

**SHORELINE MANAGEMENT PERMIT
ACTION SHEET**

Application #: SP#07-09 & SCUP#07-05

Administering Agency Douglas County Transportation and Land Services

Type of Permit: ■ Shoreline Substantial Development and Shoreline Conditional Use

Action: ■ Approved □ Denied

Date of Action: January 28, 2008

Date Mailed to DOE/AG

Pursuant to Chapter 90.58 RCW and the Shoreline Master Program of Douglas County, a permit is hereby granted to:

Richard and Dana Bowman
16504 14th Avenue SE
Mill Creek, WA 98012

James and Heather Munn
16130 91st Avenue SE
Snohomish, WA 98296

To undertake the following development: For the construction of a temporary joint-use dock with two adjoining boatlifts, as well as a restoration and access plan for the subject properties. The proposed dock consists of a 4' x 54' pier, 3' x 42' full-grid aluminum ramp attached to two 8' x 20' floating sections. The dock would extend approximately 99' waterward of the ordinary high water mark. The pier would be anchored to a 4' x 4' concrete shore abutment. The footprint of each boatlift would be 10' x 12.5'. Access to the dock would be a 4' wide access trail extending through the wetland. The dock is proposed to be constructed on the shared property line of Lot 1 of the Plat of Zinfandel #2 and Lot 3 of the Zinfandel Short Plat. The applicant has submitted a wetland habitat mitigation and management plan to address wetland and riparian area impacts. Additionally a restoration plan has been submitted for the wetland buffer and portions of the wetland which would remove noxious weeds and non-native vegetation onsite; restore and enhance native vegetation; and provide a lawn access use corridor to the wetland boundary;

Upon the following property: In a portion of Section 6, Township 26 N., Range 22 E., W.M., more particularly described as Lot 1 of the Plat of Zinfandel #2 and Lot 3 of the Zinfandel Short Plat. The site is located in the Rural Resource 5 (RR-5) Zoning District and the Shoreline is designated as Rural by the Douglas County Shoreline Master Program;

Within 200 feet of Columbia River and/or its associated wetlands.

The project will be within a shoreline of state-wide significance (RCW 90.58.030). The project will be located within a Rural Resource 5 (RR-5) designation. The Douglas County Shoreline Master Program is applicable to this development.

Development pursuant to this permit shall be undertaken in conformance with the following terms and conditions:

1. All conditions imposed herein shall be binding on the "Applicant," which terms shall include the owner or owners of the property, heirs, assigns and successors.
2. The Applicant shall obtain all permits required by all federal, state and local agencies with jurisdiction.
3. The Applicant shall comply with all federal, state and local laws and regulations.
4. Construction shall proceed substantially as shown on the application materials on file with the Douglas County Transportation and Land Services Department, except as modified by conditions below.
5. Prior to site work commencing, the applicant shall submit a dust control plan for review and approval by Douglas County Land Services.
6. Prior to site work commencing, the biologist of record shall verify that the boundaries of site disturbance have clearly been demarcated by silt fencing or straw bales. Written verification from the biologist of record shall be required prior to site operations commencing.
7. A permanent means of irrigation shall be installed for the mitigation plantings that is designed by a professional meeting the requirements of Title 20 Douglas County Code. Said design should address the specific needs of riparian and shrub steppe vegetation.
8. Monitoring reports must include verification that the planting areas have less than 20% total non-native/invasive plant cover consisting of exotic and/or invasive species. Exotic and invasive species may include any species on the state noxious weed list which may be referenced on the web at www.wa.gov/agr and www.nwcb.wa.gov, or considered as a noxious or problem weed by the Natural Resources Conservation Services Department or local conservation districts.
9. All mitigation for Lot 1 of the Plat of Zinfandel #2 and Lot 3 of the Zinfandel Short Plat must be installed within the next growing season falling after the completion of the grubbing on-site or dock installation. A five year monitoring period shall commence upon placement of the planting materials and irrigation system. A performance surety agreement in conformance with Title 14 of Douglas County Code shall be entered into between the property owner and Douglas County Transportation and Land Services prior to the issuance of a building permit for the joint use dock and prior to any site work commencing. Douglas County must approve quotes for the cost of installation, delivery, plant material, soil amendments, permanent irrigation, seed mix, and 3 monitoring visits and reports by a qualified biologist, and the quotes shall include Washington State sales tax.

10. Onsite monitoring and monitoring reports shall be submitted to Douglas County Transportation and Land Services 1 year after mitigation installation; 3 years after mitigation installation; and 5 years after mitigation installation. Monitoring reports shall be submitted by a qualified biologist, as defined by Douglas County Code. The biologist must verify that the conditions of approval and provisions in the wetland management and mitigation plan submitted by Grette and Associates dated June 2007, including the amendment submitted on November 26, 2007, and revised planting plan dated December 14, 2007, have been satisfied.
11. Mitigation sites shall be maintained to ensure that the mitigation and management plan objectives are successful. Maintenance shall include corrective actions to rectify problems, include rigorous, as-needed elimination of undesirable plants; protection of shrubs and small trees from competition by grasses and herbaceous plants, and repair and replacement of any dead plants.
12. Sequential release of funds associated with the surety agreement shall be reviewed for conformance with the conditions of approval and the mitigation and management plan. Release of funds may occur in increments of 1/3 for substantial conformance with the plan and conditions of approval. If the standards that are not met are only minimally out of compliance and contingency actions are actively being pursued by the property owner to bring the project into compliance, the County may choose to consider a partial release of the scheduled increment. Non-compliance can result in one or more of the following actions: carry over of the surety amount to the next review period; use of funds to remedy the nonconformance; scheduling a hearing with the Douglas County Hearing Examiner to review conformance with the conditions of approval and to determine what actions may be appropriate.
13. Site monitoring visits shall be completed between the time periods of June 1-September 15th, subject to requirements of Condition #10.
14. A copy of this permit and attached conditions shall be kept on-site and provided to the contractor and all others working within the shoreline area at all times. The applicant, contractor, machinery operators and all others working within the shoreline area shall have read this permit and attached conditions and shall follow its conditions at all times.
15. The conditions of approval apply to the shoreline substantial development permit of record.
16. The project shall be in compliance with the Shoreline Management Act (RCW 90.58), the Washington Administrative Code, the Douglas County Shoreline Master Program and the Douglas County Code.
17. The applicant shall comply with all applicable local, state and federal regulations and the applicant is responsible for securing any and all state and federal agency permits, as may be required.
18. The dock access corridor extending through the existing riparian vegetation within the wetland buffer and wetland shall not exceed 4' in width. The trail shall consist of either native grasses, crushed rock or gravel material.

19. Prior to building permit issuance, the applicant shall obtain all necessary permits from agencies with jurisdiction and provide copies of the permit approvals to Douglas County. This may include, but is not limited to: the Washington State Department of Fish and Wildlife (Hydraulic Project Approval), the United States Army Corps of Engineers Regulatory Branch (Section 10 &/or 404) the Washington State Department of Ecology (Section 401 Water Quality Certification), Washington State Department of Natural Resources Aquatic Use Authorization.
20. Prior to building permit issuance, the applicant shall provide a copy of the approved District Dock Permit signed by both the applicant and the Chelan County PUD.
21. Prior to entering the project area, all equipment shall be checked for leaks and cleaned free of any external petroleum products, hydraulic fluid, machinery coolant, dirt, weeds both aquatic and terrestrial, weed seeds, and/or any other deleterious materials.
22. Except as amended herein, the project application shall proceed consistent with the Wetland Management and Mitigation Plan prepared by Grette Associates, LLC, dated June 2007, including the amendments submitted on November 26, 2007, and revised planting plan dated December 14, 2007.
23. Where a condition imposed herein may be found inconsistent with the requirements of the Washington State Department of Fish and Wildlife, HPA Permit, or permitting issued by the United States Army Corps of Engineers, the Douglas County Land Services Director shall have discretion to allow for project redesign consistent with the approvals granted by said agencies; if the redesign can be found consistent with the Douglas County Code, the Shoreline Master Program, and the Shoreline Management Act.
24. A water barge shall be required for placement and yearly removal of the temporary float system, unless it can be demonstrated that a truck mounted crane can access the site and not disturb existing habitat in the buffer or wetland.
25. A joint use maintenance and operation agreement for the joint use dock shall be submitted for review and approval which benefits the property owners of Lot 1 of the Plat of Zinfandel #2 and Lot 3 of the Zinfandel Short Plat. An approved agreement must be recorded prior to building permit issuance for the dock facility.

FINDINGS OF FACT

1. The applicants are James and Heather Munn and Richard and Dana Bowman
2. The Comprehensive Plan Designation is Rural Resource 5.
3. The proposal is located in the Rural Resource 5, (RR-5), Zoning District. Single family dwellings and associated site improvements are permitted in all rural zoning districts and envisioned by the Douglas County Comprehensive Plan when consistent with critical area and shoreline policies and requirements.

4. The Columbia River Shoreline section of the subject property is designated as “Rural Environment” by the Douglas County Shoreline Master Program.
5. The proposal is located within 200 feet of the ordinary high water mark of the Columbia River, a shoreline of statewide significance. The project can proceed only after a Shoreline Management Substantial Development Permit is issued.
6. WAC 173-27-150 establishes minimum review criteria for Shoreline Management Substantial Development Permits. This criteria states that a substantial development permit shall be granted only when the development proposed is consistent with the policies and procedures of the Act; the provisions of this regulation; and the applicable master program adopted or approved for the area.
7. WAC 173-27-160 states that a conditional use permit shall be granted only when the proposed development is consistent with:
 - That the proposed use is consistent with the policies of RCW 90.58.020 and the master program;
 - That the proposed use will not interfere with the normal public use of public shorelines;
 - That the proposed use of the site and design of the project is compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and shoreline master program;
 - That the proposed use will cause no significant adverse effects to the shoreline environment in which it is to be located; and
 - That the public interest suffers no substantial detrimental effect.Additionally the SCUP criteria requires that consideration shall be given to the cumulative impact of additional requests for like actions in the area.
8. Goal 5 of the Douglas County Shoreline Master Program states: Shoreline Use Goal- to assure that shoreline use and development in Douglas County is such that all uses are in harmony with each other and with the character and physical limitations of the land and water. To promote the best possible use of the shorelines which will maximize the potential without disrupting environmental quality.
9. The Douglas County Shoreline Master Program Section XXI states that priority should be given to the use of community piers and docks.
10. Goal 8 of the Douglas County Shoreline Master Program states: Restoration Goal- To encourage, where feasible and desirable, the restoration of blighted areas along the shorelines of Douglas County to a natural or rehabilitated condition.
11. Policy D, Section XII Residential Development of the Douglas County Shoreline Master Program states: Residential developers should be required to preserve shore vegetation and control erosion during construction.
12. Comments from reviewing agencies have been considered and addressed where appropriate.

13. Douglas County issued a Determination of Nonsignificance on January 4, 2008 pursuant to WAC 197-11-355 (Optional DNS).
14. Surrounding property owners were given the opportunity to comment on the proposals.
15. Proper legal requirements were met and surrounding property owners were given the opportunity to comment on the proposal at a public hearing.
16. The subject property is located on the shoreline of the Columbia River and contains riparian and wetland areas regulated under the provisions of Chapter 19.18B Critical Areas-Wetlands.
17. Policy CA-1 of the Douglas County Comprehensive Plan states that protection of and preservation of wetlands shall be preferred to alteration of impacts to wetlands.
18. Policy CA-5 of the Douglas County Comprehensive Plan states that wetlands will be protected as much as reasonable from alterations due to land use changes that may create adverse impacts to the wetland.
19. Policy CA-10 of the Douglas County Comprehensive Plan states that projects containing a wetland should submit a comprehensive wetland mitigation plan that includes sufficient monitoring and contingencies to ensure natural wetland persistence.
20. Policy CA-14 of the Douglas County Comprehensive Plan states that impacts of new development on the quality of land, wildlife and vegetative resources will be considered as part of the environmental review process and require any appropriate mitigating measures. Such mitigation may involve the retention and /or enhancement of habitats.
21. Policy CA-15 states that the maximum amount of vegetation should be maintained in its natural state and be disturbed only as minimally necessary for the development.
22. When classifying and/or assessing a wetland area, the Douglas County Comprehensive Plan establishes that historical information on the area in question, as well as the dynamic nature of the wetlands will be recognized and considered. The comprehensive plan further establishes that innovative techniques that enhance a wetland and promote it as a useful, functioning part of the development will be encouraged during the development review process.
23. Chapter 19.18B, Wetlands, Douglas County Code, establishes standards of review that wetland management and mitigation plans must meet for project proposals. Plans must demonstrate that when implemented, there shall be no net loss of the ecological function or acreage of the wetland; and that the monitoring and contingency actions for continued maintenance of the wetland would be in place.
24. The wetland assessment for the shoreline is listed as Category Type IV wetland. DCC Chapter 19.18.050(B)(7) establishes a 50 foot buffer area for Type IV wetlands as measured from the edge of the wetland.

25. The applicant has submitted a wetland mitigation and management plan prepared by Grette and Associates, dated June 2007, a revision submitted on November 26, 2007, and a revised planting plan submitted on December 14, 2007, in order to address the requirements of D.C.C. 19.18B.035. Erosion control measures during and following excavation have not been incorporated into project design.
26. Noxious/non-native weed control plans have not been incorporated into project design.
27. Larry Lehman a biologist with Grette and Associates has indicated that, "This native vegetation planting area will compensate for disturbances to the riparian buffer from clearing and grubbing, grass planting, and access to the dock, and will greatly improve riparian habitat by planting native trees, shrubs and groundcover where currently non native grasses and shrubs."
28. An open record public hearing after legal notice was held on January 17, 2008. Appearing and testifying at the hearing on behalf of the applicant was Larry Lehman of Grette and Associates. Mr. Lehman indicated that on behalf of the applicant there were no objections to any of the proposed conditions of approval. However, the applicant did suggest a change to proposed condition of approval #13. No members of the public appeared at this hearing.
29. At the open record public hearing, the entire planning staff file was admitted into the record.
30. Public agencies with potential jurisdiction over this project were given an opportunity to review the proposal. Agencies that responded with comments were admitted into the record and considered by the Hearing Examiner in rendering this Decision.
31. Any Conclusion of Law that is more correctly a Finding of Fact is hereby incorporated as such by this reference.

CONCLUSIONS

1. The Hearing Examiner has been given authority to render this Decision.
2. As conditioned, the development meets the goals, policies and implementation recommendations as set forth in the Douglas County Countywide Comprehensive Plan and the Douglas County Shoreline Master Program.
3. Public interests will be served by approval of this proposal.
4. As conditioned, the proposal is consistent with Title 18 "Zoning" and Title 19 "Environment" of the Douglas County Code.
5. Sufficient erosion control measures during and following excavation can be incorporated into project design.
6. As proposed, success of the mitigation plan could be hampered by noxious/non-native weed control.

7. The National Academy of Sciences (2004) issued a report evaluating the success of compensatory mitigation to achieve no net loss of functions in the nation's wetland resources. The conclusion of the report was that "The goal of no net loss of wetlands is not being met for wetland functions by the mitigation program." Recommendations within this report further stated that, "A critical element for determining the success and compliance of a mitigation project is to formally identify the purpose of the project (goals), the steps required to accomplish that purpose (objectives), and identify measurable indicators to determine that the purpose has been accomplished (performance standards)."
8. As conditioned, professional monitoring and surety agreement requirements will establish a commitment for implementation of the plans and project design.
9. As conditioned, potential impacts of the project can be mitigated.
10. Agency comments were considered in the attachment of conditions to the proposal.
11. The project is consistent with the review criteria of WAC 173-27-150, in that the project proposed is consistent with the policies and procedures of the Act; the rules for administrating shoreline master programs established by WAC 173-27; and the Douglas County Shoreline Master Program.
12. As conditioned, the proposal will not detrimentally affect the public health, safety and general welfare.
13. The proposal is an innovative technique that provides enhancement of a wetland buffer and promotes it as a useful, functioning part of the development.
14. The proposal provides for the restoration and enhancement of a degraded portion of the shoreline.
15. Any Finding of Fact that is more correctly a Conclusion of Law is hereby incorporated as such by this reference.

This permit is granted pursuant to the Shoreline Master Program of Douglas County, as amended, and nothing in this permit shall excuse the applicant from compliance with any other federal, state, or local statutes, ordinances, or regulations applicable to this project, but not inconsistent with the Shoreline Management Act of 1971 (Chapter 90.58 RCW).

This permit may be rescinded pursuant to RCW 90.58.140(7) in the event the permittee fails to comply with the terms and conditions hereof.

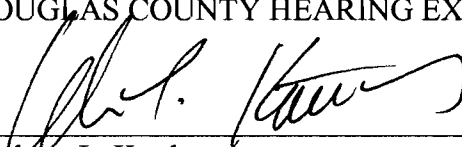
CONSTRUCTION PURSUANT TO THIS PERMIT SHALL NOT BEGIN NOR IS AUTHORIZED UNTIL TWENTY-ONE (21) DAYS FROM THE DATE OF FILING AS DEFINED IN RCW 90.58.140(6) AND WAC 173-14-090, OR UNTIL ALL REVIEW PROCEEDINGS INITIATED WITHIN TWENTY-ONE (21) DAYS FROM THE DATE

OF SUCH FILING HAVE TERMINATED; EXCEPT AS PROVIDED IN RCW 90.58.140(5)(a)(b)(c).

Substantial progress toward construction of the project for which this permit has been granted must be accomplished within two (2) years of the filing date of this permit. Authorization to conduct development activities granted by this permit shall terminate five (5) years from the filing date of this permit.

Approved this 28th day of January, 2008.

DOUGLAS COUNTY HEARING EXAMINER

A handwritten signature in black ink, appearing to read 'A. L. Kottkamp', written over a horizontal line.

Andrew L. Kottkamp

Anyone aggrieved by this decision has twenty-one (21) days from the “date of filing” as defined in WAC 461-08-305 and RCW 90.58.140(6) to file a petition for review with the Shorelines Hearings Board as provided for in RCW 90.58.180 and Chapter 461-08 WAC, the rules of practice and procedure of the Shorelines Hearings Board.

**THIS SECTION FOR DEPARTMENT OF ECOLOGY USE ONLY IN REGARD TO A
CONDITIONAL USE OR VARIANCE PERMIT**

Date received by the Department _____

Approved _____

Denied _____

This conditional use/variance permit is approved/denied by the Department pursuant to Chapter 90.58 RCW.

Development shall be undertaken pursuant to the following additional terms and conditions:

Date

Signature of Authorized Department Official