

# WHISTLER

## AGENDA

### PUBLIC HEARING OF MUNICIPAL COUNCIL TUESDAY, APRIL 17, 2012 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 regarding amendments to Whistler "Zoning and Parking Bylaw No. 303, 1983" (Zoning Bylaw) by means of "Zoning Amendment Bylaw (Gross Floor Area Exclusion Amendments) No. 1992, 2012" (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 (Gross Floor Area  
Exclusion Amendments)  
No. 1992, 2012

#### **PURPOSE OF ZONING AMENDMENT BYLAW (GROSS FLOOR AREA EXCLUSION AMENDMENTS) NO. 1992, 2012:**

In general terms, the purpose of the proposed Bylaw is to amend the definitions of gross floor area, crawl spaces and void spaces to:

1. Permit basement floor area to be excluded, to the extent specified in the proposed Bylaw, from the calculation of gross floor area for all detached and duplex dwelling buildings.
2. Permit exterior wall thickness in excess of 6" (152mm) to be excluded from the calculation of gross floor area for all buildings.
3. Require all crawl spaces and void spaces with clearance in excess of 1.5 metres to be included in the calculation of gross floor area.

Explanation

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**

# NOTICE OF PUBLIC HEARING

## **ZONING AMENDMENT BYLAW (Gross Floor Area Exclusion Amendments) No. 1992, 2012**

Notice is hereby given in accordance with the *Local Government Act* RSBC, 1996, c.323 that the Council of the Resort Municipality of Whistler will hold a Public Hearing to consider representations regarding amendments to Whistler "Zoning and Parking Bylaw No. 303, 1983" (Zoning Bylaw) by means of "Zoning Amendment Bylaw (Gross Floor Area Exclusion Amendments) No. 1992, 2012" (the "proposed Bylaw") in the Franz Wilhelmssen Theatre at Maurice Young Millennium Place, 4335 Blackcomb Way, Whistler, British Columbia commencing at 6:00 p.m., April 17, 2012.

**AT THE HEARING** the public will be allowed to make representations to Council or present written submissions respecting matters contained in the proposed Bylaw and will be afforded a reasonable opportunity to be heard.

**SUBJECT LANDS:** The proposed amendments will affect land throughout the municipality.

**PURPOSE OF "ZONING AMENDMENT BYLAW (Gross Floor Area Exclusion Amendments) NO. 1992, 2012":** In general terms, the purpose of the proposed Bylaw is to amend the definitions of gross floor area, crawl spaces and void spaces to:

1. Permit basement floor area to be excluded, to the extent specified in the proposed Bylaw, from the calculation of gross floor area for all detached and duplex dwelling buildings.
2. Permit exterior wall thickness in excess of 6" (152mm) to be excluded from the calculation of gross floor area for all buildings.
3. Require all crawl spaces and void spaces with clearance in excess of 1.5 metres to be included in the calculation of gross floor area.

**AND FURTHER TAKE NOTICE** that a copy of the aforementioned "Zoning Amendment Bylaw (Gross Floor Area Exclusion Amendments) No. 1992, 2012" and related documents which have been or will be considered by the Council of the Resort Municipality of Whistler may be inspected at the Reception Desk of Municipal Hall of the Resort Municipality of Whistler located at 4325 Blackcomb Way, Whistler, British Columbia, between the hours of 8:00 a.m. and 4:30 p.m., from Monday to Friday only, from April 5, 2012 to April 17, 2012 (inclusive) (statutory holidays excluded).

Lonny Miller  
Corporate Officer

*The following Public Hearings will be held on April 17, 2012 starting at 6:00 p.m. in the following order:*

- 1) *Zoning Amendment Bylaw (Gross Floor Area Exclusion Amendments) No. 1992, 2012; and*
- 2) *Official Community Plan Amendment Bylaw (Regional Context Statement) No. 1993, 2012.*

## RESORT MUNICIPALITY OF WHISTLER

### ZONING AND PARKING AMENDMENT BYLAW (Gross Floor Area Exclusions) NO. 1992, 2012

A BYLAW TO AMEND THE WHISTLER ZONING AND PARKING BYLAW NO.303, 1983

**WHEREAS** Council may, in a zoning bylaw pursuant to Sections 903, 904 and 906 of the *Local Government Act*, R.S.B.C. 1996, c.323, 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, require the provision of parking spaces and loading spaces for uses, buildings and structures, and establish different density regulations for a zone, one applicable to the zone generally and the other to apply if conditions are met;

**NOW THEREFORE** the Municipal 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 (Gross Floor Area Exclusions) No. 1992, 2012"
2. Zoning and Parking Bylaw No. 303, 1983 is amended by:
  - (a) Deleting the definition of "gross floor area" in Section 2 - Definitions and replacing it with the following:

""gross floor area" means the total area of all floors in all buildings on a parcel, measured to the outside surface of the exterior walls of the building including stairwells, basements and cellars but excluding areas specified in subsection 25 of Section 5.;"; and
  - (b) Deleting the definition of "crawl space" in Section 2 - Definitions and replacing it with the following:

""crawl space" means any floor area having less than 1.5 metres of clearance between the underside of a roof or floor system above and a ground floor slab or ground surface below;";
  - (c) Deleting the definition of "void space" in Section 2 - Definitions and replacing it with the following:

""void space" means any floor area having less than 1.5 metres of clearance between the underside of a ceiling, roof or floor system above and the upper surface of a floor system below;";
  - (d) Adding the following to Section 5 – General Regulations as subsection 25:

"25      Gross Floor Area Exclusions

The following are excluded from gross floor area calculations:

25.1    For detached dwelling and duplex dwelling buildings:

    - a) basement floor area having an elevation at least 1 metre below the average level of finished ground adjoining the exterior walls of the building, to a maximum of 125% of the floor area of the storey immediately above;

- b) crawl spaces;
- c) void spaces;
- d) parking areas;
- e) elevators;
- f) areas occupied by fixed machinery and equipment; and
- g) exterior wall thickness in excess of 6" (152mm).

25.2 For all other buildings,:

- a) crawl spaces;
- b) void spaces;
- c) parking areas;
- d) elevators;
- e) areas occupied by fixed machinery and equipment;
- f) exterior wall thickness in excess of 6" (152mm);
- g) garbage and recycling facilities – up to 20m<sup>2</sup> – except for those located in single family and duplex dwellings; and
- h) bicycle storage facilities – up to 8m<sup>2</sup> per dwelling unit – except for those located in single family and duplex dwellings.

3. If any section or phrase of this bylaw is for any reason held to be invalid by a decision of any court of competent jurisdiction, the decision shall not affect the validity of the remaining portions of this Bylaw.

Given first and second reading this 3<sup>rd</sup> day of April, 2012.

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

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

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

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

\_\_\_\_\_  
Nancy Wilhelm-Morden,  
Mayor

\_\_\_\_\_  
Lonny Miller,  
Corporate Officer

I HEREBY CERTIFY that this is a true  
copy of "Zoning Amendment Bylaw  
(Gross Floor Area Exclusions) No. 1992,  
2012"

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Lonny Miller,  
Corporate Officer



## REPORT | ADMINISTRATIVE REPORT TO COUNCIL

**PRESENTED:** December 20, 2011

**REPORT:** 11-131

**FROM:** Community Life

**FILE:** RZ1044

**SUBJECT:** ILLEGAL SPACES TASK FORCE – TERMS OF REFERENCE

### COMMENT/RECOMMENDATION FROM THE CHIEF ADMINISTRATIVE OFFICER

**That** the recommendation of the General Manager of Community Life be endorsed.

### RECOMMENDATION

**That** Council rescind the following resolutions (originally adopted on February 15, 2011):

*That Council refer the attached draft volumetric density calculation bylaw back to staff and the proponent to resolve additional details and issues;*

*That the proponent be required to submit a study providing additional information as outlined in this report regarding; illustrative examples of using the calculations, analysis of infrastructure capacities implications, impacts on energy and emission targets, and examples of the how to reduce the impact of building design and articulation of the volumetric mass in context to existing neighbourhoods – all reports to be written by qualified professionals;*

*That the terms of reference for all reports and studies be approved by the General Manager of Community Life; and further,*

*That the proponent enter into an agreement to pay the legal costs for the Bylaw review;*

**That** Council appoint an “Illegal Space Task Force Select Committee” to operate on the terms of reference attached to Administrative Report 11 -131; and further

**That** Council instruct the General Manager of Economic Viability to include in the 2012 budget, a cost of up to \$15,000 for studies and fees needed to advance the work of the “Illegal Space Task Force Special Committee”.

### REFERENCES

Appendix “A” – Proposed Terms of Reference for “Illegal Space Task Force Select Committee”

Appendix “B” – Administrative Report 11-014 (February 14, 2011)

## PURPOSE OF REPORT

The purpose of this report is to provide Council with the terms of reference requested by resolution for the “Illegal Space Task Force Select Committee”.

## DISCUSSION

For several years, RMOW staff have been working with the Canadian Home Builders Association to find means for addressing the large amount of “non-conforming” space that has been built in Whistler. Generally, this space is built within over-height crawl spaces that are permitted in Zoning Bylaw 303, but for which the owner must sign a registered declaration that the space will not be used. It is reportedly a common practice among designers and builders to plan houses that will have significant space added after a municipal occupancy permit has been granted. Staff are advised by builders that in some cases thousands of additional square feet are “added” without the benefit of building permits or life-safety inspections.

The construction of these spaces without basic life-safety inspections has created a significant liability for Whistler’s construction industry and home owners with such space.

As the RMOW becomes aware of occupancy occurring in these spaces, the Building Department reviews the complaint and proceeds with notations on title advising the owner and others who may take an interest in the property in the future that there may have been work undertaken without a building permit.

On February 15, 2011 the following resolutions were adopted by Municipal Council:

*That Council refer the attached draft volumetric density calculation bylaw back to staff and the proponent to resolve additional details and issues;*

*That the proponent be required to submit a study providing additional information as outlined in this report regarding; illustrative examples of using the calculations, analysis of infrastructure capacities implications, impacts on energy and emission targets, and examples of the how to reduce the impact of building design and articulation of the volumetric mass in context to existing neighbourhoods – all reports to be written by qualified professionals;*

*That the terms of reference for all reports and studies be approved by the General Manager of Community Life; and further,*

*That the proponent enter into an agreement to pay the legal costs for the Bylaw review.*

None of the Council direction has been followed though. Specifically the building community has not undertaken any of the density studies – indicating that they do not have the financial resources to do so.

More recently, Council appointed Task Force to address the “non-conforming” space challenge and directed staff to draft a Terms-of-Reference for the “Illegal Space Task Force”.

Staff maintains their view that this is a complex matter that would benefit from outside advice from design, engineering and legal professionals. As such, staff is seeking a commitment from Council that financial resources will be available for the completion of this project by Council’s March 1, 2012 deadline.

## **POLICY CONSIDERATIONS**

This report is provided per the direction of Council.

## **BUDGET CONSIDERATIONS**

In addition to the cost of staff time, it is anticipated that there will be costs from professional services. Staff will therefore be requesting an allocation of \$15,000 for this project through the 2011 budget process.

## **COMMUNITY ENGAGEMENT AND CONSULTATION**

The terms of reference for the “Illegal Space Task Force Select Committee” anticipate the inclusion of four representatives from the Canadian Home Builders Association to work with Municipal staff to find a solution to the non-conforming space challenge in the community.

The task force may wish to engage the community beyond those engaged as task force members, particularly to the broader membership of the Canadian Home Builders Association.

## **SUMMARY**

Council has struck an “Illegal Spaces Task Force”. This reports seeks approval of a terms-of reference for the task force as well as Council’s commitment to provide funding for external resources necessary for the timely completion of the work required to bring bylaws before Council.

Respectfully submitted,

Bob MacPherson  
GENERAL MANAGER of COMMUNITY LIFE



## Appendix “A”

### “Illegal Spaces Task Force Select Committee” Terms-of-Reference

#### **Purpose:**

At the direction of Council a Task Force is being struck to consider how to address illegal space that is reported to have been constructed in single-family homes throughout Whistler. These spaces are generally the result of contractors and homeowners undertaking construction:

- Within a space that has been covenanted as an “over-height crawlspace and thus not permitted to contain a use;
- Within a large building volume area, such as a vaulted space.

Local homebuilders have expressed concern about liabilities that they may be incurring by participating in the construction of these spaces.

The RMOW seeks a solution that will result in density restrictions within the Zoning Bylaw having meaning.

#### **Authorized by:**

Council

#### **Comprised of:**

Four members appointed at the sole discretion of The Sea-to-Sky Chapter of the Canadian Home Builders Association:

- Chris Adario
- Rod Nadeau
- Jim Charters
- David Girard

One member of Council: Councillor D. Jackson

Three Municipal Staff:

- Joe Money (Chief Building Inspector)
- Robert Brennan (Planner)
- Rob Whitton (Fire Chief)

#### **Meetings:**

As required, but generally bi-weekly.

#### **Remuneration:**

All parties shall be responsible for their own costs associated with participating in the Illegal Spaces Task Force Select Committee.

#### **Budget:**

Incidental costs up to \$2000 shall be paid by the RMOW from the Community Life General Budget.

All other costs shall be subject to Council consideration.



**Term:**

The Illegal Spaces Task Force Select Committee shall commence work on December 21, 2011 and shall complete its work by reporting to Council not later than March 1, 2011.

**Reports to:**

Council



# **REPORT | ADMINISTRATIVE REPORT TO COUNCIL**

**PRESENTED:** February 15, 2011

**REPORT:** 11-014

**FROM:** Community Planning

**FILE:** RZ1044

**SUBJECT:** VOLUMETRIC ZONING AMENDMENTS

## **COMMENT/RECOMMENDATION FROM THE CHIEF ADMINISTRATIVE OFFICER**

**That** the recommendation of the Acting General Manager of Community Life be endorsed.

## **RECOMMENDATION**

**That** Council refer the attached draft volumetric density calculation bylaw back to staff and the proponent to resolve additional details and issues;

**That** the proponent be required to submit a study providing additional information as outlined in this report regarding; illustrative examples of using the calculations, analysis of infrastructure capacities implications, impacts on energy and emission targets, and examples of the how to reduce the impact of building design and articulation of the volumetric mass in context to existing neighbourhoods – all reports to be written by qualified professionals;

**That** the terms of reference for all reports and studies be approved by the General Manager of Community Life; and further,

**That** the proponent enter into an agreement to pay the legal costs for the Bylaw review.

## **REFERENCE**

- Appendix “A” – draft Zoning Bylaw amendment
- Appendix “B” – draft illustration regarding proposed Mean Ground Level definition
- Appendix “C” – Report from the Sea to Sky Chapter Canadian Homebuilders Association (CHBA) (September 24, 2007)

## **PURPOSE OF REPORT**

This is a status report regarding Council’s recommendations endorsing staff to work with community partners to prepare an amendment to the Zoning Bylaw to introduce volumetric density calculations for single family residential zones.

## **DISCUSSION**

First, it is important that certain references regarding “nonconforming spaces” and the enforcement of bylaws be clarified.

### **Definition of a Nonconforming Space**

A nonconforming space is a space which was constructed fully in compliance with all regulations and permitting requirements at the time of its installation, but is now no longer compliant because of amendments to the Zoning Bylaw since it was constructed.

Most of the examples in the CHBA report are spaces that are not permitted under the zoning regulations and therefore could never have obtained permits and therefore are not “nonconforming space”. Spaces such as; overheight crawlspaces that were never covenanted; crawlspaces, attics or garage space conversions after occupancy permit were issued; and any construction without the necessary permits, are actually illegal spaces. If these spaces have been constructed it is at a property owners’ risk and are subject to fines and bylaw enforcement action.

If an illegal space creates uncertainties for a property owner with respect to real estate transactions, or with insuring their property, the full responsibility is with the property owner to resolve and correct these issues and seek their insurer’s advice on their coverage of illegal or unauthorized construction.

Staff do not condone property owners or licensed businesses to construct illegal spaces and/or ignoring the bylaws and regulations of the municipality.

### **Bylaw Enforcement**

Provincial legislation recognizes that over time, and with fiscal and staffing cycles, a municipality needs flexibility to change the priorities for their resources and staff. Therefore, it is responsibility of Council and senior staff to determine how regulations are to be enforced based on the resources and staff available; i.e. completing legal building inspections versus searching for illegal construction. Under Section 3 of the Zoning Bylaw the municipality has the authority to enter any property, at all reasonable times, subject to the Bylaw to ascertain whether the regulations and directions of the Bylaw are being observed. Finally, when the municipality receives a complaint, or if building officials come across unauthorized construction, the Building Services policy is to actively pursue a report to Council recommending that a Section 57 notice be registered on the property. This notice advises anyone interested in the property that there are building regulation contraventions on the property. The responsibility is fully with the property owner to rectify the issues. These are considered standard and fair enforcement practices in British Columbia.

### **Purpose of the Zoning Bylaw Amendment**

The Sea to Sky CHBA’s focus is to encourage a zoning option, volumetric density calculations, which creates an alternative that will permit residential construction that, can be properly permitted, inspected and approved.

Staff’s focus is to ensure the proposed option creates massing and development of residential property that are consistent with the Whistler 2020 goals to make the resort a unique, liveable and sustainable community.

Both CHBA and staff acknowledge there are no guarantees that this option will prompt property owners with illegal spaces to apply for proper permits to legalize their unauthorized spaces.

### **UPDATE**

A preliminary draft of a zoning bylaw amendment for volumetric density calculation was prepared and reviewed with the CHBA in the fall of 2010, and is attached as Appendix “A”. Recently, staff have had

the opportunity to review the draft more closely and the following comments and concerns have been identified.

### Planning and Building Services

To date, the general consensus among staff is that the draft volumetric calculations could lead to homes that will have more developed floor area within any given volume of a residential building. However, the magnitude of this increase is not well understood.

The initial review would appear to indicate that the volumetric zoning could be used to permit homes with approximately 30% more living area than if a volumetric calculation was applied to the maximum gross floor area permitted in the zoning. For example;

Maximum volume density if applied to current RS1 zone maximum GFA	Maximum volume density under draft bylaw
(465 m <sup>2</sup> X 3.1m room height) = 1,442 cubic metres	1,860 cubic metres

Furthermore, the current draft bylaw amendment has no additional zoning regulations for articulation of the mass above ground. However, a much larger built form volume, utilizing flat roof construction and minimal floor plate or elevation articulation, could be constructed if the current draft amendment proceeded to adoption.

Procedurally, the draft volumetric density calculations are significantly more complicated to prepare and understand, which the CHBA acknowledges in their report. The RMOW agrees with the CHBA recommendation that it will require the calculations from a BC Land Surveyor at a cost to the property owner. This may be a hardship for some people that may have wanted to use this option for a simple renovation.

There are still several aspects of the draft amendment which the CHBA and staff have a difference of opinion.

In the draft amendment is a definition for a proposed measurement called "Mean Ground Level" which is supported by the CHBA. A closer review by staff has determined that, on a steeply sloped site, large living areas of up to a full storey could be constructed completely above grade that would be excluded from the density volume calculation, as illustrated in Appendix "B".

CHBA does not want the employee suite volume limited with floor to ceiling height of 2.43m but staff have recommended limitations in the current draft. The temptation with allowing extra volume density for the suite would be that designers would apply it to other areas of the dwelling.

CHBA recommends a larger volume and height for garages than included in the current draft. This requires additional discussions with the proponents for staff to understand how the draft bylaw figure was derived.

CHBA is concerned that the draft bylaw requires all volume below the first storey meet Whistler Green standards. They have indicated it would be impossible to legitimise existing space (sic illegal space) since existing buildings do not usually meet green standards. They do support these standards being met for any new construction. However, the RMOW is trying to encourage all construction (new or renovations) continue to meet higher green standards.

Staff support an amendment to the definition of Crawl Space which would eliminate the option for covenanting over height crawl spaces. This change would eliminate this option from all zones. Staff have found that many owners have incorrectly viewed a covenanted over height crawlspace as an area they have the right to develop, in both single family and multifamily buildings. If the amendment as supported by staff was passed, Building officials could enforce maximum crawlspace heights at foundation or framing inspection. The CHBA in their comments do not agree with this approach, but additional discussions regarding this specific issue have not occurred.

### **Environmental Services**

The proposed blanket zoning bylaw amendment could potentially increase, by an unknown amount, the total developed floor area within many residential neighbourhoods. This may result in unknown impacts to infrastructure. There is no information provided by the proponent regarding how much more floor area may be developed as a result of this zoning amendment, and how that floor area may generate increased demand for water, fire protection, sewers, storm sewer and energy systems.

Many elements of our infrastructure systems have been designed to incrementally try to keep up with the increasing bed-unit cap. Many of these systems do not have surplus capacity. The prospect of potentially adding another 5 or 10% of residential developed area within the entire community is concerning because we cannot at this time confirm if the various infrastructure elements have the ability to absorb the impact, if any.

Also, staff are uncertain as to what capacity constraints, if any, may exist with private utilities such as BC Hydro, Terasen Gas, telecommunication companies, etc.

Given the changes to the infrastructure demands are unknown at this stage, it would be premature for the draft bylaw to proceed until studies can be conducted that will quantify what impacts upon infrastructure may result from this change, if any. This would be consistent with similar studies and the approach taken for the development of the Alpine South Infill Study area zoning bylaw amendment. The required studies may necessitate significant staff and financial resources in order to complete them to the rigour required for a decision of this complexity and magnitude.

### **Community Energy and Emission Reductions**

In August 2010 Council adopted Greenhouse Gas Emission targets and other energy and water conservation policy and action statements into the Official Community Plan. Specifically, the Municipality has established the same ambitious GHG emissions reduction target as the Provincial government to reduce the 2007 emissions levels by 33% by 2020. This will require a significant effort toward overall community energy efficiency (for both new and more importantly, renovation of existing buildings).

All things equal, it would be expected that energy requirements to meet space heating demand will increase as building volume increases. It should be noted that 30-45% of total energy use in a home is related to space heating and cooling.

Similarly, if a total building volume remained constant, but buildable floor area within the fixed volume was permitted to increase, as the draft bylaw would permit, there are other associated energy impacts. It would be expected that increased floor area would be associated with increased consumption of energy (electricity) for interior lighting, as well as process loads (plug load associated with electrically powered appliances, electronics etc.). The share of typical home energy use associated with lighting demand is 12%, electronics and other appliances is 15%. Also, increased interior floor area would also be associated with a potential for supporting an increase in the number of building occupants. To the extent that this

relationship might occur, it would be expected that hot water demands would increase proportionately as well as potential increase building plug and light loads. Water heating accounts for 15-20% of home energy use.

Therefore, any changes to the zoning bylaw that increases the permitted volume of a home beyond that which is currently permitted or an increase in the gross floor area within a given volume, may both result in increased energy use, as well as associated greenhouse gas emissions. At present, the draft bylaw amendment may be inconsistent with the municipality's OCP energy and emission reduction targets and may require an OCP amendment.

It is possible that some of the applications for using a volumetric density calculation may also integrate innovative building systems to reduce their overall energy consumption and emissions footprint, but, there is no current means within the draft bylaw amendment to require that energy efficiency is maximized and total consumption is reduced. The proponent and staff need to explore and review possible options and innovations to determine if there are possible options to be integrated with the bylaw. Otherwise, the draft bylaw has a significant potential to be moving our community away from our OCP targets for GHG emission reductions.

### **Financial Implications**

The CHBA report made a statement that if non-conforming (sic illegal) space is not currently captured in municipal assessments, there may be a loss of property tax revenue.

Finance Department staff, in consultation with BC Assessment, advises that assessments are not derived so much from square footage listed on printed plans, but rather, assessed value is determined by comparative sales. To the extent that a purchaser values, and pays for, illegal space, that value will be reflected in the purchase price, and therefore will already be reflected in assessments, and taxed appropriately.

### **WHISTLER 2020**

There are a number of issues which require additional information to be developed and submitted to clarify how the proposed changes to the zoning bylaw would impact various W2020 key strategy areas. Therefore, it is premature to complete an analysis of the proposal with respect to the W2020 Description of Success as it is not known at this time which aspects of the proposal are moving us towards or away from our goals.

### **BUDGET CONSIDERATIONS**

It will be necessary to have a legal review undertaken of the proposed Zoning Bylaw amendment. This is expected to cost less than \$5,000.

### **COMMUNITY ENGAGEMENT AND CONSULTATION**

A statutory public hearing is required for the zoning bylaw amendment.

However, given the potential change this option could create for many existing neighbourhoods, it is recommended that a community meeting be held to present the results of any studies prior to the bylaw amendment proceeding to a public hearing.

## SUMMARY

The current draft bylaw which the CHBA supports has raised more concerns than solutions now that staff has completed a more in depth review.

Staff do not recommend the attached draft bylaw proceed to first reading at this time, further review and analysis is required.

Staff recommend that the Sea to Sky chapter of the Canadian Homebuilders Association (CHBA) be required to submit a study which provides the following information for further review by staff:

1. Illustrative examples of how the volumetric density calculations work;
2. Engineering review of the potential impact on infrastructure;
3. Analysis regarding impacts on energy and emission targets in the OCP; and
4. Feedback from the private utilities on the proposed changes.

The terms of reference for the study to be approved by the General Manager of Community Life.

Respectfully submitted,

Robert Brennan, MCIP  
Planner  
for  
Bill Brown  
Acting General Manager of Community Life



## RESORT MUNICIPALITY OF WHISTLER

## ZONING AMENDMENT BYLAW (Residential Volumetric Density) No. IXXX, 2011

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 Sections 903 and 906 of the *Local Government Act*, c.323 (the “Act”), divide all or part of the area of the Municipality into zones, define each zone, and regulate the use of land, buildings and structures within the zones, and require the provision of off-street 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 (Residential Volumetric Density) No. IXXX, 2011”.
2. The Resort Municipality of Whistler Zoning and Parking Bylaw No. 303, 1983 is hereby amended as follows:
  - (a) Section 2 Definitions is amended by adding the following term in alphabetical order:
 

“Volumetric Density Calculation” means the calculation that is outlined in Section 5-Subsection 25 to Zoning Bylaw 303, 1983....
  - (b) Section 2 Definitions is amended by deleting the definition of “crawl space” and replacing it with the following in alphabetical order:
 

“Crawl Space” means a floor area with space between the underside of a floor system above and a ground floor slab or ground surface below having no vertical dimension greater than 1.5 metres.”
  - (c) Section 2 Definitions is amended by adding the following in alphabetical order:
 

“First Storey” means the uppermost storey having its floor level not more than 2 metres above grade.”
  - (d) Section 2 Definitions is amended by adding the following in alphabetical order:
 

“Gross Volume” means the volume of a building measured to include the first storey and above and measured to the exterior wall sheathing, top of roof surface, top of roof deck but not including: volume of garage, volume below a flood construction level that is not permitted to be developed nor used, chimneys, crickets, overhangs, sunshades, decks, deck guards, sills, belt courses and exterior columns.”
  - (e) Section 2 Definitions is amended by adding the following in alphabetical order:
 

“Mean Ground Level” means the average of all finished ground levels around the building, measured at the building edge or minimum 1.5m from the exterior walls of the building, whichever is lower.”
  - (f) Section 2 Definitions is amended by deleting the definition of “Storey” and replacing it with the following in alphabetical order:

“Storey” means the part of a building or structure between the top of any floor and the top of the floor above it, and if there is no floor above it, that portion between the top of such floor and the ceiling above it.”

- (g) Section 2 Definitions is amended by adding the following in alphabetical order:

“Volume Site Factor” means the figure obtained when the Gross Volume in cubic metres is divided by the parcel area in square metres.”

- (h) Section 2 Definitions is amended by adding the following in alphabetical order:

“Whistler Green Achiever” is the green building standards as adopted in the Green Building Council Policy G-23 and as amended by Council.

- (i) Section 5 General Regulations is amended by adding a new subsection 25 as follows:

“25. VOLUMETRIC DENSITY CALCULATION

- a) In all RS zones except RS 11 and RS 12 zones, and RTA1, RTA7, RTA8, RTA11, RTA24, RTA-C1 and RTA25, as an alternative to the density provisions in those zones, density of a detached dwelling may be determined volumetrically as follows:

25.1.1 The maximum permitted *gross volume* of a detached dwelling is 1860 cubic metres, or a *volume site factor (VSF)* of 1.40 metres, whichever figure is lower.

25.1.2 Notwithstanding subsection 25.1.1 in this section the maximum permitted *gross volume* of a detached dwelling on a parcel with a frontage of less than 24.0 metres is 1300 cubic metres.

25.1.3 Notwithstanding subsection 26.1.1 and 26.1.2 in this section, the maximum permitted gross volume of a detached dwelling situated on lands within a bare land strata plan is the figure obtained when the total area of a bare land strata plan (exclusive of those portions intended to provide access routes **and open space**) is multiplied by a *Volume Site Factor* of 1.40 metres and divided by the maximum total number of bare land strata lots in that plan, and regardless of any provision herein, the maximum *gross volume* of a detached dwelling shall not exceed 1860 cubic metres.

25.1.4 For parking use contained in a principal building or structure, the maximum volume for parking is 225 cubic metres with interior height not exceeding 3.5 metres and the maximum floor area is 70 square metres. **(NOTE: CHBA recommends a larger volume at 371 cubic metres and higher height at 4.5 metres)**

25.1.5 Notwithstanding any other regulations contained in this section, up to a maximum 90 square metres of gross floor area may be added to a dwelling unit or an auxiliary building for employee use and rental, provided that the *Volume Site Factor* does not exceed 1.40 metres. This bonus density is subject to the owner entering into an employee housing agreement with the Municipality for the auxiliary residential

dwelling unit, the terms of which shall be the Municipality's standard charge terms for employee housing covenants as of the date on which the building permit is issued.

- (j) Section 11 Residential Zones Site Dimensions is amended by renumbering Section 1.4.1 as "Section 1.4.1 a)" and adding subsection 1.4.1 b) as follows:

1.4.1 b) The minimum required parcel area, usable site area and frontage when using the *Volumetric Density Calculation* are as follows:

GROSS VOLUME	MINIMUM PARCEL AREA	MINIMUM USABLE SITE AREA	MINIMUM FRONTAGE
1300 cubic meters or less	695 square metres	465 square metres	18 metres
Greater than 1300 cubic meters	928.6 square metres	575 square metres	24 metres

All maximum volumes should correlate with the 1.40 metres **VSF** calculation as noted under subsection 25.1.1.

- (k) Section 11 Residential Zones Setback Dimensions is amended by renumbering subsection 1.6.2 as "Section 1.6.2 a)" and adding subsection 1.6.2 b) as follows:

1.6.2 b) The minimum permitted side setback when using the *Volumetric Density Calculation* is as follows:

GROSS VOLUME OF DETACHED DWELING	MINIMUM SIDE SETBACK
1300 cubic metres or less	3 metres
Greater than 1300 cubic metres	6 metres

All maximum volumes should correlate with the 1.4 metres **VSF** calculation as noted under subsection 25.1.1

- (l) Section 11 Residential Zones Setbacks dimensions is amended by reformatting Section 1.6.4 as "Section 1.6.4 a)" as follows:

1.6.4 a) Notwithstanding subsections 1.6.1, 1.6.2 and 1.6.3 in this zone, no detached dwelling located within a bare land strata plan shall be less than: (Bylaw No. 905)

- i. 7.6 metres from the boundaries of that plan;
- ii. 7.6 metres from an internal access road; and

- iii. A distance from any other detached dwelling calculated as the sum of the following distances for each dwelling:

GROSS FLOOR AREA OF DWELLING	DISTANCE
325 Square metres or less	3 metres
Greater than 325 square metres	6 metres

- (m) Section II Residential Zones Setbacks Dimensions is amended by adding subsection 1.6.4 b) as follows:

- 1.6.4 b) Notwithstanding subsection 25.1.8, when using the Volumetric Density Calculation no detached dwelling located within a bare land strata shall be less than a distance from any other detached dwelling calculated as the sum of the following distances for each dwelling:

GROSS VOLUME OF DWELLING	DISTANCE
1300 cubic metres or less	3 metres
Greater than 1300 cubic metres	6 metres

All maximum volumes should correlate with the 1.4 metres **VSF** calculation as noted under subsection 25.1.1.

- (n) Section II Residential Zones Setbacks dimensions is amended by reformatting subsection 1.6.5 as “Section 1.6.5 a)” as follows:

- 1.6.5 a) Except where subsection II.1.2.4 applies, no addition shall be made to a detached dwelling in existence at the date of adoption of this Bylaw which increases the gross floor area of that dwelling beyond 325 square metres, unless the entire dwelling including the addition is sited within a minimum setback area of six metres on each side of the detached dwelling. (Bylaw No. 963) (Bylaw No. 1621)

- (o) Section II Residential Zones Setbacks dimensions is amended by adding subsection 1.6.5 b) as follows:

- 1.6.5 b) Except where subsection II.1.2.4 applies, when using the *Volumetric Density Calculation* no addition shall be made to a detached dwelling in existence at the date of adoption of this Bylaw which increases the volume of the dwelling beyond 1300 cubic meters unless the entire dwelling including the addition is sited with a minimum setback of six meters on each side of the detached dwelling.

All maximum volumes should correlate with the 1.4 metres **VSF** calculation as noted under Section 5 subsection 25.1.1.

- (p) Section II Residential Zones Other Regulations is amended by reformatting subsection 1.8.1 as “Section 1.8.1 a)” as follows:

1.8.1 a) The minimum permitted gross floor area of a detached dwelling is 46.5 square metres.

(q) Section 11 Residential Zones Other Regulations is amended by adding subsection 1.8.1 b) as follows:

1.8.1 b) The minimum permitted volume of a detached dwelling when using the *Volumetric Density Calculation* is 163 cubic metres.

3. If any section or phrase of this Bylaw is for any reason held to be invalid by a decision of any court of competent jurisdiction, the decision shall not affect the validity of the remaining portions of this Bylaw.

GIVEN FIRST AND SECOND READINGS this \_\_\_ day of \_\_\_\_\_, \_\_\_\_.

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

GIVEN THIRD READING this \_\_\_ day of \_\_\_\_\_, \_\_\_\_.

APPROVED by the Minister of Transportation this \_\_\_ day of \_\_\_\_\_, \_\_\_\_.

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

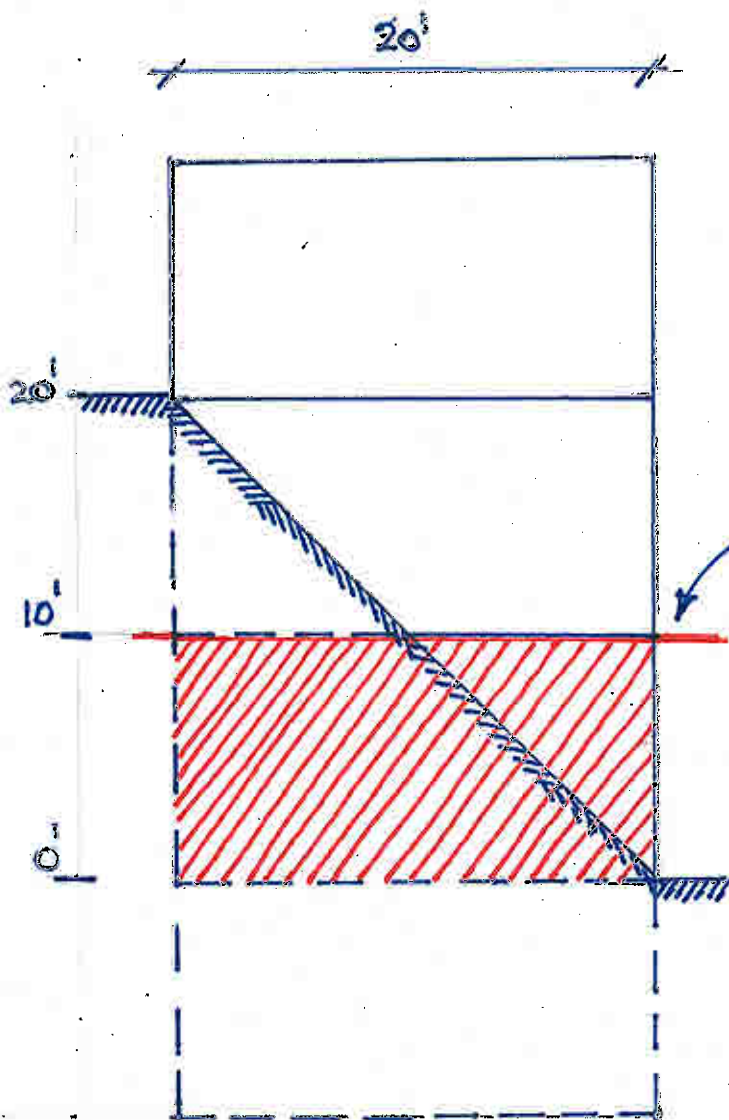
\_\_\_\_\_  
Ken Melamed,  
Mayor

\_\_\_\_\_  
Shannon Story,  
Corporate Officer

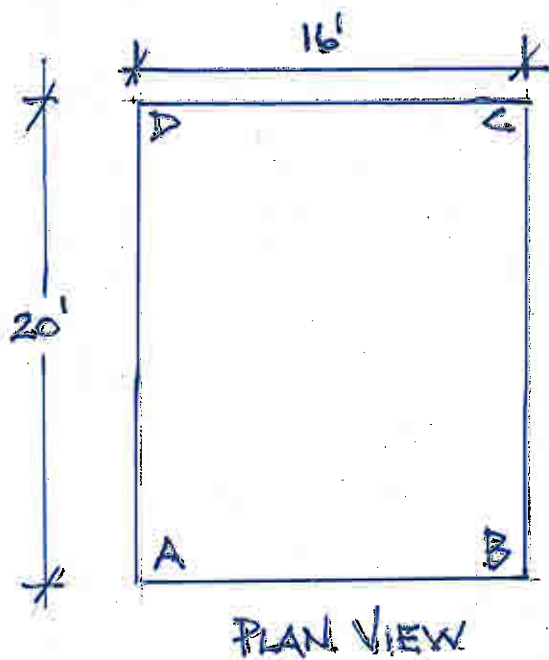
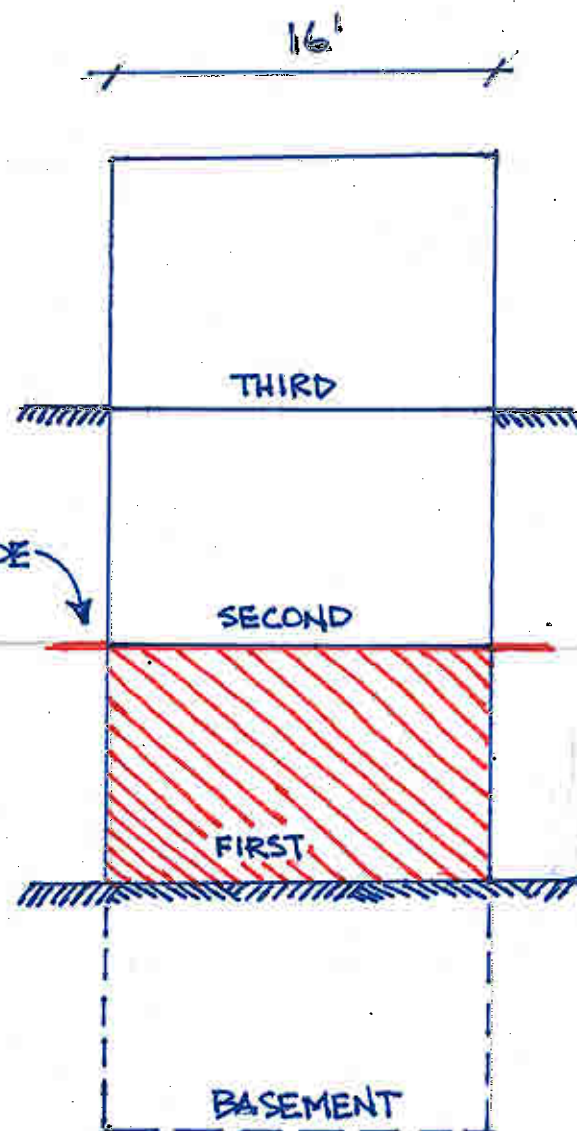
I HEREBY CERTIFY that this is a true  
copy of "Zoning Amendment Bylaw  
(Volumetric Density) No. 18xx, 2011"

\_\_\_\_\_  
Shannon Story  
Corporate Officer

SIDE VIEW



FRONT VIEW



MEAN GRADE CALCULATION

LENGTH % × ELEV.

AB	16'	22	0'	—
BC	20'	28	10'	2.8'
CD	16'	22	20'	4.4'
DA	20'	28	10'	2.8'
TOTAL	72'	100		10'

MEAN GRADE = 10'



**Canadian**  
Home Builders'  
Association

SEA TO SKY

September 24, 2007

Resort Municipality of Whistler  
4325 Blackcomb Way  
Whistler B.C. V0N 1B4

**Attention: Bob MacPherson**

Dear Mr. MacPherson

**Re: Non-Conforming Space**

## **1.0 Introduction**

### **1.1 The CHBA**

One of the objectives of the Sea to Sky Chapter of the Canadian Home Builders Association (CHBA) is to meet with the Resort Municipality of Whistler to address the issue of non-conforming spaces in many of Whistler's homes. Anecdotally, the CHBA estimates that 70-80 % of Whistler homes contain some form of non-conforming space, and it is our view that this is an issue that RMOW should look at resolving.

As the voice of the local residential construction industry, the CHBA has an interest in ensuring that residential construction is properly permitted, inspected and approved. As such, we are committed to pursuing regulatory reform on the issue of non-conforming space. We propose that the RMOW move away from the concept of density as a gross floor area (GFA) calculation. Our proposal is to reform the existing system by adopting the concept of density as a volume calculation.

### **1.2 Objective of Paper**

The objective of this paper is to present a volume-based approach to density in the context of Zoning Bylaw 303, RS1 Zone (Single Family Residential One). In this paper, "zoning" and the "zoning bylaw" refers to Zoning Bylaw 303. While our discussion here is limited to RS1, our proposal could be extended and applied to all single-family and duplex zones, and perhaps even some multi-family zones.

It is our intention to demonstrate the feasibility of adopting a volume-based density regulation. If the RMOW wishes to pursue this proposal, the CHBA respectfully requests that we are included as a partner in the development and review process and that

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website: [www.chbaseatosky.com](http://www.chbaseatosky.com) e-mail: [chbaseatosky@whooshnet.com](mailto:chbaseatosky@whooshnet.com)

## **2.2 Enforcement of Zoning Restrictions**

It is extremely difficult to enforce GFA restrictions, as municipal officials require entry into the house to ascertain whether an infraction has occurred within the existing building mass. The RMOW simply does not have the resources to fairly enforce the GFA restrictions. In the end, the municipality is only able to enforce the GFA restrictions based on a complaints system (ie. residents must report infractions by their neighbours). It is our experience the RMOW is aware that development of non-conforming spaces may occur after final occupancy but it simply lacks the resources to enforce the GFA regulations in a fair and consistent manner.

In our view, inconsistent enforcement has created a culture of nonchalance in respect of non-conforming space.

## **2.3 Examples of Non-Conforming Space**

Non-conforming space refers to space developed by, or at the direction of, homeowners after issuance of a final occupancy permit, for which no new building permit has been issued, and which may or may not exceed the lot's maximum GFA.

Some examples of non-conforming space are:

- (a) Over-height crawlspaces;
- (b) Attic space (which may be opened up and developed);
- (c) Bonus space over the garage (where an extra floor may be installed over the existing garage);
- (d) Vaulted spaces (where an additional floor may be installed).

The non-conforming space is often below buildings, sometimes the result of over-excavation of steeply sloping sites (either necessary for bearing or done by design to allow the development of non-conforming space after final occupancy.) During construction, there is little concern for avoiding over-height crawlspace as section 219 covenants exempt this space from floor space ratio calculations. The opportunity is then presented to the homeowner to develop this space, after occupancy, into non-conforming space incorporated into the house.

## **2.4 Consequences of Non-Conforming Space**

There are social, institutional and safety consequences arising from the development of non-conforming space in houses:

### **1. Life Safety**

The development of non-conforming space occurs outside of the municipal permit process. As the RMOW has no formal notice of its existence, municipal officials are unable to inspect such space for compliance with building and fire code regulations.



Ultimately, this is a life safety matter and, in our view, deserving of special attention. Some examples of risks to human safety include: inadequately ventilated sleeping rooms; no smoke detectors; no carbon monoxide alarms; and inadequate access and egress.

2. Inaccurate Municipal Records

The municipality has not issued permits in respect of non-conforming space and is therefore unable to regulate it. Accordingly, non-conforming space is not captured in municipal assessments, and ultimately, there may be a loss of property tax revenue.

3. Contravention of Local Laws

There may be homeowners who develop non-conforming space in their houses without considering it to be a genuine contravention of municipal zoning regulations. However, there are also those homeowners who choose to live within the spirit of the law and do not develop non-conforming space in their houses (due to ethics or fear of enforcement.) This creates an unfair playing field from neighbour to neighbour and affects the use and enjoyment of the neighbourhood by those complying with the zoning bylaw's intent.

Designers are placed in the awkward position of designing houses that contain areas that may potentially be developed into non-conforming spaces. Builders are also placed in the awkward position of building houses that contain areas that may potentially be developed into non-conforming spaces. While homeowners are prepared to take responsibility in the event of enforcement proceedings, it is our experience that some of them seem unconcerned or unfazed that their actions may in fact contravene the zoning bylaw.

4. Uncertainty in Selling Process

There is uncertainty by realtors when listing and selling properties with non-conforming spaces.

5. Uncertainty in Fire Insurance Coverage

There is uncertainty whether insurance proceeds would cover non-conforming spaces in the event of damage from fire or other insured loss.

6. Visual Impact on Streetscapes

Excessively large homes complying with floor space calculations stand out as being massive, and interrupt the scale of the neighborhood intended by the zoning regulations.

### **3.0 Proposed Change**

#### **3.1 Benefits**

CHBA proposes that the RMOW amend its zoning bylaws to define density as three-dimensional volume instead of two-dimensional gross floor area. The change to volume density would result in the following benefits:

- More visual conformity of streetscapes;
- Higher level of compliance with zoning regulations;
- Abolishment of new covenants and removal of some existing ones on single-family homes;
- Bringing some, not all, of existing non-conforming spaces back into the municipal permitting process;
- Improved compliance with building code safety requirements through permitting.

#### **3.2 Other Municipalities**

Volume restrictions have been used to some extent in other municipalities in the Lower Mainland, where volumetrics are defined by side yards, height, grade and intersecting lines to allow for sloping roofs. Our approach is not with a volumetric regulation, but with a maximum volume that can be manipulated creatively to avoid similar home shapes that 'fill' the allowed volumetric.

These municipalities require survey information to confirm finished grades and height. At present, Whistler only requires survey information to verify building location on lots, not to confirm building height or finished grades (leading to different elevations on plans and as-builts). The RMOW may consider further survey requirements with this proposal.

#### **3.3 Potential Control Mechanisms**

Our objective is to replace existing GFA calculations with a volume above finished ground-level calculation. In effect, the zoning regulations could contain a formula similar to floor space ratio (FSR), but instead a "volume site factor" (VSF) with a maximum relating to the existing maximum GFA. In effect, the calculation will yield a given volume moldable into any shape within existing setback and height restrictions. There would be a maximum corresponding to the present maximum 325 m<sup>2</sup> and 465 m<sup>2</sup> GFA's for given lot areas.

Creating pliable volume, rather than a dimensioned volumetric, allows for innovative design as well as avoids the kind of cookie cutter houses that exist when dimensioned volumetrics govern. The formula for calculating permitted volume originates in our existing two dimensional density restrictions with a reasonable height for floor to floor and roof spaces factored in.

Average finished ground level requires definition. It could simply be a weighted average of the perimeter grade around the entire building. Finished ground level would be calculated at 1.2 m beyond the face of the building to ensure that berming is not employed to circumvent the regulations.

Further, in regulated flood plains, where no space may be developed below the flood construction level, and the building is forced above grade, the above ground finished volume should be considered only from above the minimum flood construction level.

There remains an exemption for exterior covered spaces to be unlimited. This seems to be a desirable allowance, as our climate calls for covered areas to allow the use of the landscape year around. Further, volume below grade has not been limited as it does not affect the visual appearance of the building.

The volume site factor has been determined based on a two-storey house with a gable roof and 3.3m floor-to-floor height or floor to roof height (3.3 m allows for some exposed crawl space and roof structure thickness.) The peaked roof would have an average height of 1.7m above the exterior walls (example: 12/12 pitch on a 6.8 m wide space) and would be considered to occur on the second floor only (over half of the floor area.) All volume (except garage and other minor exceptions) above finished ground level (except as noted above for designated flood areas) will be included in the gross volume, regardless of whether or not it is crawl space. This encourages the home to respond to site conditions.

A three-storey house would need to conform to height restrictions that would likely require some of the building to be less than three storeys. Overall volume efficiency can be increased by designing more storeys, minimizing site disruption and footprint. Incidentally, 'Whistler Green' favours two or three storey homes over one-storey for efficiency and minimized site disruption/footprint. If a one-storey building is constructed, the volume efficiency will be reduced, making it less desirable for a developer wanting a larger area. So basing the volume on the average leaves room for efficiencies to be increased or decreased, based on a homeowner's wants and needs while leaving design flexible.

While volume efficiency could be increased through the exclusive use of flat roofs, it is not significant enough to warrant an overall decrease in allowable volume in these cases.

### **3.3 Determination of Volume Site Factor and Maximum Volumes**

All calculations are based on the present allowable GFA, multiplied by height to obtain a volume. Calculations are shown in long form then reduced for explanatory purposes. While the explanation may seem complicated, the bottom line is a simple calculation based on the volume site factor – a multiplier for the site area to determine above ground house volume. The term site area refers to the area of the lot in plan view.

\* **RS1 Present FSR = 35%**

- **Proposed Gross Volume Above Finished Ground Level**  
 $= 35\% \times \text{Lot Area} \times 3.3\text{m (floor plates only)} + 35\% \times .5(\text{upper storey roof only}) \times 1.7\text{m (vaulted or attic volume)}$   
 $= 35\% \times (3.3\text{m} + (.5 \times 1.7\text{m})) \times \text{site area}$   
 $= 1.45\text{m} \times \text{site area} = \text{allowable above grade volume for site.}$   
**Volume Site Factor = 1.45 m**

- **Maximum Volume for 3m Side Setbacks**, based on site area of 928.6m<sup>2</sup>  
 $= 1.45 \times 928.6 = 1346.5 \text{ m}^3$ , round up to **1347 m<sup>3</sup>**

- **Maximum Volume for 6m Side Setbacks**, based on site area of 1328.6m<sup>2</sup>  
 $= 1.45 \times 1328.6 = 1926.5 \text{ m}^3$ , round up to **1927 m<sup>3</sup>**

- **Auxiliary Dwelling Volume**

The maximum gross floor area remains in place and a maximum volume clause is added, based on the potential for the suite to be on one storey with a vaulted roof. The additional volume restriction may not be necessary, as it is only a further limitation to existing regulations.

- **Auxiliary Building with Suite Combined Volume**

Maximum combined volume, including garage and other uses for an auxiliary building is based on a two-storey building that must fit within the 5m present height restriction. This allows only for 2.7m floor to floor on the lower level, and an average exterior wall height on the second level of 2m, with vaulted ceilings taking the second level average height up to 3.5m high. This includes garage and below finished ground volume.

$$55\text{m}^2 \times 2.7\text{m} + 55\text{m}^2 \times 3.5\text{m} = \underline{341 \text{ m}^3}$$

- **Garage Volume or Auxiliary Building Volume Without Suite**

A 4m average roof height is assumed. To avoid two-storey open spaces, the volume is limited to an interior height of 4.5m.

$$70 \text{ m}^2 = 70 \times 4\text{m} = \underline{280 \text{ m}^3}$$

### **3.4 Proposed Zoning Bylaw Changes**

This new set of regulations would require additional definitions, changes to parking regulations, amendments to RS1 Zoning and auxiliary building density regulations. Existing definitions are expected to remain. While RS1 only is addressed in this example, the concept could be taken further to include all single family and duplex zones, and perhaps some multi-family zones.

Only the portions of the bylaw requiring revision are shown. Intent, permitted uses, and site coverage retain the same wording entirely. Reference numbers relate to existing Bylaw numbering.

Areas governed by Land Use Contracts may not be affected by this proposed change unless the contract directly refers to the Zoning Bylaw as amended.

#### ***Section 2 DEFINITIONS***

“Gross volume” means the volume of all buildings on a parcel measured above average finished ground level and measured to the exterior of outside wall sheathing, top of roof surface, top of roof deck, not including: volume of garage, volume below a designated flood construction level that may not be developed nor used, chimneys, crickets, overhangs, sunshades, decks, deck guards, sills, belt courses, and exterior columns.

“Combined volume” means the auxiliary building volume including garage volume and volume below finished ground level where the height from ground cover or slab to floor above is more than 1.5 metres.

“Average finished ground level” is the weighted average of all finished ground levels around the perimeter of a building. *(Further definition required)*

“Finished ground level” means the ground level measured 1.2 metres perpendicular to the exterior of the building walls.

“Volume site factor” means the figure obtained when the gross volume is divided by the parcel area.

#### ***Section 5 GENERAL REGULATIONS***

5.3.1 Change the existing 5.3.1 to exclude specifically the RS1 zone.

Add a section after 5.3.1:

5.3.2 Auxiliary Buildings in the RS1 Zone

The maximum permitted combined volume for an auxiliary building per principal dwelling unit is as follows:

- (a) 280 cubic metres for detached dwelling.
- (b) Notwithstanding 5.3.2 (a) of this Bylaw, the maximum permitted combined volume for an auxiliary building containing an auxiliary residential dwelling unit is 341 cubic metres.

Change numbering system that follows accordingly.

## ***Section 6 PARKING AND LOADING REGULATIONS***

Table 6A – Add the following:

Residential use in the RS1 zone	2 spaces per dwelling unit with a gross volume of 882 cubic metres or less, 3 spaces per dwelling unit greater than 882 cubic metres but less than 1347 cubic metres, and 4 spaces per dwelling unit in excess of 1347 cubic metres.
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## ***Section 11 RESIDENTIAL ZONES***

### **RS1 Zone (Single Family Residential One)**

#### **Density**

- 1.2.1 The maximum permitted gross volume of a detached dwelling is 1927 cubic metres, or a volume site factor of 1.45 metres, whichever figure is lower.
- 1.2.2. Notwithstanding subsection 1.2.1 in this zone, the maximum permitted gross volume of a detached dwelling situated on lands within a bare land strata plan is the figure obtained when the total area of a bare land strata plan (exclusive of those portions intended to provide access routes) is multiplied by a volume site factor of 1.45 and divided by the maximum total number of bare land strata lots in that plan, and regardless of any provision herein, the maximum volume of a detached dwelling shall not exceed 1927 cubic metres.
- 1.2.3. For auxiliary parking use contained in a principal or auxiliary building or structure, the maximum combined volume is 280 cubic metres with interior height not exceeding 4.5 metres and the maximum floor area is 70 square metres.
- 1.2.4. Notwithstanding any other regulations contained in this section, an additional 224 cubic metres of gross volume up to a maximum 90 square metres of gross floor area may be added to a dwelling unit or an auxiliary building for employee use and rental, provided that the volume site factor on a property does not exceed 1.45. This bonus density is subject to the

owner entering into an employee housing agreement with the Municipality for the auxiliary residential dwelling unit, the terms of which shall be the Municipality's standard charge terms for employee housing covenants as of the date on which the building permit is issued.

- 1.2.5. Notwithstanding s. 5.3.2 (a), the maximum combined volume of an auxiliary building containing both auxiliary parking use and an auxiliary residential dwelling unit is 341 cubic metres.

### Site Dimensions

- 1.4.1 The minimum required parcel area, usable site area and frontage are as follows:

House Gross Volume	Minimum Parcel Area	Minimum Usable Site Area	Minimum Frontage
Less than 1347 cubic metres	same	same	same
Greater than 1347 cubic metres	same	same	same

- 1.4.2 Where a detached dwelling is sited on a parcel having a frontage of less than 24 metres, the maximum permitted gross volume of the detached dwelling is 1347 cubic metres. Where a detached dwelling is sited on a parcel having a frontage of 24 metres or more, the maximum permitted gross volume of the detached dwelling is 1927 cubic metres, subject to compliance with the other requirements of this bylaw regarding permitted gross volume and gross floor area.

### Setbacks

- 1.6.2. The minimum permitted side setback is as follows:

Gross Volume Of Detached Dwelling	Minimum Side Setback
Less than 1347 cubic meters	3 metres
Greater than 1347 cubic metres	6 metres

- 1.6.3 Same



- 1.6.4 (a) Same  
(b) Same  
(c) A distance from any other detached dwelling calculated as the sum of the following distances for each dwelling:

Gross Volume Of Detached Dwelling	Distance
Less than 1347 cubic metres	3 metres
Greater than 1347 cubic metres	6 metres

- 1.6.5 Except where s. 11.1.2.4 applies, no addition shall be made to a detached dwelling in existence at the date of adoption of this Bylaw which increases the above grade volume of that dwelling beyond 1347 cubic metres unless the entire dwelling including the addition is sited with a minimum setback of six metres on each side of the detached dwelling.

- 1.6.6 Same  
1.6.7 Same  
1.7 Off Street Parking – same wording here, Sec. 6 revised to refer to volume, not area.

### **Other Regulations**

- 1.8.1 The minimum permitted volume of a detached dwelling is 163 cubic metres.  
1.8.2 Same  
1.8.3 Same  
1.8.4 Same - leave the gross floor area maximum for a suite – we can further limit the volume by adding 1.8.5.  
1.8.5 An auxiliary residential dwelling unit shall contain a combined volume not greater than 405 cubic metres.  
1.8.6 In no case shall the gross volume of the auxiliary residential dwelling unit exceed 40 percent of the above grade volume on a parcel.

### **3.5 Proposed Building Bylaw Changes**

The fee calculation schedule could be revised to relate to the volume calculation for RS1 zoned single-family homes to eliminate the need for a total gross floor area calculation.

To encourage owners to obtain permits for work already done, the RMOW could adopt a policy of not posting stop work orders on projects for which work has occurred at some



time prior to adoption of this bylaw. This would allow applicants to proceed to obtain approvals without having to pay double building permit fees.

## **4.0 Effects of Proposed Changes**

### **4.1 Visually Consistent Development**

Volume limitations are ineffective in the current Zoning Bylaw, which has a combination of generous site coverage and height restrictions that far surpass what is reasonable for the allowable floor area. Changing density regulations from two-dimensional GFA to three-dimensional volume would encourage more visually consistent development from lot to lot.

### **4.2 Permitting Of Existing Non-Conforming Spaces**

The adoption of the proposed regulations would allow some, not all, of the existing non-conforming spaces to be brought back into the permitting process. The benefits would include:

- Better records within the municipality,
- Better life safety building compliance, and
- More accurate records for assessment rolls.

### **4.3 Easier Enforcement**

Any work done within the allotted building volume would be authorized. This means that over-density construction would take place outside the original permitted volume (ie. outside the envelope) and would be much easier to identify. Enforcement of the new bylaw from adoption would create an atmosphere of compliance. The community would understand a “no tolerance” policy to contraventions.

### **4.4 Eliminating Covenants (Void Space and Over-Height Crawlspace)**

The RMOW could eliminate section 219 covenants for all new RS1 construction. In addition, these covenants could be removed for existing non-conforming spaces that are brought back into the permitting process.

### **4.5 Green Building Strategies**

Our proposal is in line with many green building strategies, such as:

- Home sizes would not be increased,
- Infill would be possible,
- Volume efficiencies would be increased by lower site coverage, and

- Excessive vaulted spaces (which are very inefficient) would be discouraged, while making reasonable allowance for vaulted areas to create architectural interest from the interior and exterior.

#### **4.6 Education**

Some education would be required for RMOW staff, designers, and contractors to understand and work with the new regulations.

#### **4.7 Determining Compliance**

The new regulations may bring about the need for third-party verification of planned volume and/or as-built volume on complicated sites. Where density appears to be close to the maximum volume, a survey or registered professional certification could be required. However, where the house is clearly within the maximum volume and does not exceed the present gross floor space ratio, the owners could avoid the expense of certification.

#### **4.8 Conformance/ Variances For Existing Buildings**

The proposed regulations would allow most buildings constructed prior to adoption of this bylaw with maximum GFA to fit the formula, unless they were constructed as extreme examples of additional volume. Any extreme examples would be existing non-conforming with respect to volume; permits could be obtained for work within the new permitted volume only. Some research would need to follow regarding Development Permits, Board of Variance and reconstructing (due to damage) any pre-existing non-conforming homes.

### **5.0 Conclusion**

If adopted, our proposal would benefit all stakeholders: the Resort Municipality (Planning Department and Building Department), Whistler Fire Service, contractors, designers, homeowners, and renters.

Some of the major benefits would be:

- Increased compliance with the Zoning Bylaw,
- Increased compliance with the Building Code and safety requirements,
- Easier enforcement of regulations due to more obvious infractions outside the building envelope,
- More visually uniform streetscapes through volume density restrictions that do not presently exist,
- Accurate Municipal records and assessment rolls through increased permitting.



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SEA TO SKY

While the CHBA has made great efforts to present a viable proposal, review of our proposal by municipal staff and legal counsel will spark questions, concerns and further discussion. The CHBA believes that questions and concerns are best addressed through a review process with all stakeholders. We would like to partner with the RMOW in the advancement of this review process.

The CHBA is sincere in initiating resolution to a long-standing development and liability concern for community, the RMOW, builders, designers, and enforcement staff. We understand that much further effort is required to bring a bylaw change to fruition. We appreciate your consideration of our proposal and look forward to a final form workable to all concerned.

Following your review of the preceding proposal, we offer to meet with you and your staff to answer any questions or concerns that might arise. We look forward to hearing from you.

Yours truly,

A handwritten signature in black ink, appearing to read 'Mattheo Durfeld', written over a horizontal line.

Mattheo Durfeld, President  
CHBA, Sea to Sky Chapter



## REPORT | ADMINISTRATIVE REPORT TO COUNCIL

**PRESENTED:** February 7, 2012  
**FROM:** COMMUNITY LIFE  
**SUBJECT:** ILLEGAL SPACE TASK FORCE UPDATE

**REPORT:** 12 -009  
**FILE:** RZ1044

### COMMENT/RECOMMENDATION FROM THE CHIEF ADMINISTRATIVE OFFICER

**That** the recommendation of the General Manager of Community Life be endorsed.

### RECOMMENDATION

**That** Council endorse the Illegal Space Task Force Committee to proceed with preparation of blanket zoning bylaw amendment under Option One as outlined in Administrative Report 12-009 as a two year pilot project;

**That** Council supports the Illegal Space Task Force Committee creating a public consultation process for feedback on this matter.

### PURPOSE

The purpose of this report is to confirm Council's direction regarding a potential resolution proposed by the ISTFC.

### REFERENCES

Appendix A – Map of Proposed Zones for Amendment

### BACKGROUND AND DISCUSSION

On December 21, 2011, Council established the Illegal Space Task Force Committee (ISTFC) with terms of reference to consider how to address illegal space that is reported to have been constructed in single-family homes throughout the municipality. On January 5 and 16, 2012, the committee met and began to develop a focussed zoning bylaw amendment. Notionally, if adopted, the bylaw would amend the definitions of crawl and void spaces to eliminate the option to covenant over-height spaces<sup>1</sup> and a “blanket” amendment aspect, to exclude a newly defined portion of floor area from the gross floor area (GFA) calculation in a wide array of single-family residential zones. With a focus on the illegal construction in single-family and duplex homes, the proposed first step was an amendment to all RS (including RS-E) and RT zones as these zones consist of single-family detached and duplex dwellings. The proposed blanket amendment aspect of the amendment would change zoning for over 2,370 properties throughout the municipality regardless if they have an illegal space or not.

At the January 26 meeting of the ISTFC municipal staff introduced the idea of approaching the illegal space challenge by “spot zoning” those homes that already had illegal space. This process would involve self-identification by homeowners who have illegal space and the preparation of an omnibus bylaw to rezone such properties into conformance. The two committee members attending

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<sup>1</sup> Zoning Bylaw 303 presently allows for constructed space to be considered a “crawl space” and thus excluded from density calculations so long as the owner covenants that that space will not be used.

as nominees of the CHBA (Canadian Home Builders Association) indicated serious concern about the practicality of such a direction from two main perspectives:

1. Property owners would be unlikely to come forward to self-identify illegal construction out of concern that they may not be successful in obtaining spot zoning.
2. A potential inequity would be created within neighbourhoods between homes that historically had illegal construction and were given the opportunity to enjoy that additional space in the future; and those that did not have illegal construction and continued to be bound by the intent of Zoning Bylaw 303.

Instead, CHBA nominated committee members stated a preference for a blanket Zoning Bylaw Amendment that would make certain types of additional floor area available to a wide range of properties.

The CAO and the GM of Community Life attended the ISTF Committee Meeting on January 26 and advised the committee that staff would report to Council on the committee's progress and the potential solutions that could move this process forward.

Historically and recently, there has been discussion and statements made as to the prevalence of illegal space in the community. While there is an abundance of anecdotal information, quantifying the extent of such construction has proved difficult. Two pieces of information may provide an indication about the potential extent of illegal construction:

- RMOW building records show there are 15 properties with Section 57 notices that advise that there may be construction undertaken without a building permit; and
- There are 133 properties that had Section 219 Covenants for over-height crawl spaces registered at the Land Titles Office in the last decade.

No records indicate if any of the Section 219 properties are being used illegally, nor how many other buildings have been constructed without authorization and no covenant registered. The ISTFC proposal outlined in Option One would amend regulations under all RS, RS-E and RT zones. This amendment would affect over 2,370 properties throughout the municipality as shown on the attached map (Appendix "A").

#### **Option One: Amendments to Crawl and Void space definitions and an amendment to exclude a defined portion of floor area from GFA calculation**

As a viable and manageable first step staff propose bringing forward amendments that would apply to RS (including RS-E) and RT zones. These zones have limited permitted uses (residential) with limited built forms (detached and duplex dwelling units) and the fewest complications with respect to other floor areas to be included in a gross floor area calculation or with strata approval processes. There are approximately 2,370 properties with these zoning designations. Other Zones (i.e. RTA, CD1, and RI1) may be suitable for inclusion in this approach, however further research is required in this regard.

The committee's CHBA members have proposed a zoning amendment which has two components to it.

- First, the crawl space and void space definitions would be amended to prevent additional over-height spaces being covenanted and then illegally modified afterwards for use.
- Second, a "blanket" amendment which defines a specific basement-like floor area would be excluded from the gross floor area (GFA) calculation. This space could be used for any use as permitted by the zoning and BC Building Code regulations. At present, the RMOW only excludes minor areas such as crawl spaces, void spaces, parking areas, mechanical rooms, elevator shafts, and garbage and recycling facilities from the GFA calculation. The committee saw this new exclusion area as similar to some jurisdictions which exclude

basements from GFA calculations and a solution for permitting many of the constructed illegal crawlspaces or walk-out basements.

The blanket amendment would apply to all properties in the selected zones and would permit additional floor space for use without it being reflected in the GFA or Floor Space Ratio (FSR) calculations.

There is no consensus on the extent to which Option One would operate to “bring in” existing non-conforming construction. CHBA nominees to the committee suggest that this approach would have the best chance of bringing in some existing illegal construction. Municipal staff suggest that there should be some monitoring undertaken to determine the success of this program over a two year period.

### **Option Two: Omnibus Bylaw Zoning Amendment**

The committee reviewed a second option known as an omnibus zoning amendment. This approach would include amendments for the crawl and void space definitions as described in Option One. This approach however, would have an advertising campaign by the municipality to encourage existing property owners with illegal spaces to come forward by a certain date to be included in a single rezoning application to amend the applicable regulations to make each property conforming. As part of the rezoning application the owners would need to submit appropriate drawings and survey information to illustrate that the space for each property can be made compliant with the BC Building Code. A similar approach was used by the RMOW to amend the gross floor areas for properties in the CC1 zone to rectify approved GFA under the original zoning and what was built at time of construction.

This approach is much more focused on the current illegal parcels. It only changes the zoning regulations for the parcels which get submitted and processed. However, if there is measurable success with this approach, the municipality could do additional omnibus amendments.

Option Two does require current illegal space owners to come forward and the adoption of the amending omnibus would only cover the parcels which did come forward.

As noted above, CHBA nominees to the ISTFC were opposed to pursuing Option Two. They supported staff seeking Council direction on proceeding with Option One.

The following policy considerations should be considered if Option One is to proceed.

### **POLICY and BYLAW CONSIDERATION – Option One**

#### **OCP – Resident Housing**

Any zoning amendment needs to be consistent with the goals and objectives of the adopted Official Community Plan (OCP). Option One is consistent with the existing OCP policy:

4.2.4 The municipality will monitor the housing requirements of the community and consider a variety of housing types and encourage innovative housing approaches to meet the needs of permanent, semi-permanent, and seasonal residents in the Municipality.

Additional review of the existing and “new” OCPs will be completed for the option chosen to proceed and will be presented with the full report to Council.

## OCP - Community Energy and Emission Reductions

In August 2010 Council adopted Greenhouse Gas (GHG) Emission targets and other energy and water conservation policy and action statements into the OCP. Specifically, the Municipality has established the same ambitious GHG emissions reduction target as the Provincial government to reduce the RMOW's 2007 emissions levels by 33% by 2020. This will require a significant effort toward overall community energy efficiency for both new and renovations of existing buildings.

Any changes to the zoning bylaw that increases the permitted gross floor area may both result in increased energy use, as well as associated greenhouse gas emissions. It is possible that the owners will integrate innovative building systems to reduce their overall energy consumption and emissions footprint, but there is no current means within current legislation or regulations to require that energy efficiency is maximized and total consumption is reduced at the building permit stage. Should this proposal move forward, staff will present more fully on this question.

## Other Bylaws

Staff to complete a review of potential impacts on other bylaws based on the zoning amendments suggested in Option One. For example, the Building Fees and Charges Bylaw will need a new category for a fee to charge for this non-GFA floor area and the Municipal Employee Housing Works and Services Bylaw will need definitions amended to be consistent with the zoning bylaw definitions.

## Municipal Infrastructure

In the past, studies were requested to review the impacts upon infrastructure, prior to the bylaw proceeding to public hearing. There is no way to determine at this point how much more floor area may be developed, nor how that floor area may generate increased demand for water, fire protection, sewers and storm sewer systems. While it is expected by many participants that increases in demands for these municipal services will be negligible, staff and the ISTFC are discussing that Council consider adopting the zoning amendment on a pilot basis (i.e. two years) in order to gather data from building permit applications and review the data for impacts on municipal services. If there are infrastructure impacts noted Council could consider another amendment to the Zoning Bylaw to protect against community infrastructure becoming overloaded.

## LEGAL REVIEW

If Council authorizes staff and the ISTFC to proceed with Option One staff will have the municipal solicitor review the draft proposed bylaw for a thorough analysis of the potential risks this may open up for the RMOW and report these to Council.

## BUDGET CONSIDERATIONS

A portion of the \$15,000 ISTFC budgeted funds will be used for the legal review.

## COMMUNITY ENGAGEMENT AND CONSULTATION

To date, no public consultation has been done by the RMOW regarding Option One. In the past, Council and staff would obtain feedback at community meetings, or through other means of communications (i.e. electronic or phone surveys, comment sheets, etc.), prior to the bylaw proceeding to a public hearing. The ISTFC is willing to make arrangements to hold consultation

meetings prior to the bylaw proceeding to a public hearing. However, it requires time to organize and hold these meetings, which may delay a presentation of bylaws by a few weeks

The only statutory requirement for public input for a zoning amendment is a Public Hearing. For amendments which affect more than 10 parcels, the LGA requirements and municipal practice for notification are ads in the newspaper and on the RMOW website, no individual mail outs to property owners is required.

## **SUMMARY**

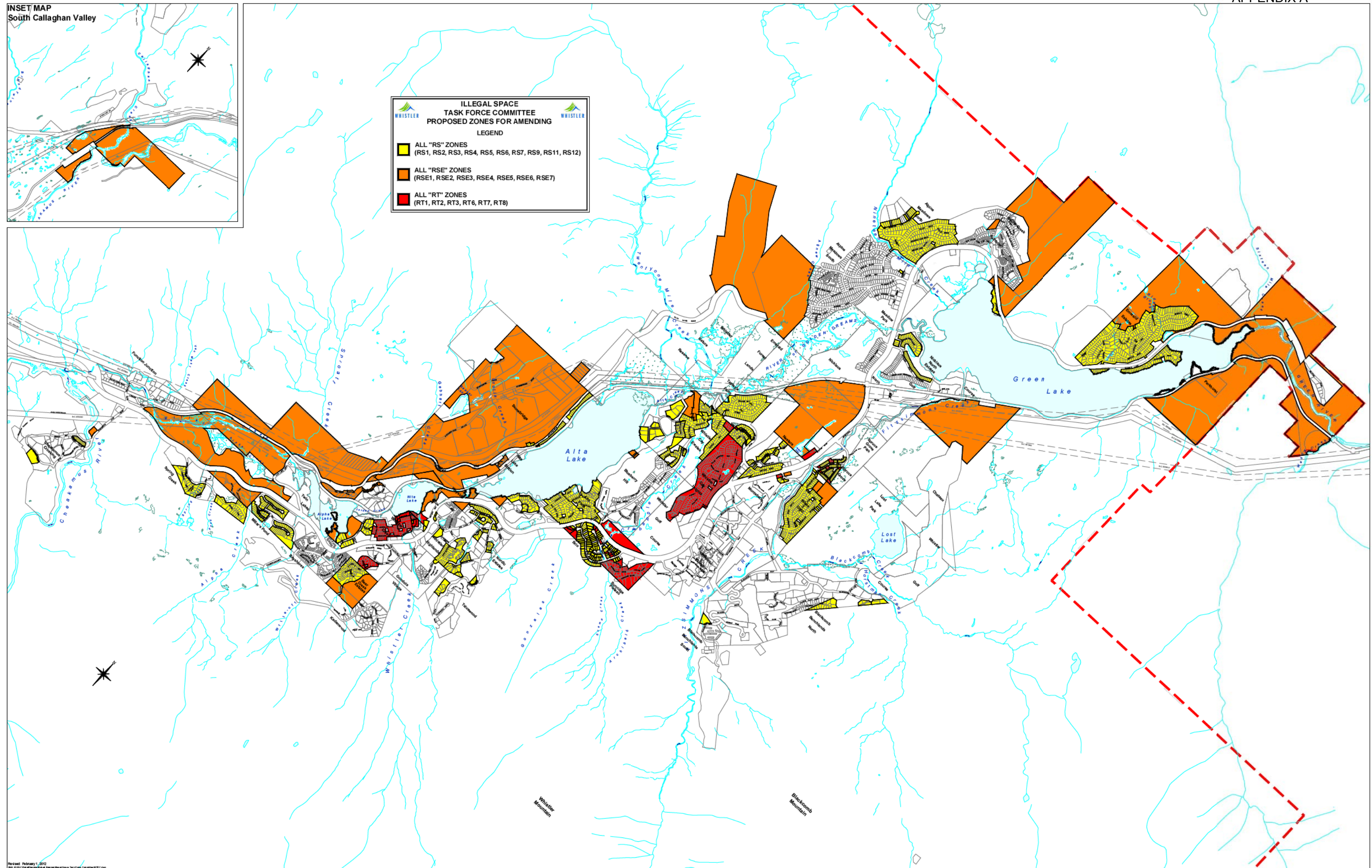
The ISTFC wishes to proceed with Option One, to amend the definitions for crawl spaces and void spaces, and a blanket zoning amendment to all RS, RS-E and RT zones to exclude a defined area from the GFA calculation. The blanket amendment component of the amendment will result in additional habitable floor area being permissible on over 2,370 properties in the RMOW. Option One at this time does not address or require current illegal space owners to apply for the necessary building permits to make the space legitimate. The adoption of the amending bylaw itself does not change the existing illegal status of these spaces. No official public consultation has been undertaken to date concerning the proposed changes. However, a zoning amendment does require a Public Hearing be held to provide the public an opportunity to address Council directly on the proposed amendment.

This report seeks Council confirmation that; staff and the ISTFC are to proceed with preparation of a bylaw amendment based on Option One as outlined in the report as a two year pilot program. Staff will work with the ISTF Committee to develop some measuring tools to assist in determining the success of the pilot program.

Respectfully submitted,

Robert Brennan, mcip  
Planner  
for  
Bob MacPherson,  
GENERAL MANAGER OF COMMUNITY LIFE







## REPORT | ADMINISTRATIVE REPORT TO COUNCIL

**PRESENTED:** March 20, 2012

**REPORT:** 12-028

**FROM:** Resort Experience

**FILE:** RZ 1044

**SUBJECT:** GROSS FLOOR AREA EXCLUSION ZONING AMENDMENTS

### RECOMMENDATION FROM THE CHIEF ADMINISTRATIVE OFFICER

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

### RECOMMENDATION

**That** Council receive the public input from the March 2, 2012 Public Open House on proposed changes to the zoning bylaw to provide a gross floor area exclusion for in-ground basements for RS and RT zones; and further

**That** Council direct staff to bring forward a zoning bylaw amendment for consideration of first and second reading to provide a gross floor area exclusion for in-ground basements, that identifies applicable zones or generally applies to all single family and duplex dwelling types in all zones to be determined based on further review by staff in consultation with the Illegal Space Task Force Committee.

### REFERENCES

Appendix "A" – Map of zones presented at Open House March 2, 2012

Appendix "B" – Summary of comment sheets received prior to March 6, 2012

### PURPOSE OF REPORT

The purpose of this report is to confirm Council's direction regarding a potential resolution proposed by the ISTFC based on feedback received at the Public Open House on March 2, 2012.

### BACKGROUND

On December 21, 2011, Council established the Illegal Space Task Force Committee (ISTFC) with terms of reference to consider how to address illegal space that is reported to have been constructed in single-family homes throughout the municipality.

On February 7, 2012, Council endorsed the Task Force to proceed with the preparation of a blanket zoning bylaw amendment that included a newly defined portion of floor area (in-ground basement area) to be excluded from gross floor area definition in all RS and RT zones, as part of a two year pilot project, and to create a public consultation process for feedback on this proposal.

## **DISCUSSION**

On February 16, 2012 the Task Force met and decided on a public consultation process which included a Public Open House, newspaper ads and on-line notification to obtain feedback on the proposed amendments to the residential regulations. The committee decided on display board material and a map to outline the changes and to illustrate the proposed RS and RT zones to be part of the pilot project. The map also included a third category of other zones under consideration by the Task Force as part of the on-going work of the committee. This map is attached as Appendix A. A comment sheet was created to obtain peoples' input. The Open House date was set for March 2, 2012 and newspaper ads were placed in the Feb. 23<sup>rd</sup> and Mar. 1<sup>st</sup>, 2012 editions of the local newspapers. In addition, the display material, map and comment sheets were available on the municipal webpage.

On March 2, 2012, the Public Open House was held at Millennium Place between 3 and 6 p.m. to obtain feedback on the proposed changes to residential regulations. In addition, comments could be submitted on line up until March 6, 2012 in order to summarize these comments for the Task Force meeting on March 8, 2012. Approximately 100 people attended the Open House with the majority of the attendees being builders, contractors, designers, developers, real estate representatives and a few individual property owners and Strata Council representatives. Approximately 30 written comment sheets were submitted at the Open House and an additional 11 comment sheets were completed on-line by March 6<sup>th</sup>, 2012. The majority of the comments were supportive of the concept to exclude an in ground basement area from the GFA. However several requested that the two year pilot for the GFA exclusion be applied to all zones and not just the proposed RS and RT zones. All comments have been compiled by each question on the comment sheet for Council's review and attached as Appendix B.

### **Zoning Bylaw Amendment Modification**

The Task Force had discussed expanding the applicability of the proposed in ground basement exclusion to other zones with detached and duplex dwelling types, beyond the RS and RT zones, at all of their meetings. The rationale by some committee members was this was an equitable approach across all zones that include these dwelling unit built form types. To obtain additional feedback from the community, many additional zones were listed at the Open House. Many comments heard at the open house and submitted in writing questioned why this exclusion didn't apply to all detached and duplex dwelling unit types throughout the municipality regardless of zoning and supported such an approach.

At the March 8, 2012 Task Force meeting the Task Force discussed the approach of generally applying the exclusion to all single family and duplex dwelling types, as opposed to listing specific zones. The Task Force discussed potential issues and considerations related to this including: potential impact on neighbourhood character for zones with smaller lots and compact development, such as Rainbow and Spruce Grove; strata considerations; applicability to auxiliary buildings and auxiliary residential suites. Preliminary legal advice obtained by staff in advance of the meeting confirmed that this modified approach was possible from a legal perspective, but cautioned that full consideration should be given to related regulations within the bylaw.

The Task Force recommended that there was merit in giving further consideration to the modified approach to apply the exclusion to all single family and duplex dwellings, but recognized that a fuller evaluation was necessary. Staff recommends that this approach be given further consideration and with further consultation with the Task Force prepare the zoning amendment bylaw with the most suitable approach. The staff report will outline the bylaw amendment with regards to considerations to Council's bylaws, policies and procedures.

Procedures for implementation to legitimize existing non-permitted spaces through building permit approval were also discussed at the March 8, 2012 Task Force meeting. It is important that these procedures and requirements be defined and established to ensure safety, address liability issues, and facilitate compliance with zoning and permitting requirements. These procedures will be drafted to be included as part of Council's consideration of the zoning amendment bylaw that is expected to be brought before Council at its April 3, 2012 meeting.

## **LEGAL REVIEW**

Staff will work with the municipal solicitor to prepare a draft zoning bylaw amendment for the in-ground basement floor area exclusion, as applied to specific zones or generally for single family and duplex dwellings if this direction is supported by Council for further consideration prior to drafting the bylaw. A staff report and the bylaw for consideration by Council will be forwarded on April 3, 2012.

The draft bylaw concept based on the floor area exclusion by building type regardless of zone was reviewed by RMOW lawyer and was considered workable. However, they advised it would increase the importance of considering the implications for all permutations of "detached dwelling" and "duplex dwelling" that there might be in the municipality. In addition, whether these new rules for detached dwellings and duplex dwellings will be applicable to buildings on LUC lands will depend on the wording of the individual LUCs.

## **BUDGET CONSIDERATIONS**

It will be necessary to have a legal review undertaken of the proposed Zoning Bylaw amendment. This is will be covered by the ISTFC budget funds.

## **COMMUNITY CONSULTATION**

In addition to the Public Open House held on March 2, 2012, there is a statutory requirement for public input for a zoning amendment through a Public Hearing. For amendments which affect more than 10 parcels, the LGA requirements and municipal practice for notification are ads in the newspaper and the RMOW website, no individual mail outs to property owners is required.

## SUMMARY

The ISTFC wishes to proceed with an expanded blanket zoning amendment that would exclude a defined area from the GFA calculations in not just RS and RT Zones but in all zones that have detached and duplex dwelling built forms as part of the two year pilot program. This request is based upon the written and expressed public interest of support submitted at the Public Open House and on-line.

This report seeks Council confirmation that; staff and the ISTFC are to proceed with preparation of an expanded bylaw amendment beyond the originally proposed RS and RT zones, either by specific reference to all applicable zones or by reference to single family and duplex dwelling types for all zones, to be determined through further investigation and consultation with the task Force.

Respectfully submitted,

Robert Brennan, mcip

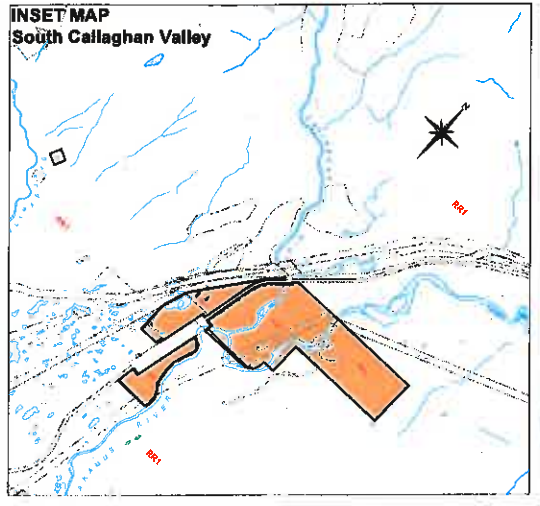
PLANNER

for

Jan Jansen

GENERAL MANAGER OF RESORT EXPERIENCE

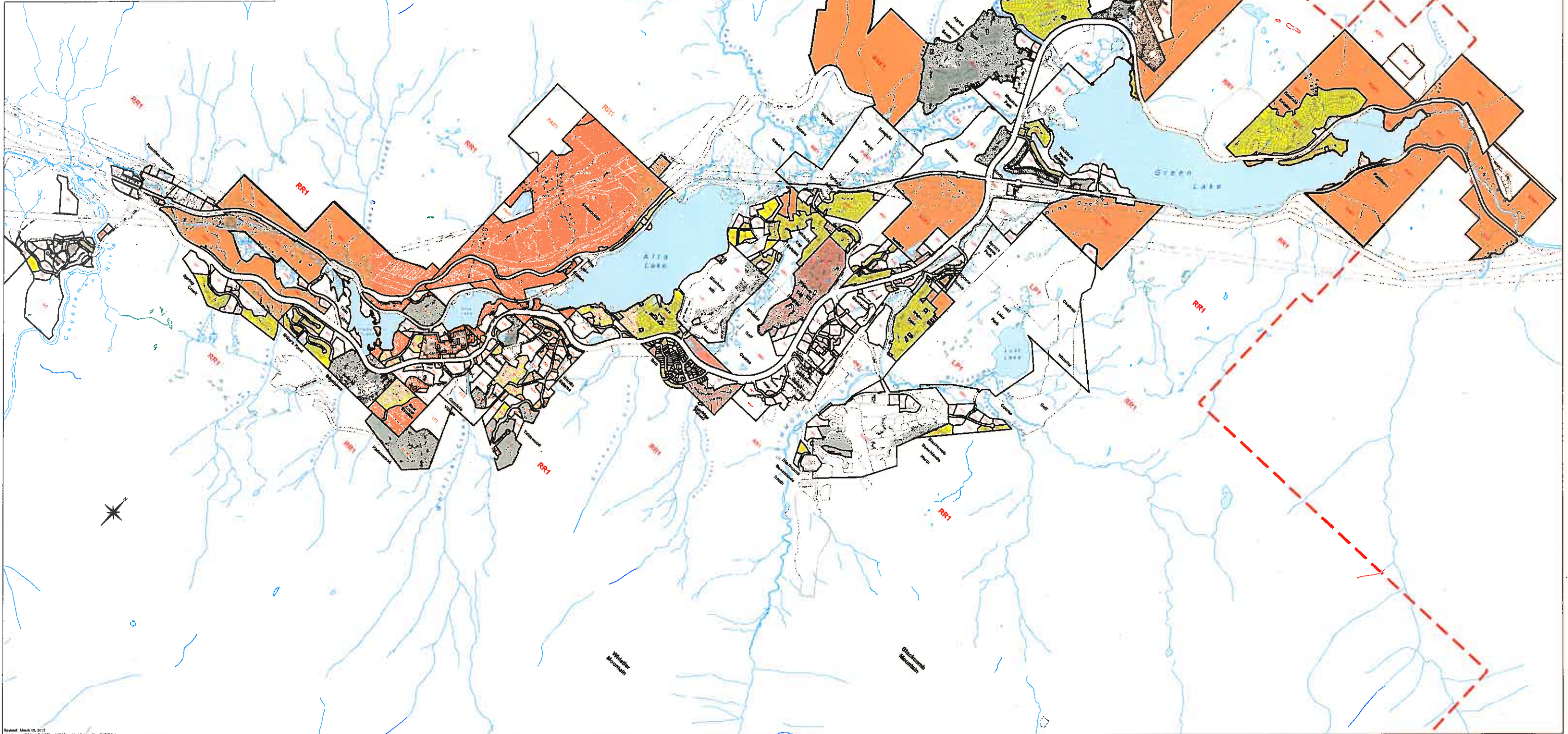




**TASK FORCE COMMITTEE**  
**POTENTIAL ZONES TO BE AMENDED**  
- DRAFT

**LEGEND**

- ALL "RS" ZONES  
(RS1, RS2, RS3, RS4, RS5, RS6, RS7, RS9, RS11, RS12)
- ALL "RSE" ZONES  
(RSE1, RSE2, RSE3, RSE4, RSE5, RSE6, RSE7)
- ALL "RT" ZONES  
(RT1, RT2, RT3, RT6, RT7, RT8)
- ADDITIONAL ZONES and LUC UNDER CONSIDERATION  
(CD1, RTA1, RTA2, RTA3, RTA4, RTA5, RTA6, RTA8, RTA11, RTA24, RTA25, RI1, RM2, RM25, RM55, RM58, RTAC1, TB1, TP1, TP4, and LUCs for Mountain View, Bayshores, Blueberry, Timber Ridge, Brio, Glacier Drive, Pinnacle Ridge, and Horstman Estates)







## THE RESORT MUNICIPALITY OF WHISTLER

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## OPEN HOUSE COMMENT SUMMARY – MARCH 2, 2012 POTENTIAL ZONING CHANGES TO RESIDENTIAL FLOOR AREA REGULATIONS

### 1. Do you have any comments on the overall direction of the proposed zoning changes?

- ☐ This is a step in the right direction.
- ☐ Burdening local full time residents with yet even more taxes will further erode the sustainability of our community. Instead of looking to skim the locals, tax non-resident investors or focus on cost cutting and more efficient management. Please abandon the idea altogether and raise funds by innovating instead, even more taxation is the oldest trick in the book and it never works to the favor of the public, nor to the politicians who will be looking for votes at the next election. Everyone can see that the end story would be taxing non-conforming spaces, and everything else about safety etc., is just the typical theatrical front that always accompanies such changes. We have all seen it again and again and we are sick of it.
- ☐ Logical and pragmatic direction. Will help property values and give new growth to Whistler and ensure Whistler is competitive.
- ☐ I am very glad to see that a solution is being proposed.
- ☐ I support the overall changes proposed.
- ☐ I think it is about time and a step in the right direction.
- ☐ I think it is a good step in the right direction.
- ☐ Since many of houses already have these illegal spaces, changes are good and needed.
- ☐ The task force is definitely moving in the right direction. They should continue to work towards legalizing more spaces.
- ☐ I think that it can only be a positive move and will give people a definite direction on what is achievable.
- ☐ I approve of the zoning changes.
- ☐ Good work guys!
- ☐ I think this is a move in the right direction however there are other areas within the overall gross floor area that should be considered, i.e. space over the garage, under eaves etc.
- ☐ I am very happy the RMOW is finally making improvements to this very important issue.
- ☐ Good job!
- ☐ It is a great idea and about time. Recognizes the realities of buildings in Whistler.
- ☐ Re-inspect every home!!
- ☐ They seem very positive.
- ☐ It's been an issue for a long time and it's great that you are dealing with it.
- ☐ A good step in the right direction.
- ☐ Make it fair to all parties. Including Rainbow. Why different rules for White Gold, Alpine, Emerald, Rainbow. FAIR to everybody or DON'T do it at all.
- ☐ This is certainly a step in the right direction. Townhomes next?
- ☐ Yes, fully support this direction.
- ☐ Makes logical sense to permit these proposed changes. Fully support it.
- ☐ I think this is a positive approach to attempting to deal with this problem.
- ☐ It seems to be a very good start. It is simple in concept.
- ☐ On the right track.



- I think this is a good first step and well overdue.
- Great to get this done – sooner the better. Please get started happening as soon as possible.
- No comment.
- I like them!
- This is good.
- Overall direction is excellent.
- I agree with proposal on the table.
- Positive initiative, from a safety aspect and putting all / most residents on a level playing field.
- Building height – I know you have shown finished grade – but I think there could still be issues with “fudging”. I would think that the over garage and in-fill would present more issues.
- This needs to be immediately instated/amended.
- Looks great – congratulations to the team!
- Headed in the right direction.
- Yes, absolutely this is the right direction to be heading. I look forward to seeing the illegal spaces committee continuing to work towards legalizing as many illegal spaces as possible.
- I agree that we should be working to legalize many of the existing non-conforming spaces. The current approach of the past decade clearly did not work. Let people build the houses they want!
- Are you going to prosecute those that do not come forward?





**2. Do you have any comments on the proposal to exclude basement-like floor areas from the zoning definition of Gross Floor Area? Any comments on the allowances and definitions being proposed?**

- ☐ Volume/ height limits and setbacks are enough control. Larger lots should allow larger homes than current.
- ☐ This is a logical starting point and should remedy a large percentage of the issue.
- ☐ This is a good 1st step in addressing a chronic issue of non compliance in Whistler.
- ☐ I support the basement area proposal.
- ☐ It is fantastic that basements are going to be excluded for the total GFA calculations.
- ☐ As long as no impact of exposed building volume and scenery between neighbours, owner should have freedom of use of basement.
- ☐ The definitions are very clear, and I support their recommendations.
- ☐ It all seems fair enough to me.
- ☐ No comments.
- ☐ With the above in mind I feel that the overall height & setbacks should be factored into the calculation to also convert the above areas into legal space as well as the crawl spaces.
- ☐ I approve strongly the proposed change to exclude basements from GFA.
- ☐ No comments.
- ☐ Conform to existing codes.
- ☐ Good idea.
- ☐ This is a good start to solving the problem. If a house meets its setback & height restrictions and safety requirements of current zoning square footage should be fine.
- ☐ Makes sense.
- ☐ Well I think the basement like area should go in. It should get taxed. Therefore allow the extra GFA.
- ☐ Only that I do wish to see this take place. Long overdue.
- ☐ What limitations are placed on a property owner to manipulate the average finished grade of the lot?
- ☐ No comment.
- ☐ In agreement.
- ☐ This is a great benefit for lots on slopes; flat lots (particularly those that are impacted by flood level issues) are not addressed. I would hope that something to legitimize extra space issues in these areas is part of this.
- ☐ Should do all spaces now. The exclusion of strata or RS residential zones should be dealt with.
- ☐ This may impact parking requirements, e.g. if 4 bedrooms were added. Should be measured from "natural" grade rather than "finished grade". Not to affect massing/building height max.
- ☐ The proposed changes make sense.
- ☐ No comment.
- ☐ Fully approve.
- ☐ My belief would be that if you can construct within the setbacks & height restrictions it should be allowed. Basements underground should be allowed.
- ☐ Excellent compromise.
- ☐ Why go there?
- ☐ No comment.
- ☐ It's great!



- This is a very good start, and as proposed it makes sense. I believe this is a positive step.
- The definition seems to be very inclusive to help a broad range of property owners. I agree with what is being approved / proposed.
- Is this just first attempt at bringing illegal spaces into compliance? Will there be more?



**3. Do you have any questions or comments on the proposed zones that these changes would apply to (see map)?**

- ☐ This is a start but a good one and the multifamily and other zones should be included as soon as possible.
- ☐ I'm assuming existing homes would be grandfathered and future builds would benefit from the new code. Correct?
- ☐ I think all zoning including LUC should be included, why limit some areas & not others?
- ☐ RTA11 has lots that seem to have non-conforming space so these areas should be included to legalize what's already built.
- ☐ No comment.
- ☐ It would be better if information was clearer on the zones.
- ☐ No questions.
- ☐ Crawl space calculation does not apply to all neighborhoods. i.e. Nicklaus North, White Gold, Tapleys, etc. – non-inhabitable crawl spaces. \*All neighbourhoods should benefit from this rezoning proposal.
- ☐ If you already have below grade development that is part of your allowable building can that be applied elsewhere?
- ☐ Will the zoning change apply to all of Whistler?
- ☐ I think this is completely UNFAIR. Why have different rules for different subdivisions?
- ☐ I would like to see all areas in Whistler included in this scheme as I don't feel it is fair that not all property owners should be ultimately expected to follow the same rules as property owners in the zones as shown to date.
- ☐ No comment.
- ☐ Additional zones under consideration need to be pursued.
- ☐ I would like to see this apply to all zones where single family or duplex is permitted including RT zones. Anything more than 4 B U (?) should be covered.
- ☐ Bare land stratas should be included. The strata lot titles go down to centre of the earth and new space developed under existing units would have little, if any impact.
- ☐ Should be resort wide. No exclusions.
- ☐ No comment.
- ☐ n/a
- ☐ No comment.
- ☐ Include more zones!
- ☐ This should be expanded to include neighbourhoods that would currently be unaffected by these changes.



**4. Do you have any questions or comments that you feel should be addressed in moving forward the proposed changes and ensuring properties with currently unapproved spaces come in to compliance?**

- ☐ Fees for certifying could be discounted in the early stages and incrementally increased over time.
- ☐ Who will investigate the "illegal spaces" and will it be a voluntary or imposed inspection?
- ☐ Continue to work to legalize other spaces (i.e. lofts/attics, void spaces, finished garages, within the existing footprint).
- ☐ How is this going to be achieved and what time scale is involved?
- ☐ It isn't clear how these changes will encourage owners with non-conforming space to come forward voluntarily. They may be scared they will have to redo electrical/plumbing etc. This issue should be discussed publicly as well.
- ☐ Continue to move forward quickly with this process and keep up the good work that you have begun!
- ☐ No comment.
- ☐ It seems that some of the biggest residences are the ones that have taken advantage of capturing additional square footage. If the goal is to ensure everyone is paying their fair share the basement issue is only one part of what should be a continuing initiative.
- ☐ I think that the next step will likely be to tackle the non-conforming space in stratas.
- ☐ Grandfather & move forward.
- ☐ No comment.
- ☐ No comment.
- ☐ Building permit fees should apply to basement like floor areas both for new construction and retroactively when alterations are made to old buildings.
- ☐ How do strata corporations – condo type sites fit into these initiatives? That should be part of the initiative as well.
- ☐ Will there be any attempts to deal with non-conforming spaces that are not on basement or ground levels of existing buildings?
- ☐ Where a house has a "basement" space which complies with the new regulations and could now be permitted for development and a covenant was previously registered on title stating it could not be developed will the homeowners be able to remove the covenant?
- ☐ Home will come into compliance as the owners make upgrades or sell.
- ☐ It's a good idea all round.
- ☐ Re-inspect all homes.
- ☐ Expand this past single family.
- ☐ No comment.
- ☐ No questions. Please move forward.
- ☐ I feel that non-conforming space information needs to be available to temporary workers that may not follow the topic as closely. They are the ones most likely to live in an unsafe space and should be aware of the regulations.



**5. Do you have other comments on the proposed amendments or this initiative in general?**

- This will be good for Whistler. Keep exteriors and setbacks similar but allow more freedom for size.
- This is a positive development that will fuel investment in Whistler and improve its competitiveness as a top resort destination.
- Will there be a "timeline" imposed to achieve compliance to code and safety standards?
- The zoning rules should allow duplexes to have secondary suites in the basements to help with affordability (this is common).
- No, not at the present time.
- Overall, I am very supportive of the initiative. I believe duplexes with basements should also be permitted secondary suites.
- Move to legalize as much space as possible, especially space within the existing volume of homes (i.e. void spaces, lofts, attics, finished garages, etc.).
- Relax suite rules (i.e. allow secondary suites in duplexes, third suites in single family detached. Whistler should be supportive of densification to create greater efficiencies in provision of services, environmental footprint, and helping affordability.
- The GFA should be totally removed from the bylaw, stick to the setbacks & height requirements and let property owners build as big as they want!
- No comment.
- It is a step.
- Consideration for suites in residences that have been mandated for affordable housing for resident workers.
- Please look at the issue off infilling vaulted spaces within the building envelope (e.g. filling in space over vaulted living room).
- This should address all illegal space.
- Great idea. Long overdue.
- Let's move forward quickly the uncertainty of what the future will offer is impacting investment and property value.
- Any further development on these changes should be kept as simple possible along the lines of building volume. If the form and character of a building is still the same whether or not you fill in (for example a vaulted ceiling), it should be fine, both for existing and proposed residences.
- Further can the covenant be removed prior to any permits to develop the space being applied for?
- Fair to everyone, if this goes through the extra taxes and permit fees will allow municipality not to have to raise permit fees because of this extra income. (I have personally worked on illegal space and I don't think it will stop so let the municipality profit with the taxes.
- My main comment is why are we capped at 5000 sq ft? Why not have a cap on floor space ratio? Larger buildings need more setbacks, height limitations. If someone has a large enough lot why not have 10,000 ft<sup>2</sup> or whatever. Those places would create a lot of man years of work plus the maintenance.
- I hope that in filling there some changes will come.
- It should eventually go further; the size of a building on a particular lot should be governed by % of lot coverage (total including garage) and roof height. The living space, square footage should be relevant. A lot of time has been wasted on this calculation and unnecessary.



- White there will be some “minor” issues that may come up with the initiative, there is far more good that will come by finally dealing with this matter. Well done Council, Staff, & Committee members. Best of luck with moving forward.
- Please move forward with this proposed change. It is only a matter of time before people are seriously hurt by being “allowed” to live in a non-conforming space with no exit from house fire or other tragedy.
- I am a fan of this proposal but still do not want monster homes to become permitted within our municipality. The square footage of the house should always be proportionate to the lot size.
- Great open house, very informative.
- Will builders be held responsible for building any illegal spaces?



## REPORT | ADMINISTRATIVE REPORT TO COUNCIL

**PRESENTED:** April 3, 2012

**REPORT:** 12-038

**FROM:** Resort Experience

**FILE:** RZ1044

**SUBJECT:** Gross Floor Area Exclusion – Zoning Text Amendments

### RECOMMENDATION FROM THE CHIEF ADMINISTRATIVE OFFICER

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

### RECOMMENDATION

**That** Council give first and second reading to Zoning Amendment Bylaw (Gross Floor Area Exclusion Amendments) No. 1992, 2012; and

**That** Council authorize the Corporate Officer to schedule a public hearing regarding to Zoning Amendment Bylaw (Gross Floor Area Exclusion Amendments) No. 1992, 2012 and to advertise for the same in a local newspaper; and further

**That** the effects of Zoning Amendment Bylaw (Gross Floor Area Exclusion Amendments) No. 1992 on the resort community and the illegal space issue be monitored and reviewed after a two year trial period as described in this report.

### REFERENCES

Appendix “A” – Zoning Bylaw Amendment Bylaw No 1992, 2012

Appendix “B” – Illustrations of proposed Gross Floor Area exclusion area

Appendix “C” – Summary of Public Input Comments received up to March 5, 2012

Appendix “D” - Summary of Public Input Comments received March 6 – 24, 2012

Appendix “E” - Draft Building Permit Application Form

### PURPOSE OF REPORT

This report presents a zoning amendment bylaw that proposes changes to the definitions of gross floor area, crawl spaces and void spaces resulting from the work of the Council-appointed Illegal Space Task Force. The bylaw, Zoning Amendment Bylaw (Gross Floor Area Exclusion Amendments) No. 1992, 2012, is presented for Council consideration of first and second reading and scheduling of a public hearing. A copy of the bylaw is provided in Appendix “A”. In summary the bylaw proposes to:

1. Permit basement floor areas to be excluded from the calculation of gross floor area for all detached and duplex dwelling buildings within the municipality. The basement floor area is to be a minimum of one metre below the average level of the finished ground of the exterior walls of the building, and the maximum area that may be excluded is 125% of the floor area of the storey immediately above.

2. Remove the ability to construct over height crawls spaces and void spaces and have them excluded from the calculation of gross floor area by registering a covenant prohibiting the use of such areas for any purpose. Such areas are provided for through the proposed basement floor area exclusion.
3. Permit a gross floor area exclusion for exterior walls that are thicker than 6" (152 mm) in support of energy efficiency and conservation.

## DISCUSSION

The zoning amendment bylaw presented for Council consideration is proposed as a significant step towards addressing issues related to floor area constructed and occupied in residential buildings without permits and contrary to existing maximum permitted densities. The changes within the proposed bylaw seek to address such areas located within "basements" as defined within the bylaw, by excluding them from the calculation of gross floor area. Construction and use of non-permitted basement areas in single family and duplex dwellings has been identified by the ISTF as the most common situation and priority to address.

To provide fairness and equity, the basement exclusion is proposed to apply to all single family and duplex dwellings within the municipality, not just those dwellings that have currently non-permitted basement floor areas. Excluding basement areas from the calculation of gross floor area will enable potentially significant additional space for the benefit of all single family and duplex dwelling property owners.

As there is uncertainty as to how effective the proposed zoning amendment will be in having the owners of existing non-permitted spaces bring their property into compliance, as well as the potential impacts of the proposed changes on the community in general, it is recommended that the proposed zoning changes be subject to a two year trial period as described later in this report.

## Background

On December 21, 2011, Council established a Task Force with a Terms of Reference to develop solutions to address issues related to the construction of non-permitted space throughout the municipality, and a time schedule that reflected this as a priority project for the municipality. The Task Force is comprised of four members of the Canadian Home Builders Association (CHBA) (to be appointed by the CHBA), three members of staff (Fire Chief, Manager of Building Department, and Planner) and a member of Council. The details of the Terms of Reference are in Administrative Report to Council No. 11-131.

On January 5 and 19, 2012, the Task Force met and began drafting a zoning bylaw amendment approach to address these spaces. The approach established was to focus on over height crawl spaces and void spaces and to enable such spaces to be legitimized by amending the zoning bylaw to provide a gross floor area exclusion for in-ground basements. It was also identified that this pertained primarily to single family and duplex dwellings.

Subsequently, consideration was given to which properties this exclusion should be applied. This was discussed at the January 26, 2012 Task Force meeting where two basic options were discussed. One was to broadly apply this exclusion across multiple single family and duplex zones (RS and RT zones) and the other was to provide the exclusion to specific properties targeting properties with existing non-permitted space through an "omnibus" zoning amendment. The two options were presented in detail for Council consideration on February 7, 2012 in Administrative



Report to Council No. 12-009. At this meeting Council supported proceeding with a broadly applicable floor area exclusion and to bring this approach forward for public input. Council also supported the direction for establishing this as a pilot project to be monitored and reviewed after a two year period.

On February 16, 2012 the Task Force met to establish the public input process and further discuss the zones to which the floor area exclusion would be applied. It was identified that additional zones should be considered beyond the RS and RT zones, to effectively capture all zones and properties with single family and duplex dwelling building types.

On March 2, 2012, a Public Open House was held at Millennium Place to present and obtain feedback on the proposed changes to the residential regulations. Approximately 100 people attended the Open House with the majority of the attendees being builders, contractors, designers, developers, real estate representatives and a few individual property owners and Strata Council representatives. Approximately 30 written comment sheets were submitted at the Open House and an additional 11 comment sheets were completed on-line by March 6<sup>th</sup>, 2012. The majority of the comments were supportive of the concept to exclude an in ground basement area from the GFA. A number of attendees and written submissions requested that the GFA exclusion be applied to all zones and not just the proposed RS and RT zones. In addition, comments were submitted on line up until March 6, 2012 to be summarized for the Task Force meeting on March 8, 2012. These comments have been compiled by each question on the comment sheet for Council's information and attached as Appendix C.

At the March 8, 2012 Task Force meeting, based on the feedback received, the committee further discussed the applicability of the floor area exclusion and to apply the exclusion to all single family and duplex dwelling building types, as opposed to specific zones. The municipal lawyer reviewed this approach and advised it was workable. However, the municipal lawyer advised it would increase the importance of considering the implications for all permutations of "detached dwelling" and "duplex dwelling" that there might be in the municipality. Whether these new rules for detached dwellings and duplex dwellings will be applicable to buildings on Land Use Contract (LUC) properties will depend on the wording of the individual LUCs or would require a discharge of the LUC and zoning of the properties. Staff advised the Task Force a report to Council would be prepared to present this approach and obtain Council direction.

On March 20, 2012, Administrative Report to Council No. 12-028 outlined the blanket aspect of the zoning bylaw amendment would be based on built form rather than by specific zones. Council endorsed the approach for the blanket zoning bylaw amendment being based on built form for all single family detached dwelling and duplex dwelling types.

Additional comments were submitted between March 5<sup>th</sup> and 23<sup>rd</sup>, 2012. These comments are attached as Appendix D for Council's information. Some comments supported the approach and some comments raised concerns specifically referencing housing affordability, energy consumption and the municipal emission reduction goals.

## **ZONING BYLAW AMENDMENT MODIFICATIONS**

This section of the report outlines the changes to Zoning Bylaw No. 303 as proposed in Zoning Amendment Bylaw No. 1992, 2012 (Appendix A):

### Gross Floor Area – Exclusion of basement floor area in Detached and Duplex dwelling buildings

Bylaw No. 1992, 2012 proposes a GFA exclusion for an in-basement floor area as defined in Appendix A and shown in example illustrations in Appendix B. The blanket amendment would apply to all detached dwelling and duplex dwelling buildings throughout the municipality, and specifically excludes a basement floor area “having an elevation at least 1 metre below the average level of finished ground adjoining the exterior walls of the building, to a maximum of 125% of the floor area of the storey immediately above”. This definition permits more of the ‘in-ground’ basement storey to be above grade than in most municipalities which exclude GFA for in-ground basements, but responds to the sloped topography and the existing over height crawl spaces and walk-in basements typical in many RMOW neighbourhoods.

This amendment is intended to provide an incentive for property owners to apply to legitimize illegal spaces, improve the safety of these spaces, and increase clarity of the permitted use of such spaces across the community.

In addition, these changes and the resulting streamlining of the process to legitimize such space are expected to support the local building industry and property owners as they become familiar with the proposed change in regulations.

### Crawl Space and Void Space Definitions – Elimination of covenanted over height spaces

Bylaw No. 1992, 2012 proposes amendments to the definitions of Crawl Space and Void Space to eliminate the option for covenanting over-height crawl spaces and void spaces. In the past many owners have incorrectly viewed a covenanted over height crawlspace or void space as an area to develop and occupy. The proposed basement floor area exclusion would enable such spaces to be legally occupied subject to building permit requirements. Any crawl spaces and void spaces that may be proposed in addition to the basement gross floor area exclusion would be subject to a maximum height of 1.5 metres.

### Gross Floor Area – Exclusion for wall thickness

Bylaw No. 1992, 2012 proposes a GFA exclusion for wall thickness as outlined in Appendix A. The purpose of the proposed change to the GFA exclusions definition regarding wall thicknesses is to remove an existing regulatory barrier to the design and construction of wall assemblies that exceed the minimum insulation levels required by BC Building Code<sup>1</sup>. The current RMOW definition of ‘gross floor area’ calculates GFA from the outside surface of exterior walls, and as such presents a disincentive to the construction of thicker wall assemblies that are designed to achieve increased insulation performance (R-value). This is due to the fact that almost all cost-effective techniques for achieving higher R-value walls (i.e. greater than the code required R20) require a wall thickness beyond the current 6” code standard.

The practice of measuring GFA from the outside surface of these thicker wall assemblies means that by definition, the interior useable portion of the building is reduced (e.g. with the current definition, installing 4” of additional exterior wall thickness for an average 325 sq.m (3,500 ft<sup>2</sup>) house would reduce useable interior space by approx. 17 sq.m (185 ft<sup>2</sup>)). This reduction of interior

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<sup>1</sup> Note that the City of Vancouver has already adopted a similar policy within their Building Bylaw – Floor Space Exclusion to Accommodate Improved Building Performance (Envelope and Thermal Insulation).

space presents a significant barrier to the design and construction of higher performance wall assemblies and as such, it is recommended that the definition be amended as proposed in order to promote increased energy efficiency, decreased utility costs and reduce GHG emissions across the community.

#### Gross Floor Area Definition – Restructured

Bylaw No. 1992, 2012 contains an amendment to restructure the definition of Gross Floor Area (GFA). The current definition for gross floor area describes how GFA is measured and what floor area is included, but it also contains a series of GFA exclusions. For improved clarity of the GFA definition all exclusions from the GFA calculation are included under a new subsection of General Regulations as shown in Appendix A. The General Regulation section of the Zoning Bylaw contains other exclusions or exceptions with respect to other parts of the Bylaw. It is recommended that the GFA definition be restructured as proposed for the purpose of clarity and readability of the Zoning Bylaw.

### **POLICY CONSIDERATIONS**

#### **Official Community Plan Policies**

The municipality's existing Official Community Plan (OCP) provides policies related to the location, amount and pattern of land use and development; an evaluation methodology for proposed zoning amendments; and guidelines regarding development permit issues such as; form and character of development, protection of development from hazardous conditions and protection of the natural environment.

#### Residential Development

OCP Sections 4.1, 4.2 and 4.13 have policies relating to Residential and Commercial Accommodation and Resident Housing and Section 4.13 provides criteria on how proposed rezoning amendments or developments will be evaluated.

OCP Section 4.1 focusses on accommodation capacity of the community as measured in bed units. Under the current bed unit formula for determining servicing and facility requirements for one person, there is no limiting factor to the floor area size for detached dwelling and duplex dwelling units. Therefore, regardless of the floor area size of a detached dwelling or a duplex dwelling unit, it will only be considered to generate a 6 bed unit capacity for detached dwellings and 12 bed units for duplex units (6 units per dwelling unit). Therefore, if an exclusion of basement floor area from the GFA calculation is permitted this will not change the bed unit calculation for the property.

In Section 4.2, Resident Housing, the background statement indicates a desirability that a range of housing types and prices be provided so that residents can find affordable, suitable housing. However, the policy also acknowledges the Municipality favours approaches that involve minimal intervention and restriction. Over time, this proposed blanket amendment may result in additional legitimate rental units being created adding to supply and diversity of rental accommodation.

#### Municipal Infrastructure Capacity

The proposed zoning bylaw amendment allows for potential increases in the total developed floor area within many residential neighbourhoods. This may result in unknown impacts to infrastructure. There is uncertainty regarding how much more floor area may be developed as a result of the blanket zoning amendment for GFA exclusion, how this floor area will be used and how that may affect demand for water, fire protection, sewers, storm sewer and energy systems.

Many elements of the RMOW infrastructure systems have been designed and upgraded to incrementally provide for the municipality's increasing development capacity. Many of these systems do not have surplus capacity and the uncertainty over increased demand associated with potential increases in floor area for many parts of the community has been identified as a concern. However, the proposed zoning changes are supported with on-going monitoring and review over the two year pilot period.

#### Overall Patterns of Development of the Community and Resort

The proposed zoning bylaw amendment would allow additional floor space to be developed for single family and duplex properties throughout the municipality, as illustrated in the examples in Appendix B. This may contribute to generally larger building mass over time. However, this will be moderated by site conditions,

#### Views and Scenery

If an owner chooses to renovate or build a new detached or duplex dwelling utilizing the proposed GFA exclusion floor area as part of the building mass, this may change views and scenery within existing neighbourhoods. For the majority of the single family and duplex properties, the controlling regulations are the site coverage, building height and setback regulations. Development permit guidelines are not authorized for these dwelling types under provincial legislation.

In some cases there are further design guidelines and controls that influence massing and form and character and associated impacts on views and scenery. These have been established through registered design covenants, Land Use Contracts, and development permit guidelines for multi-family development including single family and duplex dwellings and would continue to apply and be reviewed on an individual basis.

#### Development Permit Guidelines

Some detached and duplex dwelling buildings in Multiple Residential Zones are located on lands designated as a development permit area under several categories, including design objectives for form and character of multi-family developments, protection of the natural environment or protection of development from hazardous conditions. Any proposed changes to these residential buildings and site layout are subject to development permit approval and must be in accordance with the guidelines specified for the various OCP Development Permit Area designations.

Most detached and duplex dwelling buildings are in Single Family and Two Family Residential Zones and do not require development permit approval. The Local Government Act specifically does not permit development permit areas and guidelines to be established for these types of development. Therefore, for most detached and duplex buildings if a Building Permit application meets the Zoning Bylaw and BC Building Code requirements, and there are no variances or other

land use regulations governing the property (i.e. design covenants, land use contracts, builders' covenants, strata bylaws) they must be issued a Building Permit.

### Community Energy and Emission Reductions

In August 2010 Council adopted Greenhouse Gas Emission targets and other energy and water conservation policy and action statements into the OCP. Specifically, the Municipality has established the same ambitious GHG emissions reduction target as the Provincial government to reduce the 2007 emissions levels by 33 percent by 2020. This will require a significant effort toward overall community energy efficiency for both new and renovations of existing buildings.

Any change to the zoning bylaw that increases the currently permitted gross floor area of any building may both result in increased energy use, as well as associated greenhouse gas emissions. It is possible that owners will integrate innovative building systems to reduce their overall energy consumption and emissions footprint, but there is no means within current legislation or regulations to require that energy efficiency is maximized and total consumption is reduced at the building permit stage. If this is not the case, increases in floor area and associated increases in energy use may move the municipality away from its energy and emission targets. The extent of this is uncertain.

### Variances

Property setback, site coverage and height regulations have been identified as important controls to mitigate potential impacts on existing neighbourhood character, resulting from additional building mass particularly on smaller lots. Issues related to variances to these controls are discussed as follows.

### Development Variance Permit (DVP)

With DVP Applications, Council is in direct control and may refuse to allow variances for height, property setbacks and site coverage where the perceived impacts of building mass on smaller lots are excessive. However, owners may still submit an application and present their rationale to Council on a case by case basis for why their variances should be granted.

As part of the two year pilot program, staff proposes to monitor DVP applications for proposed variances that create a larger building mass that are substantially affecting the use and enjoyment of adjacent lands in existing neighbourhoods. Council may also establish a general policy for its consideration of DVP applications.

### Board of Variance (BOV)

The Local Government Act (LGA) Section 899 states a municipality that has adopted a Zoning Bylaw must establish a Board of Variance (BOV) as outlined in the Act. The BOV is an independent body with a limited scope of review with respect to variances relating to "undue" hardship to a property owner. However undue hardship is not specifically defined in the LGA in order for such Boards to review circumstances in each municipality on their own merit and context. Given the BOVs independent nature, staff and Council are reliant on the LGA Section 901(2) (c)

that, in the board's opinion, they would not approve variances that "substantially affect the use and enjoyment of adjacent land" or "defeat the intent of the bylaw".

Staff reports to the BOV may provide recommendations concerning the proposed variances. However, the Board is not bound by these recommendations and may act unilaterally as authorized under LGA Section 901 (2)(c). Finally, as outlined in Section 901 (8) of the LGA, a decision made by the BOV is final. Such decisions may be challenged legally, but would only be overturned if determined to be unreasonable.

## Whistler 2020 Analysis

Whistler 2020 is the municipality's overarching long term strategic plan for Whistler's future. This plan describes what Whistler aspires to be in the year 2020: the values, sustainability principles, vision, priorities and directions that define success and sustainability for the resort community. Specific policies that have been recognized and considered pertinent to the proposed rezoning are listed below:

<b>W2020 Strategy</b>	<b>TOWARD</b> Descriptions of success that resolution moves us toward	<b>Comments</b>
Economic	The Whistler economy provides opportunities for achieving competitive return on invested capital.	Clarification of the use of the existing floor space and future new excluded floor space may improve the return on capital invested by property owners.
Economic	A skilled workforce supports the local economy, and the local economy supports the skilled workforce.	Amendments may lead to employment for local builders to help property owners to obtain appropriate permits.
Resident Housing	Residents enjoy housing in mixed-use neighbourhoods that are intensive, vibrant and include a range of housing forms.	Amendments may lead to a diversity of the housing forms in the various neighbourhoods.
Built Environment	The new and renovated built environment has transitioned toward sustainable management of energy and materials.	The potential for increased floor area may have associated increases in energy demand. Renovations and new builds may utilize newer technologies and materials for completing these spaces.
<b>W2020 Strategy</b>	<b>AWAY FROM</b> Descriptions of success that resolution moves away from	<b>Mitigation Strategies and Comments</b>
Built Environment	The built environment is attractive and vibrant, reflecting the resort community's character, protecting viewscales and evoking a dynamic sense of place.	Two year monitoring program to evaluate changes in resort community character and impacts on viewscales or attractiveness of designs.
Resident Housing	Developed areas are designed and managed to be sensitive to the surrounding environment	Two year monitoring program to evaluate impacts on surrounding environment
Built Environment	The new and renovated built environment has transitioned toward sustainable management of energy and materials.	The potential for increased floor area may have associated increases in energy demand. Renovations and new builds may utilize newer technologies and materials for completing these spaces.

Between April 2010 and October 2011 the municipality held a series of open houses with the public, focus groups and Council to develop updates to the goals, objectives and policies to be included in a new Official Community Plan (OCP) with respect to residential development, economy, community experience and community design. Council is currently reviewing the proposed OCP document in Bylaw No. 1983, 2011 and will determine if revisions are required and when it will proceed to a Public Hearing. Until the draft OCP in Bylaw No. 1983, 2011 is adopted; the existing OCP and its amendments are in effect and used to guide rezoning application with respect to land use development decisions.

## **IMPLEMENTATION**

If the proposed zoning bylaw amendments are adopted there are implementation requirements to understand and put in place.

### Monitoring 2012-2014

As part of the two year pilot program the following issues should be monitored:

- 1) Track the number of detached and duplex buildings submitted and obtaining proper permits.
- 2) Track the amount of excluded GFA in basement floor areas.
- 3) Monitor the number of DVP applications for setback and height variances as a result of designs which are maximizing the permissible GFA and the new floor area exclusion.
- 4) Track the change in energy consumption patterns based on the construction methods used for the renovations or new builds.
- 5) Monitor the impact on RMOW infrastructure capacity.

An annual report will be prepared for Council and additional reports as necessary.

### Building Bylaw Amendment

The Building Department has begun implementing a process for administering the legalization of existing over height crawlspaces. To bring properties into conformance with the Zoning and Building Bylaws a building permit will be required for the illegal spaces. A Building Permit Application must be submitted to the RMOW documenting all improvements made to the property that meet the GFA exclusion. A draft example of the modified BP application form is attached as Appendix E. A full plan review will be undertaken by Municipal staff and a building permit will be issued for the work. The owner of the property (or his/her agent) will book a building inspection with the Municipal Building and Plumbing Inspector to review conditions on site.

It is anticipated that improvements made to many of the homes will have had work covered that would ordinarily require a municipal inspection, making it difficult for the RMOW to issue an unconditional Occupancy Permit. To bring closure to these files the RMOW is working with Municipal Lawyers to draft a Building Bylaw Amendment which will permit conditional occupancy when it can be demonstrated that fire, health and life safety requirements in the illegal spaces have been met.

The Manager of the Building Department has had discussions with interested parties and as part of the implementation process a meeting with stakeholders (Real Estate Community, CHBA) will be arranged after the public hearing to begin outlining the proposed regulatory process.

## **LEGAL REVIEW**

The draft bylaw was reviewed by RMOW lawyer for consistencies with best practices for bylaws and is supported in its' current draft form. Council can modify the bylaw however time would be required for an additional legal review prior to the bylaw proceeding to a Public Hearing.

## **BUDGET CONSIDERATIONS**

It has been necessary to have legal reviews undertaken of the proposed Zoning Bylaw amendments. This will be covered by less than \$5,000 and will be covered by the Task Force's budget.

## **COMMUNITY CONSULTATION**

In addition to the Public Open House held on March 2, 2012, there is a statutory requirement for public input for a zoning amendment through a Public Hearing. For amendments which affect more than 10 parcels, the LGA requirements and municipal practice for notification are ads in the newspaper and the RMOW website, no individual mail outs to property owners is required. The public may submit their comments on the proposed zoning amendment for review by staff and Council up until the close of the Public Hearing.

## **STAFF COMMENTS AND RECOMMENDATION**

Throughout this report staff has made extensive comments on the many municipal considerations that pertain to the proposed zoning amendments. After taking into account the work of the Task Force, input received to date and staffs review of the proposed changes, staff recommends the draft bylaw proceed to a public hearing.

## **SUMMARY**

This report presents Zoning Amendment Bylaw (Gross Floor Area Exclusion Amendments) No. 1992, 2012 for Council consideration and recommends:

1. That Council considers' giving first and second reading to Zoning Amendment Bylaw (Gross Floor Area Exclusion Amendments) No. 1992, 2012; and further
2. That Council authorizes the Corporate Officer to schedule a public hearing regarding Bylaw No. 1992, 2012 and to advertise for same in a local newspaper.
3. That the effects of Zoning Amendment Bylaw (Gross Floor Area Exclusion Amendments) No. 1992 on the resort community and the illegal space issue be monitored and reviewed after a two year trial period as described in this report.

Respectfully submitted,

Robert Brennan, MCIP  
PLANNER  
And  
Mike Kirkegaard  
MANAGER OF PLANNING



For

Jan Jansen  
GENERAL MANAGER OF  
RESORT EXPERIENCE

## RESORT MUNICIPALITY OF WHISTLER

## ZONING AND PARKING AMENDMENT BYLAW (Gross Floor Area Exclusions) NO. 1992, 2012

## A BYLAW TO AMEND THE WHISTLER ZONING AND PARKING BYLAW NO.303, 1983

**WHEREAS** Council may, in a zoning bylaw pursuant to Sections 903, 904 and 906 of the *Local Government Act*, R.S.B.C. 1996, c.323, 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, require the provision of parking spaces and loading spaces for uses, buildings and structures, and establish different density regulations for a zone, one applicable to the zone generally and the other to apply if conditions are met;

**NOW THEREFORE** the Municipal 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 (Gross Floor Area Exclusions) No. 1992, 2012"

2. Zoning and Parking Bylaw No. 303, 1983 is amended by:

(a) Deleting the definition of "gross floor area" in Section 2 - Definitions and replacing it with the following:

"gross floor area" means the total area of all floors in all buildings on a parcel, measured to the outside surface of the exterior walls of the building including stairwells, basements and cellars but excluding areas specified in subsection 25 of Section 5.,"; and

(b) Deleting the definition of "crawl space" in Section 2 - Definitions and replacing it with the following:

"crawl space" means any floor area having less than 1.5 metres of clearance between the underside of a roof or floor system above and a ground floor slab or ground surface below,";

(c) Deleting the definition of "void space" in Section 2 - Definitions and replacing it with the following:

"void space" means any floor area having less than 1.5 metres of clearance between the underside of a ceiling, roof or floor system above and the upper surface of a floor system below,";

(d) Adding the following to Section 5 – General Regulations as subsection 25:

"25 Gross Floor Area Exclusions

The following are excluded from gross floor area calculations:

25.1 For detached dwelling and duplex dwelling buildings:

a) basement floor area having an elevation at least 1 metre below the average level of finished ground adjoining the exterior walls of the building, to a maximum of 125% of the floor area of the storey immediately above;

- b) crawl spaces;
- c) void spaces;
- d) parking areas;
- e) elevators;
- f) areas occupied by fixed machinery and equipment; and
- g) exterior wall thickness in excess of 6" (152mm).

25.2 For all other buildings,:

- a) crawl spaces;
- b) void spaces;
- c) parking areas;
- d) elevators;
- e) areas occupied by fixed machinery and equipment;
- f) exterior wall thickness in excess of 6" (152mm);
- g) garbage and recycling facilities – up to 20m<sup>2</sup> – except for those located in single family and duplex dwellings; and
- h) bicycle storage facilities – up to 8m<sup>2</sup> per dwelling unit – except for those located in single family and duplex dwellings.

3. If any section or phrase of this bylaw is for any reason held to be invalid by a decision of any court of competent jurisdiction, the decision shall not affect the validity of the remaining portions of this Bylaw.

Given first and second reading this \_\_ day of \_\_\_\_\_, \_\_\_\_\_.

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

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

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

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

\_\_\_\_\_  
Nancy Wilhelm-Morden,  
Mayor

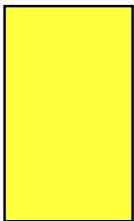
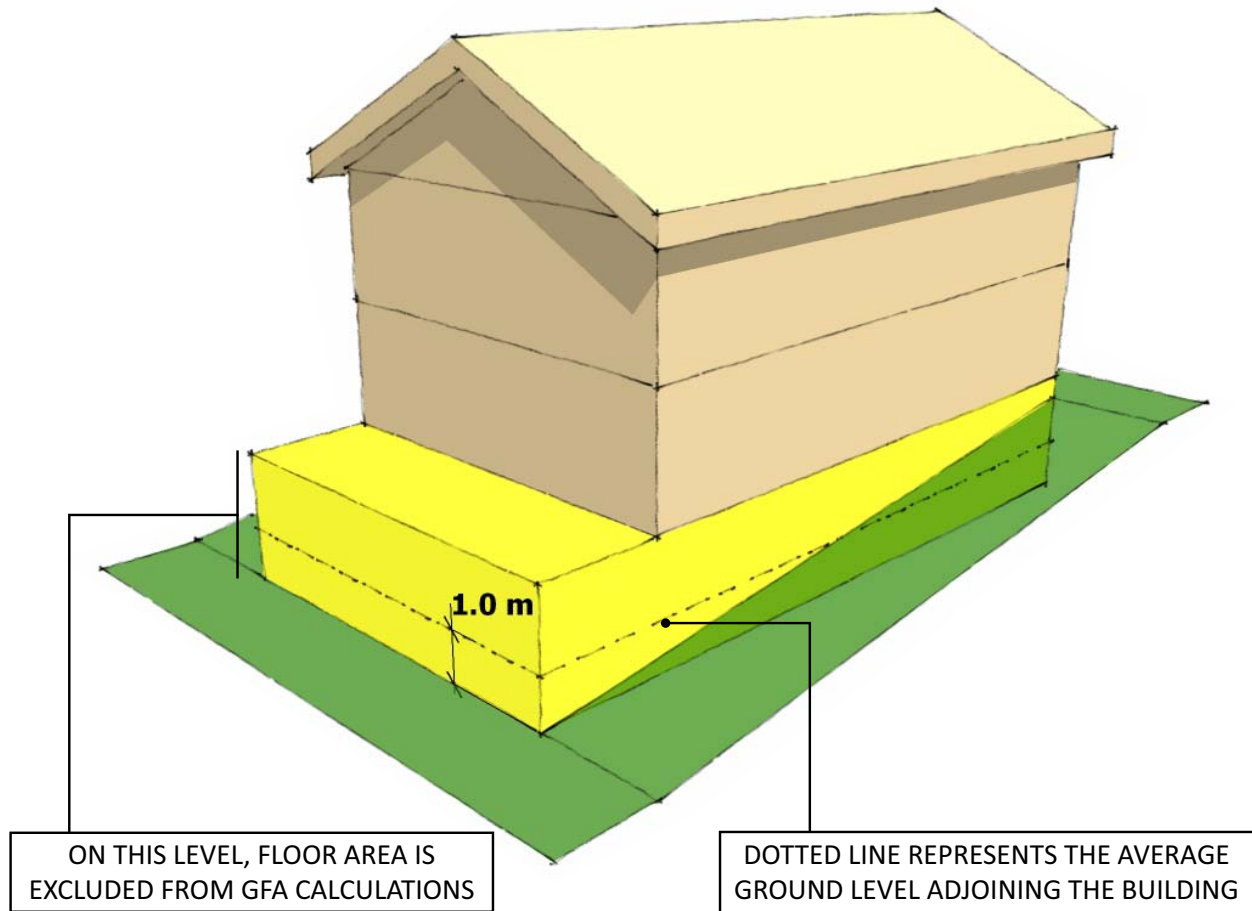
\_\_\_\_\_  
Lonny Miller,  
Corporate Officer

I HEREBY CERTIFY that this is a true  
copy of "Zoning Amendment Bylaw  
(Gross Floor Area Exclusions) No. 1992,  
2012"

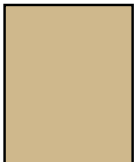
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Lonny Miller,  
Corporate Officer

## **PROPOSED GROSS FLOOR AREA EXCLUSION:** **IN-GROUND BASEMENT**



AREA IN YELLOW REPRESENTS THE IN-GROUND BASEMENT FLOOR AREA DEFINED WITH AN ELEVATION AT LEAST 1 METRE BELOW THE AVERAGE LEVEL OF FINISHED GROUND ADJOINING ALL EXTERIOR WALLS OF THE BUILDING.



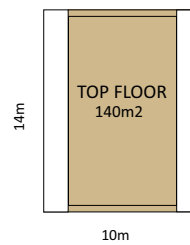
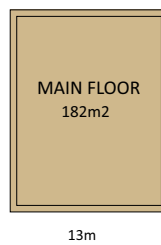
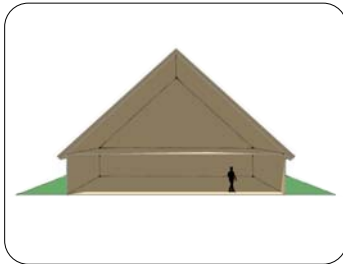
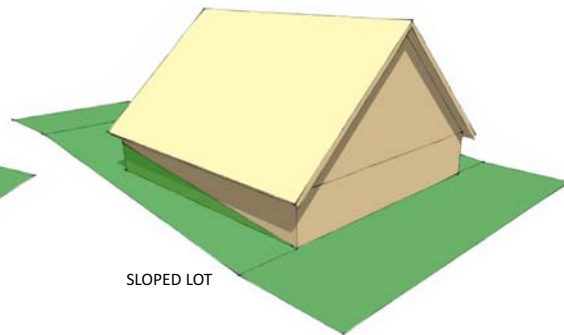
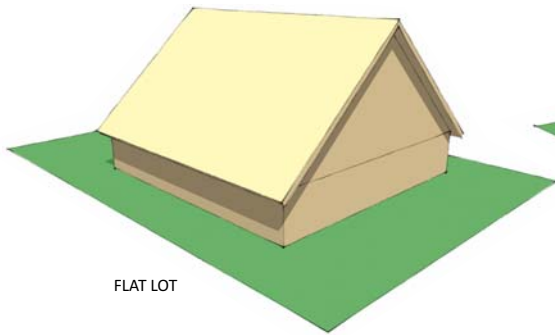
AREA IN BEIGE IS THE AREA CONSIDERED AS GROSS FLOOR AREA PER THE EXISTING ZONING BYLAW DEFINITION.

NOTE: ALL OTHER ZONING REGULATIONS STILL APPLY, FOR EXAMPLE, BUILDING HEIGHT, SETBACKS AND PARKING REQUIREMENTS.

NOTE: PERSPECTIVE DRAWINGS FOR DISPLAY PURPOSES ONLY.

# TWO STOREY DWELLING WITH VAULTED SPACE

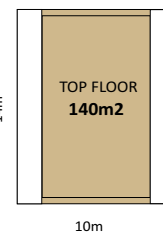
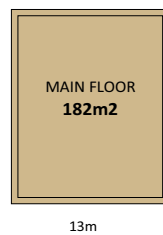
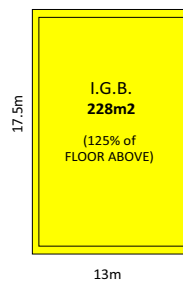
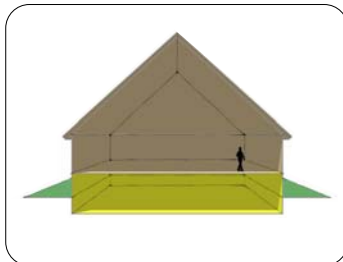
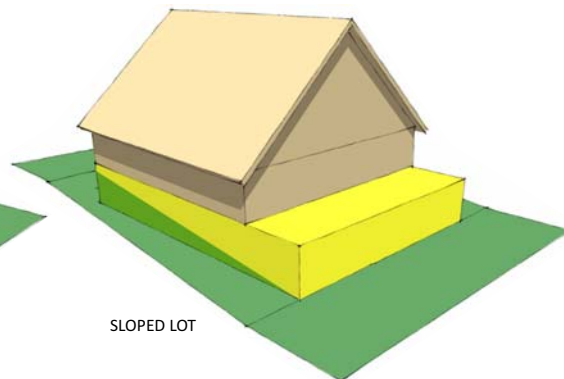
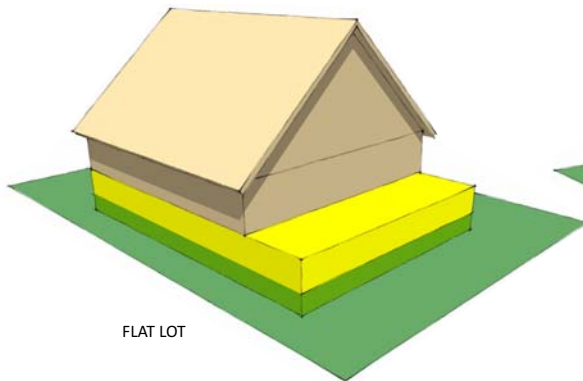
## CURRENT ZONING



**TOTAL AREA = GROSS FLOOR AREA (GFA)**  
= MAIN FLOOR + TOP FLOOR  
= 182m<sup>2</sup> + 140 m<sup>2</sup>  
= **322m<sup>2</sup>**

**NO GFA EXCLUSION**

## PROPOSED GFA EXCLUSION

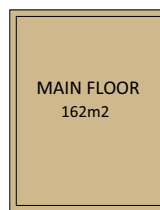
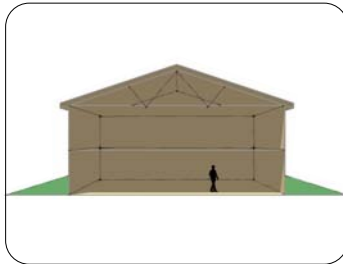
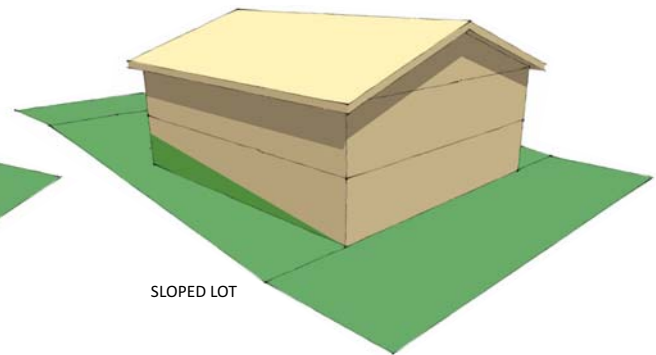
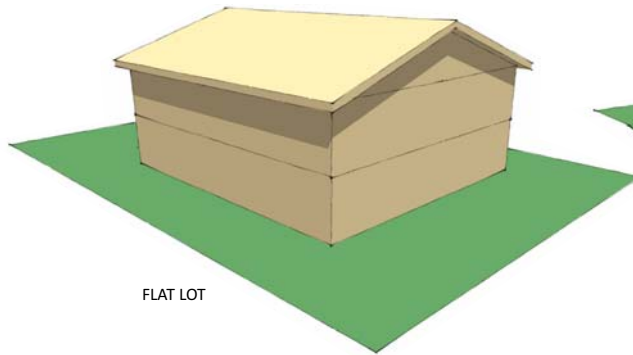


**TOTAL AREA = IN GROUND BASEMENT + GROSS FLOOR AREA**  
= IN GROUND BASEMENT + MAIN FLOOR + TOP FLOOR  
= 228m<sup>2</sup> + 182m<sup>2</sup> + 140 m<sup>2</sup>  
= **550m<sup>2</sup>**

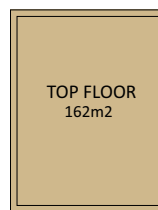
**IN GROUND BASEMENT EXCLUSION**

# TWO STOREY DWELLING WITH TRUSS ROOF

## CURRENT ZONING



13.5m



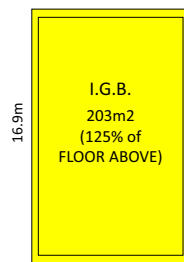
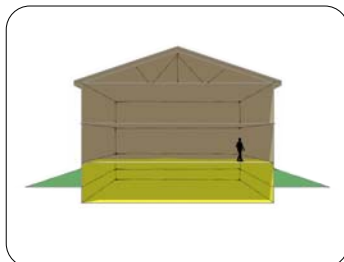
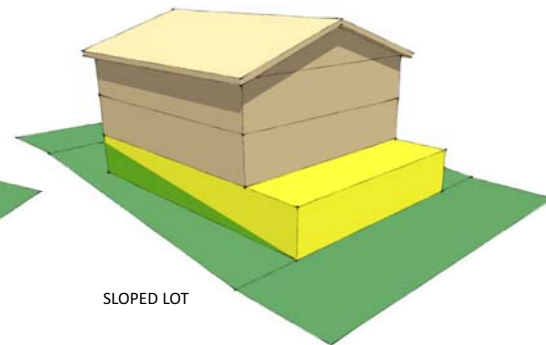
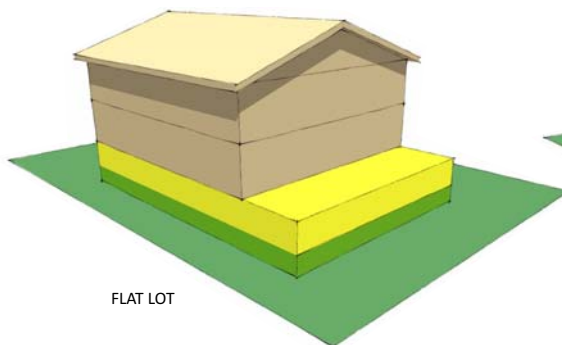
12m

12m

**TOTAL AREA = GROSS FLOOR AREA (GFA)**  
= MAIN FLOOR + TOP FLOOR  
= 162m<sup>2</sup> + 162 m<sup>2</sup>  
**= 324m<sup>2</sup>**

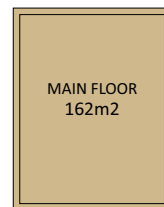
**NO GFA EXCLUSION**

## PROPOSED GFA EXCLUSION

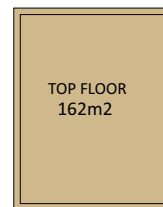


16.9m

12m



12m



13.5m

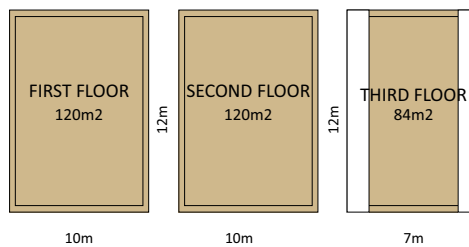
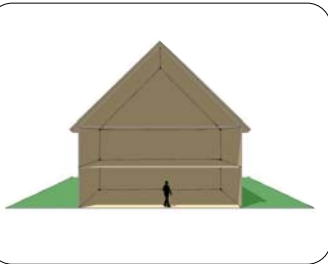
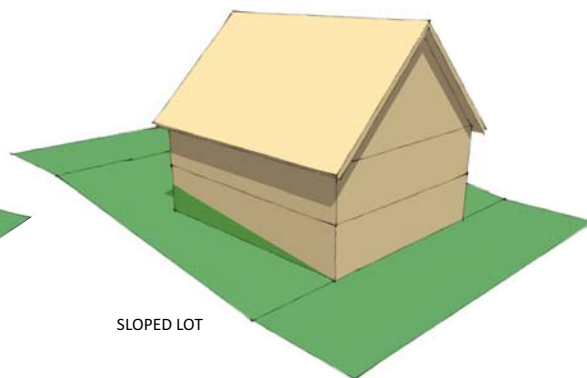
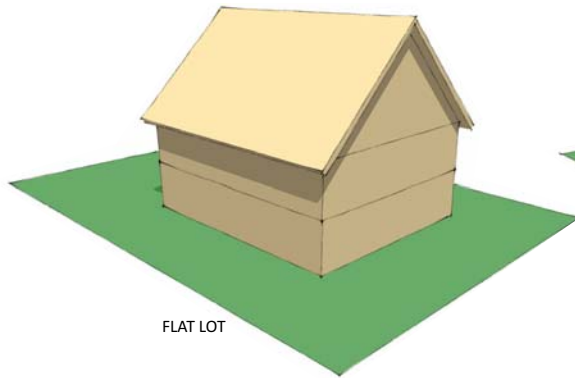
12m

**TOTAL AREA = IN GROUND BASEMENT + GROSS FLOOR AREA**  
= IN GROUND BASEMENT + MAIN FLOOR + TOP FLOOR  
= 203m<sup>2</sup> + 162m<sup>2</sup> + 162 m<sup>2</sup>  
**= 527m<sup>2</sup>**

**IN GROUND BASEMENT EXCLUSION**

# THREE STOREY DWELLING WITH VAULTED SPACE

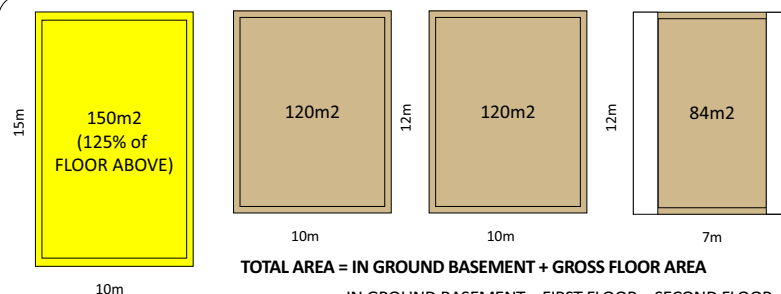
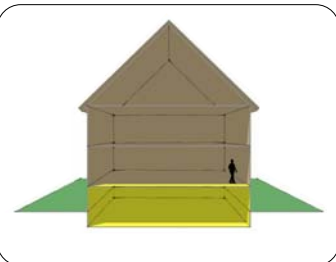
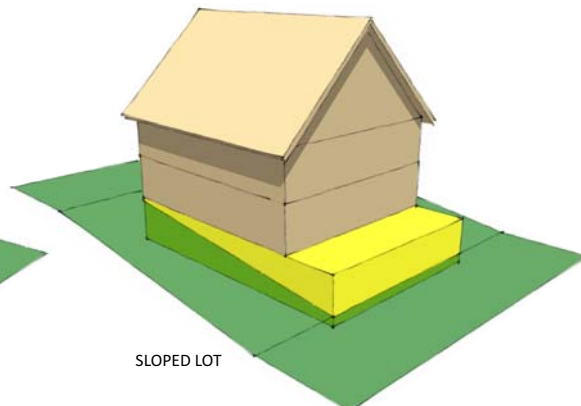
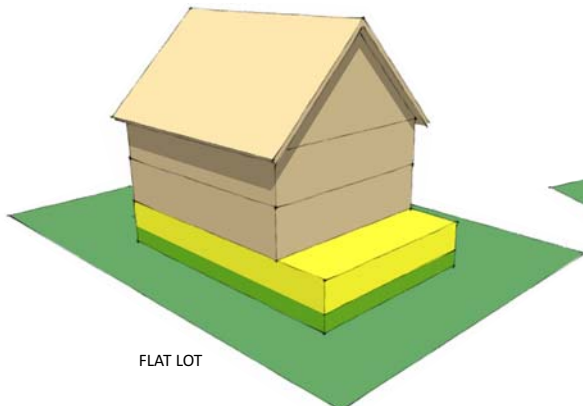
## CURRENT ZONING



**TOTAL AREA = GROSS FLOOR AREA (GFA)**  
= FIRST FLOOR + SECOND FLOOR + THIRD FLOOR  
= 120m<sup>2</sup> + 120 m<sup>2</sup> + 84m<sup>2</sup>  
= 324m<sup>2</sup>

**NO GFA EXCLUSION**

## PROPOSED GFA EXCLUSION



**TOTAL AREA = IN GROUND BASEMENT + GROSS FLOOR AREA**  
= IN GROUND BASEMENT + FIRST FLOOR + SECOND FLOOR + THIRD FLOOR  
= 150m<sup>2</sup> + 120m<sup>2</sup> + 120 m<sup>2</sup> + 84m<sup>2</sup>  
= 474m<sup>2</sup>

**IN GROUND BASEMENT EXCLUSION**





## THE RESORT MUNICIPALITY OF WHISTLER

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www.whistler.ca

TEL 604 932 5535  
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## OPEN HOUSE COMMENT SUMMARY – MARCH 2, 2012 POTENTIAL ZONING CHANGES TO RESIDENTIAL FLOOR AREA REGULATIONS

### 1. Do you have any comments on the overall direction of the proposed zoning changes?

- ☐ This is a step in the right direction.
- ☐ Burdening local full time residents with yet even more taxes will further erode the sustainability of our community. Instead of looking to skim the locals, tax non-resident investors or focus on cost cutting and more efficient management. Please abandon the idea altogether and raise funds by innovating instead, even more taxation is the oldest trick in the book and it never works to the favor of the public, nor to the politicians who will be looking for votes at the next election. Everyone can see that the end story would be taxing non-conforming spaces, and everything else about safety etc., is just the typical theatrical front that always accompanies such changes. We have all seen it again and again and we are sick of it.
- ☐ Logical and pragmatic direction. Will help property values and give new growth to Whistler and ensure Whistler is competitive.
- ☐ I am very glad to see that a solution is being proposed.
- ☐ I support the overall changes proposed.
- ☐ I think it is about time and a step in the right direction.
- ☐ I think it is a good step in the right direction.
- ☐ Since many of houses already have these illegal spaces, changes are good and needed.
- ☐ The task force is definitely moving in the right direction. They should continue to work towards legalizing more spaces.
- ☐ I think that it can only be a positive move and will give people a definite direction on what is achievable.
- ☐ I approve of the zoning changes.
- ☐ Good work guys!
- ☐ I think this is a move in the right direction however there are other areas within the overall gross floor area that should be considered, i.e. space over the garage, under eaves etc.
- ☐ I am very happy the RMOW is finally making improvements to this very important issue.
- ☐ Good job!
- ☐ It is a great idea and about time. Recognizes the realities of buildings in Whistler.
- ☐ Re-inspect every home!!
- ☐ They seem very positive.
- ☐ It's been an issue for a long time and it's great that you are dealing with it.
- ☐ A good step in the right direction.
- ☐ Make it fair to all parties. Including Rainbow. Why different rules for White Gold, Alpine, Emerald, Rainbow. FAIR to everybody or DON'T do it at all.
- ☐ This is certainly a step in the right direction. Townhomes next?
- ☐ Yes, fully support this direction.
- ☐ Makes logical sense to permit these proposed changes. Fully support it.
- ☐ I think this is a positive approach to attempting to deal with this problem.
- ☐ It seems to be a very good start. It is simple in concept.
- ☐ On the right track.



- I think this is a good first step and well overdue.
- Great to get this done – sooner the better. Please get started happening as soon as possible.
- No comment.
- I like them!
- This is good.
- Overall direction is excellent.
- I agree with proposal on the table.
- Positive initiative, from a safety aspect and putting all / most residents on a level playing field.
- Building height – I know you have shown finished grade – but I think there could still be issues with “fudging”. I would think that the over garage and in-fill would present more issues.
- This needs to be immediately instated/amended.
- Looks great – congratulations to the team!
- Headed in the right direction.
- Yes, absolutely this is the right direction to be heading. I look forward to seeing the illegal spaces committee continuing to work towards legalizing as many illegal spaces as possible.
- I agree that we should be working to legalize many of the existing non-conforming spaces. The current approach of the past decade clearly did not work. Let people build the houses they want!
- Are you going to prosecute those that do not come forward?



**2. Do you have any comments on the proposal to exclude basement-like floor areas from the zoning definition of Gross Floor Area? Any comments on the allowances and definitions being proposed?**

- ☐ Volume/ height limits and setbacks are enough control. Larger lots should allow larger homes than current.
- ☐ This is a logical starting point and should remedy a large percentage of the issue.
- ☐ This is a good 1st step in addressing a chronic issue of non compliance in Whistler.
- ☐ I support the basement area proposal.
- ☐ It is fantastic that basements are going to be excluded for the total GFA calculations.
- ☐ As long as no impact of exposed building volume and scenery between neighbours, owner should have freedom of use of basement.
- ☐ The definitions are very clear, and I support their recommendations.
- ☐ It all seems fair enough to me.
- ☐ No comments.
- ☐ With the above in mind I feel that the overall height & setbacks should be factored into the calculation to also convert the above areas into legal space as well as the crawl spaces.
- ☐ I approve strongly the proposed change to exclude basements from GFA.
- ☐ No comments.
- ☐ Conform to existing codes.
- ☐ Good idea.
- ☐ This is a good start to solving the problem. If a house meets its setback & height restrictions and safety requirements of current zoning square footage should be fine.
- ☐ Makes sense.
- ☐ Well I think the basement like area should go in. It should get taxed. Therefore allow the extra GFA.
- ☐ Only that I do wish to see this take place. Long overdue.
- ☐ What limitations are placed on a property owner to manipulate the average finished grade of the lot?
- ☐ No comment.
- ☐ In agreement.
- ☐ This is a great benefit for lots on slopes; flat lots (particularly those that are impacted by flood level issues) are not addressed. I would hope that something to legitimize extra space issues in these areas is part of this.
- ☐ Should do all spaces now. The exclusion of strata or RS residential zones should be dealt with.
- ☐ This may impact parking requirements, e.g. if 4 bedrooms were added. Should be measured from "natural" grade rather than "finished grade". Not to affect massing/building height max.
- ☐ The proposed changes make sense.
- ☐ No comment.
- ☐ Fully approve.
- ☐ My belief would be that if you can construct within the setbacks & height restrictions it should be allowed. Basements underground should be allowed.
- ☐ Excellent compromise.
- ☐ Why go there?
- ☐ No comment.
- ☐ It's great!



- This is a very good start, and as proposed it makes sense. I believe this is a positive step.
- The definition seems to be very inclusive to help a broad range of property owners. I agree with what is being approved / proposed.
- Is this just first attempt at bringing illegal spaces into compliance? Will there be more?



**3. Do you have any questions or comments on the proposed zones that these changes would apply to (see map)?**

- ☐ This is a start but a good one and the multifamily and other zones should be included as soon as possible.
- ☐ I'm assuming existing homes would be grandfathered and future builds would benefit from the new code. Correct?
- ☐ I think all zoning including LUC should be included, why limit some areas & not others?
- ☐ RTA11 has lots that seem to have non-conforming space so these areas should be included to legalize what's already built.
- ☐ No comment.
- ☐ It would be better if information was clearer on the zones.
- ☐ No questions.
- ☐ Crawl space calculation does not apply to all neighborhoods. i.e. Nicklaus North, White Gold, Tapleys, etc. – non-inhabitable crawl spaces. \*All neighbourhoods should benefit from this rezoning proposal.
- ☐ If you already have below grade development that is part of your allowable building can that be applied elsewhere?
- ☐ Will the zoning change apply to all of Whistler?
- ☐ I think this is completely UNFAIR. Why have different rules for different subdivisions?
- ☐ I would like to see all areas in Whistler included in this scheme as I don't feel it is fair that not all property owners should be ultimately expected to follow the same rules as property owners in the zones as shown to date.
- ☐ No comment.
- ☐ Additional zones under consideration need to be pursued.
- ☐ I would like to see this apply to all zones where single family or duplex is permitted including RT zones. Anything more than 4 B U (?) should be covered.
- ☐ Bare land stratas should be included. The strata lot titles go down to centre of the earth and new space developed under existing units would have little, if any impact.
- ☐ Should be resort wide. No exclusions.
- ☐ No comment.
- ☐ n/a
- ☐ No comment.
- ☐ Include more zones!
- ☐ This should be expanded to include neighbourhoods that would currently be unaffected by these changes.



**4. Do you have any questions or comments that you feel should be addressed in moving forward the proposed changes and ensuring properties with currently unapproved spaces come in to compliance?**

- ☐ Fees for certifying could be discounted in the early stages and incrementally increased over time.
- ☐ Who will investigate the "illegal spaces" and will it be a voluntary or imposed inspection?
- ☐ Continue to work to legalize other spaces (i.e. lofts/attics, void spaces, finished garages, within the existing footprint).
- ☐ How is this going to be achieved and what time scale is involved?
- ☐ It isn't clear how these changes will encourage owners with non-conforming space to come forward voluntarily. They may be scared they will have to redo electrical/plumbing etc. This issue should be discussed publicly as well.
- ☐ Continue to move forward quickly with this process and keep up the good work that you have begun!
- ☐ No comment.
- ☐ It seems that some of the biggest residences are the ones that have taken advantage of capturing additional square footage. If the goal is to ensure everyone is paying their fair share the basement issue is only one part of what should be a continuing initiative.
- ☐ I think that the next step will likely be to tackle the non-conforming space in stratas.
- ☐ Grandfather & move forward.
- ☐ No comment.
- ☐ No comment.
- ☐ Building permit fees should apply to basement like floor areas both for new construction and retroactively when alterations are made to old buildings.
- ☐ How do strata corporations – condo type sites fit into these initiatives? That should be part of the initiative as well.
- ☐ Will there be any attempts to deal with non-conforming spaces that are not on basement or ground levels of existing buildings?
- ☐ Where a house has a "basement" space which complies with the new regulations and could now be permitted for development and a covenant was previously registered on title stating it could not be developed will the homeowners be able to remove the covenant?
- ☐ Home will come into compliance as the owners make upgrades or sell.
- ☐ It's a good idea all round.
- ☐ Re-inspect all homes.
- ☐ Expand this past single family.
- ☐ No comment.
- ☐ No questions. Please move forward.
- ☐ I feel that non-conforming space information needs to be available to temporary workers that may not follow the topic as closely. They are the ones most likely to live in an unsafe space and should be aware of the regulations.



**5. Do you have other comments on the proposed amendments or this initiative in general?**

- ☐ This will be good for Whistler. Keep exteriors and setbacks similar but allow more freedom for size.
- ☐ This is a positive development that will fuel investment in Whistler and improve its competitiveness as a top resort destination.
- ☐ Will there be a 'timeline' imposed to achieve compliance to code and safety standards?
- ☐ The zoning rules should allow duplexes to have secondary suites in the basements to help with affordability (this is common).
- ☐ No, not at the present time.
- ☐ Overall, I am very supportive of the initiative. I believe duplexes with basements should also be permitted secondary suites.
- ☐ Move to legalize as much space as possible, especially space within the existing volume of homes (i.e. void spaces, lofts, attics, finished garages, etc.).
- ☐ Relax suite rules (i.e. allow secondary suites in duplexes, third suites in single family detached. Whistler should be supportive of densification to create greater efficiencies in provision of services, environmental footprint, and helping affordability.
- ☐ The GFA should be totally removed from the bylaw, stick to the setbacks & height requirements and let property owners build as big as they want!
- ☐ No comment.
- ☐ It is a step.
- ☐ Consideration for suites in residences that have been mandated for affordable housing for resident workers.
- ☐ Please look at the issue off infilling vaulted spaces within the building envelope (e.g. filling in space over vaulted living room).
- ☐ This should address all illegal space.
- ☐ Great idea. Long overdue.
- ☐ Let's move forward quickly the uncertainty of what the future will offer is impacting investment and property value.
- ☐ Any further development on these changes should be kept as simple possible along the lines of building volume. If the form and character of a building is still the same whether or not you fill in (for example a vaulted ceiling), it should be fine, both for existing and proposed residences.
- ☐ Further can the covenant be removed prior to any permits to develop the space being applied for?
- ☐ Fair to everyone, if this goes through the extra taxes and permit fees will allow municipality not to have to raise permit fees because of this extra income. (I have personally worked on illegal space and I don't think it will stop so let the municipality profit with the taxes.
- ☐ My main comment is why are we capped at 5000 sq ft? Why not have a cap on floor space ratio? Larger buildings need more setbacks, height limitations. If someone has a large enough lot why not have 10,000 ft<sup>2</sup> or whatever. Those places would create a lot of man years of work plus the maintenance.
- ☐ I hope that in filling there some changes will come.
- ☐ It should eventually go further; the size of a building on a particular lot should be governed by % of lot coverage (total including garage) and roof height. The living space, square footage should be relevant. A lot of time has been wasted on this calculation and unnecessary.



- While there will be some “minor” issues that may come up with the initiative, there is far more good that will come by finally dealing with this matter. Well done Council, Staff, & Committee members. Best of luck with moving forward.
- Please move forward with this proposed change. It is only a matter of time before people are seriously hurt by being “allowed” to live in a non-conforming space with no exit from house fire or other tragedy.
- I am a fan of this proposal but still do not want monster homes to become permitted within our municipality. The square footage of the house should always be proportionate to the lot size.
- Great open house, very informative.
- Will builders be held responsible for building any illegal spaces?



## OPEN HOUSE COMMENTS RECEIVED BETWEEN MARCH 6 - 23, 2012 POTENTIAL ZONING CHANGES TO RESIDENTIAL FLOOR AREA REGULATIONS

### 1. Do you have any comments on the overall direction of the proposed zoning changes?

- ☐ Are you going to prosecute those that don't come forward?
- ☐ I applaud the RMOW for being (finally) proactive on this issue.
- ☐ Do not agree with going in this direction as it is, in essence, rewarding bad behavior.

### 2. Do you have any comments on the proposal to exclude basement-like floor areas from the zoning definition of Gross Floor Area? Any comments on the allowances and definitions being proposed?

- ☐ Is this just first attempt at bringing illegal spaces into compliance? Will there be more?
- ☐ Basements should be defined. Area in the basement should not be limited by sq. ft. or we will have the same problem that currently exists.
- ☐ Depending on the lot & the house design by allowing this change someone might be able to build a home up to 7,000 square feet. The last thing this town needs is big homes that will most likely sit empty for the bulk of the year.

### 3. Do you have any questions or comments on the proposed zones that these changes would apply to (see map)?

- ☐ Can I buy a house with a lower floor at grade then come a(nd) backfill the lower floor to have it qualify as a basement so I can get bonus space in my house?

### 4. Do you have any questions or comments that you feel should be addressed in moving forward the proposed changes and ensuring properties with currently unapproved spaces come in to compliance?

- ☐ The intent of the bylaw is to bring properties into conformance and the main focus is liability (life/safety) and structural integrity of the building.
- ☐ Is there any way to ensure some form of community benefit if this goes through? I.E. people that get bonus GFA & come to apply for BP to expand their home must either build an employee restricted rental suite or pay cash that goes to fund future employee housing projects.



**5. Do you have other comments on the proposed amendments or this initiative in general?**

- Will builders be held responsible for building any illegal spaces?
- Question will have to be asked can a basement go beyond the footprint of the house. Will have to develop a strategy for the case that someone comes forward to bring their house into compliance but it unfortunately may not be possible even under new guidelines. Will the RMOW then be litigious or what course of action will be taken. Suggest that they then sign a covenant of disclosure as is the case today.
- This will make market homes even more unaffordable than they are and, most likely inadvertently increase the overall “bed units” in Whistler. Don’t do it!

Dear Task Force, Staff etc....

Thank you for the opportunity to comment on the proposed changes to deal with the illegal space issues in Whistler. I'd like to commend current staff and Council as well as past staff and Council for continuing to try and solve the issues related to illegal space in Whistler. The Task Force should be commended as well for providing input on the topic and for the volunteer hours spent in discussion, open house etc... I offer my opinions as a way of collaborating for a better Whistler and for no other reason.

While there are a host of questions I could ask about the current process "Did it expand beyond finding a solution to illegal space?" "Did it adequately inform residents about the potential benefits and drawbacks to make inform comments?" etc..., the question that I have on this challenge is **"Are we being strategic?"**

What I mean by that, is "Are we ensuring that we get the outcomes we desire or at a minimum ensuring that we can still reach our desired outcomes at some point in the future?" This question is akin to a mountain climber asking, "If I take this next route, will it lead me to a dead end or help me lunch an attempt at the summit?"

In answering this question it is apparent that we need to have a clear idea of what the desired outcomes are.

**I think in the long run most Whistlerites would agree that we want to have a successful and sustainable resort community, where we are thriving and the once apparent trade-offs between community life, resort experience, economic viability, and a healthy environment have been put to rest. At the same time we want to deal with the many issues of today. Achieving these benefits requires open market principles and regulatory/pricing approaches to manage the market failures that are currently acting as barriers. This is why we have some policy in our lives.**

The question today with respect to the current policy proposal is;

**"Does this proposal meet our multiple priorities today and/or at lease ensure that we can still reach our desired outcomes in the future?"**

## **Zoning is powerful and long lasting.**

The whole reason the illegal task force was put together was to look at how to deal with the drawbacks with illegal space and to move further toward some desired outcomes in Whistler. A full breadth of the impacts due to the space is likely going to be included in the report so I won't repeat them here. **I think all the benefits are important values to Whistler and these benefits (support our construction industry, safer dwellings, etc...) should be pursued.** Is it possible

to pursue these benefits and other important community benefits in the short term? Yes. Is it possible to be strategic and ensure the proposal will help lead toward a situation where trade-offs don't exist? Yes. In fact, as Whistlerites have long understood the tremendous opportunity that rezoning is to launch the community toward a better situations. We have also come to understand however is that changes to zoning or definitions have the ability to entrench undesirable situations. Zoning is powerful and long lasting.

There are a host of reasons as to why people build, furnish, and use illegal area as living space. There are also a host of reasons as to why people may just use this illegal space as storage space, and why they may not build it at all. The homes impacted by the proposal fall into one of those three categories. The same reasons to build, use, furnish or

... the question that I have on this challenge is **"Are we being strategic?"**



not build at all likely apply to the empty or tear down home lots impacted by the proposal. Clearly not everyone builds space under their home as might be allowed by this change to the zoning bylaw.

In a race to capitalize on this proposed legal space I think it is fair to say that even more parcels will build and utilize this type of space going forward. Given that basis, there may be some community values that are further impacted compared to the current practice.

I think it is fair to say that even more parcels will build and utilize this type of space going forward. Given that basis, there may be some community values that are further impacted compared to the current practice.

**So what are the values that may be impacted? As far as I can surmise with my limited time looking at the issue they are the following:**

**Value 1: Appropriate Housing for Whistlerites now and in the future  
Increases the price of housing**

The proposal will place increased pressure on the price of homes in Whistler. Whistler is performing quite well with respect to housing its many employees, but this is only because of the past foresight of community members and the willingness of Whistlerites to buy into the model. There is no guarantee that this performance will be maintained going forward, especially as many living in the units begin to reach retirement. If Whistler is to be successful as a community then we need to ensure that enough housing prices reflect the local economy and not the economies of far off places. The current proposal places upward pressure on the size of dwellings and therefore the cost of building.

**Value 2: Bed Cap  
Places additional stress on our built infrastructure and built capital**

Our bed cap system as archaic as it might be was built to ensure that Whistler's infrastructure was not overloaded. Since then it has gain mythical proportions and now is viewed as a tool to ensure that our infrastructure, recreation experience, natural areas and overall crowding of the community is not impacted. Past illegal space has contributed to impacts on these systems and based on the current proposal the new space will likely do so as well. The current and future impact of this additional space of just rezoning detached and duplex dwellings represents an approximate 1-1.5 million additional square feet of building space on top of what we already have. This size represents about another Rainbow/Baxter Creek built form in size, not use, but size.

**Value 3: Energy and GHG Targets  
Will add additional heated floor space to the community**

With 1-1.5 million additional sq.ft of space comes the demand for more energy use for heating and appliances. Much of this energy is currently provided by natural gas and much of BC's future electricity may be derived from natural gas as well. Both these sources are part of our community's, province's, country's and world's contribution to greenhouse gas emissions. Clearly the continual increase in ghg's cannot continue, and in fact Whistler has aggressive targets in the OCP to reduce these emissions. There may be some energy reduction benefits to bringing illegal space up to building codes, but the overall continuation of larger space and allowance for larger buildings will likely continue to increase energy use and likely emissions.

**Value 4: Belief in the rule of law  
Rewards rule breakers and punishes those that followed the rules.**

The current proposal continues to reward people with illegal space in their units, by making it legal. Of course they may have to go through some additional hoops to make it legal, but they are essentially getting a large benefit from this proposal. All the other parcels with homes that were built to the law, will also have the potential to be built as described in your diagrams, but until these homes are torn down/jacked up in the case of a flat lot, or part of a major renovation in the case of a sloped lot, these rewards won't accrue. In fact until that time, the attractiveness of the units that were built to the law may diminish slightly.

In being strategic, there are two ways in which to ensure that the values they encompass are not compromised.

1. **Ensure that the solution today addresses them.**
2. **Ensure that the solution today remains flexible to addressing them at some point in the near future.**

At risk of looking very naïve, there are many other people with far more knowledge who could be involved ensure that more community values are considered in today's solution, but I feel it is in the spirit of collaboration to at least suggest a few ideas too.

1. **Appropriate Housing for Whistlerites now and in the future:** While the current proposal increasing the safety of currently illegal living space it also makes conditions to further increases the cost of future dwellings in Whistler by allowing more space. Whistler has a history of trying to manage the cost of housing in the community and could continue to apply that to this proposal. Solutions might look like other solutions we've had in the past, but might also include solutions like market lot splits, more duplexes, increases in rental suite proportions and size, employee suites, housing payments etc... I realize the suggestion above for affordable housing may also impact infrastructure, so it is not ideal. On the other hand it might also increase the number of people living and migrating to the community and support a longer term economic benefit than just the construction phase.
2. **Bed Cap – minimizing impacts on built and natural infrastructure:** Some additional provisions for parking, building massing etc... or additional local improvement charges on properties, user pay for infrastructure (water, waste, sewage) could help to limit or pay for these impacts on infrastructure. With respect to the impact on natural areas, the current proposal mainly extends impacts to those areas outside of Whistler though additional material used, but locally the impact can be felt on the site where once open natural space under homes or stilted structures is more frequently covered up by buildings. Agreements increase setbacks etc... may help to mitigate this impact.
3. **Energy and GHG Targets:** In most rezoning and as recent as February 2012, Council policy has been to extend provisions to strongly encourage higher efficiency buildings. Baxter Creek, Cheakamus Crossing, Fitzsimmons Walk etc... This practice should just be extended to this proposal to ensure that we can move toward our energy and ghg reduction targets on our own terms without relying on other levels of government. We should continue to lead and then write higher level policy as opposed to just responding to what others decide for us.
4. **Belief in the rule of law:** The current proposal goes far beyond its original intent of solving issues with illegal space. The proposal should scale back to deal with this issue. In scaling back, the proposal may provide foundation of "entitlement in exchange for community benefits" to help support the other solutions above. Including parameters to support the values above is another way to ensure the rule of law is not flouted. Alternatively a more market solution than regulation for dealing with illegal space, bylaws or allowance of more GFA would be to seek the power to tax illegal space a different rate than the traditional legal space tax rate. This additional tax rates may make the decision to build illegal space less appealing in the future.

The bulk of my commentary so far is premised on the assumption that the proposal doesn't support and in fact hampers our ability to support multiple community values. My assumptions could be wrong, and the pilot being proposed is a great way of testing these assumptions.

My assumptions could be wrong, and the pilot being proposed is a great way of testing these assumptions.

The current proposal seeks to apply this pilot approach; in all reality it is much larger than a pilot and the likelihood of the new approach being rescinded all together is unlikely. While the approach could be built upon, unfortunately the best timing for managing the potential drawbacks of the policy are upfront and if this opportunity isn't acted on

now, then the ability for future improvements will be greatly hampered. **Going ahead with the proposal as it stands will put us in a situation where we need to rely on other levels of government or future upzoning benefits to correct the existing and potential market and regulatory failures.**

**If the ideas above or other variations cannot be implemented today into the current proposal, then the second question in an approach to 'being strategic' is to ensure that the solution today remains flexible to addressing the issues at some point in the near future.**

Again at risk of looking very naïve, there are many other people with far more knowledge who could be involved to ensure that flexibility is inherent in the proposal, but here are a few ideas to consider.

1. **Employ a pressure release valve approach:** Essentially start with more strict requirements like those propose above as opposed to minimal requirements and relax/release them as much as necessary to achieve multiple benefits.
2. **Employ a real pilot, improve and expand:** Pilots are one of the best ways to test behaviour before committing to a policy change. A real pilot would apply to one small area (e.g. 200 homes) like in the case of the resident infill pilot in Alpine South, include a robust review process and then be expanded with the improvements.
3. **Use a robust assessment process:** Further improving the current proposal down the road requires that the process to review its outcomes is very robust. With a commitment from leaders to trust and act on the suggested improvements that may be needed in a few years time.
4. **Advocate at other levels of government:** Going ahead with the proposal as it stands requires a reliance on other levels of government help us meet multiple community priorities. In this case housing, ghg reductions etc... To ensure that these upper government approaches are beneficial to the values of Whistler, we need to ensure that we continue to lead the policy discussions and advocate on our behalf of achieving all our community priorities.
5. **Consider "what next?":** If this proposal isn't one part of the solution to creating a better Whistler in all areas, then continue ask answer the question "What are the next steps to keep us moving toward a successful and sustainable future?"

**So where do we go next?** There are really smart people working on this file and really smart people making decisions for the community. Additionally I know there is an urgency to solve some of the issues of illegal space and to get more building happening in the community.

**From my perspective I would like to see respect for those who followed the rules, some enhancements to support even more community priorities through this proposal and at a minimum a truly flexible approach to ensure our ability to manage any unintended consequences and improve our community in the future.**

Thanks again to all the volunteers (Council, Building Industry etc...) and municipal staff who have worked on this file so far.



## RESIDENTIAL BUILDING PERMIT APPLICATION CHECKLIST

Owner's Name: \_\_\_\_\_

Permit No: \_\_\_\_\_

Project Address: \_\_\_\_\_

**DOCUMENTS REQUIRED FOR ALL APPLICATIONS**

- ☐ Title Search (no older than 30 days from date of application) OR ☐ \$20 charge in lieu of Title Search
- ☐ Building Permit Application Form
- ☐ Plumbing Permit Application Form (if any plumbing fixtures to be removed, replaced or added)
- ☐ Acknowledgement of Owner Form
- ☐ Owner's Authorization of Agent Form (required for ANY person other than the registered owner)
- ☐ Highway Use and Clearance Fee Form

**NEW HOMES: special requirements**

- ☐ Plan Requirement Checklist signed by designer & applicant
- ☐ HPO Home Warranty Registration
- ☐ Solar Hot Water Ready

**RENOVATIONS: special requirements**

- ☐ Declared Value of Construction:
- \$ \_\_\_\_\_

**FOUNDATION PERMITS: special requirements**

- ☐ Requirements as listed on p. 6 of Plan Requirement Checklist

**ADDITIONS: special requirements**

- ☐ Survey Plan of existing house

**GROSS FLOOR AREA EXCLUSIONS: special requirements**

- ☐ Area overlays of all floors detailing Gross Floor Area and Excluded Gross Floor Area
- ☐ Calculation of the average ground level adjoining the building
- ☐ Elevation detailing 1 meter maximum requirement to floor and average ground level

**PLANS - 2 SETS OF ALL PLANS REQUIRED**

- ☐ Site Plan with parking/road access @  $\frac{1}{8}$ " - 1' or 1:100 ☐ Floor Plans @  $\frac{1}{4}$ " - 1' or 1:50
- ☐ One extra copy of Site Plan: 11" x 17" MAXIMUM SIZE ☐ Elevations @  $\frac{1}{4}$ " - 1' or 1:50
- ☐ Area overlays for all new Gross Floor Area ☐ Sections

**ENGINEERING**

- ☐ Sealed structural drawings with letters of assurance
- ☐ Geotechnical engineering (where required) with letters of assurance
- ☐ Proof of insurance for all engineers



## ADMINISTRATIVE REPORTS

2372 Gondola Way  
Report No. 11-130  
File No. DP. 1223

Moved by Councillor J. Crompton  
Seconded by Councillor J. Grills

**That** Council approve the building renovation at 2372 Gondola Way as shown in the attached plans to Administrative Report No. 11-130;

**That** Council make this approval subject to:

1. Receipt of written consent from the affected Strata Corporation, VR 2639, in a form acceptable to the General Manager of Community Life;
2. Receipt of sealed Geotechnical Drawings or a Geotechnical Report in support of these works;

**That** Council authorize the Mayor and Corporate Officer to execute all legal documents related to this renovation.

CARRIED

Illegal Spaces Task Force  
– Terms Of Reference  
Report No. 11-131  
File No. RZ1044

Moved by Councillor A. Janyk  
Seconded by Councillor R. McCarthy

**That** Council rescind the following resolutions (originally adopted on February 15, 2011):

*That Council refer the attached draft volumetric density calculation bylaw back to staff and the proponent to resolve additional details and issues;*

*That the proponent be required to submit a study providing additional information as outlined in this report regarding; illustrative examples of using the calculations, analysis of infrastructure capacities implications, impacts on energy and emission targets, and examples of the how to reduce the impact of building design and articulation of the volumetric mass in context to existing neighbourhoods – all reports to be written by qualified professionals;*

*That the terms of reference for all reports and studies be approved by the General Manager of Community Life; and further,*

*That the proponent enter into an agreement to pay the legal costs for the Bylaw review;*

CARRIED

Moved by Councillor D. Jackson  
Seconded by Councillor R. McCarthy

**That** Council appoint an “Illegal Space Task Force Select Committee” to operate on the terms of reference attached to Administrative Report 11-131; and further

**That** Council instruct the General Manager of Economic Viability to include in the



2012 budget, a cost of up to \$15,000 for studies and fees needed to advance the work of the "Illegal Space Task Force Special Committee".

**CARRIED**

Village Day Lot Parking  
Report No. 11-129  
File No. 4530, 4716

Moved by Councillor J. Grills  
Seconded by Councillor J. Faulkner

**That** Council support the Proposed Parking Rates as noted in Appendix "A" to Administrative Report 11-129;

**That** Council support the changes to the "Whistler Village Day Skier Parking Lot Facility Operating Agreement" as outlined in Appendix "B" to Administrative Report 11-129.

**CARRIED**

Accessible Community  
Gardens  
Report No. 11-133  
File No. 10500, 2014

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

**That** Council supports the RMOW's 2012 Age Friendly Community Project Grant application that has been made to the Union of British Columbia Municipalities, and further;

**That** Council recognizes the new community garden in Cheakamus Crossing should be inclusive and accessible to all users; and that this furthers the commitments the RMOW has made to *Measuring Up*, which deals with the concept of the active participation of people with disabilities in all aspects of community life.

**CARRIED**

2012 Council Meetings  
Report No. 11-132  
File No. 3014.02

Moved by Councillor J. Crompton  
Seconded by Councillor J. Grills

**That** Council for the Resort Municipality of Whistler endorse the following Regular Meeting Schedule for 2012:

January 10	May 1	September 4
January 24	May 15	September 18
February 7		October 2
February 21	June 19	October 16
March 6	July 3	November 6
March 20	July 17	November 20
April 3		December 4
April 17	August 21	December 18

**CARRIED**

Mayor Wilhelm-Morden reported that the Finance and Audit Committee met.

Mayor Wilhelm-Morden reported that she, Councillor D. Jackson and Councillor J. Grills attended a Whistler Housing Authority meeting yesterday.

Mayor Wilhelm-Morden reported that the Illegal Space Committee has met regularly.

Councillor Faulkner attended the Forest and Wildland Advisory Committee meeting.

Councillor J. Faulkner reported on the meeting of a subcommittee that met and audited the hiking trails within the municipal boundaries and assessed the existing infrastructure and where it was lacking. The report identified that hiking trails and access to hiking trails have been lost, a lack of signage, and the lack of options to get to the alpine other than using the lifts.

Mayor Wilhelm-Morden reported that the Whistler Arts Council met regarding their budget.

Councillor D. Jackson attended the Whistler Public Library Board meeting, and discussed the goals and budget of the library for 2012.

Councillor J. Crompton met with Whistler Community Services Society board in their new facilities, where multiple groups will be working to provide services to the community.

#### **ADMINISTRATIVE REPORTS**

Rezoning Application 459  
Status Report  
Report No. 12-008  
File No. RA.459

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

**That** Council direct staff to proceed with "Zoning Amendment Bylaw (Fireside Lodge) No. 1796, 2007"; and that staff bring said bylaw forward at an upcoming meeting for consideration of adoption;

**That** Council direct staff to change the bed unit allocation referenced in the draft covenant from 63 to 64.

CARRIED

Illegal Spaces Task Force  
Update  
Report No. 12-009  
File No. RZ1044

Moved by Councillor D. Jackson  
Seconded by Councillor A. Janyk

**That** Council endorse the Illegal Space Task Force Committee recommendation to proceed with preparation of a blanket zoning bylaw amendment under Option One as outlined in Administrative Report 12-009 as a two year pilot project;

**That** Council supports the Illegal Space Task Force Committee creating a public consultation process for feedback on this matter.

CARRIED

THEREFORE BE IT RESOLVED that the Lower Mainland Local Government Association and the Union of BC Municipalities support changes to LCLB licensing provisions for the service of liquor in venues without a permanent liquor license, including:

- Allow qualified commercial caterers to be eligible for a liquor license,
- Allow qualified licensed establishments to be eligible for a catering endorsement to their liquor license;
- Allow caterers, event planners and businesses involved with the planning and management of events to be eligible for a Special Occasion License; and
- Allow, for certain Special Occasion Licensed events with local government council/board and police support, for people to walk around freely with an alcoholic beverage in areas where minors are present;

AND BE IT FURTHER RESOLVED that the issuing of liquor licenses to caterers not have negative impacts on existing licensed establishments and local communities.

CARRIED

Rezoning Proposal –  
Rainbow Commercial  
(Lot 9)  
Report No. 12-032  
File No. RZ1034

Moved by Councillor J. Grills  
Seconded by Councillor R. McCarthy

**That** Council consider and not support further review and processing of rezoning application RZ1034.

CARRIED

Mountain Square  
Parkade Membrane and  
Plaza Repair  
Report No. 12-030  
File No. 8268.01.01

Moved by Councillor J. Crompton  
Seconded by Councillor J. Grills

**That** Council receive the results of the recent Mountain Square project tender; and further

**That** Council accept the low bid received from Jacobs Brothers Construction in the amount of \$1,118,207.91 for an April 2012 construction start date.

CARRIED

Gross Floor Area  
Exclusion Zoning  
Amendments  
Report No. 12-028  
File No. RZ 1044

Moved by Councillor D. Jackson  
Seconded by Councillor R. McCarthy

**That** Council receive the public input from the March 2, 2012 Public Open House on proposed changes to the zoning bylaw to provide a gross floor area exclusion for in-ground basements for RS and RT zones; and further

**That** Council direct staff to bring forward a zoning bylaw amendment for consideration of first and second reading to provide a gross floor area exclusion for in-ground basements, that identifies applicable zones or generally applies to all single family and duplex dwelling types in all zones to be determined based on

further review by staff in consultation with the Illegal Space Task Force Committee.  
**CARRIED**

Strategic Community  
Investment Funds  
Report No. 12-025  
File No. Vault

Moved by Councillor J. Faulkner  
Seconded by Councillor J. Grills

**That** Council authorize the Corporate Officer to execute the Strategic Community Investment Funds Agreement with the Province of British Columbia, a copy of which is attached as Appendix A to this report; and

**That** Council direct staff to report publicly on the use of the Strategic Community Investment Funds by June 30<sup>th</sup> in each following year.

**CARRIED**

Canada Water Week  
Proclamation  
Report No. 12-026  
File No. 3009.1/220.2

Moved by Councillor J. Crompton  
Seconded by Councillor D. Jackson

**That** Council proclaim Canada Water Week in the Resort Municipality of Whistler the week of March 19<sup>th</sup> to 25<sup>th</sup> in the year 2012, as per Appendix A of Report No. 12-026.

**CARRIED**

#### **MINUTES OF COMMITTEES AND COMMISSIONS**

Liquor License Advisory  
Committee

Moved by Councillor J. Grills  
Seconded by Councillor J. Crompton

**That** the minutes of the Liquor License Advisory Committee meeting of February 9, 2012 be received.

**CARRIED**

#### **BYLAW FOR FIRST, SECOND AND THIRD READINGS**

Building and Plumbing  
Regulation Amendment  
Bylaw No.1991, 2012

Moved by Councillor J. Grills  
Seconded by Councillor J. Crompton

**That** Building and Plumbing Regulation Amendment Bylaw No.1991, 2012 receive first, second and third readings.

**CARRIED**

#### **OTHER BUSINESS**

Campaign Financing  
Disclosure Statements –  
2011 General Local  
Election

Moved by Councillor J. Crompton  
Seconded by Councillor J. Faulkner

**That** Council receives reporting that all Campaign Financing Disclosure Statements from the 2011 General Local Election were submitted to the Chief Election Officer.

**CARRIED**

## INFORMATION REPORTS

2012 Cheakamus  
Community Forest  
Harvesting Plans  
Report No. 12-034  
File No. 828

Moved by Councillor J. Crompton  
Seconded by Councillor J. Grills

**That** Council receive the information report regarding the 2012 Cheakamus Community Forest harvesting plans.

CARRIED

## ADMINISTRATIVE REPORTS

Recreation and Leisure  
Advisory Committee  
Report No. 12-035  
File No. 8360

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

**That** Council approve the Recreation and Leisure Advisory Committee Terms of Reference, attached as Appendix A to Administrative Report No. 12-035;

**That** Council appoint one member of Council to attend the meetings of the Recreation and Leisure Advisory Committee in an "ex-officio" non-voting capacity; and further,

**That** Council direct staff to advertise for available positions on the Recreation and Leisure Advisory Committee.

CARRIED

Gross Floor Area  
Exclusion – Zoning Text  
Amendments  
Report No. 12-038  
File No. RZ1044

Moved by Councillor R. McCarthy  
Seconded by Councillor A. Janyk

**That** Council give first and second reading to Zoning Amendment Bylaw (Gross Floor Area Exclusion Amendments) No. 1992, 2012; and

**That** Council authorize the Corporate Officer to schedule a public hearing regarding the Zoning Amendment Bylaw (Gross Floor Area Exclusion Amendments) No. 1992, 2012 and to advertise the same in a local newspaper; and further,

**That** the effects of Zoning Amendment Bylaw (Gross Floor Area Exclusion Amendments) No. 1992 on the resort community and the illegal space issue be monitored and reviewed after a two year trial period as described in this report.

CARRIED

2012 Fee for Service  
Agreements  
Report No. 12-033  
File No. 3004.3

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

**That based on the recommendation by the Finance and Audit Committee,** Council authorize Mayor and Corporate Officer to execute Fee for Service Agreements with Whistler Animals Galore in the amount of \$60,000.00, Whistler Arts Council in the amount of \$536,800.00, Whistler Museum and Archives in the amount of \$150,000.00 and Whistler Chamber of Commerce in the amount of \$110,000.00 for the 2012 calendar year.

CARRIED

OCP Amendment –  
SLRD Regional Growth

Moved by Councillor J. Faulkner  
Seconded by Councillor J. Crompton

## MINUTES OF COMMITTEES AND COMMISSIONS

Audit and Finance  
Standing Committee

Moved by Councillor D. Jackson  
Seconded by Councillor J. Crompton

**That** the minutes of the Audit and Finance Standing Committee meetings of December 22, 2011, January 26, 2012, and February 23, 2012 be received.

CARRIED

Forest and Wildland  
Advisory Committee

Moved by Councillor J. Grills  
Seconded by Councillor J. Faulkner

**That** the minutes of the Forest and Wildland Advisory Committee meetings of February 15, 2012 be received.

CARRIED

## BYLAWS FOR FIRST AND SECOND READINGS

Zoning Amendment  
Bylaw (Gross Floor Area  
Exclusions) No.1992,  
2012

Moved by Councillor D. Jackson  
Seconded by Councillor R. McCarthy

**That** Zoning Amendment Bylaw (Gross Floor Area Exclusions) No.1992, 2012 receive first and second readings.

CARRIED

Official Community Plan  
Amendment Bylaw  
(Regional Context  
Statement) No.1993,  
2012

Moved by Councillor A. Janyk  
Seconded by Councillor R. McCarthy

**That** Official Community Plan Amendment Bylaw (Regional Context Statement) No. 1993, 2012 receive first and second readings.

## BYLAWS FOR ADOPTION

Building and Plumbing  
Regulation Amendment  
Bylaw No. 1991, 2012

Moved by Councillor A. Janyk  
Seconded by Councillor D. Jackson

**That** Building and Plumbing Regulation Amendment Byway No. 1991, 2012 be adopted.

CARRIED

## OTHER BUSINESS

Late Item Request –  
Letter to VCHA  
Report No. 12-040  
File No.

Moved by Councillor J. Crompton  
Seconded by Councillor J. Faulkner

**That** Council consider adding as a late item to the agenda the following resolution:

**That** Staff be instructed to send a letter on behalf of Mayor and Council to Kip Woodward, Chair of the Vancouver Coastal Health Authority strongly encouraging VCHA to replace Dr. Pat McConkey upon his retirement with a full time local orthopedic surgeon.

CARRIED