

**RESORT MUNICIPALITY OF WHISTLER**

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STAFF REPORT TO COUNCIL

PRESENTED: May 10, 2022
FROM: Planning – Policy
SUBJECT: LAND USE CONTRACT TERMINATION BYLAW (HORSTMAN ESTATES) NO. 2323, 2022 – PUBLIC HEARING, THIRD READING AND ADOPTION REPORT

REPORT: 22-065
FILE: LUC00004

RECOMMENDATION FROM THE CHIEF ADMINISTRATIVE OFFICER

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

RECOMMENDATION(S)

That Council consider giving third reading to “Land Use Contract Termination Bylaw (Horstman Estates) No. 2323, 2022”; and further

That Council consider adopting “Land Use Contract Termination Bylaw (Horstman Estates) No. 2323, 2022” as permitted under section 480 of the *Local Government Act*.

PURPOSE OF REPORT

The purpose of this report is to present “Land Use Contract Termination Bylaw (Horstman Estates) No. 2323, 2022” (the LUC Termination Bylaw) to Council for consideration of third reading and adoption. This report also provides a summary and review of written and verbal submissions made during the Public Hearing process. Staff are not recommending any changes to the LUC Termination Bylaw based on the Public Hearing submissions.

☐ Information Report ☒ Administrative Report (Decision or Direction)

DISCUSSION

Background

The Horstman Estates subdivision lies on the outskirts of the Blackcomb Benchlands between Painted Cliff Road and the foot of Blackcomb Mountain. This is a bareland strata subdivision consisting of 33 single family residential lots of various sizes. The Horstman Estates strata plan is split zoned: the lands lie partially within the Blackcomb Land Use Contract (LUC) area, and partially within the RS3 Zone (Residential Single Family Three) of the RMOW’s current Zoning and Parking Bylaw No. 303, 2015 (Zoning Bylaw). Two maps showing affected properties are included in Appendix A: Map 1 shows the entirety of the Horstman Estates area, which is affected by the revised density provisions in the RS3 Zone; and Map 2 shows the lands where the Blackcomb LUC is proposed to be terminated.

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The LUC Termination Bylaw received first and second readings from Council on March 22, 2022. On that date, Council also authorized staff to schedule a Public Hearing for the LUC Termination Bylaw and to provide notice of the Public Hearing.

The purpose of the LUC Termination Bylaw is to terminate the Blackcomb LUC from the applicable subject lands and apply a revised version of the RS3 Zone to the entirety of Horstman Estates. Proposed changes to the RS3 Zone are revising the intent statement to remove reference to the Blackcomb LUC, including maximum gross floor areas for each strata lot consistent with restrictive covenant no. GC125596, and updating the parking requirements to reference Part 6 of the Zoning Bylaw.

The March 22, 2022 [Administrative Report No. 22-046](#) provides detailed information on the LUC termination process, the Blackcomb LUC, site context, covenant no. GC125596 and proposed revised RS3 Zone.

Analysis

The Resort Municipality of Whistler (RMOW) held a Public Hearing on the proposed LUC Termination Bylaw on April 19, 2022. The Public Hearing provided an opportunity for members of the public to make verbal representations and submit written comments to Council respecting matters contained in the proposed bylaw. The Public Hearing was conducted consistent with statutory requirements, including public notice requirements. Six written submissions and three verbal representations were received from the public during the Public Hearing process (numbers do not account for those who spoke more than once).

Section 465(5) of the *Local Government Act* (LGA) requires that a written report of the Public Hearing, containing a summary of the nature of the representations respecting the bylaw that were made at the Public Hearing, be prepared and maintained as a public record. **Staff's summary and review of the representations and submissions, along with staff's associated recommendations, are provided in the Public Hearing summary report in Appendix B.** The summary report is not intended to present verbatim the detail of the representations and submissions. While Appendix B provides the Public Hearing summary report, for context, the submissions to Council provided by subject property owners related to the following:

- Inclusions of maximum gross floor area in the proposed revised RS3 Zone;
- Applicability of Part 5, section 26 (Gross Floor Area Exclusions) of the Zoning Bylaw;
- Ability to rebuild in the event of a fire;
- Tourist accommodation as a permitted use in Horstman Estates;
- Rezoning Application File No.001172;
- Discharge of covenant no. GC125596; and
- Request for additional information.

Staff do not recommend any changes to the LUC Termination Bylaw based on the Public Hearing comments. While details are provided in Appendix B, staff do not recommend any changes for the following key reasons:

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- The inclusion of maximum GFA in the proposed revised RS3 Zone is a reflection of the regulations provided in covenant no. GC125596 and is intended to provide clarity regarding the regulations for each strata lot;
- Part 5, section 26 of the Zoning Bylaw will be applicable to properties within the proposed revised RS3 Zone subject to a covenant modification application;
- In the event of a fire, the use and density provisions of the proposed revised RS3 Zone are intended to provide for the existing approved development, and protections for any potential non-conforming structures are afforded under section 529 of the *LGA*;
- Tourist accommodation is not recognized as a permitted use in Horstman Estates. Submissions made by a strata lot owner and by the Chair of the strata indicated support for this use and that the strata could address any concerns associated with the use through adoption of strata bylaws. For the reasons described in Appendix B, staff recommend that there is a policy basis for supporting this use. Staff are supportive of consideration of a future rezoning to add this use, should the property owners submit a rezoning application on behalf of the entirety of Horstman Estates. This is a similar process to that pursued in relation to the Snowridge strata which was referenced in the submission, whereby Snowridge was rezoned in 2006 to a RTA (Residential Tourist Accommodation) zone to permit both residential and tourist accommodation use (see Council Report 05-140 attached as Appendix C);
- Should the applicant of File No.001172 choose to follow through with their application, the RMOW will process the application as per the requirements of the *LGA* and the Land Use Procedures and Fees Bylaw No. 2019, 2012;
- Covenant no. GC125596 is registered on the titles of all the Horstman Estates properties, it does not automatically terminate on a specified date, and it will remain on title and continue to regulate the development of Horstman Estates; and
- The notice and timing given to owners is consistent with that given for other LUC termination files and meet the requirements for notice set out in the *LGA*.

POLICY CONSIDERATIONS

Relevant Council Authority/Previous Decisions

[March 22, 2022: Administrative Report No. 22-046](#), Land Use Contract Termination (Horstman Estates) Report

[February 8, 2022: Information Report No. 22-011](#), Land Use Contracts Termination Approach Update

[June 1, 2021: Administrative Report No. 21-061](#), Land Use Contract Terminations – Update

[May 3, 2016: Information Report No. 16-055](#), Land Use Contract Termination Process

Corporate Plan

The RMOW Corporate Plan is updated annually and articulates strategic direction for the organization. This section identifies how this report links to the plan.

Council Focus Areas

☒ Community Balance

*Effectively **balance resort and community needs** through deliberate planning, partnerships and investment*

☐ Climate Action

*Provide leadership to **accelerate climate action and environmental performance** across the community*

☐ Housing

*Advance strategic and innovative initiatives to enable and **deliver additional employee housing***

☐ Not Applicable

Community Vision and Official Community Plan

The Official Community Plan (OCP) is the RMOW's most important guiding document that sets the community vision and long-term community direction. This section identifies how this report applies to the OCP.

The March 22, 2022 [Administrative Report No. 22-046](#) provides a review of the relevant policies within the OCP's Growth Management chapter (Chapter 4).

BUDGET CONSIDERATIONS

There are no budget considerations. The termination of Whistler's LUCs is a planned, multi-year project. All costs associated with bylaw preparation, the Public Hearing, notices and legal fees will be covered under the existing Planning Department budget.

LIL'WAT NATION & SQUAMISH NATION CONSIDERATIONS

The RMOW is committed to working with the Lil'wat People, known in their language as *L'il'wat7úl* and the Squamish People, known in their language as the *Skwxwú7mesh Úxwumixw* to: create an enduring relationship; establish collaborative processes for Crown land planning; achieve mutual objectives; and enable participation in Whistler's resort economy. This section identifies areas where RMOW activities intersect with these relationships.

There are no specific considerations to include in this report.

COMMUNITY ENGAGEMENT

Level of community engagement commitment for this project:

☐ Inform ☒ Consult ☐ Involve ☐ Collaborate ☐ Empower

Comment(s):

Letter to Registered Owners

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On February 8, 2022, staff distributed a letter to affected property owners within the LUC portion of Horstman Estates informing them of the commencement of the LUC termination process. The draft revised RS3 Zone was attached to the letter for owners' information. The letter also identified the opportunity for written comments on the draft proposed zone.

In response to the letter to registered owners, the RMOW received two of the same submission from one individual and their representative, and one submission on behalf of strata council for VR2482 (Horstman Estates); the submission on behalf of the strata was subsequently retracted. The March 22, 2022 [Administrative Report No. 22-046](#) includes staff's summary of and response to comments and it also includes the submissions received with substantive questions or comments as Appendix H.

Public Hearing

As noted above, a Public Hearing on the proposed LUC Termination Bylaw, which was subject to public notice requirements, was held on March 1, 2022. Six written submissions and three verbal representations were received from the public during the Public Hearing process. Staff's summary and review of the representations and submissions, along with staff's associated recommendations, are provided in the Public Hearing summary report in Appendix B.

Future Notifications

The LGA also requires that written notice be provided to property owners notifying them of the termination of the LUC after adoption of the bylaw. This notice must advise owners of their right to apply to the Board of Variance for an exemption from early termination, and it must identify the place where and the times and dates when bylaws are available for public inspection. Staff will carry out this notification should the LUC Termination Bylaw be adopted by Council.

REFERENCES

Appendix A – Maps

Appendix B – Summary and Review of Public Hearing Submissions

Appendix C – October 17, 2005: Administrative Report No.05-140

Appendix D – Council Policy G-20: Tourist Accommodation Rezoning Policy (May 31, 1999)

"Land Use Contract Termination Bylaw (Horstman Estates) No. 2323, 2022" (Included in Council Package)

SUMMARY

This report presents the LUC Termination Bylaw to Council for consideration of third reading and adoption. The report also provides a summary and review of written and verbal submissions made during the Public Hearing process. Staff are not recommending any changes to the proposed LUC Termination Bylaw.

SIGN-OFFS

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