

**CHELAN COUNTY**

**DEPARTMENT OF HEARING EXAMINER**

**316 WASHINGTON STREET, SUITE 301  
WENATCHEE, WASHINGTON 98801**

**BEFORE THE CHELAN COUNTY HEARING EXAMINER**

<b>IN THE MATTER OF:</b>	)	<b>FINDINGS OF FACT,</b>
<b>AA 2022-016</b>	)	<b>CONCLUSIONS OF LAW AND</b>
<b>Amy/Delorenzo</b>	)	<b>DECISION ON</b>
	)	<b>ADMINISTRATIVE APPEAL</b>

**I. FINDINGS OF FACT**

1. The Applicant submitted an Administrative Appeal to appeal the denial of an exception regarding a change in lot size impacting a short-term rental permit pursuant to Chelan County Code 11.88.290(1)(2)(E)(ii)(b)(1).
2. The Appellants/owners are Song Yingnan Amy & Andrew Delorenzo, 23119 Lake Wenatchee Hwy, Leavenworth, WA 98826. Their agent is Patrick J Schneider at Foster Garvey PC.
3. The subject property is currently used as an unpermitted short-term rental. The legal description is MOUNTAIN PARK BLOCK 4 LOT 1-2 & VACATION 0.3100 ACRES in the Rural Residential/Recreation (RRR) Zoning District. The Parcel No. is 27-16-14-700-050.
4. The appellant engaged in email correspondence with the Short-Term Rental (STR) manager, Kirsten Ryles between December 16, 2021 and December 30, 2021. This correspondence was preceded by a phone conversation regarding qualifiers to be considered an Existing Non-conforming Short- Term Rental and potential changes to the parcel. Appellant mentioned a Boundary Line Adjustment which could decrease the size of the parcel upon which the intended short-term rental sits. It was noted CCC 11.88.290 (2)(E)(ii)(b) states:
  - 4.1 (b) Nonconforming short-term rental properties may only be changed, altered, extended, or enlarged in a manner requiring a permit issued under Chelan County codes if the activity does not increase nonconformance with this or any other chapters of applicable county codes, or to repair unexpected damage from a natural or human caused event provided the repair is that which is minimally required to maintain the former conditions of the rental as it existed prior to the damage.
5. The appellant pointed out the second part of this section of the code which states:
  - 5.1 Any property that increases its nonconformance with this chapter without written permitted authorization of the department may be subject to immediate revocation of

all short-term rental permits and shall lose any legally non-conforming status as a short-term rental. Appeal provisions within Chapter 14.12 and Title 16 apply.

6. The appellant requested such authorization from the Director of Community Development and he was denied. The Appellant appealed this decision.
7. In the same time frame as the email communications, appellant also applied for an Existing Non-Conforming Short-Term Rental on December 22, 2021. That application is currently under review and, if approved, would be held to the same restrictions relating to changes that would make it more non-conforming. This application has not been denied as the date of this Decision.
8. The request that was denied in the email string was the request for an exception to the rule in CCC 11.88.290 (2)(E)(ii)(b), not a denial of a STR application that had not yet been reviewed.
9. On January 12, 2021, the administrative appeal (AA-22-016) was filed with Chelan County Community Development with the associated application fees.
10. Regarding the modified boundary line adjustment, no application had not been received by the Department as of the date of this Decision.
11. Chelan County Code Section 14.12.010: Administrative appeals.
  - 11.1 An administrative appeal to the hearing examiner shall be filed with the department within ten working days of the issuance of the decision appealed, together with the applicable appeal fee.
  - 11.2 The notice of appeal shall contain a concise statement identifying:
    - 11.2.1 The decision being appealed; (B) The name and address of the appellant and his/her interest(s) in the application or proposed development; (C) The specific reasons why the appellant believes the decision to be erroneous, including identification of each finding of fact, each conclusion, and each condition or action ordered which the appellant alleges is erroneous. The appellant shall have the burden of proving the decision is erroneous; (D) The specific relief sought by the appellant; (E) The appeal fee.
12. After due legal notice, an open record public hearing was held via Zoom video conference on March 2, 2022.
13. Admitted into the record were the following:
  - 13.1 AA 22-016 Application Materials;
  - 13.2 Appeal Materials;
  - 13.3 Staff Report;
  - 13.4 Materials Relied Upon by the County in Denying the Exemption;
  - 13.5 Appellant's Response to Staff Report dated February 24, 2022;
  - 13.6 Three photographs submitted by Appellant at the Open Record Public Hearing.
14. Appearing at the hearing was Patrick J Schneider and Andrew DeLorenzo. Mr. Schneider provided legal argument. Mr. DeLorenzo provided sworn testimony regarding the specifics of this property. The boundary line adjustment, that apparently has not yet been submitted,

not change the sizes of the lot, but instead will change just the property lines so that the property line runs along a retaining wall that separates two parcels.

15. Accordingly, at this time, the Appellant is not seeking to change lot sizes which would bring the property into greater non-conformance.
16. The Hearing Examiner finds that the issue of this appeal is now moot, given the Applicant/Appellant's testimony at the hearing that the current requested boundary line adjustment will not make the property upon which the short-term rental is located, more non-conforming.
17. The Hearing Examiner further finds that the interpretation of the Code and denial of the exemption by Chelan County is legally and factually correct.
18. The Applicant/Appellant requested that the Hearing Examiner provide guidance as to the impact of the new boundary line adjustment application the Appellant/Applicant has filed, but not yet paid the fee. The Hearing Examiner respectfully declines this request to provide an interpretation/decision on a matter that is not properly before the Hearing Examiner.
19. 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 been granted authority to render this Decision.
2. Chelan County Code 11.88.290 Subsection (2)(E)(ii)(b) states: Nonconforming short-term rental properties may only be changed, altered, extended, or enlarged in a manner requiring a permit issued under Chelan County codes if the activity does not increase nonconformance with this or any other chapters of applicable county codes, or to repair unexpected damage from a natural or human caused event provided the repair is that which is minimally required to maintain the former conditions of the rental as it existed prior to the damage.
3. Chelan County correctly interpreted this provision of the Code because making a property, upon which a short-term vacation rental is to be located, more non-conforming, renders that property ineligible for a short-term rental permit.
4. Any Finding of Fact that is more correctly a Conclusion of Law is incorporated herein as such by this reference.

## III. DECISION

WHEREFORE, based upon the above Findings of Fact and Conclusions of Law, the Hearing Examiner finds that the appeal of the denied exemption is now moot and therefore, this appeal is hereby **DISMISSED**.

Dated this 8th day of March, 2022.

CHELAN COUNTY HEARING EXAMINER

  
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Andrew L. Kottkamp

**This decision is subject to appeal pursuant to the Chelan County Code. Appeals must be timely filed. Anyone considering an appeal of this decision should seek immediate legal advice.**