

BEFORE THE CHELAN COUNTY HEARINGS EXAMINER

IN THE MATTER OF)
) FINDINGS OF FACT, CONCLUSIONS
) OF LAW, DECISION AND CONDITIONS
PA 21-253) OF APPROVAL
)
TRW, LLC)

THIS MATTER, having come on for hearing in front of the Chelan County Hearing Examiner on November 17, 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 Amendment submitted to reconfigure the internal lot lines for Lots (9) and (13), convey ingress, egress and utility easement across Lot (9) and alter easement note numbers (9) and (10) on the face of the recorded plat, Chelan Cove. The subject properties are located off of Lakeshore Dr. and Mela Lane in Manson, WA and is zoned Urban Residential 2 (UR2) within the Manson Urban Growth Area (UGA).
2. The subject properties are located off Mela Lane and Lakeshore Drive in Manson.
3. The applicant is TRW LLC, PO Box 432, Marysville, WA 98270.
4. The subject properties are located within the Manson Urban Growth Area (UGA).
5. The Comprehensive Plan designation and zoning district is Urban Residential 2 (UR2).
7. The existing land use is residential subdivision. Currently both lots are vacant.
8. The application was submitted on June 16, 2021.
9. The Determination of Completeness was issued on July 22, 2021.
10. The Notice of Hearing was issued on November 6, 2021.
11. The Notice of Application was referred to surrounding property owners within 300 ft. (excluding 60 ft. of right of way) of the development boundary, jurisdictional agencies and County departments. These agencies and surrounding property owners were notified on July 27, 2021 with comments due August 10, 2021. Agency comments are considered in the decision and, when appropriate, associated Conditions of Approval. 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.
Chelan County Building Official		No comments.
Chelan Douglas Health District	August 17, 2021	No objections to further approval of this development.
Chelan County Public Works		No comments.
Chelan County PUD	August 4, 2021	Line extension may be necessary.
WA Dept. of Ecology		No comments.
Chelan County Fire District No. 5	August 9, 2021	There is adequate fire flow to serve the development.
WA Dept. of Archaeology & Historic Preservation		No comments.
Yakama Nation		No comments.
Confederated Tribes of Colville		No comments.

12. One public comment was received from Manson Community Council dated August 11, 2021. The Council believes there should only be one access for the development.
13. Pursuant to WAC 197-11-800(6), the proposed application is exempt from SEPA review.
14. Chelan County Code Section 12.22.020: Plat Alteration provides:
 - 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.
 - 14.1.1 The proposed alteration was submitted in accordance with this title.
 - 14.2 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.
 - 14.2.1 There are (2) lots that are affected by the proposed Plat Amendment of Lot (9) and Lot (13) of Chelan Cove. With the application, both property owners have signed the application.

- 14.2.2 The affected owners have signed the application. Therefore, this provision can be satisfied.
- 14.3 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.
- 14.3.1 The plat of Chelan Cove does have restrictive covenants. However, according to the application materials, the proposed change to the note would not result in violation of the recorded covenants.
- 14.3.2 The proposed access would not result in a violation of the recorded plat covenants. Therefore, this provision would not apply.
- 14.4 The alteration of a subdivision is subject to RCW 64.04.175.
- 14.4.1 The proposed alteration is to revise Note 9 (AFN: 2454372) Chelan Cove to grant and convey easement to include Lot 9 and to revise Note 10 (AFN: 2454372) to grant and convey easement to Lots 8 and 13.
- 14.4.2 The proposed amendment is to alter (3) easements to benefits Lots 9 and 13. Therefore, this provision does apply.
- 14.5 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.
- 14.5.1 The proposed alteration would adjust Lots 9 and 13 of the Chelan Cove Plat. The properties are owned by the same applicant (TRW LLC) and per data from the Chelan County Assessor's website, no assessments are known to be levied against the subject properties.
- 14.5.2 Any assessments would need to be satisfied prior to the Chelan County Treasurer signing the plat alteration.
- 14.6 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.
- 14.6.1 The applicant would be required to submit blueline 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.
- 14.6.2 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.

- 14.7 The revised plat shall be surveyed and prepared by a Washington State licensed land surveyor.
 - 14.7.1 As submitted with the application materials, the site plan was prepared by a licensed surveyor.
 - 14.7.2 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.
15. The applicant is seeking to add a note stating: *“A 12-foot-wide easement for ingress, egress and underground utilities is hereby granted over, under and across Lot 13 to benefit Lot 9, together with the obligation to maintain facilities within said easement.”*
16. The applicant is seeking to revise (2) notes:
 - 16.1 “The easement described in easement grant Note 10, Chelan Cove (A.F. 2454372) has hereby been altered to grant and convey said easement to Lots 8 and 13, said Plat.”
 - 16.2 “The easement described in easement grant Note 9, Chelan Cove (A.F. 2454372) has hereby been altered to grant and convey said easement to include Lot 9, said Plat.”
17. Some of the lot lines, sizes and dimensions would be modified in order to get a better access easement configuration. In the original concept, Lots 8 and 9 were to share a driveway. As construction has gone on, the concept for the driveways has shifted so that Lot 8 has its own driveway. Lot 9 access presently is very problematic with its slope and narrow width. Therefore, the extension of the access easement (Mela Lane) through Lot 13 would allow for easier access to Lot 9. Lot 13 would access the property from Lakeshore Drive, a public right-of-way.
18. An open record public hearing after legal notice was provided was held on November 17, 2021 via Zoom videoconference.
19. 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.
20. Appearing and testifying for the Applicant was Raven Campbell of Insight Engineering. Ms. Campbell testified that she was the agent authorized to appear and speak on behalf of the Applicant and property owner. Ms. Campbell stated the Applicant and property owners were in agreement with the proposed Conditions of Approval. Ms. Campbell also indicated that she agreed with all the representations set forth within the staff report.
21. The following persons testified from the public:
 - 21.1 Kathy Blum. Ms. Blum testified on behalf of the Manson Community Council. She indicated that they had not received the staff report. She indicated that they were opposed to another access on to Lakeshore Blvd. because Lakeshore Blvd. is currently a narrow and curvy road.
 - 21.2 Kari Sorensen. Ms. Sorensen also testified on behalf of the Manson Community Council. She indicated that access to the lots had already been provided in the original plat and that there were no changes in circumstances.
22. At the conclusion of the hearing, the Hearing Examiner left the record open until November 29, 2021 for further comment from the Manson Community Council. The Hearing Examiner also

kept the record open until December 6, 2021, for any response the Applicant wished to make. The Hearing Examiner indicated that his decision would be rendered by December 20, 2021

23. On November 27, 2021, Manson Community Council, through Kari Sorensen, provided further written comment, as well as photographs and videotapes. The email comments and photographs and videotapes are all admitted into the record.
24. On December 1, 2021, the Applicant, through its representative, Brian Kalab, PE, submitted the Applicant's written response to the comments by the Manson Community Council. In this comment, Mr. Kalab confirmed that "the project is not proposing additional accesses to Lakeshore Drive. The lot accessing off Lakeshore Drive is merely switching from Lot 9 to Lot 13. . . . No additional accesses are proposed off Mena Lane. The Lots are merely switching their access points." This letter is admitted into the record.
25. The Chelan County Hearing Examiner considered all evidence within the record in rendering this decision.
26. 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 21-253 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 July 16, 2021, on file with the Chelan County Department of Community Development, except as modified herein.
 - 2.1. As part of the blueline review, the plat shall be amended to include:
 - 2.1.1 The addition of Note 1 of Plat Alteration to Lots 9 and 13 of Chelan Cove that reads: "*A 12-foot-wide easement for ingress, egress and underground utilities is hereby granted over, under and across Lot 13 to benefit Lot 9, together with the obligation to maintain facilities with said easement.*"

2.1.2 *"The easement described in easement grant Note 10, Chelan Cove (A.F. 2454372) has hereby been altered to grant and convey said easement to Lots 8 and 13, said Plat."*

2.1.3 *"The easement described in easement grant Note 9, Chelan Cove (A.F. 2454372) has hereby been altered to grant and convey said easement to include Lot 9, said Plat."*

3. Pursuant to Chelan County Decision for P 2010-006, 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.
5. Pursuant to the Applicant's December 1, 2021 comment, no additional accesses to Lakeshore Drive are being proposed and therefore, are not allowed.

Dated this 3rd day of December, 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.