



BOARD REPORT

TO:

Chair and Directors

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| 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 May 8, 2017.
655 Swanbeach Road, Swansea Point

RECOMMENDATION #1:

THAT: "Lakes Zoning Amendment (Layden) Bylaw No. 900-19" be read a first time this 15th day of June, 2017;
AND THAT: The Board utilize the simple consultation process for Bylaw No. 900-19 and it be referred to the following agencies and First Nations:

- Department of Fisheries and Oceans;
- Navigation Canada;
- Ministry of Forests Lands and Natural Resource Operations – Lands Branch
- CSRD Operations Management; and
- All relevant First Nations Bands and Councils.

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.

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|----------------|---|--|---|---|
| VOTING: | Unweighted Corporate <input type="checkbox"/> | LGA Part 14 (Unweighted) <input checked="" type="checkbox"/> | Weighted Corporate <input type="checkbox"/> | Stakeholder (Weighted) <input type="checkbox"/> |
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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:**Rural Sicamous Land Use Bylaw No. 2000**

Part 1.4 POLICIES

1.4.1 General Form and Character of Development

(o) Two separate types of OCP designations providing for private and public uses supporting water-based recreation uses. It is intended that these two land use categories will only be applied to the foreshore and water of Shuswap and Mara Lakes. The Foreshore Water OCP designation primarily provides for uses associated with existing residential development that is located on parcels contiguous with the natural boundary and where the uses will be compatible with the uses and character of the land above the natural boundary. The Foreshore Water Commercial OCP designation is intended to be limited to those locations where there is a commercial land use category on a parcel that is contiguous with the area in the Foreshore Water Commercial OCP designation and where the uses will be compatible with the uses and character of the land above the natural boundary.

Lakes Zoning Bylaw No. 900

Definitions:

BERTH is a moorage space for a single vessel at a fixed or floating dock.

FIXED DOCK is a structure used for the purpose of mooring boat(s) which may include multiple berths and may have permanent links to the shore and lakebed, such as piles or fixed decks.

FLOATING DOCK is a structure used for the purpose of mooring boat(s) which may include multiple berths but which does not include permanent physical links to shore or lakebed, except cables.

PRIVATE MOORING BUOY is a small floating structure used for the purpose of boat moorage, typically composed of rigid plastic foam or rigid molded plastic, and specifically manufactured for the intended use of boat moorage, but does not include a fixed or floating dock or swimming platform.

SWIMMING PLATFORM is a floating structure used for non-motorized recreational activities, such as swimming, diving and sun-bathing, but not boat mooring.

FR1 – Foreshore Residential 1 Zone

Permitted uses:

- 1 floating dock, including removable walkway that is accessory to a permitted use on an adjacent waterfront parcel. The floating dock surface must not exceed 24 m² in total upward facing surface area (not including removable walkway), and 3 m in width for any portion of the dock. Removable walkway surface must not exceed 1.5 m in width.

The minimum setback of a floating dock, private mooring buoy or boat lift accessory to an adjacent waterfront parcel (and adjacent semi-waterfront parcel in the case of private mooring buoys) is as follows:

- 5 m from the side parcel boundaries of that waterfront parcel (and adjacent semi-waterfront parcel in the case of private mooring buoys), projected onto the foreshore and water.
- 6 m from a Foreshore Park (FP) zone or park side parcel boundaries projected onto the foreshore and water.

Additional setbacks for private mooring buoys:

- 20 m from any existing structures on the foreshore or water.
- 50 m from any boat launch ramp or marina.
- Private mooring buoy(s) that is accessory to a permitted use on an adjacent waterfront parcel or an adjacent semi-waterfront parcel. (1 per adjacent semi-waterfront parcel, 1 per adjacent waterfront parcel having a lake boundary length of less than 30 m, and 2 per adjacent waterfront parcel having a lake boundary length of 30 m or more).
- Boat lift(s) that is accessory to a permitted use on an adjacent waterfront parcel.

The surface of the lake adjacent to the subject property is currently zoned FR1. The FR1 zone permits one floating dock with a maximum upward facing surface area of 24 m², and 1 private mooring buoy for the subject property as it has less than 30 m of lake frontage.

The proposal would add a site specific regulation to the FR1 Zone to permit the existing fixed dock in association with the subject property only, and to include a variance to the required setbacks to allow it to remain in its existing location.

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:

The owner of the subject property has indicated that there has been a fixed dock in this location since prior to his purchase of the property in 2000. He has a current Provincial license of occupation #338293. The former wooden dock was grounding on the foreshore so the dock was replaced in the same configuration and location but using new materials and including "feet" that would prevent the dock from grounding during low water.

Nexus Docks, acting as agent for the owner, contacted CSRD staff two years ago to ask whether the dock design was acceptable. At that time, staff advised that the regulations of the FR1 Zone were applicable, and provided the definitions for floating and fixed docks for clarity. The applicant also contacted Front Counter BC and made application for a Specific Permission for the proposed dock.

Front Counter BC did not refer the Specific Permission application to the CSRD during their processing and CSRD staff did not hear anything further regarding the new dock until Bylaw Enforcement was called to investigate the installation of a new fixed dock at the subject property. Throughout the investigation the agent contended that what they had installed was a "floating dock" despite the fact that it was constructed using pilings.

Lakes Zoning Bylaw No. 900 defines a floating dock as a dock *"which does not include permanent physical links to shore or lakebed, except cables"*, and a fixed dock as a dock *"which may include multiple berths and may have permanent links to the shore and lakebed, such as piles or fixed decks"*. However, the Province considers a dock to be floating as long as it has the ability to rise and fall with the water level, even if pilings are used. The applicant claims that the mistake was due to a

misunderstanding of the CSRD bylaw. Staff note that if the application for Specific Permission had been referred to the CSRD this error would have been caught prior to dock installation.

The new dock was installed using the existing pilings. However, these pilings are not located in compliance with either Provincial or CSRD setbacks. The required setback is 5 m from both side parcel boundaries. The dock is currently sited 1.8 m from the west property boundary and 6 m from the east property boundary. Due to the dock being constructed using "fingers" oriented at right angles to the walkway there is not enough room for the dock to meet the required setbacks on both sides.

There are a few ways that better compliance with the required setbacks could be achieved:

1. The dock could be reconfigured with the dock platform oriented straight from the end of the walkway, and the fingers removed. This configuration would result in the ability to relocate the dock in compliance with the required 5 m setbacks on both sides with an additional 2 metres to spare.
2. The dock could be reconfigured with the dock platform oriented in a 'T' at the end of the walkway, and the fingers removed. This configuration would result in the ability to relocate the dock in compliance with the 5 m setback on one side, but would require a reduction in setback for the other side from 5 m to 4.24 m to be included in the site specific regulation.
3. If the dock remains in its current configuration with the dock platform and fingers oriented at right angles to the walkway, it could be moved 1 m east of its current location and still meet the setback requirements on the east side. However it still would fall short of the required setback on the west side by 2.2 m therefore a reduction in setback from 5 m to 2.8 m would need to be included in the site specific regulation.

All of the above scenarios would involve relocating the existing pilings.

4. Finally, the site specific zoning regulation could include a reduction in setback for the west side setback from 5 m to 1.8 m to allow the dock to remain where it is currently sited.

It is noted that the property to the east also has a large fixed dock that is sited 2.9 m from the Layden property line and the property to the west has a new floating dock that was designed and placed in compliance with Bylaw No. 900 regulations. This dock is sited 5.79 m from the Layden property line.

At this time staff is recommending that the bylaw amendment not include any reduction in setbacks as it is possible to reconfigure the dock and relocate it to meet the required setbacks. However, it is recognized that as the bylaw moves through the amendment process feedback may be received from agencies, neighbours and the general public which may result in changes to this recommendation. The staff recommendation suggests that the bylaw be given first reading and referred out to applicable agencies and first nations for comments. Amendments to the bylaw may be made at future readings at the discretion of the Board.

This property is located four lots to the west of the Remington property which recently completed a similar rezoning process. In that case the dock was sited at 0 m from the west property line. The Province had ordered the property owner to move the dock into compliance with the required 5 m setback which was noted on their Specific Permission document. The CSRD supported the Province's requirement for the dock to comply with the 5 m setback and also required the dock to be relocated in compliance with the required 5 m setback from the west side. A reduction to the setback on the east side was included in the specific permission. In that case the east side of the property is adjacent to a CSRD park which requires an additional metre of setback distance which the dock was not able to comply with. The Remingtons have arranged to have their dock relocated in fall 2017.

While each application is looked at based on its own merits, staff feel that a consistent approach to dealing with dock siting issues should be taken wherever possible. The suggested approach is to attempt to achieve the Bylaw No. 900 setback requirements.

IMPLEMENTATION:**Consultation Process**

CSRD Policy P-18 regarding Consultation Processes-Bylaws, indicates that a simple consultation process can be followed. Neighbouring property owners will become aware of the application following first reading when a Notice of Development sign is posted on the property.

COMMUNICATIONS:

If the Board gives Bylaw No. 900-19 first reading, the bylaw will be sent out to referral agencies. Referral responses will be provided to the Board with a future Board report, prior to delegation of a public hearing.

DESIRED OUTCOMES:

That the Board endorse the staff recommendation.

BOARD'S OPTIONS:

1. *Endorse the Recommendation. Bylaw No. 900-19 will be given first reading, and will be sent out for referrals.*
2. *Decline first reading. Bylaw No. 900-19 will be defeated. The file would be referred to Bylaw Enforcement staff for follow up.*
3. *Defer.*
4. *Any other action deemed appropriate by the Board.*

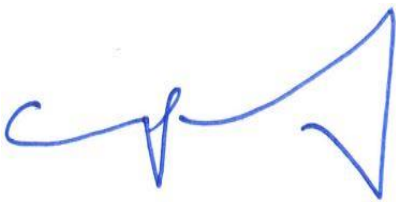
LIST NAME OF REPORT(S) / DOCUMENT(S) AVAILABLE FROM STAFF:

1. Lakes Zoning Bylaw No. 900

Report Approval Details

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|----------------------|--|
| Document Title: | 2017-06-15_Board_DS_BL900-19_Layden.docx |
| Attachments: | - BL900-19 - Maps and Plans.pdf - BL900-19 - Photos.pdf - BL900-19 - First.pdf |
| Final Approval Date: | Jun 7, 2017 |

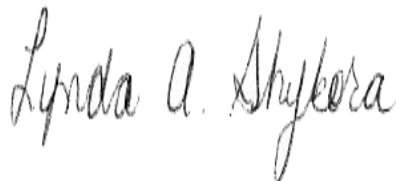
This report and all of its attachments were approved and signed as outlined below:



Corey Paiement - Jun 6, 2017 - 9:05 AM



Gerald Christie - Jun 6, 2017 - 9:31 AM



Lynda Shykora - Jun 7, 2017 - 10:16 AM

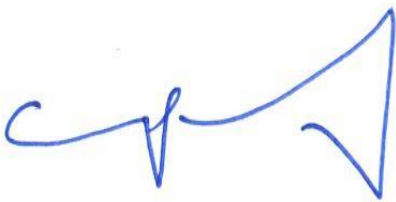


Charles Hamilton - Jun 7, 2017 - 10:25 AM

Report Approval Details

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| Document Title: | 2017-06-15_Board_DS_BL900-19_Layden.docx |
| Attachments: | - BL900-19 - Maps and Plans.pdf - BL900-19 - Photos.pdf - BL900-19 - First.pdf |
| Final Approval Date: | Jun 9, 2017 |

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



Corey Paiement - Jun 8, 2017 - 1:32 PM



Gerald Christie - Jun 8, 2017 - 1:33 PM

No Signature - Task assigned to Lynda Shykora was completed by assistant Emily Johnson

Lynda Shykora - Jun 9, 2017 - 8:11 AM



Charles Hamilton - Jun 9, 2017 - 8:33 AM