

## SHORELINE MANAGEMENT PERMIT

### ACTION SHEET

**Application #:** CUPA 2023-331/SDP 2023-333/VAR 2023-332  
**Administering Agency** Chelan County Department of Community Development

**Type of Permits:**

- Variance
- Shoreline Substantial Development Permit
- Conditional Use Permit Amendment

**Action:**                    ■ Approved        □ Denied

**Date of Action:**                    January 4, 2024

#### **Date Mailed to DOE/AG**

Pursuant to Chapter 90.58 RCW and the Shoreline Master Program of Chelan County, the following permit is hereby approved:

Yakama Land Enterprise  
PO Box 1158  
Toppenish, WA 98948

This application for a Conditional Use Permit Amendment, a Variance, and a Shoreline Substantial Development Permit has been requested in order to amend CUP 2004-015 for the construction of a 35 ft. x 130 ft. (4,550 sq.ft.) pole building for storage of vehicles and equipment used by the Yakama Nation Fisheries program. This proposed project is a resubmittal of approved CUPA 19-001 / VAR 19-004, which previously expired in June of 2023. The variance component of the proposed project is to reduce the required setback of 200 ft. from adjoining properties to 96 ft. to allow for the construction of the pole building. The associated shoreline development permit is for the disturbance of approximately 22,000 sq.ft. of land (which includes approximately 900 cubic yards of earth removal) within the shoreline jurisdiction in order to create an approach area that is sloped at 1.6% away from the proposed structure for stormwater dispersal. The project site is within the rural shoreline designation.

The following Shoreline Master Program provisions are applicable to this development: Sections 7, 9, 11, 16, 21, 27 and 29.

**All conditions imposed herein shall be binding on the “Applicant,” which terms shall include the owner or owners of the property, heirs, assigns, and successors.**

## I. 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 WAC 173-27-150 and RCW 90.58.130(2), prior to commencement of this development, the applicant must obtain any necessary aquatic permits from agencies with jurisdiction which may include, but is not limited to, the Washington State Department of Fish and Wildlife, the Army Corps of Engineers, the Washington State Department of Ecology, Chelan County Building Department and the Washington Department of Natural Resources.
2. Pursuant to Chelan County Code 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.
  - 2.1 All Conditions of Approval from the approved CUP 2004-015 decision approved October 12, 2004, shall be in full force and effect unless modified by this decision.
3. Pursuant to Chelan County Code Section 11.95.050, in any case where a variance is granted under the terms of this title, no building or other permit shall be issued until after the end of the appeal period allowed in Title 14 of this code. An appeal of the decision shall automatically stay the issuance of building or other permits until such appeal has been completed.
4. Pursuant to Chelan County Code Section 11.95.060, the granting of a variance and the conditions set forth runs with the land; compliance with conditions of the variance is the responsibility of the current owner of the property, whether that is the applicant or a successor.
5. Pursuant to Chelan County Code Section 11.95.080, a variance shall become void three years after approval if no substantial construction has taken place or such other time period as established by the Hearing Examiner.
6. Pursuant to Chelan County Code Section 11.02.040, prior to commencement of construction, the applicant shall obtain all required and necessary building permits.
7. Pursuant to Chelan County Code Chapter 11.78, development shall be subject to the provisions of said chapter, as amended.
8. Pursuant to Chelan County Code Chapter 11.84, a flood development permit application shall be required to be submitted at the time of building permit application.
9. Pursuant to Chelan County Code Section 11.86.020, a geologic site assessment shall be required at the time of building permit application.
10. Pursuant to Chelan County Code Section 11.88.190, no construction activity shall be permitted within one thousand feet of an occupied residence between the hours of 8:00 p.m. to 6:00 a.m., Monday through Friday, and 8:00 p.m. to 7:00 a.m. on weekends.
11. Pursuant to RCW 27.53.020, if the applicants or their agents discover previously unknown historic or archeological remains/artifacts while conducting the development activities authorized by this permit, the applicant/agent shall immediately notify the appropriate tribal and state representatives and the Chelan County Department of Community Development of the finding for local, state and tribal coordination.
12. Pursuant to Chelan County Code 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.

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

## II. FINDINGS OF FACT

1. The owner/Applicant is Yakama Land Enterprise, PO Box 1158, Toppenish, WA 98948.
2. The agent for Applicant is Ryan Walker, Grette Associates, LLC, 151 S Worthen St, Suite 101, Wenatchee, WA 98801.
3. The project location is NNA, Manson, WA 98831.
4. The parcel number for the subject property and legal description is 24-18-29-420-100, Parcel A-B of BLA 2003-072 recorded August 25, 2003 under AFN: 2153018; 6.57-acres per Chelan County Assessor's records.
5. The subject property is located in Chelan County, not within an urban growth area.
6. The property is located within the Rural Residential/Resource 5 (RR5) zoning district and comprehensive plan designation.
7. The subject properties hold a "Rural" shoreline environmental designation.
8. As stated in the JARPA, question 5(o), the subject property is currently used for residential/recreational purposes. Parcel number 29-21-17-320-000 is currently undeveloped.
9. As stated in the application, the property is currently used as an isolated small-scale business for an aquaculture research facility by the Yakama Nation Fisheries Resource Management via approved CUP 2004-015. The following are known permits on record with Chelan County Community Development:
  - 9.1 BP 000643—installation of a wood stove (issued August 28, 2000)
  - 9.2 AI 2004-002—Administrative Interpretation for Yakama Research Facility (denied August 3, 2004)
  - 9.3 BP 040843—large fire place inserts (issued December 27, 2004)
  - 9.4 BP 090444—commercial interior remodel (finalized November 23, 2010)
  - 9.5 CUPA 19-001 / VAR 19-004 – approved by the HE on June 7, 2019 but subsequently expired on June 7, 2023 since the applicants hadn't submitted a building permit for the placement of the approved infrastructure build out.
10. The property is generally flat with native vegetation. Existing structures on site include an office, garage, employee housing, and multiple outbuildings.

- 10.1 North: Vacant land and Agricultural use; Rural Residential/Resource 5 (RR5) and Commercial Agricultural Lands (AC) zoning districts;
- 10.2 East: Vacant land; Rural Residential/Resource 5 (RR5) zoning district / Peshastin Creek;
- 10.3 West: US Highway 97.
- 10.4 South: Residential; Rural Residential/Resource 5 (RR5) zoning district.
11. The subject property is located adjacent to the Peshastin Creek, a Shoreline of Statewide Significance, with a 'Rural' shoreline designation.
12. The applicant submitted an Aquifer Recharge Disclosure Form, date stamped August 7, 2023; the proposed development does not require a vulnerability report, pursuant to Chelan County Code (CCC) Chapter 11.82.
13. According to the Washington State Department of Fish and Wildlife, Priority Habitat and Species Maps, the subject properties do not contain WDFW Priority Habitat Species. Therefore, the provisions of the Chelan County Shoreline Master Program (CCSMP) 6.5 Appendix B would not apply.
14. Pursuant to the Federal Emergency Management Agency (FEMA), panel number 5300150800A of the FIRM maps, there is 100- and 500-year flood plain associated with Peshastin Creek east of and adjacent to the subject property. Therefore, the provisions of the Chelan County Code (CCC) Chapter 11.84, Frequently Flooded Areas Overlay District and Chapter 3.20, Flood Hazard Development, do apply.
15. Chelan County GIS map layer indicates that the subject property is located within a potential geologic hazard area for a known earthquake fault line. Therefore, the provisions of CCC Chapter 11.86 do apply to the project. A geological site assessment would be required with building permit submittal.
16. Pursuant to the National Wetlands Inventory Maps prepared by the US Department of Fish and Wildlife Services, no wetlands are indicated on or adjacent to the subject property. Therefore, the provisions of CCC Chapter 11.80 Wetland Areas Overlay District do not apply.
17. There are no known cultural resource sites on the subject property. 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, and Chelan County Community Development.
18. Applicant plans to begin construction after receiving approval of land use permit and building permit, approximately Spring/Summer 2024.
19. According to the site plan of record, dated August 7, 2023, the property is accessed from US Highway 97, a state right-of-way. DOT commercial access connection permit No. 43833 was issued for the property in September of 2004.
20. Domestic water is currently available through an on-site private well.
21. Chelan County PUD provides electrical services to the subject property.
22. Domestic wastewater is currently disposed of through an existing septic system and drainfield, permit No. 03-1AT4B-0187.

- 23. The applicant must comply with CCC Chapter 7.35 Noise.
- 24. The maximum building height within the RR5 zone is 35 ft. The use of the property is not changing from the fisheries program. The surrounding properties are not being subjected to unknown impacts.
- 24. Application and Public Hearing Notice Compliance:

<b>Application Submitted:</b>	August 7, 2023
<b>Determination of Completeness issued:</b>	September 1, 2023
<b>Notice of Application:</b>	September 14, 2023
<b>Notice of Public Hearing:</b>	December 23, 2023
<b>Public Hearing:</b>	January 3, 2024

- 25. The Notice of Application was referred to surrounding property owners within 300’ (excluding 60’ of right-of-way), jurisdictional agencies and departments of the County. These agencies and surrounding property owners were notified on September 14, 2023 with comments due October 16, 2023. Agency comments are considered in the decision and, when appropriate, associated Conditions of Approval. No public comments were received. The following is a list of Agencies who received notice and the date comments were received:

<b>Agencies Notified</b>	<b>Response Date</b>	<b>Nature of Comment</b>
Chelan County Fire Marshal	No comment	
Chelan County Building	September 8, 2023	A building permit will be required for the proposed work. Chelan County requires all pole buildings to be designed by a licensed engineer or architect.
Chelan-Douglas Health District	September 20, 2023	A Project Review application will be required at a minimum to connect plumbing to the existing permitted septic system. If a lift station is required as proposed, a Septic Tank Permit application with design would be required from our office in addition to the Project Review application.
Chelan County PUD	No Comment	Line extensions will be necessary and a system study may be required. Extension easements is necessary will be obtained by CCPUD (comment from 2019 application).
WA State Dept. of Transportation	No Comment	The subject property has a current Access Permit and is adequate for the proposed development; no objections (comment from 2019 application)
Fire District No. 6	No Comment	
WA Dept. Fof Archaeology and Historic Preservation	No Comment	

Agencies Notified	Response Date	Nature of Comment
Yakama Nation	No Comment	
Confederated Tribes of Colville	October 17, 2023	Requests an IDP be prepared.
Washington Dept. of Ecology	October 12, 2023	A portion of the project is located in shoreline jurisdiction, 200' from the OHWM. However, Peshastin Creek has a significant regulatory floodway. Shoreline jurisdiction shall be measured 200 feet from such floodways and a shoreline variance may be required. Loss of shoreline vegetation shall be mitigated consistent with CCSMP chapter 4.5 Vegetation Conservation and Shoreline Buffer Regulations.

26. Pursuant to WAC 197-11-800, a SEPA DNS was issued on December 11, 2023. The SEPA Checklist and DNS are included within the file of record and are adopted by reference.
27. Uses appropriate for the Rural Residential/Resource 5 (RR5) zoning district, identified in the Comprehensive Plan, include open space; residential; agriculture; and forestry. These areas may provide opportunities for protecting sensitive environmental areas and open space typical of a rural setting. The proposed pole building is to support an existing use of aquaculture research for the Yakama fisheries programs which meets Goal 2 of the Resource Element that aims to maintain natural environment features that support and enhance natural resource-based economic activities, wildlife habitats, traditional rural lifestyles, outdoor recreation, and open space. As described, the proposal is consistent with the Chelan County Comprehensive Plan.
28. Chelan County Code, Section 11.93.040, Conditional Use Permit Criteria. A conditional use permit may be approved only if all of the following review criteria and any special criteria listed in this chapter are met:
- 28.1 All criteria required for a specific use by this chapter can be satisfied.
  - 28.2 Applicant's Response: CUP qualifying criteria are examined in detail below.
  - 28.3 The criteria for an isolated small-scale business have been addressed below.
  - 28.4 Hearing Examiner Finding: Based on review of the application materials submitted, the criteria for an isolated small-scale business could be satisfied.
29. 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.
- 29.1 Applicant's Response: Accessory structures are a permitted use within the RR5 zoning district. The structure will be constructed outside all critical area buffers.
  - 29.2 The proposed development is located in the Rural Residential/Resource 5 (RR5) zoning district. The RR5 zoning district allows for isolated small-scale businesses as a Conditional Use. Additionally, the proposed addition of the pole building accessory structure is a permitted use in said zoning district. Per the site plan of record, date stamped August 7, 2023, the proposed pole building would meet applicable zoning setbacks identified in CCC Section 11.12.020. However, pursuant to CCC Section 11.93.290(1), a 200 ft. setback is required to be maintained from all adjoining properties for new construction; therefore, a variance application was submitted with application to modify this requirement. The proposed structure would be located outside of the

shoreline jurisdiction for Peshastin Creek, but the some of the grading associated with the project would be within the “Rural” 100-ft. shoreline buffer of Peshastin Creek; therefore, a shoreline development permit (SDP) is required pursuant to Table 3.6-a of the CCSMP

- 29.3 Hearing Examiner Finding: Based on the site plan of record, the proposal meets applicable RR5 zoning and critical areas regulations. The setback requirements for a Conditional Use Permit for an isolated small-scale business have not been met; therefore, a variance application was submitted to request a reduction in the required 200 ft. setback from adjoining properties. In addition, an SDP was submitted for the temporary grading impacts to the shoreline buffer of Peshastin Creek.
30. Compatibility with the adjacent uses and the protection of the character of the surrounding area.
  - 30.1 Applicant’s Response: This storage building is a permitted use within this zoning district. It will be compatible with the surrounding residential properties and area. The structure will be set back 96 feet from the closest property and will allow for the organization of the property and protection from the elements for the existing vehicles and fish traps on site.
  - 30.2 Pole buildings as an accessory use are a permitted use within the RR5 zoning district. The pole building would be compatible with the surrounding residential properties and the area. The structure would allow for equipment storage of vehicles and fish traps that are currently stored on the property; this would provide organization to the property as well as provide protection from the elements.
  - 30.3 Hearing Examiner Finding: The proposed pole building is a permitted use and would not change the use of the property. The property is and was used as an isolated small-scale business for the Yakama Fisheries Program. The pole building would provide a covered storage space for the existing equipment currently stored on the property.
31. Detrimental impacts on the natural environment and productive use of surrounding natural resource lands can be mitigated or avoided.
  - 31.1 Applicant’s Response: There will be no detrimental impacts on the natural environment associated with this project. The storage building will be constructed in an area currently used to park vehicles and fish traps and is devoid of vegetation. The proposed location is outside any applicable critical area buffers.
  - 31.2 Hearing Examiner Finding: A portion of the property is within the shoreline jurisdiction of Peshastin Creek. The proposed storage building would be constructed in an area that is currently used to park vehicles and store fish traps that is outside of the 200 ft. shoreline jurisdiction and is currently devoid of vegetation. A minimal amount of excavation (14 cu. yds.) would be necessary to build the storage building.
32. As part of construction of the storage building, approximately 22,000 sq.ft. of land (which includes approximately 900 cubic yards of earth removal) within the 100 ft. Rural shoreline buffer would be graded in order to create an approach area that is sloped at 1.6% away from the proposed structure for stormwater dispersal. Once the grading is complete, the disturbed areas would be revegetated with native grass seed.
  - 32.1 Hearing Examiner Finding: The proposed pole building is located outside of the shoreline jurisdiction, which would limit permanent impacts to the shoreline and riparian areas of Peshastin Creek. All ground that is temporary disturbed due to grading and site work would be revegetated with native grass seed.

33. No conditional use permit shall be issued without a written finding that: 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.
  - 33.1 Applicant's Response: The proposed storage building will be connected to the existing electrical power, domestic water, and onsite septic. There will be no effect on school district coverage or new need for emergency services.
  - 33.2 Chelan County provided a Notice of Application to all providers. Comments are included in the file of record.
  - 33.3 Hearing Examiner Finding: Through the process of public and agency noticing, opportunity for review and comments were provided for the proposed development.
34. No county facilities will be reduced below adopted levels of service as a result of the development.
  - 34.1 Applicant's Response: The proposed project will not reduce county facilities below adopted levels of service.
  - 34.2 Hearing Examiner Finding: The proposed development, as conditioned, would not result in county facilities reduced below adopted levels of service.
35. The proposed use shall not result in undue adverse impacts affecting the public health, safety and welfare.
  - 35.1 Applicant's Response: There were no public health, safety, or welfare adverse impacts associated with the construction of this storage building.
  - 35.2 Hearing Examiner Finding: The proposed development, as conditioned, would not have an adverse impact on public health, safety and welfare.
36. 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.
  - 36.1 Applicant's Response: The proposed storage building will not require the construction of additional roads or new ingress and egress to the property. Access to the storage building will be the existing driveway approved by WSDOT. Stormwater created by new impervious surfaces will be retained on site. There will be no irrigation water use or other facilities associated with the project. Power is already available on site and will be brought to the building for lighting and heating use. The building will have sanitary facilities for use of the employees when in and near the building. Fire protection will be the same as is associated with the existing development on site. There are no primitive or forest service roads used to access the property.
  - 36.2 Finding:
    - 36.2.1 Roads, ingress and egress: The subject property fronts and accesses off of US Hwy 97, a state right-of-way.
    - 36.2.2 Stormwater: Stormwater requirements, if applicable, would be addressed with commercial building permit review.
    - 36.2.3 Parking and Loading: The proposed development would result in the addition of on-site parking.

- 36.2.4 Domestic and Irrigation Water: The proposal does not require domestic or irrigation water services.
- 36.2.5 Sanitary Facilities: The proposal does not require sanitary systems.
- 36.2.6 Power: Power is provided by Chelan County PUD.
- 36.2.7 Fire Protection: Fire protection is provided by Chelan County Fire District No. 6.
- 36.3 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.
- 37. 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.
  - 37.1 Applicant's Response: There will be no heat, steam, erosion, water quality issues, smoke, wastes, vibration, electrical disturbance, physical hazards and related impacts associated with this project. The only noise, odor and air pollution will be that of the vehicles using the storage building, that are currently parked on site. Light and glare issues will be avoided via light shielding.
  - 37.2 Finding:
    - 37.2.1 Noise and Vibration: 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.
    - 37.2.2 Light and Glare: Lights appurtenant to the proposed development are regulated by CCC, Section 11.88.080.
    - 37.2.3 Heat, Steam, Odors, Smoke and Dust: The current and proposed development would not generate heat, steam or odors.
    - 37.2.4 Erosion: The subject property is located within a geologically hazardous area. The Hearing Examiner sets as a condition of approval that a geological site assessment be submitted with commercial building permit application.
    - 37.2.5 Water Quality: The proposed development, as conditioned, would not impact water quality.
    - 37.2.6 Wastes and Physical Hazards: The proposal would not result in wastes or physical hazards.
    - 37.2.7 Electrical Disturbance: The proposal would not result in electrical disturbances.
  - 37.3 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 could be avoided or mitigated as conditioned.
- 38. 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.
  - 38.1 Applicant's Response: The existing uses on site were approved via CUP 2004-015. The approved uses will not change or expand with the construction of the proposed storage building. Therefore, this project will continue to be consistent and compatible with the

- intent, goals, objectives and policies of the comprehensive plan, and any implementing regulation.
- 38.2 The proposed storage building as an accessory to the primary use of the subject property is consistent with the goals and policies of the Rural Element of the Comprehensive Plan.
- 38.3 Hearing Examiner Finding: The project is consistent with the Chelan County Comprehensive Plan.
39. All conditions necessary to mitigate the impacts of the proposed use are conditions that are measurable and can be monitored and enforced.
- 39.1 Applicant's Response: Mitigation will not be required for the construction of this storage building. The storage building will be constructed in an area currently used to park vehicles and fish traps and is devoid of vegetation. The proposed structure location is outside any applicable critical area buffers.
- 39.2 The proposed project would not permanently impact any critical areas and therefore no mitigation would be required. All land temporarily disturbed during site preparation and grading would be revegetated with native grass seed.
- 39.3 Hearing Examiner Finding: The proposed development, as conditioned, would not require mitigation.
40. Chelan County Code, Section 11.93.290, Isolated Small-Scale Business
- 40.1 A 200 ft. setback shall be maintained from all adjoining properties for new construction.
- 40.1.1 Applicant's Response: When the field office was approved via CUP 2004-015, all of the buildings were existing but did not meet the 200 ft. setback. The property hasn't been and currently isn't large enough to comply with this 200 ft. setback requirement for the approved use. With the approval of the associated variance, the proposed project will be compliant with this criterion associated with an existing, permitted development. The storage building will not expand the uses on site. It will only provide storage for the existing vehicles and fish traps parked outdoors on site.
- 40.1.2 As submitted, the proposed location of the pole building would not meet this requirement; a variance application was submitted to modify this setback requirement.
- 40.1.3 Hearing Examiner Finding: Only with the granting of the proposed variance would this criterion be satisfied.
- 40.2 Maximum building size shall be five thousand square feet.
- 40.2.1 Applicant's Response: The proposed storage building will be 4,550 sq.ft.
- 40.2.2 Finding: Per the application materials, the proposed pole building would be 4,550 sq. ft.
- 40.2.3 Hearing Examiner Finding: As proposed, the pole building would not exceed 5,000 sq.ft.
- 40.3 Maximum of five hundred square feet may be used for a retail component of the use.
- 40.3.1 Applicant's Response: There will not be a retail component associated with this building. It will be used for storage only. There is no retail on site.

- 40.3.2 As proposed, there would not be a retail component associated with the pole building.
- 40.3.3 Hearing Examiner Finding: This provision would not apply.
- 40.4 The hearing examiner may limit hours of operation or require fencing, screening and/or landscape buffers to screen outside storage or any other conditions to mitigate any adverse impact to surrounding property.
  - 40.4.1 Applicant's Response: The storage building will be constructed in an area currently used to park vehicles and fish traps and is devoid of vegetation. The proposed location is outside any applicable critical area buffers. There will not be any hours of operation associated with this structure since it will be used only for storage.
  - 40.4.2 Hearing Examiner Finding: The hearing examiner has the discretion and authority to require additional conditions, as necessary.
- 41. Chelan County Code, Section 11.95.030 Variance Evaluation Criteria
  - 41.1 No variance shall be granted unless it can be shown that all of the following conditions exist:
    - 41.1.1 The variance is necessary for the preservation of a property right of the applicant substantially the same as is possessed by owners of other property in the same neighborhood or district and shall not constitute a grant of a special privilege.
    - 41.1.2 Applicant's Response: Many of the surrounding properties enjoy the property rights associated with permitted development within this zoning district. Development of an accessory structure such as this pole building for storage is an accessory, permitted use for the associated RR5 zoning district, and typically does not require a CUP. Without this variance, the applicant cannot further develop their 6.57-acre property due to the required setbacks of CCC Section 11.93.290(1).
    - 41.1.3 The applicant is requesting to reduce the required 200 ft. setback from all adjoining properties as required per CCC Section 11.93.290(1). Accessory structures are a permitted use in the RR5 zoning district and are not uncommon in the surrounding area.
    - 41.1.4 Hearing Examiner Finding: This variance would not constitute a special privilege as the surrounding properties have constructed accessory structures and is a permitted use within the RR5 zoning district.
  - 41.2 The plight of the applicant is due to unique circumstances such as topography, lot size or shape, or size of buildings, over which the applicant has no control.
    - 41.2.1 Applicant's Response: The plight of the applicant is due to topography, lot size and shape. Although the property is greater than 6.5 acres, it is a long and narrow shape. The maximum width of the property is approximately 225 feet and the minimum width is approximately 60 feet. The buildable portion of the property, outside this 200 ft. setback, is located within a very small area within the steep slope along highway 97 and outside the front yard setback. A majority of the property lies within this 200 ft. property setback. Coupled with front yard setback and the topography (toe of the slope) along the highway, the only buildable area is a triangular, irregularly shaped area that is only 345 sq.ft., with a maximum width of 10 ft. The application of the Chelan County Code and the existing

topography make new development on site infeasible without the approval of this variance.

- 41.2.2 The subject property has an irregular, shallow shape and multiple restrictive setbacks. Majority of the property lies within the required 200 ft. setback per CCC Section 11.93.290(1). Additionally, there is the required 25 ft. front yard setback and the steep drop as the property slopes down from the highway. With these constraints, the buildable area would be a 345 sq. ft. irregularly shaped area with a maximum width of 10 ft.
- 41.2.3 Hearing Examiner Finding: The plight of the applicant is in part due to the topography of the subject property together with the restrictive setback regulations.
- 41.3 The hardship asserted by the applicant is not the result of the applicant's or the owner's action.
  - 41.3.1 Applicant's Response: The hardship results from the application of Chelan County Code section 11.93.290(1), the size and shape of the property and its topography. The applicant has no control over these elements and has not caused them by their actions.
  - 41.3.2 With the approval of CUP 2004-015, no new construction was proposed; therefore the 200 ft. setback from adjoining properties did not apply to the existing structures. As such, Condition of Approval #10 was implemented that would require an amendment to the CUP if any new structures were proposed.
- 41.4 Additionally, the current lot configuration was established by BLA 2003-072 which was recorded prior to the purchase of the subject property by the applicant.
  - 41.4.1 Hearing Examiner Finding: The hardship is not the result of the owner's actions.
- 41.5 The authorization of the variance shall not be materially detrimental to the public welfare and safety, to the purposes of this title, be injurious to property in the same district or neighborhood in which the property is located, or be otherwise detrimental to the objectives of the comprehensive plan.
  - 41.5.1 Applicant's Response: The authorization of the variance would not be materially detrimental to the public welfare or safety issue. After project completion, the property would continue to provide important attributes to promote public welfare and safety including fire separation for structures, access by emergency personnel and light and air movement between properties. The storage building will simply provide covered storage for vehicles and fish traps already parked on site, currently out in the elements, providing greater organization onsite and improved aesthetics for neighboring property. Because of the slope of the front of the property, the building area is lower than the road thereby providing vertical separation between structures and the road.
  - 41.5.2 The authorization of this variance would not be materially detrimental to the purposes of Title 11. In fact, the authorization of this variance would promote the goals and objectives of title 11 and the comprehensive plan.
  - 41.5.3 The authorization of this variance would not be injurious to property in the same district or neighborhood in which the property is located. This application is requesting approval for the preservation of a property right the same as is enjoyed by other properties adjacent to the subject property and in the

enjoyed by other properties adjacent to the subject property and in the neighborhood. Development of an accessory structure such as this storage building is an accessory, permitted use for the associated RR5 zoning district. Any other property in this zoning district could develop a similar storage building without the need for a CUP or variance. The authorization of this variance would avoid injury to the applicant's property rather than cause injury to other property in the neighborhood. The authorization of this variance would not be detrimental to the objectives of the comprehensive plan.

- 41.5.4 The proposed location for the storage building would be in the same area that the outside storage of equipment is currently placed. The authorization of this variance would not be materially detrimental to the purposes of Title 11; this variance would promote the goals and objectives of Title 11 and the Comprehensive Plan. The proposed development for a storage pole building is similar to other uses and structures within the same zoning district. Chelan County Code Chapter 11.04 District Use Chart, permits accessory structures within the RR5 zoning district. Pursuant to CCC Section 11.88.170(10)(C) for commercial/industrial accessory uses and structures, every reasonable effort shall be made by persons operating a business to store all such materials within an enclosed building.
- 41.5.5 Hearing Examiner Finding: The authorization of this variance would promote the development of the property for a storage pole building. Additionally, the location of the pole building would eliminate the need for clearing of additional vegetation and would be compliant with the goals and objectives of CCC Title 11 as well as the Comprehensive Plan.
- 41.5.6 Hearing Examiner Finding: The authorization of this variance would not be injurious to property in the same district or neighborhood in which the property is located. The authorization of this variance would avoid injury to the applicant's property rather than cause injury to other property in the neighborhood. The authorization of this variance would not be detrimental to the objectives of the comprehensive plan.
- 41.6 The hardship asserted by the application results from the application of this title to the property.
  - 41.6.1 Applicant's Response: The ultimate hardship asserted by this application is a direct result of the 200-foot setback required by Title 11.
  - 41.6.2 Majority of the subject property lies within the required 200 ft. setback per CCC Section 11.93.290(1). With the irregular shaped lot along with the restrictive setback constraints, the buildable area would be a 345 sq. ft. irregularly shaped area with a maximum width of 10 ft.
  - 41.6.3 Hearing Examiner Finding: The hardship is a result of the application of the Chelan County Code to the subject property based on site specific conditions, which does not factor in lot configurations.
- 41.7 The granting of a variance should not:
  - 41.7.1 Be substantially based upon precedent established by illegal or nonconforming circumstances.
    - 41.7.1.1 Applicant's Response: The applicant is not aware of any precedent based on illegal or nonconforming circumstances relevant to this

- proposal. The hardship is based on the size and shape of the property, topography, and the application of the county code.
- 41.7.1.2 The variance request is based on the requirements of CCC Section 11.93.290(1) along with the topographical restraints of the property.
  - 41.7.1.3 Hearing Examiner Finding: The variance request would not be based on illegal or nonconforming circumstances created by the applicant.
  - 41.7.2 Be substantially based upon lack of reasonable economic return or a claim that the existing/proposed structure is too small.
    - 41.7.2.1 Applicant's Response: The proposed development will have no economic return and is not associated with an existing structure being too small. The application of the Chelan County Code and the existing lot size and topography make new development on site infeasible without the approval of this variance
    - 41.7.2.2 The proposed development would have no economic return and is not associated with an existing structure.
    - 41.7.2.3 Hearing Examiner Finding: The variance request would not be based upon lack of reasonable economic return or a claim that the structure is too small.
  - 41.7.3 Be based on the fact that the condition, for which the variance is requested, existed at the time the applicant acquired the property.
    - 41.7.3.1 Applicant's Response: The proposal is not based on the fact that the condition for which the variance is requested, existed at the time the applicant acquired the property, rather it is based on the fact that the condition currently exists. The application is based on hardships due to lot size, shape, and topography detail throughout the application.
    - 41.7.3.2 The proposal is not based on the fact that the condition for which the variance is requested existed at the time the applicant acquired the property, it generated from the approval of the 2004 CUP.
    - 41.7.3.3 Hearing Examiner Finding: The proposed variance would not be based on the fact that the condition existed at the time the applicant acquired the property.
  - 41.7.4 Result in a de facto zone reclassification.
    - 41.7.4.1 Applicant's Response: The proposal would not result in any changes to the requirements of the RR5 zone or change density.
    - 41.7.4.2 The proposed variance would not change the permitted land uses.
    - 41.7.4.3 Hearing Examiner Finding: This does not apply.
  - 41.7.5 Be substantially for the purpose of circumventing density regulations.
    - 41.7.5.1 Applicant's Response: There would be no change in density resulting from the project.
    - 41.7.5.2 The proposed variance would not affect density.
    - 41.7.5.3 Hearing Examiner Finding: This does not apply.

42. Chelan County Shoreline Master Program (CCSMP). CCSMP Chapter 2: Goals and Objectives. The project is consistent with:
- 42.1 Goal CONS-2 Encourage the restoration of shoreline areas which have been modified, blighted, or otherwise disrupted by natural or human activities.
  - 42.2 Goal PRIVATE-1 Recognize and protect private property rights in shoreline uses and developments.
  - 42.3 Goal UE-1 Assure an appropriate pattern of sound development in suitable locations without diminishing the quality of the environment along shorelines
43. CCSMP Chapter 3: Shoreline Jurisdiction & Environment Designations. The subject property is located along Peshastin Creek, which holds a 'Rural' shoreline environmental designation and is classified as a Shoreline of Statewide Significance, pursuant to WAC 173-20-100. The site preparation and grading associated with the proposed development is permitted within shoreline jurisdiction through a shoreline development permit (SDP) pursuant to Table 3.6-a in the CCSMP.
44. CCSMP Chapter 4: General Regulations - CCSMP Section 4.1: Archaeological & Historic Resource Regulations
- 44.1 Pursuant to CCSMP Section 4.1, Archaeological and Historic Resource Regulations, Developers and property owners must immediately stop work and notify the County, the Washington State Department of Archaeology and Historic Preservation, and affected Indian tribes if archaeological resources are uncovered during excavation.
  - 44.2 No comment was received indicating that the proposed development is located in an area of high probability of archaeological resources. Therefore, a cultural resource survey would not be required.
  - 44.3 Applicants must submit an Inadvertent Discovery Plan prior to commencing any development authorized by this Shoreline Master Program (SMP). A copy of the plan must be kept on site during ground disturbing activities.
45. CCSMP Section 4.2: Ecological Protection & Critical Area Regulations - The provisions of this Section shall apply to any development within shoreline jurisdiction to document a finding of no-net-loss:
- 45.1 Applicability:
    - 45.1.1 Applicant's Response: This section of the SMP applies to the proposed project as the project is located within the 200 ft. shoreline jurisdiction of Peshastin Creek.
    - 45.1.2 Finding of Fact: Based on the application materials, the provisions of Appendix B, Critical Areas Regulations have been reviewed based on the proposed development.
    - 45.1.3 Wetlands: According to the National Wetlands Inventory Map prepared by the US Department of Fish and Wildlife Services, the subject property does not contain delineated wetlands. Therefore, the applicable provisions of CCSMP 6.1 Appendix B would not apply.
    - 45.1.4 Aquifer Recharge Area: Pursuant to CCSMP 6.2 Appendix B, the subject property does not meet the criteria pursuant to Chelan County Code Chapter 11.82, which would require a vulnerability report with development. Therefore, the applicable provisions of this section would not apply.

- 45.1.5 Floodplain: According to FEMA panel number 5300150800A of the FIRM maps, there is 100- and 500-year flood plain associated with Peshastin Creek east of and adjacent to the subject property; therefore, the provisions of CCSMP 4.3 and CCSMP 6.3 Appendix B do apply. A floodplain permit application would be required to be submitted with the commercial building permit application for the proposed pole building.
- 45.1.6 Geologically Hazardous Area: According to the Chelan County GIS mapping, the subject property is located within a geologically hazardous area. Therefore, the provisions of CCSMP 6.4 Appendix B would apply. A geoassessment would be required to be submitted with the commercial building permit application for the proposed pole building.
- 45.1.7 Fish and Habitat: According to the Washington State Department of Fish and Wildlife, Priority Habitat and Species Maps, the subject properties the subject properties do not contain WDFW Priority Habitat Species. Therefore, the provisions of CCSMP 6.5 Appendix B would not apply.
- 45.1.8 As conditioned, the proposed development is not anticipated to result in adverse impacts to any identified critical areas on the subject properties.
- 45.2 Mitigation sequencing:
  - 45.2.1 Applicant's Response: Mitigation sequencing has been applied. No adverse impacts will remain after applying the first priority of mitigation sequencing. The project avoids adverse impacts by locating a majority of the development outside shoreline jurisdiction. No significant vegetation will be disturbed and all development will be located landward of the 100 ft. Rural shoreline buffer.
  - 45.2.2 Based on the application materials submitted, mitigation sequencing has been applied to the proposed development. No adverse impacts would remain after applying the second and fifth priorities of mitigation sequencing.
    - 45.2.2.1 (2) Minimizing impacts by limiting the degree or magnitude of the action and item implementation, by using appropriate technology, or by taking affirmative steps, such as project redesign, relocation, or timing, to avoid or reduce impacts.
    - 45.2.2.2 (5) Compensating for the impact by replacing, enhancing, or providing substitute resources or environments.
  - 45.2.3 Hearing Examiner Finding: As conditioned, the proposed development is not anticipated to result in adverse impacts to the ecological function of Peshastin Creek.
- 45.3 Mitigation required for impact:
  - 45.3.1 Applicant's Response: Does not apply. No mitigation is required for the proposed project.
  - 45.3.2 Finding of Fact: All land disturbed temporarily as part of the proposed project and associated site work would be reseeded with native grasses. No additional mitigation would be needed.

- 45.3.3 Conclusion: As conditioned, the proposed development is not anticipated to result in a net loss to ecological function to Peshastin Creek.
46. CCSMP Section 4.4: Public Access Regulations - The subject property is not located within a “gap area” identified in Table 11 of the Public Access Plan. Developments that are within a non-gap area are not required to provide public access.
47. CCSMP Section 4.5: Vegetation Conservation & Shoreline Buffer Regulations:
- 47.1 Applicant’s Response: All project elements are located no less than 100 ft. landward of the OHWM of the Peshastin Creek and outside of the 100 ft. Rural shoreline buffer. As a result, there will be no adverse impact to existing shoreline vegetation and no-net-loss of ecological value or function will result. Any impacts to vegetation within the 200 ft. shoreline jurisdiction will be limited to sparse weedy herbaceous species.
- 47.2 Based on the application materials, vegetation removal is not proposed with the development. All land disturbed temporarily as part of the proposed project and associated site work would be reseeded with native grasses.
- 47.3 Hearing Examiner Finding: Removal of native vegetation is not proposed; therefore, the provisions of this section would not apply.
48. CCSMP Chapter 5: Shoreline Modifications and Uses - CCSMP Section 5.1: General Upland Shoreline Modification and Use Regulations: This section applies to the proposed project as it is located within the 200 ft. of shoreline jurisdiction of Peshastin Creek. However, all project elements are located outside of the 100 ft. Rural shoreline buffer and more than 100 ft. landward of the OHWM.
- 48.1 Preference for water-oriented facility location
- 48.1.1 Applicant’s Response: The mission of Yakama Nation Fisheries is habitat restoration and supplemental of salmonid species which are water dependent. The storage building will be located outside of shoreline jurisdiction.
- 48.1.2 Not applicable; the proposed structure would be located outside of the shoreline jurisdiction for Peshastin Creek, but the some of the grading associated with the project would be within the “Rural” 100-ft. shoreline buffer of Peshastin Creek. All disturbed areas during site work and project construction would be revegetated with native grass seed.
- 48.1.3 Hearing Examiner Finding: As conditioned, the proposed development would not result in a net loss to ecological function to Peshastin Creek.
- 48.2 Minimize changes to topography
- 48.2.1 Applicant’s Response: The changes to topography will be minimal and only intended to smooth the grade adjacent to the building. The project will not impact the bank or lead to bank erosion.
- 48.2.2 The grading associated with the project would be within the “Rural” 100-ft. shoreline buffer of Peshastin Creek. All disturbed areas during site work and project construction would be revegetated with native grass seed.
- 48.2.3 Hearing Examiner Finding: As conditioned, the proposed development would not result in a net loss to ecological function to Peshastin Creek.

- 48.3 Building Heights:
  - 48.3.1 Applicant's Response: There are no buildings proposed within shoreline jurisdiction.
  - 48.3.2 Not applicable.
  - 48.3.3 Hearing Examiner Finding: Not applicable.
- 48.4 Illegal structure(s)/material removal
  - 48.4.1 Applicant's Response: Does not apply.
  - 48.4.2 Not applicable.
  - 48.4.3 Hearing Examiner Finding: Not applicable.
- 48.5 Lighting:
  - 48.5.1 Applicant's Response: Exterior lighting will be downward facing and shielded to avoid light pollution onto neighboring parcels and nearby critical areas.
  - 48.5.2 Not applicable since the proposed pole building is outside of the 200 ft. shoreline jurisdiction.
  - 48.5.3 Hearing Examiner Finding: Not applicable.
- 48.6 Sign regulations:
  - 48.6.1 Applicant's Response: Does not apply. No new signage is associated with the proposed project.
  - 48.6.2 Not applicable.
  - 48.6.3 Hearing Examiner Finding: Not applicable.
- 48.7 Pools:
  - 48.7.1 Applicant's Response: Does not apply.
  - 48.7.2 Not applicable.
  - 48.7.3 Hearing Examiner Finding: Not applicable.
- 48.8 Mitigation:
  - 48.8.1 Applicant's Response: Does not apply. No mitigation is required for the proposed project. Section 4.2 is discussed in detail previously.
  - 48.8.2 Not applicable.
  - 48.8.3 Hearing Examiner Finding: Not applicable.
- 48.9 Other standards:
  - 48.9.1 Applicant's Response: The project will comply to all other applicable standards in the SMP.
  - 48.9.2 As conditioned, the proposed pole building and associated site work would be consistent with the CCSMP
  - 48.9.3 Hearing Examiner Finding: As conditioned, the proposed project would be consistent with the CCSMP.

49. CCSMP Section 5.9: Fill and Excavation Regulations - This section of the SMP applies to the grading of the property to level the approach area.
- 49.1 Protect ecological function:
- 49.1.1 Applicant's Response: The proposed project will have no adverse impact on shoreline ecological function or ecosystem-wide processes. The grading for the approach area will be the minimum necessary and will occur outside of the shoreline buffer. After grading is complete, all pervious surfaces will be seeded to establish a uniform vegetative cover. There will be no adverse impact to significant native vegetation at the site.
- 49.1.2 Vegetation removal is not proposed with the development. All land disturbed temporarily as part of the proposed project and associated site work would be reseeded with native grasses.
- 49.1.3 Hearing Examiner Finding: As conditioned, the proposed development would not result in a net loss to shoreline ecological functions or ecosystem-wide processes of Peshastin Creek.
- 49.2 Aquatic fill and excavation:
- 49.2.1 Applicant's Response: Does not apply.
- 49.2.2 Hearing Examiner Finding: Not applicable
- 49.3 Upland fill and excavation:
- 49.3.1 Applicant's Response: The proposed grading complies with Section 4.5 and Section 4.2 of the SMP as described above. As discussed above, the proposed grading will be the minimum necessary to construct the project as designed. The project will not significantly change the site topography. All project elements are located landward of the shoreline buffer.
- 49.3.2 All land disturbed temporarily as part of the proposed project and associated site work would be reseeded with native grasses.
- 49.3.3 Hearing Examiner Finding: As conditioned, the proposed development would not adversely affect the hydrology or ecological function of Peshastin Creek nor would the proposed development increase the risk of slope failure within the shoreline buffer.
- 49.4 Shoreline stabilization:
- 49.4.1 Applicant's Response: Does not apply. The project will not require shoreline stabilization or lead to the need for future stabilization
- 49.4.2 Not applicable.
- 49.4.3 Hearing Examiner Finding: Not applicable
- 49.5 Physical and visual consistency:
- 49.5.1 Applicant's Response: The grading will be the minimum necessary and will only slightly change the topography of a small portion of the site.

- 49.5.2 Vegetation removal is not proposed with the development. All land disturbed temporarily as part of the proposed project and associated site work would be reseeded with native grasses.
- 49.5.3 Hearing Examiner Finding: As conditioned, the proposed development would blend physically and visually with existing topography.
- 49.6 Maximum slopes:
  - 49.6.1 Applicant's Response: The slope of the graded area will be sloped at no more than 1 foot vertical for every two feet horizontal.
  - 49.6.2 Vegetation removal is not proposed with the development. All land disturbed temporarily as part of the proposed project and associated site work would be reseeded with native grasses.
  - 49.6.3 Hearing Examiner Finding: As conditioned, the proposed development would meet the maximum slope allowance of the CCSMP.
- 49.7 Erosion control:
  - 49.7.1 Applicant's Response: TESC measures including BMPs such as silt fencing and straw wattles will be utilized during all phases of construction in order to minimize erosion potential at the site. Following construction, the site will be top-seeded with a native grass seed blend in order to quickly stabilize soils.
  - 49.7.2 Vegetation removal is not proposed with the development. All land disturbed temporarily as part of the proposed project and associated site work would be reseeded with native grasses.
  - 49.7.3 Hearing Examiner Finding: As conditioned, the proposed development would be consistent with the Stormwater Management Manual for Eastern Washington.
- 50. CCSMP Section 7.5.2, Shoreline Substantial Development Permits: Review Criteria. In order for the permit to be approved, the decision maker must find that the proposal is affirmatively consistent with the following: (A) How is the proposal consistent with the policies and procedures of the Act (RCW 90.58)? (B) How is the proposal consistent with the provisions of Chapter 173-27 WAC, Shoreline Management Permit and Enforcement Procedures? (C) How is the proposal with this SMP?
  - 50.1 Applicant's Response: The responses above demonstrate compliance with the CCSMP. In adopting master programs, it is ensured by the Department of Ecology that the policies and procedures of the SMP are consistent with RCW 90.58 and WAC 173-27.
  - 50.2 The provisions of the Shoreline Management Act (SMA) and WAC have been met through the adoption of the CCSMP. The appropriate CCSMP requirements are addressed in this decision. According to JARPA, question 6(g), the fair market value of the development is \$200,000. The development is not exempt from the substantial development permit requirements.
  - 50.3 Hearing Examiner Finding: The project would be consistent with the provisions of the SMA, WAC and CCSMP.
- 51. The overall use of the property would not be changing from the research facility for the fisheries program. Therefore, the surrounding properties would not be subjected to

unknown impacts. The proposed storage building would be an accessory to the existing use of the subject property. Although the proposed structure would not meet the required 200 ft. setback from the adjoining property, it would remove the potential visual impacts of the outside storage of equipment that the properties may be currently subjected to.

52. Pursuant to Chelan County Code Section 11.88.170, storage associated with commercial purposes is encouraged to make every reasonable effort to store all such materials or equipment within an enclosed building. The location proposed with the storage building would be in roughly the same area that the on-site equipment and vehicles are currently located. Therefore, minimal clearing of native vegetation would be proposed with construction. The storage building would allow for organization of the subject property as well as potentially alleviate visual impacts of on-site equipment storage.
53. An open record public hearing after due legal notice was held via Zoom on January 3, 2024.
54. The following exhibits were entered into the record:
  - 54.1 Ex. A CUP 2004-015 decision, approved October 12, 2004
  - 54.2 Ex. B Chelan County Inadvertent Discovery Plan (IDP)
  - 54.3 Ex. C Site Plan of Record, dated August 2, 2023
  - 54.4 Ex. D Staff Report.
  - 54.5 Ex. E Remainder of Planning File.
55. Appearing and testifying on behalf of the applicant was Ryan Walker. Mr. Walker testified that he was the agent authorized to appear and speak on behalf of the property owner and Applicant. Mr. Walker testified that they had reviewed the staff report and agreed with all of the representations therein and had no objection to any of the proposed Conditions of Approval.
56. No member of the public testified at the hearing.
57. The Chelan County Hearing Examiner considered all evidence within the record in rendering this decision.
58. Any Conclusion of Law that is more correctly a Finding of Fact is incorporated herein as such by this reference.

### **III. CONCLUSIONS OF LAW**

1. The Hearing Examiner has authority to render this Decision.
2. Referral agency comments were received and considered in the review of this proposal.
3. The Hearing Examiner finds that the project, as conditioned, is consistent with the Comprehensive Plan.
4. The proposed project would cause no substantial adverse effects to the shoreline environment and no-net-loss of ecological function would result from the granting of this permit.
5. The proposed project meets the intent of the goals and policies of the Comprehensive Plan.
6. The development complies with the CCSMP, therefore, it is consistent with WAC 173-27.
7. The finding of facts and conclusions within this decision demonstrate compliance with the CCSMP.

8. The project is consistent with the adopted Chelan County Shoreline Master Program.
9. The proposed project would cause no unreasonable adverse effects to the shoreline.
10. With the development being in conformance with the CCSMP, the Department of Ecology is ensured that the policies and procedures of the CCSMP are consistent with 90.58.
11. Any Finding of Fact that is more correctly a Conclusion of Law is incorporated herein as such by this reference.

Approved this 5 day of January, 2024.

CHELAN COUNTY HEARING EXAMINER



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Andrew L. Kottkamp

**This Variance, Conditional Use Permit Amendment, and Shoreline Substantial Development Permit are granted pursuant to the Shoreline Master Program of Chelan County, as amended, and nothing in this permit shall excuse the applicant from compliance with any other federal, state, or local statutes, ordinances, or regulations applicable to this project, but not inconsistent with the Shoreline Management Act of 1971 (Chapter 90.58 RCW).**

**This Variance, Conditional Use Permit Amendment, and Shoreline Substantial Development Permit may be rescinded pursuant to RCW 90.58.140(7) in the event the permittee fails to comply with the terms and conditions hereof.**

**CONSTRUCTION PURSUANT TO THIS VARIANCE, CONDITIONAL USE PERMIT AMENDMENT, AND SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT SHALL NOT BEGIN NOR IS AUTHORIZED UNTIL TWENTY-ONE (21) DAYS FROM THE DATE OF FILING AS DEFINED IN RCW 90.58.140(6) AND WAC 173-14-090, OR UNTIL ALL REVIEW PROCEEDINGS INITIATED WITHIN TWENTY-ONE (21) DAYS FROM THE DATE OF SUCH FILING HAVE TERMINATED; EXCEPT AS PROVIDED IN RCW 90.58.140(5)(a)(b)(c).**

**Substantial progress toward construction of the project for which this permit has been granted must be accomplished within two (2) years of the filing date of this permit. Authorization to conduct development activities granted by this permit shall terminate five (5) years from the filing date of this permit.**

**Anyone aggrieved by this SDP decision has twenty-one (21) days from the “date of receipt” as defined by Washington Law to file a petition for review with the Shorelines Hearings Board (for the shoreline permit) as provided for in RCW 90.58.180 and Chapter 461-08 WAC, the rules of practice and procedure of the Shorelines Hearings Board.**

**Anyone aggrieved by this CUPA or Variance 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.

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**THIS SECTION FOR DEPARTMENT OF ECOLOGY USE ONLY IN REGARD TO A  
CONDITIONAL USE AND/OR VARIANCE PERMIT**

Date received by the Department \_\_\_\_\_

Approved \_\_\_\_\_

Denied \_\_\_\_\_

This conditional use/variance permit is approved / denied by the Department pursuant to Chapter 90.58 RCW.

Development shall be undertaken pursuant to the following additional terms and conditions:

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