

**RESORT MUNICIPALITY OF WHISTLER**

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STAFF REPORT TO COUNCIL

PRESENTED: February 6, 2024

REPORT: 24-014

FROM: Planning - Development

FILE: 3090-20-1253/174

SUBJECT: DVP01253/CM000174 – 2913 KADENWOOD DR – BUILDING SETBACK AND COVENANT MODIFICATION

RECOMMENDATION FROM THE CHIEF ADMINISTRATIVE OFFICER

That the recommendation of the General Manager of Climate Action, Planning and Development Services be endorsed.

RECOMMENDATION(S)

That Council approve the issuance of Development Variance Permit DVP01253, attached as Appendix A to Administrative Report No. 24-014, to vary the south side building setback for an addition to an existing detached dwelling located at 2913 Kadenwood Drive, subject to the owner addressing the following items to the satisfaction of the General Manager of Climate Action, Planning and Development Services:

1. Registration of a modification to covenant BT193218 as described in Administrative Report No. 24-014; and
2. Receipt of a landscape security in the amount of 135 per cent of the estimated cost of installing landscaping; and

That Council approve a modification to covenant BT193218 to facilitate the development proposed under DVP01253 by modifying the building envelope and specifying no burning of fossil fuels to heat the covered outdoor space labelled as existing and new covered patio in the architectural plans attached as Appendix B to Administrative Report No. 23-014.

PURPOSE OF REPORT

This report presents Development Variance Permit (DVP) DVP01253 and Covenant Modification (CM) CM000174 for Council's consideration.

DVP01253 proposes one variance to "Zoning and Parking Bylaw No. 303, 2015" (Zoning Bylaw) to vary a portion of the south side building setback from 6.0 to 4.0 metres for a proposed sauna and deck addition to the existing detached dwelling.

CM000174 proposes a modification to covenant BT193218 to align the building envelope with the footprint of the proposed sauna and deck addition.

In addition, CM000174 proposes a modification to covenant BT193186 to modify the locations of tree preserve area on the parcel to facilitate the proposed development. The modifications to the tree preserve area represent a net gain of tree preserve area on the property and this aspect is delegated to the Manager of Development Planning for approval.

This report provides Council with an analysis of the proposed variance and covenant modifications and recommends that Council approve the issuance of DVP01253 and the modification to covenant BT193218, subject to receipt of a landscape security to ensure that the proposed landscaping screening works are carried out in accordance with the terms and conditions of the DVP.

☐ Information Report

☒ Administrative Report (Decision or Direction)

DISCUSSION

Background

The owner is seeking the following variance to the Zoning Bylaw:

1. Reduce portions of the south side setback from 6.0 metres to 4.0 metres for a sauna and deck addition to the existing detached dwelling at 2913 Kadenwood Drive.

Further, the owner is also seeking the following covenant modifications:

1. Increase a portion of the building envelope to align with the footprint of the proposed sauna and deck addition; and
2. Remove 23.96 square metres of tree preserve area from the southwest side of the property to accommodate the addition and add 59.40 square metres of tree preserve area to protect existing trees on the north side of the property and add 32.75 square metres of tree preserve area on the south side of the property to protect in perpetuity the proposed landscape screening between the proposed addition and the neighbour to the south. As previously noted, this covenant modification is delegated to staff for approval.

The subject property is in the Kadenwood neighbourhood. The property is zoned Residential Tourist Accommodation Eleven (RTA11). A location map for the subject parcel is attached to this report as Appendix C.

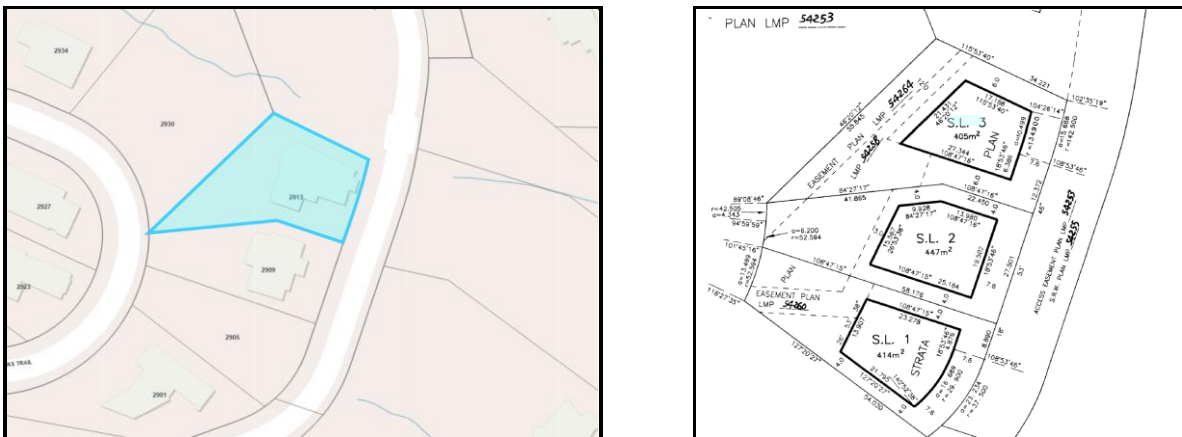
Proposed Development Variances

The requested variances are described in the table below:

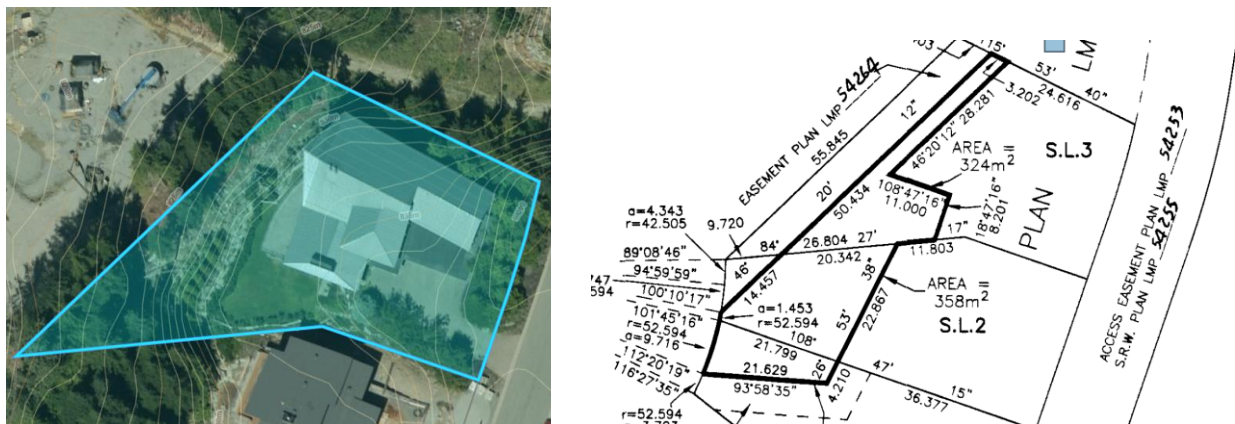
Variance Request	Zoning Bylaw						
1. Vary portions of the south side setback from 6.0 metres to 4.0 metres.	RTA11 Zone Part 12 - Subsection 21: (15) The minimum permitted side setback for the principal building is dependent on the size of the parcel as follows: <table><tr><th>Parcel Area (sq m.)</th><th>Min. Side Setback</th></tr><tr><td>1,399 or less</td><td>4.0 metres</td></tr><tr><td>More than 1,399</td><td>6.0 metres</td></tr></table>	Parcel Area (sq m.)	Min. Side Setback	1,399 or less	4.0 metres	More than 1,399	6.0 metres
Parcel Area (sq m.)	Min. Side Setback						
1,399 or less	4.0 metres						
More than 1,399	6.0 metres						

Analysis

As articulated in the applicant's rationale letter and accompanying Plan A-1.1c (Appendix E) and illustrated in Plans A-1.1, A1.1b, Appendix B and in Figure 1 (below), the subject parcel is irregular in shape. Due to this irregularity, the size of the parcel is large enough to require greater side setbacks than many of the neighbouring properties in accordance with RT11 Zone.



As illustrated by Figure 2 (below) and demonstrated in Plans A-1.1(Appendix B) and A-1.1c (Appendix C), a considerable portion of the parcel is unusable due to the steep terrain, existing tree preservation covenant and easement restrictions registered on title. The applicant's rationale letter (Appendix E) further describes that although the parcel area is greater than 1,399 square metres, the aforementioned restrictions mean that the usable area is less than 1,399 square metres.



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To facilitate the proposal under DVP01253, covenant BT193218 will also need to be modified to align the building envelope with the footprint of the proposed sauna and deck addition. The proposed new building envelope is illustrated on plan A1.1b in Appendix B. Further, modification to covenant BT193186 is necessary to modify the locations of tree preserve area on the parcel to facilitate the proposed addition. The modification will result in a net gain of tree preservation area and will protect existing trees on the north side of the property and protect in perpetuity the proposed landscape screening between the proposed addition and the neighbour to the south.

In addition, the proposed landscape screening (as shown in the Landscape Plans attached as Appendix D) will significantly improve and enhance the natural characteristics of the property and adhere to the Wildfire (High Risk) Development Permit Area (DPA) guidelines, whilst increasing and enhancing the net tree preserve area on the property. This will in turn improve and enhance privacy and screening between the neighbouring properties, especially to the south of the property. Importantly, the new vegetation and plantings proposed in the landscape plan will be protected on the property in perpetuity, via the modification of BT193186 to relocate and add tree preserve area.

The owners indicate that the primary reason for the proposed variance and covenant modification is to enable a larger covered outdoor space that is usable in the cold winter months. It is very typical in Whistler for these types of spaces to have some form of outdoor heating. As DVPs and CMs are discretionary approvals, to further OCP policies, staff recommend the modification to covenant BT193218 (building envelope) also specify no burning of fossil fuels to heat the outdoor space of the existing and new covered patio. This restriction is also written as a condition of the permit attached as Appendix A.

Staff's evaluation of the proposal relative to the established criteria is provided below under the Policy Considerations of this report. The recommendation of this report is consistent with the relevant evaluation criteria.

POLICY CONSIDERATIONS

Relevant Council Authority/Previous Decisions

Council has the authority to vary the Zoning Bylaw through section 498 of the *Local Government Act*.

This DVP application is before Council as the proposal does not meet the established criteria for a minor variance delegated to staff through the "Land Use Procedures and Fees Bylaw No. 2205, 2022" (Procedures Bylaw). As detailed in the Procedures Bylaw, a setback variance is considered minor if the required setback is not reduced by more than 25 per cent. As the side setback variance represented in this application is reduced by more than 25 per cent, this application is not eligible for delegation to staff.

Development Variance Criteria

Staff have established criteria for consideration of DVPs consistent with the Procedures Bylaw. The proposed variance is consistent with these criteria as described in the tables below.

General guidelines to consider:	Staff comments:
The variance should be consistent with the goals, objectives and policies in the Official Community	The proposal and staff recommendation are consistent with goals, objectives, and policies of the OCP and other relevant

Plan (OCP) and any other relevant Council-approved municipal policy documents.	Council-approved municipal policy document documents. These are discussed below in the Community Vision and OCP section of the report.
The variance application should be supported by a sound justification based on the applicant's inability to reasonably develop the site in an efficient and effective manner while complying with bylaw requirements, or on the provision of a benefit to the community or adjacent properties in the form of a preferable development outcome that is attributable to the variance.	Staff are satisfied with the applicant's justification to request the variance as discussed in the Analysis section of this report. In addition to adhering to and exceeding the OCP Wildfire (High Risk) DPA Guidelines, the associated covenant modification will result in a net gain of tree preservation area and will protect existing trees on the north side of the property and protect in perpetuity the proposed landscape screening between the proposed addition and the neighbour to the south.
The variance should not defeat the express or implicit intent of the bylaw requirement or restriction being varied.	The proposed variance is not considered to defeat the intent of the Zoning Bylaw. The proposal includes a landscape plan (Appendix D) that will significantly improve and enhance the natural characteristics of the property, adhere to the OCP Wildfire (High Risk) DPA Guidelines, whilst increasing and enhancing the net tree preserve area on the property. This will in turn improve and enhance privacy and screening between the neighbouring properties, especially to the south of the property. Importantly, the new vegetation and plantings proposed in the landscape plan will be protected on the property in perpetuity through the associated modification to the tree preservation area.
The variance should not impose any additional costs on the Resort Municipality of Whistler (RMOW) such as additional cost to provide services to the development site or adjacent properties.	As discussed below in the Budget section of this report, staff confirm there are no additional costs to the RMOW associated with the proposal.
The variance should not create or exacerbate any risk to public safety.	Staff note that the proposal and requested variance will not create or exacerbate any risk to public safety.

The variance should enable the applicant's development to do one or more of the following:

Potential positive impacts to consider:	Staff comments
Complement the streetscape or neighbourhood.	The setback variance for the proposed addition will not be visible from the street and the neighborhood streetscape will not be visually impacted.
Work with the topography of the site without major site preparation or earthworks.	The setback variance for the proposed addition is considered to respond with the topography of the site as it will be located on mostly flat lawn area on the south side of the existing

	development. No major site preparation or earth works will be required for this proposed development.
Maintain or enhance desirable site features such as natural vegetation, trees and rock outcrops	<p>The setback variance for the proposed addition, as well as the modification to the tree preserve area, is considered to enhance desirable site features.</p> <p>The proposed addition will be located on mostly flat lawn area on the south side of the existing development.</p> <p>Although a portion of the proposed addition is in existing tree preserve area, there are currently no trees in this part of the tree preserve area.</p> <p>A landscape plan has been included to augment the existing landscaping and enhance privacy and screening between the neighbouring properties. As a condition of permit, a landscape security will be taken to ensure the new landscaping is completed.</p> <p>Further, the proposal includes a covenant modification to relocate a portion of tree preserve area on the property and add new tree preserve area on the property for a new increase of tree preserve area. The new tree preserve areas will:</p> <ul style="list-style-type: none"> • protect the existing trees between the existing dwelling and the "ski in/ski out" trail on the north side of the property; and • protect the proposed new landscaping between the proposed addition and the immediate neighbour to the south.
Use superior building siting in relation to light access, reducing building energy requirements.	<p>The setback variance for the proposed addition is on the south side of the existing dwelling, however, does not impact light access into the existing dwelling.</p> <p>The proposal is considered to respond to building energy requirements per the existing building standards.</p>
Use superior building siting in relation to the privacy of occupants and neighbours.	<p>The proposal is considered to respond to privacy to the extent that existing privacy will be improved between buildings at the south parcel line with significant landscape screening improvements.</p> <p>Whilst the addition will be two metres closer to the neighbour than the existing building, the addition is only one storey with no window overlooks. As previously noted, the covered patio incorporates sound mitigation and landscape screening to the neighbour to the south.</p> <p>The deck addition is the most exposed part of the development; however, given new landscaping proposed and existing siting of the neighbouring building to the south, the effects on privacy are considered relatively minor.</p>

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Preserve or enhance views from neighbouring buildings and sites.	The setback variance for the proposed addition is considered to result in minimal impacts to views from neighbouring buildings and sites. The proposed new landscaping is designed to both screen and enhance privacy between the neighbours.
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The variance should not result in a significant negative impact on the streetscape or neighbourhood and should incorporate mitigation measures to reduce any identified negative impact.

Potential Negative Impacts to consider:	Staff comments:
Inconsistency of the development with neighbourhood character.	The setback variance for the proposed addition is consistent with the Kadenwood neighborhood character. The design is in keeping with the existing dwelling and consistent with the "mountain home" character of the surrounding properties. The addition in the side setback will not be visible from Kadenwood Drive.
Increased apparent building bulk as viewed from the street or surrounding neighbourhood.	The proposed addition is on the ground floor and not visible from the street. The proposal is not considered to increase the appearance of building bulk from Kadenwood Drive.
Extensive additional site preparation or earthworks.	The proposal is considered to result in reasonable site preparation and earthworks consistent with the development rights of the property.
Substantial impact on the use or enjoyment of adjacent land such as reduction of sunlight access or privacy or obstruction of views.	<p>The setback variance for the proposed addition is on the south side of the existing dwelling and is on the lower floor. As such it will not impact on the immediate neighbours sunlight access, and will have negligible impact on views.</p> <p>As articulated in the applicant's rationale statement (Appendix E) the applicant has considered and taken steps to address potential noise concerns raised by the immediate neighbour with the following mitigation in design:</p> <p>"The south side of the covered hot tub area has a full height glass wall to block sound and vertical privacy slats to provide visual privacy. As well, currently the underside of the concrete suspended slab sundeck is bare concrete. The owners propose to finish the underside soffit with tongue and groove wood to help dampen and mitigate the sound."</p> <p>In addition, further visual and privacy mitigation will be enhanced by the new vegetation proposed adjacent to the addition as illustrated in the proposed Landscape Plan (Appendix D). This new landscaping will be protected in perpetuity, as this area will be incorporated into the new tree preserve area on the property.</p>

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Impact on services such as roads, utilities and snow clearing operations	Not applicable for this project.
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Guidelines for particular regulations to consider:	Staff comments
Off-Street Parking Design Standards A variance should not create or exacerbate any safety hazard related to the operation of motor vehicles or other forms of transportation.	Not applicable for this project.
Building Siting Regulations A variance should not reduce the livability of existing residential units or units in the development. The applicant should demonstrate with appropriate drawings and calculations that the variance would not significantly interfere with privacy or access to sunlight.	Staff do not consider the proposal and requested variance to reduce liveability, interfere with privacy or access to sunlight of adjacent lands as previously discussed.

Zoning and Parking Bylaw No. 303, 2015

The property is zoned RTA11. The requested variance to the Zoning Bylaw for building setbacks are described in the Discussion section of this report. The proposal meets all other regulations of the Zoning Bylaw.

2023-2026 Strategic Plan

The 2023-2026 Strategic Plan outlines the high-level direction of the RMOW to help shape community progress during this term of Council. The Strategic Plan contains four priority areas with various associated initiatives that support them. This section identifies how this report links to the Strategic Plan.

Strategic Priorities

☐ Housing

Expedite the delivery of and longer-term planning for employee housing

☐ Climate Action

Mobilize municipal resources toward the implementation of the Big Moves Climate Action Plan

☐ Community Engagement

Strive to connect locals to each other and to the RMOW

☐ Smart Tourism

Preserve and protect Whistler's unique culture, natural assets and infrastructure

☒ Not Applicable

Aligns with core municipal work that falls outside the strategic priorities but improves, maintains, updates and/or protects existing and essential community infrastructure or programs

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 recommended resolution included within this report is consistent with the goals, objectives and policies of the OCP, specifically:

Policy 4.1.1.3 (d) - Limit the scale and intensity of development to fit with the mountain environment and reflect a human scale;

Policy 4.1.1.3 (i) - Maintain a high quality of urban design, architecture and landscape architecture that are complementary to the mountain environment.

Policy 7.1.4.7 – During development or significant redevelopment, the preferred outcome is avoidance of negative environmental impacts, followed by minimization of mitigation, thirdly, be restoration, and lastly, for compensation of impacts.

Policy 10.3.1.3 – Advance regulatory approaches that reduce/prohibit the negative climate impacts associated with direct heating and cooling of outdoor areas (gas fire pits, patio heaters, heated residential driveways and open shop doors) during the heating or cooling seasons.

The proposal contributes to high quality architecture and landscape, maintains a very similar view from the street, reduces environmental impacts by minimizing the need for significant site preparation, increases tree preservation, and utilizes non-carbon heat source for the proposed sauna. The recommendation of this report also specifies no burning of fossil fuels to heat the covered outdoor space.

Development Permit Areas

A Development Permit is not required; however, the applicant has demonstrated that the proposal will meet the High-Risk Area Guidelines of the Wildfire Protection DPA. Specifically, there is no new coniferous vegetation located within 6.0 m of the principal building, dead branches and twigs will be removed, there are no standing dead trees on the property and all new vegetation is deciduous. Construction materials shall be comprised of non-combustible, fire resistant and/or non-flammable for the proposed addition.

BUDGET CONSIDERATIONS

There are no significant budget implications with this proposal. DVP and CM application fees provide a recovery of costs associated with processing this application.

LÍLWAT 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

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A sign describing DVP01253 and CM000174 is posted on the property.

Notices were sent to surrounding property owners and tenants in January 2024 as required by the *Local Government Act*. At the time of writing this report, no correspondence has been received.

Any correspondence received following the preparation of this report will be presented to Council at the time of considerations of this application.

REFERENCES

Location: 2913 Kadenwood Drive;
Legal: PID: 025-424-581, Lot 3 District Lot 7798 Group 1 New Westminster District Strata Plan LMS4695
Owners: Henry, Floyd Eugene III
Henry, Alyssa Heather
Zoning: RTA11 Zone (Residential/Tourist Accommodation Eleven)

Appendix A – Development Variance Permit DVP01253
Appendix B – Architectural Plans (Schedule A of DVP01253)
Appendix C – Location Map
Appendix D – Landscape Plans (Schedule B of DVP01253)
Appendix E – Applicant Rationale Letter

SUMMARY

This report presents Development Variance Permit DVP01253 and Covenant Modification CM000174 for Council's consideration to vary the south side building setback at 2913 Kadenwood Drive for a proposed deck and sauna addition and to modify covenant BT193218 to amend the building envelope to facilitate the proposed addition.

This report recommends that Council approve the issuance of DVP01253 and the modification to Covenant BT193218. The recommendation of this report also specifies no burning of fossil fuels to heat the covered outdoor space.

SIGN-OFFS

Written by:

Bryan De George,
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