



CHELAN COUNTY HEARING EXAMINER

Chelan County Administration Building, Room 1,
400 Douglas Street, Wenatchee, WA 98801

August 21, 2019, 1:00 pm

Chelan County Hearing Examiner: Andrew Kottkamp

Chelan County Staff: Planning Manager – Kirsten Larsen, Planner – Emily Morgan, Permit Clerk - Wendy Lane, Public Works Development Review Manager - Andrew Brunner

Public/Agencies: Frank McKenney, Vickie McKenney, Raye Evans, Tyler Evans, David Simmer, Becky Scott, Timi Starkweather, Kris Sather, Debbie Neudorfer, Bob Neudorfer, Carl & Kathy Blum, Nate & Sara England, Don Monroe, Kari Sorensen, Norm Nelson, Carl Peterson, Kalie Drago, Ryan Walker, Karen Peele, Thom Vetter, Natalie Kuehler, Robin Werner, Dona Wisdom, Sarah Cushing, Jon & Wendy Anderson

AGENDA:

I. CALL TO ORDER

Hearing Examiner Kottkamp called the Hearing to order. No objections were given to Mr. Kottkamp running today's hearing. Instruction was given to attendees on how the hearing is conducted and how to participate, testify, and appeal a decision.

II. PUBLIC HEARINGS

SP 2018-314: The Development Agreement for a Short Plat for Claude Wetzel and Lorna Marshall to defer frontage improvements on South Harris Avenue in accordance with the approved Conditions of Approval dated November 16, 2018. Project Location: 269 S. Harris Ave, Manson, WA; and identified by Assessor's Parcel No.: 28-21-35-681-240. **Presented by Public Works**

Mr. Kottkamp discussed the application details, and entered the staff-report, attachments to the staff-report, application materials, site plans, and entire planning staff files into the record. Public Works Development Review Manager Andrew Brunner explained the development agreement.

Mr. Kottkamp asked if Public Works had any objections to the agreement and Andrew Brunner answered no.

With no public present, Mr. Kottkamp closed the public portion of the record on the matter.

SDP 2019-004/SCUP 2019-004: Applications for a shoreline substantial development permit and shoreline conditional use permit were submitted by Grette Associates, LLC (agent) on behalf of Scott Waldal (owner) for the installation of a 125 sq. ft. boatlift and two 48 sq. ft. watercraft lifts on Lake Chelan; one double watercraft lift may be substituted entailing 125 sq. ft. The boatlift is to be installed on the down-lake side of the existing 320 sq. ft. 'L' shaped pier. The proposed lifts will be open in nature, consisting of open steel framing. The project will entail approximately 250 sq. ft. in new overwater coverage; 125 sq. ft. of compensatory native planting is proposed in order to

mitigate any potential impacts associated with construction. The subject property is located within the Special Use District (SUD) of the Chelan Urban Growth Area and holds a 'rural' shoreline environment designation for Lake Chelan, a shoreline of statewide significance. The subject property is located at 140 Brimstone Ln, Chelan, WA and identified by Assessor's Parcel No.: 27-22-11-675-129. The application includes a JARPA and SEPA Checklist. **Planner: Emily Morgan**

Mr. Kottkamp explained this was a continued application. Application details, staff-report, attachments to the staff-report, application materials, site plans, and entire planning staff files were already entered into the record. Planner Emily Morgan explained the application. Staff recommends approval with as conditioned.

Ryan Walker was sworn in as an agent, on behalf of the applicant to testify. He agrees with the staff-report and finds the conditions of approval acceptable.

Mr. Kottkamp wanted to confirm that this was not an "after the fact" permit and Ryan Walker stated that the boatlifts had not been installed.

Mr. Kottkamp closed the public portion of the record on the matter.

P 2019-002: An application to cluster subdivide approximately 42.06 acres into 5 residential lots with an open space tract was submitted by Northwest Geodimensions (agent) on behalf of Tim & Becky Scott (owners) on February 25, 2019 and deemed complete on May 29, 2019. The smallest lot is proposed at approximately 0.79 acres and the largest lot is proposed at approximately 5.03 acres; the dedicated open space tract for privately owned and maintained agriculture is approximately 32.84 acres. The subject property is located in the Commercial Agricultural Lands (AC) zoning district. Access is to be off of Fairview Canyon Rd. onto private access easements proposed with development. Domestic water is to be supplied by private wells and sanitation is proposed as individual on-site septic systems. The subject property is located at 3221 Fairview Canyon Rd., Monitor, WA 98836 also identified as Assessor's Parcel Number 23-19-23-240-000. The subject property is located in a potential geological hazard area and has a seasonal non-fish bearing stream along the western edge of the property which carries a protective 50 ft. riparian buffer; a geologic site assessment and stream typing report were submitted with application. Pursuant to WAC 197-11-800(6), this proposal is not SEPA exempt; a SEPA checklist was provided with application. **Planner: Emily Moran**

Mr. Kottkamp discussed the application details, and entered the staff-report, attachments to the staff-report, application materials, site plans, and entire planning staff files into the record. Planner Emily Morgan explained the application. She stated that condition of approval #20, in the staff-report, with regard to exhibit c, it should read d concerning the comments from Public Works. Staff recommends approval as conditioned.

Norman Nelson was sworn in, as an agent, to testify on behalf of the applicant.

Mr. Kottkamp asked if the open space, on the project, was going to remain in private ownership and he wanted the situation explained. Mr. Nelson answered his questions.

Mr. Kottkamp asked Mr. Nelson if he had read the staff-report and agreed with the conditions of approval. Norman Nelson answered that he evaluated the conditions of approval and agreed with them.

With no public present, Mr. Kottkamp closed the public portion of the record on the matter.

P 2019-005: An application to cluster subdivide approximately 26.76 acres into 5 residential lots with an open space tract was submitted by Erlandsen (agent) on behalf of WD Peterson Orchards, LLC (owner) on March 14, 2019 and deemed complete on June 7, 2019. The smallest lot is proposed at approximately 1.03 acres and the largest lot is proposed at approximately 1.29 acres; the dedicated open space tract for privately owned and maintained agriculture is approximately 21.10 acres. The subject property is located in the Commercial Agricultural Lands (AC) zoning district. Access is to be off of Lower Joe Creek Road onto a private internal roadway proposed with development. Domestic water is to be supplied Lake Chelan Reclamation District and sanitation is proposed as individual on-site septic systems. The subject property is located at NNA Lower Joe Creek Rd., Manson, WA 98831 also identified by Assessor's Parcel Number 28-21-15-420-050. The subject property is located in a potential geological hazard area and has a protective wetland buffer associated with the identified Category II wetland adjacent to Wapato Lake, present on site; a geologic site assessment and a wetland determination report were submitted with application. Pursuant to WAC 197-11-800(6), this proposal is not SEPA exempt; a SEPA checklist was provided with application.

Planner: Emily Morgan

Mr. Kottkamp discussed the application details, and entered the staff-report, attachments to the staff-report, application materials, site plans, and entire planning staff files into the record. Planner Emily Morgan explained the application. She stated that on condition of approval #19 in the staff report should read exhibit d and not c. She also addressed a comment that came through about the setbacks for agriculture in the open space area of the property. Staff recommends approval with conditions.

Carl Peterson was sworn in as the property owner and applicant. Mr. Kottkamp asked him about the setback in the open space and whether or not a lot can be properly developed because of it. Mr. Peterson answered that agreements were already in place with the neighboring property to allow proper development in the project.

Carl Peterson continued to explain the application.

Mr. Kottkamp asked about the soil and if there was a problem with erosion. Mr. Peterson answered that there was not.

Carl Peterson stated that they had already started some of the conditions of approval listed in the staff-report.

With no public present, Mr. Kottkamp closed the public portion of the record on the matter.

SDP 2019-007: An application for a shoreline substantial development permit for the installation and construction of an underground power line extension, telephone and fiber cable from present overhead lines on Brae Burn Road for 1,100 feet to the end of Brae Burn Road. The subject properties are located within the Rural Residential/Resource 5 (RR5) zoning district and adjacent to the Wenatchee River, in the 'rural' shoreline environment designation for the Wenatchee River, a shoreline of statewide significance. Project Location: 13600 Brae Burn Road, Leavenworth WA; and identified by Assessor's Parcel No.: 27-17-27-485-289. **Planner: Kirsten Larsen**

Mr. Kottkamp discussed the application details, and entered the staff-report, attachments to the staff-report, application materials, site plans, and entire planning staff files into the record. Planning Manager Kirsten Larsen explained the application. Staff recommends denial.

Mr. Kottkamp asked about other properties, in the area, having electricity. Ms. Larsen answered not from that stretch of road.

Dave Simmer was sworn in to testify, on behalf of the property owner. He spoke about the electrical service that was in the area. He also spoke about the Zero Rise Certificate and what was taken into consideration when issuing such a document. He tried to get information from FEMA so he could calculate how he could qualify for the certificate. He was unsuccessful in doing so.

Mr. Simmer also stated that putting anything in a body of water will cause it to rise. So there is no way to obtain a zero rise in water as needed for the Zero Rise Certificate.

He pointed out that Chelan County has allowed other properties to obtain electricity in the flood way and he did not understand why his area was being omitted.

David Simmer also addressed safety and flooding of transformers. In his experience, as a City Superintendent of Cashmere, this was not a problem.

Mr. Simmer also brought up Title 44, Chapter 1 in the FEMA regulations with regard to the matter.

David Simmer asked about conditions of approval should the Hearing Examiner approve the application. He is concerned with requirements being placed on deeds to the properties and he feels that the county should regulate such matters.

With no public present, Mr. Kottkamp closed the public portion of the record on the matter.

MPR 2018-283: An application for a Master Planned Resort to include 24 “glamping” units; a permanent on-site manager’s quarter; a registration building that would include office space, tasting room space for olive oil and wine, and gift shop/store; Wi-Fi café; a restroom facility and two restroom and shower facilities; a house for a full time caretaker; three house for temporary, part-time employees; and a 14 unit lodge with lobby, courtyard, laundry facility, and commercial kitchen. Other structures to be included as part of the proposed development would be a greenhouse, maintenance storage shed, two geodesic dome classrooms and yoga facilities; pool and hot tub; two gathering tents; a gathering site which has been label Amaranda Garden on the site plan; a pump house, and four parking areas with a total of 120 spaces. The site plan shows various planted areas as part of the proposed open spaces including a tree grove, pumpkin patch, alpaca and goat pasture, lavender fields, and various vegetable and flower gardens. Additional proposed uses for the site would be weddings, yoga and wellness retreats, and small gatherings. The subject property is within the Commercial Agricultural Lands (AC). Project Location: Klate Road, Manson, WA 98831; and identified by Assessor's Parcel Nos.: 28-22-29-607-133, 28-22-29-607-135, and 28-22-29-607-155. **Planner: Kirsten Larsen**

Mr. Kottkamp discussed the application details, and entered the staff-report, attachments to the staff-report, application materials, site plans, and entire planning staff files into the record. Planning Manager Kirsten Larsen explained the application. Staff recommends denial, but asking for the Hearing Examiner to keep the record open until August 23, 2019 to allow for the end of the SEPA comment period.

Kim Ustanik was sworn in to testify as the property owner and applicant. She spoke about her family’s history in the area and how involved they were in the community. She owns and operates businesses in the area. She has a great love for the community and would not do anything to harm the area. She wants to bring more jobs to the area.

Alissa Hei was sworn in to testify. She explained the application and how it was based around agriculture. She felt that the property in question was better suited for their project than it would be as strictly as an agriculture operation. Obtaining a Master Planned Resort permit is essential for the conditions that they would like to offer their guests. She stated that they care about the community and the legacy that they will leave behind.

Thom Vetter was sworn in, as an agent on behalf of the applicant, to testify. He submitted a rebuttal to the staff-report. It was marked as Exhibit 1.

Karen Peele was sworn in to testify on behalf of the applicant. She was asked to assist with the rebuttal to the staff-report. She asked about the protocol when the SEPA record was left open two days after the hearing. Mr. Kottkamp explained the process. She addressed areas in the staff-report that she disagreed with. She was unhappy with the county staff and believed that they did not guide the applicant in a proper fashion to obtain the correct permit for the application.

Ms. Peele was also concerned about the SEPA analysis. She explained the areas where she felt that the regulations did not apply to this project. She stated that conditions could be applied necessary to mitigate the impacts of the proposal.

Karen Peele pointed out that anyone can apply for a Master Planned Resort Permit; she also pointed out other types of land use applications that would be allowed on this property.

Ms. Peele addressed the issue of water. She stated that the applicant understood the problem and was addressing the issue. They would like to transfer water rights from one of the wells to another one on the property. She explained water volume and how they would obtain more. She also explained the phases of the application and how water rights would work into each phase.

Karen Peele stated that this application would use the property in a better way to bring the land back to an agriculture use. She stated that orchard, on the property, was removed 12 years ago and the land has been unused since.

She again addressed water rights and stated that the applicant agreed that not all of the rights were secured, at this time; however, it was not required at this time. They have enough water available to complete phase 1 of the project.

Mr. Kottkamp asked Ms. Peele if there was enough water to complete phase 1, she answered yes. He also asked if they had concrete plans to obtain the rest of the water rights, Ms. Peele answered by referring to the water engineer. Thom Vetter interjected and stated that the information was included in the staff-report rebuttal, marked as Exhibit 1.

Kim Ustanik also provided additional information about water rights to answer Mr. Kottkamp's questions.

Karen Peele went on to discuss the site plan for the project. She spoke about the classifications of dwelling units and setbacks. Addressed what a glamping unit would be considered as a dwelling.

Ms. Peele addressed the staff-report statement that the property was relatively small and clustering was unachievable. She felt it had no bearing on the application.

To close, Ms. Peele addressed comments from Public Works and wanted to clarify specific dates.

The Hearing was open for public testimony.

Shelly Ward was sworn in to testify. She wanted to have her comments entered into the record. She explained her family history in the area and believed that this application would be a benefit to the area.

Mr. Kottkamp spoke to the audience with regard to the type of testimony that will be considered for the application. While testimonies of good character are nice to hear, they have no impact on the decision he will render. He also asked people not to read a statement and then submitted it into the record as it is time consuming.

Tyler Evans was sworn in to testify. He lives adjacent to the property. He agrees with the findings of staff in denying the application.

Raye Evans was sworn in to testify. She was concerned for the safety of women and children in the general area of the applicant property due to the fact that an employee, of the applicant, had a criminal past.

Carl Blum was sworn in to testify. He was concerned about the water supply for the property. He believes that water needed would not be obtained in the time allowed for the project. He then believes that the property will become an event venue. He would like the water use to be recalculated for laundry and food preparation.

Kari Sorensen was sworn in to testify. She spoke about the glamping sheds and stated they were not "glamorous camping," but just garden sheds with no electricity or plumbing. She stated that Kim had revealed that she did not have any intention to complete phase 3 of the project.

Kristen Sather was sworn in to testify. She represents John Sather and Sather Family, LLC who owns 400 – 500 commercial ag acres just north of the property. She spoke of the traffic that is in the area with regard to semis and farming equipment traveling up and down Klate Road. She believes that this property will not enjoy a peaceful atmosphere and perhaps such a project should be located elsewhere.

Natalie Kuehler, representing Ryan and Kuehler, was sworn in to testify. She is an attorney representing a group of neighbors of the applicant. She agrees with the staff-report that the application should be denied. She believes that the project shouldn't have been given a MPR status to begin with. She gave legal argument, along with Exhibits 2-10, on how and why this application did not qualify to be a Master Planned Resort.

Robin Werner was sworn in to testify. She verified that the photos she took, that were submitted as Exhibits 11, 12, and 13 were true and accurate photos of the applicant's property.

Natalie Kuehler continued her legal argument and also submitted Exhibits 14 and 15. She concluded that this application did not qualify for MPR status.

Thom Vetter did a rebuttal, on behalf of the applicant. He spoke on the topic of soil contamination and stated there was a plan in place to actively clean the soil. He then rebutted the concept that

this application did not qualify for MPR status. He gave examples of other projects in the area that did qualify for the status and illustrated that the size of the MPR was not the issue.

Kim Ustanik also spoke to dispute a previously stated position that she had no plans to complete the project application. She explained that the project might spill over to the next generation for completion.

Mr. Kottkamp will keep the record open until August 23, 2019 for the MDNS comments to come in. He then stated he would keep the record open until August 30, 2019 for the applicant to submit a rebuttal to any of the comments that came in.

Mr. Kottkamp closed the public portion of the record on the matter.

III. AJOURNMENT

Hearing Examiner Kottkamp adjourned the August 21, 2019, meeting.