

BEFORE THE CHELAN COUNTY HEARINGS EXAMINER

IN THE MATTER OF

PLAT 2021-470
Spears Properties, LLC

RECEIVED

MAY 12 2022

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 May 4, 2022, 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 submitted to cluster subdivide approximately 33.5 acres into six (6) lots with one (1) dedicated open space tract utilizing the Cluster Subdivision provision found in Chelan County Code section 11.12.050. All of the lots are proposed at approximately 0.67 acre in size. The dedicated open space tract is to be privately owned and retained in agricultural production as an orchard, totaling 29.48 acres. Approximately 22.5 acres of the subject properties are located in the Commercial Agricultural Lands (AC) zoning district and 11.0 acres of the subject properties are located in the Rural Residential 1 Dwelling Unit per 20 Acres (RR20) zoning district. Access is to be off North Dryden Road onto a private internal roadway proposed with the development. Domestic water is would be provided by a Group B water system using a permit exempt well with sanitation proposed as individual on-site systems.
2. The Applicants/owners are Spears Properties LLC, 5800 Evergreen Dr., Cashmere, WA 98815, and the agent/surveyor is Dan Beardslee, 325 32nd St. NW, East Wenatchee, WA 98802.
3. The subject property is located at NNA North Dryden Road, Cashmere, WA and the legal description is Lot A of BLA 2021-166 and Lot D of CE 2001-010 respectively.
4. The parcel numbers for the subject properties are 24-18-25-440-050 and 24-19-31-220-020.
5. The subject property is located outside an Urban Growth Area.
6. The Comprehensive Plan designation and zoning designation for the subject site is Commercial Agricultural Lands (AC) and Rural Residential/ Resource 20 (RR20)
7. The subject property has an apple orchard, pear orchard, and undeveloped vacant land.
8. The subject property is approximately 33.5 acres.
9. The property is situated north of the Wenatchee River and US Hwy 2 and adjacent to Peshastin Pinnacles State Park. The majority of the property is currently an orchard with fruit trees, but the northern portion is vacant and undeveloped. The topography on the property slopes downhill north to south towards the Wenatchee River.
10. Adjacent properties:
North: Rural Residential/Resource 20 (RR20);
South: North Dryden Road / Commercial Agricultural Lands (AC);
West: Rural Public Lands (RP) / Peshastin Pinnacles State Park; and

East: Commercial Agricultural Lands (AC) and Rural Residential/Resource 20 (RR20).

11. The applicant submitted an Aquifer Recharge Area Disclosure Form, date stamped October 12, 2021. Pursuant to Chelan County Code (CCC) Section 11.82.040, Chelan County has determined that the aquifer recharge measures do not apply.
12. Pursuant to the Federal Emergency Management Agency, FIRM map panel 5300150600A, the property does not contain 100 or 500-year flood plain or associated floodway. Therefore, CCC Chapter 11.84, Frequently Flooded Areas Overlay District would not apply.
13. Pursuant to the Chelan County Geographical Information system, the property contains potential geologic hazardous areas. The applicant submitted a Geological Site Assessment, dated September 7, 2021. Pursuant to CCC Chapter 11.86, a note on the final plat mylar should be required, identifying this subdivision as being located in a potential geologically hazardous area.
14. Pursuant to the National Wetlands Inventory Map, the property does not contain any known wetlands. Therefore, the provisions of CCC Chapter 11.80, do not apply.
15. Pursuant to CCC Chapter 11.78, Fish and Wildlife Overlay District, the subject property contains Mule Deer habitat. Therefore, the provisions of CCC Chapter 11.78 do apply. Pursuant to CCC Chapter 11.78, a note on the final plat mylar should be required, identifying this subdivision as being located in a known Fish and Wildlife Habitat Conservation Area (FWHCA).
16. Pursuant to RCW 27.53.020, full cooperation among the Department of Archaeology and Historic Preservation and other agencies is required to ensure information regarding the possible impact of construction activities on the state's archaeological resources is maintained. A letter from the Confederated Tribes of the Colville Reservation, dated April 27, 2021, states that the Peshastin Pinnacles are a registered property of traditional significance to the Confederated Tribes of the Colville Reservation and that they recommend that blasting be avoided and the operation of heavy equipment be as far from the Pinnacles as possible and be as restrained as is feasible. The Hearing Examiner sets as a condition of approval that no blasting would be allowed at any time during plat construction.
17. On August 12, 2021 a pre-application meeting was held to discuss the feasibility of the proposed development.
18. The property is currently accessed from North Dryden Road. North Dryden Road is a 40'-55' right-of-way and is classified as a Rural Major Collector Road in the county road system. North Dryden Road provides single lanes for traffic in both directions with no curb, gutter or sidewalk. North Dryden Road has 23' of pavement. Pursuant to the CCC Chapter 15.30, the design and construction of the new proposed internal private road would be required to be constructed to meet a Rural Emergency Vehicle Access Road (Standard Plan PW-22) with Emergency Vehicle Turnaround (Standard Plan PW-23 A or B) for this subdivision.
19. The comment letter from Chelan County Public Works, dated November 24, 2021, states a private stormwater drainage system is required with an Operation and Maintenance Agreement of the drainage system and recorded with the final plat.
20. The Washington State Department of Ecology comment letter, dated December 2, 2021, states based on historical aerial photos indicate the development is located on property that was/is occupied by orchard during the time period when lead arsenate was applied as a pesticide. The Applicant has conducted soil sampling under the Model Toxics Control Act. Contaminated soils were documented on site.
21. Sanitation availability letters from Chelan-Douglas Health District, dated December 6, 2021, states: "Domestic water service would be by a new Group B Public Water System that has yet to

be developed. Individual service would be need to be available to each lot. The new public water supply shall be reviewed and approved by the Chelan-Douglas Health District/State Department of Health". A soil/site evaluation for minimum lot sizes and placement of onsite sewage systems is needed for each proposed lot as per WAC 246-272A-0320(2)(c).

22. Line extensions would be necessary for the development and that additional easements would be needed for the PUD primary lines if not dedicated on the face of the Plat.
23. The comment letter from the Chelan County Fire Marshal, date stamped November 30, 2021, states the subject property is not located within an established fire district. In order for the proposed lots to be eligible for tanker credits, the applicant may request that the properties be annexed into the Chelan County Fire District 6 (CCFD6) fire district (request must be to CCFD6 directly).
24. The comment letter from Chelan County Assessor, dated stamped November 29, 2021, states the legal description appears to be correct, but there are delinquent taxes on parcel # 241931220020 that will need to be paid prior to recording of the plat pursuant to RCW 84.56.345.
25. Noise impacts are addressed in Chelan County Code Chapter 7.35.
26. The applicant submitted an environmental checklist on October 12, 2021. Pursuant to WAC 197-11 process and RCW 43-21C of the State Environmental Policy Act (SEPA), an environmental review and a threshold determination was completed. A Determination of Non-Significance (MDNS) was issued on March 16, 2022. The SEPA Checklist and MDNS are included with the file of record and adopted by reference.
27. The Notice of Application was referred to agencies and departments on November 18, 2021 and surrounding property owners within 1,000 feet, excluding 60 feet of right-of-way with comments due December 6, 2021. Agency comments are included, as appropriate, within this decision and in the Conditions of Approval. The following agencies and County departments were sent referral packets:

Agencies Notified	Response Date	Agencies Notified	Response Date
Chelan County Public Works	April 26, 2021	Confederated Tribes of the Colville Nation	November 18, 2021
Chelan County Fire Marshal	November 30, 2021	Yakama Nation	No Comment Received
Chelan County Assessor	November 29, 2021	WDFW Region 2	November 22, 2021
Chelan-Douglas Health District	December 6, 2021	Department of Ecology	December 2, 2021

Agencies Notified	Response Date	Agencies Notified	Response Date
Chelan County Building Official	November 24, 2021	Washington State Parks and Recreation Commission	December 6, 2021
Chelan County PUD	November 19, 2021	WA Dept. of Archaeology and Historic Preservation	No Comment Received

28. Public comments:

Name	Response Date	Nature of Comment
Ed Stewart	November 27, 2021	Concerns about wildlife and nearby habitats, orchard spray drifting, geological issues in vicinity, and soil contamination.
Brian Patterson	December 3, 2021	Concerns about legacy pesticide issue and requirement to meet MTCA standards.
David Stewart	December 3, 2021	Says that applicant was not truthful about developing property and geological issues in the vicinity.
Craig Christensen	November 29, 2021	Concerned about orchard spray drifting and how cluster developments negatively affect agricultural use in Chelan County.

29. Application and Public Hearing Compliance:

Application Submitted:	October 12, 2021
Determination of Completeness issued:	October 25, 2021
Notice of Application:	November 18, 2021

SEPA Notice:	November 18, 2021
Notice of Hearing:	April 23, 2022
Public Hearing:	May 4, 2022

30. Comprehensive Plan Review. Purpose: To assure the long-term conservation of commercial agricultural lands; to protect and preserve the farm; encourage existing and future agricultural land uses as a viable land use and a significant economic activity within the community; and, to protect agricultural land of long-term commercial significance not already characterized by urban development from encroachment and impartible uses. Uses appropriate for these areas include: agriculture; open space; residential; 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: natural resource support facilities and services; mineral resource activities; intensification of existing small scale recreational or tourist uses that rely upon rural setting but that do not include a new residential component; intensification of development on lots containing existing isolated nonresidential use; home occupations; bed and breakfasts; and community facilities.
- 30.1 Policy AL 1.4: Conserve agricultural lands for productive economic use by identifying and designating agricultural resource lands whose principal and preferred land use is commercial agricultural resource management.
- 30.1.1. Rationale: Activities in designated agricultural resource lands should be discouraged that limit or eliminate the ability to continue agricultural operations.
- 30.2 Policy AL 2.1: All plats, short plats, binding site plans, development permits and building permits issued for development activities on or within five hundred feet of lands designated as agricultural resource lands, shall contain a notice that the subject property is within or near designated agricultural resource lands. The notice shall further state that a variety of commercial activities may occur on these designated lands that are not compatible with the development.
- 30.2.1 Rationale: Such notification will help property owners and purchasers to make educated decisions.
- 30.3 Policy AL 2.4: Development on or adjacent to designated agricultural resource lands, including plats, short plats, and binding site plans, should avoid and minimize potential conflicts with agricultural operations through appropriate siting and mitigation measures, such as buffers screening, dust control, and pest control.
- 30.3.1 Rationale; Buffers can reduce the potential for conflicts between agricultural operations and other lands uses.

31. Commercial agricultural lands (AC) zoning code: The proposal is within the Commercial Agricultural Lands (AC) and Rural Residential/Resource 20 (RR20) zoning districts, as delineated on the zoning map, as adopted by Chelan County. Since the proposed residential lots are within the AC zoning district, the proposed plat is being analyzed using the AC zoning standards.

- 31.1 Commercial Agricultural Lands (AC) Zoning Code 11.30.020(1)(A) Development Standards: Development in this district shall meet all applicable provisions of this title and all other rules, regulations and provisions of the Chelan County Code (CCC), including the following: Development Standards applicable in the Commercial Agricultural Lands (AC) zoning districts are:

Commercial Agricultural Lands (AC) Zoning District		
Minimum Dimensions	Lot	10 acres
Lot Width		150 feet at the front lot line
Maximum Coverage	Lot	35 percent
Setback		100' from all property lines

- 31.2 The site plan of record, date stamped October 12, 2021, indicates that all minimum dimensional standards have been met. Setbacks from all property lines shall be 100' or
32. Chelan County Code 14.08.010 Pre-application meetings. Prior to the filing of a preliminary plat, the sub-divider shall submit to the administrator plans and other information sufficient to describe essential features of the property and the proposed or contemplated uses and development for the purposes of scheduling a formal pre-application meeting in accordance with CCC 14.08.010.
- 32.1 The applicant participated in a pre-application meeting with Chelan County Community Development on August 12, 2021.
33. Chelan County Code 12.02.060 Concurrency of public infrastructure:
- 33.1 After the opportunity for review and comment, all providers of water, sewage disposal, schools, and fire/police protection serving the proposed land division have been given adequate notice to provide comment regarding adequate capacity or arrangements for adequate services for the development, concurrently with the demand for such services and facilities.

- 33.2 No county facilities will be reduced below adopted levels of service as a result of the proposed land division.
- 33.3 The subject property would be served by a Group B well and would utilize on-site septic systems. Extensions of the existing lines would be required for power.
- 34. Chelan County Code 12.08 defines the standards for all subdivisions:
 - 34.1 No land division shall be approved which bears a name using a word which is the same as, similar to or pronounced the same as a word in the name of any other subdivision in the county, except for the words which contain the following "town," "county," "place," "court," "addition," "acres," "heights," "villa," or similar words, unless the land so divided is contiguous to the land division bearing the same name.
 - 34.2 Review of the name would be required prior to final plat approval to determine that it does not match or is not similar to an existing plat name.
- 35. Chelan County Code 12.08.030 Easement:
 - 35.1 Utilities, whenever feasible, shall be located outside the established road prism, as defined in Title 15, but within the right-of-way. When location within the public right-of-way is not feasible or practical, as determined by the county or local utility purveyor, the following provisions shall be adhered to:
 - 35.1.1 Easements for the construction and maintenance of utilities and public facilities shall be granted, as determined by the county or local utility purveyor, to provide and maintain adequate utility service to each lot and adjacent lands.
 - 35.1.2 The widths of the easements shall be the minimum necessary as determined by the utility purveyor, unless the administrator determines a small or larger width is appropriate based on-site conditions. Whenever possible, public utilities shall be combined with driveways, pedestrian access ways and other utility easements.
 - 35.1.3 Electrical services are available from the Chelan County PUD No. 1; however, line extension would be required.
 - 35.2 Private road easements shall be shown.
 - 35.2.1 The applicant is proposing access by a private road and private driveways. Private road standards, as detailed in Title 15, apply to this development and require an approved maintenance agreement.
 - 35.3 Easements required by this section shall be granted by the terms and conditions of such easements being shown on the final land division or separate instrument.
 - 35.3.1 All easement locations are required to be shown on the final plats, pursuant to CCC 12.08.030. Separate instruments recorded with the Chelan County Auditor should be referenced on the face of the final plat. Required easements, shall be reviewed with the blue line submittal.
 - 35.4 Easement provisions shall be in conformance with the standards contained in Title 15, Development Standards.
 - 35.4.1 Easement locations and purpose(s) should be indicated on the final plat. Easements shall be reviewed with blue line submittal.
- 36. Chelan County Code 12.08.040 Fire protection standards: The fire protection standards contained in Title 15 and adopted International Fire Code are required in all divisions of land. Modifications

are allowed though the adopted fire credit options when approved by the Chelan County fire marshal.

- 36.1 The Chelan County Fire Marshal requires conformance with the International Fire Code. The nearest fire station is within 4 miles of the subject property. Pursuant to CCC Section 3.04.010, State Building Code, all building permits require compliance with the International Fire Code(s), as adopted or amended by Chelan County.
- 36.2 The comment letter from the Chelan County Fire Marshal, date stamped November 30, 2021, states the subject property is not located within an established fire district. In order for the proposed lots to be eligible for tanker credits, the applicant may request that the properties be annexed into the Chelan County Fire District 6 (CCFD6) fire district (request must be to CCFD6 directly).
- 37. Chelan County Code 12.08.050: All land division creating new impervious surfaces shall meet the following requirements: (1) Storm drainage shall be provided in accordance with the adopted standards. (2) All infrastructure within the right-of-way shall become the property of, maintained and operated by, Chelan County.
 - 37.1 A private stormwater drainage system would be required for the proposed preliminary plat. Operation and maintenance of the private drainage system would require a Maintenance Agreement. The Maintenance Agreement must include operational and annual maintenance criteria. Said Maintenance Agreement shall be submitted to the Public Works Department with the Preliminary Mylar (blue lines) and shall be recorded with the final plat.
- 38. Chelan County Code 12.08.060. Where a division of land is traversed by a watercourse, a drainage easement adequate for the purpose and conforming to the line of such watercourse, drainage way, waste-way, channel or stream and of such width for construction, maintenance and protection as determined by the decision body shall be provided.
 - 38.1 A stream typing performed by Grette Associates LLC was submitted with the plat application. Based on a site visit by a qualified biologist, it was determined that there are no above ground channels that would carry natural waters perennially or intermittently, therefore it has been determined that the property is not impacted by a watercourse.
 - 38.2 Comments from the Washington Department of Fish and Wildlife (WDFW) on November 22, 2021 noted that if the applicant would like to make this change permanent by updating the WDNR Water Typing layer to contact either WDFW or the Department of Ecology for assistance with a Non-Forest Practice Water Type Modification.
- 39. Chelan County Code 12.08.080. Road Standards: All land divisions shall comply with Title 15.
- 40. Chelan County Code 12.08.090. Permanent survey monuments shall be provided for all final land divisions as required in Section 15.30.825.
 - 40.1 Per Title 15 of the CCC, monuments should be required prior to submittal of the final plat or as approved by Chelan County Public Works Department. Compliance with CCC 15.30.825 shall be a condition of approval.
- 41. Chelan County Code 12.08.100:
 - 41.1 No land division shall be approved if related improvements such as levees, fills, roads, or other features will individually or collectively significantly increase flood flows, heights, or velocities.

- 41.2 If a determination is made that part of a proposed land division lies within the one-hundred-year flood plain or the floodway, the requirements of the Chelan County flood hazard development resolution shall apply.
- 41.3 The subject property does not contain floodplains.
- 42. Chelan County Code 12.24.015 All final land division review and approval requirements. The approval given to a preliminary plat shall expire pursuant to Revised Code of Washington (RCW) 58.17.140 unless, within the allowed timeframe, a proposed final plat in proper form is filed with the administrator.
 - 42.1 The applicant shall have five (5) years to final the plat from the date of preliminary approval.
- 43. Chelan County Code 11.10.020. All subdivisions shall conform to the design standards of this title, in addition to the comprehensive plan, and all zoning regulations in effect at the time any preliminary subdivision of a subdivision is submitted for approval. Lots shall be of sufficient area and width to satisfy zoning requirements.
 - 43.1 The Hearing Examiner finds that the proposed development is consistent with the applicable chapters of the zoning code for the Commercial Agricultural Lands (AC) zoning districts, together with Chelan County Comprehensive Plan.
- 44. Chelan County CODE Critical areas. Chelan County Code 11.86 Geologically Hazardous Areas
 - 44.1 Pursuant to the Chelan County Geologically Hazardous Areas map data and submitted Geological Site Assessment, dated September 7, 2021, the subject property does contain potential geologically hazardous areas. Therefore, the provisions of CCC Chapter 11.86, Geologically Hazardous Areas Overlay District do apply.
- 45. Chelan County CODE stormwater. Stormwater would be required to meet the standards of Chelan County Code Title 13. Stormwater would be required for the entire subdivision and all required infrastructure improvements placed prior to final plat approval.
- 46. Department Of Community Development Summary:
 - 46.1 The portion of the subject properties where the proposed lots are located is zoned AC and therefore for the purposes of this application, the applicable development standards for the AC zoning district apply. Due to the fact that the subject property is zoned AC, which requires a hundred-foot setback from all the property lines, the future property owner would have to obtain a Commercial Agricultural Waiver to reduce the setbacks.
 - 46.2 This proposal is to develop a 6-lot cluster subdivision together with a 31.5-acre open space tract. The property is situated north US Hwy 2 and the Wenatchee River adjacent to Peshastin Pinnacles State Park. Critical areas on the property are potential geological hazard areas and mule deer habitat.
 - 46.3 Access to the lots would be from an internal access easement off of North Dryden Road. Potable water would be provided by a Group B well and all the lots would utilize on-site septic systems.
 - 46.4 The proposed open space tract would be approximately 31.5 acres, which is 88% of the subject properties and exceeds the required 70% per the code. Per CCC 12.12.050(2)(G)(i), over 15% of gross land to be preserved and maintained as open space allows for a 50% Density Increase Allowed, which means the proposed plat is allowed a two hundred percent (200%) density bonus.

- 46.5 Calculating lot numbers as follows:
22.5 AC/10 AC minimum x 200% = 4.5
11.0 AC/20 AC minimum x 200% = 1.1
Total is 5.6, which rounds up to 6 lots
47. An open record public hearing after due legal notice was held using Zoom video conferencing on March 16, 2022.
48. At this hearing the entire Planning staff file was entered into the record.
49. Appearing and testifying on behalf of the Applicant was Dan Beardslee. Mr. Beardslee testified that he was an agent authorized to appear and testify on behalf of the Applicant and property owner. Mr. Beardslee agreed that the lead and arsenic levels within the soil of the property require remediation pursuant to the MTCA. He agreed that all clean up would occur before occupancy stating that the house and driveways and patios would provide capping. He agreed that the Applicant would work with the Washington State Department of Ecology in developing the remediation plan. Mr. Beardslee stated that the Applicant had no objection to proposed Condition of Approval No. 10 and its subparts. The only concern Mr. Beardslee voiced about the proposed Conditions of Approval was with Condition of Approval No. 16.3.1. His concern was regarding the International Wildland-Urban Interface Code was that they complied with that code adopted at the time of issuance of building permit. Mr. Beardslee testified that the Applicant had no objection to any of the other proposed Conditions of Approval.
50. The following members of the public testified at this hearing:
- 50.1 Amanda Barg. Ms. Barg testified on behalf of the Washington Department of Fish & Wildlife. Ms. Barg testified as to the best management practices that they would like to have incorporated into the covenants for this property. After the conclusion of her testimony, Alex White stated that the recommendations were set forth in proposed Condition of Approval No. 21.
- 50.2 Craig Christiansen. Mr. Christiansen testified consistent with his written comments. His primary concern is that this use is consistent with the Chelan County Comprehensive Plan because the property is commercially viable agriculture land and therefore, should remain in agriculture and not developed as a residential subdivision. In response to Mr. Christiansen's testimony, Mr. White stated that residential uses are allowed in agriculturally zoned lands and that cluster subdivisions are also allowed.
- 50.3 In reply, Mr. Beardslee testified that all of the Washington Department of Fish & Wildlife comments were acceptable to the Applicant. He stated that the Chelan County Comprehensive Plan allows residential developments within commercial agriculturally designated areas of the County. He further indicated that the Applicant is an orchardist and believed that the property where the residential development is to occur is not productive as an orchard.
51. 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 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 Commercial Agricultural Lands (AC) Zoning Code 11.30.020(1)(A) 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 the goals and policies as set forth in the Chelan County Code Titles 11, 12, 14, and 15.
5. 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.
6. The public interest would be served by the subdivision.
7. The application, as conditioned, is compatible with adjacent uses and would not harm or change the character of the surrounding area.
8. 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 noted Findings and Fact and Conclusions, **PLAT 2021-470** is hereby **APPROVED**, subject to the following Conditions of Approval.

IV. 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.

CHELAN COUNTY DEPARTMENT OF COMMUNITY DEVELOPMENT

1. Pursuant to RCW 58.17, the development 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 11.30.020, the proposal shall comply with the Commercial Agricultural Lands (AF) Zoning District's dimension and/or development standards.
4. Pursuant to CCC Section 12.08.030 and 12.24.020(3) and Chapter 15.30, all easement locations are required to be shown on final plats.
5. Pursuant to RCW 84.56.345, all taxes, delinquent taxes, and assessments that are required by the Chelan County Treasurer are to be paid prior to final Plat recording.
6. Pursuant to CCC Section 11.10.020(1), the minimum lot size may be modified one time for a cluster subdivision. The following note shall be placed on the final plat:

- 6.1. **"The lots associated with this plat shall not be further subdivided utilizing the provisions of Chelan County Code Section 11.30.020(1)(A-D), as amended."**
7. Pursuant to CCC Section 12.12.050, the open space accumulated shall be clearly labeled and numbered as a tract with an approved open space management plan; the following language shall be inserted on the final plat filed for record under this chapter:
- 7.1. **"This tract is held in reserve as open space designated for agricultural use on which a variety of activities may occur that are not compatible with residential development for certain periods of limited duration. Open space set aside for agricultural purposes may allow improvements that are associated with the agricultural operations, such as barns, outbuildings, storage facilities and other related facilities provided they are incidental and do not take up more than ten (10) percent of the open space. Commercial operation associated with agricultural activities shall be prohibited. This tract is held in reserve as open space with provision for building consistent with the approved open space management plan AFN: _____, or as legally amended."**
8. Pursuant the CCC Section 12.02.010(1), the following note shall be placed on the final plat mylar:
- 8.1. **"Chelan County is not responsible for notification or enforcement of covenants or 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."**
9. Pursuant to RCW 27.53.020, the applicant shall stop work and contact Community Development and the Department of Archaeology and Historic Preservation and other agencies as required, regarding the possible impact of construction activities on the state's archaeological resources.
10. The Washington State Department of Ecology requires that the soils be sampled and analyzed for lead and arsenic and for organochlorine pesticides. These contaminants were found at concentrations above the MTCA cleanup levels. The Washington State Department of Ecology recommended that the potential buyers be notified of their occurrence.
- 10.1. Historical aerial photos indicate that the subject property is located on property that was occupied by orchard during the time period when lead arsenate was applied as a pesticide, often resulting in shallow soil contamination from lead and/or arsenic. The development underwent soil sampling under the Model Toxics Control Act (Chapter 173-340 WAC).
- 10.2. Sampling indicated elevated levels of lead and arsenic. Therefore, cleanup is required. The Department of Ecology plans to use Model Remedies for lead and arsenic pesticide contamination in historical orchards of Central Washington.
- 10.3. Compliance with a Model Remedy ensures that the development meets the minimum standards of the Model Toxics Control Act, and if implemented as described, the property will be successfully cleaned up to Washington State standards.
11. In Washington State, prospective water users must obtain authorization from the Department of Ecology before diverting surface water or withdrawing ground water, with one exception. Ground

water withdrawals of up to 5,000 gallons per day used for single or group domestic supply, up to 5,000 gallons per day used for industrial purposes, stock watering, and for the irrigation of up to one-half acre of non-commercial lawn and garden are exempt from the permitting process. Water use under the RCW 90.44.050 exemption establishes a water right that is subject to the same privileges, restrictions, laws and regulations as a water right permit or certificate obtained directly from Ecology.

12. Pursuant to CCC Section 12.24.015, the following note shall be placed on the final plat mylar:

12.1. **"Agricultural activities occur throughout Chelan County and may or may not be compatible with residential development."**

13. Pursuant to the Revised Code of Washington (RCW), the following notes shall be placed on the final plat:

13.1. **"Noxious weed control is the responsibility of the individual lot owners, per RCW 17.10.140, as amended."**

13.2. **"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."**

13.2.1. An inadvertent discovery plan shall be submitted with the building permit application and kept onsite during all land disturbing activities. A sample of this plan may be obtained from Chelan County Community Development.

14. Pursuant to Chelan County Code Chapter 11.78, the following note shall be placed on the final Plat:

14.1. **"The subject site is located within mapped mule deer habitat and shall be subject to the provisions of the Chelan County Code Chapter 11.78 Fish and Wildlife Habitat Conversation Areas Overlay District, as amended."**

15. Pursuant to CCC Section 11.86.080, the following note shall be placed on the final Plat:

15.1. **"All development shall be consistent with Chelan County Code Chapter 11.86 Geologically Hazardous Areas Overlay District, as amended; and the Geotechnical Engineering Evaluation and Geologic Hazard Assessment prepared by Anderson Geological Consulting, LLC dated September 7, 2021 or with a site-specific geological site assessment."**

CHELAN COUNTY FIRE MARSHAL

16. The subject property and final plat shall conform to the comments and conditions of approval as found in the Chelan County Fire Marshal Agency Comments dated November 30, 2021.

16.1. 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 is impractical. Applicant is encouraged to contact this office to ascertain how the attached fire protection credits options apply to their development.

At this time, the property is not part of the Chelan County Fire District 6 (CCFD6) fire district. To be eligible for tanker credits you may request that your property be annexed into the CCFD6 fire district. The request must be to CCFD6 directly.

- 16.1.1. A note on the face of the final short 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.”***
- 16.2. Class A roofing/noncombustible roof covering, as defined in the International Building Code, shall be used in all of Chelan County. A note on the face of the final mylar shall state that:
 - 16.2.1. ***“All buildings that require a building permit within this short plat shall have Class A roofing materials.”***
- 16.3. New construction permitted after February 1, 2021 is subject to WAC 51-54A-8200 International Wildland-Urban Interface Code. These include possible def space (Firewise) requirements for the property landscape and possible construction requirements for new buildings. A note on the final mylar shall state that:
 - 16.3.1. ***“All buildings that require a building permit within this plat shall comply with the portions of the International Wildland-Urban Interface Code adopted by the State of Washington and Chelan County.”***

CHELAN-DOUGLAS HEALTH DISTRICT

17. The subject property and final plat shall conform to the comments and conditions of approval as found in the Chelan-Douglas Health District memorandum dated December 6, 2021.
 - 17.1. Domestic water service shall be by a new Group B Public Water System 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.
 - 17.2. Group B public water systems using a well point must show and describe the sanitary control area/radius around the well. All necessary easements and covenants for access and protection of the public water supply must be shown or described on the final plat drawing. The Washington State Dept. of Health has more information and examples of the following protective covenants (DOH publication 331-048b). A Restrictive Covenant is necessary for that part of the 100' sanitary control radius that falls outside the well owner's property and is recorded to the neighboring property owner's parcel(s). A Declaration of Covenant is necessary for that part of the 100' sanitary control radius that falls completely within the well owner's property and is owned in fee simple by the well owner. Some wells would have both protective covenants. Protective covenants for each public well points much be declared in the dedicatory language on the plat as follows:
 - 17.1.1 ***“A Declaration of Covenant recorded as a notice to title with Chelan 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.”

- 17.1.2 *“The Declaration of Covenant and Restrictive Covenant(s) recorded as a notice to title with Chelan 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.”*
- 17.2 The dedicatory language on the final plat shall carry these notes:
- 17.2.1 *“The Health District has not reviewed the legal availability of water to this development.”*
- 17.2.2 *“The combined water use by all the wells in this development may not exceed 5,000 gallons per day or be used to irrigate more than ½ acre unless ground water withdrawal permit is obtained from the Department of Ecology (RCW 90.44.050).”*
- 17.3 A soil/site evaluation for minimum lot sizes and placement of onsite sewage systems is needed for each proposed lot as per WAC 246-272A-0320(2)(c). this evaluation can be completed by the Chelan-Douglas Health District or a state licensed septic system designer or professional engineer.
- 17.4 The dedicatory language on the final plat shall contain this statement:
- 17.4.1 *“Site evaluations may or will be required at the time of application for individual septic system construction permits.”*

CHELAN COUNTY PUBLIC WORKS DEPARTMENT

- 18 The subject property and final plat shall conform to the comments and conditions of approval as found in the Chelan County Public Works memorandum dated November 24, 2021.
- 18.1 Pursuant to Chelan County Code Title 15.30, no road improvements required to North Dryden Road.
- 18.2 Pursuant to Chelan County Code Title 11.88.070(3) and Chapter 4, Sec. 6.14 of the Chelan County Transportation Element, the applicant is required to dedicate additional right-of-way to make the right-of-way on North Dryden Road 30’ from centerline.
- 18.3 Pursuant to CCC Section 12.02.020, the applicant must demonstrate a legal and perpetual access for the proposed lots on the subdivision.
- 18.4 Pursuant the Chelan County Code Chapter 15.30, the design and construction of the new proposed internal private road would be required to be constructed to meet a Rural Emergency Vehicle Access Road (Standard Plan PW-22) with Emergency Vehicle Turnaround (Standard Plan PW-23 A or B) for this subdivision.
- 18.5 Pursuant to CCC Section 15.30.340, the applicant shall file a Private Road Maintenance and Upgrading Agreement appurtenant to all the property owners having a vested interest in the private shared/common access road and must contain working of maintenance of the road sign within the development. Said agreement must be provided simultaneously with the

- Preliminary Mylar(blue-line) submission. Said agreement shall be recorded with the final plat.
- 18.6 Pursuant to CCC Chapter 15.30, the applicant would be required to provide snow storage areas to place snow accumulated from the new internal private road.
- 18.7 Pursuant to CCC Section 15.30.650, required the following language on the face of the plat:
- 18.7.1 ***“Chelan County has no responsibility to build, improve, maintain, or otherwise service any private road for this plat.”***
- 18.8 Pursuant to 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 easement would constructed and how they meet county road approach standards.
- 18.9 Pursuant to CCC Chapter 10.20, submit with the Preliminary Mylar (blue-line), a lot access/addressing plan. The lot access/addressing plan shall demonstrate how all lot and any existing driveway easement s would be constructed and how they meet Chelan County Road approach standards. **Submit three (3) proposed private road names to the approved by the Public Works Department and by Rivercom for the proposed new roads and the joint access easement in accordance with Title 10.20.**
- 18.10 Pursuant to CCC Chapter 10.20, the applicant shall add the following note to the Final Mylar for addressing:
- 18.10.1 ***“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).”***
- 18.11 Pursuant to CCC Section 15.30.610, Construction Plans: The applicant shall submit construction plans and reports for all required improvements on the internal private road improvements. The applicant would be required to have the Construction Plans shall include, but are not limited to:
- 18.11.1 Drainage Report and Plan
- 18.11.2 Roadway Improvement Plan (showing location of utilities and roadway curve data)
- 18.11.3 Lot Access Plan (Profiles, Topography)
- 18.11.4 Erosion and Sedimentation Control Plan
- 18.11.5 Signage Plan
- 18.12 Pursuant to CCC Section 15.30.650, a Pre-Construction Meeting is required with the owner, contractor, and the Chelan County Public Works Department prior to commencing any construction.
- 18.13 Pursuant to CCC Section 15.30.650, a Pre-Construction Meeting is required with the owner, contractor, and the Chelan County Public Works Department prior to commencing any construction.
- 18.14 Pursuant to CCC Section 15.30.660, As-Built Plans shall be submitted, reviewed and approved by the Public Works Department upon completion of all required improvements and prior to County Engineer signature on the Final Mylar.

- 18.15 Pursuant to CCC Section 15.30.820, the applicant shall not obstruct sight distance with a centralized mailbox or locate centralized mailbox on a road right-of-way that would hinder Road Maintenance. Should a centralized mailbox be required, provide details on construction plans. Minimum information shall include location, installation details, and pull-out detail.
- 18.16 The final plat shall include any easements necessary to provide and maintain all utilities to and within the proposed preliminary plat.
- 18.17 Pursuant to CCC Section 13.18.030(9), On the Final Plat, show the necessary easements and tracts in accordance with the approved drainage plan.
- 18.18 Preliminary Plat must comply with stormwater standards, CCC Chapter 13.12; 13.14; 13.16 and 13.18 of Chelan County Code.
- 18.19 A private stormwater drainage system would be required for the proposed preliminary plat. Operation and maintenance of the private drainage system would 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 (blue lines) and shall be recorded with the final plat.
- 18.20 The following note shall be placed on the final plat Mylar:
- 18.20.1 *"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: _____."*
- 18.21 The applicant shall submit Lot Closure calculations with the Preliminary Mylar (blue line) submission.
- 18.22 The plat must identify all roads as public or private.
- 18.23 The plat must identify centerlines and easement dimensions on any new proposed roads.
- 18.24 The plat shall show all easements that benefit or burden the development.

18.25 Lot closure calculations must be submitted with Pre-Final (blue lines).

18.26 Pursuant to Chelan County Code Title 15.30.825, Monumentation will be required on North Dryden Road if not already monumented.

WASHINGTON STATE PARKS AND RECREATION COMMISSION

19 The subject property and final plat shall conform to the comments and conditions of approval as found in the State Parks memorandum dated December 6, 2021.

19.1 If the project proponent needs to access State Park land, either temporarily or permanently, the project proponent will need to apply for and obtain legal easement for access. Contact State Parks' corresponding Lands Agent.

19.2 Provide development setbacks or other protection measures such as vegetative buffers and fencing along the common property line. State Parks would appreciate the opportunity to work with the proponent on this effort.

19.3 Grade, shape or otherwise contour the project to prevent stormwater from discharging onto State Parks property.

CHELAN COUNTY PUD

20 The subject property and final plat shall conform to the comments and conditions of approval as found in the CCPUD memorandum dated November 19, 2021.

20.1 There is electrical service available at the subject property.

20.2 A primary line extension / Facility Modification will be required.

20.3 Chelan PUD will obtain any necessary easements that are not included in the final plat.

20.4 An engineering study may be required to determine whether updating of current utility lines and transformers will be required.

WASHINGTON DEPARTMENT OF FISH AND WILDLIFE

21 The subject property and final plat shall conform to the comments and conditions of approval as found in the WDFW memorandum dated November 22, 2021. WDFW recommends the following best management practices to avoid and minimize impacts to Chelan County and the developer.

21.1 Recognizing the winter closure at the adjacent Peshastin Pinnacles State Park (Closed November 1 – March 15) to protect mule deer.

21.2 Minimizing effects from lighting of the development adjacent to the FWHCA.

21.3 Road signage to alert drivers to the presence of mule deer.

21.4 The fencing of properties to prevent dogs from chasing wildlife.

21.5 For landscaping, plant vegetation not palatable to deer to help prevent and reduce human-wildlife conflict.

21.6 If there is an HOA, assign financial responsibility to the HOA for costs associated with human-wildlife conflict that might arise due to the proximity of the development.

21.7 Prepare a plan for controlling and preventing the spread of invasive and noxious weeds to adjacent, undeveloped land.

22. The following notes shall be placed on the final plat mylar:

22.1 "Based on historical agricultural use of this land, there is possibility the soils contain residual concentrations of pesticides. Testing per WA State Dept. of Ecology requirements has found that contaminants were at concentrations above the MTCA cleanup levels

resulting in an Orchard Lands Model Development Agreement approved by the WA State Dept. of Ecology.”

Dated this 11th day of May, 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 “(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.