

ADOPTED

South Pender Island Advisory Planning Commission Meeting Minutes

Date: August 9, 2024
Location: Electronic

Members Present: Gordie Duncan, Chair
Rodney Kirkwood, Vice-Chair
Audrey Green, Member
Paul Petrie, Member
Donna Spalding, Member

Staff Present: Kim Stockdill, Island Planner
Carly Bilney, APC Secretary

There were 2 members of the public present.

1. Call to Order

The Advisory Planning Commission Secretary called the meeting to order at 10:00 a.m. Introductions were made. Rod Kirkwood noted he has not yet received an official notice regarding his participation on the Commission.

2. Approval of Agenda

A request was made for clarification about meeting notification. Notification of Advisory Planning Commission meetings is to be posted to a public bulletin board at least five calendar days prior to the meeting. Commission members may share the meeting notification online.

By general consent, the agenda was approved as presented.

3. Selection of APC Chair

SP-APC-2024-001

It was Moved and Seconded,

that the South Pender Island Advisory Planning Commission appoints Gordie Duncan as Chair.

CARRIED

4. Selection of APC Vice-Chair

SP-APC-2024-002

It was Moved and Seconded,

that the South Pender Island Advisory Planning Commission appoints Rod Kirkwood as Vice-Chair.

CARRIED

5. Discussion of Minor LUB Amendments Staff Report

Planner Stockdill reviewed the referral. Discussion ensued and the following comments were made:

- The Advisory Planning Commission may want to separate discussion into two topics – one focused on setbacks and the other on maximum floor area
- The scope of the referral has been narrowed to prioritize discussions on major topics; however, if Commission members have time and wish to discuss other topics, such as house height, they may do so
- The following questions were raised: What was the objective of moving the setback to the natural boundary of the sea from 25 to 50 feet? How does the change accord with objectives of the Official Community Plan? Does the change cause hardship?
- The Official Community Plan has not been reviewed in a long time and it is important to consider the views of those who currently live on the island
- Much of South Pender already restricts building within 50 feet of the natural boundary of the sea

The Advisory Planning Commission agreed to address the topic of setbacks first.

Discussion on Setbacks to the Natural Boundary of the Sea

The following comments were made:

- Support was expressed for the change to 50-foot based on the following views: One of the most sensitive ecosystems on the island is the area adjacent to the sea, and the change from 25 to 50 feet supports greater protection for that sensitive ecosystem; the change is in accordance with Official Community Plan goals; there was a clear objective from former Trustees in making the change, and it does not appear to create any great hardship to anybody
- There is need for more careful consideration in the future for the varying conditions around the shoreline; 50 feet may not be enough of a setback in some cases and compromising the 50-foot setback may be necessary
- We are seeking a one-size-fits all approach to lots that vary greatly in size, geography and topography

Discussion continued about the section of the bylaw that says if something happens to your home it can be built back to where it was even if it does not comply with current rules. The clause says an owner may have to submit certification from an appropriately qualified person as to the siting of the dwelling, cottage, or accessory building at the time of the adoption of the bylaw. Some felt the clause was not onerous for property owners while others did. The following comments were made:

- Support was expressed for removing the clause with regards to the 50-foot setback from the natural boundary of the sea and elsewhere, as it creates additional unnecessary work
- Opposition was expressed to removing the clause with regards to the 50-foot setback from the natural boundary of the sea as it has a clear purpose
- The clause is included based on recommendation received from legal support; its purpose is to ensure it is the property owner's responsibility to provide documentation to prove their house was built at a specific location and size rather than the responsibility of the Local Trust Committee

- There is need to better define what records would be acceptable to prove the siting and size of a house where building plans and surveys do not exist (e.g. Would a photo of a measuring tape on the ground suffice?)
- Support was expressed for a simple, straightforward way to document a measurement that would serve as evidence to prove house siting and size
- The clause includes the word “may” to avoid being overly onerous on the property owner, and the owner would probably only have to submit certification in instances where it is not obvious where the house had been

A motion was suggested that the wording in Section 3.3(5) is adjusted to reflect that the obligation on the homeowner to establish the pre-existing location of the distance to the natural boundary of the sea provides substantial evidence to support the value. Discussion on the motion was held and the following comments were made:

- The word “substantial” should be changed to “substantive” as not a lot of evidence is required
- There is definition in law of the word “substantive”
- A question was raised about whether the amending wording should not only be added to Section 3.3(5) but to all other sections in which it applies; comments were made that other bylaws have varying degrees of complexity and would require individual consideration
- The original clause would add potential cost to already prohibitively expensive housing
- The original clause could remove “from an appropriate qualified person”

A motion was made and seconded: *that the South Pender Advisory Planning Commission recommend amending Subsection 3.3(5) in the South Pender Land Use Bylaw by deleting “to submit a certification from an appropriately qualified person” and replacing it with “substantive evidence to establish the location of the dwelling.”*

Discussion on the motion was held.

SP-APC-2024-003

It was Moved and Seconded,

That the South Pender Advisory Planning Commission recommend amending Subsection 3.3(5) in the South Pender Land Use Bylaw by deleting "to submit a certification from an appropriately qualified person" and replacing it with "substantive evidence to establish".

CARRIED

Discussion on Interior Lot Setbacks

The following comments were made:

- Concern was expressed about a universal setback from the natural boundary of the sea, as well as a universal setback for interior lot lines (e.g. setbacks may mean something different on Gowlland Point Road compared to elsewhere on the island)
- Interior lot setbacks are much more complex than setbacks from the natural boundary of the sea
- Support was expressed for reverting interior lot setbacks to 10-feet as approximately 30 homes were deemed non-conforming with 20-foot setbacks

- The following questions were raised: “What was the objective in increasing the side lot setback and how does it accord with our Official Community Plan goals and objectives and with the Trust Policy statement?” and “Are there specific hardships or exceptional circumstances where a straightforward variance would not address?”
- Variances should not be a land use planning solution; they add cost that can be significant and continually using variances means the bylaw does not reflect community needs
- The value of variances should be considered to avoid a one-size-fits-all approach
- The issue is about the setback footage and variance is not necessarily a part of that at this point
- Both a 10-foot or a 20-foot interior lot line setback will comply with the Official Community Plan
- The bylaws allow an accessory building to be built at 10-feet from the interior lot line; with the majority of properties on the island already developed the sight lines, noise and environment have already been impacted and moving interior setbacks to 20-feet will make a lot of houses legal non-conforming
- This is more complex than just reverting to previous rules or keeping the current ones
- It seems that no lots remain undeveloped in the Gowlland Point subdivision
- John Kuharchuk could be invited to provide analysis to the Advisory Planning Commission

Discussion ensued about the use of landscape screening in the bylaw and whether it could be broadened to apply to all lots. The following comments were made:

- The bylaw has a provision for a “landscape screen” that only applies to home businesses; this could be broadened to protect the privacy of islanders, which is an important concern to many
- There should be a guideline or clear statement that the goal of the interior lot setbacks is to maintain as much privacy as possible
- The Local Government Act (Section 527) permits a Local Trust Committee to include screening and landscaping for three reasons: masking or separating uses; preserving, protecting, restoring and enhancing the natural environment; and preventing hazardous conditions
- The Commission might consider the type of buffering (vegetative or otherwise) used between lots
- Support was expressed to use a landscape screening clause to limit clear-cutting of a lot

Planner Stockdill read the relevant section of the South Pender Land Use Bylaw, Section 3.9(1), and noted this regulation could be tweaked to accord with the wording in the Local Government Act.

The Advisory Planning Commission agreed:

- 1) to request that Planner Stockdill provide more information to the Commission about interior lot screening options discussed today, taking into account related provisions in the Local Government Act, and
- 2) to continue discussion with relevant information before making a recommendation to the Local Trust Committee.

6. Next Meeting

Friday August 23 at 10am, in person at the Community Hall

7. Adjournment

By general consent the meeting was adjourned at 11:35 a.m.

Gordie Duncan, Chair

Certified Correct:

Carly Bilney, Recorder