

BEFORE THE CHELAN COUNTY HEARINGS EXAMINER

IN THE MATTER OF)	FINDINGS OF FACT,
)	CONCLUSIONS OF LAW,
PLAT 2023-491)	DECISION AND CONDITIONS
Malaga Meadows)	OF APPROVAL
)	

THIS MATTER, having come on for hearing in front of the Chelan County Hearing Examiner on March 6, 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. An application was submitted for the phased development of approximately 19.54 acres into 41 lots for residential use, as shown in Exhibit A. Phase 1 would consist of the development of Lots 10-17 and Lots 27-41 and Phase 2 would consist of the development of Lots 1-9 and Lots 18-26. The smallest lot of the phased development would be approximately 13,173 sq. ft. (0.30 acre) in size and the largest lot (Lot 41) would be approximately 210,395 sq. ft. (4.83 acres) in size and currently contains an existing residence and shop. The subject property is located in the Rural Village (RV) zoning district. Access would be off of W. Malaga Rd. onto a private internal roadway system proposed with the development. Domestic water would be provided for by the Malaga Water District with sanitation consisting of individual on-site septic systems.
2. The Applicants/owners are A Home Doctor Inc., 1833 N. Wenatchee Ave., Wenatchee, WA 98801. The agent/surveyor is Complete Design, Michelle Taylor, 353 Malaga Alcoa Hwy, Unit 3 Wenatchee, WA 98801.
3. The parcel number for the subject property is 22-21-28-430-050 and the abbreviated legal description is T 22N R 21EWM S 28 PT SWSE E COURTNEY RD 19.5400 ACRES. The project location is 3665 W. Malaga Rd., Malaga, WA 98828.
4. The subject property is not located within an Urban Growth Area.
5. The Comprehensive Plan designation and zoning designation for the subject site is Rural Village (RV).
6. The subject property is/was being used for agricultural production, but in late 2023, a portion of the existing orchard was removed.
7. The subject property is relatively flat and currently is partly in agricultural production. There is an existing residence onsite that was built in 1911 and two accessory structures that were built in 1959 as well. Per the Chelan County Assessor's records, the subject property contains approximately 19.54 acres.
8. Surrounding properties:
North: Dixie Lane and agricultural use; zoned Rural Industrial (RI)
South: Agricultural use; zoned Commercial Agriculture Lands (AC)
West: W. Malaga Rd. and residential use; zoned Rural Recreational Residential (RRR) and Rural Village (RV).
East: Residential; zoned Rural Village (RV).

9. The applicant submitted an Aquifer Recharge Area Disclosure Form, date stamped December 7, 2023. Pursuant to Chelan County Code (CCC) Section 11.82.040, Chelan County has determined that the aquifer recharge measures do not apply.
10. Pursuant to the Federal Emergency Management Agency, FIRM map panel 5300150450B, the subject property does not contain identified 100 or 500-year flood plain or associated floodway. Therefore, the provisions of CCC Chapter 11.84, do not apply. In August 2023, the Washington State Department of Ecology (Ecology) released an updated Meadow Lake Emergency Action Plan. According to this document, the subject property would be subject shallow sheet flooding and/or inundation if the Meadow Lake Dam failed. The Hearing Examiner sets as a condition of approval including a note on the face of the plat that would notify future owners of this potential hazard.
11. According to the Chelan County GIS mapping, the subject property does not contain potential geologic hazardous areas. Therefore, the provisions of CCC Chapter 11.86, Geologically Hazardous Areas Overlay, would not apply.
12. Pursuant to the National Wetlands Inventory Map, the property does not contain any known wetlands. Therefore, the provisions of CCC Chapter 11.80, do not apply. The Shoreline Master Program does not apply.
13. Pursuant to the Washington State Department of Fish and Wildlife Priority Habitat and Species Maps and Chelan County GIS mapping, the subject property does not contain any known sensitive habitats. Therefore, the provisions of CCC Chapter 11.78 do apply.
14. Pursuant to RCW 27.53.020, full cooperation among the Department of Archaeology and Historic Preservation (DAHP) and other agencies is required to ensure information regarding the possible impact of construction activities on the state's archaeological resources is maintained. Pursuant to a letter from DAHP, dated January 4, 2024, their statewide predictive model indicates that there is a high probability of encountering cultural resources within the proposed development. Therefore, a cultural resource survey is recommended prior to ground disturbing activities. Correspondence from the Confederated Tribes of the Colville Reservation, dated January 29, 2024, deferred to DAHP's requirements. The Hearing Examiner sets as a condition of approval stating a cultural resource survey shall be conducted unless documentation as provided by the DAHP relinquishes this requirement.
15. According to the Chelan County Assessor's website, the main residence was built in 1911 and the garage and carport were built in 1959.
16. The applicant is proposing access to this development from West Malaga Rd., which is a 60 ft. right-of-way and is classified as an Urban Major Collector Road in the county road system. W. Malaga Rd. is a 29 ft. paved roadway, providing single lanes for traffic in each direction. There is no existing curb, gutter or sidewalk. Dixie Lane is a 60 ft. right-of-way and is classified as an Urban Local Access Road in the county road system. Dixie Lane consists of single travel lanes for both directions with no curb, gutter or sidewalk. Dixie Lane has 28 ft. pavement. A deviation request was approved on November 7, 2023. The deviation is to construct a pathway in lieu of improvements to W. Malaga Rd. Frontage road improvements shall be required to Dixie Lane, per the respective classification design. The applicant shall be required to construct 1/2-street road widening with curb, gutter and sidewalk along the entire frontage of the development per CCC Chapter 15.30. The design and construction of the proposed internal main road shall be required to meet a Rural Local Access Class HD (Standard Plan PW-11). An Urban Emergency Vehicle Access Turnaround (Standard Plan PW-23-A or B) shall be required on any dead-end street/road longer than one-hundred and fifty feet (150 ft.). Pursuant to CCC Chapter 15.30, the applicant shall be required to establish the same right-of-way road width along the east lot line of proposed Lot 41. Pursuant to CCC Chapter 15.30, upon review by the County Engineer, the

applicant will be required to provide a tract that shall be dedicated for the extension of Sweet Heart Lane along the south lot line of proposed Lot 41 to W. Malaga Road.

17. The Chelan County Public Works comment letter, dated January 31, 2024, states a private stormwater drainage system would be required with an Operation and Maintenance Agreement of the drainage system to be recorded with the final plat.
18. Domestic water service shall be by expansion of the Malaga Water District public water system. Written confirmation from the utility agreeing to provide individual service to each lot is required. All water system improvements must be designed, constructed, and placed in accordance with the purveyor's requirements.
19. Subject to specific application approval and issuance of permits by the Health Officer, the property is generally suitable for placement of individual on-site sewage disposal systems. Test holes have been examined on the subject property by Tower Designs via a report dated August 18, 2023. The area available for placement of onsite sewage systems is limited. The final plat Mylar shall show designated drainfield areas sufficient in size and location to accommodate an initial and reserve drainfield area for a three-bedroom home or four-bedroom home based on the soil type found on each individual proposed lot.
20. The Chelan County PUD power serves this area and the applicant should consult with the Chelan County PUD for further information. The Hearing Examiner sets as a condition of approval, pursuant to CCC Section 11.02.020, stating the applicant shall obtain a permit and any required easements from Chelan County PUD, prior to any development of roads or utilities for the proposed development.
21. The Chelan County Fire Marshal comment letter dated January 9, 2024, states the proposal shall conform to all applicable requirements of the International Fire Code and International Building Code administered by the Chelan County Fire Marshal. A note on the face of the final plat shall state "Without the installation of a fire hydrant capable of delivering the required fire flow and within the required distance to the lots in question, the applicant may choose one or any combination of alternatives using the installation of automatic fire sprinklers and/or fire protection credits as approved by the Fire Marshal."
22. The subject property currently benefits from public irrigation provided by the Malaga Water District and the current irrigation allotment shall be split between the lots.
23. Noise impacts are addressed in CCC Chapter 7.35.
24. The applicant submitted an environmental checklist on December 7, 2024. Pursuant to WAC 197-11 process and RCW 43-21C of the State Environmental Policy Act (SEPA), an environmental review and a threshold determination was completed, and a Mitigated Determination of Non-significance (MDNS) was issued on January 24, 2024. The SEPA Checklist and MDNS are included within the file of record and adopted by reference. No appeal of the MDNS was filed.
25. The Notice of Application was referred to agencies and departments on January 4, 2024 and surrounding property owners within 300 ft. excluding 60 ft. of right-of-way with comments due January 18, 2024. Agency comments are included, as appropriate, within this decision and in the Conditions of Approval. The following agencies and County departments were sent referral packets.

Agencies Notified	Response Date	Nature of Comment
Chelan County Assessor	January 4, 2024	The legal description appears to be correct and there are no delinquent taxes.

Agencies Notified	Response Date	Nature of Comment
Chelan County Fire Marshal	January 9, 2024	The subject property does not have adequate fire flow; either additional fire hydrants would be necessary to serve this development or alternative fire flow provisions would be necessary.
Chelan County Building Official	No Comment	
Chelan-Douglas Health District	January 18, 2024	Domestic water would be provided by expansion of the Malaga Water District and sanitation would be provided by onsite septic systems.
Chelan County Public Works	January 31, 2024	Recommended conditions of approval were provided for the proposed development.
Chelan County PUD	No Comment	
WA Dept. of Fish & Wildlife	January 2, 2024	Golden eagle nesting sites do not appear to be present at this parcel currently. No habitat surveys would be required.
Wenatchee Valley Fire Department	No Comment	
Wenatchee School District	No Comment	
WA Dept. of Archaeology & Historic Preservation	January 4, 2024	DAHP recommends a cultural survey be performed and a report produced prior to ground disturbing activities.
Yakama Nation	No Comment	
Confederated Tribes of the Colville Reservation	January 29, 2024	Recommends an Inadvertent Discovery Plan
Dept. of Ecology	January 16, 2024	A NPDES Construction Stormwater Permit may be required if there is potential for stormwater discharge from the site prior to any ground-breaking activities.

26. A public comment was received from Helen Horn on January 9, 2024. She is concerned about the entrance to the subdivision being off of W. Malaga Rd. due to the potential for a collision to occur. A public comment was received from Brigitte Ranne on January 15, 2024. Her main concern is about the development utilizing individual on-site septic systems instead of being

hooked up to a sewer system. She is also concerned about the increase in traffic on W. Malaga Rd. and the Malaga-Alcoa Highway, the impact on the Wenatchee School District, the additional light pollution, and the overall quality of life in Malaga.

27. Application and Public Hearing Notice Compliance:

Application Submitted:	December 7, 2023
Determination of Completeness issued:	December 29, 2023
Notice of Application:	January 4, 2024
SEPA MDNS Issued:	January 24, 2024
Notice of Hearing:	February 24, 2024
Public Hearing:	March 6, 2024

28. The Comprehensive Plan has been reviewed, specifically, the goals and policies related to the Rural Village (RV) designation, which is a type of LAMIRD (Limited Areas of More Intensive Rural Developments) for higher densities developments and focused growth. LAMIRDs help focus development and support the preservation of rural lands in other areas of the County and provide for residential development when served by public water, sewer and other facilities. The Comprehensive Plan outlines the purpose, uses and density intended for RV designation.

28.1 Purpose: This designation recognizes the existence of intensely developed rural residential developments and communities, with densities less than 2.5 acres per dwelling unit, which typically will not have sewer service. This designation will provide the opportunity for the development, redevelopment and infill of existing intensely developed rural residential areas for residential and other rural development consistent with the rural character and rural development provisions outlined in the goals and policies of this comprehensive plan. Potential impacts to the surrounding area, critical areas, and water quality shall be addressed. These areas must be clearly identifiable as existing intensely developed rural residential development; where a logical boundary can be delineated and set by the built environment. Such a boundary shall not permit or encourage a new pattern of sprawling low density or urban type development. Uses appropriate for these areas include: developed open space; residential; agriculture; and forestry. Additional uses may be considered with supplemental provisions. These provisions shall address performance standards, impacts to the surrounding area, and be consistent with the goals and policies of the comprehensive plan. Such uses may include: intensification of existing small scale recreational or tourist uses that rely on a rural location or setting but that do not include a new residential component; intensification of development on lots containing existing isolated nonresidential uses; home occupations; bed and breakfasts; and community facilities.

28.2 Density: May allow for less than 2.5 acres per dwelling unit. The establishment of densities shall consider pre-existing development patterns, Health District standards, proximity to resource lands, existence of critical areas and the availability of necessary public facilities and services. The provision of necessary public facilities and services shall not permit or encourage low density sprawl or urban type development outside of the designation boundary.

29. The following Comprehensive Plan policies indicate support for the proposed development within a LAMIRD.
 - 29.1 Policy LU 1.1: Promote improved neighborhood character and compatibility through unified design and site requirements for both site-built homes and manufactured and modular housing.
 - 29.2 Rationale: The placement should take into consideration compatibility with the character of existing and future residential areas.
 - 29.3 Policy LU 1.5: Encourage infill of vacant and underdeveloped land in existing residential areas within urban growth areas and rural communities, such as LAMIRDs.
 - 29.4 Rationale: Many parcels of land are available within existing residential developments that can accommodate further development. Infill within these areas will allow public facilities and services to be provided in a more efficient manner.
 - 29.5 Policy RE 6.2: Apply development standards in LAMIRDs to ensure the design of development or redevelopment is consistent with the character of the existing areas and the proposed use conforms to the intent of this Comprehensive Plan.
 - 29.6 Rationale: Requiring new and/or redevelopment within LAMIRD designations to be consistent with the provisions of this element ensure that the County remains consistent with the requirements of the Growth Management Act with respect to LAMIRD designations.
 - 29.7 The Comprehensive Plan outlines the long-range goals and development patterns for the County. The proposed development is consistent with the intent of the Comprehensive Plan, which supports higher density uses and development in the zoning district where public facilities (such as water and sewer) are available.
 - 29.8 Hearing Examiner Finding: The proposed development proposes residential dwellings for the subject site, which is consistent with the Chelan County Comprehensive Plan for LAMIRD development.

30. Chelan County Code Chapter 11 Zoning: Chelan County Code 11.12.020 – Chelan County Code 11.20.020 – Standards:
 - 30.1 Minimum lot size, which measures to include ten percent of the adjoining public rights-of-way, shall be in accordance with the Chelan-Douglas Health District standards for public or community water and sewage disposal; however, in no case shall lot sizes be less than 12,000 sq. ft. (approximately 0.28 acres).
 - 30.2 Minimum lot width is 70 ft. at the front building line for an interior lot; 80 ft. for a corner lot.
 - 30.3 Maximum building height is 35 ft.
 - 30.4 Maximum lot coverage is 35%.
 - 30.5 Minimum setback requirements shall be as provided in this section except when abutting commercial agricultural lands (AC), riparian and shoreline areas, or as modified by the provisions of this title:(A) Front yard: 25 ft. from the front property line or 55 ft. from the street centerline, whichever is greater; (B) Rear yard: 20 ft. from the rear property line; (C) Side yard: 5 ft. from the side property line.

- 30.6 The proposed lots would be for residential use. The applicant is proposing lots ranging in size from 13,142 sq. ft. (0.30 acre) to 210,395 sq. ft. (4.83 acres). All proposed lots exceed the minimum lot width of 70 ft. at the front building line. Building setbacks, height, and lot coverage would be reviewed at the time of building permit application.
- 30.6.1 Hearing Examiner Finding: The site plan of record, date stamped December 7, 2023 indicates that all minimum dimensional standards have been met. The Hearing Examiner finds that the proposed development, as conditioned, is consistent with the provisions of Chelan County Code Section 11.20.020.
- 30.7 No new dwelling unit shall be placed within one hundred feet of a property zoned as commercial agricultural lands (AC).
- 30.7.1 Adjacent properties to the south and to the west are zoned AC. Any residences built on Lots 1, 26, and 27 shall have a setback of 100 ft. from the property line of these parcels unless an agricultural setback waiver is granted pursuant to CCC Section 11.30(6)(C).
31. Chelan County Code 14.08.010 Pre-application meetings:
- 31.1 Prior to the filing of a preliminary plat, the sub-divider shall submit to the administrator plans and other information sufficient to describe essential features of the property and the proposed or contemplated uses and development for the purposes of scheduling a formal pre-application meeting in accordance with CCC 14.08.010.
- 31.2 Hearing Examiner Finding: The applicant participated in a pre-application meeting with Chelan County Community Development on August 10, 2023.
32. Chelan County Code, Title 12: Land Divisions - Chelan County Code 12.02.060 Concurrency of Public Infrastructure:
- 32.1 After the opportunity for review and comment, all providers of water, sewage disposal, schools, and fire/police protection serving the proposed land division have been given adequate notice to provide comment regarding adequate capacity or arrangements for adequate services for the development, concurrently with the demand for such services and facilities.
- 32.2 No county facilities will be reduced below adopted levels of service as a result of the proposed land division.
- 32.3 The subject property would be served by expansion of the Malaga Water District and would utilize on-site septic systems. Extensions of the existing lines would be required for power.
33. Chelan County Code 12.04.020 - Suitability for Land Division. As submitted, the proposed development is consistent with the provisions of this section.
34. Chelan County Code 12.08 defines the standards for all subdivisions. CCC 12.08.010 Land division names: No land division shall be approved which bears a name using a work which is the same as, similar to or pronounced the same as a word in the name of any other subdivision in the county, except for the words which contain the following "town," "county," "place," "court," "addition," "acres," "heights," "villa," or similar words, unless the land so divided is contiguous to the land division bearing the same name.
- 34.1 Hearing Examiner Finding: Review of the name would be required prior to final plat approval to determine that it does not match or is not similar to an existing plat name.
35. Chelan County Code 12.08.020 – Lot Standards:

- 35.1 Suitability for Intended Use. All lots shall be suitable for the general purpose for which they are intended, meeting the dimensional standards of the Chelan County Code or shoreline master plan, including but not limited to required buffers, setbacks or protection zones. Cluster lots, planned unit developments and binding site plan may vary from the dimensional standards of the applicable zoning district as provided for in this title. No lot shall be of such size or design as to be detrimental to the health, safety or sanitary needs of the residents of the subdivision or such lot.
- 35.1.1 Hearing Examiner Finding: As conditioned, the proposed development would be consistent with the required dimensional standards.
- 35.2 Every lot shall be provided with access. If access is provided by a road, residential driveway or shared residential driveway, access shall meet the requirements of Title 15.
- 35.2.1 Hearing Examiner Finding: Access to the proposed development would be via a private internal roadway off of W. Malaga Rd., a public roadway in the county road system. This proposed internal road would need to meet a Rural Local Access Class HD (Standard Plan PW-11) of Title 15. As conditioned, the proposed development would be consistent with the required access requirements.
- 35.3 Forest service roads and roads designated as “primitive” by Chelan County are not suitable access for land division, except as provided in Section 12.04.020.
- 35.3.1 Hearing Examiner Finding: Not applicable
- 35.4 Proposed lots must include a building footprint where the slope does not exceed forty percent, unless a geological or engineer report can demonstrate building area, except as provided in Section 12.04.020.
- 35.4.1 Hearing Examiner Finding: The subject property does not contain steep slopes.
- 35.5 The administrator may require a map showing the building envelope of each lot and related critical areas and associated buffers.
- 35.5.1 Hearing Examiner Finding: The proposed development is not located in an area identified as a potential geologic hazard.
- 35.6 Where the land division may result in barriers to development of adjacent lots, the administrator may require that the location of lot lines provide for future land division of surrounding property.
- 35.6.1 Hearing Examiner Finding: As conditioned, the proposed development would be consistent with the required connectivity requirements.
36. Chelan County Code 12.08.030 Easements:
- 36.1 Utilities, whenever feasible, shall be located outside the established road prism, as defined in Title 15, but within the right-of-way. When location within the public right-of-way is not feasible or practical, as determined by the county or local utility purveyor, the following provisions shall be adhered to:
- 36.1.1 Easements for the construction and maintenance of utilities and public facilities shall be granted, as determined by the county or local utility purveyor, to provide and maintain adequate utility service to each lot and adjacent lands.
- 36.1.2 The widths of the easements shall be the minimum necessary as determined by the utility purveyor, unless the administrator determines a small or larger width is

appropriate based on-site conditions. Whenever possible, public utilities shall be combined with driveways, pedestrian access ways and other utility easements.

- 36.1.3 Hearing Examiner Finding: Electrical services are available from the Chelan County PUD No. 1. However, line extension would be required.
- 36.2 Private road easements shall be shown.
 - 36.2.1 The applicant is proposing access off of an existing county road and by private internal roads and driveways. Private road standards, as detailed in CCC Title 15, would apply to this development and require an approved maintenance agreement.
- 36.3 Easements required by this section shall be granted by the terms and conditions of such easements being shown on the final land division or separate instrument.
 - 36.3.1 All easement locations are required to be shown on the final plats, pursuant to CCC 12.08.030. Separate instruments recorded with the Chelan County Auditor should be referenced on the face of the final plat. Required easements shall be reviewed with the blue line submittal.
- 36.4 Easement provisions shall be in conformance with the standards contained in Title 15, Development Standards.
 - 36.4.1 Easement locations and purpose(s) should be indicated on the final plat. Easements shall be reviewed with blue line submittal.
- 37. Chelan County Code 12.08.040 Fire protection standards: The fire protection standards contained in Title 15 and adopted International Fire Code are required in all divisions of land. Modifications are allowed though the adopted fire credit options when approved by the Chelan County Fire Marshal.
 - 37.1 The subject property is located within the Wenatchee Valley Fire Department. The Chelan County Fire Marshal requires conformance with the International Fire Code. Pursuant to CCC 3.04.010, State Building Code, all building permits require compliance with the International Fire Code(s), as adopted or amended by Chelan County.
- 38. Chelan County Code 12.08.050 Storm Drainage: All land division creating new impervious surfaces shall meet the following requirements: (1) Storm drainage shall be provided in accordance with the adopted standards. (2) All infrastructure within the right-of-way shall become the property of, maintained and operated by Chelan County.
 - 38.1 A private stormwater drainage system would be required for the proposed preliminary plat. Operation and maintenance of the private drainage system would require a Maintenance Agreement. The Maintenance Agreement must include operational and annual maintenance criteria. Said Maintenance Agreement shall be submitted to the Public Works Department with the Preliminary Mylar (blue lines) and shall be recorded with the final plat.
- 39. Chelan County Code 12.08.060 Watercourses. Where a division of land is traversed by a watercourse, a drainage easement adequate for the purpose and conforming to the line of such watercourse, drainage way, waste-way, channel or stream and of such width for construction, maintenance and protection as determined by the decision body shall be provided.
 - 39.1 The property is not impacted by a watercourse.
- 40. Chelan County Code 12.08.080. Road Standards: All land divisions shall comply with Title 15.

41. Chelan County Code 12.08.090. Monuments: Permanent survey monuments shall be provided for all final land divisions as required in Section 15.30.825.
 - 41.1 Per Title 15 of the CCC, monumentation would be required prior to submittal of the final plat or as approved by Chelan County Public Works Department. Compliance with CCC 15.30.825 shall be a condition of approval.
42. Chelan County Code 12.08.100 Flood Protection:
 - 42.1 No land division shall be approved if related improvements such as levees, fills, roads, or other features will individually or collectively significantly increase flood flows, heights, or velocities.
 - 42.2 If a determination is made that part of a proposed land division lies within the one-hundred-year flood plain or the floodway, the requirements of the Chelan County flood hazard development resolution shall apply.
 - 42.3 The subject property does not contain floodplains or floodways. Per the Emergency Action Plan for the Meadow Lake Dam that was prepared by the Galler Ditch Company, the subject property could be subject to sheet flow if the Meadow Lake Dam failed and water spilled out.
43. Chelan County Code 12.24.015. All final land division review and approval requirements: The approval given to a preliminary plat shall expire pursuant to Revised Code of Washington (RCW) 58.17.140 unless, within the allowed timeframe, a proposed final plat in proper form is filed with the administrator.
 - 43.1 The applicant shall have five (5) years to final the plat from the date of preliminary approval.
44. An open record public hearing after due legal notice was held on March 6, 2024.
45. Appearing and testifying on behalf of the Applicant was John Torrence. Mr. Torrence testified that he was an agent authorized to appear and speak on behalf of the Applicant and property owner. Mr. Torrence testified that he had reviewed the staff report and proposed Conditions of Approval and that the Applicant agreed with both. However, Mr. Torrence did request that proposed Condition of Approval No. 12.8 be modified to allow for an easement, rather than a separate tract, if approved by Chelan County Public Works. The reason is that it would be much more difficult to remove a "tract" (which would require a plat amendment), rather than a removal of easement.
46. No members of the public testified at the hearing.
47. At the conclusion of the hearing, the Hearing Examiner kept the record open until 5:00 p.m. March 6, 2024, to allow Chelan County to submit its position on whether or not modification of proposed Condition of Approval No. 12.8, as proposed by the Applicant (adding the option of a tract versus an easement along the south property line of lot 41). The Hearing Examiner kept the record open until 5:00 p.m. on Friday, March 8, 2024, to allow the Applicant time to submit any response to the County.
48. On March 6, 2024, the County submitted its response to the Applicant's suggestion, rejecting the same. The County's response, which came in an email to the Hearing Examiner, copying the Applicant and his representatives, stating that the County was not in favor of amending proposed Condition of Approval No. 12.8 because if Sweet Heart Lane (a public lane) is eventually extended out to West Malaga Road, it would have to be in dedicated land that is owned by the County, and not in an easement over land owned by somebody else.

49. Also, on March 6, 2024, the Applicant, Jon Port, sent an email to the Hearing Examiner indicating that the Applicant did not wish to change proposed Condition of Approval No. 12.8, that the language was acceptable as written, and requested that the record be closed.
50. The Hearing Examiner closed the record as of March 6, 2024.
51. Any Conclusion of Law that is more correctly a Finding of Fact is incorporated herein as such by this reference.

II. CONCLUSIONS OF LAW

1. The Chelan County Hearing Examiner has been granted the authority to render this decision pursuant to CCC Section 1.61.080 Duties and Powers.
2. The subject application demonstrates consistency with the development standards and procedural requirements of CCC 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 would be served by the proposed development.
6. The application, as conditioned, is compatible with adjacent uses and would 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.

III. DECISION

Based upon the above noted Findings and Fact and Conclusions, PLAT 2023-491 is hereby **APPROVED**, subject to the following Conditions of Approval.

IV. CONDITIONS OF APPROVAL

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. Pursuant to RCW 58.17, the proposed development 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.
3. 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.
 - 3.1 Prior to ground disturbing activities, a cultural resource survey shall be conducted and a report meeting DAHP's Standards for Cultural Resource Reporting shall be submitted to DAHP unless documentation as provided by DAHP relinquishes this requirement.

4. Pursuant to CCC Section 12.24.040, the final Plat shall be designed in substantial conformance with the preliminary plat of record, date stamped December 7, 2024, 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.
5. Pursuant to CCC Section 12.08.030 and 12.24.020(3) and CCC Chapter 15.30, all easement locations are required to be shown on final plats.
6. Pursuant to RCW 58.17.255 and WAC 332-130-040, all easement locations serving or encumbering the subject property are required to be shown on the final plat. Separate instruments recorded with the Chelan County Auditor shall be referenced on the final plat. The location of existing structures and utilities (i.e. power, sewer, and water lines, etc.) and utility and private access easements shall be depicted on the face of the final plat.
7. 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.
8. Pursuant to CCC Chapter 11.84, the following note shall be placed on the final plat mylar:
 - 8.1 “Pursuant to the Emergency Action Plan for Meadow Lake Dam prepared by the Galler Ditch Company, the lots of this subdivision may be subject to shallow sheet flow flooding and inundation if the Meadow Lake Dam were to fail.”
9. Pursuant to CCC Section 12.02.010(1), the following notes shall be placed on the final plat mylar:
 - 9.1 “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 assure all risk and liability for any claims and liabilities for covenants or deed restrictions or reservations.”
 - 9.2 “Agricultural activities occur throughout Chelan County and may or may not be compatible with residential development.”
 - 9.3 “An Agricultural Waiver may be required for new residences on Lots 1, 26, and 27 pursuant to the setback requirements of CCC Chapter 11.30.”
10. Pursuant to CCC 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.
11. Pursuant to CCC Title 12, the following notes shall be placed on the final plat:
 - 11.1 “Chelan County is not responsible for notification or enforcement of covenants or 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 these properties. Applicant /owner assume all risk and liability for any claims and liabilities for covenants or deed restrictions or reservations.”
12. Pursuant to the Revised Code of Washington, the following notes shall be placed on the final plat:

- 12.1 “Noxious weed control is the responsibility of the individual lot owners, per RCW 17.10.140, as amended.”
- 12.2 “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. An inadvertent discovery plan shall be submitted with the building permit application and kept onsite during all land disturbing activities. A sample of this plan may be obtained from Chelan County Community Development.”

CHELAN COUNTY PUBLIC WORKS DEPARTMENT

13. The subject property and final plat shall conform to the comments and conditions of approval as found in the Chelan County Public Works Department agency comment dated January 31, 2024.
 - 13.1 A deviation request was approved on November 7, 2023 (see Exhibit C). The deviation is to construct a pathway in lieu of improvements to W. Malaga Rd.
 - 13.2 Frontage road improvements shall be required to Dixie Lane, per the respective classification design. The applicant shall construct 1/2-street road widening with curb, gutter and sidewalk along the entire frontage of the development pursuant to CCC Chapter 15.30.
 - 13.3 The applicant shall construct ADA ramps, curb, gutter and sidewalks per WSDOT Standards.
 - 13.4 Pursuant to CCC Section 12.08.020(2), the applicant shall demonstrate a Legal and Perpetual Access for the indicated access road for the proposed plat.
 - 13.5 Pursuant to CCC Section 15.30.360, all lots within this subdivision shall be required to access from the internal roadway system.
 - 13.6 The design and construction of the proposed internal main road shall be required to meet a Rural Local Access Class HD (Standard Plan PW-11). An Urban Emergency Vehicle Access Turnaround (Standard Plan PW-23-A or B) is required on any dead-end street/road longer than one-hundred and fifty feet (150 ft.).
 - 13.7 Pursuant to CCC Chapter 15.30, the applicant shall be required to establish the same right-of-way road width along the east lot line of proposed Lot 41.
 - 13.8 Pursuant to CCC Chapter 15.30, upon review by the County Engineer, the applicant will be required to provide a tract that shall be dedicated for the extension of Sweet Heart Lane along the south lot line of proposed Lot 41 to W. Malaga Road.
 - 13.9 Pursuant to CCC Section 15.30.360, the applicant shall be required to provide snow storage areas to place snow accumulated for the new private road.
 - 13.10 Pursuant to CCC Section 15.30.240, If the proposed road is a private road, the applicant shall file a Private Road Maintenance and Upgrading Agreement appurtenant to all the property owners having a vested interest in the private shared/common access road and must contain wording of maintenance of the road sign within the development. Said

agreement must be provided simultaneously with the Preliminary Mylar (blue-line) submission. Said agreement shall be recorded with the final plat.

- 13.11 Pursuant to CCC Section 15.30.650, the following language shall be placed on the face of the plat: "Chelan County has no responsibility to build, improve, maintain, or otherwise service any private road for this plat."
- 13.12 Pursuant to CCC Section 15.30.310, the applicant shall submit a Lot Access Plan so that addresses can be determined for all existing and proposed lots. The Lot Access Plan must show the driveways/access location for the proposed development. This requirement may be fulfilled on a separate submittal and must be accomplished prior to the pre-Mylar submittal.
- 13.13 Pursuant to CCC Section 10.20.200, a road naming shall be required for the shared driveway/access roads that serves three or more addressable parcels or structures. The applicant shall be required to notify all affected property owners that have legal access/use to the access being named or that owns property that abuts the access. A signature of the property owner or a certified mail receipt shall be required to prove such notification. That proof, a road naming application with 3 or more names and a road naming fee must be submitted to Chelan County Public Works for each of the shared accesses being named. Approval shall be up to emergency services. Once a road name has been approved, a road name sign shall be required to be installed by the applicant per Chelan County specs. Once the road name sign is installed; the applicant shall be required to contact Chelan County Public Works for an inspection.
- 13.14 Pursuant to CCC Chapter 10.20 the applicant shall add the following note to the Final Mylar for addressing: "Addresses are assigned to each lot based on given driveway locations. Any and all modifications to the location of the driveway(s) shall result in a change to the address previously assigned to said lot(s)".
- 13.15 The applicant shall submit construction plans and reports for all required improvements on Dixie Lane and the internal roads in accordance with Chapter 15.30.650: The Construction Plans shall include, but are not limited to:
 - 13.15.1 Drainage Report and Plan
 - 13.15.2 Roadway Improvement Plan (showing location of utilities and roadway curve data)
 - 13.15.3 Lot access plan (profiles, topography)
 - 13.15.4 Erosion and sedimentation control plan
 - 13.15.5 Signage Plan
 - 13.15.6 Topography Lines
 - 13.15.7 All Easements
- 13.16 Pursuant to CCC Section 15.30.650, a Pre-Construction Meeting is required with the owner, contractor, and the Chelan County Public Works Department prior to commencing any construction.
- 13.17 Pursuant to CCC Section 15.30.660, As-Built Plans shall be submitted, reviewed and approved by the Public Works Department upon completion of all required improvements and prior to County Engineers signature on the Final Mylar.

- 13.18 Pursuant to CCC Section 15.30.820, the applicant shall not obstruct sight distance with a centralized mailbox or locate a centralized mailbox on a County road right-of-way that would hinder County Road Maintenance. Should a centralized mailbox be required, provide details on construction plans. Minimum information shall include location, installation details, and pull-out detail.
- 13.19 The final plat shall include any easements necessary to provide and maintain all utilities to and within the proposed preliminary plat.
- 13.20 Pursuant to CCC Section 13.18.030(9) on the final plat, show the necessary easements and tracts in accordance with the approved drainage plan.
- 13.21 Preliminary Plat must comply with stormwater standards, CCC Chapter 13.16.
- 13.22 A private stormwater drainage system shall be required for the proposed preliminary plat. Operation and maintenance of the private drainage system would require a Maintenance Agreement. The Maintenance Agreement must include an operational and annual maintenance criterion. Said Maintenance Agreement shall be submitted to the Public Works Department with the Preliminary Mylar (blue lines) and shall be recorded with the final plat.
- 13.23 The following shall be placed on the final plat mylar:
- “The area within this plat contains a private storm drainage system designed to control runoff originating from this site. This site shall burden and benefit the parties’ successors and assigns; that its contents are binding upon the parties’ successors in interest and runs with the land. It shall be the responsibility of the property owner(s) and/or their successors to thereafter maintain the storm drainage system to the originally designed condition. Chelan County personnel shall have the right of access to the property for purpose of inspection of the storm drainage system. If Chelan County personnel determine that the storm system maintenance is unsatisfactory, and the property owner has had due notice and opportunity to satisfactorily maintain the system, Chelan County personnel and equipment may enter the property to perform the necessary maintenance. Such maintenance shall be at the property owner’s expense.
- This private storm water drainage system was installed for the owner(s), who hereby agree to waive on behalf of itself and its successors in interest, any and all claims for damages against any governmental authority arising from the inspection, approval of, design of, and construction and/or maintenance of the drainage system.”
- 13.24 The applicant shall submit lot closure calculations with the preliminary mylar (blue line) submission.
- 13.25 Plat must identify all roads as public or private.
- 13.26 Show all easements that benefit or burden the subject property.
- 13.27 Plat must identify centerlines, easements and right-of-way dimensions on any new proposed road and adjacent public roads
- 13.28 Applicant is required to submit Lot Closure Calculations with pre-final (blue line).

- 13.29 Pursuant to CCC Section 15.30.825, monumentation shall be required to be placed on all public roads if not already monumented.

CHELAN COUNTY FIRE MARSHAL

14. The subject property and final plat shall conform to the comments and conditions of approval as found in the Chelan County Fire Marshal Agency Comment dated January 9, 2024.
- 14.1 The proposal/development shall conform to all applicable requirements of the International Fire Code and Chelan County Code administered by the Chelan County Fire Marshal.
- 14.2 The minimum fire flow and flow duration requirements for one and two-family dwellings having a fire area which does not exceed three thousand six hundred sq. ft. shall be seven hundred fifty gallons per minute. Fire flow and flow duration for dwellings having a fire area in excess of three thousand six hundred sq. ft. shall not be less than that specified in Table B105.1(1) of the IFC, except that reduction in required fire flow of fifty percent, as approved, is allowed when the building provided with an approved automatic sprinkler system.
- 14.3 The Fire Marshal May modify Fire-flow requirements downward by applying fire protection credits for isolated buildings or a group of buildings in rural areas or small communities where the development of full fire-flow requirements is impractical. A note on the face of the final plat shall state:
- 14.3.1 “Without the installation of a fire hydrant capable of delivering the required fire flow and within the required distance to the lots in question, the applicant may choose one or any combination of alternatives using the installation of automatic fire sprinklers and/or fire protection credits as approved by the Fire Marshal.”
- 14.4 Fire hydrants serving single family or duplex dwellings shall have a maximum lateral spacing of 600 ft. with no lot or parcel in excess of 300 feet from a fire hydrant when serving lots less than 43,560 sq. ft. (one acre).
- 14.5 Fire hydrants serving single family or duplex dwellings shall have a maximum lateral spacing of 600 ft. with no lot or parcel in excess of 300 feet from a fire hydrant when serving lots less than 43,560 sq. ft. (one acre).
- 14.6 All fire hydrants shall be accessible to the fire department by roadways or accesses meeting the requirements of CCC Chapter 15.30, Road Standards, and meet the requirements of 3.04.080 International Fire Code as amended, Section 507.5.7, Fire Hydrant Installation and maintenance requirements.
- 14.7 Class A Roofing/noncombustible roof covering, as defined in the International Building Code, shall be used in all areas of Chelan County. A note on the face of the final mylar shall state:
- 14.7.1 “All buildings that require a building permit within this plat shall have Class A roofing materials.”
- 14.8 A note on the face of the final mylar shall state that "New homes shall have approved address numbers, building numbers or approved building identification placed in a

position that is plainly legible and visible from the street or road fronting the property." The design of the proposed sign shall be submitted to the Fire District and/or Fire Marshal for approval prior to installation.

14.9 A note on the face of the final mylar shall state:

14.9.1 "All buildings within this plat that require a building permit shall comply with the provisions of the Wildland-Urban Interface Code as adopted by Chelan County at the time the building permit is submitted".

CHELAN-DOUGLAS HEALTH DISTRICT

15. The subject property and final plat shall conform to the comments and conditions of approval as found in the Chelan-Douglas Health District Agency Comment dated January 18, 2024.

15.1 Domestic water service shall be by expansion of the Malaga Water District public water system. Written confirmation from the utility agreeing to provide individual service to each lot is required. All water system improvements must be designed, constructed, and placed in accordance with the purveyor's requirements. Completion of the improvements, including necessary easements, must be accepted in writing from the utility prior to final plat approval.

15.2 The dedicatory language on the plat shall carry these notes:

15.2.1 "The Health District has not reviewed the legal availability of water to this development."

15.3 Subject to specific application approval and issuance of permits by the Health Officer, the property is generally suitable for placement of individual on-site sewage disposal systems. Test holes have been examined on the subject property by Tower Designs via a report dated 8/18/23.

15.4 The area available for placement of onsite sewage systems is limited. The final plat Mylar shall show designated drainfield areas sufficient in size and location to accommodate an initial and reserve drainfield area for a four-bedroom home based on the soil type found on each individual proposed lot.

15.5 The dedicatory language on the plat shall carry these notes:

15.5.1 The areas designated for drainfields must be protected from cover by structures or impervious surfaces, surface drainage, soil compaction, grade alteration, excavation and any other activity that may adversely affect the performance of the sewage system."

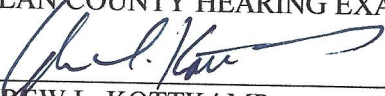
15.5.2 "Onsite sewage systems meeting at least Treatment Level B, as described by WAC 246-272A, will likely be required for new or repaired septic systems."

15.5.3 Drainfield size reductions for use of gravelless distribution products may not be authorized for onsite sewage systems on these lots.

16. Any Finding of Fact that is more correctly a Conclusion of Law is hereby incorporated as such by this reference.

Dated this 7 day of March, 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.