

BEFORE THE CHELAN COUNTY HEARINGS EXAMINER

IN THE MATTER OF	)	FINDINGS OF FACT, CONCLUSIONS
	)	OF LAW, DECISION AND CONDITIONS
CUP 2023-254	)	OF APPROVAL
Ravenwing Ranch-Columbia River Ranch LLC	)	

THIS MATTER, having come on for hearing in front of the Chelan County Hearing Examiner on September 6, 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 for a Conditional Use Permit has been requested for a short-term mineral extraction site. The talus slope from which the rock would be taken from and crushed is within an open space tract of the Ravenwing Ranch Phase 1 plat. This gravel will be used by Columbia River Ranch LLC (also known as Ravenwing Ranch) to do maintenance on the existing road that goes to their Group A water tank and permitted SFR lot parcels 212217625010, 212217625020, 212217625030, and 212217625040. In addition, per an agreement with the WDNR, Ravenwing Ranch, must maintain access for the government to reach their properties west and south of Ravenwing, and the Bonneville power line that encumber the Ravenwing Columbia River Ranch Properties. These parcels are 212207000010, 212218000010, 212218140000, and 212217600245 and the crushed gravel would be added in places on DNR road numbers 71540, 1922107, 334426, 364780, 2159009, 456563, 825723, 698135, 85734, 230171, and 240553. There are minor roads that will be maintained, not I.D. by DNR that exist of access to all the public utilities that run through this land. Lastly, gravel driveways would be created in parcels 212217600010, 212217600020, 212217600030, 212217600040, 212217600050, 212217600060, 212217600070, 212217600210, 212217600200, 212217600150, 212217600130, 212217600120, 212217600110, 212217600100, 212217600090, 212217600080, 212217650010, 212217650020, 212217650030, 212217650040, 212217650050, 212217650060, 212217650070, 212217650080, 212217650090, 212217650100, 212217650110, 212217650120, 212217650130, 212217650140, 212217650150, 212217650160, 212216330000, all of which are platted lots within Ravenwing Ranch.
2. The applicant/owner is Columbia River Ranch LLC, 5814 Colockum Road, Malaga, WA 98828. The agent is Dave Dormier – Erlandsen, 250 Simon St. SE, East Wenatchee, WA 98802.
3. The project location and parcel numbers are Unassigned, Malaga, WA 98828, No. 21-22-17-600-250. The legal description is Tract A Open Space of Ravenwing Ranch Phase 1 plat. The lot size is 386.90 acres.
4. The subject property is not located within any Urban Growth Area (UGA).
5. Existing land zoning is Rural Residential/Resource 20 (RR20). The subject property is currently vacant and consists of shrubsteppe habitat along with talus materials. Dry Gulch Creek flows through the middle of the property approximately 2,500 ft. to the north.
6. The applicant submitted an Aquifer Recharge Disclosure Form with application, dated June 6, 2023. The proposed development does not require a vulnerability report, pursuant to Chelan County Code (CCC), Chapter 11.82.



7. Surrounding properties:
- North: Ravenwing Ranch development / Rural Residential/Resource 10 (RR10) zoning.
- South: Undeveloped land / Rural Residential/Resource 10 (RR10) zoning.
- East: Colockum Road / Ravenwing Ranch development / Rural Residential/Resource 5 (RR5) zoning.
- West: Undeveloped land / Rural Residential/Resource 20 (RR20) zoning.
8. Pursuant to the Washington State Department of Fish and Wildlife Priority Habitat Species Maps, the subject property contains Elk and mule deer winter range habitat and also Shrubsteppe habitat. Therefore, the provisions of CCC Chapter 11.78, would apply. A Critical Areas Report, Resource Management Plan, and Wildlife and Habitat Mitigation Plan authored by Grette Associates LLC in 2018 was previously prepared for the subject property (as part of the Ravenwing Ranch Phase 1 plat). The provisions and recommendations from this document would be followed when restoring the site after the proposed work has been completed.
9. According to the Natural Resources Stream Typing Maps, there no streams are indicated to be near or adjacent to the project location. Therefore, the provisions of CCC Chapter 11.78, would not apply.
10. Chelan County GIS map layer indicates that the subject property is located within a potential geologic hazard area. Therefore, the provisions of CCC Chapter 11.86 apply to the development. A geological site assessment was submitted with this application.
11. Pursuant to the National Wetlands Inventory Maps prepared by the US Department of Fish and Wildlife Services, there are no wetlands on or adjacent to the subject property. Therefore, the provisions of CCC Chapter 11.80 Wetland Areas Overlay District would not apply.
12. Pursuant to Revised Code of Washington (RCW) 27.53.020, if cultural resources are found, the applicant would be required to stop work and contact the Department of Archaeology and Historic Preservation, the Confederated Tribes of the Colville Reservation, and Chelan County Community Development.
13. Construction would commence upon receipt of all required permits.
14. The subject property would be accessed via Colockum Road. The point of access is to be reviewed and required to obtain an Approach Permit from Public Works for the proposed access onto Colockum Road.
15. Domestic Water/Sanitation: N/A.
16. The subject property would be provided power by the Chelan County PUD.
17. Noise is similar to other public uses. The applicant must comply with CCC Chapter 7.35 Noise.
18. As conditioned, the visual impact is anticipated to be minimal.
19. A Determination of Nonsignificance (DNS) was issued on August 25, 2023 by Chelan County Community Development.
20. 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 July 6, 2023, with comments due July 20, 2023. No public comments were received. Agency comments are considered by the Hearing Examiner and, when appropriate, associated Conditions of Approval:

Agencies Notified	Response Date	Nature of Comment
Chelan County Fire Marshal	No Comment	
Chelan County Building Official	No Comments	
Chelan-Douglas Health District	No Comment	
Chelan County Public Works	June 28, 2022	Applicant would be required to comply with stormwater and construction plans shall be required for approval of the County Engineer.
Chelan County PUD	No Comment	
Chelan County Fire District No.1	No Comment	
WA Dept. of Archaeology and Historic Preservation	August 31, 2023	Because we don't have high-quality LiDAR data for this location yet, I'm hesitant to agree with just an IDP. I can see one possible archaeological feature on Google Earth, but the quality isn't great there either. I would recommend having the area looked at further, whether by Plateau CRM or by a tribal rock feature expert.
Yakama Nation	No Comment	
WA State Department of Natural Resources	No Comment	
Confederated Tribes of Colville	July 27, 2023	Requests that a cultural resource survey be performed. However, staff notes that a cultural resource study was performed for the nearby power/transmission lines as well as LIDAR mapping, neither of which found any potential sites. Therefore, staff is comfortable with an IDP
WA Dept. of Ecology	July 18, 2023 and August 30, 2023	<p>While an air permit for the pit site is not required, installation and operation of any new or modified air pollutant source requires a preconstruction air quality permit, unless otherwise exempted. [WAC 173-400-110.] Such air pollution sources include rock crushers, asphalt plants, and concrete batch plants.</p> <p>This project may require a Sand and Gravel General permit, which provides coverage for crushing and on-site of rock for construction or fill purposes and mining crushed and broken stone. Processing means washing, screening, crushing, fracturing, storing, stockpiling, grading, or otherwise preparing sand and gravel for construction uses. This permit is required unless the applicant applies for and receives an Electronic Reporting Waiver from Ecology.</p>



Agencies Notified	Response Date	Nature of Comment
WDFW	July 19, 2023	<p>Talus slopes, while not listed on the PHS on the Web Map for this parcel, are present at the proposed project location and are considered a WDFW Priority Habitat and Chelan County FWHCA. Although WDFW does not have mitigation recommendations for talus slopes, work in talus slopes should be avoided.</p> <p>The subject property is also identified by WDFW PHS on the Web as an upland habitat for mule deer, and elk winter range. The parcel also includes shrubsteppe habitat, which includes vegetation used as forage by intering mule deer. The undeveloped shrubsteppe habitat on the parcel is continuous with adjacent undeveloped shrubsteppe habitat on another parcel, which typically means that the ecological functions and values are higher. WDFW recommends the administrator require a Site Assessment consistent with CCC 11.78.050 (4) for upland habitat regulations to avoid and minimize impacts to mule deer. If the Site Assessment finds that there are unavoidable impacts to the mule deer winter range and shrubsteppe habitat, then we recommend the County consider requiring a Habitat Management and Mitigation Plan (HMMP), consistent with the requirements of CCC 11.78.060.</p>

21. The application materials were submitted on June 6, 2023.
22. A Determination of Completeness was issued on June 26, 2023.
23. The Notice of Application was provided on July 6, 2023.
24. The Notice of Public Hearing was issued on August 26, 2023.
25. Being as the proposed short-term mineral extraction is to be located on a parcel zoned Rural Residential/Resource 5 (RR5), the proposed development will be reviewed under the Rural Residential/Resource 5 criteria and provisions:
  - 25.1 Purpose: to allow for low intensity rural development, agricultural and forestry uses which do not require the extension of services or infrastructure. These areas provide greater opportunities for protecting sensitive environmental areas and creating open space typical of a rural setting.
  - 25.2 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 resources support facilities and services; mineral resource activities; intensification of existing 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; home occupations; bed and breakfasts; and community facilities.
- 25.3 The Hearing Examiner finds that the project, as conditioned, is consistent with the goals and policies of the Rural Element within the Chelan County Comprehensive Plan.
26. Chelan County Code (CCC), Section 11.040.020, District Use Chart. Mineral extraction, short term is permitted with an approved Conditional Use Permit (CUP) in the RR5 zoning district. Mineral extraction, short term is defined in CCC Section 14.98.1220 as 'any activity which utilizes the extraction, processing, and sale of commercial and noncommercial mineral resources. 'Short term' shall mean for a duration of six years or less.'
27. The project is consistent with CCC 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:
- 27.1 All criteria required for a specific use by this chapter can be satisfied.
- 27.1.1 Criteria for a mineral extraction, short term has been addressed below.
- 27.1.2 Hearing Examiner Finding: Based on review of the application materials submitted, the criteria for a mineral extraction, short term can be satisfied.
- 27.2 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.
- 27.2.1 The proposed development would meet all the design standards associated with the RR5 zoning district. The subject property is 386.90 acres in size. All critical area regulations have been addressed through the SEPA process, the approved DNS (issued August 25, 2023), as well as the previously approved Critical Area Report, Resource Management Plan, Habitat Management and Mitigation Plan (Grette Associates 2018).
- 27.2.2 Hearing Examiner Finding: Based on the application materials and the previously approved permit, the proposed development would meet the applicable zoning and critical areas regulations.
- 27.3 Compatibility with the adjacent uses and the protection of the character of the surrounding area.
- 27.3.1 The subject property is currently vacant and is part of the designated open space tract of the Ravenwing Ranch Phase 1 plat. The proposed use would not affect current land uses on nearby or adjacent properties, which include other vacant lands, a couple residences, and several parcels of public and private lands zoned as RR5 to the east of Colockum Road.
- 27.3.2 Hearing Examiner Finding: As conditioned, the proposed development would not be incompatible with the surrounding uses or character.
- 27.4 Detrimental impacts on the natural environment and productive use of surrounding natural resource lands can be mitigated or avoided.
- 27.4.1 The development would be conducted in accordance with the SEPA DNS as well as the previously approved Critical Area Report, Resource Management Plan, Habitat Management and Mitigation Plan that was prepared in 2018 by Grette & Associates. This study that was originally developed for the Ravenwing Ranch

- Phase 1 plat, address potential impacts to the natural environment and the productive use of the surrounding resource lands.
- 27.4.2 Hearing Examiner Finding: As conditioned, the proposed development would not be detrimental to the natural environment.
- 27.5 No conditional use permit shall be issued without a written finding that:
- 27.5.1 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. No county facilities will be reduced below adopted levels of service as a result of the development.
- 27.5.2 Chelan County provided a Notice of Application to all providers; received comments are included in the file of record.
- 27.5.3 Hearing Examiner Finding: Through the process of public and agency noticing, opportunity for review and comments were provided for the proposed development.
- 27.5.4 No county facilities will be reduced below adopted levels of service as a result of the development.
- 27.5.5 The proposed development is not anticipated to result in county facilities being reduced as a result.
- 27.5.6 Hearing Examiner Finding: As conditioned, the proposed development would not result in county facilities reduced below adopted levels of service
- 27.6 The proposed use shall not result in undue adverse impacts affecting the public health, safety and welfare.
- 27.6.1 Hearing Examiner Finding: As conditioned, the proposed development would not have an adverse impact on public health, safety and welfare.
- 27.7 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.
- 27.7.1 Roads, ingress and egress: The project area is located on private property and access to the project area would be reviewed and permitted by Chelan County Public Works.
- 27.7.3 Stormwater: The applicant shall comply with CCC Title 13; Chelan County Stormwater Guidelines and Procedure.
- 27.7.4 Domestic and Irrigation Water: The proposal would not require surface water withdrawals or diversions.
- 27.7.5 Sanitary Facilities: The proposal does not require sanitary systems.
- 27.7.6 Power: Power is provided by Chelan County PUD.
- 27.7.7 Fire Protection: Fire protection is provided by Wenatchee Valley Fire District.
- 27.7.8 Hearing Examiner Finding: All necessary facilities, improvements and services are consistent or conditioned per the requirements of Titles 11, 13 and 15 of the Chelan County Code.



- 27.8 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.
  - 27.8.1 Noise: Noise and vibration would be temporary during construction of the improvements. Construction noise is regulated by CCC Section 11.88.190 and CCC Chapter 7.35.
  - 27.8.2 Light and Glare: Light and glare is regulated by CCC Section 11.88.080.
  - 27.8.3 Heat, Steam, Odors, Smoke and Dust: The proposed development would not generate heat, steam or odors.
  - 27.8.4 Water Quality: As conditioned, the proposed development would have to meet standards as required by the Department of Ecology.
  - 27.8.5 Wastes and Physical Hazards. No hazards were identified.
  - 27.8.6 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.
- 27.9 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.
  - 27.9.1 The development is consistent and compatible with the intent, goals, objectives and policies of the Comprehensive Plan and CCC. The development is specifically consistent with Chapter 4, of the Resource Element, of the Comprehensive Plan. The development is also consistent with CCC specific to the mineral extraction.
  - 27.9.2 As conditioned, the development is consistent with the Chelan County Comprehensive Plan and CCC.
28. Chelan County Code, Section 11.93.240/250, Mineral extraction, short-term. The following minimum conditions shall apply to short-term mineral extraction:
  - 28.1 Performance Standards.
    - 28.1.1 All excavation operation and trucking directly related such operations may be permitted only between the hours of six a.m. and five-thirty p.m., Monday through Saturday, unless the hearing examiner determines at a hearing that no nuisance exists, or that unusual circumstances are present, in which case the relaxation of this relaxation of this regulation shall terminate when such conditions and circumstances are deemed by the hearing examiner to no longer exist.
    - 28.1.2 Applicant Statement: The Private talus slope work and crushing for private road maintenance use will be from the hours of 6 am and 5:30 pm Monday to Saturday.
    - 28.1.3 Pursuant to the application materials submitted, mineral extraction activities would be allowed to occur between the hours of 7:00 am to 10:00 pm, Monday – Saturday pursuant to CCC 7.35.040(3).
    - 28.1.4 Hearing Examiner Finding: As conditioned, the applicant would comply with the hours of operation.

- 28.1.5 If property to be utilized has an exterior boundary line which shares a common property line with residential property or resource zoning districts, or if in the judgement of the hearing examiner, the nature and location of the operation is such as to constitute a hazard to public safety, then a solid wall or fence no less than five feet in height shall be installed and maintained no closer than fifty feet from the excavated area. Locked gates shall bar all openings in the fence when the permittee or his agents are not on premises.
- 28.1.6 Applicant Statement: The Private talus slope work and crushing for private road maintenance is 1,750 feet from the nearest SFR home and is out of the sightline of that home.
- 28.1.7 The subject property does not have an exterior boundary line that shares a common property line with closest residential property or resource zoning districts. The proposed property would be a minimum of 1,750 ft from the nearest residence.
- 28.1.8 Hearing Examiner Finding: Based on the application materials, the applicant has met this code requirement.
- 28.1.9 The area shall be posted with signs having letters at least three inches high and two inches wide, giving clear warning of the dangerous conditions resulting from the excavation. Said signs shall be no farther than one hundred feet apart around the periphery of the subject property and shall be maintained in good repair until excavation and reclamation operations are completed.
- 28.1.10 Applicant Statement: The Tallus slope is approximately 200 feet from the eastern property line. There will not be an excavation on the site, but a use or scraping of the existing private talus slope work and then a piling of the crushed gravel for use of private road maintenance. We can post a sign of "dangerous conditions – stay out" and "private property do not trespass"
- 28.1.11 Signage along the Colockum Road frontage of the subject property shall be provided to alert drivers during periods of mineral extraction. Additional signage around the perimeter of the mineral extraction site can be added, to meet the requirement of this section, if determined by the Hearing examiner.
- 28.1.12 Hearing Examiner Finding: As conditioned, the applicant would comply with the posting requirements.
- 28.1.13 Operators shall divert or protect all natural drainage courses to prevent pollution or reduction of natural flow, shall impound runoff as necessary to hold runoff to levels existing prior to the introduction of excavation operations, shall protect streams and grounds from acid-forming or toxic materials exposed or produced by excavation operations, shall seal off to the extent directed by the hearing examiner any breakthrough of acid water creating a hazard, shall not allow water to collect or permit stagnant water to remain in excavations. Wherever possible, the operator shall refrain from disturbing natural drainage course, stream, rivers and lakes.
- 28.1.14 Applicant Statement: The Private talus slope work and crushing for private road maintenance will not require excavating. The operation is located in the natural valley where there is no stream. There is also no outlet to the Columbia. Since there is no excavation and only removal of talus slope material and stockpiling of gravel for private use. No leachate from exposed soils will be a side effect of this



private work there it is anticipated that no leachate to the groundwater which is approximately 110 feet BFG is of concern.

- 28.1.15 Roadside drainage shall be designed in consultation with and approved by the Chelan County Public Works Department through obtaining an access/approach permit.
- 28.1.16 Hearing Examiner Finding: As conditioned, the applicant would comply with the access/approach permit received from the Chelan County Public Works Department.
- 28.1.17 Blasting or other activities producing ground vibrations shall not constitute a nuisance to, or damage in any way, the property adjacent landowners. The hearing examiner may require testimony by technical specialists in order to determine appropriate amounts and placement of explosives and other vibration-producing equipment, and may place such restrictions as are appropriate to resolve the problem.
- 28.1.18 Applicant Statement: No blasting is going to occur as part of this project.
- 28.1.19 There is no blasting proposed.
- 28.1.20 Hearing Examiner Finding: This provision would not apply.
- 28.1.21 Maximum permissible noise levels shall be according to the provisions of Chapter 173-60 WAC, Maximum Environmental Noise Levels.
- 28.1.22 Applicant Statement: From a noise assessment of stone/aggregate mines by NIOSH a rock crusher level is 89 to 100 dBA right next to the machine. The noise level dropped below 75 dBA when 160 feet away from the crusher and in another study dropped to 80 dBA when 200 feet away. The Private talus slope work and crushing for private road maintenance is 735 feet from the nears SFR home and out of the sight of that home, the dBA level should be below the EDNA levels of WAC 173-60-040 listed below. With a 20 dBA drop every 200 feet the level at the neighboring parcel site if the land was flat would be 30 dBA. The crusher will be in a hole, and I would expect low noise at the neighboring parcel.
- 28.1.23 The development would adhere to WAC 173-60-040 for maximum permissible environmental noise levels. As stated above, the development would be a minimum of 735 ft from the nearest residence.
- 28.1.24 Hearing Examiner Finding: As conditioned, the applicant would comply with the WAC 173-60-040 noise levels.
- 28.1.25 Excavation operations shall be permitted no closer than one hundred feet from any property line, street road or highway. In no case shall mining operations impair lateral support or cause earth movements or erosion to extend beyond the exterior boundary lines of property being excavated. Structures or buildings shall not be located closer than fifty feet from a developed residential property line. Office building shall maintain a twenty-five-foot setback.
- 28.1.26 The proposed development property boundary and associated crushing operation would be more than the minimum of 100 ft from the nearest property boundary. The proposed work would not impair lateral support or cause earth movements or erosion, nor impact properties adjacent to the subject property.
- 28.1.27 Hearing Examiner Finding: As conditioned, this provision would be met.

- 28.1.28 Underground excavation operations shall not be left in a condition so as to be or become hazardous. Mine shafts, air courses, inclines, or horizontal working temporarily unused or deserted shall be blocked by solid bulkheads constructed of concrete, wood or steel. A locked manway or door may be installed as part of the bulkhead. Where shafts, air courses, inclines or horizontal working are to be permanently abandoned in accordance with good mining practice, the collar portal to such workings shall be completely blocked by permanent bulkheads constructed of concrete and/or steel or by causing the collapse of solid rock at such collar or partial in such manner as to prohibit the reopening of said workings by natural movement of the collapsed rock by gravity down inclined workings.
- 28.1.29 Applicant Statement: The Private talus slope work and crushing for private use will not be done through excavation or tunneling.
- 28.1.30 The proposal does not plan on any underground excavations.
- 28.1.31 Hearing Examiner Finding: This provision would not apply.
- 28.1.32 Vertical Limitations/Aquifer Protection:
- 28.1.32.1 Surface mining shall be limited to only one aquifer unless approved by the Washington State Department of Ecology. Hydrological barriers separating aquifers shall not otherwise be disturbed.
  - 28.1.32.2 Activities related to mineral extraction and processing operations in the vicinity of aquifers must provide safeguards including containment to prevent direct contamination to the open aquifers and indirect contamination through infiltration on mining operation pollutants.
  - 28.1.32.3 Imported material shall not be used as a backfill for mine sites where an aquifer has been breached.
  - 28.1.32.4 Disturbed aquifers shall be reclaimed as ponds, lakes or wetlands.
  - 28.1.32.5 Additional buffers may be required if necessary to prevent over-excavation when mining on an aquifer.
  - 28.1.32.6 All relevant provisions of Chapters 11.80, 11.82 and 11.86 are to be met.
- 28.1.33 Applicant Statement: That talus slope will be scraped back to the natural unfractured slope of the basalt rock formation. The aquifer will be protected from leachate by no excavation or tunneling occurring.
- 28.1.34 Based on the submitted geologic assessment there doesn't seem to be any impacts that would be associated with/to an aquifer.
- 28.1.35 Hearing Examiner Finding: This provision would not apply.
- 28.1.36 Such topsoil as exists on this site shall be retained on the site in sufficient quantities to ensure an adequate supply for reclamation purposes.
- 28.1.37 Applicant Statement: No excavation is anticipated, yet if the contractor wants to stockpile and remove the duff in the area of the stockpile, the useable topsoil material in the duff will be retained for future use.



- 28.1.38 No excavation is proposed. The applicant may choose to stockpile any useable topsoil material for future use. Once the operation has ceased, the applicant would restore the project site pursuant to the approved 2018 Critical Area Report, Resource Management Plan, Habitat Management and Mitigation Plan
- 28.1.39 Hearing Examiner Finding: As conditioned, this condition would be satisfied.
- 28.1.40 One copy of approved excavation and reclamation plans and specifications shall be kept on-site at all times during the progress of the excavation operation.
- 28.1.41 Applicant Statement: The contractor will be told of this requirement.
- 28.1.42 A copy of the approved CUP would be kept onsite along with a copy of the 2018 Critical Area Report, Resource Management Plan, Habitat Management and Mitigation Plan.
- 28.1.43 Hearing Examiner Finding: As conditioned, the provision would be met.
- 28.1.44 Additional conditions may be required to address the following specific objectives:
  - 28.1.44.1 The height and location of all equipment installed on the site, above and beyond the setback restrictions of this chapter, if unusual circumstances bearing on public safety or other vital concerns are deemed to exist.
  - 28.1.44.2 The number and locations of points of ingress to and egress from any mining operations are subject to regulation by the hearing body.
  - 28.1.44.3 Wherever possible, the operator shall schedule his excavation sequence in such a manner as to provide either natural or reclaimed buffers between the operation and adjoining properties.
  - 28.1.44.4 Lighting may be regulated by the hearing body to minimize visibility from adjacent property and preclude it from shining directly onto adjoining property.
  - 28.1.44.5 Stockpiles and tailings shall not exceed the height, slope and moisture content limits determined by the hearing body, nor shall such stockpiles or tailings be located as to threaten adjacent slopes or properties. In making this determination, the hearing body may consult with the Washington State Department of Transportation, the Department of Natural Resources, the director of public works, or other authoritative sources.
- 28.1.45 Applicant Statement: (i) The crusher may be 6 to 8 feet tall after set up, and the front-end loader and excavator for talus slope scraping are of standard height and size. The contractor may use a conveyor out of the crusher for stockpiling maybe 12 to 15 feet tall. (ii) The site will have one access point at Cecelia Lane and Colockum Road. (iii) The private talus slope work scraping for private gravel for maintenance work, not for commercial purposes does not require excavation. (iv) If lighting is used it would be standard lights on trucks and equipment. (v) The crushed gravel stockpile slope is 1.5 to 1 (33 degrees) to 2 to 1 (27 degrees) at fifteen feet tall and has a diameter of 45 feet to 60 feet in diameter. The site can hold three stockpiles of 15 feet tall by 60-foot diameters. Each pile will hold about 4,400 yards.

- 28.1.46 The applicant expects no special provisions that would require anything above and beyond the setback restrictions as well as public safety. Currently only one access point is proposed for the development.
- 28.1.47 Hearing Examiner Finding: As conditioned, the development would need to comply with the provisions of this section.
- 28.2 Application Materials. In addition to the application and procedural requirements of Title 14. Development Permit Procedures and Administration, the applicant shall submit the following materials:
- 28.2.1 A copy of the reclamation plan being submitted to the appropriate state regulatory agency in application for a state permit and , when available, an approved copy of the final plan, and in those cases where such a plan is not required by the state, a special reclamation plan acceptable to the hearing examiner which shall consider the following: compatibility with existing neighboring land uses, present land use of the site, transportation systems, utility extensions, the physical character of the site and the surrounding landscape, zoning patterns and the comprehensive plan.
- 28.2.2 Applicant Statement: This project is exempt from the State DNR Surface Mining Act since the Surface Mining Act exempts from the law the use of materials or equipment for on-site construction and road maintenance and public safety or restoring the land following a natural disaster where on Ravenwing roads there has been some road washouts from thunderstorms, and forest or farm road construction or maintenance at the site or on contiguous lands.
- 28.2.3 After the private stockpiles have been used to their full extent, the site will be hydroseed with a native mix for the area. From the ravenwing habitat report disturbed native areas are to be restored to the native condition or planted to the satisfaction of Ravenwing. Cut and fill slopes are to be re-vegetated with plantings appropriate to the site in order to blend them into the surrounding environment. Since the cut is on the tallus slope, no replanting is expected on the basalt outcropping.
- 28.2.4 The estimated quantities of all materials to be extracted.
- 28.2.5 Applicant Statement: 8,000 to 11,000 yards of tallus slope may be removed and crushed into gravel for non-commercial use.
- 28.2.6 A legal description of the site
- 28.2.7 Applicant Statement: RAVENWING RANCH PH1 TRACT C OPEN SPACE 15.9400 ACRES.
- 28.2.8 An on-site study to determine appropriate mitigation requirements for noise, vibration, and dust levels. The study should specify what levels the applicant deems satisfactory to mitigate off-site disturbances.
- 28.2.9 Applicant Statement: From a noise assessment of stone/aggregate mines by NIOSH a rock crusher level is 89 to 100 dBA right next to the machine. The noise level dropped below 75 dBA when 160 feet away from the crusher and in another study dropped to 80 dBA when 200 feet away. The Private talus slope work and crushing for private road maintenance is 735 feet from the nears SFR home and out of the site of that home, the dBA level should be below the EDNA levels of WAC 173-60-040 listed below. With a 20 dBA drop every 200 feet the level at the neighboring parcel site if the land was flat would be 30 dBA. The



crusher will be in a hole, and I would expect lower noise at the neighboring parcel. Mitigation is meeting and not exceeding WAC 173-60-040 EDNA levels listed for the receiving properties.

- 28.2.10 An operation proposal detailing estimated frequency of blasting, estimated truckloads per day, what provisions for screening and fencing are proposed and estimated hours of operation;
  - 28.2.11 Applicant Statement: This private work for talus slope scraping for non-commercial crushed gravel material creation for onsite road maintenance will not be doing any blasting for exposed fractured basalt rock removal. The Private talus slope work and crushing for non-commercial private road maintenance use will be from the hours of 6 am and 5:30 pm Monday to Saturday. It is estimated that there might be 5 truck trips per hour on average during work hours.
  - 28.2.12 Proposed hauling routes to and from the site.
  - 28.2.13 Applicant Statement: The haul route will be from the site work onto Colockum Road, then north to Dry Gulch Road, Old Quarry Lane, Ravens Home Lane, and Stagecoach Lane.
  - 28.2.14 A completed environmental checklist.
  - 28.2.15 Applicant Statement: Existing SEPA PD 2006.001 has already been submitted. An update is included.
  - 28.2.16 A map at suitable scale identifying the following on the proposed site.
  - 28.2.17 Applicant Statement: 100 scale map provided. (i) Talus slope shown on map. (ii) Contours shown on map. (iii) Stockpile, crusher and road shown on map. (iv) Necessary topographic features shown on map (v) No drainage features in the natural bowl, no excavation to occur. (vi) Spot elevation given at base of stockpile and top of talus slope. (vii) Crushing may go on for one or two springs, stockpiles may be used over two to five years. (viii) No excavation is part of this work.
- 28.3 Reclamation. Reclamation of surface mining sites shall be in accordance with the requirements of the State Department of Natural Resources. Reclamation activities shall not allow landfilling unless sites comply with Chapter 173-351 WAC, and other relevant state and federal regulations. If the operation is not subject to the State Department of Natural Resources permitting requirements.
- 28.3.1 Applicant Statement: (A) This project is not a surface mine, it is a talus slope removal. (B) the fractured basalt outcrop will be left at a natural basalt column finish. (C) N/A (D) The fractured basalt outcrop will be left at a natural basalt column finish slope which is vertical. (E) No back filling is anticipated, but if required will be done to a firm and un-yielding condition. (F) N/A (G) From the ravenwing habitat report disturbed native areas are to be restored to the native condition or planted to the satisfaction of Ravenwing. Cut and fill slopes are to be re-vegetated with plantings appropriate to the site in order to blend them into the surrounding environment. Since the cut is on the talus slope, no replanting is expected on the basalt outcropping.
  - 28.3.2 The restoration plan would not include the creation of a lake, pond or swamp. Significant back-filling and compaction are not required. The subject property would be regraded to slope and revegetated pursuant to the approved 2018



Critical Area Report, Resource Management Plan, Habitat Management and Mitigation Plan.

28.3.3 Hearing Examiner Finding: This provision has been met.

29. 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.
30. An open record public hearing after legal notice was provided was held on September 6, 2023.
31. The File of Record, Chelan County Department of Community Development Staff Report, and exhibits were received, admitted into the record and considered by the Hearing Examiner.
32. Appearing and testifying on behalf of the Applicant and property owner was David Dormier. Mr. Dormier testified that he is an agent for the Applicant and property owner and is authorized to appear and testify on its behalf. Mr. Dormier testified he had reviewed the staff report and had no objections to any of the representations contained therein. He has also reviewed the proposed Conditions of Approval and had no objections to any of those. However, regarding proposed Condition of Approval No. 6, he asked that the WAC definition of excavation (WAC 296-115-650) be the definition that applies to the Condition.
33. Also testifying on behalf of the Applicant was Samantha Fulgham. Ms. Fulgham is employed by Plateau CRM and is an archeological consultant. She stated that there had been four surveys in the immediate vicinity around the subject property and there had been no new archeological resources found. However, this particular site has not been surveyed. She stated that the Applicant will work with DAHP. She was of the opinion that because no resources were found in the surveys performed in the vicinity, an Inadvertent Discovery Plan should be sufficient. However, if DAHP insists upon a survey, the Applicant would perform one.
34. No member of the public testified at this hearing.
35. The Chelan County Hearing Examiner considered all evidence within the record in rendering this decision.
36. 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. Based on review of the application materials submitted, the project is consistent with the Chelan County Comprehensive Plan.
3. The project meets the criteria in Chelan County Code, Section 11.93.040, Conditional Use Permit.
4. The project meets the criteria in Chelan County Code, Chelan County Code (CCC), Section 11.040.020, District Use Chart - Mineral extraction.
5. The project meets the criteria Chelan County Code, Section 11.93.240/250, Mineral extraction, short-term.
6. As conditioned, this project is consistent with the Chelan County Zoning Code.
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, CUP 2023-254 is hereby **APPROVED**, subject to the 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 11.93.090, upon final action of the hearing examiner to deny an application for a conditional use permit, the department shall not accept filing of an application for substantially the same matter within one year from the date of the final denial of the application.
3. Pursuant to CCC Section 11.93.240(1)(A), all excavation operation and trucking related to the operation is only permitted only between the hours of 7:00 am and 10:00 pm, Monday through Saturday.
4. Pursuant to CCC Section 11.93.240(1)(C), the subject property shall be posted with signs giving clear warning of the dangerous conditions resulting from the exaction.
5. Pursuant to CCC Section 11.93.240(1)(G), the noise levels shall be in accordance with the provisions of Chapter 173-60 WAC.
6. Pursuant to CCC Section 11.93.240(1)(H), all excavation operation (as defined within WAC 296-115-650) shall be no closer than one hundred feet from any property line, street, road or highway.
7. Pursuant to CCC Section 11.93.240(1)(K), topsoil shall be retained on the subject property to ensure an adequate supply for reclamation.
8. Pursuant to CCC Section 11.93.240(1)(L), one copy of the approved exaction and reclamation plans and specifications shall be kept on the subject property.
9. Pursuant to RCW 27.53.060, if the applicant or their agents discover previously unknown historic or archaeological remains/artifacts while conducting the development activities authorized by this permit, the applicant/ agent must 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.
  - 9.1 An inadvertent discovery plan must be submitted with the building permit application and kept onsite during all land disturbing activities.
10. Pursuant to the requirements of the Department of Ecology:
  - 10.1. The applicant shall apply for a site permit coverage under the Sand and Gravel General Permit from Department of Ecology prior to beginning site development. This permit is required unless the applicant applies for and receives an Electronic Reporting Waiver from Ecology.
11. Pursuant to the requirements of the Chelan County Public Works Department:
  - 11.1. Pursuant to CCC, Section 15.30.340, the applicant would be required to obtain a Chelan County Approach Permit prior to construction any accesses to the county road.

12. Pursuant to WA Fish and Wildlife requirements, the applicant shall implement the mitigation plans outlined in the 2018 habitat management and mitigation plan authored by Grette and Associates once the gravel crushing/extraction use ends.

Dated this 8 day of September, 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.