

BEFORE THE CHELAN COUNTY HEARINGS EXAMINER

<p>IN THE MATTER OF</p> <p>ZC 22-371</p> <p>North Cascades Sportsman Club</p>	<p>)</p> <p>)</p> <p>)</p> <p>)</p>	<p>FINDINGS OF FACT,</p> <p>CONCLUSIONS OF LAW</p> <p>AND DECISION</p>
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THIS MATTER came before the Chelan County Hearing Examiner on March 1, 2023 in the matter of a Zone Change amendment.

I. FINDINGS OF FACT

1. On October 4, 1993, the Board of Chelan County Commissioners approved Zone Change 505, which was an application to rezone 160 acres from Agricultural to Mixed Use Planned Development for a Multi-Sport Range Facility by passing Resolution 93-121. This resolution enabled the creation of the North Cascades Sportsman Club, which is a 160-acre gun range located at 401 Washington Creek Rd, Chelan WA.

2. The applicant, North Cascades Sportsman Club, is requesting an amendment to Condition of Approval #6 from Resolution 93-121, which states *'Hours of operation will be limited to 6 days a week, from 10:00am through 5:00pm with the exception of a 10:00pm closing time one weekday night'*. The applicant is requesting to change the hours of operations by adding two additional hours in the morning so that Condition of Approval #6 would read *'Hours of operation will be limited to 6 days a week, from 8:00am through 5:00pm with the exception of a 10:00pm closing time one weekday night'*.

3. General Information:

Project Location:	401 Washington Creek Rd, Chelan WA
Parcel Number, Address, Legal Description and Size:	Assessor's Parcel No.: 28-23-16-200-000 401 Washington Creek Rd, Chelan WA <i>The Northwest quarter of Section 16, Township 28 North, Range 23 East of Willamette Meridian, Chelan County, Washington; EXCEPT right of way for public road known as Washington Creek Road.</i> 160 Acres
Owner:	North Cascades Sportsman Club PO Box 1721 Chelan WA 98816
Agent:	Rocky Libbey

Urban Growth Area:	The subject property is not located within an Urban Growth Area
Current Zoning:	RR20, ZC 505 (Mixed Use Planned Development for a Multi-Sport Range Facility)
Proposed Zoning:	No change to the current zoning.
Site Size:	160 acres.
Critical Areas:	According to Chelan County GIS maps, the subject site contains erosive soils, shrub-steppe habitat, and critical habitat for mule deer and golden eagles. Chelan County GIS mapping shows Washington Creek running through the property, although a subsequent field investigation did not show any sign of a creek intersecting the property. The applicant has complied with the Condition of Approval #7 from ZC-505 through implementation of a wildlife mitigation and enhancement plan that was approved by WDFW. The applicant was not required to prepare a geologic site assessment because no new structures or activities would occur onsite.

4. The applicant submitted an environmental checklist and a DNS was issued for the project on January 4, 2023. It is not anticipated that the additional two hours of operation will materially impact the environment.
5. Application and Public Hearing Notice Compliance:

Application Submitted:	September 13, 2022
Determination of Complete:	December 8, 2022
Notice of Application:	December 17, 2022
Notice of Public Hearing:	February 18, 2023

6. Since the original project was approved as a zone change from Agricultural to Mixed Use Planned Development, the current proposal needs to be processed as a Zone Change amendment. Per Chelan County Code Section 1.61.080(a)(4), Zone Change amendments (and also planned unit development amendments) fall under the Hearing Examiners duties and powers.
7. The proposed zoning designation is Rural Industrial (RI) and is approximately 160 acres.
8. Conditions of Approval Resolution 93-121: The approval, modification or denial of a development regulation amendment application shall be evaluated based on the original conditions of approval in Resolution 93-121 (ZC 505), including Condition of Approval #6, which the applicant is requesting to be modified.

- 8.1 The project proceed in conformance with the plans on file with the Chelan County Planning Department dated August 25, 1993.
- 8.1.1 Finding of Fact: The North Cascades Sportsman Club appears to have followed original plans of record from 1993.
- 8.2 The applicants shall comply with the conditions as stipulated by the Chelan County Fire Marshal dated August 25, 1993.
- 8.2.1 Finding of Fact: The conditions of approval from the Fire Marshal in 1993 appear to have been completed. The applicant has provided the following for fire protection:
- 8.2.1.1 Paved access road
- 8.2.1.2 Two (2) 10,000-gallon water tanks installed onsite
- 8.2.1.3 Mows vegetation regularly and sprays for weeds within the firing range
- 8.2.1.4 Retains fire extinguishers and shovels on the firing line at the rifle range.
- 8.2.1.5 Prohibits the use of tracer and armor piercing ammunition.
- 8.2.1.6 Implements a summer schedule during high-risk fire season that further restricts use of metal targets, hours of operation, and requires a Range Safety Officer on site.
- 8.2.1.7 Provides a fire hydrant and cistern onsite.
- 8.3 The applicants shall develop the water system and septic tank and drainfield systems in accordance with the Health District standards prior to the issuance of a building permit for the clubhouse and managers residence.
- 8.3.1 Finding of Fact: According to the file of record for approved building permit #080006, the property has a permitted well and septic system on site.
- 8.4 The applicants shall construct the sound mitigation and safety earth and berms in the locations on the site plan prior to use of the site.
- 8.4.1 Finding of Fact: The berms were permitted and installed per permit #080006 and verified as existing during a site visit on January 3, 2023
- 8.5 The applicant must provide dust control mitigation for property owners adjacent to Washington Creek Road until such time that the road is upgraded to a standard that will not require dust abatement.
- 8.5.1 Finding of Fact: The applicant would continue to provide dust abatement as necessary.
- 8.6 Hours of operation will be limited to 6 days a week, from 10:00am through 5:00pm with the exception of a 10:00pm closing time one weekday night.
- 8.6.1 Finding of Fact: The applicant is requesting to change this condition of approval so state "hours of operation will be limited to 6 days a week, from 8:00am through 5:00pm with the exception of a 10:00pm closing time one weekday night".
- 8.6.2. The resulting hours are consistent with range facilities in the region:

Wenatchee Rifle & Revolver Club Hours:
March-April 10: 8:00am-6:00pm

April 11-May 13: 8:00am-7:00pm
May 14-Aug 30: 8:00am-8:00pm
August 31-Sept 29: 8:00am-7:00pm
Sept 30-October 14: 8:00am-6:00pm
October 15-March 8:00am-5:00pm

NCW Gun Club (Douglas County):

7:00am-10:00pm

- 8.6.3 The proposed hour change is also consistent with the hours set forth for public lands in WAC 332-52-145 Public Access and Recreation: Firearms and target shooting: (5A) '*Unless otherwise posted, persons shall not target shoot one-half hour after sunset to onehalf hour before sunrise*'.
- 8.6.4 The Sportsman Club is not asking for a change to the closing time in respect of surrounding property owners' desire for quiet time in the evenings. The earlier start time of 8:00am is being requested to better accommodate existing NCSC activities and competition events that draw competitors from all over the state/region. Changing the hours of operations would enable NCSC events to start earlier in the morning and complete activities earlier in the day, which would be beneficial for fire danger during the hot summer months. Competition events currently occur once per month April through September and generally include 5-10 attendees. The change in hours is not intended so that NCSC can add more events, attendees or members; it is merely intended to better facilitate Club activities already occurring. There is no anticipated increase in demand for public facilities and services as a result of the hour change request.
- 8.7 Submit a wildlife mitigation and enhancement plan to the Chelan County Planning Department for review and approval prior to operation of the facility.
- 8.7.1 Finding of Fact: Per attached letter from WDFW (Exhibit E), dated January 11, 1999, the Wildlife Mitigation and Enhancement plan was completed as required.
- 8.8 Prior to operating a facility, trees are to be planted along the northern edge of the property line parallel to Washington Creek Rd.
- 8.8.1 Finding of Fact: Trees were planted along Washington Creek Rd, per aerial photos and verified by a site visit on January 3, 2023.
- 8.9 A 10,000-gallon water tank for the use of the fire department, Department of Natural Resources, and the Forest Service for fire protection must be installed prior to the operation of the facility.
- 8.9.1 Finding of Fact: There are two (2) 10,000-gallon tanks on site.
- 8.10 The rifle range firing line is limited to 300 yards in length and must be located a minimum of 150 feet from the eastern most property line.
- 8.10.1 Finding of Fact: The applicant would comply with firing line limits.
- 8.11 Noise levels should not exceed 70 dpa at the property line.

8.11.1 Finding of Fact: The applicant is aware of noise level requirements and has placed sound barriers to help with sound mitigation.

8.12 CONCLUSION: Changing the hours to add two hours in the morning would not significantly change the original intent of the zone change and would be consistent with the hours of other facilities in the region. The project has complied with all conditions of approval from the original resolution 93-121 (ZC-505).

9. COMPREHENSIVE PLAN:

9.1 GOAL LU 12: Encourage development and maintenance of recreational facilities and opportunities to meet the needs of residents and visitors.

9.2 GOAL RE 1: Maintain a balance between human uses and the natural environment in rural areas of the County.

9.3 GOAL RE 2: Maintain natural environment features that support and enhance natural resourcebased economic activities, wildlife habitats, traditional rural lifestyles, outdoor recreation, and open space.

9.4 GOAL ED 2: Encourage the retention and growth of recreational and tourist-based industries consistent with the comprehensive plan.

9.5 GOAL PR 2: Encourage development and maintenance of recreational facilities and opportunities to meet the needs of residents and visitors.

9.6 Finding of Fact: The North Cascade Sportsman Club has been in legal operation since 1993.

9.7 Conclusion: The use is consistent with the Comprehensive Plan.

10. CHELAN COUNTY CODE - Chelan County Code 11.76.030 Demonstrating Public Benefit.

10.1 Any applicant for a planned unit development will have the burden of demonstrating that their proposal will achieve a public benefit as a result of any deviation from underlying zoning regulations through the creation of open space or public facilities, conservation, superior project design and/or function, needed private facilities or otherwise, and clearly implements the goals and policies of the comprehensive plan. (Res. 2006-44 (part), 4/4/06; Res. 2000-129 (part), 10/17/00).

10.2 The approved project allows for multi-sport shooting in the greater Chelan area is open to the public, with approximately 145 acres retained as natural open space. The facility has been active since approved in 1993. At the time of approval, it was deemed consistent with the Chelan County Codes and the Chelan County Comprehensive Plan.

10.3 RR20 Zone: The underlying zoning of the property is Rural Residential/Resource 20 (RR20) land use which allows 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. Additional uses may be considered with supplemental provisions, such as...intensification of existing development or new development of small scale recreational or tourist uses that rely on a rural location or setting but that do not include a new residential component..."

- 10.4 Finding of Fact: The multi-sport range facility has complied with all requirements and conditions of approval and has been operating under Zone Change 505 since 1993.
- 10.5 Conclusion: The use is consistent with the Chelan County Code.
- 11. 14.13.040 Evaluation criteria. The approval, modification or denial of a development regulation amendment application shall be evaluated on, but not limited to, the following criteria:
 - 11.1 The amendment is necessary to resolve a public land use issue or problem.
 - 11.1.1 FACT: The applicant is proposing to modify Zone Change 505 by changing the hours of operations.
 - 11.1.2 CONCLUSION: The Hearing Examiner finds that the proposed amendment would be consistent with the intent of Resolution 93-121.
 - 11.2 The amendment is consistent with goals of the Growth Management Act, Chapter 36.70A RCW.
 - 11.2.1 FACT: The Growth Management Act under RCW 36.70A.020 contains planning goals that include, but are not limited to, 2) Reduce Sprawl, 5) Economic Development, 9) Open space and recreation and 10) Environment. The proposed amendment promotes the above planning goals by:
 - 11.2.1.1 Reduce Sprawl: reducing inappropriate conversion of undeveloped land into sprawling development. The Sportsman Club will not be converted into low-density development. 5) Economic Development: The Sportsman Club provides an economic opportunity for the land owner.
 - 11.2.1.2 Open Space and recreation: The Sportsman Club is located on 160 acres, most of which is open space and the remaining portion provides recreational opportunities.
 - 11.2.1.3 Environment: Much of the 160 acres of land is pine forest and shrubsteppe habitat that supports birds and wildlife.
 - 11.2.2 CONCLUSION: The Hearing Examiner finds that the proposal is consistent with the goals of the Growth Management Act.
 - 11.3 The amendment complies with or supports Comprehensive Plan goals and policies and/or county-wide planning policies.
 - 11.3.1 FACT: The proposed amendment supports the following Comprehensive Plan Goals:

- 11.3.1.1 Goal LU 2 Physical Activity: Encourage active communities through land use decisions and designs by providing outdoor activities.
- 11.3.1.2 Goal LU 12: Encourage development and maintenance of recreational facilities and opportunities to meet the needs of residents and tourists.
- 11.3.1.3 Goal RE 1: Maintain a balance between human uses and the natural environment in rural areas of the County. The gun range is a good balance of open space and recreational space for humans.
- 11.3.1.4 Goal RE 2: Maintain natural environment features that support and enhance natural resource-based economic activities, wildlife habitats, traditional rural lifestyles, outdoor recreation, and open space.
- 11.3.1.5 Goal PR 1: Encourage open space and public land use for the enjoyment of County residents and visitors.
- 11.3.1.6 Goal PR 2: Encourage development and maintenance of recreational facilities and opportunities to meet the needs of residents and visitors.
- 11.3.2 CONCLUSION: The Hearing Examiner finds that the proposal is consistent with the County Comprehensive Plan goals and policies and the County-Wide Planning Policies.
- 11.4 The proposed amendment does not adversely affect lands designated as resource lands of long-term commercial significance or critical areas in ways that cannot be mitigated.
 - 11.4.1 FACT: The site is not designated as resource lands of long-term commercial significance. The subject site is comprised of one parcel that is currently in Rural Residential/Resource 20 (RR20). The site is currently used for multi-sport range facility, with a club house, covered rifle firing line and associated structures. Physical characteristics include rolling hills, open ponderosa pine forest, and shrubsteppe habitat.
 - 11.4.2 CONCLUSION: The Hearing Examiner finds that the proposal does not adversely affect lands designated as resource lands of long-term commercial significance or critical areas. The majority of the 160 acres is undisturbed open space.
- 11.5 The amendment is based on sound land use planning practices and would further the general public health, safety and welfare.
 - 11.5.1 FACT: Other gun ranges in the area have similar or earlier start times to the proposed 8:00am start time. By allowing for an earlier start time, the fire danger should be reduced in the hot summer months. Having a legal place to practice proper gun handling on property that does not have conflicting uses onsite is important for the health, safety and welfare of Chelan County residents.

11.5.2 CONCLUSION: The proposed Zone Change amendment meets the evaluation criteria listed under Chelan County Code Title 14, Section 14.13.040.

12. WASHINGTON ADMINISTRATIVE CODE (WAC) - The following WAC pertains to hours of allowed shooting on the DNR lands directly to the south and also directly west of the subject property. The regulations for the current allowed use as a shooting range would be consistent with the following hours.

12.1 WAC 332-52-145: Firearms and Target shooting.

12.1.1 (1) What is recreational target shooting? Recreational target shooting is the use of a firearm or bow and arrow on targets and the sighting in of rifles or other firearms on department managed lands. The department regulates and enforces target shooting on department-managed lands.

12.1.2 (5) When is target shooting permitted? Unless otherwise posted, persons shall not target shoot one-half hour after sunset to one-half hour before sunrise.

13. AGENCY AND PUBLIC COMMENTS:

13.1 The Confederated Tribes of the Colville Reservation submitted comments on December 15, 2022. They did not have any concerns or questions about the application.

13.2 Barry Warren, 2465 Washington Creek Rd, sent a comment on December 21, 2022 opposing the expanded hours, due to noise, excess traffic and increased fire risk.

13.3 Joe Wilcox, PO Box 14, Powell Butte, OR 97753, sent a comment on December 21, 2022 in favor of the expanded hours on weekdays only, and would prefer to see the weekend hours start at 10:00am to allow neighbors quiet mornings on weekends.

13.4 Stewart Priest and Leah Day, 5597 Elgin Ave, San Diego CA 92120, sent a comment on December 23, 2022 in favor of allowing the expanded hours because there is a need for more places for people to learn responsible gun ownership.

13.5 Trent Stewart, 1887 Washington Creek Road, sent a comment on December 27, 2022 opposing the expanded hours, due to the primitive road status of Washington Creek Road, noise and the increased fire risk.

13.6 The Department of Fish and Wildlife submitted comments on December 29, 2022. They did not have any concerns about the expanded hours of operation.

14. The Hearing Examiner has reviewed the application and submitted materials. The information in the application, as proposed, complies with the Revised Code of Washington, the Washington Administrative Code, Chelan County Comprehensive Plan and the Chelan County Code. Based on the Findings of Fact and the Conclusions provided in this decision, the additional hours of operation would not change the original intent of Resolution 93-121/ZC 505.

15. An open record public hearing after legal notice was held on March 1, 2023 via Zoom video conference.
16. Appearing and testifying for the Applicant was Rocky Libby. Mr. Libby testified that he was an agent authorized to appear and speak on behalf of the property owner and Applicant. Mr. Libby testified that the change of expansion of time in the morning would potentially reduce fire danger. People practicing in the morning, when it is cooler, would be a lower risk of causing a fire.
17. Testifying from the public were the following individuals:
 - 17.1 Trent Stewart. Mr. Stewart testified consistent with his written comments. Mr. Stewart indicated that while he is a supporter of the gun club, his concerns related to the primitive road status of Washington Creek Road, increased noise, and the fact that the project has residential properties surrounding it.
 - 17.2 John Coulter. Mr. Coulter testified in opposition to the project. He indicated that the increase of noise in the morning would create a nuisance for the use of his property.
 - 17.3 Keith Johnson. Mr. Johnson testified in opposition to the project. He indicates that he lives 1,300 feet from the entrance. While he is okay with the current hours, the extended hours will result in increased traffic and increased fire danger on hot summer days.
18. The following exhibits were entered into the record:
 - 18.1 Ex. A Resolution 93-121
 - 18.2 Ex. B Site Plan
 - 18.3 Ex. C Site Maps
 - 18.4 Ex. D Narrative
 - 18.5 Ex. E Wildlife Mitigation Plan
 - 18.6 Ex. F SEPA Checklist
 - 18.7 Ex. G Comments
 - 18.8 Ex. H Staff Report
19. Any Conclusion of Law that is more correctly a Finding of Fact is hereby incorporated as such by this reference.

II. CONCLUSIONS OF LAW

1. The Hearing Examiner has authority to render this Decision.
2. The application, as proposed, complies with the Revised Code of Washington,
3. The application, as proposed, complies with the Washington Administrative Code
4. The application, as proposed, complies with the Chelan County Comprehensive Plan and the Chelan County Code.
5. Based on the Findings of Fact in this decision, the additional hours of operation would not change the original intent of Resolution 93-121/ZC 505.
6. 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 Findings of Fact and Conclusions of Law, ZC 22-371 is hereby **APPROVED**. The Condition of Approval #6 from Resolution 93-121 shall be changed to read:

'Hours of operation will be limited to 6 days a week, from 8:00 am through 5:00 pm with the exception of a 10:00 pm closing time one weekday night'.

Dated this 7 day of March, 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 three "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.

Requests for Reconsideration and to re-open the hearing must be timely filed and are governed by Chelan County Code 1.61.130 and 1.61.070 and Chelan County Hearing Examiner Rules of Procedure 1.24.

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.