

**CHELAN COUNTY  
LAND USE HEARING EXAMINER**

<b>IN THE MATTER OF</b>	)	<b>FINDINGS OF FACT,</b>
<b>AA 24-323</b>	)	<b>CONCLUSIONS OF LAW, AND</b>
<b>Moniz</b>	)	<b>DECISION AND</b>
	)	<b>CONDITIONS OF APPROVAL</b>

THIS MATTER having come on for hearing in front of the Chelan County Hearing Examiner on September 18, 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. On June 27, 2024 the property owner was issued a Notice and Order to Abate Violation of dumping and storage of inert waste without required conditional use permit.
2. Property being reviewed is located at 476 Cherry Lane, Wenatchee, WA 98801; parcel 222026430050.
3. June 23, 2024 Penny Ross, a neighbor, emailed Commissioner Overbay, Deputy Anderson of Code Enforcement, and Director Deanna Walter, a complaint about the dumping of inert waste and included a photograph (Exhibit B, Pgs. 4-5).
4. Mrs. Ross also noted in her complaint she was sending a video to Commissioner Overbay who could share it with Code Enforcement (Exhibit C).
5. This property is zoned Commercial Agricultural (AC) which, per the District Use Chart in Chelan County Code 11.04.020, requires a CUP to be used as an inert waste site with the requirements laid out in CCC 11.93.220.
6. A search of the County's records reveals no record of a CUP for dumping inert waste on the property.
7. June 27, 2024 Code Enforcement Deputy Anderson issued a Notice and Order to Abate Violations to either remove the inert material or apply for a conditional use permit (Exhibit B, Pgs. 6-9 ).
8. July 9, 2024 Kirsten Ryles, Assistant Director noted in the code enforcement file that Mr. Moniz had come into the Community Development Department twice to discuss a path to compliance. The Director was out of office until the end of July so a meeting would be scheduled at that time. It was also noted that while we were glad he was discussing a path to compliance, the conversation would not change the appeal timeline but we would note he was making an effort to discuss (Exhibit B, pg. 3).
9. The appeal timeline for the Notice and Order, being 14 days from date of issuance, expired July 11, 2024.
10. August 2, 2024 a meeting was scheduled for Mr. Moniz to meet with Director Walter, Jamie Strother as Senior Planner, and code enforcement. Director Walter was unable to attend.
11. August 12, 2024 the appeal request was received from the Appellants. This request was not filed timely as had previously been reviewed with Mr. Moniz
12. August 19, 2024 at 8:00 am, Mr. Moniz came into Community Development and spoke with Director Walter and Assistant Director Ryles. The violation was reviewed with Mr. & Mrs. Moniz. Mr. Moniz

stated that Mr. Ross, his neighbor, had also brought in inert waste (and continues to do so) but has not had code enforcement issues. Also discussed were road/erosion issues the Monizes reported. They were also directed to Public Works for road/erosion issues as that is not under the purview of Community Development. The Monizes were instructed on how to file their own complaint(s) against other perceived violators should they wish to do so.

13. The Monizes reporting wrongdoing by others does not justify or nullify their own violation.
14. In their application for appeal, the Appellants note that WAC 173-350-990 Criteria for Inert Waste as referred to in Chelan County Code 14.98.990 was eliminated. This is true. Also noted in the same section of code is that inert waste would be identified in the definitions section, WAC 173-350-100, and states "inert waste means waste that is allowed to be received at an inert waste landfill as described in WAC 173-350-410."
15. WAC 173-350-410 defines inert waste landfills and their permitting criteria.
16. The Appellant's property is not permitted as an inert waste landfill.
17. An open record public hearing was held, after legal notice, on September 18, 2024.
18. Appearing and testifying on behalf of the Appellant was Charles Moniz. Mr. Moniz testified that he was the property owner and Appellant. Mr. Moniz did not contest the fact that he had not obtained a Conditional Use Permit to dump inert waste, such as concrete blocks. He stated that the concrete blocks were brought in from offsite and placed in order to support the bank next to the adjacent roadway.
19. The Hearing Examiner finds that the Appellant did not timely file this appeal,
20. The Hearing Examiner also finds that the Appellant has dumped inert waste on their property without first receiving a conditional use permit.
21. The following exhibits were admitted into the record:
  - 21.1. Ex. A AA24-323 Appeal Request Materials
  - 21.2. Ex B Code Enforcement case file for CE 24-0108
  - 21.3. Ex C Video from code enforcement file CE 24-0108 (attached to email)
  - 21.4. Ex. D Remainder of Staff File.
22. The Chelan County Hearing Examiner considered all evidence within the record in rendering this decision.
23. 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. A Conditional Use Permit is required in order for a person to dump inert waste on their property.
3. The Appellant did not obtain the required Conditional Use Permit.
4. Any Finding of Fact that is more correctly a Conclusion of Law is hereby incorporated as such by this reference.

### III. DECISION

Based on the above Findings of Fact and Conclusions of Law, the Notice and Order for case AA24-323 is hereby **AFFIRMED**.

Dated this 27 day of September, 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.

Requests for Reconsideration and to Reopen the hearing must be timely filed and are governed by Chelan County Code 1.61.130 and 1.61.070 and Chelan County Hearing Examiner Rules of Procedure 1.24.