

BEFORE THE CHELAN COUNTY HEARINGS EXAMINER

IN THE MATTER OF

RECEIVED )

FINDINGS OF FACT,

)

CONCLUSIONS OF LAW,

CUP-2019-007

JUL 19 2019 )

DECISION AND CONDITIONS

Stocker

CHELAN COUNTY  
COMMUNITY DEVELOPMENT

OF APPROVAL

THIS MATTER, having come on for hearing in front of the Chelan County Hearing Examiner on July 17, 2019, the Hearing Examiner having taken evidence hereby submits the following Findings of Fact, Conclusions of Law, Decision and Conditions of Approval as follows:

**FINDINGS OF FACT**

1. This is an application for a Conditional Use Permit to operate a junkyard/impound lot outside and within already existing buildings. Currently the property has a 1,600 square foot pole building, a 1,040 square foot office building and a 10,690 square foot storage building the proposal would utilize. The subject property is 1.74 acres within the Rural Industrial (RI) zoning. Primary access is from Beebe Bridge Road. Potable water is provided by an on-site well, and the development would utilize on-site septic system.
2. The property owner is Cheyenne Stocker, PO Box 10, Chelan, WA 98816.
3. The address of the subject site is 105 Beebe Bridge Road, Chelan Falls, WA 98817.
4. The parcel number for the subject property is 27-23-20-523-170.
5. The subject site is located in Chelan County, outside of an Urban Growth Area.
6. The Comprehensive Plan designation and zoning designation for the subject site is Rural Industrial (RI).
7. The property is currently in industrial use.
8. Building permits for this property have been issued per the County Assessor's records:
  - 8.1 BP-060012-A 1,600 square foot pole building for storage
  - 8.2 BP-112-A cold storage building issued in 1977
9. The site is relatively flat, with 3 existing storage buildings on the property.
10. The property to the north of the subject site is property owned by the Chelan County Public Utility District No. 1, and is zoned Rural Industrial (RI).
11. The property to the south of the subject site is zoned Rural Industrial (RI).
12. The property to the east of the subject site is the Columbia River and is zoned Rural Industrial (RI).

13. The property to the west of the subject site is zoned Rural Industrial (RI) and Rural Public Lands and Facilities (RP)
14. The applicant submitted an Aquifer Recharge Disclosure Form, date stamped March 11, 2019. The property is not located within a wellhead protection area.
15. Pursuant to the Washington State Department of Fish and Wildlife Priority Habitat Species Maps, the subject property does not contain any priority habitat.
16. The subject property is not located within shoreline jurisdiction
17. Pursuant to the Federal Emergency Management Agency (FEMA), panel number 5300150100B of the FIRM maps, there is no floodplain on the subject property. Therefore, the provisions of CCC, Chapter 11.84, Frequently Flooded Areas Overlay District and CCC, Chapter 3.20, Flood Hazard Development, do not apply.
18. According to the Chelan County GIS geo hazard and contours layers, the site does not contain geological hazards for erosive soils and steep slopes. Therefore, the provisions of Chelan County Code Chapter 11.86 Geologically Hazardous Areas Overlay District do not apply to this project.
19. There are no known cultural resource sites on the subject property. Pursuant to Revised Code of Washington (RCW) 27.53.020, if cultural resources are found, the applicant will be required to stop work and contact the Department of Archaeology and Historic Preservation, the Confederated Tribes, and Chelan County Community Development.
20. The Applicant plans to utilize outdoor open space on the lot and existing buildings for the proposed impound and tow yard.
21. According to the site plan of record, dated March 11, 2019, the property is accessed off of Beebe Bridge Road. The existing access approach will need to meet an Industrial/Commercial Driveway approach.
22. Water to the subject site is supplied by an on-site well.
23. Chelan County PUD provides electrical services to the subject site.
24. On-site septic will serve the proposed project.
25. Noise will be similar to other commercial and agricultural uses in the vicinity.
  - 25.1 The applicant must comply with Chelan County Code Chapter 7.35 Noise.
26. According to the site plan date stamped March 11, 2019, there will be no new visual impacts as there will be no new buildings to the facility.
27. The Notice of Application was referred to surrounding property owners within 300' (excluding 60' of right-of-way), jurisdictional agencies and departments of the County. These agencies and surrounding property owners were notified on March 28, 2019 with comments due April 11, 2019. Agency comments are considered in the staff report and, when appropriate, associated recommended Conditions of Approval. The following is a list of Agencies who received notice and the date comments were received:
  - 27.1 Chelan County Public Works responded on April 22, 2019.
  - 27.2 Chelan County Fire Marshal responded on March 28, 2019.
  - 27.3 Chelan County PUD responded on October 31, 2018.
  - 27.4 Confederated Tribes of Colville responded on March 28, 2019.

- 27.5 Department of Ecology responded on April 9, 19.
- 28. The following agencies were notified but did not respond:
  - 28.1 Chelan County Building.
  - 28.2 Chelan County Fire District #6.
  - 28.3 Washington State Department of Transportation (WSDOT)
  - 28.4 Dept. of Archaeology and Historic Preservation.
  - 28.5 Yakama Nation
- 29. No public comments were received.
- 30. The application materials were submitted on March 11, 2019.
- 31. A Determination of Completeness was issued on March 25, 2019.
- 32. The Notice of Application was provided on March 28, 2019.
- 33. The Notice of Public Hearing was provided on July 5, 2019.
- 34. Pursuant to WAC 197-11-800(6)(b)(i), granting of a conditional use permit for change of use is exempt from threshold determination requirements, if the authorized activities will be conducted within an existing building and will not change the overall character of the building or facility.
- 35. Uses appropriate for the Rural Industrial (RI) zoning district, identified in the Comprehensive Plan Rural Element, Section VII(F), include opportunity for development and infill of existing rural industrial developments or intensification of development on lots containing isolated nonresidential uses.
- 36. The proposed junkyard/auto wrecking yard/impound yard is consistent with Goal RE4 the Comprehensive Plan.
- 37. The project is consistent with Chelan County Code Section 11.040.020 in the following respects:
  - 37.1 Junkyard/auto wrecking yard/impound yard are permitted with an approved Conditional Use Permit (CUP) in the RI zoning district.
  - 37.2 Junkyard is defined in Chelan County Code as “any area, lot, parcel, building, structure or part thereof used for the storage, collection, processing, purchase, sale, salvage or disposal of scrap, junk or reclaimable material.”
  - 37.3 Automobile wrecking yard is defined in Chelan County Code as “an area in which conducts the dismantling and/or wrecking of used motor vehicles, machinery or trailers or the storage or sale or dismantled, obsolete or wrecked vehicles or their parts or the storage of motor vehicles unable to be moved under the power of the vehicle.”
  - 37.4 Chelan County Code does not have a definition for impound yard. However, the code allows for the use of outside references. Merriam-Webster defines impound as “to seize and hold in the custody of the law; to take possession of.” Chelan County Code defines yard as “an open space on a tract, or lot which is unoccupied and unobstructed from the ground upward, except as permitted in Title 11.”
- 38. The project is consistent with Chelan County Code Section 11.93.040 (1) in the following respects:
  - 38.1 Criteria for the proposed junkyard/auto wrecking yard/impound yard have been addressed below.

- 38.2 Based on review of the application materials submitted, the criteria for the junkyard/auto wrecking yard/impound yard, could be satisfied.
39. The project is consistent with Chelan County Code Section 11.93.040 (2) in the following respects:
- 39.1 The following provisions apply:
- 39.1.1 SETBACKS: The proposed project is located in the Rural Industrial (RI) zoning district. The RI zoning requires the following setbacks: Front yard: 10 feet from property line or forty feet from the street centerline (whichever is greater); side and rear yard: zero foot setback, except 30 feet from the rear property line when the lot abuts any zone other than industrial. Per the site plan of record, date stamped March 11, 2019, the junk yard/impound yard would meet applicable zoning setbacks identified in CCC, Section 11.26.020.
- 39.1.2 PARKING: Off-street parking is required, pursuant to CCC, Chapter 11.90. Section 11.90.060 states, the required parking shall be based on the sum of the parking requirements of each individual use on the property. Auto salvage yards require five (5) spaces plus 1 space per each two (two) acres. The application narrative date stamped March 11, 2019 indicates there are 10 public parking spaces, meeting and exceeding the parking requirement.
- 39.2 Based on the site plan of record, date stamped March 11, 2019, the proposal meets applicable zoning regulations. Staff recommended as a condition of approval that a parking plan be submitted with the building permit application to be reviewed for consistency with CCC, Chapter 11.90.
40. The project is consistent with Chelan County Code Section 11.93.040 (3) in the following respects:
- 40.1 The applicant is proposing to use the existing a 1,600 square foot pole building for storage, 1,040 square foot office building, a 10,690 square foot storage building and a fenced area for the storage of cars.
- 40.2 The subject property is zoned Rural Industrial (RI); lots to the north of the subject site are zoned Rural Industrial (RI); lots to the east and south of the subject property are zoned Rural Industrial (RI); and lots to the west of the subject property are zoned Rural Industrial (RI) and Rural Public Lands and Facilities (RP). The surrounding properties are utilized as industrial.
- 40.3 As conditioned, the use of the property as a junkyard/auto wrecking yard/impound yard would be compatible with the surrounding land uses.
41. The project is consistent with Chelan County Code Section 11.93.040 (4) in the following respects:
- 41.1 The project will be using existing buildings and parking.
- 41.2 The junkyard/auto wrecking yard/impound yard is not within any critical areas.
42. The project is consistent with Chelan County Code Section 11.93.040 (5)(a) in the following respects:
- 42.1 Chelan County provided a Notice of Application to all providers. Comments are included in the file of record and summarized above. The site would utilize existing access, water, sewer and power.
- 42.2 The subject property has adequate services to accommodate the proposed use.

43. The project is consistent with Chelan County Code Section 11.93.040 (5)(b) in the following respects:
- 43.1 The notice of application was sent to all agencies with jurisdiction for comment. No concerns were raised regarding adopted levels of service.
  - 43.2 The proposed use would not result in county facilities reduced below adopted levels of service.
44. The project is consistent with Chelan County Code Section 11.93.040 (6) in the following respects:
- 44.1 The proposed structures must meet all applicable regulations for public health and safety, in accordance with permitting regulations.
  - 44.2 The proposed use, as conditioned, would not have an adverse impact on public health, safety and welfare.
45. The project is consistent with Chelan County Code Section 11.93.040 (7) in the following respects:
- 45.1 *Roads, ingress and egress:* The property is primarily served by an existing driveway access off Beebe Bridge Road, a 40-foot wide county road.
  - 45.2 *Stormwater:* Stormwater requirements would be addressed at the time of building permit review. Compliance with CCC, Chapter 13.16, Chelan County Stormwater Guidelines, would apply. See Chelan County Public Works Comments, dated April 22, 2019.
  - 45.3 *Parking and Loading:* Parking stall dimensions shall be consistent with the requirements identified in CCC, Chapter 11.90. Staff recommends a condition of approval requiring submittal of a parking lot circulation plan to Chelan County Public Works and approval of the plan prior to building permit submittal.
  - 45.4 *Domestic Water:* Existing structures are currently served domestic water by an on-site well.
  - 45.5 *Sanitary Facilities:* Existing structures on site are served by an existing septic system.
  - 45.6 *Power:* Power is provided by Chelan County PUD.
  - 45.7 *Fire Protection:* Fire protect is adequate to serve the project.
  - 45.8 All necessary facilities, improvements and services are consistent with the requirements of Titles 11, 13 and 15 of the Chelan County Code, with recommended conditions.
46. The project is consistent with Chelan County Code Section 11.93.040 (8) in the following respects:
- 46.1 *Noise and Vibration:* Compliance with CCC, Section 7.35 and RCW 70.107 regarding noise control. Staff recommended a condition of approval to be in compliance with this section.
  - 46.2 *Light and Glare:* Light and glare is regulated by CCC, Section 11.88.080, all exterior lighting provided to illuminate off-street parking or loading areas must be directed and shielded to prevent illuminating surrounding residential uses. Staff recommended a condition of approval to be in compliance with this section.
  - 46.3 *Heat, Steam, Odors, Smoke and Dust:* Pursuant to CCC, Section 11.90, all parking and loading areas shall be surfaced to standards for asphaltic concrete pavement (ACP) or pavers, porous concrete or other innovative techniques meeting the adopted standards, as approved by the county engineer, administrator, or stormwater engineer.



- 46.4 *Water Quality:* The applicant would be required to comply with CCC, Chapter 13.16, Stormwater Management for Chelan County, to control runoff from the ground disturbing activities.
- 46.5 Based on the above facts, noise, light, heat, steam, water quality, glare, odors, air pollution, smoke, wastes, dust, vibration, electrical disturbance, physical hazards and related impacts on adjacent properties could be avoided or mitigated, with the recommended conditions of approval.
- 47. The project is consistent with Chelan County Code Section 11.93.040 (9) in the following respects:
  - 47.1 Uses appropriate for the Rural Industrial (RI) zoning district, identified in the Comprehensive Plan Rural Element, Section VII(F), include *agricultural uses and intensification of existing development or new development of small scale recreational or tourist uses that rely on a rural location*. In addition, the location guidelines include the following:
    - 47.1.1 Natural Resources: The area may have agricultural or forest land practices of both small scale and/or commercial significance. The area may be adjacent to designated resource lands.
    - 47.1.2 Existing Land Uses: Industrial developments currently exist or the area may have been utilized in the past for industrial use. Areas identified as having potential for infill for industrial uses may be currently utilized for a variety of rural development and resource activities.
  - 47.2 The proposed Junkyard/Automobile wrecking yards/Impound lot is consistent with Goal RE4 the Comprehensive Plan, which states: Encourage rural economic development consistent with the goals and policies of the Chelan County Comprehensive Plan and Growth Management Act.
  - 47.3 The junkyard/automobile wrecking yards/impound lot is consistent with the intent, goals, objectives and policies of the comprehensive plan; specifically, Goal RE4 and Section VII(F) of the Rural Element.
- 48. The project is consistent with Chelan County Code Section 11.93.040 (10) in the following respects:
  - 48.1 Proposed conditions are Chelan County Code requirements. Failure to comply with the conditions may result in the inability to obtain building permit(s) and/or may result in code violations subject to Title 16.
  - 48.2 Proposed conditions are measureable and can be enforced.
- 49. The project is consistent with CCC Section 11.93.230 (1) in the following respects:
  - 49.1 CCC, Section 11.88.170(1) refers to fence standards.
  - 49.2 CCC, Section 11.88.170(1)(E), fences over seven (7) feet tall require a building permit. The applicant has an existing fence surrounding the property. Therefore a building permit is not necessary.
- 50. The project is consistent with CCC Section 11.93.230 (2) in the following respects:
  - 50.1 The application states there would be no contents inside the enclosed impound lot that will be greater than the height of the fence.

- 50.2 This criterion has been met.
51. The project is consistent with CCC Section 11.93.230 (3) in the following respects:
- 51.1 A Stormwater Drainage Plan would be required to be submitted to Chelan County Public Works if any new impervious surface of 5,000 square feet is created and must be reviewed and approved prior to the submittal of any building permits.
- 51.2 The design of the project, as conditioned, shall address and mitigate for the impacts of the facility.
52. The project is consistent with CCC Section 11.93.230 (4) in the following respects:
- 52.1 The application states that the proposed project is an impound lot and not a junk yard/wrecking yard.
- 52.2 The criterion does not apply to the project.
53. Staff 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, staff recommended **APPROVAL** subject to the recommended conditions of approval.
54. The Chelan County Hearing Examiner considered all evidence within the record in rendering this decision.
55. An Open Record Public Hearing after due legal notice was held on July 17, 2019.
56. Appearing and testifying on behalf of the Applicant was Loren Stocker. Mr. Stocker testified that he was one of the property owners and Applicants. Mr. Stocker testified that the storage of vehicles would be outside and that the interior spaces would be used for storage of smaller items. He stated that there is an existing 16 foot fence on the property. He stated that no hazardous waste would be stored on site. Finally, Mr. Stocker indicated that all of the proposed Conditions of Approval were acceptable.
57. No member of the public testified at this hearing.
58. Any Conclusion of Law that is more correctly a Finding of Fact is incorporated herein as such by this reference.

### CONCLUSIONS OF LAW

1. The Hearing Examiner has authority to render this Decision.
2. Referral agency comments were received and considered in the review of this proposal.
3. The site of the subject proposal is in the Rural Industrial (RI) zoning district land use designation. As described, the proposal is consistent with the Chelan County Comprehensive Plan.
4. As conditioned, the subject proposal is consistent with the Chelan County Code, Title 11.
5. Any Finding of Fact that is more correctly a Conclusion of Law is incorporated herein as such by this reference.

## DECISION

Based upon the above noted Findings and Fact and Conclusions, Conditional Use CUP 2019-007 is hereby **APPROVED**.

## 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 CCC, Section 11.93.070, in any case where a conditional use permit is granted under the terms of this title, no building or other permit shall be issued until after the end of the appeal period allowed in Title 14 of the Chelan County Code.
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 RCW 27.53.020, if the applicants or their agents discover previously unknown historic or archeological remains/artifacts while conducting the development activities authorized by this permit, the applicant/agent shall immediately notify the appropriate tribal and state representatives and the Chelan County Department of Community Development of the finding for local, state and tribal coordination.
4. All conditions of approval for CUP 2019-007 shall be completed prior to final certificate of occupancy for the commercial building permit and commencement of proposed activity.
5. Pursuant to Chelan County Code Section 3.04.060, the applicant shall obtain a Fire and Life Safety Occupancy permit prior to operation of the towing company and repair use and maintain an annual Fire and Life Safety Inspection and renew the required certificate.
6. Pursuant to Chelan County Code Section 11.93.040(4), detrimental impacts on the natural environment and productive use of surrounding natural resource lands shall be mitigated or avoided.
7. The subject property and conditional use permit shall conform to the comments and conditions of approval as found in the Chelan County Fire Marshal comment response dated March 28, 2019.
8. The subject property and conditional use permit shall conform to the comments and conditions of approval as found in the Chelan County Public Works comments response date April 22, 2019.
9. Pursuant to Chelan County Code Section 11.93.040(8) and Chapter 7.35, the applicant shall ensure that all noise regulations are met.
10. Pursuant to Chelan County Code, Section 11.88.080, Parking lot lights, security lights, or any exterior lighting shall be low-intensity, nonflashing and designed to project toward the property or shall be shielded to keep light from directly projecting over property lines. The applicant shall submit an illumination plan showing the proposed lighting within the parking area and methods used to prevent the light from glaring onto adjacent properties at the time of building permit submittal.
11. 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.

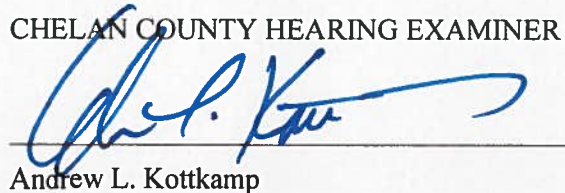


application for substantially the same matter within one year from the date of the final denial of the application.

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.

Approved this 18<sup>th</sup> day of July, 2019.

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.