

**STAFF REPORT
NICHOLS
BOATLIFT & TRAIL**

TO: Douglas County Hearing Examiner
FROM: Douglas County Land Services Staff
RE: Nichols, SP-10-03
DATE: May 10, 2010

I. GENERAL INFORMATION

Requested Action: An application for a shoreline substantial development permit for the construction of a boatlift with a 10X12.5 ft. footprint. This boatlift will be constructed alongside a future community dock two lots downriver from the subject property. A 4 foot wide access corridor comprised of gravel is proposed to be installed on the subject property from the OHWM to the landward edge of the 50 foot buffer. The applicant has submitted a Fish and Wildlife Habitat management mitigation plan to address riparian area impacts for the boatlift, and access trail.

Location: The subject property is located in the Southwest ¼ of the Southwest ¼ of Section 6, Township 26 N., Range 22 E., W.M., Douglas County, Washington. The site is located in the Rural Resource 5 (RR-5) Zoning District and the shoreline designation is Rural Conservancy. The trail and mitigation are to be located on parcel number 65600000100, the boatlift is to be located between lots 26211210041 and 26211210042.

II. SITE INFORMATION

Site Characteristics: The Jonagold Short Plat and Plat of Jonagold #2 are residential cluster lots located within and surrounded by a series of 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 along the shoreline. The upland vegetation is dominated by upland and non-native grasses and forbs. An old previous orchard road is present near the 50 foot riparian buffer line. Fruit tree saplings are common landward of the previous orchard road. From the top of the bank to the OHWM, vegetation is dominated by riparian and shrub steppe shrubs such as woods rose and coyote willow. Reed canarygrass is also common on the bank. An access easement has been provided between lots 2 & 3 of the Jonagold short plat for the purpose of a community dock access for 5 lots.

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')', (see **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 3.4 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 3.10 TABLE 1 USE MATRIX

Section 3.10 establishes that boatlifts (watercraft lifts) may be permitted in the Rural Conservancy Environment as a shoreline substantial development permit.

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 1: Mitigation sequencing - applicants shall demonstrate all reasonable efforts have been taken to mitigate potential adverse impacts in the following prioritized order:
a. Avoiding the impact altogether by not taking a certain action or parts of an action. b. Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps, such as project redesign, relocation, or timing, to avoid or reduce impacts; c. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment to the conditions existing at the time of the initiation of the project; d. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action; e. Compensating for the impact by replacing, enhancing, or providing substitute resources or environments; and f. Monitoring the impact and the compensation projects and taking appropriate corrective measures.

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, 7, 10, 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 May 7, 2010.

VI. AGENCY AND PUBLIC COMMENTS:

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

VII. PROJECT ANALYSIS

This shoreline substantial development permit includes the installation of a boatlift alongside a previously permitted community dock. The dock was installed incorrectly and without building permits, was removed, and will be re-installed per the dock approval (SP-06-02). The boatlift will be moved temporarily to install the dock, which is intended to be installed during the summer of 2010. The community dock and boatlift location is proposed to be constructed in the vicinity of the joint property line of Lot 2 and Lot 3 of the Jonagold Short Plat (SS-03-23, SS-03-23A). The proposed access trail would be located on the Nichols property, two lots upriver from the community dock/boatlift area.

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 Jonagold Short Plat, and Plat of Jonagold # 2). 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 boatlifts in rural conservancy shoreline environments provided that standards are met. The RSMP also requires that there is “no net loss of existing ecological functions and processes” and to protect critical areas.

The construction of a boatlift and the development of an access path will have impacts to the fish and wildlife areas and associated buffer. The boatlift and its location is designed and constructed to minimize and mitigate any damage to the ecology and environment. Disturbance of native plant communities will be avoided as much as possible. To minimize impacts according to the mitigation sequencing regulations, the boatlift will be located adjacent to the future community dock. 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. This plan details the disturbance and impacts to the shoreline buffer area and proposes a mitigation ratio of 2:1 for the buffer impacts and 1:1 mitigation ratio for overwater impacts with 125 square feet of mitigation plantings for the boatlift disturbance, and 216 square feet of mitigation plantings for the installation of the access trail. Mitigation for overwater and buffer impacts totals 341 square feet, all located on the Nichols lot. The Department of Ecology recommends that mitigation for overwater construction be at a 1:1 ratio.

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 of the boatlift at the community 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 boatlift 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-10-03, subject to the following findings of fact and conditions:

Suggested Findings of Fact:

1. The applicant is David Nichols, 23665 NE Twinberry Way, Redmond, WA 98052.
2. David Nichols has submitted an application for a shoreline substantial development permit for the construction of a boatlift with a 10X12.5 ft. footprint. This boatlift will be constructed alongside a future community dock two lots downriver from the subject property. A 4 foot wide access corridor comprised of gravel is proposed to be installed on the subject property from the OHWM to the landward edge of the 50 foot buffer. The applicant has submitted a Fish and Wildlife Habitat management mitigation plan to address riparian area impacts for the boatlift, and access trail.
3. The subject property is located in the Southwest $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ of Section 6, Township 26 N., Range 22 E., W.M., Douglas County, Washington. The site is located in the Rural Resource 5 (RR-5) Zoning District and the shoreline designation is Rural Conservancy. The trail and mitigation are to be located on parcel number 65600000100, the boatlift is to be located between lots 26211210041 and 26211210042.
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 boatlift 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. To minimize impacts according to the RSMP mitigation sequencing regulations, the boatlift will be located adjacent to the future community dock.
9. According to RCW 90.58.030 the Columbia River is a shoreline of statewide significance.
10. 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.
11. 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.
12. 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.
13. The wetland rating and delineation was performed in 2003 by Graham-Bunting 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.
14. 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.
15. Douglas County issued a Determination of Non-significance on May 7, 2010.
16. Surrounding property owners were given the opportunity to comment on the proposals.
17. Proper legal requirements were met and surrounding property owners were given the opportunity to comment on the proposal at a public hearing.
18. Comments from reviewing agencies have been considered and addressed where appropriate.

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 access trail 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, 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 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. 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

Appendix A

The Regional Shoreline Master Program, Appendix H, can be accessed at:
http://www.douglascountywa.net/departments/tls/growth/pdf/Appendix_A-H_Final_8-27-09.pdf.

The Regional Shoreline Master Program, Chapters 1-9 can be accessed at:
http://www.douglascountywa.net/departments/tls/growth/pdf/Chapter_1-9_Final_8-27-09.pdf