

**SHORELINE MANAGEMENT PERMIT
ACTION SHEET**

Application #: SP-08-14/SCUP-08-03

Administering Agency Douglas County Transportation and Land Services

Type of Permit: Shoreline Substantial Development and Shoreline Conditional Use

Action: Approved Denied

Date of Action: February 23, 2009

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:

**Tim Duffy
17925 244th Ave. SE
Maple Valley, WA**

To undertake the following development: The construction of a temporary single use dock and one ground based boatlift. The proposed dock consists of a 4x55 foot fixed pile pier section, a 4x30 foot full grid aluminum ramp and a 8x20 foot float. The dock will extend approximately 100 feet waterward of the Ordinary High Water Mark. A 4 foot wide grass or gravel trail is proposed to access the dock;

Upon the following property: The subject property is located within Section 19, Township 24N., Range 21 E., W.M., Douglas County, Washington. The Douglas County Assessor Number for the property is 24211910007;

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 acres (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 project shall proceed in substantial conformance with the plans and application materials of file determined complete on October 14, 2008 except as amended by the conditions herein.
3. 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.
4. The applicant shall comply with all applicable local, state and federal regulations.
5. 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.
6. 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.
7. The project application shall proceed consistent with the Wetland Management and Mitigation Plan prepared by Grette & Associates, dated August 2008.
8. 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.
9. Riparian planting as shown on the mitigation planting plan, sheet 5 of 6, dated 8/01/08 shall be planted upon completion of the installation of the dock. A performance surety agreement in conformance with Title 14, D.C.C. shall be entered into between the property owner and Douglas County Transportation and Land Services prior to building permit issuance. Douglas County must approve quotes for the cost of installation, delivery, plant material, soil amendments, irrigation, seed mix and 3 monitoring visits and reports by the biologist or record and Washington State sales tax.
10. Prior to installation of the plantings, the biologist of record shall verify that the activity related to mitigation installation will not harm the existing riparian vegetation. If damage is possible then the biologist shall relocate the planting area outside of the riparian vegetation line.
11. The biologist of record shall verify at the time of mitigation installation that the density of plantings (existing and proposed) matches the density proposed in the application. The number of plants proposed on sheet 5 of 5, dated 8/1/08 shall be installed. Depending on the density of existing vegetation the total square footage of area planted may increase in order to plant to proposed plants at the proposed density.

12. The mitigation site shall be maintained to ensure the management and mitigation plan objectives are successful. Maintenance shall ensure 80% survival during the 5 year monitoring period and 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.
13. 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. 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 Grette & Associates, dated August 2008.
15. Sequential release of funds associated with the surety agreement shall be reviewed for conformance with the conditions of approval and the management and mitigation 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.
16. 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.
17. 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 the permit shall terminate five (5) years from the filing date of the permit.

FINDINGS OF FACT

1. The applicant is Tim Duffy, 17925 244th Ave. SE, Maple Valley WA.

2. General Description: An application for a shoreline substantial development permit and shoreline conditional use permit for the construction of a temporary single use dock and one ground based boatlift. The proposed dock consists of a 4x55 foot fixed pile pier section, a 4x30 foot full grid aluminum ramp and a 8x20 foot float. The dock will extend approximately 100 feet waterward of the Ordinary High Water Mark. A 4 foot wide grass or gravel trail is proposed to access the dock.
3. The subject property is located within Section 19, Township 24N., Range 21 E., W.M., Douglas County, Washington. The Douglas County Assessor Number for the property is 24211910007.
4. The Comprehensive Plan Designation is Rural Resource 5 acres.
5. The subject property is located in the RR-5 zoning district which allows for single family residences and their accessory structures.
6. The Columbia River Shoreline section of the subject property is designated as “Rural Environment” by the Douglas County Shoreline Master Program.
7. 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.
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. The configuration of the property is such that the Ordinary High Water Mark and the US 2/97 right-of-way separates this property from neighboring properties. Therefore a joint use dock is not feasible.
11. Comments from reviewing agencies have been considered and addressed where appropriate.
12. Douglas County issued a Determination of Nonsignificance on January 23, 2009 pursuant to WAC 197-11-355 (Optional DNS).
13. Surrounding property owners were given the opportunity to comment on the proposals, can request a copy of the decision, and can appeal the decision subject to the requirements outlined in DCC Title 14.

14. Proper legal requirements were met and surrounding property owners were given the opportunity to comment on the proposal at a public hearing.
15. 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.
16. Policy CA-11 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-15 of the Douglas County Comprehensive Plan states 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. The wetland assessment for the shoreline is listed as Category Type III wetland and Category Type IV Wetland. DCC Chapter 19.18.050(B)(7) establishes a 75 foot buffer area for Type III wetlands and 50 foot buffer area for Type IV Wetlands as measured from the edge of the wetland.
19. The applicant has submitted a Wetland Management and Mitigation Plan prepared by Grette & Associates, dated August 2008, in order to address the requirements of D.C.C. 19.18B.035.
20. WAC 173-27-090 requires that construction must be commenced within 2 years of the effective date of the shoreline permit and that authorization for construction shall terminate 5 years after the effective date of the shoreline permit.
21. The Douglas County Department of Land Services recommended approval of the requested permit(s), subject to the recommended conditions of approval.
22. The Douglas County Land Services Staff explained that although joint use docks are preferred within Douglas County, this single use dock approval is based upon the configuration of the property as relates to the Columbia River and SR 97. Further, Staff performed a site visit and the dock identified by the PUD had been removed but the duck blind was still in place. However, with residential use planned for this property, the duck blind will be removed.
23. An open record public hearing after legal notice was held on February 19, 2009. Appearing and testifying at the hearing on behalf of the applicant was Larry Lehman. Mr. Lehman testified that he was an agent authorized to appear and speak on behalf of the applicant. Mr. Lehman indicated that all of the proposed conditions of approval were acceptable to the applicant. Mr. Lehman stated that the dock had been removed. The applicant recovered this dock as it was floating down the Columbia River and anchored it to his property. Sometime after that, persons unknown to the applicant came and removed the dock from the applicant's property. Additionally, the duck blind will be removed once residential use of the property is established.

24. No member of the public testified at this hearing.
25. At the open record public hearing, the entire planning staff file was admitted into the record.
26. 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.
27. 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 granted authority to render this Decision.
2. As conditioned, the development will not adversely affect the general public, health, safety and general welfare.
3. 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.
4. As conditioned, this proposal is consistent with applicable federal and state laws and regulations.
5. As proposed, revised, and conditioned, potential impacts of the project can be mitigated.
6. Public interests will be served by approval of this proposal.
7. As conditioned, the proposal is consistent with Title 18 "Zoning" and Title 19 "Environment" of the Douglas County Code.
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.

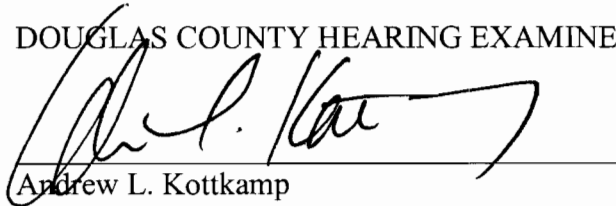
CONSTRUCTION PURSUANT TO THIS PERMIT SHALL NOT BEGIN NOR IS AUTHORIZED UNTIL TWENTY-ONE (21) DAYS FROM THE DATE OF FILING AS DEFINED IN RCW 90.58.140(6) AND WAC 173-14-090, OR UNTIL ALL REVIEW PROCEEDINGS INITIATED WITHIN TWENTY-ONE (21) DAYS FROM THE DATE

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 23 day of February, 2009.

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