

RECEIVED

JAN 22 2014

Douglas County  
Transportation & Land Services

SHORELINE MANAGEMENT PERMIT  
ACTION SHEET

**Application #:** SP-13-10  
**Administering Agency:** Douglas County Transportation and Land Services

**Type of Permit:**  Substantial Development  
**Action:**  Approved  Denied

**Date of Action:** January 21<sup>st</sup>, 2014

**Date Mailed to DOE/AG:** January 21<sup>st</sup>, 2014

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

**Mike St. Jean**  
11425 194<sup>th</sup> St SE  
Snohomish, WA 98296

To undertake the following development: An application for a shoreline substantial development permit for the installation of a mooring buoy and shoreline cutback for access.

Upon the following property: The subject property is described as Lot 1 of the Braeburn Short Plat and is further described as being located within the NE Quarter of Section 12, Township 26N., Range 21 E., W.M., Douglas County, Washington.

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 Conservancy 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:

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 July 15, 2013 and November 26, 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. A temporary erosion and sediment control plan shall be submitted with the mitigation installation quotes and shall be approved prior to approval of the performance surety.
6. In the event that human remains, burials, funerary items, sacred objects or objects of cultural patrimony are found during project implementation, the proponent or his authorized agent shall adhere to all of the requirements of RCW 68.50.645. They shall immediately cease any activity which may cause further disturbance and then take steps to protect the find from further damage or disruption. They shall then contact the county coroner, who will contact the WA Dept. of Archaeology and Historic Preservation and the Historic Preservation Officer for the Confederated Tribes of the Colville Reservation. No further work shall be allowed on the project until there is an approved plan for managing or preserving the remains or items.
7. In the event that prehistoric artifacts (i.e. arrowheads, spear points, mortars, pestles, other ground stone tools, knives, scrapers, or flakes from the manufacture of tools, fire pits, peeled trees, etc.) or historic period artifacts or features (i.e. fragments of old plates or ceramic vessels, weathered glass, dumps of old cans, cabins, root cellars etc.) are found during project implementation, the proponent or his authorized agent shall cease work immediately within 200 feet of the find. They shall contact the WA Dept. of Archaeology and Historic Preservation and the Historic Preservation Officer for the Confederated Tribes of the Colville Reservation. No further work shall be allowed on the project until there is an approved plan for managing or preserving the artifacts or features.
8. The buoy shall be permanently marked with name, address, telephone number and date of installation. Documentation shall be provided with the performance surety documentation.
9. The project application shall proceed consistent with the Fish & Wildlife Habitat Management and Mitigation Plan prepared by Grette & Associates, dated May 2013.
10. 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.
11. Mitigation planting as shown on the mitigation planting plan sheet 7 of 7, dated 10/17/12 shall be planted upon completion of the work.
12. 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 commencing work. 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.
13. 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.
14. 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.

15. 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 May 2013 have been satisfied.
16. 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.
17. 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.
18. 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 applicant is Mike St. Jean, 11425 194<sup>th</sup> St SE, Snohomish WA 98296.
2. General Description: An application for a shoreline substantial development permit for the installation of a mooring buoy and shoreline cutback for trail access.
3. The subject property is described as Lot 1 of the Braeburn Short Plat and is further described as being located within the NE Quarter of Section 12, Township 26N., Range 21 E., W.M., Douglas County, Washington.
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. An Aquatic Habitat Buffer Assessment dated May 29, 2013 was performed by Grette & Associates for the subject property. The assessment determined that the property met the criteria in the shoreline master program for a 100 foot buffer.
9. A Fish and Wildlife Habitat Management and Mitigation Plan dated May 2013 was performed for the project by Grette & Associates.
10. A fish and wildlife habitat management and mitigation plan determined that a total of 3,937 square feet of aquatic and riparian habitat will be disturbed by installation of the buoy, shoreline cutback and access trail. The plan proposes 3,937 square feet of riparian vegetation plantings to meet the mitigation requirement for disturbance of habitat. A planting plan is proposed on page 7 of 7 of the diagrams in the Fish & Wildlife Habitat Management and Mitigation Plan.
11. The mitigation proposed in the Fish and Wildlife Management and Mitigation Plan meets the requirements of the Douglas County Regional Shoreline Master Program.
12. During the comment period the Colville Tribes recommended that the cultural resources survey be performed due to the proximity prehistoric, ethnographic, historic and traditional sites of value to the Colville Tribes. The applicant submitted a cultural resources assessment from Cultural Resource Consultants Inc. dated November 25, 2013. This report did not identify any archaeological or historic features could be affected by the project. Additionally the report provided recommendations for actions should resources be inadvertently discovered.
13. Comments from reviewing agencies have been considered and addressed where appropriate.
14. Douglas County issued a Determination of Non-significance on December 30, 2013 in accordance with WAC 197-11-355 (Optional DNS).
15. 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.
16. Proper legal requirements were met and surrounding property owners were given the opportunity to comment on the proposal at a public hearing.
17. 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.
18. As conditioned, the development will not adversely affect the general public, health, safety and general welfare.

19. An open record public hearing after legal notice was held on January, 16, 2014. Appearing and testifying at the hearing on behalf of the applicant was Jay Dirkse of Grette Associates. Mr. Dirkse testified that he was an agent authorized to appear and speak on behalf of the property owner and applicant. Mr. Dirkse testified that both he and the applicant had reviewed the staff report and the proposed conditions of approval. He testified that neither he nor the applicant had any objection to any of the representations in the staff report or any of the proposed conditions of approval.
20. The Douglas County Department of Land Services recommended approval of the requested permits, subject to the recommended conditions of approval.
21. No member of the public appeared at the hearing.
22. At the open record public hearing, the entire planning staff file was admitted into the record.
23. 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.
24. Any Conclusion of Law that is more correctly a Finding of Fact is hereby incorporated as such by this reference.

#### CONCLUSIONS

1. The Hearing Examiner has been granted authority to render this Decision.
2. 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.
3. As conditioned, this proposal is consistent with applicable federal and state laws and regulations.
4. As proposed, revised, and conditioned, potential impacts of the project can be mitigated.
5. Public interests will be served by approval of this proposal.
6. As conditioned, the proposal is consistent with Title 18 "Zoning" and Title 19 "Environment" of the Douglas County Code.
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 17th day of January, 2014

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