

BEFORE THE CHELAN COUNTY HEARINGS EXAMINER

IN THE MATTER OF

ZC 21-119
Torres/Curtis

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**FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND DECISION**

THIS MATTER came before the Chelan County Hearing Examiner in the matter of a Zone Change application submitted to change the land use designation of approximately 30 acres from Rural Residential/Resource 5 (RR5) to Rural Industrial (RI).

I. FINDINGS OF FACT

1. On December 14, 2021, the Board of Chelan County Commissioners approved the Comprehensive Plan Map amendment (CPA 21-118) by Resolution No. 2021-48, changing the land use designation of approximately 30 acres from Rural Residential/Resource 5 (RR5) to Rural Industrial (RI). The proposed zoning map amendment will establish the corresponding zoning districts on the subject properties, consistent with the Comprehensive Plan Map. To date, no appeal of the Board of County Commission's decision (CPA 21-118) has been filed with the Growth Management Hearings Board: Eastern Washington Region. The appeal period concludes on February 21, 2022.
2. The property is located at 5309 and 5351 Malaga Alcoa Hwy., Wenatchee, WA 98801.
3. The parcel number and legal description for the property is: Assessor's Parcel No.: 22-21-35-100-071; T 22N R 21EWM S 35 Lot 2 SP 650; 10 Acres. Assessor's Parcel No.: 22-21-35-100-072; T 22N R 21 EWM S 35 Lots 3 & 4 SP 650; 20 Acres.
4. The owners are Assessor's Parcel No.: 22-21-35-100-071 - Carlos Torres; Assessor's Parcel No.: 22-21-35-100-072 - Darlene Curtis. The agent is Chelan County.
5. The current zoning designation is Rural Residential/Resource 5 (RR5).
6. The subject property is not located within an Urban Growth Area (UGA).
7. The proposed zoning designation is to Rural Industrial (RI) and is approximately 30 acres.
8. The subject site contains potential landslide hazards. WDFW PHS mapping shows golden eagles to be present in the area. Shrubsteppe areas may be present that qualify as Category 1 Fish and Wildlife Habitat Conservation Area per CCC Section 11.78.060.
9. A State Environmental Policy Act (SEPA) Checklist was received and reviewed with related file, CPA 2021-118. Chelan County, as lead agency, issued an optional determination of non-

significance (DNS) for this project pursuant to WAC 197-800-11 on September 20, 2021. Said determination has been adopted for the proposed Zone Change application.

10. The application was submitted on March 1, 2021.
11. A Determination of Completeness was issued on May 11, 2021.
12. The Notice of Application and Environmental Review was provided on May 13, 2021.
13. A combined Notice of Application was prepared for CPA 21-118 and ZC 21-119. The following comments were received and include those formerly pertinent to the now approved comprehensive plan amendment:
 - 13.1 Washington State Department of Commerce provided comments, dated August 11, 2021, noting that while the Comprehensive Plan Map amendment supports economic development in the Malaga-Alcoa area, it would be an expansion of the LAMIRD (Limited Areas of More Intense Rural Development) and would not be consistent with the GMA.
 - 13.2 Washington State Department of Fish and Wildlife (WDFW) provided comments, dated September 16, 2021, stating concern on portions of the two parcels for shrubsteppe areas that qualify as Category 1 Fish and Wildlife Habitat Conservation Area per CCC Section 11.78.060. Although a site-scale assessment has not been conducted, WDFW anticipates compensatory mitigation will be required for any loss of habitat or harm to several species if development occurs.
 - 13.3 The Confederated Tribes of the Colville Reservation provided comments, dated May 13, 2021, indicating that any industrial development would require a cultural resource review, survey and report.
 - 13.4 The Chelan Douglas Regional Port Authority letter dated October 18, 2021 stating that the proposed expansion of the Malaga LMIRD would result in significant economic benefits to the local community and advancing the goals and policies of the Chelan County Comprehensive Plan.
14. One public comment was received from R. Craig, dated May 27, 2021, expressing concern about water issues on the property and stating he found the information submitted as vague and incomplete.
15. Chelan County Code, Section 14.13.040 addresses the evaluation criteria and provides that the approval, modification or denial of a development regulation amendment application shall be evaluated on, but not limited to, the following criteria:
 - 15.1 The amendment is necessary to resolve a public land use issue or problem.
 - 15.1.1 The proposed amendment would provide consistency between the zoning and Comprehensive Plan maps.
 - 15.1.2 The Hearing Examiner finds that the proposed zoning map amendment will provide consistency between the Comprehensive Plan and zoning maps.
 - 15.2 The amendment is consistent with goals of the Growth Management Act, Chapter 36.70A RCW.
 - 15.2.1 The Growth Management Act under RCW 36.70A.020 contains planning goals that include, but are not limited to, 1) Urban Growth, 2) Reduce Sprawl, 3)

Economic Development and 4) Environment. The proposed zone change is consistent with Comprehensive Plan Map Amendment (CPA 21-118) approved through Resolution No. 2021-148 (Attachment 1). Findings by the legislature for the Growth Management Act (GMA) recognize that to retain and enhance the job base in rural areas, rural counties must have flexibility to create opportunities for business development. The County is coordinating with the Chelan Douglas Regional Port Authority to diversify economic and employment opportunities and to address the constrained supply of industrial land.

15.2.2 The Hearing Examiner finds that the proposal is consistent with the goals of the Growth Management Act. The proposed zoning map amendment serves to encourage economic development by supporting and maintaining the County's existing industrial base and promote further diversification of the area's economy with industries that are compatible with surrounding land uses.

15.3 The amendment complies with or supports Comprehensive Plan goals and policies and/or county-wide planning policies.

15.3.1 The proposed zone change would support the following Comprehensive Plan goals and policies:

LU 4.1: Encourage development that is compatible with the natural environment and minimizes impacts to significant natural and scenic features.

LU 9.3: Encourage industrial development to locate in areas with access to necessary support facilities, services, and transportation systems, and where industrial development would be compatible with nearby land uses.

LU 10: Maintain Chelan County's existing industrial base and promote further diversification of the area's economy with industries that are compatible with surrounding land uses.

RE 1.1: Rural development shall avoid and mitigate impacts to critical areas, which have value as wildlife habitat and open space.

RE 4: Encourage rural economic development consistent with the goals and policies of the Chelan County Comprehensive Plan and the Growth Management Act.

ED 1: Encourage efforts to diversify the existing economic base to focus on long-term sustainable economic development throughout the County.

ED 4: Local economic development efforts should promote the advantages of working and living in Chelan County, such as availability of work, job security and stability, access to recreational and cultural activities, educational opportunities, quality health care, and affordable housing.

ED 4.3: Foster a diverse private-sector job base that supports attractive wages and facilitates the retention and expansion of existing businesses.

ED 5: Implement a regional and multi-jurisdictional approach to economic development.

ED 5.1: Coordinate with the Chelan County Port District in the evaluation and ranking of economic development projects.

15.3.2 County-wide Planning Policies provide guidance to coordinated planning with the public and other affected jurisdictions.

15.3.3 The Hearing Examiner finds that the proposal is consistent with the County Comprehensive Plan goals and policies and the County-Wide Planning Policies.

- 15.4 The proposed amendment does not adversely affect lands designated as resource lands of long-term commercial significance or critical areas in ways that cannot be mitigated.
 - 15.4.1 The site is not designated as resource lands of long-term commercial significance. The subject site contains residential and agricultural uses and is composed of two parcels. Physical characteristics include flat ground on the northern portion near the highway and steep cliffs/bluffs at the southern end of the parcels. Portions of the land include areas shown to have erosive soils. WDFW PHS mapping shows golden eagles to be present in the area. Wildlife habitat and open space are typically located in rural areas and are an important part of the reason why people choose to live in a rural setting. Shrubsteppe areas may be present that qualify as Category 1 Fish and Wildlife Habitat Conservation Area per CCC Section 11.78.060. Therefore, industrial development may only occur when suitable mitigation is provided to address potential impacts to critical areas found on rural lands. Critical area review would be conducted at the time of site-specific land use applications.
 - 15.4.2 The Hearing Examiner finds that the proposal does not adversely affect lands designated as resource lands of long-term commercial significance or critical areas in ways that cannot be mitigated.
- 15.5 The amendment is based on sound land use planning practices and would further the general public health, safety and welfare.
 - 15.5.1 The State Growth Management Act finds that sound land use planning includes consistency between the zoning code and the Comprehensive Plan. The proposed zone map amendment is not anticipated to impact the general public negatively in regards to public health, safety, or welfare.
 - 15.5.2 The Hearing Examiner finds that the proposal will provide consistency between the adopted Chelan County Comprehensive Plan (see Resolution 2021-148) and the zoning code. The proposed zoning map amendment meets the evaluation criteria listed under Chelan County Code Title 14, Section 14.13.040.
- 16. An open record public hearing after legal notice was held on January 19, 2022 via Zoom video conference.
- 17. Testifying from the public was Jim Kuntz, CEO of the Chelan/Douglas Regional Port Authority. Mr. Kuntz testified in support of the rezone and the need for additional industrial zoned property.
- 18. Any Conclusion of Law that is more correctly a Finding of Fact is hereby incorporated as such by this reference.

II. CONCLUSIONS OF LAW

- 1. The Hearing Examiner has authority to render this Decision.
- 2. The proposed zoning map amendment would provide consistency between the Chelan County Comprehensive Plan and zoning maps.
- 3. The proposed amendment would be consistent with goals of the Growth Management Act by providing cohesiveness with the Chelan County Comprehensive Plan.

4. The proposal appears to be consistent with the goals and policies of the County Comprehensive Plan and the County-wide Planning Policies.
5. The proposed zoning map amendment implements the changes adopted by Resolution No. 2021-148 to the Chelan County Comprehensive Plan.
6. The proposed zoning map amendment meets the evaluation criteria listed under CCC Section 14.13.
7. Any Finding of Fact that is more correctly a Conclusion of Law is hereby incorporated as such by this reference.

III. DECISION

Based upon the above Findings of Fact and Conclusions of Law, ZC 21-119 is hereby **APPROVED** with the following condition.

IV. CONDITION OF APPROVAL

1. In order to ensure cohesiveness between the Chelan County Comprehensive Plan and the Chelan County Zoning, the timely implementation of ZC 21-119 shall be contingent upon conclusion of the GMA 60-day appeal period for CPA 21-118.

Approved this 20th day of January, 2022.

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 three "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.

Requests for Reconsideration and to re-open the hearing must be timely filed and are governed by Chelan County Code 1.61.130 and 1.61.070 and Chelan County Hearing Examiner Rules of Procedure 1.24.

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.