

BEFORE THE CHELAN COUNTY HEARINGS EXAMINER

IN THE MATTER OF
PLAT 2022-302
Noche Vista Subdivision

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

THIS MATTER, having come on for hearing in front of the Chelan County Hearing Examiner on May 3, 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 31.34 acres into 17 lots and two open space tracts. The smallest lot proposed would be approximately 0.40 acre in size and the largest lot would be approximately 1.78 acre in size along with two open space tracts that are proposed to be 4.64 acres and 5.88 acres in size respectively. This proposed development would have three (3) phases; Phase 1 would consist of the development of Lots 1, 2, 3, and 17; Phase 2 would consist of the development of Lots 4, 5, 6, 7, 8, 11, 12, 13, and 14; and Phase 3 would consist of the developments of Lots 9, 10, 15, and 16. The actual lots developed in each phase may change. This would be a minor modification.
2. The subject property is located in the Rural Residential/Resource 10 (RR10) zoning district and is also within the Bear Mountain Planned Development (ZC-517) overlay district. Access would be off of Bear Mountain Ranch Road and Sabio Way onto private internal roadways proposed with the development. To fulfill a requirement for the Bear Mountain Planned Development, a gated Secondary Access Road that connects Bear Mountain Ranch Road to Bear Mountain Road has been submitted along with the subdivision application. Domestic water would be provided by the Bear Mountain Water District with sanitation provided by individual on-site septic systems.
3. The Applicants/owners are Noche Vista LLC, C/O John Dwyer, 4620 83rd Ave. SE, Snohomish, WA 98290. The agent/surveyor is Michelle Taylor / Northwest Geodimensions, 15 N. Chelan Ave., Wenatchee, WA 98801.
4. The parcel number for the subject property is 27-22-18-480-765, and the abbreviated legal description is Bandera at Bear Mountain Ranch Tract 10, Lot B BLA 2006-076.
5. The subject property is not located within an Urban Growth Area.
6. The Comprehensive Plan designation and zoning designation for the subject site is Rural Residential/ Resource 10 (RR10).
7. The subject property is currently vacant and has a slight downhill slope to the east. This proposed development is within the Bear Mountain Planned Development and it is adjacent to the Bear Mountain Golf Course and also Phase 2 of the Bandera at Bear Mountain Ranch development.
8. The subject property is approximately 31.34 acres.
9. The proposed developments within the immediate area are all part of the Bear Mountain Planned Development (ZC-517). The adjacent properties are all zoned Rural Residential / Resource 10 (RR10) and are either used for recreational or residential purposes.

10. The applicant submitted an Aquifer Recharge Area Disclosure Form, date stamped July 25, 2022. Based on the application materials submitted, Chelan County has determined that aquifer recharge protection measures do not apply pursuant to Chelan County Code (CCC) Section 11.82.040.
11. Pursuant to the Federal Emergency Management Agency, FIRM map panel 5300150225A, the subject property does not contain identified 100 or 500-year flood plain or associated floodway. Therefore, CCC Chapter 11.84, Frequently Flooded Areas Overlay District would not apply.
12. According to the Chelan County GIS mapping, the subject property does contain potential geologic hazardous areas. Therefore, the provisions of CCC Chapter 11.86, Geologically Hazardous Areas Overlay, would apply. A geological site assessment, dated April 10, 2022 and conducted by Anderson Geological Consulting, LLC, was submitted with application; the property is compatible with residential development if individual homeowners have their lot construction plans reviewed by a qualified soil engineer prior to house site excavation.
13. Pursuant to the National Wetlands Inventory Map, the property does not contain any known wetlands; therefore, the provisions of CCC Chapter 11.80, do not apply.
14. 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 contains shrubsteppe and mule deer habitat. Therefore, the provisions of CCC Chapter 11.78 do apply. A Wildlife and Habitat Mitigation Plan was prepared for the Bear Mountain Planned Development, pursuant to Condition of Approval #30 of Resolution 2000-090. All subsequent development within the Bear Mountain Planned Development shall comply with the mitigation recommendations as cited in the February 2003 Wildlife and Habitat Mitigation Plan, prepared by Biota Pacific Environmental Sciences, Inc. from Bothell, Washington. For this specific proposed development, an updated Fish and Wildlife Habitat Management and Mitigation Plan was prepared by Grette Associates, which outlines the proposed mitigation and its sequencing. The Hearing Examiner sets as a condition of approval the implementation of the mitigation recommended in this plan.
15. The Shoreline Master Program does not apply to this project.
16. Pursuant to RCW 27.53.020, full cooperation among the Department of Archaeology and Historic Preservation and other agencies is required to ensure information regarding the possible impact of construction activities on the state's archaeological resources is maintained. No comments from either the Department of Archaeology and Historic Preservation (DAHP) or the Colville Tribe were received for this plat submittal. In the 2008 plat submittal, there was a condition of approval that an archaeological survey be performed. A subsequent archaeological survey was completed and submitted on October 7, 2008 and no archeological artifacts were found.
17. The proposed development is within the Bear Mountain Planned Development (ZC-517) and is actually a redesign of Plat 2008-005 that was approved by the Hearing Examiner on November 7, 2008. Since no blueline review was submitted for final approval, the 2008 plat expired on November 7, 2013. On January 27, 2022, a pre-application meeting was held to discuss the re-configured major subdivision.
18. The applicant is proposing for primary access to be off Sabio Way (Private), with connection to US 97A via Paintbrush Road (Private), Golf Course Road (Private) and Bear Mountain Ranch Road (Private). Pursuant to comments issued by Chelan County Public Works on February 23, 2023, the applicant would be required per the original Approved Bear Mountain Planned Development (ZC-517) and under Resolution 2000-090, to provide a Secondary Access providing connection from Bear Mountain Ranch Road to Bear Mountain Road. This extension of Bear Mountain Ranch Road shall be constructed to the Rural Emergency Vehicle Access Road

standard (PW-22). The construction of the Secondary access road may be done in conjunction with the Noche Vista development, and must be completed prior to Public Works signing the Plat. Pursuant to comments issued by Chelan County Public Works on February 23, 2023, the applicant would be required per CCC Chapter 15.30 to construct the main internal private access road to meet the construction design of the Modified Bear Mtn. Road Design (Old Standard Plan PW-15, prior to 2008) with an Emergency Turn-around (Standard Plan PW-22 or PW-23-A or B). In addition, the applicant would be required to construct Emergency Vehicle turnarounds (Standard Plan PW-22 or PW-23-A or B) for all proposed roads and Shared Residential Driveways that are 150' and longer.

19. The comment letter from Chelan County Public Works, dated February 23, 2023 states a private stormwater drainage system is required with an Operation and Maintenance Agreement of the drainage system and recorded with the final plat.
20. Domestic water would be served by expansion of the Bear Mountain Water District public water system.
21. The Chelan-Douglas Health District comment letter, dated February 23, 2023, states that all lots meet or exceed the state minimum lot size based upon soil type and source of domestic water supply.
22. Power would be provided via an extension of the Chelan County PUD.
23. The Chelan County Fire Marshal comment letter date stamped February 26, 2023, 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. A note on the face of the final plat shall state "Without the installation of a fire hydrant that has the capabilities of delivering the required fire flow and within the required distance to the lots in question, the applicant may choose one or any combination of the fire protection credits to satisfy 100% Fire Protection Credits needed." In addition, all buildings within this plat that require a building permit shall comply with the provisions of the Wildland-Urban Interface Code as adopted by Chelan County at the time the building permit is submitted.
24. Irrigation would be provided by the Bear Mountain Water District.
25. Noise impacts are addressed in CCC Chapter 7.35.
26. The applicant submitted an environmental checklist on July 25, 2022. 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 March 10, 2023. The SEPA Checklist and MDNS are included within the file of record and adopted by reference.
27. The Notice of Application was referred to agencies and departments on February 14, 2023 and surrounding property owners within 300 ft. excluding 60 ft. of right-of-way with comments due February 28, 2023. Agency comments are included, as appropriate, within this decision and in the recommended Conditions of Approval. The following agencies and County departments were sent referral packets:

| Agencies Notified | Response Date | Nature of Comment |
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| Chelan County Assessor | No Comment Received | N/A |
| Chelan County Fire Marshal | February 26, 2023 | The subject property is located within Fire District 7. There is a fire station |

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| | | located more than 5 miles from the project site. The Chelan County Fire Marshal's review also includes measures for fire protection, including construction materials, and access. |
| Chelan County Fire District # 7 | No Comment Received | N/A |
| Chelan County Building Official | No Comment Received | N/A |
| Chelan-Douglas Health District | February 23, 2023 | All water system improvements must be designed, constructed, and placed in accordance with the purveyor's requirements. Completion of the improvements, including necessary easements, must be accepted in writing from the utility prior to final plat approval. Tower Designs conducted a soil/site evaluation/feasibility review for placement of onsite sewage systems via a report dated 5/2/22. Based upon this evaluation, all lots meet or exceed the state minimum lot size based upon soil type and source of domestic water supply. |
| Chelan County Public Works | February 23, 2023 | Recommended conditions of approval were provided regarding the secondary access road, the internal circulation plan, and stormwater requirements. |
| Chelan County PUD | No Comment Received | From the 2008 plat submittal, electricity would be provided by Chelan County PUD No. 1. Line extensions may be necessary and easements would be required for all line extensions. No comments were received from the Chelan County PUD for the 2023 plat submittal. |
| Bear Mountain Water District | No Comment Received | Per comments received from CDHD, the Bear Mountain Water District water system is currently approved for 149 connections and the existing total calculated connections are 141. Per conversations with the state Dept. |

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| | | of Health's Drinking Water Program, the Bear Mountain Water District will need to conduct a capacity analysis and a Water System Plan before CDHD can approve this 17-lot subdivision |
| WA Dept. of Fish and Wildlife | February 28, 2023 | WDFW was included by Grette Associates in both an on-site review of the land proposed for development, as well as given the opportunity to review the draft HMMP and provide informal comments prior to the submission of the final draft to Chelan County. WDFW reviewed the final HMMP included in the application materials and appreciate that our recommendations were included and therefore has no further comments or concerns. |
| WA Dept. of Ecology | No Comment Received | N/A |
| Department of Archaeology and Historic Preservation (DAHP) | No Comment Received | N/A |
| Yakama Nation | No Comment Received | N/A |
| Confederated Tribes of the Colville Reservation | No Comment Received | N/A |
| Chelan School District | No Comment Received | N/A |
| Noxious Weed Control Board | No Comment Received | N/A |

28. Public comments were received from the following:

28.1 Joe Bell dated February 28, 2023. Mr. Bell had concerns about secondary access road and Bear Mountain Planned Development covenants.

28.2 Andrew Dumont dated February 23, 2023. Mr. Dumont had concerns about the internal roads within the development.

29. Application and Public Hearing Notice Compliance:

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| Application Submitted: | July 25, 2022 |
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| Determination of Completeness issued: | February 7, 2023 |
| Notice of Application: | February 14, 2023 |
| SEPA DNS Issued: | March 10, 2023 |
| Notice of Hearing: | April 22, 2023 |

30. Chelan County Comprehensive Plan, page 8 of the Rural Element, states the purpose of the Rural Residential/Resource 10 (RR10) designation is:

30.1 *“To allow for rural development, forestry and agricultural uses consistent with the rural character and rural development provisions outlined in the goals and policies of the comprehensive plan. These areas can function as areas of transition between resource lands and areas of more intense rural or urban development. These areas also provide opportunities for protecting sensitive environmental areas and creating open space typical of a rural setting. Uses appropriate for these areas 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 for job opportunities for rural residents; home occupations; bed and breakfasts; and community facilities.”*

30.2 **Hearing Examiner Finding:** The proposed subdivision is located entirely within the Rural Residential/Resource 10 (RR10) designation. The development plan proposes residential dwellings for the subject site. The proposed development is consistent with the adopted Chelan County Comprehensive Plan policies.

31. Chelan County Code, Title 11: Zoning. The Chelan County Code and Zoning Map identifies the subject property within the Rural Residential/Resource 10 (RR10) zoning district, and subject to the conditions of approval associated with ZC 517, Bear Mountain Planned Development. Chelan County Code Section 11.04.020, District Use Chart, lists land divisions and planned developments within the Rural Residential/Resource 10 (RR10) zoning district as a permitted activity. The subject proposal is also implementing the Bear Mountain Planned Unit Development Overlay District (PDD) pursuant to Chapter 11.76 of the Chelan County Zoning Resolution. The intent of the PDD is to provide a means of allowing development to occur that is not limited to the strict application of the Chelan County Zoning Resolution. More specifically, it is the intent of this chapter to:

- 31.1 Allow some flexibility in design and development that would result in a more desirable and efficient use of land by reviewing developments on a project level rather than on a building-by-building or lot-by-lot basis, typical of the rest of the zoning resolution.
 - 31.2 Permit some flexibility of design, placement of improvements, use of open spaces, pedestrian and vehicular circulation, parking areas and other design elements to better utilize unique site characteristics.
 - 31.3 Produce and integrated and balanced development of mutually supportive uses that might otherwise be inharmonious.
 - 31.4 Provide a guide for the development community and county representatives who review and approve developments to ensure the standards and purposes of this chapter are met.
32. Chelan County Code, 11.10.020: Standards. Chelan County Code Chapter 11.10, Zoning, provides guidance for the lot sizes and dimensions, densities and appropriate uses within the Rural Residential/Resource 10 (RR10) district:
- 32.1 Minimum lot size is ten acres, which measures to the centerline of adjoining public rights-of-way. Cluster subdivisions and planned developments may have reduced minimum lot sizes.
 - 32.2 Minimum lot width is 150 feet at front building line.
 - 32.3 Maximum building height is 35 ft.
 - 32.4 Maximum lot coverage is 35%.
 - 32.5 The minimum front yard setback is twenty-five feet (25') from front property line or fifty-five feet (55') from the street centerline, whichever is greater. The rear yard setback is twenty feet (20') from the rear property line. The side yard setback is five feet (5') from the side property line. On corner lots the street side yard shall be a minimum of twenty-five feet from the property line or fifty-five feet from the street centerline, whichever is greater.
 - 32.6 Hearing Examiner Finding: The proposed lots would be for residential use and range in size from 0.40 acres to 1.78 acres in size. The minimum lot size in the RR10 zone is 10 acres, but the Bear Mountain Planned Development (ZC-517) established the minimum lot size and density for the entire project, which allows for a maximum of 300 single-family residential units. Maximum building height requirements would be addressed at the time of building permit issuance. The buildings total area shall not exceed 35% of the lot area. The individual lot coverage shall not exceed the approved lot coverage in ZC-517. The internal setbacks, which include all sides of all lots within Noche Vista, are proposed to be less restrictive than those required setbacks in the underlying RR10 zoning district. ZC-517, Condition of Approval #34 was specific to setbacks for residential and accessory structures. All setbacks at final plat submittal shall be shown on the face of the plat and shall be in conformance with the requirements of ZC-517.
33. Chelan County Code 14.08.010 Pre-application meetings:
- 33.1 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.

- 33.2 Hearing Examiner Finding: The applicant participated in a pre-application meeting with Chelan County Community Development on January 27, 2022.
34. Chelan County Code, Title 12: Land Divisions - Chelan County Code 12.02.060 Concurrency of Public Infrastructure:
- 34.1 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.
- 34.2 No county facilities will be reduced below adopted levels of service as a result of the proposed land division.
- 34.3 The subject property would be served by expansion of the Bear Mountain Water District and would utilize on-site septic systems. Extensions of the existing lines would be required for power.
35. Chelan County Code Section 12.08.010 - Land division names. 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 same of any other subdivision in the county, except for the words which contain the following 'town,' 'county,' 'place,' 'court,' 'addition,' 'acres,' 'height,' 'villa,' or similar words unless the land so divided is contiguous to the land division bearing the same name.
- 35.1 Hearing Examiner Finding: 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.
36. Chelan County Code 12.08.020 – Lot Standards:
- 36.1 Suitability for Intended Use. All lots shall be suitable for the general purpose for which they are intended, meeting the dimensional standards of the Chelan County Code or shoreline master plan, including but not limited to required buffers, setbacks or protection zones. Cluster lots, planned unit developments and binding site plan may vary from the dimensional standards of the applicable zoning district as provided for in this title. No lot shall be of such size or design as to be detrimental to the health, safety or sanitary needs of the residents of the subdivision or such lot.
- 36.2 Hearing Examiner Finding: The proposed lots meet the dimensional requirements of CCC Section 11.10.020. The internal setbacks, which include all sides of all lots within the proposed development, would be less restrictive than those required setbacks in the underlying RR10 zoning district due to the proposed development being within the Bear Mountain Planned Development (ZC-517). Pursuant to Condition of Approval #34 of ZC-517, the specific to setbacks for residential and accessory structures and all setbacks at final plat submittal shall be shown on the face of the plat and shall be in conformance with ZC-517.
- 36.3 Every lot shall be provided with access. If access is provided by a road, residential driveway or shared residential driveway, access shall meet the requirements of Title 15.
- 36.4 Hearing Examiner Finding: Access to the proposed subdivision is to be off Sabio Way (Private), with connection to US 97A via Paintbrush Road (Private), Golf Course Road (Private) and Bear Mountain Ranch Road (Private). This proposed internal road is proposed to meet Old Standard Plan PW-15 (in place prior to 2008). The applicant would be required to construct Emergency Vehicle turnarounds (Standard Plan PW-22 or PW-23-A or B) for all proposed roads and Shared Residential Driveways that are 150' and longer. The proposed subdivision is consistent with the required access requirements.

- 36.5 Forest service roads and roads designated as “primitive” by Chelan County are not suitable access for land division, except as provided in Section 12.04.020.
- 36.6 Hearing Examiner Finding: Not applicable
- 36.7 Proposed lots must include a building footprint where the slope does not exceed forty percent, unless a geological or engineer report can demonstrate building area, except as provided in Section 12.04.020.
- 36.8 Hearing Examiner Finding: The subject property does not contain slopes steeper than forty percent.
- 36.9 The administrator may require a map showing the building envelope of each lot and related critical areas and associated buffers.
- 36.10 Hearing Examiner Finding: The project is located in an area identified as a potential geologic hazard for steep slopes and erosive soils. In addition, WDFW PHS mapping has identified the subject property as having mule deer habitat and shrubsteppe. The applicant has submitted a Geological Site Assessment, dated April 10, 2022, completed by Anderson Geological Consulting, LLC. This Assessment concludes that the subject property is compatible with residential development if individual homeowners have their lot construction plans reviewed by a qualified soil engineer prior to house site excavation. A Fish and Wildlife Habitat Management and Mitigation Plan was prepared for the proposed development by Grette Associates, which outlines the proposed mitigation and its sequencing for the proposed development.
- 36.11 Where the land division may result in barriers to development of adjacent lots, the administrator may require that the location of lot lines provide for future land division of surrounding property.
- 36.12 Hearing Examiner Finding: The proposed land division does not result in a barrier to development of adjacent lots.
37. Chelan County Code 12.08.030 Easement:
- 37.1 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:
- 37.1.1 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.
- 37.1.2 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.
- 37.1.3 Hearing Examiner Finding: Electrical services are available from the Chelan County PUD No. 1. However, line extension would be required.
- 37.2 Private road easements shall be shown.
- 37.2.1 The applicant is proposing access through expansion of an existing private road and by private internal roads and driveways. Private road standards, as detailed in CCC Title 15, apply to this development and require an approved maintenance agreement.

- 37.3 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.
- 32.3.1 All easement locations are required to be shown on the final plats, pursuant to CCC Section 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.
- 37.4 Easement provisions shall be in conformance with the standards contained in Title 15, Development Standards.
- 37.4.1 Easement locations and purpose(s) should be indicated on the final plat. Easements shall be reviewed with blue line submittal.
38. 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.
- 38.1 The subject property is located in Fire District 7. The Chelan County Fire Marshal requires conformance with the International Fire Code. The nearest fire station is approximately five (5) miles from the subject property. Pursuant to CCC 3.04.010, State Building Code, all building permits require compliance with the International Fire Code(s), as adopted or amended by Chelan County.
39. 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.
- 39.1 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.
40. 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.
- 40.1 Hearing Examiner Finding: The property is not impacted by a watercourse.
41. Pursuant to Section 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.
- 41.1 Hearing Examiner Finding: The Chelan-Douglas Health District comment letter, dated February 23, 2023, states that domestic water service shall be provided by the expansion of the Bear Mountain Water District. Additionally, it states that all lots meet or exceed the state minimum lot size for on-site septic systems, based upon soil type and source of domestic water. As conditioned, the proposed development would meet the requirements for domestic water supply and on-site septic systems. On-site septic system and domestic water supply systems are reviewed and approved by the Chelan-Douglas Health District.
42. Chelan County Code 12.08.080. Road Standards: All land divisions shall comply with Title 15.

43. 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.
- 43.1 Hearing Examiner Finding: 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.
44. Chelan County Code 12.08.100 Flood Protection:
- 44.1 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.
- 44.2 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.
- 44.3 Hearing Examiner Finding: The subject property does not contain floodplains or floodways.
45. 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.
- 45.1 The applicant shall have five (5) years to final the plat from the date of preliminary approval.
46. An open record public hearing after due legal notice was held using Zoom video conferencing on May 3, 2023.
47. At this hearing the entire Planning staff file was entered into the record.
48. Appearing and testifying on behalf of the Applicant was John Torrence. Mr. Torrence testified that he was the agent for the Applicant and property owner. Mr. Torrence stated that he had no objection to any of the proposed Conditions of Approval and agreed with all representations in the revised staff report.
49. The following members of the public testified at the hearing:
- 49.1 Terry LaBrue. Mr. LaBrue owns Lot 14 of Bear Mountain Ranch which is across the street from the proposed snow storage area. He had concerns about impacts from snow melt onto his property from this storage area and suggested a storm drain at this location would be needed.
- 49.2 Mr. Torrence stated that the Applicant will meet all county storm drain requirements. In response to the public comment, staff indicated that Paint Brush Road is not part of this development.
50. 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, and Title 15 Development Standards.
3. The application, as conditioned, demonstrates consistency with the goals and policies as set forth in the Chelan County Comprehensive Plan.
4. The application, as conditioned, demonstrates consistency with 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 2022-302** 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 development shall conform to all applicable local, state, and federal regulations, statutes, rulings, and requirements. The proposal shall be subject to approval that may be required under permits licenses or approvals by any other local, state, or federal jurisdictional agency.
2. All conditions imposed herein shall be binding on the Applicant. "Applicant" shall mean terms, which include the owner or owners of the property, heirs, assigns and successors.
3. Pursuant to CCC Section 12.08.030 and 12.24.020(3) and CCC Chapter 15.30, all easement locations are required to be shown on final plats.
4. Pursuant to RCW 84.56.345, all taxes, delinquent taxes, and assessments that are required by the Chelan County Treasurer are to be paid prior to final Plat recording.
5. Pursuant to CCC Section 12.02.010(1), the following note shall be placed on the final plat mylar:
 - 5.1. **"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 assure all risk and liability for any claims and liabilities for covenants or deed restrictions or reservations."**
6. Pursuant to RCW 27.53.020, the applicant shall stop work and contact Community Development and the Department of Archaeology and Historic Preservation and other agencies as required, regarding the possible impact of construction activities on the state's archaeological resources.
7. Pursuant to CCC Section 12.24.040, the final Plat shall be designed in substantial conformance with the preliminary plat of record, date stamped July 25, 2022, on file with the Chelan County

Community Development Department, except as modified herein. No increase in density or number of lots shall occur without a re-submittal of a plat application.

- 7.1. The proposal shall comply with the Rural Residential/Resource 10 (RR10) Zoning District and ZC-517 dimensional and/or development standards and other applicable Zoning Resolution Chapters, as amended.
8. 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.
9. 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.
10. An NPDES Construction Stormwater Permit may be required if there is a potential for stormwater discharge from a construction site with disturbed ground. Ground disturbance includes all utility placements, and building or upgrading roads. The permitting process requires going through placements, and building or upgrading roads.
11. Pursuant to CCC Chapter 11.78, the following notes shall be placed on the final plat:
 - 11.1. **“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.”**
 - 11.2. **“The designated open space tracts shall remain undeveloped and shall be maintained as wildlife habitat as outlined in the Noche Vista Development Fish and Wildlife Habitat Management and Mitigation Plan prepared by Grette Associates LLC in July 2022.”**
 - 11.3. **“Open space shall be protected in perpetuity, refer to AFN _____ for maintenance agreement.”**
12. Pursuant to CCC Section 11.86.080, the following notes shall be placed on the final plat:
 - 12.1. **“All or part of this area may be located within a suspected or known geologically hazardous area. Subsequent development shall be consistent with Chelan County Code Chapter 11.86 Geologically Hazardous Areas Overlay District, as amended; and the Geological Site Assessment prepared by Anderson Geological Consulting, LLC dated April 10, 2022 or with a site-specific geological site assessment.”**
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.**
 - 13.2.1. An inadvertent discovery plan shall be submitted with the building permit application and kept onsite during all land disturbing activities. A sample of this plan may be obtained from Chelan County Community Development.
 - 13.3. **“Agricultural activities occur throughout Chelan County and may or may not be compatible with residential development.”**
14. Pursuant to Chelan County Code Section 12.12.050, the applicant shall ensure the following note is shown on the final cluster plat:

- 14.1. **“Setbacks shall be determined at the time building permits are requested, and pursuant to the Bear Mountain Planned Development plan of record, unless these setbacks are specifically drafted on this plat.”**

CHELAN COUNTY FIRE MARSHAL

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 February 26, 2023.
- 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. The minimum fire flow and flow duration requirements for one and two-family dwellings having a fire area which does not exceed three thousand six hundred sq. ft. 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 sq. ft. 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 provided with an approved automatic sprinkler system.
- 15.3. The Fire Marshal may modify Fire-flow requirements downward by applying fire protection credits for isolated buildings or a group of buildings in rural areas or small communities where the development of full fire-flow requirements is impractical. Applicant is encouraged to contact this office to ascertain how the attached fire protection credits options apply to their project. A note on the face of the final short plat shall state: **“Without the installation of a fire hydrant that has the capabilities of delivering the required fire flow and within the required distance to the lots in question, the applicant may choose one or any combination of the fire protection credits to satisfy 100% Fire Protection Credits needed.”**
- 15.4. 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 feet from a fire hydrant when serving lots less than 43,560 sq. ft. (one acre).
- 15.5. 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 greater than 43,560 square feet (one acre).
- 15.6. All fire hydrants shall be accessible to the fire department by roadways or accesses meeting the requirements of Chapter 15.30, Road Standards, and meet the requirements of 15.40, Minimum Standard for Water Mains and Fire Hydrants.
- 15.7. 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: **“All buildings that require a building permit within this plat shall have Class A roofing materials.”**
- 15.8. 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.
- 15.9. A note on the final mylar shall state: **“All buildings within this plat that require a building permit shall comply with the provisions of the Wildland-Urban Interface Code as adopted by Chelan County at the time the building permit is submitted.”**

CHELAN-DOUGLAS HEALTH DISTRICT

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 February 23, 2023.
 - 16.1. Domestic water service shall be by expansion of the **Bear Mountain Water District's** public water system. Written confirmation from the utility agreeing to provide individual service to this plat dated 6/2/22 was received by this office. All water system improvements must be designed, constructed, and placed in accordance with the purveyor's requirements. Completion of the improvements, including necessary easements, must be accepted in writing from the utility prior to final plat approval.
 - 16.2. The dedicatory language on the plat shall carry this note:
 - 16.2.1. **"The Health District has not reviewed the legal availability of water to this development."**
 - 16.3. Tower Designs conducted a soil/site evaluation/feasibility review for placement of onsite sewage systems via a report dated 5/2/22. Based upon this evaluation, all lots meet or exceed the state minimum lot size based upon soil type and source of domestic water supply.
 - 16.4. The final plat shall show necessary easements and reference any legal access documents recorded separately from the plat.
 - 16.5. The dedicatory language on the plat shall carry these notes:
 - 16.5.1. **"The areas designated for drainfields must be protected from cover by structures or impervious surfaces, surface drainage, soil compaction, grade alteration, excavation and any other activity that may adversely affect the performance of the sewage system."**
 - 16.5.2. **"Onsite sewage systems meeting at least Treatment Level B, as described by WAC 246-272A, may be required for new or repaired septic systems."**
 - 16.5.3. **"Drainfield size reductions for use of gravelless distribution products may not be authorized for onsite sewage systems on these lots."**

CHELAN COUNTY PUBLIC WORKS

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 February 23, 2023.
 - 17.1. Pursuant to CCC Section 15.30.230 **the applicant** shall be required, per the original Approved Bear Mountain Planned Development (ZC-517), under Resolution 2000-090, to ensure a **Secondary Access** providing connection from Bear Mountain Ranch Road to Bear Mountain Road is constructed. This extension of Bear Mountain Ranch Road shall be constructed to the Rural Emergency Vehicle Access Road standard (PW-22). The construction of the Secondary access road may be done in conjunction with the Noche Vista development, and must be completed prior to Public Works signing the Plat.
 - 17.2. The applicant shall demonstrate a Legal and Perpetual Access for the proposed subdivision per CCC Section 12.08.020.
 - 17.3. Pursuant to CCC Chapter 15.30, The applicant shall be required to construct the main internal private access road to meet the construction design of the Modified Bear Mtn. Road Design (Old Standard Plan PW-15, prior to August 2008) with an Emergency Turn-around (Standard Plan PW-22 or PW-23-A or B).
 - 17.4. The applicant shall be required to construct Emergency Vehicle turnarounds (Standard Plan PW-22 or PW-23-A or B) for all proposed roads and Shared Residential Driveways that are 150' and longer.
 - 17.5. Pursuant to CCC Section 15.30.340, the applicant shall file a Private Road Maintenance and Upgrading Agreement appurtenant to all the property owners having a vested interest

in the private shared/common access road and must contain wording of maintenance of the road sign within the development. Said agreement must be provided simultaneously with the Preliminary Mylar (blue-line) submission. Said agreement shall be recorded with the final plat.

- 17.6. Pursuant to CCC Section 15.30.650, the following language shall be placed on the face of the plat: **“Chelan County has no responsibility to build, improve, maintain, or otherwise service any private road for this plat.”**
- 17.7. Pursuant to CCC Section 15.30.070, road design specifications and features shall be required to meet Chapter 15.30, WSDOT, AASHTO, MUTCD, and all other referenced design guidelines and publications in this section which may include but limited to ADA ramps, curb, gutter and sidewalks.
- 17.8. Pursuant to CCC Section 15.30.360, all lots within this subdivision shall be required to access off the new proposed internal roadway system.
- 17.9. Pursuant to CCC Section 15.30.240, the applicant shall be required to provide snow storage areas.
- 17.10. Pursuant to CCC Section 15.30.330 the applicant shall submit a sight distance analysis for all existing access and proposed access points. This includes all driveways and road intersections.
- 17.11. Pursuant to CCC Section 10.20.200, a road naming shall be required for the shared driveway/access roads that serves three or more addressable parcels or structures. The applicant shall 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 shall 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 shall be up to emergency services. Once a road name has been approved, a road name sign shall be required to be installed by the applicant per Chelan County specs. Once the road name sign is installed; the applicant shall be required to contact Chelan County Public Works for an inspection.
- 17.12. Pursuant to CCC Chapter 10.20 the applicant shall add the following note to the Final Mylar for addressing: **“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)”**.
- 17.13. Pursuant to CCC Section 15.30.310, the applicant shall cause a note to be placed on the face of the plat stating **“All new driveways accessing County Roads shall require an access permit from Chelan County Public Works, prior to the issuance of a building permit.”**
- 17.14. Pursuant to CCC Section 15.30.610, Construction Plans: the applicant shall submit construction plans and reports for all required improvements on the internal roads in accordance with Chapter 15.30: The Construction Plans shall include, but are not limited to:
 - A. Drainage Report and Plan
 - B. Roadway Improvement Plan (showing location of utilities and roadway curve data)
 - C. Lot access plan (profiles, topography)
 - D. Erosion and sedimentation control plan
 - E. Signage and Striping Plan

- 17.15. Pursuant to CCC Section 15.30.650, a Pre-Construction Meeting is required with the owner, contractor, and the Chelan County Public Works Department prior to commencing any construction.
- 17.16. 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.
- 17.17. Pursuant to CCC Section 15.30.820, the applicant shall not obstruct sight distance with a centralized mailbox or locate a centralized mailbox on a County road right-of-way that would hinder County Road Maintenance. Should a centralized mailbox be required, provide details on construction plans. Minimum information shall include location, installation details, and pull-out detail.
- 17.18. The final plat shall include any easements necessary to provide and maintain all utilities to and within the proposed preliminary plat.
- 17.19. Pursuant to CCC Section 13.18.030(9) on the final plat, show the necessary easements and tracts in accordance with the approved drainage plan.
- 17.20. Preliminary Plat must comply with stormwater standards, CCC Chapter 13.12, 13.14, 13.16 and 13.18.
- 17.21. 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 (blue-lines) and shall be recorded with the final plat.
- 17.22. The following not shall be placed on the final plat mylar:
- 17.22.1. **“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 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.”**
- 17.23. Plat must identify all roads as public or private.
- 17.24. Plat must identify centerlines, easements and right-of-way dimensions on Sabio Way and on any new proposed roads.
- 17.25. Applicant is required to submit Lot Closure Calculations with pre-final (blue-line).
- 17.26. Pursuant to CCC Section 15.30.825, monumentation shall be required to be placed on all public roads if not already monumented.

- 17.27. Show all easements that benefit or burden the project site.
- 17.28. The Applicant shall mitigate as set forth in the Fish and Wildlife Habitat Management and mitigation plan prepared by Grette Associates.
18. The Applicant is permitted to develop this project in phases. Finding of Fact No. 1 sets forth the initial proposal for lot phasing, but the Applicant indicated that the actual lots developed in each phase may change. The Hearing Examiner determines, based on the information known at this time, that any changes in which lots are developed and in which phases, would be a minor modification.

Dated this 5 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.