

BEFORE THE CHELAN COUNTY HEARINGS EXAMINER

IN THE MATTER OF)	FINDINGS OF FACT, CONCLUSIONS
)	OF LAW, DECISION AND CONDITIONS
PA 20-002)	OF APPROVAL
Mountain Vista Estates)	

THIS MATTER, having come on for hearing in front of the Chelan County Hearing Examiner on September 2, 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 Plat Alteration submitted to extinguish and relocate an existing 20-foot access and utility easement serving Lot 2 of Chelan County Short Subdivision 3530 (also known as the Ayling Short Plat).
2. The applicants are Frank and Dorothy Ayling, 945 Circle Street, Wenatchee, WA 98801. The agent is Erik Gahringer, 48° North, P.O. Box 4266, Wenatchee, WA 98801.
3. The subject subdivision is located in Wenatchee, WA off of Circle Street.
4. The legal description is Chelan County Short Subdivision 3530 (also known as the Ayling Short Plat) recorded October 22, 1996, under AFN: 9610230014.
5. The subject properties are located within the Wenatchee Urban Growth Area.
6. The current Comprehensive Plan designation and zoning district is Residential Single-Family (RS).
7. The existing land use is residential subdivision.
8. The Notice of Application was referred to surrounding property owners within 300 ft. (excluding 60 ft. of right of way) of the project boundary, jurisdictional agencies and departments of the County. These agencies and surrounding property owners were notified on June 25, 2020 with comments due July 9, 2020. Agency comments are considered in the staff report and, when appropriate, associated recommended Conditions of Approval. No public comments were received. 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	March 9, 2020	Approved—no concerns.
Chelan County Building Official	No comments received	
Chelan Douglas Health District	No comments received	

Agencies Notified	Response Date	Nature of Comment
Chelan County Public Works	July 2, 2020	The extinguish and relocating of the existing 20 foot access and utility easement needs to be signed off by everyone that has legal rights to that easement agreeing to this amendment.
Chelan County PUD	July 7, 2020	The District requests that the applicant have the electric lines located and have their surveyor determine whether they will be within the proposed revised location of the access/utility easement. If it is found that these lines will not be in the proposed revised location the District requests that approval of the proposed easement relocation be conditioned on the applicant granting the District an easement for the existing electric lines.
City of Wenatchee	June 25, 2020	No comment
Chelan County Fire District No. 1	No comments received	
Wenatchee School District	No comments received	
WA Dept. of Archaeology & Historic Preservation	No comments received	
Yakama Nation	No comments received	
Confederated Tribes of Colville	June 26, 2020	No comments or concerns.

9. The application materials were submitted on June 5, 2020.
10. A Determination of Completeness was issued on June 19, 2020.
11. The Notice of Public Hearing was issued on August 21, 2020.
12. Pursuant to WAC 197-11-800(6), the proposed application is exempt from SEPA review.
13. Wenatchee Municipal Code Section 11.18.060(2) Alteration Criteria:
 - 13.1 The alteration may be approved, approved with conditions, or denied after a written determination, with findings and conclusions in support thereof, is made whether the public use and interest will be served by the alteration.
 - 13.2 There are 3 lots in the Ayling Short Plat. Therefore, 2 property owners' signatures would be required to achieve a majority.
 - 13.3 With the submitted application, signatures from owners of all 3 lots were provided for the proposed amendment.
 - 13.4 All of the affected owners have signed the application. Therefore, this provision can be satisfied.

- 13.5 If the applicant seeks to further divide property in a short plat, plat or binding site plan, then a separate application shall be submitted for this purpose and the appropriate procedure in Title 11 Subdivisions, WCC shall be used to divide the property.
- 13.6 The applicant is not seeking to further divide property in a short plat.
- 13.7 Being as this alteration would not alter the platted parcels, this provision does not apply.
- 13.8 If any land within the alteration application contains a dedication to the general use of persons residing within the short plat, plat or binding site plan, such land may be altered and divided equally between the adjacent properties.
- 13.9 If any land within the alteration area is part of an assessment district, any outstanding assessments shall be equally divided and levied against the remaining lots, parcels or tracts, or be levied equitably on the lots resulting from the alteration.
- 13.10 Being as this alteration would not alter the platted parcels, this provision does not apply.
- 13.11 If any land within the alteration application contains a dedication to the general use of persons residing within the short plat, plat or binding site plan, such land may be altered and divided equally between the adjacent properties.
- 13.12 The applicant is not seeking to further divide property in a short plat.
- 13.13 After approval of the alteration, the applicant shall submit to the county a revised drawing of the approved alteration of the subdivision, which after signature of the approving authority shall be filed with the county auditor to become a lawful plat of the property.
- 13.14 Being as this alteration would not alter the platted parcels, this provision does not apply.
- 14. Chelan County Code Section 12.22.020: Plat Alteration:
 - 14.1 Except as provided herein for boundary line adjustments, the alteration of any subdivision or portion thereof shall proceed according to the provisions of this title for plat alterations.
 - 14.2 The submitted application was reviewed for completeness and was deemed complete on June 19, 2020. A revised site plan, date stamped August 19, 2020, was submitted to meet the requirements of the Chelan County PUD (Exhibit B).
 - 14.3 The proposed alteration was submitted in accordance with this title.
 - 14.4 The application shall contain the signatures of the majority of those persons having an ownership interest of lots, tracts, parcels, sites, or divisions in the subject subdivision or portion to be altered.
 - 14.5 There are 3 lots in the Ayling Short Plat. Therefore, 2 property owners' signatures would be required to achieve a majority.
 - 14.6 With application, signatures from owners of all 3 lots were provided for the proposed amendment
 - 14.7 All of the affected owners have signed the application; therefore, this provision is satisfied.
 - 14.8 If the subdivision is subject to restrictive covenants which were filed at the time of the approval of the subdivision, and the application for alteration would result in the violation of a covenant, the application shall contain an agreement signed by all parties subject to

the covenants providing that the parties agree to terminate or alter the relevant covenants to accomplish the purpose of the alteration of the subdivision or portion thereof.

- 14.9 Chelan County Short Subdivision No. 3530 (also known as the Ayling Short Plat) does not have restrictive covenants.
- 14.10 Being as there are no covenants, this provision would not apply.
- 14.11 The alteration of a subdivision is subject to RCW 64.04.175.
- 14.12 The proposed alteration is to revise an existing access and utility easement. All 3 property owners affected by this alteration were provided for the proposed amendment. Per requirement of the Chelan County PUD, the applicant has recorded a utility easement for the existing utilities per RCW 64.04.175.
- 14.13 The proposed alteration meets the requirements of RCW 64.04.175.
- 14.14 If any land within the alteration is part of an assessment district, any outstanding assessments shall be equitably divided and levied against the remaining lots, parcels, or tracts, or be levied equitably on the lots resulting from the alteration. If any land within the alteration contains a dedication to the general use of persons residing within the subdivision, such land may be altered and divided equitably between the adjacent properties.
- 14.15 The proposed alteration would not alter any parcels of the short plat.
- 14.16 Being as this alteration would not alter the platted parcels, this provision does not apply.
- 14.17 After approval of the alteration, the applicant shall submit to the county a revised drawing of the approved alteration of the subdivision, which after signature of the approving authority shall be filed with the county auditor to become a lawful plat of the property.
- 14.18 The applicant would be required to submit blue-line drawings and final plat to the Chelan County Department of Community Development for review and approval prior to being filed with the Chelan County Auditor's Office.
- 14.19 Staff is recommending a Condition of Approval that the applicant must meet the final platting standards outlined in Chelan County Code Chapter 12.24.
- 14.20 The revised plat shall be surveyed and prepared by a Washington State licensed land surveyor.
- 14.21 As submitted with the application materials (Exhibit B), the site plan was prepared by a licensed surveyor.
- 14.22 Staff is recommending a Condition of Approval that the applicant meet the final platting standards outlined in Chelan County Code Chapter 12.24.
15. The applicant is seeking to revise Chelan County Short Subdivision No. 3530 (also known as the Ayling Short Plat) to extinguish and relocate an existing 20-foot access and utility easement serving Lot 2. All of the lot owners of the short plat signed the application. Per a requirement of the Chelan County PUD, the applicant has recorded a utility easement for the existing electric lines granting the Chelan County PUD access to the lines since the existing lines fell outside of the proposed location of the access easement.
16. 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.

18. An open record public hearing after legal notice was provided was held on September 2, 2020.
19. The applicant did not appear. The applicant was given prior written notice of the date, place and time of the hearing.
20. No member of the public testified at this hearing.
21. 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. The proposed alteration meets the requirements of RCW 64.04.175.
3. The Hearing Examiner sets as a Condition of Approval that the applicant must meet the final platting standards outlined in Chelan County Code Chapter 12.24.
4. The Hearing Examiner sets as a Condition of Approval that the applicant meet the final platting standards outlined in Chelan County Code Chapter 12.24.
5. 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, PA 20-002 hereby **APPROVED**, subject to the conditions of approval.

CONDITIONS OF APPROVAL

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 Chelan County Code Chapter 12.24 as amended, the applicant shall complete a final Plat Alteration using the procedures of Chelan County Chapter 12.24: Final Process.
2. Pursuant to Chelan County Code Section 12.24.040 as amended, the final Plat Alteration shall be designed in substantial conformance with the Preliminary Plat Alteration of record, date stamped August 19, 2020, on file with the Chelan County Department of Community Development, except as modified herein.
3. Pursuant to Chelan County Decision for Chelan County Short Subdivision No. 3530 (also known as the Ayling Short Plat), this Plat Alteration is subject to all Conditions of Approval, except as changed by this decision together with the original short plat decision.
4. Pursuant to Chelan County Code Chapter 12.24 and RCW 58.17.215 as amended, the applicant shall provide a signature block for the majority of the affected property owners, referencing their lot number and parcel number, on the final plat alteration and secure all affected property owner's signatures prior to final Plat Alteration approval.

Approved this 2nd day of September, 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.