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Galiano hears new proposals for Forest zone dwellings -

Patrick Brown

A number of proposals that inched closer to allowing forest lot owners to build homes on their land were presented on July 24 at a public meeting, called by the Forest Policy Advisory Committee. The committee is part of Galiano Island's Official Community Plan Review.

The meeting, firmly chaired by Islands Trust Executive member Gary Steeves, drew well over 120 Galiano residents and landowners to the school gym on a warm and sunny Saturday afternoon.

They heard presentations and discussed different ideas that had emerged from nine months of weekly committee meetings. The thirteen member committee represented many sectors of the community.

The present complicated situation, in which Galiano's bylaws do not permit residential use of forest lands without rezoning (although nearly half of Forest-1 zoned lots now have 'legal nonconforming' dwellings), is the result of twenty years of bylaws, failed bylaws, and court decisions; the time since MacMillan Bloedel decided to sell their tree farm lands on Galiano for development.

It is therefore not surprising that the committee had clearly not achieved consensus on the issues that must be solved before a workable policy can be written into the OCP. However members had organized the issues into distinct proposals. The meeting provided an opportunity for the public to hear and discuss these proposals.

PMFL Act

Galiano's OCP process is threatened by the *Private Managed Forest Lands Act*, which provides a means through which Forest-zoned property owners can escape the jurisdiction of the Galiano Island Trust Local Committee altogether. The *PMFL Act* was intended, primarily, to permit large forest land owners on Vancouver Island to hold (with much reduced taxation) large tracts of formerly tree farm land until it is ripe for development. However, the much smaller parcels sold by

MacMillan Bloedel on Galiano are eligible under its terms.

Of some 100 of Galiano's Forest lots, slightly over half are now registered with the Private Managed Forest Land Council, which grants significant tax concessions to forest land owners provided that they commit to a sustainable forestry plan. Should a forest land owner decide to develop his land for another purpose, he must repay part of the cumulative difference between the taxes actually paid and the taxes that would have been paid.

The 2004 *PMFL Act* allows one dwelling per lot, 'accessory' to the practice of forestry. Despite the fact that the Galiano Bylaw barring dwellings on Forest zoned lands predates the application of the *PMFL Act*, many dwellings were constructed while the issue of which legislation actually applied was before the courts. This is when most of the 'legal nonconforming' houses were built.

However, the *PMFL Act* also contains a clause (No. 21) that makes it clear that should a local government pass a bylaw that affected—in any way—the forestry activities on PMFL registered lands, then the PMFL rules would apply, and the Islands Trust would lose any control over land use on PMFL lands.

Chicken & Egg

This clause has so far prevented the Galiano Local Trust Committee from changing the land use bylaws for Forest lands, and discussions have been held with the provincial government to obtain for Galiano a clear exemption from Clause 21. Indications so far are that the Province would consider this, but that they would like to see the proposed bylaw revisions first. This of course complicates resolution of the problem.

Seven Proposals

The proposals put forward by the committee dealt mainly with subdivision and requirements for building, rather than forestry and the environment. The final decision on what goes into the OCP will be made by the Galiano Local

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Trust Committee.

The existence of seven proposals, all put forward by members of the Committee, at least proved that many points of view had been represented in their discussions. These proposals can be roughly summarized as follows:

- Proposal 1 (Keo Okuda) – assumed that all forest lots would be in the PMFL, and would include a 2 hectare ‘worksites’ which would be ‘licensed’ under conditions which would include sustainable forestry (vetted by two independent Nature Conservancy organizations), roads connected to the Road Network Plan (RNP), water storage and pumping facilities to fight forest fires. The Galiano Fire Department would hold road rights of way and would have the authority to close the entire area on occasions of extreme fire danger.

- Proposal 2 (Marek Czuma, Geoff Gaylor, Kendal Kyle, Glenna Mattin, Libby McClelland, Art Moses) – provided that development complied with the RNP and foreshore setbacks, site size restrictions, ecosystem restrictions, and rainwater catchments, all F1 lots over 20 hectares would be permitted one dwelling, with lots over 40 hectares permitted to build one dwelling per 20 hectares without subdivision. Additional density would require rezoning to ‘F-special’ and would require a ‘community benefit’ (land for parks, affordable housing, community forest, conservation areas, etc).

- Proposal 3 (Tom Hennessey) – minimum lot size 5 acres, with amenity zoning. In exchange for donation of land to parks at a 3:1 ratio, new residential lots could be created. For example, within a 160-acre District Lot, a donation of 120 acres would result in development rights for eight 5-acre lots (the remaining 40 acres). The ratio is the same as the previous Heritage Forest zone, but the donation is to parks rather than Community Forest.

- Proposal 4 (Brad Lockett) – Prime concern is to preserve and protect the forest, and to encourage a small-scale forestry industry on Galiano. The proposal is that no dwellings be permitted on Forest zoned land.

- Proposal 5 (Ken Millard) – Provided the parcel in question is not in the PMFL (unless a blanket PMFL exemption is obtained), a landowner may apply for rezoning to allow one accessory dwelling per 20 hectares. Additional conditions relate to the RNP, water catchment areas, ecosystem-based forest management, and reduction in wildfire risk. These OCP guidelines should become conditions for site-by-site rezoning. Owners of non-conforming dwellings that do not meet these conditions must provide a suitable legal lot for affordable

housing.

- Proposal 6 (Bowie Keefer) – Using lot-size-averaging, minimum average lot size 20 hectares, and full rights for a house and guest cottage on each lot; road network to be agreed by owners and paid for by provincial government. Additional commitments to no clearcut logging, with development permits to protect ecologically sensitive areas. Residential sites within the forest maximum area 2 hectares. Amenity zoning: additional lots of minimum average area 2 hectares, each matched by 6 hectares donated to parks, etc (this one is similar to proposal 3).

- Proposal 7 (Gary Coward) – minimum lot size 50 acres (20ha.) for a dwelling, complying with RNP, Siting Regulation, Development Permit Areas, revised OCP residential policies. Ironclad guarantees of no further subdivision. Bonus densities require a public rezoning process offering an amenity benefit to the community. Existing Forest 1 lots smaller than 50 acres to be redesignated Forest Site Specific and owners are to propose solutions (consistent with amenity zoning provisions) to the problem of lots too small for normal forest practice.

Is A One-size Fits All Change Possible?

The problem the committee is wrestling with is complex. Complicating the issue are the several types of Forest-1 zoned lots.

The first group are the original district lots sold off by MacMillan Bloedel: these are usually large (up to a quarter section or 160 acres). The second group (32 lots) were created by an early subdivision of some District Lots into 20 acre (8 hectare) parcels. In addition, there are also some lots created as a result of owners taking advantage of a bylaw that permitted residential use of forest lands provided a substantial part of the original parcel was transferred to a community forest supervised by the Galiano Club.

So a major question dominates: can regulating residential development on Forest lands be accomplished through a one-size-fits-all change which could apply to all lots in the F1 zone? Could a middle road treat large and small Forest-zoned lots differently, suggested in Proposal 7.

This is complex but important as another alternative would be a lot-by-lot approach, which would require owners to rezone their lots individually. The current Islands Trust initial charge for processing a rezoning is about \$4,500, and the processing of approximately 100

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individual rezoning applications, with bylaws, information meetings, and public hearings, could take many years. The Islands Trust would incur costs far greater than \$4,500 per application.

In the case of generally applying F-1 regulation changes, public input must be received and considered from the entire Island. In the case of lot-by-lot rezoning, the immediate neighbours have a greater say.

Another Knotty Problem, Subsequent Rezoning

Having agreed on how, and how much, residential development is to take place in the Forest zone, the community may wish to ensure that owners of larger land parcels created by subdivision do not return later with a further subdivision proposal. This is hard to prevent and has happened quite frequently on the Islands, and been successful.

Each zone in the LUB that results from the new OCP will probably have lot size minimums, and, possibly, lot average size minimums, to allow flexibility for clustering.

It is entirely possible that future trustees may wish to change these to permit further population growth on Galiano. It is relatively easy to change the conditions on zoning in the bylaw; it is somewhat harder to do this if each lot has, on its title, specific restrictions on subdivision, particularly if a third party covenant is involved. (See related story, above on this page, referring to a current proposed bylaw revisions on Pender Island.)

Other Amenities

Besides the proposed road network, which might be created by public dedication or by easement, a trail network has been mooted. This would also require easements or dedication. In addition, should sufficient land be donated to the various sponsors of the parks system on Galiano, it is possible that some sort of 'linear park' might be created.

Forest Lot Owners' Association Reaction

Robert Preston, current president of the Forest Lot Owners' Association, made it completely clear that the association's members would continue to press for one residence per lot, with no conditions or restrictions. He was asked whether he saw anything else that had merit in the proposals that had been presented. He answered that he could not see anything that would have much of a chance of resolving the issue.

The presentation of the seven proposals was completed

at 3:10pm. After a ten minute break for lemonade, discussion resumed.

Preston remarked that if Development Permit Areas were introduced to apply to Forest-zoned properties, then they should apply to all Galiano lands.

Questions were raised about how conditions of zoning would be enforced. A Committee member remarked that they could be enforced through the building permit process. It appeared that the Islands Trust bylaw enforcement process responded only to complaints from the public.

Committee Will Make Recommendations to LTC

Committee Chair Geoff Gaylor advised that the Committee would make its recommendations to the OCP Steering Committee and the Local Trust Committee, and would wrap up its proceedings at the end of August. A number of drop boxes for comments would be available for the next two weeks in various Galiano locations, and the Committee would consider all comments and suggestions they received.

Gary Steeves reported that all other OCP Advisory Committees have reported to the LTC, with the Groundwater Committee reporting most recently.

The Local Trust Committee now plans to have a public meeting on Forest Policies and Groundwater Reports sometime in September.

Commentary

Clearly, the Forest Policy Advisory Committee, in nine months of weekly meetings, provided a community forum for a wide variety of creative proposals. Despite its efforts, the committee was unable to reach a consensus. It did, however, make a determined effort to craft recommendations that could be incorporated in the forthcoming OCP to make it possible, and legal, for Forest lot owners to build on their land.

It is unfortunate that the Forest Lot Owners' Association have boycotted the committee's three-quarters-of-a-year of meetings. Many who attended this public meeting expressed disappointment at the intransigence demonstrated by Mr Preston's comments.

Considering what the Forest lot owners have at stake, and the creative nature of the committee's proposals, some participation would clearly be appropriate, thought many. Mr Preston's stone-walling position is not, at this point, thought to be helpful. ☹