

**SHORELINE MANAGEMENT PERMIT
ACTION SHEET**

RECEIVED

AUG 12 2019

**CHELAN COUNTY
COMMUNITY DEVELOPMENT**

Application #: SDP 2019-003
SCUP 2019-003
SV 2019-003
RIPV 2019-004

Administering Agency Chelan County Department of Community Development

Type of Permits:

- ☒ Shoreline Substantial Development Permit
- ☒ Shoreline Conditional Use Permit
- ☒ Shoreline Variance
- ☒ Riparian Variance

Action: ☒ Approved ☐ Denied

Date of Action: August 9, 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 & Phoebe Muir
21201 116th Ave SE
Kent, WA 98031

This is an application for a shoreline substantial development permit, a shoreline conditional use permit, a shoreline variance and a riparian variance for the installation of a 180 square foot pier, 2 mooring buoys, the installation of a 14 foot x 30 foot bathhouse, the installation of a new 4 foot wide x 26 foot long stairway providing access to the proposed bathhouse and pier and the installation of a foot trail between the proposed bathhouse and the future home site. The new pier will be anchored to a new concrete abutment and would extend approximately 30 feet perpendicular from the OHWM of Lake Chelan. The mooring buoys would be located approximately 54 feet waterward of the OHWM. The proposed bathhouse will be installed above the 25 foot riparian and shoreline setback from Lake Chelan. The proposed stairway will provide access between the bathhouse and the pier. The proposed foot trail will provide safe passage between the future home site and the bathhouse.

Upon the following property: 2525 Lakeshore Dr., Manson, WA 98831.

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

SDP 2019-003/SCUP 2019-003/SV 2019-003/RIPV 2019-004

Muir

Page 1 of 14

The project will be within a shoreline of statewide significance (RCW 90.58.030). The project will be located within a rural shoreline environment designation.

The following Shoreline Master Program provisions are applicable to this development: Sections 7, 9, 11, 16, 21, 27 and 29.

CONDITIONS OF APPROVAL

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

1. Pursuant to WAC 173-27-150 and RCW 90.58.130(2), prior to commencement of this project, the applicant shall obtain any necessary aquatic permits from agencies with jurisdiction which may include, but is not limited to, the Washington State Department of Fish and Wildlife, the Army Corps of Engineers, the Washington State Department of Ecology, Chelan County PUD, Chelan County Building Department and the Washington Department of Natural Resources.
 - 1.1. Provide a copy of the Chelan County PUD license agreement.
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 February 21, 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 CCSMP, Section 9.8 and CCC, Section 11.78.230(2)(A), the applicant/owner shall comply with the proposed mitigation planting plan, date stamped, February 21, 2019.
 - 4.1. All vegetation shall be installed prior to final inspection of bathhouse.
5. Pursuant to CCC, Section 11.78.090(2), vegetation within the riparian buffer shall be maintained as riparian habitat. Noxious weeds in the riparian buffer should be controlled according to best management practices. The Chelan County noxious weed control board should be consulted for recommendations. Where riparian buffer vegetation disturbances have occurred, only revegetation with locally prescribed native vegetation is permitted, except as provided for in this section. Consultation with one of the following agencies of recommended: the WSU Cooperative Extension Service, the Chelan County Conservation District, the Washington State Department of Ecology, the Washington State Department of Fish and Wildlife, or the USDA-Natural Resource Conservation Service.
6. Pursuant to CCC, Section 11.78.090, 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.
7. 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. A cultural resources survey may be required.

8. Pursuant to CCC, Chapter 11.86, a geologic site assessment is required to be submitted at time of building permit submittal.
9. 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.
10. 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 applicants/owners are John & Phoebe Muir, 21201 116th Ave SE, Kent, WA 98031.
2. The agent is Grette Associates, LLC, Attn: Ryan Walker, 151 S. Worthen St., Suite 101, Wenatchee, WA 98801.
3. The project location is 2525 Lakeshore Dr., Manson, WA 98831.
4. The parcel number is 28-21-27-609-006.
5. The property is legally described as Highline No 4 Lot 8.
6. The property is located in Chelan County, outside of an Urban Growth Area.
7. The Comprehensive Plan designation and zoning is Rural Waterfront (RW).
8. As stated in the JARPA, question 5(o), no structures currently exist on the property.
9. As stated in the JARPA, question 5(l), the property consists of a steeply sloped upland dominated by ponderosa pine, bitterbrush, mixed herbaceous species, and grasses. The shoreline of the property consists of exposed bedrock and sparsely vegetated boulders above the OHWM. Below the OHWM, the lakebed consists of steeply sloped exposed bedrock and unvegetated boulders. Minimal habitat is available on-site given the steep and rocky nature of the property.
10. The site size is 1.21 acres per Chelan County Assessor's records.
11. The property to the north is in residential and recreational use and is zoned Rural Waterfront (RW).
12. The property to the south is in residential and recreational use and is zoned Rural Waterfront (RW).
13. The property to the east is in residential and recreational use and is zoned Rural Residential/Resource 2.5 (RR2.5)
14. The property to the west is Lake Chelan.
15. 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 Mitigated Determination of Non-Significance (DNS) was issued on June 13, 2019. The SEPA Checklist and MDNS are included within the file of record and adopted by reference.
16. 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.
17. 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 property does not contain protected habitat species or plants but is located within the riparian shoreline.
19. According to the Federal Emergency Management Agency, FIRM panel # 5300150225A, 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 a potential geologically hazardous area due to erodible soils. CCC, Chapter 11.86, Geologically Hazardous Overlay District, applies to the subject property. A geologic site assessment will be required at time of building permit submittal for the stairway and bathhouse.
21. According to the National Wetlands Inventory Map prepared by the US Department of Fish and Wildlife Services, the subject property does not contain wetlands.
22. 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.
23. Construction will begin upon receipt of all permits and end approximately one month from start date.
24. Access is provided by Lakeshore Drive.
25. Noise will be similar to other residential and recreational uses with construction noise during demolition of the existing dock and installation of the new pier and boatlift. The project is required to comply with CCC, Chapter 7.35, Noise Control.
26. Minor visual impacts will be from the water and surrounding properties. Adjacent properties include piers and boatlifts, so visual impacts will be similar to what currently exists in the area.
27. 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 March 14, 2019, with comments due April 20, 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:
 - 27.1 Chelan County PUD responded on March 14, 2019.
 - 27.2 Chelan County Fire Marshal responded on April 19, 2019.
 - 27.3 Chelan-Douglas Health District responded on April 7, 2019.
 - 27.4 Manson Community Council responded on March 20, 2019.
28. The following agencies were notified but did not respond:
 - 28.1 Chelan County Assessor
 - 28.2 WA State Department of Natural Resources
 - 28.3 WA State Department of Ecology
 - 28.4 WA State Department of Fish & Wildlife
 - 28.5 US Department of Fish & Wildlife
 - 28.6 US Army Corps of Engineers
 - 28.7 Department of Archaeology & Historic Preservation
 - 28.8 Yakama Nation

- 28.9 Confederated Tribes of the Colville Reservation
- 28.10 Chelan County Public Works
- 29. No public comments were received.
- 30. The application was submitted on February 21, 2019.
- 31. A Determination of Completeness was issued on March 11, 2019.
- 32. The Notice of Application was provided on March 14, 2019.
- 33. The Notice of Public Hearing was provided on July 26, 2019.
- 34. The project is consistent with Chelan County Code (CCC) Section 11.04.020 in the following respects:
 - 34.1 A single-use pier is a permitted use in the RW zoning district. Mooring buoys, bathhouse, the installation of the stairs and foot trail between the proposed bathhouse and the future home site are considered an accessory to the pier. Accessory structures are permitted in the RW zoning district.
 - 34.2 The proposed development is permitted.
- 35. The project is consistent with Chelan County Code (CCC) Section 11.16.020 in the following respects:
 - 35.1 The RW zoning district requires a 5 foot setback from side property lines. The site plan of record shows all proposed development outside the setback pier and stairway will be located 50 feet from the north property line and 32 feet from the south property line. The proposed mooring buoys are setback 30 feet from both the north and south property lines. The proposed bathhouse is 54 feet from the north property line and 6 feet from the south property line.
 - 35.2 The proposed pier, buoy, stairway and bathhouse meet the required five-foot side yard setback.
- 36. The proposed single-use pier and buoys are water-dependent uses and "Shoreline Works and Structures." These uses are permitted within the shoreline buffer and waterward of the OHWM.
- 37. The project is consistent with Goal E, Goal for Shoreline Use Element.
- 38. The project is consistent with the following Shoreline Works and Structures Policies:
 - 38.1 SWS should be located and constructed in such a manner which will result in no significant adverse effects on the adjacent shorelines, will minimize alterations of the natural shoreline, and have no long term adverse effects on fish habitat.
 - 38.2 SWS should be designed and located to avoid significant damage to ecological values or to natural resources which would create a hazard to adjacent life, property and natural resource systems.
- 39. The project is consistent with Chelan County Shoreline Master Program (CCSMP) Section 21.A.3.4 in the following respects:
 - 39.1 For the new pier, the applicant has proposed using a total of six (6) 6-inch steel piles. The piles would be anchored by three (3) 2 feet x 2 feet x 6 feet concrete footings. The width of the footings would correspond to the width of the pier, as required to provide pier stability. The tops of the footings would be installed at least one (1) foot below the lakebed.

- 39.2 If concrete footings are not used, the piles would be impact driven to a depth of ten (10) feet or to bearing.
- 39.3 No wood or metal preservatives, paints, sealers, chemicals or other substances harmful or toxic to fish and shellfish will be applied to the pier system once it has been placed in the water.
- 39.4 According to the cross section details, the proposed pier pilings will have a vertical clearance of 1' above ordinary high water. Because Lake Chelan is a controlled reservoir, the extreme high water elevation is synonymous with the ordinary high water.
- 39.5 The proposed pier complies with the CCSMP dock construction standards.
- 40. The project is consistent with Chelan County Shoreline Master Program (CCSMP) 21.A.6.2(B) in the following respects:
 - 40.1 As described in the JARPA and pier plan, the proposed pier extends perpendicular approximately 30 feet from the OHWM to meet the water depth of approximately fifteen (15) feet. The pier is six (6) feet wide by 30 feet long, for an overall area of 180 square feet.
 - 40.2 The proposed design of the new pier is consistent with the CCSMP dimensional standards for residential piers and docks.
- 41. The project is consistent with CCSMP Section 21.A.6.4 in the following respects:
 - 41.1 The site plan shows the pier and all proposed development outside of the 10' side property line setback.
 - 41.2 The proposed development meets the required 10' setback from the side property lines.
- 42. The project is consistent with CCSMP Section 29.1(C) in the following respects:
 - 42.1 The provisions of the SMA and WAC have been met through the adoption of the CCSMP. The appropriate CCSMP requirements are addressed below.
 - 42.2 According to JARPA, question 6(g), the fair market value of the project is \$50,000. The project is not exempt from the substantial development permit requirement.
 - 42.3 The project is consistent with the provisions of the SMA, WAC and CCSMP.
- 43. The project is consistent with CCSMP Section 29.3.2(A) in the following respects:
 - 43.1 The applicant is requesting to place two (2) mooring buoys which are not addressed in the CCSMP and therefore requires review under a Shoreline Conditional Use Permit.
 - 43.2 The policies of the CCSMP and SMA provide for recreational use of the shoreline.
 - 43.3 The proposed development is consistent with the CCSMP as a recreational use.
- 44. The project is consistent with CCSMP Section 29.3.2(B) in the following respects:
 - 44.1 The applicant is requesting to place two (2) mooring buoys at approximately 30 feet from the north property line and approximately 30 feet from the south property line. The mooring buoys would be located approximately 54 feet from the OHWM.
 - 44.2 The proposed use/development is located on private property.
- 45. The project is consistent with CCSMP Section 29.3.2(C) in the following respects:
 - 45.1 A single-use pier and two (2) mooring buoys would be compatible with other permitted uses along the Lake Chelan shoreline. The proposed mooring buoys would be located in

close proximity to the single-use pier. Mooring buoys are present on many of the properties along the north shore of Lake Chelan.

- 45.2 The proposed development is compatible with the surrounding land uses in the area.
- 46. The project is consistent with CCSMP Section 29.3.2(D) in the following respects:
 - 46.1 The shoreline designation is 'rural.' The 'rural' designation permits residential and recreational uses and development with appropriate permits.
 - 46.2 The proposed development is consistent with the 'rural' shoreline designation and would cause no unreasonable adverse effects to the shoreline environment designation.
- 47. The project is consistent with CCSMP Section 29.3.2(E) in the following respects:
 - 47.1 The two (2) proposed mooring buoys would be located on private property.
 - 47.2 The proposed development is for private use and placed on private property. The public interest would not suffer substantial detrimental effect.
- 48. The project is consistent with CCSMP Section 29.3.4 in the following respects:
 - 48.1 The Shoreline Master Program allows for recreational use.
 - 48.2 The use of the property for recreation is consistent with the policies of the Shoreline Management Act. The cumulative impact of two (2) additional mooring buoys being installed in Lake Chelan is considered minimal, due to the fact that they do not permanently alter the shoreline habitat.
- 49. The project is consistent with CCSMP Section 29.4.1(A) in the following respects:
 - 49.1 The project area would be located on private property, in the vicinity of other properties with similar recreational in-water structures.
 - 49.2 The construction of a pier and two (2) mooring buoy would not affect statewide nor local interests.
- 50. The project is consistent with CCSMP Section 29.4.1(B) in the following respects:
 - 50.1 The shoreline of the property consists of steep sloping upland leading to the OHWM. The upland property is vegetated with native trees, shrubs, and grasses and below OHWM habitat consists of steeply sloping, unvegetated bedrock and boulders. The proposed stairway and landing would be constructed with natural materials such as wood to blend in with the shoreline. Mitigation planting would be installed along the shoreline of the lake to mitigate for any disturbance with the construction of stairway.
 - 50.2 The proposed project has submitted a mitigation and planting plan to mitigate for any disturbance with the construction of the stairway.
- 51. The project is consistent with CCSMP Section 29.4.1(C) in the following respects:
 - 51.1 The proposed development would enhance the recreational use of the subject property.
 - 51.2 The proposed development would be a long term benefit to the property by enhancing the recreational use of the property.
- 52. The project is consistent with CCSMP Section 29.4.1(D) in the following respects:
 - 52.1 The proposed development of a formal access would prevent erosion and would protect the shoreline from informal access that would otherwise cause erosion to the shoreline.
 - 52.2 The proposed project includes planting of native vegetation and revegetation to mitigate for any disturbed areas.

- 52.3 The proposed development would not have a substantial impact on the resources and ecology of the shoreline.
- 53. The project is consistent with CCSMP Section 29.4.1(E) in the following respects:
 - 53.1 The project is located on privately-owned property, with no public shoreline access.
 - 53.2 The project will not impact public access to the shoreline.
- 54. The project is consistent with CCSMP Section 29.4.1(F) in the following respects:
 - 54.1 The subject property is under private ownership with no public access.
 - 54.2 The project would not affect public recreational opportunities, as the property is privately owned.
- 55. The project is consistent with CCSMP Section 29.4.2 in the following respects:
 - 55.1 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.
- 56. The project is consistent with Chelan County Variance Code Section 11.95.030(1)(A) in the following respects:
 - 56.1 Other residential waterfront properties are developed with trails and stairways to access the shoreline on steep property. The approval of this project would not grant special privilege not enjoyed by others due to the steep slopes of the shoreline.
 - 56.2 The applicant's project is similar to the residential development on the surrounding properties. The variance is necessary to preserve a right substantially possessed by owners within the same areas and does not grant special privilege.
- 57. The project is consistent with Chelan County Variance Code Section 11.95.030(1)(B) in the following respects:
 - 57.1 The plight of the applicant is specifically related to the physical characteristics of the land, namely the steep and rocky topography, which is outside the applicant's control. The steep and rocky slopes make accessing the shoreline unsafe without the aid of a stairway and associated landing.
 - 57.2 The variance request is based on the steep and rocky topography of the property, outside the control of the property owner.
- 58. The project is consistent with Chelan County Variance Code Section 11.95.030(1)(C) in the following respects:
 - 58.1 The hardship is the result of existing steep and rocky topography, the applicant has no control over these elements nor was the hardship caused by the actions of the applicant.
 - 58.2 The hardship asserted by the applicant is the result of steep and rocky topography, not the owner's action.
- 59. The project is consistent with Chelan County Variance Code Section 11.95.030(1)(D) in the following respects:
 - 59.1 The proposal is for construction of a stairway and associated landing on private property for private use, within a residential subdivision.
 - 59.2 The authorization of these variances would not be materially detrimental to the purposes of Title 11 and the comprehensive plan.

- 59.3 Lake Chelan, a shoreline of statewide significance, is identified as a critical area by Chelan County. Goal CL 1 of the Chelan County Comprehensive Plan, resource Element, Section VI, states: Identify and protect critical areas from adverse environmental impacts while providing for reasonable use of private property.
- 59.4 The proposal satisfies the objectives of the comprehensive plan for the RW zone and critical areas. The proposal, as conditioned, will not be materially detrimental to the public welfare and safety or injurious to property in the neighborhood.
- 60. The project is consistent with Chelan County Variance Code Section 11.95.030(1)(E) in the following respects:
 - 60.1 The hardship asserted by the application is that the riparian buffer applied to the property by Title 11 causes a hardship which prevents this project from being completed
 - 60.2 Chapter 11.78 of the County Code prohibits any “development” within the buffers on the subject properties. Development is defined as: the construction or exterior alteration of a structure or structures, dredging, drilling, dumping, filling removal of natural resources or vegetation, placing of obstructions, any project of a permanent nature or changes in the use of land or preparation for the change of use of land except as allowed by the provisions of this title.
 - 60.3 The hardship results from Title 11.78 as shown above, because the construction of a stairway and its associated landings are defined as development.
 - 60.4 The hardship is a result of the application of CCC, Chapter 11.16, CCC, Chapter 11.78 and the Chelan County Shoreline Master Program to the subject property.
- 61. The project is consistent with Chelan County Variance Code Section 11.95.030(2) in the following respects:
 - 61.1 The variance request is not related to Chapter 11.80.
 - 61.2 That criterion does not apply.
- 62. The project is consistent with Chelan County Variance Code Section 11.95.030(3)(A) in the following respects:
 - 62.1 The variance request is based on the topography of the lot legally created.
 - 62.2 The variance request is not based on illegal or nonconforming circumstances.
- 63. The project is consistent with Chelan County Variance Code Section 11.95.030(3)(B) in the following respects:
 - 63.1 The proposed development will have no economic return and this project holds no bearing on the future residential structure to be located on the property.
 - 63.2 The variance request is not based upon lack of reasonable economic return or a claim that the structure is too small.
- 64. The project is consistent with Chelan County Variance Code Section 11.95.030(3)(C) in the following respects:
 - 64.1 The proposal is not based on the fact that the condition for which the variance is requested, existed at the time the applicant acquired the property, rather it is based on the fact that the condition currently exists. The use of the property recreationally is not practical without the granting of variances due to the steep nature of the property.
 - 64.2 The lot was legally created as a residential lot in 1913, prior to the county’s adoption of zoning code, critical areas regulations and the shoreline Master Program.

65. The project is consistent with Chelan County Variance Code Section 11.95.030(3)(D) in the following respects:
 - 65.1 The proposal would not result in any changes to the requirements of the RW zone or change density.
 - 65.2 This criterion does not apply.
66. The project is consistent with Chelan County Variance Code Section 11.95.030(3)(E) in the following respects:
 - 66.1 The proposed variance does not affect density.
 - 66.2 This criterion does not apply.
67. The project is consistent with CCSMP Section 29.2.1 in the following respects:
 - 67.1 The proposed project is requesting to vary the requirements of CCSMP that restricts development to stay behind the common line setback. In order to safely access the proposed pier on the steep property, an access stairway and its associated landings are necessary.
68. The project is consistent with CCSMP Section 29.2.2 (A) in the following respects:
 - 68.1 The application of the common line setback in the CCSMP limits the construction of the proposed access stairway and its associated landing to 20 feet from OHWM. As a result of the very steep slopes of the property, a stairway is necessary in order to be able to safely access the shoreline for recreational uses. The strict application of the CCSMP would hinder the reasonable permitted use of the property for the development of the stairway.
 - 68.2 The applicant is requesting to construct a stairway within the common line setback to access the shoreline. Due to the steep slope of the property a stairway is necessary to access and enjoy the proposed pier.
69. The project is consistent with CCSMP Section 29.2.2 (B) in the following respects:
 - 69.1 The difficulty of the applicant is specifically the result to the physical characteristics of the land of the subject property due to steep slope. The steep slopes makes accessing the shoreline and proposed pier unsafe without the aid of the stairway and the associated landing.
 - 69.2 The hardship results from the topography of the property and the proximity to the shoreline.
70. The project is consistent with CCSMP Section 29.2.2 (C) in the following respects:
 - 70.1 The shoreline environment designation is rural, which permits residential uses and structures. The proposed project would be compatible with other permitted activities in the area including docks/piers, residences and recreational uses of the surrounding properties.
 - 70.2 The applicant has proposed mitigation planting plan to enhance the impacted area. The plan includes native vegetation for a proposed 104 square feet adjacent to the OHWM of the lake.
 - 70.3 The proposed stairway is compatible with the uses and structures in the vicinity and within the rural shoreline jurisdiction.
71. The project is consistent with CCSMP Section 29.2.2 (D) in the following respects:
 - 71.1 Approval of the project would not constitute a grant of special privilege not enjoyed by other properties in the area. Residential waterfront properties in the area are developed with stairs and trails/access to the shoreline on steep property. Dimensions of the stairway and associated landing would be necessary in order to be safe and comply with International Building Code.

- 71.1 The proposed variance request would not grant a special privilege as properties along this section of the shoreline have stairways and associated landings.
- 72. The project is consistent with CCSMP Section 29.2.2 (E) in the following respects:
 - 72.1 The proposed stairway and associated landing would be constructed on private property.
 - 72.2 The proposed development is for private use, on private property. The public interest would not suffer substantial detrimental effect.
- 73. The project is consistent with CCSMP Section 29.2.2 (F) in the following respects:
 - 73.1 The proposed residence is located landward of the OHWM, on private property.
 - 73.2 The proposal would not impact the rights of navigation or adversely affect the use of the shoreline.
- 74. The project is consistent with CCC Section 11.78.230(2)(A) in the following respects:
 - 74.1 The applicant is proposing a mitigation planting area along the lake shore. The mitigation would be accomplished by planting adjacent to the OHWM of the lake, for a total of 104 square feet of mitigation. All proposed plants would be planted adjacent to the OHWM of the lake so that they provide shading over the water providing quality habitat functions and values.
 - 74.2 The project would not result in significant impacts to fish and wildlife.
- 75. The project is consistent with CCC Section 11.78.230(2)(B) in the following respects:
 - 75.1 There is no other suitable and safe location to build the stairway on the property, as the location was chosen because the slope leading to the shoreline and the fact that it is the most direct, least disturbing way to access the shoreline.
 - 75.2 The proposed use and location, would not substantially impact the critical areas. The proposed stairway and associated landing site is the most reasonable location to build with minimal impacts.
- 76. The project is consistent with CCC Section 11.78.230(2)(C) in the following respects:
 - 76.1 The project has been designed so that there are no impacts to fish and wildlife habitat. Any perceived impacts fish and wildlife habitat would be mitigated by the voluntarily proposed mitigation planting area which would greatly increase the riparian vegetation adjacent to the lake.
 - 76.2 The project has been designed to have minimal impacts to fish and wildlife habitat.
- 77. The subject property is located in a developed area of Lake Chelan. Surrounding properties include small lots developed with single family residences and their accessory uses, including seawalls, piers, boatlifts and buoys.
- 78. The applicant and owner should be aware that additional zoning and critical area review shall be completed at the time of building permit submittal and may result in additional conditions.
- 79. 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 proposed conditions of approval.
- 80. An open record public hearing after legal notice was provided was held on August 7, 2019.

81. 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.
82. Appearing and testifying on behalf of the applicant was Anne Hessburg. Ms. Hessburg testified that she was an agent authorized to appear and speak on behalf of the applicant. Ms. Hessburg indicated that the applicant concurred with the staff report findings and conclusions and that the applicant had no objection to any of the proposed conditions of approval.
83. No member of the public testified at the hearing.
84. The Chelan County Hearing Examiner considered all evidence within the record in rendering this decision.
85. 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 Rural Waterfront (RW) 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 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.
7. The project is not located on a public beach, nor does it block or reduce public use or enjoyment of the area.
8. Subject to the Conditions of Approval, the project design is consistent with the Chelan County Shoreline Master Program requirements.
9. 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, Shoreline Conditional Use Permit, Shoreline Variance and Riparian Variance is 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, Shoreline Conditional Use Permit, Shoreline Variance and Riparian Variance 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, SHORELINE CONDITIONAL USE PERMIT, SHORELINE VARIANCE AND RIPARIAN VARIANCE 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 9th day of August, 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 substantial development permit, shoreline conditional use permit and 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:
