

BEFORE THE CHELAN COUNTY HEARINGS EXAMINER

IN THE MATTER OF)	FINDINGS OF FACT,
)	CONCLUSIONS OF LAW,
CUP 23-061)	DECISION AND CONDITIONS
Mutch)	OF APPROVAL
)	

THIS MATTER, having come on for hearing in front of the Chelan County Hearing Examiner on April 26, 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. An application for a Conditional Use has been requested for a dog boarding facility (kennel). The application proposes to convert an existing barn structure into the kennel with up to sixteen (16) indoor sleeping stalls for dogs and a small office/reception area. A fenced outdoor run area adjacent to the kennel is also planned.
2. The applicant/owners are Dominic and Andrea Mutch, PO Box 435, Monitor, WA 98836.
3. The subject property is located at 245 Juniper Lane, Monitor, WA 98836.
4. The parcel number for the subject property is 23-19-23-340-300.
5. The subject property is not located within an Urban Growth Area (UGA).
6. The abbreviated legal description of the subject property is Lot A of BLA 2013-242 recorded under AFN 2392919. The subject property is 3.00 acres per the Assessor's records.
7. The Comprehensive Plan designation and zoning designation for the subject site is Rural Residential/Resource 5 (RR5).
8. The subject property is currently used for residential purposes. Currently on site, there is an existing residence (built in 1982), a barn (per Assessor's records, built in 1982, but is likely older), and an ADU with attached garage (built in 2022). Community Department staff could not find record of the existing barn being permitted, but it is assumed to be legally non-conforming and therefore, legally established. Both the existing residence and the ADU with attached garage were legally permitted (BP-860617 and BP-200011 respectively).
9. Surrounding Properties:
 - 9.1 North: Residential use; Rural Residential/Resource 5 (RR5).
 - 9.2 South: Juniper Lane (private easement) and agricultural / residential use; Rural Residential/Resource 5 (RR5).
 - 9.3 East: Vacant land; Rural Residential/Resource 10 (RR10).
 - 9.4 West: Juniper Lane (private easement) and agricultural / residential use; Rural Residential/Resource 5 (RR5).
10. Pursuant to the Washington State Department of Fish and Wildlife Priority Habitat Species Maps, the subject property contains mule deer winter range habitat, freshwater forested shrub wetland,

and shrubsteppe habitat. Therefore, the provisions of Chelan County Code (CCC) Chapter 11.78, would apply. According to the Washington State Department of Natural Resources Stream Typing Maps and Chelan County GIS mapping, an F-type stream is located on southwestern edge of the subject property along Juniper Lane. A stream typing of this stream was performed by the Chelan County Department of Natural Resources in June 2017 and the determination was made that it met the criteria of an Ns stream and therefore has a setback of 50 feet.

12. Based on the National Wetlands Inventory Maps prepared by the US Department of Fish and Wildlife Services, no wetlands are indicated on or adjacent to the subject property. Therefore, the provisions of CCC Chapter 11.80 Wetland Areas Overlay District would not apply.
13. The applicant submitted an Aquifer Recharge Disclosure Form, date stamped February 6, 2023; the proposed project does not require a vulnerability report, pursuant to CCC Chapter 11.82.
14. Pursuant to Federal Emergency Management Agency, FIRM map panel 5300150625C, the subject site does not contain floodplains. Therefore, the provisions of CCC Chapters 11.84 and 3.20 do not apply.
15. Chelan County GIS map layer does indicate that the subject property is located within a potential geologic hazard area. Therefore, the provisions of CCC Chapter 11.86 would apply to any new structures.
16. Pursuant to RCW 27.53.020, if cultural resources are found during construction, the applicant would be required to stop work and contact the Department of Archaeology and Historic Preservation, the Confederated Tribes, and Chelan County Community Development. No ground disturbing activities are proposed except for the setting of fence poles.
17. No new construction is proposed. A change of use permit as issued by Chelan County Building Department is required to convert the existing barn into the dog kennel. Commencement of use to occur upon receipt of all required permitting.
18. Domestic water would continue to be provided by an on-site private well.
19. Power would continue to be provided by an extension of the Chelan County PUD.
20. The applicant shall comply with CCC Chapter 7.35 Noise.
21. As conditioned, the visual impact is anticipated to be minimal.
22. The applicant submitted an environmental checklist on February 6, 2023. 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, and an Optional Determination of Non-significance (DNS) was issued on March 10, 2023. The SEPA Checklist and DNS are included within the file of record and adopted by reference.
23. The Notice of Application was referred to surrounding property owners within 300 ft. (excluding 60' of right-of-way), jurisdictional agencies and departments of the County. These agencies and surrounding property owners were notified on February 16, 2023 with comments due March 2, 2023. Agency comments were considered by the Hearing Examiner and, when appropriate, made Conditions of Approval. The following is a list of Agencies who received notice and the date comments were received.

Agencies Notified	Response Date	Nature of Comment
Chelan County Fire Marshal	April 17, 2023	The subject property is located within Fire District #6. Alternative fire flow

Agencies Notified	Response Date	Nature of Comment
		provisions would be necessary
Chelan County Building Official		No Comment
Chelan County Public Works	February 27, 2023	The applicant shall construct a Rural Emergency Vehicle Turn-around on site and also provide the dimensions and materials to be used for the proposed parking area. If the applicant creates over 5,000 sq.ft. of impervious surfaces, then a Drainage Report and Plan would be required.
Chelan County PUD		No Comment
WA Dept. of Ecology	February 28, 2023	Subject property was occupied by orchard during time when lead arsenate was applied as a pesticide. No cleanup required for project.
WA Dept. of Archaeology and Historic Preservation		No Comment
Yakama Nation		No Comment
Chelan-Douglas Health District	February 28, 2023	The Health District requires a satisfactory written plan from the applicant detailing the plan of operations for legally disposing of the canine waste material associated with the kennel
Confederated Tribes of Colville		No Comment
Chelan County Fire District No.	April 2, 2020	No Comment
Washington Dept. of Fish and Wildlife	February 28, 2023	To protect adjacent mule deer winter range, WDFW provided several recommended conditions of approval.

24. A public comment was received from Lawrence Dillin on February 22, 2023, with concerns about additional traffic volume on Juniper Lane as well as the noise (dog barking) affecting nearby homeowners and wildlife in the area.
25. A public comment was received from Mathew and Stephanie Whitford on February 28, 2023, with concerns of kid safety in regards to increased traffic, the wear-and-tear impacts to Juniper Lane, and impacts on wildlife in the area.
26. The application was submitted on February 6, 2023 and determined complete on February 10, 2023. The Notice of Application was issued on February 18, 2023 and the Notice of Public Hearing issued on April 15, 2023.
27. Chelan County Comprehensive Plan - The proposed development is located in the Rural Residential/Resource 5 (RR5) zoning and reviewed under the RR5 zoning criteria and provisions.

Uses appropriate for the RR5 zoning district, identified in the Comprehensive Plan, include open space; residential; agriculture; and forestry. Additional uses may be considered with supplemental provisions. These provisions shall address performance standards, impacts to the surrounding area, and be consistent with the goals and policies of the comprehensive plan. Such uses may include: natural resource support facilities and services; mineral resource activities; intensification of existing development or new development of small scale 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 or new development of isolated cottage industries and isolated small-scale businesses that are not principally designed to serve the existing and projected rural population and nonresidential uses, but do provide job opportunities for rural residents; home occupations; bed and breakfasts; and community facilities. The proposed use is to occur on the same property that includes the primary residence of the property owner. Additionally, the use relies on a location that is relatively rural in nature. The Hearing Examiner finds that the project, as conditioned, is consistent with the goals and policies of the Resource Element within the Chelan County Comprehensive Plan.

28. Chelan County Code - CCC Section 14.98.165: Animal Boarding Facility. “Animal boarding facility” means a facility where livestock such as horses, cattle, sheep, etc., are housed, fed, and cared for, excluding a veterinary clinic, for a period greater than twenty-four hours, for commercial purposes. Such uses shall include, but are not limited to, boarding stables and riding academies. This is different from kennels.
29. CCC Section 14.98.1045: Kennel. “Kennel” means a lot or building in which four or more domesticated house pets such as dogs or cats that are at least four months of age are kept commercially for board, propagation, training or sale.
30. CCC Section 11.12.010: Permitted, accessory and conditional uses. The proposed project is located in the RR5 zoning district of Chelan County. According to CCC Section 11.04.020 District Use Chart, both dog kennels and animal boarding facilities require a Conditional Use Permit in the RR5 zoning district.
31. Chelan County Code 11.18.020 Standards. All development in this zone shall meet the applicable provisions of the Chelan County Code, including without limitation the following:
 - 31.1 Minimum lot size: 5 acres, which measures to include ten percent of the adjoining public rights-of-way.
 - 31.2 Minimum lot width: one hundred feet at the front building line.
 - 31.3 Maximum building height: thirty-five feet.
 - 31.4 Maximum Lot Coverage. Buildings and structures shall not occupy more than thirty-five percent of the lot area.
 - 31.5 Minimum Setback Distances.
 - 31.5.1 Front yard: 25 ft. from the front property line or 55 ft. from the street centerline, whichever is greater.
 - 31.5.2 Rear yard: 20 ft. from the rear property line
 - 31.5.3 Side yard: 5 ft. from the side property line.
 - 31.6 The existing structures meet all dimensional standards in the RR5 zoning district.
 - 31.7 Hearing Examiner Finding: Setbacks would be reviewed at the time of building permit submittal.
 - 31.8 Off-street parking requirements in this district shall be as follows:
 - 31.8.1 Two spaces per single-family dwelling

- 31.8.2 Off-street parking and loading shall be provided as prescribed in Chapter 11.90 of this title.
- 31.8.3 31.9.1 above is not applicable to the proposed development.
- 31.8.4 **Hearing Examiner Finding:** The required number of parking spaces are determined by Table 11.90-3 in CCC Section 11.90.060, which requires 1 space per 300 sq. ft. of floor area. At the time of building permit submittal, the applicant shall provide Chelan County Public Works with a parking area, type of surface material proposed for the parking lot, number of parking spaces, and general parking schematic for the proposed project.
- 31.9 Landscape standards shall be provided as prescribed in CCC Chapter 15.50, Development Standards, as amended.
 - 31.9.1 The proposed project is exempt from the landscaping requirement of CCC Chapter 15.50 because it is an accessory use to the existing residential dwelling on the property and the parking area will not have over 20 parking spaces.
 - 31.9.2 **Hearing Examiner Finding:** No landscaping plan is required at the time of building permit submittal.
- 32. Chelan County Code, Section 11.93.040, Conditional Use Permit Criteria. A conditional use permit may be approved only if all of the following review criteria and any special criteria listed in this chapter are met:
 - 32.1 All criteria required for a specific use by this chapter can be satisfied.
 - 32.1.1 Criteria for animal boarding facility/kennel use have been addressed below.
 - 32.1.2 **Hearing Examiner Finding:** Based on review of the application materials submitted, the criteria for a kennel could be satisfied pursuant to the Hearing Examiner Findings and Conclusions below.
 - 32.2 The design standards of the zoning district within which the lot is located, critical area regulations, and all other applicable development standards and regulations can be met.
 - 32.2.1 The subject property is located in the RR5 zoning district, which allows for animal boarding facility/kennel use as a Conditional Use.
 - 32.2.2 **Hearing Examiner Finding:** As conditioned, the proposed development would meet applicable zoning and critical areas regulations.
 - 32.3 Compatibility with the adjacent uses and the protection of the character of the surrounding area.
 - 32.3.1 The proposed development is fairly isolated in location. It is at the end of a private easement. The closest neighboring residence to the proposed dog kennel facility is approximately 170 ft. (APN 231923340400), the next closest residence is approximately 360 ft. away (APN 231923340050), with all other residences being more than 500 ft. away. Based on the location of the existing building in relation to neighboring residences, and the overnighting of dogs inside the kennel, the likelihood of nuisance noise and odors would not be anticipated.
 - 32.3.2 **Hearing Examiner Finding:** As conditioned, the proposed development would be compatible with the character of the surrounding area.
 - 32.4 Detrimental impacts on the natural environment and productive use of surrounding natural resource lands can be mitigated or avoided.

- 32.4.1 A stream that was typed as an Ns stream is adjacent to the subject property along the southern edge of Juniper Lane. The proposed outdoor run area is over 50 ft. from this stream and therefore meets the requirements of CCC Chapter 11.78. The comment letter received from WDFW recommended including a requirement as a condition of approval to follow CCC Section 11.78.050(6)(D)(ii) to appropriately fence the outdoor run area. WDFW also recommended the shielding of lights to reduce the effects of glare and light trespass and leashing dogs when outside fenced enclosures in order to protect the adjacent mule deer winter range. Staff recommends adopting these requirements as conditions of approval.
- 32.4.2 Hearing Examiner Finding: As conditioned, the use will not be detrimental to the natural environment or the productive use of resource lands.
- 32.5 No conditional use permit shall be issued without a written finding that: a) After adequate opportunity for review and comment, all providers of water, sewage disposal, schools, and fire/police protection serving the development have issued a letter that adequate capacity exists or arrangements have been made to provide adequate services for the development; b) No county facilities will be reduced below adopted levels of service as a result of the development.
 - 32.5.1 Chelan County provided a Notice of Application to all providers; received comments are included in the file of record.
 - 32.5.2 Hearing Examiner Finding: Through the process of public and agency noticing, opportunity for review and comments were provided for the proposed development. As conditioned, the proposed development would not result in county facilities reduced below adopted levels of service
- 32.6 The proposed use shall not result in undue adverse impacts affecting the public health, safety and welfare.
 - 32.6.1 With application, a plan for removing the waste/excrement was provided.
 - 32.6.2 The comment letter received from the Chelan-Douglas Health District recommended that the applicant provide a written plan that details the plan of operations for legally disposal of the canine waste material for approval. The Hearing Examiner sets as a condition of approval that the applicant provide a written plan that details the plan of operations for legally disposal of the canine waste material for approval.
 - 32.6.3 Hearing Examiner Finding: As conditioned, the proposed development is not anticipated to result in an adverse impact on public health, safety and welfare.
- 32.7 Adequate provisions have been provided for roads, ingress and egress, stormwater, parking and loading, domestic and irrigation water, sanitary facilities, power, fire protection, and other necessary facilities, improvements or services consistent with the requirements of Titles 11 and 15 of the Chelan County Code.
 - 32.7.1 Finding of Fact:
 - 32.7.1.1 Roads, ingress and egress: The subject property fronts and access off of Juniper Lane, a private access easement; a Rural Emergency Vehicle Turn-around would need to be constructed on site and approved by Chelan County Public Works.

- 37.7.1.2 Stormwater: The applicant shall comply with CCC Chapter 13.18 for stormwater drainage.
- 37.7.1.3 Parking and Loading: Off-street parking must comply with CCC Section 11.93.130 regarding off-street parking.
- 37.7.1.4 Domestic and Irrigation Water: Domestic water is provided by an on-site private well.
- 37.7.1.5 Sanitary Facilities: Does not apply to application.
- 37.7.1.6 Power: Power is provided by Chelan County PUD.
- 37.7.1.7 Fire Protection: The proposed development is located Chelan County Fire District #6 and alternative fire flow provisions are necessary.
- 32.7.2 Hearing Examiner Finding: All necessary facilities, improvements and services are consistent or could be conditioned per the requirements of Titles 11, 13 and 15 of the Chelan County Code.
- 32.8 Noise, light, heat, steam, erosion, water quality, glare, odors, air pollution, smoke, wastes, dust, vibration, electrical disturbance, physical hazards and related impacts on adjacent properties and to the vicinity can be mitigated or avoided.
 - 32.8.1 Based on the application materials, the applicant has indicated that operations on the subject property would not impact adjacent properties in the vicinity with noise, light, heat, steam, erosion, water quality, glare, odors, air pollution, smoke, wastes, dust, vibration, electrical disturbance, physical hazards, or any other related impacts.
 - 32.8.2 Hearing Examiner Finding: Based on the above facts, noise, light, heat, steam, erosion, water quality, glare, odors, air pollution, smoke, wastes, dust, vibration, electrical disturbance, physical hazards and related impacts on adjacent properties can be avoided or mitigated as conditioned.
- 32.9 The granting of the proposed conditional use permit is consistent and compatible with the intent, goals, objectives and policies of the comprehensive plan, and any implementing regulation.
 - 32.9.1 The proposed dog boarding facility development would be consistent with the goals and policies of the Resource Element of the Comprehensive Plan.
 - 32.9.2 Hearing Examiner Finding: The project is consistent with the Chelan County Comprehensive Plan.
- 33. Chelan County Code, Section 11.93.130: Animal Boarding Facilities. The following minimum conditions shall apply to kennels:
 - 33.1 All kennels, or any other animal boarding facilities, riding academies and stables that exceed the livestock densities set forth in Section 11.88.030 shall be located not less than one hundred feet from any property line.
 - 33.1.1 Applicant's Statement: The existing barn in which the business will be operated is located less than 100 feet from the property line. However, the proposed kennel or boarding facility will not exceed livestock densities. Livestock, as defined in Section 11.88.030 CCC will not be using the facility. The proposed kennel is for canines only, which is not regulated by 11.88.030 CCC. The Hearing Examiner disagrees with this contention.

- 33.1.2 In CUP 20-005, the Hearing Examiner discussed the application of CCC 11.88.030. The Hearing Examiner further interprets and applies this code provision in this decision.
- 33.1.3 The existing barn in which the business will be operated is located approximately 35 feet from the property line. The proposed use is to occur in an existing building and no new structure construction is proposed. Pursuant to CCC Chapter 11.97, a structure rendered nonconforming may be continued or maintained so long as subject to the conditions of said chapter. The proposed use is nonconforming due to its proximity to the property boundary (35 ft. instead of 100 ft.); being as the footprint of the structure is not being extended or enlarged resulting in an increase of the nonconformity, the structure may be utilized for the proposed use.
- 33.1.4 The existing barn is suitable for utilization as a kennel since the structure is not being extended or enlarged.
- 33.1.5 Hearing Examiner Finding: The Hearing Examiner finds that CCC 11.93.130(1) reads, “all kennels or any other animal boarding facilities, riding academies, and stables that exceed the livestock density set forth in CCC 11.88.030 shall be located not less than 100 feet from any property line” applies to this project. Because the code refers to kennels **OR** other uses identified in the code. The Hearing Examiner finds that the code clearly provides that kennels not be located less than 100 feet from any property line.
- 33.1.6 The reference to livestock density in CCC 11.93.130 clearly does not apply to kennels. Livestock is defined in CCC 14.98.1095 generally as domestic animals commonly raised or kept on farms for profit or other purposes and gives examples of cattle, bison, sheep, goats, swine, horses, mules, llamas and ostriches.
- 33.1.7 On the other hand, CCC 14.98.1045 defines a kennel generally as a building in which house pets, like dogs and cats, are kept for board commercially.
- 33.1.8 The definition of livestock in CCC 14.98.1095 clearly does not include dogs.
- 33.1.9 Accordingly, the Hearing Examiner finds that CCC 11.93.130 does specifically apply to “kennels” as defined in the Chelan County Code.
- 33.1.10 The term livestock and densities set forth CCC 11.93.130(1) does not apply to the term “kennels”, but does apply to the other terms of “other animal boarding facilities, riding academies and stables.”
- 33.1.11 Nevertheless, the Hearing Examiner, in making this decision to approve this kennel, finds that the Applicant has satisfied all variance criteria set forth in CCC 11.95 and therefore, in approving this proposed use, finds that in this specific case, a variance to the 100 foot setback is appropriate.
- 33.1.12 This is a very unusual circumstance for the Hearing Examiner to grant a variance without a formal variance application being submitted. The Hearing Examiner would note that there were no agency comments opposed to this project. Further, the Hearing Examiner has determined, in this very limited circumstance, that had the Applicant applied for a variance, that a variance would have been granted. This does not mean that future applicants for any other types of permits are not required to

apply for a variance when a variance is necessary to receive relief from the Chelan County Code. It was just in this limited and unusual circumstance that the Hearing Examiner believes that it would be unduly costly and cause an undue delay of time to require the Applicant to formally apply for a variance, when the Hearing Examiner already has sufficient factual information to grant a variance.

- 33.1.13 The Hearing Examiner finds that the purpose of the 100 foot setback is clearly to mitigate noise and odors that may originate from the kennel. In this instance, the location of the barn/kennel is quite remote, the dogs will be housed inside the barns at all times, except during the day when they are allowed to go outside when supervised by the Applicant or Applicant's staff. The dogs will not be allowed to be outside unsupervised. Additionally, all waste materials from the animals will be collected daily and disposed of in a proper manner so as to eliminate, or the very least, greatly reduce any impacts from odors.
- 33.1.14 The hardship is the location of the existing barn 35 feet from the property line and no other reasonable location on the property for the kennel.
- 33.2 The Applicant shall provide parking and loading spaces designed to minimize traffic hazards and congestion.
- 33.2.1 Applicant's Statement: There is adequate parking available using existing driveways. Additional parking will also be constructed adjacent to the barn with access from the private road (see site plan). Animals are able to be transported by standard cars and park in lots. Timing of arrivals and departures will be staggered. The proposal is to operate as a family run business, so no additional employee parking is needed.
- 33.2.2 Based on comments from Chelan County Public Works, the applicant would be required to construct a Rural Emergency Vehicle Turn-around on site. The proposed parking area would also require approval for type of surface materials being used and creation of the number of parking spaces prior to commencement of activities.
- 33.2.3 Pursuant to CCC Section 11.90.060 for off-street parking requirements, the closest related use to a dog boarding facility would be *personal and professional services* as outlined in the table of CCC 11.90-3, 1 space per 300 square feet of floor area of the commercial use would be required.
- 33.2.4 Based on the site plan of record, the existing barn is approximately 1,800 sq.ft.; therefore, six (6) parking spaces are required. *(1,800 sq. ft. / 300 sq. ft. = 6 total spaces)*
- 33.2.5 Hearing Examiner Finding: As conditioned, the proposed use would meet the required number of parking spaces and would be designed to minimize traffic hazards.
- 33.3 The applicant shall show that odor, dust, noise, and drainage shall not constitute a nuisance, hazard or health problem to adjoining property or uses.
- 33.3.1 Applicant's Statement: Adjacent properties are primarily undeveloped with some orchard space. Indoor facilities will be provided to minimize noise from barking. There will be no impacts to drainage and minimal noise, dust or odor.
- 33.3.2 Based on the application materials, dogs being boarded would be kept inside the boarding facility, except during supervised time in the outdoor run area, in order to alleviate potential noise pollution.

- 33.3.3 The outdoor run area would consist of grass, wood chips, and/or other natural materials as a way to promote sanitary conditions and minimizing dust and pest breeding. The waste anticipated would be removed daily and would not be accumulated on-site.
- 33.3.4 Hearing Examiner Finding: As conditioned, the proposed development would not result in a nuisance or health hazard to surrounding properties.
- 33.4 For kennels, indoor sleeping quarters shall be provided to minimize nighttime noise impacts to surrounding properties.
 - 33.4.1 Applicant's Statement: Indoor facilities will be provided (using an existing barn) to minimize noise from barking. See proposed kennel layout attached. The attached diagram shows a maximum kennel size of 16 kennels, but the applicant is proposing an initial operation of only 3-5 kennels, with growth to approximately 10. Applicant does not anticipate installing maximum number of kennels allowed by zone.
 - 33.4.2 Based on the application materials, all of the kennels would be located indoors with the outdoor area being used to allow daily play time for dogs staying at the kennel. Although the applicant may start with fewer kennels, they would like to be approved for up to sixteen (16) kennels, the maximum allowed per zoning requirements.
 - 33.4.3 Hearing Examiner Finding: As conditioned, the development would include indoor sleeping quarters for up to sixteen (16) dogs.
- 33.5 Any animal boarding facility will require submission of a conceptual master development plan to be reviewed by the Chelan County department of building/fire safety and planning for compliance with adopted standards and reviewed by the Chelan County public works department for compliance with county road standards.
 - 33.5.1 Applicant's Statement: A site plan has been provided, but no road impacts are anticipated.
 - 33.5.2 Prior to the commencement of the proposed development, a change of use permit, as issued by Chelan County Building Department, would be required.
 - 33.5.3 At time of change of use permit, approval for parking and stormwater would be reviewed by Chelan County Public Works; the Chelan County Fire Marshal's approval of the development would also be required.
 - 33.5.4 Hearing Examiner Finding: As conditioned, the proposed development would be required to be reviewed and approved for compliance with the adopted standards.
- 33.6 The hearing examiner may require greater setbacks, screening, buffering or additional conditions to mitigate any adverse impacts.
 - 33.6.1 Applicant's Statement: The applicant will comply with any conditions imposed by the hearing examiner.
 - 33.6.2 Hearing Examiner Finding: As conditioned, the Hearing Examiner finds that the proposed plan is anticipated to alleviate the potential of adverse impacts to surrounding properties.
- 34. An open record public hearing after due legal notice was held using Zoom video conferencing on April 26, 2023.
- 35. At this hearing, the Hearing Examiner admitted the staff report and the entire Planning staff file of record into the record of the hearing.

36. Appearing on behalf of the Applicant was Julie Norton. Ms. Norton testified that she was the attorney for the Applicants. She did not provide any sworn testimony. She did indicate, on behalf of the Applicants and property owners, that they agreed with all the representations set forth within the staff report and that the proposed Conditions of Approval were acceptable.
37. No member of the public testified at the hearing.
38. The Hearing Examiner has reviewed the applications and submitted materials. Based on the information contained in the applications and compliance with the Revised Code of Washington, the Washington Administrative Code, Chelan County Comprehensive Plan, and the Chelan County Code, the Hearing Examiner provides the attached conditions of approval.
39. Any Conclusion of Law that is more correctly a Finding of Fact is incorporated herein as such by this reference.

II. CONCLUSIONS OF LAW

1. The Hearing Examiner has authority to render this Decision.
2. As conditioned, the proposed development would meet applicable zoning and critical areas regulations.
3. As conditioned, the proposed development would be compatible with the character of the surrounding area.
4. As conditioned, the use will not be detrimental to the natural environment or the productive use of resource lands.
5. As conditioned, the proposed development is not anticipated to result in an adverse impact on public health, safety and welfare
6. All necessary facilities, improvements and services are consistent or could be conditioned per the requirements of Titles 11, 13 and 15 of the Chelan County Code.
7. As conditioned, the project is consistent with the Chelan County Comprehensive Plan.
8. As conditioned, the project complies with the Revised Code of Washington, the Washington Administrative Code, Chelan County Comprehensive Plan, and the Chelan County Code.
9. The Applicant has satisfied the variance criteria set forth within CCC 11.95.
10. Any Finding of Fact that is more correctly a Conclusion of Law is incorporated herein as such by this reference.

III. DECISION

Based upon the above noted Findings and Fact and Conclusions, CUP 23-061 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 CCC Section 11.93.080, the granting of a conditional use permit and the conditions set forth runs with the land; compliance with the conditional use permit is the responsibility of the current owner of the property, whether that is the applicant or a successor.

2. Pursuant to CCC Section 11.93.040(10), the final Conditional Use Permit shall be in conformance with the submitted application of record, including site plans date stamped February 6, 2023 or as amended by this decision.
3. Pursuant to CCC Section 11.93.130(2), 6 total parking spaces shall be provided.
 - 3.1. The applicant shall be required to show the dimensions and type of materials proposed for the parking area(s). Prior to commencement of activities, the applicant shall provide Chelan County Public Works with a parking area, type of surface material proposed for the parking lot, number of parking spaces, and general parking schematic of the proposed area.
4. Pursuant to CCC Section 11.93.130(3), the outdoor run area shall be covered in grass, wood chips, and/or other natural materials to minimize dust and pest breeding.
 - 4.1. Pet waste shall be removed daily from the outdoor area and shall not be accumulated on-site.
 - 4.2. Pursuant to the comment letter received from the Chelan-Douglas Health District, the applicants shall submit a written plan that details the plan of operations for legally disposal of the canine waste material for approval to both Chelan County Community Development and the Chelan-Douglas Health District.
 - 4.3. At any time the dogs are outside of the barn and in the outside run area, they shall be supervised by the owner or their agent to minimize barking. The owner/agent supervising the dogs shall take steps to return barking dogs back into the barn so as not to be a disturbance to the public or wildlife.
5. Pursuant to CCC Section 11.93.130(4), indoor sleeping quarters shall be utilized to minimize nighttime noise impacts to surrounding properties.
6. Pursuant to the requirements of the International Building Code, International Fire Code, and CCC Section 11.93.1230(5), a Chelan County change of use permit shall be required for the proposed indoor boarding facility.
 - 6.1. Pursuant to CCC Chapter 15,30, the applicant shall be required to construct a Rural Emergency Vehicle Turn-around (Standard Plan PW 21-A or B) on the project site and also provide the dimensions and materials to be used for the proposed parking area to Chelan County Public Works for approval prior to commencement of the proposed use.
 - 6.2. Pursuant to CCC Title 13, the need for stormwater and drainage shall be reviewed and approved by Chelan County Public Works. If a drainage system is required, the applicant shall show any easements in accordance with the approved drainage plan.
7. Pursuant to CCC Section 11.78.050(6)(D)(ii), the applicant shall fence the outdoor run area using a Type B fence, further described as a braid mesh fabric or any other combination of materials that may create a continuous solid enclosure. Fence material shall be securely fastened to substantial posts.
8. Pursuant to CCC Section 11.88.080, security lights or any exterior lighting shall be low-intensity, non-flashing and designed to project toward the property or shall be shielded to keep light from directly projecting over property lines.
9. Pursuant to RCW 27.53.020, if the applicant or their agents discover previously unknown historic or archaeological remains/artifacts while conducting the development activities authorized by this application, the applicant/ agent shall immediately notify the appropriate tribal and state representatives and the Chelan County Department of Community Development of the finding for

local, state and tribal coordination. If any Native American grave sites or archaeological resources are discovered or excavated, work shall stop immediately.

10. Pursuant to Chelan County Code Section 11.93.110, a conditional use permit shall become void if not acted upon, including but not limited to submitting a building permit or the placement of all infrastructure, within three years after approval or such other time period as established by the hearing examiner. The applicant may request a one-year extension, to be reviewed administratively, if the applicant submits a written request with community development thirty days prior to expiration.
11. Pursuant to Chelan County Code Section 11.93.120, action of the Hearing Examiner is final, unless appealed pursuant to the judicial appeal provisions of Title 14 of the Chelan County Code.

Dated this 1st day of May, 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.