

**SHORELINE MANAGEMENT PERMIT  
ACTION SHEET**

**Application #:** SP-08-15  
**Administering Agency** Douglas County Transportation and Land Services

**Type of Permit:**  Shoreline Substantial Development Permit  
**Action:**  Approved  Denied

**Date of Action:** April 22, 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:

**Kim Gardner**  
**PO Box 5428**  
**Lynnwood, WA**

**Laurie Berge**  
**18616 71<sup>st</sup> Ave.**  
**West Lynnwood, WA**

To undertake the following development: For regrading of lots within shoreline jurisdiction but outside of the wetland buffer. The project proposes to regrade approximately 16,118 cubic yards of material;

Upon the following property: The subject property is identified as Lot 5, Plat of Reisling and Govt Lot 4 North of Hwy. The property is further described as being located within Section 8, Township 26N., Range 22 E., W.M., Douglas County, Washington. The shoreline designation is Rural. The assessor's parcel numbers are 26220820009 and 82600000500;

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 date stamped October 27, 2008, February 2, 2009 and March 2, 2009 except as amended by the conditions herein.

3. Prior to commencing excavation, 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).
4. The applicant shall comply with all applicable local, state and federal regulations.
5. 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.
6. A silt fence and/or straw bales shall be located at the landward edge of the wetland buffers. Prior to excavation activities commencing on site, the biologist of record shall verify that the erosion protection has been properly placed and is located outside of the buffer areas. The erosion protection shall remain in place until the site has been stabilized.
7. A dust control plan shall be submitted to and approved by the County prior to the commencement of excavation activities.
8. Concurrent with the submittal of any building permit on the subject properties, the applicant shall submit a report certified by a professional engineer or geologist verifying proper compaction and satisfactory placement of fill and the stability of any steep slopes.
9. In the event that human remains, burials, funerary items, sacred objects, or objects of cultural patrimony are found during project implementation, the proponent or his authorized agent shall adhere to all of the requirements of RCW 68.50.645. They shall immediately cease any activity which may cause further disturbance and then take steps to protect the find from further damage or disruption. They shall then contact the county coroner if human remains are found, who will contact the Washington State Department of Archaeology and Historic Preservation (DAHP). They shall then contact the Confederated Tribes of the Colville Reservation Tribal Historic Preservation Officer (THPO) at (509) 634-2654 or the Tribal Archaeologist at (509) 634-2691 as soon as possible to report the find. No further work shall be allowed on the project until there is an approved plan for managing or preserving the remains or items.
10. In the event that prehistoric artifacts (i.e., arrowheads, spear points, mortars, pestles, other ground stone tools, knives, scrapers, or flakes from the manufacture of tools, fire pits, peeled trees, etc.) or historic-period artifacts or features (i.e., fragments of old plates or ceramic vessels, weathered glass, dumps of old cans, cabins, root cellars, etc.) are found during project implementation, the proponent or his authorized agent shall cease work immediately within 200ft of the find. Then they shall contact the Washington State DAHP to report the find. Then they shall contact the THPO at (509) 634-2654 or the Tribal Archaeologist at (509) 634-2691. No further work shall be allowed on the project until there is an approved plan for managing or preserving the artifacts or features.

11. Activities that have the potential to disturb cultural resources outside the specified area should not proceed prior to a cultural resources review of potential adverse effects in the new area.
12. Prior to issuance of a building permit on the subject properties, documentation that BLA-08-36 has been recorded must be provided.
13. 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 applicants are Kim Gardner – PO Box 5428 Lynnwood WA and Laurie Berge – 18616 71<sup>st</sup> Ave. West Lynnwood WA
2. General Description: An application for a shoreline substantial development permit for regrading of lots within shoreline jurisdiction but outside of the wetland buffer. The project proposes to regrade approximately 16,118 cubic yards of material.
3. The subject property is identified as Lot 5, Plat of Reisling and Govt Lot 4 North of Hwy. The property is further described as being located within Section 8, Township 26N., Range 22 E., W.M., Douglas County, Washington. The shoreline designation is Rural. The assessor's parcel numbers are 26220820009 and 82600000500.
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. Policy A of the Landfills section of the Douglas County Shoreline Master Program states: Shoreline fills or cuts should be designated and located so that significant damage to existing ecological values or natural resources, or alteration of local currents will not

occur, creating a hazard or significant injury to adjacent life, property and natural resource systems.

10. Policy B of the Landfills section of the Douglas County Shoreline Master Program states: All perimeters of fills should be provided with suitable means for erosion prevention and control when necessary.
11. Comments from reviewing agencies have been considered and addressed where appropriate.
12. Douglas County issued a Determination of Nonsignificance on March 6, 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. 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 assessment for the shoreline is listed as Category Type III wetland for the portion located within the Plat of Reisling. 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 wetland assessment for the shoreline is listed as Category Type IV wetland for the portion located on parcel 26220820009. 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.
21. A cultural resources survey report, dated February 26, 2009, performed by Cultural Resource Consultants Inc. was submitted to Douglas County, WA Dept of Archaeology and Historic Preservation, the Colville Tribes and the Yakima Tribes.

22. All grading is proposed to be located outside of the established buffer areas.
23. Removal of vegetation in the excavation area may cause dust and/or erosion if not mitigated.
24. A boundary line adjustment between the two subject parcels has been approved and returned to the applicant for recording.
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. An amended Cultural Resources Survey Technical Memo dated March 20, 2009 was submitted.
27. The Confederated Tribes of the Colville Reservation responded to the amended Cultural Resource Survey Technical Memo in a letter received by Douglas County on March 30, 2009. This letter recommended additional conditions of approval related to the actions to be taken in the event that cultural resources are found on-site.
28. The Douglas County Department of Land Services recommended approval of the requested permit(s), subject to the recommended conditions of approval.
29. An open record public hearing was originally scheduled after legal notice to be held on March 19, 2009. At that hearing, the open record public hearing was continued to a date certain, that being April 16, 2009. At the open record public hearing on April 16, 2009, appearing and testifying on behalf of the applicant was Thom Vetter. Mr. Vetter testified that he was appearing on behalf of the applicant and was authorized to speak on the applicant's behalf. Mr. Vetter indicated that he did not have any objection to the proposed language changes regarding findings of fact and conditions of approval and that he had no objection with any of the proposed conditions of approval.
30. No members of the public testified at this hearing.
31. At the open record public hearing, the entire planning staff file was admitted into the record.
32. 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.
33. 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. 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 administering shoreline master programs established by WAC 173-27; and the Douglas County Shoreline Master Program.
6. As proposed, revised, 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).**

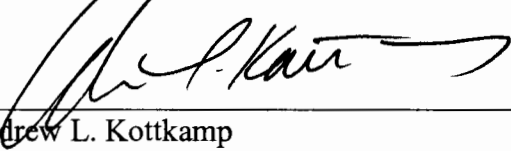
This permit may be rescinded pursuant to RCW 90.58.140(7) in the event the permittee fails to comply with the terms and conditions hereof.

**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 22<sup>nd</sup> day of April, 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