

June 23, 2014

Kaycee K. Hathaway
Kittitas County
Community Development Services - Planner I
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Re: Current planning: land use applications, Conditional Use Permits - CU-14-00002 NMF Enterprises

Letter Objecting to 5810 Naneum Rd. Marijuana Producing and Processing Application CUP and SEPA Checklist

Dear Ms. Hathaway:

The purpose of the SEPA checklist is to determine whether a project has significant environmental impacts. It is important that these checklists be filled out accurately for agencies to make informed decisions. I have found some issues with the accuracy of answers to questions in the checklist for the Marijuana Producing and Processing Application SEPA checklist for the 5810 Naneum Rd. location.

Under A. Background, question 7, which asks if the applicant has any plans for future additions or expansions or further activity related to this proposal, the applicant answered “no.” Yet the Liquor Control Board site shows that they have three Tier 3 applications on file, currently 21,000 sq. ft. but potentially 30,000 sq. ft. Initially, they may only be allowed one of those Tier 3 applications. However, they may end up with all three applications active. This could be a total of 90,000 sq. ft. of growing canopy allowed. The site plan map provided shows a little over 74,000 sq. ft. of outdoor garden. One wonders if this is an accurate statement. In addition, the sight obscure fencing would not allow easy observation to see if they, in fact, were adhering to only 21,000 sq. ft. of growing space. Is the Liquor Control Board going to adequately monitor this? What are the specific methods of inspection that will be used?

Under B. Environmental Elements, section 2. Air, question a, the applicant states that there may be an odor of marijuana during peak flowering cycle. This scale of outdoor growing, Tier 3, 21,000 to possibly 30,000 sq. ft, has never been done before on such a level. The environmental impacts are unknown as to what this odor will mean to people. How will the health of those living nearby be affected? Will the pollen or odor cause headaches or other allergic reactions? Is it fair to those living nearby, who bought homes, probably putting everything they have into getting those homes, and who worked maybe years developing their property into their dream, to have it become a place that is no longer desirable to live? A place that now possibly impacts their health? And the stink and other worries could damage their property values. It may not be desirable to live next to this nuisance smell. And as we all know, in real estate it is all about “location, location, location.” I am also wondering if the applicant has stated, or is even aware of, other potential sources of odor from the processing facility or from composting of the

residual plant matter that will be a byproduct of this industry. The nuisance is coming to this community, not the other way around.

Under B. Environmental Elements, section 3. Water, subsection b. Ground Water, question 1, the applicant describes that they will use a permit exempt well during the growing season up to 1000 gal./day. It is not clear whether this is an allowable use for an exempt well. It is a new use and is subject to the approval of the Washington State Department of Ecology. With Kittitas County being under a moratorium for exempt wells, along with only Walla Walla county in the state, one wonders if this is an appropriate use for the precious liquid resource. Perhaps it is better to preserve it for residential use. There is also the issue of marijuana production and processing not being legal under federal law. All water in the mitigation banks, which this “new use” ought to require, falls under federal authority since storage and infrastructure were provided through federal funding and surface water issues are involved. We need to hear from the Department of Ecology on this matter.

Under B. Environmental Elements, section 3. Water, subsection 3. Water Runoff, question 1, the applicant states that there may be runoff from “fertilizers consistent with conventional farming.” This is not a specific enough answer. What the applicant considers conventional farming may in fact not be approved by the Washington Department of Agriculture. One issue raised by Ron Cline is this, “One difference I see is this facility is regulated under the Liquor Control Board. All other Agriculture businesses have to comply with WSDA. WSDA cannot sample this crop or investigate it. If there is an allegation of harm to/from their crop there is no process to investigate that I see. There are no registered pesticides that they can control disease with. If they do apply a non-registered pesticide, what agency will insure health risks are mitigated?”

There is an interesting article, dated May 15, 2014, entitled, Cannabis, pesticides and conflicting laws: The dilemma for legalized States and implications for public health, from the website <http://www.sciencedirect.com/science/article/pii/S027323001400097X>. An excerpt from the abstract says, “State laws on the legalization of medical and recreational cannabis are rapidly evolving. Similar to other crops, cannabis is susceptible to multiple pests during cultivation. Growers have an economic incentive to produce large yields and high quality plants, and may resort to pesticides to achieve these outcomes. Currently, there are no pesticides registered for cannabis in the United States, given its illegal status by the federal government. This discrepancy creates a regulatory vacuum and dilemma for States with legal medical and recreational cannabis that seek to balance lawful compliance with pesticides and worker or public health. Pesticide use presents occupational safety issues that can be mitigated through established worker protection measures. The absence of approved products for cannabis may result in consumer exposures to otherwise more hazardous pesticides or higher residue levels.” Furthermore, it reiterates my previously stated concern of the lack of systematic monitoring programs for residues on cannabis or even surveys among growers.”

Under B. Environmental Elements, section 5. Animals, subsections b, c and d, the applicant answered, “not known” to the questions about whether (b) there were any threatened or endangered species on site or (c) if it was part of a mitigation route. Yet on question d the applicant stated, “There is no impact to wildlife.” If the answers to b and c were both unknown, the accurate answer to d would be “not known” as well.

Under B. Environmental Elements, section 7. Environmental Health, section a. Environmental Health Hazards, question 3, the applicant is asked to describe any toxic or hazardous materials that might be stored on site. However, the applicant previously mentioned using chemicals consistent with “conventional farming practices.” Many of these chemicals are toxic and possibly flammable.

Under B. Environmental Elements, section 7. Environmental Health, section a. Environmental Health Hazards, question 4, it is asked if any special emergency services might be required. The answer given is “none.” However, this is not a realistic answer. In my continuing research on crime associated with marijuana grows and other marijuana businesses, it has become clear that this industry is a magnet for crime. The fact that the crop is so valuable along with the cash nature of the business, make it very attractive to thieves that want to cash in on the hard work of others. It is quite likely that emergencies requiring law enforcement will occur at some time, and if the experience of others is any indicator, it could happen multiple times. The fact that this location is so remotely located causes additional concern. Google maps shows it is 17 minutes from the County Jail. Response time would not be adequate. Neighbors, as well as employees of NMF Enterprises, would be at risk. Rural locations are completely inappropriate for this high value, high risk venture.

In an outdoor grow operation such as this, they are allowed to store 1 ½ years’ worth of product on site. That would be worth millions of dollars. The processing plant would likely have additional things of value. Then there is the cash. All transactions are done in cash. That cash cannot be put into a bank at this point.

All of this is of interest and noticed by criminals. In Colorado, pot theft is on the rise, as shown in this report by ABC in February of this year: http://www.youtube.com/watch?v=jS8d_Em18LM. Denver Police Department discovered a plot to rob pot couriers, <http://denver.cbslocal.com/2014/06/05/denver-pd-warns-of-plot-to-rob-pot-store-couriers/>. This report by NBC tells us “There are about 325 marijuana companies in Denver... At the same time, there have been about 317 burglaries and seven robberies reported by these companies in the last two years, according to police data. That’s an annual robbery and burglary rate of about 50 percent, more than double what it was in 2009.” And, “Denver District Attorney Mitch Morrissey...told the city council that there have been a dozen homicides “directly” related to mom-and-pop residential marijuana grows, which have been legal in the state since 2000.” <http://www.nbcnews.com/storyline/legal-pot/high-crimes-robber-gangs-terrorize-colorado-pot-shops-n20111>. And there are many more stories of crime against legal marijuana businesses all around the country. Even here in Washington, a medical marijuana grower was robbed at gunpoint while bound, broke free and shooting commenced between the grower and the alleged robbers. This article tells the story: <http://m.seattlepi.com/local/article/Maple-Valley-medical-marijuana-grower-charged-in-4965683.php>.

And the real scary thing is that these operations in the stories I have found are nowhere near the size of these Tier 3 applications. The county would have done well to listen to what a friend of mine, who was a planner for the City of Los Angeles had to say about legal medical marijuana in that city. He said, “I think for the County the issue is once they allow these pot uses, they will never be able to control them or enforce any conditions. This is certainly what has happened in Southern California and why even some progressive jurisdictions have banned pot uses completely. If you allow some, you end up in this crazy, crazy situation where you are trying to enforce rules against an operation that uses cash, doesn’t respond to normal rules, and just lands the city in litigation continuously (going on seven years in LA) to forestall any regulation. I can tell you there are a lot of problems with these uses, mostly the amount of cash and value going in and out which attracts robbery and other crime. Basically, I worked on this issue

for three years when I staffed Council and I left very conflicted. Legalized marijuana really doesn't work while it's still illegal under federal law because it's so uncertain and confusing for judges that no one can enforce anything and it becomes a free for all." (emphasis added)

Under B. Environmental Elements, section 7. Environmental Health, section a. Environmental Health Hazards, question 5, the applicant states they have no proposed measures to reduce/control environmental health hazards. This is another case where more specific information about what chemicals will be used so this issue can be addressed. In addition, as stated previously, grows of this scale have not been done before in this manner. It is impossible to know what environmental health hazards there will be until more data is gathered. Meanwhile, those who live and work nearby are unwilling, and perhaps unwittingly, guinea pigs for this new social and environmental experiment. It is not acceptable to jump into this new use for the land in such a big way. It would be much more prudent for the county to try a few Tier 1 operations first and have an exit plan, should this new industry be problematic, as it has proven to be elsewhere.

Under B. Environmental Elements, section 8. Land and shoreline use, section a. Environmental Health Hazards, question a, the applicant states that the project will not affect current nearby or adjacent property use. Again, we do not have enough data on the impacts of this type of operation to truly know if that is a correct assumption. We do not know if there will be contaminants from travelling seeds. We do not know that those seeds won't sprout in a hay field. We do not know that a sprouted seed might not get sprayed and end up in a bale of hay. We do not know that the very particular Japanese buyers will not just choose to buy elsewhere if they have a perception of this new industry that makes them nervous, or turned off or have doubts. This new "crop" is a Schedule I pharmaceutical drug that could shut a race track down for days and injure horses. We do not know that the Japanese buyers will not continue to develop more relationships with other Northwest hay growers, as they did last summer when so many cuttings were rained on. It is likely that if the export hay market is lost, hay values could become a fraction of what they are now. That could mean farmers would lose their homes, as it would mean for many people if their incomes were severely cut. The economic and cultural impact on the county, if this happened, would be enormous.

For clarification, Marijuana has been considered a schedule I drug under the Controlled Substance Act passed by the Congress in 1970. Heroin, LSD and ecstasy are also schedule I substances. There have been some attempts to reclassify it. Regardless of what schedule of drug it is, it is still a drug. And other countries do not necessarily share the attitude towards this drug that the state of Washington has. From an article by Cannabis Culture, <http://www.cannabisculture.com/Japans-Drug-Allergy>, "No other country is making such a big fuss with some 1 percent [of 18 year olds who have used marijuana]. This shows the strict awareness Japanese society has against drugs." It is likely the Japanese will be leery of doing business in this county should these grows, particularly outdoor grows, be permitted.

Under B. Environmental Elements, section 8. Land and shoreline use, question e, the applicant states that the current zoning is Ag20. In the legal document it states, "The secure space is located on a 10 acre parcel which is zoned Agriculture 20, located in a portion of Section 16, T18N, R19E, WM, in Kittitas County, Assessor's map number 18-19-16051-0001. It is a non-conforming use, thus the CUP and SEPA are required.

Under B. Environmental Elements, section 11. Light and Glare, section a, and b. The applicant describes limited lighting use for site illumination at night. This is vague. There is no way to judge this

environmental impact without more specific information regarding types of lighting and lumens of the lamps. And the dark sky could be affected, especially for those nearby. They state there will be no loss of views, but there could be loss of view of the stars through light pollution. This is important to many people.

Under B. Environmental Elements, section 14. Transportation, section a, question f. The number of vehicular trips per day is stated as being 10. In B. Environmental Elements, section 8, question i, they tell us there will be 6 full time and 8 seasonal employees. Single family detached homes are generally attributed 10 vehicle trips per day according to Prince William Conservation Alliance. 14 people are quite a few more than would live in a single detached home, some of which would probably not be drivers. So, 10 vehicle trips per day is inaccurate. It would be higher during most of the year, but closer to 30 vehicle trips per day during the growing season.

Under B. Environmental Elements, section 15. Public Services, section a., questions a and b. The respondent states that there will be no need for additional public services such as fire protection or police protection. And the respondent states that they have no plan to reduce or control the direct impact of these public services. As I have stated earlier, the likelihood for crime in these operations is high. History and statistics have shown that. The police will quite likely be needed with greater frequency and with more dangerous scenarios than the usual land use activities of the area have posed. In addition, the processing plant may pose fire hazards in the processing of hashish, which has been known to cause explosions, or the cooking of edible products. These present neighbors as well as employees with the potential to be shot, kidnapped, trespassed on, burglarized, etc. These marijuana entrepreneurs are causing the community to take part of the risk of their enterprise and receive no benefit.

I will paste a copy of my earlier description of crime related issues with this type of venture below.

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report by NBC tells us "There are about 325 marijuana companies in Denver... At the same time, there have been about 317 burglaries and seven robberies reported by these companies in the last two years, according to police data. That's an annual robbery and burglary rate of about 50 percent, more than double what it was in 2009." And, "Denver District Attorney Mitch Morrissey...told the city council that there have been a dozen homicides "directly" related to mom-and-pop residential marijuana grows, which have been legal in the state since 2000." <http://www.nbcnews.com/storyline/legal-pot/high-crimes-robber-gangs-terrorize-colorado-pot-shops-n20111>. And there are many more stories of crime against legal marijuana businesses all around the country. Even here in Washington, a medical marijuana grower was robbed at gunpoint while bound, broke free and shooting commenced between the grower and the alleged robbers. This article tells the story: <http://m.seattlepi.com/local/article/Maple-Valley-medical-marijuana-grower-charged-in-4965683.php>.

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Thank you for your time and consideration of my thoughts and research on this matter.

Sincerely,

Julia A. Jones-Ufkes