

ISLAND COUNTY HEARING EXAMINER

RE: SITE PLAN REVIEW)	File No. SPR 083/16
)	
Applicants: Kenneth and Kim Kramer)	FINDINGS OF FACT
)	CONCLUSIONS OF LAW
)	AND DECISION

SUMMARY OF APPLICATION AND DECISION

APPLICATION: Kenneth and Kim Kramer, propose production of marijuana inside two greenhouses and within an outdoor fenced area. Recreational marijuana licensing was approved by Washington State Voters as Initiative 502 in the election of 2012; it is allowed in the State of Washington per 314-55 WAC.

DECISION: The Hearing Examiner for Island County grants approval of the requested SPR 083/16, subject to Conditions of Approval.

FINDINGS OF FACT

INTRODUCTION

The following Findings of Fact and Conclusions of Law are based upon consideration of the exhibits admitted herein and evidence presented at the public hearing on August 18, 2016.

I.

PRELIMINARY INFORMATION

Applicants: Kenneth and Kim Kramer

Property Location: 5310 Country Lane
Langley, WA 98260

Applicable Ordinances: Zoning Ordinance Chapter 17.03 ICC, Land Use Review Ordinance Chapter 16.19 ICC, Site Plan Review Ordinance Chapter 16.15 ICC.

Hearing Date: August 18, 2016

Exhibit Log

Tab 1

1. Staff Report

Tab 2 – Community Meeting

2. Affidavit of Public Notice Sign dated 1/4/16, received 3/28/16
3. Classified Ad dated 1/6/16 received 3/28/16
4. Mailing address list received 3/28/16
5. Quarter Section Map ID# 745 received 3/28/16, with Lot 1-4 Identified
6. Parcel Map received 3/28/16 with lots 2, 5-10 identified
7. GIS Arial of above Map received 3/28/16
8. Sign in Sheet for Community Meeting 1/19/16 received 3/28/16
9. Community Meeting Notes received 3/28/16

Tab 3 – Application / Reports - received 3/28/16

10. Master Land Development Permit Application
11. Field Indicators Worksheet
12. Critical Areas Report prepared for THC Services – proposed cannabis production site, prepared by Wetlands & Wildlife, Inc., dated 2/3/16
13. Application for site plan review
14. Assessor & Treasurer – property details for parcel # R32907-321-5250
15. Proposed project description for site plan
16. Proposed change of use: Outdoor cannabis growing facility with Images of fence, covered green houses and shipping containers for secure storage
17. Master Building Application
18. Waste Plan
19. Plot Plan
20. Drainage Plan
21. Critical Areas Overview Map

Tab 4 - Site Data

22. Request for comments sheet with shoreline designations map

Tab 5 – Additional Information

23. Letter from Spencer Keane to Adam Lind dated 2/11/16. received 4/18/16 re: Certificate of Transportation Concurrency
24. Certificate of Transportation Concurrency, received 4/18/16
25. Solid Waste Management Plan, received 5/3/16
26. Revised Clearing and Grading Plan received 6/22/16
27. THC Services information sheets for concerned residents received 6/22/16
28. Access Permit PW-16-0026 with additional permit conditions received 7/1/16
29. Landscaping Plan revised, received 7/18/16
30. Open Space Plan revised, received 7/18/16
31. WA Liquor and Cannabis Board license #415860 for THC Services received 7/18/16
32. Revised Plot Plan showing loading area, received 8/5/16
33. Lighting Plan, received 8/5/16

Tab 6 – Agency Comments

34. Agency Comment letter from Aneta Hupfauer, Health Department Land Use Coordinator to Janet Wright received 4/21/16

35. Agency Comment letter from Tess Cooper, Critical Area Planner, to Janet Wright received 4/27/16
36. Agency Comment letter from Tamra Patterson, Plans Examiner/Building Inspector to Janet Wright dated 5/9/16
37. Stop Work Order – A1176 letter from Andy Griffin, Building Official, to Kenneth & Kim Kramer dated 6/2/16
38. Agency Comment Letter with Site Visit pictures from John Bertrand, Public Works Development Coordinator, to Janet Wright dated 6/30/16
39. E-mail (String) from Mary Engle, Island County Assessor, to Janet Wright sent 7/20/16 re: Requirements for Assessor re proposal – SPR 083/16

Tab 7 – Review Letters and Comments

40. Review letter from Janet Wright to Adam Lind dated 5/5/16
41. Review letter from Janet Wright to Adam Lind dated 6/24/16
42. Review letter from Janet Wright to Adam Lind dated 7/13/16

Tab 8 – Notices

43. Notice of Complete Application from Patricia Shults to Adam Lind dated 4/5/16
44. Affidavit of Mailing to a Parties of Record and/or property owners within 300 feet of parcel R32907-321-5250 dated 4/5/16 with spreadsheet of names and addresses
 - a. E-mail notice from Patricia Shults to JBL@whidbey.com
 - b. E-mail notice from Patricia Shults to cmerrit54@comcast.net dated 4/6/16
45. Affidavit for Posting the Public Notice Sign received 4/12/16
46. Notice of Application Corrected dated 4/13/16
47. Notice of Land Use Application Republication to Adam Lind from Patricia Shults dated 5/25/16
48. Letter to Adam Lind from Paula Bradshaw re: date and time of Hearing Examiner hearing dated 8/3/16

Tab 9 – Public Comments

49. Email from Cindy Merritt to Hiller West dated 1/25/16
50. Email from Shelley Miller to Hiller West dated 1/25/16 received 2/1/16
51. Letter opposing application from anonymous dated 4/15/16, received 4/22/16
52. Email with attached letter from Cindy Merritt to Janet Wright received 4/19/16
53. Letter from Shelley Miller dated 4/20/16 received 4/22/16
54. Email from Shelley Miller to Janet Wright re: permit application opposition dated 4/20/16
55. Fax from Vince Bond to Island County Planning Department dated 4/26/16 received 4/27/16
56. Email (String) from Cindy Merritt to Janet Wright received 5/17/16
57. Email (String) from Cindy Merritt to Janet Wright received 5/27/16
58. Letter and research information from Janice and Thomas Clark to Janet Wright dated 5/30/16 received 5/31/16
59. Letter from Jean Schick Jacobowitz to Janet Wright dated 5/31/16 received 5/31/16
60. Email with attached photos from Cindy Merritt to Janet Wright dated 6/5/16
61. Email (String) from Cindy Merritt to Janet Wright dated 6/24/16 time 4:10 pm
62. Email (String) from Cindy Merritt to Janet Wright dated 6/24/16 time 4:36 pm
63. Email from Jim Hyde with attached email from Mary Jane Miller to Janet Wright dated 7/2/16
64. Email from Jean Schick Jacobowitz to Janet Wright dated 7/20/16
65. Email from Sue Taves to Janet Wright dated 7/22/16

- 66. Email from Sandra Rodman to Janet Wright dated 7/22/16
- 67. Email (String) from Hiller West to Helen Price Johnson & Cindy Merritt dated 7/26/16
- 68. Email (String) from Janet Wright to mayor@langleywa.org dated 7/27/16
- 69. Email (String) from Cindy Merritt to Janet Wright dated 7/27/16
- 70. Email (String) from Shelley Miller to Janet Wright dated 7/27/16

Tab 10 – Correspondence

- 71. E-mail from Janet Wright to Adam Lind sent 4/11/16 re: Public notice sign – SPR 083/16
- 72. E-mail (String) from Tamra Patterson to Aneta Hupfauer & Adam Lind 5/10/16 re: Revised 083/16 SPR comments
- 73. E-mail from Janet Wright to Adam Lind sent 5/17/16 re: Review for SPR 083/16
- 74. Letter from Patricia Shults to Adam Lind dated 5/25/16 re: Republication of 083/16 SPR
- 75. E-mail (String) from Janet Wright to Adam Lind sent 5/26/16 re: re: waiving request to repost the application sign
- 76. E-mail (String) from Adam Lind to Janet Wright sent 5/27/16 re: SPR 083/16 – Public Notice and Fence
- 77. E-mail (String) from Hiller West to Janet Wright sent 5/31/16 re: Stop work order
- 78. E-mail (String) from Hiller West to Janet Wright sent 5/31/16 re: File 083/16 SPR
- 79. E-mail from Adam Lind to Janet Wright sent 6/13/16 re: Stop work order for Fence
- 80. E-mail (String) from Janet Wright to Adam Lind sent 6/20/16 re: SPR 083/16 Review and meeting
- 81. E-mail (String) from Aneta Hupfauer to Janet Wright sent 6/21/16 re: question
- 82. E-mail (String) from Adam Lind to Janet Wright sent 6/22/16 re: Application submittal
- 83. E-mail (String) from Adam Lind to Janet Wright sent 6/22/16 re: Tax Returns
- 84. E-mail from Adam Lind to Janet Wright sent 6/24/16 re: container on the property and SEPA
- 85. E-mail (String) from Kim Kramer to Janet Wright sent 7/11/16 re: comment period and comment from neighbor
- 86. E-mail (String) from Adam Lind to Hiller West sent 7/13/16 re: opponents comments about the application
- 87. E-mail (String) from Janet Wright to Adam Lind sent 7/15/16 re: SPR 083/16 –Landscaping plan
- 88. E-mail (String) from Adam Lind to Janet Wright 7/27/16 re: Hearing Examiner

Tab 11 – Additional Items Marked

- 89. Staff report letter, dated 8/9/16 with affidavit of mailing to parties of record, indicating staff report mailed 8/8/16
- 90. Affidavit of publication of publication of hearing date – WNT, published 8/10/16, received 8/11/16
- 91. Letter from Janet McGregor to Janet Wright dated 8/13/16 received 8/16/16
- 92. Letter from Jody Bone to Janet Wright dated 8/13/16 received 8/16/16
- 93. Letter from Sandra Rodman to Janet Wright dated 8/13/16 received 8/16/16
- 94. Letter from Chris Schacker to Janet Wright dated 8/13/16 received 8/16/16
- 95. Email from Diane Watts to Janet Wright sent 8/16/16 re: Marijuana Farm

96. Email from Susan Horton to Janet Wright sent 8/16/16 re: marijuana production operation adjacent to Lone Lake
97. Email with attached Letter from Matthew Swett to Janet Wright re: Cannabis Grow Operation Comments
98. Public comment received day of hearing [fax/email] from Philip Jacobowitz
99. Public comment email received the day of the hearing from Kristi Price
100. Public comment email received the day of the hearing from Annie Rundberg
101. Public comment email received the day of the hearing from Jim Hyde
102. Public comment email received day of hearing from Richard Townsley
103. List of Attendees: Community Mtg 8/16/16 submitted by Mary Jane Miller
104. Newspaper Ad re: Community Mtg 8/16/16 submitted by Mary Jane Miller
105. Email from Zach Wolfram to Janet Wright, sent day of hearing, 8/18/16 at 8:51 a.m. re: Deny proposal SPR 083/16 Kramer
106. Email from Peter Martin to Janet Wright, sent day of hearing, 8/18/16 at 9:21 a.m. re: Pot Farm
107. Email from Christine Williams to Janet Wright sent day of hearing 8/18/16 at 9:30 a.m. re: the application to grow marijuana on the Kramer property in Bayview.
108. Email from Zach Wolfram to Janet Wright, sent day of hearing, 8/18/16 at 9:37 a.m. re: One additional comment.

HEARING TESTIMONY

Janet Wright
Island County Planning & Community Development
Senior Planner
P.O. Box 5000
Coupeville, WA 98239

Adam Lind – Applicant
2942 Foxfire Lane
Langley, WA 98260

Joe Kummrow
4592 Evanstar Lane
Freeland, WA 98249

Jim Hyde
2693 Xanadu Lane
Langley, WA 98260

Sandra Rodman
2796 Murdock Rd
Langley, WA 98260

Shelley Miller
1920 N 34th St
Seattle, WA 98103

Vincent Bond
5427 Bayview Rd
Langley, WA 98260

Mary Jane Miller
2693 Xanadu Lane
Langley, WA 98260

Corey Glassman
2685 Murdock Rd
Langley, WA 98260

Peter Martin
2965 Highcrest Rd
Langley, WA 98260

Chad Martin
5473 Shadywood Pl
Langley, WA 98260

Richard Townsley
2742 Sun Vista Circle
Clinton, WA 98236

Curtis Nelson
300 Queen Anne Ave
Seattle, WA 98109

Rob Felding
4868 Salish Wy
Langley, WA 98260

Cathleen Martin
2965 Highcrest Rd
Langley, WA 98260

Bob Dalton
5230 Bayview Rd
Langley, WA 98260

Jean Schick Jacobowitz
2798 Murdock Rd
Langley, WA 98260

II.

The Applicants, Kim and Kenneth Kramer, are seeking Site Plan Review Approval for a proposed marijuana production facility located within a 30,000 square foot outdoor fenced area.

Two greenhouses and three shipping containers will be locate within the fenced area. Approximately 26,000 square feet of the area will be used for outdoor marijuana production. Production consists of the growing and harvesting of the plant. The shipping containers will be used for office space and as a drying facility after hearing. The drying facility will be equipped with carbon filters to minimize odors released into the environment as a result of the drying process. All the marijuana grown onsite will be sold wholesale and shipped off site. There will be no marijuana processing or retail sales at the site.

The Applicants have been licensed by the Cannabis and Liquor Control Board to grow marijuana in this proposed facility. All marijuana production, processing, and sales are regulated by the Washington State Cannabis and Liquor Control Board and subject to all of the requirements of WAC 314–55. Island County has adopted Land Use Regulations governing marijuana production facilities in the county. This facility requires a Type III Site Plan Review Application process and Approval by the Hearing Examiner after a public hearing.

III.

This Application gave rise to significant public comment on the proposal. Most of the comments raise concerns about potential adverse impacts from the proposal. Other comments were in favor of the proposal and saw a little or no impact on the community.

Public concerns included water usage, security, unpleasant odors, light pollution, impacts on wildlife, and impacts on critical areas and Lone Lake,

property values, groundwater pollution, and impacts on the "quality-of-life" in the general area. Almost all of the concerns were stated as general concerns with no factual evidence to support actual impacts from the concerns that were raised.

The Applicants are proposing to use, annually, 30,000 square feet of a 16.5 acre parcel for the proposed marijuana production. This is seven/tens of one acre, or just over four [4] % of the parcel. The entire production area will be enclosed by an eight [8] foot tall fence, landscaped with native shrubs, such as Nootka Rose and Snowberry, except where screened by the Applicants' single-family residence, appurtenances, outbuildings, and yard.

The Applicants have agreed to additional screening beyond that originally proposed in the landscaping plan in order to more fully screen the fenced area from a neighbor whose property line is located approximately 400 feet from the production site. While this additional landscaping is not required by the Zoning Ordinance or Site Plan Review Criteria, it should be provided as offered by the Applicants, and the landscaping plan should be modified, if necessary, to reflect the additional promised plantings, as described by the neighboring property owner in their testimony at the public hearing. Additionally, all outdoor lighting associated with this facility shall be consistent with the non-residential lighting requirements found in ICC 17.03.180(R).

As indicated in Staff's findings, the nearest home is at least 250 feet from the proposed growing site. The next three closest homes are 608 feet, 719 feet, and 872 feet, from the grow area. That grow area is located in an open field, screened by fencing and landscaping, and consists of structures similar to those found in a rural area. The site is zoned Rural Agriculture, and Staff has concluded that the facility will be visually consistent with the rural character of the area. The Hearing Examiner agrees. Visually, this site is best understood as a small fenced agricultural growing operation, located in an area in which other similar agriculture, not involving marijuana, is a permitted use.

Much of the concern raised was regarding water usage. A number of persons testified that this growing operation would be a heavy user of water. The Applicant has proposed use of his private well, where he is allowed to take up to 5,000 gallons per day, to be supplemented by rainwater catchment from the roof areas of the buildings within the grow site. The Applicant and Planning Staff believe that this is an adequate water supply for the facility. The Applicants believe that the water usage will be much less than that which is legally available to them. There is no factual evidence, only speculation, to the contrary. Opponents to the project state there are "studies" and information "on-line" supporting their position. However none of those studies or other sources has been submitted to the record. The record contains no evidence which would allow a finding that there is inadequate water legally available to the Applicants for the proposed facility, or evidence that the facility will have an adverse impact on groundwater quality or quantity.

IV.

The Staff Report indicates there is no outdoor lighting associated with this proposal. However, as pointed out by a witness at the hearing, the security requirements of the Washington Administrative Code, applicable to this marijuana production facility, require lighting at the gate to the facility. This lighting shall comply with the Requirements for Outdoor Lighting Standards from Non-Residential Uses, set forth in ICC 17.0 3.180 (R). A Condition of Approval should be added to this Decision requiring said compliance. The greenhouses are to be covered at night which will block any night lighting in the greenhouse, affecting offsite properties or persons.

V.

The Island County Senior Planner has reviewed the proposal for consistency with the requirements of the Island County Zoning Ordinance for Marijuana Production Facilities and for consistency with the Site Plan Review Criteria of ICC 16.19. The Planning Department findings have been submitted to

the Hearing Examiner as a Staff Report and Recommendation for Site Plan Review Approval as Exhibit No. 1 in the Hearing Examiner file. The Hearing Examiner has reviewed the Staff Report and the other exhibits admitted, and considered the testimony at the public hearing. The factual findings contained in the Staff Report, Exhibit No.1, a copy of which is attached hereto, are supported by the record as a whole, and are adopted as Findings of Fact, herein, by this reference, except insofar as they are inconsistent with any findings set forth herein.

VI.

Any Conclusion of Law which is deemed a Finding of Fact is hereby adopted as such. Based on the foregoing Findings of Fact, now are entered the following:

CONCLUSIONS OF LAW

I.

Marijuana was legalized by Initiative by the voters of the State of Washington. By law, marijuana is regulated by the State Cannabis and Liquor Control Board. Specific Regulations for all aspects of legalized recreational marijuana are set forth in WAC 314-55. The Board determines who can be licensed to produce (grow) marijuana. The Washington Administrative Code sets forth the security requirements for grow operations and enforces all of the State Requirements. The Applicant has indicated that a specific State Enforcement Official of the Cannabis and Liquor Control Board has been assigned to oversee compliance with State Regulations for this proposed facility. All complaints about the legality of the operation in reference to State Requirements should be addressed to the Enforcement Officer assigned to the Applicants' site. Proposed Conditions of Approval require the Application to fully comply with the Requirements of the Washington Administrative Code. By granting the Applicants a Producers' License, the State has determined they are appropriate persons to be allowed to grow marijuana at the proposed site.

II.

This proposal has been reviewed by all Island County Agencies with jurisdiction, including the Planning Department, Public Works, Public Health, and Critical Areas. All have concluded that the Permit, subject to Conditions of Approval, should be granted. The Island County Hearing Examiner also concludes that, subject to Conditions of Approval, the proposed project is consistent with the Land Use Requirements of the Zoning Ordinance, including those Specific Requirements applicable to Marijuana Production set forth in ICC 17.03.180BB.1.

The Hearing Examiner sees this proposal as a small (less than one acre) agricultural type operation in the Rural Agriculture zone. Because the plant that the Applicants are growing is used to obtain a highly regulated recreational intoxicant, it has been classified as a Non-Residential Use. However, the impacts on the surrounding community are equivalent to a small agricultural operation. Since agriculture is a permitted use in this area, the Applicants' property could be used agriculturally in a far more intensive way with many more potential significant offsite impacts, including water usage, odor, and pesticide and fertilizer usage, than what is likely to result from this limited proposal. This proposal is consistent with the existing and planned uses for this area. If it is operated in the manner described by the Applicants and consistent with Applicable Regulations, and the Conditions of Approval attached hereto, little, if any, negative impact should result.

III.

Subject to the attached Conditions of Approval to the propose Marijuana Production Facility will be consistent with the Site Plan Review Criteria, ICC 16.15.

IV.

All required legal notices have been given. A Type III Public Hearing was conducted, and the Application was processed as a Type III matter, and the required community meeting was held.

V.

The record demonstrates that the Applicants can comply with all of the Island County Requirements to operate the proposed Marijuana Production Facility in the Rural Agricultural zone, subject to compliance with the attached Conditions of Approval. Site Plan Review Approval should be granted.

VI.

Any Finding of Fact deemed to be a Conclusion of Law is hereby adopted as such. Based on the foregoing Findings of Fact and Conclusions of Law, now is entered the following:

DECISION

The Island County Hearing Examiner hereby grants Site Plan Review Approval to 083/16 SPR, authorizing the proposed Marijuana Production Facility on a property located at 5310 Country Lane, Langley, WA, Assessors Parcel No. R32907-321-5250, subject to the following Conditions of Approval:

1. The work authorized by this Decision shall be limited to the development as described herein, as shown on the revised Plot Plan received August 5, 2016. This Decision shall not be construed to authorize work, development, construction, or other site modifications in excess of that which is specifically authorized by this Decision.
2. The Applicant shall install the required landscaping as shown in the Landscaping Plan that was submitted on July 18, 2016. At such time as the landscape improvements have been completed in accordance with the Approved Plan, the Applicant shall notify the Director thereof, and upon satisfactory inspection, the Director shall sign and date the Plan, attesting to its completion. Dead or dying vegetation must be replaced immediately or if in winter, within the next planting season. The final landscaping shall be consistent with Finding of Fact III, above. All outdoor lighting shall comply with the Outdoor Lighting Standards applicable to Non-Residential Uses, as set forth in ICC 17.03.180(R).

3. The Applicant must adhere to the conditions, recommendations, and requirements noted in the memo dated May 9, 2016 from Tamra Patterson, Island County Plans Examiner/Building.
4. The Applicant must adhere to the conditions, recommendations, and requirements noted in the memo dated April 27, 2016 from Tess Cooper, Critical Areas Planner.
5. The Applicant must adhere to the conditions, recommendations, and requirements noted in the memo dated June 30, 2016 from John Bertrand, Island County Public Works.
6. Only the structures specifically referenced herein (greenhouses and shipping containers), may be used for the production and drying of marijuana.
7. Parking shall be contained on-site and provided in conformance with applicable Code, with this Decision, and with the Conditions of this Approval.
8. All security requirements of WAC 314-55-083 applicable to marijuana producers shall be required prior to Final Occupancy, and these security systems shall be maintained in good working order at all times.
9. Conformance with requirements of WAC 314-55 and the Applicants' State Marijuana Producer License, as issued by the Liquor Control Board, that are applicable or relevant to the Applicants' site plan, are incorporated into this Decision and Approved Site Plan.
10. The Applicant is hereby advised that any violations of the Conditions of Approval of this Permit will be reported to the Washington State Liquor Control Board (LCB). Violation of any part of Chapter 314-55 WAC will constitute a Violation of the Conditions of Approval of this Permit and will be subject to enforcement action by Island County and/or Liquor Control Board.
11. Outdoor sales of marijuana are prohibited.
12. Law enforcement access to this Approved Use, without notice or cause, shall not be limited in any way.
13. Prior to starting any work or construction activities, the Applicant shall obtain all required building permits and approvals.
14. No encroachment onto any legally existing easement or property line (or onto any required setback for such) is authorized by this Decision. The Applicant is encouraged to verify all legally existing easements and property lines with the Island County Auditor's Office and with Title searches or a Licensed Land Surveyor, if necessary, prior to the start of development or construction. Encroachment, whether knowing or unknowing, will not be considered by Island County to be grounds for the permitting of said encroachment.
15. The Applicants bear the full responsibility of notifying site crews of all permit conditions and shall be held fully accountable for any activity that results in on or off-site violations, hazards or damages.

16. The Conditions of Approval identified in this Decision are subject to change if any information provided by the Applicants or their authorized representative is found to be inaccurate.
17. This project is required to comply with Washington State and Island County Water Quality Standards, Washington State laws and regulations protecting archaeological sites and resources, and all other pertinent State laws, rules, regulations, codes, and ordinances.
18. If the permit or permits are not used or construction work is not initiated within this time and carried on diligently in accordance with the conditions imposed by the County pursuant to Site Plan Approval, the Site Plan shall become null and void and any Approval, Permit, or Conditions granted thereby shall be deemed to have lapsed. This Site Plan Approval will expire five (5) years from the date approved by the Hearing Examiner.

Entered this 29th day of August 2016, pursuant to authority granted under the Laws of the State of Washington and Island County.

Michael Bobbink

MICHAEL BOBBINK
Island County Hearing Examiner

APPEAL PROCESS:

This is a Final Decision by Island County on a Type III Land Use Application. Pursuant to ICC 16.19.190C, this matter may be appealed to Superior Court, pursuant to the requirements of the Land-Use Petition Act, RCW 36.70C.



ISLAND COUNTY PLANNING & COMMUNITY DEVELOPMENT

PHONE: (360) 679-7339 ■ from Camano (360) 629-4522, Ext. 7339 ■ from S. Whidbey (360) 321-5111, Ext. 7339 FAX: (360) 679-7306 ■ 1 NE 6th Street, P. O. Box 5000, Coupeville, WA 98239-5000
Internet Home Page: <http://www.islandcounty.net/planning/>

STAFF REPORT & RECOMMENDATION SITE PLAN APPROVAL – SPR 083/16 - TYPE III KRAMER – MARIJUANA PRODUCER

I – PROJECT SUMMARY

The applicants, Kim and Kenneth Kramer, propose production of marijuana inside two greenhouses and within an outdoor fenced area. Recreational marijuana licensing was approved by Washington State Voters as Initiative 502 in the election of 2012; it is allowed in the State of Washington per 314-55 WAC.

At the northern portion of the subject parcel adjacent to Lone Lake there is a single-family residence, appurtenances and outbuildings (storage buildings). The southern portion of the parcel is pasture/mowed meadow and is undeveloped except for the 8ft tall metal and wood fence that was recently constructed. The proposal for the southern portion of this parcel includes 28,000sf of outdoor production of marijuana, two greenhouses for 2,000sf of marijuana production, and installation of three shipping containers within the fenced area. The containers will serve as office space and drying facility.

II – PERMIT DATA

Permit Type	SPR (Site Plan Approval)
Permit Number	SPR 083/16
Complete Application Date	3/28/2016
Staff Recommendation	Approval With Conditions
Applicant/Owner	Kim and Kenneth Kramer
Agent	Adam Lind

III – SITE DATA

Address	5310 Country Lane
Location	Langley, WA 98260
Parcel Number(s)	R32907-321-5250
Site Area(s)	16.54 acres
Zone Designation	Rural Agriculture (RA)
Critical Areas	Wetland, Stream, FEMA Flood Hazard Area, Open Space Agricultural Program, Fish and Wildlife Habitat Conservation Area, Shoreline Jurisdiction

IV – STAFF CONTACTS

Department	Name	Phone	Email
Planning	Janet Wright	360-678-7869	j.wright@co.island.wa.us
Public Health	Aneta Hupfauer	360-678-7995	anetah@co.island.wa.us
Public Works	John Bertrand	360-678-7812	johnb@co.island.wa.us
Building	Tamra Patterson	360-678-7806	tamrap@co.island.wa.us

V – REGULATORY COMPLIANCE

Regulatory Requirement	Complies (Y/N)	Comments
Site Plan Review (SPR) – ICC 16.15	Yes	Project complies with SPR approval criteria
Land Use Review – ICC 16.19	Yes	Project has been processed in accordance with ICC 16.19
Rural Agriculture– ICC 17.03.090	Yes	Marijuana Producer is a Conditional Use in the Rural Agriculture zone
Non-Residential Design & Landscaping Guidelines – ICC 17.03.180.P	Yes	Project will comply with Conditions of Approval
Parking, Access, and Circulation – ICC 17.03.180.Q	Yes	Project will comply, with Conditions of Approval
Signage & Outdoor Lighting – ICC 17.03.180.R	Yes	Project will comply, with Conditions of Approval
Site Coverage & Setbacks – 17.03.180.S	Yes	Project will comply, with Conditions of Approval
Recreational Marijuana Producer, Processor and Retailer – 17.03.180.BB	Yes	Project will comply, with Conditions of Approval
Public Works	Yes	Project will comply, with Conditions of Approval
Public Health	Yes	Project will comply, with Conditions of Approval
Building	Yes	Project will comply, with Conditions of Approval
SEPA	Yes	Not required, exempt per WAC 197-11-800.1

VI – FINDINGS

Only major issues, errors in the development proposal, and justification for conditions of approval are discussed below. Staff finds that all other aspects of the proposed development comply with applicable laws, rules, codes, and requirements.

A - Rural Agriculture (RA) Zone (ICC 17.03.090)

1. The project site is zoned Rural Agriculture.
2. Marijuana producer is a conditional use in the Rural Agriculture Zone per ICC 17.03.090.B.2. This marijuana production area of 30,000sf is deemed a Tier 3 Producer per WAC 314-55. A Type III Site Plan Review is required for any Tier 3 proposal (ICC 17.03.180.BB).
3. The maximum building height allowed in the RA zone is 35 feet (ICC 17.03.090.F). The proposed greenhouses (approximately 10') and shipping containers (approximately 8'6") will comply with this regulation.
4. Setback requirements are established by reference to ICC 17.03.180. The proposed greenhouses and shipping containers will comply with setback requirements.

B – Site Description & Proposal

1. The project site is located at 5310 Country Lane, Langley, WA on parcel R32907-321-5250.
2. The project site is zoned Rural Agriculture (RA). The applicants are proposing marijuana production inside two greenhouses and within an outdoor fenced area. The three shipping containers are proposed to be used for drying the marijuana and as office space.
3. There is a single-family residence, appurtenances and outbuildings (storage buildings) in the northern portion of the subject parcel adjacent to Lone Lake. The southern portion of the parcel is pasture/mowed meadow and is undeveloped except for the 8ft tall metal and wood fence that was recently constructed for the project site.
4. The applicant removed one (1) acre of the parcel from the Open Agricultural Exemption program on 6/27/16 for the proposed production area. The owners paid the owed taxes to remove land from this program and submitted a copy of the receipt of paid property taxes to Planning and Community Development on 6/27/16. Auditor File number is 4401959. Another one acre parcel had been removed from the Open Agriculture

program on 7/24/12 for the construction of the existing single-family residence.

5. Access to the parcel is from Country Lane, an unpaved private access road that connects with Bayview Road to the east.
6. The applicants submitted a Critical Areas report from Wetlands and Wildlife dated February 3, 2016. Per this report, it notes that there are three on-site wetlands, an off-site stream whose buffer extends onto the site, and one off-site wetland whose buffer does not extend onto the site. The wetlands are characterized as follows:
 - Wetland A, located in the southern portion of the property has a standard protective buffer of 39ft measured from the delineated wetland boundary.
 - Wetland B is located to the east of the proposed outdoor production and has a standard protective buffer of 52ft.
 - Wetland C is located among the southern portion of the property near the western property line and has a standard protective buffer of 39ft.
 - Off-site Wetland D is located north of Country Lane with a standard protective buffer of 52ft that does not extend onto the subject parcel.
 - The off-site stream is located approximately parallel to the western property line and has a buffer width of 50ft.

C – Background Information

A Review letter sent on May 5, 2016 by planning staff that included comments from building staff that the fence, greenhouses, and shipping containers would each require a building permit.

The applicant submitted a Building permit for the fence on May 17, 2016. A Site Visit conducted by planning staff on May 16, 2016 observed the presence of materials for the fence. On May 30, 2016, Hiller West, Community Development director, received a citizen complaint via email about fence construction without a building permit. The Planning staff assigned to this proposal review was on vacation. Island County building staff visited the site and a Stop Work Order was issued on June 2, 2016 by Andy Griffin, Building Official. A citizen emailed staff on June 5, 2016 that construction of the fence was continuing and this was confirmed by planning staff by a site visit on June 8, 2016. The applicant was notified on June 13, 2016 by planning staff via email to comply with all Stop Work orders.

During a site visit by planning staff on June 21, 2016, a Comex shipping container was observed on-site and the fence was nearly completed. A meeting between staff and the applicants was held on June 22, 2016 to discuss the review process and the construction activity without the required building permits

and Site Plan approval. At the meeting the applicant stated that he thought the building permit for the fence had already been approved. The building permit for the fence was issued on June 22, 2016, the same day as the meeting.

Planning staff sent a Review letter dated June 24, 2016 that stated that the shipping container would need to be removed from the subject property by July 1, 2016. The applicants complied and the Comex container was removed from the site by June 27, 2016.

D – Land Use Review Process– ICC 16.19

ICC 16.19.080 Acceptance of Applications

Finding: The applicant submitted the application on March 28, 2016 and the application was deemed complete that same day.

ICC 16.19.140 Notice of application shall be provided to the public for all land use permit applications requiring Type I, II and III decisions

Finding: This Site Plan Review land use application was submitted March 28, 2016 and was determined to be complete on this date. The initial Notice of Application stated “Establish marijuana production and processing”, due to staff misinterpretation of drying marijuana as a “processing activity”. Per WAC 314-55-075, the drying of marijuana is considered a production and not a processing activity. Staff corrected the error and an updated Notice of Application was mailed to residents within 300ft of the project site that stated: “marijuana production outdoors and in greenhouses.”

ICC 16.19.140.B - Public Comment Period

The public comment period of fourteen (14) days shall be provided, except as otherwise provided in Chapter 90.58 RCW.

Finding: The public comment period was April 13, 2016 – April 27, 2016 as required by Island County Code (ICC 16.19.140.B). Island County received comments from ten people during the review period for this application which included the following concerns: odors, view of outdoor marijuana production and fence, potential contamination of Lone Lake and adjacent wetlands, and potential impact upon tourism. Several people provided multiple comments.

Planning staff mailed a letter dated May 25, 2016 to the applicant requesting re-posting with an additional sign due to citizen complaints that the posted sign was in a location that was not very visible. The applicant responded on May 26, 2016 via email that the posted sign complied with regulations and that there had been the community meeting held to notify the public of this proposal. Planning staff consulted with Hiller West, Community Development

Director, and it was determined that the applicant would not be required to re-post with an additional sign and new comment period. The applicant was notified by planning staff via email on May 26, 2016 of the decision not to require re-posting.

ICC 16.19.150 – SEPA Compliance

Finding: This proposal is SEPA exempt per WAC 197-11-800.1 because it meets the definition of minor new construction.

E - Site Plan Review 16.15

ICC 16.15.040 – Application Requirements

1. In accordance with the provisions of Island County Code (16.15.010 & 16.15.020) this application is subject to the provisions of Island County's Site Plan Review standards.
2. Per ICC 16.19.050 a community meeting is required for Type III land use permits.

Finding: On March 28, 2016 the applicant submitted the following information with the Site Plan Review application: a.) public notice sign advertising the community meeting that was posted on 1/4/16; b.) advertisement in the local newspaper 1/6/16 – 1/9/16; c.) notarized Affidavit of Posting of Public Sign dated 1/6/16; d.) meeting notes; and e.) list of attendees at the community meeting. The community meeting was held on January 19, 2016 and was attended by 15 people.

3. Per ICC16.19.070.B a Pre-application conference is required.

Finding: A Pre-application conference (PRE 337/15) was held on October 30, 2015 as required. The applicant was informed as to the code regulations and permitting process for the proposed production of marijuana.

F – Criteria for Approval (ICC 16.15) – Site Plan Review

16.15.060 - Conditions of approval for NR uses in the R, RR, RA, RF, and CA zones.

Except for essential public facilities, no application for a NR use in the rural, rural residential, rural agriculture, rural forest or commercial agriculture zones shall be approved unless a specific finding is made that the proposed conditional use is

appropriate in the location for which it is proposed. The finding shall be based on the following criteria:

- A. *The proposed use shall not result in a significant adverse environmental impact that cannot be mitigated by reasonable mitigation measures.*

Finding: The proposed marijuana production will be located outside of all Critical Areas and associated buffers. Tess Cooper, Critical Areas Planner, conducted a site visit and verified the wetland delineation that had been described in the Critical Areas report from Wetlands and Wildlife dated February 3, 2016.

- B. *The use will be adequately served by and will not impose undue burden on any of the improvements, facilities, utilities, or services existing or planned to serve the area.*

Finding: The applicants propose to irrigate the marijuana plants with on-site well water and rainwater catchment from the greenhouses.

No septic system is needed because the production is owner operated and owners will use their nearby residences. During the harvest season, Public Health has approved the use of a portable toilet for seasonal workers.

There will be minor electric use and this proposal will not significantly impact the electrical grid.

- C. *The proposed development /use is one (1) conditionally permitted within the subject zone and complies with all of the applicable provisions of this chapter and all other applicable development standards and design guidelines.*

Finding: Marijuana producer is a conditional use in the Rural Agriculture Zone per ICC 17.03.090.B.2.

- D. *The subject site is physically suitable for the type, density and intensity of the use being proposed.*

Finding: Although marijuana production is not defined by Island County as an agricultural use, it is similar in practice. The proposal site is located in a meadow surrounded by farms. The proposal site is a minimum of 250ft from the nearest residences, with the following approximate distances to adjacent homes: 250ft to the south; 872ft to the southwest; 608ft to the northwest; and 719ft to the east.

- E. *The location, size, design and operating characteristics of the proposed development/use would not be detrimental to the public interest, health,*

safety, or welfare of the county in conformance with the standards of this chapter, chapters 17.02, 17.02A, 17.02B, and 17.03.

Finding: Per WAC 314-55 regulations, the production area shall provide unimpeded access to law enforcement.

The Solid Waste Management Plan describes the proposed management of solid and liquid waste has been approved by Island County. The proposal will generate approximately 50lbs of leaf and stem materials every 2 months which will be stored in a compost area. The leaf and stem materials will be mixed with soil, grass clippings, cow manure, and wood chips at a 1:1 ratio. The waste will remain on-site and be re-used as compost.

The applicants will follow the strict guidelines on pesticide use per WA State regulations for cannabis.

F. The proposed use and its design fulfill the definition of rural character as defined in chapter 17.03.

Finding: This proposal will retain open space, provide a visual landscape similar to other agriculture practices, and avoid sprawling development. It complies with the definition of rural character.

G. Proposals within the rural agriculture or commercial agriculture zones shall not be located on prime agricultural soils or interfere with agricultural use of the land.

Finding: The subject parcel is 16.54 acres zoned Rural Agriculture; one acre was legally removed from the Open Agriculture Exemption program in 2012 for the construction of the single-family residence and one acre was legally removed from this program in 2016 for the proposed marijuana production. The remaining 14.54 acres (88% of the entire parcel) is available for agricultural use; this proposal removes 6.0% of the parcel from agricultural use.

16.15.060 – Criteria for approval

Open Space: *Provide open space in the amount required by Chapter 17.03 ICC. The location, use and design shall meet the following standards:*

- (a) Include critical areas designated and regulated by Chapter 17.02 ICC; and*
- (b) Include areas of prime soils identified by NCRS.*

Finding: The applicant provided a revised Open Space plan on July 18, 2016 which designates an area of 360,000sf as the required 50% Open Space. The applicant does not designate areas of prime soils on the plan.

Site lay-out. *The location of the development, parking, landscape screening and buffers shall meet the requirements of Chapter 17.03 ICC and the following standards:*

- (a) Locate development to minimize the amount of disturbance to natural features and landscape;*
- (b) Development shall be located so as to minimize the amount of agricultural land loss and shall not be located on prime soils.*

Finding: The project area is located outside of the mapped wetlands and associated buffers. The two proposed greenhouses and three shipping containers will be located within an area with an 8ft tall fence that provides screening. The applicants legally removed one (1) acre from the Open Agriculture Exemption program in 2016 for this proposal which represents 6% of the entire parcel of 16.5 acres.

Lighting: *Shall comply with the requirements of Chapter 17.03 ICC. Signs and outdoor lighting standards for non-residential uses are contained in ICC 17.03.180(R).*

Finding: There is no outdoor lighting proposed for this marijuana production business. There will be minimal lights within the greenhouses and they will be covered at night.

Building Design: *Shall comply with the applicable non-residential design guidelines set forth in Chapter 17.03 ICC, except that for Essential Public Facilities the Approving Authority may waive design requirements as determined by the Approving Authority to be necessary and appropriate to the type and location of the Essential Public Facility.*

Finding: The proposed shipping containers will be painted to meet design guidelines and will be screened with native vegetation.

Surface water drainage: Island County Public Works has reviewed and approved the proposed drainage system which will utilize water catchment from the two greenhouses. New impervious surface of 3,680sf is proposed from the two greenhouses and three shipping containers.

Utility services: The proposal will utilize an on-site well and rainwater catchment for water needs. Electricity will be provided to this site from the nearby owner residence.

Advertising features: There will be no signage proposed for this project.

G – Signage & Outdoor Lighting (ICC 17.03.180.R)

There is no proposed signage or outdoor lighting for this marijuana production business. There will be minimal lights within the greenhouses and they will be covered at night.

H – Parking, Access, and Circulation (ICC 17.03.180.Q)

An approved Certificate of Transportation Concurrency was submitted on April 18, 2016 which expires on February 11, 2017. Any additional change of use or expansion will require additional Concurrency Review. A copy of the application for Access to County Right-of-Way was submitted to the Planning and Community Development on 7/1/16.

This marijuana production will be conducted by owners with no employees. During harvest season, there may be some additional workers; parking for them will be accommodated just outside of the fenced area. The loading area is within the fenced area, just inside the entrance gate.

Traffic and Circulation: Shall comply with the requirements of Chapter 17.03 ICC.

I – Marijuana Producer (ICC 17.03.180.BB.1)

Recreational Marijuana Production, Processing, and Retailing was approved by Washington State Voters as Initiative 502 in the election of 2012 and is allowed in the State of Washington per 314-55 WAC and is Conditionally allowed in Island County per ICC 17.03.180.BB.

1. Per ICC 17.03.180.BB.1(d) this marijuana production requires a Type III Site Plan Review because per WAC 314-55 any marijuana production area of 10,100sf – 30,000sf is a Tier 3 category.

Finding: The total area of proposed marijuana production is 30,000sf which will include 28,000sf outdoor production and 2,000sf within two greenhouses (20 x 60ft and 20 x 40ft).

2. Per ICC 17.03.180.BB.1(e), the proposal is restricted to those buildings or land areas specifically approved by the County to conduct Marijuana Producer activities.

Finding: The submitted plot plan shows the fenced area for marijuana production in the two greenhouses and outdoor grow area.

3. Per ICC 17.03.180.BB.1(f), parking shall be contained on-site and provided in conformance with ICC 17.03.180.BB.

Finding: This marijuana production will be managed by the owners who live nearby, so they will not be parking vehicles at the site. During harvest season, there may be up to 4 additional workers. There is a parking area for any vehicles to the south of the entryway.

4. Per ICC 17.03.180.BB(1)(g), outdoor production, including all loading areas, shall be screened from the view of adjacent residential uses and set back from property lines no less than thirty (30) feet.

Finding: The marijuana production area complies with the thirty (30) feet setback from property lines. The loading area will be within the fenced area and is screened from view.

5. Per ICC 17.03.180.BB(1)(h), structures on the site have been reviewed for compliance with the landscape, lighting, signage, site coverage, and Non-Residential landscape and screening guidelines set forth in 17.03.180, as discussed herein.

Finding: The three shipping containers will be painted a beige color and will be screened with native vegetation on the southern and eastern sides. The owner residence is to the west and the doorway openings to the containers are on the northern side. There is no exterior lighting proposed. The project meets site coverage requirements. The project has been reviewed for compliance with Non-Residential landscape and screening guidelines.

6. Per ICC 17.03.180.BB(1)(i), the County has imposed such reasonable conditions as are believed necessary to ensure the use is compliant with WAC 314-55 and does not disrupt the character of any surrounding Permitted Uses. It will be a Condition of Approval that full conformance with all aspects of Chapter 314-55 WAC is required, and that violation of any part of Chapter 314-55 WAC will constitute a Violation of the Conditions of Approval of this permit and be subject to enforcement action by Island County.

Finding: The conditions included in this report are to ensure that this proposal does not disrupt the character of the surrounding uses and that it also complies with WAC 314-55.

7. Per ICC 17.03.180.BB(1)(j), the applicant has not proposed that marijuana production will take place in a single family residence or other dwelling unit, and has not proposed the Use to be authorized as a Home Occupation or Industry. It will be a Condition of Approval that this Use must be conducted in conformance with the entirety of WAC 314-55.

Finding: The proposal meets this requirement of no production of marijuana within a single family residence. The proposal is being reviewed through the Site Plan Review process and is not proposed as a Home Occupation.

8. Per ICC 17.03.180.BB(1)(k), all security requirements of WAC 314-55-083 applicable to producers shall be required prior to final occupancy.
9. **Finding:** The applicant shall install all required security measures per WAC 314-55-083 prior to final occupancy.
10. Per ICC 17.03.180.BB(1)(l), all waste disposal must be in accordance with WAC 314-55-097 and ICC 8.08B. The applicant submitted a Solid Waste management Plan that was reviewed and approved by Island County Public Health.

Finding: The applicant shall comply with the Solid Waste Management Plan that was submitted and subsequently reviewed and approved by Island County.

J – Non-Residential Design, Landscaping, & Screening (ICC 17.03.180.P)

Landscaping and Screening in the Rural Agriculture zone: The following is intended to address the standards contained in ICC 17.03.180.P for Landscaping and Screening in the Rural Agriculture Zone:

Building design in the R, RR, RA, RF, and CA zones:

Buildings shall be designed to appear similar in height, size, placement, style, materials, color and design to residential or agricultural structures, except that for Essential Public Facilities the Approving Authority may waive design requirements as determined by the Approving Authority to be necessary and appropriate to the type and location of the Essential Public Facility.”

Finding: The two proposed greenhouses (approximately 10ft in height) are considered typical agricultural structures. The applicant proposes installation of three shipping containers to be used in the following manner: office space and drying marijuana. Such structures are not typical in agricultural settings, however, screening by native vegetation will be required.

Bright or brilliant colors shall not be used. Materials used for exterior surfaces of all structures shall blend in color, hue and tone with the characteristics of the surrounding natural terrain to avoid high contrast.

Finding: The three proposed shipping containers to be located adjacent to one another inside the northern portion of the fenced area will be painted a beige color to meet these design guidelines.

Maximum building height is thirty-five (35) feet (excluding existing structures). Chimneys, smokestacks, fire or parapet walls, ADA-required elevator shafts, flagpoles, utility lines and poles, skylights, communication sending and receiving

devices, HVAC and similar equipment, and spires associated with places of worship are exempt from height requirements.

Finding: The two greenhouses and three shipping containers are less than 35 feet in height. The height of the greenhouses is 10ft and the height of the shipping containers is 8.5ft.

Per ICC 17.03.180.BB(2)(e), all outdoor processing activities and loading area shall be screened from the view of adjacent residential uses and set back from the property lines no less than thirty (30) feet.

Finding: The marijuana production will take place within two greenhouses which do not require screening. The loading area will be inside the 8ft fence which provides screening from the adjacent properties.

"Regional native vegetation should be retained to the extent possible and also used to supplement Existing vegetation."

Finding: The proposal site is within a meadow and native grasses and vegetation outside of the proposal site shall be retained. Native vegetation of Nootka Rose and Snowberry will be planted along the eastern, northern, southern, and 190ft of southwestern side to provide screening from the view to Bayview Road and neighbors (Landscaping Plan). The property owners reside to the northwest of this property so no screening is being required for the northern 190ft portion of the project's western boundary.

K – Site Coverage & Open Space (ICC 17.03.180.S)

Open Space- The minimum open space ratio is 50% of the gross site area. The applicant submitted an Open Space Plan which shows the designated 360,000sf or 8.26 acres of Open Space (50.1 % of the total site area of 718,740sf or 16.5 acres) within the northern and southwestern portion of the lot which is an area covered by grasses.

Impervious Surface- Pursuant to Island County Code (ICC 17.03.180.S.1) impervious surface ratios are limited to a maximum of 10% of the total site area for a Nonresidential Use within a Rural Agriculture zone. The total existing impervious surface area is 16,366sf (10,000sf drive areas and 6,366sf existing buildings). The proposal includes 3,680sf of new impervious surface from two greenhouses (2,000sf) and three containers (1,680sf) for a total impervious surface area of 21,046sf which equals 2.9% of the total lot area.

Total Building Coverage- The maximum building coverage allowed in the Rural Agriculture zone for this proposal is 10% of the gross site area. Building footprints are 10,046sf (existing buildings 6,366sf + two greenhouses 2,000sf + three shipping containers 1,680sf) which results in 1.4% of the gross site area and complies with the maximum 10% building coverage.

VII – DECISION

Based upon the above review, Island County Planning and Community Development concludes that the proposed recreational and medical marijuana production complies with all applicable zoning, land use, land development, and environmental regulations and hereby forwards a recommendation of approval to the Island County Hearing Examiner of Site Plan Review application 083/16 SPR subject to the following conditions of approval:

VIII– CONDITIONS OF APPROVAL

1. The work authorized by this decision shall be limited to the development as described herein, as shown on the attached revised Plot Plan received August 5, 2016. This decision shall not be construed to authorize work, development, construction, or other site modifications in excess of that which is specifically authorized by this decision.
2. The applicant shall install the required landscaping as shown in the Landscaping Plan that was submitted on July 18, 2016. At such time as the landscape improvements have been completed in accordance with the approved plan, the applicant shall notify the director thereof, and upon satisfactory inspection, the director shall sign and date the plan, attesting to its completion. Dead or dying vegetation must be replaced immediately or if in winter, within the next planting season.
3. The applicant must adhere to the conditions, recommendations, and requirements noted in the attached memo dated May 9, 2016 from Tamra Patterson, Island County Plans Examiner/Building.
4. The applicant must adhere to the conditions, recommendations, and requirements noted in the attached memo dated April 27, 2016 from Tess Cooper, Critical Areas Planner.
5. The applicant must adhere to the conditions, recommendations, and requirements noted in the attached memo dated June 30, 2016 from John Bertrand, Island County Public Works.
6. Only the structures specifically referenced herein (greenhouses and shipping containers), may be used for the production and drying of marijuana.
7. Parking shall be contained on-site and provided in conformance with applicable Code, with this decision, and with the Conditions of this Approval.
8. All security requirements of WAC 314-55-083 applicable to marijuana producers shall be required prior to final occupancy, and these security systems shall be maintained in good working order at all times.
9. Conformance with requirements of WAC 314-55 and the applicant's state marijuana producer license, as issued by Liquor Control Board, that are

applicable or relevant to the applicant's site plan are incorporated into this decision and approved site plan.

10. Applicant is hereby advised that any violations of the Conditions of Approval of this permit will be reported to the Washington State Liquor Control Board (LCB). Violation of any part of Chapter 314-55 WAC will constitute a Violation of the Conditions of Approval of this permit and will be subject to enforcement action by Island County and/or Liquor Control Board.
11. Outdoor sales of marijuana are prohibited.
12. Law enforcement access to this approved Use, without notice or cause, shall not be limited in any way.
13. Prior to starting any work or construction activities, the applicant shall obtain all required building permits and approvals.
14. No encroachment onto any legally existing easement or property line (or onto any required setback for such) is authorized by this decision. The applicant is encouraged to verify all legally existing easements and property lines with the Island County Auditor's Office and with title searches or a licensed land surveyor if necessary, prior to the start of development or construction. Encroachment, whether knowing or unknowing, will not be considered by Island County to be grounds for the permitting of said encroachment.
15. Applicant bears the full responsibility of notifying site crews of all permit conditions and shall be held fully accountable for any activity that results in on or off-site violations, hazards or damages.
16. The conditions of approval identified in this decision are subject to change if any information provided by the applicant or their authorized representative is found to be inaccurate.
17. This project is required to comply with Washington State and Island County water quality standards, Washington State laws and regulations protecting archaeological sites and resources and all other pertinent State laws, rules, regulations, codes, and ordinances.
18. Applicant is advised that per ICC 16.15.160 **Site Plan Approvals do expire. Any Building permits obtained pursuant to this Site Plan Approval must be utilized within five (5) years after the effective date of this Site Plan approval.** If the permit or permits are not used or construction work is not initiated within this time and carried on diligently in accordance with the conditions imposed by the County pursuant to Site Plan approval, the Site Plan shall become null and void and any approval, permit, or conditions granted thereby shall be deemed to have lapsed. This site plan approval will expire five (5) years from the date approved by the Hearing Examiner.

IX – APPEALS

Decisions of the Hearing Examiner on Type III applications shall be final and conclusive unless within fourteen (14) days following mailing of such decision a written statement of appeal is filed with the Board by the Applicant, a Department of the County, or Party of Record, who is also an Aggrieved Person. Said statement shall set forth any alleged errors and/or the basis for appeal and shall be accompanied by a fee pursuant to the fee schedule adopted by the Board; provided that such appeal fee shall not be charged to a Department of the County or to other than the first appellant. The appeal of a Type III decision shall be a Closed Record Appeal.

SIGNED THIS _____ DAY OF AUGUST, 2016

Janet Wright, Senior Planner

Enclosed:

- Site Plan, submitted on August 5, 2016
- Open Space Plan, submitted on July 18, 2016
- Landscaping Plan, submitted on July 18, 2016
- Drainage Plan, submitted on March 28, 2016
- Clearing and Grading Plan, submitted on March 28, 2016
- Critical Areas Overview Map, prepared by Wetlands & Wildlife, dated February 3, 2016 and submitted on March 28, 2016
- Memo from Tamra Patterson, Island County Plans Examiner, dated May 9, 2016
- Memo from Tess Cooper, Critical Areas Planner, dated April 27, 2016
- Memo from John Bertrand, Island County Public Works, dated June 30, 2016