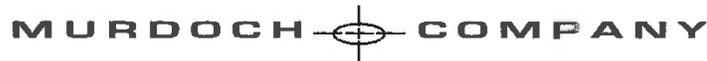


MURDOCH COMPANY



January 4, 2018

Att: Roman Licko  
 The Resort Municipality of Whistler  
 4385 Blackcomb Way, Whistler, BC



**Re: Maliah Residence, 4966 Horstman Lane, Whistler, BC**

Roman,

This attached package and Covenant Modification Request is for a variance to the design covenant on title for the Horstmann Estates subdivision. The basis for the request is based upon the conflicting building setbacks as defined in the zoning bylaw, general regulations and site specific covenant (GC125596 see attached).

The property is located on the northwest side of Horstman Lane near the cul de sac at the end of the Lane on an undeveloped parcel of land. The existing site was recently purchased by our client (Raghav Maliah and Jane Lah ) who wish to build a single family home for their own personal use and private enjoyment. The current setbacks for the building envelope are set out in the covenant document but appear some what out of step with the zoning bylaw for the zone (RS3) The covenanted setbacks seems a bit arbitrary and when discussed with the landscape architect who prepared the plan he indicated that it was somewhat loose and that would appear to be the case as the setbacks from lot to lot on the whole street are very inconsistent. The zoning is much more definitive and customary in the layout for the setbacks;

**Covenant Setbacks (see attached covenant)**

- Front Setback 7.6m
- Rear Setback 37.6m to 42.4m
- South Side setback 3.0m
- North Side setback 21.0m

**RS3 Zone (see attached zoning)**

- Front Setback 7.6m ( 5m for garage as per part 5 sub sec.14(2) )
- Rear Setback 7.6m
- Side setback 3.0m ( no restriction regardless of building size )

The covenant does define a 6m front yard landscape zone to maintain, where possible existing vegetation and / or rehabilitation of the landscape once the building is complete for the overall maintenance of a high quality streetscape. In the rear of the lot a servicing easement exists for storm / sewer services and services this lot and several other adjacent properties, it is not our objective to build overtop of this infrastructure

The subject property is one of the 5 largest lots amongst 33 lots with a lot size of 26,633 sf (.2477ha) and a buiidable area of 6,500 sf (603.8 m2) yet the building envelope is closer in size to most of the smaller lots which in our opinion is inconsistent with the overall intent as it does not permit the homeowner to build in a manner best suited "to the physical character of the lot" or create a building form which would "completely fill the footprint envelope". It is also our request to relocate the "Preferred Driveway Location" as noted in the design covenant to a more desirable location to the south to provide for a larger more contiguous Landscape Buffer, improvement of site lines for outgoing traffic and position the access point in a lower location so as to access the

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lot lower on the lot thereby providing an ability to design a building more suited to fit the native topography.

On similar sites with setback issues a common request is to push the entire building envelope closer towards the street in order to negate the loss of building envelope area only to impact the streetscape and uniformity of the street / front yard / landscape interface. The desire for many homeowners is to commonly try to build to within their allowable GFA on a reduced building envelope and general real estate economics supports that basic desire. However to achieve that the building tends to be built to the maximum of the envelope permits by building as tall and as wide as possible creating the ubiquitous "monster house". Without the variance the homeowners commonly find the monster house route the only route possible much to the chagrin of the neighborhood.

The proposed covenant modification provides for an improved site / building massing / streetscape relationship without impacting the neighbors or the uniformity of the regulations typically associated with the RS3 zoning. The heart of the request is based upon finding a better balance than what is currently set out in the design covenant, other positive attributes of the variance include:

- a) Better siting and use of the terrain by arranging the building mass across the site vs being perpendicular to the slope as per the current footprint envelope
- b) Drop the building on the site thus providing better site lines over top of the house as illustrated in the site sections
- c) Less disturbance of the landscape buffer
- d) Larger buffer and side setback to the adjacent neighbour to the south
- e) Increased solar gain with larger west and south façade ( including larger setback from the south to increase the limiting distance restrictions )
- f) Improved sitelines and safety at driveway access point
- g) Less site manipulation and regrading required outside footprint envelope
- h) Reduced cut and fill
- i) Removal of garage door from highly prominent location

If approved, the Covenant Modification would provide for a practical solution which would closely resemble adjacent properties of a similar size, provide a more balanced solution for the design of a single family home consistent with both community objectives, design guidelines and neighborhood aesthetics. We look forward to your support.

Respectfully



Brent Murdoch MAIBC, BCSLA  
Murdoch + Company Ltd.

CC. Raghav Maliah + Jane Lah



#106-4319 Main St. Whistler, BC  
P.O. Box 1394, Whistler BC, V0N 1B0  
tel: 604.905-6992



January 7, 2020

Att: Roman Licko

## Re: 4966 Horstman Lane, Whistler, BC

Roman

We have been working with our clients, the Horstman Strata Council and the Design Review Architect to complete the appropriate design approvals for the home designed at 4966 Horstman Lane. There was a late request from the client for the addition of a pool on the property which was included in the package sent to ADP but hadn't yet been vetted through the RMOW or Design Review Architect. We have since developed a more comprehensive Site Plan and Landscape plan to illustrate the grading / planting / layout etc. The RMOW has requested;

1. You were going to pursue approval with the strata to demonstrate neighbourhood support,
2. We spoke about a potential return to ADP for review of the pool proposal if strata supported the concept.

Thank you,

**Roman Licko RESORT MUNICIPALITY OF WHISTLER**  
**TEL: 604-935-8173**

Much of the proposed design resulted from an awkward situation caused by the incomplete servicing on the property and a general desire to complete the serving and revegetate and grade out the site once servicing was complete. As such we are formally presenting our pool design and a request to the RMOW for support of a pool out side the covenanted area at 4966 Horstman Lane.

A more complete rationale is presented below;

- To a large degree there is a natural desire to not remove any unnecessary vegetation, so on one hand the old design guidelines want to restrict the development ( covenant document ) but the new RMOW proposed OCP wants us to clear trees well beyond the building limitations to prevent the risk of wildfire. We have had a very light forest fire season this particular summer but we don't have to look back very far in the past to see that Wildfire Management is a very real concern and the appropriate response to developing in an interface zone ( Horstman Estate is in a high risk area according to the OCP). To us it makes sense to do some additional clearing and thinning to meet the obligations of the wildfire protection, a common development objective across the province since the Kelowna Fires in the early 2000's. Since then there have been numerous documented examples throughout the BC interior and southern California and now even Australia where pools are exceptionally good resources for fighting fires in residential areas.

- We still need to access the rear of the property to dig up the site to provide for not just our own sewer / storm connections but also to provide a connection for the neighbouring property too (Lot 15 ). The disturbance caused by this work will be outside the building envelope in a designated and covenanted alignment, how is that to be managed? or addressed?, when engineering was notified of the missing sewer / storm connection they were very surprised that there was no storm or sewer in place. They actually noted that it would be their expectation that the "developer" complete the work. With many years having passed since the original developer was involved it is likely that the cost of that work will be born by the lot owners. The design covenant is based on the assumption that the servicing is complete .... which is incorrect. The original covenant doesn't respond to the particular circumstances of the subject property now that we have to go into the forest to clear the route and provide the necessary servicing for our lot and the adjacent lot to the north.

- We have presented a detailed grading and landscape plan to the Design Architect which was supported by the Design Review Architect ( see excerpt below ) and now by the Strata Council as per a separate email sent to yourself yesterday. There was an acknowledgment that the design response was of a high quality and preserved the integrity of the landscape and had proposed a solution that was appropriate given the site work and general disturbance outside the building envelope that is necessary. Yes, the pool is outside the building envelope, however it would not be an issue in any other neighbourhood throughout Whistler as the general regulations of the zoning bylaw would normally permit the pool in this position on another property in the community. The development of a pool would have been uncommon back when the guidelines were originally conceived however, given that the community is much more of a four season resort now and much more common with Whistler now having the summer visitation it sees regularly.

We have formally requested that the strata and adjacent neighbours, review the attached drawing package and received a memo confirming their support We are looking for your support on the development of the pool similar to any other typical variance prior to going before the Advisory Design Panel for their review. This is the process that has been requested by the RMOW planning department. I do feel that the design response of the pool is of a high quality, commensurate with the exclusive nature of the subdivision, respectful of the site characteristics and in our opinion an asset to the neighbourhood and the immediate neighbours in the event of a wildfire situation as a secondary fire fighting source beyond the natural clearly that would already have to happen to permit the necessary servicing that will need to happen.

See previous correspondence from Gord Hlynsky and PDF file at bottom of this email.

**Gord Hlynsky**

July 30, 20

RE: Horstman Lane - site landscape

To: Brent Murdoch, Roman Licko, Cc: Jane Lah, Raghav Maliah, Mike Ciebien, Jennifer Levitt

 New contact info found in this email: Gord Hlynsky [gord@hlynsky.ca](mailto:gord@hlynsky.ca)

Hi Brent

I am OK with the revised pool location --- not sure how you are accommodating the pool equipment and if any issues with services crossing easement. I also note that plan shows garage encroachment in front yard.

Regards

**Gordon Hlynsky Architect AIBC**  
**HLYNKY + DAVIS ARCHITECTS INC.**

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[See More from Brent Murdoch](#)

Respectfully



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