

**STAFF REPORT
MCCANN/MULLIGAN BOATLIFTS**

TO: Douglas County Hearing Examiner
FROM: Douglas County Land Services Staff
RE: McCann/Mulligan Boatlifts SP-16-06
DATE: September 12, 2016

I. GENERAL INFORMATION

Requested Action: An application for a shoreline substantial development permit for two residential ground-based boatlifts at an existing community dock on the Columbia River.

Location: The boatlifts will be placed on 9 Alcazar Lane and will serve 11 and 15 Alcazar Lane, Orondo. The properties are described as Lots 1, 2 and 3 of the Sandcastles Plat. The properties are further described as being located in the Southwest Quarter of Section 21, Township 26N, Range 21E., W.M., Douglas County, Washington. The Douglas County Assessor's Parcel Numbers are: 89100000100, 891000000200 and 89100000300.

II. SITE INFORMATION

Site Characteristics: The subject property consists of a former orchard that has been cleared and developed as a residential subdivision. There is a narrow strip (approximately 20 ft wide) of native riparian vegetation at both the upriver and downriver extents of the property, including coyote willow (*Salix exigua*) and mountain alder (*Alnus incana*). A cluster of moderately sized black cottonwood (*Populus balsamifera* ssp. *Trichocarpa*) trees are present along the shoreline in the upriver extent of the property. In the middle of the property, the site is vegetated with mowed and maintained orchard grass and weedy species down to the OHWM. The upland of the site consists of mowed and maintained grasses and forbs. Below the OHWM, an emergent lake-fringe wetland is present. The wetland is dominated by hardstem bulrush (*Schoenoplectus acutus*) and cattail (*Typha latifolia*).

The site is located in a small embayment in the Columbia River. Nearshore bathymetry along most of the subject parcel is generally low-sloped, at approximately 5% in the mid-to upstream extent of the property. A water depth of 10 ft is reached approximately 134 ft waterward of the OHWM at the nearest, and up to 270 ft or more in the extreme upstream side of the property. In the downstream portion of the site, the nearshore slope is substantially steeper. A scour hole is present in the dock location, such that 10 ft water depth is reached within approximately 74 ft from OHWM. Water depth then gets somewhat shallower before dropping off again to the main channel. This feature is likely present due to the embayment-like nearshore habitat.

Project Proposal: The applicants propose to install two ground-based boatlifts in the Columbia River. The boatlifts would be placed at the Sandcastles community dock at 9 Alcazar Lane and will serve the two waterfront lots located immediately upstream of the dock; 11 and 15 Alcazar Lane. The boatlifts will be installed on the downriver side of the dock, inside the "H" section and installed approximately 80 ft and 102 ft waterward of the OHWM, respectively, and both in a water depth of approximately 11 ft below the OHWM.

Each ground-based boatlift will have a maximum footprint of approximately 10ft x 12.5 ft, although the boatlifts will consist of open-steel framing.

Mitigation for the boatlifts will be provided by the installation of native riparian vegetation within two 305 sq ft mitigation planting areas on each of the parcels served by the boatlifts.

Zoning and Development Standards: The subject properties are located within the Rural Resource 5 (RR-5) Zoning District. The purpose of Rural Resource 5 zoning 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, is sensitive to the site's physical characteristics and may serve as an urban transition area adjacent to urban growth boundaries. Areas may be located adjacent to urban growth areas or existing development of higher densities and where appropriate, may serve as a transition and buffer area between commercial agricultural areas and other land uses. Areas may be located where there currently is a range of rural densities or land parcel sizes generally less than twenty acres in size, including along the Columbia River and in areas that have adequate rural levels of services available such as roads, schools, and fire protection.

III. COMPREHENSIVE PLAN:

The Douglas County Countywide Comprehensive Plan designates this property as Rural Resource 5 (RR-5). 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.

POLICY RD-7: Rural developments should consider and comply with the spirit, intent and requirements of all the chapters and sections of the comprehensive plan, including but not limited to, the Resource Lands Element and Resource and Critical Areas Conservation Element.

CRITICAL AREAS – FISH AND WILDLIFE HABITAT CONSERVATION AREAS

GOAL 1: 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-14: 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-15: 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 16: 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-19: Proper riparian management that maintains existing riparian habitat and is consistent with best agricultural management practices should be encouraged.

POLICY CA-20: 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-21: 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 Regional 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. Examples of appropriate uses include but are not limited to low impact outdoor recreation uses, agricultural uses, aquaculture, low intensity residential development, and other natural resource based low intensity uses.

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. The 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 these regulations; and
- The applicable master program adopted or approved for the area.

V. ENVIRONMENTAL REVIEW

Douglas County issued a Determination of Non-significance on August 8, 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	N/R	WA Dept. of Fish & Wildlife	N/R

WA Department of Ecology - Shorelines	N/R	Army Corps of Engineers	N/R
Chelan County PUD	7/25/2016	Yakama Nation	N/R
Dept. of Natural Resources – Rivers Dist.	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, the Douglas County Regional Shoreline Master Program and other 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

Watercraft lifts 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, and the applicant states the project will not impact the riparian environment. The project has been designed to minimize damage and to fully mitigate pursuant to federal and 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;

The project is designed to minimize impacts by utilizing current state and federal boatlift and shoreline-access design.

- 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 includes two new structures 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 includes two new structures 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 boatlift 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 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 boatlifts and any structural component materials shall be of a type approved by state agencies to avoid discharge of pollutants.

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 & 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.

No native vegetation will be removed since the project will only take place below the OHWM.

4.7 RESTORATION

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

A Fish & 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.

5.10 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 two proposed ground-based boatlifts will each have a maximum footprint of approximately 125 square feet and be constructed of open steel framing. The addition of the boatlifts 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 two watercraft lift structures that are 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:

- d. 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 boatlifts 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 boatlifts are designed and secured so that they 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 require that the boatlifts be permanently marked for identification.

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

The boatlifts are proposed to be located at the existing Sandcastles community dock which includes a designated shoreline access trail and established mitigation planting areas.

Appendix H, Chapter 3: Critical Areas – Fish and Wildlife Habitat Conservation Areas

The Fish & Wildlife Habitat Management and Mitigation Plan has determined that the riparian buffer will not be affected by the installation of two ground-based boatlifts below the OHWM.

The installation of two boatlifts will impact the aquatic environment. A Fish & Wildlife Habitat Management and Mitigation Plan has determined that there will be approximately 125 sq ft of impact from each boatlift to the aquatic environment. The plan proposes two mitigation planting areas each equaling 305 sq ft per the USACE/NMFS mitigation ratio of 2.44:1 for boatlifts in the Columbia River, installed at water depths greater than 11 feet. One planting area would be installed on each of the two properties. The proposed boatlifts will be installed at approximately 11 feet below the OHWM. The

Douglas County Regional Shoreline Master Program requires a minimum mitigation ratio of 1:1 for development within aquatic habitat. The more restrictive mitigation ratio determined by the USACE is used for this project. A planting plan is proposed on sheet 6 of 6 of the diagrams in the Fish & Wildlife Habitat Management and Mitigation Plan Sheets.

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 Regional Shoreline Master Program. Staff recommends approval of SP-16-06, subject to the following findings of fact and conditions:

Suggested Findings of Fact

1. The applicants are Michael & Lisa Mulligan, 15 Alcazar Lane, Orondo, WA and Tim & Julie McCann, 11 Alcazar Lane, Orondo, WA.
2. General Description: An application for a shoreline substantial development permit for two ground-based boatlifts at an existing community dock, located at 9 Alcazar Lane.
3. The boatlifts will serve 11 and 15 Alcazar Lane. The properties are described as being Lots 1, 2 and 3 of the Sandcastles plat. The properties are further described as being located in the Southwest Quarter of Section 21, Township 26N, Range 21E W.M., Douglas County, Washington. The Douglas County Assessor's Parcel Numbers are 89100000100, 89100000200 and 89100000300.
4. The Comprehensive Plan Designation is Rural Resource 5.
5. The subject properties are located in the Rural Resource 5 (RR-5) zoning district.
6. The Columbia River Shoreline section of the subject properties 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 & Wildlife Habitat Management and Mitigation Plan dated April 2016 was performed for the project by Grette Associates.
9. The Fish & Wildlife Habitat Management and Mitigation Plan states that the proposed project would not result in any impacts to the existing riparian habitat or buffer.
10. The installation of the two boatlifts will impact the aquatic environment. A Fish & Wildlife Habitat Management and Mitigation Plan has determined that a total of 250 sq ft of aquatic habitat will be disturbed by the boatlifts. The application proposes 610

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.

11. The mitigation proposed in the Fish & Wildlife Management and Mitigation Plan meets the requirements of the Douglas County Regional Shoreline Master Program.
12. Comments have been received from the Chelan County PUD, dated July 25, 2016.
13. Douglas County issued a Determination of Non-significance on August 8, 2016 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 Regional 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 on file, submitted on June 1, 2016 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. The two 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.
5. The boatlifts shall be permanently marked with name, address, telephone number and date of installation. Documentation shall be provided to the County.
6. The project application shall proceed consistent with the Fish & Wildlife Habitat Management and Mitigation Plan prepared by Grette Associates, dated April 2016.

7. 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.
8. Mitigation plantings as shown on the mitigation planting plan sheet 6 of 6, dated 4/22/2016 shall be planted upon completion of the boatlifts.
9. 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 owners 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.
10. 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.
11. 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 April 2016 have been satisfied.
12. 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.
13. 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.
14. Prior to installation of the boatlifts, copies of approval from applicable agencies, including the Chelan County PUD, must be submitted to the County.
15. 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,

A handwritten signature in black ink, appearing to read 'Suzanne Austin', written in a cursive style.

Suzanne Austin
Associate Planner

Attachments