

**SHORELINE MANAGEMENT PERMIT
ACTION SHEET**

Application #: SP-16-05
Administering Agency: Douglas County Transportation and Land Services
Type of Permit: ■ Shoreline Substantial Development Permit
Action: ■ Approved □ Denied
Date of Action: November 23, 2016

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:

**Thomas Barros
4250 SR 28
Rock Island WA**

To undertake the following development: An application submitted by Thomas Barros for a shoreline substantial development permit for the resolution of a shoreline violation. Remediation activities include: removal of an unpermitted dock, gazebo and overwater deck; modification of an unpermitted water feature; installation of stormwater controls to eliminate runoff into the Columbia River; and installation of mitigation plantings.

Upon the following property: Lot 8, Hurst Landing. The property is further described as being located within Section 27, Township 22 N., Range 21 E.W.M., Douglas County WA. Portions of Parcel # 22212710008 located immediately waterward of Lot 8 Hurst Landing. Subject parcels are 64100000800 and 22212710008.

Within 200 feet of the 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 April 14, 2016 except as amended by the conditions herein.

3. The applicant shall comply with all applicable local, state and federal regulations and is responsible for securing any and all state and federal agency permits, as may be required.
4. Prior to building permit issuance, the applicant shall obtain all necessary permits from agencies with jurisdiction and provide copies of the permit approvals to Douglas County. This may include, but is not limited to: 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.
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. No later than April 30, 2017, the engineer of record shall provide written verification that the storm design in the September 26, 2017 Stormwater Analysis was installed per plan.
7. No later than April 30, 2017, the Declaration of Stormwater System Maintenance Covenants will be recorded with the Douglas County Auditor.
8. 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 to the County.
9. The dock shall be permanently marked with name, address, telephone number and date of installation. Documentation shall be provided to the County.
10. The project application shall proceed consistent with the Fish & Wildlife Habitat Management and Mitigation Plan prepared by Grette & Associates, dated April 2016.
11. 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 vegetation.
12. Within 30 days of the issuance of this permit; 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. 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. Mitigation plantings and revegetation plantings for the violation remediation shall be installed and the installation report from the biologist of record shall be submitted to the County by April 30, 2017.
14. 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.

15. 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.
16. 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 3/30/16 have been satisfied.
17. 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.
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 Thomas Barros, 4250 SR 28, Rock Island WA.
2. Assessor's Parcel Number 22212710008 is owned by Chelan County PUD No. 1, PO Box 11231, Wenatchee WA. The district has signed the application as a property owner.
3. General Description: An application for a shoreline substantial development permit for the resolution of a shoreline violation. Remediation activities include: removal of an unpermitted dock, gazebo and deck; modification of an unpermitted water feature; installation of stormwater controls to eliminate runoff into the Columbia River; and installation of mitigation plantings.
4. The subject property is described as Lot 8, Hurst Landing. The property is further described as being located within Section 27, Township 22 N., Range 21 E.W.M., Douglas County WA. Portions of

Parcel # 22212710008 located immediately waterward of Lot 8 Hurst Landing. Subject parcels are 64100000800 and 22212710008.

5. A Notice of Code Violation and Order to Comply (file # CE-09-155) was issued for the property on July 22, 2015. This letter identified that the following unauthorized activities had taken place on the property:
 - Disturbance of the riparian buffer for the Columbia River including vegetation removal, grade and fill landward and waterward of OHWM, Rock/mortar and rip rap bulkheads landward and waterward of OHWM, developed shoreline trails.
 - Installation of paved circular driveway, parking, retaining walls, fencing, light posts and a fountain.
 - Installation of 2 docks.
 - Installation of a paved boat launch.
 - Construction of a Boathouse/Gazebo and an overwater deck.
 - Installation of a swim beach.
6. On August 7, 2015 the property owner submitted a Notice of Appeal (APP-15-01) for the Notice of Code Violation and Order to Comply. On October 13, 2015 the property owner's representative submitted a letter placing the appeal on hold while both parties work towards a resolution of the violations.
7. The Comprehensive Plan Designation is Rural Resource 2.
8. The subject property is located in the RR-2 zoning district.
9. The Columbia River Shoreline section of the subject property is designated as "Rural Conservancy" by the Douglas County Shoreline Master Program.
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. This application implements an action plan agreed to between the Applicant's legal and expert biological representatives, the Land Services Director and the Prosecuting Attorney which addresses the items most critical to remediate the impacts of the development activities on water quality and shoreline functions and values. An action plan was agreed to which, while it doesn't require mitigation for all of the violation activities it does address the most critical components. This action plan, when implemented, will resolve the SMA & SMP violations.
12. A Fish and Wildlife Habitat Management and Mitigation Plan dated April 2016 was performed for the project by Grette & Associates.
13. A Fish and Wildlife Habitat Management and Mitigation Plan has determined that a total of 6,760 square feet of native vegetation will be planted to mitigate for the estimated reduction in habitat functions and values that occurred due to the activity. A planting plan is proposed on pages 6 and 7 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. The applicant has submitted a Stormwater Analysis dated September 26, 2016, from Erlandsen & Associates. The analysis provides a design that documents compliance with Douglas County Code and the Eastern Washington Stormwater Management Manual.
17. Douglas County issued a Determination of Non-significance on July 11, 2016 in accordance with WAC 197-11-355 (Optional DNS). No appeal was filed.
18. 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.
19. Proper legal requirements were met and surrounding property owners were given the opportunity to comment on the proposal at a public hearing.
20. 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.
21. As conditioned, the development will not adversely affect the general public, health, safety and general welfare.
22. The Douglas County Department of Land Services recommended approval of the requested permit(s), subject to the recommended conditions of approval.
23. An open record public hearing after legal notice was held on November 17, 2016. Appearing and testifying at the hearing on behalf of the applicant was Larry Lehman of Grette & Associates. Mr. Lehman testified that he was the agent of the applicant and was authorized to appear and speak on his behalf. He testified that all of the proposed conditions of approval were acceptable.
24. No member of the public appeared at the hearing.
25. At the open record public hearing, the entire planning staff file was admitted into the record.
26. 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.
27. 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 site remediation 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 proposed, revised, and conditioned, potential impacts of the project can be mitigated.

3. As conditioned, site remediation will not detrimentally affect the public health, safety and general welfare.
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 23rd day of November, 2016.

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