

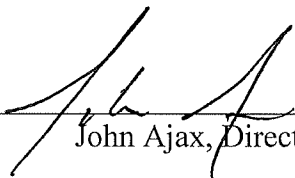
City of Chelan, Washington
Community Development Department
Staff Report
November 2023

Zoning Variance (VAR)) File Nos. **VAR2022-04**
Riverwalk Park Townhomes)
) Staff Contact:
300 W. Okanogan, Chelan WA, 98816) John Ajax,
Chelan County Tax Parcels:) Community Development Director
272213240200, 272213650005,)
272213650010, 272213650015,)
272213650020, 272213650025,)
272213650030, 272213650035,)
and 272213650040.)
)
)
Applicant:)
Charley Underwood (Agent) for Eric)
Campbell, Campbell's Lodge Inc.)
(Owner) P.O. Box 278 Chelan, WA 98816)

STAFF RECOMMENDED DECISION

Based upon the following suggested findings of fact and conclusions of law presented, the application for Zoning Variance 2022-04, submitted by Charley Underwood (Agent) for Eric Campbell is recommended for APPROVAL.

DATED THIS 3rd day of November 2023



John Ajax, Director

CONDITIONS OF APPROVAL

1. Construction shall proceed substantially as shown in the application materials on file with the City of Chelan, except for minor adjustments to conform to conditions of approval or any received agency comments.
2. The applicant is responsible for compliance with all applicable local, state, and federal rules and regulations, and must obtain all appropriate permits and approvals.

VAR2022-04
Riverwalk Park Townhomes

3. Approval of this variance is contingent upon and must be concurrent with the Hearing Examiner's approval of the associated applications for a Shoreline Substantial Development Permit (SSDP2022-02) and the State Environmental Policy Act (SEPA2022-04).

FINDINGS OF FACT

I. SUMMARY OF REQUEST

Zoning Variance (VAR2022-04) seeks to permit each unit of a proposed 16-unit townhome development to have a single car garage facing a public street with direct connections to the public right-of-way via a combination of four private single driveways and twelve shared driveways, located at 300 W Okanogan Avenue, Chelan, WA. The variance is necessary because the current zoning code design standards for townhomes prohibits garages from facing a public street. Each townhome unit is proposed to have direct access to W. Okanogan Avenue.

This land use application was submitted concurrently with a Shoreline Substantial Development permit application (SSDP2022-03) and a State Environmental Policy Act application (SEPA2022-04). Both applications were processed together as one integrated process. However, separate individual decisions are requested for each application.

II. APPLICATION

1. The applicant is Charley Underwood (Agent) for Eric Campbell, Campbell's Lodge Inc. (Owner) P.O. Box 278 Chelan, WA 98816.
2. Submitted application materials (EXHIBIT 'A') are as follows:
 - 2.1. Construction drawings / plan set, prepared by The DOH Associates, PS, dated 7/26/22
 - 2.2. Project Vicinity Map
 - 2.3. Zoning Variance Application and memorandum dated July 7, 2022.
 - 2.4. All application materials associated with the concurrent application for SSDP2022-02, including applicant responses to agency and public comments, received 8.16.23.

III. ZONING AND SITE INFORMATION

3. The underlying Zoning District & Comprehensive Plan Land Use designation for the subject site is Tourist Mixed Use (TMU) and fronts on a Landscape Street (CMC 17.14.020.D.4.).
4. The TMU Zoning district setbacks are as follows:
 - 4.1. 15 ft. front yard setback, 20 ft. front yard setback for garages.
 - 4.2. 5 ft. side yard setback, 0 ft. side yard setback for internal lot lines associated with townhomes.
 - 4.3. 0 ft. rear yard setback.

5. 'Townhouse' is a permitted use within the TMU Zoning District per CMC 17.14.020.C.2.b..
6. The subject site is approximately 520 feet wide and 125 deep.
7. Adjacent Land Uses and Zoning designations are as follows:
 - 7.1. **North:** Riverwalk Park, owned by Chelan County Public Utility District, zoned as Public Lands and Facilities (PLF).
 - 7.2. **South:** Okanogan Avenue followed by an eight-plex condominium and single-family homes, zoned Downtown Mixed Residential.
 - 7.3. **East:** Pedestrian entrance to Riverwalk Park, also under Chelan County Public Utility District and zoned as Public Lands and Facilities (PLF).
 - 7.4. **West:** 3rd Street and West Woodin Avenue. Further west are Grandview condominium and the Forest Service office, zoned Tourist Accommodations (T-A).
8. Utility / services available within the project area are:
 - 8.1. Water / Sewer – City of Chelan
 - 8.2. Fire Protection Service – Chelan County Fire Protection District Number 7
 - 8.3. Law Enforcement – Chelan County Sheriff
 - 8.4. School District – Lake Chelan School District
 - 8.5. Power / Electric – Chelan County P.U.D.
 - 8.6. Public Transit – LINK
 - 8.7. Garbage Service: City of Chelan
9. Access / Circulation:
 - 9.1. The subject site fronts on the north side of West Okanogan Avenue, running west to east, and is optionally accessible by South 3rd Street, South 2nd Street, and South 1st Street, each running north to south.
 - 9.2. The Chelan County Public Utility District park system (Riverwalk Park) is located north of the subject site and is accessible via a sloped pedestrian pathway located immediately east of the subject property.
 - 9.3. The revised application site plan includes modification to the one way access at Okanogan and Third Street.

IV. APPLICATION PROCESSING

10. The application was submitted on July 26, 2022
11. The application was deemed complete for processing on August 10, 2022
12. Notice of Application and SEPA referral (EXHIBIT 'B') was provided in the following manner:
 - 12.1. Mailed to property owners of record within 300 feet of the subject property on August 16, 2022.

- 12.2. Mailed to parties of record on previous application SSDP2021-03
- 12.3. Posted on site on August 16, 2022
- 12.4. Published in the Lake Chelan Mirror Newspaper on August 17, 2022.

13. Notice of Application was referred by email to the following agencies on August 17, 2022:

- 13.1. Chelan County Public Utility District No. 1 – Alicia Hankins
- 13.2. Lake Chelan School District, Tamara Wilson, Transportation Supervisor,
- 13.3. The Confederated Tribes of the Colville Reservation (CCT) - Guy Moura;
- 13.4. Department of Natural Resources SEPA Center
- 13.5. Department of Ecology, Lennard Jordan,
- 13.6. Department of Ecology - Gwen Clear
- 13.7. Washington State Department of Fish and Wildlife – SEPA
- 13.8. Confederated Tribes and Bands of the Yakama Nation – Casey Barney
- 13.9. Confederated Tribes and Bands of the Yakama Nation – Jessica Lally
- 13.10. WSDOT
- 13.11. United States Army Corp, Janae Churchill
- 13.12. United States Army Corp, Evan Carnes
- 13.13. Chelan County Fire District Seven, Brandon Asher
- 13.14. Chelan County Sheriff – Adam Musgrove
- 13.15. Dept. of Archeology and Historic Preservation (DAHP) – SEPA Center
- 13.16. Link Transit
- 13.17. Ziplly Fiber – Kern Chesna
- 13.18. Lake Chelan Reclamation District – Rod Anderson
- 13.19. Lake Chelan Reclamation District – Jennifer
- 13.20. City of Chelan, Building – Luis Gonzalez
- 13.21. City of Chelan, Public Works – Thomas Tupling

14. Agency Comments (EXHIBIT ‘C’) were received from:

- 14.1. Guy Moura 8/22/2022
- 14.2. Alicia Schulz 8/31/2022
- 14.3. Vicki Griffin 9/9/2022
- 14.4. Graham Simon 9/9/2022
- 14.5. Lucila Cornejo 9/14/2022
- 14.6. Public Works 10/19/2022

15. Public comments (EXHIBIT ‘D’) were received from:

- 15.1. Stephen Easley 8/22/2022
- 15.2. Donald and Gwendolyn Earley 8/29/2022
- 15.3. Tony and Sharron Crosetto 9/2/2022
- 15.4. Becky and Greg Hobson 9/5/2022
- 15.5. Michael Gibb 9/6/2022
- 15.6. Rebecca Hartwig 9/7/2022
- 15.7. Christy Nielsen 9/12/2022

- 15.8. Tracy Hollingsworth 9/15/2022
- 15.9. Cynthia Kupczynski 9/15/2022
- 15.10. Lisa Garvich 9/15/2022
- 15.11. Friends of Chelan 9/15/2022
- 15.12. Patricia A Gillis 9/15/2022
- 15.13. Dan Lambert 9/16/2022
- 15.14. Gail Lambert 9/16/2022
- 15.15. Susan Barth 9/16/2022
- 15.16. Peggy McMahon 9/16/2022
- 15.17. Jarek Kupczynski 9/16/2022
- 15.18. Friends of Chelan 9/16/2022
- 15.19. Cindy Kupczynski 9/16/2022
- 15.20. Steven Garvich 9/16/2022

- 16. Notice of Public Hearing (EXHIBIT ‘E’) was provided in the following manner:
 - 16.1. Mailed or email to property owners of record within 300 feet of the property owned by the applicant on November 1, 2023.
 - 16.2. Mailed or email to parties of record on November 1, 2023.
 - 16.3. Posted on site on November 1, 2023.
 - 16.4. Published in Lake Chelan Mirror Newspaper on November 1, 2023.

V. REVIEW / ANALYSIS

- 17. CMC 17.64.010, Granting- Conditions, Applications for variances from the terms of the zoning ordinance, the official map ordinance, or other land use regulatory ordinances under procedures and conditions prescribed by this title or other provisions in this Chelan Municipal Code, except as provided in Section 17.64.030 relating to administrative adjustments, shall be granted only if the hearing examiner finds that all of the following conditions exist:
 - A. The variance shall not constitute a grant of special privilege inconsistent with the limitation upon uses of other properties in the vicinity and zone in which the property on behalf of which the application was filed is located; and
 - B. Such variance is necessary, because of special circumstances relating to the size, shape, topography, location, or surroundings of the subject property, to provide it with use rights and privileges permitted to other properties in the vicinity and in the zone in which the subject property is located; and
 - C. That the granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone in which the subject property is situated;
 - D. Hardships of a financial nature, hardships which are self-created, and hardships which are personal to the owner and not to the property, shall not be grounds for a variance;

E. The proposed variance will not amount to a rezone nor authorize any use not allowed in the district.

18. Applicant responses to the above criteria above are provided as follows:

18.1. *The property zoning is unique to this site when compared to other properties in the immediate vicinity.*

The ability to locate garages and parking consistent with the shoreline regulations is not a special privilege that would not be available to other properties.

The granting of the variance preserves the applicant's rights to be similar to other properties thereby preventing the inconsistent limitations. Additionally, the proposed variances will not interfere with the use of adjacent properties.

18.2. These variances are necessary based on the size, shape and location of the project site.

The location of the property within shoreline jurisdiction is unique compared to the majority of properties in the Downtown Planning Area. Nearly the entire shoreline of the Chelan River in the Planning Area is publicly owned and already developed with improvements.

To meet the competing needs of the shoreline regulations and zoning, it is necessary to locate parking outside of shoreline jurisdiction. The location required by the shoreline requirements causes special circumstances for the garages to face the street and parking to be in the front not faced by other properties in the Planning Area.

The proposed variances will allow the project to better resemble existing uses on adjacent properties (garages with driveways that face and access the public right-of-way).

18.3. *The variances will not be injurious to the public welfare or detrimental to the adjacent properties.*

18.4. *The proposed variances will enhance aesthetics from the downtown and Riverwalk Park corridors. Additionally, the variances will allow the project to more closely align with the intent of the CSMP.*

18.5. *The variances are to reduce impacts to the shoreline environment and promote sprawl reduction. The variances are necessary given the property size, shape, and location. These attributes are not self-created, personal to the owner, or of a financial nature.*

18.6. *The variances do not amount to a rezone or allowance for an unauthorized use.*

This request does not impact the density, and garages and parking are allowed by the CMC.

19. Staff review of the proposed project, applicable zoning requirements for townhomes, and variance criteria include the following analysis:

19.1. CMC 17.14.050.F.2 Entries:

19.1.1. a. Townhouses fronting on a street must all have individual ground-related entries accessible from the street. Configurations where enclosed rear yards back up to a street are prohibited;

19.1.2. b. Separate covered entries at least three feet deep are required for all dwelling units;

19.1.3. c. For sites without alleys or other rear vehicular access, new buildings must emphasize individual pedestrian entrances over private garages to the extent possible by using both of the following measures:

19.1.3.1. i. Enhance entries with a trellis, small porch, or other architectural features that provides cover for a person entering the unit and a transitional space between outside and inside the dwelling; and

19.1.3.2. ii. Provide a planted area in front of each pedestrian entry of at least twenty square feet in area, with no dimension less than four feet. Provide a combination of shrubs or ground cover and a street tree (refer to city arborist or street tree list if available); and

19.1.4. d. Planting strips with no dimension less than four feet are required adjacent to the primary entry of all dwelling units. This includes townhouses located to the rear of lots off an alley or private internal drive.

19.2. The proposed project includes required individual covered entries in the form of small porches that are accessible from the public street and planting areas in front of each entry consistent with the requirements for sites without alleys or rear vehicle access.

19.3. CMC 17.14.050.F.3 Garages and Driveways:

19.3.1. a. Where lots abut an alley, the garage or off-street parking area should take access from the alley;

19.3.2. b. For lots without alleys, individual driveways off of the street are prohibited (shared driveways are required);

19.3.3. c. Garages facing a public street are prohibited;

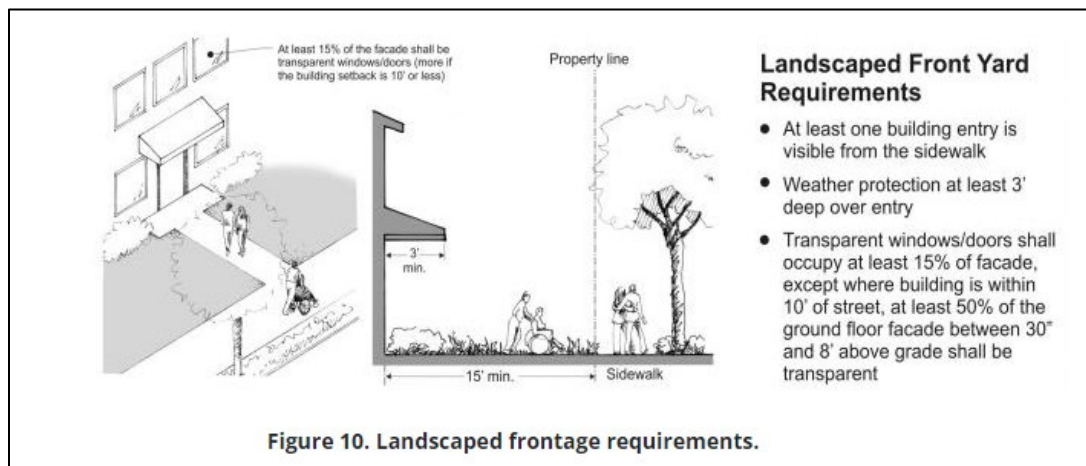
19.3.4. d. Internal Drive Aisle Standards.

19.3.4.1. i. Must meet minimum fire code widths;

19.3.4.2. ii. Minimum building separation along uncovered internal drive aisles shall be twenty-five feet. The purpose is to provide adequate vehicular turning radius, allow for landscaping elements on at least one side, and provide adequate light and air on both sides of the dwelling units and drive aisles, which often function as usable open space for residents; and

19.3.4.3. iii. Upper level building projections over drive aisles are limited to three feet, and must comply with provisions in subsection (F)(3)(d)(ii) of this section.

- 19.4. The subject site entirely fronts on West Okanogan Avenue, a public street; no existing alley access is available or adjacent to the subject site.
- 19.5. Townhomes, by definition, require individual units to have outside access and legal frontage on a public street. CMC 19.10.010 - "Townhouse" means an attached dwelling unit in a row of at least two and not more than six such units, separated by property lines and by vertical common fire-resistant walls from other dwelling units in the row and having individual outside access and legal frontage on a public street. Each dwelling unit shall be designed for and occupied exclusively by one family and the household employees of that family. A townhouse shall extend from foundation to roof, and no townhouse shall be located over another unit. Common walls between townhouses shall have no doors, windows or other provisions for human passage or visibility. Each townhouse shall be attached to other units in the row by not more than two common walls. The principal access shall be at or near grade. Townhouses shall be considered a type of multifamily dwelling and regulated as such.
- 19.6. The City of Chelan Shoreline Master Program (CSMP), section 5.17.2, A and B, limits the construction of new roads within the shoreline jurisdiction and requires the siting location to the maximum extent possible from the Ordinary High Water Mark (OHWM).
- 19.7. CMC 17.14.020.D.4. Landscape Street. The intent is to provide landscaped front yards. For all designated landscaped streets, the following standards apply:
- 19.7.1. a. Permitted Ground Floor Use along Street Frontages. All uses permitted by applicable land use district;
- 19.7.2. b. Permitted Frontages. Landscaped front yards as defined above (see Figure 10); and



- 19.7.3. c. Parking Location. Parking shall be located to the side or rear of buildings. No more than fifty percent of the frontage shall be occupied by parking and vehicular access uses, regardless of the frontage type used. Garages and carports, both attached and detached, shall be set back at least twenty feet from the front property line and no closer to the property line than other parts of the facade. Departures to the garage setback will be considered by the director provided design treatments are included to minimize safety and visual impacts of garage on the streetscape.
- 19.8. The design of the townhomes, as attached units fronting a 'Landscaped Street', inherently restricts the placement of parking to the side of each individual unit due to their contiguous nature.

Considering this limitation, a surface parking lot could be theoretically situated adjacent to the townhomes to fulfill the parking requirement. However, this solution does not align with the existing neighborhood's aesthetic, as such a parking lot would be visible from the Riverwalk Park. Additionally, per the City Shoreline Master Program (CSMP) under section 5.17.2 H, parking facilities are explicitly discouraged within the shoreline jurisdiction, which suggests that a surface parking lot would not be the preferred approach.

Rear parking poses its own challenges; situating parking behind the townhomes would necessitate constructing a new roadway that would run between the housing units in proximity to Riverwalk Park. This would directly be in conflict with the guidelines laid out in the City of Chelan Shoreline Master Program, reinforcing the prohibitions mentioned in section 19.6.

Therefore, as part of the approval process, the development must adhere to the City of Chelan's landscaping and front yard requirements as depicted in 'Figure 10' of the zoning code shown above. Additionally, the project is required to conform to the Development Standards of the City of Chelan, including the Public Works review comments and conditions dated October 19, 2022. The pursuit of alternative compliance measures for parking that respect both the physical layout of the site and the regulatory landscape guidance is proposed by this variance.

20. Application materials and responses were submitted in fulfillment of the requirements in CMC 17.64.010.
21. The application, as a variance, is categorically exempt from SEPA review per WAC 197-11-800(6)(e).
22. Any Conclusion of Law that is more correctly a Finding of Fact is hereby incorporated as such by this reference.