

**CHELAN COUNTY
LAND USE HEARING EXAMINER**

IN THE MATTER OF)	FINDINGS OF FACT,
)	CONCLUSIONS OF LAW, AND
PDA 23-497)	DECISION AND
CheValle PD)	CONDITIONS OF APPROVAL

THIS MATTER having come on for hearing in front of the Chelan County Hearing Examiner on June 5, 2024, 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. PD 2004-004 and P 2004-004 were approved with conditions on March 11, 2005 for a 66-lot planned development overlay for reduced lot sizes, reduced setbacks, reduced lot widths, and increased lot coverage. The development proposed to include open space to accompany the residential lots and agricultural area/vineyard to be held in separate ownership, to be finalized in (3) phases.
2. The applicant/owner is Clos CheValle Vineyards LLC, 116 Orchard Place, Orondo, WA 98843.
3. Karen Peele, Complete Design, P.O. Box 1914, Wenatchee, WA 98807, is the agent for the applicants.
4. The subject property is located at 1120 US Highway 97A, Chelan, WA, and identified by Assessor's Parcel Number (APN): 27-22-17-506-730 and 27-22-17-506-670.
5. The subject property is located within the Rural Residential/Resource 2.5 (RR2.5) zoning district.
6. The property subject to this application is legally described as a portion of Tract E and K of Clos CheValle PD.
7. Findings of Fact from the March 11, 2005 Hearing Examiner Decision include:
 - 7.1. The development 'has adequately demonstrated that the proposal will achieve a public benefit as a result of deviations from the underlying zoning district, pursuant to the standards contained in 11.76.030 of the Chelan County Zoning Resolution.'
8. The applicant would like to amend condition of approval #35 and #36.
9. Condition of approval #35 states: 'The agricultural lands to be held in separate ownership, shall remain undeveloped, except that a winery production facility (agricultural processing) will be allowed to be constructed on Tract P, pursuant to the Clos Chevalle Addendum, Exhibit F,

presented to the Hearing Examiner at the public hearing on February 28, 2005. This structure shall NOT be permitted to have retail space or be open to the public. No ancillary uses will be permitted within these agricultural tracts.'

10. The Clos CheValle Planned Development Homeowners Association, would like to amend the covenants to allow for the operation of a wine tasting room in conjunction with the current vineyard located on Track K.
11. As part of the proposed development the agricultural shop and storage building currently located on Tract K would be relocated to the southwesterly corner of the vineyard on Track E.
12. Condition of approval #36 states: 'The agricultural lands (to be held in separate ownership), shall be restricted to vineyard production, unless an amendment to the Planned Development is approved through a quasi-judicial action.'
13. An open record public hearing was held, after legal notice, on June 5, 2024.
14. Appearing and testifying on behalf of the Applicant was David Dufenhorst. Mr. Dufenhorst testified that he was an agent authorized to appear and speak on behalf of the property owner and Applicant. Mr. Dufenhorst confirmed that there would be no restaurant on the site. He further confirmed that there would be no special events such as weddings, music events and similar public or private assemblies. He stated that the interior roads are private roads but are designed to accommodate all emergency vehicles.
15. Testifying from the public was James Gurke. Mr. Gurke is the president of Clos CheValle Homeowner's Association. He testified about the history of negotiations with the Applicant. He stated that Bear Mountain Ranch road is a private road that provides ingress and egress into the development by way of SR 97A. He stated that there would be a new road off of Bear Mountain Ranch road that would access the wine tasting facility. He further stated that there would be direct access from the wine tasting facility to SR 97A for emergencies, employees, but not for customers.
16. No member of the public testified at the hearing.
17. The following exhibits were admitted into the record:
 - 17.1. Ex. A Staff Report;
 - 17.2. Ex. B Remainder of Planning Staff File.
18. The Chelan County Hearing Examiner considered all evidence within the record in rendering this decision.
19. 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 subject property is a legal lot of record.
2. The development was heard by the Hearing Examiner on February 28, 2005, and approved with conditions on March 11, 2005.
3. The Chelan County Hearing Examiner has the authority to review and determine substantial compliance or completion of the Conditions of Approval.
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, PDA 23-497 is hereby **APPROVED** subject to the following Conditions of Approval.

IV. CONDITIONS OF APPROVAL

1. Condition of approval #35 shall be revised to state:
 - 1.1. 'Except as described below, the agricultural lands to be held in separate ownership, shall remain undeveloped, and no ancillary uses will be permitted within these agricultural tracts. Pursuant to the Third Amendment to Clos CheValle Planned Development Protective Covenants recorded October 11, 2023, AFN 2587295, Section I, Recitals, F. The members of Clos CheValle Planned Development Homeowner's Association, amended their covenants to allow for operation of a commercial wine tasting room in conjunction with the current vineyard located on Tract K, as so labeled on the plat map for Clos CheValle Planned Development, Phases I and II, also known as "Parcel K" subject to the terms and conditions of that Agreement dated on October 10, 2023 between Clos CheValle Vineyards, LLC and Clos CheValle Planned Development Homeowners Association (AFN #2587296). As part of converting Tract K to a wine tasting facility, the agricultural shop and building currently located on Tract K may be relocated to the southwesterly corner of "Vineyard Tract E."'
2. Condition of approval #36 shall be revised to state:
 - 2.1. 'Except as described below, the agricultural lands (to be held in separate ownership) shall be restricted to vineyard production, unless an amendment to the Planned Development is approved through a quasi-judicial action (Hearing Examiner). Pursuant to the agreement for the tasting room facility recorded on October 11, 2023 under AFN 2587296, Section II, Recital (A) which states in part the members of the HOA voted in favor of amending Paragraph 6.21 of the (covenants) to allow for the operation of a commercial wine tasting room in conjunction with the current vineyard located on Tract K and to allow to relocate the agricultural shop and storage building currently located on Tract K to the southwesterly corner of Vineyard Tract E, Section III. Agreement, Subsections A-N stipulates specific terms of plans and conditions outlined for the

operation of tasting room, together with attached Exhibit A, dated June 2, 2023, which outlines operation and provisions for the proposed tasting room.'

3. The proposed access road into the winery if not already constructed is to meet Emergency Vehicle Access Road with an Emergency Turnaround. The access point onto Bear Mountain Ranch Road shall be a Commercial Access Standard.
4. The relocation of the agricultural buildings may require new individual onsite septic systems, along with the appropriate Septic system applications and permits throughout office.
5. The new winery tasting room would require a commercial onsite septic system and the necessary septic system applications and permits through our office.
6. The new winery tasting room would require a Group A water system expansion approval through DOH-Office of Drinking Water.
7. The new winery tasting room would require a food plan review and food establishment permit through our office. For food service permitting process, the application would need to contact Chelan-Douglas Health District's Food Program at (509) 886-6400 for permitting requirements.
8. The applicant may be required to obtain a Winery General Permit coverage from the Department of Ecology if wine, juice and/or wastewater production volumes surpass those quantified in Special Condition S1, Table 3 of the Permit. Ecology may also require Permit coverage if a facility is determined to be a 'Significant Contributor of Pollutants or a Significant Industrial User' as defined in Appendix B of the permit.

Dated this 6 day of June, 2024

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.