

**STAFF REPORT  
DRINKWATER SHORELINE GRADING**

TO: Douglas County Hearing Examiner  
FROM: Douglas County Land Services Staff  
RE: Drinkwater, SP-08-15  
DATE: March 9, 2008

**I. GENERAL INFORMATION**

Requested Action: Kim Gardner and Laurie Berge have submitted an application for a shoreline substantial development permit for regrading of lots within shoreline jurisdiction but outside of the wetland buffer. The project proposes to regrade approximately 16,118 cubic yards of material. The subject property is identified as Lot 5, Plat of Reisling and Govt Lot 4 North of Hwy. The property is further described as being located within Section 8, Township 26N., Range 22 E., W.M., Douglas County, Washington. The shoreline designation is Rural. The assessor's parcel numbers are 26220820009 and 82600000500.

**II. SITE INFORMATION**

Site Characteristics: The subject properties are located within and adjacent to a cluster subdivision. The upland portion of the site is moderately/steeply sloped down to near the water's edge, where it drops steeply to the OHWM. There is a 5-6 foot drop from the top of the bank down to the water.

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-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 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 XII RESIDENTIAL DEVELOPMENT

POLICY A: Residential development should be designed so as to adequately protect the water and shoreline aesthetic characteristics.

POLICY D: Residential developers should be required to preserve shore vegetation and control erosion during construction.

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

## SECTION XVI LANDFILL

POLICY 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.

POLICY B: All perimeters of fills should be provided with suitable means for erosion prevention and control when necessary.

## 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.

## **V. ENVIRONMENTAL REVIEW**

Douglas County issued a Determination of Non-significance on March 6, 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	US Fish and Wildlife	N/R
WA Department of Fish & Wildlife	N/R	Chelan County PUD	1/21/09
WA Department of Arch & Historic Preservation	2/2/09	Douglas County Building Official	1/15/09
Colville Confederated Tribes	N/R	Yakima Indian Nation	N/R

\* N/R = No Reply

Agency comments have been included as Attachment 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, Shoreline Master Program 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. In this circumstance, the proposed grading is located outside of the established wetland buffers. With proper erosion control and revegetation there is no anticipated impact to the wetland or buffer. 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 Riesling Plat by Graham Bunting & Associates. The wetland assessment for the shoreline is listed as Category Type III wetland. DCC Chapter 19.18.050(B)(7) establishes a 75 foot buffer area for Type III wetlands as measured from the edge of the wetland. Grette & Associates performed a wetland delineation and rating for parcel 26220820009. The wetland assessment for the shoreline is listed as Category Type IV wetland. DCC Chapter 19.18.050(B)(7) establishes a 50 foot buffer area for Type IV wetlands as measured from the edge of the wetland.

The grading work is proposed to occur outside of the established buffer areas.

Erosion Control:

In the period of site work until the site is stabilized, the potential exists for sediment to runoff into the water during rain events. The use of mechanical equipment during the dry period may provide for dust control issues for neighbors and impacts to aquatic habitat. A dust control plan should be in place prior to site disturbance. Straw bales silt fencing should be in place between the area to be excavated and the buffer, and remain in place until the site has been stabilized.

Consistency with the Douglas County Shoreline Master Program

The proposed grading will allow for residential development without disrupting environmental quality or the character of the shoreline. Conditions of approval will ensure that goals and policies of the SMP will be met. The proposal is to remove material and reduce the elevation of the site, therefore view impacts will be reduced. 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 appears 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, Chelan County PUD and WA Dept of Archaeology and Historic Preservation 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.

WA Dept of Archaeology and Historic Preservation

The Dept. commented that there was previously recorded site within the project area and that the previous cultural resources survey for the Twin W projects did not include the

whole project area. The Dept. requires a cultural resources assessment be performed. A cultural resources survey performed by Cultural Resource Consultants Inc. was submitted on February 27, 2009. The report was submitted to WA Dept of Archaeology and Historic Preservation, the Colville Tribes and the Yakima Tribes. The Dept. responded with amended comments on March 2<sup>nd</sup> requesting a condition be placed on the permit.

## 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#08-15, subject to the following findings of fact and conditions:

### Suggested Findings of Fact

1. The applicants are Kim Gardner – PO Box 5428 Lynnwood WA and Laurie Berge – 18616 71<sup>st</sup> Ave. West Lynnwood WA
2. General Description: An application for a shoreline substantial development permit for regrading of lots within shoreline jurisdiction but outside of the wetland buffer. The project proposes to regrade approximately 16,118 cubic yards of material.
3. The subject property is identified as Lot 5, Plat of Reisling and Govt Lot 4 North of Hwy. The property is further described as being located within Section 8, Township 26N., Range 22 E., W.M., Douglas County, Washington. The shoreline designation is Rural. The assessor's parcel numbers are 26220820009 and 82600000500.
4. The Comprehensive Plan Designation is Rural Resource 5 acres.
5. The subject property is located in the RR-5 zoning district which allows for single family residences and their accessory structures.
6. The Columbia River Shoreline section of the subject property is designated as "Rural Environment" by the Douglas County Shoreline Master Program.
7. WAC 173-27-150 establishes minimum review criteria for Shoreline Management Substantial Development Permits. This criteria states that a substantial development permit shall be granted only when the development proposed is consistent with the policies and procedures of the Act; the provisions of this regulation; and the applicable master program adopted or approved for the area.
8. Goal 5 of the Douglas County Shoreline Master Program states: Shoreline Use Goal- to assure that shoreline use and development in Douglas County is such that all uses are in harmony with each other and with the character and physical limitations of the land and water. To promote the best possible use of the shorelines which will maximize the potential without disrupting environmental quality.
9. Policy A of the Landfills section of the Douglas County Shoreline Master Program states: Shoreline fills or cuts should be designated and located so that significant damage to existing ecological values or natural resources, or alteration of local currents will not occur, creating a hazard or significant injury to adjacent life, property and natural resource systems.
10. Policy B of the Landfills section of the Douglas County Shoreline Master Program states: All perimeters of fills should be provided with suitable means for erosion prevention and control when necessary.

11. Comments from reviewing agencies have been considered and addressed where appropriate.
12. Douglas County issued a Determination of Nonsignificance on March 6, 2009 pursuant to WAC 197-11-355 (Optional DNS).
13. Surrounding property owners were given the opportunity to comment on the proposals, can request a copy of the decision, and can appeal the decision subject to the requirements outlined in DCC Title 14.
14. Proper legal requirements were met and surrounding property owners were given the opportunity to comment on the proposal at a public hearing.
15. The subject property is located on the shoreline of the Columbia River and contains riparian and wetland areas regulated under the provisions of Chapter 19.18B Critical Areas-Wetlands.
16. Policy CA-11 of the Douglas County Comprehensive Plan states that projects containing a wetland should submit a comprehensive wetland mitigation plan that includes sufficient monitoring and contingencies to ensure natural wetland persistence.
17. Policy CA-15 of the Douglas County Comprehensive Plan states Impacts of new development on the quality of land, wildlife and vegetative resources will be considered as part of the environmental review process and require any appropriate mitigating measures. Such mitigation may involve the retention and /or enhancement of habitats.
18. Policy CA-17 of the Douglas County Comprehensive Plan states that if a development proposal is located in or near a habitat conservation area shown on the reference maps, a consultation and subsequent mitigation measures, if needed, should be encouraged from the WDFW or other appropriate agency.
19. The wetland assessment for the shoreline is listed as Category Type III wetland for the portion located within the Plat of Reising. DCC Chapter 19.18.050(B)(7) establishes a 75 foot buffer area for Type III wetlands as measured from the edge of the wetland.
20. The wetland assessment for the shoreline is listed as Category Type IV wetland for the portion located on parcel 26220820009. DCC Chapter 19.18.050(B)(7) establishes a 50 foot buffer area for Type IV wetlands as measured from the edge of the wetland.
21. A cultural resources survey report, dated February 26, 2009, performed by Cultural Resource Consultants Inc. was submitted to Douglas County, WA Dept of Archaeology and Historic Preservation, the Colville Tribes and the Yakima Tribes.
22. All grading is proposed to be located outside of the established buffer areas.
23. Removal of vegetation in the excavation area may cause dust and/or erosion if not mitigated.
24. A boundary line adjustment between the two subject parcels has been approved and returned to the applicant for recording.
25. WAC 173-27-090 requires that construction must be commenced within 2 years of the effective date of the shoreline permit and that authorization for construction shall terminate 5 years after the effective date of the shoreline permit.
26. 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. 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.
4. As proposed, revised, and conditioned, potential impacts of the project can be mitigated.
5. Public interests will be served by approval of this proposal.
6. As conditioned, the proposal is consistent with Title 18 "Zoning" and Title 19 "Environment" of the Douglas County Code.

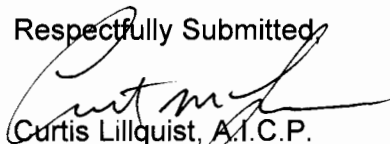
### Suggested Conditions of Approval

1. The project shall proceed in substantial conformance with the plans and application materials of file date stamped October 27, 2008, February 2, 2009 and March 2, 2009 except as amended by the conditions herein.
2. Prior to commencing excavation, the applicant shall obtain all necessary permits from agencies with jurisdiction. This may include, but is not limited to: the Washington State Department of Fish and Wildlife (Hydraulic Project Approval), the United States Army Corps of Engineers Regulatory Branch (Section 10 &/or 404) the Washington State Department of Ecology (Section 401 Water Quality Certification).
3. The applicant shall comply with all applicable local, state and federal regulations.
4. 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.
5. A silt fence and/or straw bales shall be located at the landward edge of the wetland buffers. Prior to excavation activities commencing on site, the biologist of record shall verify that the erosion protection has been properly placed and is located outside of the buffer areas. The erosion protection shall remain in place until the site has been stabilized.
6. A dust control plan shall be submitted to and approved by the County prior to the commencement of excavation activities.
7. Concurrent with the submittal of any building permit on the subject properties, the applicant shall submit a report certified by a professional engineer or geologist verifying proper compaction and satisfactory placement of fill and the stability of any steep slopes.
8. 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 (360-586-3088), 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 county

medical examiner (509-745-8535 ext. 210), State Physical Anthropologist, Department of Archaeology and Historic Preservation (360-586-3534), the County planning office, and the affected Tribe(s) should be contacted immediately. Compliance with all applicable laws pertaining to archaeological resources (RCW 27.53.27.44 and WAC 25-48) and human remains (RCW 68.50) is required. Failure to comply with this requirement could constitute a Class C Felony.

9. Prior to issuance of a building permit on the subject properties, documentation that BLA-08-36 has been recorded must be provided.
10. 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,



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

Attachments