

**CHELAN COUNTY
LAND USE HEARING EXAMINER**

IN THE MATTER OF)	FINDINGS OF FACT,
)	CONCLUSIONS OF LAW,
CUP 24-398)	DECISION AND CONDITIONS
TD & H Engineering Equipment Shelter)	OF APPROVAL
)	

THIS MATTER having come on for hearing in front of the Chelan County Hearing Examiner on January 22, 2025, the Hearing Examiner having taken evidence hereby submits the following Findings of Fact, Conclusions of Law, Decision and Conditions of Approval as follows:

I. FINDINGS OF FACT

1. An application for a Conditional has been requested for a Public Utilities and Services. This application proposes to construct telecommunication equipment shelter. The applicant is proposing a 14' x 38' equipment shelter, 12' x 36' fiber hub equipment shelter, 10' x 14' generator concrete pad and a 32' x 75' fenced gravel compound. The subject property is located within the Residential High (RH) zoning district within the Urban Growth Boundary of Wenatchee.
2. General Information
 - 2.1. Project Location: 3122 School St, Wenatchee, WA
 - 2.2. Parcel Number(s): 23-20-20-140-150
 - 2.3. Legal Description & size: Lot A of BLA 2017-124
 - 2.4. Applicants/Owners: Clancys Farm LLC; PO Box 75; Wenatchee, WA 98807
 - 2.5. Agent: Laurine Logerwell; TE & H.Engineering; 303 E. 2nd Ave; Spokane, WA 992025
 - 2.6. Urban Growth Area: The subject property is located within an Urban Growth Area.
 - 2.7. Comprehensive Plan Designation & Zoning: Residential High (RH)
3. Site Information
 - 3.1. Existing Land Use & Permit History The subject property is currently as an orchard and agricultural purposes.
 - 3.2. Property North, South, East and West: Residential High (RH)
 - 3.3. Fish & Wildlife Habitat Conservation Areas: Pursuant to the Washington State Department of Fish and Wildlife Priority Habitat Species Maps, the subject property contains mule deer and shrubsteppe habitat; therefore, the provisions of Chelan County Code (CCC) Chapter 11.78, would apply.

- 3.4. Wetlands: Based on the National Wetlands Inventory Maps prepared by the US Department of Fish and Wildlife Services, no wetlands are indicated on or adjacent to the subject property; therefore, the provisions of CCC Chapter 11.80 Wetland Areas Overlay District would not apply.
- 3.5. Aquifer Recharge Area: The applicant submitted an Aquifer Recharge Disclosure Form, date stamped October 11, 2024; the proposed development does not require a vulnerability report, pursuant to CCC Chapter 11.82.
- 3.6. Frequently Flooded Areas: Pursuant to Federal Emergency Management Agency, FIRM map panel 5300150625C, the subject property does not contain floodplains; therefore, the provisions of CCC Chapters 11.84 and 3.20 do not apply.
- 3.7. Geologically Hazardous Areas: Chelan County GIS map layer does indicate that the subject property is located within a potential geologic hazard area; therefore, the provisions of CCC Chapter 11.86 would apply.
- 3.8. Cultural Resources: 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.

4. Project / Design Information

- 4.1. Construction Phasing/Timing: Commencement of use to occur upon receipt of all required permitting.
- 4.2. Traffic Circulation: The primary access for the proposed development would be off School Street.
- 4.3. Domestic Water: N/A
- 4.4. Power: Power would continue to be provided by an extension of the Chelan County PUD.
- 4.5. Noise: The applicant shall comply with CCC Chapter 7.35 Noise.
- 4.6. Visual Impact: As conditioned, the visual impact is anticipated to be minimal.

5. The revised Notice of Application was referred to surrounding property owners within 300 ft. (excluding 60' of right-of-way), jurisdictional agencies and departments of the County. These agencies and surrounding property owners were notified on October 24, 2024 with comments due November 7, 2024. Agency comments are considered in the staff report and, when appropriate, associated recommended Conditions of Approval.

6. 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		No Comment
Chelan County Building Official		No Comment

Agencies Notified	Response Date	Nature of Comment
Chelan County Public Works	October 30, 2024	Recommended conditions of approval were provided regarding lot access and stormwater requirements.
Chelan County PUD		No Comment
Chelan-Douglas Health District	November 1, 2024	Development would need approval from the Washington Department of Health
WA Dept. of Archaeology and Historic Preservation		No Comment
Yakama Nation		No Comment
Confederated Tribes of Colville		No Comment
Chelan County Fire District No. 1		No Comment
Washington Dept. of Fish and Wildlife		No Comment

7. **Wenatchee City Code**

8. **Wenatchee City Code Section 10.08.115: ‘P’**

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

9. **Wenatchee City Code (WCC), Section 10.65.060, Conditional Use Permit Criteria**

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

9.1.1. *All requirements of the specified use can be satisfied.*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10. Wenatchee City Code (WCC) Section 10.65.220, Public Utilities and Services

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

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

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

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

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

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

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

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

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

10.5.1. **Finding of Fact and Conclusion:** Per the submitter application materials, the applicant proposes to construct a 6-foot fence that would surround the telecommunication equipment shelter which meets the criteria in WCC Section 10.62.050(1)(c).

11. An open record public hearing was held, after legal notice, on January 22, 2025

12. Appearing and testifying on behalf of the Applicant was Steve Marsh. Mr. Marsh testified that he was an agent for the applicant and property owner and was authorized to speak on their behalf. He stated that they agreed with all of the representations set forth within the staff report and had no objection to any of the proposed Conditions of Approval.

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

14. The following exhibits were admitted into the record:

14.1. Ex. A Site Plan of Record, date-stamped October 11, 2024;

14.2. Ex. B Inadvertent discovery plan;

14.3. Ex. C Agency Comments;

14.4. Ex. D Staff Report;

14.5. Ex. C Remainder of Planning Staff File.

15. 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, CUP 24-398 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 WCC Section 10.65.050(1), the granting of a conditional use permit and the conditions set forth runs with the land; compliance with the conditional use permit is the responsibility of the current owner of the property, whether that is the applicant or a successor.
3. Pursuant to WCC Section 10.65.060(7), the final Conditional Use Permit shall be in conformance with the submitted application of record, including site plans date stamped October 11, 2024 or as amended by this decision.
4. Pursuant to WCC Section 10.65.220(2), the proposed telecommunication equipment shelter shall be fenced in substantial conformance with the site plan of record, date-stamped October 11, 2024.
5. Pursuant to WCC Section 10.65.050(2), a conditional use permit shall become void if not acted upon, including but not limited to submitting a building permit or the placement of all infrastructure, within three years after approval or such other time period as established by the hearing examiner. The applicant may request a one-year extension, to be reviewed administratively, if the applicant submits a written request with community development thirty days prior to expiration.
6. 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.
7. 6.1. An inadvertent discovery plan must be submitted with the building permit applicant and kept on-site during all land disturbing activities (Exhibit B).

8. Pursuant to the comment letter issued by Chelan County Public Works on October 30, 2024, the applicant shall complete the following during the on-site water storage tank facility:
9. Pursuant to CCC Section 10.20.410(2), addresses are assigned based on lot access origin and shall contain digits indicating the address from the origin of the road to the primary access location for the site.
10. Pursuant to CCC Section 15.30.340, the application would be required to construct the access approaches onto School Street to meet the Industrial/Commercial Driveway Approach (Standard Plat PW-26). The applicant would be required to obtain a Chelan County Approach Permit prior to constructing the Industrial/Commercial Driveway Approach. The Industrial/Commercial approach apron shall be paved.
11. Pursuant to CCC Chapter 15.30, Chelan County Public Works approves the construction of the internal road as proposed on the submitted CUP Application dated October 11, 2024 from Intermountain Infrastructure Group.
12. Pursuant to CCC Chapter 15.30, the applicant would be required to show the dimensions and type of material proposed for the construction area on CUP Site Plan for the proposed development.
13. Pursuant to CCC Section 13.18.030(9), a Drainage System is required, show any necessary easements in accordance with the approved drainage plan.
14. Pursuant to CCC Chapter 13.18, a drainage Report and Plan would be required to be submitted to Chelan County Public Works if any new impervious surface of 5,000 square feet is created and must be reviewed and approved. This shall be completed during the submittal of any building permits.
15. 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:
16. '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.
17. 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.'

18. Pursuant to WCC Section 10.65.070, upon final action of the hearing examiner to deny an application for a conditional use permit, the department shall not accept filing of an application for substantially the same matter within one year from the date of the final denial of the application.
19. Pursuant to WCC Section 10.65.070(1)(h), action of the Hearing Examiner is final, unless appealed pursuant to the judicial appeal provisions of Title 13 of the Chelan County Code

Dated this 24 day of January, 2025

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.