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MAR 05 2021

CHELAN COUNTY  
COMMUNITY DEVELOPMENT

**SHORELINE MANAGEMENT PERMIT**

**ACTION SHEET**

**Application #:** SDP 2020-046/SCUP 2020-003  
**Administering Agency** Chelan County Department of Community Development

**Type of Permits:**

- Shoreline Substantial Development Permit
- Shoreline Conditional Use Permit

**Action:**

- Approved
- Denied

**Date of Action:** March 4, 2021

**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:

Chelan County  
400 Douglas St  
Wenatchee, WA 98801

To undertake the following development: This is an application for a shoreline substantial development permit and shoreline conditional use permit submitted for the raising of South Lakeshore Road, improving residential access points, installing a bridge over Slide Ridge, filling a portion of the existing debris basin and removing the existing culverts, regrading and slight alignments changes to the existing channel, and extending the berms/side slopes from where the 2019 work terminated to the low water mark of Lake Chelan.

The applicant estimates that within 200 feet of the ordinary high-water mark (OHWM) of Lake Chelan, there would be 1,000 cubic yards of cut (channel excavation) and 4,100 cubic yards of fill (extension of the berms/side slopes). Due to extensive debris modeling, it was determined that extending the conveyance berms/side slope would also need to occur below the ordinary high-water line (approx. elev. 1102') down to the low water line (approx. elev. 1085') of Lake Chelan in order to protect adjacent private property from impacts during higher debris flow events. This would result in an estimated 80 cubic yards of cut (channel excavation) and 5,500 cubic yards of fill (i.e. rip rap type of rock). This work would occur in the dry period between November and May, when Lake Chelan is lowered, so no in-water work would occur.

The current culvert is regularly blocked with sediment and debris. The debris flow overtops the sediment basin and roadway, causing flooding and blockage of the roadway. The applicant

evaluated several alternatives culvert/bridge designs. The subject property is located within the Rural Waterfront (RW) zoning district and holds 'urban' shoreline environment designation for Lake Chelan.

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

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

The project would be within a shoreline of statewide significance (RCW 90.58.030). The project will be located within an urban 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 development, 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 CCSMP Section 7.9, this shoreline development permit and shoreline conditional use permit shall be valid for the activities described within the JARPA and shown on the site plan of record, date stamped December 16, 2020 except as modified by this decision or other jurisdictional agencies.
3. Pursuant to RCW 27.53.020 and CCSMP Section 4.1, 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.
4. Pursuant to CCSMP Section 7.10.B, substantial progress toward construction for which a permit has been granted must be accomplished within two (2) years for the granting of the permit.
5. Pursuant to CCSMP 7.10 and 7.11.A, authorization to conduct the approved development shall terminate five (5) years after the effective date of decision; the County may authorize a single extension for a period not to exceed one (1) year in accordance with CCSMP Section 7.10.D.

## **FINDINGS OF FACT**

1. The applicant is Chelan County, 400 Douglas St., Wenatchee, WA 98801.
2. The agent for applicant is Jason Detamore, Chelan County Flood Control Zone District, 316 Washington Street, Suite 402, Wenatchee, WA 98801.
3. The project location is NNA S. Lakeshore Road, Chelan, WA.
4. The parcel number for the subject property is 28-21-21-842-020.
5. The legal description and size for the subject property is: Lot 3 of Shrine Beach First Addition recorded on February 28, 1928 under AFN: 163127. The subject property is 1.12 acres per the County Assessor's records.
6. The subject property is located in Chelan County, 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), Slide Ridge is located along South Lakeshore Road to the west of Lake Chelan approximately 13 miles northwest of the city of Chelan. The roadway is the only year-round north-south corridor for residents along the west side of Lake Chelan.
9. In the Final Comprehensive Flood Hazard Management Plan (2017), the project (identified as action item No. 15) and its goal is to mitigate regular occurrences of the costly cleanup and safety concerns from flash flooding along South Lakeshore Road.
10. In attempts to protect public and private property, in 1995 an earthen-engineered drainage channel was constructed in the slide area of Slide Ridge. The channel is approximately 30 ft. wide at the bottom, 150 ft. wide at the top, 15 ft. deep and 3,700 ft. long, with a stilling basin constructed at the bottom of the channel.
11. The drainage channel conveys material to catch basin on the west side of South Lakeshore Road, where a 72-inch corrugate metal culvert is intended to convey material under the roadway to the east, along its historical path into Lake Chelan.
12. As stated in the JARPA, question 5(l), the vegetation/habitat in and around the project site is limited and very sparse. The fragmented habitat/vegetation is a result of the county's South Lakeshore Road, residential/recreational homes, private roadways/driveways, and the Slide Ridge debris field. Big leaf maple and ponderosa pine are on and adjacent to the site with the majority of the diameters being 12-inch or less.
13. Slide Ridge is a ridge characterized by steep rock outcrops split by loose rock slopes with little areas of soil or vegetation. Rainfall on the ridge results in water eroding and dislodging rock and mobilizes loose rock down the slope to the apex of the alluvial fan.
14. The properties are currently recreation/residential use, with the properties on the lake developed with cabins, improved waterfronts with docks, and the properties west of the road are currently undevelopment.
15. Pursuant to CCSMP Section 4.1, Archaeological and Historic Resource Regulations, developers shall notify local governments of any possible archaeological materials uncovered during excavation.
16. Construction would begin upon receipt of all permits and should be completed within a year.

17. Access is from South Lakeshore Road, a public right of way.
18. Similar to other commercial road construction activity; Construction noise during demolition of existing road and culvert replacement. The project is required to comply with CCC, Chapter 7.35, Noise Control.
19. Visual impacts are anticipated to be minimal as the subject property is a sparsely vegetated debris field due to years of flooding and mud flows.
20. The Notice of Application and Environmental Review was referred to surrounding property owners within 360 feet (excluding 60 feet right-of-way), jurisdictional agencies and departments of the County. These agencies and surrounding property owners were notified on December 29, 2020, with comments due January 12, 2021.
21. Agency comments are considered in the staff report and, when appropriate, associated recommended Conditions of Approval were listed; no public comments were received for the proposed development. The following is a list of Agencies who received notice and the date comments were received:
  - 21.1 Confederated Tribes of the Colville Reservation – January 3, 2021.
22. There were no public comments received.
23. The application materials were submitted on December 16, 2020.
24. A Determination of Completeness was issued on December 21, 2020.
25. The Notice of Application was provided on December 24, 2020.
26. The Notice of Public Hearing was provided on February 18, 2021.
27. Chelan County Public Works has reviewed the proposed project for probable adverse environmental impacts and has issued a determination of non-significance (DNS), dated November 2, 2020, for this project under WAC 197-11-340(2).
28. 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.
  - 28.1 Chapter 4 of the Transportation Element in the Chelan County Comprehensive Plan, ultimately has one overarching goal: Provide a safe, balanced, and efficient multimodal transportation system that is consistent with the county's overall vision and adequately serves anticipated growth.
    - 28.1.1 Goal 1 – Maintain what we have – Maintain existing transportation facilities in a state-of-good-repair to ensure their continued function, which is critical to achieving all of the county's mobility goals.
      - 28.1.1.1 Develop an emergency fund to address unanticipated events, such as slides and bridge failures.
      - 28.1.1.2 Prioritize and program road improvements to minimize seasonal road restrictions or closures.
    - 28.2 The project, as conditioned, is consistent with the Comprehensive Plan.
29. Fish and Habitat: According to Washington Department of Fish and Wildlife Habitat Conservation data, the subject property is located within known habitat area for Mule Deer; therefore, the provisions of CCSMP 6.5 Appendix B would apply.

30. Floodplain: According to the Federal Emergency Management Agency, FIRM panel # 5300150225A, there is no floodplain on the subject parcel; therefore, the provisions of CCSMP 6.3 Appendix B would not apply.
31. Geologically Hazardous Area: According to the Chelan County GIS mapping, the subject property is located within a known geologically hazardous area; therefore, the provisions of CCSMP 6.4 Appendix B would apply and a geotechnical report was submitted with the SDP and SCUP.
32. Wetlands: According to the National Wetlands Inventory Map prepared by the US Department of Fish and Wildlife Services, the subject property does not contain any mapped wetlands; therefore, the provisions of this section would not apply.
33. Aquifer Recharge Area: The applicant submitted an Aquifer Recharge Area Disclosure Form, date stamped December 16, 2020.
34. CCSMP Section 2: Goals and Objectives - The project is consistent with:
  - 34.1 Goal ED-2 Encourage the protection and restoration of unique, fragile, and scenic elements in shoreline areas as a means to promote long-term economic well-being.
  - 34.2 Goal CONS-2 Encourage the restoration of shoreline areas which have been modified, blighted, or otherwise disrupted by natural or human activities.
35. CCSMP Section 3: Shoreline Jurisdiction & Environment Designations
  - 35.1 This property is located along and partially covered by Lake Chelan, which holds a 'urban' shoreline designation and is classified as a Shoreline of Statewide Significance, pursuant to WAC 173-20-100.
36. CCSMP Section 4.2: Ecological Protection and Critical Area Regulations
  - 36.1 The provisions of this Section shall apply to any development within shoreline jurisdiction to document a finding of no-net-loss.
    - 36.1.1 B. Mitigation Sequencing
      - 36.1.1.1 The project is located within a highly disturbed debris flow path and proposed only what is necessary to safely convey flood debris material beyond adjacent private property and into Lake Chelan. Because of the continued deposition of flood debris over this site, ecological functions within the shoreline, the quality or extent of habitat, and other habitat conservation areas are non-existent and would not be altered or impacted.
      - 36.1.1.2 As conditioned, the proposed development would not result in adverse impacts to the ecological function of the Lake Chelan.
37. CCSMP Section 7.5.2, Shoreline Substantial Development Permits: Review Criteria:
  - 37.1 In order for the permit to be approved, the decision maker must find that the proposal is affirmatively consistent with the following: (A) How is the proposal consistent with the policies and procedures of the Act (RCW 90.58)? (B) How is the proposal consistent with the provisions of Chapter 173-27 WAC, Shoreline Management Permit and Enforcement Procedures? (C) How is the proposal consistent with this SMP?
  - 37.2 The provisions of the Shoreline Management Act (SMA) and WAC have been met through the adoption of the CCSMP. The appropriate CCSMP requirements are addressed below.

- 37.3 According to JARPA, question 6(g), the fair market value of the project is \$3,227,298.77. The project is not exempt from the substantial development permit requirement.
  - 37.4 The project is consistent with the provisions of the SMA, WAC and CCSMP.
38. CCSMP Section 7.7.2, Shoreline Conditional Use Permit: Determinations of SCUP
- 38.1 Uses specifically classified or set forth in this SMP as conditional uses shall be subject to review and conditions by the Hearing Examiner and by the Dept. of Ecology
  - 38.2 Other uses which are not classified or listed or set forth in this SMP may be authorized as conditional uses provided the applicant can demonstrate consistency with this SMP.
  - 38.3 Uses which are specifically prohibited by this SMP may not be authorized as a conditional use.
  - 38.4 Based on the CCSMP 3.6-a Shoreline Use Matrix, transportation facilities and bridges/culverts located in 'urban' shoreline environment designations require a Shoreline Conditional Use Permit.
  - 38.5 Pursuant to CCSMP 3.6-a Shoreline Use Matrix the proposed transportation facilities may be permitted with the approval of a Shoreline Conditional Use Permit.
39. CCSMP Section 7.7.3, Shoreline Conditional Use Permit: Review Criteria
- 39.1 Conditional use criteria. An applicant proposing a conditional use shall affirmatively demonstrate compliance with review criteria below or as thereafter amended in WAC 173-27-160.
    - 39.1.1 How is the proposed use consistent with the policies of RCW 90.58.020 and the SMP?
      - 39.1.1.2 A portion of RCW 90.58.020 states that the policy contemplates protecting against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the state and their aquatic life, while protecting generally public rights of navigation and corollary rights incidental thereto.
      - 39.1.1.3 The proposed project is identified to mitigate the regular occurrence of the costly cleanup and safety concerns from flash flooding along South Lakeshore Road. The proposed improvements will result in long term benefits to the region and state.
      - 39.1.1.4 As conditioned, the proposed development is consistent with the CCSMP and RCW 90.58.020.
    - 39.2.1 How will the proposed use avoid interference with the normal public use of public shorelines?
      - 39.2.1.1 Public access has and will continue to be highly discouraged due to life and safety concerns associated with the active flood debris area.
      - 39.2.1.2 The proposed development is located on property owned by Chelan County. Therefore, this development is not anticipated to interfere with public use of public shorelines.
    - 39.3.1 How will the proposed use of the site and design of the project be compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and this SMP?
      - 39.3.1.1 The proposed development has been designed to address the flood water and debris covering South Lakeshore Road. If the project is approved, the closure of South Lakeshore Road from mud and debris flows would be significantly alleviated, which is invaluable to Chelan County and the residents who utilize South Lakeshore Road.

- 39.3.1.2 The proposed project is attempting to be proactive by solving a reoccurring flooding and debris flow problem that cannot be eliminated. The project would reduce the risk of damage to life and property through the conveyance and control of mud and debris flows originating from Slide Ridge. The project would ensure a year-round, continuous corridor for the community that surrounds Lake Chelan.
- 39.4.1 How will the proposed use cause no significant adverse effects to the shoreline environment in which it is to be located?
  - 39.4.1.1 The shoreline designation is 'urban.' Extending the conveyance berms/side slope would occur below the OHWM line down to the low water line of Lake Chelan in order to protect adjacent private properties from impacts during higher debris flow events.
  - 39.4.1.2 The project would permanently remove up to approximately 200 trees within 200 feet of the OHWM. The project will allow debris flows to continue along its historical path to the lake without obstructing South Lakeshore Road.
  - 39.4.1.3 The proposed project is designed to safely convey the 100-year flood debris event into Lake Chelan, keeping the traveling public safe along South Lakeshore Road and protecting adjacent properties.
- 39.5.1 How will the public interest suffer no substantial detrimental effect?
  - 39.5.1.1 Access to Lake Chelan would not change as a result of this project due to the fact that this is an active flood debris area, public access is highly discouraged due to life and safety concerns.
  - 39.5.1.2 Once the project is complete, recreational opportunities will remain as they were before the project begun; therefore, as conditioned, the public interest is not anticipated to suffer substantial detrimental effect.
- 40. An open record public hearing after due legal notice was held via Zoom on March 3, 2021.
- 41. The entire Planning staff file was admitted into the record.
- 42. Appearing and testifying on behalf of the applicant was Jason Detamore. Mr. Detamore testified that he was an agent authorized to appear and speak on behalf of the property owner. Mr. Detamore testified that the applicant had no objection to any of the proposed conditions of approval.
- 43. No member of the public testified at this hearing.
- 44. The Chelan County Hearing Examiner considered all evidence within the record in rendering this decision.
- 45. 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 Hearing Examiner finds that the development, as conditioned, is consistent with the Comprehensive Plan.
- 4. As conditioned, the proposed development would not result in adverse impacts to the ecological function of the Lake Chelan.

5. The project is consistent with the provisions of the SMA, WAC and CCSMP.
6. Pursuant to CCSMP 3.6-a Shoreline Use Matrix the proposed transportation facilities may be permitted with the approval of a Shoreline Conditional Use Permit.
7. As conditioned, the proposed development is consistent with the CCSMP and RCW 90.58.020.
8. The proposed development is located on property owned by Chelan County. Therefore, this development is not anticipated to interfere with public use of public shorelines.
9. The proposed project is attempting to be proactive by solving a reoccurring flooding and debris flow problem that cannot be eliminated. The project would reduce the risk of damage to life and property through the conveyance and control of mud and debris flows originating from Slide Ridge. The project would ensure a year-round, continuous corridor for the community that surrounds Lake Chelan.
10. The proposed project is designed to safely convey the 100-year flood debris event into Lake Chelan, keeping the traveling public safe along South Lakeshore Road and protecting adjacent properties.
11. Once the project is complete, recreational opportunities will remain as they were before the project begun. Therefore, as conditioned, the public interest is not anticipated to suffer substantial detrimental effect..
12. The development would not impact public access to the shoreline.
13. The development would not affect public recreational opportunities, as the property is privately owned.
14. Based on the above findings and conclusions, the Hearing Examiner finds the development to be consistent with the intent and spirit of the principles outlined above, as conditioned.
15. The area proposed for the buffer reduction is sparsely vegetated and the only flat area suitable for the development of a single-family residence while still meeting zoning and drain field setbacks.
16. The applicant has no control over the location or the size of the wetland buffer. All features when combined limit the ability of the applicant to develop the property.
17. The requested buffer reduction would in effect lessen environmental impact by allowing the single-family residence to be built in a location that is already lacking in habitat features and is dominated by exposed and un-vegetated property.
18. 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 Shoreline Conditional Use 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 the Shoreline Conditional Use 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 SHORELINE CONDITIONAL USE 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 4<sup>th</sup> day of March, 2021.

CHELAN COUNTY HEARING EXAMINER



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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 two 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.

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**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:

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