South Pender Island Local Trust Committee
Special Meeting Agenda

Date:	January 17, 2025
Time:	10:30 am
Location:	South Pender Fire Hall
	8961 Gowlland Point Road, South Pender Island, BC

Pages

1. CALL TO ORDER

2. TERRITORIAL ACKNOWLEDGEMENT

3. APPROVAL OF AGENDA

4. BUSINESS ITEMS

4.1 Minor Land Use Bylaw Amendments Project - Staff Report (attached) 2 - 24

5. ADJOURNMENT

STAFF REPORT

File No.: SP Minor LUB Amendments Project

DATE OF MEETING:	January 17, 2025
TO:	South Pender Island Local Trust Committee
FROM:	Kim Stockdill, Island Planner Southern Team
COPY:	Robert Kojima, Regional Planning Manager
SUBJECT:	South Pender Minor LUB Amendments Project – Project Update

RECOMMENDATION

1. **That the South Pender Island Local Trust Committee request staff to prepare a draft bylaw for the Minor Land Use Bylaw Amendments Project in accordance with the staff report dated January 17, 2025.**

REPORT SUMMARY

This report is intended to provide the South Pender Island Local Trust Committee (LTC) with referral comments from the South Pender Advisory Planning Commission (APC), to request direction from the LTC on how to proceed with the major topics outlined below, and to request direction to proceed with the preparation of a draft bylaw.

BACKGROUND

The Minor Land Use Bylaw (LUB) Project was initiated in November 2023 with the endorsement of the Project Charter. The focus of this project is to review amendments made to the LUB by Bylaw No. 122 and to review other minor and technical LUB amendments. The South Pender LTC phased the early engagement process – the first phase started with trustee-led workshops, and the second phase involved two Community Information Meetings (CIMs) in April 2024. The third action in this phase was to send a referral to the South Pender APC for comments on specific aspects of this project.

The South Pender LTC identified the following major topics during phase one and two requiring further deliberation by the South Pender APC:

- setback from the natural boundary (NB) of the sea
- interior side lot line setbacks for rural residential zoned dwellings and cottages
- total floor area and maximum floor area for dwellings

The South Pender APC met over the past four months (five meetings in total) and have provided their recommendations via resolutions in the APC minutes. The APC minutes can be found under 'Folder 7 - Advisory Planning Commission' on the Project's webpage and attached to the September 13, 2024 and December 6, 2024 LTC agendas. The webpage also includes the APC Chair's summary of the APC recommendations (also attached to the staff report) and two letters from an APC member.

ANALYSIS

1. Setback from the natural boundary of the sea

Prior to the adoption of Bylaw No. 122, the LUB included the following regulation regarding the setback to the sea:

> Subsection 3.3(3) - *Buildings or other structures, except a fence, pump/utility house, stairway, wharf and dock ramps or their footings, shall not be sited within 7.6 metres (25 feet) of the natural boundary of the sea and, for this purpose only, paved areas of asphalt, concrete or similar material are "structures".*

With the adoption of Bylaw No. 122, the following is the regulation in the current LUB (Section 3.3):

> *(3) Buildings or other structures, except a fence, stairway, wharf and dock ramps or their footings, shall not be sited within 15 metres (50 feet) of the natural boundary of the sea and, for this purpose only, paved areas of asphalt, concrete or similar material are "structures".*
> *(4) Despite Subsection 3.3(3), buildings or structures, except a fence, stairway, wharf and dock ramps or their footings, legally constructed prior to September 15, 2022 shall not be sited within 7.6 metres (25 feet) of the natural boundary of the sea and, for this purpose only, paved areas of asphalt, concrete or similar material are "structures".*
> *(5) Despite Subsection 3.3(3), on a lot that contains a legal dwelling, cottage, or accessory building constructed prior to September 15, 2022, a replacement dwelling, cottage, or accessory building may be constructed, or the existing dwelling, cottage, or accessory building re-constructed or altered, provided the distance from the natural boundary of the sea to the replacement, re-constructed or altered dwelling, cottage, or accessory building is not less than the distance from the natural boundary of the sea to the dwelling, cottage, or accessory building on the lot on September 15, 2022 and for this purpose the Local Trust Committee may require an owner to submit a certification from an appropriately qualified person as to the siting of the dwelling, cottage, or accessory building at the time of the adoption of this bylaw.*

Outcome due to Bylaw No. 122 amendments:

- Fences, stairways, wharves and dock ramps or their footings are still exempt from the setback from the NB of the sea
- Buildings and structures legally constructed prior to September 15, 2022 retain the setback from the NB of the sea of 7.6 metres
- New buildings and structures must meet the setback from the NB of the sea of 15 metres
- Dwellings, cottages or accessory buildings constructed prior to September 15, 2022 may be rebuilt or altered as long as the distance from the NB of the sea is the same as it was on September 15, 2022 or greater (further away from the NB of the sea)

❖ **APC Recommendation No. 1:**

The South Pender APC recommended that the LTC retain the 15 metre setback from the natural boundary of the sea as currently regulated in the South Pender Land Use Bylaw (LUB) No. 114. In addition, the South Pender APC recommended changing the wording of the clause in Subsection 3.3(5) by removing the reference to "an appropriately qualified person" when a property owner is required to submit certification for the siting of their building. If the LTC agrees, Subsection 3.3(5) would be changed to read:

"*…and for this purpose the Local Trust Committee may require an owner to submit* ***substantive evidence to establish*** *the siting of the dwelling, cottage, or accessory building at the time of the adoption of this bylaw."*

Staff Comments: Staff supports this recommendation. This is a minor amendment to the clause wording and potentially simplify administration of the regulation.

2. Interior side lot line setbacks for rural residential zoned dwellings and cottages

Prior to the adoption of Bylaw No. 122, the LUB included the following regulation regarding the setback from the interior and exterior side lot line for rural residential zoned dwellings and cottages:

> Subsection 5.1(6) – *The maximum setback for any building or structure, except a fence or pump/utility house, shall be 3.0 metres (10 ft.) from any interior side lot line*

With the adoption of Bylaw No. 122, the following are the regulations in the current LUB (Section 5.1):

(8)	*The minimum setback for any building or structure, except a fence or pump/utility house, shall be:*			
	(a) 7.6 metres (25 ft.) from any front or rear lot line;	✓	✓	✓
	(b) 3.0 metres (10 ft.) from any interior side lot line;	✓	✓	✓
	(c) 4.5 metres (15 ft.) from any exterior side lot line.	✓	✓	✓
(9)	*Despite Subsection 5.1(8), the setback for a dwelling or cottage shall be 6.0 metres (20 ft.) from any interior or exterior side lot line."*	✓	✓	✓
(10)	*Despite Subsection 5.1.(9), on a lot that contains a legal dwelling or cottage constructed prior to September 15, 2022, a replacement dwelling or cottage may be constructed, or the existing dwelling or cottage re-constructed or altered, provided the distance from the interior or exterior side lot line to the replacement, re-constructed or altered dwelling or cottage is not less than the distance from the interior or exterior side lot line to the dwelling or cottage on the lot on September 15, 2022 and for this purpose the Local Trust Committee may require an owner to submit a certification from an appropriately qualified person as to the floor area of the dwelling at the time of the adoption of this bylaw.*			

Outcome due to Bylaw No. 122 amendments:

- New dwellings or cottages must meet the new interior and exterior lot line setback of 6.0 metres (20 ft.)
- A dwelling or cottage legally constructed prior to September 15, 2022 may be rebuilt or altered as long as the distance from the interior or exterior lot line is the same as it was on September 15, 2022 or greater (further away from the interior side lot line)

❖ **APC Recommendation No. 2:**

The South Pender APC recommends the LTC revert the setback from the interior and exterior lot lines to 3.0 metres (10 feet) as stated in the South Pender LUB No. 114 prior to adoption of Bylaw No. 122.

Staff Comments: Staff has no concerns with this recommendation. In order to achieve this, a new LUB amending bylaw would be required to delete Subsections 5.1(9) and 5.1(10).

3. Total & Maximum Floor Area

Prior to the adoption of Bylaw No. 122, the LUB included the following regulation regarding maximum and total floors areas in the Rural Residential, Agriculture, Forestry, and Natural Resource zones:

Siting and Size RR1 RR2 RR3

(5) Maximum *Floor Area* per *lot*: ✓ ✓ ✓

Lot Area	The total floor area of all buildings may not exceed:	The floor area of a dwelling may not exceed:
Less than 0.4 ha (1 acre)	465 m² (5000ft²)	353 m² (3800ft²)
0.4 ha to 0.79 ha (1 to 2 acres)	557 m² (6000ft²)	418 m² (4500ft²)
0.8 ha to 1.59 ha (2 to 4 acres)	743 m² (8000ft²)	520 m² (5600ft²)
1.6 ha to 3.9 ha (4 to 10 acres)	836 m² (9000 ft²)	543 m² (5845ft²)
4.0 ha (10 acres) or greater	1858 m² (20000ft²)	560 m² (6030ft²)

Agriculture Zone - (9) The *floor area* of a *dwelling* may not exceed 560 m² (6028 ft²)
Forestry Zone - (7) The *floor area* of a *dwelling* may not exceed 560 m² (6028 ft²)
Natural Resource Zone - (6) The *floor area* of a *dwelling* may not exceed 560 m² (6028 ft²)

With the adoption of Bylaw No. 122, the following are the regulations in the current LUB regarding total and maximum floor area in the RR1, RR2, RR3, Agriculture, Forestry, and Natural Resource zones:

Siting and Size RR1 RR2 RR3

(5) Maximum *Floor Area* per *lot*: ✓ ✓ ✓

Lot Area	The total floor area of all buildings may not exceed:	The floor area of a dwelling may not exceed:
Less than 0.4 ha (1 acre)	465 m² (5000 ft²)	232 m² (2500 ft²)
0.4 ha to < 0.8 ha (1 to 2 acres)	557 m² (6000 ft²)	279 m² (3000 ft²)
0.8 ha to < 1.6 ha (2 to 4 acres)	743 m² (8000 ft²)	325 m² (3500 ft²)
1.6 ha to < 4 ha (4 to 10 acres)	836 m² (9000 ft²)	348 m² (3750 ft²)
4.0 ha (10 acres) or greater	1394 m² (15000 ft²)	372 m² (4000 ft²)

(6)	Despite Subsection 5.1(5), on a *lot* that contains a legal *dwelling* constructed prior to September 15, 2022, a replacement *dwelling* may be constructed, or the existing *dwelling* re-constructed or altered, provided the *floor area* of the replacement, re-constructed or altered *dwelling* does not exceed the *floor area* of the *dwelling* on the *lot* on September 15, 2022 and for this purpose the Local Trust Committee may require an owner to submit a certification from an appropriately qualified person as to the floor area of the dwelling at the time of the adoption of this bylaw.

Outcome due to Bylaw No. 122 amendments:

- New dwellings constructed after September 15, 2022 must comply with the more restrictive maximum floor areas
- The total floor area for buildings on properties greater than 4.0 ha (10 acres) was reduced to 1394 m² (from 1858 m²)
- Dwellings legally constructed prior to September 15, 2022 may be rebuilt or altered as long as the floor area of the dwelling is the same as it was on September 15, 2022 or less

❖ **APC Recommendation No. 3a – excluded attached garage from floor area:**

The APC recommends excluding attached garages from the calculation for floor area for a dwelling and to add a definition to the LUB for 'attached garage'.

Staff Comments: Staff does not support this recommendation as excluding interior space such as attached garages are that they can be converted to living space later.

❖ **APC Recommendation No. 3b – total and maximum floor area tables (RR1, RR2, RR3, AG, F, NR zones):**

The South Pender APC recommends amending the LUB to include two separate total and maximum floor area tables; one table which is applicable to dwellings constructed prior to September 12, 2022, and another table applicable for dwellings constructed on or after September 12, 2022 (see SP APC minutes dated October 21, 2024). The table for dwellings contracted prior to September 12, 2022 would include the same total and maximum floor area values as found in the LUB prior to the adoption of Bylaw No. 122.

In addition the APC recommends amending the clause to change the wording to reflect that a dwelling may be rebuilt as long as it complies (and does not exceed) the floor area permitted in the table.

Staff Comments: Staff supports these recommendations as it is easier to interpret which floor area regulations apply to certain scenarios. The current LUB is not as clear, as one must read the entire zone to determine that dwellings constructed prior to September 12, 2022 may be rebuilt.

❖ **APC Recommendation No. 3c – Agriculture maximum floor area:**

The South Pender APC recommends the LTC review the maximum floor area for dwellings as regulated by the Agriculture Land Commission (ALC) and recognize the LUB regulations should be consistent with any future ALC regulatory changes.

Staff Comments: Section 20(1) of the *Agricultural Land Commission Act* permits a residential principle residence (dwelling) to have a maximum floor area of 500 m² or less although a local government may impose a more restrictive maximum floor area. The current SP LUB currently complies with the ALC Act as the bylaw permits a

dwelling and restricts maximum floor area based on lot size (all of which are less than 500 m²). The LTC has the option to remove maximum floor area regulations from the Agriculture zone or for those lots located within the Agriculture Land Reserve. The outcome of this is that the dwelling floor area must comply with the ALC regulations; the dwelling must have a floor area less than 500 m².

4. Dwelling/Cottage Height

The referral to the APC requested the APC to review the three major topics and any other amendments discussed at the May 10, 2024 LTC meeting. One of those 'minor topics' includes the change to the dwelling and cottage height regulation. Prior to the adoption of Bylaw No. 122, the LUB included the following height regulation:

> Subsection 3.4(1) - A *dwelling* or *cottage* shall not exceed 9.2 metres (30 feet) in height.

The adoption of Bylaw No. 122 amended the height regulation to read:

> Subsection 3.4(1) - A dwelling or cottage shall not exceed 9.2 metres (30 feet) in height and at no point may a dwelling or cottage exceed 9.2 metres (30 feet) in height.

In the minutes of the November 12, 2024 SP APC meeting included the following comments:

> *"Comments were made that the issue of height does render some properties legally nonconforming because the protection is in the Local Government Act and not in Bylaw 114. It was suggested that it is simpler to revert the height regulation back to what it was prior to the adoption of Bylaw 122."*

Staff Comments: Staff supports reverting the dwelling and cottage height to the regulation in place prior to the adoption of Bylaw No. 122 as the adoption of Bylaw no. 122 created legal non-conforming dwellings in terms of height. Comments gathered from the pervious community information meetings also support this.

STATUTORY REQUIREMENTS - PUBLIC HEARING

Recently the *Local Government Act* was amended to implement changes to public hearing procedures. Section 464(2) of the *Local Government Act (LGA)* now states that a local government is not required to hold a public hearing on a proposed land use bylaw if:

(a) an official community plan is in effect for the area that is the subject of the zoning bylaw, and
(b) the bylaw is consistent with the official community plan.

If the LTC believes proposed land use bylaw amendment meets the two conditions above, then the LTC could decide not to hold a public hearing; however, notice would need to be given prior to First Reading of the draft bylaw. The LTC can also decide whether to hold a community information meeting prior to First Reading which could in fact act as a de facto public hearing.

The process for not holding a public hearing (in compliance with Section 464(2) of the LGA) would be as follows:

1. LTC gives direction to staff to draft a LUB amending bylaw
2. Staff to initiate bylaw referrals to agencies and First Nations
3. Staff brings forward the draft LUB for LTC's review
4. LTC gives direction to staff to give Notice of First Reading. This notice would be placed in local newspapers and be posted to the LTC webpage and community notice boards.
5. The LTC has the option to request staff to schedule a Community Information Meeting prior to First Reading.
6. The LTC may give First, Second, and Third reading at a single LTC meeting.

If the LTC would like to hold a public hearing then the normal public hearing statutory process will be followed. The decision to hold or not hold a public hearing must be made prior to first reading of the bylaw.

Project Charter

The following is the amended timeline in the Project Charter:

Workplan Overview	
Deliverable/Milestone	**Target Date**
Project Charter endorsement	*Nov 2023*
LTC review of background material and consideration of public engagement options	*Nov 2023*
Public engagement to identify issues – Trustee-led workshops and CIMs	*Jan-April 2024*
APC referral	*May – Nov 2024*
Review of APC & engagement comments/LTC direction to draft bylaw	*Dec 2024*
Review draft bylaw	*Feb 2025*
First opportunity for First Reading of draft bylaw, referrals	*Spring 2025*
Community Information Meeting(s) to gather comments on proposed bylaw	*Spring 2025*
Amendments to bylaw based on CIM comments/Opportunity of First and/or Second Reading of bylaw	*Summer 2025*
Public Hearing (if necessary), Third reading & EC referral	*Sept 2025*
Bylaw adoption	*Fall 2025*

The project is currently meeting milestones as shown in the above timeline.

Rationale for Recommendation

Staff recommends the LTC proceed with directing staff to draft a bylaw. The project is naturally progressing to the close of the first initial phases of engagement as shown in the Project Charter. The next stage of the project is to draft a LUB amending bylaw and to give referral agencies, First Nations, and the South Pender community an opportunity to comment on the initial draft. If the LTC chooses an alternative, it should also review the project charter and make any necessary adjustments.

ALTERNATIVES

1. **Schedule an electronic Special Meeting**

   If the LTC requires additional time prior to giving direction to staff to draft a bylaw, then a special electronic meeting could be held in the New Year.

   Recommended wording for the resolution is as follows:

   That the South Pender Island Local Trust Committee request staff to schedule an electronic special meeting for the Minor LUB Amendment Project.

2. **Request further information**

The LTC may request further information prior to making a decision. Staff advise that the implications of this alternative are potential delays to commencing and completing the project. If selecting this alternative, the LTC should describe the specific information needed and the rationale for this request. Recommended wording for the resolution is as follows:

That the South Pender Island Local Trust Committee request that the staff provide further information regarding…

3. **Receive for information**

   The LTC may receive the report for information.

NEXT STEPS

Next steps include:

- Initiate the drafting of a Land Use Bylaw amendment bylaw

Submitted By:	Kim Stockdill, Island Planner	November 29, 2024
Concurrence:	Robert Kojima, Regional Planning Manager	November 29, 2024

Attachment:

1. APC Chair Summary – dated November 23, 2024

South Pender Advisory Planning Commission (APC)

The South Pender LTC Referral: SP Minor LUB Amendments

LTC Referral Topics

"*To date the LTC has noted the following major topics identified during phase one and two is requesting further deliberation:*

- *setback from the natural boundary (NB) of the sea*
- *interior side lot line setbacks for rural residential zoned dwellings and cottages*
- *total floor area and maximum floor area for dwellings*"
- see **Appendix A** (P. 9) for Referral Chart

Commission Members:

Gordie Duncan (Chair), Rod Kirkwood (Vice-Chair), Audrey Green, Donna Spalding, Paul Petrie

Staff:

Kim Stockdill - South Pender Planner, Carly Bilney - Secretary

Introduction:

After five APC meetings we believe that the APC has made recommendations that are a reasonable compromise and will address the communities concerns both for and against the changes made with the adoption of Bylaw 122. It is felt that the recommendations will address the concerns, especially about non-conforming, with its many varied interpretations of "legal non-conforming or some form of hyphenated non-conforming", by removing its significance from the current Bylaw 114, almost entirely.

The recommendations meet the goals of the OCP and have little if any impact on the Rural Nature of South Pender

Re: SP LTC Referral of SP Minor LUB Amendments to the SP APC

The SP APC received the referral on July 15, 2024. At the first APC meeting (Electronic) held on August 9, 2024, Chairman – Gordie Duncan and Vice Chairman - Rod Kirkwood were elected. Staff Member Carly Bilney was appointed as Secretary. Commissioners Audrey Green, Donna Spalding and Paul Petrie along with Duncan and Kirkwood form the SP APC Commission.

Under the direction of the Islands Trust Staff, it was determined that any further APC meetings must be held "in person" only. Further it was determined at the LTC meeting on May 10, 2024, that the APC need not seek further public comment, given the large amount of information already available via Community Information Meetings and Correspondence.

In their referral the LTC identified three major topics that they wished the APC to address:

- Setback from the natural boundary of the sea
- Interior side lot line setbacks for rural residential zoned dwellings and cottages
- Total floor area and maximum floor area for dwellings

The APC made twelve recommendations in addition to identifying some anomalies in Bylaw 114. There was a total of nineteen LUB related motions made during the APC deliberations.

Summary of Recommendations:

Note: Because of excellent note taking by Secretary Bilney the minutes will reflect more detail of the discussions that formed the basis for the APC recommendations. The main points used to form each recommendation are shown under **Notes:**

Part 3 General Regulations – Siting and Size Regulations 3.3(5)

Aug. 09, SP-APC-2024-003

The APC recommended that the LTC amend *"*Subsection 3.3(5) in the South Pender Land Use Bylaw by deleting *"~~to submit a certification from an appropriately qualified person~~*" and replacing it with ***"substantive evidence to establish the location of the dwelling****."*

Notes:

1.1 It is expected that this change would also be applied to the exception clauses contained in the appropriate zones in Part 5 Zone Regulations (Rural Residential, Agriculture, Forestry and Natural Resources)

3.3 Siting and Setback Regulations

Aug. 23, SP-APC-2024-004

The APC recommended that the LTC retain the 50-foot setback from the natural boundary of the sea as written in Bylaw 114.

Notes:

1.1 At the APC Meeting on November 12 an agenda item "*Consider Two Tables (Pre and Post Bylaw Amendment date) for Setbacks to the Sea*" was to be considered as an amendment to Recommendation 004.
1.2 A potential motion to amend Recommendation 004 was denied because it was stated that Roberts Rules do not allow for a previous motion to be amended, unless done so at the same meeting. Given the short notice of this statement and that we did not have staff available for advice, no further action was taken with this item. Research after the meeting, however, indicated that perhaps a motion to amend Recommendation 004 could have been entertained.
1.3 The intent for amending Recommendation 004 was to suggest the inclusion of two regulations in Siting and Setback Regulations 3.3(3) - *7.6 metres (25 feet) prior to September 15, 2022, and 15 metres (50 feet) after.* Making this change to Bylaw 114 would resolve the non-conforming status of many dwellings (approximately 22) rendered so by Bylaw 122. Items 3.3(4) and 3.3(5) may require minor changes.

5.1 Rural Residential Zones – 5.1(9)

Aug. 23, SP-APC-2024-007

The APC recommended that the LTC revert *dwelling* and *cottage* lot lines to 3.0 metres (10 ft.) for interior side and 4.5 metres (15 ft.) for exterior side lot lines or as shown in 5.1(8).

Notes:

1.1 Planner Stockdill reported on the viability and the challenges of implementing landscape screening and natural buffers regulations within the Setback corridors. The conclusion being that it would be difficult to manage.
1.2 General reasons for Recommendation 007 were consistency, large number of properties removed from non-conforming status (approximately 30)

5.1 Rural Residential Zones Continued: Oct 04, 2024, SP-APC-2024-008

To help with the decisions regarding the maximum allowable dwelling floor area, the APC decided that a discussion about the meaning of (legal) non-conforming was in order.

5.1 Rural Residential Zones Continued: Oct 04, 2024, SP-APC-2024-009

The APC decided to refer the interpretation of legally conforming and legally non-conforming to the Planner for the information of the APC.

Included in the referral letter were two maximum dwelling size tables, one for a proposed increase of maximum dwelling size of the current bylaw and one referring to

legally built dwellings prior to September 15, 2022. Also, an example of an exception clause which adjusted for the two-table proposal was included. See **Appendix C** (P. 12)

5.1 Rural Residential Zones Continued: Oct 04, 2024, SP-APC-2024-010

The APC decided to request the Planner consider recent legal cases and jurisprudence and how those relate to the current bylaw for people who do not conform with the current bylaw.

Notes:

1.1 The APC appears to had overstepped our mandate by asking Staff to consider Recommendation 009 and 010, rather than requesting the information via the LTC. We sincerely apologize to staff for the breach in protocol.

1.2 Thank you to Planner Stockdill for responding to the Recommendation 009 request, by providing answers to our request. **See Appendix C** (P.12)

1.3 Planner Stockdill verified that a dual dwelling size table with a before and after date as an option

5.1 Rural Residential Zones Continued: Oct 04, 2024, SP-APC-2024-013

The APC recommended to the LTC that attached garages not be included in the floor area of a dwelling and that staff provide a definition of garage in the land use bylaw.

Notes:

1.1 For clarity the recommendation refers to "Attached Enclosed Garages"

1.2 The recommendation addresses the issue created by the inclusion of "*and exclusive of a storey that is not fully enclosed by a floor, ceiling, and four walls or glass."* clause with the adoption of Bylaw 122.

1.3 An example of the clause addition effect: For a 2000 ft2 dwelling with a two-car garage (625 ft2) -

1.3.1 With an attached garage, the ft2 must be added to the dwelling total ft2 leaving 1375 ft2 available for the dwelling ft2

1.3.2 With a detached garage, the ft2 is added to the *total "floor area of all buildings"*, or lot coverage leaving 2000 ft2 available for the dwelling ft2

5.1 Rural Residential Zones Continued: Oct 21, 2024, SP-APC-2024-014

The APC recommended that the LTC adopt a new table under Siting and Size Section 5.1(5) "Maximum Floor Area per Lot" for all Rural Residential Zones as shown in Table 1 effective after Bylaw Amendment Date MM/ DD/YY, and a second table under Siting and Size Section 5.1(x) "Maximum Floor Area per Lot" for all Rural Residential Zones as shown in Table 2 for all legal dwellings built prior to the Bylaw Amendment Date September 15, 2022.

Table 1

5.1.(5) Maximum Floor Area per Lot After Bylaw Amendment Date MM/DD/YY

Column 1	Column 2	Column 3
		After Bylaw Amendment Date MM/DD/YY
Lot Area	The total floor area of all buildings may not exceed:	The floor area of a dwelling may not exceed:
Less than 0.4 ha (1 acre)	465 m^2 (5000 ft^2)	**279 m^2 (3000 ft^2)**
0.4 ha to < 0.8 ha (1 to 2 acres)	557 m^2 (6000 ft^2)	**325 m^2 (3500 ft^2)**
0.8 ha to < 1.6 ha (2-4 acres)	743 m^2 (8000 ft^2)	**372 m^2 (4000 ft^2)**
1.6 ha to < 4 ha (4-10 acres)	836 m^2 (9000 ft^2)	**418 m^2 (4500 ft^2)**
4.0 ha (10 acres) or greater	1394 m^2 (15000 ft^2)	**465 m^2 (5000 ft^2)**

Table 2

5.1.(6) Maximum Floor Area per Lot Prior to Bylaw Amendment Sept 15, 2022

Column 1	Column 2	Column 3
		Prior Bylaw Amendment Date September 15, 2022
Lot Area	The total floor area of all buildings may not exceed:	The floor area of a dwelling may not exceed:
Less than 0.4 ha (1 acre)	465 m^2 (5000 ft^2)	**353 m^2 (3800 ft^2)**
0.4 ha to < 0.8 ha (1 to 2 acres)	557 m^2 (6000 ft^2)	**418 m^2 (4500 ft^2)**
0.8 ha to < 1.6 ha (2-4 acres)	743 m^2 (8000 ft^2)	**520 m^2 (5600 ft^2)**
1.6 ha to < 4 ha (4-10 acres)	836 m^2 (9000 ft^2)	**543 m^2 (5845 ft^2)**
4.0 ha (10 acres) or greater	1394 m^2 (15000 ft^2)	**560 m^2 (6030 ft^2)**

Notes:

1.1 Proposed Table 1 Column 3 (*The floor area of a dwelling may not exceed*:) represents a logical 500 ft2 maximum dwelling size increase per lot category over the current regulation

1.2 Maximum Dwelling Sizes would match North Pender's for similar lot categories

1.3 Using only the proposed increased Table 1 dwelling sizes would reduce the non-conforming status of dwellings exceeding the maximum dwellings size of the current bylaw by approximately 40% (from 20 dwellings to 8)

1.4 The proposed Table 1 maximum dwelling size increases represent on average a 19% increase over the current bylaw and 22% decrease over the pre-122 bylaw (Table 2)

1.5 Including Table 2 into Bylaw 114 recognizes the status of all legal dwellings built prior to September 15, 2022, and therefore would not require the protection of the Siting and Size 5.1(6) clause. They would no longer hold non-conforming status under the current bylaw

1.6 With the inclusion of Table 2 into Bylaw 114 approximately 9% of all South Pender (for Rural Residential, Agriculture, Forestry, Natural Resource zones) dwellings built prior to Sept 15, 2022, would be removed from the non-conforming status.

5.1 Rural Residential Zones Continued: Oct 21, 2024, SP-APC-2024-016

The APC recommended that the LTC replace Clause 5.1.(6) under Siting and Size - Section (5) with the following clause:

Despite Subsection 5.1(6){Table 2} on a lot that contains a legal dwelling constructed prior to September 15, 2022 a replacement dwelling may be constructed or the existing dwelling reconstructed or altered, provided the floor area of the replaced, reconstructed or altered dwelling does not exceed the floor area of the dwelling on the lot on September 15, 2022 OR the floor area permitted on such lot by Subsection 5.1(5){Table 1}, whichever size is greater. For this purpose, the Local Trust Committee may require an owner to submit substantive evidence to establish the floor area of the dwelling at the time of the adoption of this bylaw.

Notes:

1.1 The above proposed clause is intended as an example only, not the final clause to be included in the bylaw.

1.2 The proposed revised clause is required as it addresses the conditions of use for dwellings built prior to September 15. 2022

1.3 The objective of the revised clause is:

- 1.3.1 to ensure that pre-September 15, 2022, legal dwellings exceeding the current bylaw maximum dwelling size can only rebuild to their size as of that date and not to the sizes shown in Table 2
- 1.3.2 or: to ensure that pre-September 15, 2022, legal dwellings can rebuild or expand to the current bylaw dwelling sizes

1.4 The combined effect of Recommendations 015 and 016 virtually eliminates the non-conforming status created for many dwellings with the adoption of Bylaw 122, yet maintains the intent of Bylaw 122, except for slightly larger maximum dwellings sizes

5.5 Agriculture Zones: Oct 21, 2024, SP-APC-2024-017

The APC recommended that the LTC review the maximum dwelling size for the Agricultural Zones recognizing requirements by the Agricultural Land Reserve and that those can change from time to time and that they should be cognizant of not getting out of step

Notes:

1.1 As the ALR is a provincial regulation, it is thought that it might be pragmatic to simply follow the ALR dwelling size regulations, for South Pender's Agricultural Zone, rather than having to adjust our bylaws with any future ALR changes

1.2 The ALR maximum dwelling size for under 100 Acres = 5380 ft2. With the proposed changes to the South Pender the maximum dwelling size would = 5000 ft2 for Agriculturally Zoned property greater than 10 acres, which is only 7.5% lower than the ALR maximum. Perhaps ALR figures could also apply to *Lot Size Category 4 – 10 acres* with an Agriculture zoning

5.5 Agriculture 5.6 Forestry and 5.7 Natural Resources: Oct 21, 2024, SP-APC-2024-018

The APC recommended that the LTC use the same tables that the Advisory Planning Commission recommended for Rural Residential zones for Forestry and Natural Resources zones.

Notes:

1.1 The tables and clause referred to in the recommendation are those shown in Recommendation 014 and 016

1.2 The same reasons stated in Notes: for recommendations 014 and 016 apply

5.5 Agriculture, 5.6 Forestry and 5.7 Natural Resources: Oct 21, 2024, SP-APC-2024-020

The APC recommended that the LTC identify and consider the anomalies outlined in the note SP APC - Nov 5 RE Agricultural, Forestry and Natural Resources shared between Commission members for clarification.

Notes:

1.1 See **Appendix B** (P.10)

1.2 It is evident that the two regulations, one under Density and the other under Siting and Size in each zone are confusing

1.3 The APC felt it best that the LTC with the aid of staff decide what the best resolution, if any, for resolving the discrepancy.

Topics Discussed, no Recommendations:

Dwelling Footprint:

1.1 Commissioner Kirkwood introduced a concept of a maximum dwelling footprint size for each lot category, based on the maximum dwelling sizes

1.2 The scenario discussed was a 60/40 ratio, meaning that the maximum footprint of a dwelling would be (max dwelling size for each lot category) * (60%) = dwelling footprint ft2

1.3 Some of issues discussed with this proposal included:

- 1.3.1 Lot coverage needs to be considered.
- 1.3.2 How would an attached enclosed garage, even with APC Recommendation 013 add to the equation?
- 1.3.3 Is a proposed dwelling which has a significantly smaller ft2 than the maximum allowable still required to use the 60/40 ratio? I.E. Would 1800 ft2 dwelling built on a 1,5-acre lot still be required to use the 60/40 ratio or use 1080 ft2?
- 1.3.4 Non-conforming issues for current dwellings?
- 1.3.5 It was decided that the Maximum Footprint scenario is for the LTC to pursue if they wish

Maximum Dwelling Height, Basement Floor Area Definition and Floor Area Definition:

1.1 These topics were discussed, and we refer you to the APC November 12, 2024 Minutes items 4.4, 4.5.1 and 4.5.2 respectively for APC comments.

In Conclusion:

With these recommendations and this report the APC has concluded our deliberations on the Minor LUB Amendments Referral. APC members will be glad to address any questions or concerns the LTC may have.

Appendix A

Bylaw No. 122 Section	Amendment Summary (for exact regulation refer to Bylaw No. 122)	Retain	Remove	Amend	Undecided	Staff Comments
2.1	New definitions	☒	☐	☐	☐	No major discussions regarding the definitions
2.2	Definition - cottage	☒	☐	☐	☐	General support for keeping this definition.
2.3	Definition – floor area	☒	☐	☐	☐	General support for keeping this definition.
2.4	Changing setback to the natural boundary of the sea from 25 feet to 50 feet	☐	☐	☐	☒	A mix of opinions to keep, change or remove this amendment. Further discussion and recommendation from the APC required.
2.5	Clause permits buildings and structures that were sited prior to September 15, 2022 to retain the 25 feet setback.	☐	☐	☐	☒	Dependent on decision of Section 2.4. If the LTC recommends to retain the setback of 50 feet from the natural boundary of the sea, then staff recommend to retain this regulation.
2.6	Clause that permits a legal dwelling, cottage or accessory building constructed prior to Sept 15/24 to be replaced or altered.	☐	☐	☐	☒	Dependent on decision of Section 2.4. If the LTC recommends to retain the setback of 50 feet from the natural boundary of the sea, then staff recommend to retain this regulation.
2.7	Addition to height regulation – restricts a dwelling or cottage to not exceed 9.2 metres at any point.	☐	☒	☐	☐	General support to remove this regulation and reverting the height regulation as it was prior to the adoption of Bylaw No. 122.
2.8	Shipping container regulations	☒	☐	☒	☐	General support to keep the shipping container regulations with the option to change the lot sizes so they are the same as the lot sizes displayed the maximum floor area regulations.
2.9	Freshwater catchment regulations	☒	☐	☒	☐	General support for keeping this regulation. Possible amendments are to add definitions for “freshwater” and “cistern”.

Bylaw No. 122 Section	Amendment Summary (for exact regulation refer to Bylaw No. 122)	Retain	Remove	Amend	Undecided	Staff Comments
2.10	RR Zones – more restrictive maximum floor area and total floor area	☐	☐	☐	☒	Further comments and recommendations from the APC required.
2.11	Clause that allows legal dwellings to be constructed with the same floor area as it was at the time of Bylaw No. 122 adoption.	☐	☐	☐	☒	Dependent on decision of Section 2.10. If the LTC recommends to retain regulation or amend the maximum floor area and total floor area, then staff recommends to retain this regulation.
2.12	Maximum floor area of a cottage in the RR zones	☒	☐	☐	☐	Technical amendment and support to retain as is.
2.13	Setback from interior lot line for dwellings and cottages to be 20 feet.	☐	☐	☐	☒	Further comments and recommendations from the APC required.
2.14	Clause that allows legal dwellings and cottages to be sited as they were prior to the adoption of Bylaw No. 122 (Sept. 15/22).	☐	☐	☐	☒	Dependent on decision of Section 2.13. If the LTC recommends to retain setback of 20 feet to interior lot line for new dwelling and cottages, then staff recommends to retain this regulation.
2.15	Adding permitted accessory agri-tourism use	☒	☐	☒	☐	Retain but remove reference to “subject to Subsections 5.5(13) to 5.5(16)”.
2.16	Adding permitted accessory agri-tourist accommodation use	☒	☐	☒	☐	Retain but remove reference to “subject to Subsections 5.5(15) to 5.5(22)”.
2.17	Adding farm retail sales as accessory use	☒	☐	☐	☐	General support to retain.
2.18	Maximum floor area and total floor area for dwellings in the Agriculture zone.	☐	☐	☐	☒	Some support to remove this regulation as it was expressed at the Agricultural Land Commission (ALC) regulates maximum floor area for dwellings located in the Agricultural Land Reserve (ALR).
2.19	Clause that allows legal dwellings to be constructed with the same floor area as it was at the time of Bylaw No. 122 adoption.	☐	☐	☐	☒	Dependent on decision of Section 2.18. If the LTC recommends to retain regulation or amend the maximum floor area and total floor area, then staff recommends to retain this regulation.
2.20	Maximum floor area of cottage in the Agriculture zone	☒	☐	☐	☐	Technical amendment and support to retain as is.

Bylaw No. 122 Section	Amendment Summary (for exact regulation refer to Bylaw No. 122)	Retain	Remove	Amend	Undecided	Staff Comments
2.21	Information Note	☒	☐	☐	☐	Technical amendment and support to retain as is.
2.22	Farm retail sales regulation related to indoor and outdoor floor area permitted for the use.	☐	☒	☐	☐	General support to remove all conditions that are currently regulated by the ALC.
2.23	Conditions of use for agri-tourism and agri-tourist accommodation	☐	☒	☐	☐	General support to remove all conditions that are currently regulated by the ALC except to retain the condition that limits the number of guests and bedrooms for an agri-tourist accommodation use.
2.24	Maximum floor area and total floor area for dwellings in the Forestry zone.	☐	☐	☐	☒	Further comments and recommendations from the APC required.
2.25	Clause that allows legal dwellings to be constructed with the same floor area as it was at the time of Bylaw No. 122 adoption.	☐	☐	☐	☒	Dependent on decision of Section 2.24. If the LTC recommends to retain regulation or amend the maximum floor area and total floor area, then staff recommends to retain this regulation.
2.26	Maximum floor area of cottage in the Forestry zone	☒	☐	☐	☐	Technical amendment and support to retain as is.
2.27	Maximum floor area and total floor area for dwellings in the Natural Resource zone.	☐	☐	☐	☒	Further comments and recommendations from the APC required.
2.28	Clause that allows legal dwellings to be constructed with the same floor area as it was at the time of Bylaw No. 122 adoption.	☐	☐	☐	☒	Dependent on decision of Section 2.27. If the LTC recommends to retain regulation or amend the maximum floor area and total floor area, then staff recommends to retain this regulation.
2.29	Maximum floor area of cottage in the Natural Resource zone	☒	☐	☐	☐	Technical amendment and support to retain as is.

Box shaded dark blue - a priority for APC comment	Box shaded light blue – comment from APC may be required	Box shaded white – no comments from APC required

Appendix B

November 05, 2024

RE: Agricultural, Forestry and Natural Resources

At our Oct 21 APC meeting we passed motions SP-APC-2024-017 and SP-AC-2024-018. It has since been pointed out to me that there are discrepancies with respect to lot coverage for these zones in Bylaw 114.

Lot Coverage is not only defined under **Siting and Size**, but also under **Density** for these zones and appears to be contradictory.

The highlighted graphic for Agriculture below shows the inconsistency

Bylaw 114 Link: SP-BL-114-LUB-Consolidated P.30 ->

(3) One *cottage* or other *dwelling* is permitted on each *lot* for the housing of persons engaged in on-going agricultural activities on the *lot*.

(4) For a parcel less than 4.0 ha (10 acres) in area, the *lot coverage* of all *buildings* and *structures* may not exceed 8 percent.

(5) For a parcel 4.0 ha (10 acres) or greater in area, the *lot coverage* of all *buildings* and *structures* may not exceed 3 percent.

Siting and Size

(6) The minimum *setback* for any *building* or *structure*, except a *fence* or *pump/utility house*, shall be:

(a) 7.6 metres (25 ft.) from any front or rear *lot line*;

(b) 6.1 metres (20 feet) of any side *lot line*.

(7) Despite Subsection 5.7(6), *buildings* or *structures* used for housing livestock, poultry or for manure storage may not be located within 30 metres (98 feet) of:

(a) a front *lot* or exterior side *lot line*;

(b) an interior side *lot line* or rear *lot line* abutting a residential, *park* or institutional *use*;

(c) a lake or natural *watercourse*; or

(d) a well or source of domestic water supply.

(8) Despite Article 5.5(6)(a), roadside stands for *accessory* sale of farm products may be sited within the setback from a front *lot line* or exterior side *lot line*.

South Pender Island Land Use Bylaw No. 114, 2016 Page 30

BL 122

(9) ~~The *floor area* of a *dwelling* may not exceed 560 m² (6028 ft²).~~Maximum *Floor Area* per lot:

Lot Area	The total floor area of all buildings may not exceed:	The floor area of a dwelling may not exceed:
Less than 0.4 ha (1 acre)	465 m² (5000 ft²)	232 m² (2500 ft²)
0.4 ha to < 0.8 ha	557 m² (6000 ft²)	279 m² (3000 ft²)

Using the Agricultural Zoning Lot Coverage Regulations for a **9 Acre** lot:

Density - "*Lot Coverage of all buildings and structures* "= 8%

- 43560 * 9 = 392040 * 8% = **31363 ft2** – Total Lot Coverage

Siting and Size – "*total floor area of all buildings may not exceed*:"

- **9000 ft2 –** Total Lot Coverage

The significant difference between the two "maximum floor areas" allowed between the two regulations is obvious and begs the question of which one takes precedence.

I would suggest some options that are available to us. Because these Zones were included in the referral chart, all be it, specifically for Dwelling Max Floor Area we could do one of the following:

1. Ignore this Lot Coverage anomaly for those zones and leave our motions as passed at the Oct 21 meeting
2. Pass additional motions with a recommended solution – such as removing one regulation or at the very least make them compatible for these zones.
3. Pass a recommendation to the LTC pointing these anomalies and suggest they clarify these regulations

If you feel that we should take further action such as in item 2 or 3, please prepare you motion in advance. I would like to suggest that the motion be as succinct as possible.

We would have to add this item to agenda

Thanks

Gordie

Appendix C

RE: APC Motions: **SP-APC-2024-009** and **SP-APC-2024-010** with respect to Legal Non-Conforming

Hi Kim

I wonder if you have had a chance to consider the South Pender's APC request for clarification of Legal Non-Conforming? The two motions, referenced above, were made at the APC meeting on October 04, 2024.

- **SP-APC-2024-009**
  It was Moved and Seconded,
  that the South Pender Advisory Planning Commission refer the interpretation of legally conforming and legally non-conforming to the Planner for the information of the Advisory Planning Commission.
- **SP-APC-2024-010**
  It was Moved and Seconded,
  that the South Pender Advisory Planning Commission request the Planner consider recent legal cases and jurisprudence and how those relate to the current bylaw for people who do not conform with the current bylaw.

Further to our request above, at our meeting on Oct 21, 2024, the APC made two recommendations which, it is believed, would have a significant impact on the many dwellings that were rendered non-conforming with the adoption of Bylaw 122. Your thoughts and comments on these recommendations would be appreciated.

Summarizing the intent of Oct 21 recommendations, which is to reduce or eliminate those legally built dwellings prior to Bylaw 122 adoption, rendered non-conforming by it. The intent is not only to provide the protection of the current clause 5.1(6), but also to ensure that no legal pre-122 dwelling could build or expand to the dwelling sizes referred to in the new pre-122 table rather than using the current bylaw table, except under the provisions of 5.1(6).

The APC recommendations were created based on a recommendation included in a Staff Report to the LTC at the time. eSCRIBE Agenda Package (islandstrust.bc.ca) Page 81 #5 Option 1

> (Staff Report Sept 24, 2021 - Option 1 **–** **"***The **LUB** would have two different maximum floor area regulations: retain the current regulations for houses constructed prior to the LUB amendment bylaw, and a second set of more restrictive maximum floor area regulations for dwelling units constructed after the LUB amendment."*

Based on this option 1: Two recommendations were made:

1. Adding a 2nd table to Section 5 Siting and Size showing maximum dwelling sizes pre-122
   1.1. It also included a change to the current Section 5 Max Dwelling Size Table bylaw increasing and equalizing the maximum dwelling size by an additional 500 ft2 per lot category.

2. **Siting and Size Table Changes:**

5.1.(5) Maximum Floor Area per Lot After Bylaw Amendment Date MM/DD/YY

Column 1	Column 2	Column 3
		After Bylaw Amendment Date MM/DD/YY
Lot Area	The total floor area of all buildings may not exceed:	The floor area of a dwelling may not exceed:
Less than 0.4 ha (1 acre)	465 m² (5000 ft²)	**279 m² (3000 ft²)**
0.4 ha to < 0.8 ha (1 to 2 acres)	557 m² (6000 ft²)	**325 m² (3500 ft²)**
0.8 ha to < 1.6 ha (2-4 acres)	743 m² (8000 ft²)	**372 m² (4000 ft²)**
1.6 ha to < 4 ha (4-10 acres)	836 m² (9000 ft²)	**418 m² (4500 ft²)**
4.0 ha (10 acres) or greater	1394 m² (15000 ft²)	**465 m² (5000 ft²)**

Table 1

5.1.(6) Maximum Floor Area per Lot Prior to Bylaw Amendment Sept 15, 2022

Column 1	Column 2	Column 3
		Prior Bylaw Amendment Date September 15, 2022
Lot Area	The total floor area of all buildings may not exceed:	The floor area of a dwelling may not exceed:
Less than 0.4 ha (1 acre)	465 m² (5000 ft²)	**353 m² (3800 ft²)**
0.4 ha to < 0.8 ha (1 to 2 acres)	557 m² (6000 ft²)	**418 m² (4500 ft²)**
0.8 ha to < 1.6 ha (2-4 acres)	743 m² (8000 ft²)	**520 m² (5600 ft²)**
1.6 ha to < 4 ha (4-10 acres)	836 m² (9000 ft²)	**543 m² (5845 ft²)**
4.0 ha (10 acres) or greater	1394 m² (15000 ft²)	**560 m² (6030 ft²)**

Table 2

3. Changing the existing Bylaw clause 5.1(6) to reflect the two tables.

4. **Despite Subsection 5.1(Table 2)** on a lot that contains a legal dwelling constructed prior to September 15, 2022 a replacement dwelling may be constructed or the existing dwelling reconstructed or altered, provided the floor area of the replaced, reconstructed or altered dwelling does not exceed the floor area of the dwelling on the lot on September 15, 2022 **OR** the floor area permitted on such lot by Subsection 5.1(5), whichever size is greater. For this purpose, the Local Trust Committee may require an owner to submit substantive evidence to establish the floor area of the dwelling at the time of the adoption of this bylaw. (a previous recommendation by the APC)

It is understood that the APC's purpose is not to write bylaws and bylaw clauses and that is not our intent with the above recommendations. It is the APC's intent however, to demonstrate a viable option and to offer a solution and recommendation to the LTC that is acceptable to the community.

Thank you for your attention to our request for clarification.

Gordie Duncan
SP-APC Chair

From: South Pender Planner
Sent: Thursday, November 7, 2024 11:25 AM
To: APC members
Subject: FW: SP-APC request for your consideration

Hello APC,

I would like to refer the APC to the FAQ document I put together regarding the 'legal non-conforming 'questions: https://webfiles.islandstrust.bc.ca/islands/local-trust-areas/south-pender/current-projects/Minor%20LUB%20Amendments%20Project/6%20-%20Other%20Information/2024-05-08_Legal%20Non-Conforming%20FAQ.pdf. **Bylaw No. 122 did not create 'legal non-conforming 'situations in terms of maximum floor area**. The only situation where the adoption of Bylaw No. 122 created non-conformity is in regards to a dwelling's height.

The reason why the previous LTC created the clause was to make it implicitly clear that the floor area of a legal dwelling constructed prior to the adoption of Bylaw No. 122 (Sept 15/22) is permitted. The dwelling's floor area is legal. This protection also reflects Section 529 of the Local Government Act (LGA). Secondary and most important, the LGA does not protect the siting, size, dimension (so floor area) of a dwelling if the dwelling is removed entirely from the property. A dwelling could be removed from the property due to extreme fire damage, aging structure, or other reasons to rebuild. The LGA does not grant legal non-conforming siting, size, or dimension rights to a dwelling if the dwelling is removed from the property. Therefore the clause goes a step beyond the LGA and states that a dwelling may be replaced, reconstructed or altered to the same floor area as it was on Sept 15/22.

Please be aware of the difference between 'non-conforming **use or density '**and 'non-conforming **siting, size and dimension'**. I go over this in the FAQ document.

As for the tables displayed in the word document, the APC could recommend to the LTC to amend the LUB to regulate maximum floor area and total floor area for two different scenarios: 1. For lots with a dwelling unit located on the lot prior to September 15/22; and 2. For new dwellings constructed on or after September 15/22.

In regards to APC motions and resolutions, as a reminder the APC is making recommendations to the LTC. The APC cannot direct staff or request staff to complete work. The LTC has the authority to direct/request staff to complete a task. Future

motions should be drafts in the following manner: “That the South Pender APC recommend to the LTC to request an interpretation of legally conforming and legally non-conforming”.

Thank you,

Kim Stockdill *(she/her)*
Island Planner

Forgot to mention.. I believe there was a request to clarify the following terms (in terms of a dwelling):

“legal non-conforming” – when a dwelling was constructed legally (dwelling complied with the LUB as it was at time of construction) but now no longer complies to the regulations in the current LUB. This happens when a LUB is amended over time and now includes more restrictive regulation(s) than what was in the LUB at the time of construction. “Legal non-conforming” also refers to a situation where a dwelling was constructed prior to any bylaws, but does not comply with the current LUB.

“legal conforming” – when a dwelling was constructed legally (conformed to the LUB at time of construction) and continues to comply with the current LUB.

“illegal non-conforming” – when a dwelling did not comply with the LUB at the time of construction and continues to not comply with the current LUB.

Kim