

BEFORE THE CHELAN COUNTY HEARINGS EXAMINER
RECEIVED

IN THE MATTER OF

JUN 10 2019

FINDINGS OF FACT,

)

CONCLUSIONS OF LAW,

CUP-2019-005

CHELAN COUNTY

DECISION AND CONDITIONS

COMMUNITY DEVELOPMENT

WENATCHEE SCHOOL DISTRICT NO. 246)

OF APPROVAL

)

THIS MATTER, having come on for hearing in front of the Chelan County Hearing Examiner on June 5, 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 Conditional Use Permit for adding temporary classrooms buildings on the following school sites: Sunnyslope Elementary School and Mission View Elementary School. The additional classrooms will help with overcrowding at the existing schools. The applicant is proposing two (2) portable classrooms and an electronic reader board to the main entry of each of the two (2) school locations. Sunnyslope Elementary School is additionally proposing eliminating parking across School Street and adding parking in the playground and construct an addition to the elementary school to the west. The placement of the portables would be behind existing buildings and/or use other forms of screening such as landscaping and painting the portables to look similar to the existing buildings. The applicant is proposing several phases for the project beginning in the spring of 2019. The subject properties are both zoned Residential High (RH) within the City of Wenatchee's Urban Growth Boundary which require commercial building permits meeting the adopted Wenatchee City Code Section 10.48.080(D)(4), architectural design standards and 10.65.270, conditional use permits regarding schools.
2. The property owner is Wenatchee School District No 246, PO Box 1767, Wenatchee, WA 98807
3. Thea agent is Paul Coppock, The DOH Associates, 7 N. Wenatchee Ave., Wenatchee, WA 98801
4. The addresses of the subject sites are Sunnyslope Elementary School, 3109 School Street, Wenatchee, WA and Mission View Elementary School, 60 Terminal Avenue, Wenatchee, WA.
5. The parcel numbers and legal description for the subject properties are:
 - 5.1 Sunnyslope Elementary School
23-20-21-860-301, Sunnyslope Farms Commercial Props Block 25 Tax 19, 20; 4.87 Acres;
23-20-21-860-312; Sunnyslope Farms Commercial Props Block 26; 2 Acres;
23-20-21-860-303; Sunnyslope Farms Commercial Props Block 26 Tract 1, .79 Acres.
 - 5.2 Mission View Elementary School
22-20-14-320-550; Government Lot 6, Section 14, Township 22 North, Range 20 East;
12.34 Acres.

6. The subject site is within the City of Wenatchee's Urban Growth Area.
7. The Comprehensive Plan designation and zoning designation for the subject site is Residential Moderate (RM).
8. The property is currently in commercial use. Building permits for this property have been issued per the County Assessor's records:
 - 8.1 Sunnyslope Elementary School
 - BP 030390 School remodel
 - BP 040100 Fire alarm
 - BP 404200 Fire alarm
 - BP 060351 Sign
 - 8.2 Mission View Elementary School
 - BP 970512 Placement of portable classroom
 - BP 050738 Sign
 - BP 080409 School remodel
 - BP 140425 Retaining wall

9. SITE INFORMATION: SUNNYSLOPE ELEMENTARY SCHOOL

- 9.1 The site is flat sloped with the existing elementary school and playground on the subject property.
- 9.2 The property to the north of the subject site is zoned Neighborhood Commercial (CN).
- 9.3 The property to the south of the subject site is W. Peters Street and is zoned Residential Moderate (RM).
- 9.4 The property to the east of the subject site is zoned Residential Moderate (RM).
- 9.5 The property to the west of the subject property is School Street and is zoned Residential Moderate (RM).
- 9.6 The applicant submitted an Aquifer Recharge Disclosure Form, date stamped March 7, 2019. The project is not located within a wellhead protection area.
- 9.7 Pursuant to the Washington State Department of Fish and Wildlife Priority Habitat Species Maps, the subject property does contain priority habitat for mule deer.
- 9.8 The subject property is not located within shoreline jurisdiction.
- 9.9 Pursuant to the Federal Emergency Management Agency (FEMA), panel number 5300150625C of the FIRM maps, there is no floodplain on the subject property; therefore, the provisions of CCC, Chapter 11.84, Frequently Flooded Areas Overlay District and CCC, Chapter 3.20, Flood Hazard Development, do not apply.
- 9.10 According to the Chelan County GIS geo hazard and contours layers, the site does not contain geological hazards for erosive soils; therefore, the provisions of Chelan County

Code Chapter 11.86 Geologically Hazardous Areas Overlay District, do not apply to this project.

- 9.11 There are no known cultural resource sites on the subject property. Pursuant to Revised Code of Washington (RCW) 27.53.020, if cultural resources are found, the applicant will be required to stop work and contact the Department of Archaeology and Historic Preservation, the Confederated Tribes, and Chelan County Community Development.

10. PROJECT / DESIGN INFORMATION: SUNNYSLOPE ELEMENTARY SCHOOL

- 10.1 The Applicant plans to begin construction upon approval and receipt of all necessary permits.
- 10.2 According to the site plan of record, dated March 7, 2019, the property is accessed by School Street and West Peters Street. The existing access approach will need to meet an Industrial/Commercial Driveway approach.
- 10.3 Water to the subject site is supplied by Chelan County PUD.
- 10.4 Chelan County PUD provides electrical services to the subject site.
- 10.5 Sanitation is supplied by City of Wenatchee Sewer District.
- 10.6 Noise will be similar to other commercial and agricultural uses in the vicinity. The project must comply with CCC, Chapter 7.35 Noise and RCW 70.107.
- 10.7 According to the Site Plan/Landscape Plan date stamped March 7, 2019, visual impacts will be from the existing elementary school.

11. SITE INFORMATION: MISSION VIEW ELEMENTARY SCHOOL

- 11.1 The site is flat sloped with the existing elementary school and playground on the subject property.
- 11.2 The property to the north of the subject site is zoned Residential High (RH).
- 11.3 The property to the south of the subject site is Terminal Avenue and is zoned Residential High (RH).
- 11.4 The property to the east of the subject site is South Wenatchee Avenue, City of Wenatchee.
- 11.5 The property to the west of the subject property is zoned Residential High (RH).
- 11.6 The applicant submitted an Aquifer Recharge Disclosure Form, date stamped March 7, 2019, and is not located within a wellhead protection area.
- 11.7 Pursuant to the Washington State Department of Fish and Wildlife Priority Habitat Species Maps, the subject property does contain priority habitat for mule deer.
- 11.8 The subject property is not located within shoreline jurisdiction.
- 11.9 Pursuant to the Federal Emergency Management Agency (FEMA), panel number 5300150625C of the FIRM maps, there is no floodplain on the subject property. Therefore, the provisions of CCC, Chapter 11.84, Frequently Flooded Areas Overlay District and CCC, Chapter 3.20, Flood Hazard Development, do not apply.
- 11.10 According to the Chelan County GIS geo hazard and contours layers, the site does not contain geological hazards for erosive soils. Therefore, the provisions of Chelan County

Code Chapter 11.86 Geologically Hazardous Areas Overlay District, do not apply to this project.

- 11.11 There are no known cultural resource sites on the subject property. Pursuant to Revised Code of Washington (RCW) 27.53.020, if cultural resources are found, the applicant will be required to stop work and contact the Department of Archaeology and Historic Preservation, the Confederated Tribes, and Chelan County Community Development.

12. PROJECT / DESIGN INFORMATION: MISSION VIEW ELEMENTARY SCHOOL

- 12.1 The Applicant plans to begin construction upon approval and receipt of all necessary permits.
 - 12.2 According to the site plan of record, dated March 7, 2019, the property is accessed by School Street and West Peters Street. The existing access approach will need to meet an Industrial/Commercial Driveway approach.
 - 12.3 Water to the subject site is supplied by Chelan County PUD.
 - 12.4 Chelan County PUD provides electrical services to the subject site.
 - 12.5 Sanitation is supplied by City of Wenatchee Sewer District.
 - 12.6 Noise is similar to other commercial and agricultural uses in the vicinity. The project must comply with CCC, Chapter 7.35 Noise and RCW 70.107.
 - 12.7 According to the Site Plan/Landscape Plan date stamped March 7, 2019, visual impacts will be from the existing elementary school.
13. 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 March 29, 2019 with comments due April 12, 2019. Agency comments were considered by the Hearing Examiner and, when appropriate, are included as Conditions of Approval. The following is a list of Agencies who received notice and the date comments were received:
- 13.1 Chelan County Public Works responded on April 16, 2019.
 - 13.2 Chelan County Fire Marshal responded on April 10, 2019.
 - 13.3 Wenatchee Reclamation District responded on March 29, 2019.
 - 13.4 Chelan-Douglas Health District responded on April 4, 2019.
14. The following agencies were notified but did not respond:
- 14.1 Chelan County Building
 - 14.2 Chelan County Fire District #1
 - 14.3 City of Wenatchee
 - 14.4 Chelan County PUD
 - 14.5 Chelan County DNR
 - 14.6 Department of Archaeology & Historic Preservation
 - 14.7 Confederated Tribes of Colville
 - 14.8 Yakama Nation

14.9 Department of Ecology

15. No public comments were received.
16. The application materials were submitted on March 7, 2019.
17. A Determination of Completeness was issued on March 23, 2019.
18. The Notice of Application was provided on March 29, 2019.
19. The Notice of Public Hearing was provided on May 24, 2019.
20. The Wenatchee School District is the lead agency for environmental review of the proposal. The Wenatchee School District prepared a SEPA checklist on February 20, 2019 and issued a Determination of Non-Significance on March 6, 2019.
21. Wenatchee Urban Area Comprehensive Plan which state growth shall take place where adequate public facilities exist and are able to serve existing and future growth, the following goals and policies set forth in the comprehensive plan and are relevant to this development:
 - 21.1 **Residential Development – Goals and Policies**

Policy 6: New non-residential development in existing residential neighborhoods should be designed (landscaping and building design) and operated (traffic, noise, lighting, hours) to be compatible with the existing neighborhood.
 - 21.2 **Facilities and Infrastructure –Goals and Policies**

Policy 2: Strengthen and enhance Wenatchee’s places for education experiences, broadening education for all sectors of the community.
 - 21.3 **Civic Life – Goals and Policies**

Policy 1: Support the public school system and provide for its growth.
22. The project is consistent with Chelan County Code Section 10.10 in the following respects:
 - 22.1 Schools are permitted with an approved Conditional Use Permit (CUP) in the RH zoning district.
23. The project is consistent with Chelan County Code Section 10.65.060(1) in the following respects:
 - 23.1 Criteria for the proposed schools have been addressed below.
 - 23.2 Based on review of the application materials submitted, the criteria for the schools can be satisfied.
24. The project is consistent with Chelan County Code Section 10.65.060(2) in the following respects:
 - 24.1 The applicant has submitted a site plan, date stamped March 7, 2019, showing proposed uses and indicating the planned setbacks.
 - 24.2 Based on the site plan of record, date stamped March 7, 2019, the proposed development meets the development standards.
25. The project is consistent with Chelan County Code Section 10.65.060(3) in the following respects:
 - 25.1 Chelan County provided a Notice of Application to all providers. Comments are included in the file of record and summarized above.
 - 25.2 The subject properties have adequate services to accommodate the proposed use.
26. The project is consistent with Chelan County Code Section 10.65.060(4) in the following respects:

- 26.1 The applicant is proposing to place portable classrooms and add an electronic reader board sign construct to both Sunnyslope and Mission View Elementary. The applicant is also proposing to add additional parking and construct an addition to the existing Sunnyslope Elementary school.
- 26.2 As conditioned, the use of the properties as schools are compatible with the surrounding land uses.
- 27. The project is consistent with Chelan County Code Section 10.65.060(5) in the following respects:
 - 27.1 The addition of portable classrooms and electronic reader board signs will not cause adverse impacts.
 - 27.2 The proposed project will not result in undue impacts to the public health, safety, and welfare.
- 28. The project is consistent with Chelan County Code Section 10.65.060(6) in the following respects:
 - 28.1 The applicant's proposal to add temporary classrooms to individual school sites within the city limits meets the intent of policy 1 under the Civic Life Chapter to "support the public school system and provide for its growth" and policy 2 under Facilities and Infrastructure Chapter to "strengthen and enhance Wenatchee's places for education experiences, broadening education for all sectors of the community". The purpose of adding these classroom buildings is to provide relief for overcrowding in the existing school buildings and to comply with the future implementation of Initiative 1351 which mandates class size reduction or to house existing and future programs.
 - 28.2 Policy 6 under Residential Development states that "new non-residential development in existing residential neighborhoods should be designed (landscaping and building design) and operated (traffic, noise, lighting, hours) to be compatible with the existing neighborhood". While the schools are existing within the residential neighborhoods, the proposal includes the addition of portable classrooms. The applicant has provided a site review for each school to evaluate impacts to surrounding properties and has proposed landscaping or other mitigation measures to provide that the placement of the portable units do not negatively impact the neighborhoods.
 - 28.3 The proposed portable classrooms and school additions, with recommended conditions, is intended as a public facility.
- 29. The project is consistent with Chelan County Code Section 10.65.280(1) in the following respects:
 - 29.1 The proposed development is not planning on adding any additional playground areas.
 - 29.2 This code provision has been met
- 30. The project is consistent with Chelan County Code Section 10.65.280(2)(b) in the following respects:
 - 30.1 The applicant has submitted a site plan, date stamped March 7, 2019, showing the proposed portables, signs, addition to existing school and addition to parking meet zoning setbacks.
 - 30.2 This code provision has been met.
- 31. The project is consistent with Chelan County Code Section 10.65.280(3) in the following respects:
 - 31.1 The application narrative indicates that each proposed portable classroom and the proposed addition to the Sunnyslope existing building is not more than one single story.

- 31.2 The applicant must obtain a building permit and meet all zoning codes prior to issuance of building permit.
- 32. The project is consistent with Chelan County Code Section 10.65.280(4) in the following respects:
 - 32.1 No changes to the loading and unloading areas are proposed.
 - 32.2 This code provision has been met.
- 33. The project is consistent with Chelan County Code Section 10.65.280(5) in the following respects:
 - 33.1 The application indicates landscaping will be provided at parking areas and at portable classroom locations in accordance with WCC Section 10.62, Landscaping and Screening.
 - 33.2 The code provision shall be met though a condition of approval and reviewed at time of building permit submittal.
- 34. The project is consistent with Chelan County Code Section 10.65.280(6) in the following respects:
 - 34.1 The applicant is requesting a reader board/ electronic message center for both Sunnyslope and Mission View Elementary school.
 - 34.2 The applicant will need to apply for a building permit for each sign
- 35. The project is consistent with Chelan County Code Section 10.65.280(7) in the following respects:
 - 35.1 The applicant is proposing to deviate from the design standards to place portable classrooms at Sunnyslope and Mission View Elementary. A design review workshop was held for the planning commission on April 24, 2019 at 7 p.m. and the planning commission recommended approval.
 - 35.2 The code provision has been met.
- 36. Staff has reviewed the applications and submitted materials. Based on the information contained in the applications and compliance with the Revised Code of Washington, the Washington Administrative Code, City of Wenatchee Comprehensive Plan, and the Wenatchee City Code, staff recommended **APPROVAL** subject to recommended conditions of approval.
- 37. The Chelan County Hearing Examiner considered all evidence within the record in rendering this decision.
- 38. An Open Record Public Hearing after due legal notice was held on June 5, 2019.
- 39. Appearing and testifying on behalf of the Applicant was Paul Coppock and Greg Herkenrath. Both Mr. Coppock and Mr. Herkenrath testified that they are agents authorized to appear and speak on behalf of the owner and Applicant. Mr. Coppock testified that all of the proposed Conditions of Approval were acceptable.
- 40. No member of the public testified at the hearing.
- 41. Any Conclusion of Law that is more correctly a Finding of Fact is incorporated herein as such by this reference.

CONCLUSIONS OF LAW

1. The Hearing Examiner has authority to render this Decision.
2. Referral agency comments were received and considered in the review of this proposal.
3. Environmental and Critical Areas review has been completed. As conditioned, the proposal does not have negative impacts on critical areas which cannot be mitigated.
4. Subject to the Conditions of Approval, the project design is consistent with the Chelan County Code.
5. Any Finding of Fact that is more correctly a Conclusion of Law is incorporated herein as such by this reference.

DECISION

Based upon the above noted Findings and Fact and Conclusions, Conditional Use CUP 2019-005 is hereby **APPROVED**.

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 WCC, Section 10.65.050(A), the granting of a conditional use permit and the conditions set forth runs with the land; compliance with the conditional use permit is the responsibility of the current owner of the property, whether that is the applicant or a successor.
2. Pursuant to RCW 27.53.020, if the applicants or their agents discover previously unknown historic or archeological remains/artifacts while conducting the development activities authorized by this permit, the applicant/agent shall immediately notify the appropriate tribal and state representatives and the Chelan County Department of Community Development of the finding for local, state and tribal coordination.
3. The subject property and conditional use permit shall conform to the comments and conditions of the approval as found in the Chelan County Fire Marshal Comment response dated April 10, 2019 (Exhibit A).
4. The subject property and conditional use permit shall conform to the comments and conditions of the approval as found in the Chelan County Public Works Agency Comment response dated April 16, 2019 (Exhibit B).
5. The subject property and conditional use permit shall conform to the comments and conditions of the approval as found in the Wenatchee Reclamation District Agency Comments response dated March 29, 2019 (Exhibit C).
6. The applicant is responsible for compliance with all applicable local, state and federal rules and regulations, and must obtain all appropriate permits and approvals.
7. Pursuant to CCC, Section 7.35, Noise Control, the applicant shall ensure that all noise regulations are met.

8. Any security lights or exterior lighting shall be low-intensity, non-flashing and designed to project toward the property or shall be shielded to keep light from directly projecting over property lines.
9. Pursuant to WCC, Section 10.62, Landscaping and Screening, a landscaping plan shall be submitted for review and approval for each site as the commercial building permits are being processed.
10. Pursuant to WCC, Section 10.50, Signs, a sign permit shall be required for the proposed reader board for each building site.
11. Upon final action of the hearing examiner to deny an application for a conditional use permit, the department shall not accept filing of an application for substantially the same matter within one year from the date of the final denial of the application.
12. Pursuant to WCC, Section 10.65.050(B), a conditional use permit shall become void if not acted upon, including but not limited to submitting a building permit or the placement of all infrastructure, within three years after approval or such other time period as established by the hearing examiner. The applicant may request a one-year extension, to be reviewed administratively, if the applicant submits a written request with community development thirty days prior to expiration.
13. Pursuant to WCC, Section 10.65.070(A)(8), action of the Hearing Examiner is final, unless appealed pursuant to the judicial appeal provisions of Title 13 of the Chelan County Code.

Approved this 7th day of June, 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.