

BEFORE THE CHELAN COUNTY HEARINGS EXAMINER

IN THE MATTER OF

ZC 23-069
Kinzer

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**FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND DECISION**

THIS MATTER came before the Chelan County Hearing Examiner in the matter on April 19, 2023, regarding a Zoning Map Amendment.

I. FINDINGS OF FACT

1. On February 28, 2023, the Board of Chelan County Commissioners approved, by Resolution 2023-28, the Comprehensive Plan Map amendment, changing approximately 8.19 acres from Rural Residential/Resource 2.5 (RR2.5) and Rural Residential/Resource 10 (RR10) to Rural Residential/Resource 2.5 (RR2.5). The proposed zoning map amendment will establish the corresponding zoning districts on the subject properties, consistent with the Comprehensive Plan Map.
2. The properties are located at Unassigned, Leavenworth, WA 98826. Assessor's Parcel Number: 24-18-06-210-050; 6.97 acres and legal description: Lot A of BLA 2019-081 and 10690 Fox Rd., Leavenworth, WA 98826, Assessor's Parcel Number: 24-18-06-547-050; 1.19 acres, legal description: Lot C of BLA 2019-081.
3. The owners are Craig and Danna Kinzer.
4. The agent is Ryan Walker of Grette Associates, LLC.
5. The subject property is not located within an Urban Growth Area (UGA)
6. The current zoning is Rural Residential/Resource 2.5 (RR2.5) and Rural Residential/Resource 10 (RR10). The portion of the properties zoned RR10 is approximately 7.76 acres in size.
7. The proposed zoning designation is Rural Residential/Resource 2.5 (RR2.5).
8. The subject properties are a combined 8.19 acres in size.
9. The subject properties contain erosive soils (geohazard area) and could potentially have shrubsteppe habitat per WDFW PHS mapping.
10. A SEPA Checklist was received and reviewed with related file, CPA 2022-107. A determination of non-significance (DNS) for CPA 2022-107 was issued on October 12, 2022 pursuant to WAC 197-800-11 and was adopted for this proposed Zone Change application.

11. The application was submitted on February 8, 2023 and the Determination of Completion was issued on March 7, 2023.
12. The Notice of Application and Public Hearing was provided on April 4, 2023.
13. Chelan County Code, Section 14.13.040 addresses the evaluation criteria and provides that the approval, modification or denial of a development regulation amendment application shall be evaluated on, but not limited to, the following criteria:
 - 13.1 The amendment is necessary to resolve a public land use issue or problem.
 - 13.1.1 The proposed amendment would provide consistency between the zoning and Comprehensive Plan maps.
 - 13.1.2 The Hearing Examiner finds that the proposed zoning map amendment will provide consistency between the Comprehensive Plan and zoning maps.
 - 13.2 The amendment is consistent with goals of the Growth Management Act, Chapter 36.70A RCW.
 - 13.2.1 The Growth Management Act under RCW 36.70A.020 contains planning goals that include, but are not limited to, 1) Urban Growth, 2) Reduce Sprawl, 3) Transportation, 4) Housing, and 5) Economic Development. The proposed amendment promotes a variety of residential densities and housing types. The requested map amendment is consistent with Comprehensive Plan Map Amendment (CPA 22-107) approved through Resolution 2023-28.
 - 13.2.2 The proposed zoning map amendment serves to encourage economic development by supporting growth in the Leavenworth area and by providing more housing and recreation options. The Hearing Examiner finds that the proposal is consistent with the goals of the Growth Management Act.
 - 13.3 The amendment complies with or supports Comprehensive Plan goals and policies and/or county-wide planning policies.
 - 13.3.1 County-wide Planning Policies provide guidance to coordinated planning with the public and other affected jurisdictions. The proposed zone change would support the following Comprehensive Plan Policies.
 - 13.3.2 Policy RE 2.6 – To achieve a variety of rural densities and uses, allow for development clustering, density transfer, design guidelines, conservation easements, and other innovative techniques to accommodate growth consistent with rural character.
 - 13.3.3 Policy RE 2.7 – Protect local environmental and visual resources in hillside areas by encouraging development to locate on existing benches and terraces and by applying appropriate development standards and performance criteria.
 - 13.3.4 Policy RE 3.9 – Allow the infill, development, and redevelopment of existing intensely developed rural areas where consistent with the goals and policies of the comprehensive plan, including recreational, residential, mixed-use, and shoreline developments.
 - 13.3.5 The Hearing Examiner finds that the proposal is consistent with the County Comprehensive Plan goals and policies and the County-Wide Planning Policies.
 - 13.4 The proposed amendment does not adversely affect lands designated as resource lands of long-term commercial significance or critical areas in ways that cannot be mitigated.

- 13.4.1 The subject properties are not designated as a resource land of long-term commercial significance. Physical characteristics of the subject properties include a gentle slope upward to the north and both properties are mostly vegetated with trees. Critical area review will be conducted at the time of site-specific land use applications.
 - 13.4.2 The Hearing Examiner finds that the proposal does not adversely affect lands designated as resource lands of long-term commercial significance or critical areas in ways that cannot be mitigated.
- 13.5 The amendment is based on sound land use planning practices and would further the general public health, safety and welfare.
 - 13.5.1 The State Growth Management Act finds that sound land use planning includes consistency between the zoning code and the Comprehensive Plan. The proposed zone map amendment is not anticipated to impact the general public negatively in regards to public health, safety, or welfare.
 - 13.5.2 The Hearing Examiner finds that the proposal will provide consistency between the adopted Chelan County Comprehensive Plan (see Resolution 2023-28) and the zoning code. The proposed zoning map amendment meets the evaluation criteria listed under Chelan County Code Title 14, Section 14.13.040.
- 14. The Confederated Tribes of the Colville Reservation submitted comments on April 4, 2023 stating no comment.
- 15. Public comments were received from the following individuals:
 - 15.1 Hanne Beener and Spencer Bosket;
 - 15.2 Nancy Bywater and Brett Johnson;
 - 15.3 Brett B. Johnson;
 - 15.4 Lisa and Brian Koblenz;
 - 15.5 Sheila Harris and Alan Chilcoat;
 - 15.6 Joseph Gibbons.
- 16. An open record public hearing after legal notice was held on April 19, 2023 via Zoom video conference.
- 17. The Hearing Examiner admitted the entire Planning Department's file into the record.
- 18. The Applicant's agent, Ryan Walker, appeared and testified that the Applicant agreed with all the representations set forth within the staff report. Additionally, he confirmed that this application was simply for a zone change so that the zoning map would be consistent with the Comprehensive Plan. He testified that there are no current or future development plans that are a part of this application.
- 19. Testifying from the public were the following individuals:
 - 19.1 Brett Johnson. Mr. Johnson simply had a question about whether or not a smaller lot (approximately 1.19 acres) is part of this zone change.
 - 19.2 Nancy Bywater. Ms. Bywater had a question about whether this 1.19 acre lot was part of the zone change because it is already zoned RR2.5. She also testified that there are water issues in this area.

- 19.3 In response Mr. Walker testified that the smaller lot is a part of this zone change because it is split zoned as RR10 and RR2.5. The zone change will make the entire parcel RR2.5.
20. 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 zoning map amendment would provide consistency between the Chelan County Comprehensive Plan and zoning maps.
3. The proposed amendment would be consistent with goals of the Growth Management Act by providing cohesiveness with the Chelan County Comprehensive Plan.
4. The proposal appears to be consistent with the goals and policies of the County Comprehensive Plan and the County-wide Planning Policies.
5. The proposed amendment does not adversely affect lands designated as resource lands of long-term commercial significance or critical areas in ways that cannot be mitigated.
6. The zoning code and official map guide and regulate the physical development of unincorporated Chelan County, and implement the goals, policies and land use designations of the Chelan County Comprehensive Plan (CCC Sections 11.02.020 and 11.06.010). The proposed zoning map amendment implements the changes adopted by Resolution 2023-28 to the Chelan County Comprehensive Plan. The proposed zoning map amendment meets the evaluation criteria listed under CCC Section 14.13.
7. 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 Findings of Fact and Conclusions of Law, ZC 23-069 is hereby **APPROVED**.

Dated this 21 day of April, 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 three "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.

Requests for Reconsideration and to re-open the hearing must be timely filed and are governed by Chelan County Code 1.61.130 and 1.61.070 and Chelan County Hearing Examiner Rules of Procedure 1.24.

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.