

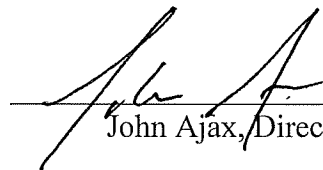
City of Chelan, Washington
Community Development Department
Staff Report
November 2023

Shoreline Substantial Development Permit) File Nos. **SSDP2022-02, SEPA2022-04**
(SSDP))
Riverwalk Park Townhomes)
) Staff Contact:
300 W. Okanogan, Chelan WA, 98816) John Ajax,
Chelan County Tax Parcels:) Community Development Director
272213240200, 272213650005,)
272213650010, 272213650015,)
272213650020, 272213650025,)
272213650030, 272213650035,)
and 272213650040.)
)
)
Applicant:)
Charley Underwood (Agent) for Eric)
Campbell, Campbell's Lodge Inc.)
(Owner) P.O. Box 278 Chelan, WA 98816)

STAFF RECOMMENDED DECISION

Based upon the following suggested findings of fact and conclusions of law, the application for a Shoreline Substantial Development Permit SSDP2022-02, submitted by Charley Underwood (Agent) for Eric Campbell is recommended for APPROVAL, based on the following conditions of approval.

DATED THIS 3rd day of November 2023



John Ajax, Director

SSDP2022-02, SEPA2022-04
Riverwalk Park Townhomes

CONDITIONS OF APPROVAL

1. Construction shall proceed substantially as shown in the application materials on file with the City of Chelan, except for minor adjustments to conform to conditions of approval or any received agency comments.
2. The applicant is responsible for compliance with all applicable local, state, and federal rules and regulations, and must obtain all appropriate permits and approvals.
3. Archaeological and Historic Resources.

Historic Retaining Wall: The historic stone retaining wall on the western boundary must remain undisturbed, consistent with the Cultural Resources Survey Report by Columbia Historical Consulting included in the Technical Memorandum dated May 23, 2022.

Monitoring: A cultural resource monitor is required onsite during excavation in the western quarter of the site to oversee and protect any historical and pre-contact elements encountered.

Inadvertent Discoveries: If archaeological resources are uncovered during construction, work must immediately halt in that area and the City and DAHP must be notified.

Compliance and Reporting: Compliance with CSMP Section 4.1.2.C is mandatory, and documentation of the cultural resource monitor's activities and any findings shall be submitted post-construction.

4. Ecological Protection and Mitigation Compliance.

Mitigation Measures: The applicant shall implement mitigation measures that ensure no net loss of ecological function. This includes the replacement of significant trees and non-native vegetation on a 1 to 1 ratio, in accordance with CSMP Sections 4.4.2.D.4 and 4.4.2.E.5, as outlined in the provided critical areas geotechnical report/evaluation and Technical Memorandum dated May 23, 2022.

Long-Term Mitigation Maintenance: Mitigation measures as specified in the applicant's mitigation plan must be maintained for the lifespan of the use and/or development. These measures must be documented and recorded with the County Auditor, ensuring the information is transferrable to future owners, as required by CSMP 4.4.2.D.6.

5. Public Access and Connectivity:

Trail Connectivity (CSMP 4.3.2.L): The development is required to provide physical public access that connects to the existing Chelan County PUD Riverwalk Park. This shall be accomplished by constructing frontage improvements meeting the

'Landscaped Street' design requirements, including a public sidewalk along the northern side of Okanogan Avenue frontage, ensuring a connection to the Riverwalk Park Trail at the southeast corner of the project.

Off-site Parking Improvements:

As part of the development's commitment to enhancing public access and amenities, the applicant has voluntarily agreed to undertake parking improvements, which include paving along the frontage of Pingrey Centennial Park located at 302 S. Third Street.

6. **Vegetation Conservation and Mitigation:**

Tree Replacement: Vegetation removal shall be minimized through careful site design. The removal of 44 significant trees and associated herbaceous vegetation, as identified in the "Technical Memorandum" dated May 23, 2022, shall be mitigated through the implementation of the project's vegetation mitigation plan.

7. **Water Quality, Stormwater and Nonpoint Pollution:**

Stormwater Management: The development must include stormwater management measures that address water quality and quantity impacts, adhering to the Department of Ecology's recommendations for eastern Washington, as detailed in the stormwater management plan, including an NPDES Construction Stormwater General Permit from the Washington State Department of Ecology

8. **General Upland Shoreline Modifications and Use Regulations:**

Design Integration: Incorporate building mechanical equipment into architectural features or screen with materials matching the building exterior.

Soil Erosion: Implement soil restoration and erosion prevention measures as outlined in the Geotechnical Report Analysis.

Lighting: Ensure that all lighting complies with CMC 17.62, avoiding spill-over to adjacent properties, public spaces, the lake, and critical areas unless for public safety.

Pool Treatment and Location: Any pool must be connected to a sewer system or have provisions for treated water disposal, and be located a minimum of 75 feet from the ordinary high water mark.

9. **Fill and Excavation:**

Fill and excavation must be minimized to protect ecological functions. Any necessary fill and excavation are to be confined to upland areas, avoiding sensitive zones and must comply with the 35 ft shoreline setback requirement.

Maintain cut and fill slopes within the (1:2) ratio or as recommended by qualified engineering analysis.

Erosion Control: Implement Best Management Practices (BMPs), silt fencing, and adhere to appropriate construction windows to minimize erosion risk. Disturbed areas must be immediately protected to prevent erosion.

10. Parking Provisions: The development shall not include a standalone parking facility. Each townhome unit shall have an integrated single-car garage and a driveway accommodating an additional vehicle. All vehicular access must be via West Okanogan Avenue. The development must adhere to the zoning variance, if approved, that aligns with the CSMP's parking location requirements, avoiding the construction of new or expanded parking facilities within the 200-foot shoreline jurisdiction.
11. Zoning and CSMP Compliance: The development must fully adhere to the zoning regulations specified in the TMU Zoning District within the City of Chelan Municipal Code (CMC) Chapter 17.14 and must be consistent with the requirements of the Shoreline Residential-Multi Family (MF) designation within the CSMP.
12. Compliance with Agency Requirements: The applicant shall comply with applicable agencies' requirements received as part of the application review process.

FINDINGS OF FACT

I. SUMMARY OF REQUEST

The applicant has submitted an application for a Shoreline Substantial Development Permit (SSDP2022-02). This project seeks to construct a 16-unit townhouse complex on a 1.12-acre parcel located at 300 W Okanogan Avenue, Chelan, WA. The proposed development includes not only the townhouses but also associated parking, utilities, open spaces, frontage improvements, and a swimming pool.

Concurrently with this SSDP2022-02 application, a Zoning Variance application (VAR2022-04) has been submitted. Both applications have been reviewed and processed together as a consolidated application for processing purposes. The applicant is requesting separate decisions for each application.

Additionally, there are plans for further land use applications in the near future, which are anticipated to include a boundary line adjustment, a short subdivision, and building permit applications.

II. APPLICATION

1. The applicant is Charley Underwood (Agent) for Eric Campbell, Campbell's Lodge Inc. (Owner) P.O. Box 278 Chelan, WA 98816.

SSDP2022-02, SEPA2022-04
Riverwalk Park Townhomes

2. Submitted application materials (EXHIBIT 'A') are as follows:
 - 2.1. Construction drawings / plan set, prepared by The DOH Associates, PS, dated 7/26/22
 - 2.2. City of Chelan Critical Areas Review Checklist.
 - 2.3. Cultural Resources Report dated 3/12/2021; exempt from public disclosure.
 - 2.4. Existing Conditions Site Plan
 - 2.5. Geotechnical Evaluation and Critical Areas Report, prepared by GN Northern, Inc, dated July 2022.
 - 2.6. JARPA, signed 7/11/22
 - 2.7. Proposed Conditions Site Plan and update showing the OHWM and 35ft. shoreline buffer.
 - 2.8. SEPA checklist, signed 7/12/22
 - 2.9. Shoreline Compliance Technical Memorandum, prepared by Grette Associates, LLC, dated 5/23/22.
 - 2.10. Limited Scope Traffic Impact Analysis, prepared by Transportation Engineering Northwest, dated 5/16/22.
 - 2.11. Vegetation Mitigation Plan, prepared by Grette Associates, LLC, dated 5/23/22.
 - 2.12. Project Vicinity Map
 - 2.13. Responses to Agency and Public Comments received 8.16.23 include the following: Applicant responses to public and agency comments, Revised Proposed Conditions Site Plan, Geotech memo response, traffic memo and Updated Limited Scope Traffic Impact Analysis, prepared by Transportation Engineering Northwest.

III. ZONING AND SITE INFORMATION

3. The underlying Zoning District & Comprehensive Plan Land Use designation for the subject site is Tourist Mixed Use (TMU) and fronts on a Landscape Street (CMC 17.14.020.D.4.).
4. The TMU Zoning district setbacks are as follows:
 - 4.1. 15 ft. front yard setback, 20 ft. front yard setback for garages.
 - 4.2. 5 ft. side yard setback, 0 ft. side yard setback for internal lot lines associated with townhomes.
 - 4.3. 0 ft. rear yard setback.
5. 'Townhouse' is a permitted use within the TMU Zoning District per CMC 17.14.020.C.2.b..
6. The subject site is approximately 520 feet wide and 125 deep.
7. Adjacent Land Uses and Zoning designations are as follows:

- 7.1. **North:** Riverwalk Park, owned by Chelan County Public Utility District, zoned as Public Lands and Facilities (PLF).
- 7.2. **South:** Okanogan Avenue followed by an eight-plex condominium and single-family homes, zoned Downtown Mixed Residential.
- 7.3. **East:** Pedestrian entrance to Riverwalk Park, also under Chelan County Public Utility District and zoned as Public Lands and Facilities (PLF).
- 7.4. **West:** 3rd Street and West Woodin Avenue. Further west are Grandview condominium and the Forest Service office, zoned Tourist Accommodations (T-A).

8. Utility / services available at the subject site and immediate vicinity include:

- 8.1. Water / Sewer – City of Chelan
- 8.2. Fire Protection Service – Chelan County Fire Protection District Number 7
- 8.3. Law Enforcement – Chelan County Sheriff
- 8.4. School District – Lake Chelan School District
- 8.5. Power / Electric – Chelan County P.U.D.
- 8.6. Public Transit – LINK
- 8.7. Garbage Service: City of Chelan

9. Access / Circulation:

- 9.1. The subject site fronts on the north side of West Okanogan Avenue, running west to east, and is optionally accessible by South 3rd Street, South 2nd Street, and South 1st Street, each running north to south.
- 9.2. The Chelan County Public Utility District park system (Riverwalk Park) is located north of the subject site and is accessible via a sloped pedestrian pathway located immediately east of the subject property.
- 9.3. The revised application site plan includes modification to the one way access at Okanogan and Third Street.

IV. APPLICATION PROCESSING

10. The application was submitted on July 26, 2022
11. The application was deemed complete for processing on August 10, 2022
12. Notice of Application and SEPA referral (EXHIBIT ‘B’) was provided in the following manner:
 - 12.1. Mailed to property owners of record within 300 feet of the subject property on August 16, 2022.
 - 12.2. Mailed to parties of record on previous application SSDP2021-03
 - 12.3. Posted on site on August 16, 2022
 - 12.4. Published in the Lake Chelan Mirror Newspaper on August 17, 2022.
13. Notice of Application was referred by email to the following agencies on August 17, 2022:

- 13.1. Chelan County Public Utility District No. 1 – Alicia Hankins
- 13.2. Lake Chelan School District, Tamara Wilson, Transportation Supervisor,
- 13.3. The Confederated Tribes of the Colville Reservation (CCT) - Guy Moura;
- 13.4. Department of Natural Resources SEPA Center
- 13.5. Department of Ecology, Lennard Jordan,
- 13.6. Department of Ecology - Gwen Clear
- 13.7. Washington State Department of Fish and Wildlife – SEPA
- 13.8. Confederated Tribes and Bands of the Yakama Nation – Casey Barney
- 13.9. Confederated Tribes and Bands of the Yakama Nation – Jessica Lally
- 13.10. WSDOT
- 13.11. United States Army Corp, Janae Churchill
- 13.12. United States Army Corp, Evan Carnes
- 13.13. Chelan County Fire District Seven, Brandon Asher
- 13.14. Chelan County Sheriff – Adam Musgrove
- 13.15. Dept. of Archeology and Historic Preservation (DAHP) – SEPA Center
- 13.16. Link Transit
- 13.17. Ziplly Fiber – Kern Chesna
- 13.18. Lake Chelan Reclamation District – Rod Anderson
- 13.19. Lake Chelan Reclamation District – Jennifer
- 13.20. City of Chelan, Building – Luis Gonzalez
- 13.21. City of Chelan, Public Works – Thomas Tupling

14. Agency Comments (EXHIBIT ‘C’) were received from:

- | | | |
|-------|----------------|------------|
| 14.1. | Guy Moura | 8/22/2022 |
| 14.2. | Alicia Schulz | 8/31/2022 |
| 14.3. | Vicki Griffin | 9/9/2022 |
| 14.4. | Graham Simon | 9/9/2022 |
| 14.5. | Lucila Cornejo | 9/14/2022 |
| 14.6. | Public Works | 10/19/2022 |

15. Public comments (EXHIBIT ‘D’) were received from:

- | | | |
|--------|-----------------------------|-----------|
| 15.1. | Stephen Easley | 8/22/2022 |
| 15.2. | Donald and Gwendolyn Earley | 8/29/2022 |
| 15.3. | Tony and Sharron Crosetto | 9/2/2022 |
| 15.4. | Becky and Greg Hobson | 9/5/2022 |
| 15.5. | Michael Gibb | 9/6/2022 |
| 15.6. | Rebecca Hartwig | 9/7/2022 |
| 15.7. | Christy Nielsen | 9/12/2022 |
| 15.8. | Tracy Hollingsworth | 9/15/2022 |
| 15.9. | Cynthia Kupczynski | 9/15/2022 |
| 15.10. | Lisa Garvich | 9/15/2022 |
| 15.11. | Friends of Chelan | 9/15/2022 |
| 15.12. | Patricia A Gillis | 9/15/2022 |
| 15.13. | Dan Lambert | 9/16/2022 |
| 15.14. | Gail Lambert | 9/16/2022 |
| 15.15. | Susan Barth | 9/16/2022 |

- 15.16. Peggy McMahon 9/16/2022
- 15.17. Jarek Kupczynski 9/16/2022
- 15.18. Friends of Chelan 9/16/2022
- 15.19. Cindy Kupeczynski 9/16/2022
- 15.20. Steven Garvich 9/16/2022

- 16.** Notice of Public Hearing (EXHIBIT ‘E’) was provided in the following manner:
- 16.1. Mailed or email to property owners of record within 300 feet of the property owned by the applicant on November 1, 2023.
 - 16.2. Mailed or email to parties of record on November 1, 2023.
 - 16.3. Posted on site on November 1, 2023.
 - 16.4. Published in Lake Chelan Mirror Newspaper on November 1, 2023.

V. SEPA REVIEW / THRESHOLD DETERMINATION.

- 17.** City of Chelan issued a SEPA Determination of Nonsignificance (DNS) (EXHIBIT ‘F’) on September 20, 2023 with a two week comment period ending on October 4, 2023.
- 17.1. One agency comment was received on the DNS WDFW, stating previous comments have been addressed, received on 9.21.23.

VI. CITY OF CHELAN SHORELINE MASTER PROGRAM (CSMP) REVIEW / ANALYSIS

- 18.** Applicant responses to received public and agency comments were received August 16, 2023.
- 19.** Agency Comments are attached and incorporated by this reference.
- 20.** The subject site is predominantly located within the 200-foot shoreline jurisdiction and is currently unimproved, containing approximately 44 significant trees and other forms of vegetation throughout the site.
- 21.** Lake Chelan is a Shoreline of Statewide Significance.
- 22.** The following sections of the City of Chelan Shoreline Master Program (CSMP) are directly applicable to the review of the subject site and the proposed development for townhomes.
- 22.1. 3.2 – Environmental Designations
 - 4.1 – Archaeological and Historic Resources,
 - 4.2 – Ecological Protection and Critical Areas
 - 4.3 – Public Access
 - 4.4 – Vegetation Conservation and Shoreline Setbacks
 - 4.5 – Water Quality, Stormwater and Nonpoint Pollution
 - 5.1 – General Upland Shoreline Modifications and Use Regulations
 - 5.9 – Fill and Excavation

- 5.14 – Residential Development
- 5.16 – Shoreline Stabilization
- 5.17 – Transportation and Parking
- 5.18 – Utilities

23. The City of Chelan Shoreline Master Program (CSMP) Environmental Designation of the subject site is Shoreline Residential-Multi Family (MF)
24. The purpose of the "Shoreline Residential – Multi-Family" environment is to accommodate multi-family residential development and appurtenant structures that are consistent with this chapter. An additional purpose is to provide appropriate public access and recreational uses.
25. CSMP Table 4.4-1, the subject site is located outside of a 35 foot shoreline setback applicable to the Shoreline Residential Multi-family designation.
26. CSMP 4.1 – Archaeological and Historic Resources. Site Assessment: Upon receipt of an application for a shoreline permit or application for a demolition permit within the shoreline zone, or request for a statement of exemption for development on properties within 500 feet of a site known to contain a historic, cultural, or archaeological resource(s), the City shall require a cultural resource site survey/assessment. Such assessment shall be consistent with DAHP Standards for cultural resource reporting.

The application “Technical Memorandum”, dated May 23, 2022 states:

A Cultural Resources Survey Report has been conducted by Columbia Historical Consulting and is included as an attachment. The survey identified a multicomponent site with historic debris and lithic material and a historic stone retaining wall.

The project specific cultural resource survey report states that there is a multicomponent portion of the site that includes historic and pre-contact elements (western quarter of the site). However, evidence suggests that these elements are in fill material that was imported from an off-site location. As such this portion of the site lacks contact and integrity and is not eligible for the National Register. The stone retaining wall along the western property boundary appears to be eligible for the National Register per the project specific cultural resource survey report (Columbia Historical Consulting, 09/17/2019).

Proposed measures are per the project specific cultural resource survey report, and include recommendation that the project not disturb the existing retaining wall along the western property boundary. Additionally, the report recommends that a cultural

resource monitor be onsite during excavation activities within the western quarter of the site.

- 27. CSMP 4.2 – Ecological Protection and Critical Areas** - This section of the CSMP identifies requirements to analyze environmental impacts of development proposals and includes measures to mitigate environmental impacts not otherwise avoided or mitigated by compliance with this SMP and other applicable regulations.

In addition, any critical areas found within shoreline jurisdiction must be managed in a way that also results in no net loss of ecological functions and is based on the “most current, accurate, and complete scientific and technical information available that is applicable to the issues of concern.”

The project application materials include a critical areas geotechnical report / evaluation, including site development recommendations. In addition, the applicant supplied “Technical Memorandum”, dated May 23, 2022 responds to the following sections applicable to no net loss of ecological function: mitigation sequencing (4.4.2.B), required mitigation for impacts (4.4.2.C), restoration is not required (4.4.2.E), and location of mitigation (4.4.2.G).

The project application materials propose no net loss of ecological function at the development site through replacement of existing significant trees and non-native vegetation at a ratio of 1 to 1 as required by CSMP sections 4.4.2.D.4 and 4.4.2.E.5.

No wetlands or frequently flooded areas are found onsite or impacted by the proposed development.

28. CSMP 4.3 – Public Access

28.1. CSMP 4.3.1 Public access refers to the ability of the general public “to reach, touch, and enjoy the water's edge, to travel on the waters of the state, and to view the water and the shoreline from adjacent locations” (WAC 173-26- 221(4)(a)). Public access can be physical access such as via a trail or park and/or visual such as a view corridor from a road.

28.2. Sites Separated from the Shoreline (CSMP 4.3.2.H): Where a development in shoreline jurisdiction can safely and feasibly accommodate public access connections and creates demand for access, the City may require public access connections from upland properties in shoreline jurisdiction to the shoreline when the subject site is separated from the shoreline waterbody by public or private improvements such as highways, railroads, existing structures, or similar significant intervening improvements. Where infeasible, the City may require alternative measures per Subsection G.

28.3. Connectivity (CSMP4.3.2.L): Physical public access shall be designed to connect to existing or future public access features on adjacent or abutting properties, or shall connect to existing public rights-of-way or access easements, consistent with

design and safety standards. Trail improvements following public rights-of-way per Appendix C shall be considered part of street frontage improvements in accordance with City of Chelan Public Works Development Standards.

28.4. Consistent with CSMP 4.3.2 D.3.a, public access is required for this project as a proposed townhome development in that it is considered a type of multifamily development and may be subdivided in the future to create individual lots for each unit. The application materials state that public access is provided as follows:

29. CSMP 4.4 – Vegetation Conservation and Shoreline Setbacks –

29.1. CSMP 4.4.2 (A through E) provides specific requirements for vegetation conservation, examples of types of adverse impacts on vegetation, and associated mitigation for such adverse impacts. In general, vegetation conservation is required to minimize the loss of and increase the extent and viability of vegetation along or near the shoreline that contribute to the ecological functions of shoreline areas.

Specific to new development, CSMP 4.4.2.E.5. states: All other tree removal in shoreline jurisdiction proposed as part of an approved use or development shall be minimized through site design, and mitigated if the tree removal has an adverse impact as outlined in SMP Subsection 4.4.2.C. When required, tree replacement shall occur at a one for one ratio, with native trees replaced with a similar native tree. Nonnative trees may be replaced with a native tree or another non-native tree, provided that no invasive or noxious trees are allowed.

The application “Technical Memorandum”, dated May 23, 2022 states:

The proposed project will require the removal of existing vegetation during project construction. This impact is unavoidable and is the result of the limited amount of space available within the site for construction.

44 significant trees primarily composed of non-native horticultural species, and a sparse mix of native and non-native weedy herbaceous plants will be removed during project construction. The trees and herbaceous vegetation are located outside of the shoreline buffer and do not overhang the water.

The location of vegetation removal is within the upland and is separated from the lakeshore by the presence of the paved Riverwalk trail and the existing City of Chelan Riverwalk Park. These existing improved features are located within the highly modified shoreline buffer and prevent vegetation on the subject property from providing functions identified in Section 4.4.2A.

A vegetation mitigation plan has been designed to compensate for the loss of trees at the site and is included as an attachment. This replacement vegetation will be composed of native trees known to grow well in the area.

The proposed development has also been designed so that impervious surfaces are infiltrated, treated and/or detained as necessary to control potential adverse impacts to water quality or quantity. These treatment options are outlined within the stormwater management plan and have been designed in accordance with DOE recommendations for stormwater management within eastern Washington.

Although adverse impacts to vegetation will occur as a result of this project, they have been minimized to the greatest extent possible and compensatory mitigation will be provided.

29.2. CSMP 4.4.2.H. Clearing and Grading states: Clearing and grading. Clearing and grading in shoreline jurisdiction shall be limited to the minimum necessary to accommodate approved shoreline development and shall also be in conformance with the provisions of Section 4.2, Ecological Protection and Critical Areas. All earth-altering activities shall utilize best management practices to minimize and control erosion. Clearing and grading proposed without a proposed shoreline development is not allowed.

The proposed development does include limited grading at a scale consistent with the scale of proposed townhome development without significantly altering the existing grade of the site; no mass regrading is proposed or sought for approval. A proposed pool area located in the northwest area of the development site includes retaining walls that do not meet the Zoning Code requirements for setbacks and will need to be resigned to comply the code. See also section 5.9 of this staff report.

30. CSMP 4.5 – Water Quality. Protection of the state’s water quality requires broadly applicable land use regulations. A variety of activities and uses cumulatively or directly impact water quality. Poorly managed development cumulatively degrades water quality, thereby threatening water quality for public health, wildlife and water-dependent economic interests. Impacts to water quality from development result in part from impervious surfaces and include:

- higher levels of stormwater discharge.
- erosion
- introduction of suspended solids, heavy metals, household wastes excess nitrogen and phosphorous that lead to low levels of dissolved oxygen detrimental to aquatic life.

The application “Technical Memorandum”, dated May 23, 2022 states:

The project includes a stormwater management plan compliant with the requirements in the current Stormwater Management Manual for Eastern Washington. Stormwater will

be retained or infiltrated on-site and will not directly discharge to Lake Chelan without treatment.

C. Lake Chelan Water Quality Plan

The proposed project shall implement applicable provisions of the Lake Chelan Water Quality Plan as required within this section.

D. Maintain storm drainage facilities.

The property owner will be responsible for maintaining storm drainage facilities at the site as required within this section.

E. Sewage management.

This project will connect to one of the existing municipal sewer service systems as required within this section.

31. CSMP 5.1 - General Upland Shoreline Modifications and Use Regulations

31.1. CSMP 5.1.2.A - Design features for compatibility. Shoreline use and development activities shall be designed to complement the character and setting of the property, minimize noise and glare, and avoid impacts to view corridors. Shoreline applicants shall demonstrate efforts to minimize potential impacts to the extent feasible, including:

1. Building mechanical equipment shall be incorporated into building architectural features, such as pitched roofs, to the maximum extent possible. Where mechanical equipment cannot be incorporated into architectural features, a visual screen shall be provided consistent with building exterior materials that obstructs views of such equipment.

2. Outdoor storage shall be screened from public view through techniques such as landscaping, fencing and/or other equivalent measures.

31.2. CSMP 5.1.2.B - Preference for water-oriented facility location. Shoreline developments shall locate the water-oriented portions of their developments along the shoreline and place all other facilities landward or outside shoreline jurisdiction.

The proposed project does not physically touch the shoreline and is designed with the proposed townhomes as far away from the OHWM as feasible, based on required zoning setbacks.

31.3. CSMP 5.1.2.C Minimize changes to topography. To the extent feasible, design of structures, and motorized and nonmotorized vehicular improvements, shall conform to natural contours and minimize disturbance to soils, native vegetation, and natural features while meeting applicable government standards.

The proposed application includes minimal topographic changes consistent with the scale of the proposed project as townhomes.

- 31.4. CSMP 5.1.2.D Soil disturbance. All disturbed areas shall be restored and protected from erosion using vegetation and other means.

The proposed application addresses this requirement as part of the Geotechnical Report Analysis submitted with the application.

- 31.5. CSMP 5.1.2.E Height, setbacks and public view corridors. Heights Greater than 35 Feet: Per WAC 173-27-180, applicants for new or expanded structures exceeding 35 feet in height shall provide a depiction of the impacts to views from substantial numbers of residences and public areas. To mitigate impacts, site design shall

The proposed application does not propose heights greater than 35 feet.

- 31.6. CSMP 5.1.2.F Lighting. Interior and exterior lighting shall be designed and operated to avoid illuminating nearby properties, public areas, or the lake waters. All outdoor lighting shall be compliant with CMC 17.62; Lighting shall be directed away from shoreline vegetation conservation areas, shoreline aquatic areas, and other critical areas, unless necessary for public health and safety.

- 31.7. CSMP 5.1.2.H H. No Net Loss of Ecological Function. Upland uses, development, and modifications shall be located and designed to assure no net loss of ecological functions and no significant adverse impact on other shoreline resources and values.

- 31.8. CSMP 5.1.2.I - Pools. Pools and other upland recreational uses that utilize chemically treated water must either be connected to a sewer system or must collect the water for later discharge into a sewer system. Pools and other upland recreational uses that utilize chemically treated water shall be located a minimum of 75 feet upland of the ordinary high water line.

- 31.9. The proposed pool location is approximately 117 feet from the OHWM.

32. CSMP 5.9 – Fill and Excavation

The application “Technical Memorandum”, dated May 23, 2022 states:

A. Protect ecological functions.

Fill and excavation shall be minimized to the maximum extent practicable. All fill and excavation activities will occur within the upland and no sensitive areas will be affected. A geologic hazard assessment has also been prepared for the site. Recommendations within the geologic assessment will be observed during construction in order to minimize adverse impacts to ecological functions. Adverse impacts to ecological functions shall be

addressed through the attached vegetation mitigation plan, and as discussed in detail within the relevant sections listed above.

C. Permissible upland excavations and fills.

All upland excavations and fills will occur outside of the required 35 ft shoreline setback. A geologic assessment has been prepared for the site to address any risks associated with steep slopes in the vicinity of the project area. A cultural resources study has also been prepared for the site and has determined that no cultural resources are present. No hydrology will be altered as a result of this project and no sensitive areas will be excavated or filled as part of this project.

F. Maximum slopes

All cut and fill slopes will not exceed the required ratio of (1:2) as outlined within this section unless recommended within a qualified engineering analysis of the site.

G. Erosion control.

As stated above, BMPs, silt fencing and appropriate weather work windows will be utilized during project construction in order to minimize the potential for erosion. All disturbed areas will immediately be protected as required within this section.

- 33.** CSMP 5.14 – Residential Development – The application “Technical Memorandum”, dated May 23, 2022 states: *the proposed project has been designed to comply with this portion of the CSMP. The development conforms to the zoning regulations within this portion of the City of Chelan; TMU zone within the City of Chelan Municipal Code (CMC) Chapter 17.14 Chelan Downtown Land Use and Development Code, and Shoreline Residential-Multi Family (MF) within the CSMP. The project will utilize existing utilities within this portion of the City for water and sewer. A stormwater management plan has been designed to comply with DOE requirements within eastern Washington. Solid waste disposal will utilize Waste Management. Electrical will be provided by Chelan PUD. Phone will be provided by Verizon or Wave. No shoreline stabilization will be required as the project is located no less than 45 ft from the OHWM of Lake Chelan. The project has been designed so that no net loss of ecological function will result. All structures will be located outside of critical areas and units have been clustered to preserve areas of open space. Community access to the shoreline already exists on the neighboring parcel to the east and will not be impacted by the proposed project.*
- 34.** CSMP 5.16 – Shoreline Stabilization - The application “Technical Memorandum”, dated May 23, 2022 states: *all upland excavations and fills will occur outside of the required 35 ft shoreline setback. A geologic assessment has been prepared for the site to address any risks associated with steep slopes in the vicinity of the project area. A cultural resources study has also been prepared for the site and has determined that no cultural resources are present. No hydrology will be altered as a result of this project and no sensitive areas will be excavated or filled as part of this project.*

Although not directly defined within the CSMP, shoreline stabilization infers a location that has direct contact with a water body or could be in the future by some future event or action such as erosion. The proposed project is not directly adjacent to the aquatic environment and does not propose shoreline stabilization as such.

35. CSMP 5.17.H – Parking facilities are not a preferred use in shoreline areas and shall be permitted only when necessary to support an authorized use, minimizing environmental and visual impacts. For the purposes of this section, 'authorized' refers to a use or activity included in the use matrix and associated definitions in Section 3.2.A1.F and Chapter 9. Facilities at alternative sites that promote pedestrian, bicycle, multimodal, and public transportation access to shoreline recreational areas are preferred over the development of new or expanded parking facilities.

The proposed project does not include a standalone parking facility. Instead, individual townhome units are proposed to have a single-car garage and a driveway that can accommodate a second vehicle, all accessing West Okanogan Avenue. A concurrent zoning variance application seeks permission for individual garages to face and access West Okanogan Avenue directly.

The zoning variance request includes provisions to comply with the more stringent parking location requirements of the Shoreline Master Program. Specifically, the variance would permit the placement of parking as far upland from the Ordinary High Water Mark (OHWM) as possible. This approach eliminates the need to construct a new access road within the 200-foot shoreline jurisdiction, in alignment with CSMP 5.17.2.A

36. CSMP 5.18.2.B – Preference – existing footprints. Preference shall be given to utility systems contained within the footprint of an existing right-of-way or utility easement over new locations for utility systems. Presence of existing utilities does not justify more intense development; provided that where utility development is added it shall meet the provisions of this SMP.
37. CSMP 5.18.2.C. Undergrounding. All new permanent utility systems shall be underground except where environmental or geological conditions makes undergrounding prohibitive; provided that facilities which are temporary or infeasible to underground are exempt from undergrounding, including but not limited to electric transmission lines in excess of 15kV, utilities attached

Utilities associated with this project will be located underground as required within this section.

STAFF RECOMMENDED CONCLUSIONS OF LAW (CMC 17.52.070)

1. The Hearing Examiner has the authority to issue decisions on Type III shoreline substantial development permit applications.

2. The applicant for a shoreline substantial development permit was processed in conjunction with the variance application VAR2022-04 under the optional consolidated permit processing provision in CMC 19.14.020.
3. Environmental review, in compliance with the State Environmental Policy Act and CMC Title 14, resulted in the issuance of a Determination of Non-Significance (DNS) under SEPA on September 20, 2023.
4. The requirements of Title 19 of the Chelan Municipal Code for public notice of the open record hearing, notice of application, and environmental review applicable to the subject application were met.
5. The proposed project complies with the relevant dimensional and use regulations as prescribed by the TMU zoning district, as confirmed by review of the project area assessment.
6. As conditioned, the proposal substantially complies with the City of Chelan Comprehensive Plan, Zoning Code, Shoreline Master Program, and the City of Chelan Development Standards.
7. The project has been determined to be consistent with the applicable provisions of the City of Chelan's Shoreline Master Program
8. The project traffic impact analysis and additional responses demonstrate no significant adverse effects on traffic flow, conditioned upon the proposed infrastructure improvements.
9. The proposed development, as conditioned, includes measures to mitigate potential light and noise impacts on surrounding properties, with adherence to all applicable local ordinances.
10. The projects' proposed landscaping and planting mitigation plan has been designed to meet the requirements of the shoreline master program requirements to ensure no net loss of ecological function.
11. Public utility upgrades, as conditioned, have been confirmed to provide capacity to accommodate the proposed development, and necessary upgrades are required to be completed in accordance with the projected needs of the development.
12. The stormwater management plan for the proposed development meets all local and state regulations, ensuring that post-development runoff will not exceed pre-development conditions and that water quality standards will be maintained.
13. As conditioned, the proposed project will not cause the level of service standards for public facilities and services to fall below the standards set forth in the City's comprehensive plan.
14. As conditioned, the public facilities and services necessary to support the proposed project are adequate and will be available concurrently with the projected demand for such services.
15. During the review of this application, consideration was given to both public and agency comments received during the comment period. The applicant's responses to

these comments have been taken into account as part of the application review process.

16. Any Finding of Fact that more correctly constitutes a Conclusion of Law is hereby incorporated as such by this reference.