

**SHORELINE MANAGEMENT PERMIT
ACTION SHEET**

Application #: SP-13-14, SCUP-13-01, SV-13-01, CUP-13-02
Administering Agency Douglas County Transportation and Land Services

Type of Permit: ■ Shoreline Substantial Development
Action: ■ Shoreline Conditional Use Permit
■ Shoreline Variance
■ Conditional Use Permit
■ Approved Denied

Date of Action: June 17, 2015

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:

**Public Utility District No. 2 of Grant County
PO Box 878,
Ephrata, WA.**

To undertake the following development by Grant County PUD for a shoreline substantial development permit, a shoreline conditional use permit, a shoreline variance and a conditional use permit for upgrading the Apricot Orchards Boat Launch site. Site improvements include: constructing an improved boat ramp, improving the access and maneuver area, installing 10 parking spaces, constructing an ADA transfer platform and single vault toilet, installing ADA access, stormwater improvements, signage and trash receptacles.

Upon the following property: The subject property is described as being located within the SW Quarter of Section 9, Township 20N., Range 22 E., W.M., Douglas County, Washington. The shoreline designation is Natural. The Douglas County Assessor's Parcel Number is 20220920003

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 **Natural** 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 October 10, 2013, August 21, 2014, March 12, 2015, and May 1, 2015 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 proximity of this project to the Columbia River will likely trigger the threshold used by the Washington State Department of Ecology in administering their General Permit to Discharge Storm Water Associated with Construction Activity. If required, the permit shall be obtained prior to beginning ground-breaking activities. Acquisition of this permit is the responsibility of the applicant.
6. Prior to the commencement of demolition/excavation; the storm water pollution prevention plan (SWPPP) shall be implemented.
7. In the event that human remains, burials, funerary items, sacred objects or objects of cultural or forensic remains 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.
8. 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.
9. No building permits shall be issued until the completion of the road vacation process.
10. Prior to scheduling the final inspection for required building permits, the engineer of record shall provide written verification that the storm design in the July 2014 Stormwater Analysis was installed per plan.
11. Prior to scheduling the final inspection for required building permits, the Declaration of Stormwater System Maintenance Covenants will be recorded with the Douglas County Auditor.

12. The project application shall proceed consistent with the Wetland and Fish and Wildlife Habitat Management and Mitigation Plan prepared by Anchor QEA, dated December 2013, revised August 2014; revised March 2015, except as may be amended by the conditions herein.
13. Irrigation shall be installed, as necessary, for the survival of the mitigation plantings. Said design shall address the specific needs of riparian vegetation.
14. A five year monitoring period shall commence upon placement of the planting materials.
15. The mitigation sites shall be maintained to ensure the management and mitigation plan objectives are successful. Maintenance shall ensure 100% survival for the first year and 80% survival during years 2 thru 5 of the 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.
16. 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 and Fish and Wildlife Habitat Management and Mitigation Plan prepared by prepared by Anchor QEA, dated December 2013, revised August 2014; revised March 2015 have been satisfied. Planting plans for all three sites are proposed in the HMMP and on pages 13 thru 18 of the plan sheets attached to the JARPA.
17. If at the conclusion of the 5 year monitoring period, 80% survivability is not achieved, then corrective actions as outlined in Condition #15 shall be taken and yearly monitoring shall continue until 80% survivability can be demonstrated from the previous year.
18. 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.
19. 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 Public Utility District No. 2 of Grant County, PO Box 878, Ephrata WA.
2. General Description: An application submitted by Grant County PUD for a shoreline substantial development permit, a shoreline conditional use permit, a shoreline variance and a conditional use permit for upgrading the Apricot Orchards Boat Launch site. Site improvements include: constructing an improved boat ramp, improving the access and maneuver area, installing 10 parking spaces, constructing an ADA transfer platform and single vault toilet, installing ADA access, stormwater improvements, signage and trash receptacles.

3. The subject property is described as being located within the SW Quarter of Section 9, Township 20N., Range 22 E., W.M., Douglas County, Washington. The shoreline designation is Natural. The Douglas County Assessor's Parcel Number is 20220920003.
4. The comprehensive plan designation is Rural Resource 20 acres.
5. The subject property is zoned RR-20.
6. The Columbia River Shoreline section of the subject property is designated as "Natural" by the Douglas County Shoreline Master Program.
7. Public launch ramps are a conditional use in the natural shoreline environment.
8. Parking accessory to a permitted use is a conditional use in the natural shoreline environment.
9. This subject site is an existing primitive county road that accesses the shoreline. The road bed was flooded in 1959 when the construction of Wanapum Dam raised the river level. Since this time the site, where the road enters the water, has been used as an informal boat launch. No county permits have been issued for this facility.
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. WAC 173-27-170 (2) establishes minimum review criteria for Shoreline Variances.
12. No portion of the District's property is located outside of the applicable Aquatic Habitat Buffer. Therefore the strict application of the bulk, dimensional or performance standards set forth in the applicable master program precludes, or significantly interferes with, reasonable use of the property.
13. The district's ownership is governed by the project boundary for Wanapum Dam and therefore the hardship is related to the property and not the result of the applicant's actions.
14. The proposal is for a launch facility that is significantly less intensive than other public launch facilities in the general area and has been determined to not cause adverse impacts to the shoreline environment.
15. This variance will not constitute a grant of special privilege not enjoyed by other properties in the area.
16. The facility has been designed to be the smallest possible size consistent with the district's FERC license requirements, environmental, and archaeological constraints. Locating the new facility over the existing disturbance reduces archaeological impacts and minimizes additional disturbance to the buffer. The proposed size, configuration and location is the minimum necessary to afford relief.
17. The public interest will not suffer detrimental effect. The proposal increases public access opportunities to the river. Environmental impacts have been evaluated and are proposed to be fully mitigated for. Archaeological impacts have been evaluated and are proposed to be addressed.

18. A Wetland Delineation and Rating dated revised August 2012 from Alliance Consulting Group was performed for the subject property. The delineation determined that three wetlands are present on the subject property and all three wetlands have a Category 3 rating.
19. Section 2.035 (H) of the shoreline master program, appendix H identifies that Category 3 wetland disturbance shall require a 2:1 mitigation ratio for reestablishment/creation. Buffer disturbance shall require a 2:1 mitigation ratio for native vegetation disturbance and a 1:1 mitigation ratio for non-native vegetation disturbance.
20. An Aquatic Habitat Buffer Assessment dated December 30, 2013 from Anchor QEA was performed for the subject property. The assessment determines that the zone 1 and zone 2 buffers are applicable resulting in a 200 foot buffer from OHWM.
21. A wetland and fish and wildlife habitat management and mitigation plan dated December 2013, revised August 2014 and revised March 2015 was developed for the project by Anchor QEA.
22. Sections 2.035(H) and 3.037(G) within Appendix H of the shoreline master program authorize off-site mitigation if the mitigation cannot be accommodated on-site and the off-site areas are within the same watershed and within Douglas County. The two proposed off-site mitigation areas meet these requirements.
23. The mitigation proposed in the Wetlands and Fish and Wildlife Management and Mitigation Plan meets the requirements of the Douglas County Regional Shoreline Master Program.
24. The applicant has submitted a Stormwater Analysis dated July 2014, revised December 2014 from SCJ Alliance. The analysis provides a design that documents compliance with Douglas County Code and the Eastern Washington Stormwater Management Manual.
25. The applicant has provided communication from May 13, 2013, September 9, 2013 and October 30, 2013 from the District's Senior Archaeologist to the WA Department of Archaeology and Historic Preservation. This communication documents that the project will have an adverse effect on a registered archaeological site and commencement of a memorandum of agreement for resolution of the adverse effect.
26. No public comments were received.
27. Grant County PUD is SEPA Lead Agency for this project and has issued a Determination of Nonsignificance in accordance with WAC 197-11-340(2) on October 1, 2013. No Appeal was filed.
28. A county right-of-way currently exists along the access road and down the informal launch ramp to the ordinary high water mark. Grant County PUD has applied for a vacation of the right-of-way within the boundaries of their property. A public hearing was held on April 7, 2015 by the Douglas County Board of Commissioners to consider the vacation. The BOCC has conditionally approved the vacation. To date, the vacation process has not been completed, but the applicant is working towards completion of this process and agrees that no building permits will be issued until this process is completed.
29. 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.

30. Proper legal requirements were met and surrounding property owners were given the opportunity to comment on the proposal at a public hearing.
31. 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.
32. As conditioned, the development will not adversely affect the general public, health, safety and general welfare.
33. The Douglas County Department of Land Services recommended approval of the requested permit(s), subject to the recommended conditions of approval.
34. An open record public hearing after legal notice was held on June 11, 2015. Appearing and testifying at the hearing on behalf of the applicant was Igor Shaporda. Mr. Shaporda testified that he is an agent authorized to appear and speak on behalf of applicant. Mr. Shaporda indicated that they have no objection to any of the Proposed Conditions of Approval.
35. Also testifying on behalf of the applicant was Jillian Reiner. Ms. Reiner generally testified as to the barriers along the gravel portion of the project area to discourage users from leaving the developed project area.
36. Also testifying on behalf of the applicant was Russ Hendrick. Mr. Hendrick is with the Grant County PUD. He responded to the Hearing Examiner's questions regarding the length of the boat launch into the river and whether draw downs of the river level had been anticipated in the design of the boat launch.
37. All of the Hearing Examiner's questions were answered to the Hearing Examiner's satisfaction.
38. Regarding Proposed Condition of Approval #8, Jennifer Lang with Douglas County Transportation suggested that this Proposed Condition be amended to say that no building permits would be issued until the vacation process was completed. After discussion with Mr. Shaporda, the applicant agreed to this modification.
39. No member of the public appeared at the hearing.
40. At the open record public hearing, the entire planning staff file was admitted into the record.
41. 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.
42. 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 conditioned, the proposal meets the minimum review criteria for Shoreline Variances found in WAC 173-27-170 (2).
5. As conditioned, the proposal is consistent with DCC 18.80.030 General Evaluation Criteria and DCC 18.80-315 Recreational Facilities.
6. As proposed, revised, and conditioned, potential impacts of the project can be mitigated.
7. Public interests will be served by approval of this proposal.
8. As conditioned, the proposal is consistent with Title 18 "Zoning" and Title 19 "Environment" of the Douglas County Code.
9. Any Finding of Fact that is more correctly a Conclusion of Law is hereby incorporated as such by this reference.

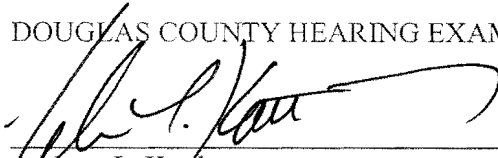
This permit is granted pursuant to the Shoreline Master Program of Douglas County, as amended, and nothing in this permit shall excuse the applicant from compliance with any other federal, state, or local statutes, ordinances, or regulations applicable to this project, but not inconsistent with the Shoreline 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 June, 2015.

DOUGLAS COUNTY HEARING EXAMINER


Andrew L. Kottkamp

Anyone aggrieved by this decision regarding the Shoreline Permits, 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. Anyone aggrieved by the decision on the Conditional Use Permit has twenty-one (21) days from the issuance of this decision to file an appeal with Douglas County Superior Court as provided under the Judicial Review of Land Use Decisions, RCW 36.70C.040(3).

**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