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Reprint from Volume 18 Number 14

July 27, 2006

Development permitting explained

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Much community debate has been generated in the North Pender Island review of its Official Community Plan (OCP). The OCP Review began in mid-2004. Following over 50 public meetings, the Local Trust Committee (LTC) has publicly debated suggested revisions to the current OCP. A series of draft OCPs have been produced and discussed and re-revised. Currently, Draft 5 is receiving attention.

The Maps & Section 5

Draft 5 is the first draft which has had a full set of maps attached. Now that the maps are available, there is tangible data to critique and a broader range of people are interested in participating in public discussion. As is often the case in an OCP Review, the maps have generated intense community response and have revealed issues not previously considered.

In particular, mapping has focussed attention on Draft 5, Section 5 (Development Permit Areas). Though the text of this section was developed in spring 2005, it is its map which have generated the recent discussion about the development permit concept.

Need for Greater Protection than Conventional Zoning

In 2005, North Pender's Local Trust Committee was considering the protection of environmentally sensitive areas, and community and private interests. The LTC reviewed scientific data on environmental issues, legislation and its legal obligation to protect habitat, water and species, including human.

A disturbing array of issues was identified. For example, provincial legislation calls for the protection of habitat for endangered species. Riparian area regulations require local governments to adopt them. The protection of eagle and heron nesting trees is required. Local governments are also responsible for taking reasonable measures to protect development from the threats associated with hazardous slopes.

In the environmental assessment literature, the LTC found that North Pender had suffered significant loss of sensitive habitat and biodiversity, both of which are essential to the future health of the Island. Habitat loss threatens, in the longer run, to eliminate protected species, eliminate the rural and natural features Islanders enjoy and threatens systems upon which all Islanders depend such as our groundwater aquifer.

In addition to the Islands Trust mandate 'to preserve and protect,' Islanders have stated quite clearly they value the natural beauty and health of our lands and water. And they want them maintained for their children and grandchildren. The issue was how best to do so.

Development Permitting

The options ranged between the polar opposites of doing nothing to a prohibition on development in such areas. Neither of these extremes was practical and a middle ground was chosen. The LTC decided to utilize a planning tool known as development permitting (DP).

Development permitting is defined in the *Local Government Act* as a land use planning tool in three forms: hazardous slope, environmental sensitivity, and commercial form and character. Where traditional zones cannot take into consideration these three factors in a property, the designation 'development permit area' (DPA) can be assigned to the affected part of the property together with a description of the special consideration it needs.

The DPA designation is an alert that there would be some particular considerations and restrictions when it comes to developing that area of the property. It can be applied to all or part of a property. Development permitting is essentially a form of custom zoning.

The use of development permit designations is not new. This 'tool' is named in the *Local Government Act* and is widely used by local governments in areas throughout BC, including many Gulf Islands.

Development permit areas have been in place on North Pender since the early 1980s on a number of commercial properties. More general development permitting has been contemplated and discussed for inclusion in the North Pender OCP for many years.

An Open-ended Tool

Typically, development permitting is used to encourage protection of a sensitive environmental area, protect against hazardous slope development and insure the form and character of commercial development is in keeping with community standards.

Development permitting as a planning tool is open-ended. It will not meet the expectations of those who want hard and fast land use definitions. Nor does it prohibit development. On the other hand, development permitting may require construction of a road or specifying a building site which is not the first choice of the property owner.

What A Development Permit Does

It is important to emphasize that development permits are not 'no development covenants' but are more analogous to building permits. They regulate siting of development on a parcel of land; with guidelines for the protection of a sensitive feature or protection from a hazardous area.

A development permit is a very flexible tool. The strength or

weakness of it is determined by making the designated areas larger or smaller; making the list of work activities not requiring a permit longer or shorter; and by making the guidelines tighter or looser. A development permit designation is site specific.

Typically, a development permit designation states a number of things. First, it defines the actual area within which a permit may be required.

Second, it states the nature of the sensitivity or hazard which warrants the development permit area designation (eg. wetland, hazardous slope).

Third, it defines what work or construction activity can take place without a development permit. (In North Pender's Draft 5, work on existing structures, roads or gardens can take place without applying for a permit.)

Fourth, it sets out guidelines to be followed when work requiring a permit goes ahead.

Trust Committee Hears the Feedback

North Pender's Community Information Meeting held on June 11 provided a great deal of information for the LTC to consider. A number of issues are clear.

The mapping or parts of it are problematic. In particular, the Ministry of the Environment's so-called 'trim mapping' used in conjunction with the riparian area regulations is either so old or so inaccurate as to be unreliable.

The LTC will need to look at a variety of issues related to mapping. For example, it does not seem right to cause a property owner to apply for a permit when a mapping error caused the confusion.

Second, it is difficult to determine why a particular property is in an area designated environmentally sensitive. There are presently seven classifications or reasons why a property may be in the development permit area. Yet the same guidelines apply to them all.

Therefore, a closer look must be taken at what is defined as a designated area and what guidelines are appropriate. The sections on work not requiring a permit must also be re-examined especially if a decision is made to separate areas and create different categories.

The LTC will be undertaking a review of all the community feedback received to date and the resulting changes will produce a new draft. This will take time but North Pender's Local Trust Committee has stated that getting the draft amendments right is time well spent.

Community-based Stewardship

A third issue has been widely discussed. It concerns the need for environmental protection to be a common community-based effort. Property owners for the most part want to practise good stewardship on their properties. A way needs to be found to help property owners and local governments work cooperatively rather than to try and force people to conform. Draft 5 falls short in this regard and a number of suggestions for improvements have been made.

It is critical to attain some community consensus on the OCP and the mechanisms it contains. Suffice it to say, a lot of work remains to sort out an OCP that meets the test of community goodwill and vision. ✍