

BEFORE THE CHELAN COUNTY HEARINGS EXAMINER

IN THE MATTER OF)
)
CUP 2021-423)
RiverCom 911)
)
)

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

THIS MATTER, having come on for hearing in front of the Chelan County Hearing Examiner on November 3, 2021, the Hearing Examiner having taken evidence hereby submits the following Findings of Fact, Conclusions of Law, Decision and Conditions of Approval as follows:

I. FINDINGS OF FACT

1. This is an application for a Conditional Use Permit requested for the construction of a 120 ft. tall, two-way radio communication tower, 32 ft. x 12 ft. concrete equipment shelter, concrete retaining wall, and installation of three solar panels. The proposed wireless communication tower would be used for public safety communication by RiverCom 911.
2. The Applicants/Owners are RiverCom 911, 140 Mission St., Wenatchee, WA 98801. Their agent is Jeremiah Johnson, Josh Humphrey, and Misty Viebrock, RiverCom 911.
3. The subject property is located at NNA, Malaga, WA 98828.
4. The abbreviated legal description and parcel number of the subject property is T 21N R 21EWM S 03 PT N1/2 Tract 24 Survey 41/28. Parcel No. 21-21-03-140-050. The property is 177.53 acres, according to Chelan County Assessor's Records.
5. The subject property is outside of an Urban Growth Area.
6. The property is located within the Rural Residential/Resource 20 (RR20) zoning district and comprehensive plan designation.
7. The property is currently undeveloped with no previous building or land use permits.
8. The property to the north is zoned Rural Residential/Resource 20 (RR20).
9. The property is vegetated with typical shrub-steppe vegetation and some mature trees. The property is moderately hilly with a ravine running from the south edge to the northeast corner. The property does contain habitat for golden eagles and northern spotted owl.
10. The property to the north is zoned Rural Residential/Resource 10 (RR10) and Rural Residential/Resource 20 (RR20) and is primarily undeveloped parcels with few single-family residences.11.
11. The property to the south is zoned Rural Residential/Resource 20 (RR20) and is vacant land owned by Columbia River Ranch, LLC.12.
12. The property to the east is zoned Rural Residential/Resource 20 (RR20) and is vacant land owned by Alcoa Wenatchee, LLC.

13. The property to the west is zoned Rural Residential/Resource 20 (RR20) and is a single-family residence owned by Chase and Amanda Yarbrough.
14. The applicant submitted an Aquifer Recharge Disclosure Form, date stamped September 15, 2021. The proposed project does not require a vulnerability report, pursuant to Chelan County Code (CCC) Chapter 11.82.
15. Pursuant to the Washington State Department of Fish and Wildlife Priority Habitat Species Maps, the subject property does contain identified golden eagle and northern spotted owl habitat. Therefore, the provisions of CCC Chapter 11.78, do apply.
16. According to the Natural Resources Stream Typing Maps, no riparian areas and/or their buffers are identified within the project area.
17. Chelan County GIS map layer indicates that the subject property is located within a potential geologic hazard area. Therefore, the provisions of CCC, Chapter 11.86 apply to the project. A geologic site assessment prepared by Budinger & Associates, LLC, dated May 19, 2021, has been submitted with the application materials.
18. Pursuant to the National Wetlands Inventory Maps prepared by the US Department of Fish and Wildlife Services, no wetlands are indicated on or adjacent to the subject property; therefore, the provisions of CCC Chapter 11.80 Wetland Areas Overlay District do not apply.
19. No comment was received indicating that the proposed development would be located within an area of high probability for containing cultural resources.
20. The applicant plans to begin construction in late 2021 or early 2022.
21. The subject property is granted legal access through a recorded easement, AFN: 2545206.
22. Domestic Water: Not applicable.
23. Power for the communication tower would be provided by three solar panels which would be approximately 12 ft. x 10 ft. combined. The panels would be mounted on the equipment shelter.
24. Sanitation: Not applicable.
25. The project would not result in any impacts to the adjacent properties. The applicant must comply with CCC Chapter 7.35 Noise.
26. The project would result in minimal visual impact to the subject properties.
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 May 1, 2021 with comments due May 15, 2021. Agency comments are considered in the decision and when appropriate, associated Conditions of Approval are included.
28. 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 September 24, 2021 with comments due October 9, 2021. Agency comments are considered by the Hearing Examiner and, when appropriate, set forth in the Conditions of Approval. The following is a list of Agencies who received notice and the date comments were received:

Agencies Notified	Response Date	Nature of Comment
Chelan County Fire Marshal		No Comment

Agencies Notified	Response Date	Nature of Comment
Chelan County Building Official	September 27, 2021	No issues with the proposed. A building permit would be required.
Chelan-Douglas Health District	October 13, 2021	No objections to further approval of the proposed.
Chelan County Public Works		No Comment
Chelan County PUD		No Comment
WA Dept. of Ecology		No Comment
Fire District No. 1		No Comment
WA Dept. of Archaeology and Historic Preservation		No Comment
Yakama Nation		No Comment
Confederated Tribes of Colville		No Comment
Chelan County Natural Resources		No Comment

29. No public comments were received.
30. The application was submitted on September 15, 2021.
31. The Determination of Completeness was issued on September 22, 2021.
32. The Notice of Application was provided on September 24, 2021.
33. The Notice of Public Hearing was provided on October 21, 2021.
34. Pursuant to WAC 197-11-800(25) of the State Environmental Policy Act (SEPA), the proposed action is not categorically exempt from environmental review and a threshold determination. A copy of the SEPA Checklist was submitted with application. A Determination of Non-Significance was issued by Chelan County Community Development as the lead agency on October 19, 2021.
35. The Comprehensive Plan has been reviewed for consistency with the project. Specifically, the goals and policies for public services and siting criteria to the Rural Residential/Resource 20 (RR20) zoning designation.
 - 35.1 Policy RE 1.4: Essential public facilities and/or services should be sited and developed in a manner that maintains the rural character of the area. Essential public facilities and/or services are appropriate for location in rural areas when suitable mitigation is provided.
 - 35.2 Goal UE-1: Enhance the efficiency and quality of service from utility providers through the coordination of utility, land use, and transportation planning.
 - 35.3 The Hearing Examiner finds that the project, as conditioned, is consistent with the Comprehensive Plan.
36. This project is most similar to a wireless communication facility that falls under the High Impact Utility classification. There is no classification for an “unmanned emergency services building” within the Chelan County Code. Staff has determined, and the Hearing Examiner agrees, that this use is most closely similar to a wireless communications facility as defined in CCC 14.98.2010 and as regulated by CCC 11.91.

37. Chelan County Code, Conditional Use Permit Criteria 11.93.040: A conditional use permit may be approved only if all of the following review criteria and any special criteria listed in this chapter are met:
- 37.1 All criteria required for a specific use by this chapter can be satisfied.
 - 37.1.1 Criteria for a wireless communication facility (WCF) have been addressed below.
 - 37.1.2 Based on review of the application materials submitted, the Hearing Examiner finds that the criteria for a WCF can be satisfied.
 - 37.2 The design standards of the zoning district within which the lot is located, critical area regulations, and all other applicable development standards and regulations can be met.
 - 37.2.1 The proposed development is located in the Rural Residential/Resource 20 (RR20) zoning district. The RR20 zoning district permits wireless communication facilities a Conditional Use. The application materials and site plan of record, date stamped September 15, 2021, demonstrate the proposed tower and equipment shelter is setback 50 ft from the property line and would therefore not meet applicable zoning setbacks identified in Chelan County Code Section 11.08.020 and Section 11.91.060, unless structurally modified. The proposed WCF tower is designed for a basic wind speed of 85 mph, which would require the tower to be setback 100 percent of the tower height from the property lines (120 ft.). The applicant has provided updated design calculations, date stamped October 22, 2021, showing that the tower could be modified by the tower engineer to meet the 90-mph basic wind speed requirement and thereby meet a 50 ft setback, so staff has recommended a condition of approval to address setbacks.
 - 37.2.2 As conditioned, the proposed project meets applicable zoning and critical areas regulations.
 - 37.3 Compatibility with the adjacent uses and the protection of the character of the surrounding area.
 - 37.3.1 The subject property is large in size and currently undeveloped. Most of the adjacent parcels are of similar size and vacant, except for a few adjacent to the northeast property line which contain single-family residences. Surrounding zoning includes RR20 and RR10 districts. The communication tower would be located greater than 2,000 ft. from the nearest single-family residence. Wireless communication facilities (WCFs) fall under the High Impact Utility classification, which is an allowed use in the Rural Residential/Resource 20 zoning district, with the approval of a conditional use permit.
 - 37.3.2 The proposed development would be used as a communication facility for public safety and is an allowed use in the zoning district. As proposed, the use would be compatible with adjacent land uses and would not impact the rural character of the surrounding area.
 - 37.4 Detrimental impacts on the natural environment and productive use of surrounding natural resource lands can be mitigated or avoided.

- 37.4.1 Based on the application materials and SEPA Checklist, date stamped September 15, 2021, the proposed development would avoid detrimental impacts on the natural environment and productive use of the surrounding natural resource lands. The project site is not identified as a classified resource land per the Chelan County Comprehensive Plan. The proposed development would have no chemical waste, sanitary facilities, or unnecessary noise associated with it. The subject property is currently undeveloped and contains shrub-steppe vegetation.
- 37.4.2 The proposed development appears to be sited and designed to avoid detrimental impacts on the natural environment and productive use of surrounding natural resource lands.
- 37.5 No conditional use permit shall be issued without a written finding that:
 - 37.5.1 After adequate opportunity for review and comment, all providers of water, sewage disposal, schools, and fire/police protection serving the development have issued a letter that adequate capacity exists or arrangements have been made to provide adequate services for the development.
 - 37.5.2 Chelan County provided a Notice of Application to all providers. Received comments are included in the file of record.
 - 37.5.3 Through the process of public and agency noticing, opportunity for review and comments were provided for the proposed development.
 - 37.5.4 No county facilities will be reduced below adopted levels of service as a result of the development.
 - 37.5.5 The development does not access off a county road; therefore, this does not apply.
 - 37.5.6 The proposed development will not result in county facilities reduced below adopted levels of service.
- 37.6 The proposed use shall not result in undue adverse impacts affecting the public health, safety and welfare.
 - 37.6.1 The proposed wireless communication facility would be used for public safety communication purposes and would improve public health, safety, and welfare in the area.
 - 37.6.2 The proposed development would not have an adverse impact on public health, safety and welfare.
- 37.7 Adequate provisions have been provided for roads, ingress and egress, stormwater, parking and loading, domestic and irrigation water, sanitary facilities, power, fire protection, and other necessary facilities, improvements or services consistent with the requirements of Titles 11 and 15 of the Chelan County Code.
 - 37.7.1 Roads, ingress and egress: The subject property is accessed off of a recorded access easement, AFN: 2545206.
 - 37.7.2 Stormwater: The applicant shall comply with Chelan County Code Title 13; Chelan County Stormwater Guidelines and Procedure.

- 37.7.3 Parking and Loading: Based on the application materials and site plan of record, one parking stall would be provided for routine maintenance in accordance with Chelan County Code Chapter 11.90.
- 37.7.4 Domestic and Irrigation Water: The proposed development would not require domestic or irrigation water.
- 37.7.5 Sanitary Facilities: The proposed development would not require sanitary services
- 37.7.6 Power: Power would be provided by 3 solar panels, located on-site.
- 37.7.7 Fire Protection: Fire protection is provided by Chelan County Fire District 1.
- 37.7.8 As conditioned, the Hearing Examiner finds that all necessary facilities, improvements and services are consistent per the requirements of Titles 11, 13 and 15 of the Chelan County Code.
- 37.8 Noise, light, heat, steam, erosion, water quality, glare, odors, air pollution, smoke, wastes, dust, vibration, electrical disturbance, physical hazards and related impacts on adjacent properties and to the vicinity can be mitigated or avoided.
 - 37.8.1 Noise and Vibration: Noise and vibration would be temporary during construction of the improvements. Construction noise is regulated by Chelan County Code Section 11.88.190 and Chelan County Code Chapter 7.35.
 - 37.8.2 Light and Glare: Any light and glare associated with the proposed development would not result in any physical hazards or related impacts on adjacent properties. Light and glare is regulated by CCC Section 11.88.080. WCFs color and lighting are also regulated by CCC Section 11.91.060.
 - 37.8.3 Heat, Steam, Odors, Smoke and Dust: The proposed development would not generate heat, steam or odors.
 - 37.8.4 Erosion: The subject property is located within a geologically hazardous area for erosive soils; a geological assessment prepared by Budinger & Associates, LLC, dated May 19, 2021, was submitted with application.
 - 37.8.5 Water Quality: The proposed development would not have an impact on water quality in the area.
 - 37.8.6 Wastes and Physical Hazards: No hazards identified.
 - 37.8.7 Electrical Disturbance: No electrical disturbances identified.
 - 37.8.8 As conditioned, the Hearing Examiner finds noise, light, heat, steam, erosion, water quality, glare, odors, air pollution, smoke, wastes, dust, vibration, electrical disturbance, physical hazards and related impacts on adjacent properties can be avoided or mitigated as conditioned.
- 37.9 The granting of the proposed conditional use permit is consistent and compatible with the intent, goals, objectives and policies of the comprehensive plan, and any implementing regulation.

- 37.9.1 The proposed WCF is consistent with the goals and policies of the Rural and Utility Elements of the Comprehensive Plan.
- 37.9.2 The project is consistent with the Chelan County Comprehensive Plan.
- 38. Chelan County Code, Section 11.91.060, General Criteria for Wireless Communication Facilities:
 - 38.1 Co-Location:
 - 38.1.1 (A) Co-Location Encouraged. In order to minimize proliferation, WCFs shall be required, to the greatest extent practicable, to be co-located. Applicants shall design, orient, construct, and operate WCFs so as to facilitate sharing facilities with other utilities, to co-located with other existing WCFs, and to accommodate the co-locations of future WCFs, where technically, practically and economically feasible. Co-location will be a requirement for approval unless the applicant submits a demonstration that supports, to the satisfaction of the approving authority, the conclusion that sharing space on existing facilities is not feasible or possible based on one or more of the following factors: available space on existing facilities; the facility owner's ability to lease space; the facility's structural capacity; radio frequency interference; geographic service area requirements; mechanical or electrical incompatibilities; the comparative costs of co-location and new construction; any FCC limitation on facility or structural support sharing:
 - 38.1.2 The proposed WCF would not be co-located because sharing space on existing facilities is not feasible or possible based on geographic service area requirements. There are no other WCFs in the vicinity. The proposed tower would be designed to allow for co-location of future WCFs by additional loading of the tower up to 20 percent of the initial load.
 - 38.1.3 (B) Cooperation. No wireless communication services provider, lessee, or agent thereof shall act to exclude or attempt to exclude any other wireless services provider from using the same support structure or location. Wireless services providers, lessees, or agents thereof shall cooperate in good faith to achieve co-location of WCFs and equipment with other wireless services providers. If a dispute arises regarding the feasibility of co-location, the county may require a third party technical study at the expense of either or both parties to resolve the dispute prior to issuing any development permit or approval. The administrator may impose permit conditions based on the results of any third party review:
 - 38.1.4 The proposed WCF would not be co-located due to lack of co-location opportunities in the area. The tower would be designed to allow for future co-location.
 - 38.2 Color and Lighting. Except as specifically required by the FAA or FCC, antenna and antenna support structures shall adhere to the following.
 - 38.2.1 (A) To the extent technically feasible and in compliance with safety regulations, specific colors of paint shall be required for the antenna and antenna support structure in order to blend better with its surroundings..

- 38.2.2 (B) If an antenna is installed on an alternative antenna support structure, the antenna and supporting electrical and mechanical equipment must be of a neutral color so as to make the antenna and related equipment as visually unobtrusive as possible.
- 38.2.3 (C) When lighting is required and permitted by the FAA or other federal or state authority, it shall be oriented so as not to project onto surrounding property. Strobe lighting on wireless communication facilities is not permitted.
- 38.2.4 Based on the application materials, the proposed development would not have any external lighting. The tower would be constructed of galvanized metal, which would be a neutral light grey color initially, and would dull after about a year.
- 38.2.5 As conditioned, the proposed development would meet the requirements for color and lighting.
- 38.3 Equipment Structures. Ground-level equipment, buildings, and the tower base shall be screened from public view pursuant to this section and Title 15 of this code. The standards for the equipment buildings are as follows:
- 38.3.1 (A) The floor area shall be the minimum necessary; however, in no instance shall the equipment structure be greater than two hundred square feet and the maximum height is twelve feet for each provider. The equipment building may be located no more than two hundred fifty feet from the tower or antenna and shall comply with the setback regulations for the underlying zone.
- 38.3.2 (B) Ground-level buildings shall be screened from view by landscape plantings, fencing, or other appropriate means as specified herein or in Title 15 of this code. Required landscape plantings shall be installed around the perimeter of the required security fence..
- 38.3.3 (C) Equipment structures mounted on a roof shall have a finish similar to the exterior building walls. Equipment for roof-mounted antenna may also be located within the building on which the antenna is mounted.
- 38.3.4 Based on the application materials, the floor area of the equipment shelter would be 384 sq. ft., which exceeds the required maximum floor area by 184 sq. ft. The building would be located less than 250 ft. from the tower and would comply with the setback regulations for the RR20 zone. The applicant has stated that the size of the equipment shelter is necessary to store radio equipment, batteries, solar equipment, and provide room for future co-location. Landscaping provisions under CCC Chapter 15.50 do not apply to communication/radio towers per CCC Section 15.50.020(2)(H).
- 38.3.5 In order to comply with the maximum floor area provision, the Hearing Examiner sets as a condition of approval that the equipment shelter must not exceed 200 sq. ft. in floor area. Due to the location of the WCF and existing vegetation on the subject property, no additional landscaping is recommended. As conditioned, the equipment shelter would meet the requirements of this section.

- 38.4 Fencing. For new telecommunication towers and equipment shelters, a wall, slatted chain link fencing, or wooden fence no less than six feet in height from the finish grade shall be provided. Access to the tower shall be through a locked gate via Knox box. This standard shall not apply to towers and equipment shelters mounted onto or located inside an existing building.
- 38.4.1 Based on the application materials, fencing is not proposed for the development.
- 38.4.2 As conditioned, the proposed development would meet the fencing requirements of this section.
- 38.5 Required Parking. At least one parking stall shall be provided in accordance with Chapter 11.90 of this code.
- 38.5.1 Based on the site plan of record, date stamped September 15, 2021, at least one parking stall would be provided on-site.
- 38.5.2 The proposed development would meet the required parking standards.
- 38.6 Federal Requirements. All towers must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the federal government with the authority to regulate towers and antennas.
- 38.6.1 Based on the application materials, the applicant has not demonstrated that all federal requirements have been met, so staff has recommended a condition of approval to address requirements.
- 38.6.2 As conditioned, the proposed development would meet all federal requirements.
- 38.7 No advertising or display shall be located on any antenna support structure, antenna or security fencing; however, the owner of the antenna array shall place an identification plate indicating the name of the wireless service provider and a telephone number for emergency contact on the site.
- 38.7.1 Based on the application materials, no advertising or display would be located on the proposed antenna support structure, antenna, or security fencing.
- 38.7.2 As conditioned, the proposed development would meet the identification requirements and advertising and display restrictions of this section.
- 38.8 The owner of the WCF shall notify the department when the tower is no longer operating as part of a wireless communication system authorized and licensed by the FCC. Within six months of the date the facility ceases to operate as part of an authorized system, the facility must be removed from the site.
- 38.8.1 As conditioned, the proposed development would meet the requirements of this section.
- 38.9 All proposals must be reviewed by the Chelan County fire marshal for compliance with applicable fire safety regulations.
- 38.9.1 The proposed project was noticed to the Chelan County Fire Marshal on September 24, 2021. No comment was received.
- 38.9.2 As conditioned, the proposed development must meet all applicable fire safety regulations.

39. An open record public hearing after due legal notice was held using Zoom video conferencing on November 3, 2021.
40. At this open record public hearing, the entire Planning staff file of record was admitted into the record of the hearing.
41. Appearing and testifying on behalf of the Applicant/owner were agents, Josh Humphrey and Misty Viebrock. Mr. Humphrey requested that the project be characterized as an “unmanned emergency services building” so that the 200 sq.ft. size limit on the outbuilding would not apply. Mr. Humphrey also indicated that this proposed use is not a commercial activity, which is contemplated under the definition of a wireless communication facility within the Chelan County Code. He indicated that this was a public use. He further indicated that all other Conditions of Approval were acceptable. Ms. Viebrock questioned why this project would not be analyzed similar to a prior project.
42. Staff indicated that they were not bound by prior decisions and they were applying the Code to this project based upon their current interpretation. Staff indicated that the Chelan County Code does not have a use “unmanned emergency services building” and that the requested use is most closely consistent with a wireless communication facility.
43. No member of the public testified at this hearing.
44. The Chelan County Hearing Examiner considered all evidence within the record in rendering this decision
45. Any Conclusion of Law that is more correctly a Finding of Fact is incorporated herein as such by this reference.

II. CONCLUSIONS OF LAW

1. The Hearing Examiner has authority to render this Decision.
2. The proposed uses are consistent with the goals and policies of the Rural Residential/Resource 20 (RR20) within the Chelan County Comprehensive Plan.
3. The proposed use is permitted with an approved conditional use permit.
4. As conditioned, the proposed use would be compatible with the character of the surrounding area.
5. As conditioned, the use will not be detrimental to the natural environment.
6. As conditioned, the proposed development would not have an adverse impact on public health, safety and welfare.
7. Through the process of public and agency noticing, opportunity for review and comments were provided for the proposed use.
8. As conditioned, the proposed use would not result in county facilities being reduced below adopted levels of service.
9. As conditioned, all necessary facilities, improvements and services are consistent per the requirements of Titles 11, 13 and 15 of the Chelan County Code.
10. Noise, light, heat, steam, erosion, water quality, glare, odors, air pollution, smoke, wastes, dust, vibration, electrical disturbance, physical hazards and related impacts on adjacent properties can be avoided or mitigated as conditioned.
12. The development is consistent with the Chelan County Comprehensive Plan.

13. Any Finding of Fact that is more correctly a Conclusion of Law is incorporated herein as such by this reference.

III. 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 Chelan County Code 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.
2. Pursuant to RCW 27.53.020, if the applicant or their agents discover previously unknown historic or archaeological remains/artifacts while conducting the development activities authorized by this application, 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. If any Native American grave sites or archaeological resources are discovered or excavated, work shall stop immediately.
3. 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.
4. Pursuant to the requirements of the International Building Code and International Fire Code, a Chelan County Commercial Building Permit shall be required for the proposed wireless communication tower, equipment shelter, and retaining wall if greater than 4 ft. in height.
5. Pursuant to Chelan County Code Section 11.90.070, the applicant shall provide one parking space; parking spaces shall be designed to the standards of Chelan County Code Section, 11.90.030.
6. Pursuant to Chelan County Code Section 15.50.020(2)(H), no landscaping shall be required.
7. Pursuant to Chelan County Code Section 11.86.020, the proposed development shall comply with the recommendations found in the Geologic Site Assessment prepared by Budinger & Associates, LLC, dated May 19, 2021.
8. Pursuant to Chelan County Code Section 11.88.080, security lights or any exterior lighting shall be low-intensity, non-flashing and designed to project toward the property or shall be shielded to keep light from directly projecting over property lines.
9. Pursuant to Chelan County Code Section 11.91.060(2), the tower shall be a neutral light grey color and the development does not have external lighting, except as specifically required by the FAA of FCC.
10. When lighting is required and permitted by the FAA or other federal or state authority, it shall be oriented so as not to project onto surrounding property. Strobe lighting on wireless communication facilities is not permitted.

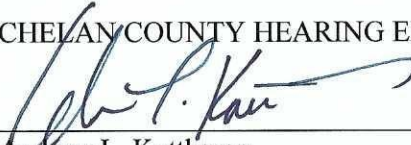
11. Pursuant to Chelan County Code Section 11.91.060(3), the applicant shall construct the tower in conformance with the updated design calculations, date stamped October 22, 2021, demonstrating that the tower can meet the required basic wind speed of 90 miles per hour and therefore be allowed to meet a 50-foot setback from property line.
12. Pursuant to Chelan County Code Section 11.91.060(4), the equipment storage shelter shall have a floor area no greater than 200 sq. ft. and shall not exceed 12 ft. in height.
13. Pursuant to Chelan County Code Section 11.91.060(5), for new telecommunication towers and equipment shelters, a wall, slatted chain link fencing, or wooden fence no less than six feet in height from the finish grade shall be provided. Access to the tower shall be through a locked gate via Knox box.
14. Pursuant to Chelan County Building Code, fences greater than six feet in height shall require a building permit.
15. Pursuant to Chelan County Code Section 11.91.060(7), all towers must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the federal government with the authority to regulate towers and antennas.
16. Pursuant to Chelan County Code Section 11.91.060(8), no advertising or display shall be located on any antenna support structure, antenna or security fencing; however, the owner of the antenna array shall place an identification plate indicating the name of the wireless service provider and a telephone number for emergency contact on the site.
17. Pursuant to Chelan County Code Section 11.91.060(9), the owner of the WCF shall notify the department when the tower is no longer in operation as part of a wireless communication system authorized and licensed by the FCC. Within six months of the date the facility ceases to operate as part of an authorized system, the facility must be removed from the site.
18. Pursuant to Chelan County Code Section 11.93.060(10), all proposals must be reviewed by the Chelan County fire marshal for compliance with applicable fire safety regulations.
19. Pursuant to Chelan County Code Section 11.93.040(10), the final Conditional Use Permit shall be in conformance with the submitted application of record, including site plan, date stamped September 15, 2021.
20. 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.
21. 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.

IV. DECISION

Based upon the above noted Findings and Fact and Conclusions, Conditional Use CUP 2021-423 is hereby **APPROVED**.

Dated this 4 day of November, 2021.

CHELAN COUNTY HEARING EXAMINER



Andrew L. Kottkamp

Anyone aggrieved by this decision has twenty-one (21) days from the issuance of this decision, to file an appeal with Chelan County Superior Court, as provided for under the Judicial Review of Land Use Decisions, RCW 36.70C.040(3). The date of issuance is defined by RCW 36.70C.040 (4)(a) as “(t)hree days after a written decision is mailed by the local jurisdiction or, if not mailed, the date on which the local jurisdiction provides notice that a written decision is publicly available” or if this section does not apply, then pursuant to RCW 36.70C.040(3) (c) “...the date the decision is entered into the public record.” Anyone considering an appeal of this decision should seek legal advice.

Chelan County Code Section 1.61.130 provides that any aggrieved party or agency may make a written request for reconsideration by the Hearing Examiner within ten (10) days of the filing of the written record of decision. The request for reconsideration shall be submitted to the Community Development Department. Reconsideration of the decision is wholly within the discretion of the Hearing Examiner. If the Hearing Examiner chooses to reconsider, the Hearing Examiner may take such further action deemed proper and may render revised decision within five (5) days after the date of filing of the request for reconsideration. A request for reconsideration is not a prerequisite to filing an appeal under Section 1.61.160.

The complete case file, including findings, conclusions, and conditions of approval (if any) is available for inspection during the open office hours at Chelan County Department of Community Development. Their address is 316 Washington Street, Suite 301, Wenatchee, WA 98801. Their telephone number is (509) 667-6225.