

BEFORE THE CHELAN COUNTY HEARINGS EXAMINER

IN THE MATTER OF)
CUP 2021-081)
Epping)
RECEIVED)
SEP 28 2021)
CHELAN COUNTY)
COMMUNITY DEVELOPMENT)
FINDINGS OF FACT, CONCLUSIONS OF)
LAW, CONDITIONS OF APPROVAL)
AND DECISION)

THIS MATTER, having come on for hearing in front of the Chelan County Hearing Examiner on September 22, 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 for a Conditional Use Permit for the construction of a new detached garage within the Icicle Valley Design Review District. Proposed uses on the first floor of the structure are a two-car garage with a toilet and sink. A home gym, office space, and storage would be on the second floor. Accessory structures to a single-family residence within the Icicle Valley Design Review District require a Conditional Use Permit per Chelan County Code (CCC) 11.72.050. The subject property is zoned Rural Residential/Resource 20 (RR20).
2. The Applicants/Owners are Christopher and Michelle Epping, 11807 SE 75th Place, Newcastle WA, 98056. Their agent is Todd Smith, Syndicate Smith, LLC, 220 US Hwy 2, Leavenworth, WA 98826.
3. The subject property is located at 7001 Icicle Road, Leavenworth, WA 98826.
4. The abbreviated legal description and parcel number of the subject property is 24-17-27-000-055; Lot A BLA 2021-307 Lot B CE 2017-204 Lot B BLA 1997-154; 10.51 Acres.
5. The subject property is not within an Urban Growth Area.
6. The property is located within the Rural Residential/Resource 20 (RR20) zoning district and comprehensive plan designation, and within the Icicle Valley Design Review Overlay District.
7. The property is currently in residential use. Building permits for this property have been issued per the County Assessor's records: BP 070279 – 2278 sf Single-Family Residence.
8. The property slopes downward from the rear property line to the front property line and Icicle Creek with an existing single-family residence.
9. The property to the north is zoned Rural Residential/Resource 20 (RR20).
10. The property to the south is zoned Commercial Forest Lands (FC).
11. The property to the east is zoned Rural Residential/Resource 20 (RR20).
12. The property to the west is zoned Rural Residential/Resource 20 (RR20).
13. An Aquifer Recharge Disclosure Form is not required for single-family residences and their associated developments, per CCC 11.82.060. The property is not located within a wellhead protection area.

14. Pursuant to the Washington State Department of Fish and Wildlife Priority Habitat Species Maps, the subject property does contain priority habitat for Mule Deer, riparian habitat, and wetlands. Therefore, the provisions of Chelan County Code Chapter 11.78 Fish and Wildlife Overlay District, do apply.
15. The subject property is located on Icicle Creek within the natural shoreline jurisdiction. Therefore, the provisions of the Shoreline Master Program (SMP) do apply. The shoreline buffer was reduced to fifty (50) feet per Condition of Approval 1.10.1 of CUP 1998-14. The proposed garage is located outside of the reduced shoreline buffer.
16. Pursuant to Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Map panel no. 5300150800A, there is known floodplain on the subject property. Therefore, the provisions of CCC, Chapter 11.84, Frequently Flooded Areas Overlay District, do apply.
17. According to the Chelan County GIS mapping, the property does contain geological hazards for erosive soils. Therefore, the provisions of Chelan County Code Chapter 11.86 Geologically Hazardous Areas Overlay District, does apply to this development. A geo assessment performed by Stanton Geological Services, LLC date stamped April 27, 2021 was submitted.
18. According to the Chelan County GIS geo hazard and contours layers, the property does contain geological hazards for erosive soils; therefore, the provisions of Chelan County Code (CCC) Chapter 11.86 Geologically Hazardous Areas Overlay District, does apply to this development. A geo assessment performed by Water Resources Engineering was submitted on May 18, 2021.
19. No comments were received stating concerns about cultural resources being possibly located on the subject property.
20. The Applicant plans to begin construction upon approval and receipt of all necessary permits.
21. According to the updated site plan of record, dated September 8, 2021, the property is accessed by a private access easement detailed under AFN 2321063.
22. Water to the subject property would be supplied by an existing well, as noted on the updated site plan of record dated September 8, 2021.
23. Chelan County PUD provides electrical services to the subject property.
24. Sanitation is supplied by an off-site septic system, located on Parcel No. 241727000060, adjacent to the east of the subject property.
25. Noise is similar to other residential uses in the vicinity. The development must comply with CCC, Chapter 7.35 Noise and RCW 70.107.
26. According to the updated site plan of record, date stamped September 8, 2021, the proposed garage would not visually impact neighboring properties.
27. 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 May 1, 2021 with comments due May 15, 2021. Agency comments are considered in the decision and when appropriate, associated Conditions of Approval are included.
28. The following is a list of Agencies who received notice and the date comments were received:

Agencies Notified	Response Date
Chelan County Public Works	None

Agencies Notified	Response Date
Chelan County Building	No comment. May 7, 2021
Chelan County Fire Marshal	May 18, 2021
Chelan County PUD	None
Dept of Archaeology & Historic Preservation	None
Confederated Tribes of Colville	None
Yakama Nation	None
Department of Ecology	May 13, 2021
Chelan-Douglas Health District	May 23, 2021

29. No public comments were received.
30. The application was submitted on March 2, 2021.
31. The Determination of Completeness was issued on April 27, 2021.
32. The Notice of Application was provided on May 1, 2021.
33. The Notice of Public Hearing was provided on September 11, 2021.
34. The proposed structure is categorically exempt from SEPA review per Washington Administrative Code (WAC) 197-11-800(1)(b)(3).
35. Natural Systems: Icicle Valley Goals and Policies: Goal NS 2: Icicle River Valley: Encourage retention of the scenic character and environmental quality of the Icicle Valley.
 - 35.1 The subject property is within the Icicle Valley Design Review Overlay District, which requires the proposed detached garage to address the Icicle Design Review Guidelines. These review guidelines seek to preserve the scenic character and environmental quality of Icicle Valley.
 - 35.2 Based on the updated site plan of record and application materials, the proposed development, as conditioned, will retain the scenic character and environmental quality of the Icicle Valley by conforming to Icicle Design Review Guidelines.
36. Rural Residential/Resource 20 (RR20) Lands: Purpose: To allow for low intensity rural development, agricultural and forestry uses which do not require the extension of services or infrastructure. These areas provide greater opportunities for protecting sensitive environmental areas and creating open space typical of a rural setting. Uses appropriate for these areas include: open space; residential; agriculture; and forestry. Additional uses may be considered with supplemental provisions. These provisions shall address performance standards, impacts to the surrounding area, and be consistent with the goals and policies of the comprehensive plan. Such uses may include: natural resource support facilities and services; mineral resource activities; intensification of existing small scale recreational or tourist uses that rely on a rural location or setting, but that do not include a new residential component; intensification of development on lots containing existing isolated nonresidential uses; home occupations; bed and breakfasts; and community facilities.
 - 36.1 The applicant is requesting a detached garage for an existing single-family residence within the RR20 zoning designation.

36.2 The proposed development meets the intent of the goals and policies of the Comprehensive Plan for residential uses.

37. Chelan County Code Development Standards 11.08.020:

Development Standards	RR-20
Minimum Setback Distances.	
Front Yard	25' from the front property line or 55' from the street centerline, whichever is greater.
Rear Yard	20' from rear property line
Side Yard	5' from side property line
Maximum Lot Coverage	Buildings and structures shall not occupy more than 35% of the lot area.
Maximum Building Height	35'

38. Chelan County Code, Conditional Use Permit Criteria 11.93.040: A conditional use permit may be approved only if all of the following review criteria and any special criteria listed in this chapter are met:

38.1 All criteria required for a specific use by this chapter can be satisfied.

38.1.1 Criteria for the proposed detached garage have been addressed below.

38.1.2 Based on review of the application materials submitted, the Hearing Examiner finds that the criteria for the proposed detached garage, as conditioned, can be satisfied.

38.2 A finding can be made that 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.

38.2.1 The updated site plan of record, date stamped September 8, 2021, demonstrates the existing and proposed development would meet applicable development standards in CCC Section 11.08.020. CUP 1998-14, which was previously approved on March 18, 2003, reduced the Natural shoreline buffer to fifty (50) feet. Existing and proposed development would meet applicable shoreline setbacks.

38.2.2 Portions of the subject property are within a geologically hazardous area and have been identified as possibly having erodible soils. A geologic assessment was performed by Stanton Geological Services LLC, dated stamped April 27, 2021. Recommendations made by the geologist include:

38.2.2.1 All walls on the garage shall be engineered to protect against the danger of sliding or tumbling rocks and occasional minor debris flows on the alluvial fan.

- 38.2.2.2 Site specific retaining walls shall be used on any cut/fill slopes greater than 2:1 and that these walls be engineered and designed per current building codes including utilizing acceptable drainage control methods.
- 38.2.2.3 Drainage requirements per current building codes shall be installed around the garage foundation to prevent hydrostatic forces accumulating or damage from frost action.
- 38.2.2.4 All development shall utilize erosion control methods found in the Stormwater Management Manual for Eastern Washington when soils are exposed during and after construction of the garage.
- 38.2.2.5 The garage foundation will be placed within native soils or bedrock, or if fill is used, engineered fill shall be used per current building codes.
- 38.2.2.6 If excavation for the garage creates walls greater than 4 feet, the excavation shall comply with WAC Chapter 296-155.
- 38.2.3 Chelan County GIS mapping shows that the subject property is located within Mule Deer habitat and also has riparian habitat areas and wetlands located on the property adjacent to Icicle Creek. These mapped riparian areas and wetlands are located below the private access easement on the property whereas the proposed garage is being built above the private access easement on the steep hillside. No comments regarding the critical areas on the property were received from either the Department of Ecology or the Department of Fish and Wildlife.
- 38.2.4 Based on the updated site plan of record and application materials, the proposed development meets the zoning standards and other applicable development standards.
- 38.2.5 Due to the location of the proposed garage on the steep hillside above the existing access easement and behind the existing house, it is staff's opinion that the proposed garage is outside of the riparian habitat and wetland setbacks and that no wetland delineation is necessary.
- 38.2.6 Pursuant to Chelan County Code 11.78, no habitat management plan for mule deer will be required due to the proposed location of the garage in relation to the existing single-family residence and also that no fencing is being proposed.
- 38.3 Compatibility with the adjacent uses and the protection of the character of the surrounding area.
 - 38.3.1 Pursuant to Chelan County Code 11.72.050, the Icicle Valley Design Review Overlay District allows for single-family dwellings and their accessory uses as conditional uses. The adjacent properties to the east and to the west are within the Icicle Valley Design Review Overlay District as well and both of these properties are currently used for residential purposes. The single-family residences that currently exist on both of these properties were permitted under CUP's 1998-13 and 1998-

15 and the existing residence on the subject property was permitted per CUP 1998-14.

- 38.3.2 Based on application materials, and as conditioned, the proposed detached garage is compatible with the residential uses of the surrounding area.
- 38.4 Detrimental impacts on the natural environment and productive use of surrounding natural resource lands can be mitigated or avoided.
 - 38.4.1 The subject property is not identified as a classified resource land pursuant to the Chelan County Comprehensive Plan. The subject property contains critical habitats and is located within an area that is shown to have erosive soils per Chelan County GIS mapping.
 - 38.4.2 Based on the application materials, and as conditioned, submitted, the proposed development would not be detrimental to the natural environment.
- 38.5 No conditional use permit shall be issued without a written finding that:
 - 38.5.1 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.
 - 38.5.2 Chelan County provided a Notice of Application to the Chelan-Douglas Health District, the Chelan County Fire Marshal, and Chelan County Fire District #3. The Cascade School District was not noticed because no additional residential capacity is proposed.
 - 38.5.3 Through the application materials submitted and the comments from service providers received, the applicants have demonstrated that there are adequate services for the proposed garage.
 - 38.5.4 No county facilities will be reduced below adopted levels of service as a result of the development.
 - 38.5.5 The proposed use is not anticipated to result in county facilities being reduced below adopted levels of service. No comments were received from Chelan County Public Works regarding adopted levels of service and no increase in Average Daily Traffic (ADT) on Icicle Road are anticipated as a result of the proposed garage.
 - 38.5.6 As conditioned, the proposed use would not result in county facilities being reduced below adopted levels of service.
- 38.6 The proposed use shall not result in undue adverse impacts affecting the public health, safety and welfare.
 - 38.6.1 The existing and proposed development are supplied by an existing off-site septic system for sanitation and an on-site well for water. Based on comments received from the Chelan-Douglas Health District, dated May 23, 2021, a Connecting to Existing System application will be required as part of the building permit process.

- 38.6.2 As conditioned, the proposed use is not anticipated to result in an adverse impact on public health, safety and welfare.
- 38.7 The Hearing Examiner finds that 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 Title 11 and 15 of the Chelan County Code. Primitive or forest service roads may be considered appropriate access as provided in Section 11.88.070.
- 38.7.1 Roads, ingress and egress: The subject properties are accessed by a private access easement under AFN 2321063.
- 38.7.2 Stormwater: The applicant shall comply with Chelan County Code Title 13; Chelan County Stormwater Guidelines and Procedure.
- 38.7.3 Parking and Loading: The proposed garage will have two parking spaces on the first floor.
- 38.7.4 Domestic and Irrigation Water: Domestic water is supplied by an existing on-site well.
- 38.7.5 Sanitary Facilities: Sanitary facilities are supplied by an existing off-site septic system.
- 38.7.6 Power: Power is provided by Chelan County PUD.
- 38.7.7 Fire Protection: Comments received from the Chelan County Fire Marshal, dated May 18, 2021, states that alternate fire flow may be required. On July 15, 2021, the subject property was annexed into Chelan County Fire District #3.
- 38.7.8 As conditioned, the Hearing Examiner finds that all necessary facilities, improvements and services are consistent per the requirements of Titles 11, 13 and 15 of the Chelan County Code.
- 38.8 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.
- 38.8.1 Based on application materials, the proposed use is a detached garage as an accessory structure to an existing single-family residence. The garage will have a washroom with a toilet and sink and space for two vehicles on the bottom floor. The top floor will consist of a storage room and space designated as "Office/Home Gym". The proposed use of the subject property would not impact adjacent properties in the vicinity with noise, light, heat, steam, water quality, glare, odors, air pollution, smoke, wastes, dust, vibration, electrical disturbance, physical hazards, or any other related impacts.
- 38.8.2 Based on application materials, 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 can be avoided or mitigated as conditioned.

- 38.9 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.
- 38.9.1 The proposed detached garage would be consistent with the goals and policies of the Chelan County Comprehensive Plan. The proposed garage shall not be converted to an accessory dwelling unit (ADU), unless this CUP is amended and all ADU standards are met.
- 38.9.2 Based on application materials, the proposed detached garage is consistent with the Chelan County Comprehensive Plan.
39. The Icicle Design Review Guidelines are intended to establish a design criterion for development activities specified in the Icicle Valley Design Review Overlay District (IVDROD). Those development activities include road construction, clear cuts and structural developments. Modifications to the existing natural environment should, as much as possible, repeat form, line, color, and texture common to the surrounding landscape. Changes in the natural landscape can occur, but should remain visually subordinate to the surrounding environment. The Icicle Valley is recognized for its visual quality and each development should be evaluated on the site's ability to accept alteration without losing its inherent visual character.
- 39.1 Site Location:
- 39.1.1 Each individual site should utilize the best possible location in siting the structure. Existing timber stands and brush should be taken advantage of as much as possible for screening purposes.
- 39.1.2 Natural topographic features such as benches, rock outcrops and any other unique land forms should be utilized in the site selection. Structures located at the far edge of forest clearings should be placed far enough from the road that they become an integral part of the landscape rather than a dominate feature.
- 39.1.3 The structure should be oriented so that the gable end faces or is perpendicular to the primary road.
- 39.1.4 As stated in the application materials, the proposed garage would be screened from the access easement by the existing house as well as existing shrubs and trees currently on the property. The garage would have a low vertical profile due to being dug into the hill at the building site. Only the necessary brush and trees would be removed for construction and the remainder of the property would remain untouched. The application shows that the gable end of the garage would face towards Icicle Creek Road.
- 39.1.5 Based on application materials submitted, the proposed development is consistent with Site Location guidelines.
- 39.2 Architectural Design.
- 39.2.1 Structural design should emphasize vertical alignment through type of siding, roof line and architectural design which conforms with existing form, line, color and texture of the surrounding environment.

- 39.2.2 Natural earth tone colors should be utilized for siding, trim and metal roofing. Where possible, construction should utilize wood products or native materials (log construction, stone etc.).
 - 39.2.3 Broken rooflines with a steep pitch are encouraged for all residential structures.
 - 39.2.4 Building heights shall conform to the underlying Forest Resource (FC) zoning district and/or the shoreline conservancy environment requirements.
 - 39.2.5 The updated building plans detail the structural design and materials. Metal roof materials emphasizes vertical alignment with vertical ridges, neutral color and texture of the proposed stucco and stone siding will conform with existing form, line, color and texture of the surrounding environment. Natural earth tone colors will be used for siding, trim, and metal roofing. Construction will be conventional wood framing. The proposed roofline is in keeping with surrounding structures. Although not as steep as the IVDROD recommends, the 3-1/2:12 pitch is practical in heavy snow country, keeping snow on the roof and protecting the structure below. The garage is proposed at twenty-two feet 5 inches (22'-5"), which is below the maximum building height of thirty-five feet (35') in the Rural Residential/Resource 20 (RR20) zoning district. The proposed garage will be built outside of the reduced Natural shoreline buffer of fifty (50) feet.
 - 39.2.6 Based on the updated site plan of record, the proposed development is consistent with Architectural Design guidelines.
- 39.3 Vegetation.
- 39.3.1 As much naturally occurring vegetation should be retained as construction allows. A natural vegetation buffer between the structures and road corridor or shoreline should be maintained to produce a filtered effect.
 - 39.3.2 Introduced vegetation or landscaping should be native or native appearing. Exposed manicured lawns should be screened in such a fashion to blend with the natural landscape.
 - 39.3.3 When the building site is visible from the primary road on-site grading should be kept to a minimum, and generally for construction purposes only. Artificial forms, such as cut banks, earth mounds, rock or slash piles, should be avoided when grading, clearing, landscaping or locating driveways.
 - 39.3.4 Other than the vegetation cleared for fire purposes, layering of vegetation around the building site by diversity of species and age classes is encouraged. Layering is accomplished by selective tree cutting to achieve a mixture of conifers with both mature over and under stories, hardwoods, and dense shrubberies.
 - 39.3.5 Existing vegetation on the subject property would act as a natural buffer between the proposed garage and the access easement. There are existing trees and shrubs between the proposed garage and the Icicle Road

corridor. Any introduced vegetation would need to be native or native appearing. Excavation and fill placement are proposed to occur only in the location of the proposed building footprint. Equipment staging would only occur on the existing driveway. Proposed landscaping is minimal due to the garage being built into a hillside and all of the existing vegetation on the property already provides sufficient screening of the proposed garage.

39.3.6 The Hearing Examiner finds that a landscaping plan is not necessary for the proposed garage due to the existing vegetation on the subject property providing sufficient screening from Icicle Road and adjacent properties. In addition, the applicant will need to comply with WAC 51-54A-8200, which is the International Wildland-Urban Interface Code. These include possible defensible space (Firewise) requirements for the property landscape.

39.4 Setback.

39.4.1 Setback from road or shoreline should depend on density of vegetation, steepness of slope, and viewing distance.

39.4.2 Staggering setbacks from adjacent structures within viewing distance is encouraged. A natural vegetation buffer between those structures should be maintained.

39.4.3 Structures should be located to maintain sufficient tree canopy to minimize visual impact of structures from higher vantage points.

39.4.4 Setbacks used are based on zoning standards of the RR20 zoning district and the reduced natural shoreline buffer mentioned above. The location of the proposed garage does not obscure the view of any structures to the side or behind. The garage would not significantly impact the existing tree canopy; therefore, there are no visual impacts to any structures at higher vantage points.

39.4.5 Based on application materials, the proposed development is consistent with Setback guidelines.

39.5 Private Access Drives.

39.5.1 Private drives serving more than one building site is encouraged. The number of private driveways accessing the primary road should be limited.

39.5.2 While the approach of the access drive to the primary road should be at a right angle, curve-linear or winding driveways to the building site should be utilized. Vegetation removal should only be done to accommodate the width of the driveway.

39.5.3 Grades for private drives should not exceed fourteen (14) percent. Drains dips are encouraged in lieu of culverts where slopes permit, except at the intersection of a primary road.

39.5.4 A house identification number sign, may be placed along the Icicle Road for all residential structures. It will be constructed of natural materials

such as wood or stone. Identification signs are to be eight (8) by sixteen (16) inches in size with a brown background with ivory numbers.

- 39.5.5 The subject property and two other parcels utilize the existing access easement that goes across the river from Icicle Road. No changes are proposed to the existing driveway as a result of the proposed development since the existing driveway grade does not exceed fourteen (14) percent. Due to the proposed garage not being a dwelling unit, no new address is required.
- 39.5.6 Based on application materials, the proposed development is consistent with Private Access Drives guidelines.

39.6 Water Quality.

- 39.6.1 Soil test holes may be required by the Chelan-Douglas Health District. These test holes may be required during the period of normal seasonal high-water runoff. Soil test results will be used to determine the porosity of the soil, and the possible need for setbacks from surface water or wells of more than one hundred (100) feet.
- 39.6.2 Complete plans for septic tank and acceptable water system shall be submitted with all applications.
- 39.6.3 The subject property currently has existing sanitation provided by an off-site septic system. Both water and sanitation availability forms were provided in the submitted application materials from the Chelan County PUD and Chelan-Douglas Health District respectively. Extensions of existing systems would be used in the proposed garage.
- 39.6.4 Based on application materials, the proposed development is consistent with Water Quality guidelines.

39.7 Fire Protection.

- 39.7.1 On-site fire-fighting provisions are for the initial attack of the structure and the surrounding environment.
- 39.7.2 Site preparation for fire protection normally requires the removal of all fine forest fuels for a thirty (30) foot radius around the primary structure. Specifically, fine forest fuels all weeds and combustible debris (except for small scattered ornamentals). Also, trees within one hundred (100) feet of the primary residence should be thinned so that the crowns do not touch each other and should be pruned of all dead limbs and debris within ten (10) feet of the ground.
- 39.7.3 All single-family residences shall have a cistern, well, or pond with five hundred (500) gallon minimum storage capacity. Also, a powered pumping system shall be provided for each residence which can reasonably produce eighteen (18) gallons per minute for a thirty (30) minute duration.
- 39.7.5 Enough fire hose should be available to reach a one hundred (100) foot radius around the primary structure. The pump should be able to deliver a minimum of fifty (50) pounds of pressure at the nozzle at the highest elevation of the one hundred (100) foot radius.

- 39.7.6 The pumping system should have at least a one-inch port, with a four-five (4-5) horsepower engine which will develop approximately one hundred (100) pounds of pressure. This is not to discourage the utilization of a gravity flow type of system.
 - 39.7.7 The water storage facility should be designed to be functional and operable during the normal Forest Service fire fighting season.
 - 39.7.8 The water pumping system should be located at least thirty (30) feet from the structure or in a position that access to the pump is protected in the event of structural fire.
 - 39.7.9 All structural chimneys shall be equipped with an approved spark arrestor and all tree branches within fifteen (15) feet of the chimney shall be removed.
 - 39.7.10 Two on-site hose bibs would be installed on the proposed garage and would be tied into the existing water storage tank and pump system. Items #2 through #8 only apply to the primary structure (which is the existing residence). No chimneys are proposed as part of the proposed garage.
 - 39.7.11 Per the comment letter received from the Fire Marshal on May 18, 2021, there is not adequate fire flow on the property to serve the proposal; therefore, alternate fire flow provisions are necessary. However, on July 15, 2021, the subject property was annexed into Chelan County Fire District #3 and as a result, the applicants are now eligible for tanker credits when determining what fire protection credits to utilize in order to satisfy the fire flow requirements.
 - 39.7.12 The Hearing Examiner sets as a condition of approval that the applicant has to meet Fire Protection guidelines.
- 39.8 Icicle Design Review Guidelines – Fire Protection. On site firefighting provisions are for the initial attack of the structure and the surrounding forest environment.
- 39.8.1 Site preparation for fire protection shall require the removal of all fine forest fuels for a 30-foot radius around the primary structure. Specifically, the fine forest fuels include all weeds and combustible debris with the exception of small scattered ornamentals. In addition, trees within 100 feet of the primary residence should be thinned so that the crowns do not touch each other and should be pruned of all dead limbs and debris within 10 feet of the ground.
 - 39.8.1.1 The existing residence on the subject property, which is the primary structure on the property, was permitted per CUP 1998-14 on March 18, 2003. Per comments received from the Fire Marshal on May 18, 2021, new construction permitted after February 1, 2021 is subject to WAC 51-54A-8200 International Wildland-Urban Interface Code. These include possible defensible space (Firewise) requirements for the property landscape and possible construction requirements for new buildings.

- 39.8.1.2 These guidelines do not apply to the proposed garage because it is not the primary structure (the house is). The Hearing Examiner sets as a condition that the proposed garage comply with the applicable portions of the International Wildland-Urban Interface Code adopted by the State of Washington and Chelan County.
- 39.8.2 All single-family residences shall have a cistern, well, or pond with 500-gallon minimum storage capacity. Also, a powered pumping system shall be provided for each residence which can reasonably produce 18 gallons per minute for a 30-minute duration. The pumping system should have at least a one-inch port, with a 4-5 horsepower engine which will develop approximately 100 pounds of pressure. The pump should be able to deliver a minimum of 50 pounds of pressure at the nozzle at the highest elevation of use. The water pumping system should be located at least 30 feet from the structure or in a position that access to the pump is protected in the event of structural fire. Enough fire hose should be available to reach a 100-foot radius around the primary structure. (Contact Leavenworth Ranger District for availability of fire hose.) The water storage facility and pumping system shall be functional during the normal firefighting season. *Note* A gravity system which can meet the pressure requirements can be approved.
- 39.8.2.1 The existing residence on the subject property, which is the primary structure on the property, was permitted per CUP 1998-14 on March 18, 2003. Per comments received from the Fire Marshal on May 18, 2021, the applicant may choose one or any combination of the fire protection credits to satisfy the fire flow requirements.
- 39.8.2.2 These guidelines do not apply to the proposed garage because it is not the primary structure (the house is). Staff recommends a condition of approval requiring the applicant to meet Fire Protection guidelines.
- 39.8.3 All structural chimneys shall be equipped with an approved spark arrestor (no greater than a ½" opening) and all tree branches within 15 feet of the chimney shall be removed.
- 39.8.3.1 No chimneys are proposed as part of the proposed garage.
- 39.8.3.2 This provision does not apply to the proposal.
- 39.9 Icicle Valley Access Road Design Guidelines. These guidelines do not apply because the subject property and two other parcels utilize the existing access easement. No changes are proposed to the existing driveway.
40. An open record public hearing after due legal notice was held using Zoom video conferencing on September 22, 2021.
41. Appearing and testifying on behalf of the Applicant/owner was their agent, Todd Smith. Mr. Smith testified that proposed Conditions of Approval were acceptable to the Applicants and property owners, and that they agreed with all representation contained in the staff report.
42. No member of the public testified at this hearing.

43. The Chelan County Hearing Examiner considered all evidence within the record in rendering this decision
44. Any Conclusion of Law that is more correctly a Finding of Fact is incorporated herein as such by this reference.

II. CONCLUSIONS OF LAW

1. The Hearing Examiner has authority to render this Decision.
2. The proposed uses are consistent with the goals and policies of the Rural Residential/Resource 20 (RR20) within the Chelan County Comprehensive Plan.
3. The proposed use is permitted with an approved conditional use permit.
4. As conditioned, the proposed use would be compatible with the character of the surrounding area.
5. As conditioned, the use will not be detrimental to the natural environment.
6. As conditioned, the proposed development would not have an adverse impact on public health, safety and welfare.
7. Through the process of public and agency noticing, opportunity for review and comments were provided for the proposed use.
8. As conditioned, the proposed use would not result in county facilities being reduced below adopted levels of service.
9. As conditioned, all necessary facilities, improvements and services are consistent per the requirements of Titles 11, 13 and 15 of the Chelan County Code.
10. 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 can be avoided or mitigated as conditioned.
12. The development is consistent with the Chelan County Comprehensive Plan.
13. Any Finding of Fact that is more correctly a Conclusion of Law is incorporated herein as such by this reference.

III. 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 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.
2. Pursuant to Chelan County Code Section 11.93.040(10), the final Conditional Use Permit shall be in conformance with the submitted application of record, date stamped March 2, 2021 except for the following: the updated building plans, date stamped April 27, 2021, the recommendations of the Geologic Assessment, date stamped April 27, 2021; the updated narrative, date stamped April 27, 2021, and the updated site plan, date stamped September 8, 2021 or as amended by this decision.
3. Pursuant to the requirements of the International Building Code and International Fire Code, a Chelan County Residential Building Permit shall be required for the proposed development.

4. Pursuant to Chelan County Code Section 11.93.040(4), detrimental impacts on the natural environment and productive use of surrounding natural resource lands shall be mitigated or avoided.
5. Pursuant to Chelan County Code Section 11.93.040(8) and Chapter 7.35, the applicant shall ensure that all noise regulations are met.
6. Pursuant to Chelan County Code Section 11.88.080, security lights or any exterior lighting shall be low-intensity, non-flashing and designed to project toward the property or shall be shielded to keep light from directly projecting over property lines.
7. 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.
 - 7.1. An inadvertent discovery plan must be submitted with the commercial building permit application and kept onsite during all land disturbing activities.
8. CUP 21-081 is for a proposed Detached Garage as an accessory structure to a primary residence. The second-floor space is proposed as an Office/Home Gym. The accessory structure/garage shall not be converted to any dwelling unit, including an Accessory Dwelling Unit (ADU), unless the CUP is amended, all ADU standards are met, all building and fire codes are met, and building permit for the change of use is issued.
9. The proposed shower shown in the updated buildings plan, dated April 27, 2021, is not approved and shall be removed from final plans for building approval.
10. The applicant is responsible for compliance with all applicable local, state and federal rules and regulations, and must obtain all appropriate permits and approvals.
11. Pursuant to Chelan County Code Section 11.93.110, a conditional use permit shall become void if not acted upon, 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.
12. 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.

Chelan-Douglas Health District

13. The proposed development requires a Connecting to Existing System application, which should include a property map and floor plan of the proposal.

Fire Marshal

14. Without the installation of a fire hydrant that has the capabilities of delivering the required fire flow and within the required distance to the lots in question, the applicant may choose one or any combination of the fire protection credits to satisfy the fire flow requirements.
15. Class A roofing/noncombustible roof covering, as defined in the International Building Code, shall be used on all new construction in all areas of Chelan County.
16. New construction permitted after February 1, 2021 is subject to WAC 51-54A-8200 International Wildland-Urban Interface Code. These include possible defensible space (Firewise) requirements for the property landscape and possible construction requirements for new buildings. All

buildings that require a building permit shall comply with the portions of the International Wildland-Urban Interface Code adopted by the State of Washington and Chelan County.

IV. DECISION

Based upon the above noted Findings and Fact and Conclusions, Conditional Use CUP 2021-081 is hereby **APPROVED**.

Dated this 27 day of September, 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.