



RESORT MUNICIPALITY OF WHISTLER

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STAFF REPORT TO COUNCIL

PRESENTED: September 6, 2022 **REPORT:** 22-121
FROM: Planning – Policy **FILE:** RZ001172
SUBJECT: LAND USE CONTRACT DISCHARGE AND ZONING AMENDMENT BYLAW (4918 HORSTMAN LANE) NO. 2366, 2022 – PERMISSION TO NOT HOLD PUBLIC HEARING

RECOMMENDATION FROM THE CHIEF ADMINISTRATIVE OFFICER

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

RECOMMENDATION(S)

That Council decide not to hold a Public Hearing for “Land Use Contract Discharge and Zoning Amendment Bylaw (4918 Horstman Lane) No. 2366, 2022”; and

That Council direct staff to provide notice that a Public Hearing will not be held for “Land Use Contract Discharge and Zoning Amendment Bylaw (4918 Horstman Lane) No. 2366, 2022”; and

That Council consider giving first, second and third readings to “Land Use Contract Discharge and Zoning Amendment Bylaw (4918 Horstman Lane) No. 2366, 2022” at a future Regular Meeting of Council; and further

That Council direct staff to advise the applicant that before consideration of adoption of “Land Use Contract Discharge and Zoning Amendment Bylaw (4918 Horstman Lane) No. 2366, 2022”, the following matters are to be completed to the satisfaction of the General Manager of Resort Experience:

1. Registration of Section 219 covenants in favour of the Resort Municipality of Whistler to:
 - a) Ensure any future proposed development is consistent with the objectives, performance goals and requirements of the municipality’s Green Building Policy G-23, as may be replaced from time to time;
 - b) Modify the existing covenant registered on title as GC125596 to reflect this Land Use Contract discharge and reference the current Zoning and Parking Bylaw No. 303, 2015 as amended or replaced from time to time;
2. Receipt of owner authorization letters consenting to the Land Use Contract discharge; and
3. Payment of outstanding fees.

PURPOSE OF REPORT

The purpose of this report is to introduce “Land Use Contract Discharge and Zoning Amendment Bylaw (4918 Horstman Lane) No. 2366, 2022” (the LUC Discharge Bylaw) and request that Council consider giving first, second and third readings to the proposed bylaw at a future meeting of Council. The report also requests that Council endorse staff’s approach to not hold a Public Hearing for the LUC Discharge Bylaw and to give notice that a Public Hearing will not be held for the LUC Discharge Bylaw. Additionally, the report requests that Council direct staff to advise the applicant of conditions required to be satisfied prior to consideration of adoption of the LUC Discharge Bylaw.

Information Report Administrative Report (Decision or Direction)

DISCUSSION

Background

The subject lands are located at 4918 Horstman Lane, legally described as Strata Lot 2 District Lots 3903 and 4214 Strata Plan VR. 2482, and are identified in Appendix A. A single detached dwelling is located on the subject lands.

An owner initiated rezoning application was submitted to discharge the subject lands from the Blackcomb Land Use Contract (LUC) and zone the subject lands to the existing RS3 Zone (Residential Single Family Three) in “Zoning and Parking Bylaw No. 303, 2015” (the Zoning Bylaw). The applicant has further requested a modification to covenant GC125596, which is registered on title to the subject lands and described further below. The intent of this application is to increase the development potential of the subject lands by utilizing the gross floor area (GFA) exclusions outlined in Part 5, section 26 of the Zoning Bylaw to legitimize existing construction.

Site Context

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 LUC area, and partially within the RS3 Zone. The boundary between the LUC and the RS3 Zone bisects the neighbourhood in such a way that 15 lots lie within the LUC, 8 lots lie within the RS3 Zone, and 10 lots are split zoned. The subject lands are entirely within the LUC.

Blackcomb LUC

The Blackcomb LUC was enacted on January 8, 1979 by “Resort Municipality of Whistler Zoning Bylaw No. 9, 1975 Land Use Contract Approval Bylaw (Fortress Mountain Resorts Ltd.) No.107, 1978” (Bylaw No. 107). This LUC applies to the majority of the original development of Blackcomb Mountain and appears on titles as charge G2520. Bylaw No. 107 and G2520 apply to the subject lands and are included as Appendices B and C, respectively.

The LUC was then amended on June 13, 1988 by “Land Use Contract Amendment Bylaw No. 650, 1988” (Bylaw No. 650) for the majority of the Blackcomb LUC area, and this appears on titles as charge GB77455. Bylaw No. 650 and GB77455 apply to the subject lands and are included as Appendices D

and E, respectively.

The Blackcomb LUC generally provided for a range of uses, density and building sizes to be located within the LUC area, which were distributed within designated development zones and provided for recreation, commercial services and accommodation facilities adjacent to Blackcomb Mountain.

RS3 Zone

The RS3 Zone was created in 1989 to provide for detached residential dwellings on lands contiguous to the Blackcomb LUC lands. Similar to this application, some property owners in Horstman Estates have previously chosen to discharge the LUC early through owner initiated rezonings and are now regulated by the RS3 Zone. In the existing RS3 Zone, permitted uses are detached single family residential dwellings, an auxiliary residential dwelling unit not exceeding a GFA of 90 square metres and park, and the maximum permitted floor space ratio is 0.35. The existing RS3 Zone is attached as Appendix F.

Horstman Estates LUC Termination Bylaw

On May 10, 2022, Council adopted “Land Use Contract Termination Bylaw (Horstman Estates) No. 2323, 2022” (the Horstman Estates LUC Termination Bylaw). Per requirements in the *Local Government Act* (LGA), this bylaw takes effect one year from the date of adoption (on May 11, 2023).

In addition to terminating the Blackcomb LUC from the affected Horstman Estates properties, the Horstman Estates LUC Termination Bylaw will apply a revised RS3 Zone to the entirety of Horstman Estates. Revisions to the RS3 Zone are an update to the intent statement to remove the reference to the Blackcomb LUC, the addition of maximum GFAs that are reflective of the requirements of covenant GC125596 and an update to the parking requirements to reference Part 6 of the Zoning Bylaw.

Covenant GC125596

There is a development covenant registered on the titles of all the Horstman Estates lots as charge GC125596. This covenant provides design criteria for the Horstman Estates subdivision and site specific restrictions for each strata lot above and beyond the LUC and RS3 Zone. When the LUC is terminated, the development covenant will remain on title and will continue to regulate the development of the subject lands. Horstman Estates properties zoned RS3 that would like to utilize the GFA exclusions outlined in Part 5, section 26 of the Zoning Bylaw are and will continue to be subject to a modification of covenant GC125596 to reference the current Zoning Bylaw as amended or replaced from time to time. GC125596 is provided as Appendix G.

Analysis

Per section 546 of the LGA, an LUC may be discharged by bylaw with the agreement of the local government and the owner of any parcel that is described in the bylaw as being covered by the amendment. To fulfil the applicant’s request and meet this section of the LGA, staff have prepared the LUC Discharge Bylaw, attached as Appendix H.

Staff are requesting Council’s endorsement to not hold a Public Hearing for the proposed LUC Discharge Bylaw as zoning the subject lands to RS3 reflects the existing use of the land and is consistent with the Official Community Plan (OCP). In addition, regardless of the outcome of this application, due to the LUC termination on May 11, 2023 the subject lands will be zoned to the revised RS3 Zone. Section 464(2) of the LGA specifies that a Public Hearing is not required to be held where an OCP is in effect for the area that is the subject of the zoning bylaw and the bylaw is consistent with the OCP. If Council endorses this approach, notice will be given in advance of any bylaw readings, in

accordance with section 467 the LGA and then the LUC Discharge Bylaw will be brought forward for consideration of readings.

Additionally, staff are requesting that Council direct staff to advise the applicant of the following conditions required to be met before Council's consideration of adoption of the LUC Discharge Bylaw:

1. Registration of Section 219 covenants in favour of the Resort Municipality of Whistler (RMOW) to:
 - a) Ensure any future proposed development is consistent with the objectives, performance goals and requirements of the RMOW's Green Building Policy G-23, as may be replaced from time to time;
 - b) Modify the existing covenant registered on title as GC125596 to reflect this LUC discharge and reference the current Zoning Bylaw as amended or replaced from time to time;
2. Receipt of owner authorization letters consenting to the LUC discharge; and
3. Payment of outstanding fees.

POLICY CONSIDERATIONS

Relevant Council Authority/Previous Decisions

[August 2, 2022: Information Report No. 22-108](#), Green Building Policy G-23 Update

[May 10, 2022: Administrative Report No. 22-065](#), Land Use Contract Termination Bylaw (Horstman Estates) No. 2323, 2022 – Public Hearing, Third Reading and Adoption Report

[May 10, 2022: Land Use Contract Termination Bylaw \(Horstman Estates\) No. 2323, 2022](#)

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

May 8, 2018: "Delegation of Signing Authority Bylaw No. 2181, 2018"

October 20, 2008: [Policy No. G-23, Green Building Policy](#)

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***

Pandemic Recovery

*Leadership and support for **community and tourism recovery and sustainability** – priority focuses are where recovery needs intersect with other Council focus areas*

Not Applicable

Community Vision and Official Community Plan

The 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 discharge of the LUC from the subject lands and rezoning to RS3 is consistent with the policies of the OCP and in particular Policy 4.1.6.4 applicable to rezonings. It also advances other policies within the OCP's Growth Management chapter (Chapter 4) as follows:

- **4.1.2.11. Policy**
The termination of the Blackcomb LUC on the subject lands replaces an outdated and inefficient regulatory scheme with modern, streamlined, consistent and accessible zoning regulations. The proposed zoning will better support and optimize efficient land use and development on the subject lands.
- **4.1.2.13. Policy**
The proposed zoning reflects the regulations established by the Blackcomb LUC and the applicable permits related to the subject lands. This will largely ensure that any redevelopment of the subject lands will be complementary to the existing development in the area.
- **4.1.4.2. Policy**
In Schedule A (Whistler Land Use Map and Designations), the OCP designates Horstman Estates as "*Residential – Low to Medium (Detached/Multiple): Lands for detached and duplex dwellings characterized by low to medium density lot sizes, and lands for medium density multiple residential development, the latter of which is generally located close to commercial, recreational, institutional, transit and trail connections.*" The existing and revised RS3 Zone is consistent with the applicable OCP land use designation.

With regard to Development Permit Areas (DPAs), the subject lands are located in the Multi-Family Residential DPA and the Wildfire Protection (High Risk) DPA. Any future redevelopment would be subject to Development Permits, as required unless an exemption applies.

Green Building Policy

Whistler's Green Building Policy provides direction for commitments with respect to green building features for any new building. Section 4.2 requires a Green Building Commitment for the processing

and approval of zoning amendments. Section 4.1.3 indicates this should be in the form of a covenant pursuant to section 219 of the *Land Title Act*.

BUDGET CONSIDERATIONS

Application fees as outlined in “Land Use Procedures and Fees Bylaw No. 2019, 2012” provide for the recovery of costs associated with this application.

LIL’WAT NATION & SQUAMISH NATION CONSIDERATIONS

The RMOW is committed to working with the Líl’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.

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):

If endorsed by Council, notification that a Public Hearing will not be held for the LUC Discharge Bylaw will be conducted in accordance with section 467 of the LGA.

REFERENCES

Appendix A – Subject Lands Map
Appendix B – RMOW Bylaw No. 107 – Land Use Contract G2520
Appendix C – Land Use Contract G2520 – Copy registered on title
Appendix D – RMOW Bylaw No. 650 – Land Use Contract GB77455
Appendix E – Land Use Contract GB77455 – Copy registered on title
Appendix F – RS3 Zone (Residential Single Family Three)
Appendix G – Covenant GC125596
Appendix H – LUC Discharge Bylaw

SUMMARY

This report introduces the LUC Discharge Bylaw for 4918 Horstman Lane and requests that Council consider giving first, second and third readings to the proposed bylaw at a future meeting of Council. The report also requests that Council endorse staff’s approach to not hold a Public Hearing and give notice that a Public Hearing will not be held. Additionally, this report requests that Council direct staff to notify the applicant of conditions to be completed prior to consideration of bylaw adoption.

SIGN-OFFS

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