

**CHELAN COUNTY  
LAND USE HEARING EXAMINER**

<b>IN THE MATTER OF</b>	)	<b>FINDINGS OF FACT,</b>
<b>CUP 2023-144</b>	)	<b>CONCLUSIONS OF LAW,</b>
<b>Reindeer Farm</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 4, 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 a Conditional Use Permit for “places of public and private assembly” and “accessory uses which support, promote, or sustain agricultural operations” has been requested for additions to an existing Reindeer Farm located outside of Leavenworth, WA. The proposal would include adding indoor gathering space to the existing agricultural tourism use at the site. The Reindeer Farm is a USDA licensed livestock farm that is currently open to the public by appointment only during limited tour hours. The Reindeer Farm has operated as a Farm Visit since 2016 for hands-on, educational experiences for all ages and includes reindeer education and conservation. The applicants are proposing to continue the farm visits and add a 60- person capacity geodesic projection dome for indoor educational purposes and an open-air event pavilion which would include a catering kitchen. A new event barn is being proposed for a future addition. The applicant is also proposing occasional gatherings such as weddings and other events. No on-site food preparation or restaurant is proposed.
2. The project is located at 10395 Chumstick Highway, Leavenworth WA
3. The parcel numbers are 24-17-01-550-158 and 24-17-01-550-029
4. The legal description and size are as follows:
  - 4.1. Parcel 24-17-01-550-158: “Lot 1 as delineated on Pilkinton Orchard Plat Alteration 1999-9, Chelan County, Washington, recorded October 26, 1999 in Book 27 of Plats, pages 54-55, being a portion of log 25, plat of Emig Park” AFN number 2063321. The parcel is 3.11 acres per the Assessor’s records.”
  - 4.2. Parcel 24-17-01-550-029: “Lot 4, Janet Motteler Short Plat No. 1182, recorded August 27, 1985, in Volumen SP-3 of Short Plats, Page 25, Chelan County Washington” AFN number 8508280006. The parcel is 5.85 acres per the Assessor’s records.”
5. The Applicants/owners are Hans and Kari Andersen
6. The subject property is not located within an Urban Growth Area.
7. The Comprehensive Plan Designation & Zoning is Rural Residential/Resource 5 acre lots (RR5).

8. The Leavenworth Reindeer Farm has been open since 2016 and is a USDA licensed livestock farm. The farm is open to the public by appointment only during scheduled tour hours. The farm specializes in hands-on, educational experiences for all ages including reindeer education and conservation. The farm has operated as an outright permitted use in the RR5 zoning district under "Farm Visit". Existing facilities include a single-family residence (this is planned for removal and replaced by an event pavilion), a ticket booth, a coffee shop, an animal barn with a gift shop, reindeer pastures, and a chicken coop. There is also historic ag housing and associated bathhouse – both are located within the buffer of Chumstick Creek and are going to be removed as part of the Riparian Buffer Restoration Plan being implemented in conjunction with the Department of Natural Resources. A concrete foundation for the proposed geodesic dome has already been constructed in an area that was historically a blueberry farm prior to the reindeer farm.
9. Proposed additions at the site include completing the geodesic dome for indoor public/private assembly, and the future construction of an event pavilion and new event barn to be used as a public/private assembly space for meetings, weddings, and agricultural conferences. The event barn would also be used to house horses which pull the carriage through Leavenworth. The barn would provide an area where visitors could watch the horses being tacked and harnessed to the carriage.
10. Property North: Pear orchard and zoned Rural Residential/Resource 5 (RR5).
11. Property South: Future home of a new PUD substation, RR5.
12. Property East: Chumstick Creek and residential. RR5.
13. Property West: Chumstick Highway, properties across highway are inside city limits and UGA of City of Leavenworth. Zoned multifamily.
14. Pursuant to the Washington State Department of Fish and Wildlife Priority Habitat Species Maps, the subject property contains several habitats for species of local concern including several listed fish species. Therefore, the provisions of Chelan County Code (CCC) Chapter 11.78, would apply.
15. The applicant has submitted an HMMP (Exhibit L) and also entered into a Riparian Restoration Agreement (Exhibit B) with the Department of Natural Resources in order to restore a buffer of 75' from Chumstick Creek. Chumstick Creek is a fish-bearing stream which carries a 150' buffer. However the applicant has requested an Administrative Buffer Reduction (Exhibit C) in order to have more useable space on their lot. In order to approve the agreement, the applicant was required to enter into the Restoration Agreement in order to keep the 75' buffer healthy and intact in perpetuity. Much of the area within the buffer has historically been used as a blueberry farm and orchard. Therefore the 75' buffer would be a net gain of function for Chumstick Creek. A bond would be held for the restoration until completed to the satisfaction of Chelan County Natural Resources Department.
16. Wetlands: Based on a wetlands report dated July 7, 2022 (Exhibit H), there are no wetlands on the parcels. However, a wetland buffer encumbers the parcels on the eastern portion due to the presence of a riverine wetland located on adjacent parcels #241701550005 and #241701550150. This wetland buffer would be included inside the Riparian Restoration Area.
17. The applicant submitted an Aquifer Recharge Disclosure Form, date stamped March 20, 2023. The proposed project does not require a vulnerability report, pursuant to CCC Chapter 11.82.
18. Pursuant to Federal Emergency Management Agency, FIRM map panel 5300150625C, the subject site does contain floodplains; therefore, the provisions of CCC Chapters 11.84 and 3.20 do apply. The area



outside of the creek buffer is located within Zone X, outside of the Floodway (Special Flood Hazard Area). (See map - Exhibit K)

19. Chelan County GIS map layer does indicate that the subject property is located within a potential geologic hazard area (erosive soils). Therefore, the provisions of CCC Chapter 11.86 would apply. The applicant has prepared a Geologic Hazard Assessment (Exhibit F) for the proposal.
20. 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, and Chelan County Community Development. The Department of Archeology and Historic Preservation requested a Cultural Resources Survey based on the size of the project and the high probability of onsite cultural resources. A Cultural Resources Survey has been submitted to Chelan County. If human remains, burials, funerary items, sacred objects, or objects of cultural significance are found, the applicant shall adhere to all requirements of RCW 68.50.645 and shall immediately cease any activity which may cause further disturbance and shall make the appropriate contacts.
21. The applicant plans to begin Phase 1, construction of the geodesic dome and open-air pavilion, immediately. Phase 2 would be the construction of the event barn.
22. Commencement of development would occur upon receipt of all required permitting.
23. The primary access for the proposed development would be off of Chumstick Highway. The applicant currently has parking attendants during the tour hours of operation, this would be required to be continued as a Condition of Approval for the CUP. The site plan includes 41 spaces for parking, including 2 ADA spaces.
24. Domestic water would be provided by a new Group A well.
25. Power would be provided by Chelan County PUD.
26. The applicant shall comply with CCC Chapter 7.35 Noise and WAC 173-60.
27. As conditioned, the visual impact is anticipated to be minimal.
28. The applicant submitted a revised environmental checklist on October 10, 2023. 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 an Optional Mitigated Determination of Non-significance (MDNS) was issued on August 5, 2024 (Exhibit G). The SEPA Checklist and MDNS were admitted into the hearing and are adopted herein by this reference.
29. The following is a list of agencies who received notice and the date comments were received:

Agencies Notified	Response Date	Nature of Comment
Chelan County Fire Marshal	April 2, 2024	The proposal shall conform to all applicable requirements of the IFC and the CCC
Chelan County Building Official	April 4, 2024	Complete the following: building permit application, structural plans stamped by a licensed engineer.

Chelan County Public Works	April 19, 2024	Road improvements may be required per City of Leavenworth Resolution No 2014-135
Chelan County PUD		No comment
WA Dept. of Ecology	April 24, 2024	The applicant provided WETS table for the wetland study in response to Ecology's concerns regarding the wetland study.
WA Dept. of Archaeology and Historic Preservation	April 15, 2024	There is a high probability of cultural resources within the proposed project area. Therefore, DAHP recommends a professional archaeological survey be conducted and a cultural resources report be submitted prior to commencement of building.
Yakama Nation		No Comment
Chelan-Douglas Health District	April 12, 2024	New structures may need new septic systems, project review at building permit submittal required. Public water system must be established via connection to City of Leavenworth or a Group A well. Food service permits required.
WA State Dept of Natural Resources		No comment.
Icicle Irrigation District		No comment.
City of Leavenworth	April 2, 2024	No concerns.
Confederated Tribes of Colville	April 18, 2024	Cultural Resources Study
Chelan County Fire District No.3		No Comment
Washington Dept. of Fish and Wildlife	April 17, 2024	Recommends 100' buffer from Chumstick Creek

30. No public comments were submitted.

<b>Application Submitted:</b>	March 30, 2023
<b>Determination of Completeness issued:</b>	April 1, 2024
<b>Notice of Application:</b>	April 4, 2024
<b>SEPA MDNS issued</b>	August 5, 2024
<b>Notice of Public Hearing:</b>	August 24, 2024
<b>Public Hearing:</b>	September 4, 2024

### 31. Chelan County Comprehensive Plan

31.1. The proposed development is located in the Rural Residential/Resource 5 (RR5) zoning and therefore reviewed under the Rural Element of the Comprehensive Plan.



- 31.2. Rural Element, Chapter 3, section I (C) states that Rural character refers to the patterns of land use and development established by a county in the rural element of its comprehensive plan:
- 31.2.1. In which open space, the natural landscape, and vegetation predominate over the built environment;
  - 31.2.2. That foster traditional rural lifestyles, rural-based economies, and opportunities to both live and work in rural areas
  - 31.2.3. That provide visual landscapes that are traditionally found in rural areas and communities;
  - 31.2.4. That generally do not require the extension of urban governmental services; and
  - 31.2.5. That are consistent with the protection of natural surface water flows and ground water and surface water recharge and discharge areas.
- 31.3. Uses appropriate for the RR5 zoning district, identified in the Comprehensive Plan, include 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: natural resource support facilities and services; mineral resource activities; intensification of existing development or new development of 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 or new development of isolated cottage industries and isolated small-scale businesses that are not principally designed to serve the existing and projected rural population and nonresidential uses, but do provide job opportunities for rural residents; home occupations; bed and breakfasts; and community facilities.
- 31.4. Other applicable Goals of the Chelan County Comprehensive Plan include:
- 31.4.1. GOAL LU 12: Encourage development and maintenance of recreational facilities and opportunities to meet the needs of residents and visitors.
  - 31.4.2. GOAL RE 1: Maintain a balance between human uses and the natural environment in rural areas of the County.
  - 31.4.3. GOAL RE 2: Maintain natural environment features that support and enhance natural resource-based economic activities, wildlife habitats, traditional rural lifestyles, outdoor recreation, and open space.
  - 31.4.4. GOAL ED 2: Encourage the retention and growth of recreational and tourist-based industries consistent with the comprehensive plan.
  - 31.4.5. GOAL PR 2: Encourage development and maintenance of recreational facilities and opportunities to meet the needs of residents and visitors.
- 31.5. Hearing Examiner Finding of Fact: The Reindeer Farm provides an important educational opportunity in Chelan County and is an appropriate use of the Rural Resource zones of Chelan County.

31.6. Conclusion: The Reindeer Farm is consistent with the Comprehensive Plan Rural, Land Use, Resource, and Economic Development Elements of the Comprehensive Plan.

## 32. Chelan County Code

32.1. CCC Section 14.98.125: Agricultural tourism

32.1.1. "Agricultural tourism" refers to the act of visiting a working farm or any agricultural, horticultural, or agribusiness operation for the purpose of enjoyment, education, or active involvement in the activities of the farm or operation.

32.2. CCC Section 14.98.1430 Place of public/private assembly

32.2.1. "Place of public/private assembly" means a building or space used in whole or in part for the gathering together of persons for such purposes as deliberation, entertainment, amusement, socializing, or awaiting transportation; such uses include, but are not limited to, meeting halls, clubhouses, grange, cinemas, theaters, and churches and religious facilities.

32.3. CCC Section 11.12.010: Permitted, accessory and conditional uses

32.3.1. The proposed project is located in the RR5 zoning district of Chelan County. According to CCC Section 11.04.020 District Use Chart, accessory uses which support, promote or sustain agricultural operations and places of public/private assembly require a Conditional Use Permit in the RR5 zoning district. Farm Visits are an outright permitted use in the RR5 zone.

32.4. Chelan County Code 11.12.020 Standards

32.4.1. All development in this zone shall meet the applicable provisions of the Chelan County Code, including without limitation the following:

32.4.1.1. Minimum lot size: 5 acres, which measures to include ten percent of the adjoining public rights-of-way.

32.4.1.2. Minimum lot width: one hundred feet at the front building line.

32.4.1.3. Maximum building height: thirty-five feet.

32.4.1.4. Maximum Lot Coverage. Buildings and structures shall not occupy more than thirty-five percent of the lot area.

32.4.1.5. Minimum Setback Distances.

32.4.1.5.1. Front yard: 25 ft. from the front property line or 55 ft. from the street centerline, whichever is greater.

32.4.1.5.2. Rear yard: 20 ft. from the rear property line

32.4.1.5.3. Side yard: 5 ft. from the side property line.

32.4.2. Hearing Examiner Finding of Fact: The proposed structures would meet all dimensional standards in the RR5 zoning district.



- 32.4.3. Conclusion: Setbacks would be reviewed at the time of building permit submittal.
- 32.5. Off-street parking requirements in this district shall be as follows:
- 32.5.1.1. Two spaces per single-family dwelling
- 32.5.1.2. Off-street parking and loading shall be provided as prescribed in Chapter 11.90 of this title.
- 32.5.2. Hearing Examiner Finding of Fact: Pursuant to CCC Section 11.90.070 – Standards for uses not listed. Off-street parking and loading requirements for uses that are not specifically listed in this chapter will be determined by the administrator based upon the requirements for the most comparable use specified in this chapter.
- 32.5.3. The closest land use was determined to be “outdoor amusement area” which requires .3 spaces for every attendee. The applicant has provided a traffic study which shows that there would be approximately 45 vehicle trips per hour (100 guests), or a maximum of 136 guests for special events. The applicant is proposing 41 spaces, including 2 ADA spaces.  $136 \times .3 = 40.8$ , rounded up to 41 so the project meets minimum parking requirements. The Reindeer Farm currently employs parking lot attendants for tours, and would continue to do so as long as there are tours. At the time of building permit submittal, the applicant shall provide a finalized and detailed parking and landscaping plan.
- 32.5.4. Conclusion: According to the application and preliminary parking plan, the Reindeer Farm would meet parking requirements (Exhibit D).
- 32.6. Landscape standards shall be provided as prescribed in CCC Chapter 15.50, Development Standards, as amended.
- 32.6.1. Hearing Examiner Finding of Fact: The proposed project is not exempt from the landscaping requirement of CCC Chapter 15.50 because it would have more than 20 parking spaces.
- 32.6.2. Conclusion: A preliminary landscaping and parking plan has been prepared for the CUP application (Exhibit D). A final plan will be prepared and submitted prior to commencement of any building permit.
33. Chelan County Code, Section 11.93.040, Conditional Use Permit Criteria
- 33.1. A conditional use permit may be approved only if all of the following review criteria and any special criteria listed in this chapter are met:
- 33.1.1. All criteria required for a specific use by this chapter can be satisfied.
- 33.1.1.1. Hearing Examiner Finding of Fact: Criteria for “accessory uses which support, promote, or sustain agricultural operations” and “places of public and private assembly” have been addressed below.
- 33.1.1.2. Conclusion: Based on review of the application materials submitted, the criteria for accessory uses which support, promote, or sustain agricultural operations and places of public and private assembly could be satisfied.

- 33.1.2. The design standards of the zoning district within which the lot is located, critical area regulations, and all other applicable development standards and regulations can be met.
- 33.1.2.1. Hearing Examiner Finding of Fact: The subject property is located in the RR5 zoning district, which allows for accessory uses which support, promote, or sustain agricultural operations and places of public and private assembly as a Conditional Use. Chumstick Creek, which is a fish bearing stream and associated wetlands border the property. The conditions of approval will ensure no net loss of ecological functions of the wetland or the creek buffer. A Habitat Management and Mitigation Plan and a Riparian Buffer Restoration Project have been prepared for this project.
- 33.1.2.2. Conclusion: As conditioned, the proposed development will meet applicable zoning and critical areas regulations.
- 33.1.3. Compatibility with the adjacent uses and the protection of the character of the surrounding area.
- 33.1.3.1. Hearing Examiner Finding of Fact: The proposed development fits with the rural character of the surrounding area. The adjacent properties are a fruit tree orchard to the north, a future Chelan County PUD substation to the south, orchard and single-family residence to the east and Chumstick Highway and City of Leavenworth UGA across to the west. The Reindeer Farm has been in existence since 2016, the addition of the indoor spaces should not significantly change the character of the site.
- 33.1.3.2. Conclusion: As conditioned, the proposed development will be compatible with the character of the surrounding area.
- 33.1.4. Detrimental impacts on the natural environment and productive use of surrounding natural resource lands can be mitigated or avoided.
- 33.1.4.1. Hearing Examiner Finding of Fact: The project would not result in an adverse impact to the natural environment or impact surrounding natural resources lands. The project is situated on a former commercial fruit production site. A Habitat Management and Mitigation Plan has been prepared and would be followed (Exhibit L). The Riparian Restoration Agreement would restore the Chumstick Creek buffer to a natural state, and remove an existing old ag worker building and associated bathhouse, gravel pathways and reindeer enclosure out of the buffer which would create a net gain of ecological function for the wetland and creek buffer. The existence of the Reindeer Farm does not create any problems for the neighboring orchard lands. A bond would be held to ensure completion of the restoration work to the satisfaction of Chelan County Natural Resources.
- 33.1.4.2. Conclusion: As conditioned, the use will not be detrimental to the natural environment or the productive use of resource lands and will be beneficial for Chumstick Creek and associated buffer and wetlands.
- 33.1.5. No conditional use permit shall be issued without a written finding that: a) After adequate opportunity for review and comment, all providers of water, sewage disposal, schools, and fire/police protection serving the development have issued a letter that adequate capacity exists or arrangements have been made to provide adequate services for the development; b)



No county facilities will be reduced below adopted levels of service as a result of the development

- 33.1.5.1. Hearing Examiner Finding of Fact: Chelan County provided a Notice of Application to all providers. Comments that were received were admitted as exhibits.
- 33.1.5.2. Conclusion: Through the process of public and agency noticing, opportunity for review and comments were provided for the proposed development. As conditioned, the proposed development would not result in county facilities being reduced below adopted levels of service.
- 33.1.6. The proposed use shall not result in undue adverse impacts affecting the public health, safety and welfare.
  - 33.1.6.1. Hearing Examiner Findings of Fact: The site is already in operation as a USDA licensed livestock farm. As a licensed and inspected operation, strict health and safety guidelines must be met in order to operate an agricultural tourism business. The proposed CUP for the geodesic dome, pavilion and event barn would not impact health, safety or welfare. Tower Designs is also designing a septic system and commercial holding tank for the site. The Chelan Douglas Health District has approved the holding tank option for commercial use. A Group A well would be provided as a condition of approval for the CUP. There are not any anticipated adverse impacts.
  - 33.1.6.2. Conclusion: As conditioned, the proposed development will not result in an adverse impact on public health, safety and welfare.
- 33.1.7. Adequate provisions have been provided for roads, ingress and egress, stormwater, parking and loading, domestic and irrigation water, sanitary facilities, power, fire protection, and other necessary facilities, improvements or services consistent with the requirements of Titles 11 and 15 of the Chelan County Code.
  - 33.1.7.1. Hearing Examiner Finding of Fact:
    - 33.1.7.1.1. Roads, ingress and egress: The subject property fronts and accesses off of Chumstick Highway. Chumstick Highway is a 60' right-of-way and is classified as a Rural major Collector Road inside the UGA of the City of Leavenworth. The property also has access from Motteler Road, which is a 60' right-of-way and is classified as a Rural Local Access Road. The City of Leavenworth would either require improvements to Chumstick Highway or may defer requirements per a LID Agreement. The existing access approaches on Chumstick Highway and Motteler Road would need to meet an Industrial/Commercial Driveway approach.
    - 33.1.7.1.2. Stormwater: The applicant shall comply with CCC Chapter 13.18 for stormwater drainage. A drainage report and plan would be required if any new impervious surface of 5,000 sq. ft. is created. The plan would be completed at the time of building permit submittal.
    - 33.1.7.1.3. Parking and Loading: Off-street parking must comply with CCC Section 11.93.130 regarding off-street parking. A parking plan would be submitted with building permit submittal. A preliminary parking plan has been submitted (Exhibit D)

- 33.1.7.1.4. Domestic and Irrigation Water: Domestic water would be provided by a new Group A well.
- 33.1.7.1.5. Sanitary Facilities: There would be an onsite septic system and holding tank designed specifically for the use.
- 33.1.7.1.6. Power: Power is provided by Chelan County PUD.
- 33.1.7.1.7. Fire Protection: The applicant would adhere to all Conditions of Approval from the Fire Marshal, dated April 2, 2024.
- 33.1.7.2. Conclusion: All necessary facilities, improvements and services are consistent or could be conditioned per the requirements of Titles 11, 13 and 15 of the Chelan County Code.
- 33.1.8. Noise, light, heat, steam, erosion, water quality, glare, odors, air pollution, smoke, wastes, dust, vibration, electrical disturbance, physical hazards and related impacts on adjacent properties and to the vicinity can be mitigated or avoided.
  - 33.1.8.1. Hearing Examiner Finding of Fact: Based on the application materials, the applicant has indicated that operations on the subject property would not impact adjacent properties in the vicinity with noise, light, heat, steam, erosion, water quality, glare, odors, air pollution, smoke, wastes, dust, vibration, electrical disturbance, physical hazards, or any other related impacts.
  - 33.1.8.2. Conclusion: Based on the above facts, noise, light, heat, steam, erosion, water quality, glare, odors, air pollution, smoke, wastes, dust, vibration, electrical disturbance, physical hazards and related impacts on adjacent properties can be avoided or mitigated as conditioned.
- 33.1.9. The granting of the proposed conditional use permit is consistent and compatible with the intent, goals, objectives and policies of the comprehensive plan, and any implementing regulation.
  - 33.1.9.1. Hearing Examiner Finding of Fact: The Reindeer Farm is consistent with the goals and policies of the Comprehensive Plan.
  - 33.1.9.2. Conclusion: The project is consistent with the Chelan County Comprehensive Plan.
- 34. Chelan County Code, Section 11.93.155 Accessory uses which support, promote, or sustain agricultural operations.
  - 34.1. The following minimum conditions shall apply to the issuance of a conditional use permit for accessory uses which support, promote, or sustain agricultural operations:
    - 34.1.1. The activity and/or use shall be in conformance with all applicable local, state, and federal regulations or requirements including but not limited to the Chelan County Code.
      - 34.1.1.1. Hearing Examiner Finding of Fact: Based on the application the project conforms with applicable codes. The Reindeer farm is a registered USDA farm, and is allowed in



the RR5 zoning district. The application also complies with the critical area codes for stream buffers and wetlands affecting the property.

- 34.1.1.2. Conclusion: The Reindeer Farm will conform with all applicable codes and regulations.
- 34.1.2. On-farm retail sales activity and/or use must be a secondary, subordinate, and supplemental element of the operation of an ongoing commercial agriculture activity as defined by RCW 84.34.020(2).
- 34.1.2.1. Hearing Examiner Findings of Fact: The primary use of the property is the Leavenworth Reindeer Farm, which is a USDA-registered livestock farm and conforms with the definition on an ongoing commercial agricultural activity. The gift shop would be an accessory use and is open to guests visiting the farm.
- 34.1.2.2. Conclusion: As conditioned, the proposed uses meet the criteria.
- 34.1.3. Accessory uses may operate out of existing or new buildings with parking and other supportive uses consistent with the size and scale of existing buildings on the site or within the area. Accessory uses or activity shall not exceed three thousand square feet in the RR2.5 and RR5 zone districts. Accessory retail sales activities, structures, and uses must maintain a setback from adjacent properties a minimum of one hundred feet in width. Such accessory retail sales activities, structures, and uses include but are not limited to the following: parking, buildings, benches, tables, play areas, display areas, public areas or similar activities, uses or structures. The setback is required to safeguard agricultural operations on adjacent or nearby properties and protect the public from incompatible agricultural activities.
- 34.1.3.1. Hearing Examiner Findings of Fact: The accessory uses supporting agricultural tourism would include the gift shop and mobile catering, which equal less than 3,000 sq. ft. These structures would be more than 100' from the adjacent properties. Parking is provided as part of the outright allowed use of Farm Visit and would provide for parking for Places of Public and Private Assembly. There is no parking specific only to the accessory uses. A restaurant or on-site food preparation for sale to guests is not allowed by this permit.
- 34.1.3.2. Conclusion: Based on the application, the proposed development meets the criteria for accessory uses.
- 34.1.4. Off-street vehicle parking shall be provided in accordance with Chapter 11.90 of this title.
- 34.1.4.1. Hearing Examiner Finding of Fact: The closest land use was determined to be "outdoor amusement area" which requires .3 spaces for every attendee. The applicant has provided a traffic study which shows that there would be approximately 45 vehicle trips per hour (100 guests), or a maximum of 136 guests for special events. The applicant is proposing 41 spaces, including 2 ADA spaces.  $136 \times .3 = 40.8$ , rounded up to 41 so the project meets minimum parking requirements. At the time of building permit submittal, the applicant shall provide a finalized and detailed parking and landscaping plan.
- 34.1.4.2. Conclusion: The property would meet the parking requirements for the use in accordance with CCC Chapter 11.90.

#### 34.1.5. Setback and screening requirements

- 34.1.5.1. Developed accessory use or activity area must be located a minimum of one hundred feet from adjacent property lines, and must have screening and/or buffering from adjacent roads and properties. Screening and/or buffering may include: maintained or natural open space, vegetated berms, trees, shrubs, orchards, solid or sight-obscuring fences or plantings, streets or roads, and /or natural vegetation or terrain.
  - 34.1.5.2. Landscape requirements shall be provided as prescribed in Chapter 15.50 of Title 15, Development Standards, as amended.
  - 34.1.5.3. No vehicles shall be located within one hundred feet of a property line and shall be visually screened from public roads or private roads open to public use and from surrounding properties.
  - 34.1.5.4. Hearing Examiner Finding of Fact: The gift shop and mobile catering would be more than 100' from the nearest property, and are screened by natural downslope topography, native vegetation, landscaping, and fencing. A landscaping plan for the parking lot would be provided at the time of building permit submittal. No vehicles are associated with solely the accessory uses. The guests visiting the gift shop would be there to take a designated Reindeer Farm tour, which takes pre-purchased tickets.
  - 34.1.5.5. Conclusion: The applicant would submit a parking and landscaping plan for the CUP at the time of building permit submittal. As conditioned, the accessory uses meet the landscaping, screening and parking requirements.
- 34.1.6. Hours of operation may be from eight a.m. to ten p.m. consistent with the need to safeguard existing agriculture operations on adjacent properties and other adjacent uses, or as may be determined by the hearing examiner subject to the proposal.
- 34.1.6.1. Hearing Examiner Finding of Fact: Based on the application the Reindeer Farm currently operates between the hours of 10:00am and 4:00pm. Events allowed as part of the CUP would end by 10:00pm.
  - 34.1.6.2. Conclusion: The Reindeer Farm would conform with allowed hours of operation.

#### 35. Chelan County Code, Section 11.93.315 Places of Public and Private Assembly

- 35.1. The following minimum conditions shall apply to places of public and private assembly:
  - 35.1.1. The applicant shall submit for review and approval an operation plan and vehicle/pedestrian circulation plan.
    - 35.1.1.1. Hearing Examiner Finding of Fact: Based on the parking plan there are plans for parking and circulation of vehicles and pedestrians on the property. (Exhibit D)
    - 35.1.1.2. Conclusion: The applicant would meet with the Public Works Department for review of the circulation plan in a pre-construction meeting prior to commencement of the project.



- 35.1.2. The use shall be landscaped per the requirements of Chapter 15.50, and comply with the parking provisions pursuant to Chapter 11.90.
- 35.1.2.1. Hearing Examiner Findings of Fact: Pursuant to CCC Section 11.90.060 for off-street parking requirements, the closest land use was determined to be “outdoor amusement area” which requires .3 spaces for every attendee. The applicant has provided a traffic study which shows that there would be approximately 45 vehicle trips per hour (100 guests), or a maximum of 136 guests for special events. The applicant is proposing 41 spaces, including 2 ADA spaces.  $136 \times .3 = 40.8$ , rounded up to 41 so the project meets minimum parking requirements.
- 35.1.2.2. A finalized landscape plan for the parking lot would be required to comply with CCC Section 15.50, Landscape Standards.
- 35.1.2.3. At the time of building permit submittal, the applicant shall provide a finalized and detailed parking and landscaping plan that complies with Chelan County Codes.
- 35.1.2.4. Conclusion: As conditioned, the proposed use would meet the landscaping and parking requirements of the Chelan County Code.
- 35.1.3. The operation shall include adequate sanitary facilities based on proposed capacity.
- 35.1.3.1. Hearing Examiner Findings of Fact: The Reindeer Farm is currently served by commercial port-a-potties, including some that are ADA compliant. The port-a-potties are regularly serviced by a professional vendor. In order to comply with requirements from the Chelan Douglas Health District for Places of Public and Private Assembly, the applicant has been approved for a septic system and commercial holding tank for the proposal. The completed design of the septic system would be submitted at the time of building permit submittals.
- 35.1.3.2. Conclusion: As conditioned, the proposed development would have adequate sanitary facilities onsite.
- 35.1.4. The proposal will not reduce county facilities below adopted levels of service as a result of the development.
- 35.1.4.1. Hearing Examiner Finding of Fact: Chelan County provided a Notice of Application to all providers. Comments that were received were admitted as exhibits.
- 35.1.4.2. Conclusion: Through the process of public and agency noticing, opportunity for review and comments were provided for the proposed development. As conditioned, the proposed development would not result in county facilities being reduced below adopted levels of service.
- 35.1.5. Administrative review of the operation to determine compliance with conditions of approval shall be performed in the first and fifth year of operation, or upon receipt of a written complaint.
- 35.1.5.1. Hearing Examiner Finding of Fact: The review of conditional use permits helps ensure compliance with the requirements.

- 35.1.5.2. Conclusion: The applicant would submit a compliance review letter to the Community Development Department at years one and five of operation, or upon receipt of a written complaint.
- 35.1.6. All events and activities shall comply with Chapter 173-60 WAC, Noise.
- 35.1.6.1. Hearing Examiner Finding of Fact: The applicant has stated that the hours of operation would only be during standard business hours, with the exception of special events such as weddings, which will end by 10:00pm and would comply with Chapter 173-60 WAC. In general, the Reindeer Farm is not a noise producing activity. The special events will likely create noise.
- 35.1.6.2. Conclusion: Based on the application, the proposed development would not produce excessive noise.
- 35.1.7. The proposal shall include the maximum number of attendees which shall be used minimally to determine the number of parking spaces, traffic flow estimates, review occupancy load and building standards including restroom requirements
- 35.1.7.1. A twenty-five percent expansion to the number of attendees (bonus attendees) for up to three events per calendar year may be permitted, if the following conditions are met:
- 35.1.7.1.1. Additional parking can be provided on site in an "overflow" area, which is not required to be paved; or off-site parking is provided. Off-site parking sites shall be either designated public parking areas or lands dedicated as parking areas.
- 35.1.7.1.2. The overall occupancy load for bonus attendees, as determined by the Chelan County building official, shall not be exceeded.
- 35.1.7.1.3. The applicant shall provide the required number of restroom facilities, standard and ADA accessible, for bonus attendee events. Portable facilities may be used if approved by the Chelan-Douglas health district and the Chelan County building official.
- 35.1.7.1.4. The applicant shall provide adequate fire facilities/equipment, as determined by the fire marshal, at all events to serve the bonus attendee levels of service.
- 35.1.7.1.5. The applicant shall provide a written statement to community development within thirty calendar days of each event exceeding the approved baseline number of attendees.
- 35.1.7.2. Hearing Examiner Finding of Fact: The applicant has calculated a maximum number of 136 participants per day, spread out throughout the day. For special events such as wedding, 136 people would be the maximum number for special events, with the exception of the 3 events a year that can be allowed up to 25% more capacity as long as overflow or off-site parking can be provided. Special events would only be held during times when the Reindeer Farm is not open for general reindeer tours. The applicant would provide for the required number of restroom facilities for any event.



The anticipated increase on event days would not exceed the 25% additional occupancy allowed.

- 35.1.7.3. Conclusion: Based on the application, the proposed development would have adequate provisions for all attendees, parking, ADA accessibility, and restroom facilities.
- 35.1.8. If a school is to be included in the facility as a separate structure, the criteria of Section 11.93.160 shall be met in addition to any other applicable criteria.
  - 35.1.8.1. Hearing Examiner Finding of Fact: No school is proposed.
  - 35.1.8.2. Conclusion: Based on the application, this section does not apply.
- 35.1.9. If a daycare center/preschool is to be included in the facility, the criteria of Section 11.93.160 shall be met in addition to any other applicable criteria.
  - 35.1.9.1. Hearing Examiner Finding of Fact: There is no daycare center/preschool proposed.
  - 35.1.9.2. Conclusion: Based on the application, this section does not apply.
- 35.1.10. For churches and religious facilities, one single-family dwelling unit may be included in addition to the facility for the residence of the cleric/priest/pastor/etc.
  - 35.1.10.1. Hearing Examiner Finding of Fact: There is a no church or religious facility proposed.
  - 35.1.10.2. Conclusion: Based on the application, the proposed development does not include a church or religious facility.
36. An open record public hearing was held, after legal notice, on September 4, 2024.
37. Appearing and testifying on behalf of the Applicant was Ryan Walker. Mr. Walker testified that he was an agent authorized to appear and speak on behalf of the property owner and Applicant. Mr. Walker stated that they agreed with the representations set forth within the staff report and the proposed Conditions of Approval.
38. No member of the public testified at the hearing.
39. The following exhibits were admitted into the record:
  - 39.1. Ex. A. Site Plan of Record, dated July 8, 2024;
  - 39.2. Ex. B. Riparian Restoration Agreement;
  - 39.3. Ex. C. Administrative Buffer Reduction Determination;
  - 39.4. Ex. D. Landscaping and Parking Preliminary Plans;
  - 39.5. Ex. E. Narrative;

- 39.6. Ex. F. Geologic hazard assessment;
  - 39.7. Ex. G. MDNS;
  - 39.8. Ex. H. Wetland Study;
  - 39.9. Ex. I. Comments and Conditions of Approval from commenting agencies;
  - 39.10. Ex. J. Inadvertent Discovery Plan;
  - 39.11. Ex. K. Flood Map;
  - 39.12. Ex. L. HMMP;
  - 39.13. Ex. M. Staff Report.
40. The Chelan County Hearing Examiner considered all evidence within the record in rendering this decision.
41. 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, CUP2023-144 is hereby **APPROVED** subject to the following Conditions of Approval.

## **IV. CONDITIONS OF APPROVAL**

- 1. 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.
- 2. Pursuant to CCC Chapter 11.93.080, 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.
- 3. Pursuant to CCC Chapter 11.93.040(10), the final Conditional Use Permit shall be in conformance with the submitted application of record or as amended by this decision.



4. Pursuant to the MDNS, dated August 5, 2024, the applicants shall honor the Riparian Restoration Landowner Agreement with the Chelan County Natural Resources Department for the life of the Reindeer Farm.
5. Pursuant to CCC Chapter 11.78.060, the Habitat Management and Mitigation Plan (Exhibit L) dated January 2024, shall be followed for the Chumstick Creek riparian and wetland buffer.
6. Pursuant to the MDNS, dated August 5, 2024, the restoration shall be completed by November 30, 2026.
7. Pursuant to the riparian restoration agreement, the applicant shall remove the existing reindeer enclosure, existing historic ag housing and associated bathhouse to ensure no net loss of stream and wetland buffers.
8. Pursuant to CCC Chapter 14.16, the applicant shall furnish the county with a performance bond to guarantee the proper completion of the riparian restoration agreement.
9. The applicant shall adhere to Conditions of Approval from the Fire Marshal, dated April 2, 2024 (Exhibit I).
10. Pursuant to the Chelan Douglas Health District requirements, a Group A public water system permit shall be required. The well shall be completed prior to building permit submittals.
11. Pursuant to Chelan Douglas Health District requirements, a new septic system shall be completed for the proposed new geodesic dome and event barn.
12. Pursuant to Chelan Douglas Health District requirements, the applicant shall obtain a permit from the CDHD Food Program for onsite catering.
13. The applicant shall follow recommendations from the Geotechnical Report by NGA, dated May 11, 2023 (Exhibit F). This includes, but is not limited to, ensuring that all foundations are placed on native soils or structural fill and that a geologic/geotechnical consultant shall be onsite at the time of excavation. No buildings shall be placed within the flood hazard zone adjacent to Chumstick Creek.
14. Chumstick Highway adjacent to the Reindeer Farm is within the City of Leavenworth UGA, therefore the applicants shall be required to either complete frontage road improvements to Chumstick Highway per City of Leavenworth Development Road Standards in accordance with Resolution 2014-135 OR the City of Leavenworth may defer the requirements per a LID Agreement for the frontage improvements to Chumstick Highway. The applicant, the City of Leavenworth and the Chelan County Public Works Department shall meet to discuss options at the time of building permit submittals.
15. Pursuant to the Chelan County Public Works Memo (Exhibit I), the applicant shall be required to show the dimensions and type of material proposed for the parking lot. At the time of building permit submittal, the applicant shall provide Chelan County Public Works Department with a finalized parking plan that includes surface material, number of parking spaces, and general parking schematic for the proposed project.
16. Pursuant to CCC Chapter 11.93.040(10), parking attendants shall continue to be used during tour operations of the Reindeer Farm in order to ensure safe movement of vehicles and people.

17. Pursuant to CCC Chapter 15.50, Landscape Standards, the applicant shall submit a finalized landscaping plan, including types and numbers of plants, to the Chelan County Community Development Department at the time of building permit submittal.
18. Pursuant to CCC Chapter 15.30.340 the applicant shall be required to construct the existing access approaches on Chumstick Highway and Motteler Road to meet an Industrial/Commercial approach (Standard Detail PW-26). The applicant shall be required to obtain a Chelan County Public Works Approach Permit prior to construction of the Commercial Driveway Approach. The approach apron shall be paved.
19. Pursuant to CCC Chapter 13.18.030(9) if a Drainage System is required, show any necessary easements in accordance with the approved drainage plan.
20. Pursuant to CCC Chapter 13.18, a Drainage Report and Plan shall be required to be submitted to the Chelan County Public Works Department if any new impervious surface of 5,000 sq. ft. or greater is created.
21. Pursuant to CCC Section 11.90.060, at least 41 total parking spaces shall be provided. The applicant is proposing 41 spaces. The applicant shall be required to show the dimensions and type of materials proposed for the parking area(s). Prior to commencement of activities, the applicant shall provide Chelan County Public Works with a parking area, type of surface material proposed for the parking lot, number of parking spaces, and general parking schematic of the proposed area.
22. Pursuant to CCC Chapter 13, the need for stormwater and drainage shall be reviewed and approved by Chelan County Public Works.
  - 22.1. 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:
  - 22.2. "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 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.
  - 22.3. 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."
23. The comments from the Confederated Tribes of Colville Nation and the Washington Department of Archeology and Historic Preservation, were not provided to the Hearing Examiner, but were



summarized in the staff report and adopted as Conditions of Approval. The Hearing Examiner's understanding is that both the Washington Department of Archeology and Historic Preservation as well as the Confederated Tribes of the Colvill Nation have recommended that a professional archeological survey be conducted and that a cultural resources report be submitted prior to commencement of any building. The Hearing Examiner has not seen in the record any evidence to contradict the opinions of these agencies with jurisdiction. Accordingly, the Hearing Examiner will require that the applicant obtain a professional archeological survey on the subject property and report any cultural resources found in a cultural resources report submitted to both agencies as well as Chelan County. If both the Washington Department of Archeology and Historic Preservation and the Confederated Tribes of the Colvill Nation indicate, in writing, that a professional archeological survey is no longer required, then this condition is waived.

24. Pursuant to RCW 27.53.020, if the applicant or their agents discover previously unknown historic or archaeological remains/artifacts while conducting the development activities authorized by this application, the applicant/ agent shall immediately notify the appropriate tribal and state representatives and the Chelan County Department of Community Development of the finding for local, state and tribal coordination. If any Native American grave sites or archaeological resources are discovered or excavated, work shall stop immediately.
25. The applicant shall have an Inadvertent Discovery Plan (Exhibit J) onsite at all times during construction.
26. Pursuant to Chelan County Code Section 11.93.110, 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 with community development thirty days prior to expiration.
27. Pursuant to CCC Section 11.93.090, 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.
28. Pursuant to Chelan County Code Section 11.93.120, action of the Hearing Examiner is final, unless appealed pursuant to the judicial appeal provisions of Title 14 of the Chelan County Code.
29. A restaurant or on-site food preparation for sale to guests is not allowed by this permit.

Dated this 10 day of September, 2024

CHELAN COUNTY HEARING EXAMINER



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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.