

BEFORE THE CHELAN COUNTY HEARINGS EXAMINER

IN THE MATTER OF)
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PA 2023-263)
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THIS MATTER, having come on for hearing in front of the Chelan County Hearing Examiner on July 19, 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. This is an application for a Plat Amendment submitted to extinguish an existing 10-foot utility easement that burdens Lots 2, 3, and 4 of the Lake Vista Addition Plat.
2. The subject subdivision is located in Manson, WA off of Coral Street.
3. The applicants are Kevin and Rhonda Dietsch, 100 Coral Street, Manson, WA 98831. Their agent is Erik Gahringer, 48° North, P.O. Box 4266, Wenatchee, WA 98801.
4. The subject properties are located within the Manson Urban Growth Area (UGA).
5. The Comprehensive Plan designation and zoning district is Urban Residential 3 (UR3).
7. The existing land use is residential subdivision.
8. The application was submitted on June 12, 2023.
9. The Determination of Completeness was issued on June 16, 2023.
10. The Notice of Hearing was issued on July 8, 2023.
11. The Notice of Application was referred to surrounding property owners within 300 ft. (excluding 60 ft. of right of way) of the project boundary, jurisdictional agencies and departments of the County. These agencies and surrounding property owners were notified on June 22, 2023 with comments due July 6, 2023. Agency comments are considered in the staff report and, when appropriate, associated recommended Conditions of Approval. No public comments were received. 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	July 6, 2023	No concerns as long as it meets the approval of the Lake Chelan Reclamation District so that no fire flow water lines are affected.

Agencies Notified	Response Date	Nature of Comment
Chelan County Building Official	No comments received	
Chelan Douglas Health District	No comments received	
Chelan County Public Works	June 22, 2023	Need to pay a PW fee of \$125.00 for the Blue Line Review.
Chelan County PUD	No comments received	
Department of Ecology	June 3, 2023	High likelihood that soil at this property has elevated concentrations of lead and arsenic but cleanup of existing single-family residential properties is not required.
Chelan County Fire District No. 5	No comments received	
Chelan County Assessor	No comments received	
Lake Chelan Reclamation District	June 26, 2023	No opposition to the proposed easement relinquishment.

12. Pursuant to WAC 197-11-800(6), the proposed application is exempt from SEPA review.
13. Chelan County Code Section 12.22.020: Plat Alteration provides:
 - 13.1 Except as provided herein for boundary line adjustments, the alteration of any subdivision, or portion thereof, shall proceed according to the provisions of this title for plat alterations.
 - 13.1.1 The submitted application was reviewed for completeness and was deemed complete on June 16, 2023. A site plan, date stamped June 12, 2023, was submitted along with the application material.
 - 13.1.2 The proposed alteration was submitted in accordance with this title.
 - 13.2 The application shall contain the signatures of the majority of those persons having an ownership interest of lots, tracts, parcels, sites, or divisions in the subject subdivision or portion to be altered.
 - 13.2.1 There are 11 lots in the Lake Vista Addition Plat, but only 4 lots are encumbered by the utility easement. Therefore, two (2) property owners' signatures would be required to achieve a majority. With the submitted application materials, signatures from owners of three (3) lots were provided for the proposed amendment.
 - 13.2.2 A majority of the affected owners have signed the application. Therefore, this provision is satisfied.
 - 13.3 If the subdivision is subject to restrictive covenants, which were filed at the time of the approval of the subdivision, and the application for alteration would result in the violation of a covenant, the application shall contain an agreement signed by all parties subject to

the covenants providing that the parties agree to terminate or alter the relevant covenants to accomplish the purpose of the alteration of the subdivision or portion thereof.

13.3.1 The Lake Vista Addition Plat does not have restrictive covenants.

13.3.2 Since there are no covenants, this provision would not apply.

13.4 The alteration of a subdivision is subject to RCW 64.04.175.

13.4.1 The proposed alteration is to revise an existing utility easement. Three (3) of the four (4) property owners affected by this alteration were provided for the proposed amendment.

13.4.2 The proposed alteration meets the requirements of RCW 64.04.175.

13.5 If any land within the alteration is part of an assessment district, any outstanding assessments shall be equitably divided and levied against the remaining lots, parcels, or tracts, or be levied equitably on the lots resulting from the alteration. If any land within the alteration contains a dedication to the general use of persons residing within the subdivision, such land may be altered and divided equitably between the adjacent properties.

13.5.1 The proposed alteration would not alter any parcels of the short plat.

13.5.2 Being as this alteration would not alter the platted parcels, this provision does not apply.

13.6 After approval of the alteration, the applicant shall submit to the county a revised drawing of the approved alteration of the subdivision, which after signature of the approving authority shall be filed with the county auditor to become a lawful plat of the property.

13.6.1 The applicant would be required to submit blue-line drawings and final plat to the Chelan County Department of Community Development for review and approval prior to being filed with the Chelan County Auditor's Office.

13.6.2 The Hearing Examiner sets as a Condition of Approval that the applicant must meet the final platting standards outlined in Chelan County Code Chapter 12.24.

13.7 The revised plat shall be surveyed and prepared by a Washington State licensed land surveyor.

13.7.1 As submitted with the application materials, the site plan was prepared by a licensed surveyor.

13.7.2 The Hearing Examiner sets as a Condition of Approval that the applicant meet the final platting standards outlined in Chelan County Code Chapter 12.24.

14. The applicant is seeking to revise the Lake Vista Addition Plat in order to extinguish an existing 10-foot utility easement encumbering Lots 2, 3, 4, and 5. Three (3) of the four (4) owners of the plat signed the application. The intent of the proposed alteration is to allow for the future development of the applicant's property, which includes building a swimming pool in their

- backyard. Currently the applicant cannot build across the easement, which limits placement of future accessory structures on the property. Removal of this easement would allow the applicant to enjoy the same rights as other property owners that are part of the Lake Vista Addition Plat.
15. An open record public hearing after legal notice was provided was held on July 19, 2023 via Zoom videoconference.
 16. The following exhibits were entered into the record and considered by the Hearing Examiner in rendering this decision:
 - 16.1 Ex. A Site Plan for the Plat Alteration date stamped June 12, 2023, prepared by a licensed surveyor;
 - 16.2 Ex. B Signatures from the majority of the property owners encumbered by the 10' utility easement on the Lake Vista Addition Plat;
 - 16.3 Ex. C Remainder of staff file of record;
 - 16.4 Ex. D Staff Report.
 17. Appearing and testifying on behalf of the Applicant were the following individuals:
 - 17.1 Kevin Dietsch. Mr. Dietsch testified that he was an agent authorized to appear and speak on behalf of the Applicant and property owners. Mr. Dietsch stated that the easement had already been revoked and recorded.
 - 17.2 Tony Goedde. Mr. Goedde also testified that he was an agent authorized to appear and speak on behalf of the Applicant and property owners. He stated that he had reviewed the proposed Conditions of Approval and had no objection to any of them.
 18. No member of the public testified at the hearing.
 19. The Chelan County Hearing Examiner considered all evidence within the record in rendering this decision.
 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 alteration meets the requirements of RCW 64.04.175.
3. The proposed plat alteration is consistent with the requirements of Chelan County Code.
4. 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 noted Findings and Fact and Conclusions of Law, PA 2023-263 hereby **APPROVED**, subject to the 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 Chelan County Code Chapter 12.24 as amended, the applicant shall complete a final Plat Alteration using the procedures of Chelan County Chapter 12.24: Final Process.
 - 1.1. Pursuant to comment received from Chelan County Public Works on June 22, 2023, there will be a blueline review fee of \$125.00 due at the time of submittal.
2. Pursuant to Chelan County Code Section 12.24.040 as amended, the final Plat Alteration shall be designed in substantial conformance with the Preliminary Plat Alteration of record, date stamped June 12, 2023, on file with the Chelan County Department of Community Development, except as modified herein.
3. Pursuant to Chelan County Decision for the Lake Vista Addition Plat, this Plat Alteration is subject to all Conditions of Approval, except as changed by this decision together with the original plat decision.
4. Pursuant to Chelan County Code Chapter 12.24 and RCW 58.17.215 as amended, the applicant shall provide a signature block for the majority of the affected property owners, referencing their lot number and parcel number, on the final plat alteration and secure all affected property owner's signatures prior to final Plat Alteration approval.
 - 4.1 Pursuant to RCW 84.56.345, all affected property owners must pay their yearly property taxes in full prior to recording of the plat alteration.

Dated this 21 day of July, 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.