

BEFORE THE CHELAN COUNTY HEARINGS EXAMINER

IN THE MATTER OF

ZC 21-096
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**FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND DECISION**

THIS MATTER came before the Chelan County Hearing Examiner in the matter of a Zone Change application submitted to change approximately 10 acres from Rural Residential/Resource 5 (RR5) to Rural Village (RV).

I. FINDINGS OF FACT

1. On January 26, 2021, the Board of Chelan County Commissioners approved, by Resolution 2021-15, the Comprehensive Plan Map amendment, changing approximately 10 acres from Rural Residential/Resource 5 (RR5) to Rural Village (RV). The proposed zoning map amendment will establish the corresponding zoning districts on the subject properties, consistent with the Comprehensive Plan Map.
2. The property is located at 5900 Webster Way, Cashmere, WA 98815.
3. The parcel number and legal description for the property is: 24-19-31-940-005, West Mission Replat Block 1 Lot 1, 10 Acres.
4. The owners/applicants are Rudy and Bethany Joya, 5900 Webster Way, Cashmere, WA 98815.
5. The current zoning designation is Rural Residential/Resource 5 (RR5).
6. The subject property is not located within an Urban Growth Area (UGA).
7. The proposed zoning designation is to Rural Village (RV) and is approximately 10 acres.
8. The subject site contains erosive soils.
9. Pursuant to WAC 197-11-800(6)(C)(ii), the proposed action is exempt from SEPA review.
10. The application was submitted on March 10, 2021.
11. A Determination of Completeness was issued on March 16, 2021.
12. The Notice of Application was provided on March 20, 2021.
13. 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 20, 2021. The following is a list of agencies and the public who received notice and commented:

- 13.1 The Confederated Tribes of the Colville Reservation submitted comments on March 21, 2021 stating no concerns.
 - 13.2 Chris Young, Chelan County Building Official submitted comments on March 29, 2021 stating no concerns.
 - 13.3 Chelan-Douglas Health District submitted comments on April 13, 2021 stating no concerns.
 - 13.4 A public comment was received from Karen Carson on April 2, 2021, stating concerns about increased density and the promotion of real estate as a result of the proposed amendment.
14. Chelan County Code, Section 14.13.040 addresses the evaluation criteria and provides that the approval, modification or denial of a development regulation amendment application shall be evaluated on, but not limited to, the following criteria:
- 14.1 The amendment is necessary to resolve a public land use issue or problem.
 - 14.1.1 The Hearing Examiner finds that the proposed amendment would provide consistency between the zoning and Comprehensive Plan maps.
 - 14.2 The amendment is consistent with goals of the Growth Management Act, Chapter 36.70A RCW.
 - 14.2.1 The Growth Management Act under RCW 36.70A.020 contains planning goals that include, but are not limited to, 1) Urban Growth, 2) Reduce Sprawl, 3) Transportation, 4) Housing, and 5) Economic Development. The proposed amendment promotes a variety of residential densities and housing types. The requested map amendment is consistent with Comprehensive Plan Map Amendments CPA 20-005 approved through Resolution 2021-15.
 - 14.2.2 The Hearing Examiner finds that the proposal is consistent with the goals of the Growth Management Act.
 - 14.3 The amendment complies with or supports Comprehensive Plan goals and policies and/or county-wide planning policies.
 - 14.3.1 The proposed amendment would support Policy RE 2.6, by allowing for a variety of rural densities and uses to accommodate growth consistent with rural character. It would also support Policy H 2.1 by promoting a diversity of housing unit types and densities. County-wide Planning Policies provide guidance to coordinated planning with the public and other affected jurisdictions.
 - 14.3.2 The Hearing Examiner finds that the proposal is consistent with the County Comprehensive Plan goals and policies and the County-Wide Planning Policies.
 - 14.4 The proposed amendment does not adversely affect lands designated as resource lands of long-term commercial significance or critical areas in ways that cannot be mitigated.
 - 14.4.1 The site is not designated as resource lands of long-term commercial significance. The subject site is comprised of one parcel that is currently in Rural Residential/Resource 5 (RR5) and is located in an Airport Overlay. The site is currently used for a single-family residence, accessory structures, and pasture. Physical characteristics include flat ground, in an area shown to have erosive

soils, possible ground contamination from historic orchard use, and a ditch running parallel with the south property line. Critical area review will be conducted at the time of site-specific land use applications.

- 14.4.2 The Hearing Examiner finds that the proposal does not adversely affect lands designated as resource lands of long-term commercial significance or critical areas in ways that cannot be mitigated.
- 14.5 The amendment is based on sound land use planning practices and would further the general public health, safety and welfare.
 - 14.5.1 The State Growth Management Act finds that sound land use planning includes consistency between the zoning code and the Comprehensive Plan. The proposed zone map amendment is not anticipated to impact the general public negatively in regards to public health, safety, or welfare.
 - 14.5.2 The Hearing Examiner finds that the proposal will provide consistency between the adopted Chelan County Comprehensive Plan (see Resolution 2021-15) and the zoning code. The proposed zoning map amendment meets the evaluation criteria listed under Chelan County Code Title 14, Section 14.13.040.
15. An open record public hearing after legal notice was held on May 5, 2021 via Zoom video conference.
16. Appearing and testifying on behalf of the applicant was Ryan Walker. Mr. Walker testified that he was an agent authorized to appear and speak on behalf of the property owner and Applicant. Mr. Walker represented that he agreed with all representations set forth within the staff report.
17. Testifying from the public was Sheryl Carson. Ms. Carson indicated she was testifying on behalf of her mother, Karen Carson. Ms. Carson indicated that her mother did not receive notice of the Comprehensive Plan meeting with the Chelan County Board of Commissioners and requested that the Hearing Examiner return this matter to the Board of Commissioners to have a new hearing on the resolution regarding the Comprehensive Plan Amendment.
18. The Hearing Examiner indicated to Ms. Carson that the Hearing Examiner did not believe he had jurisdiction to return an un-appealed resolution approving a Comprehensive Plan Amendment, back to the Chelan County Board of Commissioners, but that the Hearing Examiner would review this request.
19. Upon further review, the Hearing Examiner confirms that the Hearing Examiner does not have jurisdiction over a resolution passed by the Chelan County Board of Commissioners regarding a Comprehensive Plan Amendment.
20. Staff indicated that property Sheryl Carson was referring to is owned by the Carson Living Trust with a Cashmere address. A notice of the Board of Commissioner's meeting was sent to this address.
21. Any Conclusion of Law that is more correctly a Finding of Fact is hereby incorporated as such by this reference.

II. CONCLUSIONS OF LAW

1. The Hearing Examiner has authority to render this Decision.
2. The proposed zoning map amendment would provide consistency between the Chelan County Comprehensive Plan and zoning maps.
3. The proposed amendment would be consistent with goals of the Growth Management Act by providing cohesiveness with the Chelan County Comprehensive Plan.
4. The proposal appears to be consistent with the goals and policies of the County Comprehensive Plan and the County-wide Planning Policies.
5. In accordance with the approved Resolution 2021-15 the proposal would not adversely affect lands designated as a resource land of long-term significance.
6. The proposed zoning map amendment would provide consistency between the adopted Resolution 2021-14 amending the Comprehensive Plan with the Chelan County zoning designation.
7. Any Finding of Fact that is more correctly a Conclusion of Law is hereby incorporated as such by this reference.

III. DECISION

Based upon the above Findings and Fact and Conclusions of Law, ZC 2021-096 is hereby **APPROVED**. The Decision is final unless appealed in writing consistent with the adopted appeal procedures.

Approved this 13th day of May, 2021.

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 three "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.

Requests for Reconsideration and to re-open the hearing must be timely filed and are governed by Chelan County Code 1.61.130 and 1.61.070 and Chelan County Hearing Examiner Rules of Procedure 1.24.

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.