

NORTH PENDER ISLAND
LAND USE BYLAW REVIEW

TOURIST COMMERCIAL ZONING
DISCUSSION PAPER

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Islands Trust

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Introduction

The North Pender Island Local Trust Committee has initiated a project to implement Official Community Plan (OCP) policies through amendments to the Land Use Bylaw (LUB). The LTC has endorsed a [project charter](#) which establishes a process and timeline for the project.

The project is categorized into 7 topic areas:

1. Residential floor area review.
2. Conservation subdivision review.
3. Tourist Commercial regulation review.
4. Marine shoreline regulations review.
5. Agricultural regulations amendments.
6. Industrial regulation review.
7. Minor and technical amendments

Some topics will likely involve greater community engagement and consultation than others. In the initial phase the project charter identifies that staff will undertake a review of the topics and issues and prepare background material and options for consideration.

The purpose of this Discussion Paper is to provide an overview of **Tourist Commercial Zoning**, reviewing OCP policies, the existing zoning, existing development, issues with existing zoning and options for zoning amendments.

The scope of this topic is limited to existing the tourist commercial zones (Commercial Two and Commercial Three) in the Land Use Bylaw and related definitions. Not included in scope are:

- Short Term Vacation Rentals – policies and regulations related to STVRs are currently being reviewed in a separate project
- Bed and Breakfast regulations
- Agri-tourist Accommodation – these regulations may be considered as part the agricultural zoning review topic
- Public campgrounds – there are two located within the National Park reserve, as federal land these are not subject to zoning.
- Changes that would require amendments to OCP policies, other minor consequential or mapping changes

Background

As with most zoning on the Southern Gulf Islands, the current tourist commercial zoning traces its origins to 1972 and the adoption of Zoning Bylaw No. 103 by the Capital Regional District. This bylaw preceded the Official Community Plan for the area (adopted in 1975) and established zoning largely consistent with existing uses and development patterns. Locations that were operating tourist accommodation uses at the time were zoned accordingly.

Subsequently, the Local Trust Committee adopted a Zoning Bylaw in 1978 (Bylaw No. 5) which incorporated the tourist commercial zoning from the preceding zoning bylaw. Interestingly, this bylaw established no density limits other than lot coverage in the tourist commercial zone. Over the following twenty years, LTCs made amendments to the Zoning Bylaw that established a density limit through a maximum number of units per hectare, and all rezoned specific locations. In 1999 the current Land Use Bylaw (Bylaw No. 103) was adopted which utilized an approach of site-specific zoning..

In 2008 a new OCP was adopted, which in addition to including tourist commercial policies, also designated development permit areas for the form and character of commercial development intended to address concerns with the siting, massing and built form of future developments.

Most recently, amendments were made to the Commercial Three zone (Port Browning Marina) as part of a rezoning application that resulted in a reduction in the maximum number of units and provided greater flexibility in the size of units.

Today there are eight properties zoned for tourist commercial uses, each with a specific maximum number of guest accommodation units permitted. Some of these have been developed to a greater or lesser extent, others have not been developed for tourist accommodation at all; as a result only approximately one third of the potential units are developed, leaving over 100 units of unrealized development potential, or “sleeping density” (see specifics below).

Policy and Regulatory Context

The following is a brief summary of the current OCP policies and zoning regulations directly applicable to Tourist Commercial zoning.

OCP Policies

The [OCP](#) guides decisions on land use planning and management. The OCP attaches a [Land Use Map](#) which designates specific locations as 'TC', or Tourist Commercial, and in Section 2.4 of the OCP includes policies that are applicable to lands within that designation. Specifically:

- 2.4.17 No consideration may be given to applications to increase density or to transfer density in the commercial designations without amending this plan.
- 2.4.18 The Local Trust Committee may give consideration to regulations increasing the maximum permitted floor area of individual commercial guest accommodation units, provided there is no net increase in the total floor area permitted in each location.
- 2.4.19 Regulations should limit the residential use of commercial guest accommodation units.
- 2.4.20 Regulations should require that on-site staff accommodation is provided for larger commercial guest accommodation developments.

In summary, these policies provide that:

- there should be no increases in the number of permitted units in any one location
- the LTC should not consider rezoning applications to transfer tourist commercial density from one location to another (although this wording does not preclude the LTC from initiating changes at its own discretion)
- there should be flexibility in the size of individual units (as has been implemented at Port Browning Marina)
- these units should be reserved for tourist use, not also permit long term residential use
- there should be on-site staff housing for larger developments

Development Permit Area

With the adoption of the OCP in 2008, a development permit area (DPA) was designated for the Form and Character of Commercial Development (DPA 9) – the previous OCP had not designated development permit areas. The DPA designates all C1, C2 and C3 zoned lands as a DPA and the provisions include extensive guidelines for the form and character (i.e. layout, siting, massing, scale, general external appearance, and landscaping) of new development within the designation. The DPA provisions include specific guidelines for tourist commercial development that are intended to ensure a variety of building types (i.e. detached, attached, and multi-unit) in any new development and provide for a degree of control over siting, massing and external materials. The establishment of the DPA helped address concerns that new development could be excessive in terms of scale, overly uniform, or poorly sited in relation to surrounding uses or the foreshore.

Zoning

The Land Use Bylaw is the principal mechanism for implementing the OCP. Zoning establishes the permitted uses, density, siting, size, subdivision, screening and landscaping, parking and other regulation for any given parcel of land. There are currently eight parcels zoned Tourist Commercial, detailed in the following table and maps.

Figure 1 – C2 Zoning (North)



Figure 2 – Zoning (South)



Table 1 – Tourist Commercial Zoning

Zone	Name or Civic	Legal	Permitted development (units)	Current (estimated # of units)	Area (Ha/Ac)	Max. # of Units /Ha (Ac)	Comments
C2(a)	Woods	Lot 1, Plan 23566, Section 11	46	25	2.95 / 7.28	15.6 (6.3)	Motel , Cottages, RVs
C2(b)	1333 MacKinnon Road	Lot 1, Plan 4750, Section 17 excluding Plan 20404	10	0	0.57 / 1.4	17.5 (7.1)	No known commercial accommodation use
C2(c)	1349 MacKinnon Road (Otter Shores)	Lot B, Plan VIP87395, Section 17	10	3	0.75 / 1.86	13.3 (5.4)	3 commercial guest accommodation units. A portion of lot is C2(d), result of boundary adjustment.
C2(d)	1329 MacKinnon Road (The Tides)	Lot A, Plan VIP87395, Section 17	26	4	1.2 / 3.0	21.6 (8.7)	Cottages. Previously know as “Arcadia”.
C2(e)	1325 MacKinnon Road	Lot 2, Plan 8439, Section 17 excluding Plan 20404	9	1	0.5 / 1.3	18 (7)	1 trailer previously used as a commercial guest accommodation unit.
C2(f)	Driftwood Centre	Portion of Lot 1, VIP 59811, Section 15	27	0	1.3 / 3.1	20.7 (8.7)	This is the undeveloped site on portion of Driftwood Centre lot
C2(g)	Currents at Otter Bay	Parcel C, DD82824I, Section 17 and a portion of Lot A VIP52864 Section 17	35	32	2.1 / 5.2	16.7 (6.7)	Cottages, titled as a building strata with ¼ share ownership
C3	Port Browning	Lot A, Section 11, Plan 7982	29	3?	2.5/ 6.2	11.6 (4.7)	Rezoned in 2018 – number of permitted units reduced, max floor area per unit increased. Units not currently advertised. Camping on-site also.
Totals			192	64	12 / 29.6	16 (6.5)	One third of zoned accommodation units have been developed.

Discussion

As described in the analysis above, there are approximately 60 units currently developed in these zones, out of a total potential under current zoning of 180. The number of constructed units has not changed substantially since the completion of Currents at Otter Bay in the mid-2000s¹.

The most significant policy issue is the overall maximum number of potential units (180), and if this an appropriate number for North Pender. If not, can a more appropriate number be identified?

Second, and related, is the issue of the appropriateness of the locations of the existing undeveloped density.

- Currents at Otter is largely build-out and provides accommodation in conjunction with the services available on the marina lot.
- The Woods property has both long-standing accommodation units and has added new types of accommodation in recent years.
- Port Browning marina was recently rezoned, the maximum number of units has been reduced and there was a preliminary plan to develop accommodation units. The property also continues to provide camping along with marina service, pub and cafe.
- The four lots on McKinnon Road have a development potential of 55 units on a total of 3 hectares (7.5 acres), with only a handful developed or advertised.
- The C2 zoned portion of the Driftwood Centre permits 27 units but remains undeveloped. This was proposed to have been re-zoned to housing as part of an unsuccessful rezoning application in the early 2000s.

The OCP policy prohibiting density transfer applications may have constrained owners from exploring options for moving undeveloped uses to other, more appropriate locations; however, identifying a more appropriate location would be challenging. On the other hand, no owners have seriously explored applications to rezone to other uses since the current OCP was adopted.

The LTC has the ability to amend zoning at its initiative, including reducing the number of units or out-right changing permitted uses. If the LTC determines that changes to uses or density are warranted, options include reducing the maximum number of permitted units and changing permitted uses.

Other issues with the current C2 zoning include:

- Complex density regulations: limits are established through floor area ratio, maximum floor areas and maximum number of units (both in the general zone and in site-specific locations), which makes interpretation difficult and limits the size of units and the area of other accessory uses. The C2 zone currently has:
 - i) A Floor Area ratio
 - ii) Maximum floor areas for specific uses
 - iii) A maximum number of units per building
 - iv) A maximum number of units per hectare on lots less than 2 hectares
 - v) A maximum number of units in total plus a maximum number of units per hectare in excess of 2 hectares on larger lots

¹ A 2005 study by Islands Trust (Southern Gulf Islands Accommodation Inventory & Accommodation Policy Assessment – 2005) inventoried 57 advertised Tourist Commercial units, along with 83 STVRs and 16 B&B units.

vi) A maximum number of units in each site-specific location, this was likely established as the result of the complexity of the general density limits in the zoning.

- The maximum floor area of individual units precludes creation of larger, but fewer, units that the OCP policy supports. The policy sought to both provide more flexibility and allow development of units more akin to Short Term Vacation Rentals in C2 zoned areas. This change has been implemented at Port Browning as the result of a rezoning application.
- Limits on potential employee housing: the current maximum of two accessory dwellings for caretakers, owners, operators, or employees effectively limits the ability of operators to provide on-site employee housing by limiting the number of units. It also limits the form of employee housing. The OCP in fact calls for requiring employee housing as part of large developments.
- The principal use is currently “hotel, motel and lodge.” While the definitions are written in a manner that ‘lodge’ includes cabin style units, it is not a current nor particularly clear use category. Nor does this use category clearly allow other forms of accommodation such as trailers, yurts, etc. More recent bylaws establish a broader use category such as ‘tourist accommodation’, with the density regulations and definitions establishing the number and maximum size of units.
- Marina is a permitted use in the zone, which is inconsistent with the definition of a marina as being an area of water. A more accurate approach would be to permit marina services accessory to an adjacent commercial marine zone.
- Campground uses are subject to the prescriptive campground regulations in section 3.16, these regulations are modelled on provincial public campground standards and are not relevant or appropriate for small scale private camping and should be reviewed. Given the existing public campgrounds available in the National Park Reserve it is unlikely that a large-scale private campground would be feasible.
- Retail sales are currently an outright permitted use rather than an accessory use, there are no locations in the C2 zone where there are retail sales operating as a principal use, nor is it the intent of this designation in the OCP to permit retail sales as a principal use.
- The list of accessory uses should be clarified , including the accessory dwelling units

In general, the current zoning regulations are relatively inflexible, prescriptive and do not reflect the variety of forms of tourist accommodation currently provided. This may be partly a result of the age of the regulations and their origin in contentious amendments that reduced development potential, and partly as the result of the fact that there were not development permit areas designated at the time the current LUB was adopted. Development permit conditions, while not precluding development at the permitted density can mitigate visual impacts and provides the LTC with a degree of oversight of the specifics of development proposals.

Options

1) Potential changes to C2 zone density regulations:

- A review of the total number of permitted units and the appropriateness of the current zoned locations as discussed above. Options include:
 - i) Reducing the number of permitted units in some locations
 - ii) Changing the mix of uses along with a smaller number of tourist accommodation units in some locations.
- Provide flexibility in the size of the units, for example permitting a smaller number of larger units as supported by OCP policy, and as implemented at Port Browning.
- Simplifying the zoning, for example, by establishing a maximum number of units per hectare or maximum floor area ratio throughout the zone.
- Amendments to allow more employee housing and in different forms. This provision was amended in the C3 zone for Port Browning as part of the recent rezoning.
- Consideration to requiring employee accommodation on-site for new developments over a certain density. This would essentially involve establishing two densities – base density of units and a second higher density that in order to be developed would require provision of employee accommodation on-site.

2) Potential Amendments to C2 use categories

- Amend the principal permitted use to ‘tourist accommodation’, and amend the related definitions, with the density regulations and definitions establishing the form, number and maximum size of units. This is consistent with best practice of permitting a use rather than a type of building.
- Amend ‘Marina’ to marina services accessory to a permitted commercial marine zone, with a definition if warranted.
- Review and amend the Campground regulations in section 3.16 to make relevant for small, private, accessory campgrounds along with reasonable limits on the number of tenting sites.
- Make ‘retail sales’ an accessory use.
- Clarify the list of accessory uses, including the accessory dwelling units
- Incorporate Section 1.2, which limits length of stays in tourist accommodation units, into the definitions as in other bylaws