

CHELAN COUNTY

DEPARTMENT OF HEARING EXAMINER

316 WASHINGTON STREET, SUITE 301
WENATCHEE, WASHINGTON 98801

BEFORE THE CHELAN COUNTY HEARING EXAMINER

IN THE MATTER OF:) **FINDINGS OF FACT**
AA 2019-007) **AND DECISION ON**
) **ADMINISTRATIVE APPEAL**

FINDINGS OF FACT

1. This is an Administrative Appeal of an administrative interpretation rendered under File No. AI 2019-003.
2. The Appellants were the applicants for the Administrative Interpretation File No. AI 2019-003.
3. The Appellants are Steven Booher and Todd Smith, Syndicate Smith, LLC, 220 US HWY 2, Leavenworth, WA 98826.
4. The Administrative Interpretation application was received on September 12, 2019.
5. This request for an Administrative Interpretation was to determine if a detached Accessory Use/Structure, as defined by the Chelan County Code, can be used as a bedroom, without also having both a bathroom (sanitary facilities) and kitchen facilities.
6. The Administrative Interpretation Decision was made on October 18, 2019.
7. The Administrative Interpretation by Chelan County determined that the use of an accessory structure as sleeping facilities, without both sanitary facilities and kitchen facilities, fits the definition of a "Guest House" in the Chelan County Code. Because a "Guest House" is not a listed use in the District Use Chart in the Chelan County Code, the Chelan County Administrator determined that the definition of a "Guest House" in the District Use Chart would be most similar to an Accessory Dwelling Unit. Therefore, a "Guest House" would need to meet the standards associated with an Accessory Dwelling Unit.

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8. The Administrative Appeal request was filed by Appellants on October 30, 2019.
9. In this Appeal, the Appellants challenge that a “Guest House” is most similar to the use of an Accessory Dwelling Unit, and argue that since it does not fall within the definition of an Accessory Dwelling Unit, it instead should be characterized as an Accessory Use/Structure pursuant to CCC 14.98.055, and a “Guest House” should be permitted under those standards.
10. The Director of Community Development filed his Findings of Fact, Conclusion of Law and Decision regarding AI 2019-003 October 18, 2019, and concluded that based on the definitions within the Chelan County Code, a Guest House is an accessory structure which provides temporary sleep accommodations. The Director of Community Development determined the most similar use in the Chelan County District Use Chart, 11.04.020, is an Accessory Dwelling Unit. Therefore, an accessory structure that meets the definition of a Guest House would need to comply with the applicable provisions within the Chelan County Code for an Accessory Dwelling Unit. This interpretation does not limit uses such as a bathroom, office, art studio, canning kitchen, or similar type use from being within an accessory structure, so long as it does not also contain sleeping accommodations.
11. The October 30, 2019 appeal was submitted on the basis that the Appellants believe the Analysis and Interpretation for AI 2019-003 is inconsistent and incorrect based on the Findings of Fact. The Appellant is seeking for the interpretation to be revised to include an accessory building containing a bedroom as an allowed “Accessory Use/Structure”, and not as an “Accessory Dwelling Unit”.
 - 11.1 Applicant Statement regarding the Analysis and Interpretation of AI 2019-003: “The Findings of Fact are not being disputed – this appeal disputes what we believe is an inconsistent and incorrect Analysis and Interpretation of these Facts. The final interpretation correctly identifies a “bathroom, office, art studio, canning kitchen, or similar type use” as being allowed within an accessory structure, but incorrectly disallows bedrooms from being allowed in an accessory structure unless regulated as an ADU. Since none of these uses, including a bedroom, contain all the elements that define a “dwelling unit”, they cannot and should not be regulated as an ADU. In addition, this interpretation does not align with the intent, goals, and policies contained within the Chelan County Comprehensive Plan”.
12. The Notice of Application and Public Hearing was issued December 16, 2019 and published on December 18, 2019.
13. After due legal notice, an open record public hearing was held on January 8, 2020.
14. Appearing and testifying on behalf of the Appellants were Steven Booher and Todd Smith.

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15. The Appellants testified consistent with their appeal materials. Mr. Booher read from a prepared statement setting forth the Appellant's position that a Guest House is most similar to the broad Accessory Use/Structure set forth in the Chelan County Code.
16. The Hearing Examiner indicated that the Hearing Examiner's initial impression was that because a Guest House is defined as distinct use within the Chelan County Code, and because this use is not set forth in the District Use Chart, or for that matter, any Use Chart within the Chelan County Code, as a permitted, conditional, or accessory use, that a Guest House is therefore a prohibited use.
17. At the hearing, both the Appellants and the County encouraged the Hearing Examiner to exercise the authority set forth in Chelan County Code 11.04.010. That chapter states:

A District Use Chart is established and contained herein as a tool for the purpose of determining the specific uses allowed in each Use District. If a proposed use is not listed, the Administrator will determine if a proposed use is similar to one that is already enumerated in the Use Chart and may, therefore, be allowed, subject to the requirements associated with that use and all other applicable provisions of the Chelan County Code.

18. It is under this authority that the Chelan County Community Development Director based Administrative Interpretation AI 19-003 in determining that the defined "Guest House" is most similar to an "Accessory Dwelling Unit", as defined by the Chelan County Code.
19. The Hearing Examiner recognized that a separate structure with a bedroom, but without both sanitary facilities and kitchen facilities, is not an Accessory Dwelling Unit as defined by the Chelan County Code.
20. However, the Hearing Examiner finds that the sleeping accommodations necessarily found within a "Guest House", make a guest house more similar to an Accessory Dwelling Unit, rather than the overly broad "Accessory Use/Structure" as defined by the Chelan County Code.
21. The Hearing Examiner finds that Chelan County Code 11.88.170(11)(B) provides that accessory structures, as defined by the Code, are not to be used as a dwelling unit, as defined by the IRC. Dwelling units necessarily contain sleeping accommodations. Chelan County Code 14.98.625.
22. The Hearing Examiner finds that the substantial similarity between a Guest House and an Accessory Dwelling Unit is the fact that they both necessarily contain sleeping accommodations.
23. The Hearing Examiner finds that making an interpretation that even though a "Guest House" is specifically defined in the Chelan County Code, but is not mentioned in

any District Use Chart as a permitted, conditional , or accessory use, and is therefore, a prohibited use, would be an incorrect interpretation of the Chelan County Code.

24. Nevertheless, a greater clarity to this issue could be rendered if the “Guest House” use was specifically identified as either a permitted, conditional or accessory use on all applicable District Use Charts.
25. Any Finding of Fact that is more correctly a Conclusion of Law is incorporated herein as such by this reference.

CONCLUSIONS OF LAW

1. The Hearing Examiner has been granted authority to render this Decision.
2. The fact that a “Guest House” is a specific, defined use within the Chelan County Code, but is not further identified as a permitted, conditional or accessory use in any Use chart, does not make a “Guest House” a prohibited use in any specific zone.
3. The Hearing Examiner has the authority under Chelan County Code 11.04.010 to determine if a “Guest House” is a use similar to one that is already enumerated in the Use Chart.
4. The existence of sleeping accommodations in both a Guest House and an Accessory Dwelling Unit is the material similarity between those two uses.
5. A Guest House is most similar to an Accessory Dwelling Unit.
6. A bedroom (sleeping accommodation) is not allowed in the Chelan County Code as a stand-alone accessory use in a detached structure.
7. Accessory structures shall not to be used as Dwelling Units.
8. Dwelling Units necessarily contain sleeping accommodations.
9. A Guest House is not similar to an Accessory Use Structure, as both are defined by the Chelan County Code.
10. Any Conclusion of Law that is more correctly a Finding of Fact is incorporated herein as such by this reference.

DECISION

WHEREFORE, based upon the above Findings of Fact and Conclusions of Law, the Administrative Interpretation dated October 18, 2019, and File No. AI 2019-003 rendered by the Chelan County Community Development Director, **IS HEREBY AFFIRMED** in all respects.

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Dated this 14th day of January, 2020.

CHELAN COUNTY HEARING EXAMINER



Andrew L. Kottkamp

This decision is subject to appeal pursuant to the Chelan County Code. Appeals must be timely filed. Anyone considering an appeal of this decision should seek immediate legal advice.

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