

**SHORELINE MANAGEMENT PERMIT  
ACTION SHEET**

**Application #:** SDP 2018-377 SCUP 2018-378

**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:** February 15, 2019

**Date Mailed to DOE/AG**

**RECEIVED**

**FEB 20 2019**

**CHELAN COUNTY  
COMMUNITY DEVELOPMENT**

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

**James Griess  
2306 263rd St., Ct. E  
Spanaway, WA 98287**

To undertake the following development: Application for a shoreline substantial development permit and shoreline conditional use permit for replacement of an existing seawall, installation of a new stair structure and new 10 ft. x 12.5 ft. boatlift adjacent to an existing pier on Lake Chelan. Approximately 126 linear feet of the existing tiered seawall, stairs and apron (approx. 73.5 cu yards of concrete) will be removed from the lakebed. The new wall will be the same length and location as the original; however it will be smaller in width, resulting in a reduction of concrete in the lake. The new seawall will be a total of 32.5 cu yards of concrete; a net difference of 41 cu yards of concrete removed from the lake. The new stairs will be an aluminum frame with handrails and grated treads, and will extend approx. 9 feet from the seawall, with a width of approx. 5 feet. The stairs will rest on a 5 ft. x 4 ft. x 0.5 ft. concrete landing. The boatlift will be installed on the uplake side of the existing pier, approximately 33 feet waterward of the OHWM, at a water depth of approx. 7 to 9.5 feet.

Upon the following property: 4284 US 97A, 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 an urban 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.
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 November 6, 2018, 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 James Griess, 2306 263rd St., Ct. E., Spanaway, WA 98287.
2. The agent is Anne Hessburg, Grette Associates, LLC., 151 S Worthen Street, Suite 101, Wenatchee, WA 98801.
3. The project location is 4284 US 97A., Chelan, WA 98816..
4. The parcel number for the subject property is 27-22-16-770-025.
5. The proposed development is located within the City of Chelan's Urban Growth Area.
6. The Comprehensive Plan designation and zoning for the subject property is Single-Family Residential (R-1).
7. As stated in the JARPA, questions 5(m) and 5(o), the property is currently in residential and recreational use. There is an existing mobile home with deck, concrete seawall with stairs in the lake, and a single use pier.
8. Previous permits issued to the property include the following:
  - 8.1 BP 800428—Mobile home
  - 8.2 SE 2001-012—Construction of L-shaped pier

9. The existing pier was reviewed as a Shoreline Exemption per WAC 173-27-040(2)(h) as it did not exceed the fair market value of \$10,000. Staff could not find record of a building permit for the placement of the exempt pier. Therefore it cannot be determined as legally established.
10. As stated in the JARPA, question 5(l), the property consists of a gently sloping upland leading to a concrete seawall located at the OHWM. The seawall has concrete steps that span the entire property; these steps lead into the lake. Much of the property is in lawn grass with some landscape trees along the side property line. The property is developed with a residence and attached deck. There is a low level of fish and wildlife habitat due to the size of the lot and historic residential development. Below OHWM habitat consists of moderately sloping, un-vegetated cobble and sand.
11. The property to the north of the subject property is Lake Chelan.
12. The property to the south of the subject property is US 97A, a public right-of-way.
13. The property to the east of the subject property is R-1 zoning and is in residential/recreational use.
14. The property to west of the subject property is R-1 zoning and is in residential/recreational use.
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 Determination of Non-Significance (DNS) was issued on January 16, 2019. The SEPA Checklist and DNS 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 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.
17. 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.
18. According to the Federal Emergency Management Agency, FIRM panel # 5300150225A, there is no floodplain on the subject parcel; Lake Chelan is a controlled reservoir.
19. According to the Chelan County GIS mapping, the property is not located within an identified geologically hazardous area. CCC Chapter 11.86, Geologically Hazardous Overlay District, does not apply to the project.
20. According to the Washington State Department of Natural Resource Maps, the site does not contain any known streams.
21. According to the National Wetlands Inventory Map prepared by the US Department of Fish and Wildlife Services, the subject site 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 week from the start date.
24. Access is provided by a 20-foot wide road easement off US 97A, according to Pell Mell Park Plat (AFN: 642143) & SP 2049 (AFN: 9009050059).
25. Noise will be similar to other residential and recreational uses. Construction noise will occur during installation of the new watercraft lift. 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. Properties in the vicinity include piers with boatlifts and stairs to the lake, 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' (excluding 60' of right-of-way), jurisdictional agencies and departments of the County. These agencies and surrounding property owners were notified on December 4, 2018 with comments due January 10, 2019. The following is a list of Agencies who received notice and the date comments were received:
  - 27.1 Chelan County PUD responded on December 11, 2018
28. The following agencies were notified but did not respond:
  - 28.1 Chelan County Building Official
  - 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 City of Chelan
  - 28.8 WA department of Transportation
  - 28.9 Department of Archaeology & Historic Preservation
  - 28.10 Yakama Nation
  - 28.11 Confederated Tribes of the Colville Reservation
29. No public comments were received.
30. The application materials were submitted on November 6, 2018.
31. A Determination of Completeness was issued on November 28, 2018
32. The Notice of Application was provided December 4, 2018.
33. The Notice of Public Hearing was provided February 1, 2019.
34. A Shoreline Exemption was granted for the seawall pursuant to WAC 173-27-040(2)(b) in the following respects:
  - 34.1 The replacement of the concrete seawall would be the same length and location as the original seawall. However, it would be much smaller in width resulting in a reduction of concrete in the lake. The failing wall is resulting in erosion and concrete fragments falling in Lake Chelan.
  - 34.2 The seawall repair through replacement will not cause new substantial adverse effects to shoreline resources or environment. The repair of the seawall through replacement qualifies for an exemption per WAC 173-27-040.
35. The project is consistent with City of Chelan Section 17.20 in the following respects:
  - 35.1 Boatlift and stairs are not listed uses in the R-1 zoning district. However "accessory buildings" are permitted within this zone. An accessory building is defined as a subordinate structure, the use of which is incidental to the use of the main building on the same lot.
  - 35.2 The property contains a single family residence as the primary use. A boatlift and stair structure is an accessory use to the primary residential use of the property.
  - 35.3 The proposed boatlift and stair structure are permitted as accessory uses/structures.

- 35.4 The R-1 zoning district requires a 5 foot setback from side property lines.
- 35.5 According to the site plan of record, date stamped November 6, 2018, the proposed boatlift will be located 13 feet from west property line and 92 feet from the east property line. The proposed stairs structure is located more than 5 feet from the side property lines.
- 35.6 The proposed boatlift and stairs structure meet the setbacks from side property lines.
- 36. The project is consistent with Chelan County Shoreline Master Program (CCSMP) Section 29.1 in the following respects:
  - 36.1 The provisions of the SMA and WAC have been met through the adoption of the CCSMP. The appropriate CCSMP requirements are addressed below.
  - 36.2 According to JARPA, question 6(g), the fair market value of the project is approximately \$80,000. The project is not exempt from the substantial development permit requirement.
  - 36.3 The CCSMP does not address boatlifts. Therefore, the provisions for a Conditional Use Permit apply.
  - 36.4 The project is consistent with the provisions of the SMA, WAC and CCSMP.
- 37. The project is consistent with CCSMP Section 29.3.2 (a) in the following respects:
  - 37.1 The applicant is requesting to install a new 10 ft. x 12.5 ft. (125 sq. ft.) boatlift adjacent to an existing pier.
  - 37.2 The proposed boatlift is not addressed in the CCSMP and therefore requires review under a Shoreline Conditional Use Permit.
  - 37.3 The policies of the CCSMP and SMA provide for recreational use of the shoreline.
  - 37.4 The proposed development is consistent with the CCSMP as a recreational use.
- 38. The project is consistent with CCSMP Section 29.3.2 (b) in the following respects:
  - 38.1 The boatlift will be placed approximately 33 feet waterward of OHWM, at a water depth of approximately 5 to 9.5 feet.
  - 38.2 According to recorded Fulfillment Deed recorded March 4, 2005, 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.
  - 38.3 As identified on the site plan of record, all proposed development is located on private property.
  - 38.4 This section of the lake is over one mile wide (according to Chelan County's GIS measurements), providing room for public use and navigation.
  - 38.5 The proposed use/development is located on private property and will not interfere with public shorelines.
- 39. The project is consistent with CCSMP Section 29.3.2 (c) in the following respects:
  - 39.1 Boatlifts and stair structures 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.
  - 39.2 The proposed development is compatible with the surrounding land uses in the area.
- 40. The project is consistent with CCSMP Section 29.3.2 (d) in the following respects:

- 40.1 The shoreline designation is 'urban.' The 'urban' designation permits high intensity residential and recreational uses and development with appropriate permits. The proposed conditional use is for the placement a10ft. x 12.5ft. (125 sq. ft.) boatlift.
- 40.2 The proposed development is consistent with the 'urban' shoreline designation and will cause no unreasonable adverse effects to the shoreline environment designation.
- 41. The project is consistent with CCSMP Section 29.3.2 (e) in the following respects:
  - 41.1 The proposed boatlift will be located on private property, as indicated on the site plan of record, and will be for private use of the property owner.
  - 41.2 The proposed development is for private use, on private property. The public interest will not suffer substantial detrimental effect.
- 42. The project is consistent with CCSMP Section 29.3.4 in the following respects:
  - 42.1 The Shoreline Master Program allows for recreational use of private property. The CCSMP does not address boatlifts.
  - 42.2 The cumulative impacts of boatlifts are minimal and remain consistent with the policies of the Shoreline Management Act.
- 43. The project is consistent with CCSMP Section 29.4.1 (a) in the following respects:
  - 43.1 The project area will be located on private property, in the vicinity of other properties with similar recreational in-water structures.
  - 43.2 The installation of a boatlift, seawall, and stair structure, will not affect statewide nor local interests.
- 44. The project is consistent with CCSMP Section 29.4.1 (b) in the following respects:
  - 44.1 This section of Lake Chelan carries an 'urban' shoreline designation, which allows for high intensity residential and recreational uses. This section of the lake is highly developed with residences, lawn grass and in-water structures.
  - 44.2 The subject property is developed with lawngrass, a tiered seawall with stairs, single use pier and single-family residence.
  - 44.3 There will be a reduction of concrete in the lake with the proposed seawall removal/replacement.
  - 44.4 The proposed project will not impact the natural character of the shoreline.
- 45. The project is consistent with CCSMP Section 29.4.1 (c) in the following respects:
  - 45.1 The proposed development will enhance the recreational use of the subject property. With the replacement of the seawall, approximately 41 cu yards of concrete will be removed from the lake. The reduction of concrete in Lake Chelan will result in a long term benefit.
  - 45.2 The proposed installation of a boatlift, seawall, and stairs structure will be a long term benefit to the property by enhancing the recreational use of the property.
- 46. The project is consistent with CCSMP Section 29.4.1 (d) in the following respects:
  - 46.1 The proposed boatlift will be located waterward of the OHWM. Habitat below OHWM consists of un-vegetated cobble and sand.
  - 46.2 The proposed development will have less of an impact due to the removal of 41cu yards of concrete from the lake. Additionally, the proposed stair structure will allow for water to

- free flow under and over the structure; no harmful substances will be used on the new structure.
- 46.3 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.
- 46.4 The proposed development will not have a substantial impact on the resources and ecology of the shoreline.
47. The project is consistent with CCSMP Section 29.4.1 (e) in the following respects:
- 47.1 The project is located on privately-owned property, with no public shoreline access.
- 47.2 The project will not impact public access to the shoreline.
48. The project is consistent with CCSMP Section 29.4.1 (f) in the following respects:
- 48.1 The subject property is under private ownership with no public access.
- 48.2 The project will not affect public recreational opportunities, as the property is privately owned.
49. The project is consistent with CCSMP Section 29.4.2 in the following respects:
- 49.1 Based on the above findings and conclusions, staff finds the project to be consistent with the intent and spirit of the principles outlined above.
50. The applicant is requesting to replace an existing seawall, install a new stair structure and install a new 10 ft. x 12.5 ft. boatlift adjacent to an existing pier on Lake Chelan. Approximately 126 linear feet of the existing tiered seawall, stairs and apron (approx. 73.5 cu yards of concrete) will be removed from the lakebed. The new wall will be the same length and location as the original; however it will be smaller in width, resulting in a reduction of concrete in the lake. The new seawall will be a total of 32.5 cu yards of concrete; a net difference of 41 cu yards of concrete will be removed from the lake. The new stairs will be an aluminum frame with handrails and grated treads, and will extend approx. 9 feet from the seawall, with a width of approx. 5 feet. The stairs will rest on a 5 ft. x 4 ft. x 0.5 ft. concrete landing. The boatlift will be installed on the uplake side of the existing pier, approximately 33 feet waterward of the OHWM, at a water depth of approx. 7 to 9.5 feet.
51. 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 will have minimal impacts to the shoreline environment and will be compatible with the surrounding land uses.
52. 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 recommended conditions of approval.
53. An open record public hearing after legal notice was provided was held on February 13, 2019.
54. 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.
55. 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. The applicant had no objection to any of the proposed conditions of approval.

56. No member of the public testified at this hearing.
57. The Chelan County Hearing Examiner considered all evidence within the record in rendering this decision.
58. 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 Single Family Residential (R-1) 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 and Shoreline Conditional Use 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 15<sup>th</sup> day of February, 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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