

BEFORE THE CHELAN COUNTY HEARINGS EXAMINER

IN THE MATTER OF)
)
PA 21-233)
Peterson/AB Golf, LLC) 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 August 18, 2021, the Hearing Examiner having taken evidence hereby submits the following Findings of Fact, Conclusions of Law, Decision and Conditions of Approval as follows:

I. FINDINGS OF FACT

1. This is an application for a Plat Alteration submitted to request removal of an easement burdening Lots 47, 48, and Tract 3 of the Bandera at Bear Mountain Ranch plat and also adjusts the lot lines of Lots 48 and 49 of the same plat. The subject properties are located 234, 236, and NNA Bandera Way in Chelan, WA and are zoned Rural Residential/Resource 10 (RR10).
2. The subject properties are located at 234, 236, and NNA Bandera Way, Chelan, WA 98816.
3. The applicants are Richard and Margaret Peterson, 12837 NE 73rd St., Kirkland, WA 98033, and AB Golf, LLC, PO Box 1860, Chelan, WA 98816. The agent is Michelle Taylor, Northwest Geodimensions, 15 N. Chelan Ave., Wenatchee, WA 98801.
4. The subject properties are not located within an Urban Growth Area.
5. The Comprehensive Plan designation and zoning district is Rural Residential/Resource 1 dwelling per 10 acres (RR10).
7. The existing land use is residential subdivision and golf course.
8. The application was submitted on June 4, 2021.
9. The Determination of Completeness was issued on June 23, 2021.
10. The Notice of Hearing was issued on August 8, 2021.
11. 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 26, 2021 with comments due July 10, 2021. 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	No comments received	
Chelan County Building Official	June 25, 2021	No Comment
Chelan Douglas Health District	July 20, 2021	Lot 48 has an existing home with a permitted septic system (07-4B3B-0437). The septic system does not encroach upon the easement, and therefore the removal of the easement will not impact the septic system nor the approved reserve drainfield area. Recommends approval of the plat amendment.
Chelan County Public Works	No comments received	
Chelan County PUD	July 2, 2021	If the extinguished easement is noted as #7 on the Plat, the District does not have utilities in the location and would have no comment. If this is not the correct location, please indicate where it is, the District has several utilities on these properties and would need to verify location.
Chelan County Assessor	No comments received	
Chelan County Fire District No. 7	No comments received	
WA Dept. of Archaeology & Historic Preservation	No comments received	
WA Dept. of Fish & Wildlife	June 28, 2021	After review of the provided documents and review of WDFWs PHS on the Web and Habitat Program Web App., it has been determined that the site has been significantly disturbed since the plat approval in 2005 and provides very limited value to fish and wildlife. WDFW has no concerns with the proposed amendment at this location.
Confederated Tribes of Colville	June 25, 2021	No comment or concerns

12. Pursuant to WAC 197-11-800(6), the proposed application is exempt from SEPA review.
13. Chelan County Code Section 12.22.020: Plat Alteration provides:
 - 13.1 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.
 - 13.1.1 The submitted application, including a site plan date stamped June 4, 2021, was reviewed for completeness and was deemed complete on June 26, 2021.
 - 13.1.2 The proposed alteration was submitted in accordance with this title.
 - 13.2 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.
 - 13.2.1 There are four properties affected by the proposed plat amendment. One part of the proposed plat amendment is removing an easement that burdens two lots and an open space tract in the Bandera at Bear Mountain Ranch plat. In addition, there are two lots whose common property boundary is proposed to be adjusted as well as documented in the site plan of record, date stamped June 4, 2021. Therefore, two property owners' signatures would be required to achieve a majority. With the submitted application, signatures from owners of all affected properties were provided for the proposed amendment.
 - 13.2.2 All of the affected owners have signed the application. Therefore, this provision is satisfied.
 - 13.3 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.
 - 13.3.1 The Bandera at Bear Mountain Ranch does have restrictive covenants. However, the proposed plat alteration would not result in the violation of any covenants.
 - 13.3.2 Being as there are no applicable covenants, this provision would not apply.
 - 13.4 The alteration of a subdivision is subject to RCW 64.04.175.
 - 13.4.1 The proposed alteration is to remove an easement between Lots 47 and 48 that also burdens Tract 3 as shown on the face of the plat as well as adjusting the common property line between Lots 48 and 49. All property owners affected by this alteration have signed the proposed plat amendment. In addition, during blue-line review, the applicants will need to satisfy the condition proposed by the Chelan County PUD; ***"If the extinguished easement is noted as #7 on the Plat, the District does not have utilities in the location and would have no comment.***

If this is not the correct location, please indicate where it is, the District has several utilities on these properties and would need to verify location.”

- 13.4.2 The proposed alteration meets the requirements of RCW 64.04.175.
- 13.5 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.
 - 13.5.1 The proposed alteration would adjust the common of Lots 48 and 49 of the Bandera at Bear Mountain Ranch plat. These properties are owned by the same applicant (Peterson) and per data from the Chelan County Assessor’s website, no known assessments are known to be levied against the subject properties.
 - 13.5.2 Any assessments would need to be satisfied prior to the Chelan County Treasurer signing the plat alteration.
- 13.6 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.
 - 13.6.1 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.
 - 13.6.2 Staff recommended a Condition of Approval that the applicant must meet the final platting standards outlined in Chelan County Code Chapter 12.24.
- 13.7 The revised plat shall be surveyed and prepared by a Washington State licensed land surveyor.
 - 13.7.1 As submitted with the application materials, the site plan was prepared by a licensed surveyor.
 - 13.7.2 Staff recommended a Condition of Approval that the applicant meet the final platting standards outlined in Chelan County Code Chapter 12.24.
14. The applicants are seeking to revise the Bandera at Bear Mountain Ranch plat to remove an easement in between Lots 47, 48, and Tract 3 and also adjust the lot lines of Lots 48 and 49 of the same plat. The result is the elimination of Lot 47. The intent of the proposed alteration is to allow for future development of Lot 48 and make it more buildable by removing an easement that is not currently in use. Currently the landowner cannot build across the easement, which limits placement of future accessory structures on the property. Removal of this easement and the adjustment of the common property line of Lots 48 and 49 would allow the property owner to enjoy the same rights as those adjacent property owners that are part of the Bandera at Bear Mountain Ranch plat.

15. 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.
16. An open record public hearing after legal notice was provided was held on August 18, 2021 via Zoom videoconference.
17. Appearing and testifying for the Applicant was Michelle Taylor. Ms. Taylor testified that she was the agent authorized to appear and speak on behalf of the Applicant and property owner. Ms. Taylor stated the Applicant and property owners were in agreement with the proposed Conditions of Approval.
18. No member of the public testified at this hearing.
19. The Chelan County Hearing Examiner considered all evidence within the record in rendering this decision.
20. 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 land division was processed consistent with Chelan County Code Section 12, Plat Alteration.
3. All requirements of Chelan County Code Section 12.22.020 have been met.
4. 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 noted Findings and Fact and Conclusions of Law, PA 21-233 hereby **APPROVED**, subject to the conditions of approval.

IV. 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.

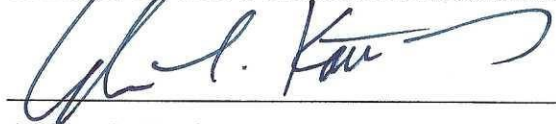
1. Pursuant to Chelan County Code Chapter 12.24 as amended, the applicant shall complete a final Plat Alteration using the procedures of Chelan County Chapter 12.24: Final Process.
2. Pursuant to Chelan County Code Section 12.24.040 as amended, the final Plat Alteration shall be designed in substantial conformance with the Preliminary Plat Alteration of record, date stamped June 4, 2021, on file with the Chelan County Department of Community Development, except as modified herein.
 - 2.1. As part of the blueline review, the applicants shall verify that no utilities are within the easement and need to satisfy the Chelan County PUD requirement "If the extinguished easement is noted as #7 on the Plat, the District does not have utilities in the location and

would have no comment. If this is not the correct location, please indicate where it is, the District has several utilities on these properties and would need to verify location”.

3. Pursuant to the Bandera at Bear Mountain Ranch 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.

Dated this 19th day of August, 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 “(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.