

DOUGLAS COUNTY

DEPARTMENT OF HEARING EXAMINER

140 19th Street NW
East Wenatchee, WAS 98802-4109

BEFORE THE DOUGLAS COUNTY HEARING EXAMINER

IN THE MATTER OF)	FINDINGS OF FACT,
)	CONCLUSIONS OF LAW,
CUP-15-01)	DECISION AND
Davisson)	CONDITIONS OF APPROVAL

THIS MATTER having come on for hearing in front of the Douglas County Hearing Examiner on July 16, 2015, 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 Julie Davisson, SR 173 #826, Brewster, Washington 98812.
2. The property owners are Robert and Roberta Oliver, #826B SR 173, Brewster, Washington 98812.
3. General Description: A conditional use permit application for a retail business to be conducted within an existing residence located at 133 State Avenue, Brewster, WA 98812.
4. The subject property is approximately .32 acres in size and is zone Rural Service Center (RSC) under the Douglas County Code.
5. The subject property is described as Lot 18, Block 2 of Downing No. 1 and is further described as being located within the NE Quarter of Section 4, Township 29N, Range 25E, W.M., Douglas County, Washington.
6. The Douglas County Assessor's parcel numbers is: 54300201800.
7. The Comprehensive Plan Designation is Rural Service Center (RSC).
8. DCC 18.80 "Conditional Uses" establishes minimum review criteria for neighborhood retail uses.

9. DCC 18.80.320 identifies that retail sales can be approved with a conditional use permit in the RSC zoning district.
10. The applicant has provided a Shared Parking Agreement with Robert Oliver, the owner of the subject property and adjacent property, dated April 26, 2015.
11. The required parking is proposed to be located on Robert Oliver's adjacent property at 129 State Avenue, parcel #54300201600.
12. The applicant has provided a Stormwater Drainage Report dated May 11, 2015.
13. The applicant submitted a septic system report completed by Tower Designs on June 24, 2015.
14. Comments from reviewing agencies have been considered and addressed where appropriate.
15. Douglas County issued an environmental review Determination of Non-significance on June 16, 2015 in accordance with WAC 197-11-355 (Optional DNS).
16. 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 DCC Title 14.
17. Proper legal requirements were met and surrounding property owners were given the opportunity to comment on the proposal at a public hearing.
18. As conditioned, the development will not adversely affect the general public, health, safety and general welfare.
19. Public and agency comments that were received were considered by the Hearing Examiner in rendering this Decision and forming Conditions of Approval.
20. The entire Planning Staff file was admitted into the record at the public hearing.
21. The Douglas County Department of Land Services recommended approval of the requested permit, subject to the recommended conditions of approval.
22. An open record public hearing after due legal notice was held on July 16, 2015.
23. Appearing and testifying on behalf of the applicant was Julie Davisson. Ms. Davisson testified that she was the applicant. She testified that she is not the property owner. The property owner is Steven Oliver. She indicated that she had a 2 year lease with an option to purchase on this property. Ms. Davisson further acknowledged that the area surrounding the subject property is generally residential with some businesses located nearby. She testified that there would be security lighting. She indicated that the hours of operation would be 10 a.m. to 6 p.m..

24. Testifying in front of the public were the following individuals:
 - 24.1 Jacquelin Aparicio. Ms. Aparicio testified about her concern for what this proposed retail store would be selling, that being marijuana. She indicated that this is primarily a residential area and that the neighborhood is family based. There are children in the neighborhood that play in the street. She is concerned about the safety of her children.
 - 24.2 Jorge Garcia. Mr. Garcia testified that he resides directly in front of the store. He testified that there are many kids that play on a street by the store. He testified that cars that are unfamiliar with the neighborhood drive fast because they don't know that kids play there. He testified his concerns about the impact this store will have on his neighborhood.
 - 24.3 Miguel Aparicio. Mr. Aparicio agreed with Ms. Aparicio and Mr. Garcia. He testified that many children gather at the Garcia home to play. Again, this is right across the street from the proposed retail establishment.
25. The proposal is appropriate in design, character and appearance with the goals and policies for the land use designation in which the proposed use is located.
26. The proposed use will not cause significant adverse impacts on the human or natural environments that cannot be mitigated by conditions of approval.
27. The cumulative impact of additional requests for like actions (the total of the conditional uses over time or space) will not produce significant adverse effects to the environment that cannot be mitigated by conditions of approval.
28. The proposal will be served by adequate facilities including access, fire protection, water, storm water control, and sewage disposal facilities.
29. The location, size, and height of buildings, structures, walls and fences, and screening vegetation for the proposed use will not unreasonably interfere with allowable development or use of neighboring properties.
30. The pedestrian and vehicular traffic associated with the conditional use will not be hazardous to existing and anticipated traffic in the neighborhood.
31. Land uses, activities, and structures that are allowed by this conditional use permit will comply with the required performance standards specified.
32. 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 been granted authority to render this decision.

2. As conditioned, the development meets the goals, policies and implementation recommendations as set forth in the Douglas County Countywide 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 18.80.030 Conditional uses general evaluation criteria.
5. Public interests will be served by approval of this proposal.
6. As conditioned, the proposal is consistent with Title 18 "Zoning" and Title 19 "Environment" of the Douglas County Code.
7. As conditioned, the proposed use is consistent with the intent, purposes and regulations of the Douglas County Code and Comprehensive Plan.
8. As conditioned, the proposal does conform to the standards specified in Douglas County Code.
9. As conditioned, the use will comply with all required performance standards as specified in Douglas County Code.
10. As conditioned, the proposed use will not be contrary to the intent or purposes and regulations of the Douglas County Code or the Comprehensive Plan.
11. As conditioned, this proposal does comply with Comprehensive Plan, the Shoreline Master Program, the zoning code and other land use regulations, and SEPA.
12. Any Finding of Fact that is more correctly a Conclusion of Law is hereby incorporated as such by this reference.

III. DECISION

Based on the above Findings of Fact and Conclusions of Law, Application CUP-15-01 is hereby **APPROVED** subject to the following Conditions of Approval.

IV. CONDITIONS OF APPROVAL

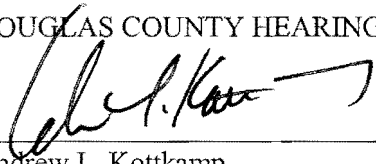
All Conditions of Approval shall apply to the applicant, and the applicant's heirs, successors in interest and assigns.

1. All conditions imposed herein shall be binding on the "Applicant," which terms shall include the owner or owners of the property, heirs, assigns and successors.
2. The project shall proceed in substantial conformance with the plans and application materials on file submitted on May 19, 2015 except as amended by the conditions herein.

3. A revised Stormwater Drainage Report must be submitted at time of commercial building permit application to reflect the following corrections:
 - a. Design calculations shall be revised utilizing the 100 year 24 hour Type II SCS synthetic rainfall event, per Douglas County Code Section 20.34.010.
 - b. The referenced bio swale must be permanently seeded and the seed specification (mix, fertilizer, application rate, etc.) shall be identified in the final Stormwater Drainage Report.
4. At time of commercial building application submittal, an access permit for the new access to Arden Avenue will be required. Access shall be constructed to Douglas County Road Standard Figure 4-1.
5. At time of commercial building application, submittal of a stormwater certification from the engineer of record must be submitted specifying that the stormwater facilities were installed in accordance with the plans submitted along with execution of a Stormwater Operations & Maintenance Agreement (Douglas County Standard Form).
6. The hours of operation should be limited to 10 a.m. to 6 p.m., Monday through Saturday.
7. The applicant shall comply with all rules and regulations imposed by the State of Washington regarding the retail sale of marijuana.
8. The Chelan-Douglas Health District requires the existing septic system to be evaluated by a state licensed septic system designer or engineer prior to District approval. The report must justify the expansion of the use of this septic system to include impacts from the retail business.

Dated this 17th day of July, 2015.

DOUGLAS COUNTY HEARING EXAMINER



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.