

**SHORELINE MANAGEMENT PERMIT
ACTION SHEET**

RECEIVED

JAN 16 2020

**CHELAN COUNTY
COMMUNITY DEVELOPMENT**

Application #: SDP 2019-016 / SCUP 2019-017
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: January 15, 2020

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:

John & Elizabeth Morse
1206 NW Culbertson Dr.
Seattle, WA 98177

Applications for a shoreline substantial development permit and shoreline conditional use permits for the removal of three (3) mooring anchors, the installation of six (6) 12-inch steel and epoxy coated piles, and the placement of a protective log line. The proposed 12-inch piles would be driven to 10 ft. or to bearing. The size and location of the existing dock would not change and the existing gangway would continue to be removed during high water seasons. The proposed log line would consist of two logs connected by heavy duty chain on both ends. The log line would be attached to the proposed piles on the uplake side of the dock. The line would stretch approximately 40 ft. adjacent to the existing dock at a water depths similar to that of the dock. The log line is proposed as a protection measure for the dock from drift wood and debris that comes from both the Little Wenatchee River and the White River on an annual basis.

Upon the following property: 17679 North Shore Drive, Leavenworth, WA 98826

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

The project would be within a shoreline of statewide significance (RCW 90.58.030). The project will be located within an urban shoreline 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 development, 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 CCSMP Section 7.9, this shoreline permit shall be valid for the activities described within the revised JARPA and shown on the revised site plan of record, date stamped October 31, 2019, except as modified by this decision or other jurisdictional agencies.
3. Pursuant to CCSMP Section 5.14, the proposed project shall meet the requirements for private moorage facilities, including but not limited to, dimensional & construction standards and spacing & setback standards.
4. Pursuant to RCW 27.53.020 and CCSMP Section 4.1, 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.
5. Pursuant to CCSMP Section 7.10.B, 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 CCSMP 7.10 and 7.11.A, authorization to conduct the approved development shall terminate five (5) years after the effective date of decision; the County may authorize a single extension for a period not to exceed one (1) year in accordance with CCSMP Section 7.10.D.

FINDINGS OF FACT

1. The applicants are John & Elizabeth Morse, 1206 NW Culbertson Dr., Seattle, WA 98177.
2. The agent for applicants is Anne Hessburg, Grette Associates, LLC., 151 S. Worthen St., Suite 101, Wenatchee, WA 98801.
3. The project location is 17679 North Shore Drive, Leavenworth, WA 98826.
4. The parcel number for the subject property is 27-16-14-700-505.
5. The legal description and size for the subject property is: Lot 4 of Block 23, Mountain Park Summer Homes, recorded on July 14, 1909, under Vol. 2 of Plats, page 49.

6. The subject property is located in Chelan County, not within an urban growth area.
7. The Comprehensive Plan designation and zoning for the subject property is Rural Waterfront (RW).
8. As stated in the JARPA, question 5(o), the subject property contains a residence with attached deck, garage, rock retaining wall, and dock. The following are known permits/files on record with Chelan County Community Development:
 - 8.1 V 04-006—front yard variance for construction of residence; approved by hearing examiner.
 - 8.2 BP 050054—single family residence; finalized February 8, 2007.
 - 8.3 FM 050112—demolition of existing residence for construction of new residence.
 - 8.4 SE 05-017—shoreline exemption for single use dock; approved by administrator.
9. As stated in the JARPA, question 5(l), the property consists of moderately sloping upland leading from North Shore Drive down to a relatively flat area where the residence is located. The upland is developed residentially with a retaining wall near the OHWM. The flat area landward of the retaining wall is in lawn grass. The upland property is vegetated with native and non-native grasses, shrubs, and trees. Below the OHWM habitat consists of moderately sloping unvegetated rock and cobble.
10. The property to the north of the subject property is North Shore Drive, county right of way, and is zoned Rural Waterfront (RW).
11. The property to the south of the subject property is Lake Wenatchee, a shoreline of statewide significance.
12. The property to the east of the subject property is Residential and recreational use, and is zoned Rural Waterfront (RW).
13. The property to west of the subject property is Residential and recreational use, and is zoned Rural Waterfront (RW).
14. Pursuant to CCSMP Section 4.1, Archaeological and Historic Resource Regulations, developers shall notify local governments of any possible archaeological materials uncovered during excavation.
15. Construction would begin upon receipt of all permits and within the in-water work window and would be completed approximately one week from the start date.
16. Similar to other residential and recreational uses, construction noise during demolition of the existing dock and installation of the new pier and boatlift. The development is required to comply with CCC, Chapter 7.35, Noise Control.
17. Access is via North Shore Drive, a county right of way.
18. Similar to other residential and recreational uses, there will be 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.

19. Minor visual impacts would be from the water and surrounding properties. Adjacent properties include piers and docks, so visual impacts would be similar to what currently exists in the area.
20. The applicant submitted a SEPA Checklist with initial the application. After the initial notice of application comment period ended, the applicant revised the application materials, including the JARPA and SEPA Checklist.
21. Pursuant to WAC 197-11 and RCW 43-21C of the State Environmental Policy Act (SEPA), an environmental review and a threshold determination was completed. A Determination of Non-significance (DNS) was issued on December 26, 2019. The SEPA Checklist and DNS are included within the file of record and adopted by reference.
22. The Notice of Application and Environmental Review 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 August 27, 2019, with comments due October 3, 2019.
23. After the initial Notice of Application and Environmental Review comment period ended, the applicant revised the application materials, including the JARPA and SEPA Checklist. Therefore, pursuant to CCC 14.08.040 & CCC 14.08.050, a revised Determination of Complete was issued and a revised Notice of Application and Environmental Review was sent out for commenting. A joint Notice of Application and Public Hearing with Environmental Review were utilized for said revised application materials; the agencies and surrounding property owners that were notified with the original Notice of Application and Environmental Review were re-notified on November 13, 2019, with comments due December 20, 2019.
24. The Hearing Examiner considered agency comments and the Planning Department staff report and, when appropriate, associated recommended Conditions of Approval, when rendering his decision. The following is a list of Agencies who received notice and the date comments were received:
 - 24.1 Chelan County Natural Resources – no comments;
 - 24.2 WA State Department of Natural Resources – August 27, 2019; September 30, 2019; October 31, 2019.
 - 24.2.1 Prior to the application revision, the WA State DNR was going to require an agreement for the logline as it was going to extend into State owned aquatic lands. Comments were then revised to say that DNR was not going to allow the proposed logline to extend into the State owned aquatic lands.
 - 24.2.2 Upon the revision of the application with the new design and location of the logline, DNR has no concerns with the proposed project.
 - 24.3 WA State Department of Ecology – no comments;
 - 24.4 WA State Department of Fish & Wildlife – no comments;
 - 24.5 Department of Archaeology & Historic Preservation – no comments;
 - 24.7 Yakama Nation – no comments;

- 24.8 Confederated Tribes of the Colville Reservation – no comments;
- 24.9 SEPA Register – no comments;
- 25. There were no public comments received.
- 26. The application materials were submitted on July 9, 2019.
- 27. A Determination of Completeness was issued on August 20, 2019.
- 28. The Notice of Application and Environmental Review was published on August 27, 2019.
- 29. The Revised Determination of Completeness was issued on October 31, 2019.
- 30. The Revised Notice of Application and Public Hearing with Environmental Review was published on November 13, 2019.
- 31. 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.
 - 31.1 The Comprehensive Plan states that the purpose of the Rural Waterfront Designation is to provide the opportunity for the development, redevelopment and infill of existing intensely developed shoreline areas for residential, and water related/water dependent recreational and tourist development consistent with the rural character and rural development provisions outlined in the goals and policies of this comprehensive plan.
 - 31.2 The Hearing Examiner finds that the project, as conditioned, is consistent with the Comprehensive Plan.
- 32. 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.
- 33. According to the Federal Emergency Management Agency, FIRM panel # 5300150225A, there is no floodplain on the subject parcel.
- 34. According to the Chelan County GIS mapping, the property is not located within a geologically hazardous area. CCC, Chapter 11.86, Geologically Hazardous Overlay District, does not apply to the subject property.
- 35. According to the National Wetlands Inventory Map prepared by the US Department of Fish and Wildlife Services, the subject property does not contain wetlands.
- 36. The project is consistent with:
 - 36.1 Encourage the protection and restoration of unique, fragile, and scenic elements in shoreline areas as a means to promote long-term economic well-being.
 - 36.2 Promote diverse, convenient, and adequate recreational opportunities along shorelines for local residents and visitors.
 - 36.3 Assure an appropriate pattern of sound development in suitable location without diminishing the quality of the environment along shoreline.

37. This property is located along Lake Wenatchee within the 'urban' shoreline designation and is classified as a Shoreline of Statewide Significance, pursuant to WAC 173-20-100.
38. The proposed dock pilings and protective logline are water-dependent uses. These uses are permitted within the shoreline buffer and waterward of the OHWM with proper shoreline permitting.
39. The provisions of this Section shall apply to any development within shoreline jurisdiction to document a finding of no-net-loss.
 - 39.1 Mitigation Sequencing - Based on the scope of the proposed development, it is not anticipated that adverse impacts would be likely. The impacts would be minimized compared to the existing conditions. The existing mooring anchors are to be removed and replaced with less impactful and safe moorage by installing pilings. The project will result in a reduction of square footage of materials in Lake Wenatchee.
 - 39.2 The proposed logline is to be installed running the length and adjacent to the existing dock. The purpose of the logline is to protect the existing dock from damage associated with wind driven driftwood from the Little Wenatchee River and the White River. The proposed logline is not anticipated to cause adverse impacts and is to be further reviewed under the CCSMP criteria for Shoreline Conditional Uses as it is not an identified use in the CCSMP 3.6-a Shoreline Use Matrix.
 - 39.3 As conditioned, the proposed development would not result in adverse impacts to the ecological function of Lake Wenatchee.
40. Based on the scope of the proposed development for private moorage, it is not anticipated that adverse impacts would be likely due to the proposed project design. Additionally, mitigation would be satisfied with the removal of the concrete mooring anchors as it results in a reduction of man-made material in Lake Wenatchee being as the proposed pilings are less impacting.
 - 40.1 The proposed logline would potentially protect the existing dock from wind-driven damage which in turn would prevent decking material from being deposited in Lake Wenatchee.
 - 40.2 As conditioned, the proposed development would not result in adverse impacts to the ecological function of Lake Wenatchee.
41. In order for the permit to be approved, the decision maker must find that the proposal is affirmatively consistent with the following: (A) How is the proposal consistent with the policies and procedures of the Act (RCW 90.58)? (B) How is the proposal consistent with the provisions of Chapter 173-27 WAC, Shoreline Management Permit and Enforcement Procedures? (C) How is the proposal with this SMP? The Hearing Examiner finds that:
 - 41.1 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 \$12,000. 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.
42. These regulations apply to all development, modifications, and uses taking place waterward of the OHWM.
- 42.1 The proposed dock pilings and protective logline project would be taking place waterward of the OHWM of Lake Wenatchee; therefore, is subject to the provisions of CCSMP Section 5.2.
- 42.2 As conditioned, the proposed development would comply with the CCSMP regulations for aquatic shoreline modifications and uses.
43. The six (6) proposed pilings are to be 12 in. epoxy coated steel which are to be located adjacent to the existing dock structure.
- 43.1 As conditioned, the proposed dock pilings comply with the CCSMP piling construction standards.
44. Based on the revised site plan of record, dated October 31, 2019, the proposed dock pilings would meet the spacing and setback requirements.
- 44.1 As conditioned, the proposed dock pilings comply with the CCSMP mooring piles standards.
45. Uses specifically classified or set forth in this SMP as conditional uses shall be subject to review and conditions by the Hearing Examiner and by the Dept. of Ecology.
- 45.1 Other uses which are not classified or listed or set forth in this SMP may be authorized as conditional uses provided the applicant can demonstrate consistency with this SMP.
- 45.2 Uses which are specifically prohibited by this SMP may not be authorized as a conditional use.
- 45.3 The proposed logline is not an identified use in the CCSMP 3.6-a Shoreline Use Matrix.
- 45.4 Being as the proposed logline is not an identified use in the CCSMP 3.6-a Shoreline Use Matrix, a Shoreline Conditional Use Permit is required.
46. An applicant proposing a conditional use shall affirmatively demonstrate compliance with review criteria below or as thereafter amended in WAC 173-27-160.
- 46.1 The proposed installation of the protective logline is to alleviate the potential of damage to the existing dock.
- 46.2 The proposed design would minimize the occurrence of pollution of dock debris due to wind-driven damage associated with the Little Wenatchee River and the White River; as a result, this would minimize additional floating debris interference with the public's use and navigation of Lake Wenatchee.
- 46.3 As conditioned, the proposed logline is consistent with the CCSMP and RCW 90.58.020.

47. The subject property is located in a highly developed reach of the Lake Wenatchee shoreline. Other residential and recreational properties in the vicinity are developed with docks, boat lifts, mooring buoys, swim floats, and other similar recreational water uses/structures. Additionally, the proposed project would be located on privately owned property.
 - 47.1 The proposed logline is to be located on privately owned property, therefore this provision would interfere with public use of public shorelines.
48. The proposed logline is to be installed directly adjacent to the existing dock. The installation would be similar to other permitted recreational water uses/structures in the area.
 - 48.1 The proposed logline would be compatible with the surrounding uses/structures in the area.
49. The shoreline designation is 'urban.' The 'urban' designation permits residential and recreational uses and development with appropriate permits.
 - 49.1 The proposed logline is consistent with the 'urban' shoreline designation and would cause no unreasonable adverse effects to the shoreline environment designation.
50. The installation of the proposed logline is not specifically prohibited by the CCSMP and is similar to other permitted recreational/residential uses or structures. Additionally, the logline is to be located directly adjacent to an existing dock that is located on private property.
 - 50.1 The proposed logline is for private use, placed on private property; therefore, the public interest is not anticipated to suffer substantial detrimental effect.
51. In the granting of all Shoreline Conditional Use Permits, consideration shall be given to the cumulative impact of additional request for like action in the area. For example, if Shoreline Conditional Use Permits were granted for other development in the area remain consistent with the policies of RCW 90.58.020 and shall not produce substantial adverse effects to the shoreline environment.
 - 51.1 The CCSMP allows for recreational use of private property. The cumulative impact of proposed logline to be installed directly adjacent to an existing and permitted dock on Lake Wenatchee appears to be minimal. The proposed location of the logline would not create a new impact or a new diverted path for drift wood as it mirrors the current location of the existing dock. The flowage pattern of the lake is not anticipated to substantially change.
 - 51.2 As conditioned, the cumulative impact for the installation of the proposed logline would be comparable to docks or other similar permitted structures allowed on private property along Lake Wenatchee and would not be anticipated to result in a substantial adverse effect to the shoreline environment..
52. The subject property is located in a highly developed area of Lake Wenatchee. Surrounding properties include small lots that are developed with single family residences and their accessory uses, including docks, boat lifts, swim floats and buoys. Due to the existing development along the north shore of the lake, the proposed development is anticipated to have minimal impacts to the shoreline environment and would be compatible with surrounding land uses.

53. Although loglines are not an identified use in the CCSMP shoreline use matrix, the cumulative impact would be comparable to docks or other similar permitted structures allowed on private property along Lake Wenatchee. The proposed location of the logline is not anticipated to create a new impact or a new diverted flowage path for drift wood, as it mirrors the current location of the existing dock.
54. Staff has 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 recommends APPROVAL subject to the recommended conditions of approval.
55. An Open Record Public Hearing, after due legal notice, was held on January 15, 2020.
56. 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 property owner and applicant. Ms. Hessburg indicated that she had reviewed all of the proposed conditions of approval and had no objection to any of them.
57. No member of the public testified at this hearing.
58. The Chelan County Hearing Examiner considered all evidence admitted at the open record public hearing in rendering this decision.
59. Any Finding of Fact that is more correctly a Conclusion of Law 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 Hearing Examiner finds that the development, as conditioned, is consistent with the Comprehensive Plan.
4. As conditioned, the proposed development would not result in adverse impacts to the ecological function of Lake Wenatchee.
5. The development is consistent with the provisions of the SMA, WAC and CCSMP.
7. As conditioned, the proposed development would comply with the CCSMP regulations for aquatic shoreline modifications and uses.
8. As conditioned, the proposed dock pilings comply with the CCSMP piling construction standards.
9. As conditioned, the proposed dock pilings comply with the CCSMP mooring piles standards.
10. Being as the proposed logline is not an identified use in the CCSMP 3.6-a Shoreline Use Matrix, a Shoreline Conditional Use Permit is required.
11. As conditioned, the proposed logline is consistent with the CCSMP and RCW 90.58.020.
12. The proposed logline is to be located on privately owned property, therefore this provision would interfere with public use of public shorelines.
13. The proposed logline would be compatible with the surrounding uses/structures in the area.

14. The proposed logline is consistent with the 'urban' shoreline designation and would cause no unreasonable adverse effects to the shoreline environment designation.
15. The proposed logline is for private use, placed on private property; therefore, the public interest is not anticipated to suffer substantial detrimental effect.
16. As conditioned, the cumulative impact for the installation of the proposed logline would be comparable to docks or other similar permitted structures allowed on private property along Lake Wenatchee and would not be anticipated to result in a substantial adverse effect to the shoreline environment.
17. Based on the above findings and conclusions, the Hearing Examiner finds the development to be consistent with the intent and spirit of the principles outlined above, as conditioned.
18. Any Conclusion of Law that is more correctly a Finding of Fact 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).

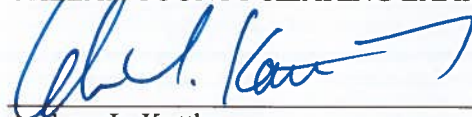
This Shoreline Substantial Development Permit, and Shoreline Conditional Use Permit, may be rescinded pursuant to RCW 90.58.140(7) in the event the permittee fails to comply with the terms and conditions hereof.

CONSTRUCTION PURSUANT TO THIS SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT, SHORELINE CONDITIONAL USE PERMIT AND ADMINISTRATIVE MODIFICATION 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 16th day of January, 2020.

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 two shoreline conditional use permits) 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.

**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:
