

SHORELINE MANAGEMENT PERMIT

ACTION SHEET

RECEIVED

APR 24 2019

Application #: SV 2019-001
RipV 2019-001

CHELAN COUNTY
COMMUNITY DEVELOPMENT

Administering Agency Chelan County Department of Community Development

Type of Permits: ☒ Shoreline Variance
☒ Riparian Variance

Action: ☒ Approved ☐ Denied

Date of Action: April 24, 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:

John Drake
17742 Talbot Rd.
Edmonds, WA 98026

To undertake the following development: An application for a shoreline variance and riparian variance, to reduce the riparian and shoreline setbacks to 0 feet from the OHWM of Lake Chelan for the construction of a new single family residence with a deck. The application proposes to remove the existing mobile home with deck due to its failing infrastructure and to replace it with a new single family residence in the same footprint; all work is to be completed in the dry above the OHWM of Lake Chelan.

Upon the following property: 9950 S. 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 is located within a rural environment shoreline 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

1. Pursuant to Chelan County Shoreline Master Program (CCSMP) Section 30.3.5 and 30.3.6, this shoreline permit shall be valid for the activities identified on the site plan of record, date stamped January 8, 2019, except as modified by this decision or other jurisdictional agencies.
2. Pursuant to CCC Section 11.16.020, the proposed structure shall meet the required setbacks.
 - 2.1. A Boundary Line Adjustment shall be completed prior to submittal of building permit to alleviate the proposed encroachment.
3. Pursuant to CCC, Section 11.78.090(3), all riparian buffers shall be temporarily fenced between the construction activity and the riparian buffer with a highly visible and durable protective barrier, such as filter fencing and straw bales, during construction to prevent access and protect the riparian buffer. The administrator may waive this requirement if an alternative to fencing which achieves the same objective is proposed and approved.
4. Pursuant to CCC, Section 11.78.090(5)(A), stormwater shall be retained on-site and not flow directly into the surface water of Lake Chelan; a stormwater drainage plan shall be submitted with building permit application.
 - 4.1. If a new septic system is necessary for development, an enhanced on-site sewage system shall be required in compliance with the above section.
5. Pursuant to CCC, Section 11.78.090(5)(B), a mitigation plan for the planting of native vegetation shall be submitted with building permit application.
 - 5.1. All vegetation shall be installed prior to certificate of occupancy of the residence.
6. Pursuant to CCC, Section 11.86.020, a geologic site assessment shall be required at the time of building permit application.
7. Pursuant to CCSMP, Section 16, the proposed single family residence shall not exceed thirty-five (35) feet in height above average grade level.
8. Pursuant to RCW 27.53.020, and CCSMP Section 27, if the applicant or their agents discover previously unknown historic or archaeological remains/artifacts while conducting the development activities authorized by this permit, the applicant/ agent shall immediately notify the appropriate tribal and state representatives and the Chelan County Department of Community Development of the finding for local, state and tribal coordination.
9. Pursuant to CCC, Section 11.95.050, In any case where a variance is granted under the terms of this title, no building or other permit shall be issued until after the end of the appeal period allowed in Title 14 of this code. An appeal of the decision shall automatically stay the issuance of building or other permits until such appeal has been completed.
10. Pursuant to CCC, Section 11.95.060, the granting of a 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.

11. Pursuant to CCC, Section 11.95.070, upon final action of the hearing examiner as set forth in the provisions of this chapter, the department of building/fire safety and planning shall not accept filing of an application for substantially the same matter within one year from the date of the final denial of the application.
12. Pursuant to CCC, Section 11.95.080, a variance shall become void three years after approval if no substantial construction has taken place or such other time period as established by the hearing examiner.

FINDINGS OF FACT

1. The applicants and owners are John Drake, 17742 Talbot Rd., Edmonds, WA 98026.
2. The agent is Grette Associates, LLC, Attn: Ryan Walker, 151 South Worthen Street, Suite 101, Wenatchee, WA 98801.
3. The subject property is located at 9950 S. Lakeshore Rd., Chelan, WA 98816.
4. The parcel number is 28-21-28-635-100/105.
5. The legal description is Lot 20 and 21 of Joshua Green's Lake Chelan Plat recorded on August 6, 1934 in Volume 4 of Plats, page 76.
 - 5.1 The proposed development is on two separate lots that have been historically treated as one concurrent lot. Being as the proposed development is for the placement of a new single family dwelling, a Boundary Line Adjustment will need to be completed prior to submittal of building permit as the proposed structure is to be constructed across the common lot line between Lot 20 and Lot 21; the proposed structure must meet the required zoning setbacks.
6. The property is located outside an Urban Growth Area.
7. The Comprehensive Plan and Zoning designations are Rural Waterfront (RW).
8. The subject site is currently used for residential and recreational purposes.
9. The site contains a 57ft. x 13ft. mobile home with an attached 57ft. x 12ft. deck, a 15ft. x 7.5ft. shed, a 13ft. x 5.5ft. shed, a joint use pier, and two concrete retaining walls. The OHWM is defined by an existing rock seawall.
10. Based on Assessor's records and GIS imagery, the existing structures, including retaining walls are considered to be legally established as they were placed prior to 1994.
11. The lots are heavily developed. A very small amount of steep upland exists along the western edge of the parcels. The rocky upland is sparsely vegetated; the upland is separated from the shoreline portion of the parcels by an existing ecology block retaining wall, a paved access easement, and a steep/sparsely vegetated boulder retaining wall between the access easement and the existing residence. Conditions below the OHWM of the parcels include concrete shoreline armoring, unvegetated boulders, and large cobble; little habitat exists on the parcels due to the highly developed nature of the site, proximity to other residences, and the small lot sizes.
12. The property to the north is in recreation and residential use and is zoned Rural Waterfront (RW).
13. The property to the south is in recreation and residential use and is zoned Rural Waterfront (RW).
14. The property to the east is Lake Chelan, and is zoned 'rural' environment shoreline designation.
15. The property to the west is S. Lakeshore Road and is zoned Rural Waterfront (RW).

16. Construction is to begin upon receipt of all permits with the work being completed within 12 months of start date.
17. The property fronts on S. Lakeshore Road, a county road, and is accessed onto an existing easement; the legal standing of the access easement could not be determined.
 - 17.1 A recorded access easement may be required at building permit submittal.
18. Noise would be similar to similar to other residential uses. Noise from equipment during construction. Compliance with CCC, Chapter 7.35, Noise Control is required
19. Visual impacts will be from the water and surrounding properties. The proposed structure is to be placed in the same location as the existing mobile home. The visual impacts should not change.
20. The Notice of Application was referred to surrounding property owners within 300 feet (excluding 60 feet of right of way), jurisdictional agencies and departments of the County. These agencies and surrounding property owners were notified on February 7, 2019, with comments due March 16, 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:
 - 20.1 Chelan County Fire Marshal responded on March 18, 2019.
 - 20.2 Chelan County Building Department responded on February 8, 2019.
21. The following agencies were notified but did not respond:
 - 21.1 Chelan County PUD No. 1.
 - 21.2 WA Dept. of Natural Resources.
 - 21.3 WA Dept. of Ecology.
 - 21.4 WA Dept. of Fish and Wildlife.
 - 21.5 US Fish and Wildlife.
 - 21.6 US Army Corps of Engineers.
 - 21.7 Fire District #7.
 - 21.8 WA Dept. of Archaeology and Historic Preservation.
 - 21.9 Yakama Nation.
 - 21.10 Confederated Tribes of the Colville Reservation.
 - 21.11 Chelan County Natural Resources.
22. No public comments were received.
23. The application materials were submitted on January 8, 2019.
24. A Determination of Completeness was issued on February 1, 2019.
25. The Notice of Application was provided on February 7, 2019.
26. The Notice of Public Hearing was provided on April 5, 2019.
27. Pursuant to WAC 197-11-800(6)(a) and (e), land use decisions for exempt projects and the granting of a variance based on special circumstances, not including economic hardship, applicable to the subject property, such as size, shape, topography, location or surroundings and not resulting in any change in land use or density, are categorically exempt from the environmental review process.

28. The Comprehensive Plan has been reviewed. Specifically the goals and policies related to the Rural Waterfront (RW) Comprehensive Plan designation and Critical Areas, for consistency with the proposed residential land.
29. The project is consistent with Goal CL 1 of the Resource Element.
30. The project is consistent with the Rural Waterfront purpose statement
31. This site is located along Lake Chelan within the 'rural' shoreline designation. The proposed residential use/structure is permitted in this designation. However a shoreline variance is required for construction of a residential structure waterward of the common line setback.
32. According to the Washington State Department of Fish and Wildlife, Priority Habitat and Species Maps, the subject site is not associated with a protected species.
 - 32.1 The applicant is seeking a 0 ft. setback from the OHWM, staff is recommending a condition of approval that the requirements of CCC, Section 11.78.090(5) are to be met
33. According to the Federal Emergency Management Agency, FIRM panel # 5300150225A, there is no floodplain on the subject parcel. CCC, Chapters 11.84 and 3.20 do not apply to the project.
34. The County GIS data map does show known geologically hazardous conditions on the subject site. Therefore CCC, Chapter 11.86 Geologically Hazardous Areas Overlay District, does apply to the project. A geological site assessment would be required with building permit submittal.
35. According to the Washington State Department of Natural Resource Maps, the subject site does not contain any streams.
36. According to the National Wetlands Inventory (NWI) Map, prepared by the US Department of Fish and Wildlife Services, the subject site does not contain wetlands.
35. 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.
37. The project is consistent with Chelan County Shoreline Master Program (CCSMP) section 29.2.2(a) in the following respects:
 - 37.1 The SMP, Section 16, allows residential structures to be built up to but not waterward of the common line setback. "Structure" is defined by the CCSMP as that which is built or constructed. An edifice or building of any kind or any piece of work artificially built up or composed of parts joined together in some manner and which requires location on the ground or which is attached to something having a location on the ground. Not included are residential fences, ornamental rockeries, and similar improvements of a minor nature. Based on this definition, the proposed residence with attached deck is considered a structure and is required to meet the common line setback.
 - 37.2 According to the definition of common line (CCSMP 7.2.170), the common line has been calculated at 19.7 ft. from OHWM ($33' + 6.3' = 39.3' / 2 = 19.7'$).
 - 37.3 The new residence with attached deck would have a 1,794 sq. ft. footprint which is an increase of 158.2 sq. ft. of footprint over which currently exists. The new residence would be located approximately 7.8 ft. from the OHWM, with the attached deck extending from the residence up to the OHWM of Lake Chelan.
 - 37.4 The applicant is requesting to construct a single family residence with an attached deck. Residential uses are permitted uses in the rural shoreline environment; however the

common line setback restricts the applicant's ability to construct the residence at the desired location.

38. The project is consistent with Chelan County Shoreline Master Program (CCSMP) section 29.2.2(b) in the following respects:
- 38.1 Landward of the existing residence is an access easement and a retaining wall; there is no area large enough for development that does not encroach in the access easement. Due to the topography of the lot and the narrow lot depth, the only location for the residence is on the waterward side of the existing access easement.
 - 38.2 The existing access easement provides legal access to lots north of the subject property. Because of this, the structure is required to be built in closer proximity to the shoreline. The proposed residence must meet the 5 ft. setback from edge of access easement per CCC 11.88.040(7)(A).
 - 38.3 The hardship results from the dimensional constraints of the lot (shallow depth), existing development, and the proximity to the shoreline.
39. The project is consistent with Chelan County Shoreline Master Program (CCSMP) section 29.2.2(c) in the following respects:
- 39.1 The shoreline environment designation is rural, which permits residential uses and structures.
 - 39.2 Properties in the vicinity are developed with single family residences, garages and other residential structures. Many residential properties along this section of shoreline contain decks along the water side of the residence, similar to the deck proposed by the applicant, as shown in the photographs submitted with the application materials, date stamped January 8, 2019.
 - 39.3 The proposed residence measured from the exterior wall closest to OHWM, is to be placed farther landward of the OHWM than the neighboring parcel to the south. Based on the site plan of record, the neighbor's residence is setback 6.3 ft. from OHWM while the proposed application has the residence setback 7.8 ft. from OHWM. Although the application has a proposed deck that is setback 0 ft. from OHWM, the deck is at a 3ft. elevation and should not cause a visual impact. Additionally, the project would have a positive impact by removing the existing deck, approximately 9 sq. ft. of overwater coverage would be eliminated. No new overwater coverage is proposed.
 - 39.4 The neighboring property to the south is setback outside of the common line and riparian setbacks. This property should not be substantially impacted.
 - 39.5 The proposed residence is compatible with the uses and structures in the vicinity and within the rural shoreline jurisdiction. The proposed deck is similar in nature to the decks attached to the residences on neighboring properties and would not have an adverse impact on said properties. Furthermore, the proposed residence complies with CCSMP, Section 16, regarding view obstruction.
40. The project is consistent with Chelan County Shoreline Master Program (CCSMP) section 29.2.2(d) in the following respects:
- 40.1 Residences along the south shore of Lake Chelan contain residential decks on the waterward side of the structure (as documented in photographs included with the application materials, date stamped January 8, 2019). The applicant is requesting to reduce the shoreline and riparian buffer to accommodate a new single family residence with an

attached, partially covered deck for outdoor living space; a use permitted in the 'rural' shoreline jurisdiction and enjoyed by property owners in the area.

- 40.2 The proposed variance request would allow the property owner to have a moderately sized residence with an outdoor living space, a use enjoyed by property owners in the vicinity. This would not grant a special privilege as properties along this section of shoreline have residences with attached decks on the waterward side of the residence.
41. The project is consistent with Chelan County Shoreline Master Program (CCSMP) section 29.2.2(e) in the following respects:
- 41.1 The proposed residence is to be constructed on private property.
- 41.2 The proposed development is for private use, on private property. The public interest would not suffer substantial detrimental effect.
42. The project is consistent with Chelan County Shoreline Master Program (CCSMP) section 29.2.2(f) in the following respects:
- 42.1 The proposed residence is located landward of the OHWM, on private property.
- 42.2 The proposal would not impact the rights of navigation or adversely affect the use of the shoreline.
43. The project is consistent with Chelan County Shoreline Master Program (CCSMP) section 29.2.3 in the following respects:
- 43.1 The Shoreline Master Program allows for residential development of private property. This variance is being applied to allow construction of a single family residence with a partially covered deck, within the designated common line setback area. Residences with decks on the waterward side of the structure are prevalent along the north shore of Lake Chelan, as shown in the submitted application materials.
- 43.2 Based on the JARPA 8(c), there will be no negative impact or net loss of ecological function associated with the proposed construction. The project would have no new negative impact to the lake as the proposed is to be placed almost entirely within the existing footprint of the mobile home and deck. The proposed deck would result in the elimination of the existing 9 ft. of overwater coverage.
- 43.3 The cumulative impacts of granting such variances are minimal and remain consistent with the policies of the Shoreline Management Act.
44. The project is consistent with Chelan County Shoreline Master Program (CCSMP) section 29.4.1(a) in the following respects:
- 44.1 The project area would be located on private property in the vicinity of other properties with similar residential structures.
- 44.2 The construction of the residence, within the shoreline buffer, would not affect statewide nor local interests.
45. The project is consistent with Chelan County Shoreline Master Program (CCSMP) section 29.4.1(b) in the following respects:
- 45.1 The subject property has little fish and wildlife habitat on site due to the small lot size, the steep upland slope, the proximity to other residences and the highly developed nature of the property. There is little to no riparian vegetation along the OHWM due to the historic placement of concrete shoreline armoring. Below the OHWM is unvegetated boulders and cobble.

- 45.2 The proposed residence with deck would be a benefit to the character of the shoreline as it would eliminate the portion of the existing deck that overhangs the lake.
- 45.3 This section of Lake Chelan does not benefit from a heavily vegetated shoreline. Therefore, the construction of the new residence and deck will not impact what has already been developed.
- 46. The project is consistent with Chelan County Shoreline Master Program (CCSMP) section 29.4.1(c) in the following respects:
 - 46.1 The proposed development would enhance the existing residential and recreational use of the subject property.
 - 46.2 The proposed residence would be a long term benefit to the property by enhancing the residential and recreational use of the property.
- 47. The project is consistent with Chelan County Shoreline Master Program (CCSMP) section 29.4.1(d) in the following respects:
 - 47.1 The proposed residence is to be located on a previously developed area of the lot. There is minimal vegetation along the shoreline due to prior development of the existing structures and concrete shoreline armoring.
 - 47.2 The proposed residence would encroach into the buffer by approximately 200 sq. ft.
 - 47.3 The proposed residence, as conditioned, would not have a substantial impact on the resources and ecology of the shoreline.
- 48. The project is consistent with Chelan County Shoreline Master Program (CCSMP) section 29.4.1(e) in the following respects:
 - 48.1 The project is located on privately-owned property, with no public shoreline access.
 - 48.2 The project would not impact public access to the shoreline.
- 49. The project is consistent with Chelan County Shoreline Master Program (CCSMP) section 29.4.1(e) in the following respects:
 - 49.1 The subject property is under private ownership with no public access.
 - 49.2 The project would not affect public recreational opportunities, as the property is privately owned.
- 50. Based on the above findings and conclusions, staff finds the project to be consistent with the intent and spirit of the principles outlined above.
- 51. The project is consistent with Chelan County Code (CCC) Section 11.95.030 (1)(A) in the following respects:
 - 51.1 As stated above, single family residences and their appurtenances are prevalent along the south shore of Lake Chelan. Properties in the immediate vicinity include single family residences with attached decks.
 - 51.2 The applicant is requesting to construct a new single family residence with attached deck. The residence includes 1,326 sq. ft. 1st floor, 468 sq. ft. attached 1st floor deck, and a 1,502 sq. ft. 2nd floor; which includes an attached garage and living space. (3,296 sq. ft. total). This would result in an increase of 158.2 sq. ft. footprint over which currently exists on site.

- 51.3 Based on the Assessor's records, the adjacent parcel to the south has a residence built in 2010 which includes, 1,638.5 sq. ft. 2-story main living area, 576 sq. ft. built-in garage, 336.5 sq. ft. deck, and 1,180 sq. ft. partially finished basement (approx. 3,730 sq. ft. total). This residence is setback 6.3 ft. from OHWM.
- 51.4 The variance is necessary to preserve a right substantially the same as possessed by owners within the same area and does not grant special privilege.
52. The project is consistent with CCC Section 11.95.030 (1)(B) in the following respects:
- 52.1 The physical characteristics of the subject property are the direct plight of the applicant. The steep topography, existing development, and access road restrict the flexibility for the placement of the proposed residence.
- 52.2 Due to the topography of the lot and the narrow lot width, the only location for the residence is on the waterward side of the existing retaining wall that is supporting the access easement to multiple parcels uplake. Because of this, the structure is required to be built in closer proximity to the shoreline in the approximate location of the existing residence.
- 52.3 The original residence was placed in the existing area due to the location of the county right-of-way. A variance application (#384) was submitted and approved in 1966 allowing for a dwelling to be placed with no minimum setback from the road right-of-way. The right-of-way is demonstrated on the recorded Joshua Green's Landing Plat.
- 52.4 The subject property was created through a historic subdivision that pre-dates current regulations regarding setbacks from shorelines and zoning code requirements. Along with the shallow lot depth of the parcel, the buildable area is smaller than what current regulations would allow.
- 52.5 The variance request is based on the shallow lot depth, topography of the property, and the proximity of the property in relation to the OHWM.
53. The project is consistent with CCC Section 11.95.030 (1)(C) in the following respects:
- 53.1 The lot was legally created via the Joshua Green's Landing Plat in 1934, prior to the establishment of zoning or critical areas regulations.
- 53.2 As stated above, the hardship is due to the shallow lot depth, topography of the property, and the proximity of the property in relation to the OHWM. Additionally, the location of the existing access to lots further uplake and the location of the county right-of-way have created a small plausible building location.
- 53.3 The hardship asserted by the applicant is the result of topography, the shallow lot depth, and the proximity of the property to the shoreline, not the owner's action.
54. The project is consistent with CCC Section 11.95.030 (1)(D) in the following respects:
- 54.1 The proposal is for construction of a single family residence on private property for private use, within a residential subdivision.
- 54.2 Chelan County Comprehensive Plan, Policy RE 3.9, allows for the infill, development, and redevelopment of existing intensely developed rural areas when consistent with the goals and policies of the comprehensive plan, including recreational, residential, mixed-use and shoreline development.
- 54.3 Additionally, the parcel to the south was part of SP 3275, which involved an alteration via a re-plat of 5 lots from the Joshua Green's Landing subdivision. With this alteration, new

setbacks were created in order to make the existing small lot configurations more usable. These modified setbacks include: 0 ft. side yard setback, 6 ft. seawall (OHWM) setback, and 10' front yard setback.

- 54.4 The proposal would not be materially detrimental to the public welfare and safety or injurious to property in the neighborhood as less restrictive setbacks have been applied. Furthermore, the proposed development is consistent with Chelan County Comprehensive Plan, which permits residential use of the shoreline area
- 55. The project is consistent with CCC Section 11.95.030 (1)(E) in the following respects:
 - 55.1 The hardship relates to the required riparian setback. The proposed residence may qualify for a reduced riparian setback of 25 ft. of the requirements of CCC, Section 11.78.090(5) are met. These setbacks are measured from the closest point of the structure to the closest point of the OHWM.
 - 55.2 Per the application, the residence is setback 7.8 ft. from OHWM but the attached deck extends up to the OHWM; the applicant is requesting a 0 ft. setback from the OHWM.
 - 55.3 The hardship is a result of the required riparian setback, per CCC, Section 11.78.090.
- 56. The project is consistent with CCC Section 11.95.030 (3)(A) in the following respects:
 - 56.1 The variance request is based on the size and topography of the lot and the proximity of the property to Lake Chelan.
 - 56.2 The variance request is not based on illegal or nonconforming circumstances created by the applicant.
- 57. The project is consistent with CCC Section 11.95.030 (3)(B) in the following respects:
 - 57.1 The request is based on the topography of the lot, the shallow lot depth and the proximity of the shoreline in relation to the property. As stated previously, the applicant is requesting to construct a residence similar to those in the vicinity.
 - 57.2 Additionally, the existing mobile home and deck are in decline and require replacement before they begin to fail and become a safety hazard.
 - 57.3 The variance request is not based upon lack of reasonable economic return or a claim that the structure is too small.
- 58. The project is consistent with CCC Section 11.95.030 (3)(C) in the following respects:
 - 58.1 The property owner acquired the property in 2005, per deed recorded under AFN 2205900.
 - 58.2 The lot was created in 1934 as a residential lot, via the Plat of Joshua Green's Landing, prior to the county's adoption of critical areas and the Shoreline Master Program.
 - 58.3 The lot encumbrances existed at the time the applicant acquired the property; however the lot was legally created as a residential lot in 1934, prior to the county's adoption of critical areas regulations and the Shoreline Master Program.
- 59. The project is consistent with CCC Section 11.95.030 (3)(D) in the following respects:
 - 59.1 The proposed variance does not change the permitted land uses.
 - 59.2 This does not apply.

60. The project is consistent with CCC Section 11.95.030 (3)(E) in the following respects:
 - 60.1 The proposed variance does not affect density.
 - 60.2 This does not apply.
61. The project is consistent with CCC Section 11.78.230 (2)(A) in the following respects:
 - 61.1 The proposal, as conditioned, would not significantly impact the fish and wildlife habitat. The conditioned mitigation would address vegetation enhancement within the reduced buffer area.
62. The project is not consistent with CCC Section 11.78.230 (2)(B) in the following respects:
 - 62.1 Residences of this size and configuration are common along this section of shoreline, as shown in the photographs submitted with the application materials, date stamped January 8, 2019.
 - 62.2 The proposed residence would be within a previously developed area. Due to the previous development and limited native vegetation, there is minimal riparian habitat existing on the property (see site visit photos, Exhibit C, dated January 31, 2019).
 - 62.3 The proposed use is reasonable; considering the lot was previously developed, has minimal vegetation, and similar residential structures are common along the south shore of Lake Chelan.
63. The project is consistent with CCC Section 11.78.230 (2)(C) in the following respects:
 - 63.1 The project is to replace the existing residence with a new single family residence in a previously developed building site. The applicant indicates that the project has been designed so there are no negative impacts to fish and wildlife habitat. The new residence and attached deck would completely reduce the overwater coverage from the existing deck. The minimal vegetation that does exist on-site is not proposed to be removed with future development
 - 63.2 As previously demonstrated through site visit photos, the riparian vegetation along the OHWM is non-existent due to the historic placement of concrete shoreline armoring.
 - 63.3 The location of the proposed residence is in a location that is already cleared of vegetation; therefore, fish and wildlife habitat impacts should be minimal to none.
64. The applicant is requesting a shoreline variance and riparian variance to reduce the riparian and shoreline setbacks to 0 feet from the OHWM of Lake Chelan. CCC 11.78.090(5) allows for applicants to reduce the riparian buffer in the Lower Lake Chelan Basin to 25 ft. from OHWM, if they mitigate the reduction with an enhanced septic system, a stormwater drainage plan, and a supplemental planting of native vegetation. Although the parcel is heavily developed and no impacts are anticipated, staff is recommending that the required criteria of CCC 11.78.090(5) be submitted with building permit due to the nature of the variance and the reduced riparian buffer.
 - 64.1 This lot is unique in that the location of the OHWM was created historically through the placement of a concrete seawall and it does not leave adequate area for a single family residence to meet current setback regulations. The existence of the county right-of-way as well as the access road that serves the parcels within the same subdivision, create a small building envelope that is located within the riparian buffer and common line setback.
 - 64.2 The proposed development is on two separate lots that have been historically treated as one concurrent lot. Being as the proposed development is for the placement of a new single family dwelling and the proposed structure is to be constructed across the common lot line

between Lot 20 and Lot 21; Staff is recommending a Condition of Approval that a Boundary Line Adjustment is required to be completed prior to submittal of building permit as the proposed structure must meet the required zoning setbacks.

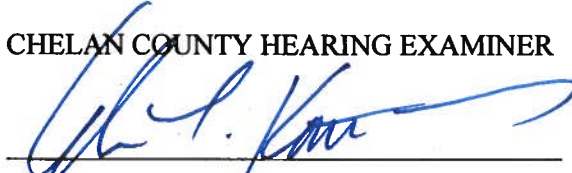
- 64.3 Overall, the project fits with the character of the development on the surrounding properties and is compatible with the uses permitted in the rural shoreline environment.
65. Staff has reviewed the applications and submitted materials. Based on the information contained in the applications and compliance with the Revised Code of Washington, the Washington Administrative Code, the Chelan County Shoreline Master Program, Chelan County Comprehensive Plan, and the Chelan County Code, staff recommends APPROVAL subject to the attached recommended conditions of approval, which may be modified as appropriate in support of the decision of the Hearing Examiner.
66. An open record public hearing after legal notice was provided was held on April 17, 2019.
67. 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.
68. Appearing and testifying on behalf of the applicant was Ryan Walker. Mr. Walker testified he was an agent authorized to appear and speak on behalf of the applicant and property owner. 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.
69. No member of the public testified at this hearing.
70. The Chelan County Hearing Examiner considered all evidence within the record in rendering this decision.
71. Any Conclusion of Law that is more correctly a Finding of Fact is incorporated herein as such by this reference.

CONCLUSIONS

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 not consistent with the Chelan County Code, Title 11.
5. 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.
6. The authorization of the shoreline permits will 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 be otherwise detrimental to the public interest.
7. The project design is not consistent with the Chelan County Shoreline Master Program requirements.
8. Any Finding of Fact that is more correctly a Conclusion of Law is incorporated herein as such by this reference.

Approved this 24th 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 variance 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.

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:
