



CHELAN COUNTY PLANNING COMMISSION MINUTES

Chelan County Planning Commission Date: May 22, 2024
Chelan County Community Development
Called to Order: 6:31 PM
400 Douglas St., Suite 201
Wenatchee, WA 98801

CALL TO ORDER

Meeting was called to order at 6:31 PM

COMMISSIONER PRESENT/ABSENT

Vicki Malloy	Present - Zoom	James Wiggs	Present
Doug Englund	Present	Christopher Dye	Absent
Ryan Kelso	Present	Jesse Redell	Present
Cherie Warren	Present - Zoom	David Donovick	Present
Mike Sines	Present		

STAFF PRESENT

Jessica Thompson, Permit Clerk
Deanna Walter, CD Director
Celeste Barry, Planner I
Mike Kaputa, Natural Resources Director
Eric Pierson, Public Works Director

PUBLIC PRESENT VIA ZOOM: Nathan Newell, Kirvil Skinnarland, Brian Patterson, Kendall Newell, Eve Newell

Minutes:

Chairman Jesse Redell starts the meeting and takes roll.

The April 24, 2024 minutes will be reviewed at the June 26th PC meeting.

PUBLIC COMMENT PERIOD FOR ITEMS NOT ON THE AGENDA

None

Old Business:

Continued Workshop:

ZTA 2024 –105 Code text amendment for Titles 11 & 12, specifically regarding lot size reduction provisions in the rural zoning designations and boundary line adjustments revisions. In addition, the District Use Chart (11.04.020) is proposed to be amended to include RV parks as a permitted use, with standards in the Rural Industrial (RI) zoning designation.

Continued discussion and review of the April 24, 2024, meeting on proposed changes to Titles 11 & 12.

Director Kaputa addresses questions from commissioners regarding different options used in the past and what has been successful for the county. He provided a packet to each planning commissioner regarding natural resources lands from Department of Commerce website - **Attachment A**

Director Kaputa states it would be constructive for the planning commission to review the Riverstone Ranch decision made by the Hearing Examiner in 2021. Commissioner Donovan emails the link (below) to the Riverstone Ranch decision to the commissioners.
<https://www.co.chelan.wa.us/files/community-development/archives/hearing-examiner/2021/10%20October%202021/October-12-2021-HE-P21-107-Riverstone-Ranch-Decision.pdf> - **Attachment B**

Director Pierson addresses questions from commissioners regarding what metrics prompted the task force creation to look at substandard lots and boundary line adjustments.

Continued discussion on compromises for proposed changes, current issues, the impact of roadways, and current review processes.

Public Testimony:

Kirvil Skinnarland

Brian Patterson

This workshop has been continued to June 26th planning commission meeting - ZTA

2024-105 Code text amendment for Titles 11 & 12

New Business

Public Hearing:

Hearing: Review of ZTA 23-260 Remanded Language: Titles 11 & 14 RE: Small-scale recreation and tourist use, new highway limited commercial use, with definitions.

Director Walter reviews the proposed changes previously made by the planning commissioners in 2023.

Public Testimony:

Kirvil Skinnarland

Commissioner Redell continues the public hearing to June 26th at 6:30 p.m.

Discussion at the Chair's Discretion:

None

ADJOURNMENT

Meeting Adjourned at 8:45 pm.

Next Planning Commission Meeting to be held on June 26,
2024, at 6:30 pm

**All Planning Commission meetings and hearings are open
to the public**

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Natural Resource Lands

All local governments in Washington state need to determine where natural resource industries, including forestry, agricultural, mining, and fisheries industries, can productively operate. They must use land-use controls to designate and conserve the necessary lands and to avoid conflicts with these industries from other land uses.





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- Agricultural lands that are not already characterized by urban growth and that have long-term significance for the commercial production of food or other agricultural products.
- Forestlands that are not already characterized by urban growth and that have long-term significance for the commercial production of timber.
- Mineral resource lands that are not already characterized by urban growth and that have long-term significance for the extraction of minerals.

[RCW 36.70A.060](#) also requires that all fully planning jurisdictions adopt development regulations to conserve designated resource lands. Partially planning jurisdictions are required, at a minimum, to designate natural resource lands.

The requirements to classify, designate, conserve and protect these lands are in recognition of the essential role of these lands in supporting economic productivity and healthy ecological systems.

As part of the periodic review process required by [RCW 36.70A.130\(1\)](#), cities and counties should review and, if needed, revise policies and development regulations regarding natural resource lands.

Mineral Resource Lands

Mineral resources are sand, gravel, and valuable metallic substances ([WAC 365-190-070](#)). Sand, gravel, or crushed stone are also known as aggregate resources. Aggregate resources are necessary to manufacture concrete, cement, asphalt, and other similar products, of which our roads, cities, and homes are built.

As part of required periodic updates required under [RCW 36.70A.130\(1\)](#), jurisdictions must review their mineral resource lands designations. In their review, counties or cities shall take into consideration any new information made available since the adoption or most recent review of its designations or development regulations and any new or modified model development regulations for mineral resource lands.



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Once lands are designated, fully planning counties and cities act must adopt development regulations that assure the conservation of agricultural resource lands. Recommendations for those regulations are found in [WAC 365-196-815](#).

Forest lands

Criteria for classifying, designating, and de-designating forest resource lands of long-term commercial significance is provided in [WAC 365-190-060\(2\)](#). Again, counties must approach the effort as a county-wide or regional process. Cities are encouraged to coordinate their forest resource lands designations with their county and any adjacent jurisdictions. Counties and cities must have a program for the transfer or purchase of development rights prior to designating forest resource lands in urban growth areas.

Legal Basis

- [Chapter 36-70A-060 RCW – Natural Resource Lands](#)
- [Chapter 365-190 WAC – Minimum Guidelines \(recently updated\)](#)
- [Chapter 365-195 WAC – Best Available Science \(recently updated\)](#)
- [Chapter 365-196-480 WAC – Natural Resource Lands \(recently updated\)](#)
- [Chapter 365-196-815 WAC – Conservation of Natural Resource Lands](#)

Commerce Resources

- [Designation of Agricultural Lands in Chelan, King, Lewis, and Yakima Counties, 2004 \(PDF\)](#)
- [Designation of Mineral Resource Lands under the Growth Management Act \(PDF\)](#)

Additional Resources



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- Example:
 - [Benton County Agricultural Land Reclassification Memorandum \(2018\) \(PDF\)](#)

Forest Lands

DNR's Forest Regulation program administers the rules that protect Washington's state-owned and private forestlands. The program also assists Washington's family forest owners through its Small Forest Landowner Office, by providing technical and financial assistance.

- [MRSC – Forest Lands in Washington Counties](#)
- [Forest Regulation – WA DNR](#)
- [Small Forest Landowner Office – WA DNR](#)

Quick Links

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WAC 365-190-050 Agricultural resource lands. (1) In classifying, designating and de-designating agricultural resource lands, counties must conduct a comprehensive countywide analysis consistent with WAC 365-190-040(10). Counties and cities should not review resource lands designations solely on a parcel-by-parcel basis. Counties and cities must have a program for the transfer or purchase of development rights prior to designating agricultural resource lands in urban growth areas. Cities are encouraged to coordinate their agricultural resource lands designations with their county and any adjacent jurisdictions.

(2) Once lands are designated, counties and cities planning under the act must adopt development regulations that assure the conservation of agricultural resource lands. Recommendations for those regulations are found in WAC 365-196-815.

(3) Lands should be considered for designation as agricultural resource lands based on three factors:

(a) The land is not already characterized by urban growth. To evaluate this factor, counties and cities should use the criteria contained in WAC 365-196-310.

(b) The land is used or capable of being used for agricultural production. This factor evaluates whether lands are well suited to agricultural use based primarily on their physical and geographic characteristics. Some agricultural operations are less dependent on soil quality than others, including some livestock production operations.

(i) Lands that are currently used for agricultural production and lands that are capable of such use must be evaluated for designation. The intent of a landowner to use land for agriculture or to cease such use is not the controlling factor in determining if land is used or capable of being used for agricultural production. Land enrolled in federal conservation reserve programs is recommended for designation based on previous agricultural use, management requirements, and potential for reuse as agricultural land.

(ii) In determining whether lands are used or capable of being used for agricultural production, counties and cities shall use the land-capability classification system of the United States Department of Agriculture Natural Resources Conservation Service as defined in relevant Field Office Technical Guides. These eight classes are incorporated by the United States Department of Agriculture into map units described in published soil surveys, and are based on the growing capacity, productivity and soil composition of the land.

(c) The land has long-term commercial significance for agriculture. In determining this factor, counties and cities should consider the following nonexclusive criteria, as applicable:

(i) The classification of prime and unique farmland soils, and farmlands of statewide importance, as mapped by the Natural Resources Conservation Service;

(ii) The availability of public facilities, including roads used in transporting agricultural products;

(iii) Tax status, including whether lands are enrolled under the current use tax assessment under chapter 84.34 RCW and whether the optional public benefit rating system is used locally, and whether there is the ability to purchase or transfer land development rights;

(iv) The availability of public services;

(v) Relationship or proximity to urban growth areas;

(vi) Predominant parcel size, which may include smaller parcels if contiguous with other agricultural resource lands;

(vii) Land use settlement patterns and their compatibility with agricultural practices;

(viii) Intensity of nearby land uses;

(ix) History of land development permits issued nearby;

(x) Land values under alternative uses; and

(xi) Proximity to markets.

(4) When designating agricultural resource lands, counties and cities may consider food security issues, which may include providing local food supplies for food banks, schools and institutions, vocational training opportunities in agricultural operations, and preserving heritage or artisanal foods.

(5) When applying the criteria in subsection (3)(c) of this section, the process should result in designating an amount of agricultural resource lands sufficient to maintain and enhance the economic viability of the agricultural industry in the county over the long term; and to retain supporting agricultural businesses, such as processors, farm suppliers, and equipment maintenance and repair facilities.

(6) Counties and cities may further classify additional agricultural lands of local importance. Classifying additional agricultural lands of local importance should include, in addition to general public involvement, consultation with the board of the local conservation district and the local committee of the farm service agency. It may also be useful to consult with any existing local organizations marketing or using local produce, including the boards of local farmers markets, school districts, other large institutions, such as hospitals, correctional facilities, or existing food cooperatives.

These additional lands may include designated critical areas, such as bogs used to grow cranberries or farmed wetlands. Where these lands are also designated critical areas, counties and cities planning under the act must weigh the compatibility of adjacent land uses and development with the continuing need to protect the functions and values of critical areas and ecosystems.

[Statutory Authority: RCW 36.70A.050 and 36.70A.190. WSR 23-08-037, § 365-190-050, filed 3/29/23, effective 4/29/23; WSR 10-22-103, § 365-190-050, filed 11/2/10, effective 12/3/10; WSR 10-03-085, § 365-190-050, filed 1/19/10, effective 2/19/10. Statutory Authority: RCW 36.70A.050. WSR 91-07-041, § 365-190-050, filed 3/15/91, effective 4/15/91.]



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Agricultural Lands - Laws, Regulations, and Court Decisions

This page provides information on Washington State laws related to agricultural lands, as well as selected court and Growth Management Hearings Board decisions.

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Federal Laws

The federal Farmland Protection Policy Act (FPPA), codified in [7 U.S.C. Ch. 73](#), is intended to minimize the impact of federal programs on the conversion of farmland to nonagricultural uses by addressing the compatibility of federal programs with state, local, and private programs and policies to protect farmland.

For more information, see the U.S. Department of Agriculture Natural Resources Conservation Service page on the [Farmland Protection Policy Act](#).

State Statutes and Regulations

These statutes and regulations relate to agricultural land uses, agricultural marketing, and farmland protection in Washington State.

- [Title 15 RCW](#) – Specific laws related to agricultural products, marketing, agricultural commodity boards and commissions.
 - [Ch. 15.64 RCW](#) – Statute addressing farm marketing.
 - [Ch. 15.66 RCW](#) – Provides requirements for Washington State Agricultural Commodity Commissions.
 - [Ch. 15.92 RCW](#) – Establishes Center for Sustaining Agriculture and Natural Resources at Washington State University.
- Growth Management Act
 - [RCW 36.70A.030\(3\)](#) – Definition of "agricultural land"
 - [RCW 36.70A.040](#) – Requires cities and counties planning under GMA to designate agricultural lands and adopt development regulations conserving designated agricultural lands.
 - [RCW 36.70A.050](#) – Provides guidelines to classify agriculture, forest and mineral lands and critical areas. [WAC 365-196-480](#) and [WAC 365-196-815](#) also addresses this.
 - [RCW 36.70A.060](#) – Requires cities and counties planning under GMA to adopt development regulations to assure conservation of agricultural and other natural resource lands. [WAC 365-196-815](#) also addresses this.
 - [RCW 36.70A.170](#) – Requires designation of agricultural lands with long-term significance for the commercial production of food or other agricultural products.
 - [RCW 36.70A.177](#) – Describes innovative zoning techniques and accessory uses in agricultural lands.
- [RCW 7.48.300-.310](#) – Statutes related to nuisances and agricultural activities and forest practices, presumed reasonable and not a nuisance (Right to Farm).
- [Ch. 43.362 RCW](#) – Regarding Regional Transfer of Development Rights Program.
- [RCW 64.04.130](#) – Statute related to conservation easement.
- [Ch. 84.34 RCW](#) – Statutes relating to open space, agricultural and timber lands (Current Use and Conservation Futures).
- [Ch. 89.08 RCW](#) – Addressing conservation districts.

- [Ch. 89.10 RCW](#) – Statute related to farmland preservation.
- [Ch. 365-190 WAC](#) – Describes minimum guidelines to classify agriculture, forest, mineral lands and critical areas.
- [Ch. 458-30 WAC](#) – Provides Open Space Taxation Act rules.

Growth Management Hearings Board Decisions

The three regional Growth Management Hearings Boards were consolidated into a single board in 2010. This section includes links to the hearings board digests, including decisions related to agricultural lands.

- [Digest of Decisions, 2010-Present](#) – See various listings for “Agricultural Lands” under key holdings.
- [Digest of Decisions Prior to 2010, Eastern Washington](#)
- [Digest of Decisions Prior to 2010, Western Washington](#)
- [Digest of Decisions Prior to 2010, Central Puget Sound](#)

Selected Court Decisions

Kittitas County v. E. Wash. Growth Mgmt. Hearings Board, 172 Wn.2d 144 (2011) – A zoning technique that allows nonfarm uses on designated agricultural lands constitutes an impermissible “innovative zoning technique” within the meaning of [RCW 36.70A.177](#) of the Growth Management Act. The innovative zoning techniques allowed by [RCW 36.70A.177](#) should be designed to conserve agricultural lands and encourage the agricultural economy. Despite the allowance for innovative zoning techniques under [RCW 36.70A.177](#), the Growth Management Act requires that agricultural lands be protected.

Clark County v. West. Wash. Growth Mgmt. Hearings Board, 161 Wn. App. 204 (2011), *vacated in part*, 177 Wn.2d 136 (2013) – A challenge was brought against the county’s determination that certain agricultural properties were no longer agricultural lands of long-term commercial significance (ALLTCS). The court of appeals concluded that the county committed error in de-designating certain parcels from ALLTCS status. Where a county has designated a land area as ALLTCS and the designation has been confirmed by a growth management hearings board as being consistent with the goals and requirements of the GMA, the county may not remove the designation if

the land area continues to meet the definition of “agricultural land” under the GMA. Absent a showing that the original designation was erroneous and improperly confirmed by the hearings board or that a substantial change in the land area has occurred since the original designation, the original designation should remain. The 2013 state supreme court review of this decision resulted in the court vacating a separate part of the court of appeals decision.

Feil v. Eastern Wash. Growth Mgmt. Hearings Board, 153 Wn. App. 394 (2009) – The state sought to place a bike/pedestrian trail through an area devoted to agricultural uses. To accomplish the placement, the state applied for approval under the county’s recreational overlay district. Adjacent orchardists objected and appealed. The orchardists objected to the overlay district and raised a number of legal and factual challenges to the county commissioners’ decision to approve the overlay. The court concluded, however, that the recreational overlay district was not an amendment to the county’s comprehensive plan and that, even if it was, any challenge to the comprehensive plan came too late. The court further concluded that the recreational overlay district did not run afoul of state statutes that encourage the preservation of agricultural land. And it concluded that the decision to permit the overlay was amply supported by the findings of the commissioners, including those they adopted from the hearing examiner. Affirmed by the Supreme Court.

City of Arlington v. Cent. Puget Sound Growth Mgmt. Hearings Board, 164 Wn.2d 768 (2008) – The state supreme court affirmed an earlier court of appeals decision, and adopted the decision as its own. The court upheld Snohomish County’s amendment of its comprehensive plan, concluding that the area in question was properly redesignated from agricultural to urban commercial.

Thurston County v. Western Washington Growth Management Hearings Board, 164 Wn.2d 329 (2008) – A party may challenge a county’s failure to revise a comprehensive plan only with respect to those provisions that are directly affected by new or recently amended GMA provisions, meaning those provisions related to mandatory elements of a comprehensive plan that have been adopted or substantively amended since the previous comprehensive plan was adopted or updated, following a seven-year update. If a county fails to revise its comprehensive plan to comply with new

or amended GMA requirements, a party must be able to challenge the comprehensive plan or GMA amendments. A board should not reject urban densities based on a bright-line rule for maximum rural densities, but must consider local circumstances and whether these densities are not characterized by urban growth and preserve rural character. The GMA does not dictate a specific manner of achieving a variety of rural densities.

Futurewise v. Central Puget Sound Growth Management Hearings Board, 141 Wn. App. 202 (2007) – Pierce County, when amending its comprehensive plan, amended the plan to exclude land parcels less than five acres from lands designated as agricultural lands of long-term commercial significance. The county's decision was based upon the argument that soil sampling for smaller parcels was not reliable and upon the predominant size of farms within the county. Futurewise challenged the county's designations. On appeal, the court concluded that the county could categorize land by size but that it erred in determining that a minimum five-acre parcel size correlated to soil sample accuracy. Nevertheless, the court agreed with the county's actions based upon the county's reliance on reports of the predominant parcel size of a small farms. The predominant size of farms, the court concluded, was instructive on determining whether land has "long-term commercial significance" for agriculture.

Lewis County v. Western Washington Growth Management Hearings Board, 157 Wn.2d 488 (2006) – In determining whether the county had adequately designated agricultural land, the court provided the following definition of agricultural land: "Agricultural land is land: (a) not already characterized by urban growth, (b) that is primarily devoted to the commercial production of agricultural products enumerated in [RCW 36.70A.030\(2\)](#), including land in areas used or capable of being used for production based on land characteristics, and (c) that has long-term commercial significance for agricultural production, as indicated by soil, growing capacity, productivity, and whether it is near population areas or vulnerable to more intense uses." The court also added that counties may consider the development-related factors enumerated in [WAC 365-190-050\(1\)](#) in determining which lands have long-term commercial significance. The court further found that it was not "clearly erroneous" for the county to weigh the industry's anticipated land needs above all else. The court further found that it was clearly erroneous for the county to exclude from designated agricultural lands up to five acres on every farm (for farm centers and farm homes), without regard to soil, productivity or other specified factors in each farm area. The court

upheld a decision by the hearings board that county development regulations allowing certain non-farm uses of agricultural lands failed to comply with the GMA requirement to conserve designated agricultural lands.

City of Redmond v. Central Puget Sound Growth Management Hearings Board, 116 Wn. App. 48 (2003) – When reviewing a challenge to a zoning ordinance, a growth management hearings board must presume the comprehensive plans and development regulations are valid and the challenger has the burden of establishing otherwise. Because the land at issue in this case was never property designated for agricultural use; consequently, the urban recreational designation established by the city is valid.

King County v. Central Puget Sound Growth Management Hearings Board, 142 Wn.2d 543 (2000) – 1997 amendments to King County's comprehensive plan and zoning code, which allow active recreational uses on properties located within a designated agricultural area, do not qualify for innovative zoning techniques under [RCW 36.70A.177](#) and therefore violate the Growth Management Act.

City of Redmond v. Central Puget Sound Growth Management Hearings Board, 136 Wn.2d 38 (1998) – Unless a municipality has first enacted a transfer or purchase of development rights program, the municipality may not designate land within an urban growth area as agricultural.

Recommended Resources

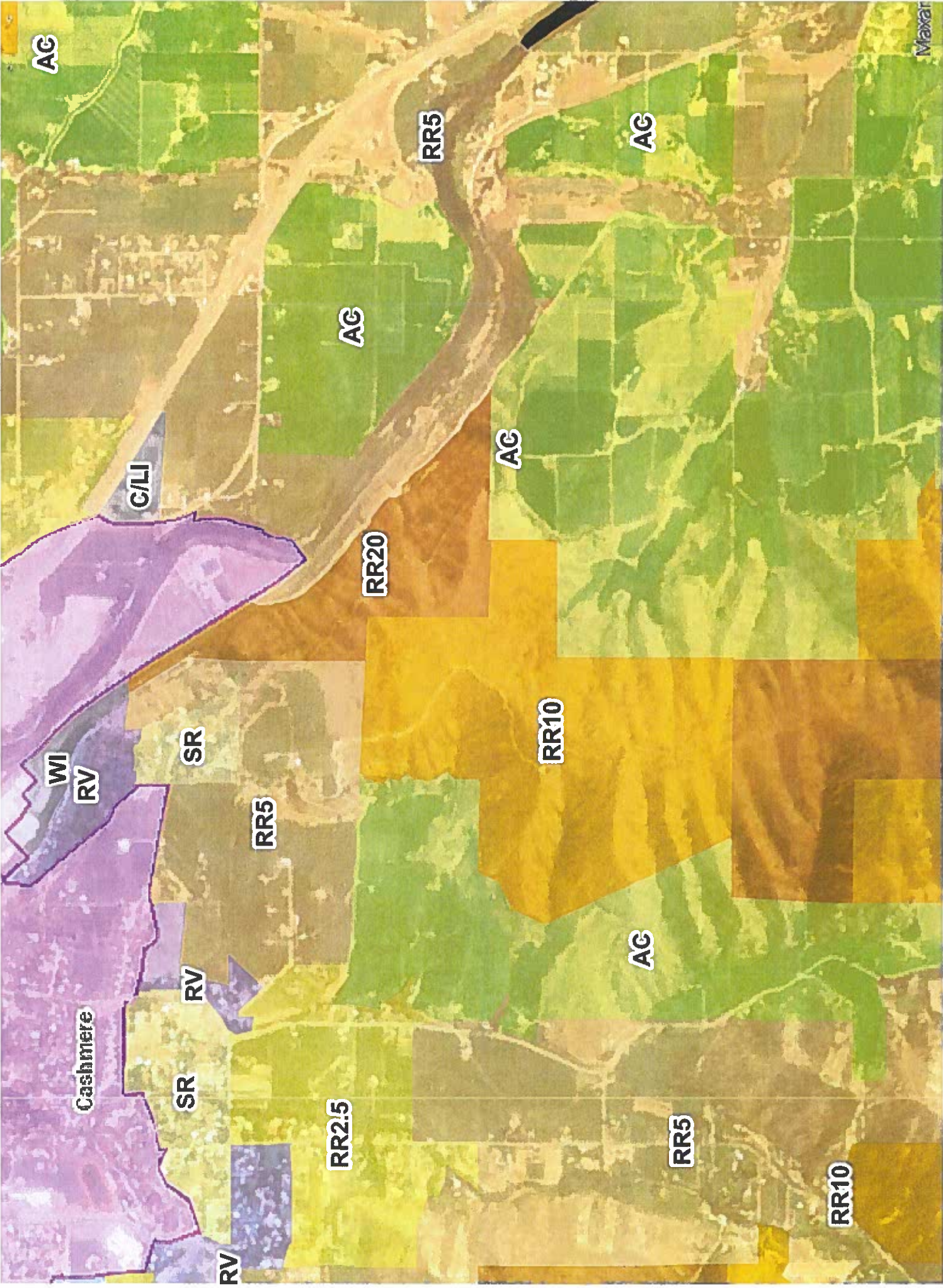
- [Farmland Information Center](#) – Clearinghouse for information about farmland protection for people working to save farmland and ranchland for agriculture. It is a project of the American Farmland Trust (AFT) maintained on behalf of and with support from the USDA Natural Resources Conservation Service (NRCS).

Last Modified: February 23, 2024

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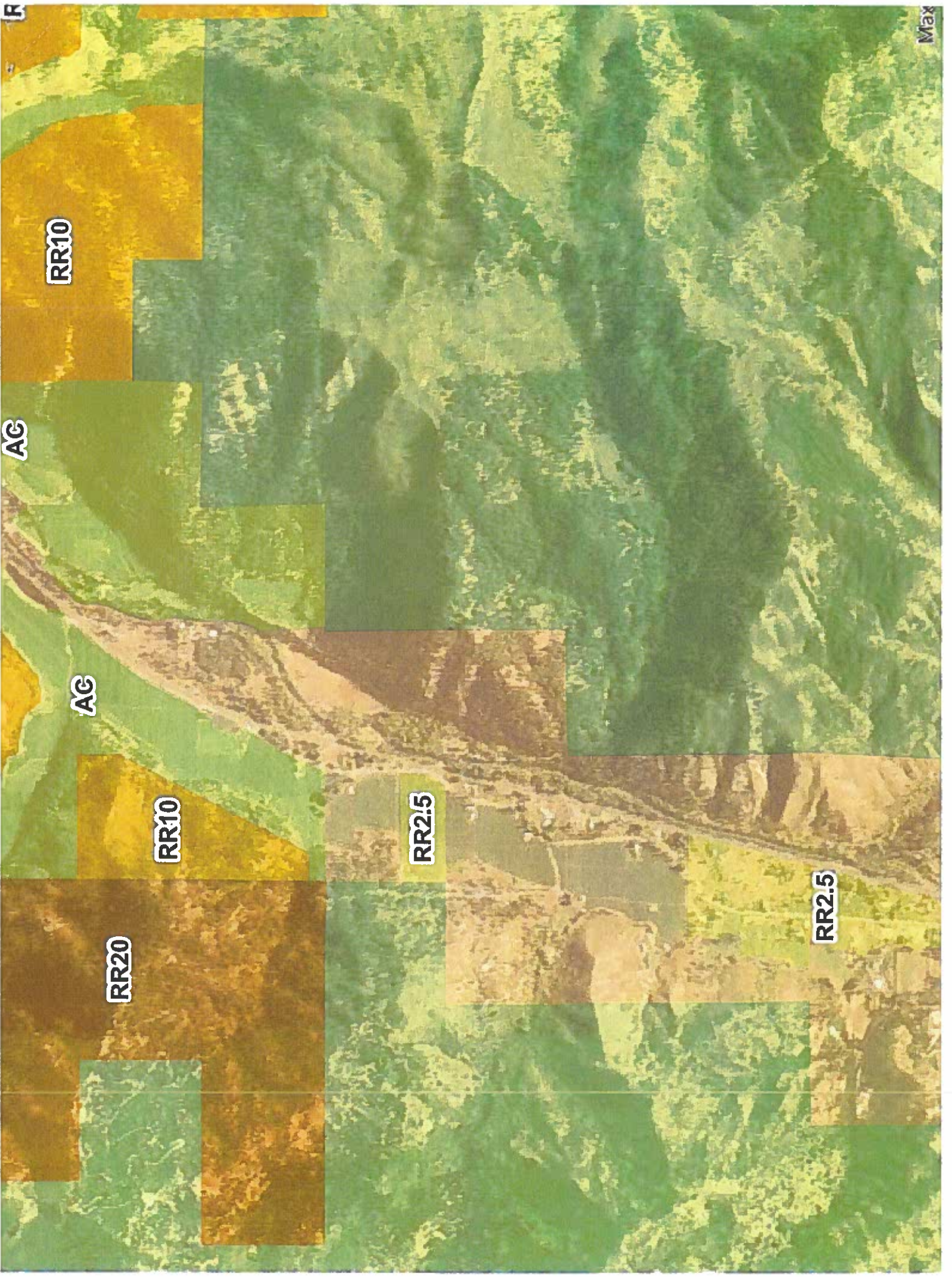
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BEFORE THE CHELAN COUNTY HEARINGS EXAMINER

IN THE MATTER OF)	FINDINGS OF FACT,
)	CONCLUSIONS OF LAW,
P 2021-107)	DECISION AND CONDITIONS
Riverstone Ranch)	OF APPROVAL
)	

THIS MATTER, having come on for hearing in front of the Chelan County Hearing Examiner on October 6, 2021, 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. This is an application was submitted to cluster subdivide approximately 63 acres into (9) lots with (1) dedicated open space tract. The smallest lot is proposed at approximately (1) acre and the largest lot is proposed at approximately (1.8) acres. The dedicated open space tracts are to be privately owned and retained as agricultural production, totaling 55.3 acres. Domestic water would be provided by a Group B water system using a permit exempt well with sanitation proposed as individual on-site systems.
2. The Applicants/owner is Riverstone Ranch, LLC, c/o Taylor Orchards, 3748 Hwy 97A, Wenatchee, WA 98801. The agent/surveyor is Dan Beardslee, PLS, 325 32nd St. NW, East Wenatchee, WA 98802.
3. The subject property is located at 3580 Bainard Rd., Malaga, WA.
4. The parcel number for the subject property is 22-21-28-440-180.
5. The subject property is located outside of the Urban Growth Area.
6. The Comprehensive Plan designation and zoning designation for the subject site is Commercial Agricultural Lands (AC).
7. The subject property is currently a Pear orchard with worker and orchard operation facilities.
8. The property is situated between the western shores of the Wenatchee River and US Hwy 2. The property is currently an orchard with fruit trees. The topography on the property slopes downhill south to north towards the Wenatchee River with slopes of 5-12% from the highway bench and is 65.8 acres.
9. The property to the north is the Wenatchee River, a shoreline of the state; 'Rural' shoreline designation.
10. The property to the south is US Hwy 2 and Commercial Agricultural Lands (AC).
11. The property to the west is Rural Residential/Resource 5 (RR5), Wenatchee River and US Hwy 2.
12. The property to the east is Rural Residential/Resource 2.5 (RR2.5), Rural Waterfront, Lone Pine Orchards Road and the Wenatchee River.
11. The applicant submitted an Aquifer Recharge Area Disclosure Form, date stamped March 17, 2021. Pursuant to Chelan County Code (CCC) Section 11.82.040, the aquifer recharge measure does not apply.

12. Pursuant to the Federal Emergency Management Agency, FIRM map panel FIRM map panel 5300150800A, the property may contain 100 or 500-year flood plain or associated floodway; therefore, CCC Chapter 11.84, Frequently Flooded Areas Overlay District would apply.
13. Pursuant to the Chelan County Geographical Information system, the property contains potential geologic hazardous areas. The applicant submitted a Geological Site Assessment, dated February 21, 2021. Pursuant to CCC Chapter 11.86, a note on the final plat mylar should be required, identifying this subdivision as being located in a potential geologically hazardous area..
14. Pursuant to the National Wetlands Inventory Map, the property does not contain any known wetlands. Therefore, the provisions of CCC Chapter 11.80, do not apply.
15. Pursuant to CCC Chapter 11.78, Fish and Wildlife Overlay District, the subject property does not contain any know habitat conservation areas; therefore, the provisions of CCC Chapter 11.78 do not apply.
16. 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. A letter from the Confederated Tribes of the Colville Reservation, dated April 27, 2021, states the probability of an archaeological site being on the landform is the highest possible and recommend a complete cultural resource survey. Yakama Nation Archaeologist submitted an email dated May 4, 2021, that support Confederated Tribes of the Colville Reservation recommendations. The Hearing Examiner sets as a condition a cultural resource survey with subsurface testing prior to final plat approval.
17. On January 7, 2021 a pre-application meeting was held to discuss the feasibility of the proposed development.
18. The property is accessed from US Hwy 2 a 60’ right-of-way and is classified as a State Highway in the county road system. US Hwy 2 provides single lanes for traffic in both direction with no curb, gutter or sidewalk. Pursuant to the CCC Chapter 15.30, the design and construction of the new proposed internal private road would be required to be constructed to meet a Rural Emergency Vehicle Access Road (Standard Plan PW-22) with Emergency Vehicle Turnaround (Standard Plan PW-23 A or B) for this subdivision.
19. The comment letter from Chelan County Public Works, dated April 26, 2021, states a private stormwater drainage system is required with an Operation and Maintenance Agreement of the drainage system and recorded with the final plat.
20. The Washington State Department of Ecology comment letter, dated May 6, 2021, states based on historical aerial photos indicate the development is located on property that was/is occupied by orchard during the time period when lead arsenate was applied as a pesticide. Prior to development, the project is required to conduct soil sampling under the Model Toxics Control Act.
21. Sanitation availability letters from Chelan-Douglas Health District, dated May 16, 2021, states: “Domestic water service would be by a new public water supply, individual service would be available to each lot. The new public water supply shall be reviewed and approved by the Chelan-Douglas Health District/State Department of Health”. All lots meet state minimum lot size based upon soil type.
22. Line extensions would be necessary for the development and that additional easements would be needed for the PUD primary lines if not dedicated on the face of the Plat.

23. The comment letter from the Chelan County Fire Marshal, date stamped May 11, 2021, states the subject property is located within an established fire district #3.
24. The comment letter from Chelan County Assessor, dated stamped April 30, 2021, states the legal description appears to be correct and there are no delinquent taxes.
25. Noise impacts are addressed in Chelan County Code Chapter 7.35.
26. The applicant submitted an environmental checklist on March 4, 2019. 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 Determination of Non-Significance (DNS) was issued on September 21, 2021. The SEPA Checklist and DNS are included with the file of record and adopted by reference.
27. The Notice of Application was referred to agencies and departments on April 23, 2021 and surrounding property owners within 300 feet, excluding 60 feet of right-of-way with comments due May 8, 2021. 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	Agencies Notified	Response Date
Chelan County Public Works	April 26, 2021	Confederated Tribes of the Colville Nation	April 27, 2021
Chelan County Fire Marshal	May 7, 2020	Yakama Nation	May 4, 2021
Chelan County Assessor	May 11, 2021	WDFW Region 2	May 7, 2021
Chelan-Douglas Health District	April 16, 2021	Department of Ecology	May 6, 2021
Chelan County Building Official	May 3, 2021		

28. No public comments were received.
29. Application and Public Hearing Notice Compliance:

Application Submitted:	March 17, 2021
Determination of Completeness issued:	March 31, 2021
Notice of Application:	April 24, 2021
SEPA Notice:	September 21, 2021
Notice of Hearing:	September 23, 2021
Public Hearing:	October 6, 2021

30. The Comprehensive Plan has been reviewed for consistency To assure the long-term conservation of commercial agricultural lands, to protect and preserve the farm, encourage existing and future

agricultural land uses as a viable land use and a significant economic activity within the community, and, to protect agricultural land of long-term commercial significance not already characterized by urban development from encroachment and impartible uses. Uses appropriate for these areas include: agriculture; open space; residential; 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 small scale recreational or tourist uses that rely upon rural setting but that do not include a new residential component; intensification of development on lots containing existing isolated nonresidential use; home occupations; bed and breakfasts; and community facilities.

30.1 Policy AL 1.4: Conserve agricultural lands for productive economic use by identifying and designating agricultural resource lands whose principal and preferred land use is commercial agricultural resource management.

30.1.1 Rationale: Activities in designated agricultural resource lands should be discouraged that limit or eliminate the ability to continue agricultural operations.

30.2 Policy AL 2.1: All plats, short plats, binding site plans, development permits and building permits issued for development activities on or within five hundred feet of lands designated as agricultural resource lands, shall contain a notice that the subject property is within or near designated agricultural resource lands. The notice shall further state that a variety of commercial activities may occur on these designated lands that are not compatible with the development.

30.2.1 Rationale: Such notification will help property owners and purchasers to make educated decisions.

30.3 Policy AL 2.4: Development on or adjacent to designated agricultural resource lands, including plats, short plats, and binding site plans, should avoid and minimize potential conflicts with agricultural operations through appropriate siting and mitigation measures, such as buffers screening, dust control, and pest control.

30.3.1 Rationale: Buffers can reduce the potential for conflicts between agricultural operations and other lands uses.

31. APPLICABLE LAND USE REGULATIONS & PERMIT REQUIREMENTS: Commercial agricultural lands (AC) zoning code:

31.1 The proposal is within the Commercial Agricultural Lands (AC) zoning district, as delineated on the zoning map, as adopted by Chelan County.

32. Commercial Agricultural Lands (AC) Zoning Code 11.30.020(1)(A) Development Standards:

32.1 Development in this district shall meet all applicable provisions of this title and all other rules, regulations and provisions of the Chelan County Code (CCC), including the following:

32.2 Development Standards applicable in the Commercial Agricultural Lands (AC) zoning districts are:

Commercial Agricultural Lands (AC) Zoning District	
Minimum Lot Dimensions	10 acres

Lot Width	150 feet at the front lot line
Maximum Lot Coverage	35 percent
Setback	100' from all property lines

- 32.3 Hearing Examiner Finding: The site plan of record, date stamped April 21, 2020, indicates that all minimum dimensional standards have been met. Setbacks from all property lines shall be 100' or approved per an Ag Waiver to reduce the setbacks.
33. Chelan County Code 14.08.010 Pre-application meetings:
- 33.1 Prior to the filing of a preliminary plat, the sub-divider shall submit to the administrator plans and other information sufficient to describe essential features of the property and the proposed or contemplated uses and development for the purposes of scheduling a formal pre-application meeting in accordance with CCC 14.08.010.
- 33.2 Hearing Examiner Finding: The applicant participated in a pre-application meeting with Chelan County Community Development on January 7, 2021.
34. Chelan County Code 12.02.060 Concurrency of public infrastructure:
- 34.1 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.
- 34.2 No county facilities will be reduced below adopted levels of service as a result of the proposed land division.
- 34.3 Hearing Examiner Finding: The subject property would be served by a Group B well and would utilize on-site septic systems. Extensions of the existing lines would be required for power.
35. Chelan County Code 12.08 defines the standards for all subdivisions:
- 35.1 No land division shall be approved which bears a name using a work 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.
- 35.2 Hearing Examiner Finding: 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.
36. Chelan County Code 12.08.030 Easement:
- 36.1 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:
- 36.1.1 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.

- 36.1.2 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.
- 36.2 Hearing Examiner Finding: Electrical services are available from the Chelan County PUD No. 1. However, line extension would be required.
- 36.3 Private road easements shall be shown.
- 36.4 Hearing Examiner Finding: The applicant is proposing access by a private road and private driveways. Private road standards, as detailed in Title 15, apply to this development and require an approved maintenance agreement.
- 36.5 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.
- 36.6 Hearing Examiner Finding: All easement locations are required to be shown on the final plats, pursuant to CCC 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.
- 36.7 Easement provisions shall be in conformance with the standards contained in Title 15, Development Standards.
- 36.8 Easement locations and purpose(s) should be indicated on the final plat. Easements shall be reviewed with blue line submittal.
37. Chelan County Code 12.08.040 Fire protection standards:
- 37.1 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.
- 37.2 Hearing Examiner Finding: The Chelan County Fire Marshal requires conformance with the International Fire Code. The nearest fire station is within 3 miles of the subject property. Pursuant to CCC Section 3.04.010, State Building Code, all building permits require compliance with the International Fire Code(s), as adopted or amended by Chelan County.
38. Chelan County Code 12.08.050:
- 38.1 All land division creating new impervious surfaces shall meet the following requirements: (1) Storm drainage shall be provided in accordance with the adopted standards. (2) All infrastructure within the right-of-way shall become the property of, maintained and operated by, Chelan County.
- 38.2 Hearing Examiner Finding: 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 an 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.
39. Chelan County Code 12.08.060:
- 39.1 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.

- 39.2 Hearing Examiner Finding: The property is not impacted by a watercourse.
40. Chelan County Code 12.08.080:
- 40.1 Road Standards: All land divisions shall comply with Title 15.
41. Chelan County Code 12.08.090:
- 41.1 Permanent survey monuments shall be provided for all final land divisions as required in Section 15.30.825.
- 41.2 Hearing Examiner Finding: Per Title 15 of the CCC, monuments should be required prior to submittal of the final plat or as approved by Chelan County Public Works Department. Compliance with CCC 15.30.825 shall be a condition of approval. 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.
42. Chelan County Code 12.08.100:
- 42.1 No land division shall be approved if related improvements such as levees, fills, roads, or other features will individually or collectively significantly increase flood flows, heights, or velocities.
- 42.2 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.
- 42.3 Hearing Examiner Finding: If the subject property is impacted by a flood plain a Flood Plain Development Permit is required.
43. Chelan County Code 12.24.015 All final land division review and approval requirements
- 43.1 The approval given to a preliminary plat shall expire pursuant to Revised Code of Washington (RCW) 58.17.140 unless, within the allowed timeframe, a proposed final plat in proper form is filed with the administrator.
- 43.2 Hearing Examiner Finding: The applicant shall have five (5) years to final the plat from the date of preliminary approval.
44. Chelan County Code 11.10.020:
- 44.1 All subdivisions shall conform to the design standards of this title, in addition to the comprehensive plan, and all zoning regulations in effect at the time any preliminary subdivision of a subdivision is submitted for approval. Lots shall be of sufficient area and width to satisfy zoning requirements.
- 44.2 Hearing Examiner Finding: Pursuant to the review within this decision, the proposed development is consistent with the applicable chapters of the zoning code for the Commercial Agricultural Lands (AC) zoning districts, together with Chelan County Comprehensive Plan.
45. Chelan County CODE Critical areas - Chelan County Code 11.86 Geologically Hazardous Areas:
- 45.1 Hearing Examiner Finding: Pursuant to the Chelan County Geologically Hazardous Areas map data and submitted Geological Site Assessment, dated February 21, 2021, the subject property does contain potential geologically hazardous areas. Therefore, the

provisions of CCC Chapter 11.86, Geologically Hazardous Areas Overlay District do apply.

46. Chelan County CODE stormwater:
 - 46.1 Stormwater would be required to meet the standards of Chelan County Code Title 13. Stormwater would be required for the entire subdivision and all required infrastructure improvements placed prior to final plat approval.
47. The subject property was rezoned to Rural Residential/Resource 2.5 (RR2.5) last year, although the zoning designation was appealed and the rezone was rescinded by the Chelan County Commissioners. The rezone is now under appeal in Superior Court. The property is currently zoned AC for the purposes of this application.
48. Due to the fact that the subject property is zoned AC, which requires a hundred-foot setback from all the property lines, the future property owner would have to obtain a Commercial Agricultural Waiver to reduce the setbacks.
49. This proposal is to develop a 9-lot cluster subdivision with 1, 55.3-acre open space tract within the subdivision. The property is situated between US Hwy 2 and the Wenatchee River near the City of Leavenworth. Critical areas on the property are potential geological hazard areas and flood zones.
50. Access to the lots would be from a US Hwy 2, a WSDOT Approach Permit and an internal access easement. Potable water would be provided by a Group B well and all the lots would utilize on-site septic systems.
51. The proposed open space tract would be approximately 55.3 acres, which exceeds the required 70% per the code. Calculating lot numbers as follows:
$$65.8 \text{ AC} / 10 \text{ AC minimum} = 6.58 \text{ base density}$$
$$150\% \text{ (CCC Section 12.12.040(1))} + 10\% \text{ (Public Benefit/Ag productions)} = 160\%$$
$$\underline{6.58 \text{ zoning base density} \times 1.60\% = 10.528}$$

Round 10.528 up to 11 possible lots on the subject property although the applicant is only requesting 9 lots.
52. An open record public hearing after due legal notice was held using Zoom video conferencing on October 6, 2021.
53. At this hearing the entire Planning staff file was entered into the record.
54. Appearing and testifying was Dan Beardslee. Mr. Beardslee testified that he was an agent of the property owner and Applicant and has authorization to appear and speak on their behalf. Mr. Beardslee testified that the project was not being built within a flood plan and so he did not believe a Flood Plain Permit would be required. He also identified language on page 8 of the staff report referencing a "resolution" when a Board of Commissioners resolution is not required for approval of this permit. He also asked that the language "strict accordance" be stricken from the staff report and replaced with "substantial accordance". The Hearing Examiner would not that this language did not carry over into the Hearing Examiner's decision. Mr. Beardslee requested that the last sentence of proposed Condition of Approval No. 10.2 be removed and that proposed Condition of Approval No. 20.1 be removed because it was only recommendation from WDFW and not a requirement. Other than those proposed conditions referenced in his testimony, Mr. Beardslee had no objection to any of the other proposed Conditions of Approval.
55. No member of the public testified at this hearing.

56. The Hearing Examiner has reviewed the applications and submitted materials. Based on the information contained in the applications and compliance with the Revised Code of Washington, the Washington Administrative Code, Chelan County Comprehensive Plan, and the Chelan County Code, the Hearing Examiner provides the attached conditions of approval.
57. Any Conclusion of Law that is more correctly a Finding of Fact is incorporated herein 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 Chelan County Code Section 1.61.080 Duties and Powers.
2. The subject application demonstrates consistency with the development standards and procedural requirements of Chelan County Code Title 11 Zoning, Title 12 Land Divisions, Title 14 Development Permit Procedures and Administration, and Title 15 Development Standards.
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 will be served by the subdivision.
6. The application, as conditioned, is compatible with adjacent uses and will not harm or change the character of the surrounding area.
7. Any Finding of Fact that is more correctly a Conclusion of Law is incorporated herein as such by this reference.

III. DECISION

Based upon the above noted Findings and Fact and Conclusions, Conditional Use P 21-107 is hereby **APPROVED**, subject to the following Conditions of Approval.

IV. CONDITIONS OF APPROVAL

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.

1. Pursuant to RCW 58.17, the development 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.
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.
3. Pursuant to CCC Section 11.30.020, the proposal shall comply with the Commercial Agricultural Lands (AF) Zoning District's dimension and/or development standards.

4. Pursuant to CCC Section 12.08.030 and 12.24.020(3) and Chapter 15.30, all easement locations are required to be shown on final plats.
5. Pursuant to RCW 84.56.345, all taxes, delinquent taxes, and assessments that are required by the Chelan County Treasurer are to be paid prior to final Plat recording.
6. Pursuant to CCC Section 11.10.020(1), the minimum lot size may be modified one time for a cluster subdivision. The following note shall be placed on the final plat:
 - 6.1. **“The lots associated with this plat shall not be further subdivided utilizing the provisions of Chelan County Code Section 11.30.020(1)(A-D), as amended.”**
7. Pursuant to CCC Section 12.12.050, the open space accumulated shall be clearly labeled and numbered as a tract with an approved open space management plan; the following language shall be inserted on the final plat filed for record under this chapter:
 - 7.1. **“This tract is held in reserve as open space designated for agricultural use on which a variety of activities may occur that are not compatible with residential development for certain periods of limited duration. Open space set aside for agricultural purposes may allow improvements that are associated with the agricultural operations, such as barns, outbuildings, storage facilities and other related facilities provided they are incidental and do not take up more than ten (10) percent of the open space. Commercial operation associated with agricultural activities shall be prohibited. This tract is held in reserve as open space with provision for building consistent with the approved open space management plan AFN: _____, or as legally amended.”**
8. Pursuant the CCC Section 12.02.010(1), the following note shall be placed on the final plat mylar:
 - 8.1. **“Chelan County is not responsible for notification or enforcement of covenants or 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 assume all risk and liability for any claims and liabilities for covenants or deed restrictions or reservations.”**
9. Pursuant to RCW 27.53.020, the applicant shall stop work and contact Community Development and the Department of Archaeology and Historic Preservation and other agencies as required, regarding the possible impact of construction activities on the state’s archaeological resources.
10. **The Washington State Department of Ecology requires that the soils be sampled and analyzed for lead and arsenic and for organochlorine pesticides. If these contaminants are found at concentrations above the MTCA cleanup levels, the Washington State Department of Ecology recommends that the potential buyers be notified of their occurrence.”**
 - 10.1. Historical aerial photos indicate that the subject property is located on property that was occupied by orchard during the time period when lead arsenate was applied as a pesticide, often resulting in shallow soil contamination from lead and/or arsenic. Before proceeding, your development is required to conduct soil sampling under the Model Toxics Control Act (Chapter 173-340 WAC).
 - 10.2. If sampling indicates elevated levels of lead and arsenic, cleanup would be required. The Department of Ecology plans to use Model Remedies for lead and arsenic pesticide contamination in historical orchards of Central Washington.

- 10.3. Compliance with a Model Remedy ensures your development meets the minimum standards of the Model Toxics Control Act, and if implemented as described, your property would be successfully cleaned up to Washington State standards.
11. In Washington State, prospective water users must obtain authorization from the Department of Ecology before diverting surface water or withdrawing ground water, with one exception. Ground water withdrawals of up to 5,000 gallons per day used for single or group domestic supply, up to 5,000 gallons per day used for industrial purposes, stock watering, and for the irrigation of up to one-half acre of non-commercial lawn and garden are exempt from the permitting process. Water use under the RCW 90.44.050 exemption establishes a water right that is subject to the same privileges, restrictions, laws and regulations as a water right permit or certificate obtained directly from Ecology.
12. Pursuant to CCC Section 12.24.015, the following note shall be placed on the final plat mylar:
- 12.1. **“Agricultural activities occur throughout Chelan County and may or may not be compatible with residential development.”**
13. Pursuant to the Revised Code of Washington (RCW), the following notes shall be placed on the final plat:
- 13.1. **“Noxious weed control is the responsibility of the individual lot owners, per RCW 17.10.140, as amended.”**
- 13.2. **“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.”**
- 13.2.1. 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 may be obtained from Chelan County Community Development.
14. Pursuant to CCC Section 11.86.080, the following note shall be placed on the final Plat:
- 14.1. **“All development shall be consistent with Chelan County Code Chapter 11.86 Geologically Hazardous Areas Overlay District, as amended; and the Geotechnical Engineering Evaluation and Geologic Hazard Assessment prepared by Anderson Geological Consulting, LLC dated February 21, 2021 or with a site-specific geological site assessment.”**

CHELAN COUNTY BUILDING OFFICIAL

15. The subject property and final plat shall conform to the comments and conditions of approval as found in the Chelan County Building Official comments dated May 3, 2021.
- 15.1. Flood Plain Development requirements and permits may be necessary as part of the permitting and plan review process.
- 15.2. The Geohazard Assessment does not serve as a Geotechnical Report and further soil evaluation may be necessary during the development phase.

CHELAN COUNTY FIRE MARSHAL

16. The subject property and final plat shall conform to the comments and conditions of approval as found in the Chelan County Fire Marshal Agency Comments dated May 11, 2021.

- 16.1. 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. Applicant is encouraged to contact this office to ascertain how the attached fire protection credits options apply to their development. A note on the face of the final short plat shall state:
- 16.1.1. *“Without the installation of a fire hydrant that has the capabilities 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 the fire protection credits to satisfy 100% Fire Protection Credits needed.”*
- 16.2. Class A roofing/noncombustible roof covering, as defined in the International Building Code, shall be used in all of Chelan County. A note on the face of the final mylar shall state that:
- 16.2.1. *“All buildings that require a building permit within this short plat shall have Class A roofing materials.”*
- 16.3. New construction permitted after February 1, 2021 is subject to WAC 51-54A-8200 International Wildland-Urban Interface Code. These include possible def space (Firewise) requirements for the property landscape and possible construction requirements for new buildings. A note on the final mylar shall state that:
- 16.3.1. *“All buildings that require a building permit within this plat shall comply with the portions of the International Wildland-Urban Interface Code adopted by the State of Washington and Chelan County.”*

CHELAN-DOUGLAS HEALTH DISTRICT

17. The subject property and final plat shall conform to the comments and conditions of approval as found in the Chelan-Douglas Health District memorandum dated May 16, 2021.
- 17.1. Domestic water service shall be by a new public supply that has yet to be developed. Individual service shall be available to each lot. This system must be reviewed and approved by the Health District/State Department of Health, and construction of the system certified as per State Board of Health Regulations prior to final plat approval.
- 17.2. A Group A and B public water systems using a well point must show and describe the sanitary control area/radius around the well. All necessary easements and covenants for access and protection of the public water supply must be shown or described on the final plat drawing. The Washington State Dept. of Health has more information and examples of the following protective covenants (DOH publication 331-048b). A Restrictive Covenant is necessary for that part of the 100’ sanitary control radius that falls outside the well owner’s property and is recorded to the neighboring property owner’s parcel(s). A Declaration of Covenant is necessary for that part of the 100’ sanitary control radius that falls completely within the well owner’s property and is owned in fee simple by the well owner. Some wells would have both protective covenants. The Health District recommends the plat developer consult an attorney about these covenants. Protective covenants for each public well points much be declared in the dedicatory language on the plat as follows:
- 17.2.1. *“A Declaration of Covenant recorded as a notice to title with Chelan County as AFN: _____ establishes a sanitary control area with a 100’ radius around the public well shown (as well tag # _____). No source of contamination may be constructed, stored, disposed of, or applied within the sanitary control area without the specific recorded permission of the well owner(s) and the Washington State Dept. of Health.”*

- 17.2.2. ***“The Declaration of Covenant and Restrictive Covenant(s) recorded as a notice to title with Chelan County as AFN: _____ establishes a sanitary control area with a 100’ radius around the public well shown (as well tag # _____). No source of contamination may be constructed, stored, disposed of, or applied within the sanitary control area without the specific recorded permission of the well owner(s) and the Washington State Dept. of Health.”***
- 17.3. The dedicatory language on the final plat shall carry these notes:
 - 17.3.1. ***“The Health District has not reviewed the legal availability of water to this development.”***
 - 17.3.2. ***“The combined water use by all the wells in this development may not exceed 5,000 gallons per day or be used to irrigate more than ½ acre unless ground water withdrawal permit is obtained from the Department of Ecology (RCW 90.44.050).”***
- 17.4. Subject to specific application approval and issuance of permits by the Health Officer, the property is generally suitable for placement of individual on-site sewage disposal system. Test holes have been examined on the subject property by Tower Designs via a report dated March 12, 2021.
- 17.5. The dedicatory language on the final plat shall contain this statement:
 - 17.5.1. ***“Site evaluations may be required at the time of application for individual septic system construction permits.”***

CHELAN COUNTY PUBLIC WORKS DEPARTMENT

- 18. The subject property and final plat shall conform to the comments and conditions of approval as found in the Chelan County Public Works memorandum dated April 26, 2021.
 - 18.1. The applicant would be required to demonstrate or obtain a WSDOT Approach Permit showing approval of this subdivision. If improvements are required to the access, the applicant shall construct the new access to US Hwy 2 to meet WSDOT Approach Design Details.
 - 18.2. Pursuant to CCC Section 12.02.020, the applicant must demonstrate a legal and perpetual access for the proposed lots on the subdivision.
 - 18.3. Pursuant the Chelan County Code Chapter 15.30, the design and construction of the new proposed internal private road would be required to be constructed to meet a Rural Emergency Vehicle Access Road (Standard Plan PW-22) with Emergency Vehicle Turnaround (Standard Plan PW-23 A or B) for this subdivision)
 - 18.4. Pursuant to CCC Section 15.30.340, the applicant shall file a Private Road Maintenance and Upgrading Agreement appurtenant to all the property owners having a vested interest in the private shared/common access road and must contain working of maintenance of the road sign within the development. Said agreement must be provided simultaneously with the Preliminary Mylar(blue) submission. Said agreement shall be recorded with the final plat.
 - 18.5. Pursuant to CCC Chapter 15.30, the applicant would be required to provide snow storage areas to place snow accumulated from the new internal private road.
 - 18.6. Pursuant to CCC Section 15.30.650, required the following language on the face of the plat:
 - 18.6.1. ***“Chelan County has no responsibility to build, improve, maintain, or otherwise service any private road for this plat.”***
 - 18.7. Pursuant to CCC Section 15.30.310, the applicant is required to submit a lot access/addressing plan. The lot access/addressing plan shall demonstrate how all lots and

- any existing driveway easement would be constructed and how they meet county road approach standards.
- 18.8. Pursuant to CCC Chapter 10.20, submit with the Preliminary Mylar (blue-line), a lot access/addressing plan. The lot access/addressing plan shall demonstrate how all lot and any existing driveway easements would be constructed and how they meet Chelan County Road approach standards. **Submit three (3) proposed private road names to be approved by the Public Works Department and by Rivercom for the proposed new roads and the joint access easement in accordance with Title 10.20.**
 - 18.9. Pursuant to CCC Chapter 10.20, the applicant shall add the following note to the Final Mylar for addressing:
 - 18.9.1. ***“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).”***
 - 18.10. Pursuant to CCC Section 15.30.610, Construction Plans: The applicant shall submit construction plans and reports for all required improvements on the internal private road improvements. The applicant would be required to have the Construction Plans shall include, but are not limited to:
 - 18.10.1. Drainage Report and Plan
 - 18.10.2. Roadway Improvement Plan (showing location of utilities and roadway curve data)
 - 18.10.3. Lot Access Plan (Profiles, Topography)
 - 18.10.4. Erosion and Sedimentation Control Plan
 - 18.10.5. Signage Plan
 - 18.11. Pursuant to CCC Section 15.30.650, a Pre-Construction Meeting is required with the owner, contractor, and the Chelan County Public Works Department prior to commencing any construction.
 - 18.12. Pursuant to CCC Section 15.30.650, As-Built Plans shall be submitted, reviewed and approved by the Public Works Department upon completion of all required improvements and prior to the County Engineer's signature on the Final Mylar.
 - 18.13. Pursuant to CCC Section 15.30.660, As-Built Plans shall be submitted, reviewed and approved by the Public Works Department upon completion of all required improvements and prior to County Engineer signature on the Final Mylar.
 - 18.14. Pursuant to CCC Section 15.30.820, the applicant shall not obstruct sight distance with a centralized mailbox or locate centralized mailbox on a road right-of-way that would hinder Road Maintenance. Should a centralized mailbox be required, provide details on construction plans. Minimum information shall include location, installation details, and pull-out detail.
 - 18.15. The final plat shall include any easements necessary to provide and maintain all utilities to and within the proposed preliminary plat.
 - 18.16. 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.
 - 18.17. Preliminary Plat must comply with stormwater standards, CCC Chapter 13.12; 13.14; 13.16 and 13.18 of Chelan County Code.
 - 18.18. 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 an operational and annual maintenance criteria. Said Maintenance Agreement shall be submitted to the Public Works Department with the Preliminary Mylar (blue lines) and shall be recorded with the final plat.
 - 18.19. The following note shall be placed on the final plat Mylar:

18.19.1. *“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. Stormwater Maintenance & Operation Agreement AFN: _____.”*

- 18.20. The applicant shall submit Lot Closure calculations with the Preliminary Mylar (blue line) submission.
- 18.21. The plat must identify all roads as public or private.
- 18.22. The plat must identify centerlines and easement dimensions on any new proposed roads.
- 18.23. The plat shall show all easements that benefit or burden the development.
- 18.24. Lot closure calculations must be submitted with Pre-Final (blue lines).

**CONFEDERATED TRIBES OF THE COLVILLE RESERVATION AND YAKAMA NATION
ARCHAEOLOGIST**

- 19. The subject property and final plat shall conform to the comments and conditions of approval as found in the Confederated Tribes of the Colville Reservation dated April 27, 2021 and Yakama Nation Archaeologist dated May 4, 2021.
 - 19.1. A professional archaeological survey of the development area shall be conducted prior to ground disturbing activities. Both Colville and Yakama also recommend consultation with the concerned Tribes’ cultural committees and staff regarding cultural resource issues.

WASHINGTON DEPARTMENT OF FISH AND WILDLIFE

- 20. The subject property and final plat shall conform to the comments and conditions of approval as found in the WDFW memorandum dated May 7, 2021.
 - 20.1. The Applicant shall coordinate with WDFW to develop a stewardship plan/covenants/deed restrictions for homeowners to ensure that measures to lessen the impacts of development to the riparian habitat and Wenatchee River carried into the future.

Dated this 11th day of October, 2021

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.