

**STAFF REPORT
PIERRE - KIRKPATRICK BOATLIFTS**

TO: Douglas County Hearing Examiner
FROM: Douglas County Land Services Staff
RE: Pierre - Kirkpatrick, SP-13-05
DATE: June 3, 2013

I. GENERAL INFORMATION

Requested Action: An application for a shoreline substantial development permit (SP) for two (2) ground based boatlifts at the existing permitted joint-use dock on the Columbia River. Each boatlift footprint would be approximately 10'x12.5'. Approximately 844 square feet of mitigation plantings are proposed to mitigate for overwater impact.

Location: The subject property is located off of Vineyard Drive within the Northwest $\frac{1}{4}$ of Section 8, Township 26 N., Range 22 E., W.M., Douglas County, Washington. The site is located in the Rural Resource 5 (RR-5) Zoning District and the shoreline designation is Rural Conservancy. The parcel numbers for the subject property are 79100000600 (boatlifts location), 82600000400, 82600000500 (boatlifts will serve these lots).

II. SITE INFORMATION

Site Characteristics: The upland is characterized by a moderate slope leading down to the Ordinary High Water Mark (OHWM). Vegetation at the subject properties has been significantly altered as part of the historic orchard use, and as part of recent permitting actions to remove poison ivy and installation of lawn grass within the old orchard. The locations where poison ivy and blackberry existed were restored with native vegetation.

Zoning and Development Standards: The subject property is located within the Rural Resource 5 (RR-5) Zoning District. The purpose of the Rural Resource 5 (RR-5) 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 designation provides opportunities for compatible rural land uses, and is sensitive to the site's physical characteristics.

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 DEVELOPMENT:

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.

IV. REGIONAL SHORELINE MASTER PROGRAM

The Douglas County Regional Shoreline Master Program classifies this portion of the Columbia River shoreline as Shoreline Residential. The purpose of the rural conservancy environment is to accommodate residential development and accessory structures that are consistent with this chapter. An additional purpose is to provide appropriate public access and recreational uses. Many of the below items refer to, or are substantively implemented by the 'Douglas County Shoreline Critical Area Regulations ('RSMP Appendix H')', which is available at <http://www.douglascountywa.net/departments/tls/growth/default.asp>. The following goals, policies, objectives and regulations of the Regional Shoreline Master Program are pertinent to the proposed use:

SECTION 2.4 RECREATION ELEMENT

Goal 1: Provide opportunities and space for diverse forms of water-oriented recreation.

Objective 1: Give priority to water-oriented shoreline recreational development that is primarily related to access, enjoyment and use of the water and shorelines of the state.

Objective 2: Recreational areas should be located, designed, developed, managed, and maintained in a manner that protects shoreline ecological functions and processes.

Objective 5: Location, design and operation of recreational development shall consider measures necessary to establish a high level of compatibility with other uses and activities and avoid negative impacts to the shoreline environment.

SECTION 2.5 SHORELINE USE ELEMENT

Goal 1: Consider the use and development of shorelines and adjacent land areas for housing, business, industry, transportation, agriculture, forestry, natural resources, recreation, education, public buildings and grounds, utilities and other categories of public and private land uses in relation to the natural environment and ensuring no net loss of ecological function.

Objective 1: Shoreline use preference should be given to water-dependent and single family residential uses that are consistent with preservation of shoreline ecological functions and processes. Secondary preference should be given to water-related and water-enjoyment uses. Non-water-oriented uses should be allowed only when substantial public benefit is provided with respect to the goals of the Act for public access and ecological restoration.

Objective 2: The location, design, and management of shoreline uses should be balanced to prevent a net loss of shoreline ecological functions and processes over time. Where adverse impacts are unavoidable, require mitigation to ensure no net loss of shoreline ecological functions.

SECTION 3.4 RURAL CONSERVANCY ENVIRONMENT

Policy 1: The Master Program is the primary guide for the location, type, density, and distribution of uses in the rural conservancy environment designation. Local comprehensive plans and development regulations also provide guidance and standards for development which occurs within shorelines of the state.

Policy 4: Water-dependent and water-enjoyment recreation facilities that do not deplete the resource over time, such as boating facilities, angling, hunting, wildlife viewing trails,

and swimming beaches, are preferred uses, provided significant adverse impacts to the shoreline are mitigated.

SECTION 3.10 TABLE 1 USE MATRIX

Section 3.10 establishes that recreation may be permitted in the Shoreline Residential Environment via a shoreline substantial development permit.

SECTION 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.

Policy 2: In assessing the potential for net loss of ecological functions or processes, project specific and cumulative impacts shall be identified and evaluated.

Policy 3: Development standards for density, lot frontage, setbacks, lot coverage, shoreline stabilization, vegetation conservation, buffers, critical areas, and water quality should protect existing shoreline ecological functions and processes. Review of shoreline development should consider potential impacts associated with proposed shoreline development when assessing compliance with this policy.

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. 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; 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; d. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action; e. Compensating for the impact by replacing, enhancing, or providing substitute resources or environments; and f. Monitoring the impact and the compensation projects and taking appropriate corrective measures.

Regulation 2: The provisions of this section and Appendix H shall apply to any use, alteration or development within shoreline jurisdiction, whether or not a shoreline permit or written statement of exemption is required.

Regulation 3: Unless otherwise stated, critical area buffers shall be protected and/or enhanced pursuant to Appendix H and all other applicable provisions of this Program.

Regulation 5: The cumulative effects of individual development proposals shall be identified and evaluated to assure that no net loss standards are achieved.

SECTION 4.2 WATER QUALITY

Policy 1: The location, construction, operation, and maintenance of all shoreline uses and developments should maintain or enhance the quantity and quality of surface and ground water over the long-term.

Policy 3: Appropriate buffers along all wetlands, streams, and lakes should be provided and maintained in a manner that avoids the need for chemical treatment for vegetation management and be consistent with critical areas ordinances and best management practices.

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

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.

SECTION 4.3 VEGETATION CONSERVATION

Policy 1: Native shoreline vegetation should be conserved to maintain shoreline ecological functions and/or processes and mitigate the direct, indirect and/or cumulative impacts of shoreline development, wherever feasible. Disturbance of native plant communities should be avoided. Disturbed areas should be revegetated with native plant species appropriate to the soil and hydrologic conditions.

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 in 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.

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

Regulation 5: Removal of noxious weeds and/or invasive species shall be incorporated in management and mitigation plans, as necessary, to facilitate establishment of a stable community of native plants.

Regulation 6: Vegetation removal not associated with a development permit application requires the submittal and approval of a management and mitigation plan prepared by a qualified biologist, and must be consistent with the provisions of Section 4.1, Ecological Protection and Critical Areas.

Regulation 7: Filling, clearing and grading in vegetated shoreline areas shall be in conformance with the provisions of Section 5.8, Filling, Grading, and Excavation; in addition to Section 4.1, Ecological Protection and Critical Areas, and the provisions of this Program.

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. These 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 June 3, 2013.

VI. AGENCY AND PUBLIC COMMENTS:

Applicable agencies have been given the opportunity to review this proposal. Agency comments have been included as Attachment A. No public comments were submitted on this proposal at the time of staff review.

VII. PROJECT ANALYSIS

This shoreline substantial development permit is for the installation of two ground based boatlifts. The Riesling Plat Alteration (P-09-01) was recorded on December 22, 2009. The subject property is currently vested under the regulations at that time, which includes a 75 foot buffer from the ordinary high water mark (OHWM). The applicants have submitted a Mitigation Plan consistent with the applicable regulations.

Upon review of the application materials, site plans, mitigation 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 provisions of the RR-5 Zoning District, Chapter 18.30, D.C.C.:

Single family residences and their accessories are a permitted use in the RR-5 Zoning District. The proposal is consistent with the provisions of this chapter.

Consistency with the Douglas County Regional Shoreline Master Program:

The Douglas County Regional Shoreline Master Program (RSMP) goals, policies and regulations allow the installation of boatlifts provided that standards are met. The RSMP also requires that there is "no net loss of existing ecological functions and processes" and to protect critical areas.

Absent site mitigation, the installation of a boatlift may have impacts to the fish and wildlife habitat areas. However, compensatory mitigation is proposed to address potential impacts; in the long term the site will have increased habitat functions and values. By planting with native vegetation, the site will be more available for habitat use.

The proposal is designed and constructed to minimize and mitigate any damage to the ecology and environment. Native plant communities will be avoided as no impact will occur within the buffer. Access to the boatlifts is via the existing maintained grass dock

access corridor. Mitigation plantings with native plant species and buffers will be protected and/or enhanced pursuant to Appendix H and all other applicable provisions of the RSMP. The native seeding and planting will mitigate overwater impacts from the installation of the boatlift. Development within shoreline buffers must develop a Fish and Wildlife Habitat management and mitigation plan meeting the requirements of the RSMP and Douglas County Shoreline Critical Area Regulations ('RSMP Appendix H'). The applicant submitted a Fish and Wildlife Habitat Management and Mitigation Plan dated January 2013, prepared by Grette Associates, LLC. This plan details the disturbance and impacts to the overwater area and proposes mitigation at a 3.38:1 ratio for overwater coverage, which includes a total of 844 square feet vegetated with mitigation plantings including native trees, shrubs, grasses and forbes.

The applicant's qualified biologist submitted application materials which include the required components of the RSMP and Appendix H Shoreline Critical Area Standards. Impacts to the watershed have been considered; boatlift installation is a permitted use by the program; project design has addressed mitigation sequencing; the Biologist has considered cumulative and site impacts and determined that there is no net loss of functions and values given proposed mitigation; site mitigation increases riparian functions and values for the shoreline which assists with implementation of the RSMP restoration plan; performance standards have been included to address site monitoring and successful implementation of mitigation. As conditioned the proposal is consistent with the applicable policies and standards of the RSMP.

Consistency with WAC 173-27 and RCW 90.58:

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

Comments:

Chelan PUD is the only agency that commented. They require a district license for the boatlifts as a condition. Agency comments attached as Attachment A.

No public comments have been received at the time of this staff report.

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 Regional Shoreline Master Program. Staff recommends approval of SP-13-05, subject to the following findings of fact and conditions:

Suggested Findings of Fact:

1. The applicants is Jamie Pierre, 11525 Lake City Way NE, Seattle, WA 98125.
2. Jamie Pierre has submitted an application for application for a shoreline substantial development permit (SP) for two ground based boatlifts. The boatlifts

footprints would be approximately 10x12.5 feet each. Approximately 844 square feet of mitigation plantings are proposed to for overwater impact.

3. The subject property is located off of Vineyard Drive within the Northwest ¼ of Section 8, Township 26 N., Range 22 E., W.M., Douglas County, Washington.
4. The parcel numbers for the subject property are 79100000600 (boatlifts location), 82600000400, 82600000500 (boatlifts will serve these lots).
5. The Comprehensive Plan Designation is Rural Resource 5 (RR-5).
6. The subject property is located in the Rural Resource 5 (RR-5) Zoning District which allows for single family residences and their accessory structures.
7. The Columbia River Shoreline section of the subject property is designated as “Rural Conservancy” by the Douglas County Regional Shoreline Master Program.
8. The proposal is subject to the provisions of the Fish and Wildlife Habitat Conservation areas, Chapter 3 of Appendix H of the RSMP.
9. According to RCW 90.58.030 the Columbia River is a shoreline of statewide significance.
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. The subject property is located on the shoreline of the Columbia River and contains fish and wildlife habitat and aquatic habitat regulated under the Douglas County Regional Shoreline Master Program.
12. Multiple agencies have permitting standards, requirements or limitations for the use and development of moorage facilities. Many of these agencies have specific ownership or easement rights. The county and cities should coordinate with federal, tribal, state and local agencies during the review of shoreline permits. The granting of a shoreline permit does not relieve a project from compliance with the standards of other agencies.(RSMP Section 5.10, Policy 9)
13. No comments have been submitted by state or federal agencies for the proposal indicating that the project will result in a net loss of functions and values and cumulative impacts.
14. The Riesling Plat Alteration (P-09-01) was recorded on December 22, 2009. The subject property is currently vested under the regulations at that time, which includes a 75 foot buffer from the ordinary high water mark (OHWM).
15. The applicant has submitted a Fish and Wildlife Habitat Management and Mitigation Plan dated January 2013, completed by Grette Associates LLC., in order to address the requirements of Chapter 3 of Appendix H of the RSMP.
16. Chelan PUD requires district licenses for the boatlifts.

17. Douglas County issued a Determination of Non-significance on June 3, 2013.
18. Surrounding property owners were given the opportunity to comment on the proposals.
19. Proper legal requirements were met and surrounding property owners were given the opportunity to comment on the proposal at a public hearing.
20. Comments from reviewing agencies have been considered and addressed where appropriate.

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 policies and regulations of the Douglas County Regional Shoreline Master Program.
2. As conditioned, this proposal is consistent with applicable federal and state laws and regulations.
3. Public interests will be served by approval of this proposal.
4. As conditioned, the proposal is consistent with Title 18 "Zoning" of the Douglas County Code.
5. As conditioned, the development will not adversely affect the general public, health, safety and general welfare.

Suggested Conditions of Approval:

1. The project shall proceed in substantial conformance with the plans and application materials on file except as amended by the conditions herein.
2. The applicant shall comply with all applicable local, state and federal regulations and the applicant is responsible for securing any and all state and federal agency permits, as may be required.
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. Prior to boatlift installation Chelan County PUD requires district licenses for the boatlifts (Lisa Graves661-4196).
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.

6. The project application shall proceed consistent with the Fish and Wildlife Habitat Management and Mitigation Plan dated January 2013, completed by Grette Associates LLC.
7. Where necessary, 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 and shrub steppe vegetation.
8. A performance surety agreement in conformance with Chapter 7 of the RSMP shall be entered into between the property owner and Douglas County Transportation and Land Services **prior to site work** commencing.
9. Onsite monitoring and monitoring reports shall be submitted to Douglas County Transportation and Land Services in conformance with the timelines and standards of Section 3.037(I) of Appendix H of the RSMP.
10. Implementation of onsite mitigation must be in conformance with the approved Fish and Wildlife Habitat Management and Mitigation plan dated January 2013, and the performance standards of Section 3.037(I) of appendix H of the RSMP.
11. Mitigation must be installed no later than the next growing season after completion of site improvements
12. 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.
13. 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,

Marla Gutzwiler
Senior Planner

Attachments

The Regional Shoreline Master Program, Chapters 1-9 can be accessed at:
http://www.douglascountywa.net/departments/tls/growth/pdf/Chapter_1-9_Final_8-27-09.pdf

The Regional Shoreline Master Program, Appendix H, can be accessed at:
http://www.douglascountywa.net/departments/tls/growth/pdf/Appendix_A-H_Final_8-27-09.pdf.