

BEFORE THE CHELAN COUNTY HEARINGS EXAMINER

IN THE MATTER OF )  
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CUPA 20-001 )  
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FINDINGS OF FACT,  
CONCLUSIONS OF LAW,  
DECISION AND CONDITIONS  
OF APPROVAL

THIS MATTER, having come on for hearing in front of the Chelan County Hearing Examiner on April 15, 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 Amendment has been requested by the Chelan County Fire District No. 5 for the addition to the existing fire station. The amendment to CUP 2185 is for the construction of a 678 sq. ft. addition to the existing fire station building. The new addition is for a single-truck bay with an overhead mechanical door. Additional site work includes a new concrete apron for the placement of the existing generator; the new addition's roofline would extend out to cover the proposed concrete apron and existing generator.
2. The applicant/owner is Chelan County Fire District No.5, Attn: Arnold Baker, Fire Chief, PO Box D, Manson, WA 988313.
3. The subject site is 2010 Wapato Lake Road, Manson, WA 98831.
4. The parcel number for the subject property is 28-21-25-420-025.
5. The subject site is located in Chelan County, outside of an Urban Growth Area.
6. The Comprehensive Plan designation and Zoning designation for the subject site is Rural Residential/Resource 5 (RR5) zoning district.
7. The site is currently used as a fire station for Fire District No. 5.
8. Permit History is as follows:
  - 8.1 The existing 5,000 sq. ft. station was reviewed and approved by the Zoning Adjustor on July 27, 1995 for CUP 2185. A building permit was issued under BP 950435; the permit expired on August 30, 1996 and was not finalized.
  - 8.2 In 2018, the previously 1.20 acre parcel was granted additional acreage from a neighboring lot via BLA 2018-364, resulting in the current lot configuration and acreage.
9. The subject property is accessed from Wapato Lake Road, a county right of way.
10. The property is currently used as a fire station.
11. The site size is 4.47 acres per Chelan County Assessor's records.
12. The property to the north of the subject site is in a Rural Residential/Resource 5 (RR5) zoning district.
13. The property to the south of the subject site is Wapato Lake Road and is zoned Rural Residential/Resource 2.5 (RR2.5).

14. The property to the east of the subject site is zoned Rural Residential/Resource 5 (RR5) / Commercial Agricultural Lands (AC).
15. The property to the west of the subject property is zoned Rural Residential/Resource 5 (RR5).
16. The applicant submitted an Aquifer Recharge Disclosure Form, date stamped February 12, 2020. The proposed development does not require a vulnerability report, pursuant to Chelan County Code (CCC) Chapter 11.82.
17. Pursuant to the Washington State Department of Fish and Wildlife Priority Habitat Species Maps, the subject property does not contain priority habitat.
18. Pursuant to the Federal Emergency Management Agency (FEMA), panel number 5300150225A of the FIRM maps, the subject property is not located within known flood plain or floodway; therefore, the provisions of CCC, Chapter 11.84, Frequently Flooded Areas Overlay District and CCC, Chapter 3.20, Flood Hazard Development, do not apply.
19. Chelan County GIS map layer indicates that the subject property is located within a potential geologic hazard area for known erosive soils; therefore, the provisions of CCC, Chapter 11.86 do apply to the project. A geological site assessment would be required with building permit submittal.
20. Pursuant to 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 Chelan County Code Chapter 11.80 Wetland Areas Overlay District do not apply.
21. 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
22. Applicant plans to begin construction after receiving approval of land use permit and building permit, approximately Summer/Fall of 2020.
23. According to the site plan of record, dated February 12, 2020, the property is accessed from Wapato Lake Road, a county right of way. The existing/proposed approach would be reviewed by Chelan County Public Works at time of building permit submittal.
24. Chelan County PUD provides electrical services to the subject property.
25. There is an existing septic system on-site.
26. Domestic water is provided by Lake Chelan Reclamation District.
27. The applicant must comply with CCC, Chapter 7.35 Noise
28. The maximum building height within the RR5 zone is 35 ft. The use of the property is not changing from the existing fire station; the surrounding properties are not being subjected to unknown impacts.
29. Fire protection is provided by Fire District #5.
30. 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 13, 2020 with comments due March 28, 2020. Agency comments are considered in the staff report and, when appropriate, associated recommended Conditions of Approval. The following is a list of Agencies who received notice and the date comments were received:



Agencies Notified	Response Date	Nature of Comment
Chelan County Fire Marshal	February 21, 2020	Recommends approval
Chelan County Building	No Comment	
Chelan County Public Works	No Comment	
Chelan County PUD	No Comment	
WA Dept. of Ecology	No Comment	
Fire District No. 5	March 17, 2020	No objections
Mason School District	No Comment	
Manson Community Council	No Comment	
WA Dept. of Archaeology and Historic Preservation	No Comment	
Yakama Nation	No Comment	
Confederated Tribes of Colville	No Comment	

31. No public comments were received for the proposed project.
32. The application materials were submitted on February 12, 2020.
33. A Determination of Completeness was issued on March 11, 2020.
34. The Notice of Application was provided on March 13, 2020.
35. The Notice of Public Hearing was provided on April 3, 2020.
36. Pursuant to WAC 197-11-800(1) of the State Environmental Policy Act (SEPA), the proposed action is categorically exempt from environmental review and a threshold determination.
37. Uses appropriate for the Rural Residential/Resource 5 (RR5) zoning district, identified in the Comprehensive Plan, include open space; residential; agriculture; and forestry. Although the proposed use is not included as an appropriate use for the RR5 land designation, providing essential emergency services is demonstrated in Goal 3 of the Rural Element in the Chelan County Comprehensive Plan. As described, the proposal is consistent with the Chelan County Comprehensive Plan.
38. The project appears to be inconsistent with Chelan County Code (CCC) Chapter 11.93.040 in the following respects:
  - 38.1 The criteria for high impact public facility have been addressed below.
39. The design standards of the zoning district within which the lot is located, critical area regulations, and all other applicable development standards and regulations can be met.
  - 39.1 The proposed development is located in the Rural Residential/Resource 5 (RR5) zoning district. The RR5 zoning district allows for high impact public facilities as a Conditional Use.
  - 39.2 Per the site plan of record, date stamped February 12, 2020, the proposed fire station addition would meet applicable zoning setbacks identified in CCC, Section 11.12.020.
40. Compatibility with the adjacent uses and the protection of the character of the surrounding area:

- 40.1 Public facilities are a permitted use within the RR5 zoning district subject to a conditional use permit. The subject property has been developed as a fire station since 1995; the surrounding area would not be subject to unknown impacts as the use is not changing.
- 40.2 Detrimental impacts on the natural environment and productive use of surrounding natural resource lands can be mitigated or avoided.
- 40.3 The subject property is not identified as a classified resource land per the Chelan County Comprehensive Plan. This provision would not apply.
- 41. No conditional use permit shall be issued without a written finding that:
  - 41.1 After adequate opportunity for review and comment, all providers of water, sewage disposal, schools, and fire/police protection serving the development have issued a letter that adequate capacity exists or arrangements have been made to provide adequate services for the development.
  - 41.2 Chelan County provided a Notice of Application to all providers. Comments are included in the file of record.
  - 41.3 No county facilities will be reduced below adopted levels of service as a result of the development.
  - 41.4 The proposed development, as conditioned, would not result in county facilities reduced below adopted levels of service.
- 42. The proposed use shall not result in undue adverse impacts affecting the public health, safety and welfare.
- 43. Adequate provisions have been provided for roads, ingress and egress, stormwater, parking and loading, domestic and irrigation water, sanitary facilities, power, fire protection, and other necessary facilities, improvements or services consistent with the requirements of Titles 11 and 15 of the Chelan County Code.
  - 43.1 Roads, ingress and egress: The subject property fronts and accesses off of Wapato Lake Road, a county right of way.
  - 43.2 Stormwater: Stormwater requirements, if applicable, would be addressed with commercial building permit review.
  - 43.3 Parking and Loading: The proposed project is for an addition to the fire station to provide an additional fire truck bay for enclosed parking.
  - 43.4 Domestic and Irrigation Water: Domestic and irrigation water is provided by Lake Chelan Reclamation District.
  - 43.5 Sanitary Facilities: Sanitation is provided by an existing on-site septic system.
  - 43.6 Power: Power is provided by Chelan County PUD.
  - 43.7 Fire Protection: Fire protection is provided by Chelan County Fire District No. 5.
- 44. Noise, light, heat, steam, erosion, water quality, glare, odors, air pollution, smoke, wastes, dust, vibration, electrical disturbance, physical hazards and related impacts on adjacent properties and to the vicinity can be mitigated or avoided.



- 44.1 Noise and Vibration: Noise and vibration would be temporary during construction of the improvements or as the fire trucks are leaving to provide emergency services. Construction noise is regulated by CCC, Section 11.88.190 and CCC, Chapter 7.35.
- 44.2 Light and Glare: Lights appurtenant to the proposed development are regulated by CCC, Section 11.88.080.
- 44.3 Heat, Steam, Odors, Smoke and Dust: The current and proposed development would not generate heat, steam or odors.
- 44.4 Erosion: The subject property is located within a geologically hazardous area; staff is recommending as a condition of approval that a geological site assessment be submitted with commercial building permit application.
- 44.5 Water Quality: The proposed development, as conditioned, would not impact water quality.
- 44.6 Wastes and Physical Hazards: The proposal would not result in wastes or physical hazards.
- 44.7 Electrical Disturbance: The proposal would not result in electrical disturbances.
- 45. The granting of the proposed conditional use permit is consistent and compatible with the intent, goals, objectives and policies of the comprehensive plan, and any implementing regulation.
- 46. The proposed fire station addition would be consistent with the goals and policies of the Rural Element of the Comprehensive Plan.
- 47. Chelan County Code, Section 11.93.190, High Impact Public Facility:
  - 47.1 The minimum lot size in the district that a public facility is located in may be waived on a finding that the waiver will not result in noise or other detrimental effects to adjacent properties.
  - 47.2 Pursuant to CCC 11.12.020, the minimum lot size for the RR5 zoning district is 5 acres; the subject property is 4.47 acres in size. However, the parcel was recently adjusted to be larger in size and the proposed addition does not change the existing use of the subject property.
  - 47.3 Based on the application materials, staff finds that adverse impacts may be mitigated through the recommended conditions of approval.
- 48. Public Agency Equipment Storage/Maintenance Yard:
  - 48.1 Equipment storage shall be within an enclosed building or behind a view-obscuring fence.
  - 48.2 Based on the application materials, all equipment is stored and maintained within enclosed buildings.
- 49. The use shall be landscaped per the standards of Chapter 15.50, Title 15 of this code.

- 49.1 Pursuant to CCC 15.50.055, when the inclusion of significant existing vegetation is located on site and would result in as good as or better satisfaction of the purpose of this section, the administrator may waive the landscaping requirements.
- 49.2 Based on aerial imagery and site plan of record, the subject property is currently landscaped with mature vegetation and surrounded by a retaining wall. Additionally, the existing fire station is setback over 100 ft. from the front property line.
50. The proposed fire station addition is for the construction of a single-truck bay with an overhead mechanical door. Additionally, the project proposes the installation of a concrete apron for the placement of the existing generator. The new addition's roofline would extend out to provide cover over the concrete apron and generator.
51. With the proposed development, the overall use of the property would not be changing from a fire station. Therefore the surrounding properties would not be subjected to unknown impacts. High impact public facilities are permitted in the Rural Residential/Resource 5 (RR5) zoning district as a Conditional Use.
52. Staff reviewed the application materials submitted, agency comments, neighbor comments, sheriff incident reports, zoning code and comprehensive plan and did not recommend either approval or denial of this permit.
53. An open record public hearing after due legal notice was held on April 15, 2020.
54. Appearing and testifying on behalf of the applicant was Arnold Baker. Chief Baker testified that he was the agent of the applicant and property owner and was authorized to appear and speak on their behalf. Chief Baker testified that all of the proposed conditions of approval were acceptable.
55. No member of the public testified at the hearing.
56. The Chelan County Hearing Examiner considered all evidence within the record in rendering this decision.
57. 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. Based on review of the application materials submitted, the criteria for an isolated small scale business could be satisfied.
3. Based on the site plan of record, the proposal meets applicable RR5 zoning regulations.
4. The proposed fire station addition would not change the use of the property. The property is and was used as a fire station for Chelan County Fire District No. 5 since 1995. Therefore the surrounding area would not be subjected to an unknown incompatible use.
5. Through the process of public and agency noticing, opportunity for review and comments were provided for the proposed development.
6. The proposed development, as conditioned, would not result in county facilities reduced below adopted levels of service.



7. The proposed development, as conditioned, would not have an adverse impact on public health, safety and welfare.
8. All necessary facilities, improvements and services are consistent or conditioned per the requirements of Titles 11, 13 and 15 of the Chelan County Code.
9. Based on the above facts, noise, light, heat, steam, erosion, water quality, glare, odors, air pollution, smoke, wastes, dust, vibration, electrical disturbance, physical hazards and related impacts on adjacent properties could be avoided or mitigated as conditioned.
10. The project is consistent with the Chelan County Comprehensive Plan.
11. Being as the subject property has been used as a fire station since 1995 and is larger than it was when it was originally permitted; therefore, staff is recommending as condition of approval that the minimum lot size of 5 acres be waived for the proposed addition.
12. The Hearing Examiner finds that as conditioned, the proposed use would not result in adverse impacts. Therefore, the Hearing Examiner does not recommend that additional requirements be conditioned for the project.
13. As conditioned, all equipment storage would be required to continue to be stored in an enclosed building.
14. Being as the subject property is currently developed with view obstructing measures from 3 of 4 property lines; therefore, staff is recommending that the landscaping requirement of CCC 15.50 be waived.
14. 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 CUPA 20-001 is hereby **APPROVED**, subject to the following Conditions of Approval.

## **CONDITIONS OF APPROVAL**

1. 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.
2. Pursuant to CCC Section 11.93.040(10), the final Conditional Use Permit shall be in conformance with the submitted application of record, including site plan date stamped February 12, 2020 or as amended by this decision.
3. Pursuant to Chelan County Code Section 11.93.080, 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.
4. All Conditions of Approval from the approved CUP 2185 decision approved by the Zoning Adjustor on July 27, 1995 shall be in full force and effect unless modified by this decision.
5. Pursuant to Chelan County Code Section 11.02.040, prior to commencement of construction, the applicant shall obtain all required and necessary building permits.

6. Pursuant to Chelan County Code Section 11.86.020, a geologic site assessment shall be required at the time of building permit application.
7. Pursuant to Chelan County Code Section 11.88.190, no construction activity shall be permitted within one thousand feet of an occupied residence between the hours of 8:00 p.m. to 6:00 a.m., Monday through Friday, and 8:00 p.m. to 7:00 a.m. on weekends.
8. 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.
9. Pursuant to Chelan County Code Section 11.93.090, 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.
10. Pursuant to Chelan County Code Section 11.93.110, 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.
11. Pursuant to Chelan County Code Section 11.93.120, action of the Hearing Examiner is final, unless appealed pursuant to the judicial appeal provisions of Title 14 of the Chelan County Code.

Approved this 21<sup>st</sup> day of April, 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.