

**STAFF REPORT
DIR SHORELINE ACCESS TRAIL & BUOY**

TO: Douglas County Hearing Examiner
FROM: Douglas County Land Services Staff
RE: SP-15-05, Dir
DATE: August 15, 2016

I. GENERAL INFORMATION

Requested Action: An application for a shoreline substantial development permit for a disability accessible residential shoreline access trail and mooring buoy.

Location: The project is proposed for 71 N. Shore Dr., Orondo. The property is described as Lot 38, Block 2 of the Beebe Orchard Tracts Plat. The property is further described as being located in the Northwest Quarter of Section 16, Township 27N, Range 23 EWM, Douglas County, Washington. The Douglas County Assessor's number is 45700203800.

II. SITE INFORMATION

Site Characteristics: The existing vegetation and habitat conditions on the properties are divided into three distinct areas, which are providing very distinct levels of habitat functions and values. The areas are separated based on slope, existing vegetation, and development. The first section is located immediately landward of the OHWM and consists of a narrow vegetated strip. The second area consists of the steeply sloped portion of the shoreline. The third area is located above the top of the bank and has been developed as part of the construction of the single family residence. The subject property includes a retaining wall, swimming pool and single family residence. The existing developments are located above the top of the bank and approximately 100 -110 ft landward of the OHWM. The area where the trail is proposed begins at an elevation of 730 ft on the upper bench dropping down to an elevation of 710 ft along the shoreline. The grade between the two benches is relatively consistent although the slope in the center of the area does steepen slightly. The existing slope in this area is approximately 25%.

III. COMPREHENSIVE PLAN, ZONING AND DEVELOPMENT STANDARDS AND SHORELINE MASTER PROGRAM

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 resource characteristics in the vicinity. The district provides an opportunity for compatible rural land uses, and is sensitive to the site's physical characteristics. Areas may be located adjacent to urban growth areas or existing development of higher densities and,

where appropriate, may serve as transition and buffer area between commercial agricultural areas and other land uses. 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 having adequate rural levels of services available such as roads, schools, and fire protection, that the density does not encourage urban levels of service and provides significant open space corridors and protection of critical areas.

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.

IV. ENVIRONMENTAL REVIEW

Douglas County issued a Determination of Non-significance on August 4, 2016 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	11/5/2015	WA Dept of Fish & Wildlife	11/24/2015
WA Department of Ecology - Shorelines	12/9/2015	Army Corps of Engineers	N/R
Chelan County PUD	11/6/2015	Yakama Nation	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, 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:

Consistency with American National Standard Institute Accessibility Standards:

The applicants have requested a shoreline substantial development permit for a shoreline access trail with intent to be utilized for wheelchair access. The County agrees that the applicants have a need for wheelchair accessibility.

The State of Washington has adopted barrier-free accessibility standards in WAC 51-50-005: ANSI ICC A117.1-2009. This prescribes safe, equitable and defensible standards for access by disabled persons. The standards are internationally recognized for uniform, universal application. The purpose of the criteria in ANSI ICC A117.1-2009 is to allow all persons regardless of physical ability to independently get to, enter, and use a site, facility, building, or element. The standards, as a part of the State Building Code, are applicable in all counties and cities in the State of Washington, including Douglas County.

The Douglas County Plans Examiner has reviewed the proposed access trail and concluded that the project as designed does not meet the minimum standards required in this regulatory manual. The Douglas County Plans Examiner analysis and determination are included as Attachment B.

Consistency with the Douglas County Shoreline Master Program

The project Joint Aquatic Resource Permit Application (JARPA) in Sections 6a and 8a discloses that originally the project was designed to meet all of the current standards for disability access. The JARPA indicates that the compliant design was abandoned in favor of the current proposal to minimize disturbance to the shoreline.

Douglas County staff requested an ANSI compliant design in correspondence dated January 14, 2016. The applicant responded March 29, 2016, again, that full compliance with the disability access standard would result in additional shoreline disturbance. The applicant's representative in an email dated July 6, 2016 decided to proceed with application review to a public hearing with the non-compliant ANSI design.

The County is bound by the aspirational principles of the Americans with Disabilities Act and the barrier-free accessibility standards of the Washington State Building Code. These principles and standards are precedent to the Shoreline Master Program.

The County agrees that full compliance with the required accessibility standards will most likely result in additional shoreline disturbance. The Shoreline Master Program provides flexible mitigation options for projects that disturb the shoreline environment. However, the County is not able to review the project for compliance and consistency with the Douglas County Shoreline Master Program until an ANSI compliant trail design has been provided.

Mooring buoys are a permitted use in the Rural Conservancy shoreline designation, although an access trail meeting ANSI and DC SMP standards is required for approval of a buoy.

VIII. RECOMMENDATION

Staff recommends denial of SP-15-05. Findings of Fact are listed below:

Suggested Findings of Fact:

1. The applicants are James & Kim Dir, 71 N. Shore Dr., Orondo, WA 98943
2. Shoreline Substantial Development Permit application 15-05 is for a shoreline access trail and mooring buoy.
3. The project is proposed to serve 71 N. Shore Dr., Orondo, WA. The property is described as being Lot 38, Block 2 of the Beebe Orchard Tracts plat. The property is further described as being located in the Northwest Quarter of Section 16, Township 27N, Range 23 EWM, Douglas County, Washington.
4. The Douglas County Assessor's number is 45700203800.
5. The Comprehensive Plan Designation is Rural Resource 5 Acres.
6. The subject property is located in the RR-5 zoning district.
7. The Columbia River Shoreline section of the subject property is designated as "Rural Conservancy" by the Douglas County Shoreline Master Program.
8. Douglas County has adopted by reference the American National Standard Institute (ANSI) ICC A117.1-2009 Accessibility and Usable Building and Facilities Code.
9. The project design is not consistent with ANSI ICC A117.1-2009.
10. The project cannot be evaluated for compliance and consistency with the Douglas County Shoreline Master Program as the project design does not meet ANSI standards for accessibility.
11. Comments from reviewing agencies have been considered and addressed where appropriate.
12. Douglas County issued a Determination of Non-significance on August 4, 2016 in accordance with WAC 197-11-355 (Optional DNS).
13. 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.
14. Proper legal requirements were met and surrounding property owners were given the opportunity to comment on the proposal at a public hearing.