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AUG 20 2018

**DOUGLAS COUNTY TLS**

**SHORELINE MANAGEMENT PERMIT  
ACTION SHEET**

**Application #:** SP-2018-04  
**Administering Agency:** Douglas County Transportation and Land Services  
**Type of Permit:** ■ Shoreline Substantial Development  
**Action:** ■ Approved    □ Denied  
**Date of Action:** August 16, 2018

**Date Mailed to DOE/AG**

Pursuant to Chapter 90.58 RCW and the Douglas County Regional Shoreline Master Program, a permit is hereby granted to:

**Robert Babitsky  
64 Skagit Key  
Bellevue WA 98006.**

To undertake the following development: An application for a shoreline substantial development permit for the extension of a single use dock and resolution of the code enforcement action for buffer disturbance.

Upon the following property: is located at 9 W. Rocky Rd Dr. within the NE Quarter of Section 32, Township 25 N., Range 21 EWM, Douglas County WA. The Douglas County Assessors Number is 25213240005.

Within 200 feet of Columbia River and/or its associated wetlands.

The project will be within a shoreline of state-wide significance (RCW 90.58.030). The project will be located within a rural conservancy designation. The Douglas County Regional Shoreline Master Program is applicable to this development.

Development pursuant to this permit shall be undertaken in conformance with the following terms and conditions:

1. All conditions imposed herein shall be binding on the "Applicant," which terms shall include the owner or owners of the property, heirs, assigns and successors.
2. The project shall proceed in substantial conformance with the plans and application materials of file submitted on April 4, 2018 and July 5, 2018 except as amended by the conditions herein.
3. The applicant shall comply with all applicable local, state and federal regulations.
4. 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.

5. The dock shall be marked with reflectors, or shall be otherwise identified to prevent unnecessarily hazardous conditions for water surface users during day or night. Documentation shall be provided with the building permit application.
6. The dock shall be permanently marked with name, address, telephone number and date of installation. Documentation shall be provided with the building permit application.
7. The project application shall proceed consistent with the Fish & Wildlife Habitat Management and Mitigation Plan prepared by Grette & Associates, dated May 2018, revised June 2018.
8. 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.
9. Mitigation planting as shown on the mitigation planting plan sheet 7 of 7, dated revised 6/29/18 shall be planted upon completion of the dock and boatlift.
10. There shall be no further disturbance of the buffer outside of the existing lawn grass and orchard areas unless authorized by a permit issued by Douglas County.
11. A performance surety agreement in conformance with Title 14, D.C.C. shall be entered into between the property owner and Douglas County Transportation and Land Services prior to issuance of the building 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.
12. 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.
13. 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 of Douglas County Code shall be entered into between the property owner and Douglas County Transportation and Land Services. Douglas County must approve quotes for the cost of installation, delivery, plant material, soil amendments, permanent irrigation, seed mix, and 3 monitoring visits and reports by a qualified biologist, and the quotes shall include Washington State sales tax.
14. 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 fish & wildlife habitat management and mitigation plan submitted by Grette & Associates, dated March 2018, revised June 2018 have been satisfied.
15. 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: carryover 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.

16. 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.
17. 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.

### FINDINGS OF FACT

1. The applicant is Robert Babitsky, 64 Skagit Key, Bellevue WA 98006.
2. General Description: An application for a shoreline substantial development permit for the extension of a single use dock and resolution of the code enforcement action for buffer disturbance.
3. The subject property is located at 9 W. Rocky Rd Dr. within the NE Quarter of Section 32, Township 25 N., Range 21 EWM, Douglas County WA. The Douglas County Assessors Number is 25213240005.
4. The Comprehensive Plan designation is Rural Service Center.
5. The subject property is located in the RSC zoning district.
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 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. The existing moorage is permitted via SE-93-01.
9. On June 2, 2015 a code enforcement letter was issued regarding unauthorized riparian vegetation removal on the subject property.
10. A fish and wildlife habitat management and mitigation plan dated March 2018, revised June 2018 was performed for the project by Grette & Associates.
11. The application uses the default 150 foot aquatic habitat buffer.
12. A fish and wildlife habitat management and mitigation plan has determined that a total of 495 square feet of native vegetation will be planted to mitigate disturbance to the buffer created by the extension of the dock and boatlift. The original planting area for the dock will be reestablished. The buffer areas outside of the existing lawn grass and orchard shall not be further disturbed unless permitted. A planting plan is proposed on page 7 of 7 of the diagrams in the Fish & Wildlife Habitat Management and Mitigation Plan.
13. The mitigation proposed in the Fish and Wildlife Management and Mitigation Plan meets the requirements of the Douglas County Regional Shoreline Master Program.
14. Comments from reviewing agencies have been considered and addressed where appropriate.

15. Douglas County issued a Determination of Non-significance on August 6, 2018 in accordance with WAC 197-11-355 (Optional DNS).
16. 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.
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.
20. The Douglas County Department of Land Services recommended approval of the requested permit(s), subject to the recommended conditions of approval.
21. An open record public hearing after legal notice was held on August 16, 2018.
22. Appearing and testifying at the hearing on behalf of the applicant was Larry Lehman. Mr. Lehman testified that he was an agent authorized to appear and speak on behalf of the Applicant. Mr. Lehman indicated that the Applicant had no objection to any of the proposed conditions of approval and agreed with all representations set forth in the staff report.
23. No member of the public appeared at the hearing.
24. At the open record public hearing, the entire planning staff file was admitted into the record.
25. Public agencies with potential jurisdiction over this project were given an opportunity to review the proposal. Agencies that responded with comments were admitted into the record and considered by the Hearing Examiner in rendering this Decision.
26. Any Conclusion of Law that is more correctly a Finding of Fact is hereby incorporated as such by this reference.

#### **CONCLUSIONS OF LAW**

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.
6. The Hearing Examiner has been granted authority to render this Decision.
7. Any Finding of Fact that is more correctly a Conclusion of Law is hereby incorporated as such by this reference.

This permit is granted pursuant to the Douglas County Regional Shoreline Master Program, 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.

Approved this 17<sup>th</sup> day of August, 2018.

DOUGLAS COUNTY HEARING EXAMINER



Andrew L. Kottkamp

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:

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\_\_\_\_\_

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Authorized Department Official