

**Summary and Review of Submissions for the  
April 6, 2022 Public Hearing for  
“Official Community Plan Amendment Bylaw (5298 Alta Lake Road) No. 2289, 2020” and  
“Zoning Amendment Bylaw (5298 Alta Lake Road) No. 2283, 2020”**

A Public Hearing on “Official Community Plan Amendment Bylaw (5298 Alta Lake Road) No. 2289, 2020” and “Zoning Amendment Bylaw (5298 Alta Lake Road) No. 2283, 2020” was held on April 6, 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 bylaws.

There were numerous written submission and verbal submissions made by the public as part of the April 6, 2022 Public Hearing process.

During the Public Hearing representations and submissions to Council on the proposed Bylaws included numerous written submissions and verbal submissions made by the public respecting the proposed bylaws.

The following provides staff’s summary and review of the written submissions and verbal representations, along with staff’s associated recommendations. The summary of the content of the representations and submissions is not intended to transcribe or replicate all of the comments that were made during the Public Hearing process. The written and verbal comments will be collectively referred to as the “submissions” in this summary report.

**Public Submissions:**

Submissions were made by members of the public living in the Nita Lake Estates neighbourhood and elsewhere in Whistler, with submissions of non-support outnumbering submissions of support. Comments included the following:

Density, Value and Community Benefit

- Positive feedback noted that a private developer will supply the employee housing at their own risk with no risk to the taxpayer
- Concerns were expressed regarding the density of the development, the developer profit relative to the value/benefit to the community, viability of the parcel of land dedicated to RMOW for future employee housing, and existing development rights:
  - The increase in market density and ratio of market units/density to employee units/density is no longer justified - the real estate market has increased by 25 percent in the past year with comparable market townhouse units selling for \$4.1 million
  - Reduce density to achieve a better balance deal that will ensure development density/footprint is right for this location, optimize employee housing, give a “reasonable return on investment” and minimize negative impacts

- Justification for the +43 percent increase in density
- Stick to existing allocation of bed units and require a proportion of those bed units for employee housing
- The size of the proposed buildings and the overall density in relation to the prominence of the site
- Change in density and concern about more people travelling through adjacent lands at 5302 Alta Lake Road
- Inequity between the size of market units compared to the size of the employee units; total square footage of employee vs. market housing is a ratio of more than 2:1 against Whistler employees
- Community benefit is inadequate relative to the value being created for the developer - vast majority of “donated” parkland is riparian zones that can’t be developed, Valley Trail extension is an existing covenant obligation, other amenities mandated by the existing covenant abandoned or built by others
- Inequality; centrally located pool amenity not for employee housing use
- Viability of the parcel of land dedicated to RMOW for future employee housing; not an easy site to develop; suggest cash payment from the developer to the Whistler Housing Authority instead of more density
- Only Council has the authority to determine what is or is not a “reasonable return on investment”; Council should require an updated, current pro-forma

#### Development Rights

- No “existing development rights”; Council is not bound to provide an existing density for a currently permitted use (hotel) to a new use proposed in the rezoning (market housing)

#### Tourist Accommodation (TA) Use

- TA will create a security risk, causing expense to Tyrol Lodge and increase in the amount of trespassing
- Not sure it is a great location for TA

#### Affordability of Employee Units

- The price of the proposed employee housing units will have increased and will be out of reach for many, affordability means 30% of median Whistler wages.

#### Traffic, Access and Parking

- Positive feedback noted this is a great location for employee housing in Whistler - within walking distance to transit, Creekside commercial and other nearby amenities

- Noted that although potential for increased traffic and parking on Nita Lake Drive to impact us personally, we are still in favour of the development
- Concerns were expressed respecting traffic, access and parking, the adequacy of the Traffic Study, and the location of the proposed development relative to commercial service amenities and transit:
  - Request a new Traffic Study; increased traffic volume in general in Whistler since the Traffic Study dated January 2021, study does not account for the additional density and traffic arising from the dedicated “Future Employee Housing” parcel, traffic to the park (reported increased visitation of over 35% to RMOw parks in 2021), or other Alta Lake Road proposals
  - Request for a second entrance from Alta Lake Road to alleviate impact of increased traffic on narrow Nita Lake Drive, address fire and emergency access concerns
  - Location of the proposed development relative to commercial services and transit; no option but to drive to commercial services, no transit service
  - Traffic calming on Alta Lake Road should be part of the development and associated cost charges
  - Parking impacts on the immediate neighbourhood - what measures will prevent residents or visitors from driving to the new park, how will local streets handle additional traffic to park, where will these cars park
  - Existing inadequate snow management on Nita Lake Drive
  - Tyrol Ski and Mountain Club located at 5302 Alta Lake Road has a right of way (ROW) on their lands that was negotiated well before the previous rezoning for 5298 Alta Lake Road. ROW not for current proposal, will provide a security risk and great expense for our (Tyrol) club.

### Environment and Views

- Positive feedback was received that it is an environmentally responsible development
- Noted concerns included:
  - Need to give high priority to nature, value of nature for physical and mental well-being, amount of tree loss unacceptable - will change the character of Nita Lake
  - Give higher value to scenery and nature of Nita Lake, the clearcutting will cause irreversible damage to the natural environment and the natural beauty of Nita Lake as seen from both from the Valley Trail across the lake and from the mountain, tree preservation not enough to hide buildings, too much density to sensitive lakeside site, reduced market density by five percent not enough
  - Will damage sensitive Nita Lake ecosystem
  - Riparian protection zone is not large enough - this part of Whistler links the lakes to the wilderness to the west
  - Environmental impact to fish stock needs to be studied

- Maintain clusters of old growth trees to incorporate the natural beauty
- Extract binding assurances to preserve the trees and the forested appearance of the lakeshore
- Lack of vision for the overall future of Nita Lake; need a clear vision for Nita Lake so that cumulative effect of decisions don't have unintended consequences; piecemeal development goes against proper planning principles; zoning should present a beneficial strategy that preserves and supports Nita Lake
- Preserve our lakesides for future Whistler residents
- Create more opportunity for the community to enjoy the area around Nita Lake
- The property should be bought back and turned into protected parkland
- What were the issues brought up by PGL Environmental Consultants in 2018 that the project should not go ahead until those issues are resolved? Were issues addressed? Were further studies completed? Was this report received by Council?
- What controls are proposed to manage Nita Lake lakeshore from planned and unplanned impacts from this development and more people
- Integrity of slope for such development
- Increased garbage and people traffic already around Nita Lake, development will make this worse
- The mandatory FireSmart protocols within the development and along the lake, and the pruning and thinning of trees along the Valley Trail extension within protected riparian zones that will be required
- Our community depends upon a thriving tourism industry based on Whistler's outstanding natural environment and over development will affect future tourism and the livelihoods of many Whistler residents

#### Supporting Infrastructure

- Lack of supporting infrastructure (roads and schools) in place to allow for such a development
- The proposal might increase the number of children in the school district by 10 students - 10 students across 13 grades is less than 1 student per grade

#### Compliance with Private Sector Employee Housing Guidelines

- Noted concerns included:
  - Does not comply with the guidelines that "Projects shall optimize the amount of employee housing" and that it allow for only a "limited amount of new unrestricted market accommodation to support project viability"; the proposal should be rejected until it is predominantly employee housing (suggestions included: at least 50% and ideally more; 1 to 1 in the form of 15 market townhouses and 30 employee housing units)

- Proposals must be evaluated for affordability “with an allowance for reasonable returns on investment”. What sort of returns are “reasonable” is subjective, and the duty for making that judgment rests solely with Council.
- Proposal is not walkable to commercial, not close enough to transit; residents will be car dependent

### Compliance with OCP

- The land should be designated “Protected Natural Area” and used for a park and recreation for all residents and visitors
- The proposal does not enjoy the support of the community as required by the OCP for additional bed units; less than 2 dozen individuals in support and nearly 250 against
- Fails to live up to the OCP Vision and further fails to live up to OCP statement that “Trade-offs occur when a step toward one aspect of the vision means a lack of progress toward, or even a step away from, another aspect or aspects. Therefore, trade-offs should be short-term and the initiatives that cause them should be flexible steppingstones, not locking us to them over the long-term. Trade-offs should also be evaluated carefully to ensure that critical aspects of the vision are not compromised.”
- The OCP considers Nita Lake an “open space” and the proposal fails to live up to Policy 9.3.1.8 of the OCP that states Whistler will “Retain scenic views to and from key open spaces to the extent permitted by legislation.”; further reference to a letter to the developer from staff, dated April 2, 2019, stating “Staff are very concerned about views to the property from the Valley Trail and recreational corridor on the opposite side of the lake. Concentrating this increased density as indicated will largely denude the development portion of the site with unacceptable impacts” while since that time the proposed density has increased

### **Staff Review:**

Staff response to the issues raised in the public submissions is provided below.

### Density, Value and Community Benefit

The RMOW retains an independent third party to review the necessary confidential pro-formas to verify that the proposed development and sales prices are feasible and returns are reasonable. Staff reports on this in their Administrative Reports to Council. The most recent independent third party review was completed in February 2021. The total amenity contribution for this proposed development, including land amenity, sale discount on employee housing, park construction, valley trail and bridge, cabin move and barn and cabin improvements was estimated in 2020 at \$20.65 million dollars.

A pro-forma is a moment in time analysis; land prices vary. The submitted pro-forma was the basis for the proposed \$425 per square foot sales price of the proposed employee townhouse unit amenities established with this rezoning, and this is a very affordable price within the spectrum of current employee housing developments in Whistler. The developer, not the RMOW, is taking on all of the risk including the cost of carrying the land, increased construction costs, and timeline delays which increase cost to a developer.

In response to concerns regarding density and value expressed by the public at the April 6, 2022 Public Hearing and in 2021, staff had previously requested the applicant explore removing a market unit; however the applicant considered removal of one market unit to be only financially viable with associated removal of employee units. As a result, “Zoning Amendment Bylaw (5298 Alta Lake Road) No. 2283, 2020” was amended in 2021 to reduce the total allowable gross floor area of the market residential units and the tourist accommodation units by five percent (5%) from 4202 m<sup>2</sup> to 3992 m<sup>2</sup>, recognizing that removal of employee units is counterproductive to the intent of the rezoning application and the Private Sector Employee Housing Initiative. “Zoning Amendment Bylaw (5298 Alta Lake Road) No. 2283, 2020” was also amended in 2021 to add further value by way of improving pedestrian connectivity by extending the sidewalk on Nita Lake Drive to provide continuous pedestrian connection from Alta Lake Road to the subject property and through the subject property to the new park.

The overall density of the lands will increase under “Zoning Amendment Bylaw (5298 Alta Lake Road) No. 2283, 2020” from an existing maximum permitted density of 4,600 m<sup>2</sup> to 6,282 m<sup>2</sup>. This equates to a floor space ratio (FSR) increase from 0.12 to 0.16 for the entire parcel, but more importantly equates to 0.37 FSR for the employee housing and 0.36 FSR for the market and tourist accommodation, well within accepted FSR for other zoned townhouse developments in Whistler that are subject to the same OCP Land Use Map designations.

The ratio of development is 21 employee units to 22 market units, totaling 72 bed units of employee housing and 88 bed units of market development.

### Development Rights

Some submissions made the point that decisions on zoning and density are discretionary, and that a land owner does not have any right to rezoning, or to maintain existing density for a new use if property is rezoned. Staff agree with these statements, and believe that these are well known principles relating to zoning.

### Tourist Accommodation (TA) Use

Whistler’s OCP currently designates the entirety of the subject lands as Visitor Accommodation. “Official Community Plan Amendment Bylaw (5298 Alta Lake Road) No. 2289, 2020” changes the land use designation of the subject lands from Visitor Accommodation to Protected Natural Area, Parks and Recreation, Residential and Visitor Accommodation, and Residential Low to Medium, resulting in a reduction of the total area of the subject lands currently designated for Visitor Accommodation use.

### Affordability of Employee Units

The proposed unit prices for the employee units are \$425 per square foot, and this has been the established sale price committed to by the owner since “Zoning Amendment Bylaw (5298 Alta Lake Road) No. 2283, 2020” was given first and second readings by Council on June 23, 2020.

A condition of adoption of “Zoning Amendment Bylaw (5298 Alta Lake Road) No. 2283, 2020” is registration of a housing agreement in favour of the RMOW to regulate purchase rates and to define

qualified employees. This housing agreement must be adopted by bylaw by Council and will establish a maximum initial sales price of \$425 per square foot increased by the same percentage as the percentage increase, if any, in the Consumer Price Index (CPI) for Canada, since the date of registration of the housing agreement. Subsequent sales prices will also be linked to CPI.

As a result the sales price of each employee unit will range from approximately \$265,200 to \$297,500 for the twelve 2-bedroom townhouse units and \$645,150 for eight of the nine 3-bedroom townhouse units. One of the 3-bedroom units will be a designated rental unit. These sales prices remain considerably less than comparable unrestricted market housing units of a similar nature. These prices per square foot are also less than other projects being considered under the RMOW's Private Sector Employee Housing Initiative and currently under consideration by the Whistler 2020 Development Corp as part of Cheakamus Crossing Phase 2.

### Traffic, Access and Parking

The Traffic Study prepared by Howes Technical Advantage Ltd., dated January 2021 concludes:

1. The traffic generated by the site is well below the traffic operation capacity of Nita Lake Drive and Alta Lake Road.
2. The development generated trips are minimal in comparison to the total traffic volume on Highway 99.
3. No further mitigation improvements are required on the existing road network, over and above the improvements already included in the development.
4. It is recommended that improvements to the intersection of Highway 99/Alta Lake Road, to mitigate the existing southbound delay, be considered in the Highway 99 corridor review by the RMOW and BC MoTI.

RMOW staff have accepted the Traffic Study for the proposed 43-unit townhouse development. The traffic consultant used good engineering practices as well as a sound approach in their assumptions, data collection, trip generation and traffic analysis. Of note, the peak month of August 2019 was used as the basis for traffic calculation, background traffic volumes were increased to ensure calculated volumes were higher than actual volumes are likely to be, site traffic was estimated conservatively with no adjustments for alternative mode use, and trip rate for employee housing was increased to reflect higher occupancy, with the result that the estimate of peak hourly trips is higher than the actual trips will be. The Traffic Study did not account for the traffic arising from the dedicated "Future Employee Housing" parcel or the proposed park, the reason being that no density is allocated to the "Future Employee Housing" parcel by "Zoning Amendment Bylaw (5298 Alta Lake Road) No. 2283, 2020", and no parking is proposed for the park.

Some members of the public suggested that the subject lands can be accessed by some alternate alignment. An alternate access alignment would be constrained with private property trespass issues and also appears to be an extensive road building exercise further disturbing the hillside. Nita Lake Drive is a public road constructed to municipal standards. The Nita Lake Drive road dedication was secured and extended to the subject lands during the subdivision of Nita Lake Estates and is intended to service the subject lands under the current TA17 zoning. The Traffic Study has identified that the legal access of Nita Lake Drive can adequately accommodate the proposed rezoning and the anticipated incremental increase in traffic volumes.

Further, Nita Lake Drive is a municipally owned and maintained public road. Snow removal operations, no parking signage and enforcement are the responsibility of the RMOW Infrastructure Services Division and the RMOW Bylaw Department.

The proposed development location and valley trail and sidewalk amenities support alternative mode use. The approximate walking distances from the subject parcel to the Whistler Creek commercial services is 670 metres and to the base of the gondola at Whistler Creek is 940 metres. At an average walking speed of four kilometers per hour, these distances represent ten to fifteen minutes walks respectively.

### Environment and Views

Staff confirm that the project team has provided all necessary environmental reports for this proposal. These include:

- Initial Environmental Review
- Riparian Area Assessment for the Lake, including wetland at southeast portion of subject lands
- Riparian Area Assessment for Gebhardt Creek

All environmental reports have been reviewed and are supported by RMOW staff. Staff confirm that recommendations contained in these reports will be assured through a s. 219 covenant registered on the property title. Further environmental conditions may be required through the Development Permit Process.

The portion of the lands to be dedicated and transferred to the RMOW for Nature Conservation Park and Community Park totals 1.44 hectares in area. Only 0.39 hectares, or twenty-seven percent, of the total park dedication is located within the streamside protection and enhancement area (SPEA) per the provincial *Riparian Area Protection Regulation*. The remaining parkland outside of the SPEA is to be developed as described in subsection (6)(e) of "Zoning Amendment Bylaw (5298 Alta Lake Road) No. 2283, 2020".

In response to concerns regarding maintenance of existing tree screening, in the spring of 2021 the applicant agreed to provide a permanent split rail fence to separate the nature conservation parcel from the development parcel. This fence does not replace the construction tree protection fencing required at the beginning of site clearing. The split rail fence must be installed at the time that the construction fence is removed. The construction tree protection fencing and split rail fence will be assured through the Development Permit process.

### Supporting Infrastructure

As described in the Traffic, Access and Parking section of this summary, the Traffic Study confirms that the existing roads support the proposal.

In response to the referral sent to School District #48 (SD48) for OCP Amendment Bylaw No. 2289, SD48 responded as follows:

*"This results in a potential increase in the K-12 student population of about 10 children. With our Whistler schools operating at their capacities, any potential increase in student population will*

*have an impact on our schools. Please provide us with further information regarding this proposed development as it goes through the approvals process.”*

For clarity, SD48 did not reject OCP Amendment Bylaw No. 2289, they simply requested to be kept up to date as the proposed development goes through the approvals process.

#### Compliance with Private Sector Employee Housing Guidelines

The base case for the subject lands is more complex than the other private sector employee housing rezonings under consideration by Council.

An evaluation of the proposal relative to the Private Sector Employee Housing Guidelines was provided in the September 17, 2019 Administrative Report No. 19-118 and the June 23, 2020 Administrative Report No. 20-057.

#### Compliance with OCP

A review of the relevant objectives and policies of the OCP were provided in the September 15, 2020 Administrative Report No. 20-087.

#### Staff Recommendation:

Staff do not recommend any changes to the proposed bylaws based on the Public Hearing submissions.