

SHORELINE MANAGEMENT PERMIT

ACTION SHEET

RECEIVED

MAR 25 2019

Application #:

SDP 2018-370

SCUP 2018-371

SCUP 2018-372

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

Action:

- ☒ Approved
- ☐ Denied

Date of Action:

March 22, 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:

**William Hayward
1209 S Belfair Pl
Kennewick, WA 99338**

To undertake the following development: An application for a shoreline substantial development permit and shoreline conditional use permits, for repair and maintenance of an existing 316 square foot pier and installation of a 125 square foot boatlift and one 24-inch diameter buoy on Lake Chelan. The pier maintenance includes replacement of wood decking with composite decking, replacement of existing batter boards and the installation of structural cross bracing to increase pier rigidity; the pier footprint will remain the same. The boatlift will be installed on the landward side of the existing pier, approximately 12 feet from the OHWM at a water depth of approximately 10 feet. Footings will be required for placement of the boatlift; forms will be built, and concrete footings poured in place. The proposed buoy will be located approximately 40 feet from OHWM on state-owned aquatic lands.

Upon the following property: 21734 South Lakeshore Road, 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 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.
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 November 5, 2018, except as modified by this decision or other jurisdictional agencies.
3. Pursuant to CCSMP Section 10 Nonconforming Use Regulations, prior to repair and maintenance activities for the existing pier, the applicant shall provide the Department with documentation of compliance with CCSMP, Section 10.4. This includes providing an assessed/appraised valuation for the existing pier and a contractor's bid for the proposed work. Work exceeding fifty percent of the fair market value shall not constitute maintenance and will not be authorized.
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 27.53.060, 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.
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. This is an application for a shoreline substantial development permit and shoreline conditional use permits, for repair and maintenance of an existing 316 square foot pier and installation of a 125 square foot boatlift and one 24-inch diameter buoy on Lake Chelan. The pier maintenance includes replacement of wood decking with composite decking, replacement of existing batter boards and the installation of structural cross bracing to increase pier rigidity; the pier footprint will remain the same. The boatlift will be installed on the landward side of the existing pier, approximately 12 feet from the OHWM at a water depth of approximately 10 feet. Footings will be required for placement of the boatlift; forms will be built and concrete footings poured in place. The proposed buoy will be located approximately 40 feet from OHWM on state-owned aquatic lands.
2. The owner is William Hayward, 1209 S Belfair Pl, Kennewick, WA 99338.
3. The agent is Grette Associates, Attn: Anne Hessburg, 151 S. Worthen St, Suite 101, Wenatchee, WA 98801.
4. The project location is 21734 South Lakeshore Road, Chelan, WA 98816.
5. The parcel number for the subject property is 29-20-24-820-035.
6. The subject site is not located within an urban Growth Area.
7. The Comprehensive Plan Designation for the subject property is Rural Waterfront (RW) zoning district.
8. The legal description for the subject site is Lot 7, Plat of Robison's Holiday Point, according to the plat thereof recorded in Volume 5 of Plats, Page 50.
9. 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 a single-family residence, stairs and a large pier on site.
10. Permits issued to the property include:
 - 10.1 BP 850191 for existing pier.
 - 10.2 BP 820583 for recreational cabin.
11. As stated in the JARPA, question 5(l), the property consists of minimally sloped upland between the residence and the OHWM of the lake. There is an existing stone at-grade path that leads to the existing wooden stairs and pier. The upland around the residence is lawngrass, mature conifers and shrubs. The upland near the existing pier is minimally vegetated with native grasses, a small number of herbaceous plants and shrubs. There is little natural habitat on site due to the lot size and steep sloping nature of the property. Below OHWM habitat consists of moderate to steeply sloping, unvegetated rock.
12. According to Assessor's records, the site size is 0.29 acres.
13. The property to the north of the subject property is in residential and recreational use and is zoned Rural Waterfront (RW).
14. The property to the south of the subject property is in residential and recreational use and is zoned Rural Waterfront (RW).
15. The property to the east of the subject property is Lake Chelan (rural shoreline environment designation).

16. The property to the west of the subject property is in residential and recreational use and is zoned Rural Residential/Resource 5 (RR5).
17. The subject site is exempt from the Aquifer Recharge Disclosure area pursuant to Chelan County Code Section 11.82.060(2)(a).
18. 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.
19. The subject property is within the jurisdiction of the Chelan County Shoreline Master Program (CCSMP). The proposed development is being reviewed for consistency with the 'rural' environmental designation.
20. The proposed boatlift and buoy are not addressed in the Shoreline Master Program and require a Shoreline Conditional Use Permit.

Stairs are not specifically addressed in the CCSMP but have been processed by the County in conjunction with the dock/pier.
21. According to the Federal Emergency Management Agency, FIRM panel # 5300150200A, there is no floodplain on the subject parcel; the waterbody is a controlled reservoir.
22. 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.
23. According to the Department of Natural Resources (DNR) mapping, the subject site does not contain any streams.
24. According to the National Wetlands Inventory Map prepared by the US Department of Fish and Wildlife Services, the subject site does not contain wetlands.
25. 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. Staff recommends a condition of approval, requiring an inadvertent discovery plan be kept onsite during all ground-disturbing activities.
26. Construction is to begin upon receipt of all permits and end approximately one week from start date.
27. Access is provided by a private easement at the end of South Lakeshore Road. A recorded easement cannot be located.
28. 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.
29. Noise will be similar to other residential and recreational uses. Construction noise is expected during the project. 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. Properties in the vicinity include piers, boatlifts and buoys, 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 December 4, 2018, with comments due January 10,

2019. Agency comments are considered in the staff report and, when appropriate, associated recommended Conditions of Approval. The following is a list of Agencies who received notice and the date comments were received:

- 31.1 Chelan County PUD No. 1 responded on December 11, 2018.
- 32. The following agencies were notified but did not respond:
 - 32.1 Chelan County Building Official
 - 32.2 WA State Department of Natural Resources
 - 32.3 WA State Department of Ecology
 - 32.4 WA Department of Fish and Wildlife
 - 32.5 US Department of Fish and Wildlife – Shorelines
 - 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
 - 32.10 Chelan County Department of Natural Resources
- 33. No public comments were received.
- 34. Application materials were submitted on November 5, 2018.
- 35. A Determination of Completeness was issued on November 27, 2018.
- 36. A Notice of Application was provided on December 4, 2018.
- 37. A Notice of Public Hearing was issued on February 22, 2019.
- 38. 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 16, 2019. The SEPA Checklist and DNS are included within the file of record and adopted by reference.
- 39. 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.
- 40. The Hearing Examiner finds that the project, as conditioned, is consistent with the Chelan County Comprehensive Plan.
- 41. The project is consistent with Chelan County Code (CCC) Section 11.04.020 in the following respects:
 - 41.1 A single-use pier is a permitted use in the RW zoning district. The boatlift and buoy are considered accessory uses/ structures. Accessory uses/structures are permitted in the RW zoning district.
 - 41.2 The proposed pier, boatlift and buoy are permitted uses.
- 42. The project is consistent with Chelan County Code (CCC) Section 11.16.020 in the following respects:
 - 42.1 The RW zoning district requires a 5 foot setback from side property lines. The site plan of record, date stamped November 5, 2018, indicates that the existing pier and proposed

boatlift and buoy will be located approximately 28 feet from the north property line and approximately 31 feet from the south property line.

- 42.2 The project complies with the RW zoning dimensional standards.
43. The existing single-use pier is reviewed under the criteria of "Shoreline Works and Structures." Piers are permitted within the shoreline buffer and waterward of the OHWM.
44. The boatlift and buoy are not listed uses in the SMP. Pursuant to CCSMP Section 29.3.3, uses which are not classified or set forth in the applicable master program may be authorized as conditional uses.
45. The project is consistent with Goal E, Goal for Shoreline Use Element.
46. The project is consistent with the following SWS policies:
- 46.1 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.
- 46.2. 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.
- 46.3 All SWS must be designed and constructed to accepted engineering standards.
47. A non-conforming use is an activity, structure, or condition in existence at the time of adoption of the ordinance that would not be permitted after adoption. The intent of this section is to minimize retroactive application of this ordinance.
- 47.1 Any non-conforming structure or use may be maintained with ordinary care. Work involving more than fifty (50) percent of the fair market value shall not constitute maintenance for the purpose of this section.
- 47.2 The existing pier, constructed in 1985, exceeds the dock dimensional standards identified in CCSMP Section 21.A.6.2.
- 47.3 The pier is considered a non-conforming structure and the proposed maintenance and repair shall not exceed 50 percent of the fair market value. Staff recommended a condition of approval requiring compliance with this section.
48. The project is consistent with the Chelan County Shoreline Master Program (CCSMP) Section 29.1 in the following respects:
- 48.1 The provisions of the SMA and WAC have been met through the adoption of the CCSMP. The appropriate CCSMP requirements are addressed below.
- 48.2 According to JARPA, question 6(g), the fair market value of the project is \$30,000. The project is not exempt from the substantial development permit requirement.
- 48.3 The CCSMP does not address boatlifts or buoys; therefore, the provisions for a Conditional Use Permit apply.
- 48.4 The project is consistent with the provisions of the SMA, WAC and CCSMP.
49. The project is consistent with CCSMP Section 21.A.6.1(b) in the following respects:
- 49.1 The property was created prior to May 3, 1994, via the plat of Robison's Holiday Point, recorded August 15, 1955, in Book 5 of Plats Page 50.
- 49.2 The lot qualifies for a single-use pier.

50. The project is consistent with CCSMP Section 21.A.6.2(b) in the following respects:
- 50.1 As shown on the site plan of record, date stamped November 5, 2018, the main section of the existing pier is approximately 10 feet wide. The pier extends approximately 26 feet from the OHWM and covers an area of approximately 316 square feet.
51. The project is consistent with CCSMP Section 29.3.2 (a) in the following respects:
- 51.1 The applicant is requesting to maintain an existing 316 square foot pier and install a new 125 sq ft boatlift, and a 24-inch diameter mooring buoy.
- 51.2 The proposed boatlift and mooring buoy are not addressed in the CCSMP and therefore require review under a Shoreline Conditional Use Permit.
- 51.3 The policies of the CCSMP and SMA provide for recreational use of the shoreline.
- 51.4 The proposed development is consistent with the CCSMP as a recreational use.
52. The project is consistent with CCSMP Section 29.3.4 in the following respects:
- 52.1 The boatlift will be installed between the shoreline and the parallel section of the existing pier, 12 feet waterward of the OHWM, at a water depth of approximately 10 feet. The proposed buoy will be located approximately 60 feet from the OHWM, on state-owned aquatic lands. The buoy will require licensing from state DNR.
- 52.2 This section of the lake is approximately one mile wide (according to Chelan County GIS measurements), providing room for public use and navigation.
- 52.3 The proposed use/development will not interfere with use of public shorelines.
53. The project is consistent with CCSMP Section 29.3.2 (c) in the following respects:
- 53.1 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.
- 53.2 The proposed development is consistent with the 'rural' shoreline designation and will cause no unreasonable adverse effects to the shoreline environment designation.
54. The project is consistent with CCSMP Section 29.3.2 (d) in the following respects:
- 54.1 The proposed boatlift will be located on private property, as indicated on the site plan of record, and will be for private use of the property owner. The mooring buoy will be located on state-owned aquatic lands and permitted through WA State DNR.
- 54.2 The proposed development is for private use. The public interest will not suffer substantial detrimental effect.
55. The project is consistent with CCSMP Section 29.3.4 in the following respects:
- 55.1 The Shoreline Master Program allows for recreational use of private property. The CCSMP does not address boatlifts and buoys.
- 55.2 The cumulative impacts of boatlifts and buoys are minimal and remain consistent with the policies of the Shoreline Management Act.
56. The project is consistent with CCSMP Section 29.4.1(a) in the following respects:
- 56.1 The project area will be located on private property, just up-lake of other properties with similar recreational in-water structures.
- 56.2 The repair and maintenance of an existing pier, installation of a boatlift and buoy will not affect statewide nor local interests.

57. The project is consistent with CCSMP Section 29.4.1(b) in the following respects:
 - 57.1 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.
 - 57.2 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.
 - 57.3 The proposed project will not significantly impact the natural character of the shoreline.
58. The project is consistent with CCSMP Section 29.4.1 (c) in the following respects:
 - 58.1 The proposed development will enhance the recreational use of the subject property.
 - 58.2 The repair and maintenance of the pier, the installation of the boatlift and buoy will be a long-term benefit to the property by enhancing the recreational use of the property.
59. The project is consistent with CCSMP Section 29.4.1 (d) in the following respects:
 - 59.1 The proposed pier, boatlift, and buoy, will be located waterward of the OHWM. Habitat below OHWM consists of large and small cobble.
 - 59.2 The repair and maintenance of the entire surface of the pier will have grated surfaced, to allow light penetration.
 - 59.3 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.
 - 59.4 The proposed development will not have a substantial impact on the resources and ecology of the shoreline.
60. The project is consistent with CCSMP Section 29.4.1 (e) in the following respects:
 - 60.1 The project is located on privately-owned property, with no public shoreline access.
 - 60.2 The project will not impact public access to the shoreline.
61. The project is consistent with CCSMP Section 29.4.1 (f) in the following respects:
 - 61.1 The subject property is under private ownership with no public access.
 - 61.2 The project will not affect public recreational opportunities, as the property is privately owned.
62. Based on the above findings and conclusions, the Hearing Examiner finds the project to be consistent with the intent and spirit of the principles outlined above.
63. 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 the Recommended Conditions of Approval.
64. Pursuant to RCW 27.53.020, if the applicants 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.

65. An open record public hearing after legal notice was provided was held on March 20, 2019.
66. 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.
67. 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 indicated that the applicant concurred with the staff report findings and conclusions. The applicant had no objection to any of the proposed conditions of approval.
68. No member of the public testified at the hearing.
69. The Chelan County Hearing Examiner considered all evidence within the record in rendering this decision.
70. 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 proximity of 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 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 and two (2) 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).

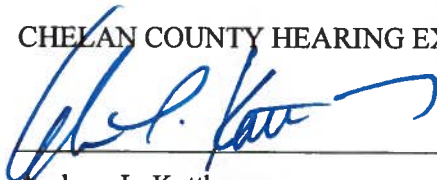
This Shoreline Substantial Development Permit and two (2) Shoreline Conditional Use Permits may be rescinded pursuant to RCW 90.58.140(7) in the event the permittee fails to comply with the terms and conditions hereof.

CONSTRUCTION PURSUANT TO THIS SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT AND TWO (2) 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 22nd day of March, 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 shoreline conditional use permit) 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:
