

ADOPTED

South Pender Island Advisory Planning Commission MINUTES

Date: October 4, 2024
Location: In-person, South Pender Island Fire Hall

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

Staff Present: Carly Bilney, APC Secretary

There were 8 members of the public present.

1. CALL TO ORDER

Chair Duncan called the meeting to order at 10:28 a.m.

2. APPROVAL OF AGENDA

Changes to the Agenda as follows:

- Add Item 4.3 – Secondary Suites

By general consent, the agenda was approved as amended.

3. ADVISORY PLANNING COMMISSION MEETING MINUTES DATED AUGUST 23, 2024 (FOR ADOPTION)

By general consent, the Advisory Planning Commission meeting minutes of August 23, 2024 were adopted.

4. DISCUSSION OF SOUTH PENDER MINOR LAND USE BYLAW AMENDMENTS PROJECT

Chair Duncan noted that Paul Petrie submitted his views to the Commission prior to the meeting. Discussion ensued.

SP-APC-2024-008

It was Moved and Seconded,

that prior to discussion on floor areas the South Pender Advisory Planning Commission will have a discussion about what non-conforming means.

CARRIED

Discussion was held and the following comments were made:

- There is major contention about what legal non-conforming means
- Anything that does not conform to the bylaw would be non-conforming
- The current bylaw makes all properties legally conforming with respect to siting and size

A bulletin from Young Andersen about the use of non-conforming law in British Columbia was shared for consideration and discussion ensued.

It was moved and seconded that the South Pender Advisory Planning Commission refer the interpretation of legally conforming and legally non-conforming to the Planner for the information of the Advisory Planning Commission. Discussion on the motion ensued and the following comments were made:

- There is not a clear understanding of legally non-conforming, and the Planner should be presented with the Young Andersen bulletin
- Planning for what will happen in the future should be prioritized over what has happened in the past; going forward, every new building or new amendment to a building should meet the new siting and size limits
- It would simplify the matter if house sizes were returned to those in Bylaw 114 before amendments made by Bylaw 122 which means those existing prior to the change would conform; a bylaw amendment could then state anything after the date of adoption of the bylaw amendment must meet new siting and size limits
- Community members had expressed concern about the stigma created by legally non-conforming status
- It was not well understood that the Local Government Act protected people and residents believed they would not be able to rebuild to existing siting and size restrictions if their dwelling was lost
- Previous Trustees added a section to the bylaw to make all dwellings legally conforming as of September 15, 2022 regardless of house size

It was suggested that an amendment to the motion be made that the Advisory Planning Commission request that staff establish a clear definition for 'legally non-conforming', and that staff considers the results of recent court cases that dealt with related matters involving whether or not an owner whose dwelling was sited in a certain location could rebuild at the same site.

Discussion continued and the following comments were made:

- Commission members should provide the Planner with information to be considered
- We are not sure if we are qualified to state that everything is legally conforming – you either conform to the bylaw or you are non-conforming
- The community previously requested that the legal opinion on the matter be shared by the Regional Planning Manager; previous Trustees decided they did not want to disclose the legal opinion
- There are cases that have gone to court where it was decided that a dwelling does not conform; the matter is unclear, and the uncertainty should be addressed
- A house size restriction is not necessarily for people whose houses already exist

SP-APC-2024-009

It was Moved and Seconded,

that the South Pender Advisory Planning Commission refer the interpretation of legally conforming and legally non-conforming to the Planner for the information of the Advisory Planning Commission.

CARRIED

SP-APC-2024-010

It was Moved and Seconded,

that the South Pender Advisory Planning Commission request the Planner consider recent legal cases and jurisprudence and how those relate to the current bylaw for people who do not conform with the current bylaw.

CARRIED

4.1 Total floor area and maximum floor area for dwellings for zones:

It was moved and seconded, that whereas many of the smaller lots under 1 acre are located along ecologically sensitive shoreline, the Advisory Planning Commission recommends to the Local Trust Committee that the current house size value of 2500 square feet be retained for lots under 1 acre to conform with Official Community Plan goals 2.2.1 (to maintain the islands' rural character) and 2.2.2 (to protect the natural features and biological diversity of the island).

Discussion on the motion ensued and the following comments were made:

- It was suggested that 39 properties are under 1 acre and many of them are along the shoreline
- The motion was suggested for lots under 1 acre because it is important for the footprint on small lots as the footprints affect the ecosystem, particularly when lots are contiguous

SP-APC-2024-011

It was Moved and Seconded,

that whereas many of the smaller lots under 1 acre are located along ecologically sensitive shoreline, the Advisory Planning Commission recommends to the Local Trust Committee that the current house size value of 2500 square feet be retained for lots under 1 acre to conform with Official Community Plan goals 2.2.1 (to maintain the islands' rural character) and 2.2.2 (to protect the natural features and biological diversity of the island).

DEFEATED

Paul Petrie in Favour, Rodney Kirkwood Abstained

4.1.1 Rural Residential

Discussion continued about recommendations to be made to the Local Trust Committee about dwelling sizes on Rural Residential lots. It was moved and seconded that the South Pender Advisory Planning Commission recommends that

the Local Trust Committee revert dwelling sizes to before amendments were made by Bylaw 122.

Discussion on the motion ensued and comments were made about the ways that the definition of footprint can impact size of a dwelling. The following comments were made:

- Building out a basement of an existing house would not impact ecosystems or neighbours
- Support was expressed for keeping the current house size values in Bylaw 114
- Any construction after the adoption of the new bylaw should comply with the new house sizes; this would impact a minimum number of lots
- The house size values should be tweaked to remove the issue of non-conforming
- Concern was expressed about permitting a 3800 square foot house on a single floor on a 1-acre lot

SP-APC-2024-012

It was Moved and Seconded,

that the South Pender Advisory Planning Commission recommends that the Local Trust Committee revert dwelling sizes to before amendments were made by Bylaw 122.

DEFEATED

Gordie Duncan, Rodney Kirkwood and Paul Petrie Opposed

Discussion continued and the following comments were made:

- House size should be limited to 3000 square feet that could be spread out over multiple floors (e.g. a 1500 square foot main floor and a 1500 square foot basement)
- More discussion is needed to understand the impact of house size in terms of ecological impact and greenhouse gas emissions
- What has happened on South Pender since 2016 has not provided for suites and the cost of land is almost prohibitive

It was moved and seconded, that the South Pender Advisory Planning Commission recommends that the Local Trust Committee requests staff to consider including the concept of a footprint in the determination of maximum dwelling size.

Discussion on the motion ensued and a question was raised about whether the proposed motion would impede discussion of remaining items on the agenda that deal with dwelling size. The motion was withdrawn.

Commission members agreed to defer discussion on dwelling size and move to Item 4.2.

4.2 Floor area for attached enclosed garage

Chair Duncan commented on how an attached enclosed garage is added to a dwelling's square footage, while a detached garage is not included in the square footage.

A motion was made that the South Pender Advisory Planning Commission recommends that attached garages not be included in the floor area of a dwelling and that staff provide a definition of garage in the land use bylaw. Discussion ensued and the following comments were made:

- A definition of garage is needed to show that it is not a dwelling
- Modification of the definition of floor area is needed
- A detached garage is an accessory building
- An attached garage cannot easily be defined as an accessory building
- A garage can be defined as an accessory building that does not include living space

SP-APC-2024-013

It was Moved and Seconded,

that the South Pender Advisory Planning Commission recommends that attached garages not be included in the floor area of a dwelling and that staff provide a definition of garage in the land use bylaw.

CARRIED

Chair Duncan Abstained

4.3 Secondary Suites

There was not enough time in the meeting to discuss Secondary Suites.

5. NEXT MEETING

Next meeting tentatively scheduled for Monday, October 21 at 10:30am

6. ADJOURNMENT

By general consent the meeting was adjourned at 12:30 p.m.

Gordie Duncan, Chair

Certified Correct:

Carly Bilney, Recorder