

BEFORE THE CHELAN COUNTY HEARINGS EXAMINER

IN THE MATTER OF

CUP 22-086

Lawler

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FINDINGS OF FACT,
CONCLUSIONS OF LAW,
DECISION AND CONDITIONS
OF APPROVAL

THIS MATTER, having come on for hearing in front of the Chelan County Hearing Examiner on March 1, 2023, 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. An application for a Conditional Use Permit was requested for a Bed and Breakfast by James Lawler (property owner). The applicant is not proposing any new structures associated with this development. The applicant would reside on the first floor and (2) rooms would be rented in the basement. The subject property is located in the Single-Family Residential District (R-L), within the Urban Growth Area of the City of Chelan. Access is off Chelan Butte Road, domestic water is provided by a private well, sanitation is provided by septic system.
2. The applicant/owner is James Lawler, 88 Chelan Butte Road, Chelan, WA.
3. The subject property is located at 88 Chelan Butte Road, Chelan, WA.
4. The parcel number for the subject property is 27-22-15-430-162.
5. The subject property is located within the Chelan Urban Growth Area (UGA).
6. The abbreviated legal description of the subject property is Parcel 2 of SS #3045 and the lot size is 1.05 acres (45,738 sq ft).
7. The Comprehensive Plan designation and zoning designation for the subject site is Single Family Residential District (R-L) within the Chelan UGA.
8. The subject property is currently being used as a primary residence with a one single-story home with a finished basement (BP 190219).
9. The subject property is relatively flat, with some lawn grass around the structure.
10. Property to the north and east is the City of Chelan. Property to the south is an existing residence zoned Rural Residential/Resource (RR20) and the property to the west is zoned RL within the Chelan UGA.
11. The applicant submitted an Aquifer Recharge Disclosure Form with application, dated February 23, 2022. The proposed development does not meet any evaluation criteria, exempting requirement of a vulnerability report.
12. Pursuant to the Washington State Department of Fish and Wildlife Priority Habitat Species Maps, the subject property does not contain identified habitat. Therefore, the provisions of CCC Chapter 11.78, would not apply.
13. According to the Natural Resources Stream Typing Maps, no streams are indicated on or adjacent to the subject property. Therefore, the provisions of CCC Chapter 11.78, would not apply.

14. According to the Chelan County GIS mapping, the property does not contain geological hazards. Therefore, the provisions of Chelan County Code Chapter 11.86 Geologically Hazardous Areas Overlay District, do not apply to the development.
15. According to the National Wetlands Inventory Maps prepared by the US Department of Fish and Wildlife Services, the subject property does not contain any wetlands. Therefore, the provisions of CCC Chapter 11.80 do not apply.
16. No ground-breaking activities are expected to occur as a result of the future operation of the Bed and Breakfast. Pursuant to RCW 27.53.020, if cultural resources are found, the applicant would be required to stop work and contact the Department of Archaeology and Historic Preservation, the Confederated Tribes, and Chelan County Community Development.
17. The applicant is not proposing any new structures associated with this development.
18. Traffic Circulation: Access is off of Chelan Butte Road, is a public city road.
19. Power is supplied by Chelan County PUD.
22. Sanitation is provided by an existing septic system.
23. The applicant must comply with CCC Chapter 7.35 Noise.
24. No new structures are proposed that could affect viewsheds of surrounding properties.
25. The proposed Bed and Breakfast within an existing residential structure is SEPA exempt pursuant to WAC 197-11- 800(6) and Chelan County Code Section 13.04.080.
26. The Notice of Application was referred to surrounding property owners within 300 ft. (excluding 60' of right-of-way), jurisdictional agencies and departments of the County. These agencies and surrounding property owners were notified on August 16, 2022, with comments due August 30, 2022. Agency comments are considered 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	December 29, 2022	
Chelan County Building Official	No comment	
Chelan-Douglas Health District (CDHD)	September 9, 2022	Would require a Food Established Operating Permit, must be serviced by public water system and a permitted septic system must serve the Bed and Breakfast.
Chelan County Public Works	No Comment	
Chelan County PUD	No Comment	
Chelan County Fire District No.7	No Comment	
Cascade School District	No Comment	
WA Dept. of Archaeology and Historic Preservation	No Comment	

Agencies Notified	Response Date	Nature of Comment
Yakama Nation	No Comment	
Confederated Tribes of Colville	No Comment	
City of Chelan	No Comment	

27. No public comments were received.
28. The application materials were submitted on February 23, 2022.
29. A Determination of Completeness was issued on August 11, 2022.
30. The Notice of Application was provided on August 16, 2022.
31. The Notice of Public Hearing was provided on February 16, 2023.
32. Chelan Comprehensive Plan. The Comprehensive Plan outlines the purpose and intended uses for Residential Low 10 land use designation. The proposed Bed and Breakfast use within an existing residence is consistent with the RL 10 designation
33. Adopted Chelan City Code, Chapter 17.20: Single-Family Residential District (R-L). The proposed development is located in the R-L zoning district of the Chelan UGA. According to CCC Section 17.20.030 Bed and breakfast facilities are permitted as a Conditional Use.
- 33.1 *'Bed and breakfast, means a single-family residential unit which provides transient lodging, for compensation, by the renting of up to three rooms within the primary residence.'*
34. Adopted Chelan City Code (CCC), Chapter 17.56.230(B): Conditional Use Permit – Bed and breakfast – Minimum Conditions. In granting a conditional use permit for a bed and breakfast, the hearing examiner shall impose the following minimum conditions:
- 34.1 The owner of the premises shall be the applicant for the conditional use permit.
- 34.1.1 Finding of Fact: According to the warranty deed, recorded on March 27, 2018 under #2475042, James Lawler is the owner of the subject property and is the applicant for the conditional use permit.
- 34.1.2 James Lawler is the property owner and the applicant for the conditional use permit.
- 34.2 Bed and breakfast facilities shall be the principal residence of the owner. The owner must full time occupy the residence while the bed and breakfast is in operation. Owner occupancy is defined in CCC Section 19.10.040.
- 34.2.1 Finding of Fact: According to the Assessor's database, property taxes are sent to the address of the subject property, so this is considered the principle residence of the owner. The two bedrooms being rented out are in the existing single-family residence's basement, as allowed in this section of the Chelan City Code.
- 34.2.2 This is the principal residence of the property owner, James Lawler meeting this provision.
- 34.3 Bed and breakfast facilities shall meet all applicable health, fire safety, and building codes and shall be operated so as to not give the appearance of being a business, and

those facilities in or adjacent to residential districts shall not infringe upon the right of neighboring residents to peaceful occupancy of their homes.

34.3.1 Finding of Fact: The Chelan/Douglas Health District is requiring the development be served by a public water system.

34.3.2 As conditioned, the proposal meets all applicable health, fire safety, and building codes through a fire inspection and applicable health permits. A Group B water system is required to operate a Bed and Breakfast.

34.4 Repealed by Ord. 1022.

34.5 Driveways accessing a bed and breakfast which are more than one hundred feet in length shall have an improved width of at least twelve feet with appropriately spaced cutouts to facilitate the passage of two vehicles traveling in opposite directions.

34.5.1 Finding of Fact: The existing driveway is grave and is approximately 190' long by 20' wide at the smallest point with a parking area large enough for three vehicles. Chelan County Public Works did not comment on this development.

34.5.2 Pursuant to Chelan Code Section 17.56.230(B)(6), the applicant shall maintain three parking spaces consistent with code throughout the life of the development.

34.6 A minimum of three parking stalls shall be provided.

34.6.1 The applicant has identified on the site plan of record dated stamped February 23, 2022, three parking spaces.

34.6.2 This provision has been met.

34.7 The hearing examiner may impose other conditions, such as additional parking, improved access, landscaping or screening, if found necessary to protect the best interest of the surrounding properties of the neighborhood due to the nature of the site or the facility.

34.7.1 No additional conditions are imposed by the Hearing Examiner.

34.8 Conditional use permits granted shall specify the number of rooms available for rental by the owner.

34.8.1 Finding of Fact: The applicant has indicated that 2 rooms would be rented out.

34.8.2 This provision has been met.

35. The Hearing Examiner has reviewed the applications and submitted materials. The information in the application, as proposed complies with the Revised Code of Washington, the Washington Administrative Code, Chelan County Comprehensive Plan, and the Chelan County Code.

36. An open record public hearing after due legal notice was held using Zoom video conferencing on March 1, 2023.

37. Appearing and testifying was James Lawler. Mr. Lawler is the owner of the property and the Applicant. Mr. Lawler indicated that he agreed with all representations in the staff report and that all of the proposed Conditions of Approval were acceptable.

38. No member of the public testified at the hearing.

39. The Hearing Examiner has reviewed the applications and submitted materials. Based on the information contained in the applications and compliance with the Revised Code of Washington, the Washington Administrative Code, Chelan County Comprehensive Plan, and the Chelan County Code, the Hearing Examiner provides the attached conditions of approval.

40. 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. Based on review of the application materials submitted, the proposed uses are consistent with the goals and policies of the Chelan Comprehensive Plan.
3. As conditioned the project is consistent with the Adopted Chelan City Code, Chapter 17.20: Single-Family Residential District (R-L)
4. A Bed and Breakfast may be permitted as a conditional use permit, as Adopted by Chelan City Code (CCC), Chapter 17.56.230(B): Conditional Use Permit – Bed and breakfast – Minimum Conditions.
5. Any Finding of Fact that is more correctly a Conclusion of Law is incorporated herein as such by this reference.

III. DECISION

Based upon the above noted Findings and Fact and Conclusions, CUP 22-086 is hereby **APPROVED**, subject to the following 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 RCW 27.53.020, if any Native American grave sites or archaeological resources are discovered or excavated, the owner/develop/contractor shall stop work immediately and notify Chelan County Department of Community Development and the Washington State Department of Archaeology and Historic Preservation in conformance with RCW 27.53.020.
2. Pursuant to adopted Chelan City Code Section 17.56.230(B), the hearing examiner shall impose the minimum conditions:
 - 2.1. The bed and breakfast facility shall be the principal residence of the owner.
 - 2.2. The bed and breakfast facility shall meet all applicable health, fire safety, and building codes and shall be operated so as to not give the appearance of being a business, and those facilities in or adjacent to residential districts shall not infringe upon the right of neighboring residents to peaceful occupancy of their homes.
 - 2.3. The bed and breakfast shall have a minimum of three parking spaces.
 - 2.4. The bed and breakfast would be located in the basement of the existing of the single-family residence, renting out two rooms.
3. Pursuant to the requirements of the Chelan County Fire Marshal:
 - 3.1. The proposal/development shall conform to all applicable requirements of the International Fire Code and Chelan County Code administered by the Chelan County Fire Marshal.
 - 3.2. The proposed development indicates the change of use of an approximately 5,595 sq ft single family residence to a bed and breakfast. This use is allowed in a structure built under the requirements of the IRC as the existing structure was permitted in 2019. The

use would require smoke alarms and 2A10BC fire extinguisher in the area of the rooms used as a bed and breakfast, and all sleeping rooms must have appropriate egress directly to the exterior.

4. Pursuant to the requirements of the Chelan/Douglas Health District:
 - 4.1. The applicant shall provide an approved Class B Water System Permit.
 - 4.2. The applicant shall obtain a food permit from the Chelan/Douglas Health District prior to finalization of a building conversion permit.

Dated this 7th day of March, 2023.

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.