



## CHELAN COUNTY HEARING EXAMINER

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

**May 15, 2019, 1:00 pm**

**Chelan County Hearing Examiner:** Andrew Kottkamp

**Chelan County Staff:** Planning Manager – Kirsten Larsen, Planner – Emily Morgan, Planner – Jamie Strother, Assistant Planner – Scott Kugel, Permit Clerk - Wendy Lane

**Public/Agencies:** Kathy Blum, Brian Patterson, Marnie Tyler, Travis Hibbard, Jonna Valdez, Debra Patterson, Anne Hessburg, Lori Withrow, Martin Davy, Tim Hibbard, Don Cullison

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### **AGENDA:**

#### **I. CALL TO ORDER**

[1:00:03 PM](#) 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**

**P 2018-178:** An application to subdivide a 5 acre parcel into a twenty (20) residential lots has been submitted by Martin Davy (agent) on behalf of Talos Construction LLC (owner) on June 13, 2018 and deemed complete on July 9, 2018. The subject property is within the Manson Urban Growth Area and Urban Residential 1 zoning district. Access is proposed from Swartout Road, potable water and sewer would be supplied by the Lake Chelan Reclamation District. The site is located in a potential Geologic Hazard area for erosive soils. A Geologic Assessment is included with the application. No other critical Areas were identified. The subject property is located at 1251 Swartout Road, Manson, WA, also identified as parcel number 28-22-31-680-300. The application includes a SEPA (state environmental) checklist. **Planner: Jamie Strother**

[1:03:48 PM](#) 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 Jamie Strother explained the application. Staff recommends approval with conditions.

[1:06:21 PM](#) Mr. Kottkamp is concerned about soil contaminations. He would like to know if Chelan County is working with the Department of Ecology (DOE) on Plat Notes for this project. He would like to know if it was a general discussion concerning soil contamination or if it was about this particular application. Planner Jamie Strother stated that it was this application that started the conversation with the DOE about contaminated soil.

[1:08:50 PM](#) Martin Davy was sworn in, as an agent, to testify on behalf of the applicant. He would like to address the issue of contaminated soil. He spoke to the DOE, and their concern was not with construction dust, but with human contact with the soil once the lots were developed. He stated

that designated outdoor living areas, not front yards nor foundations or driveways, were targeted concerns of the DOE.

[1:13:28 PM](#) Mr. Kottkamp mentioned a memo, dated April 2, 2019, from DOE stating their concerns with regard to the soil samples taken. He would like more specifics on how DOE stands on this project. Mr. Kottkamp did not understand previous soil test results. He would like a clear understanding of what the DOE has to say on the matter. At this point, he does not have enough information to make a decision.

[1:16:07 PM](#) Martin Davy stated that the DOE said they would come out and test the soil. The Agency decided that living spaces are to be those that need to be addressed. Plat Notes, tied to the lots, would then notify the public when the sale of the land occurred.

[1:20:53 PM](#) Martin Davy recommended that Mr. Kottkamp make a list of questions that the DOE can answer. Mr. Kottkamp stated that the DOE can read his comments in the decision. He is concerned about how to protect someone who goes below the 6" of clean soil barrier.

[1:23:05 PM](#) Martin Davy asked to keep the hearing open so he can ask Jeff Newsaunder questions that Mr. Kottkamp has with regard to the soil contamination.

[1:23:39 PM](#) Mr. Kottkamp stated that if Mr. Newsaunder wants to appear at the hearing about this application, he will continue the hearing.

[1:24:59 PM](#) Martin Davy has no objections to the proposed and new conditions listed in the Staff-Report.

[1:25:21 PM](#) Brian Patterson was sworn in to testify as a member of the public. He was rather dismayed that the revised Staff-Report was sent to him this morning. He did not have time to study it. He pointed out that the County issued a SEPA DNS, for the project, and there was no way that this project would not have an effect on the environment under the current status. He stated that there should have been a MDNS issued so the public could see the information and comment on it further. He wants the County to circle back around and follow SEPA requirements. He stated that six inches of soil is an arbitrary amount. He would like more soil coverage than 6"; he wants 8-12" of soil removed. He believes the arsenic contamination is down around 12". He would like to see a middle of the road mitigation with DOE to find a solution.

[1:32:01 PM](#) Brian Patterson gave a report to Mr. Kottkamp that was submitted into the record as Exhibit 1.

[1:32:24 PM](#) Don Cullison was sworn in to testify as a member of the public. He reiterated that, as of July of last year, Chelan County was advised, by him, that this application would be a problem.

[1:33:41 PM](#) Planner Jamie Strother entered into the record, an email correspondence and a list of the Plat Notes, from Jeff Newschwander at the Department of Ecology. Also included, was the Conditions of Approval for this Application. It was marked as Exhibit 2.

[1:34:47 PM](#) Mr. Kottkamp stated he will keep the record open until June 19, 2019,. He also extended the time frame for DOE to submit additional comments until June 5, 2019. Mr. Kottkamp will also leave the public record opened until June 12, 2019, for additional public comment;

comments considered for this extension will be those with regard to DOE comments. The applicant will have until June 19, 2019 to respond to incoming DOE and Public comments. If DOE does not comment, the record will close on June 5, 2019. He will then have a written decision made by 10 working days of June 5, 2019, or June 19, 2019

Speaking to Mr. Davy, Mr. Kottkamp stated that if applicant would like to continue the hearing, he needs to let the County know and, in turn, they can inform the Parties of Record on the matter. Mr. Davy asked for the end date to continue the hearing. Mr. Kottkamp answered that he will continue to hearing until June 19, 2019; however, the Applicant needs to inform the county by June 15, 2019 if he does not want a continuance.

[1:41:40 PM](#) Mr. Kottkamp continued this Application until June 19, 2019, at 1:00 pm, unless informed otherwise.

**CUP 2019-002:** An application for a Conditional Use Permit has been requested by John Fragnito (owner) for the construction of off-site agricultural worker housing. The application was submitted February 20, 2019 and deemed complete April 1, 2019. The proposed development includes a 20 ft. x 60 ft. (1,200 sq. ft.) duplex with four (4) parking spaces. The property is located at 91 Apple Acres Rd., Chelan, WA and identified as Assessor's Parcel No.: 28-23-33-440-100. The property is within the Commercial Agricultural Lands (AC) zoning district and located within a potential geological hazard area; a geological site assessment was provided with application. Pursuant to WAC 197-11-800, this proposal is SEPA exempt. **Planner Emily Morgan**

[1:42:12 PM](#) 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. Staff recommends approval with conditions.

[1:43:43 PM](#) John Fragnito was sworn in to testify as the applicant. He stated that the project was a small duplex for worker housing. Mr. Kottkamp asked if this was H2A housing and Mr. Fragnito answered that it was not, but it was the best fit for his situation. Mr. Kottkamp asked if a second duplex is proposed, in the future, and it would require an additional Conditional Use Permit. Planner Emily Morgan answered that an additional duplex would require an additional Conditional Use Permit. Mr. Kottkamp asked about the conditions of approval and whether Mr. Fragnito had any disagreements with them. John Fragnito stated he hadn't gone through them all. He said if they are things he has to do, for approval of the Conditional Use Permit, and they are doable, then he will do them. Mr. Kottkamp asked Mr. Fragnito if he had any specific objections to the Staff-Report and Mr. Fragnito did not.

[1:47:09 PM](#) Mr. Kottkamp asked if there was limitations to the housing, and if it he could rent it out. Planner Emily Morgan stated that it was for agriculture worker housing only.

[1:47:57 PM](#) With no public present, Mr. Kottkamp closed the public portion of the record on the matter.

**SDP 2018-438/SCUP 2018-439:** Applications for a shoreline substantial development permit and a shoreline conditional use permit were submitted by Grette Associates, LLC (agent) on behalf of David Claughton (owner) for the modification of an existing 516 sq. ft. pier, installation and relocation of 125 sq. ft. boatlifts, and the installation of two 24-inch diameter mooring buoys. The existing pier is to be reconfigured into an "L" shape and will have 198 sq. ft. of over water coverage removed; the decking will be replaced with a

grated surface. The existing 125 sq. ft. boatlift will be relocated slightly downlake and the new 125 sq. ft. boatlift will be installed parallel to the perpendicular section of the pier on the downlake side. The mooring buoys will be anchored with a ½ in. steel chain approximately 30 ft. from the OHWM to a depth of approximately 18 ft. Mitigation is proposed through a native vegetation planting plan; the planting will be adjacent to the OHWM of the lake for a total of 126 sq. ft. of mitigation. The proposed applications are to remedy an active code enforcement violation for construction without the proper shoreline permits and building without a building permit. The subject property is located within the Rural Residential/Resource 20 Acres (RR20) zoning district and holds a 'rural' shoreline environment designation for Lake Chelan, a shoreline of statewide significance. The subject property is identified by Assessor's Parcel No.: 28-21-03-549-045 and is located at 152 Waterfront Terrace Ln, Manson. The application includes a JARPA and SEPA Checklist. **Planner: Emily Morgan**

[1:48:15 PM](#) 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. Staff recommends approval as conditioned.

[1:50:32 PM](#) Anne Hessburg was sworn in, to testify on behalf of the applicant. She agrees with the Staff-Report and finds the Conditions of Approval acceptable.

[1:51:04 PM](#) Mr. Kottkamp asked if this would resolve the code violation against the property Planner Emily Morgan stated that it would and Ann Hessburg confirmed it.

[1:51:46 PM](#) With no public present, Mr. Kottkamp closed the public portion of the record on the matter.

**SDP 2018-299:** Applications for a shoreline substantial development permit to construct a step-pool channel to enhance fish passage to more than 23 miles of habitat in the upper reaches of Icicle Creek. The development includes the construction of 150 lineal feet of step-pools along the left bank of the reach and some of the channel, removal of boulders in three (3) areas to improve flow and reduce downstream turbulence, placing of boulders in gaps between existing boulders to raise tailwater in plunge pool below falls, shaping of at least 20-30 boulders greater than 500 cubic feet in volume with rock breaking techniques, excavation of material from left bank for step-pools, partial or full replacement of City of Leavenworth water supply pipeline between screen house (RM 5.7) and the Water Treatment Plant (RM 5.5), replacement of City of Leavenworth fish screen and fish screen house. The application contains provisions for a temporary erosion and sediment control plan for all construction activities, seeding and mulching for disturbed slopes, and re-stabilization to pre-project conditions. The subject properties are located within the Rural Residential/Resource—1 Dwelling Unit per 20 Acres (RR20) and Commercial Forest Lands (FC) zoning districts and the 'conservancy' shoreline environment designation for Icicle Creek, a shoreline of statewide significance. Project Location: Address Unknown, Unknown, WA 98826; and identified by Assessor's Parcel Nos.: 24-17-27-311-250, 24-17-27-320-050, 24-17-27-320-100. **Planner: Scott Kugel**

[1:51:59 PM](#) 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 Scott Kugel explained the application. Staff recommends approval as conditioned. However, due to a clerical error, the Department of Ecology was not noticed in a timely manner and there is a request to keep the application open until June 5, 2019, for comments to be made.

[1:55:49 PM](#) Marnie Tyler was sworn in, as an agent, to testify on behalf of the applicant. The project is for enhancing fish habitat. She stated that once they do have permits in hand, they will need two construction seasons to get the work completed.

[1:57:55 PM](#) Mr. Kottkamp asked if the project would be finished in 2021. Marnie Tyler answered that was the hope once the permits were in hand.

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

### **III. AJOURNMENT**

[1:59:35 PM](#) Hearing Examiner Kottkamp adjourned the May 15, 2019, meeting.