

NORTH PENDER ISLAND
LAND USE BYLAW REVIEW

CONSERVATION SUBDIVISION
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.

Discussion Paper Purpose:

The purpose of this Discussion Paper is to provide background on the concept of conservation subdivision design and identify some options for amending the Land Use Bylaw (LUB) to facilitate a conservation approach to the design and layout of future subdivisions. [A project](#) to consider a comprehensive approach to implementing conservation subdivision design for larger lots was undertaken in 2013-14 by the LTC of the day; however, that project did not proceed at the time. The intent of the current review is to consider implementing elements the earlier initiative that are within the scope of this larger project.

Discussion

1. The Conservation Approach to Subdivision

A conservation approach to subdivision focusses on protecting ecological and cultural values as part of the subdivision process. In contrast to the conventional approach to subdivision, where the confluence of regulations and practices often lead to significant environmental impacts, in a conservation subdivision impacts can be minimized without reducing the number of lots. Typically, in a conservation approach, land alteration is limited to a portion of the land with the least environmental or other important features, while a major portion of a property is unaltered, set aside for conservation or retained as a working landscape (e.g. agriculture and eco-forestry). Residential lots, with housing and related services, are clustered on the remaining portion of the land. The residential lots in conservation subdivision are smaller, but the number of lots are the same as in a conventional subdivision, resulting in the density of the development being equal to the maximum allowed by zoning.

Applying a conservation subdivision approach begins by identifying ecological, cultural and other features of the land where the impact from development should be minimized. These features can include:

- sensitive or critical habitat or ecosystems
- hazardous areas vulnerable to slope failure, flood or storm surge
- wetlands and surface water bodies
- cultural features such as archaeological, cultural or historical sites
- the bio-physical attributes of the local watershed
- services provided by nature (e.g. storm buffers, rainwater catchment, filtration of rain and domestic water supply)
- forest resources
- working landscapes (e.g. eco-forestry, and agriculture)
- access trails and shoreline areas

Once areas to be protected, or to have limited development, are identified in the baseline analysis, the design stage would identify the most suitable house sites, including areas for services such as septic systems or wells. Any roads and access points would then be identified, with the lot boundaries defined last.

While a conservation subdivision approach can be applied in part to any new development, it is most applicable to subdivisions where more than a two or three new lots are being created. To be effectively implemented there should be the ability to cluster lots and have a significant remainder area.

Below (Diagram 1 and Diagram 2) are illustrations of the difference between a traditional approach to subdivision and a conservation approach.

Diagram 1: Conservation Subdivision Approach 1

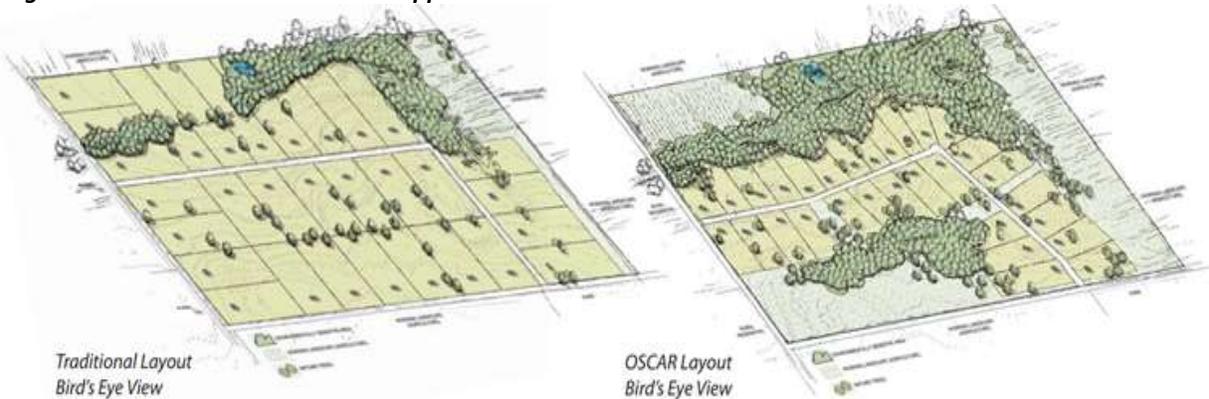


Image Credit: Regional District of Nanaimo

Diagram 2: Conservation Subdivision Approach 2



Image Credit: Province of Manitoba

2. What Are the Benefits of a Conservation Subdivision Approach?

The conservation subdivision approach can support the long term sustainability of the watershed ecosystem, and working landscape as well as other benefits to a number of different parties and stakeholders, including residents, developers, and the community in general.

Watershed ecosystem and working landscape sustainability: benefits include supporting groundwater recharge, hazard mitigation, preserving and protecting sensitive and critical ecology, supporting food

security and contributing to climate change mitigation strategies. These all contribute to strengthening community resilience to climate change.

Culturally significant areas may be identified during the assessment phase. Culturally significant features can include former First Nations settlement sites, burial sites, culturally modified trees as well as aspects of settler culture.

Reduced infrastructure costs can be achieved for both capital and operating costs. Lot clustering, a key feature of the conservation approach, can reduce the length or eliminate the need for new roads and utility lines reducing cost and making shared services such as a community water or sewer system possible and more feasible than individual systems.

Increased housing affordability is a potential when lot sizes decrease and a variety of lots with different locational features are created (e.g. lots are not all clustered in order to attain an ocean view).

Recreation and health benefits can be derived as a result of the creation of footpaths and conservation lands; natural amenities that support walking and outdoor recreational activities.

Additional benefits can be flow from less community opposition than with conventional subdivisions developments which typically result in significant tree removal and road building. Conservation subdivisions have also proven to be attractive to buyers because of the natural amenities (e.g. trails, views, and open space) they provide.

3. Does North Pender's LUB Currently Support a Conservation Subdivision Approach?

The clearest existing support for conservation subdivision in North Pender's LUB are regulations permitting lot clustering. To realize lot clustering both a minimum lot size and minimum average lot size need to be specified in the bylaw. The minimum lot size is the smallest possible lot size for a fee simple subdivision. The average lot size establishes the maximum number of potential lots and all lots in the subdivision plan must meet the average lot size requirement. North Pender's LUB contains regulations enabling lot clustering through minimum lot size and average lot size provisions in the Rural and Rural Residential zones. Although not an LUB regulation, development permit area (DPA) provisions also include subdivision guidelines that implement elements of the approach by requiring a DP for subdivisions that include land in a DPA.

Options

The options identified below identify additional LUB amendments that could be included in the current project to facilitate a conservation approach to subdivision and addressing a number of existing regulatory requirements that may force layout decisions that are contrary to the principles of conservation subdivision design.

1. Incentivising a Conservation Approach to Subdivision

Density Bonus - - Evidence has shown that property owners do not typically implement conservation subdivision approaches on a voluntary basis. By using the density bonus provision in the *Local Government Act* (Section 482), local governments can incentivize property owners by allowing them to increase allowable density in exchange for taking a conservation approach to subdivision.

Potential Amendments – The North Pender Island LTC could consider creating new Rural Residential and Rural zones for larger properties identified to have conservation subdivision potential. In these zones current allowable density would be reduced; or alternately, the existing density could be retained, but an additional density permitted if a conservation approach is utilized. Utilizing a density bonus would permit extra density when a conservation subdivision approach is implemented.

2. Addressing Regulatory Requirements that Contradict a Conservation Subdivision Approach

Road Frontage Requirements- Section 512 of the *Local Government Act* requires 10% of the perimeter of lots being created by subdivision to front on the highway. S.512 (2) gives local governments the discretion to exempt parcels from this requirement. Frontage requirements encourage the creation of larger lots. Section 4.3.1. of the NPI LUB requires that “*the frontage of any lot in a proposed subdivision must be at least 10 percent of its perimeter, provided that in no case may the frontage be less than 20 metres*”.

Potential Amendment- The NPILTC could amend or remove the frontage requirements to not require 20 metres of land to front on a highway and the LTC could consider waiving the 10% frontage requirement when the lot design favours a conservation subdivision approach.

Minimum Area Required for a Cottage – In addition to principal dwellings, cottages are permitted in the Rural Residential zone, Rural, Rural Comprehensive 1 zone, and the Agriculture zone (although this requires permission from the ALC in the ALR). Owners who may otherwise be interested in creating smaller lots, and preserving the remainder as common property or open space, may choose not to because they do not want to lose the ability to have both a dwelling and a cottage.

Potential Amendment - The NPILTC could consider removing the Land Use Bylaw requirement of a minimum of 1.2 ha (3 acres) for cottages on new lots. Another way to achieve this (while avoiding an unintentional proliferation of cottages on existing small lots) is to create a new class of Rural Residential and Rural zones targeted for conservation subdivisions where the regulations would allow cottages on smaller lots.

Lot Shape – Current regulation governing lot shape (S 4.10) (e.g. 4.10.3 *No lot shall have an average depth greater than three times its average width, except where otherwise specified in the zone*

regulation) could present an obstacle to the creation of irregular shapes lots that may be needed to achieve conservation subdivision objectives.

Potential Amendment- The NPILTC could consider varying the lot shape requirements when conservation subdivision objectives are being achieved, or make special provision in a new zone created to encourage a conservation subdivision approach on existing large lots.

3. Other Opportunities (Out of Scope)

While the purpose of this discussion paper is to focus on amendments to the LUB that are within the scope of the current project, the previous Conservation Subdivision project took a broader approach, and there are additional, although out-of-scope, measures that would implement a conservation subdivision:

- The use of new or amended development permit area designations to regulate the layout of new subdivisions. While existing DPA would influence subdivision layout, they are not designated on all large subdividable lots. A conservation subdivision DPA could potentially be developed for identified lots or a subset of them. The DPA guidelines could apply the conservation subdivision principles and require implementation through permit conditions.
- The rezoning and designation of specific larger parcels to pre-zone areas for clustered lots and a separate zone for larger remainder lots. These would require OCP amendments, as well as detailed review of the potential lots and consultation with owners.

These more far-reaching options could be explored at a later date as a separate project.

Conclusion

There are benefits to supporting, encouraging and incentivising a conservation approach to subdivision through the amendments to regulations identified above. If the LTC does consider amendments to regulations it would not guarantee that landowners would fully implement a conservation subdivision approach, but would remove some obstacles. A more comprehensive project focussed on a conservation approach for existing, large subdividable lots on North Pender Island may be an option.