



WHISTLER

REPORT | ADMINISTRATIVE REPORT TO COUNCIL

PRESENTED: June 1, 2021
FROM: Resort Experience
SUBJECT: LAND USE CONTRACT TERMINATIONS – UPDATE

REPORT: 21-061
FILE: 7648.02

COMMENT/RECOMMENDATION FROM THE CHIEF ADMINISTRATIVE OFFICER

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

RECOMMENDATION

That Council endorse the processes for conducting initial owner engagement and preparing land use contract termination bylaws, as outlined in this Administrative Report to Council No. 21-061, to provide efficiencies based on previous Council direction and ongoing work; and

That Council endorse staff's proposed approach to apply consistent parking standards within the land use contract termination bylaws that reflect current standards in "Zoning and Parking Bylaw No. 303, 2015" applicable to all other lands in the municipality, which in some cases will create legal non-conforming parking uses for existing developments; and further

That Council endorse staff's outreach to the Ministry of Transportation and Infrastructure, as proposed in this Administrative Report to Council No. 21-061, to seek early understanding of the land use contract terminations bylaws that will reflect existing development to streamline Ministerial referral processes.

REFERENCES

Appendix A – Map of Land Use Contracts in Whistler Remaining to be Terminated

Information Report to Council No. 16-055 – Land Use Contract Termination Process, dated May 3, 2016 (Not attached)

PURPOSE OF REPORT

The purpose of this Report is to provide Council with an update on the process to terminate land use contracts (LUCs) within the Resort Municipality of Whistler (RMOW). In particular, this Report focuses on four key topics after presenting background information: 1) the LUCs in Whistler that remain to be terminated; 2) the processes for engaging owners and introducing the termination bylaws to Council for consideration to realize processing efficiencies; 3) the Ministry of Transportation and Infrastructure (MOTI) referral process; and 4) applying consistent parking standards through the LUC termination process.

DISCUSSION

Background

In May 2014, the *Local Government Act* (LGA) was amended to automatically terminate all LUCs on June 30, 2024. The same legislation requires municipalities to zone all lands subject to LUCs by June 30, 2022. The LGA allows a local government to, by bylaw, terminate LUCs prior to June 30, 2022, provided the bylaw comes into force on a date that is at least one year after the date the bylaw is adopted and zoning is in place on the date the bylaw comes into force.

On May 3, 2016, staff presented Information Report to Council No. 16-055. This Information Report outlined the new legislation and presented an approach for early termination of all LUCs in Whistler. It also described the following four general principles that would be applied by the RMOW through its zoning and termination process:

- Adherence to legislation;
- Public engagement;
- Alignment of regulations; and
- Consistent and equitable approach.

Whistler's LUCs Remaining to be Terminated

Historically, there have been eight LUCs in Whistler. To date, the RMOW has carried out the process to terminate three of Whistler's LUCs: Alpine, Brio and Bayshores. Alpine and Brio are fully terminated and the replacement zoning for these properties is in effect. Council adopted the termination bylaw for the Bayshores LUC on October 20, 2020. The RM70 replacement zoning for the Bayshores area will be in effect on October 21, 2021.

Five LUCs in Whistler, representing approximately 2,350 lots based on research to date, remain to be terminated before the June 30, 2022 deadline. The majority of these properties are stratified. The table below identifies these five LUCs and the approximate number of associated lots and stratas for each. Schedule A depicts the general locations of these five remaining LUCs. These LUCs will be brought forward to Council as separate LUC files; it is anticipated that the Blackcomb LUC will be presented to Council as five separate files in order to achieve efficiencies in batching properties that have similar development types and zoning parameters.

LUC Name	Approx. Number of Lots	Approx. Number of Stratas
Blackcomb	1,670	30
Blueberry	350	9
Twin Lakes	145	1
Tamarisk	140	1
Vale Inn	37	1
Whistler Creek Lodge	45	1

Process Efficiencies

Work on the remaining LUCs is underway with a significant commitment of staff resources, however, there is limited time and a large number of properties remaining. To meet the timeframes and other work program priorities, staff are working to expeditiously bring forward the termination bylaws by

finding efficiencies in processing as appropriate. In particular, staff have identified an opportunity to streamline the process for introducing the termination bylaws to Council for consideration.

For the Bayshores LUC, the most recent LUC that was terminated by the RMOW, as an initial step staff presented a Report and the draft termination bylaw to Council seeking permission to proceed prior to owner communication. As mentioned above, Information Report to Council No. 16-055 established four general principles to be applied by the RMOW through its zoning and termination process. The third principle, alignment of regulations, has been referred to as ‘like-for-like’ as the replacement zoning, wherever possible, will preserve and mirror existing LUC development provisions and site specific development controls such as covenants and permits. Given this approach, staff recommend it is unnecessary to first receive direction to proceed from Council. Staff have calculated that omitting the permission to proceed step will save approximately 150 hours of staff time as one less Council Report would need to be prepared and presented for each of the LUC files. It is anticipated that this will also remove about one month from the processing time for each LUC file.

The resulting steps in the process leading up to first and second readings is identified in the list below. The steps afterward (e.g., public hearing), would follow the typical steps in Council’s consideration of proposed bylaws.

1. Staff prepare a draft of the bylaw that terminates the LUC and adopts replacement zoning;
2. Staff distribute the draft bylaw, along with an accompanying letter, to the registered owners of the affected properties;
3. Registered owners are provided one month to submit written comments to staff on the proposed bylaw;
4. Staff review the comments and consider revisions to the proposed bylaw, as required, based on comments from registered owners; and
5. Staff introduce the termination bylaw to Council for consideration of first and second readings, and include any received comments as attachments to the Council Report.

For any LUC properties where staff may recommend proposed zoning that presents significant differences with the “like-for-like” principle, staff propose to seek permission to proceed from Council in advance of public communication.

MOTI Referrals and Approvals

A number of the LUC termination bylaws are subject to the statutory requirement for referral to and approval by MOTI. The MOTI referral requirement is primarily to address traffic impacts on highways and is typically aimed at new developments.

Related to process efficiencies, RMOW staff will be advising MOTI of the remaining LUCs to be terminated in Whistler. The letter will advise MOTI that the replacement zoning will not involve changes to the current *de facto* land use or increases in development, and will seek streamlined review.

Parking Requirements

For consistency and clarity, staff recommend that the parking requirements in the replacement zoning reflect the current requirements in ‘Part 6 – Parking and Loading Regulations’ of “Zoning and Parking Bylaw No. 303, 2015” (the Zoning Bylaw) rather than the requirements in the LUCs.

Each of Whistler’s LUCs sets out their own requirements for the number of parking and loading spaces to be provided for different types of development, and these differ from the current Zoning Bylaw. Therefore, the current regulations in Part 6 may require more or less parking and loading spaces than currently required by each LUC. For the Blackcomb LUC in particular, the parking requirements are

similar but less than the requirements in Part 6 of the current Zoning Bylaw.

Where the parking requirements in Part 6 of the current Zoning Bylaw are more than required by the applicable LUC, the existing parking would become legally non-conforming. There is no additional requirement for parking for the existing uses and development. Similarly, where any variances were granted to the LUC parking requirements, these would continue to apply to the existing development. In the scenarios of a redevelopment or additional development, the current parking and loading standards would become effective to the corresponding development.

POLICY CONSIDERATIONS

Official Community Plan

The termination of Whistler's LUCs advances two policies within the OCP's Growth Management chapter (Chapter 4). The analysis of these policies in relation to the termination of the LUCs is provided in the table below.

OCP Policy	Analysis
<i>4.1.2.11. Policy</i> Optimize the use and function of existing and approved development. Support flexibility, diversity, adaptability and efficiency in land use and development, so the resort community can derive the greatest benefit from existing development and minimize the conversion of natural areas to development.	The termination of Whistler's LUCs 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 in the LUC areas, which are well-established locations in Whistler.
<i>4.1.2.13. Policy</i> Ensure new land use and developments are complementary to existing development and add to Whistler's success. Avoid expansion and duplication that contributes to oversupply, diminishes the success of existing uses and development, and creates unacceptable impacts on the resort community.	The replacement zoning is intended to mirror the regulations established by the LUCs, applicable permits and covenants for each lot. This will help to ensure that any redevelopment in the LUC areas will be complementary to the existing development in the areas.

Other Relevant Policies

All termination bylaws will be prepared consistent with provincial regulations for the termination of LUCs. Additionally, except for parking requirements in most cases, the termination bylaws will be prepared consistent with the RMOW's project approach and principles for its LUC discharge process.

The termination of Whistler's LUCs also directly supports the most recent version (2019) of the RMOW's Corporate Plan and the following key deliverable for the Planning Services functional area: *Advance legislated Land Use Contract Discharge and adoption of replacement zoning.*

BUDGET CONSIDERATIONS

The termination of Whistler's LUCs is a planned, multi-year project. All costs associated with bylaw preparation, the Public Hearings, notices and legal fees will be covered under the existing Planning Department budget. Multiple Planning Department staff resources have been allocated to the LUC terminations.

COMMUNITY ENGAGEMENT AND CONSULTATION

The process to terminate the LUCs and adopt replacement zoning has included a consultation program that exceeds the requirements of the LGA. The legislated requirements and additional RMOW consultation are described further below.

Legislated Requirements

The LGA requires that a Public Hearing for each proposed bylaw be held prior to final consideration by Council, including notification in the local paper. If Council authorizes staff to schedule the Public Hearing for each termination bylaw, staff will advertise the Public Hearing in the local newspaper and deliver notice of the Public Hearing to the owners and tenants of all parcels within the subject lands for each particular bylaw.

The LGA also requires that written notice be given to property owners notifying them of the termination of the LUC after adoption of the bylaw. This notice must advise owners of their right to apply to the Board of Variance for an exemption from early termination, and it must identify the place where and the times and dates when the zoning bylaw is available for public inspection. Staff will carry out this notification for each of the LUC files should the various termination bylaws ultimately be adopted by Council.

Additional RMOW Consultation

In addition to the legislated process, the RMOW's LUC termination process includes another consultation opportunity with registered owners. As discussed above under the Process Efficiencies section, staff will provide registered owners with a copy of the draft proposed termination bylaw and an input opportunity before the bylaw is introduced to Council for consideration of first and second readings. Regarding the input opportunity, the draft bylaw will be accompanied by a letter to owners that explains the termination process and invites owners to submit written comments to the Planning Department. Staff will review the received comments and consider revisions to the proposed bylaw, as required. Staff will also attach any written comments received to the associated Council Reports.

The RMOW's website includes a LUC project webpage (whistler.ca/landusecontracts). This webpage includes information about the LUC termination process as well as an extensive list of frequently asked questions. Information on particular LUC files is also posted to this webpage as it becomes available.

SUMMARY

This Report provides Council with an update on the process to terminate Whistler's LUCs. The Report specifically discusses the LUCs in Whistler that remain to be terminated, the processes for engaging owners and introducing the termination bylaws to Council for consideration, the MOTI referral process, and incorporating current parking standards in the replacement zoning.

Respectfully submitted,

Courtney Beaubien
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for

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for

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