

BEFORE THE CHELAN COUNTY HEARINGS EXAMINER

IN THE MATTER OF	RECEIVED)	FINDINGS OF FACT, CONCLUSIONS
	SEP 12 2019)	OF LAW, DECISION AND CONDITIONS
P 2019-004)	OF APPROVAL
Farrell	CHELAN COUNTY COMMUNITY DEVELOPMENT)	

THIS MATTER, having come on for hearing in front of the Chelan County Hearing Examiner on September 4, 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 application was submitted to subdivide 11.98 acres into 40 residential lots with 3 tracts. A community pool will be located in tract A and tract B and C will be used for stormwater retention. The smallest lot size is approximately 8,000 square feet with the largest lot size of approximately 13,950 square feet. The average lot size is approximately 9,355 square feet.
2. The applicant/owner is Farrell Property Investments, 17786 Des Moines Memorial Dr., Burien, WA 98148.
3. The surveyor is Munson Engineers, 610 N. Chelan Ave, Wenatchee, WA 98801.
4. The subject site is located at NNA Wapato Way, Manson, WA 98831.
5. The subject parcel numbers for the property are 28-21-36-681-140, 28-21-36-681-141 and 28-21-36-681-142.
6. The development is located within the Manson Urban Growth Boundary.
7. The current Comprehensive Plan and zoning designations are Urban Residential 2 (UR2).
8. The subject property is currently used in residential and vacant land.
9. The subject property is situated on gently sloping ground towards the south, per submitted application and geological assessment.
10. The subject property is a total of 11.98 acres.
11. The property to the north of the subject property is a large residential lot and is zoned Urban Residential 1 (UR1).
12. The property to the south of the subject property are small residential lots and is zoned Urban Residential 1 (UR1) and Tourist Commercial (CT).
13. The property to east of the subject property are large residential lots and is zoned Urban Residential 2 (UR2).
14. The property to west of the subject property is in small residential lots and is zoned Urban Residential 3 (UR3).

15. The applicant submitted an Aquifer Recharge Area Disclosure Form, date stamped March 4, 2019. Pursuant to Chapter 11.82.040, Chelan County has determined that the aquifer recharge measures do not apply.
16. Pursuant to the Federal Emergency Management Agency, FIRM map panel 5300150225A, the property does not contain identified 100 or 500-year flood plain or associated floodway. Therefore, Chelan County Code 11.84, Frequently Flooded Areas Overlay District does not apply.
17. Pursuant to the Chelan County Geographical Information system, the property contains potential geologic hazardous areas. The applicant submitted a Geological Site Assessment, dated January 2019. The report includes several recommendations for construction which should be adhered to for the design and construction of the proposed subdivision.
 - 17.1 Pursuant to Chelan County Code 11.86, a note on the final plat mylar should be required, identifying this subdivision as being located in a potential geologically hazardous area.
18. Pursuant to the National Wetlands Inventory Map the property does not contain a known wetland. Therefore, Chelan County Code Chapter 11.80 does not apply.
19. Pursuant to the Washington State Department of Natural Resources FPARS stream typing map, the property does not contain any known stream. Therefore, Chelan County Code 11.78 does not apply.
 - 19.1 Pursuant to the Washington State Department of Fish and Wildlife Priority Habitat and Species Maps and Chelan County Fish & Wildlife Overlay District, Chapter 11.78, the subject does not contain any conservation habitat areas. Therefore, the provisions of Chelan County Code Chapter 11.78 do not apply.
20. Comments from the Washington Dept. of Archaeology & Historic Preservation, dated April 25, 2019, indicated that the proposed development area has a high potential for archaeological resources. A cultural resource study was recommended.
 - 20.1 Pursuant to RCW 27.53.020, full cooperation among the Department of Archaeology and Historic Preservation and other agencies is required to ensure information regarding the possible impact of construction activities on the state's archaeological resources is maintained. Staff recommended notification if any artifacts are uncovered or discovered during the development of the proposed subdivision.
21. On July 9, 2018, a pre-application meeting was held to discuss the feasibility of the proposed development.
22. The property is accessed from State Route (SR) 150, a 60' right-of-way and is classified as a State Highway in the county road system. SR 150 consists of single travel lanes for both directions with no curb, gutter or sidewalk along the frontage of the proposed development.
23. The development is proposing an internal road for access; the design of the new internal public road would require to be constructed to meet an Urban Local Access Class 1B (Standard Plan PW-3) per Chelan County Public Works comments dated July 31, 2019.
24. The comment letter from Chelan County Public Works, dated July 31, 2019, states a private stormwater drainage system is required with an Operation and Maintenance Agreement of the drainage system and recorded with the final plat.
25. Water/Sanitation/Irrigation availability letters from Lake Chelan Reclamation District, dated April 18, 2019, states: "The proposed development is within the District's water, sewer and irrigation service area." Lake Chelan Reclamation mainline infrastructure upgrades would be required to service the development.

26. The comment letter from Department of Ecology, dated April 26, 2019, states the subject property was historically used as an orchard and may contain contaminated soils. The presence of these contaminants may be a health hazard with earth disturbing activities. Dust control must be maintained and future owners must be notified.
27. The comment letter from the Chelan County Fire Marshal, date stamped April 26, 2019, states the subject property is located within Fire District #5. Additional fire hydrants would be necessary to service this development. It has yet to be determined if the plans for fire apparatus access roads are adequate.
28. Noise impacts are addressed in Chelan County Code Chapter 7.35.
29. The applicant submitted an environmental checklist on March 4, 2019. Pursuant to WAC 197-11 process and RCW 43-21C of the State Environmental Policy Act (SEPA), an environmental review and a threshold determination was completed. Determination of Non-significance (DNS) was issued on July 31, 2019. The SEPA Checklist and DNS are included within the file of record and admitted into the record by this reference.
30. The Notice of Application was referred to agencies and departments on April 18, 2019, and surrounding property owners within 300 feet, (excluding 60 feet of right-of-way) with comments due May 2, 2019. Agency comments are included, as appropriate, within the Conditions of Approval.
31. The following agencies and County departments provided comments:
 - 31.1 Chelan County Public Works responded on July 31, 2019.
 - 31.2 Chelan County Fire Marshal responded on April 26, 2019.
 - 31.3 Chelan County Assessor responded on April 18, 2019.
 - 31.4 Chelan-Douglas Health District responded on April 29, 2019.
 - 31.5 Lake Chelan Reclamation District responded on April 18, 2019.
 - 31.6 Fire District #5 responded on April 24, 2019.
 - 31.7 Manson Community Council responded on April 30, 2019.
 - 31.8 Washington State Archaeology responded on April 25, 2019.
 - 31.9 Confederated Tribes of the Colville Nation responded on May 2, 2019.
 - 31.10 Washington Department of Ecology responded on April 26, 2019 & August 22, 2019.
 - 31.11 Washington State Department of Transportation responded on April 22, 2019.
32. The following agencies were provided notice and did not respond:
 - 32.1 Chelan County PUD #1
 - 32.2 Manson School District
 - 32.3 Yakama Nation
33. Public comments were received from the following individuals:
 - 33.1 Suzanne Milliken responded on May 2, 2019, concerned with the addition of 40 new home to the area and the loss of the small town feel of the Manson area.

- 33.2 Brian Patterson responded on April 29, 2019, concerned with the historical usage of lead arsenate pesticides and how the applicant will mitigate clean up during the development of this project. Comment submitted with available science. Mr. Patterson also submitted a comment dated September 2, 2019. Both were admitted into the record.
- 33.3 Donald Cullison responded on April 26, 2019, concerned with the soil environmental health hazard. The soil historically contains toxic chemicals arsenic and lead. Is requesting a full environmental review by Chelan County and the applicant is brought into compliance.
- 33.4 John Collier, provided undated written comment that was admitted into the record.
- 34. The application materials were submitted on March 4, 2019.
- 35. A Determination of Completeness was issued on April 16, 2019.
- 36. The Notice of Application was provided on April 18, 2019.
- 37. SEPA Notice was issued on July 31, 2019.
- 38. The Notice of Public Hearing was issued on August 23, 2019.
- 39. The subject property is within the study area of the Chelan County Comprehensive Manson Subarea Plan and development with the Urban Residential 2 (UR2) designation.
- 40. The proposal is within the Urban Residential 2 (UR2) zoning district, as delineated on the zoning map for the Manson urban growth area boundary, as adopted by Chelan County.
- 41. The site plan of record, date stamped March 4, 2019, indicates that all minimum dimensional standards have been met.
- 42. The project is consistent with Chelan County Code (CCC) Section 14.08.010 in the following respects:
 - 42.1 The applicant participated in a pre-application meeting with Chelan County Community Development on July 9, 2018.
- 43. The project is consistent with Chelan County Code (CCC) Section 12.02.060(2) in the following respects:
 - 43.1 The subject property has domestic water and power available for the proposed development. Extensions of the existing lines would be required for power. Domestic water and sewer is available from Lake Chelan Reclamation District, mainline infrastructure upgrades are required to serve the proposed development.
- 44. The project is consistent with Chelan County Code (CCC) Section 12.08 in the following respects:
 - 44.1 Review of the name would be required prior to final plat approval to determine that it does not match or is not similar to an existing plat name.
- 45. The project is consistent with Chelan County Code (CCC) Section 12.08.030(1)(B) in the following respects:
 - 45.1 Electrical services is available from the Chelan County PUD No. 1. However, line extension would be required.
- 46. The project is consistent with Chelan County Code (CCC) Section 12.08.030(2) in the following respects:

- 46.1 The applicant is proposing access by a private road and private driveways. Private road standards, as detailed in Title 15, apply to this development and require an approved maintenance agreement.
- 47. The project is consistent with Chelan County Code (CCC) Section 12.08.030(3) in the following respects:
 - 47.1 All easement locations are required to be shown on the final plats, pursuant to CCC 12.08.030. Separate instruments recorded with the Chelan County Auditor should be referenced on the face of the final plat. Required easements, shall be reviewed with the blue line submittal.
- 48. The project is consistent with Chelan County Code (CCC) Section 12.08.030(4) in the following respects:
 - 48.1 Easement locations and purpose(s) should be indicated on the final plat. Easements shall be reviewed with blue line submittal.
- 49. The project is consistent with Chelan County Code (CCC) Section 12.08.040 in the following respects:
 - 49.1 The subject property is located in Fire District 5. The Chelan County Fire Marshal requires conformance with the International Fire Code. The nearest fire station is less than 1 miles from the subject property. Pursuant to Chelan County Code 3.04.010, State Building Code, all building permits require compliance with the International Fire Code(s), as adopted or amended by Chelan County.
- 50. The project is consistent with Chelan County Code (CCC) Section 12.08.050 in the following respects:
 - 50.2 Chelan County Public Works comments state that the stormwater review is required prior to blue line review. Pursuant to Chelan County Code 13.16, a stormwater plan shall be prepared and implemented based on comments from Chelan County Public Works.
- 51. The project is consistent with Chelan County Code (CCC) Section 12.08.060 in the following respects:
 - 51.1 The property is not impacted by a watercourse.
- 52. The project is consistent with Chelan County Code (CCC) Section 12.08.090 in the following respects:
 - 52.1 Per Title 15 of the Chelan County Code, monuments should be required prior to submittal of the final plat or as approved by Chelan County Public Works Department. Compliance with CCC 15.30.825 shall be a condition of approval.
- 53. The project is consistent with Chelan County Code (CCC) Section 12.08.100(2) in the following respects:
 - 53.1 The subject property is not impacted with flood plain or flood way.
- 54. The project is consistent with Chelan County Code (CCC) Section 12.08.100(2) in the following respects:
 - 54.1 The applicant shall have five (5) years to final the plat from the date of preliminary approval.
- 55. The project is consistent with Chelan County Code (CCC) Section 11.23.020(1)(A) in the following respects:

- 55.1 Pursuant to the review within this staff report, the proposed development is consistent with the applicable chapters of the zoning code for the Urban Residential 2 (UR2) zoning districts, together with Appendix F, Manson Subarea Plan.
56. The project is consistent with Chelan County Code (CCC) Section 11.86 in the following respects:
- 56.1 Pursuant to the Chelan County Geologically Hazardous Areas map data, the subject property does contain potential geologically hazardous areas; therefore, the provisions of apply.
57. **CHELAN COUNTY CODE STORMWATER**
- Stormwater would be required to meet the standards of Chelan County Code Title 13. Stormwater would be required for the entire subdivision and all required infrastructure improvements placed prior to final plat approval.
58. **DEPARTMENT OF COMMUNITY DEVELOPMENT SUMMARY:**
- 58.1 This proposal is to develop a forty (40) lot residential subdivision with three (3) tract on an 11.98 acre parcel. The property is situated on gently sloping ground towards the south. Critical areas identified are potential geological hazard areas.
- 58.2 Access to the lots would be provided by a 50' private road and utility easement. Potable water and sewer would be provided by extension of the Lake Chelan Reclamation District.
- 58.3 The property is within the Manson Urban Growth Area and designated as Urban Residential 2 (UR2) zoning district. Pursuant to Chelan County Code 11.23.040, the minimum lot size requirement is 6,000 square feet and minimum lot width is 60 feet.
- Per comment letter from Department of Ecology, dated April 26, 2019, there is a possibility the soils contain residual concentrations of pesticides.
- 58.4 The proposed subdivision is governed by the rules and regulations of the of the Manson Urban Growth Area Zoning Resolution; the Subdivision Resolution, the Comprehensive Plan. Chelan County Titles 11, 12, 13, 14 and 15 as well as other applicable development regulations pursuant to the Chelan County Code
59. Staff reviewed the application and submitted materials. Based on the information contained in the applications and compliance with the Revised Code of Washington, the Washington Administrative Code, Chelan County Comprehensive Plan, and the Chelan County Code, staff recommended **APPROVAL of PLAT 2019-004** subject to proposed Conditions of Approval.
60. An open record public hearing after legal notice was provided was held on September 4, 2019.
61. 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.
62. Appearing and testifying on behalf of the applicant was Robert Culp. Mr. Culp testified that he was an agent authorized to appear and speak on behalf of the property owner and applicant. Mr. Culp testified that all of the proposed lots can be developed with normal residential development and accessory structures without the need for a variance. Mr. Culp testified that all the proposed conditions of approval were acceptable.

63. Testifying from the public was the following individuals:
 - 63.1 Kim Staar. Mr. Staar indicated that he represented the owner/developer as the real estate broker. He testified that the property would be developed with terraces with those with those at a lower elevation being a lower price and those with a higher elevation being a higher price. They anticipate that the property owners will be full time residents.
64. 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 Chelan County Hearing Examiner has been granted the authority to render this decision pursuant to Chelan County Code Section 1.61.080 Duties and Powers.
2. The subject application demonstrates consistency with the development standards and procedural requirements of Chelan County Code Title 11 Zoning, Title 12 Land Divisions, Title 14 Development Permit Procedures and Administration, and Title 15 Development Standards.
3. The application, as conditioned, demonstrates consistency with the goals and policies as set forth in the Chelan County Comprehensive Plan.
4. The application, as conditioned, demonstrates consistency with adopted levels of service for roads, utilities, fire protection facilities, schools and other public and private facilities needed to serve the development, with assurance of concurrency.
5. The application, as conditioned, is compatible with adjacent uses and will not harm or change the character of the surrounding area.
6. Any Finding of Fact that is more correctly a Conclusion of Law is incorporated by herein as such by this reference.

DECISION

Based upon the above noted Findings and Fact and Conclusions, P 2019-004 is hereby APPROVED, subject to the conditions noted below.

CONDITIONS OF APPROVAL

All conditions imposed herein shall be binding on the "Applicant." "Applicant" shall mean terms, which include the owner or owners of the property, heirs, assigns, and successors.

1. Pursuant to RCW 58.17, the development shall conform to all applicable local, state, and federal regulations, statutes, rulings, and requirements. The proposal shall be subject to approval that may be required under permits licenses or approvals by any other local, state, or federal jurisdictional agency.
2. All conditions imposed herein shall be binding on the Applicant. "Applicant" shall mean terms, which include the owner or owners of the property, heirs, assigns and successors.

3. Pursuant to Manson's Urban Growth Area Code Section 11.23.040, the proposal shall comply with the Manson's Urban Residential 2 (UR2) Zoning District's dimension and/or development standards.
4. Pursuant to Chelan County Code Section 12.08.030 and 12.24.020(3) and Chapter 15.30, all easement locations are required to be shown on final plats.
5. Pursuant the Chelan County Code Section 12.02.010(1), the following note shall be placed on the final plat mylar:
 - 5.1 "Chelan County is not responsible for notification or enforcement of covenants or deed restriction or reservations affecting 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."
 - 5.2 "Based on historical agricultural use of this land, the Washington State Dept. of Ecology has found a very high likelihood that the soils contain lead and arsenic at concentrations exceeding the Model Toxics Control Act Method A clean up levels."
6. Pursuant to Chelan County Code Section 12.24.015, the following note shall be placed on the final plat mylar:
 - 6.1 "Agricultural activities occur throughout Chelan County and may or may not be compatible with residential development."
7. Pursuant to the Revised Code of Washington, the following notes shall be placed on the final plat:
 - 7.1 "Noxious weed control is the responsibility of the individual lot owners, per RCW 17.10.140, as amended."
 - 7.2 "If any Native American grave sites or archaeological resources are discovered or excavated, the owner/developer/contractor shall stop work immediately and notify Chelan County Department of Community Development and the Washington State Department of Archaeology and Historic Preservation in conformance with RCW 27.53.020. An inadvertent discovery plan shall be submitted with the building permit application and kept onsite during all land disturbing activities. A sample of this plan may be obtained from Chelan County Community Development."
8. Pursuant to RCW 27.53.020, the applicant shall stop work and contact Community Development and the Department of Archaeology and Historic Preservation and other agencies as required, regarding the possible impact of construction activities on the state's archaeological resources.
9. Pursuant to Chelan County Code Section 11.86.080, the following note shall be placed on the final Plat:
 - 9.1 "All development shall be consistent with Chelan County Code Chapter 11.86 Geologically Hazardous Areas Overlay District, as amended; and the Geotechnical Engineering Evaluation and Geologic Hazard Assessment prepared by Munson Engineers, Inc. dated January 2019 or with a site-specific geological site assessment."

10. **CHELAN COUNTY FIRE MARSHAL**

10.1 The subject property and final plat shall conform to the comments and conditions of approval as found in the Chelan County Fire Marshal Agency Comments dated April 26, 2019.

11. **CHELAN-DOUGLAS HEALTH DISTRICT**

11.1 The subject property and final plat shall conform to the comments and conditions of approval as found in the Chelan-Douglas Health District memorandum dated April 29, 2019.

12. **CHELAN COUNTY PUBLIC WORKS DEPARTMENT**

12.1 The subject property and final plat shall conform to the comments and conditions of approval as found in the Chelan County Public Works memorandum dated July 31, 2019, with the exception that because the internal road would be private, construction is required to comply with private county road standards, plan 17.

13. **CHELAN COUNTY PUBLIC UTILITY DISTRICT:**

13.1 Pursuant to Chelan County Code Section 12.08.030, the applicant shall provide any necessary line extensions and any associated easements pursuant to the standards of Chelan County PUD No. 1. All easements shall be denoted on the Final Plat.

14. **LAKE CHELAN RECLAMATION DISTRICT:**

14.1 The proposed development falls within the Lake Chelan Reclamation District domestic water, sewer and irrigation service area. Mainline infrastructure upgrades are required to serve this development. Water and sewer would be available upon payment of all applicable fees.

Approved this 11th day of September, 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.