

**SHORELINE MANAGEMENT PERMIT
ACTION SHEET**

Application #: SP-2017-07
Administering Agency Douglas County Transportation and Land Services
Type of Permit: ■ Shoreline Substantial Development Permit
Action: ■ Approved □ Denied
Date of Action: September 28, 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:

**WH Vineyard LLC,
1020 W Casino Rd,
Everett, WA**

**5J Williams Family LLC
1020W Casino Rd
Everett, WA.**

To undertake the following development: An application WH Vineyard LLC and 5J Williams Family LLC for a shoreline substantial development permit for the installation of 2 ground based boatlifts

Upon the following property: 102 and 106 Orchard Place.

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 Shoreline 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 of file submitted on June 13, 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 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 boatlift 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.
6. The dock 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 April 2017.
8. 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.
9. Mitigation planting as shown on the mitigation planting plan sheet 6 of 6, dated April 26, 2017 shall be planted upon completion of installation of the boatlift.
10. 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.
11. 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.
12. 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.
13. 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 April 26, 2017 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 WH Vineyard LLC, 1020 W Casino Rd, Everett WA and 5J Williams Family LLC, 1020 W. Casino Rd, Everett WA.
2. General Description: An application WH Vineyard LLC and 5J Williams Family LLC for a shoreline substantial development permit for the installation of 2 ground based boatlifts.
3. The subject property is located at 102 and 106 Orchard Place and is further described as being located within the Gala Short Plat within Section 12, Township 26 N., Range 21 E.W.M., Douglas County WA. The shoreline designation is Rural Conservancy. The Douglas County Assessors Numbers are 26211210032 and 26211210034.
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 Regional 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 Fish and Wildlife Habitat Management and Mitigation Plan dated April 2017 was performed for the project by Grette & Associates.
9. The installation of a boatlift will impact the aquatic environment. A fish and wildlife habitat management and mitigation plan has determined that a total of 250 square feet of aquatic habitat will be disturbed by the installation of the boatlift. Appendix H, Chapter 3.037 (G) requires a ratio of 1:1 to mitigate for disturbance in the Aquatic Habitat. The plan proposes 610 square feet of riparian vegetation plantings to meet the mitigation requirement for disturbance of habitat.
10. A planting plan is proposed on page 6 of 6 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. Comments from reviewing agencies were considered and addressed where appropriate.
13. Douglas County issued a Determination of Non-significance on September 8, 2017 in accordance with WAC 197-11-355 (Optional DNS).
14. 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.
15. Proper legal requirements were met and surrounding property owners were given the opportunity to comment on the proposal at a public hearing.
16. 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.
17. As conditioned, the development will not adversely affect the general public, health, safety and general welfare.
18. The Douglas County Department of Land Services recommended approval of the requested permit, subject to the recommended conditions of approval.
19. An open record public hearing after legal notice was held on September 21, 2017. Appearing and testifying at the hearing on behalf of the applicant was Larry Lehman. Mr. Lehman testified that he was the agent authorized to appear and speak on behalf of the applicant. Mr. Lehman testified that all of the proposed conditions of approval were acceptable.
20. No member of the public appeared at the hearing.
21. At the open record public hearing, the entire planning staff file was admitted into the record.
22. 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.
23. 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 28th day of September, 2017.

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