

IN THE MATTER OF)
)
P 2019-007)
Green Tail Subdivision)
NOV 18 2019)
)
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 November 6, 2019, the Hearing Examiner having taken evidence hereby submits the following Findings of Fact, Conclusions of Law, Decision and Conditions of Approval as follows:

1. An application was submitted to subdivide approximately 3.5 acres into 12 residential lots. The smallest proposed lot is to be approximately 12, 499 sq. ft. and the largest proposed lot is to be approximately 13,963 sq. ft.
2. The applicant/Owner is Steven Teeny of Chelan Butte Estates, LLC, PO Box 2829, Chelan, WA 98816.
3. The surveyor is Dan Beardslee, 325 32nd St NW, East Wenatchee, WA 98802.
4. The subject site is NNA Stayman Flats Road, Chelan WA 98816.
5. The subject parcel number for the property is Portion of 26-22-04-515-005.
6. The legal description of the subject property is a portion of Chelan Butte Orchards and portion of Government Lots 2 & 3, of Section 9, Township 26, Range 22EWM.
7. The subject site is located outside the Urban Growth Area.
8. The current Comprehensive Plan designation and Zoning District is Rural Waterfront (RW).
9. The subject site is currently used for agriculture with mobile homes for agricultural worker housing.
10. The subject site is generally undisturbed with ongoing orchard production activities. The proposed building lots are relatively flat.
11. The subject property is a total of 3.5 acres.
12. The property to the north of the subject property is Stayman Flats Road/Agriculture and is zoned Commercial Agricultural Lands (AC).
13. The property to the south of the subject property is Residential and is zoned Rural Waterfront (RW).
14. The property to the west of the subject property is Residential and is zoned Rural Waterfront (RW).
15. The property to east of the subject property is Residential and is zoned Rural Waterfront (RW).
16. The applicant submitted an Aquifer Recharge Area Disclosure Form, date stamped August 2, 2019. Pursuant to Chelan County Code Section 11.82.040, Chelan County has determined that the aquifer recharge measures do not apply.

17. Pursuant to the Federal Emergency Management Agency, FIRM map panel 5300150250B, the subject site does not contain identified 100 or 500-year flood plain or associated floodway. Therefore, Chelan County Code 11.84, Frequently Flooded Areas Overlay District does not apply.
18. According to the Chelan County GIS mapping, the subject site does not contain potential geologic hazardous area. Therefore, the provision of Chelan County Code Chapter 11.86, Geologically Hazardous Areas Overlay, do not apply.
19. Pursuant to the National Wetlands Inventory Map the subject property does not contain known wetland(s). Therefore, Chelan County Code Chapter 11.80 does not apply.
20. Based on the Washington State Department of Natural Resources FPARS stream typing map, no streams were indicated on or adjacent to the subject site. Therefore, the provisions of Chelan County Code Chapter 11.78 for riparian areas, do not apply.

Pursuant to the Washington State Department of Fish and Wildlife Priority Habitat and Species Maps and Chelan County Fish & Wildlife Overlay District, Chapter 11.78, the subject property does contain mule deer habitat; therefore, the provisions of Chelan County Code Chapter 11.78 do apply.
21. Pursuant to RCW 27.53.020, full cooperation among the Department of Archaeology and Historic Preservation and other agencies is required to ensure information regarding the possible impact of construction activities on the state's archaeological resources is maintained.
22. On May 30, 2019, a pre-application meeting was held to discuss the proposed major subdivision.
23. The proposed subdivision fronts on and is to access from Stayman Flats Road. Stayman Flats road is a 40 ft. right of way (as traveled along frontage of project) and is classified as a Rural Local Access Road in the county road system. Stayman Flats Road provides single lanes for traffic in both directions with no curb, gutter, or sidewalk. Stayman Flats Road is a 23 ft. paved roadway.
24. Proposed Lots 9, 10, 11 and 12 will share a proposed driveway; a joint Access Maintenance and Upgrading Agreement will be required to be recorded with the final plat.
25. The comment letter from Chelan County Public Works, dated September 24, 2019 states a private stormwater drainage system is required with an Operation and Maintenance Agreement of the drainage system and recorded with the final plat.
26. Domestic water is to be provided by a public group water system.
27. Sanitation will be provided via on-site septic systems.
28. Power will be provided via an extension of the Chelan County PUD.
29. Noise impacts are addressed in Chelan County Code Chapter 7.35.
30. The Notice of Application was referred to agencies and departments on September 3, 2019 and surrounding property owners within 300ft. excluding 60ft. of right-of-way with comments due September 17, 2019. The following agencies provided comments:
 - 30.1 Chelan County Assessor responded on September 4, 2019
 - 30.2 Chelan County Fire Marshal responded on September 17, 2019
 - 30.3 Chelan-Douglas Health District responded on September 12 & September 17, 2019
 - 30.4 Chelan County Public Works responded on September 24, 2019

31. The following agencies were notified but did not respond:
 - 31.1 Chelan County PUD
 - 31.2 WA Department of Fish & Wildlife
 - 31.3 Fire District #8
 - 31.4 Lake Chelan School District
 - 31.5 Chelan County Natural Resources
 - 31.6 WA Department of Archaeology & Historic Preservation
 - 31.7 Yakama Nation
 - 31.8 Confederated Tribes of Colville
 - 31.9 Department of Ecology
32. No public comments were received.
33. The applicant submitted an environmental checklist on August 2, 2019. Pursuant to WAC 197-11 and RCW 43-21C of the State Environmental Policy Act (SEPA), an environmental review and a threshold determination was completed. A Determination of Non-significance (DNS) was issued on October 3, 2019. The SEPA Checklist and DNS are included within the file of record and adopted by reference.
34. The application materials were submitted on August 2, 2019.
35. The Determination of Completeness was issued on August 27, 2019.
36. The Notice of Application was issued on September 3, 2019.
37. The SEPA DNS was issued on October 3, 2019.
38. The Notice of Public Hearing was issued on October 25, 2019.
39. The Comprehensive Plan has been reviewed; specifically the goals and policies related to the Rural Waterfront Comprehensive Plan LAMRID designation for consistency with residential land uses.
 - 39.1 The Hearing Examiner finds that the proposed subdivision, as conditioned, is consistent with the Chelan County Comprehensive Plan.
40. The project is consistent with Chelan County Code (CCC) Section 11.30.020 in the following respects:
 - 40.1 The proposed lots would be for residential use. The applicant is proposing lots ranging in size from 12,499 sq. ft to 13,963 sq. ft. with the average lot size of approximately 12, 680 sq. ft. Comments from Chelan Douglas Health District, dated September 12, 2019 states, based on the soil evaluations, all proposed lots meet or exceed the state minimum lot size based upon soil type and source of domestic water supply.
 - 40.2 The subject site is located within 100 ft. of Commercial Agricultural Lands (AC) zoning; pursuant to CCC 11.88.040(8), no dwelling unit adjacent to the commercial agricultural zoning district shall be placed within 100 ft. of a property line, including those across a right-of-way; the entire width of any public right-of-way may be used as part of the setback area. The property located north of Stayman Flats Road is under the same ownership as the proposed subdivision. A waiver as outlined in CCC 11.30.020(6)(C) will be recorded prior to final approval.

- 40.3 All proposed lots exceed the minimum lot width of 70ft. at the front building line. Building setbacks, height, and lot coverage would be reviewed at the time of building permit application. The existing mobile homes on site that are currently used for agricultural worker housing, are proposed to be removed prior to final plat approval.
- 40.4 Staff found that the proposed cluster subdivision, as conditioned, is consistent with the provisions of Chelan County Code Section 11.30.020.
- 50. The project is consistent with CCC Code Chapter 12.08 in the following respects:
 - 50.1 The proposed subdivision is to be named Green Tail Subdivision, which does not appear to be similar to the name of any other subdivision in the county.
 - 50.2 The proposed lots were reviewed for consistency with the cluster subdivision standards and appear that they are of an adequate size to accommodate residential development within the dimensional standards of the RW zoning district. Each lot is to be provided access off of Staymen Flats Road or a shared driveway as dedicated through the proposed p lat
 - 50.3 Based on the site plan of record dated August 2, 2019, the proposed subdivision would not result in barrier to the development of adjacent lots.
 - 50.4 Pursuant to RCW 58.17.255 and WAC 332-130-040, all easement locations are required to be shown on the final Short Plat. Separate instruments recorded with the Chelan County Auditor should be referenced on the final Short Plat. Easements will be reviewed with blueline submittal.
 - 50.5 The subject property is within Fire District 8. The proposed subdivision and all future building permits must conform to all applicable requirements of the International Fire Code and International Building Code administered by the Chelan County Fire Marshal.
 - 50.6 Comment letter from Chelan County Public Works, dated September 24, 2019, states that the proposed subdivision must comply with the stormwater standards per Chelan County Code Chapters 13.12; 13.14; 13.16; & 13.18.
- 51. Staff reviewed the application and submitted materials. Based on the information contained in the applications and compliance with the Revised Code of Washington, the Washington Administrative Code, Chelan County Comprehensive Plan, and the Chelan County Code, staff recommended **APPROVAL of PLAT 2019-007** subject to the proposed conditions of approval.
- 52. An open record public hearing after legal notice was provided was held on November 6, 2019.
- 53. The File of Record, Chelan County Department of Community Development Staff Report, and exhibits were received, admitted into the record and considered by the Hearing Examiner.
- 54. Admitted into the record was the following exhibit:
 - 54.1 Exhibit 1: Applicant's Narrative regarding phasing plan and potential modifications of the number of lots.
- 55. Appearing and testifying on behalf of the applicant was Dan Beardslee. Mr. Beardslee testified that he was an agent authorized to appear and speak on behalf of the applicant. Mr. Beardslee offered Exhibit 1 which is a phasing plan for the proposed subdivision. He also indicated that the lots may be reduced from 12 to 11 based upon the number the lots that can connect to a Group B water system. If only 9 lots can connect to the Group B water system, then 2 of the lots will use a shared well. He indicated that the mobile homes on the site would be removed prior to finalizing Phase 3.
- 56. No member of the public testified at this hearing.

57. The Chelan County Hearing Examiner considered all evidence within the record in rendering this decision.
58. Any Conclusion of Law that is more correctly a Finding of Fact is incorporated herein as such by this reference.

CONCLUSIONS OF LAW

1. The Chelan County Hearing Examiner has been granted the authority to render this decision pursuant to Chelan County Code Section 1.61.080 Duties and Powers.
2. The subject application demonstrates consistency with the development standards and procedural requirements of Chelan County Code Title 11 Zoning, Title 12 Land Divisions, Title 14 Development Permit Procedures and Administration, and Title 15 Development Standards.
3. The application, as conditioned, demonstrates consistency with the goals and policies as set forth in the Chelan County Comprehensive Plan.
4. The application, as conditioned, demonstrates consistency with adopted levels of service for roads, utilities, fire protection facilities, schools and other public and private facilities needed to serve the development, with assurance of concurrency.
5. The public interest will be served by the subdivision.
6. The application, as conditioned, is compatible with adjacent uses and will not harm or change the character of the surrounding area.
7. Any Finding of Fact that is more correctly a Conclusion of Law is hereby incorporated as such by this reference.

DECISION

Based upon the above noted Findings and Fact and Conclusions, P 2019-007 is hereby **APPROVED**, subject to the conditions noted below.

CONDITIONS OF APPROVAL

All conditions imposed herein shall be binding on the "Applicant." "Applicant" shall mean terms, which include the owner or owners of the property, heirs, assigns, and successors.

1. Pursuant to RCW 58.17, the project shall conform to all applicable local, state, and federal regulations, statutes, rulings, and requirements. The proposal shall be subject to approval that may be required under permits licenses or approvals by any other local, state, or federal jurisdictional agency.
2. All conditions imposed herein shall be binding on the Applicant. "Applicant" shall mean terms, which include the owner or owners of the property, heirs, assigns and successors.
3. Pursuant to Chelan County Code, Section 12.24.040, the final Plat shall be designed in substantial conformance with the Preliminary Plat of record, date stamped August 2, 2019, on file with the

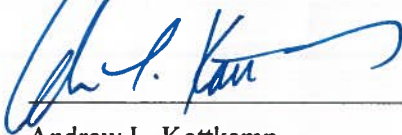
Chelan County Department of Community Development, except as modified herein. No increase in density or number of lots shall occur without a re-submittal of a Plat application.

4. Pursuant to Chelan County Code Section 12.24.015 and RCW 58.17.140, all requests for final Plat approval must be submitted within five (5) years from the date of preliminary approval, unless an extension is granted.
5. Pursuant to RCW 58.17.255 and WAC 332-130-040, all easement locations are required to be shown on the final Plat. Separate instruments recorded with the Chelan County Auditor shall be referenced on the final Plat.
6. Pursuant to RCW 84.56.345, all taxes, delinquent taxes, and assessments that are required to be paid by the Chelan County Treasurer shall be paid prior to final Plat recording.
7. Pursuant to Chelan County Code Section 11.78.240, the following note shall be placed on the final Plat:
 - 7.1 "The subject property is within identified mule deer habitat and the requirements of the Chelan County Code Chapter 11.78, Fish and Wildlife Habitat Conservation Areas apply, as amended."
8. Pursuant to Chelan County Code Title 12, the following note shall be placed on the final Plat:
 - 8.1 "This property is within or near designated agricultural lands, forest lands, or mineral resource lands on which a variety of commercial activities may occur that are not compatible with residential development for certain periods of limited duration."
 - 8.2 "Chelan County is not responsible for notification or enforcement of covenants to deed restriction or reservations affecting use or title. Any permit issued does not acknowledge or recognize any covenants or deed restrictions or reservations that may burden or otherwise affect this property. Applicant /owner assume all risk and liability for any claims and liabilities for covenants or deed restrictions or reservations."
 - 8.3 "Based on historical agricultural use of this land, there is possibility the soils contains residual concentrations of pesticides. The WA State Dept. of Ecology recommends that the soils be sampled and analyzed for lead and arsenic and for organochlorine pesticides. If these contaminants are found at concentrations above the MTCA cleanup levels, the WA State Dept. of Ecology recommends that the potential buyers be notified of their occurrence."
9. Pursuant to the Revised Code of Washington, the following notes shall be placed on the final Plat:
 - 9.1 "Noxious weed control is the responsibility of the individual lot owners, per RCW 17.10.140, as amended."
 - 9.2 "If any Native American grave sites or archaeological resources are discovered or excavated, the owner/developer/contractor shall stop work immediately and notify Chelan County Department of Community Development and the Washington State Department of Archaeology and Historic Preservation in conformance with RCW 27.53.020."

10. Pursuant to Chelan County Code Section 12.08.030, the applicant shall provide any necessary line extensions and any associated easements pursuant to the standards of Chelan County PUD No. 1. All easements shall be denoted on the final Plat.
11. The subject site and final Plat shall conform to the comments and conditions of approval as found in the Chelan County Fire Marshal Agency Comments dated September 17, 2019.
12. The subject site and final Plat shall conform to the comments and conditions of approval as found in the Chelan-Douglas Health District memorandum dated September 12, 2019.
13. The subject site and final Plat shall conform to the comments and conditions of approval as found in the Chelan County Public Works Department Agency Comments dated September 24, 2019, provided that the requirements set forth in the Public Works letter under 1 (A) (iv) is not required.

Approved this 14th day of November, 2019.

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.

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.