

From: David Greer <[REDACTED]>
Sent: Thursday, December 5, 2024 1:44 PM
To: SouthInfo
Subject: APC recommendations re minor LUB amendments

December 5, 2024

Dear Trustees,

I appreciate the time and effort spent by the members of the South Pender Advisory Planning Commission in their consideration of the provisions of South Pender's land use bylaw 114 and of amendments to same by Bylaw 122, prepared and implemented following extensive community consultation by the Local Trust Committee immediately preceding the current South Pender LTC.

My concern relates to the APC recommendations to essentially reverse the Bylaw 122 provisions respecting size of dwelling and side lot setbacks, and the reasons provided for that proposed reversal.

The Introduction to the APC majority report summarizes the overall rationale for its proposed changes, stating that its recommendations are "a reasonable compromise" and will "address the concerns, especially about non-conforming, with its varied interpretations of 'legal non-conforming or some form of hyphenated non-conforming', by removing its significance from the current Bylaw 114, almost entirely".

In her memo of November 7, 2024, responding to the APC's request for clarification of the meaning of "legal non-conforming", the Islands Trust planner stated that "Bylaw 122 did not create 'legal non-conforming situations' in terms of maximum floor area. The only situation where the adoption of Bylaw No. 122 created non-conformity is in regard to a dwelling's height."

Given that the Introduction quoted above appears to suggest that the consequences of a "legally non-conforming" designation are a primary if not the primary consideration in revisiting Bylaw 122, I would have expected a clear understanding of the term to be a prerequisite to the formulation of recommendations for change, yet the wording of the Introduction appears to suggest lingering confusion on the part of APC members, notwithstanding planner Stockdill's seemingly clear explanation. On a related note, I am puzzled why a "legally non-conforming" designation would be the source of such consternation in the community. The term has universal application across multiple jurisdictions, is intended to convey only that a structure was built according to the requirements of an earlier bylaw that was later amended, and attaches no implication of wrongdoing. That being the case, I do not agree that that term alone should be a relevant let alone primary consideration in legislative amendment.

Of greater concern to me is the fact that the Introduction references the APC's satisfaction that its recommendations effect "a reasonable compromise". Two of the most significant recommendations, those relating to house size and side setback distance, appear to me to indicate little compromise at all but rather a wholesale cancellation of the Bylaw 122 amendments—without, as far as I can tell, addressing or counteracting in any meaningful way the comprehensive reasons provided by the previous LTC for those amendments other than to fall back on the "consistency" and "legal non-conforming" mantra. Moreover, the two table recommendation on house size in the APC report is at best confusing, and the December 6 staff report fails to clarify this issue.

At the very least, I suggest it is premature for the APC to recommend changes of such magnitude without comprehensively addressing the reasons provided by the previous LTC for its amendments with reference to the provisions of the South Pender Official Community Plan with respect to rural character, protection of natural features and biodiversity, gradual and sustainable growth, and reducing greenhouse gas emissions. Absent such a substantive rebuttal, proposals for undoing the Bylaw 122 amendments risk becoming little more than a contest between libertarian beliefs and the preserve and protect mandate of the Islands Trust, rooted as it originally was in concerns about overdevelopment of our precious islands with too little regulation.

Islands Trust elections on South Pender are generally close, and their results do not provide trustees with a licence to overturn the decisions of their predecessors based simply on a reading of current community mood, most especially when substantial regulations have not been afforded sufficient time and opportunity to demonstrate the effectiveness of their practical application, always with provision for variance based on individual circumstances.

For the reasons described above, I cannot help but conclude that the process of recommending amendments to Bylaw 122 has been flawed and based on faulty premises, in consequence of which I support maintaining the key provisions of Bylaw 122, particularly with respect to dwelling size and side lot setbacks.

Sincerely,

David Greer, South Pender Trustee 2008-2011

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South Pender Island