

ADOPTED



Islands Trust

North Pender Island Local Trust Committee

Minutes of Special Meeting

Date: July 28, 2022
Location: Electronic Meeting

Members Present: Laura Patrick, Chair
Benjamin McConchie, Trustee

Staff Present: Kim Stockdill, Island Planner
Lauren Edwards, Recorder

Absent: Deb Morrison, Trustee
Robert Kojima, Regional Planning Manager
Phil Testemale, Planner 2

Public Present: There were approximately 28 participants

1. CALL TO ORDER

Chair Patrick called the meeting to order at 10:00 am. She acknowledged that the meeting was being held in the traditional territory of the Coast Salish First Nations. She commented on the historic nature of the Pope's travel to Canada to offer apologies regarding residential schools.

2. APPROVAL OF AGENDA

By general consent the agenda was approved as presented.

3. BUSINESS ITEMS

3.1 Staff Presentation – Land Use Bylaw Review Project and overview of proposed Bylaws 223, 224, and 229

Planner Stockdill's presentation on the Land Use Bylaw (LUB) project included:

Project Overview

- The project was initiated in early 2020 to do a full review of LUB #103 to ensure it was consistent with the Official Community Plan (OCP) and implement policies or initiatives within the OCP and update LUB for amendments;
- The LTC identified seven topics: residential maximum floor area; conservation subdivision; agricultural regulations; industrial regulation; tourist accommodations (C2 zoning review); marine and shoreline regulations; and other minor/technical amendments;

- The Conservation Subdivision topic was pulled out as it needs a full review on its own and is on the LTC's Project List;
- In spring 2020, staff provided a discussion paper which included background, current policies and regulations and options for the LTC to consider;
- Early engagement letters were sent to First Nations;
- In fall 2020 and January 2021, there were five community information meetings (CIM) focussed on topics for the community to identify;
- There were recommendations and comments provided by the Special Agricultural Advisory Planning Committee (AAPC) on agricultural items. This is on the LTC project site and the LTC incorporated the majority of the recommendations into the proposed bylaw; and
- Early this year, there were a couple of online CIMs regarding hot topics and there was an electronic CIM held on July 7th.

Bylaws being considered:

- The project has two LUB amendments and one OCP amendment bylaw;
- Bylaw 224 replaces LUB 103 and is consistent with the OCP. It needs approval from Islands Trust Executive Committee and then it comes back to the LTC for approval;
- Bylaw 223 makes amendments to the OCP. This will require approval from the Minister of Municipal Affairs once Islands Trust Executive Committee has approved it. It is not known how long it will take for the bylaw to be approved at the ministerial level;
- Bylaw 229 needs OCP Bylaw 223 to be adopted first as it needs policies in place before it can be adopted; and
- All three bylaws were given first reading on May 26th and can be found on the Project website.

Hot Topics:

- Regarding Residential Rural (RR) Zoning, Bylaw #103 has one RR zone and the LTC proposes to split into two zones due to distinct differences in properties. The properties in Magic Lake and Trincomalie will be rezoned for total and maximum floor areas. The focus is on communities with small lots with primary use as residences. Properties rezoned to RR2 will establish a total and maximum floor area and, in addition, agricultural use will be permitted as primary use. This also includes bare land for agricultural use. There are no changes in density for zones;
- Regarding legal nonconforming or grandfathering, the *Local Government Act* protects for building siting and size to make alterations so long as it does not exceed current footprint. The LTC added a new clause for rebuilding a house back to the grandfathered square footage not to exceed the floor area of the old house at the time of bylaw adoption.
- Regarding accessory structures on bare land, Bylaw 224 would allow one outbuilding and one utility shed before construction;
- Regarding helicopter prohibitions, heliports and helipads are not permitted except for evacuation use. Aeronautics is under federal jurisdiction which means the bylaw is likely unenforceable;

- With regards to C2 zones, property owners of four commercial properties have agreed to reduce densities from 55 tourist accommodation units down to a maximum of 28 tourist accommodation units;
- With regards to Docks Water 1 for upland residential use, the LTC is considering rezoning the area around North Pender to Water 3 which does not permit private docks. Where there is existing private dock or in-progress leases with the province, those properties will retain Water 1 zoning. If you are within Water 3 zoning, a rezoning process would be necessary to construct a dock; and
- Regarding groundwater, the LTC has decided to pull into this project some LUB amendments which include groundwater definitions, water supply standards and new cistern requirements.

Comments requested from the community:

- Regarding agricultural buildings and the new RR2 Zone where agriculture is the principle use and agricultural buildings are permitted, the LTC wants to hear if the community would support large agricultural buildings on small lots or on larger lots only;
- Regarding commercial property 1A at Port Washington store property, the new property owners wish to amalgamate two lots and do a lot line adjustment to formalize parking. They are requesting rezoning to RR2 to allow one dwelling unit;
- Regarding the portion of property behind the Driftwood Centre, C2 zoning would allow up to 27 tourist accommodation units. The LTC is considering rezoning for affordable rental housing;
- With regards to waste transfer properties, the Bedwell Harbour Road property is currently a Temporary Use Property (TUP) zoned rural. The LTC is considering legalizing the use by rezoning for waste transfer, commercial recycling and composting and accessory storage. The LTC would also like to rezone two other waste transfer sites on Otter Bay Road to all industrial zone use plus waste transfer, commercial composting and recycling and reuse facility.

Next steps:

- An in-person CIM is scheduled for Saturday, August 13th at 11:00 a.m. at the Anglican hall;
- A regular LTC meeting is scheduled for August 11th and staff will report on potential amendments and ask the LTC to have a Public Hearing likely to be in September; and
- Any correspondence to the LTC should be cc'd to: southinfo@islandstrust.bc.ca for filing, the public record and for posting to the website.

Chair Patrick opened the community discussion:

- Kathi D. commented on emails and discussions regarding 2500 sq. ft. maximum which includes basements or crawlspaces. She would like to see allowable square feet expanded to 3000 or height increase for basements and crawlspaces to eight feet or higher for livability;

- Mary Beth Rondeau commented on the difficulty of going through a base bylaw and then amendments without a blackline version. She questioned why incorporate a base bylaw at the same time as proposed bylaw amendments;
- Planner Stockdill responded on the need for bylaw consistency and ease of bylaw interpretation throughout Islands Trust areas and offered to help clarify her understanding;
- Mary Beth Rondeau requested that a blackline version be created;
- Trustee McConchie asked that specific concerns be communicated in writing and requested that creating a blackline version be put on the agenda for consideration at the August 11th meeting;
- Mairead Boland read from text her concerns regarding Islands Trust's approach to water project deployments, using guiding science, data and technical reports, educating the public, the actions being taken and the carbon footprint associated with cisterns;
- Planner Stockdill requested that she email her written statement to southinfo@islandstrust.bc.ca;
- Ann Stephenson questioned whether siting and setback regulations, which now include structures such as fences and asphalt, means that a fence cannot be erected within 50' of waterfront. She commented that fencing may be required for deer or children;
- Planner Stockdill confirmed this and provided that the rationale is to reduce impact on sensitive areas. She stated that existing fences can be rebuilt as repairs are permitted;
- Ann Stephenson questioned the RR2 zone with subsection for agri-tourism and accommodation. She commented that agri-tourism usually only applies to AR land;
- Planner Stockdill responded that agricultural use is a primary permanent use, but property owner may choose;
- Ann Stephenson stated that perhaps it should be tied to farm status;
- Planner Stockdill stated that information notes could be added, for the two uses in agricultural land reserve properties;
- Ann Stephenson said that the map is not clear and asked how many properties are being rezoned to industrial use. She said that properties being rezoned are getting the same permitted uses, but existing industrial properties are site specific while rezoned properties are being permitted many uses. She said that the original Community Charter was not to change the OCP but to ensure the bylaws comply. She referenced a clause that prevented strip developments, but said it appears the Port Washington property will be made into a strip of industrial land which she said goes against the OCP;
- Planner Stockdill stated that she will make a point of creating maps to make this extremely clear at the August 13th meeting and get that information onto the website as well. She will also add ALR and farm status to the information note;
- Karen Bell, a resident of the north end of Pender, commented on the RR2 zoning in Bylaw 224. She would like to understand why agricultural use is included. She said that as a resident who moved to a rural residential area on the water, she has no desire for agricultural activities to take place. She commented that even under the new bylaw, farm operations are governed by the *Agricultural Commission Act* which does not define horticulture as agriculture. She said that, as a farm business, agriculture is governed by the ALR. Further comments were that, while there is a desire to accommodate people's activities without building a house, she feels it is ill advised to blow up the RR2 and start a farm operation which has specific acts and legislation that govern those areas. She asked

- what she should do to bring this forward and who benefits from this? She stated that a small group of people can be accommodated by a variance and that she and many of her neighbours wish to preserve the RR status and maintain a residential feel;
- Trustee McConchie suggested that she bring her concerns forward at the August 11th meeting;
 - Planner Stockdill asked if agriculture is the primary use, should this only be permitted on larger acreages. She said that, while she cannot speak for the Agricultural Advisory Planning Commission, their rationale and intent was for low impact on bare land where there is no residence or cottage. She said that RR zoning requires a house or cottage and suggested the issue of impact on neighbours for property with agricultural uses be discussed and whether it should be considered only for larger lots. She asked that a letter be written for the LTC consideration on this issue;
 - Karen Bell asked about screening for buildings and is concerned about commercial activity noise;
 - Planner Stockdill responded that LUBs will indicate when landscape screening is required and it may also be a condition for a development variance permit (DVP). Also, larger properties must maintain a landscape strip, but there is no screening for structures.
 - Karen Bell stated that she will be raising her concern regarding rural residential screening as she is concerned about allowing a 30 foot structure 15 feet from the lot line. She would like consideration regarding big structures and also asked whether properties will be grandfathered where there is more than one shipping container;
 - Planner Stockdill responded that shipping containers are grandfathered;
 - Trustee McConchie said he did not recall any discussion regarding shipping containers;
 - Ann Burdett asked whether her property could be added to the industrial LUB, especially for sections e, f and especially section i without which there would not be any uses, buildings or structures allowed;
 - Planner Stockdill responded that it is up to the discretion of the LTC as the bylaw can be amended. She reported that she has provided specific comments on Ann Burdett's property for the LTC to consider at the August 11th meeting and that comments are in the agenda. She said that if structures contained a use, they would be permitted. She offered to discuss this issue with her directly;
 - Michael Sketch raised his concern about the Port Washington shed rezoning and mentioned that in 2014, the courts found against residential use. He commented that due to the LUB and the landowner's request, residential use has been added. He also commented that the rezoning does not apply to the foreshore, but it would predispose residential use of both portions and that the owners wish to amalgamate the two lots, but that is not what is said in letter, bylaw or mapping. He said that those show two separate parcels each with residential zoning. He asked what the rationale was for staff to suggest there be residential zoning to replace commercial zoning;
 - Planner Stockdill reported that there has not been active commercial use on that property for many years and may not be; and, that the owner made a proposal that is beneficial. She reported that language is being developed to ensure there is only one dwelling unit even though there are two lots and, in terms of the old shed, it is in the Water 4 zone and can only be used as W4 zone permits for which the owner is aware;

- Michael Sketch stated that he is concerned about an amendment to the LUB which currently shows that both parcels of the Port Washington site will be given residential zoning. He said this would predispose an application to rezone the W4 parcel for residential use and would in turn predispose an application to the province for foreshore lease. He stated that step one would be to have local government zoning in place, which he feels is occurring without adequate community consultation from the contentious situation of 1994 to 2014. He stated that the First Nation interests are affected by this and that there is nothing in the bylaw that requires the amalgamation. His concern is that, if these bylaws go forward, there will be zoning for residences on both properties;
- Planner Stockdill responded that staff are suggesting an amendment to those two properties to allow only one dwelling, most likely site specific, and that staff would not support rezoning Water 4 for residential use;
- Michael Sketch said that the next LTC may not have the same view;
- Planner Stockdill stated that she can provide the court ruling at the August 11th meeting;
- Dorothy Murdoch asked for the reason for removing everything and allow only rental housing for the C2 zoning behind the Driftwood Centre;
- Trustee McConchie stated this issue was flagged by planning staff and there is interest to hear from the community about the proposals. With some people experiencing unstable housing on Pender, it was proposed that it may be beneficial to businesses and the development of the centre's core to provide some housing. He commented that her response was to keep tourist zoning and build a campsite and he asked for her reasons against the proposal;
- Dorothy Murdoch responded that affordable housing builds are impossible due to high costs. She said she proposed more affordable ideas to Islands Trust such as several apartments on top of the Driftwood Centre and retail buildings 5, 6 and 7 which could accommodate apartments on the second story and that the infrastructure is already in place;
- Trustee McConchie referenced the Plumtree Court Housing Society and federal and provincial subsidies that may be available;
- Dorothy Murdoch stated that there is no problem having it added as permissive use and that building was more affordable in the past. She said that unless there is a guarantee for a grant, it would be totally out of the question to build rental housing;
- Trustee McConchie questioned the affordability for retaining 27 tourist accommodation units;
- Dorothy Murdock responded that is what the property was purchased for and adding rental housing as a permitted use is acceptable. However, she does not agree to take away other uses including the planned campground. She stated the tourist accommodation use would be beneficial;
- Trustee McConchie confirmed that Dorothy Murdock's request is for the property to be kept zoned as tourist accommodation and possibly add rental housing;
- Mary Beth Rondeau is concerned that under W1 zoning without a current dock, this constitutes a downzoning at resale. She stated that it is required to get approval of the property owner for downzoning or otherwise to compensate them. New owners would have to rezone to Water 1 with a whole list of OCP criteria. From the list of OCP amendments being proposed for getting a dock, she questioned how many are already

- covered by the provincial approval processes. She questioned what the process criteria is for private docks in the OCP and what the summary of response in favour or against the community docks were. She stated that in the June Trust Commentary and June Trust Council Staff Report, the idea of docks was not popular according to the public engagement and that restricting private docks is no longer considered to be astute given the consideration for emergency evacuations. She read from the June Staff Report which stated that input from the public and First Nation should be sought. She asked why the Trust was going ahead with this;
- Planner Stockdill responded that the conditions in OCP bylaw 223 is similar to what the province has and staff recommend including it as an insurance because the provincial requirements can change. With regards to common or shared docks, it will be determined if the applicant has talked to neighbours to share a dock or if there is a public dock nearby. In terms of downzoning, the LTC has legal authority to amend use, but cannot remove all uses;
 - Chair Patrick reported that conversations are ongoing;
 - Trustee McConchie commented that South Pender had a zoning bylaw for docks introduced five years ago and he is not aware of detrimental impacts. He said that uniformity for the foreshore seems logical and asking local trustees for their opinion after applying to the province allows for a local democratic process. He stated that he has not tabulated the letters for or against, but will do so;
 - Mary Beth Rondeau commented that Islands Trust should be careful not to replicate upper government or take on the taxpayer burden of large science projects. She warned against unnecessary prescriptive bylaws. She stated this is covered by upper level government and does not think Islands Trust should get involved;
 - Mary Beth Rondeau raised the issue of waterfront setbacks. She has concerns for evacuations given the enhanced limitation of structures such as stairs, fences and driveways. She asked whether replacement of wooden stairs or putting in a driveway, if necessary, could be done in the waterfront area. She was also concerned that a cistern was a new criteria for the DVP process;
 - Planner Stockdill responded that the potential requirement for cisterns is only when the LTC is considering a DVP to vary the maximum floor area of a residential building and that it is not for siting DVPs. She stated that a paved driveway would require a DVP but a gravel driveway would not; and, that stairs currently going down to the foreshore are protected by the *Local Government Act* and can be maintained and rebuilt without a DVP when not encroaching further into the setback;
 - Trustee McConchie said he will write a letter to Paul Brent, CRD, regarding the impact the zoning process may have on evacuation during a potential catastrophic event;
 - Anne Burdett said that she concurred that there is overregulation and in 20 years, planners will read the bylaws differently and the word “only” will be interpreted differently;
 - Michael Sketch questioned why a setback from the natural boundary for sewage disposal fields has not been considered. He commented that the First Nations interest is affected. He suggested this be added to the LUB.
 - Planner Stockdill responded that she will investigate this issue;
 - Chair Patrick reported that Island Health does have 15 metre setback.
 - Michael Sketch questioned whether the setback should be the same distance between a drilled well and sewage field which is 100 feet. He commented that he believes the First

Nations, if asked, would prefer 30 metres to prevent contamination. He said that the foreshore should eventually be cleaned up as it is currently contaminated.

- Michael Sketch commented that the C2 zoning subject needs careful consideration. He questioned whether it is appropriate to concentrate affordable housing all in a lump using a point source for water and that “smart growth” was documented in a report used by CRD as not being a good idea because of the impact on the water resource. He mentioned that undeveloped lots in Magic Lake could have affordable housing and screening and would be a much better approach than lumping it all together in a water and sewage challenged area behind the Driftwood Centre.

Chair Patrick stated that meetings are scheduled on August 11th and 13th and asked for comments and questions to be sent to southinfo@islandstrust.bc.ca.

4. ADJOURNMENT

By general consent the meeting was adjourned at 12:02 pm.

Laura Patrick, Chair

Certified Correct:

Lauren Edwards, Recorder