

SHORELINE MANAGEMENT PERMIT

ACTION SHEET

Application #:

SDP 2018-348
SCUP 2018-349
SCUP 2018-352
SV 2018-350
RipV 2018-351

RECEIVED

FEB 11 2019

**CHELAN COUNTY
COMMUNITY DEVELOPMENT**

Administering Agency

Chelan County Department of Community Development

Type of Permits:

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

Action:

- ☒ Riparian Variance

☒ Approved ☐ Denied

Date of Action:

February 7, 2019

Date Mailed to DOE/AG

Pursuant to Chapter 90.58 RCW, the Chelan County Shoreline Master Program, the Chelan County Comprehensive Code and the Chelan County Code, the above-referenced permits are hereby approved for:

**Erika and Joseph Ribary
43015 SE 114th St
North Bend, WA 98045**

To undertake the following development: An application for a shoreline substantial development permit, shoreline conditional use permits, a shoreline variance and riparian variance, for construction of a new 360 sq ft single-use, fixed pile pier, installation of a boatlift and mooring buoy, installation of a new access trail and permitting of an existing ecology block retaining wall.

The pier will be anchored to a new 4 ft x 4 ft x 6 ft concrete abutment and extend approximately 45 feet perpendicular from the OHWM to a water depth of 12 feet. The main section of the pier will be 6 ft x 20

ft and the next section will angled down-lake at 45 degrees and be 8 ft x 28 ft. The pier will be supported by a total of eight (8) 10-inch diameter galvanized steel piles and anchored by footings.

The boatlift will be installed on the up-lake side of the pier, approximately 15 feet waterward of the OHWM at a water depth of approximately 6 feet. The new 18 to 24-inch diameter mooring buoy will be located approximately 90 feet from OHWM.

The new trail will provide access down to the pier and will be composed of a boardwalk, deck and stairway. The trail will be constructed by hand excavating into the land and following the natural contour as much as possible. The trail will go around the south side of the existing retaining wall to a 4 ft wide by 41 ft long boardwalk that will run adjacent to the bottom of the retaining wall. A landing will be constructed at the northwest end of the boardwalk to connect to a set of stairs approximately 4 ft wide by 33 ft long leading down to the pier. The trail and a majority of the boardwalk and landing are all located outside of the 25-foot riparian buffer. The southeast edge of the boardwalk will have 94 feet of overhang into the buffer. 104 sq ft of the set of stairs from the deck to the pier will be within the riparian and shoreline buffer. The boardwalk and stairs will be constructed of common building materials such as wood, steel or aluminum.

The existing retaining wall is located 25 feet from the OHWM, ranges from 2-10 feet in height, and is approximately 110 feet long.

Project mitigation will include planting 500 sq ft of native trees and shrubs adjacent to Lake Chelan. Species to be planted include Douglas-fir, ponderosa pine, serviceberry and wood's rose.

Upon the following property: 8510 South Lakeshore Rd, Chelan, WA 98816.

Within 200 feet of 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.

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.

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. A residential building permit is required for the pier, boatlift, boardwalk, stairs and retaining wall.
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 date stamped October 15, 2018 and shown on the site plan of record, date stamped January 17, 2019, except as modified by this decision or other jurisdictional agencies.

3. Pursuant to Chelan County Code Section 11.95.060, the granting of the riparian variance and the conditions set forth runs with the land; compliance with the conditions of the variance is the responsibility of the current owner of the property, whether that is the applicant or a successor.
4. Pursuant to Chelan County Code Section 11.95.040, the applicant shall comply with the mitigation planting plan, date stamped October 15, 2018, except as modified by this decision or other jurisdictional agencies.
5. Pursuant to Chelan County Shoreline Master Program Section 21.A.6.4, the proposed pier shall be setback a minimum of ten (10) feet from side property lines, EXCEPT that it may be located within five feet of the side property line when mutually agreed to by contract/covenant with the owners of the adjacent property, a copy of which must be recorded with the County Auditor.
6. 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.
7. Pursuant to RCW 27.53.060, 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.
 - 7.1. An inadvertent discovery plan shall be submitted with the building permit application and kept onsite during all land disturbing activities. A sample of this plan is attached as Exhibit B.
8. 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.
9. 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/owner is Erik and Joseph Ribary, 43015 SE 114th St/. North Bend, WA 98045.
2. The agent is Grette Associates, LLC., Attn: Ryan Walker, 151 S. Worthen St., Suite 101, Wenatchee, WA 98801.
3. The project is located at 8510 South Lakeshore Rd., Chelan, WA 98816.
4. The parcel number is 28-21-33-310-050.
5. The property is legally described as: A Tract in the Southeast corner of Government Lot 3 in Section 33, Township 28 North, Range 21, E.W.M., Chelan County, Washington, described as follows:

Beginning at the Southwest corner of said Section and running thence North on the West line of said Section 1331.3 feet to a point; thence North 88°44' East 968.7 feet to the true point of beginning; thence North 88°44' East 745 feet to a point on the high water line of the West shore of Lake Chelan; North 40°34' West 352.2 feet along said high water line; thence South 61°09' West 588.9 feet to the True Point of Beginning, EXCEPT the Northerly 80 feet of the above described Tract.
6. The property is located in Chelan County, not within an Urban Growth Area.

7. The Comprehensive Plan designation and zoning is a split as Rural Waterfront (RW) and Rural Residential/Resource 2.5 (RR2.5). The project area is located entirely within the RW zoning district.
8. As stated in the JARPA, questions 5(m) and 5(o), the subject property is currently used for recreational and residential purposes. The property contains an ecology block retaining wall on the east side of South Lakeshore Road. That portion of the property lying west of South Lakeshore road is vacant.
9. Building Permit Number BP 130549 was issued on August 5, 2014, for construction of a new 2 bedroom, 2 bathroom single family residence. This permit expired and the residence was never built; however, a retaining wall was constructed to stabilize the future residential foundation. Because the wall was originally considered an appurtenance to the single-family residence, the previous property owner did not obtain a shoreline permit for the wall. An after-the-fact building permit for the retaining wall is required.
10. Permits SDP 2010-056/SCUP 2010-057 and BP 140581 were obtained, for construction a new dock, boatlifts and buoy. These were never constructed and the permits have since expired. The current project is a reissue of the prior shoreline permits, issued to the previous landowner.
11. As stated in the JARPA, question 5(l), the parcel extends across both side of South Lakeshore Road and is triangular in shape with the point of the triangle located on the west side of South Lakeshore Road and the widest part of the parcel being located east of South Lakeshore Road (Sheets 2 and 3). A graveled shared driveway and lakefront access easement exists along the eastern edge of South Lakeshore Road. The driveway ends just above a triple set of concrete ecology block retaining walls. The retaining walls run from the north end of the parcel and extend approximately 1/3 of the way across the entire length of the parcel. Below South Lakeshore Road, the property consists of a steeply sloped rocky and sandy hillside dominated by sparse vegetation including Douglas-fir, ponderosa pine, wood's rose, Oregon grape, ocean spray, blue elderberry, big-leaf maple, bitterbrush and cheat grass. The shoreline consists of large cobble and driftwood deposits above the OHWM. Below the OHWM the lakebed consists of large and small cobble.
12. The property is 0.73 acres per Chelan County Assessor's records
13. The property to the north is in residential and recreational use and is zoned Rural Waterfront (RW).
14. The property to the south is in residential and recreational use and is zoned Rural Waterfront (RW).
15. The property to the east is Lake Chelan.
16. The property to the west is South Lakeshore Road and is zoned Rural Residential/Resource 5 (RR5).
17. Fish and Habitat: According to the Washington State Department of Fish and Wildlife, Priority Habitat and Species Maps, the subject site 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.
18. The required riparian buffer for a rural shoreline environment designation is 100 feet from OHWM, unless the lot qualifies for buffer reductions. With reductions, the riparian buffer can never be reduced below 25 feet. According to the site plan of record, date stamped January 17, 2019, the stairs and a portion of the boardwalk will be located within the required riparian buffer. Therefore, the applicant is requesting riparian variance to for the construction of a portion of the boardwalk, stairs and access path within the buffer.
19. Floodplain: According to the Federal Emergency Management Agency, FIRM panel # 5300150225A, there is no floodplain on the subject parcel. The waterbody is a controlled reservoir.

20. Geologically Hazardous Area: According to the Chelan County GIS mapping, the property is located within a potential geologically hazardous area due to erodible soils and steep slopes. CCC, Chapter 11.86, Geologically Hazardous Overlay District, applies to the subject property. Chelan County does not require geologic site assessments for accessory structures waterward of the OHWM, per the Building Official. If the boardwalk and stairs require a building permit, a geologic site assessment will be required.
21. Streams: The Washington State Department of Natural Resource Map identifies a "Type N" stream on the subject property. In an email received from Ryan Walker, Grette Associates, dated January 16, 2019, "There are no above ground channels that carry natural water either permanently or intermittently. Therefore there are no areas that meet the definition of a stream under CCC 11.78." Therefore, the subject site does not contain any streams.
22. Wetlands: According to the National Wetlands Inventory Map prepared by the US Department of Fish and Wildlife Services, the subject site does not contain wetlands.
23. 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. The Confederated Tribes of the Colville Reservation recommend development of an inadvertent discovery plan. Therefore, staff recommended a condition of approval, requiring an inadvertent discovery plan be kept onsite during all ground-disturbing activities.
24. According to JARPA, question 6(f), Construction will begin upon receipt of all permits and end approximately one month from start date.
25. Access is provided by a 15-foot wide shared driveway easement off South Lakeshore Road, recorded under APN 2483178 and depicted as "Easement #1" on Record of Survey recorded under AFN 2483234.
26. Pursuant to CCC Section 11.88.070, a driveway permit is not required for docks and piers or structures located on properties not accessed by motor vehicles.
27. Noise will be similar to other residential and recreational uses. Construction noise is expected during installation of the new pier, boatlift, and access trail. The project is required to comply with CCC, Chapter 7.35, Noise Control.
28. Minor visual impacts will be from the water and surrounding properties. Properties in the vicinity include piers and boatlifts, so visual impacts will be similar to what currently exists in the area.
29. 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 November 18, 2018, with comments due December 23, 2018. The following agencies provided comments:
 - 29.1 Chelan County PUD responded on November 20, 2018
 - 29.2 Confederated Tribes of the Colville Reservation responded on November 20, 2018
30. The following agencies were notified but did not respond:
 - 30.1 Chelan County Building Official
 - 30.2 WA State Department of Natural Resources
 - 30.3 WA State Department of Ecology
 - 30.4 WA State Department of Fish & Wildlife
 - 30.5 US Department of Fish & Wildlife
 - 30.6 US Army Corps of Engineers
 - 30.7 Department of Archaeology & Historic Preservation
 - 30.8 Yakama Nation
31. No public comments were received.

32. The application was submitted on October 15, 2018.
33. A Determination of Completeness was issued on November 8, 2018.
34. The Notice of Application was issued on November 16, 2018.
35. The Notice of Public Hearing was provided on February 6, 2018.
36. 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 Determination of Non-Significance (DNS) was issued on January 4, 2019. The SEPA Checklist and DNS are included within the file of record and adopted by reference.
37. The Comprehensive Plan has been reviewed. Specifically the goals and policies related to the Rural Waterfront Comprehensive Plan designation for consistency with residential and recreational land uses. The Hearing Examiner finds that the project, as conditioned, is consistent with the Chelan County Comprehensive Plan.
38. The project is consistent with Chelan County Code (CCC) 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 access trail and retaining wall are considered accessory uses/ structures. Accessory uses/structures are permitted in the RW zoning district.
 - 38.2 The proposed pier, boatlift, buoy and access trail and existing retaining wall are permitted uses.
39. The project is consistent with CCC Section 11.6.020 in the following respects:
 - 39.1 The RW zoning district requires a 5 foot setback from side property lines. The site plan of record indicates that the proposed pier and boatlift will be located approximately 32 feet from the north property line and approximately 160 feet from the south property line.
 - 39.2 The retaining wall is not required to meet a structure setback, as it is exempted from the definition of structure, per CCC Section 14.98.1825.
 - 39.3 The proposed complies with the RW zoning dimensional standards.
40. The project is consistent with CCC Section 11.95.030 (1)(A) in the following respects:
 - 40.1 The requested variance is for construction of an access trail from the front property line (adjacent to S Lakeshore Rd) to the future pier. The property is steeply sloped and there is no access to the shoreline without the creation of an access trail. Existing lots down-lake of the subject property are developed with access paths (stairs) to the water. These properties have similar constraints involving topography and shoreline access.
 - 40.2 The variance is necessary for the preservation of a property right and does not grant a special privilege.
41. The project is consistent with CCC Section 11.95.030 (1)(B) in the following respects:
 - 41.1 The plight of the applicant is based on the physical characteristics of the subject property. Specifically the steep topography and the required riparian setback for development. The applicant does not have control of the topography nor the required riparian setbacks. Furthermore, access to the shoreline would be unsafe without installation an access trail.
 - 41.2 The request is based on physical characteristics of the subject property and the applicable code regulations, over which the applicant has no control.
42. The project is consistent with CCC Section 11.95.030 (1)(C) in the following respects:

- 42.1 As stated above, the hardship is based on the physical characteristics of the subject property and the application of the riparian regulations that limit development within the required riparian buffer, neither of which are the result of the owner's action.
- 42.2 The hardship is not the result of the applicant's or the owner's action.
- 43. The project is consistent with CCC Section 11.95.030 (1)(D) in the following respects:
 - 43.1 A majority of properties within the lower Lake Chelan basin are privately owned and subdivided for rural and recreational development of the shoreline. Many of the lots within this area were created prior to critical areas regulations. Properties along this reach of shoreline are steeply sloped toward the water.
 - 43.2 Installation of the proposed access trail will provide a safer access to the shoreline with the installation of a trail, boardwalk and stairs.
 - 43.3 The project is consistent with Goal CL 1 of the comprehensive plan; Identify and protect critical areas from adverse environmental impacts while providing for reasonable use of private property.
 - 43.4 Authorization of this variance will not be materially detrimental to the public welfare and safety, be injurious to the property or otherwise detrimental to the objectives of the comprehensive plan.
- 44. The project is consistent with CCC Section 11.95.030 (1)(E) in the following respects:
 - 44.1 The hardship of the applicant directly relates to the need for safe access to the shoreline and the required riparian buffer, pursuant to CCC Chapter 11.78. The code requires a minimum setback distance from the shoreline, and does not account for natural topography and potential safety concerns.
 - 44.2 The hardship results from the application of riparian buffer regulations, per CCC Chapter 11.78.
- 45. The project is consistent with CCC Section 11.78.230 (2)(A) in the following respects:
 - 45.1 The variance request is for the construction of an access trail from the upland to the proposed pier. As stated in JARPA question 5(l), the property consists of a steeply sloped rocky and sandy hillside dominated by sparse vegetation.
 - 45.2 Project mitigation includes planting 500 square feet of native trees and shrubs adjacent to the lake. As stated in JARPA question 8(d), the proposed native woody shrub plantings will enhance the shoreline by providing shade, fine litter inputs and eventually large woody debris. The plantings are focused near the lake as this location provides the greatest benefit. Staff recommended a condition of approval requiring compliance with the proposed mitigation planting plan.
 - 45.3 The proposal, as conditioned, will not significantly impact the fish and wildlife habitat. The proposed mitigation will address vegetation enhancement within the riparian buffer.
- 46. The project is consistent with CCC Section 11.78.230 (2)(B) in the following respects:
 - 46.1 The proposed access trail is necessary to provide safe access on the steep shoreline. There is currently no upland access to the shoreline.
 - 46.2 The proposed use is reasonable, considering the steep topography and need for safe access to the shoreline and proposed pier.
- 47. The project is consistent with CCC Section 11.78.230 (2)(C) in the following respects:

- 47.1 The access trail will be constructed by hand excavating and is designed to follow the natural contour as much as possible. The trail and a majority of the boardwalk and landing are located outside of the 25 –foot lake buffer. Approximately 94 sq ft of the boardwalk will overhang the buffer and approximately 104 sq ft of the stairs will be within the buffer. Access to the pier would be infeasible without an access trail. Mitigation plantings are proposed to offset any impacts from the development.
- 47.2 Staff found the design and location of the access trail will not impact fish and wildlife habitat. The proposed mitigation will enhance riparian habitat within the buffer.
- 48. The project is consistent with CCC Section 11.78.230 (3)(A) in the following respects:
 - 48.1 The variance request is based on the steep topography of the lot and the need to obtain safe access to the shoreline to utilize the proposed pier.
 - 48.2 The variance request is not based on illegal or nonconforming circumstances.
- 49. The project is consistent with CCC Section 11.78.230 (3)(B) in the following respects:
 - 49.1 The request is based on the steepness of the lot within the riparian buffer, and the need to obtain safe access to the shoreline area.
 - 49.2 The variance request is not based upon lack of reasonable economic return.
- 50. The project is consistent with CCC Section 11.78.230 (3)(C) in the following respects:
 - 50.1 The property owner acquired the property on August 31, 2018.
 - 50.2 The steep topography and the critical areas regulations existed at the time the applicant acquired the property.
- 51. The project is consistent with CCC Section 11.78.230 (3)(D) in the following respects:
 - 51.1 The proposed variance does not change the permitted land uses.
 - 51.2 This does not apply.
- 52. The project is consistent with CCC Section 11.78.230 (3)(E) in the following respects:
 - 52.1 The proposed variance does not affect density.
 - 52.2 This does not apply.
- 53. The project is consistent with Chelan County Shoreline Master Program (CCSMP) 29.1 in the following respects:
 - 53.1 The provisions of the SMA and WAC have been met through the adoption of the CCSMP. The appropriate CCSMP requirements are addressed below.
 - 53.2 According to JARPA, question 6(g), the fair market value of the project is \$75,000. The project is not exempt from the substantial development permit requirement.
 - 53.3 The CCSMP does not address boatlifts or buoys; therefore, the provisions for a Conditional Use Permit apply.
 - 53.4 The proposed upland access trail includes a boardwalk and stairs, which will exceed the maximum allowable height of nine inches above grade within the shoreline buffer. Therefore, the provisions for a Shoreline Variance apply to the project.
 - 53.5 The project is consistent with the provisions of the SMA, WAC and CCSMP.
- 54. The project is consistent with CCSMP Section 21.A.3.5 in the following respects:
 - 54.1 According to the JARPA, question 6(e), a total of eight (8) 10-inch galvanized steel piles will support the pier. The piles will be anchored by individual concrete footings.

Galvanized cross bracing will be placed between each pair of piles. Stringers will then be attached to the piles with metal brackets to create framework for the decking. Grated steel decking will then be installed atop the completed framework. The landward end of the pier will be anchored to a 6 ft x 4 ft x 4 ft concrete abutment.

- 54.2 According to the cross section details, date stamped October 15, 2018, the proposed pier pilings will have a minimum vertical clearance of one (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 elevation.
- 54.3 The proposed pier, as conditioned, complies with the CCSMP dock construction standards.
- 55. The project is consistent with CCSMP Section 21.A.6.1 in the following respects:
 - 55.1 The property was created prior to May 3, 1994, via deed recorded in Volume 969, Page 841 (referred to as "Parcel A").
 - 55.2 The lot qualifies for a single-use pier.
- 56. The project is consistent with CCSMP Section 21.A.6.2 in the following respects:
 - 56.1 As described in the JARPA and pier plan date stamped October 15, 2018, the proposed pier extends approximately 45 feet from OHWM, to meet a water depth of approximately 12 feet. The main section of the pier will be 6 ft x 20 ft and next section will angle down-lake at 45 degrees and will be 8 ft x 28 ft; for a total area of 360 square feet.
 - 56.2 The proposed design of the new pier is consistent with the CCSMP dimensional standards for residential piers and docks.
- 57. The project is consistent with CCSMP Section 21.A.6.4 in the following respects:
 - 57.1 The site plan, date stamped January 17, 2019, shows the pier located approximately 32 feet from the north property line and approximately 160 feet from the south property line.
 - 57.2 The proposed pier complies with the side yard setback requirements.
- 58. The project is consistent with CCSMP Section 29.2.2 (a) in the following respects:
 - 58.1 CCSMP Section 16 restricts residential development within the common line setback. The common line setback for the subject property is 20 feet from OHWM. The access trail is necessary for safe access to the proposed pier, due to the steep topography of the lot, adjacent to and within 20 feet of the shoreline.
 - 58.2 The existing regulations do not take into account the necessary access to piers on lots with steep topography. The strict application of the CCSMP standards would preclude a reasonable permitted use of the property.
- 59. The project is consistent with CCSMP Section 29.2.2 (b) in the following respects:
 - 59.1 The subject property is a steep, waterfront residential lot. The applicant would like to develop the lot with a single-use pier for recreational use of the property. However access to the pier is unsafe, due to the steeply sloping topography adjacent to the OHWM and within the common line setback.
 - 59.2 The hardship results from the steep topography adjacent to the shoreline and within the common line setback and the need for access to the pier within the required setback area.
- 60. The project is consistent with CCSMP Section 29.2.2 (c) in the following respects:
 - 60.1 The shoreline environment designation is rural, which permits residential and recreational structures. The nearby down-lake developed lots contain stairways to provide access to the shoreline.

- 60.2 According to the site plan of record, date stamped January 17, 2019. The proposed access trail is located entirely on private property.
- 60.3 The proposed access trail is compatible with the permitted uses and structures in the area and will not cause adverse effects to adjacent properties or the shoreline designation.
- 61. The project is consistent with CCSMP Section 29.2.2 (d) in the following respects:
 - 61.1 Other properties in the vicinity with similar topography are developed with stairs to access the shoreline. The proposed access trail and associated boardwalk and stairs are the minimum necessary to provide access and comply with applicable building code regulations.
 - 61.2 The variance is not a grant of special privilege and the minimum necessary to afford relief and meet applicable codes.
- 62. The project is consistent with CCSMP Section 29.2.2 (e) in the following respects:
 - 62.1 The property is zoned for residential use. According to the site plan of record, date stamped January 17, 2019, the proposed access trail will be located on private property for private access to the shoreline.
 - 62.2 The proposed development is for private use, located on private property. Approval of this project will not cause a substantial detrimental effect on public use and interest.
- 63. The project is consistent with CCSMP Section 29.2.2 (f) in the following respects:
 - 63.1 The proposed access trail is located landward of the OHWM.
 - 63.2 The project will not impact navigation.
- 64. The project is consistent with CCSMP Section 29.2.3 in the following respects:
 - 64.1 The Shoreline Master Program allows for recreational and residential use of private property. The installation of an access trail is minor in nature and provides safer shoreline access to the pier. It would be anticipated that properties with similar topography would potentially require variances to install access trails.
 - 64.2 The cumulative impacts of granting such variances are minimal and remain consistent with the policies of the Shoreline Management Act.
- 65. The project is consistent with CCSMP Section 29.3.2 (a) in the following respects:
 - 65.1 The applicant is requesting to install a new, 360 square foot pier, 125 sq ft boatlift, an 18 to 24-inch mooring buoy and access trail from the upland to the pier.
 - 65.2 The proposed boatlift and mooring buoy are not addressed in the CCSMP and therefore require review under a Shoreline Conditional Use Permit.

The policies of the CCSMP and SMA provide for recreational use of the shoreline.
 - 65.3 The proposed development is consistent with the CCSMP as a recreational use.
- 66. The project is consistent with CCSMP Section 29.3.2 (b) in the following respects:
 - 66.1 The boatlift will be installed adjacent to the pier, 15 feet waterward of the OHWM at its landward end, at a water depth of approximately 6 feet. The proposed buoy will be located approximately 90 feet from the OHWM, landward of the 1079' lake elevation.
 - 66.2 As identified on the site plan of record, all proposed development is located on private property.
 - 66.3 This section of the lake is approximately three quarters of a mile wide (according to Chelan County GIS measurements), providing room for public use and navigation.

- 66.4 The proposed use/development is located on private property and will not interfere with use of public shorelines.
67. The project is consistent with CCSMP Section 29.3.2 (c) in the following respects:
- 67.1 Boatlifts, buoys and other in-water structures are common along the Lake Chelan shoreline. This reach of shoreline is more undeveloped due to the small lot sizes and steep topography. However, properties just down-lake include in-water structures, similar to the proposed development.
 - 67.2 The proposed development is compatible with the surrounding land uses in the area.
68. The project is consistent with CCSMP Section 29.3.2 (d) in the following respects:
- 68.1 The shoreline designation is 'rural.' The 'rural' designation permits residential and recreational uses and development with appropriate permits. The proposed conditional use is for the placement a 10' x 12.5 (125 sq ft) boatlift and a mooring buoy.
 - 68.2 The proposed development is consistent with the 'rural' shoreline designation and will cause no unreasonable adverse effects to the shoreline environment designation.
69. The project is consistent with CCSMP Section 29.3.2 (e) in the following respects:
- 69.1 The proposed boatlift and buoy will be located on private property, as indicated on the site plan of record, and will be for private use of the property owner.
 - 69.2 The proposed development is for private use, on private property. The public interest will not suffer substantial detrimental effect.
70. The project is consistent with CCSMP Section 29.3.4 in the following respects:
- 70.1 The Shoreline Master Program allows for recreational use of private property. The CCSMP does not address boatlifts and buoys.
 - 70.2 The cumulative impacts of boatlifts and buoys are minimal and remain consistent with the policies of the Shoreline Management Act.
71. The project is consistent with CCSMP Section 29.4.1 (a) in the following respects:
- 71.1 The project area will be located on private property, just up-lake of other properties with similar recreational in-water structures.
 - 71.2 Permitting the existing retaining wall and the installation of a single-use pier, boatlift, buoy and access trail will not affect statewide nor local interests.
72. The project is consistent with CCSMP Section 29.4.1 (b) in the following respects:
- 72.1 This section of Lake Chelan carries a 'rural' shoreline designation, which allows for residential and recreational uses. As stated in the JARPA, the property consists of a steeply sloped rocky and sandy hillside dominated by sparse native vegetation.
 - 72.2 Lake Chelan is a highly developed shoreline. This reach of shoreline is minimally disturbed due to its steep topography; however, properties up-lake and down-lake of the subject site are highly developed with in-water structures.
 - 72.3 The proposed project will not significantly impact the natural character of the shoreline.
73. The project is consistent with CCSMP Section 29.4.1 (c) in the following respects:
- 73.1 The proposed development will enhance the recreational use of the subject property. The existing wall is currently used to stabilize the hillside, but may be used to support a future residence on the property.

- 73.2 The proposed pier, boatlift, buoy and access trail will be a long term benefit to the property by enhancing the recreational use of the property and providing safe access to the shoreline. The existing retaining wall provides a long term benefit by stabilizing the steep slope and supporting a future residential home site.
74. The project is consistent with CCSMP Section 29.4.1 (d) in the following respects:
- 74.1 The proposed pier, boatlift, and buoy, will be located waterward of the OHWM. Habitat below OHWM consists of large and small cobble. The proposed upland access trail and existing retaining wall are located within the steep slope area with minimal vegetation.
- 74.2 The project includes a mitigation planting plan including 500 square feet of native vegetation plantings along the shoreline. In addition, the entire surface of the proposed pier will have grated surface, to allow light penetration.
- 74.3 All pier and boatlift construction activities will occur in the dry, when the lake is drawn down, to minimize the potential for erosion and turbidity, and to reduce the potential for impacts to water quality, fish and wildlife.
- 74.4 The proposed development will not have a substantial impact on the resources and ecology of the shoreline.
75. The project is consistent with CCSMP Section 29.4.1 (e) in the following respects:
- 75.1 The project is located on privately-owned property, with no public shoreline access.
- 75.2 The project will not impact public access to the shoreline.
76. The project is consistent with CCSMP Section 29.4.1 (f) in the following respects:
- 76.1 The subject property is under private ownership with no public access.
- 76.2 The project will not affect public recreational opportunities, as the property is privately owned.
77. The project is consistent with CCSMP Section 29.4.2 in the following respects:
- 77.1 Based on the above findings and conclusions, staff finds the project to be consistent with the intent and spirit of the principles outlined above.
78. The applicant is requesting a shoreline substantial development permit, two shoreline conditional use permits, a shoreline variance and riparian variance, for construction of a new 360 sq ft single-use, fixed pile pier, installation of a new boatlift and mooring buoy, installation of a new access trail and permitting of an existing ecology block retaining wall.
79. The pier will be anchored to a new 4 ft x 4 ft x 6 ft concrete abutment and extend approximately 45 feet perpendicular from the OHWM to a water depth of 12 feet. The main section of the pier will be 6 ft x 20 ft and the next section will angled down-lake at 45 degrees and be 8 ft x 28 ft. The pier will be supported by a total of eight (8) 10-inch diameter galvanized steel piles and anchored by footings.
80. The boatlift will be installed on the up-lake side of the pier, approximately 15 feet waterward of the OHWM at a water depth of approximately 6 feet. The new 18 to 24-inch diameter mooring buoy will be located approximately 90 feet from OHWM.
81. The new trail will provide access down to the pier and will be composed of a boardwalk, deck and stairway. The trail will be constructed by hand excavating into the land and following the natural contour as much as possible. The trail will go around the south side of the existing retaining wall to a 4 ft wide by 41 ft long boardwalk that will run adjacent to the bottom of the retaining wall. A landing will be constructed at the northwest end of the boardwalk to connect to a set of stairs approximately 4 ft wide by 33 ft long leading down to the pier. The trail and a majority of the

boardwalk and landing are all located outside of the 25-foot riparian buffer. The southeast edge of the boardwalk will have 94 feet of overhang into the buffer. 104 sq ft of the set of stairs from the deck to the pier will be within the riparian and shoreline buffer. The boardwalk and stairs will be constructed of common building materials such as wood, steel or aluminum.

82. The existing retaining wall is located 25 feet from the OHWM, ranges from 2-10 feet in height, and is approximately 110 feet long.
83. Project mitigation will include planting 500 sq ft of native trees and shrubs adjacent to Lake Chelan. Species to be planted include Douglas-fir, ponderosa pine, serviceberry and wood's rose.
84. This project is a reissue of an expired permit, SDP 2010-056/SCUP 2010-057, issued to the previous land owner. The project remains consistent with the previous approval; with the exception of the new proposed access trail and retaining wall.
85. Due to the existing development along the south shore of the lake, the proposed project will have minimal impacts to the shoreline environment and will be compatible with surrounding land uses.
86. With the steep terrain adjacent to the shoreline, safe access to the pier is a concern. Properties within the vicinity, down-lake of the subject property, contain access stairs to the shoreline due to similar constraints. Approval of this application would remain consistent with development in the area, in addition to the goals and policies of the Chelan County Comprehensive Plan and Shoreline Master Program.
87. Staff 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 recommended APPROVAL subject to recommended conditions of approval.
88. An open record public hearing after legal notice was provided was held on February 6, 2019.
89. 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.
90. Appearing and testifying on behalf of the applicant was Ryan Walker. Mr. Walker testified that he was an agent authorized to appear and speak on behalf of the applicant. Mr. Walker indicated that the applicant concurred with the staff report findings and conclusions and that the applicant had no objection to any of the proposed conditions of approval.
91. No member of the public testified at the hearing.
92. The Chelan County Hearing Examiner considered all evidence within the record in rendering this decision.
93. 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 Chelan County Comprehensive Plan Rural Waterfront and Rural Residential/Resource 2.5 land use designations. 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 proposed project meets the definition of "Development" as defined in the Chelan County Shoreline Master Program and WAC 173-27-030 and is considered a substantial development.
7. 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.
8. The project is not located on a public beach, nor does it block or reduce public use or enjoyment of the area.
9. Subject to the Conditions of Approval, the project design is consistent with the Chelan County Shoreline Master Program requirements.
10. 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, two Shoreline Conditional Use Permits and Shoreline Variance 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, two Shoreline Conditional Use Permits and Shoreline Variance 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, TWO SHORELINE CONDITIONAL USE PERMITS AND SHORELINE 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 7th day of February, 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, two shoreline conditional use permits and shoreline variance) as provided for in RCW 90.58.180 and Chapter 461-08 WAC, the rules of practice and procedure of the Shorelines Hearings Board.

Anyone aggrieved by this decision (for the riparian variance) has twenty-one days from the issuance of this decision to file an appeal with the Chelan County Superior Court as provided for under Judicial Review of Land Use Decisions, RCW 36.70C.040(3).

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:
