

**CHELAN COUNTY
LAND USE HEARING EXAMINER**

IN THE MATTER OF CUP 24-402 PUD Leavenworth substation))))))	FINDINGS OF FACT, CONCLUSIONS OF LAW, DECISION AND, CONDITIONS OF APPROVAL
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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 Use Permit has been requested for a High Impact Utility in order to construct a new Chelan County PUD substation just outside the City of Leavenworth. Construction of the new substation would result in the disturbance of approximately 1.3 acres, including land within the 150 ft. riparian buffer of Chumstick Creek. The project entails construction of two new 115kV transmission lines, one 0.51 acres in length entering from the south, and one 0.32 miles in length entering from the west. These transmission lines will power the new substation, which would include a 28MVA transformer that reduces voltage to 12.47kV and provides for (4) four distribution circuits that would be capable of powering up to 2000 single-family homes. Upon completion, the substation would occupy approximately one acre.

2. As a component of the CUP, the applicant is also requesting an administrative modification of the riparian and wetland buffer that is currently located on the subject property adjacent to Chumstick Creek. To mitigate for these buffer reduction impacts, the applicant is proposing mitigation at a 1:1 ratio by installing natural vegetation in areas of the buffers that are currently comprised of bare soils or weedy vegetation (as further described and shown in the submitted Critical Areas Report and Mitigation Plan). Upon completion of the mitigation plantings, the entire project would result in a no-net-loss of riparian or wetland buffer ecological value or function.

3. **General Information**

Project Location:	10381 Chumstick Hwy., Leavenworth, WA 98826
Parcel Number(s):	24-17-01-550-150
Legal Description & size:	Per the Chelan County Assessor, the subject property is 3.01 acres in size and the current legal description is: <i>"Lot 2 as delineated on Plat Alteration P99-9, Chelan County, Washington, recorded October 26, 1999, under Auditor's File No. 2063321, being a portion of Lot 25, Plat of Emig Park, Chelan County, Washington, according to the Plat thereof recorded in Volume 2 of Plats, Page 55."</i>
Applicants/Owners:	Public Utility District No 1 of Chelan County PO Box 1231 Wenatchee, WA 98807

Urban Growth Area:	The subject property is not located within an Urban Growth Area.
Comprehensive Plan Designation & Zoning:	Rural Residential 5 (RR5)

4. Site Information

Existing Land Use & Permit History	According to the Chelan County Assessor, the subject property currently contains an existing residence built in 1906 as well as an accessory structure, also built in 1906. A pre-application meeting (Pre-App 24-020) for this proposal was held on February 1, 2024
Property North:	The Reindeer Farm; Rural Residential/Resource 5 (RR5)
Property South:	North Road; Light Industrial (Leavenworth UGA)
Property East:	Vacant land; Rural Residential/Resource 5
Property West:	Chumstick Hwy.; City of Leavenworth
Fish & Wildlife Habitat Conservation Areas:	Pursuant to the Washington State Department of Fish and Wildlife Priority Habitat Species Maps, the subject property contains forested/shrub wetlands adjacent to Chumstick Creek, a fish-bearing stream habitat, and potential occurrences of Sharp-tailed Snake, Golden Eagle, Grizzly Bear, Little Brown Bat, and Northern Spotted Owl; therefore, the provisions of Chelan County Code (CCC) Chapter 11.78, would apply. A comment letter received from the Washington Department of Fish and Wildlife (WDFW) recommends that during construction of the proposed project be maintained consistent with CCC Section 11.78.040 and that vegetation within the riparian buffer shall be maintained as riparian habitat and that all riparian buffers be temporarily fenced between the construction activity and the riparian buffer, as required. Staff is recommending that fencing shall be installed along the buffer edge prior to construction occurring as a Condition of Approval.
Wetlands:	Based on the National Wetlands Inventory Maps prepared by the US Department of Fish and Wildlife Services, a freshwater forested/shrub wetland is located partially on / partially adjacent to the subject property along Chumstick Creek; therefore, the provisions of CCC Chapter 11.80 Wetland Areas Overlay District would apply.
Aquifer Recharge Area:	The applicant submitted an Aquifer Recharge Disclosure Form, date stamped October 16, 2024; the proposed project does not require a vulnerability report, pursuant to CCC Chapter 11.82.
Frequently Flooded Areas:	Pursuant to Federal Emergency Management Agency, FIRM map panel 5300150450B, the subject site does contain floodplains associated with Chumstick Creek; therefore, the provisions of CCC Chapters 11.84 and 3.20 would apply.
Geologically Hazardous Areas:	Chelan County GIS mapping indicates that the subject property is located outside of known geologic hazard areas; therefore, the provisions of CCC Chapter 11.86 would not apply.
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.

	Per comment received from the Confederated Tribes of the Colville Reservation, the Tribes are aware of the project and are actively working cooperatively with the applicant on historic properties.
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5. Project / Design Information

Construction Phasing/Timing:	Upon CUP approval, a building permit would be required for the proposed substation. All mitigation plantings would need to be installed prior to final inspection.
Traffic Circulation:	<p>There are two primary accesses proposed for the substation development; one would be off of North Road immediately after the bridge and the other would be off of Chumstick Hwy. These two accesses would be connected via an internal road.</p> <p>Pursuant to the comment letter issued by Chelan County Public Works on November 20, 2024, the applicant shall complete the following during project construction:</p> <p>Pursuant to CCC Chapter 15.30, no frontage road improvements are required to either Chumstick Highway or North Road.</p> <p>Pursuant to CCC Section 15.30.340, the applicant shall construct the access approaches onto Chumstick Highway and North Road to meet the an Industrial/Commercial Driveway Approach (Standard Plat PW-26). The applicant shall 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.</p> <p>Pursuant to CCC Chapter 15.30, Chelan County Public Works approves of the construction of the internal road as proposed on the submitted CUP application. The applicant shall show the dimensions and type of material proposed for the construction area on the CUP site plan for the proposed project.</p> <p>Pursuant to CCC Chapter 13.18, a Drainage Report & Plan shall be submitted to Chelan County Public Works if any new impervious surface of 5,000 sq.ft. or more is created. This shall be completed during the submittal of any building permit.</p> <p>Pursuant to CCC Section 13.18.030(9), if a Drainage System is required, show any necessary easements in accordance with the approved drainage plan.</p>
Domestic Water:	Domestic water would be provided an existing well on the subject property. This well water would be used to irrigate the proposed mitigation plantings.
Power:	Power would continue to be provided by an extension of the Chelan County PUD.
Noise:	The applicant shall comply with CCC Chapter 7.35 Noise.
Visual Impact:	As conditioned, the visual impact is anticipated to be minimal.

6. Pursuant to WAC 197-11-800(6) of the State Environmental Policy Act (SEPA), the proposed action is not categorically exempt from environmental review and a threshold determination. A copy of the SEPA Checklist was submitted with application along with the Determination of Non-Significance that was issued by Chelan County PUD as lead agency on June 20, 2024. The SEPA Checklist and MDNS were admitted into the record.

7. The Notice of Application was referred to surrounding property owners within 300 ft. (excluding 60' of right-of-way), jurisdictional agencies and departments of the County. These agencies and surrounding property owners were notified on November 14, 2024 with comments due November 28, 2024. Agency comments were considered by the Hearing Examiner and, when appropriate, included Conditions of Approval.
8. 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
Chelan County Public Works	November 20, 2024	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 11/12/2024. Pursuant to CCC Chapter 13.18, a Drainage Report & Plan shall be submitted to Chelan County Public Works if any new impervious surface of 5000 square feet is created. This requirement shall be completed during the submittal of any building permits.
Chelan County PUD		No Comment
WA Dept. of Ecology		No Comment
WA Dept. of Archaeology and Historic Preservation		No Comment
Yakama Nation		No Comment
Chelan-Douglas Health District	November 25, 2024	Recommends further approval of the project with two conditions of approval. Although single family home located on lot is stated as vacant, the existing septic system and drainfield needs to be preserved and maintained. If single family home will serve a different purpose in the future, such as office or employee restroom, then septic system will be required to be serviced from a Licensed O&M Inspector to verify condition of the existing septic system.
Confederated Tribes of Colville	December 16, 2024	Currently working cooperatively with Chelan PUD on historic properties.
Chelan County Fire District No. 3		No Comment

Agencies Notified	Response Date	Nature of Comment
Washington Dept. of Fish and Wildlife	November 26, 2024	Recommend approval of the project with the condition of approval that the project remains consistent with CCC Section 11.78.040.

9. No public comments were received for this proposed development.

10. Application & Public Hearing Notice Compliance

Application Submitted:	October 16, 2024
Determination of Completeness issued:	November 8, 2024
Notice of Application:	November 14, 2024
Notice of Public Hearing:	January 11, 2024
Public Hearing:	January 22, 2024

11. Chelan County Comprehensive Plan

11.1. The proposed development is located in the Rural Residential 5 (RR5) zoning and therefore reviewed under the RR5 zoning criteria and provisions.

11.2. 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.*

12. Staff finds that the project, as conditioned, is consistent with the goals and policies of the Rural Element within the Chelan County Comprehensive Plan.

13. Chelan County Code

13.1. CCC Section 14.98.1915: Utility, high impact

13.1.1. "Utility, high impact" means buildings, structures and facilities in public or private ownership relating to the furnishing of utility services such as electric, gas, communication, water, sewer and technology infrastructure. High impact public utilities shall include, but are not limited to, generating and switching stations, substations, pumping stations and antennas or repeaters when not installed on a building.

13.2. CCC Section 14.98.1505: Public Facility, High Impact

13.2.1. "Public facility, high impact" means a building or structure owned and operated by a public agency to provide a governmental service to the public. Such uses shall include, but are not limited to, composting facility, utility substations, solid waste transfer station, equipment storage/maintenance yard.

13.3. **CCC Section 11.12.010: Permitted, accessory and conditional uses**

13.3.1. The proposed project is located in the RR5 zoning district of Chelan County. According to CCC Section 11.04.020 District Use Chart, Utility, High Impact requires a Conditional Use Permit in the RR5 zoning district.

13.4. **Chelan County Code 11.12.020 Standards**

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

13.4.1.1. (1) Minimum lot size: 5 acres, which measures to the centerline of adjoining public rights-of-way.

13.4.1.2. (2) Maximum building height: sixty feet.

13.4.1.3. (3) Maximum Lot Coverage. Buildings and structures shall not occupy more than seventy percent of the lot area.

13.4.1.4. (4) Minimum Setback Distances.

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

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

13.4.1.4.3. Side yard: 5 ft. from the side property line; on corner lots, the street side yard shall be a minimum of 25 ft. from the property line or 55 ft. from the street centerline, whichever is greater.

13.5. **Finding of Fact:** The proposed substation meets all dimensional standards in the RR5 zoning district.

13.6. **Conclusion:** Setbacks would be reviewed at the time of building permit submittal.

13.6.1. (5) Off-street parking requirements in this district shall be as follows:

13.6.1.1. (D) Other off-street parking and loading shall be provided as prescribed in Chapter 11.90 of this title.

13.7. **Finding of Fact and Conclusion:** The proposed substation is exempt from requiring off-street parking since it is not habitable space and the proposed use is not found in Table 11.90-3.

13.7.1. (6) Landscape standards shall be provided as prescribed in CCC Chapter 15.50, Development Standards, as amended.

13.8. **Finding of Fact and Conclusion:** A screening and landscaping plan that meets the landscaping requirements of CCC Chapter 15.50 shall be submitted with the building permit application for the substation. This plan shall capture the mitigation plantings as well.

13.9. **Chelan County Code, Section 11.93.040, Conditional Use Permit Criteria**

13.9.1. 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:

13.9.1.1. *All criteria required for a specific use by this chapter can be satisfied.*

13.9.1.1.1. **Applicant's Response:** All criteria required for a specified use by this chapter can be satisfied.

- 13.9.1.1.2. **Finding of Fact and Conclusion:** The criteria for a High Impact Utility use have been addressed by the applicant in the submitted application materials and the proposed project, as conditioned, would satisfy the code requirements for the proposed use.
- 13.9.1.2. *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.*
- 13.9.1.2.1. **Applicant's Response:** Zoning is RR/5. High Impact Utilities are allowed in this zoning district with a Conditional Use permit. The project will be designed to meet applicable development standards, setbacks, and height restrictions. A portion of the site is designated by Chelan County as a Critical Area for wetland and riparian buffer. The District has contracted with Pacific Engineering for modification of both the riparian and wetland buffers. Application, reports, and technical data are included from Pacific Engineering. Chelan PUD has reached mitigation agreement with the CRCR, and is contracting directly with the Yakama Nation for appropriate mitigation regarding cultural survey.
- 13.9.1.2.2. **Finding of Fact and Conclusion:** As conditioned, the proposed development would meet applicable zoning and critical areas regulations.
- 13.9.1.3. *Compatibility with the adjacent uses and the protection of the character of the surrounding area.*
- 13.9.1.3.1. **Applicant's Response:** Adjacent uses include orchard, multi-family residential, commercial, and industrial properties. The project is compatible with these adjacent uses and measures will be taken to protect the character of the surrounding area, including screening landscaping in strategic locations around the substation.
- 13.9.1.3.2. **Finding of Fact and Conclusion:** The proposed development is isolated in location; it is located just outside the Leavenworth UGA adjacent to the existing Reindeer Farm in an area of the County historically used for industrial and agricultural use. Based on the location of the proposed switchyard in relation to neighboring residences, the likelihood of nuisance noise would not be anticipated. As conditioned, the proposed development would be compatible with the character of the surrounding area.
- 13.9.1.4. *Detrimental impacts on the natural environment and productive use of surrounding natural resource lands can be mitigated or avoided.*
- 13.9.1.4.1. **Applicant's Response:** The construction of the substation will not have detrimental impacts on the natural environment or productive use of surrounding resource lands.
- 13.9.1.4.2. **Finding of Fact and Conclusion:** The comment letter received from WDFW recommended including a requirement as a condition of approval that requires a silt fence to be placed between the existing use and the delineated riparian and wetland buffers in order to avoid adverse impacts. In addition, staff recommends as a condition of approval that the provided mitigation plan be required to be implemented during project construction and that monitoring reports be submitted to Community Development in Years 1, 2, 3, and 5. As

conditioned, the proposed development would not be detrimental to the natural environment or the productive use of adjacent resource lands.

13.9.1.5. *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*

13.9.1.5.1. **Applicant's Response:** The construction of the substation will not require additional water, sanitary sewer/septic, schools, or emergency response. No county facilities will be reduced below adopted levels of service as a result of the switchyard construction.

13.9.1.5.2. **Finding of Fact and Conclusion:** Through the process of public and agency noticing, opportunity for review and comments were provided for the proposed development. All received comments are included in the file of record. As conditioned, the proposed development would not result in county facilities reduced below adopted levels of service

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

13.9.1.6.1. **Applicant's Response:** The construction of the substation will not result in undue adverse impacts affecting the public health, safety, and welfare.

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

13.9.1.7. *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.*

13.9.1.7.1. **Applicant's Response:** The substation is accessed via Chumstick Hwy or North Road with appropriate easements acquired. Stormwater will be properly treated during construction and operation of the substation as shown in the construction plans. Parking for maintenance vehicles is provided, no public parking is necessary. Irrigation for landscaping will be provided by a private well located on the property. Sanitary facilities are not necessary. Fire protection is provided by Chelan County Fire District No. 3.

13.9.1.7.2. **Finding of Fact and Conclusion:**

13.9.1.7.2.1. **Roads, ingress and egress:** The subject property fronts and accesses off of both Chumstick Hwy. and North Rd. Pursuant to Title 15.30.340 the applicant shall be required to construct the access approaches onto both roads to meet the County's Temporary Construction Approach (Standard Plan PW-27) for the construction phase of the project. The completed project shall have Industrial/Commercial Driveway Approach(es) (Standard Plat PW-26). The applicant shall be required to obtain a Chelan County Approach Permits prior to constructing the

Temporary Construction Approach and the Industrial/Commercial Driveway Approach(es). The Industrial/Commercial approach apron shall be paved.

- 13.9.1.7.2.2. **Stormwater:** The applicant shall comply with CCC Chapter 13.18 for stormwater drainage.
- 13.9.1.7.2.3. **Parking and Loading:** Off-street parking must comply with CCC Section 11.93.130 regarding off-street parking.
- 13.9.1.7.2.4. **Domestic and Irrigation Water:** Domestic and irrigation water is provided by an existing well located on the subject property.
- 13.9.1.7.2.5. **Sanitary Facilities:** The existing septic system located on the subject property would need to be re-approved by CDHD prior to use.
- 13.9.1.7.2.6. **Power:** Power is provided by Chelan County PUD.
- 13.9.1.7.2.7. **Fire Protection:** The proposed development is located Chelan County Fire District #3.
- 13.9.1.7.3. 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.
- 13.9.1.8. *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.*
- 13.9.1.8.1. **Applicant's Response:**
- 13.9.1.8.1.1. Chelan PUD is proposing to mitigate aesthetic impacts with fencing as well as screening vegetation. To address noise impacts, Chelan PUD is installing transformers that are designed to generate lower decibel levels than traditional transformers. The proposed transformers will generate 66 decibels or less, which is between the sound of a vehicle and the sound of a normal conversation between two people sitting 3 feet apart.
- 13.9.1.8.2. **Finding of Fact and Conclusion:** Based on the application materials submitted by the applicant, the operation of the substation 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. Any impacts on adjacent properties can be avoided or mitigated as conditioned
- 13.9.1.9. *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.*
- 13.9.1.9.1. **Applicant's Response:** Granting of a Conditional Use Permit is consistent with the goals, policies, and intent of Chelan County's comprehensive plan, Chapter 7-Utilities Element. The substation will meet increased demands for electricity in the Leavenworth area and improved reliability for electric customers.
- 13.9.1.9.2. **Finding of Fact and Conclusion:** As conditioned, the proposed substation would be consistent with the goals and policies of the Comprehensive Plan.

13.10. **Chelan County Code, Section 11.93.180, High and Low Impact Utilities**

13.10.1. The following minimum criteria shall apply to public utility uses:

13.10.1.1. *Equipment storage shall be within an enclosed building.*

13.10.1.1.1. **Finding of Fact and Conclusion:** Per the submitted application materials, no equipment for the substation is proposed to be stored on site nor are storage buildings proposed; therefore, this criterion would not apply to the proposed project.

13.10.1.2. *In all residential districts, no equipment storage shall be permitted on-site.*

13.10.1.2.1. **Finding of Fact and Conclusion:** Per the submitted application materials, no equipment for the substation is proposed to be stored on site nor are storage buildings proposed; therefore, this criterion would not apply to the proposed project.

13.10.1.3. *The use shall be fenced.*

13.10.1.3.1. **Finding of Fact and Conclusion:** The substation site would include an approximate 1-acre graveled and chain link fenced perimeter that contains electrical switches and insulators, overhead aluminum buss work, a transformer, an enclosed metal clad switchgear building, and various steel towers and supports.

13.10.1.4. *The use shall be landscaped per the requirements of Chapter 15.50 of this code.*

13.10.1.4.1. **Finding of Fact and Conclusion:** Landscaping is required per CCC, Chapter 15.50. Pursuant to CCC 15.50.050, variations in landscaping may be permitted including the allowance for the use of fencing for part or as a replacement for required landscaping area. The subject property would be graded to provide the semi-level substation site, and an asphalt paved access road to the site would be constructed. Finished landscaping would include hydroseeding, planning and irrigation installed vegetation, as well as selective larger scale vegetation for view screening. Lastly, all mitigation plantings shall be shown on the final landscaping plan and irrigation must be provided.

13.10.1.5. *The minimum lot size in the district that a utility use is located in may be waived on a finding that the waiver will not result in noise or other detrimental effects to adjacent properties.*

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

13.10.1.6. *The hearing examiner may impose additional requirements to address issues such as, but not limited to, noise, public health and safety, vehicular access, and odor.*

13.10.1.6.1. **Finding of Fact and Conclusion:** Per the submitted application materials and staff analysis, the proposed development would not have detrimental effects to adjacent properties. The recommended Conditions of Approval are provided for consideration by the Hearing Examiner

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

15. Appearing and testifying on behalf of the Applicant was Larry Cordes. Mr. Cordes testified that he is an agent authorized to appear and speak on behalf of the applicant and property owner. He testified 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.

16. No member of the public testified at the hearing.
17. The following exhibits were admitted into the record:
 - 17.1. Ex. A Site Plan of Record, date-stamped October 16, 2024;
 - 17.2. Ex. B Proposed Mitigation Plantings, date-stamped October 16, 2024;
 - 17.3. Ex. C Chelan County Inadvertent Discovery Plan;
 - 17.4. Ex. D Staff Report;
 - 17.5. Ex. E Remainder of Planning Staff File.
18. The Chelan County Hearing Examiner considered all evidence within the record in rendering this decision.
19. 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 24-402 is hereby **APPROVED** subject to the following Conditions of Approval.

IV. CONDITIONS OF APPROVAL

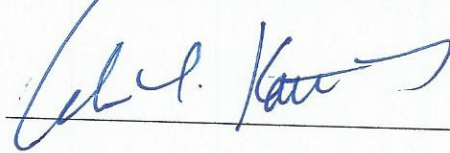
1. All conditions imposed by this decision shall be binding on the applicant, which includes the owner or owners of the properties, heirs, assigns, and successors.
2. Pursuant to CCC Section 11.93.080, the granting of a conditional use permit and the conditions set forth runs with the land; compliance 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 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.
4. Pursuant to CCC Section 11.93.180(3), the proposed substation shall be fenced.
 - 4.1. If the required fence exceeds an overall height of 7 ft, a building permit shall be required.

5. Pursuant to CCC Section 11.93.040(10), the final Conditional Use Permit shall be in conformance with the submitted application of record, including site plans and mitigation plans, date stamped October 16, 2024 or as amended by this decision (Exhibits A and B).
6. Pursuant to RCW 27.53.020, the owner/developer/contractor shall contact the Confederated Tribes of the Colville Reservation and the Washington State Department of Archaeology and Historic Preservation prior to any ground disturbing activities to arrange for a Secretary of Interior-qualified archaeologist to be present on site. If any Native American grave sites or archaeological resources are discovered or excavated, work shall stop immediately.
 - 6.1. 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 is attached as Exhibit C.
7. Pursuant to Chelan County Code 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.
8. Pursuant to the requirements of the International Building Code and International Fire Code, a Chelan County Commercial Building Permit shall be required for the proposed substation.
9. Pursuant to CCC Section 11.88.080, security lights or any exterior lighting shall be low-intensity, non-flashing and designed to project toward the property or shall be shielded to keep light from directly projecting over property lines.
10. Pursuant to Chelan County Code Section 11.93.040(10), the final Conditional Use Permit shall be in conformance with the submitted application of record, including site plan and site restoration plan, date stamped October 16, 2024.
11. Pursuant to the requirement of the Chelan County Public Works:
 - 11.1. Primary Access. Pursuant to CCC Chapter 15.30, No road improvements are required to Chumstick Highway or to North Road
 - 11.2. Pursuant to CCC Section 10.20.410(2) addresses are assigned based on road origin and shall contain digits indicating the address from the origin of the road to the primary access location for the subject property.
 - 11.3. Pursuant to CCC Section 15.30.340 the applicant shall construct the access approaches onto Chumstick Highway and North Road to meet the an Industrial/Commercial Driveway Approach (Standard Plat PW-26). The applicant shall be required to obtain a Chelan County Approach Permits prior to constructing the Industrial/Commercial Driveway Approach. The Industrial/Commercial approach apron shall be paved.
 - 11.4. 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 11/12/2024 from Chelan County Community Development.
 - 11.5. Pursuant to CCC Chapter 15.30, The applicant shall show the dimensions and type of material proposed for the construction area on the CUP Site Plan for the proposed project.

- 11.6. Pursuant to CCC Section 13.18.030(9) a Drainage System is required and the applicant shall show any necessary easements in accordance with the approved drainage plan.
- 11.7. Pursuant to CCC Chapter 13.18, a Drainage Report & Plan would be required to be submitted to Chelan County Public Works if any new impervious surface of 5,000 sq ft is created and must be reviewed and approved. This shall be completed during the submittal of any building permits.
- 11.8. 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:
- 11.8.1. 'The area within this site plan contains a private storm drainage system designed to control runoff originating from this site. This site shall burden and benefit the parties' successors and assigns; that its contents are binding upon the parties' successors in interest and runs with the land. The Drainage Plan for this development was prepared by the engineering firm of _____, dated _____, a copy of which is on file with the Chelan County Public Works Department. It shall be the responsibility of the property owner(s) and/or their successors to thereafter maintain the storm drainage system to the originally designed condition. Chelan County personnel shall have the right of access to the property for the purpose of inspection of the storm drainage system. If Chelan County personnel determine that the storm system maintenance is unsatisfactory, and the property owner has had due notice and opportunity to satisfactorily maintain the system, Chelan County personnel and equipment may enter the property to perform the necessary maintenance. Such maintenance shall be at the property owner's expense.
- 11.8.2. This private storm water drainage system was installed for the owner(s), who hereby agree to waive on behalf of itself and its successors in interest, any and all claims for damages against any governmental authority arising from the inspection, approval of design of, and construction and/or maintenance of the drainage system.'
12. 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.
13. 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.

Dated this 27 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.