

**STAFF REPORT
FUNSTON-HASSELBECK
JOINT USE DOCK**

TO: Douglas County Hearing Examiner
FROM: Douglas County Land Services Staff
RE: Funston/Hasselbeck, SP-07-14A
DATE: April 5, 2010

I. GENERAL INFORMATION

Requested Action: An application for a shoreline substantial development permit for the construction of a 2 party joint use dock amendment. This amendment includes the extension of the proposed dock waterward approximately 34 feet to reach a depth acceptable for a permanent joint use dock (the previously permitted dock was a temporary joint use dock). Two boatlifts were previously permitted alongside the dock and will not need new permits to be placed alongside the proposed permanent joint use dock. The joint use dock is proposed to be constructed in the vicinity of the joint property line of Lot 1 of the Pinot Noir Plat and lot 1 of the Semillon Plat. The project application includes: two 8' x 20' floats, a 3' x 108' grated fixed pier, a 3' x 36' ramp, a 4' x 4' concrete pad, two 11' x 14.5' solar powered boatlifts, and a 88' x 3' access path. The dock would extend approximately 145' waterward of the ordinary high water mark of the Columbia River. The applicant has submitted a Fish and Wildlife Habitat management mitigation plan to address riparian area impacts for the dock, boatlifts, and access trail.

Location: The subject property is located in the NW ¼ of Section 8, Township 26 N., Range 22 E., W.M. more particularly described as 264 and 266 Vineyard Drive, Orondo, WA. The site is located in the Rural Resource 5 (RR-5) Zoning District and the shoreline designation is Rural Conservancy.

II. SITE INFORMATION

Site Characteristics: Lot 1 of the Plat of Semillon and Lot 1 of the Plat of Pinot Noir are residential cluster lots located within and surrounded by a series of 20 cluster short plats and cluster subdivisions fronting the Columbia River. Historically the parcel and adjacent shoreline areas were farmed in tree fruit. The fruit trees on the property have been removed. The shoreline consists of low bank frontage with a gentle downward slope from the upland portions of the lots down to the ordinary highwater mark of the Columbia River. The riparian buffer is 75 feet measured from the landward edge if the existing riparian vegetation, 88 feet from the OHWM at the dock location. Vegetation is dominated by coyote willow for 30 feet landward of the OHWM. Other vegetation present includes black locusts and alders along the shoreline. Landward of the coyote willows a portion of a former dirt orchard access road and a maintained upland grass and weedy species area. The downriver end is dominated by rose and coyote willow, the upriver portion is dominated by black cottonwood, coyote willow and reed canarygrass. The bank at the proposed dock location is low and lawngrass and upland

weedy species are the dominant vegetation. An access easement has been provided between the Funston and Hasselbeck lots for the purpose of dock access for the two subject properties.

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.

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 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.

IV. REGIONAL SHORELINE MASTER PROGRAM

The Douglas County Regional Shoreline Master Program classifies this portion of the Columbia River shoreline as a rural conservancy environment. The purpose of the rural conservancy environment is to protect ecological functions, conserve existing natural resources and valuable historic and cultural areas in order to provide for sustained resource use, achieve natural flood plain processes, and provide recreational opportunities. Examples of appropriate uses include but are not limited to low impact outdoor recreation uses, agricultural uses, aquaculture, low intensity residential development, and other natural resource based low intensity uses. It is intended to serve as a buffer zone between urban areas and protect these areas from intensive urban expansion. Many of the below items refer to, or are substantively implemented by the 'Douglas County Shoreline Critical Area Regulations ('RSMP Appendix H')', which is attached in **Appendix A**. The following goals, policies, objectives and regulations of the Regional Shoreline Master Program are pertinent to the proposed use:

SECTION 2.4 RECREATION ELEMENT

Goal 1: Provide opportunities and space for diverse forms of water-oriented recreation.

Objective 1: Give priority to water-oriented shoreline recreational development that is primarily related to access, enjoyment and use of the water and shorelines of the state.

Objective 2: Recreational areas should be located, designed, developed, managed, and maintained in a manner that protects shoreline ecological functions and processes.

SECTION 2.5 SHORELINE USE ELEMENT

Goal 1: Consider the use and development of shorelines and adjacent land areas for housing, business, industry, transportation, agriculture, forestry, natural resources,

recreation, education, public buildings and grounds, utilities and other categories of public and private land uses in relation to the natural environment and ensuring no net loss of ecological function.

Objective 1: Shoreline use preference should be given to water-dependent and single family residential uses that are consistent with preservation of shoreline ecological functions and processes. Secondary preference should be given to water-related and water-enjoyment uses. Non-water-oriented uses should be allowed only when substantial public benefit is provided with respect to the goals of the Act for public access and ecological restoration.

SECTION 3.10 TABLE 1 USE MATRIX

Section 3.10 establishes that joint use docks may be permitted in the Rural Conservancy Environment as a shoreline substantial development permit.

SECTION 3.4 RURAL CONSERVANCY ENVIRONMENT

Policy 1: The Master Program is the primary guide for the location, type, density, and distribution of uses in the rural conservancy environment designation. Local comprehensive plans and development regulations also provide guidance and standards for development which occurs within shorelines of the state.

Policy 4: Water-dependent and water-enjoyment recreation facilities that do not deplete the resource over time, such as boating facilities, angling, hunting, wildlife viewing trails, and swimming beaches, are preferred uses, provided significant adverse impacts to the shoreline are mitigated.

SECTION 4.1 ECOLOGICAL PROTECTION AND CRITICAL AREAS

Policy 1: Shoreline use and development should occur in a manner that assures no net loss of existing ecological functions and processes and protects critical areas. Uses should be designed and conducted to avoid, minimize, or to fully mitigate in so far as practical, any damage to the ecology and environment.

Policy 2: In assessing the potential for net loss of ecological functions or processes, project specific and cumulative impacts shall be identified and evaluated.

Policy 3: Development standards for density, lot frontage, setbacks, lot coverage, shoreline stabilization, vegetation conservation, buffers, critical areas, and water quality should protect existing shoreline ecological functions and processes. Review of shoreline development should consider potential impacts associated with proposed shoreline development when assessing compliance with this policy.

Regulation 2: The provisions of this section and Appendix H shall apply to any use, alteration or development within shoreline jurisdiction, whether or not a shoreline permit or written statement of exemption is required.

Regulation 3: Unless otherwise stated, critical area buffers shall be protected and/or enhanced pursuant to Appendix H and all other applicable provisions of this Program.

Regulation 5: The cumulative effects of individual development proposals shall be identified and evaluated to assure that no net loss standards are achieved.

SECTION 4.2 WATER QUALITY

Policy 1: The location, construction, operation, and maintenance of all shoreline uses and developments should maintain or enhance the quantity and quality of surface and ground water over the long-term.

Policy 3: Appropriate buffers along all wetlands, streams, and lakes should be provided and maintained in a manner that avoids the need for chemical treatment for vegetation management and be consistent with critical areas ordinances and best management practices.

Regulation 3: Best management practices (BMP's) for control of erosion and sedimentation shall be implemented for all development in shorelines through an approved temporary erosion and sediment control plan, identified in the Stormwater Management Manual for Eastern Washington, as amended.

Regulation 5: All building materials that may come in contact with water shall be constructed of untreated wood, cured concrete or steel. Materials used for decking or other structural components shall be approved by applicable state agencies for contact with water to avoid discharge of pollutants. Wood treated with creosote, arsenate compounds, copper chromium arsenic or pentachlorophenol is prohibited in shoreline water bodies.

SECTION 4.3 VEGETATION CONSERVATION

Policy 1: Native shoreline vegetation should be conserved to maintain shoreline ecological functions and/or processes and mitigate the direct, indirect and/or cumulative impacts of shoreline development, wherever feasible. Disturbance of native plant communities should be avoided. Disturbed areas should be revegetated with native plant species appropriate to the soil and hydrologic conditions.

Regulation 2: Where impacts to buffers are permitted under Section 4.1, Ecological Protection and Critical Areas, new developments shall be required to develop and implement a management and mitigation plan. When required, management and mitigation plans shall be prepared by a qualified biologist and shall be consistent with the requirements in Appendix H. Management and mitigation plans shall describe actions that will ensure no net loss of ecological functions. Vegetation shall be maintained over the life of the use and/or development by means of a conservation easement or similar legal instrument recorded with the County Auditor.

Regulation 5: Removal of noxious weeds and/or invasive species shall be incorporated in management and mitigation plans, as necessary, to facilitate establishment of a stable community of native plants.

SECTION 5.10 MOORAGE: DOCKS, PIERS, WATERCRAFT LIFTS, MOORING BUOYS, FLOATS

Policy 3: As an alternative to continued proliferation of individual private moorage, mooring buoys are preferred over docks or floats. Moorage facilities for new residential development of two or more lots or two or more dwelling units should provide shared moorage facilities.

Policy 4: Moorage should be spaced and oriented in a manner that minimizes hazards and obstructions to navigation and other water-oriented activities such as fishing, swimming and pleasure boating, as well as property rights of adjacent land owners.

Policy 5: Moorage should be restricted to the minimum size necessary to meet the needs of the proposed water-dependent use. The length, width and height of piers and docks should be no greater than necessary for safety and functional use.

Policy 7: Moorage facilities should not be constructed of materials that will adversely affect water quality or aquatic plants and animals.

Regulations 3, 6, 7, 9, 10, 11, 15, 16, 21, 23 and 24: **See appendix A.** These regulations deal with specific design standards and parameters.

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. These 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 17, 2010.

VI. AGENCY AND PUBLIC COMMENTS:

Applicable agencies have been given the opportunity to review this proposal. Agency comments have been included as Attachment B. No public comments were submitted on this proposal at the time of staff review.

VII. PROJECT ANALYSIS

This shoreline substantial development permit amendment includes the extension of the proposed dock waterward approximately 34 feet to reach a depth acceptable for a permanent joint use dock (the previously permitted dock was a temporary joint use dock). Two boatlifts were previously permitted alongside the dock and will not need new permits to be placed alongside the proposed permanent joint use dock. The joint use dock is proposed to be constructed in the vicinity of the joint property line of Lot 1 of the Pinot Noir Plat and lot 1 of the Semillon Plat. The proposed access, concrete pad and beginning of the ramp would be located within a joint use dock/access easement.

The initial dock was approved under the prior Douglas County Regional Shoreline Master Program (RSMP) regulations. A new RSMP was adopted on August 27, 2009. The applicants have submitted a Mitigation Plan consistent with the newly adopted RSMP, and are using wetland delineations which were used during the creation of the existing lots (for the Semillon and Pinot Noir Plats). Since it has not been 5 years since those plats were recorded, they are vested and are permitted to use the previous wetland rating and delineation and buffer widths.

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 Douglas County Regional Shoreline Master Program:

The Douglas County Regional Shoreline Master Program (RSMP) goals and policies allow the construction of docks and piers in rural conservancy shoreline environments provided that standards are met. The RSMP also requires that docks be constructed to ensure “no net loss of existing ecological functions and processes” and to protect critical areas.

The construction of a joint-use dock and the development of an access path will have impacts to the fish and wildlife areas and associated buffer. The dock is designed and conducted to minimize and mitigate any damage to the ecology and environment. Disturbance of native plant communities will be avoided as much as possible. Disturbed areas will be mitigated with native plant species and buffers will be protected and/or enhanced pursuant to Appendix H and all other applicable provisions of the RSMP. Development within shoreline buffers must develop a Fish and Wildlife Habitat management and mitigation plan meeting the requirements of the RSMP and Douglas County Shoreline Critical Area Regulations (‘RSMP Appendix H’). The applicant has submitted a Fish and Wildlife Habitat Management and Mitigation Plan dated January 2010, completed by Grette Associates, LLC, supplemented on April 5, 2010. This plan details the disturbance and impacts to the shoreline buffer area and proposes a mitigation ratio of 2:1 for the buffer and overwater impacts with 1,462 square feet of mitigation plantings for the dock disturbance, 1,545 square feet of mitigation for the boatlifts, and 264 square feet of mitigation plantings for the installation of the access trail. Mitigation for overwater and buffer impacts totals 3,271 square feet, split equally between the two lots. The Department of Ecology recommends that mitigation for overwater construction be at a 1:1 ratio. Where other community or public moorage facilities are available, individual moorage associated with a single family residence will be discouraged. The proposal is for a joint use dock which reduces shoreline impacts.

The applicant’s qualified biologist has submitted application materials which include the required components of the RSMP and Appendix H Shoreline Critical Area Standards. Impacts to the watershed have been considered; the use is a permitted use by the program; project design has addressed mitigation sequencing; the Biologist has considered cumulative and site impacts and determined that there is no net loss of functions and values given proposed mitigation; site mitigation increases riparian functions and values for the shoreline which assists with implementation of the RSMP

restoration plan; performance standards have been included to address site monitoring and successful implementation of mitigation. Design and siting at the dock location is consistent with the policies and regulations of the RSMP, including but not limited to sections 2.4, 2.5, 3.10, 3.4, 4.1, 4.2, 4.3, and 5.10. As conditioned the proposal is consistent with the applicable policies and standards of the RSMP.

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.

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 Regional Shoreline Master Program. Staff recommends approval of SP-07-14A, subject to the following findings of fact and conditions:

Suggested Findings of Fact:

1. The applicants are Daryl and Vicky Funston, 4021 Shelby Road #1, Lynnwood, WA 98087 & Matt and Sarah Hasselbeck, 9026 Northeast 1st St, Bellevue, WA 98004.
2. Daryl and Vicky Funston and Matt and Sarah Hasselbeck have submitted an application for a shoreline substantial development permit and shoreline conditional use permit for the construction of a 2 party joint use dock amendment. This amendment includes the extension of the proposed dock waterward approximately 34 feet to reach a depth acceptable for a permanent joint use dock (the previously permitted dock was a temporary joint use dock). Two boatlifts were previously permitted alongside the dock and will not need new permits to be placed alongside the proposed permanent joint use dock. The joint use dock is proposed to be constructed in the vicinity of the joint property line of Lot 1 of the Pinot Noir Plat and lot 1 of the Semillon Plat. The project application includes: two 8' x 20' floats, a 3' x 108' grated fixed pier, a 3' x 36' ramp, a 4' x 4' concrete pad, two 11' x 14.5' solar powered boatlifts, and a 88' x 3' access path.
3. The subject property is located in the NW ¼ of Section 8, Township 26 N., Range 22 E., W.M. more particularly described as 264 and 266 Vineyard Drive, Orondo, WA.
4. The Comprehensive Plan Designation is Rural Resource 5.
5. The subject property is located in the Rural Resource 5 (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 Conservancy" by the Douglas County Regional Shoreline Master Program.
7. The joint use dock proposal is subject to the provisions of the Fish and Wildlife Habitat Conservation areas, Chapter 3 of Appendix H of the RSMP. The site buffer width considered for the subject application was established on the face of the plats within 5 years of the applications being determined complete, under the provisions of DCC Chapter 19.18B Resource Lands/ Critical Areas- Wetlands.
8. According to RCW 90.58.030 the Columbia River is a shoreline of statewide significance.
9. 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.
10. 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.
11. The subject property is located on the shoreline of the Columbia River and contains fish and wildlife habitat and aquatic habitat regulated under the Douglas County Regional Shoreline Master Program.
12. The wetland rating and delineation was performed in 2004 by Graham-Bunting Associates. The wetland assessment for the shoreline is listed as Category Type III wetland. DCC Chapter 19.18B.050(B)(7) establishes a 75 foot buffer area for Type III wetlands as measured from the edge of the wetland.
13. The applicant has submitted a Fish and Wildlife Habitat Management and Mitigation Plan dated January 2010, supplemented on April 5, 2010 completed by Grette Associates LLC., in order to address the requirements of Chapter 3 of Appendix H of the RSMP.
14. Douglas County issued a Determination of Non-significance on March 17, 2010.
15. Surrounding property owners were given the opportunity to comment on the proposals.
16. Proper legal requirements were met and surrounding property owners were given the opportunity to comment on the proposal at a public hearing.
17. Comments from reviewing agencies have been considered and addressed where appropriate.
18. 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.

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 policies and regulations of the Douglas County Regional 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" of the Douglas County Code.
6. As conditioned, the development will not adversely affect the general public, health, safety and general welfare.

Suggested Conditions of Approval:

1. The project shall proceed in substantial conformance with the plans and application materials 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 and the Chelan Public Utility District.
3. 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.
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 dock access corridor within the shoreline buffer shall not exceed 4' in width. The trail shall consist of native grasses, crushed rock or gravel material.

7. The project application shall proceed consistent with the Fish and Wildlife Habitat Management and Mitigation Plan dated January 2010, and supplemented on April 5, 2010, completed by Grette Associates LLC.
8. 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.
9. A performance surety agreement for each property owner in conformance with Chapter 7 of the RSMP shall be entered into between the property owners and Douglas County Transportation and Land Services prior to building permit issuance.
10. Onsite monitoring and monitoring reports shall be submitted to Douglas County Transportation and Land Services in conformance with the timelines and standards of Section 3.037(I) of Appendix H of the RSMP.
11. Implementation of onsite mitigation must be in conformance with the approved Fish and Wildlife Habitat Management and Mitigation plan dated January 2010, and supplemented on April 5, 2010, and the performance standards of Section 3.037(I) of appendix H of the RSMP.
12. 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 Regional Shoreline Master Program, and the Shoreline Management Act.
13. Prior to building permit issuance for the joint use dock, verification must be submitted to Douglas County Land Services that the joint use maintenance and operation agreement for the joint use dock facility for the property owners of Lot 1 of the Plat of Semillon and Lot 1 of the Plat of Pinot Noir has been recorded, must be submitted.
14. Substantial progress toward construction of the project for which this permit has been granted must be accomplished within two (2) years of the filing date of this permit. Authorization to conduct development activities granted by the permit shall terminate five (5) years from the filing date of the permit.

Respectfully Submitted,

Marla Olson
Senior Planner

Attachments

