



BOARD REPORT

TO: Chair and Directors

File No: DP725-169
PL20190001

SUBJECT: Electoral Area C: Development Permit No. 725-169 (O'Connor)

DESCRIPTION: Report from Laura Gibson, Planner I, dated December 20, 2019.
#4-1801 Archibald Rd., Sorrento

RECOMMENDATION: THAT: in accordance with Section 490 of the Local Government Act, Development Permit No. 725-169 (O'Connor), on Strata Lot 4, Section 23, Township 22, Range 11, West of the 6th Meridian, Kamloops Division Yale District, Strata Plan KAS2791, together with an interest in the common property in proportion to the unit entitlement of the strata lot as shown on Form V, varying Section 4.4.2(b) of Lakes Zoning Bylaw No. 900 as follows:

- Maximum upward facing surface area of a floating dock from 33.45 m² to 35.3 m²;
- Maximum width of a floating dock from 3.05 m to 4.27 m;

be denied for issuance this 16th day of January, 2020.

SHORT SUMMARY:

The subject property is located at #4 – 1801 Archibald Road in Sorrento of Electoral Area C and is waterfront to Shuswap Lake. The owner installed a floating dock and private mooring buoy on the foreshore of the subject property in spring 2015 without prior approvals from the CSR D. The dock does not comply with the permitted maximum upward facing surface area or width in CSR D Lakes Zoning Bylaw No. 900. A Foreshore and Water Development Permit (DP) has been required for all new dock and buoy installations in Electoral Area C since 2014. The Lakes Zoning Bylaw No. 900 has regulated docks and buoys on Shuswap Lake since 2012. The after-the-fact DP application and the requested variance for the maximum upward facing surface area from 33.45m² to 35.3 m² and for the maximum width from 3.05 m to 4.27 m must be considered by the Regional District Board.

This application was reviewed by the Board at the November 21, 2019 Regular Board meeting, where the Board deferred a decision on the DP application pending receipt of further information. The additional information regarding past variance and bylaw amendment applications for dock size is contained in the attached document titled "2019-12-10_CSRD_Variance_and_Bylaw_Amendment_Applications_for_Dock_Size.pdf".

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:

REGISTERED OWNER:
Neil and Jane O'Connor

APPLICANT/AGENT:

Neil O'Connor

ELECTORAL AREA:
C

LEGAL DESCRIPTION:

Strata Lot 4, Section 23, Township 22, Range 11, West of the 6th Meridian, Kamloops Division Yale District, Strata Plan KAS2791, together with an interest in the common property in proportion to the unit entitlement of the strata lot as shown on Form V.

PID:
026-249-928

CIVIC ADDRESS:
#4 - 1801 Archibald Road, Sorrento

SURROUNDING LAND USE PATTERN:

North: Shuswap Lake
East: Rural Residential
South: Strata's common property
West: Rural Residential

CURRENT USE:
Residential - Single family dwelling

PARCEL SIZE:
0.111 ha (0.274 ac)

DESIGNATION:
Electoral Area C Official Community Plan Bylaw No. 725
Designation: RR2 – Rural Residential 2

ZONE:
South Shuswap Zoning Bylaw No. 701
R2 - Medium Density Residential

Lakes Zoning Bylaw No. 900
FR1 – Foreshore Residential 1

POLICY:

Electoral Area C Official Community Plan Bylaw No. 725

Section 12.2 of Bylaw No. 725 designates the area located from the lake's natural boundary across the entire area of Shuswap Lake, White Lake and Little White Lake as the Foreshore & Water Development Permit Area (DPA). In the case of Shuswap Lake, the DPA extends to the Electoral Area 'C' boundary. The primary objective of this DPA is to ensure proper siting of structures on the foreshore and in the water to prevent or minimize negative impacts on lake ecology, particularly fish habitat. The guidelines specify a number of limitations on construction materials and practices, and also provide

general direction on where such structures should be located in relation to natural and other man-made features.

Where zoning exists for the area, a DP may be issued in accordance with the permitted buildings, structures and uses in that zone. The development permit may vary the applicable zoning regulations.

Lakes Zoning Bylaw No. 900

Section 1.1 Definitions

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.

REMOVABLE WALKWAY is a structure used for providing pedestrian access to and from a fixed or floating dock with no permanent physical links to shore.

WATERFRONT PARCEL is a parcel having a boundary, including a point, in common with the natural boundary of a lake.

Section 4.4 FR1 – Foreshore Residential 1 Zone

.1 Permitted Uses

- (a) *Floating dock*, including *removable walkway*, that is accessory to a permitted use on an adjacent *waterfront parcel*.
- (b) *Private mooring buoy(s)* that is accessory to a permitted use on an adjacent waterfront parcel or an adjacent semi-waterfront parcel.

.2 Regulations

(a) Density

- Dock: 1 *floating dock* per adjacent *waterfront parcel*
- Private mooring buoy:
 - (b) 1 per adjacent *waterfront parcel* having a lake boundary length less than 30 m (98.43 ft.).

(b) Size

- *Floating dock* must not exceed 33.45 m² (360 ft²) in total upward facing surface area (not including *removable walkway*)
- *Floating dock* must not exceed 3.05 m (10 ft.) in width for any portion of the dock
- *Removable walkway surface* must not exceed 1.52 (5 ft.) in width for any other portion of the walkway.

(c) Siting and Location

- The minimum setback of a floating dock, private mooring buoy, or boat lift accessory to an adjacent waterfront parcel is as follows:
 - 5 m (16.4 ft) from the side parcel boundaries of that waterfront parcel (and semi-waterfront parcel in the case of private mooring buoys), projected onto the foreshore and water.

Additional setbacks for private mooring buoys:

- 20 m (65.62 ft) from any existing structures on the foreshore or water.

FINANCIAL:

The Development Permit (DP) application is the result of bylaw enforcement action. If the Board does not issue the DP and requested variance, and the owner does not bring the property into compliance by removing or modifying the dock, staff will consider bylaw enforcement options.

KEY ISSUES/CONCEPTS:

The owner has installed a dock and private mooring buoy on the foreshore of the subject property. The dock is 35.3 m² in upward facing surface area and up to 4.27 m in width. At the time the dock was installed, the Lakes Zoning Bylaw No. 900 permitted a maximum dock surface area of 24 m² and width of 3 m. Staff noticed the dock when processing an after-the-fact Lakes 100 m and Riparian Areas Regulation Development Permit (DP) and Floodplain Exemption permit applications for works on the upland property.

When the DP and Floodplain Exemption application were initially made, the Lakes Zoning Bylaw No. 900 was undergoing an amendment to the maximum dock size and width. DS staff allowed the property owners to make a separate application for the dock and private mooring buoy and kept the application on hold, with bylaw enforcement put in abeyance, while the Lakes Zoning Amendment Bylaw No. 900-25 was processed. The RAR and Lakes 100 m DP and Floodplain Exemption for the retaining walls and single family dwelling were processed separately and have since been issued by the Manager of Development Services.

The maximum dock surface area and width for the FR1 zone were increased to 33.45 m² and 3.05 m respectively in August 2019, following a year-long process by CSRD Development Services staff and the Board of Directors which involved extensive public consultation and Board consideration and deliberation. With respect to safety concerns and boat size, the new dock size is intended to be adequate and functional for almost all areas and conditions.

The subject dock exceeds the new maximum surface area by 1.85 m² or 5.5 % and the end of the dock exceeds the maximum width by 1.22 m or 40 %.

The dock and private mooring buoy meet the setback and siting requirements in Lakes Zoning Bylaw No. 900.

The applicant is proposing to vary Section 4.4.2(b) of Lakes Zoning Bylaw No. 900 as follows:

- Maximum upward facing surface area of a floating dock from 33.45 m² to 35.3 m²;
- Maximum width of a floating dock from 3.05 m to 4.27 m.

The applicant included the following letter with their application:

"We feel it is important the board consider the following points when reviewing our application for approval:

- *the grade of the lake in front of our lot is shallow and does require 80' of length to ensure enough water depth for boarding a boat*
- *most of the dock is only 6' wide and only a very small 6' portion exceeds the 10' maximum width*
- *the dock itself is manufactured as a single unit and upon review of the construction the over width portion cannot be removed or modified without destroying the entire dock*
- *we are on a point on the lake where the storms are wicked and the water extremely rough at times. These Storms have already caused significant damage to the 2 walk way sections (3'x16' & 4'x12') and ripped them from the dock twice.*

- *with these weather systems it is already difficult to safely board/disembark from a boat at my dock and reducing the size of the dock would make this more difficult and increase risks of damage and possible injury which is concerning*
- *even with the current size of the dock there has been an instance when a storm blew up and we were unable to safely disembark from our boat and had to use a neighboring dock*
- *neighboring docks have been lost due to storms and have had to be replaced with larger docks (non-conforming in size at the time) to be safe and able to withstand the weather systems*
- *the dock was constructed prior to the adoption of the new dock bylaw and at the time of construction the builder configured the dock to be similar to a dock located in Eagle Bay (which is even much bigger) and was not aware of the maximum width restriction*
- *once the dock was constructed in discussion with CSRD there was significant confusion around permitting. We were told to seek the approval of the Province for a "Specific Permission" since the size of dock required exceeded both that granted by the CSRD and the Provincial "General Permission" at the time**
- *we have been in communication with Front Counter BC who have indicated a "Specific Permission" will likely be granted*
- *an application for a "Specific Permission" from the Province is being pursued concurrently with this variance application however the process is expected to take approximately a year*

We appreciate the board's time and fair consideration of our unique and challenging circumstances around the ability to safely board a boat from our property and graciously ask that our variance be approved since having to replace the dock at this time would cause our family significant hardship."

DS staff note that the Lakes Zoning Bylaw No. 900 was adopted August 16, 2012 (regulating size and siting of docks and buoys), and development permits have been required for new docks and buoys since 2014. DS staff have e-mail records of correspondence with the current property owner from March 2015 outlining the Lakes Zoning Bylaw No. 900 regulations and the requirement of a Foreshore and Water DP for a new dock or buoy. The applicant indicated the dock was installed in the spring of 2015.

Staff further note that docks are required to meet both provincial and local government regulations. A dock which meets the specific conditions for General Permission in the Provincial Private Moorage Program does not require an application to the province. If, however, a proposed dock or an existing dock does not meet the conditions and requirements stated in the General Permission, an application for a Specific Permission is required. The subject dock does not meet the maximum width of 3.05 m for a General Permission and therefore requires a Specific Permission application to the province. In consulting with the province for the amendment to the Lakes Zoning Bylaw No. 900 for increased dock size, the province was not supportive of an increased dock width due to the impacts on the lake ecosystems and habitat. The province stated that if an individual applies for a Specific Permission to increase their dock width, they can expect questions on demonstrated need for enhanced dock width and information such as an environmental assessment completed by a qualified professional.

It is the responsibility of a property owner to understand the CSRD bylaws that apply to their property and foreshore and comply accordingly. If contacted by a property owner, DS staff will explain the bylaw requirements and any options for their proposal.

SUMMARY:

The property owners have applied for a Foreshore and Water Development Permit for their floating dock and private mooring buoy and have requested a variance for the maximum upward facing surface area from 33.45 m² to 35.3 m², a 5.5% increase, and for the maximum width from 3.05 m to 4.27 m, a 40% increase.

Development Services (DS) staff are recommending denial of DP725-169 for the following reasons:

- The dock was initially installed without any approvals from the CSRD, and exceeded the permitted maximum surface area at the time by 11.3 m² and maximum width by 1.27 m;
- The newly increased dock size in the Lakes Zoning Bylaw No. 900 was intended to be adequate and functional for most areas and conditions, and DS staff do not feel that the conditions of the foreshore of the subject property justify the additional 1.85 m² of dock surface area or 1.22 m of additional dock width.

IMPLEMENTATION:

If the Board denies DP725-169, CSRD Bylaw Enforcement will need to decide what action to take as the dock has already been installed. If the Board approves DP725-169, the development permit will be issued and registered on title for the property.

COMMUNICATIONS:

Property owners and tenants in occupation within 100 m of the subject property will be given notification a minimum of 10 days prior to the CSRD Board Meeting at which the variance will be considered. All interested parties will have the opportunity to provide comments regarding this application prior to the Board Meeting.

A referral was sent to the Area C Advisory Planning Commission (APC). The APC reviewed the application at their meeting on October 28, 2019. A motion was made to forward DP725-169 to the CSRD Board for approval, and the motion was not carried. The rationale provided by the APC C was that "unlike a variance on an individual lot, the lake is a public domain and the regulations respecting docks should be strictly followed."

DESIRED OUTCOMES:

That the Board endorse the staff recommendation.

BOARD'S OPTIONS:

1. *Endorse the Recommendation.*
2. *Deny the Recommendation.*
3. *Defer.*
4. *Any other action deemed appropriate by the Board.*

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

1. Electoral Area C Official Community Plan Bylaw No. 725
2. South Shuswap Zoning Bylaw No. 701
3. Lakes Zoning Bylaw No. 900

Report Approval Details

Document Title:	2020-01-16_Board_DS_DP725-169_OConnor.docx
Attachments:	<ul style="list-style-type: none">- DP725-169_OConnor_Permit.pdf- 2019-12-10_CSRD_Variance_and_Bylaw_Amendment_Applications_for_Dock_Size.pdf- APC_C_Meeting_Minutes_2019-10-28.pdf- Maps_Plans_Photos_DP725-169.pdf
Final Approval Date:	Jan 2, 2020

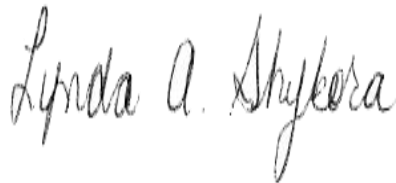
This report and all of its attachments were approved and signed as outlined below:



Corey Paient



Gerald Christie



Lynda Shykora



Charles Hamilton