

From: Daisy <[REDACTED]>

Sent: Thursday, February 29, 2024 8:03 AM

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

Subject: FW: Re: Priority of reviewing previously passed bylaws on South Pender Island

South Pender Island Trustees

Sent via email

February 24th, 2024

Hello,

I am a resident of South Pender. I have lived and worked here for over 20 years. I have family and community here. And I would like to live here for many more years.

The Island trust issues with housing size, property setbacks and shoreline access, etc, are complex. There are pros and cons for both sides. It seems most of the outcomes depends on each individual person's choices, on where, and what they build and for whom.

I really appreciate all the energy and effort that everyone puts in to trying to figure out these issues. I am also very frustrated that while we are processing and debating, we are losing what we are trying to protect.

I put this question to all, but especially the trustees, Are we asking the right questions and dealing with the right issues? Are we using time wisely?

Who and what are, the weakest links in the trust area of the Southern gulf islands? Who and what, doesn't have the ability to speak up and ask for what they need? The trust is to protect the land and what is here. *to preserve and protect the Trust Area and its unique amenities and environment.*

It has been noted that on the Pender Islands, there was not one eagle born last year, that has survived. What are we doing to protect the land, and environment where the eagles live so that the eagles may survive? As well as other species that are still in existence.

Our trees are dying. What are we doing to support them. How are our bylaws and the choices we make helping them? Our shorelines are washing away. What can we do, what is working around the world to deal with this issue? Never mind our oceans and beaches, our water supply, the wetlands, our farms, the soil on the usable land that we have, and the very air we breathe. Just to name some.

It seems that human beings that live on South Pender Island are not the weakest, but the strongest and most destructive link in the trust area. I believe the majority of us are thriving already.

Is it possible to stop debating the current bylaws that are focused on the strongest species. Could we instead work together to consider, make space for and save, what we have and what we are in danger of losing. Please stop talking about changing the ocp. Instead review and focus on the policy statement of the trust and it's mandate. It is very possible that working from the direction of the ocp, and asking different questions, we may find the answers to the limits and sizes that will protect and preserve the trust area, it's amenities, the environment and all that live here.

Please stop talking about changing the existing bylaws re: house size, and property setbacks, as there is not enough time. Please focus on much more important issues of protecting and preserving what is not thriving, in our trust area of South Pender Island.

Thank you for your time,

Daisy te Hennepe

[REDACTED]

Pender Island, BC

[REDACTED]

[REDACTED]

From: Susan Taylor <[REDACTED]>

Sent: Sunday, November 5, 2023 7:42 PM

To: SouthInfo <SouthInfo@islandstrust.bc.ca>; Tobi Elliott <telliott@islandstrust.bc.ca>; Kristina Evans <kevans@islandstrust.bc.ca>; Dag Falck <dfalck@islandstrust.bc.ca>; South Pender Planner <southpenderplanner@islandstrust.bc.ca>

Cc: Susan Taylor <[REDACTED]>

Subject: November 10 LTC Meeting Agenda

Trustees,

I have reviewed the agenda for the upcoming November 10 meeting and write to express my support for comments made by residents during the September 1 LTC meeting.

- • Changes from Bylaw 122 improved the protection of the threatened sensitive cliff ecosystem
- • The Local Trust Committee (LTC) should leave the changes from Bylaw 122 in place and move forward, work towards reconciliation and find projects that bring the community together
- • Blasting was recommended as a Work Project, as recent major incidents impacted neighbours and regulations may be needed
- • Emergency response management was recommended as a Work Project
- • There is desire to move forward on projects like safety (e.g. wildfires, floods, bridge maintenance) and reconciliation

I urge the LTC to leave the changes from bylaw 122 alone, to recognize that the goal of these changes is to protect the way of life that most Island residents value, and to support the Islands Trust mandate to preserve and protect.

All over the world and in our tiny piece of it, climate change is real and causing havoc. I would prefer my LTC to spend their energies addressing issues that affect our quality of life and our collective ability to respond to climate threats including drought, wildfires, to encourage water catchment, to address the deterioration of the bridge between the Penders, to address the deteriorating "Dip" area which appears to be increasing, to address blasting.

Spending time and money undoing the changes in bylaw 122 is wasteful in my opinion.

We are so fortunate to live on this island and we have so much compared to others. Why our neighbours want the right to build bigger, higher houses, closer to their neighbours, and closer to the water escapes me.

I urge the LTC to do something productive during the balance of your term. You do not have my support for your revisit of bylaw 122 changes through the APC, a special APC, or any other means.

Susan Taylor

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South Pender Island

Trustees,

We have now had an opportunity to review the Staff Report and Project Charter for the Land Use Bylaw Amendments Project posted on November 3 for consideration at the November 10 LTC meeting. It is apparent from the Staff Report and Project Charter that the focus of the LTC work for the next 18 months will be reviewing and quite likely undoing the changes to the LUB enacted through Bylaw No. 122 and approved by the former LTC and authorized by Trust Executive Council a year ago.

It is in our view very unfortunate that our trustees have placed these progressive changes to LUB No. 114 under review before they have been given a chance to work. These changes were designed to comply with the Trust “preserve and protect” mandate and support our OCP goals of maintaining our Island rural character, protecting sensitive ecosystems, ensuring growth and development are gradual and sustainable and reducing greenhouse gas emissions.

The LUB changes enacted through BL 122 were reached after 15 meetings where issues on dwelling size, building height, and setbacks were considered. These electronic meetings were accessible to all community members and trustees received a wide range of views they considered before finally approving the changes enacted in BL 122.

It is worth considering the background to dwelling size, building height and setbacks in effect in Bylaw No. 114-2016 before the former trustees enacted BL 122. The values reached in the 2016 version of Bylaw 114 were the subject of much discussion and debate in 2015-16. One of the key concerns, particularly by property owners with larger dwellings, was that their dwelling would become legally non-conforming which some believed could complicate the replacement of the dwelling if it was destroyed by fire.

In response to concerns about legally non-conforming, trustees in 2016 set the maximum floor area very high to minimize the number of legally non-conforming dwellings. This had the effect of defaulting to larger dwelling size on the Island. Recent property assessment data shows that the average house size on South Pender was just under 2,000 ft². Architects and builders will confirm that a modern 3-bedroom 2 bath home can be built in under 2,400 ft². However, the 2016 maximum dwelling size was set at 3,800 ft² on lots less than one acre. These lots are often on the coastline with sensitive ecosystems that can be impacted by development. BL 122 set the maximum dwelling floor area at 2,500 ft² for a lot under 1 acre.

Property owners have the option of applying for a variance if there are special circumstances that merit an increase in dwelling floor area above the maximum. Importantly, a variance request gives adjacent property owners an opportunity to identify any concerns which can be taken into consideration before a decision is made to grant or deny a variance request. There have been two variance applications in 2023 and both requests have been granted under the BL 122 regulation. No variance request has been denied.

The former trustees added an important protection for dwellings that are legally non-conforming. They included a provision in the LUB that ensures the owner of a dwelling that is legally non-conforming can rebuild the dwelling to the same floor area as the dwelling that

existed prior to the loss of the dwelling. Thankfully such a loss is a very rare event, but in the event of such a loss the homeowner is protected.

The changes to the LUB enacted through BL 122 establish an important balance between adhering to our OCP goals and maintaining the rights of property owners. The maximum dwelling floor area values for different size lots ranging from 2,500 ft² on smaller lots to 3,500 ft² on larger lots are well above the current average house size values and more in keeping with maintaining the rural character of our community than the range between 3,800 ft² and 6,030 ft² under the 2016 BL 114. The rush to undo the changes enacted through BL 122 is in our view a step in the wrong direction.

Staff Report and Project Charter

It is unclear to us why staff are recommending excluding from the work program any other regulatory changes other than those contained in BL 122 for the next 18 months. The Provincial government has recently authorized LTCs to enact policies related to rock removal (blasting). Salt Spring has already enacted a bylaw addressing this issue. It would be very timely for the South Pender LTC to consider an amendment to the LUB to ensure adequate notice to nearby homeowners and adequate protections are in place before blasting is carried out. We urge the trustees to be open to dealing with important issues other than the review of BL 122 changes in the next 18 months.

A close reading of the staff report suggests there is a presumed problem with the Bylaw changes enacted through BL 122. The APC is first to identify the problem with the bylaw provision and then to consider the purpose of the provision. That appears to put the cart before the horse. The real question is - was there a problem with the 2016 LUB provisions and do the BL 122 changes better adhere to the Trust Mandate and our OCP goals.

There appears to be a built-in presumption in the Report that the amendments enacted through BL 122 should revert to the 2016 LUB provisions suggesting a predetermined conclusion to the Amendment Review Project. ("How the amendment could be changed – ex. Revert floor area to the previous regulations in BL 114-2016"). This would be consistent with the preemptive attempt to repeal the BL 122 amendments without due process in June 2023. It is important that the trustees adhere to the principal of impartiality and fair process as provided in the Trust Administrative Fairness policy.

Perhaps the bigger question is why the LTC is spending \$8,500 of our tax dollars and valuable staff and LTC time to relitigate legally enacted amendments to our LUB before they have been given a chance to prove their value. The amendments enacted through BL 122 are based on a compromise that provides a balance between the rights of property owners and protection of the rural character of our island, protection of sensitive ecosystems, ensuring that growth and development are gradual and sustainable, and reducing GHG emissions. This compromise should be given an opportunity to work before upsetting the apple cart.

At the September 1 LTC meeting Chair Elliott wisely suggested that the trustees might consider a less contentious and divisive work program issue that would serve to bring the community

closer together, rather than immediately pursue the divisive relitigating of the BL 122 amendments. That suggested approach would provide an opportunity for those amendments to work and identify any apparent issues that require further consideration. In our view, that approach would better serve our community as a whole and practice more effective governance. It is not too late for trustees to reverse directions and follow that guidance.

Whichever path the trustees choose to take, we will continue to work with the community and the LTC to support the Trust Mandate and the goals in our OCP.

Thank you for considering our views.

Paul Petrie
Monica Petrie

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From: Neville West <[REDACTED]>

Sent: November 7, 2023 1:26 PM

To: Kristina Evans

Subject: Dear Trustee re zoning changes

When sq footage allowances are reduced that is effectively equity theft. Owners have paid taxes on those allowances for years. If those taxes had to be returned in line with the development loss perhaps those 'in charge' might not be so quick to take away what was already a given. It also results in people eliminating things like extra bathrooms which make co-habitation much more possible. Extra bathrooms mean privacy in shared living space. The same number of showers and flushes still happen so there is no net gain.

If some rational reason can be attached to these changes why are they not presented? Otherwise the Trust just appears as a brutal overlord dictating to its serfs. Canadians deserves better governance than that. It is not 'good government'.

Neville & Mariette West

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

-----Original Message-----

From: Toulson Rosina <[REDACTED]>
Sent: Tuesday, November 7, 2023 2:22 PM
To: SouthInfo <SouthInfo@islandstrust.bc.ca>
Subject: BL 122

Dear Kristina & Dag,

I will be away on the day of this upcoming meeting but wanted to express my concern in the possible changes of the existing BL 122.

This bylaw was passed with the majority in favour.

I'm distressed that instead of allowing time for this by law to work for the islands residents, it is once again a contentious issue which continues to be divisive in this fragile community.

Sincerely, Rosina Toulson

A “Setback” is used in zoning regulations to separate a structure and a property line and/or a public right of way. They have different purposes in an urban area than they would in a rural area. South Pender is designated a “rural” area by the Islands Trust, the CRD and the Provincial Assessment Authority.

Why Setbacks?

Setbacks are used to for practical reasons as well as aesthetic purposes. They can provide open areas for services and access for emergency personnel, but they also provide lifestyle benefits such as privacy, air movement, natural lighting, and noise abatement.

Rural vs urban.

Rural areas have characteristics and needs that urban areas do not necessarily require. Setbacks provide areas for natural growth to provide cover and food for wildlife, particularly birds. Larger lot sizes, more common in rural areas, allow for these areas on private properties whereas in urban areas these are more often created on public land. Given that the protection and preservation of our rural character is one of the important considerations of trustees, setbacks in rural areas are more likely to be wider than in urban areas.

Side Lot setbacks.

Perhaps the greatest advantage for increasing side lot line setbacks is to safeguard the character of our rural neighbourhoods differentiating them from urban neighbourhoods. Given the reluctance to pursue form and character policies to maintain the rural character, wider setbacks are the only viable strategy.

However, recognizing the topography of some properties may make a single setback impractical for construction, a Variance is a reasonable means to assess properties on a site specific basis.

Front and rear setbacks.

BC Ministry of Highways has a minimum 15 M setback from a public highway which supersedes local authority.

Setbacks from coastal areas and foreshore must recognize that these are the most ecologically sensitive areas on our island, (trustees can confirm this with Trust Conservancy biologists.) In contradiction to that fact, we have zoned the highest use, the highest density, and associated development, on our waterfront. Climate related events due to climate change are exacerbating the threats not only to the environment but to private properties as well. In view of these considerations, the setback from the natural boundary of the sea was increased to 15 M. This was for aesthetic and well as precautionary reasons, and affects new construction only. The current trend is to increase setbacks, not decrease them, as the elevation of high tide lines will be increasing over time, and coastal areas need natural vegetation for bank stability and wildlife habitat.

The Trust Area.

The Islands Trust was established for the specific reason outlined in Sec 3, the Object, in the Trust Act. The Trust is not a “local government” but a trust, the beneficiaries being all residents of BC. That places a fiduciary duty upon trustees to consider the interests of all British Columbians not just the residents of South Pender. As Justice Southin of the BC Supreme Court stated in Galiano Island Trust Committee vs MacMillan Bloedel appeal, the “mandate is no mere piety”. Trustees can not place

property owners' concerns or objections over and above the mandate. Secondly, any amendments to bylaws must comply with the South Pender OCP. If trustees believe an amendment is needed they must show how the amendment achieves the objectives and policies in the OCP, otherwise they must amend the OCP as well. With respect to setbacks, the following objectives and policies apply:

- To maintain a rural island living environment that is safe, visually attractive, and free from disturbance and the sense of overcrowding.
- To protect the health of the coastal environment and marine ecosystems in the local trust area.
- To preserve the aesthetic quality of the natural shoreline as viewed from the water and adjacent lands.
- siting development sufficiently back from the natural boundary of the sea that protective structures are not needed to forestall damage from natural coastline erosion.

LTCs must also base their decisions on the relevant policies of the Trust Policy Statement, which are:

4.5.10 Local trust committees and island municipalities shall, in their official community plans and regulatory bylaws, address the location of buildings and structures so as to protect public access to, from and along the marine shoreline and minimize impacts on sensitive coastal environments.

5.2.1 Trust Council holds that growth and development in the Trust Area should be compatible with preservation and protection of the environment, natural amenities, resources and community character.

5.2.3 Local trust committees and island municipalities shall, in their official community plans and regulatory bylaws, address policies related to the aesthetic, environmental and social impacts of development.

5.2.4 Local trust committees and island municipalities shall, in their official community plans and regulatory bylaws, address any potential growth rate and strategies for growth management that ensure that land use is compatible with preservation and protection of the environment, natural amenities, resources and community character.

5.2.5 Local trust committees and island municipalities shall, in their official community plans and regulatory bylaws, address means for achieving efficient use of the land base without exceeding any density limits defined in their official community plans.

5.2.6 Local trust committees and island municipalities shall, in their official community plans and regulatory bylaws, address the identification of areas hazardous to development, including areas subject to flooding, erosion or slope instability, and strategies to direct development away from such hazards.

In closing;

I understand trustees political motivation for their insistence in amending Bylaw 114, particularly the changes adopted by the previous LTC. What is missing in their discussions is the rationale, within the confines of the Trust Act, our OCP, and the Trust Policy Statement, for wanting to make these changes. Most of the objections voiced in the community about Bylaw 112, were focused on concerns about "legal non-conforming". Those concerns are not valid. Other complaints were the amendments interfered with "private property rights" of which do not exist in Canada. Stating one's opposition because they "don't like them", is not germane because the Trust Act and the Trust Policy Statement are the basis of land use in the Trust Area. Not liking the Canadian Constitution does not make it immaterial. With these irrelevant objections aside, how widespread, and exactly what, is the

disagreement with having this bylaw remain as is? I ask because in advertising these meetings you state that setbacks and house size “require some adjustments... to be more broadly accepted...”. This leads to the conclusion that trustees have already decided the matter without providing any evidence that this is the case. If decisions at these meetings are going to be based upon scientific data, as Trustee Falck has rightly said they must be, then personal concerns (particularly errant ones), should have no bearing upon those decisions. It is unfortunately becoming all too common that science is dismissed when it interferes or conflicts with personal interests or becomes inconvenient to accept. I urge trustees to do their own research into these subjects so they will be able to differentiate between fact and fiction, and understand the policies which must ultimately guide their decisions.

Respectfully submitted by,

Steve Wright,
[REDACTED]

For reference:

<https://www2.gov.bc.ca/assets/gov/environment/natural-resource-stewardship/best-management-practices/develop-with-care/dwc-section-4.pdf>

https://www2.gov.bc.ca/assets/gov/environment/air-land-water/water/integrated-flood-hazard-mgmt/guidelines_for_mgr_coastal_flood_land_use-2012.pdf

From: [REDACTED] >
Sent: Sunday, January 14, 2024 11:47 AM
To: South Pender Island Local Trust Committee <SouthPenderLTC@islandtrust.bc.ca>
Subject: Setback Meetings Feedback

Hello SPI Trustees,

I cannot attend your meetings in person so am emailing my response.

Regarding setbacks: the set backs controversy has likely arisen for 2 main reasons.

One: people think that if their house is damaged, they cannot replace it on its footprint because of new setbacks. This is easily settled because the rule only applies to new construction and houses built before the bylaw change can retain their footprint.

Two: new houses must adhere to the new setbacks. That is controversial because some people want to be as close to the shore as possible despite erosion of the foreshore and some builders want those contracts. With climate change causing sea level rise and the shoreline gradually moving inland except in bedrock areas it is foolish to build too close to the shoreline. The view can be just as lovely 15m further back. The foreshore can be somewhat protected with appropriate plantings but these only last for a while. Most oceanfront properties on South Pender have already lost land at the shoreline and some owners have been spending large amounts of money to mitigate further loss. I have photos from earlier years that show Gowlland Point Rd once ended in an unpaved gradual slope into the sea. It is still eroding as are all the shorelines in the bay. Trustees should focus their time on laws that protect the shoreline and the new setbacks are one of the best ways.

Suggest you focus on a bylaw to stop shoreline cliff blasting! That action damages adjacent properties and the shaking is likely to increase erosion of the shoreline. Even bedrock eventually erodes. Trallee Dun, [REDACTED]

From: Daphne Louis <[REDACTED]>
Sent: Friday, January 19, 2024 3:48 PM
To: SouthInfo <SouthInfo@islandstrust.bc.ca>; South Pender Island Local Trust Committee <SouthPenderLTC@islandstrust.bc.ca>
Subject: Notice of community consultation re: Bylaw 114

17 January, 2024

To the Trustees :

I understand that the local trustees have organized a series of meetings to provide a forum for community consultation around making changes to our current Land Use Bylaw, 114.

The reason offered is that some adjustment to the LUB is required in order for it to become more broadly accepted by the community at large.

I would like to know what problems and issues have been raised with regard to our current bylaw. Presumably, problems and issues are at the basis of the plan to organize meetings for community consultation. It would have been helpful had those issues been identified in the notice which announced the planned meetings.

Referring specifically to setbacks, the changes made in September 2022 were necessary and wise changes to make. As we know, all too well, we are experiencing more frequent and intense storms and almost certainly there will be more of that to come in our future. Strong winds, high tides and storms could threaten properties built close to the sea. The increased setback can only provide protection to homes and to their inhabitants. In addition, the increase of open area created will allow for more natural growth. This could provide cover and food for wildlife as well as potentially contribute to a more stable bank.

The Bylaw as it stands has made structures sited between 25 ft and 50 feet from the sea in September 2022 legally conforming and ensured that if the building must be replaced it can remain in the same location. In addition, should a property owner have exceptional circumstances where the setbacks in Bylaw 114 could create a problem, the property owner can apply for a variance.

The Bylaw as it stands is comprehensive and caring of property owners and the natural features of the land. It supports the established goals in our Official Community Plan.

I would like to express my support for Bylaw No, 114 as it was adopted in September 2022 and oppose any initiative to make changes to it.

Thank you for your time and attention.

Daphne Louis
[REDACTED]

From: P.F. Clarke <[REDACTED]>
Sent: Wednesday, January 17, 2024 1:35 AM
To: SouthInfo <SouthInfo@islandstrust.bc.ca>
Subject: South Pender Trustee meetings

I am responding to the notification of four proposed meetings scheduled to discuss the Soth Pender land use bylaw. Since we have all spent so much time and energy in recent years in exploring this issue and amending the relevant bylaw, it seems remarkable to be reopening the issue again so soon. The amended bylaw has now been in operation and shown itself effective and flexible. It should surely be given a chance to operate for a much longer period before we need to exhaust ourselves on further divisive discussions of further changes.

Peter Clarke
[REDACTED]
[REDACTED]

January 17, 2024

to Trustees Evans and Falck:

Re: reconsideration of Bylaw 114 – limiting residential floor area.

I regret that I will be away during the times of your public meetings and therefore am submitting my views in writing.

During the consideration of placing maximum limits on residential floor area, several aspects were explored throughout the previous term. First and foremost was the impact of global warming due to climate change brought about by the increase of Green House Gases (GHG), the primary one being carbon and its derivatives, carbon dioxide and carbolic acid. There is ample scientific evidence that illustrates that larger structures, in their construction and use, including furnishing, produce more carbon and GHG to be released into the atmosphere and have a greater impact upon the environment and natural resources. I'm not sure of the extent the LTC wants residents to provide that evidence or whether they intend, as I would expect, to do their own research.

Secondly, there is Council's Declaration on the Climate Emergency which was intended to generate affirmative action by taking such steps as reducing our output of GHG, and reducing our "footprint" on our finite land base. The expectation was to have policies and regulations incorporated in OCPs and Land Use Bylaws throughout the Trust Area to advance this goal. While this did raise the fundamental question about whether these limitations unduly impact private property, they were developed to have as little impact as possible.

Thirdly, trustees are expected to uphold the policies of the Policy Statement, and in fact, no policy or regulation put forward by an LTC can be contrary to, or at variance with, the Policy Statement or Council Declarations. Comparisons to other jurisdictions do not have relevance because no other jurisdiction or authority is governed by similar legislation.

Lastly, aside from environmental concerns, there are social concerns that Trust Council and our LTC have underlined as a priority concern. In a time of unaffordable housing and economic hardships being felt by many in our communities, the higher assessments associated with larger, more expensive homes, influence all properties. Higher taxes due to higher assessments place a greater hardship on those who are having difficulty with the rising cost of living and making it even more improbable for younger families to purchase a home. Older homes, more common years ago, provided rental opportunities whereas newer, more costly homes have reduced that market and made renting far more costly.

Within the Guiding Principles of the Policy Statement, it states:

- "When making decisions and exercising judgment, Trust Council will place priority on preserving and protecting the integrity of the environment and amenities in the Trust Area."
- "Trust Council believes that to achieve the Islands Trust object, the rate and scale of growth and development in the Trust Area must be carefully managed and may require limitation."

The goal of the Policy Statement is to recognize:

- "As humans occupy and modify the Trust Area, ecosystems are subject to various pressures. Protection of these ecosystems is essential if they are to remain healthy and productive for the benefit of future generations."

- “Planning must account for the cumulative effects of existing and proposed development to avoid detrimental effects on watersheds, groundwater supplies and Trust Area species and habitats.”
- “The principle of sustainability must be upheld.”
- “Protective measures are varied and can include actions ranging from preservation of natural areas in the form of parks and ecological reserves, to increasing public awareness and understanding of the need for sustainable use and stewardship by all landowners.”

Most people in our community agree that protection of the environment and rural character of South Pender is important, but disagree on how to do it. The guidance for making decisions is in the Goals of the South Pender OCP which state:

2.2.1 To maintain the island’s rural character so community members and visitors may continue to enjoy a sense of tranquility, privacy, freedom from disturbance, and relative self-sufficiency within a visually attractive environment;

2.2.4 To ensure land use, development, and associated servicing are compatible with the rural island character and that their growth is gradual and sustainable;

2.4.3 Regulatory provisions pertaining to numbers of buildings, maximum floor area, lot site coverage, building and structure setbacks, heights, screening, and parking in land use regulatory bylaws and permits are to be developed with regard to land use compatibility, the retention of the rural island character, the protection of natural views, and the maintenance of residential privacy.

2.4.4 In its decision-making, the Local Trust Committee will ensure that land use planning and development promote reductions in greenhouse gas emissions, support efforts to adapt to climate change impacts, and recognize the role of existing rural and natural areas in the absorption of carbon.

If trustees are intent on raising the maximum floor area for residences, they must provide the scientific data and rationale for doing so in a manner that reduces GHG and carbon footprints. Furthermore, they must show how they can achieve the policies in the Policy Statement and our OCP by those increases. Ignoring these documents, or basing their decision for political reasons, is not acceptable nor do I believe is supportable in the Trust Act. If the LTC can not meet these requirements, I ask the LTC to reconsider this project, leave Bylaw 114 as is, and focus their attention on other matters that would serve the interests of all residents and property owners such as those put forward at earlier public meetings and wisely suggested by Chair Elliot.

Submitted with respect,

Steve Wright


From: Frank Ducote <[REDACTED]>

Sent: Friday, January 19, 2024 7:56 PM

To: South Pender Island Local Trust Committee <SouthPenderLTC@islandstrust.bc.ca>; SouthInfo <SouthInfo@islandstrust.bc.ca>

Subject: LUB Setback review

Hello - as both a resident of South Pender Island and a practicing professional planner, I am mystified by the intended purpose of the trustee workshops to address this subject. I have seen nothing to date from our recently elected trustees stating why such a workshop and review is necessary.

Usually proposed changes to zoning bylaws and OCPs are undertaken because there is demonstrated evidence of their lack of efficacy or an evident mismatch between overall goals (in the OCP and provincial legislation) and implementation (through zoning bylaws and permits).

To date, our trustees have shown that neither of these conditions have been met. There has been no research to substantiate that the existing setbacks don't work, nor a demonstrated conflict between OCP intentions and LUB implementation.

I'd strongly recommend that our trustees take the time to try to "make the case" for both conditions before attempting to go through a transparent sham of an unstructured public process that is almost guaranteed to continue to foster divisions in our small island community.

Finally, and for the record, I fully support the existing setbacks of 50 feet from mean high tide and 20 feet from interior side yards to other private properties for new developments. (Existing homes and structures are adequately protected.)

Climate change and rising sea levels, increasingly severe winter storms and summer heat domes and droughts, certainly help reinforce the need to retain and protect existing forest cover through decent setbacks, as well as the need for maintaining our sense of privacy, both visual and acoustic, from neighbours' properties. In addition, shade itself is an important mitigation measure against extreme high temperatures.

Please include this email as a formal response for the record.

Thank you,

Frank Ducote, FCIP/RPP

Frank Ducote Urban Design

LUB setbacks

This submission is in response to the January 9, 2024 notice from trustees of their intention to review the recently enacted setback provisions in our Land Use Bylaw No. 114 (LUB). There are two new changes in setback regulations:

1. Subsection 3.3(3) increases the minimum setback for buildings from the natural boundary of the sea from 25 to 50 ft.
2. Subsection 5.1(8) Increases the minimum setback of dwellings from side lot lines from 10 to 20 ft.

Changes to the LUB also include new provisions that make legal any existing legally constructed building currently sited within the 50 ft. minimum from the boundary of the sea or dwelling within 20 feet from the side lot line and allows those buildings to be replaced in the same location in the future in the event that they need to be replaced.

The LUB also allows for a variance to these regulations where exceptional circumstances exist. A variance application provides the opportunity for adjacent landowners to express concerns over any negative impacts the variance would have to their property.

We strongly support the new changes on setbacks for the following reasons:

- These changes were duly enacted after careful consideration at extensive LTC meetings in 2021-22.
- They more fully comply with the goals in our Official Community Plan (OCP) than the previous setback provisions.
- They provide greater protection for the natural environment and support maintaining the ecological integrity of sensitive ecosystems.
- They provide a balanced approach of increased protection of the environment while offering property owners protection through the replacement and variance provisions.
- They support the privacy provisions and freedom from disturbance in our OCP policy.
- They are consistent with retaining the rural character of our island.

We oppose any attempt by trustees to remove or reduce these improvements in our setback regulations without giving these changes an opportunity to work for the benefit of our community and the environment and without any compelling reason to make a change.

In their consultation notice the trustees state that the current LUB provisions for setbacks “require some adjustments to the Land Use Bylaw wording in order to become more broadly accepted by South Pender’s community at large.” Trustees do not identify any particular problem with the current LUB provisions for setbacks and do not provide any reasons to show that change to the current setback regulations is “required”.

The “framework” trustees propose to make changes/amendments to our current setback regulations invites community members to provide their own “potential reasons and goals” to support changes/amendments and to “spell out details of how the reasons and goals are connected to the amendments and how exactly the amendments address the specific goals.”

It appears trustees are putting the onus on community members to identify the “reasons and goals” for changing the current setback provisions. In our view, if trustees believe changes to the current setback provisions are “required”, the onus should be on the trustees to identify the reasons they believe the changes are required.

There should be no onus on community members to identify “goals” for making changes to the current setback regulations. Our OCP identifies the goals that provide the basis for our LUB and guides any changes to our LUB. Trust Policy 5.4.1 requires that every bylaw passed and action taken by the LTC has to be consistent with the OCP.

Our key OCP goals can be summarized as follows:

- To maintain the island’s rural character to support a sense of privacy and tranquility (2.2.1),
- To protect the natural features and biological diversity of the island (2.2.2),
- To protect the archaeological and historic features of the Island’s cultural settlement (2.2.3)
- To ensure land use, development, and associated servicing are compatible with the rural island character and that their growth is gradual and sustainable (2.2.4), and
- To support the reduction of greenhouse gas emissions (2.2.7).

In our view, any objective comparison of the previous LUB setback provisions and our current setback provisions will show that the current setback provisions more fully comply with our OCP goals. If the trustees feel differently, the onus is on them to explain to the community why they believe this is the case. The onus is also on the trustees to explain how any proposed change to the current setback provisions would more closely adhere to the OCP goals which they are obligated to comply with in any changes to the LUB.

Setbacks from the sea

We view the increased setback from the natural boundary of the sea as a very positive change. It is well established that the coastline zone contains some of the most sensitive ecosystems in the trust area.¹ South Pender’s shoreline ecosystems are under threat from habitat loss and fragmentation, climate change and unsustainable use. The additional 25 feet of setback in this zone will help conserve sensitive ecosystems and support ecological integrity. It will also assist in the mitigation of climate change impacts.

¹ OCP section 5.1.3 states: “...portions of the coastline contain natural features and habitat of high vulnerability to disturbance and important ecological value, eg, coastal cliff ecosystems.

As noted in the Islands Trust Shoreline Protection Model Bylaw Report² (2021):

Most jurisdictions now require setbacks on lands within 15 metres upland of the highest high tide mark of the ocean, or the top of bank, whichever is the larger. This is consistent with the Provincial Guidelines as part of its strategy to address climate change impacts. (p.22)

Section 5.2 of our OCP encourages protection of Heritage Cultural Resources including archaeological evidence of First Nation use. It is well established that the coastline holds areas of cultural importance to the W̱SÁNEĆ First Nation and to Coast Salish People whose presence on S,DÁYES/Pender dates back more than 5,000 years.³

In 2019, Islands Trust Council passed a Reconciliation Declaration and committed to a Reconciliation Action Plan as per the Truth and Reconciliation Commission (TRC) Calls to Action. Islands Trust is committed to building meaningful relationships with First Nations in the Trust Area, protecting cultural heritage, and upholding the principles embodied within the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), the BC Declaration on the Rights of Indigenous Peoples Act (DRIPA). The protection of the coastline region with the 50ft. setback provides important protection.

South Pender's coastline is recognized as one of the locations where the endangered and federally protected Sharp-tailed Snake has been identified. The Pender Island Conservancy received a \$50,000 grant toward the acquisition of Brooks Point Regional Park for the protection of the coastline habitat of this endangered specie. PICA is currently undertaking habitat restoration research at the park for protection of the Sharped-tailed Snake. The increase to 50 ft. for the shoreline setback provides a measure of protection for the Sharp-tailed Snake which can be found on rocky cliffs and South facing slopes.

Side lot line setbacks

The increase in the lot line setback from 10 to 20 ft. supports the OCP goal of maintaining the Island's rural character and supports a sense of privacy and tranquility identified in the OCP. OCP policy 2.4.1 requires trustees to consider the effects of any proposal on the compatibility, suitability and effects on adjacent development of any objectionable disturbance including noise, lighting, etc. OCP policy 3.1.1 identifies the residential objective of maintaining a living environment that is "...free from disturbance and the sense of overcrowding."

A key factor in the new setback provision is that any legally existing dwelling that is currently within the 20 foot setback is deemed legal under the LUB and can be replaced in the same location in the event that replacement is required. The availability of a variance application provides an opportunity to address exceptional circumstances.

² Found online at: <https://islandstrust.bc.ca/document/shoreline-protection-model-bylaw-report-march-2021>

³ The Pender Canal Excavations and the Development of Coast Salish Culture", found online at: [ebarsky%2C+1465-6042-1-CE.pdf](#)

Conclusion

We strongly support the current LUB setback provisions and urge the trustees to retain the 50 ft. setback in subsection 3.3(3) and the 20 ft. setback in 5.1(8).

Thank you for considering our views.

Paul Petrie
Monica Petrie

January 18, 2024

To: South Pender Island Trustees

From: Susan Taylor

██████████████████
South Pender Island

Re: LUB and Setbacks

I support the change in the setback from the sea from 25 to 50 feet and the change in the side setbacks from 10 to 20 feet.

The former contributes to the protection of our coastline which is visibly under stress and eroding due to severe weather events caused by climate change.

The latter supports privacy and freedom from disturbance and contributes to the retention of our rural island character.

I see no reason to justify changes to the current setbacks and am opposed to any move by the trustees to dilute the setback improvements.

Please include my comments in your upcoming workshops on setbacks.

Thank you.

Susan Taylor

From: Christian Engelstoft <[REDACTED]>
Sent: Saturday, January 20, 2024 1:11 PM
To: South Pender Island Local Trust Committee <SouthPenderLTC@islandstrust.bc.ca>
Cc: SouthInfo <SouthInfo@islandstrust.bc.ca>
Subject: Discussion about revision of the LUB setbacks

Dear Trustee Evans and Falk

I want to express my contentment with the current LUB setbacks. In my opinion the current setbacks in question protect the foreshore environment (generally quite fragile), native heritage, and are in line with our OCP.

I recall trustee Falk's appeal/requirement that proposed changes of any sorts need to be associated with fact based reasons for the change. If this applies to the residents, like myself, it must also apply to the the elected trustees. Since I am not suggesting any changes the onus must be on the trustees to post their reasons for the proposed changes. This note should indicate the facts of how the change will better support our OCP than the current LUB. This note should include information that can be used to assess how the coastline environment and native heritage will be better protected by the suggested changes.

I am looking forward to you reply

Respectfully
Christian Engelstoft
[REDACTED] [REDACTED]

From: Dorset Norwich-Young <[REDACTED]>
Sent: Saturday, January 20, 2024 11:56 AM
To: SouthInfo <SouthInfo@islandstrust.bc.ca>; South Pender Island Local Trust Committee
<SouthPenderLTC@islandstrust.bc.ca>
Subject: Land Use Bylaw

LUB setbacks

Please submit this letter if possible today Jan, 20th or if it's too late the meeting on Jan, 27th with trustee Falck

South Pender Island as many rural communities in the islands of the islands trust are under pressure to expand. As residents of this beautiful serene community we must protect the very reasons why we initially moved here. If we wanted an urban setting we would have lived in Victoria, Vancouver or Toronto but instead we chose South Pender. We must resist the expansion mentality that will inevitably strip this island of its natural beauty and resources . Finding a balance between having a healthy robust community surrounded by natural beauty can be challenging . This is why the existing OCP is important, especially " to ensure land use, development and associated servicing are compatible with the rural island character and that their growth is gradual and sustainable"

We believe the minimum 50 ft set back for the buildings from the natural boundary of the sea is an improvement on the former 25 ft. and acknowledge the wisdom of this decision with respect to environmental impacts on sensitive ecosystems , global warming & rising sea levels.

We believe the present minimum setback of dwellings from the side lot lines of 20 ft is necessary to preserve privacy and tranquility.

We strongly support the current LUB setback provisions and urge the trustees to retain the 50ft. setback in subsection 3.3(3) and the 20 ft. setback in 5.1(8)

Dr. Mark G.Wensley and
Dorset Norwich Sfca. Afc.

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

From: Leathersmithe <[REDACTED]>
Sent: Saturday, January 20, 2024 11:28 AM
To: South Pender Island Local Trust Committee <SouthPenderLTC@islandstrust.bc.ca>; SouthInfo <SouthInfo@islandstrust.bc.ca>
Subject: Land Use Bylaw No. 114

I see no reason for changes to be made to this bylaw.

I oppose revision to Land Use Bylaw No. 114.

Davy Joel Rippner [REDACTED]

From: Faye Mogensen <[REDACTED]>
Sent: Saturday, January 20, 2024 2:17 PM
To: SouthInfo
Subject: South Pender Community Consultations
Attachments: Support of Bylaw 122 Letter (2).pdf

Dear Trustee Evans and Trustee Falck,

I am writing with regard to the meetings scheduled to discuss the South Pender land use bylaw.

When we moved here just over 3 years ago, I was thrilled to read the South Pender OCP goals that, in brief, are to preserve and protect the rural character and to take the impacts of climate change into consideration. I fully supported the changes to Bylaw 114 when they were made, and continue to do so. From my perspective, during the multiple community consultations that were held to discuss the changes, many compromises were made. It seems very unfortunate and a waste of time to be reopening the conversation, at least until the bylaw has been more thoroughly tested. There are many more pressing issues, not least of which is to come up with better practices for blasting permits.

Even in our short time here, we are noticing a slow but sure process of tree removal as well of shoreline erosion. We consciously decided not to purchase a different property we viewed when we learned that part of it was subject to intrusion by king tides, which are predicted to become the normal high tides in the not too distant future. With this in mind, I think it is extremely sensible to increase the ocean-front setback. Vancouver is proposing several measures to adapt to the "new normal" that is fast approaching. You can read their approach [here](#). While I have provided this link (and a letter that I describe further down), overall I feel that the onus should not be on the public, but rather on the Trustees to explain why the revised bylaw doesn't mesh with the OCP and other policy statements of the Islands Trust and, in general, why it is not a good idea.

In terms of house size, I would like to point out that the multigenerational house project that we are currently embarking upon was approved under the revised bylaw without the need for a variance. It will be home to six adults and a small number of children and we were able to design it in such a way as to comply with the 4000sq.ft. restriction imposed by the changes to the bylaw. We feel confident that it will provide plenty of space for us all, and would be happy to share our approach with anyone who is interested. This is to say that I feel that the house size restrictions are reasonable. Not only do smaller houses consume fewer resources both during the build and in maintaining them, they take up less green space - something highly and expressly valued in our OCP.

Further to this, I am attaching a letter written by Shauna Doll (a scientist working with Raincoast Conservation) and addressed to South Pender Island Local Trust Committee and Planning Staff in 2022. She provides a great deal of scientific information that supports the changes to Bylaw 114 that were implemented by the past council.

I look forward to your response.

Sincerely,
Faye Mogensen





To: South Pender Island Local Trust Committee and Planning Staff
% Islands Trust (Southern Office)
200 – 1627 Fort Street
Victoria, BC
V8R 1H8

Friday, July 22, 2022

From: Raincoast Conservation Foundation
% Shauna Doll, Gulf Islands Forest Project Coordinator
W̱SÁNEĆ Territory
P.O. Box 2429
Sidney, BC V8L 3Y3

RE: Support for Bylaw 122

To South Pender Local Trustees, Steve Wright and Cameron Thorn, Chair, Peter Luckham, and
whomever else it may concern,

I am writing on behalf of Raincoast Conservation Foundation in support of proposed Bylaw No. 122.

When Great Northern Management (GNM) was contracted in the spring of 2021 to conduct a governance, management, and operations review of the Island Trust (IT), it was found that Land use planning consumes nearly 75% of the IT annual budget. Though these activities directly impact virtually every resident of the Trust Area, **“there is no comprehensive analysis of the Trust Area’s capacity to sustain current population and activity, or its ability to accommodate more growth and development, especially in light of climate change and other considerations.** These include adequacy of water supply, rising sea levels, wildfire risks, threats to ecosystems, stringent environmental protection regulations, the increasing cost of public services” (emphasis added, p. 27)¹. In the past year alone, BC has experienced [catastrophic wildfires](#), [flood-induced landslides](#), and an unprecedented heat dome that altogether [claimed the lives of nearly 600 people](#). Climate change consequences are only expected to increase in frequency and severity into the future.

In 2015, the Islands Trust Council (ITC) made [a declaration](#) stating that “all residents in the Trust Area have a *right* to live in a healthy environment.” Four years later, in 2019 the ITC [declared a climate change emergency](#), **committing to take urgent and fair climate action**. More recently, the [ITC declared 2022-2023 the Year of the Salish Sea](#), an initiative that calls on leaders and the public to take action to

¹ Great Northern Management Consultants. (2022). Islands Trust Governance Review.
<https://islandstrust.bc.ca/document/governance-review-final-report-february-2022/>

better protect the ecosystems characteristic to the Salish Sea region. Despite these declarations, and repeated attempts by individual Local Trustees to refocus efforts on the ITC's *preserve and protect* object, little action has been taken to operationalize these intentions on the ground. According to the Intergovernmental Panel on Climate Change (IPCC), [as reported by the BBC](#), "even if all the policies to cut carbon that governments had put in place by the end of 2020 were fully implemented, the world will still warm by 3.2°C this century... [yet] some government and business leaders are saying one thing, but doing another... and the results will be catastrophic."

Regardless of each individual Trustee's interpretation of the *preserve and protect* object, science-based assessments have shown that 1) globally, the climate is warming at an unprecedented rate and 2) despite being among the most productive ecosystems in the province, Coastal Douglas-fir forests and associated habitats characteristic of the Gulf Islands are among the least protected ecosystems in BC. The latter point has been substantiated by the IT's own scientists working within the Islands Trust Conservancy, along with scientists at the University of Victoria, the University of British Columbia, the Coastal Douglas-fir Conservation Partnership, the Garry Oak Ecosystems Recovery Team, numerous other forest scientists, and conservation organizations.

Further, [according to Dr. Rachel Holt](#), ecologist and co-author of the report, [Old growth: Last stand for biodiversity](#):

"The CDF ecosystem is on the very far end of the highest risk ecosystems in BC. Not only are there no big forested ecosystems left, there is practically no old growth at all remaining in CDF ecosystems, certainly less than 1% from valley floor to hilltop. This has been exacerbated by a high proportion of private land that has been completely converted to non-forested use. What is left in the CDF is individual trees--we are down to individual members of an original population. This puts the CDF at the very top of the list in the province for being at high risk."

These ecosystems are unraveling from former levels of diversity and abundance. The Trust Area represents approximately 30% of the CDF's entire global extent, and the IT has a legal duty to safeguard the forests and associated ecosystems that remain, not only for residents of the Trust, but for the entire population of BC.

Yet, according to the [One Island, One Earth](#) study, recently conducted by the Galiano Conservancy Association (GCA), per capita emissions on Galiano Island are twice the global average (8.4 tonnes/CO₂/year)². Further, if everyone on the planet had a lifestyle similar to those living on Galiano, 4.3 earths would be needed to sustain the human population. The outcomes of this study are a strong proxy for other islands within the Trust Area. It is reasonable to assume the climate and ecological impacts of neighboring communities are similar to those of Galiano. In fact, it is likely that the GAC's findings are conservative for islands like North Pender, Salt Spring, and Gabriola, all of which currently have a higher rate of land conversion and development compared to Galiano.

² Galiano Conservancy Association. (2022). One Island, One Earth: An ecological footprint and fingerprint for Galiano Island. https://galianoconservancy.ca/wp-content/uploads/2022/06/EF_Final_Report.pdf

While land conversion is a significant driver of ecological degradation and subsequent biodiversity loss on the Gulf Islands, climate change is placing additional unprecedented pressures on food security and living conditions for both human and non-human species. According to William Rees, originator and co-developer of ecological footprint analysis, climate change is just one of many symptoms of “ecological overshoot” or the result of “human enterprise far exceeding the carrying capacity of the planet” (Reese, W., 2021)³. A drastic reduction of individual ecological footprints is needed to address climate change and the myriad other co-symptoms of overshoot.

The proposal made in Bylaw 122 to limit the footprint of new construction on South Pender Island (SPI) is an attempt to operationalize the many climate-focused declarations made by the ITC over the past decade. It aligns with the SPI Official Community Plan (OCP)⁴, which states that the community is committed to “preserve the rural nature and natural diversity of [the] island environment” (p.5), including its *undisturbed, natural* and varied landscapes.

Pender Islands Context

Intense development pressure, coupled with a large influx of investment, has meant that financial constraints are no longer barriers to land development or house construction on Pender Islands. The result is a trend toward larger house sizes, heavily modified properties, the loss of rural and natural character across the landscape, and a loss of the quality of life objectives that the SPI OCP has identified as important. This changing landscape has social, economic, aesthetic, climate, and ecological consequences that not only affect residents of Pender Islands, but the wider BC population, and visitors to this region.

Increased individual house size means increased resource use, more land disturbance, and increased impermeable groundcover. This land conversion means more stormwater runoff, increased soil compaction, disruption of local water tables, and increased habitat fragmentation. Other impacts include increased construction costs and energy consumption. Despite these impacts, homes in North America have been ballooning in size. For example, in new single-family houses constructed in the United States, living area per family member has increased 3 fold since the 1950s⁵. Similarly, according to a [2017 survey](#), the average home size in Canada has doubled since 1975. As of 2018, BC had some of the largest detached single family dwellings in the country, [according to Statistics Canada](#).

³ Raincoast Conservation Foundation. (2021, Nov 29). *Our ecological footprint with Dr. William Rees, Professor Emeritus, UBC*. [Video]. YouTube. <https://youtu.be/l73oIO8oG58>

⁴ South Pender Island Official Community Plan Bylaw No. 107. (2011), S. 2.1. <https://islandstrust.bc.ca/wp-content/uploads/2020/05/SPbylaw-no-107-ocp-consolidated-2019-05-08.pdf>

⁵ Wilson, A. & Wilson, J. (2005). Small is beautiful: U.S. House size, resource use, and the environment. *Journal of Industrial Ecology*, 9 (1), 277-283. DOI: 10.1162/1088198054084680.

Rationale for Bylaw 122

Social and Economic considerations

- Larger houses tend to:
 - Raise property values and purchase costs, making provision of accessible (i.e. affordable) housing more challenging. Building oversized, unaffordable homes contributes to the housing crisis.
 - According to the U.S. National Association of Home Builders (NAHB,) the rising [cost of building materials](#) is harming housing affordability.
 - Require more extensive trades than can be supplied by the local community putting added pressure on an already overburdened ferry system.
 - Occupy local tradespeople for longer periods of time, resulting in community members enlisting off-island services at a greater expense to themselves, with lower benefit to the wider community as off-island workers spend their time and paychecks in communities closer to their own homes.

Aesthetic objectives/Form and Character considerations

- Larger houses tend to be more imposing on the landscape, creating a greater visual impact. Buildings should be unobtrusive in terms of their impact to adjacent homes, private and public properties, and the waterfront.
 - Waterfront homes have a special obligation to meet visual shoreline objectives. This is consistent with both the IT object, and SPI's OCP, which have stated goals for protection of natural views, and the maintenance of residential privacy.
- Residential buildings should reflect the outstanding natural attributes and existing rural characteristics of South Pender Island, for both residents and visitors.
- Buildings should be constructed with consideration of the natural vegetation and topography of the land where they are situated. They should be harmonized with the scale and character of the surrounding environment.
- The Form and Character component of Bylaw 122 should address the visual presence of a building within the landscape. While not prescriptive, the purpose of including Form and Character is to guide the appearance of buildings and their relationship to the public realm and surrounding environment.

Climate and Ecological considerations

- Smaller houses generally use and require less energy and materials and have a lower ecological footprint at a site, regional, and global level.
 - The NAHB⁵ estimates the materials used in building a 2,082 ft² (193-m²) single-family house include :
 - 13,837 board-feet of framing lumber,
 - 11,550 ft² (1,073 m²) of sheathing, and

- 16.92 tons (15,350 kg) of concrete.
- NAHB director of Research states that building a 5,000 ft² house will consume three times as much material as a 2,082 ft² house, even though its square footage is only 2.4 times as large. This is because larger houses tend to have taller ceilings and more features, and thus consume proportionally more materials⁵.
- Larger homes have a bigger footprint, resulting in a greater energy (e.g. heating, cooling), electricity and water demands.
 - Recommendation five of GCA's *One Island, One Earth* report is to “reduce the overall footprint of human infrastructure”². (p. 148). This recommendation is in accordance with the British Columbia Institute of Technology's “*One Planet Scenario*” which asserts that an 85% reduction in residential developed area is needed to reduce ecological overshoot (GAC, 2022, p. 148). While this is a challenging recommendation considering the cross-Canada housing crisis, it is essential that the provision of housing does not contribute to further ecological fragmentation, carbon release, water stress, and biodiversity loss. One way this is achievable is to reduce the spatial footprint of human settlements.
- Loss of local carbon storage and carbon release.
 - Douglas-fir forests and above ground vegetation in BC can hold 60% of stored carbon and soils can hold up to 38%. Non-selective tree removal (clear cutting) can cause an immediate release of aboveground carbon, as well as up to 30% of the carbon stored in the forest floor pool⁶.
 - Up to 60% of carbon stored in the forest floor is released when machines arrive to clear and prepare a site. The greater the area disturbed, the more carbon is lost from the removed trees and the disturbed soil⁶.
 - The *One Island, One Earth* assessment found that Galiano Islands' ecosystems, and CDF ecosystems of the whole region, are 36% more productive than the average terrestrial ecosystem on the planet². Thus, the CDF biogeoclimatic zone is not only the smallest, most imperiled, and most biodiverse in BC, but also one of the most productive.
- Larger homes tend to:
 - have more vehicles, more parking areas, and more impervious surfaces, resulting in more loss of natural habitats and landscapes,
 - have bigger sewage disposal systems, requiring a greater area of soil and habitat disturbance and increased tree removal, and
 - have higher water demands.
- Smaller homes are generally easier to fit into the natural landscape requiring less disturbance and alteration to the natural landscape

⁶ Simard, S.W., Roach, W.J., Defrenne, C.E., Pickles, B.J., Snyder, E.N., Robinson, A., & Lavkulich, L.M. (2020). Harvest intensity effects on carbon stocks and biodiversity are dependent on regional climate in Douglas-fir forests of British Columbia. *Frontiers in Forests and Global Change*, 88 (3), 1-20. DOI: 10.3389/ffgc.2020.00088.

Example of implemented housing size limit bylaw

In 2013, the community of Chilmark in Martha's Vineyard [passed a bylaw](#) limiting house size to 3,500 ft² on properties less than 3 acres. Property owners aiming to build larger dwellings on properties greater than 3 acres have been required to go through the planning review board to ensure that social and environmental impacts are addressed, minimized and mitigated.

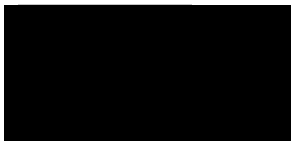
The bylaw passed by overwhelming majority after a long debate by community members, with one longtime resident of Chilmark reflecting on when his family first purchased property in the small community 50 years prior: "At the time we were woken up at dawn by a chorus of bird noises that were so seriously strong you couldn't sleep any longer," he recalled. "This is the type of thing that brought people [here]. . . if you want suburbia, what in the world are you doing here?"⁷

Closing statement

The ecological value, natural beauty, and community character of the Gulf Islands and surrounding waters has long been recognized by government and community. These very features are likely what has drawn most current residents to live within the Islands Trust Area. This is an opportunity to make good on the formal declarations and verbal promises made by the IT over the past decade by reducing the ecological footprint of SPI residents and providing an example to other Gulf Islands communities. We urge the SPI LTC and community members to lead in a positive way, considering climate change, as well as ecosystem and habitat loss, while maintaining rural character as mandated by the Trust Object. Proposed Bylaw 122 addresses a concern for a trend that is out of sync not only with the current objectives and goals of the SPI OCP, but also with the *preserve and protect* object of the IT.

"...island communities are not "islands unto themselves." They must seek connections through and across the Salish Sea waters - and beyond - to effect meaningful change" (Galiano Conservancy Association, 2022, p. 3)².

Sincerely,



Shauna Doll
Gulf Islands Forest Project Coordinator
Raincoast Conservation Foundation

⁷ Tumin, R. (2013, Apr 24). Chilmark overwhelmingly passes bylaw to limit home size. *The Vineyard Gazette*. <https://vineyardgazette.com/news/2013/04/24/chilmark-overwhelmingly-passes-bylaw-limit-home-size>

Addendum: Setbacks

As a complement to limiting floor size of private dwellings, it is recommended that 30 m setbacks be applied to the marine shoreline.

The rationale for the South Pender proposed 30-metre septic setback includes the desire to avoid contamination of nearby water bodies and domestic water supplies. The same should hold true for the marine foreshore. The marine foreshore is an area historically used by First Nations for food gathering, and these Nations are increasingly reclaiming their connections to food sources within their ancestral Territories. Marine plants and animal species also require healthy shorelines free from septic seepage. A 30-metre setback on the distance to the marine shorelines must be included.

Suggested amendment in red to Section 3.3 (4) of current [SPI Bylaw No. 114](#):

To prevent fouling of the foreshore *and impact on fish, shellfish and marine ecosystems*, an underground sewage disposal system, including all septic tanks, absorption fields and related appurtenances shall not be sited within 30 metres (98 feet) of *the natural boundary of the sea*, a watercourse, drilled well or source of domestic water supply.

SOUTH PENDER ISLAND TRUSTEES

January 20, 2024

LUB SETBACK REVIEW

The trustees are reviewing Land Use Bylaw 114 regarding setbacks – including two new changes recently enacted in the bylaws to increase building setbacks from the ocean boundary from 25 to 50 feet and side yard setbacks from 10 to 20 feet.

I would like to express my support for leaving these setbacks as they presently are adopted under the Official Community Plan and feel they are entirely consistent with the overall objective of the plan to preserve and protect the rural character of the island.

Having a 50 foot setback from the ocean boundary helps protect the fragile ecosystem along the oceanfront, protects indigenous areas from disturbance, maintains the rural character of our Island, and helps address future climate change impacts.

Having a 20 foot sideline setback helps preserve the privacy between neighbours an important part of living in a rural environment, reducing noise, light and other disturbances from building too close to each other.

The present OCP also specifies that any existing legal structure is deemed legal under the new provisions and can be replaced in the same location if required. That will mean there is no hardship for any existing homeowners.

The OCP also allows anyone planning new buildings to apply for variance in special circumstances. This provides the flexibility needed when required and allows neighbours and the community in general to comment on the appropriateness of any variance proposal.

In all we feel the existing bylaw is appropriately worded, presents no hardship to any existing property owner, and provides clear and useful guidelines for all new construction. We fully support the bylaws as presently enacted.

Robert Dill and Karen Mani Lang



John Kelly, MRM

South Pender Island

January 20, 2024

Dear Trustees,

The purpose of this letter is to participate in the ongoing discussion on potential changes to South Pender Local Trust Area Bylaw 114, specifically the Local Trust Area Minor Land Use Bylaw (LUB) Amendments Project. My hope is to add information from the perspective of a citizen who is a qualified Resource Manager, including a scoping level overview of relevant research on the specific topic of how house size relates to carbon footprint and carbon budget implications.

At public meetings of the Local Trust Committee, I have listened to numerous comments stating there is a lack of evidence that reducing permitted house size achieves desirable community goals. As a resource manager, I have suspected that there is a link between buildings and carbon footprint; if so, there may well be worthy objectives. To do my part to fill in the evidence gap I have examined some of the current academic research on this topic and am pleased to present my results in this letter.

My personal questions related to this issue were: Is carbon footprint of new buildings sufficiently important that it should be a preoccupation of the community as we look at our land use plan? Is there a relationship between size of building and carbon footprint such that limiting house size has positive benefits? To answer these to my own satisfaction I did some basic web searches in the academic press and reviewed some of the prominent results. I then did a small amount of analysis to collate and compare some of the results. Rather than make a very long letter with all this information I have divided my submission into this letter that presents my recommendation to the Trustees and project participants, and an annex with bibliography that outlines my research.

As I review in the annex, actions towards climate change mitigation are strategic priorities of the Islands Trust. The Islands Trust Strategic Plan includes a call to action for local trust areas to act on climate change within their land use bylaws. Furthermore, South Pender Island's Official Community Plan supports the provincial target of significantly reducing greenhouse gas emissions. It also directs the Local Trust Committee to promote reductions in greenhouse gas emissions in their decision making.

In harmony with this concept, one of the stated aims of the South Pender Island Trustees when Bylaw 114 was last amended was to respond to that call. Reduced house sizes were presented as a key action toward that end.

It was not difficult to uncover research findings confirming the important contributions of new dwelling construction to greenhouse gas emissions (in the research the commonly used terms for this are: carbon-dioxide-equivalent emissions and carbon footprint). Findings point to a direct link

between dwelling size and emissions. Some of the authors are equally clear, both in the academic and popular press, that house size is correlated to carbon footprint, enough to justify recommending all communities strive toward smaller house size.

The research I did also reacquainted me with the goals of the Islands Trust, the mandate of the Local Trust Committee and the South Pender Official Community Plan. I noted the priority on protection of the ecology and amenities of the Islands of the Trust area in the mission and mandate of the Islands Trust and in the 2018-2022 Strategic Plan. If the Local Trustees and the participants in this project propose amendments to Bylaw 114, I call on them to ensure that the amended bylaw leaves both the ecology and amenities of South Pender Island improved.

I have found the evidence I gathered in this process, even though it was at the scoping level of complexity, to be transformational in my own thinking on house size regulation. In contrast to previous statements at Local Trust Area meetings I am now supportive of restrictions on house size within our land use Bylaw. For expediency, in recognition of the vast amounts of time and effort already spent on this issue, **I am in favour of retaining the current house size restrictions as written in the 2022 amended bylaw 114.**

My personal conclusions aside, the most compelling arguments are provided by the research. I invite you to review the literature for yourselves and form your own conclusions. To this end I am providing the attached annex containing an overview of my journey and conclusions, and a bibliography of the research I perused.

Best Regards,

A handwritten signature in black ink, appearing to be 'John Kelly', with a stylized, looped flourish extending to the right.

John Kelly,
Master of Resource Management (SFU, 2015)

ANNEX 1. SCOPING LEVEL OVERVIEW OF RESEARCH RELATED TO CLIMATE CHANGE IMPACTS OF HOUSE SIZE

Prepared by: J.G. Kelly, MRM. January, 2024

Background

Changes to the South Pender Land Use Bylaw No. 114 were implemented in 2022 after approximately 15 information and consultation meetings. The amendments to Bylaw 114 included items related to the siting and size of housing, both becoming more restrictive. There were also provisions related to agricultural land, and protection for existing buildings or structures related to any changes induced by the amendment. The trustees at the time cited that the reasons for implementing changes included conformity with the Agricultural Land Commission, alignment with the Island trust strategic plan goals (Island Trust Strategic Plan 2018-2022), and consistency with the values of the citizens of South Pender Island as articulated in our official community plan.

The Island Trust Strategic Plan 2018-2022 includes a call to action relevant to the bylaw changes that was cited by Trustee Wright as motivational towards introducing reduced dwelling sizes:

Strategy 11: “Amend Official Community Plans and land use bylaws to foster climate change resilience, including measures to protect Coastal Douglas fir, foreshore and nearshore environments and groundwater.”

The Islands Trust’s object and guiding principles as articulated in the Islands Trust Policy Statement Consolidated - April, 2003, include principles that clearly set out the priority of environmental integrity within the Islands Trust scope of work:

“The primary responsibility of the Islands Trust Council is to provide leadership for the preservation, protection and stewardship of the amenities, environment and resources of the Trust Area.”

“When making decisions and exercising judgment, Trust Council will place priority on preserving and protecting the integrity of the environment and amenities in the Trust Area.”

The South Pender Island Official Community Plan includes a goal and a policy supporting reduction in greenhouse gas emissions:

South Pender Island OCP Goal 2.2.7:

“To support the provincial target of reducing greenhouse gas emissions by 33% by 2020 from 2007 levels.”

South Pender Island OCP General Policies 2.4.4:

“In its decision-making, the Local Trust Committee will ensure that land use planning and development promote reductions in greenhouse gas emissions, support efforts to adapt to climate change impacts, and recognize the role of existing rural and natural areas in the absorption of carbon.”

The current South Pender Local Trustees, elected after the passage of the amending bylaw, have indicated a desire to rescind its changes or amend any or all of its provisions and the current project is the result. Their stance has been supported by many voices, both in written submission to the Local Trust Committee and at public hearings. House size restrictions, in particular, have been the topic of considerable discussion. One of the frequent contentions with the amendment’s reduction in permitted house size is that there is a lack of supportive evidence presented to date.

Motivations and approach

My motivation in this submission is to fill in some gaps in the discussion within the South Pender Island community about limiting house size, as enacted in the amendments to LTA Bylaw 114. Many voices have spoken of missing information on why the changes were needed. I agree that there has not been ample evidence presented to date about why reduction in permitted house size is a worthy goal of land use regulation. But as it turns out there is in fact a significant amount of research available and readily accessible through simple web searches. The information presented here is a summary of selected research that met my personal standards of quality, relevance and timeliness.

My approach was to search through academic literature to see current high priority research in quality journals that relate house size to carbon footprint and then to examine the conclusions and corollaries of the literature to see if there are relevant points that support or contradict the adoption of limits on house size within land use bylaws.

I have coded the findings in the following section with a number enclosed in square brackets. Each of these numbers indicates a specific numbered reference, as recorded in the References section of this document, where the information is drawn from.

What the literature reveals

Greenhouse gas emissions include a variety of different gases that are added to the atmosphere through human activity. These gases share the common property that they promote the retention of heat within the atmosphere such that the temperature of the planet increases. The main greenhouse gases are comprised of seven gases referred to as the “Kyoto gases” plus water vapour. [13] Each gas has a different global warming potential; when the amount of gas emitted is multiplied by its global warming potential, its carbon-dioxide-equivalent emission is the result. [13] In the context of this annex, carbon footprint is used as a proxy for carbon-dioxide-equivalent emission amount.

There is recently produced material in Resource Conservation, Engineering, and Applied Energy fields of study that relate buildings to carbon footprint. The body of work is sufficiently developed that aggregating summaries are beginning to appear where a group of authors present results based on a number of previous studies. One of these papers: *Embodied GHG emissions of buildings – The hidden challenge for effective climate change mitigation*, in the Journal Applied Energy, [6] summarizes 625 life cycle assessment case studies of the carbon footprint of buildings. I found this paper to be particularly useful.

Buildings accounted for 37% of global carbon-dioxide-equivalent emissions in 2020 [12]. This amount includes both emissions generated due to construction of a building which is called an embodied carbon footprint, and emissions due to the ongoing operation of the building over time. Construction of dwellings is by all accounts a major contributor to carbon-dioxide-equivalent emissions in the atmosphere and climate change. [6][3][1][8][9]

Embodied carbon footprint is of extra importance in calculating climate change impacts because the embodied carbon footprint is a sunk cost at time of construction. The non-embodied carbon footprint of operation of a dwelling, for instance heating with fossil fuel, can be modified over time, but the sunk cost of the embodied carbon cannot be recovered. [6] Embodied carbon footprint represents a significant and increasing share of the carbon footprint of residential buildings. [6] There is even evidence that high energy efficiency construction designed to mitigate overall carbon footprint increases the embodied quotient of a building in relative amount and can result in increase of total amount. [6] This means that the embedded carbon footprint of a house at time of construction is both important, and *increasingly* important as an issue in climate change mitigation. It is also important *now*.

Current life cycle estimates of embodied carbon-dioxide-equivalent emissions in new building construction range from approximately 0.17 to 1.0 tonnes of embodied emissions per square meter of dwelling space over a design lifespan of 50 years. [9] For a 1000 square foot house this would calculate to between 350 kg and 2150 kg annual carbon-dioxide-equivalent emissions.

Swiss and German estimates indicate that an annual per capita target of 1000 kg of carbon-dioxide-equivalent emissions by 2050 is required to meet the objective of keeping global warming below two degrees Celsius. Within this amount we can expect the budget of emissions related to our dwelling space to be about 360 kg carbon-dioxide-equivalent annually per person including both embodied and operational carbon footprint. [6]

Two recent papers (2023 and 2021) in the journal *Resources Conservation and Recycling* discuss the material intensity of new construction. Use of concrete in construction is a large component of the embodied and total carbon footprint of a dwelling over its life cycle [3]. There is a strong, nearly linear, correlation between building size and concrete use in residential structures across a wide variety of building types including single family wood constructed buildings. [3]

Regarding the concrete embodied carbon footprint of residential dwellings it is a significant factor if a dwelling includes a basement or not. Basements add considerably to the embodied carbon footprint of dwellings [2].

Overall, the literature was consistent, within the order of magnitude, in quantifying embodied carbon footprint and unanimous in situating this issue as a climate change priority. Concrete, steel, and aluminum are the main drivers of the footprint magnitude. [4]

Conclusion:

Climate change resilience actions within the Land Use Bylaw were requested by the Islands Trust Council within the Islands Trust Strategic Plan. Amendments to South Pender Local Trust Area Bylaw 114 that reduce permitted house size were the response of the Local Trust Committee in 2022. Without this action South Pender Island will not have done its part to further the strategic goals of the Island Trust on an issue that is also a top priority of provincial and national government and a worldwide preoccupation.

Embodied carbon footprint in new dwellings is strongly correlated to building size and that footprint is large enough to be a significant driver of climate change. Meeting an annual per capita target of 360 kg carbon-dioxide-equivalent for dwelling-related emissions seems to be a faint hope when compared to the actual carbon costs of construction, let alone operation of dwellings. In this light, reverting regulations in a land use bylaw from smaller permitted dwelling size to larger dwelling size does not make sense.

Confirming this perspective, one of the authors of research I reviewed stated in the popular press:

“Simply put, you should build as small as you can for what you need, and if possible, you should avoid having a basement,” professor Shoshanna Saxe, told U of T Engineering News.”

Shoshanna Saxe [7]

“People want to put solar panels on the roof or point out how they are using better insulation. Those are great, but it’s also really important to think about how much of a difference you can make by building something that is reasonably sized, using a reasonable amount of material.”

Shoshanna Saxe [5]

Another scholar speaking in the popular press, as well as within a publication, separately concurred with this clear direction:

“We need to also make houses more efficient (especially existing homes), and allow for smaller housing to be built/redeveloped!”

Peter Berril [10]

“Reducing the average size of new single-family housing and increasing the share of multifamily in new construction are two strategies that can reliably reduce material requirements and embodied emissions from housing stock growth. Both strategies would represent substantial departures from current trends, and would require policy changes to remove existing barriers and disincentives to multifamily and small single-family housing.”

Current research on the relationship of building size to carbon footprint is readily available and confirms that dwellings are a significant contributor to carbon-dioxide-equivalent emissions. Furthermore, the fact that building size is strongly correlated to those emissions offers the possibility that the blunt tool of house size restrictions within land use regulation can be effective in limiting them.

Limitations:

This is a very brief survey of readily available material on the topic of the relationship of carbon footprint to building size and not a literature review of this subject. Scholars will spend years on this specialty topic within resource management in order to provide professional opinions to decision makers. This annex and the work it shares is not provided by a subject matter expert and this is not a professional opinion.

I have included a list of references consulted in the preparation of this document and invite the Trustees and project participants to peruse them and form their own conclusions with the information they contain.

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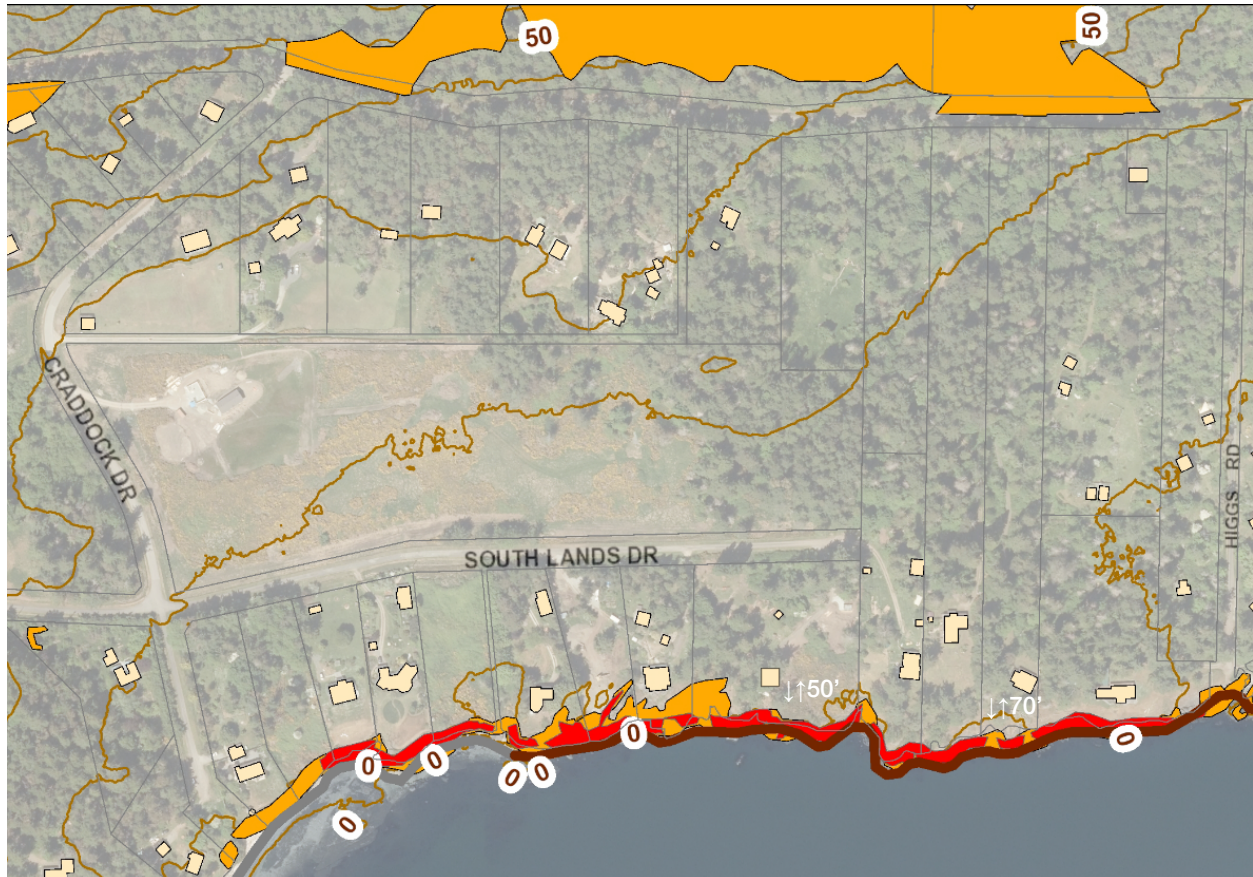
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NOTES on Setbacks to South Pender LTC

Zoning/planning criteria are largely meaningless abstract concepts to most people that only become comprehensible when they can see the resulting built forms in person. Take setbacks, for example. The limitations these impose are typically less consequential on larger lots where siting options are plentiful, and more so on narrower and/or smaller lots where there are fewer. However, despite these long having been codified in the zoning bylaw applicable at the time, it is evident in the built form of many parts of South Pender that existing conditions including the siting of dwellings on adjacent properties were carefully considered.

To illustrate, the figure below shows the property boundaries and the footprints of existing completed buildings for the area bounded by Craddock, Higgs, Gowlland and the sea:



The image was generated using the Islands Trust *MapIt* application. Areas highlighted in dark brown represent cliffs, grey low rock/boulder, red high risk steep slopes, and orange moderate risk steep slopes. The elevational contours are shown at 10m/33' intervals.

The way the building footprints are clustered suggests topography, solar orientation, tree cover, existing clearings, exposure to the prevailing weather, and views to the sea were likely all factors considered. Anecdotally, many long-term residents have said discussion with their neighbours figured prominently in where they decided to build. Primarily this was to avoid blocking their views, but also to derive whatever benefit they could from the wisdom their neighbours had gained about siting from their own experience of building.

Siting of the dwellings on the waterfront properties in the image is particularly revealing. Based on inference from properties where the frontage setbacks are known (shown in white), with a couple of exceptions the primary buildings on these are sited at least 15m/50' from the natural boundary of the ocean. Some of the setbacks are as far back as 23m/75' to 30.5m/100', despite the prior codified requirement for a 7.6m/25' frontage setback.

Viewshed preservation was part of this, but the shoreline below many of these high bank properties is comprised of large boulders and rock slabs that have sheared off the cliff face. Clearly the cliff face is not static and will continue to evolve due to erosive forces as well as potential seismic activity given the location in an active earthquake zone. Depending on one's risk tolerance and the geology of the particular property, building further back no doubt seemed like the pragmatic thing to do. However, speaking from the personal experience of someone living in one of those properties where the setback is 15m/50', it also confers the added benefit of lessening the full brunt of the winter storms, even if only slightly, but more so where stands of Garry oak and conifers were left to grow between the dwellings and shoreline.

A different but similar pattern of siting can be observed on the low bank properties fronting Drummond Bay. Although these are on average larger lots, again with a couple of exceptions the dwellings are located considerably farther back than the 7.6m/25' frontage setback the then zoning required:



Taken together, siting on the Southlands, Drummond Bay and the many other properties that have long had dwellings on them comprise the dominant built form on South Pender as it evolved from the middle of the last century onward. However, the factors that influenced siting in the past no longer have the same bearing going forward.

Improvements in building technology like rainscreen exterior walls and better windows provide for the creation of more durable, weatherproof buildings. For owners able and willing to pay for expensive site alterations like drilling and blasting, and/or for more costly structural components and foundation systems, dwellings can now more easily be sited and constructed where doing so before would have either been more challenging or prohibitive. Clearcutting, although frowned upon, is not unheard of. In addition, needs and wants change. Dwelling sizes have grown considerably larger. The idea of a 51 square metre/550 square foot Panabode with one bathroom being adequate for a family of four in the 1960's seems laughable today when current expectations are that each bedroom has its own ensuite bathroom in addition to at least one powder room. As well, consulting with the neighbours before building and the potential for moral suasion no longer seem to hold the same sway they once did.

The recent modifications to Bylaw 114 were made in recognition of these types of changes and to better align the zoning criteria with current thinking about climate change and the environmental impact of new construction. As they pertain to setbacks for new buildings and structures, the applicable modifications are shown in **red**:

PRIOR VERSION BYLAW 114	DISTANCE	CURRENT VERSION 114	DISTANCE
Front and rear yard setbacks	7.6m/25'	Front and rear yard setbacks	7.6m/25'
Interior sideyard setback	3.0m/10'	Interior sideyard setback	3.0m/10'
Exterior sideyard setback	4.5m/15'	Exterior sideyard setback	4.5m/15'
		Interior and exterior sideyard setback for any cottage or dwelling except for those legally constructed prior to adoption of Bylaw 122 changes	6.0m/20'
Natural boundary of any watercourse, lake, or body of freshwater	15.0m/50'	Natural boundary of any watercourse, lake, or body of freshwater	15.0m/50'
Natural boundary of any watercourse, lake, or body of freshwater used for potable water	30.0m/98'	Natural boundary of any watercourse, lake, or body of freshwater used for potable water	30.0m/98'
Natural boundary of the sea	7.6m/25'	Natural boundary of the sea except as noted below	15.0m/50'
		Natural boundary of the sea for buildings or structures legally constructed prior to adoption of Bylaw 122 changes	7.6m/25'

As demonstrated earlier, the front yard setback for the vast majority of the existing dwellings on South Pender is between 15.0m/50' and 30.5m/100' despite the prior zoning limitation being 7.6m/25'. Additionally, provisions were made for any legally constructed cottage, dwelling, building, or structure in place prior to adoption of the bylaw changes with a lesser setback remaining legally conforming. Given these considerations and (a) the moderate to steep slope areas considered to be ecological sensitive with their threatened flora and fauna, (b) empirical data and anecdotal experience substantiating the increasing negative impact of sea level rise and storm severity on shoreline erosion, (c) the data and research validating the negative long-term impact of foreshore "hardening" to mitigate the effects of (b), and (d) the broad acceptance of a minimum setback from the sea of 15.0m/50' in other coastal communities in the region, this change should have been viewed as an environmentally conscious thing to do. However, based on the comments made at the LTC meetings a number of residents do not support this change.

One can speculate on the reasons why this might be the case, but a few themes emerged from the many LTC meetings:

1. The changes are seen to cause dwellings that are set back less than 15.0m/50' from the front or rear yards (also applied to sideyard setbacks and dwelling size) to become "legally nonconforming".

2. The change is seen as more restrictive – to paraphrase, “before if I wanted I could build my dwelling 3.0m/10’ from the sideyard and 7.6m/25’ from the front or rear property line but now I can’t”.
3. Most of the subdivided properties have already been built on so any changes should only apply to those that are still vacant.

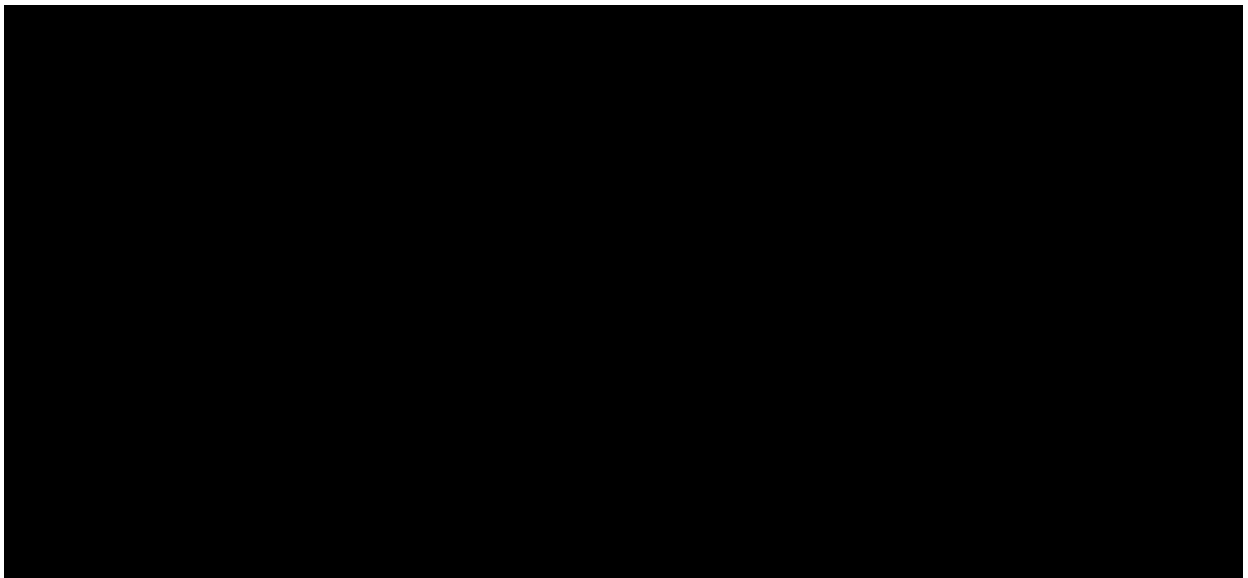
The concern about “legal nonconformity” persists despite professional opinions that the provisions made obviate this. The current LTC Trustees have discussed seeking a new legal opinion on this issue although the prior Trustees had already obtained one. Hopefully this course of action will finally put this concern to rest.

Although there appear to be very few dwellings constructed as close as 7.6m/25’ from their lot frontage – i.e., very few property owners have taken advantage of this – remaining focused on the reductive aspect likely reflects a failure to understand the broader community and environmental benefits of an increased setback distance. The ecological and environmental benefits are mentioned above. However, one of the most immediately perceptible is negating the impact this can have on adjacent properties and the built form of the broader community, particularly when the existing dwellings are nearly all set further back. Since there are so few local examples for people to have experienced, they will tend to underestimate this until a new dwelling sited 7.6m/25’ from the front yard goes up next to them. This is even more impactful in areas where the lots are narrower and/or there is a mature built environment.

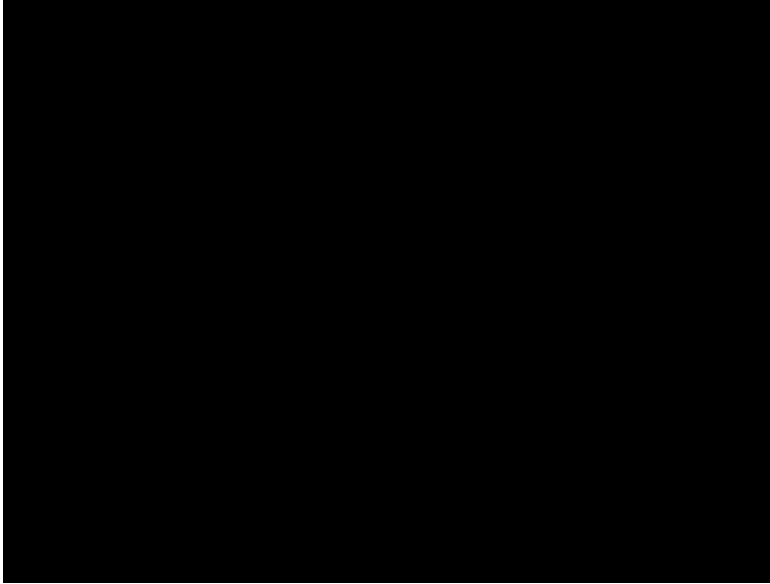
That said, there is a recently constructed dwelling on Southlands approved under the prior version of Bylaw 114 that can be used for illustrative purposes as it an actual building in the public realm. It was built to a 7.6m/25’ front yard setback and has a cantilevered deck that extends about 3.0m/10’ over the setback area. It appears to have at least a 3.0m/10’ setback from the west sideyard and a more generous one to the east.

In all due regard to the owner and whatever siting challenges their designer may have had to contend with (some four or more months of drilling, blasting, and scraping were involved to prepare the site), what was built was fully allowable under the existing zoning. Using it as an example is absolutely not intended to be taken as a passing of judgement on the suitability of the design, its aesthetics, or anything else other than it reflects a dwelling built to the allowable front and side yard setbacks that detractors of the changes to Bylaw 114 want to revert to. It is also not intended as an endorsement.

Viewed from the water:



Viewed from the east:



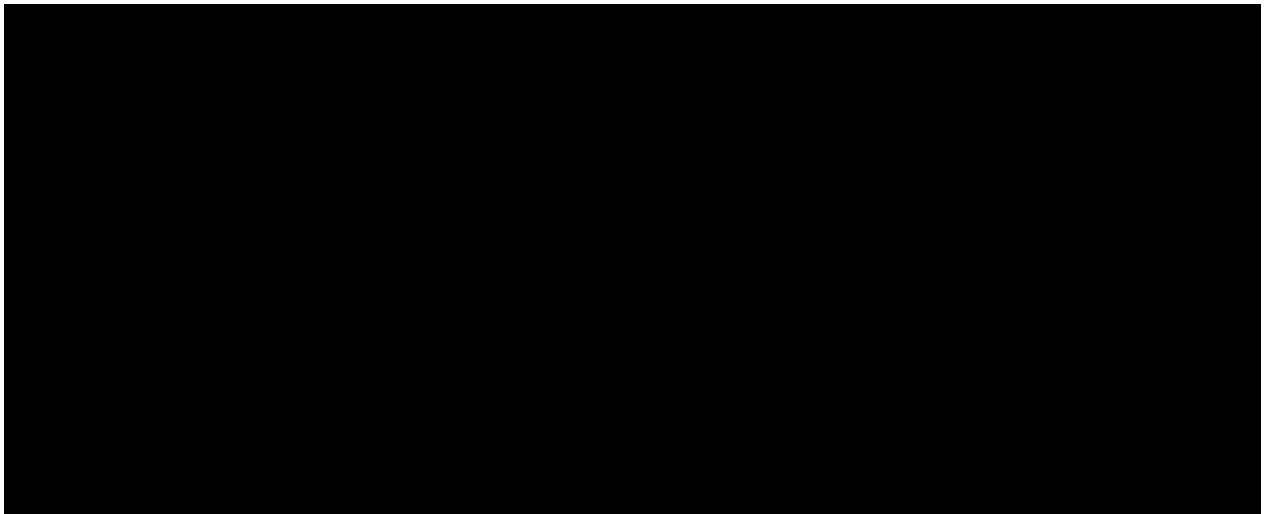
Approximating the footprint of the dwelling with its deck area and overlaying that onto the vacant properties along Southlands Drive would look somewhat like what is shown below (without altering the size of the footprints relative to the sizes of the property):



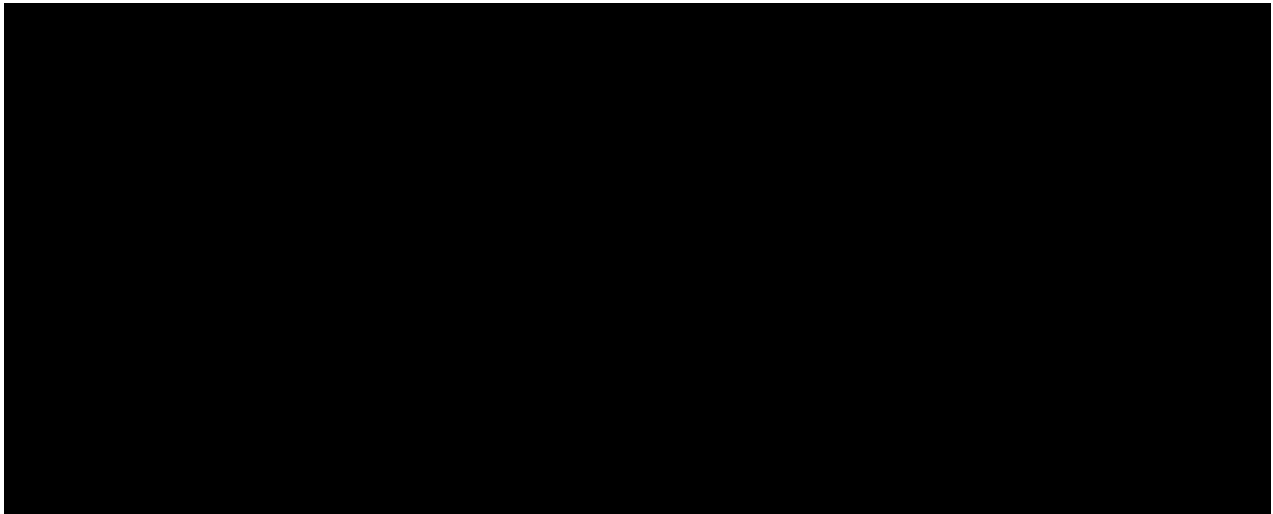
As a ‘thought experiment’, applying that same footprint to the three properties lying to the east of Southlands that have existing stands of Garry oak and conifers between the dwellings and the sea would look somewhat like this:



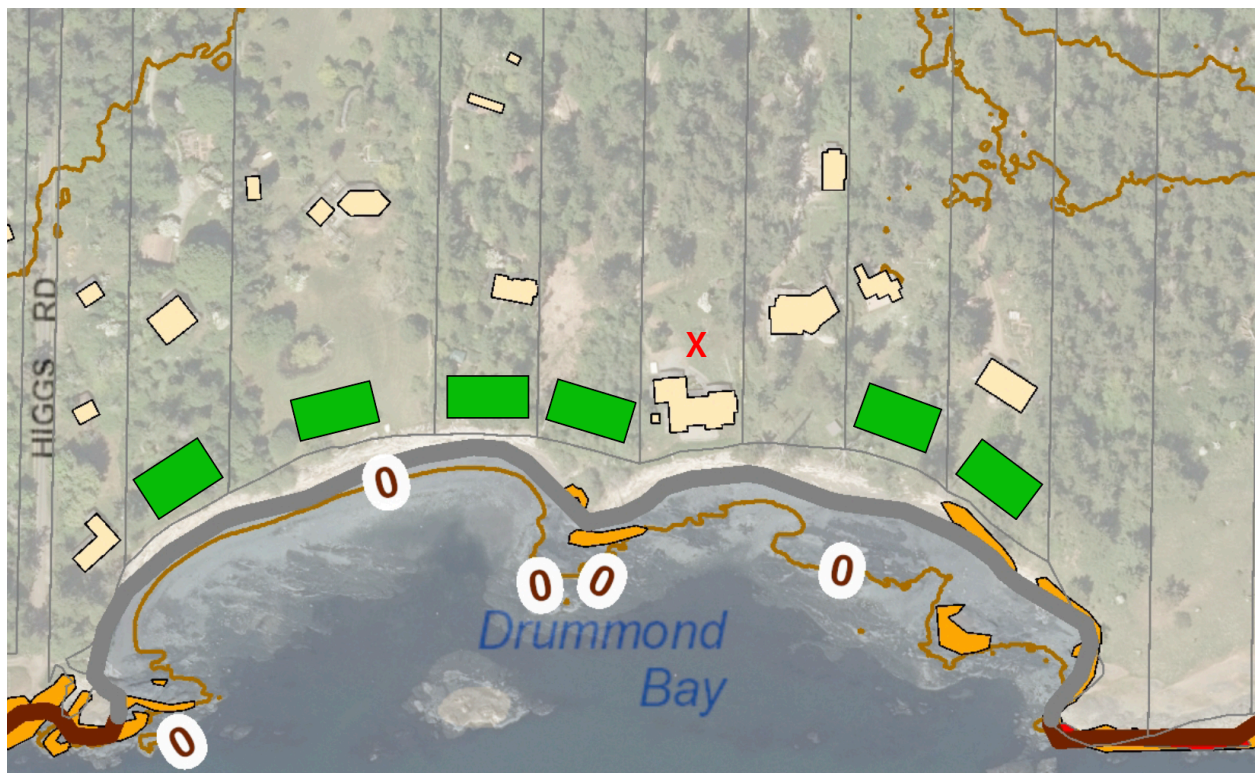
dwelling of approximately 167m²/1,800 ft² shown in the image below is sited roughly 7.9m/85' back from the small cove at the southwest corner of the property, but on the order of 12.0m/130' or more from the next closest portion of shoreline:



If a new dwelling were to be constructed to the maximum square footage (418m²/4,500ft² based on the lot area of 0.77ha/1.91 acres), maximum height (9.15m/30'), and minimum front yard setback (7.6m/25') allowable under the prior version of Bylaw 114, the resulting building envelope would approximate the red rectangle overlayed in the image that follows – but without a representation of 3.0m/10' of cantilevered deck out in front of it:



Continuing this exercise to the waterfront properties along Drummond Bay, the larger average lot size between 0.8ha/2ac and 1.59ha/4ac would permit a maximum dwelling size of 520m²/5,600ft² based on the prior zoning. For the sake of this exercise, 9932 Gowlland Point Road (marked with an “X”) is 1ha/2.48ac in area and according to BC Assessment Authority records the main floor of the dwelling is 250²/2,689ft². Assuming a two-story format and siting the footprints at approximately 7.6m/25’ from the natural boundary of the sea, the built form of the Drummond Bay fronting properties would become:



To address the other theme in support of reverting the recent modifications to Bylaw 114 to the prior version – namely, that most of the subdivided properties have already been built on so any changes should only apply to those that are still vacant – as commented previously, today’s needs, wants, building technology, and capacity/willingness to spend more is not the same as it was over the timeframe that created the dominant built form on South Pender. To paraphrase the local building inspector, “I grew up here and never thought I’d be working on 7,000 plus square foot homes, but here we are. Things change”.

Building costs of \$500 to \$700 per square foot for a custom dwelling are not atypical. Ask the builders, tradespeople, courier company owners, excavator operators, etc., and they will tell you they are running at maximum capacity because of all the new construction on both North and South Pender. New dwellings are of course being constructed on vacant properties, but existing dwellings considered subpar or that don't measure up to today's expectations are also being replaced or rebuilt to a different footprint. Long-term residents are selling to move closer to services that will support the later stages of their lives and younger affluent owners are replacing them.

The ownership turnover of the twenty-six subdivided lots lying between Craddock, Gowlland and Higgs demonstrates this and is likely comparable to other parts of South Pender. Over the last six years, the following properties have changed hands (in chronological order):

- [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
- Unknown sub-one acre lot on Gowlland

Ten of twenty-six properties have changed hands, or 39% of the total. Three of these already have newly constructed buildings on them, two of which were approved under the prior zoning bylaw.

Not to be alarmist but Albertans, Lower Mainlanders and others recreating and retiring to waterfront properties on Lake Okanagan resulted in cottages and small bungalows being replaced with these:



That image is what a community of large houses with setbacks that are similar to the prior version of Bylaw 114 could look like. Admittedly not three stories, but the dwelling footprints and two-story volumes could probably be dropped into the majority of the green rectangles shown on the maps

above. Also, admittedly, the development pressures on Lake Okanagan are not the same as on the Penders. However, it would be naïve to think that the construction of dwellings like these will never happen here because they already are and sadly, for some, it will not be until one goes up next door to them that they will come to that realization.

Built form change only happens all at once in new subdivisions or when groups of existing structures are demolished and their properties consolidated to make way for new, much larger ones. Think rows of houses being replaced with apartment buildings. Rather, more typically, it happens in small increments, one property at a time. In the words of Joni Mitchell, "...don't it always seem to go that you don't know what've you got 'til it's gone".

Rural character and the natural setting are frequently cited as what people value the most about South Pender. Reverting to the prior zoning parameters would be antithetical to those.

John Kuharchuk



From: Jane Perch <[REDACTED]>
Subject: Setbacks
Date: January 22, 2024 at 12:02:41 PM PST
To: SouthPenderLTC@islandstrust.bc.ca

Hello Trustees,

I attended many meetings and wrote letters regarding the changes made to our LUB by the previous trustees. I am very reluctant to have to write yet again.

With regard to the two topics you are reviewing - setbacks and maximum house size - I would like to suggest that you review the submissions and public hearing record with respect to these 2 topics that were submitted during the term of the last trustees and summarize the points made and add them to your deliberations.

As I am out of the country I do not have access to my records but I will note a few points with respect to setbacks. I question the need for the changes when most of the lots have already been built on and many properties have now become non conforming. I am still waiting for the legal opinion that you have requested on this. I know that my house insurance policy now references non conforming status and requires additional coverage.

In addition to setback requirements, my property and many others have covenants restricting building in these areas. I do not have access to the details of the covenanted area on my lot but it is a significant area. In addition there are requirements for separation between the well and septic system. On top of that there are topographic restrictions. So it is important to consider all these restrictions and determine if greater setbacks are warranted. The previous setbacks were in place since our LUB was initially adopted and were approved by the Trust Executive and thus were in keeping with the object of the Islands Trust.

I have said all this before and that is why I am asking you to review the submissions from last term.

Jane Perch

Sent from my iPad

From: Jennifer Lecour <[REDACTED]>
Sent: Tuesday, January 23, 2024 4:02 PM
To: SouthInfo <SouthInfo@islandstrust.bc.ca>; South Pender Island Local Trust Committee
<SouthPenderLTC@islandstrust.bc.ca>
Subject: Input Regarding Setback Provisions in Bylaw No. 114

To the South Pender Trustees,

This letter is with regard to the review of the current setback provisions in Land Use Bylaw No. 114. I strongly support maintaining these setback regulations. These regulations were passed in 2022 and since that time the case for having these setbacks is even stronger. Climate change is having a significant impact and is proving that it is critical we protect the natural environment. If anything, in my view, the setbacks should be extended not decreased. We live in an area that is ecologically sensitive and by living here we have to accept restrictions on our rights as property owners to ensure that we protect this sensitive environment. The current Bylaw setback provisions balance property owners rights by allowing replacement of buildings that are currently within the setback and also allow for variance by application for new structures. Fears about the impact of non-conformance, such as the ability to procure insurance for structures in existence prior to the bylaw implementation, have been clearly addressed by the Island Trust as not an issue. I am at a loss to understand why these setbacks would be decreased at this time.

Regards,
Jennifer Lecour

From: rich southpender.com <[REDACTED]>
Sent: Thursday, February 1, 2024 9:03 PM
To: South Pender Island Local Trust Committee <SouthPenderLTC@islandstrust.bc.ca>
Subject: Comments for 02 Feb. LTC Meeting

[REDACTED]

S. Pender Island BC

Islands Trust

South Pender Island Local Trust Committee

Dear Committee Members,

It has come to my attention that the LTC is entertaining land use restrictions which would catastrophically impact our family. I am Richard Christy, a fourth generation Islander. I have the honor to curate, preserve and enjoy a heritage property at Gowlland Point that was settled by my relatives in 1897. From the early 1900s until 1952, the property has left family possession and returned on a few occasions. As young newlyweds, my parents, Deryck and Eveline Christy (nee Pender) acquired the property, where they lived, vacationed and retired. As 72 years of my immediate family's ownership rolls by on the calendar, my wife Cindy and I continue to cherish the land for future generations. Each of our three daughters has grown up at Gowlland Point, albeit "only" every summer and holiday possible. A baby due to be delivered next month will be the sixth generation of my family to be connected to this magical spot in the world. Like myself, education and career has steered the kids to places distant from Pender, but it is home in the most sincere sense of the word. The Church of the Good Shepherd has accommodated every Christening, marriage and memorial service imaginable within our family. We are deeply rooted in the community.

Our vision to retire at Gowlland Point and see our offspring's lives evolve here has been driven by tireless effort to hold and maintain the property. For the past 20 years, our ability to keep our Pender home has been enhanced by engaging in Short Term Vacation Rentals. The necessities of my occupation limit our time in the home. These two realities appear to be at odds with restrictions currently being entertained by Islands Trust. In combination, such a ban and tax would be an affront to hard working people trying to maintain a grip on our heritage. We would suffer financial harm from a prohibition on STVRs and a Speculation and

Vacancy Tax. Our ability to retain a generational family home will be in serious jeopardy if restrictions of this nature are adopted.

It has been stated that Islands Trust might “opt-in” to Provincial requirements on these matters. Knowing that the Gulf Islands and South Pender in particular are unique rural residential communities, with a strong self-identity and independent spirit, as well as a great economic reliance on tourism, I must ask; why would the Trust seek to “rubber stamp” Provincial mandates that were developed in an environment that bears no similarity to our own? Especially when those mandates stand to harm long-standing members of the community.

Proponents of a STVR ban and aforementioned taxes appear artful in portraying their “target” as faceless, cold and merciless wealthy people, who swoop into the community snatching up real estate for the purpose of financial gain. Quite an elusive villain, in my view! In reality, everybody I have encountered who has a Pender home that is often vacant or sometimes rented for short periods has a love of the Island in their heart and an ambition to increase their time in residence. Our family shares those characteristics. In order to live in our home, it must be unoccupied while careers are completed. STVRs defray the costs of maintaining the property for our eventual enjoyment.

Please let the record show that we oppose: 1) further restrictions on or prohibition of Short Term Vacation Rentals and 2) a Vacancy and Speculation Tax.

Thank you,

Richard Pender Christy

Email: [REDACTED]

From: Ron Henshaw <[REDACTED]>

Sent: Thursday, February 1, 2024 2:04 PM

To: South Pender Island Local Trust Committee <SouthPenderLTC@islandstrust.bc.ca>; SouthInfo <SouthInfo@islandstrust.bc.ca>

Subject: special sessions regarding Setbacks

Dear Trustees,

I feel that my almost lifetime connection and commitment to South Pender gives me a true sense of how the Island was when the Trust was created. To preserve and protect its rural character has been a primary element and is one of the reasons I've decided to make this Island my home. In this day and age trying to even define rural amongst the diverse group of people that now inhabit South Pender is akin to nailing jello to a wall.

Something that is being lost amongst bickering that is basically grounded in property rights is the "essence" of the Island and a desire to maintain its rural character as was intended when the Trust was created. Do we change our understanding of rural to accommodate the influx of monetary wealth and excavating equipment that is able to manipulate the landscape with relative ease that we see today? We are at a crossroads where there are obvious overt examples of change that I feel adversely impacts our rural character and community.

At the Jan 27th meeting that I attended someone stated that nature was being weaponized, in response to that rhetoric I have to say that it is nature under attack and since nature can not defend itself efforts to stop it from being shredded, compressed, isolated and destroyed is our responsibility if we care about its importance.

Also at the meeting, some logic was being presented that I find difficult to accept was that locating housing closer to the waterfront will reduce tree cutting as if houses are further from the water and the view, more trees will have to be cut to maintain a view. The fact of the matter is from my experience a framed view with trees and natural island features maintains a context with the Island that is a more interesting view offering protection from the elements and more opportunity to experience the complexity of natural beauty, not just a view of the ocean.

Regarding comments about property values, reducing the value put on land to the square footage that can be developed limits the value to purely monetary. Protecting intrinsic natural values actually increases overall values that embody the importance of natural continuity, respect for neighbouring uses such as residences or public spaces, especially on our waterfront. This adds value to all of our land that goes beyond monetary and better represents I think the Island that attracted us to move here.

The increased setbacks we now have provide a better opportunity for this to take place. I appreciate the opportunity to ask for a variance as a reasonable safeguard to protect the public, natural environment and neighbours concerns.

Please leave the existing setbacks in place.

Sincerely,
Ron Henshaw

SOUTH PENDER ISLAND TRUSTEES

February 10, 2024

HOUSE SIZE REVIEW

The trustees are reviewing Land Use Bylaw 114 regarding house size – including the recent changes recently enacted in the bylaws to reduce house sizes to a reasonable overall total based on lot size in keeping with the rural character of the Island, one of the main goals of the Islands Trust and the Community plan for South Pender.

We would like to express our support for leaving the present house sizes as they presently are adopted under the Official Community Plan and feel they are entirely consistent with the overall objective of the plan to preserve and protect the rural character of the island.

Almost all existing housing on South Pender fits within the square footage allowed under the existing new guidelines established based on lot size. For the very few that fall outside the guideline the present OCP specifies that any existing legal structure is deemed legal under the new provisions and can be replaced to the same size as existing if the present size contravenes the new bylaw. That will mean there is no hardship for any existing homeowners.

Of the existing lots on South Pender, less than 15% do not have a dwelling on them, and the existing dwellings are on average less than 60% of the new dwelling size allowed in the LUB and about 1/3 the size of what was allowed under the old size restrictions. That means that under the old bylaws the average house size on the Island could become 3 times larger than the present existing house size. In my estimation this would have an irretrievable effect on the rural characteristics of the Island. Even with the new size limits the existing house size could expand by an average of 40% over the average current size, which is plenty to allow for upgrades as needed. In my estimation the new existing house size limits are very generous and will still have a major effect on the Island rural character and ecological footprint on the Island ecosystem and consideration might be given to reducing them still further in the years ahead. The old size limits would make everything much worse and complicate siting and setbacks given the size of house possible to build.

The other major consideration is as larger homes more expensive homes are built, the nature of the composition of people who can afford to live here changes, as the Island becomes a place for the wealthy with fewer young families or young couples able to afford to live and contribute to the rural ambience of the community. Many of the more

recent large buildings are owned by off Island residents who come seasonally and contribute little to Island life or work to enhance the rural character of the community.

The OCP also allows anyone planning new buildings to apply for variance in special circumstances. The cost of the variance is very reasonable, provides the flexibility needed when required, and allows neighbours and the community in general to comment on the appropriateness of any variance proposal.

In all we feel the existing bylaw is appropriately worded, presents no hardship to any existing property owner, and provides clear and useful guidelines for all new construction. We fully support the bylaws as presently enacted.

Robert Dill and Karen Mani Lang

██████████ South Pender Island.

From: Steve Wright <[REDACTED]>

Sent: Saturday, February 10, 2024 8:19 AM

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

Cc: Peter Luckham <pluckham@islandstrust.bc.ca>

Subject: SPLTC project

South Pender LTC members,

I am writing to enquire what the true purpose of the Bylaw 114 Amendments project is. I have asked the trustees for a clear rationale for their decision to open up specific areas of the bylaw but have received no response. From the video recordings and comments made by trustees, it appears the reasons to be purely political, if not personal, as there has been no demonstrable hardships due to the new provisions or that they are contrary to any policies in the Trust Policy Statement or the South Pender OCP. These amendments are also compliant with Council's Declaration on the Climate Emergency.

There have been comments made that the "public process" during Bylaw 122 community discussions was flawed but that assumes planning staff were either complacent or negligent. It would also reflect on the previous Executive Committee who approved the passing of Bylaw 122. I find these assumptions totally without merit.

If the complaints about the previous trustees "did not listen to people", are what you basing your decision upon to re-open Bylaw 114, a review of the video recordings tell a different story. In fact the LTC cancelled a scheduled Public Hearing because some legitimate concerns were raised by community members. And yet, when a number of amendments were made to reconcile those matters, there were complaints that too many amendments were made. It would be more truthful to suggest that trustees were not being listened to when they provided their explanation for the amendments.

There is an expectation that elected officials provide their reasons for any decision they make to ensure procedural fairness. I am asking once again for the reasons why the SPLTC is undertaking this project when it is evident that there is no demonstrated need, a total lack of community consensus, or that they are contrary to any current policies.

Without a sound explanation for continuing this project, I once again ask that rather than waste staff time and resources on a mission that seems to be entirely politically motivated, trustees focus their attention and efforts on matters that have more importance to our community. By doing so I believe the LTC will achieve far more overall community support and meet their objective of lessening division. That is in my opinion, where your leadership will prove more successful.

I look forward to your reply to my questions.

Steve Wright
Pender Island

From: [REDACTED] >
Sent: Sunday, February 11, 2024 4:50 PM
To: South Pender Island Local Trust Committee <SouthPenderLTC@islandstrust.bc.ca>
Subject: house size on South Pender

To the trustees on South Pender Island regarding house size:

House size on South Pender needs to remain as set after many informative meetings that provided for community input. Our present by-law protects present houses by making it legal to rebuild on the old foundation. It is my understanding that provision would be lost if the bylaw is rescinded.

Larger houses use more of our island's resources especially water and may encroach on the privacy of neighbors. Larger houses increase light pollution and noise pollution that may disturb neighbors. Sound travels and if houses are too large and close together sound and light can disturb both neighbors and wildlife. Most people come here for the quiet rural environment and the privacy it offers among other things. In my opinion South Pender Island should remain rural. This is not Lake Como or Cinque Terre. Do not let large mansions and luxury rental establishments spoil our rural environment.

Rather than spend time on re opening the house size issue, I suggest the trustees spend time on making sensible rules about new house construction regulations that take climate change into consideration. All new houses should have water storage or cisterns and inflammable siding and roofs. Those with a south facing roof, could plan to have solar installed to cut down on hydro bills and green houses gases from fossil fuel heating. Healthy evergreen trees need to be kept unless dangerous and invasive plants not introduced and removed if present.

As new trustees who are also new to South Pender, I appreciate you are taking steps to learn what is important to your constituents and the environment you are now living in. Trallee Dun

From: David Greer <[REDACTED]>
Sent: Monday, February 12, 2024 12:10 PM
To: SouthInfo <SouthInfo@islandstrust.bc.ca>
Cc: Peter Luckham <pluckham@islandstrust.bc.ca>
Subject: Fwd: LUB House Size Provisions

Dear Islands Trust staff,

I am herewith forwarding to you the letter that I and two other South Pender residents recently sent to our island's trustees with regard to house size and the island's land use bylaw. Please post our letter with others on the South Pender web page, and please ensure this letter is placed on the agenda for the next South Pender LTC meeting. If for any reason this is not possible, please let us know.

Kind regards,
David Greer

Sent from my iPhone

Begin forwarded message:

From: David Greer <[REDACTED]>
Date: February 10, 2024 at 1:05:33 PM CST
To: kevans@islandstrust.bc.ca, dfalck@islandstrust.bc.ca, telliott@islandstrust.bc.ca
Subject: LUB House Size Provisions

Dear Trustees,

In 1974 the provincial government, recognizing the importance of protecting the natural beauty and biodiversity of the southern Gulf Islands and their importance to the province as a whole, enacted the Islands Trust Act. The legislation was triggered by concern about the recent creation of hundreds of small lots in the Magic Lake subdivision and the potential impact of similar future development on the natural and rural character of the islands. During debate on the bill in the Legislative Assembly, members of the NDP, Conservative and Liberal parties all spoke in favour of the principle of the legislation and the urgent need to implement limits to development, while differing only on the details.

In the decades since, as species extirpations and extinctions have increased on the islands, so has the importance of limiting human impacts on island ecosystems. Because they have evolved in isolation, islands tend to be biodiversity hotspots and home to rare species, and South Pender Island is no exception. Less than three months ago, a species of freshwater shrimp, the Oregon fairy shrimp, so rare it has been seen only at a handful of locations across the country, was observed for the first time on the Penders at a natural pool on the south island.

Conservation of species is about much more than a fondness for nature. The health of ecosystems depends on the ongoing interactions of a myriad of native plant and animal species right down to

the microscopic level. Obviously the construction of a single house is unlikely to have an impact on the habitat of a rare species, but the larger the ecological footprint of a human community, the greater the threat to a vulnerable ecosystem or species.

Human-caused climate change is already having a significant impact on island biodiversity (red cedar forests slowly succumbing to increasing drought being one of the most visible examples). At the time the Islands Trust Act became law, climate change barely registered as a concern. As the momentum of change accelerates and the potential for future catastrophic impacts for humans and other species becomes better understood, the mitigation tools afforded by the Islands Trust Act appear increasingly pertinent and foresightful.

Another concern that was considered of little consequence in 1974 and has since evolved into a looming crisis is the quantity and quality of groundwater supplies on which South Pender residents depend. Finally, the increase in our island's population by more than 25% during the past eight years has not only increased the burden on natural resources such as groundwater supplies but has also contributed to the further erosion of the rural character of the island that the Islands Trust Act was designed to protect.

In short, the Islands Trust Act has become far more relevant for the conservation of biological communities (including important marine ecosystems such as eelgrass beds) and for the well-being of Pender residents than when it became law fifty years ago.

Some South Pender residents take environmental issues seriously but feel that it is not the place of government to direct property owners how, where and what to build. Certainly government should not be issuing dictates without just cause, and the role of government in acting in the interests of the community at large must be carefully balanced against the importance of respecting personal freedoms.

Most people are in the habit of considering the interests of their neighbours and the potential environmental impacts of the use of their land. It's only when some abuse their freedoms that it becomes appropriate for government to set rules that apply to all. There would be less need for prescriptive building codes if all property owners were prepared to be diligent in building a safe and durable home that also does not impinge on neighbours' right to privacy. For the same reason, local government needs to have the latitude to set limits on house sizes that take into account considerations such as energy use in construction and maintenance as well as impacts on neighbours' rights for full enjoyment of their own property.

The trustees elected to each island's Local Trust Committee are duty-bound to ensure their decisions are consistent with the objectives of the Islands Trust Act and of their island's Official Community Plan. Those who served as trustees on the previous LTC took pains to honour the intent of the South Pender OCP, to thoroughly canvass islanders' divergent points of view, and to clearly document and explain their reasons for amending the land use bylaw house size and setback provisions with reference to best practices and legal requirements.

Some residents who propose rescinding those amendments appear to do so simply because they object to government restrictions on the use of their land, no matter what the reason. Some have

even argued in public meetings that restriction on house size abridges their rights under the Canadian Charter of Rights and Freedoms, which is indisputably not the case as the Charter has nothing to do with land use regulation.

Other arguments against the previous trustees' amendments to the land use bylaw appear to us similarly specious even if strongly held beliefs. Rather than rebut them here, we simply urge our island neighbours to carefully evaluate the merits of each argument, whether pro or con, before deciding whether it makes sense to undo the work of the previous LTC.

The apparent growing polarization of the South Pender community over the issue of rights to land use is troublesome and seems an unfortunate echo of the political polarization of the U.S. in which, for a significant part of the population, the power to reverse existing law in the name of freedom appears to take precedence over the measured development of public policy that takes the broader public interest into account.

To put it simply, it's far easier to scrap a law than to carefully build it.

Polarization creates the unfortunate risk of complex elections becoming single-issue contests, with each new LTC dismantling the achievements of its predecessor. Do we really want that to be the future for our once close-knit South Pender community?

In our view, the land use bylaw amendments crafted by the previous LTC represent sound public policy based on a careful review of current best practices and a fair and comprehensive public process. We note also that the previous trustees, addressing the concerns of those in opposition to the proposed changes, made specific provision for grandfathering existing structures that might not be compliant with the proposed amendments as well as for applications for variance based on reasonable arguments.

We believe that South Pender's land use bylaw as it currently exists should be given an opportunity to function at least for the duration of the current LTC term (variances have already been applied for and approved) before being subjected to formal evaluation.

That being the case, we oppose any LTC decision to undo the previous LTC's amendments to the South Pender land use bylaw as they pertain to house size.

Sincerely,

David Greer, South Pender Trustee 2008-2011
Susan Taylor
Frank Ducote

From: [REDACTED] >

Sent: February 13, 2024 1:03:39 AM

To: Kristina Evans; Dag Falck

Subject: House size

To the Trustees :

I am writing from South East Asia and am not able to compose or send a detailed letter but am most anxious to express my support for Land Use Bylaw 114 as it stands now, including the changes enacted in 2022.

The changes in the Bylaw enacted in 2022 with regards to house size were a vast improvement on many levels : protection of native fauna and flora, of precious and limited groundwater and of privacy.

The Bylaw house size limits as they currently stand accommodate the construction of a comfortable home and could not be in any way considered draconian.

It is extremely important to keep our current house size limits and to not revert back to the large house size limits which undermine much of what we treasure about South Pender : native flora and fauna and seclusion.

Most importantly, the Bylaw as it stands now supports the Official Community Plan and is consistent with the overarching objective of preserving and protecting the rural character of the island.

Could you please let me know that you received this letter?

Thank you for your time and attention.

Daphne Louis

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

Arguments Against House Size Reductions In South Pender Island Bylaw #122

Rick Friesen, South Pender Island

Restrictions on house size and setbacks for residences on South Pender Island are codified by the Island's Land Use Bylaw #114, as amended by Bylaw #122

The original provisions for house size in Land Use Bylaw #114 were reached by community consensus. The amendments brought in by Bylaw #122 have been criticized for their being brought in against the majority of South Pender Island resident's objections.

A review of the binder of submissions during the public consultations shows a clear majority of residents who responded by email and written submissions were either directly opposed to the reduction in house size amendments contained in Bylaw #122, or opposed to the process by which it was adopted. Verbal submissions in public hearings showed a similar majority of resident opposition. Some submissions verbal, or in writing, came from non-residents of South Pender Island.

The flawed process by which Bylaw #122 was adopted should not be allowed to stand. To leave the bylaw in place, without review, simply validates that flawed process and encourages similar behaviour by local trustees in the future.

Only by making it clear that bylaws adopted without community consensus, or against the wishes of a majority of property owners, are subject to reversal will prevent such actions by elected Trustees in the future.

It is suggested that a revisitation of the amendments brought by Bylaw #122 should follow these principles:

1. Submissions should be invited from South Pender Island property owners exclusively. Submissions from other jurisdictions, or interest groups, or rental tenants should be discounted, as it is the responsibility of the registered owners to make land use decisions on the property they own.
2. Multiple submissions from any individuals constitute a single point of view, and should be counted as a single submission. Flooding the records with a plurality of documents representing a single person's viewpoint should not increase the weighting of those submissions.
3. Petitions with multiple signatories or copies of a single submission submitted from different individuals should be weighted as to their number of supporters only if the signatories meet the criteria of principle #1 (above), i.e. that they are registered property owners on South Pender Island.
4. Unsupported or erroneous arguments may be viewed as a legitimate opinion of an individual proponent, but should not given the same weight as well supported or reasoned arguments. Hitchen's razor states "That which can be asserted without evidence, can be dismissed without evidence."
5. Bylaw 122's amendments should be unpacked and considered individually, with a view to which should be retained, modified or, in effect, repealed by a later bylaw amendment. It is suggested that the Trustees follow these guidelines:
 - a) Bill 122 amendments that receive little or no opposition may be left unchanged. *An example would be Bylaw #122's increased oceanfront setback provisions, on which there seems little disagreement.*
 - b) Bill 122 amendments that, after in-meeting discussions, a consensus is reached as to what an acceptable replacement should read, should be replaced by the new, consensus amendment in a subsequent bill. *This would be considered a win-win scenario.*
 - c) Bill 122 amendments that implacable opposition and unwavering support prevents coming to a consensus, then the decision should be left to the judgement of South Pender LTC, as arbiters, to amend that section in Bylaw 114 with the original language prior to Bill 122, or leave the Bylaw 122 amendment to that section unchanged. *This provides incentives for opposing points of view to come to a consensus, or live with the consequence of not doing so.*

Legal Considerations

Property owner's rights are not unfettered. In fact, in Canada it is recognized that there may be reasonable restrictions on private property rights related to considerations of public interest. These may include zoning regulations for the purpose of environmental protection, public health and safety, and the need for orderly development.

Some examples of restrictions that have been upheld as reasonable by Canadian courts include:

1. Zoning laws that regulate land use and development to ensure compatibility of land uses, protect the environment, and promote orderly urban development.
2. Building codes and regulations that establish standards for construction and renovation to ensure the safety and structural integrity of buildings.
3. Environmental regulations that impose restrictions on activities that may harm the environment, such as pollution controls and habitat preservation measures.
4. Expropriation rules that insure that when governments take private property for public use, that fair compensation is paid to the property owner.
5. Restrictions on alterations or demolition of buildings with historical or cultural significance to preserve the heritage character of a community.

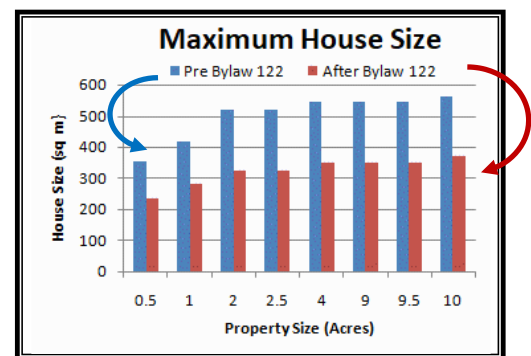
However, when making bylaws, the Trustees should consider that, when restrictions on private property rights are put under judicial review, the courts may consider factors such as the purpose of the restriction, its impact on the property owner, and **whether there are less intrusive means of achieving the desired objectives**.

A good test of whether a zoning regulation amendment meets the legal definition as "reasonable" is to ascertain whether or not such amendments reflect provisions that are in place in a significant number of other jurisdictions. Bylaws that are restrictive beyond the norm in other communities should be examined very carefully.

Arguments against Bill #122 amendments to house size.

Philosophical viewpoints of individuals with no financial stake in a property should not normally be permitted to use amendments to the zoning regulations as a weapon to prevent other land owners from making informed and reasonable decisions regarding the property they own.

Bill #122 reduced the maximum house sizes for rural residential dwellings by approximately 33% across the board, and applied these new values to Forestry, Agriculture and Natural Resource zones



To justify these reductions during the public consultation for Bill #122, a number of arguments were made, often by non residents of South Pender Island. Many cited a negative environmental impact of larger houses. These arguments continue in current discussions of Bill #122. The arguments seem to revolve around the concepts that larger houses negatively impact the environment in the following categories:

a. Consumption of Natural Resources.

There was no numerical data presented to support this. While there is some "face validity" to the concept that using more materials consumes more resources, none of the usual building materials are derived from resources that are considered "rare" or "in short supply".

b. Contributions to Climate Change.

The production of concrete emits carbon dioxide. Concrete is normally used in footings and foundations, less commonly in other parts of the building. The amount of concrete used is dependent on the house site and

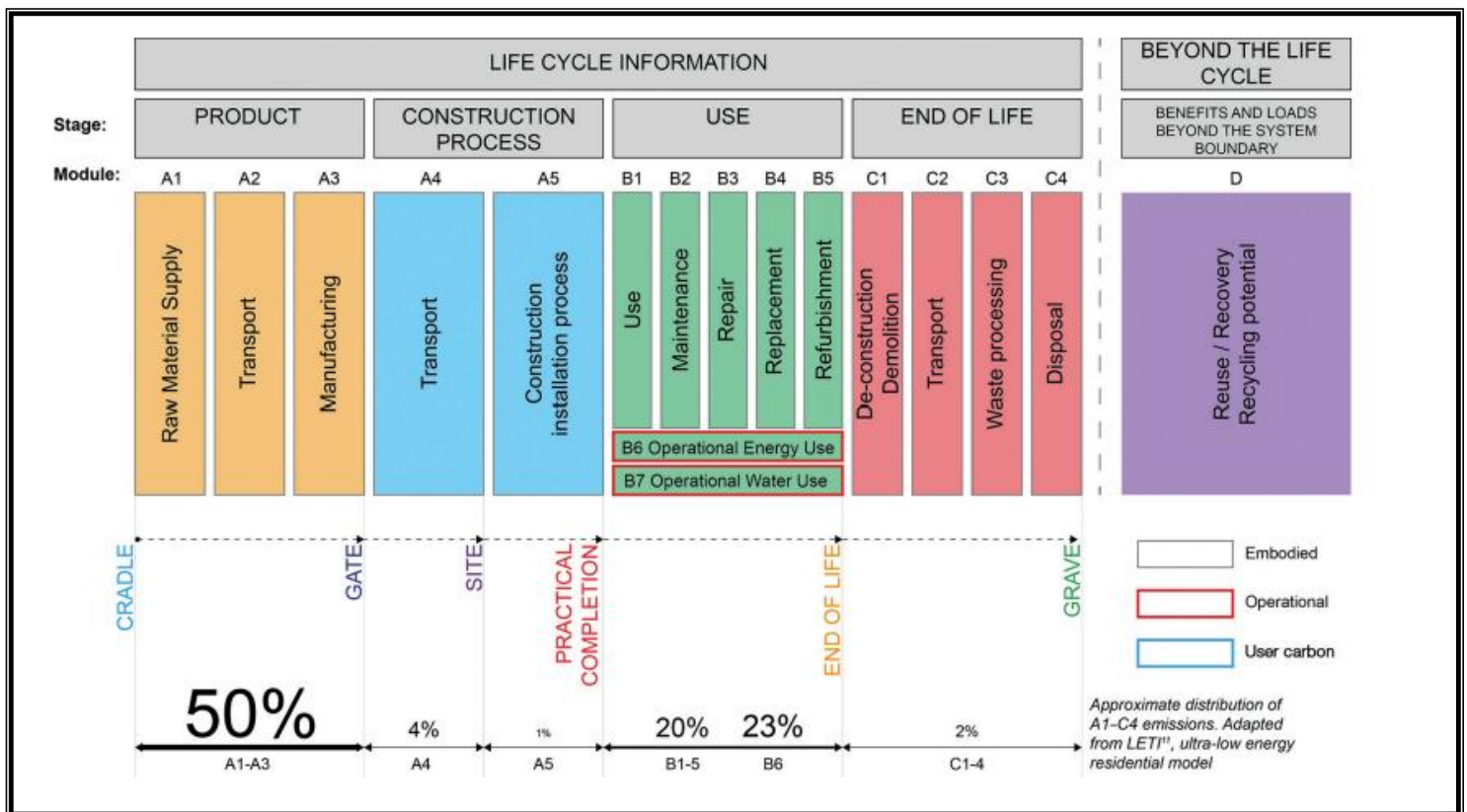
foundation footprint. Two story houses can have the same foundation footprint as a single story house. Concrete manufacturers have also pointed out that curing concrete absorbs carbon dioxide from the atmosphere, thus sequestering it.

Of course, neither position is supported by sufficient data to warrant a definitive answer. Carbon emissions must take into account the emissions associated with the energy used to produce the materials, the emissions generated by the construction process and the emissions produced by clearing and disposal of construction debris and waste.

These are all specific to the construction techniques, building design and site preparation, and there is no simple direct relationship to dwelling size. Moreover, the carbon content of the finished dwelling effectively sequesters carbon in the materials used in its construction for the lifetime of the dwelling.

"Embodied carbon" refers to the greenhouse gas (GHG) emissions, measured in carbon dioxide equivalents (CO₂e), associated with materials and construction processes throughout the whole lifecycle of a building.

Fully half the embodied carbon emissions occur in the manufacture of building products across the continent. It is naive to equate a 33% decrease in rural residential house size anywhere would move this figure significantly, as it includes materials used in road and transportation infrastructure, strip malls, office, residential towers and so on. Construction processes on the island would not appreciably differ with a decrease in average house size. Large houses may or may not see a significant increase in the "Use" category, depending on the efficiency of operation involved in hydroelectric power vs. fossil fuels, and heat pump infrastructure.



Source: Fonesca, V. "What is embodied carbon in the real estate sector and why does it matter?". GRESB Foundation March 2023. [Online] Available: https://www.gresb.com/nl-en/what-is-embodied-carbon-in-the-real-estate-sector-and-why-does-it-matter/#_

All the arguments are rendered moot by the fact that South Pender Island's forested nature easily absorbs all the carbon emissions involved in construction of any size dwelling on the island. Only if the heavy industry involved in the production of building materials was relocated to South Pender Island would the island become a net contributor of carbon dioxide and other greenhouse gases.

c. Increased water consumption / pressure on aquifers.

Physical size of a house is not directly correlated with water consumption. Water consumption studies show that the relationship is with the number of members of the household. While there is an increase in total consumption with larger households, (especially those that include teenagers!), the per capita consumption is reduced due to economies in dishwashing and laundry activities: (See table, below)

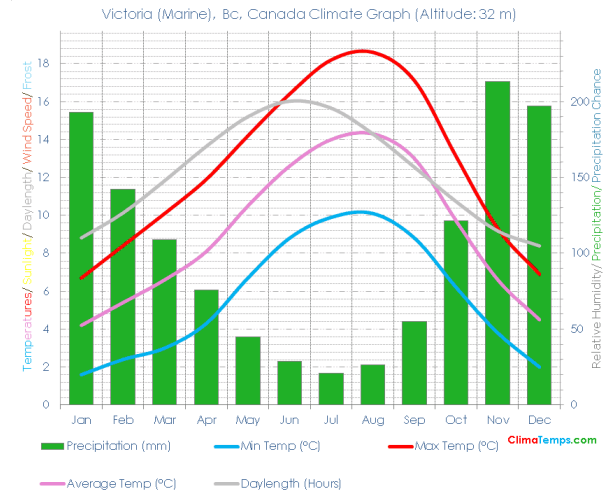
Larger houses have the potential to shelter more people and reduce the per person water consumption or, if they are occupied below capacity, the fewer people will consume less total water.

Household Size and water consumption

Climatograph, Victoria, BC

Size of household	Total consumption (m ³ /day)	Per capita consumption (m ³ /day)	Variation in per capita consumption (m ³ /day)
1	0.1845	0.1845	—
2	0.2640	0.1320	-0.0525
3	0.3326	0.1109	-0.0211
4	0.3998	0.0999	-0.0110
≥5†	0.4831	0.0909	-0.0090

Source: Arbués, et al. "Household size and residential water demand: an empirical approach", *Australian Journal of Agricultural and Resource Economics*, January 2010. [Online] Available: <https://doi.org/10.1111/j.1467-8489.2009.00479.x>



Source: Climate Top. Victoria (Marine), BC Climate & Temperature [Online] Available : <https://www.climate.top/canada/victoria-marine/>

Watered lawns and gardens can have an effect on water consumption, but only during the dry summers. For most of the year, there is sufficient precipitation to keep lawns and gardens viable. The climatograph for Victoria, with a similar climate to the Southern Gulf Islands, shows six months of sufficient precipitation to recharge aquifers, 2 months of break-even conditions and 4 months of potential draw-down of the aquifers due to household use.

Anyway, lawn and garden activities bear little relationship to physical house size.

d. Species at Risk, Species Diversity.

Increasing **setbacks** from waterfront and riparian ecosystems may have the effect of benefiting some species and reducing environmental degradation. However, there is no provable relationship between house size and environmental diversity. No species normally considered indigenous to South Pender Island are on the BC CDC Red list of "at risk" species, including Coastal Douglas Fir, although some combinations of individually non-endangered species may be considered to form "at risk" ecosystems.

Conclusion

There was little justification to reduce maximum house sizes in Bill #122 by 33%. Superficial appeals to justify the reduction for "environmental responsibility" do not stand up to scrutiny, and justifications that refer to preserving the "rural character" of the island ignore the fact that our current "rural character" is the product of the house sizes and setbacks embodied in Bylaw #114 prior to Bylaw #122's amendments.

Accordingly, I urge the current Local Trustees to amend Bylaw #114 with a new bylaw that reverses the house size amendments of Bylaw #122, unless a general consensus as to more appropriate language is reached within workshops and public hearings of involving South Pender Island property owners.

From: L/C Whitehead <[REDACTED]>
Sent: February 14, 2024 12:32 PM
To: SouthInfo
Cc: Kristina Evans; Dag Falck; Tobi Elliott
Subject: FW: South Pender Island max house size and setbacks

Please replace previously sent email with this corrected one _ re Bylaw no.

To South Pender island Trustees,

I have owned property on South Pender Island for over 35 years and our property has been in the family since my grandfather purchased it in 1910, then sold it to my father, [REDACTED], in 1954.

Although the change in bylaws have not affected me I have felt personally ignored over the past years when previous trustees seemed unable and unwilling to listen to the voices of the landowners who attended the meetings and submitted many letters. Workshops were attended, petitions were signed, yet voiced opposition to changes in bylaws i.e. increasing the house setbacks and decreasing maximum house size were ignored. The Trustees brought the Bylaw No.114 changes upon the community with no regard to the large number of people who opposed this. There was no vote or survey undertaken by the LTC to determine whether or not to proceed with the Bylaw changes and many landowners voiced concerns regarding the process. These changes have put problematic bylaws in place and dealing with them through variances is a poor solution. The increased setback to the natural boundary of the sea from 7.6 metres to 15 metres, increased side lot setbacks, new building height regulations, decreased maximum floor area in RR, ALR and Forestry zones are restrictive and will likely now create numerous Development Variance Permit applications. Information provided at a recent workshop indicated that 80 % of the lots are already developed and 1900 sq feet is the average house size, not 3500 square feet people keep referring to. The Bylaw changes have created many "legal non-conforming" dwellings and owners are being told there could be additional insurance fees.

Landowners at a recent workshop presented some good suggestions and I hope some of them will be considered. Some examples were

- Sliding scale of house size relative to property. Siting based, making for bigger setbacks. This is less obtrusive on small lots, with less visual impact, maintaining more privacy.
- Reduce basements to reduce carbon.
- Square footage could be between old and new rulings. This will assist in meeting family needs..
- Spot zoning to help larger homes that no longer meet the new set back or house size criteria. This could reduce the number of non-conforming homes.
- Varying setbacks which could be determined by lot size and whether there is an existing home on neighboring lot.
- Combine guest cottage and house size. I.e. no cottage built, the house size could be larger.
- Secondary suites would assist with the current housing crisis.

Thank you for the workshops provided and for your efforts in finding a solution that will meet the needs of both those that oppose the Bylaw changes and those that are in favor of the changes.

Regards,
Cathy Whitehead

From: Christian Engelstoft <[REDACTED]>
Sent: Thursday, February 15, 2024 11:46 AM
To: South Pender Island Local Trust Committee <SouthPenderLTC@islandstrust.bc.ca>
Cc: SouthInfo <SouthInfo@islandstrust.bc.ca>
Subject: Discussion about revision of the LUB house size

Dear trustee Evans and Falck

As far I am concerned the house sizes set out in the current LUB are supporting the intent of our OCP. The house sizes reduce our ecological footprint both during the building process and afterwards, which helps to mitigate our current/ looming climate crisis.

Again, since you seemingly want to change the house sizes in the LUB, I am looking forward to see your rational for how it supports our OCP and climate change mitigations.

Respectfully
Christian Engelstoft
[REDACTED]

From: tracy calvert <[REDACTED]>

Sent: Sunday, February 25, 2024 11:18 AM

To: SouthInfo <SouthInfo@islandstrust.bc.ca>; Dag Falck <dagfalck@gmail.com>; South Pender Island Local Trust Committee <SouthPenderLTC@islandstrust.bc.ca>

Subject: letter about house size and setbacks

Hello Dag, Kristina and Staff,

I have been to all but one of the special meetings concerning the house size and set back meeting and I want to say on the record that I would like all the bylaws to remain as they are.

1) Large sized houses = more building materials = More extraction of resources = increased stress on environment. On the back end: most of the material ends up in the dump or burnt: more stress on the environment.

There is a trend to build larger homes (check the permit applications for a few years ,please, they come to the staff first then to the CRD)

a) I believe our/your focus/job should be on helping to alleviate stresses on the environment.

b) Larger homes are not what is considered Rural character. Rural character is farm and cottages.

c) only wealthy people can build now in this financial climate and do we want the out fall of that??

I have been impacted by that and have seen the land impacted.

example: Two homes beside me: 1st lg.home built- 3 different owners in 12 years. 2nd home renovated, 3/4 trees clearcut, chain link fence around whole property-now 3rd owner. Often the wealthy people think they will like the "Rural" life but don't, so let's keep the house size down to deter this.

2) The setbacks are good the way they exist now.

a) Larger setbacks create corridors for wildlife.

b) more privacy for neighbours.

c) on the oceanfront: less human activity=less impact on the environment.

Thank you for reading this and considering my thoughts.

Tracy Calvert

South Pender Island

From: Dennis <[REDACTED]>
Sent: Monday, February 26, 2024 11:01 AM
To: South Pender Island Local Trust Committee <SouthPenderLTC@islandstrust.bc.ca>
Subject: Minor LUB project

Hello Trustees,

Further to my earlier submission, I would like to add the following additional comments.

I saw a suggestion that we live with the new house sizes, setbacks for a year or two. I would say the same thing with respect to the house sizes brought in by Bylaw 114. That was also controversial but in the end we ended up with more house size restrictions at the end of the term of those trustees. However, when the new trustees took office, they immediately started picking at the LUB and introduced many new changes including further reducing the house size. Let me be clear that these changes did not come from the community but rather from the new trustees. So I give no credence to such comments as living with we now have and I hope that you will do the same. We were not given the opportunity to live with the changes brought in by Bylaw 114.

I should also add that we have Provincial legislation relating to “aging in place”. That may require live in help or perhaps some help with managing a house so additional accommodation may be needed for this purpose. In addition, new Provincial legislation is suggesting (requiring) that secondary suites be permitted across the province. Our current house sizes on South Pender will not help us accomplish any of these provincial requirements.

Thank you for your consideration.

Jane Perch

From: Paul Petrie <[REDACTED]>
Sent: Monday, February 26, 2024 10:27 PM
To: Tobi Elliott <telliott@islandstrust.bc.ca>; Dag Falck <dagfalck@gmail.com>; Kristina Evans <kevans@islandstrust.bc.ca>
Cc: Kim Stockdill <kstockdill@islandstrust.bc.ca>; SouthInfo <SouthInfo@islandstrust.bc.ca>
Subject: House size and siting submission

Trustees:

Please find attached my submission on house size and siting prepared after attending all four “brainstorming sessions”. Also attached are two appendices supporting this submission. I understand the submission and attachments will be posted under public correspondence.

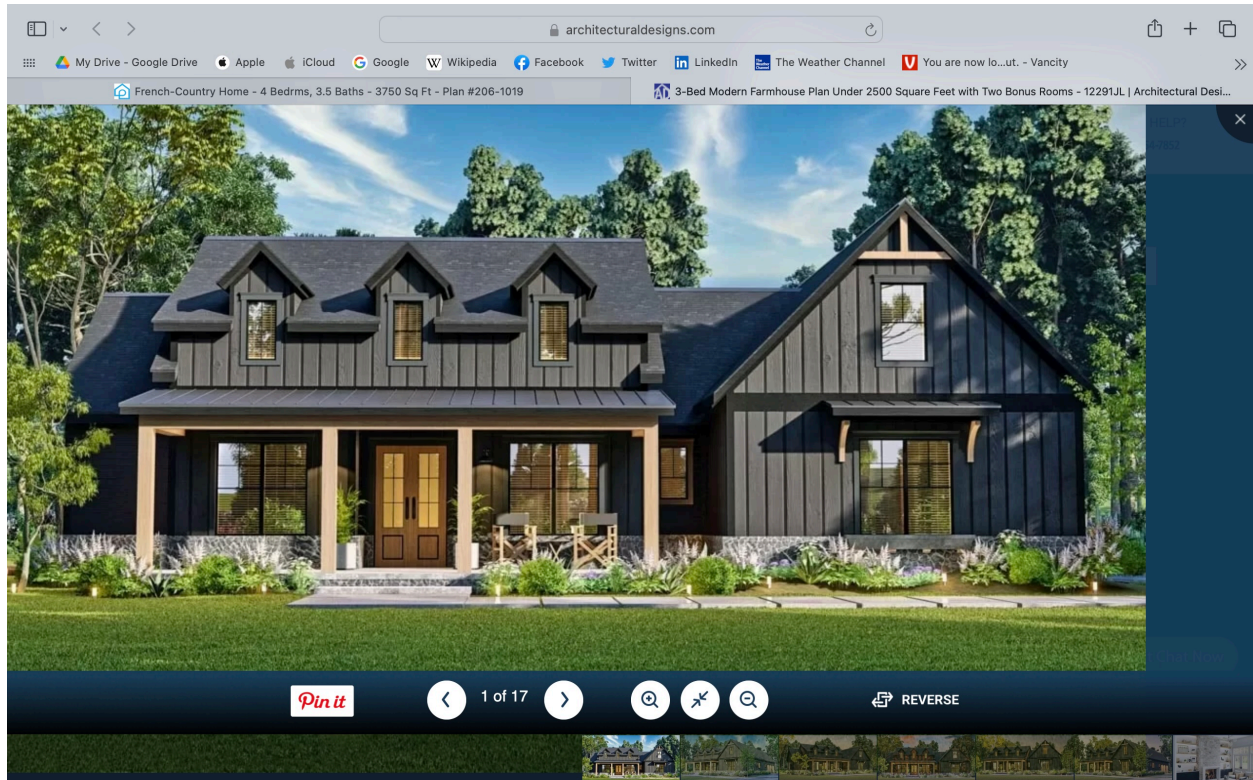
Thank you for considering my views.

Paul Petrie



Appendix 1 comparative house size 2,500 ft² and 3,800 ft²

This 3 bedroom house has 2,473 ft² of living space



This house has 3 bedrooms, 3 ½ baths, a large kitchen (12x23), large great room (17x22.6), dining room (12x12.6) along with two upper bonus rooms (10x26) and 11x24.6)

Details of the designs can be found on this [website](https://www.architecturaldesigns.com/house-plans/3-bed-modern-farmhouse-plan-under-2500-square-feet-with-two-bonus-rooms-12291jl?gclid=EALalQobChMliISjg6yYhAMVNgKtBh1lpwX2EAQYBCABEgJ2sfD_BwE):

https://www.architecturaldesigns.com/house-plans/3-bed-modern-farmhouse-plan-under-2500-square-feet-with-two-bonus-rooms-12291jl?gclid=EALalQobChMliISjg6yYhAMVNgKtBh1lpwX2EAQYBCABEgJ2sfD_BwE

Appendix 1 comparative house size 2,500 ft² and 3,800 ft²

This French country house has 3,750 ft² of living space



This 4 bedroom house has 3 ½ baths, large kitchen (18 x19.4), large great room (21x19), large games room (17.2x13.8)

Details of this design can be found at:

<https://www.theplancollection.com/house-plans/home-plan-31952>

SOUTH PENDER ISLAND DWELLING SIZE - CURRENT AND PERMITTED

SOUTH PENDER ISLAND LOT SIZE	# CURRENT DWELLINGS	AVERAGE CURRENT HOUSE SIZE (SQ. FT.)	MAXIMUM FLOOR AREA 2021 SQ. FT.	% INC OVER EXISTING	MAX FLOOR AREA 2016 SQ. FT.	% INC OVER EXISTING	# VACANT LOTS	TOTAL BUILDABLE LOTS	% BUILDABLE LOTS	% VACANT LOTS TO TOTAL LOTS
LESS THAN 1 ACRE	32	1510	2500	166%	3800	252%	7	39	17%	18%
1 - 2 ACRES	90	1944	3000	154%	4500	231%	15	105	45%	14%
2 - 4 ACES	52	1615	3500	217%	5600	347%	8	60	26%	13%
4 - 10 ACRES	11	1997	3750	188%	5854	293%	3	14	6%	21%
10+ ACRES	15	2727	4000	147%	6030	221%	2	17	7%	12%
TOTAL (AVERAGE)	200	1959	3350	174%	5157	269%	35	235	100%	15%

Data based on 2016 BC Assessment Records and needs updating but will not likely change the overall figures substantially.

Some Observations

The current house size restrictions allows an average increase in house sizes of more than 170% over existing house sizes.

The former house size restrictions allowed almost a 270% increase over existing house sizes.

The number of vacant lots is quite small in relation to built on lots (85% are already built on, 15% are vacant).

As existing dwellings are renovated or replaced, this will have the greatest effect on changes to the Island in the future (especially on 2-4 acre properties) that could be rebuilt up to 217% of existing size houses with the current bylaws and 347% with the previous bylaws.

Trustees,

Please accept the following submission in support of the current Land Use Bylaw provisions regarding house size and siting.

Our South Pender community faces a number of challenges including:

- a significant increase in population (27% between 2016-2021 highest in the Trust)
- finite island resources such as water supply
- erosion of our community's rural character as densification accelerates.
- Adapting to the climate crisis and mitigating its impacts

The bylaw changes enacted by former trustees Thorn and Wright in 2022 were in my view responsive to these challenges.

The current house size and setback limits in Bylaw No. 114 were reached after more than a dozen meetings in the previous LTC term. There was plenty of opportunity for community members to share their views at regular LTC meetings, community information meetings and the public hearing as well as in writing. In my view, the house size and setback values enacted in 2022 were reached through a fair and open process. I understand that some community members have a different view of the process and would have preferred a different outcome.

Section 478(2) of the Local Government Act states that all bylaws enacted by trustees must be consistent with the Official Community Plan. Key goals in our OCP include:

- 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,
- reducing green-house gas emissions

Trustees have a primary responsibility to ensure that bylaws they approve are consistent with our OCP goals. Former trustees Thorn and Wright gave careful consideration to these goals when enacting the 2022 bylaw changes on house size and siting and they aligned the size and siting values with our OCP goals.

I support the current house size limits in part because they correct the very large 2016 house size limits that were far in excess of the average house size now in our community. For example, the 2016 house size limit was set at 3,800 ft² for lots under 1 acre. This is 2 ½ times the average size of the 32 houses in that lot size category. (See the attached table 1 in appendix 1 prepared by a community member.) In my view the significantly larger house sizes adopted in 2016 were not consistent with our OCP goal that requires trustees to: "...ensure land use, development, and associated servicing are compatible with the rural island character and that their growth is gradual and sustainable."

Increasing the house size limit 2 ½ times greater than the existing average house size for these lots is not gradual and it will greatly impact the rural character in these neighbourhoods where small lots predominate. The 2022 house size limit set at 2,500 ft² is 1 ½ times larger than the current average house size on these lots and allows for gradual development growth while maintaining the current rural character of our community. These 2022 adjusted house size limits are more in keeping with our OCP goals.

The land use designation map in Schedule B of our OCP shows that a large majority of residential lots are located along the coastline on the Northeast and the Southwest shores. This coastline contains some of the most sensitive ecosystems on South Pender. Most of the small lots are located along the coastline. Houses with larger footprints are more likely to negatively impact these ecosystems. These larger houses are not consistent with our OCP goal to protect the natural features and biological diversity of our Island. The house size reduction to 2,500 ft² for these smaller lots is more in keeping with our OCP goals and the Trust preserve and protect mandate. The increase to a 50 ft. setback from the natural boundary of the sea is an improvement that will also help protect the sensitive ecosystems along the coastline.

In appendix 2 I have provided an illustration of two house designs: one just under 2,500 ft² and the other just under 3,800 ft² for comparison purposes. In my view a 2,500 ft² 3-bedroom, 3 bathroom house with a large great room, a large kitchen, a dining room and two large bonus rooms provides ample living space for most families. Where there are exceptional circumstances that could result in a hardship, the owner has the option of applying for a variance. I will have more to say about variances later in this submission.

As illustrated in the attached table 1, comparing the large house size limits adopted in 2016 with the adjusted size limits in 2022, the 2022 house size limits are more in keeping with the current average house sizes in our community and more consistent with our OCP goals.

While I fully support the existing size and siting provisions in the current Bylaw 114, I am open to supporting adjustments to these values that are consistent with our OCP goals and meet the needs of our growing population. I am particularly interested in further exploring a number of proposals advanced by community members including attached garages that do not involve living space and the relationship between cottages and possible secondary suites.

Legally non-conforming

Legally non-conforming is a land use concept that has been at the centre of the recent divisions in our community as we struggle to find the right solutions to the challenges we face as a community.

When house size limits were being discussed in 2015, “legally non-conforming” was a concept poorly understood by many and some community members felt it was stigmatizing to be labeled so. Lost in the furor around “legally non-conforming” was the fact that the Local Government Act provided similar size and siting protection under section 529 for legally non-conforming properties as all other “conforming” properties enjoyed under the local trust bylaw. It was a distinction without a substantial difference.

In 2016 the trustees responded to this intense debate by opting to set the house size limit very high to minimize the number of properties that were legally non-conforming. This decision had the effect of setting house size limits based on the largest houses in the community which were far in excess of the average house sizes as illustrated in the attached table 1.

This debate around legally non-conforming continued in 2022 and Trust planning staff attempted to clarify the actual impact of legally non-conforming in a presentation at a community information meeting on June 17, 2022. That presentation stated:

Section 529 of the Local Government Act (LGA) states that buildings or structures may be maintained, extended, or altered, but only to the extent that the repair, extension or alteration involves no further contravention of the bylaw. In other words, you could renovate, maintain or repair your non-conforming house, but you could not put on an addition that would increase the floor area.

From: Islands Trust June 17, 2022

This provision in the Local Government Act protected the size and siting conditions of all properties that were not in compliance as a result of a change in the size and siting provisions in the bylaw. The affected properties are deemed legal under the Local Government Act. However, they are also “grandfathered” as “non-conforming” because the protection lies in the Local Government Act, not in our LUB.

Although this protection existed under the Local Government Act, former trustees Wright and Thorn added to this protection by enshrining a parallel protection within the LUB itself. They accomplished this by adding section 5.1(6). This was affirmed in the Trust presentation of June 2022 as follows:

... on a lot that contains a legal dwelling constructed prior to the adoption of this bylaw, a replacement dwelling may be constructed, or the existing dwelling re-constructed or altered, provided the floor area of the replacement, re-constructed or altered dwelling does not exceed the floor area of the dwelling on the lot at the time of the adoption of this bylaw.

From Islands Trust June 17, 2022

Given the fact that section 5.1(6) **within** our current bylaw provides protection for house size and siting, it can fairly be said that these houses are now “legally conforming” with section 5.1(6) of our bylaw.

Some community members have argued that so called “legally non-conforming” status devalues a property that conforms with section 5.1(6). No evidence that I have seen provides substantial support for this contention. I think it can be fairly argued that where a so-called “legally non-conforming” property enjoys both the benefits of the previous size and siting provisions plus the benefits of the current bylaw provisions, the so-called non-conforming property that now complies with section 5.1(6) could in many cases enhance the value of that property. It should be remembered that the protection under the Local Government Act and under section 5.1(6) of the bylaw runs with the property and would benefit a new owner.

For example, a 2,800ft² house on a lot under 1 acre in 2022 would be frozen at 2,800 ft². If it had to be replaced, it could be rebuilt to the original 2,800ft² but no larger. However, a 2,300ft² house on an adjacent lot under 1 acre in 2022 could be rebuilt to 2,500 ft² under the new bylaw, but no larger. The 2,800ft² house could attract a higher relative value because of its special status.

The Trust staff report posted on January 26, 2024, stated that Staff had produced a new frequently asked question document to answer questions regarding legal non-conforming which would be posted on the LTC website. However, that report was not posted prior to the February 2nd LTC meeting. In response to an inquiry after the meeting, staff advised that the posting had been delayed because of workload and the document would be posted the following week. This delay was raised with trustee Falck at his brainstorming session on February 17th and he assured those present that he would get right on it. The document that was apparently completed on January 26 remains unposted.

The issue of legally non-conforming is important in the context of the trustees’ current review of the house size and siting bylaw provisions. It would have been very helpful to have the staff document on legally non-conforming available to inform the 10 hours of discussions at the 4 brainstorming sessions. Hopefully, that document will be posted without further delay.

My current understanding of so called “legally non-conforming” is based on the Trust staff information provided at the June 2022 CIM meeting and the application of section 529 of the Local Government Act. Those affected properties now protected by and conform with section 5.1(6) of our bylaw. From the information available I understand that section 529 of the Local Government Act and section 5.1(6) **within** our land use bylaw provide equivalent size and siting protection to houses not affected by bylaw changes. I look forward to the new staff document for further guidance on this issue. If this document provides new information on the effect of “legally non-conforming”, I will adjust my understanding accordingly.

Variances

Our current trustees have expressed the view that variances are an indication that the policy on house size and siting is flawed and should be adjusted to avoid variances for

house size and siting. I do not share that view. That approach is how we arrived at the current impasse.

Variances are a legitimate planning tool established under the Local Government Act and provide some flexibility for homeowners to take into account exceptional circumstances and possible hardship situations. This flexibility is sound planning policy and allows trustees to establish a policy standard in accordance with the Trust preserve and protect mandate and our OCP goals, while providing property owners with the opportunity to vary that standard where the circumstances merit an adjustment.

The key policy advantage for variances is that it gives adjacent property owners an opportunity to express support for the variance or to convey concerns about the impacts of the variance on their property interests. Trustees then consider the merits of the variance application in light of all relevant information including the information provided by affected neighbours. In my view this is sound public policy that should be supported, not rejected.

Some have complained that the \$1,938 application fee for a variance is too high. Given the current building cost on the Island (\$500+ per ft²), a 2500 ft² house would cost well over 1 million dollars. The variance fee would amount to a small fraction of 1% of the building cost. In my view this is a very reasonable cost that provides adjacent neighbours a voice in the process. In any event, the trustees determine the variance application fee and it is within their authority to reduce the fee if they consider the current fee too high. I note that the variance policy provides a 75% refund if a variance request is withdrawn before trust staff table a written report to the LTC on the application.

Some community members have complained about the cost impact of a delay in the consideration of a variance application, particularly in this period of heightened inflation affecting the cost of building materials. I believe it is important to distinguish between a delay on the part of the Trust and a delay in processing on the part of the applicant. Trustees have oversight on the variance application process and are in a position to ensure that Trust staff act expeditiously in the processing of an application. The consequences of any delay on the part of the applicant accrues to the applicant.

Insurance

One of the confounding issues in the community discussion about house size and siting is the assertion that legally non-conforming status will increase the homeowner's insurance. The half-inch thick insurance policies we all receive illustrate that insurance is a complex issue. Insurance rates increase annually according to inflation and overall risk assessment especially related to increasing risks from climate change impacts. Additional premiums can apply to building code changes and that is now more common with code adjustments relating to climate change impacts. Insurance costs for building code changes are not specific to "legally non-conforming" properties but apply to replacement costs for all properties.

I have not seen any substantiative evidence that insurance premiums have been increased because of legally non-conforming status regarding size and siting. I am aware of the document submitted by a community member on trustee Falck's spreadsheet that reproduces a page in an insurance policy that refers to exclusions related to increased costs due to any law regulating the "zoning, demolition, repair or construction of buildings and their related services. This is a generic provision that does not specifically reference non-conforming status related to house size and siting.

My understanding from the research I have done so far is that this clause addresses the onerous costs related to asbestos mitigation common in older homes and hazardous materials among other things. This would apply equally to conforming and non-conforming properties.

The insurance literature also provides examples of cases where increased insurance costs may be related to zoning changes for use and density provisions. For example, the literature provides the example of a building that includes a corner store or a restaurant on the ground level and the owner's residence above. If a change in the bylaw removes the use of commercial ventures from the zone, there are options for insurance coverage for the loss of that use. A similar situation could occur where a zoning change removes short term vacation rentals as a permitted use. There may be insurance to cover the loss related to that bylaw change. That would not relate to the size and siting changes enacted in 2022.

Another zoning example in the literature is related to density where zoning allows for 4-plex rentals, and the zoning is changed to duplex rentals only. In that case there may be insurance to cover the loss related to density changes. It is important to keep in mind that the Local Government Act does not fully protect non-conforming use and density as it does with size and siting. Additional insurance costs associated with use and density have no bearing of the bylaw changes enacted in 2022.

I am aware of correspondence to the Trust dated January 22, 2024, advising that: "my house insurance policy now references non-conforming status and requires additional coverage". I have reached out to that community member to determine whether that reference to legally non-conforming relates specifically to use and density or if it is specific to size and siting. The 2022 bylaw changes relate only to size and siting and do not include any changes to use or density. I have not yet heard back from that community member, but I will update this submission if there is new information that indicates increased insurance costs related to legally non-conforming status for house size and siting can be documented.

To date I have found no persuasive evidence to establish increased insurance premiums or other insurance cost implications relating to non-conforming status for house size and siting. I am willing to adjust my understanding of this issue if clear evidence is provided showing that non-conforming status attracts increased insurance costs specific to house size and siting. However, I can see no rationale that would

support such an increased insurance cost since the Local Government Act and section 5.1(6) of our LUB provide equivalent protection for repairing or replacing conforming and non-conforming houses. If my insurance broker attempted to add an additional insurance cost for size and siting for a non-conforming house, I would consider seeking a new insurance broker.

Conclusion

For the reasons detailed above, I strongly support retention of the current bylaw provisions on house size and siting. The 2022 adjustments are responsive to the Islands Trust Act preserve and protect mandate, are in accordance with the Trust Policy Statement and are consistent with the established goals in our OCP. They are a major improvement over the house size and siting values in 2016.

Having said this, I am open to supporting adjustments to the 2022 house size and siting limits where there is a rationale to support these adjustments that is responsive to the Islands Trust Act preserve and protect mandate, in accordance with the Trust Policy Statement and consistent with our OCP goals.

I am fully committed to working with community members and trustees toward to achieving our OCP Community Vision Statement:

Our South Pender community is committed to preserve the rural nature and natural diversity of our island environment for future generations.

Respectfully submitted,

Paul Petrie

A solid black rectangular box used to redact the signature of Paul Petrie.

Notes to South Pender LTC

Attn: Trustee Falck,

We have recently viewed the table that was developed from the discussions on January 27th regarding setbacks. We would like the following to be added/considered.

Regarding the current setback of 50' from the high water mark. We believe this is an appropriate setback for the following reasons.

- In the area where we live [REDACTED] the majority of the current built homes are set back at 50' or more. The homes were sited and built at a time when people discussed as neighbours how each other's build would affect each other's privacy and views and were placed appropriately. If the properties are developed or redeveloped at the old setback of 25', they would undermine those previous discussions and encroach in the current view areas (majority of the current homes built).
- The current 50' setback will protect the fragile "cliffside" ecosystem from being built on.
- Sea level rise and storm surges are a real and current threat. The homes should be set back for safety reasons and to reduce damage to the structure.
- The 50' setback will also prevent the need for armouring of the beach cliffs. Foreshore erosion is a current concern and armouring has occurred already. Armouring affects the local coastal habitat negatively and can accelerate erosion on neighbouring properties and landscapes.
- we would like to suggest the development of Designated Protected Areas as a useful tool in protecting cliffside trees and sensitive ecosystems. These DPAs seem to be common on other Gulf islands including North Pender and do exist on a very small scale on South Pender but could be expanded as part of the project. This would address Trustee Falck's concern that the 50' setback from the high water mark would increase more tree cutting or tunnels for views.

We also believe that the current side setbacks of 20' are a good idea for the following reasons.

- They allow for a natural green privacy screen (bushes/trees) to be used between the dwellings. This green space visually reflects the characteristics of a rural countryside. It also reduces the need for "privacy fencing" which is characteristic of an urban environment.
- We don't believe that the additional 20' (10' per side) is too restrictive. With thoughtful development these setbacks can be met in most instances, eg. Wells, Septic systems and driveways can be within the setback. It's only for the dwelling that the 20' setback exists.

We would also like to propose that outbuildings that are within those side setbacks have restrictions that do not allow for windows facing the interior property line (this restriction is quite common in city setbacks rules). This maintains privacy between property owners.

The setbacks should also include wording so that the term or definition of "dwelling" include structures such as a cantilevered deck. (So that the spirit of the setback rules can't be undermined.)

We also wanted to address the notion that 80% of the lots have already been developed and so we don't need to worry because "how can developing the remaining 20% really change things or be of concern?". We would like to point out that the current 80% of developed lots can be redeveloped. This is a real and current concern in many parts of the Country. Locally, some of the 80% developed lots have already been redeveloped. Some of the properties had small summer camps or cabins that have been redeveloped into much larger residences. Some of these buildings that were one storey are now two stories which can change the level of privacy previously had by the neighbouring property. The current side setbacks of 20' will also provide a much needed buffer for when properties are redeveloped for these larger dwellings.

We also wanted to acknowledge the insurance document that was included in the email. Since the change of setbacks does not affect the zoning of the property it appears to us to be irrelevant to this process.

We hope for further opportunities for discussion on these points.

Respectfully submitted,

Kathleen and David Durant

████████████████████.

From: Ron Henshaw <[REDACTED]>
Sent: Wednesday, February 28, 2024 11:03 PM
To: SouthInfo <SouthInfo@islandstrust.bc.ca>
Subject: workshop house setbacks and size

Dear Trustees

After attending the February 17th workshop and reviewing the spreadsheets, I have had a difficult time understanding how the spreadsheet can be fairly used as a determination to alter the existing Bylaw 144. Too much is left to being a personal opinion when Information has already been presented that shows greater setbacks and reducing house size does foster rural character and protects the environment for us all including the natural flora and fauna.

My position is that from observing the recent changes in housing and its potential escalation and impacts I think that the creation of bylaw 122 was carefully thought out and relevant to preserving South Penders unique Rural character and should be given time to work.

Larger houses are inevitable and there are many now that are thoughtfully designed, sited and constructed that we should embrace as they are a major component of our diverse community. It's when it doesn't work with neighbours too close, the landscape altered and ruined, houses looming and out of character that creates conflict and negative alterations to our rural landscape and negative impacts on community. Pretty hard to bring back once it's gone. The bylaws as they stand at least offer a safeguard I feel is necessary in this day and age.

From reading the OCP guidelines I would hope you who have been entrusted with the duty to care for our Island will be considering the Trust Object and our OCP when a decision on whether to revisit bylaw 144 is made.

Sincerely,
Ron Henshaw

1. Do you want to keep the current bylaw 114 ?

NO.

2. Do you have specific concerns with current bylaw 114?

YES. Unnecessary restrictions on house sizes and increased setbacks which do nothing other than impacting residents with legal non-conforming label.

If yes to 2), What are your suggested solutions? (e.g. revert to old bylaw, or edits to specific sections of current bylaw, or something else?)

3. Do your concerns (1 or 2 above) include environment and/or privacy and rural character?

Yes, as follows:

- a.** 114 and amendment 122 are not congruent with the changing reality of housing or shortage thereof. They are unnecessarily restrictive and do not take into account the fact that cost of building is a mitigating factor in what new residents can develop on their lots.
- b.** If we are to be concerned with rural character of South Pender, we should disallow subdivision of any lots. This would protect the island from increased density of housing and perhaps have a positive impact on water availability.
- c.** We should not allow rural parts of the island to be converted into private campgrounds; and
- d.** We should support those who actively invest in preserving the rural character of the island by putting resources into recovering farm operations.

4. Provide rationale and any other concerns. Include details on how your suggested solution helps address your concern.

We should have a bylaw that pertains solely to Environmental protection. Endangered species, coastal erosion or pollution should be discussed on its own and not combined with issues like house size or setbacks.

In addition:

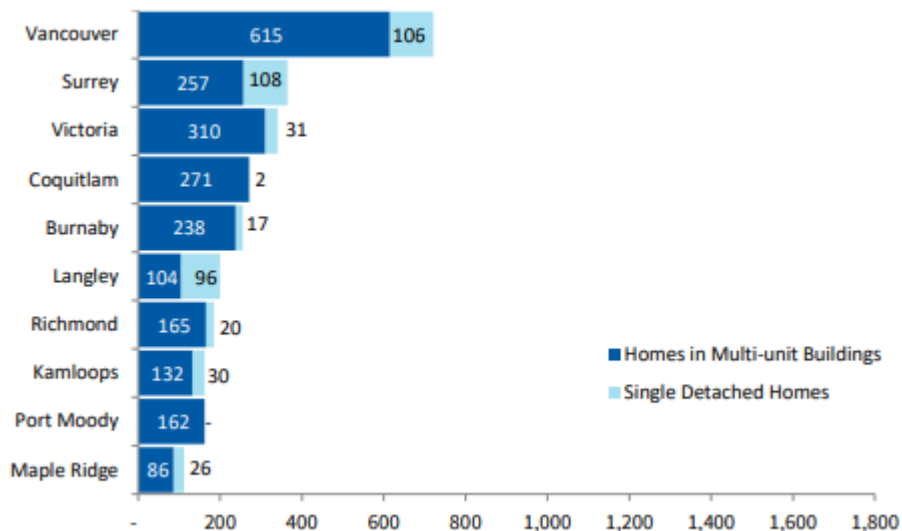
I would like to reflect on the rationale for Bylaw 114+122. Over the past two years, I have attended many Island trust meetings and recorded many comments I heard in support of 122 and potential solutions which supposedly exist.

Here is some of the reasoning to support 122, which I heard:

"We need to make houses smaller to protect environment, and reduce resource consumption."

I looked at older data for construction in BC.

Figure 2: Registered New Homes² by Building Type and Selected City², December 2021



While in general I could agree with this sentiment, it seems out of place considering massive development anywhere in the province. Multi-unit buildings are mostly constructed using concrete. Production of cement requires massive amounts of energy. Preventing somebody from building a basement because of carbon emission during cement production is a misplaced sense of scale of concrete demand in the world. Concrete consumption on South Pender does not factor in any way. Three Gorges Dam on Yangtze River used 28 million cubic metres (37 million cubic yards) of concrete and 463,000 metric tons of steel.

I cannot balance the sheet of how 122 restrictions would improve the situation.

"Smaller homes are easier to heat."

This could perhaps be true if the larger homes were not well built. Today's construction codes require materials used, doors, windows and HVAC to have a much higher R Value and to be more energy efficient than older homes.

If energy consumption was truly a concern to South Penderites, why are they not adopting European standards and only building passive houses?

If a person is willing to pay large heating bills, why should I or anyone else tell them what they should do? We have no say in what kind of gas guzzling vehicle people drive (yet) and if they chose to, so be it.

"Smaller homes are cheaper to build."

This could also be true. However depending on the style, materials chosen and finishing, a smaller home can far out-cost a larger one. In addition, cheaper is not

really a word to use when the cost of construction today is \$400-the \$700sqft for a basic rancher style home.

Size of the house, within regulations of existing Bylaw 114, is a function of one's wallet which should be none of anyone's business but the people who are paying for the home.

"A smaller building footprint will save the environment."

This statement was said during many of the meetings yet when confronted with the current housing crisis and changing family situations, the response was:

"Build a cottage on your property". Tell me how cutting down MORE trees and clearing away more flora could possibly help the environment!

"Increased setbacks are supposed to increase privacy."

This would provide privacy for whom? For all of those who I have seen attending these meetings, the setback increase would change nothing. Adding 20 additional feet in setbacks does not affect privacy in a meaningful way and it only makes a lot of current homeowners legal non-conforming.

What privacy are they speaking of?

Visual? If I already see a house from my home, an increased setback does not give me any more privacy.

Noise? I live over 1 km from the shipping lane and yet I can hear the drone of the ship engines. I hear motor boats moving on the water regardless of the size and the fact that I am so far from the water.

The argument that noise from a neighbouring property would be reduced by increasing the setbacks by 20 feet is misleading.

For example, the noise of a running lawn motor on neighbours property 20 feet closer would only increase the sound by an additional 3-4db.

The difference is not noticeable to the average human.

"Increased setbacks, and reduced house sizes are supposed to protect the rural character for the future, if a new owner decides to build a larger home."

How many new homes were built since Bylaw 114 was enacted?

Can anyone provide proof of a negative impact?

Since a certain person had the audacity to say, "You do not need larger house to support your elderly parent, she will be dead before construction is done and then what will you do with a huge empty house?" than I would use the same argument to point out that the majority of senior participants in this debate will be dead too, so why are they worrying about someone building their house larger?

Other Points:

Bylaw 122 does not take into account the changing reality of the cost of housing and the fact that for aging people in BC (today) there are not enough places in care homes or the medical system to rely on. We need to prepare to Age-In-Place and that means more square footage to accommodate disabilities, walkers, wheelchairs and of course, to house their care-givers. No-one in their 80's wants to spend MORE money to renovate their home or to simply live through the difficulties of those renovations. Furthermore, it is not fiscally smart to be reactive instead of proactive; spend the money once and prepare your home for your retirement years, instead of paying for construction twice.

Multi generational homes are increasing in number; many young adults cannot afford to buy properties on their own and are nowadays moving back home to stay with their parents. We are seeing it here already on South Pender.

The argument that one can simply build a cottage on their property is not congruent with cost reduction, or affordability, nor would it be possible on many properties on South Pender due to the topography.

To further refute this line of reasoning, a separate building still requires a foundation, more walls, more roofing, electrical systems, heating and plumbing. This is definitely less cost effective than having similar or perhaps smaller space within one structure. Finally, heating 2 separate structures will consume more energy than similar space in one structure.

It is not a belief, it is science.

Conclusion:

Rather than constantly looking for making it more difficult to build, we need to relax the regulations since there is no evidence new constructions are built larger than the established allowed size. There is a difference between asking and getting a variance and actually being able to build it. The cost of materials and manpower required to complete construction is a very strong mitigating factor. And in reality anybody with an “unlimited” budget will build whatever they want.

The bylaw 114 (with amendment 122) should be rolled back to previous bylaws allowing a larger house sizes. We should also return to the easements before 122.

South Pender Island LTC members,

The most common complaint submitted last term opposing the limiting of house size, and increasing setbacks as laid out in Bylaw 122, was that it would make several properties 'legally non-conforming'. In spite of continuous assurances by trustees and staff that this would not be the case, many residents stubbornly refused to accept their word and persisted in repeating the rumor to misinform other property owners. Now that current trustees have their own legal opinion which advises that no properties will be 'legally non-conforming', this should also remove unsubstantiated concerns about how a 'legal non-conforming' status would affect home insurance. In fact, 5.1(6) has removed non-conforming status from homes that are larger than what was permitted under the 2016 bylaw. This being the case, it begs the question: exactly what is the objection to the current bylaw that requires further consideration?

Community members have presented a number of scientific reports which support the rationale for reducing house size and broadening setbacks, and we have received none which contradict that data. We have yet to hear how trustees believe the amendments are 'contrary to or at variance with' current policies within the Trust Policy Statement or our OCP. What we have heard from trustees in describing their reason for this project is that "this is what we were elected to do". At the beginning of this term, trustees showed their commitment by passing a motion 'to repeal Bylaw 122'. While that effort was ill informed and carried no force, it did however indicate trustees' intentions before they began a public review of the Bylaw 122 amendment; a decision, possibly based on the mistaken belief about non-conformity, in which the absence of neutrality was obvious.

Having public discussions within the community are commendable as long as residents know the purpose, are well informed, and are clear about the topics being put forward. Pertinent, unbiased, and truthful information is key to a successful outcome regardless of any potential disagreement. In this particular project, I am unsure of what that purpose is now that the primary reason for objecting to Bylaw 122 has been shown to be invalid. If these discussions continue, I'd suggest they would be better framed around policy rather than about regulations supporting existing policies. At the moment, it appears the discussion is more about whether non-existent property rights should overrule the Trust Act, a conversation trustees may not wish to entertain.

We have also heard that the provision to apply for a 'variance' assumes the bylaw is weak or ineffective. Were that the case then land use bylaws in all jurisdictions across Canada would be faulty. Given the topography of the island, the different lot sizes and configurations, it would require a bylaw for each property if a 'variance' was not available to respond to those differences. A 'variance' application also has the benefit of allowing adjacent property owners to be notified should a change be requested. Complaints about the length of time to process the application and/or the costs, are administrative matters that are within the trustees ability to manage and have nothing to do with the benefits of allowing 'variance' applications.

It would be very helpful if trustees could inform the community what their position is with the legal opinion now in hand regarding the 'legal non-conforming' of properties and any rationale they may have in continuing this project. Establishing the parameters of the discussion might also be of some benefit.

Steve Wright,
Pender Island

1. Do you want to keep the current bylaw 114 ?

Unequivocally YES. There has been no demonstrated need to change it from a policy perspective, either in the Trust Policy Statement or the SP OCP. If there are minor adjustments to better reflect specific concerns, then those particular instances can be looked at within the confines of Bylaw 114 as it stands.

2. Do you have specific concerns with current bylaw 114?

If yes to 2), What are your suggested solutions? (e.g. revert to old bylaw, or edits to specific sections of current bylaw, or something else?)

No. Nothing in this bylaw creates a legal non-conforming property nor does it have any negative implications for home insurance. The current house sizes allow for almost all existing houses to be significantly enlarged. Should any matter arise that impacts a property owner's development plans, a variance application is available to deal with any site specific matter.

3. Do your concerns (1 or 2 above) include environment and/or privacy and rural character?

Every decision we make in developing our properties affects the environment and its resources. We are required by Trust policies and the Declaration on the Climate Emergency to reduce or mitigate our footprints as much as reasonably possible. Its unnecessary to quote the scientific data here as it has been presented at earlier meetings. The primary reasons for moving to the island is privacy and the rural character. Maintaining those is the essence of the "preserve and protect" mandate so younger generations can experience something other than an urban area.

4. Provide rationale and any other concerns. Include details on how your suggested solution helps address your concern.

Any rationale must come from policy as outlined in earlier submissions. If the policy is weak or does not respond to current demands, then review the policy not the regulations that support the policy. The complaints about the amendments have been 'political' in that they center on personal interests, some unrealistic, others misinformed. The Trust Act is not secondary to people's wishes, it establishes the parameters for property owners to develop their properties. The Trust Area is recognized by the Provincial government as worthy of protection and that is what makes the Trust unique in Canada. Bylaw 114 should be left as is and allowed time for it's provisions to to take effect. Should they not manifest in any beneficial way to contributing to the rural and natural character of the island, the environment, and our community, then consider options at that time.

[REDACTED]

Apr. 8, 2024

To the South Pender Island Trustees
and the LTC

I have followed the debate about repealing Bylaw 122. I am not in favor of repealing this bylaw as the dialogue about the issue has revealed adequately to me that: no properties will be legally non-conforming; that home insurance will not be affected by the bylaw; that broadening set backs and reducing house size are in line with our OCP and the vision that I and many of my South Pender neighbors have for our community.

[REDACTED]

(via e-mail)

April 19, 2024

Trustees,

We would like to commend the trustees for requesting the March 2024 staff report on “Bylaw No. 122 & Legal Non-Conforming FAQ” and thank the staff for clarification of this central issue in our community discussion around review of the bylaw changes enacted in Bylaw 122.

legally conforming

The staff report established definitively that the 2022 amendments to the Land Use Bylaw (LUB) did not create any dwellings/houses that are legally non-conforming regarding maximum floor area including houses that are larger than the current house size limits. The staff report confirms that all houses that were legally constructed prior to September 15, 2022, are now deemed “legally conforming” as a result of the enactment of Bylaw item 5.1(5) on September 2022.

This clarification is important because the ongoing debate around house size limits has been driven largely by concerns regarding the designation of “legally non-conforming” for houses that exceed the permitted house size limits.

The community discussion on house size limits in 2015-16 was animated by concerns by some members that the house size limits recommended by the Advisory Planning Commission would create a significant number of properties with houses that would become legally non-conforming. At the time there was a lack of a clear definition of the long-term effect of houses that became legally non-conforming under the provisions of the Local Government Act. The trustees in 2015-16 established large house size limits to avoid having a large number of houses designated legally non-conforming.

Since 2016 there has been rapid construction growth in our rural community and many of the new houses are significantly larger than the existing housing stock. If this accelerating growth continues it will have a major impact on the rural character of South Pender contrary to several of the community goals in our Official Community Plan including the goal: “To ensure land use, development, and associated servicing are compatible with the rural island character and that their growth is gradual and sustainable.”

Former trustees Wright and Thorn addressed this unintended result of our 2016 large house size limits by bringing house size limits more in keeping with the preserve and protect mandate of the Trust, our OCP goals and our Community Vision Statement: “Our South Pender community is committed to preserve the rural nature and natural diversity of our island environment for future generations.”

The opposition to the reduced house size limits in 2021-22 was once again driven in part by the apprehensions and misapprehensions about the impact of properties becoming labeled as “legally non-conforming”.

Trustees Thorn and Wright addressed these concerns by enacting Bylaw item # 5.1(5) which ensured that properties with houses above the new house size limits could be replaced to their original size if destroyed by fire, etc. This was a creative solution that in our opinion should have put to rest concerns over “legal non-conforming”, but it didn’t. These concerns persisted into the present LTC term.

The current community discussion about the reduced house size limits now established in our LUB is once again being driven in part by “legal non-conforming” concerns. The staff report on “Legal Non-Conforming” establishes the fact that as of September 15, 2022, all existing houses are deemed “legally conforming” in accordance with the exemption in item 5.1(6) of our LUB. Simply put, all houses, including those that exceed the current house size limits are legally conforming with our current bylaw.

We find it difficult to understand the suggestion by some that houses larger than the current house size limits somehow are diminished in value because of the new limits. While I am not a real estate expert, it seems to me that a house that is larger than the current house size limits would have enhanced value, at least to potential buyers who place value on larger houses.

Variances

It is important to recognize that the Bylaw establishing the current house size limits is a policy of general application. Legislation allows any property owner to apply for a variance to those limits where there are exceptional circumstances that merit a different limit. Variances provide flexibility in the application of the house size limits where the trustees consider that a different house size limit is warranted. A variance is a well-established public policy tool to address a bylaw provision that may cause undue hardship.

For example, a three-generation family may require a house larger than the bylaw limits currently allow. A variance application would provide an opportunity for trustees to consider the merits of that application. Or on a property with unusual topography a property owner may be able to show that to build a garage separate from the house would negatively impact sensitive ecosystems on the property. A variance in that case would allow trustees to consider increasing the house size limit to incorporate the garage as part of the dwelling.

Before granting a variance, the LTC must provide adjacent property owners an opportunity to comment on the variance application and trustees must consider those comments before deciding to grant or deny the variance application. This provides

some protection for adjacent property owners whose interests may be affected by the application. Two variance applications have been considered and allowed to date by the LTC. The changes enacted through Bylaw 122 are working.

Some have argued that the \$1.976 fee to file a variance application is too high. This fee is required to cover, in part, staff time to process the application. Given the cost to build a new house, it is difficult to see how the application fee could amount to more than 1/3 of 1% of the building cost. If trustees feel that this relatively small fee is too high, they have the authority to reduce the application fee by amending Bylaw No.124.

A variance is a sound public policy tool that provides for some flexibility in the application of the current house size bylaws. Item 5.1(5) of our LUB ensures that all houses are deemed legally conforming as of September 15, 2022. The new house size limits duly enacted in 2022 are more consistent with the Trust preserve and protect mandate, with our OCP goals and with the existing rural character of our community.

The question that our current trustees must answer is - why are they expending our tax dollars and valuable staff time on “fixing” a system that isn’t broken?

Sound public policy would indicate the 2022 house size limits should be given a chance to work, particularly since there has been clarification of the “legal non-conforming” misapprehensions. At the November LTC meeting chair Elliott suggested trustees consider a less divisive issue such as “reconciliation” as a minor project and give the current house size limits an opportunity to work. Trustees rejected that approach.

Given the staff report on “Legal Non-Conforming,” we encourage trustees to reconsider the current focus on house size and setback issues and focus on issues that are more in keeping with the Trust preserve and protect mandate and the goals in our OCP. We are particularly interested in advancing reconciliation with the W̱SÁNEĆ First Nation and addressing the loss of the reconciliation initiative when the current trustees abandoned Bylaw No. 123. We are especially concerned about the impacts of climate change particularly damage from storm surges and drought and the impacts on our ground water supply and the increased threat of fire. We are also concerned about the impact of blasting on the sensitive ecosystems that require protection.

However, we appreciate that trustees are now knee deep in the current review of the 2022 bylaw changes and we will continue to participate in this discussion based on our combined 110 years of experience as active South Pender community members and our strong support for the goals in our OCP which guide Trust decision making.

Thank you for considering our views.

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████████████████████

Hello South Pender Local Trust Committee

I am writing to urge you to consider changes to house size limits next year (not now). I think that it will be interesting to watch over the next year to monitor whether reduced house size is actually a problem on South Pender. In cases where a property owner wants a larger house than is allowed by the Land Use Bylaw, they may apply for a variance to accommodate their particular situation.

I think we need to be vigilant as a community to ensure that our rural character is maintained in these very challenging times.

Thank you.

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████████████████

April 20, 2024

Dear Trustees,

Islands Trust staff now have satisfactorily addressed concerns about the “legal non-conforming” question as it relates to house size on South Pender.

There is a variance application process in place for those residents who believe their circumstances warrant greater than the bylaw regulated house size for their property.

We support the current bylaw on both house size limits and setbacks and feel they address the Islands Trust mandate to preserve and protect our island.

We urge you to move on from the time and resource wasting reconsideration of house size and setbacks and let the current limits do their intended work.

[REDACTED]
[REDACTED]
[REDACTED]

Trustees,

Please accept the following submission in support of the current Land Use Bylaw provisions regarding house size and siting.

Our South Pender community faces a number of important challenges including:

- a significant increase in population (27% between 2016-2021 highest in the Trust)
- finite island resources such as water supply
- erosion of our community's rural character as densification accelerates.
- Adapting to the climate crisis and mitigating its impacts

The 2022 changes to Bylaw 114 enacted by former trustees Thorn and Wright were responsive to these challenges.

The current house size and setback limits in Bylaw No. 114 were reached after more than a dozen meetings in the previous LTC term. There was plenty of opportunity for community members to share their views at regular LTC meetings, community information meetings and the public hearing and in writing. In our view, the house size and setback values enacted in 2022 were reached through a fair and open process. We appreciate that some community members have a different view of the process and would have preferred a different outcome.

Section 478(2) of the Local Government Act states that all bylaws enacted by trustees must be consistent with the Official Community Plan. Key goals in our OCP include:

- 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,
- reducing green-house gas emissions

Trustees have a primary responsibility to ensure that bylaws they approve are consistent with our OCP goals. Former trustees Thorn and Wright gave careful consideration to these goals when enacting the 2022 bylaw changes on house size and siting and they aligned the size and siting values with our OCP goals.

We support the current house size limits in part because they correct the very large 2016 house size limits that were far in excess of the average house size now in our community. For example, the 2016 house size limit was set at 3,800 ft² for lots under 1 acre. This is 2 ½ times the average size of the 32 houses in that lot size category. (see the attached table 1 in Appendix 1 prepared by a community member.) In our view the significantly larger house sizes adopted in 2016 were not consistent with our OCP goal that requires trustees to: "...ensure land use, development, and associated servicing

are compatible with the rural island character and that their growth is gradual and sustainable.”

Increasing the house size limit 2 ½ times greater than the existing average house size for these smaller lots does not support gradual growth and it will greatly impact the rural character in these neighborhoods where small lots predominate. The 2022 house size limit set at 2,500 ft² for lots under 1 acre is 1 ½ times larger than the current average house size on these lots and allows for gradual growth while maintaining the current rural character of our community. These 2022 adjusted house size limits are more in keeping with our OCP goals.

The land use designation map in Schedule B of our OCP shows that a large majority of residential lots are located along the coastline on the Northeast and the Southwest shores. This coastline contains some of the most sensitive ecosystems on South Pender including species at risk protected by Federal legislation. Most of the small lots are located along the coastline. Houses with larger footprints are more likely to negatively impact these ecosystems.

Larger 3,800 ft² houses on smaller lots are not consistent with our OCP goal to protect the natural features and biological diversity of our Island. The house size reduction to 2,500 ft² for these smaller lots is more in keeping with our OCP goals and the Trust preserve and protect mandate. The increase to a 50 ft. setback from the natural boundary of the sea is an improvement that will also help protect the sensitive ecosystems along the coastline.

In appendix 2 we have included some examples of plans for houses under 2,500 ft² to illustrate the viability of this limit for smaller lots. Houses #1 and #2 are 3 bedrooms, 2 bath dwellings both under 1,500 ft². House #3 is a 2,400 ft² dwelling with 4 bedrooms and 2 ½ baths. House #4 is a 4-bedroom 3 bath house under 2,400 ft². These houses illustrate that the 2,500 ft² house limit for lots under 1 acre is a reasonable limit for these smaller ecologically sensitive lots. We are strongly opposed to increasing the current 2,500 ft² house size limit for lots under 1 acre.

Where there are exceptional circumstances that could warrant a larger home on these smaller lots, property owners have the option of applying for a variance and having that application considered on its merits.

While we fully support the existing house size and siting values in Bylaw 114, we are open to considering minor adjustments to these values that are consistent with our OCP goals and meet the needs of our growing population. We are particularly interested in further exploring proposals advanced by community members including adjustments for attached garages that do not involve living space and the relationship between cottages and possible secondary suites.

“Legally non-conforming”

Legally non-conforming is a land use concept that has been at the centre of the recent divisions in our community as we struggle to find the right solutions to the challenges regarding house size and siting.

When house size limits were being discussed in 2015, “legally non-conforming” was a concept poorly understood by many and some community members felt it was stigmatizing to be so labeled. Lost in the furor around “legally non-conforming” was the fact that the Local Government Act provided similar size and siting protection under section 529 for “legally non-conforming” properties as all other “conforming” properties enjoyed under the local trust bylaw.

In 2016 the trustees responded to this intense debate by opting to set the house size limit very high to minimize the number of properties that were labelled “legally non-conforming”. This decision had the effect of setting house size limits based on the largest houses in the community which were far in excess of the average house sizes as illustrated in the attached table 1.

This debate around “legally non-conforming” continued in 2022 and Trust planning staff attempted to clarify the actual impact of “legally non-conforming” in a presentation at a community information meeting on June 17, 2022. The affected properties were deemed legal under the Local Government Act which allowed them to be fully replaced if destroyed by fire, etc. However, they were “grandfathered” as “non-conforming” because the protection to fully replace the dwelling was in the Local Government Act, not in our LUB.

Although this protection existed under the Local Government Act, former trustees Wright and Thorn reinforced this protection by enshrining a parallel protection within the LUB itself. They accomplished this by adding section 5.1(5) making all dwellings legally conforming as of September 15, 2022, regardless of house size.

This “legally conforming” designation was confirmed by Trust staff in the March 2024 report: “Bylaw No. 122 and Legal Non-Confirming FAQ” which clearly establishes that all houses constructed prior to September 15, 2002 are deemed “legally conforming” with Bylaw 114 regardless of size, including those very large houses that were legally non-conforming under the 2016 larger house size limits.

In our view, so-called “legal non-conforming” is, or should be, a non-issue in our current review of the house size and siting limits.

Variances

Our current trustees have expressed the view that variances are an indication that the policy on house size and siting is flawed and should be adjusted to avoid variances for house size and siting. We do not share that view.

Variances are a legitimate planning tool established under the Local Government Act and provide some flexibility for homeowners to take into account exceptional circumstances and possible hardship situations. This flexibility is sound planning policy and allows trustees to establish a policy standard in accordance with the Trust preserve and protect mandate and our OCP goals, while providing property owners with the flexibility to vary that standard where the circumstances merit an adjustment.

The key policy advantage for variances is that it gives adjacent property owners an opportunity to express support for the variance or to convey concerns about the impacts of the variance on their property interests. Trustees then consider the merits of the variance application in light of all relevant information including that provided by affected neighbours. This is sound public policy that should be supported, not rejected.

Some have complained that the \$1,976 application fee for a variance is too high. Given the current building cost on the Island (\$500+ per ft²), a 2500 ft² house would cost well over 1 million dollars. The variance fee would amount to less than 1/4 of 1% of the building cost, a very reasonable cost that provides adjacent neighbours a voice in the process. This fee covers staff time to process the application. In any event, the trustees determine the variance application fee and it is within their authority to reduce the fee if they consider the current fee is too high. We note that the variance policy provides a 75% refund if a variance request is withdrawn before trust staff refer a written report to the LTC on the application.

Some community members have complained about the cost impact of a delay in the consideration of an application, particularly in this period of heightened inflation affecting the cost of building materials. It is important to distinguish between a delay on the part of the Trust and a delay in processing on the part of the applicant. Trustees have oversight on the variance application process and are in a position to ensure that Trust staff act expeditiously in the processing of an application. The consequences of any delay on the part of the applicant accrues to the applicant.

Insurance

One of the confounding issues in the community discussion about house size and siting is the assertion that “legally non-conforming” status will increase the homeowner’s insurance premiums. The March 2024 staff report indicating all dwellings are “legally conforming” as of September 15, 2022, should put that issue to rest. Additional premiums can apply to building code changes and that is now more common with code adjustments relating to climate change impacts. This would apply to all properties regardless of size or siting status and is not related to the bylaw changes in 2022.

We appreciate that increased insurance costs may in some cases be related to asbestos mitigation common in older homes and hazardous materials among other things. This would apply equally to all properties regardless of size or siting but may vary for older homes constructed at a time when asbestos insulation was more commonly used.

The insurance literature also provides examples of cases where increased insurance costs may be related to zoning changes for “use” and “density” provisions. For example, the literature provides the example of a building that includes a corner store or a restaurant on the ground level and the owner’s residence above. If a change in the bylaw removes the use of commercial ventures from the zone, there are options for insurance coverage for the loss of that use. A similar situation could occur where a zoning change removes short term vacation rentals as a permitted use. There may be insurance to cover the loss related to that bylaw change. That is related to use and not related to size and siting changes enacted in 2022.

Another zoning example in the literature is related to density where zoning allows for 4-plex rentals, and the zoning is changed to duplex rentals only. In that case there may be insurance to cover the loss related to density changes. It is important to keep in mind that the Local Government Act does not fully protect non-conforming use and density as it does with size and siting. Additional insurance costs associated with use and density have no bearing of the size and siting bylaw changes enacted in 2022.

Based on our current understanding we do not see any basis to conclude that house size or siting provisions in our current bylaw can adversely affect insurance premiums.

Conclusion

For the reasons detailed above, we support retention of the current bylaw provisions on house size and siting. The 2022 adjustments are responsive to the Islands Trust Act preserve and protect mandate, are in accordance with the Trust Policy Statement and are consistent with the established goals in our OCP. They are a major improvement over the house size and siting values in 2016.

Having said this, we are open to considering minor adjustments to the 2022 house size and siting limits where there is a rationale to support these adjustments that is responsive to the Islands Trust Act preserve and protect mandate, in accordance with the Trust Policy Statement and consistent with our OCP goals.

We are fully committed to working with community members and trustees to achieve our OCP Community Vision Statement:

Our South Pender community is committed to preserve the rural nature and natural diversity of our island environment for future generations.

Respectfully submitted,

_____.

APPENDIX 1. Table 1. Dwelling size – current and permitted 2016 & 2022

SOUTH PENDER ISLAND DWELLING SIZE - CURRENT AND PERMITTED

SOUTH PENDER ISLAND LOT SIZE	# CURRENT DWELLINGS	AVERAGE	MAXIMUM	% INC	MAX FLOOR	% INC	#	TOTAL	%	%
		CURRENT HOUSE SIZE (SQ. FT.)	FLOOR AREA 2021 SQ. FT.	OVER EXISTING	AREA 2016 SQ. FT.	OVER EXISTING	VACANT LOTS	BUILDABLE LOTS	BUILDABLE LOTS	VACANT LOTS TO TOTAL LOTS
LESS THAN 1 ACRE	32	1510	2500	166%	3800	252%	7	39	17%	18%
1 - 2 ACRES	90	1944	3000	154%	4500	231%	15	105	45%	14%
2 - 4 ACES	52	1615	3500	217%	5600	347%	8	60	26%	13%
4 - 10 ACRES	11	1997	3750	188%	5854	293%	3	14	6%	21%
10+ ACRES	15	2727	4000	147%	6030	221%	2	17	7%	12%
TOTAL (AVERAGE)	200	1959	3350	174%	5157	269%	35	235	100%	15%

Data based on 2016 BC Assessment Records and needs updating but will not likely change the overall figures substantially.

Some Observations

The current house size restrictions allows an average increase in house sizes of more than 170% over existing house sizes.

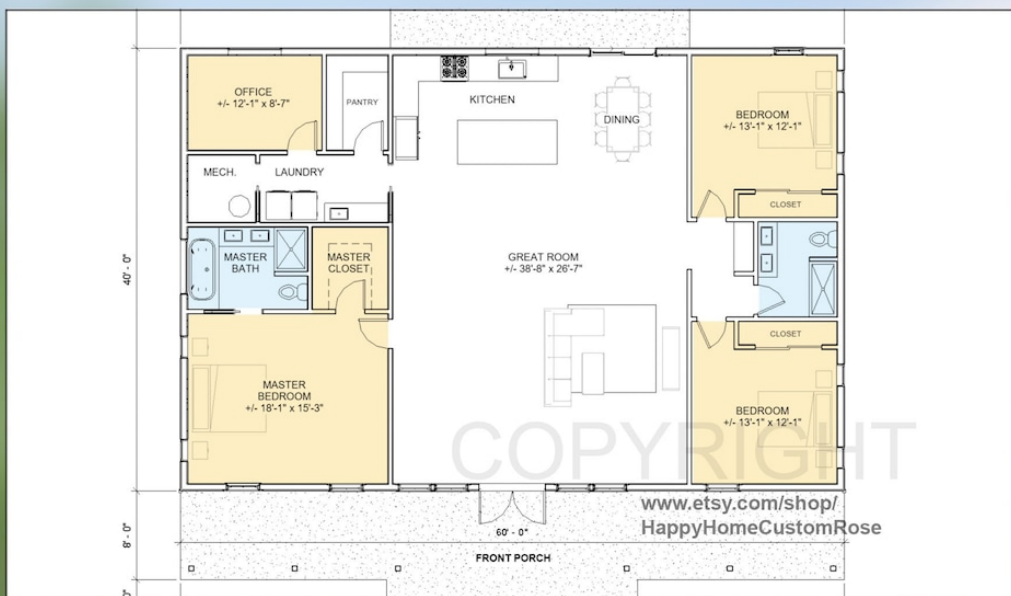
The former house size restrictions allowed almost a 270% increase over existing house sizes.

The number of vacant lots is quite small in relation to built on lots (85% are already built on, 15% are vacant).

As existing dwellings are renovated or replaced, this will have the greatest effect on changes to the Island in the future (especially on 2-4 acre properties) that could be rebuilt up to 217% of existing size houses with the current bylaws and 347% with the previous bylaws.

APPENDIX 2. Sample house plans for dwellings under 2,500 ft²

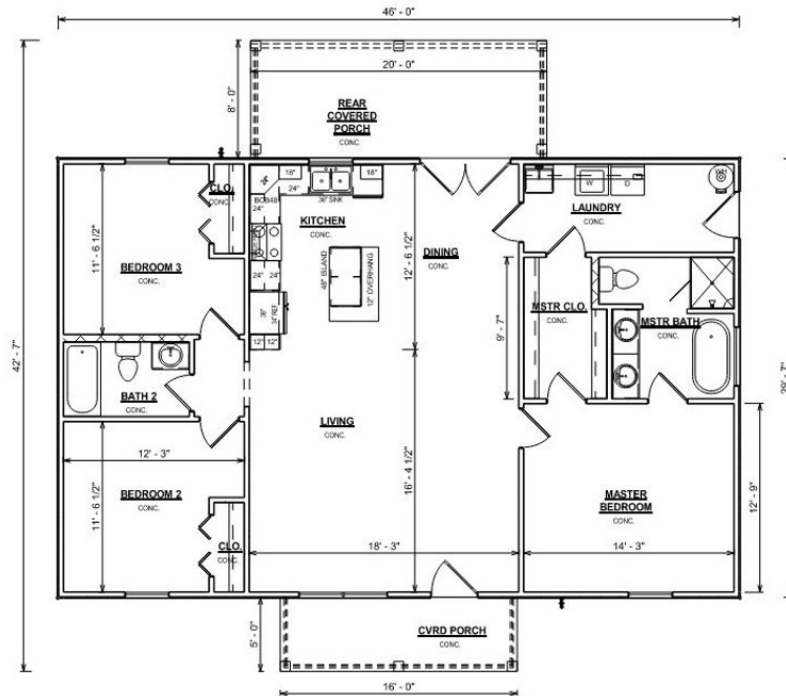
House #1. A 1,380 ft² house with 3 bedrooms 2 baths modest, but very livable house



https://www.etsy.com/ca/listing/1490271693/farmhouse-barndominium-40-x-60-house?click_key=dbbd5cddec791a9813ed92201e7308efa4b255d5:1490271693&click_sum=93dedfd0&ref=internal_similar_listing_bot-3&listing_id=1490271693&listing_slug=farmhouse-barndominium-40-x-60-house

Letter to Trustees April 22, 2024. House size and siting

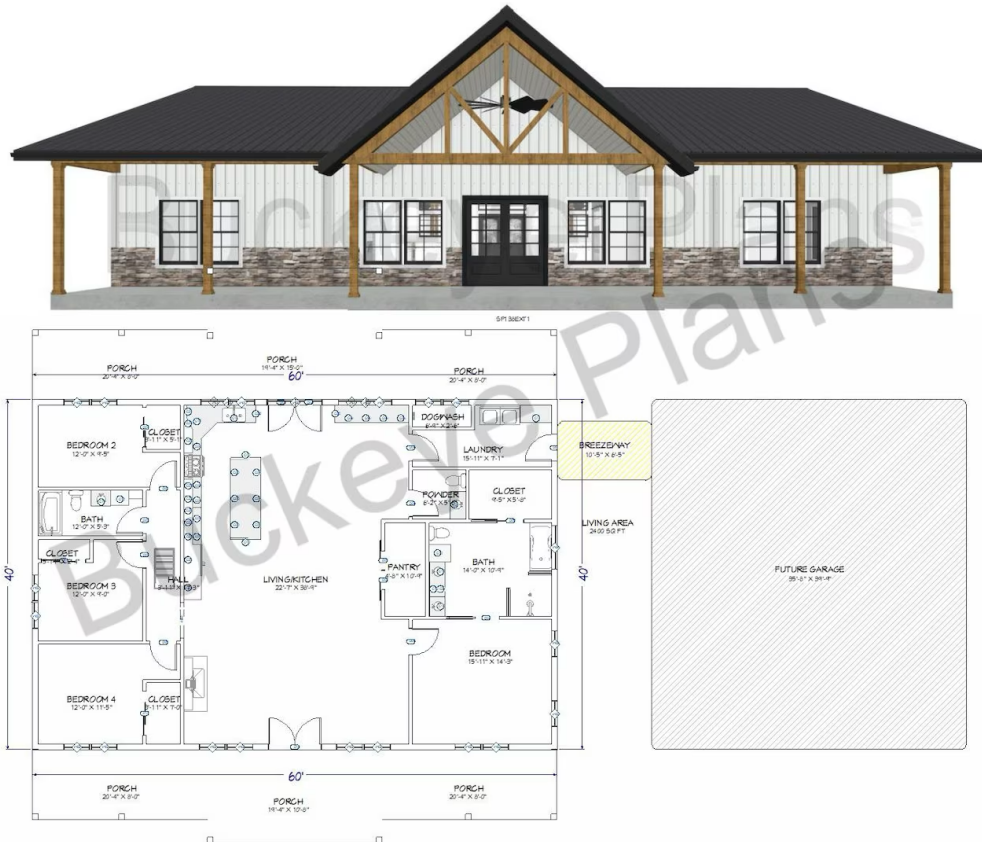
House #2 A 1,500 ft2 3 bedrooms 2 baths.



https://www.etsy.com/ca/listing/1069225678/plan-104-3-bd2-b-1361-htd-square-feet?click_key=8c0834251b8f016b4da67a269f8120efff6ee93e:1069225678&click_sum=a90d6660&external=1&rec_type=ss&ref=landingpage_similar_listing_top-8&frs=1

Letter to Trustees April 22, 2024. House size and siting

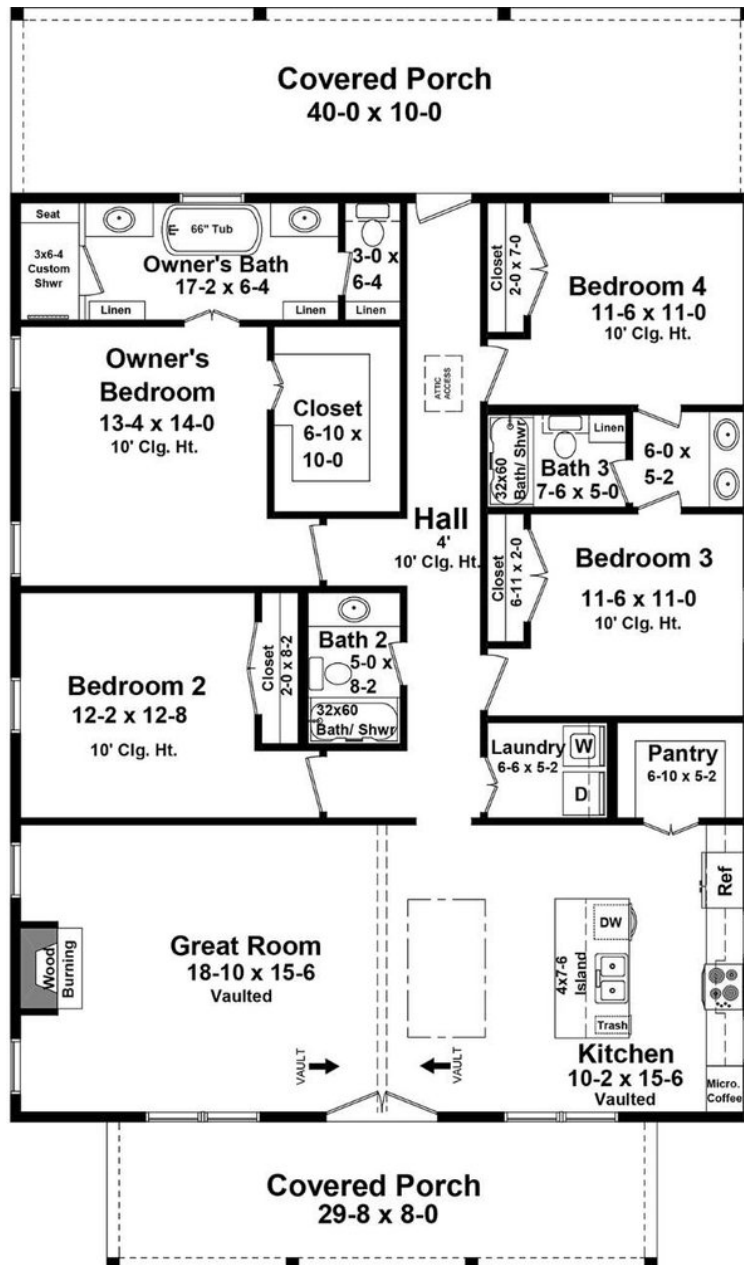
House #3. A 4 bedroom 2 1/2 baths 2,400 ft²



Letter to Trustees April 22, 2024. House size and siting

HOUSE # 4 A 4 BEDROOM 3 bath house under 2,300 ft²

<https://www.eplans.com/plan/2637-square-feet-4-bedroom-3-00-bathroom-0-garage-farmhouse-country-cottage-sp302316>



Trustees Evans, Falck and Elliott

After attending the Community Information Meeting on April 7th please take into consideration my concerns and suggested changes to Bylaw 114 that were implemented as a result of the adoption of Bylaw 122.

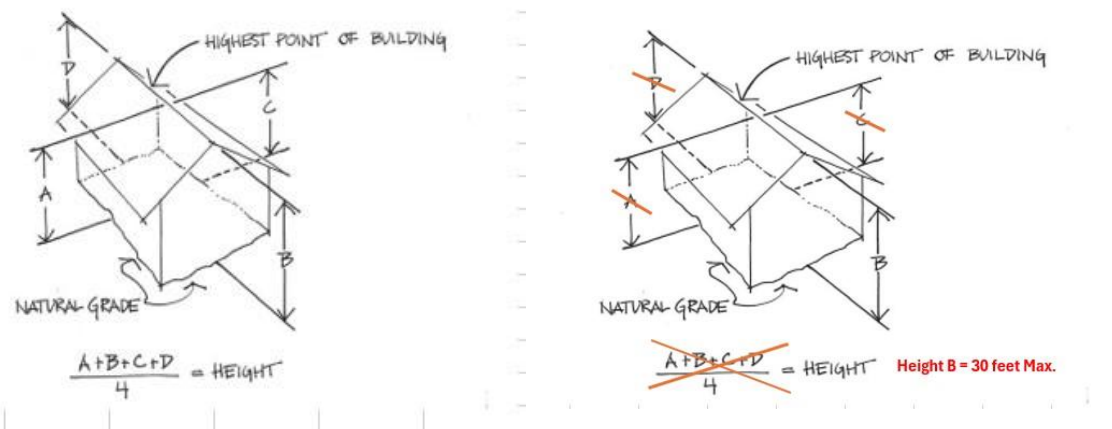
3.4(1) Building Height Limitation

The dwelling or cottage 30 ft maximum fixed height was an inclusion in Bylaw 122 with little or no community discussion.

Some anomalies that are now included in Bylaw 114 after Bylaw 122 adoption:

- To avoid confusion shouldn't the height graphic (shown below) be changed to reflect the 30 ft max adopted in 122 i.e. Height "B" is now the highest point with a max. of 30 feet., so A, C and D are superfluous in my opinion.
- No consideration is given to existing dwellings that now exceed the 30 ft max height and are now rendered Legal Non-Conforming (LNC).
- If a dwelling now exceeds the Max Dwelling Height no LNC exemption clause was included similar to those written for Max Dwelling Size and Setbacks.
- There are **21(10%)** of the dwellings that have 3 stories - basement, 1st floor and 2nd floor designation. It is reasonable to assume some are now LNC with the 122 max height specification. *(BC Assessment)*
- All the other Southern Gulf Islands LUB's use the same maximum height calculation used by Bylaw 114 prior to the changes adopted by 122.

Current LUB 114 Definitions after 122 Adoption:



Resolve:

Change **3.1(4)** back to pre-122 "~~at no point may~~ a dwelling or cottage shall not (add) exceed 9.2 metres (30 feet) in height", using the previous method of calculating Max Dwelling Height and which is currently still the definition.

- Consistent with how other SGI islands calculate their maximum dwelling height.
- Removes dwellings exceeding 30 ft max that have become Legal Non-Conforming.

Floor Area

There is confusion about the “*floor area*” definition:

In three (3) different documents used to define “*floor area*”, notice that three (3) different definitions are reflected.

- a. “*floor area*” means the sum of the horizontal areas of all storeys in a building, measured to the **outer inner** surface of the exterior walls, exclusive of any floor area occupied by a cistern used for the storage of water for domestic use or fire protection, **and exclusive of a storey that is not fully enclosed by a floor, ceiling, and four walls or glass.**
(*Blackline version prior to 122 Adoption*)
- b. “*floor area*” means the sum of the horizontal areas of all storeys in a building, measured to the inner surface of the **outer inner** walls, exclusive of any floor area occupied by a cistern used for the storage of water for domestic use or fire protection, **and exclusive of all areas of a storey having a floor and a ceiling less than 1.5 metres apart.**
(*Handout at CIM 2024.04.07*)
- c. “*floor area*” means the sum of the horizontal areas of all storeys in a building, measured to the inner surface of the **outer inner** walls, exclusive of any floor area occupied by a cistern used for the storage of water for domestic use or fire protection, **and exclusive of all areas of a storey having a floor and a ceiling less than 1.5 metres apart, and exclusive of a storey that is not fully enclosed by a floor, ceiling, and four walls or glass.** (Bylaw 114 – I.T. Website)

“**basement floor area**” means any portion of a storey in a dwelling with a lower floor that is located 1.5 metres or more below natural grade.

Resolve:

Strike from c: **~~and exclusive of a storey that is not fully enclosed by a floor, ceiling, and four walls or glass.~~** (Bylaw 114 – I.T. Website)

It is important to remove this clause (*blue*) as its inclusion renders more dwellings Legal Non-Conforming because the square footage (ft²) of an enclosed attached garage is now required to added to the dwelling total square footage.

- This is unfair, because if one was to build 2 car detached garage, its ft² would only be counted against Lot Coverage, whereas if the same 2 car garage is attached to the dwelling, then the garage ft² must not only be added to the Lot Coverage but also to the dwelling ft² (living space) – how is that fair or logical especially when the detached garage in all likelihood will have a greater environmental impact on the lot than the detached garage?
- There are **95** garages (*BC Assessment*) and while we are unsure of the ratio of the detached to attached garages, we know that BC Assessment does not include attached garages ft² in the dwelling ft² figures, so surely more dwellings with attached garages have become Legal Non-Conforming due to the “enclosed” statement.
- An enclosed attached garage is not considered living space in most jurisdictions.
- Rescind the “**basement floor area**” from the definitions, as the planner pointed out at the CIM the term is not used anywhere in Bylaw 114 and therefore has no purpose.

Shipping Containers

Shipping Containers, in my opinion, are not something that we would like to see proliferate on South Pender. Given the ease of installation and perhaps the cost benefits relative to an equivalent stick built accessory buildings, proliferation could easily happen.

Points of Clarification for Shipping Containers:

- Is there any foundation requirement for shipping containers?
- While they “*are a permitted accessory use*”, but are they considered an Accessory Building?
- If they are an “Accessory Building” then can they be used as “Temporary Dwelling” if they meet the conditions specified in **3.5(2)**?
- Does a Shipping Container(s) square footage count against Lot Coverage?
- Can they be stacked and if so, is the total container square footage included in lot coverage calculations?
- Why are there a different lot size categories for shipping containers from those for dwellings – for consistency shouldn’t all lot size categories be the same?

I believe shipping containers should be allowed only with a Temporary Use Permit (TUP), as they are not aesthetically pleasing and, in my opinion, don’t subscribe to the rural nature of our island.

Groundwater Protection

It was my impression from the *CIM 2024.04.07* that lined ponds should not and would not be considered for “freshwater catchment systems”. I feel however that ponds should not be unilaterally discounted in favour of tanks only – especially on larger properties. Indeed ponds are encouraged in the Islands Trust Building Site Fact Sheet: see “*Safe water is essential*” [Southern Gulf Islands Building Site Fact Sheet \(islandstrust.bc.ca\)](https://islandstrust.bc.ca/Southern%20Gulf%20Islands%20Building%20Site%20Fact%20Sheet)

Since there are no stipulations for what a freshwater storage system is required to be used for, some benefits of a pond are:

- Aesthetically more pleasing than large Plastic Tanks (which do not require screening.)
- Source of water for fire fighting and likely more easily accessible for fire fighting particularly in dry summer months.
- Creates a eco environment that fits our “rural nature” initiative, by providing a water source for birds, insects and animals all of which require water.
- We should at least consider some of the benefits of ponds for a freshwater catchment system, particularly on larger properties?

Thank you for your consideration.

██████████
██████████

To the Trustees :

I have expressed my opinion on this issue before and don't understand the continuation of the ongoing debate. No property will be designated non-conforming. The option to apply for a variance exists for the property owner who feels that their needs can't be met through the by-law. The current by-law on house size limits and setbacks support our OCP and the mandate to preserve and protect our island. I wish to register my support for the current bylaw.

Thank you for your time and attention.

Daphne Louis

████████████████████

South Pender

From: Shelley Henshaw <[REDACTED]>
Sent: Friday, April 26, 2024 7:40 AM
To: South Pender Island Local Trust Committee <SouthPenderLTC@islandstrust.bc.ca>
Subject: Comment Tracking Spreadsheet

In addition to protecting the environment and maintaining a rural character, I believe South Pender ought to support various family arrangements and communal living situations. It was "forever thus" that communities had a mixture of large and small homes. I am saddened that house size has preoccupied our community since 2016 and caused division. Households which include our adult children and grandchildren from time to time are wonderful and the next generations gain love, insight and the motivation to "preserve and protects" with their familiarity of Pender life that is not fleeting. In some cases, with a larger home, elder folks will be able to remain in their homes and have the room to accommodate caregivers. The ability to have some office space or hobby rooms is desirable for folks. Families of all sizes ought to be encouraged. Community diversity ought to be encouraged. South Pender is a jewel and will never be affordable to everyone. Nor is it desirable to urban dwellers in large homes...there is no airport, shops or industry. Rural character which includes, privacy and low density can be maintained with appropriate set-backs. We should focus on "lifestyle" as opposed to singling out footprint and quantity of building materials for environmental protection.

In summary with adjustment to setbacks and maintaining the previous house sizes, and focusing on lifestyle, our community will achieve diversity, maintain its rural character, and not compromise the environment.

Thank you for your attention.

Regards, Shelley Henshaw

April 27, 2024

South Pender Island Local Trust Committee

I am expressing my concerns with the changes to dwelling sizes, setbacks and height.

Under Bylaw 114, the permitted dwelling size on a 1 acre lot was 3800 sq. ft. Bylaw 122 changed the maximum dwelling size to 3000 sq. ft. My concern with the reduction in dwelling size is twofold. Previously I could have added on to my dwelling as I am not at the maximum size. However, under the new bylaw, my dwelling has become legal non-conforming which means that I would be required to make an application for a variance to add to my dwelling. There is no guarantee that a variance would be granted.

There is no science related to the dwelling sizes contained in Bylaw 122. In fact there were seven proposals before the current dwelling sizes were adopted. No reasons were given for the various dwelling sizes other than conforming to our OCP and keeping rural character. Our bylaws have always conformed to the OCP and rural character. Bylaw 114 conformed to our OCP as was evidenced by the Trust Executive approving it.

If returning to dwelling sizes per Bylaw 114 is not acceptable, I suggest some compromise which would increase the dwelling sizes per Bylaw 122 to sizes where most dwellings would no longer be nonconforming. This would then allow the exception clause which is problematic to be stricken from the bylaw.

Bylaw 122 has also increased the setback from the sea from 25 ft to 50ft which has made the location of our cottage legal non-conforming. I mentioned previously that besides the setback requirements there are other issues that a homeowner must consider. These include covenants which restrict where building can occur. In my case, 0.4 acres of my lot has a covenant which restricts where a dwelling can be built. I know that many properties along Canal Road have similar covenants. I suggest that you consider mapping the covenanted areas to get a better picture of the extent of how covenants restrict the building areas on many lots. Other considerations include separation requirements between the well and septic field and then there are also topography limitations. With respect to increasing the side setbacks only for dwellings and cottages, I can see no logic in this. One could build a workshop which could potentially create more noise than noise from a dwelling if the issue is noise. I have heard that increasing setbacks would preserve the environment but I do not

see how the new setbacks do that as there is no restriction on clearing any areas on a lot. It seems that the concerns with setbacks may relate only to some areas such as Gowlland Point where there are long, narrow lots. These lots were created before subdivision and zoning bylaws were in place. Our bylaw now provides that no lot can have a depth greater than three times its width (Sec. 8.6(2)). Perhaps a specific zone could be created for this area to address the local concerns rather than imposing setbacks for all lots which has caused many lots to become nonconforming with respect to the new setbacks. With respect to the setback from the sea, I do not see how this will protect the environment and I expect that it would lead to more land clearing to provide view corridors. The environment is being damaged by erosion from the sea so what would be more important is allowing measures that would protect further erosion. I know that part of the foreshore on my property is being undercut and we will soon lose some trees. The same problem has caused numerous trees to come down along the canal and much of the archeological dig areas are disappearing.

Another factor that does not seem to have been considered is the footprint of a dwelling in relation to its size. A 3000 sq. ft dwelling on one level versus a 3000 sq. ft. dwelling on two levels reduces the footprint by half. This means less land clearing and hence preservation of the environment.

I also do not understand why any area more than 5 ft is considered as part of the dwelling area. Surely there should be a minimum height of 8 ft before an area is considered habitable. I also do not understand why an attached garage is included in the dwelling size as it is not a habitable area. In fact there are efficiencies in attaching a garage to the dwelling and there is also less clearing. Both these issues could be addressed by amending the definition of "floor area" in our LUB.

Bylaw 122 also changed the maximum height of dwellings. This was done after the public meetings were completed and there were no reasons given for this change. So again, my dwelling has become non-conforming on this aspect as well. I also note that there is no provision clause in Bylaw 122 to be able to rebuild to the current height.

With respect to legal non -conforming, I do not accept a FAQ prepared by Trust staff as confirmation that I can rebuild to the same size on the same location. The current FAQ is the third version. Why is it always changing? There are also many inaccuracies in the current FAQ. I have asked several times for the legal opinion on which staff made these statements and have yet to be provided with it. The current exception

wording in our LUB – Subsection 5.1.(6) provides that a legal dwelling constructed prior to September 15, 2022 may be replaced, re-constructed or altered provide that it does not exceed the floor area of the dwelling on the lot on September, 15, 2022. This is problematic as it only allows what was initially there rather than what the current bylaw provides.

I also do not understand bringing in bylaw changes that made many properties non-conforming. It would be far better to adjust the dwelling sizes such that most properties remain conforming. Normal planning practices would consider how many how many properties may be affected by a proposed change and assess whether the proposed change warrants taking such a drastic step. Nonconforming should be the exception rather than the norm.

I also want to comment on variances. They should be the exception rather than a means to control development. The purpose of land use bylaws is to control development. The number of properties that are now nonconforming could lead to many variance applications. This is a costly and time-consuming process. It also has the potential to pit neighbour against neighbour as a variance application has to be referred to property owners within a 100 meter radius of the subject property. There is also no guarantee that a variance will be granted.

Thank you for your consideration.

Jane Perch

From: gordie duncan <[REDACTED]>

Sent: Sunday, April 28, 2024 9:26 AM

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.

Lot Area	The total floor area of all buildings may not exceed:	The floor area of a dwelling may not exceed:

<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

From: David Greer <[REDACTED]>

Sent: Friday, May 3, 2024 11:36 AM

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

Subject: Land Use Bylaw amendment

Dear Trustees:

Land use regulation is a constantly evolving process because pressing concerns and scientific understanding change with time, and opinions vary widely about how to balance community interests against individual freedoms.

Perhaps the most significant change during the five-decade history of the Islands Trust Act has been a growing awareness of the long-term impact of human activity on the environment in which we live. Biodiversity conservation has become a larger priority in public policy because of the human contribution to species extinction, especially through destruction or diminution of essential habitat. Human-influenced climate change has inevitably come to the forefront in policy development because of its lasting impacts on both terrestrial and marine ecosystems as well as ocean tides and currents. Vital access to abundant and pure groundwater can be impeded both by drought worsening with climate change as well as by increasing demand from a growing population, which on South Pender Island in recent years has far exceeded the increase on any other island included in the Islands Trust.

The Islands Trust Act was triggered by concern among all political parties in BC about too-intensive development on the Gulf Islands, which even then were considered a national treasure because of their natural and relatively unspoiled beauty. The changing concerns described above suggest a greater need for consideration in planning of the human impacts on the biodiversity and landscapes that are the foundation of that natural beauty. On a related note, public awareness of the need for reconciliation with the original inhabitants of the islands represents a huge step forward from the “out of sight, out of mind” attitude that largely prevailed when the Islands Trust Act came into being, and an important component of reconciliation is increased respect for the natural world and native species, as powerfully illustrated by the 13 Moon Calendars at two locations on South Pender.

Taking into account these types of changes--especially biodiversity conservation, mitigation of climate change, and a significant increase in the island’s population--the review of South Pender’s land use bylaw by the previous trustees was both necessary and timely, resulting in amendments guided by extensive public consultation and consistent with the goals and objectives of South Pender’s Official Community Plan,

itself a recent document shaped by public input and the objectives of the Islands Trust Act.

No law ever receives complete public support, and most laws need fine-tuning with the passage of time. That's why successful democracies place so much emphasis on public debate of draft laws and bills to ensure they are reasonable, fair, and likely to withstand the test of time. South Pender's land use bylaw will undoubtedly need fine-tuning as well in due course, but I submit that now is not the time. The arguments I have heard for gutting the setback and house size provisions of the land use bylaw make little sense to me. The Canadian Charter of Rights and Freedoms applies to individual civil liberties, not to land use bylaws. Pre-existing structures that do not comply with current requirements are deemed to be legally conforming, not non-conforming. And an application for variance is available for properties with unusual shapes or for houses intended for multifamily or multiple generation use.

For all of these reasons, I support retaining Land Use Bylaw 114, as amended during the previous trustee term, in its current form.

Respectfully submitted,

David Greer

████████████████████

South Pender Island

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

From: Daphne Louis <[REDACTED]>
Sent: Wednesday, September 11, 2024 10:20 AM
To: SouthInfo <SouthInfo@islandstrust.bc.ca>
Subject: Interior side lot setback

Wednesday, September 11, 2024

To the trustees :

I would like to go on record as supporting maintaining the current setback, 20 feet or 6 metres, for interior side lot setbacks as provided in the current Land Use Bylaw.

I live with a situation where there is only a 10 foot buffer zone on either side of a fence, or 20 feet between the two dwellings.

A few years ago my neighbour told me that my conversations could be heard by them. I assumed this was when I was out on my deck and it resulted in me heading inside for private conversations. This constituted a huge loss of privacy for me and I assume, hearing my conversations was not very pleasant for my neighbour.

A 20 foot setback or 40 feet between the two dwellings would have significantly decreased the possibility of overhearing each other's conversations and of being aware of each other's activities as we go about our day. This would have increased very precious privacy; certainly for me and I would think for my neighbours as well.

A 20 foot setback, as compared to a 10 foot setback is more effective in protecting and preserving our privacy and

tranquility, highly valued qualities of life on South Pender Island.

Thank you for your time and attention.

Daphne Louis



OCP quote

Dennis Perch



[REDACTED], Pender Island B.C. [REDACTED]
[REDACTED]

September 11, 2024

The South Pender Island Local Trust Committee

In Reference to Property Setback Restrictions

The issue of residential setbacks from the natural boundary of the sea and side lot lines has generated a lot of concern by many members of our community. It is clear that there are only two paths of resolution for the Local trust Committee to consider.

- One position is the acceptance of a populist view where the number of letters, phone calls and speeches prevail regardless of the efficacy of that position or what it may be of benefit to the community. That's the easy way.
- A second position is stiffer. It's the use of logic and available technical resources to determine what substantial effectiveness does the increased restriction have on remaining undeveloped lots compared to its negative impact on existing properties. That raises a number of concerns not considered by the populist view.

Clearly, I am in favour of the latter option for the following reasons:

1. Populism is not an effective or fair planning tool. In truth, it has prevailed once for each side of the argument. The only difference is that it has been some time since the earlier view prevailed objecting to more restrictive setbacks and there is now reluctance among that proponent majority to refight a battle that was already won.
2. However, as mentioned, I am not in favour of populist decision making in any case. Populism caters to largely unsubstantiated personal opinions rather than allowing careful analysis of: the issues at hand, the effectiveness of the options available and the impact that they have on the community. More specifically, populism ignores or gives little regard to important planning considerations that would go far beyond just an ethereal philosophical view, in this case increasing restrictions are a means to "preserve and protect".
3. In the case of setbacks, there are many more important considerations that have a direct impact on community residents. For instance, more restrictive setbacks result in many properties becoming "non-conforming". This is universally accepted as a negative characteristic that should not be imposed unless justified by a thorough technical and professional analysis of how this is the most beneficial option for the community. For example, how many properties are affected negatively vs. any identified environmental protective gains on undeveloped lots that will accrue from pursuing the increased restrictions.
4. Professionally, making many properties non-conforming by imposing new restrictions is recognized as not being a 'best practice' of planning. The purpose of non-conformance is to apply an individual property status until the property will be brought into conformity. There is no such planning intent here.
5. There is also a moral factor that should be considered. Is it fair to negatively affect many residents in this way when, in good faith, they constructed their home according to existing setbacks at the time?

I understand that, as trustees, the Local Trust Committee must make land use decision based on what they think is best for the community but that should mean applying all the planning tools available to them. Of course, this will conflict with the very personal philosophical interpretations of the Trust's mandate by some members of the community but that's the type of hard decision that an elected trustee has been entrusted to make.

So, it's now up to you trustees but I encourage you to think about this and do the right thing for our community.

[REDACTED]

Dennis Perch

South Pender Island

April 24, 2024 (Revised September 11, 2024, with our deepest apologies to those who may have been offended before this revision.)

Dear Trustees, IT Staff, and APC members:

With regard to the possible changes to the revised Bylaw 114, following are our views:

1) Regarding the Official Community Plan (OCP):

- a) *OCP 1.1: The OCP embodies a consensus of South Pender Islanders' views about how best to nurture a sustainable economy, environment, and community in a manner that preserves and protects what we most value for the generations to follow.*

If this section can be applied to the LUB, there was not a consensus of opinion on the major house size and setback limitations imposed by Trustees Wright and Thorn. The opinions of the community, as evidenced by the attendees of the last community information meeting of their term, and the results of the election, clearly demonstrate a lack of community consensus about whether the OCP required the changes imposed.

- b) *OCP 2.2: The OCP's goals are:*

2.2.7: To support the provincial target of reducing greenhouse gas emissions by 33% by 2020 from 2007 levels. Emission reductions within the local trust area may result from individual and community initiatives, the actions of other levels of government, technological change, and changes to land use policies and regulations.

Bylaw 114 (2016) substantially lowered the allowable house sizes, which prior to that time could have been built to the total floor area allowable on the property of 10 percent of lot size. Trustees Wright and Thorn further lowered those allowable house sizes from Bylaw 114 (2016), in some cases by nearly 38 percent. There was no clear reasoning at that time for such a high reduction of allowable house size to support greenhouse gas reductions.

Since then, there has been some very good and interesting environmental data presented by a property owner, such as about concrete having a major impact on greenhouse gas emissions, both at the manufacturing level and the building use level. While that research was justifiably damning of a product that is very carbon intensive, some of the data is not accurate for power usage on South Pender once a residence is built, since the research cited involved concrete manufacture and subsequent use when coal and natural gas were the energy sources. In BC, electricity is primarily produced using moving water, and while natural gas is used in mainland BC to heat and cool homes, neither natural gas nor coal are used on Pender Island. And while it may take some time to materialize, the concrete industry itself is moving to reduce its environmental impact with innovations such as carbon capture in the concrete itself, and concrete companies in BC are receiving funding from the provincial government to move toward carbon zero. As mentioned by others, concrete used in construction on South Pender is miniscule in relation to world usage, and there is really nothing we can do about the huge environmental impact of concrete produced and used in construction in places such as China, where dirty thermal coal is used extensively in manufacturing of concrete and production of electricity.

We are all aware that smaller homes generally use less energy, and most of us do not build to the maximum allowable size, but some people here prefer larger homes and should be able to build one provided that they meet reasonable bylaws and the BC Building Code which embodies laws of "other levels of government" and "technological change" noted in OCP 2.2. Overall, with only 30% of the land on South Pender dedicated to private use, and with a small population base

restricted by allowable lot size, the potential for major reductions in greenhouse gas by further house size restrictions is minimal. Anyone who has flown over South Pender can see the major tree cover here, even on private properties, and for armchair travellers, MAPIT, provided through the IT website, clearly shows the major percentage of fully treed areas on this island.

2) Requirements for Development Variance Permits:

It has been stated by some people in meetings that neighbours should be consulted whenever a new build is contemplated. We find that overreaching and a clear example of NIMBYism, as though the neighbour who has built first should have full reign to build whatever and wherever they choose, but the neighbour who builds later must comply with the neighbours' ideas of what is good for the new builder. Neighbours' opinions are subjective and transitory considering that neighbours can come and go, either through rentals or home sales. At present, development variance permits require that neighbours be consulted, and especially since the bylaw revision in 2022, that is happening more often for new builds. We believe that more reasonable house sizes should be allowed before any variance is required.

3) House sizes:

First off, we think that footprint of the home and other buildings on the property should take greater significance in floor area. Most of the present homes and many of the accessory buildings on South Pender have two levels, which is much less disturbing to the surrounding grounds. Some of the homes also have basements, which further reduce square footage of footprint considering that dwellings and accessory buildings are all limited by height restrictions (which we believe should revert to previous Bylaw 114 levels). Bowen Island is an example of an island in the Islands Trust area that has footprint limitations. Allowable height will always be the final determiner of house size when footprint is used.

While some might argue that one-story homes with larger roofs can collect more rainwater, our own metal roof on our 915-square foot footprint easily fills a minimum of 4500 gallons (over 17000 litres) of rainwater, which can be used for all watering and other outdoor needs. It would be a good idea to encourage the use of metal or aluminum roofs on new builds or roof replacements for efficient rainwater collection.

Following are our suggestions for floor area, which for the first three categories is an increase of 500 square feet with more of an increase in the last two categories. These increases will make most homes who are larger than the new bylaw sizes fit into the regulations, regardless of whether those houses were deemed to be "legal" in the revised bylaw 114 wording.

<u>Lot Area</u>	<u>The total floor area of all buildings may not exceed: (no change)</u>	<u>The floor area of a dwelling may not exceed:</u>
<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>

4) Setbacks:

Interior setbacks should revert to 10 feet for RR1 and RR2 categories. Of the major Southern Gulf Islands (Salt Spring, North Pender, South Pender, Mayne, Saturna, and Galiano), South Pender, with the passage of the revised Bylaw 114, is the only island to have 20-foot interior setbacks for dwelling on properties that resemble our RR1 and RR2 categories. Galiano has 20-foot interior setbacks for their RR1 and RR2 properties, but those categories differ greatly in required lot size for subdivision and in other criteria. Their Village Residential categories most resemble South Pender's RR 1 and RR2 categories, and interior setbacks there are 10 feet for properties of the same category.

While some people have mentioned that wells and septic systems can be located in 20-foot interior setbacks, that demonstrates a misunderstanding of distances required by CRD between wells and septic systems not only on one property but also on the neighbouring properties. Also, well drillers only want to drill in easily accessible locations and septic systems can only be located in CRD-approved areas based on percolation tests. This is not something that owners can decide by themselves.

There has been mention by some of greater noise levels between buildings built 10 feet versus 20 feet from the property line, but the actual noise difference is insignificant, and other writers to the trustees have mentioned these minor differences. Privacy has also been cited as a major concern between 10 versus 20 feet but again, the difference is insignificant. If one stands at their property line and imagines that difference (if they cannot readily view a home or other building built 10 feet and 20 feet from the property line), the minor difference will be apparent. Nobody wants a building built even 30 feet from their property line, but the adjacent property is not my property and I should be prepared to accept that a neighbour might build something I do not completely like. It seems hypocritical that some of the people complaining about the possibility of returning to the previous interior setbacks have dwellings, let alone accessory buildings which are not generally occupied for long periods, that are less than 20 feet from the interior property line, some at the 10-foot level or even closer (source: MAPIT). Owners of properties can and do take mitigating measures to reduce the impact of a close building, or even a close outdoor seating area, without having to resort to more restrictive bylaws.

5) Two-tier Property Values

Limitations imposed by the former trustees have created two or more-tier properties – almost haves and have nots – based on what is allowed on a property. This idea has been mentioned in at least one letter to the trustees and has been spoken by others who are in favour of the revised bylaw, obviously in an effort to appease and silence the opposition by stating that those who have larger homes or smaller setbacks allowed under the previous bylaw 114 have an advantage over new builds which are subject to the revised bylaw 114. This is a sad outcome for those who own properties which are not fully developed who must put their homes on the market at the same time as another that has the advantage of being built to a larger size or to setbacks in force prior to revised bylaw 114.

6) Information Gathering for Revised Bylaw 114

It is important to note that a very large percentage of the properties on South Pender are developed, and many of those properties have larger homes and lesser setbacks than those now allowed. It is also important to note that when calculating average house sizes when creating the revised bylaw 114, the former trustees used information available on BC Assessment, which shows only the developed areas in houses and does not include unfinished basements or other spaces including attached garages. As we all surely know, many people finished their basements, often full-sized

basements, and did not inform BC Assessment, so although their house size may have doubled, this will not be apparent on the BC Assessment website. That makes the information gathered by former trustees invalid.

7) Our Request to Trustees

Considering all of the above points, we wish to revert to the previous bylaw 114 interior setbacks and to see changes to house sizes, as noted in 3) above. Please note that in considering community consensus for possible changes to the revised bylaw 114, we request that all letters to former trustees, minutes of meetings, as well as the informal survey and the results of the last election, should be considered. **This decision is too important to be made by considering only written submissions received during the present project.**

Also, it is very unfortunate that Fridays are being chosen for community information meetings regarding this project. It is difficult for property owners from off-island to attend these important meetings during weekdays. While virtual viewing is possible, there is no opportunity for those viewing virtually to comment and have their ideas recorded.

Thank you all for your work in creating a bylaw that will be more acceptable to a majority of people.

Respectfully,

Heather and Wayne Haryu

████████████████████

South Pender Island

From: Andrew Purcell <[REDACTED]>
Sent: Thursday, September 12, 2024 2:32 PM
To: South Pender Island Local Trust Committee <SouthPenderLTC@islandstrust.bc.ca>
Cc: Kristina Evans <kevans@islandstrust.bc.ca>; Dag Falck <dfalck@islandstrust.bc.ca>;
telliott@islandstrust.bc.ca
Subject: Upcoming Discussion of Setback Bylaw

Dear Trustees –

Thank you for considering my perspectives on the topic of potential improvements to the recent bylaws governing property setbacks.

I have been a property owner on South Pender for 24 years. I am fortunate that my home is situated close to the water on Ainslie Point Road.

While revised bylaws affect the placement of new homes and structures, it is imperative that existing home foundations, decks, etc be guaranteed the ability to be rebuilt, restored as needed. In order to ensure that insurance coverage for replacement is not compromised, and that owners are guaranteed the ability to restore their home structures, language to that effect should be clear and unequivocal. This guarantee of the right to rebuild and restore structures that may now be non-conforming with current bylaws should specify that replacement structures can be placed **in the same precise location as the pre-existing structures**. This, or similar language helps avoid the uncertainty associated with a specific setback distance, when shoreline erosion may have changed (reduced) the actual shoreline setback.

Your efforts to modify bylaw language to enhance the clarity around right to rebuild/replace structures in the previous precise location would be greatly appreciated.

Yours truly,

Andrew Purcell
[REDACTED]

Andrew Purcell
[REDACTED]

From: Susan Taylor <[REDACTED]>
Sent: Thursday, September 12, 2024 8:08 PM
To: SouthInfo <SouthInfo@islandstrust.bc.ca>
Subject: side lot set backs

Dear Trustees,

I understand that the APC is recommending reverting to ten foot side lot setbacks instead of retaining the current twenty foot setbacks.

For the record, I am opposed to this.

One of our island's OCP goals is to ensure that land use and development are compatible with our rural island character. In my view, twenty foot setbacks are conducive to achieving this goal, ten foot setbacks, less so.

I urge you to retain the existing twenty foot setbacks.

Susan Taylor

[REDACTED]

South Pender

From: tracy calvert <[REDACTED]>

Sent: Thursday, September 12, 2024 5:46 PM

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

Subject: 20ft vs 10ft set back

I would like the existing interior set back of 20ft, to be adopted permanently as our by-law.

I believe a greater distance between neighbours will help with noise and sighting problems. A few feet is significant when dealing with noise and other people's lives.

I personally have my home very close to this setback and if a new owner of the adjacent property decided to build where they could get a view then they would be Right beside my house. That would be devastating situation for me.

Tracy Calvert

From: cj canada <[REDACTED]>
Sent: Friday, September 13, 2024 10:31 AM
To: SouthInfo <SouthInfo@islandstrust.bc.ca>
Subject: Fwd: Setbacks

To the Local Trust Committee, and fellow community members, my friends and neighbours:

Regrettably, I am unable to get over to the firehall this morning. Accordingly, five points and a brief comment for your consideration.

1. A twenty-foot setback is a bare minimum for our island, and should pose no hardship to anyone building thoughtfully in alignment with that allowance.

In fact, owners may well find that in fact 'the regs' have enabled them to a siting more beneficial to they themselves, if only over time. For example:

I have been at the same place on this island for 37 years. The property across from me has changed hands six (6) times over that period. Each successive sale resulted in a variety of changes. My house is smack dab in the centre of my acreage and only that has made it liveable throughout, especially whenever new owners were busily tearing out the beloved follies of the previous ones, then building to their own fond preferences! (Current neighbour is exception that proves the rule, at long last.)

Note, none of these noisy, dusty, disturbing sprees involved anything as radical as dwelling spaces in setback allowances. For good reason: current by-law.

In short, halving a setback is a major change, and I hate to think how it would have affected for the worse the mini-history I've described.

2. If any particular lot's topography or other characteristics were to merit a variance, there already exists ample provision for such to be provided.

3. Other islands' decisions in this regard are moot and beside the point. South Pender has a particular character that people want to see protected, not trifled with.

Yes, we can all imagine a small structure (like a shed or pumphouse) not making much of difference, though my neighbours have historically feuded over less; but a whole dwelling and its footprint most certainly would.

4. The onus should be on parties wanting to locate their proposed structure ten feet closer to the property line to demonstrate the actual need for this incursion, in their own case and in their own view.

A mere preference for reduced setbacks and buildings situated so close to a property line does not constitute adequate or reasonable grounds. For example, I am at a loss to understand how a cottage, let alone a main dwelling, could need ten extra feet of siting optionality when at least two acres are in play.

If any property isn't felt by owners to be big enough for both structures without halving the setback, that hardly necessitates our Committee issuing a blanket change to zoning that has served the island well to date and can continue to do so in everyone's best interest.

Intelligent design can easily work within the already minimal interior side lot setback.

5. Our island's history pre-Trust means that there is more than one neighbourhood with narrow ocean frontage to maximize the number of lots along a beach.

These lots, under the change proposed by the APC (Petrie dissenting), could end up cramming structures horizontally (ie parallel to the seafront), creating the crowded, non-stop strip of buildings alongside each other that is so familiar, and unfortunate, in other settings. South Pender deserves better.

Comment:

As it happens, I just returned from an eye-opening trip to one of the Southeen Gulf Islands with less well-considered setbacks. It was by no means a testament to such extra latitude (in the placement of structures) being used wisely, or with any actual necessity.

I consider us to be much better off here, and so oppose any change.

More dramatically, I have seen UBC cut by a half the distance, to -- what else? -- ten to twelve feet between edge of sidewalks and the front window of South Campus townhouses, and even by city standards the result is disturbing for passers-by and families alike. Even in a highly densified urbanised setting this setback is insufficient!

Reasonable setbacks anywhere are never skimpy in relation to lot size.

And for South Pender properties, a mere ten feet -- which might just fit in on Magic Lake -- would be entirely non-proportionate.

In conclusion, I consider this proposed change to be shortsighted with regard to liveability, insensitive to this island's well-established character, and essentially mischievous, in the sense that our APC Commission and Trust Committee time, talent, and hard work would be far better spent on forward-thinking legislation.

Thank you for your service, and best regards to all.

(Dr) C. J. Milsum

[REDACTED]

[REDACTED]

From: David Greer <[REDACTED]>
Sent: Friday, September 13, 2024 9:28 AM
To: SouthInfo <SouthInfo@islandstrust.bc.ca>
Subject: Interior side lot setbacks

Dear Trustees:

I wish to go on the record in support of maintaining the current 20 foot side lot setback limit as prescribed by South Pender's land use bylaw.

While I appreciate that there are valid arguments to be made on both sides of this particular issue, the deciding factor for me is the South Pender OCP's goal of maintaining the rural character of the island. Property owners who believe they have valid reasons for deviating from the bylaw provision still have the option of applying for a variance.

David Greer
[REDACTED]

South Pender Island

From: Daphne Louis <[REDACTED]>
Sent: Friday, October 4, 2024 6:43 AM
To: SouthInfo <SouthInfo@islandstrust.bc.ca>
Subject: House size values

October 3, 2024

To the Trustees:

I support retaining current house values in Bylaw 114.

The current house size values support the OCP goals to maintain the island's rural character, to ensure that land use and development is compatible with rural island character and that growth is gradual and sustainable.

The current house values, in contrast to the 2016 house size limits, strongly support the OCP goals listed above. Protecting the rural character and ensuring that growth is sustainable are absolutely critical in my view, to retaining what is most precious and valued about the environment and lifestyle on South Pender.

I support current house size values, Land Use Bylaw 114).

Thank you for your time and attention.

Daphne Louis
[REDACTED]

On Oct 5, 2024, at 8:12 AM, Ben McConchie <[REDACTED]> wrote:

Hi Tobi (Chair Elliot),

Thanks for your thoughtful response. I really appreciate you taking the time to respond - I assumed that my correspondence would be added to the public when I wrote it - thank you for formally asking.

Please add any other correspondence as well as my reply to this email added to the public record as well:

You wrote: *"The decision of the LTC on its major project was decided - in large part I believe - to improve processes and transparency with the community."*

There have been several inferences that the previous SPLTC term was not "transparent" - which is a commonly-used argument when someone does not agree with a particular point of view. To argue that the SPLTC was not transparent during the previous term is beyond ridiculous.

I would like to remind the current SPLTC that during the last term, in an effort to improve transparency, Trust Council voted to:

- 1) Establish a budget to video and audio record all meetings in the Trust Area
- 2) Hire communication specialists including a social media manager/communications support staff member
- 3) Restructure the Trust website to make finding minutes/meeting documents easier (work still needs to be done)
- 4) Establish a budget to livestream meetings for community members to be able to attend/watch meetings in the Trust Area
- 5) Review the effectiveness and pros/cons of online communications/technological challenges for staff

The South Pender Local Trust Committee (Trustee Steve Wright, Trustee Cameron Thornn) all voted in favour of these measures to improve transparency and process. In addition to the numerous SPLTC meetings, the NPLTC and SPLTC organized - together - numerous community meetings to discuss issues relating to the Islands Trust where we heard from the community, their concerns and questions.

I would also like to remind the current SPLTC that the North Pender Island Local Trust Committee hosted the SPLTC on three occasions to discuss house size regulations.

Improving transparency and process is always an aspect of governance that requires attention, however, to argue in favour of reviewing an already passed bylaw because there wasn't 'transparency' or correct 'process' both inaccurate and an unfortunate, misguided waste of time for our island community.

-Ben McConchie
North Pender Trustee (2018-2022)

On Oct 3, 2024, at 6:58 PM, Ben McConchie <[REDACTED]> wrote:

Hi Dag -

I think you may have missed my point(s):

1) I don't agree that the SPLTC is using its time effectively on this project. You do. That's fine, but my point is that it's turned out to be a gigantic waste of time - in my opinion, and further divided the community. You probably disagree - oh well.

2) "I always welcome diverse and opposing opinions, but they have to be based in reality." This sure reads like - "I don't agree with you and so therefore you have a poor grasp of reality". What a bizarre thing to say Dag - who's the angry one here?

3) just because someone disagrees with you does not make them "angry". As I write this, I have a big smile on my face and feel quite happy. I, however am certainly disappointed in the SPLTCs direction this term.

4) I did not say anything about the ALR - you should definitely follow up with staff to ensure you are educated about your abilities as trustee. As a trustee you can ask staff to review agricultural land use bylaws to see if they are benefiting folks who farm. Also, you should be advocating the ministry to remove PMFL from the island in our last hope of protecting this place.

Thanks! -Ben

Sent from my iPhone

From: Ben McConchie <[REDACTED]>
Sent: October 3, 2024 11:56 AM
To: South Pender Island Local Trust Committee; SouthInfo
Subject: Bylaw 122 / 123 Amendments

Hello South Pender Local Trust Committee -

As a former Trustee, I have been reluctant to speak up or write about issues pertaining to local trust issues, preferring to trust the democratically elected officials to work hard to preserve and protect these islands.

However - as we reach the halfway point of the term - it has become too difficult now to watch from the sidelines, for what has been shaping up to be one of the biggest failures of local government leadership in recent years.

With climate change, the cost of living, failing highway infrastructure, developmental pressures on the islands, lack of a current South Pender Farm Plan, lack of a South Pender Forestry Plan - just to name a few - here we have the South Pender Local Trust Committee spending its time, and taxpayers money, to debate whether a property owner should have the 'right' to build a gigantic home right next to the water.

Can one think of a more tone-deaf local government? This is how you're choosing to spend your time in government? Like, huh? Are you kidding me? The South Pender Local Trust Committee has morphed into a condo strata council where the big picture issues have been lost. Think of the community division and wasted time and energy you've been spending on this elitist, privileged debate.

One day, when the history books of the islands are written about this period of time, when the wells will have dried up, the precipitation decreasing, sea levels risen, and the natural ecosystems forever altered, the book will say "the South Pender Local Government spent considerable time and energy debating whether property owners have the right to a gigantic house".

You still have time to salvage this term and accomplish something positive for the next generation - get to work.

-Ben McConchie
North Pender Trustee (2018-2022)

[REDACTED]

South Pender Island

--

[REDACTED]

[REDACTED]

[REDACTED]

November 22, 2024

Trustees,

Now that the Land Use Bylaw Project is well underway, the LTC may wish to consider how best to engage local First Nations in the consultation process when the new proposed bylaw is drafted.

Our LTC Standing Resolution states that the LTC will:

- d) Work with First Nation governments on engagement principles for inclusive land use, marine use, and climate change planning; advocacy, protection and stewardship; and knowledge and information sharing protocols;

In May 2023 the Minister of Municipal Affairs wrote to the LTC chair raising concerns regarding the nature and extent of the LTC's substantive consultation with the W̱SÁNEĆ FN. The Minister expressed concern about the role of Indigenous People in the development of the Bylaw including "changes to land use, building height and density to reduce impacts in areas defined as culturally sensitive and/or significant".

Since the S,DÁYES South Pender coastline is both an environmentally and culturally sensitive area and the proposed bylaw involves the issue of setbacks from the natural boundary of the sea, it would be timely to consider how best to involve the W̱SÁNEĆ First Nation representatives in the consultation process.

Given the positive engagement with Hereditary Chief Eric Pelkey (W̱ÍĆKINEM) last year, it would seem appropriate to notify Chief Pelkey of the plan to review the land use bylaw and seek his guidance on how best to engage in a meaningful consultation process.

I would be happy to assist in drafting a letter to Chief Pelkey if that would be helpful.

Sincerely, Monica Petrie

[REDACTED]

South Pender Island

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

From: Daphne Louis <[REDACTED]>
Sent: Wednesday, December 4, 2024 8:33 PM
To: SouthInfo <SouthInfo@islandstrust.bc.ca>
Subject: Bylaw 122

December 4, 2024

To the Trustees,

I am writing to support the existing provisions of Bylaw 122.

Despite efforts on both sides, my neighbour and I know only too well about the loss of privacy and the increased stress due to the close proximity resulting from a 10 foot side interior lot setback. Had there been a 20 foot side setback or 40 feet between dwellings and 20 feet not 10 feet for positioning other buildings from the interior lot line, our privacy and our freedom to go about our daily business without impacting the other, would have been greatly increased.

The impacts of climate change with potential sea level rise and storm surge determine that a 50 foot setback and not a 25 foot setback constitute an appropriate shoreline buffer and setback from the sea.

The maximum floor dwellings as set out in Bylaw 122 strike an excellent balance between homeowners building a comfortable home and moderate-sized accessory buildings and safeguarding our precious and limited groundwater supply as well as minimizing disruption of the natural environment.

The tenets embodied in Bylaw 122 support the Official Community Plan and are extremely valuable in maintaining a sustainable, rural community which seeks to preserve the rural nature and lifestyle of South Pender for ourselves, now, and for the generations to come. It is critically important to the future of South Pender that this not be eroded.

Thank you for your time and attention.

Daphne Louis

[REDACTED]
[REDACTED]
[REDACTED]

From: Jane Perch <[REDACTED]>
Sent: Wednesday, December 4, 2024 5:47 PM
To: South Pender Island Local Trust Committee <SouthPenderLTC@islandstrust.bc.ca>
Cc: Dag Falck <[REDACTED]>; Kristina Evans <[REDACTED]>
Subject: Info on setbacks

South Pender LT

I want to share with you how the current setbacks affect my property.

Sent from my iPad

From: Jane Perch <[REDACTED]>

I want to share how the increased setbacks affect my property. I recall the Chair of our LTC asking for a visual which I am providing. I have a covenant on my property along the canal side which takes up .4 acres of my 1.13 acre lot. No habitable dwelling can be built in that area. With the 50 ft setback from the sea per the current LUB, you will see that my cottage is now also in a restricted area. I have noted in red the portion of my lot that cannot be built on. In addition, we have a garage that is not shown on the drawing. It too is in the 50 foot setback. There is very little area where one can build on my lot. The setback requirements are totally unreasonable..

I know that there are other lots that are also other lots that are also severely restricted. Some of the lots are on Ainslie Point road. I have suggested before that you also look at the various other restrictions such as covenants, geographical restraints and separation of well and septic regulations affect development of properties as you need a complete picture.

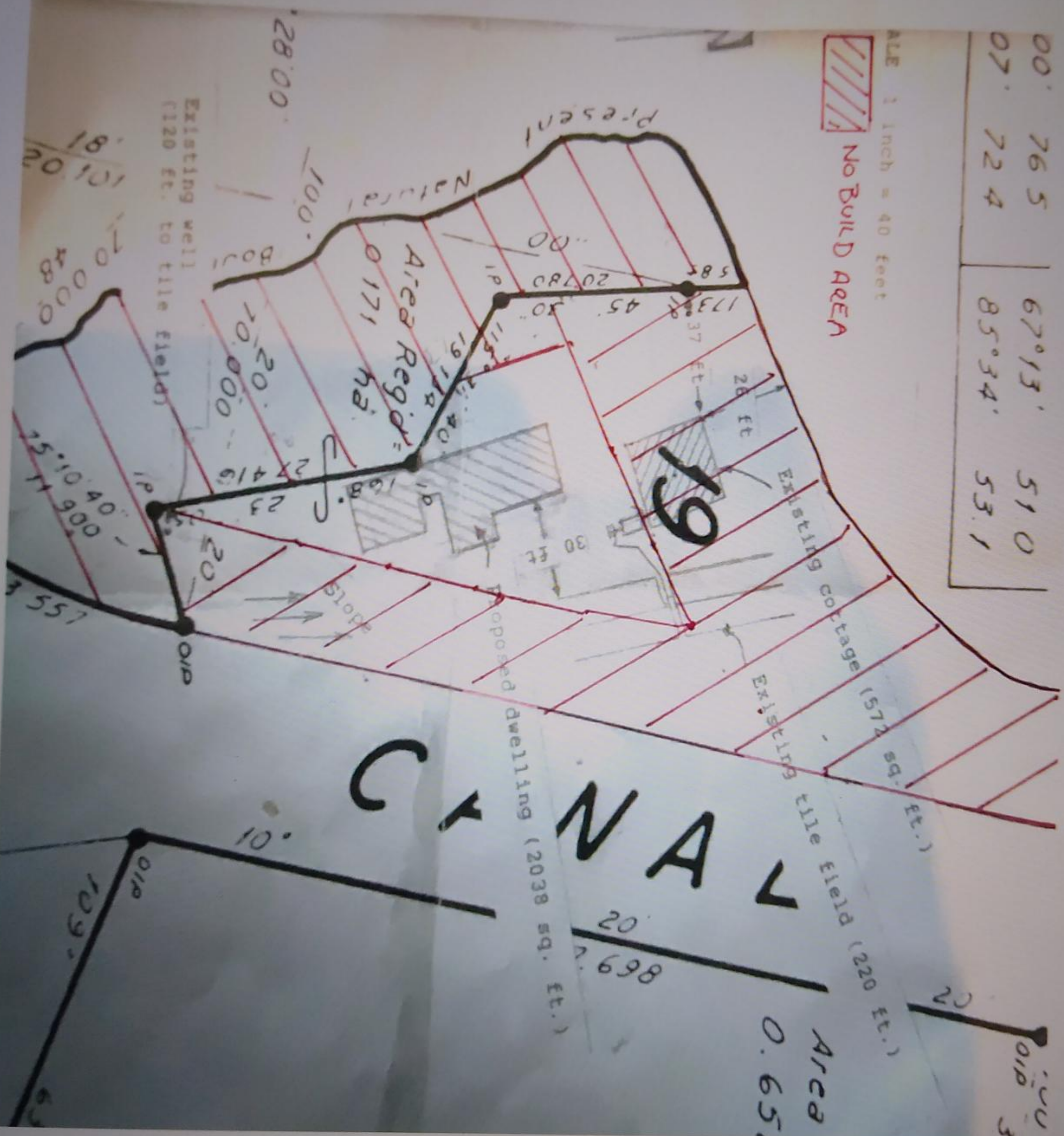
I hope that you will consider how the current setbacks affect a number of properties. They are so restrictive that they are totally unreasonable.

Jane Perch

Sent from my iPad

00'	76.5	67°13'	51.0
07'	72.4	85°34'	53.1

SCALE 1 inch = 40 feet
 No BUILD AREA



CANAL



From: P Kirkpatrick <[REDACTED]>

Sent: Wednesday, December 4, 2024 10:42 AM

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

Subject: By-law 122

We write to support the existing provisions of by-law 122. It strikes the right balance between the protection of the rural character of our island and the needs of the current and future generations of others who live on and visit this unique environment.

Most important, it cannot be forgotten that the Islands Trust exists to protect the islands for the benefit of all British Columbians, not simply those who have the privilege of owning property on the islands.

Thank you for considering our views.

Pamela and David Kirkpatrick

[REDACTED]

South Pender Island

From: tracy calvert <[REDACTED]>
Sent: Thursday, December 5, 2024 1:12 PM
To: SouthInfo <SouthInfo@islandstrust.bc.ca>
Subject: letter about bylaw 122

Trustees: I am disappointed and disillusioned that all of our valuable time and energy has been wasted on this attempt to reverse bylaw 122. There is overwhelming support for the existing bylaw, as has been shown by the amount of letters sent to this effect and many conversations at the meetings.

I am writing in support of the existing bylaw 122.

We need to protect our sensitive coastline, the natural beauty of our island, our precious groundwater and All the living creatures that dwell here.

Please let the bylaw do its work and let people apply for a variance IF they need it.

Tracy Calvert

[REDACTED]

South Pender Island

From: Christian Engelstoft <[REDACTED]>
Sent: Thursday, December 5, 2024 8:36 AM
To: SouthInfo <SouthInfo@islandstrust.bc.ca>
Subject: Regarding bylaw "122"

Dear Trustees Kristina Evans and Dag Falk.

As we all recall, your first motion as trustees was to rescind bylaw 122. Even though your campaigns promised transparency, I frankly don't think that was the best starting point for a community consultation on the topics of house size and setbacks. Your challenge now is to actually listen to the opinions expressed by the community and clearly and carefully explain how your decisions are made based, not only on the opinions of residents, but also on the Official Community Plan and the intent of the Islands trust.

I probably do not need to remind you that the majority of letters written by residents on the topic are in favour of retaining the current bylaw as is. I would also like to remind you that the majority of the members of the APC do not represent this view, and, in my opinion, have gone to great lengths to distort the facts about the legal-non-confirming non-issue. These members of the APC have shown that they do not base their recommendations on facts but choose to base their decisions on emotional opinion and disregard legal opinions stating that there are no buildings that are deemed legal non- conforming when it comes to size. Their recommendations must therefore be taken for what they are, emotional opinions and not fact based recommendations.

I among others cherish the rural character, our sensitive ecosystems, amazing island lifestyle and fully embrace the intentions of OCP and Island Trust.

Even though we might not agree about everything, I do appreciate you taking on the trustee job, and wish you a happy holiday.

Sincerely,
Christian Engelstoft

From: Christina McQuarrie <[REDACTED]>
Sent: Thursday, December 5, 2024 3:27 PM
To: SouthInfo <SouthInfo@islandstrust.bc.ca>
Subject: Bylaw 122

Trustees

Unfortunately I am unable to attend the Dec. 6th meeting but want you to be aware of my position.

The existing provisions in Bylaw 122 have been discussed many times; recommendations regarding maximum floor area, dwelling setbacks from the sea, side lot setbacks, and legal non conforming dwellings. As of September 2022 there are no longer any legal non conforming dwellings and as of that date all dwellings are conforming. This was confirmed by Planner Stockwell. If individual property owners feel the need to make changes to these guidelines there is however the ability to apply for a variance.

The reasons for moving to Pender do vary greatly but most people treasure the peace and quiet, beautiful vistas and privacy from their neighbours. Given climate change, increasing density, and potential water shortages we need to be extremely diligent in trying to maintain the rural character of South Pender Island and this we can do by supporting the goals of our Official Community Plan and the Trust preserve and protect mandate.

Christina McQuarrie
[REDACTED]
South Pender Island

From: David Greer <[REDACTED]>
Sent: Thursday, December 5, 2024 1:44 PM
To: SouthInfo
Subject: APC recommendations re minor LUB amendments

December 5, 2024

Dear Trustees,

I appreciate the time and effort spent by the members of the South Pender Advisory Planning Commission in their consideration of the provisions of South Pender's land use bylaw 114 and of amendments to same by Bylaw 122, prepared and implemented following extensive community consultation by the Local Trust Committee immediately preceding the current South Pender LTC.

My concern relates to the APC recommendations to essentially reverse the Bylaw 122 provisions respecting size of dwelling and side lot setbacks, and the reasons provided for that proposed reversal.

The Introduction to the APC majority report summarizes the overall rationale for its proposed changes, stating that its recommendations are "a reasonable compromise" and will "address the concerns, especially about non-conforming, with its varied interpretations of 'legal non-conforming or some form of hyphenated non-conforming', by removing its significance from the current Bylaw 114, almost entirely".

In her memo of November 7, 2024, responding to the APC's request for clarification of the meaning of "legal non-conforming", the Islands Trust planner stated that "Bylaw 122 did not create 'legal non-conforming situations' in terms of maximum floor area. The only situation where the adoption of Bylaw No. 122 created non-conformity is in regard to a dwelling's height."

Given that the Introduction quoted above appears to suggest that the consequences of a "legally non-conforming" designation are a primary if not the primary consideration in revisiting Bylaw 122, I would have expected a clear understanding of the term to be a prerequisite to the formulation of recommendations for change, yet the wording of the Introduction appears to suggest lingering confusion on the part of APC members, notwithstanding planner Stockdill's seemingly clear explanation. On a related note, I am puzzled why a "legally non-conforming" designation would be the source of such consternation in the community. The term has universal application across multiple jurisdictions, is intended to convey only that a structure was built according to the requirements of an earlier bylaw that was later amended, and attaches no implication of wrongdoing. That being the case, I do not agree that that term alone should be a relevant let alone primary consideration in legislative amendment.

Of greater concern to me is the fact that the Introduction references the APC's satisfaction that its recommendations effect "a reasonable compromise". Two of the most significant recommendations, those relating to house size and side setback distance, appear to me to indicate little compromise at all but rather a wholesale cancellation of the Bylaw 122 amendments—without, as far as I can tell, addressing or counteracting in any meaningful way the comprehensive reasons provided by the previous LTC for those amendments other than to fall back on the "consistency" and "legal non-conforming" mantra. Moreover, the two table recommendation on house size in the APC report is at best confusing, and the December 6 staff report fails to clarify this issue.

At the very least, I suggest it is premature for the APC to recommend changes of such magnitude without comprehensively addressing the reasons provided by the previous LTC for its amendments with reference to the provisions of the South Pender Official Community Plan with respect to rural character, protection of natural features and biodiversity, gradual and sustainable growth, and reducing greenhouse gas emissions. Absent such a substantive rebuttal, proposals for undoing the Bylaw 122 amendments risk becoming little more than a contest between libertarian beliefs and the preserve and protect mandate of the Islands Trust, rooted as it originally was in concerns about overdevelopment of our precious islands with too little regulation.

Islands Trust elections on South Pender are generally close, and their results do not provide trustees with a licence to overturn the decisions of their predecessors based simply on a reading of current community mood, most especially when substantial regulations have not been afforded sufficient time and opportunity to demonstrate the effectiveness of their practical application, always with provision for variance based on individual circumstances.

For the reasons described above, I cannot help but conclude that the process of recommending amendments to Bylaw 122 has been flawed and based on faulty premises, in consequence of which I support maintaining the key provisions of Bylaw 122, particularly with respect to dwelling size and side lot setbacks.

Sincerely,

David Greer, South Pender Trustee 2008-2011

████████████████████

South Pender Island

From: KEN CLARKE <[REDACTED]>
Sent: Thursday, December 5, 2024 7:54 AM
To: SouthInfo <SouthInfo@islandstrust.bc.ca>
Cc: Paul Petrie [REDACTED]>
Subject: LUB 122

I was in favour of the provisions in LUB122 when it was introduced because, I felt it was consistent with the Trust Mandate to preserve and protect and the OCP to maintain the rural character of South Pender.

I haven't heard any argument to convince me otherwise. I will be unable to attend Friday's meeting. Please count me as opposed to any modifications to by law 122.

Yours truly
Ken Clarke

[REDACTED]

[REDACTED]

Letter to LTC December 5, 2025

Dec. 5, 2024,

Trustees,

I am unable to attend the December 6 LTC meeting and am providing my observations regarding the December 6, 2024, staff report by way of this letter.

The staff report refers to the two tables regarding maximum floor area for dwellings proposed by the APC majority. However, the staff report fails to make any specific reference to the fact that the APC majority recommended an increase of between 500 ft² and 1,000 ft² to the current maximum floor area allowance for dwellings.

The APC majority based their rationale for significant increases in the floor area allowance in their recommendations 015 and 016 on the “objective” to “eliminate...the non-conforming status created for many dwellings with the adoption of Bylaw 122...”.

The May 2024 staff report on so-called “legal non-conforming” made it clear that all dwellings became legally conforming with respect to maximum floor area allowance with our current Land Use Bylaw effective September 15, 2022, through the introduction into our Bylaw of section 5.1(6). This fact was reinforced by planner Stockdill’s November 7, 2024, memo to the APC stating:

Bylaw 122 did not create any legal non-conforming situations in terms of maximum floor area.

A plain reading of our current Land Use Bylaw supports the fact that Bylaw 122 did not create any legal non-conforming dwellings with respect to maximum floor area. More importantly, as of September 15, 2022, all dwellings are fully protected under our current bylaw and may be “replaced, reconstructed or altered to the same floor area as it was on September 15, 2022.” The current LUB in fact provides greater protection for reconstruction than was provided before Bylaw 122 when protection was provided outside our LUB through section 529 of the Local Government Act.

The APC majority’s rationale to increase maximum floor area allowances to eliminate so-called non-conforming dwellings under the current Bylaw is based on an apparent misunderstanding regarding the fact that Bylaw 122 did not create any legal non-conforming dwellings with respect to maximum floor area. The APC majority’s rationale to support their recommended significant increase in the floor area allowance is designed to fix a problem that doesn’t exist.

Letter to LTC December 5, 2025

It was surprising to me that the December 6, 2024 staff report failed to address the APC majority's apparent misunderstanding regarding legal non-conforming status under our current Bylaw.

APC recommendation 019 that:

the Local Trust Committee affirm the current clause 5.1(6) that renders all legally constructed dwellings as of September 15, 2022, fully conforming with Bylaw 114 in terms of maximum floor area and ensures that a dwelling may be replaced, reconstructed or altered to the same floor area as it was on September 15, 2022. was defeated in a 2-2 tie.

I strongly encourage the LTC to clarify the apparent misunderstanding and resulting confusion regarding "legal non-conforming" and reconsider your previous decision not to disclose the legal opinion regarding section 5.1(6) of the LUB which I understand ensures that all dwellings legally conform with Bylaw 114 as of September 15, 2022.

Thank you for considering my views on this important issue.

Paul Petrie

[REDACTED]

From: [REDACTED] >

Sent: Monday, January 13, 2025 6:47 PM

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

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

Subject: APC Recommendations to the LTC - Garages

Hello Trustees and Staff –

I write in regard to the APC's recommendation that attached garages not be included in the floor area of dwellings.

Having been in attendance at the APC meeting when this recommendation was discussed and adopted, I understood the intent was to address the seeming inconsistency between the square footage of detached garages being considered part of the accessory building allotment versus that of attached garages being part of the dwelling allotment. However, two important considerations were not part of the discussion:

- Dwellings with attached garages are a relatively common urban/suburban building form (see attached examples) that depending upon the size of the property are not consistent with our more rural/recreational character. They add bulk to the building massing and can ultimately dominate it, particularly on smaller and/or narrow frontage properties. In locations where there are multiple adjacent smaller and/or narrow frontage properties, the garage doors can dominate the streetscape.
- In keeping with Planner Stockdill's recommendation, attached garages can more readily be converted to more active types of use. I have toured homes over the years where the attached garages have become extensions of the main living areas with the addition of wet bars, lounge areas, games rooms, and in one case, a bedroom.

For these reasons, attached garages should continue to be discouraged by including their square footage in the dwelling allotment and this recommendation by the APC should be rejected.

Thank you for your consideration,

Cheers,

John

John Kuharchuk | [REDACTED]

From: Ron Henshaw <[REDACTED]>
Sent: Tuesday, January 14, 2025 9:48 PM
To: SouthInfo <SouthInfo@islandstrust.bc.ca>; dfalk@islandstrust.bc.ca; Kristina Evans <kevans@islandstrust.bc.ca>; Tobi Elliott <telliott@islandstrust.bc.ca>
Subject: response to South Pender APC recommendations

January 14, 2025

Dear Trustees

In reviewing the APC referral recommendations, I struggled to get past the introduction. My first concern lies with the handling of legal non-conforming properties, specifically the phrase: *"by removing its significance from the current Bylaw 114 almost entirely."* This proposed solution dismisses much of the community's hard work in developing Bylaw 122, which prioritized increased setbacks and smaller house sizes. Legal non-conforming status, as outlined in a legal opinion and reflected in the drafting of Bylaw 122, is a moot point and should not serve as the basis for revising the existing bylaw.

My second concern relates to the bold assertion that *"The recommendations meet the goals of the OCP and have little, if any, impact on the rural nature of South Pender."* Observing trends both within and beyond our community, which increasingly favor smaller setbacks and larger house sizes, I must counter with an equally strong statement: any changes to our existing bylaw will undermine the goals of the OCP and negatively impact the rural character of South Pender.

I deeply appreciate the time and effort the APC dedicates to serving our community. Its true value lies in representing a grassroots cross-section of diverse community perspectives. However, I believe this has not been achieved. Instead, the APC appears to be dominated by a special interest group pursuing a specific agenda. This becomes evident in the willful dismissal of a legal opinion that supports the current bylaw, along with a clear inclination to reverse Bylaw 122 on multiple fronts. This reflects the earlier effort by the current Trustees to rescind Bylaw 122 outright during the first meeting of their term. These actions raise serious questions about the fairness and transparency of the promised community consultation process.

I believe the majority of letters submitted regarding this project support maintaining Bylaw 122. This bylaw reflects our shared values by preserving our rural character in alignment with the OCP and the Trust Mandate. Its increased setbacks not only ensure privacy between homes but also make a meaningful effort to allow nature to thrive. By contrast, smaller setbacks result in little more than land clearing and privacy fences.

Our current LUB aligns more closely with the OCP and the Trust Mandate than the proposed changes, and it deserves a chance to prove its effectiveness. Instead of revisiting settled issues, we should focus our energy on more pressing challenges—such as wildfire prevention, water protection, and fostering a deeper understanding of our cultural and historical relationships, especially with First Nations, whose traditional territory we share.

Sincerely,

Ron Henshaw



From: P.F. Clarke <[REDACTED]>
Sent: Saturday, February 8, 2025 2:22 PM
To: SouthInfo <SouthInfo@islandstrust.bc.ca>
Subject: by-law process

Our Trustees should feel gratified that their efforts have revealed and confirmed that the present By-Law is probably the best that we can expect in an imperfect world; and they should accordingly now feel free to rest from further unavailing efforts to improve upon it.

Peter Clarke
[REDACTED]

Pender island [REDACTED]

From: David Greer <[REDACTED]>
Sent: Wednesday, February 12, 2025 9:40 AM
To: SouthInfo <SouthInfo@islandstrust.bc.ca>
Subject: Letter: Re Draft Bylaw 129 and South Pender land use bylaw 114

February 12, 2025

Re Draft Bylaw 129 and the South Pender land use bylaw

Dear Trustees,

As I'll be unable to attend the February 14 Local Trust Committee meeting, I'm writing to provide my input regarding two specific elements of draft Bylaw 129, which in essence appears to reverse the most significant changes to South Pender's land use bylaw 114 (LUB) effected by Bylaw 122, enacted during the term of the previous LTC.

Setbacks. Section 2.8 of draft Bylaw 129 has the effect of eliminating the current 20-foot side lot setback by removing section 5.1(9) of our land use bylaw. The staff report to the LTC makes reference to reverting the side lot line setback to 10 feet. I do not support such a change, primarily because of its impact on privacy protection between neighbours, which seems to me an important consideration in honouring South Pender's official community plan (OCP) objective of preserving the rural nature of the island.

House size. The staff report to the LTC describes three options for maximum floor area limits in dwellings, each of which would result in a significant increase. Curiously, the report does not include the option of maintaining the current floor area limits set by section 5.1(5) of our existing land use bylaw 114, even though I understand that the majority of letters sent to our trustees during the past two years on this subject have supported maintaining the status quo, as I do.

I support retaining South Pender's land use bylaw 114 in its present form with regard to the above issues for the following reasons:

- The land use bylaw is required by law to be consistent with the goals of the island's Official Community Plan. The existing land use bylaw better reflects our Official Community Plan's commitment "to preserve the rural nature and natural diversity of our island environment for future generations", as well as all seven of the OCP's goals to realize that vision, than do the changes proposed by draft Bylaw 129.
- 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.
- 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.

- Protection of privacy is an important consideration in preserving the rural nature of the island and in ensuring adequate limits to side lot setbacks as well as house size.
- The current limits regarding setbacks and house size were established during the term of the previous trustees following ample opportunity for community consultation, with the rationale for those limits clearly stated with respect to Islands Trust Act provisions and OCP goals.

During the current term of the LTC, the work of the trustees appears to have been almost exclusively focused on reversing the changes to the land use bylaw put in place by their predecessors. The primary reason provided for the proposed reversal by its advocates, stated repeatedly, appears to have been concern about the stigma experienced by owners of “legal non-conforming” properties—grandfathered homes built prior to the Bylaw 122 changes that would have been non-compliant had they been built after those changes were implemented. Recent staff reports have clarified that pre-existing structures that do not comply with current requirements are deemed to be legally conforming, not non-conforming. That being the case, the primary argument put forward to date for the reversal of the Bylaw 122 changes has been wholly negated.

It does not inspire confidence that the LTC attempted to arbitrarily rescind the Bylaw 122 changes to South Pender’s land use bylaw early in its term, before being advised of the illegality of such a move. If the LTC now wishes to attempt to do so again, even after a consultation process that appears to have demonstrated strong community support for retention of those changes, it will need at the very least to provide convincing reasoning why the proposed changes to floor area and setback limits better conform to the goals of our official community plan and to the object of the Islands Trust Act than the changes implemented by the previous LTC. The fact that I have yet to hear that argument made suggests to me that the rationale does not exist.

Respectfully,

David Greer

████████████████████

South Pender Island

12 February, 2025

To the Trustees :

I wish to express my very strongly held view that Bylaw 122 must remain as it now stands and must not be amended or eroded in any way.

My reasons for this statement are:

1. Bylaw 122 effectively supports our OCP goals and South Pender Community vision and all options for house size limit increase in the draft proposal, do not
2. Bylaw 122 ensured that all dwellings, legally built and existing as of September 2022 would be fully protected and could be rebuilt to their original size even if that size exceeded the LUB.
3. Bylaw 122 allowed for a generous increase for dwellings from the average of 1900 ft.squared (2500 ft. squared to lots up to 1 acre and to 4,000 ft. squared for bigger lots) but ensured that growth would be gradual and sustainable and the rural character and natural environment would be maintained.
4. Bylaw 122 established exterior and side interior lot setbacks of 20 feet which supports greater privacy between neighbours, a precious and highly valued aspect of rural life.
5. Bylaw 122 supports protecting the Island's rural character and natural environment by limiting house size/maximum floor area so that dwellings are appropriate for a rural setting, not an urban one.

We are a rural community and have chosen to be here because we enjoy and value rural living. Increasing house size/maximum floor area limit and decreasing exterior and side interior lot setbacks would allow for large dwellings that occupy a greater portion of the lot, are constructed closer to neighbours and whose construction inevitably caused more disturbance of the natural environment

Larger house size limits and reduced exterior and side interior lot setbacks do not support our OCP goals and our South Pender Island Community Vision. They are not congruent with sustainable development, preservation of privacy, protection of the natural diversity, protection of our precious and limited water supply and retention of the rural character of the island.

I cannot see any justification for increasing house size limits and think it is irresponsible to do so. If there is any move to amend or replace Bylaw 122 such action would necessarily have to be preceded by a well-articulated, evidence-based justification for doing so.

We have an obligation to protect the rural nature and rural diversity of South Pender island and to insure that future generations will also have the opportunity to experience rural life on South Pender Island.

I strongly support Bylaw 122 remaining as it now stands and strongly oppose any amendment or change.

Thank you for your time and attention.

Daphne Louis

[REDACTED]

[REDACTED]

Feb 10, 2025

South Pender Island Trustees

I am writing to voice my thoughts on the proposed options regarding house size and setbacks that will be discussed at the Feb 14th trust meeting. Unfortunately I will not be able to attend as I have a conflict with a meeting with CRD staff regarding Brooks Point Regional Park.

I have lived on South Pender for over 50 years, and during that time have watched the gradual building encroachment on the sea and larger and larger homes constructed for smaller and smaller family units.

I am supportive of the APC recommendation to maintain front setbacks to the waterfront at its current levels. I am however not supportive of its recommendations regarding side lot setbacks and house size. I feel the 10 foot side yard setback infringes on the rights of homeowners to privacy from their neighbours, especially given that we live in a rural environment, The 10 foot setback is similar to what is established in urban environments. The existing 20 foot setback is much more in keeping with our rural lifestyle.

I am most disappointed that the APC did not present an option to maintain the existing house size limits as an option. I firmly support this option for the community. The existing house size limits allow an average increase of more than 170% over existing house sizes currently on South Pender. An increase of even 500 square feet to each category would mean an average increase in house size of more than double the existing house size as well as the additional allowance for garages and outbuildings. This will have a major influence on lifestyle for the community in years to come. My concerns are:

1. It will allow and encourage bigger homes on existing lots as older dwellings are replaced with newer modern units.
2. The larger units will impact the privacy of neighbours.
3. The larger units will cost more to build, will resell for higher prices, and will impact the ability of young and modest income families from settling on South Pender.
4. The Island will increasingly become the playground for the rich, who often use the Island as a summer getaway further gentrifying the community.
5. The larger homes will use more of our natural resources to construct and maintain as well as impact the natural environment by increasing the building footprint on each lot, putting increased pressure on the Islands Trust mandate to preserve and protect the natural environment of the Gulf Islands.

I would hope the trustees will consider these factors in their deliberations as to whether changes are required in the existing setbacks and house sizes. The Advisory Committee has provided no useful information as to why larger house sizes are required. The original community concern about the current house size provisions was mainly about existing homes that didn't conform to those bylaws being deemed non-conforming and the effect that might have on rebuilding, insurance, etc. Now that The Trust has shown that all existing units are deemed conforming under the wording of the existing bylaws, that concern is no longer valid. If an individual homeowner has valid reasons to request a variation on the existing regulations the variance process is there to serve them and allows neighbor input into the proposal, a process that is fair to all concerned. I would therefore ask the Trustees to keep the existing bylaws in place as they best serve the preserve and protect mandate of the Trust Council, give them a number of years to see how they work, and if problems arise in the future to look at them at that time. At this time there doesn't seem to be any problems with them.

Yours truly,

Robert Dill, Homeowner

██████████, South Pender Island

From: tdun111@gmail.com <[REDACTED]>
Sent: Wednesday, February 12, 2025 10:42 AM
To: SouthInfo <SouthInfo@islandstrust.bc.ca>
Subject: best by-law for south pender

I would like to reinforce what I previously wrote about the attempt to repeal bylaw 122. It needs to be retained! We should not be forced to lose the protection for out non-conforming houses. We do not need larger houses on lots under an acre. The larger the house, the less privacy for neighbours and the greater drain on water use. Please keep our island rural. That is why most of us came here. Trallee Dun, South Pender Island

From: cj canada <[REDACTED]>
Sent: Thursday, February 13, 2025 4:15 PM
To: SouthInfo <SouthInfo@islandstrust.bc.ca>
Cc: Tobi Elliott <telliott@islandstrust.bc.ca>; Dag Falck <dfalck@islandstrust.bc.ca>; Kristina Evans <kevans@islandstrust.bc.ca>
Subject: Valentine's Day LTC Meeting, South Pender

i am grateful to live and work on Coast Salish territory (S'dayes): traditional, ancestral, unceded land; locally, i recognise the role of the Tsawout band. acknowledgement is not static. mine encompasses lasting commitment to decolonisation, with a focus on environmental defence and legal reform.

Dear members of our local trust committee, and of our community,

As I am unable at this juncture to attend tomorrow's meeting, I wish to reassert in writing my opposition to the proposed bylaw change.

I have held property on the Gulf Islands since 1974 and additionally my acreage on South Pender since 1988. I am a former Trustee, with experience in municipal and environmental law, as also law reform.

Several legal questions do arise from the current sort of tinkering with any bylaw, let alone this one in particular, which is central to critical commitments in

protected areas with respect to maintaining a sustainable and equitable built environment. I have discussed these in person with one of the trustees at some length, warning of the specific challenges that such a rewrite could well fail to meet.

It remains, first and foremost, entirely unclear whether such amendments as are still being held out for our consideration could withstand the most basic objections to their conception (myopic, for starters), let alone their process (radically flawed and additionally vulnerable to Review), implications (well out of proportion to the characterisation of such hamfisted re-drafting), and scope (egregiously incongruent).

More generally, it is demonstrable that the strategy of making a rule from what are and must remain rare exceptions has met with sustained, well-reasoned, and vigorous opposition from a wide swath of our community, which has been divided, frustrated, and fatigued by this sort of administrative legerdemain.

As many of us have consistently advised, this change is well superfluous to requirements, given the existence of other mechanisms -- ones that have worked in the

past and continue to so, fairly and in an aboveboard fashion -- that are already tried and true, through which landowners, disgruntled or otherwise, may seek readily available solutions. This obviates any over-riding necessity for (and exposes the lack of wisdom or legal drafting experience in promoting) changes that would make the bylaw overbroad.

Enough technical language. It is time to acquiesce to the reality that this ill-conceived and ill-fated attempt to radically unwrite the existing bylaw's useful precision is now dead in the water.

Let's ALL learn from this and move on, in order to do something positive for our beloved island and communities (human and animal, marine and land, indigenous and settler) before the second half of this committee's term ends up self-torpedoed, for no earthly good reason, in no one's best interest.

Yours faithfully,
(Dr) CJ Milsum

i am grateful to live and work on Coast Salish territory (S'dayes): traditional, ancestral, unceded land; locally, i recognise the role of the Tsawout band.

acknowledgement is not static. mine encompasses lasting commitment to decolonisation, with a focus on environmental defence and legal reform.

February 13, 2025

Dear Trustees,

This message is intended to reaffirm our support for Bylaw 122, and firm opposition to the weakening of its provisions concerning house size and setbacks that we believe you are prepared to enact at the next LTC meeting. The reasons for our opposition, relating both to the nature and anticipated consequences of this proposed rollback, as well as the questionable process by which you have reached this decision, have been well expressed in other submissions that are part of the public record. They will not be further strengthened by repeating them here.

Suffice it to repeat that we find the provisions of Bylaw 122, as it stands, align well with the fundamental objectives of the Islands Trust, especially as they relate to the protection and preservation of the natural environment and rural character of our island. It is these objectives, we all, as residents of South Pender Island, and you especially, as Trustees, have a responsibility to uphold. Failure to do so, especially where it works, or is seen to work, to the advantage a few of those who are currently privileged to reside here, undermines the trust placed in us to serve as stewards of this land for the benefit of all, including non-residents and future residents and visitors—the immeasurable “silent majority”.

Sincerely,

David and Pamela Kirkpatrick

From: gordie duncan <[REDACTED]>

Sent: Thursday, February 13, 2025 8:45 AM

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: Draft Bylaw 129 Comments

Trustees Evans, Falk, Elliott

I would like to offer my perspective on non-conforming and how Draft Bylaw 129 could resolve this contentious issue. As a member of the APC clearly, I believe the APC recommendations and suggestions offered reasonable solutions to resolving the issue of non-conforming yet at the same time retained many of the objectives of Bylaw 122.

It is important to understand:

- that the OCP does not, in any way, mandate that large numbers of legally developed properties on South Pender should be of non-conforming status and should remain in that state for perpetuity.
- Further, the OCP does not mandate that the LUB should include bylaw regulations supporting such an objective.
- The OCP, which is often referenced to as the basis for the requirement of Bylaw 122 regulation changes, is precisely the same OCP that had been in effect for many years prior to 122 and has overseen the orderly development of dwellings until then.
- How can it be suggested that now many of these legally built dwellings developed under the same OCP should suddenly be relegated to a non-conforming status, recognizing that the developmental (clearing, roads, septic, foundations etc.) environmental impact has already taken place?

With the adoption of Bylaw 122:

- over 40% of the legally developed properties (80%) were rendered to a non-conforming status. There were approximately 3% prior to Bylaw 122.
- Non-conforming means that these properties are no longer compliant with the current bylaw.
- While NC properties which are often described as “legally non-conforming” have the protection of LGA 529 and Bylaw 122 exception clauses with respect to future development and replacement, the fact is that they are still non-conforming, in the sense that their size or siting would not be allowed under today's bylaw.

Sections such as 3.1(6) and 5.1(6) are often cited as the authority for the proposition that Bylaw 122 does not make any pre-122 properties “non-conforming”. While the clauses do give those properties the express authority to renovate or replace their homes if required, they say nothing whatsoever about the status of the properties and whether they are conforming or non-conforming.

While the “exception” or “saving” clauses of Bylaw 122 make it clear that pre-122 dwellings can be rebuilt or renovated to their original size, many of the affected property owners still worry about the potential downside of owning a non-conforming dwelling. Concerns that are related to insurance coverage, re-mortgaging, market value and the intangible stigma of being “non-conforming.” Whether or not any or all of these worries are justified, they are legitimately held concerns, especially considering that so many properties are affected.

I believe the LTC has an opportunity to dispel these worries and advance community cohesion by adopting the two-table (dual regulation) solution for siting and size as recommended by the APC.

The APC Recommendations eliminated nearly all of the “non-conforming” status created by Bylaw 122 for Maximum Dwelling Size and Interior Setbacks. The solution for Maximum Dwelling Size is to have the current bylaw (LUB 114) recognize legally built dwellings pre-122 *by having dual size (tables) regulations with an effective before and after date (September 15, 2022) included in the bylaw.*

- This ensures that pre-122 dwellings sizes have their specific regulation(s) (before date) which is included as part of the current bylaw and so they conform.
- This would be the case despite the new more restrictive regulations (after date) introduced with Bylaw 122.
- This solution was an option offered to the former Trustees in a Staff Report in September 2021.

· The same solution, *of having a 25-foot setback regulation prior to September 15, 2022, and 50-foot setback regulation after that date included in the bylaw, along with the appropriate exception clauses applied to the Setback to the Sea regulation* would further eliminate a substantial number (approximately 22) homes from a non-conforming status.

The APC recommendations also included modified exception clauses such as 3.1(6) and 5.1(6):

- that would assure the same protection against the proliferation of future large “ostentatious” homes, as was one of the stated goals of Bylaw 122.
- Existing legally built dwellings whose size exceeds the current more restrictive bylaw could not rebuild or expand beyond their size effective on September 15, 2022, without a Development Variance Permit.
- Smaller sized pre-122 dwellings could expand only to the new more restrictive size regulation.
- These clauses offer the same protections offered with the Bylaw 122 exception clauses.
- Please note that Option 3 (Agenda P.46) of the Staff Report recommendations is significantly different from the APC’s recommendation.
 - o Option 3 does not reflect the recommended table as shown in Option 1 for Maximum Dwelling size.
 - o Option 3 also suggests that exception clauses may not be required.
- Further to the above Option 3 point(s) - Without an exception clause, similar to what the APC recommended, how would Staff Option 3 protect against a pre-122 dwellings from expanding beyond Table 4 dwelling sizes, by using Table 3. As an example – could a 1.1 acre - 1800 ft² pre-122 dwelling expand to 4500 ft² (Table3) as opposed to 3000 ft² (Table 4). The express intent of both the Bylaw 122 and APC exception clauses was to ensure that the dwelling, in this case, must adhere to Table 4 or 3000 ft².

Concerns about Non-Conforming or Legal Non-Conforming (See appendix A)

- Is it reasonable for those of us, particularly those of us who are not affected by the Bylaw 122 regulation changes to insist that those who are affected should have no concerns about their properties becoming non-conforming?
- This is especially so considering that the OCP remains unchanged from when many of those properties were legally developed?
- For the record, my property conforms to all of the Bylaw 122 regulations.

In summary, if indeed we must have these unprecedented restrictive regulations introduced with Bylaw 122, I believe that if many if not all of the APC recommendations were included in Bylaw 129, they would provide a path that offers a reasonable compromise for the community. Bylaw 129 would still achieve many of the objectives desired in Bylaw 122.

Thank you for your consideration.

Gordie Duncan

Appendix A)

Why is there concern about a non-conforming status?

- a. The non-conforming property is often referred to as “*Legal Non-Conforming, lawfully conforming.*”
- b. Is my dwelling non-conforming?
 - If your dwelling exceeds the maximum dwelling size, the interior setback, the setback from the sea or the height regulations in the current bylaw then it is not compliant, so it is non-conforming.
 - o Ask these simple questions. - do the following scenarios conform to the current bylaw?
 - o Example 1: Existing dwelling located at a 15 ft interior setback – current bylaw = 20 ft interior setback.
 - o Example 2: Existing dwelling located 40 ft from sea - current bylaw = 50 ft from Setback to the Sea.
 - o Example 3: Existing 3200 ft² dwelling resides on 1.75-acre lot – current bylaw = max dwelling = 3000 ft² on lot 1 to 2 acres.
 - Note: Cottage’s siting must be included for consideration for interior setback and setback from the sea regulations.
 - In all these examples the homes are now “non-conforming,” although they may be upgraded or rebuilt as is.
- c. There are few specific instances demonstrating the need to render so many properties non-conforming.
- d. The non-conforming status remains with the property and transfers with the title.
- e. The property title, however, will not carry or indicate the non-conforming status.
- f. The onus is on the owner to prove non-conforming status, therefore is the owner obliged to inform the mortgage holder and/or the insurer of the non-conforming status?
- g. Is there greater potential for not qualifying for a conventional mortgage?
- h. Is there greater potential for higher insurance premiums?
- i. Since the adoption of Bylaw 122 is the non-conforming status of properties for sale included with the property listings?
- j. Are “bylaw riders” required in the home insurance policy to insure non-conforming protection?
- k. Development Variance Permit (DVP) are a requirement for pre-122 non-conforming dwellings wishing to expand their size after September 15, 2022.
- l. DVPs are discretionary therefore issuance can be denied.

Trustees,

We are opposed to your ongoing efforts to reduce the 20-foot side lot setback to 10 feet and your well documented commitment to increase house size limits for the following three reasons.

Land.

The land we are living on is ecologically unique and culturally sacred. The mandate of the Islands Trust is to "...preserve and protect the Trust Area and its unique amenities and environment for the benefit of the residents of the Trust Area and British Columbians generally..."

When we talk of the land, we must include all of the magnificent beauty and natural bounty that abounds here. It includes the foreshore and coastline that is coming under threat from climate change to the trees many of which are dying from the intensifying drought and flood swings with our changing climate. It includes the varied wildlife and all the species, some of which are rare and endangered, that are already being squeezed out by accelerating development. Trustees' proposed setback and house size plans will intensify that acceleration.

The land here is also culturally sacred. Coast Salish peoples have shared this land for well over 5,000 years. The WSÁNEĆ creation story for S,DÁ,YES/Pender Island tells us that when XÁLS created what is now called the Southern Gulf Islands, he reminded the people that the Islands are their "Relatives of the Deep - TETÁĆES". As former Tsawout Band Chief Dr. Nick Claxton reminds us:

The Islands, our relatives, have provided a way of life for our people for thousands of years and WSÁNEĆ law creates a reciprocal relationship of care between WSÁNEĆ and TETÁĆES. — "This responsibility is absolute; we are obligated to care for these islands, not only through our own actions but by protecting the islands against harmful actions by others."

Hereditary Chief Eric Pelkey has generously shared this important vision with trustees at the January 17th LTC meeting. We must do our best to respect and embrace this sacred cultural legacy. The Trust preserve and protect mandate reinforces our reciprocal stewardship responsibilities in the Trust Area. Your setback and house size changes are inconsistent with this imperative to protect the land.

People.

The connection between people and the land is a complex and intimate relationship, often encompassing a sense of belonging, a source of sustenance and livelihood, a cornerstone of cultural identity, and a duty to care for the land.

That relationship to the land involves more than the desires and preferences of those of us who are privileged to own property on the land today. It also includes the people who came before us including the WSÁNEĆ People whose long presence on the land holds important lessons for us. It includes the settlers and homesteaders who helped shape our community infrastructure and who laid the foundation for our current unique rural community values. It also includes those who are not yet here, our future generations, our community's grandchildren.

Our **OCF Vision Statement** speaks to our obligations to future generations when we are planning for our community's growth and development:

Our South Pender community is committed to preserve the rural nature and natural diversity of our island environment for future generations.

The trustees' plan to decrease setbacks and increase house size will serve to erode the integrity of our historic rural community and undermine our promise to future generations.

Culture

Regulatory bylaws help shape the values that guide our relationship to the land. However, it is the established community values that provide the foundation on which the regulatory bylaws must be designed and implemented. It is the community's cultural values that ensure that the regulatory laws guide our land use behaviour and promote sustainable outcomes.

One of South Pender's key community values is supporting and maintaining our community's rural lifestyle. The first and perhaps most important community goal in our OCP is:

To maintain the island's rural character so community members and visitors may continue to enjoy a sense of tranquility, privacy, freedom from disturbance, and relative self-sufficiency within a visually attractive environment (OCP 2.2.1 p. 5)

Our Official Community Plan points out that South Pender is one of the least populated and least developed of the Island Trust's major islands. The recent census shows that South Pender has experienced a significant increase in population - 27% between 2016-2021 - highest in the Trust. The pressure for accelerated growth and development is intensifying.

One of our key OCP goals is:

To ensure land use, development, and associated servicing are compatible with the rural island character and that their growth is gradual and sustainable. (2.2.4 p. 5)

Section 478(2) of the *Local Government Act* states that all bylaws enacted by trustees must be consistent with the Official Community Plan. The trustees' plan to reduce setbacks and increase house size is inconsistent with this important goal in our OCP, particularly when the pressure for accelerated growth and development is intensifying.

We are living in a time of flux where uncertainty is a shadow that seems to follow us everywhere we turn. In these challenging times maintaining stability at the community level provides an essential source of community resilience. Our OCP is the foundation of our community's stability ensuring that land use development and growth are gradual and sustainable.

We urge trustees to pause their efforts to reduce side lot setbacks and increase house size allowances. Failure to do so will call into question your legal obligation to enact bylaws that are consistent with our Official Community Plan.

Thank you for considering our views.

Monica and Paul Petrie



February 12, 2025

South Pender Island LTC members,

In following your project there are a few matters than have raised my concern in relation to your initial commitments made to the community at the beginning of your term. During the first meeting you outlined your intentions to re-open discussion about the amendments made last term to the Land Use Bylaw through Bylaw 122. Your original position was to “rescind Bylaw 122” in it’s entirety “because that was what we were elected to do”. Your motion to rescind Bylaw 122, aside from demonstrating the absence of neutrality and your lack of knowledge regarding due process, was later tempered with your assurance that a significant majority of the community (“not just 51% but a large majority”), would have to agree with this direction. You also stated your sincere desire was to bring the community together, through dialogue, to repair the division caused by Bylaw 122.

It appears that you have either forgotten those commitments or intend to ignore them. In the first instance, according to the public record, there has not been a majority of residents that want changes made to the provisions laid out in Bylaw 122, specifically relating to floor area, interior setbacks, and height. Secondly, trustees have shown little interest in any comments that do not support your intention to rescind Bylaw 122 or significant portions of it. Your choice of APC members, of whom 4 out of 5 were vehemently opposed to Bylaw 122 last term, are using the same rhetoric that has been proven false with respect to potential consequences of Bylaw 122. One member has now suggested that our OCP policies should be ignored because it is an “old” document (not quite as old as the speaker, however).

The community process being followed is more prejudicial than you have repeatedly accused the previous LTC of conducting. You have refused to listen to alternative options provided by property owners resulting in fewer people becoming involved in this debate. In so doing, you have failed to repair the division you were so concerned about at the start of your term. In fact, it appears you have encouraged it to continue as long as it fits your purpose.

If there are areas in the bylaw that are creating significant hardship for property owners, then those particular provisions should be identified and the means to correct them discussed. To date, there has been no hardship demonstrated since the adoption of Bylaw 122 that can not be resolved through better design or a Variance application.

I’m asking you to honour your commitments made to our community at the beginning of your term and if you feel there are technical or legal errors in the current bylaw, to bring them forward for discussion. However, it is my belief that the provisions in Bylaw 122 upheld the policies of the Trust Policy Statement and our OCP. The Islands Trust Act and these policies are not to be ignored simply because they may be inconvenient for a few property owners.

Respectfully,

Steve Wright
South Pender Island

February 12, 2025

Trustees,

I understand that at the upcoming February 14 LTC meeting you are planning to make a new bylaw to undo the house size and setback provisions found in bylaw 122.

As I have written several times, I do not support undoing the provisions of bylaw 122.

Not long after you were elected, you attempted to pass a motion to rescind bylaw 122 until you were informed that you did not have the power to do this and your motion was nullified.

You then decided to appoint an advisory planning commission to produce a report advising you how to proceed with regard to the provisions of bylaw 122. You appointed a lopsided committee with the large majority of its members clearly supportive of your agenda. The outcome of their deliberations was never in doubt. With the APC report in hand you now will, after more than two years, proceed to undo bylaw 122. It's been a sham of a process. I don't know a kinder word.

One has to ask what you have been doing as our trustees in the past two years that would benefit the residents of South Pender Island. Please tell us.

I urge you yet again to let bylaw 122 stand. There is no reason to change it. There is a variance mechanism for those who find the bylaw 122 provisions to be a hardship; bylaw 122 has house size and setback provisions that are more in keeping with the goals and principles of our OCP than those you apparently now wish to adopt.

Most residents on South Pender Island did not come here to live cheek by jowl with their neighbours in large houses, they came here seeking peace and quiet surrounded by nature.

Susan Taylor

[REDACTED]

South Pender Island

From: Wendy Scholefield <[REDACTED]>
Sent: Thursday, February 13, 2025 1:55 PM
To: Tobi Elliott <telliott@islandstrust.bc.ca>; Dag Falck <dfalck@islandstrust.bc.ca>; Kristina Evans <kevans@islandstrust.bc.ca>
Cc: SouthInfo <SouthInfo@islandstrust.bc.ca>
Subject: South Pender Land Use Bylaw

South Pender Local Trust Committee

As you consider changes to our Land Use Bylaw, I trust - and hope - that you will keep in mind that “the times they are a-changing” and more people, from many different places and counties, are looking at South Pender Island as a place they can retreat to. And many times what they decide to build is a very large house.

The difficulty here is that often the people with the largest houses don’t live here and , therefore, do not volunteer for the many jobs that we on the Penders need and rely upon: working at the Nu to You, being on the clinic board, serving on the Parks Commission, volunteering at the community hall! These, and many other volunteer jobs, are essential to our community.

Please consider the possible consequences of allowing larger and larger “residences” on South Pender Island. Who will we be attracting? And will it become less and less possible for working people who want to live on our islands to be able to afford a place to live.

Thank you for your consideration of these issues and for the work you do on behalf of our island community.

Wendy Scholefield

Dear Trustees,

I am unable to attend the February 14th LTC meeting and provide my views here. I have followed the various meetings with interest including the LTC and APC agendas and minutes. I reviewed the agenda package and the draft bylaw 129 changes with dismay.

The staff report refers to reverting the side lot line setback to 10 feet. I do not support that proposed change and I do support the 20 foot side yard setback from any interior or exterior side lot line that protects property owner's privacy. I support retaining the 15m (50 foot) setback from the natural boundary of the sea.

I support our current floor area limits in Bylaw 115. These limits are in keeping with our OCP goals of protecting our Island's rural character and ensuring that development and growth are gradual and sustainable. Where there are exceptional circumstances, a property owner can apply for a variance. I understand that trustees have approved variances that have increased the maximum floor area. I have reviewed the three options for house maximum floor area limits and can see no reason to support any of them.

I have seen the staff report on the matter of pre-existing buildings that do not comply with the current bylaw sizes and setbacks. That opinion seemed to clearly point out that those buildings, if burned down, can be replaced in the same location and size that they are now.

So in conclusion, the current bylaw seems to offer residents the peace and quiet and natural environment that most people have come to South Pender to enjoy. There must be more important matters that the Trustees can spend their valuable time on.

Respectfully,
Bert Hol

████████████████████

South Pender Island

From: Christian Engelstoft <[REDACTED]>

Sent: Thursday, February 13, 2025 6:55 PM

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

Subject: Proposed bylaw

Dear trustees.

Once again, I will express my support for what was bylaw 122 which I believe reflects our OCP and the rural life we want to live here on South Pender.

Over the last two years we have heard a lot of talk about the flawed process of the previous trustees, which I do not agree with.

During your very first meeting as trustees you blatantly rescinded bylaw 122 which of course were corrected as there had been no public procedure. That clearly indicated your intent and should have prevented you from going any further with this issue during this trustee cycle. After that debacle you backpedaled and decided to go through the public procedure.

You conveniently appointed APC members that largely held your views. If this is not stacking the cards in your favour little is.

Considering that the majority of letters to you are in support of retaining what was bylaw 122, it is surprising that there is no option in the proposed bylaw for retaining bylaw 122 as is.

Congratulations you outdid the previous trustees by a long shot.

Now I am looking forward to hear how you will justify your decisions, and how those decisions reflect the community and further our OCP and rural living.

Sincerely
Christian Engelstoft
[REDACTED]

From: Faye Mogensen <[REDACTED]>
Sent: Thursday, February 13, 2025 7:43 PM
To: SouthInfo <SouthInfo@islandstrust.bc.ca>
Cc: Tobi Elliott <telliott@islandstrust.bc.ca>; Dag Falck <dfalck@islandstrust.bc.ca>; Kristina Evans <kevans@islandstrust.bc.ca>
Subject: LUB 122

Dear Chair Elliot, Trustees Evans and Falck,

I am writing to affirm that I continue to support Bylaw 122. Many people, including myself, have presented strong arguments with solid rationale for doing so. I will not reiterate those reasons here but ask instead that you pay attention to the fact that, contrary to your suggestion and as made evident by the recent abundant official communication to Islands Trust, the majority of South Penderites prefer that we maintain Bylaw 122.

We chose not to purchase property on Salt Spring Island because of the proliferation of oversized, luxurious and largely unoccupied homes there. The changes you suggest to the LUB leave us vulnerable to the same situation here on South Pender. Surely you do not want that as your legacy, do you?

Sincerely,
Faye Mogensen
[REDACTED]

From: Cameron Thorn <[REDACTED]>

Sent: Saturday, February 15, 2025 8:07 AM

To: South Pender Island Local Trust Committee <SouthPenderLTC@islandstrust.bc.ca>; South Pender Planner <southpenderplanner@islandstrust.bc.ca>; Paul Michael Petrie <[REDACTED]>; Gordie Duncan <[REDACTED]>; John Kuharchuk <[REDACTED]>

Subject: Zoning Bylaw Language

All,

Further to our conversation on Friday on the "Despite" language in our land use bylaw that qualifies or modifies other sections of the Bylaw, I thought it might be helpful to provide you with an example of such language in other Bylaws. I have provided an extract from the City of Vancouver Zoning Bylaw.

We are building hundreds of rental housing units under RR-2B of the Bylaw and neither ourselves, our lenders (banks) nor our insurers have any concerns or doubts as to the density (square footage) we can achieve on a site. While Section 3.1.1.1 clearly states the maximum floor space ratio is 2.20 FAR in the RR-2B District, we know that if we have a corner site then, Section 3.1.1.2 (b) applies and we can achieve 2.40 FAR.

Cameron

3 DENSITY, FORM AND PLACEMENT REGULATIONS

This section contains density, form and placement regulations organized by use.

3.1 All Uses

All uses in these districts are subject to the following regulations.

3.1.1 Density and Floor Area

3.1.1.1 The maximum floor space ratio is:

- (a) 1.75 in the RR-2A district;
- (b) 2.20 in the RR-2B district; and
- (c) 2.40 in the RR-2C district.

3.1.1.2 Despite section 3.1.1.1 above, the Director of Planning may increase the permitted floor space ratio to a maximum of 2.00 in the RR-2A district, 2.40 in the RR-2B district, and 2.70 in the RR-2C district, if:

- (a) the site depth does not exceed 33.5 m; or
- (b) the site is a corner site that:
 - (i) adjoins a dedicated lane at the rear, whether or not that lane is constructed, or is a double-fronting site,
 - (ii) has a minimum site frontage of 40.2 m, and
 - (iii) has a minimum site area of 1,470 m²,

and if the Director of Planning considers the intent of this schedule and all applicable Council policies and guidelines.

3.1.1.3 Despite sections 3.1.1.1 and 3.1.1.2 above, the Director of Planning may increase the permitted floor space ratio in the RR-2C district for social housing to:

- (a) a maximum of 2.70; or
- (b) a maximum of 3.00 for a corner site that:
 - (i) adjoins a dedicated lane at the rear, whether or not that lane is constructed, or is a double-fronting site,
 - (ii) has a minimum site frontage of 40.2 m, and
 - (iii) has a minimum site area of 1,470 m²,

if the Director of Planning considers the intent of this schedule and all applicable Council policies and guidelines.

From: Ron Henshaw <[REDACTED]>
Sent: Sunday, February 16, 2025 4:38 PM
To: SouthInfo <SouthInfo@islandstrust.bc.ca>
Cc: Tobi Elliott <telliott@islandstrust.bc.ca>; Kristina Evans <kevans@islandstrust.bc.ca>; dfalk@islandstrust.bc.ca
Subject: Feb 14th SPLTC meeting regarding special project

Feb 14 2025

Dear Trustees,

In spite of all the hard work the Trustees, APC, community, and Staff did, this new draft bylaw is out of sync with what the greater community wants. I am shocked that the option of keeping Bylaw 122 intact is completely missing, especially when It is clear that the majority of residents engaged in the process support giving it a chance to work.

The mandate to "fix" Bylaw 122 was built on a misleading campaign, fixated on the false claim that it would create legal non-conforming situations. This has been proven untrue—homes built before September 22, 2022, are in fact, legally conforming.

The problem became clear when the leadership role expected from you made no effort to correct this misrepresentation even when it was actively perpetuated by the APC, whom you appointed. Instead of standing up for transparency and fairness, you allowed this false narrative to shape the process.

Now, you risk becoming exactly what you unjustly accused the previous Trustees of being: leaders who refuse to meaningfully listen, and fail to uphold a fair process.

I expect Trustees of our island to prioritize the objectives of our OCP and Trust Mandate before the narrow interests of a small special-interest group that is focused on maximizing house size and reducing setbacks.

Please honour what you promised by listening to the greater community and give Bylaw 122 a chance to work.

Sincerely,
Ron Henshaw

From: Audrey Green <[REDACTED]>
Sent: Thursday, March 20, 2025 6:44 PM
To: SouthInfo <SouthInfo@islandstrust.bc.ca>
Subject: Fwd: Support... for Draft Bylaw 129

We fully support Draft Bylaw 129 . It provides a fair COMPROMISE to the problems that were created within the community by the controversial changes made in Bylaw 114.

David and Audrey Green
[REDACTED]
South Pender

From: Gerry Richardson <[REDACTED]>
Sent: Friday, March 21, 2025 2:30 PM
To: SouthInfo <SouthInfo@islandstrust.bc.ca>
Subject: Support of Draft By-law 129

I am writing in support of draft By-law 129 because the proposed changes would remove most homes from being forced into non-conforming status. Draft by-law 129 could help ease the current conflict that arose from the previous by-laws.

Ann Richardson

[REDACTED]

South Pender

From: John Cherrington <[REDACTED]>
Sent: Friday, March 21, 2025 1:37 PM
To: SouthInfo <SouthInfo@islandtrust.bc.ca>; Dag Falck <dfalck@islandtrust.bc.ca>; Kristina Evans <kevans@islandtrust.bc.ca>; Tobi Elliott <telliott@islandtrust.bc.ca>
Subject: Draft Bylaw 129

We own a home and adjacent lot situate on Boundary Pass Drive. We both strongly support the above noted Draft Bylaw.

Many of the properties on our road are one half acre or less in size and were rendered non-conforming by Bylaw 122. The principal changes proposed would bring most homes back into conforming status, and the 500 square foot additional space represents a suitable compromise in this regard. The side setback change also seems reasonable.

The third principal change is very welcome - greater specificity regarding rebuilding in the event of destruction by fire or otherwise. May we suggest similar assurances regarding the more restrictive setback from the sea, since many owners will not be in conformity with the existing 50 foot setback, yet they built their homes and/or cottages under the more relaxed rules.

Thank you.

John and Dorothy Cherrington

[REDACTED]

Sent from my iPad

From: William Green <[REDACTED]>
Sent: Friday, March 21, 2025 10:42 AM
To: Dag Falck <dfalck@islandstrust.bc.ca>; Kristina Evans <kevans@islandstrust.bc.ca>; SouthInfo <SouthInfo@islandstrust.bc.ca>; Tobi Elliott <telliott@islandstrust.bc.ca>
Subject: SUPPORT of DRAFT BYLAW 129

We are in SUPPORT of DRAFT BYLAW 129 . We have two undeveloped lots on South Pender and DRAFT BYLAW 129 creates less restrictive side setbacks and house sizes . DRAFT BYLAW 129 will provide us with more building options on our the properties where most of the geography of the land is not flat.

Mike and Lydia Green
[REDACTED]
South Pender

From: Paul Williamson <[REDACTED]>
Sent: Friday, March 21, 2025 8:25 PM
To: SouthInfo <SouthInfo@islandstrust.bc.ca>; [REDACTED]; Dag Falck
<dfalck@islandstrust.bc.ca>; Tobi Elliott <telliott@islandstrust.bc.ca>
Subject: Bylaw 129

I am writing to encourage you to pass proposed Bylaw 129. It is appropriate to go back to the earlier setback rules, and to permit larger sized houses. Large families are a boon to our community. And importantly, existing homes should be permitted to maintain their size and placement without negative consequences, supporting the existing attractive quality of South Pender Island. Thank you for your attention.

....*Paul Williamson*, resident, and property owner on South Pender for over thirty years.

From: ALMA LIGHTBODY <[REDACTED]>

Sent: Sunday, March 23, 2025 4:02 PM

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

Subject: Bylaw 129

We are writing in support of your changes to Bylaw 114 to create Bylaw 129. It has taken a long time and hard work to come up with new options that have a good chance of pleasing most people. Good work. We will be at your meeting for support on March 27th.

Alma Lightbody & Mack Foster

From: gwduncan47 <[REDACTED]>
Sent: Sunday, March 23, 2025 11:44 AM
To: SouthInfo <SouthInfo@islandstrust.bc.ca>
Subject: Draft bylaw 129

I am writing in support of draft bylaw 129. I support the findings of the APC.

Gerald Duncan
[REDACTED]
South Pender Island

Sent from my Galaxy

From: John <[REDACTED]>

Sent: Sunday, March 23, 2025 5:06 PM

To: SouthInfo <SouthInfo@islandstrust.bc.ca>; Kristina Evans <kevans@islandstrust.bc.ca>

Subject: Re: Support of Draft Bylaw 129

On Sun, Mar 23, 2025 at 5:02 PM John <[REDACTED]> wrote:

We support Draft Bylaw 129. This bylaw addresses many of the non conforming issues that have negatively impacted many South Pender properties.

John and Leslie Hartley

[REDACTED]

South Pender

From: Wynne Powell <[REDACTED]>

Sent: Sunday, March 23, 2025 4:26 PM

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

Subject: bylaw 129 draft

Dear Sirs:

We are writing as owners of two properties on South Pender island, namely [REDACTED]
[REDACTED] expressing our strong support for:

- Reverting to 10-foot interior side setbacks for houses and cottages. This regulation was changed to 20-foot interior setbacks in 2022.
- Adding 500 sq. ft. to house sizes through all categories, which were substantially reduced in 2022.
- Adding more assurance that dwellings built, before the Amended Bylaw 114 was adopted, will retain their conforming status and can be rebuilt to their current size and placement. This is accomplished by adding a dual set of Maximum Dwelling Size tables along with a “before and after” date and strengthening wording in the bylaw.

We both appreciate the review and work performed by our Island Trustees on this important matter.

We have been property owners on South Pender for over 52 years.

Wynne & Glenys Powell

Glenys and Wynne Powell

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

From: Charlotte Edwards <[REDACTED]>
Sent: Monday, March 24, 2025 9:49 PM
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: South Pender Minor Use Bylaw Amendment Project

March 24, 2025

To:

Kristina Evans, South Pender Trustee
Dag Flack , South Pender Trustee
Tobi Elliott, Chair South Pender Trust

copy to : southinfo@islandstrust.bc.ca

Re: South Pender Minor Use Bylaw Amendment Project

I am writing to say that I agree that Bylaw 129 should revert to 10-foot setbacks. The setbacks contained in Bylaw 122 are too restrictive and do not allow for building according to what is best for the lot.

For example, our lot has a steep grade. With the 10 foot setbacks, we were able to have the house and the garage which contains our cistern at the same level on the lot. This eliminates the need for a pumping station to get the water from the cistern to the house. Part of the slope is shale and clay, so it would have been more expensive to build on that part of the lot. The cistern is part of our Rainwater Catchment System which provides our potable water.

I think it is very undesirable to constantly be changing the bylaws and making properties non-conforming. We finished building in 2016, before Bylaw 114 was passed. Now our property does not conform under the setbacks in Bylaw 122 .

As for the setback from the ocean, in my opinion, a 25 foot setback is adequate, and a 50 foot setback should only be imposed on those lots that require that large a setback for geotechnical reasons.

I agree that Bylaw 129 should be passed since Bylaw 122 is too restrictive and creates too many conforming properties. I do not see the need for the restrictions imposed by Bylaw 122. Building in an environmentally friendly way for each lot to deal with climate change is more important than having a large set of restrictions that don't allow for what works best for each lot.

Charlotte Edwards

[REDACTED]

Pender Island, BC [REDACTED]

[REDACTED]

From: Debbie Friesen <[REDACTED]>

Sent: March 24, 2025 9:55 PM

To: Kristina Evans; Dag Falck; Tobi Elliott

Subject: Letter supporting Bill 129

I appreciated that Trustees have listened and followed the APC suggestions regarding drafting Bylaw 129.

It seems ludicrous that people can build a home, following all the bylaws, two years pass, and new bylaws make those homes non-conforming.
Bylaw 129 will fix that.

Bylaw 129 proposes to ease some of Bylaw 122's property setbacks and house size restrictions, while maintaining the spirit of bylaw 122.

It also proposed that two tables of house size and setbacks be created, one for houses built before September 2022 and another for those built afterward.

By some calculations, Bylaw 129 would reduce the number on "non-conforming" households from 20 to 8, and align South Pender's house size and setbacks with those in other Gulf Island jurisdictions.

Supporting Bill 129, Debbie Friesen

Dennis Perch



March 18, 2025

To: South Pender Island Local Trust Committee southinfo@islandstrust.bc.ca;

Kristina Evans kevans@islandstrust.bc.ca

Dag Falck dfalck@islandstrust.bc.ca

Tobi Elliot telliott@islandstrust.bc.ca

Re: Proposed Bylaw 129

I am one of several South Pender residents that have stated their opposition to bylaws introduced without evidence of justification but created in response to an unsupported populist view of some vocal people. The current bylaw relating to home size and residential setbacks is an example of this influence.

- The populist view is that a large number of letters should prevail without the need to establish measurable benefits created by a new bylaw restriction. This approach also fails to apply consideration of the impact of the spurious bylaw on those affected by it in the community.
- The second position, which I support, is that technical planning resources, logical decision making and ethical considerations by the LTC should guide their decisions as to bylaw needs.

In the case of home size and setbacks, there is a direct measurable negative impact on community residents affected by them. Creating more restrictive setbacks than those introduced by past LTCs results in many more properties becoming “non-conforming”, a decision that needs to be addressed judiciously.

- For home owners, non-conformance is a negative characteristic placed on the property and should not be imposed unless there is a professionally executed justification of how this is the best option for the community. In this case, the many properties affected negatively must be weighed against any future measurable environmental protective gains from increasing restrictions.
- As well, making many properties non-conforming with a new bylaw is not good planning. The intent of non-conformance is to apply a status to a property until it can be brought into conformity. There is no such intent with the restrictions we are discussing here.

There is also a very important ethical and moral factor to be considered in this process. Is it fair to negatively affect residents who, in good faith, constructed their homes according to the allowed size and existing setbacks of the Islands Trust at the time?

I expect that the Local Trust Committee will make its decision based on what is best for the community and that means applying the best planning tools available. I am therefore encouraged to see that proposed amendments in Bylaw 129 can finally deal with home size and setbacks according to responsible planning principles that the community relies upon, rather than just populist opinion.

I unequivocally support the proposed changes in Bylaw 129.

Sincerely,

Dennis Perch

Resident of South Pender Island

From: Heather Haryu <[REDACTED]>

Sent: Monday, March 24, 2025 4:47 PM

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

Subject: Changes to Bylaw 114

Dear Trustees Evans and Falck, Chair Tobi Elliott, and IT Staff,

We wish to confirm our support for the changes in Draft Bylaw 129 shown in the March 27th Special Meeting Agenda posted this afternoon. However, as the Draft Bylaw does not yet contain an addition of 500 sq. ft. to house sizes, we wish to state our strong support for that change. The reasons for our support were outlined in our email to you of September 11, 2024. We also support "before and after" tables for house sizes, as recommended by the majority of the APC, to give further assurance to those who built homes before adoption of the current Bylaw 114. Any other wording to give such assurances should be added as needed.

We are thankful for the work done by all of you in this process. We are sorry that you have had to endure the accusations from some people that you are wasting precious time trying to satisfy the whims of people who did not agree with the actions of the last trustees. We are sad that different interpretations of the OCP cause you so much grief. We commend you for taking the time to try to reach a compromise that we believe will still fit within the goals of the OCP.

Respectfully,

Wayne and Heather Haryu
[REDACTED]

From: Leigh Pullen <[REDACTED]>
Sent: Monday, March 24, 2025 6:24 PM
To: Kristina Evans <kevans@islandstrust.bc.ca>; Tobi Elliott <telliott@islandstrust.bc.ca>
Cc: Dag Falck <dfalck@islandstrust.bc.ca>; SouthInfo <SouthInfo@islandstrust.bc.ca>
Subject: Draft Bylaw 129

Hello,
We are in favour of the Draft Bylaw 129.
Leighton Pullen, Judy Pullen
[REDACTED]

From: Neil Smith <[REDACTED]>

Sent: Monday, March 24, 2025 10:18 AM

To: SouthInfo <SouthInfo@islandstrust.bc.ca>; Kristina Evans <kevans@islandstrust.bc.ca>;
Dag Falck <dfalck@islandstrust.bc.ca>; telliot@islandstrust.bc.ca

Subject: Draft Bylaw 129

I am in favour of the proposed Draft Bylaw.

You were elected by a majority to institute these changes. I understand there is a very vocal minority opposing this. There was an election. The majority voted each of you in to implement this Bylaw.

I will attend the meeting this week to express my support for each of you to follow the mandate you were given not bend to an unelected vocal minority.

Thank you for stepping up to be elected officials and sticking to the mandate you were given.

Neil Smith

From: Hakstian, Ralph <[REDACTED]>
Sent: Monday, March 24, 2025 11:45 AM
To: SouthInfo <SouthInfo@islandstrust.bc.ca>
Subject: Support for Draft Bylaw 129

Hello,

I'm a South Pender Island property owner at [REDACTED] and would like to express my support for the changes in Draft Bylaw 129. I have looked into Bylaw 114 and the changes proposed in Draft Bylaw 129 and feel that they represent a reasonable compromise between those who support and those who oppose revising Bylaw 114.

Please accept my strong support for the changes in Draft Bylaw 129.

Thank you,

A. Ralph Hakstian

[REDACTED].

Pender Island, BC

[REDACTED]

From: puravidaamigo@me.com <[REDACTED]>
Sent: Tuesday, March 25, 2025 2:00 PM
To: SouthInfo <SouthInfo@islandstrust.bc.ca>; Kristina Evans <kevans@islandstrust.bc.ca>;
Dag Falck <dfalck@islandstrust.bc.ca>; telliott@islandstrust.ca
Subject: Draft Bylaw 129

I am in favour of Draft Bylaw 129 regarding the adjustment of dwelling size and setbacks previously adopted by Bylaw 122. In my opinion the reduction of house sizes and setbacks which resulted in many properties becoming non-conforming was both punitive and detrimental to many property owners on South Pender. The proposed changes in Draft Bylaw 129 offer a compromise which will address the non-conforming status that many homeowners are now faced with; a status that affects insurance, resale and misrepresents the homeowner who built their home in good faith according to previous standards. The additional square footage added to dwelling size also creates an opportunity for multi-generational living, aging in place with a caretaker, and possible long-term rental accommodation, all of which have become important issues in the changing demographic of our community. Sincerely, Catherine Green ([REDACTED])
[REDACTED]

25 March 2025

To the Trustees :

I am writing to state my very strong opposition to the recommendations appearing in Draft proposal 129 and to express my opinion that Bylaw 122 provides much stronger support for the OCP goals and Trust mandate to protect and preserve for future generations.

1. I am living with the tension that develops and the invasion of privacy which results with a 10 foot interior side setback. This should not be perpetrated. It invades privacy, destroys natural habit and visual screening and does not support rural lifestyle. As mentioned by one speaker at the February 14th meeting, 40 feet between dwellings as opposed to 20 feet would also encourage the construction of smaller buildings and create a healthy corridor. All of these attributes : privacy, natural habitat, visual screening, smaller buildings and healthy corridors are precious aspects of rural life.

2. Proposing to increase the house size maximum moves South Pender island toward urban values as opposed to rural ones. I strongly support the notation in the staff report that Option #3 in the draft proposal may require legal counsel review.

The current bylaw fully protects all homeowners and supports the goals of the OCP goals and the Trust preserve and protect mandate. Decreasing the side interior setbacks and increasing house size maximum does not. I fail to see any justification for replacing the current Bylaw 122 and very strongly feel that it should be left as it is.

At the February 14, 2025 the South Pender Island Local Staff committee requested that a meeting be scheduled in March or April regarding draft Bylaw No. 129. The agenda package was posted at 4:15 yesterday, Monday, March 24th for a meeting to be held on Thursday, March 27th. This barely meets the requirement of two days notice and will most unfortunately result in residents with appointments etc., not being able to attend the meeting when they otherwise would.

There were 26 work days, excluding weekends, between the February 14th meeting and yesterday, I am wondering why the agenda package couldn't have been posted earlier in order to give people more time to plan. There was more than sufficient time for more notice to have been given and I feel that this short notice is neither good planning nor necessary.

For two years this divisive, expensive, unproductive and stress-inducing 'consultation' has literally poisoned the atmosphere of South Pender Island.

The bylaw which best supports OCP goals and what remains of our extremely precious rural lifestyle is Bylaw 122, not draft proposal 129. For all that we love and value about South Pender Island and for those that come after us, Bylaw 122 must remain as it is.

Thank you for your time and attention.

Daphne Louis

[REDACTED]
[REDACTED]
[REDACTED]

From: Jock Craddock <[REDACTED]>
Sent: Tuesday, March 25, 2025 4:57 PM
To: South Pender Island Local Trust Committee <SouthPenderLTC@islandstrust.bc.ca>; kevans@islandstrust.bc.ca; Dag Falck <dfalck@islandstrust.bc.ca>; telliott@islandstrust.bc.ca/
Subject: In Support of Draft Bylaw 129 for March 27, 2025 Meeting

To the South Pender Island Trustees

I am unable to attend Thursday's meeting to discuss land use amendments by proposed Draft Bylaw 129. As a property owner I wanted to let you know that I appreciate the time you spent coming up with a series of changes in Draft Bylaw 129, which I support.

I believe the proposed changes are appropriate when viewed on an objective basis, given the limited development opportunities still available on South Pender and when comparing them with other Gulf Islands schemes.

Many thanks

J.W. (Jock) Craddock

Southlands Drive, South Pender Island
[REDACTED]

From: Janis Wankling <[REDACTED]>
Sent: Tuesday, March 25, 2025 5:49 PM
To: SouthInfo <SouthInfo@islandtrust.bc.ca>; Kristina Evans <kevans@islandtrust.bc.ca>;
Dag Falck <dfalck@islandtrust.bc.ca>; Tobi Elliott <telliott@islandtrust.bc.ca>
Subject: March 27 meeting re Draft Bylaw 129

Dear Trustees,

I am a property owner on South Pender Island and am in agreement with the proposed draft Bylaw 129. Please take my position into account when making any decisions on this matter.

Thank you

Kind regards,

Janis Wankling

From: Kathy Strong-Duffin <[REDACTED]>
Sent: Tuesday, March 25, 2025 1:12 PM
To: SouthInfo <SouthInfo@islandstrust.bc.ca>; Kristina Evans <kevans@islandstrust.bc.ca>; Dag Falck <dfalck@islandstrust.bc.ca>; Tobi Elliott <telliott@islandstrust.bc.ca>
Subject: Our Support for Draft Bylaw 129

Our Support for Draft Bylaw 129

We live at [REDACTED] on South Pender Island and are in favour of Draft Bylaw 129. Our reasons are:

1. We would like to see that dwellings built before the Amended Bylaw 114 will retain their conforming status and can be rebuilt to their current size and placement. These properties should be returned to their rightfully conforming status. As stated by others, "everyone that has built previously, followed the rules and there should be language included that provides protection, and those that need to rebuild should be able to be built to current size". and location.
2. We would like to see that interior setback revert back to a 10 foot interior setback for houses. This is far more practical and realistic given all the environmental factors (e.g. bedrock, steep grades, ocean setbacks, heritage trees, etc.) that we have to work around on South Pender Island. It is not easy to build anything here and any improvements to the property are restricted under the current setbacks in Bylaw 122.
3. We would like to see the house sizes increase to allow for more livability, intergenerational living and accessibility building requirements.
4. We would like to see the building height restrictions revert back to the pre Bylaw 122 wording to allow for more flexibility in expanding house size in situations where you cannot build beyond house footprint due to environmental restrictions.
5. We support the "Retaining the setback to the natural boundary of the sea but amending the clause by removing "a certification from an appropriately qualified person as to" and replacing it with "substantive evidence to establish". This makes it less onerous to the owner to provide evidence of the location of their dwelling/structures.

In addition to our comments on the proposed bylaw 129, we are disappointed that the Special Meeting for gathering input on this important matter is being held on North Pender on March 27, 2025. Residents from South Pender will not be able to attend this meeting easily due to The Dip closures. We would like to see any future events such as this be held on South Pender.

Thank you for all your work. It is greatly appreciated.

Bill Duffin and Kathy Strong-Duffin

From: P.F. Clarke <[REDACTED]>
Sent: Tuesday, March 25, 2025 3:03 PM
To: SouthInfo <SouthInfo@islandstrust.bc.ca>
Cc: Paul Petrie [REDACTED]>
Subject: Trust meeting

I am sorry that I am unable to attend the forthcoming Trust meeting on Thursday. But I wish to add my voice in support of the points made in the admirable letters already received from Susan Taylor and Paul Petrie. They demonstrate that the new proposals now put before us would in fact allow just the sort of over-development and encroachment that it was the aim of our present By-law to restrain within environmental limits that become more pressing with every passing year.

There is a bigger issue lurking here - one that to my mind calls into question the conduct our present Trustees in upholding their very name. Trust in what they are now doing is indeed put into question when we see their recent about-turn after earlier signs of a welcome move towards conciliation and consensus on these vexed issues. It would be a sad day if all the recent efforts to reach an accommodation between our inevitably different viewpoints were now to be undermined in this way.

Peter Clarke

[REDACTED]

South Pender [REDACTED]

Letter to trustees — March 25, 2025

March 25, 2025

Trustees,

I have had an opportunity to review the agenda package posted at 4:15 on March 24 for the March 27, 2025 “special meeting”. That package contains draft Bylaw 129, a staff report supporting the draft bylaw and the draft minutes from the February 14 LTC meeting. Please consider my following concerns arising out of the agenda package specifically related to the house size allowance options in the staff report.

House size allowance

At the June 2023 LTC meeting trustees attempted to repeal the changes to our Land Use Bylaw enacted through Bylaw 122 and revert back to the large house size allowances adopted in 2016. Thankfully trustees attempt to repeal the Bylaw 122 amendments was unsuccessful because trustees lacked the authority to summarily repeal a bylaw without a proper legal process.

Option #3 in the staff report essentially repeals Bylaw 122 house size allowances and reverts to the large mega house sizes adopted in 2016 for the 215 South Pender properties that currently have a dwelling. For example, our comfortable 2 bedroom, 2 bath 1,500 ft² home on a 2-acre lot can be rebuilt to 3,500 ft² under our current LUB. The proposal in option #3 would allow us to replace our home with a 5,600 ft² house. That would increase the potential house size by over 2,000 ft² over the current generous house size allowance.

Option #3 would undermine the rural character of our South Pender Community and disregard the policy goals in our OCP including the requirement that growth and development be gradual and sustainable and support our Island’s rural character. Imagine a row of 5,600 ft² houses along Drummond Bay. That’s what option #3 would invite. The notation in the staff report indicating, “Option 3 may require legal counsel review” is a step I strongly support.

Option #1 applies to new dwellings and presumably this option would be limited to new dwellings on the 58 vacant lots. Option #1 increases the current floor area allowance by 500 ft² for each lot size category. How many vacant lots will be developed in the next 5 years? Given the current economic circumstances and the emerging challenges, we face with our neighbour to the South, I suspect few if any of the vacant lots will be developed. So option #1 is largely a theoretical option that will have little effect in the near future.

If a property owner decides to develop a vacant lot and has a good reason to build a larger house than the current bylaw allows, the owner has the option of applying for a variance. As

Letter to trustees — March 25, 2025

far as I am aware there have only been 3 variance applications in the current term and all have been granted. Changing the existing house size allowance to address exceptional circumstances is very questionable public policy when there is no justification for such a change.

Our LUB provides generous house size allowances well above the 1,900 average house size currently on South Pender. The proposals put forward by trustees so far take us further from the goals in our OCP and require a clear rationale. Trustees have not to date provided a rational for increasing the house size allowance.

For the foregoing reasons I oppose the adoption of either option #3 or option #1.

Draft minutes

The minutes of a previous meeting are an important source of information for community members, particularly community members who are not able to attend LTC meetings. Standing resolution 2006.012 calls on trustees to adopt minutes "...within 14 business days, if possible, of each meeting." Trustees have failed to follow this standing resolution. Over the past two years trustees generally provide "draft" minutes in the agenda package 5 business before the meeting and adopt the minutes at the meeting. The agenda package for the March 27 meeting was posted 2 days before the meeting. This does not promote public engagement of thoughtful consideration of complex and important issues as contained in the current agenda package. Trustees can and should do better.

I have further comments on some of the minor issues listed in Bylaw 129 which I will address in a separate letter.

Thank you for considering my views.

Paul Petrie


From: [REDACTED]
Sent: Tuesday, March 25, 2025 10:51 AM
To: Kristina Evans; Dag Falck; Tobi Elliott
Cc: SouthInfo
Subject: Letter of Support for South Pender Bill 129 - Rick Friesen
Attachments: RFriesen-Bill129-support_letter.pdf

Please find, attached, my letter of support for proposed South Pender Bylaw 129.
I request that it be included with the public record of correspondence on that Bylaw.

Rick Friesen

Richard Friesen
South Pender Island, BC.

South Pender Island Local Trustees and Chair.
Islands Trust, South Pender Island

March 25, 2025

Dear Chair Elliot, Trustee Evans and Trustee Falck.

I am Rick Friesen, and I would like register my support of proposed Land Use Bylaw 129 as written in the package for the South Pender Special LTC meeting of March 27.

While the proposed Bylaw 129 falls short of my original position that the Land Use Bylaws return to the provisions of South Pender Island Land Use Bylaw 114 of 2016, I feel that it has the best chance of meeting the needs of South Pender Island home owners.

I appreciate the efforts made by the Local Trustees in the process of consultation. As meetings must be safe and respectful, I hope that respect and decorum in the Special LTC meeting, and future LTC meetings, will be strictly enforced.

Because Bylaw 122 of 2022, which replaced large sections of Bylaw 114, created a situation where an unreasonable number of legally built, existing properties were made "non-conforming", I appreciate that proposed Bylaw 129's easing of some of the property setbacks, definitions and house size restrictions will address some of these programs.

I support that there will be two tables of house size and setbacks, one for houses built before September 2022 (Pre-Bylaw 122) and those built later (Post-Bylaw 122).

By some calculations, proposed Bylaw 129 would reduce the number of "non conforming" households from 20 to 8, and align South Pender's house size and setbacks with those in other Gulf Island Jurisdictions.

I would like to see some of the progressive aspects of Bylaw 122 retained, while at the same time easing the house size and property setback restrictions so that fewer of our properties are classed as "non conforming", a designation with attendant insurance, rebuilding and re-sale implications. I believe that proposed Bylaw 129 does this.

Respectfully submitted

Rick Friesen, Canal Road, South Pender Island.

cc (email):

'Kristina Evans'<kevans@islandstrust.bc.ca>; 'Dag Falck'<dfalck@islandstrust.bc.ca>; 'Tobi Elliot'<telliott@islandstrust.bc.ca>

From: susanantifaev@gmail.com [REDACTED]
Sent: Tuesday, March 25, 2025 9:31 PM
To: SouthInfo <SouthInfo@islandstrust.bc.ca>
Subject: Support for draft Bylaw 129

Dear Trustees,

In preparation for writing this note, I saw the posted correspondence on this topic. It generally reflects the divided opinions that have been expressed in the few meetings I have attended during this process. Every one of the letter writers and speakers at the meetings is expressing their strong and genuine opinions on this topic and it seems to me that every one of them is motivated by a love of this place and a vision for the future that reflects that love. Those “visions” might be slightly different from each other but I would suggest that every one of them can be encompassed by the Official Community Plan. The Plan sets out our aspirations and goals, but doesn’t dictate the minutiae of how we get there. The Plan was consistent with the Land Use Bylaws in place before their amendment in 2022 as well as after the amendment. The Plan will also be consistent with the Draft Bylaw 129 if it is adopted.

In the face of such differing views, my suggestion is that we should be reaching for a compromise if we ever want this issue to be laid to rest.

I support Draft Bylaw 129 because I think it sets out a compromise between what the supporters of the “old” regime and the “new” regime want to see. The APC has recommended allowing an extra 500 square feet be allowed for new homes on each category of lot sizes. Everybody has to give something up in order to get something and everybody leaves feeling a little disgruntled. There is no shame in such a compromise - it is the classic Canadian fallback.

On the topic of “legal non-conforming” sizes and setbacks, I also support the recommendation for a dual table, a “before” and “after” list of maximum sizes for homes on the various lot sizes. Although our Planners seem to think that Bylaw 122 did not render any properties “legally non-conforming” (and I disagree with them on this) those people whose homes fall outside of the new requirements for new builds are still concerned about the status of their homes, and this two-table recommendation is an easy way to allay their worries. Why not do it?

Finally, I want to thank you folks for your effort in holding all these meetings so everyone has a chance to have their say. Whatever you decide to do, I sincerely hope these land use bylaw controversies don’t see the light of day again any time soon.

Susan Antifaev

Sent from my iPad

Attention South Pender Trustees and Chair:

Firstly I would like to thank the Trustees for their patience and dedication to finding solutions that will help unite our beautiful community. I would also like to thank the APC for volunteering their time, experience and commitment to tackling the subject project.

I accept the recommendations of our APC but find myself *changing* position regarding side setbacks. I reside on a narrow lot on [REDACTED] (so indeed you would be quite justified in thinking this is a selfish view on my part), but please ask yourself, would forty feet between you and your neighbour not be preferable to a mere 20 feet????? A twenty foot setback from each home (inclusive of auxiliary buildings and the like) would allow, a safer and more pleasing “green” screen (we should not have trees and shrubs directly against our homes due to fire hazards), easier access for emergency vehicles, and lend a modest privacy. I also believe that this might encourage smaller homes .

The smaller the lot size, clearly the more important are the side set backs. Assigning a special permit to areas is an idea that has been brought forward for long narrow lots, but I think that a set back that is reasonable, in the first instance, is more practical and treats folks the same.

I believe that the resistance to new setbacks is primarily due to many in our community, being fearful of becoming “legal nonconforming”. I completely appreciate this legitimate concern (I sense that our community has generally accepted the 50 ft setback from the sea - because it will only affect a few of our community members and or environmental rational is obvious? Our community is capable of change!)

The current wording in Bylaw 122 (3.3) strives to address the thorny issue of “legal nonconforming”. Is a homeowner able to rebuild on the same site, pursuant to destruction by a fire? Our community requires a legal opinion on the new wording in 3.3 on the this issue and our questions answered : ie who drafted the current provisions in this regard, has it been tested by the Courts, is this common language in jurisdictions where like bylaws have changed and has it been reviewed by insurers and mortgagers alike? The community has sought a legal opinion on many occasions over the years to no avail.

The Board of Variance is available to address setbacks when new homes and or auxiliary buildings are constructed. Auxillary buildings that are currently within a 20 ft setback ought to be “grandfathered” in but unlike houses I would suggest that they ought to comply with new setbacks if they are “rebuilt”.

Thank you for your attention and ongoing efforts to find solutions for our community.

Sincerely - Shelley Henshaw (March 25/2025)

From: Stuart Scholefield <[REDACTED]>
Sent: Tuesday, March 25, 2025 10:29 AM
To: SouthInfo <SouthInfo@islandstrust.bc.ca>
Subject: By-law changes

Trustees, I have just read through the record of the last meeting and the proposals for the next meeting. I am very disturbed at the direction you are going!

We came here in the early 90s and were stunned at the natural habitat. Our goal has always been to fit into this wonderful natural environment and to minimally alter it.

I am therefore very disturbed at the direction being taken in your proposed changes.

People who come here are amazed by the beauty. But, more and more, newcomers appreciation and proclaimed love of it changes very rapidly when they start to build, always with the idea that their families will come here too. But, it turns out that there are not JOBS here and likely will never be enough to support growing families. And so, we see large house which are virtually abandoned! That beautiful natural environment has been wiped out, never to return!

Houses will grow close together and shut out the wonderful views. [REDACTED]

[REDACTED]
I hope you will think on this and keep the setbacks as they are and keep limits on house size.

Stuart Scholefield

Sent from my iPad

March 25, 2025

Trustees,

I have reviewed the DRAFT Bylaw 129 to amend bylaw 114 of 2016 and the documentation provided by staff.

I left the LTC meeting of February 14 with the distinct impression that our trustees were seeking to bring our riven community together with a compromise. Apparently I was wrong.

The crucial maximum floor areas part is missing from your DRAFT but staff have recommended “option 1”, the addition of 500 square feet per acreage category for new dwellings. While this option is at least transparent, my preference is the retention of the existing maximum floor areas in bylaw 122.

“Option 2” regarding attached garages would, as staff state, contribute to confusion and interpretation challenges and the increased massing of an attached garage would be more in keeping with a suburban than a rural community.

“Option 3” which would allow those whose property includes a constructed dwelling prior to September 15, 2022 to rebuild or alter to a maximum floor area of 3800 square feet on a property of less than one acre, for example, is most certainly not a compromise. That would represent a fifty-two percent increase over the existing dwelling maximum of 2500 square feet for this lot size! I have no problem with allowing the replacement, reconstruction or alteration of a dwelling in place prior to September 15, 2022 to either the dwelling’s floor area existing prior to that same date or the maximum allowed for new dwellings under the bylaw in effect.

The proposal to exclude, from the definition of “floor area”, floor to ceiling areas of approximately 5 feet, 11 inches, seems like another way to get useable space that “doesn’t count”.

Reverting side setbacks from 20 feet to 10 feet is not a compromise and will not contribute to the enjoyment or our rural properties.

Finally, I don’t recall the new language re: recreational vehicles being used for temporary camping being raised at the February 14 meeting. Perhaps, I missed it. In any event, I wouldn’t want a recreational vehicle parked on a property adjacent to mine to be used as a secondary dwelling for “camping”. It could easily become an Airbnb with no straightforward means of regulation.

In closing, I understood our trustees to be coming around to seeking closure on a compromise bylaw re: setbacks and dwelling sizes but apparently I was deluded by my eagerness to have these divisive issues put behind us.

Susan Taylor



South Pender Island

From: tracy calvert [REDACTED]
Sent: Tuesday, March 25, 2025 2:14 PM
To: SouthInfo <SouthInfo@islandstrust.bc.ca>
Subject: To South Pender trustees Christine and Dag

To South Pender trustees Christine and Dag:

Unbelievable, absolutely unbelievable. After all the feedback in support of leaving the bylaw 122 as it is and having larger setbacks you are still going ahead and supporting changing back to the large home size and large setbacks.

You are not really listening and doing the work to protect our island.

I am in shock and disgusted.

Tracy Calvert

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From: Wayne Edwards <[REDACTED]>

Sent: Tuesday, March 25, 2025 1:41 AM

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: South Pender Minor Use Bylaw Amendment Project (Bylaw 129)

March 25, 2025

To:

Kristina Evans, South Pender Trustee (kevans@islandstrust.bc.ca)

Dag Flack , South Pender Trustee (dfalck@islandstrust.bc.ca)

Tobi Elliott, Chair South Pender Trust (telliott@islandstrust.bc.ca)

copy to : southinfo@islandstrust.bc.ca

Re: South Pender Minor Use Bylaw Amendment Project (Bylaw 129)

1. I agree with defining the floor area as the area with ceiling and floor 1.8m apart.
2. Clause 3.3 (3): I think a 50ft setback of a building or other structures from the natural boundary of the sea is excessive and appears to be an arbitrary choice rather than one based on a technical evaluation of the potential harms this would mitigate or prevent. The 25ft setback from the sea on our property is based, as explained to me, on a broad hazard evaluation and is widely used on S. Pender with good success. Doubling the setback from 25 ft to 50 ft will rob the landowner of use of a significant area of their property while providing little benefit and should only be done if there is an engineer's recommendation that such an increase is needed because of a geotechnical hazard. A 50 ft distance from freshwater boundary to a building or other structure is more understandable as there could be flooding or fresh water contamination risks.
3. I agree that Bylaw 129 should revert to 3m interior setbacks. These have been shown to date to be adequate for protecting the rural setting and enjoyment of residential properties and there is no need to increase them and many disadvantages if they were to be increased.
4. Clause 3.3 (6): As currently written this clause appears to prevent an owner from installing a rainwater harvesting system for collection of a potable water supply from the roof of a dwelling, such as we installed. Such a rainwater collection system would inevitably be located within 30 m of components of a sewage system. I recommend you exclude roof rainwater collection water supply systems from the proposed 30 m distance constraint.
5. Clause 3.4 (2): The maximum height limit of a building accessory to a dwelling should be 30 ft (same as for a dwelling), so it can be made architecturally similar to the dwelling if desired for design aesthetics or improved storage opportunities. This would help reduce the proliferation of numerous accessory buildings of less than 100 sq ft in area that one sees on properties.
6. Clause 3.11 Derelict vehicles: I am all for property owners removing and recycling derelict and often unsightly vehicles and boats, but this clause, as written, also includes likely non-derelict vehicles. For example, if I own two vehicles, one to drive in the summer and the other to drive the rest of the year, both kept in good condition, this clause requires me to keep both cars licensed year-round or to have a garage to store one of the vehicles when not in use. This is

costly and wasteful and I'm expecting not the intent of the clause. A narrow definition of a "derelict" vehicle is needed that is not simply that it is not licenced. The FVRD defines a derelict vehicle as a motor vehicle which is inoperable, or partially or totally disassembled or wrecked, dilapidated, or substantially damaged. A definition such as this would be appropriate.

7. Clause 8.12 should be amended to allow the subdivision of a lot supplied with water from a rainwater collection system approved by an engineer.

8. The local trust committee should be trying to make it less costly and more efficient to build homes in these times of a crisis in both the supply and cost of homes. We are not isolated from these issues and should do what can be done to help the Southern Gulf Islands be self sustainable. We also do not want to become cottage country where people build smaller homes here to use part-time while their main residence is elsewhere. With this in mind, I would like to see the maximum floor areas for dwellings in Clause 5.1 (5) increased a further 10% for all lot areas, while keeping the total floor areas as proposed. For example, this would make the dwelling area for a 0.4-0.8ha lot 3,300 sq ft. This yields modest yet realistic usable floor areas and minimizes the needs to add space in accessory buildings that are commonly not as well cared for or as attractively designed as the dwelling.

9. The Trust Committee should strive to avoid making dwellings nonconforming as a result of bylaw amendments. This can have serious unintended and unanticipated impacts in terms of the market value of a property, its insurability, or the cost of dwelling replacement. A simple example of this is requiring landowners to pay for a survey or other services to prove that their replaced dwelling complies with the setbacks when originally built.

Regards,
Wayne Edwards

[REDACTED]

Canada [REDACTED]

From: Andrew Johnson <[REDACTED]>
Sent: Wednesday, March 26, 2025 10:39 PM
To: SouthInfo <SouthInfo@islandstrust.bc.ca>
Subject: Opposed to proposed Bylaw 129

I oppose the efforts to roll back bylaw 122: both in their substance and the manner in which they have been pursued. The existing bylaws offer generous allowances but retain a character that is distinct from urban or suburban communities. If that is lost, there will be no going back. I have yet to hear a compelling explanation for why the space and flexibility provided by the existing bylaws are insufficient.

The campaign to overturn the existing rules seems to proceed from the dubious assumptions :

- that the existing bylaw is divisive or controversial to the community, at large, not simply opposed by a vocal minority;
- that it is necessary to find a "compromise" between a *law* (duly adopted after extensive discussion and consideration) and its critics; and
- that the most recent election should, in effect, be considered a referendum on a specific bylaw.

None of these assumptions are supported by actual evidence.

Proponents of rolling back the existing law have sown unnecessary confusion and concern with misinformed references to "legally non-conforming" properties, and appear to have acted at times on inadequate or misapprehended legal advice. There is clearly a need to reassess the factual basis on which this decision would rest by:

1. obtaining proper legal advice; and
2. probing whether there is actually any breadth of popular support for the proposed change (let alone a "mandate") or if, instead, it simply reflects the views of a vocal minority which unsuccessfully opposed the current rules during the lengthy consultation and deliberation which led to their adoption.

Respectfully,

Andrew Louis Johnson
[REDACTED]

From: Ann McMullen <[REDACTED]>
Sent: Wednesday, March 26, 2025 5:00 PM
To: SouthInfo <SouthInfo@islandstrust.bc.ca>
Subject: Proposed changes to the OCP.

As one of the owners of [REDACTED] on South Pender I wish to reject the currently proposed changes to the OCP regarding house size and setbacks as they do not conform to the objectives of the Islands Trust.

Ann McMullen

From: Ben McConchie <[REDACTED]>
Sent: Wednesday, March 26, 2025 4:47 PM
To: SouthInfo <SouthInfo@islandstrust.bc.ca>
Subject: South Pender Trustees Future Vision

Hello Trustees,

Wow! What an incredible legacy you are leaving for the next generation, Trustees. I can just picture it right now....

One day you'll be able to drive around the island with your families and point to massive houses and say "Look...right there! See that? That's one of the giant houses my bylaw revisions helped create! Isn't it beautiful"?

"We spent nearly all of our term revising bylaws to allow for bigger houses, (wipes tears from eyes), I'm so incredibly proud of how we used taxpayer dollars and staff time to do this".

I can see it now, Trustees, the statues they'll build in your honour for your service will be impressive. Perhaps they can put the statues in a beach park where local young families used to play - but can no longer due to the unaffordability of living on the island due to poor planning, and incompetent civic leadership.

Ben McConchie
[REDACTED]
South Pender Island

--

[REDACTED]

[REDACTED]

From: Christina McQuarrie <[REDACTED]>
Sent: Wednesday, March 26, 2025 2:29 PM
To: SouthInfo <SouthInfo@islandstrust.bc.ca>
Subject: Draft bylaw 129

March 26, 2025

Trustees,

Once again we are revisiting the same issues and with no apparent progress in bringing our community together.

The proposed changes to bylaw 122 would allow for the construction of mega sized houses and also allow building attached garages. That combined with the proposed reversal of the side setbacks from 20ft to 10 ft especially on the finger lots, seriously reduces privacy and would change South Pender into a very suburban style neighbourhood. This is not what most of us came here for!

Furthermore, we must not overlook the Preserve and Protect mandate. Much of what is proposed here will impact the environment, the water supply and the wildlife.

South Pender is still such a beautiful place and we are so lucky to live here. When looking to the future and the ongoing growth and development of the island, to "preserve and protect" must always be a major consideration.

Christina McQuarrie
[REDACTED]

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

████████████████████

South Pender Island

From: D Johnson [REDACTED]
Sent: Wednesday, March 26, 2025 6:49 AM
To: SouthInfo <SouthInfo@islandstrust.bc.ca>
Subject: Bylaw amendment opposition

25 March 2025

Trustees,

Bylaw 122 supports the goals of our Official Community Plan including the requirement for gradual and sustainable development and protection of our island's rural character. Draft proposal 129 which considers decreasing the side interior lot setback from 20 feet back to 10 feet and increasing the house size limit does not support our OCP and represents a step backward in protecting and preserving the natural environment, privacy and rural lifestyle on South Pender Island. Our current bylaw, Bylaw 122 needs to stay in place and to not be amended or eroded.

David Louis Johnson
[REDACTED]

From: David Ramos <[REDACTED]>
Sent: Wednesday, March 26, 2025 12:35 PM
To: Kristina Evans <kevans@islandstrust.bc.ca>; Dag Falck <dfalck@islandstrust.bc.ca>
Cc: SouthInfo <SouthInfo@islandstrust.bc.ca>; Tobi Elliott <telliott@islandstrust.bc.ca>
Subject: SUPPORT for Draft Bylaw 129

Hello Trustees,

I am writing to let you know that we support the Draft Bylaw 129, the changes seems fair and a middle ground approach. The 20 feet setback seemed unfair for lots that are skinny and long which we have lots of them. The new house sizes are also good since we think house sizes were drastically reduced in an unfair manner.

When Trustees push for new drastic measures there would be a backlash and I'm happy to see it happening here in South Pender, I hope this happens in all the islands. great work on accomplishing a compromise.

Thank you.

David Ramos and Daniel Westover
[REDACTED]
[REDACTED]

From: Faye Mogensen <[REDACTED]>
Sent: Wednesday, March 26, 2025 7:55 PM
To: SouthInfo <SouthInfo@islandstrust.bc.ca>
Subject: Proposed Bylaw 129

Dear Trustees Evans and Falck,

I am writing with respect to the proposed bylaw changes, described in bylaw #129.

I am opposed to the changes proposed in Bylaw #129.

Most South Pender residents were attracted to here because of the peaceful and idyllic setting - a result of the protection the Islands Trust has offered. Let's continue to keep our home island rural and green. Maintaining modest house sizes and space between them will help achieve this goal.

Faye Mogensen

From: Monica Petrie <[REDACTED]>
Sent: Wednesday, March 26, 2025 12:35 PM
To: SouthInfo <SouthInfo@islandstrust.bc.ca>
Subject: Re draft bylaw 129

Trustees,

I am deeply disappointed that your proposals are still about removing reasonable and duly enacted limits on house size and setbacks which conform to our OCP and the Trust Mandate to Preserve and Protect.

In the face of a climate crisis and our changing environment - increasing drought, limited water resources, erosion of sensitive shorelines - I believe we need to keep our human footprint in check. Building elements such as concrete are known to be increasing the green house gasses which are causing glaciers to melt and seas to rise.

Many plant and animal species, some rare and endangered, live here with us and rely on undisturbed habitat corridors that link from forested heights to shores. They can't all live in the parks.

Because of the uniqueness of Trust Area islands, we who are privileged to live here have an obligation beyond our current South Pender population - to other British Columbians, to the WSANEC People who never gave up their Island Homeland and still have treaty rights here, and to the coming generations of all of us.

Monica Petrie
[REDACTED]

Sent from my iPad

From: Mark Wensley <[REDACTED]>
Sent: Wednesday, March 26, 2025 9:28 AM
To: SouthInfo <SouthInfo@islandstrust.bc.ca>
Subject: South Pender Proposed Bylaw Changes

To the South Pender Island Trustees

I Started practicing on the Pender Islands 28 years ago , I also practiced in Victoria for 32 years . I owned a home in Cadboro Bay . During those years I witnessed small family homes torn down and huge homes built in their place as the lots in that area were very large . Living in what was considered a rural area many years ago is now a becoming an area of large homes where privacy in your own home and particularly in one's back yard was lost . And the land is being denuded of its trees and beauty plus losing the rural character that attracted people to the area in the first place .

So we moved to Pender full time and sadly are now witnessing this build mentality on South Pender . Changing a bylaw to allow larger homes in close proximity than is presently allowed is very heart breaking . What is happening to a simple rural life where the reasons people come here is the leave that city mentality behind . To cut down every tree on one's lot , build a huge home right next to your neighbour seems to me to be so against what we are trying to maintain as a community. One must remember that islands trust mandate is to preserve and protect .

This land is not ours, we are here as caretakers for the next generation. Soon we will be gone off this earth and what will we be leaving behind for our grandchildren and beyond , a row of 5000 square foot houses check to Jowl ?

I am truly disappointed that our trustees would even consider allowing these changes to occur .

Suffice it to say we are not in favour of increasing house size construction and decreasing the distance between homes built on existing lots .

Regards
Dr Mark Wensley
Dorset Norwich-Young
[REDACTED]

Sent from Mark's iPhone

From: Neville West <[REDACTED]>
Sent: Wednesday, March 26, 2025 8:34 PM
To: South Pender Island Local Trust Committee <SouthPenderLTC@islandstrust.bc.ca>
Subject: Support for bylaw 129

Dear Trustees

WE SUUPPORT THE NEW BYKAW 129 RE ZONING ALLOWANCES PRE 2022.

Since we purchased our property continued undermining of development allowances on our 3.4 acres has been tittled down to less than half what it was when we purchased in 1992. There has been no reflection of this loss in our annual property taxes.

Neville & Mariette West

[REDACTED]

SPI

[REDACTED]

March 26, 2025

Trustees

RE Legal non-conforming

At the February 14, 2025, LTC meeting the issue of legal non-conforming was raised a number of times in the town hall session. One community member asked the planner (through the chair) where staff find support for the proposition that Bylaw 122 did not create any legal non-conforming situations. The community member pointed out that the APC based their conclusions and recommendations on their belief that Bylaw 122 created a substantial number of legal non-conforming situations. The APC majority's recommendations now form the basis of Bylaw 129 house size and setback considerations.

The chair referred to the three staff reports which provided a detailed review of the legal non-conforming issue that details the basis for the conclusion that Bylaw 122 did not create any legal non-conforming situations with respect to dwelling size and setbacks. In acknowledging the community member's position, the chair indicated that more clarity may be required. The trust planner addressed this issue directly at the meeting stating:

It is the staff's professional opinion that the only situation of legal non-conforming created by Bylaw 122 is in terms of building height. (44:10 of the meeting recording)

This important piece of information was not included in the meeting minutes for February 14 LTC meeting. The minutes show that a community member pointed out that:

... the trustees mandate to fix the bylaw is built on the false assumption that (Bylaw 122) created legal non-conforming situations and trustees have not made an effort to correct this misinformation.

The minutes of the February 14 LTC meeting do not offer any further comment by trustees to clarify their position on the important issue of whether Bylaw 122 created any legal non-conforming situations regarding house size or siting under the current bylaw.

Given the importance of the differing views about the legal non-conforming issue, it is surprising that the March 27, 2025, staff report makes no reference to this issue. It should be noted that the February 6, 2025, staff report "Bylaw No. 122 and Legal Non-conforming FAQ" should have put this issue to rest. Apparently, it did not. At least 10 of the letters posted in the public correspondence in the last week have referred to legal non-conforming situations to support Bylaw 129.

My question to trustees is simple: Do you accept the staff's clear and unequivocal professional opinion that Bylaw 122 did not create any legal non-conforming situations with respect to dwelling size and setbacks? A simple yes or no answer by each trustee would be helpful in resolving outstanding differences on this important issue that is at the heart of the divide in our community.

Failure to directly address this important issue could call into question the viability of any new bylaw affecting dwelling size and siting that is based on the supposition that Bylaw 122 created legal non-conforming situations that need to be addressed.

Once the uncertainty around legal non-conforming is resolved, it will be much easier to find common ground for our community to collectively support the goals in our OCP and the Trust mandate.

Thank you for considering my views.

Paul Petrie

Patrick Smith

[REDACTED]
South Pender Island, BC, [REDACTED]
[REDACTED]
[REDACTED]

March 26, 2025

Dear South Pender Trustees:

I do not support the changes proposed by draft bylaw 129. I do not think that the proposed land use bylaw amendments improve support of the Islands Trust Act and the OCP of South Pender. The OCP took a long time to establish with lots of effective community input and as such reflects the rural community style and values of South Pender Island. The OCP is fine the way it is. If it's not broke, don't fix it.

Best regards,
Patrick Smith

March 26, 2025

South Pender Trustees,

As a long-term Pender resident, I have written in the past regarding my preference for keeping the existing Bylaw 122 in place at this time to see whether it presents any difficulties to new and existing landowners over the years, and if so to consider making necessary changes that might be required at that time. At the present time there seems to be no problem with the existing bylaw and the variance process allows for special circumstances as they arise, and the trustees have not provided any valid reason why they should be changed.

I do not support increasing existing house sizes at this time, especially on smaller lots, and I support keeping the side lot boundary at 20 feet and the front lot boundary at 50 feet to provide privacy between neighbours and to protect the rural character of South Pender in accordance with our OCP and to protect the environmental characteristics of this special place we call home.

Yours truly

Robert Dill

A solid black rectangular redaction mark covering the signature area.

From: SUSAN HAMILTON <[REDACTED]>
Sent: Wednesday, March 26, 2025 7:22 PM
To: SouthInfo <SouthInfo@islandstrust.bc.ca>
Subject: Re: Proposed Bylaw

Dear Trustees,

The agenda package for the March 27th meeting was posted only 2 days prior to the meeting, which does not allow for intelligent consideration of such important issues, and nor does it allow for much opportunity of community dialogue. I choose to believe that this was not intentional; otherwise, my confidence in our Trustees would be seriously undermined.

But attempting to rescind an existing bylaw without proper public procedure? Then appointing ACP members who largely uphold your own views, and apparently ignoring feedback from the community that clearly supports the existing bylaw 122? What are you thinking?!

I cannot support the changes proposed by draft Bylaw 129 because they do not conform to the objectives of the Islands Trust Act or South Pender's OCP, and they would compromise the rural character and quality of life on this beautiful island. More importantly, they would threaten the fragile ecosystem of which we are only a part. In this present climate crisis, each of us is responsible for the preservation and survival of the environment.

sincerely,
Susan Hamilton

Sent from my iPad

March 26,

Members of the SP LTC,

My comments regarding Bylaw 129 are as follows:

I'm not sure that either of the suggestions to prove the location of an existing building with respect to the natural boundary of the sea is necessary because the siting is required for the building permit application and the foundation of the building would be obvious. It may be simpler to remove this requirement altogether.

I am opposed to any amendment to the height regulation for dwellings and cottages.

I am opposed to allowing additional shipping containers without adequate siting and shielding requirements.

Any amendments to recreational vehicles regulations should include that they not be used for habitation. Should temporary use be necessary, a permit should be required to ensure proper sewage disposal and a safe power supply.

I am opposed to any amendments to revert the setback from the exterior and interior side lot line for dwellings and cottages from 6 metres (20 feet) to 3 metres (10 feet).

I am opposed to any amendments to the Agriculture zone to remove the floor area requirements for dwellings and cottages. Should agri-tourist accommodation be considered, then a Commercial Zoning application should be required (not unlike any other tourist accommodation), so neighbours have some input into the scale and type of operations.

Deleting the 'basement floor area' definition seems to ignore that basements exist. If the definition needs clarifying, then consider how that might be done but I am opposed to deleting it. The increase in the height of a storey from 1.5 metres to 1.8 metres is acceptable.

I am opposed to any increase in the floor area of any structures. The rationale for the current sizes has been presented and accepted by a majority of residents and should be left as they are currently.

I am opposed to having Attached Garages not included in Dwelling Floor Area as staff has recommended.

I support any amendments to clarify or improve the current Land Use Bylaw but I do not support any significant changes to setbacks, floor areas, or height, etc. These amendments being brought forward by the trustees have been justified by their assertion that the previous trustees did not listen to their constituents, an accusation the current trustees are following to an even greater degree. There has not been a "significant majority" who have approved of this project which, in the words of trustees, would be necessary for them to move forward. Continuing this charade of 'community involvement' to 'bring the community together', is unfortunate and unnecessary.

Steve Wright,
S Pender.

From: [REDACTED]
Sent: Wednesday, March 26, 2025 4:08 PM
To: SouthInfo <SouthInfo@islandstrust.bc.ca>
Subject: LTC By-law change

Dear Trustees,

You are Trustees and therefore should be “trusted” to adhere to the Island Trust Act and our Official Community Plan that preserves and protects our small island. You are both quite new to the island so may not have read these. The bylaw changes that you propose without any explanation of why these are needed do not preserve and protect. I bought my property on South Pender in the 1970’s and moved here permanently after I retired in the late 1990’s. I moved from the city to live in a healthy rural environment not cheek by jowl with neighbors in huge houses. Some city people pay a lot of money now to “bathe” in forests. By keeping to the present by-law you keep our island rural. On South Pender with clean air you can smell one gas car when it passes. You can visit a foreshore without crowds. Huge houses are not needed here. They help to deplete a limited water supply and erode privacy. Please keep the by-law we have that is working well. Trallee Dun [REDACTED]

From: Wendy Scholefield <[REDACTED]>
Sent: Wednesday, March 26, 2025 3:25 PM
To: SouthInfo <SouthInfo@islandstrust.bc.ca>
Cc: Kristina Evans <kevans@islandstrust.bc.ca>; Dag Falck <dfalck@islandstrust.bc.ca>
Subject: Land Use Bylaw revisions

To the South Pender Local Trust Committee

I wrote to you in February with my concerns about increasing house size. It's very difficult to look to the future and see what might be coming to our island community - there is so much going on in the world right now that we can't really anticipate who might be deciding that owning a house on a small island might be a good back-up plan in the case of even more chaos than we are seeing today. And we need to ensure that the houses being built suit our rural island and do not encroach on the privacy of neighbours.

If a larger house is required, and there is room on the lot for a larger home without intruding on neighbours, then the owner has the option of applying for a variance. In that way, the community and the immediate neighbours can determine whether the new structure is going to work and won't invade the neighbours or the neighbourhood.

Please reconsider allowing larger homes; there are options for homeowners whose needs require larger and whose lot is suitable for a larger structure. It may take time for the permit process and the building but today building a house on South Pender is a very long process and the additional step of requesting a variance is a small increase to the length of the permit and construction process.

Thank you for considering my views.

Wendy Scholefield

From: cj canada <[REDACTED]>
Sent: Thursday, March 27, 2025 5:14 AM
To: SouthInfo <SouthInfo@islandstrust.bc.ca>
Subject: DISREGARD PREVIOUS UNEDITED DRAFT: Final Version Below

i am grateful to live and work on Coast Salish territory (S'dayes): traditional, ancestral, unceded land; locally, i recognise the role of the Tsawout band. acknowledgement is not static. mine encompasses lasting commitment to decolonisation, with a focus on environmental defence and legal reform.

Dear Members of our South Island Trust Committee,

I find the fact that you have not yet tabled Bylaw 129 problematic. The many detailed and knowledgeable negative critiques that it has elicited have alerted us all (in a helpful, timely and unambiguous matter) to its lack of viability.

I remain resolutely opposed to this bylaw, if only because it is:

- a/ ill-considered (as to purpose);
- b/ inappropriate (as to content); and,
- c/ superfluous (as to need).

My (and others's) many previous letters on this matter -- which has regrettably derailed progress on outstanding/overdue issues of actual importance to the island's environment and community -- outline a compelling number of legal and related reasons why this bylaw needs to be permanently shelved.

Were it to proceed, it would be vulnerable to review and/or appeal.

I recommend that the Committee NOT adopt this bylaw. 129 is a non-starter. Let's all move forward with less divisive matters.

Respectfully,
Dr. CJ Milsum

Southern Gulf Islands since 1973

i am grateful to live and work on Coast Salish territory (S'dayes): traditional, ancestral, unceded land; locally, i recognise the role of the Tsawout band. acknowledgement is not static. mine encompasses lasting commitment to decolonisation, with a focus on environmental defence and legal reform.

From: John Kelly <[REDACTED]>
Sent: Thursday, March 27, 2025 8:26 AM
To: SouthInfo <SouthInfo@islandstrust.bc.ca>
Subject: South Pender LUP special project

Some time ago I reviewed scientific literature relating building size to carbon footprint and wrote the Local Trust Council with my findings. I did this as a qualified Resource Manager commenting on an area of expertise outside but adjacent to my own. That letter is in the project archive.

In the literature, the real experts have written convincingly that building materials contribute to climate change, particularly carbon footprint, at a very significant rate that is related to the square foot area of the building. I invite you to re-read my original letter for details.

My question in doing this literature review was whether Trustee Thorne and Wright were correct in their assertion that limiting building size was a legitimate tool to achieve goals related to climate change. It turned out they were.

In the current project, the Trustees should consider adding stipulations that any increase in carbon footprint resulting from increases in maximum house size over and above amounts in current Bylaw 114 be accompanied by some sort of carbon mitigation. By proposing increasing building size without addition of any mitigations to account for increased carbon footprint, the current trustees will be directly acting counter to the climate goals in the OCP, the Islands Trust 2018 strategic plan and the declaration of a climate emergency by the Islands Trust and the provincial government.

Regards,

John Kelly MRM
[REDACTED]

From: ken clark <[REDACTED]>
Sent: Thursday, March 27, 2025 9:55 AM
To: SouthInfo <SouthInfo@islandstrust.bc.ca>
Subject: By law 129

Dear Trustees.

I remain opposed to any changes in By law 122 for reasons previously given.

I'm writing to object to

the way this meeting was arranged for the following reasons.

1. Releasing your agenda package two days before the meeting.
2. Holding the meeting on North Pender instead of South Pender.
3. Choosing the time and date to maximize the inconvenience to residents living south of The Dip.

This gives me reason to suspect it was intended to discourage dissenting voices from attending.

Yours truly

Ken Clarke

[REDACTED]
[REDACTED]

TO:

The South Pender Island Trustees

We support Draft Bylaw 129.

SIGNED:

[REDACTED]

PAT KORDYBAC.

CECILIA SUH

[REDACTED]

[REDACTED]

PENDER ISLAND BC

[REDACTED]

[REDACTED]

[REDACTED]

From: Shelagh <[REDACTED]>

Sent: Thursday, March 27, 2025 4:49 PM

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

Cc: Kristina Evans <kevans@islandstrust.bc.ca>; Dag Falck <dfalck@islandstrust.bc.ca>; Tobi Elliott <telliott@islandstrust.bc.ca>; 'Shelagh' <[REDACTED]>; Brad Rinald <[REDACTED]>

Subject: Support and Gratitude for Draft Bylaw 129

Hello. We just wanted to express our support for draft Bylaw 129 which includes the 10 foot side setbacks. We also wanted to express our tremendous gratitude to Trustee Evans, Falck and Elliott as well as the APC and the staff at the Islands Trust for all of their due diligence in working through the changes to Bylaw 122 to arrive at draft Bylaw 129 that we believe would be acceptable to the vast majority of our community while supporting the preservation of the existing rural nature of South Pender Island.

Having said that we think it would be important to clarify in the Bylaw that the 90 day recreational vehicle temporary camping provision only applies to non-commercial camping. Otherwise there could be an unintended proliferation of unregulated summer commercial camping on South Pender in an attempt to circumvent the short term rental provisions.

Thank you again for your thorough consideration of this matter,
Shelagh and Brad Rinald

[REDACTED]
Pender Island, B.C.
[REDACTED]

March 27, 2025

Trustees,

Re: recreational vehicle use and DRAFT Bylaw 129

I attended today's LTC meeting online.

Planner Stockdill suggested that a future draft of Bylaw 129 could contain wording to specify that no commercial use be made of recreation vehicles on a lot. Her suggestion was not debated or accepted by trustees.

Further to my letter of March 25 on this point, I request that the wording suggested by Planner Stockdill be added to any future draft of Bylaw 129. The potential for a recreational vehicle to become airbnb type accommodation is real. Without the phrase "no commercial use" there would be no means to regulate recreational vehicle use.

Susan Taylor

[REDACTED]

South Pender Island

April 28, 2025

Re: Trustee Evans' application for an STVR permit and Bylaw 129, new section 3.10(2)

Trustees,

I am sympathetic to Trustee Evans' application for an STVR permit even though I don't know which of the two dwellings on her property she intends to have covered by the permit and find the mention of four parking spaces for a one bedroom / two adult occupancy, curious.

Property ownership in our small corner of South Pender Island is in rapid flux as our aging community members die or become ill, and sell. As I write, there are several nearby properties on the market and others anticipated so I appreciate Trustee Evans' concern about financial hardship and covering her mortgage while she anticipates putting her property on the market this summer.

In general however, I am not supportive of STVRs on our island. Water supply, care and preservation of our island home, an ongoing shortage of full time rental accommodation, as well as a desire to maintain a sense of community among continuing residents are among my reasons.

At the March 27, 2025 LTC Meeting, changes to proposed bylaw 129 were reviewed. Trustee Evans spoke to several of them including the new section 3.10(2) which would allow camping in recreational vehicles on one's property for up to 90 days per year.

"Where a recreational vehicle is used for temporary camping, occupancy of a recreational vehicle must not exceed 90 days in a calendar year."

Camping in recreational vehicles or glamping, as we know has become a popular way of spending vacation time in beauty spots.


After the introduction of section 3.10(2), Planner Stockdill suggested that language to preclude commercial use of recreational vehicles be added to this proposed new section. Trustee Evans declined the suggestion saying that she had not consulted her community about this aspect. I don't recall the community being consulted at all about this proposed new section. Perhaps I missed it but I don't think so.

If this new section 3.10(2) is incorporated in bylaw 129 and does not include language to preclude commercial use, I fear the door will be opened for what will essentially be STVRs with no application or approval process, no process at all, for an annual period of 90 days which could cover the most desirable weather months of the year, the months of highest demand for vacation accommodation - and also the months when drought and well water depletion are increasingly problems.

I urge the LTC to **include "no commercial use" in section 3.10(2)** as suggested by Planner Stockdill.

Thank you.

Susan Taylor


South Pender Island

From: Donna Spalding <[REDACTED]>

Sent: April 29, 2025 4:16 PM

To: Kristina Evans; Dag Falck; Tobi Elliott

Subject: By-law 129

TO: South Pender Local Trustees

This letter is in support of the changes proposed by draft bylaw 129. We believe that these proposed land use bylaw amendments are reflective of a significant number of comments by residents of South Pender.

Donna & Jon Spalding

[REDACTED]

South Pender, BC

From: Patti Reid <[REDACTED]>

Sent: Tuesday, April 29, 2025 3:20 PM

To: South Pender Island Local Trust Committee <SouthPenderLTC@islandstrust.bc.ca>

Cc: South Pender Island Local Trust Committee <SouthPenderLTC@islandstrust.bc.ca>

Subject: Bylaw 129

Hello myself Patti reid and my common law husband Shawn Twamley's are both for the for the change to by law 129 increasing the building law to extend 500 feet also to the change of reverting to 10 feet by the site side . Thank you p reid Sent from my iPhone

From: Kirkwood, Rodney <[REDACTED]>
Sent: Tuesday, April 29, 2025 3:53 PM
To: South Pender Island Local Trust Committee <SouthPenderLTC@islandstrust.bc.ca>
Cc: [REDACTED]; Rodney Kirkwood <[REDACTED]>
Subject: BYLAW 129

To the South Pender LTC,

This email is to confirm we fully support Bylaw 129 in its current form.

We sincerely appreciate the degree of consultation and thoughtfulness, not to mention patience, the South Pender LTC and staff has undertaken on the issues that Bylaw 129 addresses.

Rodney Kirkwood and Sandra Auchterlonie
[REDACTED]

[REDACTED]

Direct: [REDACTED]
[REDACTED]

From: Suzanne Cooper <[REDACTED]>

Sent: Tuesday, April 29, 2025 2:39 PM

To: South Pender Island Local Trust Committee <SouthPenderLTC@islandstrust.bc.ca>

Subject: Bylaw 129

Greetings Kristina,

I would like to state my support of Bylaw 129.

I am a South Penderite.

Thank-you for your representation on this Bylaw.

Kindest Regards,

Suzanne Cooper

Sent from my iPhone

From: Tim vB <[REDACTED]>

Sent: Tuesday, April 29, 2025 5:41 PM

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

Cc: Kristina Evans <kevans@islandstrust.bc.ca>; Dag Falck <dfalck@islandstrust.bc.ca>; Tobi Elliott <telliott@islandstrust.bc.ca>; [REDACTED]

Subject: Support for draft bylaw 129

Dear Trustees -

We are writing to express our full support for draft bylaw 129. We appreciate the efforts of Trustees Evans and Falck to find a balanced approach that better meets the needs of the community.

The slight increase in house sizes allows for more flexible family structures, the return to previous side setbacks directly addresses the limitations of multiple narrow (100 ft) lots, and the return to previous height regulations accommodates the many sloped building sites on the island. None of these changes will have a meaningful impact on the rural nature of South Pender Island.

Best regards,

Tim van Biesen & Vida Foubister

[REDACTED]

Pender Island, BC

From: Elizabeth Spalding <[REDACTED]>
Sent: April 30, 2025 4:03 PM
To: Kristina Evans; Tobi Elliott; Dag Falck
Subject: By law 129

Dear South Pender Island Trustees,

This email is in support of the changes proposed by draft bylaw 129. I think these proposed land use bylaw amendments reflect comments from many South Pender residents.

Sincerely,

Elizabeth Spalding

From: michael st. cyr <[REDACTED]>
Sent: Wednesday, April 30, 2025 12:22 AM
To: South Pender Island Local Trust Committee <SouthPenderLTC@islandstrust.bc.ca>
Subject: Bylaw amendment 129

i support the proposed amendment to bylaw 129

Specifically, I support allowing for an increase in house size and 10ft side setbacks.

Michael and Angela St. Cyr

[REDACTED]

South Pender Island.

[REDACTED]

[REDACTED]

From: Debbie Friesen <[REDACTED]>

Sent: May 1, 2025 11:31 AM

To: Kristina Evans; Dag Falck; Tobi Elliott

Subject: Supporting Bylaw 129

Hello Trustees, Kristina, Dag and Chair Toby,

I appreciate and support the listening, work, and all the changes you have done to create Bill 129.

Hope it goes through and is not appealed again!

Debbie Friesen

From: house southpender.com [REDACTED]
Sent: Thursday, May 1, 2025 5:37 AM
To: South Pender Island Local Trust Committee <SouthPenderLTC@islandstrust.bc.ca>
Subject: Bylaw 129

Dear Staff and Trustees,

It appears that a first reading of Bylaw 129 will occur soon. We support Bylaw 129 and the relief it would offer to property owners wishing to build dwellings and improvements on their land.

We hope that this bylaw will move forward, after due consideration. Thank you for placing our support in the record.

Best regards,
Richard Christy
Cynthia Christy

[REDACTED]
[REDACTED]

RE: South Pender Island Trust Meeting September 5th, 2025

Hello,

To whom it may concern,

This is a quick note to acknowledge my lack of support to bylaw 129.

I do support our current Land Use Bylaw 114.

I am disappointed that our current trustees have not been working more on preserving the rural nature and natural diversity of our island environment for future generations.

Yours sincerely,

Daisy te Hennepe

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South Pender Island

Dear members of the Islands Trust Executive Committee,

We are writing in anticipation of the passage of Bylaw 129, on its final reading by the South Pender Island Trustees. Bylaw 129 has been promoted in the face of significant opposition expressed in public hearings and correspondence. Taken as a whole, the latter makes it clear that the majority of South Pender residents support the retention of our Land Use Bylaw in its current form. Not because our current LUB satisfies the desires of all residents, but because it better respects the preserve and protect mandate of the Islands Trust that is designed to consider the aspirations of future residents and visitors as well.

As such, we are motivated to reiterate our strong opposition to Bylaw 129.

We trust that in your review of Bylaw 129 you will take into careful consideration all of the views expressed in the public correspondence, particularly the many that speak directly to the preserve and protect mandate that you are entrusted to oversee.

Sincerely,

David and Pamela Kirkpatrick
South Pender Island

August 21, 2025

LTC Trustees Evans, Falk and Chair Elliott

Re: proposed bylaw 129, article 3.10 (3)

At the March 27, 2025 LTC Meeting, changes to proposed bylaw 129 were reviewed. Trustee Evans spoke to several of them including a renumbered section 3.10 (3), currently 3.10 (1) (f), which allows camping in recreational vehicles on one's property for up to 90 days per year.

"Where a recreational vehicle is used for temporary camping, occupancy of a recreational vehicle must not exceed 90 days in a calendar year."

I understand the restructuring of section 3.10 to make this change. The existing 3.10 (1) (f) is inconsistent with the existing 3.10 (1) (e) which permits temporary occupancy of a recreational vehicle for up to two years while constructing one's permanent dwelling.

After the introduction of section 3.10 (3), Planner Stockdill suggested that language to preclude commercial use of recreational vehicles be added to this renumbered section. Trustee Evans declined the suggestion saying that she had not consulted her community about this aspect.

Section 3.10 is designed to assist an owner in having temporary accommodation while they build a permanent dwelling. Section 3.10 does not speak to commercial use of a recreational vehicle but does not preclude it. Now that new attention has been brought to the existence of this wording by reformatting it as 3.10 (3), I find Planner Stockdill's suggestion of adding "no commercial use" completely reasonable and appropriate.

If renumbered section 3.10 (3) is incorporated in bylaw 129 and does not include language to preclude commercial use, I fear the door will be open for what will essentially be STVRs with no application or approval process, no process at all, for an annual period of 90 days which could cover the most desirable weather months of the year, the months of highest demand for vacation accommodation - and also the months when drought and well water depletion are increasingly problems.

I am not supportive of STVRs on our island. Water supply, care and preservation of our island home, an ongoing shortage of full time rental accommodation, as well as a desire to maintain a sense of community among continuing residents are among my reasons.

I urge the LTC to include "no commercial use" in renumbered section 3.10 (3).

Thank you.

Susan Taylor

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South Pender Island

From: tracy calvert [REDACTED]
Sent: Thursday, August 21, 2025 1:10 PM
To: SouthInfo <SouthInfo@islandstrust.bc.ca>
Subject: proposed bylaw 129

To the Trust Executive Committee:

I am a long time resident of South Pender and have seen the many changes and increase to the population here on South Pender.

I am in favor of retaining the bylaw 129 as it is right now.

Please DO NOT approve the new proposed bylaw 129.

We must all be very thoughtful and courageous in our actions to preserve and protect our properties and the lands around us for the ones that can't speak...(animals and plants).

This responsibility is especially poignant for you as you are the appointed guardians. An appointment you agreed to do and have been paid for.

So please do your duty and Protect and Preserve our precious land that we are the stewards.

sincerely,

Tracy Calvert
[REDACTED]