

SHORELINE MANAGEMENT PERMIT
ACTION SHEET



Application #: SP-17-05
Administering Agency: Douglas County Transportation and Land Services

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

Date of Action: October 24, 2017

Date Mailed to DOE/AG

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

Brent Allen
7 Willwood Dr.
East Wenatchee, WA 98802

To undertake the following development: An application for a shoreline substantial development permit to install a residential joint-use dock, two ground-based boatlifts and access trail on the Columbia River.

Upon the following property: The project will serve Lots 7 & 8 in the Lake View Shores Subdivision, East Wenatchee, WA. The properties are located within the shoreline residential shoreline environment and are further described as being located within the northern half of Section 18, Township 24N, Range 21E., W.M., Douglas County, Washington. The Douglas County Assessor's Parcel Numbers are 96400000700 and 96400000800. 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 Regional 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 on file submitted on September 2, 2017 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 be 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 and boatlifts shall be marked with reflectors to prevent unnecessarily hazardous conditions for water surface users during day or night. Documentation shall be provided to the County.
6. The dock and boatlifts shall be permanently marked with name, address, telephone number and date of installation. Documentation shall be provided to the County.
7. The project application shall proceed consistent with the Fish & Wildlife Habitat Management and Mitigation Plan prepared by Grette Associates, dated May 2017.
8. Mitigation plantings and excavation shall not take place over the private irrigation line.
9. The riparian buffer shall not be mowed or maintained and shall be allowed to return to a natural state, provided that if access to the well head and vault are completely prohibited by vegetation, that the applicant can request permission from the county to take minimum action to permit access.
10. Any previous shoreline access trails are to be vacated and allowed to return to a natural state. The trail installed per the plan in this application shall be the only access trail for the two properties.
11. The applicant must obtain a building permit for the joint-use dock.
12. 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.
13. Even though the Army Corps of Engineers may allow a lesser mitigation ratio, concurrent with submittal of a building permit application for the joint-use dock, a mitigation plan that documents the 1:1 mitigation ratio required by the Douglas County SMP shall be submitted. The plan shall be planted upon completion of the project.
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 Douglas County Code shall be entered into between the property owner and Douglas County Transportation and Land Services upon approval of the shoreline 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.
15. The mitigation site 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 for each of the 4 years following initial planting 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. 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 Habitat Management and Mitigation Plan submitted by Grette Associates, dated May 2017 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 Regional Shoreline Master Program, and the Shoreline Management Act.
19. Prior to installation of the project, copies of approval from applicable agencies, including the Chelan County PUD, must be submitted to the County.
20. 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 Brent Allen, 7 Willwood Dr., East Wenatchee, WA 98802.
2. The applicant's agent is: Larry Lehman, Grette Associates LLC, 151 S. Worthen St. Ste. 101, Wenatchee, WA 98801.
3. General Description: An application for a shoreline substantial development permit for a joint-use dock, two ground-based boatlifts and access trail.
4. The project will serve 3 and 7 Willwood Dr., East Wenatchee, WA. The properties are described as being Lots 7 and 8 of The Lake View Shores plat. The properties are further described as being located within the northern half of Section 18, Township 24N, Range 21E., W.M., Douglas County, Washington. The Douglas County Assessor's Parcel Numbers are 96400000700 and 96400000800.
5. The Comprehensive Plan Designation is Rural Recreation (R-REC).
6. The subject properties are located in the Rural Recreation (R-REC) zoning district.
7. The Columbia River Shoreline section of the subject properties is designated as "shoreline residential" by the Douglas County Regional Shoreline Master Program.
8. 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.
9. Staff previously identified two unauthorized trails on the Allen property. Neither trail is permitted and both are to be vacated.
10. The Lake View Shores plat identifies a 50-foot natural habitat and common open space area within the riparian buffer on the subject properties.
11. A Fish & Wildlife Habitat Management and Mitigation Plan dated May 2017 was performed for the project by Grette Associates.
12. The installation of the dock, boatlifts and trail will impact the aquatic and riparian environments. A Fish & Wildlife Habitat Management and Mitigation Plan has determined that a total of 1,482 sq ft of aquatic and riparian habitat will be disturbed by the dock, boatlifts and trail.
13. The application proposes 953 sq ft of mitigation. A planting plan is proposed on sheet 6 of 6 of the diagrams in the Fish & Wildlife Habitat Management and Mitigation Plan.

14. The mitigation proposed in the Fish & Wildlife Management and Mitigation Plan for impacts to the aquatic environment does not meet the requirements of the Douglas County Regional Shoreline Master Program (minimum 1:1 ratio).
15. USACE reduced mitigation ratios for bank-armor removal are proposed for the project.
16. The dock and access trail will be located along the shared property line.
17. A private irrigation line exists near the project site.
18. Douglas County issued a Determination of Non-Significance on October 4, 2017 in accordance with WAC 197-11-355 (Optional DNS).
19. Agency comments were received from the Chelan County PUD and Colville Tribes.
20. No comments have been received from private citizens.
21. 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.
22. Proper legal requirements were met and surrounding property owners were given the opportunity to comment on the proposal at a public hearing.
23. 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.
24. As conditioned, the development will not adversely affect the general public, health, safety and general welfare.
25. The Douglas County Department of Land Services recommended approval of the requested permit, subject to the recommended conditions of approval.
26. An open record public hearing after legal notice was held on October 19, 2017. Appearing and testifying at the hearing on behalf of the applicant was Larry Lehman. Mr. Lehman testified that he was an agent authorized to appear and speak on behalf of the owner and applicant. Mr. Lehman provided testimony challenging proposed Condition of Approval number 8 and number 9. There are preexisting uses on the waterfront in the form of a well head and irrigation vault. Access to these structures is required for maintenance and repair and operation. Mr. Lehman testified that while access can be maintained without mowing and watering, that invasive non-native species may eventually overtake the area and prohibit access. In addition, Mr. Lehman provided testimony regarding proposed Condition of Approval number 12. Mr. Lehman's testimony was at the Army Corps of Engineers mitigation standards would allow for a lesser standard than a 1:1 mitigation ratio as required by the County. Mr. Lehman testified as to the "no net loss" of ecological function as the standard in the Douglas County Regional Shoreline Management Program.
27. Also testifying for the applicant was Kelly Allen. Ms. Allen is one of the property owners. She provided additional testimony regarding the need for the access to the waterfront for the well head maintenance and operation. She further testified that the Home Owner's Association is required to have access to the well head and the vault pursuant to plat notes. She testified that what is proposed to be required of the applicant in this matter is not consistent with other properties in the area.
28. The entire planning staff file was admitted into the record.
29. Testifying from the public were the following individuals:
 - 29.1 Kevin Kromholtz. Mr. Kromholtz testified that the County should have some incentive for rocky bank removal. He also testified that the Homeowner's Association needs access to

the pump house on the water. He recommended keeping the area where the irrigation line travels free of all vegetative growth.

- 29.2 Andre Peters. Ms. Peters testified that the water retention area above lots 5 and 6 is intended to drain down the path to a pond but the drainage path has been eliminated by lot development. She also asked for access to the well head and irrigation vault for Homeowner's Association uses.
30. 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.
31. 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 Regional 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 Douglas County Regional Shoreline Master Program, 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 24th day of October, 2017.

DOUGLAS COUNTY HEARING EXAMINER

A handwritten signature in blue ink, appearing to read "A. L. Kottkamp", is written over a horizontal line.

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