

# SHORELINE MANAGEMENT PERMIT

## ACTION SHEET

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**Application #:** SDP 2018-398  
SCUP 2018-399  
SCUP 2018-400

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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:** April 1, 2019

**Date Mailed to DOE/AG**

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

**Clifford Webster**  
4515 54<sup>th</sup> Ave. SW  
Seattle, WA 98116

To undertake the following development: Application for a shoreline substantial development permit and shoreline conditional use permits, for the removal of two existing anchoring chains on an existing dock and installation of five (5) 8-inch piles; installation of a new 10 ft x 12.5 ft boatlift; and placement of a new 24-inch diameter mooring buoy. The size of the existing dock will not change, and the gangway will continue to be removed during high water. The boatlift will be installed on the downlake side of the existing dock, approximately 47 feet waterward of the OHWM at a water depth of approx. 5-8 feet. The buoy will be located approximately 110 feet waterward of the OHWM at a water depth of 18 feet.

Upon the following property: 16050 Cedar Brae Rd, Leavenworth, WA 98826

Within 200 feet of the Lake Wenatchee 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 conservancy shoreline environment designation.

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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. The project shall comply with Chelan County Shoreline Master Program Section CCSMP Section 21.A.3 General Design and Construction Standards
  - 2.1. Section 21.A.3.1: Pilings must be structurally sound and cured prior to placement in the water.
  - 2.2. Section 21.A.3.2: Pilings employed in piers or any other structure shall have a minimum vertical clearance of one (1) foot above extreme high water.
  - 2.3. Section 21.A.3.3: All docks shall include stops which serve to keep the floats off the bottom of bed-lands at low water levels.
  - 2.4. Section 21.A.3.4: When plastics or other non-biodegradable materials are used in float, pier or dock construction, precautions shall be taken to ensure their containment.
3. 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 19, 2018, except as modified by this decision or other jurisdictional agencies.
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.
  - 5.1. An Inadvertent Discovery Plan shall be submitted with the building permit application and kept onsite during all land disturbing activities.
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.

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## FINDINGS OF FACT

1. The applicant/owner is Clifford Webster, 4515 54<sup>th</sup> Ave. SW, Seattle, WA 98116.
2. The agent is Anne Hessburg, Grette Associates, LLC, 151 S Worthen Street, Suite 101, Wenatchee, WA 98801.
3. The project location is 16050 Cedar Brae Rd, Leavenworth, WA 98826.
4. The parcel number for the subject property is 27-17-30-511-245.
5. The property is legally described as Lot 48 of Cedar Brae First Addition recorded April 24, 1935 under AFN: 247985.
6. The proposed development is not within an Urban Growth Area.
7. The Comprehensive Plan designation and zoning for the subject property is Rural Waterfront (RW).
8. As stated in the JARPA, questions 5(m) and 5(o), the subject property is currently in residential and recreational use.
9. Previous permits issued to property include the following:
  - 9.1 BP 020563—single family residence
  - 9.2 SE 2003-002—Floating dock with aluminum ramp
10. The existing dock was reviewed as a Shoreline Exemption per WAC 173-27-040(2)(h) as it did not exceed the fair market value of \$10,000. Staff cannot find record of a building permit for the placement of the exempt dock. Therefore it cannot be determined as legally established.
11. The property contains an existing residence with attached deck and a single use dock.
12. As stated in the JARPA, question 5(l), the property consists of a steeply sloping upland leading from Cedar Brae Road down to a relatively flat area along the shoreline. The upland is developed with a residence. The flat area along the shoreline is mostly natural with a developed trail to the lake. The upland property is vegetated with native and non-native grasses, shrubs, and tree. Below OHWM habitat consist of shallow to moderately sloping unvegetated rock and cobble.
13. The site size is 0.56 acres per Chelan County Assessor's records
14. The property to the north of the subject property is Lake Wenatchee ('conservancy' shoreline designation)
15. The property to the south of the subject property is Cedar Brae Road, a public right of way, and is zoned Rural Waterfront (RW).
16. The property to the east of the subject property is zoned Rural Waterfront (RW).
17. The property to west of the subject property is zoned Rural Waterfront (RW).
18. 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. A Determination of Non-Significance (DNS) was issued on January 25, 2019. The SEPA Checklist and DNS are included within the file of record and adopted by reference.

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19. 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 Comprehensive Plan.
20. According to the Washington State Department of Fish and Wildlife, Priority Habitat and Species Maps, the subject site does not contain any priority habitat species.
21. According to the Federal Emergency Management Agency, FIRM panel # 5300150750B, there is no floodplain on the subject parcel.
22. According to the Chelan County GIS mapping, the property is located within an identified geologically hazardous area. CCC Chapter 11.86, Geologically Hazardous Overlay District, does apply to the project. Chelan County does not require geologic site assessments for accessory structures waterward of the OHWM, per the Building Official.
23. According to the Washington State Department of Natural Resource Maps, the site does not contain any known 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 known cultural resources in the vicinity of the subject property. Pursuant to CCSMP Section 27, developers shall notify local governments of any possible archaeological materials uncovered during excavation.
26. Construction will begin upon receipt of all permits and within the in-water work window; and end approximately two weeks from start.
27. The subject property fronts on Cedar Brae Road, a public county road.
28. The noise impacts will be similar to other recreational uses. Construction noise during installation of the piles, boatlift, and buoy. The project is required to comply with CCC, Chapter 7.35, Noise Control.
29. Minor visual impacts will be from the water and surrounding properties. Adjacent properties include single use docks with boatlifts as well as mooring buoys, so visual impacts will be similar to what currently exist in the area.
30. 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 11, 2018, with comments due January 19, 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:
  - 30.1 Confederated Tribes of the Colville Reservation responded on December 12, 2018
31. The following agencies were notified but did not respond:
  - 31.1 Chelan County Building Official
  - 31.2 Chelan County PUD
  - 31.3 WA State Department of Natural Resources
  - 31.4 WA State Department of Ecology
  - 31.5 WA State Department of Fish & Wildlife
  - 31.6 US Department of Fish & Wildlife

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- 31.7 Department of Archaeology & Historic Preservation
- 31.8 Yakama Nation
- 31.9 Chelan County Natural Resources
- 32. No public comments were received.
- 33. The application materials were submitted on November 19, 2018.
- 34. A Determination of Completeness was issued on December 4, 2018
- 36. The Notice of Application was provided on December 11, 2018.
- 37. The Notice of Public Hearing was provided on February 22, 2019.
- 38. The project is consistent with Chelan County Code (CCC) Section 11.04.020 in the following respects:
  - 38.1 The installation of pilings, boatlift, and mooring buoy are supplementary to the existing dock which is considered an accessory use.
  - 38.2 The installation of dock pilings, a boatlift, and a mooring buoy are permitted accessory uses.
  - 38.3 The project is consistent with Chelan County Shoreline Master Program (CCSMP) 29.1 in the following respects:
  - 38.4 The provisions of the SMA and WAC have been met through the adoption of the CCSMP. The appropriate CCSMP requirements are addressed below
  - 38.5 According to JARPA, question 6(g), the fair market value of the project is approximately \$25,000. The project is not exempt from the substantial development permit requirement.
- 39 The project is consistent with the provisions of the SMA, WAC and CCSMP.
- 40. The project is consistent with CCSMP Section 21.A.3 in the following respects:
  - 40.1 The existing dock was previously permitted through SE 2003-002. The installation of the proposed five (5) 8-inch in diameter pilings are to be driven 10 feet into the substrate or to bearing. The pilings are proposed to be epoxy coated or a pipe pile with a white PVC sleeve.
  - 40.2 According to the cross section details submitted with the application, the proposed pilings will have a minimum vertical clearance of one (1) foot above ordinary high water
  - 40.3 The existing dock with the installation of the proposed pilings, as conditioned, complies with the CCSMP dock construction standards.
- 41. The project is consistent with CCSMP Section 29.3.2(a) in the following respects:
  - 41.1 The applicant is requesting to install a new 10 ft. x 12.5 ft. (125 sq. ft.) boatlift adjacent to an existing dock and to install a 24-inch diameter mooring buoy that is attached to a 40-inch diameter concrete anchor with a ½ inch steel chain.
  - 41.2 The proposed boatlift and mooring buoy are not addressed in the CCSMP and therefore requires review under a Shoreline Conditional Use Permit.
  - 41.3 The policies of the CCSMP and SMA provide for recreational use of the shoreline.
  - 41.4 The proposed development is consistent with the CCSMP as a recreational use.
- 42. The project is consistent with CCSMP Section 29.3.2(b) in the following respects:

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- 42.1 The current use of the property is residential and recreational. Lake Wenatchee is a residentially developed shoreline, including in-water structures such as docks, boatlifts and buoys. The lakebed is owned and managed by DNR.
- 42.2 This section of Lake Wenatchee is over 4,000 feet wide (based on Chelan County GIS measurements) providing room for public use and navigation.
- 42.3 The proposed use/development will not interfere with public shorelines.
- 43. The project is consistent with CCSMP Section 29.3.2(c) in the following respects:
  - 43.1 Surrounding properties include docks, boatlifts, buoys and other recreational uses of a similar nature and design.
  - 43.2 The proposed development is compatible with the surrounding land uses in the area.
- 44. The project is consistent with CCSMP Section 29.3.2(d) in the following respects:
  - 44.1 The proposed conditional use is for the placement a 10 ft. x 12.5 ft. (125 sq. ft.) boatlift and a 24-inch diameter mooring buoy that is attached to a 40-inch diameter concrete anchor with a ½ inch steel chain.
  - 44.2 The shoreline environment designation is 'conservancy'. The 'conservancy' designation allows for residential/recreational uses and development with appropriate permits.
  - 44.3 The proposed development is consistent with the 'conservancy' shoreline designation and will cause no unreasonable adverse effects to the shoreline environment designation.
- 45. The project is consistent with CCSMP Section 29.3.2(e) in the following respects:
  - 45.1 The south shoreline section of Lake Wenatchee is privately owned and subdivided for residential and recreational development. The proposed development will be accessed from private property and developed on DNR owned aquatic lands. Residential landowners whose property abuts state aquatic lands are authorized to install boatlifts and buoys on state lands, subject to the applicable regulations and licenses of the DNR.
  - 45.2 The proposed development is for private use, accessed from private and developed on state-owned lands. The public interest will not suffer substantial detrimental effect.
- 46. The project is consistent with CCSMP Section 29.3.4 in the following respects:
  - 46.1 The Shoreline Master Program allows for recreational use of private property. The CCSMP does not address boatlifts or mooring buoys.
  - 46.2 Lake Wenatchee is a developed shoreline with many private boatlifts and mooring buoys.
  - 46.3 The cumulative impacts of boatlifts and mooring buoys are minimal and remain consistent with the policies of the Shoreline Management Act.
- 47. The project is consistent with CCSMP Section 29.4.1(a) in the following respects:
  - 47.1 The project area will be located on private property, in the vicinity of other properties with similar recreational in-water structures.
  - 47.2 The installation of pilings, boatlift and mooring buoy, will not affect statewide nor local interests.
- 48. The project is consistent with CCSMP Section 29.4.1(b) in the following respects:
  - 48.1 This section of Lake Wenatchee carries a 'conservancy' shoreline designation, which allows for residential and recreational uses. The south shore of Lake Wenatchee is developed with residential cabins and in water recreational structures. The proposed

project is compatible with the surrounding residential and recreational uses within this shoreline designation

- 48.2 The proposed project will not impact the natural character of the shoreline.
49. The project is consistent with CCSMP Section 29.4.1(c) in the following respects:
- 49.1 The proposed development will enhance the recreational use of the subject property. By installing piles as a replacement to the existing mooring anchors, the existing impacts of the anchoring chains will be minimized by being removed from the lake. There will also be an added stability to the existing dock by affixing it to its current location.
- 49.2 Additionally, the installation of the boatlift and the mooring buoy will add to the recreational enjoyment of the subject property.
- 49.3 The proposed installation of dock piles, boatlift, and mooring buoy will be a long term benefit by enhancing the recreational use of the property.
50. The project is consistent with CCSMP Section 29.4.1(d) in the following respects:
- 50.1 The proposed development will be located waterward of the OHWM. Habitat below OHWM consists of un-vegetated cobble and rock.
- 50.2 The proposed development will contribute to an increased recreational use of Lake Wenatchee. The proposed pilings are to affix the existing dock in its current location; the proposed project would create no new negative impact to Lake Wenatchee. The existing footprint of the dock will not increase and the boatlift will have open steel framing.
- 50.3 Any impacts of the proposed piles, boatlift, and buoy installation will be minimized as the installation will occur during the dry work window on the lake.
- 50.4 The proposed development will not have a substantial impact on the resources and ecology of the shoreline.
51. The project is consistent with CCSMP Section 29.4.1(e) in the following respects:
- 51.1 The project is located on privately-owned property, with no public shoreline access.
- 51.2 Pursuant to WAC 332-30-144 and RCW 79.105.430, the abutting residential owner to state-owned shorelands may install and maintain, without charge, a dock on the areas if used exclusively for private recreational purposes. The Washington State Department of Natural Resources (DNR) did not comment on this proposal; however, DNR permitting is required for the boatlift and buoy.
- 51.3 The project will not impact public access to the shoreline.
52. The project is consistent with CCSMP Section 29.4.1(f) in the following respects:
- 52.1 The subject property is under private ownership with no public access.
- 52.2 The project will not affect public recreational opportunities, as the property is privately owned.
53. The project is consistent with CCSMP Section 29.4.2 in the following respects:
- 53.1 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.
54. 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 conditions of approval.

55. An open record public hearing after legal notice was provided was held on March 20, 2019.
56. 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.
57. Appearing and testifying on behalf of the applicant was Anne Hessburg. Ms. Hessburg testified that she was an agent authorized to appear and speak on behalf of the applicant. Ms. Hessburg testified that she concurred with all representations stated within the staff report and that the applicant had no objection to any of the proposed conditions of approval.
58. No member of the public testified at this hearing.
59. The Chelan County Hearing Examiner considered all evidence within the record in rendering this decision.
60. Any Conclusion of Law that is more correctly a Finding of Fact is incorporated herein as such by this reference.

## CONCLUSIONS OF LAW

1. The Hearing Examiner has authority to render this Decision.
2. Referral agency comments were received and considered in the review of this proposal.
3. The site of the subject proposal is in the Chelan County Comprehensive Plan Rural Waterfront land use designation. As described, the proposal is consistent with the Chelan County Comprehensive Plan.
4. As conditioned, the subject proposal is consistent with the Chelan County Code, Title 11.
5. Environmental and Critical Areas review has been completed. As conditioned, the proposal does not have negative impacts on critical areas which cannot be mitigated.
6. The 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**

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statutes, ordinances, or regulations applicable to this project, but not inconsistent with the Shoreline Management Act of 1971 (Chapter 90.58 RCW).


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

**CONSTRUCTION PURSUANT TO THIS SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT AND 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 1<sup>st</sup> day of April, 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 two (2) 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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