



Sent via Email

May 4, 2022

Vail Resorts
390 Interlocken Crescent
Broomfield, CO 80021

**Re: Blackcomb Land Use Contract (LUC) Termination
Blackcomb Mountain Properties
File No. LUC00022**

Dear Mr. Buchheister,

Thank you for providing comments regarding the Blackcomb Land Use Contract Termination File No. LUC00022 in your letter dated April 29, 2022 and for taking the time to meet with staff on Monday May 2, 2022.

The letter provided identified three requested changes, with supporting rationale, to the proposed replacement zoning:

- All lands under the LUC Agreements be zoned to the MC3 Zone;
- All permitted uses under the LUC Agreements be incorporated into the MC3 Zone; and
- Permitted density of 1.5 FAR be incorporated into the MC3 Zone.

Additionally the letter noted you do not believe that the proposed replacement zoning implements the like-for-like principle.

Staff have reviewed and considered your comments and have provided a response below noting changes made to the proposed replacement zoning.

In response to the comments received regarding zoning all subject lands to the MC3 Zone, staff removed the proposed P3 Zone and instead included the P3 Zone subject lands into the proposed MC3 Zone. The MC3 Zone was revised to include parking and outdoor assembly as permitted uses and the areas of P6 and P7 on Blackcomb Mountain have been included as Area F within the MC3 Zone Key Area Plan. To preserve the parking stalls located in P6 and P7, in conformity with [the Blackcomb Mountain Master Plan Update \(September 2013\)](#), a minimum requirement of 904 parking stalls in Key Plan Area F has been added.

The existing LP2 Zone is proposed to be applied to the hooked Crown land areas and is intended to preserve the existing open spaces. The existing RR1 Zone is proposed to be applied to municipal roads in the Blackcomb LUC, consistent with the treatment of other roads within the municipality. Staff are not recommending to incorporate the subject lands of the LP2 Zone and RR1 Zone into the proposed MC3 Zone.



Regarding adherence to the “like-for-like” principle, the letter notes that not all of the uses permitted in the Blackcomb LUC are included in the proposed replacement zoning and that the density provisions in the replacement zoning do not reflect the density of a 1.5 floor space ratio noted in the LUC.

In the February 8, 2022 [Information Report No. 22-011](#), staff provided information to Council to clarify the LUC termination project approach with respect to replacement zoning and the principle commonly referred to as “like-for-like”. The Blackcomb LUC provided only a highly generalized regulatory framework that was later particularized via development permits, covenants and, in some cases, building permits. In preparing replacement zoning regulations for LUC lands, staff have taken into account not only the wording of the original LUC but the detailed provisions of development permits and covenants, and in some cases building permits, that were used to tailor the general requirements of the LUC to particular sites as the owners of those sites brought development plans forward. In many cases this fine-tuning process eliminated many of the permitted uses that had initially been identified in the LUC, and introduced density controls such as maximum floor areas as well as bed unit allocations. The “like-for-like” principle uses the entire regulatory framework for these sites as the baseline for preparation of replacement zoning regulations, since the principle was intended to preserve and mirror only the development rights that the owners of LUC lands actually used when they developed their sites. Other potential development scenarios for these properties will be subject to the usual zoning amendment processes.

During our meeting on Monday May 2, 2022 concern was emphasized specifically regarding the exclusion of lodges, hostels, and hostels, as well as single, duplex and multiple residential buildings as permitted uses in the proposed replacement zoning. These uses have not been specified as permitted uses in the proposed replacement zoning as these uses are not existing uses on the subject lands, have not been provided for in further municipal approvals, and do not have existing density allocations.

In Schedule A (Whistler Land Use Map and Designations), the OCP designates the subject lands as “Core Commercial” and “Whistler/Blackcomb CRA”. These OCP designations specifically provide for “accommodation uses” and “mountain lodges and accommodation” respectively. The OCP defines “accommodation” as a building or facility, or portion thereof, where people either reside or stay on a temporary basis. Accommodation includes residential accommodation, visitor accommodation and employee housing. Future potential development scenarios for the subject lands contemplating lodges, hotels and hostels and the other forms of accommodation are generally supported as permitted uses by the OCP and will be subject to the zoning amendment process.

When the LUC00022 termination bylaw is presented to Council for consideration of first and second reading, a detailed response to your comments will be provided in the administrative report and your letter dated April 29, 2022 will be attached along with this letter.

Please be advised the zoning adoption process will also include a statutory public hearing where members of the public are provided the opportunity to make verbal and written submissions to



Council. All owners will receive notice of the public hearing by mail in advance of the hearing, and the hearing will also be advertised in the local newspaper.

Should you have any further questions or comments on the LUC termination process and proposed zoning for your property, please submit these by email to planning@whistler.ca or by mail to: Planning Department, Resort Municipality of Whistler, 4325 Blackcomb Way, Whistler, BC, V8E 0X5. Please reference File No. LUC00022. Note that all correspondence received will become part of the LUC termination file and will be included in a future report to Council along with your name and address. Personal contact information will not be included.

Sincerely,

Mike Kirkegaard
Director of Planning
Resort Municipality of Whistler

encl.

RESORT MUNICIPALITY OF WHISTLER
LAND USE CONTRACT TERMINATION BYLAW (BLACKCOMB MOUNTAIN) NO.
2350, 2022

A BYLAW TO TERMINATE A LAND USE CONTRACT AND AMEND THE RESORT
MUNICIPALITY OF WHISTLER ZONING AND PARKING BYLAW NO. 303, 2015

WHEREAS the Council may, by bylaw, terminate a land use contract; and

WHEREAS the Council must not adopt a bylaw to terminate a land use contract unless it has adopted a zoning bylaw that will apply to the land on the date the termination bylaw comes into force; and

WHEREAS the Council may, in a zoning bylaw pursuant to Section 479 of the *Local Government Act*, divide all or part of the area of the Municipality into zones, name each zone and establish the boundaries of the zone, regulate the use of land, buildings and structures within the zones, and may, pursuant to section 525 of the *Local Government Act* require the provision of parking spaces and loading spaces for uses, buildings, and structures;

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

CITATION

1. This Bylaw may be cited for all purposes as "Land Use Contract Termination Bylaw (Blackcomb Mountain) No. 2350, 2022".

ZONING AMENDMENTS

2. Zoning and Parking Bylaw No. 303, 2015 (the "Zoning Bylaw") is amended as follows:
 - a) The MC3 Zone (Mountain Commercial Three) is added to Part 7, section 1., subsection (1) of the Zoning Bylaw under the heading "MC Zones", in continuing alphabetical and numerical order.
 - b) The MC3 Zone (Mountain Commercial Three) attached as Schedule 2 to this Bylaw is added to Part 8 of the Zoning Bylaw as section 3, immediately following section 2.
 - c) Deleting Part 6, section 4, subsection (13) and replacing it with the following: "The regulations in subsections (14) and (15) shall apply to parcels in the CC1, CC2, CC3, MC3 and LR11 Zones (Commercial Core One, Commercial Core Two, Commercial Core Three, Mountain Commercial Three and Leisure Recreation Eleven)."
 - d) Schedule A is amended by assigning the MC3 Zone (Mountain Commercial Three) designation to the areas shown outlined in heavy black line and labelled "rezoned to MC3" on the map attached this Bylaw as Schedule 1.

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- e) Part 2, section 1. is amended by adding the following definition: “**“day use facility”** means a building designed to provide day use facilities for patrons of the outdoor recreation facilities including cafeteria/restaurant facilities, brown bag facilities, changing areas, sanitation facilities, holding facilities for injured patrons, child care facilities, and sporting goods, sales, repair and rentals;”, in continuing alphabetical order.
- f) Schedule A is amended by assigning the RR1 Zone (Rural Resource One) designation to the areas shown outlined in heavy black line and labelled “rezoned to RR1” on the map attached to this Bylaw as Schedule 3.
- g) Schedule A is amended by assigning the LP2 Zone (Leisure Park Two) designation to the areas shown outlined in heavy black line and labelled “rezoned to LP2” on the map attached to this Bylaw as Schedule 4.

LAND USE CONTRACT TERMINATION

- 3. The Land Use Contract registered in the Land Title Office under Charge No. G2520, including any registered modifications, is terminated in respect of every parcel shown outlined in heavy black line on the map attached to this Bylaw as Schedule 5, whether or not the Land Use Contract is registered as charge against the title to a parcel.
- 4. The Corporate Officer shall notify:
 - a) the Land Title Office in accordance with section 548 of the *Local Government Act*; and
 - b) owners of land in accordance with section 549 of the *Local Government Act*.
- 5. This Bylaw comes into force one year after the date the Bylaw is adopted.
- 6. If any section or phrase of this Bylaw is for any reason held to be invalid by the 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 _____, 2022.

Pursuant to Section 464 of the *Local Government Act*, a Public Hearing was held this ____ day of _____, 2022.

GIVEN THIRD READING this ____ day of _____, 2022.

Approved by the Minister of Transportation and Infrastructure this ____ day of _____, 2022.

ADOPTED by the Council this ____ day of _____, 2022.

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Jack Crompton,
Mayor

Pauline Lysaght,
Corporate Officer

I HEREBY CERTIFY that this is a true copy of "Land Use Contract Termination Bylaw (Blackcomb Mountain) No. 2350, 2022".

proposed bylaw

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Schedule 1

Subject Lands to be Rezoned to MC3 Zone (Mountain Commercial Three)



Schedule 2

MC3 Zone (Mountain Commercial Three)

3. MC3 Zone (Mountain Commercial Three)

Intent

- (1) The intent of this zone is to provide a variety of uses related directly to the base area operations of an outdoor recreation enterprise within the Whistler/Blackcomb Controlled Recreation Area.

Permitted Uses

- (2) The following uses are permitted in the MC3 Zone and all other uses are prohibited:
- (a) administrative office;
 - (b) auxiliary buildings and auxiliary uses;
 - (c) auxiliary residential dwelling unit;
 - (d) child care facility;
 - (e) day use facility;
 - (f) indoor recreation;
 - (g) outdoor assembly;
 - (h) outdoor recreation;
 - (i) parking;
 - (j) restaurant;
 - (k) retail;
 - (l) skiing facilities; and
 - (m) sporting goods sales, repair and rentals.

Density

- (3) The maximum permitted gross floor area for each Key Plan Area shown on the key plan for this MC3 Zone is as shown in the following table:

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| Key Plan Area | Maximum Gross Floor Area (square metres) |
|----------------------|---|
| A | 2,035 |
| B | 2,765 |
| C | 1,130 |
| D | 650 |
| E | 2,395 |
| F | 500 |

- (4) A maximum of one auxiliary residential dwelling unit, with a maximum gross floor area of 75 square metres, is permitted in the MC3 Zone and may only be located in Key Plan Area E.
- (5) Despite subsection (3), if the actual gross floor area of the buildings in any Key Plan Area, the construction of which was authorized by a building permit duly authorized by the Municipality prior to May 10, 2022, measured and calculated in accordance with this Bylaw, exceeded the amount specified in subsection (3), such actual gross floor area shall be deemed to be the maximum permitted gross floor area for that Key Plan Area.
- (6) Despite subsection (3), if the actual gross floor area of the buildings in any Key Plan Area, the construction of which was authorized by a building permit duly authorized by the Municipality prior to May 10, 2022, measured and calculated in accordance with this Bylaw, is less than the amount specified in subsection (3), such actual gross floor area shall be deemed to be the maximum permitted gross floor area for that Key Plan Area.
- (7) For the purposes of subsections (5) and (6), the Municipality may require a building permit applicant to provide a report by a British Columbia Land Surveyor, professional engineer licensed to practice in British Columbia or member of the Architectural Institute of B.C., certifying the actual gross floor area of buildings in existence in a particular Key Plan Area, as of a date specified in the certification.

Height

- (8) The maximum height is 3 stories or 13 metres, whichever is less.

Setbacks

- (9) No regulations.

Off-Street Parking and Loading

- (10) Off-street parking and loading spaces shall be provided and maintained in accordance with the regulations contained in Part 6 of this Bylaw.
- (11) Notwithstanding subsection (10) in the MC3 Zone, a minimum of 904 parking stalls must be provided for in Key Plan Area F.

LAND USE CONTRACT TERMINATION BYLAW (BLACKCOMB MOUNTAIN) NO. 2350, 2022

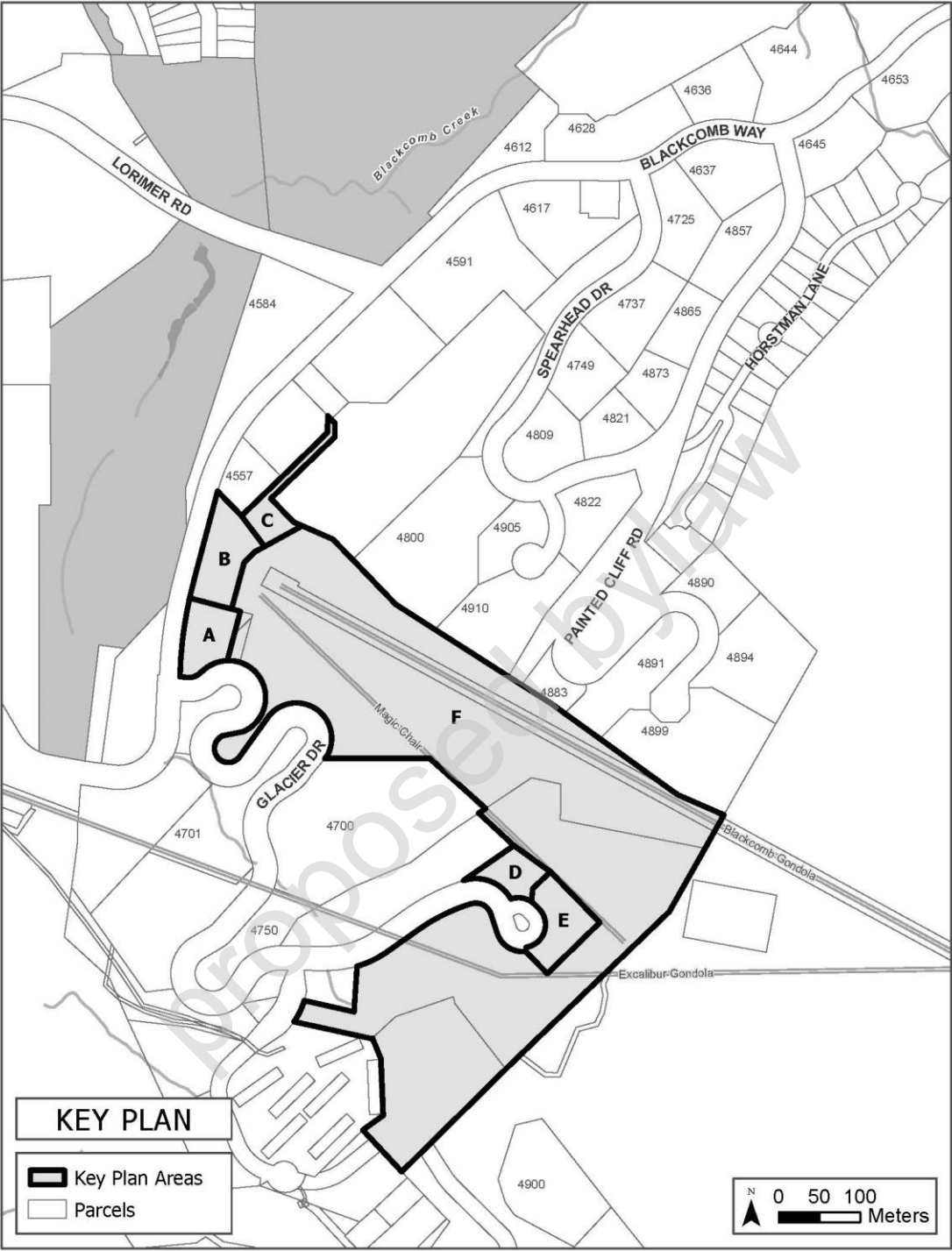
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Other Regulations

- (12) An auxiliary residential dwelling unit must be contained within a principal use building and must not be occupied except as employee housing.
- (13) The gross floor area permitted for Key Plan Area F may only be used for buildings auxiliary to skiing facilities and outdoor recreation.
- (14) The key plan for the MC3 Zone is as follows:

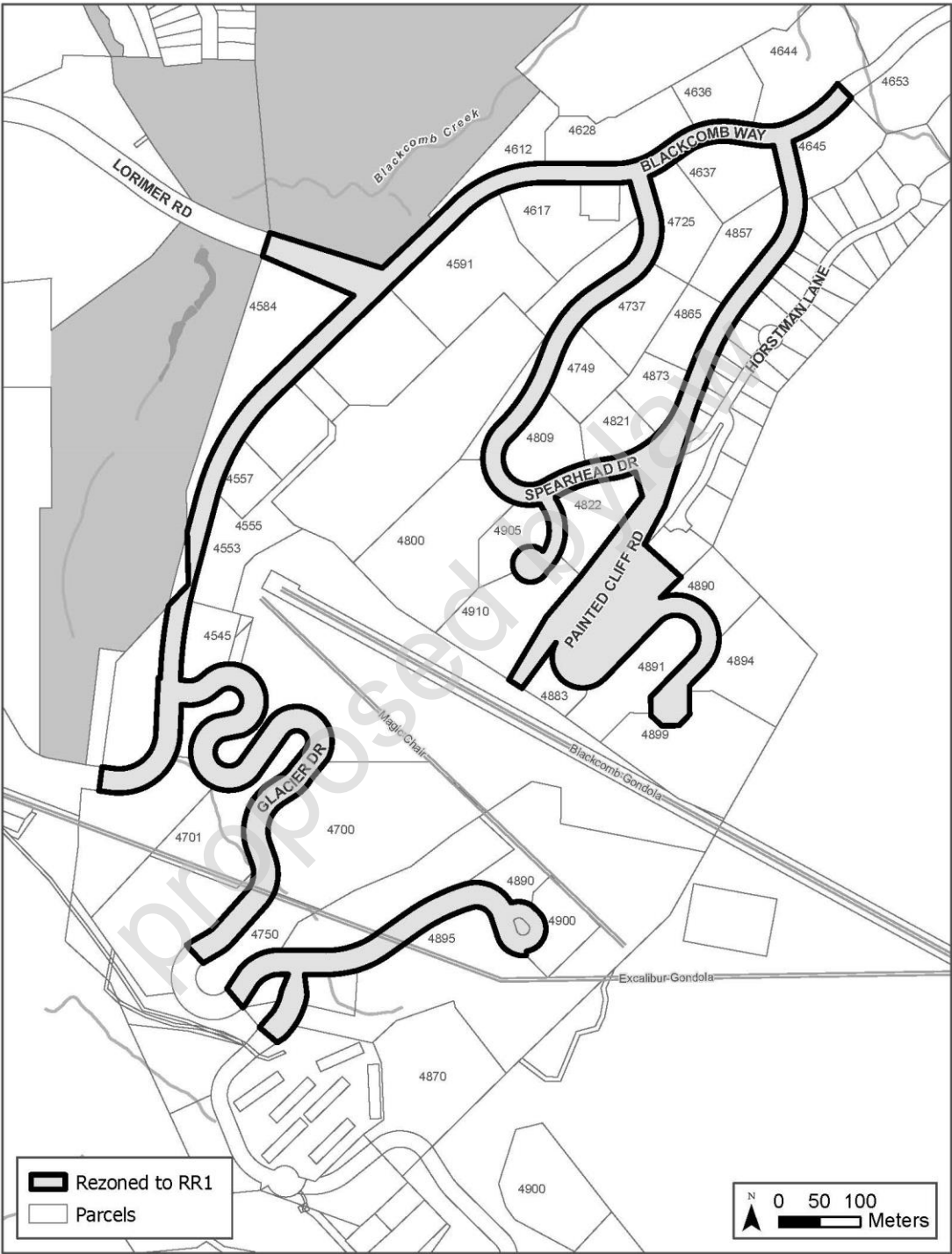
proposed bylaw

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Schedule 3

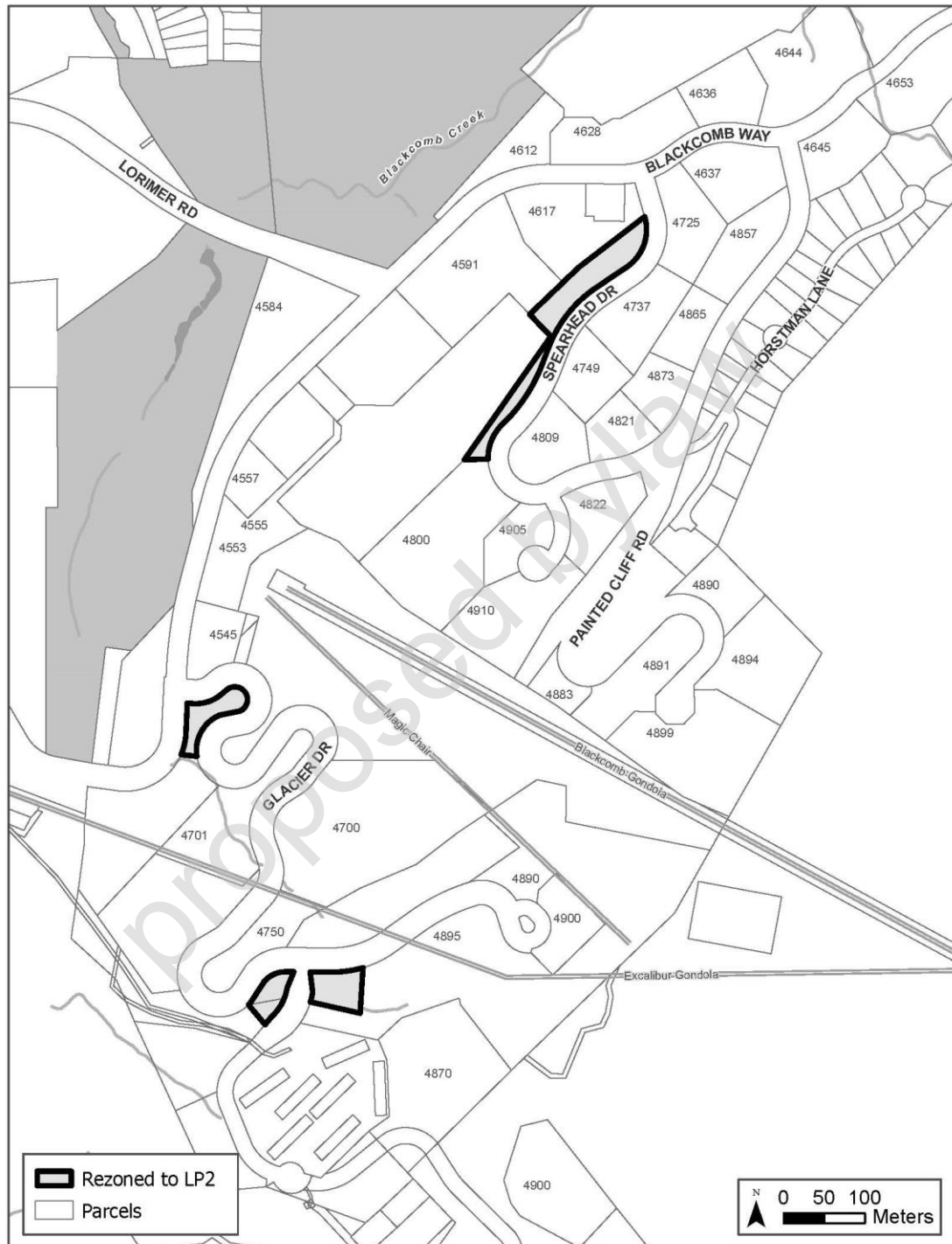
Subject Lands to be Rezoned to RR1 Zone (Rural Resource One)



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Schedule 4

Subject Lands to be Rezoned to LP2 Zone (Leisure Park Two)



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Schedule 5

Map of Subject Lands

