

**STAFF REPORT
VAN WINKLE DOCK AND BOATLIFT**

TO: Douglas County Hearing Examiner
FROM: Douglas County Land Services Staff
RE: Van Winkle, SP-08-16/SCUP-08-04
DATE: February 5, 2009

I. GENERAL INFORMATION

Requested Action: An application for a shoreline substantial development permit for the construction of a single-use dock and boatlift consisting of: one 8x20 foot float, a 4x73 ft. fixed aluminum pier, a 4x38 ft. aluminum ramp and a 10X12.5 ft. boatlift footprint. A 4 foot wide access corridor comprised of native grass is proposed to be installed from the OHWM to the landward edge of the 50 foot buffer.

Location: The subject property is located in the southwest ¼ of the southwest ¼ of Section 21, Township 26 N., Range 21 E., W.M., Douglas County, Washington. The site is located in the Rural Resource 5 Zoning District and the shoreline designation is Rural. The assessors parcel number is 26212130001.

II. SITE INFORMATION

Site Characteristics: The majority of the property is gradually sloped and dominated by lawngrass. At the downriver property boundary there is a steep slope. Portions of the property contain native vegetation such as nootka rose, ponderosa pine, big sagebrush, bitterbrush, upland grasses and weedy species mainly near the northern and southern property lines with a small clump of cattails near the middle of the property. The cattails are located waterward of the OHWM and upriver an old wooden bulkhead. Landward of the OHWM of the bulkhead and cattails is maintained lawngrass. The upriver portion of the property has a small area that is dominated by coyote willow, reed canarygrass and black cottonwood. The upriver property boundary has a small area of riprap that supports an irrigation intake pipe. No structures are present.

Zoning and Development Standards: The subject property is located within the Rural Resource 5 (RR-5) Zoning District. The purpose of the Rural Resource 5 (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 designation provides opportunities for compatible rural land uses, and is sensitive to the site's physical characteristics. Clustering or other innovative techniques for residential lots are allowed if the density does not encourage urban levels of service and provides significant open space and protection of resource lands and critical areas. This designation should be considered during the annual review of urban growth boundary amendments when adjacent to urban growth 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. The following goals and policies set forth in the comprehensive plan are relevant to this development:

RURAL:

POLICY R-12: 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: 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-9: Development proposals that encompass wetland areas will have a site-specific review process required to determine the classification.

POLICY CA-10: Projects containing a wetland should submit a comprehensive wetland mitigation plan that includes sufficient monitoring and contingencies to ensure natural wetland persistence.

POLICY CA-12: 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-14: 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-15: 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 16: 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-19: Proper riparian management that maintains existing riparian habitat and is consistent with best agricultural management practices should be encouraged.

POLICY CA-20: 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-21: 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 a 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.

Boatlifts are a use that is not allowed outright by the Douglas County Shoreline Master Program. Uses that are not allowed outright by the SMP can be allowed via a shoreline conditional use permit process upon a finding that the conditional use criteria have been met.

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.

V. ENVIRONMENTAL REVIEW

Douglas County issued a Determination of Non-significance on February 3, 2009 in accordance with WAC 197-11-355 (Optional DNS).

VI. AGENCY AND PUBLIC COMMENTS:

Applicable agencies and the public have been given the opportunity to review this proposal. 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 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 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" & D.C.C., Chapter 19.18C, "Fish and Wildlife Habitat Conservation Areas": A wetland rating and delineation was performed for the subject property by Grette Associates. The wetland assessment for the shoreline is listed as Category Type IV wetland. DCC Chapter 19.18B.050(B)(7) establishes a 50 foot buffer area for Type IV wetlands as measured from the edge of the wetland. The construction of a single-use dock and boatlift 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 December 2008, completed by Grette Associates LLC. This plan details the disturbance and impacts to the wetland area and proposes a mitigation ratio of 1:1 with 929 square feet of mitigation plantings for the 929 square feet of wetland buffer and overwater disturbance from the floats, ramp, pier, abutment, boatlift and access pathway. The Department of Ecology recommends that mitigation for overwater construction be at a 1:1 ratio. Douglas County Code also requires mitigation for impacts to wetlands and buffers. Planning staff recommends that plant survival is 100% for the first year after planting then to maintain 80% of the original plantings for each of the remaining 4 years, which is Land Services standard recommendation.

As conditioned the proposal appears to meet the requirements of these chapters.

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. This lot was created prior to the SMP and has not changed configuration since the SMP is in place; therefore a single use dock is permitted. In addition, the property to the north has an existing dock, and the five lots to the south are in the application process to be permitted for a community dock. The subject property, under current regulations cannot be further subdivided.

Boatlifts are a use that is not allowed outright by the Douglas County Shoreline Master Program. Uses that are not allowed outright by the SMP can be allowed via a shoreline conditional use permit process. No provision is made in the SMP for boatlifts. The environment of the shoreline will not be deteriorated more than uses that are permitted. The WAC does allow for the permitting of uses not identified in the SMP via a Shoreline Conditional Use Permit. The SMP also requires that docks and piers be constructed to "minimize damage to the fishery resources and their natural food supply." 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 and boatlift 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 and Chelan Public Utility District 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.

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#08-16 & SCUP#08-04, subject to the following findings of fact and conditions:

Suggested Findings of Fact

1. The applicant is Jerald Van Winkle, 12 B Van Winkle Road, Orondo, WA 98843.
2. Mr. Van Winkle has submitted an application for a shoreline substantial development permit for a shoreline substantial development permit for the construction of a single-use dock and boatlift consisting of: one 8x20 foot float, a 4x73 ft. fixed aluminum pier, a 4x38 ft. aluminum ramp and a 10X12.5 ft. boatlift footprint.
3. The subject property is located in the southwest ¼ of the southwest ¼ of Section 21, Township 26 N., Range 21 E., W.M., Douglas County, Washington. The site is located in the Rural Resource 5 Zoning District and the shoreline designation is Rural.
4. The subject property is located in the Rural Resource 5 (RR-5) zoning district which allows for single family residences and their accessory structures.
5. The Columbia River shoreline section of the subject property is designated as “Rural Environment” by the Douglas County Shoreline Master Program.
6. According to RCW 90.58.030 the Columbia River is a shoreline of statewide significance.
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: 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 subject property's parcel was created prior to the SMP.
11. Comments from reviewing agencies have been considered and addressed where appropriate.
12. Douglas County issued a Determination of Non-significance on February 3, 2009 in accordance with 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. As conditioned, this proposal will not interfere with waterlife, currents, recreational boaters and fisherman.
20. The wetland rating and delineation was performed for the subject property by Grette Associates. The wetland assessment for the shoreline is listed as Category Type IV wetland. DCC Chapter 19.18B.050(B)(7) establishes a 50 foot buffer area for Type IV wetlands as measured from the edge of the wetland.

21. The applicant has submitted a Wetland Management and Mitigation Plan dated December 2008 completed by Grette Associates LLC., in order to address the requirements of D.C.C. 19.18B.035.
22. 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.
23. Goal 5 of the Shoreline Master Program states that 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.
24. Goal 8 of the Shoreline Master Program states: To encourage, where feasible and desirable, the restoration of blighted areas along the shorelines of Douglas County to a natural or rehabilitated condition.
25. Douglas County Code 19.18B states that avoidance of wetland buffer disturbance is the preferred alternative to mitigation for impact.
26. 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.
27. 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 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 submitted December 9, 2008 and on file 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 dated December 2008 completed by Grette Associates LLC.
7. The dock access corridor within the wetland boundary and wetland buffer shall not exceed 4' in width. The trail shall consist of either native grasses, crushed rock or gravel material.
8. All mitigation for the project must be installed by the next growing season falling after the completion of the dock and/or boatlift installation. A five year monitoring period shall commence upon placement of the planting materials. 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 of record and Washington State sales tax.
9. 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 dated December 2008, completed by Grette Associates LLC. have been satisfied.
10. A permanent means of irrigation shall be installed for the mitigation plantings that are 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.
11. 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.

12. Mitigation sites shall be maintained to ensure the management and mitigation plan objectives are successful. Maintenance shall ensure 100% survival after the first year and 80% survival during the following 4 years. Monitoring 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.
13. 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.
14. Site monitoring visits shall be completed between the time periods of June 1st - September 15th.
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,

Marla Olson
Senior Planner

Attachments