

BEFORE THE CHELAN COUNTY HEARINGS EXAMINER

IN THE MATTER OF ZC 23-505, 506, 507, ZC 24-011, 012, 013, 014 and 015 PORT OF CHELAN COUNTY)))))	FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION
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THIS MATTER came before the Chelan County Hearing Examiner on March 6, 2024 in the matter of a zoning map amendment.

I. FINDINGS OF FACT

1. On December 5, 2023, the Board of Chelan County Commissioners approved, by Resolution 2023-111, the Comprehensive Plan Map amendment, changing approximately 169.84 acres from Rural Residential/Resource 5 (RR5) and Rural Residential/Resource 20 (RR20) to Rural Industrial (RI).
2. The proposed zoning map amendment will establish the corresponding zoning districts on the subject properties, consistent with the Comprehensive Plan Map.
3. General Information ZC 505:

Project Location:	4770 Saturday Ave, Malaga, WA 98828
Parcel Number, Size, and Legal Description:	Assessor’s Parcel Number: 22-21-35-230-00; 101.02 acres Legal Description: <i>ptns of S35, T22N, R21 EWM</i>
Owner:	Port of Chelan County
Agent:	Ogden Murphy Wallace; Julie Norton
Urban Growth Area:	The subject property is not located within an Urban Growth Area.
Current Zoning:	Rural Residential/Resource 20 (RR20) and Rural Residential/Resource 5 (RR5)
Proposed Zoning:	Rural Industrial (RI)
Site Size:	Approximately 101.02 acres.
Critical Areas:	The subject property contains Talus Slopes. In addition, the subject property is identified as having possible erosion hazard and landslide hazard.

4. General Information ZC 23-506:

Project Location:	5158 Malaga Alcoa Hwy, Malaga, WA 98828
Parcel Number, Size, and Legal Description:	Assessor’s Parcel Number: 22-21-35-100-050; 21.38 acres Legal Description: <i>ptns of S35, T22N, R21 EWM</i>

Owner:	Port of Chelan County
Agent:	Ogden Murphy Wallace; Julie Norton
Urban Growth Area:	The subject property is not located within an Urban Growth Area.
Current Zoning:	RR5
Proposed Zoning:	RI
Site Size:	Approximately 21.38 acres.
Critical Areas:	The subject property contains possible erosion hazard and landslide hazard.

5. General Information ZC 23-507:

Project Location:	5243 Malaga Alcoa Hwy, Malaga, WA 98828
Parcel Number, Size, and Legal Description:	Assessor's Parcel Number: 22-21-35-100-050; 10.75 acres Legal Description: <i>ptns of S35, T22N, R21 EWM</i>
Owner:	Firing Range Association
Agent:	Ogden Murphy Wallace; Julie Norton
Urban Growth Area:	The subject property is not located within an Urban Growth Area.
Current Zoning:	RR5
Proposed Zoning:	RI
Site Size:	Approximately 10.75 acres.
Critical Areas:	The subject property contains possible erosion hazard and landslide hazard.

6. General Information ZC 24-011:

Project Location:	5101 Malaga Alcoa Hwy, Malaga, WA 98828
Parcel Number, Size, and Legal Description:	Assessor's Parcel Number: 22-21-35-240-000; 23 acres Legal Description: <i>ptns of S35, T22N, R21 EWM</i>
Owner:	Port of Chelan County
Agent:	Ogden Murphy Wallace; Julie Norton
Urban Growth Area:	The subject property is not located within an Urban Growth Area.
Current Zoning:	RR5
Proposed Zoning:	RI
Site Size:	Approximately 23 acres.
Critical Areas:	The subject property contains possible erosion hazard and landslide hazard.

7. General Information ZC 24-012:

Project Location:	NNA Malaga Alcoa Hwy, Malaga, WA 98828
Parcel Number, Size, and Legal Description:	Assessor's Parcel Number: 22-21-35-100-070; 10.69 acres Legal Description: <i>Lot 2 of SP 1673</i>
Owner:	Port of Chelan County
Agent:	Ogden Murphy Wallace; Julie Norton
Urban Growth Area:	The subject property is not located within an Urban Growth Area.
Current Zoning:	RR5

Proposed Zoning:	RI
Site Size:	Approximately 10.69 acres.
Critical Areas:	The subject property contains possible erosion hazard and landslide hazard.

8. General Information ZC 24-013:

Project Location:	5251 Malaga Alcoa Hwy, Malaga, WA 98828
Parcel Number, Size, and Legal Description:	Assessor's Parcel Number: 22-21-35-120-150; 1 acre Legal Description: <i>Lot 1 of SP1673</i>
Owner:	Port of Chelan County
Agent:	Ogden Murphy Wallace; Julie Norton
Urban Growth Area:	The subject property is not located within an Urban Growth Area.
Current Zoning:	RR5
Proposed Zoning:	RI
Site Size:	Approximately 1 acre.
Critical Areas:	The subject property contains possible erosion hazard and landslide hazard.

9. General Information ZC 24-014:

Project Location:	5235 Malaga Alcoa Hwy, Malaga, WA 98828
Parcel Number, Size, and Legal Description:	Assessor's Parcel Number: 22-21-35-130-175; 1 acre Legal Description: <i>Lot 4 of SP 1673</i>
Owner:	Port of Chelan County
Agent:	Ogden Murphy Wallace; Julie Norton
Urban Growth Area:	The subject property is not located within an Urban Growth Area.
Current Zoning:	RR5
Proposed Zoning:	RI
Site Size:	Approximately 1 acre
Critical Areas:	The subject property contains possible erosion hazard and landslide hazard.

10. General Information ZC 24-015:

Project Location:	5229 Malaga Alcoa Hwy, Malaga, WA 98828
Parcel Number, Size, and Legal Description:	Assessor's Parcel Number: 22-21-35-120-200; 1 acre Legal Description: <i>Lot 3 of SP 1673</i>
Owner:	Port of Chelan County
Agent:	Ogden Murphy Wallace; Julie Norton
Urban Growth Area:	The subject property is not located within an Urban Growth Area.
Current Zoning:	RR5
Proposed Zoning:	RI
Site Size:	Approximately 1 acre.
Critical Areas:	The subject property contains possible erosion hazard and landslide hazard.

11. A SEPA Checklist was received and reviewed with related file, CPA 23-101, CPA 23-102, CPA 23-103, CPA 23-104, CPA 23-105, CPA 23-106, CPA 23-107 and CPA 23-108. A determination of non-significance (DNS) was issued on October 6, 2023 pursuant to WAC 197-800-11 and was adopted for this proposed Zone Change application.

12. Application and Public Hearing Notice Compliance:

Application Submitted:	December 21, 2023 and January 9, 2024
Notice of Application:	February 1, 2024
Notice of Public Hearing:	February 24, 2024
Public Hearing:	March 5, 2024

13. CCC 14.13.040 Evaluation criteria. The approval, modification or denial of a development regulation amendment application shall be evaluated on, but not limited to, the following criteria:

13.1 The amendment is necessary to resolve a public land use issue or problem.

13.1.1 The proposed amendment would provide consistency between the zoning and Comprehensive Plan maps.

13.1.2 HEARING EXAMINER FINDING: The Hearing Examiner finds that the proposed zoning map amendment would provide consistency between the Comprehensive Plan and zoning maps.

13.2 The amendment is consistent with goals of the Growth Management Act, Chapter 36.70A RCW.

13.2.1 The Growth Management Act under RCW 36.70A.020 contains planning goals that include, but are not limited to, 1) Urban Growth, 2) Reduce Sprawl, 3) Transportation, 4) Housing, and 5) Economic Development. The requested map amendment is consistent with Comprehensive Plan Map Amendment (ZC 23-505, 506, 507, ZC 24-011, 012, 013, 014 and 015) approved through Resolution 2023-111 (Exhibit A).

13.2.2 Findings by the legislature for the Growth Management Act (GMA) recognize that the retain and enhance the job base in rural areas, rural counties must be flexibility to create opportunities for business development. Primarily, the County is coordinating with the Chelan Douglas Port Authority to diversify economic and employment opportunities and to address the constrained supply of industrial land. The GMA also permits the development, redevelopment and infill existing intensely development rural areas known as LAMIRDs. Major industrial developments may be designated subject to RCW criteria.

- 13.2.3 HEARING EXAMINER FINDING: The Hearing Examiner finds that the proposal is consistent with County-wide Planning Policies and to some extent consistent with the GMA goals.
- 13.3 The amendment complies with or supports Comprehensive Plan goals and policies and/or county-wide planning policies.
 - 13.3.1 The proposed zone change supports the following Comprehensive Plan Goals:
 - 13.3.1.1 Goal LU 9 – Direct future industrial development to designated industrial areas in Urban Growth Areas and LAMIRDs and to existing rural industrial areas, consistent with the Growth Management Act.
 - 13.3.1.2 Policy LU 9.1 – Permit siting of industrial uses in rural areas when adverse impacts to the rural community can be minimized and the requirements of Growth Management Act (RCW 36.70A.365 or RCW 36.70A070(5)) can be met.
 - 13.3.1.3 Policy LU 9.3 – Encourage industrial development to locate in areas with access to necessary support facilities, services, and transportation systems, and where industrial development would be compatible with nearby land uses
 - 13.3.1.4 Goal LU 10 – Maintain Chelan County’s existing industrial base and promote further diversification of the area’s economy with industries that are compatible with surrounding land uses.
 - 13.3.1.5 Goal ED 1 – Encourage efforts to diversify the existing economic base to focus on long-term sustainable economic development throughout the County.
 - 13.3.1.6 Goal ED 4 – Local economic development efforts should promote the advantages of working and living in Chelan County, such as available to work, job security and stability, access to recreational and cultural activities, educational opportunities, quality health care, and affordable housing.
 - 13.3.2 HEARING EXAMINER FINDING: The Hearing Examiner finds that the proposed amendment would be consistent with and does support the majority of goals and policies of the Chelan County Comprehensive Plan and existing LAMIRD policies suggests the Malaga area may, in part, be suitable for additional RI lands.
- 13.4 The proposed amendment does not adversely affect lands designated as resource lands of long-term commercial significance or critical areas in ways that cannot be mitigated.

- 13.4.1 Physical characteristics include flat ground on the northern portion near the highway and steep cliffs/bluffs at the southern end of the parcels. Portions of the land include areas shown to have erosive soils and possible landslide hazards. WDFW PHS mapping shows golden eagles to be present in the area.
- 13.4.2 HEARING EXAMINER FINDING: The Hearing Examiner finds that the proposal amendment does not appear to adversely affect lands designated as resource lands of long-term commercial significance or designated critical areas in ways that cannot be mitigated.
- 13.5 The amendment is based on sound land use planning practices and would further the general public health, safety and welfare.
 - 13.5.1 The proposed amendment would increase industrial land uses in the County. Vacant and underdeveloped parcels exist within the Malaga area, which may accommodate further development but might be constrained or unavailable. The price of land is ever increasing and larger groupings of rural properties is highly desired for industrial building development and retention of existing industrial activities in Malaga would help diversify the economy within the rural areas. The proposed amendment is not anticipated to impact the general public negatively in regards to public health, safety, or welfare.
 - 13.5.2 HEARING EXAMINER FINDING: The proposal would provide consistency between the adopted Chelan County Comprehensive Plan Map Amendment (see Resolution 2023-111) and the zoning code. The proposed zoning map amendment meets the evaluation criteria listed under Chelan County Code Title 14, Section 14.13.040.
- 14. Agency and Public Comments: Comments were received from the following agencies. No public comments were received:
 - 14.1 Confederated Tribes of the Colville Reservation, January 29, 2024: Any future industrial development on the subject properties would need a cultural resources clearance prior to ground disturbance.
 - 14.2 Department of Archaeology & Historic Preservation, February 12, 2024: Recommend a professional archaeological survey of the development area be conducted and a report be produced prior to ground disturbing activities.
- 15. The Hearing Examiner has reviewed the application and submitted materials. The zoning code and official map guide and regulate the physical development of unincorporated Chelan County, and implement the goals, policies and land use designations of the Chelan County Comprehensive Plan (CCC Sections 11.02.020 and 11.06.010). The proposed zoning map amendment implements the changes adopted by Resolution 2023-111 to the Chelan County Comprehensive Plan. The proposed zoning map amendment meets the evaluation criteria listed under CCC Section 14.13.
- 16. An open record public hearing after legal notice was held on March 6, 2024 via Zoom video conference.

17. Appearing and testifying for the Applicant was Julie Norton. Ms. Norton testified that she was an agent authorized to appear and speak on behalf of the property owner and Applicant. Ms. Norton testified that she agreed with the staff report and that the action is consistent with Resolution 2023-III as amended by Resolution 2023-125.
18. No member of the public appeared at the hearing.
19. The following exhibits were entered into the record:
 - 19.1 Ex. A Resolution 2023-111, approved December 5, 2023, and Resolution 2023-125 effective February 5, 2024.
 - 19.2 Ex. B Agency Comments
 - 19.3 Ex. C Staff Report
20. Any Conclusion of Law that is more correctly a Finding of Fact is hereby incorporated as such by this reference.

II. CONCLUSIONS OF LAW

1. The Hearing Examiner has authority to render this Decision.
2. The application, as proposed, complies with the Revised Code of Washington,
3. The application, as proposed, complies with the Washington Administrative Code
4. The application, as proposed, complies with the Chelan County Comprehensive Plan and the Chelan County Code.
5. Any Finding of Fact that is more correctly a Conclusion of Law is hereby incorporated as such by this reference.

III. DECISION

Based upon the above Findings of Fact and Conclusions of Law, ZC 23-505, 506, 507, ZC 24-011, 012, 013, 014, 015 are hereby **APPROVED**.

Dated this 7 day of March, 2024.

CHELAN COUNTY HEARING EXAMINER



Andrew L. Kottkamp

Anyone aggrieved by this decision has twenty-one (21) days from the issuance of this decision, to file an appeal with Chelan County Superior Court, as provided for under the Judicial Review of Land Use

Decisions, RCW 36.70C.040(3). The date of issuance is defined by RCW 36.70C.040 (4)(a) as three "days after a written decision is mailed by the local jurisdiction or, if not mailed, the date on which the local jurisdiction provides notice that a written decision is publicly available "or if this section does not apply, then pursuant to RCW 36.70C.040(3)(c)... the date the decision is entered into the public record." Anyone considering an appeal of this decision should seek legal advice.

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

The complete case file, including findings, conclusions, and conditions of approval (if any) is available for inspection during the open office hours at Chelan County Department of Community Development. Their address is 316 Washington Street, Suite 301, Wenatchee, WA 98801. Their telephone number is (509) 667-6225.