



KITITITAS COUNTY COMMUNITY DEVELOPMENT SERVICES

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“Building Partnerships – Building Communities”

NMF Enterprises Administrative Conditional Use

File Number CU-14-00002

FINDINGS OF FACT, DECISION AND CONDITIONS OF APPROVAL

I. GENERAL INFORMATION

Requested Action: Michael Graham authorized agent for Sean Graham, landowner has submitted an Administrative Conditional Use application for farming operations related to KCC 17.15.060.1 A – Marijuana processing and production to operate under Washington State Liquor Control Board (WSLCB) I-502 tier 3 production and processing license. This activity will occur in a secured space of approximately 93,600 square feet with the area of growing canopy permitted by license of 21,000 square feet.

Location: This proposal encompasses 1 parcel, located to the Northeast of Ellensburg at 5810 Naneum Road in a portion of Section 16, T18N, R19E, WM, in Kittitas County, Assessor’s map number 18-19-16051-0001. For an aerial view please see exhibit 1-air photo.

II. SITE INFORMATION

Total Property Size:	10 acres
Number of Lots:	1 (no new lots are being proposed)
Domestic Water:	Trucked in water
Sewage Disposal:	Portable Toilets
Power/Electricity:	Kittitas County PUD
Fire Protection:	Kittitas County Fire & Rescue District 2
Irrigation District:	Kittitas Reclamation District (KRD)

Site Characteristics:

North: Trees, Barn, and hedge row (See Exhibit 2)

South: Goat/sheep pasture, vegetable garden, 8’ fence covered in Hop Vines and Timothy hay (See Exhibit 3a & b)

East: Timothy Hay and an 8’ fence covered in Hop Vines (See Exhibit 4)

West: Trees, orchard, goat/sheep pasture, house, office, garage, and barn (See Exhibit 5a, b &c)

Access: The site is accessed from Naneum Road.

Zoning and Development Standards: The subject property is located to the north of Cave Canyon and to the east of Naneum Creek and has a zoning designation of Agriculture 20. The general purpose and intent of the Agriculture 20 zone is to permit agriculture operations to be conducted in Kittitas County. The Agriculture 20 zone allows for a vast array of permitted and conditional uses; this project is being proposed under KCC 17.06A.015. This use is an Administrative Conditional Use and requires that the following be met:

1. The proposed use is essential or desirable to the public convenience and not detrimental or injurious to the public health, peace, or safety or to the character of the surrounding neighborhood.
2. The proposed use at the proposed location will not be unreasonably detrimental to the economic welfare of the county and that it will not create excessive public cost for facilities and services by finding that
 - A. The proposed use will be adequately serviced by existing facilities such as highways, roads, police and fire protection, irrigation and drainage structures, refuse disposal, water and sewers, and schools; or
 - B. The applicant shall provide such facilities; or
 - C. The proposed use will be of sufficient economic benefit to offset additional public costs or economic detriment.
3. The proposed use complies with relevant development standards and criteria for approval set forth in this title or other applicable provisions of Kittitas County Code.
4. The proposed use will mitigate material impacts of the development, whether environmental or otherwise.
5. The proposed use will ensure compatibility with existing neighboring land uses.
6. The proposed use is consistent with the intent and character of the zoning district in which it is located.
7. For conditional uses outside of Urban Growth Areas, the proposed use:
 - A. Is consistent with the intent, goals, policies, and objectives of the Kittitas County Comprehensive Plan, including the policies of Chapter 8, Rural and Resource Lands;
 - B. Preserves "rural character" as defined in the Growth Management Act (RCW 36.70A.030(15));
 - C. Requires only rural government services; and
 - D. Does not compromise the long term viability of designated resource lands. (Ord. 2013-012, 2013; Ord. 2013-001, 2013; Ord. 2012-009, 2012; Ord. 2007-22, 2007; Ord. 88-4 § 11 (part), 1988; Res. 83-10, 1983)

Conditional Uses:

This application is consistent with KCC 17.60A.015. There are a number of requirements that must be met; these are addressed under Project Analysis below.

III. ADMINISTRATIVE REVIEW

Notice of Application: An Administrative conditional use permit application was submitted to Kittitas County Community Development Services department on May 13, 2014. This application was deemed complete on June 3, 2014. A notice of application and a notice of SEPA for the NMF Enterprises Administrative Conditional Use Permit (CU-14-00002) were mailed to adjacent landowners located within 500 feet of any portion of the boundary of the proposal's tax parcel (See Exhibit 6) & associated Agencies. Notice was given to and published in the official newspaper of record for Kittitas County, and notice was posted to the Kittitas County Website on Friday, June 6, 2014, all in conformance with the Kittitas County Project Permit Application Process (Title 15A).

IV. COMPREHENSIVE PLAN

The Kittitas County Comprehensive Plan designates the subject property as Rural Working Land. Kittitas County has established the following goals and policies to guide activities within the rural lands. These goals and policies were developed in response to identified needs within the county, and support the County Wide Planning Policies:

GPO 2.2 – Protect, preserve, maintain, and enhance the County’s natural resource industry base, natural environment, and rural character, including but not limited to timber, agriculture, mineral, water and energy resources. The County shall avoid land use conflicts with its resource industry by applying low residential densities to lands adjacent to resource lands.

GPO 2.7 – Kittitas County will maintain a flexible balance of land uses which will protect, preserve, and enhance the rural character, historical forest lands, agriculture industries, mineral lands, and high quality environment.

GPO 8.1 – Rural lands are characterized by a lower level of services; mixed residential, agricultural and open space uses; broad visual landscapes and parcels of varying sizes, a variety of housing types and small unincorporated communities.

GPO 8.2 – Rural lands often have an established land use pattern that inhibits urban character and are generally, and anticipated to continue to be, served by septic systems and individual wells or small community water systems.

GPO 8.4 – Development in rural areas is subject to agricultural and forestry activities that may take place as a right on adjacent properties.

GPO 8.9 – Protecting and preserving resource lands should be given priority. Development that is permitted and adjacent resource lands shall be properly managed.

GPO 8.11 – Policies will reflect a “right to farm” in agriculture lands.

GPO 8.16 – Give preferences to land uses in rural designated areas that are related to agriculture, rural residential development, tourism, outdoor recreation, and the other open space activities.

GPO 8.46 – Kittitas County will continue to research innovative incentive-based strategies that encourage and support farming activity.

GPO 8.47 – Kittitas County will encourage voluntary farm conservation and agriculture preservation activities, and support activities engaged in agriculture preservation.

GPO 8.48 – Non-farming residents should be informed on the practices of farming so that they are aware of the non-urban activities and impacts that occur in the agricultural environment.

This application is consistent with Kittitas County Comprehensive Plan. There are a number of requirements that must be met, which are stated above under Zoning and Development Standards; some of these are addressed under Project Analysis below.

V. ENVIRONMENTAL REVIEW

Based upon review of the submitted application materials including an environmental checklist, correspondence received during this 15 day comment period and other information on file with Community Development Services, a Mitigated Determination of Non-Significance (MDNS) was issued on July 31, 2014. The appeal period ends on August 15, 2014 at 5:00 p.m.

VI. AGENCY AND PUBLIC COMMENTS

Applicable agencies, adjacent property owners, and interested parties have been given the opportunity to review this proposal. All comments are on file and available for public review.

VII. PROJECT ANALYSIS

In review of this proposal it is important to consider the goals and policies of the comprehensive plan, applicable county code, public and agency comments, any identified environmental concerns and state and federal requirements. Identified below is planning staff’s analysis and consistency review for the subject application.

Consistency with the Comprehensive Plan:

The proposal is consistent with the goals and policies of the Kittitas County Comprehensive Plan. As referenced above in Section IV of this staff report, the following Comprehensive Plan GPOs apply to this proposal: GPO 2.2, 2.7, 8.1, 8.2, 8.4, 8.9, 8.11, 8.16, 8.46, 8.47, and 8.48.

Provided the applicant follows and maintains the GPOs, they shall be in compliance with the Kittitas County Comprehensive Plan. The applicant is proposing an agriculture endeavor which is maintaining and protecting the County's natural resource industry. Although this is a new farming use for this parcel the historical use of the lot is that of agriculture. Therefore the County and applicant are in compliance with the Comprehensive plan. With this use the applicant is preserving rural character by protecting and maintaining the barn on the property which is on the historical register.

Consistency with the provisions of KCC 17A, Critical Areas:

Staff has conducted an administrative critical area review in accordance with KCC 17A and found no critical areas on-site.

Consistency with the provision of KCC 17.29, Agriculture 20 zoning:

This proposal is consistent with the Kittitas County Zoning Code 17.29. The proposal is compatible with KCC 17.29.010 referring to the uses table in KCC 17.15. Specifically, this is compatible as a conditional use with 17.15.060.1 (A) Marijuana processing & Marijuana Production because the proposed use is that of farming and production of marijuana on a 10 acre parcel.

Consistency with the provisions of KCC 17.60A, Conditional Uses:

This proposal as conditioned is consistent with the Kittitas County Zoning Code for Administrative Conditional Uses. The proposed administrative conditional use will be adequately served by rural levels of service. As conditioned, staff finds the proposal is 1) desirable to public convenience, 2) will not be detrimental to public health, safety or welfare, 3) is not economically detrimental to the public, 4) is adequately serviced by public facilities, 5) is compatible with the neighborhood character, and 6) is consistent with the character of the zoning district.

1. *The proposed use is essential or desirable to the public convenience and not detrimental or injurious to the public health, peace, or safety or to the character of the surrounding neighborhood.*

The applicant chose this parcel specifically because it was in an agriculturally dominant area. The applicant wants to maintain the rural character of this area and enhance/preserve the character of the area by maintaining a historical farm on site.

Staff response: Staff agrees that the use will maintain the character of the surrounding neighborhood and will not be a detriment to the public safety, peace or health. The applicant will have an 8' sight obscuring security fence, sight obscuring vegetation, professionally installed security (requirement of Washington State Liquor Control Board, WSLCB), and a setback of 350' from public access point thus creating a safe, peaceful and healthy environment by exceeding the mandatory setback on the South and West portions of the property (See Exhibit 7), following all state laws, putting up security and having a security fence. The character of the surrounding area is dominated by farming activities; this proposal is a farming based operation thus maintaining the character in the neighborhood.

2. *The proposed use at the proposed location will not be unreasonably detrimental to the economic welfare of the county and that it will not create excessive public cost for facilities and services by*

finding that (A) it will be adequately serviced by existing facilities such as highways, roads, police and fire protection, irrigation and drainage structures, refuse disposal, water and sewers, an schools; or (B)that the applicant shall provide such facilities; or (C)The proposed use will be of sufficient economic benefit to offset additional public costs or economic detriment.

The applicant believes that the use will not have any detrimental economic impacts upon the county. If anything, this use will improve the local economy by creating jobs and bringing revenue into the county.

Staff response: This proposal is adequately serviced by existing facilities. The subject property must providing adequate water and septic facilities, to the specifications of Kittitas County Public Health prior to gaining approval to grow and operate. The location is within Kittitas County Fire & Rescue District 2 and all buildings associated with the marijuana processing and productions have been inspected by the Kittitas County Fire Marshall's office and are up to International Fire Codes (IFC). The area is 8.9 miles from the Kittitas County Sheriff's office. If an emergency situation occurred, the response time from the Sheriff's Department would not be impaired because of the location. The use may require additional security for this operation, but the cost of the additional security will be to the benefit of the public's wellbeing. The site is located off of Naneum Road and has an existing access. Kittitas County Public Works has determined that no county road improvements are needed for this project because it will not create any adverse impacts to the existing road. The location is within Kittitas Reclamation District (KRD). This use will not be a detriment to KRD or KRD irrigation users since KRD will not allow their water to be used for marijuana production. As required by Kittitas County Code and as conditioned, this proposal will not be detrimental to the economic welfare of the county. Valuation of the property may increase as a result of licenses issuance and limited sites available within the county for marijuana production.

- 3. The proposed use complies with relevant development standards and criteria for approval set forth in this title or other applicable provisions of Kittitas County Code.*

Staff response: The proposed use will meet all conditions set in the Mitigated Determination of Nonsignificance, Kittitas County Community Development Services Approval Document & all Kittitas County Code requirements KCC 17.15.060 prior to the start of operations.

- 4. The proposed use will mitigate material impacts of the development, whether environmental or otherwise.*

Staff Response: The proposed use has no material impacts of the development at this time. Should the applicant wish to withdraw groundwater for the use of marijuana or any other new uses, prior to withdrawal the applicant or landowner of record must contact Kittitas County Public Health for necessary water mitigation.

- 5. The proposed use will ensure compatibility with existing neighboring land uses.*

Staff Response: This use is compatible with the neighboring uses. The proposed use is an agrarian based operation and is in the Rural Working Land. Most land use operations in the Rural Working Land are variations of farming operations.

6. *The proposed use is consistent with the intent and character of the zoning district in which it is located.*

Staff Response: The proposed use is farming based which lies within the Agriculture 20 Zone and is consistent with the Agriculture 20 zone character. The intent of the Agriculture 20 Zoning is to permit agriculture operations to be conducted. The proposed use meets this intent by proposing a use that focuses on the cultivation of land and raising crops.

7. *For conditional uses outside of Urban Growth Areas, the proposed use must show that it:*

- a. *Is consistent with the intent, goals, policies, and objectives of the Kittitas County Comprehensive Plan, including the policies of Chapter 8, Rural and Resource Lands.*

Staff Response: The intent, goals, policies and objectives of the Kittitas County Comprehensive plan for Lower Kittitas County is that land owners have the “right to farm.” The proposed use is growing and harvesting, which meets the intent of the Kittitas County Comprehensive Plan.

- b. *Preserves "rural character" as defined in the Growth Management Act (RCW 36.70A.030(15)).*

Staff Response: The rural character of Kittitas Counties Lower County is that of a farming community. The proposed use is declaring that their use is raising crops. At the proposed location the applicant is utilizing or maintaining the existing structures on the parcel. One of the existing structures being maintained is a barn on the historical register, hence preserving the rural character of Kittitas County.

- c. *Requires only rural government services.*

Staff Response: The proposed use does not require any services other than those that Kittitas County provides. The applicant is within a fire district, is not using irrigation water, is meeting all public health requirements, and is 8.6 miles to the Kittitas County Sheriff’s office.

- d. *Does not compromise the long term viability of designated resource lands. (Ord. 2013-012, 2013; Ord. 2013-001, 2013; Ord. 2012-009, 2012; Ord. 2007-22, 2007; Ord. 88-4 § 11 (part), 1988; Res. 83-10, 1983)*

Staff Response: The proposed use does not compromise the long term viability of designated resource lands. This use is maintaining the long term viability of resource lands by remaining an active farm.

Consistency with the provisions of the KCC Title 17.60A.020, Conditions 1, 9, and 10:

1. *Increasing the required lot size, setback or yard dimensions.*

Staff Response: All buildings or planting operations requiring security by law must be setback at least 60 feet from any property boundary. All growing and planting operations on the proposed site plan are setback 60 feet from all property lines (See Exhibit 8).

8. *Requiring or limiting view-obscuring fencing, landscaping or other facilities to protect adjacent or nearby properties.*

Staff Response: The applicant will provide a 125% bonding or assignment of funds for insuring completion of fence plan and survival of any landscaping necessary to visually screen required fences. Bond will be held for five (5) years to insure the survival of any visual screening vegetation. An estimate for such landscaping has been provided by a landscape professional and the bond for 125% of the estimate was submitted to the County on July 25, 2014.

9. *Demonstrating that the requirements of Chapter 13.35, Kittitas County Code, Adequate Water Supply Determination, can be met. (Ord. 2014-005, 2014; Ord. 2013-012, 2013; Ord. 2012-009, 2012; Ord. 2007-22, 2007; Ord. 88-4 § 11 (part), 1988)*

Staff Response: Kittitas County Public Health must approve of the proposed acquirement of water prior to the start of operations.

Consistency with the provisions of the KCC Title 17.15.060.1, Marijuana Production or Processing:
Marijuana production or processing on non-conforming legal lots of record must be at least 10 (ten) acres in size, are processed as an Administrative Conditional Use, and must:

- a. Meet all criteria and regulations found in WAC 314.55 and RCW 69.50.
- b. Meet all International Fire Code and International Building Code requirements.
- c. Agree to an annual fire protection inspection.
- d. Provide 125% bonding or assignment of funds for insuring completion of fence plan and survival of any landscaping necessary to visually screen required fences. Bond will be held for five (5) years to insure the survival of any visual screening vegetation.
- e. All buildings or planting operations requiring security by law must be setback at least 60 feet from any property boundary.
- f. Security lighting shall be downward, directed away from adjoining property, and shall be installed with motion sensors.
- g. Obtain water from a water budget neutral source and prove such by providing 1) a letter from a purveyor stating that the purveyor has adequate water rights and will provide the necessary water for the applicant's project; 2) an adequate water right for the proposed project; or 3) a certificate of water budget neutrality from the Department of Ecology or other adequate interest in water rights from a water bank.

Staff Response: The applicant has met, or is in the process of meeting these conditions.

Consistency with the provisions of the KCC Title 14.04, Building Code:
All buildings must be consistent with International Building Codes.

Consistency with the provisions of KCC Title 12, Roads and Bridges:
As conditioned, the proposal must be consistent with the provisions of KCC Title 12.

Agency Comments:

The following agencies provided comments during the comment period: Kittitas County Department of Public Works, Kittitas County Fire Marshal, Kittitas County Environmental Health Department, and WA Department of Ecology. All comments are on file and available for public review.

Public Comments:

Public comments were submitted for this proposal at the time of staff review and were considered. All

comments are on file and available for public review.

Staff Conclusions:

1. As conditioned, the development meets the goals, policies and implementation recommendations as set forth in the Kittitas County Comprehensive Plan.
2. As conditioned, this proposal is consistent with applicable federal and state laws and regulations.
3. Public use and interest will be served by approval of this proposal.
4. As conditioned, the proposal is consistent with Kittitas County Code Title 17 Zoning, Title 17A Critical Areas, Title 14.04 Building Code, and Title 12 Roads and Bridges.

From these conclusions and findings, the proposed Administrative Conditional use is approved with the following conditions. Kittitas County Code (Chapter 15A.07.010) stipulates that an appeal of this land use decision must be filed within 10 (ten) working days by submitting specific factual objections and a fee of \$500 to the Kittitas County Board of Commissioners at 205 West 5th, Room 108 Ellensburg, WA 98926. The appeal deadline for this project is August 14, 2014 at 5:00p.m.

Conditions of Approval:

1. **Water**
 - A. Activities such as road widening, stump pulling and clearing, grading and fill work and utility placements may require a NPDES Construction Stormwater Permit issued by the Department of Ecology prior to start of construction. This permit requires the preparation of a Stormwater Pollution Prevention Plan. It is the applicant's responsibility to contact the Department of Ecology.
 - B. Withdrawals of groundwater on the subject property are subject to the rules and regulations adopted and administrated by the Washington State Department of Ecology; this includes the use of water for irrigation. Legally obtained water must be used on-site.
 - C. There is a water right associated with the property for irrigation and stock water. All wells put to new use will be required to mitigate for Total Water Supply Available (TWSA) at the Parker gauge on the main stem of the Yakima River.
 - D. Chapter 173-150 WAC provides for the protection of existing rights against impairment, i.e. interruption or interference in the availability of water. If water supply in an area becomes limited, use could be curtailed by those with senior water rights.
 - E. Obtain water from a water budget neutral source and prove such by providing 1) a letter from a purveyor stating that the purveyor has adequate water rights and will provide the necessary water for the applicant's project; 2) an adequate water right for the proposed project; or 3) a certificate of water budget neutrality from the

Department of Ecology or other adequate interest in water rights from a water bank.

2. Septic

- A. Adequate septic and waste water facility must be provided on site as permitted by Kittitas County Public Health.

3. Fire & Life Safety

- A. A turn-around shall be provided for fire department access as determined by Kittitas County Fire Marshal.
- B. Any structures that are occupied by employees are required to have an annual fire & life safety inspection and will require a fire & life safety inspection prior to use.
- C. Any structures utilized for I-502 purposes need to meet International Fire Code (IFC) standards.
- D. All development, design and construction shall comply with the International Fire Code requirements.

4. Light and Aesthetics

- A. All outdoor lighting shall be shielded and directed downward to minimize the effect to nearby residential properties.
- B. Security lighting shall be downward, directed away from adjoining property, and shall be installed with motion sensors.
- C. Provide landscaping plan with 125% bonding or assignment of funds for insuring completion of fence plan and survival of any landscaping necessary to visually screen required fences. Bond will be held for five (5) years to insure the survival of any visual screening vegetation.

5. Noise

- A. Development and construction practices for this project shall only occur between the hours of 7:00 am and 7:00 pm to minimize the effect of construction noise on nearby residential properties.

6. Building

- A. Any structures used for I-502 production or processing need a change of use occupancy permit.
- B. All new construction must meet the International Building Code requirements.

7. Roads and Transportation

- A. The driveway must be constructed to commercial standards, as shown in the WSDOT Design Manual Exhibit 1340-2.
- B. An Approved Access permit shall be required from the department of Public Works prior to alteration of the existing access. No new accesses will be allowed.
- C. Contact the Kittitas County Rural Addressing Coordinator at (509) 962-7523 to obtain addresses prior to obtaining a building permit. A parcel cannot receive a building permit or utilities until a parcel is identified with a 911 address.

8. Land Use

- A. All criteria must meet regulations found in WAC 314.55 and RCW 69.50.
- B. All buildings or planting operations requiring security by law must be setback at least 60 feet from any property boundary.

9. Historic and Cultural Preservation

- A. Should ground disturbing or other activities related to the proposed conditional use permit result in the inadvertent discovery of cultural or archaeological materials, work shall be stopped in the immediate area and contact be made with the Washington State Department of Archaeology and Historic Preservation (DAHP). Work shall remain suspended until the find is assessed and appropriate consultation is conducted. Should human remains be inadvertently discovered, as dictated by Washington State RCW 27.44.055, work shall be immediately halted in the area and contact made with the coroner and local law enforcement in the most expeditious manner possible.

Responsible Official

_____ Robert "Doc" Hansen

Title: Planning Official

Address: Kittitas County Community Development Services
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Phone: (509) 962-7506 Fax: (509) 962-7682

Date: July 31, 2014

Exhibits

1, 2, 3a, 3b, 4, 5a, 5b, 5c,
6, 7, & 8.



**CU-14-00002
NMF Enterprises**

Covey Run

Naneum Rd

Naneum Rd

0 255 510 1,020 Feet

Source: Esri, DigitalGlobe, GeoEye, i-cubed, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AEX, Getmapping, Aerogrid, IGN, IGP, swisstopo, and the GIS User Community



**CU-14-00002
NMF Enterprises**

**Air
Photo**

CU-14-00002 NMF Enterprises 7/29/2014

kaycee.hathaway





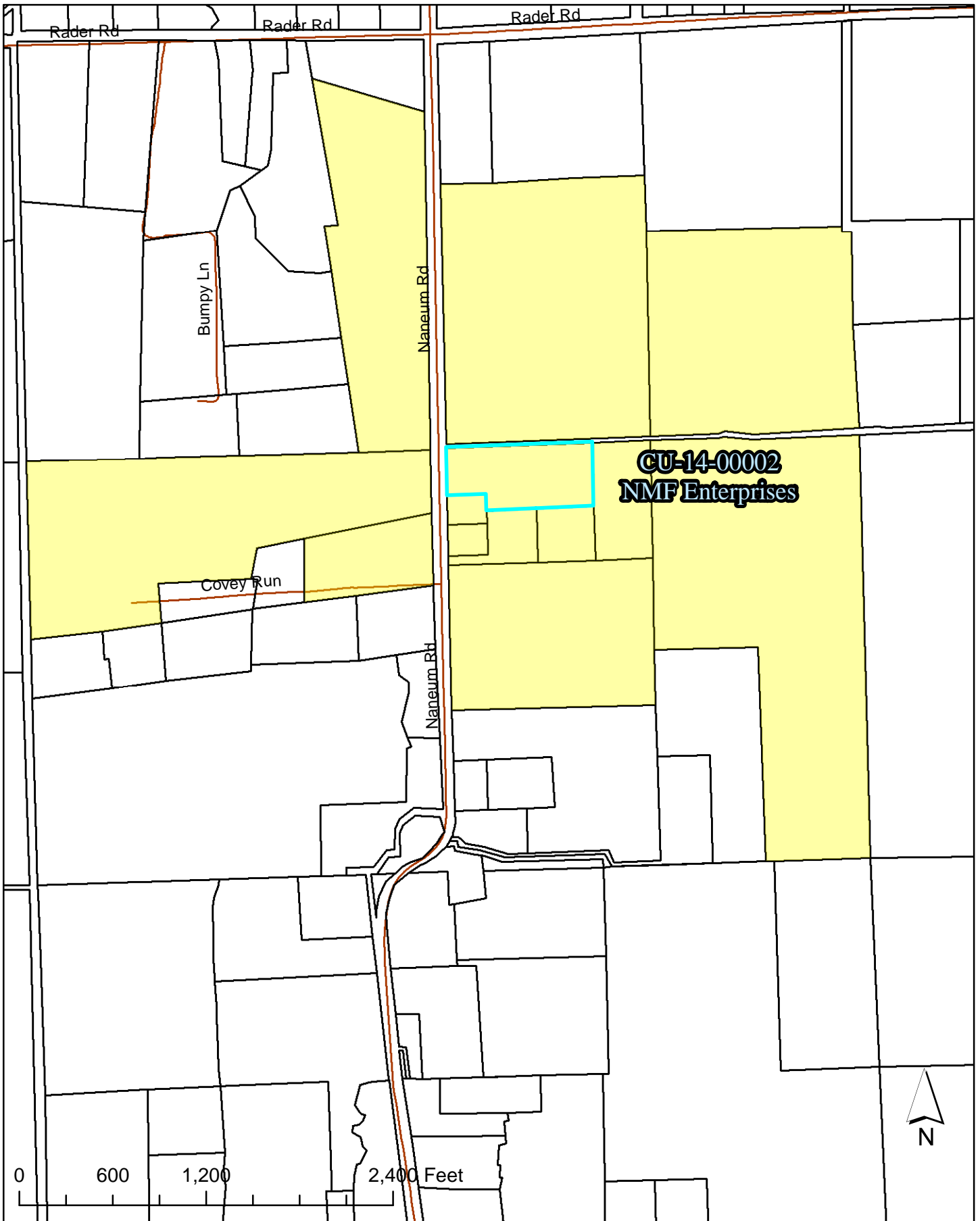












CU-14-00002
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500' Adjoiners
Map

420 Feet

434 Feet

CU-14-00002 NMF Enterprises

South East corner of Fence



60 Feet from Property Line

