

SHORELINE MANAGEMENT PERMIT

ACTION SHEET

RECEIVED

AUG 12 2019

CHELAN COUNTY
COMMUNITY DEVELOPMENT

Application #: SDP 2019-006
SCUP 2019-006
SCUP 2019-007
SCUP 2019-008

Administering Agency Chelan County Department of Community Development

Type of Permits:

- ☒ Shoreline Substantial Development Permit
- ☒ Shoreline Conditional Use Permit
- ☒ Shoreline Conditional Use Permit

Action: ☒ Approved ☐ Denied

Date of Action: August 9, 2019

Date Mailed to DOE/AG

Pursuant to Chapter 90.58 RCW and the Shoreline Master Program of Chelan County, the following permit is hereby approved for:

Henry & Stephanie Koster
20735 NE 112th St
Redmond, WA 98053

To undertake the following development: An application for a shoreline substantial development permit and three (3) shoreline conditional use permits for the installation of a 445 square foot 'L' shaped pier, a boatlift, a mooring buoy, and 100 square foot swim float. The new pier attached to the existing seawall at the OHWM would measure 6 feet wide by 61 feet long on the uplake side and 63 feet long on the downlake side of the pier. The 'L' section would be constructed on the downlake portion of the pier, measuring 6 feet wide x 12 feet long. The proposed boatlift would be installed on the uplake side of the pier and would be placed by hand. The boatlift would be approximately 48 feet waterward of the OHWM at a water depth of approximately 6-8 feet. The new mooring buoy would consist of a 24 inch diameter mooring buoy connected to a 2,000 lb. cured concrete anchor by a ½ inch steel chain. The mooring buoy would be located approximately 120 feet from the OHWM at a water depth of approximately 17 feet. The swim float would have a maximum footprint of approximately 10 feet x 10 feet.

Upon the following property: 12508 S Lakeshore Road, Chelan, WA 98816.

Within 200 feet of the Lake Chelan and/or its associated wetlands.

The project will be within a shoreline of statewide significance (RCW 90.58.030). The project will be located within a rural shoreline environment designation.

The following Shoreline Master Program provisions are applicable to this development: Sections 7, 9, 11, 16, 21, 27 and 29.

CONDITIONS OF APPROVAL

All conditions imposed by this decision shall be binding on the applicant, which includes the owner or owners of the properties, heirs, assigns, and successors.

1. Pursuant to WAC 173-27-150 and RCW 90.58.130(2), prior to commencement of this project, the applicant shall obtain any necessary aquatic permits from agencies with jurisdiction which may include, but is not limited to, the Washington State Department of Fish and Wildlife, the Army Corps of Engineers, the Washington State Department of Ecology, Chelan County PUD, Chelan County Building Department and the Washington Department of Natural Resources.
 - 1.1. Provide a copy of the Chelan County PUD license agreement.
2. Pursuant to Chelan County Shoreline Master Program Section 30.3.5 and 30.3.6, this shoreline permit shall be valid for the activities described within the JARPA and shown on the site plan of record, date stamped March 26, 2019, except as modified by this decision or other jurisdictional agencies.
3. The project shall comply with Chelan County Shoreline Master Program Section CCSMP Section 21.A.3 General Design and Construction Standards:
 - 3.1. Section 21.A.3.1: Pilings must be structurally sound and cured prior to placement in the water.
 - 3.2. Section 21.A.3.2: Pilings employed in piers or any other structure shall have a minimum vertical clearance of one (1) foot above extreme high water.
 - 3.3. Section 21.A.3.4: When plastics or other non-biodegradable materials are used in float, pier or dock construction, precautions shall be taken to ensure their containment.
4. Pursuant to Chelan County Shoreline Master Program Section 5.7, the applicant may use emergency actions if necessary to protect life, property, or unique historical or archaeological sites from imminent danger.
5. Pursuant to RCW 27.53.020, and CCSMP Section 27, if the applicant or their agents discover previously unknown historic or archaeological remains/artifacts while conducting the development activities authorized by this permit, the applicant/ agent shall immediately notify the appropriate tribal and state representatives and the Chelan County Department of Community Development of the finding for local, state and tribal coordination. A cultural resources survey may be required.
6. Pursuant to Chelan County Shoreline Master Program Section 30.3.10, substantial progress toward construction for which a permit has been granted must be accomplished within two (2) years for the granting of the permit.
7. Pursuant to Chelan County Shoreline Master Program Section 30.3.11, a project which has been granted a permit shall be completed within five (5) years of the issuance of a permit. The Administrative authority may extend the permit for one additional year.

FINDINGS OF FACT

1. The applicant/owners are Henry & Stephanie Koster, 20735 NE 112th St, Redmond, WA 98053.
2. The agent is Anne Hessburg, Grette Associates, LLC, 151 S Worthen Street, Suite 101, Wenatchee, WA 98801.
3. The project location is 12508 S Lakeshore Road, Chelan, WA 98816.
4. The parcel number for the subject property is 28-21-16-618-145.
5. The property is legally described as Hollywood Beach Block 1 Lot 29.
6. The proposed development is not within an Urban Growth Area.
7. The Comprehensive Plan designation and zoning for the subject property is Rural Waterfront (RW).
8. As stated in the JARPA, question 5(o), the subject property contains the following structures:
 - 8.1 580 square foot single family residence with attached deck built in 1929 per assessor's records.
 - 8.2 500 square foot cabin built in 1929 per assessor's records.
 - 8.3 480 square foot dock built in 1929 per assessor's records.
9. As stated in the JARPA, question 5(l), the property consists of moderate sloping upland, with flat residentially developed areas landward of the shoreline. The upland is mostly developed with a residence and residence and residential appurtenances already on site. There is little vegetation on the site between the development and the seawall at the OHWM. There is a low level of fish and wildlife habitat on site due to the size of the lot and lack of native vegetation within close proximity to the lake. Below OHWM habitat consists of moderately sloping, unvegetated cobble.
10. The site size is .14 acres per Chelan County Assessor's records.
11. The property to the north of the subject property is zoned Rural Waterfront (RW).
12. The property to the south of the subject property is zoned Rural Waterfront (RW).
13. The property to the east of the subject property is Lake Chelan.
14. The property to west of the subject property is zoned Rural Waterfront (RW).
15. The applicant submitted an Environmental Checklist. Pursuant to WAC 197-11 and RCW 43.21C of the State Environmental Policy Act (SEPA), environmental review and a threshold determination was completed, and a Mitigated Determination of Non-Significance (DNS) was issued on June 13, 2019.
16. The Comprehensive Plan has been reviewed. Specifically the goals and policies related to the Rural Waterfront land use designation for consistency with proposed recreational land uses.
17. The Hearing Examiner finds that the development, as conditioned, is consistent with the Comprehensive Plan.
18. According to the Washington State Department of Fish and Wildlife, Priority Habitat and Species Maps, the subject property contains mule deer and waters of the state, which are both considered Class II Fish and Wildlife Habitat Conservation Areas. Therefore, CCC, Chapter 11.78 applies to the project.
19. According to the Federal Emergency Management Agency, FIRM panel # 2300150225A, there is no floodplain on the subject property. The waterbody is a controlled reservoir.

20. According to the Chelan County GIS mapping, the property is located within a potential geologically hazardous area due to erodible soils. CCC, Chapter 11.86, Geologically Hazardous Overlay District, applies to the subject property. However, Chelan County does not require geologic site assessments for accessory structures waterward of the OHWM, per the Building Official.
21. According to the National Wetlands Inventory Map prepared by the US Department of Fish and Wildlife Services, the subject property does not contain wetlands.
22. There are no known cultural resources on the subject property. Pursuant to CCSMP Section 27, developers shall notify local governments of any possible archaeological materials uncovered during excavation.
23. This site is located along Lake Chelan within the 'rural' shoreline designation and is classified as a Shoreline of Statewide Significance, pursuant to WAC 173-20-100.
24. The proposed single-use pier, boatlift, mooring buoy and swim float are water-dependent uses and "Shoreline Works and Structures." These uses are permitted within the shoreline buffer and waterward of the OHWM.
25. The project is consistent with Goal E, Goal for Shoreline Use Element.
26. The project is consistent with the following SWS policies:
 - 26.1 SWS should be located and constructed in such a manner which will result in no significant adverse effects on the adjacent shorelines, will minimize alterations of the natural shoreline, and have no long term adverse effects on fish habitat.
 - 26.2 SWS should be designed and located to avoid significant damage to ecological values or to natural resources which would create a hazard to adjacent life, property and natural resource systems.
27. Construction will begin upon receipt of all permits and end approximately one month from start date.
28. Staff was unable to find a recorded or a documented easement to access the subject property. Legal access would need to be provided with a building permit
29. The noise impacts will be similar to other residential and recreational uses. Construction noise during demolition of the existing dock and installation of the new pier and boatlift. The project is required to comply with CCC, Chapter 7.35, Noise Control.
30. Minor visual impacts will be from the water and surrounding properties. Adjacent properties include piers and boatlifts, so visual impacts will be similar to what currently exists in the area.
31. The Notice of Application was referred to surrounding property owners within 300 feet (excluding 60 feet right-of-way), jurisdictional agencies and departments of the County. These agencies and surrounding property owners were notified on April 24, 2019, with comments due May 24, 2019. Agency comments are considered in the staff report. The following is a list of Agencies who received notice and the date comments were received:
 - 31.1 Chelan County PUD responded on June 19, 2018.
32. The following agencies were notified but did not respond:
 - 32.1 City of Chelan (sewer line)
 - 32.2 WA State Department of Natural Resources
 - 32.3 WA State Department of Ecology

- 32.4 WA State Department of Fish & Wildlife
- 32.5 US Department of Fish & Wildlife
- 32.6 US Army Corps of Engineers
- 32.7 Department of Archaeology & Historic Preservation
- 32.8 Yakama Nation
- 32.9 Confederated Tribes of the Colville Reservation
- 33. No public comments were received.
- 34. The application materials were submitted on March 26, 2019.
- 35. A Determination of Completeness was issued on April 11, 2019.
- 36. The Notice of Application was provided on April 24, 2019.
- 37. The Notice of Public Hearing was provided on July 26, 2019.
- 38. The project is consistent with Chelan County Code (CCC) Section 11.04.020 in the following respects:
 - 38.1 A single-use pier is a permitted use in the RW zoning district. The boatlift, buoy and swim float are considered an accessory to the pier. Accessory structures are permitted in the RW zoning district.
 - 38.2 The proposed development is permitted.
- 39. The project is consistent with Chelan County Code (CCC) Section 11.16.020 in the following respects:
 - 39.1 The RW zoning district requires a 5 foot setback from side property lines. The site plan of record shows all proposed development outside the setback pier and boatlift would be located 12 feet from the north property line and 10 feet from the south property line.
 - 39.2 The proposed pier, boatlift, buoy and swim float meet the required 5-foot side yard setback.
- 40. The project is consistent with Chelan County Code (CCC) Section 29.1(C) in the following respects:
 - 40.1 The provisions of the SMA and WAC have been met through the adoption of the CCSMP. The appropriate CCSMP requirements are addressed below.
 - 40.2 According to JARPA, question 6(g), the fair market value of the project is \$65,000. The project is not exempt from the substantial development permit requirement.
 - 40.3 The CCSMP does not address boatlifts. Therefore, the provisions for a Conditional Use Permit apply.
 - 40.4 The project is consistent with the provisions of the SMA, WAC and CCSMP.
- 41. The project is consistent with CCSMP Section 21.A.3.4 in the following respects:
 - 41.1 The existing pier and associated piles and footing would be removed from the site. The pier would be dismantled by hand. A total of 14 steel piles would be installed to support the pier. Each pair of piles would have a 2 foot x 2 foot x 6 foot concrete footing, or each pile would be installed to a 10 foot of depth or bearing.

- 41.2 According to the cross section details, the proposed pier pilings would have a vertical clearance of 1 foot above ordinary high water. Because Lake Chelan is a controlled reservoir, the extreme high water elevation is synonymous with the ordinary high water
- 41.3 The proposed pier complies with the CCSMP dock construction standards.
- 42. The project is consistent with CCSMP Section 21.A.6.1(B) in the following respects:
 - 42.1 The property was created prior to May 3, 1994, via the Hollywood Beach Plat, recorded August 1, 1927 under Auditor File Number (AFN) 157325.
 - 42.2 The property qualifies for a single-use pier.
- 43. The project is consistent with CCSMP Section 21.A.6.2(B) in the following respects:
 - 43.1 As described in the JARPA and pier plan, the proposed pier extends approximately 61 feet from OHWM, to meet a water depth of approximately 8 feet. The "L" shaped pier is 6 feet wide extending to a 6 feet x 12 feet platform. The overall area of the proposed pier would be 445 square feet.
 - 43.2 The proposed design of the new pier is consistent with the CCSMP dimensional standards for residential piers and docks.
- 44. The project is consistent with CCSMP Section 21.A.6.4 in the following respects:
 - 44.1 The site plan shows the pier and all proposed development outside of the 10 foot side property line setback.
 - 44.2 The proposed development meets the required 10 foot setback from the side property lines.
- 45. The project is consistent with CCSMP Section 29.3.2(a) in the following respects:
 - 45.1 The applicant is requesting to place a boatlift, mooring buoy and a swim float which are not addressed in the CCSMP and therefore requires review under a Shoreline Conditional Use Permit.
 - 45.2 The policies of the CCSMP and SMA provide for recreational use of the shoreline.
 - 45.3 The proposed development is consistent with the CCSMP as a recreational use.
- 46. The project is consistent with CCSMP Section 29.3.2(b) in the following respects:
 - 46.1 The applicant is requesting to place a boatlift on the up-lake (north) side of the pier, a mooring buoy at approximately 11 feet from the north property line at a water depth of approximately 19 feet and a swim float near the center of the parcel at a water depth of approximately 17 feet and the swimfloat at approximately 13 feet from the south property line at a water depth of approximately 16 feet.
 - 46.2 As identified on the site plan of record, all proposed development is located on private property.
 - 46.3 The proposed use/development is located on private property and would not interfere with public shorelines.
- 47. The project is consistent with CCSMP Section 29.3.2(c) in the following respects:
 - 47.1 Boatlifts, mooring buoys and swim floats are common along the Lake Chelan shoreline. This section of the lake is highly developed with residential and recreational use of the shoreline.
 - 47.2 The proposed development would be compatible with the surrounding land uses in the area.

48. The project is consistent with CCSMP Section 29.3.2(d) in the following respects:
 - 48.1 The shoreline designation is 'rural.' The 'rural' designation permits residential and recreational uses as well as development with appropriate permits.
 - 48.2 The proposed development would be consistent with the 'rural' shoreline designation and would cause no unreasonable adverse effects to the shoreline environment designation.
49. The project is consistent with CCSMP Section 29.3.2(e) in the following respects:
 - 49.1 The proposed boatlift, mooring buoy and swim float would be located on private property, as indicated on the site plan of record, and would be for private use of the property owner.
 - 49.2 The proposed development would be for private use, on private property. The public interest would not suffer substantial detrimental effect.
50. The project is consistent with CCSMP Section 29.3.4 in the following respects:
 - 50.1 The Shoreline Master Program allows for recreational use of private property. The CCSMP does not address boatlifts, mooring buoys and swim floats. The cumulative impact of over water coverage will require mitigation.
 - 50.2 The pier and the swim floats overwater coverage would be mitigated for through the proposed grating over structures.
 - 50.3 The use of the property for recreation is consistent with the policies of the Shoreline Management Act. The cumulative impacts of boatlifts, mooring buoys and swim float, which increase overwater coverage, require mitigation. The mitigation supports the policies of the Shoreline Management Act.
51. The project is consistent with CCSMP Section 29.4.1(a) in the following respects:
 - 51.1 The development area would be located on private property, in the vicinity of other properties with similar recreational in-water structures.
 - 51.2 The construction of a pier and installation of a boatlift, mooring buoy and swim float would not affect statewide nor local interests.
52. The project is consistent with CCSMP Section 29.4.1(b) in the following respects:
 - 52.1 This section of Lake Chelan carries a 'rural' shoreline designation, which allows for residential and recreational uses. This section of the lake is highly developed with residences and in-water structures.
 - 52.2 The subject property is developed with existing 487 square foot pier, a seawall, two (2) single family residences built in 1929 and a small shed. There is little vegetation on the site between the development and the seawall at the OHWM.
 - 52.3 The proposed development would not impact the natural character of the shoreline.
53. The project is consistent with CCSMP Section 29.4.1(c) in the following respects:
 - 53.1 The proposed development would enhance the recreational use of the subject property.
 - 53.2 The proposed development would be a long term benefit to the property by enhancing the recreational use of the property
54. The project is consistent with CCSMP Section 29.4.1(d) in the following respects:

- 54.1 The proposed development would be located waterward of the OHWM. The 'rural' designation permits residential and recreational uses as well as development with appropriate permits.
- 54.2 The proposed development would not have a substantial impact on the resources and ecology of the shoreline.
- 55. The project is consistent with CCSMP Section 29.4.1(e) in the following respects:
 - 55.1 The development is located on privately-owned property, with no public shoreline access.
 - 55.2 The development would not impact public access to the shoreline.
- 56. The project is consistent with CCSMP Section 29.4.1(f) in the following respects:
 - 56.1 The subject property is under private ownership with no public access.
 - 56.2 The development would not affect public recreational opportunities, as the property is privately owned.
- 57. The project is consistent with CCSMP Section 29.4.2 in the following respects:
 - 57.1 Based on the above findings and conclusions, staff finds the project to be consistent with the intent and spirit of the principles outlined above.
- 58. The subject property is located in a developed area of Lake Chelan. Surrounding properties include small lots developed with single family residences and their accessory uses, including seawalls, piers, boatlifts, swim floats and mooring buoys. Due to the existing development along the south shore of the lake, the proposed project would have minimal impacts to the shoreline environment and would be compatible with surrounding land uses.
- 59. The applicant and owner should be aware that additional zoning and critical area review shall be completed at the time of building permit submittal and may result in additional conditions.
- 60. Staff has reviewed the applications and submitted materials. Based on the information contained in the applications and compliance with the Revised Code of Washington, the Washington Administrative Code, the Chelan County Shoreline Master Program, Chelan County Comprehensive Plan, and the Chelan County Code, staff recommends **APPROVAL** subject to the proposed conditions of approval.
- 61. An open record public hearing after legal notice was provided was held on August 7, 2019.
- 62. The File of Record, Chelan County Department of Community Development Staff Report, and exhibits were received, admitted into the record and considered by the Hearing Examiner.
- 63. Appearing and testifying on behalf of the applicant was Anne Hessburg. Ms. Hessburg testified that she was an agent authorized to appear and speak on behalf of the applicant. Ms. Hessburg testified that she concurred with all representations stated within the staff report and that the applicant had no objection to any of the proposed conditions of approval, except proposed conditions 1.2 and 4. Staff did not object to the removal of either condition, but stated that the Applicant still needs to demonstrate access in order to obtain a building permit.
- 64. No member of the public testified at this hearing.
- 65. The Chelan County Hearing Examiner considered all evidence within the record in rendering this decision.
- 66. Any Conclusion of Law that is more correctly a Finding of Fact is incorporated herein as such by this reference.

CONCLUSIONS OF LAW

1. The Hearing Examiner has authority to render this Decision.
2. Referral agency comments were received and considered in the review of this proposal.
3. The site of the subject proposal is in the Chelan County Comprehensive Plan Rural Waterfront land use designation. As described, the proposal is consistent with the Chelan County Comprehensive Plan.
4. As conditioned, the subject proposal is consistent with the Chelan County Code, Title 11.
5. Environmental and Critical Areas review has been completed. As conditioned, the proposal does not have negative impacts on critical areas which cannot be mitigated.
6. The authorization of the shoreline permits will not be materially detrimental to the purposes of the Revised Code of Washington, the Washington Administrative Code, the Chelan County Shoreline Master Program, the Chelan County Comprehensive Plan, the Chelan County, or not be otherwise detrimental to the public interest.
7. The project is not located on a public beach, nor does it block or reduce public use or enjoyment of the area.
8. Subject to the Conditions of Approval, the project design is consistent with the Chelan County Shoreline Master Program requirements.
9. Any Finding of Fact that is more correctly a Conclusion of Law is incorporated herein as such by this reference.

This Shoreline Substantial Development Permit and three (3) Shoreline Conditional Use Permits are granted pursuant to the Shoreline Master Program of Chelan 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 Shoreline Substantial Development 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 SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT AND THREE (3) SHORELINE CONDITIONAL USE PERMITS 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 9th day of August, 2019.

CHELAN COUNTY HEARING EXAMINER



Andrew L. Kottkamp

Anyone aggrieved by this decision has twenty-one (21) days from the “date of receipt” as defined by Washington Law to file a petition for review with the Shorelines Hearings Board (for the shoreline permit and three (3) shoreline conditional use permits) as provided for in RCW 90.58.180 and Chapter 461-08 WAC, the rules of practice and procedure of the Shorelines Hearings Board.

Chelan County Code Section 1.61.130 provides that any aggrieved party or agency may make a written request for reconsideration by the Hearing Examiner within ten (10) days of the filing of the written record of decision. The request for reconsideration shall be submitted to the Community Development Department. Reconsideration of the decision is wholly within the discretion of the Hearing Examiner. If the Hearing Examiner chooses to reconsider, the Hearing Examiner may take such further action deemed proper and may render revised decision within five (5) days after the date of filing of the request for reconsideration. A request for reconsideration is not a prerequisite to filing an appeal under Section 1.61.160.

The complete case file, including findings, conclusions, and conditions of approval (if any) is available for inspection during the open office hours at Chelan County Department of Community Development. Their address is 316 Washington Street, Suite 301, Wenatchee, WA 98801. Their telephone number is (509) 667-6225.

**THIS SECTION FOR DEPARTMENT OF ECOLOGY USE ONLY IN REGARD TO A
CONDITIONAL USE AND/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:
