



BOARD REPORT

TO: Chair and Directors

File No: BL900-19 PL20170056
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SUBJECT: Electoral Area E: Lakes Zoning Amendment (Layden)
Bylaw No. 900-19

DESCRIPTION: Report from Christine LeFloch, Development Services Assistant,
dated July 28, 2017.
655 Swanbeach Rd, Swansea Point.

RECOMMENDATION #1: THAT: "Lakes Zoning Amendment (Layden) Bylaw No. 900-19" be read a second time, as amended this 17th day of August, 2017.

RECOMMENDATION #2: THAT: a public hearing to hear representations on "Lakes Zoning Amendment (Layden) Bylaw No. 900-19" be held;

AND THAT: notice of the public hearing be given by staff of the Regional District on behalf of the Board in accordance with Section 466 of the Local Government Act;

AND FURTHER THAT: the holding of the public hearing be delegated to Director Rhona Martin, as Director for Electoral Area E being that in which the land concerned is located, or Alternate Director Brian Thurgood, if Director Martin is absent, and the Director or Alternate Director, as the case may be, give a report of the public hearing to the Board.

SHORT SUMMARY:

The foreshore area proposed to be rezoned is located in the Swansea Point area of Electoral Area E. The applicants have applied to amend Lakes Zoning Bylaw No. 900 to recognize the existing fixed dock associated with 655 Swanbeach Road. This dock is not currently sited in compliance with the required setbacks. The proposed amendment would add a special regulation to the FR1 Foreshore Residential Zone, which would apply to the portion of Mara Lake lying adjacent to the property legally described as Lot 4, Section 11, Township 21, Range 8, W6M, KDYD, Plan 9181, which contains the existing fixed dock. The Board gave first reading the BL900-19 at their meeting held June 15, 2017 and directed staff to refer the bylaw to applicable agencies and First Nations for comment. Comments have been received and are summarized in this report. A number of letters of support from neighbouring property owners have also been received. With this positive input, staff is now recommending that the bylaw be amended to allow the dock to be located in its current location and configuration. It is now appropriate for the Board to consider the bylaw for second reading as amended and referral to a public hearing.

VOTING: Unweighted LGA Part 14 Weighted Stakeholder
Corporate (Unweighted) Corporate (*Weighted*)

BACKGROUND:

AGENT:

Nexus Dock and Marina c/o Lorna Eng

REGISTERED OWNER:

Terry Layden

ELECTORAL AREA:

E

LEGAL DESCRIPTION:

Lot 4, Section 11, Township 21, Range 8, West of the 6th Meridian, Kamloops Division Yale District, Plan 9181

CIVIC ADDRESS:

655 Swanbeach Road

SURROUNDING LAND USE PATTERN:

North: Mara Lake

South: Residential

East: Residential

West: Residential

CURRENT & PROPOSED USE:

Single Family Dwelling, fixed dock, mooring buoy

PARCEL SIZE:

.086 Ha (0.2 ac)

OCP/ZONING - Rural Sicamous Land Use Bylaw No. 2000:

RS – Residential

CURRENT FORESHORE ZONING – Lakes Zoning Bylaw No. 900:

FR1 - Foreshore Residential 1

PROPOSED LAKE ZONING:

FR1 – Foreshore Residential 1 with site specific regulation permitting a fixed dock setback a minimum of 1.8 m from the west property boundary.

AQUATIC HABITAT INDEX RATING:

Low

SHORE TYPE & VEGETATION:

Gravel beach with imported sand

SITE COMMENTS:

The subject property is located on Swanbeach Road in the Swansea Point area. The property is developed with a single family dwelling and has 15.24 m of lake frontage. The five lots immediately to the east are part of the same subdivision plan and all have the same amount of lake frontage. The two lots immediately to the west were formerly three lots in the same subdivision plan, but the boundaries were realigned to create two larger lots which have more lake frontage. The majority of the lots along this stretch of beach have fixed docks with long walkways and fingers. There are a few exceptions to this rule, including the adjacent property to the west which recently installed a floating dock which meets the size and siting requirements of Bylaw No. 900. Many of these houses are sited very close to the high water mark and there are a few dock walkways that lead all the way to the house.

POLICY:

Please see the attached staff report dated 2017-06-15.

FINANCIAL:

The rezoning is the result of a bylaw enforcement action. If the Board does not adopt the proposed amending bylaw, and the owner does not bring the property into compliance by replacing the fixed dock with a floating dock of the required size, the Board may then wish to direct staff to seek a legal opinion regarding possible court action. Costs for the legal opinion and possible court action, although partially recoverable through court, could nonetheless be substantial. Staff involvement in legal action is not recoverable.

KEY ISSUES/CONCEPTS:

This application proposes to add a site specific zone to the FR1 Zone of Lakes Zoning Bylaw No. 900 to recognize an existing fixed dock that is currently sited too close to the west side boundary of the subject property. At the June 15, 2017 Board meeting staff presented a number of options for reconfiguring the subject dock which could be used to achieve better compliance with the required setbacks for review and discussion by the Board. At that time staff recommended that the Board give the bylaw amendment first reading and that the amendment not include any reduction in setbacks. The Board supported the staff recommendation and the bylaw was given first reading and sent out for referrals.

Referral comments have now been received and are summarized in the communications section below. The Ministry of Forests, Lands, Natural Resource Operations, and Rural Development

recommended approval of the bylaw amendment as the dock has been in the same location for several years, and they have not received any complaints from the affected neighbouring property. They have also noted that when the piles are replaced the dock owner will need to adhere to current setbacks. CSRD Parks staff has noted that the subject property is located midway between two beach access parks and that the public foreshore offers a safer non-motorized connection between the two parks. While this is true, the location of the fixed dock would not have much of an effect on the ability of persons to walk the beach between parks.

A letter from Lorna Eng, of Nexus Dock and Marina, submitted on August 1, 2017, is attached to this report. In the letter Ms. Eng outlines the reasons why the dock was reconstructed as it was. Further, as of the writing of this report a letter including several signatures from neighbouring property owners has been received. This letter offers support to allowing the subject dock to remain in its existing location and has been signed by the owners of the abutting properties to both the east and west of the subject property along with a number of other owners in the area.

SUMMARY:

In the previous board report staff noted that there were a number of options for the board to consider regarding the proposed rezoning. It was noted that the staff recommendation may change as the bylaw moves through the process depending on input received from referral agencies and the public.

Based on the positive input received to date staff is recommending that the bylaw be given second reading as amended, and that the amendment include a variance to the west side yard setback to allow the dock to remain in its existing location and configuration.

IMPLEMENTATION:

Consultation Process

CSRD Policy P-18 regarding Consultation Processes-Bylaws, indicates that a simple consultation process can be followed. Following first reading the applicant posted a Notice of Development sign on the property to alert the neighbourhood regarding the application. If the Board approves the staff recommendation a public hearing will be scheduled to receive input from the public.

COMMUNICATIONS:

If a public hearing is delegated, staff will set a date for the public hearing, and proceed with notification of property owners within 100 metres and publication of notices as required by the Local Government Act. It is recommended that the public hearing be scheduled no less than 30 days after second reading to allow the public adequate time to view the signage posted on the property.

Bylaw 900-19 was sent out to the following referral agencies:

Area E Director (in lieu of Advisory Planning Commission)	No response.
Ministry of Forests, Lands, Natural Resource Operations and Rural Development – Lands Branch	Approval recommended. The dock has been located in the same location for several years and FLNRO has not received any complaints from the affected neighbouring property. When the piles are replaced the dock owner will need to adhere to current setback guidelines.
Ministry of Forests, Lands and Natural Resource Operations – Stewardship Branch	No response.
CSRD Operations Management	Parks – This property is 62 m from Canterbury Lake Access and 67 m from Swanson Lake Access, public parkland development with consent of MoTI to allow public water access. Below High Water Mark (HWM), is public land which would permit a non-motorized and safer connection between parks (each offering unique opportunities) than access along Swanbeach Road with heavy summer traffic. CSRD Parks supports the position presented by Development Services that encourages compliance with required setbacks and regulations rather than variances.
Navigation Canada	No objections
Adams Lake Indian Band	No response
Little Shuswap Indian Band	No response
Lower Similkameen Band	No response
Neskonlith Indian Band	No response
Okanagan Indian Band	No response
Okanagan Nation Alliance	No response
Penticton Indian Band	No response
Shuswap Indian Band	No response
Splat'sin First Nations	No response

DESIRED OUTCOMES:

The Board give "Lakes Zoning Amendment (Layden) Bylaw No. 900-19" second reading as amended and delegate a public hearing to hear representations from the public.

BOARD'S OPTIONS:

1. *Endorse the Recommendation. Bylaw No. 900-19 will be given second reading as amended and staff will schedule a public hearing.*
2. *Deny the Recommendation. Bylaw No. 900-19 will be defeated.*
3. *Defer.*
4. *Any other action deemed appropriate by the Board.*


LIST NAME OF REPORT(S) / DOCUMENT(S) AVAILABLE FROM STAFF:

1. List reports

Report Approval Details

Document Title:	2017-08-17_Board_DS_BL900-19_Layden.docx
Attachments:	- BL900-19_Second_amended.pdf - BL900-19_First.pdf - 2017-06-15_Board_DS_BL900-19_Layden.pdf - Agency_Referral_Responses_BL900-19.pdf - Public_Submissions_BL900-19.pdf - Maps_Plans_Photos_BL900-19.pdf
Final Approval Date:	Aug 4, 2017

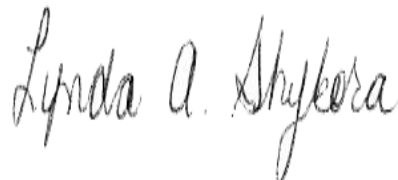
This report and all of its attachments were approved and signed as outlined below:



Corey Paiement - Aug 4, 2017 - 12:07 PM



Gerald Christie - Aug 4, 2017 - 1:50 PM



Lynda Shykora - Aug 4, 2017 - 2:11 PM



Charles Hamilton - Aug 4, 2017 - 2:55 PM