

BEFORE THE CHELAN COUNTY HEARINGS EXAMINER

IN THE MATTER OF) FINDINGS OF FACT, CONCLUSIONS
) OF LAW AND DECISION
MPR 2018-283)
Gerry and Kim Ustanik, Magic Earth, LLC,)
dba Antheia of Chelan, LLC)

SEP 12 2019

CHELAN COUNTY
COMMUNITY DEVELOPMENT

THIS MATTER, having come on for hearing in front of the Chelan County Hearing Examiner on August 21, 2019, the Hearing Examiner having taken evidence hereby submits the following Findings of Fact, Conclusions of Law and Decision as follows:

FINDINGS OF FACT

1. This is an application for a Master Planned Resort to include 24 “glamping” units, a permanent on-site manager’s quarter, a registration building that would include office space, tasting room space for olive oil and wine, and gift shop/store, Wi-Fi café, a restroom facility and two restroom and shower facilities, a house for a full time caretaker, three houses for temporary, part-time employees, and a 14-unit lodge with lobby, courtyard, laundry facility, and commercial kitchen. Other structures to be included as part of the proposed development would be a greenhouse, maintenance storage shed, two geodesic dome classrooms and yoga facilities, pool and hot tub, two gathering tents, a gathering site which has been labeled Amaranda Garden on the site plan, a pump house, and four parking areas with a total of 120 spaces. The site plan shows various planted areas as part of the proposed open spaces including a tree grove, pumpkin patch, alpaca and goat pasture, lavender fields, and various vegetable and flower gardens. Additional proposed uses for the site would be weddings, yoga and wellness retreats, and public and private gatherings.
2. The project location is Klate Road, Manson, WA 98831.
3. The parcel numbers for the subject properties are: 28-22-29-607-133, 28-22-29-607-135, and 28-22-29-607-155.
4. The applicant/owners are Gerry and Kim Ustanik, Magic Earth, LLC, dba Antheia of Chelan, LLC.
5. The property is outside an urban growth area.
6. The Comprehensive Plan designation and zoning is Commercial Agricultural Lands (AC).
7. The area of development is mostly flat, 3% slope, with steep slopes to the east.
8. The site is currently vacant. Assessor records indicate that it was planted as an orchard in 2003. As of 2007 the Assessor noted the orchard had been removed.
9. The property to the north of the subject property is abutting residential use, within 1000 feet Orchard and is zoned AC.
10. The property to the south of the subject property is abutting orchard use, within 1000 feet Orchard, and is zoned AC.

11. The property to the east of the subject property is abutting residential use, within 1000 feet of an orchard, and is zoned AC.
12. The property to the west of the subject property is abutting residential use and within 1000 feet of an orchard and is zoned AC.
13. In a letter dated August 16, 2018, Chelan County Natural Resources Department identified no streams on the parcel itself. A type F stream was verified offsite within 170 feet from the southeast corner of the property and buffers may affect the site minimally. A second mapped stream was not found present in the field.
14. No mapped wetlands are identified on the site.
15. The application identifies there is no Aquifer Recharge Area present onsite. The criteria include identifying if certain soils are present that indicate a highly permeable soil. These include several soil types in the Chelan series including CIA and CgE which appear to be found on the property based on the applicant's SEPA Checklist (B.1.c) and a review of the USDA web map soil series. The Tower Design, Inc. April 11, 2018 evaluation of the site for septic systems appears to indicate enough soil depth to consider the soils highly permeable. In sum, the application appears incorrect by indicating a lack of highly permeable soils.
16. There is an onsite well. The Chelan-Douglas Health Department indicates the well plus a 100-foot zone should be protected. (Well Site Inspection Form, Dean Butz, CDHD, July 13, 2018)
17. The Shoreline Master Program does not apply.
18. The application does not identify geologic hazards. However, the southeast corner of the site appears to be mapped as an erosion hazard area on the Chelan County GIS web portal. Steep slopes appear to be onsite or within 250 feet based on mapping sourced from NRCS (USDA) (2013) acquired from Chelan County for purposes of the County's Voluntary Stewardship Program mapping of critical areas.
19. The Confederated Tribes of the Colville Reservation indicate the parcel is located within a Traditional Cultural Property and close to tribal allotments. The tribe requested a cultural resource survey be conducted prior to project implementation (letter: December 27, 2018). The State of Washington Department of Archaeology and Historic Preservation indicated the statewide predictive model indicates a high potential for cultural resources (letter: January 10, 2019).
20. The applicant submitted a traffic impact analysis (prepared by TenW) most recently updated November 29, 2018. Based on the uses proposed (identified in Proposal description above), the analysis shows 53 weekday PM peak hour trips and 210 weekday daily trips.
21. The development includes an electric/propane plan.
22. The applicant proposes five septic tanks to serve a maximum occupancy of 350 persons for the MPR.
23. There is an onsite well. The State of Washington Department of Ecology indicates that a water right permit is required for any water from a well that exceeds 5,000 gallons per day for single or group domestic supply, or that irrigates more than a ½ acre of lawn and garden (letter: January 7, 2019).
24. The maximum demand by the MPR is anticipated to be 7,100 gallons per day. (Well Site Inspection Form, Dean Butz, CDHD, July 13, 2018).
25. Public Works indicates that the MPR must comply with stormwater standards, Chapter 13.12; 13.14; 13.16 and 13.18 of Chelan County Code. (memo: May 13, 2019).

26. The Chelan County Fire Marshall and Fire District 5 indicate that fire flow is not currently adequate to support the development, and the road grade may exceed 12%; additional mitigation for the Klate Road grade is required. (See Agency Comments: January 10, 2019.)
27. Onsite fire suppression is required. The District notes a preliminary agreement with Chelan County Fire Marshal to require 10,000 onsite storage fire supply for Phases 1 & 2. The onsite storage must be located for easy access for fire apparatus, and have provided a standpipe with 4" Storz connection, with cap. It is also agreed that prior to the (Phase 3) Lodge unit being built, the water system must supply the engineered flow of an NFPA 13 Fire Sprinkler System.
28. The proposal for a destination resort with outdoor events is anticipated to create noise (SEPA Checklist B.7.b). The proponent proposes to incorporate strategic placement of landscaping and outdoor pool and glamping facilities and the lodge.
29. The MPR will change the undeveloped character of the site. About 22% of the site will be developed with impervious surfaces. There will be structures in place of open land. The County's zoning code standards for setbacks and height would apply.
30. The Notice of Application was referred to jurisdictional agencies, adjacent property owners and departments of the County on December 26, 2018. These agencies were notified within 1000' (excluding 1200' of public right-of-way). Comments were due on January 10, 2019. The following agencies and County departments responded:
 - 30.1 Chelan County Fire Marshall responded on December 26, 2018
 - 30.2 Chelan County Fire District 5 responded on January 8, 2019.
 - 30.3 Chelan County Public Works Department responded on February 25, 2019.
 - 30.4 Manson Community Council responded on December 26, 2018
 - 30.5 State of Washington Department of Archaeology and Historic Preservation responded on January 10, 2019 and April 4, 2019.
 - 30.6 State of Washington Department of Ecology responded on January 7, 2019.
 - 30.7 The Confederated Tribes of the Colville Reservation responded on December 27, 2018.
31. The following agencies were notified but did not respond:
 - 31.1 Chelan County Assessor
 - 31.2 Chelan County Building and Fire Safety
 - 31.3 Chelan PUD
 - 31.4 Chelan-Douglas Health
 - 31.5 Lake Chelan Reclamation District
 - 31.6 State of Washington Department of Fish and Wildlife
 - 31.7 State of Washington Department of Natural Resources
 - 31.8 State of Washington Department of Transportation
 - 31.9 US Corps of Engineers
 - 31.10 US Fish and Wildlife Service

31.11 Yakama Nation

32. The following public comments were received:

First Name	Last Name	Email Sent Date Letter Received Date
Beverly F.	Allen-Hill	November 12, 2018
S. Michelle	Anderson	January 10, 2019
Brianna	Andrews	January 3, 2019
Geoff	Bailey	Undated
Kathy	Blum	October 18, 2018
Carl and Kathleen	Blum	January 10, 2019
Jeff and Launie	Buck	January 8, 2019
Phyllis and Mike	Coleman	January 3, 2019
Debbie	Conwell	January 7, 2019
Larry M.	Cordes, P.E., Pace (On behalf of applicant)	January 15, 2019
Rhett	Crow, Windermere	January 8, 2019
Sarah	Cushing	November 8, 2018
Sarah and Mike	Cushing	January 4, 2019
Sarah	Cushing	November 8, 2019
Dean	Davis	January 5, 2019
Rosanna M.	Detering	November 26, 2018
Nate	England	December 29, 2019
Aaron	England	January 9, 2019
Jared	England, Mason Growers Cooperative	January 8, 2019
Raye and Tyler	Evans	October 16, 2018
Tyler	Evans	January 2, 2019
Tyler and Raye	Evans	October 2, 2018
Guy	Evans, Lake Chelan Real Estate	January 6, 2019
Ashlee	Farrar	January 9, 2019

First Name	Last Name	Email Sent Date Letter Received Date
Thomas and Bambi	Fix	January 3, 2019
Heidi and Earl	Griffith	January 6, 2019
Alissa	Hei	August 30, 2018
Hans D.	Hirschberger	January 3, 2019
Wendy	Isenhardt, Chelan City Councilor	January 6, 2019
Dave and Delores	Kinsman	January 3, 2019
Jonathon	Kludt	August 23, 2018
Steve and Bobbi	Kludt	January 8, 2019
Bob	Knauss	January 5, 2019
Natalie N.	Kuehler, Principal, Ryan & Kuehler PLLC	January 9, 2019
Natalie N.	Kuehler, Principal, Ryan & Kuehler PLLC	July 3, 2019
Shannon	Lehman-Motley	January 10, 2019
Al	Lorenz	January 6, 2019
Norman	Manly	January 3, 2019
Norman	Manly	January 7, 2019
David	Marod	January 3, 2019
Frank and Vickie	McKenney	January 1, 2019
Keely	Medina	January 9, 2019
Joe and Kari	Miller	January 10, 2019
Chris	Millsap, RE/MAX	January 4, 2019
Tim and Jill	Mitchell	January 3, 2019
Ryan	Moody	January 8, 2019
Bob and Debbie	Neudorfer	October 9, 2018
John R.	Olson	January 10, 2019
Brian	Patterson	January 9, 2019
Wai Tim	Petersen	January 9, 2019

First Name	Last Name	Email Sent Date Letter Received Date
Annette	Pitts (Cascade Loop Assoc.)	January 3, 2019
Jill	Risley	January 8, 2019
Stanford and Susan	Roberts	January 4, 2019
Al	Saab	January 3, 2019
Jon	Sather, Winfield Farms	Undated
Darryl	Snow	January 10, 2019
Timi and Dana	Starkweather	January 4, 2019
Scot and Robyn	Teichen	Undated
Richard	Uhlhorn	January 10, 2019
Steven	Vaughn	January 10, 2019
Shelly	Ward	January 6, 2019
Jim and Robin	Werner	October 22, 2018
Robin	Werner	January 2, 2019
Jim and Robin	Werner	January 7, 2019
Robin	Werner	February 11, 2019
Robin	Werner	April 16, 2019
Robin	Werner	April 8, 2019
Rick and Sue	Zalewski	October 17, 2018

33. Pursuant to WAC 197-11-350 and RCW 43.21C of the State Environmental Policy Act (SEPA), environmental review and a threshold determination was completed, and the mitigated Determination of Non-significance (DNS) was issued on August 9, 2019, indicating no environmental impact statement is required, subject to compliance with the described mitigation measures:
34. The comment period for the mitigated DNS was from August 9 to August 23, 2019 .
35. The SEPA Checklist and DNS and comments received are included within the file of record and are admitted into the hearing record by this reference.
36. The application materials were submitted on August 30, 2018.
37. A Determination of Completeness was issued on December 14, 2018.
38. The Notice of Application was issued on December 26, 2018.
39. The Determination of Non-Significance was issued on August 9, 2019.

40. The Notice of Public Hearing was issued on August 9, 2019.
41. The project is not consistent with The Chelan County Comprehensive Plan in the following respects:
- 41.1 The proposal provides several uses identified in Policy LU 13.1 including temporary and permanent short-term visitor accommodations, indoor and outdoor gathering spaces for classes or retreats, shops, and worker housing. It is not oriented around significant natural or cultural features and does not offer broad-based recreation opportunities, but rather destination events. The full range of uses is not supported by adequate water service required by Policy LU 13.6; only the first phase with “glamping” is supported by the current water rights and would not function as a fully contained destination resort.
 - 41.2 The proposed MPR site is designated as agricultural land of long-term commercial significance under RCW 36.70A.170, which is discouraged as a location for an MPR under Policy LU 13.2. The land continues to qualify as agricultural land of long-term significance.
 - 41.3 Regarding compatibility and rural character in Policies 13.3 and 13.4, the site plan proposes open space on the northwest and southeast and more developed areas in southwest (retail and parking), central and east. The retail and parking area would abut a working orchard to the south, which is an incompatible level of intensity next to an AC zoned property. The central lodge and pool would abut single family homes to the west, which is an incompatible level of intensity next to low density homes. Glamping and gardens would abut lower density uses to the north and east.
 - 41.4 Permanent residential uses are proposed for workers: a house for a full-time caretaker; three houses for temporary, part-time employees. This would appear compatible with Policy LU 13.5. The density of the homes meets the MPR standards which does not count employee housing, and which allows two units per gross acre. However, the MPR density is twice as dense as the minimum 10 acres per dwelling in the AC zone.
 - 41.5 Policy LU 13.6 calls for necessary capital facilities. The proponent includes plans for septic service, use of the onsite well, power, and some road improvements. The water right is not sufficient for the full estimated demand under the full MPR. The water right is only sufficient for Phase 1, involving glamping units. Phase 1 alone is not self-contained and does not meet the MPR policies to have the uses identified in Policy LU 13.1.
 - 41.6 Policy LU 13.7 and Policy 13.9 are not applicable. The proposal does not involve an existing resort.
 - 41.7 Policy 14.8 (should be numbered 13.8), calls for precluding new urban or suburban uses. Based on the intensity of the proposal near other lower density uses, and the precedent for defacto de-designation of AC land, this policy would not be met.
 - 41.8 The MPR would not support continued use of land for agriculture, a use supported in the past, and that is returning to other AC properties. The MPR would encroach next to other ongoing agricultural operations. The plans call for minimal agricultural use of the property. The overall character of the use in the proposed MPR is commercial, not agricultural.
 - 41.9 The Antheia-Magic Earth proposal is inconsistent overall with MPR land use related policies under GOAL LU 13 and with Goals AL1 and AL2 to protect the long-term viability of agriculture.

- 42. The proposal has insufficient water rights for the full MPR. It is not connecting to a public water system nor providing a new public water system. It is proposing use of an individual well that can only support Phase 1, which is not a self-contained full service MPR.
 - 42.1 The proposal is inconsistent with Goal LU 3.
- 43. The project is consistent with CCC Chapter 11.89.020 in the following respects:
 - 43.1 Pursuant to Section 11.89.020, the Master Planned Resort development standards may supersede the zoning district requirements. However, the applicant is not proposing changes to the development standards of the base zoning district.
- 44. The project is consistent with CCC Chapter 11.89.030 in the following respects:
 - 44.1 The proposal includes: spa facilities and outdoor gardens and farm-like activities. A destination event center oriented around weddings and gatherings is planned. Visitor accommodations include “glamping” and eventually a lodge; classrooms are also planned. Residential uses are intended for employees. Commercial uses such as tasting room space for olive oil and wine, and gift shop/store are proposed. A wellhead protection area and onsite water storage for fire flow are planned but are not intended to be government owned. The site would include gathering tents and outdoor gardens.
 - 44.2 The proposed uses are allowed in a Master Planned Resort. The scale of the uses is not consistent with a Master Planned Resort.
- 45. The project is not consistent with CCC Section 11.89.040 (1) in the following respects:
 - 45.1 The proposal includes modest investments in temporary and permanent structures and improvements for events and education. The site serves resort visitors and locals who come for weddings, events, and classes. There is limited recreation. As proposed, this project does not qualify as a destination resort facility as contemplated by the Chelan County Code.
 - 45.2 The proposal offers minimal recreational activities.
- 46. The project is consistent with CCC Section 11.89.040 (2) in the following respects:
 - 46.1 The proposal is located outside of an urban growth area.
 - 46.2 The proposal is consistent with this requirement.
- 47. The project is inconsistent with CCC Section 11.89.040 (3) in the following respects:
 - 47.1 The proposal is on agricultural lands of long-term commercial significance and does not meet de-designation criteria. There is insufficient evidence for the Hearing Examiner to make a finding that the subject property is better suited and has more long-term importance as an MPR than for a commercial agricultural production
 - 47.2 The proposed use is incompatible with this requirement to maintain agricultural lands of long-term commercial significance.
- 48. The project is consistent with CCC Section 11.89.040 (4) in the following respects:
 - 48.1 The subject parcels are owned by MAGIC EARTH LLC.
 - 48.2 The proposed Master Planned Resort is under one ownership.

- 49. The project is consistent with CCC Section 11.89.040 (5) in the following respects:
 - 49.1 The application proposes a permanent on-site manager's quarter, a house for a full-time caretaker, and three houses for temporary, part-time employees.
 - 49.2 The Master Planned Resort provides employee housing.
- 50. The project is consistent with CCC Section 11.89.040 (6) in the following respects:
 - 50.1 The application does not include a plat or other division.
 - 50.2 The applicant is not seeking to divide the property by lease, sale or transfer of land.
- 51. The project is not consistent with CCC Section 11.89.040 (7) in the following respects:
 - 51.1 The applicant proposes improvements throughout the site except in the northwest "grove" and the southeast "meadow".
 - 51.2 Uses occupy most of the site in the south (parking and guest shop), central (lodge and glamping), and east (glamping). Uses are not particularly clustered. There are narrow landscaped buffers on the southern perimeter and along the abutting property line with single-family residential uses.
- 52. The project is inconsistent with CCC Section 11.89.040 (8) in the following respects:
 - 52.1 Road improvements are required based on the traffic impact analysis and the conditions proposed by Public Works and the Fire Marshall and Fire District. Pursuant to Chelan County Code, Title 12, the Chelan County Public Works Department requires frontage/off-site road improvements on Klate Road. Additionally, the Onsite / Internal Circulation Plan is subject to County standards and codes.
 - 52.2 Onsite fire suppression is required. The District notes a preliminary agreement with Chelan County Fire Marshal to require 10,000 onsite storage fire supply for Phases 1 & 2. The onsite storage must be located for easy access for fire apparatus, and have provided a standpipe with 4" Storz connection, with cap. It is also agreed that prior to the (Phase 3) Lodge unit being built, the water system must supply the engineered flow of an NFPA 13 Fire Sprinkler System.
 - 52.3 The Fire District indicates that the project should prevent the parking of vehicles on the shoulder to avoid restricting emergency access.
 - 52.4 The Chelan-Douglas Health Department indicates the well plus a 100-foot zone should be protected. (Well Site Inspection Form, Dean Butz, CDHD, July 13, 2018) There is an onsite well but insufficient water right for the full MPR; only Phase 1 including glamping in the east is addressed by current water rights. Five septic tanks are proposed.
 - 52.5 However, the overall MPR is not supported by available water rights. The proposal is inconsistent with Section 11.89.040.
- 53. The project is inconsistent with CCC Section 11.89.050 (1) in the following respects:
 - 53.1 The resort property is just under 20 acres. There is insufficient space to accomplish a major recreation feature under CCC 11.89.040 or clustering under CCC 11.89.040.
 - 53.2 The project area is insufficient to contain all elements of an MPR.
- 54. The project is consistent with CCC Section 11.89.050 (2) in the following respects:
 - 54.1 The applicant is proposing 22% impervious area and the remainder in some form of open space.

- 54.2 Developed Open Space is defined in Chelan County Code as “a landscaped area maintained for the purpose of human activity, including, but not limited to, parks, bridal paths, play fields, playgrounds, golf courses, arboretums, botanical gardens, non-motorized trails and other similar uses, including uses and structures that are accessory and supportive of the primary open space activity. Driving ranges are not considered developed open space unless operated accessory to a golf course.”
- 54.3 The applicant is proposing a mix of natural open space and developed open space throughout the nearly 20 acres greater than 40%.
- 55. The project is not consistent with CCC Section 11.89.050 (3) in the following respects:
 - 55.1 The site plan does not address a general 25-foot structure setback or 100-foot setback from AC zoned land that surrounds the site (e.g. lodge, greenhouses).
- 56. The project is consistent with CCC Section 11.89.050 (4) in the following respects:
 - 56.1 The Master Planned Resort development boundary of nearly 18.95 acres would permit approximately 37.9 units.
 - 56.2 The applicant is proposing a maximum build-out of 14-lodge units and 24 glamping units, which is consistent with the 37.9 allowed units rounded to 38.
 - 56.3 The proposed project is consistent with the density requirements.
- 57. The project is consistent with CCC Section 11.89.050 (5) in the following respects:
 - 57.1 The applicant is not seeking to change development standards with the proposed Master Planned Resort.
- 58. The project is consistent with CCC Section 11.89.050 (6) in the following respects:
 - 58.1 The applicant is proposing several parking areas with up to 120 stalls. The rate required by code is: 1 space per guest room or suite and 1/2 space per employee. That would mean about 40 stalls are required. Three times that amount is proposed to address destination events. The parking is oriented around events which could produce acute congestion and noise.
- 59. The project is not consistent with CCC Section 11.89.050 (7) in the following respects:
 - 59.1 The applicant has submitted a landscaping plan illustrating a “grove”, “vegetable farm”, and “meadow”. Irrigation is not identified, as required.
- 60. The project is consistent with CCC Section 11.89.050 (8) in the following respects:
 - 60.1 Signage is not showing on the site plan.
- 62. The project is consistent with CCC Section 11.89.050 (9) in the following respects:
 - 62.1 The applicant is proposing a wine tasting area and retail store.
 - 62.2 The existing and proposed development includes commercial services oriented to serve the overnight visitors and day-use visitors. A commercial kitchen would serve the visitors/guests.
- 63. The project is inconsistent with CCC Section 11.89.050 (10) in the following respects:
 - 63.1 Regarding water supply and fire flow see discussion under CCC 11.89.040. Septic systems will be required at the time of building with the approval of the Chelan-Douglas Health District.

- 63.2 Water rights are insufficient for the full MPR, and only available for Phase 1. The full MPR cannot be implemented at this time. Fire flow requirements can be achieved with Fire Marshall/Fire District conditions.
- 64. The project is consistent with CCC Section 11.89.050 (11) in the following respects:
 - 64.1 A road and parking plan have been submitted.
 - 64.2 The Public Works Department has identified conditions regarding compliance of public and private improvements with County codes.
- 65. The project is not consistent with CCC Section 11.89.060 (1) in the following respects:
 - 65.1 The applicant has not proposed a deed restriction, as required by the Chelan County Code.
- 66. The project is consistent with CCC Section 11.89.060 (2) in the following respects:
 - 66.1 The applicant is proposing to retain ownership of the open space.
- 67. The applicant has provided a proposed timeframe for buildout of the proposed future development of 10 years. The individual buildings/features of the site have been identified within the application and the approximate timeframe in which they intend for them to be completed.
- 68. The MPR cannot be achieved with current water rights and the Phase 1 glamping units and improvements are insufficient to meet the purpose of an MPR as a self-contained recreation-oriented resort.
- 69. The MPR is inconsistent with County Comprehensive Plan policies to protect agricultural lands of long-term commercial significance. The site is relatively small and full clustering is not achievable and distances to other AC zoned land are insufficient (e.g. less than 100 feet).
- 70. Staff reviewed the application and submitted materials. Based on the information contained in the application and compliance with the Revised Code of Washington, the Washington Administrative Code, Chelan County Comprehensive Plan, and the Chelan County Code, staff recommended **DENIAL** of this Master Planned Resort.
- 71. An open record Public Hearing after legal notice was provided was held on August 21, 2019.
- 72. The File of Record, Chelan County Department of Community Development Staff Report, and exhibits were received, admitted into the record and considered by the Hearing Examiner.
- 73. Appearing and testifying on behalf of the applicant were following individuals.
 - 73.1 Kim Ustanik;
 - 73.2 Alissa Hei;
 - 73.3 Thom Vetter;
 - 73.4 Karen Peele.
- 74. Testifying from the public were the following individuals:
 - 74.1 Shelly Ward;
 - 74.2 Tyler Evans;
 - 74.3 Ray Evans;
 - 74.4 Carl Blum;
 - 74.5 Cari Sorensen;

- 74.6 Kristen Sather;
 - 74.7 Natalie Kuehler;
 - 74.8 Robin Werner.
75. The following exhibits were admitted into the record:
- 75.1 Exhibit 1: Applicant's rebuttal to the staff report;
 - 75.2 Exhibit 2: Crystal Mountain MPR information;
 - 75.3 Exhibit 3: Sun Mountain Lodge information;
 - 75.4 Exhibit 4: Port Ludlow information;
 - 75.5 Exhibit 5: Skamania Lodge information;
 - 75.6 Exhibit 6: Washington Appellate Case, Tahoma Audubon Society v. Park Junction Partners, 128 Wash.App. 671 (2005);
 - 75.7 Exhibit 7: Washington Appellate Case, Brinnon Group v. Jefferson County, et al, 159 Wash. App. 446 (2011) ;
 - 75.8 Exhibit 8: Washington Appellate Case, Davidson Serles & Associates v. City of Kirkland, 159 Wash.App. 616 (2011);
 - 75.9 Exhibit 9: SEPA Handbook;
 - 75.10 Exhibit 10: Eastern Washington Growth Management Hearings Board, March 14, 2006 decision in Friends of Agriculture (Petitioner) v. Grant County-(Respondent);
 - 75.11 Exhibit 11: Photograph of the applicant's property;
 - 75.12 Exhibit 12: Photograph of the applicant's property;
 - 75.13 Exhibit 13: Photograph showing applicant's property and Evan's home;
 - 75.14 Exhibit 14: Department of Ecology email;
 - 75.15 Exhibit 15: Department of Ecology selected publications.
76. At the conclusion of the open record public hearing, the Hearing Examiner left the record open until August 23, 2019 for any additional public comment on the SEPA determination and the underlying permit application. The Hearing Examiner also left the record open until August 30, 2019 for the applicant to submit any rebuttal evidence in response to any additional public comments.
77. The following additional documents were submitted:
- 77.1 Department of Ecology letter dated August 21, 2019.
 - 77.2 August 26th, 2019 letter from Kim Ustanik to Kirsten Larsen.
78. The Chelan County Hearing Examiner considered all evidence within the record in rendering this decision.
79. 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. This project application is not consistent with the Chelan County Comprehensive Code.
3. This project is not consistent with all of the required criteria set forth in the Chelan County Zoning Code, Chapter 11.89.
4. Any Finding of Fact that is more correctly a Conclusion of Law is hereby incorporated as such by this reference.

DECISION

Based upon the above noted Findings and Fact and Conclusions, MPR 2018-283 is hereby **DENIED**, subject to the conditions noted below.

Approved this 12th day of September, 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.