

Kaycee Hathaway

From: Rose Shriner
Sent: Monday, December 29, 2014 8:23 AM
To: Kaycee Hathaway
Cc: Steph Mifflin; Emily Miltko; Jeff Watson; Lindsey Ozbolt; Doc Hansen
Subject: FW: Objection to marijuana producer application 415857 Kittitas County
Attachments: Old McDonald Farm objection letter to WALCB.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

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From: SOARS Save Our Ag & Rural Spaces [<mailto:saveouragandruralspaces@gmail.com>]
Sent: Sunday, December 28, 2014 1:34 PM
To: maureen.malahovsky@lcb.wa.gov
Cc: jufkes@johnufkeslaw.com; Jslothower@lwhsd.com; madizone@gmail.com; Kaycee Hathaway; CDS User; Paul Jewell; Gary Berndt; Obie OBrien
Subject: Objection to marijuana producer application 415857 Kittitas County

Ms. Malahovsky,

I thank you for making sure all the members of the Washington State Liquor Control Board receive a copy of this request to deny marijuana producer/processor application 415857, Old McDonald's Farm on Emerson Road in Kittitas County.

Please also make sure it reaches the staff in licensing and regulation as well and that it is included in the official file on this matter.

With appreciation,

Julie Ufkes

Save Our Ag & Rural Spaces

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<https://www.facebook.com/saveouragandruralspaces>

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message id: 38eb45916c6dcbdac24bb8719d004a14

Washington State Liquor Control Board
 Sharon Foster, Chair
 Ruthann Kurose, Board Member
 Chris Marr, Board Member
 P.O. Box 43076
 Olympia, WA 98504

Washington LCB Licensing and Regulation
 P.O. Box 43098
 Olympia, WA 98504

Re: Objection to Marijuana Producer/Processor License 415857 Old McDonald's Farm

OLD MCDONALD'S FARM	License # 415857	UBI 6033564940010002	1006 EMERSON RD STE C	ELLENSBURG	WA	KITTITAS COUNTY	98926- 8438
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Dear Commissioners and Licensing Staff:

Old McDonald's Farm, represented by T.J. McDonald, has two producer applications and one processor application in Kittitas County. The processor application and one producer application are on Emerson Road and another is on Cooke Canyon Road. The application at 1006 Emerson Rd. needs to be denied as it is within 1000' of a private school that has been operating across the street from this address for years. It has been recognized by the county as a school since 1998.

Sales History

Sale Date	Sales Document	# Parcels	Excise #	Grantor	Grantee	Price
08/01/98	6252	1	6252	RUMBLE, JOHN D. ETUX	BRETHREN FRONTIER SCHOOL	\$0

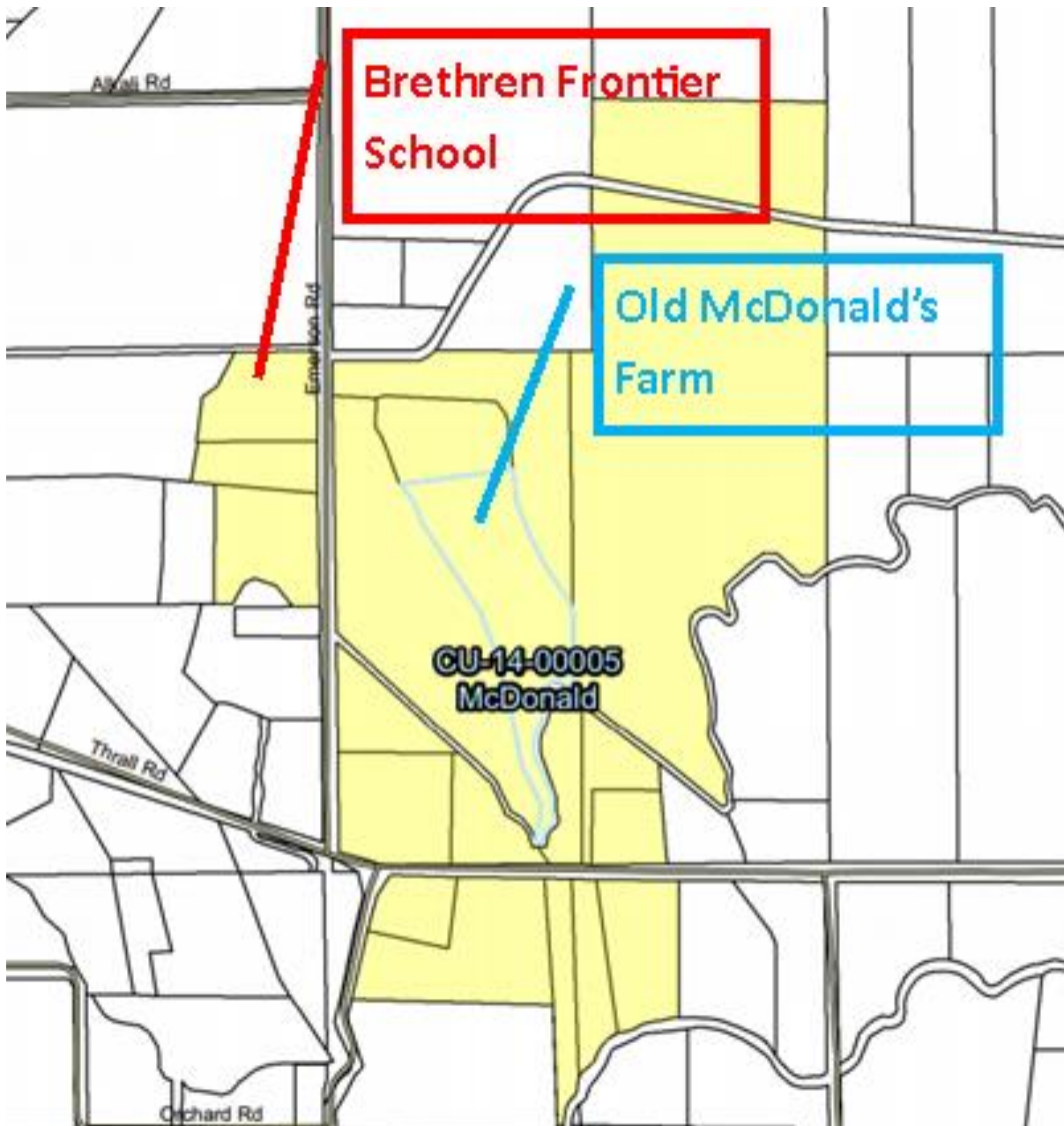
Building Permits

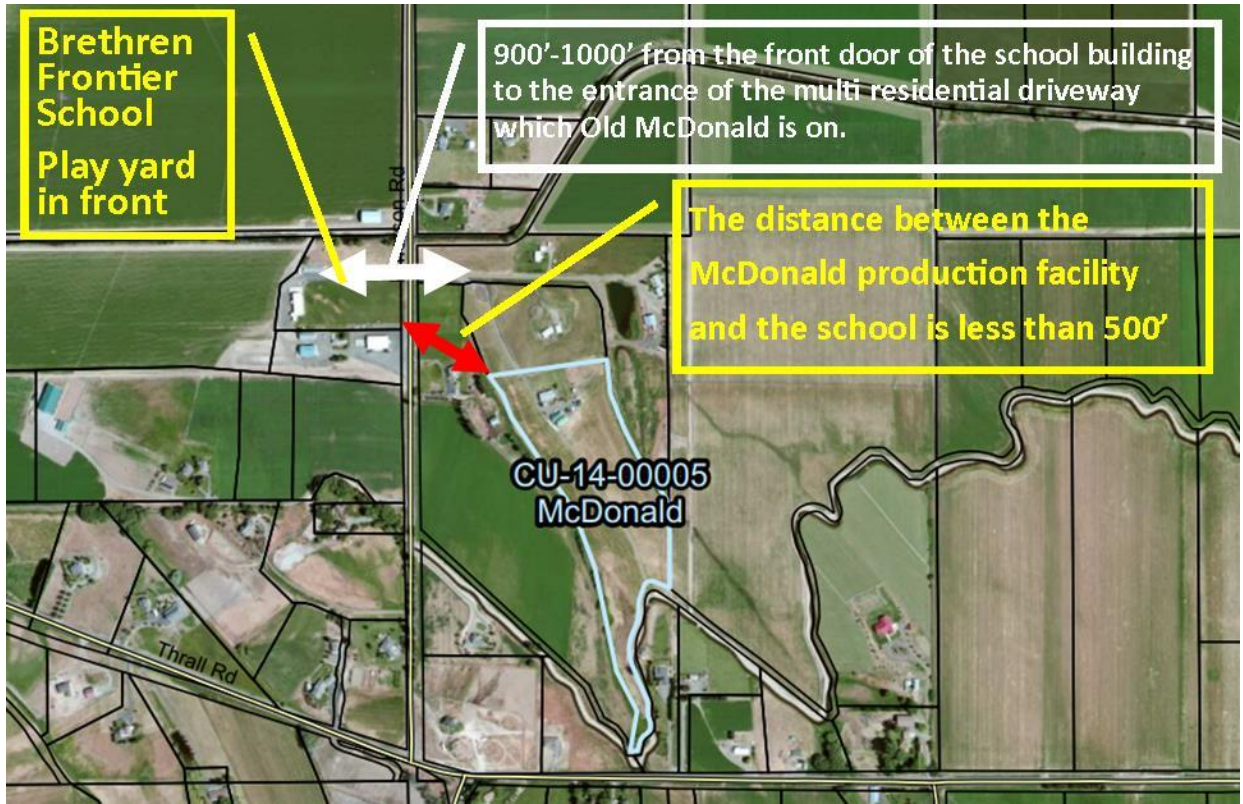
Permit No.	Date	Description	Amount
2008-00396	7/10/2008	100%-INTERIOR WORK, NEW WALLS	\$0.00
98-06072	6/23/1998	100%-SCHOOL 2036 SF	\$69,118.00

Historical Valuation Info

Year	Billed Owner	Land	Impr.	PermCrop Value	Total	Exempt	Taxable
2015	BRETHREN FRONTIER SCHOOL	\$81,880	\$241,910	\$0	\$323,790	\$0	\$323,790
2014	BRETHREN FRONTIER SCHOOL	\$81,880	\$241,910	\$0	\$323,790	\$0	\$323,790
2013	BRETHREN FRONTIER SCHOOL	\$92,120	\$153,130	\$0	\$245,250	\$0	\$245,250
2012	BRETHREN FRONTIER SCHOOL	\$92,120	\$153,130	\$0	\$245,250	\$0	\$245,250
2011	BRETHREN FRONTIER SCHOOL	\$92,120	\$153,130	\$0	\$245,250	\$0	\$245,250

The school is Brethren Frontier School and it is owned and run by the German Baptists in the area. The county's adjoiners map (shown below with my call outs) for the purpose of the administrative CUP identifies neighbors within 500' of the property seeking the CUP in yellow. The red line on the aerial photo shows the perimeters of the two properties to be less than 500' apart from corner to corner. The white line on the aerial photo is the path from the driveway entrance of Old McDonald's Farm to the school building door. When measured with the Kittitas County Assessors measuring tool on the property map, this path is over 900' and under 1,000' long.





This photo shows the Brethren Frontier School play yard in the foreground and the applicant Old McDonald's Farm property at 1006 Emerson with teal colored buildings in the background.



On the state's website <http://app.leg.wa.gov/WAC/default.aspx?cite=314-55-050> discussing reasons the board may seek denial, suspension, or cancellation of a marijuana license application or license, it states, "The distance shall be measured as the shortest straight line distance from the property line of the proposed building/business location to the property line of the entities listed below...(a) Elementary or secondary school;"

On this website <http://apps.leg.wa.gov/rcw/default.aspx?cite=69.50.331> RCW 69.50.331 Application for license, it says (8) The state liquor control board shall not issue a license for any premises within one thousand feet of the perimeter of the grounds of any elementary or secondary school, playground, recreation center or facility, child care center, public park, public transit center, or library, or any game arcade admission to which is not restricted to persons aged twenty-one years or older.

Federally, marijuana is still classified as a schedule I drug and a controlled substance. From <http://www.deadiversion.usdoj.gov/21cfr/21usc/860.htm> -

Title 21 United States Code (USC) Controlled Substances Act

SUBCHAPTER I – CONTROL AND ENFORCEMENT

Part D – Offenses And Penalties

§860. Distribution or manufacturing in or near schools and colleges

(a) Penalty

Any person who violates section 841(a)(1) of this title or section 856 of this title by distributing, possessing with intent to distribute, or manufacturing a controlled substance in or on, or within one thousand feet of, the real property comprising a public or private elementary, vocational, or secondary school or a public or private college, junior college, or university, or a playground, or housing facility owned by a public housing authority, or within 100 feet of a public or private youth center, public swimming pool, or video arcade facility, is (except as provided in subsection (b) of this section) subject to (1) twice the maximum punishment authorized by section 841(b) of this title; and (2) at least twice any term of supervised release authorized by section 841(b) of this title for a first offense. A fine up to twice that authorized by section 841(b) of this title may be imposed in addition to any term of imprisonment authorized by this subsection. Except to the extent a greater minimum sentence is otherwise provided by section 841(b) of this title, a person shall be sentenced under this subsection to a term of imprisonment of not less than one year. The mandatory minimum sentencing provisions of this paragraph shall not apply to offenses involving 5 grams or less of marijuana.

At one point the LCB was going to measure the distance between sensitive uses such as schools by the path of travel and not as the crow flies. The DOJ's response is explained in the following excerpt from *State to change rules on where marijuana outlets can locate*, by Gene Johnson, Associated Press, published September 13, 2013 <http://www.keprtv.com/politics/local/State-to-change-rules-on-where-marijuana-outlets-can-locate-223668341.html> Emphasis was added by me.

“In response, the DOJ told the board that it will continue enforcing the law as it has been, and any pot business within 1,000 feet of a school or playground - as measured by a straight line - is at risk of prosecution.

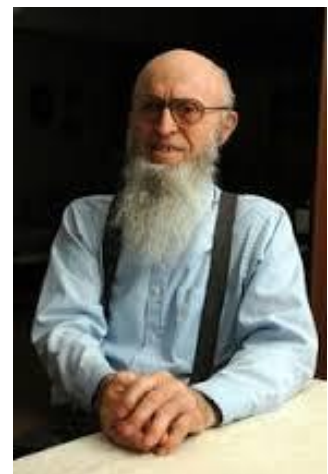
"Prior marijuana enforcement in both Eastern and Western Washington has focused on keeping dispensaries out of school zones, and that work will continue," Seattle U.S. Attorney Jenny Durkan told The Associated Press in a written statement Friday. "It has been an important bright line and a well-established one. It is to protect children and will not be compromised for convenience."

In late August, the DOJ announced that it would not sue Washington, Colorado or other states that want to regulate marijuana as long as they adhere to eight federal enforcement priorities, including keeping pot away from kids and cartels, preventing drugged driving and gun violence associated with pot distribution, and keeping pot off federal property."

The German Baptists may have more delicate sensibilities than the population at large. They may very well find having a marijuana producer next to their school concerning and offensive. According to Wikipedia, "They are part of the post-reformation Anabaptists (which include, among others, the Amish and Mennonites), who rejected baptism of infants as a biblically valid form of baptism." Because they are often pacifists, and not prone to sue, they may not put up resistance. But do not allow them to be taken advantage of. I'll just tell you that we really love our

German Baptist neighbors here in this county and we would not like to see them abused or mistreated by not giving their school equal treatment under the protection of the law. They are good, quiet neighbors who always keep things neat and clean. They never cause trouble, contribute to the community in many ways and seem to be kind, loving people.

Marijuana producers, especially Tier 3s, have a product with an incredibly high value. A crop's value can range from \$3M for average quality under prices pre-legalization to \$15M for high quality with this fall's inflated prices. The temptation for those who have a distribution network on the black market to steal



this lightweight and portable product must be high. Routine Activity Theory basically states that an accessible target without adequate guardians in the presence of a motivated offender create a situation where crime occurs. Indeed, these businesses have been popular targets for thieves. Placing them in the country far away from law enforcement takes the adequate guardian out of the picture. If you would like to know more about my research on crime associated with legal recreational and medical marijuana grows I would be happy to provide you what I can.

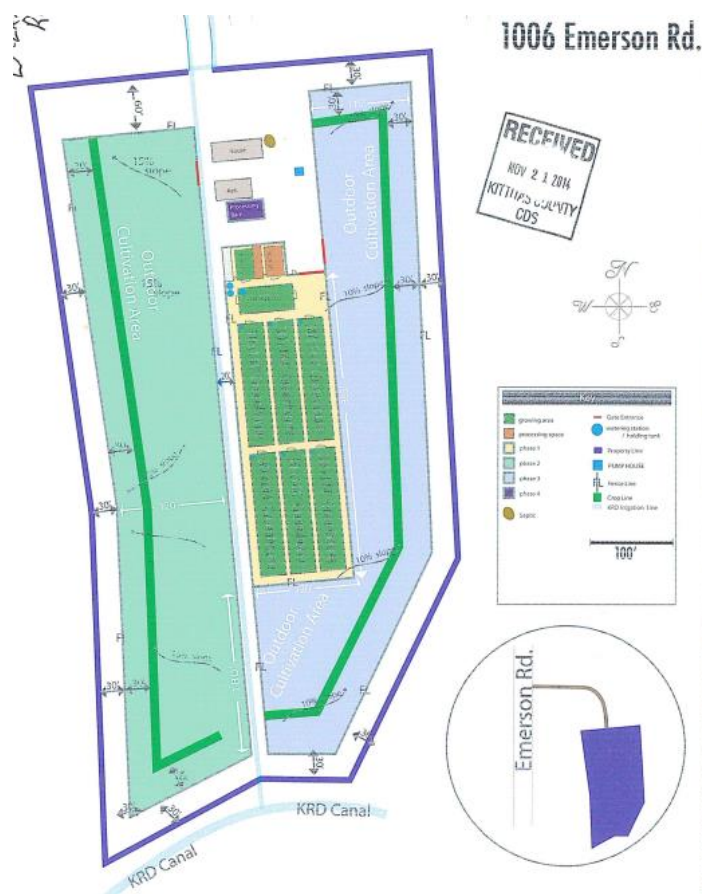
Our county commissioners allowed, for a short period, these businesses to be inappropriately located near where people live. The zoning recently changed to be allowed in industrial areas only in Kittitas County. But there are several that may be allowed under the old rules. Old McDonald's Farm needs an administrative conditional use permit under the old rules since it is on less than 20 acres. It was in examining this CUP request that license #415857 was discovered to be within 500' of the school. I am curious why this application has advanced this far given the regulations set forth by your own department? Is it up to local governments to enforce this? If they don't, which Kittitas has obviously not denied it yet by allowing the CUP process to continue, what consequence is there besides the public suffering with these incompatible uses amongst them? Is it up to the applicant to do due diligence in determining if there are schools nearby and reporting that to the LCB or local municipality? Since those on 20 acres or more did not require CUPs with the old zoning rules, I cannot even review their projects for non-conformity with the regulations. As far as I can see, there is inadequate monitoring and enforcement of the regulations by the local and state government and not enough transparency for the public to attempt to do the job the government should be doing.



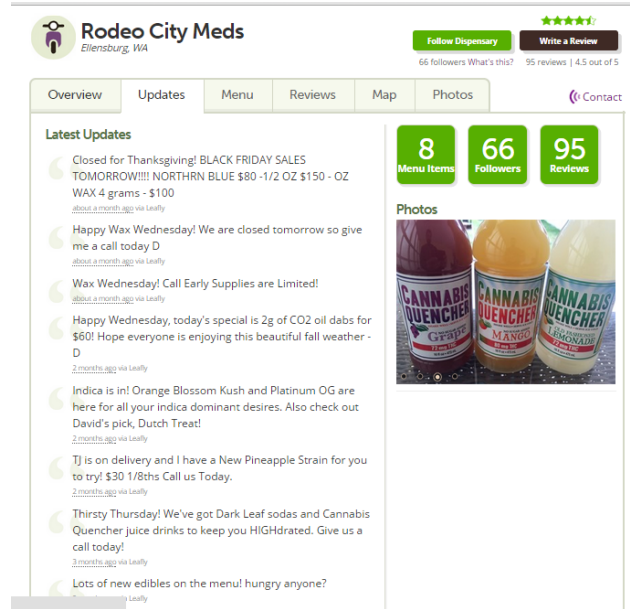
Why put school children, or any children or families for that matter, at risk while getting this experimental new industry off the ground? The photo on the previous page shows the swing set of a neighbor to the proposed application that has young children. You can see the teal buildings and fence of Old McDonald's Farm in the background. In other places in Washington growers have fired shots outside their fences/homes as the thieves fled their property. Imagine if a child were around when that happened. The families who live here have invested their lives in their homes and had no reason to expect this incompatible use to be thrust upon them. The producers can relocate fairly easily. This producer even has another application with another address in the county. He can relocate from this property, which is owned by a trust, and move his fence and hoop houses that he chose to put up at his own risk prior to the license or CUP even being granted.

On a side note, Mr. McDonald is seeking an ultimate 7 acres for outdoor marijuana production in his administrative conditional use permit. This is far beyond the current allowance by the LCB at this time and raises the question if he is planning on also growing medical marijuana here. He also has a medical marijuana business, a delivery service by the name of Rodeo City Meds, apparently formerly known as newleaf509 by the comments I see on his reviews here

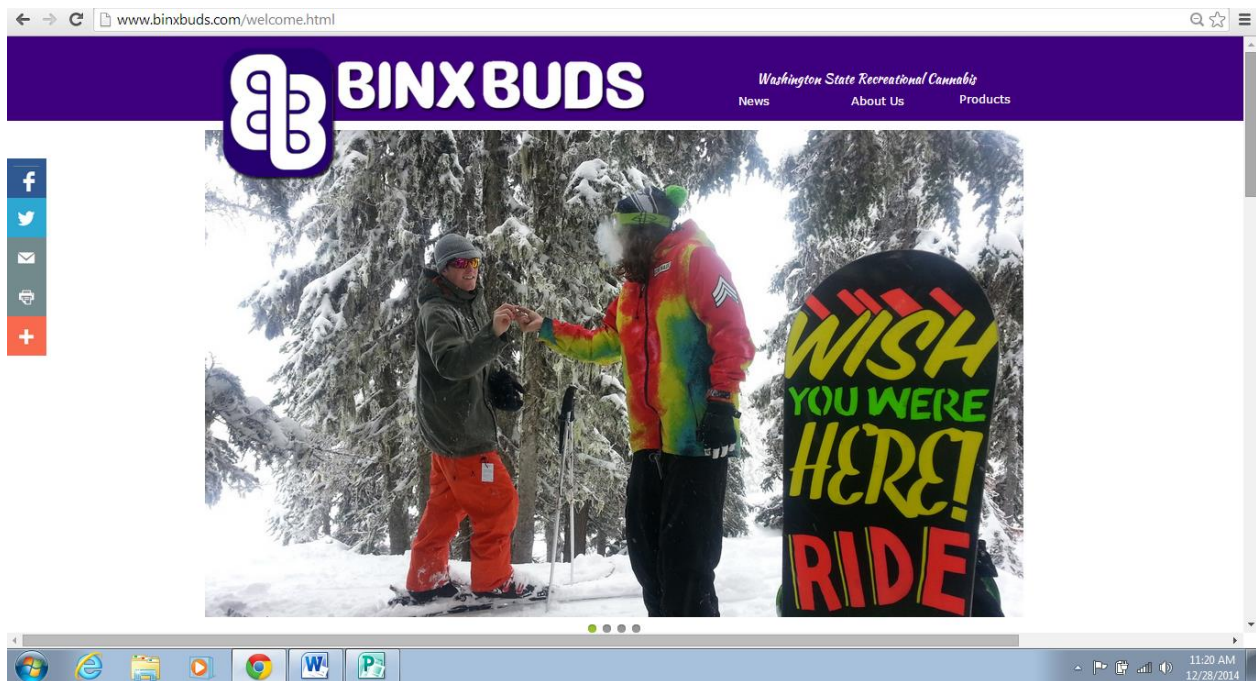
<http://www.leafly.com/dispensary-info/new-leaf/reviews/5>. Is the comingling of recreational and medical marijuana allowable?



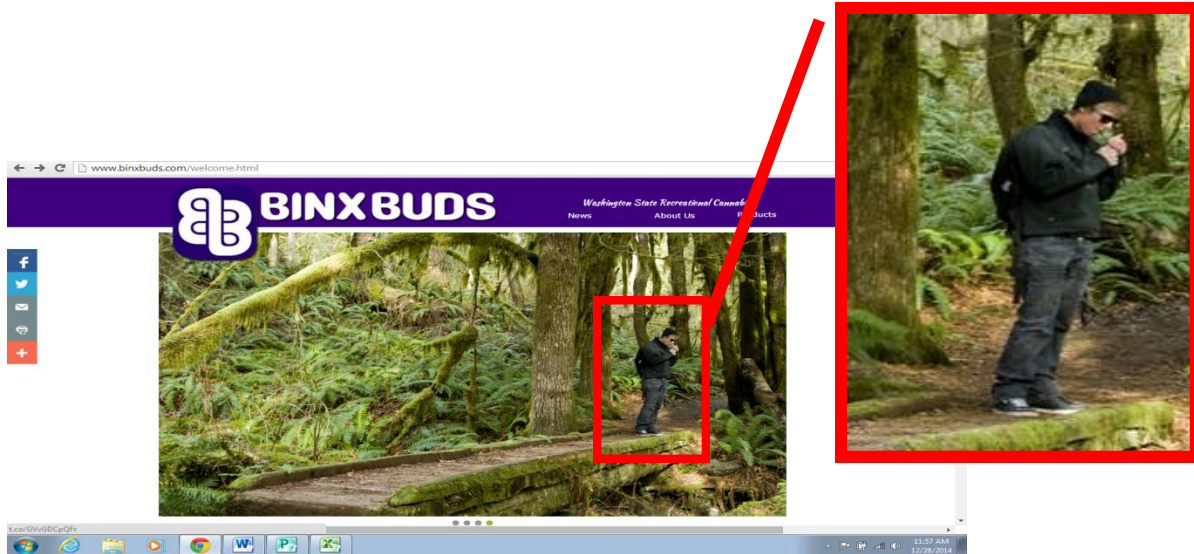
<http://www.rodeocitymeds.com/> The image below on the left comes from their page on Leafly.com, “The World’s Cannabis Information Resource. I cannot find a business license at the WA Secretary of State’s site but in the reviews I see comments saying T.J. is on delivery. It is commonly known among mmj users this is his delivery service. He has commented in public hearings as well that he has had a mmj business and now wants to try his hand at rmj.



T. J. McDonald and Zack Dekker are seen here in the “About Us” page of the BinxBuds website. That is T.J. McDonald on the left and Zack Dekker on the right. Lower on this page it says, “After starting and operating a vertically integrated medical dispensary for quite some time we saw an opening in a brand new industry, a Legal Recreational Market. We immediately started planning and filing out application paperwork as soon as the door opened. After working with the local government to sort out zoning laws and local regulations, we are finally ready to hit the market in 2015!” I am only guessing that BinxBuds is their processing aspect of the business. As of December 22, 2014, the LCB’s list of applications shows all of the producer or processor applications for Old McDonald’s Farm are still pending. So I am curious as to where this photo was taken. Is it part of their medical marijuana grow somewhere? Has this amount of marijuana been allowable under state law without a license from the LCB? It would seem some serious attention to regulating medical marijuana is in need.



An additional concern I see on BinxBuds website are photos on the “home” page of their site that seem to be encouraging use of recreational marijuana in public areas such as ski slopes and hiking paths. You can see screen shots of that above this paragraph. I believe public consumption is illegal and advertising their product this way seems unethical, if not an out and out violation of regulations.



Please respect the safety of the children, the warning of the Department of Justice, your own rules for denying applications, and the wishes of the majority in this county who would like all school children to be protected from these businesses that:

- have been victimized by theft to a high degree in Colorado and other parts of the country because of the value and cash going in and out of their businesses.
- manufacture something the vast majority steer their children away from and hope their children will never use or think about.

I urge you to do the right thing and deny Marijuana Producer/Processor License 415857, Old McDonald's Farm on 1006 Emerson Road, Ellensburg, WA 98926.

Sincerely,

Julie Ufkes
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cc:
Brethren Frontier School

% Rodney Hubbard
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Kittitas County Commissioner Paul Jewell, paul.jewell@co.kittitas.wa.us

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