

**STAFF REPORT
BAUERS LANDING SHORELINE CUTBACK**

TO: Douglas County Hearing Examiner
FROM: Douglas County Land Services Staff
RE: Bauers Landing Lodge Association SP-16-07
DATE: February 6, 2017

I. GENERAL INFORMATION

Requested Action: An application for a shoreline substantial development permit to cut back the existing steeply sloped shoreline at the Bauers Landing Community Beach to eliminate erosion and ensure user safety.

Location: The property is located on the Columbia River in the Bauers Landing subdivision and is located within the Shoreline Residential shoreline environment. It is further described as being located within the NW Quarter of Section 15, Township 26N, Range 21E., W.M., Douglas County, Washington. The Douglas County Assessor's Parcel Number is: 45600000000.

II. SITE INFORMATION

Site Characteristics: The subject property consists of developed community waterfront along the Columbia River. The property consists primarily of mowed lawn grass above the Ordinary High Water Mark (OHWM) of the river with a couple structures associated with irrigation and a boat launch. The property is virtually devoid of riparian vegetation, which is primarily limited to mature trees and shrubs immediately upriver and downriver of the existing boat launch. Several other sparse mature trees and riparian shrubs are present on the remainder of the property. All of the riparian vegetation is located within 5-10 ft of the OHWM. The portion of the property that will be cut back consists entirely of lawn grass. Due to the existing lawn grass, the primary function provided by this portion of the buffer is limited to water quality function provided by the existing grass. However, this function is limited due to the steep bank immediately landward of the OHWM.

Project Proposal: The proposed project would cut back the existing steeply sloped shoreline and remove existing lawn grass to eliminate the existing eroding shoreline and ensure the safe use and maintenance of the shoreline. The proposed cutback would remove the existing substrates from approximately 330 ft of the shoreline and would encompass approximately 4,500 sq ft. Currently, the top of the bank is between 3-5 ft above the OHWM and approximately 2-5 ft landward of the OHWM (horizontal distance). The proposed cutback would relocate the top of the bank between 9 and 15 ft landward, resulting in a more gradually sloped shoreline.

The proposed project will entail the installation of native vegetation as mitigation for the disturbance and grading within the buffer. With the proposed mitigation, the project will not result in any changes to the existing use of the shoreline and will not impact habitat functions and values.

Due to the fact that the entire project will occur within 50 ft of the OHWM, a riparian buffer assessment was not completed. Rather, the proposed project will utilize the default riparian buffer of 150 ft.

Zoning and Development Standards: The subject property is located within the Rural Recreation (R-REC) zoning district. The purpose of the Rural Recreation (R-REC) district is to provide the opportunity for the development, redevelopment, and infill of existing intensely developed rural recreational areas for residential, recreation, and tourist-related development consistent with the rural character in the vicinity. These areas provide a distinct rural lifestyle closely associated with the many natural amenities found within Douglas County. These areas are clearly identifiable as existing intensely developed rural recreational developments where a logical boundary can be delineated and as set by the built environment. Such boundary shall not permit or encourage a new pattern of sprawling low density. The predominate parcel size is generally less than one acre in size. Uses may include intensification of existing residential development or new development of residential, small scale recreational or tourist uses, provided uses rely on a rural location and do not encourage urban-type development or services.

III. COMPREHENSIVE PLAN:

The Douglas County Countywide Comprehensive Plan designates this property as Rural Recreation (R-REC). 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 Shoreline Residential. The purpose of the shoreline residential 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.

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 January 24, 2017 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	12/12/2016	WA Dept. of Fish & Wildlife	1/6/2017; 1/18/2017
WA Department of Ecology - Shorelines	12/23/2016; 1/18/2017	Colville Confederated Tribes	N/R
Chelan County PUD	12/15/2016	Yakama Nation	N/R
DAHP	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 Recreation 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

Shoreline stabilization for public safety is permitted in the Shoreline Residential shoreline designation. Public access design shall provide for public safety.

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 will take place entirely above the ordinary high water mark (OHWM). The applicant states the project will result in no net loss of ecological function and proposed mitigation measures will produce a net increase in habitat functions and values. 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 entirely in the riparian buffer and is proposed to provide safer public access to the shoreline 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 design standards. The action will provide greater shoreline stabilization, safer public access to the shoreline and ensure safe maintenance of the site.

- 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 shoreline stabilization and mitigation measures to help restore the affected environment and increase habitat functions and values. The project will repair the eroding shoreline for safer public access and maintenance of the site.

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

The project does not include any structures and will not result in a change in use of the shoreline or riparian buffer. The impact of public shoreline access will not be increased. The elimination of the steep, eroding slope will aid in safer access and maintenance operations.

- 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 and will result in a net increase in habitat functions and values. 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 project does not include any structures. A silt curtain will be placed above the OHWM during construction activities and a straw wattle will be installed until the vegetation is established.

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.

The project site consists of mostly lawn grass and is virtually devoid of riparian vegetation. The existing, sparse native vegetation will be left in place. Native vegetation will be planted for project mitigation at a 1:1 ratio.

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 increase net ecological function.

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 be enhanced by the mitigation required for the project. The proposed cut back of the eroding slope, grading and compaction will result in no change in habitat functions and values. The installation of native vegetation will significantly increase the habitat functions and values of the shoreline.

The project will disturb approximately 4,500 sq ft of the riparian buffer, which will result in the removal of approximately 4,500 sq ft of lawn grass. The project will remove existing lawn grass and regrade the shoreline from the riparian buffer within the existing community park/beach area. Following the removal of the lawn grass and native substrates (coarse sand), the area will be planted with 4,500 sq ft of native vegetation. The existing vegetation, primarily limited to mature trees and shrubs immediately upriver and downriver of the existing boat launch, will not be disturbed.

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-16-07, subject to the following findings of fact and conditions:

Suggested Findings of Fact

1. The applicant is Bauers Landing Lodge Association, Orondo, WA.
2. General Description: An application for a shoreline substantial development permit to cut back the existing steeply sloped shoreline at the Bauer's Landing Community Beach to eliminate erosion and ensure user safety. The subject property is located on the Columbia River in the Bauers Landing subdivision. The property is further described as being located within the NW Quarter of Section 15, Township 26N, Range 21E., W.M., Douglas County, Washington. The Douglas County Assessor's Parcel Number is: 4560000000.
3. The Comprehensive Plan Designation is Rural Recreation (R-REC).
4. The subject property is located in the Rural Recreation (R-REC) zoning district.
5. The Columbia River Shoreline section of the subject property is designated as Shoreline Residential by the Douglas County Regional Shoreline Master Program.
6. WAC 173-27-150 establishes minimum review criteria for Shoreline 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.
7. A Fish & Wildlife Habitat Management and Mitigation Plan, dated September 2016, was performed for the project by Grette Associates.
8. The Fish & Wildlife Habitat Management and Mitigation Plan states that the proposed project would have minimal impacts to the existing riparian habitat or buffer. Mitigation will provide a net increase in habitat functions and values.
9. The Fish & Wildlife Habitat Management and Mitigation Plan has determined that a total of 4,500 sq ft of riparian buffer will be impacted. The application proposes 4,500 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.
10. The mitigation proposed in the Fish & Wildlife Management and Mitigation Plan meets the requirements of the Douglas County Regional Shoreline Master Program.
11. Comments have been received from the Chelan County PUD dated December 15, 2016.
12. Comments have been received from the WA Dept. of Ecology dated December 23, 2016 and January 18, 2017.
13. Comments have been received from the WA Dept. of Fish & Wildlife dated January 6 and 18, 2017.
14. Douglas County issued a Determination of Non-significance on January 24, 2017 in accordance with WAC 197-11-355 (Optional DNS).

15. Surrounding property owners were given the opportunity to comment on the proposal, can request a copy of the decision, and can appeal the decision subject to the requirements outlined in DCC Title 14.
16. No public comments were received at the writing of this staff report
17. Proper legal requirements were met and surrounding property owners were given the opportunity to comment on the proposal at a public hearing.
18. 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.
19. 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 November 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 project application shall proceed consistent with the Fish & Wildlife Habitat Management and Mitigation Plan prepared by Grette Associates, dated September 2016.
5. 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.
6. Mitigation plantings as shown on the mitigation planting plan sheet 6 of 6, dated 1/16/2017, shall be planted in the growing season in which the project is constructed.
7. 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.

8. 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.
9. 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 September 2016 have been satisfied.
10. 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.
11. 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.
12. 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,



Suzanne Austin
Associate Planner

Attachments