

Trustees:

The following is my dissenting opinion as an APC member for consideration at the September 10, 2024, LTC meeting.

Issue 1: At the Aug. 23 APC meeting I made the following motion that was carried with four in favour, one opposed.

SP-APC-2024-004

It was Moved and Seconded,

that the South Pender Advisory Planning Commission recommends retaining the 50-foot setback from the natural boundary of the sea as written in Bylaw 114.

CARRIED

Donna Spalding Opposed

I strongly support this recommendation and join with a majority of my APC colleagues in urging the LTC to retain this provision in the current Land Use Bylaw with the minor wording modification to allow more flexibility in determining the location of a dwelling for replacement purposes. Most of the residential construction is along our island shoreline, which contains sensitive ecosystems and at-risk species.

Protection of the sensitive shoreline ecosystems is consistent with the Trust mandate to: "...preserve and protect the Trust Area and its unique amenities and environment for the benefit of the residents of the Trust Area and of British Columbia generally". This current Bylaw provision 3.3.3 also supports our OCP goal 2.2.2 To protect the natural features and biological diversity of the island and its immediate surrounding; and OCP objective 2.4.1[c] To protect the natural features and biological diversity of the island and its immediate surroundings.

There was a proposal considered by the APC at the August 23rd meeting to recommend that staff initiate a study of waterfront lots to determine what impact a 50 ft. setback from the sea would have on those lots and to make recommendations with respect to any impacts that would require attention of trustees. I did not support this proposal on grounds that the 50 ft. set back has not yet been given time to work, to date there have been no issues where a variance has been requested with respect to Bylaw s. 3.3(3), and such a study would be expensive and not a good use of limited Trust finances.

All existing dwellings that are currently located within the 50 foot setback are now legally conforming under s. 3.3 (5) of our LUB. As pointed out by planner Stockdill, an application to build within the 50 foot setback would be available through the Board of Variance for a minor variance where a hardship exists. She also pointed out trustees have the discretion to grant a Development Variance Permit and are not limited to considering hardship or only minor variances. The trustees' decision on a development variance permit would be considered on the particular circumstances of the application, on the relevant OCP policies, the impact on the neighbouring lots and on the island generally.

In my view there are sufficient protections in place to address issues relating to the 50 foot setback that may arise. To date there have been none that I am aware of.

Issue 2: At the same meeting I made the following motion that was defeated with four opposed and one in favour.

SP-APC-2024-006

It was Moved and Seconded,

that the South Pender Advisory Planning Commission recommends the Local Trust Committee retain the current setback of 6.0 meters (20-feet) for a dwelling or cottage from any interior or exterior side lot line as provided in subsection 5.1(9) in the current Land Use Bylaw, and that subsection 5.1(10) be amended by deleting “to submit a certification from an appropriately qualified person” and replacing it with “substantive evidence to establish.”

DEFEATED

Paul Petrie in Favour

While I respect the views of my APC colleagues, I must register my dissent from the recommendation to revert to the previous 10 ft. side lot setback for the following reasons.

1. The adoption of the 20 ft. side lot setback in 2022 provides improved support for our OCP goals and objectives including:
 - it supports OCP goal 2.2.1 to maintain and reinforce “a sense of tranquility, privacy and freedom from disruption” as an important element of our island’s rural character.
 - It complies with OCP Policy 2.4.3 that the LTC ensure that building and structure setbacks retain our rural Island character, the protection of natural views and the maintenance of residential privacy, and
 - it meets the OCP Residential Objective 3.1.1(a) To maintain a rural island living environment that is safe, visually attractive, and free from disturbance and the sense of overcrowding.
2. All current dwellings and cottages within the 20ft. setback are protected as “legally conforming” with Bylaw subsection 5.1(10). The current 20 ft setback will only apply to newly constructed dwellings and cottages after September 15, 2022. There are NO legally non-conforming properties resulting from the enactment of the 20 ft. setback in 2022. As planner Stockdill stated at the meeting: We shouldn’t use the term “legal non-conforming” with current Bylaw setbacks.
 - There were 46 letters set to the LTC under the bylaw review project
 - 34 were in favour of retaining the current bylaw provisions,
 - 12 were in favour of reverting to 2016 bylaw
 - 13 letters were from a previous respondents (9) in support (4) for reverting.
 - These are thoughtful letters, many containing careful reasons for supporting the current bylaws, many urging trustees to give the 2022 changes time to work. These letters must be given weight in the trustees’ consideration of this issue.

- One of the arguments for reverting to the 2016 bylaw was a majority of islanders were opposed to the changes and voted in the new trustees to revert to the 2016 bylaw. That was apparent at the June 3, 2023 LTC meeting when the trustees attempted unsuccessfully to repeal the 2022 Bylaw amendments.
- Opposition to the 2022 changes was largely driven by the misleading contention that it would render a number of properties “legally non-conforming” which was incorrect. Section 5.1(9) made all dwellings “legally conforming” as of September 2022. This was not clarified until after the election. Planner Stockdill stated: “We shouldn’t use the the term “legal non-conforming.”

For all the foregoing reasons, I urge the trustees to support the applicable goals and objectives in our OCP and retain the 20 foot side lot setback in our current LUB

Our OCP states: “The quiet, freedom from disturbance, and sense of privacy within what is a relatively undisturbed and visually attractive settings are key qualities valued by South Pender Islanders, who expect these qualities to be maintained.” P. 3

I request that this dissenting opinion be included with the staff report for the September 10 LTC meeting along with the APC minutes in accordance with section 7(d) of Bylaw 98.

Thank you for considering my views.

Paul Petrie