

**RESORT MUNICIPALITY OF WHISTLER**

4325 Blackcomb Way
Whistler, BC Canada V8E 0X5
whistler.ca

TEL 604 932 5535
TF 1 866 932 5535
FAX 604 935 8109

STAFF REPORT TO COUNCIL

PRESENTED: May 28, 2024
FROM: Planning - Development
SUBJECT: CM000165 – 4937 HORSTMAN LANE – MODIFY FOOTPRINT ENVELOPE

REPORT: 24-055
FILE: 2450-20-0165

RECOMMENDATION FROM THE CHIEF ADMINISTRATIVE OFFICER

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

RECOMMENDATIONS

That Council approve a modification to covenant GC125596 to:

- a) modify the footprint envelope as shown on the survey plan prepared by Doug Bush Survey Services Ltd. dated April 17, 2024 attached as Appendix A to Administrative Report No. 24-055;
- b) specify no burning of fossil fuels to heat the outdoor spaces and hot tub within the proposed footprint envelope as shown on the survey plan prepared by Doug Bush Survey Services Ltd. dated April 17, 2024 attached as Appendix A to Administrative Report No. 24-055; and
- c) specify that roof materials shall be fire resistant;

for the development at 4937 Horstman Place, subject to spacing and limbing of coniferous vegetation in accordance with the notes on Drawing 1 prepared by R. Diamond Building Design dated October 27, 2022 attached as Appendix B to Administrative Report No. 24-055 to the satisfaction of the Director of Planning prior to registration of the modification of covenant GC125596.

PURPOSE OF REPORT

This report presents Covenant Modification (CM) CM000165 (CM000165) for Council's consideration to modify covenant GC125596 to amend the footprint envelope for a portion of the existing detached dwelling, a hot tub, a roof over the hot tub, a ground level deck and retaining walls at 4937 Horstman Place. In addition to the footprint envelope modification, the staff recommendation also indicates the CM specify no burning of fossil fuels to heat the outdoor spaces and hot tub within the proposed footprint envelope and specify that roof materials shall be fire resistant to further Official Community Plan (OCP) policies. The staff recommendation also requires spacing and limbing of coniferous vegetation prior to registration of the covenant amendment consistent with applicable OCP Wildfire Protection guidelines.

☐ Information Report

☒ Administrative Report (Decision or Direction)

DISCUSSION

Background

The owners of 4937 Horstman Lane have applied for a CM to modify the footprint envelope applicable to their property due to existing structures being located outside of the existing footprint envelope.

The Horstman Estates subdivision is subject to a design/development covenant registered on the property titles as GC125596. This covenant provides certain parameters for development including (but not limited to) a requirement for approval by a Coordinating Architect, designated tree preservation areas, maximum gross floor areas, maximum roof heights, and specified footprint envelopes. All improvements on each strata lot must be designed to be within the footprint envelope, including the main structure, outside patios, decks and terraces.

The terms of the covenant allow some latitude in development by specifying that buildings and structures must be in the footprint envelopes, “unless otherwise permitted by the Coordinating Architect and the Municipality”. The covenant also states that “each strata lot incorporates a footprint envelope which respects slope, drainage, setback and access constraints. Consideration may be given to encroachments into backyards and side yards not abutting adjacent yards however, approval will have to be given by both the Coordinating Architect and the Municipality. Some tree removal may be allowed beyond the footprint envelope if approved by the Coordinating Architect.”

Analysis

Site Context

4937 Horstman Place is located in the Horstman Estates subdivision and is bounded by neighbouring residential dwellings at each side and the Whistler Blackcomb Commercial Recreation Area to the rear (see location map - Appendix C). It is occupied by a detached dwelling that was purchased in September 2020 in its current state.

Description

The existing development located outside of the footprint envelope are listed below and are illustrated on the plans attached as Appendices A and C.

- 17.13 square metre wedge-shaped portion of the rear of the dwelling;
- Roof extension at rear of dwelling over hot tub;
- Hot tub located in rear yard under roof extension;
- Ground level deck and rock stack wall surrounding hot tub area;
- Small portion of a retaining wall in the side yards; and
- Stairs and posts in the south side yard.

Based on review of the building permit issued in 1994 for the dwelling’s construction (BP 3807-94), it appears that the dwelling originally projected outside of the rear of the footprint envelope, with a note on the plans by the Coordinating Architect that the dwelling was approved in compliance with the Horstman Estate guidelines. However, for unknown reasons, Covenant GC125596 was never modified to formally amend the footprint envelope.

Some time after original dwelling construction and present day the other structures listed above were constructed outside of the footprint envelope. These alterations were completed without obtaining the required building permits.

As described in the rationale letter (Appendix D), the current roof is in a poor condition and the owners applied to re-roof the dwelling from cedar shakes to fire resistant EcoShakes. An amendment to the

footprint envelope applicable to the property must be completed before the applicant can obtain a building permit for the new roof.

In addition, CM000165 proposes a modification to Covenant GC125596 for consistency with the “Zoning and Parking Bylaw No. 303, 2015” (Zoning Bylaw) definition of gross floor area to legitimize unpermitted in-ground basement. This aspect is delegated to the Director of Planning for approval.

The development located outside of the footprint envelope meets all regulations of the Residential Single Family Three (RS3) Zone with the exception of the unpermitted stairs and posts in the south side yard which would require a setback variance from 3 metres to 1.52 metres. Since there are no specific site challenges that would necessitate this variance, the stair and posts are deemed not supportable by staff and are not included in the proposed footprint amendment and are further requested to be removed as part of the building permit.

The remaining structures located outside of the footprint envelope respect privacy and do not impact views for neighbours. There are no proposed changes to the existing dwelling, other than to change the roof material. As described, the existing dwelling’s location appears to have been supported upon original construction (1994) though no covenant amendment was ever completed for unknown reasons.

The staff recommendation is considered to meet the Design Guidelines of covenant GC125596, and as required by the covenant, an approved checklist has been received, prepared by the Coordinating Architect and certifying compliance with the Horstman Estates Zoning regulations and Design Guidelines. This review is attached to this report as Appendix E. Support letters have also been received from each neighbour bounding the side yards of the property – 4933 Horstman Lane and 4941 Horstman Lane (Appendix F).

As CM’s are discretionary approvals, staff recommend the modification to Covenant GC125596 also specifies no burning of fossil fuels to heat the outdoor spaces and hot tub within the expanded footprint envelope and that roof materials shall be fire resistant to further OCP policies.

POLICY CONSIDERATIONS

Relevant Council Authority/Previous Decisions

This application requires Council’s consideration of approval as it is not eligible for delegated approval in the municipality’s “Land Use Procedures and Fees Bylaw No. 2205, 2022”.

The application is presented for Council consideration relative to the applicable guidelines in the covenant and the applicable municipal policies.

Zoning and Parking Bylaw No. 303, 2015

The property is zoned RS3. The staff recommendation is in compliance with all regulations of the RS3 Zone and all other regulations of the Zoning Bylaw.

As described in the Analysis section of this report, a setback variance is not supported by staff for the unpermitted stairs and posts in the south side yard. This structure is not included in the proposed footprint amendment and is further requested to be removed as part of the building permit.

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

Policy 10.1.1.3. - Lead a community-wide effort to derive 100 per cent of the energy used in Whistler from renewable sources by 2060.

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.

Development Permit Areas

A Development Permit is not required; however, the applicant has demonstrated that the proposal will generally meet the High-Risk Area Guidelines of the OCP Wildfire Protection DPA. The staff recommendation also requires spacing and limbing of coniferous vegetation prior to registration of the covenant amendment consistent with applicable OCP Wildfire Protection guidelines.

BUDGET CONSIDERATIONS

There are no budget considerations with this application. CM application fees provide for recovery of costs associated with processing this application.

LÍŁWAT NATION & SQUAMISH NATION CONSIDERATIONS

The RMOW is committed to working with the LÍłwat 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

A sign describing CM000165 is posted on the property.

No inquiries have been received related to this project. There are no consultation requirements with a CM application. However, the applicant received support from their immediate neighbours at 4933 and 4941 Horstman Lane, attached as Appendix F.

REFERENCES

Location: 4937 Horstman Lane
Legal: PID: 014-850-478 Strata Lot 24 District Lots 3903 And 4214 Strata Plan VR. 2482
Owners: Cameron David McNeill; Sarah Katharine McNeill
Zoning: RS3 Zone (Residential Single Family Three)

Appendix A – Covenant Amendment Plan
Appendix B – Architectural Plans
Appendix C – Location Map
Appendix D – Rationale Letter
Appendix E – Coordinating Architect Approval
Appendix F – Neighbour Support Letters

SUMMARY

This report presents CM000165 for Council's consideration to modify covenant GC125596 to amend the footprint envelope for a portion of the existing detached dwelling, a hot tub, a roof over the hot tub, a ground level deck and retaining walls at 4937 Horstman Lane. In addition to the footprint envelope modification, the staff recommendation also states the CM specify no burning of fossil fuels to heat the outdoor spaces and hot tub within the proposed footprint envelope and specifies roof materials shall be fire resistant to further OCP policies. The staff recommendation also requires spacing and limbing of coniferous vegetation prior to registration of the covenant amendment consistent with applicable OCP Wildfire Protection guidelines.

SIGN-OFFS

Written by:

Brook McCrady,
Planning Analyst

Reviewed by:

Melissa Laidlaw,
Director of Planning

Dale Mikkelsen,
General Manager of Climate Action, Planning
and Development Services

Virginia Cullen,
Chief Administrative Officer