



CHELAN COUNTY HEARING EXAMINER

Chelan County Administration Building, Room 1,
400 Douglas Street, Wenatchee, WA 98801

May 20, 2020, 1:00 pm

Chelan County Hearing Examiner: Andrew Kottkamp

Chelan County Staff: Director – Jim Brown, Interim Assistant Director – Deanna Walter, Planner II – Emily Morgan, , Planner II – RJ Lott, Code Enforcement Officer – Dave Rinehart, Permit Clerk – Wendy Lane, Attorney – Marcus Foster, Code Enforcement Manager – Angel Hallman

Public/Agencies: Paul Milan, Bob Fallon, Duane Goehner, Andy Lane, Kelly Martineau, Micah Health, Marty, Rod Anderson, Ryan Walker, Anne Hessburg, Dan Beardslee, Kevin Oliver, TWS iPhone, Casey, Chris Clark, Kathia Wan, Carl Florea, Peters, Jeff Oberfelder, Scott Volyn, 509-888-2144, Jeff Crosby, Chelan County Commissioner – Bob Bugert

AGENDA:

I. CALL TO ORDER

II.

Hearing Examiner Kottkamp called the Hearing to order at 1:00 pm. No objections were given to Mr. Kottkamp running today's hearing. Instruction was given to attendees on how the hearing is conducted and how to participate, testify, and appeal a decision.

II. PUBLIC HEARINGS

CUP 20-002/SDP 20-004/SV 20-001: Applications for a Conditional Use Permit, Shoreline Substantial Development Permit and Shoreline Variance were submitted by Grette Associates, LLC (agent) on behalf of the Lake Chelan Reclamation District (owner) for the construction of an equipment storage building associated with a high impact public facility located on Wapato Lake. The applications were submitted January 21, 2020 and deemed complete to process on February 18, 2020. The subject property contains a Category I lake fringe wetland that holds a protective buffer of 250 ft.; a shoreline variance is requested in order to reduce the buffer to 100 ft. for the placement of the storage building. As part of the proposed project, approximately 14,400 sq. ft. of existing compacted soil and gravel is to be removed and replaced with roughly 14,400 sq. ft. of native mitigation plantings; a portion of this area is located within the wetland buffer and has been historically used as part of the District's storage yard. The subject property is located within the Rural Public Lands & Facilities (RP) zoning district and holds a 'rural' shoreline environment designation for Wapato Lake, a shoreline of statewide significance. The subject property is identified by Assessor's Parcel No.: 28-21-23-410-150 and is located at 153 E Wapato

Lake Rd, Manson, WA 98831. The application includes a JARPA and SEPA Checklist. **Planner – Emily Morgan**

Mr. Kottkamp discussed the application details, and entered the staff-report, attachments to the staff-report, application materials, site plans, and entire planning staff files into the record. Planner Emily Morgan explained the application. Staff recommends approval with conditions.

Ryan Walker was sworn in to testify on behalf of the applicant. He agrees with the staff-report, but he would like, under conditions of approval, condition 5.2 changed on the boundary of the fence that will be required. Other than that, we found the staff-report acceptable.

Mr. Kottkamp asked for clarification in a few areas and Ryan Walker answered his questions.

With no public present, Mr. Kottkamp closed the public portion of the record on the matter.

CUP 20-003: An application for a Conditional Use Permit has been requested by the River Bend Park Association for the installation of an approx. 35,200 gallon domestic water reservoir with associated pump house. The application was received on January 23, 2020 and deemed complete to process on March 12, 2020. The proposed 20 ft. diameter x 15 ft. tall reservoir is to support and replace existing wooden water reservoirs on adjacent River Bend Park Association properties. With the proposed reservoir, a new 20 ft. x 10 ft. pump house is to be constructed to support an existing on site well. The property is located at NNA River Bend Drive, Leavenworth, WA and is identified as Assessor's Parcel number: 24-18-06-820-185. The subject property is located within the Residential Low Density 12,000 (R-1) zoning district of the Leavenworth Urban Growth Area. The property is located within an identified potential Geologic Hazard area; a geological site assessment was provided with application. Pursuant to WAC 197-11-800, this proposal is not SEPA exempt; a SEPA Checklist was submitted with application. Planner – Emily Morgan

Mr. Kottkamp discussed the application details, and entered the staff-report, attachments to the staff-report, application materials, site plans, and entire planning staff files into the record. Planner Emily Morgan explained the application. Staff recommends approval as conditioned.

Paul Milan was sworn in to testify on behalf of the applicant. He was concerned with several conditions of approval that were stated in the staff-report. Mr. Kottkamp replied that he would look into the code for answers. Paul Milan stated that it would be ok if the conditions were left standing as written.

With no members of the public present, Mr. Kottkamp closed the public portion of the record on the matter.

ZC 20-001: An application for a Zone Change was submitted to change the land use designation for the subject property from Commercial Agricultural Lands (AC) to Rural Residential/Recreational 2.5 acres (RR2.5). The proposed zoning map amendment implements the changes adopted by the Board of County Commissioner's Resolution 2020-031 to the Chelan County Comprehensive Plan. Project Location: 10990 US Hwy 2A, Leavenworth, WA 98826; and identified by Assessor's Parcel No.: 24-18-07-140-150. Planner – Emily Morgan

Mr. Kottkamp discussed the application details, and entered the staff-report, attachments to the staff-report, application materials, site plans, and entire planning staff files into the record. Planner Emily Morgan explained the application. She also requested that the record would be kept open until 5:00 today for additional comments to be submitted. Staff recommends approval with conditions.

Michelle Green was sworn in to testify on behalf of the applicant. She reviewed the staff-report and is in agreement with the findings and conclusion. She spoke with Mr. Lane, who is the attorney for the city of Leavenworth, and the applicant would be agreeable to having the Hearing Examiner's decision on the rezone to be conditioned on the final outcome of the Growth Management Hearing Board appeal.

Planner Emily Morgan stated that she also wanted to tie that condition of approval to the decision.

Michelle Green and Mr. Kottkamp discussed how the final outcome could be appealed should it take that route.

Andy Lane was sworn in to testify on behalf of the City of Leavenworth. He also discussed the conditions under which a party could appeal the decision that the Hearing Examiner would render.

Carl Florea, Mayor of Leavenworth, was sworn in to testify. Andy Kottkamp wanted it on the record that he was also the Hearing Examiner for the City of Leavenworth. He stated that an appeal would be filed on the matter. He discussed the order of appeals so that two fights were not being fought at the same time.

Bob Fallon was sworn in to testify. He represents the Friends of Leavenworth. He stated that the group he represents will also be filing an appeal on the matter.

Duane Goehner was sworn in to testify. He has submitted a written comment on the matter. He illustrated his concerns to Mr. Kottkamp verbally.

Planner Emily Morgan stated that upon completion of the meeting, she will coordinate with Ms. Green and send Mr. Kottkamp a condition of approval to be added to the decision. Mr. Kottkamp also recommended that Mr. Lane be included in that process.

Mr. Kottkamp will keep the record open until 5:00 pm on May 21, 2020.

With no members of the public present, Mr. Kottkamp closed the public portion of the record on the matter.

CUP 2019-011: An application for a Conditional Use Permit has been submitted by Bruce and Toya Smith (owners) for a Small-Scale Recreational or Tourist use by utilizing their existing residence as a vacation rental by owner and also for a Places of Public and Private Assembly use to utilize their existing home and landscaped property as a wedding venue as well. Access to the subject property is off of

Halvorson Canyon Rd., domestic water is provided by an existing shared-well and would also utilize the existing on-site septic system. The parcel is zoned Rural Residential/resource 5 (RR5). Project Location: 2006 Halvorson Canyon Rd., Wenatchee, WA 98801; and identified by Assessor's Parcel No.: 21-20-05-120-050. Planner – Alex White

This application has been continued per the county and the applicant.

PDA 2017-189/P 2017-190/CUP 2017-191: A Compliance/Substantial Progress review hearing pursuant to Condition 7(c) of the Conditionally Approved amendment of ZC 523A and P 2011-161, dated March 26, 2018. The proposal includes an 11-lot residential subdivision and mini-storage facility on a portion of the original ZC 523A site, APN 28-22-31-680-330, located at 2172 SR 150, Manson, WA. Interim Assistant Director – Deanna Walter

Mr. Kottkamp discussed the application details, and entered the staff-report, attachments to the staff-report, application materials, site plans, and entire planning staff files into the record. Interim Director Deanna Walter explained the application. Staff recommends approval.

Dan Beardslee was sworn in to testify on behalf of the applicant. He requested a one year extension on the application. He explained his position and why it was needed.

Mr. Kottkamp asked about the time frame for the year requested. Deanna Walter confirmed the time frame. She also stated that the applicant would have another one year opportunity to extend the application after this decision.

With no members of the public present, Mr. Kottkamp closed the public portion of the record on the matter.

AA 2020-003: An Administrative Appeal was submitted by Scott Volyn (applicant) on behalf of Jeff and Shelley Oberfelder, for a Notice and Order issued on March 2, 2020. The subject property is located at 120 Rolling Rock Road Chelan, WA, Malaga, WA, with assigned assessor parcel number 28-23-27-741-050 and is within the Commercial Agricultural Lands (AC) zoning designation. Project Location: 120 Rolling Rock Road Chelan, WA, 98816; and identified by Assessor's Parcel No.: 28-23-27-741-050. Code Enforcement Officer – Dave Reinhart

Mr. Kottkamp discussed the application details, and entered the staff-report, attachments to the staff-report, application materials, site plans, and entire planning staff files into the record. He turned the matter over the appellant for their presentation.

Scott Volyn presented arguments on behalf of the appellant. He spoke on the non-conforming use of the property. Mr. Kottkamp asked him questions to confirm his position on the matter. Mr. Volyn answered said questions. Scott Volyn continued with the position that nothing else needs to occur due to the non-conforming use of the property.

Anne Hessburg was sworn in to testify on behalf of the appellant, she explained why the appellant did not apply for a Conditional Use Permit (CUP).

Marcus Foster was sworn in to testify on Chelan County's position on the Notice and Order issued.

Dave Reinhart, Chelan County Code Enforcement Officer, was sworn in to testify. He has a neighboring property to the appellant. He answered Mr. Foster's questions concerning Jeff and Shelley Oberfelder's property. Scott Volyn objected the testimony as hearsay. Mr. Volyn then questioned Mr. Reinhart concerning the cannabis operation.

Marcus Foster continued explaining the County's argument. He outlined the code violations against Jeff and Shelley Oberfelder.

Mr. Kottkamp asked questions why the cannabis operation was still being allowed with regard to code provisions, legal aspects, and non-conforming use of the property. Marcus Foster answered his questions.

Mr. Kottkamp stated he would hold the record open until Friday, May 29th for the appellant to submit any additional information; the County's response will be held open until June 5th, with the final rebuttal, only pertaining to the County's response, will be held open until June 12th.

Mr. Kottkamp stated he will be out of his office from June 5th until June 12th or perhaps June 16th.

Jeff Oberfelder was sworn in to testify on his behalf. He stated that he got a permit to build a fence in 2014. He added that the fence was listed as an agriculture fence when it was known he had a cannabis operation. He also stated that he has been a neighbor of Dave Reinhart, Chelan County Code Enforcement Officer, for many years. He explained that he is a small operation, in the area, and felt that a hemp operation, located nearby, was responsible for the odor in the area.

Mr. Kottkamp asked Jeff Oberfelder why he did not try to obtain a CUP for his operation. Mr. Oberfelder answered he was discouraged from doing so because the CUP would be incomplete and believed that lawyers should hash it out.

With no members of the public present, Mr. Kottkamp closed the public portion of the record on the matter.

III. ADJOURNMENT

Hearing Examiner Kottkamp adjourned the May 20, 2020, meeting.