

**BEFORE THE OKANOGAN COUNTY HEARINGS EXAMINER**

**IN THE MATTER OF CUP 2023-1                    )**  
**AUSTIN SMITH CANNABIS OPERATION    )**

**FINDINGS OF FACT, CONCLUSIONS, AND DECISION**

This matter, an application for a conditional use permit was heard by the Okanogan County Hearings Examiner on March 23, 2023.

**FINDINGS OF FACT**

1. This application process is authorized and outlined in OCC 1 7A.3 10 “Conditional Use Permits.”
2. The zoning designation is Rural 1, under OCC, Title 1 7A Zoning.
3. The legal owner of this property is Austin Smith.
4. The site is located at 42 Jaquish Rd. Omak WA 98841 on tax parcel number 3426231014.
5. December 3, 2022, an application was submitted by Austin Smith to allow Cannabis Production and Processing. The application was deemed incomplete by staff and additional information was requested.
6. On January 20, 2023 upon receipt of additional information, staff deemed the application complete and vested the application as Jaquish Rd Cannabis 2023-I.
7. On January 23, 2023 a notice of application and Threshold SEPA Mitigated Determination of Non-Significance (MDNS) for CUP 2023-I was sent to adjacent landowners within 300 feet of the applicant’s parcel.
8. On January 23, 2023 the Office of Planning and Development forwarded to commenting agencies the notice of application and Threshold SEPA Mitigated Determination of Non-Significance (MDNS), as well as application materials and the signed Threshold SEPA Determination for CUP 2023-1 for their respective review and comment.
9. On January 25, 2023 an announcement of application and Threshold SEPA Mitigated Determination of Non-Significance (MDNS) for CUP 2023-1 was published in the Methow Valley News.
10. On January 26, 2023 an announcement of application and Threshold SEPA Mitigated Determination of Non-Significance (MDNS) for CUP 2023-I was published in the Gazette-Tribune.

11. March 6, 2023 a notice of Final SEPA Mitigated Determination of Non-Significance and public hearing date of March 23, 2023 was sent to adjacent landowners within 300 feet of the applicants parcel and to additional commenters.

12. On March 6, 2023 the Office of Planning and Development forwarded to commenting agencies the notice of Final SEPA Mitigated Determination of Non-Significance (Final MDNS) and public hearing date of March 23, 2023, as well as the signed Final SEPA Determination for their respective review and comment.

13. On March 8, 2023 a notice of Final SEPA Mitigated Determination of Non-Significance (Final MDNS) and public hearing date of March 23, 2023, was published in the Methow Valley News.

14. On March 9, 2022 a notice of Final SEPA Mitigated Determination of Non-Significance (Final MDNS) and public hearing date of March 23, 2023 was published in the Gazette-Tribune. Jaquish Rd Cannabis

15. A public notice was posted for the duration of the public comment period. The applicant was given the affidavit of public notice. An affidavit of public notice was submitted to Okanogan County Planning and Development prior to the hearing date of March 23, 2023.

16. A public hearing before the Okanogan County Hearings Examiner was held March 23, 2023. At that time members of the public were given the opportunity to enter testimony into the public record.

17. The Hearing Examiner has examined the staff report and the entire planning department file is hereby included in the official record regarding this matter.

18. At the hearing the applicant presented the CUP application and described the proposed operation consistent with the application materials.

19. At the hearing all testimony was taken under oath.

20. Pam Wyllson, representing County staff provided a summary of the project consistent with the written staff report.

21. Stephanie (Pete) Palmer provided additional staff comment indicating, in summary, that the Cannabis regulations embodied in the County Code that were adopted were, in effect, consistent with the County Comprehensive Plan.

22. Tom Pruitt, Anita Fisk, and Jason Goodfellow, all neighboring property owners spoke in opposition to the proposal citing degradation of the neighborhood atmosphere, the impact on property values if the proposal is approved, and further testifying that the immediate area is attracting many professionals and approval of this project would work to degrade the attractiveness of the area for that sector.

23. There is a continuing question as to whether a Federally funded agency can legally provide irrigation water for a crop that is prohibited by Federal statutes. The record indicates that provider, Okanogan Irrigation District, is comfortable in providing that irrigation water until they are ordered by the Department of Justice to cease.

24. The property is not within a designated City Expansion area.

25. To be approved, this Conditional Use Permit must be found consistent with Title 17A, 290, Okanogan County code, as amended by Ordinance 2022-08. The burden is on the applicant to prove that application is consistent.

26. Mr. Austin testified that he was satisfied that he could meet the requirements cited in the MDNS above referenced.

### CONCLUSIONS

1. A complete application was received and vested under the Okanogan County Zone Code I 7A.

2. All procedural requirements have been met in accordance OCC 17A.310 “Conditional Use Permits”.

3. The proposal is compatible with the Okanogan County Zone Code.

4. All aspects of development must comply with the conditions of approval.

5. That a Threshold SEPA Mitigated Determination of Non-Significance (MDNS) was issued by the Okanogan County SEPA responsible official. All comments received during the comment period were evaluated for consideration of the final SEPA determination. A final SEPA Mitigated Determination of Non-Significance (MDNS) was issued by the Okanogan County SEPA responsible official.

6. All the mitigations imposed in the MDNS are hereby incorporated into this decision as conditions of approval as thought fully set forth herein.

7. The conditions imposed will protect public health, safety, morals and general welfare.

8. Comments from the public and state, federal, and local agencies were received, reviewed, and considered in analysis of this proposal.

9. The conditions imposed are not unnecessarily onerous.

10. Conditional approval of this application will be consistent with previous proposals of the same nature and scope.

11. While the testimony provided by neighboring property owners in opposition to the project was compelling, the Hearing Examiner finds, after careful examination, no language in the County Code or the County Comprehensive Plan that would allow rejection of the proposal as long as the criteria for a Conditional Use Permit application are met and this application satisfies those standards.

DECISION

Based upon the information contained in the application materials, and additional information provided at the hearing, 2023-1 is **APPROVED**, subject to the MDNS conditions noted above:

Dated this 26<sup>th</sup> day of March 2023.

OKANOGAN COUNTY HEARING EXAMINER

*DANIEL BEARDSLEE*

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