

BEFORE THE CHELAN COUNTY HEARINGS EXAMINER

IN THE MATTER OF)	FINDINGS OF FACT, CONCLUSIONS
)	OF LAW, DECISION AND CONDITIONS
PA 2019-001)	OF APPROVAL
Boeing / Addington)	
CHELAN COUNTY		
COMMUNITY DEVELOPMENT		

THIS MATTER, having come on for hearing in front of the Chelan County Hearing Examiner on August 7, 2019, the Hearing Examiner having taken evidence hereby submits the following Findings of Fact, Conclusions of Law, Decision and Conditions of Approval as follows:

FINDINGS OF FACT

1. This is an application for a Plat Amendment submitted to relinquish a 150 ft. (200 ft. total) protective well easement as identified on SP 1318 and as referenced on SP 1317. The proposed easement is located on and affects Lot 3 and 4 of SP 1318. The historic well has been decommissioned, ceasing use as of 1994. The subject properties are provided domestic water via the City of Leavenworth.
2. The applicants are Kelly Boeing (8043 Icicle Road), 146 Prospect St., Leavenworth, WA 98826, and Tyler & Georgia Addington (8011 Icicle Road), 2114 129th Ave. SE, Bellevue, WA 98005.
3. The agent is Brian Baker, Munson Engineers, 894 Hwy 2 Suite H, Leavenworth, WA 98826.
4. The subject parcel numbers are 24-17-23-510-453 and 24-17-23-510-454.
5. The legal description of the subject properties are Lot 3 and 4 of SP 1318 recorded October 3, 1986 under AFN: 8612030016.
6. The property is outside of an Urban Growth Area.
7. The current Comprehensive Plan designation and zoning district for both parcels is Rural Residential/Resource 2.5 (RR2.5).
8. The existing land use is residential.
9. The site sizes are 1 acre, and 1.3 acres.
10. The property to the north of the subject property is in residential use and is zoned Rural Residential/Resource 2.5 (RR2.5)
11. The property to the south of the subject property is E. Leavenworth Road, a public county right of way and public lands and is zoned Rural Residential/Resource 2.5 (RR2.5)
12. The property to the east of the subject property is in residential use and is zoned Rural Residential/Resource 2.5 (RR2.5)
13. The property to west of the subject property is Icicle Road, a public county right of way and Residential use and is zoned Rural Residential/Resource 2.5 (RR2.5)
14. The subject properties front and access off of Icicle Road, a public county right of way.

15. The property is within Fire District 3.
16. 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 June 14, 2019 with comments due June 28, 2019. Agency comments are considered in the staff report and, when appropriate, associated recommended Conditions of Approval. The following is a list of Agencies who received notice and the date comments were received:
 - 16.1 Chelan County Public Works responded on June 19, 2019.
 - 16.2 Chelan-Douglas Health District responded on June 18, 2019.
 - 16.3 City of Leavenworth responded on June 18, 2019.
17. The following agencies were notified but did not respond:
 - 17.1 Chelan County PUD.
18. No public comments were received.
19. The application materials were submitted on May 1, 2019.
20. A Determination of Completeness was issued on June 11, 2019.
21. The Notice of Application was provided on June 14, 2019.
22. The Notice of Public Hearing was issued on July 26, 2019.
23. Pursuant to WAC 197-11-800(6), the proposed application is exempt from SEPA review.
24. The project is consistent with Chelan County Code (CCC) Section 12.22.020 (1) in the following respects:
 - 24.1 The proposed alteration was submitted in accordance with this title.
25. The project is consistent with CCC Section 12.22.020(2) in the following respects:
 - 25.1 The proposed alteration is to remove a protective well easement as it is delineated on Lots 3 and 4 of SP 1318. All of the property owners of said lots have signed the application.
 - 25.2 All parties with a legal interest that benefit from the easement to be relinquished shall be required to sign the final Plat Alteration.
26. The project is consistent with CCC Section 12.22.020(3) in the following respects:
 - 26.1 The well that was subject to the identified protective easement did not have restrictive covenants.
 - 26.2 This provision does not apply.
27. The project is consistent with CCC Section 12.22.020(4) in the following respects:
 - 27.1 RCW 64.04.175 states: "Easements established by a dedication are property rights that cannot be extinguished or altered without the approval of the easement owner or owners, unless the plat or other document creating the dedicated easement provides for an alternative method or methods to extinguish or alter the easement."
 - 27.2 The two affected parties, Boeing of Lot 3, SP 1318 and Addington of Lot 4 of SP 1318, signed the submitted application, date stamped May 1, 2019.
 - 27.3 The proposed plat alteration is compliant with RCW 64.04.175. All parties with a legal interest that benefit from these easements shall be required to sign the final plat alteration.

28. The project is consistent with CCC Section 12.22.020(5) in the following respects:
 - 28.1 The properties impacted by the protective easement are not included in an assessment district. The easement is dedicated to the general use of the residents within the recorded Short Plat.
 - 28.2 This provision does not apply.
29. The project is consistent with CCC Section 12.22.020(6) in the following respects:
 - 29.1 The applicant will be required to submit blueline drawings and final plat to the Chelan County Department of Community Development for review and approval prior to being filed with the Chelan County Auditor's Office.
 - 29.2 Staff recommended a Condition of Approval that the applicant meet the final platting standards outlined in Chelan County Code Chapter 12.24.
30. The project is consistent with CCC Section 12.22.020(7) in the following respects:
 - 30.1 As submitted with the application materials, the site plan was prepared by a licensed surveyor (Exhibit B).
 - 30.2 Staff recommended a Condition of Approval that the applicant meet the final platting standards outlined in Chelan County Code Chapter 12.24.
31. This application is to relinquish a 150 ft. (200 ft. total) protective well easement affecting Lot 3 and 4 of SP 1318 and as referenced on SP 1317.
32. Based on the Termination of Well Access Easement, recorded July 26, 2016, there were no known existing wells on the subject properties. The only known historic well was capped and filled, ceasing use in 1994. The subject properties are provided domestic water by the City of Leavenworth. Letters of water availability for both properties were provided with the application materials, dated stamped May 1, 2019.
33. After review of the application and submitted materials, based on the information contained in the application, Staff recommends **APPROVAL** of PA 2019-001, subject to the proposed Conditions of Approval.
34. An open record public hearing after legal notice was provided was held on August 7, 2019.
35. The File of Record, Chelan County Department of Community Development Staff Report, and exhibits were received, admitted into the record and considered by the Hearing Examiner.
36. Neither the Applicant nor the Applicant's Agent attended the hearing. The Applicant was given notice of the date, place and time of the hearing.
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. This Plat Amendment is consistent with the Chelan County Comprehensive Plan.
3. The requirements of the Revised Code of Washington, the State Environmental Policy Act and WAC 197-11 have been satisfied.
4. The adoption of this Plat Amendment is in the best interest of the public and furthers the health, safety and welfare of the citizens of Chelan County.
5. This Plat Amendment is consistent with and supports the Chelan County Comprehensive Plan goals and policies.
6. Any Finding of Fact that is more correctly a Conclusion of Law is hereby incorporated as such by this reference.

DECISION

Based upon the above noted Findings and Fact and Conclusions, PA 2019-001 hereby **APPROVED**, subject to the conditions of approval.

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 Chelan County Code Chapter 12.24 as amended, the applicant shall complete a final Plat Alteration using the procedures of Chelan County Chapter 12.24: Final Process.
2. Pursuant to Chelan County Code Section 12.24.040 as amended, the final Plat Alteration shall be designed in substantial conformance with the Preliminary Plat Alteration of record, date stamped May 1, 2019, on file with the Chelan County Department of Community Development, except as modified herein.
3. Pursuant to Chelan County Decision for SP 2028, this Plat Alteration is subject to all Conditions of Approval, except as changed by this decision together with the original short plat decision.
4. Pursuant to Chelan County Code Chapter 12.24 and RCW 58.17.215 as amended, the applicant shall provide a signature block for the affected property owners (24-17-23-510-453 & 24-17-23-510-454) on the final plat alteration and secure all affected property owner's signatures prior to final Plat Alteration approval.

Approved this 8th day of August, 2019.

CHELAN COUNTY HEARING EXAMINER



Andrew L. Kottkamp

Anyone aggrieved by this decision has twenty-one (21) days from the issuance of this decision, to file an appeal with Chelan County Superior Court, as provided for under the Judicial Review of Land Use Decisions, RCW 36.70C.040(3). The date of issuance is defined by RCW 36.70C.040 (4)(a) as “(t)hree days after a written decision is mailed by the local jurisdiction or, if not mailed, the date on which the local jurisdiction provides notice that a written decision is publicly available” or if this section does not apply, then pursuant to RCW 36.70C.040(3) (c) “...the date the decision is entered into the public record.” Anyone considering an appeal of this decision should seek legal advice.

Chelan County Code Section 1.61.130 provides that any aggrieved party or agency may make a written request for reconsideration by the Hearing Examiner within ten (10) days of the filing of the written record of decision. The request for reconsideration shall be submitted to the Community Development Department. Reconsideration of the decision is wholly within the discretion of the Hearing Examiner. If the Hearing Examiner chooses to reconsider, the Hearing Examiner may take such further action deemed proper and may render revised decision within five (5) days after the date of filing of the request for reconsideration. A request for reconsideration is not a prerequisite to filing an appeal under Section 1.61.160.

The complete case file, including findings, conclusions, and conditions of approval (if any) is available for inspection during the open office hours at Chelan County Department of Community Development. Their address is 316 Washington Street, Suite 301, Wenatchee, WA 98801. Their telephone number is (509) 667-6225.