

**CHELAN COUNTY
LAND USE HEARING EXAMINER**

IN THE MATTER OF

AA 25-162

Oberfelder Appeal

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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 August 6, 2025, 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. A request for an Administrative Appeal was submitted to appeal Notice and Order to Abate Violations for Code Enforcement case CE 25-0041 for operating an illegal Indoor Cannabis Production/Processing facility without a Conditional Use Permit required pursuant to Chelan County Code Sections, 11.04.020 (District Use Chart), 11.93.135 (Conditional Use Permit for Cannabis Production/Processing) and 11.100 (Cannabis).

2. General Information

Violation Location:	120 Rolling Rock Rd, Chelan, WA 98816
Parcel Number:	28-23-27-741-050
Abbrev. Legal Description:	OBERFELDER EAST LOT TRACT A, 15.7800 ACRES
Owner:	JEFF & SHELLY OBERFELDER
Agent:	SCOTT VOLYN of VOLYN LAW FIRM PLLC
Zoning District:	AC- COMMERCIAL AGRICULTURAL
Existing Land Use & Site History:	RESIDENTIAL, CANNABIS GROWTH AND PRODUCTION

3. APPLICATION & PUBLIC HEARING NOTICE COMPLIANCE

Notice and Order Issued:	06/06/2025
Appeal Submitted:	06/17/2025
Notice of Public Hearing:	07/26/2025
Public Hearing:	08/06/2025

4. SITE HISTORY/OVERVIEW

5. The parcel was short platted and allowed a cluster subdivision with a designated Open Space Tract per P2008-012 (AFN 2321575) with the Open Tract Notice to Title being recorded under AFN 2321576 (Exhibit D).
6. July 20, 2016 Chelan County Code Enforcement opened a file, CE 16-0050, on the property for not having a CUP for a cannabis production/processing facility (Exhibit F).
7. In 2018 the Oberfelders met with Community Development staff for a pre-application meeting for a Conditional Use Permit (CUP) and Variance (VAR) for cannabis production and processing operation (Exhibit E).
8. Neither CUP nor VAR applications were submitted.
9. March 2, 2020 a Notice and Order to Abate Violations was issued to the Oberfelders. An appeal of the Order, AA 2020-003, was made on March 13, 2020 (Exhibit F Pgs. 20-25 and 16-18).
10. The Hearing Examiner's decision AFFIRMED Notice and Order CE 16-0050 in every respect (Exhibit F pgs. 182-189).
11. This decision was affirmed on appeal to Chelan County Superior Court.
12. Further corrective actions from the Appellants were not made.
13. May 29, 2025 new Code Enforcement case, CE 25-0041, was opened for production/processing of cannabis without required CUP (Exhibit B).
14. June 6, 2025 Notice and Order to Abate Violations was issued (Exhibit B, pgs. 5-9).
15. The subject property of this appeal (AA 25-162) and the Notice and Order to Abate Violations (CE 25-0041) is located at 120 Rolling Rock Rd., Chelan, WA 98816. Parcel 28-23-27-741-050.
16. The abbreviated legal description for the subject property is: OBERFELDER EAST LOT TRACT A, 15.7800 ACRES.
17. The subject property is zoned Commercial Agricultural (AC).
18. Chelan County Code (CCC) 11.100 (Cannabis) provides the following definitions:
 - 18.1. "Cannabis" as used in these regulations shall have the same meaning as "marijuana" or "marihuana" as those terms are defined in RCW [69.50.101](#). The term "cannabis" includes the terms "marijuana" or "marihuana." Cannabis means all parts of the plant Cannabis, whether growing or not, with a THC concentration greater than 0.3 percent on a dry weight basis; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. The term does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.
 - 18.2. "Cannabis processor" shall have the same meaning as "marijuana processor" as that term is defined in RCW [69.50.101](#). The term "cannabis processor" includes the term "marijuana processor." "Cannabis processor" means a person licensed by the State Liquor and Cannabis Board to process cannabis into usable cannabis and cannabis-infused products, package and label usable cannabis and cannabis-infused products for sale in retail outlets, and sell usable cannabis and cannabis-infused products at wholesale to cannabis retailers.
 - 18.3. "Cannabis producer" shall have the same meaning as "marijuana producer" as that term is defined in RCW [69.50.101](#). The term "cannabis producer" includes the term "marijuana

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producer.” “Cannabis producer” means a person licensed by the State Liquor and Cannabis Board to produce and sell cannabis at wholesale to cannabis processors and other licensed cannabis producers.

- 18.4. “Outdoors” means any location that is not “indoors.” Outdoor production may utilize a greenhouse, hoop house, or similar nonrigid structure that does not utilize any artificial lighting on mature plants.
- 18.5. “Indoors” means cannabis production and/or processing operations conducted entirely within the interior of a building fully compliant with state and local regulations, including, but not limited to, Title 3 (Building Regulations). A “building” for purposes of this chapter means a permanent structure consisting of rigid walls, a roof, doors, and a foundation.
19. July 11, 2014 the Oberfelders were issued a scale-small endorsement on their Washington State business license (Exhibit C).
20. July 16, 2014 the Oberfelders were issued a Cannabis Producer Tier 2 endorsement on their Washington State business license (Exhibit C).
21. On September 29, 2015, Chelan County Commissioners signed Resolution 2015-94, enacting a moratorium on the siting of licensed recreational marijuana retail sales, production and processing facilities, and on implementation of Senate Bill 5052 and House Bill 2136.
22. On November 16, 2015, Chelan County Commissioners signed Resolution 2015-102, continuing the moratorium on the siting of licensed recreational marijuana retail sales, production and processing facilities and implementation of the 2015 legislation, until March 27, 2016.
23. On November 16, 2014 the Oberfelders were issued a Cannabis Processor endorsement on their Washington State business license. While the Producer endorsement was issued before the moratorium, the Processor endorsement occurred during the moratorium.
24. On February 16, 2016 and March 29, 2016, The Chelan County Commissioners signed Resolutions 2016-14 and 2016-32 (respectively) amending the text of the Chelan County Zoning Code, Title 11, pursuant to RCW 69.50 and RCW 69.51A.
25. Pursuant to Resolutions 2015-94, 2015-102, 2016-14, and 2016-32, marijuana processing and production businesses that were lawfully established and in actual physical operation prior to September 29, 2015, were declared non-conforming and must cease, abate, and terminate no later than March 1, 2018. All other siting of marijuana production and processing facilities was prohibited.
26. A previous Code Enforcement case, CE 16-0050, was opened July 20, 2016 by Chelan County Code Enforcement on the property for not having a CUP for a cannabis production/processing facility (Exhibit F).
27. On May 19, 2017, The Growth Management Hearings Board ruled that Resolution 2016-14, Chelan County’s permanent prohibition of marijuana production and processing was consistent with the provisions of the Growth Management Act and the Chelan County Comprehensive Plan.
28. *Seven Hills, LLC. V. Chelan County*, 198 Wn.2d 371 (2021) determines County’s moratorium on cannabis siting did not amend existing zoning laws, and Resolution 2016-14 was ineffective as to pre-existing cannabis uses.
29. Chelan County Commissioners signed Resolution 2017-75 on August 22, 2017, amending the Chelan County cannabis regulations, adding 11.100 (Cannabis) and amending 11.93 (Conditional Uses), Title 7 and Title 3.24 (Fees) to allow cannabis production and processing on a limited and restricted basis in specific zoning designations. Outdoor grows/production/processing is only allowed as a Conditional

Use Permit (CUP) in the RR20 zone, with development standards. This provision in the Chelan County Code does not eliminate the use of cannabis production and processing facilities but instead requires a Conditional Use Permit as a regulation of the use. In other words, the use is legal, but only with a CUP.

30. March 2, 2020 a Notice and Order to Abate Violations was issued to the Oberfelders. An appeal of the Order, AA 2020-003, was filed timely on March 13, 2020 (Exhibit F).
31. The Hearing Examiner's decision on AA 2020-003 AFFIRMED Notice and Order CE 16-0050 in every respect (Exhibit F pgs. 182-189).
32. This decision was affirmed on appeal to Chelan County Superior Court.
33. Further corrective actions from the Appellants were not made.
34. April 22, 2025 Deputy Anderson submitted a public records request to the Washington State Liquor and Cannabis Board for all records, including reports, photos, and videos, including dashcam and bodycam footage from an Officer visit at 120 Rolling Rock Rd, Chelan, WA, 98816; requesting all evidence of Cannabis production at the address (Exhibit B, pgs. 11-16).
35. May 16, 2025 Deputy Anderson received confirmation of Cannabis production that included information that Mr. Oberfelder was issued a verbal warning for having plants over 8" that were not appropriately tagged. The site visit was performed by Officer Fernando Casas-Blanco of the Liquor and Cannabis Board on April 17, 2025 (Exhibit B, pgs. 11-16).
36. A review of application files conducted on July 22, 2025 shows that no CUP has been applied for or granted on the property for a marijuana operation.
37. June 6, 2025 a Notice and Order to Abate Violations was sent to Jeff & Shelly Oberfelder for operating a Cannabis Production/Processing facility without the required (CUP) pursuant to Chelan County Code (CCC), Title 11, Sections 11.04.040 (District Use Chart), 11.93.135 (Conditional Use Permit for Cannabis Production/Processing) and 11.100 (Cannabis) (Exhibit B, pgs. 5-9).
38. June 12, 2025 certified mailing return receipt was received by the County acknowledging the Notice and Order to Abate Violations had been received (Exhibit B, pg. 17).
39. June 17, 2025 the Oberfelders requested an appeal of the June 6, 2025 Notice and Order to Abate Violations, CE 25-0041, and submitted with the appropriate appeal fee (\$580). File number AA 25-162 was assigned to the appeal (Exhibit A).
40. June 26, 2025 Deputy Anderson received an email from Mr. Oberfelder questioning the code enforcement action and with an attachment of an Affidavit of Service from Tiffany Lacsamana indicating she had served the Oberfelders appeal request to 'Community Development of Chelan County' (Exhibit B, pgs. 22-23).
41. The hearing for AA 25-162 was scheduled for August 6, 2025.
42. June 30, 2025 Deputy Anderson documented his receipt of the Declaration of Anne Hessburg and added it to the Code Enforcement file Exhibit B, pgs. 25-27).
43. An open record public hearing was held, after legal notice, on August 6, 2025.
44. The following exhibits were admitted into the record:
 - 44.1. Ex. A AA 25-162 Appeal Request materials
 - 44.2. Ex. B CE case CE 25-0041 case file
 - 44.3. Ex. C Department of Revenue Screenshot showing endorsement issue dates

- 44.4. Ex. D Oberfelder Subdivision showing plats and open space
 - 44.5. Ex. F Cup Pre-Application Meeting Information
 - 44.6. Ex. G CE case CE 16-0050 and appeal AA 20-003
 - 44.7. Ex. H Staff Report.
 - 44.8. Ex. I Declaration of Devon Elliot
 - 44.9. Ex. J Declaration of Jeff and Shelly Oberfelder
 - 44.10. Ex. K Declaration of Jerri Higgins
 - 44.11. Ex. L Declaration of Maggie Higgins
 - 44.12. Ex. M Declaration of Tyler and Devon Ehlert
 - 44.13. Ex. N Declaration of Scott Volyn with attached memorandum
45. Providing argument for Chelan County was Marcus Foster. Mr. Foster argued that although the nonconforming use may have started in 2014, the Chelan County Code still requires a Conditional Use Permit for cannabis production. He analogized this to being similar to transient rentals where people had operated a transient rental before the adoption of the short term rental code by Chelan County, and that short term rental code requires preexisting operators of short term rentals to still get a Conditional Use Permit. Accordingly, while the appellants use may have been nonconforming, it has not been a legal nonconforming use because they have not obtained a Conditional Use Permit as required by the code. Mr. Foster also emphasized that the conditional use requirement is a regulatory requirement on the use, and not a prohibition of the use.
46. Speaking on behalf of the appellant was Scott Volyn, attorney for the appellant. Mr. Volyn indicated that they were reliant upon the written record and restated their position that they had a legal nonconforming use going back to approximately 2014.
47. Testifying for the applicant was Jeff Oberfelder. Mr. Oberfelder stated that Chelan County gave them approval for their operations on February 3, 2014 and in July 2014 they became licensed by the State of Washington.
48. The Chelan County Hearing Examiner considered all evidence within the record in rendering this decision.
49. 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 been granted the authority to render this decision.
2. The Notice and Order to Abate Violations is consistent with the Chelan county Code and Chelan County Comprehensive Plan.
3. The Notice and Order to Abate Violations, dated June 6, 2025, was properly issued.
4. Any Finding of Fact that is more correctly a Conclusion of Law is hereby incorporated as such by this reference.

III. DECISION

Based on the above Findings of Fact and Conclusions of Law, AA 25-162 is hereby **DENIED** and the Notice and Order regarding CE 25-0041 is hereby affirmed in all respects.

Dated this 11 day of August, 2025

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.