

**SHORELINE MANAGEMENT PERMIT
ACTION SHEET**

Application #: SP-08-16/SCUP-08-04
Administering Agency Douglas County Transportation and Land Services

Type of Permit: ■ Shoreline Substantial Development
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:

**Jerald Van Winkle
12 B Van Winkle Road
Orondo, WA 98843**

To undertake the following development: The construction of a single-use dock and boatlift consisting of: one 8x20 foot float, a 4x73 ft. fixed aluminum pier, a 4x38 ft. aluminum ramp and a 10X12.5 ft. boatlift footprint. A 4 foot wide access corridor comprised of native grass is proposed to be installed from the OHWM to the landward edge of the 50 foot buffer;

Upon the following property: The subject property is located in the southwest ¼ of the southwest ¼ of Section 21, Township 26 N., Range 21 E., W.M., Douglas County, Washington. The site is located in the Rural Resource 5 Zoning District and the shoreline designation is Rural. The assessors parcel number is 26212130001;

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 project shall proceed in substantial conformance with the plans and application materials of file submitted December 9, 2008 and on file 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 dated December 2008 completed by Grette Associates LLC.
8. The dock access corridor within the wetland boundary and wetland buffer shall not exceed 4' in width. The trail shall consist of either native grasses, crushed rock or gravel material.
9. 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. 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 of record and 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 dated December 2008, completed by Grette Associates LLC. have been satisfied.
11. A permanent means of irrigation shall be installed for the mitigation plantings that are 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.

12. 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.
13. Mitigation sites shall be maintained to ensure the management and mitigation plan objectives are successful. Maintenance shall ensure 100% survival after the first year and 80% survival during the following 4 years. Monitoring 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.
14. 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.
15. Site monitoring visits shall be completed between the time periods of June 1st - September 15th.
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 Jerald Van Winkle, 12 B Van Winkle Road, Orondo, WA 98843.
2. Mr. Van Winkle has submitted an application for a shoreline substantial development permit for a shoreline substantial development permit for the construction of a single-use

dock and boatlift consisting of: one 8x20 foot float, a 4x73 ft. fixed aluminum pier, a 4x38 ft. aluminum ramp and a 10X12.5 ft. boatlift footprint.

3. The subject property is located in the southwest ¼ of the southwest ¼ of Section 21, Township 26 N., Range 21 E., W.M., Douglas County, Washington. The site is located in the Rural Resource 5 Zoning District and the shoreline designation is Rural.
4. The subject property is located in the Rural Resource 5 (RR-5) zoning district which allows for single family residences and their accessory structures.
5. The Columbia River shoreline section of the subject property is designated as “Rural Environment” by the Douglas County Shoreline Master Program.
6. According to RCW 90.58.030 the Columbia River is a shoreline of statewide significance.
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: 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 subject property’s parcel was created prior to the SMP.
11. Comments from reviewing agencies have been considered and addressed where appropriate.
12. Douglas County issued a Determination of Non-significance on February 3, 2009 in accordance with 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. Policy CA-17 of the Douglas County Comprehensive Plan states that if a development proposal is located in or near a habitat conservation area shown on the reference maps, a consultation and subsequent mitigation measures, if needed, should be encouraged from the WDFW or other appropriate agency.
19. The wetland rating and delineation was performed for the subject property by Grette Associates. The wetland assessment for the shoreline is listed as Category Type IV wetland. DCC Chapter 19.18B.050(B)(7) establishes a 50 foot buffer area for Type IV wetlands as measured from the edge of the wetland.
20. The applicant has submitted a Wetland Management and Mitigation Plan dated December 2008 completed by Grette Associates LLC., in order to address the requirements of D.C.C. 19.18B.035.
21. 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.
22. Goal 5 of the Shoreline Master Program states that 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.
23. Goal 8 of the Shoreline Master Program states: To encourage, where feasible and desirable, the restoration of blighted areas along the shorelines of Douglas County to a natural or rehabilitated condition.
24. Douglas County Code 19.18B states that avoidance of wetland buffer disturbance is the preferred alternative to mitigation for impact.
25. 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.
26. The Douglas County Department of Land Services recommended approval of the requested permit(s), subject to the recommended conditions of approval.

27. Land Services Staff indicated that while joint use docks are preferred in Douglas County, that they are recommending approval for this single use dock because the property to the north already has its own dock and the lots to the south will have a community dock. Accordingly, there is no viable option for a joint use dock for this lot.
28. 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 the applicant did not have any objection to the proposed conditions of approval. Mr. Lehman testified that the "bulkhead" which is basically anchored logs, has been in existence for a long time, certainly prior to Mr. Van Winkle's ownership of the property, and that they were not going to be removed as a part of this project.
29. No member of the public testified at this hearing.
30. At the open record public hearing, the entire planning staff file was admitted into the record.
31. 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.
32. 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, this proposal will not interfere with waterlife, currents, recreational boaters and fisherman.
3. As conditioned, the development will not adversely affect the general public, health, safety and general welfare.
4. 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.
5. As conditioned, this proposal is consistent with applicable federal and state laws and regulations.
6. As proposed and conditioned, potential impacts of the project can be mitigated.
7. Public interests will be served by approval of this proposal.

8. As conditioned, the proposal is consistent with Title 18 "Zoning" and Title 19 "Environment" of the Douglas County Code.
9. 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).

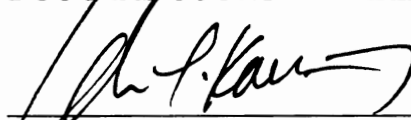
This permit may be rescinded pursuant to RCW 90.58.140(7) in the event the permittee fails to comply with the terms and conditions hereof.

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 23rd 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