



REGIONAL DISTRICT OF CENTRAL KOOTENAY

Development Permit Report

Date of Report: July 27, 2017
Date of Meeting: July 31, 2017
Author: Darcy Roszell, Planner
Subject: DEVELOPMENT PERMIT (CUNNINGHAM)
File: 4260-20-DP1702A-056361.500//DP000074

SECTION 1: EXECUTIVE SUMMARY

The purpose of this report is to recommend the issuance of an Environmentally Sensitive Development Permit as required under the Electoral Area 'A' Comprehensive Land Use Bylaw No. 2315, 2013 for land legally described as Lot A, DL 4962, Plan EPP6984 (PID 028-211-065).

SECTION 2: BACKGROUND / ANALYSIS

GENERAL INFORMATION	
Property Owner: Jim & Barb Cunningham	Agent: Masse Environmental Consultants Ltd.
Property Location: 17130 Pilot Bay Road, Electoral Area A, East Shore Kootenay Lake (see Figure 1 below)	
Legal Description: Lot A, DL 4962, Plan EPP6984. PID 028-211-065	
Property Size: 2.14 acres (0.866 hectares)	

RELEVANT INFORMATION

Site Context/Purpose of Application

The property under application is private residential property at 17130 Pilot Bay Road, south of the community of Crawford Bay in Electoral Area 'A' of the Regional District of Central Kootenay. The land is 2.14 acres (0.866 hectares) in site area. The land is accessed by Pilot Bay Road, and is bordered by Kootenay Lake to the west, and residential property to the north, east, and south.

Land uses on adjoining properties are as follows:

Orientation	Zoning	Land Use
North	n/a	Residential
East	n/a	Residential
South	n/a	Residential

West	n/a	Kootenay Lake
-------------	-----	---------------

The applicant constructed a single family home on the subject property in 2014. In addition to the dwelling, there was unauthorized development on the foreshore in the form of an elevated ramp measuring 24m x 9m with a height of up to 1.2m used to accommodate the marine rail and dock system. The marine rail system encroaches 40m below the HWM into Crown Land, and the dock extends into Kootenay Lake ~60m from the HWM into Crown Land.

The purpose of the Development Permit is to gain approval for a proposed mitigation plan, the details of which are outlined in the Environmental Assessment and Mitigation Plan, and the Addendum prepared by Masse Environmental Consultants Ltd. The Environmentally Sensitive Development Permit Area is triggered when development is proposed within 15 meters of the high water mark of the natural boundary of a lake. The land owner made the application retroactively following a letter to the applicant from the Ministry of Forestry, Lands and Natural Resource Operations which required them to develop a mitigation plan for the works completed on crown land.

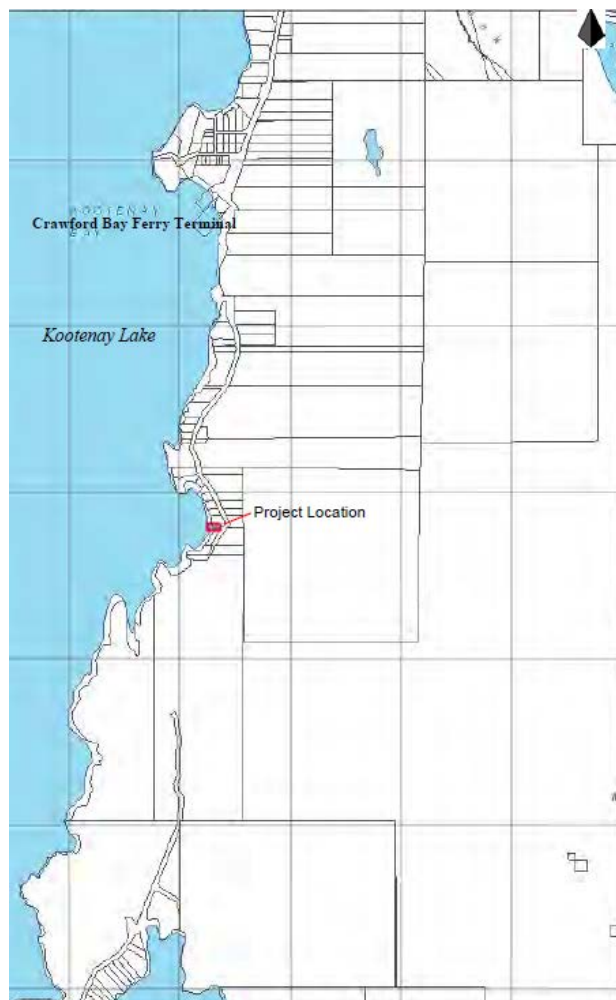


Figure 1: Location Map

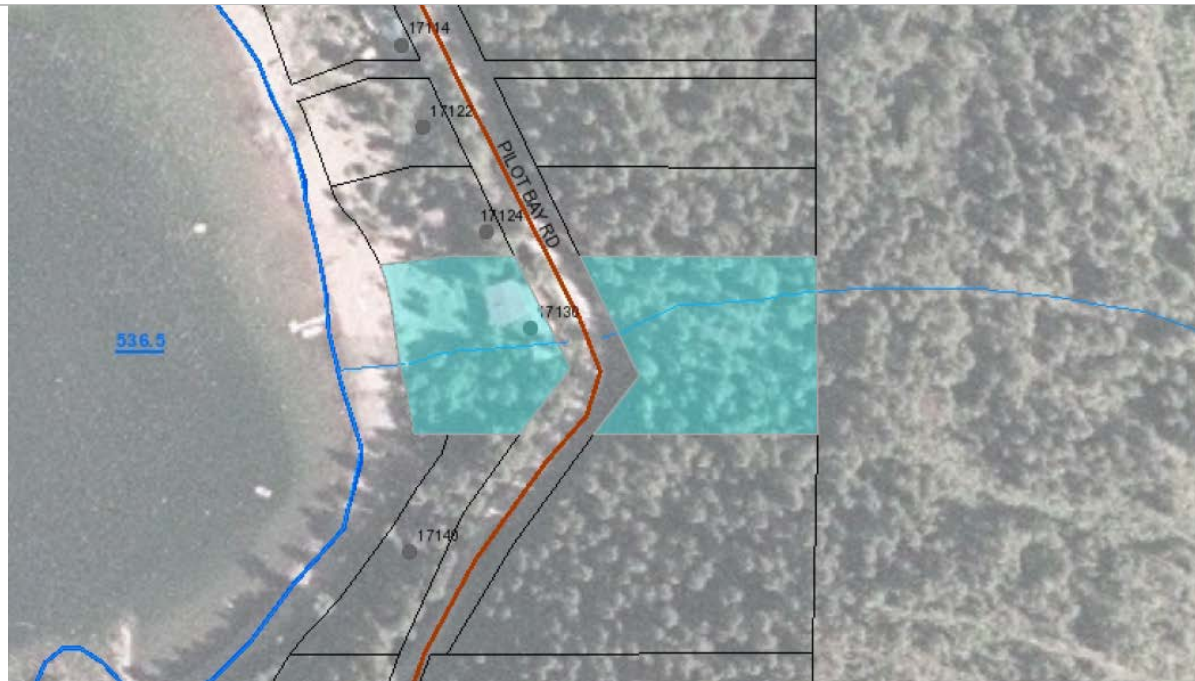


Figure 2: Site Map

Referral Period and Public Input

No comments were received from adjacent land owners during the referral period for this application. The proposed development permit was referred to various agencies for comment including First Nations, the Director for Electoral Area ‘A’ and other relevant parties on June 16th, 2017. Comments from referral agencies are attached to this report as ‘Attachment B’. Comments from the Ministry of Forests, Lands and Natural Resource Operations, and the Selkirk Forest District were in support of the application and proposed mitigation works.

Development Permit Area Guidelines:

Requirements for the Development Permit were triggered by the following activities and addressed through the requirements for a Foreshore Assessment Report as submitted by the applicants: *(note that these are the ‘triggers’ for a DP and not the guidelines – which state only that a riparian assessment be conducted)*

GUIDELINE	CONSIDERATIONS
Removal, alteration, disruption or destruction of vegetation.	Alteration of the 15m foreshore has already taken place. The applicant proposes a riparian restoration plan with native plants in a total area of 350m ² .
Disturbance of soils.	The applicant proposes remediation by planting native plants and boulder cluster placement to help retain topsoil and prevent erosion during

	flooding.
Construction or erection of buildings and structures.	The applicant proposes remediation of the ramp structure and marine rail by reducing the ramp structure by 14m, and reducing the instream portion of the permanent structure.
Creation of non-structural impervious or semi-impervious surfaces.	Proposal to partially remove the ramp structure and marine rail reconfiguration to remediate.
Flood Protection works.	Boulder clusters are proposed to be placed within the property line to prevent erosion during flooding.
Construction of roads, trails, docks, wharves and bridges.	The dock is proposed to be reduced by 10m in length. A mooring buoy is proposed 30-60m from the end of the dock.
Provision and maintenance of sewer and water services.	n/a
Development of drainage systems.	n/a
Development of utility corridors.	n/a
Subdivision as defined in section 872 of the <i>Local Government Act</i> .	n/a

SECTION 3: DETAILED ANALYSIS

a. Financial Considerations – Cost and Resource Allocations:

Included in Financial Plan: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	Financial Plan Amendment: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
Debt Bylaw Required: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	Public/Gov’t Approvals req’d: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO

The \$500 application fee for a Development Permit was received in accordance with the *Regional District of Central Kootenay Planning Procedures and Fees Bylaw No. 2457, 2015*.

b. Legislative Considerations (Applicable Policies and/or Bylaws):

A Development Permit will be considered in accordance with the Guidelines contained within the *Electoral Area ‘A’ – Comprehensive Land Use Bylaw No.2315, 2013*.

c. Environmental Considerations:

The applicant has provided an Environmental Assessment and Mitigation Plan which directly addresses the environmental issues caused by the unauthorized works on the foreshore of Kootenay Lake, and also provides an in-depth mitigation plan.

d. Social Considerations:

Potential impacts to the use and enjoyment of land must be considered. The proposed changes include a public access trail from the beach across the ramp.

e. Economic Considerations:

None.

f. Communication Considerations:

The Development Permit application was sent on referral in accordance with the *Regional District of Central Kootenay Planning Procedures and Fees Bylaw No. 2457, 2015*. Comments received to date include as follows:

Kristen Murphy, Ministry of Forests, Lands and Natural Resource Operations, dated July 4th, 2017.

This mitigation plan, completed by Masse Environmental, is supported. This unauthorized works has been reviewed as part of a Land Act and Water Sustainability Act investigation, restoration and authorization project.

Curt Nixon, Selkirk Forest District, dated June 19th, 2017.

The Ministry of Forests, Lands and Natural Resource Operations, Selkirk Forest District, Lands Division has worked closely with the agent along with our Habitat and Water Sections in providing guidance on the original and addendum report. The unauthorized foreshore fill will be removed; the dock and marine boat rail will be modified, and their impact mitigated in accordance with the referenced reports; concerns expressed by our staff, the Ktunaxa First Nation and the public.

Selkirk fully supports the efforts proposed by the agent and applicant contained within the reports and hopes that the RDCK will grant the necessary approvals so that mitigation work on the Crown foreshore may be completed by May 30, 2018.

g. Staffing/Departmental Work Plan Considerations:

Upon receipt of an application accompanied by the required fees and attachments, Planning Department staff follows the 'Development Permit Procedure' identified under the *Regional District of Central Kootenay Planning Procedures and Fees Bylaw No. 2457, 2015*.

h. Board Strategic Plan/Priorities Considerations:

Not applicable.

SECTION 4: OPTIONS & PROS / CONS

PROS

- The property owner is proposing a mitigation plan for the unauthorized work done on the foreshore of Kootenay Lake.

CONS

- The property owner constructed the ramp and dock system without permission from the Regional District of Central Kootenay and the Province.
- Approval of the development permit may encourage other property owners to undertake unauthorized works and ask for forgiveness afterwards.

SECTION 5: RECOMMENDATION(S)

That the General Manager of Development Services APPROVE the issuance of Development Permit 4260-20-DP1702A-056361.500 for property legally described as Lot A, DL 4962, Plan EPP6984 (PID 028-211-065).

Respectfully submitted,



Signature:

Name: Darcy Roszell, Planner

CONCURRENCE

Initials:

Planning Manager
General Manager of Development Services

ATTACHMENTS:

Attachment A – DRAFT Development Permit DP1702A

Attachment B – Referral Comments