

**CHELAN COUNTY  
LAND USE HEARING EXAMINER**

<b>IN THE MATTER OF</b>	)	<b>FINDINGS OF FACT,</b>
	)	<b>CONCLUSIONS OF LAW, AND</b>
<b>Plat 24-285</b>	)	<b>DECISION AND</b>
<b>Sunny Skies Subdivision</b>	)	<b>CONDITIONS OF APPROVAL</b>

THIS MATTER having come on for hearing in front of the Chelan County Hearing Examiner on November 6, 2024, the Hearing Examiner having taken evidence hereby submits the following Findings of Fact, Conclusions of Law, Decision and Conditions of Approval as follows:

**I. FINDINGS OF FACT**

1. Project Location: 609 American Fruit Road, Wenatchee, WA, 98801
2. Parcel Number: 23-20-17-440-200
3. Legal Description: Lot A of BLA 2023-435
4. Applicant/Owner: Nick Davis, 655 American Fruit Road, Wenatchee, WA 98807
5. Agent/Surveyor: Complete Design, 353 Malaga Alcoa Hwy, Unit 3, Wenatchee, WA 98801
6. Urban Growth Area: The project is located within the Wenatchee Urban Growth Area
7. Comprehensive Plan Designation: Residential Low (RL) in the Wenatchee Urban Growth Area
8. Zoning: Residential Low (RL) in the Wenatchee Urban Growth Area
9. Existing Land Use: The existing land use of the subject property is residential in nature. Per Chelan County Assessor data, there is an existing main residence on the subject property that was built in 1938 and an ADU that was built in 2005. For the proposed plat, the main residence would remain on proposed Lot 11 and the ADU would remain on proposed Lot 1.
10. Site Information & Neighborhood Characteristics:
  - 10.1. Site Description: The subject site slopes gently from the north to the southeast and the current land cover consists primarily of orchard grass.
  - 10.2. Site Size: 3.78 acres in size
  - 10.3. Property North: American Fruit Road, a public county right of way, and residential properties. And is zoned Residential Single Family (RS) in the Wenatchee Urban Growth area
  - 10.4. Properties South: Residential use and zoned Residential Low (RL) in the Wenatchee Urban Growth area
  - 10.5. Property West: Residential use and zoned Residential Low (RL) in the Wenatchee Urban Growth area
  - 10.6. Property East: Knowles Road, a public county right of way in residential use and zoned Residential Low (RL) in the Wenatchee Urban Growth area

- 10.7. Aquifer Recharge Area: The applicant submitted an Aquifer Recharge Area Disclosure Form, date stamped July 16, 2024. Pursuant to Chelan County Code Section 11.82.040, Chelan County has determined that the aquifer recharge measures would not apply.
- 10.8. Floodplain: Pursuant to the Federal Emergency Management Agency, FIRM map panel 5300150625C, the project site does not contain identified 100 or 500-year flood plain or associated floodway. Therefore, Chelan County Code (CCC), Section 11.84, Frequently Flooded Areas Overlay District would not apply.
- 10.9. Geologically Hazardous Areas: According to the Chelan County GIS mapping, the project site contains potential geologic hazardous areas for erodible soils. The applicant submitted a Geological Site Assessment, dated August 22, 2024, prepared by Nelson Geotechnical Associates, Inc. The report states that the project site is suitable for the proposed development and that the native geologic conditions that underlie the site and close proximity should not pose a significant risk to the planned development using the mitigation measures and general recommendations of the assessment.
- 10.9.1. Pursuant to CCC, Section 11.86, a note on the final plat mylar should be required, identifying this subdivision as being located in a potential geologically hazardous area.
- 10.10. Wetlands: Pursuant to the National Wetlands Inventory Map, the site does not contain any known wetlands. Therefore, the provisions of CCC, Section 11.80, would not apply.
- 10.11. Shoreline Master Program: Does not apply.
- 10.12. Fish & Wildlife Habitat Conservation Areas: Pursuant to the Washington State Department of Fish and Wildlife Priority Habitat and Species Maps and CCC, Section 11.78 Fish and Wildlife Overlay District, the project site does contain Mule Deer and Golden Eagle habitat; therefore, the provisions of CCC, Section, 11.78 would apply.
- 10.12.1. WDFW issued a letter to the applicants on January 4, 2023 stating that the mule deer historic winter range was lost to alternate land use since this parcel is already development with existing structures and lawn grass. In this letter, WDFW provided some general recommendations to minimize human-wildlife conflict if mule deer are passing through.
- 10.12.2. Pursuant to CCC, Section 11.78, a note on the final plat mylar should be required, identifying this subdivision as being located within a Fish and Wildlife Habitat Conservation Area (FWHCA).
- 10.13. Cultural Resources: Pursuant to RCW 27.53.020, full cooperation among the Department of Archaeology and Historic Preservation and other agencies is required to ensure information regarding the possible impact of construction activities on the state's archaeological resources is maintained. The local tribes and DAHP were included on the Notice of Application; however, no comments were received. Staff recommended that an inadvertent Discovery Plan (Exhibit B) be adopted prior to project construction and the applicant shall notify DAHP and the tribes if any artifacts are uncovered or discovered during project development.

11. Project / Design Information:

- 11.1. Project History: On May 23, 2024, a pre-application meeting was held to discuss the feasibility of the proposed development.
- 11.2. Traffic Circulation: The proposed development fronts on both American Fruit Road and Knowles Road. With the development, a new internal roadway system is proposed off of American Fruit Road.

- 11.2.1. American Fruit Road is a 40'-50' right-of-way (along frontage) and is classified as a Urban Major Collector Road in the county road system. American Fruit Road consists of single travel lanes for both directions with no curb, gutter or sidewalk. American Fruit Road has 21' of pavement. The first 200' has been improved with curb, gutter sidewalk and asphalt widening along the project's frontage.
- 11.2.2. Knowles Road is a 60' right-of-way and is classified as a Urban Major Collector Road in the county road system. Knowles Road consists of single travel lanes for both directions with curb, gutter or sidewalk along the east side of the proposed project. Knowles Road has 30' of pavement.
- 11.2.3. Pursuant to the comment letter from Chelan County Public Works (CCPW), dated September 13, 2024, the applicant shall dedicate right-of-way to make the right-of-way on American Fruit Road 30' from the centerline of American Fruit Road pursuant to Chelan County Code (CCC) Section 11.88.070(3); and Chapter 4, Sec. 6.14 of the Chelan County Transportation Element
- 11.2.4. Pursuant to the comment letter from CCPW, dated September 13, 2024, Frontage road improvements would be required to American Fruit Road. The applicant shall be required to construct 1/2-street road widening with curb, gutter and sidewalk along the entire frontage of the project to match the road design constructed by Chelan County.
- 11.2.5. Pursuant to the comment letter from CCPW, dated September 13, 2024, the design and construction of the new public internal road would be required to meet a "Residential Lane" design per the City of Wenatchee Road Standard as defined in Section 11.20.020(8) of the City of Wenatchee Code. A Standard Cul-de-sac or an approved Emergency Vehicle Turnaround would be required.
- 11.3. Stormwater: The comment letter from CCPW, dated September 13, 2024, states a private stormwater drainage system is required with an Operation and Maintenance Agreement of the drainage system and recorded with the final plat.
- 11.4. Water: Water availability letter from Chelan County PUD, dated May 30, 2018, states, the proposed development is within the District's existing water service area and would require water system improvements.
- 11.5. Sanitation: Wastewater availability letter from the City of Wenatchee, dated December 1, 2023 states, the property is within the service area and the system has sufficient capacity to serve the proposed development.
  - 11.5.1. Service would be available once the sewer main is constructed to the satisfaction of the City and/or County Engineer and the requisite connection fees are paid in full.
- 11.6. Power: The comment letter from Chelan County PUD, dated September 18, 2024, states electrical service is available to the subject property. Line extensions would be necessary. Easements would be required where utilities are located on private property.
  - 11.6.1. Any additional easements, not already provided for the plat, would be determined during the design and construction phases.
- 11.7. Fire Marshal: The comment letter from the Chelan County Fire Marshal, dated September 11, 2024, states the subject property is located within Wenatchee Valley Fire Department area of coverage. Additional fire hydrants would be necessary to serve the proposed development. Therefore, alternative fire flow provisions are not necessary.

11.8. Irrigation: The comment letter from the Wenatchee Reclamation District, dated September 9, 2024, states that the subject property is located within the irrigation district and that irrigation shares are required to be split prior to final plat approval.

11.9. Noise: Noise impacts are addressed in Chelan County Code Chapter 7.35

12. State Environmental Policy Act:

12.1. The applicant submitted an environmental checklist on July 16, 2024. Pursuant to WAC 197-11 process and RCW 43-21C of the State Environmental Policy Act (SEPA), an environmental review and a threshold determination was completed. A Mitigated Determination of Non-significance (MDNS) was issued on September 26, 2024. The SEPA Checklist and MDNS are included within the file of record and adopted by reference.

13. Comments:

13.1. The Notice of Application was referred to agencies and departments on September 5, 2024 and surrounding property owners within 300 feet, excluding 60 feet of right-of-way with comments due September 19, 2024. Agency comments are included, as appropriate, within this staff report and in the recommended Conditions of Approval. The following agencies and County departments were sent referral packets:

Agencies Notified	Response Date	Nature of Comment
Chelan County Assessor	September 4, 2024	The legal description is the more current BLA and there are no delinquent taxes.
Chelan County Fire Marshal	September 11, 2024	The subject property is located within Wenatchee Valley Fire Department service area. Recommended conditions of approval for fire flow provisions.
Chelan County Building Official	No Comment	
Chelan-Douglas Health District	September 17, 2024	No concerns regarding proposed project. Domestic water service shall be by expansion of the Chelan PUD public water system and sanitary sewer service shall be by expansion of the City of Wenatchee public sewer system.
Chelan County Public Works	September 13, 2024	Revised recommended conditions of approval were provided for the proposed project.
Chelan County PUD	September 18, 2024	Line extensions would be required for the proposed project and necessary easements may be required with the finalization of the proposed project.
Wenatchee Valley Fire Department	No Comment	



Wenatchee Reclamation District	September 9, 2024	Prior to final approval of the proposed project, the applicant must obtain a release from Wenatchee Reclamation District which states that irrigation shares have been segregated. Rights-of-way must be shown on the plat submitted for final approval.
Wenatchee School District	No Comment	
City of Wenatchee	No Comment	
WA Dept. of Archaeology & Historic Preservation	No Comment	
Yakama Nation	No Comment	
Confederated Tribes of the Colville Reservation	No Comment	
WA Dept. of Ecology	September 17, 2024	Soil sampling results for the subject property indicate lead and/or arsenic contamination are above Washington State cleanup standards and cleanup is required prior to occupancy under the Model Toxics Control Act (Chapter 173-340 WAC).

14. Public Comments:

Name	Date Received	Nature of Comments
Lisa Steensma	September 17, 2024	Wants to see curb and sidewalks required and also the addition of a school bus stop.

15. Application & Public Hearing Notice Compliance:

- 15.1. Application Submitted: July 16, 2024
- 15.2. Determination of Completeness issued: August 30, 2024
- 15.3. Notice of Application: September 5, 2024
- 15.4. SEPA MDNS Issued: September 26, 2024
- 15.5. Notice of Hearing: October 26, 2024
- 15.6. Public Hearing: November 6, 2024

16. Comprehensive Plan Review:

- 16.1. The subject property is within the study area of the Wenatchee Comprehensive Plan and is designated as Wenatchee Urban Growth Area Residential Low (RL). The following comprehensive plan sections, Wenatchee City Code, and Chelan County Code have been considered for the review of this proposal:

16.1.1. Residential Low (RL): The proposed subdivision is located in the Sunnyslope Urban Growth Area, which has a Comprehensive Plan adopted within the Chelan County Comprehensive Plan (reference Appendix K of the Sunnyslope Subarea Plan). The plan proposes residential dwellings for the subject site. The proposed development is consistent with the adopted Sunnyslope Long-Range Plan.

16.1.2. The plan states in part: "... permits low-density, single-family development." The plan further states: "Assigned density is six units per acre, but actual density may be much less depending on slopes, wildlife habitat, access limitations, parcel configurations or other development constraints"

16.1.3. The Hearing Examiner finds that the proposed subdivision, as conditioned, is consistent with the Chelan County Comprehensive Plan.

17. Wenatchee City Code, Title 10: Zoning

17.1. Wenatchee City Code, Section 10.46.020: Residential Development

Residential Low (RL) Zoning District	
Minimum Lot Dimensions	5,500 sq. ft.
Lot Width	50 ft. at the front building line, 20 ft. at the point of access
Lot Depth	80 ft.
Maximum Lot Coverage	45 percent

17.1.1. The proposed lots would be for residential use. The applicant is proposing lots ranging in size from 8,324 sq. ft. to 20,487 sq. ft. All proposed lots meet or exceed the minimum lot width of 50 ft. at the front building line. Building setbacks, height, and lot coverage would be reviewed at the time of building permit application.

17.1.2. The Hearing Examiner finds that the proposed subdivision, as conditioned, is consistent with the provisions of WCC 10.46.020.

18. Wenatchee City Code, Title 11: Subdivisions

18.1. Wenatchee City Code, Chapter 11.04: General Provisions

18.1.1. Standards adopted by Chelan County apply to the proposed subdivision and any infrastructure. The applicant, City and County work together to ensure compatibility and concurrency standards are met.

18.1.1.1. The Hearing Examiner finds that the proposed subdivision, as conditioned, is consistent with the provisions of this chapter.

18.2. Wenatchee City Code, Chapter 11.16: Major Subdivisions

18.2.1. The applicant participated in a pre-application meeting with Chelan County Community Development on May 23, 2024.

18.2.2. The proposed subdivision is to provide an extension of the City of Wenatchee sewer system for sanitation purposes to each lot as well as domestic water via the Chelan County PUD. Additionally, a stormwater facility, as identified as Tract A on the site plan of record, is proposed to address potential stormwater and/or drainage way concerns.

18.2.3. As proposed, the subdivision not phased, therefore the proposed internal road is to be constructed in its entirety prior to final plat approval. Based on provided comments from

Chelan County Public Works, road dedication is to be required for American Fruit Road to assure that the right of way would be 30 ft. from centerline.

- 18.2.4. Pursuant to RCW 58.17.255 and WAC 332-130-040, all easement locations are required to be shown on the final plat. Separate instruments recorded with the Chelan County Auditor shall be referenced on the final plat. Easements would be reviewed with blueline submittal.
  - 18.2.5. The subject site is within the Wenatchee Valley Fire Department service area. The proposed subdivision and all future building permits must conform to all applicable requirements of the International Fire Code and International Building Code administered by the Chelan County Fire Marshal.
  - 18.2.6. Pursuant to WCC 11.16.190 & 11.16.210(20), restrictive covenants to be imposed upon the land within the subdivision shall be submitted at time of final plat review; a Homeowner's Association is necessary in order to provide maintenance of the stormwater facility and internal road.
  - 18.2.7. The Hearing Examiner finds that the proposed subdivision, as conditioned, would be consistent with the provisions of this chapter.
- 18.3.       Wenatchee City Code, Chapter 11.20: Subdivision Design Standards
- 18.3.1. Pursuant to the review within this staff report, the proposed development is consistent with the applicable chapters of the zoning code for the Residential Low (RL) zoning district together with Appendix K, Sunnyslope Subarea Plan. The proposed lots were reviewed for consistency with the subdivision standards and appear that they are of an adequate size to accommodate the dimensional standards of the RL zoning district and the lot design provisions of WCC 11.20.050.
  - 18.3.2. The proposed subdivision has been reviewed by the City of Wenatchee and Chelan County Public Works Departments; final plat review and approval by the County Engineer and Fire Marshal would ensure that circulation is completed in consistency with the adopted plans and codes.
  - 18.3.3. The proposed internal road would need to be designed to meet the Residential Lane standards, as further detailed in the Wenatchee City Code.
  - 18.3.4. The Hearing Examiner finds that the proposed subdivision, as conditioned, is consistent with the provisions of this chapter.
- 18.4.       Chelan County Code Title 11, Critical Areas
- 18.4.1. The applicant submitted an Aquifer Recharge Area Disclosure Form, date stamped July 16, 2024. Pursuant to CCC 11.82.040, Chelan County has determined that the aquifer recharge measures do not apply.
  - 18.4.2. According to the Chelan County GIS mapping, the site contains potential geologic hazardous areas. The applicant submitted an Engineering Geologic Hazard Assessment, dated August 22, 2024 prepared by Nelson Geotechnical Associates, INC. The report includes several recommendations for construction which should be adhered to for the design and construction of the proposed subdivision. Pursuant to CCC 11.86, a note on the final plat mylar should be required, identifying this subdivision as being located in a potential geologically hazardous area.

18.4.3. Pursuant to the Washington State Department of Fish and Wildlife Priority Habitat and Species Maps and Chelan County Fish & Wildlife Overlay District, CCC 11.78, the subject site does contain mule deer habitat. Therefore, the provisions of CCC 11.78 do apply.

18.4.4. The Hearing Examiner finds that the proposed subdivision, as conditioned, is consistent with the provisions of this chapter.

19. Chelan County Code, Title 12: Land Divisions

19.1. Chelan County Code 12.02.060 - Concurrency of public infrastructure

19.1.1. After the opportunity for review and comment, all providers of water, sewage disposal, schools, and fire/police protection serving the proposed land division have been given adequate notice to provide comment regarding adequate capacity or arrangements for adequate services for the development, concurrently with the demand for such services and facilities.

19.1.2. No county facilities would be reduced below adopted levels of service as a result of the proposed land division.

19.1.3. The Hearing Examiner finds that the proposed subdivision would be served by a public water purveyor and a public sewer purveyor as well.

19.2. Chelan County Code 12.04.020 - Suitability for Land Division

19.2.1. As submitted, the proposed subdivision is consistent with the provisions of this section.

19.3. Chelan County Code 12.08 - Land division names

19.3.1. No land division shall be approved which bears a name using a word which is the same as, similar to or pronounced the same as a word in the name of any other subdivision in the county, except for the words which contain the following "town," "county," "place," "court," "addition," "acres," "heights," "villa," or similar words, unless the land so divided is contiguous to the land division bearing the same name.

19.3.2. The Hearing Examiner finds that review of the name would be required prior to final plat approval to determine that it does not match or is not similar to an existing plat name.

19.4. Chelan County Code 12.08.030 - Easements

19.4.1. Utilities, whenever feasible, shall be located outside the established road prism, as defined in Title 15, but within the right-of-way. When location within the public right-of-way is not feasible or practical, as determined by the county or local utility purveyor, the following provisions shall be adhered to:

19.4.1.1. Easements for the construction and maintenance of utilities and public facilities shall be granted, as determined by the county or local utility purveyor, to provide and maintain adequate utility service to each lot and adjacent lands.

19.4.1.2. The widths of the easements shall be the minimum necessary as determined by the utility purveyor, unless the administrator determines a small or larger width is appropriate based on-site conditions. Whenever possible, public utilities shall be combined with driveways, pedestrian access ways and other utility easements.

19.4.1.3. The Hearing Examiner finds that electrical services are available from the Chelan County PUD No. 1; however, line extension may be required.

- 19.4.2. Easements required by this section shall be granted by the terms and conditions of such easements being shown on the final land division or separate instrument.
- 19.4.2.1. The Hearing Examiner finds that all easement locations are required to be shown on the final plat, pursuant to CCC, Section 12.08.030. Separate instruments recorded with the Chelan County Auditor should be referenced on the face of the final plat. Required easements, shall be reviewed with the blue line submittal.
- 19.4.3. Easement provisions shall be in conformance with the standards contained in Title 15, Development Standards.
- 19.4.3.1. The Hearing Examiner finds that easement locations and purpose(s) should be indicated on the final plat. Easements shall be reviewed with blue line submittal.
- 19.5. Chelan County Code 12.08.040 - Fire protection standards
- 19.5.1. The fire protection standards contained in Title 15 and adopted International Fire Code are required in all divisions of land. Modifications are allowed though the adopted fire credit options when approved by the Chelan County Fire Marshal.
- 19.5.1.1. The Hearing Examiner finds that the subject property is located in the Wenatchee Valley Fire Department service area. The proposal/project shall conform to all applicable requirements of the International Fire Code and Chelan County Code administered by the Chelan County Fire Marshal.
- 19.6. Chelan County Code 12.08.050 - Storm drainage
- 19.6.1. All land division creating new impervious surfaces shall meet the following requirements:
- 19.6.1.1. Storm drainage shall be provided in accordance with the adopted standards.
- 19.6.1.2. All infrastructure within the right-of-way shall become the property of, maintained and operated by, Chelan County.
- 19.6.2. The Hearing Examiner finds that a private stormwater drainage system would be required for the proposed preliminary plat. Operation and maintenance of the private drainage system would require a Maintenance Agreement. The Maintenance Agreement must include operational and annual maintenance criteria. Said Maintenance Agreement shall but submitted to the Public Works Department with the Preliminary Mylar (blue lines) and shall be recorded with the final plat.
- 19.7. Chelan County Code 12.08.060 - Watercourses
- 19.7.1. Where a division of land is traversed by a watercourse, a drainage easement adequate for the purpose and conforming to the line of such watercourse, drainage way, waste-way, channel or stream and of such width for construction, maintenance and protection as determined by the decision body shall be provided.
- 19.7.2. The Hearing Examiner finds that the property is not impacted by a watercourse. Therefore, this provision would not apply.
- 19.8. Chelan County Code 12.08.080 - Road standards
- 19.8.1. Road Standards: All land divisions shall comply with Title 15.
- 19.9. Chelan County Code 12.08.090 - Monuments
- 19.9.1. Permanent survey monuments shall be provided for all final land divisions as required in CCC, Section 15.30.825.

- 19.9.2. The Hearing Examiner finds that per CCC Section 15.30.825, monumentation would be required to be placed on all adjacent public roads if not already monumented.
- 19.10. Chelan County Code 12.08.100 - Flood protection
- 19.10.1.No land division shall be approved if related improvements such as levees, fills, roads, or other features would individually or collectively significantly increase flood flows, heights, or velocities.
- 19.10.2.If a determination is made that part of a proposed land division lies within the one-hundred-year flood plain or the floodway, the requirements of the Chelan County flood hazard development resolution shall apply.
- 19.10.3.The Hearing Examiner finds that the subject property does not contain floodplains or floodways. Therefore, this provision would not apply.
- 19.11. Chelan County Code 12.24.015 - All final land division review and approval requirements
- 19.11.1.All requested for final approval of a preliminary approved land division must be submitted to the legislative body of Chelan County for final approval, affixed with the required signatures of signing agencies or jurisdiction within five years, unless otherwise defined by RCW 58.17.140, of said preliminary approval, after which time the preliminary approval is void.
- 19.11.2.The Hearing Examiner finds that the applicant shall have five (5) years from the date of preliminary approval to finalize the plat.
20. A preliminary plat application was submitted to Chelan County on July 16, 2024 for a 12 residential lot subdivision including a stormwater tract.
21. The subject site is 3.78 acres.
22. The subject site is located at 609 American Fruit Road, Wenatchee; and identified by Assessor's Parcel No.: 23-20-17-440-200.
23. The application has been processed as a quasi-judicial review for major subdivisions pursuant to CCC 14.10.040; a public hearing is required for the application – to occur November 6, 2024.
24. The owner is Nick Davis.
25. The agent is Michelle Taylor, Complete Design, Inc.
26. The application materials were accepted as complete by Chelan County on August 30, 2024.
27. The subject site is located in the Residential Low (RL) in the Wenatchee UGA.
28. The Chelan County Comprehensive Plan Land Use designation is Residential Low (RL) of Appendix K of the Sunnyslope Subarea Plan.
29. All development is subject to compliance with City of Wenatchee Zoning Code, including development and design standards, pursuant to the 1997 Memorandum of Understanding regarding implementation of city regulations within the associated Urban Growth Area.
30. The subject site is located within an identified erosion hazard area.
31. The proposed lots are located within the footprint of a former orchard that was active during the era when lead arsenate was used as a pesticide. Soil sampling results of the subject property indicate lead and/or arsenic contamination are above Washington State cleanup standards and cleanup shall be required.



32. Appropriate notice of application and public hearing was referred to appropriate local agencies, mailed to property owners within 300 ft. of the subject property (excluding 60 ft. of street rights of way), posted on site, and published in the newspaper in accordance with Chelan County Code Title 14 Development Permit Procedures and Administration.
33. Referral comments received from agencies have been considered in the review of this application.
34. Public comments have been received prior to the issuance of the staff report.
35. Purveyors who responded to the project have indicated that adequate utilities/services are or can serve this project.
36. The proposed is not exempt from the requirements of the State Environmental Policy Act pursuant to WAC 197-11-800(6). A Mitigated Determination of Non-Significance (MDNS) was issued September 26, 2024.
37. An open record public hearing was held, after legal notice, on November 6, 2024.
38. Appearing and testifying on behalf of the applicant was John Torrence. Mr. Torrence testified that he was an agent of the applicant and property owner and was authorized to appear and speak on their behalf. Mr. Torrence indicated that they agreed with all the proposed conditions of approval with the exception of proposed Condition of Approval 2.1.7. This proposed condition provides that the City of Wenatchee may require that the internal road provide the ability to have future connectivity. Mr. Torrence stated that he had talked with the County Engineer's office and that Andrew Brunner had said that it was okay to strike this proposed condition.
39. Mr. Brunner from Chelan County Public Works provided testimony that there is a steep incline from the applicant's property to the adjoining property and that future development of the adjacent property would not require connectivity from the subject property. Mr. Brunner indicated that Chelan County Public Works had no objection to the removal of proposed Condition of Approval 2.1.7.
40. No member of the public testified at the hearing.
41. The following exhibits were admitted into the record:
  - 41.1. Ex. A Site Plan of Record, dated July 16, 2024
  - 41.2. Ex. B Inadvertent Discovery Plan
  - 41.3. Ex. C Agency Comments
  - 41.4. Ex. D Staff Report
  - 41.5. Ex. E Remainder of Planning Staff File.
42. The Chelan County Hearing Examiner considered all evidence within the record in rendering this decision.
43. 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 Chelan County Hearing Examiner has been granted the authority to render this decision pursuant to CCC 1.61.080 Duties and Powers.
2. The proposed subdivision is governed by the rules and regulations of the of the City of Wenatchee's Title 10 Zoning and Title 11 Subdivisions; the Chelan County Comprehensive Plan; Chelan County

Titles 11, 13, 14 and 15 as well as other applicable development regulations pursuant to the Chelan County Code.

3. The application, as conditioned, demonstrates consistency with the goals and policies as set forth in the Chelan County Comprehensive Plan.
4. The application, as conditioned, demonstrates consistency with adopted levels of service for roads, utilities, fire protection facilities, schools and other public and private facilities needed to serve the development, with assurance of concurrency.
5. The public interest would be served by the subdivision.
6. The application, as conditioned, is compatible with adjacent uses and would not harm or change the character of the surrounding area.
7. Any Finding of Fact that is more correctly a Conclusion of Law is hereby incorporated as such by this reference.

### **III. DECISION**

Based on the above Findings of Fact and Conclusions of Law, Plat 24-285 is hereby **APPROVED** subject to the following Conditions of Approval.

### **IV. CONDITIONS OF APPROVAL**

#### **1. CHELAN COUNTY COMMUNITY DEVELOPMENT**

- 1.1. Pursuant to RCW 58.17, the project shall conform to all applicable local, state, and federal regulations, statutes, rulings, and requirements. The proposal shall be subject to approval that may be required under permits licenses or approvals by any other local, state, or federal jurisdictional agency.
- 1.2. All conditions imposed herein shall be binding on the Applicant. "Applicant" shall mean terms, which include the owner or owners of the property, heirs, assigns and successors.
- 1.3. Pursuant to Wenatchee City Code (WCC) Section 10.46.020, the proposal shall comply with the City of Wenatchee's Residential Low (RL) Zoning District's dimensional and/or development standards, except as amended herein.
- 1.4. Pursuant to WCC Section 11.04.040, the final plat shall be designed in substantial conformance with the preliminary plat of record, date stamped July 16, 2024, on file with the Chelan County Department of Community Development, except as modified herein. No increase in density or number of lots shall occur without a re-submittal of a plat or a major subdivision application.
- 1.5. Pursuant to WCC Section 11.04.050, the applicant shall ensure that all public facilities and utilities shall be fully operational concurrent with the use and occupancy of the development.
- 1.6. Pursuant to WCC Section 11.04.060, the applicant shall ensure that all installations or improvements shall be installed in conformance with applicable codes.
- 1.7. Pursuant to WCC Section 11.16.140, the approval given to a preliminary major subdivision shall expire five (5) years following approval, unless within those five (5) years a proposed final major subdivision mylar in proper form is filed with the Administrator.
- 1.8. Pursuant to WCC Section 11.16.160, the stormwater tract with an operation and maintenance agreement shall be dedicated and completed with the development of the plat.

- 1.9. Pursuant to WCC Section 11.16.170 all dedications shall be clearly indicated on the face of the plat.
- 1.10. Pursuant to WCC Section 11.16.180, the applicant shall provide a copy of the Covenants, Conditions and Restrictions for the proposed subdivision for review and approval with the final plat submittal.
- 1.11. Pursuant to WCC Sections 11.16.200-290, the applicant shall submit the final plat and documents consistent with this decision and the adopted City of Wenatchee Subdivision Code.
- 1.12. Pursuant to WCC Section 11.20.060, the applicant shall provide written verification from all utility providers documenting compliance with development standards, prior to final plat.
- 1.13. Pursuant to WCC Section 11.20.060, the applicant shall provide electrical line extensions and upgrades, with easements, for the proposed development, prior to final plat approval. All improvements shall be approved and verified in writing by the PUD.
- 1.14. Pursuant to WCC Section 11.20.060, the applicant shall provide water extensions and upgrades, with easements, for the proposed development, prior to final plat approval. All plans for water service shall be submitted to the District in accordance with rules, regulations and standards in effect on the date of completed application and reviewed and approved by the District.
- 1.15. Prior to final approval of this subdivision, the applicant shall obtain a release from Wenatchee Reclamation District which states that irrigation shares have been segregated. RCW 58.17.310 prohibits any city, town or county from approving a short plat or final plat for property in the District unless the entity has provided an irrigation water easement for each parcel of land. Rights-of-way must be shown on the final plat submitted for recording.
- 1.16. Pursuant to the Revised Code of Washington, the following notes shall be placed on the final plat:
  - 1.16.1. "Noxious weed control is the responsibility of the individual lot owners, per RCW 17.10.140, as amended."
  - 1.16.2. "If any Native American grave sites or archaeological resources are discovered or excavated, the owner/developer/contractor shall stop work immediately and notify Chelan County Department of Community Development and the Washington State Department of Archaeology and Historic Preservation in conformance with RCW 27.53.020. An inadvertent discovery plan shall be submitted with the building permit application and kept onsite during all land disturbing activities. A sample of this plan may be obtained from Chelan County Community Development."
  - 1.16.3. A copy of the Inadvertent Discovery Plan has been included in Exhibit B.
- 1.17. Pursuant to CCC Section 12.02.010(1), the following notes shall be placed on the final plat mylar:
  - 1.17.1. "Chelan County is not responsible for notification or enforcement of covenants to deed restriction or reservations affecting use or title. Any permit issued does not acknowledge or recognize any covenants or deed restrictions or reservations that may burden or otherwise affect this property. Applicant/owner assure all risk and liability for any claims and liabilities for covenants or deed restrictions or reservations."
  - 1.17.2. "Agricultural activities occur throughout Chelan County and may or may not be compatible with residential development."
- 1.18. Pursuant to CCC Chapter 11.78, the following note shall be placed on the final plat:

1.18.1. "The subject property is within identified wildlife habitats and shall be subject to the provisions of the Chelan County Code Chapter 11.78 Fish and Wildlife Habitat Conversation Areas Overlay District, as amended."

1.19. Pursuant to CCC 11.86.080, the following note shall be placed on the final plat:

1.19.1. "All or part of this area may be located within a suspected or known geologically hazardous area. Subsequent development shall be consistent with Chelan County Code Chapter 11.86 Geologically Hazardous Areas Overlay District, as amended; and the Engineering Geologic Hazard Assessment prepared by Nelson Geotechnical Associates, Inc. dated August 22, 2024 or with a site-specific geological site assessment."

**2. CHELAN COUNTY PUBLIC WORKS**

2.1. The subject property and final plat shall conform to the comments and conditions of approval as found in the Chelan County Public Works Department memorandum, dated September 13, 2024.

2.1.1. Frontage road improvements are required to American Fruit Road. The applicant shall construct 1/2-street road widening with curb, gutter and sidewalk along the entire frontage of the project to match the road design constructed by Chelan County.

2.1.2. Lots 1 and 11 may access onto American Fruit Road. All lots within this subdivision shall be required to access off the internal roadway system.

2.1.3. Pursuant to CCC Section 11.88.070(3); and Chapter 4, Sec. 6.14 of the Chelan County Transportation Element, the applicant shall dedicate right-of-way to make the right-of-way on American Fruit Road 30' from the centerline of American Fruit Road.

2.1.4. Pursuant to CCC Section 12.08.020(2), the applicant shall demonstrate a Legal and Perpetual Access for the indicated access road for the proposed plat.

2.1.5. Pursuant to Wenatchee City Code (WCC) Section 11.20.020(8), the design and construction of the new public internal road shall be required to meet the "Residential Lane" design per the City of Wenatchee Road Standard. A Standard Cul-de-sac or an approved Emergency Vehicle Turnaround shall be required.

2.1.6. The applicant shall be required to construct ADA ramps, curb, gutter and sidewalks per City of Wenatchee Development Standards.

2.1.7. The applicant shall install illumination per City of Wenatchee Development Standards. Illumination intensity and uniformity shall conform to the City of Wenatchee Development Standards.

2.1.8. Pursuant to CCC Section 15.30.240, the applicant shall be required to provide snow storage areas to place snow accumulated for the new public internal road.

2.1.9. The applicant shall submit construction plans and reports for all required improvements on the internal road in accordance with CCC Section 15.30.650. The Construction Plans shall include, but are not limited to:

2.1.9.1. Drainage Report and Plan.

2.1.9.2. Roadway Improvement Plan (showing location of utilities and roadway curve data).

2.1.9.3. ADA Ramp Detail.

2.1.9.4. Lot Access Plan (profiles, topography).

- 2.1.9.5. Erosion and Sedimentation Control Plan.
- 2.1.9.6. Signage Plan.
- 2.1.9.7. Topography Lines.
- 2.1.9.8. All Easements.
- 2.1.10. Pursuant to CCC Section 15.30.650(F)(2), a Pre-Construction Meeting is required with the owner, contractor, and the Chelan County Public Works Department prior to commencing any construction.
- 2.1.11. Pursuant to CCC Section 15.30.660(3)(A), As-Built Plans shall be submitted, reviewed and approved by the Public Works Department upon completion of all required improvements and prior to County Engineers signature on the Final Mylar.
- 2.1.12. Pursuant to CCC Section 15.30.650, the following note shall be placed on the final plat:
  - 2.1.12.1. "Chelan County has no responsibility to build, improve, maintain, or otherwise service any private road for this plat."
- 2.1.13. Pursuant to CCC Section 15.30.310, the applicant shall submit a Lot Access Plan so that addresses may be determined for all existing and proposed lots. The Lot Access Plan must show the driveways/access location for the proposed project. This requirement may be fulfilled on a separate submittal and must be accomplished prior the pre-Mylar submittal.
- 2.1.14. Pursuant to CCC Section 10.20.200, a road naming shall be required for the shared driveway/access roads that serves three or more addressable parcels or structures. The applicant shall be required to notify all affected property owners that have legal access/use to the access being named or that owns property that abuts the access. A signature of the property owner or a certified mail receipt shall be required to prove such notification. That proof, a road naming application with 3 or more names and a road naming fee must be submitted to Chelan County Public Works for each of the shared accesses being named. Approval shall be up to emergency services. Once a road name has been approved, a road name sign shall be required to be installed by the applicant per Chelan County specs. Once the road name sign is installed; the applicant shall be required to contact Chelan County Public Works for an inspection.
- 2.1.15. Pursuant to CCC Section 10.20.410, the following note shall be placed on the final plat:
  - 2.1.15.1. "Addresses are assigned to each lot based on given driveway locations. Any and all modifications to the location of the driveway(s) shall result in a change to the address previously assigned to said lot(s)".
- 2.1.16. Pursuant to CCC Section 15.30.820, the applicant shall not obstruct sight distance with a centralized mailbox or locate a centralized mailbox on a County road right-of-way that would hinder County Road Maintenance. Should a centralized mailbox be required, provide details on construction plans. Minimum information shall include location, installation details, and pull-out detail.
- 2.1.17. The final plat shall include any easements necessary to provide and maintain all utilities to and within the proposed preliminary plat.
- 2.1.18. Pursuant to CCC Section 13.18.030(9) on the final plat, show the necessary easements and tracts in accordance with the approved drainage plan.
- 2.1.19. The preliminary Plat must comply with stormwater standards as found in CCC Chapters 13.12, 13.14, 13.16, and 13.18.



2.1.20. A private stormwater drainage system shall be required for the proposed preliminary plat. Operation and maintenance of the private drainage system would require a Maintenance Agreement. The Maintenance Agreement must include an operational and annual maintenance criterion. Said Maintenance Agreement shall be submitted to the Public Works Department with the Preliminary Mylar (bluelines) and shall be recorded with the final plat.

2.1.21. A note on the face of the final plat shall state:

2.1.21.1. "The area within this plat contains a private storm drainage system designed to control runoff originating from this site. This site shall burden and benefit the parties' successors and assigns; that its contents are binding upon the parties' successors in interest and runs with the land. 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.

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."

2.1.22. The applicant shall submit Lot Closure calculations with the Preliminary mylar (blueline) submission.

2.1.23. Plat shall identify all roads as public or private.

2.1.24. Plat shall show all easements that benefit or burden the project site.

2.1.25. Plat must identify easement widths, centerlines and right-of-way dimensions on any new proposed road, American Fruit Road, and on Knowles Road

2.1.26. The applicant shall submit Lot Closure Calculations with the preliminary mylar (blueline) submission.

2.1.27. Pursuant to CCC Section 15.30.825, monumentation shall be placed on all adjacent public roads if not already monumented and the new internal road as well.

### 3. CHELAN COUNTY FIRE MARSHAL

3.1. The subject property and final plat shall conform to the comments and conditions of approval as found in the Chelan County Fire Marshal Agency Comment dated September 11, 2024.

3.1.1. The proposal/project shall conform to all applicable requirements of the International Fire Code (IFC) and Chelan County Code administered by the Chelan County Fire Marshal.

3.1.2. The minimum fire flow and flow duration requirements for one and two-family dwellings having a fire area which does not exceed three thousand six hundred sq. ft. shall be seven hundred fifty gallons per minute. Fire flow and flow duration for dwellings having a fire area in excess of three thousand six hundred sq. ft. shall not be less than that specified in Table



B105.1(1) of the IFC, except that reduction in required fire flow of fifty percent, as approved, is allowed when the building is provided with an approved automatic sprinkler system.

3.1.3. The Fire Marshal may modify Fire-flow requirements downward by applying fire protection credits for isolated buildings or a group of buildings in rural areas or small communities where the development of full fire-flow requirements is impractical. A note on the face of the final plat shall state:

3.1.3.1. “Without the installation of a fire hydrant capable of delivering the required fire flow and within the required distance to the lots in question, the applicant may choose one or any combination of alternatives using the installation of automatic fire sprinkler protection credits as approved by the Fire Marshal.”

3.1.4. Fire hydrants serving single family or duplex dwellings shall have a maximum lateral spacing of 600 ft. with no lot or parcel in excess of 300 feet from a fire hydrant when serving lots less than 43,560 sq. ft. (one acre).

3.1.5. Fire hydrants serving single family or duplex dwellings shall have a maximum lateral spacing of 1000 ft. with no lot or parcel in excess of 500 feet from a fire hydrant when serving lots greater than 43,560 sq. ft. (one acre).

3.1.6. All fire hydrants shall be accessible to the fire department by roadways or accesses meeting the requirements of CCC, Chapter 15.30, Road Standards; and, meet the requirements of CCC, Chapter 3.04.080, IFC (amended); and, IFC Section 507.5.7, Fire Hydrant Installation and Maintenance Requirements.

3.1.7. Class A Roofing/noncombustible roof covering, as defined in the International Building Code, shall be used in all areas of Chelan County. A note on the face of the final mylar shall state:

3.1.7.1. “All buildings that require a building permit within this plat shall have Class A roofing materials.”

3.1.8. A note on the face of the final mylar shall state:

3.1.8.1. “New homes shall have approved address numbers, building numbers or approved building identification placed in a position that is plainly legible and visible from the street or road fronting the property.”

3.1.9. The design of the proposed sign shall be submitted to the Fire Department and/or Fire Marshal for approval prior to installation.

3.1.10. A note on the face of the final mylar shall state:

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

#### 4. CHELAN-DOUGLAS HEALTH DISTRICT

4.1. The subject property and final plat shall conform to the comments and conditions of approval as found in the Chelan-Douglas Health District Agency Comment dated September 17, 2024.

4.1.1. Domestic water service shall be by expansion of the Chelan PUD public water system. Written confirmation from the utility agreeing to provide individual service to each lot is required. All water system improvements must be designed, constructed, and placed in

accordance with the purveyor's requirements. Completion of the improvements, including necessary easements, must be accepted in writing from the utility prior to final plat approval.

4.1.2. The dedicatory language on the plat shall carry this note:

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

4.1.3. Sanitary sewer service shall be by expansion of the City of Wenatchee public sewer system. All sewer system improvements must be designed, constructed, and placed in accordance with the purveyor's and the Dept. of Ecology's standards and requirements. Completion of the improvements, including necessary easements, must be accepted in writing from the utility prior to final plat approval.


#### V. HEARING EXAMINER CONDITION

1. "The applicant shall work with the Dept. of Ecology to prepare and implement a Soil Remedial Action Plan consistent with Ecology publication 21-09-006 *Model Remedies for Cleanup of Former Orchard Properties in Central and Eastern Washington 2021*. Proof of clean up or proof of an agreed upon Cleanup Action Plan between the applicant/owner and the Washington State Department of Ecology shall be submitted to Chelan County prior to Final Mylar approval."

2.

Dated this 18 day of November, 2024

CHELAN COUNTY HEARING EXAMINER



Andrew L. Kottkamp

Anyone aggrieved by this decision has twenty-one (21) days from the issuance of this decision, to file an appeal with Chelan County Superior Court, as provided for under the Judicial Review of Land Use Decisions, RCW 36.70C.040(3). The date of issuance is defined by RCW 36.70C.040 (4)(a) as "(t)hree days after a written decision is mailed by the local jurisdiction or, if not mailed, the date on which the local jurisdiction provides notice that a written decision is publicly available" or if this section does not apply, then pursuant to RCW 36.70C.040(3) (c) "...the date the decision is entered into the public record." Anyone considering an appeal of this decision should seek legal advice.

Chelan County Code Section 1.61.130 provides that any aggrieved party or agency may make a written request for reconsideration by the Hearing Examiner within ten (10) days of the filing of the written record of decision. The request for reconsideration shall be submitted to the Community Development Department. Reconsideration of the decision is wholly within the discretion of the Hearing Examiner. If the Hearing Examiner chooses to reconsider, the Hearing Examiner may take such further action deemed proper and may render revised decision within

**five (5) days after the date of filing of the request for reconsideration. A request for reconsideration is not a prerequisite to filing an appeal under Section 1.61.160.**

The complete case file, including findings, conclusions, and conditions of approval (if any) is available for inspection during the open office hours at Chelan County Department of Community Development. Their address is 316 Washington Street, Suite 301, Wenatchee, WA 98801. Their telephone number is (509) 667-6225.