

STAFF REPORT
PIERRE/DINGMAN/REKDAL GRADING-RESTORATION PROPOSAL

TO: Douglas County Hearing Examiner
FROM: Douglas County Land Services Staff
RE: SP#07-08
DATE: January 17, 2008

I. GENERAL INFORMATION

Requested Action: A shoreline substantial development permit application submitted by William H. Pierre, Jr.; Douglas J. & Elizabeth A. Dingman; Richard A. & Denise Rekdal, for the purposes of excavating and regrading the shoreline landward of the Exhibit G-line of the Columbia River (718.26ft.) up to the top of the bank (between 722 ft. and 730ft.), within the Gala, and Ginger Gold short plats. The proposed regrade would provide a more gradual slope of the shoreline landward of the exhibit G-line. The proposal intends to improve recreational shoreline access and wildlife habitat. A mitigation and management plan has been submitted which proposes native riparian and shrub steppe planting within the graded areas of the buffer.

Location: The subject property is located in a portion of Section 12, Township 26 N., Range 21 E., W.M., more particularly described as the shoreline lots within the Gala, and Gingergold Short Plats. 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. The Douglas County Assessor Numbers for the subject properties are 26211210032, 26211210033, 26211210034, 26211210036, 26211210037, and 26211210038.

II. SITE INFORMATION

Site Characteristics: The Gala, and Gingergold Short Plats contain residential cluster lots surrounded by a series of 18 cluster short plats and cluster subdivisions fronting the Columbia River. The parcels include approximately 680 lineal feet of shoreline. Historically the parcels and adjacent shoreline areas/cluster lots were farmed in tree fruit. The fruit trees on the property have been removed. Historic agricultural practices leveled the uplands on the site for orchards and pushed soils and materials toward the river. Rounded rock and unconsolidated steep sloped soils predominate within these 6 shoreline lots to the top of the bank. These steep sloped areas have made it difficult for plants to colonize disturbed areas. The portion of the lots which contain larger shrubs and trees would not be affected by the proposal. A 10' orchard road is located within the proposed grading area of the wetland buffer. The average bank height rises approximately 15' above the river.

The Gala Short Plat contains some riparian shrub vegetation, predominantly below the Chelan County PUD Exhibit G-Line.. Some sparse shrub vegetation extends to the top of the bank landward of the G Line. In several locations this vegetation extends an additional 5' to 10' landward from the top of the bank. Upper slopes and the upland portion of the buffer are dominated by upland weeds and grasses. Some apple and Sumac tree saplings are located in the uplands. The Ginergold Short Plat contains few shrubs. The dominant vegetation materials on the steep bank are grasses and herbaceous species. One Ponderosa Pine approximately 15-20' tall would be impacted/removed by the proposal. Landward of the bank, the uplands in the buffer contain weeds and grasses with some apple and Sumac tree saplings. The shoreline fronting both short plats has been categorized as a Type IV wetland, with a 50' buffer extending landward of the ordinary highwater mark of the Columbia River.

The Gala and Gingergold Short Plats have each received prior shoreline permit approval for a 4-party joint use dock facility which includes a 4' wide access corridor that may consist of native grasses or crushed rock.

Rural Resource 5 (RR-5) Zoning District.

The subject properties are located within the RR-5 Zoning District. The purpose of the RR-5 District is to provide an area for a variety of rural lifestyles, hobby farms, densities, and open space, while protecting the rural and resource characteristics in the vicinity. This District provides an opportunity for compatible rural land uses, and is sensitive to the site's physical characteristics. RR-5 districts are often located adjacent to urban growth areas or existing rural development of higher densities, are intended as a transition, and provide a buffer area between commercial agricultural areas or more intense development areas. These areas may be incorporated into the urban area at a future date. This district is also appropriate for areas that currently have a range of rural densities or land parcel sizes generally less than twenty acres in size and/or have adequate rural levels of services available such as roads, schools, and fire protection. Clustering or other innovative techniques for residential lots are encouraged provided that the density does not encourage urban levels of service and provide significant open space corridors and protection of critical areas.

Applicable provisions and requirements of D.C.C., Chapter 19.18B, "Wetlands" & D.C.C., Chapter 19.18C, "Fish and Wildlife Habitat Conservation Areas"

The property fronts the Columbia River. The wetland and riparian areas of the Columbia River are designated as critical areas and are regulated under Chapter 19.18B "Wetlands" and Chapter 19.18C "Fish and Wildlife Habitat Conservation Areas". Development, including vegetation removal, occurring within this area and associated buffer areas must develop a wetland management and mitigation plan consistent with the provisions of DCC 19.18B.035. By code, both wetland and riparian habitats are protected by wetland buffer standards.

III. COMPREHENSIVE PLAN:

The Douglas County Countywide Comprehensive Plan designates this property as Rural Resource 5. The following goals and policies set forth in the comprehensive plan are relevant to this development:

RURAL:

POLICY RD-4: Development and recreational opportunities in rural shoreline and other rural areas shall minimize potential adverse impacts to water quality, slope stability, vegetation, wildlife and aquatic life.

CRITICAL AREAS – WETLANDS

GOAL 1: Douglas County's wetlands will be protected to the greatest extent reasonable because they provide important functions that help define the quality of life in Douglas County.

POLICY CA-1: Protection and preservation of wetlands shall be preferred to alteration and mitigation of impacts to wetlands.

POLICY CA-2: Wetlands will be rated consistent with the Washington State Department of Ecology's *Wetlands Rating System for Eastern Washington*.

POLICY CA-3: Wetlands will be identified according to the methodology described in the Washington State Wetlands Identification and Delineation Manual, 1997, publication #96-94, as amended.

Policy CA-5: When classifying and/or assessing a wetland area, historical information on the area in question, as well as the dynamic nature of wetlands, will be recognized and considered.

Policy CA-7: Whenever feasible, innovative techniques that enhance a wetland and promote it as a useful, functioning part of the development will be encouraged during the development review process.

POLICY CA-10: Development proposals that encompass wetland areas will have a site-specific review process required to determine the classification.

POLICY CA-11: Projects containing a wetland should submit a comprehensive wetland mitigation plan that includes sufficient monitoring and contingencies to ensure natural wetland persistence.

POLICY CA-13: A wetland buffer area of adequate width will be maintained between wetlands and adjacent new development to protect the functions and integrity of the wetland. The ultimate width of the established buffer should be based on the function and sensitivity of the wetland, the characteristics of the existing buffer, the potential impacts associated with the adjacent and proposed land use, as well as other existing regulations which may control the proposed activity.

CRITICAL AREAS – FISH AND WILDLIFE HABITAT CONSERVATION AREAS

GOAL 2: Protect fish and wildlife habitat areas as an important natural resource for Douglas County, particularly in regard to their economic, aesthetic and quality of life values.

POLICY CA-15: 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.

POLICY CA-16 The maximum amount of vegetation should be maintained in its natural state and be disturbed only as minimally necessary for the development. Disturbed areas should be re-vegetated with native vegetation as soon as possible. Re-vegetation will be maintained in good growing conditions, as well as being kept free of noxious weeds.

POLICY CA 17: 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.

POLICY CA-20: Proper riparian management that maintains existing riparian habitat and is consistent with best agricultural management practices should be encouraged.

POLICY CA-21: Ensure that land uses adjacent to naturally occurring wetlands and other fish and wildlife habitat areas will not negatively impact the habitat areas. If a change in land use occurs, adequate buffers will be provided to the habitat areas.

POLICY CA-22: Activities allowed in fish and wildlife habitat conservation areas and open space will be consistent with the species located there, including all applicable state and federal regulations and/or best management practices for the activity regarding that species.

IV. SHORELINE MASTER PROGRAM

Shoreline Master Program: The Douglas County Shoreline Master Program classifies this portion of the Columbia River shoreline as a Rural Environment. Shoreline cuts (regrading) of residential lots and residential use of the shoreline are specifically addressed by the Douglas County Shoreline Master Program. The following goals, policies, and requirements of the Master Program address the above-referenced activity:

Applicable Shoreline Goals:

- Goal 5: 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.

- Goal 6: Conservation Goal- To assure protection of the non-renewable shoreline resources of Douglas County, and to assure continued utilization and sound management of the renewable shoreline resources, to guarantee their availability in sufficient quality and quantity in the future to meet all foreseeable needs.
- Goal 8. Restoration Goal- To encourage, where feasible and desirable, the restoration of blighted areas along the shorelines of Douglas County to a natural or rehabilitated condition.

Applicable Shoreline Policies and Regulations:

Section XII. Residential Development

Policies:

- A. Residential development should be designed so as to adequately protect the water and shoreline aesthetic characteristics.
- D. Residential developers should be required to preserve shore vegetation and control erosion during construction.

Section XVI. Landfill

Policies:

- A. 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.

Washington Administrative Code (WAC): WAC 173-27 provides updated rules for administering the Shoreline Management Act (RCW 90.58) and the local master program:

WAC 173-27-150, establishes minimum review criteria for 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.

V. ENVIRONMENTAL REVIEW

Douglas County issued a Determination of Non-significance on January 4, 2008 in accordance with WAC 197-11-355 (Optional DNS).

VI. AGENCY AND PUBLIC COMMENTS:

The following is a brief summary of agency comments. For a complete review of agency comments refer to Appendix A.

The Chelan Public Utility District: The Chelan County Public Utility District is concerned over the following statement by the applicants' consultant, "to the extent possible, existing trees and shrubs and large woody debris present waterward of the Exhibit G Line would be preserved. Contractors should be informed of the importance of minimizing the alteration or disturbance of existing riparian vegetation to the extent possible." The PUD does not support any vegetation removal within the easement boundaries and requests that the PUD boundaries be surveyed and marked in the field. PUD personnel should be contacted to verify the boundaries on the site before site work is commenced. The PUD does not object to the proposed grading or site restoration landward of its easement provided appropriate erosion control is maintained.

The Douglas County Public Utility District: The Douglas County PUD has indicated that the relocation of the two power poles located outside of the wetland buffers could be accommodated if the relocation is paid for by the property owners. If the power poles remain, the site plans which as an alternative, would not remove the power poles, are sufficient in that a 20' minimum setback from the power poles would be maintained for safety.

The Washington State Department of Ecology: The Washington State Department of Ecology Shoreline Management Division had significant concerns with the original proposal. Issues noted included: Inconsistency with the Douglas County Shoreline Master Program Goal 5 of the Shoreline Use Element, in that the recontouring of the shoreline is not in harmony with the character and physical limitations of the land; and
The proposal exceeds the exemption associated with single family residences for fill or grading. The correspondence also listed the legislative intent of the Shoreline Management Act. Additional comments indicated the potential need for an NPDES permit for stormwater/erosion control.

The Department of Ecology received revised submittals of the project but did not submit any revised comments.

Douglas County Land Services-Building Division: The Douglas County Building Official commented on the potential placement of fill onsite with respect to residential development. Fill placement or steep slopes in proximity to building pads would need to be engineered appropriately.

The Washington State Department of Archeology and Historic Preservation: Recommends a professional archaeological survey and consultation with the concerned Tribes' cultural committees and staff regarding cultural resource issues.

No public comments were submitted on this proposal at the time of staff review.

VII. PROJECT ANALYSIS

Upon review of the application materials, site plans, mitigation plans, public and agency comments, the Douglas County Countywide Comprehensive Plan, and applicable codes and requirements, planning staff offers the following analysis and recommendations for the subject application:

Comprehensive plan consistency:

Residential development and recreational opportunities in shoreline areas of the Rural Resource 5 land use designation can be considered when potential adverse impacts to water quality, slope stability, vegetation, wildlife and aquatic life have been sufficiently addressed. Critical area policies place preference on the protection of and preservation of wetlands over the alteration and mitigation of impacts to wetlands. The site is currently degraded with respect to habitat functions and shoreline character, based upon the historic agricultural use of the land.

The comprehensive plan recognizes that past practices along the shoreline should be factored into critical areas analysis for development proposals. The applicant's proposal provides for improved pedestrian shoreline access while at the same time restoring the wetland buffer area for net increases in ecological functions and values over current site conditions. The comprehensive plan encourages innovative techniques to promote wetlands as a useful functioning part of developments.

As conditioned, the proposal is consistent with the provisions of the Douglas County Countywide Comprehensive Plan.

Consistency with the provisions of the RR-5 Zoning District, Chapter 18.30, D.C.C.:

The proposal is consistent with the provisions of this chapter.

Critical Areas, D.C.C., Chapter 19.18B, "Wetlands" & D.C.C., Chapter 19.18C, "Fish and Wildlife Habitat Conservation Areas":

The applicants have submitted a wetland management and mitigation plan prepared by a qualified biologist to address impacts to the wetland buffer area.

The proposed planting plan would address impacts to the buffer area habitat, at a ratio of 1:1. The comprehensive plan places a preference on the avoidance of impacts to habitat areas. County code establishes that plans shall be required when impacts are unavoidable and that there shall be no net loss of ecological function from a proposal. The proposed project involves the recontouring and replanting of the shoreline. An important facet of this development is that the impact to the shoreline, in most part has already occurred through the historic agricultural operations on the site; although the proposal does also impact current site conditions for analysis purposes. The applicant's biologist has stated:

- *“Based upon the existing conditions it is clear that as part of the old orchard practices the uplands were leveled and the majority of the soils were pushed towards the river. In addition the presence of rounded rock along the slope indicates that rocks from the orchard were continually pushed over the top of the bank when they were removed from the orchards. These activities have constructed a shoreline that is very steep and is comprised of upland material pushed from the orchard. The shoreline is very difficult to walk down due to the presence of larger rock and unconsolidated material, which also makes it difficult for larger trees and shrubs to colonize.”*

- *“Overall the project would take a portion of steep shoreline with limited riparian vegetation and a disturbed buffer (orchard road at the top of the bank) and would replace it with a more gradual shoreline with a fully vegetated riparian area and buffer. This vegetated area would be left undisturbed as the only use of the shoreline would be passive recreation (trail to the boat docks). This project would eliminate the allowable disturbance within the buffer that is associated with the continued maintenance of the existing dirt orchard road. The result of the project would be a fully vegetated riparian buffer that is virtually non-existent along the Columbia River. The alternative would be that the buffer stays in the current condition and will provide minimal habitat as the slope is too steep and the maintenance of the dirt road would continually disturb the area.”*

Planning staff concurs with the above statements. There exists along the Columbia River significant opportunities to enhance and/or restore shorelines that would provide the dual benefit of additional riparian habitat and access to the shoreline. Impacts to the site have occurred through historic orchard operations. The proposal would provide for shoreline restoration of these past operations and mitigate for impacts that would occur during restoration of the site. Sites which had not previously been disturbed and altered by historic use, may not lend themselves to this approach; since regrading of an undisturbed site would be creating an avoidable impact. DCC Section 19.18B.035 C&D provide the

opportunity for rehabilitation/restoration/enhancement of the shoreline within a mitigation proposal.

DCC 19.18B.035 D&E9 speak to the importance and requirement for monitoring, contingency planning, maintenance and surety programs to be incorporated in project design for the successful implementation of management and mitigation plan goals. The significant increase in development along the Columbia River in Douglas County elevates the importance for successful implementation of mitigation plans, given the potential cumulative impacts to the character and fish and wildlife habitat of the shoreline. The applicants' biologist has suggested a self monitoring program with report submittals to the county, completed by the applicant. Additionally, the mitigation plan has incorporated provisions to address noxious weed control, erosion control, plant protection measures from wildlife, temporary water sources, and plant survival and replacement. Planning staff believes that the project proposed can be successful and recommends that the following issues be addressed based upon the policies of the comprehensive plan, code requirements, and the need to incorporate best available science into mitigation plan implementation and monitoring:

- Placement of sufficient erosion control measures during and following excavation must be verified prior to site work commencing by the biologist of record. Erosion control will need to remain until seeding has sufficiently taken hold on the site to eliminate the potential of site erosion.
- PUD boundaries must be surveyed on the site and marked at frequent intervals in the field. The PUD should be allowed to inspect these boundaries. Boundary markers must be in place prior to site operations commencing. No vegetation removal should occur waterward of the PUD boundary. If excavation at the PUD boundary would disturb riparian shrub vegetation, the excavation should pull back a sufficient distance to not remove the shrub vegetation.
- Mitigation implementation should be monitored and guidance provided by a biologist and reports be provided to the county based upon the expert's review.
- Monitoring should occur during seasons that will provide an appropriate benchmark on the progress of plan implementation.
- Given the depth to groundwater on the site, even with proposed grading, a permanent irrigation source for long term plant survival will be necessary.
- A performance surety agreement and sequential release of funds should be entered into between the county and the property owner to ensure that site monitoring and implementation of the plan occurs.
- Proposed debris removal should be limited to solid waste and be removed by hand waterward of the PUD G-Line. Such removal shall not impact riparian vegetation.
- Removed material should not be placed within the shoreline jurisdiction.

As conditioned, planning staff believes that the proposal is consistent with the provisions of Douglas County Code.

Shoreline Master Program:

The Washington State Department of Ecology has raised a number of concerns about the proposal, with respect to consistency with the Douglas County Shoreline Master Program and Shoreline Management Act. The comments from the Department of Ecology were based upon the original application submittal. The original submittal included the shoreline lots of the Fuji Short Plat. The Fuji short plat contains significant amounts of riparian vegetation and mature Western Ponderosa Pine and Black Cottonwoods. Per the original proposal, the majority of these trees and a significant amount of the original riparian vegetation would have been removed. Even though the Fuji Short Plat lots had been altered over time by agricultural practices, the riparian area had been able to adapt to the changes and represents the predominant character of these lots. Additionally, the riparian area on the Fuji Short Plat lots provide significant fish and wildlife habitat. Planning staff concurred with the Department of Ecology about this component of the original project. Grading for the Fuji Short Plat would have changed the shoreline character and resulted in a net loss of ecological functions for the shoreline. Proposed tree planting could not have provided the same function as existing habitat for decades. Planning staff had concerns over consistency with County Code and Shoreline Master Program for the Fuji Short Plat. The proposed inclusion of the Fuji Short Plat would not have avoided adverse impacts/create a net loss of functions.

Based on planning staff concerns and the comments from the Department of Ecology, the applicants removed the Fuji Short Plat as a component of the project. Additionally, the applicants' biologist added an additional riparian tree component and density for the planting plan, which now includes Douglas Hawthorn, at staff's request. The Department of Ecology has been provided a copy of the revised planting plans which remove the Fuji Short Plat but they have not submitted revised comments.

The Washington State Department of Ecology commented further, that the proposal did not meet the exemption threshold for grading associated with a single family residence, established by WAC 173-27-040(g). Planning staff concurs. Proposed excavation exceeds the limits of the exemption for single family residences and no applications have been submitted at this time for single family dwellings. This is why the County required the applicant to submit a shoreline substantial development permit application, because the proposal was not exempt.

The Department of Ecology has listed but did not speak to sections of the legislative intent of the Shoreline Management Act for Shorelines of Statewide

Significance, (The Columbia River is a Shoreline of Statewide Significance). The section states:

The legislature declares that the interest of all of the people shall be paramount in the management of shorelines of statewide significance. The department, in adopting guidelines for shorelines of statewide significance, and local government, in developing master programs for shorelines of statewide significance, shall give preference to uses in the following order of preference which: Recognize and protect the statewide interest over local interest; Preserve the natural character of the shoreline; Result in long term over short term benefit; Protect the resources and ecology of the shoreline; increase public access to publicly owned areas of the shorelines; increase recreational opportunities for the public in the shoreline; and provide for any other element as defined in RCW 90.58.100 deemed necessary or appropriate.

The proposal as amended to exclude the Fuji Short Plat, provides for shoreline restoration and net increases in ecological functions; enhances shoreline character with a populated wetland buffer; mitigates impacts for past historical agricultural practices to protect and enhance shoreline resources for the future; and increases recreational access and use of the shoreline within the confines of protecting shoreline character and maintaining shoreline ecological functions. As conditioned, the proposal has met the legislative intent for shorelines of statewide significance.

The Department of Ecology had stated concerns that the proposal would change shoreline character by recontouring the shoreline. The impact to the shoreline character already occurred by the historic agricultural use of the site pushing rock and soil into the Columbia River and created an unconsolidated steep slope that provides minimal habitat features. The proposed recontouring will seek to improve shoreline character, habitat and rectify past impacts. If this proposal was suggested for a site that did not have an existing modified shoreline from past grading and dumping; planning staff would concur that new grading would not be consistent with the shoreline's character. Planning staff believes the proposal will improve shoreline character, improve recreational access and provide a net increase in ecological functions and values. The Department of Ecology's comments do not acknowledge or evaluate past practices on the site; and the Department of Ecology has not submitted information that would contradict information in the applicant's mitigation and management plan.

The proposal is consistent with Goal 5, Shoreline Use, as it would restore shoreline character from past impacts and promote the best possible use of the shoreline without disrupting environmental quality. Application components and conditions of approval would seek to ensure that the restoration would successfully be implemented and protected for the long term consistent with Goal 6, the Conservation Goal. The proposal would restore a blighted area of the Shoreline, consistent with Goal 8, of the Douglas County Shoreline Master

Program. Conditions of approval would ensure that significant riparian vegetation on the sites is maintained and that water quality and vegetation is not impacted from erosion impacts. As conditioned, the proposal is consistent with the Douglas County Master Program. Planning staff believes that the initial concerns raised by the Department of Ecology have been addressed.

Agency comments:

The Chelan Public Utility District: Planning staff concurs with the Chelan County PUD. Vegetation waterward of the ordinary high water mark should not be impacted. Provisions to ensure that impacts to habitat within the PUD easement should be added to the project by condition to ensure that the PUD's flood easement is not impacted. The ability to review the easement markers appears reasonable. Time constraints should be imposed so that the PUD will respond in a timely manner and not adversely impact the project with time delays. Inspection within 14 days would be reasonable for scheduling purposes. If there is a disagreement on the boundary, the PUD should have the right for their surveyors to inspect the boundary and submit an alternative boundary description for the applicants' consideration.

The Douglas County Public Utility District: The Douglas County PUD's concerns have been addressed in that either the power poles will be removed at the applicant's cost or a minimum distance of 20' shall be maintained from the power poles for safety.

The Washington State Department of Ecology: In addition to an analysis of Ecology's concerns above, the Dept. also commented that compliance with NPDES permitting if applicable, would be required. If approved, the applicant would have to verify permit compliance with Ecology.

Douglas County Land Services-Building Division: As conditioned, the applicant would need to specify the location of fill placement for grading material, so as to not impact future safe home placement.

The Washington State Department of Archeology and Historic Preservation: Existing Cultural Resource Surveys have been completed for the site. By law, identification of any cultural resources on the site would invoke state and federal requirements to cease operations and contact state and tribal authorities.

VIII. RECOMMENDATION

As conditioned below, this application does not appear to be detrimental to the general public health, safety or welfare and meets the basic intent and criteria associated with Title 18 and 19 of the Douglas County Code, the Douglas County Countywide Comprehensive Plan, and the Douglas County Shoreline Master

Program. Staff recommends approval of SP#07-08, subject to the following findings of fact, conclusions of law, and conditions:

This recommendation is supported by the following suggested findings of fact:

1. The proposal is located in an area designated as a Rural Resource 5 land use designation by the Douglas County Countywide Comprehensive Plan.
2. The proposal is located in the Rural Resource 5, (RR-5), Zoning District. Single family dwellings and associated site improvements are permitted in all rural zoning districts and envisioned by the Douglas County Comprehensive Plan when consistent with critical area and shoreline policies and requirements.
3. The proposal is located within 200 feet of the ordinary high water mark of the Columbia River, a shoreline of statewide significance. The project can proceed only after a Shoreline Management Substantial Development Permit is issued.
4. The Douglas County Shoreline Master Program designates this area as a "Rural" Shoreline Environment.
5. Public notice of application for this proposal and notice of the public hearing was provided in conformance with Title 14 Douglas County Code and the provisions of the Douglas County Shoreline Master Program.
6. No public comments and five agency comments were submitted for the subject application.
7. 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.
8. 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.
9. When classifying and/or assessing a wetland area, the Douglas County Comprehensive Plan establishes that historical information on the area in question, as well as the dynamic nature of the wetlands will be recognized and considered. The comprehensive plan further establishes that innovative techniques that enhance a wetland and promote it as a useful, functioning

part of the development will be encouraged during the development review process.

10. 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.
11. 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.
12. The applicant has submitted a wetland mitigation and management plan prepared by Grette and Associates, dated May 24, 2007, and a revision dated November 28, 2007, in order to address the requirements of D.C.C. 19.18B.035. The mitigation and management plan provides mitigation at a ratio of 1:1.
13. On January 4, 2008, Douglas County Transportation and Land Services issued a Determination of Non-significance in accordance with WAC 197-11-355 (Optional DNS Process), and RCW 43.21C.
14. 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.
15. Goal 6: Conservation Goal- To assure protection of the non-renewable shoreline resources of Douglas County, and to assure continued utilization and sound management of the renewable shoreline resources, to guarantee their availability in sufficient quality and quantity in the future to meet all foreseeable needs.
16. Goal 8 of the Douglas County Shoreline Master Program states: Restoration Goal- To encourage, where feasible and desirable, the restoration of blighted areas along the shorelines of Douglas County to a natural or rehabilitated condition.
17. Policy B, Section XII Residential Development, of the Douglas County Shoreline Master Program states: Residential development should be

designed so as to adequately protect the water and shoreline aesthetic characteristics.

18. Policy D, Section XII Residential Development of the Douglas County Shoreline Master Program states: Residential developers should be required to preserve shore vegetation and control erosion during construction.
19. Policy B of Section XVI. Landfill, 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.
20. Larry Lehman a biologist with Grette and Associates has indicated that:
 - “Based upon the existing conditions it is clear that as part of the old orchard practices the uplands were leveled and the majority of the soils were pushed towards the river. In addition the presence of rounded rock along the slope indicates that rocks from the orchard were continually pushed over the top of the bank when they were removed from the orchards. These activities have constructed a shoreline that is very steep and is comprised of upland material pushed from the orchard. The shoreline is very difficult to walk down due to the presence of larger rock and unconsolidated material, which also makes it difficult for larger trees and shrubs to colonize.”
 - “Overall the project would take a portion of steep shoreline with limited riparian vegetation and a disturbed buffer (orchard road at the top of the bank) and would replace it with a more gradual shoreline with a fully vegetated riparian area and buffer. This vegetated area would be left undisturbed as the only use of the shoreline would be passive recreation (trail to the boat docks. This project would eliminate the allowable disturbance within the buffer that is associated with the continued maintenance of the existing dirt orchard road. The result of the project would be a fully vegetated riparian buffer that is virtually non-existent along the Columbia River. The alternative would be that the buffer stays in the current condition and will provide minimal habitat as the slope is too steep and the maintenance of the dirt road would continually disturb the area.”
21. The wetland rating for the site has been identified as a Type IV Wetland with a 50’ buffer.
22. 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.

23. DCC 19.18B.035D & E9, require that monitoring, contingency planning, maintenance and surety programs be considered for the successful implementation of wetland management and mitigation plans.

This recommendation is supported by the following suggested conclusions of law:

1. 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.
2. Public interests will be served by approval of this proposal.
3. As conditioned, the proposal is consistent with Title 18 "Zoning" and Title 19 "Environment" of the Douglas County Code.
4. The National Academy of Sciences (2004) issued a report evaluating the success of compensatory mitigation to achieve no net loss of functions in the nation's wetland resources. The conclusion of the report was that "The goal of no net loss of wetlands is not being met for wetland functions by the mitigation program." Recommendations within this report further stated that, "A critical element for determining the success and compliance of a mitigation project is to formally identify the purpose of the project (goals), the steps required to accomplish that purpose (objectives), and identify measurable indicators to determine that the purpose has been accomplished (performance standards)."
5. As conditioned, professional monitoring and surety agreement requirements will establish a commitment for implementation of the plans and project design.
6. As conditioned, potential impacts of the project can be mitigated.
7. Agency comments were considered in the attachment of conditions to the proposal.
8. 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.

9. As conditioned, the proposal will not detrimentally affect the public health, safety and general welfare.
10. The proposal is an innovative technique that provides enhancement of a wetland buffer and promotes it as a useful, functioning part of the development.
11. The proposal provides for the restoration and enhancement of a degraded portion of the shoreline.
12. Given the depth to groundwater on the site, even with proposed grading, a permanent source of irrigation for long term plant survival is necessary.

Staff is recommending approval of SP #07-08 subject to the following conditions:

1. Construction shall proceed substantially as shown and described in the application materials on file with the Douglas County Transportation and Land Services Department, except as modified by conditions below.
2. Prior to site work commencing, the applicant shall submit a dust control plan for review and approval by Douglas County Land Services.
3. Prior to site work commencing, the biologist of record shall verify that the boundaries of site disturbance have clearly been demarcated by silt fencing or straw bales. Written verification from the biologist of record shall be required prior to site operations commencing. Silt fencing or straw bales shall not be removed until seeding has grown sufficiently within disturbed areas to control erosion.
4. The Chelan County PUD Exhibit G Line must be surveyed on the site and staked at frequent intervals, with not greater than 20 lineal feet of separation. The Chelan County PUD shall be notified when the site has been marked and shall have 14 days to review the field survey. If the Chelan County PUD has a concern over the survey, they shall contact the applicant.
5. Vegetation disturbance shall not occur waterward of the Chelan County PUD G-Line. If vegetation in proximity of the G-Line would be disturbed, the excavation needs to begin further landward of the G-Line.
6. Debris removal waterward of the Exhibit G-Line may not impact native riparian vegetation and shall be limited to hand removal of solid waste. Removal of material waterward of the ordinary high water mark has not been reviewed by the subject application and is not authorized by this permit approval.
7. Removed rock and dirt material shall not be placed within the shoreline jurisdiction. If material is placed on the subject properties outside of the

shoreline jurisdiction, engineered site monitoring shall be required to ensure proper compaction for future potential building placement.

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. 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.
10. All mitigation must be installed within the next growing season falling after the completion of the grading on-site. 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 prior to any site work commencing. 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.
11. 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 and Associates dated May 24, 2007, including the amendment submitted on November 28, 2007, have been satisfied.
12. 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.

13. Site monitoring visits shall be completed between the time periods of August 1-September 15th
14. 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.
15. The conditions of approval apply to the shoreline substantial development permit of record.
16. 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.
17. 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.
18. 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.

Respectfully Submitted,

Glen A. DeVries, A.I.C.P.
Planning Manager