

BEFORE THE CHELAN COUNTY HEARINGS EXAMINER

IN THE MATTER OF)	FINDINGS OF FACT, CONCLUSIONS
)	OF LAW, DECISION AND CONDITIONS
PA 2018-355)	OF APPROVAL
Maple Street Plat Alteration)	

THIS MATTER, having come on for hearing in front of the Chelan County Hearing Examiner on February 6, 2019, the Hearing Examiner having taken evidence hereby submits the following Findings of Fact, Conclusions of Law, Decision and Conditions of Approval as follows:

FEB 11 2019

FINDINGS OF FACT

CHELAN COUNTY
COMMUNITY DEVELOPMENT

1. This is an application for a Plat Alteration, to amend note #7 on Maple Tracts Subdivision to read "Chelan County will not provide maintenance except snow plowing to Maple Street until the road is brought up the County Road Standards. The County shall not be liable for any damages associated with snow plowing."
2. The applicants are Doug Millar, Rod and Kristie Pfeiffer, Jeremy and Maria Howell, Dorteia White/Anna Lively, Dan and Tammy Trippel and Lewis and Kelly Wagman.
3. The project location and parcel numbers are 12515 Maple Street, Leavenworth, WA; 24-17-02-696-010; 12555 Maple Street, Leavenworth, WA; 24-17-02-696-020; 12595 Maple Street, Leavenworth WA; 24-17-02-696-040; 12655 Maple Street, Leavenworth, WA 24-17-02-696-050 and 12685 Maple Street, Leavenworth, WA 24-17-02-696-060.
4. The property is outside of an Urban Growth Area.
5. The current Comprehensive Plan designation and Zoning District is Rural Residential/Resource 5 (RR5).
6. The existing land use is residential.
7. The properties are relatively flat land, just north of the City of Leavenworth.
8. The property to the north of the subject property is residential lots and is zoned Rural Residential/Resource 5 (RR5).
9. The property to the south of the subject property is residential lots and is zoned Residential Low Density 10,000 (RL10).
10. The property to the east of the subject property is residential lots and is zoned Rural Residential/Resource 5 (RR5); Residential Low Density 10,000 (RL10)
11. The property to west of the subject property is rural steep sloped lots and is zoned Rural Residential/Resource 10 (RR10); and Rural Residential 5 (RR5).
12. Pursuant to WAC 197-11-800(6)(d), granting of a plat amendment is categorically exempt from SEPA, if the authorized activities do not changed the number of lots within the original subdivision boundary. This activity is deemed categorically exempt.

13. The Notice of Application was referred to agencies and departments on November 30, 2018 and surrounding property owners within 300' excluding 60' of right-of-way, with comments due December 18, 2018. The following agencies provided comments:
 - 13.1 Chelan County Public Works responded on January 2, 2019
 - 13.2 Chelan County Assessor responded on December 4, 2018
 - 13.3 Chelan County Fire Marshal responded on December 17, 2018
14. The following agencies were notified but did not respond:
 - 14.1 Yakama Nation
 - 14.2 Washington State Archaeology
 - 14.3 Confederated Tribes of Colville
15. No public comments were received.
16. The application materials were submitted on November 6, 2018.
17. A Determination of Completeness was issued on November 26, 2018.
18. The Notice of Application was provided on November 30, 2018.
19. The Notice of Public Hearing was issued on January 25, 2018.
20. The project is consistent with Chelan County Code (CCC) Section 11.12.020 in the following respects:
 - 20.1 Development in this district shall meet all applicable provisions of this title and all other rules, regulations and provisions of the Chelan County Code (CCC).
 - 20.2 The site plan of record, date stamped November 6, 2018, indicates that all minimum dimensional standards have been met.
21. The project is consistent with CCC Section 12.22.020 (2) in the following respects:
 - 21.1 The application shall contain the signatures of the majority of those persons having an ownership of lots, tracts, parcels, sites or divisions in the subject subdivision or portion to be altered.
 - 21.2 The majority of the property owners must sign the final plat alteration. All six (6) property owners of Maple Tracts have signed the application. Therefore, this code provision has been met.
22. The project is consistent with CCC Section 12.22.020(3) in the following respects:
 - 22.1 If the subdivision is subject to restrictive covenants which were filed at the time of the approval of the subdivision, and the application for alteration would result in the violation of a covenant, the application shall contain an agreement signed by all parties' subject to the covenants providing that the parties agree to terminate or alter the relevant covenants to accomplish the purpose of the alteration of the subdivision or portion thereof.
 - 22.2 Pursuant to Section 12.22.010 of Chelan County Code, "Chelan County is not responsible for notification or enforcement of covenants to deed restriction or restriction or reservations affection use or title. Any permit issued does not acknowledge or recognize any covenants or deed restrictions or reservations that may burden or otherwise affect this property. Applicant/owner assume all risk and liability for any claims and liabilities for covenants or deed restrictions or reservations."
 - 22.3 The project is not proposing to modify a restrictive covenant.

23. The project is consistent with CCC Section 12.22.020(4) in the following respects:
 - 23.1 The alteration of a subdivision is subject to RCW 64.04.175.
 - 23.2 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."
 - 23.3 The proposed plat alteration is compliant with RCW 64.04.175.
24. The project is consistent with CCC Section 12.22.020(5) in the following respects:
 - 24.1 If any land within the alteration is part of an assessment district, any outstanding assessments shall be equitably divided and levied against the remaining lots, parcels, or tracts or be levied equitably on the lots resulting from the alteration. If any land within the alteration contains a dedication to the general use of persons residing within the subdivision, such land may be altered and divided equitably between the adjacent properties.
 - 24.2 The short plat is not within any assessment district. Therefore, nothing needs to be divided prior to recording of this plat alteration.
25. The project is consistent with CCC Section 12.22.020(6) in the following respects:
 - 25.1 After approval of the alteration, the applicant shall submit to the county a revised drawing of the approved alteration of the subdivision, which after signature of the approving authority shall be filed with the county auditor to become a lawful plat of the property.
26. The project is consistent with CCC Section 12.22.020(7) in the following respects:
 - 26.1 The revised plat shall be surveyed and prepared by a Washington State licensed land surveyor.
 - 26.2 As part of the submitted application materials, a proposed plat map with the intended changes to note #7 "written" on the face of the subdivision map was submitted. If approved, the applicants will need to submit a survey prepared by a licensed surveyor with the updated plat note.
27. The applicant, all owners of Maple Tracts subdivision, is requesting to amend note #7. Currently the note reads "Chelan County will not provide maintenance to Maple Street until the road is brought to County Road Standards." The amended note shall read "Chelan County will not provide maintenance, except snow plowing, to Maple Street until the road is brought up to County Road Standards. The County shall not be liable for any damages associated with snow plowing."
28. Staff recommended **APPROVAL** of File # PA 2018-355, subject to the recommended Conditions of Approval.
29. An open record public hearing after legal notice was provided was held on February 6, 2019.
30. 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.
31. Appearing and testifying on behalf of the applicant was Dorthea White. Ms. White testified that she was an agent authorized to appear and speak on behalf of all of the applicants. Ms. White questioned as to why they needed to have a new survey because none of the lot lines were changing. She questioned why all six property owners needed to sign the new plat as some of the property owners reside part time out of state.

32. In response to Ms. White's statements, staff indicated that the Chelan County Code required for every plat amendment that there be a new survey submitted and that all signatures of property owners were required on the amended plat which contained the new language.
33. No member of the public testified at this hearing.
34. The Chelan County Hearing Examiner considered all evidence within the record in rendering this decision.
35. 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. As conditioned, this Plat Amendment is consistent with the Chelan County Comprehensive Plan and the Chelan County Code.
3. 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 2018-355 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.

CHELAN COUNTY DEPARTMENT OF COMMUNITY DEVELOPMENT

1. Pursuant to Chelan County Code Chapter 12.24, 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 12.24.020(2) and RCW 58.17.215, the applicant shall provide a signature block for the affected/majority of the property owners on the final plat, and secure the majority property owner's signatures prior to final plat recording.
3. Pursuant to Chelan County Decision for Maple Tracts (AFN: 9601100058), recorded January 10, 1996, this plat alteration is subject to all conditions of approval, except as changed by this decision, of the original plat decision.

CHELAN COUNTY PUBLIC WORKS

4. Note #7 shall change to read as follows: "Chelan County will not provide maintenance, except snow plowing, to Maple Street until the road is brought up to County Road Standards. The County shall not be liable for any damages associated with snow plowing."

Approved this 11th day of February, 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.