



Lewis County

Community Development

125 NW Chehalis Ave, Chehalis, WA 98532
Phone: (360) 740-1146 • www.lewiscountywa.gov

APPEAL OF TYPE I OR II ADMINISTRATIVE DECISION

After an administrative decision is made by Lewis County, the public has the right to appeal based on the Lewis County Code. The appeal information is listed on the written administrative decision made.

After submitting the petition to appeal, the request will be forwarded to the Lewis County Hearing Examiner. Unless the petition is dismissed, the Hearing Examiner will hold a hearing in accordance with Lewis County Code 2.25.

The following items are required to be submitted for the Appeal of Administrative Decision application to begin the process:

STAFF

APPLICANT

☐☒

'Appeal of Administrative Decision' form

☐☒

Copy of written decision being appealed

☐☒

Application Fees

Appeal fee:	\$900
Administrative Fee:	\$50
Legal publication fee:	\$500
Hearing Examiner fee:	\$1,515.00

☐☐

Other: _____

For Official Use Only:

Date Received: 04/21/2025

Application Number: APL25-0001

Associated Permits: MSR24-0462

Permit Technician: Katie Johnson

Date forwarded to Hearing Examiner: 04 / 22 / 2025

Copy sent to Appeals Coordinator: 04 / 21 / 2025 Original sent to Preston Pinkston

Lewis County Community Development

125 NW Chehalis Ave, Chehalis, WA 98532 Phone: (360) 740-1146 • www.lewiscountywa.gov

Decision Information

Name of Applicant/Owner: Joe and Shelly Malleis
Address: 110 Shawnee Trail, PO Box 642, Packwood WA 98361
Tax Parcel Number: 011033012001 Application Number (if applicable): MSR24-0462
Phone Number: 206-200-5141; 206-769-4088 Email: outrun1@msn.com; smalleis2012@gmail.com

Appeal Information

Specific identification of decision being appealed:

- ☐ SEPA Determination
(Appeal authorized per LCC 17.110.130)
- ☒ Type I Administrative Decision as identified in LCC 17.05.040(2) Table 17.05-2
(Appeal authorized per LCC 17.05.040(2) Table 17.05-1)
- ☐ Type II Administrative Decision as identified in LCC 17.05.040(2) Table 17.05-2
(Appeal authorized per LCC 17.05.040(2) Table 17.05-1)

Specific grounds for petition, concise statement of the factual reason for the appeal, and identification of the policies, statutes, codes or regulations that the petitioner claims are violated (*attach additional sheets if necessary*): Lewis County Dept of Planning erred in its findings/denial of the above-referenced MSR application. See attached letter, Exhibit "A," dated February 12, 2025, which outlines the applicants' compliance to the Lewis County Code regarding: 1) Fill Response; 2) Stair Response; 3) RV Site Response; and 4) Structure Response. Also attached as Exhibit "B" is the Dept's letter of Denial, dated April 11, 2025. Attached as Exhibit "C" is the applicants' letter to the Dept., dated September 19, 2024.

Petitioner Information (*attach additional sheets if necessary*)

Name and address of Petitioner
Joe and Shelly Malleis
110 Shawnee Trail, PO Box 642
Packwood WA 98361

Attorney for Petitioner (if applicable):
Eric G. Carlson
605 SE Prospect Street
Chehalis, WA 98532

Daytime Telephone: 206-200-5141

Daytime Telephone: 360-269-5541

Email: smalleis2012@gmail.com

Email: ericgcarlson@gmail.com

Joe Malleis/Shelly Malleis
Signature of Petitioner

Eric G. Carlson
Signature of Attorney - WSBA #56842

EXHIBIT A

ERIC G. CARLSON, P.S.

A PROFESSIONAL LAW CORPORATION

605 SE Prospect Street

Chehalis, WA 98532

T: 360.269.5541 | E: ericgcarlson@gmail.com

February 12, 2025

LEWIS COUNTY
COMMUNITY DEVELOPMENT
PRESTON PINKSTON
125 NW CHEHALIS AVE.
CHEHALIS, WA 98532

RE: Development Review Application #MSR24-0462
Parcel #: 011033012001
Response to November 14, 2024 Letter from Preston Pinkston

Dear Mr. Pinkston:

This letter is in response to your November 14, 2024 letter. My response, on behalf of my clients, will follow the format and order of your letter.

RE: RV Site Response

The *Variance* citation of LCC 17.162.010(b). Specifically, there is no subsection “(b)” in the LCC 17.162.010 as of the legislation passed through December 10, 2024. **See Exhibit 1.**

Perhaps you are referring to LCC 17.162.010(1)(b)? Please clarify. If that is the case, then we disagree that because the property has an existing house, shop, and septic system, is not a basis upon which to extrapolate that to deprive the subject property of any RV sites is reasonable. In fact, it is just the opposite. Most all similar properties in this area along the river are used for camping, hosting friends and families, and to enjoy the river and the greater outdoors. My clients and their families have camped on this property for decades.

In your November 14, 2024 letter you did not make any mention of a 150’ setback from the ordinary high-water mark (OHWM). In fact, the only problem with any RV sites mentioned in the November letter was with regard to LCC 17.144.010 (two-and-a-half-acre requirement).

With regard to the alleged 150’ setback requirement, the Lewis County Shoreline Master Program (SMP) defines Water-Oriented Use as:

Water-Oriented Use – Any combination of water-dependent, water-related, or water-enjoyment uses that serves as an all-encompassing definition for

priority uses under the SMA.

The SMP defines Water-Enjoyment Use as:

Water-Enjoyment Use – A recreational use or other use that facilitates public access to the shoreline as a primary characteristic of the use; or a use that provides for recreational use or aesthetic enjoyment of the shoreline for a substantial number of people as a general characteristic of the use and which through location, design, and operation ensures the public's ability to enjoy the physical and aesthetic qualities of the shoreline. In order to qualify as a water-enjoyment use, the use must be open to the public and the shoreline-oriented space within the project must be devoted to the specific aspects of the use that fosters shoreline enjoyment.

The SMP defines Water-Related Use as:

Water-Related Use- A use or portion of a use, which is not intrinsically dependent on a waterfront location but whose economic viability is dependent upon a waterfront location because:

- A. Of a functional requirement for a waterfront location such as the arrival or shipment of materials by water or the need for large quantities of water; or
- B. The use provides a necessary service supportive of the water-dependent commercial activities and the proximity of the use to its customers makes its services less expensive or more convenient. Examples include manufactures of ship parts large enough that transportation becomes a significant factor in the products costs, professional services serving primarily water-dependent uses and storage of water-transported foods. Examples of water-related uses *may* include warehousing of goods transported by water, seafood processing plants, hydroelectric generating plants, gravel storage when transported by barge, oil refineries where transport is by tanker and log storage.

As such, there is not a 150' setback requirement per table 4-1 of the SMP. In fact, table 4-1 provides:

1. **Utilities.** There is no setback requirement for utilities that are non-water-oriented structures in the Shoreline Residential Category.
2. **Reductions in the shoreline buffer from the OHWM.** Reductions in the shoreline buffer from the OHWM may be authorized according to the standards in the SMP Section 4.04.02(C).

3. **Buffer Width Reduction Options.** (b) Shall be designed to ensure no net loss of shoreline ecological functions occurs when the reduction is utilized.

Section 5.03 of SMP – Allowed Shoreline Uses. Table 5-1 establishes the uses and development allowed or prohibited in each shoreline environment designation. Specifically, conditional use is allowed for the category of “other” utilities in the Residential Shoreline Category.

Moreover, **Note #13 states – Home-based businesses, as established by LCC 17.142.110** “Home-based businesses are incidental and accessory to a residential use. Use the “Residential” category to determine whether they are allowed in a particular shoreline environment designation.”

This means that any RV sites for my client’s home-based business are categorized in the *Residential* category in the SMP.

Summary Regarding RV Site Response

The 150’ setback requirement upon which you rely in your November 2024 letter does not apply to this application for the reasons and definitions cited and explained above.

Not only does the 150’ setback not apply to this case, but the SMP states there is no setback requirement for utilities that are non-water-oriented structures. Moreover, the SMP provides, and in fact encourages the use of the shoreline for water-oriented use – which by anyone’s understanding includes camping next to a creek, river, or lake. Those are water-related and water-enjoyment uses.

Therefore, a 150’ setback does not apply – and a full reading of the SMP actually states the opposite in this case for any RV utility-site hookups. This would mean a variance would be possible.

At this time, my clients have decided they will not proceed with the portion of the special use permit regarding the two additional RV hookups. There are no permit requirements for one RV hookup use at a time. However, since the SMP allows for the utility hookup as explained above, they are not required to remove the existing RV hookups.

*** **

RE: Stair Response

Stairs to the river are a primary use as defined in SMP Section 5.07 “recreational floats.” Moreover, it is illogical to assume nobody along Butter Creek wants to go down the water’s edge to either play in the water, or float in the creek (during summer), or take a walk along the water’s edge.

In your November response, you cite “docks, moorage, etc.” but you leave out the SMP language that does apply to this situation, which is “recreational floats.”

Further, table 4-1 of the SMP provides there is no buffer, 0 feet, for Boating and Water Access Facilities for the Residential Shoreline Category. Stairs down the steep bank to the river are therefore allowed by the SMP.

Also, your citation of SMP 4.04.02D.1.b is to “General Buffer Regulations”, and does not include the exceptions to the rule. Specifically, the SMP, as stated above, allows for a “0” fee buffer for the Residential Shoreline category. Frankly speaking, how else is anyone going to get down to the river without stairs? Would you prefer they climb up and down over the vegetation and dirt – eroding the bank with every trip? It doesn’t make any practical sense.

Please remember, table 4-1 states there is a “0” feet buffer for water-dependent use in the Residential Shoreline category. The SMP defines a *Water-Dependent Use* as follows:

A use or a portion of a use, which cannot exist in any other location and is dependent on the water due to the intrinsic nature of its operation. Examples of water-dependent uses *may* include moorage structures (including those associated with residential properties), ship cargo terminal loading areas, ferry and passenger terminals, barge loading facilities, ship building and dry docking, marinas, aquaculture, float plane facilities, and sewer outfalls.

Note, the SMP’s use of the word *may*. Stairs are easily included in this list of examples – just as stairs would be part of a dock.

Again, subsections 1 and 2 of the SMP 4.04.02.D.1.b do not apply because of the stairs are on the *Residential Shoreline* category.

Summary Regarding Stair Response

The SMP provides that stairs are within a “0” feet buffer zone because they are within the Residential Shoreline category, and are a *water-dependent use*, which also allows stairs. And a water-dependent use includes, by the SMP definitions, *Water-Enjoyment Use*. And, one can’t enjoy the water without getting to it.

Therefore, the stairs are in compliance with the SMP.

*** **

RE: Fill Response

In your June 21, 2024 letter, you stated my clients “exceeded the minimal amount

necessary” based on “pictures in the code enforcement file” and their “Airbnb advertisement.” Then, in your November 14, 2024 letter, you added the placement was “speculative.” That is correct – you have speculated. There has been no such “fill” as you alleged. You have based your assumptions on pictures that do not support your contention.

All the “fill” was for the septic system and the foundation of the structures. There was never any “fill” of the grade of the property. As such, my clients will not be removing any of the 1 inch or so of gravel on their property – which otherwise would be a muddy mess.

Further, you have continued to ignore the fact this property has had gravel on it for decades, which my clients can prove with pictures from over the decades during summer campouts, etc.

Summary Regarding Fill Response

My clients have not filled the grade of the property as you have alleged and are prepared to prove this. Your allegations are based on pictures and assumptions that are not correct.

*** **

RE: Structures Response

The aerial image you reference is an open-air carport. The aerial image only shows a roof. My clients are reviewing this newly-identified potential issue and will respond, if appropriate, with a separate permit application and any, if applicable, SMP compliance analysis.

*** **

Survey of adjacent properties. As one can imagine, my clients have looked around the local area to see how their property compares with others. They have noticed some shocking examples of other properties that seem to have been treated differently and do not comply with the SMP as my clients’ property does (as explained above).

These examples include:

1. 217 Crescent Beach Drive: Fence is running right along the riverbank; propane tank located inside yard, right next to the fence.
2. Airbnb - 225 Crescent Beach Drive. Hot tub clearly within close proximity of the riverbank, and in violation of setback requirements.
3. Airbnb - Cowlitz Cabin: Tiny house is located within aprx 20 feet of riverbank. Appears on “wheels” but clearly is a permanent structure, with decking. See posting for further details. This tiny house has permanent septic, water and

electrical hookups, which make it a permanent structure.

4. Airbnb – Tatoosh Rivers: Tiny house is located 10-15 feet from the riverbank. This is “on wheels” but is clearly a permanent structure. See posting for further details. This tiny house has permanent septic, water and electrical hookups, which make it a permanent structure.
5. Airbnb Link:
https://www.airbnb.com/rooms/1337222267960783751?check_in=2025-02-07&check_out=2025-02-09&guests=1&adults=2&s=67&unique_share_id=e02e7fd0-2920-4469-8d45-fda83d9d19d4
6. Peters Inn – 3 full RV hookup sites: Peters Inn property is 1.0 acre, although renting and advertising 3 full hookups; violation of LCC re Density.
7. Hipcamp properties: a) 118 Rainbow Lane; b) Tatoosh Timbers, c) Private RV parking near Mt Rainier; all 3 listing are 1.0 acre or less, but within their posting, they are advertising more than one RV hookup site. The owners of Tatoosh Timbers were told by the county that it’s not considered an “RV park” if the 2nd hookup doesn’t include a septic dump; all postings are in violation of LCC re Density; see Hipcamp postings for further details.

Hipcamp links:

- a) https://www.hipcamp.com/en-US/land/washington-cowlitz-river-by-mount-rainier-j29hz971?share_id=1jwbc889m97&utm_medium=share&utm_source=share_content
- b) https://www.hipcamp.com/en-US/land/washington-tatoosh-timbers-rv-flat-lot-06yhlx0r?share_id=1ww0nfyh3&utm_medium=share&utm_source=share_content
- c) https://www.hipcamp.com/en-US/land/washington-private-rv-parking-near-mt-rainier57h8jqd?share_id=23ml9j3k17w&utm_medium=share&utm_source=share_content

*** **

It does not appear to my clients the above examples comply with the SMP or fit within any exceptions as does my clients’ property.

RE: Restoration Plan

For reasons previously stated, my clients do not believe there is anything to restore to any original state. Also, my clients object to the ill-defined term “original.” Many years ago, Lewis County altered the flow of Butter Creek and placed walls of large rocks along the creek to force the creek to stay in a particular riverbed. It is impossible for my clients to restore the portion of the river bank area along their parcel to the original state of the creek prior to Lewis County placing piles of rock along the bank. Moreover, Lewis County’s work went beyond and exceeded the scope of the permit, which resulted in Lewis County not being entitled to the additional federal funds reimbursement.

Nevertheless, it is my client’s position there is nothing to “restore” to an original state. Moreover, the SMP allows and provides for stairs, as explained above.

For this reason, my clients believe there is no requirement to submit a Restoration Plan

CONCLUSION

The 150’ setback requirement does not apply. Your November letter has added new responses with regard to a 150’ setback which does not apply for the reasons stated above. My clients look forward to your response related to the analysis and citations in this letter that refute any 150’ setback requirement.

Stairs are allowed. The SMP allows for stair access to the river.

No fill. There has been no fill of the property beyond “what was “necessary” of gravel over the area, which they have had in place for many decades.

Survey of Existing Properties. My clients have surveyed the area and found many examples of actual and real violations of LCC and the SMP, which is in contrast to their own property, which they believe is not in violation of relevant codes and law, as provided above.

Restoration Plan. There is nothing to restore to an original state, which is ill-defined. Moreover, the SMP allows for stairs access, so it follows there is no legal basis to require any restoration to the “original” state when the original state was previously destroyed by Lewis County’s unpermitted placement of a steep rock wall along Butter Creek.

*** **

I look forward to receiving your response to this letter to confirm my clients' understanding and application of the relevant Lewis County Code and the SMP.

Sincerely,

ERIC G. CARLSON, P.S.



Eric G. Carlson
Attorney at Law

By email: Preston.pinkston@lewiscountywa.gov

By USPS: Lewis Cnty. Community Development 125 NW Chehalis Ave, Chehalis, WA 98532

cc: Clients

EXHIBIT B



Community Development

125 NW Chehalis Ave.
Chehalis WA 98532

April 11, 2025

MALLEIS, JOSEPH & SHELLY
PO BOX 642
PACKWOOD, WA 98361

RE: Development Review Application # MSR24-0462
Parcel #: 011033012001
Denial Letter

Joseph and Shelly,

On February 12, 2025, your attorney, Eric G Carlson, submitted a letter to Lewis County Community Development in response to a letter from Community Development to you dated November 14, 2024. In Community Development's letter, several violations of Lewis County Code and the Shoreline Master Program were identified which required correction. Final notice was given in that letter including the required removal of your unpermitted RV sites, stair access to Butter Creek, unpermitted gravel placement above and below the stairs, submittal of a new site plan for the unpermitted structures, and a restoration plan prepared by a Qualified Professional to restore the site from any unpermitted uses and activities.

To date, these items have not been submitted and proof of correction has not been received. Your Master Site Review is **denied**. The previous correspondence detailing your reasons for denial are attached.

Any unpermitted development is required to be removed and the site restored to its original state. Compliance will be tracked through your code enforcement case (CE24-00056). You can contact Code Enforcement to discuss the status of your case with them.

Denials can be appealed to the Hearings Examiner in accordance with LCC 17.05.160 and LCC 2.25.140.

Sincerely,

A handwritten signature in black ink, appearing to read "P. Pinkston".

Preston Pinkston, Planner

Cc: David Bailey, Chief Civil Deputy Prosecuting Attorney
Mindy Brooks, Community Development Director
Eric G. Carlson, P.S.

Attached: MSR24-0462 Pending Letter (sent June 21, 2024)
MSR24-0462 Response Letter (sent November 14, 2024)



November 14, 2024

MALLEIS, JOSEPH & SHELLY
PO BOX 642
PACKWOOD, WA 98361

RE: Development Review Application # MSR24-0462
Parcel #: 011033012001
Response to September 19, 2024 Letter from Eric G. Carlson, P.S.

Joseph and Shelly,

This letter is to respond to the letter received on September 19, 2024 from your attorney Eric G. Carlson. That letter was itself a response to a letter sent to you in regards to Master Site Review (MSR) MSR24-0462 (attached). Your application is for after the fact permitting of 3 RV sites, staircase access, fill and grade, and one unpermitted structure. The previous letter sent to you denied the RV sites, staircase access and fill and grade on the lots and required the submittal of an updated site plan and Restoration Plan prepared by a qualified professional to restore the area to its original state. In the letter submitted by your attorney, a request for more information on each of the violations was made. This letter is a response, and each item below addresses that letter in order. For brevity, I will not summarize what was stated or asked by your attorney and instead just provide my response.

RV Site Response – As previously stated, the combined lots owned by the Malleis' does not meet the minimum acreage required for an RV Park in Lewis County Code (LCC) 17.144.040(1). A Variance would not be applicable as the site is not denied a reasonable use per LCC 17.162.010(b) use as it has an existing house, shop and septic system. RV Parks are also non-water oriented recreational developments which require a 150' setback from the ordinary high watermark (OHWM) per Table 4-1: Shoreline Buffers in the Lewis County Shoreline Master Program (SMP). The current sites do not meet the setback requirements because they are approximately 70 to 90' from the OHWM, which is far less than the required minimum 150'. Proposals that are unable to meet the buffer setbacks within the Shoreline Jurisdiction are required to obtain a Shoreline Variance. A Shoreline Variance would not be applicable in this case as SMP 7.04.03.B states that "Uses that are specifically prohibited may not be authorized". As this use is not permitted based on the codes above, a Shoreline Variance would also not be granted.

Stair Response - As stairs are not a primary use in any section of the SMP, they are only permitted as accessory or appurtenant to an approved primary use, definitions below. SMP 5.14 does not list access as an accessory or appurtenant use to a single family residence. Water Access is addressed in Section 5.07 of the SMP which applies to in-water/overwater structures. Stairs are accessory to a permitted primary access use such as a dock, moorage, etc. but are not appurtenant to a single family residence. Additionally, SMP Section 4.04.02.D.1.b requires accessory uses be located outside of shoreline buffers unless subsections 1 or 2 are met, which this proposal does not satisfy. The original project only addressed one staircase access. In reviewing the file of the site to prepare this letter, a second stair access and a trail connecting them was noticed that was not included with the original documents (aerial attached). That access and trail is also required to be removed.

Accessory Structure or Use – A structure or use incidental, related, and clearly subordinate to the principal structure or use of a lot or main building. An accessory structure or use is only located on the same lot as the permitted principal use.

Appurtenance – A building, structure, or development necessarily connected to the use and enjoyment of a single-family residence that is located landward of the OHWM and of the perimeter of any wetland. On a statewide basis, normal appurtenances include a garage, deck, driveway, utilities, fences, installation of a septic tank and drain field, and grading which does not exceed 250 cubic yards (except to construct a conventional drainfield) and which does not involve placement of fill in any wetland or waterward of the OHWM. Refer to WAC 173-27-040(2)(g).

Fill Response – SMP 6.03, SMP 6.03.02 A,C,F(3). These citations are directly applicable to our original statement that the placement of the gravel was not the minimal extent necessary for the residence and shop and that the speculative placement of this fill for an unapproved RV Park is not compliant with the SMP.

Structure Response – See attached aerial image with the structure circled. Also attached are previously approved site plans which do not show the unpermitted structure. As this structure is located within 200' of the OHWM it requires compliance with the SMP and at a minimum requires a Shoreline Exemption. It may also require a Building Permit depending on the use or if it exceeds 200 SF.

Your MSR continues to be on hold until the above issues are resolved. To bring this property into compliance the following items are required:

- Remove the unpermitted RV sites, stairs, and gravel placed above and below the stairs.

- Submit an updated site plan for the unpermitted structure identified in the attachments or remove it.
- Submit a Restoration Plan prepared by a qualified professional to restore the area to its original state.

If these items are not submitted **within 90 days of the date of this letter**, your application will automatically lapse per Chapter 17.05.070(B)(1) Lewis County Code and will be denied. Denials can be appealed to the Hearings Examiner in accordance with LCC 17.05.160 and LCC 2.25.140. This is a final notice, no additional extensions will be granted on this MSR unless needed for the preparation of a Restoration Plan. If you would prefer that we deny the application before the 90 day period so you may begin the appeal process, please make that request in writing.

Sincerely,

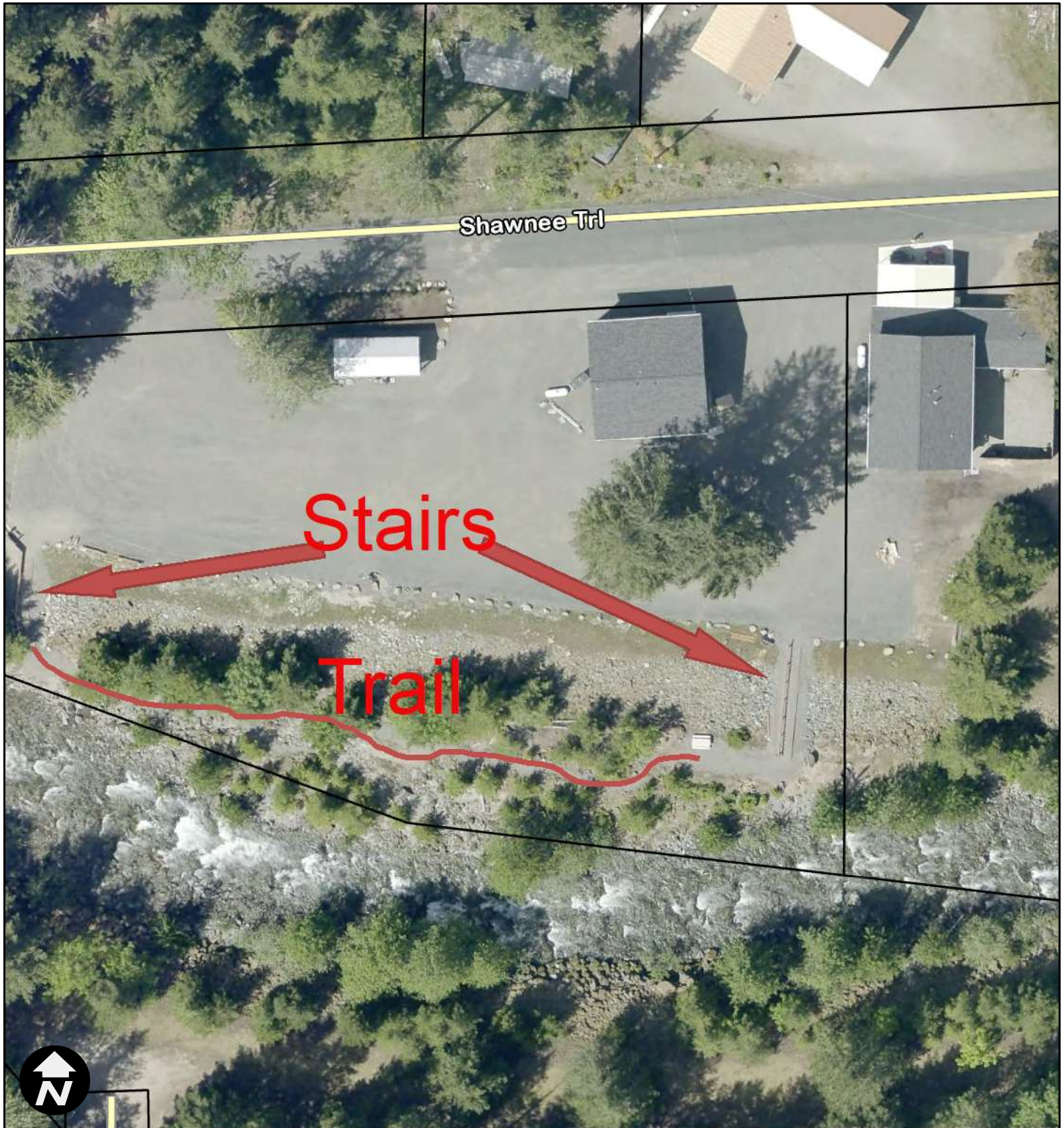
A handwritten signature in black ink, appearing to read 'P. Pinkston', with a stylized, cursive script.

Preston Pinkston, Planner

Cc: David Bailey, Chief Civil Deputy Prosecuting Attorney
Mindy Brooks, Community Development Director
Eric G. Carlson, P.S.

Attached: MSR24-0462 Pending Letter (sent June 21, 2024)
Stair Access Aerial
Unpermitted Structure Aerial

Unpermitted Stairs and Trail



11/14/2024, 3:00:34 PM

1:564

Roads

- | | | | |
|--|---------|--|---------------|
| | State | | USFS |
| | County | | Out of County |
| | City | | Other |
| | Private | | Parcels |

0 25 50 100 ft
NAD 1983 StatePlane Washington South FIPS 4602 Feet



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Unpermitted Structures



11/14/2024, 3:06:20 PM

1:564

Roads

State

County

City

Private

USFS

Out of County

Other

Parcels

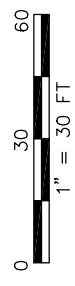
0 25 50 100 ft
NAD 1983 StatePlane Washington South FIPS 4602 Feet



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LEGEND	
	HUB
	TEST PIT
	EXISTING WELL
	PROPOSED WELL
	POWER
	POR
	STUMP

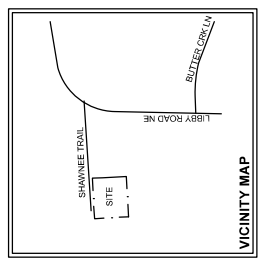


SITE PLAN

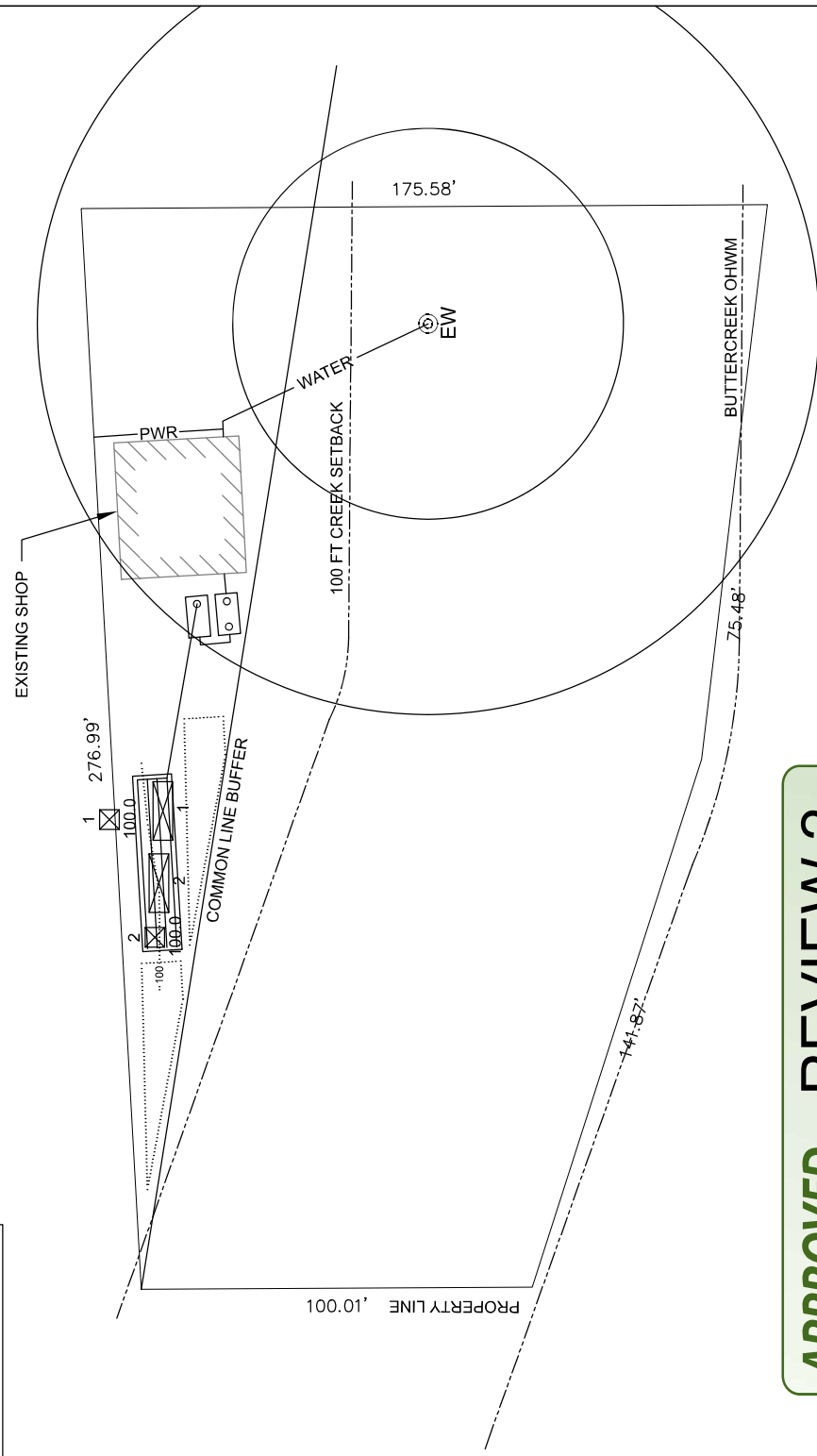
PROPERTY LINES SHOWN AS PER
RECORDED DOCUMENT AFN: 3576676

THE PROPERTY LINES IN THIS MAP ARE
APPROXIMATE AND ARE NOT INTENDED
TO BE USED AS A SURVEY.

CLIENT NAME: JOSEPH MALLEIS	
MAILING ADDRESS: 710 N 68TH STREET SEATTLE, WA 98103	
PHONE NUMBER: 206.571.3871	
SITE ADDRESS: 113 SHAWNEE TRAIL, WHITE PASS	
PARCEL NUMBER: 011033012001 S-T-R: 10-13N-09E	
PERMIT NUMBER:	
DRAFTED BY: BJR	JOB NUMBER: 2022-147
REVIEWED BY: BJR	DATE: 02.09.2023



SHAWNEE TRAIL



APPROVED REVIEW 2
By Preston Pinkston at 11:42 am, May 08, 2023

+

-

▼

shawnee

X

Q

lone cedar tree marks far end corner

Shawnee Trl

Distance: 29 FT

common buffer line

Distance: 60.1 Feet

green box 32x35

drain field

BUILDING AREA

Distance: 153.8 Feet

Butler creek 150' setback

One parcel, BLA22-0007

Butler Creek

APPROVED

By Preston Pinkston at 12:10 pm, Aug 08, 2022

RECEIVED

By Preston Pinkston at 9:54 am, Jun 16, 2022

60ft

46.634192 -121.667209 Degrees

<https://gis.lewiscountywa.gov/webmap/>

EXHIBIT C

ERIC G. CARLSON, P.S.

A PROFESSIONAL LAW CORPORATION

605 SE Prospect Street

Chehalis, WA 98532

T: 360.269.5541 | E: ericgcarlson@gmail.com

September 19, 2024

LEWIS COUNTY
COMMUNITY DEVELOPMENT
PRESTON PINKSTON
125 NW CHEHALIS AVE.
CHEHALIS, WA 98532

RE: Development Review Application #MSR24-0462
Parcel #: 011033012001

Dear Mr. Pinkston:

I represent Joseph and Shelly Malleis. This letter is to respond to your letter dated June 21, 2024 regarding your office's initial review of their development review application. My clients are not in agreement with your office's initial review as there are a number of mistakes of fact.

Recreational Vehicle (RV) Sites

The proposal is for two RV sites with hookups is an extremely small affair. The proposed two sites meet all the setback requirements of Lewis County Code. Therefore, we would like to know if you believe Chapter 17.155 Nonconforming Uses and Parcels and/or Chapter 17.158 Special Use Permits apply to this project. The problem with the current code is there does not seem to be any obvious solution to extremely small projects that involve only one or two hookups.

If there is not an obvious code to apply to this very small project, then we would ask for the department to enter a variance for these two hookups. The reason is LCC 17.144.040(2) provides that a maximum density per acre is 15 camping sites. That means if there were 15 camping sites on one acre, each site would have approximately 2,904 square feet, if equally divided. Of course, that assumes the total real property is greater than 2.5 acres. In that example, there could be a maximum of 37.5 camping sites. That is a lot.

In this case, if we assumed there was a total of 2.5 acres, but the project was slated to be only where it is proposed now – then there would be up to 21.75 camping sites on the 1.45 acre. Obviously, that is an absurd result, but nevertheless, that is what the LCC 17.144.040 would allow under its current language.

Here, the proposed project is for two camping sites on 1.45 acres. That means each camping site enjoys 31,581 square feet, as contemplated by the code. Therefore, it seems more than reasonable to issue a special use permit / variance for these two camping sites.

Stair Access to Butter Creek

We disagree with the department's characterization of the history of the Army Corps of Engineers revetment project many years ago.

In your letter you state that the stair access to Butter Creek is not compliant with the Lewis County Shoreline Master Program (SMP). However, you did not cite the relevant sections and or specific language that would apply to this project. Without a specific citation and a more detailed analysis, we are unable to determine if in fact we are in agreement with your analysis. Therefore, please provide us with the specific language and / or relevant section parts of the SMP upon which you base your determination.

Ground Leveling and Fill

We disagree with the departments assessment that any "ground leveling and fill" is not compliant with the SMP. Again, your letter does not reference any specific language and / or relevant section parts regarding ground leveling and / or fill. Please provide specific citations and references to the SMP you believe applies.

Moreover, it is not factually correct to say that the extent of the work done on the site was not the minimum necessary for the permitted shop, septic system, or residence. In your letter you state you base this assumption on pictures in the code enforcement file and the Airbnb advertisement. Pictures do not show the ground has been at the same grade for decades and the gravel that is over the dirt is less than ½ inch deep. This gravel is to prevent the dirt from being muddy. To be sure, there was no fill of the grade. Approximately 90% of the gravel/fill was used for the permitted septic system for the house and shop.

Therefore, the department's assessment of the grade being filled by gravel from pictures results in a great misunderstanding of the facts. Once again, please provide specific citations to the SMP upon which you base your analysis.

Alleged Unpermitted Structure

We are not aware of any unpermitted structure on the lot without permits. As noted above, please provide specific citation to the SMP upon which you base your analysis regarding the 200' ordinary high-water mark. We need to be able to follow your analysis precisely in order to know if we are agreement, or if there are other misunderstood facts in your file. If there are misunderstood facts, then we will work to do our best to help correct them.

Application Status

This letter is our timely response pursuant to LCC 17.05.070(2). As explained above, we need additional information from the department and we believe the department does not have a

correct understanding of certain facts. As soon as we have the specific citations and references, together with the correct facts, we believe this matter will be quickly resolved.

Requested Extension

Finally, pursuant to LCC 17.05.070(2)(b), we request an extension to provide the required information given we need to have more specific information from the department (as explained above) in order to respond appropriately. We believe an extension of three (3) months is appropriate given we will be waiting to receive information from the department prior to being able to respond in kind.

*** **

Finally, please direct all future communications to my office directly. I prefer to use email for letters. You may reach me directly at 360.269.5541.

Thank you very much for your assistance.

Sincerely,

ERIC G. CARLSON, P.S.



Eric G. Carlson
Attorney at Law

By email: Preston.pinkston@lewiscountywa.gov

By USPS: Lewis Cnty. Community Development 125 NW Chehalis Ave, Chehalis, WA 98532

cc: Clients



Community Development

2025 NE Kresky Avenue
Chehalis WA 98532

June 21, 2024

MALLEIS, JOSEPH & SHELLY
PO BOX 642
PACKWOOD, WA 98361

RE: Development Review Application # MSR24-0462
Project: Ground leveling / fill, tree / dead tree removal, install RV sites,
restoration of "historical pathway" to Butter Creek
Parcel #: 011033012001

Joseph and Shelly Malleis,

The initial review of your master site review is complete. Based on the information submitted, portions of the above referenced application are **denied**. The denial of each portion of your application that cannot be approved is presented in more detail below.

The proposed establishment of three recreational vehicle (RV) sites to be used for commercial use meets the criteria of an RV Park per Lewis County Code (LCC) 17.144.010. Per LCC 17.144.040(1), a RV Park is required to be on a lot, or multiple lots under the same ownership, of at least two and a half acres. Parcel numbers 011033012001 and 011033012002 combined are approximately 1.45 acres which does not meet the minimum lot size requirements for an RV Park and your proposal cannot continue to be processed.

The stair access to Butter Creek is not compliant with the Lewis County Shoreline Master Program (SMP) which is required for all uses within 200' of Butter Creek at the location of your residence. Access facilities like your stairs are an accessory use associated with water dependent facilities such as stairs leading down to a dock or boating facility. The SMP does not guarantee access to water resources for single family residences. Your stairs are not associated with a water dependent use and cannot be processed. In your application you state that this is a historic access that was made up of strategically placed boulders during the construction of the revetment along Butter Creek. This does not create a permitted access that can be maintained as it was not a design component of the revetment itself. Additionally, your improvements made to the unpermitted access go beyond the scope of repair and maintenance activity which would not be permitted either.

The ground leveling and fill that was done on the property is also not compliant with the SMP. Fill and grade is permitted in the Shoreline Jurisdiction to the minimum extent necessary for a permitted use. The extent of work done on your site was not the minimum necessary for your permitted shop, septic system or residence. Based on the pictures in the

code enforcement file and your own Airbnb advertisement (Exhibit A), the fill and grading on this site was done to accommodate commercial use of the RV hookups. As the RV hookups cannot be permitted, the fill and grade is also not compliant with the SMP and cannot continue to be processed.

It also appears that an unpermitted structure has been placed on the lot without permits. The structure is within 200' of the ordinary high-water mark which requires compliance with the SMP. Depending on the use and location of the structure you may be able to have it permitted after the fact.

Your application will be placed on hold. To resolve the issues above and bring this property into compliance the following items are required:

- Remove the unpermitted RV sites, stairs, and gravel placed above and below the stairs.
- Submit an updated site plan for the unpermitted structure identified in the attachments or remove it.
- Submit a Restoration Plan prepared by a qualified professional to restore the area to its original state.

This is not a complete list of items necessary for compliance with the County Code and Shoreline Master Program. Depending on what is submitted, additional permits and reports may be required.

If these items are not submitted **within 90 days of the date of this letter**, your application will automatically lapse per Chapter 17.05.070(B)(1) Lewis County Code and will not be processed. As your proposal was initially brought forward to resolve a code enforcement case and it is not in compliance with County Code, your case will be forwarded back to code enforcement to resolve CE24-00056 if a restoration plan is not submitted.

Please contact me directly at 360-740-1389, if you are unclear as to how to proceed with resolution.

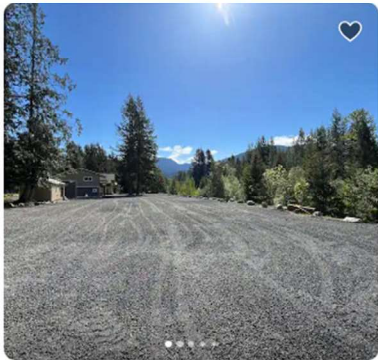
Sincerely,

A handwritten signature in black ink, appearing to read 'P. Pinkston', with a stylized flourish at the end.

Preston Pinkston
Planner

Attached: Screenshots of your Airbnb Advertisement

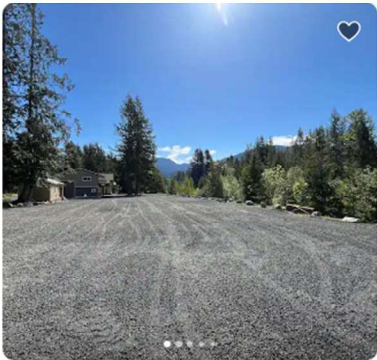
3 places within map area



Campsite in Packwood
New! - Butter Creek Retreat RV Site 1
★ New
\$65 night · [\\$74 total](#)



Campsite in Packwood
New! - Butter Creek Retreat RV Site 3
★ New
\$65 night · [\\$74 total](#)



Campsite in Packwood
New! - Butter Creek Retreat RV Site 2
★ New
\$65 night · [\\$74 total](#)

New! - Butter Creek Retreat RV Site 1

[Share](#) [Save](#)



Campsite in Packwood, Washington
6 guests · 0 baths
★ New

Hosted by Shelly
1 month hosting

\$65 night

CHECK-IN 7/17/2024	CHECKOUT 7/18/2024
GUESTS 1 guest	

Exterior

Wifi · Washer · Dryer · Free parking on premises · Lake access

