

CHELAN COUNTY

DEPARTMENT OF HEARING EXAMINER

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

BEFORE THE CHELAN COUNTY HEARING EXAMINER

IN THE MATTER OF:

AA 2022-323

Cannata

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**FINDINGS OF FACT,
CONCLUSIONS OF LAW AND
DECISION ON
ADMINISTRATIVE APPEAL**

I. FINDINGS OF FACT

1. The Applicant submitted an Administrative Appeal to appeal the denial of a short-term rental permit as an existing non-conforming short-term rental.
2. The Appellant/owner is Joseph A. Cannata.
3. The subject property is currently used as a provisionally permitted short-term rental pending full review. The site address is 10560 FOX RD, LEAVENWORTH, WA 98826. The Legal Description is T 24N R 18EWM S 06 L B BLA09-055 LB BLA07-0935A L3 SP 2335A 1.0700 ACRES. The Parcel No. is 24-18-06-210-115. The zoning district is RR 2.5.
4. The applicant submitted an Existing Non-Conforming Short-Term Rental Application on December 13, 2021 via email to continue use as a Tier 2 short-term rental (STR). The final STR permit was denied based on the parcel having a main dwelling with two interior ADUs and the owners not living onsite per Chelan County Code (CCC) 11.88.200, and only being able to operate one short-term rental per parcel per CCC 11.88.290.
5. On December 13, 2021, application materials were received for an Existing Non-Conforming Short-term Rental permit. Fees were collected June 24, 2022 when formal file review began.
6. On July 26, 2022 a letter denying final permit for Existing Non-Conforming status was sent to Applicant.
7. On August 4, 2022, the administrative appeal (AA-22-323) was filed with Chelan County Community Development with the associated application fees.
8. The notice of public hearing was provided on August 26, 2022.
9. CCC 11.88.290 (4)(D)(ii) states: Application for or issuance of any provisional short-term rental permit does not guarantee future issuance of a short-term rental administrative land use permit under subsection (4) of this section. The provisional permit is intended to be temporary and is only in effect while the department reviews all permits applications for

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compliance with all Chelan County regulations, including this chapter, for the 2021 and 2022 permit years before issuance or denial of issuance of a short-term rental administrative land use permit. This single (4)(D)(ii) provision ceases to exist on December 31, 2022.

10. This parcel holds three dwellings, a larger main dwelling with two ADUs within it.
11. CCC 11.88.200(5) in reference to ADUs states: The property owner (which shall include title holders and contract purchasers) shall occupy either the primary unit or the accessory unit as their permanent residence. The owner may not reside on this property. His address, per the assessor's page, is 15361 US Hwy 2, Leavenworth, WA 98826. However, at the hearing Mr. Cannata stated he resides at 10560 Fox Road, Leavenworth. Mr. Cannata testified that the US Hwy 2 address is his business, the 59'er Diner. According to the Assessor's records, of which the Hearing Examiner takes judicial notice, he also owns residential property at 1303 Front Street in Leavenworth. It is unknown if this is used as a short or long term rental or some other use.
12. CCC 11.88.290 (3)(A)(ii) states: A short-term rental owner may operate only one short-term rental per parcel as designated on their permit application form, which may be in either the primary dwelling or the accessory dwelling unit but not both. The owner has been renting both guest suites as noted in included advertisement.
13. Chelan County Code Section 14.12.010: Administrative appeals:
 - (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.
 - (2) The notice of appeal shall contain a concise statement identifying:
 - (A) 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.
14. After due legal notice, an open record public hearing was held via Zoom video conference on September 7, 2022.
15. Admitted into the record were the following:
 - 15.1 AA 22-323 Application Materials;
 - 15.2 Denial letter of permit application for Existing Non-Conforming Short-Term Rental dated July 26, 2022.
 - 15.3 Staff Report.
 - 15.4 Appeal materials from Applicant.
16. Appearing and testifying at the hearing on behalf of the Appellant was Joe Cannata. Mr. Cannata testified that he is the property owner and the Appellant. Mr. Cannata testified, according to the Hearing Examiner's perception, that he wanted to amend his application to request a Bed and Breakfast because he resides at the property. He indicated that the two accessory dwelling units onsite would only be used as one rental.

17. Mr. Cannata did not address the issue that a residence cannot have more than one accessory dwelling unit onsite.
18. 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. CCC 11.88.290 (4)(D)(ii) states: Application for or issuance of any provisional short-term rental permit does not guarantee future issuance of a short-term rental administrative land use permit under subsection (4) of this section. The provisional permit is intended to be temporary and is only in effect while the department reviews all permits applications for compliance with all Chelan County regulations, including this chapter, for the 2021 and 2022 permit years before issuance or denial of issuance of a short-term rental administrative land use permit. This single (4)(D)(ii) provision ceases to exist on December 31, 2022.
3. CCC 11.88.200(5) in reference to ADUs states: The property owner (which shall include title holders and contract purchasers) shall occupy either the primary unit or the accessory unit as their permanent residence.
4. CCC 11.88.290 (3)(A)(ii) states: A short-term rental owner may operate only one short-term rental per parcel as designated on their permit application form, which may be in either the primary dwelling or the accessory dwelling unit but not both.
5. 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 denial be **AFFIRMED** based on the Applicant not living onsite and renting more than one STR per parcel.

Dated this 13 day of September, 2022.

CHELAN COUNTY HEARING EXAMINER



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.