment  
Bylaw 2073  
Report No. 15-038  
File No. RZ1091,  
Bylaw 2073

Moved by Councillor J. Crompton  
Seconded by Councillor J. Ford

**That** Council consider giving first and second readings to "Zoning Amendment Bylaw (Heidi Haus Pension) No. 2073, 2015";

**That** Council authorize the Corporate Officer to schedule a public hearing regarding "Zoning Amendment Bylaw (Heidi Haus Pension) No. 2073, 2015" and to advertise for same in the local newspapers; and further,

**That** Council direct staff to advise the applicant that before consideration of adoption of Zoning Amendment Bylaw (Heidi Haus Pension) No. 2073, 2015, the following matters shall be completed to the satisfaction of the General Manager of Resort Experience:

1. Modification of Covenant BP030171 to release the portion of the parcel to be rezoned to TP4 zone from the tree preservation area;
2. Grading and revegetation of areas adjacent to the LCB1 tree preservation area; and,
3. Payment of any outstanding rezoning application fees.

**CARRIED**

## BYLAWS FOR FIRST AND SECOND READINGS

Zoning Amendment  
Bylaw (Heidi Haus  
Pension) No. 2073,  
2015

Moved by Councillor J. Grills  
Seconded by Councillor A. Janyk

**That** Zoning Amendment Bylaw (Heidi Haus Pension) No. 2073, 2015  
receive first and second readings.

CARRIED

## BYLAWS FOR ADOPTION

Zoning Amendment  
Bylaw (CT11 Zone –  
8017 Highway 99) No.  
2076, 2015

Moved by Councillor A. Janyk  
Seconded by Councillor S. Maxwell

**That** Zoning Amendment Bylaw (CT11 Zone – 8017 Highway 99) No. 2076,  
2015 be adopted.

CARRIED

## OTHER BUSINESS

*There were no items of Other Business.*

## CORRESPONDENCE

Proposed Cell Tower  
File No. AS000001

Moved by Councillor J. Crompton  
Seconded by Councillor J. Ford

**That** correspondence from Mike Suggett, dated February 27, 2015, regarding  
the proposed cell tower on Lorimer Road be received and referred to staff.

CARRIED

Illegal Spaces Task  
Force Committee  
File No. 7645.01

Moved by Councillor S. Anderson  
Seconded by Councillor J. Crompton

**That** correspondence from David Girard, CHBA Sea to Sky Committee Chair,  
dated February 24, 2015, regarding the Illegal Spaces Task Force Committee  
and committee membership be received and referred to staff.

CARRIED

Municipal Services  
File No. 3009

Moved by Councillor A. Janyk  
Seconded by Councillor S. Maxwell

**That** correspondence from Tristan A. Galbraith, dated March 2, 2015, and  
March 8, 2015, regarding municipal services, policing and social services in  
Whistler be received.

CARRIED



## REPORT | ADMINISTRATIVE REPORT TO COUNCIL

**PRESENTED:** March 17, 2015

**REPORT:** 15-038

**FROM:** Resort Experience

**FILE:** RZ1091, Bylaw 2073

**SUBJECT:** RZ1091 – 7115 NESTERS ROAD – FIRST AND SECOND READINGS OF ZONING AMENDMENT BYLAW 2073

### COMMENT/RECOMMENDATION FROM THE CHIEF ADMINISTRATIVE OFFICER

**That** the recommendation of the General Manager of Resort Experience be endorsed.

### RECOMMENDATION

**That** Council consider giving first and second readings to “Zoning Amendment Bylaw (Heidi Haus Pension) No. 2073, 2015”;

**That** Council authorize the Corporate Officer to schedule a public hearing regarding “Zoning Amendment Bylaw (Heidi Haus Pension) No. 2073, 2015” and to advertise for same in the local newspapers; and further,

**That** Council direct staff to advise the applicant that before consideration of adoption of Zoning Amendment Bylaw (Heidi Haus Pension) No. 2073, 2015, the following matters shall be completed to the satisfaction of the General Manager of Resort Experience:

1. Modification of Covenant BP030171 to release the portion of the parcel to be rezoned to TP4 zone from the tree preservation area;
2. Grading and revegetation of areas adjacent to the LCB1 tree preservation area; and,
3. Payment of any outstanding rezoning application fees.

### REFERENCES

**Location:** 7115 Nesters Road  
**Legal Description:** Lot 15 District Lots 4752 and 4753 Group 1 NWD Plan LMP44921  
**Applicant:** Jim Gruetzke, owner representative  
**Zoning:** TP4 (Tourist Pension Four) and LCB1 (Leisure Conservation Buffer One Zone)  
**Appendices:** “A” Location Map  
“B” Site plan of proposed portion of property to be rezoned  
“C” Photograph of removed carport  
“D” Photograph of removed retaining wall  
“E” Photograph of relocated shed  
“F” Letters from neighbours

### PURPOSE OF REPORT

This report presents Zoning Amendment Bylaw (Heidi Haus Pension) No. 2073, 2015, a bylaw to amend the split-zoned property located at 7115 Nesters Road by rezoning a portion from LCB1 (Leisure Conservation Buffer One) zone to TP4 (Tourist Pension Four). The report recommends

that Council consider giving first and second readings to the Bylaw, and direct staff to schedule the public hearing.

## **DISCUSSION**

### **Background**

Zoning Amendment Application No. 1091 was reviewed by Council on January 13, 2015 (See Report No. 15-010 for background information and RMOW policy analysis). The rezoning application request is to amend the TP4 zone to legitimize the existing pension allowing for the existing gross floor area, building setbacks and eight guestrooms. Council authorized staff to proceed with further review of the application and to prepare the necessary zoning amendment bylaw for Council consideration.

At the January 13, 2015 meeting, Council also requested staff to provide further information regarding the following items; carport encroachment; status of wood retaining wall in the LCB1 portion of the backyard; location of the tool shed; setback variances; and noise control measures.

### **Rezoning Proposal**

#### **Zoning Amendment Bylaw (Heidi Haus Pension) No. 2073, 2015**

Zoning Amendment Bylaw (Heidi Haus Pension) No. 2073, 2015 has been prepared for Council consideration of first and second readings. The proposed amendment will rezone a 182.8 sq.m portion of the split-zoned lot from LCB1 (Leisure Conservation Buffer One) to TP4 (Tourist Pension Four) to create sufficient lot area for the TP4 zoned portion of the parcel to comply with the Floor Space Ratio (FSR) of 0.35, a parcel size large enough to have eight guestrooms as contained in the existing pension, and 3 metres side setbacks to permit a similar configured structure to be rebuilt if the existing structure is more than 75% destroyed. The proposed parcel area for rezoning is illustrated in Appendix B attached to this report.

In 1996 the RMOW adopted a bylaw amendment to the TP4 zone, initiated by the RMOW, which increased side yard setbacks for a pension building from 3 metres to 6 metres for all TP4 zone parcels. At that time, staff indicated the amendment made the existing Heidi Haus building legally nonconforming as per Section 911 of the Local Government Act. This section of the LGA permits nonconforming buildings to remain and to be able to obtain permits to maintain the building. However, if the structure is more than 75% destroyed, the new building would be required to meet the required 6 metres side yard setbacks.

The existing pension is located on a portion of the property which is only 16 metres in width in total. If the existing structure should be more than 75% destroyed it will be difficult to rebuild a pension to comply with the required 6 metres side yard setbacks and a 4 metres wide building envelope. Therefore, Zoning Amendment Bylaw (Heidi Haus Pension) No. 2073, 2015 includes an amendment to reduce the side yard setbacks for this property from 6 metres to 3 metres to ensure the pension structure could be constructed with 3 metres side yard setbacks similar to the existing structure. This provides certainty for the existing and future owners of the property that a pension structure could be constructed of a similar size with a conventional layout on the property.

## **Additional Information**

### Carport Encroachment

The applicant has removed the carport and associated deck area above, from the side yard as shown in the photograph attached as Appendix C. This has eliminated the structural encroachment onto the adjacent property at 7111 Nesters Road and the encroachment in the setback area.

### Retaining Wall

The applicant has removed the wood retaining wall in the property's backyard as shown in the photograph attached as Appendix D and has slope graded the newly exposed edge to create an at-grade edge with the LCB1 zoned (natural treed buffer area) portion of the property.

### Storage Shed

The applicant has reduced the size of the shed and relocated it fully onto the proposed TP4 zone portion of the property as shown in attached Appendices B and E.

### Variances

Administrative Report No. 15-010 indicated that variances may be required for the existing pension structure, retaining wall and location of the storage shed depending on the owners decisions regarding these items, and if required would be outlined in a further report to Council.

Variances are not required because the proposed amendments to the TP4 zone side yard setbacks outlined in Zoning Amendment Bylaw (Heidi Haus pension) No. 2073, 2015 would permit a pension with 3 metres side yard setbacks; the retaining wall was removed; and the storage shed was reduced in size and relocated onto the proposed TP4 portion of the parcel where it would be permitted.

### Noise Monitoring

On January 14, 2015 the property owners submitted an email outlining the following measures they have put in place regarding monitoring guests:

1. In-house manager monitors guests, particularly in the evening.
2. In-house manager will brief arriving guests at check-in regarding no noise after 10pm
3. The hot tub is locked after 10 pm.
4. A hired security guard from Sea to Sky Security patrols in the evening to check on noise levels and that the hot tub is locked.
5. Posted signs state "No noise after 10 pm, bylaw" on the property.

The owners have provided letters from the neighbours living in the house and suite at 7119 Nesters Road indicating they have no noise issues with the Heidi Haus operations as shown in attached Appendix F.

## **WHISTLER 2020 ANALYSIS**

The proposed zoning bylaw amendment is consistent with the Whistler 2020 policy. The Whistler 2020 analysis was provided in Administrative Report No. 15-010 to Council on January 13, 2015 attached as Appendix F.

## **OTHER POLICY CONSIDERATIONS**

### **Official Community Plan**

The proposed zoning bylaw amendment is consistent with the Municipality's Official Community Plan Bylaw No. 1021, 1093. A summary was provided in Administrative Report No. 15-010 to Council on January 13, 2015.

### **Green Building Policy**

Whistler's Green Building Policy provides direction for commitments in respect of green building features for proposed rezoning. A summary was provided in Administrative Report No. 15-010 to Council on January 13, 2015.

### **Works and Services Charges Bylaws**

A summary evaluation was provided in the Administrative Report No. 15-010 to Council on January 13, 2015. Applicable fees will be assessed and collected at time of building permit application.

### **Employee Housing Service Charge Bylaw**

A summary evaluation was provided in the Administrative Report No. 15-010 to Council on January 13, 2015.

## **BUDGET CONSIDERATIONS**

The proposed development is subject to rezoning application processing fees and building permit fees.

All costs associated with staff time for the rezoning application, public hearing, notices, and legal fees will be paid by the applicant and all fees will be required to be paid in full as a condition of consideration of adoption of the zoning amendment bylaw.

## **COMMUNITY ENGAGEMENT AND CONSULTATION**

An information sign has been posted at the subject property to allow for public inquires about the application. A public hearing, which is subject to public notice requirements, is required as part of the statutory process for bylaw consideration and adoption. This report requests Council authorization for staff to schedule a public hearing.

## **SUMMARY**

This report presents Zoning Amendment Bylaw (Heidi Haus Pension) No. 2073, 2015 for Council consideration of 1<sup>st</sup> and 2<sup>nd</sup> readings for the property located at 7115 Nesters Road. The rezoning application will create the necessary amendments for this split-zoned property to create sufficient lot area for the TP4 zoned portion of the parcel to comply with the Floor Space Ratio (FSR) of 0.35, required parcel size and 3 metres side setbacks to permit the eight guestrooms contained in the existing pension to remain.

The zoning amendment bylaw is presented for Council consideration of first and second readings and scheduling of a public hearing.

Respectfully submitted,

Robert Brennan MCIP, RPP  
PLANNER  
for  
Jan Jansen  
GENERAL MANAGER OF RESORT EXPERIENCE

LOCATION MAP

7115 Nesters Road – Heidi Haus



Site Plan & Key Plan  
w/ Descriptive Survey

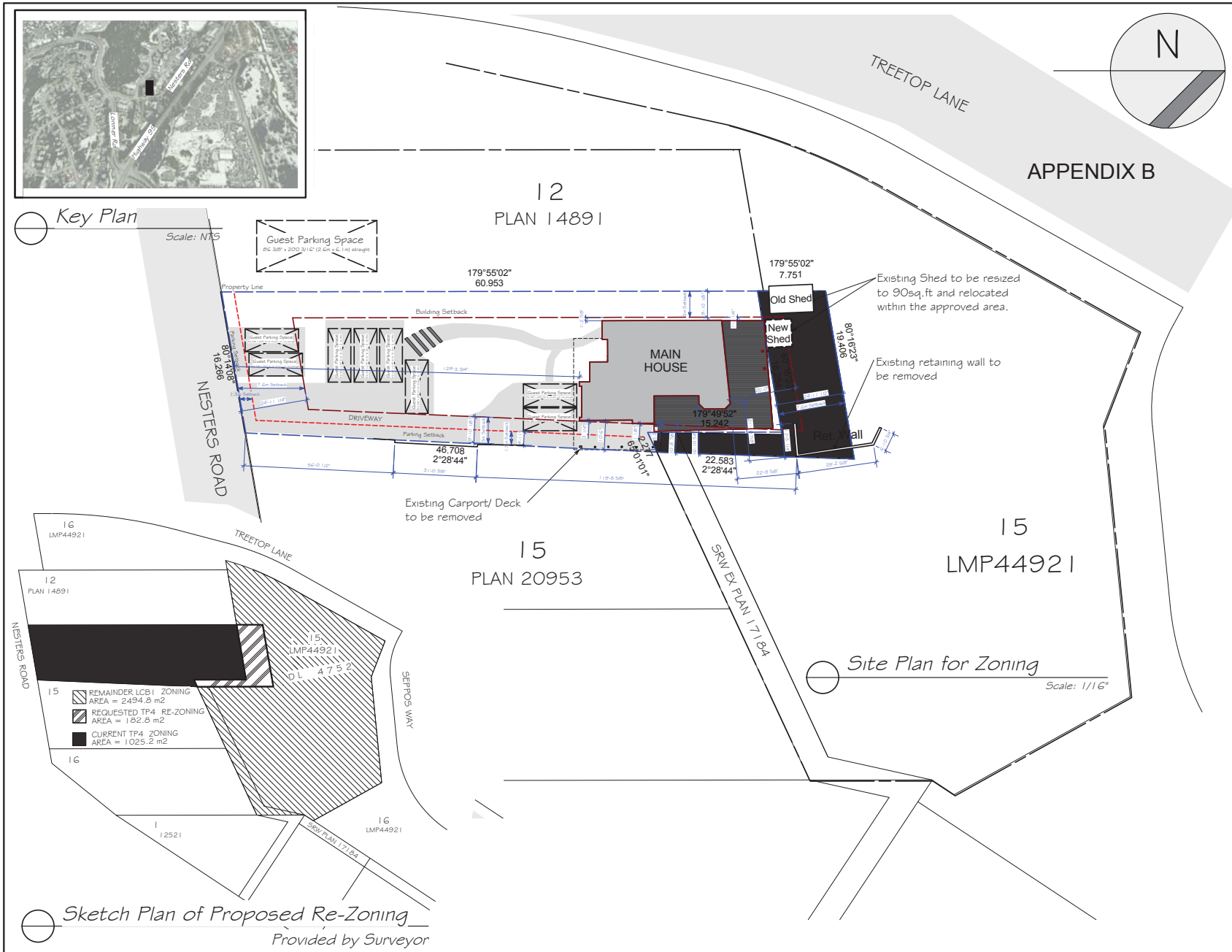
1/16" (Imperial Scale)

A-001

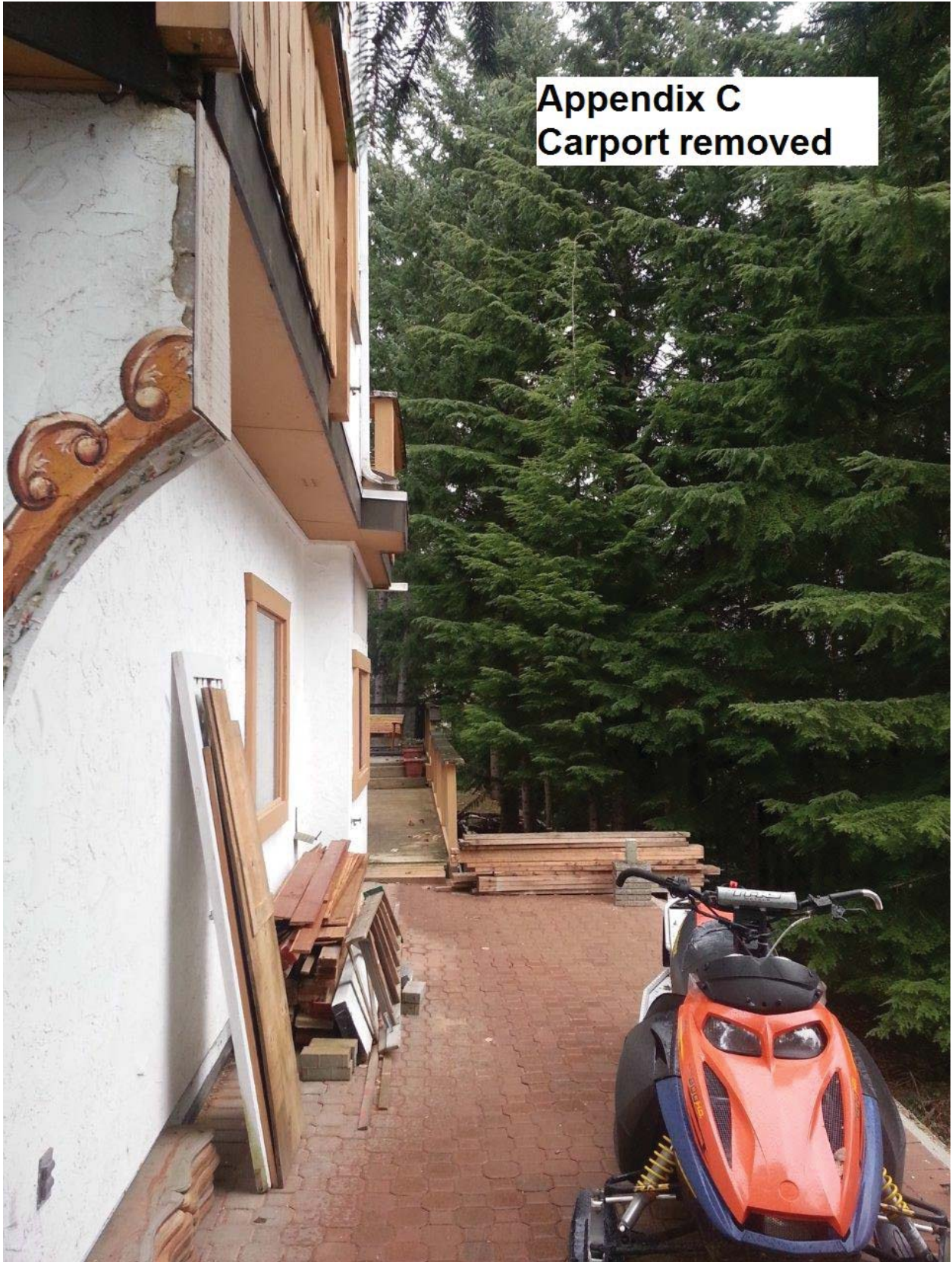
2. Issue for Zoning Permit. Oct 21, 2014.

Drawn By:  
Scott Densmore

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**Appendix C**  
**Carport removed**





**Appendix E**  
**Relocated shed**



Date: Feb. 2<sup>nd</sup> 2015

I, Laurie (Beth) Gattafoni, and my family live at

7119 Nesters Road (Back unit)

do not find there is any noise problems or other disturbances

coming from Haus Heidi at 7115 Nesters Road, Whistler.

signature: Laurie Gattafoni

Name: Laurie Gattafoni

Date: Feb. 2<sup>nd</sup> 2015

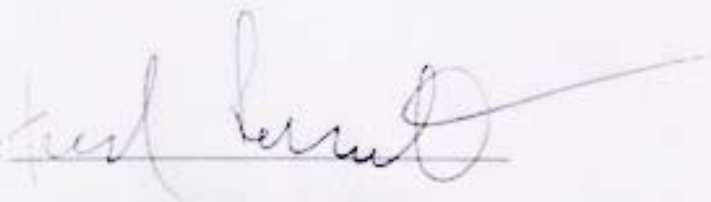
I, FREDERIC LAMOTHE, and my family live at

7119 NESTERS RD.

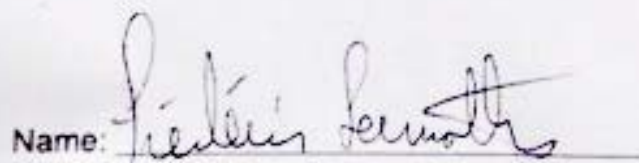
do not find there is any noise problems or other disturbances

coming from Haus Heidi at 7115 Nesters Road, Whistler.

signature:



Name:



# Rezoning RZ1091 – Heidi Haus Pension 7115 Nesters Road

1<sup>st</sup> and 2<sup>nd</sup> Readings of  
Zoning Bylaw Amendment  
March 17, 2015

## RESORT MUNICIPALITY OF WHISTLER

4325 Blackcomb Way  
Whistler, British Columbia  
Canada V0N 1B4  
[www.whistler.ca](http://www.whistler.ca)

**TEL** 604 932 5535  
**TF** 1 866 932 5535  
**FAX** 604 935 8109



# Subject Lands

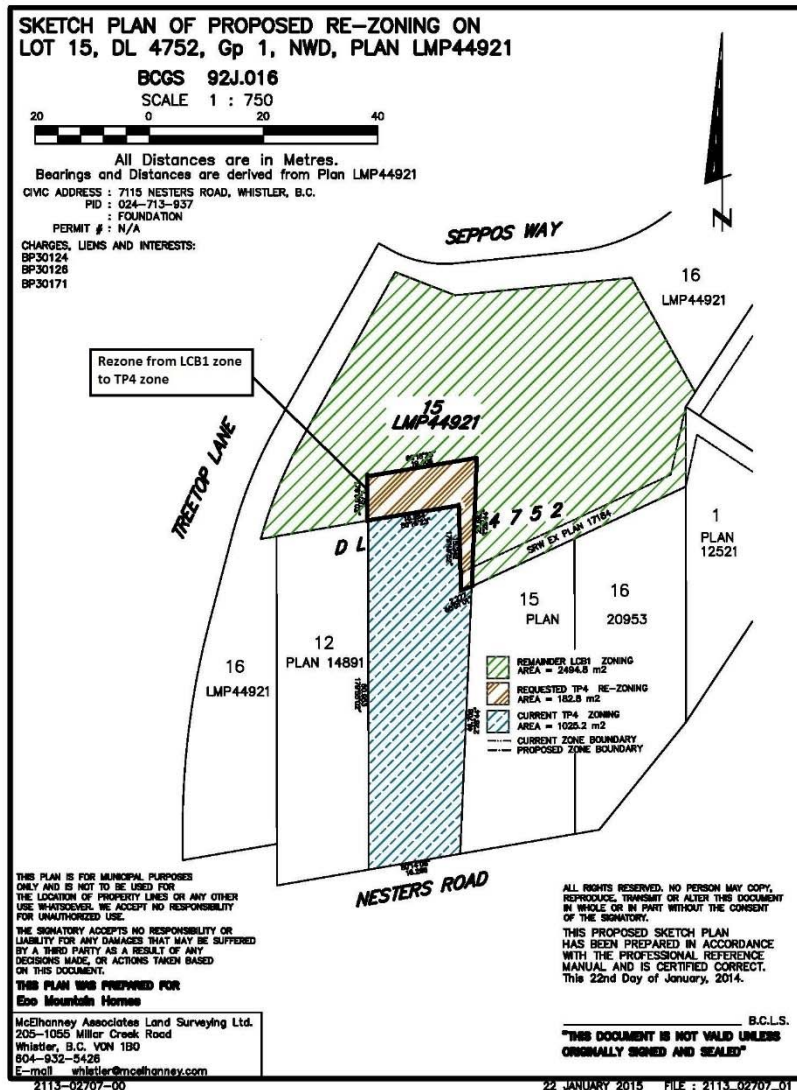


- 1970s & 80s – original building constructed on narrow parcel
- 1990s - Split-zoning adopted for a larger property
  - ✓ TP4 - Pension
  - ✓ LCB1 – Tree buffer

# Background / Policy Considerations

- As part of Administrative Report No. 15-010 the proposed zoning bylaw amendment was reviewed and found consistent with Council policies:
  - ✓ W2020 Analysis
  - ✓ OCP Policies
  - ✓ Pension Guidelines - Policy G-4
  - ✓ Tree Covenant Area
  - ✓ Green Building Policy
  - ✓ Employee Housing Service charge Bylaw
  - ✓ Works and Services Charges Bylaws
- Council authorized staff to proceed with preparation of a zoning bylaw amendment

# Zoning Bylaw Amendment (Heidi Haus Pension) No. 2073, 2015



- Proposed changes:
  - ✓ Rezone a 182.8 sq.m portion of property from LCB1 to TP4:
    - Comply with FSR ratio of TP4
    - Portion size large enough to permit 8 guestrooms
  - ✓ Amend side yard setbacks from 6m to 3m for this property:
    - to permit a similar pension structure if ever 75% destroyed

## Other regulations

- Existing tree protection covenant to be amended to release the portion of the parcel to be rezoned to TP4 zone from the tree preservation area.
- Staff are requesting Council authorize the Mayor and Corporate Officer to execute the necessary legal documents for this application.

# Community Engagement

- Information Sign posted on the property
- Public Hearing required after 2<sup>nd</sup> reading given to amending bylaw.
- Correspondence attached to Administrative Report No. 15-010. Council requested staff prepare additional information for their review as part of this report

# Additional Information

- **Carport Encroachment**
  - ✓ Has been removed
- **Retaining Wall in Tree Preservation Area**
  - ✓ Has been removed and initial regrading completed
  - ✓ Revegetation to be consistent with tree preservation area requirements
- **Storage Shed**
  - ✓ Relocated and resized on the proposed TP4 portion of property
- **Variances**
  - ✓ Not required due to
    - structural removals and relocation
    - proposed amendments to the TP4 zone for side yard setback.
- **Noise Monitoring**
  - ✓ In-house manager briefs guests on arrival and monitors
  - ✓ Several posted signs on site “No noise after 10 pm, bylaw”.
  - ✓ Hot tub is locked after 10 pm
  - ✓ Private security guard evening patrols

# Recommendation

- That Council consider giving first and second readings to Zoning Amendment Bylaw (Heidi Haus Pension) No. 2073, 2015;
- That Council authorize the Corporate Officer to schedule a public hearing regarding Zoning Amendment Bylaw (Heidi Haus Pension) No. 2073, 2015 and to advertise for same in the local newspapers; and further
- That Council direct staff to advise the applicant that before consideration of adoption of Zoning Amendment Bylaw (Heidi Haus Pension) No. 2073, 2015, the following matter shall be completed to the satisfaction of the General Manager of Resort Experience:
  1. Modification of Covenant BP020171 to release the portion of the parcel to be rezoned to TP 4 zone from the tree preservation area;
  2. Grading and revegetation of areas adjacent to the LCB1 tree preservation area; and
  3. Payment of any outstanding rezoning application fees.