

BEFORE THE CHELAN COUNTY HEARINGS EXAMINER

RECEIVED

IN THE MATTER OF  
P2019-008  
Eagle Creek Cluster Subdivision

)  
SEP 02 2020  
)  
CHELAN COUNTY  
COMMUNITY DEVELOPMENT

FINDINGS OF FACT,  
CONCLUSIONS OF LAW,  
DECISION AND CONDITIONS  
OF APPROVAL

THIS MATTER, having come on for hearing in front of the Chelan County Hearing Examiner on August 12, 2020, 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 to cluster subdivide approximately 15.8 acres into (6) residential lots with (3) dedicated open space tracts. The smallest lot is proposed at approximately 0.55 acres and the largest lot is proposed at approximately 0.78 acres. The dedicated open spaces tracts would total approximately 11.54 acres.
2. The applicant/owner is Evan Westcott, Eagle Creek Shelter, LLC, 1100 Bellevue Way NE, Suite 8A-177, Bellevue, WA 98004. The agent/surveyor is Michelle Taylor, Northwest Geodimensions, 15 N. Chelan Ave., Wenatchee, WA 98801.
3. The subject property is located at 10261 Eagle Creek Rd, Leavenworth, WA 98826.
4. The parcel number for the subject property is 25-18-28-200-100.
5. The subject property is located outside of any Urban Growth Area.
6. The Comprehensive Plan designation and zoning designation for the subject site is Rural Residential/Resource 5 (RR5).
7. The subject property slopes down from the road to the lowest portion reaching the bank of Eagle Creek, an F-type stream.
8. The subject property is approximately 15.8 acres.
9. The property to the north is Eagle Creek Road, county right of way, is in residential use, and is zoned Rural Residential/Resource 5 (RR5).
10. The property to the south is in residential use, is zoned Rural Residential/Resource 5 (RR5).
11. The property to the east is in residential use, and is zoned Rural Residential/Resource 5 (RR5).
12. The property to the west is in residential use, and is zoned Rural Residential/Resource 5 (RR5).
13. The applicant submitted an Aquifer Recharge Area Disclosure Form, date stamped October 14, 2019. Being as two criteria pursuant to Chelan County Code (CCC) Section 11.82.040 applies to the proposed development, the subject property is required to comply with Chelan County provisions. Therefore, a Vulnerability Rating Report in accordance with CCC Section 11.82.050 is required prior to final plat approval. A Vulnerability Rating Report was submitted on February 28, 2020 indicating that the proposed development has a moderate vulnerability rating. Therefore, the provision of CCC Section 11.82.060(9) must be satisfied.

14. Pursuant to the Federal Emergency Management Agency, FIRM map panel 5300150800A, the subject property does not contain identified 100 or 500-year flood plain or associated floodway. Therefore, CCC Chapter 11.84, Frequently Flooded Areas Overlay District would not apply.
15. According to the Chelan County GIS mapping, the subject property does contain potential geologic hazardous areas. Therefore, the provisions of CCC Chapter 11.86, Geologically Hazardous Areas Overlay, would apply. A geological site assessment dated October 9, 2019 conducted by Stanton Geological Service, LLC was submitted with application. The site is concluded compatible with residential development if geologic hazards are mitigated per the provided recommendations.
16. Chelan County GIS map layer does indicate that the subject property is located within a potential geologic hazard area. Therefore, the provisions of CCC Chapter 11.86 would apply to new structures.
17. Pursuant to the National Wetlands Inventory Map the subject property does contain a known wetland. Based on the wetland delineation prepared by Grette Associates, LLC on March 15, 2019, and follow up report dated August 19, 2020, the riverine wetland is classified as a Category II, which requires a 100 ft. buffer from the edge of the wetland boundary. Comments from WA Dept. of Ecology received December 6, 2019, stated that the wetland delineation prepared by Grette Associates, LLC was conducted outside of the growing season and during a drought period. An amended report was requested to be conducted during the early growing season. Based on the comments from Ecology, staff issued a Request for Additional Information on January 13, 2020 requiring a revised wetland delineation or report be provided. A supplemental wetland letter prepared by Grette Associates, LLC was provided and forwarded to WA Dept. of Ecology for their review, per the email received from WA Dept. of Ecology on February 12, 2020, the submitted letter addressed Ecology's concerns regarding the wetland and Ecology had no further comments. Therefore, the provisions of CCC Chapter 11.80, Wetland Areas Overlay, would apply to the delineated Category II riverine wetland.
18. Based on the Washington State Department of Natural Resources FPARS stream typing map, Eagle Creek an F-typed stream, borders the southern property line of the subject property. Eagle Creek holds a protective buffer setback of 150 ft. from the Ordinary High Water Mark (OHWM). Therefore, the provisions of CCC Chapter 11.78 for riparian areas, would apply. Pursuant to the Washington State Department of Fish and Wildlife Priority Habitat and Species Maps and Chelan County Fish & Wildlife Overlay District, CCC Chapter 11.78, the subject property does not contain priority species. Therefore, the provisions of CCC Chapter 11.78 would not apply.
19. On June 20, 2019, a pre-application meeting was held to discuss the proposed major cluster subdivision.
20. The proposed subdivision fronts on and is to access from Eagle Creek Road. Eagle Creek Road is a variable right of way width (along project frontage) of 49 ft. to 60 ft. and is classified as a Rural Major Collector Road in the county road system. Eagle Creek Road is a 27 ft. paved roadway with 3 ft. shoulders, providing single lanes for traffic in both directions with no curb, gutter, or sidewalk. Existing intermittent guardrail runs along the south side of the roadway. A lot access and addressing plan pursuant to CCC Section 15.30.310 will be required to be submitted prior to final plat approval. The plan must demonstrate how all lots and any existing driveway easements will be constructed and how they meet county road approach standards.
21. The comment letter from Chelan County Public Works, dated December 5, 2019, states a private stormwater drainage system is required with an Operation and Maintenance Agreement of the drainage system and recorded with the final plat.

22. Domestic water is proposed to be served by a public group water system yet to be developed. The proposed system must be reviewed and approved by the WA Dept. of Health as well as have the construction of the system certified by the State Board of Health Regulations prior to final plat approval.
23. Sanitation is proposed to be provided by individual on-site septic systems with shared drainfields located in proposed open space Tract B. Based on site evaluations prepared by Tower Designs conducted on September 18, 2019, all lots meet or exceed the state minimum lot size based upon soil type and source of domestic water supply.
24. Power would be provided via an extension of the Chelan County PUD.
25. Noise impacts are addressed in Chelan County Code Chapter 7.35.
26. The applicant submitted an environmental checklist on October 14, 2019. Pursuant to WAC 197-11 and RCW 43-21C of the State Environmental Policy Act (SEPA), an environmental review and a threshold determination was completed. A Mitigated Determination of Non-significance (MDNS) was issued on June 2, 2020. The SEPA Checklist and DNS are included within the file of record and adopted by reference.
27. The Notice of Application was referred to agencies and departments on November 21, 2019 and surrounding property owners within 300 ft. excluding 60 ft. of right-of-way with comments due December 5, 2019. 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	Nature of Comment
Chelan County Assessor	November 22, 2019	The legal description appears to be correct and there are no delinquent taxes.
Chelan County Fire Marshal	December 3, 2019	The subject property is located within Fire District #3. Recommended conditions of approval for fire flow provisions.
Chelan County Building Official	No Comment	
Chelan-Douglas Health District	November 25, 2019	Recommended conditions of approval were provided for the proposed project regarding public water system and on-site septic systems.
Chelan County Public Works	December 5, 2019	Recommended conditions of approval were provided for the proposed project regarding lot access and stormwater requirements.
Chelan County PUD	November 25, 2019 & November 27, 2019	Line extensions will be required for the proposed project and necessary easements may be required with the finalization of the proposed project.
WA Dept. of Natural Resources	No Comment	

WA Dept. of Ecology	December 6, 2019	Recommended further review of wetland on site; upon receipt of amended application materials, on February 12, 2020 Ecology confirmed that the provided materials addressed the concerns and no further comments were needed.  Additionally, due to the historical use of the subject property, the subject property may contain residual concentrations of pesticides; Ecology recommends that potential buyers be notified of their occurrence.
WA Dept. of Fish & Wildlife	February 21, 2020 & March 31, 2020	Recommended conditions to provide long term protection of critical riparian area.
US Dept. of Fish & Wildlife	No Comment	
Fire District #3	No Comment	
Cascade School District	No Comment	
WA Dept. of Archaeology & Historic Preservation	November 21, 2019	Based on comments received from WA Dept. of Archaeology & Historic Preservation dated November 21, 2019, the subject property is located in an area as having a high potential for archaeological resources; a cultural resource survey is requested.
Yakama Nation	No Comment	
Confederated Tribes of the Colville Reservation	No Comment	
Chelan County Natural Resources	No Comment	

28. Numerous public comments regarding the proposed development were received. Development concerns include: critical areas, added residential density, inadequate environmental studies, possibility of vacation rentals, the County's review process, the County's notification process, incompatible rural development, water usage, multiple septic systems, noise pollution, disturbance of wildlife habitat, traffic congestion, wildfire due illegal burning, loss of neighborhood character, incorrect density calculation, view obstructions, inadequate setbacks, development in open space, decreased property values, exploitation of legal loop holes, setting a

precedent, out of compliance with Chelan County Comprehensive Plan, potential of drought, breaking of County zoning laws, and proposed lots sizes.

29. The application materials were submitted on October 14, 2019.
30. A Determination of Completeness was issued on November 19, 2019.
31. The Notice of Application was provided on November 21, 2019.
32. A Request for Additional Information was requested on January 13, 2020.
33. The SEPA MDNS was issued on June 20, 2020.
34. The Notice of Public Hearing was provided on July 31, 2020.
35. The Comprehensive Plan has been reviewed for consistency with the goals and policies related to Rural Designations including the specific criteria for the Rural Residential/Resource 5 (RR5) zoning designation as it relates to rural residential development. Pursuant to the Chelan County Comprehensive Plan, page 8-9 of the Rural Element, states the purpose of the RR5 designation is to:

“Provide opportunities for small scale agricultural activities, and rural development consistent with the rural character and rural development provisions outlined in goals and policies of the comprehensive plan. These areas may provide opportunities for protecting sensitive environmental areas and open space typical of a rural setting... appropriate for these areas include: open space, residential, agriculture, and forestry. Additional uses may be considered with supplemental provisions. These provisions shall address performance standards, impacts to the surrounding area, and be consistent with the goals and policies of the comprehensive plan. Such uses may include: intensification of existing development.”

36. Chelan County Code Section 11.12.020: Standards:
  - 36.1 Minimum lot size shall be 5 acres unless modified one time for: (A) cluster subdivisions or planned developments; (B) Fractional lots within a minor or major subdivision; (C) Fractional boundary line adjustment; or (D) Lot size reduction for an existing dwelling.
  - 36.2 Minimum lot width is 100 ft. at the front building line.
  - 36.3 Maximum building height is 35 ft.
  - 36.4 Maximum lot coverage is 35%.
  - 36.5 Minimum setback requirements shall be:(A) Front yard: 25 ft. from the front property line or 55 ft. from the street centerline, whichever is greater; (B) Rear yard: 20 ft. from the rear property line; (C) Side yard: 5 ft. from the side property line.
  - 36.6 Setback requirements may be modified if abutting commercial agricultural lands (AC), riparian and/or shoreline areas
  - 36.7 The proposed lots would be for residential use. The applicant is proposing lots ranging in size from 0.55 acres to 0.78 acres with the average lot size of approximately 0.71 acres. Comments from Chelan Douglas Health District, dated November 25, 2019 states, based on the soil evaluations, all proposed lots meet or exceed the state minimum lot size based upon soil type and source of domestic water supply.

- 36.8 Being as the subject property is located adjacent to wetland areas as well as riparian areas, the setback requirements pursuant to CCC 11.78 and CCC 11.80 apply to the proposed development. The delineated Category II wetland requires a 100 ft. setback from the boundary of the wetland. Eagle Creek, an F-typed stream, requires a 150 ft. setback from the OHWM of the creek. Based on the site plan of record, dated June 2, 2020, all building envelopes for the proposed lots, with the exception of Lot 5, would be located outside of the associated critical area buffers. Lot 5 is currently developed residentially. However, if new development is to occur on proposed Lot 5, the requirements of CCC 11.78 and CCC 11.80 would apply.
- 36.9 All proposed lots exceed the minimum lot width of 100 ft. at the front building line. Building setbacks, height, and lot coverage would be reviewed at the time of building permit application.
- 36.10 The Hearing Examiner finds that the proposed major cluster subdivision, as conditioned, would be consistent with the provisions of CCC Section 11.12.020. The design standards of the zoning district within which the lot is located, critical area regulations, and all other applicable development standards and regulations can be met.
37. Chelan County Code Section 12.04.020: Suitability for Land Division:
- 37.1 As conditioned, the proposed major cluster subdivision would be consistent with the provisions of this section.
38. Chelan County Code Chapter 12.08: Standards:
- 38.1 The proposed subdivision is to be named Eagle Creek Cluster Subdivision, which does not appear to be similar to the name of any other subdivision in the county.
- 38.2 The proposed lots were reviewed for consistency with the major subdivision standards and appear that they are of an adequate size to accommodate residential development within the dimensional standards of the RR5 zoning district as well as outside the required critical area setbacks. The proposed lots are to access off of Eagle Creek Road, a county road not identified to be primitive. Private access easements may be needed and/or required to access all proposed lots. Said easements shall be shown on the face of the final plat.
- 38.3 Based on the site plan of record, dated June 2, 2020, the proposed subdivision would not result in barriers to the development of the adjacent lots.
- 38.4 Pursuant to RCW 58.17.255 and WAC 332-130-040, all easement locations are required to be shown on the final plat. Separate instruments recorded with the Chelan County Auditor should be referenced on the final plat. Easements will be reviewed with blueline submittal.
- 38.5 The subject property is within Fire District 3. Based on comments received from Chelan County Fire Marshal on December 3, 2019, there is no fire hydrant located on or near the subject property. Therefore, alternative fire flow provisions are necessary. The proposed subdivision and all future building permits must conform to all applicable requirements of the International Fire Code and International Building Code administered by the Chelan County Fire Marshal.
- 38.6 Comment letter from Chelan County Public Works, dated December 5, 2019, states that the proposed subdivision must comply with the stormwater standards per Chelan County Code Chapters 13.12, 13.14, 13.16, & 13.18.

- 38.7 Site evaluations were provided by Tower Designs, Inc. which determined based on the test holes that the site is suitable for subdivision utilizing on-site sewage disposal systems. Shared drain fields are proposed and are to be located within open space Tract B. The Chelan Douglas Health District provided comment that proposed lots meet or exceed this minimum size requirement of on-site sewage disposal systems. Additionally, domestic water is proposed to be served by a public group water system yet to be developed. The proposed system must be reviewed and approved by the WA Dept. of Health as well as have the construction of the system certified by the State Board of Health Regulations prior to final plat approval.
- 38.8 Title 15 requires the Addressing/Lot Access Plan to demonstrate how all lots and any existing driveway easements will be constructed and how they meet the county road approach standards. Prior to final plat review, the proposal should be reviewed by Chelan County Department of Public Works for compliance with Title 15. Pursuant to CCC Section 15.30.825, monumentation will be required to be placed on Eagle Creek Road if not already monumented.
- 38.9 As conditioned, the proposed major cluster subdivision would be consistent with the provisions of this section.
39. Chelan County Code Chapter 12.12: Subdivisions:
- 39.1 Cluster subdivisions may occur within the RR5 zoning district on parcels greater than 150% of the minimum required area and result in at least (2) buildable lots and (1) open space tract. The applicant is proposing (6) lots and (3) open space tracts on approximately 15.8 acres. The proposed open space tract would be developed consistent with CCC Section 12.12.050(4)(C), for common open space to be owned by the proposed home owner's association. The proposed lots appear to be clustered in a way to preserve and protect the critical areas on site while also accounting for the steeper slopes located along the northern property line.
- 39.2 The initial application as applied for on October 14, 2019, proposed to apply for added density utilizing the public benefit feature of Open Space, Wildlife, and Vegetation Enhancements (5%) and a 20 ft. greenbelt (5%) pursuant to CCC Section 12.12.050(G)(iii)&(iv), for a total of 10% bonus density. However, after comments received from WA Dept. of Fish & Wildlife indicated that the development, as proposed would not satisfy all the requirements of the Open Space, Wildlife, and Vegetation Enhancement feature, the application was modified to allocate more acreage into open space pursuant to CCC Section 12.12.050(G)(i). Thus the Habitat Management and Mitigation Plan, received March 6, 2020, would no longer be needed to satisfy the cluster subdivision criteria of CCC Chapter 12.12.
- 39.3 The proposed open space tracts would total approximately 11.54 acres, which is 73% of the 15.8 acres of the subject property. Therefore, the additional 3% of gross land dedicated to open space results in an additional 10% bonus density, pursuant to CCC Section 12.12.050(G)(i). The density allowed by the cluster subdivision provisions for the subject property is 6 buildable lots based on the following calculations: [(15.8 total acres / 5 acres) = 3.16 x 160% = 5.05, rounds to 6 lots].
- 39.4 Due to the diverse critical areas on site, the applicant is proposing (3) separate open space tracts:
- 39.4.1 [(15.8 total acres / 5 acres) = 3.16 x 160% = 5.05, rounds to 6 lots]

- 39.4.2 Tract A is proposed as an undisturbed tract of land. Said tract shall be kept in its natural state as a way to preserve the protected critical areas for wetlands and riparian habitat.
- 39.4.3 As recommended by WA Dept. of Ecology and WA Dept. of Fish & Habitat as well as conditioned in the issued MDNS, Tract A shall be maintained in its natural condition. A conservation easement or notice to title which clearly defines and implements long-term management and monitoring of the open space, as reviewed and approved by Chelan County Community Development, shall be recorded prior to the finalization of the proposed subdivision to ensure Tract A shall not be further developed or disturbed.
- 39.4.4 Additionally, as a way to ensure potential buyers are aware of the boundary of Tract A, staff recommended that a wildlife passable fence be permanently installed at the edge of Tract A to demark areas which are to be retained in natural conditions.
- 39.4.5 Tract B and C are primarily located outside of the protective critical area buffers. The maintenance and allowable uses for these tracts shall be outlined in the protective covenants prior to final plat approval.
- 39.4.6 As indicated on the site plan of record, a fire management protection area has been proposed adjacent to the proposed lots. Said protection area that is located within the protective critical area buffers shall not be modified or disturbed. Therefore, mowing shall be discontinued.
- 39.4.7 As conditioned, the proposed major cluster subdivision would be consistent with the provisions of this section.
40. An open record public hearing after due legal notice was held, using Zoom video conferencing, on August 12, 2020.
41. At this open record public hearing, the entire planning staff file was admitted into the record.
42. Appearing and testifying on behalf of the applicant/owner was Michelle Taylor. Ms. Taylor testified that she was an agent authorized to appear and speak on behalf of the applicant. Ms. Taylor testified that the applicant had no objection to any of the proposed conditions of approval. She indicated that there would be two separate water sources, however, all lots would be bound by sharing 5,000 gallons per day on the metered wells.
43. Testifying from the public were the following individuals:
- 43.1 Julie Norton. Ms. Norton submitted her letter dated August 12, 2020, which was admitted into the record. Ms. Norton testified consistent with this letter. Ms. Norton's testimony generally argued that the application was incomplete, that the water source was deficient, that the site plan had been materially amended and that the septic report was insufficient given the fact that the lots were now smaller. Ms. Norton also argued extensively regarding her position that the wetland report submitted on behalf of the applicant may be flawed and because the point score found by Jay Dirkse, indicating that it was a Type II wetland, as opposed to a Type I wetland, was so very close, that a new wetland delineation at a different time of year, needed to be completed. Ms. Norton indicated that there is a checkerboard effect of the lots interspersed between open space, and they are not clustered together as required by the Code. She indicated it was her opinion that the applicant had failed to establish the public interest benefit.



- 43.2 Nate Hough-Snee. Mr. Hough-Snee testified consistent with his written comments submitted to the County. Basically, he testified that in his opinion the wetland report has uncertainty due to the study being done out of season and following drought conditions. His recommendation was that there be additional wetland mapping completed during the growing season.
44. In rebuttal, the following persons testified on behalf of the applicant:
- 44.1 Jay Dirkse. Mr. Dirkse testified that he prepared the wetland delineation and he stands by his analysis and the delineation report based on the unique circumstances of the property, including that the wetland boundary begins at the toe of a steep slope. He testified that the drought conditions did not impact the wetland boundary and that he made the most conservative assumptions in making his delineation.
- 44.2 Evan Westcott. Mr. Westcott testified that he is the owner of the applicant company. He stated that the setback for the wetland is 150 ft., which is greater than is required for a Type II wetland. He testified that all lots would be developed with single family residences.
45. Because of the letter by Ms. Norton was submitted on August 12, 2020, the date of the hearing, the Hearing Examiner granted the applicant's request to allow additional time to respond to this letter. The Hearing Examiner kept the record open until August 19, 2020 for the applicant to submit whatever rebuttal information they wished to submit.
46. The applicant did submit the following additional materials:
- 46.1 August 17, 2020 letter from Michelle Taylor of Northwest GeoDimensions.
- 46.2 August 19, 2020 letter from Jay Dirkse of Grette Associates.
47. The Hearing Examiner finds that the wetland delineation performed by Jay Dirkse was correct, and that the wetland on the property is a Category II wetland.
48. The public is benefited by this development as it establishes additional residential property and maintains enhanced and significant open spaces preserving the rural character of the surrounding area.
49. The Chelan County Code does allow separation of various segments of the cluster development.
50. The Chelan County Hearing Examiner considered all evidence within the record in rendering this decision.
51. 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 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.

## **DECISION**

Based upon the above noted Findings and Fact and Conclusions, Conditional Use PLAT 2019-008 is hereby **APPROVED**, subject to the following Conditions of Approval.

## **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 project 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 12.24.040, the final Plat shall be designed in substantial conformance with the preliminary plat of record, date stamped June 2, 2020, on file with the Chelan County Department of Community Development, except as modified herein. No increase in density or number of lots shall occur without a re-submittal of a plat application.
4. Pursuant to CCC Section 12.24.015 and RCW 58.17.140, all requests for final Plat approval must be submitted within five (5) years from the date of preliminary approval, unless an extension is granted.
5. Pursuant to RCW 58.17.255 and WAC 332-130-040, all easement locations are required to be shown on the final Plat. Separate instruments recorded with the Chelan County Auditor shall be referenced on the final Plat.
6. Pursuant to RCW 84.56.345, all taxes, delinquent taxes, and assessments that are required to be paid by the Chelan County Treasurer shall be paid prior to final Plat recording.
7. Based on comment letter received from WA Dept. of Archaeology & Historic Preservation, the subject property is located in an area with high potential for archaeological resources. Prior to ground disturbing activities and the finalization of the Plat, consultation with the Washington State Department of Archaeology and Historic Preservation (DAHP) shall be required. A cultural resource survey shall be conducted unless documentation as provided by DAHP relinquishes this requirement.

8. Pursuant to CCC Section 11.12.020(1), the minimum lot size may be modified one time for a cluster subdivision. The following note shall be placed on the final Plat:
  - 8.1. **“The lots associated with this plat shall not be further subdivided utilizing the provisions of CCC Section 11.12.020(1)(A-D), as amended.”**
9. Pursuant to CCC Chapter 11.78 and CCC Chapter 11.80, no mowing or vegetation removal shall occur within the established riparian and wetland buffers.
10. Pursuant to CCC Chapter 11.78, all riparian buffers shall be temporarily fenced between the construction activity and the riparian buffer with a highly visible and durable protective barrier, such as filter fencing and straw bales, during construction to prevent access and protect the riparian buffer. The administrator may waive this requirement if an alternative to fencing which achieves the same objective is proposed and approved.
11. Pursuant to CCC Section 11.78.240, the following note shall be placed on the final plat:
  - 11.1. **“The subject property is within identified mule deer habitat and the requirements of the Chelan County Code Chapter 11.78, Fish and Wildlife Habitat Conservation Areas apply, as amended.”**
12. Pursuant to CCC Chapter 11.80, the boundary of the wetland shall be staked, flagged, or marked in the field and maintained throughout the duration any of on-site construction.
  - 12.1. The wetland buffer area shall be temporarily fenced between the construction activity and the buffer area with a highly visible and durable protective barrier(s) during construction to prevent access and sedimentation from disturbed areas from entering the wetland or its buffer.
13. Pursuant to CCC Chapter 11.82, the following note shall be placed on the final plat:
  - 13.1. **“Pursuant to CCC Section 11.82.040(8) & (11), the vulnerability rating is moderate.”**
14. Pursuant to CCC Section 11.86.080, the following note shall be placed on the final plat:
  - 14.1. **“All or part of this area may be located within a suspected or known geologically hazardous area. Subsequent development shall be consistent with Chelan County Code Chapter 11.86 Geologically Hazardous Areas Overlay District, as amended; and the Geological Site Assessment prepared by Stanton Geological Services, LLC dated October 19, 2019 or with a site-specific geological site assessment.”**
15. Pursuant to CCC Section 11.80.130, the following note shall be placed on the final Plat:
  - 15.1. **“The subject property is located within or near a categorized wetland buffer. Subsequent development shall be consistent with Chelan County Code, Chapter 11.80 Wetland Areas Overlay District, as amended; and the Wetland Determination prepared by Grette Associates, LLC on March 15, 2019, or as amended.”**
16. Pursuant to CCC Chapter 12.12, Open Space Tract A shall be maintained in its natural condition. A conservation easement or notice to title which clearly defines and implements long-term management and monitoring of the open space, as reviewed and approved by Chelan County Community Development, shall be recorded prior to the finalization of the proposed subdivision to ensure Tract A shall not be further developed or disturbed.

- 16.1. Prior to final plat approval, a wildlife passable fence shall be permanently installed at the edge of Open Space Tract A as recommended by WA Dept. of Ecology, to demark areas to be retained in natural conditions.
17. Pursuant to CCC Section 12.12.050(4)(C), the following shall be required prior to final plat approval:
  - 17.1. All legal documents necessary to implement and maintain the common open space managed by the proposed home owner's association (typically in the form of notice to title) shall be filed by the applicant with the final cluster development plan and program, and shall be subject to approval as to form by the administrator. Recorded documentation shall be noted, by the auditor's file number, on the final plat for reference.
  - 17.2. Pursuant to CCC Section 12.08.030, the proposed drainfield easements shall be shown and/or dedicated on the final plat. Management and maintenance of said easements shall be included in the common open space management plan as referenced above.
18. Pursuant to CCC Title 12, the following note shall be placed on the final Plat:
  - 18.1. **"This property is within or near designated agricultural lands, forest lands, or mineral resource lands on which a variety of commercial activities may occur that are not compatible with residential development for certain periods of limited duration."**
  - 18.2. **"Chelan County is not responsible for notification or enforcement of covenants to 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."**
  - 18.3. **"Based on historical agricultural use of this land, there is possibility the soils contains residual concentrations of pesticides. The WA State Dept. of Ecology recommends 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 WA State Dept. of Ecology recommends that the potential buyers be notified of their occurrence."**
19. Pursuant to the Revised Code of Washington, the following notes shall be placed on the final Plat:
  - 19.1. **"Noxious weed control is the responsibility of the individual lot owners, per RCW 17.10.140, as amended."**
  - 19.2. **"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."**
20. Pursuant to CCC Section 12.08.030, the applicant shall provide any necessary line extensions and any associated easements pursuant to the standards of Chelan County PUD No. 1. All easements shall be denoted on the final plat.
21. Pursuant to CCC Section 12.08.040 and the Chelan County Fire Marshal, the following shall be required:
  - 21.1. The proposal/project shall conform to all applicable requirements of the International Fire Code and Chelan County Code administered by the Chelan County Fire Marshal.

- 21.2. Plans for fire apparatus access roads, designed in accordance with CCC Chapter 15.30 road standards, shall be submitted to the Chelan County Public Works for review and approval prior to project approval.
- 21.3. All lands upon which buildings or portions of buildings are hereafter constructed in or moved within Chelan County or improved, shall be served by a water supply designed to meet the required fire flow for fire protection as set out in CCC Section 15.40.040 and the current edition of the International Fire Code (IFC).
- 21.4. The minimum fire flow and flow duration for buildings other than one and two-family dwellings shall be as specified in Table B105.1(2) of the IFC, except that a reduction in required fire flow of up to 75% as approved, is allowed when the building is provided with an approved automatic sprinkler system. The resulting fire flow shall not be less than 1,000 gallons per minute.
- 21.5. New homes shall have approved address numbers, building numbers or approved building identification placed in a position that is plainly legible and visible from the street or road fronting the property. The design of the proposed sign shall be submitted to the Fire District and/or Fire Marshal for approval prior to installation.
- 21.6. 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 are impractical. Applicant is encouraged to contact the Fire Marshal to ascertain how the attached fire protection credits options apply to their project. A note on the face of the final plat shall state: **“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.”**
- 21.7. Class A roofing/noncombustible roof covering, as defined in the International Building Code, shall be used in all areas of Chelan County. A note on the face of the final mylar shall state: **“All buildings that require a building permit within this development shall have Class A roofing materials.”**
22. Pursuant to CCC Section 12.08.060 and the Chelan Douglas Health District, the following shall be required:
- 22.1. 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.
- 22.2. Protective covenants for each public well point must be declared in the dedicatory language on the plat as follows:
- 22.2.1. **“A Declaration of Covenant recorded as a notice to title with [name of 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.”**
- 22.2.2. **“The Declaration of Covenant and Restrictive Covenant(s) recorded as a notice to title with [name of county here] 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.”**
- 22.3. The dedicatory language on the final plat shall carry these notes:
- 22.3.1. **“The Health District has not reviewed the legal availability of water to this development.”**
- 22.3.2. **“The combined water use by all the wells in this development may not exceed 5000 gallons per day or be used to irrigate more than ½ acre unless a ground water withdrawal permit is obtained from the Department of Ecology (RCW 90.44.050).”**
- 22.4. Any existing onsite sewer systems must be shown on the blue line plat drawing. The final plat shall show necessary easements, and reference any legal access documents recorded separately from the plat.
23. Pursuant to CCC Section 12.08.080 and Chelan County Public Works, the following shall be required:
- 23.1. Pursuant to CCC Section 11.88.070, the applicant is required to dedicate additional right-of-way to make the right-of-way on Eagle Creek Road 30’ from centerline.
- 23.2. Pursuant to CCC Section 12.02.020, the applicant will required to demonstrate legal and perpetual access for the proposed lots on the subdivision.
- 23.3. Pursuant to CCC Section 15.30.340 the applicant shall file Joint Access Maintenance and Upgrading Agreements appurtenant to all the property owners having a vested interest in the private shared/common access. Said agreement must be provided simultaneously with the Preliminary Mylar (blue line) submission. Said agreement shall be recorded with the final plat.
- 23.4. Pursuant to CCC Section 15.30.650 requires the following language on the face of the plat: **“Chelan County has no responsibility to build, improve, maintain, or otherwise service any private road for this plat.”**
- 23.5. Pursuant to CCC Section 15.30.310, the applicant shall cause a note to be placed on the face of the plat stating: **“All new driveways accessing County Roads shall require an access permit from Chelan County Public Works, prior to the issuance of a building permit.”**
- 23.6. Pursuant to CCC Chapter 10.20 and 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 easements will be constructed and how they meet county road approach standards.
- 23.7. Pursuant to CCC Chapter 10.20 the applicant shall add the following note to the final plat for addressing: **“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)”**.
- 23.8. Pursuant to CCC Section 15.30.820, the applicant shall not obstruct sight distance with a centralized mailbox or locate a centralized mailbox on a County road right-of-way that will hinder County Road Maintenance.
- 23.9. The applicant shall submit lot closure calculations with the preliminary blue line submission.
- 23.10. The final plat shall demonstrate the following:
- 23.10.1. Plat must identify all roads as public or privates.
- 23.10.2. Plat must identify centerlines and easement dimensions on any new proposed roads.
- 23.10.3. Plat must show all easements that benefit or burden the project site.
- 23.10.4. Monumentation must be placed on Eagle Creek Road if not already monumented.

23.11. Preliminary plat must comply with stormwater standards, CCC Chapter 13.12, 13.14, 13.16, & 13.18.

23.12. A private stormwater drainage system will be required for the proposed preliminary plat. Operation and maintenance of the private drainage system will 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 (bluelines) and shall be recorded with the final plat. The following not shall be placed on the final plat:

23.12.1. "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\_\_\_\_\_.**

24. Pursuant to the applicant's factual representations, the applicant shall maintain a 150 ft. buffer from the Category II wetland area.
25. Pursuant to Chelan County Code 12.12.040 and CCC 12.12.050, the entire development shall be limited to sharing 5,000 gallons per day from a Type B water system or multiple Type B water systems. The water usage shall be metered.
26. Pursuant to Chelan County Code 12.12.040 and CCC 12.12.050, the applicant shall comply with all requirements of Chelan County Public Works, Chelan County Fire District No. 3, Washington Department of Fish and Wildlife and Washington Department of Ecology.
27. Pursuant to Chelan County Code 12.12.040 and CCC 12.12.050, there shall be no development in any portion of any of the designated open spaces.

Approved this 1st day of September, 2020.

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.