

NORTH PENDER ISLAND
LAND USE BYLAW REVIEW

RESIDENTIAL FLOOR AREA REVIEW
DISCUSSION PAPER

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Islands Trust

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Background

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. This discussion paper addresses the background and policy options for the Residential Floor Area topic, and is intended to inform discussion and deliberation.

The issue is the potential introduction of maximum floor area provisions for dwellings in Residential zones. Cottages are regulated by a maximum floor area, and dwellings are limited solely by regulations establishing setbacks, maximum height and overall lot coverage, there is no maximum floor area for dwellings.

Policy

The OCP Residential Policy addressing the issue is as follows:

- 2.1.A Maximum site coverage and setback and height limitations shall be regulated, and maximum floor area regulations may be established, to preserve rural character and to minimize resource and energy demands on the island (**emphasis added**).

As a Residential policy, it is applicable to the Rural and Rural Residential land use designations (Section 2.1).

Current Regulations

The OCP policy is applicable to the Rural Residential (RR), Rural (R) and the two Rural comprehensive zones (RC1 and RC2). Currently, dwelling size is regulated by the combination of lot coverage (25% in all the zones), maximum height (9.7m) and setbacks. Cottages are dwellings limited in floor area to a maximum of 56m², by definition, in all zones.

Discussion

Maximum floor area is a basic control on development; in most bylaws, including North Pender's, floor area is the total area of the useable space of a building, defined as the measure of the area of all the storeys of a building. In the North Pender LUB cottages are a dwelling with a defined maximum floor area (56m²). The OCP policy suggests that the LTC may consider establishing a maximum floor area regulation for dwellings, and provides basic rationale of preserving rural character and limiting resource and energy demands. These rationale are supported by other policies and objectives throughout the OCP. Other considerations supporting the introduction of maximum floor area may include protection of green space on residential lots for visual, environmental, and stormwater management purposes; and, generally minimizing visual and other impacts often associated with large dwellings. Potential issues with implementing a new maximum floor area regulation for dwellings include:

- Considering and addressing the diversity of lot sizes, configurations, split-zoned lots, natural features, and land uses within the residential zones, which may limit the application of a single maximum floor area regulation.
- Ensuring that any new regulations do not unreasonably restrict development.
- Recognizing that some existing dwellings may be rendered legally non-conforming.
- Minimizing unnecessary costs associated with development for owners and administrative burdens for regulatory agencies.

Prior to proceeding with implementing regulatory changes, the LTC should consider what issues there are with the current regulations, what is the problem or concern that it is seeking to address and the goal or intent of changes to regulations:

- One of the stated objectives of the policy is the preservation of rural character, which is notoriously difficult to define, and while moderately sized homes may be an aspect of that objective, consideration should be given to the question.
- Reducing resource and energy demands is the other stated objective, however such demands are related as much to occupancy and age of construction as to the size of a dwelling. There are also other tools, such as development permit areas, which may be more directly applicable to addressing resource use in new construction rather than floor area limits.

Implementing a single, maximum floor area for dwellings would be relatively straightforward to administer, other options (such as a floor area ratio, or total maximum floor area for all buildings on a lot) may present more challenges. The current regulation establishing a maximum floor area for cottages is straight forward to administer, accurate plans are usually not an issue. Additions to existing dwellings may result in the need for applicants to provide more detailed plans than otherwise required. Regulations defining crawlspaces and attic spaces should also be reviewed to ensure they are consistent with building code and support implementation of a maximum floor area regulation.

Options

There are two primary options which would directly implement the policy:

1. Establish a maximum floor area for dwellings. Administratively, this would have minimal effect on development requirements: dwelling plans are detailed and floor area calculations are usually included. A single maximum floor area limit is easy for owners and designers to understand. If the intent is to limit excessively massive or imposing dwellings, then a regulation with a relatively large maximum floor area would achieve that, regardless of lot size. The main challenge with implementing such a regulation is determining an appropriate maximum floor area that most closely achieves the policy objective, has a degree of acceptance, and does not result in a disproportionate increase in variance applications. A maximum floor area of 5,000 ft² (465m²) has been established in the North Pender Associated Islands LUB for dwellings on James and Sidney Islands. South Pender recently amended its LUB to establish maximum floor area for dwellings, ranging from 353 m² (3800 ft²) to 560 m² (6030 ft²), depending of lot size. A maximum floor area could be varied by application for DVP or appeal to the Board of Variance.
2. Establish a Floor Area Ratio (FAR) as maximum dwelling regulation. FAR is a measure of the maximum permitted building floor area of a dwelling expressed as a ratio of the area of the lot. The ratio is to the lot area, where the lot area is 1 and the maximum floor area is a multiple of the lot area. For example, with a FAR of 0.20 the maximum floor area would be 20% of the lot area. So for a 0.1 hectare (.25 acre) lot the maximum floor area would be 200 m² (i.e. 20% of 1000m²) or (2152ft²). The maximum floor area in this example could be developed on one, two or potentially three stories, with respective building footprints of 20%, 10%, or 6.66% of the lot area. The advantages of using an FAR is that it would directly relate the maximum buildable area to the area of the lot (larger lot, more developable floor area), and is flexible in that it allows an owner to build higher (limited by the maximum height) but with a smaller footprint. The disadvantages of implementing an FAR include:
 - The need for detailed plans and surveys: in order to determine the maximum FAR, an accurate plan incorporating the floor area of the proposed building and a current survey with the area of the lot would be required.
 - It may be challenging for an owner to readily understand or determine their maximum permitted floor area.
 - It would still permit large or massive dwellings on larger lots.
 - Small lots (older lots or stratas) could be disadvantaged.
 - FAR is not typically used for residential development in rural areas with disparate lot sizes: it is a tool that works best in denser areas with consistent lot sizes and configurations and with the goal of implementing density in a manner that provides both flexibility and achieves public benefit and objectives.
 - Because of the variability in lot sizes even within the Rural Residential zones, settling on a single FAR may prove challenging.
3. Retain current regulations: there is no obligation on the part of the LTC to implement a policy in the OCP.

Other options that do not explicitly implement the policy, but can achieve related results include:

4. Decrease maximum permitted lot coverage. 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, includes all structures, and is measured to the drip line. Maximum lot coverage is currently 25% in the residential zones. Reducing 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.
5. Retain current lot coverage regulation, but 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.
6. An alternative approach that would address dwelling size more directly would be to implement two lot coverage requirements: one for all buildings and structures, and a second smaller provision for dwellings. For example, all lots, regardless of size, have a maximum lot coverage of 25% (as currently) while dwellings would have smaller maximum lot coverage (e.g. 5% or 10%). The result would be that it would effectively establish a maximum floor area for dwellings on smaller lots (depending on the percentage chosen), but would not effectively limit dwelling size on larger lots.
7. Establish a maximum floor area for all buildings. This would include accessory buildings and cottages in the calculation of floor area, but provide an owner with flexibility to distribute the total floor area between the dwelling, cottage (up to the maximum) and accessory buildings. However, this could result a massive building on a small lot. 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.
8. Establish a total FAR for all buildings (including accessory buildings). As above, this would incorporate accessory buildings, while providing more flexibility. This option would increase requirements for development: floor area and lot area would need to be surveyed and

calculated for all applications. On the other hand it would provide more flexibility for owners to distribute floor area between accessory buildings and the dwelling (and cottages where permitted). It may have limited impact on the development of massive buildings, but affect undersized lot owners more. And finally, this would be a complex regulation for owners to understand and interpret, and would be atypical for rural areas.

If the LTC does consider revised regulations, it should first define the problem and issues to be addressed and the desired outcome, then be satisfied that the proposed regulations can be effective in achieving at least most of the LTC's goals and also reasonable in terms of their application.