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COPY
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DEC 22 2020

PEGGY A. SEMPRIMOZNIK
LINCOLN COUNTY CLERK

SUPERIOR COURT, STATE OF WASHINGTON, COUNTY OF LINCOLN

MEDICAL LAKE CEMETERY)
ASSOCIATION, a Washington non-profit)
corporation, DAVE AND JULIE)
TUELLER, husband and wife, WILLIAM)
A. YATES, an individual, JAMES)
JOHNSON, an individual, RENEE)
JOHNSON, an individual, ANNA M.)
OLSON, an individual, CAROL L.)
WHITEHEAD, an individual, ROBERT J.)
WHITEHEAD, an individual, PATRICIA)
A. APREGAN, an individual, DONNA)
WHITEHEAD, an individual, SHARON)
WHITEHEAD, an individual, ANTHONY)
D. WHITEHEAD, an individual, JOHN E.)
WHITEHEAD, an individual, ANNA)
JOHNSON, an individual, JOSEPH)
DAVISON, an individual, JOSEPH R.)
YOUNG, an individual, PAMELA S.)
MCCOLLAM, an individual, and TOBY)
WILLIS, an individual,)

NO. 20-2-00036-22

**DECLARATION OF RYAN D. POOLE IN
SUPPORT OF PETITIONERS' LAND USE
PETITION**

Petitioners,)

v.)

SPOKANE COUNTY, a political)
subdivision of the State of Washington;)
SPOKANE GUN CLUB, INC., a)
Washington non-profit corporation,)

Respondents.)

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RECEIVED

DEC 22 2020

SPOKANE COUNTY
PROSECUTING ATTORNEY
CIVIL DIVISION

SUPERIOR COURT, STATE OF WASHINGTON, COUNTY OF LINCOLN

MEDICAL LAKE CEMETERY)
ASSOCIATION, a Washington non-profit)
corporation, DAVE AND JULIE)
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NO. 20-2-00036-22

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PETITION**

Petitioners,

v.

SPOKANE COUNTY, a political)
subdivision of the State of Washington;)
SPOKANE GUN CLUB, INC., a)
Washington non-profit corporation,)

Respondents.

1 I, RYAN D. POOLE, make this declaration under penalty of perjury under the laws of
2 the State of Washington:

3 1. I am the attorney of record for Petitioners in the above-captioned matter. I am
4 over the age of 18, have personal knowledge of and am competent to testify with regard to the
5 matters contained herein.
6

7 2. Attached hereto as **Exhibit A** is a true and correct copy of the PITA Grand Pacific
8 event results from July 21 – 27, 2019, at the Spokane Gun Club.

9 3. Attached hereto as **Exhibit B** is a true and correct copy of a document received in
10 response to a Public Records Request to Spokane County; namely, an August 9, 2019 email from
11 Tammy Jones to Finna Vasquez with attached No-Shooting Resolution NS-01-19.
12

13 4. Attached hereto as **Exhibit C** is a true and correct copy of a document received
14 in response to a Public Records Request to Spokane County; namely, an August 15, 2018 email
15 from John Pederson to Al French with attached draft letter of support to Spokane Gun Club.

16 5. Attached hereto as **Exhibit D** is a true and correct copy of a document received
17 in response to a Public Records Request to Spokane County; namely, Spokane County Resolution
18 No. 19-1243, and related records.
19

20 6. Attached hereto as **Exhibit E** is a true and correct copy of a news article from The
21 Spokesman-Review dated August 24, 2018, entitled “Spokane Gun Club votes to sell land to
22 Valley School District.”

23 7. Attached hereto as **Exhibit F** is a true and correct copy of a document received in
24 response to a Public Records Request to Spokane County; namely, an August 28, 2018 email
25 from David Baker to Al French and John Pederson.
26

DECLARATION OF RYAN D. POOLE IN SUPPORT
OF PETITIONERS’ LAND USE PETITION - 2

DUNN & BLACK
LAWYERS
A PROFESSIONAL SERVICE CORPORATION
BANNER BANK BUILDING
111 NORTH POST, SUITE 300
SPOKANE, WASHINGTON 99201-0705
VOICE: (509) 455-8711 • FAX: (509) 455-8734

1 8. Attached hereto as **Exhibit G** is a true and correct copy of a news article from
2 The Spokane Valley News Herald dated August 23, 2019, entitled “Spokane Gun Club targets
3 West Plains.”

4 9. Attached hereto as **Exhibit H** is a true and correct copy of a document received
5 in response to a Public Records Request to Spokane County; namely, an August 18, 2020 email
6 from Misty Moore to Russ Wolfe.

7 10. Attached hereto as **Exhibit I** is a true and correct copy of a document received in
8 response to a Public Records Request to Spokane County; namely, an August 24, 2020 email
9 from Misty Moore to Russ Wolfe.

10 11. Attached hereto as **Exhibit J** is a true and correct copy of a document received in
11 response to a Public Records Request to Spokane County; namely, an August 14, 2020 email
12 from Misty Moore to Russ Wolfe with a revised letter attached.

13 12. Attached hereto as **Exhibit K** is a true and correct copy of a document received
14 in response to a Public Records Request to Spokane County; namely, “Findings of Fact,
15 Conclusions of Law, and Decision in File No. CUN-02-07.”

16 13. Attached hereto as **Exhibit L** is a true and correct copy of a document received in
17 response to a Public Records Request to Spokane County; namely, a July 23, 2020 email from
18 Julie Shatto, with attached subject applicant’s pre-application conference questions, Final
19 Findings of the CUP, and updated NFPA 1142 report.

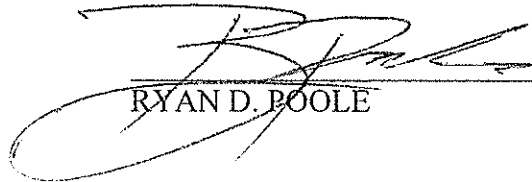
20 14. Attached hereto as **Exhibit M** is a true and correct copy of a news article from
21 The Spokesman-Review dated November 1, 2020, entitled “Gun club requests permits for new
22 range, clubhouse on the West Plains.”

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DECLARATION OF RYAN D. POOLE IN SUPPORT
OF PETITIONERS’ LAND USE PETITION - 3

DUNN & BLACK
LAWYERS
A PROFESSIONAL SERVICE CORPORATION
BANNER BANK BUILDING
111 NORTH POST, SUITE 300
SPOKANE, WASHINGTON 99201-0705
VOICE: (509) 455-8711 • FAX: (509) 455-8734

1 I declare under penalty of perjury under the laws of the State of Washington that the
2 foregoing is true and correct.

3 DATED this 22nd day of December, 2020, at Spokane, Washington.

4
5 
6 RYAN D. POOLE
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 2nd day of December, 2020, I caused to be served a true and correct copy of the foregoing document to the following:

HAND DELIVERY William C. Lenz
 U.S. MAIL Stanley M. Schwartz
 OVERNIGHT MAIL Casey M. Bruner
 FAX TRANSMISSION Witherspoon Kelley
 EMAIL 422 W. Riverside Ave., Suite 1100
Spokane, WA 99201

HAND DELIVERY Mark McClain
 U.S. MAIL Office of the Spokane County Prosecuting Attorney
 OVERNIGHT MAIL 1115 W. Broadway Ave., 2nd Floor
 FAX TRANSMISSION Spokane, WA 99260
 EMAIL


Maureen E. Cox-O'Brien

**PITA Grand Pacific
July 21-27, 2019 ~ Spokane Gun Club**

EV 1 – GIST SILVERSMITHS SINGLES (205 shooters)	
AAA/AA WINNER	Chuck Redding (co 25-25-25)..... 100
	Rich Bullard (co 25-25-24)
A WINNER	Rick Erickson (co 25)..... 99
	Gary Jones (co 24), George Denton (co 24)
B WINNER	Dave Bannister 99
C WINNER	Alan Schlimmer..... 99
D WINNER	Savannah Shorts 96
LADY	Michele Schroeder 98
VETERAN	Chester Carter 100
SENIOR	Marion Dukes..... 100
ELDER	Art Fenton 100
JUNIOR	Noah Engineer (wso 25)..... 99
	Todd Neizman (so 23)
SUB-JUNIOR	Logan Dashner 97
EV 2 – BLACK DIAMOND GUN CLUB-WESTCOAST SHOT HANDICAP (205 shooters)	
CHAMPION	Makenna Shorts..... 99
19-20.5 YD	Cory Walker 98
21-22.5 YD	John Schroeder..... 98
23-24.5 YD	Ronald Todd 95
	Beryl Terry (ff)
25-26.5 YD	Art Moore 95
27 YD	Kyle Seever..... 97
LADY	Tina Sisich 95
VETERAN	Rick Erickson 96
SENIOR	Dave Bannister 95
ELDER	Gerald Moro..... 93
JUNIOR	Avery Kienbaum..... 96
SUB-JUNIOR	Ace Federspiel..... 97
EV 3 – DOLPHIN BANK TRUCKING-SOFTTOUCH DOUBLES (164 shooters)	
AA WINNER	Richard Shrode..... 99
A WINNER	Fred Sproul 98
B WINNER	Lea Hogue 94
	Art Moore (ff)
C WINNER	Devin Huguenot (wso 18) 94
	Ethan Alexander (so 17)
D WINNER	Ron Menigoz..... 90
LADY	Molly DiMaggio 91
VETERAN	Steve Kaufman (so 19-18-20-17-19) (wct) 94
	Rich Evans (so 19-18-20-17-19)
	Dwain Storm (19-18-18)
	Chester Carter (so 15)
	Art Moore (ff)
SENIOR	Greg Miner 97



ELDER	Del McDaniel.....	94
JUNIOR	Todd Neizman.....	97
SUB-JUNIOR	Logan Dashner (wso 18-19).....	91
	Ace Federspiel (so 18-18)	

EVENT 4 – PORTLAND GUN CLUB-HERMISTON GUN CLUB HANDICAP

(198 shooters)

CHAMPION	Cody Kuhl	98
CHAMPION R/U	Marion Dukes.....	95
19-20.5 YD	Makenna Shorts.....	93
21-22.5 YD	William Mackleit	94
23-24.5 YD	Beryl Terry	92
	Elias Tollefson (ff)	
25-26.5 YD	Zach Keller.....	91
	Art Moore (ff)	
27 YD	Don Williamson (wso 25).....	93
	Jeff Nostrom (so 24)	
LADY	Barbara Camps.....	92
VETERAN	Rich Evans.....	92
SENIOR	Dave Bannister	94
ELDER	Pat Bare	90
JUNIOR	Adam Jason.....	92
SUB-JUNIOR	MacKenzie Lam	86

EV 5 – 28 GAUGE SINGLES (52 shooters)

CHAMPION	Fred Sproul	96
AAA WINNER	Kyle Seever.....	94
	Brad Bare (ff)	
AA WINNER	Ace Federspiel.....	90
	Steve Kaufman	
A WINNER	Brayden Lee-Hines	94
B WINNER	Zane Carver (wct)	87
	David Bare (lct)	
C WINNER	James Adair.....	93
D WINNER	Mark Jobin	89

EV 6 – NORTHWEST SHOT SINGLES (216 shooters)

AAA/AA WINNER	Bill Mullins (so 25), Jason Nelson (so 25) carry over	100
	Ace Federspiel (so 24), Fred Sproul so 22)	
A WINNER	Ron McGarr (so 25)	100
	Rusty Bunn so (23)	
B WINNER	Art Moore	99
C WINNER	Cody Kuhl	99
D WINNER	Jake White	93
	Mark Jobin (ff)	
LADY	Deborah Kelly	99
VETERAN	Wayne McCulley, Dwain Storm Carry Over	100
SENIOR	Ron Stubbings	99
	Noel Walter (ff)	
ELDER	Art Fenton	100

JUNIOR	Devin Huguenot	100
SUB-JUNIOR	Cody Seay	100
EV 7 – HIGH GUN HANDICAP (199 shooters)		
CHAMPION	Rich Evans	99
CHAMPION R/U	Chuck Redding	98
19-20.5 YD	Avery Kienbaum.....	97
21-22.5 YD	Robert Faliski.....	97
23-24.5 YD	John McLendon	96
25-26.5 YD	Weldon Birch.....	96
27 YD	Bill Daniels (wso 25)	97
	Kyle Seever (so 21)	
	Ryan Costanti (so 21)	
LADY	Sophie Nostron	96
VETERAN	Dwain Storm	98
SENIOR	Ron Stubbings	96
ELDER	Art Fenton	96
JUNIOR	Noah Engineer.....	97
SUB-JUNIOR	Logan Dashner (wso 25)	92
	Mackenzie Lam (so 21)	
	Ace Federspiel (so 21)	
EV 8 – 28 GAUGE DOUBLES (38 shooters)		
CHAMPION	Bob Robertson.....	93
AA WINNER	Kyle Seever.....	92
A WINNER	Waylon Klundt.....	85
B WINNER	Bailey Nelson.....	82
C WINNER	Ace Federspiel (wso 16)	78
	Avery Kienbaum.....	78
D WINNER	Grace Ede.....	78
EV 9 – CAL-WEST CONCRETE – WHITE CREEK GUNSTOCK BLANKS		
DOUBLES (178 shooters)		
CHAMPION	Chuck Redding	99
CHAMPION R/U	Richard Shrode	98
AA WINNER	Richard Bullard	97
A WINNER	Robert Rayson.....	97
B WINNER	Zane Carver.....	98
C WINNER	Ace Federspiel.....	94
D WINNER	Ron Menigoz.....	91
LADY	Molly DiMaggio (wso 19-19)	91
	Renae Poseley-James (so 19-16)	
VETERAN	Dwain Storm	97
SENIOR	John Lynch.....	96
ELDER	Kent Harris	96
JUNIOR	Todd Neizman.....	97
SUB-JUNIOR	Cory Walker	84
EV 10 – ALL AMERICAN ARMORY HANDICAP (217 shooters)		
CHAMPION	Trevor Menigoz.....	99

CHAMPION R/U	Chuck Redding (ff).....	99
19-20.5 YD	Tanner Dye	96
21-22.5 YD	Adam Jason (wso 24)	94
	Robert Faliski (so 22)	
23-24.5 YD	Jay Lange	96
25-26.5 YD	Brayden Lee-Hines	98
27 YD	Stubby Hughes	98
LADY	
VETERAN	Eric Olson	96
SENIOR	David Frenger	96
ELDER	Bill Mattis.....	92
JUNIOR	Ryan Widger	95
SUB-JUNIOR	Ace Federspiel (wso 24-24).....	92
	Kenji Chang (so 24-21)	
	Mackenzie Lam (so 23)	
	Logan Dashner (co 23)	
	Cory Walker (so 22)	
EV 11 & 13 – GRAND PACIFIC SINGLES CHAMPIONSHIP (304 shooters)		
CHAMPION	Ryan Costanti (wso 25)	200
RUNNER UP	Stubby Hughes (so 24).....	200
AAA WINNER	Rich Bullard (wso 25-24-25-25-25-25).....	199
AAA R/U	TJ Main (so 25-24-24-24-24-24).....	199
	Cole Costanti (so 24)	
AA WINNER	Robert Rayson	199
AA R/U	Elias Tollefson (so 25-25-25-25-25-25)(wct)	198
	Eric Olson (so 25-25-25-25-25-25)(lct)	
	David Poseley (so 25-25-23), Fred Sproul (so 25-25-23)	
	Todd Neizman (so 25-24)	
A WINNER	Kent Harris (wso 25).....	198
A R/U	Zach Keller (so 24).....	198
	Robert Davis (so 22)	
B WINNER	Ron Menigoz (wso 25).....	198
B R/U	Angelo Herrera (so 22)	198
C WINNER	Cody Hindman	196
C R/U	Gurjit Gakhal (wso 24-24).....	195
	Cory Walker (so 24-23)	
D WINNER	Dave Bare	193
D R/U	Reid Thomsen.....	191
LADY	Lisa Salt	196
VETERAN	Rod Hickle (ff).....	200
SENIOR	Ron Stubbings	199
ELDER	Art Fenton	199
CHAIR	None	
JUNIOR	Noah Engineer	199
SUB JUNIOR	Makenna Shorts.....	196
STATE/PROVINCIALTEAM: California..... 1158		
AAA	Chuck Redding	199

AA	Noah Engineer.....	199
A	Ronald McGarr.....	197
B	Adam Jason.....	185
C	Joey Keller.....	193
D	Madeline Lawrence.....	185
EV 12 – TRAPSHOOTINGUSA-KERRIE LARGENT HANDICAP (268 shooters)		
CHAMPION	Wyatt Lee.....	100
CHAMPION R/U	Chuck Redding.....	99
19-20.5 YD	Mackenzie Lam.....	98
21-22.5 YD	Ron Menigoz.....	97
23-24.5 YD	Colten Harrsch (wso 24-25).....	97
	Elias Tollefson (so 24-21)	
25-26.5 YD	Bill Mullins.....	96
27 YD	Richard Shrode.....	98
LADY	Pat Carter (wso 24).....	93
	Barbara Camps (so 23)	
VETERAN	Rick Freeman.....	97
SENIOR	Dave Bannister.....	95
	David Poseley (ff)	
ELDER	Stan Fukuhara.....	95
JUNIOR	Angelo Herrera.....	97
SUB-JUNIOR	Tate Cook.....	97
EVENT 14 – WHITE FLYER HANDICAP (271 shooters)		
CHAMPION	Ryan Costanti (wlr 73).....	99
CHAMPION R/U	Jacob Turner (lr 31).....	99
ALASKA	Jeff McCain.....	92
ARIZONA	Don Williamson.....	91
BRITISH COLUMBIA	Lisa Salt.....	98
CALIFORNIA	Chuck Redding (wlr 54).....	98
	Logan Dashner (lr 17)	
COLORADO	Kendall Kroeger.....	94
HAWAII	None.....	
IDAHO	Tanner Dye.....	97
NEVADA	Rich Bullard.....	95
OREGON	Richard Shrode.....	97
WASHINGTON	Douglas Allington.....	97
19 YARDS	Kenji Chang.....	95
20 YARDS	Tate Crook (wlr 15).....	96
	Trevor Menigoz (lr 8)	
21 YARDS	Sam Healy.....	96
22 YARDS	Logan Dashner.....	98
23 YARDS	Wyatt Lee (wlr 13).....	96
	Angelo Herrera (lr 7)	
24 YARDS	Greg Miner.....	94
25 YARDS	Colten Harrsch (wlr 8).....	95
	Elias Tollefson (lr 1)	
26 YARDS	James Adair (wlr 46).....	96

	Bailey Nelson (lr 24)	
27 YARDS	Fred Sproul (wlr 36).....	96
	Tim Hodges (lr 23), Chayton Vega (lr 23)	
LADY	Bailey Nelson.....	96
VETERAN	Tim Hodges.....	96
SENIOR	Dave Bannister.....	95
ELDER	Stan Fukuhara.....	95
CHAIR	None.....	
JUNIOR	Trevor Menigoz.....	96
SUB-JUNIOR	Travis Sousa.....	94
EVENT 15 – GRAND PACIFIC DOUBLES CHAMPIONSHIP (232 shooters)		
CHAMPION	Chuck Redding.....	100
RUNNER UP	Bob Robertson.....	99
AA WINNER	John Adams (ff#2).....	99
AA R/U	Grant Williams (ff#1).....	99
A WINNER	Brian James.....	97
A R/U	Fred Sproul (wso 18-18).....	96
	Tanner Marquardt (so 18-17)	
B WIN	Jesse Grieve.....	98
B R/U	Lance Skelton.....	97
C WIN	Daren Steele.....	94
C R/U	Larry Mascotte (ff).....	94
D WIN	Ike Greenfield.....	97
D R/U	Cory Walker (wso 18).....	89
	Travis Sousa (so 15)	
LADY	Molly DiMaggio (wso 18).....	92
	Karen Hogue (so 17) Makenna Matesen (so 17)	
VETERAN	Dave Wade.....	97
SENIOR	Ron Stubbings.....	96
ELDER	Art Fenton.....	96
CHAIR	None.....	
JUNIOR	Todd Neizman.....	98
SUB-JUNIOR	Ace Federspiel.....	94
EV 16 – BROWNING GRAND PACIFIC HANDICAP (289 shooters)		
CHAMPION	Elias Tollefson (wso 23).....	99
CHAMPION R/U	Zach Keller (so 17).....	99
19-20.5 YD	Jesse Grieve (wso 24).....	96
	Gene Watson (so 23)	
21-22.5 YD	Robert Greenhalgh (wso 24).....	97
	Joseph Keller (so 23), Cole Costanti (ff)	
23-24.5 YD	Joey Keller.....	95
25-26.5 YD	John Simmons.....	95
27 YD	Rich Bullard (wso 23-25).....	98
	John Mullins (so 23-24), Jacob Turner (ff)	
LADY	Bailey Nelson.....	95
VETERAN	Richard Evans.....	96
SENIOR	David Poseley (wso 24).....	95

ELDER	Beryl Terry (so 22) Stan Fukuhara (wlr 23) Roy Tiegs (lr 6)	94
CHAIR	None	
JUNIOR	Brayden Lee-Hines	98
SUB-JUNIOR	Kenji Chang	96
HIGH OVER ALL	(Events 1-16, excluding Event 5 & 8)	
CHAMPION	Chuck Redding	1369
AAA CLASS	Rich Bullard.....	1339
AA CLASS	Elias Tollefson.....	1327
A CLASS	Rick Erickson	1323
B CLASS	Zane Carver	1308
C CLASS	Gurjit Gakhal.....	1293
D CLASS	Madeline Lawrence.....	1253
LADY	Tina Sisich	1264
VETERAN	Dwain Storm	1336
SENIOR	Ron Stubbings	1324
ELDER	Art Fenton	1286
JUNIOR	Brayden Lee-Hines	1294
SUB-JUNIOR	Ace Federspiel.....	1304
SUPER HIGH OVER ALL	(Events 1-16)	
CHAMPION	Kyle Seever.....	1515
AAA CLASS	Jason Nelson	1499
AA CLASS	Ace Federspiel.....	1472
A CLASS	Brayden Lee-Hines	1469
B CLASS	Zane Carver.....	1467
C/D CLASS	Gurjit Gakhal.....	1466
DAN ORLICH HIGH ALL AROUND	(Events 11,13,15, & 16 - 400 Targets)	
CHAMPION	Chuck Redding	396
AAA CLASS	Rich Bullard.....	394
AA CLASS	Elias Tollefson.....	393
A CLASS	Rick Erickson	387
B CLASS	Jesse Grieve	388
C CLASS	Joey Keller	377
D CLASS	Dave Bare	373
LADY	Makenna Matesen (wso 18-9-8-19-9-7) Molly DiMaggio (so 18-10-7-19-9-7)	378
VETERAN	Zach Keller.....	386
SENIOR	Ron Stubbings	389
ELDER	Art Fenton	383
CHAIR	None	
JUNIOR	Todd Neizman.....	383
SUB-JUNIOR	Ace Federspiel.....	379
TWO IN A FAMILY	Ryan & Cole Costanti.....	1166
HUSBAND & WIFE	
PITA ROOKIE OF THE YEAR	Caleb Montgomery (CA)	289

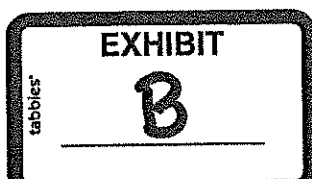
From: Jones, Tammy <TMJones@spokanecounty.org>
Sent: Friday, August 9, 2019 8:34 AM
To: Vasquez, Ginna
Subject: No-Shooting Resolution NS-01-19.doc
Attachments: No-Shooting Resolution NS-01-19.doc

Good morning Ginna,

I have attached the resolution for the No-Shooting Area application that is scheduled on the BOCC meeting agenda for August 20th. I will be out of the office that day, but John Pederson will be available at the meeting for any questions. Please let me know if there is anything else that they will need.

Have a great weekend,

Tammy Jones



NO. _____

BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF SPOKANE COUNTY, WASHINGTON

IN THE MATTER OF ALTERING A SPOKANE)
COUNTY NO-SHOOTING AREA PURSUANT TO)
CHAPTER 6.06 OF THE SPOKANE COUNTY)
CODE; NS-01-19)

RESOLUTION

WHEREAS, the Washington State Constitution Article XI, Section 11, gives Spokane County the power to make and enforce within its limits all such police and sanitary and other regulations as are not in conflict with general laws: and

WHEREAS, the Board of County Commissioners of Spokane County, pursuant to the provisions of the Revised Code of Washington, Section 36.32.120(7) may make and enforce by appropriate resolution all such police regulations as are necessary; and

WHEREAS, a public hearing was held before the Spokane County Shooting Advisory Committee on July 22, 2019 @ 1:30 p.m. to receive public testimony regarding file #NS-01-19, a request Alter an existing No-Shooting Area by removing a parcel of property approximately 450 acres in size from the boundaries in order to permit shooting, generally described as:

W 1/2 of the NE ¼ together with the W ½ of the SE ¼ Except Greater Northern Railway and Except County Roads, in the West ½ of Section 36, Township 25 North, Range 40 EWM, Spokane County, Washington.

WHEREAS, the Spokane County Shooting Advisory Committee, pursuant to the provisions of the Spokane County Code, Section 6.06.150, has submitted to the Board of County Commissioners a recommendation and map of the subject property; and

WHEREAS, upon careful deliberation, the recommendation of the Spokane County Shooting Advisory Committee includes findings supporting the *approval* of the request to Alter the boundaries of a No-Shooting Area; and

WHEREAS, the findings recommend the *approval* of the Alteration of a No-Shooting Area by removal of the following Spokane County Tax Parcel; 05365.9002; and

WHEREAS, the Board of County Commissioners met on July 30, 2019 @ 2:00 p.m. in the Spokane County Public Works Building, Commissioners Assembly Room, located at 1026 W. Broadway Avenue, Spokane, Washington, at the time and place of public meeting to receive the recommendations of the Spokane County Shooting Advisory Committee;

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Board of County Commissioners of Spokane County, Washington, that based upon the recommendations of the Spokane County Shooting Advisory Committee and staff presentation given at this public meeting, the request to Alter the boundaries of a No-Shooting Area by removal of the subject property is **hereby APPROVED**.

PASSED AND ADOPTED this
20th day of AUGUST, 2019

BOARD OF COUNTY
COMMISSIONERS
OF SPOKANE COUNTY, WASHINGTON

MARY KUNEY, CHAIR

ATTEST:

AL FRENCH, VICE-CHAIR

Ginna Vasquez, Clerk of the Board

JOSH KERNS, COMMISSIONER

From: Pederson, John <JPederson@spokanecounty.org>
Sent: Wednesday, August 15, 2018 2:02 PM
To: French, Al
Cc: Corkins, Karen
Subject: Document1
Attachments: Document1.docx

Al,

Per your request, see draft letter of support to Spokane Gun Club.

John Pederson



August 15, 2018

Spokane Gun Club
19615 E. Sprague Avenue
Greenacres, WA 9906

RE: Relocation of Spokane Gun Club

Dear Gun Club Members:

Recent media reports have indicated that the Spokane Gun Club and Central Valley School District are negotiating sale of the club's property to the district for development of a new high school. If the sale is consummated and the gun club is interested in relocation to another site please be assured that you have my support in your efforts.

As you may know, Gun and Archery Ranges are regulated by the Spokane County Zoning Code and are permitted in the Large Tract Agricultural (LTA), Small Tract Agricultural (STA), Forest Land (F), and Rural Traditional (RT) zoning designations upon issuance of a Conditional Use Permit (CUP). A Conditional Use is a use listed among those in any given zone but permitted to locate only after a public hearing and the decision to grant a conditional use permit imposing performance standards to make the use compatible with other uses permitted in the same vicinity and ensure against imposing excessive demands upon public utilities.

Review of Spokane County public records shows that Conditional Use Permits are typically approved by the Hearing Examiner when the applicant demonstrates conformance with the applicable development standards for the specific use, the required procedural process, and it is a rare occurrence when a Conditional Use Permit is denied. To initiate the Conditional Use Permit process, please contact the Department of Building and Planning to schedule a pre-application meeting at which time department staff will explain the application process in detail and provide you with the appropriate application forms.

Sincerely,

Al French

NO. 19 - 1243

BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF SPOKANE COUNTY, WASHINGTON

IN THE MATTER OF ALTERING A SPOKANE)
COUNTY NO-SHOOTING AREA PURSUANT TO)
CHAPTER 6.06 OF THE SPOKANE COUNTY)
CODE; NS-01-19)

RESOLUTION

WHEREAS, the Washington State Constitution Article XI, Section 11, gives Spokane County the power to make and enforce within its limits all such police and sanitary and other regulations as are not in conflict with general laws: and

WHEREAS, the Board of County Commissioners of Spokane County, pursuant to the provisions of the Revised Code of Washington, Section 36.32.120(7) may make and enforce by appropriate resolution all such police regulations as are necessary; and

WHEREAS, a public hearing was held before the Spokane County Shooting Advisory Committee on July 22, 2019 at 1:30 p.m. to receive public testimony regarding File No. NS-01-19, a request Alter an existing No-Shooting Area by removing a parcel of property approximately 450 acres in size from the boundaries in order to permit shooting, generally described as:

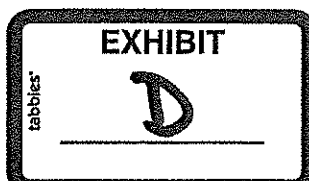
W 1/2 of the NE ¼ together with the W ½ of the SE ¼ Except Greater Northern Railway and Except County Roads, in the West ½ of Section 36, Township 25 North, Range 40 EWM, Spokane County, Washington.

WHEREAS, the Spokane County Shooting Advisory Committee, pursuant to the provisions of the Spokane County Code, Section 6.06.150, has submitted to the Board of County Commissioners a recommendation and map of the subject property; and

WHEREAS, upon careful deliberation, the recommendation of the Spokane County Shooting Advisory Committee includes findings supporting the *approval* of the request to Alter the boundaries of a No-Shooting Area; and

WHEREAS, the findings recommend the *approval* of the Alteration of a No-Shooting Area by removal of the following Spokane County Tax Parcel; 05365.9002; and

WHEREAS, the Board of County Commissioners met on July 30, 2019 at 2:00 p.m. in the Spokane County Public Works Building, Commissioners Assembly Room, located at 1026 W. Broadway Avenue, Spokane, Washington, at the time and place of public meeting to receive the recommendations of the Spokane County Shooting Advisory Committee;



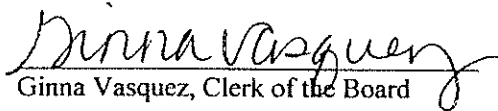
NOW, THEREFORE, BE IT HEREBY RESOLVED by the Board of County Commissioners of Spokane County, Washington, that based upon the recommendations of the Spokane County Shooting Advisory Committee and staff presentation given at this public meeting, the request to Alter the boundaries of a No-Shooting Area by removal of the subject property is **hereby APPROVED**.

PASSED AND ADOPTED this
20th day of August, 2019.

BOARD OF COUNTY COMMISSIONERS
OF SPOKANE COUNTY, WASHINGTON

ATTEST:

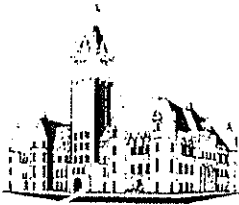



Ginna Vasquez, Clerk of the Board


MARY L. KUNEY, CHAIR


AL FRENCH, VICE-CHAIR


JOSH KERNS, COMMISSIONER



Spokane County

Building & Planning Department
1026 WEST BROADWAY AVENUE
SPOKANE, WA 99260

July 23, 2019

To: Spokane Board of County Commissioners:

Commissioner Mary Kunej, Commissioner Al French, Commissioner Josh Kerns

Re: Request to alter the boundaries of an existing Spokane County No-Shooting Area:
NS-01-19

Petitioner: Spokane Gun Club

Commissioners,

A petition for an Alteration to an established No-Shooting Area in order to remove one (1) parcel of property, 451.68 acres in size, located south of McFarlane Road and north of Thorpe Road was submitted by the Spokane Gun Club on May 13, 2019. The petition requests the removal of the parcel from the designated No-Shooting Area so that shooting may be allowed. Section 6.06.140 of the Spokane County Code provides for the submittal of a petition "for the establishment, alteration or change to any no shooting area" to the advisory committee for consideration.

The Spokane County Shooting Advisory Committee held a public hearing for the requested Alteration on July 22, 2019. The purpose of the public hearing was to allow for testimony regarding the requested removal of the property. All seven (7) voting members of the Shooting Advisory Committee were present for the hearing and quorum requirements were met. Additionally public notice requirements were met by the Department of Building and Planning consistent with Section 6.06.150.

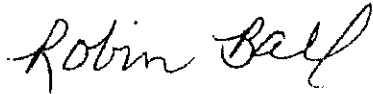
The Shooting Advisory Committee met following the hearing to consider the petition application and the public testimony from the hearing, and to decide on a recommendation of action to forward to the Board.

Upon careful deliberation, the Shooting Advisory Committee is unanimously recommending the Board of County Commissioners *approve* the applicant's request for the following reasons:

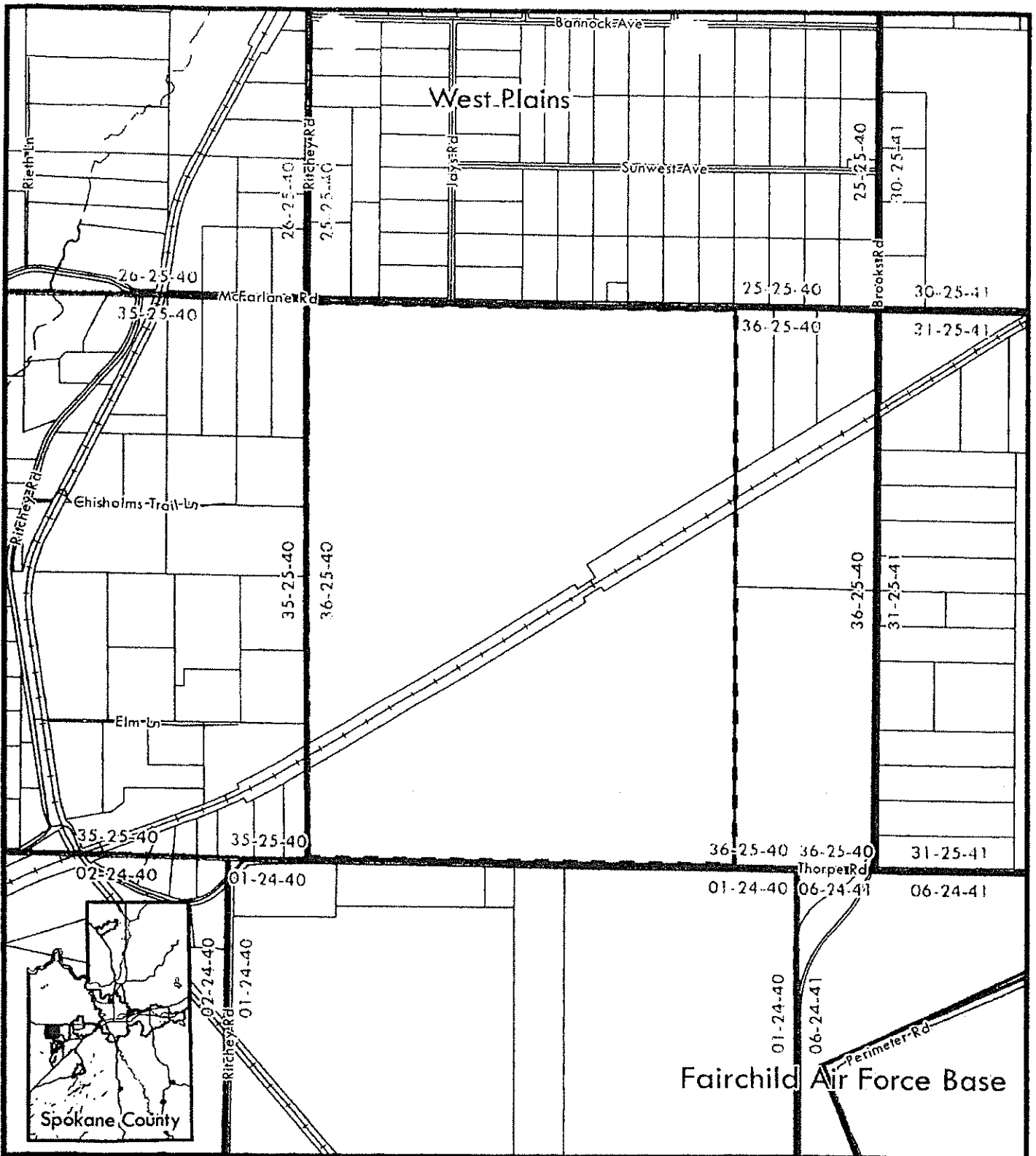
- The original concerns which led to the establishment of the No-Shooting designation are no longer occurring on the subject parcel

- The remainder of the No-Shooting Area will still remain intact and only this parcel will be removed from the designation.
- The applicant will not remove the No-Shooting signs that are currently posted on the subject parcel.
- The Spokane Gun Club strictly controls member activities and non-members will not be permitted to use the parcel.
- The size, existing topography and wooded areas on the site will help to provide natural noise buffering.
- The general vicinity of the parcel is currently subject to noise produced by overhead flights, railroad activity, truck traffic and an existing rifle range.
- The development of the parcel for a gun range requires the applicant apply for, and be granted, a Conditional Use Permit pursuant to Chapter 14.04 and Section 14.618.240(10) of the Spokane County Zoning Code.
- The Spokane Gun Club will agree to limitations of the use as requested by Fairchild Air Force Base to include prohibiting the use of rifles and directing any shooting away from the direction of the Base.









Respectfully submitted,

A handwritten signature in cursive script that reads "Robin Ball".

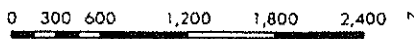
Robin Ball, Chair
Spokane County Shooting Advisory Committee



Legend

-  Preliminary
-  Joint Planning Area
-  Neighborhood Assoc
-  School
-  Police Station
-  Fire Station
-  Railroad
-  Lakes & Streams

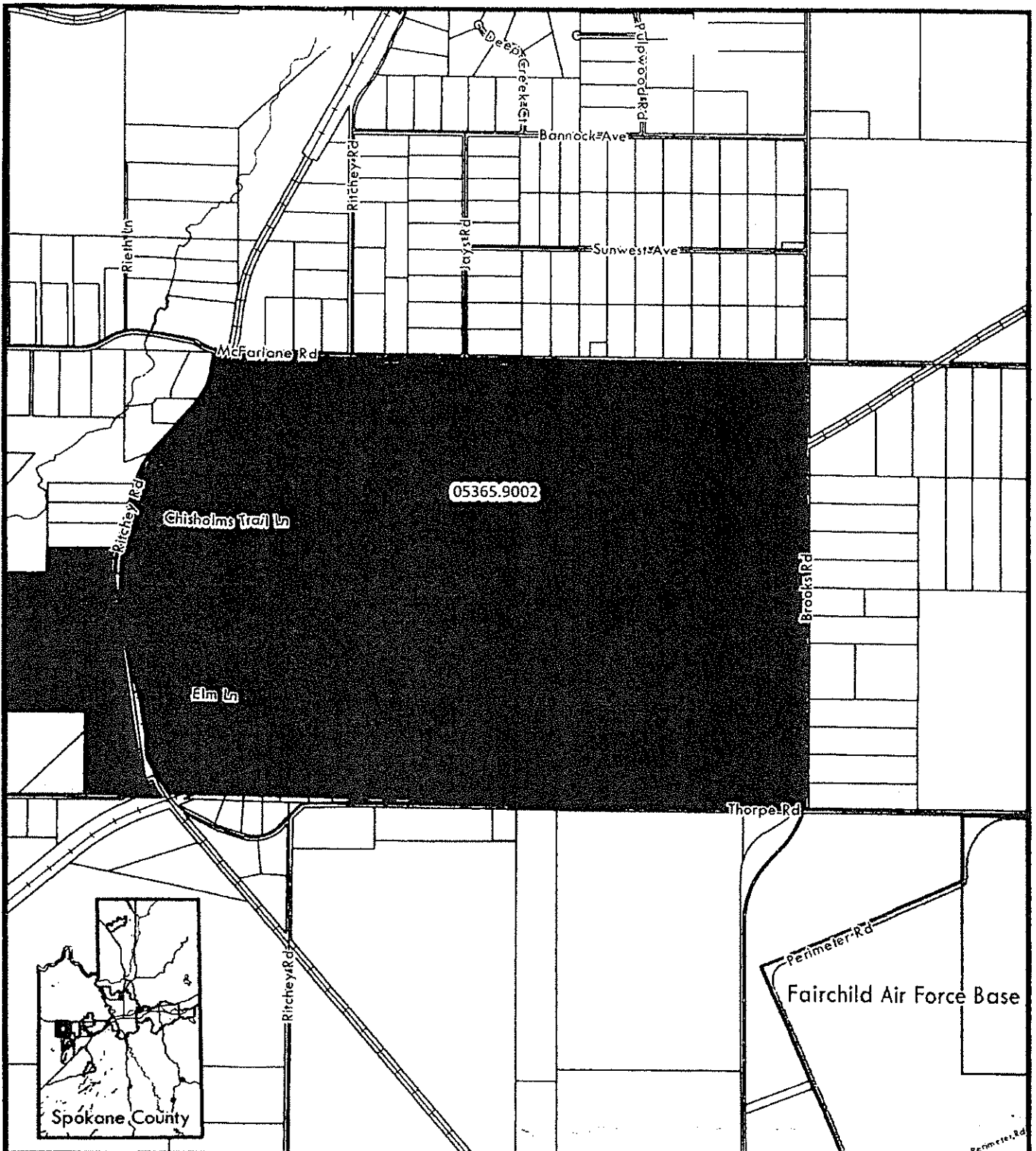
NS-01-19
Vicinity Map











1 inch = 1,200 feet
State Plane WA North

This map was published by the Spokane County Department of Building and Planning as a general planning tool. Due to the differing quality of source documents, the Department cannot accept responsibility for errors or omissions, and therefore, there are no warranties which accompany this material.

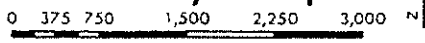
Map Produced: June 2019
Spokane County GIS



Legend

-  Subject Parcel Removal
-  Established No Shoot Area
-  Joint Planning Area
-  School
-  Police Station
-  Fire Station
-  Railroad
-  Lakes & Streams

NS-01-19
No Shooting Area
Vicinity Map



1 inch = 1,500 feet
 State Plane WA North

This map was published by the Spokane County Department of Building and Planning as a general planning tool. Due to the differing quality of source documents, the Department cannot accept responsibility for errors or omissions, and therefore, there are no warranties which accompany this material.

Map Produced: June 2019
 Spokane County GIS

May 9, 2019

Spokane County Building and Planning
Attn: No Shooting Areas Advisory Committee
1026 W. Broadway Avenue
Spokane, WA 99260

Re: Removal of Property from No Shooting Area – Parcel No. 05365.9002

Members of the No Shooting Areas Advisory Committee:

We represent the Spokane Gun Club, a Washington nonprofit corporation (the "Club"), which has served the Spokane region for over seventy years. The Club recently sold its current location at 19615 E. Sprague Ave., Spokane Valley to the Central Valley School District. The Club is presently searching for rural property in Spokane that would ensure the Club can still be accessible to the thousands of members and persons the Club currently serves. The new facility would include skeet and trap shotgun shooting ranges, along with a contained pistol range.

The Club has identified Spokane County Parcel No. 05365.9002, located near the intersection of Brooks Road and McFarlane Road near Medical Lake (the "Property"), as a potential new location. See attached. The Property is ideal because of its size and access to the population of Spokane. A large parcel is necessary in order for the Club to minimize any impact on the surrounding neighbors. It is rare for lots of this size and character to be located this close to central Spokane in an area with minimal development.

Over the several decades of the Club's operation at 19615 E. Sprague Ave., the Club has received a few noise complaints and no allegations of unlawful activity. The Club strives to maintain a good relationship with its neighbors; however, the neighborhood it must leave behind has slowly encroached upon the edges of the Club's facilities.

The Property is just west of Fairchild Air Force Base ("FAFB"). Prior to sending this letter, the Club has discussed its potential relocation to the Property with Jeff Johnson, the Executive Director of FAFB's Encroachment Management Team, and has agreed to comply with FAFB's safety restrictions intended to protect FAFB's operations and avoid any potential conflict between FAFB and the Club. The Club's proximity to FAFB allows the Club to offer shooting events and competitions to the service men and women of FAFB.

The Club intends to purchase the Property from Western Pacific Timber, LLC (the "Owner"), which has consented to this application as part of the Club's due diligence. Through the attached Owner's consent, we have fulfilled the requirement that at least 50% of the affected

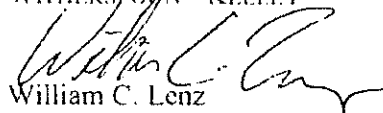
Spokane County Engineers
May 9, 2019
Page 2

parcel owners consent to this application. Note that the Property is the only parcel included in this application.

Also attached are the required application form and exhibits. Please do not hesitate to contact the undersigned if you have any questions or concerns.

Very truly yours,

WITHERSPOON • KELLEY


William C. Lenz

WCL/kh
cc: Client
Enclosures

**APPLICATION FOR SPOKANE COUNTY
(1) NO SHOOTING AREA, (2) NO BOW AND ARROW AREA, OR
(3) NO SHOOTING AND NO BOW AND ARROW AREA**

The following application must be completed and submitted to initiate the process in establishment, alteration, or change of a No Shooting Area, No Bow and Arrow Area, or No Shooting and No Bow and Arrow Area. Spokane County will then provide to you a petition containing the names of all property owners within the identified area. At least 50% of the affected property owners must sign the petition in favor of the change in order to allow the process to continue.

1. Designation requested. (Please check appropriate box)

Removal of No Shooting Area designation on Parcel No. 05365.9002 (the "Property")

2. What conditions, if any, exist in support of the establishment, alteration, or change requested in Question No. 1?

The original rationale behind the designation of the Property as a No Shooting Area is no longer applicable. By way of background, the County Commissioners on November 16, 1993, became concerned with the use of the Property, which was originally state land, because individuals were firing rifles and fully automatic guns they sent stray bullets onto the adjacent properties. Because the Property was state land, there was little to no monitoring of the Property. The 1993 application also makes reference to people starting fires and leaving trash on the Property, painting a picture of chaos and disorder.

The Spokane Gun Club (the "Club") desires to acquire the Property for the relocation of its operations. This relocation would include the construction of a state-of-the-art, fully contained pistol range, along with a skeet and trap shotgun range. The location and design of these ranges would avoid all of the safety concerns raised in the 1993 application. Furthermore, the Club's daily operations at the Property would provide a constant regulatory presence on the Property that would prevent third parties from firing guns outside of the designated shooting areas. The proposed relocation has been conditionally approved by Fairchild Air Force Base ("FAFB"). These conditions require that the Club regulate the shooting activity of the Club and ensure the safety of low-flying aircraft. These safety requirements would be to the benefit of the properties adjacent to the Club, as well. The Property is large, consisting of approximately 150 acres. The western border of the Property contains a ravine and trees that provide a natural topographical barrier for the sound that would significantly reduce impacts, if any, that the Club's operations would have on the landowners residing to the west that would remain in the No Shooting Area (and are not part of this application).

The sole owner of the Property, Western Pacific Timber, LLC, has approved of the filing of this application (see attached consent). Therefore, 100% of the owners of the affected property consent to the filing of this application (meeting the 50% requirement).

3. How would the establishment, alteration, or change requested in Question No. 1 advance public health, safety, and welfare?

There would be no negative impact on the health, safety, and welfare as a result of this change in designation. The Property is near the flight path of aircraft approaching and leaving FAFB. Because of this proximity to FAFB, the Property and surrounding real estate experiences significant noise from low-flying aircraft and is subject to development restrictions. As a result, there are limited uses for which the Property could be developed, one of which is a gun range. The Club's relocation will produce no more sound than the planes flying overhead. Any impact to the adjacent property owners would be minimized due to the topography and size of the land. Furthermore, the approval of FAFB was conditioned upon the Club not using rifles (other than shotguns used at skeet and trap stations). No large caliber rifles (the loudest category of guns) will be permitted at the range. The property is located well outside any urban development areas. The proximity to FAFB and "rural" designation ensures that no significant development will occur adjacent to the Property for the foreseeable future.

The relocation of the Club also provides a safe place for people to fire their guns in a controlled environment. Spokane County lacks easily-accessible venues for the safe discharge of firearms. When people do not have a place to go target practice, they create their own venue for target practice that is often not safe or well-planned. Having a state-of-the-art facility at the Property will provide a safe location for law-abiding citizens to target practice and continue our nation's long history of responsible gun ownership.

The Club also plans to partner with FAFB, law enforcement and other entities to host competitions and events. The Club already hosts major shooting competitions that bring competitors from near and far to the area for a week or weekend at a time. These events will not only result in community and relationship building, but will also bring increased visitation and revenue to the county.

4. What effect, if any, would the denial of the establishment, alteration, or change requested in Question No. 1 have on property owners within the area to be established, altered, or changed?


The denial would result in the applicant and owner being unable to utilize a piece of property ideally situated for this use. As indicated above, the Property's proximity to FAFB limits its use for residential or commercial purposes. Through reasonable mitigation and placement of the shooting facilities, the use and enjoyment of the Property by neighbors should not be affected. Finally, County development standards will ensure that there will be proper infrastructure and road improvements to benefit the use of the Property and surrounding neighborhood.

5. Please attach a detailed map showing the proposed area and boundaries which are the subject of this application.

See attached

Dated this 10th day of May, 2019

SPOKANE GUN CLUB, a Washington nonprofit corporation


Applicant and/or Sponsor (sign name)

Robert E. Thornton, President
Applicant and/or Sponsor (print name)

Address: Spokane Gun Club c/o Witherspoon Kelley, Attn: William C. Lenz, Esq., 422 W. Riverside Ave., Suite 1100, Spokane, WA 99201

Work Phone (509) 624-5265
Fax (509) 458-2728

Home Phone (208) 755-8325
E-mail: wcl@witherspoonkelley.com

When completed please return to: Spokane County Building and Planning, 1026 W. Broadway Avenue, Spokane WA 99260

**CONSENT TO APPLICATION REMOVING PROPERTY FROM
NO-SHOOTING AREA**

The undersigned, Western Pacific Timber, LLC, being the owner of the property commonly known as Parcel No. 05365.9002 and located near the southwest corner of the intersection of Brooks Road & McFarlane Road in Spokane County, Washington (the "Property"), hereby consent to the Spokane Gun Club filing an application with the No Shooting Advisory Committee and Spokane County, seeking to remove the Property from the No Shooting Area, as presently designated by Spokane County. The undersigned consents to the Spokane Gun Club taking any and all actions necessary to complete this application and to see the same through to completion.

WESTERN PACIFIC TIMBER, LLC.
an Oregon limited liability company

By: _____

Doug Hein, CFO of Co-Manager Keewaydin Holdings, LLC

Douglas L Hein,

April 30, 2019

Submit to Clerk of the Board with accompanying paperwork (Resolution, Agreements, etc.)

AGENDA SHEET

SUBMITTING DEPARTMENT: Building & Planning

CONTACT PERSON: Tammy Jones

PHONE NUMBER: 477-7225

CHECK TYPE OF MEETING ITEM BELOW:

9:00 AM CEO MEETING:

2:00 PM CONSENT AGENDA:
BY LEAVE:

5:30 PM LEGISLATIVE SESSION:
BY LEAVE:

SPECIAL SESSION:

BELOW FOR CLERK'S USE ONLY:

Clerk's Resolution No. **19 - 1243**
Approved: Majority/Unanimous _____
Denied: Majority/Unanimous _____
Renews/Amends No. _____
Public Works No. _____
Purchasing Dept. No. _____

AGENDA TITLE: NS-01-19; Receive recommendation from the Shooting Advisory Committee to approve the alteration of an existing No-Shooting Area boundary by removing one (1) parcel of property totaling 451.68 acres in size.

BACKGROUND: The requested alteration is for the purpose of removing one (1) parcel from the east end of an existing No-Shooting Area boundary as requested by the Spokane Gun Club in order to allow the Club to apply for a Conditional Use Permit (CUP) for a Gun Range pursuant to Section 14.618.240(10) of the Spokane County Zoning Code.

FISCAL IMPACT: Approval of the requested alteration will not result in any fiscal impacts.

REQUESTED BOARD ACTION: Receive recommendation.

SIGNATURES: (Signatures must be completed before submitting to the Clerk of the Board).

1) Legal Department

3) Budget Office

5) Central Services

2) Auditor's Office

Tammy Jones, Bldg & Planning

4) Department Head/Elected Official or Designated Authority (Requesting Agenda Item)

Other

This item will need to be codified in the Spokane County Code.

THE SPOKESMAN-REVIEW

2020 Election Guide Live-streaming Forum COVID-19 Summer camps

NEWS

Spokane Gun Club votes to sell land to Valley School District

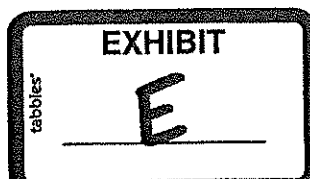
UPDATED: Fri., Aug. 24, 2018



The Spokane Gun Club is seen on Friday, July 13, 2018, in Greenacres, Wash. (Tyler Tjomsland / The Spokesman-Review)

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By Amy Edelen amy@spokesman.com (509) 459-5581



The Spokane Gun Club approved selling land to the Central Valley School District in a final vote Friday evening. ^

The vote passed with 94 of 101 members in favor of the sale, which prevents the school district from condemning the land and allows the gun club to retain incentives in the sale agreement.

Under the sale agreement, the school district would cover closing costs, property taxes and would pay any environmental cleanup costs exceeding \$1 million of the site, located at North Henry Road and Sprague Avenue. The agreement also allows the club to lease back a portion of property for \$10 a month until 2021.

The Central Valley School District agreed in July to purchase 99 acres from the Spokane Gun Club for close to \$8 million to construct a new high school and a future elementary school.

A majority of gun club members initially voted in favor of the sale in July. However, there was some contention among members opposed to the sale who were concerned about the ability to obtain a new site, environmental cleanup costs and obtaining permits for a new club site. They also claimed the initial vote in favor of the sale wasn't done in line with the club's bylaws.

The club's attorney, William Lenz of Witherspoon Kelley, subsequently emailed a document to members outlining the sale agreement and a second meeting was held Aug. 3 for a second vote, in which 53 of 92 members voted in favor. At that meeting, it was brought forward that the club needs two-thirds majority vote to approve the sale.

The school district gave the club notice it intended to seek condemnation for a 40-acre portion of land for construction of a new third comprehensive high school if an agreement wasn't reached by members.

The gun club then scheduled a special meeting on Aug. 24 for a final vote.

Spokane County Commissioner Al French wrote a letter of support that was read at the meeting Friday evening by Spokane County Planning Director John Pederson, who was present to explain the process for obtaining a conditional use permit for a new gun club site. v

“If the sale is consummated and the gun club is interested in relocation to another site, please be assured that you have my support in your efforts,” French wrote in the letter. ^

Now that members have approved the sale on a final vote, the club plans to invest sale proceeds to develop a new site with indoor and outdoor shooting ranges as well as improved club facilities that could be rented to law enforcement for training.

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From: Dave <dave@baker-associates.com>
Sent: Tuesday, August 28, 2018 1:37 PM
To: 'French, Al'; jpederson@spokanecounty.org
Subject: Thank you

Al and John: I want to thank you both for your willingness to assist with the membership issues in selling the Spokane Gun Club. In my opinion your testimony is what made the meeting successful.

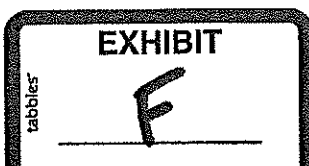
Dave

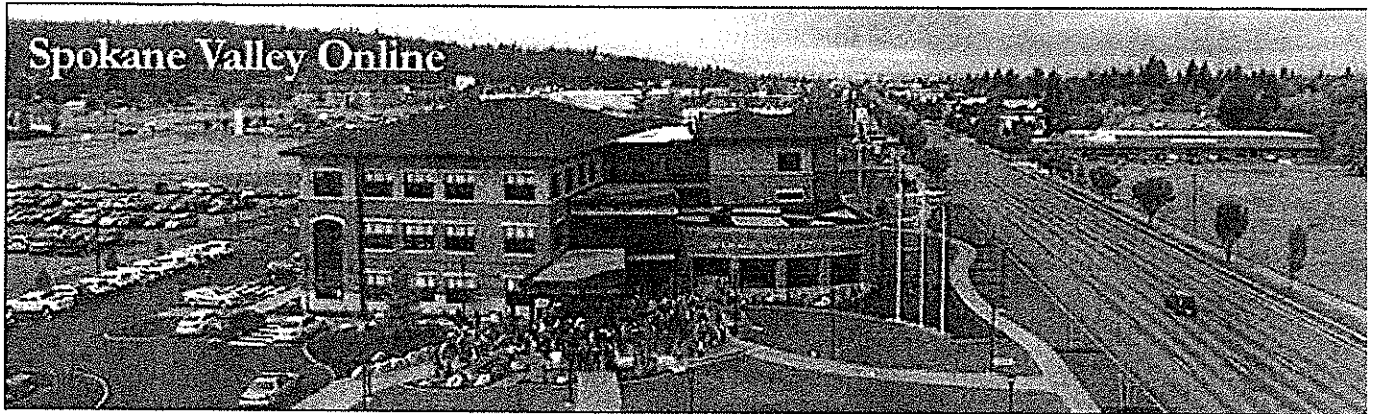
David L. Baker, CLU, CFP
Baker & Associates, LLC
(509) 465-9052 Ext. #109

How does your retirement plan compare.

To find out check out this video!

<https://www.youtube.com/watch?v=6vnJIYn3Qnc>





Spokane Valley Online

The Spokane Valley News Herald

City of Spokane Valley, '

[Home](#)

Spokane Gun Club targets West Plains

08/23/2019

By LEE HUGHES
Staff Writer

Skeet and pistol range proposal north of Medical Lake riles locals after leaving Spokane Valley

The West Plains may be getting a gun range soon if the Spokane Gun Club's efforts work in their favor. But not everyone is thrilled with the idea.

Located in Spokane Valley since 1892, the gun club is operating at its current location on borrowed time after selling the property to Central Valley School District in September 2018 for \$4.5 million, according to county records.

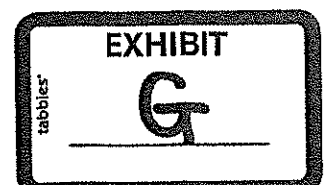
The club has been looking for a replacement site since. They settled a 451-acre site across from and immediately north of the Medical Lake Cemetery between West McFarlane and Thorpe roads, and just west of Brooks Road.

"It's the most logical place to put our club," club President John Cushman said in the sweltering heat of the club's aging clubhouse.

But there's a catch, especially for a gun club that wants to build a shooting range: the property is currently designated a no-shooting area by Spokane County.

The designation was made in late 1983 due to indiscriminant shooting — including "stray bullets" — fires and litter in the area, according to the gun club's re-designation application to the Spokane County No Shooting Advisory Committee.

The club has petitioned the county to lift the no-shooting designation for the property. The advisory committee



unanimously recommended approval of the petition, according to Tammy Jones, principal planner for the advisory committee.

County commissioners were scheduled to take up the recommendation at a hearing at their regular Aug. 20 meeting at 2 p.m.

But the county isn't the only entity with approval authority. Fairchild Air Force Base also has approval authority under a 2009 Joint Land-Use Study because the property lies within the base's overlay zone, an area of restricted development. Those development restrictions factored into the club's choice of property.

"It really fits the bill," Cushman said. "It's not a million miles from town, it fits all the needs that we have, it's large enough that we will be able to surround ourself and won't need to worry about somebody moving in."

The encroachment of Spokane Valley residential development was, in part, what forced the gun club from its current location. The club's original development plans included not only skeet, trap and shooting clays, but also a pistol and rifle range.

Fairchild officials were OK with skeet and a pistol range — so long as no rounds leave the range area — but balked at a rifle range, and conditioned their approval for the gun range upon removal of the rifle range from development plans.

"I get to take a look at it again once all (Spokane County review) is done," Jeff Johnson, executive director for encroachment management at Fairchild said.

Neighbors aren't thrilled about the prospect of a gun club next door.

Tony Whitehead lives near the intersection of Thorpe and Richey roads, just west of the proposed range.

His property is part of a larger 40-acre family legacy property that was subdivided by his parents and divvied up between he and his siblings. He decided to build on his property precisely because the area is a no-shooting zone, he said.

While he admitted the area gets its share of noise from Fairchild air traffic and trains traveling on adjacent BNSF tracks, that noise is intermittent and negligible.

He felt gunfire from the gun club would be regular and frequent. A self-proclaimed "gun person," Whitehead said he respects the club, but felt they were more concerned about safety, while noise was a second thought.

"It's 800 feet away from my house," Whitehead, who has three school-aged children, said. "It's so close, there's no way I won't hear every shot."

According to the club's shooting petition, a ravine and trees between the proposed gun range and Whitehouse's property "will provide a natural topographical barrier for sound that would significantly reduce impacts."

Noise is also a concern for Janice Radmer, president of the Medical Lake Cemetery Association, who said a gun range just across Thorpe Road from the cemetery that dates back to the 1870s wasn't a good fit for the area.

"What bothers us the most is that we have mourners out there every day," Radmer said. "We worry about them being disturbed by the noise."

She was also concerned about plot sales. The association has been working to improve the cemetery, which sells between two to four burials each year.

A majority of the cemetery board was opposed to the gun range, according to Radmer, who attended the Shooting Advisory Committee meeting and spoke against the range.

"They have a lot of backing, a lot of money," Radmer said. "They have attorneys on their side and we're kind of the underdog." Cushman said of noise concerns, "It's not going to be as loud as they think."

Several residents near the current Spokane Valley range expressed mixed opinions.

Krystyl Miyamoto lives about 1,000 feet southwest of the club, and behind the direction of fire, which is to the northeast.

"It's muffled," she said of the noise. "When there are tournaments it's nothing."

Tom Cernka lives in the Country Vista Apartments about 5,000 feet northeast and downrange of the firing line. When asked he said he "likes quiet," even as the traffic noise from nearby Interstate 90, about 1,500 feet away, droned on. The distant crack of shotguns could be heard in the distance.

"It's not obtrusive, not a sudden noise," Cernka said of the freeway noise compared to the gunfire.

The property for the proposed range is bisected from northeast

to southwest by Burlington Northern Santa Fe tracks that carry 14 trains per day between Spokane and Wenatchee, according to BNSF spokesman Gus Melonas.

The club only plans to develop the portion of the property south of the railroad tracks, an area about 150 acres in size, Cushman said.

If county commissioners reverse the no-shooting designation, the club still needs to apply for a conditional use permit and building permits, a separate process through the Spokane County Hearing Examiner, according to Jones.

Currently owned by Western Pacific Timber LLC, the sale of the property is contingent on revision of the county no-shooting designation and the club obtaining all the necessary permitting to build the gun range, Cushman said.

In addition to the gun ranges, proposed development also includes a clubhouse and associated parking.

Cushman said the pistol range wouldn't be built immediately. "It's a future consideration," he said, estimating it would take a year to build the new gun range once they break ground next spring.

The Spokane Gun Club is a members-only club that hosts regular American Trap Association competitions throughout the year, according to Cushman.

He estimated the club takes in about \$1 million in annual sales. "It will be a valuable community asset," Cushman said.

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E-mail: vnh@onemain.com

Phone: (509) 924-2440

Shatto, Julie

From: Moore, Misty
Sent: Tuesday, August 18, 2020 2:27 PM
To: Russ Wolfe
Cc: Shatto, Julie
Subject: RE: Reloading Supplies Gun Club

Hi Russ,

I think I might have some good news for you. It's kind of the path I was leading toward, but wanted to get confirmation from our Building Official that I was understanding the path correctly before I gave you the information.

First, we will still need the building to be constructed as a separated use as stated in my previous letter separating the Group A from the Group M/B. Then, based on our conversation last week and getting a better understanding of how your client wants to use and store these explosives – we can then follow IFC Sections 5606.5 which concerns the display and storage of explosives in a retail or Group M occupancy. What you will find when you read these sections, is that there is an allowance to the amounts stored and displayed which is much higher than the limitations shown in IBC Table 307.1/IFC Table 5003.1.1 as discussed in my previous letters.

IFC Section 5606.5.1 discusses how much can be displayed in a Group M occupancy at any one time and is broken down per smokeless propellants (5606.5.1.1), black powder (5606.5.1.2), and small arms primers (5606.5.1.3)

IFC Section 5606.5.2 discusses the amounts that can be stored at any one time in a Group M occupancy and broken down much the same as above – smokeless propellants (5606.5.2.1), black powder (5606.5.2.2), and small arms primers (5606.5.2.3)

It would be worthwhile to sit down with your client and see if their goals fall within these parameters; and hopefully they will be able to proceed how they planned.

My understanding is that because of the way these items are packaged for transport, display, and resale; the codes allow these increase specifically for this use/occupancy.

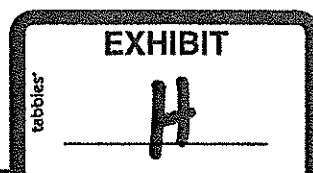
Hope this helps. Let me know if I need to delve deep into the codes again. I'm certainly learning a lot about ammunition.
☺

Thanks Russ!

Misty Moore
Commercial Plans Engineer II

Spokane County Building & Planning
Ph. 509.477.7148 | Fax 509.477.7198
mmoore@spokanecounty.org

From: Russ Wolfe [mailto:rwolfe@wagarch.com]
Sent: Tuesday, August 18, 2020 1:35 PM



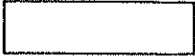
To: Moore, Misty <MMOORE@spokanecounty.org>

Subject: Reloading Supplies Gun Club

Misty, just a quick follow up to see if the M occupancy gave you any avenue to allow more product for this non sprinkled application.

I know this is a rabbit hole and you have better things to do. Thank you Russ

Russ Wolfe, AIA
Principal



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Shatto, Julie

From: Moore, Misty
Sent: Monday, August 24, 2020 3:02 PM
To: Russ Wolfe; Shatto, Julie
Subject: RE: SGC - County Exhibit

Hi Russ,

I think this all looks good and appears to comply with all applicable codes. I do need to note that Storage for the Group M contained in the warehouse meets the quantity and storage requirements of IFC Section 5606.2 and NFPA 495.

For the Fire Coiling Door separating the Pro Shop from the assembly area proper – it shall be self-closing per IBC 716.5.9 and installed in accordance with NFPA 80 Section 11.4.1.2 and monitored for integrity in accordance with NFPA 72 Section 12.6.

Other than clarification on those items, it appears we have a building that works and meets the intent of the code.

Thanks,

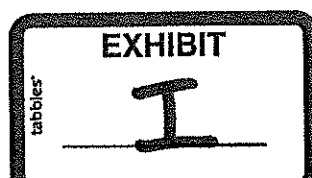
Misty Moore
Commercial Plans Examiner II

Spokane County Building & Planning
Ph. 509.477.7148 | Fax 509.477.7198
mmoore@spokanecounty.org

From: Russ Wolfe [mailto:rwolfe@wagarch.com]
Sent: Monday, August 24, 2020 12:54 PM
To: Moore, Misty <MMOORE@spokanecounty.org>; Shatto, Julie <JShatto@spokanecounty.org>
Subject: Fwd: SGC - County Exhibit

Misty attached is the current layout for the pro shop. This portion of the building would be separate by a 2 hour full height wall from the A occupancy. The coiling rated door would go in front of our point of sales stations. All products will be in the original manufacturer's packaging. Ok per the NFPA here is my approach.

1. Powder will be in a factory package and would be stored in a (1" thick walled) storage vessel on casters. This would be in the back locked room. (red) We will have rental and training guns in a safe in that room but they would all be unloaded. An empty 8lb manufactured container will be on open display so that club members can request the product.
2. Primers, these again will be in the typical factory packaging. For primers they come in "Bricks" and there are 1000 primers in a brick shown in Blue. We are showing 4 bricks or 4000 at this point but it appears to me we could more per NFPA.



3. Factory Loaded Shotgun Shells. Similar to the sportsman warehouse we would like to have 10 flats or 2500 loaded shells on hand. This ammo is for members, guest shooters and beginners for the most part. I need to verify but I assume most will be 12 gauge. Maybe 10% would be 20 gauge for recoil sensitive shooters.

I think it is safe to assume that all back stock will be stored in the warehouse. They get most of these products on pallets and that is the loading area. As supplies in the pro shop need restocked they will need to go to the warehouse and grab the products. During big events like a competition, they may even have a location on site (vendor area) that would have shotgun shells available.

Let me know if you have any questions or concerns. I want to get your input here before I mention our approach and findings to the Club.

Regards Russ

Russ Wolfe, AIA
Principal



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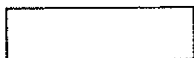
----- Forwarded message -----
From: **Michaela Weaver** <mweaver@wagarch.com>
Date: Mon, Aug 24, 2020 at 11:43 AM
Subject: SGC - County Exhibit
To: Russ Wolfe <rwolfe@wagarch.com>
Cc: Lauren Egbert <leibert@wagarch.com>

Hi Russ,

See attached for the Exhibit PDF.

Thanks,

Michaela Weaver, Associate IIDA
Interior Designer



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Fax: (509) 455-3933

I think it is safe to assume that all back stock will be stored in the warehouse. They get most of these products on pallets and that is the loading area. As supplies in the pro shop need restocked they will need to go to the warehouse and grab the products. During big events like a competition, they may even have a location on site (vendor area) that would have shotgun shells available.

Let me know if you have any questions or concerns. I want to get your input here before I mention our approach and findings to the Club.

Regards Russ

Russ Wolfe, AIA

Principal



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----- Forwarded message -----

From: **Michaela Weaver** <mweaver@wagarch.com>

Date: Mon, Aug 24, 2020 at 11:43 AM

Subject: SGC - County Exhibit

To: Russ Wolfe <rwolfe@wagarch.com>

Cc: Lauren Egbert <legbert@wagarch.com>

Hi Russ,

See attached for the Exhibit PDF.

Thanks,

Michaela Weaver, Associate IIDA

Interior Designer



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Shatto, Julie

From: Moore, Misty
Sent: Friday, August 14, 2020 11:03 AM
To: Russ Wolfe
Cc: Lauren Egbert; MRisley@scfd10.org; Shatto, Julie
Subject: RE: Spokane Gun Club - Clubhouse Sales of Shooting Components
Attachments: PreAp2000035 - 21002 W Thorpe - Spokane Gun Club_revised.docx

Hi Russ,

Please find revised letter based on the additional information provided.

Have a good weekend! Thank you!

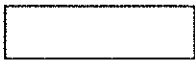
Misty Moore
Commercial Plans Examiner II

Spokane County Building & Planning
Ph. 509.477.7148 | Fax 509.477.7198
mmoore@spokanecounty.org

From: Russ Wolfe [mailto:rwolfe@wagarch.com]
Sent: Friday, August 14, 2020 7:53 AM
To: Moore, Misty <MMOORE@spokanecounty.org>
Cc: Lauren Egbert <legbert@wagarch.com>; MRisley@scfd10.org
Subject: Re: Spokane Gun Club - Clubhouse Sales of Shooting Components

thank you!

Russ Wolfe, AIA
Principal



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On Fri, Aug 14, 2020 at 7:40 AM Moore, Misty <MMOORE@spokanecounty.org> wrote:

I am hoping to get back into this today.



Misty Moore

Community Plans Examiner II

Spokane County Building & Planning

Ph. 509.477.7148 | Fax 509.477.7198

mmoore@spokanecounty.org

From: Lauren Egbert [<mailto:legbert@wagarch.com>]
Sent: Wednesday, August 12, 2020 4:35 PM
To: Russ Wolfe <rwolfe@wagarch.com>
Cc: Moore, Misty <MMOORE@spokanecounty.org>; MRisley@scfd10.org
Subject: Re: Spokane Gun Club - Clubhouse Sales of Shooting Components

Hi Misty,

I was just following up on this issue and seeing if I can get you any additional information?

Thank you!

Lauren Egbert

Architectural Associate



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Fax: 509.455.3933

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On Mon, Aug 10, 2020 at 9:28 AM Russ Wolfe <rwolfe@wagarch.com> wrote:

I appreciate that feedback. Thank You...discard the voice message I left you this morning.

Russ Wolfe, AIA

Principal



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On Mon, Aug 10, 2020 at 9:18 AM Moore, Misty <MMOORE@spokanecounty.org> wrote:

Good morning Russ,

I apologize, I haven't been able to get back into this just yet.

The MSDS sheets help a lot. When maximum quantities are exceeded, Division 1.3 explosives are classified as Group H-1 or Group H-2 occupancies and Division 1.4 is still classified as Group H-3 as noted in my letter.

I will re-review based on the information provided in the MSDS sheets and under the parameters that their quantities are under the maximums just as soon as I have the opportunity to do so.

Thanks,

Misty Moore

Community Planning Director

Spokane County Building & Planning

Ph. 509.477.7148 | Fax 509.477.7198

mmoore@spokanecounty.org

From: Russ Wolfe [mailto:rwolfe@wagarch.com]

Sent: Wednesday, August 05, 2020 12:34 PM

To: Moore, Misty <MMOORE@spokanecounty.org>; MRisley@scfd10.org; Lauren Egbert <legbert@wagarch.com>

Subject: Fwd: Spokane Gun Club - Clubhouse Sales of Shooting Components

Misty and Micheal, first thank you for your research and letter. Lots to think about here and let me try and help focus you in on the request. This is a shotgun focused sports complex (smokeless powder only) and The Club has historically sold both manufactured loaded 20 and 12 ga cartridges. Similar to the floor Sportsman Warehouse but in obvious less quantities. In addition they also have stocked reloading materials for sale to Club members.

Two primary things that are classified and need to be vetted with County and Fire District. First. Shotshell Primers for reloading. This product is classified as Explosive Division 1.4. Second. Is the shot shell

smokeless powder Classified 1.3. These products are always stored in different locations for safety. The powder is purchased in 8lb containers and in a perfect world they would have about 120 pounds max. Primers small in the packages and 1000 units is the size of a large brick. 4x4x9. Again in a perfect world they would have 10 thousand plus minus and store them in a safe manner by themselves.

In Summary: Manufactured Loaded Shotgun Shells, Primers for reloading, and smokeless gunpowder are the products we need to discuss. They currently have a plywood vault at the current location for dry storage of the powder.

I can provide actual samples if that helps you understand better. See attached MSDS sheets Thank You Russ

Russ Wolfe, AIA

Principal



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----- Forwarded message -----

From: **Lauren Egbert** <legbert@wagarch.com>

Date: Wed, Aug 5, 2020 at 10:58 AM

Subject: Fwd: Spokane Gun Club - Clubhouse Sales of Shooting Components

To: Russ Wolfe <rwolfe@wagarch.com>

See below. Thanks,

Lauren Egbert

Architectural Associate



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Fax: 509.455.3933

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----- Forwarded message -----

From: **Moore, Misty** <MMOORE@spokanecounty.org>

Date: Wed, Aug 5, 2020 at 10:02 AM

Subject: RE: Spokane Gun Club - Clubhouse Sales of Shooting Components

To: Lauren Egbert <legbert@wagarch.com>

Cc: Michael Risley <MRisley@seld10.org>, Shatto, Julie <JShatto@spokanecounty.org>, Moore, James <JMOORE@spokanecounty.org>

Lauren,

Please find comments where related to explosives as defined in the International Fire Code, International Building Code, and NFPA 495. They are general in nature since specific parameters are unknown, but we can fine tune once more information is provided by your client.

Thank you,

JACQUELYN TAYLOR

Commercial Plans Review #

Spokane County Building & Planning

Ph. 509.477.7148 | Fax 509.477.7198

mmoore@spokanecounty.org

From: Lauren Egbert [mailto:legbert@wagarch.com]
Sent: Wednesday, August 05, 2020 9:08 AM
To: Moore, Misty <MMOORE@spokanecounty.org>
Cc: Michael Risley <MRisley@scfd10.org>
Subject: Re: Spokane Gun Club - Clubhouse Sales of Shooting Components

Thank you both. Misty, I am working to get answers to your questions as quickly as possible. Thanks!

Lauren Egbert

Architectural Associate



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On Wed, Aug 5, 2020 at 8:49 AM Moore, Misty <MMOORE@spokanecounty.org> wrote:

Michael,

I am preparing a comment letter addressing the use and storage of explosives and will be sure to cc you when it is sent.

Thanks,

Misty Moore

Environmental Planning Executive II

Spokane County Building & Planning

Ph. 509.477.7148 | Fax 509.477.7198

mmoore@spokanecounty.org

From: Michael Risley [<mailto:MRisley@scfd10.org>]

Sent: Wednesday, August 05, 2020 8:22 AM

To: Moore, Misty <MMOORE@spokanecounty.org>; Lauren Egbert <legbert@wagarch.com>

Subject: RE: Spokane Gun Club - Clubhouse Sales of Shooting Components

Misty,

I was off the last couple days, I agree with all the questions you asked in order to respond to their questions. Please keep me in the loop on this and if there is anything I could help out with please let me know.

Thank you!

Michael Risley

Prevention Lieutenant

Spokane County Fire District 10

www.scf10.org

509-244-2425 (phone)

509-244-2421 (fax)



From: Moore, Misty <MMOORE@spokanecounty.org>
Sent: Tuesday, August 4, 2020 2:15 PM
To: Lauren Egbert <legbert@wagarch.com>
Cc: Michael Risley <MRisley@scfd10.org>
Subject: RE: Spokane Gun Club - Clubhouse Sales of Shooting Components

In order to best provide you with the information you require, could you please advise the following information?

- Net weight of explosives that will be stored. If this will be contained in one or more magazines, please let me know approximate quantities per magazine.
- UN/DOTn Classification of explosives stored
- Information or specification on the type of magazine(s) that will be used. I need to see that they comply with NFPA 495, NFPA 1124, or DOTy 27CR criteria
- Confirm this is indeed storage only and no display or resale of

This solution is going to be multi-faceted, so the more information you can provide at the interim, the better I can offer a path which complies with the requirements of the code.

Thank you,

Misty Moore

Commercial Plans Department

Spokane County Building & Planning

Ph. 509.477.7148 | Fax 509.477.7198

mmoore@spokanecounty.org

From: Lauren Egbert [<mailto:legbert@wagarch.com>]

Sent: Tuesday, August 04, 2020 8:49 AM

To: Moore, Misty <MMOORE@spokanecounty.org>

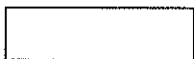
Cc: MRisley@scfd10.org

Subject: Re: Spokane Gun Club - Clubhouse Sales of Shooting Components

Thanks Misty. Feel free to give me a call to walk through it if needed. Appreciate it!

Lauren Egbert

Architectural Associate



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Fax: 509.455.3933

www.wagarch.com

On Tue, Aug 4, 2020 at 8:39 AM Moore, Misty <MMOORE@spokanecounty.org> wrote:

Hi Lauren,

I need to do a bit of research into this and let you know. I just got back from vacation and am trying to get my bearings again, but will make this a priority and get back to you just as soon as I can.

Thanks,

Misty Moore

Financial Plans Coordinator

Spokane County Building & Planning

Ph. 509.477.7148 | Fax 509.477.7198

mmoore@spokanecounty.org

From: Lauren Egbert [<mailto:legbert@wagarch.com>]

Sent: Monday, August 03, 2020 2:09 PM

To: Moore, Misty <MMOORE@spokanecounty.org>; MRisley@scfd10.org

Subject: Spokane Gun Club - Clubhouse Sales of Shooting Components

Hi Misty,

Russ Wolfe and I left you both a message today in regards to comments from our Pre-Application Meeting for the Spokane Gun Club. We are currently trying to determine our fire protection requirements with the Pro-Shop for selling primers, powder and shot shells. Our floor plan is attached. The Pre-Application comments indicate that we will need to follow Chapter 56 of the IFC but we are a little unclear of where we classify within the code as we are not selling 'black powder' or 'small arms primers'.

We are an unsprinklered, type VB, 4,500 SF clubhouse, with a Pro Shop off of an open community room. The Pro Shop has a small storage room (RM 103), which anticipates holding reloading components as stated above. None of the shelving units in the Pro Shop will hold any of these components, just within the Storage Room.

Ideally, we would like to store the reloading components within a hazardous storage unit within a locked storage room, but if this does not get us to comply with the Fire Code, then we need to work with you both on how to get our building to comply with the code. Would we be limited to the amount that we can hold within this room, and provide a rated wall surrounding?

This is a project type that we are unfamiliar with, so if we can start the conversation with you both to resolve this issue, it would be greatly appreciated.

Please give me a call at the office at 509.455.6999.

Thanks!

Lauren Egbert

Architectural Associate



1015 N. Calispel, Suite B

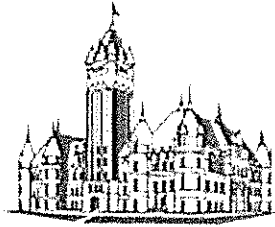
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Spokane County

WASHINGTON

BUILDING & PLANNING DEPARTMENT JOHN PEDERSON, DIRECTOR

August 14, 2020 - updated

Wolfe Architectural Group
1015 N Calispel, Suite B
Spokane, WA 99201

RE: Spokane Gun Club
Located at: 21002 W Thorpe
Project No. Preap2000035

The information contained below addresses the storage and use of explosives as classified by the DOT, NFPA, and the IFC and are in addition to the requirements noted in the original Preapplication meeting comments under PREAP2000035 as noted above and provided via email on July 24, 2020. This review is based on my understanding of the types of materials to be stored and assuming the quantities will be less than maximum allowable quantities. If it is determined that other code sections not listed below apply to the types of explosives stored, they shall fully comply with the requirements of the codes where those requirements apply.

OCCUPANCY SEPARATION:

1. Since explosives cannot be stored in Group A occupancies, the building should be designed as a separated use – Group A and Group B/M. The wall at Grid line 2 from exterior wall to exterior wall will need to be constructed as 2-hour fire barriers in accordance with IBC Table 508.4 and IBC Section 707. The door will need to be 90 minute rated per IBC Table 716.5. (There may be a variety of ways to separate the building to meet compliance, but this was an obvious solution for the building as designed currently.)

CONTROL AREAS:

1. If at or below the maximum quantities allowed, the product shall be located in control areas constructed as listed below. Please note, Division 1.3 and Division 1.4 explosives cannot be stored together per IFC Section 5606.2. Control areas shall be noted on the plans and indicate the type of explosive contained therein.

In accordance with IFC Section 5003.8.3 and Table 5003.8.3.2:

Control areas shall be separated from each other by fire barriers constructed in accordance with IBC Section 707 or horizontal assemblies constructed in accordance with IBC Section 711 or both.

Per IFC Table 5003.8.3.2 for a control area constructed on grade level, 100 percent of the maximum quantities are allowed – 5 pounds of Division 1.3 explosives and 50 pounds of Division 1.4 explosives. Up to 4 total control areas are allowed and they shall be constructed with 2-hour fire resistance rated floor assemblies per IFC Section 5003.8.3.4 and with one-hour fire resistance rated wall assemblies per IFC Table 5003.8.3.2. Doors within these walls must be no less than one hour fire resistance rated in accordance with IBC Table 716.5.

FIRE AND GENERAL COMMENTS – EXPLOSIVES:

1. Per the information provided, the explosives contained at the Spokane Gun Club are primers and smokeless powder. Classification of both per the International Fire Code are addressed within this letter.
2. In addition to IFC Chapter 56, NFPA 495 shall govern the manufacture, transportation, storage, sale, handling and use of explosive materials. (IFC Section 5601.1.1)
3. Per the International Building Code Section 307.1:
 - a. Smokeless powder is classified as an UN/DOTh Division 1.3 explosive which is categorized as a Group H-1 or H-2 occupancy in the IBC. when the maximum allowable quantity is exceeded.
 - b. Small Arms Primer is classified as an UN/DOTh Division 1.4 explosive which is categorized as a Group H-3 occupancy in the IBC. when the maximum allowable quantity is exceeded.
4. Per IBC Table 307.1 the maximum allowable quantities are:
 - a. Division 1.3 – 5 pound storage limit; however, per Note e; the maximum allowable quantity can be increased by 100% when stored in approved storage cabinet, day box, gas cabinets, gas rooms, or exhausted enclosures or in listed safety cans in accordance with IFC Section 5003.9.10. Note g requires that Division 1.3 explosives shall only be stored in buildings equipped throughout with an automatic fire sprinkler system installed in accordance with IFC Section 903.3.1.1.
 - b. Division 1.4 – 50 pound storage limit; however, per Note e; the maximum allowable quantity can be increased by 100% when stored in approved storage cabinet, day box, gas cabinets, gas rooms, or exhausted enclosures or in listed safety cans in accordance with IFC Section 5003.9.10. Note g requires that Division 1.4 explosives shall only be stored in buildings equipped throughout with an automatic fire sprinkler system installed in accordance with IFC Section 903.3.1.1.
5. Per NFPA 495, Section 14.2.3 – small arms ammunition shall be separated from materials classified by the U.S. DOT as flammable liquids, flammable solids, and oxidizing materials by a distance of 15 feet or by a fire partition having a fire resistance of at least 1 hour.
6. Per NFPA 495, Section 14.2.4 – small arms ammunition shall not be stored together with Division 1.1, Division 1.2, or Divisions 1.3 explosives, except where the storage facility is suitable for the storage of explosive materials.
7. Commercial stocks in quantities exceeding 50 pounds shall be stored in a Type 4 outdoor magazine. (NFPA 495, Section 14.4.6)
8. Per NFPA 495, Section 14.5.7, no more than 10,000 small arms primers shall be permitted to be displayed in commercial establishments. If classified by the U.S. DOT as 1.4S, the limit displayed in commercial establishments shall be permitted to be increased to 150,000. (NFPA 495, Section 14.5.8)
9. Commercial stocks of small arms primers shall be stored in quantities not exceeding 750,000 where not more than 100,000 are stored in any one pile and where piles are at least 15 feet apart. Quantities exceeding 750,000 shall be stored as required per NFPA 495, Section 14.5.9 #2. (NFPA 495, Section 14.5.9)
10. Per IFC Table 5003.8.2, Group H explosives exceeding the maximum allowable quantities shall be stored in detached buildings.
11. Per IFC Section 5601.2.2, persons shall not construct a retail display nor offer for sale explosives, explosive materials, or fireworks in Group A or E occupancies.
12. IFC Section 5601.2.4 requires the applicant to file a corporate surety bond in the principal sum of \$100,000 with the jurisdiction or a public liability insurance policy in the same amount for the purpose of payment of

all damages to persons or property that arise from, or are caused by, the conduct of any act authorized by the permit upon which any judicial judgment results.

13. For Division 1.3 explosives, IFC Table 5601.8.1(2) establishes the separation distance required per the item used for separation per the quantity of explosive material stored.
14. For Division 1.4 explosives, IFC Table 5601.8.1(3) establishes the separation distance required per the item used for separation per the quantity of explosive material stored.
15. Explosives and explosive materials shall be stored in magazines constructed, located, operated, and maintained in accordance with the provisions of IFC Section 5604 and NFPA 495 or NFPA 1124. (IFC Section 5604.2)
16. The use of indoor magazines for storage of explosives and explosive materials shall be limited to occupancies of Group I, II, M, or S and research and development facilities. (IFC Section 5604.5.1.1) Construction of magazines shall meet the requirements of IFC Section 5604.5.1.2.
17. Per IFC Section 5604.5.1.3, not more than 50 pounds of explosives or explosive materials shall be stored within an indoor magazine.
18. Indoor magazines shall be located within 10 feet of an entrance and only on floors with direct access to the exterior grade level. (IFC Section 5604.5.1.5) No more than two (2) indoor magazines shall be located within the same building. (IFC Section 5604.5.1.6) Where two (2) magazines are located in the same building, they shall be separated by a distance of not less than 10 feet. (IFC Section 5604.5.1.7)
19. Buildings or rooms that exceed the maximum allowable quantity per control area of explosive materials shall be operated in accordance with IFC Section 5605.5 and constructed in accordance with the requirements of the International Building Code for Group II occupancies.
20. Operations involving explosives shall comply with Sections 5605.6.1 through 5605.6.10.
21. Commercial stocks of small arms primers shall be stored as required by IFC Section 5606.5.2.3.
22. In accordance with IBC Section 414.1.3 a report shall be submitted identifying the maximum expected quantities of hazardous materials to be stored, used in a closed system, and used in an open system and subdivided to separately address hazardous material classification categories based on Tables 307.1(1) and 307.1(2). The methods of protection from such hazards, including, but not limited to control areas, fire protection systems, and Group II occupancies shall be indicated on the report and on the construction documents.

Please feel free to contact me for additional information or assistance.

Respectfully,

Misty Moore

Commercial Plans Examiner II

Spokane County Building and Planning

509-477-7148 Phone | 509-477-7198 Fax

MMoore@spokanecounty.org

SPOKANE COUNTY HEARING EXAMINER

RE: Conditional Use Permit for a Commercial)	
Recreational Area, in the RT Zone;)	
Applicant: Dwaine and Cheryl Dodd)	FINDINGS OF FACT,
File No. CUN-02-07)	CONCLUSIONS OF LAW,
_____)	AND DECISION

I. SUMMARY OF DECISION

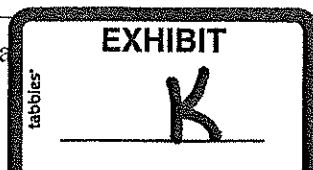
Summary of Hearing Matter: Application for a conditional use permit for a commercial recreational area, in the RT zone.

Summary of Decision: Denial of application; because the proposed use constitutes a “spectator sports facility”, which is not a permitted use in the RT zone.

II. FINDINGS OF FACT

Procedural Information

1. The application requests a conditional use permit for a commercial recreational area, in the Rural Traditional (RT) zone; to allow an oval dirt, and linear mud bog and rock crawl, racetrack facility; for automobile and snowmobile racing events open to participants and spectators for a fee.
2. The site is located east of and adjacent to Jackson Road, directly northeast of the intersection of Bridges Road and Jackson Road; and is legally described as the SW ¼ of the SW ¼ of Section 12, Township 29 North, Range 44 EWM of Spokane County, Washington; less roads.
3. The site is currently referenced as County Assessor’s tax parcel no. 49123.9017; and is addressed at 40115 N. Jackson Road, Elk, Washington.
4. The applicant for the proposal, and the site owner, is Dwaine and Cheryl Dodd, 40115 N. Jackson Road, Elk, Washington 99009.
5. On July 19, 2007, the applicant applied for a conditional use permit to operate the proposed racetrack on the site, and supporting activities on adjacent land lying west side of Jackson Road. On August 2, 2007, the applicant submitted a revised site plan; which provided more detail for the project.
6. On September 7, 2007, the applicant submitted a second revised site plan, which is considered the site plan of record for the application. Such plan placed the proposed use entirely on the current site.



7. On August 14, 2008, the County Building and Planning Department issued a Mitigated Determination of Nonsignificance (MDNS) for the application on August 19, 2008. The MDNS, which was not appealed, required the application of dust palliative measures to portions of Bridges Road and Jackson Road.
8. On September 10, 2008, the Hearing Examiner conducted a public hearing on the application. The Examiner conducted a site visit on September 9, 2008.
9. At the public hearing, certain neighboring property owners objected to the posted notice of hearing provided by the applicant; because the notice did not describe the proposed use. See copy of photo of sign submitted by applicant on September 13, 2008.
10. Certain neighboring property owners also objected to the mailed notice of hearing provided by the applicant, because only the owners of property located within 400 feet of the site were notified.
11. Section 13.700.106 of the Spokane County Code requires that notice of a public hearing held on a "Type II" project permit, including a conditional use permit application, be provided by mail, posting and publication at least 15 days prior to the hearing.
12. On August 26, 2008, the County Building and Planning Department timely published a notice of hearing in a newspaper of general circulation in the county. Such notice complied with Section 13.700.106(3) of the County Code.
13. On August 13, 2008, the County Building and Planning Department timely mailed a copy of the notice of hearing to agencies with jurisdiction. See memorandum dated 8-13-08 from Bill Moser to public agencies. Such notice complied with Section 13.700.106(2)a.2 of the County Code.
14. Section 13.700.106(2)a.1 of the County Code requires the applicant for a Type II project permit to mail a notice of hearing to the owners of property that abut the site; as well as the owners of property that does not abut the site, but lies within 400 feet of the site.
15. Section 13.700.106(2)a.1 of the County Code requires that if the applicant owns, controls or has an option for land abutting any portion of the site, then the notice of hearing must be mailed to the owners of property lying within 400 feet of the applicant's "total ownership".
16. The applicant owns a 40-acre parcel that abuts the site on the east, and a 40-acre parcel that abuts such parcel on the east. The applicant also owns a small remnant of land that abuts the site on the northwest, along the east side of Jackson Road. The remnant is part of a 14-acre parcel, the remainder of which lies along the west side of Jackson Road and is owned by the applicant.
17. The applicant owns 10 additional acres of land, divided into two (2) parcels, that abut the 14-acre parcel owned by the applicant on the west side of Jackson Road on the south and west.

18. The applicant mailed a notice of hearing to the owners of land lying adjacent to or within 400 feet of the site and the applicant's adjacent ownership to the east; except for the land owned by the applicant.
19. Section 13.700.106(2)a.1 of the County Code, relating to providing notice of a public hearing by mail, indicates that "adjacent" land does not include the property of an applicant that lies across a road right of way from the site. Accordingly, the applicant was not required to mail a notice of hearing to the owners of property located within 400 feet of the applicant's land that lies west of Jackson Road; except for the property situated within 400 feet of the applicant's land that lies east of Jackson Road.
20. Section 13.700.104(2) of the County Code generally requires the notice of hearing for a Type II project permit, including a conditional use permit, to include a "Project summary/description of each project permit application"; among other required information.
21. The mailed and published notices of hearing adequately described the proposal as the application for a conditional use permit for a commercial recreational area, to allow an automobile and snowmobile dirt race track and mud bog in the Rural Traditional (RT) zone.
22. Section 13.700.106(2)(b) of the County Code specifies the content required for a posted notice of hearing, including a description of the proposal. The sign requirements are generally more abbreviated, and not as inclusive, as the notice requirements set forth in Section 13.700.104(2) of the County Code. This is in part due to the need to conserve space on the posted sign, which has required lettering of 2-4 inches
23. The posted notice of hearing described the proposal only as the application for a conditional use permit; but included the file number for the application; the title, address and telephone number for the County Building and Planning Department as the review agency; the name of the applicant; the time and date of the hearing; and procedural environmental information regarding the application.
24. At the public hearing, the Examiner found Section 13.700.106(2)(b) of the County Code to be vague, on how specific the posted notice of hearing needed to be in describing the application. The Examiner advised that the sign should probably have included the type of conditional use permit or the proposed use of the property, but observed that persons desiring to learn more about the application could have contacted the County Building and Planning Department for more information.
25. To avoid possible prejudice to parties of record and other residents who may be concerned about the application, the Examiner left the record open until September 17, 2008, to allow the submittal of additional public comment; and left the record open an additional week until September 24, 2008, to allow the applicant to respond to any additional comments that were submitted.

26. The Hearing Examiner heard the application pursuant to the County Hearing Examiner Ordinance, and the County Hearing Examiner Rules of Procedure.

27. The following persons testified at the public hearing:

Bill Moser
County Building and Planning Dept.
1026 W. Broadway
Spokane, WA 99260

Greg Baldwin
County Division of Engineering & Roads
1026 W. Broadway
Spokane, WA 99260

Catherine and Ron Schiele
P.O. Box 302
39702 N. Madeline Lane
Elk, WA 99009

Cheryl Dodd
40115 N. Jackson Road
Elk, WA 99009

Ray Prigan
39102 N. Jackson Road
Elk, WA 99009

Danny Casper
3506 E. Sanson
Spokane, WA 99217

Mike Jack
17313 E. Blanchard Rd
Elk, WA 99009

Jerry Woods
14615 E. Bridges Road
Elk, WA 99006

Susan Brown
15701 E. Fridegar Rd
Elk, WA 99009

Aaron Elston
14614 E. Bridges Road
Elk, WA 99009

Kathy Kreidler
42419 N. Jefferson Road
Elk, WA 99009

Anthony Lantrip
40414 N. Madison
Elk, WA 99009

Virginia Watt
42512 N. Jefferson Rd
Elk, WA 99009

Garrett Wight
14316 E. Oregon Road
Elk, WA 99009

28. On September 11, 2008, Karin Divens of the Washington State Department of Fish and Wildlife (WDFW) submitted an email to Bill Moser of the County Building and Planning Department. The email revised the comments submitted by WDFW on August 21, 2007 regarding the original version of the application; and expressed concern regarding the impact of the revised application on wildlife and streams located on and off-site.

29. The Hearing Examiner takes notice of the Spokane County Comprehensive Plan, Phase 2 Development Regulations, Zoning Code, Critical Areas Ordinance and maps, Standards for Road and Sewer Construction, Guidelines for Stormwater Management, and other applicable development regulations; County Code; and past land use decisions in the area.

30. The record includes the documents in the application file at the time of the public hearing, the documents and testimony submitted at the public hearing, the documents submitted after the public hearing through September 24, 2008, and the items taken notice of by the Hearing Examiner.

Description of Site

31. The site is approximately 40 acres in size, and rectangular in shape. The westerly two-thirds (2/3) to one-fourth (1/4) of the site, from north to south, is cleared of trees and native vegetation; and consists primarily of a mowed field used previously for agriculture, along with the improvements referenced below. The remainder of the site is mostly forested with evergreen trees and other native vegetation, and contains some dirt trails. See aerial photos.

32. The north central portion of the site contains a single-family dwelling, barn and other accessory structures; which are accessed via a long unpaved driveway that extends west to Jackson Road. An oval-shaped, dirt racetrack, bordered by large tires on both sides, lies between the driveway and the north boundary of the property. Portions of the site are fenced.

33. The cleared area in the north end of the site, including the existing driveway, has gently rolling topography. The central portion, where the dirt race track is located, consists of a flat ridge. A small slope on the east edge of such area slopes up to the east at a 20% slope, while a slope on the west edge slopes down to the west at an approximate slope of 10%. See Preliminary Geohazard Assessment report from Budinger & Associates dated 7-3-07.

34. The cleared portion of the site lying south of the existing driveway is relatively flat in topography. The forested part of the site rises up to the east, and includes slopes up to 30% in the northeast part of the site.

35. On August 13, 2008, the County Building and Planning Department approved a petition to lift a timber moratorium that had previously been placed on the site; to allow conversion of the site for the proposed use, pursuant to the County Timber Harvest Ordinance.

Description of Project

36. The proposal is described in detail on the site plan of record submitted on September 10, 2007, the revised project summary submitted by the applicant on June 6, 2008, and the revised environmental checklist dated May 18, 2008.

37. The Staff Report provides a detailed description of the site plan and proposal, based on the site plan and the revised project summary. This includes the holding of events every other Saturday, year round; with the gates being open to the general public for a fee from 10:00 a.m. to 6:00 p.m., and racing hours between 1:00 p.m. to 5:00 p.m.

38. On-site rules for racing and the pit area are described in a 2-page facsimile from the applicant dated September 4, 2008. This includes a ban on alcohol use by participants and

spectators. The revised environmental checklist states that up to 20 persons would operate the facility.

39. The racing events proposed for the site include vehicle races around a 1/8-mile, oval dirt track; mud bog races by vehicles and snowmobiles; and rock crawl races by vehicles equipped with large tires that can negotiate large rocks. This includes both street and modified vehicles.

40. The facility would occupy approximately 15 acres in the cleared area of the site. The mud bog and rock crawl racing tracks are located on the inside of the dirt track. The site plan illustrates two (2) accesses to the site from Jackson Road, one at the south border and one in the middle of the site. Various types of fencing are illustrated around the racetrack, pit and parking areas on the site.

41. The site plan of record illustrates a total of 48 parking spaces for spectators, including handicapped parking; and a total of 24 enlarged parking spaces in the pit area, for participant vehicles and trailers. The project includes a concession stand or mobile food unit to serve attendees, pursuant to a food permit issued by the Spokane Regional Health District.

42. The revised environmental checklist advised that the project would have a total of 100 parking spaces, and would generate approximately 65 peak vehicle trips during the day. The original environmental checklist stated that the project would have 100 parking spaces; and would generate 100 car trips during the morning and evening, respectively.

43. The revised project summary estimated a total of 66 peak vehicle trips to and from the site each day. The original project summary stated that 200-300 cars were expected to visit the site each race day, based on the experience of similar race events held within 110 miles of the site. The site plan of record indicates a total of 200-300 cars per day, including spectator and participant cars.

44. The applicant held a number of races on the site during the summer of 2007, without a required conditional use permit or temporary use permit under the County Zoning Code. Such activities generated zoning complaints to the County Building and Planning Department from neighboring property owners, with enforcement action by the Department resulting in the applicant submitting the current application.

45. Applicant Cheryl Dodd submitted a written response to the Staff Report on September 8, 2008. Dodd advised that during the summer of 2007, race events were held on three (3) separate weekends; followed by race events held on Saturday only, on three (3) weekends. Dodd requested that she be able to hold race events every weekend, depending on the crowds; and also be allowed to hold races outside the hours of 1:00 to 5:00 p.m. on a race day, depending on the number of cars in the event.

Land Use Designations for Site and Neighboring Land. Existing Conditions

46. The site is located in a rural, forested area; interspersed with cleared agricultural fields, and single-family homes on mostly large acreages. The site lies several miles outside the County Urban Growth Area (UGA). See aerial view map produced 7-31-08.
47. Approximately 2,500 acres of contiguous, undeveloped forestland owned by a paper company is found directly north of the site, and the applicant's adjacent land to the east; and further to the east and south. Such acreage is designated in the Forest Land category of the Comprehensive Plan and zoned Forest Land (F). This includes an 80-acre parcel that lies directly north and northeast of the site. See letter dated 7-18-08 from Inland Empire Paper Company; and aerial view, parcel, comprehensive plan and zoning maps.
48. The other land in the area, and the current site, are designated in the Rural Traditional category of the Comprehensive Plan and zoned Rural Traditional (RT). Such land generally consists of large acreage parcels improved with single-family residences and/or agriculture and forestry uses.
49. The land lying southwest of the site across Jackson Road, at the southeast corner of the intersection of Jackson Road and Bridges Road, consists of an 18-acre parcel of undeveloped forestland owned by the paper company. The 40-acre parcels owned by the applicant east of the site consist of undeveloped forestland. See aerial map and parcel information in application file.
50. The 24 acres of land owned by the applicant on the west side of Jackson Road is divided into three (3) parcels. Such land contains a single-family residence and ranch, in cleared areas; in addition to forested areas. A small remnant of the northeast parcel making up such land is situated along the east side of Jackson Road, and abuts the northwest corner of the site. See aerial map, and testimony of Cheryl Dodd.
51. A 5-acre parcel improved with a residence and farm buildings, and relatively cleared with timber, is located northwest of the site, along the east side of Jackson Road. Jackson Road veers to the northwest northerly of the site. A 35-acre parcel of undeveloped forestland is found west of the 5-acre parcel, along the west side of Jackson Road.
52. The land lying directly south of the site consists of a 5-acre parcel, and a 35-acre parcel; each improved with a single-family residence and accessory buildings. The 5-acre parcel is mostly forested, while the larger parcel is evenly divided between agricultural fields and forested land. See aerial view map.
53. The site is located approximately four (4) miles southeast of the unincorporated community of Elk; approximately two (2) miles south of Pend Oreille County; and approximately three (3) miles southeast of the unincorporated community of Camden, located in Pend Oreille County.
54. The County Arterial Road Plan designates Jackson Road in the area as a Rural Minor Collector; and designates Elk-Chattaroy Road, Elk to Highway Road, Blanchard Road and Nelson Road in the area as Rural Major Collectors. The other county roads in the area are considered Rural Local Access roads.

55. Jackson Road, Bridges Roads and other nearby roads have a graveled, generally washboard surface. The County has proposed the formation of a road improvement district (RID) along Jackson Road and Bridges Road.

56. Elk to Highway Road, and Elk-Chattaroy Road, to the west are paved; and provide a route to State Route No. 2 (SR-2/Newport Highway), which lies approximately seven (7) miles west of the site.

57. The application materials advised that there are no other racetracks within 89 miles of the site. However, Spokane County recently purchased Spokane Raceway Park; which is located approximately 30 miles southwest of the site, adjacent to the City of Airway Heights. Such facility is in the process of being reopened for public racing events; and is located along Hayford Road, a designated Urban Principal Arterial, and a short distance north of SR-2 (Sunset Highway). See County Arterial Road Plan map.

Critical Areas designated on Site and Neighboring Land

58. County Critical Areas maps illustrate White-tailed Deer priority wildlife habitat on the site and surrounding area; and also illustrate Moose priority wildlife habitat at varying distances 700-1,300 feet east of the site, measured from south to north.

59. County Critical Areas maps illustrate a DNR Interim Type 2-3 (Permanent Type F) stream, with a standard 100-foot wide buffer on each side, flowing from the southeast to the northwest in the area; approximately 660 feet north of the site at its closest point. An unclassified stream is illustrated flowing northerly to such stream, from a point lying just east of the northeast corner of the site.

60. County Critical Areas maps illustrate an erodible soils geo-hazard in the easterly two-thirds (2/3) of the north end of the site, including the east part of the dirt race track; and tapering southeasterly on the site toward its southeast corner. The geo-hazard is shown extending onto adjoining land to the north, east and southeast. A small area of erodible soils is illustrated along Jackson Road in the center of the site, and continuing to the east across Jackson Road.

61. County Critical Areas maps designate the site and neighboring land in a critical aquifer recharge area (CARA) of *low* susceptibility to groundwater contamination.

Public Comments submitted regarding Project

62. Several owners of neighboring properties expressed opposition to, or concerns regarding the proposal. This included the holding of races on the site without required permits, noise generated by racing vehicles and spectators, increased traffic, traffic safety on gravel roads, damage to gravel roads and dust impacts from vehicles accessing the site, dust and fumes generated by activities on site, increased wildfire hazard to forested area on site and adjacent properties, consumption of alcohol by attendees, increased litter and vandalism to properties bordering the site and along access roads, trespass on adjacent properties by vehicles and patrons, adequacy of law enforcement, impacts on wildlife habitat and wildlife in area, impacts

on property values, creation of a precedent for the approval of similar activities, and other concerns.

63. The applicant, several owners of neighboring properties, the prospective track announcer, and a large number of prospective attendees and race participants expressed support for the proposal. This included comments noting the growth in the area; the proposal provides competition and a safe outlet for persons wishing to race street or modified vehicles off-road, great family entertainment, and a boost to the local economy; race participants and attendees are responsible persons, and will not create a nuisance; and the applicant had mitigated the potential adverse impacts of the proposal.

Applicable Policies of Comprehensive Plan

64. Chapter 3 (Rural Lands) of the Comprehensive Plan discusses and provides policies for “rural lands”; which it defines as lands located both outside the UGA and outside of designated agricultural, forest and mineral lands. This includes land designated in the Rural Traditional category of the Comprehensive Plan, such as the site.

65. Chapter 3 of the Comprehensive Plan advises that rural areas have typically received their identity from a rural way of life rooted in history and resource-based industries, including forestry and farming; but more recently, recreation and open space uses have played an increasing role in rural areas. The chapter notes that small towns and unincorporated communities will typically provide services for surrounding rural areas and the traveling public.

66. Policy RL.1.4 of the Comprehensive Plan states that nonresidential and accessory uses appropriate for the rural area include farms, forestry, outdoor recreation, education and entertainment, sales of agricultural products produced on-site, home industries and home businesses.

67. Chapter 3 of the Comprehensive Plan states that commercial development in rural areas should be limited to those businesses serving rural residents and supporting natural resources and tourism-relating uses; with most commercial uses located in rural towns or in designated rural activity centers.

68. Policy RL.5.4 of the Comprehensive Plan advises that resource-dependent tourism and recreation-oriented uses, such as commercial horse stables, guide services, golf courses and group camps, may be allowed in rural areas; provided they do not adversely impact adjoining rural uses and are consistent with rural character. Policy RL.5.4 advises that tourism-related uses, such as motels and restaurants serving rural and resource areas, should be located within existing rural towns, designated rural activity centers or master plan resorts.

69. The Rural Traditional category of the Comprehensive Plan generally applies to large-lot residential uses; resource-based industries, such as ranching, farming and wood lots operations; industrial uses related to and dependent on natural resources; and some rural-oriented recreational uses.

70. The Rural Traditional category of the Comprehensive Plan contemplates a maximum residential density of one (1) dwelling unit per 10 acres; but also contemplates rural residential clustering of lots that allows lots as small as one (1) acre in size, provided at least 70% of the remainder of the rural cluster development is maintained in open space, rural character is preserved, adverse impacts on neighboring properties are minimized, and other objectives for the rural area are met. See pages RL-6 through RL-8 of Comprehensive Plan.

71. Chapter 3 of the Comprehensive Plan establishes principles for defining and preserving “rural character”. This includes the rural landscape reflecting a traditional development setting with low population density, and low levels of government services; acceptance of agriculture and forestry uses as being consistent with rural area lifestyles; conducting land use practices in a way that protects the environment; and allowing much of the area to be retained in its natural state, including providing wildlife habitat and the preservation of natural systems.

72. Policy RL.3.1 of the Comprehensive Plan states that designated rural lands shall have low densities that can be sustained by minimal infrastructure improvements, such as septic systems, individual wells and rural roads; and that do not alter the rural character, degrade the environment or create the necessity for urban level services.

73. Goal RL.6 of the Comprehensive Plan recommends that development in rural and natural resource land areas provide for adequate fire access and fire protection. Also see Policy RL.6.1.

74. Policy CF.6.5 the Comprehensive Plan recommends that water systems for urban and rural development include adequate water supply and distribution systems for domestic use and fire protection; per local, state and federal plans, policies and regulations.

75. Policy T.2.2 of the Comprehensive Plan recommends that transportation improvements needed to serve new development be in place at the time new development impacts occur; or that a financial commitment be made, consistent with the County Capital Facilities Plan, to complete the improvements within six (6) years.

76. Policy T.5.5 of the Comprehensive Plan recommends that the transportation system in rural areas and on resource lands be consistent with their rural/resource character; and recommends that road improvements emphasize operations, safety and maintenance.

77. The Comprehensive Plan contains several policies protective of areas with a critical recharging effect on aquifers used for potable water in the county, to prevent impacts from contaminants. Policy NE.17.4 recommends that changes in land use be evaluated for both positive and negative impacts on groundwater quality, especially in moderate and highly susceptible CARAs.

78. Policy NE.17.5 of the Comprehensive Plan recommends that development having a significant negative impact on the water quality of an aquifer provide measurable and attainable mitigation for the impact. Policy NE.21.2 recommends that additional studies be conducted, where appropriate, to better define the extent of contamination, physical extent, water capacity, background water quality and the rate of flow of water in county aquifers.

79. Policy NE.32.10 of the Comprehensive Plan recommends that land use regulations consider density transfers, bonus density, nature belt preservation and other innovative techniques to retain geo-hazard areas whenever possible; and to facilitate implementation of the goals and policies for such areas.

80. Policy NE.32.2 of the Comprehensive Plan states that residential development in geo-hazard areas should minimize the disruption of existing topography and vegetation; and incorporate opportunities for phase clearing and grading. Policy NE.32.3 states that construction in such areas should minimize the risk to the natural environment or structures, and not increase the risk to the site or adjacent properties that may be potentially affected.

81. Policy NE.32.5 of the Comprehensive Plan recommends that site alteration, grading and filling in geo-hazard areas be the minimum necessary to accomplish approved designs and plans. Policy NE.32.8 recommends that development not be allowed in such areas without appropriate mitigation.

82. Policy NE.32.7 5 of the Comprehensive Plan states that construction and development in geo-hazard areas should have negligible effects on the quality and quantity of affected surface and groundwater; and that mitigation measures acceptable to the appropriate regulatory agency should be provided.

Applicable Provisions of Rural Traditional (RT) Zone

83. The purpose and intent of the rural zones in the County Zoning Code, including the RT zone, as stated in Section 14.618.100 of the County Zoning Code, generally incorporates the statements and policies set forth in Chapter 3 of the Comprehensive Plan for rural lands and the Rural Traditional category.

84. The RT zone specifically implements the Rural Traditional category of the Comprehensive Plan. See Section 14.604.500 of County Zoning Code.

85. The base minimum lot area in the RT zone is 10 acres, and the maximum residential density is one (1) dwelling unit per 10 acres. However, under the rural clustering provisions of the Zoning Code, a minimum lot area of one (1) acre is permitted; provided lots are grouped in rural clusters meeting certain development standards, at least 70% of the site is retained in a remainder parcel, and the density of the rural cluster development does not exceed one (1) dwelling unit per 10 acres.

86. The rural zones matrix, contained in table 618-1 of Section 14.618.220 of the County Zoning Code, sets forth the uses that are permitted (P), not permitted (N), permitted as limited uses subject to specific performance standards (L), or permitted as a conditional use (CU); in the RT and other rural zones of the Zoning Code.

87. Section 14.618.210(4) of the County Zoning Code provides as follows, regarding the rural zones use matrix: "*Uses not designated in table 618-1 with the letter "N" are not permitted. All uses not specifically authorized by this Code are prohibited.*" [underlining added]

88. Section 14.618.210(4) of the County Zoning Code provides, regarding the rural zones matrix: “It is recognized that all possible uses and variations of uses cannot be reasonably listed in a use matrix. The Director may classify uses not specifically addressed in the matrix consistent with section 14.604.300. Classifications shall be consistent with Comprehensive Plan policies”. [underlining added]

89. Section 14.604.300(2) of the County Zoning Code provides as follows:

“2. It is recognized that all possible uses and variations of uses that might arise cannot reasonably be listed or categorized. Mixed uses/sites or any use not specifically mentioned or about which there is any question shall be administratively classified by comparison with other uses identified in the matrices. If the proposed use resembles identified uses in terms of intensity or character, and is consistent with the purpose of this code and the individual zones classification it shall be considered as a permitted/nonpermitted use within a general zone classification, matrix or zone, subject to the development standards for the use it most resembles. If a use does not resemble other identified allowable uses within a matrix, it may be permitted as determined by an amendment to this code pursuant to chapter 14.402.” [underlining added]

90. The RT zone permits single-family homes, duplexes, attached accessory dwelling units subject to special standards, and certain other residential uses. A contractor’s yard and a commercial recreational area are permitted in the RT zone, subject to the approval of a conditional use permit. General commercial and industrial uses, including office uses, are not permitted in the RT zone.

91. The RT zone permits numerous agricultural or agricultural-related uses; including agricultural direct marketing activities, agricultural products sales/stand area, seasonal harvest festivities, agricultural processing plant/warehouse, animal-raising/keeping, beekeeping, dairy, land cultivation, grazing, general agriculture activities, commercial greenhouse and a winery; some of which uses are subject to special performance standards.

92. A “recreational, commercial area” is defined in Section 14.300.100 of the County Zoning Code as: “An indoor and/or outdoor area or structure(s) operated for profit and devoted to facilities and equipment for recreational purposes, including but not limited to, swimming pools, tennis courts, racquetball courts, dance and other similar uses, whether the use of such area is limited to private membership or whether open to the public upon the payment of a fee.” [underlining added]

93. A “participant sports and recreation (outdoor only)” is defined in Section 14.300.100 of the County Zoning Code as a: “Participant sports and recreation use in which the sport or recreation is conducted outside of an enclosed structure. Examples include tennis courts, water slides, and driving ranges.” [underlining added]. Also see related definition of “participant sports and recreation (indoor only)”, in Section 14.300.100 of the County Zoning Code.

94. A “spectator sports facility” is defined in Section 14.300.100 of the County Zoning Code as a: “*Use in which athletic events are provided for spectators either in or out of doors. Examples include but are not limited to baseball stadiums, football stadiums, racetracks, and arenas.*” [underlining added]

95. The County Zoning Code does not define the term “racetrack”. Section 14.300.000 of the County Zoning Code provides that words not defined in the Zoning Code shall be construed as defined in Webster’s *New Collegiate Dictionary*. Webster’s *Ninth New Collegiate Dictionary*, which can be accessed online without charge, defines “racetrack” as: “*A usually oval course on which races are run.*”

96. A “recreational area, commercial” use is permitted as a conditional use in the RT zone, and the Rural Activity Center (RAC) zone; provided the recreational use is “...*consistent with maintaining rural character as defined in the Comprehensive Plan...*”, the general development standards of the RT zone are met, and the general conditional use permit criteria set forth in Chapter 14.404 of the County Zoning Code are satisfied. See first paragraph and subsection 17 of Section 14.618.240 of Zoning Code

97. Section 14.404.000 of the County Zoning Code authorizes denial of a conditional use, if the conditional use is not compatible with other permitted uses in the area or will be materially detrimental to the public welfare. Zoning Code 14.404.100(1) otherwise authorizes the issuance of a conditional use permit if adequate conditions and restrictions are adopted to ensure that the conditional use will be compatible with other permitted uses in the area.

98. Section 14.404.100(2) of the County Zoning Code authorizes the Hearing Examiner to stipulate a wide variety of restrictions and conditions for a conditional use. This includes consideration of the purpose and intent of the County Zoning Code and the Comprehensive Plan; and the mitigation of adverse impacts on adjoining properties.

99. Section 14.404.100(2) of the County Zoning Code states the purpose of the Zoning Code “...*is to promote the public health, safety, and general welfare and to implement the goals and policies of the Spokane County Comprehensive Plan.*”

100. A “recreational area, commercial” use is specifically prohibited in the other rural zones of the County Zoning Code; i.e. the R-5, RCV and UR zones. See Section 14.618.220 of Zoning Code.

101. A “recreational area, commercial” use is not mentioned in the residential zones use matrix, so is prohibited in such zones; may fall within the use of “general retail sales and services, not otherwise classified” in the commercial zones matrix, where such use is permitted outright or as a limited use in such zones; falls within the use of “commercial uses, not elsewhere classified” or “exercise facility/gym/athletic club” in the industrial zones matrix, which zones allow such uses outright; and is not mentioned in the resource lands zones matrix, so is prohibited in such zones. See Chapters 14.606, 14.612, 14.614 and 14.616 of Zoning Code.

102. A “participant sports and recreation (outdoor only)” use is not mentioned in the rural zones use matrix of the County Zoning Code, and is therefore not permitted in the RT and other rural zones. See Section 14.618.220 of Zoning Code.

103. A “participant sports and recreation (outdoor only)” use is permitted in the RC zone; subject to the approval of a racetrack only through a conditional use permit, and a prohibition on gun and archery ranges. See Section 14.612.230(13) of County Zoning Code. Such use is permitted outright in other commercial zones, except the Neighborhood Commercial (NC) zone. Racetracks that qualify as a “participant sports and recreation (outdoor only)” use are prohibited outright in all the commercial zones of the Zoning Code, except the RC zone. See Sections 14.612.220 and 14.612.240(4) of Zoning Code.

104. A “participant sports and recreation (outdoor only)” use is permitted in the residential zones of the County Zoning Code, except for racetracks and gun/archery ranges. See Section 14.606.240 of Zoning Code. Such use is permitted outright in the industrial zones of the Zoning Code, including a racetrack that meets the definition of a “participant sports and recreation (outdoor only)” use, i.e. a racetrack that caters to participants but not spectators.

105. A “spectator sports facility” use is specifically permitted in the Regional Commercial (RC) zone, subject to the general criteria for approving a conditional use permit set forth in Chapter 14.404 of the County Zoning Code. See Section 14.612.230(18)(a) of Zoning Code. Such use is specifically prohibited in all other commercial zones of the Zoning Code. See Section 14.612.220 of County Zoning Code.

106. A “spectator sports facility” use is specifically permitted in the industrial zones of the County Zoning Code. See Section 14.614.220 of Zoning Code.

107. A “spectator sports facility” is not mentioned in the use matrices of any other zones of the County Zoning Code, and is accordingly prohibited in such zones. This includes the RT zone, and the other rural zones of the County Zoning Code.

108. The proposed use of the site is for an oval dirt, and linear mud bog and rock crawl, racetrack facility. The facility would be open to participants and spectators for a fee, accommodate approximately 15 acres of a 40-acre site, generate up to 65-66 peak hour vehicle trips to and from the site, generate up to 200-300 cars per race day, and provide a range of food service to attendees.

109. The site plan for the current project illustrates 48 parking spaces for spectators, to meet the parking requirements of the County Zoning Code. Section 14.802.040 of the County Zoning Code requires public assembly type events to provide one (1) parking space for every four (4) occupants. Conservatively assuming that each spectator vehicle parking on the site transports an average of only two (2) persons per vehicle, approximately 100 spectators would be in attendance on the site for a race at any one time.

110. The proposed use of the site for a racetrack is *not* similar to a swimming pool, tennis court, and racquetball court or dance use; as contemplated by the definition of “recreational area,

commercial” in the County Zoning Code. See, e.g. colorized photo of racetrack during a race day attached to letter dated 9-8-08 from Jack Oliver, 3 x 5 colorized photos and DVD of racetrack during a race day, and photos of participant vehicles and maintenance vehicles operating on site submitted by applicant on 9-23-08.

111. The proposed use of the site is also inconsistent with the definition of “recreational area, commercial” because it is not limited to participants, and would accommodate a large number of spectators.

112. The proposed use of the site for a racetrack, as described above, similarly fails to meet the definition of a “participant sports and recreation (outdoor only)” use; because it is not limited to participants, and would accommodate a large number of spectators. Further, such use is not listed as a permitted use in the RT zone, and is therefore prohibited in such zone.

113. The proposed use of the site for a racetrack, which is intended to attract substantial numbers of spectators as well as participants to the site, squarely meets the definition of a “spectator sports facility”, which is specifically defined to include a racetrack. Since a “spectator sports facility” use is not listed as a permitted use in the RT zone, it is prohibited. See Section 14.618.210(4) of Zoning Code.

114. The Staff Report assumed that the proposed use was a “recreational area, commercial” use, without analyzing the definition of such use in Section 14.300.100 of the County Zoning Code; and failed to consider whether the proposed use met the definition of a “spectator sports facility” or a “participant sports and recreation (outdoor only)” in Section 14.300.100 of the County Zoning Code.

Noise Impacts

115. Section 6.12.010(a) of the County Code makes it unlawful for a person to make, continue, cause to be made, or allow to originate from their property, any sound which creates a noise disturbance.

116. Section 6.12.010(2)(b) of the County Code specifically declares as a “noise disturbance” sounds created by any device capable of producing sound that emanates frequently, repetitively or continuously from any building, structure or property located within a residential area; and which annoy or disturb the peace, comfort or repose of a reasonable person of normal sensitivity.

117. Section 6.12.010(2)(c) of the County Code specifically declares as a “noise disturbance” any other sound occurring frequently, repetitively or continuously which annoys or disturbs the peace, comfort or repose of a reasonable person of normal sensitivity; subject to certain specific exceptions not relevant to the current application.

118. Section 6.12.020 of the County Code creates certain exemptions from the above referenced provisions. This includes, in relevant part, (1) sounds originating from motor vehicle racing events at *existing* authorized facilities; (2) sounds created by motor vehicles licensed or unlicensed when operated off public highways, except when such sounds are made in or adjacent to residential property where human beings reside or sleep; and (3) sounds originating from uses

on properties which have been specifically conditioned to meet certain noise standards by the County Hearing Examiner, when conducted during the hours of 7:00 a.m. and 10:00 p.m., or when conducted beyond 1,000 feet of any residence where human beings reside and sleep at any time.

119. Most of the above exemptions are similar to the exemptions permitted by Chapter 173-60 of the Washington Administrative Code (WAC) to the maximum permissible noise levels set forth in WAC 173-60-040. WAC Chapter 173-60 does not apply to land uses in Spokane County, except where specifically required by the County Zoning Code. This does not prevent the application of Chapter 6.12 of the County Code to county land use applications.

120. Since the racetrack proposed by the current application includes motor vehicle racing events, and is not an *existing* authorized racetrack facility, the sounds created by the motor vehicles racing on the site would be subject to noise disturbance provisions of Section 6.12.010 of the County Code.

121. The sounds created by non-racing motor vehicles operated on the site are not exempt from the noise disturbance provisions of Section 6.12.010 of the County Code; with respect to the site and the adjacent residential parcels located to the south; and with respect to the residential property located directly west of the site across Jackson Road, depending on the interpretation of "adjacent" under Section 6.12.020 of the County Code.

122. The Examiner cannot exempt the project from the noise disturbance provisions of 6.12.010 of the County Code, by specifically conditioning the project to meet certain noise standards; because the project is located within 1,000 feet of several residences. See aerial view map of area. Such special conditioning may be done by the Examiner in other instances where called for by the County Zoning Code; e.g. mining uses and kennels are required to comply with the maximum permissible noise levels set forth in WAC 173-60-040. See Zoning Code 14.620.250, 14.618.240(13).

123. Several owners of property residing near or within a few miles of the site, including the owners of adjoining property to the south, expressed support for the project; and advised that the noise from the project did not bother them. Many such owners attended racing events on the site in 2007. This is in addition to a very large number of persons residing outside the area who expressed support for the project. See letters, petitions and testimony submitted by project proponents.

124. Several owners of property residing near or within a few miles of the site expressed opposition to the project, based on noise and other impacts. Such residents submitted compelling evidence that the noise generated by racing vehicles, based on past racing events held on the site, carries for a distance of miles, and on a cumulative basis is far more piercing, loud, constant and prolonged during the day than the noises generated by farm equipment, gunfire, off-road vehicles and other common sources of noise in the area; is highly disruptive to enjoyment of their property on the weekends; and is likely disruptive to wildlife and domestic animals located on or near the site.

125. Racing events on the site would accommodate an assortment of participant vehicle types, both street and modified; and well as large equipment used to water and maintain the track, and pull vehicles out of the mud. The racetrack is located in an open field, and is not surrounded by solid walls or berms that can help contain the noise.

126. Applicant advised that she could require the use of mufflers and bafflers to mitigate noise impacts from vehicles used in the races, although this would be difficult to impose on modified vehicles and higher class vehicles used in the races. See testimony of Ray Prigan, and 9-24-08 statement from Allan Lundberg. The noise impacts generated by racing vehicles would likely still be intense. Noise impacts would also be generated by attendees, and the vehicles accessing the site.

Transportation Concurrency and Traffic Impacts

127. Section 1.03 of the County Road Standards sets forth guidelines to be followed by developers in planning transportation systems for new development.

128. Section 1.03 of the County Road Standards recommends the provision of adequate vehicular and pedestrian access to all parcels of land, minimizing through traffic movements and excessive speeds on local access streets, logical street patterns, minimizing vehicular and pedestrian-vehicular conflict points, considering traffic generators in designing a street system in a proposed development, and consideration of bordering arterial routes.

129. The County Road Standards grant the County Engineer wide discretion in selecting the roadway section to be applied in constructing new roads and improving existing roads, for new development, based on numerous factors; and in approving design deviations from the County Road Standards. See Sections 1.08 and 3.03 of County Road Standards

130. Section 3.16 of the County Road Standards generally requires new public roads to be paved; but authorize new rural roads with a traffic volume less than 200 average daily trips per day to be paved by means of a light bituminous surface treatment; consisting of at least two (2) applications of oil, and a gravel thickness of at least six (6) inches and designed according to good engineering practice considering the quality of the underlying soil. Such standards require the developer to provide funding for an additional application of oil to be placed one (1) year after initial construction. This standard likely serves as a guide for improving existing county roads impacted by new development or growth.

131. County Engineering conditions of approval, and the MDNS issued for the application, require the applicant to pave Jackson Road and Bridges Road to a width of 30 feet along the frontage of the site; alternatively authorizes the applicant agree to include the site in a road improvement district (RID) to improve Bridges Road and Jackson Road, if such RID is proposed in the future; requires the applicant to participate monetarily in the improvements constructed by the RID, if formed; and if the RID is not formed, requires the applicant to apply a dust palliative to Bridges Road, between Elk Chattaroy Road and Jackson Road, and along Jackson Road between Bridges Road and the north driveway entrance to the project, a maximum of three (3) times a year.

132. Bridges Road, between Elk Chattaroy Road and Jackson Road, covers a distance of approximately 3.5 miles.

133. The applicant submitted a lay trip analysis which estimated that approximately eight (8) cars would access the site from the west via Bridges Road; approximately eight (8) cars would access the site from the Newport area (Pend Oreille County) to the northeast, via Camden Road, Jefferson Road, Frideger Road or Oregon Road, and Jackson Road north of the site; and approximately 10 cars would access the site from points lying to the northeast in Pend Oreille County or Idaho, via Spring Valley Road (in Pend Oreille County), Jefferson Road, Frediger Road or Oregon Road, and Jackson Road north of the site.

134. The trip analysis estimated that approximately 15 cars would access the site from the Spirit Lake, Idaho area located to the southeast, via Blanchard Road, Chapman Road, Elk Road and Jackson Road south of the site; approximately 15 cars would access the site from the Spokane area to the southwest, via SR-2, Elk-Chattaroy Road, Nelson Road or Madison Road, and Bridges Road; and approximately 10 cars would access the site from the Elk area via various local roads.

135. The trip analysis estimated the project would generate 66 peak hour trips to and from the site on a race day, which compares to the 200-300 daily vehicle trips the applicant expects to travel to and from the site during a race day. The applicant indicated that more cars would access the site from the north, than from the east via Bridges Road, due to the washboard character of Bridges Road. See testimony of Cheryl Dodd and Ray Prigan (track announcer).

136. A review of the trip analysis indicates that the roads most accessed by the project would be Bridges Road, Jefferson Road, and Jackson Road both north and south of the site; in relatively even numbers. This would be followed by Frideger Road and Oregon Road, in lesser numbers; and with no road clearly receiving more than one-third (1/3) of the estimated vehicle trips.

137. A review of the trip analysis indicates that most of the vehicles attending racing events on the site would come from outside the area, either from Pend Oreille County or Idaho.

138. The County Engineers requirements for Bridges Road and Jackson Road, and the lack of mitigation required for the other gravel roads in the area impacted by the project, may reflect the current volume of traffic along and the current condition of such roads; in addition to the volume of traffic that would be generated by the project along such road.

139. Dust and road surface impacts would be generated by the project along local gravel roads besides Bridges Road to the west and Jackson Road adjacent to the site. However, competent evidence of a traffic engineering nature was not submitted by project opponents that would rebut the opinion of County Engineering that dust mitigation and road improvements are not required for such other roads regarding the project.

140. County Engineering certified that the project was exempt from the transportation concurrency requirements of the County Phase 2 Development Regulations, based on a conclusion that the project is likely to have an insignificant impact on the level of service at area

road intersections during the PM peak hour. See Section 1.20 of County Road Standards, and Section 13.650.104(2)(c) of Phase 2 Development Regulations.

141. The project, as conditioned, appears to make appropriate provision for road impacts.

Compliance with Critical Areas Ordinance, Drainage Requirements

142. Section 11.20.060.D of the County Critical Areas Ordinance requires the preparation of a habitat management plan for development proposed on land designated as priority wildlife habitat on County Critical Areas maps; if the County Building and Planning Department (“Department”) determines, in consultation with the Washington State Department of Fish and Wildlife (WDFW) or other authority determined by the Department, that the development is likely to have a significant adverse impact on the priority habitat.

143. On August 21, 2007, Karin Divens, a wildlife biologist for the WDFW, submitted email comments regarding the initial version of the project to the Department.

144. Karin Divens advised that the initial version of the project could displace some use of the white-tailed deer habitat in the area, but this would not likely affect the population level; advised that moose may frequent the area, and would likely be displaced; expressed concern that the proposed mud bog could impact water quality in various streams that originate within the area, and impact fish life in the drainages located downstream; advised that the potential impacts on surface water had not been addressed in the environmental checklist submitted for the project; and advised that the dirt race track and mud bog will create a major problem with noxious weeds, and the applicant must submit an aggressive weed management plan. See email from Karin Divens

145. On September 14, 2007, the Department mailed the WDFW a revised site plan and additional information submitted by the applicant regarding the project, along with a request for comments. On June 11, 2008, the Department mailed the WDFW a revised project description and revised environmental checklist, along with a request for comments. On August 13, 2008, the Department mailed a request for comments to the WDFW. The WDFW did not respond to any of the requests for comments.

146. On September 2, 2008, the Department sent an email to the WDFW, requesting confirmation that the WDFW was not requesting the preparation of a habitat management plan for the impacts of the project on the deer habitat designated on the site. See email from Bill Moser to Karin Divens. The WDFW did not respond to such email prior to the public hearing held on September 10, 2008.

147. Based on the initial comments submitted by WDFW on August 21, 2008, and the lack of response from WDFW on the revised project thereafter, the Department did not require the preparation of a habitat management plan for the project prior to the public hearing.

148. Karin Divens of the WDFW responded to the Department on September 11, 2008, by submitting an email during the public comment period allowed by the Examiner after the public hearing. Divens advised that she had failed to take notice that the project had changed

substantially since her initial review, the project now proposed wintertime and year-round use, and such change represented a significant change in terms of wildlife impacts.

149. Karin Divens advised in her email that she had discussed the project with WDFW's wildlife biologist for the local district; who expressed concern regarding the year-round basis of the project, particularly during the winter months. Divens stressed that the designated White-tailed Deer habitat was mapped in the area to protect the winter range of the deer, white-tailed deer use of the habitat was high in the winter months, and moose and elk also use the habitat during the winter.

150. Karin Divens observed in her email that the temporary displacement of wildlife by the project during limited times of the year may not have a measureable impact, but the increased human disturbance factor associated with the project on a year-round basis may permanently displace wildlife from utilizing the available habitat in a rather large area. Divens reiterated her concern regarding the potential impacts of the project to the streams on the site and down-gradient of the site.

151. Karin Divens of WDFW concluded in her email that she preferred the preparation of a habitat management plan for the project; but considering the lateness of her comments, would accept mitigation required by the Department, such as no wintertime use, review of the location of the proposed track based on the location of on-site wildlife habitat, maintaining a wildlife corridor and buffer to mitigate wildlife displacement issues, and determining and mitigating surface water impacts from the project.

152. Neighboring property owners opposed to the project submitted credible evidence that the area supports a diverse population of deer, moose, elk, and other wild animals and birds; which wildlife uses their respective properties, and likely the site. See, e.g. letter dated 8-16-07 from Maralyse Wight, letters submitted on 8-17-08 and 9-8-08 from Virginia Watt, and petition submitted by project opponents on 8-16-08. The Staff Report indicates that the racetrack area on the site is currently unplanted and contains weeds.

153. The applicant, Cheryl Dodd, responded to the email from Karin Divens; advising that the racetrack area includes only the 20 acres located nearest the road, the project would not displace any wildlife, snowmobiles would run on the same mud bog tracks as the vehicles, there are no streams located near the racetrack area on the site, the nearest stream is a seasonal one located on the paper mill property lying adjacent to the north/northeast, there are no noxious weeds, the field located on the site is plowed and regenerated, and any weeds that appear can be sprayed.

154. The revised environmental checklist submitted by the applicant indicated that deer, bear, elk, hawks, eagles and songbirds have been observed in the area, but reside at least 700 feet away from the site. However, Cheryl Dodd commented on September 23, 2008 that wildlife enjoys the applicant's alfalfa fields, fruit trees, garden and flower bed; and wild turkeys feed with her peacocks and chickens.

155. Cheryl Dodd indicated that farm equipment on her property does not chase away wildlife on her property, mufflers and baffles can be used to quiet down the vehicles participating in

racing events, the race track area is fenced, and motorcycles and 4-wheelers are not allowed on the site as part of the project. See comments written by applicant on opposition letters.

156. The comments submitted by the WDFW, although extremely late in coming, were not rebutted by competent evidence from the applicant or project supporters; indicate that the project is likely to have a significant adverse impact on the environment; and establish that either a habitat management plan should be prepared for the project, or the wintertime and other restrictions recommended for the project by WDFW should be imposed.

157. The applicant did not indicate a willingness to revise the project to mitigate the concerns of WDFW. See notations by applicant on emails submitted by WDFW.

158. The applicant submitted a geo-hazard evaluation report prepared by a qualified landslide or erosion specialist. The report confirmed the presence of erodible soils on the site; found that there is a potential for wind erosion on the site, considering the track and driveway leading to the racetrack are bare soil; and recommended that the track be wetted prior to, during and after race events to control the generation of dust on the property. See report from Budinger & Associates dated 7-3-07.

159. The geo-hazard evaluation found that the impacted area of the site did not contain geo-hazards in the form of slopes of 30% or greater, landslide deposits, un-compacted fill, hydraulic factors, alluvium or rapid stream erosion; the minor sloped areas of the racetrack are graded such that a majority of surface water would remain on site; the small drainage located northeast of the site does not contain water and may not have received surface water for several years; and there was no evidence of surface water or stream bank erosion on the site.

160. County Building and Planning conditions of approval require the applicant to obtain a grading permit; submit an erosion and sediment control plan to prevent sediments from entering surface water in the racetrack area and adjacent land; and require permanent swales to be placed in the vicinity of the track to contain stormwater and water applied to the track, to prevent the spread of sediments and pollutants that may exist on or near the track.

161. County Building and Planning conditions of approval also require the applicant to plant the perimeter outside the track, and the interior portion of the track, with grass; to control weeds, dust and erosion. This includes planting to the north property line, south to the existing driveway, and east 50-100 feet as needed; with an allowance for stormwater swales in such area.

162. County Building and Planning conditions of approval should have required the project to implement the mitigating measures set forth in the geo-hazard report submitted for the project. County Engineering conditions of approval contain drainage requirements that help ensure that the drainage generated by the project is adequately managed to protect the adjacent land uses, adjacent county roads and any streams in the area.

163. Since the site is designated in a CARA of low susceptibility to groundwater contamination, the CARA provisions of the County Critical Areas Ordinance do not require the treatment of stormwater generated by the project, and allow the use of traditional on-site sewage systems.

Since the project proposes the use of portable toilets, so there would be no discharge of sanitary waste to the ground.

164. The project, as conditioned, makes appropriate provision for geo-hazards, dust impacts generated on site, CARAs, drainage, and impacts on surface waters.

Consistency with Conditional Use Permit Criteria

165. Based primarily on the noise disturbance that would be created by the holding of racing events on the site, which cannot be sufficiently mitigated, the proposed use is not compatible with other permitted uses in the area, and will be materially detrimental to the public welfare.

166. The proposed use does not primarily support natural resources or the rural residents in the area, as contemplated for recreation-type commercial uses by the Comprehensive Plan in the Rural Traditional category, and by the County Zoning Code in the RT zone; will adversely impact nearby rural uses; and generally will not maintain rural character as defined in Section 3 of the Comprehensive Plan.

167. The applicant implied that a temporary use permit could be issued for the proposed use, to allow for an increased frequency of race days during a given year over that approved through issuance of a conditional use permit. See letter dated 9-23-08 from Cheryl Dodd.

168. The proposed use involves the erection of a substantial structure, and accordingly cannot be approved for a temporary use permit. Further, a temporary use is nonrenewable; and cannot be issued for a temporary period each year, from year to year. See Section 14.506.200 of Zoning Code.

Based on the above Findings of Fact, the Hearing Examiner enters the following:

III. CONCLUSIONS OF LAW

1. The notice of hearing provided for the application complies with the requirements set forth in Chapter 13.700.104 of the Spokane County Code for a Type II project permit application, which includes a conditional use permit application.

2. The notice requirements set forth for a Type II project permit in Section 13.700.106(2) of the County Code exceed the notice requirements for a conditional use permit application set forth in RCW 36.70.840, which only requires that notice of hearing be provided to the owners of property located within 300 feet of the site.

3. The proposed racetrack, including the dirt oval track, and the mud bog and rock crawl tracks, does not constitute a “recreational area, commercial” use, or a “participant sports and recreation (outdoor only)” use, as defined by Section 14.300.100 of the County Zoning Code; upon construing the County Zoning Code as a whole, and giving due deference to the assumption by the County Building and Planning Department that the proposed use constitutes a “recreational area, commercial”.

4. The proposed racetrack unambiguously constitutes a “spectator sports facility”, as defined by Section 14.300.100 of the County Zoning Code.
5. A “spectator sports facility” use, as well as a “participant sports and recreation (outdoor only)” use are not permitted uses in the RT zone in which the site is located.
6. The proposed use does not generally conform to the Comprehensive Plan.
7. The proposed conditional use permit, even if it met the definition of a “recreational area, commercial” use, should be denied under Chapter 14.404 of the County Zoning Code; because it does not meet the meet the specific standards for such conditional use in the RT zone, is not compatible with other permitted uses in the area, and will be materially detrimental to the public welfare.
8. The proposal, as conditioned, complies with the geo-hazard and CARA provisions of the County Critical Areas Ordinance; but would not comply with the priority wildlife habitat provisions of such ordinance, without preparation of a habitat management plan and/or the imposing of significant restrictions on the proposed use.
9. The application for a conditional use should be denied.
10. Denial of the subject application is required under Section 1.46.110 of the Spokane County Code (Hearing Examiner Ordinance).

IV. DECISION

Based on the above Findings of Fact and Conclusions of Law, the application for a conditional use permit for a commercial recreational area, in the Rural Traditional (RT) zone, for a racetrack, is hereby *denied*.

DATED this 10th day of November, 2008

SPOKANE COUNTY HEARING EXAMINER

Michael C. Dempsey, WSBA #8235

NOTICE OF FINAL DECISION AND NOTICE OF RIGHT TO APPEAL

Pursuant to 1.46.130 (Hearing Examiner Ordinance) of the Spokane County Code, the decision of the Hearing Examiner on an application for a conditional use permit is final and conclusive unless within twenty-one (21) calendar days from the issuance of the Examiner’s decision, a party with standing files a land use petition in superior court pursuant to chapter

36.70C RCW. Pursuant to chapter 36.70C RCW, the date of issuance of the Hearing Examiner's decision is three (3) days after it is mailed, counting to the next business day when the last day for mailing falls on a weekend or holiday.

This Decision was mailed by Certified Mail to the Applicant, and by first class mail to other parties of record, on November 10, 2006. The date of issuance of the Hearing Examiner's decision is therefore November 13, 2006. **THE LAST DAY FOR APPEAL OF THIS DECISION TO SUPERIOR COURT BY LAND USE PETITION IS DECEMBER 4, 2008.**

The complete record in this matter, including this decision, is on file during the appeal period with the Office of the Hearing Examiner, Third Floor, Public Works Building, 1026 West Broadway Avenue, Spokane, Washington, 99260-0245, (509) 477-7490. The file may be inspected Monday-Friday of each week, except holidays, between the hours of 8:30 a.m. and 5:00 p.m. Copies of the documents in the record will be made available at the cost set by Spokane County.

Pursuant to RCW 36.70B.130, affected property owners may request a change in valuation for property tax purposes notwithstanding any program of revaluation.

Shatto, Julie

From: Shatto, Julie
Sent: Thursday, July 23, 2020 1:58 PM
To: Moore, Misty; Smith, Corey T.; Michael Risley; April Westby; Basler, Jerry E.; Nyberg, Gary; commprojects@srhd.org; sheri.miller@doh.wa.gov; 92ces.cencommunityprojcoord@us.af.mil; matthew.mccain.4@us.af.mil; mbreen@spokaneairports.net
Cc: Lauren Egbert; Russ Wolfe
Subject: RE: PAC ON 7/28/2020 @ 11:00 A.M. - GUN RANGE/21002 W THORPE ROAD *SUPPLEMENTAL DOCUMENTS*
Attachments: Spokane Gun Club - Pre Application Consultant Questions.pdf; Spokane Gun Club 1142 Fire Water Storage_Rev 2.pdf; Final Decision CUW-06-19 07.01.2020 (002).pdf

To all,

Supplemental information for the above noted subject- applicant's pre-application conference questions, Final Findings of the CUP, as well as an updated NFPA 1142 report.

Thank you for your patience.
Julie

From: Shatto, Julie
Sent: Wednesday, July 22, 2020 10:04 AM
To: Moore, Misty <MMOORE@spokanecounty.org>; Smith, Corey T. <CTSMITH@spokanecounty.org>; Michael Risley <MRisley@scfd10.org>; April Westby <awestby@spokanecleanair.org>; Basler, Jerry E. <JEBASLER@spokanecounty.org>; Nyberg, Gary <GNYBERG@spokanecounty.org>; 'commprojects@srhd.org' <commprojects@srhd.org>; sheri.miller@doh.wa.gov; 92ces.cencommunityprojcoord@us.af.mil; matthew.mccain.4@us.af.mil; mbreen@spokaneairports.net
Cc: Lauren Egbert <legbert@wagarch.com>; Russ Wolfe <rwolfe@wagarch.com>
Subject: PAC ON 7/28/2020 @ 11:00 A.M. - GUN RANGE/21002 W THORPE ROAD

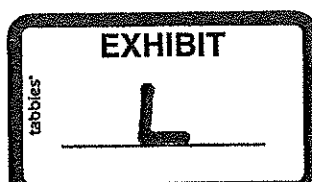
Hello all,

Attached please find Pre-Application Conference (PAC) review documents for the above noted subject. Due to the temporary cancellation of our in-person PAC's, please send your comments to the applicant and myself via email by 11:00 a.m. on Tuesday, July 28th, 2020.

Any questions or concerns, please let me know.

Thank you
Julie

PLEASE NOTE THAT A LIST OF SPECIFIC PROJECT DESIGN QUESTIONS FROM THE APPLICANT WILL BE CIRCULATED TO YOU ALL THIS AFTERNOON. THANK YOU FOR YOUR PATIENCE.





Wolfe Architectural Group

Pre Application Conference Questions

date: 07.28.2020
project: 19.148 - Spokane Gun Club (SGC)
Pre Application Conference
location:

1. Design Team/Owner Questions

a. Site/Civil

- i. We are requesting conceptual approval/permitting for our well and septic system locations prior to submitting for building permit? The intent is to establish power and a water well, as well as test the septic locations prior to the commencement of final earthwork construction. We would anticipate this to occur in the next 60-90 days.
Confirm
- ii. Asphalt paving may not fit the budget and will be considered an alternate. Our base bid will be a 9" structural section with improved gravel top finish for dust control.
Confirm

b. Landscaping

- i. Confirm landscape requirements and extents at Thorpe Road with respect to the Club House and main entry access. Providing traditional strip landscaping seems out of context for this rural development and we propose a more natural option.
- ii. Confirm landscaping requirements at the west property line. This area is heavily forested with established mature evergreens that provide a natural buffer. It seems counter intuitive to force a solution along this line that may impact this natural buffer.
- iii. Confirm fencing requirement and extent at west property line knowing that this area has an existing mature evergreen forest. Again, this is a natural barrier and forcing a solution seems counterproductive.
- iv. Confirm security fencing requirements "if any" at the south property line along Thorpe Road.
- v. Confirm if there are any landscape berm requirements along Thorpe? Will 8'-10' tall berms be accepted as a potential alternative to any security fencing along Thorpe Road?
- vi. Confirm all setbacks with respect to this development?

c. Fire Protection

- i. Per CUP Section IV. Decision, Point 14: *'Minimum of 1 fire hydrant required to provide 1,000 GPM; there may be exceptions granted thought the NFPA 1142 process.'* Confirm that per Womer & Associates' previously completed a NFPA 1142 fire flow analysis and communications with the governing fire district, no on-site hydrant or water storage requirement will be needed.
- ii. Per CUP Section IV. Decision, Point 15: *'Due to the size and use of the proposed structures, an automatic fire suppression system will be required.'* Again, per NFPA and the International Building Code. Confirm that the design of the clubhouse may eliminate the need for sprinklers, and is utilizing fire barriers/walls to reduce fire areas.

d. Other

architecture • interior design • planning
1015 n. calispel, suite 'b' spokane, washington 99201
phone: 509.455.6999 fax: 509.455.3933 e-mail: wagarch@wagarch.com



Wolfe Architectural Group

- i. How are any variations from the CUP handled? Are all items required to be approved through the Hearing Examiner, or is the County Planning and Building able to approve of any variations relating to codes and County Standards?



W O M E R & A S S O C I A T E S

architecture • engineering • structural • fire protection • planning
A CERTIFIED MINORITY DESIGN FIRM

Old City Hall Building · 221 North Wall Street Suite 600 · Spokane WA 99201
T: (509) 534-4884 F: (509) 534-4943 Toll-Free: (888) 966-3778
Web Site: www.womer.com

July 22, 2020

Attn: Mr. Steve Hindley
Spokane Gun Club
Conditional Use Permit - File #CUW 06-19
Spokane County WA

RE: **Spokane Gun Club – Club Building**
NFPA 1142 Fire Water Storage/Supply Calculations

This calculation of on-site fire water storage determination is provided to support a rural site new facility for private use. The facility will be owned and managed by the Spokane Gun Club exclusively for its members and member activities. There will be no commercial renting or public use of the building(s) interior spaces. A separate storage/maintenance building will be located at least 60 FT away from the Club Building.

The site is served by Spokane County Fire District 10.

Primary Fire Code Considerations:

- Spokane County Fire Code Official Consideration – Fire Flow Development under NFPA 1142.
- NFPA 1142 2017 Edition (by reference).
- Site meets the definition of "Rural" (no adeq. public water supply within 1,000 FT of property).
- Buildings are 60 FT or more apart with no connection (i.e. covered pedestrian walkway).
- Buildings are not "Exposure Hazards" to each other.
- Space between buildings must be vegetation managed/negligible fire risk vegetation.

Club Building:

The "Club" building as proposed for current construction is 4,560 SF with a partial vaulted roof over the community center (1,700 SF). There is future potential of expansion to 7,500 SF therefore calculations provided are based on 7,500 SF. Structure to be a wood framed building with partial ceilings and exposed structure roof at various elevations. The central Community Room will have a "vaulted" clerestory angled roof with a high point of approximately 24 FT. Roof will be wood deck on wood trusses or beams. Small portions of the building will have combustible concealed spaces. The Type of Construction (TOC) fits IBC Type VB. There will be minor exterior eave extensions of no more than 300 SF. The floor construction will be concrete slab on grade.

The club house occupancy will be mixed use featuring a Central Community Room, Gallery, Pro-Shop, Meeting rooms. Kitchen, offices and minor storage support spaces. The occupancy is "light hazard".

NFPA 1142 Calculation (as referenced by IFC 104.8; B103.3/NFPA 1142 Flow Chart):
NFPA 1142, Section 4.2 - For a structure without an exposure hazard.

Enclosed Building Interior: 7,500 SF x 14 FT avg vertical floor to roof equals = 105,000 CFT
Occupancy Hazard Classification 7 ("light" hazard). Type VB – Const. Classification - 1.5 multiplier

:
Water Supply = $\frac{\text{Volume} \times \text{Const. Type}}{\text{Occupancy Hazard Class}}$ = $\frac{105,000 \times 1.50}{7}$ = 22,500 Gallons Storage

Spokane Gun Club
Conditional Use Permit - File #CUW 06-19
Spokane County WA
July 22, 2020
Pg 2 of 3

Spokane County "Fire Code Official Consideration - Fire Flow Developed Under NFPA 1142 Guidance" document is intended to highlight specific prescriptive construction of fire department service features which are "creditable" to reduce on site water storage requirements. These features have the value of limiting risk to neighbor properties (setbacks reduce fire department exposure hazard fire efforts), code excess Fire Walls, credit for fire sprinklers or for Fire Department capacity to carry water to the site (tender credit). Named prescriptive credit features can be aggregate. This document provides commonly named creditable features but is not a comprehensive list of features by which Alternative Means and Methods (AMM) could be implemented for additional water storage "credit".

For this facility:

1. Owner has received a service letter from Fire District # 10 (7,500 GAL credit).
2. Building will be situated at least 60 FT from all property lines (7,500 GAL credit).
3. Monitored Fire Alarm Credit* (7,500 GAL credit).

* The building will not be occupied significant portions of the time therefore a monitored manual pull station alarm initiation/occupant notification manual fire alarm system will not be of significant fire protection value for all the time periods there is no one present to pull a manual fire alarm pull station. This feature provides negligible significant fire safety to occupants or the property in this case. The building is small enough to not have significant occupant life safety risk. We propose an "area coverage" smoke detection system for occupied spaces and combustible voids with 24/7/365 monitoring in lieu of a "fire alarm" credit. This substitute feature provides 24/7/365 protection (will be electronically monitored by a county approved alarm reporting/receiving station).

Four other points of "occupancy" need to be addressed from a fire risk evaluation perspective:

1. The ammunition vault will be a 1 HR passive protected enclosure (walls, ceiling).
2. The food dry storage room will be a 1 HR passive protected enclosure (walls, ceiling).
3. The prep kitchen room will be a 1 HR passive protected enclosure (walls, ceiling).
4. If hot cooking with oils or grease becomes a feature, the cooking surface(s) shall be protected with a UL 300 Class I cooking hood/wet chemical suppression system.

The above "feature protection" credits add to 22,500 GALS of storage credit. The credit aggregate exceeds the gallon storage requirement (22,500 GALS) therefore no on-site fire protection water storage is required due to the Club Building when provided with the above named features.

All other features of building design shall be per IBC 2015 and WAC requirements.

Shop/Maintenance/Storage Building:

The "Shop/Maintenance/Storage" building is proposed to be a 1,700 SF wood framed 1 story building for storage of supplies and grounds care equipment. A future expansion of 800 SF is possible for a total building of 2,500 SF. The maximum size/volume/occupancy which calculates to 15,000 GALS of onsite water storage can be constructed due to the 15,000 GALS of storage credit available. Ammunition will not be stored in this facility.

Spokane Gun Club
Conditional Use Permit - File #CUW 06-19
Spokane County WA
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Pg 3 of 3

NFPA 1142 Calculation (as referenced by IFC 104.8; B103.3/NFPA 1142 Flow Chart:

Enclosed Building Interior: 2,600 SF x 12 FT avg vertical floor to roof equals = 31,200 CFT
Occupancy Hazard Classification 5 - "Moderate" hazard.

Type VB = Construction Classification 1.5 Multiplier
NFPA 1142, Section 4.2 - For a structure without an exposure hazard:

$$\text{Water Supply} = \frac{\text{Volume} \times \text{Const. Class}}{\text{Occupancy Hazard Class}} = \frac{31,200 \times 1.50}{5} = 9,360 \text{ Gallons Storage}$$

For this facility:

1. Owner has received a service letter from Fire District # 10 (7,500 GAL credit).
2. Building will be situated at least 60 FT from all property lines (7,500 GAL credit).

The above "feature protection" credits add to 15,000 GALS of storage credit. The credit aggregate exceeds the gallon storage requirement (9,360 GALS) therefore no on-site fire protection water storage is required due to the Storage/Maintenance Building when provided with the above named features.

All other features of building design shall be per IBC 2015 and WAC requirements.

Conclusions:

1. On-Site Water Supply Storage required per SC Fire Code Options per NFPA 1142 is ZERO GALS when buildings are equipped and sited per the above criteria.
2. Water supplies are subject to Spokane County Consideration of applicability of credits.
3. Buildings shall have over 50' defensible space and approved fire apparatus access.

Please feel free to give me a call if you have any questions. We thank you for the opportunity to be involved with this project.

In the Interest of Fire Safety Excellence,

Womer & Associates



Scott R. Creighton FPE
Life Safety, Building & Fire Codes Consultant
Womer & Associates, Spokane WA 99201
Scottc@wwomer.com Ph 509 534 4884
Rev 2 July 22, 2020

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SPOKANE COUNTY HEARING EXAMINER

CONDITIONAL USE PERMIT FOR A
GUN RANGE IN THE RURAL
TRADITIONAL (RT) ZONE.

APPLICANT: SPOKANE GUN CLUB

FILE NO. CUW-06-19

FINAL FINDINGS OF FACT,
CONCLUSIONS OF LAW,
AND DECISION

I. SUMMARY OF DECISION

Hearing Matter: Conditional Use Permit for a Gun Range in the Rural Traditional (RT) zone pursuant to Section 14.618.240(10) of the Spokane County Zoning Code.

Summary of Decision:

This Final Findings of Fact, Conclusions of Law, and Decision replaces and supersedes the Findings of Fact, Conclusions of Law and Interim Decision in this matter dated April 14, 2020. This Final Decision is to approve the application for a Conditional Use Permit for a gun range in the Rural Traditional Zone, submitted by the Spokane Gun Club, as identified above, subject to *revised* conditions stated hereinafter.

II. FINDINGS OF FACT

A. Procedural Matters:

On August 22, 2019, Spokane Gun Club (SGC) (a Washington Non-Profit Corporation¹), represented by Witherspoon Kelley, Attorneys at Law, submitted an application to the Spokane County Building and Planning Department ("Department") for a Conditional Use Permit to allow a gun range in the Rural Traditional (RT) zone pursuant to Section 14.618.240(10) of the Spokane County Zoning Code on property located north of and adjacent to Thorpe Road, south of and adjacent to McFarlane Road and west of Brooks Road, in Section 36, Township 25 North, Range 40 EWM, Spokane County, Washington. The subject site is also identified as Spokane County Assessor's Tax Parcel No. 05365.9002.

¹ Washington Secretary of State; <https://ccfs.sos.wa.gov/#>.

1 The following notices were properly mailed, and posted pursuant to Spokane
2 County Code (SCZC) Section 13.500, Notice of Application, and SCZC Section 13.700,
3 as noted below:

4 Notice of Application – mailed on September 11, 2019. Certification of Mailing
5 by Martha Thornton, dated September 11, 2019.

6 Notice of Application – posted on September 13, 2019, at the property line
7 facing McFarlane Rd. in the vicinity of the NE corner of the property, at the
8 property line facing McFarlane Road in the vicinity of the center of the subject
9 property, at the property line facing Thorpe Road in the vicinity of the center
10 of the property, and at the property line facing Thorpe Road, in the vicinity of
11 the SE property line. Affidavit of Posting by John P. Cushman, dated
12 September 16th, 2019.

13 Notice of Public Hearing – mailed on January 10, 2020, to West Plains
14 Neighborhood Association, Declaration of Mailing by Martha Thornton, dated
15 January 10, 2020; mailed on September 16, 2019, to Lance Hills – Heyer Point
16 Coalition of Southwest Spokane County, Declaration of Mailing by Martha
17 Thornton, dated September 16, 2019; mailed on January 17, 2020, via United
18 States Post Office to the recorded real property owners and/or taxpayers
19 owning property within a four hundred foot (400') perimeter of the subject
20 property, Affidavit of Mailing by Karina Hammond, dated January 27, 2020.

21 Notice of Public Hearing – Posted on January 16, 2020, at the property line
22 facing Thorpe Road, across from the Medical Lake Cemetery at 21115 W.
23 Thorpe Rd., Medical Lake, Washington, and at the property line facing
24 McFarlane Road, across from 20814 W. McFarlane Rd. Medical Lake,
25 Washington. Affidavit of Posting by Leon Davis, dated January 23, 2020.

26 Notice of Hearing – published in the Spokesman Review on January 21, 2020.
27 Affidavit of Publication by E. Jean Robinson, dated January 22, 2020

28 A SEPA threshold Determination of Nonsignificance (DNS) was issued by the
Department on January 21, 2020, with a comment and appeal period ending on
February 4, 2020. The DNS was not appealed.

 The Hearing Examiner heard the matter as scheduled at 9:00 a.m. on
February 5, 2020, in the Commissioner's Hearing Room, 1026 East Broadway,
Spokane, Washington. pursuant to the Spokane County Hearing Examiner
Ordinance, codified in SCC Chapter 1.46; the County Hearing Examiner Rules of
Procedure, adopted by County Resolution No. 1996-0294; Spokane County Zoning
Code, and Spokane County Code Title 13.

1 The following persons testified at the hearing, under an oath administered by
2 the Hearing Examiner:

3
4 Tammy Jones
5 Building and Planning Department
6 1026 W. Broadway Avenue
7 Spokane WA 99260

William C. Lenz
422 W. Riverside Avenue, Suite 1100
Spokane, WA 99201-0300
wcl@witherspoonkellev.com

8 Howard & Maren Imhof
9 2724 South Ritchey Road,
10 Medical Lake, WA 99022
11 howimhof@gmail.com

John Cushman
2913 N. Coleman Rd
Spokane Valley, WA 99212

12 Kirsten Delaney
13 20618 W. Penny Ln.
14 Medical Lake, WA 990022
15 kirstenrdh@gmail.com

Dave McCann
13317 S. Covey Run
Spokane, WA 99224

16 Christopher Barnobi
17 Senior Acoustics Consultant
18 Coffman Engineers
19 1939 Harrison St #320
20 Oakland, CA 94612

Toby Willis
21908 W. McFarlane Rd.
Medical Lake, WA 99022
Toby@tobysbattery.com

21 LaDonna Schuster
22 LaDonnaspokane@yahoo.com

Pam McCollan
Pammccollan188@gmail.com

23 Kassidy Cockrell
24 ckc5312014@gmail.com

Curtis Golden
caglus@gmail.com

25 Doug Koenig
26 douglasakoenig@yahoo.com

Sarah McAllum
3814 S. Ritchey Rd.
Medical Lake, WA 99022

27 Stanley M. Schwartz
28 422 W. Riverside Avenue, Suite 1100
Spokane, WA 99201-0300
sms@witherspoonkellev.com

James Kotur
2204 S. Jays Rd.
Medical Lake, WA 99022
jkotur@gmail.com

Robert Larson
relarz@me.com

Lance S. Gromme
klgromme@yahoo.com

Steve Hindley
N. 3212 Indian Bluff Road

Louis Huang
neghua@gmail.com

1	Spokane, WA 99224	Dave Tueller
2	<u>gshindley@gmail.com</u>	6504 N. Wood Road
3	Janice and Walt Radmer	Reardon, WA 99029
4	P.O. Box 129	Robert Bacon
5	Medical Lake, WA 99022	20718 W. McFarlane Rd.
6	<u>janiceradmer@gmail.com</u>	Medical Lake, WA 99022
7	Elizabeth Mitchell	<u>Bubbancarrie06@gmail.com</u>
8	20603 W Sunwest Ave.	Sean Larson
9	Medical Lake, WA 99022	<u>la5246@aol.com</u>
10	<u>Bemitch65@gmail.com</u>	Steve Stevens
11	Carol Whitehead	4204 S. Ritchey Rd.
12	<u>carolpinkgreen@yahoo.com</u>	Medical Lake, WA 99022
13	James and Jan Licklitter	Bill White
14	4310 S. Ritchey Road	<u>bwhite@to-engineers.com</u>
15	Medical Lake, WA 99022	Elizabeth A. Tellessen
16	<u>janida@wildblue.net</u>	<u>eat@winstoncashatt.com</u>
17	Alan Stevens	Alethea McCann
18	<u>Alanstevens11@gmail.com</u>	<u>aletheamccann@gmail.com</u>
19	John Whitehead	Sam Cushman
20	<u>johnnbobbie@gmail.com</u>	<u>shcush1@gmail.com</u>
21	Ryan Poole	Mark Thompson
22	N. 111 Post Street Suite 300	21502 W. McFarlane Rd.
23	Spokane, WA 99201	Medical Lake, WA 99022
24	<u>rpoole@dunnandblack.com</u>	<u>barbit881@gmail.com</u>
25	James Siljevnuee	Anthony Whitehead
26	<u>ilaje8035@yahoo.com</u>	22022 W. Thorpe Rd.
27	Jeremy J. Lund	Medical Lake, WA 99022
28	<u>jeremyjlund@msn.com</u>	<u>kadepot@yahoo.com</u>
	James Lajeunesse	Cliff Miller
	2717 S. Jays Road	<u>Millerce53@hotmail.com</u>
	Medical Lake, WA 99022	
	Sheri Johnson	
	<u>sherijohnson@hotmail.com</u>	

1 Eric Olson
2 1407 W. Queen Ave.
3 Spokane, WA 99205

4 The following exhibits were submitted at the hearing:

5 Exhibit 1 – Spokane Gun Club West Plains Relocation Power Point
6 Presentation (31 pp.)

7 Exhibit 2 – Spokane Gun Club Briefing Notebook dated Feb. 5, 2020 (138
8 pp.).

9 Exhibit 3 – Opposing Memorandum dated Feb. 4, 2020 (15 pp.)

10 Exhibit 4 – Audio Recordings of Spangle Gun Club 2 files dated 02/02/2020

11 Exhibit 5 – EPA Best Management Practices for Lead at Shooting Ranges
12 (101 pp.)

13 The Hearing Examiner takes notice of the Spokane County Comprehensive
14 Plan (“Comprehensive Plan”), Spokane County Zoning Code (SCZC), Spokane County
15 Code (SOC), and other applicable development regulations; recent land use decisions
16 for the site and area, including those listed in the Staff Report submitted by the
17 Department.

18 The record includes the documents in the Building and Planning File No.
19 CUW-06-19 at the time of the hearing, the electronic recording of the hearing by
20 Hearing Examiner staff, Exhibits 1- 5 referenced above, the sign-in sheet for the
21 hearing, the items taken notice of by the Hearing Examiner, and the closing briefing
22 of the parties as allowed by the Hearing Examiner. The record also contains the
23 written closing argument briefing by the attorneys for the parties, and the
24 supplemental briefing and accompanying materials, as identified hereinafter and
25 submitted in response to the Interim Decision of the Hearing Examiner dated April
26 14, 2020.

27 Following the testimony taken at the hearing, Counsel for SGC requested that
28 closing argument be made in writing at a time designated by the Hearing Examiner.
Counsel for the parties in opposition to the application agreed to a written closing
argument format. The Hearing Examiner left the record open, solely for the purpose
of counsel for the parties submitting their respective closing argument briefs on the
schedule designated by the Hearing Examiner. The record remained open solely for
“closing argument” briefing, no further testimony or evidence not presented at the

1 hearing would be accepted. The Hearing Examiner agreed to accept motions for
2 reopening testimony no later than March 13, 2020. No motions to reopen the hearing
3 for further testimony were received by the Hearing Examiner. The record closed
4 without further action on March 6, 2020 at 5:00 pm.

5 Having heard testimony offered by the Department staff, SGC, attorneys
6 representing SGC and members of the public opposed to the application, and
7 members of the public in attendance at the hearing and interested in testifying on
8 the application the hearing adjourned at approximately 4:00 p.m. on Wednesday,
9 February 05, 2020.

10 The Hearing Examiner visited and viewed the site and the surrounding area
11 on March 10, 2020.

12 The allowed closing argument briefing was timely received by the Hearing
13 Examiner from each of the respective counsel. That briefing included however
14 attachments containing materials that were not part of the record or testimony
15 offered and admitted during the hearing on February 5, 2020. Any materials not
16 admitted during the hearing are held by the Hearing Examiner for purposes of
17 preserving those materials, but those materials are not made part of the record and
18 are not considered by the Hearing Examiner in rendering this decision. At least two
19 other correspondences were received in the form of public comment after the closing
20 of the hearing on February 5, 2020, those correspondences are also held by the
21 Hearing Examiner, but are not made part of the record for this decision.

22 On April 14, 2020, the Hearing Examiner issued an Interim Decision by which
23 the hearing on the application for conditional use permit was reopened for the
24 limited purpose of allowing additional information requested by the Hearing
25 Examiner as specifically identified in the Interim Decision. Pursuant to the Interim
26 Decision and reopening of the hearing, the following briefing and supporting
27 affidavits were timely submitted, were considered by the Hearing Examiner, and
28 were made part of the record in this matter.

1. Supplemental Memorandum in Support of CUP Application – signed by
William C. Lenz, dated May 8th, 2020 (15 pp.)
2. Affidavit of William C. Lenz in Support of CUP Application – signed by
William C. Lenz, dated May 8th, 2020 (20 pp.)

Exhibit A – Diagram of Property Subject to Conditional Use Permit
(1 page)

Exhibit B – Updated Drafts of Spokane Gun Club Vicinity Site Plans
(3 pp.)

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Exhibit C – Email Communications between William C. Lenz and Mr. Poole dated April 20th, April 23rd and May 1st, 2020 (6 pp.)

Exhibit D – Christopher Barnobi of Coffman Engineers, Inc., letter to John Cushman and Steve Hindley, Subject: Spokane Gun Club Noise Report, Site Revision (04/22/20) Acoustical Review – dated May 7th, 2020 (1 page)

3. Response Memorandum in Opposition – signed by Ryan D. Poole, dated May 29th, 2020 (20 pp.)

4. Declaration of Ryan D. Poole in Opposition to Conditional Use Permit Application – signed by Ryan D. Poole, dated May 29th, 2020 (194 pp.)

Exhibit 1 – Declaration of James Lajeunesse in Opposition to Conditional Use Permit Application, dated May 28th, 2020 (11 pp.)

Exhibit A – Photograph of packaging for shotgun ammunition used during gunfire simulation on May 22, 2020 (1 page.)

Exhibit B – Photograph of trees and berm of land blocking the Cemetery from second shooting location (1 page.)

Exhibit C – Satellite Imagery of the Spokane County SCOUT map and Google Earth image demonstrating first and second locations of simulated gunfire (3 pp.)

Exhibit 2 – Declaration of Tracie Lajeunesse in Opposition to Conditional Use Permit Application, dated May 28th, 2020 (4 pp.)

Exhibit A – Photo of disc from Tracie Lajeunesse containing video recordings taken on May 22, 2020 (1 page.)

Exhibit 3 – Declaration of Marie A. Duval-Igarta in Opposition to Conditional Use Permit Application, dated May 28th, 2020 (6 pp.)

Exhibit 4 – Declaration of Jim Johnson in Opposition to Conditional Use Permit Application dated May 28th, 2020 (5 pp.)

Exhibit 5 – Declaration of Jean Leonard in Opposition to Conditional Use Permit Application, dated May 28th, 2020 (2 pp.)

Exhibit 6 – Declaration of Joan Williams in Opposition to Conditional Use Permit Application, dated May 28, 2020 (3 pp.)

Exhibit 7 – Declaration of Dave Tueller in Opposition to Conditional Use Permit Application, dated May 27, 2020 (18 pp.)

Exhibit A – Declaration of Julie Tueller in Opposition to Conditional Use Permit Application signed by Julie Tueller, dated March 6, 2020 (11 pp.)

- 1 Exhibit A – Photograph of Journey’s grave at cemetery
- 2 (1 page)
- 3 Exhibit B – Photograph of Journey’s grave at cemetery
- 4 (1 page)
- 5 Exhibit B – DVD recorded at Medical Lake Cemetery on May
- 6 22, 2020
- 7 Exhibit 8 – Declaration of Julie Tueller in Opposition to Conditional
- 8 Use Permit Application, dated March 6, 2020 (11 pp.)
- 9 Exhibit A – Photograph of Journey’s grave at cemetery
- 10 (1 page)
- 11 Exhibit B – Photograph of Journey’s grave at cemetery
- 12 (1 page)
- 13 Exhibit 9 – Declaration of Connie Cada in Opposition to Conditional
- 14 Use Permit Application, dated May 28, 2020 (28 pp.)
- 15 Exhibit A – Photograph taken at cemetery dated May 22, 2020
- 16 (1 page)
- 17 Exhibit B – Photograph taken at cemetery dated May 22, 2020
- 18 (1 page)
- 19 Exhibit C – Photograph taken at cemetery dated May 22, 2020
- 20 (1 page)
- 21 Exhibit D – Photograph taken at cemetery dated May 22, 2020
- 22 (1 page)
- 23 Exhibit E – Photograph taken at cemetery dated May 22, 2020
- 24 (1 page)
- 25 Exhibit F – Photograph taken at cemetery dated May 22, 2020
- 26 (1 page)
- 27 Exhibit G – Photograph taken at cemetery dated May 22, 2020
- 28 (1 page)
- Exhibit H – Photograph taken at cemetery dated May 22, 2020
- (1 page)
- Exhibit I – Photograph taken at cemetery dated May 22, 2020
- (1 page)
- Exhibit J – Photograph of Civil War Veteran Gravesite
- Memorial taken at cemetery (1 page)
- Exhibit K – DVD recorded at Medical Lak Cemetery

- 1 Exhibit 10 – Declaration of Carol Whitehead in Opposition to
2 Conditional Use Permit Application, dated May 27, 2020 (4 pp.)
- 3 Exhibit 11 – Declaration of Anna Olson in Opposition to Conditional
4 Use Permit Application, dated May 27, 2020 (8 pp.)
- 5 Exhibit A – Photograph taken at cemetery of headstone
6 (1 page)
- 7 Exhibit 12 – Declaration of William A. Yates in Opposition to
8 Conditional Use Permit Application, dated May 26, 2020 (44 pp.)
- 9 Exhibit A – Letter from Megan Duvall, Historic Preservation
10 Officer dated February 10, 2020 (24 pp.)
- 11 Exhibit B – Letter from the Spokane Preservation Advocates,
12 dated March 2, 2020 (1 page)
- 13 Exhibit C – Declaration of Julie Tueller, dated March 6, 2020
14 (11 pp.)
- 15 Exhibit A – Photograph of Journey’s grave at cemetery
16 (1 page)
- 17 Exhibit B – Photograph of Journey’s grave at cemetery
18 (1 page)
- 19 Exhibit 13 – Declaration of Angel L. Rios in Opposition to
20 Conditional Use Permit Application, dated May 28, 2020 (7 pp.)
- 21 Exhibit A – Article from the Spokesman-Review, dated March
22 14, 2018 (2 pp.)
- 23 Exhibit 14 – Declaration of Renee Johnson in Opposition to
24 Conditional Use Permit Application, dated May 28, 2020 (4pp.)
- 25 Exhibit 15 – Declaration of Donna Whitehead in Opposition to
26 Conditional Use Permit Application, dated May 28, 2020 (4pp.)
- 27 Exhibit 16 – Declaration of Anna Johnson in Opposition to
28 Conditional Use Permit Application, dated May 28, 2020 (3 pp.)
- Exhibit 17 – Declaration of Terri Cooper in Opposition to Conditional
Use Permit Application, dated May 29, 2020 (3 pp.)
- Exhibit 18 – Declaration of Jeremy Lund in Opposition to
Conditional Use Permit Application, dated May 29, 2020(6 pp.)
5. Reply Memorandum in Support of CUP Application – Signed by
William C. Lenz, dated June 10th, 2020 (8 pp.)
6. Second Affidavit of William C. Lenz in Support of CUP Application –

- 1 Signed by William C. Lenz, dated June 10th 2020 (46 pp.)
- 2 Exhibit A – Photographs of Gun Ranges located near cemeteries
- 3 (5 pp.)
- 4 Exhibit B – Declaration of Jane Milhans In Support of CUP
- 5 Application, dated June 9th 2020. (3 pp.)
- 6 Exhibit C – Declaration of Erin Bauer in Support of CUP
- 7 Application, dated June 9, 2020 (2 pp.)
- 8 Exhibit D – Declaration of John Cushman In Support of CUP
- 9 Application, dated March 6, 2020 (16 pp.)
- 10 Exhibit A –Burial Records for Medical Lake Cemetery,
- 11 accessed on June 9, 2020 (13 pp.)
- 12 Exhibit E – Images depicting relative distance between shooting test
- 13 location and location of proposed gun range (1 page)
- 14 Exhibit F – Section of Air Force Base Joint Land Use Study (8 pp.)

13 **B. Description of Site:**

14 The subject site is generally located north of and adjacent to Thorpe Road,
 15 south of and adjacent to McFarlane Road and west of Brooks Road, in Section 36,
 16 Township 25 North, Range 40 EWM, Spokane County, Washington., Spokane County
 17 Parcel # 05365.9002. The subject property is approximately 451.68 acres in size.
 18 Staff Report. Thorpe Road is unpaved with graveled surfaces and without shoulder
 19 improvements. The site contains an existing single-family residence and several
 20 outbuildings. The topography of the site ranges from generally flat along Thorpe
 21 Road with gently rolling contours throughout the site traveling north and west across
 22 the site. The property slopes down to the north and to the west. Railroad tracks
 23 roughly bisect the site from north east to south west. The north west ¼ of the site
 24 (north of the railroad tracks) is heavily covered with mature Ponderosa Pines and
 25 other native vegetation. The portion of the site lying south of the railroad tracks has
 26 areas of heavy forestation, one area lying in the southwest corner of the sight and
 27 another lying near the center of the site beginning at the railroad tracks and
 28 extending east-southeast into the site ending in a peninsula pointing south in the
 center of the southern portion of the property. "Vicinity Site Plan" prepared by Wolfe
 Architectural Group (WAG) dated 10.10.2019. The remainder of the site has been
 cultivated for growing agricultural crops.

Spokane County Critical Areas Maps identify a Type N stream located at the
 northwest corner of the subject site extending south and east to a point in the vicinity
 of the railroad tracks. A Type N stream and a possible wetland near the south end of

1 the identified stream and north of the railroad tracks, in the north west portion of
2 the property are indicated on the "Vicinity Site Plan" prepared by WAG, dated
3 10.10.2019. See Department File #CUW-06-19. Upon inspection of the area Geo
4 Engineers was unable to locate the possible wetland and found that no evidence of
5 the Type N stream was visible on the property. Department File #CUW-06-19 –
6 Letter Report, Wetland Determination, by Geo Engineers, dated September 23, 2019,
7 p. 2. Jacob McCann, Washington State Department of Ecology, confirmed that the
8 "riverine wetland" reported to exist on the property by the Critical Areas Map is
9 "mapped in error and no jurisdictional wetland features are present in the location".
10 Department File # CUW-06-19 – E-mail from Jacob McCann to Tammy Jones, dated
11 December 11, 2019. The Washington State Department of Fish and Wildlife also
12 concurred with the findings of the Geo Engineers report. Department File #CUW-06-
13 19 – E-mail from Leslie King to Tammy Jones, dated December 13, 2019.

14 The subject site is located within a Critical Aquifer Recharge Area (CARA)
15 having Moderate Susceptibility. Staff Report.

16 A "Cultural Resource Survey for the Gun Club Project, Spokane County,
17 Washington" dated November 2019, in draft form, (hereafter "Cultural Survey") was
18 submitted to the Department. Although the Cultural Survey states that the pre-field
19 research was designed to identify any known historic properties, including
20 cemeteries located in or near the Project Area, clearly shows the Medical Lake
21 Cemetery on the map of the Project Area and surrounding properties², and the
22 survey identifies the Medical Lake Cemetery as being adjacent to and across the
23 street from the Project Area³, the survey concludes that "No Historic Properties
24 will be affected"⁴ by the proposed gun range. (Emphasis in original) The reason
25 that the Medical Lake Cemetery is overlooked as a historical property in the Cultural
26 Survey could possibly be that the Medical Lake Cemetery was listed on the
27 Washington State Heritage Register in March 2018⁵ and the pre-field research for
28 the Cultural Survey could have been performed prior to the cemetery being so listed
or because the conclusions of the survey focus within the boundaries of the site of the
proposed gun range and not properties outside of those boundaries. Under the
definition provided in the Cultural Survey (p. 11) of Traditional Cultural Places
(TCPs) the Medical Lake Cemetery is a TCP, "a location where a community has

² "Draft" Cultural Resource Survey for the Gun Club Project, Spokane County, Washington" dated November 2019, Figure 2.

³ Id., p. 13.

⁴ Id., p. ii.

⁵ <https://wisarrd.dahp.wa.gov/search/1162>

1 traditionally carried out economic, artistic, or other cultural practices important in
2 maintaining its historic identity”.

3 **C. Land Use Designations and Surrounding Conditions for Site and**
4 **Neighboring Land:**

5 This site is designated as Rural Traditional by the Spokane County
6 Comprehensive Plan and zoned Rural Traditional Zoning. Properties immediately to
7 the North, South, East and West of the site are designated as Rural Traditional by
8 the Spokane County Comprehensive Plan. Other designations surrounding the
9 subject property are Rural Conservation to the northwest, Large Tract Agriculture to
10 the southwest, and Mineral Land to the south of the west half of the subject property.
11 Spokane County Comprehensive Plan Map. Surrounding properties are zoned Rural
12 Traditional (RT), Rural Conservation (RC), Large Tract Agricultural (LTA), and
13 Mining Zone (MZ) matching the Comprehensive Plan designations. Spokane County
14 Zoning Map. Zoning of the properties was established by legislative action of the
15 Spokane County Board of County Commissioners on January 15, 2005.

16 Several residences on large tracts exist within one half mile of the proposed
17 site of the gun range, along Thorpe Road to the west. Immediately across Thorpe
18 Road to the south is the Medical Lake Cemetery. The cemetery was established its
19 current site in the 1870s and was listed on the Washington State Heritage Register
20 in 2018. Comment letter from Aubrey and Lahnje Henderson, dated September 23,
21 2019; Comment letter from Janice Radmer, President of Medical Lake Cemetery
22 Association, dated September 22, 2019; <https://wisarrd.dahp.wa.gov/search/1162>.
23 Scattered residential development also exists on large parcels to the west and north
24 of the site. Other land uses surrounding the subject property include vacant
25 undeveloped land to the north, vacant and agricultural lands to the east, mineral
26 lands to the south, agricultural lands to the southwest and Fairchild Airforce Base to
27 the east.

28 In 1993 the subject site and surrounding parcels to the east and west were
included in an area designated as a “No Shooting Area” based upon a petition from at
least 50% of the property owners in the designated area. The reason stated for the
petition to designate the area as a No Shooting Area was that the subject property
was owned by the Washington State Department of Natural Resources and thus
lacked monitoring of use. In 1993 it was alleged that the property was used by
individuals for firing rifles and fully automatic firearms which resulted in stray
bullets entering the adjacent properties. Building and Planning Department File No.
NS-01-19, Memo to Board of County Commissioners date July 23, 2019; Staff Report

1 re: NS-01-19 dated July 22, 2019; File No. NS-01-19 Application for Spokane County
2 ... dated May 10, 2019.

3 On May 10, 2019, an "Application For Spokane County (1) No Shooting Area,
4 (2) No Bow and Arrow Area, Or (3) No Shooting and No Bow and Arrow Area" was
5 submitted requesting that the No Shooting designation be removed from the subject
6 parcel to allow the development of the property as a gun range, subject to application
7 for a Conditional Use permit and conditions requested by Fairchild Airforce Base.
8 Building and Planning Department File No. NS-01-19. The application for removal of
9 the No Shooting area designation was granted by the Board of County
10 Commissioners by Resolution No. 19-1243 dated August 20, 2019. A Petition for
11 Declaratory Judgment and Writ of Review of the application for removal of the No
12 Shooting area designation, Superior Court file number 19203867-32, was filed in the
13 Court on September 9, 2019. Building and Planning Department File No. NS-01-19.
14 The Petition for Declaratory Judgment was dismissed by order of the court on
15 February 10, 2020 on a Motion for Summary Judgment by the Respondent, Spokane
16 Gun Club, et. al. Spokane County Superior Court file number 19203867-32.

17 **D. Description of Proposed Project:**

18 The requested Conditional Use Permit would allow a gun range in the Rural
19 Traditional (RT) zone pursuant to SCZC 14.618.240(10). The site plan for the
20 proposed gun range indicates the location of three combination Trap and Skeet
21 shooting ranges with spaces for two additional combination Trap and Skeet shooting
22 ranges, seven Trap shooting ranges with space for three additional Trap shooting
23 ranges, a 5 – Stand Shooting range, a "fully contained" pistol range, an archery
24 course, a Sporting Clays course, an associated "club house" and storage building, all
25 within the portion of the property located south of the railroad tracks. Department
26 File, Wolfe Architectural Group (WAG) Site Plan, Sheet A0.03, dated 11.05.2019. The
27 clubhouse will include a kitchen, pro-shop, restroom and storage areas. Exhibit 2,
28 Tab 4 – Operations Plan. The location of the Trap and Skeet shooting ranges and the
5 – Standing Shooting range is almost directly north across Thorpe Road from the
Medical Lake Cemetery. Id. A future sporting clay course is indicated on the site plan
adjacent to and north of the railroad tracks in the center west area of the site. Id. The
site plan illustrates 144 off street parking stalls on the site for automobiles and an
additional 45 parking stalls to accommodate RV units on the site. Id.; Exhibit 2, Tab
4 – Operations Plan.

The gun range will be open for shooting activities from 10:00 am to dusk, with
the understanding that the hours may be extended or contracted depending on
demand. Notwithstanding, the maximum hours of operation will be 9:00 am to 7:00

1 pm. Exhibit 2, Tab 4 – Operations Plan. The Gun Club could potentially host five
2 regional competitions per year at the facility with participation varying from 50
3 shooters up to 100 shooters for multi-day events. Id. One of the hosted multi-day
4 events is the three-day State shoot in June with 120 participants. The State shoot
5 takes place from Friday through Sunday. Id. It is anticipated that the Club could
6 host, on average, two competitive shoots per month during the months of April
7 through October, and additional competitive shoots on available weekends,
8 depending on the demand for such activities. Id.

9 The facility is expected to employ three part time employees, a manager,
10 maintenance worker, and food service worker. Id. It is undisclosed how many
11 employees are expected to be working at the site at any specific time. It is also
12 undisclosed the number of unpaid volunteers who may “work” at the facility at any
13 given time for the purpose of enforcing the club rules, operating the equipment
14 needed to throw the clay pigeons, and otherwise attend to the tasks necessary to
15 cause the facility to perform as it is designed.

16 Assuming a group of 5 participants at a station, a group shooting at a Trap or
17 Skeet field will shoot a maximum of 250 shots per hour or an average of 4.2 shots per
18 minute⁶. Assuming a group of 5 participants at a station at the Sporting Clays the
19 group would shoot a maximum of 500 shots over a period of 1 ½ hours or an average
20 of 5.5 shots per minute⁷. Exhibit 2, Tab 7, Coffman Engineers – Spokane Gun Club
21 Relocation Noise Analysis, dated November 14, 2019, Section 6.1.1 pg. 16.

22 The design of the shooting range areas is guided by safety standards developed
23 by the Amateur Trap Association (ATA), the National Rifle Association (NRA) and
24 other safety standards. Exhibit 2, Tab 3 – Letter to Tammy Jones, dated August 21,
25 2019. The proposed gun range area is designed with a 300 yard safety buffer between
26 any shooting station and property boundaries, road easements, pedestrian walkways,
27 buildings located on the site, and the railroad easement, the intent of which is to
28 prevent shooting in any direction where the shotgun shot would travel far enough to
impact occupants of the property outside of the areas where shooting is intended to
take place. Id. The shotgun ammunition used at the gun range will be governed by
the rules for participation at the range and will be limited to shot size #7½ or
smaller. Id. Lead slugs and rifles will not be permitted at the range. Id. In addition,
negotiations have taken place between the gun club and Fairchild Airforce Base to

⁶ See footnotes 11 and 12 below.

⁷ Id.

1 arrive at specific conditions upon operation of the gun range so as to avoid danger or
2 conflicts with the Airforce base. Id.

3 The pistol range will be “fully contained” meaning that it will be bermed and
4 fully baffled to contain rounds shot within the pistol range and preclude rounds from
5 leaving the pistol range. Id. Although it is undetermined when the pistol range or the
6 archery range will be developed on the property, it is suggested that they will add to
the activities allowed at the site and thus increase the utilization of the facilities. Id.

7 Access to the gun range facilities will be controlled by gates and perimeter
8 fencing that will surround most of the gun club facilities. Exhibit 2, Tab 4 –
9 Operations Plan. Electronic surveillance and security alarms will also be installed at
the site. Id.

10 Professional “miners” will be employed periodically to clean the lead shot from
11 the shooting range areas. This is designed to clean the soil of the lead shot and
12 maintain a lead-free environment at the site to the extent possible. Exhibit 2, Tab 3 –
Letter dated August 21, 2019.

13 In support of the application for a Conditional Use Permit the gun club
14 obtained a “Relocation Noise Analysis” by Coffman Engineers, dated November 14,
15 2019. See Exhibit 2, Tab 7. A site noise survey was conducted at the site and “showed
16 that existing measured daytime Leq averaged around 50 dBA and ranged from 34 to
17 60 dBA”. Exhibit 2, Tab 7 - Relocation Noise Analysis. “Leq” is defined in the analysis
18 as “The average A-weighted noise level during the measurement period.” Id. At Table
19 1. Figure 5 of the analysis shows that at a distance of 67 yards from the point of gun
20 fire, the discharge of a firearm produces a short burst of noise at the level of
21 approximately 86 dBA Lmax. Noise in the range of 80 – 90 dBA is the sound
22 equivalent experienced outdoors, of a diesel truck passing at 50 feet away traveling
at a speed of 50 miles per hour or experienced inside from a food blender or garbage
disposal at a distance of three feet. Exhibit 2, Tab 7 - Relocation Noise Analysis,
Table 2.

23 The analysis reports that “the majority of the northern half of the project
24 parcel will have noise levels from the gun club below 50 dBA”. The analysis goes on
25 to report that “At the western-most boundary, the typical hourly noise level is
26 approximately 50 dBA or less.” (Emphasis in original.) Id. At the southern-most
27 boundary, the typical hourly noise level is approximately 63 dBA or less as reported
28 by the analysis. Id. The noise analysis does not report any analysis of the future sport
clay course that may be developed on the northern half of the property, above the
railroad tracks. The report appears to acknowledge that the instantaneous noise from
the gun shots may exceed the dBA levels reported as hourly noise levels, but that

1 over an hour's time the noise will sound to the human ear to be the levels reported.
2 Exhibit 2, Tab 7 – Relocation Noise Analysis, Table 1 (definition of A-Weighted
3 Sound Level, dBA). Figures 7 and 8 of the Relocation Noise Analysis illustrate that
4 the noise levels experienced at the Medical Lake Cemetery during shooting events
5 held at the gun range at any time will range from a low of 50 dBA to a high of 60 dBA
6 or the equivalent of heavy traffic outdoors at a distance of 300 feet or the indoors
7 noise of a large business office or a dishwasher in the next room. Exhibit 2, Tab 7 –
8 Relocation Noise Analysis, Table 1.

9 Briefing from the Applicant submitted in response to the Interim Decision
10 articulates some proposed modifications to the site plan for the proposed gun range
11 and related buildings and suggests some modifications to its hours of operation.
12 Those modifications will be addressed below in this decision and in the conditions of
13 approval hereafter.

14 E. Agency and Public Comments:

15 Notice of the application in this matter was provided to the following public
16 agencies:

- 17 1. Spokane County Public Works,
- 18 2. Spokane County Environmental Services,
- 19 3. Spokane County Building and Planning Department,
- 20 4. Spokane County Fire Protection District #10,
- 21 5. Spokane Clean Air,
- 22 6. Spokane Regional Health District,
- 23 7. Medical Lake School District #326,
- 24 8. Washington State Department of Archaeology and Historic Preservation,
- 25 9. Washington State Department of Ecology,
- 26 10. Washington State Department of Transportation,
- 27 11. Washington State Department of Fish and Wildlife,
- 28 12. Fairchild Airforce Base.

Responses were received from eight (8) of the twelve agencies notified. Agency
comments received are generally in the form of recommended conditions of approval.
The agencies' comments are considered and as applicable will be included in
conditions for approval of the requested Conditional Use Permit if approved.

1 Suggested requirements received from Fairchild Air Force Base include no
2 rifle use except for shotguns for trap and skeet shooting, any pistol use will be fully
3 baffled and contained, shooting direction shall be to the north, only standard shotgun
4 shells shall be permitted, and any lighting of the property will be "dark sky"
compliant.

5 Public comments were received from neighboring property owners and others
6 interested in the application. Many comments express strong opposition to the
7 proposed gun range while several comments in support of the gun range were also
8 provided. The comments in opposition to the application can be summarized as
9 opposition to the alleged noise pollution due to the repetitive gun fire anticipated
10 from the gun range to surrounding properties, residences, livestock, animals, and
11 wildlife in the area; safety of the persons and animals on surrounding properties due
12 to gun fire at the gun range; potential contamination of wells in the area from lead
13 shotgun pellets deposited at the gun range site; increased traffic on the local roads in
14 the area; dust generated by the additional traffic to the site of the gun range; and
15 use of the site by RV visitors at the site during the multi-day shooting events.
16 Testimony against the application included that of persons who resided near the
17 original site of the gun club, in Spokane Valley near Liberty Lake, stating that the
18 sound of the gun fire from the gun club was disturbing to the testifying witness and
19 caused loss of sleep and enjoyment of the property of the witness. Comments in
20 support of the gun range generally expressed a need for the gun range in the
21 Spokane area for recreational shooters and competitive shooters from Spokane and
22 surrounding area schools.

23 Several parties in opposition to the application are represented by attorneys
24 who provided briefing to the Hearing Examiner. Briefing was also submitted in
25 support of the application by SGC's attorneys.

26 SGC's Briefing.

27 Briefing in favor of the application, submitted by Witherspoon Kelley,
28 Attorneys for SGC, first objects to a tape recording of gun shots recorded at a gun
range by parties in opposition to the application, offered in evidence at the hearing in
opposition to the gun range (Exhibit #4). The objection to the recording is based upon
a lack of foundation regarding the specific parameters of the recording. Memorandum
in Support of CUP Application, dated February 21, 2020 (SGC's Brief).

The Hearing Examiner admitted the recording into the record but has
considered the recording not as substantive evidence of what the gunfire will sound
like at the proposed gun range, but only as illustrative of repetitive gun shots from
close proximity to a gun range generally.

1 SGC's Brief goes on to argue that the scope of the consideration of an
2 application for a Conditional Use Permit is limited to addressing the conditions of
3 approval of the project development not the merits of the application. Citing
4 *Weyerhaeuser v. Pierce County*, 95 Wn. App. 883 (1999), SGC points out that the site
5 of the proposed gun range was chosen after careful consideration of its location in a
6 rural area with topography and forestation that would shield surrounding properties
7 from noise produced at the gun range. SGC's Brief, pp. 2 – 5. Access to the gun range
8 facilities will be limited by landscaping and physical barriers including rocks and a
9 swale adjacent to Thorpe Road as well as a fence built along the western property
10 line and the eastern property line connecting to the southern boundary of the
11 railroad right-of-way. *Id.* at p. 5. Warning signs will also be posted at the south side
12 of the railroad tracks to discourage trespassing onto the shooting range. *Id.*

13 SGC points out that there have been several conversations with Fairchild
14 Airforce Base regarding the gun range and that the conditions of approval provided
15 by the Airforce Base are acceptable by SGC and will be observed. *Id.* at p.6. Hours of
16 operation, security, and employees at the gun range facilities are also addressed and
17 discussed in SGC's brief. Regarding the Medical Lake Cemetery, SGC suggests that
18 the Gun Club will consent to a condition that the Gun Club cease operations during a
19 funeral or memorial service held at the cemetery, provided that the cemetery give the
20 Gun Club 48 hours' notice of the of the time of the service. *Id.* at p. 11.

21 Attached to the Memorandum in Support of CUP Application are two Exhibits,
22 Exhibit A and Exhibit B. Because those exhibits were not submitted to the Hearing
23 Examiner at the time of the hearing, were not admitted into evidence during the
24 hearing, and no motion to reopen the record to add testimony or additional evidence
25 was filed, either by SGC or the parties in opposition to the application, Exhibits A
26 and B to the Memorandum in Support of CUP Application, dated February 21, 2020,
27 are not admitted to the record and are not considered by the Hearing Examiner in
28 this decision.

29 In its Supplemental Memorandum in Support of CUP Application, submitted
30 May 8, 2020, the Spokane Gun Club describes its efforts to negotiate with the
31 Medical Lake Cemetery Association and reports that the Association's response was,
32 in summary, a statement that the gun club should simply withdraw its application
33 and look for another site for its proposed gun range. The gun club next asserts that
34 the compatibility of the proposed gun range use in the Rural Traditional zone was
35 already established when the zoning designation and classifications were defined and
36 adopted, citing SCC14.300.100. They then assert that the only issue remaining is the
37 mitigation of noise impacts. Finally, the Supplemental Memorandum proposes

1 conditions upon approval of the application intended to mitigate the noise impacts on
2 the Medical Lake Cemetery.

3 In reply to the memorandum filed by the Medical Lake Cemetery Association
4 in response to the Interim Decision, the Spokane Gun Club asserts that the
5 elimination of all adverse impacts by proposed development on surrounding uses is
6 not required in the law. It then cites examples of several gun ranges that exist near
7 cemeteries, including the Spokane Rifle Club facility located in Spokane near the
8 Fairmount Memorial Park. Finally, an assertion is made that the proposed
9 conditions upon the approval of the application will adequately mitigate the noise
10 impacts upon the cemetery, and that evidence offered by the Medical Lake Cemetery
11 in support of its responsive memorandum lacks foundation and is misleading.
12 Affidavits and declarations in support of its memoranda are provided by the gun
13 club.

14 Briefing in Opposition.

15 A brief, Response In Opposition to Memorandum in Support of Conditional
16 Use Permit Application (Whitehead Brief), was timely submitted by Winston
17 Cashatt, Attorneys for Whitehead Family, first argues the propriety of the admission
18 of the tape recording of gun shots at a gun range (Exhibit #4). As noted above, the
19 recording lacks sufficient foundation for admission as an accurate example of the
20 sound of gun shots at the proposed gun range but has been admitted and considered
21 by the Hearing Examiner as illustrative of repetitive gun shots at a gun range
22 generally.

23 The Whitehead Brief raised two points in opposition to the proposed gun
24 range; 1) that the "unlawful noise is not sufficiently mitigated by the conditions
25 proposed" for the gun range facilities and 2) that "the club is operating an RV park"
26 at the gun range facility. Whitehead Brief, p.4. The brief does not cite authority for or
27 a definition of the term "unlawful noise" as that term is used in the brief. However,
28 the Whitehead Brief argues that the repetitive gun fire at the gun range over a
period of 5 days per week throughout the late spring and into the early fall, will not
be compatible with the Medical Lake Cemetery, located directly across Thorpe Road
from the gun range facilities, due to the lack of sound mitigation measures and the
close proximity of the gun range to the cemetery. Id.

The argument against the alleged "RV park" is based upon the allegation that
inviting and/or even allowing participants at events to park and camp in their RVs at
the site overnight, during multi-day shoots at the gun range, constitutes a violation
of the zoning code ban on such activities in the Rural Traditional zone. Id.

1 In addition to the Whitehead Brief, Dunn & Black, Attorneys for Medical Lake
2 Cemetery Association, Jim Lageunesse, and Dave and Julie Tueller, timely
3 submitted a Memorandum in Opposition and Objection to Conditional Use Permit
4 Application, dated March 6, 2020 (Association Brief). As with the briefing from SGC,
5 the Association Brief is also accompanied by several exhibits. The exhibits to the
6 Association Brief were also not submitted or admitted into the record at the hearing
7 before the Hearing Examiner. For the reasons stated above, the exhibits to the
8 Association Brief are not admitted to the record and are not considered by the
9 Hearing Examiner in this decision.

8 The Association Brief raises issues in objection to the application; 1) that the
9 Medical Lake Cemetery is an active cemetery visited on a regular and spontaneous
10 basis by family and others who mourn and grieve their loved ones, with which the
11 proposed gun club is not compatible; 2) that the gun club's decision to locate at the
12 proposed site is a result of its own negligence in failing to recognize the existence of
13 the Medical Lake Cemetery or to communicate with the cemetery association prior to
14 making its plans to locate at the site; 3) that no mitigation can avoid materially
15 detrimental harm to the attendees at the cemetery due to the noise impacts
16 experienced at the cemetery; 4) that the existing gun range east of Brooks Road is
17 not a comparable gun range to that that is proposed at the subject site; 5) the grant
18 of the Conditional Use Permit would amount to a regulatory taking from the Medical
19 Lake Cemetery; 6) that the proposed gun range is actually a commercial and
20 industrial use that is incompatible with the Rural Traditional zone and is thus
21 unlawful under the Spokane County Zoning Code; and 7) that allowing RV overnight
22 parking and camping at the site is a prohibited RV Park. Association Brief.

19 In its response to the Interim Decision the Medical Lake Cemetery Association
20 timely submitted a Response Memorandum in Opposition accompanied by eighteen
21 (18) declarations of individuals who live near or have and do visit the Medical Lake
22 Cemetery, some of whom have loved ones buried in the cemetery. Two of the
23 declarations include video and audio recordings of the cemetery while gun fire is
24 discharged at various distances from the cemetery – allegedly to illustrate the noise
25 impact on the visitors to the cemetery while the sound of gun fire emanates from the
26 proposed site of the Spokane Gun Club gun range. Two of the declarations speak to
27 the history of the cemetery. The thrust of the Response Memorandum is that the
28 proposed gun range, regardless of any conditions that may be imposed upon the
development, would amount to a nuisance to the cemetery and as such cannot be
approved.

Regarding the admission and consideration of the various declarations and
affidavits that were submitted by the applicant and the cemetery association, the

1 Hearing Examiner has admitted, at least for limited purposes as explained herein,
2 all of the declarations and affidavits that accompanied the various memoranda
3 submitted to the Office of the Hearing Examiner in response to the Interim Decision.
4 A majority of the declarations and affidavits contain factual assertions based upon
5 personal knowledge and observation or provide foundation for documents submitted
6 with the declarations or affidavits. The declarations regarding the video and audio
7 recordings made at the cemetery and the recordings themselves are admitted solely
8 for the purpose of illustration of the site on the day that the recordings were made
9 and factual narrative information from the person speaking on the videos. The
10 Hearing Examiner finds that there is no evidence in the declarations or on the videos
11 to indicate that the creators of the videos were video or audio professionals, and no
12 evidence that the equipment used to record the videos was considered to have any
13 scientific qualifications for recording sound levels, or that the equipment was capable
14 of reporting the decibel levels or any scientific characteristic of the sounds being
15 recorded. The video and audio recordings are not admitted nor were they considered
16 as any reliable or scientific representation of the sound emanating from the proposed
17 gun range experienced at the cemetery.

18 Notwithstanding the lack of foundation for the video recordings as scientific
19 representations of the decibel levels produced by gun fire at the proposed gun range
20 site, the recordings do contain several different sounds at the cemetery in addition to
21 what is reported to be gun fire at a distance comparable to the proposed gun range
22 site. Those sounds include people speaking, birds chirping, and the whistle of a train.
23 Although no information is given regarding the location of the train from which the
24 whistle sound originated, the record contains evidence that a train track runs
25 through the site of the proposed gun range and passes near the cemetery to the west.

26 Even without scientific evidence regarding the level and quality of sounds
27 recorded on the video recordings submitted by the Medical Lake Cemetery
28 Association, it is noted that the sounds of the voices and the birds recorded on the
29 video recordings are similar in volume to the sounds of the gun fire recorded on the
30 video recordings. Notably the noise of the train whistle is at one point louder than
31 the gun fire. It is also interesting to note that the bird noises recorded on the video
32 recordings do not appear to cease and the birds do not appear to make any sounds of
33 distress by the gun fire that is recorded. In other words, it does not sound as though
34 the birds stopped chirping or that they flew away upon the sound of the gun fire
35 recorded by the video recordings.

36 Based on the above findings of fact, the Hearing Examiner enters the
37 following:

1 III. CONCLUSIONS OF LAW

2 A. Consistency with Comprehensive Plan and Zoning Regulations

3 Spokane County Comprehensive Plan:

4 The application for the Conditional Use Permit proposes that the subject site,
5 designated in the Comprehensive Plan as Rural Traditional category, be developed
6 into a gun and archery range where trap, skeet, sport clays, and limited pistol
7 shooting will be allowed. Exhibit 2, Tab 3, Conditional Use Permit and Variance
8 Application, date August 21, 2019. The Comprehensive Plan does not directly
9 address gun and archery ranges, however the introductory section of Chapter 3 of the
10 Comprehensive Plan states that, recently recreational and open space uses play an
11 increasing role in rural areas. Comprehensive Plan p. RL-1. The section addressing
12 the Rural Traditional category repeats that recreational uses play a role in land uses
13 in that category. Comprehensive Plan p. RL-1. The other designations in the rural
14 lands section increase in the allowed residential density in the category, from 1
15 residence per 10 acres to 1 residence per 5 acres and then 1 residence per 1 acre.
16 None of the other categories mention recreational uses in the description of allowed
17 uses.

18 Policy RL.1.4 Non-Residential and Accessory Uses, identifies farming, forestry
19 and outdoor recreation as uses found within the Rural Traditional category.
20 Comprehensive Plan p. RL-6. Policy RL.5.4 Commercial Development in Rural Areas,
21 (a) states that recreation-oriented uses may be allowed provided that the use does not
22 adversely impact adjoining rural uses and are consistent with rural character.
23 Comprehensive Plan p. RL-14.

24 Also applicable to the proposed use is Policy T.5.5 – Ensure that the
25 transportation system in the rural areas and resource lands are consistent with their
26 rural/resource character. Improvements should emphasize operations, safety and
27 maintenance.

28 Spokane County Public Works has recommended conditions of approval
requiring mitigation of dust on Thorpe Road. SGC has 2 (two) options for mitigation;
apply a dust palliative during the Spring of each year, or pave Thorpe Road to a
private road standard. The public works department has also determined that the
concurrency requirements of the Spokane County Code have been met and/or the
proposed permit is exempt pursuant to SCC 13.650.104 (2)(c). Staff Report, Public
Works Conditions of Approval, dated November 14, 2019.

Based upon a review of the Spokane County Comprehensive Plan, the Hearing
Examiner concludes that a gun and archery range is consistent with the

1 Comprehensive Plan policies regarding Rural Lands within the Rural Traditional
2 category, and that as proposed and conditioned by this decision hereinafter the use
3 does not adversely impact adjoining rural uses and is consistent with rural character.
4 Further, the proposed use is consistent with the Transportation goals and policies of
5 the Comprehensive Plan as conditioned herein below.

6 Fairchild Airforce Base is a significant asset to the Spokane area and the State
7 of Washington in general. Comprehensive Plan, p.p. T-12 – 13. Comprehensive Plan
8 Policies that relate directly to consideration of the proposed Conditional Use Permit
9 include T.3j.2 Compatible Land Use and Densities Policies, T.3j.11 Operational
10 Hazards, T.3j.13 Light and Glare, and T.3j.16 Consultation. As proposed and with
11 appropriate conditions applied to the proposed use, the requested Conditional Use
12 Permit can be made consistent with the Comprehensive Plan goals and policies
13 regarding protection of Fairchild Airforce Base.

14 Spokane County Zoning Code:

15 SCZC 14.618.210(3) requires conditional uses identified in Table 618-1 Rural
16 Zone Matrix, be subject to a public hearing and approval of a Conditional Use Permit.
17 The conditional use is subject to the standards and criteria stated in the zoning code
18 for that use. Pursuant to SCZC 14.618.220, Table 618-1, a gun and archery range is a
19 "Business Use" that is only allowed in the Rural Traditional Zone as a conditional
20 use. Gun and archery ranges are specifically not allowed in any other rural zone.
21 SCZC Table 618-1. The standards and criteria for approval of a gun and archery
22 range within the Rural Traditional zone are identified in SCZC 14.618.240(10).

23 The application for a Conditional Use Permit for a gun and archery range may
24 only be approved under the requirements of SCZC 14.618.240(10) and SCZC 14.404.

25 SCZC 14.404.000 requires that the Hearing Examiner determine the
26 conditions under which the requested conditional use will be allowed, which
27 conditions must assure compatibility of the proposed conditional use with the other
28 uses allowed within the zone. The conditional use permit may be denied, if the
29 proposed use is not compatible with the other uses in the zone or if the use is
30 materially detrimental to the public welfare. A conditional use permit may be
31 approved if both (a) the special standards set forth for the conditional use in the
32 underlying zone of the Zoning Code are met, and (b) adequate conditions and
33 restrictions on the conditional use are adopted to ensure that the conditional use will
34 be compatible with other permitted uses in the area, and will not be materially
35 detrimental to the public health, safety or general welfare. SCZC 14.404.100(1).

36 SGC argues in its supplemental briefing that by adoption of the zoning code,
37 which identifies a "gun and archery range" as a permitted use in the Rural

1 Traditional zone subject to obtaining a conditional use permit, that the issue of
2 compatibility of a gun and archery range with other allowed uses in the zone has
3 been determined and is not before the Hearing Examiner. That argument falls short
4 however when the specific language of the code is considered. SCZC 14.404.100(1)
5 explicitly states that a conditional use permit may be approved *if, ...* “(b) adequate
6 conditions and restrictions on the conditional use are adopted to ensure that *the*
7 *conditional use will be compatible with other permitted uses in the area*”. (Emphasis
8 added.) Thus, the question of compatibility of the proposed conditional use is
9 specifically reserved for consideration by the Hearing Examiner when considering
10 approval of a conditional use permit.

11 The standards and criteria for a Conditional Use Permit for a gun and archery
12 range within the Rural Traditional Zone are (a) The minimum lot area is 40 acres; (b)
13 The Hearing Examiner may prescribe conditions of approval to assure mitigation of
14 safety and noise impacts; and (c) The use shall be subject to restrictions and
15 conditions, as may be imposed by the Hearing Examiner under chapter 14.404.
16 SCZC 14.618.240(10).

17 The site of the proposed use is far in excess of 40 acres. Exhibit 2, Tab 3,
18 Conditional Use Permit and Variance Application, date August 21, 2019. The
19 requirement in paragraph (a) is met by for the Conditional Use Permit application.

20 Compliance with paragraphs (b) and (c) is discussed more fully hereinafter.

21 B. Issues Raised by Testimony, Briefing and Comment:

22 Scope of Review by the Hearing Examiner:

23 SGC's Brief asserts that “[a] CUP only addresses the conditions of project
24 development, not the merits”, citing *Weyerhaeuser v. Pierce County*⁸ in support.
25 SGC's Brief, p. 2. The language quoted from *Weyerhaeuser* reads:

26 A conditional use permit is a permitted exception to zoning ordinances; it
27 allows the property owner to use his or her property in a manner that the
28 zoning regulations expressly permit under conditions specified in the
regulations.

Consistent with the rule stated in *Weyerhaeuser v. Pierce County*, the
authority of the Hearing Examiner relative to the review and approval or denial of a
Conditional Use Permit is controlled by Spokane County Zoning Code, Chapter
14.404.

⁸ 95 Wn. App. 883, at 886, Note 1 (1999)

1 Approval of Conditional Use Permit as a Regulatory Taking:

2 Medical Lake Cemetery Association, et al. allege in their briefing materials
3 that “[a]ny grant of the pending CUP application will cause a regulatory taking by
4 Spokane County of Medical Lake Cemetery property”. Association Brief, p. 8. The
5 scope of review by the Hearing Examiner is limited to the specific criteria identified
6 in the Spokane County Code. Whether the allegation of a regulatory taking is
7 accurate or not is an issue outside of the jurisdiction of the Hearing Examiner and
8 thus is not addressed herein. See Spokane County Code Section 1.46.070; Spokane
9 County Zoning Code Chapter 14.404.

8 Proposed Gun Range as a Commercial/Industrial Use Prohibited in the Rural
9 Traditional Zone:

10 The Association Brief asserts that the proposed gun and archery range fails to
11 meet the definition of a “gun and archery range” contained within the Spokane
12 County Zoning Code but is rather a commercial/industrial enterprise that is
13 prohibited in the Rural Traditional zone. Association Brief, pp. 9 – 11, 14 – 15. The
14 Association cites as an example of a permitted gun range that meets the definition
15 posited by the Association, as the site located on Brooks Road owned by the
16 Washington State Department of Corrections that is used for law enforcement
17 training, including the discharge of firearms. Association Brief, pp. 6 – 7. By
18 comparison the Association Brief refers to the proposed use at the Spokane Gun Club
19 site as a commercial sport shooting complex, a commercial enterprise and a Club, and
20 argues that the proposed use is thus outside of the definition of a “gun and archery
21 range”. Id., p. 7, 9, 14 – 15. The Association cites to no authority to support its
22 asserted comparison.

20 The definition of a “gun and archery range” is found in SCZC 14.300.100:

21 A facility or area used for archery and/or the discharging of firearms
22 including rifles, pistols, or shotguns, for the purpose of target practice.

23 The interpretation of that definition suggested by the Association is misplaced
24 and too narrow. The definition in the Code is broad enough to allow either a “facility”
25 or an “area” to be used for the purpose of discharging firearms for target practice.
26 Neither of which terms are defined in the code. The disjunctive “or” in the definition
27 is not intended to be proscriptive but is intended to provide an alternative description
28 for the same property, in this case – used to facilitate the discharging of firearms for
target practice. The “facility” identified in the definition can be the property (area) on
which discharging firearms for target practice can be done or a building etc. that
facilitates that activity. Webster’s New World Dictionary, 1987. An “area”, again not

1 defined in the code, could be a total outside surface, measured in square units or a
2 part of a house, district, etc. Webster's New World Dictionary, 1987.

3 The facility to which Spokane Gun Club refers as a gun range, could then be
4 either the complex, as the Association Brief would refer to it, that serves as the
5 means by which trap, skeet, sport clay shooting, and shooting of pistols at targets can
6 be done or the building and associated grounds that facilitates the shooting. The term
7 area can equally be applied to the property, including the structures proposed at the
8 site, where the shooting at targets is being proposed. The Association Brief's
9 limitation on the definition of gun and archery range is rejected as too narrow and
10 restrictive.

11 The Association Brief agrees that the zoning code specifically refers to a gun
12 and archery range as a "Business Use" that is allowed in the Rural Traditional zone
13 subject to approval of a Conditional Use Permit. Association Brief, p. 10. The
14 proposed gun and archery range is a rural-oriented recreational use anticipated by
15 the Comprehensive Plan. See Comprehensive Plan, p. RL-1. The Association Brief
16 cites no authority otherwise. The Association Brief also cites no authority for the
17 assertion that the fact that the Spokane Gun Club is a corporation, that it collects
18 fees from its members and others using its facility, that a pro shop will exist at the
19 site, that food sales will take place at the site, or that multi-day shooting events are
20 expected to take place at the site would make the proposed gun and archery range a
21 prohibited use on the property.

22 Finally, even if the gun and archery range definition limits the "gun and
23 archery range" to the specific area within the property where the discharge of
24 firearms will literally take place, the clubhouse, the food preparation and sale area,
25 and the meeting area proposed by SGC, taken in association with the shooting areas
26 on the property are specifically allowed outright within the Rural Traditional zone as
27 a Community Recreational Facility. SCZC 14.300, p. 300-6.⁹

28 The Hearing Examiner concludes that the proposed gun range is not a
prohibited commercial/industrial use in the Rural Traditional zone.

Alleged Failure of SGC to Contact Medical Lake Cemetery Association Prior to
Hearing on Conditional Use Permit Application:

The Medical Lake Cemetery Association alleges that: "Prior to the public
hearing February 5, 2020, SGC had not even reached out to the MLCA, or any other

⁹ Community Recreational Facility: Any public or private building, structure, or area which provides
amusement, relaxation, or diversion from normal activities for persons within the area in which it is
located and which is not operated for profit.

1 party associated with the MLC, to discuss the proposed conditional use". Association
2 Brief, p. 3.

3 A Notice of Application relative to a conditional use permit must be mailed to
4 all property owners whose property is within a four-hundred foot radius of any
5 portion of the boundary of the subject site by first class mail, including to the Medical
6 Lake Cemetery Association. SCZC 14.404.040; SCC 13.500.106(b). In addition to the
7 mailing of the Notice of Application a Notice of Application must also be posted at the
8 site of the proposed use. SCC 13.500.106(a). No less than 15 days prior to the hearing
9 on the conditional use permit application, a Notice of Hearing must be posted at the
10 site and must be mailed, by first class mail, to all property owners whose property
11 does not abut the subject site but is within a four-hundred foot radius of any portion
12 of the boundary of the subject site and all property owners whose property abuts the
13 subject site. SCZC 14.404.040; SCC 13.700.106(a). The notices are to consist only of
14 that information approved and provided by the review authority, Spokane County.
15 SCC 13.500.106.108; SCC 13.700.108.

16 The record before the Hearing Examiner indicates that the posting and
17 mailing requirements regarding the Notice of Application and Notice of Hearing
18 regarding the Application for Conditional Use Permit submitted by SGC were met.
19 Certification of Mailing, signed by Martha Thornton, dated September 11, 2019;
20 Affidavit of Posting, signed by John P. Cushman, dated September 16, 2019;
21 Affidavit of Mailing, signed by Karina Hammond, dated January 27, 2020; and
22 Affidavit of Posting, signed by Leon Davis, dated January 16, 2020. Notice of Public
23 hearing regarding the Conditional Use Permit Application was also published, as
24 required by Spokane County Code, in the Spokesman-Review newspaper on January
25 21, 2020. Affidavit of Publishing, signed by E. Jean Robinson, dated January 22,
26 2020.

27 If the Medical Lake Cemetery Association is alleging that SGC did not, as a
28 courtesy contact the Association for the purpose of discussion of the application and
proposed use and how it might impact the cemetery and its patrons, that is not a
requirement of the code and is not a reason for denial of the application. The
Association along with approximately 50 or more individuals have appeared at the
hearing of this matter and have otherwise provided written comment for
consideration by the Hearing Examiner. As such they are deemed to have received
notice of the application and hearing. Spokane County Board of County
Commissioners' Resolution 1996-0294, Spokane County Hearing Examiner Rules of
Procedure, Rule 9(c).

1 Regarding the MLCA's allegations that the applicant failed to provide the
2 required notice to all owners of plots within the Medical Lake Cemetery, the Hearing
3 Examiner concludes that notice was properly provided by mail and/or publication as
4 required by the Spokane County Code. Notice of the application and hearing were
5 mailed to all persons and entities identified in the real property tax records of
6 Spokane County as falling within the required zone of notice. The notices were also
7 posted and published in a newspaper as required by Spokane County Code. The
8 record includes comments from the cemetery association and many persons
9 representing themselves as having an interest in the cemetery due to love ones or
10 acquaintances having been interred in the cemetery. The Hearing Examiner
11 concludes that the notice requirements of the Spokane County Code and Zoning Code
12 were met regarding the application and hearing regarding the proposed Conditional
13 Use Permit.

14 Impact of Activity at the Proposed Gun Range on Thorpe Road:

15 Several of the public comments submitted against the proposed conditional use
16 permit allege that the increased traffic on Thorpe Road, which is a gravel rural road,
17 will create an unallowed burden upon the road and will create a dust nuisance on the
18 surrounding properties. Notwithstanding the sincere and passionate assertions
19 regarding the burden on Thorpe Road in the public comments, no evidence beyond
20 the anecdotal allegations was presented to the Hearing Examiner. Upon review of
21 the application Spokane County Public Works Department proposes conditions of
22 approval of the application including a requirement that dust palliative treatment be
23 applied to Thorpe Road from Brooks Road west to the entrance of the gun range
24 facilities. No other deficiency is noted by the Public Works Department relative to
25 Thorpe Road. In the absence of any evidence that the anticipated traffic resulting
26 from the development of the proposed gun range on the property would exceed the
27 current capacity of Thorpe Road, the allegations of deficiencies are not supported.

28 The Hearing Examiner concludes that the alleged impacts to Thorpe Road of
the activities anticipated at the proposed gun range do not rise to the level of a basis
for denial of the application.

Allowing RV Parking at the Gun Range Allegedly Creates an RV Park that is
Not Allowed in the Rural Traditional Zone:

 Several public comments including the Whitehead Brief and the Association
Brief allege that the proposed RV parking spaces in the parking lot of the proposed
gun range amount to an RV Park that is prohibited in the Rural Traditional Zone
under the Spokane County Zoning Code. Both SGC and those in opposition to the

1 application cite the Spokane County Zoning Code in support their assertion that the
2 proposed RV parking is permitted or prohibited.

3 Recreational Vehicle Park/Campground is defined in SCZC 14.300.100 as:

4 An area where facilities are provided for camping units as defined herein,
5 utilized by the public for camping for recreation on a temporary basis and
6 not designed for long term occupancy. The recreational vehicle
7 park/campground may include recreational services, facilities, and
8 activities for utilization by the public that are typical and ordinary to the
9 recreational vehicle park/campground industry. Recreation vehicle
10 park/campgrounds shall comply with all applicable State and County
11 codes.

12 There is no dispute that an RV is a camping unit identified in the above
13 definition.

14 SGC argues, that the site will only allow "dry" camping, meaning that there
15 will be no "facilities" for RVs, such as sewer dumping, or water or electricity hook up
16 services offered at the site. Without "facilities" for RVs provided at the site, SGC
17 argues that they will only be allowing RVs to park at the site as a courtesy to
18 participants during the event, which they argue is not a Recreational Vehicle
19 Park/Campground. Exhibit 2, Tab 4, Operation Plan.

20 Arguments against the RV parking can be summarized as: by inviting and
21 allowing "camping" which appears to be understood as temporarily residing in the
22 RVs while parked at the site, the RV parking spaces at the site amount to a
23 Recreational Vehicle Park/Campground. In support of their assertions the opponents
24 cite advertisements by the Spokane Gun Club that invite RVs during the shooting
25 events and state that "camping" is allowed. The application materials also indicate
26 that facilities at the site for RVs are anticipated in the future. Comment letter from
27 James & Tracie Lajeunesse, received September 23, 2019, Attachment #2 (Letter to
28 "Neighbors" from Spokane Gun Club, dated July 11, 2019).

The issue regarding the RV parking at the site comes down to the definition of
"facilities" as contained in the definition of a Recreational Vehicle Park/Campground.
However, that term is not defined in the code. Camping is also not defined.

In the absence of evidence from any party regarding the definition of the term
"facilities" as used in the definition of Recreational Vehicle Park/Campground, the
Hearing Examiner takes notice that that term when used in reference to RVs and RV
parks, is typically used to refer to the ability to "hook up" the RV to a water source, to
a source of electricity, and/or a place for the disposal of greywater (sewer products)
from the RV at the site or in the RV park complex.

1 Under that definition of "facilities" the parking spaces sized to accommodate
2 RVs proposed at the proposed gun range do not rise to a Recreational Vehicle
3 Park/Campground. The availability of prepared food within the clubhouse or
4 restrooms on the site do not fall within the typical usage of the term "facilities" as is
taken notice of.

5 Forty-Five (45) extended parking places, sized to accommodate RV units will
6 occupy a significant area within the parking area which will approximate the size of
7 a parking lot adjacent to a fast food restaurant or a small strip mall. The fact that
8 occupants of the RVs that park in the parking spaces at the site will be allowed to
9 occupy the RVs for days at a time during the events at the gun range does not
10 convert the RV parking spaces to a Recreational Vehicle Park/Campground.
Occupying the RVs temporarily during a shooting event is camping, however
camping alone is not a prohibited activity.

11 The argument against the existence of the RV parking spaces because
12 recreational facilities and services, such as the clubhouse and restrooms will be
13 available at the site is also misplaced. The definition of Recreational Vehicle
14 Park/Campground only identifies those facilities and services as permitted at a
15 Recreational Vehicle Park/Campground and not as criteria for the prohibition.
16 Because those services and facilities could be allowed in a Community Recreational
Facility, which is an allowed use in the Rural Traditional zone, they do not prohibit
the RV parking places at the gun range.

17 Conditions of approval can be imposed on the parking of RVs at the proposed
18 site of the gun range so as to be compatible with the other allowed uses in the Rural
19 Traditional zone.

20 Compatibility/Incompatibility of Gun Range with Other Allowed Uses in the
21 Rural Traditional Zone:

22 Comments in opposition to the proposed gun range include allegations that the
23 lead shotgun pellets deposited on the ground throughout the site will result in
24 contamination of the drinking water wells in the surrounding area, that installing a
25 new well at the site to serve the clubhouse and restrooms will diminish the available
26 water in the surrounding area and lower the capacity of the existing wells in the
27 area, the existence of the gun range will pose a danger to humans and animals that
28 occupy the surrounding properties, and that the noise generated at the gun range
will be excessive and/or at such a frequency and intensity as to make the gun range
incompatible with the other allowed uses in the Rural Traditional zone.

1 1. Contamination and Diminution of Water Wells in the Area.

2 In support of allegations of well water contamination evidence is offered in the
3 record in the form of an article from a publication named *The Trace*, titled "Gun
4 Ranges Produce Thousands of Tons of Toxic Pollution Every Year", dated September
5 11, 2019. The article cites the United States Department of Interior's U.S.
6 Geological Survey as stating that an individual range can go through between 1.5
7 and 20 tons of lead shot and bullets annually". Public comment from James & Tracie
8 Lajeunesse, dated September 20, 2019, Attachment #1. The article goes on to
9 reference two (2) gun ranges in northern California that operated approximately 46
10 and 80 years respectively, the cost of clean up of the two sites ranging from \$20
11 million to \$23 million. Clean up efforts at the Pacific Rod and Gun Club, which
12 operated for 80 years, are estimated to require replacement of 4 feet of topsoil over an
13 area of 11 acres. Another gun range that has been found to have contaminated the
14 environment at the gun club and surrounding area is at Stratford, Connecticut,
15 where over a period of 70 years the operation of the gun club facility "deposited 5
16 million pounds of lead and 11 million pounds of toxic target fragments on its grounds
17 and nearby waters". Id. The article does not report what, if any, prior efforts had
18 been made during the operation of the various gun ranges to extract or "mine" the
19 lead from the ground.

20 SGC's response to the allegations of potential lead contamination to the water
21 wells in the area is a plan to contract with an entity that will mine the lead shot from
22 the top 4 inches of the trap and skeet shooting range area on a periodic basis as
23 needed. During his testimony Stan Schwartz, attorney for SGC, explained that
24 mining of the site of the previous Spokane Gun Club facility took place approximately
25 each 4 years. The amount of lead shot mined from the previous site was not reported.
26 Mr. Schwartz also testified that the water quality in the vicinity of the previous gun
27 range site was periodically monitored and no contamination of the water from the
28 gun range was detected.

29 Notwithstanding the allegations of a negative impact on the water wells on
30 surrounding properties by allowing a new well on the site of the proposed gun range,
31 no evidence was provided to the Hearing Examiner that a negative impact would in
32 fact occur. SGC will be required to comply with all applicable codes and statutes
33 relative to the drilling of such a well for the purposes proposed.

34 Sufficient conditions of approval can be imposed to ensure that the proposed
35 gun range can be made compatible with the water well use at properties surrounding
36 the proposed gun range site.

1 2. Safety of Humans and Animals on Surrounding Properties.

2 SGC does not argue that discharging firearms is not a dangerous activity. The
3 firearms that will be discharged at the gun range are going to be primarily shotguns
4 and the size of shot and gunpowder loads of the shells used at the gun range will be
5 controlled and monitored by SGC's onsite employees. Exhibit 2, Tab 6, Letter from
6 Witherspoon Kelley, dated November 20,2019. No rifle fire will be allowed at the site
7 and all pistol fire will be confined to a "fully contained" pistol range, meaning that
8 the pistol range will be designed and built with state-of-the-art construction and
9 baffles, etc. that will ensure that no rounds fired within the pistol range will be
10 allowed to leave the pistol range. The pistol range will also include a sound
11 suppressing berm immediately behind the area for shooting. Pistol shooting will not
12 be allowed at the site outside of the pistol range. Id.; Site Plan, WAG Sheet A0.03,
13 dated 11.05.2019.

14 The safe distance for firing shotguns at the gun range is illustrated on the Site
15 Plan for the proposed gun range. WAG drawings, Sheet A0.03, dated 11.05.2019.

16 All of that being true, it is possible that someone may trespass onto the gun
17 range property and discharge a rifle or pistol in a manner that violates the gun range
18 rules. It is up to the gun range owner to take all reasonable steps to avoid violations
19 of its shooting rules.

20 As designed, assuming that all shooters follow the gun range rules, the gun
21 range will pose no danger to the trains that are known to regularly cross SGC's
22 property, to Fairchild Air Force Base airplanes or personnel, or to occupants of any of
23 the properties surrounding SGC's property.

24 3. Noise Impacts from Repetitive Gun Fire at the Gun Range.

25 The comments against the approval of the proposed gun range relative to noise
26 pollution center on two issues generally. First, the noise impact on residents of the
27 surrounding properties, and second, the noise impact on persons visiting the Medical
28 Lake Cemetery and funeral and interment ceremonies held at the cemetery.

 A significant number of commenters against the proposed gun range allege
that the repetitive gun shots at the gun range are expected to be almost constant
during the time that the range is open for shooting, up to 5 days per week and into
the evening hours, which will pose a disturbing sound environment for the residents
on the properties that surround the gun range property. Testimony was had from
individuals who live miles from the existing gun range on Brooks Road, asserting
that even at those distances the shooting could be heard and at a volume loud enough
to disturb the residents. One written comment indicated that at least one individual

1 living on property near the gun range site suffers from PTSD related to his service in
2 the armed services and that the repetitive shooting at the proposed gun range will
3 trigger a negative reaction in him due to the PTSD. Comment letter from David J.
4 Rosenbeck, TSgt. USAF Retired, dated 16 October 2019. Other testimony asserted
5 that farm animals on nearby properties will be negatively impacted by the repetitive
6 shooting. Finally, it is reported that the area surrounding the gun range site is still
7 designated as a no shooting zone, thus the gun range will be incompatible with the no
8 shooting designation of the surrounding properties.

9 The Hearing Examiner is sympathetic with those who reside on the properties
10 surrounding the gun range site, with respect to the sound of gun fire that the
11 proposed gun range could produce. The Hearing Examiner lived in a farming area as
12 a youth and witnessed the sounds of gun shots on surrounding properties. The farms
13 and residences on the properties near where the Hearing Examiner lived were so far
14 separated that firing a firearm in any of 300 degrees around the farmhouse on the
15 property was safe because of the distance between the home farm and the other
16 farmhouses in the area. Notwithstanding the distance and safety that it brought with
17 it the Hearing Examiner could clearly hear gun shots originating at other properties
18 around his.

19 Rural areas are the only areas where the discharge of firearms can reasonably
20 be allowed outdoors and still ensure a measure of safety to surrounding properties. In
21 Spokane County the only area where outdoor discharge of firearms is allowed is in
22 rural areas. Rural zones are, by definition, zones where residential development is at
23 a minimum, where activities such as farming, ranching, and similar activities are
24 known and expected to take place. Spokane County Comprehensive Plan; Spokane
25 County Zoning Code. Coincidentally, the proposed gun range is near an area zoned as
26 Mining Zone where heavy equipment and even blasting can occur. All those allowed
27 activities carry with them noises and odors that, even though distinct from gunfire,
28 are seen as distracting if not disturbing.

A gun range is an allowed use in the Rural Traditional zone upon conditions
that ensure that it is not incompatible with the other allowed uses in the area. SCZC
14.618.240(10). The sound of firearms discharge is not incompatible with uses
allowed in rural zones, including residential use. Whether for recreation or for
hunting, the discharge of firearms is a sound that can be expected to occur in rural
zones.

The Hearing Examiner concludes that the noise impacts upon allowed
surrounding residential and agricultural uses can be mitigated by conditions that are
available to be imposed upon the proposed gun range.

1 Regarding the compatibility with and mitigation of the noise impacts from the
2 proposed gun range upon the Medical Lake Cemetery, a use that is allowed in the
3 Rural Traditional zone, testimony was offered at the hearing that illustrated the
4 perceptions of the persons who do now and expect to continue to visit the Medical
5 Lake Cemetery from time to time. There was also testimony of persons who expect to
6 have loved ones interred at the Medical Lake Cemetery at some point in the future.
7 The cemetery property can be distinguished from the residential properties near the
8 proposed site of the gun range.

9 In reference to approval of a conditional use permit application for a gun range
10 in the Rural Traditional zone, SCZC 14.618.240(10)(b) states that “[t]he Hearing
11 Examiner may prescribe conditions of approval to assure mitigation of safety and
12 noise impacts”. The language of SCZC 14.618.240(10)(b) differs from the language in
13 SCZC 14.404.100(1)(b)¹⁰ in that SCZC 14.618.240(10)(b) is more specific in adding the
14 reference to “assure mitigation of noise impacts”.

15 Regardless of our religious faith or belief a cemetery is a place that is held
16 sacred in a broad sense of that word. A cemetery is a place that we go to grieve, to
17 heal, or simply to remember and reminisce those whose remains are laid within its
18 boundary. Specifically, Native American grave sites are protected by law and
19 enshrined with specific procedures for the identification, preservation, and when
20 appropriate retrieval when they are discovered. See 25 USCS Sections 3001 – 3013;
21 Chapter 27.44 RCW; compare also RCW 27.34.415 & .420. Cemeteries are a unique
22 and revered land use that is traditionally given a great deal of respect and deference.
23 The Medical Lake Cemetery has been given careful consideration in determining the
24 appropriateness of allowing a gun range of this scope and activity level to be located
25 across the street from the cemetery.

26 Pursuant to SCZC 14.404.100(1)(b) and SCZC 13.618.240(10)(b), the issue is
27 whether the gun range as proposed is incompatible with the Medical Lake Cemetery
28 and whether sufficient conditions can be imposed upon the gun range so as to assure
the mitigation of noise impacts at the cemetery.

 The Medical Lake Cemetery was established in 1888. Washington State
Department of Archaeology and Historic Preservation Record SP00612. The earliest
headstone in the cemetery is dated 1864 predating the official plat of the cemetery.
Id. Buried within the cemetery are a total of 62 veterans, including 23 Union soldiers
from the Civil War and others from WWI, WWII, the Korean War, Vietnam, and the

¹⁰ Adequate conditions and restrictions on the conditional use are adopted to ensure that the
conditional use will be compatible with other permitted uses in the area, and will not be materially
detrimental to the public health, safety or general welfare.

1 Persian Gulf War. Id. The cemetery has historical significance for not just its being
2 home to US Veterans, but also for its direct association with the early founding
3 settlers of Medical Lake and the surrounding communities. Id.

4 Without extensive research it is reasonable to assume that in 1888 the area
5 surrounding the cemetery was rural in nature and that fewer residential structures
6 existed in the area than exist now. When the nearby railroad tracks had been laid at
7 or when the railroad came to the area is unknown. It is also reasonable to assume
8 that the sound of gunfire in the vicinity from hunting and/or other reasons may have
9 taken place from time to time during the existence of the cemetery. No evidence has
10 been provided by either of the groups, in favor or in opposition to the proposed gun
11 range, regarding the existence of gunfire on properties surround the cemetery, with
12 the exception of evidence that indicates that prior to the no shooting zone being
13 declared in the area there was gunfire taking place from time to time in the forested
14 area on the site of the proposed gun range and west of the site. Spokane County
15 Building and Planning Department File # NS-01-19, Staff Summary Shooting
16 Advisory Committee, dated July 22, 2019. The reason cited for the petition for
17 designation of a no shooting zone in the area was the danger of injury to the
18 residential development that exists on properties surrounding the area that shooting
19 appeared to be taking place. Id. The sound of gunfire on the site of the proposed gun
20 range was not cited as a reason for the request for the imposition of the no shooting
21 zone originally. Neither was the Medical Lake Cemetery's location relative to the
22 location subject property mentioned in the petition for establishment of the no
23 shooting zone originally. Id.

24 The hours of operation of the proposed gun range are reported to be from 9:00
25 a.m. to dusk, but no later than 7:00 p.m., Wednesday through Sunday, during the
26 months of April through October. Exhibit 2, Tab 4, Operation Plan. Shooting at the
27 various stations of the gun range will amount to discharging a firearm every .9
seconds¹¹ when the site is being used to its full capacity. Coffman Engineers,
Spokane Gun Club Relocation Noise Study, dated November 14, 2019, p.16. (See
Appendix A attached to this decision.) Even if there is only one shooter at the range,
the frequency of discharge of a firearm will be 1.2 shots per minute or 1 shot per 50
seconds¹². Id. The highest decibel level from the gun shots, at any of the borders of
the gun range site will be 63 dBA. Coffman Engineers, Spokane Gun Club Relocation
Noise Study, dated November 14, 2019, p.17. 63 dBA is within the limitations set by

28 ¹¹ Trap & Skeet – 10 stations x 4.2 shots/minute = 42 shots/ minute = 1.4 shots/second.
Sport Clays 12 Stations x 5.5 shots/minute = 66 shots/minute = 1 shot/.9 seconds.

¹² 50 shots/hour = 1.2 shots/minute – 1 shot/50 seconds.

1 Washington State statutes and Spokane County code. Id. The decibel level from
2 gunfire as heard at the Medical Lake Cemetery are reported as 60 dBA – 50 dBA. Id.,
3 pp. 17 – 23. The sound of gunfire from the gun range would approximate the level of
4 noise generated by having a busy freeway at 300 feet from the cemetery. Id., p. 8.
5 Unlike to heavy traffic noise or the sounds of a business office or a dishwasher, the
6 sounds of gun shots are distinctive and intense at the instant that the shot is fired.

7 Although the noise level limits prescribed by statute and regulations would not
8 be exceeded by the gunfire at the gun range, as measured within the cemetery
9 boundaries, the “impacts” of the gunfire upon visitors to the cemetery may be
10 significant when considered in the context of the purpose of the visit to the cemetery
11 and the sensitive nature of the cemetery grounds.

12 An understanding of the compatibility of the proposed gun range and the
13 mitigation of the noise from the proposed gun range on the Medical Lake Cemetery
14 can be derived from the video recordings made at the cemetery and submitted into
15 the record as Exhibit B to the Declaration of Dave Tueller, dated May 27, 2020, and
16 Exhibit K to the Declaration of Connie Cada, dated May 28, 2020.

17 The video recordings are not supported by foundational evidence that the
18 recordings can be interpreted to correlate with scientific analysis of the noise levels
19 in decibels. However, the recordings do contain various sounds that are recognizable
20 for comparison by the listener as between the intensity of the various noises. For
21 example, a human narrator speaks on the recordings, the sounds of birds chirping in
22 the vicinity of the recording device can be heard, a train whistle blows somewhere
23 nearby, and there are gun shots also recorded on the video recordings. The video
24 recordings are described as being made at various locations within the cemetery and
25 the gun fire is described as taking place at distances comparable to where shooting
26 would take place in the proposed gun range. It is notable that the voice on the
27 recordings is at a volume at or higher than the gun fire on the recordings. The train
28 whistle at its peak is higher in volume than the gun fire as those sounds are recorded
on the video recordings. The sound of birds chirping is comparable to the sound of the
gun shots as recorded on the video recordings. It is also notable that the birds, whose
chirping is recorded, appear to continue chirping before, during and after the gun fire
recorded – without any indication that the gun fire disturbed or interrupted the bird
behavior.

The comparison of the sounds captured on the video recordings puts into
perspective the comparisons of sounds as illustrated in the Relocation Noise
Analysis, Exhibit 2, Tab 7 of the Hearing Exhibits. Thus, the Hearing Examiner
concludes that although the sound of gun fire from the proposed gun range will be

1 noticeable and is not ideal in the context of visiting a cemetery for remembering
2 those who are buried there, the specific standards set forth for the conditional use in
3 the Rural Traditional zone are met, and the conditions of approval hereinafter are
4 sufficient to ensure that the conditional use will be compatible with other permitted
5 uses in the area, will adequately mitigate the noise impacts upon the surrounding
6 properties, and will not be materially detrimental to the public health, safety or
7 general welfare.

8 Any conclusion of law above that is a finding of fact is deemed a finding of fact.

9 IV. DECISION

10 Based on the Findings and Conclusions above, the application for a
11 Conditional Use Permit for a gun range in the Rural Traditional Zone, submitted by
12 the Spokane Gun Club, as identified above, in the Rural Traditional zone, is hereby
13 approved, subject to compliance with the conditions of the various agencies specified
14 below.

15 Any conditions of approval of public agencies that have been added or
16 significantly altered by the Examiner are *italicized*. This approval does not waive the
17 applicant's obligation to comply with all other requirements of other public agencies
18 with jurisdiction over land development.

19 Minor revisions should be made to the conditions of approval to ensure proper
20 formatting, clarity, and consistency with the findings of fact above.

21 A. Conditions of Approval

22 Spokane County Building and Planning Department

- 23 1. All conditions imposed by the Hearing Examiner shall be binding on the
24 "Applicant", which term shall include the owner or owners of the property,
25 heirs, assigns and successors.
- 26 2. The proposal shall comply with the Rural Traditional (RT) zone, specifically
27 Section 14.618.240(10), Fairchild AFB Overlay Zone, Parking and
28 Landscaping, and all other applicable chapters of the Spokane County Zoning
Code, as amended.
3. The applicant shall develop the subject property in strict conformance with
the site plan presented to the Hearing Examiner on February 5, 2020 *with the
revised location of the shooting stations proposed in the applicant's
supplemental briefing dated May 8, 2020*. All aspects of the concept and
proposal shall be binding on the development, including proposed use.

1 Variations, to be approved by the Director of Building and Planning/designee,
2 shall only be allowed to meet regulation standards and conditions of approval.
3 Any other modifications must be presented to the Hearing Examiner for
4 review and approval.

5 4. The Building and Planning Department shall prepare and record with the
6 Spokane County Auditor a Title Notice noting that the property in question is
7 subject to a variety of special conditions imposed as a result of approval of a
8 land use action. This Title Notice shall serve as public notice of the conditions
9 of approval affecting the property in question. The Title Notice should be
10 recorded within the same time frame as allowed for an appeal and shall only
11 be released, in full or in part, by the Building and Planning Department. The
12 Title Notice shall generally provide as follows:

13 The parcel of property legally described as *[insert legal description]* is
14 the subject of a land use action by a Spokane County Hearing Examiner
15 on June 30, 2020, imposing a variety of special development conditions.
16 File No. CUW-06-19 is available for inspection and copying in the
17 Spokane County Building and Planning Department.

18 5. Development of the site shall be consistent with the Spokane County Critical
19 Areas Ordinance, as amended.

20 6. Prior to issuance of a building permit for a new structure the applicant shall
21 award an avigation easement to the Fairchild Air Force Based. The avigation
22 easement shall be recorded with the Spokane County Auditor.

23 7. The Building and Planning Department shall prepare and record with the
24 Spokane County Auditor a Title Notice noting that property is located within
25 1,000 feet of lands designated as Natural Resource Lands. The notice shall
26 include the following disclosure:

27 "The subject property is adjacent to or in close proximity to designated
28 agricultural, forest or mineral resource land on which a variety of
commercial activities may occur that are not compatible with residential
development. Potential disturbances or inconveniences may occur 24
hours per day and include but are not limited to: noise, odors, fumes,
dust, smoke, insects, operation of machinery including aircraft,
application of pesticides, herbicides, fertilizers and removal of
vegetation. Agricultural and forestry-related activities which are

- 1 performed in accordance with local, state and federal laws shall not be
2 subject to legal action as a public nuisance.”
- 3 8. The proposed use shall be consistent with the CARA requirements of the
4 Spokane County Critical Areas Ordinance, as amended.
- 5 9. Prior to issuance of a building permit the applicant shall illustrate the
6 location of the mapped wetland and the required 250-foot wetland buffer area
7 on the site plan or perform a thorough wetland review as recommended
8 within the wetland letter prepared by GeoEngineers.
- 9 10. Recreational vehicle parking shall only be permitted on the site during
10 regional competitions and only for the duration of the actual competition.
- 11 11. Use of the clubhouse will be limited to club activities and no public events
12 shall be permitted.
- 13 12. Prior to release of building permit(s) plans will need to be revised to indicate
14 the site address.
- 15 13. This site will need fire apparatus access to within 150' of all exterior portions
16 of the building, note that this may be done with a qualifying gravel road if
17 accepted by the Fire district.
- 18 14. Due to the unknown size of the proposed buildings fire flow cannot be
19 determined at this time. A minimum of 1 fire hydrant is required to provide
20 1,000 gpm; there may be exceptions granted through the NFPA 1142 process.
- 21 15. Due to the size and use of the proposed structure an automatic fire
22 suppression system will be required.
- 23 16. If any ammunition is stored on site, said storage shall comply with Chapter 56
24 of the 2015 IFC. This may require addition fire protection of structures or
25 rated construction with specialized roof construction.
- 26 17. *RV parking during shooting competition will be allowed at the site, however no
27 tents or soft sided camping structures may be allowed at the site including but
28 not limited to shade canopies, except for awnings that are part of and attached
to RVs. Occupation of RVs shall not exceed the stated occupancy capacity of the
RV as contained in the owner's manual. Quiet time for the RVs shall be
between 9:00 pm and 7:00 am.*

1 Spokane County Public Works Department

2 **Prior to release of a building permit or use of property as proposed:**

- 3
- 4 1. A Professional Engineer, licensed in the State of Washington, shall submit final
- 5 road and drainage plans, a drainage report and calculations that conform to the
- 6 2018 Spokane County Road Standards, the 2008 Spokane Regional Stormwater
- 7 Manual, and all standards and laws that are applicable to this project. Any final
- 8 road and drainage plans and a drainage report shall receive the County
- 9 Engineer's acceptance prior to release of a construction or building permit or
- 10 approval of the final plat.
- 11
- 12 2. Roadway standards, typical roadway sections and drainage plan requirements
- 13 are found in Spokane Board of County Commissioners resolution 17-1076 as
- 14 amended and are applicable to this proposal.
- 15
- 16 3. The County Engineers reserve the right to review the proposal and the existing
- 17 site at the time of any grading permit, land use change, commercial building
- 18 permit, or building change of use permit for compliance with the current
- 19 stormwater regulations. New or modified drainage improvements may be required
- 20 where phased site development or expansion of site facilities occur.
- 21
- 22 4. A parking plan and traffic circulation plan shall be submitted and accepted by
- 23 the Spokane County Engineer. The design, location and arrangement of
- 24 parking stalls shall be in accordance with standard engineering practices.
- 25 Paving or surfacing as approved by the County Engineer will be required for
- 26 any portion of the project which is to be occupied or traveled by vehicles.
- 27
- 28 5. The increased traffic from this project will require mitigation of the fugitive
- dust. The applicant has two options for mitigation 1) The applicant can apply
- a dust palliative consistent with the Spokane County permitting process
- during the Spring of each year. 2) The applicant may pave Thorpe road to the
- standard of a "private road" within the public right of way.
6. Maintenance on the existing gravel Thorpe Road is graded 1-2 times per year
- by Spokane County and is not expected to increase should this project be
- approved. The applicant shall provide in writing which method of fugitive
- dust mitigation (No. 5, above) how they will accomplish prior to the release of
- a building permit.
7. No construction work is to be performed within the existing or proposed public

1 right-of-way until a permit has been issued by the County Engineer. All work
2 is subject to inspection and approval by the County Engineer.

3 8. All required construction within the existing or proposed public right of way is
4 to be completed prior to the release of a building permit or a bond in an
5 amount estimated by the County Engineer to cover the cost of construction or
6 improvements shall be filed with the County Engineer.

7 9. Applicant shall sign "Spokane County Notice to the Public Number 6" which
8 specifies the following:

9 The owner(s) or successor(s) in interest agree that in consideration of
10 Mutual Benefits now or to be hereafter derived, do for themselves,
11 their heirs, grantees, assigns and successor(s) in interest, do hereby
12 request and authorize Spokane County to include the above described
13 property in a Road Improvement District (RID) and to support the
14 formation of a Road Improvement District for improvement of the
15 road(s) described below by requesting and authorizing Spokane
16 County to place their name(s) on a petition for the formation of a
17 Road Improvement District pursuant to RCW 36.88.050; or by
18 requesting and authorizing Spokane County to cast their ballot in
19 favor of a RID being formed under the resolution method pursuant
20 to RCW 36.88.030, and/or by not filing a protest against the
21 formation of a RID being formed under the alternative resolution
22 method provided for in RCW 36.88.065 and Chapter 35.43 RCW.

23 If a RID is proposed for improvement of the road(s) described below,
24 said owner(s) and successor(s) further agree: (1) that the improvements
25 or construction contemplated within the proposed RID are feasible, and
26 (2) that the benefits to be derived from the formation of the RID by the
27 property included therein, together with the amount of any County
28 participation, exceeds the cost and expense of formation of the RID, and
(3) that the property within the proposed RID is sufficiently developed;
provided themselves, their heirs, grantees, assigns and successor(s) shall
retain the right, as authorized under RCW 36.88.090, to object to any
assessment(s) on the property as a result of the improvements called for
in conjunction with the formation of a RID by either the petition or
resolution method under Chapter 36.88 RCW and to appeal to the
Superior Court the decision of the Board of County Commissioners
confirming the final assessment roll; provided further, it is recognized
that actual assessments may vary from assessment estimates as long as

1 they do not exceed a figure equal to the increased true and fair value
2 improvement(s) add(s) to the property.

3 It is further acknowledged and agreed that at such time as a RID is
4 created or any County Road Improvement project is authorized by
5 Spokane County, the improvements required shall be at the sole expense
6 of the owner(s) of property within the RID or served by the
improvements without any monetary participation by Spokane County.

7 The RID waiver contained in this agreement shall expire after ten (10) years from
8 the date of execution below. This provision is applicable to Thorpe Road.

9 10. The County Engineer has designated a Rural Local Access Roadway Section
10 for the improvement of Thorpe which is adjacent to the proposed development.
11 This will require the addition of approximately 30 feet of asphalt along the
frontage of the development.

12 11. Approach Permits are required for any access to the Spokane County road
13 system.

14 12. "The applicant is advised that there may exist utilities either underground or
15 overhead affecting the applicant's property, including property to be dedicated
16 or set aside for future acquisition. Spokane County will assume no financial
17 obligation for adjustments or relocations regarding these utilities." "The
18 applicant should contact the applicable utilities regarding responsibility for
19 adjustment or relocation costs and make arrangements for any necessary
work."

20 13. The Spokane County Engineer has reviewed this project for transportation
21 concurrency and has determined that it is exempt under Spokane County
22 Code, Section 13.650.104 (2) (c).

23 14. The proposal is located within a Critical Aquifer Recharge Areas (CARA) of
24 (Moderate) susceptibility to groundwater contamination under the Spokane
25 County Critical Areas Ordinance (as amended by BOCC Resolution No. 8-
26 0609). The Critical Areas Ordinance protects aquifers used for potable water
27 and requires compliance with the Spokane Regional Stormwater Manual
(SRSM).

28 The SRSM requires development to treat stormwater runoff from pollutant-
generating impervious surfaces (PGIS) including vehicular traveled ways, parking

1 areas, equipment storage areas, and certain roofs. Basic treatment is required for
2 the affected runoff from any commercial/industrial use with a CARA of moderate
3 or high susceptibility including a well-head protection "circle", or at any location
4 whenever underground injection such as from drywells is involved. High-traffic
5 and high-oil source pavement areas require staged treatment. Most current
6 commercial roofing material and rooftop HVAC and electro-mechanical equipment
7 are considered non-PGIS, but there are exceptions. Where critical materials
8 handling is involved, additional spill-control and containment methods are needed
9 to keep these hazardous materials isolated from the stormwater disposal and
10 potential discharge into the ground.

11 15. The applicant shall acknowledge receipt of notice from Spokane County that
12 prior to use, all drywalls and other infiltration devices regulated under WAC
13 173-218-070 serving the proposed project shall be registered with the
14 Washington State Department of Ecology.

15 16. The applicant is being given notice by Spokane County that site disturbances
16 of greater than 1- acre with a discharge to "waters of the state" regulated by
17 the National Pollutant Discharge Elimination System (NPDES) under WAC
18 171".220 must apply with the Washington State Department of Ecology.

19 Fairchild Air Force Base

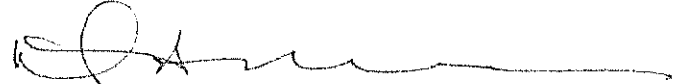
20 This approval is conditioned upon FAFB's internal and technical review of
21 said relocation during the CUP process, along with the Gun Club's
22 agreement to meet the following conditions and requirements:

- 23 1. No rifles or outdoor rifle ranges allowed, with the exception of shotguns for
24 the trap and skeet shooting described below.
- 25 2. Outdoor pistol range is permitted, so long as it is fully baffled to contain and
26 preclude any rounds from leaving the range.
- 27 3. Shotgun skeet and trap range is permitted. All members and guests will be
28 briefed on controlling their shot while aircraft are flying overhead, and a
safety sign will be placed on the range.
4. No shooting at aircraft. Vertical shooting distance is critical, so shooters must
be mindful.
5. Direction of range shall be directed to minimize shooting towards aircraft
(likely North).

- 1 6. The Club shall regulate shells used on the property so as to prevent any shells
2 other than standard shotgun shells to be used in the skeet and trap range.
- 3 7. Any lighting on the premises will be dark-sky compliant (shielded around and
4 above the light to create downwardly directed lighting).
- 5 8. FAFB will not change its flight path and patterns to accommodate the Club's
6 development. These activities will continue as-is.
- 7 9. The Club will not permit any drone activity on the property.
- 8 10. *In addition to the above conditions relative to FAFB, the applicant shall make*
9 *any necessary alterations in its use of the property to accommodate FAFB in*
10 *continuing its mission and operations. Any said alterations shall be*
11 *communicated to the applicant as soon as made known to Spokane County or*
12 *otherwise communicated by FAFB.*

13 DATED this 1st day of July, 2020

14
15 SPOKANE COUNTY HEARING
16 EXAMINER

17 

18 David W. Hubert, WSBA #16488

19 NOTICE OF FINAL DECISION AND NOTICE OF RIGHT TO APPEAL

20
21 Pursuant to Chapter 1.46 (Hearing Examiner) of the Spokane County Code,
22 the decision of the Hearing Examiner on an application for a CUP is final and
23 conclusive unless within twenty-one (21) calendar days from the issuance of the
24 Examiner's decision, a party with standing files a land use petition in Superior Court
pursuant to Chapter 36.70C of the Revised Code of Washington (RCW).

25 Pursuant to RCW Chapter 36.70C, the date of issuance of the Hearing
26 Examiner's decision is three (3) days after it is mailed, counting to the next business
day when the last day for mailing falls on a weekend or holiday.

27 On July 2, 2020, a copy of this decision will be mailed by certified mail and by
28 first class mail to the Applicant, and by email to other parties of record. The date of
issuance of the Hearing Examiner's decision is July 7, 2020.

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THE LAST DAY FOR APPEAL OF THIS DECISION TO SUPERIOR COURT
BY LAND USE PETITION IS JULY 28, 2020.

The complete record in this matter, including this decision, is on file during
the appeal period with the Office of the Hearing Examiner, Third Floor, Public Works
Building, 1026 W. Broadway Avenue, Spokane, Washington, 99260-0245, (509) 477-
7490. The file may be inspected Monday through Friday of each week, except
holidays, between the hours of 8:00 a.m. and 4:30 p.m. Copies of the documents in the
record will be made available at the cost set by Spokane County.

Pursuant to RCW 36.70B.130, affected property owners may request a change in
valuation for property tax purposes notwithstanding any program of revaluation.

THE SPOKESMAN-REVIEW

Washington Education Business Idaho

NEWS > BUSINESS

The Dirt: Lean Kitchen Co. planning South Hill store

Sun., Nov. 1, 2020



By Amy Edelen 

amy@spokesman.com

(509) 459-5581

Lean Kitchen Co. is expanding to Spokane with plans for a store in the Manito Shopping Center on the South Hill.

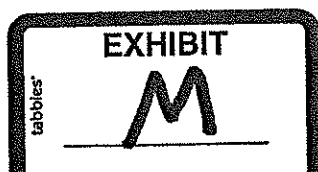
Milpitas, California-based TNC Property Investment LLC, which owns Manito Shopping Center, filed an application with the city of Spokane to renovate an existing space into a 900-square-foot Lean Kitchen at 802 E. 29th Ave., Suite 3.

Lean Kitchen, founded in St. Joseph, Missouri, by Austin Evans and J.R. Robertson in 2016, is a meal prep company with a “grab-and-go” store concept that also offers nutritional supplements. Evans and Robertson began franchising stores nationwide in 2018.

Lean Kitchen offers breakfast, lunch and dinner meals as well as healthy snacks. Some of the meals – which vary by location – include teriyaki bowls, baja chicken and carrot fries, keto steak and eggs, and turkey tacos.

The project contractor is Rathdrum, Idaho-based Elite Empire Construction Inc. The project valuation is \$80,000, according to the application.

Lean Kitchen Co. has 22 locations nationwide, including a store in Coeur d’Alene. The company indicates plans to open multiple locations in Idaho and Washington, according to its website.



Dance shop on site of mixed-use project

A building that houses a longtime dance retailer could be transformed into a retail and residential mixed-use project, according to a preliminary application filed with the city.

Spokane-based HDG Architecture filed the application to remodel the more than 6,400-square-foot existing building at 131 S. Sherman St. into multiuse retail and residential units with exterior facade improvements.

A preliminary site plan proposes 1,600 square feet of retail space and 4,800 square feet of residential space.

The project valuation is \$750,000, according to the application.

Wyoming-based Rad Space LLC purchased the building for \$325,000 in 2019, according to the Spokane County Assessor's Office.

It's unclear if Empire Dance Shop, founded in 1950, will remain a tenant in the building. The business did not respond to a request for comment.

Gun club requests permits

for new range, clubhouse on the West Plains

Plans are moving forward for the Spokane Gun Club's new shooting range on the West Plains.

The Spokane Gun Club has filed applications for three permits with Spokane County to build 10 trap houses, four skeet houses, a covered five-stand shelter for a gun range, a 4,500-square-foot clubhouse, and a storage and maintenance facility at 21002 W. Thorpe Road in Medical Lake.

The permits are valued at more than \$1 million, according to the applications.

Spokane-based Wolfe Architectural Group is designing the project.

Spokane County's hearing examiner approved a conditional-use permit for the project in July.

The Spokane Gun Club sold its former 99-acre property at 19615 E. Sprague Ave. to the Central Valley School District in 2018.

Apartment building coming to Mansfield Ave.

A new apartment building is coming to a vacant site on Mansfield Avenue in Spokane Valley.

Cascade Home Builders LLC filed for a permit with the city to build a four-story, 22-unit apartment building spanning more than 38,000 square feet between Perrine Road and Robie Street, west of Pines Road.

Cascade Home Builders purchased the 1.6-acre vacant site for \$176,000 in 2019, according to the Spokane County Assessor's Office.

Spokane-based Russell Page Architects is designing the project, which is valued at \$3 million, according to the application.

THE SPOKESMAN-REVIEW

Local journalism is essential.

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Jim Meehan