

**STAFF REPORT
TIM DUFFY
DOCK AND BOATLIFT**

TO: Douglas County Hearing Examiner
FROM: Douglas County Land Services Staff
RE: Duffy, SP-08-14/SCUP-08-03
DATE: February 9, 2009

I. GENERAL INFORMATION

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

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

II. SITE INFORMATION

Site Characteristics: The property is gently sloped down and completely vegetated with a combination of native and non-native species. The upland is dominated by grasses, poison ivy and shrub steppe species (big sagebrush and bitterbrush). Riparian vegetation does exist on the property and varies greatly along the shoreline. Along the upriver portion of the property, which consists of a narrow strip of property between the highway and the OHWM, is heavily vegetated with mature native trees and shrubs. At the downriver end of the property, where the only usable uplands exist, the riparian vegetation consists of a narrow band of nootka rose that transitions into alder, Russian elm and willow. The riparian vegetation at the downriver end of the property is limited to approximately 5-25 feet from the OHWM and consists of primarily a single row of trees and shrubs. An old duck blind is present on the property. The site has erosion control fencing installed and indications of preliminary clearing and excavation for residential construction.

Zoning and Development Standards: The subject property is located within the Rural Resource 5 acres (RR-5) Zoning District. The purpose of the RR-5 rural resource 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"

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". 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.

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

The Columbia River is designated as critical areas and is regulated under Chapter 19.18C "Fish and Wildlife Habitat Conservation Areas". Development, including vegetation removal, occurring within this area and associated buffer areas must develop a fish and wildlife habitat management and mitigation plan consistent with the provisions of DCC 19.18C.037.

III. COMPREHENSIVE PLAN:

The Douglas County Countywide Comprehensive Plan designates this property as Rural Resource 5 acres. 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-4: Wetlands shall include riparian areas from the policies and development regulations. Within Douglas County, the arid climate and vegetation are such that wetlands and riparian areas are so similar, and distinguishable on the landscape that grouping them within the policies and development ordinances is appropriate for the protection of their functions and values.

POLICY CA-6: Wetlands will be protected as much as reasonable from alterations due to land use changes that may create adverse impacts to the wetland.

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

The Douglas County Shoreline Master Program classifies this portion of the Columbia River shoreline as an Rural Environment. The Rural Environment is defined as those areas, which because of their physical characteristics and present uses, are suitable for agricultural uses, are recreational uses compatible with the agricultural uses. It is intended to serve as a buffer zone between urban areas and protect these areas from intensive urban expansion. The following goals, policies and requirements of the Master Program address the above referenced activity:

SHORELINE GOALS

GOAL 4: To encourage the development of diverse, convenient and adequate recreational facilities along the shorelines of Douglas County, for the primary use of Douglas County residents. Also, to encourage the development of recreational facilities to attract and accommodate visitors, thus aiding economic growth.

GOAL 5: 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: 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.

SECTION XXI PIERS AND DOCKS

POLICY A: The use of floating docks should be encouraged in order to not interfere with waterlife currents and recreational boaters and fishermen.

POLICY B: Priority should be given to the use of community piers and docks. In general, encouragement should be given to the cooperative use of piers and docks.

POLICY D: Piers and docks should be designed and constructed so as to minimize damage to the fishery resources and their natural food supply.

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 proposed development is consistent with:

- The policies and procedures of the Act;
- The provisions of this regulations; and
- The applicable master program adopted or approved for the area.

WAC 173-27-160 states that a conditional use permit shall be granted only when the proposed development is consistent with:

- That the proposed use is consistent with the policies of RCW 90.58.020 and the master program;
- That the proposed use will not interfere with the normal public use of public shorelines;
- That the proposed use of the site and design of the project is compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and shoreline master program;
- That the proposed use will cause no significant adverse effects to the shoreline environment in which it is to be located; and
- That the public interest suffers no substantial detrimental effect.

Additionally the SCUP criteria requires that consideration shall be given to the cumulative impact of additional requests for like actions in the area.

V. ENVIRONMENTAL REVIEW

Douglas County issued a Determination of Non-significance on January 23, 2009 in accordance with WAC 197-11-355 (Optional DNS).

VI. AGENCY AND PUBLIC COMMENTS:

Applicable agencies have been given the opportunity to review this proposal. The following agencies have been sent copies of the proposal and have commented as indicated below:

Agency Notified	Response Received	Agency Notified	Response Received
WA Department of Ecology	N/R	United States Army Corps of Engineers	N/R
WA Department of Fish & Wildlife	N/R	Chelan County PUD	11/26/08
WA Dept of Natural Resources	N/R	Douglas County Building Official	11/24/08

* N/R = No Reply

Agency comments have been included as Appendix A. 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 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 proposal is consistent with the goals and policies of the Douglas County Countywide Comprehensive Plan.

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

Single family residences and their accessory structures are a permitted use in the RR-5 zoning district. The proposal is consistent with the provisions of this chapter.

Consistency with the provisions and requirements of D.C.C., Chapter 19.18B, "Wetlands":

The wetland rating and delineation was performed for subject property and a report dated June 2005 was completed by Grette & Associates. The wetland assessment for the shoreline is listed as Category Type III and Type IV wetlands. DCC Chapter 19.18.050(B)(7) establishes a 75 foot buffer area for Type III wetlands and a 50 foot buffer area for Type IV wetlands as measured from the edge of the wetland.

The construction of a single-use dock, boatlift and access path will have impacts to the wetland and associated buffer. Development within wetlands or associated buffers must develop a wetland management and mitigation plan meeting the requirements of Chapter 19.18B, D.C.C. The applicant has submitted a Wetland Management and Mitigation Plan, dated August 2008, completed by Grette & Associates. This plan details the disturbance and impacts to the wetland area for the dock and access path and proposes 825 square feet of mitigation plantings. The access path is proposed to use a portion of the shoreline that has been designated as a Category Type IV.

The applicant has proposed to locate 200 square feet of mitigation plantings within the identified riparian vegetation boundary. The biologist of record has indicated that at the time of plan preparation this area has a low density of riparian plants. Normal procedure is for mitigation plantings to increase the extent of riparian vegetation. Additionally, the biologist of record has indicated that the proposed location of the 200 square feet of plantings is as permitted by the Army Corps of Engineers. Staff can support the location of the plantings in this one instance as long as the biologist determines at the time of plant installation that soil preparation and plantings activities will not harm the existing vegetation and that the number of plantings and overall density of plants are installed as proposed. It is staff's opinion that under normal circumstances the intent of and focus of mitigation plantings is to increase the boundary of riparian or wetland vegetation.

Design of proposal will minimize impacts to the wetland and associated buffer. As conditioned the proposal appears consistent with the requirements of this chapter.

Consistency with the provisions and requirements of D.C.C., Chapter 19.18C, "Fish and Wildlife Habitat Conservation Areas":

The applicant has submitted a Wetland Management and Mitigation Plan, dated August 2008, completed by Grette & Associates. This plan details the disturbance and impacts to the wetland area for the dock and boatlifts and proposes 825 square feet of mitigation plantings. The plan meets the requirements of Chapter 19.18C, DCC. As conditioned the proposal appears to meet the requirements of this chapter.

Consistency with the Douglas County Shoreline Master Program

The Douglas County Shoreline Master Program goals and policies allow the construction of docks and piers in rural shoreline environments provided that priority is given to "community piers and docks" and that docks do not impede navigation or public safety. The configuration of the ordinary high water mark and US 2/97 is such that the subject property is physically separated from neighboring property. Therefore joining with a neighboring property for a joint use dock is unfeasible.

The SMP also requires that docks and piers be constructed to "minimize damage to the fishery resources and their natural food supply." Boat lifts are not specifically addressed in the SMP. The WAC does allow for the permitting of uses not identified in the SMP via a Shoreline Conditional Use Permit. The identified wetland buffer areas will protect the

water and shoreline characteristics. The proposed development appears consistent with the goals, policies and regulations found in the Douglas County Shoreline Master Program.

Consistency with WAC 173-27 and RCW 90.58:

As conditioned below, the proposed dock appear consistent with the requirements and criteria of the Shoreline Management and Enforcement Procedures, and the Shoreline Management Act

Agency comments:

Agency comments from the Douglas County Land Services – Building and Chelan County PUD have identified mitigation or project design required for the shoreline permit. These comments have been included as conditions of approval to address these agency concerns.

Chelan County PUD

The PUD identified in their comments that a duck blind and dock were present on the subject property. Site visit during the analysis of this application determined that there is no dock currently on the property. The duck blind is indicative of a recreational use that is not a violation of the shoreline master program. Additionally due to the small size of this property and the fact that preparations for residential construction that the duck hunting use of the property has ceased.

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#08-14/SCUP-08-03, subject to the following findings of fact and conditions:

Suggested Findings of Fact

1. The applicant is Tim Duffy, 17925 244th Ave. SE, Maple Valley WA.
2. General Description: An application for a shoreline substantial development permit and shoreline conditional use permit for the construction of a temporary single use dock and one ground based boatlift. The proposed dock consists of a 4x55 foot fixed pile pier section, a 4x30 foot full grid aluminum ramp and a 8x20 foot float. The dock will extend approximately 100 feet waterward of the Ordinary High Water Mark. A 4 foot wide grass or gravel trail is proposed to access the dock.
3. The subject property is located within Section 19, Township 24N., Range 21 E., W.M., Douglas County, Washington. The Douglas County Assessor Number for the property is 24211910007.
4. The Comprehensive Plan Designation is Rural Resource 5 acres.
5. The subject property is located in the RR-5 zoning district which allows for single family residences and their accessory structures.
6. The Columbia River Shoreline section of the subject property is designated as "Rural Environment" by the Douglas County Shoreline Master Program.

7. WAC 173-27-150 establishes minimum review criteria for Shoreline Management Substantial Development Permits. This criteria states that a substantial development permit shall be granted only when the development proposed is consistent with the policies and procedures of the Act; the provisions of this regulation; and the applicable master program adopted or approved for the area.
8. Goal 5 of the Douglas County Shoreline Master Program states: Shoreline Use Goal- to assure that shoreline use and development in Douglas County is such that all uses are in harmony with each other and with the character and physical limitations of the land and water. To promote the best possible use of the shorelines which will maximize the potential without disrupting environmental quality.
9. The Douglas County Shoreline Master Program Section XXI states that priority should be given to the use of community piers and docks.
10. The configuration of the property is such that the Ordinary High Water Mark and the US 2/97 right-of-way separates this property from neighboring properties. Therefore a joint use dock is not feasible.
11. Comments from reviewing agencies have been considered and addressed where appropriate.
12. Douglas County issued a Determination of Nonsignificance on January 23, 2009 pursuant to WAC 197-11-355 (Optional DNS).
13. Surrounding property owners were given the opportunity to comment on the proposals, can request a copy of the decision, and can appeal the decision subject to the requirements outlined in DCC Title 14.
14. Proper legal requirements were met and surrounding property owners were given the opportunity to comment on the proposal at a public hearing.
15. The subject property is located on the shoreline of the Columbia River and contains riparian and wetland areas regulated under the provisions of Chapter 19.18B Critical Areas-Wetlands.
16. Policy CA-11 of the Douglas County Comprehensive Plan states that projects containing a wetland should submit a comprehensive wetland mitigation plan that includes sufficient monitoring and contingencies to ensure natural wetland persistence.
17. Policy CA-15 of the Douglas County Comprehensive Plan states Impacts of new development on the quality of land, wildlife and vegetative resources will be considered as part of the environmental review process and require any appropriate mitigating measures. Such mitigation may involve the retention and /or enhancement of habitats.
18. The wetland assessment for the shoreline is listed as Category Type III wetland and Category Type IV Wetland. DCC Chapter 19.18.050(B)(7) establishes a 75 foot buffer area for Type III wetlands and 50 foot buffer area for Type IV Wetlands as measured from the edge of the wetland.
19. The applicant has submitted a Wetland Management and Mitigation Plan prepared by Grette & Associates, dated August 2008, in order to address the requirements of D.C.C. 19.18B.035.
20. WAC 173-27-090 requires that construction must be commenced within 2 years of the effective date of the shoreline permit and that authorization for construction shall terminate 5 years after the effective date of the shoreline permit.
21. As conditioned, the development will not adversely affect the general public, health, safety and general welfare.

Suggested Conclusions:

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. As conditioned, this proposal is consistent with applicable federal and state laws and regulations.
3. As proposed, revised, and conditioned, potential impacts of the project can be mitigated.
4. Public interests will be served by approval of this proposal.
5. As conditioned, the proposal is consistent with Title 18 "Zoning" and Title 19 "Environment" of the Douglas County Code.

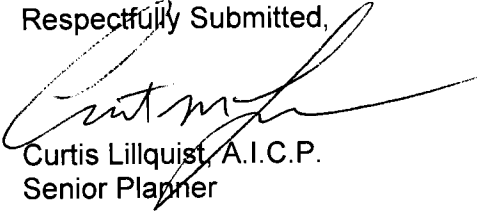
Suggested Conditions of Approval

1. The project shall proceed in substantial conformance with the plans and application materials of file determined complete on October 14, 2008 except as amended by the conditions herein.
2. 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.
3. The applicant shall comply with all applicable local, state and federal regulations.
4. 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.
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. The project application shall proceed consistent with the Wetland Management and Mitigation Plan prepared by Grette & Associates, dated August 2008.
7. 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.
8. Riparian planting as shown on the mitigation planting plan, sheet 5 of 6, dated 8/01/08 shall be planted upon completion of the installation of the dock. A performance surety agreement in conformance with Title 14, D.C.C. shall be entered into between the property owner and Douglas County Transportation and Land Services prior to building permit issuance. Douglas County must approve quotes for the cost of installation, delivery, plant material, soil amendments, irrigation, seed mix and 3 monitoring visits and reports by the biologist or record and Washington State sales tax.
9. Prior to installation of the plantings, the biologist of record shall verify that the activity related to mitigation installation will not harm the existing riparian vegetation. If

damage is possible then the biologist shall relocate the planting area outside of the riparian vegetation line.

10. The biologist of record shall verify at the time of mitigation installation that the density of plantings (existing and proposed) matches the density proposed in the application. The number of plants proposed on sheet 5 of 5, dated 8/1/08 shall be installed. Depending on the density of existing vegetation the total square footage of area planted may increase in order to plant to proposed plants at the proposed density.
11. 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.
12. A five year monitoring period shall commence upon placement of the planting materials and irrigation system. A performance surety agreement in conformance with Title 14 of Douglas County Code shall be entered into between the property owner and Douglas County Transportation and Land Services. Douglas County must approve quotes for the cost of installation, delivery, plant material, soil amendments, permanent irrigation, seed mix, and 3 monitoring visits and reports by a qualified biologist, and the quotes shall include Washington State sales tax.
13. Onsite monitoring and monitoring reports shall be submitted to Douglas County Transportation and Land Services 1 year after mitigation installation; 3 years after mitigation installation; and 5 years after mitigation installation. Monitoring reports shall be submitted by a qualified biologist, as defined by Douglas County Code. The biologist must verify that the conditions of approval and provisions in the wetland management and mitigation plan submitted by Grette & Associates, dated August 2008.
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. 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.
16. 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.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Curtis Lillquist", written over the typed name below.

Curtis Lillquist, A.I.C.P.
Senior Planner

Attachments