



DATE OF MEETING: July 9, 2021
TO: South Pender Island Local Trust Committee
FROM: Kim Stockdill, Island Planner
Southern Team
COPY: Robert Kojima, Regional Planning Manager
SUBJECT: South Pender LUB Amendments – Project Update

RECOMMENDATION

No recommendation at this time. Staff will continue to work on the Land Use Bylaw (LUB) Amendment project and report back to the LTC with further recommendations.

REPORT SUMMARY

This report is intended to provide options to the South Pender Island Local Trust Committee (LTC) regarding the LUB Amendment project for the LTC to provide further direction to the staff.

BACKGROUND

At the May 7, 2021 Special Meeting, the South Pender LTC passed the following resolutions with regards to the LUB Amendments Project:

SP-2021-041

It was Moved and Seconded,

that the South Pender Island Local Trust Committee request that staff revise the draft Project Charter for the Land Use Bylaw Amendments Project to include all setbacks.

CARRIED

SP-2021-042

It was Moved and Seconded,

that the South Pender Island Local Trust Committee approve the Project Charter, as amended, for the Land Use Bylaw Amendments project.

CARRIED

Background information regarding the project, staff reports, correspondence, and the Project Charter can be found on the South Pender Project webpage: <https://islandstrust.bc.ca/island-planning/south-pender/projects/>

ANALYSIS

Official Community Plan:

There are no anticipated amendments to the South Pender Official Community Plan (OCP) in regards to this project.

Land Use Bylaw:

The South Pender LTC has indicated that the following topics should be included in the LUB amendment project:

Maximum floor area regulations

The following are floor area regulations for dwelling units in the South Pender LUB:

Definition – “floor area means the sum of the horizontal areas of all storeys in a building, measured to the outer surface of the exterior walls, exclusive of any floor area occupied by a cistern used for the storage of water for domestic use or fire protection, and exclusive of all areas of a storey having a floor and a ceiling less than 1.5 metres apart.”

Agriculture Zone - Subsection 5.5(9) -The floor area of a dwelling may not exceed 560 m² (6028 ft²).

Forestry Zone - Subsection 5.6(7) -The floor area of a dwelling may not exceed 560 m² (6028 ft²).

Natural Resource Zone - Subsection 5.7(6) -The floor area of a dwelling may not exceed 560 m² (6028 ft²).

Table 1 – Rural Residential Maximum Floor Areas

Siting and Size			<u>RR1</u>	<u>RR2</u>	<u>RR3</u>
(5)	<i>Maximum Floor Area per lot:</i>		✓	✓	✓
	Lot Area	The total floor area of all buildings may not exceed:			
	Less than 0.4 ha (1 acre)	465 m ² (5000ft ²)			
	0.4 ha to 0.79 ha (1 to 2 acres)	557 m ² (6000ft ²)			
	0.8 ha to 1.59 ha (2 to 4 acres)	743 m ² (8000ft ²)			
	1.6 ha to 3.9 ha (4 to 10 acres)	836 m ² (9000 ft ²)			
	4.0 ha (10 acres) or greater	1858 m ² (20000ft ²)			
		The floor area of a dwelling may not exceed:			
		353 m ² (3800ft ²)			
		418 m ² (4500ft ²)			
		520 m ² (5600ft ²)			
		543 m ² (5845ft ²)			
		560 m ² (6030ft ²)			

The LTC has expressed an interest in reducing the floor area for a dwelling unit in the Rural Residential 1 (RR1), Rural Residential (2), and Rural Residential (3) zones. As shown in Table 1, the LUB currently regulates floor areas in two ways: by establishing a maximum floor area for a dwelling, and also by establishing a total floor area of all buildings located on the property. The following are items for the LTC to consider with regards to amending floor area:

- If the LTC wishes to amend floor area for dwelling units in all zones, or just for the Rural Residential zones.
- For Rural Residential zones, if the LTC wishes to reduce the floor area for just dwelling units and all buildings located on the property (reduce amounts in both columns in Table 1), or to reduce the floor area for dwelling units only.
- Provide direction to staff to decrease the maximum floor areas in Table 1 by a certain amount.

Other options the LTC may want to consider to reduce the impact of the built form on rural properties:

1. The current definition of floor area in the South Pender LUB measures the floor area to the outside surface of the external walls. The LTC could amend this definition to measure floor area to the interior surface of the exterior walls which could encourage environmentally friendly building practices (use of thicker insulation within walls). Currently Gabriola, Galiano (for Environmentally Friendly Buildings), Lasqueti, and Saturna all measure floor area to the interior side of the external walls. The North Pender LTC also gave direction to staff to amend the definition of floor area to measure to the interior side as part of their LUB amendments.
2. Establish a maximum permitted lot coverage for residential properties.
Lot coverage is a measure of the proportion of a lot that may be covered by buildings or structures, but excludes paving or similar surfaces. It differs from floor area in that it is measured on a horizontal plane only (from a bird's-eye view), includes all structures, and is measured to the drip line. Establishing a lot coverage may be an option supporting the objectives of retaining rural character and minimizing the impacts of massive or extensive building and development. It would also indirectly limit the size of dwellings, protect greenspace and encourage on-site retention of drainage. In terms of impacts, existing properties could potentially be rendered non-conforming – although existing buildings and structures could be repaired and maintained. Such a change may increase demand for variances as owners would more readily run up against lot coverage limits during development. Administratively, there would be increased requirements at time of development (including during minor additions or construction of accessory buildings) in order to determine compliance with the regulation. For example, survey plans showing all buildings and structures would need to be required more often than currently in order to determine compliance.
3. Establish lot coverage regulation and include impervious surfaces.
This would support two objectives of the lot coverage provision: to retain greenspace and encourage on-site retention of drainage, but would not alter the regulation for current owners with respect to buildings or other structures. There is the potential that if there were existing properties with extensive paving they could be rendered non-conforming – however the effects of non-conformity would be minimal as existing structures could be repaired or maintained. In terms of administration, there would be increased requirements at time of development (including during minor additions or construction of accessory buildings) in order to determine compliance with regulations. For example, survey plans would have to include the area and extent of all paved surfaces. Also, as there is no permitting of new paving, there is no ready mechanism for administering the regulation in absence of a building permit for a building or structure.

Setback regulations

At the last LTC meeting on March 5, 2021, the LTC asked staff to add the review of setback regulations to the LUB Amendment project. In order to provide recommendations to the LTC, the LTC should identify the issues and determine the goal or intent for the amendments.

There are a number of ways to amend setback regulations:

- Reduce current setback regulations.
- Increase current setback regulations.
- Increase/decrease setback regulations based on lot size or if a property is abutting a certain zone.
- Establish setback regulations as a percentage of the lot depth. There are many issues with this type of regulation. First, South Pender properties generally have an irregular lot shape making it difficult to determine the lot depth. Secondly, there will be interpretation issues as determine lot depth and the

percentage may be too complex for some to easily interpret. It will also increase staff's time to ensure the calculation for the setback was completed correctly. Setback regulations as a percentage of lot depth are more often seen in urban areas based on the reasons outlined above and may not be well suited for rural areas.

Agricultural lands regulation

The table below outlines the current agriculture regulations, the ALC policy and recommendations and options for the LTC to consider. The LTC should give direction to staff if other agriculture topics should be considered.

Table 2 – Agriculture Zone and ALC Considerations

	<i>Agriculture (A) Zone</i>	<i>ALC Policy & Regulations</i>	<i>LUB - Regulatory Options</i>
<i>Cottage</i>	Allowed use in zone	ALC Act amend. (Feb 2019) - Second dwelling only by application to ALC.	Potential amendment A zone for consistency with current or proposed ALC amendments..
<i>Farm Worker Housing</i>	Permitted use 'c' allows a Cottage or other dwelling for the housing of persons engaged in on-going agricultural activities.	ALC Act amend. (Feb 2019) - By application to ALC	Consider amendment to A zone to include use with note "only by ALC Approval".
<i>Non-Adhering Residential Use (NARU)</i>	No reference in A zone.	Policy L-26 decision-making guidelines for consideration of non-adhering uses (second dwellings, temporary farm dwellings, dwellings over 500 m ² , etc.)	No Action
<i>Dwelling Size</i>	Maximum floor area for a dwelling is 560m ²	Total floor area of a dwelling is 500 m ² in ALR	Consider amendment to A zone to reduce the maximum floor area to 500 m ² .
<i>Agri-Tourism</i>	No reference in zone, but may be considered a farm use which is permitted in the A zone.	Policy L-04. A farm use. Must have farm status. Limited to list of approved activities including heritage farm equip. displays, farm tours, educational or demonstration of farm operations, rides (tractor, etc.), activities that promote or market livestock, harvest festivals, etc.)	Consider adding a 'agri-tourism' definition and regulations in A zone to harmonize with ALC Regulation by defining and restricting use.
<i>Agri-Tourism Accommodation</i>	Not a permitted use in the A zone.	ALC Act – A permitted farm use. Must be in relation to <i>Agri-Tourism Activity</i> ; total developed area 5% of parcel; 10 units maximum; seasonal or short-term.	Consider amending the A zone to harmonize with ALC Regulation by defining and restricting agri-tourism accommodation use.

	Agriculture (A) Zone	ALC Policy & Regulations	LUB - Regulatory Options
Home Business (Occupation)	Yes - Home business is permitted in the A zone with a maximum floor area of 65 m ² .	Policy L-07: Permitted as a non-farm use up, accessory to residential or farm use on the property and a maximum area of 100 m ² or maximum by Local Government (whichever is less) Further limits on facilities (no daycares, preschool/schools, group homes and health and community care facilities) and size	Consider amending the General Regulations (size and types) to be consistent with ALC for Home Business and Home Industry in ALR
Farm Retail Sales	Yes - permitted as a home business but provided that at least 70% of the goods or products for sale are produced, processed or repaired as part of the home business	Policy L-02 A permitted farm use. If all products originate or are produced on the farm on which the sales are taking place, there is no limitation for the retail sales area. Thresholds if farm or non-farm products offered for sale originate elsewhere, there is a retail sales area limitation (based on origin - max. 300 m ²)	Consider adding definition of 'farm retail sales' and add regulations to align with ALC (farm retail sales must not exceed 300 m ²).
'Farm Use'	Definition in LUB	'Farm Use'	Amend definition to harmonize with ALC definitions for 'farm use' and allowable uses.

Shipping containers

The South Pender LUB does not currently regulate the density or use of shipping containers. Shipping containers are permitted on South Pender as they are considered a structure, and must meet the siting regulations (setbacks, floor area, lot coverage, height, etc.) of that zone. Due to the concern of the possible proliferation of shipping containers on properties, specifically on residential properties, the LTC may want to regulate the maximum number of shipping containers permitted on a lot and require vegetative screening. The following LTC should consider the following points:

- Differentiate the density of shipping containers for different zones. For example, the LTC may want to limit the number of shipping containers on residential lots to two (2) whereas have a higher limit, or no limit for agricultural properties.
- Determine the type of screening required, if any. The South Pender LTC outlines the following requirements for vegetative screening:

Subsection 3.9(1) - *Where vegetative landscape screening is required by this Bylaw, it shall be provided in the form of:*

(a) Existing vegetation of the required height that provides a complete visual screen between the uses being separated in all seasons of the year; or,

(b) A row of drought-tolerant evergreen plants that will attain the required height, planted and maintained continuously so as to provide a complete visual screen in all seasons of the year between the uses being separated; and such screening.

Subsection 3.9(1) could be required for all shipping containers or could be required only for shipping containers in certain zones, or abutting certain zones.

Setback to the natural boundary of the sea -Stairways

Currently the South Pender Land Use Bylaw No. 114 exempts stairways from complying to the setback from the natural boundary of 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”.

The following are options or items to consider with regards to regulating stairways within the natural boundary of the sea:

- Currently regulations do not regulate size (width or length) of stairways permitted within the setback from the natural boundary of the sea;
- The LUB does not regulate best practices for stairway construction in terms of vegetation retention, location of stairway, sensitive ecosystems and land alteration. Best practices to construct stairways are best regulated through the Development Permit process.
- Reviewing stairway regulations and best practices may be better addressed through the Shoreline Review project.

As per direction from the LTC, staff requested the South Pender Advisory Planning Commission (APC) to consider implications of stairways located within the setback from the natural boundary of the sea and has expressed concern with stairways located within steep slope hazard areas along the foreshore. The South Pender APC provided the following resolutions at their June 20, 2021 meeting:

SP-APC-2021-006

It was Moved and Seconded,

That the South Pender Island Advisory Planning Commission recommends to the South Pender Island Local Trust Committee that the Advisory Planning Commission be given the opportunity to review the latest draft, in preparation for a finalized version of the proposed guidelines with the opportunity then for greater public transparency and input in respect of the complicated discussion that is going to honor the history of the development on South Pender with the acknowledgement that we live in the present.

CARRIED

Other minor, technical amendments

Staff will review the LUB to correct any numbering errors, incorrect legislation references, or other technical amendments.

Consultation

Staff are recommending early consultation with community members beyond what is required by statutory requirements. The LTC should consider scheduling a Community Information Meeting in the fall, as indicated on the Project Charter, as the project proceeds.

Statutory Requirements

In the first stage of the project (i.e. reviewing proposed documents, and undertaking community consultation) there are no statutory requirements to consider. If at a later stage the LTC resolves to undertake bylaw amendments, statutory notification requirements of the Local Government Act will need to be considered including appropriate agency and First Nation referrals, public hearing requirements and bylaw adoption procedures.

Rationale for Recommendation

If the LTC is satisfied with the scope of work proposed (the potential LUB amendments identified above), approval of the project charter by resolution is recommended to allow work to proceed. Alternatively the LTC could ask staff to report back with changes to the project scope and to the charter.

ALTERNATIVES

1. 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...

2. Reconsideration of project

The LTC may choose to focus on different priorities instead of a technical review of the LUB. If selecting this alternative, recommended wording for the resolution is as follows:

That the South Pender Island Local Trust Committee not pursue the LUB Amendments Project and to remove the project from the Top Priority Project List.

3. Receive for information

The LTC may receive the report for information

NEXT STEPS

Next steps include:

- Provide further recommendations to the LTC based on discussion from the July 9, 2021 LTC meeting.
- Provide options to the LTC for public engagement for the Fall.

Submitted By:	Kim Stockdill, Island Planner	June 25, 2021
Concurrence:	Robert Kojima, Regional Planning Manager	June 25, 2021