

SHORELINE MANAGEMENT PERMIT

RECEIVED

ACTION SHEET

JUN 03 2020

**CHELAN COUNTY
COMMUNITY DEVELOPMENT**

Application #: SDP 20-012 / SV 20-003
Administering Agency Chelan County Department of Community Development
Type of Permits: ■ Shoreline Substantial Development Permit
■ Shoreline Variance Permit
Action: ■ Approved □ Denied
Date of Action: June 3, 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:

James & Donna Britt
1316 Saddlerock Dr.
Wenatchee, WA 98801

These applications for a shoreline substantial development permit and shoreline variance were submitted for the installation of a new 697 sq. ft. dock and an access stair structure on Lake Chelan. The project proposes a new "L" shaped dock that would consist of (3) sections: a 6 ft. x 50 ft. pier, a 4 ft. x 30 ft. gangway, and a 8 ft. x 35 ft. float with a 5 ft. x 5 ft. float extension. The pier would begin approximately 2 ft. waterward of the OHWM of Lake Chelan and extend 88 ft. to a water depth of approximately 18 ft. to 22 ft. The proposed stairs would be 5 ft. in width and sit atop a 5 ft. x 4 ft. x 2 ft. concrete landing. The stairs are to be located landward of the OHWM.

The proposed dock project exceeds the allowable length and dimensional area of the Chelan County Shoreline Master Program (CCSMP). The shoreline variance is requested in order to construct a larger than allowed dock per CCSMP regulations as the project location is remote with boat only access and requires the dock to be accessed year round.

Upon the following property: NNA N. Water Way, Stehekin, WA 98852. Access to the subject property is by boat only.

Within 200 feet of Lake Chelan 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 a 'natural' shoreline designation and is classified as a Shoreline of Statewide Significance, pursuant to WAC 173-20-100). The subject property is located in Chelan County, outside of an Urban Growth Area. The property is zoned Rural Residential/Resource 20 (RR20) and is in recreational use.

The following Shoreline Master Program provisions are applicable to this development: Sections 3, 4, 5, 6, and 7.

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 JARPA and shown on the site plan of record, dated March 3, 2020, except as modified by this decision or other jurisdictional agencies.
3. Pursuant to the Mitigation Plan (Exhibit A), date stamped March 3, 2020, the proposed plantings must be completed prior to the final inspection of the building permit. If at such time the plantings cannot be completed prior to final inspection, bonding as outlined in CCSMP Appendix B Section 6.5.6(2)(C), shall be required.
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.
 - 4.1. An inadvertent discovery plan must be submitted with the building permit application and kept onsite during all land disturbing activities.
5. Pursuant to CCSMP Section 5.14.B.7, the dock shall not be covered by a canopy or similar structure.
6. Pursuant to CCSMP Section 5.14.B.8, if safety railings are proposed, railings shall meet International Building Code requirements and shall be an open framework.
7. Pursuant to CCSMP Section 5.14.B.9, the proposed dock shall be marked with reflectors, or otherwise identified, to prevent unnecessarily hazardous conditions for the water surface users during the day or night.
8. 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.
9. 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/owners are James and Donna Britt, 1316 Saddlerock Dr., Wenatchee, WA 98801.
2. The agent for applicant is Anne Hessburg, Grette Associates, LLC, 151 S. Worthen St., Suite 101 Wenatchee, WA 988014.
3. The project location is boat access only, NNA N. Water Way, Stehekin, WA 98852.
4. The parcel number for the subject property is 32-18-06-420-020.
5. The legal description for the subject property is: Lot 2 of Short Plat No. 2016 recorded October 8, 1990 under AFN: 9010080031. The subject property is 2.13 acres per the Chelan County Assessor.
6. The subject property is located in Chelan County, outside of an Urban Growth Area.
7. The Comprehensive Plan designation and zoning for the subject property is Rural Residential/Resource 20 (RR20). The property is currently in recreational use.
8. Construction would begin upon receipt of all permits and would end within 1 month from start date.
9. The project is required to comply with CCC Chapter 7.35, Noise Control.
10. Minor visual impacts will be from the water only. The location of the proposed development would likely not be visible from adjacent parcels.
11. As stated in the JARPA, question 5(o), the subject property is currently used for recreational purposes. The following applications/permits have been issued for the site:
 - 11.1 BP 990471 – Single Family Residence; expired
 - 11.2 BP 010184 – Renewal of BP 990471 for an SFR; expired
 - 11.3 BP 030151 – Renewal of BP 010184 for an SFR; expired
 - 11.4 PA 19-006 – Amend note on plat; withdrawn.
12. 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 April 1, 2020, with comments due May 1, 2020. Agency comments are considered in the staff report and, when appropriate, associated recommended Conditions of Approval. All comments are included in the file of record. The following is a list of Agencies who received notice and the date comments were received:

Agencies Notified	Response Date	Nature of Comment
Chelan County Building Official	April 1, 2020	Development shall comply with applicable building codes.

Agencies Notified	Response Date	Nature of Comment
Chelan County PUD	No Comment	
WA Dept. of Natural Resources	No Comment	
WA Dept. of Archaeology and Historic Preservation	April 14, 2020	Due to the project being in an area of high potential for archaeological resources, an inadvertent discovery plan is requested.
Yakama Nation	No Comment	
Confederated Tribes of Colville	April 13, 2020	No concerns with the project moving forward so long as inadvertent discovery protocols are followed.
WA Dept. of Ecology	No Comment	
US Army Corps of Engineers	No Comment	
WA Dept. of Fish & Wildlife	No Comment	

13. No public comments were received.
14. The application materials were submitted on March 3, 2020.
15. A Determination of Completeness was issued on March 27, 2020.
16. The Notice of Application was published on April 1, 2020.
17. The Notice of Public Hearing was provided on May 22, 2020.
18. The Comprehensive Plan has been reviewed. Specifically, the goals and policies related to the Rural Residential/Resource 20 (RR20) Comprehensive Plan designation for consistency with residential and recreational land uses. The Hearing Examiner finds that the project, as conditioned, is consistent with the Rural Element of the Chelan County Comprehensive Plan.
19. In accordance with WAC 197-11 and RCW 43.21C of the State Environmental Policy Act (SEPA), environmental review and a threshold determination was completed by Chelan County (lead agency) and an Optional Determination of Non-Significance (DNS) was issued on May 5, 2020. The SEPA Checklist and DNS are included within the file of record and adopted by reference.
20. Wetlands: According to the National Wetlands Inventory Map prepared by the US Department of Fish and Wildlife Services, the subject property does not contain delineated wetlands. Therefore, the provisions of CCSMP 6.1 Appendix B would not apply.
21. Fish and Habitat: According to the Washington State Department of Fish and Wildlife, Priority Habitat and Species Maps, the subject property contains protected northern goshawk habitat. However, the proposed development is to occur waterward of the OHWM of Lake Chelan. Therefore, the provisions of CCSMP 6.5 Appendix B would not apply.
22. Floodplain: According to the Federal Emergency Management Agency, FIRM panel # 5300150300A, there is no indication of floodplain or floodway on the subject property. Therefore, the provisions of CCSMP 4.3 and CCSMP 6.3 Appendix B would not apply.

23. Geologically Hazardous Area: According to the Chelan County GIS mapping, the subject property is not located within a geologically hazardous area. Therefore, the provisions of CCSMP 6.4 Appendix B would not apply.
24. Aquifer Recharge Area: Pursuant to CCSMP 6.2 Appendix B, the subject property does not meet the criteria pursuant to Chelan County Code Chapter 11.82, which would require a vulnerability report with development. Therefore, the provisions of this section would not apply.
25. Pursuant to CCSMP Section 2, Goals and Objectives: The project is consistent with:
 - 25.1 Goal REC-1 Promote diverse, convenient, and adequate recreational opportunities along shorelines for local residents and visitors.
 - 25.2 Goal PRIVATE-1 Recognize and protect private property rights in shoreline uses and developments.
 - 25.3 Goal UE-1 Assure an appropriate pattern of sound development in suitable locations without diminishing the quality of the environment along shorelines
26. Pursuant to CCSMP Section 3: Shoreline Jurisdiction & Environment Designations: This property is located along and partially covered by Lake Chelan, which holds a 'natural' shoreline designation and is classified as a Shoreline of Statewide Significance, pursuant to WAC 173-20-100. The proposed development is permitted within shoreline jurisdiction with proper shoreline permitting.
27. CCSMP Section 4.1: Archaeological & Historic Resource Regulations: Based on comment letter from WA Dept. of Archaeology & Historic Preservation (DAHP), dated April 14, 2020, the subject property is located in an area that has a high potential for archeological resources. Pursuant to CCSMP Section 4.1, Archaeological and Historic Resource Regulations, Developers and property owners must immediately stop work and notify the County, the Washington State Department of Archaeology and Historic Preservation, and affected Indian tribes if archaeological resources are uncovered during excavation. Applicants must submit an Inadvertent Discovery Plan prior to commencing any development authorized by this SMP. A copy of the plan must be kept on site during ground disturbing activities.
28. CCSMP Section 4.2: Ecological Protection & Critical Area Regulations. The provisions of this Section shall apply to any development within shoreline jurisdiction to document a finding of no-net-loss.
 - 28.1 Mitigation sequencing
 - 28.1.1. Based on the application materials, the proposed dock has been designed to be as minimally impacting as possible, while still providing safe and adequate year round moorage.
 - 28.1.2 As conditioned, the proposed development is not anticipated to result in adverse impacts to the ecological function of Lake Chelan.
 - 28.2 Mitigation required for impact
 - 28.2.1 With application, mitigation planting is proposed as required by US Army Corps of Engineers for the new 697 sq. ft. of overwater coverage. All plantings would be located adjacent to the OHWM of Lake Chelan for a total of 697 sq. ft. of mitigation. No native vegetation currently exists where the shoreline is eroding.

28.2.2 As conditioned, the proposed development is not anticipated to result in a net loss to ecological function to Lake Chelan.

28.3 Cumulative effects

28.3.1 The subject property is located in an area that is inaccessible by road and is only accessed by boat. In order to access the subject property year round, the proposed dock must extend further waterward of the OHWM than usual, therefore, a variance is requested in order to construct a larger than allowed dock per CCSMP regulations

28.3.2 As conditioned, the proposed development is not anticipated to result in adverse cumulative effects to the ecological function of Lake Chelan.

29. CCSMP Section 4.5, Vegetation Conservation & Shoreline Buffer Regulations

29.1 Vegetation removal within shoreline jurisdiction that is not permitted without the appropriate review and approvals may be subject to enforcement provisions.

29.1.1 Based on the application materials, vegetation removal is not proposed with the development.

29.1.2. Removal of native vegetation is not proposed. Therefore, the provisions of this section would not apply.

30. CCSMP Section 5.14, Private Moorage Facilities Regulations

30.1. To access the dock from the upper portion of the lake, access stairs are proposed. The proposed stairs are to be 5 ft. in width with a total area of 750 sq. ft. The buffer width is 150 ft. for the 'natural' shoreline with 5 times equating to 750 sq. ft.

30.2. As conditioned, the proposed dock would meet the requirements for private moorage facilities on Lake Chelan.

31. CCSMP Section 5.16, Residential Regulations

31.1 The proposed dock is to be located on a lot that was created prior to May 3, 1994. Therefore, a single use dock is permitted.

31.2 Based on the application materials, the proposed dock would meet the general design standards, with the exception of the allowable length and dimensional area, said exceptions are to be reviewed under the variance criteria.

31.3 As conditioned, the proposed dock would meet the requirements for private moorage facilities on Lake Chelan.

32. CCSMP Section 7.5.2, Shoreline Substantial Development Permits: Review Criteria - 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?

- 32.1 The provisions of the SMA and WAC have been met through the adoption of the CCSMP. The appropriate CCSMP requirements are addressed in this staff report.
 - 32.2 The project would be consistent with the provisions of the SMA, WAC and CCSMP
33. CCSMP Section 7.8.2, Shoreline Variance Permits: Review Criteria - Shoreline variances landward of the OHWM may be authorized provided the applicant demonstrates affirmatively all of the following:
- 33.1 Shoreline variances landward of the OHWM - How would the strict application of the bulk dimensional or performance standards set forth in this SMP preclude or significantly interfere with reasonable use of the property?
 - 33.1.1 The subject property is located on an area of Lake Chelan that does not benefit from access by road. Therefore, the only way to access the property is by boat. Due to the fluctuation of Lake Chelan's annual water levels, a standard length of dock would not be adequate to ensure year round access to the subject property.
 - 33.1.2 Due to the length needed to reach an adequate water depth, the dock must also be larger in size than what is allowable per the matrix for CCSMP 5.14-a Dimensional/Construction Standards for Docks.
 - 33.1.3 Based on the application materials, the strict application of the standards of the CCSMP would cause issue with reasonable use of subject property.
 - 33.2 How is the hardship described in Section 7.8.2.B.1 above specifically related to the property, and is the hardship the result of unique conditions such as irregular lot shape, size, or natural features and the application of this SMP, and not, for example from deed restrictions of the applicant's own actions?
 - 33.2.1 Due to the remote location of the subject property and the associated natural features, the wind present uplake is very strong resulting in harsh climatic conditions. The proposed dock must be larger in size in order to survive the wave action common at this location of Lake Chelan.
 - 33.2.2 Being as the associated hardship is related to the environmental conditions and remoteness, the hardship is not a result of the applicant's own actions.
 - 33.3 How is the design of the project compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and this SMP, and will the project design not cause adverse impacts to the shoreline environment?
 - 33.3.1 The Chelan County Comprehensive Plan and the CCSMP, allow for recreational use of properties located in the RR20 land use designation as well as along the shoreline. The proposed use would promote a safer and easier recreational use of the subject property.
 - 33.3.2 Based on the application materials and the associated regulations, the proposed development is not anticipated to cause adverse impacts to the shoreline environment and would be compatible with the Chelan County Comprehensive Plan for the Rural Residential/Resource RR20 (RR20) land use designation.
 - 33.4 How will the variance not constitute a grant of special privilege not enjoyed by the other properties in the area?

- 33.4.1 Development along the shoreline of Lake Chelan is common. The surrounding properties are developed with rural cabins and access docks. Currently, the subject property does not have access as a dock structure has not been constructed.
- 33.4.2 Being as the surrounding properties are developed with similar structures, the granting of this variance would not result in a special privilege to the applicant.
- 33.5 How is the variance requested the minimum necessary to afford relief?
 - 33.5.1 Based on the application materials, the proposed dock was designed to be the minimum area necessary in order to provide an adequate moorage accommodation as well protection from extreme weather.
 - 33.5.2 The proposed width of the dock has been minimized in order to reduce the area to every extent possible, while still providing a safe and functional structure.
 - 33.5.3 Based on application materials, the proposed variance appears to be the minimum necessary to provide reasonable relief for larger than allowed dock structure.
- 33.6 How will the public interest suffer no substantial detrimental effect?
 - 33.6.1 Most of the surrounding parcels are large, publicly owned forest lands. The scope of the proposed development is to occur primarily on privately owned land and minimal in nature.
 - 33.6.2 The proposed development would not be anticipated to cause detrimental effects to the public interest.
- 34. Shoreline variances waterward of the OHWM - How will the public rights of navigation and use of the shorelines not be adversely affected?
 - 34.1 Based on the county GIS mapping, the subject property is located on a portion of Lake Chelan which is over a mile wide. Additionally, per CCSMP Section 5.14.B.9, all moorage facilities are required to be marked with reflectors, or otherwise identified, to prevent hazard conditions for water surface users during the day or night.
 - 34.2 The proposed development of an access dock and stairs are to be located on private property and for private recreational use.
 - 34.3 As conditioned, the proposed development is not anticipated to cause an adverse effect for public use or navigation of the shoreline of Lake Chelan.
- 35. The project proposes a new "L" shaped dock that would consist of (3) sections: a 6 ft. x 50 ft. pier, a 4 ft. x 30 ft. gangway, and a 8 ft. x 35 ft. float with a 5 ft. x 5 ft. float extension. The pier would begin approximately 2 ft. waterward of the OHWM of Lake Chelan and extend 88 ft. to a water depth of approximately 18 ft. to 22 ft. The proposed stairs would be 5 ft. in width and sit atop a 5 ft. x 4 ft. x 2 ft. concrete landing. The stairs are to be located landward of the OHWM.
- 36. The proposed dock project exceeds the allowable length and dimensional area of the Chelan County Shoreline Master Program (CCSMP). The shoreline variance is requested in order to construct a larger than allowed dock per CCSMP regulations as the project location is remote with boat only access and requires the dock to be accessed year round.
- 37. As a way to mitigate the development, the applicant proposes planting 697 sq. ft. of native vegetation. The proposed planting area is currently unvegetated and located along a section of

eroded shoreline. The proposed plantings would be required to be installed prior to the final building permit inspection for the dock and stairs structure.

38. An open record public hearing after due legal notice was held on June 3, 2020.
39. Appearing and testifying on behalf of the applicant was Anne Hessberg of Grette Associates. Ms. Hessberg testified that she was an agent authorized to appear and speak on behalf of the property owner and applicant. Ms. Hessberg indicated that the applicant had no objection to any of the proposed Conditions of Approval.
40. No member of the public testified at this hearing.
41. The Chelan County Hearing Examiner considered all evidence within the record in rendering this decision.
42. Any Finding of Fact that is more correctly a Conclusion of Law is incorporated herein as such by this reference.

CONCLUSIONS OF LAW

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. 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 Rural Residential/ Resource 20 (RR20) 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 Variance 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 the Shoreline Variance 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 VARIANCE 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 3 day of June, 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 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.

**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:
