

# SHORELINE MANAGEMENT PERMIT

## ACTION SHEET

RECEIVED

AUG 26 2019

CHELAN COUNTY  
COMMUNITY DEVELOPMENT

**Application #:** SDP 2019-004 SCUP 2019-004

**Administering Agency** Chelan County Department of Community Development

**Type of Permits:**

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

**Action:**

☒ Approved ☐ Denied

**Date of Action:** August 22, 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:

Scott & Debra Waldal  
PO Box 25  
Arlington, WA 98223

Applications for a shoreline substantial development permit and shoreline conditional use permit were submitted for the installation of a 125 sq. ft. boatlift and two 48 sq. ft. watercraft lifts on Lake Chelan; one double watercraft lift may be substituted entailing 125 sq. ft. The boatlift is to be installed on the down-lake side of the existing 320 sq. ft. 'L' shaped pier. The proposed lifts will be open in nature, consisting of open steel framing. The project will entail approximately 250 sq. ft. in new overwater coverage; 125 sq. ft. of compensatory native planting is proposed in order to mitigate any potential impacts associated with construction. The proposed applications are to remedy an active code violation for construction without the proper shoreline permits and building without a building permit.

Upon the following property: 140 Brimstone Ln., Chelan, WA 98816.

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). 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. Prior to the issuance of the building permit for the watercraft lifts, a final placement inspection shall be conducted and passed for the existing dock, permitted via Chelan County Building Permit, BP 160234.
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, received February 27, 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/owners are Scott & Debra Waldal, PO Box 25, Arlington, WA 98223.
2. The agent is Ryan Walker, Grette Associates, LLC., 151 S Worthen Street, Suite 101, Wenatchee, WA 98801.
3. The project location is 140 Brimstone Ln., Chelan, WA 98816.
4. The parcel number for the subject property is 27-22-11-675-129.
5. The property is legally described as Parcel C of BLA 2003-115 recorded January 8, 2004 under AFN: 2164709.
6. The lot size is 1.44 acres.
7. The subject site is located within the City of Chelan's Urban Growth Area.

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8. The Comprehensive Plan designation and zoning is Special Use District (SUD).
9. As stated in the JARPA, questions 5(m) and 5(o), the property is currently in undeveloped residential and recreational use. There is an existing single use pier on the property
10. The property contains a residence with an attached garage, pole building, retaining walls, seawall, two piers, and two boatlifts.
11. The following are known permits/files on record with Chelan County Community Development:
  - 11.1 SDP 2010-019/SCUP 2010-020—Construction of a 320 sq. ft. single use pier, boatlift, two personal water craft (PWC) lifts, two mooring buoys, and one graveled access path
  - 11.2 BP 160234—320 sq. ft. pier with boatlift (expired 11/03/2016).
    - 11.2.1 As indicated in the County's records, the above building permit did not receive a final inspection. Based on a conversation with the County Building Official, David Spencer, it was agreed upon that a final placement inspection will be a condition of the building permit for the proposed watercraft lifts. Therefore, staff is recommending as a Condition of Approval, that the existing permit receive a final placement inspection.
  - 11.3 BP 160336—double PWC lift and two mooring buoys (expired 12/14/2016)
    - 11.3.1 This project is a re-submittal of the expired SDP 2010-019/SCUP 2010-020 for the boatlift and PWC lifts
12. As stated in the JARPA, question 5(l), the property consists of steep terrain leading down to the OHWM. The upland of the property is rocky and is vegetated with native shrub-steppe species. Below the OHWM, habitat consists of moderately sloping, unvegetated cobble. Habitat is limited on site due to the rocky nature of the shoreline, the narrow lot size, and the close proximity to the adjacent residential properties.
13. The property to the north of the subject property is the City of Chelan.
14. The property to the south of the subject property is Lake Chelan, a 'rural' shoreline environment designation.
15. The property to the east of the subject property is the City of Chelan.
16. The property to west of the subject property is in residential and recreational use and is zoned R-1.
17. 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 May 6, 2019. The SEPA Checklist and DNS are included within the file of record and adopted by reference.
18. The Comprehensive Plan has been reviewed. Specifically the goals and policies related to critical areas and shorelines, for consistency with the proposed recreational use
19. According to the Washington State Department of Fish and Wildlife, Priority Habitat and Species Maps, the subject site does not contain any priority habitat species.
20. According to the Federal Emergency Management Agency, FIRM panel # 5300150075B, there is no floodplain on the subject site. Lake Chelan is a controlled reservoir
21. According to the Chelan County GIS mapping, the site is not located within an identified geologically hazardous area. Chelan County Code Chapter 11.86, Geologically Hazardous Overlay District, does not apply to the project

22. According to the Washington State Department of Natural Resource Maps, the site does not contain any known streams.
23. According to the National Wetlands Inventory Map prepared by the US Department of Fish and Wildlife Services, the subject site does not contain wetlands.
24. Construction will begin upon receipt of all permits; and end approximately one month from start date.
25. Access is provided by a 40 ft. access easement (Brimstone Lane) off of a 60 ft. access easement (Paradise Way) created by Declaration Regarding Roads under AFN: 2172162 and as shown on survey AFN: 2172160.
26. The noise impacts will be Similar to other residential and recreational uses; Construction noise during installation of the new watercraft lift. The project is required to comply with Chelan County Code Chapter 7.35, Noise Control.
27. Minor visual impacts will be from the water and surrounding properties. Adjacent properties include piers with boatlift and stairs to the lake, so visual impacts will be similar to what currently exists in the area.
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 March 26, 2019, with comments due May 2, 2019. The following agencies responded:
  - 28.1 Chelan County PUD responded on December 11, 2018.
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 Ecology
  - 29.4 WA State Department of Fish & Wildlife
  - 29.5 US Department of Fish & Wildlife
  - 29.6 US Army Corps of Engineers
  - 29.7 Department of Archaeology & Historic Preservation
  - 29.8 Yakama Nation
  - 29.9 Confederated Tribes of the Colville Reservation
  - 29.10 Chelan County Natural Resources
30. No public comments were received.
31. The application materials were submitted on February 27, 2019.
32. A Determination of Completeness was issued on March 21, 2019.
33. The Notice of Application was provided on March 26, 2019.
34. The Notice of Public Hearing was provided on August 9, 2019.
35. The Hearing Examiner finds that the project, as conditioned, is consistent with the Comprehensive Plan.

36. The proposed boatlift and PWC lifts are water-dependent uses and "Shoreline Works and Structures." This use is 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 to blend with the surroundings and not detract from the aesthetic qualities of the shoreline
  - 38.3 Where SWS can be located near existing SWS and still serve the desired purpose, such 8 shall be encouraged rather than installation in previously unbuilt areas.
  - 38.4 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. 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.
40. The project is consistent with Chelan County Shoreline Master Program (CCSMP) 29.1(C) in the following respects:
  - 40.1 The provisions of the SMA and WAC have been met through the adoption of the CCSMP. The appropriate CCSMP requirements are addressed below.
  - 40.2 According to JARPA, question 6(g), the fair market value of the project is approximately \$15,000. The project is not exempt from the substantial development permit requirement.
  - 40.3 The CCSMP does not address boatlifts or PWC lifts; therefore, the provisions for a Conditional Use Permit apply.
  - 40.4 The project is consistent with the provisions of the SMA, WAC and CCSMP.
41. The project is consistent with Chelan County Shoreline Master Program (CCSMP) 29.3.2(A) in the following respects:
  - 41.1 The applicant is requesting to install a new 10 ft. x 12.5 ft. (125 sq. ft.) boatlift adjacent to an existing pier. The PWC lifts would each have a maximum footprint of approximately 6 ft. x 8 ft. for a total of approximately 96 sq. ft.
  - 41.2 The proposed lifts are not addressed in the CCSMP and therefore requires review under a Shoreline Conditional Use Permit.
  - 41.3 The policies of the CCSMP and SMA provide for recreational use of the shoreline.
  - 41.4 The proposed development is consistent with the CCSMP as a recreational use
42. The project is consistent with Chelan County Shoreline Master Program (CCSMP) 29.3.2(B) in the following respects:
  - 42.1 The boatlift is to be installed on the downlake side of the L-shaped pier and approximately 26 ft. waterward of the OHWM to a water depth of approximately 11 ft. The PWC lifts would be 20 ft. and 24 ft. waterward to the OHWM to water depth of approximately 8 ft. and 9 ft.



- 42.2 According to recorded Warranty Deed recorded September 15, 2004, the parcel is subject to any change in the boundary of the land due to a shift or change in the course of the Lake Chelan; therefore, the property ownership extends to the 1,079 foot lake elevation level.
- 42.3 As identified on the site plan of record, all proposed development is located on private property.
- 42.4 This section of the lake is over one mile wide (according to Chelan County's GIS measurements), providing room for public use and navigation.
- 42.5 The proposed development is located on private property and will not interfere with public shorelines.
- 43. The project is consistent with Chelan County Shoreline Master Program (CCSMP) 29.3.2(C) in the following respects:
  - 43.1 Watercraft lifts along with other in-water structures are common along the Lake Chelan shoreline. This section of the lake is highly developed and subdivided for residential and recreational use of the shoreline. Properties within this reach of the shoreline contain docks, boatlifts and other in-water structures.
  - 43.2 The proposed development would be compatible with the surrounding land uses in the area.
- 44. The project is consistent with Chelan County Shoreline Master Program (CCSMP) 29.3.2(D) in the following respects:
  - 44.1 The shoreline designation is 'rural.' The 'rural' designation permits high intensity residential and recreational uses and development with appropriate permits
  - 44.2 The proposed development would be consistent with the 'rural' shoreline designation and would cause no unreasonable adverse effects to the shoreline environment designation.
- 45. The project is consistent with Chelan County Shoreline Master Program (CCSMP) 29.3.2(E) in the following respects:
  - 45.1 The proposed boatlift and PWC lifts are to be located on private property, as indicated on the site plan of record, and will be for private use by the property owner.
  - 45.2 The proposed development would be for private use, on private property. The public interest would not suffer substantial detrimental effect.
- 46. The project is consistent with Chelan County Shoreline Master Program (CCSMP) 29.3.4 in the following respects:
  - 46.1 The Shoreline Master Program allows for recreational use of private property. The CCSMP does not address boatlifts or PWC lifts.
  - 46.2 The cumulative impacts of watercraft lifts would be minimal and remain consistent with the policies of the Shoreline Management Act.
- 47. The project is consistent with Chelan County Shoreline Master Program (CCSMP) 29.4.1(A) in the following respects:
  - 47.1 The project area will be located on private property, in the vicinity of other properties with similar recreational in-water structures.
  - 47.2 The installation of a boatlift and PWC lifts, would not affect statewide nor local interests.

48. The project is consistent with Chelan County Shoreline Master Program (CCSMP) 29.4.1(B) in the following respects:
- 48.1 This section of Lake Chelan carries a 'rural' shoreline designation, which allows for high intensity residential and recreational uses. This section of the lake is highly developed with residences and in-water structures.
  - 48.2 With the proposed development, 125 sq. ft. of compensatory native vegetation will be planted as a way to mitigate any potential impacts that may be associated with construction of the watercraft lifts.
  - 48.3 The proposed project would not impact the natural character of the shoreline.
49. The project is consistent with Chelan County Shoreline Master Program (CCSMP) 29.4.1(C) in the following respects:
- 49.1 The proposed development will enhance the recreational use of the subject property.
  - 49.2 The proposed installation of a boatlift and PWC lifts would be a long term benefit to the property by enhancing the recreational use.
50. The project is consistent with Chelan County Shoreline Master Program (CCSMP) 29.4.1(D) in the following respects:
- 50.1 The proposed watercraft lifts will be located waterward of the OHWM. Habitat below OHWM consists of moderately sloping, unvegetated cobble. Habitat waterward of the OHWM is limited due to the rocky nature of the shoreline; the proposed mitigation would be an added benefit for the ecological function of the shoreline.
  - 50.2 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.
  - 50.3 The proposed development would not have a substantial impact on the resources and ecology of the shoreline.
51. The project is consistent with Chelan County Shoreline Master Program (CCSMP) 29.4.1(E) in the following respects:
- 51.1 The project is located on privately-owned property, with no public shoreline access
  - 51.2 The project would not impact public access to the shoreline.
52. The project is consistent with Chelan County Shoreline Master Program (CCSMP) 29.4.1(F) in the following respects:
- 52.1 The subject property is under private ownership with no public access.
  - 52.2 The project would not affect public recreational opportunities, as the property is privately owned.
53. The project is consistent with Chelan County Shoreline Master Program (CCSMP) 29.4.2 in the following respects:
- 53.1 Based on the above findings and conclusions, staff finds the project to be consistent with the intent and spirit of the principles outlined above
54. This project is for a resubmittal of a previously approved Shoreline Substantial Development Permit and Shoreline Conditional Use Permit for a dock, boatlift, PWC lifts, and mooring buoys. The shoreline permits have since expired before the watercraft lifts could be constructed. The dock however was legally established prior to the expiration of the shoreline permits. It should be noted

that typically the Special Use District (SUD) zoning within the City of Chelan Urban Growth Area, does not allow for accessory structures to be placed prior to a primary residence. However, because the dock is existing via the proper shoreline permits and issued building permit, the addition of the watercraft lifts was seen as acceptable being as they were already approved by the previous shoreline permits but were just not constructed within the allotted time frame.

55. The project is located in a highly developed section of Lake Chelan. Properties in this area include in-water structures for residential and recreational use of the shoreline, including piers, boatlifts, stairs and buoys. Due to the existing development on and adjacent to the property, the proposed boatlift and PWC lifts will have minimal impacts to the shoreline environment and will be compatible with the surrounding land uses.
56. 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, City of Chelan Comprehensive Plan, and the City of Chelan Municipal Code, staff recommended **APPROVAL** subject to the proposed conditions of approval.
57. An open record public hearing after legal notice was provided was held on August 21, 2019.
58. 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.
59. Appearing and testifying on behalf of the applicant was Ryan Walker. Mr. Walker testified that he was an agent authorized to appear and speak on behalf of the applicant. Mr. Walker indicated that the applicant concurred with the staff report findings and conclusions. The applicant had no objection to any of the proposed conditions of approval.
60. No member of the public testified at this hearing.
61. The Chelan County Hearing Examiner considered all evidence within the record in rendering this decision.
62. 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 Special Use District 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 Shoreline Conditional Use Permit 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 may be rescinded pursuant to RCW 90.58.140(7) in the event the permittee fails to comply with the terms and conditions hereof.

**CONSTRUCTION PURSUANT TO THIS SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT AND SHORELINE CONDITIONAL USE PERMIT SHALL NOT BEGIN NOR IS AUTHORIZED UNTIL TWENTY-ONE (21) DAYS FROM THE DATE OF FILING AS DEFINED IN RCW 90.58.140(6) AND WAC 173-14-090, OR UNTIL ALL REVIEW PROCEEDINGS INITIATED WITHIN TWENTY-ONE (21) DAYS FROM THE DATE OF SUCH FILING HAVE TERMINATED; EXCEPT AS PROVIDED IN RCW 90.58.140(5)(a)(b)(c).**

Substantial progress toward construction of the project for which this permit has been granted must be accomplished within two (2) years of the filing date of this permit. Authorization to conduct development activities granted by this permit shall terminate five (5) years from the filing date of this permit.

Approved this 22<sup>nd</sup> 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 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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