

**STAFF REPORT
DUFENHORST BOATLIFT & ACCESS CUTBACK**

TO: Douglas County Hearing Examiner
FROM: Douglas County Land Services Staff
RE: Dufenhorst, SP-13-03
DATE: April 5, 2013

I. GENERAL INFORMATION

Requested Action: An application for a shoreline substantial development permit for the installation of a ground based boatlift and shoreline cutback of the trail access to the dock.

Location: The subject property is described as Lots 1, 2 and 3, of the Fuji Short Plat and is further described as being located within the NW Quarter of Section 12, Township 26N., Range 21 E., W.M., Douglas County, Washington.

II. SITE INFORMATION

Site Characteristics: The upland is characterized by a moderate slope leading down to the OHWM. Vegetation at the subject property has been significantly altered as part of the historic use of the property. The entire Fuji short plat contains a steep bank (1.5H:1V) down to the OHWM of the Columbia River forming a definite top of the bank, approximately 17 feet above the OHWM. The majority of the steeply sloped bank is vegetated with a mixture of native and non-native trees, shrubs and groundcover. This vegetation is limited to the steep slope and does not extend landward of the top of the bank. Landward of the top of the bank, the vegetation consists of mowed and maintained upland grasses and weedy species.

Zoning and Development Standards: The subject property is located within the Rural Resource 5 acres (RR-5) Zoning District. The purpose of the RR-5 rural resource district is to provide an area for a variety of rural lifestyles, hobby farms, densities, and open space, while protecting the rural and resource characteristics in the vicinity. This district provides an opportunity for compatible rural land uses, and is sensitive to the site's physical characteristics. RR-5 districts are often located adjacent to urban growth areas or existing rural development of higher densities, are intended as a transition, and provide a buffer area between commercial agricultural areas or more intense development areas. These areas may be incorporated into the urban area at a future date. This district is also appropriate for areas that currently have a range of rural densities or land parcel sizes generally less than twenty acres in size and/or have adequate rural levels of services available such as roads, schools, and fire protection. Clustering or other innovative techniques for residential lots are encouraged provided that the density does not encourage urban levels of service and provide significant open space corridors and protection of critical areas.

III. COMPREHENSIVE PLAN:

The Douglas County Countywide Comprehensive Plan designates this property as Rural Resource 5 acres. The following goals and policies set forth in the comprehensive plan are relevant to this development:

RURAL:

POLICY RD-4: Development and recreational opportunities in rural shoreline and other rural areas shall minimize potential adverse impacts to water quality, slope stability, vegetation, wildlife and aquatic life.

CRITICAL AREAS – FISH AND WILDLIFE HABITAT CONSERVATION AREAS

GOAL 2: Protect fish and wildlife habitat areas as an important natural resource for Douglas County, particularly in regard to their economic, aesthetic and quality of life values.

POLICY CA-15: Impacts of new development on the quality of land, wildlife and vegetative resources will be considered as part of the environmental review process and require any appropriate mitigating measures. Such mitigation may involve the retention and/or enhancement of habitats.

POLICY CA-16: The maximum amount of vegetation should be maintained in its natural state and be disturbed only as minimally necessary for the development. Disturbed areas should be re-vegetated with native vegetation as soon as possible. Re-vegetation will be maintained in good growing conditions, as well as being kept free of noxious weeds.

POLICY CA 17: If a development proposal is located in or near a habitat conservation area shown on the reference maps, a consultation and subsequent mitigation measures, if needed, should be encouraged from the WDFW or other appropriate agency.

POLICY CA-20: Proper riparian management that maintains existing riparian habitat and is consistent with best agricultural management practices should be encouraged.

POLICY CA-21: Ensure that land uses adjacent to naturally occurring wetlands and other fish and wildlife habitat areas will not negatively impact the habitat areas. If a change in land use occurs, adequate buffers will be provided to the habitat areas.

POLICY CA-22: Activities allowed in fish and wildlife habitat conservation areas and open space will be consistent with the species located there, including all applicable state and federal regulations and/or best management practices for the activity regarding that species.

IV. SHORELINE MASTER PROGRAM

The Douglas County Shoreline Master Program classifies this reach of the Columbia River shoreline as Rural Conservancy. The purpose of the rural conservancy environment is to protect ecological functions, conserve existing natural resources and valuable historic and cultural areas in order to provide for sustained resource use, achieve natural flood plain processes, and provide recreational opportunities.

A listing of the applicable policies and regulations are found in the analysis section of this staff report.

WASHINGTON ADMINISTRATIVE CODE (WAC)

WAC 173-27 provides updated rules for administering the Shoreline Management Act (RCW 90.58) and the local master program. WAC 173-27-150, establishes minimum review criteria for substantial development permits. This criteria states that a substantial development permit shall be granted only when the proposed development is consistent with:

- The policies and procedures of the Act;
- The provisions of this regulations; and
- The applicable master program adopted or approved for the area.

V. ENVIRONMENTAL REVIEW

Douglas County issued a Determination of Non-significance on April 4, 2013 in accordance with WAC 197-11-355 (Optional DNS).

VI. AGENCY AND PUBLIC COMMENTS:

Applicable agencies have been given the opportunity to review this proposal. The following agencies have been sent copies of the proposal and have commented as indicated below:

Agency Notified	Response Received	Agency Notified	Response Received
WA Department of Ecology	N/R	WA Dept of Fish & Wildlife	N/R
Chelan County PUD	3/21/13	Army Corps of Engineers	N/R
Colville Tribes	N/R	Yakama Tribes	N/R
WA Dept of Arch & Hist Pres	N/R		

* N/R = No Reply

Agency comments have been included as Attachment A.

No public comments were received at the writing of this staff report.

VII. PROJECT ANALYSIS

Upon review of the application materials, site plans, public and agency comments, the Douglas County Countywide Comprehensive Plan, and applicable codes and requirements, planning staff offers the following analysis and recommendations for the subject application:

Comprehensive plan consistency:

Residential development and recreational opportunities in shoreline areas of the Rural Resource 5 land use designation can be considered when potential adverse impacts to

water quality, slope stability, vegetation, wildlife and aquatic life have been sufficiently addressed. Critical area policies place preference on the protection of and preservation of wetlands over the alteration and mitigation of impacts to wetlands. The proposal is consistent with the goals and policies of the Douglas County Countywide Comprehensive Plan.

Consistency with the Douglas County Shoreline Master Program

Boatlifts are a permitted use in the Rural Conservancy shoreline designation.

4.1 ECOLOGICAL PROTECTION AND CRITICAL AREAS

POLICY 1: Shoreline use and development should occur in a manner that assures no net loss of existing ecological functions and processes and protects critical areas. Uses should be designed and conducted to avoid, minimize, or to fully mitigate in so far as practical, any damage to the ecology and environment.

The project cannot avoid damage to the aquatic environment. However, the project has been designed to minimize damage and to fully mitigate pursuant to adopted mitigation ratios.

REGULATION 1: Mitigation sequencing – applicants shall demonstrate all reasonable efforts have been taken to mitigate potential adverse impacts in the following prioritized order:

- a. Avoiding the impact altogether by not taking a certain action or parts of an action;

The project is located in the aquatic environment and therefore cannot avoid impacts.

- b. Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps, such as project redesign, relocation, or timing, to avoid or reduce impacts;

This application proposes to eliminate the previously approved trail from the top of the bank to the dock and cut the bank back in the immediate vicinity of the access. This proposed cutback will blend in with existing shoreline character and provide a safer access to the dock and boatlift.

- c. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment to the conditions existing at the time of the initiation of the project;

The project is for a new structure to be placed in the aquatic environment, therefore rectifying the impact is not possible.

- d. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action;

The project is for a new structure to be placed in the aquatic environment, therefore reducing or eliminating the impact over time via this permit is not possible. The possibility does exist that a future lift design would reduce impacts however implementation of that new design would require a future permit and analysis.

- e. Compensating for the impact by replacing, enhancing, or providing substitute resources or environments; and

The project is proposing mitigation per the adopted mitigation ratios that will compensate for the impact. Suggested conditions of approval require installation of mitigation per the approved plan.

- f. Monitoring the impact and the compensation projects and taking appropriate corrective measures.

Suggested conditions of approval require that the mitigation measures be monitored for 5 years after installation to determine survivability and corrective measures be taken if survivability is not achieved.

4.2 WATER QUALITY

REGULATION 3: Best management practices (BMP's) for control or erosion and sedimentation shall be implemented for all development in shoreline through an approved temporary erosion and sediment control plan, identified in the Stormwater Management Manual for Eastern Washington, as amended.

Suggested conditions of approval require that a temporary erosion and sediment control plan be submitted and approved prior to approval of the performance surety.

REGULATION 5: All building materials that may come in contact with water shall be constructed of untreated wood, cured concrete or steel. Materials used for decking or other structural components shall be approved by applicable state agencies for contact with water to avoid discharge of pollutants. Wood treated with creosote, arsenate compounds, copper chromium arsenic or pentachlorophenol is prohibited in shoreline water bodies.

The boatlift framing is proposed to be constructed of non-treated timber or aluminum.

4.3 VEGETATION CONSERVATION

REGULATION 2: Where impacts to buffers are permitted under Section 4.1, Ecological Protection and Critical Areas, new developments shall be required to develop and implement a management and mitigation plan. When required, management and mitigation plans shall be prepared by a qualified biologist and shall be consistent with the requirements of Appendix H. Management and mitigation plans shall describe actions that will ensure no net loss of ecological functions. Vegetation shall be maintained over the life of the use and/or development by means of a conservation easement or similar legal instrument recorded with the County Auditor.

A fish and wildlife management and mitigation plan prepared by Grette & Associates was submitted in the application materials.

REGULATION 4: Native vegetation clearing shall be limited to the minimum necessary to accommodate approved shoreline development.

The dock access is proposed to be located in an area that minimizes impacts to native vegetation. The amount of grading is the minimum necessary to facilitate safe access to the dock.

4.7 Restoration

POLICY 2: Mitigation associated with shoreline development projects shall be designed to achieve no net loss of ecological function.

A fish and wildlife management and mitigation plan prepared by Grette & Associates was submitted in the application materials. The plan identifies that the project will result in no net loss of ecological function.

5.8 Filling, grading and excavation

REGULATION 1: Filling, grading, and excavation shall be minimized to the maximum extent practicable and only authorized along with approved shoreline use and development activities that are consistent with this Program.

The applicants' agent has provided responses to the filling, grading and excavation section of the SMP. These responses are included in the application materials. The amount of grading is the minimum necessary to facilitate safe access to the dock and boatlift.

REGULATION 4: Filling, grading or excavation shall not be located where shoreline stabilization will be necessary to protect materials placed or removed. Disturbed areas shall be immediately stabilized and revegetated, as applicable.

The applicants' agent has provided responses to the filling, grading and excavation section of the SMP. The grading activity will not result in the need for protective materials to be placed. The fish and wildlife habitat management and mitigation plan identifies that the grading area will be revegetated with native species.

REGULATION 5: Filling, grading, beach nourishment and excavation shall be designed to blend physically and visually with existing topography whenever possible, so as not to interfere with long-term appropriate use including lawful access and enjoyment of scenery.

The applicants' agent has provided responses to the filling, grading and excavation section of the SMP.

REGULATION 6: Cut and fill slopes shall generally be no steeper than one foot vertical for every three feet horizontal unless a specific engineering analysis has been provided certifying that the proposed slope is stable, and the Administrator determines that the fill blends physically and visually with existing topography.

The applicants' agent has provided responses to the filling, grading and excavation section of the SMP.

REGULATION 7: A temporary erosion and sediment control (TESC) plan, consistent with the standards found in the Stormwater Manual for Eastern Washington, shall be provided for all proposed filling, grading and excavation activities.

Consistent with the application materials; suggested conditions of approval require that a temporary erosion and sediment control plan be submitted with the mitigation installation quotes and approved prior to approval of the performance surety.

5.10 Moorage: docks, piers, watercraft lifts, mooring buoys, floats

POLICY 4: Moorage should be spaced and oriented in a manner that minimizes hazards and obstructions to navigation and other water-oriented activities such as fishing, swimming and pleasure boating, as well as property rights of adjacent land owners.

The project proposes to locate the boatlift adjacent to the joint use dock on the landward side. The boatlift will not pose a hazard to navigation.

POLICY 5: Moorage should be restricted to the minimum size necessary to meet the needs of the proposed water-dependent use. The length, width and height of piers and docks should be no greater than necessary for safety and functional use.

The project proposes a moorage structure that is the minimum size necessary.

REGULATION 7: Moorage facilities shall be the minimum size necessary to meet the needs of the proposed water-dependent use and shall observe the following criteria:

- a.** If allowed, only one private dock with one accessory float, and two watercraft lifts (the combination of one boat and one jet ski or other watercraft together) shall be permitted on a shoreline lot owned for residential or private recreational use.

The proposed project is for a boatlift.

- b.** Moorage shall be designed to avoid the need for maintenance dredging. The moorage of a boat larger than provided for in the original moorage design shall not be grounds for approval of dredging.

The location does not indicate the need for maintenance dredging.

REGULATION 15: Moorage facilities shall be marked with reflectors, or shall be otherwise identified to prevent unnecessarily hazardous conditions for water surface users during day or night. Exterior finish shall be generally non-reflective.

Suggested conditions of approval require that the boatlift be marked with reflectors or otherwise identified.

REGULATION 16: Moorage facilities shall be constructed and maintained so that no part of a facility creates hazardous conditions nor damages other shore property or natural features during predictable flood conditions. Floats shall be securely anchored.

The boatlift is designed and secured so that it will not damage shoreline property or natural features.

REGULATION 21: All moorage facilities must permanently mark all of the components with name, address, telephone number and date of installation.

Suggested conditions of approval requires that the boatlift be permanently marked for identification.

REGULATION 23: Moorage facilities shall avoid locations that will adversely impact shoreline ecological functions or processes.

The boatlift is proposed to be located in the most appropriate shoreline location on the subject property.

Appendix H, Chapter 3: Critical Areas – Fish and Wildlife Habitat Conservation Areas
An Aquatic Habitat Buffer Assessment was performed for the Fuji short plat in 2010. The assessment identified that the property met the criteria in the SMP for a 100 foot buffer.

The installation of a boatlift, cutting back of the bank, and installation of the access trail will impact the aquatic and riparian environment. A fish and wildlife habitat management and mitigation plan has determined that a total of 1,758 square feet of habitat will be disturbed by the installation of the boatlift and shoreline cutback. The plan proposes 2,055 square feet of riparian vegetation plantings to meet the mitigation requirement for disturbance of habitat. The difference between the amount of mitigation required by the SMP and the amount actually installed is due to the Army Corps of Engineers is requiring a 3.8:1 mitigation ratio for the boatlift overwater coverage. A planting plan is proposed on page 8 of 8 of the diagrams in the Fish & Wildlife Habitat Management and Mitigation Plan.

As conditioned, the proposal is consistent with this section.

Consistency with WAC 173-27 and RCW 90.58:

As conditioned below, the project appears consistent with the requirements and criteria of the Shoreline Management and Enforcement Procedures, and the Shoreline Management Act

VIII. RECOMMENDATION

As conditioned below, this application does not appear to be detrimental to the general public health, safety or welfare and meets the basic intent and criteria associated with Title 18 and 19 of the Douglas County Code, the Douglas County Countywide Comprehensive Plan, and the Douglas County Shoreline Master Program. Staff recommends approval of SP#13-03, subject to the following findings of fact and conditions:

Suggested Findings of Fact

1. The applicants are David Dufenhorst, 18725 164th Ave NE, Woodenville WA and Todd Parmenter, 20231 78th Ave SE, Snohomish WA.
2. General Description: An application for a shoreline substantial development permit for the installation of a ground based boatlift and shoreline cutback of the trail access to the dock.
3. The subject property is described as Lots 1, 2 and 3, of the Fujii Short Plat and is further described as being located within the NW 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 January 29, 2010 was performed by Grette & Associates for the Fuji Short Plat. 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 January 2013 was performed for the project by Grette & Associates.
10. A fish and wildlife habitat management and mitigation plan determined that a total of 1,758 square feet of aquatic and riparian habitat will be disturbed by installation of the boatlift and shoreline cutback. The plan proposes 2,055 square feet of riparian vegetation plantings to meet the mitigation requirement for disturbance of habitat. A planting plan is proposed on page 8 of 8 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 have been considered and addressed where appropriate.
13. Douglas County issued a Determination of Non-significance on April 4, 2013 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.

Suggested Conclusions:

1. 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.
2. As conditioned, this proposal is consistent with applicable federal and state laws and regulations.
3. As proposed, revised, and conditioned, potential impacts of the project can be mitigated.
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.

Suggested Conditions of Approval

1. The project shall proceed in substantial conformance with the plans and application materials of file submitted on February 7, 2013 except as amended by the conditions herein.
2. The applicant shall comply with all applicable local, state and federal regulations.
3. 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.
4. 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.
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 with the building permit application.
6. The dock shall be permanently marked with name, address, telephone number and date of installation. Documentation shall be provided with the building permit application.
7. The project application shall proceed consistent with the Fish & Wildlife Habitat Management and Mitigation Plan prepared by Grette & Associates, dated January 2013.
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 8 of 8, dated January 21, 2013 shall be planted upon completion of installation of the dock.
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 September 20, 2010 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.

Respectfully Submitted,

Curtis Lillquist, A.I.C.P.
Senior Planner

Attachments

ATTACHMENT A

Curtis Lillquist (x6588)

From: Graves, Lisa <lisa.graves@chelanpud.org>
Sent: Thursday, March 21, 2013 9:54 AM
To: Curtis Lillquist (x6588)
Cc: Dunning, Tracy
Subject: Comment on SP-13-03 - Dufenhorst

Curtis,

The District does not have any concerns with this application for a boatlift and trail plan. The boatlift has minimal impact to the District's Rocky Reach hydroelectric project, and the trail work is outside of the District's project boundary.

Should this project receive approvals from all agencies, the District requests that Douglas County condition the final approval and permit on the applicant receiving a District license for the boatlift.

Thank you for the opportunity to review and comment on this proposal.

Lisa

Lisa Graves | Real Estate Specialist | PUD #1 of Chelan County
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