

**SHORELINE MANAGEMENT PERMIT
ACTION SHEET**

Application #: SP-2021-03 - Morgan

Administering Agency Douglas County Transportation and Land Services

Type of Permit: Shoreline Substantial Development Permit

Action: Approved Denied

Date of Action: October 21, 2021

Date Mailed to DOE/AG

Pursuant to Chapter 90.58 RCW and the Shoreline Master Program of Douglas County, a permit is hereby granted to: **Lynn Morgan.**

I. FINDINGS OF FACT

1. The applicant is Lynn Morgan, 23303 77th Ave SE, Woodinville, WA 98072. The applicant's agent is Larry Lehman, with Grette Associates LLC, 151 S. Worthen St. Ste. 101, Wenatchee, WA 98801.
2. Lynn Morgan submitted an application for a Shoreline Substantial Development Permit to remove and replace a joint-use dock, to install a boatlift, and to relocate the irrigation intake structure.
3. The subject properties are located within the Rural Conservancy Shoreline environment, and is located within the Rural Resource 5 (RR-5) zoning district under Douglas County Code. The property is further described as being located within the NW Quarter of Section 28, Township 26N, Range 21E., W.M., Douglas County, Washington. The Douglas County Assessor's Parcel Numbers are: 26212820012 & 26212820013.
4. The subject property is located within the Rural Resource 5 (RR-5) Zoning District.
5. The development is within 200 feet of the **Columbia River** and/or its associated wetlands.
6. The Columbia River Shoreline section of the subject property is designated as Rural Conservancy by the Douglas County Regional Shoreline Master Program.
7. 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.

8. The residential lots are primarily flat with the majority of the property located approximately 12 vertical feet above the Ordinary High Watermark (OHWM). Landward of the residence there is a row of large trees including black locust (*Robinia pseudoacacia*) and Russian elm (*Ulmus laevis*) that provide some tree canopy overhang waterward of the top of the bank. Per the Shoreline Master Program there is a 75-foot buffer required on the site.
9. Below the top of the bank vegetation consists of upland grasses and weedy species with sparse shrubs. Habitat provided within the riparian buffer provides minimal habitat for fish and wildlife. Due to the lack of trees and shrubs in the riparian buffer, the presence of lawn grass, an orchard, and existing residences, habitat connectivity between transitional and adjacent habitats has and continues to be impacted.
10. The riparian assessment is presented in the Habitat Management and Mitigation Plan (HMMP) received July 28, 2021. It should be noted that the previous owner (R&D Orchard) was served a violation from Douglas County for unpermitted work in the riparian buffer (parcel # 2612820012). This violation was associated with the movement of boulders, installation of an irrigation intake and placement of gravel over an area covering the irrigation pipe and providing access for maintenance of the irrigation pipe and intake. A planting remediation plan was submitted for the development, mitigation plantings were planted and performance surety was entered into by the property owner with the county for the monitoring and survival assurance of the mitigation. Mitigation requirements included the installation of 388 sq. ft. of native riparian plantings per the approved Fish and Wildlife Habitat Management and Mitigation Plan. Per a letter dated July 5, 2011 to Douglas County from Grette Associates, LLC, Senior Biologist Larry Lehman stated under oath that the required mitigation to rectify the violation had been installed.
11. The applicant proposes to remove and replace the existing joint-use dock, install a boatlift, and relocate an irrigation water intake structure on the Columbia River in Douglas County. The existing joint-use dock serves 100 and 100 A Van Winkle Road (Parcels #'s 26212820021 & 26212820013).
12. The proposed joint-use dock replacement includes removing the gangway and piles to replace them with a compliant pier, installation of a new gangway, and installation of a float (and associated pile). The existing dock and associated structures consist of a large concrete abutment, a 4 ft. by 22 ft. gangway, and a 9 ft. by 33 ft. float that is anchored with a total of three (3) steel pipe piles. The concrete abutment will remain in place and the new pier and joint-use dock will be anchored to the existing abutment. The existing dock extends approximately 50 ft. waterward of the OHWM. The replacement dock will result in an increase of the dock footprint by approximately 140 sq. ft. with a dock extension of 14 ft. waterward with the landward edge of the dock being located in approximately 11 ft. of water. The new boatlift will result in an increase in 125 sq. ft. of in-water coverage.
13. The existing dock will be removed using barge mounted and land based equipment. The gangway will be detached and loaded onto the float, which will be detached from the pile and floated to the gravel access road immediately downriver of the dock. The float will be removed and loaded onto a flatbed truck and disposed of at an appropriate upland disposal site. The pile will be removed using a barge mounted vibratory hammer.
14. The new, joint-use dock will consist of a fixed pier, gangway, and float. The proposed fixed pier will be 4 ft. x 30 ft. and will be constructed of aluminum. The entire surface of the pier will be grated with ambient light grid with greater than 60% open area. The fixed pier will be constructed off-site and delivered via truck through the uplands. The landward end of the pier will be

anchored to the existing concrete abutment located on the bank approximately 2-3 ft. landward of the OHWM. The bottom of the pier would be installed at least 4 ft. above the OHWM. A total of two (2) up to 8-inch diameter steel pipe piles (8.625-inch outer diameter; may use stainless steel, epoxy coated white piles or encased piles in white PVC) will be installed to support the pier. Handrails may be installed on the fixed pier for safety.

15. The 4 ft. x 32 ft. gangway would be aluminum with a 100% ambient light grid, greater than 60% open area. The gangway will be attached to the waterward end of the fixed pier and to the float using galvanized transition plates. Wheels on the waterward end of the gangway will sit on 6 ft. x 3 ft. floats attached to the larger 8 ft. x 40 ft. float (or two (2) 8 ft. x 20 ft. floats) allowing the ramp to articulate as the water depth raises and lowers. The gangway will be constructed off-site and transported to the project site. The floats will be constructed off-site and transported to the launch ramp nearest to the site. The decking will be 100% fully ambient light grid (aluminum or molded fiberglass) with greater than 60% open area, and floatation will be achieved using black or white ACE tubs or bright aluminum tubs. The framing plan for the float will provide 50% functional grating. The float(s) will be anchored by five (5) up to 8 inch diameter steel pipe piles (8.625 inch outer diameter; may use stainless steel, epoxy coated white piles or encased piles in which PVC). The landward edge of the float will be located approximately 56 ft. waterward of the OHWM at a depth of 11 ft.
16. The proposed dock will provide moorage for three recreational boats or up to six personal watercraft. Typical boats are less than 24 ft. and there is space for two boats on either side of the dock. Personal watercraft are up to 8 ft. long, which will allow for the moorage of up to four watercraft on either side. The moorage of watercraft is expected to be temporary and removed after use. Boats will be moored at the dock over longer periods. The proposed joint-dock will be used primarily between the middle of June through the middle of September. Use will be limited during the other portions of the year based on air and water temperatures. Minimal use will occur during the period between middle of September and middle of June. The use during the summer months will primarily be fishing, water skiing and pleasure boating. The use during the fall and spring will primarily be fishing. The use of the dock will be used for swimming during the summer months. The majority of the use of the dock will occur during the current work window for ESA listed species (July 16-August 31). Boating will occur primarily in waters deeper than 25 ft. as there are shallow areas within the river that are hazards to navigation.
17. The existing pipe pile will be removed using a barge mounted vibratory hammer and transported to the launch using the barge. The dock and gangway will be removed from the water using a barge or land based excavator. The pipe piles for the dock will be driven into the substrate to bearing with a vibratory or impact pile driver. The fixed pier section and gangway would be aluminum with 100% ambient light grid, greater than 60% open area. The pier and gangway would be aluminum, constructed off-site and transported to the project site. The pier and gangway would be placed by crane and installed and attached using hand-held power tools and galvanized transition plates. The floats would be constructed off-site and transported to the project site by boat (placed in the river at the nearest boat launch). The floats would be framed with either steel or aluminum. The decking would be 100% fully ambient light grid (aluminum or molded fiberglass) and floatation would be achieved using white or black ACE tubs. The boatlift will be delivered to the site via work barge and slowly lowered over the edge of the barge. All mitigation planting would occur by hand.
18. The proposed boatlift will be installed as soon as the permits are received and within the current work window for the Columbia River (July 16 – February 28). The boatlift will be installed approximately 11 ft. below the OHWM, and in water depth of approximately 11 ft. below the

OHW. The ground-based boatlift will have a maximum footprint of approximately 10 ft. x 12.5 ft., although the boatlift consist of open steel framing. The bars that lift the boat are 2-3 inches x 5 inches. The legs are approximately 3 inch x 3 inch. The main support bars are approximately 3 inch x 7 inch. The new boatlift will result in an increase in 125 sq. ft. of in-water coverage.

19. Additionally, the proposal includes the relocation of an existing irrigation intake structure. The existing irrigation intake structure is located adjacent to the dock and the irrigation pipes are attached to the existing float and gangway.
20. The Corps require that impacts of the joint-use dock located in a moderate quality riparian zone must be mitigated at a 2.22:1 ratio (using out-of-kind mitigation – riparian planting), which equals 311 sq. ft. (140 sq. ft. x 2.22 = 311 sq. ft.). The proposed boatlift will result in approximately 125 sq. ft. of new in-water structure, although the boatlift is open in nature. The Corps requires that impacts of a ground based boatlift located in a high-quality riparian zone (in greater than 11 ft. of water must be mitigated at a 2.44:1 ratio (using out-of-kind mitigation – riparian planting), which equals 305 sq. ft. (125 sq. ft. x 2.44 = 305 sq. ft.). Construction access will be provided by an existing gravel access trail; no additional impacts will occur above the OHWM.
21. To compensate for the increase in over water and in-water coverage, as well as impacts to the riparian buffer from the dock extension, the installation of native riparian vegetation is required. The mitigation for the project will be installed completely downriver of the existing dock with a small bench immediately adjacent to the OHWM. The mitigation planting area will be located within a portion of the buffer that is currently devoid of native trees and shrubs. The mitigation planting areas will be located as close to the OHWM as possible in order to provide the highest level of riparian habitat functions and values. Species to be installed to mitigate project impacts include water birch (*Betula occidentalis*) or mountain alder (*Alnus sinuate*), red osier dogwood (*Cornus sericea*), coyote willow (*Salix exigua*), nootka rose (*Rosa nutkana*), and snowberry (*Symphoricarpos albus*)
22. Zoning and Development Standards: The subject properties are located within the Rural Resource 5 (RR-5) zoning district under Douglas County Code. The purpose of the 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 district provides an opportunity for compatible rural land uses, and is sensitive to the site’s physical characteristics.
23. 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:
 - 23.1 RURAL DEVELOPMENT:
 - 23.1.1 POLICY RD-3: 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.
 - 23.2 CRITICAL AREAS – FISH AND WILDLIFE HABITAT CONSERVATION AREAS
 - 23.2.1 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.
 - 23.2.2 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.

- 23.2.3 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.
 - 23.2.4 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.
 - 23.2.5 POLICY CA-19: Proper riparian management that maintains existing riparian habitat and is consistent with best agricultural management practices should be encouraged.
 - 23.2.6 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.
 - 23.2.7 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.
24. 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.
25. 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:
- 25.1 The policies and procedures of the Act;
 - 25.2 The provisions of these regulations; and
 - 25.3 The applicable master program adopted or approved for the area.
26. Douglas County issued a Determination of Non-significance on September 28, 2021 in accordance with WAC 197-11-355 (Optional DNS).
27. 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	08/02/21
WA Department of Ecology - Shorelines	N/R	Army Corps of Engineers	N/R
Chelan County PUD	08/19/21	Yakama Nation	N/R

Dept. of Natural Resources – Rivers Dist.	N/R		
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- 28. No public comments were received.
- 29. 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, the Hearing Examiner offers the following findings for the subject application:
- 30. 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.
- 31. Consistency with the Douglas County Shoreline Master Program:
 - 31.1 Analysis: Joint-use docks and watercraft lifts (boatlifts), are permitted uses in the rural conservancy shoreline designation. (Pursuant to SMP 3.10 Table 1. Use matrix)
 - 31.2 4.1 ECOLOGICAL PROTECTION AND CRITICAL AREAS
 - 31.2.1 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.
 - 31.2.1.1 Analysis: The project cannot avoid damage to the aquatic environment, and the applicant states the project will not affect water quality, water supply, recreation or aesthetics of the Columbia River. The project has been designed to minimize damage and to fully mitigate per the standards set forth by the United States Army Corp of Engineers (Corps) adopted mitigation ratios, Washington Department of Fish & Wildlife and County adopted mitigation ratios.
 - 31.3 REGULATION 1: Mitigation sequencing – applicants shall demonstrate all reasonable efforts have been taken to mitigate potential adverse impacts in the following prioritized order:
 - 31.3.1 Avoiding the impact altogether by not taking a certain action or parts of an action;
 - 31.3.1.1 Analysis: The project is located in the aquatic environment and therefore cannot avoid impacts. A Habitat Management and Mitigation Plan has been developed by Grette Associates, LCC to mitigate impacts per the Corps adopted mitigation ratios which exceed the County adopted mitigation ratios. A mitigation ratio of 2.22:1 is required per the Corps for the dock installation totaling 311 sq. ft. Additionally, the proposed boatlift would encompass 125 sq. ft., and a 2.44:1 mitigation ratio for the increase of in-water structure in water deeper than 11 ft. is required, for a total of 305 sq. ft. Total mitigation required totals 616 sq. ft. The Washington State Department of Fish and Wildlife will further evaluate the relocation of the irrigation water intake structure to ensure fish and their habitat are not further impacted.

- 31.3.2 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;
- 31.3.2.1 Analysis: Potential impacts to fish and aquatic life will be sufficiently minimized by the conformance with the Corp, Department of Fish and Wildlife and Douglas County's conservation measures. Native riparian vegetation will be installed to mitigate for the impacts associated with the increase in in-water structure and the disturbance to the riparian buffer, which will improve the riparian habitat at the property. Total mitigation required totals 616 sq. ft. See the Fish & Wildlife Management and Mitigation Plan prepared by Grette Associates in the application materials (date stamped July 28, 2021) for more information.
- 31.3.3 The proposed mitigation will increase the number of trees and shrubs within the riparian buffer and will increase the diversity of plant species within the riparian buffer. Species to be installed consist of water birch (*Betula occidentalis*), red osier dogwood (*Cornus sericea*), coyote willow (*Salix exigua*), nootka rose (*Rosa nutkana*), snowberry (*Symphoricarpos albus*), oregon grape (*Nootka woodsii*), and currant (*Ribes sp.*). For every 100 sq. ft., the planting areas would include 8 shrubs and 1 tree. These plantings would achieve the required Corps mitigation ratios and would exceed a 1:1 ratio of mitigation to dock area required by Douglas County Code, and Washington Department of Fish and Wildlife requirements.
- 31.3.4 To ensure the mitigation plantings provide habitat benefits for as long as the dock remains, the applicants will attach to the property deed a copy of the mitigation planting plan approved by the County, WDFW, Corps and the National Marine Fisheries Service (NMFS). The applicants will provide proof to the County, WDFW, Corps, and NMFS that the mitigation information has been recorded on the property deed prior to construction/installation;
- 31.3.5 Rectifying the impact by repairing, rehabilitating, or restoring the affected environment to the conditions existing at the time of the initiation of the project.
- 31.3.6 Rectifying the impact is not possible. The new joint-use dock and boatlift have been designed following mitigation sequencing;
- 31.3.7 Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action;
- 31.3.8 The project includes new structures to be placed in the aquatic environment, therefore reducing or eliminating the impact over time via this permit is not possible. The new joint-use dock and boatlift has been designed following mitigation sequencing.
- 31.3.9 To ensure the success of the planting areas, a five-year monitoring plan is required to determine percent survival of the installed mitigation. During the first two years after planting 100 percent survival will be required within each planting area. A Riparian Restoration Monitoring Report will be completed and submitted to the permitting agencies annually following completion of the riparian plantings. The applicant will be responsible for ensuring that the Riparian Restoration Monitoring Reports are submitted on the schedule and that success measures are met. Upon completion of the mitigation plantings, an as-built mitigation report would be sent to Douglas County, WDFW, Corps, and NMFS.

- 31.3.10 Compensating for the impact by replacing, enhancing, or providing substitute resources or environments; and.
- 31.3.11 The proposed joint-use dock and boatlift has been designed following the mitigation sequence set forth by the Corps, WDFW, and Douglas County. Specifically, a project must first avoid and minimize impacts to habitat and species to the extent practicable prior to proposing compensatory mitigation for impacts. The dock has been designed to minimize adverse impacts of the Project to the extent practicable while still providing safe moorage and foot access. The proposed dock has been designed to meet current Corps and NMFS requirements for the maintenance, modification and construction of residential overwater structures in the upper Columbia River. In addition, the proposed project would result in the installation of a joint-use dock rather than three single-use docks.
- 31.3.11.1 Analysis: The proposed dock will consist of a fixed pier, gangway, and float. The proposed fixed pier will be 4 ft. x 30 ft. pier will be constructed of aluminum. The 4 ft. x 32 ft. gangway would be aluminum with a 100% ambient light, greater than 60% open areas. Wheels on the waterward end of the gangway will sit on a 6 ft. x 3 ft. float attached to the larger 8 ft. by 40 ft. float. The boatlift will have a maximum footprint of approximately 10 ft. x 12.5 ft., although the boatlift consist of open steel framing. Adhering to these dimensional specifications greatly minimizes the width and intensity of the shadow cast by the dock, and thus reduces any potential risk of impediment to migrating juvenile salmonids. Additionally, the small dimensions of the dock limit the effects of the dock on productivity and potential predation effects on salmonids and other native fish.
- 31.3.12 The proposed location has been selected and the dock has been designed to minimize the impacts associated with location/elevation. The pier would be elevated at least 4 ft. above the OHWM, which would minimize the intensity of the shadow cast by the ramp. The float would be located approximately 56 ft. waterward from the OHWM, where the minimum distance was 20 ft. under previous dock requirements. The float would be positioned with its landward edge at a water depth of approximately 11 ft. below the OHWM. A depth of 11 ft. is the required depth for the moorage of a vessel (dock or boatlift). The boatlifts will be installed adjacent to the floats in a water depth of 11 ft., to minimize the impact on shallow water habitat. These measures are intended to ensure that the shadow cast by the structures would be offshore in deeper water than juvenile salmonids typically utilize.
- 31.3.13 The proposed dock would be constructed of materials intended to minimize impacts to aquatic habitat such as shading and contaminants. The entire surface of the pier, ramp and float would be decked with grated decking with a grid that has at least 60% open area. The float surface will consist of at least 50% functional grating, i.e. light-transmitting float surface that is not impeded by float tubs or the float structure. These measures will further minimize the intensity of the shadow produced by the dock, as discussed above. This will also minimize the potential for the shading to affect light-driven primary and secondary productivity under the dock. Due to the minimization measures discussed above, ample light is anticipated to reach the river bottom. Observations under docks constructed using the current regulations have indicated that shading is very minimal based on the fact that aquatic vegetation is not affected by the shadow, and juvenile fish (salmonids and non-salmonids) readily pass under these docks (Grette Associates, LLC unpublished data). Finally, the proposed dock would be

- constructed with materials that do not contribute contaminants to the water. No treated piles would be used, any paint, stain or preservative would be applied and would be completely dried prior to putting the dock in the water, and the float tubs would be completely enclosed to prevent break-up.
- 31.3.14 The construction methods have been selected to avoid and minimize impacts to the extent possible. Specifically, the number of piles proposed on the dock has been minimized, which also minimizes the duration of pile driving and associated underwater noise levels. All work would occur within the approved in-water work window for the protection of migrating juvenile salmonids (currently October 1 through February 28 for pile driving and July 16 through February 28 for non-pile driving activities).
- 31.3.15 Species to be installed consist of water birch (*Betula occidentalis*), red osier dogwood (*Cornus sericea*), coyote willow (*Salix exigua*), nootka rose (*Rosa nutkana*), snowberry (*Symphoricarpos albus*), oregon grape (*Nootka woodsii*), and currant (*Ribes sp.*). For every 100 sq. ft., the planting areas would include 8 shrubs and 1 tree. These plantings would achieve the required Corps mitigation ratios and would exceed a 1:1 ratio of mitigation to dock area required by Douglas County Code, and Washington Department of Fish and Wildlife (WDFW) requirements. See the Fish & Wildlife Management and Mitigation Plan prepared by Grette Associates in the application materials (date stamped July 28, 2021) and JARPA.
- 31.3.16 Conditions of Approval require installation of mitigation per the approved plan and adherence to structural dimensions provided in submittal documents.
- 31.3.17 Monitoring the impact and the compensation projects and taking appropriate corrective measures.
- 31.3.17.1 Analysis: To ensure the success of the planting areas, a five-year monitoring plan will be conducted to determine percent survival of the installed mitigation. During the first two years after planting 100 percent survival will be required within each planting area. During years three through five after planting 80 percent survival will be required, within each planting area. The plantings must be allowed to remain as long as the dock is present. Individual plants that do not survive must be replaced with an individual of the same species, or a similar species with approval from Douglas County. A Riparian Restoration Monitoring Report will be completed and submitted to the permitting agencies annually following completion of the riparian plantings. The applicant will be responsible for ensuring that the Riparian Restoration Monitoring Reports are submitted on the schedule and that success measures are met.
- 31.3.18 Upon completion of the mitigation plantings, an as-built mitigation report would be sent to Douglas County, the Corps, and NMFS, which would include as-built drawings and photographs, the location and size of the mitigation planting area, and the species and quantity of the mitigation plantings. The report would be submitted by the first January 31 following permit issuance.
- 31.3.19 To ensure the mitigation plantings provide habitat benefits for as long as the dock remains, the applicants will attach to the property deed a copy of the mitigation planting plan approved by the County, Corps and NMFS. The applicants will provide proof to the County, Corps, and NMFS that the mitigation information has been recorded on the property deed prior to construction/installation.

- 31.3.20 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.
- 31.4 4.2 WATER QUALITY
- 31.4.1 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.
- 31.4.2.1 Analysis: The dock, boatlifts and any structural component materials shall be of a type approved by state agencies to avoid discharge of pollutants.
- 31.5 4.3 VEGETATION CONSERVATION
- 31.5.1 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.
- 31.5.2.1 Analysis: A Fish & Wildlife Management and Mitigation Plan prepared by Grette Associates, LLC was submitted in the application materials (date stamped July 28, 2021).
- 31.5.2 REGULATION 4: Native vegetation clearing shall be limited to the minimum necessary to accommodate approved shoreline development.
- 31.5.2.1 Analysis: Mitigation requirements for the entire project are detailed within the Fish & Wildlife Management and Mitigation Plan prepared by Grette Associates, LLC was submitted in the application materials (date stamped July 28, 2021), JARPA, and SEPA checklist.
- 31.6 4.7 RESTORATION
- 31.6.1 POLICY 2: Mitigation associated with shoreline development projects shall be designed to achieve no net loss of ecological function.
- 31.6.1.1 Analysis: A Fish & Wildlife Management and Mitigation Plan, dated October 2020, 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 through proper mitigation.
- 31.7 5.10 MOORAGE: DOCKS, PIERS, WATERCRAFT LIFTS, MOORING BUOYS, FLOATS
- 31.7.1 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.
- 31.7.1.1 Analysis: The proposed location has been selected and the dock has been designed to minimize the impacts associated with

location/elevation. The pier would be elevated at least 4 ft. above the OHWM, which would minimize the intensity of the shadow cast by the ramp by elevating it above the surface of the water. The float would be located approximately 56 ft. waterward from the OHWM, where the minimum distance was 20 ft. under previous dock requirements. The float would be positioned with its landward edge at a water depth of approximately 11 ft. below the OHWM. A depth of 11 ft. is the required depth for the moorage of a vessel (dock or boatlift). The boatlifts will be installed adjacent to the floats in a water depth of 11 ft., to minimize the impact on shallow water habitat. The dock and boatlifts will not pose a hazard to navigation.

- 31.7.3 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.
 - 31.7.3.1 Analysis: The moorage is the minimum sizes necessary for safety and requirements established by the Corps.
- 31.7.5 REGULATION 1: Shared moorage to serve new residential development shall be limited to the amount of moorage needed to serve lots within the development.
 - 31.7.5.1 The dock size is designed to serve two (2) lots.
- 31.7.7 REGULATION 6: New and substantially expanded piers and docks shall be constructed of materials that are approved by applicable federal and state agencies for use in water to avoid adverse effects on water quality or aquatic plants and animals in the long-term for both submerged portions of the dock and decking and other components. Wood treated with creosote, pentachlorophenol or other similarly toxic materials is prohibited.
 - 31.7.7.1 The construction materials proposed will be approved by the applicable federal and state agencies for use in water. No treated piles would be used, any paint, stain or preservative would be applied and would be completely dried prior to putting the dock in the water, and the float tubs would be completely enclosed to prevent break-up.
- 31.7.9 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:
 - 31.7.9.1 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.
 - 31.7.9.2 Analysis: The proposed project is for a joint-use dock and for one new boatlift to serve two lots.
 - 31.7.9.4 Docks with or without a float shall be the minimum required to provide for moorage. Commercial docks shall be the minimum length necessary to serve the type of vessel served. Exceptions to these length standards are addressed below.
 - 31.7.9.5 Analysis: The proposed project is the minimum required to provide for moorage for four (4) estimated 24 ft. boats and up to six personal watercrafts.
 - 31.7.9.6 Docks on the Columbia River that exceed 100 feet in length or docks which exceed 50 feet in length on a lake or sites with unique characteristics that may create navigational safety hazards shall prepare a navigational safety study.

- 31.7.9.7 Analysis: The dock will extend approximately 62 ft. waterward of the OHWM, with the landward edge of the float located approximately 52 ft. waterward of the OHWM at a water depth of ~14 ft. Navigational requirements and studies will be conducted by the applicant at time of federal permits.
- 31.7.9.8 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.
- 31.7.9.9 Analysis: The location does not indicate the need for maintenance dredging.
- 31.7.10 REGULATION 9: In order to minimize impacts on near-shore areas and avoid reduction in ambient light level:
 - 31.7.10.1 Pier and ramp construction must meet the following standards:
 - 31.7.10.1.1 The width of piers and ramps shall not exceed 4 feet for single or joint-use docks. Greater widths may be permitted for community, public or commercial docks where use patterns can justify the increase;
 - 31.7.10.1.2 The bottom of the pier or bottom of the landward edge of a ramp, must be elevated at least two (2) feet above the plane of OHWM;
 - 31.7.10.1.3 Pier and/or ramp surfaces are to consist of either grating or clear translucent material; and
 - 31.7.10.1.4 Pier and ramp construction shall meet or exceed the standards and/or requirements of the Washington State Departments of Ecology, Fish and Wildlife, and Natural Resources and the United States Army Corps of Engineers.
 - 31.7.10.2 Float construction must meet the following standards:
 - 31.7.10.2.1 Any float materials that are in contact with the water must be white or translucent;
 - 31.7.10.2.2 Flotation materials must be permanently encased to prevent breakup and release of small flotation pieces;
 - 31.7.10.2.3 Decking or surface area of the float must consist of either grating or clear translucent material;
 - 31.7.10.2.4 Floats cannot be located where they could impede fish passage; and
 - 31.7.10.2.5 Float construction shall meet or exceed the standards and/or requirements of the Washington State Departments of Ecology, Fish and Wildlife, the Department of Natural Resources, and the Corps.
 - 31.7.10.2.6 Analysis: The proposed design (and as conditioned) meets the above listed construction standards.
- 31.7.11 REGULATION 10: Private docks shall not encroach into the required side yard setbacks for residential development (both onshore and offshore); provided that, a shared Moorage may be located adjacent to or upon a side property line of the affected properties upon filing of an easement agreement or other legal instrument by the affected property owners.
 - 31.7.11.1 Analysis: The proposed dock is shared moorage between two lots.
- 31.8 REGULATION 11: Piers and docks shall use pile supports unless engineering studies demonstrate that pile supports are insufficient to ensure public safety. Rip-rapped or bulk-headed fills may be approved only as a conditional use and only when demonstrated

that no feasible alternative is available. Mitigation shall be provided to ensure no net loss of shoreline ecological functions and processes.

31.8.1 Analysis: The project proposes to utilize pile supports.

31.9 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.

31.9.1 Analysis: Conditions of Approval require that the dock and boatlifts be marked with reflectors or otherwise identified.

31.10 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.

31.10.1 Analysis: The dock and boatlifts are designed and secured so that they will not damage shoreline property or natural features.

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

31.11.1 Analysis: Conditions of Approval require that the dock and boatlifts be permanently marked for identification.

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

31.12.1 The project will consist of open, aluminum and steel grating and will be installed to minimize shadows cast over shallow waters and the boatlifts will be placed adjacent to the dock at a depth required by the Corps. As conditioned, the proposal is consistent with the Regional Shoreline Master Program for Douglas County.

32. Consistency with WAC 173-27 and RCW 90.58:

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

33. An open record public hearing after legal notice was held on October 21, 2021 via Zoom videoconference.

34. At the open record public hearing, the entire planning staff file was admitted into the record.

35. Appearing and testifying at the hearing was Larry Lehman. Mr. Lehman testified that he was an agent authorized to appear and speak on behalf of the applicant and property owner. Mr. Lehman indicated that the property owner had no opposition to any of the proposed Conditions of Approval, except as follows:

35.1 Regarding proposed Condition of Approval No. 34, he indicated that they had received the WDF HPA and that it did not include any conditions regarding screening. He asked that the condition be removed.

35.2 Regarding proposed Condition of Approval No. 35, Mr. Lehman testified that reports were submitted during years 1, 3, and 5, under the name of the prior owner, Rich McConnell, demonstrating that the 80% survival had been reached. He asked that this proposed condition be stricken.

35.3 Regarding proposed Condition of Approval No. 36, he testified that the mitigation for the 2001 violations are on the complete opposite side of the dock than the proposed mitigation location for this project.

36. No member of the public appeared at the hearing.

37. Any Conclusion of Law that is more correctly a Finding of Fact is hereby incorporated as such by this reference.

II. CONCLUSIONS

1. The Hearing Examiner has been granted authority to render this Decision.
2. 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.
3. As conditioned, this proposal is consistent with applicable federal, state and local laws and regulations.
4. As proposed, revised, and conditioned, potential impacts of the project can be mitigated.
5. Public interests will be served by approval of this proposal.
6. As conditioned, the proposal is consistent with Title 18 "Zoning" and Title 19 "Environment" of the Douglas County Code.
7. Any Finding of Fact that is more correctly a Conclusion of Law is hereby incorporated as such by this reference.

III. CONDITIONS OF APPROVAL

1. The project shall proceed in substantial conformance with the plans and application materials on file submitted July 28, 2021 except as amended by the conditions herein.
2. The applicant shall comply with all applicable local, state and federal laws and regulations.
3. The applicant shall get permit approval from applicable local, state, and federal agencies prior to conducting any work within the riparian buffer and installation of the joint-use dock, boatlift, and relocation of the irrigation intake structure.
4. A copy of this permit and attached conditions shall be kept on-site and be 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.
5. The dock and boatlift 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.
6. The dock and boatlift shall be permanently marked with name, address, telephone number and date of installation. Documentation shall be provided to the County.
7. The project application shall proceed consistent with the Fish & Wildlife Habitat Management and Mitigation Plan prepared by Grette Associates, LLC date stamped July 28, 2021.

8. The applicant must obtain a building permit for the joint-use dock.
9. The dock, boatlift and any structural component materials, including the irrigation intake structure shall be of a type approved by state agencies to avoid discharge of pollutants.
10. The width of piers and ramps shall not exceed 4 feet.
11. The bottom of the pier or bottom of the landward edge of a ramp, must be elevated at least two (2) feet above the plane of OHWM.
12. Pier and/or ramp surfaces are to consist of either grating or clear translucent material.
13. Float materials that are in contact with the water must be white or translucent.
14. Flotation materials must be permanently encased to prevent breakup and release of small flotation pieces.
15. Decking or surface area of the float must consist of either grating or clear translucent material.
16. Floats cannot be located where they could impede fish passage.
17. Pier, ramp, and float construction shall meet or exceed the standards and/or requirements of the Washington State Departments of Ecology, Fish and Wildlife, and Natural Resources and the Corps.
18. The existing trail width shall not exceed 4 feet without additional permitting. If the trail will be temporarily utilized for construction activities, areas disturbed shall be replanted with native vegetation at a 1:1 ratio. After temporary impacts are mitigate, if applicable, staff shall conduct an inspection to determine if additional mitigation is required.
19. Best Management Practices (BMPs) shall be developed to avoid and/or control erosion such as but not limited to silt curtains, watering exposed areas, and replanting with semi-mature vegetation.
20. All equipment used for temporary construction and/or replacement of in-water structures are required to have an Ecology approved spill kit on-site.
21. Where necessary, a permanent means of irrigation shall be installed for the mitigation plantings that is designed by a landscape architect or equivalent professional. Said design shall meet the specific needs of riparian and shrub steppe vegetation.
22. Mitigation planting as shown on the mitigation planting plans date stamped July 28, 2021 shall be planted upon completion of the project.
23. A five year monitoring period shall commence upon placement of the planting materials and irrigation system.
24. A performance surety agreement in conformance with Title 14 Douglas County Code shall be entered into between the property owner and Douglas County Transportation and Land Services upon approval of the shoreline permit and prior to construction and/or soil / vegetation disturbance. 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.

25. 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.
26. The mitigation site shall be maintained to ensure the management and mitigation plan objectives are successful. Maintenance shall ensure 100% survival for the first year and 80% survival for each of the 4 years following 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.
27. 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 July 2021 have been satisfied. The applicant shall be responsible for ensuring that the Riparian Restoration Monitoring Reports are submitted on the schedule and that success measures are met.
28. Upon completion of the mitigation plantings, as as-built mitigation report would be send to Douglas County, the Corps, and NMFS, which would include as-built drawings and photographs, the location and size of the mitigation planting area, and the species and quantity of the mitigation plantings. The report would be submitted the first January 31 following permit issuance.
29. To ensure mitigation plantings provide habitat benefits for as long as the dock, boat lift, and irrigation intake structure remains, the applicants shall attach to the property deed a copy of the mitigation planting plan approved by the County, Corps, NMFS, and WDFW. The applicant will provide proof to the County, Corps, NMFS, and WDFW that mitigation information has been recorded on the property deed prior to construction/installation.
30. 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 Corps, 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.
31. The applicant shall obtain a dock license from the Chelan County PUD prior to construction; and prior to installation of the project, copies of approval from applicable agencies, including the Chelan County PUD, must be submitted to the County.

32. 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.
33. All work must occur within the approved in-water work window for the protection of migrating juvenile salmonids (currently October 1 through February 28 for pile driving and July 16 through February 28 for non-pile driving activities).
34. The Applicant shall comply with all of the conditions set forth in of the WDFW HPA.
35. Prior to starting work, the applicant shall confirm in writing, or by site visit of staff, that the mitigation requirements to reconcile the 2011 shoreline violation have achieved 80% and in no circumstance can mitigation requirements for SP-2021-03 be achieved within the 2011 mitigation area.
36. Prior to site disturbance (commencement of work) the applicant shall call the County to schedule a before and after site inspection to confirm mitigation has been installed.

APPROVED this 25th day of October, 2021.

DOUGLAS COUNTY HEARING EXAMINER



Andrew L. Kottkamp

This permit is granted pursuant to the Douglas County Regional Shoreline Master Program of Douglas County, as amended, and nothing in this permit shall excuse the applicant from compliance with any other federal, state, or local statutes, ordinances, or regulations applicable to this project, but not inconsistent with the Shoreline Management Act of 1971 (Chapter 90.58 RCW).

This permit may be rescinded pursuant to RCW 90.58.140(7) in the event the permittee fails to comply with the terms and conditions hereof.

CONSTRUCTION PURSUANT TO THIS PERMIT SHALL NOT BEGIN NOR IS AUTHORIZED UNTIL TWENTY-ONE (21) DAYS FROM THE DATE OF FILING AS DEFINED IN RCW 90.58.140(6) AND WAC 173-14-090, OR UNTIL ALL REVIEW PROCEEDINGS INITIATED WITHIN TWENTY-ONE (21) DAYS FROM THE DATE OF SUCH FILING HAVE TERMINATED; EXCEPT AS PROVIDED IN RCW 90.58.140(5)(a)(b)(c).

Substantial progress toward construction of the project for which this permit has been granted must be accomplished within two (2) years of the filing date of this permit. Authorization to conduct development activities granted by this permit shall terminate five (5) years from the filing date of this permit. Anyone aggrieved by this decision has twenty-one (21) days from the "date of receipt" as defined in RCW 43.21B.001 to file a petition for review with the Shorelines Hearings Board as provided for in Washington law.

**THIS SECTION FOR DEPARTMENT OF ECOLOGY USE ONLY IN REGARD TO A
CONDITIONAL USE OR VARIANCE PERMIT**

Date received by the Department _____

Approved _____

Denied _____

This conditional use/variance permit is approved/denied by the Department pursuant to Chapter 90.58 RCW.

Development shall be undertaken pursuant to the following additional terms and conditions:

Date

Signature of Authorized Department Official