



BOARD REPORT

TO: Chair and Directors

File No: BL 900-9

FROM: Dan Passmore
Senior Planner

Date: December 17, 2014

SUBJECT: Lakes Zoning Amendment (Meadow Creek Properties Park Association)
Bylaw No. 900-9

RECOMMENDATION #1: THAT:
"Lakes Zoning Amendment (Meadow Creek Properties Park Association) Bylaw No. 900-9" be read a first time this 15th day of January, 2015;

AND THAT:

the Board utilize the simple consultation process for Bylaw No. 900-9 and in accordance with Section 879 of the Local Government Act it be referred to the following agencies and First Nations:

- Area 'F' Advisory Planning Commission;
- Interior Health Authority;
- Ministry of Transportation and Infrastructure;
- Ministry of Environment;
- Department of Fisheries and Oceans;
- Ministry of Forests, Lands and Natural Resource Operations – Lands Branch;
- Ministry of Forests, Lands and Natural Resource Operations, Archaeology Branch;
- CSRD Operations Management; and
- All relevant First Nations Bands and Councils

APPROVED for Board Consideration:

Meeting Date: January 15th, 2015


Charles Hamilton, CAO

SHORT SUMMARY:

This is a proposed amendment to Lakes Zoning Bylaw No. 900 to reflect a unique upland ownership circumstance. The owners of the upland property Lot 1, Section 8, Township 22, Range 10, W6M, K.D.Y.D., Plan 26006 are a community association that had, as of their last Annual General Meeting, 63 active members, 3 associate members and 1 lifetime member. This association of upland property owners would like to amend the Multi Family 1 (FM1) zone to include a site-specific regulation for only that portion of the lake adjacent to their property. This regulation would allow a total of 61 mooring buoys, 12 docks, 1 swim platform and boat launch facilities that currently exist on the Shuswap Lake foreshore.

VOTING:	Unweighted Corporate	<input type="checkbox"/>	Weighted Corporate	<input type="checkbox"/>	Stakeholder	<input type="checkbox"/>
	LGA Part 26	<input checked="" type="checkbox"/>			(Weighted)	
	(Unweighted)					

BACKGROUND:

APPLICANT: Meadow Creek Properties Park Association

ELECTORAL AREA: 'F' (Celista)

CIVIC ADDRESS: 5140 Squilax-Anglemont Road

LEGAL DESCRIPTION: That part of Shuswap Lake adjacent to Lot 1, Section 8, Tp. 22, Rge 10, W6M, KDYD, Plan 26006

SIZE OF PROPERTY: 1.115 ha. (2.62 ac)

**SURROUNDING LAND
USE PATTERN:**

NORTH	Residential
SOUTH	Shuswap Lake
EAST	Residential
WEST	Residential

CURRENT USE: Upland – Boat Launches, volleyball courts, parking lot, picnic areas
Foreshore – 60 mooring buoys, 12 docks and 2 boat launches

PROPOSED USE: Upland – Boat Launches, volleyball courts, parking lot, picnic areas
Foreshore – 61 mooring buoys, 12 docks, 1 swimming platform and boat launch facilities

OCP DESIGNATION: SSA – Secondary Settlement Area

ZONING: FM1 – Multi-Family – 1

POLICY:**Electoral Area 'F' Official Community Plan Bylaw No. 830****3.2 Shoreline Environment***Objective 1*

To maintain the unique physical and biological characteristics of the shoreline environment.

Objective 2

To ensure that shoreline habitats are protected from undesirable development and unnecessary shoreline manipulation.

Objective 3

To manage the foreshore to ensure appropriate use and prevent overdevelopment.

Objective 4

To direct development to areas of least ecological sensitivity, particularly in relation to fish habitat.

Policy 1

Non-moorage uses are not acceptable on the foreshore, which include facilities such as beach houses, storage sheds, patios, sun decks, and hot tubs. Additionally, no commercial uses, long-term camping (as defined in the zoning bylaw), beach creation, sand importation, groyne construction, infilling, private boat launches, substrate disturbance (shore spawning) are acceptable on the foreshore. Houseboat activities on the foreshore will be directed to areas of least environmental and social impact (i.e. low fish habitat values, away from settlement areas).

Policy 2

Shoreline stabilization works and measures are subject to the following:

1. All shoreline stabilization works must adhere to the Ministry of Environment's "Best Management Practices for Lakeshore Stabilization".
2. Recognizing that a natural shoreline is often the best and least expensive protection against erosion, shoreline stabilization activities shall be limited to those necessary to prevent damage to existing structures or established uses on waterfront property. New development should be located and designed to avoid the need for shoreline stabilization.
3. Shoreline stabilization structures for extending lawn or gardens or providing space for additions to existing structures or new outbuildings are prohibited.
4. Stabilization works should be undertaken only when there is a justifiable level of risk to existing buildings, roads, services, or property, as deemed necessary by a qualified environmental professional (QEP). In such cases, the 'softest' stabilization measures should be applied.
5. Stabilization works and measures must be located within the property line of the waterfront parcel, above the natural boundary of the watercourse. Soft shoreline measures that provide restoration of previously damaged ecological functions may be permitted waterward of the natural boundary.

Policy 3

Private moorage is subject to the following:

1. Private moorage will not impede pedestrian access along the beach portion of the foreshore.
2. The siting of new private moorage shall be undertaken in a manner that is consistent with the orientation of neighbouring private moorage, is sensitive to views and other impacts on neighbours, and avoids impacts on access to existing private moorage and adjacent properties.
3. The zoning bylaw will set out other detailed provisions related to siting, setbacks, size, configuration, width, materials, and projections for private moorage.
4. The Integrated Land Management Bureau, in carrying out reviews of foreshore tenure applications will take the foregoing factors into consideration, with emphasis on the

environmental sensitivity of the foreshore areas, as well as ensuring an appropriate relationship with upland areas.

5. Private moorage owners and builders will refer to the Ministry of Environment's Best Management Practices for Small Boat Moorage on Lakes and the Ministry's BMPs for Boat Launch Construction and Maintenance on Lakes. As well, owners and builders will refer to minor works policies published by Transport Canada, Navigable Waters Protection Division prior to construction of any foreshore moorage (works).

Policy 4

The Regional District will:

1. Assess and protect sensitive fish habitat when implementing the boat launching facilities provisions of the Electoral Area F Parks Plan.
2. Work with the Integrated Land Management Bureau to investigate ways to best achieve the goals set out in this section, including investigation of the potential for the CSRD to secure a head lease for the foreshore.
3. Encourage waterfront owners to consider shared docks in the interests of having one larger dock that extends into deep water, rather than a number of individual docks that are in relatively shallow water with higher fish habitat values.
4. Advise and expect property owners to replace older, on-site sewage systems with newer technology to prevent potential contamination of the shoreline.
5. Advise and require property owners not to remove vegetation along the shoreline that could result in erosion, loss of food and nutrients for fish, and loss of shade for young fish. Landowners must refer to the Ministry of Environment's Best Management Practices for Hazard Tree and Non Hazard Tree Limbing, Topping or Removal.

11.1 General Land Use

The Primary and Secondary Settlement Areas are delineated on Schedules B & C. This Plan directs growth and development to these areas. The Plan does not support significant growth and development outside the Primary and Secondary Settlement Areas.

11.2 Foreshore and Water Use

The property is associated with moderate fish habitat values, and therefore the following policies apply;

Policy 2 - The Foreshore and Water designation permits recreational watercraft use, commercial marinas and associated Water uses. These uses are subject to the policies of this Plan, including the Foreshore & Aquatic Development Permit Area, regulations of the zoning bylaw, and the regulations of tenuring government authorities.

Policy 3 - Commercial marinas must provide boat-launching facilities for their customers.

Policy 4 - In consideration of the high value fisheries habitat and the environmental sensitivity of the foreshore, structures such as wharves or buildings that require pilings will be very limited and subject to regulations by the relevant federal and provincial agencies.

Policy 5 - The Regional District may limit the number, size and shape of boat slips in the zoning bylaw. Mooring buoys will also be regulated within the zoning bylaw.

Policy 6 - The Regional District will work with ILMB to designate Shuswap Lake and Adams Lake as an application-only area under that agency's Private Moorage Crown Land Use Operation Policy.

11.7 Secondary Settlement Area

The subject property is designated as a Secondary Settlement Area (SSA), but no underlying designations were made to apply to this area in the OCP. Policies for the SSA designation are specific to the underlying designations. It is noted that the following designation and associated policy is available within an SSA;

11.12 Parks and Recreation (PK)

Policy 1

The Parks and Recreation designation includes federal, provincial, and regional parks, and associated park uses, as well as public and private recreation facilities.

Lakes Zoning Bylaw No. 900

The portion of the lake immediately adjacent to the subject property is currently zoned FM1 – Foreshore Multi-Family 1. The FM1 zone currently only allows a single floating dock and private mooring buoy per adjacent waterfront unit, and does not permit a group moorage facility. The adjacent upland property is currently owned by the Meadow Creek Properties Park Association and therefore does not have an adjacent waterfront unit on the property. Rather it is a vacant property reserved for the use of 176 upland title owners for park and recreation purposes.

Staff are proposing to amend the FM1 zone to include both site specific uses and density for the lake adjacent to the subject property to allow the existing facilities which have been constructed, and to allow for the potential of a larger group moorage facility in future to cater to the Associations members.

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, 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:

Sewage Disposal

The property is not serviced by any sewage disposal system. This is a requirement for development of property within a Secondary Settlement Area.

Water Supply

The property currently has a pumphouse situated on it which supplies the Meadow Creek community water system. This property does not have a water supply. Secondary Settlement Area policies require connection to a community water system for a property to be developed.

Access

Primary access to this property and the boat launches is from Squilax-Anglemont Road. There are currently 2 driveways for the boat launches as well as an access for the community water system pump house on the east side of the property. There is a gravel parking lot available.

Section 219 Covenant KM40855

This covenant was registered in 1998. The covenant is against the title of the subject property in favour of 176 upland property owners. The covenant restricts the use of the subject property to park and recreational use and does not permit subdivision of the property.

Section 219 Covenant K50406

This covenant was registered in 1975. The covenant is granted to the Crown. The covenant is to limit the subject property's use to a park, either private or public, and that the use of the park will be interpreted as if the lands were zoned as a park area by the appropriate governmental agencies.

Statutory Building Scheme K24715

This statutory building scheme (SBS) was registered in 1975. The SBS includes a schedule of restrictions that impact on development of the individual lots within the development, but does not contain any restrictions specific to the subject property.

Statutory Building Scheme L17117

This SBS was registered in 1976, as a modification to the original SBS K24715, noted above. The SBS modifies a front line setback requirement for those properties fronting Squilax-Anglemont Road to 15'.

Riparian Area Regulations

The applicant is not proposing any additional work on the upland property, and therefore no development would be happening within 30.0 m upland of the highwater mark and so a RAR DP is not required.

Meadow Creek Properties Park Association (MCPPA)

MCPPA is a non-profit society that has been constituted to hold title to the upland property and to manage and maintain the property. Membership in the MCPPA is restricted to owners of the 176 upland titles, and then only if they become members through payment of membership dues. Becoming a member of the MCPPA provides free access to the facilities and amenities of the subject property, including the beach.

In the absence of any CSRD regulation over the upland property and the lake surface, the MCPPA did not regulate or actively manage either the placement of buoys or the placement of private docks in the water. As the upland property owner, it would have been the MCPPA's responsibility to ensure that any works done in the lake received the appropriate permissions from the authority having jurisdiction. In the case of groynes constructed along the shoreline, permission under Section 9 of the Water Act would be required from the MFLNRO. In the case of docks, a license from MFLNRO, for a dock, together with permission under Section 9 of the Water Act from MFLNRO would have been required.

After the adoption of amendments to Electoral Area 'F' Official Community Plan Bylaw No. 830, requiring a DP for water use and the adoption of Lakes Zoning Bylaw No. 900, a process of application through CSRD for a DP was also required. 2 of the members who have constructed docks in the foreshore have applied for DP 830-69 and DP 830-70.

Should the proposed rezoning amendment be approved by the CSRD Board, permissions for the docks will be required from MFLNRO. The owner has made application for a Development Permit for both the docks and the buoys. This DP cannot be issued until this rezoning has been adopted. Additionally, staff intends to send a referral to MFLNRO to ascertain if the Province would permit the existing docks.

Docks and Buoys

11 of the existing docks were placed in the lake by certain of the members of the MCPPA. It is uncertain to CSRD staff whether these members obtained permission from the MCPPA to do so. It is certain that these members did not obtain licenses from the Province to place these docks. It is also certain that the MCPPA in the name of these members as the upland property owner did not obtain permission from the Province to place the docks. CSRD staff note that, as of the date of writing this report, only the upland property owner immediately adjacent to the lake has the right to apply to the Province for permission to have a dock. It is uncertain how the Province will regard the ownership of these docks when reviewing any license applications.

The twelfth dock was placed by the association near to the boat launch facilities. Similarly to the 11 others, no authority to place the dock was obtained from the Province.

It is also uncertain how the MCPPA will manage these 11 existing privately owned docks in future, where membership in the Association grants all members access to MCPPA facilities. CSRD staff are under the impression that each of the docks was installed by a specific member of the association at their cost, and therefore it would seem that the docks are an exception to the rights of membership to use all facilities. To this date the MCPPA appears to have taken a hands-off approach to placement and management of both the docks and the buoys. Although, the MCPPA as part of their application has pledged to initiate some sort of a sharing scheme, but only for certain of the existing buoys.

By taking a hands-off approach the MCPPA has allowed private ownership of certain facilities and amenities under its responsibility as upland owner. This may have compromised the MCPPA's ability to manage these facilities and seek approvals moving forward. It may also compromise their existing constitution. As such, it is difficult for CSRD staff to accept that the MCPPA will be able to assert its duty to manage these facilities in an effective fashion in the future as the upland owner.

IMPLEMENTATION:**Consultation Process**

As per CSRD Policy No. P-18 regarding Consultation Processes-Bylaws, staff recommends the simple consultation process. Neighbouring property owners will first become aware of the application for zoning amendments when a notice of development sign is posted on the subject property.

Referral Process

The following list of referral agencies is recommended:

- Area 'F' Advisory Planning Commission;
- Interior Health Authority;
- Ministry of Transportation and Infrastructure;
- Ministry of Environment;
- Department of Fisheries and Oceans;

- Ministry of Forests, Lands and Natural Resource Operations – Lands Branch;
- Ministry of Forests, Lands and Natural Resource Operations, Archaeology Branch;
- CSRD Operations Management; and
- All relevant First Nations Bands and Councils.

SUMMARY:

The applicant has applied to amend Bylaw No. 900 to allow some site specific uses within the lake that are already existing. Staff are recommending that the Board give the proposed amending bylaw first reading and forward the bylaw to referral agencies.

LIST NAME OF REPORTS / DOCUMENTS:

1. Maps: Location, Orthophotos, OCP	Attached to Agenda Summary: <input checked="" type="checkbox"/>	Available from Staff: <input type="checkbox"/>
2. Lakes Zoning Amendment (Meadow Creek Properties Park Association) Bylaw No. 900-09	Attached to Agenda Summary: <input checked="" type="checkbox"/>	Available from Staff: <input type="checkbox"/>
3. Application	Attached to Agenda Summary: <input type="checkbox"/>	Available from Staff: <input checked="" type="checkbox"/>

DESIRED OUTCOME:

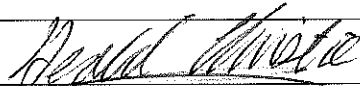
That the Board endorse staff recommendations.

BOARD'S OPTIONS:

1. *Endorse recommendations. Bylaw No. 900-09 will be given first reading and will be sent out to the referral agencies.*
2. *Decline first reading, Bylaw No. 900-09 will be defeated. The current FM1 zone will apply and bylaw enforcement action will continue.*
3. *Defer.*
4. *Any other action deemed appropriate by the Board.*

COMMUNICATIONS:

If the bylaw is given first reading it will be forwarded to the referral agencies. Agency comments will be provided with a future Board report.

REVIEWED BY:	Date Signed Off (MO/DD/YR)	Approval Signature of Reviewing Manager or Team Leader
Development Services	12/18/14	

Orthophoto – 1:10,000



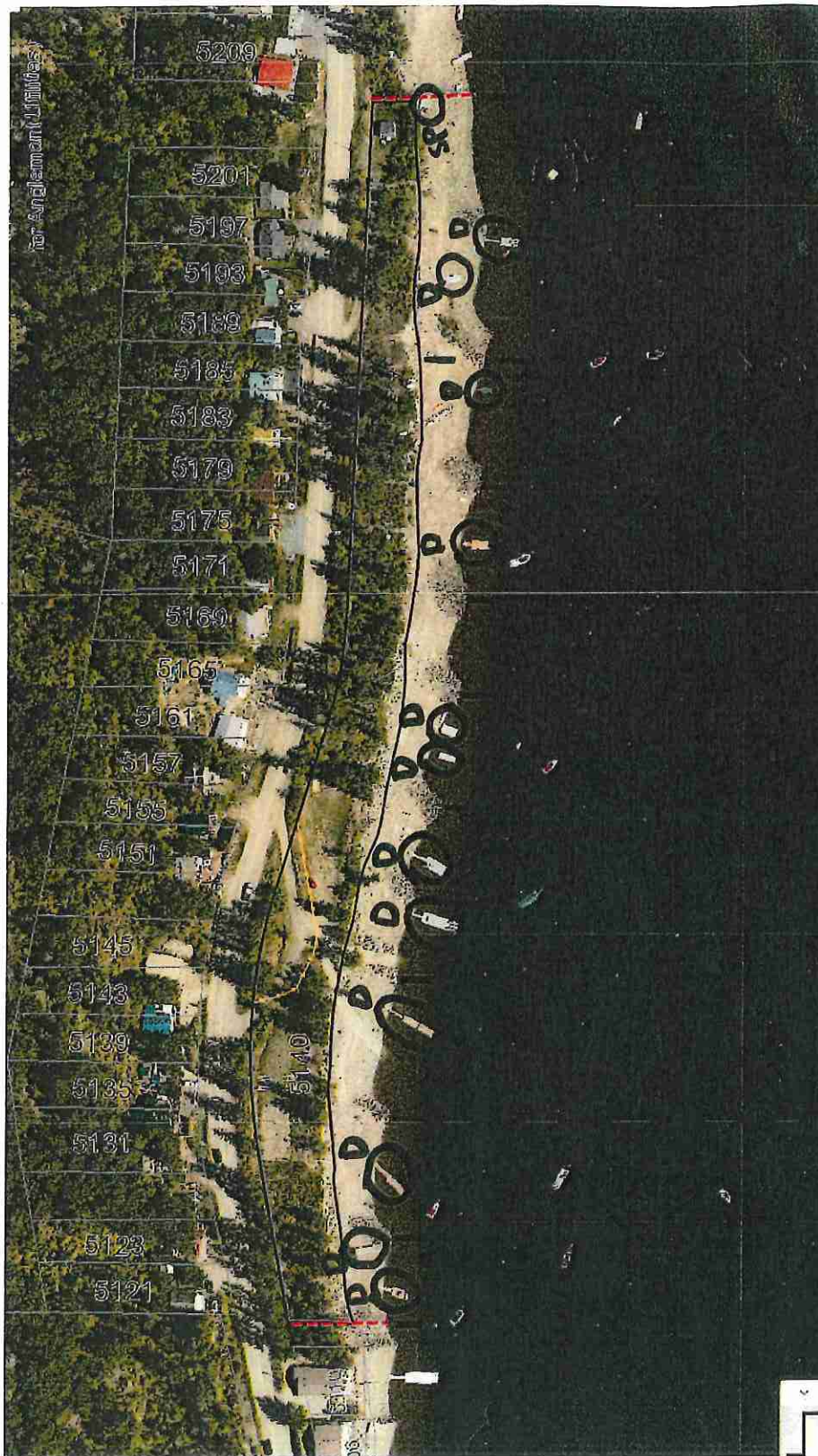
Orthophoto – 2013 Foreshore



August 14, 2014 Bylaw Enforcement Foreshore Inventory

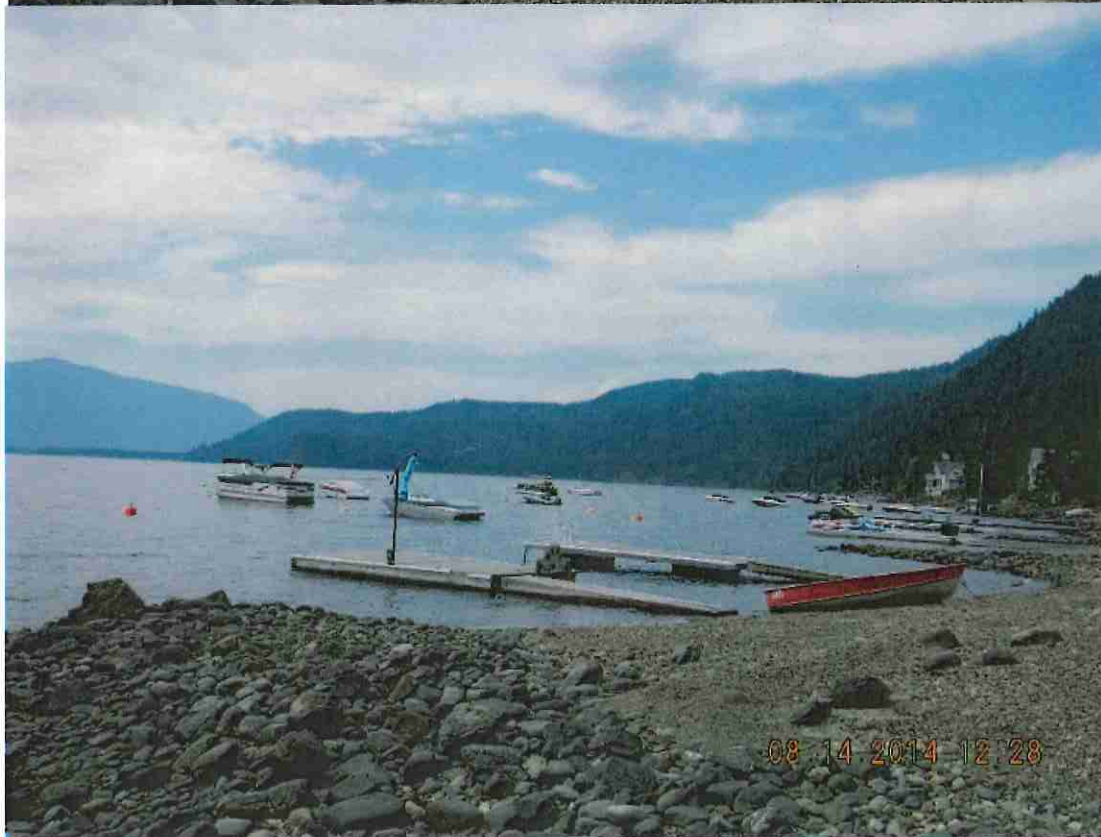
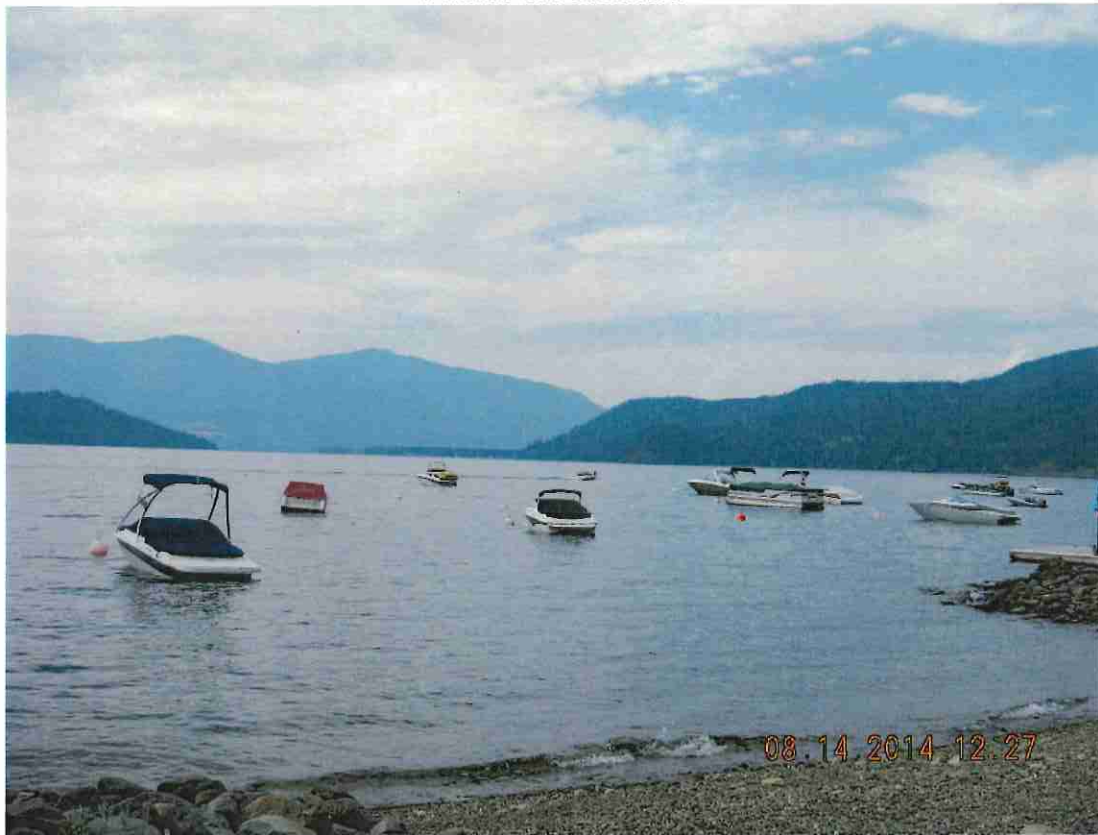
COPY

Meadow Creek - August 14, 2014 Inventory - 61 Buoys
 - 12 Docks
 - 2 Swimming platforms (SP)



CAMEL ROFF ACCESS.	GRID 10	GRID 9	GRID 8	GRID 7	GRID 6	GRID 5	GRID 4	GRID 3	GRID 2	GRID 1	CADWATER RD - ACCESS
- Nothing of concern @ time, closer to S110	2 Docks S123 2 Buoys	1 Dock 7 Buoys	1 Dock no moorage swimming lounging 1 Buoy	1 Dock private use @ own risk 2 Buoys	1 Dock private recreation 3 Buoys	2 Docks 6 Buoys S165 private	5 Buoys	1 Dock 3 Buoys	1 Dock 7 Buoys	2 Docks 2 SP 15 Buoys	2 Docks 1 Buoy for certain 2 on prop.

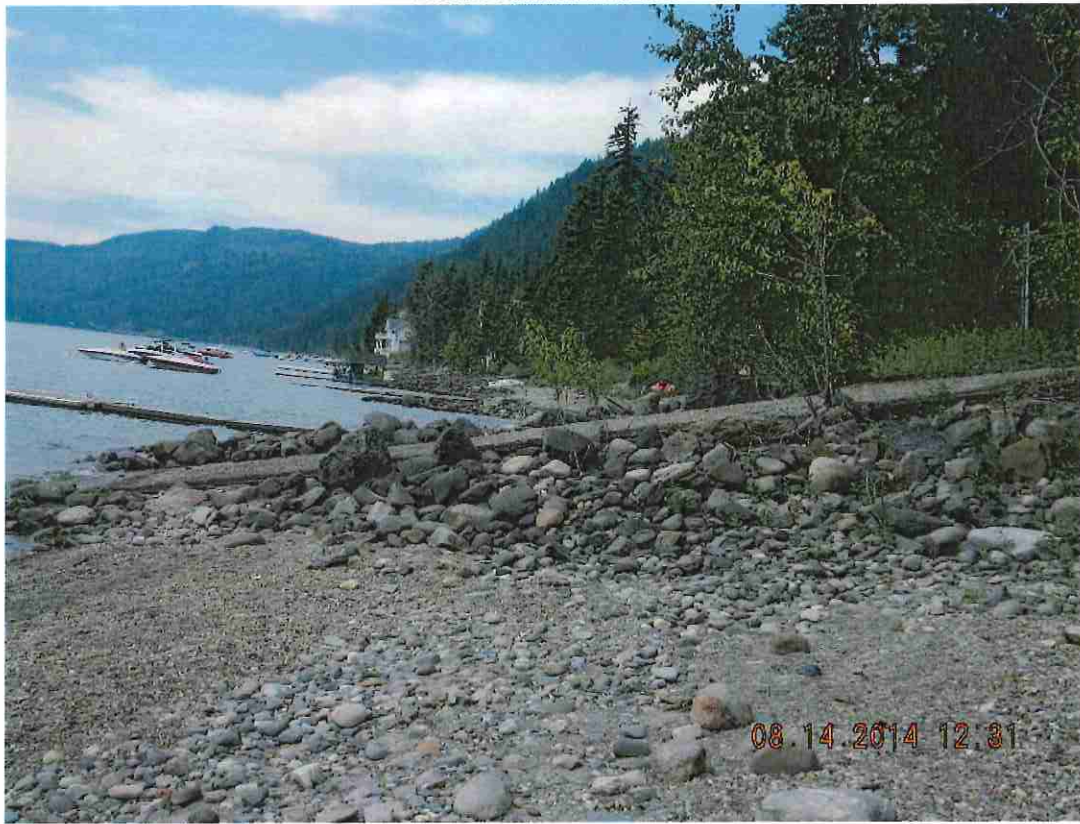
Photos of Foreshore



Photos of Foreshore (cont'd.)



Boat Launch Photos



COLUMBIA SHUSWAP REGIONAL DISTRICT

LAKES ZONING AMENDMENT

(MEADOW CREEK PROPERTIES PARK ASSOCIATION) BYLAW NO. 900-9

A bylaw to amend the "Lakes Zoning Bylaw No. 900"

WHEREAS the Board of the Columbia Shuswap Regional District adopted Bylaw No.900;

AND WHEREAS the Board deems it appropriate to amend Bylaw No. 900;

NOW THEREFORE the Board of the Columbia Shuswap Regional District, in open meeting assembled, HEREBY ENACTS as follows:

1. Bylaw No. 900 cited as "Lakes Zoning Bylaw No. 900" is hereby amended as follows:

A. TEXT AMENDMENT

1. Schedule A, Zoning Bylaw Text, Part 4 Zones, is hereby amended by deleting the FM1 Foreshore Multi-Family 1 zone in its entirety and replacing it with the following:

FM1

4.6 FM1 Foreshore Multi-Family 1

.1 Permitted Uses:

- (a) *Floating dock(s)*, including *removable walkway*, that is accessory to an adjacent *waterfront unit*.
- (b) *Private mooring buoy(s)* that is accessory to an adjacent *waterfront unit*.
- (c) *Boat lift(s)* that is accessory to an adjacent *waterfront unit*.
- (d) *Boat launch*.

.2 Site Specific Permitted Uses:

- (a) In addition to the permitted *uses* in this zone, *group moorage facility* comprised of no more than one *fixed* or *floating dock*, including *permanent* or *removable walkways*, is only a permitted *use* on the surface of the *lake* in conjunction with Lot 1, Section 8, Tp. 22, Rge 10, W6M, KDYD, Plan 26006.
- (b) *Private mooring buoy(s)* that is accessory to the use of Lot 1, Section 8, Tp. 22, Rge 10, W6M, KDYD, Plan 26006

.3 Regulations:

COLUMN 1 MATTER REGULATED	COLUMN 2 REGULATION
(a) <u>Density</u> maximum number of docks and private mooring buoys:	<ul style="list-style-type: none"> ○ <i>Dock</i>: 1 floating dock per adjacent waterfront unit. ○ <i>Private mooring buoys</i>: 1 per adjacent waterfront unit.
(b) <u>Site Specific Density</u> maximum number of floating docks, group moorage facility, berths and private mooring buoys where different from (a):	<ul style="list-style-type: none"> ○ For the surface of the <i>lake</i> adjacent to Lot 1, Section 8, Tp. 22, Rge 10, W6M, KDYD, Plan 26006, the maximum number of floating docks is 11; the maximum number of group moorage facilities is 1; the maximum number of berths in the group moorage facility is 22 ; and the maximum number of private mooring buoys is 61. {Meadow Creek Properties Park Association}
(c) <u>Size</u> of dock and walkway:	<ul style="list-style-type: none"> ○ <i>Floating dock</i> must not exceed 24 m² (258.33 ft²) in total upward facing surface area (not including <i>removable walkway</i>). ○ <i>Floating dock</i> surface must not exceed 3 m (9.84 ft) in width for any portion of the dock. ○ <i>Removable walkway</i> surface must not exceed 1.5 m (4.92 ft.) in width for any other portion of the walkway.
(d) <u>Size</u> group moorage facility where different from (c)::	<ul style="list-style-type: none"> ○ <i>dock</i> surface must not exceed 3 m (9.84 ft) in width for any portion of the dock. ○ <i>Removable walkway</i> surface must not exceed 1.5 m (4.92 ft.) in width for any other portion of the walkway.

(e) Location and Siting of dock, private mooring buoys or boat lifts:

The minimum setback of a *floating dock, private mooring buoy or boat lift* accessory to an adjacent *waterfront unit or waterfront parcel* is as follows:

- 5 m (16.4 ft) from the side *parcel* boundaries of that *waterfront parcel*, projected onto the *foreshore* and water.
- 5 m (16.4) from adjacent *waterfront units*, projected onto the *foreshore* and water.
- 6 m (19.69 ft) 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 (65.62 ft) from any existing structures on the *foreshore* or water.
- 50 m (164.04 ft.) from any *boat launch* ramp or *marina*.

2. This bylaw may be cited as "Lakes Zoning Amendment (Meadow Creek Properties Park Association) Bylaw No. 900-9."

READ a first time this _____ day of _____, 2015.

READ a second time this _____ day of _____, 2015.

PUBLIC HEARING held this _____ day of _____, 2015.

READ a third time this _____ day of _____, 2015.

ADOPTED this _____ day of _____ 2015.

CORPORATE OFFICER

CHAIR

CERTIFIED a true copy of Bylaw No. 900-9
as read a third time.

CERTIFIED a true copy of Bylaw No. 900-9
as adopted.

Corporate Officer

Corporate Officer