

BEFORE THE CHELAN COUNTY HEARINGS EXAMINER

IN THE MATTER OF

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CUP 2019-014

Sanders

MAR 30 2020

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)
) FINDINGS OF FACT, CONCLUSIONS
OF LAW, DECISION AND CONDITIONS
OF APPROVAL
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CHELAN COUNTY
COMMUNITY DEVELOPMENT

THIS MATTER, having come on for hearing in front of the Chelan County Hearing Examiner on March 18, 2020, 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 the construction of a 42-ft. by 80-ft. (3,360 sq.ft.) garage with a connected 22-ft by 42-ft (990 sq.ft.) dwelling unit. After construction of this structure, the applicants intend to reside in the dwelling unit while a 3,000 sq.ft. single-family residence with attached garage is built on the property. After construction of the residence is completed, the dwelling unit will be converted into an accessory dwelling unit. The subject parcel is within the Single Family Residential (R-1) zoning district of the City of Chelan Urban Growth Area.
2. The applicant/owners are Alan and Elizabeth Sanders, 37435 239th Ave. SE, Enumclaw, WA 98022
3. The project location and parcel number is 21 Miller Road, Chelan, WA 98816 and is identified by Assessor's Parcel No. 27-23-19-120-250.
4. The legal description and size of the subject property is Township 27N, Range 23 E.W.M., Section 19 Lot A BLA 2017-318 LA BLA 2017-166 L2 BLA 2007-116 NWNE and is 5.9700 acres
5. The subject property is located in the City of Chelan Urban Growth Area and is zoned Single Family Residential (R-1).
6. The subject property is currently vacant. Per Assessor's data, no structures have been built on this parcel.
7. The properties to the north, south, east are residential and are zoned Single Family Residential (R-1). The property to the west is undeveloped hillside and zoned Rural Residential/Resource 20 (RR20).
8. Aquifer Recharge Area. The applicant submitted an Aquifer Recharge Disclosure Form, date stamped October 16, 2019. The proposed project does not require a vulnerability report, pursuant to CCC Chapter 11.82.
9. Fish and Wildlife. Pursuant to the Washington State Department of Fish and Wildlife Priority Habitat Species Maps, the subject property does not contain habitat. Therefore, the development is not subject to CCC Chapter 11.78.
10. Riparian Area. Pursuant to the Natural Resources Stream Typing Maps, there are no streams located on the subject property. Therefore the development is not subject to CCC Chapter 11.78.

11. Geologically Hazardous Areas. Chelan County GIS mapping indicates that the subject property is located within a potential geologic hazard area. Therefore, the provisions of CCC Chapter 11.86 would apply to the project. A geological site assessment prepared by Don Phelps of Water Resources Engineering on September 15, 2019 was submitted with the application. Subsequent development will be required to follow the recommendations of the provided report, unless amended.
12. Wetlands. Based on the National Wetlands Inventory Maps prepared by the US Department of Fish and Wildlife Services, no wetlands are indicated on or adjacent to the subject property. Therefore, the provisions of CCC Chapter 11.80 Wetland Areas Overlay District do not apply
13. Cultural Resources. 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 of the Colville Reservation, and Chelan County Community Development.
14. Pursuant to Chelan Municipal Code (CMC) Section 17.56.030, if not otherwise specified by the Hearing Examiner, Conditional Use Permits shall expire at the end of a period of one year from the time they are granted.
15. Pursuant to the International Residential Code (IRC) Section R105.5: Every permit issued by the building official under the provisions of this code shall be valid for a period of 18 months from the date of issuance. Permits may be extended for (6) month periods for a fee of one half of the original building permit fee. Permit extensions must be requested in writing prior to expiration of existing permit. The fee may be waived at the discretion of the Building Official.
16. The subject property will be accessed from a private easement off of Miller Road.
17. Domestic water is to be supplied the City of Chelan.
18. Power is by an extension of the Chelan County PUD.
19. The subject site will utilize an on-site septic system designed for the required capacity and approved by CDHD.
20. The applicant must comply with CCC Chapter 7.35 - Noise.
21. The proposed garage is an accessory use to the single family residential within Single Family Residential (R-1) district. The proposed garage is compatible with the surrounding development.
22. Pursuant to WAC 197-11-800(1)(b)(i), the proposed development is exempt from SEPA requirements.
23. The Notice of Application was referred to surrounding property owners within 300 ft. (excluding 60' of right-of-way), jurisdictional agencies and departments of the County. These agencies and surrounding property owners were notified on November 12, 2019, with comments due November 26, 2019. Agency comments are considered in the staff report and, when appropriate, associated recommended Conditions of Approval.
 - 23.1 City of Chelan – Response received November 20, 2019
 - 23.2 City of Chelan Water System – No comment.
 - 23.3 Chelan County Assessor – No comment.
 - 23.4 Chelan County Building Official – No comment.
 - 23.5 Chelan County Fire Marshal – Response received November 26, 2019.
 - 23.6 Chelan County Fire District No. 7 – No comment.
 - 23.7 Chelan Douglas Health District – Response received November 19, 2019
 - 23.8 Chelan County Public Works – No comment.

- 23.9 Chelan County PUD – No comment.
 - 23.10 Chelan River Irrigation – No comment.
 - 23.11 Noxious Weed Control Board – Response received November 26, 2019.
 - 23.12 WA Dept. of Fish & Wildlife – No comment.
 - 23.13 WA Dept. of Archaeology and Historic Preservation – Response received November 21, 2019
 - 23.14 Yakama Nation – No comment.
 - 23.15 Confederated Tribes of Colville – No comment.
- 24. No public comments were received.
 - 25. The application materials regarding CUP 2019-014 were submitted on October 16, 2019.
 - 26. A Determination of Completeness was issued on November 6, 2019.
 - 27. The Notice of Application was provided on November 12, 2019, by publication.
 - 28. The Notice of Public Hearing was issued on March 6, 2020.
 - 29. City of Chelan's Comprehensive Plan. The purpose of the Single Family Residential (R-1) designation is intended to be applied in areas suitable and desirable for residential use, which are or will become developed by one-family dwellings. Uses are limited to residential uses and, under specific conditions, public service uses which are necessary to serve residential areas.
 - 29.1 The Chelan City's Comprehensive Plan has been reviewed. Specifically the goals and policies related to the Single Family Residential (R-1) were reviewed for consistency with residential and recreational land uses.
 - 29.2 The Hearing Examiner has reviewed the proposed development for consistency with Single Family Residential (R-1) designation. The applicant is proposing a larger garage size than the permitted standard.
 - 30. City of Chelan Municipal Code, Chapter 17.56 – Conditional Uses
 - 30.1 CMC Section 17.56.010, Defined – Approval Required - Uses designated in this chapter as conditional property use shall be permitted, enlarged, or altered upon approval of the hearing examiner, except as specified in 17.56.020, in accordance with the standards and procedures of this chapter and Chapter 2.15. Conditional property uses are those which may be appropriate, desirable, convenient or necessary in the district in which they are allowed, but which by reason of their height or build or the creation of traffic hazards or parking problems may be injurious to the public health, safety, welfare, comfort, and convenience unless appropriate conditions are imposed.
 - 30.2 CMC Section 17.56.020, Permit – Restrictions or Conditions Stipulated - Permits for conditional property uses shall be signed by the Hearing Examiner or Planning Director per Title 19 and shall stipulate restrictions or conditions which may include a definite time limit, provisions for a front, side or rear yard greater than the minimum requirements of the zoning ordinance, suitable landscaping, additional off-street parking, and any other reasonable restrictions, conditions or safeguard that would uphold the spirit and intent of the zoning ordinance, and mitigate any adverse effect upon the neighborhood properties by reason of the use extension, construction, or alteration allowed.
 - 30.3 The applicant is proposing a 3360 sq. ft. garage with an attached 990 sq. ft. dwelling unit. CMC Section 17.20.020(A), requires a Conditional Use Permit (CUP) for garages exceeding fifty (50) percent of the floor area of the principal structure. The project is consistent with CCC Section 11.30.020 in that a conditional use permit is being sought.

31. CMC Section 17.56.030, Permit – Duration
 - 31.1 If not otherwise specified by the Hearing Examiner, conditional use permits shall expire at the end of a period of one year from the time they are granted, if the use for which the permit is granted is not established by that time.
 - 31.2 Pursuant to the International Residential Code (IRC) Section R105.5: Every permit issued by the building official under the provisions of this code shall be valid for a period of 18 months from the date of issuance. Permits may be extended for (6) month periods for a fee of one half of the original building permit fee. Permit extensions must be requested in writing prior to expiration of existing permit. The fee may be waived at the discretion of the Building Official.
32. After due legal notice an open record public hearing was held on March 18, 2020.
33. Appearing and testifying on behalf of the applicant was Alan Sanders. Mr. Sanders testified that he was the property owner and applicant. Mr. Sanders questioned why an archeological study would be required. He indicated the prior owners of the property did substantial ground work at the location where they will be building, and therefore, does not believe an archeological study should be required. Mr. Sanders testified that the proposed conditions of approval were acceptable.
34. No member of the public testified at the hearing.
35. The Hearing Examiner reviewed the applications and submitted materials for consistency with the adopted City of Chelan Municipal Codes for the City of Chelan’s Urban Growth Area.
36. 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 CCC Section 11.93.030.
2. The proposed garage is consistent with the Chelan City’s Comprehensive Plan for residential uses.
3. The proposed location for the attached garage satisfies zoning development standard requirements.
4. As conditioned, this proposal is consistent with applicable state laws and regulations.
5. The Hearing Examiner recommends the CUP expires one year from the date of decision.
7. 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, CUP 2019-014 is hereby **APPROVED**, subject to the conditions of approval.

CONDITIONS OF APPROVAL

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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 CMC Section 17.56.010, the 3,360 sq. ft. garage with an attached 990 sq. ft. dwelling unit is permitted in accordance with the standards and procedures of CMC 17.56 and CMC 2.15.
2. Pursuant to CMC Section 17.56.030, the Conditional Use Permit shall expire one year from the date of decision.
3. Pursuant to CMC Section 17.20.030(A), a Conditional Use Permit shall be required when converting the proposed dwelling unit into an accessory dwelling unit during the permitting of the main residence in the second phase of development on the property.
4. Pursuant to RCW 27.53.020, if the applicant or their agents discover previously unknown historic or archaeological remains/artifacts while conducting the development activities authorized by this application, 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. If any Native American grave sites or archaeological resources are discovered or excavated, work shall stop immediately.
5. In the event a separate residence is constructed on the property, and the applicant wishes to convert the residence within the garage to an accessory dwelling unit, then additional permitting may be required.

Approved this 20th day of March, 2020.

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.