

# SHORELINE MANAGEMENT PERMIT

## ACTION SHEET

RECEIVED

APR 25 2019

**Application #:** SDP 2019-002  
SCUP 2019-001  
SCUP 2019-002

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 24, 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:

Wolfgang & Naoko Isenhart  
858 NE 102<sup>nd</sup> St.  
Seattle, WA 98125

To undertake the following development: An application for a shoreline substantial development permit and shoreline conditional use permits, for the installation of a new 342 sq. ft. pier, 125 sq. ft. boatlift, two 24-inch diameter buoys, and an anchored log line that will extend approx. 70 feet from OHWM on Lake Chelan. The project will entail approximately 467 sq. ft. in new overwater coverage.

Upon the following property: Unassigned, Manson, WA 98831.

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

The project will be within a shoreline of statewide significance (RCW 90.58.030).

This site is located along Lake Chelan within the 'conservancy' shoreline designation.

## **CONDITIONS OF APPROVAL**

All conditions imposed by this decision shall be binding on the applicant, which includes the owner or owners of the properties, heirs, assigns, and successors.

1. Pursuant to WAC 173-27-150 and RCW 90.58.130(2), prior to commencement of this project, the applicant shall obtain any necessary aquatic permits from agencies with jurisdiction which may include, but is not limited to, the Washington State Department of Fish and Wildlife, the Army Corps of Engineers, the Washington State Department of Ecology, Chelan County PUD, Chelan County Building Department and the Washington Department of Natural Resources.
  - 1.1. A residential building permit shall be required.
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 January 18, 2019, except as modified by this decision or other jurisdictional agencies.
3. 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.
4. 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.
5. 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.
6. Pursuant to Chelan County Shoreline Master Program Section 30.3.11, a project which has been granted a permit shall be completed within five (5) years of the issuance of a permit. The Administrative authority may extend the permit for one additional year.

## **FINDINGS OF FACT**

1. The applicant/owner is Wolfgang & Naoko Isenhardt, 858 NE 102<sup>nd</sup> St., Seattle, WA 98125.
2. The agent is Anne Hessburg, Grette Associates, LLC., 151 S Worthen Street, Suite 101, Wenatchee, WA 98801.
3. The project location is Unassigned, Manson, WA 98831.
4. The parcel number for the subject property is 29-20-12-440-050.
5. The property is legally described a portion of land located in Government Lots 1 & 4 of Section 13 and the SW ¼ of the SE ¼ and the W ½ of the SE ¼ of the SE ¼ of Section 12, Township 29N, Range 20EWM.
6. The subject site is not located within an Urban Growth Area.

7. The Comprehensive Plan designation and zoning for the subject property is Rural Residential/Resource—1 Dwelling Unit per 20 Acres (RR20).
8. As stated in the JARPA, questions 5(m) and 5(o), the property is currently in recreational use. There is an existing wood platform with an outhouse, an old rock and concrete foundation with wood decking, brick steps, and a wood/log ramp on site.
9. There are no known permits on record with Chelan County Community Development.
10. As stated in the JARPA, question 5(l), the property consists of moderate to steeply sloped upland property leading to a moderately steep natural bank at OHWM. Majority of the property is naturally vegetated with shrubs. There is a moderate level of fish and wildlife habitat on site due to the size of the lot and existence of native vegetation. Below OHWM habitat consists of moderately sloping unvegetated rock and cobble; due to the steep bank and lack of vegetation, there is some erosion along the bank.
11. The property is 21.21 acres per Chelan County Assessor's records.
12. The property to the north of the subject property is zoned Commercial Forest Lands (FC).
13. The property to the south of the subject property is Lake Chelan, 'conservancy' environment shoreline designation.
14. The property to the east of the subject property is in recreational use and is zoned Rural Residential/Resource—1 Dwelling Unit per 20 Acres (RR20).
15. The property to west of the subject property is in recreational use and is zoned Rural Residential/Resource—1 Dwelling Unit per 20 Acres (RR20).
16. 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 March 29, 2019. The SEPA Checklist and DNS are included within the file of record and adopted by reference.
17. The Comprehensive Plan has been reviewed. Specifically, the goals and policies related to the Rural Residential/Resource 20 (RR20) 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.
18. According to the Washington State Department of Fish and Wildlife, Priority Habitat and Species Maps, the subject site does contain priority mule deer and bighorn sheep habitat species.
19. According to the Federal Emergency Management Agency, FIRM panel # 5300150200A, there is no floodplain on the subject parcel; the waterbody is a controlled reservoir.
20. 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. However, Chelan County does not require geologic site assessments for accessory structures waterward of the OHWM.
21. According to the Washington State Department of Natural Resource Maps, the site does contain known streams.
22. According to the National Wetlands Inventory Map prepared by the US Department of Fish and Wildlife Services, the subject site does not contain wetlands.

23. There are no known cultural resources on the subject property. Pursuant to CCSMP Section 27, developers shall notify local governments of any possible archaeological materials uncovered during excavation.
24. Construction will begin upon receipt of all permits; and end approximately one month from the start date.
25. Access is from the water only.
26. The noise impacts will be Similar to other recreational uses; Construction noise during installation of proposed development. The project is required to comply with CCC, Chapter 7.35, Noise Control.
27. Minor visual impacts will be from the water only. The location of the proposed development would likely not be visible from adjacent parcels.
28. 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 February 19, 2019, with comments due March 28, 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:
  - 28.1 Chelan County PUD responded on February 20, 2019.
  - 28.2 Manson Community Council responded on March 20, 2019.
29. The following agencies were notified but did not respond:
  - 29.1 Chelan County Building Official
  - 29.2 WA State Department of Natural Resources
  - 29.3 WA State Department of Fish & Wildlife
  - 29.4 US Department of Fish & Wildlife
  - 29.5 US Army Corps of Engineers
  - 29.6 Department of Archaeology & Historic Preservation
  - 29.7 Yakama Nation
  - 29.8 Confederated Tribes of the Colville Reservation
  - 29.9 Chelan County Natural Resources
30. No public comments were received.
31. The application materials were submitted on January 18, 2019.
32. A Determination of Completeness was issued on February 14, 2019.
33. The Notice of Application was provided on February 19, 2019.
34. The Notice of Public Hearing was provided on April 5, 2019.
35. The project is consistent with Chelan County Code (CCC) Section 11.04.020 in the following respects:
  - 35.1 Piers are a permitted use with boatlifts, mooring buoys, and log lines considered as accessory uses. Accessory structures are permitted in the RR20 zoning district.

- 35.2 The proposed developments are permitted uses.
36. The project is consistent with Chelan County Code (CCC) Section 11.08.020 in the following respects:
- 36.1 The RR20 zoning district requires a 5 ft. setback from side property lines. The site plan of record indicates that the proposed development exceed the required setbacks.
- 36.2 The proposed pier, boatlift, mooring buoys and log line all meet the required 5 ft. side yard setback.
37. The proposed developments are considered water-dependent uses of the "Shoreline Works and Structures." These uses are permitted within the shoreline buffer and waterward of the OHWM.
38. The project is consistent with the following Shoreline Works and Structures (SWS) policies:
- a. 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.
  - b. SWS should be designed to blend with the surrounding and not detract from the aesthetic of the shoreline.
  - c. Where SWS can be located near existing SWS and still serve the desired purpose, such shall be encouraged rather than installation in previously unbuilt areas.
  - d. 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.
39. The project is consistent with CCSMP Section 29.1(c) in the following respects:
- 39.1 The provisions of the SMA and WAC have been met through the adoption of the CCSMP. The appropriate CCSMP requirements are addressed below.
- 39.2 According to JARPA, question 6(g), the fair market value of the project is approximately \$80,000. The project is not exempt from the requirement for a substantial development permit.
- 39.3 The CCSMP does not address boatlifts, mooring buoys, or log lines; therefore, the provisions for a Conditional Use Permit apply.
- 39.4 The project is consistent with the provisions of the SMA, WAC and CCSMP.
40. The project is consistent with CCSMP Section 21.A.3.4 in the following respects:
- 40.1 The applicant has proposed using up to twelve (12) 12-inch diameter, steel piles to support the new pier. The piles are to be driven to a depth of 10 ft. or to bearing.
- 40.2 The proposed pier with steel pilings, as conditioned, complies with the CCSMP dock construction standards.
41. The project is consistent with CCSMP Section 21.A.6.1(b) in the following respects:
- 41.1 The property was created prior to May 3, 1994 based on Quit Claim Deed recorded March 2, 1993 under AFN: 9303080006.
- 41.2 The lot qualifies for a single-use pier.
42. The project is consistent with CCSMP Section 21.A.6.2 in the following respects:
- 42.1 As stated in JARPA and depicted on the site plan of record, the pier is 6 ft. wide and extends approximately 57 ft. from the OHWM to a water depth of approximately 12 ft. The proposed pier covers an area of approximately 342 sq. ft.

- 42.2 The proposed pier meets the dimensional standards required by the CCSMP for single use piers and docks.
- 43. The project is consistent with CCSMP Section 21.A.6.4 in the following respects:
  - 43.1 The site plan of record shows the pier located more than 10 ft. from the side property lines.
  - 43.2 The proposed pier complies with the side yard setback requirements.
- 44. The project is consistent with CCSMP Section 29.3.2(a) in the following respects:
  - 44.1 The applicant is requesting to install a new 10' x 12.5' ft (125 sq ft) boatlift adjacent to the proposed pier, two mooring buoys, and a protective log line.
  - 44.2 The proposed uses are not addressed in the CCSMP and therefore requires review under a Shoreline Conditional Use Permit.
  - 44.3 The policies of the CCSMP and SMA provide for recreational use of the shoreline.
  - 44.4 The proposed development is consistent with the CCSMP as a recreational use.
- 45. The project is consistent with CCSMP Section 29.3.2(b) in the following respects:
  - 45.1 As identified on the site plan of record, all proposed development is located on private property; there is no public access to the shoreline.
  - 45.2 This section of the lake is over one mile wide (according to Chelan County GIS measurements), providing room for public use and navigation.
  - 45.3 The proposed use/development is located on private property and would not interfere with public shorelines.
- 46. The project is consistent with CCSMP Section 29.3.2(c) in the following respects:
  - 46.1 Boatlifts and other in-water structures are common along the north shore of Lake Chelan. Properties within this reach of the shoreline contain piers, boatlifts lifts and other in-water structures.
  - 46.2 The proposed development is compatible with the surrounding land uses in the area.
- 47. The project is consistent with CCSMP Section 29.3.2(d) in the following respects:
  - 47.1 The shoreline designation is 'conservancy.' The 'conservancy' designation permits residential and recreational uses and development with appropriate permits.
  - 47.2 The proposed development is consistent with the 'conservancy' shoreline designation and would cause no unreasonable adverse effects to the shoreline environment designation.
- 48. The project is consistent with CCSMP Section 29.3.2(e) in the following respects:
  - 48.1 The proposed developments will be located on private property, as indicated on the site plan of record and will be for private use of the property owner.
  - 48.2 The proposed development is for private use, on private property. The public interest would not suffer substantial detrimental effect.
- 49. The project is consistent with CCSMP Section 29.3.4 in the following respects:
  - 49.1 The Shoreline Master Program allows for recreational use of private property. The CCSMP does not address boatlifts, mooring buoys, and protective log lines.

- 49.2 The cumulative impacts are considered to be minimal due to the open nature of the proposed developments.
- 49.3 The cumulative impacts of the proposed developments are minimal and remain consistent with the policies of the Shoreline Management Act.
- 50. The project is consistent with CCSMP Section 29.4.1(a) in the following respects:
  - 50.1 The project area will be located on private property, in the vicinity of other properties with similar recreational in-water structures.
  - 50.2 The installation of a pier, boatlift, mooring buoys, and protective log line would not affect statewide nor local interests.
- 51. The project is consistent with CCSMP Section 29.4.1(b) in the following respects:
  - 51.1 This section of Lake Chelan carries a 'conservancy' shoreline designation, which allows for residential and recreational uses.
  - 51.2 This section of the lake is not heavily developed as the parcels have boat only access. The subject property is large in size and the proposed developments would likely not be visible from neighboring parcel; the developments would take place entirely on the privately owned property.
  - 51.3 The proposed project would not impact the natural character of the shoreline.
- 52. The project is consistent with CCSMP Section 29.4.1(c) in the following respects:
  - 52.1 The proposed development would enhance the recreational use of the subject property.
  - 52.2 The proposed pier, boatlift, mooring buoys, and log line would be a long term benefit to the property by enhancing the recreational use of the property.
- 53. The project is consistent with CCSMP Section 29.4.1(d) in the following respects:
  - 53.1 The proposed boatlift, mooring buoys, and log line would be located waterward of the OHWM. Habitat below OHWM consists of moderately sloping, unvegetated cobble and rock. There is little natural habitat on site due to the naturally rocky shoreline.
  - 53.2 According to JARPA question 6e, extreme care will be taken to prevent any petroleum products, chemicals, or other toxic or deleterious materials from entering the water. If a spill occurs, work will be stopped immediately, steps will be taken to contain the material, and appropriate agency notifications will be made. To the extent possible, all work will occur in the dry, to minimize the potential for erosion and turbidity and to reduce potential for impacts to water quality, fish and wildlife.
  - 53.3 The proposed developments would not have a substantial impact on the resources and ecology of the shoreline.
- 54. The project is consistent with CCSMP Section 29.4.1(e) in the following respects:
  - 54.1 The project is located on privately-owned property, with no public shoreline access.
  - 54.2 The project would not impact public access to the shoreline.
- 55. The project is consistent with CCSMP Section 29.4.1(f) in the following respects:
  - 55.1 The subject property is under private ownership with no public access.
  - 55.2 The project would not affect public recreational opportunities, as the property is privately owned.
- 56. The project is consistent with CCSMP Section 29.4.2 in the following respects:

- 56.1 Based on the above findings and conclusions, staff finds the project to be consistent with the intent and spirit of the principles outlined above.
57. The applicant is requesting the installation of a new 342 sq. ft. pier, 125 sq. ft. boatlift, two 24-inch diameter buoys, and an anchored log line that will extend approx. 70 feet from OHWM on Lake Chelan. The project will entail approximately 467 sq. ft. in new overwater coverage.
58. Although the project is located in a less developed portion of the north shore of Lake Chelan, the proposed development would not have a negative impact to the shoreline. Being as this parcel is boat only access, a safe way to moor and dock a boat is necessary. The entire project would entail approximately 467 sq. ft. of new overwater coverage. Most of the proposed development is open in nature. The pier will be responsible for the majority of the new overwater coverage; grated decking is proposed to mitigate the added coverage.
59. 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.
60. An open record public hearing after due legal notice was provided was held on April 17, 2019.
61. 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.
62. 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.
63. No member of the public testified at this hearing.
64. The Chelan County Hearing Examiner considered all evidence within the record in rendering this decision.
65. 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 Residential/Resource—1 Dwelling Unit per 20 Acres (RR20) 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 24<sup>th</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 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.

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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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