

**CHELAN COUNTY  
LAND USE HEARING EXAMINER**

|                          |   |                               |
|--------------------------|---|-------------------------------|
| <b>IN THE MATTER OF</b>  | ) | <b>FINDINGS OF FACT,</b>      |
|                          | ) | <b>CONCLUSIONS OF LAW,</b>    |
| <b>CUPA 26-080</b>       | ) | <b>DECISION AND</b>           |
| <b>Clancy's Farm LLC</b> | ) | <b>CONDITIONS OF APPROVAL</b> |

THIS MATTER having come on for hearing in front of the Chelan County Hearing Examiner on September 16, 2026, 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 for an amendment to CUP 2024-398 has been requested for a project permitted under WCC 10.65.220 Public Utilities and Services. The Applicant proposes two (2) 12 ft.-1 in. x 11 ft. concrete generator pads, and two (2) 12 ft.-1 in. x 36' fiber hub equipment shelters atop a 47 ft.-2 in. x 58 ft. fenced gravel compound. The fence will be installed around the gravel footprint and measures 6 ft. high, topped with 1 ft. of barbed wire. Site- obscuring slats will be utilized to screen the facility from public view. Access will be onto a gravel driveway from School Street, a public right-of-way. The subject property is located within Residential High (RH) zoning of the Wenatchee Urban Growth Area (UGA).

**2. General Information**

|                                                     |                                                                                                                        |
|-----------------------------------------------------|------------------------------------------------------------------------------------------------------------------------|
| <b>Project Location:</b>                            | 3122 School St, Wenatchee, WA 98801                                                                                    |
| <b>Parcel Number(s):</b>                            | 23-20-20-140-150                                                                                                       |
| <b>Legal Description &amp; size:</b>                | T 23N R 20EWM S 20 LOT A BLA 2017-124 LOT 4 SP 357 PT SENE &<br>NESE 18.3900 ACRES (According to Assessor Information) |
| <b>Applicants/Owners:</b>                           | Clancy's Farm<br>LLC,<br>PO Box 75<br>Wenatchee, WA 98807                                                              |
| <b>Agent:</b>                                       | Ontivity,<br>LLC<br>5400 Ward Rd, Building 3<br>Arvada, CO 80002                                                       |
| <b>Urban Growth Area:</b>                           | The subject property is located within the Wenatchee Urban Growth Area.                                                |
| <b>Comprehensive Plan Designation &amp; Zoning:</b> | Residential High (RH)                                                                                                  |

**3. Site Information**

|                                               |                                                                                                                                                       |
|-----------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Existing Land Use &amp; Permit History</b> | CUP 24-398 for WCC 10.65.220 Public Utilities and Services. The subject property is currently being utilized as an orchard and agricultural purposes. |
|-----------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------|

|                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|--------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Property North, South, East and West:</b>           | Residential High (RH)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <b>Fish &amp; Wildlife Habitat Conservation Areas:</b> | Pursuant to the Washington State Department of Fish and Wildlife Priority Habitat Species Maps, the subject property contains Mule Deer and Shrubsteppe, and Golden Eagle habitat. Therefore, the provisions of Chelan County Code (CCC) Chapter 11.78, do apply.                                                                                                                                                                                                                                          |
| <b>Wetlands:</b>                                       | Based on the National Wetlands Inventory Maps prepared by the US Department of Fish and Wildlife Services, no wetlands are indicated on or adjacent to the subject property. Therefore, the provisions of CCC Chapter 11.80 Wetland Areas Overlay District do not apply.                                                                                                                                                                                                                                   |
| <b>Aquifer Recharge Area:</b>                          | The applicant submitted an Aquifer Recharge Disclosure Form, date stamped April 22, 2026. The proposed development does not require a vulnerability report, pursuant to CCC Chapter 11.82.                                                                                                                                                                                                                                                                                                                 |
| <b>Frequently Flooded Areas:</b>                       | Pursuant to Federal Emergency Management Agency, FIRM map panel 5300150625D, the subject property does not contain floodplains. Therefore, the provisions of CCC Chapters 11.84 and 3.20 do not apply.                                                                                                                                                                                                                                                                                                     |
| <b>Geologically Hazardous Areas:</b>                   | Chelan County GIS map layer indicates the subject property is located within a geologic hazard area for erosive soils. Therefore, the provisions of CCC Chapter 11.86 do apply.                                                                                                                                                                                                                                                                                                                            |
| <b>Cultural Resources:</b>                             | Pursuant to RCW 27.53.020, if cultural resources are found during construction, the applicant would be required to stop work and contact the Department of Archaeology and Historic Preservation, the Confederated Tribes of Colville, and Chelan County Community Development.                                                                                                                                                                                                                            |
| <b>Riparian Areas:</b>                                 | According to the Natural Resources Stream Typing Maps, there is an F-Type Stream indicated on site. However, the water course is man-made and the proposal is set to occur outside of maximum buffer widths.<br><br>Therefore, the provisions of Chelan County Chapter 11.78, do not apply.                                                                                                                                                                                                                |
| <b>Cultural Resources</b>                              | Pursuant to comment letter date-stamped May 7, 2026 from Confederated Tribes of Colville, this project involves ground disturbing activities in areas considered moderate-high risk for an Inadvertent Discovery of Cultural Materials. A Cultural Resource Survey was requested by Community Development on May 21, 2026, and a completed report was returned to Community Development on July 17, 2026. IDP procedures and precautionary measures shall be observed during ground disturbing activities. |

#### 4. Project / Design Information

|                                     |                                                                                                                                                                                                                                                                                                            |
|-------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Construction Phasing/Timing:</b> | Commencement of use to occur upon review and approval of all required land use, building, and other required permits.                                                                                                                                                                                      |
| <b>Traffic Circulation:</b>         | The primary access for the proposed development would be off School Street.                                                                                                                                                                                                                                |
| <b>Domestic Water:</b>              | N/A                                                                                                                                                                                                                                                                                                        |
| <b>Power:</b>                       | Power would continue to be provided by an extension of the Chelan County PUD.                                                                                                                                                                                                                              |
| <b>Noise:</b>                       | The applicant shall comply with CCC Chapter 7.35 Noise.                                                                                                                                                                                                                                                    |
| <b>Visual Impact:</b>               | As conditioned, the visual impact will be screened with a 6' fence.                                                                                                                                                                                                                                        |
| <b>Primary Access:</b>              | The proposed Facility is located inside the Urban Growth Area. School Street is a public road with a 45' right-of-way width, 28' of asphalt and no curb, gutter or sidewalk along the frontage of the project site. School Street is classified as a Urban Major Collector Road in the County Road System. |

#### 5. Noticing & Comments

- 5.1. The Notice of Application was referred to surrounding property owners within 300 ft. (excluding 60' of right- of-way), jurisdictional agencies and departments of the County. These agencies and surrounding property owners were notified on May 6, 2026 with comments due May 20, 2026. Agency comments are considered in the staff report and, when appropriate, associated recommended Conditions of Approval. The following is a list of Agencies who received notice and the date comments were received:

| <b>Agencies Notified</b>        | <b>Response Date</b> | <b>Nature of Comment</b>                                                                                                                                    |
|---------------------------------|----------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Chelan County Assessor          |                      | No Comment                                                                                                                                                  |
| Chelan County Fire Marshal      | May 12, 2026         | No Comment                                                                                                                                                  |
| Chelan County Building Official |                      | No Comment                                                                                                                                                  |
| Chelan County Public Works      | May 20, 2026         | Recommended Conditions of Approval are as outlined in CUP 2024-398. Stormwater guidelines and procedures shall be required with Building Permit Submittals. |
| Chelan County PUD               |                      | No Comment                                                                                                                                                  |
| Chelan-Douglas Health District  | May 20, 2026         | Project does not require water or sanitation.                                                                                                               |

| Agencies Notified                                 | Response Date | Nature of Comment                                                                                                 |
|---------------------------------------------------|---------------|-------------------------------------------------------------------------------------------------------------------|
| WA Dept. of Archaeology and Historic Preservation |               | No Comment                                                                                                        |
| Yakama Nation                                     |               | No Comment                                                                                                        |
| Confederated Tribes of Colville                   | May 7, 2026   | Cultural Resource Survey required prior to project implementation.                                                |
| City of Wenatchee                                 |               | No Comment                                                                                                        |
| Wenatchee Reclamation District                    |               | No Comment                                                                                                        |
| Wenatchee Valley Fire Department                  |               | No Comment                                                                                                        |
| Washington Dept. of Fish and Wildlife             |               | No Comment                                                                                                        |
| WA Parks & Recreation                             |               | No Comment                                                                                                        |
| WA Department of Ecology                          | May 18, 2026  | Lead arsenate is likely present on the subject property. However, clean up is not required for this project type. |

5.2. No public comments were received.

#### 6. Application & Public Hearing Notice Compliance

|                                                 |                    |
|-------------------------------------------------|--------------------|
| <b>Application Submitted:</b>                   | March 9, 2026      |
| <b>Determination of Incomplete Issued:</b>      | March 11, 2026     |
| <b>Determination of Completeness Issued:</b>    | April 27, 2026     |
| <b>Notice of Application:</b>                   | May 6, 2026        |
| <b>Notice of Additional Information Issued:</b> | May 21, 2026       |
| <b>SEPA Determination Issued:</b>               | July 27, 2026      |
| <b>Notice of Public Hearing:</b>                | September 5, 2026  |
| <b>Public Hearing:</b>                          | September 16, 2026 |

7. The Hearing Examiner has issued this decision within 10 working days from the close of the hearing. This decision has a 21 day appeal period.
8. **SEPA Environmental Review:** The applicant submitted an environmental checklist on March 9, 2026. 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 Non-Optional

Determination of Non-significance (DNS) was issued on July 27, 2026. The SEPA Checklist and DNS are included within the file of record and adopted by this reference.

9. **Adopted Wenatchee City Code (WCC)**

9.1. **WCC Section 10.08.115: 'P'**

9.1.1. 'Public utilities and services' means equipment installations for utility and service purveyors including, but not limited to, telephone exchanges, electrical substations, water reservoirs, pump stations, and similar facilities of service providers, specifically excluding diesel, natural gas and similar internal combustion engine generated power production.

9.2. **WCC Section 10.46.020, Residential District Development Chart**

9.2.1. All development in this zone shall meet the applicable provisions of the adopted Wenatchee City Code, including, without limitation, the following:

9.2.1.1. Minimum Lot Area: 3,000 square feet, except 4,000 square feet for a duplex

9.2.1.2. Minimum Lot Width: 30 feet

9.2.1.3. Minimum Lot Depth: 60 feet

9.2.1.4. Minimum Setbacks:

9.2.1.4.1. Street Front: Ten (10) feet

9.2.1.4.2. Rear: Ten (10) feet

9.2.1.4.3. Side: Six (6) feet

9.2.1.5. Maximum Building Height: Sixty (60) feet

9.2.1.6. Maximum Lot Coverage: Fifty-five (55) percent

9.2.2. **Finding of Fact:** The proposed structures would meet all dimensional standards in the Residential High (RH) zoning district.

9.2.3. **Conclusion:** Setbacks from development would be reviewed at the time of building permit submittal.

9.3. **WCC Section 10.65.060, Conditional Use Permit Criteria**

9.3.1. The development standards of this title shall be used by the applicant in preparing the Conditional Use Permit application. The applicant has the burden of demonstrating that he proposed use is consistent with the following review criteria:

9.3.1.1. All requirements of the specified use can be satisfied.

9.3.1.1.1. **Finding of Fact and Conclusion:** WCC Section 10.65.220 (Public Utilities and Services) applies to the telecommunication equipment shelter. The criteria for the public utilities and services have been addressed by the applicant in the submitted application materials and the proposed development, as conditioned, would satisfy the code requirements for the proposed use.

9.3.1.2. The requirements of the zoning district within which the lot is located can be met.

9.3.1.2.1. **Finding of Fact and Conclusion:** As conditioned, the proposed development would meet applicable zoning and critical area regulations.

9.3.1.3. All applicable requirements and regulations found within the adopted WCC, as amended, can be satisfied.

9.3.1.3.1. **Finding of Fact and Conclusion:** As conditioned, the proposed development would meet all the applicable requirements and regulations.

9.3.1.4. The proposal is compatible with adjacent uses and will protect the character of the surrounding area.

9.3.1.4.1. **Finding of Fact:** Adjacent uses include orchard and residential uses. The development is compatible with these adjacent uses and measures would be taken to protect the character of the surrounding area.

9.3.1.4.2. **Conclusion:** Measures will be taken to protect the character of the surrounding area and maintain the existing look of subject property.

9.3.1.5. The proposal will not result in the creation of nuisances to the public and/or nearby properties and existing uses.

9.3.1.5.1. **Finding of Fact:** The construction of a telecommunication equipment shelter would not create a nuisance to the public or nearby properties.

9.3.1.5.2. **Conclusion:** As conditioned, the proposed development would not create a nuisance to the public and/or to the nearby properties.

9.3.1.6. The proposed use will not result in undue adverse impacts affecting the public health, safety, and welfare.

9.3.1.6.1. **Finding of Fact:** The construction of a telecommunication equipment shelter would not result in undue adverse impacts affecting the public health, safety, and welfare.

9.3.1.6.2. **Conclusion:** As conditioned, the proposed development is not anticipated to result in an adverse impact on public health, safety and welfare.

9.3.1.7. The proposed use is consistent and compatible with the comprehensive plan and any implementing regulation.

9.3.1.7.1. **Finding of Facts and Conclusion:** As conditioned, the telecommunication equipment shelter would be consistent with the adopted Wenatchee City Code (WCC) and the goals and policies of the Comprehensive Plan.

#### 9.4. WCC Section 10.65.220, Public Utilities and Services

9.4.1. Any buildings proposed shall be designed to harmonize with the residential structures of the neighborhood.

9.4.1.1. **Finding of Fact and Conclusion:** According to the submitted application materials and staff analysis, the proposed telecommunication equipment shelter would not have detrimental effects to the adjacent properties.

9.4.2. All setback requirements of the district in which the public service facility is proposed shall be observed.

9.4.2.1. **Finding of Fact and Conclusion:** Per the submitted application materials, the proposed telecommunication equipment shelter would meet the setback requirements of Residential High (RH) zoning requirements.

9.4.3.If the facility is of an outdoor nature, it shall be completely enclosed by a view-obscuring fence or landscaping at least six feet in height and shall observe the restrictions that apply to fences in the underlying zoning district.

9.4.3.1. **Finding of Fact and Conclusion:** Per the submitted application materials, the applicant proposes to construct a 6-foot chain link fence that would surround the telecommunication equipment shelter.

9.4.4.Proposed enclosures for public service facilities that exceed a height of six feet shall observe the minimum setback requirements that apply to primary structures in the underlying zoning district.

9.4.4.1. **Finding of Fact and Conclusion:** The proposed telecommunication equipment shelter would meet the minimum setbacks of the RH zoning district.

9.4.5.Landscaping and Screening. The development shall comply with Chapter 10.62 WCC, Landscaping Standards, as amended.

9.4.5.1. **Finding of Fact and Conclusion:** Per the submitted application materials, the applicant proposes to construct a 6-foot fence that would surround the telecommunication equipment shelter which meets the criteria in WCC Section 10.65.220(3).

## 10. Department Analysis

10.1. Staff reviewed the submitted application materials. Based on the information in the application, as proposed and conditioned, Staff was of the opinion that the project complies with the Revised Code of Washington, the Washington Administrative Code, Chelan County Comprehensive Plan, the Chelan County Code and the Wenatchee City Code.

11. An open record public hearing was held, after legal notice, on September 16, 2026.

12. Appearing and testifying was MarcheLe Rowe. Ms. Rowe testified that she was an agent authorized to appear and speak on behalf of the property owner and applicant. She testified that she had reviewed the staff report and agreed with all of the proposed conditions contained therein and agreed with the staff report and had no objection to any of the proposed conditions of approval. She testified that the noise from the generators will not be able to be heard by local residents.

13. No member of the public testified at the hearing.

14. The following exhibits were admitted into the record:

14.1. Ex. A Site plan of record date stamped April 22, 2026

14.2. Ex. B Inadvertent Discovery Plan

14.3. Ex. C Agency Comments

14.4. Ex D Staff Report

14.5. Ex E Application materials

14.6. Ex F Remainder of the Planning Staff file

15. The Chelan County Hearing Examiner considered all evidence within the record in rendering this decision.

16. 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 Hearing Examiner has been granted the authority to render this decision.
2. As conditioned, this application is consistent with the Chelan County Code and Chelan County Comprehensive Plan.
3. 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, CUPA 26-080 is hereby **APPROVED** subject to the following Conditions of Approval.

## **IV. CONDITIONS OF APPROVAL**

All conditions imposed by this decision shall be binding on the applicant, which includes the owner or owners of the properties, heirs, assigns, and successors.

1. Pursuant to WCC Section 10.65.050(1), the granting of a conditional use permit and the conditions set forth runs with the land; compliance with the conditional use permit is the responsibility of the current owner of the property, whether that is the applicant or a successor.
2. Pursuant to WCC Section 10.65.060(7), the final Conditional Use Permit shall be in conformance with the previously approved Conditional Use Permit (CUP 2024-398), and this application of record, including site plans date stamped April 22, 2026 or as amended by this decision.
3. Pursuant to WCC Section 10.65.220(2), the proposed telecommunication equipment shelter shall be fenced in substantial conformance with the site plan of record, date-stamped April 22, 2026.
4. Pursuant to WCC Section 10.65.050(2), a conditional use permit shall become void if not acted upon, including but not limited to submitting a building permit or the placement of all infrastructure, within three years after approval or such other time period as established by the Hearing Examiner. The applicant may request a one-year extension, to be reviewed administratively, if the applicant submits a written request to Community Development thirty days prior to expiration.
5. 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. Pursuant to RCW 68.50.645, if human remains or grave goods are found, all work must stop immediately and local law enforcement and the County Coroner/Medical Examiner must be notified immediately
  - 5.1. An inadvertent discovery plan must be submitted with the building permit applicant and kept on-site during all ground disturbing activities (Exhibit B).
6. Pursuant to WCC Section 10.65.070, upon final action of the Hearing Examiner to deny an application for a conditional use permit, the department shall not accept filing of an application for substantially the same matter within one year from the date of the final denial of the application.
7. Pursuant to WCC Section 10.65.070(1)(h), action of the Hearing Examiner is final, unless appealed pursuant to the judicial appeal provisions of Title 13 of the Chelan County Code.
8. Pursuant to the SmartGov note issued by Chelan County Public Works on May 20, 2026, the originally imposed conditions given in comment letter dated October 30, 2024 (Exhibit C) from CUP 2024-398 apply. The following conditions shall be observed:

- 8.1. Pursuant to CCC Section 10.20.410(2), addresses are assigned based on lot access origin and shall contain digits indicating the address from the origin of the road to the primary access location for the site.
- 8.2. Pursuant to CCC Section 15.30.340, the application would be required to construct the access approaches onto School Street to meet the Industrial/Commercial Driveway Approach (Standard Plat PW-26). The applicant would be required to obtain a Chelan County Approach Permit prior to constructing the Industrial/Commercial Driveway Approach. The Industrial/Commercial approach apron shall be paved.
- 8.3. Pursuant to CCC Chapter 15.30, Chelan County Public Works approves the construction of the internal road as proposed on the submitted CUP Application dated October 11, 2024 from Intermountain Infrastructure Group.
- 8.4. Pursuant to CCC Chapter 15.30, the applicant would be required to show the dimensions and type of material proposed for the construction area on CUP Site Plan for the proposed development.
- 8.5. Pursuant to CCC Section 13.18.030(9), a Drainage System is required, show any necessary easements in accordance with the approved drainage plan.
- 8.6. Pursuant to CCC Chapter 13.18, a drainage Report and Plan would be required to be submitted to Chelan County Public Works if any new impervious surface of 5,000 square feet is created and must be reviewed and approved. This shall be completed during the submittal of any building permits.
- 8.7. If a drainage system is required, or an existing drainage system is in place, this system shall be privately owned and maintained to its originally designed condition by all the property owners having a vested interest. A 'Notice to Title' shall be filed with the Chelan County Auditor's office prior to the submittal of a Building Permit, stating:
  - 8.7.1. 'The area within this site plan 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. The Drainage Plan for this development was prepared by the engineering firm of \_\_\_\_\_, dated \_\_\_\_\_, a copy of which is on file with the Chelan County Public Works Department. 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 the 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.
  - 8.7.2. 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.'

9. Pursuant to the comment letter issued by Confederated Tribes of Colville on May 7, 2026 (Exhibit C), this project involves ground disturbing activities in areas considered moderate-high risk for an Inadvertent Discovery of Cultural Materials.

9.1. A Cultural Resources Survey was submitted on July 17, 2026.

Dated this 17 day of September, 2026

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.