

SHORELINE MANAGEMENT PERMIT

ACTION SHEET

Application #: SCUP 21-511/SDP 21-512
Administering Agency Chelan County Department of Community Development

Type of Permits:

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

Action:

- ☒ Approved ☐ Denied

Date of Action: July 25, 2022

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:

Greer and Jana Smith
26828 Maple Valley Black Diamond Rd #220
Maple Valley, WA 98038

This is an application for a shoreline conditional use permit and shoreline substantial development permit for the installation of a new surface water withdrawal line, electrical conduit, and a pump for domestic water use for a future single-family residence and accessory dwelling unit. Permits for the single-family residence and accessory dwelling unit were issued on April 23, 2021 under File No. BP 210109 and 210111. A 1.5-inch PVC waterline and 240 V electrical service in conduit would be installed between a vault in the upland near the single-family residence and a new submersible water pump out in Lake Chelan. The new submersible water pump would be located just landward of the 1,079' elevation on the subject property. Attached to the pump would be approximately 129 linear ft. of 1.5-inch PVC waterline and electrical service in conduit that would lead from the pump to a junction box in the upland. Approximately 62 linear ft. of waterline and electrical service would be located below the Ordinary High Water Mark (OHWM). The waterline would daylight 42 ft. from the OHWM near the 1,085' elevation before running downslope on the lake bed to the new submersible pump which would rest on the lake bottom at a water depth of approximately 21 ft. The waterline and electrical service would be buried underground in a 4 ft. deep trench to protect them from damage and freezing conditions during the winter months. No trenching would occur below the 1,085' elevation.

The project would be within a shoreline of statewide significance (RCW 90.58.030), Lake Chelan, in 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.

I. 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 must 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 (Exhibit A), date stamped November 3, 2021, except as modified by this decision or other jurisdictional agencies.
3. Pursuant to RCW 27.53.020, and CCSMP Section 4.1, if the applicants or their agents discover previously unknown historic or archeological 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. An inadvertent discovery plan must be submitted with the commercial building permit application and kept onsite during all land disturbing activities. A sample of this plan is attached as Exhibit B.
5. The applicant is responsible for compliance with all applicable local, state and federal rules and regulations, and must obtain all appropriate permits and approvals.
6. 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.
7. 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 7.10.D.

II. FINDINGS OF FACT

1. The applicant/owners are Greer and Jana Smith, 26828 Maple Valley Black Diamond Rd #220, Maple Valley, WA 98038.
2. The agent for applicant is Eron Drew, Grette Associate, LLC, 151 S. Worthen St., Suite 101 Wenatchee, WA 98801.
3. The project location is 93 Driftwood Lane, Chelan, WA 98816.

4. The parcel number for the subject property and legal description is 28-21-04-310-050, Lot B of BLA 2006-036; 0.29 Acres.
5. The subject property is located in Chelan County, not within an urban growth area.
6. The property is located within the Rural Waterfront (RW) zoning district and comprehensive plan designation.
7. The property is currently in residential use. Building permits for this property have been issued per the County Assessor's records:
 - 7.1 BP 210109 – Single-Family Residence
 - 7.2 BP 210111 – Accessory Dwelling Unit
 - 7.3 SAD 21-231 – Lower Lake Chelan Basin Shoreline Buffer modification
 - 7.4 HMMP 21-232 – Habitat management and mitigation plan
 - 7.5 BP 210698 – Pool and retaining wall.
8. Site Information: The subject property is moderate to steep slope hillside between Driftwood Lane and the OHWM of Lake Chelan. Below the OHWM, the lakebed is comprised of unvegetated coarse cobble and sand.
 - 8.1 North and South: Rural Waterfront (RW) zoning designation;
 - 8.2 East: Lake Chelan;
 - 8.3 West: S. Lakeshore Road and Rural Residential/Resource 5 (RR5) zoning designation.
9. An Aquifer Recharge Disclosure Form is not required for single-family residences and their associated developments, per CCC 11.82.060. The property is not located within a wellhead protection area.
10. Pursuant to the Washington State Department of Fish and Wildlife Priority Habitat Species Maps, the subject property does contain priority habitat for Mule Deer, riparian habitat, and wetlands; therefore, the provisions of Chelan County Code Chapter 11.78 Fish and Wildlife Overlay District, do apply.
11. The subject property is located on Lake Chelan within the 'urban' shoreline jurisdiction. Therefore, the provisions of the Chelan County Shoreline Master Program (CCSMP) do apply.
12. Pursuant to Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Map panel no. 5300150225A, there is known floodplain on the subject property. Therefore, the provisions of CCC, Chapter 11.84, Frequently Flooded Areas Overlay District, does not apply.
13. According to the Chelan County GIS mapping, the property does not contain geological hazards for erosive soils. Therefore, the provisions of Chelan County Code Chapter 11.86 Geologically Hazardous Areas Overlay District, does apply to this development.
14. No comments were received stating concerns about cultural resources being possibly located on the subject property.
15. Construction Phasing/Timing: Applicant plans to begin construction upon approval and receipt of all necessary permits.
16. Traffic Circulation: According to the updated site plan of record, dated November 3, 2021, the property is accessed by a private access easement detailed under AFN 476875
17. Domestic Water: Water to the subject property would be supplied by the proposed surface water withdrawal line.
18. Power: Chelan County PUD provides electrical services to the subject property.

19. Sanitation: Sanitation is supplied by an off-site septic system.
20. Noise: Noise is similar to other residential uses in the vicinity. The development must comply with CCC, Chapter 7.35 Noise and RCW 70.107.
21. Visual Impact: There will be no significant visual impacts.
22. The Notice of Application was referred to surrounding property owners within 300' (excluding 60' of right-of-way), jurisdictional agencies and departments of the County. These agencies and surrounding property owners were notified on December 29, 2021 with comments due January 28, 2022. Agency comments are considered in the decision and when appropriate, associated Conditions of Approval are included. The following is a list of Agencies who received notice and the date comments were received:

Agencies Notified	Response Date
US Army Corps of Engineers	None
WA State Dept. of Fish & Wildlife	None
Chelan County Building	None
WA State Dept. of Natural Resources	None
Chelan County PUD	None
Dept of Archaeology & Historic Preservation	None
Confederated Tribes of Colville	None
Yakama Nation	None
Department of Ecology	None
Chelan-Douglas Health District	None

23. No public comments were received.
24. Application Submitted: November 3, 2021.
25. Determination of Completeness issued: December 16, 2021.
26. Notice of Application: December 29, 2021.
27. Notice of Public Hearing: July 7, 2022.
28. 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 a Determination of Non-Significance (DNS) was issued on July 5, 2022. The SEPA Checklist and DNS are included within the file of record and adopted by reference.
29. Chelan County Comprehensive Plan - Rural Waterfront (RW):
 - 29.1 Purpose: This designation will 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. These areas provide a distant water related lifestyle. Potential impacts to the surrounding area, critical areas, and water quality shall be addressed. These areas must be clearly identifiable as existing intensely developed rural shorelines; where a logical boundary can be delineated and set by the built environment. Such a boundary shall not permit or encourage a new pattern of sprawling low density or urban type development.

- 29.2 Uses appropriate for these areas include: open space and developed open space; residential; agriculture; and forestry. Additional uses may be considered with supplemental provisions. These provisions shall address performance standards, impacts to the surrounding area, and be consistent with the goals and policies of the comprehensive plan. Such uses may include: intensification of existing development or new development of small scale water related/water dependent recreational or tourist uses, including commercial facilities to serve those recreational or tourist uses, that rely on a rural location or setting but that do not include a new residential component; intensification of development on lots containing existing isolated nonresidential uses; home occupations; bed and breakfasts; and community facilities:

29.1.1 FACT: The applicant is requesting a proposed residential appurtenance within the RW zoning designation.

29.1.2 HEARING EXAMINER FINDING: The proposed development meets the intent of the goals and policies of the Comprehensive Plan for residential uses.

30. Chelan County Code 11.08.020 – Standards:

Development Standards	RR-20
Minimum Setback Distances.	
Front Yard	25' from the front property line or 55' from the street centerline, whichever is greater.
Rear Yard	20' from rear property line
Side Yard	5' from side property line
Maximum Lot Coverage	Buildings and structures shall not occupy more than 35% of the lot area.
Maximum Building Height	35'

31. Shoreline Substantial Development Permit Review Criteria. In order for the permit to be approved, the decision maker must find that the proposal is affirmatively consistent with the following:

31.1 How is the proposal consistent with the policies and procedures of the Act (RCW 90.58)?

31.1.1 The development is consistent with the adopted CCSMP.

- 31.1.2 EXAMINER FINDING: With the development being in conformance with the CCSMP, the Department of Ecology is ensured that the policies and procedures of the CCSMP are consistent with 90.58.
 - 31.2 How is the proposal consistent with the provisions of Chapter 173-27 WAC, Shoreline Management Permit and Enforcement Procedures?
 - 31.2.1 HEARING EXAMINER FINDING: The development complies with the CCSMP. Therefore, it is consistent with WAC 173-27.
 - 31.3 How is the proposal consistent with this SMP?
 - 31.3.1 HEARING EXAMINER FINDING: The finding of facts and conclusions within this decision demonstrate compliance with the CCSMP.
- 32. CCSMP Section 7.7.3, Shoreline Conditional Use Permit: Review Criteria
 - 32.1 Conditional use criteria. An applicant proposing a conditional use shall affirmatively demonstrate compliance with review criteria below or as thereafter amended in WAC 173-27-160.
 - 32.1.1 How is the proposed use consistent with the policies of RCW 90.58.020 and the SMP?
 - 32.1.2 In adopting master programs, it is ensured by the Department of Ecology that the policies and procedures of the CCSMP are consistent with RCW 90.58.
 - 32.1.3 HEARING EXAMINER FINDING: The development is consistent with the adopted Chelan County Shoreline Master Program.
 - 32.2 How will the proposed use avoid interference with the normal public use of public shorelines?
 - 32.2.1 Finding of Fact: The proposed development is a residential appurtenance to a permitted single-family residence on the subject property. The subject property is a privately-owned legal lot of record. The proposed waterline and conduit would be placed in a trench approximately 4 ft deep between the upland and the 1,085' elevation; approximately 12 ft of water depth. Waterward of the 1,085' elevation, the waterline and conduit would be installed on the bed of the lake before connecting to the pump near the 1,079' elevation at a water depth of approximately 21 ft.
 - 32.2.2 HEARING EXAMINER FINDING: The proposed use/development would not interfere with public shorelines.
 - 32.3 How will the proposed use of the site and design of the project be compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and this SMP?
 - 32.3.1 Finding of Fact: The development supports the residential development of a legal lot of record. The subject property is zoned RW with a shoreline designation of 'urban.' It can be legally developed with a single-family residence and appurtenances such as domestic water lines. Other residences in the Lower Lake Chelan Basin utilize surface water withdrawals from the lake for their residential water supply.
 - 32.3.2 HEARING EXAMINER FINDING: The proposed development would be compatible with those in the surrounding properties.
 - 32.4 How will the proposed use cause no significant adverse effects to the shoreline environment in which it is to be located?
 - 32.4.1 Finding of Fact: The shoreline of the subject property is already highly modified with a concrete seawall, brick walkway and rock retaining walls. Temporary impacts to the subject property would be limited to weedy herbaceous species and grasses within the upland. There is no vegetation located below the OHWM

- at the subject property. Temporary impacts would be rectified by top seeding the trenched area with a native grass seed blend after construction is completed.
- 32.4.2 HEARING EXAMINER FINDING: The proposed development would cause no unreasonable adverse effects to the shoreline.
- 32.5 How will the public interest suffer no substantial detrimental effect?
- 32.5.1 Finding of Fact: The development would occur on a privately-owned parcel zoned Rural Waterfront. Public lands would not be affected by the proposed development. The development supports the residential development of the subject property, consistent with Chelan County Zoning and the Comprehensive Plan.
- 32.5.2 HEARING EXAMINER FINDING: The proposed development is a private use, located on privately owned property.
- 32.6 Consideration of cumulative impact. In the granting of all Shoreline Conditional Use Permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if Shoreline Conditional Use Permits were granted for other developments in the area where similar circumstances exist, the total of the conditional uses shall also remain consistent with the policies of RCW 90.58.020 and shall not produce substantial adverse effects to the shoreline environment.
- 32.6.1 The county may require that the applicant submit cumulative impact analysis, prepared by a qualified professional:
- 32.6.1.1 Documenting other properties or uses on the same waterbody that are similarly situated and could request a similar Shoreline Conditional Use Permit;
- 32.6.1.2 Finding of Fact: Other residences located on Lake Chelan already utilize surface water withdrawals to supply their domestic water needs. Developments similar to the proposed by the applicant would be designed with a fish screen and demonstrate avoidance of significant native woody vegetation or they would need to provide sufficient mitigation to ensure that the development would not cause detrimental impact to the shoreline or the ecological function within the lake.
- 32.6.1.3 Hearing Examiner Finding: The proposed development is similar to those on the same waterbody and would be permitted accordingly.
- 32.6.2 Demonstrating consistency with the policies of RCW 90.58.020.
- 32.6.2.1 Finding of Fact: The development would be consistent with the adopted CCSMP.
- 32.6.2.2 Hearing Examiner Finding: With the development being in conformance with the CCSMP, the Department of Ecology is ensured that the policies and procedures of the CCSMP are consistent with 90.58.
- 32.6.3 Demonstrating no substantial adverse effects to the shoreline environment and achievement of no-net-loss of ecological function.
- 32.6.3.1 Finding of Fact: Based on the highly modified nature of the subject property and the minimized development design, there are no significant impacts to the shoreline processes or ecological value resulting from the installation of the proposed residential surface water withdrawal line, conduit and pump.
- 32.6.3.2 Hearing Examiner Finding: The proposed development would cause no substantial adverse effects to the shoreline environment and no-net-loss of ecological function would result from the granting of this permit.

33. An open record public hearing after due legal notice was held via Zoom on July 20, 2022.
34. The entire Planning staff file was admitted into the record.
35. Appearing and testifying on behalf of the applicant was Ryan Walker. Mr. Walker testified that he was an agent authorized to appear and speak on behalf of the property owner and Applicant. Mr. Walker testified that he agreed with all the representations set forth within the staff report. Mr. Walker indicated that they had no objection to any of the proposed Conditions of Approval.
37. No member of the public testified at this hearing.
38. The Chelan County Hearing Examiner considered all evidence within the record in rendering this decision.
39. 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 Hearing Examiner finds that the development, as conditioned, is consistent with the Comprehensive Plan.
4. The proposed development would cause no substantial adverse effects to the shoreline environment and no-net-loss of ecological function would result from the granting of this permit.
5. The proposed development meets the intent of the goals and policies of the Comprehensive Plan for residential uses.
6. The development complies with the CCSMP therefore, it is consistent with WAC 173-27.
7. The finding of facts and conclusions within this report demonstrate compliance with the CCSMP.
8. The development is consistent with the adopted Chelan County Shoreline Master Program.
9. The proposed development would cause no unreasonable adverse effects to the shoreline.
10. With the development being in conformance with the CCSMP, the Department of Ecology is ensured that the policies and procedures of the CCSMP are consistent with 90.58
11. Any Finding of Fact that is more correctly a Conclusion of Law is incorporated herein as such by this reference.

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

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

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

Approved this 25th day of July, 2022.

CHELAN COUNTY HEARING EXAMINER



Andrew L. Kottkamp

Anyone aggrieved by this decision has twenty-one (21) days from the “date of receipt” as defined by Washington Law to file a petition for review with the Shorelines Hearings Board (for the shoreline permit and shoreline conditional use permit) as provided for in RCW 90.58.180 and Chapter 461-08 WAC, the rules of practice and procedure of the Shorelines Hearings Board.

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:
