

**SHORELINE MANAGEMENT PERMIT
ACTION SHEET**

Received

SEP 23 2013

Douglas County TLS

Application #: SP-13-01 Zender Fessenden
Administering Agency: Douglas County Transportation and Land Services

Type of Permit: ■ Shoreline Substantial Development Permit
Action: ■ Approved □ Denied

Date of Action: September 19, 2013

Date Mailed to DOE/AG

Pursuant to Chapter 90.58 RCW and the Shoreline Master Program of Douglas County, a permit is hereby granted to:

Don Zender
2200 247th CT. NE
Sammamish, WA 98074

Beau Fessenden
256 Vineyard Dr.,
Orondo, WA 98843

To undertake the following development: An application for a shoreline substantial development permit for the expansion of the existing joint use dock to allow the floats to be permanently installed and to install two ground based boatlifts. The existing dock consists of a 4 x 50 foot pier, a 3.33 x 30 foot gangway and 2 8x20 foot floats. The extension consists of adding a new 3.3 X 20 pier section to the existing pier and relocating the gangway and floats out to the end of the new extended pier.

Upon the following property: The subject property is described as Lots 4 and 5 of the Plat of Pinot Noir and further described as being located within the Sections 7 & 8, Township 26N., Range 22 E., W.M., Douglas County, Washington. The Douglas County Assessor's Numbers are 79100000400 and 79100000500.

Within 200 feet of Columbia River and/or its associated wetlands.

The project will be within a shoreline of state-wide significance (RCW 90.58.030). The project will be located within a **Rural** designation. The Douglas County Shoreline Master Program is applicable to this development.

Development pursuant to this permit shall be undertaken in conformance with the following terms and conditions:

CONDITIONS OF APPROVAL

1. All conditions imposed herein shall be binding on the "Applicant," which terms shall include the owner or owners of the property, heirs, assigns and successors.
2. The project shall proceed in substantial conformance with the plans and application materials of file submitted on January 17, 2013 except as amended by the conditions herein.
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. The dock shall be marked with reflectors, or shall be otherwise identified to prevent unnecessarily hazardous conditions for water surface users during day or night. Documentation shall be provided with the building permit application.
6. The dock and boatlifts shall be permanently marked with name, address, telephone number and date of installation. Documentation shall be provided with the building permit application.
7. The project application shall proceed consistent with the Fish & Wildlife Habitat Management and Mitigation Plan prepared by Grette & Associates, dated January 2013.
8. Prior to the issuance of a building permit for the extended dock all monitoring reports documenting satisfactory survival and consistency with the approved planting plan (SP-07-11) shall be submitted and approved.
9. Where necessary, a permanent means of irrigation shall be installed for the mitigation plantings that are designed by a landscape architect or equivalent professional. Said design shall meet the specific needs of riparian and shrub steppe vegetation.
10. Mitigation planting as shown on the mitigation planting plan sheets 6, dated December 5, 2012 shall be planted upon completion of dock and boatlifts.
11. 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 issuance of the building permit. Douglas County must approve quotes for the cost of installation, delivery, plant material, soil amendments, irrigation, seed mix and necessary monitoring visits and reports by the biologist of record and Washington State sales tax.
12. The mitigation site shall be maintained to ensure the management and mitigation plan objectives are successful. Maintenance shall ensure 80% survival during the 5 year

monitoring period and shall include corrective actions to rectify problems, include rigorous, as-needed elimination of undesirable plants; protection of shrubs and small trees from competition by grasses and herbaceous plants, and repair and replacement of any dead plants.

13. A five year monitoring period shall commence upon placement of the planting materials and irrigation system. A performance surety agreement in conformance with Title 14 of Douglas County Code shall be entered into between the property owner and Douglas County Transportation and Land Services. Douglas County must approve quotes for the cost of installation, delivery, plant material, soil amendments, permanent irrigation, seed mix, and 3 monitoring visits and reports by a qualified biologist, and the quotes shall include Washington State sales tax.
14. 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 fish & wildlife habitat management and mitigation plan submitted by Grette & Associates, dated February 2013 have been satisfied.
14. Sequential release of funds associated with the surety agreement shall be reviewed for conformance with the conditions of approval and the management and mitigation plan. Release of funds may occur in increments of 1/3 for substantial conformance with the plan and conditions of approval. If the standards that are not met are only minimally out of compliance and contingency actions are actively being pursued by the property owner to bring the project into compliance, the County may choose to consider a partial release of the scheduled increment. Non-compliance can result in one or more of the following actions: carry over of the surety amount to the next review period; use of funds to remedy the nonconformance; scheduling a hearing with the Douglas County Hearing Examiner to review conformance with the conditions of approval and to determine what actions may be appropriate.
15. Where a condition imposed herein may be found inconsistent with the requirements of the Washington State Department of Fish and Wildlife, HPA Permit, or permitting issued by the United States Army Corps of Engineers, the Douglas County Land Services Director shall have discretion to allow for project redesign consistent with the approvals granted by said agencies; if the redesign can be found consistent with the Douglas County Code, the Shoreline Master Program, and the Shoreline Management Act.
16. Construction of the project for which this permit has been granted must be commenced within two (2) years of the effective 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.

FINDINGS OF FACT

1. The applicants are Don Zender, 2200 247th Ct. NE, Sammamish WA 98074 and Beau Fessenden, 256 Vineyard Dr., Orondo WA 98843.
2. General Description: An application for a shoreline substantial development permit for the expansion of the existing joint use dock to allow the floats to be permanently installed and to install two ground based boatlifts. The existing dock consists of a 4 x 50 foot pier, a 3.33 x 30 foot gangway and 2 8x20 foot floats. The extension consists of adding a new 3.3 X 20 pier section to the existing pier and relocating the gangway and floats out to the end of the new extended pier.
3. The subject property is described as Lots 4 and 5 of the Plat of Pinot Noir and further described as being located within the Sections 7 & 8, Township 26N., Range 22 E., W.M., Douglas County, Washington. The Douglas County Assessor's Numbers are 79100000400 and 79100000500.
4. The Comprehensive Plan Designation is Rural Resource 5 Acres.
5. The subject property is located in the RR-5 zoning district.
6. The Columbia River Shoreline section of the subject property is designated as "Rural Conservancy" 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. A shoreline substantial development permit (SP-07-11) was issued on the subject property for the construction of a joint use dock and the creation of a shoreline access and restoration corridor. SP-07-11 was issued on December 21, 2007.
9. A building permit for the construction of the dock was issued on Sept. 18, 2008 and finalized on Dec. 21, 2010.
10. SP-07-11 was issued on December 21, 2007. A building permit for the construction of the dock was issued on Sept. 18, 2008 and finalized on Dec. 21, 2010. The mitigation and shoreline restoration plantings were verified installed for Lot 5 on June 30, 2010 and for Lot 4 on November 12, 2009. A year 3 monitoring report was received for Lot 4 on October 23, 2012.
11. Neither the Year 1 nor the Year 3 monitoring reports have been submitted for Lot 5, as required by SP-07-11.

12. A fish and wildlife habitat management and mitigation plan dated January 2013 was performed for the project by Grette & Associates.
13. A fish and wildlife habitat management and mitigation plan has determined that a total of 316 square feet of habitat will be disturbed. The plan proposes 1,072 square feet of riparian vegetation plantings to meet the mitigation requirement for disturbance of habitat from the dock and boatlifts. A planting plan is proposed on page 6 of the diagrams in the Fish & Wildlife Habitat Management and Mitigation Plan.
14. The mitigation proposed in the Fish and Wildlife Management and Mitigation Plan meets the requirements of the Douglas County Regional Shoreline Master Program.
15. Comments from reviewing agencies have been considered and addressed where appropriate.
16. Douglas County issued a Determination of Non-significance on August 27, 2013 in accordance with WAC 197-11-355 (Optional DNS).
17. 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.
18. Proper legal requirements were met and surrounding property owners were given the opportunity to comment on the proposal at a public hearing.
19. 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.
20. As conditioned, the development will not adversely affect the general public, health, safety and general welfare.
21. The Douglas County Department of Land Services recommended approval of the requested permit(s), subject to the recommended conditions of approval.
22. An open record public hearing after legal notice was held on September 19th, 2013. Appearing and testifying at the hearing on behalf of the applicant was Larry Lahman of Grette Associates. Mr. Lahman testified that he was applicant's agent and was authorized to appear and testify on behalf of the applicant at this hearing. Mr. Lahman testified that both he and the applicant had reviewed the proposed conditions of approval and that they were acceptable.
23. No member of the public appeared at the hearing.
24. At the open record public hearing, the entire planning staff file was admitted into the record.

25. Public agencies with potential jurisdiction over this project were given an opportunity to review the proposal. Agencies that responded with comments were admitted into the record and considered by the Hearing Examiner in rendering this Decision.
26. Any Conclusion of Law that is more correctly a Finding of Fact is hereby incorporated as such by this reference.

CONCLUSIONS

1. As conditioned, the development meets the goals, policies and implementation recommendations as set forth in the Douglas County Countywide Comprehensive Plan and the Douglas County Shoreline Master Program.
2. As conditioned, this proposal is consistent with applicable federal and state laws and regulations.
3. As proposed, revised, and conditioned, potential impacts of the project can be mitigated.
4. Public interests will be served by approval of this proposal.
5. As conditioned, the proposal is consistent with Title 18 "Zoning" and Title 19 "Environment" of the Douglas County Code.
6. The Hearing Examiner has been granted authority to render this Decision.
7. Any Finding of Fact that is more correctly a Conclusion of Law is hereby incorporated as such by this reference.

This permit is granted pursuant to the Shoreline Master Program of Douglas County, as amended, and nothing in this permit shall excuse the applicant from compliance with any other federal, state, or local statutes, ordinances, or regulations applicable to this project, but not inconsistent with the Shoreline Management Act of 1971 (Chapter 90.58 RCW).

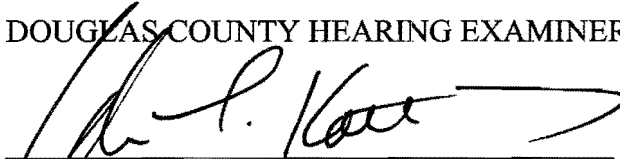
This permit may be rescinded pursuant to RCW 90.58.140(7) in the event the permittee fails to comply with the terms and conditions hereof.

CONSTRUCTION PURSUANT TO THIS PERMIT SHALL NOT BEGIN NOR IS AUTHORIZED UNTIL TWENTY-ONE (21) DAYS FROM THE DATE OF FILING AS DEFINED IN RCW 90.58.140(6) AND WAC 173-14-090, OR UNTIL ALL REVIEW PROCEEDINGS INITIATED WITHIN TWENTY-ONE (21) DAYS FROM THE DATE OF SUCH FILING HAVE TERMINATED; EXCEPT AS PROVIDED IN RCW 90.58.140(5)(a)(b)(c).

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 this permit shall terminate five (5) years from the filing date of this permit.

Approved this 19 day of September, 2013.

DOUGLAS COUNTY HEARING EXAMINER



Andrew L. Kottkamp

Anyone aggrieved by this decision has twenty-one (21) days from the “date of receipt” as defined in RCW 43.21B.001 to file a petition for review with the Shorelines Hearings Board as provided for in Washington law.

**THIS SECTION FOR DEPARTMENT OF ECOLOGY USE ONLY IN REGARD TO A
CONDITIONAL USE OR VARIANCE PERMIT**

Date received by the Department _____

Approved _____

Denied _____

This conditional use/variance permit is approved/denied by the Department pursuant to Chapter 90.58 RCW.

Development shall be undertaken pursuant to the following additional terms and conditions:

Date

Signature of Authorized Department Official