



RESORT MUNICIPALITY OF WHISTLER

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STAFF REPORT TO COUNCIL

PRESENTED: September 24, 2024 **REPORT:** 24-088
FROM: Parks Planning **FILE:** 0890-20
SUBJECT: EXPROPRIATION APPROVAL – PORTION OF COMMON PROPERTY STRATA
VAS191

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, as the local approving authority for the Resort Municipality of Whistler (RMOW), as identified in the *Expropriation Act* (Act) and pursuant to section 18 of the Act:

- (a) acknowledge that it has been served with the expropriation notice dated May 6, 2024, and filed in the New Westminster Land Title Office (LTO) under number CB1298899 and with a copy of the Act; and
- (b) approve the expropriation contemplated by the expropriation notice; and

That Council, as the local approving authority as identified in the Act, authorize and direct the Corporate Officer to:

- (a) sign the Certificate of Approval, attached as Appendix A to Administrative Report No. 24-088, in the form prescribed under the *Expropriation Act General Regulation* (Regulation);
- (b) notify or cause to be notified the expropriating authority and each owner, as defined in the Act, of the RMOW's approval of the expropriation;
- (c) make the advance payments as required under section 20(1)(d) of the Act and serve the Notices of Advance Payment in the form prescribed under the Regulation with a copy of all appraisal and other reports on which the advance payment is based;
- (d) specify in the Vesting Notice (as defined in the Act) that the relevant lands will be vested in the RMOW free and clear of all charges other than those referred to in section 23(2)(a) to (c) of the Act and the Right of Way having a Registration Number of 486722M;
- (e) file or cause to be filed in the LTO Vesting Notices under section 23 of the Act in the form prescribed under the Regulation and then serve a copy of the Vesting Notices on each owner (as defined in the Act); and
- (f) sign or cause to be signed the Notices of Advance Payment and the Vesting Notices.

PURPOSE OF REPORT

This report seeks Council's approval for the expropriation of a portion of the Common Property of Strata VAS191 located at 1400 Alta Lake Road (Tamarisk Common Property) pursuant to the *Expropriation Act* (Act).

Information Report

Administrative Report (Decision or Direction)

DISCUSSION

Background

Since 2018 the Resort Municipality of Whistler (RMOW) has been working towards acquiring a portion of the Tamarisk Common Property for future public recreation use.

The subject strata lands are approximately 0.38 hectares in size (0.95 acres) and located near the railway crossing of Alta Lake Road (a Location Map is attached as Appendix B). The land of interest is a triangular, “hooked” parcel (a parcel of land where a portion of the parcel is physically separated from the primary parcel), situated adjacent to the CN Rail right of way and separated from the rest of the Tamarisk strata by unceded lands currently managed by the Crown, Millar Creek and an undeveloped municipal road right of way. It is also bounded on the north side by the CN Rail right of way.

The subject land is further encumbered by existing private and public sewer lines as well as a BC Hydro statutory right of way located on the northwestern corner. While most of the property is undeveloped, an informal footpath traverses the property and allows access to the lands beyond and ultimately to Alpha Lake.

The subject Tamarisk Common Property is functionally landlocked and largely undevelopable. Current zoning regulations, on-site sewer infrastructure, the BC Hydro statutory right of way, setbacks for railway and riparian purposes, separation from a developed road, an odd shape and flood risks prevents development of the site other than non-motorized recreational use.

Between 2018 and 2021 the RMOW and the Tamarisk Strata explored options for the RMOW to acquire the Tamarisk Common Property for public recreation use. Options included securing a statutory right of way over a portion of the lands as well as a typical sale, purchase and subdivision approach. However, neither of these options proved viable, and all parties agreed in principle that expropriation would be the most appropriate approach moving forward.

The expropriation approach was purposely paused in 2021 to allow the provincially mandated Land Use Contract (LUC) Termination process to conclude, which Tamarisk was a part of. While the property acquisition effort had no bearing on the outcome of the LUC termination process, there was a concern that the acquisition process could create friction and potentially compromise the province’s mandated deadline. Successful conclusion of the LUC termination process has since occurred and is no longer a consideration.

The acquisition process was restarted in 2023. Guided by the Act, a new appraisal was undertaken by a third-party appraiser, which determined a \$105,000 value. Notices of Expropriation were posted on site and delivered to all property owners, as well as registered lenders and charge holders. A 30-day Period of Inquiry opened on August 12, 2024, allowing for an owner to request an inquiry into whether the expropriation is necessary to achieve the objectives of the local government or whether those objectives would be better achieved by choosing an alternate site or by varying the amount of land to be taken. No inquires were received by the September 11, 2024 closing date.

Council now needs to consider approving the expropriation via resolution as the “approving authority” as identified in the Act. With approval, the RMOW (as expropriator) has 30 days to pay the registered owners and charge holders and within 30 days of making the payment must file a Vesting Notice with

the Land Title Office which transfers registered ownership of the lands. Once the Vesting Notice is filed, RMOW will own the lands.

Each registered owner and charge holder has one year from the time of receipt of the payment to apply to the BC Supreme Court for additional compensation. If one or more owners applies for a compensation hearing, the RMOW will be required to respond, which will require additional time and costs. As a contingency, staff will include this possibility in the 2025 municipal budget.

Acquisition Rational

The RMOW seeks to acquire the Tamarisk Common Property and an adjacent lake front parcel. Once both parcels are secured, the RMOW will be able to develop and provide public access to Alpha Lake and seeks to construct a Valley Trail connection between Alta Lake Road and Alpha Lake Park.

While acquisition of the Tamarisk Common Property does not directly provide lake access itself, once acquisition of the second lakefront parcel from the province is achieved (anticipated to be in early 2025) then legal public access to Alpha Lake will be possible at this location.

Lake access points are in very high demand during summer months. Pressures on Whistler's lake front parks have increased through the pandemic, and with local population growth and regional visitor volumes. Looking to the future, these demands will continue to increase with local and regional population forecasts - Metro Vancouver and the Fraser Valley Regional Districts are anticipated to house an additional 1.5 million residents over the next 25 years. Additionally, hotter summer weather because of climate change will further increase public demand for lake access.

Acquiring the two parcels of land, modestly developing a small lake front park, providing public lake access and potentially a Valley Trail connection between Alta Lake Road and Alpha Lake Park is supported by numerous RMOW policy documents including the Official Community Plan (OCP), the [2023 – 2026 Strategic Plan](#), the [Recreation and Leisure Master Plan](#), the [2020 Big Moves Climate Action Strategy](#), and the [Active Transportation Plan](#). These are discussed in further detail in the Policy section of this report.

Provision of lake access at this location also contributes to the creation of more complete communities, where a range of recreational and other services are located within proximity to residential neighbourhoods and are accessible by pedestrians and bicycles. Existing and future Whistler Housing Authority (WHA) developments along Alta Lake Road are in very close proximity to the subject site, and nearby WHA developments in Creekside, Bayshores, Spring Creek, Nita Lake Estates and Cheakamus Crossing (Whistler's largest concentration of employee restricted housing) are all within a 15-minute bicycle ride. The Tamarisk and adjacent Twin Lakes Stratas also possess a relatively high population density, although each have their own private lake access.

A conceptual park and Valley Trail development plan prepared for initial discussions with the Tamarisk Strata in 2019 is provided in Appendix C. It is important to note this is a conceptual plan, and that the final plan is to be informed by community engagement as well as other design inputs. Ultimately it may be somewhat different than what is currently shown.

Given alignment with municipal policy statements, increasing demand for lake access, the Common Property's relatively low cost and high value as parkland, and opportunities for active transportation connectivity, it is appropriate for the RMOW to secure the subject strata Common Property and adjacent unceded lands currently managed by the provincial government.

For information purposes, the connecting Valley Trail segment referenced in this report is currently in the design and external permitting phase. Acquisition of the subject strata land is not entirely required to make this connection however it would be highly beneficial given environmental, cost and user demand concerns with alternative alignments.

Analysis

Guidance provided by the Act and Young Anderson Barristers & Solicitors has been followed. The next step is for the local approving authority to approve the expropriation. Whistler Council is that approving authority as per the Act, requiring Council to approve the expropriation through resolution and authorize the Corporate Officer to take the necessary steps to complete the expropriation.

POLICY CONSIDERATIONS

Relevant Council Authority/Previous Decisions

The [2020 Big Moves Climate Action Strategy](#) identifies a need to grow active transportation. This would be enabled through the provision of a relatively level Valley Trail connection across the subject lands proposed to be acquired.

Other Policies considered are the [2023 – 2026 Strategic Plan](#), the [Recreation and Leisure Master Plan](#) and the [Active Transportation Plan](#).

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

- Preserving and protecting Whistler's unique culture, natural assets and infrastructure is achieved in in part through designing parks infrastructure, programming and transportation options to encourage dispersion. Securing the subject land, and in the future developing the site as a light footprint park providing lake access and potentially Valley Trail connectivity achieves this.
- With respect to protecting natural assets and infrastructure, potential future municipal improvements would result in legal, managed and controlled lake access, improving the current unmanaged condition.

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.

Should Council concur with the recommendation of this report and approve the expropriation, future park and Valley Trail development aligns with all four of the OCP's Vision Characteristics – sense of place, environment, community and tourism-based economy.

Numerous goals, objectives and policies within Chapters, 7, 9, 10 and 11 (Natural Environment; Learning, Culture, and Recreation; Climate Action and Energy; Transportation respectively) further support securing the subject land and, in the future, modestly developing the site as outlined in this report.

OCP Schedules E1 Transportation Cycling Network Plan, E2 Recreation Trails Plan and E3 Transportation Network propose a shared multi-use trail (Valley Trail) connection in relation to the subject land.

Recreation and Leisure Master Plan

Continually increasing demand for lake access and the challenges around the acquisition of land to meet existing and forecasted demands was highlighted in this 2015 document.

Big Moves Climate Action Strategy

Provision of a Valley Trail through the lands would connect the recently completed Millar Creek Valley Trail (from Function Junction and serving Cheakamus Crossing) to Pine Point and Alpha Lake Parks and the remainder of the network. This aligns with the Big Moves strategy to “move beyond the car by enabling more active transportation.”

Valley Trail network connectivity is also supported in the recently adopted Active Transportation Plan.

BUDGET CONSIDERATIONS

Funding for acquisition of the subject lands is included in the current “Five-Year Financial Plan 2024-2028 Bylaw 2424, 2024”, drawing on the General Capital Reserve.

Funds will be included in the upcoming municipal budget process to address the possibility of a BC Supreme Court challenge for additional compensation as mentioned earlier in this report.

Property acquisition is not eligible for Resort Municipality Initiative (RMI) funding; however RMI funds can be used to design and construct parks and Valley Trail segments.

LÍLWAT NATION & SQUAMISH NATION CONSIDERATIONS

The RMOW is committed to working with the Lílwat 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 planning on unceded territories, as currently managed by the provincial government; achieve mutual objectives and enable participation in Whistler's resort economy.

Should Council support the recommendation of this report and the subject land be acquired by the RMOW, consultation with the Lílwat Nation and Skwxwú7mesh Nation will be undertaken with respect to any future site development planning.

COMMUNITY ENGAGEMENT

Level of community engagement commitment for this project:

Inform Consult Involve Collaborate Empower

Should Council support the recommendation of this report and the subject land be acquired, community engagement will be considered in any future site development planning.

REFERENCES

Appendix A – Certificate of Approval of Expropriation
Appendix B – Location Map
Appendix C – 2019 Park and Valley Trail Concept Plan

SUMMARY

This report seeks to secure Council authorization to approve the expropriation of a portion of Common Property belonging to Strata Plan VAS191.

Acquisition of this land, and an adjacent separate parcel being pursued through a separate acquisition process, would be for the purpose of future public park, lake access and Valley Trail connectivity all of which are consistent with multiple municipal guiding documents and policies.

Funds exist within the current Five-Year Financial Plan to finalize this acquisition.

SIGN-OFFS

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