

**DOUGLAS COUNTY**

**DEPARTMENT OF HEARING EXAMINER**

140 19<sup>th</sup> Street NW  
East Wenatchee, WAS 98802-4109

**BEFORE THE DOUGLAS COUNTY HEARING EXAMINER**

<b>IN THE MATTER OF</b>	)	<b>FINDINGS OF FACT,</b>
	)	<b>CONCLUSIONS OF LAW,</b>
CUP-2020-01	)	<b>DECISION AND</b>
Douglas County Sheriff Tactical Training Facility	)	<b>CONDITIONS OF APPROVAL</b>

THIS MATTER having come on for hearing in front of the Douglas County Hearing Examiner on March 19, 2020, the Hearing Examiner having taken evidence hereby submits the following Findings of Fact, Conclusions of Law, Decision and Conditions of Approval as follows:

**I. FINDINGS OF FACT**

1. The applicant is Kevin Morris, Douglas County Sheriff, 100 19th St., NW, Suite A, East Wenatchee, WA 98802.
2. The agent is Justin Roozen, Environmental Manager, Douglas County Transportation & Land Services, 140 19th St. N.W., East Wenatchee, WA 98802.
3. The property owner is Douglas County, 140 19th St. N.W., East Wenatchee, WA 98802.
4. This is an application for a conditional use permit for a proposed tactical training facility for use by Douglas County Sheriff department. The subject properties are approximately 10 acres in size with approximately 3.35 acres to be used for the facility.
5. Proposal includes three tactical training shooting lanes, 15'x40' range shelter, 8'x30' storage (cargo) container, solar power panels, on-site parking areas and portable outhouses with portable water and hand washing stations. The shooting lanes will be paved with asphalt.
6. The entire site will be enclosed by a locking chain link fence with two stranded barbed wire. The facility will be available for use 24 hours a day.

7. The entire facility will be constructed within Douglas County parcel numbers 25233630002 and 25233630003. These parcels are part of an existing permitted rock quarry operated by Douglas County Transportation.
8. A minimum of six, solar powered lights on poles will be placed at key locations as shown in the plan view. Each light will be directed either to the ground or toward the north end of the site, limiting impacts to the traveling public along US Hwy 2.
9. The exact specifications of the solar system have not been designed at this time.
10. Several 8' tall berms with 1:1 slopes will be constructed around and within the site as shown in the plan view. These berms will be covered in topsoil and reseeded with a native mix.
11. A 6' tall chain link fence with two stranded barbed wire at the top will surround the entire site.
12. The site will remain locked when not in use.
13. Two open space areas, approximately 90'x110' and 180'x110', will be located within the site for parking and training exercises.
14. A mobile hand washing and potable water station will be placed within the site.
15. Portable outhouses will be placed within the site.
16. Because of the nature of law enforcement training scenarios, the site will be available for operation 24 hours a day.
17. Loud noises from the firing of weapons and other tactical equipment will periodically occur at this site.
18. Communications from this site will be mobile and include radio and cellular.
19. All stormwater will drain to the west side of the site and infiltrate to the ground.
20. No surface water exists on or near the site.
21. The properties are located at Milepost 159.54 of US Highway 2, Waterville WA in the Dryland Agriculture (A-D) zoning district under Douglas County Code and are further described as being located within Section 36, Township 25N, Range 23E, W.M. The Assessor's Parcel Number are 25233630002 and 25233630003.
22. The property is accessed by vehicles from US 2. Access via the Rocky Reach trail is not allowed by this conditional use permit.
23. Site Information:
  - 23.1 Total Project Size: The subject properties are approximately 10 acres in size with approximately 3.35 acres to be used for the facility.
  - 23.2 Domestic Water: No surface water exists on or near the site

- 23.3 Sewage Disposal: Portable outhouses will be placed within the site
  - 23.4 Power/Electricity: Solar power panels
  - 24.4 Fire Protection: Douglas County Fire District #2
  - 24.5 Telephone Service: Varied - mobile and include radio and cellular.
24. Site Characteristics: The property is currently a quarry. The lots total approximately 10 acres in size. The site is of relatively flat topography surrounded by vacant land and/or dryland wheat.
25. Surrounding Property:
- North: Vacant land and/or dryland wheat and is zoned Dryland Agriculture.
  - South: Vacant land and/or dryland wheat and is zoned Dryland Agriculture.
  - East: Vacant land and/or dryland wheat and is zoned Dryland Agriculture.
  - West: Vacant land and/or dryland wheat and is zoned Dryland Agriculture.
26. The subject properties are located within the Dryland Agriculture (A-D) district under the Douglas County Code. The purpose of the A-D dryland agricultural district is to recognize and acknowledge the importance of dryland agricultural lands and related activities to the economic livelihood of Douglas County. Existing and future agricultural activities are permanent land uses as well as a significant economic function within the community. The predominant uses within this district will be grain crop production and livestock production, with some areas participating in the federal conservation reserve program. This district is intended to preserve and encourage these activities as viable operations and to protect them from the encroachment of incompatible uses.
27. The Douglas County Comprehensive Plan designation is Dryland Agriculture (A-D).
28. Dryland Agricultural - lands used primarily for grain, feed, crop production livestock raising, livestock grazing; and lands in conservation programs (i.e. CRP, CREP) programs. The majority of this land is found on the plateau areas of the county. The density of the district is one unit per twenty acres, with a minimum lot size of twenty acres, except as otherwise noted in this document for clustering and agricultural support activities.
29. Pursuant to Douglas County Code 18.40.040, those uses designated in the conditional use permit matrix as conditional uses and approved pursuant to Douglas County Code Chapter 18.80, provided, that the development standards of this chapter are met.
30. Pursuant to Douglas County Code 18.80.320 Conditional Use Permit Matrix: The following table is a list of conditional uses that may be authorized within the districts established by this title. Application for conditional uses not listed shall be prohibited unless the director determines that an unlisted use is similar to one that is already enumerated in this table and may therefore be allowed, subject to the requirements associated with that use, this chapter and other applicable provisions of the Douglas County Code. "Shooting ranges" is a listed Conditional Use within the Dryland Agriculture A-D district.
31. Douglas County Transportation is the designated Responsible Official and issued a Determination of Non-significance on December 24, 2019. Aaron Simmons, PE, County

Engineer assumed lead and the Responsible Official. Douglas County issued a Determination of Non-significance in accordance with WAC 197-11-340(2).

32. The applicant submitted the Conditional Use Permit application on January 9, 2020.
33. The Letter of Completeness was issued on January 9, 2020.
34. The Notice of Application was issued on January 14, 2020.
35. The public and agency comment period started on January 15, 2020 and concluded on January 30, 2020.
36. The applicant conducted a "Neighborhood Meeting" on February 18, 2020 (pursuant to DCC 14.08.012). One member of the public appeared.
37. The following was submitted for permit processing: Master Application, SEPA Checklist (with DNS), Site-Plan, Project-Narrative (revised), and Stormwater Report, specifically:
  - 37.1 Project Narrative prepared by Douglas County, received January 9, 2020.
  - 37.2 Site Plan prepared by Douglas County, received January 28, 2020.
  - 37.3 SEPA Checklist prepared by Douglas County, received January 9, 2020.
  - 37.4 Stormwater Report prepared by Douglas County, received February 11, 2020.
38. The Stormwater Report submitted adequately addresses how the project proposes to manage stormwater runoff. The project is located within an existing depression and is completely self-contained for storms in excess of the 100-year/24-hour SCS Type II event. Stormwater runoff is mitigated in accordance with the 2019 Stormwater Management Manual for Eastern Washington and applicable Douglas County Code.
39. Douglas County Transportation is the designated Responsible Official and issued a Determination of Non-significance on December 24, 2019. Aaron Simmons, PE, County Engineer assumed lead and the Responsible Official. Douglas County issued a Determination of Non-significance in accordance with WAC 197-11-340(2).
40. Surrounding property owners were given the opportunity to comment on the proposals, can request a copy of the decision, and can appeal the decision subject to the requirements outlined in Douglas County Code Title 14.
41. Proper legal requirements were met and surrounding property owners were given the opportunity to comment on the proposal the open record public hearing.
42. As conditioned, the development will not adversely affect the general public, health, safety and general welfare.
43. Applicable agencies have been given the opportunity to review this proposal. The following agencies have been sent copies of the proposal and have commented as indicated below:

- 43.1 WA State Dept. of Ecology – No response
  - 43.2 Douglas County Transportation – Response received February 12, 2020
  - 43.3 WA State Dept. of Transportation – Response received January 22, 2020
  - 43.4 Douglas County Land Services – Response received February 4, 2020
  - 43.5 Chelan-Douglas Health District – No response.
  - 43.6 Douglas County Fire District – Response received January 30, 2020
  - 43.7 Douglas County GIS – Response received January 22, 2020
  - 43.8 Dept. of Natural Resources – Response received January 23, 2020
  - 43.9 Douglas County PUD - NA
  - 43.10 Douglas County Building Services – Response received March 2, 2020
44. Comments from reviewing agencies have been considered and addressed where appropriate.
45. Public comments were received by the following:
- 45.1 January 28, 2020 letter from Jan Elliston.
  - 45.2 January 22, 2020 letter from Terri Thomsen.
46. Pursuant to Douglas County Code 18.80.020 (A), the hearing examiner is authorized to approve, approve with conditions or deny permits for conditional uses as specified in this chapter. Uses designated in this title as conditional shall be permitted, enlarged or altered only upon approval of the hearing examiner or zoning adjustor in accordance with the standards and procedures specified in this title and other applicable provisions of the Douglas County Code.
47. The project site is within the Dryland Agriculture (A-D) designation; and the proposal is consistent with the Goals and Policies identified above.
48. The application materials include responses to all of the required criteria.
49. Pursuant to Douglas County Code 18.80.030, each conditional use permit application must be reviewed to ensure compliance with the evaluation criteria established in the DC Code. Below is a review and compliance analysis with the established standards:
- 49.1 The proposed use will be harmonious and in accordance with the general and specific objectives of the comprehensive plan and all subarea plans.
  - 49.2 Analysis: The project as proposed will be in compliance with Douglas County Code. The location of the site is zoned Dryland Agriculture (A-D). This site was planned at a central location on Douglas County owned property where the planned activities comply with current zoning regulations. By utilizing an existing facility, costs were minimized to permitting and construction, ensuring the action meets the goals of the comprehensive plan both economically and efficiently.
  - 49.3 As conditioned the proposal appears consistent with the requirements of this section.
  - 49.4 The proposed use will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity of the area.
  - 49.5 Analysis: The project as proposed will be compatible with the surrounding agricultural uses and goals of the Comprehensive Plan. The site is centrally located

in an existing rock quarry. Visually, the site floor is approximately 30 feet below the existing ground surface with no planned structures visible above the horizon. The site will be harmonious with the surrounding landscape. The applicant has provided site and development plans.

- 49.6 As conditioned the proposal appears consistent with the requirements of this section.
- 49.7 The traffic generated by the proposed use shall be mitigated so as not to burden the traffic circulation system in the vicinity.
- 49.8 Analysis: The Washington State Department of Transportation has the responsibility to review proposed development, and has determined that the access is “750 feet west and 5,075 feet east for the sight distance. This exceeds the 645 feet minimum requirement.” “ The next step is for Washington State Department of Transportation to work up an access permit for the access connection with type of use and frequency of traffic the access will need to handle.”
- 49.9 Traffic will flow into the site sporadically and in a manner that does not impact the existing transportation system. Typical use will involve multiple individuals from the Sheriff’s Department entering or leaving the site on a non-typical cycle in Sheriff Cruisers. A Permit from the WSDOT has been approved and is on file. Improvements to the entrance will be made at an economical time by Douglas County
- 49.10 As conditioned the proposal appears consistent with the requirements of this section.
- 49.11 The proposed use will be served adequately by facilities and services such as highways, roads, law enforcement, fire protection, drainage, refuse disposal, domestic water and sanitary sewers, and schools; or that persons or agencies responsible for the establishment of the proposed use shall provide adequate services.
- 49.12 Analysis: No known public improvements are required for the proposed project. As proposed, the application will not create excessive additional requirements at public cost for public facilities and services. The applicant is responsible for providing on-site services and maintenance. Affected agencies have stated that adequate facilities and services are or can be available for the proposed project. Agency requirements have been included in the suggested conditions of approval.
- 49.13 The facility will be used by the Douglas County Sheriff’s Department and partnering law enforcement only. Highway 2 has sufficient capacity to serve the site and as mentioned, an access permit from WSDOT is on file
- 49.14 As conditioned the proposal is consistent with the requirements of this section.
- 49.15 The proposed use will not create excessive additional requirements at public cost for public facilities and services.
- 49.16 Analysis: Emergency services were provided an opportunity to comment.
- 49.17 This site was selected as the most efficient, least impacting and economical location currently available to Douglas County. A cost analysis has been done by the Douglas County Sheriff showing the long-term savings to the department over a span of thirty years.

- 49.18 As conditioned the proposal is consistent with the requirements of this section.
- 49.19 The proposed use will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property or general welfare by reasons of excessive production of traffic, noise, smoke, fumes, vibration, glare, or odors.
- 49.20 Analysis: The site was located in a depressed rock quarry for multiple reasons. Most importantly, to reduce the impacts to the surrounding land owners. Traffic, noise, smoke, fumes, vibration, glare, and odors are all minimized by the location and design of the proposal.
- 49.21 As conditioned the proposal is consistent with the requirements of this section.
- 49.22 Proposed ingress and egress, driveway widths, parking, and road improvements shall be approved pursuant to Douglas County Code Title 20 and to the satisfaction of the county engineer.
- 49.23 Analysis: The entrance has recently been evaluated and permitted by the WSDOT due to the increased use. As part of the permit, the entrance will be paved by Douglas County at an economical time. The entrance will comply with design standards as approved by the County Engineer. In addition, the ingress and egress at the site is more than adequate to provide assistance from medical personnel.
- 49.24 As conditioned the proposal is consistent with the requirements of this section.
- 49.25 Adequate buffering devices such as fencing, landscaping, or topographic characteristics shall be in place in order to mitigate, and protect adjacent properties from potential adverse impacts of the proposed use, including visual or auditory effects. (Refer to Douglas County Code Chapter 20.40, Landscaping standards, for specific requirements.)
- 49.26 Analysis: The design of the proposal has incorporated both topography, designed berms, fencing and landscaping to protect adjacent properties from adverse impacts. The applicant has provided site designs. The project will provide screening (topography and berms) along the boundaries to create a buffer from US 2 and other uses. The project as proposed will have no materially detrimental effects on the neighboring properties. The developer and subsequent owners will be responsible for dust, odor, and smoke and noise control during construction and through the life of the development. Parking standards will be those established in the Code
- 49.27 As conditioned the proposal is consistent with the requirements of this section.
- 49.28. Conditional use permits shall comply with the Douglas County Code and all applicable local, state, or federal regulations.
- 49.29 Analysis: This planned proposal as designed, is in compliance with Douglas County Code. The applicant has provided a detailed site plan that address compliance with zoning code and applicable regulations. The project will follow zoning regulations and comply with requirements of the Douglas County Code.
- 49.30 As conditioned the proposal is consistent with the requirements of this section.

- 49.31 The Hearing Examiner is the review authority and may approve, conditionally approve or deny a request for changing the minimum lot size of a conditional use. Any waiver of minimum lot size shall not be construed as an exemption from the requirements of Douglas County Code Title 17 and RCW Chapter 58.17
- 49.32 Analysis: No changes to the existing lots are being sought.
50. DCC Chapter 8.04 – Noise Consistency - 8.04.110 daytime exemptions.
- 50.1 The following shall be exempt from the provisions of Section 8.04.090 between the hours of seven a.m. and ten p.m.: (B) Sounds created by the discharge of firearms on authorized shooting ranges.
- 50.2 Analysis: The applicant is requesting a Conditional Use Permit and option to allow access for night time tactical training.
- 50.3 As conditioned the proposal appears consistent with the requirements of this section.
51. After due legal notice an open record public hearing was held on March 19, 2020.
52. The entire Planning Staff file was admitted into the record at the public hearing.
53. Appearing and testifying on behalf of the applicant was Kevin Morris, Douglas County Sheriff. Sheriff Morris indicated that the applicant had no objection to any of the proposed Conditions of Approval. He stated the shooting range is 30 feet below grade. He had no objection to a two year review period.
54. No member of the public appeared at the hearing.
55. Any finding of fact that is more correctly a conclusion of law is hereby incorporated as such by this reference.

## II. CONCLUSIONS OF LAW

1. The Hearing Examiner has been granted authority to render this decision.
2. As conditioned, the development meets the goals, policies and implementation recommendations as set forth in the Comprehensive Plan.
3. As conditioned, this proposal is consistent with applicable federal and state laws and regulations.
4. As conditioned, the proposal is consistent with Douglas County Code Chapter 18.80 conditional use permits general evaluation criteria.
5. Public interests will be served by approval of this proposal.
6. As conditioned, the proposal is consistent with Title 18, Title 14, Title 19 and Title and the Douglas County Comprehensive Plan

7. Any Conclusion of Law that is more correctly a Finding of Fact is hereby incorporated as such by this reference.

### III. DECISION

Based on the above Findings of Fact and Conclusions of Law, review of all applicable files, including the Planning Department staff file, and after an open record public hearing, the Hearing Examiner has determined that CUP No. 2020-01 is hereby **APPROVED** subject to the following Conditions of Approval.

### IV. CONDITIONS OF APPROVAL

All Conditions of Approval shall apply to the applicant, and the applicant's heirs, successors in interest and assigns.

1. The project shall proceed in substantial conformance with the plans and application materials on file submitted on January 9, 2020, January 14, 2020 and February 11, 2020, except as amended by the conditions herein.
2. The owners/operators shall be responsible to obtain and comply with any applicable federal, state, and local laws, and must obtain all necessary permits and approvals prior to operation.
3. This Conditional Use Permit is for a "shooting range" and "tactical training facility". At no time does any portion or part of the application materials, support information, and/or submitted plans allow the permitted activity and/or use beyond that of a shooting range and tactical training facility.
4. The development shall comply with the dimensional standards of the Dryland Agriculture A-D zoning district, as amended.
5. Prior to operations, the applicant shall obtain all appropriate permits and/or approvals from the Washington State Department of Transportation for an access permit for the access connection. Any complaints regarding amounts of traffic, traffic safety, or related vehicular activity surrounding or a part of access via US 2 shall be addressed by the Washington State Department of Transportation. As applicable, the use of gates or other access control at the US 2 entrance shall be regulated by the Washington State Department of Transportation.
6. Prior to operations, the applicant shall fill out and sign an Address Request Form and return it to Douglas County TLS - GIS so that the GIS division can assign an address.
7. Prior to operations, the applicant shall obtain all appropriate permits and/or approvals from Chelan-Douglas Health District. Adequate provisions, verified in writing by the Chelan-Douglas Health District, shall be made for sanitary sewer, domestic water, and/or other health and safety related concerns deemed necessary.

8. Building permits are required for the placement and alterations to the container and for the construction of the range shelter. Prior to operations, the applicant shall obtain necessary construction permits.
9. Any outdoor lighting shall be directed towards the site and/or shielded in accordance with Douglas County Code Chapter 18.16.
10. Provisions shall be made for fire and life safety. All activity shall meet the minimum provisions for fire protection pursuant to International Fire Code and as approved by the Fire Marshal. Prior to operation, the applicant shall coordinate with the Fire Marshal, and obtain approval for fire protection including, but not limited to devices and equipment to be available during the use.
11. The applicant shall be responsible for preventing mud, dirt and debris from leaving the site, including stormwater runoff from being tracked or otherwise discharging onto the public right-of-way or adjacent properties.
12. Adequate off-street parking shall be provided for the expected average use and off-street accommodations shall be made for expected peak use. Parking and loading standards shall be in compliance with the minimum standards set forth in Douglas County Code Chapter 20.42.
13. Provisions shall be made for refuse disposal by a licensed commercial hauler approved by the Douglas County department of solid waste or successor agency. All outdoor trash, garbage and refuse storage areas shall be screened from public view.
14. All signs placed and/or displayed in conjunction with the proposed use shall meet the minimum provisions of Douglas County Code Chapter 20.44.
15. Uses and activities shall not exceed the maximum environmental noise level established by Douglas County Code Chapter 8.04 or WAC 173-60 as administered by the Douglas County Sheriff. Pursuant to DCC 8.04.110 Daytime exemptions, the following shall be exempt from the provisions of Section 8.04.090 between the hours of seven a.m. and ten p.m. (B) Sounds created by the discharge of firearms on authorized shooting ranges.
16. Hours of operations shall not exceed 9:00 PM excepting for night-time training. The frequency of night-time training shall not exceed 24 per calendar year. Night-time training shall gain the same exemption from noise as allowed by DCC 8.04.110.
17. In the event cultural sites or isolated finds are identified during operations, work in the immediate vicinity shall be halted until the site or find can be evaluated by a qualified archaeologist and applicable state and tribal entities can be consulted.
18. All safety measures shall be maintained by the applicant. Such includes, but are not limited to berm height and depth.
19. The applicant shall adhere to the standards and specifications within DCC 18.16.060 Fences.

20. Douglas County Community Developments staff shall conduct a review two years after the Applicant begins operations for the site. If, in the staff's sole opinion, it is determined that impacts are greater than anticipated, then this may be referred back to the Hearing Examiner to add, delete, or modify the conditions of approval.

Dated this 23rd day of March, 2020.

DOUGLAS COUNTY HEARING EXAMINER



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Andrew L. Kottkamp

**Any aggrieved party or agency of record may request a reconsideration of this Hearing Examiner's decision. Motions for reconsideration must be filed with the Department within ten (10) days from the date of issuance as defined by RCW 36.70C.040(4)(a). Unless otherwise provided, the filing of a motion for reconsideration shall not stop or alter the running of the period provided to appeal the Hearing Examiners decision to Superior Court. Motions for reconsideration are governed by Douglas County Code 2.13.150.**

**Anyone aggrieved by this decision has twenty-one (21) days from the issuance of this decision, to file an appeal with Douglas County Superior Court, as provided for under the Judicial Review of Land Use Decisions, RCW 36.70C.040(3). The date of issuance is defined by RCW 36.70C.040 (4)(a) as "(t)hree days after a written decision is mailed by the local jurisdiction or, if not mailed, the date on which the local jurisdiction provides notice that a written decision is publicly available" or if this section does not apply, then pursuant to RCW 36.70C.040(3) (c) "...the date the decision is entered into the public record." Anyone considering an appeal of this decision should seek legal advice.**