

**SHORELINE MANAGEMENT PERMIT
ACTION SHEET**

Application #: SP#07-14 & SCUP#07-07

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:

Daryl and Vicki Funston
4021 Shelby Road #1
Lynnwood, WA 98037

Matt and Sarah Hasselbeck
9027 NE 1st Ave.
Bellevue, WA 98004

To undertake the following development: For the construction of a 2 party joint use dock and two boat lifts on the Columbia River. The joint use dock is proposed to be constructed in the vicinity of the joint property line of Lot 1 of the Pinot Noir Plat and lot 1 of the Semillon Plat. The project application includes: two 8' x 20' floats, a 3' x 80' grated fixed pier, a 3' x 20' ramp, a 4' x 3' x 18" concrete pad, two 11' x 14.5' solar powered boatlifts, two mooring buoys, and a 45' x 4' access path. The dock would extend approximately 108' waterward of the ordinary high water mark of the Columbia River. The applicant has submitted a wetland habitat mitigation and management plan to address wetland and riparian area impacts;

Upon the following property: In a portion of Section 8, Township 26 N., Range 22 E., W.M. more particularly described as 264 and 266 Vineyard Drive, Orondo, WA. 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 building permit issuance, the applicant shall obtain all necessary permits from agencies with jurisdiction. 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 and the Chelan Public Utility District.
6. 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.
7. 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.
8. The proposed mitigation planting units shall begin and extend landward of the delineated landward edge of the wetland in the same configurations and dimensions as were proposed adjacent to the ordinary high water mark in the Wetland Management and Mitigation Plan of record dated August 2007, and the supplement dated October 2007. Placement of a portion or all of the mitigation planting material within the delineated wetland may only be permitted if the Washington State Department of Fish and Wildlife or U.S. Army Corps of Engineers submits in writing to Douglas County Land Services approval of a plan to do so; indicating that the mitigation plantings are of greater value within the delineated wetland or a portion of the delineated wetland, than solely in the wetland buffer.
9. The project application shall proceed consistent with the Wetland Management and Mitigation Plan prepared by Kelly A. Cordell, Wildlife Biologist, dated August 2007 and the supplement dated October 2007, except as amended herein.
10. 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.

11. 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.
12. Mitigation planting survival will be 100% for the first year, and 80% for each of the 4 years following.
13. All mitigation for the project must be installed by the next growing season falling after the completion of the dock and/or boatlift installation. A five year monitoring period shall commence upon placement of the planting materials and the irrigation system. A performance surety agreement in conformance with Title 14 of Douglas County Code shall be entered into between each property owner and Douglas County Transportation and Land Services. 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.
14. 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 Kelly A. Cordell, Wildlife Biologist, dated August 2007/October 2007, as amended herein, have been satisfied.
15. 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.
16. 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.
17. Site monitoring visits shall be completed between the time periods of June 1-September 15th, subject to the requirements of Condition #14.

18. The conditions of approval apply to the shoreline substantial development permit of record.
19. 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.
20. 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.
21. 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.
22. Prior to building permit issuance for the joint use dock, verification must be submitted to Douglas County Land Services that the joint use maintenance and operation agreement for the joint use dock facility for the property owners of Lot 1 of the Plat of Semillon and Lot 1 of the Plat of Pinot Noir has been recorded, must be submitted.

FINDINGS OF FACT

1. The applicants are Daryl and Vicky Funston & Matt and Sarah Hasselbeck
2. The Comprehensive Plan Designation is Rural Resource 5.
3. The subject property is located in the RR-5 Zoning District which allows for single family residences and their accessory structures.
4. The Columbia River Shoreline section of the subject property is designated as "Rural Environment" by the Douglas County Shoreline Master Program.
5. 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.
6. 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.

7. 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.
8. The Douglas County Shoreline Master Program Section XXI states that priority should be given to the use of community piers and docks.
9. Comments from reviewing agencies have been considered and addressed where appropriate.
10. Douglas County issued a Determination of Nonsignificance on January 4, 2008 pursuant to WAC 197-11-355 (Optional DNS).
11. Surrounding property owners were given the opportunity to comment on the proposals.
12. Proper legal requirements were met and surrounding property owners were given the opportunity to comment on the proposal at a public hearing.
13. 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.
14. 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.
15. 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.
16. 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.
17. 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.

18. 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.
19. The wetland assessment for the shoreline is listed as Category Type III wetland. DCC Chapter 19.18.050(B)(7) establishes a 75 foot buffer area for Type III wetlands as measured from the edge of the wetland.
20. The applicant has submitted a Wetland Management and Mitigation Plan prepared by Kelly A. Cordell, Wildlife Biologist, dated August, 2007, and a supplement dated October 2007, in order to address the requirements of D.C.C. 19.18B.035.
21. Graham-Bunting and Associates provided a wetland identification and rating form and Mitigation and Management Plan developed in 2004 for the Plat of Pinot Noir and the Plat of Semillon. These materials depict and describe a vegetated wetland extending approximately 15-20' landward of the ordinary high water mark of the Columbia River. The wetland buffer is described as being disturbed by past practices onsite.
22. The Wetland Management and Mitigation Plan dated August 2004 prepared by Kelly A. Cordell, describes the wetland-riparian area as containing numerous grasses, shrubs and trees. The vegetation is described as including Locust, Sitka Alder, Willow Trees and a thick layer of established grasses and sedges along the shoreline.
23. DCC 19.18B.050A states that wetlands will be left undisturbed, unless the development proposal involves appropriate mitigation and enhancement measures as determined on a site-specific basis.
24. A cultural resource assessment was completed for the subject properties by Western Shore Heritage Services, Inc. on March 12, 2004. This report did not result in the identification of potentially significant cultural resources on the subject properties.
25. The Washington State Department of Ecology has recommended the relocation of proposed mitigation landward of existing native vegetation on the subject properties.
26. 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 Peri Galluci. Ms. Galluci testified that the applicant agreed with the staff report and proposed conditions of approval and suggested a modification to proposed condition #17. No members of the public appeared at this hearing.
27. At the open record public hearing, the entire planning staff file was admitted into the record.
28. 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.
29. 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. As conditioned, this proposal is consistent with applicable federal and state laws and regulations.
4. As proposed, revised, and conditioned, potential impacts of the project can be mitigated.
5. Public interests will be served by approval of this proposal.
6. As conditioned, the proposal is consistent with Title 18 “Zoning” and Title 19 “Environment” of the Douglas County Code.
7. As conditioned, the development will not adversely affect the general public, health, safety and general welfare.
8. 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 28 day of January, 2008.

DOUGLAS COUNTY HEARING EXAMINER



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

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