



STAFF REPORT

April 26, 2010

File No.: GL/04-4

To: Galiano Island Local Trust Committee
For the meeting of May 10, 2010

From: Gary Richardson
Island Planner
Local Planning Services

CC: David Marlor, Regional Planning Manager

Re: Land Use Bylaw Amendments

Preliminary Report

THE PROPOSAL:

The Galiano Island Local Trust Committee (LTC) has identified a technical review of routine amendments to the Official Community Plan (OCP) and Land Use Bylaw (LUB) as a top priority on the work program. Staff understands that the local trust committee direction is that the OCP is only to be amended if required to support proposed LUB amendments.

The purpose of this report is to provide an overview of recommended amendments to the LUB where it would provide clarity, updated information, or remove ambiguity in the bylaw. Staff recognizes there are a number of additional topics that are identified for LUB review which will remain outstanding and require a more comprehensive review in the future. The proposed list of amendments addresses those issues that staff considers to be relatively straight forward and it is intended to provide clarity in the use and interpretation of the bylaw.

A list of identified sections in the LUB is outlined in Table 1 below, which also notes the reason for inclusion on the list, and possible amendments. In total there are 31 proposed amendments.

Table 1: Land Use Bylaw Sections Recommended for Amendment

	Applicable LUB Sections		Reason for Amendment	Possible Amendment
1	1.6	18 Part 18.1 Section 18.1.1 Subsection 18.1.1.1.1 Article	Error in progression.	18 Part 18.1 Section 18.1.1 Subsection 18.1.1.1 Article
2	2.5	Accessory buildings and structures must not exceed a height of 5 metres or one storey, except that agricultural buildings and structures and those used for timber production and harvesting must not exceed a height of 9 metres.	The lower height that applies to accessory buildings is often missed as each zone contains a section that lists maximum permitted height for buildings and structures.	Put a comment in each zone that directs the reader to all other sections restricting height.
3	2.7	The maximum combined floor area of accessory buildings and structures other than cottages on a lot is 70 square metres in respect of each permitted dwelling other than a cottage, on lots 2 ha (4.94 acres) in area and less, and 93 square metres on lots with areas greater than 2 ha (4.94 acres).	Agricultural accessory buildings are restricted to the same floor area as residential accessory buildings.	Increase floor area for agricultural accessory buildings.

	Applicable LUB Sections		Reason for Amendment	Possible Amendment
4	2.12	Buildings and structures must Be sited at least 7.5 metres from the natural boundary of the sea, and at least 15 metres from any lake, a swamp and any other natural watercourse, except as provided by section 12.5.4.1 in the Marine Commercial Land Zone.	The reference to section 12.5.4.1 is no longer valid.	Amend section number to refer to appropriate section or if no longer required delete reference.
5	2.15	Buildings and structures used for human habitation or occupancy and not located within the Agriculture (AG) zone must be sited at least 15 metres from the boundary of the Agriculture (AG) zone.	This section of the LUB that can be overlooked when determining setbacks.	Put a comment in each zone that directs the reader to all other sections restricting setbacks.
6	2.16	The siting regulations set out in this bylaw do not apply to any sign, fence or pumphouse so long as the pumphouse has a floor area of 10 square metres or less.	Fences are permitted; however there is no maximum height stated other than maximum height for buildings and structures.	Amend LUB by putting in maximum fence height.
7	2.17	If a lot is located in two or more zones, for the purposes only of the density and minimum and average lot size regulations of Parts 5 through 12 of this bylaw the portions of the lot that have different zoning designations must be considered as if they were separate lots.	The section may allow for some property owners to realize a higher density than is intended. There are 39 split zoned parcels on Galiano Island. There are no split zoned lots on the small islands within the Galiano Local Trust area.	Prepare wording that clarifies that there is no increase in density if a lot is split zoned.

	Applicable LUB Sections		Reason for Amendment	Possible Amendment
8	4.4.1, 8.2.2 and 8.2.7	Despite Subsection 8.2.1 on lands legally described as part of that part of district lot 3 lying north and west of the Government Road, except the southerly 15 chains, except Parcel B (DD 59923I) and Parcel C (DD 134548I) and except parts in Plans 9087, 13978 and 19389, Galiano Island, Cowichan District and the road right of way surrounding said lands the permitted uses are restricted to a museum.	The area that these sections describe has now been subdivided. Its legal description is Lot A, Plan VIP83933, District Lot 3, Galiano Island.	Replace the existing description of subject area with legal description.
9	7.1.4 and 7.1.5 7.25 and 7.26 7.45 and 7.46 7.55 and 7.56	<p>Minimum Setbacks:</p> <p>Buildings and structures must be sited: at least 7.5 metres from front and rear lot lines; and at least 6 metres from interior and exterior side lot lines.</p> <p>Buildings and structures must be sited at least 30 metres from any lot line that does not abut a highway.</p>	There are conflicting setbacks and its not clear when reading this section which setback applies. There is similar wording in all of the sections referenced.	Clarify by stating which setback applies when there are conflicting setbacks.

10	7.3.5	Buildings and structures must be sited in accordance with the siting plan attached to and forming part of this bylaw.	There is presently no plan attached to the LUB.	Determine if there is a plan that should be attached and attached it as a schedule. If no plan is to be attached delete the reference to it.
11	8.1.1.1	dwellings for the provision of housing for senior citizens by non-profit society incorporated for that purpose.	Can not regulate user only the use.	Remove reference to non-profit society.
12	8.2.1.1	public and non-profit schools not including overnight accommodation or dormitories	Can not regulate user only the use.	Remove reference to public and non-profit.
13	8.2.1.2	non-profit community halls, libraries, museums, churches, cemeteries, recycling facilities	Can not regulate user only the use.	Remove reference to non-profit.
14	8.3.1.2	medical facilities operated by a non-profit society	Can not regulate user only the use.	Remove reference to non-profit society.
15	9.2	Visitor Accommodation(Inn) Zone – C3	Guest services are a permitted in other visitor accommodation zones but not in the C3 zone.	Add guest services as a permitted use in the Visitor Accommodation(Inn) Zone – C3

16	9.1.6, 9.2.9, 9.3.6 and 12.5.5	9.2.9 Buildings and structures must be sited: 9.2.9.1 at least 7.5 metres from front and rear lot lines; and 9.2.9.2 at least 6 metres from any interior side lot line except where the lot line is common to a lot in a commercial or industrial zone, in which case the required distance is 3 metres.	No setback listed for exterior side lot line.	Put a setback in each section listing setback from exterior side lot lines.
17	10.2.2	No buildings or structures of any kind, other than signs, picnic tables, boat launching ramps, toilets and baseball backstops are permitted.	Foot bridges and walkways are a common structure in parks.	Amend the section to allow foot bridges and walkways.
18	12.5.1.1	marinas open to the public.	Can not regulate user only the use.	Remove open to the public.
19	13.2.1	if the owner of land being subdivided is providing land for a school site pursuant to an agreement under s.942 of the Municipal Act as well as park land pursuant to s.941 of the Municipal Act, the total amount being dedicated as park land pursuant to the agreement and the Municipal Act.	Section 942 has been repealed.	Remove reference to s. 942 and amend wording accordingly.

20	13.22	A building permit shall not be issued for a building to be used as a dwelling in the water management area depicted on Schedule C unless the building is equipped with a cistern for the storage of rainwater for irrigation and fire protection purposes having a capacity of at least 16,000 litres.	Water does not need to be restricted to only irrigation and fire protection.	Amend section to allow water to be used for any purpose.
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21	13.23	<p>If a well is proposed as a source of potable water for a proposed subdivision, the applicant for subdivision must provide the written certification under seal of an Engineer with experience in groundwater hydrology that there is in respect of each building, structure, or use of land permitted by this bylaw on each proposed lot an available supply of potable water in the amounts set out in Table 1 and meeting or exceeding the Guidelines for Canadian Drinking Water Quality, and that the extraction from the groundwater table of that amount of water in respect of each permitted building, structure or use will not adversely affect the quantity or quality of water obtainable from any existing well or surface water then used as a source of potable water.</p>	<p>This has caused problems for applicants as the Canadian Drinking Water Guidelines contain many more parameters than are normally tested.</p> <p>Also Geohydrologist could be added as a professional that can provide certification.</p>	<p>Remove requirement in its entirety or put in a list of parameters that can readily be tested by local labs.</p> <p>Add Geohydrologist.</p>
22	13.24	<p>If a, If the certification referred to in section 13.23 cannot be made, the approving officer may nonetheless approve the subdivision in the following circumstances:</p>	<p>This section does not allow exclusions for boundary adjustments where there is an established supply of water.</p>	<p>Amend the section to allow boundary adjustments to be excluded where there is an established supply of water.</p>

23	16.1	No sign may be erected or placed on any premises in any of the zones listed in this section, except one building-mounted sign and one sandwich-board sign per highway frontage, each not exceeding a total sign area of 1.2 square metres, identifying a business carried on at those premises or the principal service or product sold at those premises:	This only allows signs to be mounted on a building, no free standing signs.	Amend the section to allow for free standing signs.
24	17.1.11	"floor area" means the total area of all storeys of a building measured to the outer surface of the exterior walls, and for this purpose all areas of a building having a floor, including an earthen floor, and a ceiling at least 1.5 metres apart constitute a storey.	Definition does not clearly address floor area for unenclosed buildings.	Amend definition to address unenclosed buildings.
25	17.1.14	"Guidelines for Canadian Drinking Water Quality" means the 6th edition of the guidelines for Canadian Drinking Water Quality published by Health and Welfare Canada in 1996.	Edition has changed.	Update reference.

26	17.1.27	"neighbourhood public house" means an establishment in respect of which a Class D licence has been issued under the Liquor Control and Licensing Act.	License types have changed.	Update reference.
27	17.1.38	"structure" means anything that is constructed or erected and that is fixed to, supported by or sunk into land or water, but does not include paved parking areas.	Requiring setbacks for underground structures does not seem necessary.	Amend to exclude all underground structures.
28	Various	Structures near watercourses.	The LUB prohibits structures near water courses, and often trail systems require foot bridges and walkways close to or over streams and ponds.	Review LUB and recommend amendment to allow for foot bridges and walkways.
29	various	Map changes due to change in owner ship	LUB map is out of date with respect to parkland.	Amend LUB map showing updated zones reflecting new use.
30	various	Examples: <i>Municipal Act</i> and Ministry of Transportation	Names of some government ministries have changed. Some references to Legislation have changed.	Update references to Legislation and Government Ministries.

31	9.3(B)9	One retail area restricted to the sale of souvenirs, gifts, art, packaged food products and specialty wines and spirits, not exceeding 40 square metres is permitted as part of the comprehensive resort.	Restriction on sale of liquor does not appear to be necessary.	Amend bylaw to allow sales of all types of liquor.
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STAFF COMMENTS:

The amendments are intended to provide clarity and/or correct minor errors in the text that may otherwise be confusing for those using the Land Use Bylaw. Staff recommends that the LTC direct staff to prepare the applicable bylaws. Staff will come back to the LTC with the draft bylaws for review and comment. Following that, the draft bylaws will be referred to the appropriate agencies for comments, including but not limited to: the Agricultural Land Commission, First Nations, Capital Regional District Building Inspection, Ministry of Transportation and Infrastructure, and if the LTC chooses, the Advisory Planning Commission.

RECOMMENDATIONS:

THAT the Galiano Island Local Trust Committee direct staff to prepare draft bylaws that would amend the Galiano Island Land Use Bylaw No. 127, 1999 to address items 1 to 31.

Prepared and Submitted by:

Gary Richardson

April 29, 2010

Gary Richardson, Island Planner

Date

Concurred in by:

David Marlor

April 30, 2010

David Marlor, RPM

Date