

BEFORE THE CHELAN COUNTY HEARINGS EXAMINER

IN THE MATTER OF)	FINDINGS OF FACT,
)	CONCLUSIONS OF LAW,
PLAT 2021-054)	DECISION AND CONDITIONS
Water Works Properties, LLC)	OF APPROVAL
)	

THIS MATTER, having come on for hearing in front of the Chelan County Hearing Examiner on January 25, 2023, 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 to subdivide approximately 11.1 acres into 9 lots. The smallest lot is proposed at approximately 0.42 acres (18,295 sq. ft) and the largest lot is proposed at approximately 4.00 acres (174,240 sq. ft.). The subject property is located in the Rural Waterfront (RW) zoning district. Access is to be off US 97A onto a private internal roadway proposed with the development. Domestic water would be provided by a Group B water system using a permit exempt well with sanitation proposed as individual on-site septic systems.
2. The Applicants/owners are Water Works Properties, LLC / John McQuaig, One Fifth St., Suite 205, Wenatchee, WA 98801. The agent is Dan Beardslee, 325 32nd St. NW, East Wenatchee, WA 98802.
3. The subject property is located at 17001 Hwy. 97A, Entiat, WA 98822.
4. The parcel number for the subject property is 26-21-29-110-000 and the abbreviated legal description is T 26N R 21EWM S 29 PT W2E2 Lot A BLA 2019-090 Lot A BLA 1997-056 and is approximately 11.1 ACRES.
5. The subject property is located outside of an Urban Growth Area.
6. The Comprehensive Plan designation and zoning designation for the subject site is Rural Waterfront (RW).
7. The subject property is vacant with grass and brush and slightly slopes southward towards the Columbia River.
8. Property to the north is vacant but has a dock and is zoned Rural Waterfront (RW).
9. The property to the east is vacant, owned by the Chelan County PUD, and is zoned Rural Residential/Resource 5 (RR5). The Columbia River is located on the other side of this adjacent property.
10. Property to the south is vacant, owned by the Department of Fish and Wildlife (WDFW), and is zoned Rural Residential/Resource 5 (RR5).
11. Property to the west is Railroad Tracks / US 97A / Orchard, and is zoned Rural Residential/Resource 2.5 (RR2.5).
12. The applicant submitted an Aquifer Recharge Area Disclosure Form, date stamped February 10, 2021. Pursuant to Chelan County Code (CCC) Section 11.82.040, because the applicant is proposing to create more than 3 lots that are under an acre in size and the development is within

- 200 ft. of the OHWM of the Columbia River, the applicant shall submit an aquifer vulnerability evaluation at the time of blueline submittal.
13. Pursuant to the Federal Emergency Management Agency, FIRM map panel 5300150400B, the subject property is partially/fully within the identified 100-year floodplain. These mapped floodplains are associated with a controlled reservoir, but a significant portion of the property is above the G Line. Pursuant to CCC Chapter 11.84, a note on the final plat shall be required, identifying the subdivision as being located within the 100-year floodplains.
 14. According to Chelan County GIS mapping, the subject property does not contain any potential geologic hazardous areas. Therefore, the provisions of CCC Chapter 11.86, Geologically Hazardous Areas Overlay, would not apply.
 15. Pursuant to the National Wetlands Inventory Map, the subject property does not contain any wetlands. Therefore, the provisions of CCC Chapter 11.80, Wetlands Overlay District, would not apply.
 16. Pursuant to the Washington State Department of Fish and Wildlife Priority Habitat and Species Maps and CCC Chapter 11.78 Fish and Wildlife Overlay District, the development is within several identified fish and wildlife habitat conservation areas. A Habitat Management and Mitigation Plan (HMMP 21-266) was submitted by Grette Associates as component of a Shoreline Exemption (SE 21-267) that were approved on October 12, 2021 to resolve a code enforcement complaint. Pursuant to CCC Chapter 11.78, a note on the final plat shall be required, identifying this subdivision as being located within in area containing fish and wildlife habitats.
 17. The subject property is within the shoreline jurisdiction of the Columbia River, which is a designated shoreline of the state. The shoreline designation for this portion of the Columbia river is "Rural", which requires a building setback of 100' from the OHWM.
 18. 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. According to the comment letters received from the Washington Dept. of Archaeology & Historic Preservation and the Colville Tribes, dated April 21, 2022 and April 7, 2022, respectively, the proposed project area has high potential for archaeological resources. Therefore, a cultural resource survey is recommended prior to ground disturbing activities and that the subsequent cultural report shall meet DAHP's Standards for Cultural Resource Reporting. The Hearing Examiner sets as a condition of approval that a cultural resource survey be conducted.
 19. On January 7, 2021, a pre-application meeting (Pre-App 2020-065) was held to discuss the proposed major subdivision. The application for the subdivision was submitted on February 20, 2022. On February 11, 2022, the applicant was found clearing the subject property and the adjacent property owned by the Chelan County PUD of riparian vegetation. A stop work order was placed on the work done and the subdivision application was placed on hold until mitigation could be performed. On June 18, 2021, the applicant applied for a Shoreline Exemption to install the mitigation plantings and included a HMMP as part of the application materials. The Shoreline Exemption was approved on October 12, 2021 and on October 27, 2022, the first-year monitoring report was submitted on behalf of the applicant showing that the performance standards were being met and that site restoration was meeting all of the requirements.
 20. The proposed subdivision is accessed by US Hwy 97A and access to the proposed lots would be provided by a new proposed private internal road system. Per the comment letter from Chelan County Public Works, dated April 20, 2022:

- 20.1 Pursuant to CCC Chapter 15.30, the applicant would be required to obtain a WSDOT Approach Permit and construct the new proposed access connection to US Hwy 97A to meet WSDOT Approach Design Details.
- 20.2 Pursuant to CCC Chapter 15.30, the applicant would be required to demonstrate or obtain a Railroad Crossing Permit showing that the railroad would allow for the development and also obtain documentation that shows the applicant can construct road improvements within the Railroad Right-of-Way.
- 20.3 Pursuant to 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).
- 20.4 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 wording of maintenance of the road sign within the development.
- 20.5 A lot access and addressing plan pursuant to CCC Section 15.30.310 would be required to be submitted prior to final plat approval. The plan must demonstrate how all lots and any existing driveway easements would be constructed and how they meet county road approach standards.
21. The comment letter from Chelan County Public Works, dated April 20, 2022 states a private stormwater drainage system is required with an Operation and Maintenance Agreement of the drainage system and recorded with the final plat.
22. The Washington State Department of Ecology comment letter, dated July 25, 2022, 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. Prior to development, the Department of Ecology states that the project is required to conduct soil sampling in accordance with the Model Toxics Control Act. However, staff requested that proposed Condition of Approval No. 13 be removed. The Hearing Examiner will remove this condition. However, this removal shall not be construed that the Department of Ecology is somehow prohibited from enforcing state requirements.
 - 22.1 The Applicant stated that soil testing has been completed.
23. Domestic water would be served through the development of a Group B Public Water System, which would need to be reviewed and approved by the Chelan-Douglas Health District.
24. Based on site evaluations prepared by Tower Design, Inc. conducted on February 5, 2021, all lots meet or exceed the state minimum lot size based upon soil type and source of domestic water supply. According to the WAC, the property is generally suitable for placement of individual on-site sewage disposal systems. The minimum lot size required is 18,000 sq.ft. per WAC 246-272A.
25. Electricity would be provided by the Chelan County PUD. Line extensions may be necessary and easements will be required for all line extensions.
26. Noise impacts are addressed in CCC Chapter 7.35.
27. The subject property is located within Fire District No. 8 and there is a fire station located within 5 miles from the project site. Currently there are no fire hydrants onsite.

28. The Chelan County Fire Marshal comment letter date stamped April 7, 2022, states the proposal shall conform to all applicable requirements of the International Fire Code and International Building Code administered by the Chelan County Fire Marshal:
- 28.1 Fire hydrants serving single family or duplex dwellings shall have a maximum lateral spacing of 600 feet with no lot or parcel in excess of 300 feet from a fire hydrant when serving lots less than 43,560 square feet (one acre) in size.
 - 28.2 Fire hydrants serving single family or duplex dwellings shall have a maximum lateral spacing of 1000 feet with no lot or parcel in excess of 500 feet from a fire hydrant when serving lots more than 43,560 square feet (one acre) in size.
 - 28.3 All fire hydrants shall be accessible to the fire department by roadways or accesses meeting the requirements of CCC Chapter 15.30, Road Standards, and meet the requirements of CCC Chapter 15.40, Minimum Standard for Water Mains and Fire Hydrants.
29. According to the application, the subject property has private irrigation available. Demonstration of split individual lot shares would need to be provided at the time of blueline review.
30. No documentation for the existing at grade crossing was submitted with the application materials. As a condition of approval, the applicant would need to submit a valid Right-of-Way agreement with the Cascade and Columbia River Railroad (CCRR) at the existing crossing.
31. The applicant submitted an environmental checklist on February 9, 2021. Pursuant to WAC 197-11 and RCW 43-21C of the State Environmental Policy Act (SEPA), an environmental review and a threshold determination was completed by Chelan County. A Determination of Non-Significance (DNS) was issued on July 19, 2022. The SEPA Checklist and DNS are included within the file of record and adopted herein by reference.
32. The Notice of Application was referred to agencies and departments on April 7, 2022 and surrounding property owners within 300 ft. excluding 60 ft. of right-of-way with comments due April 21, 2022. Agency comments are included, as appropriate, within this staff report and in the recommended Conditions of Approval. The following agencies and County departments were sent referral packets:

Agencies Notified	Response Date	Nature of Comment
Chelan County Assessor	April 20, 2022	Legal description appears to be correct and no delinquent taxes
Chelan County Fire Marshal	April 19, 2022	The subject property is located within Fire District 8. Recommended conditions of approval for fire flow provisions.
Chelan County Building Official	April 8, 2022	No Issues
Chelan-Douglas Health District	May 9, 2022	Recommended conditions of approval were provided for the

		proposed development regarding public water system and on-site septic systems.
Chelan County Public Works	April 20, 2022	Recommended conditions of approval were provided for the proposed development regarding lot access and stormwater requirements.
Chelan County PUD	April 19, 2022	Requests that blue line drawings have the District's project boundary clearly indicated and labeled as "Chelan County PUD Rocky Reach Hydroelectric Project Boundary"
WA Dept. of Fish and Wildlife	April 19, 2022	The proposed plat is adjacent to riparian habitat and waterfowl concentrations associated with the Columbia River and is consistent with the management recommendations for this riparian management zone.
WA Dept. of Ecology	July 25, 2022	Soil testing is required to demonstrate compliance with the MTCA.
WA Dept. of Archaeology & Historic Preservation	April 21, 2022	Requests that the entirety of the project area be surveyed for cultural resources and the new cultural survey report meet DAHP's standards for cultural resource reporting.
Yakama Nation	No Comment	N/A
Confederated Tribes of the Colville Reservation	April 7, 2022	Requests an archaeological survey due to archaeological sites recorded nearby.

33. No public comments were received.
34. Application and Public Hearing Notice Compliance:

Application Submitted:	February 9, 2021
Determination of Completeness issued:	April 5, 2022

Notice of Application:	April 7, 2022
SEPA DNS Issued:	July 19, 2022
Notice of Hearing:	January 14, 2023
Public Hearing:	January 25, 2023

35. The Comprehensive Plan has been reviewed for consistency with the goals and policies related to Rural Waterfront (RW) designation, which is a Type 1 LAMIRD (Limited Areas of More Intensive Rural Developments) for higher densities developments and focused growth. LAMIRDS help focus development and support the preservation of rural lands in other areas of the County and provide for residential development when served by public water sewer and other facilities. The Comprehensive Plan outlines the purpose, uses and density intended for RW designation.

“Purpose: This designation will provide the opportunity for the development, redevelopment and infill of existing intensely developed shoreline areas for residential, and water related/water dependent recreational and tourist development consistent with the rural character and rural development provisions outlined in the goals and policies of this comprehensive plan. These areas provide a distinct water related lifestyle. Potential impacts to the surrounding area, critical areas, and water quality shall be addressed. These areas must be clearly identifiable as existing intensely developed rural shorelines; where a logical boundary can be delineated and set by the built environment. Such a boundary shall not permit or encourage a new pattern of sprawling low density or urban type development. Uses appropriate for these areas include: open space and developed open space; residential; agriculture; and forestry. Additional uses may be considered with supplemental provisions. These provisions shall address performance standards, impacts to the surrounding area, and be consistent with the goals and policies of the comprehensive plan. Such uses may include: intensification of existing development or new development of small-scale water related/water dependent recreational or tourist uses, including commercial facilities to serve those recreational or tourist uses, that rely on a rural location or setting but that do not include a new residential component; intensification of development on lots containing existing isolated nonresidential uses; home occupations; bed and breakfasts; and community facilities.

Density: May allow for less than 1 acre per dwelling unit, when consistent with the Health District standards. The provision of necessary public facilities and services shall not permit or encourage low density sprawl or urban type development outside of the designation boundary. Existing urban governmental services in some areas, may allow for higher densities than those with rural governmental services.

36. The following Comprehensive Plan policies indicate support for the proposed development within a LAMIRD.

36.1 Policy LU 1.1: Promote improved neighborhood character and compatibility through unified design and site requirements for both site-built homes and manufactured and modular housing.

36.1.1 Rationale: The placement should take into consideration compatibility with the character of existing and future residential areas.

- 36.2 Policy LU 1.5: Encourage infill of vacant and underdeveloped land in existing residential areas within urban growth areas and rural communities, such as LAMIRDs.
- 36.2.1 Rationale: Many parcels of land are available within existing residential developments that can accommodate further development. Infill within these areas will allow public facilities and services to be provided in a more efficient manner.
- 36.3 Policy RE 6.2: Apply development standards in LAMIRDs to ensure the design of development or redevelopment is consistent with the character of the existing areas and the proposed use conforms to the intent of this Comprehensive Plan.
- 36.3.1 Rationale: Requiring new and/or redevelopment within LAMIRD designations to be consistent with the provisions of this element ensure that the County remains consistent with the requirements of the Growth Management Act with respect to LAMIRD designations.
- 36.4 The Hearing Examiner finds that the proposed subdivision, as conditioned, is consistent with the Chelan County Comprehensive Plan.
37. Chelan County Code, Title 11: Zoning - Chelan County Code Section 11.04.020, District Use Chart, lists land divisions within the Rural Waterfront (RW) zoning district as a permitted activity. Chelan County Code 11.16.020 – Standards:
- 37.1 Minimum lot size shall be in accordance with the Chelan-Douglas Health District standards for public or community water and sewage disposal; however, in no case shall lot size be less than 12,000 sq.ft.
- 37.2 Minimum lot width is 70 ft. at the front building line.
- 37.3 Maximum building height is 35 ft.
- 37.4 Maximum lot coverage is 35%.
- 37.5 Minimum setback requirements shall be: (A) Front yard: 25 ft. from the front property line or 55 ft. from the street centerline, whichever is greater; (B) Rear yard: 20 ft. from the rear property line; (C) Side yard: 5 ft. from the side property line.
- 37.6 The proposed lots would be for residential use. The applicant is proposing lots ranging in size with the smallest lot proposed at approximately 0.42 acres (18,295 sq.ft.) and the largest lot proposed at approximately 4.0 acres (174,240 sq.ft.). Comments from Chelan Douglas Health District state that based on the soil evaluations, all proposed lots meet or exceed the state minimum lot size based upon soil type and source of domestic water supply.
- 37.7 All proposed lots exceed the minimum lot width of 70 ft. at the front building line. Building setbacks, height, and lot coverage would be reviewed at the time of building permit application.
- 37.8 The proposed lots meet the minimum lot size standards and dimensional requirements. Staff finds that the proposed major subdivision, as conditioned, would be consistent with the provisions of CCC Section 11.16.020.
38. Chelan County Code 14.08.010 - Pre-application meetings:
- 38.1 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.
- 38.2 The applicant participated in a pre-application meeting with Chelan County Community Development on January 7, 2021.

39. Chelan County Code, Title 12: Land Divisions - Chelan County Code 12.02.060 Concurrency of Public Infrastructure:
- 39.1 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.
 - 39.2 No county facilities will be reduced be reduced below adopted levels of service as a result of the proposed land division.
 - 39.3 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.
40. Chelan County Code 12.04.020 - Suitability for Land Division:
- 40.1 As submitted, the proposed major subdivision is consistent with the provisions of this section.
41. Chelan County Code 12.08.010 - Land division names:
- 41.1 No land division shall be approved which bears a name using a work 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.
 - 41.2 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.
42. Chelan County Code 12.08.020 – Lot Standards.
- 42.1 The proposed lots were reviewed above for consistency with subdivision standards and appear that they are of an adequate size to accommodate the dimensional standards of the RW zoning district. Each lot is provided access off of an internal access easement from US Hwy 97A that is dedicated through the proposed plat.
43. Chelan County Code 12.08.030 Easement:
- 43.1 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:
 - 43.1.1 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.
 - 43.1.2 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.
 - 43.1.3 Electrical services are available from the Chelan County PUD No. 1. However, line extension would be required.
 - 43.2 Private road easements shall be shown.

- 43.2.1 The applicant is proposing access by a private internal road and private driveways. Private road standards, as detailed in Title 15, apply to this development and require an approved maintenance agreement.
- 43.3 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.
- 43.3.1 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.
- 43.4 Easement provisions shall be in conformance with the standards contained in Title 15, Development Standards.
- 43.4.1 Easement locations and purpose(s) should be indicated on the final plat. Easements shall be reviewed with blue line submittal.
44. 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.
- 44.1 The Chelan County Fire Marshal requires conformance with the International Fire Code. The nearest fire station is within 5 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. Staff is recommending as a condition of approval that the Chelan County Fire Marshall's conditions of approval from the comment letter issued on April 19, 2022 are incorporated as conditions of approval for the preliminary plat.
45. Chelan County Code 12.08.050 Storm Drainage: 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.
- 45.1 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 an operational and annual maintenance criteria. Said Maintenance Agreement shall but submitted to the Public Works Department with the Preliminary Mylar (blue lines) and shall be recorded with the final plat.
46. Chelan County Code 12.08.060 Watercourses. 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.
- 46.1 The Columbia River flows along the eastern borders of the subject properties and is under jurisdiction of the Chelan County Shoreline Master Program (CCSMP). Per the CCSMP, the subject properties are within the 'Rural' shoreline jurisdiction, and as a result, development has a 100' buffer from the OHWM. Staff is recommending as a condition of approval that a note on the face of the plat is provided stating the subject property is within the shoreline jurisdiction; therefore, the proposed development shall meet the requirements of the CCSMP apply, as amended..

47. Chelan County Code 12.08.070 Water and Sewer Standards. All water and sewer facilities shall be designed and constructed in compliance with Chelan-Douglas health district, the county's construction specifications, all applicable purveyors and all state and federal regulations.
- 47.1 The Chelan-Douglas Health District provided comment that water is provided by a Group B public water system. Additionally, the evaluation provided by the report by Tower Designs demonstrates the proposed lots meet or exceed the minimum lot size for on-site septic systems. Individual lots will be required to obtain septic system permits prior to installation/ at the time of building permit submittal. Staff is recommending as a condition of approval that any notes and easements required by the Chelan Douglas Health District are shown on the face of the plat.
48. Chelan County Code 12.08.080. Road Standards: All land divisions shall comply with Title 15.
49. Chelan County Code 12.08.090. Monuments: Permanent survey monuments shall be provided for all final land divisions as required in Section 15.30.825.
- 49.1 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.
50. Chelan County Code 12.08.100 Flood Protection:
- 50.1 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.
- 50.2 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.
- 50.3 The subject property is impacted with a flood plain; therefore, a Flood Plain Development Permit may be required at the time of future building permit submittal.
51. 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.
- 51.1 The applicant shall have five (5) years to final the plat from the date of preliminary approval.
52. Chelan County Code 13.12 – Stormwater Management.
- 52.1 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.
53. Chelan County Shoreline Master Program (CCSMP), CCSMP Chapter 5.16(A) Residential Regulations for Subdivisions and Plats.
- 53.1 Comply with all applicable subdivision, critical area, zoning regulations and the CCSMP.
- 53.1.1 Hearing Examiner Finding: As conditioned, the proposed plat is consistent with the applicable subdivision, critical areas, and zoning regulations of the Chelan County Code as well as the applicable regulations of these components of the CCSMP.
- 53.2. Be designed to preclude the need for new hard or soft shoreline stabilization

- 53.2.2 Hearing Examiner Finding: The proposed subdivision does not include any shoreline stabilization measures. Per the site plan of record, the proposed building envelopes for each lot are outside of the shoreline buffer and above the G-Line of the Columbia River; therefore, no shoreline stabilization measures are required.
- 53.3. Be required to cluster residential units and structures where necessary to avoid critical areas and to preserve natural features
- 53.3.1 Hearing Examiner Finding: The proposed subdivision is not clustered, but the lot configuration has been designed to avoid critical areas, conform to shoreline setbacks, and preserve natural features.
- 53.4. Identify locations for public or community access when consistent with Section 4.4 Public Access
- 53.4.1 Hearing Examiner Finding: No public or community access is proposed.
- 53.5. Lot configurations shall plan for building sites behind the required shoreline buffer. Shoreline buffer modification, defined in Section 3.8.2 Shoreline Buffers, shall be determined at the time of residential development; not at the time of subdivision
- 53.5.1 Hearing Examiner Finding: A previously approved Shoreline Exemption (SE 21-266) along with a Habitat Management and Mitigation Plan (HMMP 21-267) were approved on October 12, 2021 to resolve a Code Enforcement complaint (CE 21-0004). A first-year monitoring report was submitted on October 27, 2022 that demonstrated that all of the survival and monitoring requirements have been met for the first year. Subsequent monitoring reports would need to be submitted to Chelan County Community Development in years 2, 3, 4, and 5 to demonstrate that all survival requirements have been met.
- 53.6. Land subdivisions shall be designed to assure that future development of the created lots will not require shoreline stabilization.
- 53.6.1 Hearing Examiner Finding: The proposed subdivision has been designed so that all buildable areas are outside of the shoreline buffer and also fall behind the G-Line of the Columbia River that is maintained by the Chelan County PUD; therefore, no shoreline stabilization measures are required.
- 53.7. Designed, configured and developed in a manner that assures that no net loss of ecological functions results from the plat or subdivision at full buildout of all lots.
- 53.7.1 Hearing Examiner Finding: As conditioned, the proposed subdivision has been designed, configured, and developed in a manner that results in no net loss of ecological functions.
54. The application has been processed as a quasi-judicial review for major subdivisions pursuant to CCC Section 14.10.040.
55. An open record public hearing after due legal notice was held using Zoom video conferencing on January 25, 2023.
56. At this hearing the entire Planning staff file was entered into the record.
57. Appearing and testifying on behalf of the Applicant was Dan Beardslee. Mr. Beardslee testified that he was the agent for the Applicant and property owner and was authorized to testify on their behalf. Mr. Beardslee provided comments regarding corrections to the staff report. Also, other than a clarification proposed for proposed Condition of Approval No. 13, Mr. Beardslee had no objection to any other proposed conditions.

58. No member of the public testified at this hearing.
59. 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 CCC Title 11 Zoning, Title 12 Land Divisions, Title 14 Development Permit Procedures and Administration, Title 15 Development Standards and the Chelan County Shoreline Master Program.
3. The application, as conditioned, demonstrates consistency with the goals and policies as set forth in the Chelan County Comprehensive Plan.
4. The application, as conditioned, demonstrates consistency with adopted levels of service for roads, utilities, fire protection facilities, schools and other public and private facilities needed to serve the development, with assurance of concurrency.
5. The public interest would be served by the subdivision.
6. The application, as conditioned, is compatible with adjacent uses and would not harm or change the character of the surrounding area.
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 noted Findings and Fact and Conclusions, **PLAT 2021-054** 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.

1. Pursuant to RCW 58.17, the project shall conform to all applicable local, state, and federal regulations, statutes, rulings, and requirements. The proposal shall be subject to approval that may be required under permits licenses or approvals by any other local, state, or federal jurisdictional agency.
2. All conditions imposed herein shall be binding on the Applicant. "Applicant" shall mean terms, which include the owner or owners of the property, heirs, assigns and successors.
 - 2.1 Pursuant to the comment letter received from Washington State Department of Archaeology and Historic Preservation (DAHP), a prehistoric archaeological site is located within the proposed project area. Prehistoric sites are protected under Washington State law. Therefore, the applicant shall obtain the necessary permit from DAHP in order to work within the site boundary.

- 2.2 Prior to ground disturbing activities, an updated cultural resource survey shall be conducted and a report meeting DAHP's Standards for Cultural Resource Reporting shall be submitted to DAHP unless written documentation as provided by DAHP relinquishes this requirement.
3. Pursuant to CCC Section 12.24.040, the final Plat shall be designed in substantial conformance with the preliminary plat of record, date stamped February 9, 2021, on file with the Chelan County Department of Community Development, except as modified herein. No increase in density or number of lots shall occur without a re-submittal of a plat application.
4. Pursuant to CCC Section 12.24.015 and RCW 58.17.140, all requests for final Plat approval must be submitted within five (5) years from the date of preliminary approval, unless an extension is granted.
5. Pursuant to RCW 58.17.255 and WAC 332-130-040, all easement locations serving or encumbering the project site are required to be shown on the final plat. Separate instruments recorded with the Chelan County Auditor shall be referenced on the final plat.
6. Pursuant to RCW 84.56.345, all taxes, delinquent taxes, and assessments that are required to be paid by the Chelan County Treasurer shall be paid prior to final plat recording.
7. Pursuant to comments received from DAHP on June 22, 2022 and the Yakima Nation on July 5, 2022, the subject property is located within an area of high probability for containing cultural resources, and; therefore, a cultural resource survey is required.
8. Pursuant to CCC Chapter 11.78, the following note shall be placed on the final plat:
 - 8.1 "The subject property is within identified wildlife habitats 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."
 - 8.2 The applicant shall continue to monitor the vegetation plantings that were installed to resolve CE 21-0004 as required by SE 21-266 that was approved on October 12, 2021. The applicant shall submit the second-year monitoring report by October 31, 2023, the third-year monitoring report by October 31, 2024, the fourth-year monitoring report by October 31, 2025, and the final fifth-year monitoring report by October 31, 2026. If these monitoring reports show that the performance standards are not being met, the appropriate remediation measures shall be implemented.
9. Pursuant to Chelan County Code Chapter 11.82, due to the subject properties having highly permeable soils and the proposed subdivision is creating more than 3 lots that are under an acre in size, the applicant shall submit an aquifer vulnerability evaluation at the time of blue-line submittal.
10. Pursuant to CCC Chapter 11.84, the following note shall be placed on the final plat:
 - 10.1 "All or part of this area may be located within the 100-year floodplain of the Columbia River, and development proposals proposed within this area will be subject to the requirements of Chapter 11.84: Frequently Flooded Areas Overlay District."
 - 10.2 Flood Plain Development requirements and permits may be necessary as part of the permitting and plan review process.
11. Pursuant to the Chelan County Shoreline Master Program, the short plat is within 200-feet of a Shoreline of the State. Therefore, the following note shall be placed on the final Short Plat:

- 11.1 "If required by Chelan County Community Development, any improvements or developments within 200 feet of the Ordinary High Water Mark of the Columbia River will require review and approval by Chelan County Community Development prior to any ground disturbing activities."
12. Pursuant to CCC Title 12, the following note shall be placed on the final Plat:
 - 12.1 "Chelan County is not responsible for notification or enforcement of covenants to deed restriction or reservations affecting use or title. Any permit issued does not acknowledge or recognize any covenants or deed restrictions or reservations that may burden or otherwise affect this property. Applicant /owner assume all risk and liability for any claims and liabilities for covenants or deed restrictions or reservations."
 - 12.2 "Agricultural activities occur throughout Chelan County and may or may not be compatible with residential development."
13. Pursuant to the Revised Code of Washington, 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. 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 CCC Section 12.08.030, the applicant shall provide any necessary line extensions and any associated easements pursuant to the standards of Chelan County PUD No. 1. All easements shall be denoted on the final plat.
15. The subject property and final plat shall conform to the comments and conditions of approval as found in the Chelan County Fire Marshal Agency Comment dated April 7, 2022.
 - 15.1 The proposal/development shall conform to all applicable requirements of the International Fire Code and Chelan County Code administered by the Chelan County Fire Marshal.
 - 15.2 Plans for fire apparatus access roads, designed in accordance with CCC Chapter 15.30, road standards, shall be submitted to the Chelan County Public Works for review and approval prior to development approval.
 - 15.3 All land upon which buildings or portions of building are hereafter constructed in or moved within Chelan County, or improved, shall be served by water supply designed to meet the required fire flow for fire protection as set out in CCC Section 15.40.040 of the Chelan County Code and the current edition of the International Fire Code (IFC).
 - 15.4 The minimum fire flow and flow duration requirements for the one and two-family dwellings having a fire area which does not exceed three thousand six hundred square feet shall be seven hundred fifty gallons per minute. Fire flow and flow duration for dwellings having a fire area in excess of three thousand six hundred square feet shall not be less than that specified in Table B105.1(1) of the IFC, except that reduction in required fire flow of fifty percent, as approved, is allowed when the building is provided with an approved automatic sprinkler system.

- 15.5 New homes shall have approved address numbers, building numbers or approved building identification placed in a position that is plainly legible and visible from the street or road fronting the property. The design of the proposed sign shall be submitted to the Fire District and/or Fire Marshal for approval prior to installation.
- 15.6 Fire hydrants serving single family or duplex dwellings shall have a maximum lateral spacing of 600 ft. with no lot or parcel in excess of 300 ft. from a fire hydrant when serving lots greater than 43,560 sq. ft. (one acre).
- 15.7 Fire hydrants serving single family or duplex dwellings shall have a maximum lateral spacing of 1,000 ft. with no lot or parcel in excess of 500 ft. from a fire hydrant when serving lots less than 43,560 sq. ft. (one acre).
- 15.8 All fire hydrants shall be accessible to the fire department by roadways or accesses meeting the requirements of CCC Chapter 15.40, Minimum Standard for water Mains and Fire Hydrants.
- 15.9 The Fire Marshal may modify Fire-flow requirements downward by applying fire protection credits for isolated buildings or a ground of building 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. A note on the face of the final plat shall state:
- 15.9.1 "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."
- 15.10 Class A roofing/noncombustible roof covering, as defined in the International Building Code, shall be used in all areas of Chelan County. A note on the face of the final mylar shall state:
- 15.10.1 "All buildings that require a building permit within this plat shall have Class A roofing materials."
- 15.11 New construction permitted after February 1, 2021 is subject to WAC 51-54A-8200 International Wildland-Urban Interface Code. These include possible defensible space (Firewise) requirements for the property landscape and possible construction requirements for new buildings. A note on the final mylar shall state:
- 15.11.1 "All buildings within this plat shall comply with the provisions of the Wildland-Urban Interface Code as adopted by Chelan County at the time building permits are submitted."
16. The subject property and final plat shall conform to the comments and conditions of approval as found in the Chelan-Douglas Health District Agency Comment dated May 9, 2022.
- 16.1 The final plat shall include these notes:
- 16.1.1 "The Health District has not reviewed the legal availability of water to this plat development."
- 16.1.2 "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 a ground water withdrawal permit is obtained from the Department of Ecology."
- 16.1.3 "Site evaluations may be required at the time of application for individual onsite septic system construction permits."
- 16.2 For public wells, a Sanitary Control Area showing a radius of 100 feet shall surround the

public well point shown on the final plat mylar, and the following plat note shall be included:

- 16.2.1 "A Declaration of Covenant recorded as a notice to title with Chelan County as AFN: _____ establishes a Sanitary Control Area with a _____-foot radius around the domestic well shown (well tag # _____). No source of contamination may be constructed, stored, disposed of, or applied within the sanitary control area."
- 16.3 Group B public water systems serve from 3 to 14 residential connections, and are reviewed by Chelan Douglas Health District. A completed Group B Public Water System application shall be submitted to the 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 County Public Works Department agency comment dated April 20, 2022.
- 17.1 Pursuant to CCC Chapter 15.30, the applicant shall be required to obtain a WSDOT Approach Permit and construct the new proposed access connection to US Hwy. 97A to meet WSDOT Approach Design Details.
- 17.2 Pursuant to CCC Chapter 15.30, the applicant shall be required to demonstrate or obtain a Railroad Crossing Permit showing that the railroad will allow for the development
- 17.3 Pursuant to CCC Chapter 15.30, the applicant shall be required to demonstrate or obtain documentation from the Cascade and Columbia River Railroad showing that the applicant can develop/construct road improvements within the Railroad Right-of-Way.
- 17.4 Pursuant to CCC Section 12.02.020, the applicant must demonstrate a legal and perpetual access for the proposed lots on the subdivision. This includes access permit to the State Highway and easement(s) to the lot(s).
- 17.5 Pursuant to the CCC Chapter 15.30, the design and construction of the new proposed internal private road will 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.
- 17.6 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 wording of maintenance of the road sign within the development. Said agreement must be provided simultaneously with the Preliminary Mylar (blueline) submission and shall be recorded with the final plat.
- 17.7 Pursuant to CCC Chapter 15.30., the applicant will be required to provide snow storage areas to place snow accumulated from the new internal private road.
- 17.8 Pursuant to CCC Section 15.30.650, the applicant shall add the following language on the face of the plat:
- 17.8.1 "Chelan County has no responsibility to build, improve, maintain, or otherwise service any private road for this plat."
- 17.9 Pursuant to CCC Section 15.30.310, the applicant shall submit a Lot Access Plan so that addresses can be determined for all existing and proposed lots. The Lot Access Plan must show the driveways/access location for the proposed project. This requirement may be fulfilled on a separate submittal and must be accomplished prior to the pre-Mylar submittal.
- 17.10 Pursuant to CCC Section 10.20.200, a road naming will be required for the shared

driveway/access roads that serves three or more addressable parcels or structures. The applicant will be required to notify all affected property owners that have legal access/use to the access being named or that owns property that abuts the access. A signature of the property owner or a certified mail receipt will be required to prove such notification. That proof, a road naming application with 3 or more names and a road naming fee must be submitted to Chelan County Public Works for each of the shared accesses being named. Approval will be up to emergency services. Once a road name has been approved, a road name sign will be required to be installed by the applicant per Chelan County specs. Once the road name sign is installed; the applicant will be required to contact Chelan County Public Works for an inspection.

- 17.11 Pursuant to CCC Chapter 10.20 the applicant shall add the following note to the Final Mylar for addressing:
 - 17.11.1 "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)."
- 17.12 Pursuant to CCC Section 15.30.610, Construction Plans: The applicant shall submit construction plans and reports for all required improvements on the internal road. The applicant will be required to have the Construction Plans approved by Chelan County Public Works Department prior to construction. The Construction Plans shall include, but are not limited to:
 - 17.12.1 Drainage Report and Plan
 - 17.12.2 Roadway Improvement Plan (showing location of utilities and roadway curve data)
 - 17.12.3 Lot Access Plan (Profiles, Topography)
 - 17.12.4 Erosion and Sedimentation Control Plan
 - 17.12.5 Signage Plan
- 17.13 Pursuant to CCC Section 15.30.650, a Pre-Construction Meeting is required with the owner, contractor, the Chelan County Public Works Department and WSDOT prior to commencing any construction.
- 17.14 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 Engineers signature on the Final Mylar.
- 17.15 Pursuant to CCC Section 15.30.820 the applicant shall not obstruct sight distance with a centralized mailbox or locate a centralized mailbox 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.
- 17.16 The final plat shall include any easements necessary to provide and maintain all utilities to and within the proposed preliminary plat.
- 17.17 Pursuant to CCC Section 13.18.030(9), the applicant shall show the necessary easements and tracts in accordance with the approved drainage plan on the final plat.
- 17.18 Preliminary plat must comply with stormwater standards, CCC Chapter 13.12; 13.14; 13.16; and 13.18.
- 17.19 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 criterion. Said Maintenance Agreement shall be submitted to the Public Works Department with the Preliminary Mylar (bluelines) and shall be recorded with the final plat. The following not shall be placed on the final plat:

17.19.1 "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 _____.

- 17.20 The applicant shall submit lot closure calculations with the preliminary blueline submission.
- 17.21 The final plat shall demonstrate the following:
- 17.21.1 Plat must identify all roads as public or privates.
 - 17.21.2 Plat must identify centerlines and easement dimensions on any new proposed roads.
 - 17.21.3 Show all easements that benefit or burden the project site.
 - 17.21.4 Lot closure calculations must be submitted with Pre-Final (blue-lines).

Dated this 26th day of January, 2023.

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.