

Trustees,

I have considered the November 23, 2024, report from the APC chair with respect to the July 15, 2024, referral on dwelling floor area allowance and setbacks. While I respect the views of my fellow APC members, I respectfully disagree with some of the conclusions reached by the majority as outlined below. I offer the following dissent in accordance with section 7(d) of Advisory Planning Commission Bylaw 98 where I am unable to agree with the majority.

Dwelling floor area allowance

I am unable to support significant increases in the dwelling floor area allowance recommended by the APC majority for the following reasons:

1. The majority base their recommended increases on the premise that Bylaw 122 created many non-conforming dwellings and the 2 tables in APC resolution SP-APC-2024-014 will restore those dwellings to conforming status. I disagree with the premise that Bylaw 122 created any non-conforming dwellings. I agree with the Trust planner's Nov. 7, 2024, memo to the APC which stated:
 "Bylaw No. 122 did not create 'legal non-conforming situations in terms of maximum floor area.'"
Section 5.1(6) ensures that all dwellings are fully conforming with Bylaw 114 with respect to floor area allowance effective September 15, 2022, and are fully protected by section 5.1(6) if replacement is required.
2. The house size values enacted through bylaw 122 are more consistent with and responsive to the goals of our OCP than the increased house size values proposed by the APC majority including:
 - maintaining our Island's rural character,
 - protecting the natural features and biodiversity of the island,
 - ensuring that land use and development are compatible with the rural island character and that growth is gradual and sustainable, and
 - reducing green-house gas emissions
3. The current average dwelling floor area on South Pender is approximately 1,900 ft². A 2,500ft² dwelling allows for a 4-bedroom 2 bathroom home. Bylaw 122 established the floor area allowance from 2,500 ft² for smaller lots under 1 acre and up to 4,000 ft² for the larger lots over 10 acres. The current dwelling floor allowances in Bylaw 114 provides for growth that is gradual and sustainable and is consistent with our Island's rural character.

4. Where a property owner feels that a larger floor area allowance is needed, they have the option to apply for a variance which allows adjacent property owners an opportunity to express their concerns with the potential impacts on their property rights.
5. The current dwelling floor area allowances have not yet been given an opportunity to work. In my opinion the case to support the proposed increase in dwelling floor area allowance has not been made, and the current allowances in Bylaw 114 should be given an opportunity to work.

Setback from the natural boundary from the sea

I support APC recommendation SP-APC-2024-004 that the LTC retain the 50-foot setback from the natural boundary of the sea currently in section 3.3(3) of Bylaw 114 for the following reasons:

1. I do not support the suggestion to add two new tables to address “non-conforming” situations since there are no non-conforming situations with respect to setbacks from the natural boundary of the sea. Section 3.3(5) ensures that all properties fully comply with section 3.3(3) of Bylaw 114 effective September 15, 2022. Section 3.3(5) also ensures that a dwelling that was within the 50 ft limit on September 15, 2022, can be replaced in that location under Bylaw 114.
2. The coastline contains some of the most sensitive ecosystems and the 50 foot setback is responsive to OCP general policy 2.4.1(c) to consider site and surrounding area ecological characteristics particularly sensitive to alteration or disturbance.
3. The coastline contains some of the most important archaeological features requiring protection in accordance with OCP policy 2.2.3.
4. Where a property owner feels there are exceptional circumstances that warrant an adjustment to this setback, the owner may request a variance.

Side lot setbacks

I am unable to support the majority’s recommendation SP-APC-2024-007 to reduce the side lot setbacks from 20 feet to 10 feet for the following reasons:

1. I do not agree with the majority that there are a “large number” of properties that are non-conforming with section 5.1(6) of LUB 114. Subsection 5.1(9) ensures that all dwellings comply with Bylaw 114 effective September 15, 2002. This section also

ensures that replacement of the dwelling in that same location is fully protected by section 5.1(9).

2. The existing 20-foot setback in our LUB ensures a greater degree of privacy consistent with our OCP goals and values. The OCP states: “The quiet, freedom from disturbance, and sense of privacy within what is a relatively undisturbed and visually attractive setting are key qualities valued by South Pender Islanders, who expect these qualities to be maintained. This expectation forms the guiding principle for our Official Community Plan.” Inherent in our OCP definition of “rural” is “freedom from disturbance and privacy from neighbours”.
3. OCP policy 2.4.1 requires the LTC to consider the compatibility, suitability an effect of a proposed bylaw change to “...the potential for objectionable disturbance that may arise from factors such as noise, lighting glare, electrical interference, discharge of smoke, dust and noxious gases, fumes or vapours...”.
4. Where circumstances merit an exception to this policy the property owner may request a variance.

Total floor area allowance.

Our LUB establishes a total floor area allowance that is composed of dwelling floor area allowance and accessory building allowance. This is a relatively new issue that was discussed under SP-APC-2024-021 which proposed reducing the total floor area of all buildings by between 500 ft² and 2,000 ft² depending on lot size. The motion was defeated in a 2-2 vote, I believe the issue merits further consideration by the LTC. I have reproduced the table discussed at the Nov. 12, 2024, APC meeting for reference.

Table A. proposed reduction in maximum accessort building ft²

Lot size (acres)	BL 114 max total floor area	BL 114 max dwelling ft ²	BL 114 max accessory bldg ft ²	proposed reduction in total floor area	proposed max accessory buildings ft ²
-1	5,000	2,500	2,500	-500	2,000
1-2	6,000	3,000	3,000	-750	2,250
2-4	8,000	3,500	4,500	-1,250	3,250
4-10	9,000	3,750	5,250	-1,500	3,750
10	15,000	4,000	7 - 11,000	-2,000	5 - 9,000

Conclusion

As I explained to my fellow APC members, I am open to adjustments to the provisions of Bylaw 114 where it can be shown that the adjustment will better align with our OCP goals and policy and will assist our community in meeting the challenges of a rapidly increasing population (highest in the Trust area), the accelerating climate crisis, the increasing pace of development and the limitation of resources such as water.

Thank you for considering my views.

Paul Petrie