

March 26, 2025

Re Draft Bylaw 129 and the South Pender land use bylaw

Dear Trustees,

This is written in some haste as the agenda for the March 27, 2025, LTC meeting was made public only three days before the meeting.

While I appreciate the amount of time and effort that has gone into the Local Trust Committee's review of our island's land use bylaw, and amendments thereto, over the past two years, I am not able to support the changes proposed by draft Bylaw 129.

My concern is not so much about the details of the proposed changes as about the reasons provided for supporting them, most especially with respect to how they better fulfil the objectives of the islands Trust Act and of South Pender's Official Community Plan than do the amendments to land use bylaw 114 approved by the previous trustees.

I well understand that some residents of South Pender Island consider the Islands Trust Act an impediment to fundamental liberties and would like nothing better than to see it repealed. The fact is, however, that the Islands Trust Act is the law that guides the decisions of each island's local trust committee and with which those decisions must comply.

The issue that triggered the passage of the Islands Trust Act in the early 1970s was the Magic Lake subdivision and resulting concerns that similar overdevelopment elsewhere would be detrimental to the rural nature and ecological fragility of the southern Gulf Islands, an archipelago quite unlike any other in the world.

Section 3 set out the object of the Act: "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..." What exactly are "unique amenities"? A 1986 Position Paper, endorsed by both Trust Council and the Minister of Municipal Affairs, unequivocally states that they refer to natural features in the environment: "special areas such as the most outstanding beaches, the most significant landscapes" including "open stands of Garry oak, arbutus or Douglas fir, and intertidal and subtidal zones". The meaning has since been informally considered at an *in camera* meeting of Trust Council, but, in the absence of any legal reconsideration, remains as defined in the Position Paper, which looked at the original purpose of the Act, which is today as relevant, if not more so, than when the Act was created.

Each island's Official Community Plan must in turn be consistent with the object of the Act, and all decisions of the South Pender Local Trust Committee must align with the object of the Islands Trust Act, South Pender's OCP commitment "to preserve the rural nature and natural diversity of our island environment for future generations", and the OCP's seven goals to realize that vision and commitment.

South Pender is one of the smallest islands in the Trust area, yet has experienced the most rapid population growth of all of the islands in recent years, increasing the challenge of preserving the rural nature of the island. Moreover, the average house size on South Pender is far smaller (1,900 square feet) than the permitted size for even the smallest lots under the existing bylaw. Property owners wishing to exceed the maximum size have the option of applying for a variance, which has been granted on both occasions on which one has been sought in the term of the present trustees. In short, the current bylaw not only provides for a generous amount of living space but also makes provision for the limit to be lifted depending on individual circumstances. I also support retaining the 20 foot side lot setback as being more in keeping with the objectives of the OCP than the proposed 10 foot setback.

I have yet to see an explanation from the LTC as to how the proposed land use bylaw amendments better support the objectives of the Islands Trust Act and the South Pender OCP than the bylaws they plan to rescind. As compliance with existing law must be the LTC's first priority, I am unable to support the proposed changes in the absence of that rationale.

Respectfully,

David Greer

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South Pender Island