

**SHORELINE MANAGEMENT PERMIT
ACTION SHEET**

Application #: SP-10-01
Administering Agency Douglas County Transportation and Land Services

Type of Permit: ■ Shoreline Substantial Development Permit
Action: ■ Approved □ Denied

Date of Action: April 12, 2010

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:

**Douglas County Transportation Services
140 19th St NW
East Wenatchee, WA**

To undertake the following development: Constructing a stormwater control component of a larger road project referred to as Eastmont Extension. This application includes the construction of stormwater pipe and stormwater outfall structures within shoreline jurisdiction;

Upon the following property: Located within WSDOT right-of-way in the vicinity of 32nd Pl NW. The property is further described as being located within Section 27, Township 23N., Range 20 E., W.M., Douglas County, Washington;

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 Low Density Residential (R-L) Zoning District 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 on January 13, 2010 and February 16, 2010 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. 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. Should archaeological materials (e.g. bones, shell, stone tools, beads, ceramics, old bottles hearths, etc.) be observed during project activities, all work in the immediate vicinity should stop and the State Department of Archaeology and Historic Preservation, the County planning office and the affected Tribe(s) should be contacted immediately. If any human remains are observed, all work should cease and the immediate area secured. Local law enforcement, the Douglas County Coroner, State Physical Anthropologist, Department of Archaeology and Historic Preservation, the County planning office and the affected Tribe(s) should be contacted immediately. Compliance with all applicable laws pertaining to archaeological resources and human remains is required.
7. The riparian buffer area shall be temporarily fenced between the excavation activity and the buffer with a highly visible and durable protective barrier to prevent access and to protect the buffer from erosion and siltation.
8. The project application shall proceed consistent with the Critical Areas Study prepared by HDR Engineering, dated January 2010.
9. Riparian planting as shown on the mitigation planting plan, Section 7.2.2 Compensatory Mitigation, dated January 2010 shall be planted upon completion of the installation of the stormwater facility.
10. 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.
11. A five year monitoring period shall commence upon placement of the planting materials.
12. 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 critical areas study performed by HDR engineering, dated January 2010 have been satisfied.

13. 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.
14. 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 Douglas County Transportation Services, 140 19th St NW, East Wenatchee WA.
2. General Description: An application for a shoreline substantial development permit. Douglas County Transportation is constructing a stormwater control component of a larger road project referred to as Eastmont Extension. This application includes the construction of stormwater pipe and stormwater outfall structures within shoreline jurisdiction.
3. The subject property is located within WSDOT right-of-way in the vicinity of 32nd Pl NW. The property is further described as being located within Section 27, Township 23N., Range 20 E., W.M., Douglas County, Washington.
4. The Comprehensive Plan Designation is Residential Low Density.
5. The subject property is located in the R-L zoning district.
6. The Columbia River Shoreline section of the subject property is designated as “Urban Conservancy” 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. A critical areas study dated January 2010 was performed for the project by HDR Engineering Inc.
9. A cultural resources assessment, dated December 10, 2008 was performed for the project by Northwest Archaeological Associates Inc.

10. A critical areas study dated January 2010 was submitted for the project. The study determined that wetlands are not present in the project area. The study also determined that the Fir Ave site has a 125 foot buffer and the 31st Street site has a 150 foot buffer.
11. The critical areas study determined that a total of 928 square feet of plantings would be necessary to mitigate the impact to the riparian buffer. A planting plan is proposed in Section 7.2.2.2 of the critical areas study.
12. Comments from reviewing agencies have been considered and addressed where appropriate.
13. Douglas County Transportation issued a Determination of Non-significance and Adoption of Existing Environmental Document on January 12, 2009 in accordance with WAC 197-11. The adopted environmental document is the SR 28, Eastside Corridor FEIS.
14. 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.
15. Proper legal requirements were met and surrounding property owners were given the opportunity to comment on the proposal at a public hearing.
16. 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.
17. The Douglas County Department of Land Services recommended approval of the requested permit, subject to the recommended conditions of approval.
18. An open record public hearing after legal notice was held on April 8, 2010. Appearing and testifying at the hearing on behalf of the applicant was Justin Roozen. Mr. Roozen provided a brief outline as to the project. He confirmed that the archeological study had been completed and that all issues had been resolved. He indicated that an Army Corps of Engineers Permit was still needed. He indicated that the applicant had no objection to any of the proposed conditions of approval.
19. Testifying from the public was Mary Hale. Ms. Hale was not clear as to where the retention pond would be located. An informal discussion was held where Mr. Roozen pointed out on an aerial photograph where the pond would be located. Ms. Hale had no further questions.
20. No other member of the public testified at the hearing.
21. At the open record public hearing, the entire planning staff file was admitted into the record.

22. 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.
23. 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 Greater East Wenatchee Area 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 17 "Zoning" EWMC as adopted by Douglas County 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).

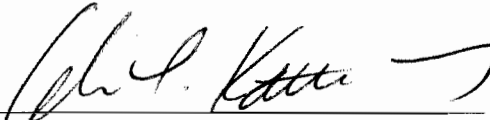
This permit may be rescinded pursuant to RCW 90.58.140(7) in the event the permittee fails to comply with the terms and conditions hereof.

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 12th day of April, 2010.

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