



STAFF REPORT

Date: April 16, 2015

File No.: 6500-20- OCP/LUB
amendments

To: Mayne Island Local Trust Committee
For the meeting of April 27, 2015

From: Gary Richardson, Island Planner

CC: Robert Kojima, Regional Planning Manager

Re: Density On Large Remainder Lots

Preliminary Report

Project Objectives

The objective of this project is to amend the Mayne Island Land Use Bylaw (LUB) or amend existing covenants in order to provide certainty to land owners and the general public with respect to how density is regulated on large remainder lots.

Project Background

The Mayne Island Local Trust Committee has made one of its work priorities to review density controls on large remainder lots. This matter has been on the project list for some time and has recently been made a top priority.

This matter came to the attention of the LTC and staff in the review of the wording of covenants on large remainder lots. Some of the covenants address the remaining development potential with respect to the number of lots that can be created; however the number of dwellings and cottages is not regulated. This could allow a higher residential density than the OCP policies support.

Relevant Policy and Land Use Considerations

Islands Trust Policy Statement

Directive Policies

- 5.2.3 *Local trust committees and island municipalities shall, in their official community plans and regulatory bylaws, address policies related to the aesthetic, environmental and social impacts of development.*
- 5.2.4 *Local trust committees and island municipalities shall, in their official community plans and regulatory bylaws, address any potential growth rate and strategies for growth management that ensure that land use is compatible with preservation and protection of the environment, natural amenities, resources and community character.*
- 5.2.5 *Local trust committees and island municipalities shall, in their official community plans and regulatory bylaws, address means for achieving efficient use of the land base without exceeding any density limits defined in their official community plans.*

Official Community Plan

The Mayne Island OCP contains policies that set residential density limits for each land use designation. The Example below applies to the Rural designation:

- 2.1.4.2** ***One dwelling unit shall be permitted per parcel provided that on parcels greater than 4 hectares (9.8 acres) residential density will be one dwelling unit for each additional 4 hectares (9.8 acres) of parcel area.***

The Mayne Island OCP contains policies that set minimum lot size requirements for subdivision for each land use designation. The Example below applies to the Rural designation:

- 2.1.4.5** ***A number of different parcel sizes for subdivision shall be allowed provided the average lot size is not less than 4 hectares (9.88 acres) and the minimum lot size is not less than 1 hectare (2.47 acres).***

Land Use Bylaw

The Mayne LUB contains regulations that set residential density limits for each zone consistent with the policies of the OCP. The example below applies to the Rural zone.

Density

- (1) ***One dwelling unit per lot and one additional dwelling unit for every 4 hectares (10 acres) of lot area greater than 4 hectares (10 acres).***

The Mayne Island LUB contains regulations that set minimum and lot size requirements for subdivision for each zone consistent with the policies of the OCP. The Example below applies to the Rural zone:

Subdivision Lot Area Requirements

- (2) ***The minimum lot area is 1 hectare (2.4 acres).***
- (3) ***The average lot area must not be less than 4 hectares (10 acres).***

The Mayne Island LUB contains the following regulations regarding covenants prohibiting further subdivision and development:

8.3 Covenants Prohibiting Further Subdivision and Development

- (1) *When a subdivision is proposed that yields the maximum number of lots permitted by the applicable minimum and average lot sizes specified by this Bylaw, and one or more of the lots being created has an area equal to or greater than twice the applicable average lot size, the applicant must grant a covenant complying with s.2.6 of this Bylaw in respect of every such lot prohibiting further subdivision of the lot and prohibiting the construction, erection, or occupancy on the lot of more than one single family residential dwelling unit and where a cottage is a permitted use, more than one such cottage.*
- (2) *When a subdivision is proposed that yields fewer than the maximum number of lots permitted by the applicable minimum and average lot sizes specified by this Bylaw, and:*
 - (a) *one or more of the lots being created has an area equal to or greater than twice the applicable average lot size; and*
 - (b) *one or more of the lots being created has an area less than the applicable average lot size;*

the applicant must grant a covenant complying with s.2.6 of this bylaw in respect of every lot referred to in article (a) prohibiting:
 - (c) *the subdivision of the lot so as to create a greater total number of lots by subdivision and resubdivision of the original lot than would have been created had the first subdivision created the maximum number of lots permitted by the applicable minimum and average lot sizes specified by this Bylaw; and*
 - (d) *the construction, erection, or occupancy on the lot of single family residential dwelling units and, where permitted by this Bylaw, cottages so as to create a greater density of such development on the original lot than would have been created had the original lot been developed to the greatest density permitted by this Bylaw.*

Analysis

The following example shows three ways density might be realized on a 100 acre lot:

Parent Parcel size 100 acres

Zoning Rural

1 house permitted per 10 acres

Minimum lot size required for subdivision 2.4 acres

Average lot size required for subdivision 10 acres

Option 1 – subdivision of 10 equal sized lots

Average lot size permitted for subdivision is 10 acres; therefore the 100 acre parent parcel could potentially be subdivided into 10 lots. Each of the 10 lots could have a dwelling; therefore 10 dwellings would be permitted.

Option 2 – no subdivision

If the 100 acre parcel is not subdivided the maximum number of dwellings permitted would be 10. The 100 acres is permitted 1 dwelling per 10 acres (100 divided by 10 = 10)

Option 3 – subdivision using minimum and average lot sizes.

If 9 lots are created using the minimum lots size permitted of 2.4 acres ($9 \times 2.4 = 21.6$) 21.6 acres is used up leaving a 78.4 acre ($100 - 21.6 = 78.4$) remainder lot. This option would allow 9 dwellings total on the 9 lots and 7 dwellings on the 78.4 acre remainder (1 dwelling per 10 acres) for a total of 16 dwellings. This exceeds the policies of the OCP by allowing 6 more dwellings than is intended.

Covenants are put in place in situations like the one in option 3 limiting the number of lots that can be created from the remainder but most covenants do not limit the number of dwellings that can be constructed. The purpose of this project is to identify which large remainders require restrictions on permitted residential density.

Presently it is not known how many covenants are restricting density on remainder lots within the Mayne Island Local Trust area. Staff will research all of the remainder parcels and identify remainders that need to have the remaining residential density clarified.

Section 8.3 of the LUB requires covenants at time of subdivision to control both future subdivision potential and development.

There are three options with respect to density controls on remainder lots:

- 1) Leave the covenants and zoning as it presently is. This would allow some landowners to achieve a higher residential density than was intended by the OCP and LUB.
- 2) Amend existing covenants or register new covenants on remainder parcels specifying subdivision potential and the residential potential of the remainder.
- 3) Amend the zoning on the remainder lots by creating site specific zoning specifying the remaining residential density for each remainder lot.

Communications and Community Consultation

If this proposal proceeds a Community Information Meeting is recommended.

Project Charter

A project charter has been prepared and is attached to this staff report for reference.

Next Steps

If the LTC directs staff to proceed with this project the next step will be to identify all large remainder lots, research applicable covenants and provide a further report to the LTC.

Summary of Planning Recommendations

Staff is recommending option 3 (Amend the zoning on the remainder lots by creating site specific zoning specifying the remaining residential density for each remainder lot.) This will provide a clear representation of the density that remains on a parcel in the LUB that can be found with little research. Covenants are more difficult to obtain and the presence of them only shows up on a certificate of title.

RECOMMENDATIONS:

- 1) That the Mayne Island Local Trust committee direct staff to prepare a list of remainder lots within the Mayne Island Local Trust area and determine which lots require further density control.

- 2) That the Mayne Island Local Trust Committee direct staff to proceed with option 3 (Amend the zoning on the remainder lots by creating site specific zoning specifying the remaining residential density for each remainder lot) and prepare draft wording for the Local Trust Committee to consider.

Prepared and Submitted by:

Gary Richardson

April 17, 2015

Name, Title

Date

Concurred in by:



Robert Kojima
Regional Planning Manager

April 17, 2015

Date

Attachments: project charter