

# SHORELINE MANAGEMENT PERMIT

## ACTION SHEET

**RECEIVED**

**Application #:** SDP 2018-330  
SCUP 2018-331  
SV 2018-332

**JAN 09 2019**

**CHELAN COUNTY  
COMMUNITY DEVELOPMENT**

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

**Type of Permits:**

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

**Action:** ☒ Approved ☐ Denied

**Date of Action:** January 8, 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:

**Bruce & Kathleen Meyer**  
PO Box 96  
Chelan Falls, WA 98817

**Bergren Tree Fruits LLC**  
c/o Carnan Bergren  
PO Box 299  
Dryden, WA 98821

Application for a shoreline substantial development permit, shoreline conditional use permit and shoreline variance for a 160 square foot float addition to an existing 608 square foot joint-use dock and installation of a 125 square foot boatlift on the Columbia River. The new float will be installed 88 feet from the OHWM (on its landward side), and will be attached to the existing dock and anchored with one (1) 8-inch pile. The boatlift will be installed on the down river edge of the new float, at a water depth of approximately 11 feet below the OHWM. The project includes mitigation through a proposed native vegetation planting plan adjacent to the OHWM, including 305 sq ft of mitigation plantings. The applicant is seeking a variance from the dimensional standards for residential docks, in order to meet the requirements of USACE and NMFS on the Columbia River, which requires boats moored at the dock to be in at least 11 feet of water depth.

Upon the following property: 455 Rosemary Court, Chelan Falls, WA 98817 (subject property)  
525 Rosemary Court, Chelan Falls, WA 98817 (benefitted property)

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

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

**All conditions imposed herein shall be binding on the "Applicant," which terms shall include the owner or owners of the property, heirs, assigns and successors.**

## **CONDITIONS OF APPROVAL**

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 is 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 October 8, 2018, except as modified by this decision or other jurisdictional agencies.
3. Pursuant to Chelan County Shoreline Master Program Section 21.A.3.3, all docks shall include stops which serve to keep the floats off the bottom of the bedlands at low water levels.
4. Pursuant to Chelan County Shoreline Master Program Section 29.4.1(b) and (d), the applicant shall comply with the mitigation planting plan, date stamped October 8, 2018, except as modified by this decision or other jurisdictional agencies.
5. Pursuant to RCW 27.53.060, 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.

5.1. The applicant shall submit an Inadvertent Discovery Plan with the building permit application. A copy of the plan shall be kept on site for the duration of project.

6. 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.
7. 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.
8. 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.

9. Pursuant to Chelan County Shoreline Master Program Section 30.4.1(b), construction may begin and is authorized pursuant to an approved or conditionally approved conditional use permit or variance permit no earlier than thirty (30) days from the date of filing of the final decision with the Administrative Authority provided no appeals have been filed contesting the decision on the permit.

## **FINDINGS OF FACT**

1. The applicants are the property owners Bruce & Kathleen Meyer, PO Box 96, Chelan Falls, WA, 98817, and benefit property owner Bergren Tree Fruits LLC, c/o Carnan Bergren, PO Box 299, Dryden, WA 98821.
2. The agent is Grette Associates, LLC, Attn: Larry Lehman, 151 S. Worthen St., Suite 101, Wenatchee, WA 98801.
3. The project location is 455 Rosemary Ct., Chelan Falls, WA 98817 (subject property) and 525 Rosemary Ct., Chelan Falls, WA 98817 (benefitted property).
4. The parcel number 26-23-06-518-237 (subject property); 26-23-06-518-239 (benefitted property).
5. The subject property is legally described as Lot 3C as delineated on Reed Short Plat No. 2000-035, Chelan County, Washington, as recorded in Book SP18 of Short Plats, page 74.
6. The property is located in Chelan County, outside of an urban Growth Area.
7. The Comprehensive Plan designation and zoning is Rural Residential/Resource 2.5 (RR2.5).
8. As stated in the JARPA, questions 5(m) and 5(o), the subject property is currently used for recreational and residential purposes. There is a single-family residence and joint-use dock on the property.

The following permits have been issued to the property:

- 8.1 BP 070100, for a 3300 sq ft single-family residence
- 8.2 SDP 2018-298/SCUP 2018-299/SV 2018-300, for a joint use dock and one boatlift
- 8.3 BP 150721 for the 608 sq ft joint-use dock
- 8.4 SP 2017-216 (preliminary approval issued October 2, 2017)
9. As stated in the JARPA, question 5(l), the site is characterized by patches of native riparian and shrub-steppe vegetation mixed with patches of grasses and invasive species along a narrow strip near the river. Behind this narrow strip of vegetation the upland moderately slopes up away from the river and is entirely lawn grass on both properties.
10. The site size is 4.25 acres, per Chelan County Assessor's records.
11. The property to the north is in residential and recreational use and is zoned Rural Residential/Resource 2.5 (RR2.5).
12. The property to the south is in residential and recreational use and is zoned Rural Residential/Resource 2.5 (RR2.5).
13. The property to the east is the Columbia River.
14. The property to the west is Rosemary Court (50-foot county ROW), BNSF Railroad and is zoned Rural Residential/Resource 2.5 (RR2.5).
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 December 11, 2018. 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 Residential/Resource 2.5 (RR2.5) Comprehensive Plan designation were reviewed 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 contains mule deer, waterfowl concentrations and waters of the state, which are considered Class II Fish and Wildlife Habitat Conservation Areas. Therefore, CCC, Chapter 11.78 applies to the project. However, the proposed development consists of passive recreational activities, which is exempt from CCC Chapter 11.78 regulations per CCC 11.78.020(7).
18. According to the Federal Emergency Management Agency, FIRM panel # 5300150100B, there is floodplain on the subject parcel. The Chelan County PUD maintains flowage easements on the properties. The proposed pier is authorized within the floodplain and the PUD flowage easement (G-line) with appropriate permits/licenses. Furthermore, the Building Official does not require flood hazard review for in-water work and pier abutments.
19. According to the Chelan County GIS mapping, the property is not located within a geologically hazardous area. Therefore, the provisions of CCC Chapter 11.86 Geologically Hazardous Areas Overlay District do not apply.
20. According to the Washington State Department of Natural Resource Maps, the subject site does not contain any 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. Therefore, the provisions of CCC Chapter 11.80 Wetland Areas Overlay District do not apply.
22. There are no known cultural resources on the subject property. Pursuant to CCSMP Section 27 and RCW 27.53.060, developers shall notify local governments of any possible archaeological materials uncovered during excavation. Staff recommended submittal of an Inadvertent Discoveries Plan at the time of building permit submittal and be kept onsite for the duration of the project.
23. Construction will begin upon receipt of all permits and within designated in-water work windows and end approximately two weeks after the start date.
24. Access is provided by Rosemary Court, a 50-foot county road.
25. Noise will be similar to other residential and recreational uses. Construction noise is expected during installation of the new dock and boatlifts. 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. Because the project is for the installation of a float on an existing joint-use dock and one boatlift, and not an addition dock, visual impacts will be minimal.
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 November 2, 2018, with comments due December 9, 2018. The following is a list of Agencies who received notice and the date comments were received:

27.1 Chelan County PUD responded on November 7, 2018

28. The following agencies were notified but did not respond:
  - 28.1 Chelan County Fire Marshal
  - 28.2 Chelan County Building Official
  - 28.3 WA State Department of Natural Resources
  - 28.4 Department of Ecology
  - 28.5 WA State Department of Fish & Wildlife
  - 28.6 US Department of Fish & Wildlife
  - 28.7 US Army Corps of Engineers
  - 28.8 Chelan County Fire District #7
  - 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 was submitted on October 8, 2018.
31. A Determination of Completeness was issued on October 28, 2018.
32. The Notice of Application was provided on November 2, 2018.
33. The Notice of Public Hearing was provided on December 21, 2018.
34. The project is consistent with Chelan County Code (CCC) Section 11.04.020 in the following respects:
  - 34.1 A joint-use dock is a permitted use in the RR2.5 zoning district. A boatlift is considered an accessory use/structure. Accessory uses/structures are permitted in the RR2.5 zoning district.
  - 34.2 The proposed joint-use dock and boatlifts are permitted uses.
35. The project is consistent with Chelan County Shoreline Master Program (CCSMP) Section 21.A.3.5 in the following respects:
  - 35.1 According to the JARPA, question 6(a) and 6(e), the new 8 ft x 20 ft float will be attached to the existing dock and anchored with one 8-inch pile (8.625 inches outer diameter) steel pipe or epoxy coated white pipe pile or within a white PVC sleeve). The float will be constructed off-site and transported to the launch ramp nearest to the site. The decking will be 100% fully ambient light grid with greater than 60% open area and floatation will be achieved using black or white ACE tubs.
  - 35.2 According to the cross section details, date stamped October 8, 2018, the proposed pier pilings will have a minimum vertical clearance of approximately 8 feet above ordinary high water. The plans do not identify stops to keep the floats off the bottom of bedlands. Staff recommended compliance with CCSMP Section 21.A.3.3 as a condition of approval.
  - 35.3 The dock has been designed based on the current USACE, NMFS and USFWS requirements for water depths of new residential structures on the Columbia River.
  - 35.4 The Chelan County PUD permits structures waterward of the G-line (flowage easement) with an approved PUD license.
  - 35.5 The proposed pier, as conditioned, meets the applicable CCSMP dock construction standards.
36. The project is consistent with CCSMP Section 21.A.4.2 in the following respects:

- 36.1 An easement for ingress and egress to the joint-use dock was recorded on January 31, 2014, under Auditor File Number (AFN) 2396114.
- 36.2 A joint-use dock agreement between the two upland property owners was recorded on August 31, 2018, under AFN 2493994.
- 36.3 The project complies with Section 21.A.4, Regulations for Community Recreational Piers and Docks.
- 37. The project is consistent with CCSMP Section 21.A.6.1(b) in the following respects:
  - 37.1 The lots were created on April 14, 2003, via Chelan County Short Plat No: SP 2000-035.
  - 37.2 The property does not qualify for single-use dock; a joint-use dock is required.
- 38. The project is consistent with CCSMP Section 21.A.6.2 (b) in the following respects:
  - 38.1 Based on the above provisions, a joint use dock serving the two (2) residential lots, and reaching a water depth of 12 feet on its waterward end, may extend approximately 73 feet from OHWM; for a total area of 634 square feet.
  - 38.2 As described in the JARPA and dock plan date stamped October 8, 2018, the proposed float will be installed on a previously approved joint-use dock, which extends approximately 88 feet from OHWM, to meet a water depth of approximately 13 feet. The float must be installed in this location, due to the position of the existing joint-use dock. The total area of the dock, upon completion of the project, will be 768 square feet (688 sq ft of which will be overwater).
  - 38.3 The length of the existing dock is based on the current USACE, NMFS and USFWS requirements for water depths for residential structures on the Columbia River. USACE requires overwater structures to be located at a minimum water depth of 11 feet.
  - 38.4 The proposed expansion of the joint-use dock does not comply with the CCSMP dimensional standards for community piers and docks; therefore, a variance request is being processed to deviate from these standards.
- 39. The project is consistent with CCSMP Section 21.A.6.4 in the following respects:
  - 39.1 The dock plan, date stamped October 08, 2018, shows the existing dock located ten (10) feet from the adjacent property. The site plan, date stamped October 8, 2018, shows the new float setback approximately 63 feet from the south property line and approximately 379 feet from the north property line.
  - 39.2 The existing pier and proposed float addition meet the applicable ten-foot side yard setback.
- 40. The project is consistent with CCSMP Section 29.1 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 \$35,000. Pursuant to WAC 173-27-040, the project is not exempt from the requirement for a substantial development permit.
  - 40.3 The CCSMP does not address boatlifts; therefore, the provisions for a shoreline conditional use permit apply.
  - 40.4 The existing dock with proposed 160 sq ft float addition exceeds the maximum allowable area per the CCSMP. Therefore, the project was reviewed for compliance with the applicable shoreline variance criteria.

- 40.5 The project is consistent with the provisions of the SMA, WAC and CCSMP.
41. The project is consistent with CCSMP Section 29.2.2 (a) in the following respects:
- 41.1 CCSMP Section 21.A.6.2 limits the length and area of joint-use docks. These regulations do not take into consideration the requirements of other agencies.
  - 41.2 According to the CCSMP, the joint-use dock cannot exceed an area of 584 square feet, nor exceed a length of 73 feet from OHWM.
  - 41.3 In order to meet the requirements of the US Army Corps of Engineers (USACE) and National Marine Fisheries Service (NMFS) on the Columbia River, docks must be designed so that boats moored on the boatlifts or the dock are in at least 11 feet of water depth. To meet this requirement, the existing dock, permitted under SDP 2018-298/SCUP 2018-299/SV 2018-300, was required to be installed in its current location, approximately 88 feet from the OHWM on its landward edge. The new float was not included in the original shoreline permit and is now being added to complete the joint-use dock.
  - 41.4 The new float will be identical to the float installed on the upriver side.
  - 41.5 The existing regulations do not take into account the requirements of other agencies regarding dock length and water depth. The strict application of the CCSMP standards would preclude a reasonable permitted use of the property.
42. The project is consistent with CCSMP Section 29.2.2 (b) in the following respects:
- 42.1 The hardship is related to the physical characteristics of the land, specifically the distance waterward of the OHWM needed in order to reach 11 feet of water depth on the landward end of the dock. CCSMP Section 21.A.6.2 restricts the length and area of the dock.
  - 42.2 The hardship results from physical characteristics of the property and the application of CCSMP Section 21.A.6.2.
43. The project is consistent with CCSMP Section 29.2.2 (c) in the following respects:
- 43.1 The shoreline environment designation is rural, which allows for residential and recreational uses and structures.
  - 43.2 There is an existing joint-use dock located on the subject property. Properties up and down river include joint-use and single-use docks for private boat moorage and recreation. These docks are similar in size and configurations to the proposed expanded dock.
  - 43.3 The proposed expansion of the joint-use dock is compatible with the permitted uses and structures in the area and will not cause adverse effects to adjacent properties or the shoreline designation.
44. The project is consistent with CCSMP Section 29.2.2 (d) in the following respects:
- 44.1 Properties in this area were platted for residential and recreational use of the shoreline. The size and length of the proposed dock has been designed to be the minimum necessary to accommodate the USACE guidelines.
  - 44.2 The variance is not a grant of special privilege and the minimum necessary to afford relief and meet applicable agency regulations.
45. The project is consistent with CCSMP Section 29.2.2 (e) in the following respects:
- 45.1 The property is zoned for residential use. According to the site plan of record, date stamped October 8, 2018, the joint-use dock and new float section will be located on private property.

- 45.2 The proposed development is for private use, located on private property. Approval of this project will not cause a substantial detrimental effect on public use and interest.
46. The project is consistent with CCSMP Section 29.2.2 (f) in the following respects:
- 46.1 The existing joint-use dock and float addition will be located on private property. According to the applicant, the Columbia River is about 0.28 mile wide at this location, which provides room for public navigation and recreation. In addition, properties up and down river contain docks extending from the shoreline.
- 46.2 The project will not impact navigation.
47. The project is consistent with CCSMP Section 29.2.3 in the following respects:
- 47.1 The Shoreline Master Program allows for recreational and residential use of private property. It is anticipated that properties with similar constraints would potentially require variances to install joint-use docks on the Columbia River. The impacts of a float addition to an existing joint-use dock are anticipated to be negligible due to the minimal size of the float (160 sq ft), the dock design features and existing and proposed vegetation onsite.
- 47.2 The cumulative impacts of granting such variance is minimal and remains consistent with the policies of the Shoreline Management Act.
48. The project is consistent with CCSMP Section 29.3.2 (a) in the following respects:
- 48.1 The applicant is requesting to install a new 160 sq ft float, attached to an existing joint-use dock and one 10 ft x 12.5 ft (125 sq.ft.) boatlift on the Columbia River.
- 48.2 The proposed boatlift is not addressed in the CCSMP and therefore requires review under a Shoreline Conditional Use Permit.
- 48.3 The policies of the CCSMP and SMA provide for recreational use of the shoreline.
- 48.4 The proposed development is consistent with the CCSMP as a recreational use.
49. The project is consistent with CCSMP Section 29.3.2 (b) in the following respects:
- 49.1 The boatlift will be installed adjacent to the new dock float, approximately 76 feet waterward of the OHWM at its landward end, at a water depth of approximately 11 feet.
- 49.2 As identified on the site plan of record, all proposed development is located on private property.
- 49.3 The proposed use/development is located on private property and will not interfere with use of public shorelines.
50. The project is consistent with CCSMP Section 29.3.2 (c) in the following respects:
- 50.1 This section of the Columbia River has been subdivided for residential and recreational use of the shoreline. The proposed boatlift will provide for moorage of personal watercraft. Upon completion, the project will be similar to properties up and down river
- 50.2 The proposed development is compatible with the permitted land uses in the area.
51. The project is consistent with CCSMP Section 29.3.2 (d) in the following respects:
- 51.1 The shoreline designation is 'rural.' The 'rural' designation permits residential and recreational uses and development, including in-water structures, with appropriate permits. The proposed conditional use is for the placement one (1) 10ft.x 12.5 ft.(125 sq.ft.) boatlift.
- 51.2 The proposed development is consistent with the 'rural' shoreline designation and will cause no unreasonable adverse effects to the shoreline environment designation.



- 52. The project is consistent with CCSMP Section 29.3.2 (e) in the following respects:
  - 52.1 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.
  - 52.2 The proposed development is for private use, on private property. The public interest will not suffer substantial detrimental effect.
- 53. The project is consistent with CCSMP Section 29.3.4 in the following respects:
  - 53.1 The Shoreline Master Program allows for recreational use of private property. The CCSMP does not address boatlifts. The boatlift will be of an open nature and provide safe moorage for boats adjacent to the dock.
  - 53.2 The cumulative impacts of boatlifts are minimal and remain consistent with the policies of the Shoreline Management Act.
- 54. The project is consistent with CCSMP Section 29.4.1 (a) in the following respects:
  - 54.1 The project will be located on private property, in the vicinity of other properties with similar recreational in-water structures.
  - 54.2 The expansion of a joint-use dock and installation of one boatlift will not affect statewide nor local interests.
- 55. The project is consistent with CCSMP Section 29.4.1 (b) in the following respects:
  - 55.1 This section of Lake Chelan carries a 'rural' shoreline designation, which allows for residential and recreational uses. As stated in the JARPA, the site is characterized by patches of native riparian and shrub-steppe vegetation mixed with patches of grasses and invasive species along a narrow strip near the river. Behind this narrow strip of vegetation the upland moderately slopes up away from the river and is entirely lawn grass on both properties.
  - 55.2 The 1,720 square feet of mitigation planting for the existing dock is planted on the Meyer property, as required for the joint-use dock. Plants include mountain alder, water birch, red osier dogwood, coyote willow, snowberry and nootka rose.
  - 55.3 The applicant has proposed a native planting plan to include 305 square feet of mitigation plantings adjacent to the OHWM on the Bergren (benefitted) property. The mitigation planting area will be located within a portion of the buffer that is currently devoid of native trees and shrubs.
  - 55.4 The proposed project will not significantly impact the natural character of the shoreline.
- 56. The project is consistent with CCSMP Section 29.4.1 (b) in the following respects:
  - 56.1 The proposed development will enhance the recreational use of the subject properties. In addition, the mitigation plantings will enhance the riparian habitat adjacent to the OHWM.
  - 56.2 The expansion of the joint-use dock and installation of the boatlift will be a long term benefit to the property, by enhancing the recreational use of the property.
- 57. The project is consistent with CCSMP Section 29.4.1 (c) in the following respects:
  - 57.1 The expansion of the joint-use dock, and installation of one additional boatlift, will contribute to the cumulative effect of greater overall use of the Columbia River and thus create a cumulative negative effect on the ecology of the shoreline. However, the dock and boatlift will be located away from the shoreline, in the river, and will be mitigated through the dock design features and installation of native vegetation.

- 57.2 The dock float will be constructed of materials intended to minimize impacts to aquatic habitat such as shading and contaminants. The entire surface of float will have grated decking, to minimize the intensity of the shadow produced by the dock. No treated piles will be used, any paint, stain or preservative will be applied and be completely dried prior to placing the dock in the water and the float tubs will be completely enclosed to prevent breakup.
- 57.3 Native riparian vegetation will be installed to mitigate for the impacts associated with the increase in in-water structures.
- 57.4 All construction activities will occur within the approved in-water work window for the protection of migrating juvenile salmonids.
- 57.5 The proposed development will not have a substantial impact on the resources and ecology of the shoreline.
- 58. The project is consistent with CCSMP Section 29.4.1 (d) in the following respects:
  - 58.1 The project is located on privately-owned property, with no public shoreline access.
  - 58.2 The project will not impact public access to the shoreline.
- 59. The project is consistent with CCSMP Section 29.4.1 (e) in the following respects:
  - 59.1 The subject property is under private ownership with no public access.
  - 59.2 The project will not affect public recreational opportunities, as the property is privately owned.
- 60. The project is consistent with CCSMP Section 29.4.2 in the following respects:
  - 60.1 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.
- 61. The applicant is requesting a shoreline substantial development permit, shoreline conditional use permit, and shoreline variance, for installation of a new 160 square foot float addition to an existing 608 square foot joint-use dock and installation of one (1) 10 ft x 12.5 ft (125 square foot) boatlift on the Columbia River. The new float will be installed approximately 88 feet from the OHWM (on its landward side), attached to the existing dock, and anchored with one (1) 8-inch pile. The boatlift will be installed on the down river edge of the new float, at a water depth of approximately 11 feet below the OHWM. The project includes mitigation through a proposed native vegetation planting plan adjacent to the OHWM, including 305 sq ft of mitigation plantings.
- 62. Because the property is on the Columbia River, it falls under additional federal regulations for the protection of ESA listed fish species. The design, length and area of the joint-use dock and location of the boatlift are necessary in order to reach adequate water depth per US Army Corps of Engineers (USACE) and National Marine Fisheries Service (NMFS) on the Columbia River. According to these regulations, the dock must be designed so that boats moored on the boatlifts or dock are in at least 11 feet of water depth. The existing dock was designed to meet this requirement. The new float will extend off the existing dock at a water depth of 13 feet. There is no other reasonable alternative location for the proposed float due to the location of the existing dock and the required water depth for the new boatlift. Thus, the applicant is seeking a variance from the dock construction standards which limit the dock length and area, without consideration of other agency requirements.
- 63. The CCSMP restricts the length of dock to 73 feet from OHWM and the area to 634 square feet. With the new float addition, the joint-use dock will extend approximately 96 feet from OHWM and cover an area of 768 square feet (688 sq ft of which will be overwater). Due to the existing location of the joint-use dock and the dock size and length, the applicant is seeking a variance from the

- CCSMP dimensional standards to construct a new float addition. Without a variance, the applicant would be unable to fully utilize the joint-use dock for both property owners, while satisfying the requirements of other jurisdictional agencies, including the USACE and WDFW.
64. This reach of shoreline has been subdivided for residential and recreational use. Properties in this area contain in-water structures; including several joint-use docks, located down river from the property, which are comparable in size and configuration to the subject dock.
  65. The applicant has implemented design features such as grated decking, and a native vegetation planting plan as mitigation for impacts. The project will not require removal of any native vegetation, as all work will be located waterward of the OHWM.
  66. Overall, the project is compatible with the surrounding land uses and designed to mitigate impacts to the shoreline environment. As conditioned, the project will not create substantial adverse impacts to the shoreline environment and will remain consistent with the goals and policies of the Chelan County Shoreline Master Program; specifically Goal E, Goal for Shoreline Use Element, Assure an appropriate pattern of sound development in suitable locations without diminishing the quality of environment along the shorelines.
  67. 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 attached recommended conditions of approval.
  68. An open record public hearing after legal notice was provided was held on January 2, 2019.
  69. 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.
  70. 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.
  71. No member of the public testified at the hearing.
  72. The Chelan County Hearing Examiner considered all evidence within the record in rendering this decision.
  73. 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 Rural Residential / Resource 2.5 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, Shoreline Conditional Use Permit and Shoreline Variance 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, Shoreline Conditional Use Permit and Shoreline 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 AND SHORELINE 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 8<sup>th</sup> day of January, 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.**

**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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