

**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 2022-389

Pedro & Alinne Freitas

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

**I. FINDINGS OF FACT**

1. The applicant submitted an Existing Non-Conforming Short-Term Rental Application on December 23, 2021 to continue use as a short-term rental (STR). The applicant re-submitted on January 2, 2022. Applicant was issued a provisional permit pending full review.
2. The Appellant/owners are Pedro and Alinne Freitas.
3. The subject property is currently used as a short-term rental and was granted a provisional permit pending full review. The project location is 11968 Lakeshore Rd, Chelan, WA 98816. The legal description is Shrine Beach Lot 31 0.1800 Acres, and the parcel number is 28-21-21-841-135.
4. On December 23, 2021, materials were received for an Existing Non-Conforming Short-term Rental Permit and Provisional Permit issued. The application was incomplete. The application was resubmitted January 2, 2022.
5. On September 14, 2022 letter denying final permit for Existing Non-Conforming status was sent to applicant.
6. On September 28, 2022, the administrative appeal (AA-22-389) was filed with Chelan County Community Development with the associated application fees.
7. 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.

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8. On March 2, 2022 Planning Department staff began processing the applicant's application and emailed the applicants regarding missing elements. The applicants did not respond. Planning Department staff again reached out on April 16, 2022, and received no response.
9. On June 15, 2022, another Planning Department staff member took over the file and emailed for missing elements and acknowledged the fact that there could only be one ADU per parcel. There was other staff from the Building Permit Department working with the applicant addressing that issue as there were no permits for the two accessory structures.
10. On June 30, 2022, applicant was given list of missing elements again. Applicant stated in a July 1, 2022 email that she was moving to Florida and couldn't send anything until the week of July 11th.
11. On July 5, 2022 an email was sent to applicant clarifying where the County was in the process with the application, what information she was to send in to Planning Department staff, answers to questions applicant asked, and clarification on occupancy. Also she was advised that with the outbuilding being the ADU, she would have to live in it as her primary residence.
12. When asked for proof of residency, applicant sent copy of her driver's license which shows her address as Kirkland, WA.
13. There has been no forward progress with the building permits for the accessory structures.
14. On July 20, 2022, applicant was sent an email again explaining to her that occupancy could be no more than eight persons in the main house, listed missing elements, asking which dwelling she planned on occupying as owner, and identifying an addressing issue. The owner initially applied using a Kirkland, Washington address, then changed it to a Parkland, Florida address, but continues to tell Planning Department staff she lives at the rental address as her permanent residence.
15. On August 10, 2022, a parking deficiency was addressed. The owner identifies they have 12 parking spaces on their parcel that are not in their setback area or in a recorded easement area. Planning Department staff could not identify on GIS mapping for even the five required parking spaces.
16. At time of the September 14, 2022 denial letter, the applicant was still renting the property above the allowable occupancy. This was addressed in the denial letter, with a copy of their advertisement included with the letter. The owner had also continued to rent the accessory structures which she had been told were not legal to be rented.
17. The provisional permit expired September 26, 2022.
18. The applicant has continued to rent without permit as shown by the current ad which is a violation of CCC 11.88.290
19. 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.
20. After due legal notice, an open record public hearing was held via Zoom video conference on November 16, 2022.
21. Admitted into the record were the following:
- 21.1 AA 22-389 Application;
- 21.2 Denial letter of permit application for Existing Non-Conforming Short-Term Rental dated September 14, 2022.
- 21.3 September 28, 2022 Appeal Materials.
- 21.4 All materials relied upon by staff in making the decision to deny the Short-Term Rental application.
22. Appearing at the hearing on behalf of the Appellant was Alinne Freitas. Ms. Freitas testified that she lives alternately in Florida and at Lake Chelan. She did not provide any other direct evidence as to her permanent residence being located on the Lake Chelan property. She stated that her husband works for Amazon and that they live in Florida sometimes and sometimes in the Lake Chelan property. She stated that they own two parcels in Lake Chelan, one by the water and one off the water. She testified, without providing any other proof, that they have 12 parking spaces.
23. The Hearing Examiner finds that the Applicant has failed to present any direct evidence of compliance with the Chelan County Code. The Applicant simply provides conclusory statements, such as that they have enough parking, they live alternatively between Florida and Lake Chelan, etc.
24. The Hearing Examiner finds that there is no evidence that the claimed "accessory dwelling units" have ever been properly permitted.
25. The Hearing Examiner finds that there is no evidence that the Applicant can comply with the parking requirements.
26. The Hearing Examiner finds that the Applicant has been renting the property in excess of the allowable occupancy limits.
27. The Hearing Examiner finds that the Applicant has been renting the accessory dwelling units without required permits.
28. 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. An unidentified use is not, automatically, an allowed or legal use.
3. 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

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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.

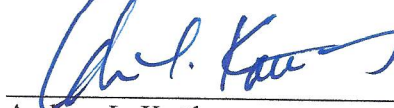
4. Per CCC 11.88.290 (4)(A)(ii)- All uses on the property must fully comply with this title and the property may not have existing unresolved Chelan County code permitting, land use, or other violations under Title 3, 11, 15, or 16 in order to be eligible to apply for an administrative short-term rental land use permit or conditional use permit under this chapter. Existing properties claiming nonconforming short-term rentals may be issued a provisional short-term rental permit and may be provided the time of their respective grace period pursuant to subsection (2)(E)(i)(c) of this section, but no later than December 31, 2022, to address all violations. No provisional or other short-term rental land use permits shall be issued after that date until any violations are resolved. The director may extend the timeframe for up to six additional months to obtain compliance upon a showing of a good faith effort.
5. The Applicant has failed to demonstrate that the denial of their Short-Term Rental permit application was issued incorrectly, or not based upon fact.
6. The Applicant's use of their property is in violation of CCC 11.88.290.
7. 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 meeting criteria to continue operating as the property owner/applicants do not live onsite and have not met criteria to get a final short term rental permit according to CCC 11.88.290.

Dated this 17 day of November, 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.**