

From: gordie duncan <[REDACTED]>

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To: Kristina Evans <kevans@islandstrust.bc.ca>; Dag Falck <dfalck@islandstrust.bc.ca>; Tobi Elliott <telliott@islandstrust.bc.ca>

Cc: SouthInfo <SouthInfo@islandstrust.bc.ca>

Subject: Bylaw 122 Review comments

Trustees Evans, Falck and Elliott

After attending the Community Information Meeting on April 26, 2024, please take into consideration my concerns and suggested changes to Bylaw 114 that were implemented with the adoption of Bylaw 122.

Official Community Plan (OCP)

I am presenting the following information to clearly demonstrate, in my opinion, that South Pender Island and its development to date meets and will continue to meet our OCP Goals.

- *OCP "Rural Definition" - when used to describe the character of South Pender Island means the effect created by features and qualities, including but not necessarily limited to: low density and relatively unstructured development; comparatively undisturbed, natural and varied landscapes; freedom from disturbance and privacy from neighbours; limited on-island services; and an appreciation of both individual stewardship and community regulation intended to protect and maintain the island's ecosystems, amenities, and its residents' and property owners' land use needs and lifestyle."*

Observations and Considerations

Rural Character/Nature

- Points to Consider with respect to Rural Nature
 - There have been no significant subdivision developments on South Pender Island since the adoption of the OCP Bylaw 107 in 2011. The OCP envisioned at that time that the existing 270 developed lots would be sufficient for the next 10 years. Indeed some 13 years later there are approximately 273 lots of which 21% are still available for development. Think about the huge real estate development that has happened in Southwestern British Columbia over the last 13 years. South Pender has remained basically unchanged with respect to new additional subdivisions and lots! (*Source: OCP, BC Assessment, 2021 Census*)
 - Increase in Private Dwellings on South Pender since the adoption of Bylaw 107 = **13.2%**. (*Islands Trust Profile*). BC's population increased by **22.5 %** for the same period. (*Province of BC Website*)
 - When we compare the OCP's of the six (6) Southern Gulf Islands (SGI) we find that our OCP is very similar and that the references and emphasis on "Rural Nature/Character" is recognized equally as important by the OCP's of all the Southern Gulf Islands.

- South Pender has 1.7% of the population and 1.9% of the private dwellings included in the 6 SGI's. (2021 Census)
- Population Densities – Acres/Person: (2021 Census)
 - South Pender 7.3 Acres/Person
 - Saltspring Island 3.9 “
 - Capital Region District 1.6 “
 - City of Delta .40 “
 - City of Vancouver .05 “
- Our OCP notes that South Pender Island is not only the smallest island but also the least populated and developed of all the major islands in the Trust Area. That is still the case today, yet we have some of the most restrictive Setbacks and Max Dwelling Sizes bylaws.
- The OCP for South Pender has developed over the past 50 years and by far the community consensus is that our island has developed fittingly.

Envision for a moment the amount of greenspace not only that we enjoy but is available for wildlife and nature as compared to the Capital Region District for example.

Setbacks

- **FYI:** the properties that were affected with the increase for Side (Interior) and Sea Setbacks
 - Dwellings Within 20 ft Interior Setback 23 14%
 - Dwellings Within 50 ft From Sea Setback 22 10%
 - **Dwellings Exceeding New Setbacks** 45 21%**
 - ** Seven (7) additional properties were identified within the 10 ft Setback (Source – I T Mapit)
 - With respect to noise, sound is attenuated logarithmically by half as the distance is doubled, therefore increasing the distance from 20 feet to 40 feet (setback corridors) reduces the sound in half (6 decibels). The effect is approximately equivalent to reducing the sound from a chainsaw to a lawnmower.
- It is clear, that as noise, neighbouring site lines, greenspace, environmental impact etcetera, have already been established for all those developed properties (79%) and their neighbours, there is little to be gained from the new setbacks.
- Under Bylaw 122, Accessory Buildings can still be built with a 10-foot interior setback. How can it be explained that a 1500 ft² Accessory Building could have less of an impact, (noise, sightlines, greenspace) on neighbours, than a 1500 ft² dwelling, which must be built with a 20-foot setback? It should be noted that the accessory building can be 25 ft in height only 5 ft (16.6%) less than the new 122 30 ft max dwelling/cottage height.
- A perusal of Islands Trust Mapit system clearly demonstrates that most dwellings are situated towards the center of their properties. Why would anyone want to

build at the edge of their property, close to their neighbour other than perhaps extenuating circumstances such as lot topology?

- All development to date (2022) was done with 25-ft & 10-ft setbacks.
- North Pender which has just completed a LUB review, did not change current setbacks which remain at 25-foot & 10-foot front and side. This includes Magic Lake Estates with its **1200 lots** mainly one-half acre lots. **Note:** South Pender has a total of **39 lots** that are less than **one** acre, with only **7 lots** less than $\frac{1}{2}$ acre. (Source: BC Assessment)
- Prior to the adoption of Bylaw 122 by South Pender, all Southern Gulf Islands utilized 10-foot interior setbacks (for similar type Residential Zones). All, but South Pender continues to use those setbacks to this day.
- The OCP does not require or imply 20-ft interior setbacks.

Because 79% of the properties have been developed it seems there is little benefit in increasing interior setbacks to 20 feet so I believe interior setbacks should revert to 10 feet.

- Makes us consistent with our own interior setbacks as Accessory Buildings are allowed at 10 feet after Bylaw 122.
- Makes us consistent with other SGI.

Maximum Dwelling Size

Major changes with respect to Max Dwelling Size that were made with Bylaw 122:

- Max Dwelling size - reduced.
- Max Dwelling height – restricted to fixed 30-foot height.
- Maximum Floor area Calculations – Interior versus Exterior Wall measurements, Enclosed Garage inclusion, Enclosed Glass Porches inclusion, Basement Floor Area calculation (definition only?)
- Maximum Dwelling and Cottage sizes limitations the same as Rural Residential zones were implemented for Agricultural, Forestry and Natural Resources zones.

It is implied that even though **79%** of the properties are already developed, that somehow all future development including replacement dwellings will be built to the maximum dwelling size allowable (speculative predictions).

Comparative Points for Consideration:

- South Pender – 215 dwellings (2021 Census) of 273 (**79%**) lots are developed.
- Given **79%** development has already occurred, obviously, setbacks, environmental impact, greenspace, neighboring site lines etc. have already been established.
- Average dwelling size on South Pender – **1815** square feet (ft²) (BC Assessment)
- Average dwelling living area for BC – **1774** ft² (2021 Census)

- Average dwelling living area for Rural BC = **1660** ft², Urban BC = **1802** ft² (2021 Census)
- There are **95 (44%)** properties with designated garages (including unattached and attached) and **29 (13%)** designated carports. (BC Assessment)
- Dwellings with enclosed attached garages are discriminated against by the fact that the garage ft² must be added to the total dwelling ft², yet if a separate enclosed garage (detached), resulting in a greater environmental impact, was built for the same dwelling, the garage ft², is not included in the total dwelling ft².
- Development examples in places like Delta or Surrey were/are often referenced to as to what could potentially happen on South Pender are irrelevant!
 - Consider that a 1-acre RR4 lot in Delta would yield 6 – 66 x100 foot lots with up to a 3000 ft² dwelling/lot (25% Lot Coverage) and with a total of 45% Lot Coverage (Delta Zoning Bylaw 7600)
 - There are **39 (14%)** lots of less than 1 acre on South Pender – which cannot be subdivided. A 3000 ft² one Storey dwelling on a ½ acre lot = 14% Lot Coverage
 - There are **116 (42%)** 1 to 2 acre lots – which cannot be subdivided. A 3500 ft² one storey dwelling on a 1-acre lot = 8% Lot Coverage
 - Population Density = Delta = 1 Person/.41 Acres, SPI = 1 Person/7.3 Acres (2021 Census)
 - Hypothetical: If we assumed a 6000 ft² single storey dwelling was built on every SPI lot then the total Dwelling Lot coverage for SPI = **1.63%**.
 - Actual: Dwelling Lot coverage = **.38%** (assuming all dwellings single storey which isn't the case)

Benefits That Larger Homes Can Facilitate on South Pender

1. Provide for the potential for Secondary Suites in an extremely tight rental market.
2. Allow seniors to age at home by being able to accommodate live-in support.
3. Allow for comfortable “work at home” situations which is a reality of our modern-day workplace.
4. Have less of an environmental impact than building a cottage or coach house when considering additional rental accommodation.
5. “Building up” (basement and/or 2nd floor) can have the same footprint and has no more of an environmental impact or green space consumption, on the lot, than a one storey dwelling with the same footprint.
6. Provide for Multigenerational Housing

- a. The Federal Government recognizes that multigenerational living is a reality, and they are encouraging it by providing tax incentives for home renovations so that seniors or disabled persons can live with relatives.
 - b. The last 20 years have seen a 45% increase in multiple families sharing a home.
 - c. Over 500,000 children were living with grandparents in 2021 of which 93% lived in multigenerational homes. (Source: b. and c. – Statistics Canada)
7. Another example is the “Not In My Backyard” (NIMBY) movement, which represents a form of neighborhood protectionism where residents or property owners may oppose the construction of certain developments, such as, affordable housing projects or large commercial centers, in their neighborhoods. This can lead to zoning laws that limit the construction of affordable housing and make it more difficult for low-income families to find a place to live. Understandably, some individuals may want to protect their neighborhoods from potential adverse effects that new developments could bring, such as noise, traffic, or changes to the neighborhood’s character. However, it is crucial to consider that this form of neighborhood protectionism has some downsides. NIMBYism can lead to zoning laws that limit the construction of affordable housing and make it more difficult for low-income families to find a place to live. Additionally, it can also lead to a lack of diversity in neighborhoods and a lack of resources for the community.” (Duncan: Could large homes not be considered “certain developments”?) (Source: <https://sustainable-earth.org/housing-crisis/>)
8. An example of what is happening in other jurisdictions: due to new Provincial Government Regulations: “Those contracts on properties vary with some more restrictive than current underlying zoning and others less restrictive, especially on details such as housing setbacks, height and massing. Property owners with land use contracts have been applying to discharge them so they could have basements and secondary suites, not permitted under the old contracts. They are now allowed in most areas under the current residential zoning, as long as they meet standards.” (Delta Optimist Newspaper)
9. It seems to me that the focus is always on dwelling sizes and little consideration is paid to Lot Coverage. I believe Lot Coverage is the true measure and provides the correlation between structure development and the environmental impact they have on a lot. It is important to note that a 1-acre lot could have had 25% (all buildings ft2) lot coverage (theoretically it could be all dwelling) prior to 2017 LUB amendments as compared to now where a maximum lot coverage allowed is 13.7% of which the max. dwelling contribution is only 8% (using my proposed table)

Solution:

Establish a new Maximum Dwelling Size Table for all zones.

<u>Lot Area</u>	<u>The total floor area of all buildings may not exceed:</u>	<u>The floor area of a dwelling may not exceed:</u>
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<u>Less than 0.4 ha (1 acre)</u>	<u>465 m² (5000 ft²)</u>	<u>279 m² (3000 ft²)</u>
<u>0.4 ha to < 0.8 ha (1 to 2 acres)</u>	<u>557 m² (6000 ft²)</u>	<u>325 m² (3500 ft²)</u>
<u>0.8 ha to < 1.6 ha (2-4 acres)</u>	<u>743 m² (8000 ft²)</u>	<u>372 m² (4000 ft²)</u>
<u>1.6 ha to < 4 ha (4-10 acres)</u>	<u>836 m² (9000 ft²)</u>	<u>418 m² (4500 ft²)</u>
<u>4.0 ha (10 acres) or greater</u>	<u>1394 m² (15000 ft²)</u>	<u>465 m² (5000 ft²)</u>

Solution Results:

- Maximum dwelling size increase is logical and even across all lot categories.
- The Maximum Dwelling sizes are on average 22% less than pre 122 and 19% greater than 122 amendments.
- Max Dwelling Sizes comparable to North Pender for similar lot categories. Note however that on a 1-acre lot they can have a Total Floor area (Lot Coverage) of 10764 ft² compared to South Pender's Total Floor of 6000 ft².

Seeking Legal Non-Conforming Clarification:

At the 2024.04.26 CIM I sought clarification about the statements made on the March 2024 FAQ with respect adding an addition to a "legal dwelling constructed prior Sept 15, 2022" and whether a DVP would be required or not?

Bylaw No.122 – Facts (Edited: March 2024)

- *"The floor area of legal dwelling on September 15, 2022, is the permitted maximum floor area for that dwelling."*
- *"The more restrictive maximum floor areas only permit to new dwelling units or dwellings what want to exceed their floor area beyond what it was on September 15, 2022."*

Interpretation?

My reading of the two bullet points above leads me to the conclusion that any legal dwelling on September 15, 2022, would require a Development Variance Permit (DVP) to do an addition?

- For example, as a 1000 ft² dwelling is a legal dwelling on Sept. 15 then 1000 ft² ***"is the permitted maximum floor area for that dwelling."***
- So, I assume that the 500 ft² addition requires a DVP because I ***"want to exceed their floor area beyond what it was on September 15, 2022."***

While it is my hope that my interpretation is incorrect, as the Planner has indicated, although he acknowledged the wording with respect to those points on the FAQ sheet would be reviewed. I feel that the wording in FAQ sheet and even in **Subsection 5.1(6)** ***"dwelling does not exceed the floor area of the dwelling on the lot at the time of the adoption of this bylaw"*** needs to be clarified. If the FAQ sheet and Subsection 5.1(6) are referring only to those dwellings that exceed the "*maximum allowable floor area*" or are non-conforming as of September 15, 2022, then both statements should clearly reflect that!

So, the clarification I am seeking, in my example is that a 500 ft² addition to the 1000 ft² dwelling would not require a DVP, indeed that even a 1400 ft² addition could be added to the 1000 ft² dwelling on a less than 1-acre lot with out requiring a DVP?

Thank you for your consideration.

Gordie Duncan

Canal Road, South Pender Island