

June 23, 2008

**THE BOARD OF
BENTON COUNTY
COMMISSIONERS
AGENDA PACKET**

MINUTES

BOARD OF BENTON COUNTY COMMISSIONERS

Regular Board Meeting
June 16, 2008, 9:00 am.
Commissioners' Conference Room
Benton County Courthouse, Prosser, WA

Present: Chairman Claude Oliver
Commissioner Max E. Benitz, Jr.
Commissioner Leo Bowman
County Administrator David Sparks
Clerk of the Board Cami McKenzie

Benton County Employees Present: Deputy Administrator Loretta Smith Kelty; Adam Fyall, Community Development Coordinator; Finance Manager Linda Ivey; Facilities Manager Roy Rogers; Personnel Manager Melina Wenner; Safety/Training Coordinator Bryan Perry; Public Works Director Ross Dunfee; Captain Steve Keane; Lisa Small, Commissioners' Office; DPA Ryan Brown and DPA Eric Hsu; Pat Powell, Auditor's Office; Steve Becken and Sue Schuetz, Public Works; and DPA Sarah Perry.

Approval of Minutes

The Minutes of June 9, 2008 were approved.

Review Agenda

Item "o" was pulled at the request of the Road Department.

Commissioner Benitz requested items "b" (Quit Claim Deed) and "p" (Six Year Road Program) be pulled from the consent agenda.

Consent Agenda

MOTION: Commissioner Benitz moved to approve the consent agenda items a-q, pulling "b", "o" and "p". Commissioner Bowman seconded and upon vote, the Board approved the following:

Commissioners

- a. Line Item Transfer, Fund No. 0000-101, Dept. 115
- c. Rescind Resolution 07 093 & Residual Equity Fund Transfer of Balances to CE Fund
- d. Reappointment to the BF Workforce Development Council

Facilities

- e. Blanket Personal Services Contract w/A One Refrigeration & Heating, Inc.

f. Blanket Public Works Contract w/The Tri Cities, Inc., DBA Culligan

Fairgrounds

- g. Blanket Service Contract w/Doyle Electric, Inc.
- h. Blanket Service Contract w/Power City Electric, Inc.
- i. Blanket Service Contract w/Sierra Electric, Inc.

Juvenile

- j. Contract Amendment, #0712-30314-01, w/DSHS/JRA for Evidence Based Expansion Grant
- k. Contract Amendment, #0763-23506-01, w/DSHS/JRA for Short Term Transition Program

Noxious Weed

- l. Appointment of Director to the Benton Co. Noxious Weed Control Board

Office of Public Defense

- m. Professional Services Agreement w/Brian Anderson

Parks

- n. Badger Mountain Parking Lot

Sustainable Development

- q. Port of Kennewick Support Letter

Consent Item “b” Quit Claim Deed, Parcel No. 1-2994-400-0004-000

MOTION: Commissioner Bowman moved to approve consent item “b”. Chairman Oliver seconded and upon vote, the motion carried with Commissioner Benitz opposing.

Consent Item “p” Comprehensive Six Year Road Program 2009-2014; Amending Resolution 08-502

MOTION: Commissioner Bowman moved to approve consent item “p”. Chairman Oliver seconded and upon vote, the motion carried with Commissioner Benitz opposing.

The Board briefly recessed, reconvening at 9:05 a.m.

Other Business

June 30 Meeting

Chairman Oliver said he was traveling to Chicago to meet with Jesse Jackson regarding FFTF and would not be present for the June 30 meeting. He stated there had been updated technical work on the project, it was part of the GNEP program, and DOE had acknowledged it. He also indicated that Representative Haler and Senator Delvin had been briefed on the matter.

Commissioner Benitz said he didn’t have a problem with it, as long as it was not at the County’s expense.

Commissioner Bowman said it was his understanding that GNEP was abandoned and wanted to know what Jesse Jackson could do that the County hadn’t already tried to do. He said it would be

hard for him to say “no”, but he didn’t understand what the goal was. He asked if there were huge developments.

Chairman Oliver indicated there were developments and they would come out at the appropriate time. He said he did not take this issue lightly and asked for the Board’s trust. He also stated that TRIDEC was aware of what was going on and they in fact had accelerated their involvement to facilitate the process.

2008 Distinguished Budget Award

Linda Ivey presented the Board with the 2008 Distinguished Budget Award, received for the third year in a row.

Public Hearing – Ordinance Relating to Traffic Violations and Vehicle Impoundment

Captain Steve Keane and Eric Hsu presented the ordinance amendments to Ordinance 345. Captain Keane said the Sheriff’s office was proposing amendments to Ordinance 345 relating to traffic regulations and vehicle impoundments. The amendments were necessary to provide clarification and authority to tow vehicles operated by drivers for DUI/Physical control, as well as additional wording changes addressing hardship releases.

As there was no one present to testify, public testimony was closed.

MOTION: Commissioner Benitz moved to approve the ordinance relating to traffic violations and vehicle impoundment. Commissioner Bowman seconded and upon vote, the motion carried.

Animal Control Update

Adam Fyall updated the Board on the animal control issue and said the following tasks had been accomplished: staff meeting with W. Richland, with tasks assigned; researched possible County-owned parcels that would be appropriate for a new facility (none were identified); received a copy of the W. Richland ordinance for review; meeting with Ryan Brown to discuss ordinance/interlocal agreement and strategy process.

Mr. Fyall discussed the major issues to work out in developing an ordinance and interlocal agreement, including geographic scope, animal scope, facility needs, animal disposal, euthanasia, restitution, spay-neuter, and outreach and information.

Ryan Brown said there were a lot of variables for animal control, but ultimately the Board had to decide what animal control meant. He said if the Board contracted with W. Richland to enforce the rules (ordinance), the first step was to figure out what regulations the Board wanted to put in place.

Commissioner Benitz said the Citizens Advisory Group provided an ordinance for rural Benton County and he recommended Mr. Fyall and Mr. Brown use that template for a workshop.

Commissioner Bowman agreed with using the proposed ordinance, although he said he wanted it to be consistent with W. Richland's ordinance and asked for a parallel comparison on the consistencies and differences. Additionally, he wanted research to continue on a facility and the costs associated with it.

Chairman Oliver said the Board had already given direction to move forward on an ordinance at the April 30 meeting. He encouraged Mr. Fyall to meet individually with commissioners to outline their concerns for an ordinance. Commissioner Benitz stated he would get with Mr. Fyall to address his concerns.

Franchise Requirements - Discussion

Commissioner Bowman said he previously requested the Public Works Department review the five-year franchise renewal to see if it could be extended with a 10-year option. He said that Public Works reminded him it was the Board's decision to change to a five-year franchise from a 25-year franchise so that future Boards could have some input into franchise renewals.

Steve Becken indicated the Board had authority to issue 50-year franchises, although he didn't recommend that, but also had the authority to pull a franchise if necessary. He said in 30 years, he had never needed to pull a franchise.

Commissioner Benitz also said part of the problem was that the utility companies were using the right of way, and not putting the roads back to county standards and/or following noxious weed regulations.

Mr. Becken said the noxious weed requirement had been added to the franchise requirements. He said if the Board agreed, the only thing that would change would be the franchise term and cost of application.

Commissioner Benitz requested another week to review the matter.

Klickitat County Bridge Inspection Request

Ross Dunfee and Sue Schuetze requested the Board authorize Benton County staff to complete the bridge inspections and data entry for Klickitat County.

MOTION: Commissioner Benitz moved to approve that Public Works staff start the process to create an interlocal cooperation agreement for bridge inspections by Benton County staff for Klickitat County. Commissioner Bowman seconded and upon vote, the motion carried.

Other Business

June 30 Meeting - Continued

Chairman Oliver said he would get background information to the Board members if they wanted a more formal briefing.

Veterans Assistance Waiver

Pat Powell requested an income waiver for Gregory Paul Schwartz.

MOTION: Commissioner Bowman moved to approve the income waiver for Gregory Paul Schwartz. Commissioner Benitz seconded and upon vote, the motion carried.

Benton City – Paths & Trails Request

Commissioner Benitz said he received a call from the Mayor of Benton City, requesting an additional \$77,000 for the Paths & Trails projects. Benton County had authorized up to \$20,000, but the bids received were considerably higher than expected. Commissioner Benitz stated there was currently \$46,000 left in the Paths & Trails fund with no other projects committed for the funds.

Chairman Oliver asked Mr. Fyall if the Tapteal Greenway could be approached about participating and Mr. Fyall said he could look into it.

The Board agreed to have Mr. Dunfee negotiate in an amount not to exceed \$46,000.

Sheriff's Medical Employees - Collective Bargaining Agreement

Sarah Perry presented the 2007-2009 Collective Bargaining Agreement Between Benton County and Teamsters Local 839, Representing the Sheriff's Medical Employees.

MOTION: Commissioner Benitz moved to approve the Collective Bargaining Agreement as presented. Commissioner Bowman seconded and upon vote, the motion carried.

Executive Session

The Board went into executive at 10:24 a.m. for approximately 10 minutes with DPA Ryan Brown to discuss potential litigation regarding the Assessor Annex issue. Also present were Sarah Perry, Roy Rogers, Melina Wenner, Bryan Perry, Loretta Smith Kelty, David Sparks, and Cami McKenzie. The Board came out of executive session at 10:36 a.m. and Mr. Brown announced they would go back in for an additional 10 minutes. The Board came out at 10:45 a.m. Mr. Brown announced that no action was taken, but direction was given.

Vouchers

Check Date: 06/13/2008
Warrant #: 900019-900311
Total all funds: \$786,315.48

Check Date: 06/13/2008
Warrant #: 899623-900018
Total all funds: \$8,675.74

Total amounts approved by fund can be reviewed in the Benton County Auditor's Office.

Resolutions

- 08-603 Line Item Transfer, Fund No. 0000-101, Dept. 115
- 08-604 Rescind Resolution 07 093 & Residual Equity Fund Transfer of Balances to CE Fund
- 08-605 Reappointment to the BF Workforce Development Council
- 08-606 Blanket Personal Services Contract w/A One Refrigeration & Heating, Inc.
- 08-607 Blanket Public Works Contract w/The Tri Cities, Inc., DBA Culligan
- 08-608 Blanket Service Contract w/Doyle Electric, Inc.
- 08-609 Blanket Service Contract w/Power City Electric, Inc.
- 08-610 Blanket Service Contract w/Sierra Electric, Inc.
- 08-611 Contract Amendment, #0712-30314-01, w/DSHS/JRA for Evidence B
- 08-612 Contract Amendment, #0763-23506-01, w/DSHS/JRA for Short Term Transition Program
- 08-613 Appointment of Director to the Benton Co. Noxious Weed Control Board
- 08-614 Professional Services Agreement w/Brian Anderson
- 08-615 Badger Mountain Parking Lot Improvement Agreement
- 08-616 Selling County Fee Simple Property to Frankie Cruz
- 08-617 Comprehensive Six Year Road Program 2009-2014; Amending Resolution 08-502
- 08-618 2007-2009 Collective Bargaining Agreement Between Benton County and Teamsters Local 839, Representing the Sheriff's Medical Employees
- 08-619 Amending Ordinance 349 and BCC Ch. 10.06 Relating to Traffic Regulation/Vehicle Impoundment

There being no further business before the Board, the meeting adjourned at approximately 10:45 a.m.

Clerk of the Board

Chairman

a

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF COUNTY POLICY, RE: SURPLUS OF PERSONAL PROPERTY IN ACCORDANCE WITH RESOLUTION 07-752

WHEREAS, The Benton County Auditor is the Personal Property Manager and maintains an updated inventory listing of county Personal Property; and,

WHEREAS, the Personal Property Manager and the Sheriff's Department have determined that the "Live Scan Fingerprinting Unit," manufactured by Digital Biometrics and purchased in 1999 is obsolete. A Washington State wide upgrading and replacement of fingerprinting equipment has resulted in the unit being of no further use to the Sheriff's Department. Additionally, there is no use for it in any other county department or office; and,

WHEREAS, the unit has been fully depreciated and it's only value to Benton County is as scrap: less than \$100; and,

WHEREAS, it is the recommendation of the Personal Property Manager that this potential surplus property is not desired by any county agency and should be declared surplus; and,

WHEREAS, the Board finds it to be in the best interest of the citizens of Benton County to surplus antiquated and obsolete personal property; **NOW, THEREFORE**

BE IT RESOLVED, that, based on the recommendation of the Personal Property Manager and the Sheriff's Department, the "Live Scan Fingerprinting Unit," manufactured by Digital Biometrics and purchased in 1999 is hereby surplused and to be disposed of by giving it to another organization that can use it, or for scrap value if no organization desiring it can be identified.

Dated this _____ day of _____, 20__.

Chairman of the Board

Member

Member

Constituting the Board of County
Commissioners of Benton County,
Washington

Attest: _____
Clerk of the Board

Prepared by P. Powell

Leo Bowman
District 1
Max Benitz, Jr.
District 2
Claude Oliver
District 3

Board of County Commissioners BENTON COUNTY

David Sparks
County Administrator

Loretta Smith Kelty
Deputy County Administrator



June 23, 2008

Ms. Ginny Waltman, Assistant Audit Manager
Washington State Auditor's Office
100 N. Morain, Suite 216
Kennewick, WA 99336

Dear Ms. Waltman:

We are providing this letter in connection with your audit of the financial statements of Benton County for the period January 1, 2007 through December 31, 2007 for the purpose of expressing an opinion as to whether the financial statements of the governmental activities, the business-type activities, each major fund, and the aggregate remaining fund information present fairly, in all material respects, the financial position, results of operations, and cash flows of Benton County in conformity with accounting principles generally accepted in the United States of America. We confirm that we are responsible for the fair presentation in the financial statements of financial position, results of operations, and cash flows in conformity with accounting principles generally accepted in the United States of America.

Certain representations in this letter are described as being limited to matters that are material. Items are considered material, regardless of size, if they involve an omission or misstatement of accounting information that, in the light of surrounding circumstances, make it probable that the judgment of a reasonable person relying on the information would be changed or influenced by the omission or misstatement.

We confirm, to the best of our knowledge and belief, having made appropriate inquiries to be able to provide our representations, the following representations made to you during your audit.

1. The financial statements referred to above are fairly presented in conformity with accounting principles generally accepted in the United States of America.
2. We acknowledge and understand our responsibility for complying with applicable state and local laws, regulations, and provisions of contracts and grant agreements.
3. We have identified and disclosed all laws, regulations, and provisions of contracts and grant agreements that could have a direct and material effect on the determination of financial statement amounts, including legal and contractual provisions for reporting specific activities in separate funds.

4. We have made available to you all:
 - a. Financial records and related data.
 - b. Minutes of the meetings of the Board of Commissioners or summaries of actions of recent meetings for which minutes have not yet been prepared.
5. There have been no communications from regulatory agencies concerning noncompliance with, or deficiencies in, financial reporting practices that could have a material effect on the financial statements.
6. There are no material transactions that have not been properly recorded in the accounting records underlying the financial statements.
7. We believe there are no uncorrected misstatements that would be material individually and in the aggregate to the financial statements taken as a whole.
8. We acknowledge and understand our responsibility for the design and implementation of programs and controls to safeguard public resources and ensure compliance with applicable laws and regulations, including controls to prevent and detect fraud.
9. We have no knowledge of any fraud or suspected fraud affecting the entity involving:
 - a. Management,
 - b. Employees who have significant roles in the system of internal control, or
 - c. Others where the fraud could have a material effect on the financial statements.
10. We have no knowledge of any allegations of fraud or suspected fraud affecting the entity received in communications from employees, former employees, analysts, regulators, or others.
11. The following have been properly recorded or disclosed in the financial statements:
 - a. Arrangements with financial institutions involving compensating balances or other arrangements involving restrictions on cash balances and line-of-credit or similar arrangements.
 - b. Related-party transactions, including sales, purchases, loans, transfers, leasing arrangements, and guarantees, and amounts receivable from or payable to related parties.
 - c. Guarantees, whether written or oral, under which Benton County is contingently liable.
12. There are no violations or possible violations of laws or regulations whose effects should be considered for disclosure in the financial statements or as a basis for recording a loss contingency, except as disclosed by the attached.

13. The County of Benton has satisfactory title to all owned assets, and there are no liens or encumbrances on such assets, nor has any asset been pledged.
14. We have complied with all aspects of contractual agreements that would have a material effect on the financial statements in the event of noncompliance. The attached letters describe any allegations to the contrary made by third parties of which we are aware.
15. We are not aware of any impending or threatened litigation, claims or assessments, or unasserted claims or assessments that are required to be accrued or disclosed in the financial statements in accordance with FAS-5, because FAS-5 need not be applied to immaterial items and we do not believe that there is a reasonable possibility that an adverse outcome with respect to such will have a material effect on the County's financial statements.
16. We have no plans or intentions that may materially affect the carrying value or classification of assets and liabilities.
17. We have received no communication from the Internal Revenue Service (IRS) adversely affecting the tax exempt status of our outstanding debt or noncompliance with arbitrage rules.
18. No events have occurred subsequent to the balance sheet date that would require adjustment to, or disclosure in, the financial statements.
19. The financial statements include all joint ventures with an equity interest, and properly disclose all other joint ventures and other related organizations.
20. The financial statements properly classify all funds and activities.
21. All funds that meet the quantitative criteria in GASB Statements No. 34 and No. 37, Basic Financial Statements – and Management's Discussion and Analysis – for State and Local Governments: Omnibus, for presentation as major are identified and presented as such and all other funds that are presented as major are particularly important to financial statement users.
22. Investments are properly valued.
23. Deposits and investment securities are properly classified in category of custodial credit risk.
24. Capital assets, including infrastructure assets, are properly capitalized, reported, and, if applicable, depreciated.
25. Benton County meets the GASB-established requirements for using the modified approach for accounting for eligible infrastructure assets.
26. Revenues are appropriately classified in the statement of activities within program revenues and general revenues.

27. Expenses have been appropriately classified in or allocated to functions and programs in the statement of activities, and allocations have been made on a reasonable basis.
28. Interfund and internal activity and balances have been appropriately classified and reported.
29. Net asset components (invested in capital assets, net of related debt; restricted; and unrestricted) and fund balance reserves and designations are properly classified and, if applicable, approved.
30. Required supplementary information (RSI) is measured and presented within prescribed guidelines.
31. We acknowledge and understand our responsibility for establishing and maintaining effective internal control over financial reporting.
32. We have followed applicable laws in adopting, approving, and amending budgets.

Claude Oliver
Chairperson,
Board of County Commissioners

Bobbie Gagner
Benton County Auditor

Duane A. Davidson
Benton County Treasurer

cc: Board of County Commissioners
Bobbie Gagner, Benton County Auditor
Duane A. Davidson, Benton County Treasurer

Attachments:

1. Letter dated June 18, 2008, to the Board of County Commissioners from Ryan Brown, Chief Civil Deputy: RE: Letter of Representation and Pending Litigation.
2. Letter dated June 18, 2008, to the Board of County Commissioners from Melina Wenner, Risk Manager RE: Letter of Representation and Claims Update.

**PROSECUTING ATTORNEY
BENTON COUNTY, WASHINGTON**

ANDY MILLER
PROSECUTING ATTORNEY

RYAN K. BROWN
CHIEF DEPUTY, CIVIL

SCOTT W. JOHNSON
CHIEF DEPUTY, CRIMINAL

TERRY J. BLOOR
CHIEF CRIMINAL DEPUTY

MARGARET AULT
ADMINISTRATOR

7122 West Okanogan Place, Bldg. A
Kennewick, Washington 99336

(509) 735-3591

786-5608 736-3066
Prosser Fax

June 18, 2008

DEPUTIES

JULIE E. LONG
TIMOTHY A. SKEELS
ADRIENNE M. FARABEE
DAVID S. BRUSSARD
ANITA PETRA
JENNIFER L. JOHNSON
NAHETTE K. DOCKUM
SARAH H. PERRY
KATHLEEN B. FITZGERALD
RONALD D. BOY
MEGAN A. SREDEWEG
ERIC HSU
ARTHUR J. BIEKER
KRISTIN M. MCROBERTS
JENNY L. JOHNSON
ALEX B. JOHNSON
JONATHAN J. YOUNG

Board of Benton County Commissioners
620 Market Street
Prosser, WA 99350

RE: Letter of Representation

Dear Commissioners:

We have reviewed as to form the enclosed draft Letter of Representation. This letter serves as one of the attachments referenced in paragraphs 12 and 14 thereof and should be attached to your executed Letter of Representation. The second attachment to your Letter of Representation should be a letter from the County's Risk Manager that identifies claims threatened or filed after December 31, 2007, but that have not yet resulted in lawsuits. You will need to obtain that directly from her.

If you have any questions or need further information with respect to your required evaluation under paragraph 15 of your Letter of Representation pertaining to FAS-5 necessitated disclosures of loss contingencies due to threatened or unasserted claims, please contact us. We can provide information as to the likelihood and/or potential amount of such losses, but your staff or that of the County Auditor will need to help guide you through the criteria for FAS-5 disclosures.

To our knowledge, the following lawsuits are pending against Benton County or its officials acting in their capacity as such that are not resolved as of this date:

1. Prosser Apt. Assocs. v. Benton Co. Assessor, No. 07-450, Board of Tax Appeals. Property tax appeal.
2. Benton County v. Cope, et al., No. 05-2-02692-5, Benton County Superior Court. Complaint for damages from auto accident.

Benton County Commissioners

June 18, 2008

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3. CK Washington v. Barbara Wagner, 07-2-01686-1, Benton Co. Superior Ct. Property tax appeal.

4. Panesko v. Benton County, 07-2-01987-9, Benton Co. Superior Ct. Appeal of comprehensive plan amendment.

5. Rogers v. Benton County, et al., 07-35679, U.S. Court of Appeals, 9th Circuit. Complaint for damages for civil rights violation (City of Kennewick has agreed to indemnify County for any damages assessed).

6. Curtis v. Benton Co., 07-2-03792-3, Yakima Co. Superior Court. Petition for review of denial of conditional use permit.

In addition, the following disputes have been resolved since January 1, 2008 and the date of this letter:

1. George Grant: Dispute regarding County's withholding of liquidated damages in construction contract was resolved following mediation. The resolution involved reducing the amount of the liquidated damages charged to the contractor.

2. Juvenile Justice Holiday Pay Dispute: Dispute regarding interpretation and application of the holiday pay provision in the collective bargaining agreements resolved with agreement regarding interpretation/application of contract provision and release of claims by the County for overpayment of wages.

Very truly yours,

ANDY MILLER
Prosecuting Attorney



RYAN K. BROWN, Chief Deputy
Prosecuting Attorney (Civil)

RKB:ss

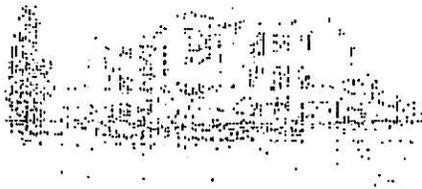
cc: Duane Davidson
Bobbie Gagner
David Sparks
Van Pettey
Melina Wenner
Andy Miller

Leo Bowman
District 1
Max Benitz, Jr.
District 2
Claude Oliver
District 3

**Board of County Commissioners
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June 23, 2008

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Ms. Ginny Waltman, Assistant Audit Manager
June 23, 2008
Page 2 of 4

4. We have made available to you all:
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 - b. Minutes of the meetings of the Board of Commissioners or summaries of actions of recent meetings for which minutes have not yet been prepared.
5. There have been no communications from regulatory agencies concerning noncompliance with, or deficiencies in, financial reporting practices that could have a material effect on the financial statements.
6. There are no material transactions that have not been properly recorded in the accounting records underlying the financial statements.
7. We believe there are no uncorrected misstatements that would be material individually and in the aggregate to the financial statements taken as a whole.
8. We acknowledge and understand our responsibility for the design and implementation of programs and controls to safeguard public resources and ensure compliance with applicable laws and regulations, including controls to prevent and detect fraud.
9. We have no knowledge of any fraud or suspected fraud affecting the entity involving:
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Ms. Gimy Waltman, Assistant Audit Manager
June 23, 2008
Page 3 of 4

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14. We have complied with all aspects of contractual agreements that would have a material effect on the financial statements in the event of noncompliance. The attached letters describe any allegations to the contrary made by third parties of which we are aware.
15. We are not aware of any impending or threatened litigation, claims or assessments, or unasserted claims or assessments that are required to be accrued or disclosed in the financial statements in accordance with FAS-5, because FAS-5 need not be applied to immaterial items and we do not believe that there is a reasonable possibility that an adverse outcome with respect to such will have a material effect on the County's financial statements.
16. We have no plans or intentions that may materially affect the carrying value or classification of assets and liabilities.
17. We have received no communication from the Internal Revenue Service (IRS) adversely affecting the tax exempt status of our outstanding debt or noncompliance with arbitrage rules.
18. No events have occurred subsequent to the balance sheet date that would require adjustment to, or disclosure in, the financial statements.
19. The financial statements include all joint ventures with an equity interest, and properly disclose all other joint ventures and other related organizations.
20. The financial statements properly classify all funds and activities.
21. All funds that meet the quantitative criteria in GASB Statements No. 34 and No. 37, Basic Financial Statements – and Management's Discussion and Analysis – for State and Local Governments: Omnibus, for presentation as major are identified and presented as such and all other funds that are presented as major are particularly important to financial statement users.
22. Investments are properly valued.
23. Deposits and investment securities are properly classified in category of custodial credit risk.
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26. Revenues are appropriately classified in the statement of activities within program revenues and general revenues.

Ms. Ginny Waltman, Assistant Audit Manager
June 23, 2008
Page 4 of 4

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32. We have followed applicable laws in adopting, approving, and amending budgets.

~~Leo Bowman~~ Claude Oliver
Chairperson,
Board of County Commissioners

Bobbie Gagner
Benton County Auditor

Duane A. Davidson
Benton County Treasurer

cc: Board of County Commissioners
Bobbie Gagner, Benton County Auditor
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2. Letter dated June 18, 2008, to the Board of County Commissioners from Melina Wenner, Risk Manager RE: Letter of Representation and Claims Update.

Personnel Resources Department

BENTON COUNTY

7122 West Okanogan Place, Bldg. A • Kennewick, WA 99336
PHONE: (509) 737-2777 OR (509) 786-5626 • FAX: (509) 737-2778

June 18, 2008

Board of Benton County Commissioners
620 Market Street
Prosser, WA 99350

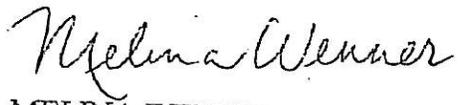
Dear Commissioners:

To my knowledge, the following formal claims, formal than \$1000 are pending against Benton County or its officials acting in their capacity as of this date:

1. Patrick Dawson, CC07-19, claim for \$2240 for damages allegedly caused by the Benton County Public Works Department.
2. Hal and Judi Gruver, CC07-20, claim for \$2088.38 for damages allegedly caused by the Benton County Fairground's Department.
3. Roy Springer, CC08-02, claim for over \$38,000 for damages allegedly caused by the Benton County Sheriff's Office.
4. Anthony Wells, CC08-06, claim for \$1 million for damages allegedly caused by the Benton County Prosecutor's Office and the Benton County Sheriff's Office.
5. Armando Calderon, CC08-07 and CC08-10, claim for \$1.5 million for damages allegedly caused by the Benton County Sheriff's Office.
6. Jason Van Antwerp, CC08-08, claim for \$487,500 for damages allegedly caused by the Benton County Prosecutor's Office.
7. Jason Major, CC08-11, claim for \$1215.72 for damages allegedly caused by the Benton County Public Works Department.
8. Michael and Patricia Barnes, CC08-13, claim for \$12,260.25 for damages allegedly caused by the Benton County Public Works Department.
9. Charlie Day, CC08-14, claim for \$160,000 for damages allegedly caused by the Benton County Sheriff's Office.

In addition, Benton County is aware of an informal claim threatening potential civil litigation by unidentified county employee resulting from alleged poor air quality in one Kennewick Annex Building.

Very truly yours,



MELINA WENNER
Personnel/Risk Manager

- cc: David Sparks
- Ryan Brown
- Andy Miller
- Van Pettey

<u>AGENDA ITEM</u>	<u>TYPE OF ACTION NEEDED</u>	
Meeting Date: <u>June 23, 2008</u> Subject: <u>Grant agreement</u> Prepared by: <u>J. Delvin</u> Reviewed by:	Execute Contract <u>XX</u> Pass Resolution Pass Ordinance Pass Motion Other	Consent Agenda <u>XX</u> Public Hearing 1st Discussion 2nd Discussion Other

C

BACKGROUND INFORMATION

The Benton County Clerks office has been awarded grant funds to begin imaging our historical documents. Please sign both original grant agreements, interlocal agreements and statements of work and return all originals to my office.

SUMMARY

RECOMMENDATION

1st

2nd

FISCAL IMPACT

MOTION

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF THE LOCAL RECORDS GRANT AWARD FROM THE WASHINGTON STATE ARCHIVES, SUBMITTED BY THE BENTON COUNTY CLERK

WHEREAS, the Benton County Clerk was awarded a records grant in the amount of \$29,997; and

WHEREAS, the grant agreement, interlocal agreement and statement of work require the signature of the County Authorizing Official; NOW, THEREFORE,

BE IT HEREBY RESOLVED that the Board of Benton County Commissioners hereby authorized the Chairman to sign the attached grant agreement, interlocal agreement and statement of work to the Office of the Secretary of State, Washington State Archives, as submitted by the Benton County Clerk.

Dated this _____ day of _____, 2008

Chairman of the Board

Member

Member

Constituting the Board of County
Commissioners of Benton County,
Washington.

Attest: _____
Clerk of the Board

cc: Clerk, Auditor,
originals: Washington State Archives

**GRANT AGREEMENT BETWEEN
THE STATE OF WASHINGTON,
OFFICE OF THE SECRETARY OF STATE,
DIVISION OF ARCHIVES AND RECORDS MANAGEMENT,
And
THE BENTON COUNTY CLERK**

This Grant Agreement ("Agreement") is entered into between the State of Washington, Office of the Secretary of State, Archives and Records Management Division ("Agency"), and the Benton County Clerk, 620 Market Street, Prosser, WA 99350 ("Grantee").

PURPOSE

The purpose of this Agreement is to support local public records management and preservation efforts authorized under RCW 36.22.175., through the Archives and Records Management Division's Local Records Grant Program.

STATEMENT OF WORK

The Grantee will provide services, staff, and otherwise do all things necessary for or incidental to the performance of work set forth below:

The Grantee will perform the work described in the Grantee's application signed on July 2, 2007, which is set forth in the Award Determination form attached as Exhibit A and incorporated herein by reference.

As of condition of award acceptance, scanning, microfilming, Imaging Services (IS), Washington State Archives, a division of the Office of the Secretary of State, must perform microfilm duplication and related services. IS may decline services based on business requirements, in which case, Grantee may contract with outside vendors. When using outside vendors, Grantee is responsible for ensuring all files and data meet the specifications required to create security microfilm and host digital records in the Digital Archives.

The Washington State Archives Grant Program requires the narrative and financial components of program progress reports to be completed during the project period. Documentation of expenditures and bids are required. The Grantee shall submit **three** reports to both of the individuals listed below:

Jerry Handfield
State Archivist
Washington State Archives
1129 Washington St SE
Olympia, WA 90504-0238

Julie Woods, Coordinator
Local Records Grant Program
Washington State Archives
1129 Washington Street SE
Olympia, WA 98504-0238

The **first interim report**, due on or before July 10, 2008, must detail the activities performed or progress toward the successful completion of the work described in the application and Exhibit A from project commencement through June 30, 2008.

The **second interim report**, due on or before January 10, 2009, must detail the activities performed or progress toward the successful completion of the work described in the application and Exhibit A during the period July 1, 2008 through December 31, 2008.

The third report, due on or before May 31, 2009, is a **final report** and must provide a complete summary of the project and of all grant activities described in the application and Exhibit A. It **MUST** include a separate itemized list of costs incurred, copies of receipts, invoices, and payroll records to substantiate all figures.

PERIOD OF PERFORMANCE

Subject to its other provisions, the period of performance of this Agreement shall commence on the date of execution and be completed on May 31, 2009, unless otherwise terminated as provided herein.

PAYMENT

In consideration for the work conducted described in Exhibit A, the Agency agrees to reimburse the Grantee an amount not to exceed \$29,997. The Grantee will receive sixty percent (60%) of the grant amount as the first grant payment within thirty (30) calendar days of submission of the signed Contract. The remaining funds due, up to the final forty percent (40%) of the grant award, will be distributed as follows:

- Twenty percent (20%) of the grant amount upon submission and approval of the interim report due January 10, 2009.
- Up to twenty percent (20%) of the grant amount after completion of the project upon submission and approval of the final report due May 31, 2009.

A check for unexpended, previously forwarded grant monies and **unexpended interest earned** on those monies must be returned to the Washington State Archives within sixty (60) calendar days of the completion of the project.

Costs incurred prior to the effective date of the Grant Agreement shall be disallowed under the Grant. Should the Grantee incur costs prior to the effective date of the Grant Agreement, it does so at its own risk.

RECORDS MAINTENANCE AND MONITORING PROJECTS FOR PROGRAM AND FISCAL COMPLIANCE

The Grantee must comply with the accounting and auditing requirements set forth in WAC 434-670-070 and WAC 434-670-080 (statutory authority RCW 36.22.175(1)).

Specific accounting requirements for the Local Records Grant Program include but are not limited to:

- **Grant money must be deposited in an auditable, interest-bearing account. Interest received must be applied to the project** or returned to the Agency.
- **The Grantee must submit, with the final report, an itemized list of costs incurred, with copies of receipts, invoices, and payroll records to substantiate all figures.**
- All changes to the approved project (project scope, budget, personnel), must be requested in writing to, and approved by the State Archivist.
- Grant work must be monitored in progress. Agency staff may visit the work site for review at any time during the project.
- The Grantee must adhere to local and state bid requirements.

INDEPENDENT CAPACITY AND INDEMNIFICATION

The employees or agents of each party who are engaged in the performance of this Agreement shall continue to be employees or agents of that party and shall not be considered, for any purpose, employees or agents of the other party. Each party to this Agreement shall be responsible for its own acts and/or omissions and those of its officers, employees, and agents.

BUDGET REVISIONS

Revisions to the budget described in the application and Exhibit A are permitted only with official written approval from the Washington State Archivist.

TERMINATION

Either party may terminate this Agreement upon a thirty (30) day written notice to the other party. If this Agreement is terminated, the parties shall be liable for performance rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of termination.

TERMINATION FOR CAUSE

If for any cause, either party does not fulfill its obligations in a timely and proper manner under this Agreement, or if either party violates any of these terms and conditions, the aggrieved party will give the other party written notice of such failure or violation. The responsible party will be given the opportunity to correct the violation or failure within fifteen (15) business days. If failure or violation is not corrected, this Agreement may be terminated immediately by written notice of the aggrieved party to the other. In the event of a termination for cause, all unused funds must be returned to the Agency's Local Records Grant Program.

In the event that the Termination for Cause occurs due to any violation of these contract provisions by the Grantee, the Grantee may be required to reimburse the Agency's Local Records Grant Program for the expended portions of the funds.

The rights and remedies of the Agency provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

DISPUTES

Except as otherwise provided in this Agreement, when a bona fide dispute arises between the Agency and Grantee, and it cannot be resolved by direct negotiation, either party may request a dispute hearing with the Secretary of State or his designee.

1. The request for a dispute hearing must:
 - be in writing;
 - state the disputed issue(s);
 - state the relative positions of the parties;
 - state the Agency's name, address, and agreement number; and
 - be mailed to the party's (respondent's) Contract Managers within three (3) business days after the parties agree that they cannot resolve the dispute.
2. The respondent shall send an answer to the requester's statement to the Secretary of State or his designee and requester within fifteen (15) business days.
3. The Secretary of State or his designee shall review the written statements and reply in writing to the parties within ten (10) business days. The Secretary of State or his designee may extend this period if necessary by notifying the parties.
4. The parties agree that this dispute process shall precede any action in a judicial or quasi-judicial tribunal.

Nothing in this Agreement shall be construed to limit each party's choice of a mutually acceptable Alternate Dispute Resolution (ADR) method in addition to the dispute resolution procedure outlined above.

GOVERNANCE

In the event of any inconsistency with the terms of this Agreement, or between its terms and any applicable statute or rule, the inconsistency shall be resolved by giving precedence in the following order:

- a. Applicable state and federal statutes and rules.
- b. This Grant Agreement and any and all attached exhibits

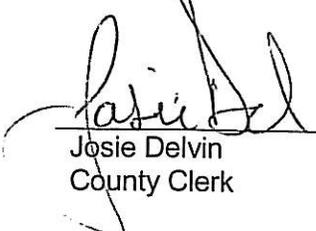
GOVERNING LAW

This Agreement shall be construed and interpreted in accordance with the laws of the State of Washington. The venue of any action brought hereunder shall be in the Superior Court for Thurston County.

IN WITNESS WHEREOF, the parties have executed this Grant Agreement.

BENTON COUNTY CLERK

OFFICE OF THE SECRETARY OF STATE



 Josie Delvin
 County Clerk

6-16-08

 Date

 Linda Shea
 Financial Services and Support Manager

Date

EXHIBIT:

A. Award Determination

Office of the Secretary of State
 Financial & Support Services
 PO Box 40224
 Olympia, WA 98504-0224

Benton County Commissioner

 Signature

 Date

EXHIBIT A**BENTON COUNTY CLERK**

The following table illustrates the grant budget as proposed by your agency - contrasted with the items that were funded, the items that were not, and the items that were awarded with conditions.

Budget Item	Amount Requested	Amount Funded	Reasoning/Conditions
Imaging Services	\$29,997	\$29,997	Scan and microfilm case files. Renaming or indexing required.
TOTAL	\$29,997	\$29,997	

INTERLOCAL AGREEMENT
For
DOCUMENT PREPARATION AND IMAGING SERVICES

THIS AGREEMENT is made and entered into by and between BENTON COUNTY CLERK (hereinafter "CUSTOMER") and the STATE of WASHINGTON, OFFICE OF THE SECRETARY OF STATE, ARCHIVES & RECORDS MANAGEMENT DIVISION (hereinafter "ARCHIVES").

This Interlocal Agreement establishes the understanding for providing document preparation, scanning, and microfilming services. Specific work to be performed shall be described in a separately approved Statement of Work (hereinafter "SOW"). Any additional SOWs shall be approved in writing.

I. SCOPE OF SERVICES

1. ARCHIVES shall provide document preparation, scanning, and microfilming services to the CUSTOMER upon receipt of a detailed SOW describing the services requested and the documents to be prepared and scanned or microfilmed. The SOW shall thereby be made an integral part of this Agreement. Within ninety (90) days after delivery to the CUSTOMER of the finished product, pursuant to the SOW, ARCHIVES shall return the documents to the CUSTOMER. Upon a written request from the CUSTOMER ARCHIVES will transfer the documents to an ARCHIVES regional branch facility.
2. ARCHIVES shall meet or exceed the quality control, processing, document preparation, and imaging specifications and standards for the creation of archival public record documents established by Washington State law. It is the responsibility of the CUSTOMER to verify the quality and accuracy of the service performed and to notify ARCHIVES of any discrepancies within thirty (30) calendar days after receiving the finished work product for each Statement of Work. Promptly after receiving such notice of any discrepancies from the CUSTOMER, ARCHIVES will replace deficient work product with product that meets specifications and standards at no charge to the CUSTOMER. Any defects or errors communicated by the CUSTOMER to ARCHIVES after thirty (30) calendar days from the invoice date will incur additional costs.
3. Although each Statement of Work will include an estimated completion date as agreed upon by the parties, **ARCHIVES shall not be liable for delays in providing services to the CUSTOMER under this Agreement.**
4. Nothing in this Agreement shall constitute a guarantee by the CUSTOMER to provide a minimum amount of work or a promise to supply work to ARCHIVES.
5. All records must be delivered in boxes capable of holding their contents with the lid closed. This includes rolled or flat drawings. Boxes that are damaged, without lids, or weighing over 40lbs **will not be accepted**. Boxes may be weighed before transporting. ARCHIVES have archival quality boxes with attached lids for purchase. Imaging Services have staff available to box CUSTOMER documents on site for an hourly fee equal to the current ARCHIVES miscellaneous labor rate.

6. Washington State Microfilming Standards require certain information to be present on all microfilm. ARCHIVES will add pages to ensure compliance with the standards. CUSTOMER will be charged at a per page rate and project preparation rate.
7. CUSTOMER instructions that result in a suspension of work in progress will be charged the current ARCHIVES miscellaneous labor rate per each hour of downtime for shut down and restart. Once the project work begins, all questions submitted to the CUSTOMER must be answered expeditiously and no later than one (1) business day to avoid work stoppage.

II. TERMS AND TERMINATION

1. This Agreement shall take effect upon the signing of the last required signature. CUSTOMER agrees to comply with the RCW 39.34.040, if required. This Agreement shall remain in effect until May 31, 2009.
2. The CUSTOMER may extend this Agreement for up to two (2) additional two-year terms by providing a written notice to ARCHIVES any time before the termination date.
3. Either party may terminate this Agreement upon a thirty (30) calendar day written notice to the other party. In the event of termination of this Agreement, the terminating party shall be liable only for the performance rendered prior to the effective date of termination. The CUSTOMER shall pay ARCHIVES within thirty (30) calendar days of receipt of billing for services rendered.

III. COMPENSATION

1. The CUSTOMER will pay ARCHIVES for the services provided under this Agreement at the rates in effect at the time a request for work is received from the CUSTOMER and ARCHIVES creates a Statement of Work, which is approved by the CUSTOMER. ARCHIVES shall maintain the right to increase or decrease the cost of rendering service(s) under this Agreement throughout its lifetime upon a thirty (30) calendar day advance notice to the CUSTOMER, and the CUSTOMER has fifteen (15) calendar days to agree or terminate the Agreement.
2. ARCHIVES will send an itemized bill to the CUSTOMER each month that includes work done in the prior month's imaging services detailing charges by Statement of Work number and services provided. ARCHIVES shall submit invoices to the same address to which notice is sent.
3. The CUSTOMER shall make payment by checks, journal voucher, or credit card of amount due within thirty (30) calendar days after receiving a properly executed invoice. The CUSTOMER shall make checks payable to the Office of the Secretary of State and send payment so the Office of the Secretary of State, Financial and Support Services, P.O. Box 40224, Olympia, WA 98504-0224. **Payment must reference the Agreement number.**
4. Total services under this Agreement shall **not exceed \$50,000.00**. This amount can be increased by amendment to this Agreement.

IV. NOTICE

1. Any notice to be given under this Agreement shall be in writing and may be sent either by registered or certified mail, facsimile transmission, email, or personal delivery.
2. Any notice from ARCHIVES sent to the CUSTOMER shall be sent or delivered to:

Josie Delvin
Benton County Clerk
7122 W. Okanogan Place
Building A
Kennewick, WA 99336
Telephone Number: (509) 222-5600
Fax Number: (509) 783-1058
Email Address: josie.delvin@co.benton.wa.us

3. Any notice from the CUSTOMER sent to ARCHIVES shall be sent or delivered to:

Boyd Barber
Imaging and Preservation Services Manager
Office of the Secretary of State
Washington State Archives
6340 Capitol Blvd.
P.O. Box 40240
Tumwater, WA 98501
Telephone: (360) 586-9608
Fax Number: (360) 586-9602
Email Address: bbarber@secstate.wa.gov

4. Notice shall become effective upon delivery in person, three business days after posting by prepaid registered or certified mail, receipt by the sender of a successful facsimile transmission report, or receipt by the sender of an email read receipt, whichever occurs first.

V. RECORDS

The parties to this Agreement shall each maintain books, records, documents, and other evidence, which sufficiently and properly reflects all direct and indirect costs expended by either party in the performance of the service(s) described herein. These records shall be subject to inspection, review, or audit by personnel of both parties, or other personnel duly authorized by either party, the Office of the State Auditor, and federal officials authorized by law. All books, records, documents, and other material relevant to this Agreement will be retained for six (6) years after expiration and the Office of the State Auditor, federal auditors, and any persons duly authorized by the parties shall have full access and the right to examine any these materials during this period.

VI. GENERAL TERMS AND CONDITIONS

1. This Agreement shall not be assignable by either party without written consent of the other party.
2. The ownership of the documents or other items received from the CUSTOMER shall at all times remain the property of the CUSTOMER. The imaging or other products are the property of the ARCHIVES until payment has been made for the services rendered.

3. The service or product provided by this Agreement shall be either available for pickup or shipped from the ARCHIVES' facility at 711 Tumwater Boulevard SW, Tumwater, WA 98512.
4. Except as otherwise provided in this Agreement, when a bona fide dispute arises between ARCHIVES and the CUSTOMER, and it cannot be resolved by direct negotiation, either party may request a dispute hearing with the Secretary of State or the delegate authorized in writing to act on behalf of the Secretary of State.
 - A. The request for a dispute hearing must:
 - be in writing;
 - state the disputed issues(s);
 - state the relative positions of the parties;
 - state the party's name, address, and contract number; and
 - be mailed to the Secretary of State or delegate and party's (respondent's) Agreement Manager.
 - The respondent shall send a written answer to the requester's statement to both the Secretary of State or delegate and the requester within fifteen (15) business days.
 - B. The Secretary of State or delegate shall review the written statements and reply in writing to both parties within ten (10) business days. The Secretary of State or delegate may extend this period if necessary by notifying the parties.
 - C. The parties agree that this dispute process shall precede any action in a judicial or quasi-judicial tribunal.

Nothing in the Agreement shall be construed to limit the parties' choice of a mutually acceptable Alternate Dispute Resolution (ADR) method in addition to the dispute resolution procedure outline above.
5. This Agreement shall be construed and interpreted in accordance with the law of the State of Washington. The venue of any legal action brought hereunder shall be in the Superior Court for Thurston County.
6. Each party to this agreement shall be responsible for its own acts and/or omissions and those of its officers, employees and agents. No party to this agreement shall be responsible for the act and/or omissions of entities or individuals not a party to this agreement.
7. This Agreement may be modified only in writing by the parties executed with the same formalities required to execute this Agreement.
8. If any clause, phrase, sentence, or paragraph of this Agreement is declared invalid or void, the remaining provisions of this Agreement shall remain in full force and effect.
9. If any conflicts exist between the text of this Agreement and any Statement of Work, the Agreement shall prevail.

VII. AFFIRMATION OF AGREEMENT

The parties signing below hereby affirm that they have the authority to bind the respective parties to the terms of this Agreement. No other understanding, oral or otherwise, regarding the subject matter of this Agreement, shall be deemed to exist or to bind any of the parties. This Agreement, together with all of its attachments and subsequent Statement of Work constitutes the entire Agreement.

The parties have read and agree to the terms and conditions of this Agreement.

BENTON COUNTY CLERK

OFFICE OF THE SECRETARY OF STATE

[Handwritten Signature] 6-16-08
 Signature Date
Clerk
 Title

 State Archives Date
 Benton County Commissioner

Approved to Form.
Office of the Attorney General

 Signature

 Date

d

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF THE FIRST AMENDMENT TO THE SERVICE AGREEMENT BETWEEN BENTON COUNTY AND OXARC, INC. TO PROVIDE FIRE EXTINGUISHER SERVICES AT THE BENTON COUNTY JUSTICE CENTER AND BENTON COUNTY COURTHOUSE

WHEREAS, per resolution 07-717 dated October 8, 2007 the Board of Benton County Commissioners entered into a service agreement with Oxarc, Inc., Pasco, WA – Contractors License No. OXARCI*020QE for an amount not to exceed \$5,000 plus WSST per year to provide all supplies, labor and expertise necessary to inspect, test and service all fire extinguishers and fire suppression systems located in and at the Benton County Justice Center, Kennewick, WA and Benton County Courthouse, Prosser, WA for years 2008 through 2012; and

WHEREAS, the original proposal listed in the original service agreement as Exhibit “A” did not include an hourly rate for labor, which is estimated 30 hrs per year at \$85.00 per hour; and

WHEREAS, the Facilities Manager wishes to amend the service agreement and replace Exhibit “A” with Exhibit “C” as the revised proposal to the agreement and increase the amount not to exceed to \$8,000.00 plus WSST per year to cover any unexpected expense;
NOW, THEREFORE

BE IT RESOLVED, by the Board of Benton County Commissioners, Benton County, Washington the Board hereby approves the amendment to the service agreement with Oxarc, Inc., increasing the contract amount not to exceed \$8,000.00 plus WSST per year and keeping all other provisions within the original contract the same; and

BE IT FURTHER RESOLVED, the Board hereby authorizes the Chairman of the Board to sign said amendment attached hereto.

Dated this day of, 20....

Chairman of the Board

Chairman Pro-Tem

Member

Attest:
Clerk of the Board

Constituting the Board of County
Commissioners of Benton County,
Washington

SERVICE AGREEMENT AMENDMENT

THIS AGREEMENT, made and entered into this _____ day of _____, 2008 by and between **BENTON COUNTY, WASHINGTON** hereinafter called "COUNTY" and **OXARC, INC**, 716 South Oregon Ave., Pasco, WA 99301, hereinafter called "CONTRACTOR".

WHEREAS, the parties entered into a service agreement dated October 8, 2007 (the "AGREEMENT") to provide all supplies, labor and expertise necessary to inspect, test and service all fire extinguishers and fire suppression systems located in and at the Benton County Justice Center. This will include recharge and replacement of extinguishers and hoses for the Benton County Justice Center, 7122 W. Okanogan Place, Kennewick, WA and Benton County Courthouse, 620 Market Street, Prosser, WA 99350; and

WHEREAS, services shall be substantially complete by December 31, 2012. Prices indicated in the contractor's attached proposal as Exhibit "A" are for rates for 2008 through 2012. Price rates for hose replacement are subject to change January 1, 2010, and will only be approved with an amendment to this contract; and

WHEREAS, the maximum total amount payable by the COUNTY to the CONTRACTOR under said AGREEMENT shall not exceed five thousand dollars, (\$5,000.00) plus W.S.S.T.; and

WHEREAS, the original proposal listed in the AGREEMENT as Exhibit "A" did not include an hourly rate for labor, which is estimated 30 hrs per year at \$85.00 per hour; and

WHEREAS, the COUNTY wishes to amend the AGREEMENT and replace Exhibit "A" with Exhibit "C" as the revised proposal to the AGREEMENT and increase the amount not to exceed to eight thousand dollars, (\$8,000.00) plus W.S.S.T. to cover any unexpected expense; **NOW, THEREFORE**

BE IT RESOLVED in consideration of the provisions and agreements set forth herein, the parties agree as follows:

1. Paragraph 5 of the AGREEMENT shall be replaced with the following:

Compensation

The CONTRACTOR shall be paid in accordance with the proposal provided in Exhibit "C" attached hereto. The total amount payable by the COUNTY to the CONTRACTOR under this AGREEMENT is not to exceed eight thousand dollars and zero cents (\$8,000.00) not including W.S.S.T. Prior to any compensation being paid, CONTRACTOR shall submit a Statement of Intent to Pay Prevailing Wages in a form approved and certified by the Washington State Department of Labor and Industries directly to COUNTY's contract representative. At the completion of the work

Orig.: File – Lisa Small

cc: Auditors; R. Ozuna; Facilities; Oxarc, Inc.

contemplated herein, CONTRACTOR shall submit an affidavit of wages paid in compliance with prevailing wage requirements, pre-certified by the Department of Labor and Industries, directly to COUNTY's contract representative. Such affidavit shall be in a form approved by the Washington State Department of Labor and Industries. No final payment will be made until such affidavit is provided.

2. All other terms and conditions of the AGREEMENT shall remain the same.

IN WITNESS WHEREOF the Chairman of the Board of the Benton County Commissioners has executed this Contract Amendment on behalf of the County, and the Contractor has executed this Contract, on the day and year first above written.

BENTON COUNTY

OXARC, INC.

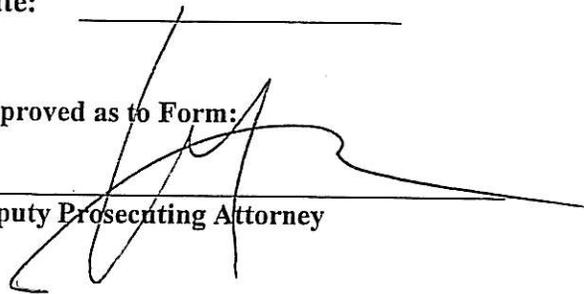
Claude Oliver, Chairman

Mark Caprey, Fire Division Manager

Date: _____

Date: _____

Approved as to Form:



Deputy Prosecuting Attorney

Date: _____



Exhibit "C"

716 South Oregon Avenue
Pasco, WA 99301
509/547-2494
509/547-3103
1-800-367-2112

October 23, 2007

Benton County Courthouse

ATTENTION: Steve

Fire Extinguisher service, recharge and replacement prices for 2008 through 2012

Benton County Courthouse: Not to exceed \$1200.00 per year.

Benton County Jail: Not to exceed \$800.00 per year

Benton County Jail Suppression system: Not to exceed \$600.00 per year

Prosser Courthouse: Not to exceed \$550.00 per year

Fire hose replacement prices for 2008 and 2009:

\$1000.00 per year

\$ 99.50 per link

Fire Extinguisher Labor: \$85.00 per hour: 30 hours per year

Any questions please feel free to contact me at 509/727-8037.

Sincerely

Tom Roueche
Fire Technician

A handwritten signature in black ink, appearing to read "Tom Roueche", with a long, sweeping flourish extending to the right.



RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF THE FIRST AMENDMENT TO THE SERVICE AGREEMENT BETWEEN BENTON COUNTY AND MRP SERVICES FOR "AS NEEDED" PLUMBING SERVICES FOR ALL BENTON COUNTY FACILITY LOCATIONS; AMENDING RESOLUTION 08-329

WHEREAS, per resolution 08-329 dated February 25, 2008 the Board of Benton County Commissioners entered into a service agreement with MRP Services, Portland, OR – Washington Contractors License No. METRORP044KW in the amount \$8,000.00 excluding WSST for "as needed" plumbing services for all Benton County facility locations; and

WHEREAS, said agreement is to be in accordance with the price quote attached to the original contract with a contract amount not to exceed \$8,000.00 excluding WSST; and

WHEREAS, Benton County has had to utilize MRP Services for "as needed" plumbing services more than expected and has exhausted the \$8,000.00 to date; and

WHEREAS, the Facilities Manager recommends increasing the contract amount an additional \$12,000.00 for a total contract amount not to exceed \$20,000.00 excluding WSST; **NOW, THEREFORE**

BE IT RESOLVED, by the Board of Benton County Commissioners, Benton County, Washington, the Board hereby approves the amendment to the service agreement with MRP Services, increasing the contact amount to not exceed \$20,000.00; keeping all other provisions within the original contract the same; and

BE IT FURTHER RESOLVED, the Board hereby authorizes the Chairman of the Board to sign the service agreement amendment attached hereto.

Dated this day of, 20....

Chairman of the Board

Chairman Pro-Tem

Member

Attest:
Clerk of the Board

Constituting the Board of County
Commissioners of Benton County,
Washington

Orig: File – Lisa Small
cc: Auditor; R. Ozuna, Facilities, Fairgrounds; K. Mercer; MRP Services

FIRST SERVICE AGREEMENT AMENDMENT

THIS AGREEMENT, made and entered into this _____ day of June, 2008 by and between **BENTON COUNTY, WASHINGTON** hereinafter called "COUNTY" and **MRP SERVICES**, Portland, OR 97292 – Contractors Lic. #METRORP044KW a firm licensed to do business in the State of Washington, hereinafter called "CONTRACTOR".

The parties entered into a Service Agreement dated February 25, 2008 (the "AGREEMENT") to provide "as needed" plumbing services for all of Benton County facility locations in accordance with the CONTRACTORS 2007 price list; and

The AGREEMENT specifies the total amount payable by the COUNTY to the CONTRACTOR under said agreement is an amount not to exceed eight thousand dollars and zero cents (\$8,000.00) exclusive of WSST; and

WHEREAS, the "as needed" services that has been performed by the CONTRACTOR has already exhausted the \$8,000.00 contract and the Facilities Manager would like to amend the current contract to increase the not to exceed amount to twenty thousand dollars and zero cents (\$20,000.00) exclusive of WSST.

The parties agree that all provisions of their amended agreement remain in effect except for the following amendments:

1. COMPENSATION the existing paragraph shall be replaced in its entirety with the following:

The CONTRACTOR shall be paid in accordance with the proposal provided in Exhibit A attached hereto. The total amount payable by the COUNTY to the CONTRACTOR under this agreement is twenty thousand dollars and zero cents (\$20,000.00) not including W.S.S.T. PROVIDED that no individual project covered by this agreement shall exceed ten thousand dollars (\$10,000) in cost.

Prior to any compensation being paid, CONTRACTOR shall submit a Statement of Intent to Pay Prevailing Wages in a form approved and certified by the Washington State Department of Labor and Industries directly to COUNTY's contract representative. At the completion of the work contemplated herein, CONTRACTOR shall submit an affidavit of wages paid in compliance with prevailing wage requirements, pre-certified by the Department of Labor and Industries, directly to COUNTY's contract representative. Such affidavit shall be in a form approved by the Washington State Department of Labor and Industries. No final payment and no release of retainage or performance bond will be made until such affidavit is provided.

- This portion intentionally left blank -

IN WITNESS WHEREOF the Chairman of the Board of the Benton County Commissioners has executed this Contract Amendment on behalf of the County, and the Contractor has executed this Contract, on the day and year first above written.

BENTON COUNTY

MRP SERVICES

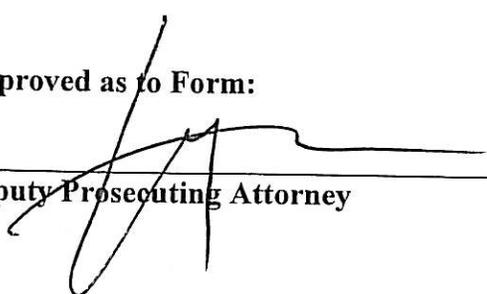
Claude Oliver, Chairman

Charles Wuerpel, General Manager

Date: _____

Date: _____

Approved as to Form:



Deputy Prosecuting Attorney

Date: _____

f

AGENDA ITEM: Consent		TYPE OF ACTION		CONSENT AGENDA <u>xx</u> PUBLIC HEARING 1ST DISCUSSION 2ND DISCUSSION OTHER
MEETING DATE: B/C 00-00-08 F/C 00-00-08		NEEDED		
SUBJECT: Agreement 108324-001 between WSU and BFJJC for the evaluation of the Family Treatment Drug Court		Executive Contract	<u>xx</u>	
Prepared By:	Kathryn M. Phillips	Pass Resolution	<u>xx</u>	
Reviewed By:	Sharon Paradis	Pass Ordinance		
		Pass Motion		
		Other		

BACKGROUND INFORMATION

The Benton-Franklin Juvenile Justice Center received funding to administer a Federal Family Dependency Treatment Court Program for the period of October 1, 2005 through September 30, 2008. As a research-based program/grant it requires a natural third party to research and report progress and outcomes. This Research Agreement allows Washington State University to conduct said research.

SUMMARY

The term of this Agreement is three years, May 1, 2008, through September 30, 2008. The Federal Juvenile Drug Court Grant covers all direct costs and Washington State University has also agreed to match funds as outlined in the Agreement.

RECOMMENDATION

I recommend that the Boards of County sign the Research Agreement between the BFJJC and Washington State University to conduct and report progress and outcomes related to the Federal Juvenile Drug Court Grant.

FISCAL IMPACT

The Federal Family Dependency Treatment Court Grant covers costs associated (except WSU match). This is an expenditure reimbursement grant. There is no fiscal impact to the Counties.

MOTION

I move that the Chairman of the Board of Benton County Commissioners and the Chairman of the Board of Franklin County Commissioners be hereby authorized to sign, on behalf of their respective county, the Research Agreement between the Juvenile Justice Center and Washington State University, for the period commencing May 1, 2008 and terminating September 30, 2008.

JOINT RESOLUTION

BENTON COUNTY RESOLUTION NO. _____

FRANKLIN COUNTY RESOLUTION NO. _____

BEFORE THE BOARDS OF THE COMMISSIONERS OF BENTON AND FRANKLIN COUNTIES, WASHINGTON;

IN THE MATTER OF THE REQUEST FOR SIGNATURE FROM THE CHAIRMAN OF THE BOARDS OF BENTON AND FRANKLIN COUNTY COMMISSIONERS ON THE PERSONAL SERVICES CONTRACT BETWEEN THE JUVENILE JUSTICE CENTER AND WASHINGTON STATE UNIVERSITY, and

WHEREAS, Sharon A. Paradis, Administrator of the Juvenile Court, believes it is in the best interest of the Juvenile Justice Center that the Personal Services Contract between Washington State University and Benton-Franklin Counties Juvenile Justice Center be approved as presented for a term commencing May 1, 2008 and terminating on September 30, 2008, **NOW, THEREFORE**

BE IT RESOLVED, that the Chairman of the Board of Benton County Commissioners and the Chairman of the Board of Franklin County Commissioners be and they hereby are authorized to sign, on behalf of their respective county, the Personal Services Contract.

DATED this 23rd day of June 2008
BENTON COUNTY BOARD OF COMMISSIONERS

DATED this 30th day of June 2008
FRANKLIN COUNTY BOARD OF COMMISSIONERS

Chairman of the Board

Chairman of the Board

Member

Chairman Pro Tem

Member

Constituting the Board of
County Commissioners,
Benton County, Washington

Attest:

Member

Constituting the Board of
County Commissioners,
Franklin County, Washington

Attest:

Clerk of the Board

Clerk of the Board



SPONSORED PROJECT AGREEMENT
OGRD #108324-001

I. PARTIES

1.1 THIS AGREEMENT is made and entered into by and between Washington State University (WSU), an institution of higher education and an agency of the state of Washington, and BENTON COUNTY, a political subdivision, with its principal offices at 620 Market Street, Prosser, WA 99350 and FRANKLIN COUNTY, a political subdivision, with its principal offices at 1016 North Fourth Avenue, Pasco, WA 99301, by and for the Benton-Franklin Counties Juvenile Justice Center, a bi-county agency located at 5606 W. Canal Place STE 106, Kennewick, WA 99336 (SPONSOR). In this Agreement, the above entities are jointly referred to as PARTIES.

II. PURPOSE

- 2.1 This Agreement provides the terms and conditions for a sponsored project that is of mutual interest and benefit to WSU and SPONSOR.
- 2.2 The performance of such sponsored project, is consistent, compatible and beneficial to the academic role and mission of WSU as an institution of higher education.

III. DEFINITIONS

- 3.1 "Budget" shall mean the Project Budget contained in *Attachment B-Budget*, which is hereby incorporated by reference.
- 3.2 "Project Director" shall be Faith Lutze.
- 3.3 "Sponsor Liaison" shall be Daryl Banks, a SPONSOR employee designated by SPONSOR to be the primary contact with the Project Director.
- 3.4 "SCOPE OF WORK" shall mean the sponsored project, under the direction of the Project Director, described in *Attachment A-Scope of Work*, *Attachment B-Budget* and any other attachments that may provide additional information on the sponsored project to be performed.
- 3.5 "Confidential Information" shall mean information in written, graphic, oral or other tangible form protected by trade secret or other right of non-disclosure,

including without limitation algorithms, formulae, techniques, improvements, technical drawings and data, and computer software.

- 3.6 "Intellectual Property" shall mean any Invention, Copyright, Trademark and/or Proprietary Information produced under the Scope of Work.
- 3.7 "Invention" shall mean certain inventions and/or discoveries conceived and/or reduced to practice in performance of the Scope of Work and resulting patents, divisionals, continuations, or substitutions of such applications, all reissues and foreign counterparts thereof, upon which a WSU employee or agent is a named inventor.
- 3.8 "Invention Disclosure(s)" shall mean a written disclosure of a potentially patentable Invention(s) provided to WSU's Office of Intellectual Property Administration.
- 3.9 "Copyright" shall mean any work developed under the Scope of Work that is subject to copyright under copyright law.
- 3.10 "Proprietary Information" means all data, sequences, and any other information obtained or developed during the course of the Scope of Work.
- 3.11 "Trademark" shall mean any trade or service marks developed under the Scope of Work whether or not registered under either state or federal trademark law.

IV. SCOPE OF WORK

- 4.1 SPONSOR acknowledges that this Agreement is for the performance of the SCOPE OF WORK, as defined in Article 3.4 of this Agreement, for the "Drug Court Treatment Process Evaluation" project.
- 4.2 WSU agrees to use its reasonable best efforts to perform the SCOPE OF WORK. WSU does not represent or guarantee that the desired results will be obtained from the research performed under this Agreement.
- 4.3 Reporting Requirements.
 - 4.3.1 Final Report. A final written report shall be furnished to SPONSOR within 60 days of the completion of the Contract Term.

V. GENERAL TERMS AND CONDITIONS

In consideration of the mutual premises and covenants contained herein, the PARTIES agree to the following terms and conditions.

- 5.1 Period of Performance – Contract Term. The specific period of performance for the SCOPE OF WORK shall be 01-May-2008 to 30-September-2008 unless a time extension is mutually agreed upon in writing between the PARTIES in accordance with Article 5.18–Amendments. WSU shall complete all work under this Agreement no later than the end of the contract term.

5.2 Funding. SPONSOR agrees to reimburse WSU for services performed under this Agreement in the amount of up to a maximum of Eight Thousand Dollars (\$8,000.00) total, in accordance with the following payment schedule:
As invoiced

5.3 Project Budget. Attachment B--Budget sets forth the Project Budget. Deviations from this Project Budget may be made to and from any expenditure object within the WSU system as long as such deviation is reasonable and necessary in the pursuit of the SCOPE OF WORK. The total amount identified above may not be exceeded without prior written amendment to this Agreement signed by the PARTIES in accordance with Article 5.18--Amendments.

5.4 Invoices. Periodic invoices will be provided, in accordance with Article 5.2, but not more often than monthly, using the standard WSU invoice. Payments are due to WSU within forty-five (45) days from the WSU invoice date. Checks should be made payable to Washington State WSU and sent to: Washington State University, Cashier's Office – SPS, PO Box 641027, Pullman WA 99164-1027.

Invoices should be sent to:

Name/Title: Benton-Franklin Counties Juvenile Justice Center
Phone: 509.783.2151
Address: 5606 W Canal PL STE 106 Fax: 509.736.2728
City/State/Zip: Kennewick, WA 99336-1388

5.5 Equipment. WSU shall retain title to any equipment purchased with funds provided by SPONSOR under this Agreement.

5.6 Key Personnel. The Project Director may select and supervise other project staff as needed to perform the SCOPE OF WORK. No other person will be substituted for the Project Director except with SPONSOR's approval. SPONSOR may exercise Termination for Convenience provisions of this Agreement if a satisfactory substitute is not identified.

5.7 Control of Scope of Work. The control of the SCOPE OF WORK rests entirely with WSU. However, the PARTIES agree that WSU, through its Project Director, shall maintain communication with the designated liaison for SPONSOR. WSU's Project Director and SPONSOR's Liaison shall mutually define the frequency and nature of these communications.

5.8 Confidential Information.

5.8.1 To the extent allowed by law, WSU and SPONSOR agree to use reasonable care to avoid unauthorized disclosure of Confidential Information, including without limitation taking measures to prevent creating a premature bar to a United States or foreign patent application. Each party will limit access to Confidential Information received from another party hereto to those persons having a need to know. Each party shall employ the same reasonable safeguards in receiving, storing, transmitting, and using Confidential Information that prudent

- › organizations normally exercise with respect to their own confidential information of significant value.
- 5.8.2 Confidential Information shall include written, graphic, or oral communication. Confidential Information shall not be disclosed by the receiving party to a third party for a period of five (5) years from receipt of such information or until a patent is published or the Confidential Information is published by the disclosing party, or unless the disclosing and receiving parties agree otherwise and in writing at the time of disclosure. Third parties shall include all governmental offices.
- 5.8.3 The terms of confidentiality set forth in this Agreement shall not be construed to limit the parties' right to independently develop products without the use of another party's Confidential Information.
- 5.8.4 Confidential Information shall not include information that:
 - 5.8.4.1 was in the receiving party's possession prior to receipt of the disclosed information;
 - 5.8.4.2 is or becomes a matter of public knowledge through no fault of the receiving party;
 - 5.8.4.3 is received from a third party without a duty of confidentiality;
 - 5.8.4.4 is independently developed by the receiving party;
 - 5.8.4.5 is required to be disclosed under operation of law;
 - 5.8.4.6 is reasonably ascertained by WSU or SPONSOR to create a risk to a trial subject or to public health and safety.
- 5.8.5 It is understood that both parties are subject to Washington State laws and regulations including the Washington Public Disclosure Act, RCW 42.56 et seq. (<http://apps.leg.wa.gov/RCW/default.aspx?cite=42.56>). If a Public Disclosure Act request is made to view a party's Confidential Information, and the Public Records Officer for the party receiving the records request either determines that no exemption to disclosure applies or is unable to determine whether an exemption to disclosure applies, the party receiving the records request will notify the other party of the request and the date that such records will be released to the requester unless the other party obtains a court order enjoining that disclosure. If the other party fails to obtain a court order enjoining disclosure, the party receiving the records request will release the requested information on the date specified.
- 5.9 Publication. WSU reserves the right to publish or permit to be published by WSU employees the results of the SCOPE OF WORK undertaken by WSU employees. To prevent untimely disclosure or exploitation of SPONSOR Confidential Information, WSU shall provide SPONSOR Liaison with a copy of any proposed publication resulting from the SCOPE OF WORK at least thirty (30) days prior to submission for publication. SPONSOR shall have thirty (30) days (the "Pre-publication Review Period") from receipt of the draft to review the proposed publication. If SPONSOR determines that SPONSOR Confidential Information is included in the proposed publication, WSU will at SPONSOR's request remove such SPONSOR Confidential Information prior to submission for publication. If

the proposed draft publication contains SPONSOR Confidential Information, the SPONSOR may request that WSU's submission of the draft for publication be delayed for up to sixty (60) days beyond the end of the Pre-publication Review Period. If SPONSOR seeks to delay publication, SPONSOR shall make such request in writing prior to the expiration of the Pre-publication Review Period together with identification of the information or materials of concern and reasons why delay is warranted. WSU may delay publication by ninety (90) days to allow WSU or SPONSOR, as the case may be, to seek patent protection or a court order.

- 5.10 Publicity. SPONSOR shall not include the name of Washington State WSU, Washington State WSU Research Foundation or any of either entity's Trademarks in any advertising, sales promotion, or other publicity matter without prior written approval of the President of WSU or his or her designee.
- 5.11 Termination for Convenience. This Agreement may be terminated by either party hereto upon written notice delivered to the other party at least thirty (30) days prior to the intended date of termination. By such termination, neither party may nullify obligations already incurred prior to the date of termination. In the event of Termination for Convenience of this Agreement by SPONSOR, SPONSOR shall pay all reasonable costs and non-cancelable obligations incurred by WSU as of the date of termination up to the total maximum amount identified in Article 5.2.
- 5.12 Termination for Cause. In the event either party shall commit any material breach of or default in any terms or conditions of this Agreement, and also shall fail to remedy such default or breach within sixty (60) days after receipt of written notice thereof, the non-breaching party may, at its option and in addition to any other remedies that it may have at law or in equity, terminate this Agreement by sending notice of termination in writing to the other party to that effect. Termination shall be effective as of the day of receipt of such notice.
- 5.13 Termination Obligations. In addition to those obligations set out in Articles 5.11 and 5.12, termination of this Agreement shall not relieve either party of any obligations incurred prior to the date of termination including, but not limited to, any obligation of the SPONSOR to pay the option fee set forth in Article 5.16.
- 5.14 Dispute Resolution. Except as otherwise provided in this Agreement, when a dispute arises between the PARTIES and it cannot be resolved by direct negotiation, either party may request a dispute resolution panel (DRP). A request for a DRP must be in writing, state the disputed issues(s), state the relative positions of the PARTIES and be sent to all PARTIES. PARTIES must provide a response within thirty (30) days unless the PARTIES mutually agree to an extension of time. Each party shall designate a representative. The representatives shall mutually select an additional member. The DRP shall evaluate the facts, Agreement terms, and applicable statutes and rules and make a determination by majority vote. The decision is binding on the PARTIES.

Nothing in this Agreement shall be construed to limit the PARTIES' choice of a mutually acceptable dispute resolution method in addition to or in lieu of the dispute resolution procedure outlined above.

- 5.15 Disclaimer. WSU MAKES NO EXPRESS OR IMPLIED WARRANTY AS TO THE CONDITIONS OF THE SCOPE OF WORK, SPONSORED PROJECT OR ANY INTELLECTUAL PROPERTY, GENERATED INFORMATION, OR PRODUCT MADE OR DEVELOPED UNDER THIS AGREEMENT, OR THE OWNERSHIP, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE OF THE SPONSORED PROJECT, SCOPE OF WORK, OR RESULTING PRODUCT.
- 5.16 Intellectual Property.
- 5.16.1 WSU Intellectual Property. WSU shall own all rights and title to Intellectual Property created solely by WSU employees.
- 5.16.2 SPONSOR Intellectual Property. SPONSOR shall own all rights and title to Intellectual Property created solely by SPONSOR and without use of WSU resources under this Agreement.
- 5.16.3 Joint Intellectual Property. WSU and SPONSOR shall jointly own all rights and title to Intellectual Property made jointly by WSU and SPONSOR pursuant to this Agreement.
- 5.16.4 Consistent with WSU policy, WSU may assign Intellectual Property to the Washington State WSU Research Foundation ("WSURF"). For purposes of this Article 5.16, WSU shall mean either WSU or WSURF for Intellectual Property assigned to it.
- 5.16.5 WSU hereby grants to SPONSOR an option to negotiate a license to WSU Intellectual Property and/or WSU's ownership interest in Joint Intellectual Property (Option Rights). WSU shall notify SPONSOR of such Intellectual Property within thirty (30) days of WSU's Office of Intellectual Property Administration's receipt of WSU Invention Disclosure forms from WSU inventors. SPONSOR shall, within ninety (90) days of receipt of such notification from WSU (the Option Period), indicate to WSU in writing its intent to negotiate a license. Upon receipt, by WSU, of SPONSOR's notification of its intent to negotiate a license and as consideration for these Option Rights, SPONSOR shall pay a non-refundable fee of Seven Thousand Five Hundred dollars (\$7,500) to WSURF within sixty (60) days of WSURF's submission of an invoice to SPONSOR. In the event that SPONSOR exercises its option, the PARTIES shall negotiate the license terms in good faith. The license shall contain terms standard for agreements between universities and industry including, without limitation, clauses providing for payment of reasonable royalties and other compensation to WSU; reimbursement of WSU for all past, present, and future expenses incurred in the preparation, filing, prosecution, issuance, and maintenance of Intellectual Property rights; and product liability indemnification and insurance requirements that are acceptable to WSU. In the event that WSU and SPONSOR do not execute a written license agreement for the Option Rights within 180 days following SPONSOR's exercise of the option (the "Negotiation Period"), WSU shall be free to negotiate with and to enter into license agreements, including exclusive license agreements, with third parties for the Options Rights.

- 5.16.6 Invention Disclosures submitted to SPONSOR by WSU are regarded by WSU as confidential. SPONSOR shall not disclose any information contained in Invention Disclosures to any third party without WSU's prior written permission.
- 5.16.7 If SPONSOR declines to enter into a license with WSU under this Article, SPONSOR agrees for itself, its employees, successors, and assigns to be bound by a secrecy obligation for five (5) years with respect to information contained in the Invention Disclosure.
- 5.16.8 WSU hereby grants to SPONSOR a royalty-free license to use Copyrights, with the exception of copyrighted software, for its non-commercial use. WSU hereby grants to SPONSOR the right to negotiate a license for commercial use of Copyrights on reasonable terms and conditions, including a reasonable royalty, as the PARTIES hereto agree in a subsequent writing.
- 5.16.9 SPONSOR understands that WSU must comply with the provisions of US Patent law, including the Bayh-Dole Act.
- 5.17 Indemnity. Each party to this Agreement shall be responsible for its own acts and/or omissions and those of its officers, employees and agents. SPONSOR shall fully indemnify and hold harmless WSU against all claims arising out of SPONSOR's use, commercialization, or distribution of Intellectual Property or products that result in whole or in part from the Scope of Work.
- 5.18 Amendments. This Agreement may be amended by mutual agreement of the PARTIES. Such amendments shall not be binding unless they are in writing and signed by personnel authorized to bind each of the PARTIES.
- 5.19 Assignment.
- 5.19.1 The work to be provided under this Agreement, and any claim arising hereunder, is not assignable or delegable by either party in whole or in part, without the express prior written consent of the other party, which consent shall not be unreasonably withheld.
- 5.19.2 Notwithstanding the foregoing, and consistent with WSU policy, SPONSOR agrees that WSU may assign any Inventions, Copyrights, or Trademarks developed under this Agreement to the Washington State WSU Research Foundation.
- 5.20 Notices. Any notice or communication required or permitted under this Agreement shall be delivered by overnight courier, or by registered or certified mail, postage prepaid and addressed to the party to receive such notice at the address given below or such other address as may hereafter be designated by notice in writing. Notice given hereunder shall be effective as of the date of receipt of such notice:

WSU:

Name/Title: Dan Nordquist, Director OGRD
Address: 423 Neill Hall
Address: PO Box 643140
City/State/Zip: Pullman, WA 99164-3140

Phone: (509) 335-9661
Fax: (509) 335-1676
E-mail: ogrd@wsu.edu

Sponsor:

Name/Title: Darryl Banks, Community Supervision Services Manager
Phone: 509.783.2151
Address: 5606 W Canal PL STE 106
City/State/Zip: Kennewick, WA 99336-1388
E-mail: darryl.banks@co.benton.wa.us

Fax: 509.783.2728

- 5.21 Governing Law. This Agreement shall be construed and interpreted in accordance with the laws of the state of Washington and the venue of any action brought hereunder shall be in the Superior Court of Whitman County.
- 5.22 Compliance with Laws. SPONSOR understands that WSU and SPONSOR are subject to United States laws and federal regulations, including the export of technical data, computer software, laboratory prototypes and other commodities (including the Arms Export Control Act, as amended, and the Export Administration Act of 1979), and that SPONSOR's and WSU's obligations hereunder are contingent upon compliance with applicable United States laws and regulations, including those for export control. The transfer of certain technical data and commodities may require a license from a cognizant agency of the United States Government and/or a written assurance by SPONSOR that SPONSOR shall not transfer data or commodities to certain foreign countries without prior approval of an appropriate agency of the United States Government. Neither WSU nor SPONSOR represent that a license shall not be required, or that, if required, it will be issued.
- 5.23 Severability. If any provision of this Agreement or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this Agreement that can be given effect without the invalid provision, if such remainder conforms to the requirements of applicable law and the fundamental purpose of this Agreement, and to this end the provisions of this Agreement are declared to be severable.
- 5.24 Order of Precedence. In the event of an inconsistency in this Agreement, the inconsistency shall be resolved by giving precedence in the following order:
1. Applicable statutes and regulations;
 2. Terms and Conditions contained in the basic Agreement;
 3. *Attachment A-Scope of Work*;
 4. *Attachment B-Budget*;
 5. Any other attachments; and
 6. Any other provisions incorporated by reference or otherwise into this Agreement.

This Agreement contains all the terms and conditions agreed upon by the PARTIES. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the PARTIES hereto.

IN WITNESS WHEREOF, the PARTIES hereto have caused this Agreement to be executed as of the date set forth herein by their duly authorized representatives.

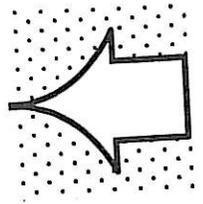
WASHINGTON STATE UNIVERSITY

SPONSOR

Nancy Shupe
 Name: Dan Nordquist
 Title: Director, OGRD
 Date: 6/11/08

Thomas A. Parrott
 Name: _____
 Title: _____
 Date: _____

Benton County Approval	Franklin County Approval
Approved as to Form: <i>SPM</i> 6/11/08 Sarah Perry, Deputy Prosecuting Attorney Date	Approved as to Form: Agreed Review Performed by Benton County Ryan Verhulp, Civil Deputy Prosecuting Attorney Date
By: _____ Name: Leo M. Bowman <i>Claude S. Oliver</i> Title: <u>Chairman, Board of Commissioners</u> Date: _____	By: _____ Name: <u>Robert E. Koch</u> Title: <u>Chairman, Board of Commissioners</u> Date: _____
Attest: Clerk of the Board: _____	Attest: Clerk of the Board: _____



ATTACHMENT A – SCOPE OF WORK
OGRD # 108474-002
(See Article 3.4)

Description:

The study will implement a multi-method approach to the evaluation of drug and alcohol treatment programs and providers available to clients of the Family Treatment Drug Court (FTDC). First, interviews will be conducted with the administrators of each treatment provider to determine what approaches are utilized and available to clients. Second, a representative sample of treatment program offerings will be observed by researchers from Washington State University (WSU) to measure the program content. Third, front-line treatment professionals will be surveyed or interviewed about their treatment expectations and experiences with local providers.

ATTACHMENT B – BUDGET

OGRD # 108474-002

(See Articles 3.1, 3.4 and 5.3)

Salaries	\$	
Wages	\$	<u>5,712</u>
Fringe Benefits	\$	<u>137</u>
Domestic Travel	\$	<u>500</u>
Foreign Travel	\$	
Materials/Supplies	\$	
Services	\$	
Equipment	\$	
Total Direct Costs	\$	<u>6,349</u>
F&A/Overhead/Indirect Costs [26% MTDC]	\$	<u>1,651</u>
Total Costs	\$	<u>8,000</u>

9

RESOLUTION

BENTON COUNTY RESOLUTION NO. _____

BEFORE THE BOARD OF THE COMMISSIONERS OF BENTON COUNTY, WASHINGTON;

IN THE MATTER OF COUNTY FUNDS RE: TRANSFER OF FUNDS WITHIN JUVENILE FUND NUMBER 0115-101, DEPARTMENT NUMBER 174, GRANT REIMBURSEMENT, and

BE IT RESOLVED, by the Board of Benton County Commissioners that funds shall be transferred as outlined in Exhibit "A", attached hereto.

DATED at Prosser, Washington, this 23rd day of June 2008.

Chairman ,

ATTEST:

Member

Clerk of the Board

Member
Constituting the Board of County Commissioners for Benton County, Washington

BENTON COUNTY LINE ITEM TRANSFER

EXHIBIT "A"

Dept Name: Juvenile Dept Nbr: 174
 Fund Name: Grants Fund Nbr: 0115-101

TRANSFER FROM:

BASE SUB (6 digit)	LINE ITEM (4 digit)	LINE ITEM NAME	AMOUNT	BASE SUB (6 digit)	LINE ITEM (4 digit)	LINE ITEM NAME	AMOUNT
527-400	4103	Professional Services	\$3,810.00	527-400	9305	Computer Hrdwre & Sftware	\$3,810.00
TOTAL			\$3,810.00	TOTAL			\$3,810.00

This line item transfer is associated with Resolution 08 559, dated 6/2/08 whereas Central Services has requested a supplemental appropriation to the 2008 budget for purchase of grant specific hardware. In an effort to remain in compliance with the requirements of our grants as we near the end of our grant fiscal year, it is necessary to reallocate funds to maximize on those various Grants. This line item transfer does not change the scope of any Grant, however it simply allows us to better utilize Grant funding through the end of the grant fiscal year to purchase a much needed laptop computer and Laser Jet printer for those specific grants.

Prepared by Jennifer Bowe Date 6/11/08
 Administrative Services Manager
 Authorized by Sharon Paradis Date 6/11/08
 Sharon Paradis, Administrator

BENTON COUNTY

Approved Denied

 Chairman

 Member

 Member

RESOLUTION

**BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY,
WASHINGTON:**

IN THE MATTER OF COUNTY ROADS, RE: ENGINEER'S REPORT FOR PIERT ROAD

WHEREAS, Benton County has entered into a contract with J-U-B Engineers, Inc. of Kennewick, Washington to prepare and Engineer's Report in accordance with RCW 36.81 for Piert Road, which begins near the intersection of Piert Road and SR 397 and runs northerly to intersect with Bowles Road near Agrium, and

WHEREAS, the Public Works Director has reported that the Engineer's Report has been completed and has given a preliminary report to the Board, and

WHEREAS, a Public Hearing is necessary to determine whether or not to establish the road alignment, NOW, THEREFORE

BE IT RESOLVED that a Public Hearing on the proposed establishment of Piert Road be held Monday, July 7, 2008 at 9:20 a.m. in the Board Meeting Room, Benton County Courthouse, 620 Market Street, Prosser, Washington.

Dated this 23rd day of June 2008.

Chairman

Chairman Pro-Tem

Member

Attest: _____
Clerk of the Board

Constituting the Board of County
Commissioners of Benton County,
Washington

RBD:SWB

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF COUNTY ROADS RE:, C.E. 1909 SMP - PAVEMENT MARKING-2008

WHEREAS, by resolution dated June 9, 2008, award was made to Stripe Rite, Inc., Sumner, Washington for C.E. 1909 SMP - PAVEMENT MARKING- 2008; and

WHEREAS, the contract in the amount of \$189,996.00 has been executed by Stripe Rite, Inc., Sumner, Washington; NOW, THEREFORE,

BE IT RESOLVED that the Board hereby authorizes the Chairman of the Board of County Commissioners to sign said contract for and on behalf of Benton County.

Dated this 23rd day of June, 2008.

Chairman of the Board.

Chairman Pro-Tem.

Member.

Attest: _____
Clerk of the Board

Constituting the Board of County
Commissioners of Benton County,
Washington.

RBD:LJM:dlh

RESOLUTION

K

**BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY,
WASHINGTON:**

IN THE MATTER OF COUNTY ROADS, RE: PLAT ROADS FOR COUNTRY MEADOW
HEIGHTS, CE 1892 CRP,

WHEREAS, plans and specifications for the above referenced project, having been signed by the
County Engineer, are hereby presented for approval to the Board of County Commissioners;
NOW, THEREFORE

BE IT RESOLVED that the plans be and hereby are approved and that the Chairman is
authorized to sign Sheet One of Nine and also Sheet Eight of Nine for Country Meadow Heights,
CE 1892 CRP.

Dated this 23rd day of June 2008.

Chairman

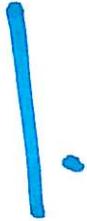
Chairman Pro-Tem

Member

Attest: _____
Clerk of the Board

Constituting the Board of County
Commissioners of Benton County,
Washington

RBD:lss



RESOLUTION

**BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY,
WASHINGTON:**

IN THE MATTER OF COUNTY FRANCHISES RE: GRANTING A FRANCHISE TO WYCKOFF FARMS, INC, TO ESTABLISH A NON EXCLUSIVE FRANCHISE FOR A IRRIGATION DELIVERY SYSTEM, LOCATED IN BENTON COUNTY;

WHEREAS, a public hearing was held June 2, 2008 to consider the request of Wyckoff Farms, Inc. who has applied for a franchise to establish an irrigation water delivery system, in unincorporated Benton County, and

WHEREAS, after hearing the testimony regarding the request for a franchise, the Board finds as follows:

1. The term of the franchise shall be a five year (5) period, expiring June 30, 2013;
2. The Grantee is to carry liability insurance with Benton County named as an insured with a minimum limit of \$500,000.00. A copy of the proof of insurance is to be provided to Benton County;
3. Placement of facilities within the right of way shall meet all requirements of Benton County as to location and repair of roads and right of way, including noxious weed control;
4. Should Benton County require utility relocation work because of road construction or maintenance, said work shall be at the Grantee's expense;
5. The franchise is nonexclusive;
6. The Grantee is to sign the Order and Agreement for Nonexclusive Franchise;

WHEREAS, Wyckoff Farms, Inc., has agreed to the terms and has signed the Order and Agreement for Nonexclusive Franchise, said Order having been approved as to form by the Prosecuting Attorney's Office, NOW, THEREFORE

BE IT RESOLVED that the franchise be approved and that the Board indicates its approval by its signatures on the Order and Agreement for Nonexclusive Franchise.

Dated this 23rd day of June, 2007

Chairman

Chairman Pro-Tem

Member

Attest: _____
Clerk of the Board

Constituting the Board of County
Commissioners of Benton County,
Washington

RBD:LSS

RESOLUTION

**BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY,
WASHINGTON**

**IN THE MATTER OF THE PURCHASE OF 69 MOTOROLA RADIOS AND UPGRADE OF
136 MOTOROLA RADIOS FOR THE BENTON COUNTY SHERIFF'S OFFICE**

WHEREAS, the Washington State Contract No. 02702 allows for the purchase of Motorola Radio's

WHEREAS, these radio's are to be used by the Corrections Officers and Sheriff's Deputies while on duty; and

WHEREAS, the price quote for 69 full cost Motorola Radios and 136 upgraded Motorola Radios per State Contract No. 02702 is \$325,589 inclusive of WSST and freight; and

WHEREAS, per resolutions 08 499 and 08 500 the Board of Benton County Commissioners approved the supplement for the purchase and installation of the Motorola Radio's; **NOW, THEREFORE**,

BE IT RESOLVED by the Board of Benton County Commissioners, Benton County, Washington, hereby authorizes the Benton County Sheriff's Department to purchase 69 full cost Motorola Radios and 136 upgraded Motorola Radios in the amount of \$325,589 under State Contract No. 02702.

Dated this 23 day of June, 2008

Chairman of the Board

Member

Member

Attest: _____
Clerk of the Board

Ross B. Dunfee, P.E.
Public Works Director / County Engineer
Steven W. Becken
Asst. Director/Asst. County Engineer

Benton County

Department of Public Works

Post Office Box 1001 - Courthouse
Prosser, Washington 99350-0954

Area Code 509
Prosser 786-5611
Tri-Cities 736-3084
Ext. 5664
Fax 786-5627



June 19, 2008

BOARD OF COUNTY COMMISSIONERS
Benton County Courthouse
Prosser, WA 99350

RE: Application for Franchise/Public Hearing
Applicant: The City of Benton City

Commissioners:

The City of Benton City has filed a petition to obtain a nonexclusive franchise for placing domestic water and sewer distribution system within County road right of way in unincorporated areas of Benton County.

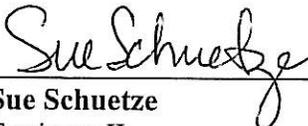
This office has reviewed the request and based upon our current franchise requirements recommends approval of the request, subject to the following conditions:

1. This office recommends that the term of the franchise be for a five (5) year period.
2. The Grantee is to carry liability insurance with Benton County named as an insured with a minimum limit of \$500,000.00. A copy of the proof of insurance is to be provided to Benton County. Proof of insurance must be sent every year.
3. Placement of facilities within the right of way shall meet all requirements of Benton County as to location and repair of roads and right of way including treatment of disturbed lands for noxious weeds.
4. Should Benton County require utility relocation work because of road reconstruction or maintenance, said work shall be at the Grantee's expense.
5. The franchise is nonexclusive.
6. The Grantee sign the Order and Agreement for Nonexclusive Franchise, which will be prepared based upon the requirements set forth at the public hearing.

If you have any questions, please contact this office.

Sincerely,

Ross B. Dunfee, P.E.
County Engineer/Director of Public Works


Sue Schuetze
Engineer II

BENTON
FRANKLIN
Community
Action
Committee



9:10

May 22, 2008

Commissioner Claude L. Oliver, Chair
Commissioner Max E. Benitz Jr
Commissioner Leo M. Bowman
Benton County Commission
Benton County Courthouse
PO Box 190
Prosser, WA 99350

Dear Commissioners:

RE: Homeless Housing and Assistance Funds (2163)
1st Quarter Report 2008

Attached is the 1st Quarterly Report on reducing homelessness in Benton and Franklin Counties. The report contains the following:

- 1st Quarter Report
- 2008 Point-In-Time Count by county and Review of Findings
- 2007 Annual Report Homeless Housing and Assistance Act
- HOME BASE Satellite Agencies Services flow chart
- Homeless Housing Grant Assistance (HGAP) Website Posting

As the Executive Director of Benton Franklin Community Action Committee, I thank you for your interest in issues such as Reducing Homelessness and Affordable Housing. We are grateful for your strong leadership and passionate advocacy in support of residence in our bi-county area.

Respectfully yours,

Judith A. Gidley, Executive Director



A CONTINUUM OF CARE SYSTEM For Benton and Franklin Counties

Benton Franklin Housing Continuum of Care 'HOME BASE' 1st Quarter Report on Homeless Housing Funds 2008

Benton and Franklin Counties 10 Year Plan to Reduce Homelessness by 50% by 2015 is achieving results: we had a **21.68% decrease** in the **overall homelessness count** from 2006 to 2007 and a **27% decrease in 2007 to 2008**. Whether this trend continues will be dependant upon the economic future of the two counties. The Point in time Count shows a strong increase in the number of individuals living in short-term/ transitional housing under various grants on the day of the count. There was a 42% increase from last year, 76 individuals in 2006 to 367 individuals in 2007.

By developing the strategy based on '**HOME BASE**' a **Continuum of Care System one-stop**, and creating an expectation of both partnership and accountability, steady progress has been made in realigning both resources to prevent and end homelessness and the community based partnership to achieve those goals. With a mix of new and old programs available for the case managers, BFCAC is better able to assess the needs and determine the right fit for the households experiencing homelessness. The Benton Franklin Community Action Committee (BFCAC) serves Benton and Franklin Counties as the lead agency in Providing Pathways out of Poverty for the low-income and homeless.

BFCAC created 136 new housing vouchers, sustained 452 housing vouchers and created 56 slots of affordable housing last fiscal year. .

BFCAC staff member, Cricket Cordova assisted both Benton and Franklin Counties in developing and completing their Jail Re-Entry Inventories to meet the January deadline.

Completed the January 24, 2008 Point-In-Time Count, which identifying 517 homeless individuals living with-in 468 households, of which 259 were children age eleven and under. There are 367 individuals living in subsidized short term and 'Transitional Housing' paid for by the homeless programs verses 76 in 2007; that is an increase of 291 individuals on that one day in time. Our Database to report the PIT Count information can be displayed in reports by county, city, demographics, medical conditions, cross referenced and totals for the bi-county area. **See Attached Data Reports and Review of Finding**

In Coordination with DHS we completed the CTED 2163 – 2060 Yearly Report. **See Attached Report**

The following is a report of the 2008, 1st quarter statistics regarding how the Benton and Franklin Counties Homeless Housing Act Funds (2163) are being used.

Our **HOME BASE Center** in the first three months of this year provided:

- Intake, Assessment, information and referrals for 252 households.
- Answered 1,194 phone call inquires and assisted 735 front desk services.
- Assisted 9 households with eviction prevention keeping them from homelessness.
- 329 hours of one-on-one Life Skills counseling for clients; 6 hours of core classes which included personal finances, soft skills assessment, and Landlord Tenant Laws.
- Rental assistance for 232 households, providing them safe, clean and affordable housing; of those we assisted 34 households were provided utility and/or rental deposit assistance enabling them to secure housing and utilities.
- Self-Sufficiency (20/80 Program) helped 88 new households on their way to self-sufficiency with long-term case management effecting 182 individuals within the households; 31 are now employed full-time and 40 employed part-time and paying their rent on time. That is an 80.69% success rate with finding employment for the Self-Sufficiency participants (20/80-program design).
- Housing Stability Plans were developed for 232 households, setting long-term and short-term outcome goals for working toward self-sufficiency.
- Sixteen (16) social services and faith-based organizations are enrolled as **HOME BASE Satellite** agencies. Forty-nine (49) case managers have been training to use the database system and provided coordinated services via our Internet Homeless Case Management System (HMIS). The system provides for better-coordinated services, streamlines client services and eliminates duplication of services. **See attached flow chart.**

Cricket Cordova and Debra Biondolillo, BFCAC staff, meet with a core group of Case Managers representing the Satellite Agencies. They reviewed and drafted changed that need to be made to the database to more accurately reflect what should be offered and to better provide and track service to the clients. Once the changes are implemented, agencies will be able to better integrate client services and track outcomes.

- We continue to print the hand held Resource Guidebooks, a 42-page information and services listing for homeless and low-income people in Benton and Franklin Counties and have distributed over 5,000 copies to date.
- Housing Taskforce: John Olivas, chairman has taken a new position in Yakima and the taskforce will be electing a new chair at the June meeting. We are moving to holding meetings every other month in order to have time for the sub-committees to meet. Debra Biondolillo, Housing Department

Director and Cricket Cordova, Continuum of Care Manager staff's the Taskforce.

- The Taskforce will start its review of the Ten Year Plan document at the June meeting. The Taskforce will establish a workgroup to further evaluate the goals that have been accomplished and set new ones for the next 7 years to be submitted, reviewed and approved by the Bi-County Commissions.
- Homeless Grant Assistance Program (HGAP) 2007 Project Summary for Benton and Franklin Counties as listed on the CTED Housing web site. **See Attached**

New and renewal funding secured for services in Benton and Franklin Counties

- **New** – Elijah House in Richland – Memorandum of Understanding.

BFCAC will assist in filling the eight units of housing, formerly the Jadwin House in Richland, which was purchased by a private investor. The housing is set-aside for homeless individuals who qualify under the HUD McKinney Homeless Act definition and are either veterans or have mental health issues.

- **Renewal** – Emergency Shelter Grant (ESG)

Coordinated application and services as the Lead Agency for the Emergency Shelter Grant for the Domestic Violence Services of Benton and Franklin Counties. The \$77,000 contract is for operations and staffing of the DV shelter. The shelter will serve 350 individuals and provide 5,000 bed-nights for 150 households experiencing domestic violence issues. This is the second year that BFCAC will be the contractor for the ESG subcontracting with DVS of Benton and Franklin Counties.

- **Renewal** – Tenant Based Rental Assistance (TBRA)

This grant is for two years starting July 1, 2008 and end June 30, 2010. The contract will be for \$250,000 per year, which will provide rent subsidies for up to 12 months for 63 homeless families with children per year; with an average cost of \$5,441.58 per household served. BFCAC has operated this grant for over 7 years.

BFCAC is the leader in providing pathways out of poverty for Benton and Franklin Counties.

If I can be of further assistance feel free to call or e-mail.

Judith A. Gidley, Executive Director
Benton Franklin Community Action Committee
(509) 545-4042
igidley@bfcac.org

2008 Point in Time Count Review of Findings

1. **There continues to be a reduction in the number of homeless individuals in the bi-county area.**
2. **The Benton Franklin Community Action Committee has been able to provide an increased amount of transitional housing for homeless individuals and families.**

NOTE: It is important to remember that this is trend data. It is based on the responses of homeless individuals surveyed on one day. The count methodology is replicated each year as closely to the previous years' as possible. The numbers counted reflect trends and minimums, as it is not possible to identify and survey all of the people who are homeless. This information is used to assist government and service providers in assessing the local homeless situation, to obtain funding and to ultimately create effective programs to end homelessness.

DATA

2008 Total number of households surveyed: 468

2007 Total number of households surveyed: 372

Number/percentage change an increase of households surveyed: 96 / 26%

Number/percentage change an increase of individuals in households surveyed: 104 / 13%

2008 Breakdowns by County	Benton	Franklin	Other
Households survived 468:	57%	42%	1%
Homeless individuals 517:	58%	42%	
Individuals in transitional housing 367:	60%	40%	
Total individuals counted: 884			

2008 Total number of homeless individuals reported: 517

2007 Total number of homeless individuals reported: 704

Number/percentage change: a decrease of 187 individuals / 27%

2008 Total number of individuals in short-term/transitional housing: 367 / 42% of those counted

2007 Total number of individuals in short-term/transitional housing: 76 / 10% of those counted

Number/percentage change an increase of individuals housed: 291

These numbers relate directly to increased funding received to provide transitional housing for individuals and families. See BFCAC Feb 13,2007 press release.

Homeless Demographics:

Men (surveyed):	2008: 71%	2007: 64%	7% increase of total
Women (surveyed):	2008: 29%	2007: 36%	7% decrease of total
Under 18 (based on total):	2008: 155 / 30%	2007: 333 / 43%	13% decrease of total

Other trends, *based on number of households and information given by homeless individual surveyed:*

Mentally Disabled	2008: 24%	2007: 23%	1% increase
Developmental Disabilities	2008: 6%	2007: 5%	1% decrease
Drug /Alcohol Addiction	2008: 32%	2007: 30%	2% increase
Physically disabled	2008: 19%	2007: 22%	3% decrease

Served in the US military	2008: 8%	2007: 14%	6% decrease
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Reason for homelessness (NOTE: Most people sited multiple reasons for being homeless.):

Victim of Domestic Violence:	2008: 11%	2007: 12%	1% decrease
Family breakup:	2008: 20%	2007: 19%	1% increase
Medical costs:	2008: 7%	2007: 5%	2% increase
Criminal record, felony:	2008: 39%	2007: 30%	9% increase
Criminal record, misdemeanor:	2008: 22%	2007: 14%	8% increase

Total Records = 269

2008 Point-In-Time Survey Report Totals Benton Co Only

1. Are You Homeless? Yes 269 No 0

3. Average Age of Respondent = 34.1

4. Gender Male = 144 Female = 125

5. Which of the following best describes you family/household?

50	Single Person	21	Two Adults With Children
69	Single Female With Children	9	Two Adults No Children
12	Single Male With Children	8	Other Family Type
0	Youth Under 18 No Adults		

6. Ho many people are in your current family/household?

88	Birth - 5	174	24-44
60	6 - 11	54	45-54
42	12 - 17	13	55-64
82	18 - 23	4	65 and Over

Total All People = 517 Average Houshold Size = 1.9

7. Where did you stay last night?

5	Outside (Including car, tent or any place with no water or heat)		
42	Family or Friends	3	Hotel / Motel
110	Prison/Jail	1	Detox Facility
0	Medical Hospital	0	Psyciatric Hospital
96	Short Term/Temp Housing	12	Domestic Violence Shelter
0	Emergency Shelter-Mission		

8. City where you stayed last night:

0	Franklin County	269	Benton County
0	Basin City	5	Benton City
0	Connell	1	Finley
0	Kahlotus	231	Kennewick
0	Pasco	1	Prosser
0	Etopia	24	Richland
0	Mesa	7	West Richland
0	Other City In Washington		
0	Other State		

9. Have you been continously homeless for a year or more?

128 Yes 141 No

10. Have you been homeless 4 or more times in the last 3 years

118 Yes 151 No

11. Where did you live for the last 6 months (or more)?

26	Franklin County	187	Benton County
0	Basin City	10	Benton City
0	Connell	8	Finley
0	Kahlotus	133	Kennewick
24	Pasco	4	Prosser
1	Etopia	23	Richland
1	Mesa	9	West Richland
35	Other City In Washington		
14	Other State		
7	Other Country		

12. Have you or anyone in yhour household ever served in the U.S.military? 27 Yes 242 No

13. Are you or anyone in your household receiving VA benefits? 9 Yes 260 No

14. Do you have any of the following conditions?

50	Physically Disabled	14	Developmental Disability
54	Mentally Disabled	86	Alcohol/Drug addiction
4	Tuberculosis	11	Pregnancy
17	HIV/AIDS		

15. What are your sources of income/resources?

43	Full Time Job	58	GAU / GAX
54	Family or Friends	41	TANF
134	Food Stamps	21	SSI (disability)
12	Social Security	5	VA Benefits
28	Asking For Money	2	L and I
14	Unemployment	61	PartTime/Day Labor
7	Child Support	2	Pension
9	Seasonal Farmwork		
6	Other		

16. Do ou have any form of health insurance or medical coverage? 150 Yes 119 No

17 What was your average monthly income in the year 2006?

135	\$0.00 - \$500.	12	\$1,501 - \$2,000.
84	\$501 - \$1000.	2	\$2,001. - \$2,500.
29	\$1001. - \$1500.	7	Over \$2,500.

18. Please check the reasons why you became homeless?

(Check all that apply)	77	Job Lost	
106	Can't Find/Keep Work	14	Medical Costs
104	Unable to pay rent/mortgage	63	Family Breakup
121	Criminal record Felony	56	Evicted nonpayment
67	Criminal record, misdemeanor	34	Evicted other reason
9	Language Barrier	27	Physical disabilities
5	WelfareTime Limits	34	Mentall Disabilities
85	Bad Credit	28	DomesticViolence
109	Alcohol / SubstanceAbuse	2	Other Reason
73	Discharged From Prison/Jail		
7	Child Abuse (Youth On Own)		
22	Family member or personal Illness		
5	Reasons related to sexual orientation		
1	Don't want longterm housing		
3	Aged out of Foster Care		

19. What is your Ethnic background?

2	Asian	167	White
11	Native American/Alaskan	55	Hispanic/Latino
32	Black/AfricanAmerican	2	Other

20. What is your highest education level achieved?

38	0 - 8th grade	71	9 - 12 Non Graduate
119	High School Grad or GED	24	1-2 Yrs College/Trade
16	2 or 4 Yr College grads	1	Post-Grad,Masters,PH

Total Records = 173

2008 Point-In-Time Survey Report Totals Benton Co Only - No Supportive Housing

1. Are You Homeless? Yes 173 No 0

3. Average Age of Respondent = 34.6

4. Gender Male = 114 Female = 59

5. Which of the following best describes you family/houshold?

- 2 Single Person 16 Two Adults With Children
- 23 Single Female With Children 7 Two Adults No Children
- 8 Single Male With Children 7 Other Family Type
- 0 Youth Under 18 No Adults

6. Ho many people are in your current family/household?

- 33 Birth - 5 112 24-44
- 26 6 - 11 40 45-54
- 20 12 - 17 10 55-64
- 52 18 - 23 4 65 and Over

Total All People = 297 Average Household Size = 1.7

7. Where did you stay last night?

- 5 Outside (Including car, tent or any place with no water or heat)
- 42 Family or Friends 3 Hotel / Motel
- 110 Prison/Jail 1 Detox Facility
- 0 Medical Hospital 0 Psychiatric Hospital
- 0 Short Term/Temp Housing 12 Domestic Violence Shelter
- 0 Emergency Shelter-Mission

8. City where you stayed last night:

- 0 Franklin County 173 Benton County
- 0 Basin City 5 Benton City
- 0 Connell 1 Finley
- 0 Kahlotus 143 Kennewick
- 0 Pasco 1 Prosser
- 0 Eltopia 20 Richland
- 0 Mesa 3 West Richland
- 0 Other City In Washington
- 0 Other State

9. Have you been continously homeless for a year or more?

99 Yes 74 No

10. Have you been homeless 4 or more times in the last 3 years

95 Yes 78 No

11. Where did you live for the last 6 months (or more)?

- 23 Franklin County 97 Benton County
- 0 Basin City 10 Benton City
- 0 Connell 6 Finley
- 0 Kahlotus 56 Kennewick
- 21 Pasco 4 Prosser
- 1 Eltopia 16 Richland
- 1 Mesa 5 West Richland
- 34 Other City In Washington
- 12 Other State
- 7 Other Country

12. Have you or anyone in yhour household ever served in the U.S.military? 25 Yes 148 No

13. Are you or anyone in your household receiving VA benefits? 8 Yes 165 No

14. Do you have any of the following conditions?

- 33 Physically Disabled 10 Developmental Disability
- 41 Mentally Disabled 64 Alcohol/Drug addiction
- 4 Tuberculosis 6 Pregnancy
- 17 HIV/AIDS

15. What are your sources of income/resources?

- 19 Full Time Job 43 GAU / GAX
- 27 Family or Friends 10 TANF
- 56 Food Stamps 13 SSI (disability)
- 10 Social Security 5 VA Benefits
- 28 Asking For Money 0 L and I
- 12 Unemployment 38 PartTime/Day Labor
- 2 Child Support 2 Pension
- 9 Seasonal Farmwork
- 6 Other

16. Do ou have any form of health insurance or medical coverage? 76 Yes 97 No

17 What was your average monthly income in the year 2006?

- 108 \$0.00 - \$500. 9 \$1,501 - \$2,000.
- 40 \$501 - \$1000. 2 \$2,001. - \$2,500.
- 11 \$1001. - \$1500. 3 Over \$2,500.

18. Please check the reasons why you became homeless?

- (Check all that apply) 44 Job Lost
- 71 Can't Find/Keep Work 11 Medical Costs
- 57 Unable to pay rent/mortgage 36 Family Breakup
- 89 Criminal record Felony 27 Evicted nonpayment
- 48 Criminal record, misdemeanor 23 Evicted other reason
- 8 Language Barrier 21 Physical disabilities
- 5 WelfareTime Limits 28 Mentall Disabilities
- 57 Bad Credit 20 DomesticViolence
- 71 Alcohol / SubstanceAbuse 2 Other Reason
- 53 Discharged From Prison/Jail
- 6 Child Abuse (Youth On Own)
- 20 Family member or personal Illness
- 5 Reasons related to sexual orientation
- 1 Don't want longterm housing
- 3 Aged out of Foster Care

19. What is your Ethnic background?

- 2 Asian 107 White
- 10 Native American/Alaskan 31 Hispanic/Latino
- 21 Black/AfricanAmerican 2 Other

20. What is your highest education level achieved?

- 33 0 - 8th grade 41 9 - 12 Non Graduate
- 73 High School Grad or GED 15 1-2 Yrs College/Trade
- 10 2 or 4 Yr College grads 1 Post-Grad,Masters,PH

2008 Point-In-Time Survey Report Totals Franklin Co Only No Supportive Housing

Total Records = 132

1. Are You Homeless? Yes 132 No 0

3. Average Age of Respondent = 38.3

4. Gender Male = 102 Female = 30

5. Which of the following best describes you family/household?

1	Single Person	6	Two Adults With Children
22	Single Female With Children	2	Two Adults No Children
4	Single Male With Children	0	Other Family Type
0	Youth Under 18 No Adults		

6. Ho many people are in your current family/household?

28	Birth - 5	77	24-44
32	6 - 11	22	45-54
16	12 - 17	16	55-64
22	18 - 23	5	65 and Over

Total All People = 218 Average Household Size = 1.7

7. Where did you stay last night?

4	Outside (Including car, tent or any place with no water or heat)	8	Hotel / Motel
39	Family or Friends	3	Detox Facility
17	Prison/Jail	0	Psychiatric Hospital
0	Medical Hospital	0	Domestic Violence Shelter
0	Short Term/Temp Housing		
61	Emergency Shelter-Mission		

8. City where you stayed last night:

132	Franklin County	0	Benton County
1	Basin City	0	Benton City
0	Connell	0	Finley
0	Kahlotus	0	Kennewick
130	Pasco	0	Prosser
1	Eltopia	0	Richland
0	Mesa	0	West Richland
0	Other City In Washington		
0	Other State		

9. Have you been continously homeless for a year or more?

62 Yes 70 No

10. Have you been homeless 4 or more times in the last 3 years

64 Yes 68 No

11. Where did you live for the last 6 months (or more)?

85	Franklin County	17	Benton County
0	Basin City	0	Benton City
2	Connell	1	Finley
0	Kahlotus	12	Kennewick
83	Pasco	1	Prosser
0	Eltopia	2	Richland
0	Mesa	1	West Richland
12	Other City In Washington		
10	Other State		
8	Other Country		

12. Have you or anyone in yhour household ever served in the U.S.military? 17 Yes 115 No

13. Are you or anyone in your household receiving VA benefits? 5 Yes 127 No

14. Do you have any of the following conditions?

25	Physically Disabled	9	Developmental Disability
32	Mentally Disabled	33	Alcohol/Drug addiction
1	Tuberculosis	3	Pregnancy
3	HIV/AIDS		

15. What are your sources of income/resources?

9	Full Time Job	18	GAU / GAX
27	Family or Friends	18	TANF
45	Food Stamps	6	SSI (disability)
17	Social Security	5	VA Benefits
12	Asking For Money	0	L and I
3	Unemployment	34	PartTime/Day Labor
3	Child Support	0	Pension
12	Seasonal Farmwork		
6	Other		

16. Do ou have any form of health insurance or medical coverage? 61 Yes 71 No

17 What was your average monthly income in the year 2006?

69	\$0.00 - \$500.	7	\$1,501 - \$2,000.
37	\$501 - \$1000.	0	\$2,001. - \$2,500.
8	\$1001. - \$1500.	11	Over \$2,500.

18. Please check the reasons why you became homeless? (Check all that apply)

33	Can't Find/Keep Work	24	Job Lost
41	Unable to pay rent/mortgage	10	Medical Costs
29	Criminal record Felony	23	Family Breakup
20	Criminal record, misdemeanor	12	Evicted nonpayment
6	Language Barrier	18	Evicted other reason
1	WelfareTime Limits	14	Physical disabilities
19	Bad Credit	8	Mentall Disabilities
27	Alcohol / Substance Abuse	14	Domestic Violence
14	Discharged From Prison/Jail	0	Other Reason
0	Child Abuse (Youth On Own)		
9	Family member or personal illness		
1	Reasons related to sexual orientation		
0	Don't want longterm housing		
0	Aged out of Foster Care		

19. What is your Ethnic background?

0	Asian	73	White
8	Native American/Alaskan	44	Hispanic/Latino
7	Black/African American	0	Other

20. What is your highest education level achieved?

20	0 - 8th grade	45	9 - 12 Non Graduate
42	High School Grad or GED	12	1-2 Yrs College/Trade
13	2 or 4 Yr College grade		

2007 Annual Report Homelessness Housing and Assistance Act

Please complete the following report concerning county progress toward implementing the Homelessness Housing and Assistance Act (HHAA). Please return your completed report to the Department of Community, Trade and Economic Development (CTED) by **April 30, 2008**. Please email it to:

[Nick Mondau, NicholasM@cted.wa.gov](mailto:NickMondau.NicholasM@cted.wa.gov)

Background

The Homelessness Housing and Assistance Act (often referred to as "2163") requires an annual report to the Governor and Legislature on progress made toward implementing the state and local ten-year homeless plans. CTED is required to establish a process for local governments to report progress (RCW 43.185C.110). The State Ten-Year Homeless Plan broadly defines the performance measurement information we will be collecting from local governments as part of the annual reporting process.

If you have any questions, please contact Nick Mondau at (360) 725-3028 or NicholasM@cted.wa.gov.

Sections

[A - Contact Information](#)

[B - Point in Time Count](#)

[C - Housing Inventory](#)

[D - Use of Local Homeless and Affordable Housing Funds](#)

[E - Performance and Context Measures](#)

[F - Recommendations for State Legislature and Policy Changes Needed to Address Homelessness](#)

[G - Updated county homeless plan](#)

please proceed to the tab labeled "A - CONTACT INFO" below

A - Contact Information

County:

For questions regarding this county report, contact:

Name:

Phone:

Email:

please proceed to B - PIT COUNT

B - Point in Time Count 2008

If you have any questions, please contact Nick Mondau at (360) 725-3028 or NicholasM@cted.wa.gov.

1. Briefly describe your efforts to count unsheltered persons.

57 volunteers and over 25 agency representatives conducted interviews in 37 locations through out the bi-county area. The locations were those which homeless people in our community are known to frequent.

2. Briefly describe how you minimized the duplication of those that were counted.

1. We conduct the count during one day.
2. We obtained written consent to collect personal identifiers (initials and birth date) that allow unduplication during count tally.
3. We explicitly ask person being surveyed whether they have been counted previously.

3. What quantitative data or qualitative impression do you have on how complete the count was in your county? (example "One-hundred percent of sheltered persons were counted, but we were not able to safely count about 10 percent of the unsheltered homeless population that live in the southwestern forests and were not willing to come to our stand down.")

The vast majority of sheltered persons were counted, but two factors complicated our ability to count the unsheltered. First of all, the day of the count was several days into an extremely cold period of weather. The second issue is an on-going challenge, that of counting unaccompanied youth who are afraid to participate.

Please fill in the table below using date from the point in time count conducted January 24, 2008

If your county used the CTED online PIT database, you may extract the data below from the "HUD Homeless Populations and Subpopulations Chart"

Part 1: Homeless Population	Sheltered		Unsheltered	Temporarily Living with Family or Friends*
	Emergency	Transitional		
Number of Families with Children (Family Households):	14	83	65	36
A. Number of Persons in Families with Children:	49	289	221	125
B. Number of Single Individuals and Persons in Households without Children:	34	82	209	
(Add Lines A & B) Total Persons:	83	371	430	
Part 2: Homeless Subpopulations	Sheltered		Unsheltered*	Temporarily Living with Family or Friends*
	Emergency	Transitional		
a. Chronically Homeless	58	78	246	75
b. Mentally Disabled	17	87	107	
c. Persons with alcohol and/or other drug problems	23	84	142	
d. Veterans	10	13	61	
e. Persons with HIV/AIDS	5	4	29	
f. Victims of Domestic Violence	8	19	50	
g. Unaccompanied Youth (Under 18)	0	0	0	
h. Physically Disabled	14	82	85	
i. Seasonal Agricultural Workers	5	4	31	
j. Persons with both substance use and mental health problems	8	14	26	3
k. Senior citizens (aged 65 or older)	5	0	14	6

*optional field

Section B	
Unmet Need for Emergency Shelters (ES)	
# of Individuals Currently in ES who need ES	94
# of Individuals Currently Unsheltered who need ES	5
Subtotal	99
# of ES beds for individuals	
# of ES beds for individuals that are under development	
Subtotal	0
Total unmet need for ES	99
Unmet Need for Transitional Housing (TH)	
# of Individuals Currently in ES who need TH	120
# of Individuals Currently in TH who need TH	0
# of Individuals Currently Unsheltered who need TH	0
Subtotal	120
# of TH beds for individuals	
# of TH beds for individuals that are under development	
Subtotal	0
Total unmet need for TH	120
Unmet Need for Permanent Supportive Housing (PSH)	
# of Individuals Currently in ES who need PSH	1
# of Individuals Currently in TH who need PSH	78
# of Individuals Currently Unsheltered who need PSH	0
Subtotal	79
# of VACANT PSH beds for individuals	
# of PSH beds for individuals that are under development	
Subtotal	0
Total unmet need for PSH	79

Section B	
Unmet Need for Emergency Shelters (ES)	
# of Persons in Families Currently in ES who need ES	156
# of Persons in Families Currently Unsheltered who need ES	11
Subtotal	167
# of ES beds for Persons in Families	
# of ES beds for Persons in Families that are under development	
Subtotal	0
Total unmet need for ES	167
Unmet Need for Transitional Housing (TH)	
# of Persons in Families Currently in ES who need TH	119
# of Persons in Families Currently in TH who need TH	0
# of Persons in Families Currently Unsheltered who need TH	4
Subtotal	123
# of TH beds for Persons in Families	
# of TH beds for Persons in Families that are under development	
Subtotal	0
Total unmet need for TH	123
Unmet Need for Permanent Supportive Housing (PSH)	
# of Persons in Families Currently in ES who need PSH	0
# of Persons in Families Currently in TH who need PSH	278
# of Persons in Families Currently Unsheltered who need PSH	0
Subtotal	278
# of VACANT PSH beds for Persons in Families	
# of PSH beds for Persons in Families that are under development	
Subtotal	0
Total unmet need for PSH	278

Section B	
Unmet Need for Emergency Shelters (ES)	
# of Family Units Currently in ES who need ES	40
# of Family Units Currently Unsheltered who need ES	4
Subtotal	44
# of ES Family Units	
# of ES Family Units that are under development	
Subtotal	0
Total unmet need for ES	44
Unmet Need for Transitional Housing (TH)	
# of Family Units Currently in ES who need TH	43
# of Family Units Currently in TH who need TH	0
# of Family Units Currently Unsheltered who need TH	0
Subtotal	43
# of TH Family Units	
# of TH Family Units that are under development	
Subtotal	0
Total unmet need for TH	43
Unmet Need for Permanent Supportive Housing (PSH)	
# of Family Units Currently in ES who need PSH	0
# of Family Units Currently in TH who need PSH	84
# of Family Units Currently Unsheltered who need PSH	0
Subtotal	84
# of VACANT PSH Family Units	
# of PSH Family Units that are under development	
Subtotal	0
Total unmet need for PSH	84

D1 - Use of local HHAA (2163 & 1359) funds

This table collects overall information on the use of Homelessness Housing and Assistance Act funds administered by county governments (RCW 36.22.179, RCW 43.185C.050). Please fill in amounts spent from 1/1/2007 through 12/31/2007.

If you have any questions, please contact Nick Mondau at (360) 725-3028 or NicholasM@cted.wa.gov.

Fund Category	Amount 1/2007 through 12/2007
1. Administration funds expended	
Franklin County	\$1,131
Benton County	\$20,290
2. Ten-year homeless plan development costs (staff, consultants, meetings, etc.) expenditures	\$2,713
3. Point in time count of homeless persons costs expenditures	\$16,808
4. Homeless Management Information System (HMIS) expenditures	\$9,830
5. Expenditures to manage the project/programs funding (project competition, contracting, monitoring, etc.)	\$92,968
6. Projects/Programs obligations TOTAL (Should match "Obligated" local HHAA capital, operating, and services in table D2, 5-6 below)	\$134,724
TOTAL	\$278,463

please proceed to "D2 - 2163 FUNDS" below

These two numbers should match.

Obligated local HHAA capital, operating and service funds (from D2 5+6)= **\$134,724**

E – Performance and Context Measures

The following measures, defined in the December 2007 Homeless Plan and Annual Report, are used to measure county and state progress toward implementing state and local homeless plans. Any measure marked with an “*” is optional this year, but will be required in the next report in 2009. Measures highlighted in grey you do not need to provide data for because CTED can derive answers either from other sections of this report or other data sources.

You must provide answers for measures highlighted in yellow.

CTED will be implementing a system in late 2008 to consolidate county client-level Homeless Management Information System (HMIS) data into a central database that will have the capacity to generate most of this measurement data without having to ask counties directly. If you have an existing HMIS that can generate this data, please fill in the optional measures. We are currently revising the state Ten-Year Homeless Plan measures, so please don't hesitate to make suggestions to CTED regarding the measures below.

If you have questions about this section or HMIS in general, please contact Nick Mondau at (360) 725-3028 or NicholasM@cted.wa.gov

	Measure	Data Sources	Notes	Data 1/2007 - 12/2007
	Primary Performance Measures - Number of Homeless Persons			
1	Total number of homeless persons (all individuals, all households, families with children, accompanied minors, unaccompanied minors, single adult men, single adult women, multiple person adult- only households, chronically homeless individuals (HUD definition), chronically homeless multi-person households (modified HUD definition)), by housing type (emergency shelter, transitional housing, and unsheltered).	January Point-in-time Count of Homeless Persons	The primary outcome measure defined in the Homelessness Housing and Assistance Act. To reach the goals of the Act, the number must be halved over the 2006 baseline number by 2015. To provide additional context to the absolute number of homeless, per-capita and per capita homelessness of persons in poverty will also be provided in the performance measure report prepared by CTED.	Reported on in chart in Section A Point in Time Count
2*	Annual number and mortality relative to the overall mortality rate of non-natural deaths of likely homeless persons living unsheltered, living in emergency housing, or temporarily living with family or friends.	County medical examiner records, using existing King County Medical Examiner criteria	<u>Indicates how successful we are at meeting the most basic needs of homeless persons. Is only currently being calculated in King County. Will require working with counties other stakeholders to explore how to best implement this measure. Will require a phase-in period to implement.</u>	
3*	Number and percentage of persons who are identified as homeless for the first time in a county who list that county as their last permanent place of residence (all individuals, all households, families with children, accompanied minors, unaccompanied minors, single adult men, single adult women, multiple person adult only households, chronically homeless individuals (HUD definition), chronically homeless multi-person households (modified HUD definition)).	HMIS personal identifiers, HMIS zip code of last permanent address	Indicates how well the economy, public institutions, and the social service system are at preventing new people from becoming homeless. Trends up or down indicate improvements or declines in the ability of a community to prevent homelessness.	
	Prevention – Keeping people in their current permanent housing			

4*	Number and percentage of persons provided short-term rent or mortgage assistance, and/or landlord tenant mediation that are homeless within one year of receiving assistance.	HMIS element 3.9	Measure how effective prevention via short-term assistance and mediation are.	
Prevention, Diversions and Re-Entry – Data regarding interplay between other service systems and homelessness				
5*	Number and percentage of persons who were in jail or prison the week before being identified as homeless.	HMIS element 2.8-7 HMIS identifiers matched against arrest records and DOC records	Provides information on what portion of homeless persons were in jail or prison.	
6*	Number and percentage of persons who were in a psychiatric facility the week before being identified as homeless.	HMIS element 2.8-4 HMIS identifiers matched against DSHS records	Provides information on what portion of homeless persons were in psychiatric facilities. By itself not enough to fully understand the role of psychiatric facilities, but may reveal trends that warrant further exploration.	
7*	Number and percentage of persons who were in a substance abuse treatment facility the week before being identified as homeless.	HMIS element 2.8-5 HMIS identifiers matched against DSHS records	Provides information on what portion of homeless persons were in substance abuse treatment facilities. By itself not enough to fully understand the role of substance abuse treatment facilities, but may reveal trends that warrant further exploration.	
8*	Number and percentage of persons who were in foster care in the year before being identified as homeless.	HMIS element 2.8-15 HMIS identifiers matched against DSHS records	Provides information on what portion of homeless persons were in foster care. By itself not enough to fully understand the role of foster care, but may reveal trends that warrant further exploration.	
9*	Number and percentage of persons who were in a hospital the night before being identified as homeless.	HMIS element 2.8-6	Provides information on what portion of homeless persons were in hospitals. By itself not enough to fully understand the role of hospitals, but may reveal trends that warrant further exploration.	
Short Term Emergency Response System – How effective are the systems that serve people once they are homeless				
10*	Percentage and number of persons identified as homeless placed in emergency or transitional housing.	HMIS element 3.9 date of service and service type / 2.10	Provides insight on the portion of the homeless population served by term-limited housing. Goal is to reduce the portion provided time-limited housing.	
11*	Percentage and number of persons identified as homeless placed in permanent affordable housing.	HMIS element 3.9- date of service and service type / 2.10	Ideally most homeless households would be placed into permanent housing with transitional services as needed. Chronically homeless people would be placed in permanent supportive housing.	
12*	Average and median days between a person being identified as homeless and placement in transitional or permanent housing.	HMIS elements 2.10 and 3.9	Ideally there would be no gap in the time between a person being identified	

	measures and placement in transitional or permanent housing.		time between a person being identified as homeless and placement in housing. An intermediate step would be to limit shelter stays to no more than 30 days.	
13*	Percentage and number of persons identified as homeless not placed in housing within 30 days.	HMIS elements 2.10 and 3.9		
14*	Percentage and number of persons identified as homeless one, two, and three years after initial identification as homeless.	HMIS elements 2.10	Not a viable measure until two years after 75 percent of emergency and transitional beds are covered by an HMIS.	
15*	Percentage and number of persons placed into emergency, transitional, or permanent housing identified as homeless one, two, and three years after placement in housing.	HMIS elements 2.10 and 3.9	Not a viable measure until two years after 75 percent of emergency and transitional beds are covered by an HMIS.	
16*	Percentage of persons identified in point in time count also identified in HMIS.	HMIS element 2.10 and Point in Time Count of Homeless persons. Comparison of raw totals; not individual clients.	Measures how well outreach efforts are at identifying homeless persons, assuming Point-in-time Count is comprehensive.	
17	Direct state, federal and local operating and services costs per homeless person served.	CTED contracts.	Requires an assessment and modification of existing contract formats.	CTED will calculate
18*	Average and median income of households in permanent housing and exiting transitional housing, broken out by sources (earned income, unemployment insurance, Supplemental Security Income, Social Security Disability Insurance, veteran's disability, private disability, worker's compensation, Temporary Assistance for Needy Families, General Assistance Unemployable, Social Security retirement, veteran's pension, pension from a job, child support, alimony, other), broken out by family composition (single, single with minor children, couple with minor children).	HMIS elements 3.1, 2.11 HMIS identifiers matched against DSHS and DVA records	Provides context concerning the incomes of persons who are homeless. Not practical to collect from persons in emergency shelter. Can be compared to incomes of persons entering the homeless service system to gauge the impact of housing and services on income.	
19	Number and percent of unmet need for: emergency shelter beds, transitional housing units, and permanent supportive housing units.	Annual Homelessness Housing and Assistance Act county report to CTED.		Reported via Section B Housing Inventory charts
Plan Implementation Measures – How well are local plans being implemented				
20	Expenditures for housing and services dedicated to reducing homelessness.	Annual Homelessness Housing and Assistance Act county report to CTED.		Reported via Section D Local Expenditures
21	Ratio of interagency agreements between continuum of care groups and local jails, state correctional facilities, hospitals, and mental health programs.	Annual Homelessness Housing and Assistance Act county report to CTED.		two two 0 four 0

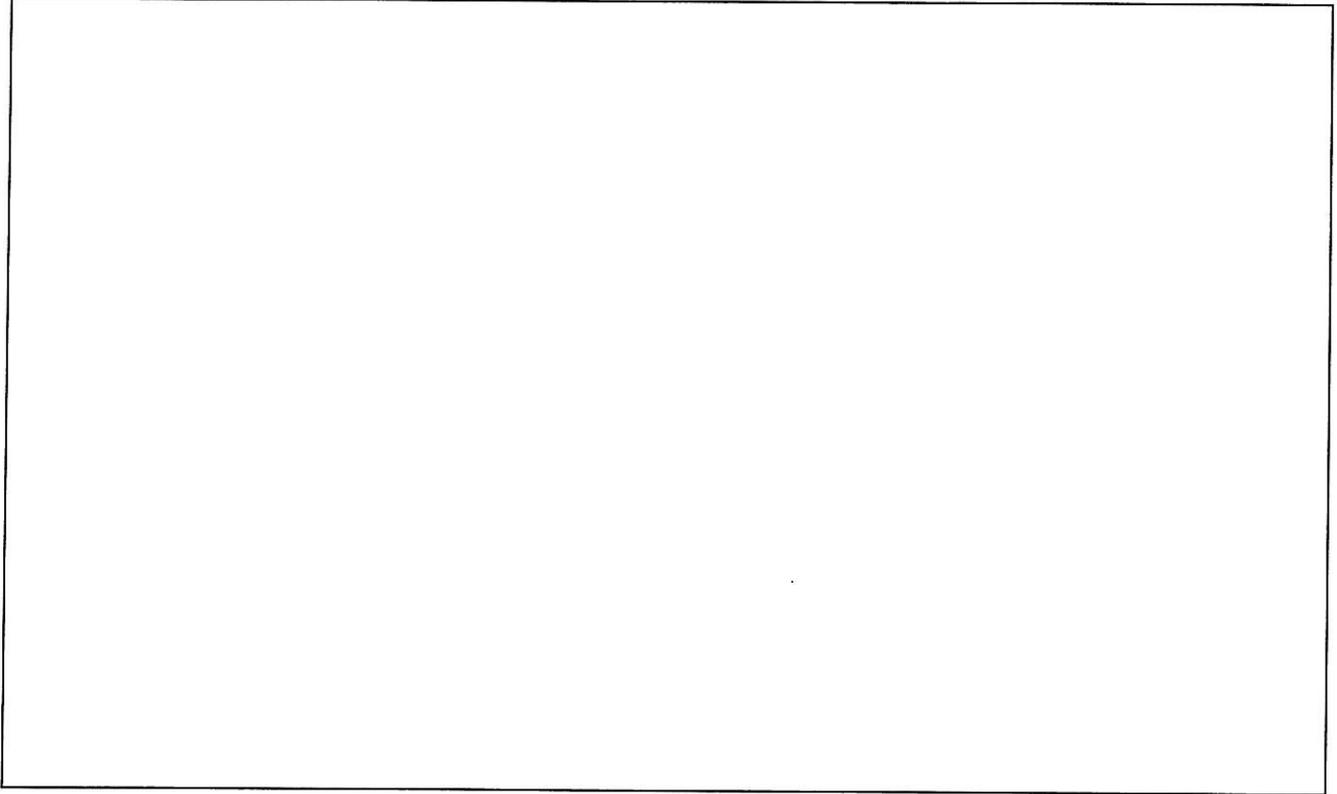
Contextual Measures

The following measures provide important contextual information on the environment in which the plan is being implemented. These indicators measure key systems that are outside the scope of this plan. Over time as the plan is refined and re-targeted, these indicators may be assigned targets and made into performance measures.

	Measure	Data Sources	Notes	Data 1/2007 - 12/2007
	<i>Causes of Homelessness - Factors that are pushing people into homelessness</i>			
1	Percent of area median income needed to afford one-bedroom at fair market rent.	National Low Income Housing Coalition – Out of Reach	Measure indicates how affordable housing is compared to incomes.	CTED will calculate
2*	Number and percentage of persons identified as homeless reporting recent domestic violence within the last year.	HMIS element 3.8	Domestic violence is a significant cause of homelessness. The reauthorization of the federal Violence Against Women Act precludes the collection of unique identifiers from victims of domestic violence, unless HUD implements a new rule. Alternate methods of collecting this information will need to be explored until federal rule making is completed.	
3*	Number and percentage of persons identified as homeless reporting substance abuse problems.	HMIS element 3.7	Substance abuse can be a factor in homelessness.	
4*	Number and percentage of persons identified as homeless reporting mental health problems.	HMIS element 3.6	Mental health problems can be a factor in homelessness.	
5*	Number and percentage of persons identified as homeless with long-term serious physical disabilities.	HMIS element 3.3	Physical disabilities can be a factor in homelessness.	
6*	Average and median income of households placed into transitional housing and permanent housing, broken out by sources (earned income, unemployment insurance, SSI, SSDI, veteran's disability, private disability, worker's compensation, TANF, GA, SS retirement, veteran's pension, pension from a job, child support, alimony, other).	HMIS elements 3.1, 2.10 HMIS identifiers matched against DSHS and DVA records	Provides context concerning the incomes of persons who are homeless. Not practical to collect from persons in emergency shelter. Can be compared to incomes of persons exiting the homeless service system to gauge the impact of housing and services on income.	
	<i>Prevention, Diversions and Re-Entry – Data regarding interplay between other service systems and homelessness</i>			
7*	Number and percentage of families with minor children identified as homeless receiving TANF.	HMIS elements 2.10 and 3.1-8 HMIS identifiers matched against DSHS records	Measures what role the TANF program is playing with homeless families. By itself not enough to fully understand the role of TANF. If only a portion of families are receiving TANF, should the uncovered portion be receiving benefits? If almost all homeless families are receiving TANF, how can TANF be adjusted or linked to other programs to better prevent homelessness?	
8*	Number and percentage of persons identified as homeless receiving SSI, SSDI or GAU.	HMIS elements 2.10 and 3.1-3,4,9 HMIS identifiers matched against DSHS records	Measures what role the SSI/SSDI/GAU program is playing with homeless persons. By itself not enough to fully understand the role of SSI/SSDI/GAU, but may reveal trends that warrant further exploration.	

F- Recommendations for State Legislature and Policy Changes Needed to Address Homelessness

Describe the state-level changes in policy and law necessary to achieve the goal of a 50 percent reduction of homelessness in your county (This question was part of the original guidelines defining the contents of local ten-year homeless plans)

A large, empty rectangular box with a thin black border, intended for the user to write their recommendations for state-level policy and law changes to address homelessness.

G – Updated County Homeless Plan

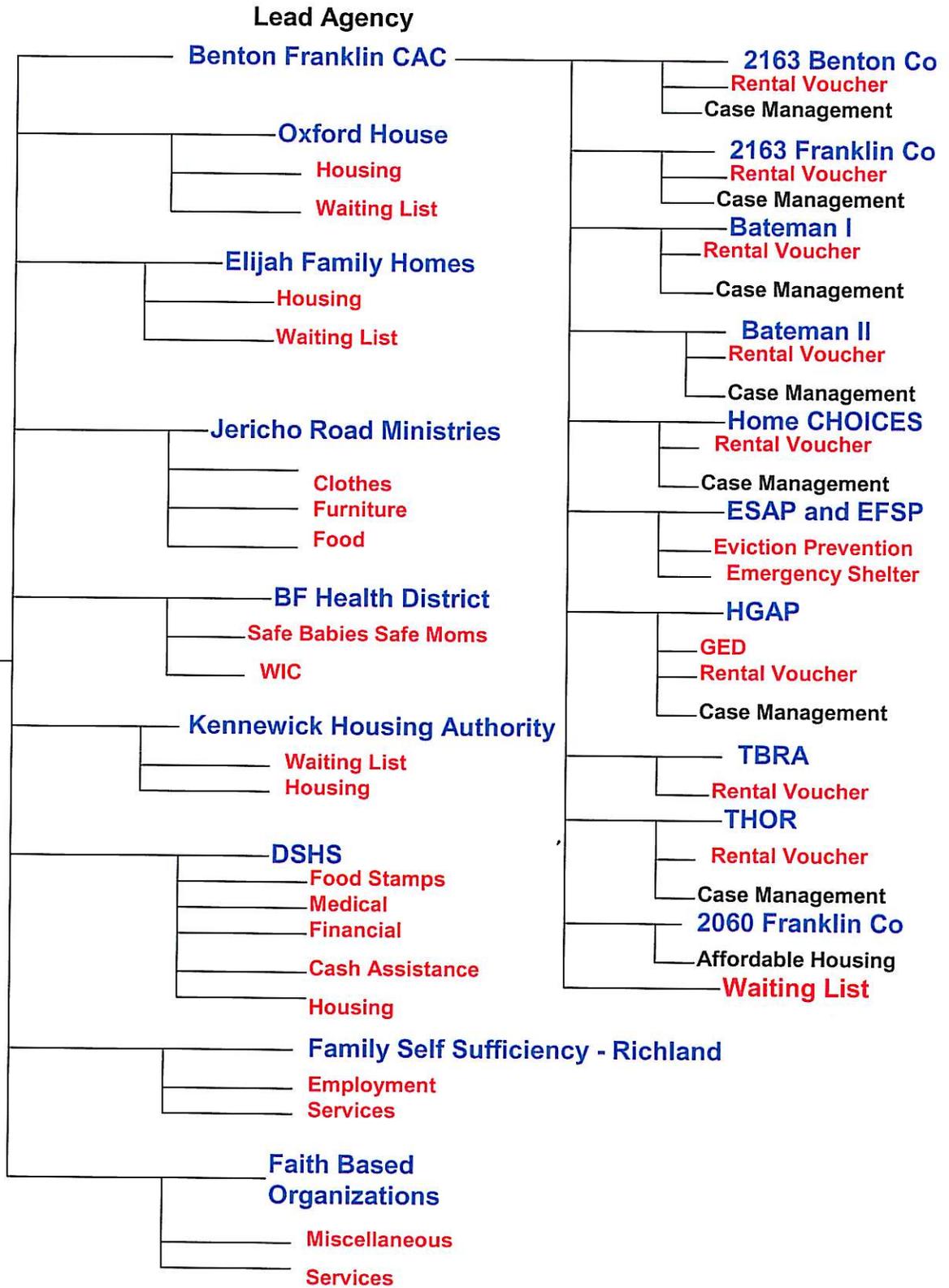
Please attach an electronic copy of your county's latest homeless plan when returning this report to CTED, or certify that the plan at the following address is the current version:

http://housing-information.net/files/final_local_plans/

We certify that the Benton Franklin Counties 10 Year Plan to reduce homelessness located at the above Web address is a current version.



Home Base



Home Base Partners

**HOMELESS GRANT ASSISTANCE PROGRAM (HGAP)
2007 PROJECT SUMMARY**

Benton-Franklin Counties HOME BASE Connections Jail Release Program

Benton Franklin Community Action Committee
720 W. Court Street
Pasco 99301
Judith Gidley
509 545-4042

• **PURPOSE**

Project Purpose: To provide housing and services to 68 jail inmates and families of jail who would otherwise be homeless per year. The HOME BASE Connections Case Manager will work with each program participant to develop a Housing Stability Plan and a Family Development Matrix with monthly goals intended to help the participant move toward self-sufficiency. Participants may also take classes in budgeting and financial management. Participants will be housed in a motel for the first week followed by subsidized housing for 6 to 12 months before transitioning in place or moving into other permanent housing.

Project Team:

Benton Franklin Community Action Committee:

Judith Gidley, Executive Director
Debra Biondolillo, Supportive Housing Director
Cricket Cordova, Continuum of Care Systems Manager

Benton and Franklin Counties Department of Human Services:

Carrie Pascua, Director
Robin Callow, Housing Program Specialist

Benton County Commissioners:

Commissioner Claude L. Oliver
Loretta Smith-Kelty, Commissioners Office staff

• **GRANT**

Total Grant Amount: \$540,000

Duration of Contract: 3 years

• **ACTIVITIES**

Project Activities:

The contract for the HOME BASE Connections Jail Release Program has been approved by the BFCAC, county prosecutors in both counties, and the Franklin County Commissioners, and is pending approval by the Benton County Commissioners in September.

Benton-Franklin Counties HOME BASE Connections Jail Release Program

Two case management staff have been hired to work on the program: Roy Martinez (lead case manager) and Melissa Hess (overflow case manager). They have received training on intake eligibility and filing systems, and begun work with both the Benton and Franklin County sheriff's offices. Program marketing has begun in both county jails, via the distribution of a program handbook and posters.

Videoconferencing is set up in the Benton County jail, to allow Mr. Martinez to conduct initial intake interviews with inmates remotely. Mr. Martinez also travels to the Franklin County jail to conduct interviews on site. In general, program staff seek to begin work with each accepted inmate on a discharge and housing stability plan 45 days prior to their discharge from jail.

Upon discharge, the inmate/program participant is expected to immediately report to the BFCAC housing office. The case manager meets with the participant to discuss immediate housing options, including providing hotel vouchers when necessary. Intensive case management to stabilize the participant in the community includes identifying goals and objectives and meeting with the case manager on a schedule that the case manager determines.

The BFCAC Supportive Housing Director and staff have been conducting outreach to landlords to identify units to house program participants, with some success. The SeaMar Motel, which houses migrant farmworkers during the growing season, has been willing to make some units available to HOME BASE Connections participants due to its off-season vacancy rate. Staff have also met with private landlords in the program area who will take up to Class 1 sex offender populations.

BFCAC staff are also developing a curriculum for life skills classes that community members will teach. These classes are intended to expand (and not duplicate) the information that staff can provide. Teachers may be drawn from the Benton-Franklin Volunteer Center Bank and organizations such as Consumer Credit.

The HOME BASE Connections team is also taking steps to coordinate project activities with other efforts to address the needs of homeless and special needs populations in Benton and Franklin Counties, and to meet the goals of the 2-county 10 Year Plan. Youth and education, faith-based community, mental health and criminal justice system mapping processes are all among these initiatives. Preliminary planning for a coordinated crisis center has begun in response to recommendations from these processes.

Amount of Funding for Each Activity

Activity	HGAP Funding	Cash Match	Total Funding
Supportive Services	\$210,000	\$57,000	\$267,000
Rental Assistance	\$222,000	\$153,000	\$375,000
Administration	\$54,000	\$30,000	\$84,000
Evaluation	\$18,000	\$0	\$54,000

Benton-Franklin Counties HOME BASE Connections Jail Release Program

Cash Match (first 12 months):

BFCAC CSBG: \$10,000

Benton County 2060 funds: \$50,000

Franklin County 2060 funds: \$20,000

- **RESULTS**

Estimated number of people served

Per year *target*: 104 people – 12 families including 24 adults and 24 children, and 56 single adults

Total *target*: 312 people – 36 families including 72 adults and 72 children, and 168 single adults

Estimated number of housing units or beds made available

Target: 36 months of rental assistance for 28 1BR units, and 36 months of rental assistance for six 2BR units

Expected outcomes

- Released offenders and their families are placed in subsidized housing.
- Offenders will be better prepared to accomplish goals and objects that empower their lives to accomplish self-sufficiency.
- Offenders will reduce their recidivism in the jail system by stabilizing their housing.
- 47 households are in permanent housing.

9:45

EXCERPT OF MEETING OF JUNE 2, 2008

Leo: I actually got a call late Thursday afternoon from NACO requesting that I attend a hearing in front of Congressman Overstar's Transportation Infrastructure Committee on Thursday morning of this week. And so I have solicited the assistance of Mr. Dunfee and our Council of Governments regarding testimony. We have found an airplane that is going that direction and back. Sorry about that, and back too. Unless the Board has some heartburn with that, I will be testifying in Washington, D.C. on the needs of not just Benton County but the three counties of Benton, Franklin, and Walla Walla, which is our (mpo), on the needs of infrastructure, bridges, and all-weather roads, and those kinds of things in front of Overstar's committee.

Claude: Alright. Just a quick little feedback from Commissioner Benitz.

Max: No, I don't have any problem with it.

Claude: Commissioner Bowman, we trust that you know the road goes there and gets back to here, so make sure you hook it around. And thanks for letting us know that impact, you know, the more you attend those things, you more you rise up in rank and the more folks expect you to hook the iron, so it is not unusual to get those phone calls. And so.....(inaudible) and get accommodations. And also I have been given a direct communication from Jesse Jackson. Jesse Jackson has indicated that he would like some of us that he met with out there when he was here, to come back and visit with him at the end of this month at the national conference. And so one of the primary reasons is he would like to get together a national coalition and work with other parties regarding the Fast Flux Text Facility. It does have major significance for this community and so I will also be working with staff to see what I can do to accommodate that action. (inaudible)...that would be the end of the month, however, it is not going to be this week, so just FYI.

Leo: Okay.

Claude: So we look forward to getting your report when you come back.

Leo: Yeah, I think it is, you know it is (inaudible)...a plane ticket round trip, but at the same time, NACO is picking up the hotel one night, but it is just an opportunity

for us to provide (inaudible)...let Congress know there is an "out west" and we do have problems and our gross product has to get to market and how we do that and the way we do it and the help we need is very appropriate I think.

Claude: Well and certainly the longer you are around the players, the more they are going to ask you to step up and lift that iron. We know you will do a good job there. We appreciate it.

RESOLUTION 08 002

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF COUNTY POLICY RE: THE BENTON COUNTY BUSINESS TRAVEL AND EXPENSE POLICY; RESCINDING RESOLUTION NO. 07-790

WHEREAS, pursuant to RCW 2.36.150 and RCW 43.03.060, the mileage allowance paid for jury duty is prescribed by the Director of Financial Management; and

WHEREAS, the State of Washington, Office of Financial Management, and the Internal Revenue Service have adopted a new rate of \$.505 per mile;

NOW, THEREFORE,

BE IT RESOLVED that effective this date, the reimbursement rate for mileage shall be increased to \$.505 per mile for all Benton County employees, jurors, expert witnesses, and other travelers authorized to travel by the County; and

BE IT FURTHER RESOLVED that the Board of Benton County Commissioners hereby approves the attached Business Travel and Expense Policy, as amended, and that Resolution No. 07-790 is hereby rescinded.

Dated this 7 day of Jan, 2008.

Claude L. O'Neil
Chairman of the Board
Max E. Benitz
Chairman Pro Tem
Leo M. Benema
Member

Attest: Carrie McKenzie
Clerk of the Board

Constituting the Board of County Commissioners of Benton County, Washington

BUSINESS TRAVEL AND EXPENSE POLICY

I. PURPOSE

This guideline provides policies and procedures for authorizing business travel and for reporting reimbursable business expenses.

II. POLICY

It is the policy of Benton County that business travel and expenses be restricted to those activities that are necessary and clearly in the best interest of the County. All employees need to remain sensitive to potential negative public perceptions regarding business expenses incurred by government employees and to use prudence and good judgment when traveling at County expense. As such, Benton County is establishing a per diem only reimbursement method for meals incurred to conduct County business (except for the two provisions provided in section II, subsection A, paragraph 4).

Reimbursement for other travel expenses outside Benton County and for business expenses within the immediate area are limited to actual, necessary, and reasonable expenses in accordance with RCW 42.24. Established reimbursement rates for business travel are listed in Attachment 1. Meals are established at a per diem rate only (except for the two provisions provided in section II, subsection A, paragraph 4).

Business expenses are categorized as follows:

- A. Allowable Expenses. Unless specific exceptions are granted by the approving authority, the following cost limitations apply:
1. Transportation. Travel is to be by the most direct route and by the most economical mode available in the form of transportation approved by the responsible elected official or department director/manager. If more expensive transportation is used, reimbursement is limited to costs that would have been incurred had the most economical means been used.
 2. Mileage. Travelers using privately owned automobiles on County business will be reimbursed for actual miles driven at the established rate (see Attachment 1).
 3. Lodging. Lodging should be at the lowest available government, corporate, or conference rate. Travelers may stay at the conference center hotel even if less expensive lodging is located nearby. Otherwise, travelers are to make use of the most economical, suitable accommodations available. County employees are not required to stay in lodgings of a quality inferior to those rated at one star in the appropriate Mobile Travel Guide (available at the Richland Public Library).

4. Meals

- a. Benton County. Meal reimbursements will be allowed within Benton County only upon written authorization from the department's Elected Official and will be reimbursed at the established federal per diem rates (See Attachment 1). Departments reporting to the County Commissioners will require authorization from two Commissioners. Elected Officials are responsible for authorizing their own meal reimbursements.
- b. Outside Benton County. Meal reimbursements outside Benton County will be allowed at the established federal per diem rates (see Attachment 1) or under one of the two exceptions listed below. Meals included in registration fees or included with lodging are not reimbursable.

EXCEPTION #1 (Receipt Supported Business Meals for Elected Officials and Department Directors/Managers-\$50.00 Maximum): Elected Officials and Department Directors/Managers may be reimbursed for receipt-supported business meals (receipt must be itemized and issued by the vendor) necessary to transact County business up to a maximum of \$50.00 total per day or individual per meal amounts based thereon pursuant to the receipt supported meal rates in Attachment 2. Because of IRS regulations, if a sufficiently detailed receipt is not submitted, the traveler will only be reimbursed at the applicable standard per diem meal rate set forth in Attachment 1 for the entire day or for partial day meal(s).

EXCEPTION #2 (Conference or Meeting Meals): At some conferences or meetings, the breakfast, lunch, or dinner functions may require an extra charge for the meal (not included in the registration). Since this is out of the employee's control, the employee may be reimbursed for such expense, as long as a detailed receipt is submitted. The remaining meals shall be reimbursed at the applicable standard per diem meal rate set forth in Attachment 1 for partial day meal(s), and not eligible for the full per diem.

5. Tips. Tips up to 15 percent (rounded up to the nearest \$1.00) are reimbursable for meals that fall into the two exceptions, not based on per diem. (Tip expenses for meals are included in the established per diem rates). Tips for other services are limited to 15 percent or \$5.00, whichever is less.
6. Miscellaneous Expenses. Necessary miscellaneous business expenses, such as taxi and bus fares, ferries, tolls, parking fees, and educational materials are reimbursable. Detailed receipts are required for miscellaneous business expenses exceeding \$5.00.

B. Non-Allowable Expenses

Expenses of a personal nature that do not benefit the County and which might have been incurred even if the traveler was not on official business are not reimbursable. Examples include, but are not limited to dependent expenses, entertainment, traffic fines, loss or damage to personal property, purchase of personal articles, personal telephone calls, in-room movies, laundry service, valet service, and alcoholic beverages.

EXCEPTION: Employees are allowed reimbursement for one personal call of approximately 10 minutes for each night spent out of town, provided they must use the most economic method available.

If additional costs resulting from combining personal and business travel are prepaid by the County (for example: increased airfare due to indirect routings or extra stops), those additional costs shall be paid to the County by the traveler upon return of trip.

III. RESPONSIBILITY

- A. Employees. Employees traveling on County business are responsible for making themselves aware of and following these procedures.
- B. Elected Officials and Department Directors/Managers. Elected officials and department directors/managers are responsible for verifying the trip is necessary and clearly in the best interest of the County, that budgeted funds are available, and ensuring that these procedures are complied with.

The employee's elected official or department director/manager must approve all business travel expenses.

IV. PROCEDURE

- A. Travel Documents. Travelers need to keep in mind that they are responsible for the accuracy of information reported on County travel documents.
- B. Conferences, Classes, and Seminars. Registration for a conference, class, seminar, etc. must be approved by the department director/manager or elected official.
- C. Advance Travel. The Advance Travel form must be received by the department director/manager or elected official at least three working days before leaving if the trip involves travel advance, transportation tickets, or registration fees. Travel advances may be provided when anticipated out-of-pocket expenses are expected to exceed \$100.00 per person. At the discretion of the elected official or department director/manager, a County credit card may be provided.

Advance travel checks may be picked up from the Treasurer within one working day of departure unless alternate arrangements are made due to unusual circumstances. The traveler, or an authorized representative, must pick these up.

D. Travel Modes.

1. Commercial Air Travel. Reservations for commercial air transportation may be made through each department. Travelers are not required to fly on aircraft not able to carry at least twenty passengers.
2. County Vehicles. If available, a County vehicle should be considered for business travel outside Benton County if the most appropriate mode of travel is by automobile.
3. Personal Vehicles. Travelers using personal vehicles must have a valid driving license and State of Washington required insurance coverage. The County retains liability insurance, but it only covers claims against the County, not against the traveler.
4. Rental Vehicles. Vehicle rentals should be considered as an alternative to personal vehicles if the cost is more beneficial to the County.

E. Additional Requirements.

1. Advance Travel. Advance Travel will not be provided for travel that will be reimbursed by an outside entity.
2. Multiple Travelers. If traveling by automobile and if practicable, all travelers to the same event shall travel together in the same vehicle. Those choosing not to share a ride when practicable may be required to cover their own transportation costs.
3. Consideration of Value. All promotional air fare, tickets, discount coupons, or negotiable items of value received as a result of travel on County business may not be used by the traveler for personal purposes.

F. Reporting.

1. Expense Vouchers. Expense vouchers shall be approved by the department director/manager or elected official and then forwarded to the Auditor, with receipts attached. In lieu of an actual receipt, a signed affidavit stating the nature of the purchase, items purchased, and the reason for no receipt will be accepted.

ATTACHMENT 1 – Page 1

Benton County - Travel and Expense Policy

ESTABLISHED REIMBURSEMENT RATES

This attachment to the Business Travel and Expense Policy shall be reissued by the Commissioners as reimbursement rates change.

Mileage Reimbursement

The reimbursement rate for use of a personal vehicle for business purposes shall be \$0.505 cents per mile, which is subject to change annually.

Meal Expenses

Employees shall be reimbursed for the cost of meals consumed while conducting official County business at the IRS Maximum Federal Per Diem Rates, as published in the federal register by the General Services Administration (GSA) GSA Federal Per Diem Rates are in effect until updated by the Benton County Commissioners. GSA Federal Per Diem Rates are available on the web at <http://www.gsa.gov/Portal/gsa/ep/home.do?tabId=0>.

MAXIMUM FEDERAL PER DIEM RATES
Frequently Traveled Cities

<u>CITY</u>	<u>MEALS</u>	<u>CITY</u>	<u>MEALS</u>
Seattle & King County	\$64.00	Portland	\$49.00
Spokane	\$49.00	San Francisco	\$64.00
Olympia/Tumwater	\$49.00	Salt Lake City	\$54.00
Tacoma	\$59.00	Las Vegas	\$64.00
Tri-Cities	\$39.00	Reno	\$49.00
Vancouver	\$49.00	Los Angeles	\$64.00
Yakima	\$39.00	San Diego	\$64.00
Wenatchee	\$39.00	Denver	\$49.00
Lynnwood	\$54.00	Chicago	\$64.00
Ocean Shores	\$44.00	Nashville	\$54.00
Bellingham	\$39.00	Charlotte	\$49.00
Moses Lake	\$39.00	Washington D.C.	\$64.00

IRS Publication 1542 provides a detailed listing of most cities in the Maximum Per Diem Rates. Cities and Counties not listed in the publication are reimbursed (per IRS) at \$39.00 per diem.

ATTACHMENT 1 – Page 2

MEALS FOR PARTIAL DAY TRAVEL STATUS

Breakfast *25%	10.00	11.00	12.00	14.00	15.00	16.00
Lunch *30%	12.00	13.00	15.00	16.00	18.00	19.00
Dinner *45%	<u>17.00</u>	<u>20.00</u>	<u>22.00</u>	<u>24.00</u>	<u>26.00</u>	<u>29.00</u>
Total Daily 100%	39.00	44.00	49.00	54.00	59.00	64.00

*Rounded to the nearest dollar

*These rates include 15% tips rounded to the nearest dollar

ATTACHMENT 2

ELECTED OFFICIALS AND DEPARTMENT DIRECTORS/MANAGERS
ITEMIZED RECEIPT SUPPORTED MEAL RATES

Breakfast	\$12.00
Lunch	\$15.00
Dinner	<u>\$23.00</u>
Total	\$50.00
Tip	*15% (maximum)

In order to comply with IRS guidelines governing reimbursable meal expenses, if a sufficiently detailed receipt is not submitted, the traveler will be reimbursed at the Attachment 1 standard appropriate daily per diem meal rate for the date of the missing receipt. **NO EXCEPTIONS.**

RECEIPT SUPPORTED REIMBURSEMENT: Receipt supported reimbursement for a full day's meals shall not exceed a total of \$50.00 per day, plus 15 percent for tips. Because of the possibility of negative public perceptions of government travel, it is expected that the receipt supported, maximum daily amount will be used infrequently and in situations where it is necessary and beneficial to the County.

Comnr Office Expense Report - 1st Qtr 2008

	Claude (1056)	Leo (1061/1080)	Max (1055/1069)	Office (1021/1077)
Travel (4301)	\$1,445.00	\$1,809.73		\$230.30
Phone (4202)	\$163.03	\$301.31	\$131.32	\$317.52
Fuel (3103)	\$305.46	\$767.96	\$626.17	\$465.87
Training (4905)	\$515.00		\$0.00	\$402.50
Combined Total	\$2,428.49	\$2,879.00	\$757.49	\$1,416.19

% Used Travel	11%	13%	0%	2%
% Used Phone	3%	5%	2%	5%
% Used Fuel	4%	11%	9%	6%

	08 Budgeted	Remaining	Percentage Used
Travel	\$13,500.00	\$9,880.00	27%
Phone	\$6,000.00	\$5,087.00	15%
Fuel	\$7,219.00	\$5,054.00	30%

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cars:
463 - Loretta

****this report reflects vouchers paid through 06/20/2008****

Comnr Office Expense Report - 2nd Qtr 2008

	Claude (1056/1073)	Leo (1061/1080)	Max (1055/1069)	Office (1021/463)
Travel (4301)	\$1,134.96	\$1,323.13	\$321.33	\$778.39
Phone (4202)	\$176.55	\$167.46	\$165.60	\$329.88
Fuel (3103)	\$432.44	\$675.43	\$711.68	\$392.62
Training (4905)	\$250.00	\$215.00		\$228.00
Combined Total	\$1,993.95	\$2,381.02	\$1,198.61	\$1,728.89

% Used Travel	9%	10%	2%	6%
% Used Phone	3%	3%	3%	5%
% Used Fuel	6%	10%	10%	6%

	06 Budgeted	Remaining	Percentage Used
Travel	\$13,220.00	\$6,233.80	53%
Phone	\$6,000.00	\$3,693.37	38%
Fuel	\$6,810.00	\$3,047.25	55%

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Vehicle #	
1069 (1055 wonrack)	Max
1073 (1056 wonrack)	Claude
1080 (1061 wonrack)	Leo
1077 (1021 wonrack)	David
1083 (1077 wonrack)	Loretta

0000101 CURRENT EXPENSE
107 Commissioners

Account Number	2006 Actuals	2007 Budgeted	2007 First Half	2008 Dept Request	2008 Approval
00000.511.100.4201 Postage	221	350	268	500	368
00000.511.100.4202 Telephone	3,596	6,000	2,196	6,000	6,000
00000.511.100.4301 Travel	7,784	13,500	6,087	13,500	13,500
00000.511.100.4401 Legal Advertising	2,615	6,000	634	6,000	6,000
00000.511.100.4801 Repair/Maintenance-Office	5,285	5,400	2,913	6,000	6,000
00000.511.100.4901 Association Dues	100	400	150	400	400
00000.511.100.4905 Training	4,064	4,000	2,286	4,000	4,000
00000.511.100.4906 Print/Bindery	2,737	5,000	3,282	5,000	5,000
00000.511.100.4908 Licenses & Special Fees	0	60	0	60	60
Total Other Services and Charges	26,640	41,710	17,949	42,460	42,328
511.100.9000 Interfund Payments					
00000.511.100.9101 Data Processing Administration	35,427	40,211	20,106	41,510	41,569
00000.511.100.9305 Computer Hardware & Software	5,654	1,650	0	1,100	1,100
00000.511.100.9402 Computer Purchases-Software	0	0	0	56,300	56,300
00000.511.100.9501 Computer Equipment Lease	13,002	13,137	13,137	10,045	10,045
00000.511.100.9503 Automobile Rental	19,536	18,034	18,034	21,916	21,916
00000.511.100.9601 Insurance Management	5,937	8,557	8,557	8,434	8,434
00000.511.100.9602 Workers' Compensation	3,746	3,754	3,754	3,983	3,983
00000.511.100.9908 Accumulated Leave	4,447	5,847	5,847	7,662	7,662
Total Interfund Payments	87,749	91,190	69,435	150,950	151,009
Total Legislative Administration	474,836	622,399	313,545	724,027	723,173
Total Legislative Administration	474,836	622,399	313,545	724,027	723,173
511.600 Legislative Services					

Expenditure Status Report
Benton County, WA
6/1/2008 through 6/30/2008

0000101 CURRENT EXPENSE

107 Commissioners

Account Number	Adjusted Appropriation	Expenditures	Year-to-date Expenditures	Year-to-date Encumbrances	Balance	Prct Used
00000.511.100.4102	0.00	0.00	0.00	0.00	0.00	0.00
00000.511.100.4103	1,000.00	0.00	156.90	0.00	843.10	15.69
00000.511.100.4201	368.00	106.00	141.03	0.00	226.97	38.32
00000.511.100.4202	6,000.00	551.70	2,057.78	0.00	3,942.22	34.30
00000.511.100.4301	13,500.00	623.65	7,266.20	0.00	6,233.80	53.82
00000.511.100.4401	6,000.00	575.17	1,190.83	0.00	4,809.17	19.85
00000.511.100.4507	0.00	0.00	0.00	0.00	0.00	0.00
00000.511.100.4601	0.00	0.00	0.00	0.00	0.00	0.00
00000.511.100.4801	6,000.00	423.88	2,955.39	0.00	3,044.61	49.26
00000.511.100.4804	0.00	0.00	0.00	0.00	0.00	0.00
00000.511.100.4901	400.00	0.00	200.00	0.00	200.00	50.00
00000.511.100.4905	4,000.00	0.00	1,610.50	0.00	2,389.50	40.26
00000.511.100.4906	5,000.00	0.00	814.00	0.00	4,186.00	16.28
00000.511.100.4908	60.00	0.00	0.00	0.00	60.00	0.00
00000.511.100.4911	0.00	0.00	0.00	0.00	0.00	0.00
Total	42,328.00	2,280.40	16,392.63	0.00	25,935.37	38.73
511.100.9000						
Interfund Payments						
00000.511.100.9101	~41,569.00	0.00	20,784.00	0.00	20,785.00	50.00
00000.511.100.9107	0.00	0.00	0.00	0.00	0.00	0.00
00000.511.100.9205	0.00	0.00	0.00	0.00	0.00	0.00
00000.511.100.9305	1,100.00	0.00	0.00	0.00	1,100.00	0.00
00000.511.100.9401	0.00	0.00	0.00	0.00	* 0.00	0.00
00000.511.100.9402	56,300.00	0.00	0.00	0.00	56,300.00	0.00
00000.511.100.9501	10,045.00	10,045.00	10,045.00	0.00	0.00	100.00
00000.511.100.9503	21,916.00	0.00	19,849.99	0.00	2,066.01	90.57
00000.511.100.9501	8,434.00	0.00	8,434.00	0.00	0.00	100.00
00000.511.100.9502	3,983.00	0.00	3,983.00	0.00	0.00	100.00
00000.511.100.9801	0.00	0.00	0.00	0.00	0.00	0.00
00000.511.100.9805	0.00	0.00	0.00	0.00	0.00	0.00
00000.511.100.9908	7,662.00	0.00	7,662.00	0.00	0.00	100.00
Total	151,009.00	10,045.00	70,757.99	0.00	80,251.01	46.86
Total	725,500.00	13,202.47	308,596.15	0.00	416,903.85	42.54

10:00

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF COUNTY POLICY, RE: SURPLUS OF PERSONAL PROPERTY IN ACCORDANCE WITH RESOLUTION 07-752, RCW 63.21 and RCW 63.40.010

WHEREAS, The Benton County Auditor is the Personal Property Manager and maintains an updated inventory listing of county personal property; and,

WHEREAS, the Benton County Sheriff's Office acquires large amounts of unclaimed property that are required to be sold at public auction; and,

WHEREAS, Benton County accumulates large amounts of surplus personal property and unclaimed property, storage space is limited and disposing of some of this property at public auction is a legal and acceptable manner of disposition; and

WHEREAS, the Benton County Sheriff's Office and Auditor's Office have searched for a reasonable solution that would fit the needs of both offices; and

WHEREAS, after reviewing available services, staff from both offices agree and recommend PropertyRoom.com, Inc. a California corporation operating from Mission Viejo, California, with extensive experience in appropriate and legal disposition of property held by government agencies, as the best possible solution for their auctioning needs; and

WHEREAS, the Board finds it to be in the best interest of the citizens of Benton County to utilize the services of PropertyRoom.com, Inc. to auction off surplus antiquated and obsolete personal property and unclaimed property; **NOW, THEREFORE**

BE IT RESOLVED, that the Chairman of the Board of County Commissioners is hereby authorized to sign the attached service agreement between Benton County and PropertyRoom.com authorizing PropertyRoom.com to sell equipment and unclaimed property at public auctions to be determined at a later date.

Dated this 23 day of June, 2008.

Chairman of the Board

Member

Member

Constituting the Board of County
Commissioners of Benton County,
Washington

Attest: _____
Clerk of the Board

PROPERTY DISPOSITION SERVICES AGREEMENT

PropertyRoom.com, Inc., a Delaware corporation ("PropertyRoom" or "PRC"), enters into this agreement (the "Agreement"), with the client identified below (the "Owner") for the auction and disposition of personal property (the "Disposition Services"), in accordance with the Terms and Conditions and Addenda, if any, attached hereto and listed below. Beginning June 1, 2008 (the "Start Date"), Owner engages the Services of PRC.

Owner Information	Schedules, Supplements & Other Attachments
<u>Benton County</u> Owner Name	Mark included attachments:
<u>7122 W. Okanogan Place Bldg. A</u> Address	Terms and Conditions <u>Yes</u>
<u>Kennewick, WA 99336</u> City, State Zip Code	Addendums: _____
<u>(509) 735-6555</u> Phone	_____
_____ Email	

This Agreement, including all of the terms and conditions set forth in the attached Terms and Conditions as well as all other attachments indicated in the box above, comprises the entire Agreement between the Parties. This Agreement cannot be modified except in writing by the duly authorized representatives of both parties.

Owner

Claude Oliver
 Signor Name

Benton County Commissioner
 Signor Title

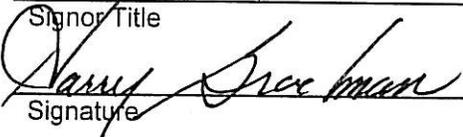
 Signature

6/09/08
 Signature Date

PropertyRoom.com

Harry Brockman
 Signor Name

Vice President of Operations
 Signor Title


 Signature

6-10-08
 Signature Date

PropertyRoom.com, Inc.
 26421 Crown Valley Parkway, Ste 200
 Mission Viejo, California 92691
 +1 (949) 282-0121
 Federal Tax ID 86-0962102

TERMS AND CONDITIONS

1. **Property to be Sold.** From time to time, Owner will designate items of personal property (the "Property") that it desires to provide to PRC for Disposition Services. PRC retains the right to accept or reject certain items in its sole discretion.
2. **Title.** Owner shall retain legal title to the Property until it is purchased by auction or otherwise disposed of in accordance with this Agreement at which time Owner will be deemed to have transferred title to the purchaser or other acquirer of the item of Property (the "Buyer"). Owner appoints PRC as its attorney-in-fact to sign any and all documents necessary to assign to Buyers all of Owners right, title and interest in and to Property sold or disposed. Cash receipts, accounts receivable, contract rights, notes, general intangibles, and other rights to payment of every kind, arising out of the sales and dispositions of Property (collectively the "Proceeds") belong to Owner, subject to PRC's right to PRC's Net Proceeds and funds attributable to credit card processing costs and other transaction costs. Owner's Property shall, at all times before sale or disposition, be subject to the direction and control of Owner.
3. **Method of Selling Property.**
 - a. **Portable Property Items.** PRC will, on Owners behalf, pick-up, store and list Property for sale by auction to the public on the internet on one or more domain names selected by PRC. To the extent that any Property is not sold by auction, PRC may, in any commercially reasonable manner selected by PRC, dispose of Property. PRC will determine all aspects, terms and conditions of auctions of Property and dispositions of Property not purchased at auction, subject to the ultimate control of Owner. PRC will be responsible for all phases of submitting the Property for auction, including, but not limited to, determining when Property will be auctioned, setting the opening and reserve prices of Property, if any; determining the selling price, setting the length of time Property will be auctioned; creating text and graphics to describe and depict Property submitted for auction; collecting Buyer information (such as name, billing address, shipping address, and credit card information); approving Buyer credit card purchase transactions; and collecting auction proceeds for completed sales from Buyers. PRC shall use reasonable commercial efforts in auctioning and selling the Property on the Internet and disposing of Property that does not sell at auction. PRC shall sell and dispose of all Property "as is" without any liability to the Owner. PRC is solely responsible for identifying and resolving sales and use tax collection issues arising from Property sales, including the necessity of charging and collecting such taxes.
 - b. **Large Property Items.** PRC will, at Owner's request and on Owner's behalf, list physically large Property ("Large-Items") for sale by auction, including but not limited to cars, trucks, boats, planes and bulk lots of bicycles. For Large-Items, PRC offers Owner different selling options ("Silver," "Gold," "Gold-Plus" and "Platinum"), each with different service components and associated pricing.
 - (1) **In-Place Options.** For Silver, Gold and Gold-Plus ("Gold+"), PRC will auction Large-Items in-place, and in this context, "in-place" means that PRC will not pick-up and store these specific Items but rather Owner will maintain physical control until transfer of Items to Buyers.
 - (2) **Haul-away Option.** For Platinum, PRC will, in conjunction with a partner and to the extent practical, pick-up and haul-away Large-items, selling via online auction and transferring title and physical possession to Buyers as described in Portable Property Items.
 - (3) **Large-Item Service Summary.** The Large-Item Auction Services Option Table below depicts service components associated with each option.

Method of Selling Property: Large-Item Auction Services Option Table

Service Component	Responsible Party (if applicable)			
	Silver	Gold	Gold+	Platinum
1. List Large-Item for In-Place online auction	PRC	PRC	PRC	
2. Checklist review and coordination	PRC	PRC	PRC	PRC
3. Listing write-up and marketing	PRC	PRC	PRC	PRC
4. Auction and auction technology management	PRC	PRC	PRC	PRC
5. Customer Support to Bidders	Owner	PRC	PRC	PRC
6. Coordinate Buyer payment and Large-Item pick-up	Owner	PRC	PRC	PRC
7. Transaction (payment) processing	Owner	PRC	PRC	PRC
8. Photographing, vehicle review, equipment description	Owner	Owner	PRC	PRC
9. Provide or procure asset title, as applicable	Owner	Owner	Owner	Owner*
10. Pick-up and haul-away for off-premises online auction				PRC

* At Owner request, PRC will acquire title through its partner and pass-through title acquisition cost.

4. Term and Termination.

- a. This Agreement will become effective as of the Start Date and will continue for an initial term of one (1) year (the "Initial Term") following the "Launch Date" (as defined herein) and thereafter will automatically renew for consecutive one (1) year terms unless written notice of non-renewal is provided by either party to the other at least sixty (60) days prior to the expiration of the then current term.
- b. As used herein, "Launch Date" shall mean the date on which PRC completes the first auction of Owner Property.
- c. This Agreement may be terminated if there is a breach by either party of any obligation, representation or warranty contained in this Agreement, upon thirty (30) days prior written notice to the other party unless the breach is cured within the thirty (30) day period, provided, however, if the breach is not capable of being cured within thirty (30) days, the breaching party will have a reasonable amount of time to cure the breach if it begins to cure during the thirty (30) day period and proceeds diligently thereafter. The written notice will specify the precise nature of the breach.
- d. The rights of the parties to terminate this Agreement are not exclusive of any other rights and remedies available at law or in equity, and such rights will be cumulative. The exercise of any such right or remedy will not preclude the exercise of any other rights and remedies.
- e. Notwithstanding any termination by either party of this Agreement, PRC will continue to remit amounts due to Owner under this Agreement in connection with any sales made before the effective date of the termination. At the time of termination, any unsold inventory shall continue to be auctioned by PRC or returned to Owner, at Owner's election and cost.

5. Allocation of Sales Proceeds.

a. Portable Property Items

- (1) **Sales Price.** The total amount paid by Buyer shall be called the "Sales Price." The Sales Price shall include the winning bid amount (the "Winning Bid") and all costs, shipping and handling charges, taxes, and insurance costs associated with the transaction and paid by Buyer.
- (2) **The Split.** For each item of Property, Owner will be credited with 50% of the first \$1,000 of the Winning Bid and 75% of the Winning Bid portion, if any, that exceeds \$1,000. From this amount, the Owner's pro rata share of transaction fees (the "Processing Costs"), if any, will be deducted.
- (3) **Processing Costs.** Credit card processing costs ("Credit Card Cost") and affiliate processing fees (the "Affiliate Fees," which include commissions and processing costs paid to third parties who send winning bidders to the website), will be borne by Owner and PRC in proportion to the percentage of the revenue credited to the parties for each underlying transaction.
- (4) **Net Proceeds.** Amounts received by the Owner will be called "Owner's Net Proceeds".

Portable Item Example. The following example illustrates allocation of proceeds from a Portable Property Item sale. Assume an item of Property sells at auction for a \$100 Winning Bid; the Buyer pays shipping and handling of \$10, insurance of \$2, and sales tax of \$6. The Buyer pays the Sales Price of \$118.00 ($\$100 + \$10 + \$2 + \6) by credit card, and the Credit Card Cost is 3% of the Sales Price or \$3.54 ($0.03 \times \118) and the Affiliate Fee is 4.8% or \$4.80 ($0.048 \times \100). The Owner and PRC each share 50% of the underlying Winning Bid, therefore Credit Card Costs and Affiliate Fees are also shared equally, \$1.77 each ($\$3.54 \div 2$) for Credit Cost and \$2.40 each ($\$4.80 \div 2$) for Affiliate Fees. The Owner's Net Proceeds are \$45.83 ($\50.00 less $\$4.17$). Note: less than 1 out of 10 transactions include Affiliate Fees.

- (5) To the extent that Property is not sold by Auction and PRC disposes of Property in a commercially reasonable manner (see "Method of Selling Property" section), including, but not limited to, sending to a charity, recycling center, landfill, or scrap metal processor, Owner understands and agrees to the following.
- (a) When Property is not sold by Auction, PRC disposition activities create additional PRC processing costs (the "Disposal Costs") and potentially a disposition Sales Price (the "Disposition Proceeds").
 - (b) Disposal Costs include, but are not limited to, labor cost of reloading Property onto a truck, labor and vehicle costs associated with transporting Property for disposition, and third-party fees, such as landfill, recycling, and hazardous material disposal fees.
 - (c) Disposition Proceeds include, but are not limited to, a Sales Price obtained for scrap metal.
 - (d) PRC will bear the burden of Disposal Costs.
 - (e) PRC will retain Disposition Proceeds, if any, as an offset to Disposal Costs, except if Disposition Proceeds for an item of Owner Property exceed \$250, in which case PRC will credit Owner a portion of Disposition Proceeds per "The Split" and "Example" above.

b. Large-Items.

- (1) **Sales Price, Processing Costs and Net Proceeds.** Calculated in a manner directly analogous to Portable Items.
- (2) **The Split.** For each Large-Item of Property, Owner will be credited with a percent of the Winning Bid which varies according to the Large-Item service option employed.
 - (a) **Silver.** Owner will be credited with 100% of the Winning Bid and PRC will charge Buyer a 15% Buyer's Premium.
 - (b) **Gold.** Owner will be credited with 95% of the Winning Bid and from this amount, the Owner's pro rata share of the Processing Costs, if any, will be deducted. PRC will charge Buyer a 15% Buyer's Premium.
 - (c) **Gold-Plus.** Owner will be credited with 90% of the Winning Bid and from this amount, the Owner's pro rata share of the Processing Costs, if any, will be deducted. PRC will charge Buyer a 15% Buyer's Premium.
 - (d) **Platinum.** Owner will be credited with 70% of the Winning Bid less any title pass-through fees from PRC partner.

Large-Item Example. Assume a Large-Item sells at auction for a Winning Bid of \$1,000.00, and with no shipping or handling charges yields a \$1,000.00 Sales Price. For the Silver, Gold and Gold-Plus options, PRC collects and retains a 15% Buyer's Premium, \$150.00 ($0.15 \times \$1,000$), from Buyer. With regard to collecting the Sales Price and sharing proceeds, the approach differs by option:

Silver. Owner completes the sale by collecting the \$1,000.00 Sales Price from Buyer, retaining 100% as Owner's Net Proceeds.

Gold. PRC completes the sale by collecting the \$1,000.00 Sales Price from Buyer. The underlying Winning Bid is shared 95% by Owner, \$950 ($0.95 \times \$1,000$) and 5% by PRC, therefore a 3% ($\$30.00$) Credit Card Cost is split 95% by Owner, \$28.50 ($0.95 \times \30) and 5% by PRC, \$1.50 ($0.05 \times \30). The Owner's Net Proceeds are \$921.50 ($\950.00 less $\$28.50$).

Gold-Plus. PRC completes the sale as described in Gold, but with a 90-10 Split.

Platinum. PRC complete the sale as described in Gold, but with a 70-30 Split and with a deduction of any title acquisition pass-through fees.

6. **Payment Terms.** Not less than once every month, PRC will pay to Owner the amount of Owner's Net Proceeds payable for completed sales during the preceding month. Sales are deemed completed when all items comprising a line item on the original manifest or other list of Property are sold. With each payment of Owner's Net Proceeds, PRC will make available to Owner a detailed report setting forth the following information for the immediately preceding month:
 - a. The completed sales during the prior month, including the total amount of related proceeds collected, Owner and PRC share of Credit Card Costs, the Owners Net Proceeds;
 - b. Other dispositions of Property during the month; and
 - c. The Property, if any, inventoried by PRC at the end of the month.
7. **PropertyRoom's Obligations Concerning Property in Its Possession.** With respect to Property in PRC's possession:
 - a. PRC will exercise due care in the handling and storage of any Property;
 - b. PRC shall keep the Property free of liens, security interests, and encumbrances, and shall pay when due all fees and charges with respect to the Property;
 - c. PRC shall sign and deliver to Owner any UCC-1 financing statements or other documents reasonably requested by Owner; and
 - d. PRC shall obtain and maintain insurance in an amount (determined by PRC) not less than the replacement value of Property in its possession. The insurance will cover the Property against fire, theft, and extended coverage risks ordinarily included in similar policies. PRC shall give Owner a certificate or a copy of each of the upon Owner's request.
8. **Owner Obligations.** Owner will use its best efforts to provide to PRC such Property as becomes available for sale to the public. Owner will complete paperwork reasonably necessary to convey custodial possession of the item of Property to PRC, including a written manifest or list that describes the item of Property in sufficient detail for identification. Owner agrees that it will not provide Property that is illegal or hazardous, including but not limited to explosives, firearms, counterfeit or unauthorized copyrighted material ("knock-offs"), poisons or pharmaceuticals. In addition, to help comply with public notification statutes as well as to support internet traffic flow to the PRC auction website, Owner agrees to place a permanent clickable link (the "Link") to www.PropertyRoom.com on one or more Owner websites. PRC will supply Link technical requirements, text and images to Owner.
9. **Restrictions on Bidding.** PRC and its employees and agents may not directly or indirectly bid for or purchase auctioned Property on the PRC web site.
10. **Representations and Warranties of Owner.** Owner hereby represents, warrants and covenants as follows:
 - a. Property delivered to PRC is available for sale to the general public without any restrictions or conditions whatever; and
 - b. Owner has taken all required actions under applicable law that are conditions precedent to Owner's right to transfer title to the Property to Buyers (the "Conditions Precedent").
11. **Books and Records.** PRC will keep complete and accurate books of account, records, and other documents with respect to this Agreement (the "Books and Records") for at least three (3) years following expiration or termination of this Agreement. Upon reasonable notice, the Books and Records will be available for inspection by Owner, at Owner's expense, at the location where the Books and Records are regularly maintained, during normal business hours.
12. **Indemnification.** Subject to the limitations specified in this Indemnification section of this Agreement, each party will indemnify, hold harmless and defend the other party and its agents and employees from and against any and all losses, claims, damages, liabilities, whether joint or several, expenses

(including reasonable legal fees and expenses), judgments, fines and other amounts paid in settlement, incurred or suffered by any such person or entity arising out of or in connection with

- a. the inaccuracy of any representation or warranty made by the party hereunder,
- b. any breach of this Agreement by the party, or
- c. any negligent act or omission by the party or its employees or agents in connection with the performance by the party or its employees or agents of obligations hereunder, provided the negligent act or omission was not done or omitted at the direction of the other party.

13. **Limitations on Liability.** UNDER NO CIRCUMSTANCES WILL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL OR EXEMPLARY DAMAGES (EVEN IF THAT PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES), ARISING FROM BREACH OF THE AGREEMENT, THE SALE OF PROPERTY, OR ARISING FROM ANY OTHER PROVISION OF THIS AGREEMENT, SUCH AS, BUT NOT LIMITED TO, LOSS OF REVENUE OR ANTICIPATED PROFITS OR LOST BUSINESS (COLLECTIVELY, "DISCLAIMED DAMAGES"); PROVIDED THAT EACH PARTY WILL REMAIN LIABLE TO THE OTHER PARTY TO THE EXTENT ANY DISCLAIMED DAMAGES ARE CLAIMED BY A THIRD PARTY AND ARE SUBJECT TO INDEMNIFICATION PURSUANT TO SECTION 12. LIABILITY ARISING UNDER THIS AGREEMENT WILL BE LIMITED TO DIRECT, OBJECTIVELY MEASURABLE DAMAGES. THE MAXIMUM LIABILITY OF ONE PARTY TO THE OTHER PARTY FOR ANY CLAIMS ARISING IN CONNECTION WITH THIS AGREEMENT WILL NOT EXCEED THE AGGREGATE AMOUNT OF PAYMENT OBLIGATIONS OWED TO THE OTHER PARTY HEREUNDER IN THE YEAR IN WHICH LIABILITY ACCRUES; PROVIDED THAT EACH PARTY WILL REMAIN LIABLE FOR THE AGGREGATE AMOUNT OF ANY PAYMENT OBLIGATIONS OWED TO THE OTHER PARTY PURSUANT TO THE AGREEMENT. NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, OWNER'S LIABILITY IS NOT LIMITED UNDER THIS AGREEMENT WITH RESPECT TO LIABILITY ARISING FROM OWNERS FAILURE TO SATISFY TIMELY ALL CONDITIONS PRECEDENT.
14. **Assignment.** This Agreement may not be assigned, in whole or in part, by either of the parties without the prior written consent of the other party (which consent may not be unreasonably withheld or delayed). Notwithstanding the foregoing, an assignment of this Agreement by either party to any subsidiary or affiliate or a third party acquisition of all or substantially all of the assets of such party will not require the consent of the other party, so long as such subsidiary, affiliate or acquiring entity assumes all of such party's obligations under this Agreement. No delegation by PRC of any of its duties hereunder will be deemed an assignment of this Agreement, nor will any change in control nor any assignment by operation of law by either party. Subject to the restrictions contained in this section, the terms and conditions of this Agreement will bind and inure to the benefit of each of the respective successors and assigns of the parties hereto.
15. **Notices.** Any notice or other communication given under this Agreement will be in writing and will be delivered by hand, sent by facsimile transmission (provided acknowledgment of receipt thereof is delivered to the sender), sent by certified, registered mail or sent by any nationally recognized overnight courier service to the addresses provided on the signature page of the Agreement. The parties may, from time to time and at any time, change their respective addresses and each will have the right to specify as its address any other address by at least ten (10) days written notice to the other party.
16. **Severability.** Whenever possible, each provision of this Agreement will be interpreted in such a manner as to be effective and valid under applicable law, but if any provision of this Agreement is held to be prohibited by or invalid under applicable law, such provision will be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement.
17. **Complete Agreement.** This Agreement and any related documents delivered concurrently herewith, contain the complete agreement between the parties relating to the subject of this Agreement and

supersede any prior understandings, agreements or representations by or between the parties, written or oral, which may be related to the subject matter hereof in any way.

18. **Attorneys' Fees and Legal Expenses.** If any proceeding or action is brought to recover any amount under this Agreement, or for or on account of any breach of, or to enforce or interpret any of the terms, covenants, or conditions of this Agreement, the prevailing party will be entitled to recover from the other party, as part of the prevailing party's costs, reasonable attorneys' fees, the amount of which will be fixed by the court, and will be made a part of any judgment rendered.
19. **Further Assurances.** PRC and Owner will each sign such other documents and take such actions as the other may reasonably request in order to effect the relationships, services and activities contemplated by this Agreement and to account for and document those activities.
20. **Governing Law.** The internal law, and not the law of conflicts, of the state in which the Owner is located will govern all questions concerning the construction, validity and interpretation of this Agreement and the performance of the obligations imposed by this Agreement. The proper venue for any proceeding at law or in equity will be the state and county in which the Owner is located, and the parties waive any right to object to the venue.
21. **Relationship of the Parties.** The relationship created hereunder between Owner and PRC will be solely that of independent contractors entering into an agreement. No representations or assertions will be made or actions taken by either party that could imply or establish any agency, joint venture, partnership, employment or trust relationship between the parties with respect to the subject matter of this Agreement. Except as expressly provided in this Agreement, neither party will have any authority or power whatsoever to enter into any agreement, contract or commitment on behalf of the other, or to create any liability or obligation whatsoever on behalf of the other, to any person or entity. Whenever PRC is given discretion in this Agreement, PRC may exercise that discretion solely in any manner PRC deems appropriate.
22. **Force Majeure.** Neither party will be liable for any failure of or delay in the performance of this Agreement for the period that such failure or delay is due to acts of God, public enemy, war, strikes or labor disputes, or any other cause beyond the parties' reasonable control (each a "Force Majeure"), it being understood that lack of financial resources will not be deemed a cause beyond a party's control. Each party will notify the other party promptly of the occurrence of any Force Majeure and carry out this Agreement as promptly as practicable after such Force Majeure is terminated. The existence of any Force Majeure will not extend the term of this Agreement.
23. **Counterparts.** This Agreement may be signed in any number of counterparts.

10:05

AGENDA ITEM	TYPE OF ACTION		
MTG. DATE: June 23, 2008	NEEDED		Consent Agenda
SUBJECT: Preliminary Plat of Rivers Edge Estates- SUB 07-03	Execute Contract		Closed Record
MEMO DATE: June 13, 2008	Pass Resolution	X	Hearing X
Prepared By: Michael Shuttleworth	Pass Ordinance		Public Meeting
	Pass Motion	X	1st Discussion
			2nd Discussion

BACKGROUND INFORMATION

On April 15, 2008, the Benton County Planning Commission conducted an open record hearing on the proposed preliminary plat of Rivers Edge Estates – SUB 07-03. This subdivision consists of 50 acres to be divided into 20 single-family lots. After closing the Open Record Hearings and discussing the proposed plat, the Planning Commission, based primarily on considerations related to public health and safety, made a recommendation to deny the preliminary plat of Rivers Edge Estates as proposed. The Planning Commission's record and recommendation for SUB 07-03 is being submitted for your review and decision. The Board has set a public meeting for June 23, 2008 at 10:05 a.m. to review the record and recommendation of the Planning Commission.

The Board of County Commissioners must either make a final decision based on the record from the Planning Commission's Open Record Hearing held on April 15, 2008, or if further information is deemed necessary, it may remand the matter back to the Planning Commission with direction to take additional evidence on one or more specific matters. The Board of County Commissioners cannot receive any additional testimony or evidence other than was presented to the Planning Commission at its Open Record Hearings. However, the Board can consider argument from one or more parties about evidence presented at the Planning Commission's Open Record Hearing and how the law applies to such evidence.

Attached for the Board's review is a copy of the recording of the meeting and all information presented at the Planning Commission Open Record Hearings (Exhibit A). Also attached are the signed Recommendation, Findings and Conclusion of the Planning Commission Open Record Hearings (Exhibit B) and a letter from John Ziobro, the applicant's attorney, explaining the applicant's position on the evidence in the record and how the law applies to such evidence. (Exhibit C)

A majority of the Planning Commission voted to deny this preliminary plat application. The denial appeared to have been based primarily on the applicant's proposal of no more than a 50' setback from agricultural operations, the proposed siting of residences in the vicinity of agricultural operations and concerns about the adequacy of an existing road to provide access to the plat. During the Planning Commission public hearing several persons testified about their concerns related to the impacts associated with placing the proposed plat within an area of adjacent agricultural operations, particularly the agricultural spraying of nearby vineyards and orchards. The applicant presented a study completed by Professor Alan Felsot that identified 50 feet as a sufficient setback of habitable structures to accommodate pesticide spray application to adjacent concord grape vineyards via ground-spray techniques. However, testimony indicated that an adjacent cherry orchard is sprayed with chemicals different than those used on grapes and an adjacent vineyard is sprayed from the air. No analysis was presented to the Planning Commission about the sufficient setback, if any needed, of habitable structures from the nature and type of spray used for cherry orchards or the impact of aerial spraying. Instead, the Planning Commission simply noted that it had previously approved plats with a requirement for a 150-foot setback from agricultural operations. The applicant expressed an unwillingness to increase setbacks to greater than 50 feet.

The Commission also entered a finding that "testimony was presented that an existing County road serving the proposed development is only 16 feet wide that two large vehicles could not pass each other and an increase in traffic would create the potential for accidents. The Benton County Public works did not comment about this road." Finding 16. If true, whether two large vehicles can pass each other on this road is an existing circumstance not created by this plat. With respect to an increase in traffic creating the potential for accidents, no traffic studies were prepared or presented

to substantiate or controvert this speculative statement.

As a reminder, it must be pointed out to the Board that community fears and displeasure with a land use proposal is not itself a legal basis for denying an application. Also, any general incompatibilities between residential and agricultural uses must be resolved by the County and State's Right to Farm Ordinance and not denial of a preliminary plat application. Residential uses are an allowed use on this property based on the current zoning. As such, the plat cannot be denied due to general incompatibilities, as you have already decided residential use is appropriate in this area.

SUMMARY

The Benton County Planning Commission has completed the open record hearing for the preliminary plat application of Rivers Edge Estates – SUB 07-03, with a recommendation that it be denied. The Board of County Commissioners will consider the preliminary plat and recommendation of the Planning Commission at a public meeting on June 23, 2008.

RECOMMENDATION

After closing the Open Record Hearing and discussing the issue, the Planning Commission voted to recommend that the Board of Commissioners deny the preliminary plat of River Edge Estates as presented.

After reviewing the information presented at the public meeting, the Planning staff recommends that the Board complete its own Findings and Conclusions and either

1. Approve the preliminary plat with the conditions of approval recommended by the Planning Department in its April 9, 2008 memo to the Planning Commission (see Exhibit A); or
2. Find and conclude that; a) there is insufficient evidence in the record to determine whether a safety risk is created with respect to the future residents of the proposed home sites as a result of the aerial application of pesticides by the operator of the nearby cherry orchard; b) there is insufficient evidence in the record to determine what traffic effects, if any, this plat will have on existing County roads and whether there are any safety impacts as a result of such traffic effects; c) residential use of the property at issue is allowed by current zoning and the elimination of agricultural use of this parcel does not support a denial of this application; and (d) the fact that Yakima County has a 150' setback in its zoning ordinance is not evidence of the need for such a setback so as to avoid health and safety issues, and remand the matter back to the Planning Commission to take evidence on issues (a) and (b) and reconsider its decision based on that evidence and our legal conclusions set forth as (c) and (d).

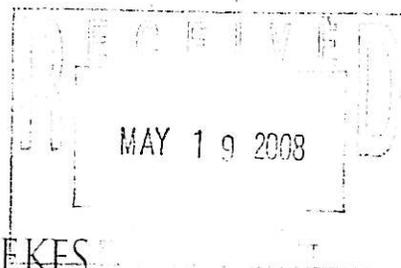
FISCAL IMPACT - None.

MOTION

If the Board agrees with the Planning Commission, the Board can adopt the Planning Commission recommendation, Findings and Conclusions as their own and deny the preliminary plat of Rivers Edge Estates – SUB 07-03.

If the Board agrees with the Planning Department's conditions of approval set forth in its April 9, 2008, memorandum, and want to approve the application, it must adopt its own Findings and Conclusions and should authorize one of its members to work with staff prepare a written decision for subsequent review and consideration by the Board.

If the Board desires to remand the matter back to the Planning Commission for additional evidence, then the Board will have to provide its own findings to as to why a remand is appropriate, specify the scope of the remand and authorize one of its members to work with staff to prepare a written decision for subsequent review and consideration by the Board.



SPERLINE ■ TELQUIST ■ ZIOBRO ■ RAEKES

ATTORNEYS AT LAW • PLLC

May 15, 2008

File No. SUB 07-03
Date 6-12-08
Staff Exhibit No. 1
Pro. Exhibit No. _____
Opp. Exhibit No. _____
Received by djh

Mike Shuttleworth
Benton County Planning/Building Department
P.O. Box 910
1002 Dudley Avenue
Prosser, WA 99350

RE: Preliminary Plat Application SUB 0703-Rivers Edge Estates
Our File No. 08-110

Dear Mr. Shuttleworth:

I am writing you in support of the above-referenced application on behalf of applicant, Wes Hodges. An open record hearing was held before the Planning Commission where evidence was taken and findings of fact were made in support of a recommendation to approve, deny, or remand the application back to staff. In this instance, the Planning Commission voted to recommend denial of the application.

The hearing before the Board of County Commissioners on this application is a closed record review. Accordingly, the comments in this letter are based upon the existing record, part of the transcript of the Commission's deliberations, and findings made by the Planning Commission which are believed to be erroneous. In support of this letter, I have enclosed relevant portions of the transcript of the Planning Commission meeting for your review.

Three specific findings were made by the Planning Commission which constitute error. These findings relate to (1) public health and safety, (2) adequacy of roads, and (3) adequacy of transit stops. For each of these, I have summarized the staff report, findings of the Board, and errors that merit your additional consideration.

(1) Public Health and Safety.

The Planning staff's finding of fact No. 5 provides, "The effected agencies review letter was sent on August 1, 2007. The comments of those agencies that responded are attached to this staff memo." No agency commented that the application constituted a threat to public health, safety, or general welfare. However, concerns were raised by neighboring property owners related to (1) the spraying of nearby crops, (2) vandalism, and (3) impacts on agricultural uses.

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In response to the concern related to crop spraying, the applicant provided an expert opinion from Alan S. Felsot, a Washington State University professor. He provided scientific evidence and an expert opinion that a maximum distance of fifty feet between residences and the vineyard would conservatively meet the standard of "reasonable certainty of no harm". The Planning staff's finding of fact No. 33 recommends a distance of fifty feet between a residence and nearby agricultural uses to conservatively meet any concerns related to agricultural operations, specifically, agricultural spraying.

At the hearing, the following question was posed directly to the Commission members by the Planning staff:

Is there adequate testimony that a fifty foot setback is adequate or should a larger one be required based on testimony of the surrounding property owners, maybe noise, and other things related to sprays?

In response, the following comments were made:

Board Member: The exhibit provided, provides evidence that supports the fifty foot setback. However, the testimony here tonight contradicts that. And I would go with an increased setback.

Board Member: Also evidence presented in our packet from Yakima County also suggested one hundred and fifty foot setbacks, not just the testimony.

Board Member: There is also some contradictions as far as vandalism, the security in that area. Safety I guess, is what I'm getting at.

Board Member: And then I think general welfare is that the evidence that contradicts is there placing more of an urban environment in an agricultural area, so you have general welfare that is being changed to some degree.

Board Member: And also the testimony that pointed out that the best use of (inaudible) lands is agriculture. And this property has been farmed for many decades.

Mr. Shuttleworth: Evidence believed and why.

Board Member: And you also have the precept, your testimony by WSU in here looked at the toxicity of the chemicals that are currently being used or will be used in the future.

But that's not the perception of the general population that are not- may not be familiar with the toxicity.

When you smell a chemical or see a plume from a spray, or many people have a concern, be it a proper concern or a due concern or not.

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Board Member: And that particular report was done just on vineyards. So if nobody cared if a vineyard AP puts in an orchard, it may require a larger setback.

But that wasn't addressed in this study. I just (inaudible) process use.

Mr. Shuttleworth: We need a conclusion.

Board Member: My conclusion is I believe there's – that particular property is not suitable for safety and general welfare of twenty additional homes.

That is my conclusion. I think the density is- way exceeds what the property is best used for.

Board Member: I tend to agree.

Board Member: Agree.

Board Member: I agree with you.

Mr. Chairman: Is that the majority of the Board?

Mr. Shuttleworth: Fails that there is adequate provision for public safety and general welfare as proposed, testified as proposed.

COMMENT.

With regard to the buffer, the applicant provided an expert who offered the opinion that 0-50 feet would conservatively meet the standard of "reasonable certainty of no harm". The issue of potential for pesticide drift from farming practices has been scrutinized by the courts in a very similar context. In that instance, the only reference to an environmental concern was a partial quotation from a letter from the Skagit County Health Department which stated that there was a concern about the proposed development's close proximity to nearby agricultural operations. *Nagatani Brothers, Inc. v. Skagit County Board of Commissioners* 108 Wn.2d 477, 480 (1987). That letter further stated that a nearby dairy farming operation which used a sprinkler system to discharge dairy waste had inadvertently discharged aerosolized waste over the one mile site resulting in complaints to the Health Department. *Id.* at 481. However, in that case, the Planning Commission had before it a final Environmental Impacts Statement ("EIS") which listed the agencies that were sent the draft environmental impact statement. Seven of the agencies responded that no response was required. In overturning the County Commissioners denial of the preliminary plat, the Court held:

SEPA mandates that action has to be conditioned or denied only on the basis of *specific, proven significant environmental impacts*. To deny an application on environmental grounds the significant adverse impacts are to be identified in a final or supplemental EIS. RCW 43.21C.060. Here, the final EIS does not identify any adverse impacts; even the draft EIS only relates loss of agricultural land. The potential conflicts speculated upon by the Health Department are found

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by the draft EIS to be mitigated by the plat configuration. Therefore, the County Commissioners could not properly deny the preliminary plat on the basis of environmental concerns expressed in SEPA.

Id. at 482. (emphasis added.)

Further, state and federal pesticide laws and regulations regulate pesticide spray drift. *H.P. Hansen v. Chelan County*, 81 Wn.App. 133, 139 (1996). Given the holding in *Nagatani* and *H.P. Hansen*, there is no basis to deny the Rivers Edge Plat application based on conflict with agricultural spraying and drift because it was not raised during environmental review and no comment was made by state or federal agency. Thus, denial was not based upon specific, proven significant environmental impacts.

The Planning Commission's findings related to vandalism and security in the area are also unfounded. Community fears and displeasure must be substantiated before the zoning authority may use them as a basis to deny its decision. *Washington State Department of Corrections v. City of Kennewick* 86 Wn.App. 521, 532 (1997). In that case, the Court of Appeals has held that a County Council acted arbitrarily and capriciously when it overruled the issuance of a permit when the only evidence opposing was generalized complaints from displeased citizens because community displeasure cannot be the basis of permit denial. The existing concerns of vandalism cannot be placed upon Rivers Edge. Likewise, speculation about the increased level of vandalism from twenty homes is not sufficient to deny the application.

The Planning Commission also found that an urban environment in an agricultural area would harm the general welfare. However, this is not a finding nor is it appropriate to second-guess existing zoning. The Planning Commission's decision and ultimately the Board of County Commissioner's decision must be based on existing zoning. *Nagatani*, 108 Wn.2d at 478. The loss of agricultural land is a result of the existing zoning designation not the Rivers Edge preliminary plat. In *Nagatani*, the Court held that removal of prime agricultural land from production was not a valid reason to deny the preliminary plat because the County had conceded that its consideration must be based upon that land being zoned residential. The existing unclassified zoning designation is no different. If the County did not want homes in this location, the property should have been zoned agricultural. Loss of agricultural use is not basis to deny the application and unquestionably constitutes error on the part of the Planning Commission. This is identical to the finding in *Nagatani* where the Court held that the real reason for denial appeared to be based upon concern for the encroachment of residential development on adjoining agricultural lands. Based upon that record, denial was arbitrary and capricious. *Id.* at 482.

Finally, a finding of loss of agricultural lands cannot be supported where the finding conflicts with the county comprehensive plan which permits residential use rather than agricultural use of the area in question. *Kenart & Associates v. Skagit County* 37 Wn.App. 295, 302 (1984). Any finding that existing rural lifestyles might be disrupted by the proposed use is insufficient to support denial of the plat in view of a comprehensive plan which authorizes the population density requested by the developer. *Id.* In *Kenart*, the Court found that these recitals, unless supported by other findings, do not constitute "facts". *Id.* Accordingly, when these types of findings are made it causes concern that plat approval is denied as a result of community

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displeasure than for the reasons stated, particularly, when a Planning Commission makes findings which are virtually unreviewable. *Id.* at 303.

(2) County Roads.

In support of the application, the staff report, the Planning staff cited to BCC 9.08.050, which provides, in relevant part:

- (a) Arrangement of arterial streets in the subdivision shall conform to the comprehensive plan as adopted by the County Planning Commission and the Board of County Commissioners.
- (b) Street shall continue as an extension of existing streets unless good site planning dictates a different solution. ...
- (c) Access streets shall be planned so as to discourage through traffic and to conveniently channel traffic onto primary and secondary arterial.

BCC 9.08.050 (a)-(c).

The Planning Department also proposed finds of fact No. 12 which provides:

The streets within the proposed subdivision will be new county roads. Currently, the site is accessed through North River Road that is a county road. The proposed new road will intersect with North River Road. The County Department of Public Works has commented that the curve near the intersection of Paige Lane and River Edge Drive with a one hundred and fifty foot radius needs to be at least three hundred feet.

No other substantive comments were made by the County staff relate to streets.

Additionally, BCC 9.08.051, Road Design and Construction, provides:

- (a) Required improvements - Before the final plat is recorded, all streets and public rights-of-way shall be improved in accordance with minimum road requirements as set forth here and after, or if improvements are greater than the minimum requirements herein set forth, then as approved by the County Engineer; ...
- (b) All designed and/or construction of plat roads shall be performed in accordance with the following standards:
 - (1) Office of the Benton County Engineer – Guidelines for road and utility planning and construction for subdivisions, December 3, 1972, as amended.
 - (2) Benton County Plat Road Minimum Design Standards, December 3, 1973, as amended.
 - (3) Other Standards as Set by the County Engineer and Adopted by the County Commissioners.

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BCC 9.08.051(a) & (b).

Despite this language, the Planning Commission made a finding that streets were not adequate based on the following findings:

Board Member: Well, evidence that supports, there isn't a – this is roadways, yes. Evidence that contradicts one roadway is an inappropriate angle to a house, I suppose.

Mr. Chairman: We have testimony that County Line Road is narrow and doesn't allow full flow of traffic of large vehicles. ... That doesn't allow sufficient flow of traffic in and out, going that direction.

Mr. Shuttleworth: Yes. It's one of the findings, if you think there is adequate road system to the property.

Board Member: Well, through the property, of course, there is adequate roadway.

Mr. Chairman: But to the property.

Board Member: To the property.

Mr. Chairman: North County Line Road doesn't allow it.

Board Member: I think what we're saying here is there's adequate roads right now for a farming community, but we're not too sure if it meets the requirements for a housing development. Is that what we're saying?

Mr. Chairman: Right, because if you have twenty houses, you're going to have forty cars added to the load of that, those roadways.

Board Member: Is that a good enough conclusion (inaudible)?

Mr. Shuttleworth: So your conclusion is there's not adequate provisions for streets and roads?

Board Member: The way I put that was there's adequate provisions for an agricultural community. But it lacks for the housing density. That's my conclusion.

Board Member: And I concur.

Jeffrey T. Sperline • George E. Telquist • John S. Ziobro • John P. Raekes

COMMENT.

Under RCW 58.17.110, local government must consider the adequacy of access to and within the proposed subdivision and is empowered to condition approval of the plat upon adequate access. *Miller v. City of Port Angeles* 38 Wn.App. 904, 909 (1985). The environmental review process is the appropriate stage of the process where roads are evaluated and traffic concerns are addressed to determine the existing roads are capable of handling the impacts from the subdivision. In *Miller*, an EIS was prepared that predicted an increase in traffic accidents as a result of the vehicular trips generated by the project because the existing roads were narrow, had no shoulders, and because passing site distances were restricted by the rolling terrain. *Id.* at 909. In that case, the remedy was not denial of the plat but to impose appropriate conditions such as widening streets and installing controls for the safety of pedestrians and vehicle traffic, all of which are regulatory measures within the proper exercise of local government's police power. *Id.* at 910.

In this instance, a mitigated determination of non-significance was issued and proposed no mitigation related to traffic. Further, the only comment made by the County Engineering Department was that a curve near the intersection Paige Lane and Rivers Edge Drive needed to be increased from a one hundred and fifty foot radius to at least three hundred and thirty feet. No other substandard road or street condition was identified and no other mitigation required. To the extent the Planning Commission determined there was inadequate access to or within the subdivision; the remedy was to send the matter back to the Planning Department to impose mitigation, not to deny the permit.

(3) Transit Stops.

The Planning Department staff report, finding of fact No. 25 states:

The Ben-Franklin Transit did not comment on transit service for the proposed development. The proposed plat and surrounding area is not served by public transit.

In response to this, the question was posed as to whether there were adequate provisions for transit stops. The Board held that the provisions were not adequate.

COMMENT.

It is not clear from the existing record whether the Rivers Edge application was denied because of the lack of transit stops. As stated above, where an agency fails to comment on an application, it is not appropriate to condition or to deny a plat because of neighborhood complaints. *Nagatani*, 108 Wn.2d at 481. Again, if there were concerns about transit stops, the Planning Commission should have referred the application back to the staff for further comment or clarification.

Jeffrey T. Sperline • George E. Telquist • John S. Ziobro • John P. Raekes

CONCLUSION.

The Planning Commission's recommendation is only advisory. We believe significant errors have been made and the Board of County Commissioners has an opportunity to address and rectify those errors. We ask that you do so and approve the preliminary plat as recommend by the Planning staff. Mr. Hodges and I will be present when this matter goes before the Board. I am requesting that you include this analysis in the packet so that the Board can be aware of these issues and have an opportunity to confer with you legal department.

Very truly yours,

SPERLINE TELQUIST ZIOBRO RAEKES, PLLC



JOHN S. ZIOBRO

Enclosures:

JSZ/kk

pc: Wes Hodges
Ryan Brown

Jeffrey T. Sperline • George E. Telquist • John S. Ziobro • John P. Raekes

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BENTON COUNTY PLANNING DEPARTMENT/BUILDING DEPARTMENT
FINDINGS AND CONCLUSIONS WITH REGARDS TO
PRELIMINARY PLAT REQUEST - SUB 07-03
FOR THE PRELIMINARY PLAT OF RIVERS EDGE ESTATES

April 15, 2007
9:20 p.m.
1002 Dudley Avenue
Prosser, Washington

BRIDGES REPORTING & LEGAL VIDEO
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BOARD MEMBERS PRESENT:

JON LINDEMAN, CHAIRMAN

FAYE NELSON

MARTIN SHEERAN

EUGENE JOHNSON

JAMES WETZEL

LLOYD COUGHLIN

JAMES WILLARD "

ALSO PRESENT:

MICHAEL SHUTTLEWORTH

SENIOR PLANNER

1 MR. CHAIRMAN: Okay. We'll close this
2 portion of the public hearing. And if there's any
3 questions of staff now, and then we have to go through
4 findings of fact. Right?

5 BOARD MEMBER: And if you have any
6 discussion.

7 MR. CHAIRMAN: Yeah. Any questions,
8 any discussion?

9 BOARD MEMBER: Mike, and perhaps it's
10 in this document and I just don't remember. But are
11 there plans to improve that road? That road --

12 MR. SHUTTLEWORTH: The road being North
13 River Road or County Line Road?

14 BOARD MEMBER: The one that is so
15 narrow, that they --

16 MR. SHUTTLEWORTH: That would be County
17 Line Road.

18 BOARD MEMBER: Okay.

19 MR. SHUTTLEWORTH: Not that I know of.
20 Basically the control of that road is with Yakima
21 County.

22 BOARD MEMBER: Okay.

23 MR. SHUTTLEWORTH: I believe the county
24 line is down the middle of the road. And we have
25 given control of the road to Yakima County, so it's

1 not two counties trying to do the same road.

2 BOARD MEMBER: Okay.

3 BOARD MEMBER: What about North River
4 Road?

5 MR. SHUTTLEWORTH: That is Benton
6 County. And I'm not aware of any road projects slated
7 for that.

8 BOARD MEMBER: I don't believe that the
9 50 foot set-back is sufficient for this drain. I'd
10 like to see at least 75, not a hundred feet,
11 considering Yakima County is 150. And we're 50.

12 When they split the difference, considering
13 the different types of spray equipment being used.

14 BOARD MEMBER: Yeah. We've heard a lot
15 of testimony about the City coming to the farm. And
16 that's part of the risk. "

17 You know, when you put a subdivision like
18 this in the middle of a farming area, there has to be
19 some give and take.

20 And it shouldn't be the majority on the
21 farmer. It should be the majority on the newcomer.

22 BOARD MEMBER: I would agree also.

23 MR. CHAIRMAN: One of the things we
24 need to address soon will be the drainage ways. And I
25 don't remember where it was addressed in this.

1 BOARD MEMBER: That will be done. I
2 just went through that. It will be done on the final
3 plat in the engineering phase.

4 BOARD MEMBER: The engineering. Isn't
5 that, Mike --

6 MR. SHUTTLEWORTH: But if we have to
7 address that as Item C on our findings of fact.
8 And --

9 MR. HODGES: Well, the statement, the
10 finding of facts would be that it will be taken care
11 of in the final plat.

12 BOARD MEMBER: Our finding of fact will
13 be that it will be taken care of --

14 MR. HODGES: Taken care of in the
15 engineering phase. Is that, Mike --

16 MR. SHUTTLEWORTH: (Inaudible),
17 findings, correct. Normally when the plat is reviewed
18 by the engineers, they look at drainage areas. And
19 they require drainage easements when necessary.

20 BOARD MEMBER: Okay. I would presume
21 there's no natural drain through this, it's a sloping
22 environment. And that they'll have to eventually,
23 offsite drainage --

24 That's why they talk about impermeable
25 surfaces. They're going to have to compensate the

1 drainage wells, the dry wells, so that no water goes
2 into the Yakima River.

3 BOARD MEMBER: Okay. Exhibit 3 then,
4 on the back of the map, that outlines a fairly large
5 drainage space.

6 MR. SHUTTLEWORTH: Right. That's a
7 preliminary hydrology report that they submit to the
8 engineers. So they look at it, to see if there is a
9 (inaudible).

10 BOARD MEMBER: But that's basically not
11 our purveyance to make a decision on. Just --

12 MR. HODGES: Well, it's something that
13 we consider in a general way. But it will be taken
14 care of in the engineering phase.

15 BOARD MEMBER: What kind of assurances
16 are there that newcomers to an area, into an
17 agricultural area like this, don't have any recourse
18 as to agricultural smells and other agricultural --
19 other things that go on in an agricultural area?

20 MR. SHUTTLEWORTH: There is no
21 certainty, as there's no recourse.

22 BOARD MEMBER: Recalling what the
23 courts have done, they have been on both sides of the
24 issue related to agriculture.

25 BOARD MEMBER: The cherry orchard I

1 took care of was there long before the houses were
2 around it. And those houses were around it
3 (inaudible).

4 MR. CHAIRMAN: Uh-huh.

5 BOARD MEMBER: Are those things, the
6 difficult that commingle agricultural and urban
7 living. That's our charge.

8 We'll make the recommendations. And if the
9 Commissioners want to change it, then, you know,
10 that's -- we can within reason, recommend most
11 anything.

12 Whether the Commissioners would see or want
13 to change it, is up to them. But we're just that
14 advisory body.

15 BOARD MEMBER: Keeping in mind that
16 this testimony here is the last testimony. They can't
17 testify again in front of the Commissioners.

18 The Commissioners will get the record of
19 the hearing and then our recommendations. And then
20 they may want to fine tune them or change them or
21 whatever or send them back to us.

22 BOARD MEMBER: So we've heard some
23 pretty interesting testimony. And I think that this
24 is a case where we need to consider carefully. And
25 move on.

1 BOARD MEMBER: I've got a question for
2 Mike. Under present zoning, if there were no
3 restrictions by covenants, basically those two and a
4 half acres they could raise just by anything they
5 wanted, right?

6 MR. SHUTTLEWORTH: Right. It's
7 basically zone unclassified, which allows anything ag
8 use. So, and by placing covenants on it, that does
9 not effect the county.

10 The county doesn't enforce covenants. If
11 someone comes in and says "I want to put ten cows on
12 there," if our ordinance allows it, we would allow it.
13 We wouldn't stop them from doing it.

14 MR. HODGES: Right. And vice versa.
15 The neighbors could grow anything or if they wanted to
16 raise a pig farm say on the corner right there, they
17 could do that. Right?

18 MR. SHUTTLEWORTH: Well, pig farming
19 within that zone would require a special permit.

20 BOARD MEMBER: A special permit.

21 MR. SHUTTLEWORTH: If they have over
22 six hogs.

23 BOARD MEMBER: Over six hogs, okay.

24 MR. SHUTTLEWORTH: Or sixteen pigs,
25 excuse me.

1 BOARD MEMBER: Let's go, let's start
2 the findings of fact. And we'll get through a lot of
3 this. Okay.

4 MR. SHUTTLEWORTH: The purposed
5 subdivision dedication shall not be improved unless
6 the (inaudible) regular findings that, 1(A): The
7 public health -- or appropriate provisions are made
8 but not limited to the public health, safety, and
9 general welfare.

10 Evidence that supports it and evidence that
11 contradicts.

12 BOARD MEMBER: Well, the Health
13 Department seemed to think that there would be
14 adequate soil types to support septic systems as far
15 as their health part of it. I'm not sure about the
16 safety and welfare.

17 MR. SHUTTLEWORTH: This is where you'd
18 be talking about the agricultural sprays and the
19 set-backs?

20 BOARD MEMBER: Yeah, uh-huh.

21 MR. SHUTTLEWORTH: Is there adequate
22 testimony that a 50 foot set-back is adequate or
23 should a larger one be required based on testimony of
24 the surrounding property owners, maybe noise, and
25 other things unrelated to sprays?

1 BOARD MEMBER: The exhibit provided,
2 provides evidence that supports the 50 foot set-back.
3 However, testimony here tonight contradicts that. And
4 I would go with an increased set-back.

5 BOARD MEMBER: Also evidence presented
6 in our packet from Yakima County also suggested a 150
7 foot set-backs, not just the testimony.

8 BOARD MEMBER: Right.

9 BOARD MEMBER: Right. I agree.

10 BOARD MEMBER: There's also some
11 contradictions as far as the vandalism, the security
12 in that area. Safety I guess is what I'm getting at.

13 BOARD MEMBER: And then I think general
14 welfare is that the evidence that contradicts is
15 they're placing more of an urban environment in an
16 agricultural area, so you have general welfare that is
17 being changed to some degree.

18 BOARD MEMBER: And also the testimony
19 that pointed out that the best use of (inaudible)
20 lands is agriculture. And this property has been
21 farmed for many decades.

22 BOARD MEMBER: As has the surrounding
23 farm.

24 MR. SHUTTLEWORTH: Evidence believed
25 and why.

1 BOARD MEMBER: Again, you get into the
2 evidence and believed and why. We have Yakima County
3 saying you need 150 feet.

4 And we have a WSU person saying, who is an
5 authority on it, 50 feet. So it's hard to know what
6 evidence to believe.

7 MR. CHAIRMAN: Well, then you have the
8 public testimony. The people that are out there, that
9 are dealing with it, that live with it day in and day
10 out.

11 BOARD MEMBER: And you also have the
12 precept, your testimony by WSU in here, looked at the
13 toxicity of the chemicals that are currently being
14 used or will be used in the future.

15 But that's not the perception of the
16 general population that are not -- may not be
17 familiarly with the toxicity.

18 When you smell a chemical or see a plume
19 from a spray, or many people have a concern, be it a
20 proper concern or a due concern or not.

21 BOARD MEMBER: And that particular
22 report was done just on vineyards. So if nobody cared
23 if a vineyard ap puts in an orchard, it may require a
24 larger set-back.

25 But that wasn't addressed in this study. I

1 just (inaudible) processed used.

2 BOARD MEMBER: But we did have a person
3 saying that they had a (inaudible) airplane spraying
4 on chemicals, which is not -- gives a broader -- I
5 mean, it's a pretty broad target.

6 MR. CHAIRMAN: And that wasn't even in
7 the report.

8 BOARD MEMBER: And we also have a
9 cherry orchard right up there at the northeast corner,
10 that parcel.

11 MR. SHUTTLEWORTH: We need a
12 conclusion.

13 BOARD MEMBER: I have a conclusion. I
14 believe --

15 MR. CHAIRMAN: Go ahead, please.

16 BOARD MEMBER: My conclusion is I
17 believe there's -- that particular property is not
18 suitable for the safety and general welfare of 20
19 additional homes.

20 That's my conclusion. I think the density
21 is -- way exceeds what that property is best used for.

22 BOARD MEMBER: And I tend to agree.

23 BOARD MEMBER: Agree.

24 BOARD MEMBER: I agree with you.

25 MR. CHAIRMAN: Is that the majority of

1 the board?

2 MR. SHUTTLEWORTH: Fails that there's

3 an adequate provision for public health safety and

4 general welfare as proposed, testified as proposed.

5 BOARD MEMBER: Yeah. I think so.

6 MR. CHAIRMAN: Okay.

7 MR. SHUTTLEWORTH: Is there adequate

8 divisions to open space?

9 BOARD MEMBER: Well, I think it's

10 not -- it's not (inaudible).

11 BOARD MEMBER: The lots support the

12 size.

13 BOARD MEMBER: The density would be an

14 issue. But you have a -- it's a really -- it's

15 difficult.

16 Because on one hand, he's meeting the

17 requirements set forth by code, yet we have public

18 testimony that says that the density is too high.

19 MR. CHAIRMAN: Uh-huh.

20 BOARD MEMBER: That's --

21 MR. CHAIRMAN: What's the definition of

22 open spaces? Is that --

23 MR. HODGES: Parks, walkways.

24 MR. SHUTTLEWORTH: Or general open

25 space.

1 BOARD MEMBER: General open space. So
2 I think --

3 MR. CHAIRMAN: And there is none,
4 except the lots themselves.

5 MR. HODGES: Right. But they're --

6 BOARD MEMBER: But the lot sizes are
7 two and a half acres.

8 MR. HODGES: There's plenty of open
9 space, I think.

10 BOARD MEMBER: Yeah. Yeah.

11 MR. HODGES: That's the -- in my mind,
12 this is not an issue.

13 MR. CHAIRMAN: That's why I was asking,
14 what's the definition of open space.

15 MR. SHUTTLEWORTH: It depends where
16 you're at, if you're in the city versus out in the
17 country.

18 MR. CHAIRMAN: There again, we're out
19 in the country.

20 MR. HODGES: Right. Right.

21 BOARD MEMBER: It hasn't been an issue,
22 has it? (Inaudible).

23 MR. SHUTTLEWORTH: The county doesn't
24 require open -- doesn't need open space in
25 (inaudible).

1 MR. CHAIRMAN: Not required.

2 MR. HODGES: Yes.

3 MR. SHUTTLEWORTH: Is there adequate
4 provisions for drainage wastes?

5 BOARD MEMBER: That's going to be
6 determined in the final plat. Assuming this goes
7 through.

8 BOARD MEMBER: (Inaudible), that
9 contradicts that?

10 BOARD MEMBER: Well, the soil types
11 don't lend themselves to runoff, it doesn't sound
12 like, because of the (inaudible), how porous they are.

13 MR. HODGES: Right. But there are some
14 impermeable surfaces that will --

15 BOARD MEMBER: There are. But not on
16 this plat, it didn't sound like. And then there was
17 some silt.

18 MR. HODGES: Roads, rooftops, concrete
19 driveways.

20 BOARD MEMBER: All 28 percent of the
21 surface area is going to be in those -- those become
22 issues --

23 BOARD MEMBER: Once it's developed.

24 MR. HODGES: Yeah. Once it's been
25 developed, yes. So that may be --

1 MR. CHAIRMAN: A serious consideration,
2 (inaudible). They can't run it off to the river, so
3 there have got to be dry wells and all of that stuff.

4 MR. CHAIRMAN: And that's all to be
5 determined by the final plat?

6 MR. HODGES: Yes.

7 MR. SHUTTLEWORTH: It's got to be
8 cleared by the engineering process.

9 MR. HODGES: The engineering process,
10 yes.

11 MR. SHUTTLEWORTH: Is there adequate
12 provisions for creeks, roads, allies, or other public
13 ways?

14 BOARD MEMBER: Well, evidence that
15 supports, there isn't a -- this is roadways, yes.
16 Evidence that contradicts one roadway is an
17 inappropriate angle to a house, I suppose.

18 MR. CHAIRMAN: And we have testimony
19 that County Line Road is narrow and doesn't allow full
20 flow of traffic of large vehicles.

21 Even with a one-ton pickup, it doesn't lend
22 enough room for passing of vehicles, without having to
23 move off to the side.

24 That doesn't allow sufficient flow of
25 traffic in and out, going that direction.

1 BOARD MEMBER: Well, Mike, our
2 discussion, we just -- I mean, we've heard testimony
3 about the outside roadway.
4 MR. SHUTTLEWORTH: Uh-huh.
5 BOARD MEMBER: Is that pertinent for
6 this discussion as well?
7 MR. SHUTTLEWORTH: Yes. It's one of
8 the findings, if you think there's adequate road
9 system to the property.
10 BOARD MEMBER: Okay. Yeah. No. To
11 the property?
12 MR. SHUTTLEWORTH: Yeah. To and
13 through the property.
14 BOARD MEMBER: Well, through the
15 property, of course, there's adequate roadway.
16 MR. CHAIRMAN: But to the property.
17 BOARD MEMBER: To the property.
18 MR. CHAIRMAN: North County Line Road
19 doesn't allow it.
20 BOARD MEMBER: I think what we're
21 saying here is there's adequate roads right now for a
22 farming community, but we're not too sure if it meets
23 the requirements for a housing development. Is that
24 what we're saying?
25 MR. CHAIRMAN: Right. Because if you

1 have 20 houses, you're going to have 40 cars or more
2 added to the load of that, those roadways.

3 BOARD MEMBER: Is that a good enough
4 conclusion (inaudible)?

5 BOARD MEMBER: Uh-huh.

6 BOARD MEMBER: And isn't there some
7 kind of number that they determine, of so many trips
8 per day per residents? Like 3.2 trips per day
9 or something?

10 MR. SHUTTLEWORTH: Normally what they
11 said in a residential is ten trips per day for
12 residents.

13 BOARD MEMBER: Ten trips per day per
14 residents. So 20 residents would be 200 trips.

15 BOARD MEMBER: The price of gas --

16 BOARD MEMBER: They'll be riding those
17 horses they've got out there.

18 MR. SHUTTLEWORTH: So your conclusion
19 is there's not adequate provisions for streets and
20 roads?

21 BOARD MEMBER: The way I put that was
22 there's adequate provisions for an agricultural
23 community. But it lacks for the housing density.
24 That was my conclusion.

25 BOARD MEMBER: And I concur.

1 MR. SHUTTLEWORTH: Is there adequate
2 provisions for transit stops?
3 BOARD MEMBER: It's not adequate.
4 BOARD MEMBER: It's not adequate.
5 MR. SHUTTLEWORTH: Is there adequate
6 provisions for potable water supply?
7 BOARD MEMBER: (Inaudible) supports
8 evidence, some evidence that --
9 MR. HODGES: Well, we have an
10 engineering report that says there is.
11 MR. CHAIRMAN: And we have well logs
12 that show that at the time the wells were drilled,
13 they produce water for the purposes.
14 BOARD MEMBER: And then we've had
15 public concern, or public testimony concerned about
16 the availability of water when you (inaudible).
17 MR. CHAIRMAN: Additional wells in such
18 a close proximity.
19 BOARD MEMBER: Right. Right.
20 BOARD MEMBER: Wouldn't the Department
21 of Ecology make a comment on that too, that --
22 MR. SHUTTLEWORTH: Their comment was
23 basically that water rights were required. Based on
24 in court cases and (inaudible).
25 BOARD MEMBER: And do we have to

1 determine that?

2 MR. SHUTTLEWORTH: No. Our
3 determination, is there adequate provisions for water
4 basically in the aquifers if they were to drill,
5 legally able to drill and stuff. Is there enough
6 water there for the service, to developments.

7 MR. CHAIRMAN: (Inaudible).

8 BOARD MEMBER: That there is.

9 BOARD MEMBER: Yeah. I believe there's
10 adequate water available for -- potable water for the
11 houses in that alluvial --

12 BOARD MEMBER: Underground aqua strip.

13 BOARD MEMBER: Aquifer. I have
14 concerns about evidence that contradicts. We've heard
15 testimony, relevant testimony also that people are
16 worried about (inaudible). "

17 BOARD MEMBER: Their concerns about the
18 drawdown from the other wells is valid.

19 BOARD MEMBER: Yes. Right. Right.

20 BOARD MEMBER: But for the most part,
21 an individual well (inaudible) 30 gallons a minute is
22 sufficient to supply a dwelling. So there would be
23 sufficient water for that purpose.

24 BOARD MEMBER: But they have to realize
25 that any new wells are going to be junior to the

1 existing wells there. And if they have an adverse
2 effect, they'll both shut off, so --

3 BOARD MEMBER: The basic conclusion is
4 there is available water?

5 BOARD MEMBER: Yeah.

6 MR. CHAIRMAN: Yes.

7 BOARD MEMBER: But there is evidence
8 that contradicts. And the evidence that contradicts
9 was testimony by adjacent landowners concerned about
10 the water table.

11 BOARD MEMBER: The Department of
12 Ecology's letter on August 14th states in there, in
13 RCW, that says you have to combine these, of all the
14 wells.

15 I mean, it means there isn't enough water.
16 Isn't that what I'm reading?

17 MR. CHAIRMAN: That's not the way I
18 read it. It's combined. They're still -- the
19 combinings is less than the total available, is what I
20 was reading.

21 BOARD MEMBER: Yeah. This doesn't have
22 a exhibit number on it. It's right after Exhibit No.
23 8. The second to the last paragraph.

24 MR. CHAIRMAN: Are you talking about
25 the one just before Exhibit No. 9?

1 BOARD MEMBER: Yeah.

2 BOARD MEMBER: Well, 5,000 gallons --

3 MR. SHUTTLEWORTH: That's Exhibit No.

4 18. It evidently got put in there twice.

5 BOARD MEMBER: I was just going to say,

6 at 5,000 gallons a day --

7 BOARD MEMBER: It's part of the letter

8 that's attached in front of it. That's why it doesn't

9 (inaudible).

10 BOARD MEMBER: Oh, okay. But anyway,

11 to me it's a contradiction.

12 BOARD MEMBER: It's less than four

13 gallons per minute per residence.

14 MR. SHUTTLEWORTH: And you may want to

15 read the last paragraph in the water study. It

16 basically says, "In conclusion, it is my opinion that

17 after reviewing adjacent well logs and having working

18 knowledge of the area, that the overburden water table

19 aquifers that is anticipated to use by 28 (inaudible)

20 domestic wells associated with Rivers Edge Subdivision

21 will have more than adequate capacity to supply these

22 wells.

23 "Additionally, it's my opinion that

24 adjacent wells in the Yakima River should be impacted

25 only minimal."

1 It doesn't really define what minimal is.
2 "By these new exempt wells and serving well below the
3 level BOAE labels as an impairment."

4 BOARD MEMBER: So the conclusion then
5 is that there's adequate water?

6 MR. CHAIRMAN: Yeah. There's adequate
7 water available.

8 BOARD MEMBER: But there's not --

9 MR. CHAIRMAN: But there's --

10 BOARD MEMBER: The (inaudible) of
11 Ecology's, Exhibit No. 19 also had some concerns about
12 (inaudible).

13 If an exempt well is found to cause
14 impairment to other exempt wells and water rights
15 senior to it, the exempt well runs the risk of being
16 shut off. And during -- citing examples of 2001 and
17 2005.

18 And furthermore, the attorney general's
19 opinion AGO 1997, No. 6, regarding the status of
20 exempt groundwater withdrawals, states that "A group
21 of wells drilled by the same person are a group of
22 persons at on or about the same time in the same area
23 for the same purposes, should -- purposes for a
24 project should be considered as a single withdrawal
25 and would not be exempt from the permitting

1 requirements RCW, if total amount withdrawn for the
2 domestic use exceeds 5,000 gallons a day."

3 BOARD MEMBER: (Inaudible) agree with
4 that interpretation?

5 BOARD MEMBER: Very good.

6 BOARD MEMBER: Okay. So that by then
7 drilling an individual well, if they have problems
8 with that well because of an existing well that's
9 drawing that water down, they have no recourse other
10 than to drill another well.

11 That's what I'm understanding from what
12 you've just read. Because the senior well has the
13 rights over the water, than the junior well.

14 BOARD MEMBER: Correct.

15 BOARD MEMBER: So if Lot 16 drills a
16 well and the people living, I think it was Mr.
17 Gonzalez in G, starts drawing water and Lot 16 loses
18 his water supply, Lot 16 has no recourse other than to
19 drill another well.

20 BOARD MEMBER: Correct (inaudible).
21 Okay.

22 BOARD MEMBER: Yeah.

23 BOARD MEMBER: So at this point that's
24 not an issue.

25 BOARD MEMBER: Not an issue. They're

1 going to drill a well until they reach water.

2 BOARD MEMBER: So going back. The

3 conclusion is there is adequate water?

4 BOARD MEMBER: Yes.

5 MR. SHUTTLEWORTH: Is there adequate

6 provisions for sanitary waste?

7 BOARD MEMBER: Septic systems were okay

8 by the report.

9 BOARD MEMBER: The Health Department

10 did not reject (inaudible).

11 BOARD MEMBER: Yeah.

12 BOARD MEMBER: So the conclusion that

13 there is adequate water based on the Benton Franklin

14 Ecology, centered with (inaudible) health department.

15 BOARD MEMBER: The Benton Franklin

16 Health District?

17 BOARD MEMBER: Yeah.

18 BOARD MEMBER: (Inaudible) application.

19 BOARD MEMBER: Okay.

20 BOARD MEMBER: You're referring to

21 Exhibits 15 and 16.

22 BOARD MEMBER: Excuse me?

23 BOARD MEMBER: You're referring to

24 Exhibits 15 and 16, (inaudible)?

25 BOARD MEMBER: (Inaudible).

1 MR. SHUTTLEWORTH: There's adequate
2 provision for park and recreational playgrounds?
3 BOARD MEMBER: (Inaudible).
4 MR. SHUTTLEWORTH: Adequate provisions
5 for schools and school grounds?
6 BOARD MEMBER: That's not even
7 addressed. And it's not (inaudible).
8 BOARD MEMBER: So no testimony for or
9 against?
10 BOARD MEMBER: Correct.
11 BOARD MEMBER: Does the school district
12 even require --
13 BOARD MEMBER: No. They did not
14 provide comments. We did send them (inaudible).
15 BOARD MEMBER: So there was no response
16 from the school district, right? "
17 BOARD MEMBER: (Inaudible).
18 BOARD MEMBER: We do have a suggested
19 provision that basically that before the final plat's
20 recorded, the school provide a letter saying that they
21 have reviewed it and had no problems with it. But
22 that will be our next (inaudible) here.
23 MR. SHUTTLEWORTH: It says "Sidewalks
24 and other -- there's adequate provisions for sidewalks
25 and other planning, teachers assume safe (inaudible)

1 for students who only walk to and from school."

2 BOARD MEMBER: I don't think anybody
3 will be walking.

4 BOARD MEMBER: A little too far.

5 MR. SHUTTLEWORTH: There's testimony
6 that it was five miles away from town.

7 BOARD MEMBER: Yeah.

8 MR. SHUTTLEWORTH: The requirements
9 (inaudible) has been met?

10 BOARD MEMBER: I filled out a --
11 (inaudible). Issued no one appealed the decision.

12 MR. SHUTTLEWORTH: Adequate
13 provisions -- oh, proposed uses in conformance with
14 the intent of a comprehensive plan?

15 BOARD MEMBER: Yes. At the time of the
16 application, it was within the proposed use of a
17 comprehensive plan.

18 However, at this time it is not because a
19 comprehensive plan is five acres, that it falls within
20 the application time frame.

21 MR. SHUTTLEWORTH: Okay. So the
22 conclusion is there (inaudible) uses of conformance
23 with intent to the comprehensive plan?

24 BOARD MEMBER: Yes.

25 BOARD MEMBER: Yes.

1 MR. SHUTTLEWORTH: Proposed plats meets
2 requirements of the Benton County Code Title 11?

3 BOARD MEMBER: Yeah. The conclusion is
4 yes. Based on the staff report information. Okay.

5 MR. SHUTTLEWORTH: The Commission has
6 considered a physical characteristic in a proposed
7 subdivision site and plans the proposed plat is
8 situated in a flood control zone designated by -- as
9 addressed in Exhibit 24 and 25 and it is within a
10 flood plane and a floodway?

11 BOARD MEMBER: Yes.

12 BOARD MEMBER: Yes.

13 MR. SHUTTLEWORTH: The majority of the
14 Planning Commission members finds that all facts set
15 forth in the (inaudible) Planning Department staff
16 report dated April 9th, 2008 are or are not accurate?

17 BOARD MEMBER: Are.

18 BOARD MEMBER: Are.

19 BOARD MEMBER: Yeah.

20 BOARD MEMBER: Uh-huh.

21 MR. SHUTTLEWORTH: Are there any
22 additional findings relevant to the respect to this
23 decision?

24 BOARD MEMBER: Well, there has been
25 quite a bit of opponent testimony regarding this plat.

1 And I think the County Commissioners are
2 (inaudible) hear that. And they're going to make the
3 final decision on this, so --

4 BOARD MEMBER: Well, the additional
5 findings of fact relevant to represent to this
6 decision is that there was a lot of public testimony
7 in opposition to this.

8 BOARD MEMBER: Sure. I mean, was there
9 relevant testimony or facts in that testimony that we
10 should put down here that will impact your decision?

11 BOARD MEMBER: Yeah, they're relevant.
12 I mean --

13 BOARD MEMBER: There's a large amount
14 of vandalism. And it's possible that this proposed
15 subdivision will (inaudible) vandalism in the area.
16 As stated before --

17 BOARD MEMBER: Population --

18 BOARD MEMBER: -- spraying by aerial,
19 spraying, which would --

20 BOARD MEMBER: And population pressure
21 on farming enterprises.

22 BOARD MEMBER: Road access.

23 BOARD MEMBER: County road access.

24 BOARD MEMBER: Any future development
25 that would be done would be done one residence per

1 five acres.

2 So this is going to be a higher density
3 than the -- any additional on either road development
4 that would be done in the future?

5 BOARD MEMBER: It would make it
6 inconsistent, the rest of the development that would
7 be going on in that area.

8 BOARD MEMBER: If there was any, yeah.

9 BOARD MEMBER: Yeah. And it's very
10 inconsistent with the existing agricultural
11 environment.

12 BOARD MEMBER: Uh-huh.

13 MR. SHUTTLEWORTH: Okay. The
14 conclusion of the Planning Commission as it relates to
15 SUB 07-3 is?

16 BOARD MEMBER: I need a motion,
17 gentlemen, ladies and gentlemen.

18 BOARD MEMBER: Okay. I'll make a
19 motion. I move that the Chairman in conjunction with
20 the Secretary of the Planning Commission prepare and
21 adopt written findings and conclusions reflecting the
22 Commission's recommendation for denial of the proposed
23 Issue B 07-03, that articulate and are consistent with
24 the findings and conclusions of a recommendation made
25 by the Planning Commission's (inaudible).

1 BOARD MEMBER: I'll second.
2 BOARD MEMBER: Okay. Do we have any --
3 we've got a motion and a second. Is there anymore
4 discussion?
5 BOARD MEMBER: (Inaudible).
6 BOARD MEMBER: We'll have a roll call
7 please.
8 SUPPORT STAFF: Eugene Johnson.
9 MR. JOHNSON: Yes.
10 SUPPORT STAFF: Lloyd Coughlin.
11 MR. COUGHLIN: Yes.
12 SUPPORT STAFF: Faye Nelson.
13 MS. NELSON: Yes.
14 SUPPORT STAFF: Jon Lindeman.
15 MR. LINDEMAN: No.
16 SUPPORT STAFF: Martin Sheeran.
17 MR. SHEERAN: No.
18 SUPPORT STAFF: James Whitzel.
19 MR. WHITZEL: Yes.
20 SUPPORT STAFF: And James Willard.
21 MR. WILLARD: Yes.
22 SUPPORT STAFF: And the motion passes
23 with the majority (inaudible).
24 MR. CHAIRMAN: Okay. This will go to
25 the county board of supervisors.

1 MR. SHUTTLEWORTH: The Board of County
2 Commissioners, yes, sir.

3 BOARD MEMBER: Yeah. Those guys.

4 MR. SHUTTLEWORTH: There are written
5 findings. And they're reviewed for signature. And
6 once those are completed, they will be forwarded to
7 the board for their --

8 BOARD MEMBER: Is this in next month,
9 the next -- when will it --

10 MR. SHUTTLEWORTH: Once we have
11 completed the findings, the written findings for your
12 signature and review, once you've reviewed and signed
13 them and give them back to us, then we'll contact the
14 board and find a date in which we can schedule
15 (inaudible) closed record hearing.

16 And that's where the Board of County
17 Commissioners will not take any new testimony. And
18 consider their decision based on your record prepared
19 tonight.

20 BOARD MEMBER: Okay.

21 BOARD MEMBER: Do we have enough time
22 to finish -- do we have to finish what we have on the
23 rest of the agenda tonight?

24 MR. SHUTTLEWORTH: All we have is
25 basically the ordinance.

1 BOARD MEMBER: We can get that --

2 MR. SHUTTLEWORTH: We have ten minutes.

3 I don't know if you can get done with it or not. But

4 I know there is someone who's been patiently waiting

5 through the first hearing, testified at this hearing.

6 It would probably be nice of us to let the person --

7 BOARD MEMBER: Of course.

8 SUPPORT STAFF: Based on the rules of

9 procedure, going past 10:00 o'clock does require a

10 vote from the board to proceed.

11 MR. CHAIRMAN: Okay. Let's see. Then

12 what about the (inaudible) department's report of

13 discussion? Does that have to -- that can go on

14 for --

15 SUPPORT STAFF: Well, you've got it in

16 front of you, you can review it.

17 MR. CHAIRMAN: Read it and look at it

18 next week or next meeting.

19 BOARD MEMBER: Yeah. That's just a six

20 year road plan for your information.

21 MR. CHAIRMAN: Okay. If we're going to

22 extend this meeting past 10:00 o'clock, I need a

23 motion.

24 BOARD MEMBER: Well, it's not 10:00

25 o'clock yet, is it?

1 MR. CHAIRMAN: No. But it might be a
2 little bit after before we get done.
3 BOARD MEMBER: (Inaudible).
4 BOARD MEMBER: I make a motion that
5 we --
6 BOARD MEMBER: I support --
7 MR. CHAIRMAN: I have a motion. And a
8 second?
9 SUPPORT STAFF: Wait a minute here.
10 Wait a minute. Okay.
11 MR. CHAIRMAN: Wetzel.
12 SUPPORT STAFF: Thank you. Thank you.
13 Wetzel moves. And who seconded?
14 BOARD MEMBER: I did.
15 SUPPORT STAFF: Okay. Thank you.
16 MR. CHAIRMAN: Any discussion? All
17 those in favor say I.
18 (The board members affirmed).
19 MR. CHAIRMAN: Opposed? So moved.
20 We'll hear this next ordinance amendment.
21 SUPPORT STAFF: The subdivision portion
22 of the hearing is finished. They're moving on to the
23 next item.
24 (10:00 p.m.)
25 * * *

1 STATE OF WASHINGTON)
2) B.B.
3 County of Benton)
4

5 I, William J. Bridges, a Certified Shorthand
6 Reporter of the State of Washington, do hereby certify
7 that I listened to the CD provided by the Benton
8 County Planning Department and wrote in shorthand the
9 proceedings had upon in the findings and conclusions
10 of these proceedings; that I thereafter had reduced my
11 said stenotype notes by computer-aided transcription;
12 and that the foregoing transcript, consisting of Pages
13 3 to 34, both inclusive, constitutes a full, true, and
14 accurate record of the proceedings had upon the
15 hearing of said cause, and of the whole thereof.

16 WITNESS my hand as a Certified Shorthand
17 Reporter this _____ day of _____, 2008.

18
19
20
21
22
23
24
25

William J. Bridges
CSR NO. 2421
Certified Shorthand Reporter
Notary Public for Washington
My commission expires: 11-01-11

RECOMMENDATION OF THE
BENTON COUNTY PLANNING COMMISSION

File No. SUB 07-03
Date 6-12-08
Staff Exhibit No. B
Pro. Exhibit No. _____
Opp. Exhibit No. _____
Received by cyh

RE: Preliminary Plat of approximately
50.90 acres into 20 lots in the Northwest
Quarter of Section 7, Township 8 North,
Range 24 East, W.M.

File No. SUB 07-03
RECOMMENDATION, FINDINGS OF FACT
AND CONCLUSIONS

RECOMMENDATION

SUB 07-03: A proposal by Wes Hodges to subdivide approximately 50.90 acres into 20 single-family residential lots with an average lot size of 2.27 acres is hereby recommended to be DENIED. This action is based upon the following findings pursuant to RCW 58.17.110.

LEGAL DESCRIPTION

The area covered by the proposed preliminary plat is generally described as that portion of the Northwest Quarter of Section 7, Township 8 North, Range 24 East, W.M. located at the intersection of South County Line Road and North River Road on the South side of North River Road.

RESOLUTION

WHEREAS, the Legal notification pursuant to the Benton County Code, Title 9, Chapter 9.08 was given Thursday, April 3, 2008; and,

WHEREAS, public notice procedures, pursuant to RCW 58.17.080 and 58.17.090, were carried out including: notice to affected jurisdictions, (August 1, 2007); publication of legal notices in the Tri-City Herald (April 3, 2008); adjacent landowners (March 28, 2008); and,

WHEREAS, the public hearing was held on April 15, 2008 at 7:00 p.m., in the Planning Annex, 1002 Dudley Avenue, Prosser, WA 99350; and,

WHEREAS, the following members were present: Eugene Johnson, James Willard, Lloyd Coughlin, James Wetzel, Faye Nelson, Jon Lindeman and Martin Sheeran and,

WHEREAS, the Planning Commission considered all testimony and, after questions to those giving testimony, closed the public hearing; and,

WHEREAS, the Planning Commission at an open record public hearing held on April 15, 2008, considered the evidence submitted and voted five in favor and two against to recommend denial of the proposal; and,

WHEREAS, the Planning Commission is entering its written findings, conclusions and recommendations concerning this matter, and is forwarding the same to the Board of County Commissioners.

FINDINGS AND CONCLUSIONS

1. The site is currently in agricultural uses. The site lies within Benton County's Unclassified Zoning District, which allows residential uses. The Benton County Comprehensive Plan at the time of submittal designated the land with the site as Rural Lands 2.5. The property to the West that is in Yakima County and North of the Yakima River is zoned Agricultural. The property South of the Yakima River in Yakima County is zoned Valley Rural.
2. The existing land uses of the area to the West are commercial vineyards and owner's residences. The area to the east is pasture and commercial vineyards; to the North are commercial cherry orchards and residential uses.
3. The proposed preliminary plat meets the overall density of one dwelling for every 2.5 acres of property. The average proposed lot size is 2.27 acres with the smallest lot being 1.49 acres. Of the twenty proposed lots approximately 16 are less than 2.5 acres in size. The total acreage of public streets proposed within the Site is 4.31 acres.
4. The preliminary plat proposes the creation of twenty (20) lots with all but seven of the lots contiguous to commercial agricultural operations. It is proposed to use a vinyl fence between the lots and the adjacent agricultural uses. As depicted by the applicant, the proposed fence would not provide substantive separation between the lots and the agricultural activities on adjacent properties.
5. Agricultural uses created dust, smoke and noise that may impact adjacent residences. Residents of the lots bordering the agricultural uses could be in a situation where there would be exposure to sprays used in the adjacent vineyards and orchard even when atmospheric conditions are favorable for spraying without spray drift.
6. During the public hearing the applicant indicated that he wants 50-foot buffer and that a buffer larger than 50 feet would compromise the building envelope on Lots 14, 7, and 13. The staff memo indicates that if a 150 foot setback was required the lots located adjacent to the west property line would still be large enough to accommodate the setback.
7. The applicant's consultant Dr. Felsot's "Assessment of a Protective Buffer Zone Width for Proposed Housing Developments adjacent to Vineyards in Benton County" dated February 10, 2008 stated that a 50 foot buffer between a residence and vineyard would conservatively meet the standard of "reasonable certainty of no harm". We find that Dr. Felsot's report did not address the impacts to health of spray drift from adjacent orchards, which use sprays

that are different than are used on vineyards, or the application of sprays by aircraft, which is a current practice on adjacent lands. The 50-foot setback may not provide the protection of health and safety that is needed if the agricultural use is changed on the adjacent properties or from the chemicals used on the cherry orchard that is adjacent.

8. Historic, when small lot rural subdivisions are allowed adjacent to designated agricultural resources of commercial significance, there are conflicts between the two uses and such conflict can result in farmers being forced to change their practices to appease homeowners. Placing wording on the face of the final plat does not assure that persons residing in the proposed development will not be impacted by the agricultural operation on the adjacent properties.
9. Yakima County provided written testimony stating that they required 150 setback and a 40 acre lot size and that a building envelope should be established on each lot in order to place the residences as far away from the agricultural land in Yakima County as possible so that they could continue farming and not impact the health and safety of those lining in the proposed development.
10. We find that significant noise, dust, smoke, smells and pesticide drift will be generated as part of the adjacent agricultural activities at all hours of the day and night throughout the year. We further find that with only a 50-foot setback, these conditions will likely have an impact on the health and safety of the residents on those lots. Conditions may cause some potential health problems at least for any neighbors particularly susceptible to the effects of smoke, dust and pesticide drift. We further find, based on the common sense and the testimony presented that these negative conditions will exist notwithstanding a 50-foot rear yard setback and the proposed fence.
11. We further find that although the identified potential adverse effects to the health, safety and general welfare of the future residents of the proposed subdivision would initially derive from the legal use of the neighboring properties as agricultural uses (vineyard and orchards), it is the design of the Applicant's plat, particularly the placement and size of the lots directly boarding the agricultural uses, that will cause such potential impacts to the health, safety and welfare to actually come into existence.
12. We find that the applicant's assertion regarding the compromising of the building envelope on Lots 14, 7, and 13 to mitigate the problem is not reasonable or necessarily accurate.
13. We find the proposed use, as designed, is not compatible with the existing agricultural uses adjacent to the site.
14. The development as proposed would extend a roadway to the west property line of the proposed development that would direct headlights into an existing house and would not allow the extending of the road. The applicant did testify on how he would move the road. He proposed that he would put up a fence. We find that the applicant's proposal would not

adequate address the impact on the adjacent house and future extending of the road to the west.

15. The existing agricultural operations with their necessary controls such as ground and aerial sprays, windmills and propane shots in the orchards will impact the welfare of new homeowners within the proposed subdivision.
16. We find that testimony was presented that an existing County road serving the proposed development is only 16 feet wide that two large vehicles could not pass each other and an increase in traffic would create the potential for accidents. The Benton County Public works did not comment about this road.
17. The proposed Preliminary Plat of Rivers Edge Estates does not contain land to be designated for open space or park.
18. The Benton County Code does not require open space dedications for this type of preliminary plat.
19. Pursuant to the Planning Staff memo dated April 9, 2008, the Benton County Dept. of Public Works will review the proposed plat to insure that it meets the requirements of the Benton County Hydrology Manual.
20. Easements for drainage ways will be shown on the final plat map.
21. Water will be provided by private wells.
22. Approval must be provided showing that water right permits or exempt well permits have been approved by the Department of Ecology.
23. Proof of potable water must be provided before building permits will be issued for lots within the subdivision.
24. A Water Availability Report by Thomas R. Buchholtz, PE, Water Man Consulting was prepared to determine the ability to provide water for the proposed development and the potential impacts that providing that water may have on adjacent well owners. We find that based upon the information contained within the report there appears to be adequate water capacity to supply twenty new wells.
25. The Benton Franklin District Health Dept. has indicated in their letters dated August 30, 2007 and February 22, 2008, that septic tanks in this area would be feasible as long as each lot contained a minimum of .5 acres usable land area and 2 acre gross land area, and that usable areas may not include easements or areas within 100 feet of approved public water supply wells or surface waters.

26. Health Department approval for septic systems is required before obtaining building permits.
27. The proposed plat does not provide for parks or recreation opportunities. That no evidence was presented that park, recreation or playground areas are needed or required.
28. The Planning Department on February 20, 2008 issued a Mitigated Determination of Significance containing mitigation measures requiring a 50 foot setback between the property line boundaries of the existing agricultural operations on the West and East side of the proposed plat and all residential structures and swimming pools within the proposed development and a note to that effect placed on the final plat map stating that: "All residential structures and swimming pools shall be setback fifty (50) feet from the East property lines of Lots 13, 14 and 16 through 20; and the West property lines of Lots 1 through 5 and 7." It also required that a note be placed on the final plat stating that: "Prior to the granting of a Building or Factory Assembled Structure (FAS) Permit for each lot by the county, the applicant for a building or FAS permit must comply with RCW 90.44.050 regarding public ground water. The applicant for a Building or FAS Permit must demonstrate that potable water is legally available by presenting: (a) evidence of a valid water right permit from the Washington State Department of Ecology for the proposed wells for each lot; (b) a water well report filed and received by the Washington State Department of Ecology for an exempted well that complies with the 5,000 gallon per day exemption described in RCW 90.44.050; or (c) a written approval of the Washington State Department of Health Group A or Group B public water supply system has been installed and is available for providing potable water to the lot."
29. After reviewing the Mitigated Determination of Significance (MDNS) Yakima County again submitted comments based on their review of the MDNS indicating that the 50-foot setback provided in the mitigation would be of little use in dealing with conflicts between farming operations and residences in the proposed subdivision. Yakima County has a 150-foot setback from agricultural operation in their zoning ordinance based on testimony provided during their comprehensive planning efforts that residents within 120 feet of agricultural lands would be affected by spraying activity. They indicated that the corollary to not having adequate separation is that farmers are pressured to modify or cease their normal farming activities.
30. The Benton County Comprehensive Plan at the time of submittal designated this parcel as Rural Lands 2.5 with a density of one dwelling unit per 2.5 acres. The proposed preliminary plat has a density of one dwelling unit per 2.545 acres. We find that the proposed preliminary plat is consistent with the Comprehensive Plan's designation of the site as suitable residential use, but that the plat, as designed, is not consistent with our policies in the Comprehensive Plan regarding incompatible adjacent agricultural and residential uses.
31. Approximately the first 100 feet of the site that is adjacent to the Yakima River is designated as floodway and the first approximately 200 feet is shown as floodplain. Benton County Code provides for a buffer of 100 feet from the Yakima River and defines a buffer as a

designated area used to protect resources or development and are generally undeveloped areas or open space that is ecologically part of the protected resource.

32. This proposal is allowed within the Unclassified Zoning District.
33. The Planning Commission incorporates by reference and adopts the Planning Department's Findings of Fact as set forth in its April 9, 2008, except to the extent any such findings are inconsistent with any of the Planning Commission findings stated above.
34. A majority of the Planning Commission members find that adequate provisions have not been made for the Public Health and Safety.
35. A majority of the Planning Commission members find that adequate provisions have been made for open spaces.
36. A majority of the Planning Commission members find that adequate provisions have been made for drainage ways.
37. A majority of the Planning Commission members find that adequate provisions have not been made for streets or roads, alleys, and other public ways.
38. A majority of the Planning Commission members find that adequate provisions have been made for transit.
39. A majority of the Planning Commission members find that adequate provisions have been made for potable water supplies.
40. A majority of the Planning Commission members find that adequate provisions have been made for sanitary wastes.
41. A majority of the Planning Commission members find that appropriate provisions have been made for parks, recreation, and playgrounds.
42. A majority of the Planning Commission members find that appropriate provisions have been made for schools and school grounds and for sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school
43. A majority of the Planning Commission members conclude that the requirements of the State Environmental Policy Act have been met.
44. A majority of the Planning Commission members find that the proposed use is in conformance with the intent of the Comprehensive Plan based on the following facts:

45. A majority of the Planning Commission members find that the proposed plat is consistent with the applicable zoning requirements of the Benton County Code, Title 11.
46. The Planning Commission incorporates by reference and adopts the Planning Department's Findings of Fact as set forth in its April 9, 2008, except to the extent any such findings are inconsistent with any of the Planning Commission findings stated above.
47. This proposal is allowed within the Unclassified Zoning District.
48. The Commission has considered the physical characteristics of the proposed subdivision site and finds that the proposed plat is situated within a flood control zone as outlined on the Federal Emergency Management Agency Flood Insurance Rate Map 530237 0480 B with an Effective date of July 19, 1982.
49. We find the proposed use, as designed, is not compatible with the existing agricultural uses surrounding the proposed development.

CONCLUSION OF LAW

Under RCW 58.17.110, we are not allowed to approve a preliminary plat unless we are able to find that the plat contains A) adequate provisions for public health, safety, and general welfare; or b) the public use and interest will be served by the platting such subdivision. Property owners therefore do not have any absolute right to receive plat approval simply because their property is zoned for residential use. Property owners are required by law to make reasonable accommodations in the design of their plats to address problems stemming from adjacent incompatible, legal uses.

Consistent with RCW 58.17.110, the Benton County Planning Commission is authorized under Benton County Code section 9.08.014 to recommend denial of a preliminary plat that does not make adequate provisions for public health, safety and general welfare, or if it finds a plat will not serve the public use and interest. This code provision is also identified under the county's SEPA ordinances as a policy under which a SEPA decision may be based.

The State Environmental Policy Act, RCW 43.21C provides separate and independent authority to deny or condition approval of preliminary plats based on environmental impacts that will exist if the proposed plat is approved. The SEPA provisions do not supersede or replace other laws or regulations, including RCW 58.17.110, but are intended to provide supplemental authority in certain instances.

We conclude that the Planning Commission has the authority to address the issues raised and make its recommendation without requesting that the Planning Department review their SEPA determination. We further conclude that, although this commission has authority to request a review of the threshold determination and re-open the SEPA analysis, given the testimony received we need not do so prior to recommending denial of this plat because of the independent authority

to deny this plat under RCW 58.17.110.

We have found that the design of the proposed preliminary plat will result in and contribute to health, safety and welfare risks to some of the future residents, and we conclude that we not only have the authority, but the obligated under RCW 58.17.110 to recommend denial of this plat as it is designed.

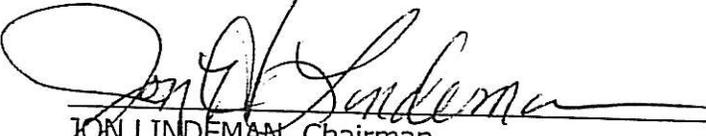
Because this proposed plat does not make adequate provisions for the public health, safety and general welfare and would not be in the public's interest, we conclude that we must recommend denial of the plat as it is designed. This commission is not legally obligated to decide how the applicant should redesign his proposal. We have identified the problems, and it is not only incumbent upon the applicant, but it is in his best interest to decide for himself how best to address the problems.

General community displeasure, potential economic impact to an adjacent property and an inconsistency with a comprehensive plan are not per se reasons to deny a subdivision and our decision is not based on such considerations.

Any Findings of Fact which should be deemed a Conclusion of Law is hereby adopted as such.

A majority of the Planning Commission members conclude, based on the foregoing findings that the public interest will not be served by the subdivision and dedication and recommends denial of the applicant's proposed preliminary plat because of concerns for the public's health, safety and welfare, based on the testimony presented regarding safety, noise, pesticides, and inadequate setbacks as designed.

THEREFORE BE IT RESOLVED BY THE BENTON COUNTY PLANNING COMMISSION, through its chairman as authorized by motion of the Board, adopts these findings and conclusions with respect to File No. SUB 07-03, the preliminary plat of Rivers Edge Estates, proposed by Wes Hodges and such plat is hereby recommended to the Board of County Commissioners for DENIAL.


JON LINDEMAN, Chairman
BENTON COUNTY PLANNING COMMISSION

6/5/08
Date

Benton County Planning Department

Planning Annex, P.O. Box 910, 1002 Dudley Avenue, Prosser WA 99350, Phone: (509) 786-5612 or (509) 736-3086, Fax (509) 786-5629

BENTON COUNTY PLANNING COMMISSION MEETING
April 15, 2008 - 7:00 p.m.
Planning Annex, 1002 Dudley Avenue
Prosser WA 99350

These minutes are a summary of the meeting and are not transcribed verbatim.

PRESENT: Eugene Johnson
Lloyd Coughlin
Faye Nelson
Jon Lindeman
Martin Sheeran
James Wetzel
James Willard

ABSENT: None

STAFF: Donna Hutchinson
Phil Mees
Michael Shuttleworth
Susan Walker

MOTION NO. 1

It was moved by James Willard and seconded by Faye Nelson that the minutes from the March, 18, 2008 meeting be approved.

Vote: 7-0
Yes: Eugene Johnson
Lloyd Coughlin
Faye Nelson
Jon Lindeman
Martin Sheeran
James Wetzel
James Willard
No: None
Abstained: None
Absent: None

Motion Passed.

MOTION NO. 2

It was moved by James Willard and seconded by Faye Nelson that the consent agenda be approved.

Vote: 7-0
AS: Eugene Johnson
Lloyd Coughlin
Faye Nelson
Jon Lindeman

Martin Sheeran
James Wetzel
James Willard

No: None
Abstained: None
Absent: None

Motion Passed.

UNFINISHED BUSINESS: NONE

NEW BUSINESS:

a. **Preliminary Plat of Rivers Edge Estates** consisting of 20 lots on 50 acres by Wes Hodges, 12301 S. 1538 PR SW, Prosser WA 99350. The site is located at the intersection of S. Lower County Line Road and North River Road on the South side of North River Road in the Northwest Quarter of Section 7, Township 8 North, Range 24 East, W.M.

The public portion of the hearing was declared open by the Chairman. Michael Shuttleworth polled the Planning Commission members regarding any ex parte communications or conflicts that they might have regarding this proposal. He then summarized the memo for the Planning Commission and entered the exhibits into the record by reference.

Mr. Shuttleworth pointed out the proposal on the aerial photo and also noted where areas with smaller lots were in context with this proposal.

Mr. Coughlin asked what types of agricultural uses were being conducted in the surrounding area? Michael Shuttleworth noted the various areas and what types of ag uses were being conducted on them. It was noted that most of the ag uses were vineyards with an cherry orchard to the north.

Mr. Wetzel stated that the Planning Commission had to make findings that there was adequate water available to serve the proposal. Mr. Shuttleworth stated that Planning Commission has to determine whether there was enough water there to be pumped out, we don't have the jurisdiction to decide whether a water right is required or not, that would be the purview of the Dept. of Ecology.

Mr. Wetzel asked how the Planning Commission would decide if there is enough water? Mr. Shuttleworth noted that there was a water availability study that had been conducted for this proposal and was included within the Staff Memo. If the Planning Commission wants additional studies they can request those. Mr. Wetzel asked if that would then be the basis of the finding? Mr. Shuttleworth noted that the study and any other testimony presented at the meeting would be considered in making their decision.

Mr. Lindeman noted that Exhibit #9 was the water availability study and the Planning Commission members took several minutes to review that study.

Those wishing to testify were sworn in.

APPLICANT TESTIMONY: WES HODGES, 12301 S. 1538 PR SE, Prosser WA stated that he planned to develop an upscale community, that would enhance the area and be attractively finished to blend in with the Country atmosphere and that he would record covenants on this site to ensure that the neighborhoods and the community will stay attractive and keep the values up in the area. He submitted photos of homes showing what he hoped his proposal would look like, the photos were entered into the record as Exhibit No. 54; a copy of the plat map on foam board was also entered in the record as Exhibit No. 55. He noted that Water Man Study on the water issues had indicated that there was enough water to serve the area and that there was irrigation water available and that it would be used to water the yards. He noted that he was willing to have a buffer zone of 50 feet but that a larger buffer would compromise the building envelope on three of the lots which he identified on Exhibit No. 55 with yellow dots. Mr. Hodges stated that he had spoken with Dr. Felzot about the worst case scenario regarding spraying on the adjacent agricultural property and that Dr. Felzot had indicated that a 0 foot buffer would be acceptable but Mr. Hodges indicated that he did want a 50 foot buffer. He noted that he could incorporate wording on buffers into the covenants and that it would also be on the face of the plat. He stated that he planned to put a white vinyl fence around the entire property which would separate it from the neighboring property.

Gene Johnson asked Mr. Hodges why a 50 foot buffer was preferred instead of a 150 foot buffer? Mr. Hodges noted that there were three lots (Lots 7, 13 and 14) that would be tight on the building envelope with anything besides a 50 foot setback.

The Planning Commission discussed wells, setback distances from the river, the cutting down of vegetation along the river and other items mentioned in the environmental checklist. Mike Shuttleworth noted Benton County's Critical Areas Ordinance did not allow the disturbance of vegetation along the river.

The Planning Commission asked is this area had been farmed in the past. Mr. Hodges noted that it was currently being farmed and had a vineyard and alfalfa Has it been farmed in the past. Yes it is being farmed currently.

PROPONENT TESTIMONY:

Al Sorensen, 2991 OIE, Prosser, WA , pointed out his property on the map and marked it with an A. He stated that he has farmed for over 50 years east of the proposed development and that he has had trouble with trespassers on his property and stated that 20 more houses would increase the trespassers. He noted that he would recommend 10 houses instead of 20. He noted that in addition to he trespassers he has had his water turned on and off, they have had gates stolen, people ride their jeeps and four wheelers down the grape rows. He stated that he used blast sprayers and that 50 feet was not enough of a buffer and that 150-200 feet would be better.

James Wetzel asked what the difference was between 10 or 20 houses in the development. Mr. Sorensen noted that 20 houses would have approximately be 100-150 people which will cause problems. They won't understand farming operations.

Lloyd Coughlin asked if he was concerned that the residents would buy four wheelers etc and run them on his property. Mr. Coughlin asked if the proposal of putting up a vinyl fence would keep people from go down the property line onto his property. Mr. Sorensen stated that they

would probably find a way to get onto his property regardless if there is a fence there or not. He noted that most of the people come in the farm road through the grapes.

Jim Pinson, 1220 Lower County Line Rd., Prosser, marked his property with a B on the aerial map. He stated that he lived at the residence on his parcel nearest the river and that he was concerned with the water situation with more wells going in. He stated that there were six wells within 100 feet of each other and that more wells in the same aquifer could cause problems with the water table. He stated that his well was 29 years old and 160 feet deep. He noted that because they were in an irrigation district his well was used for house water only. He stated that he was also concerned with the density of the subdivision and that the area to the South was basically scrubland (across the river). He noted that there were no other subdivisions around there and that it was mostly farming operations. He stated that in Yakima County the setbacks were different and that a 150 foot setback would be more conducive to agriculture than a 50 foot setback. He noted that this was an agricultural county and that he was proposing to put in an urban development in an area that is 5-6 miles away from other development. Mr. Pinson noted that he used ground sprayer and did not use blast sprayers. He noted that the Growth Management Act stated that the best use of the land is agricultural uses and that this land has been farmed as long as the water has been available to the Valley. There is a commitment to Agriculture in this area and this development will affect the way they farm.

Lloyd Coughlin asked if he had also experienced vandalism? Mr. Pinson stated that yes they had hand lines stolen, people camp out along the river that they have lots of problems with trespassers. He stated that growth such as this should be limited to urban areas not agricultural areas.

Karin Taylor, 1170 Lower County Line Rd., marked her property with a C. She stated that her property was all in grapes and that the property around her home was about 1 acre in size. She stated that the applicant never talked to them about his project and that the proposed turnaround is in the front yard of her property and the lights would shine in the windows. She stated that Mr. Hodges has let the property go to weeds is not currently farming it. She stated that she had concern for the wild animals that are currently found in the area and that they would be at risk. She stated that she had talked with Mr. Whitefeather with the Yakama Indian Nation and that he was also concerned about the animals. She stated that the house that was already on this parcel had two children which have appeared on her property with no adult supervision. She noted that the access road of S. Lower County Road is in some places only 16 feet wide and two large vehicles could not pass each other. She stated that she had heard that there was a mint still in the middle of the property at one time and that they had buried asbestos when removing the still and it is supposedly still there and if it is disturbed it could cause problems. She stated that they used aircraft application of pesticides and were concerned about that. They cannot contact everyone when it is time to spray and it will be a problem with only a 50 foot setback. She also had concerns regarding the density and noted that the density as of Sept. 1 was now 5 acres and that he had smaller lots than the 2.5 density.

Ramona K. Jermain, 174402 W. North River Road., marked her property with a D. She noted that 20 homes on 50 acres is a lot of homes and that a 5 acre parcel would be better. She stated that she did not have irrigation and had 2.5 acres of property. She stated that traffic

was her main concern as the road was very narrow. She stated that she also had a concern with vandalism occurring.

Gene Johnson asked if there was a problem with police protection? Ms. Jermain stated that they did not get protection on a consistent basis and noted that her house would burn before the fire truck could get there.

Lloyd Coughlin asked if she farmed and she replied that she did not but that the cherry orchard was next to her property. She stated that she did smell the spray and she was more than 150 feet.

Joseph Rumney, 13101 S. Smith Rd., marked his property with a E. He stated that he was concerned with the density of the lots especially along the river with the smaller lots. He noted that the proposal was situated 5 miles from Prosser and Grandview and that most of the area was in agriculture uses. He was concerned with this proposal setting a precedent by putting such small lots in the area. He stated that the ground was mostly gravel and it would be tough to get septic tank in.

Lloyd Coughlin asked if they had problems with their septic system? Mr. Rumney stated that he had not had any problems but that his system had been installed quite a while and had good drainage. He noted that under new regulations they might not be able to get a septic permit and may have to have a pump system.

Jon Lindeman asked if he was also farming the piece adjacent to his house? He indicated that yes he had 20 acres not all in grapes. He noted that the ground was quite gravelly.

Alfredo Gonzales, 901 S. Lower County Line, Prosser, marked his property on the aerial photo with an F. He stated that he raised cherries and vegetables. He noted that more people in the area will bring more complaints about the farming activities. He stated that he sprayed when the wind is calm but the neighbors can still smell it. He has had problems with people stealing his sprinklers and also the cherries..

Tomas Gonzales, 174901 W. North River Rd., Prosser, stated that he was the last person to move into this area. He marked his property with a G. He stated that he was concerned with where they will get the water from for 20 wells are they going into his aquifer or going deeper? How could it not affect him, the well that he pumps out of is a seepage well. He noted that the South portion of his property is sand and gravel. with a plateau of big rocks to the north but this area is very sandy.

Jon Lindeman explained that the one dwelling per 2.5 acres was an overall density that must be maintained and that it was not minimum lot size.

Tomas Gonzales noted that there were other subdivisions North on County Line and that means that there will be more wells from them also. He noted that Mr. Hodges does not live down the road, it seems to be his vacation home Mr. Gonzales stated that he had cattle and horses on his pasture and a cherry orchard close to him. He submitted Exhibit 56 an article from the Yakima Herald dated March 30, 2008 regarding pesticides. He noted that the picture included with the article showed a person on a sprayer exiting a row of trees and he then read the

caption for the Planning Commission. He noted that the city is moving out into the agricultural area not the other way around. He noted that at night you can hear wind machines and at times you can smell the spray. He then asked the Planning Commission if it was correct that a person could not disturb the shoreline? It was noted that the vegetation along the shoreline could not be destroyed. He noted that the Sheriff does not come out very often and that the neighbors are policing the area and notify each other. He stated that traffic was another concern as the road is very narrow. He noted that this was a very quiet area with solitude.

APPLICANT REBUTTAL: Wes Hodges, 12301 S. 1538 PR SE, Prosser stated that after listening to the concerns he understood them as he had grown up on a farm. He noted that regarding the trespassing issue, that is why he was installing a fence in order to deter people from going on the surrounding property. He noted it would be safer with the fence and that the people in the subdivision would be able to watch out for trespassers. He stated that his subdivision was only asking for the density that was allowed at the time of submittal and that any future developments will be at a 5 acre density. He stated that the buffer zone reports from Dr. Flezot were used in the past by the County as a basis for buffer zones. He noted that Dr. Flezot is an expert in the field. Most of the people that were concerned with spray have homes within 50 feet of their farming operations. He stated that he had no knowledge regarding the statement about Asbestos being on the site and that there was no evidence to support that statement. He noted that the Health Dept. would have to approve any septic tank going on these lots. He stated that he has worked with the Health Department and through their review have determined that there is not a problem with septic systems. He noted that any building permits would require their approval. He stated that he would work with the engineer to alleviate that problem of the lights shining onto the neighbors home and with the alignment of the road. He stated that he would like his proposal approved based on the Comprehensive Plan in effect prior to 9-1-07 and to have a 50 foot buffer.

Lloyd Coughlin asked if it was correct that this land was not being farmed this year? Mr. Hodges noted that he was not activity farming it at this point waiting on the final decision regarding this subdivision.

Faye Nelson asked if his covenants would allow large animals? Mr. Hodges noted that he may a horse or llama but it will be limited in what they may have.

The public portion of the hearing was closed the public portion of the hearing.

PLANNING COMMISSION DISCUSSION:

Faye Nelson asked if there were any plans to improve the road. Staff noted that South County Line Road was within Yakima County jurisdiction and that staff was not aware of any road projects associated with that.

Lloyd Coughlin stated that he felt that the 50 feet not sufficient and he would like to see a least a 75 to 100 foot setback, considering the different types of spray equipment being used and the setbacks required by Yakima County.

Jon Lindeman noted that they had heard a lot of testimony and when you put a subdivision like this in the middle of a farming area there has to be some give and take and it should not be a

Abstained: None
Absent: None

The motion passed.

b. **Ordinance Amendment** relating to growth management, setting procedures and standards for amendments to the Comprehensive Plan, adds a new chapter to Title 16 of the Benton County Code. The purpose of this ordinance is to set forth the timing and procedure for requesting and processing amendments to the Benton County Code.

The public portion of the hearing was opened.

Phil Mees, Planning Staff summarized the proposed ordinance for the Planning Commission and noted that is separated out annual amendments which are generally amendments proposed by property owners for land use designations changes and policy changes affecting individual properties from amendments to urban growth areas which have different standards of review and have different requirements for review under the Growth Management Act. He noted that annual amendments are made annually and that amendments for UGA changes are made once every five years. He noted that Mr. Ziobro had submitted a letter on behalf of Mr. Wisser who wished to include some property inside of the UGA and had submitted an application in December which was rejected for lack of a Capital Facilities Plan. In the letter Mr. Ziobro was recommending that the County change the provisions in the ordinance that require or allow UGA amendments every 5 years to every 2 years. There is a provision in the ordinance that says if an application is deemed incomplete for a UGA amendment on the December 1st date then the applicant who has submitted the application has to wait until the next five year cycle to resubmit. The Staff recommendation is that the ordinance be approved as written remain as is with the 5 year cycle. The reason for recommendation is that the urban growth boundary is a 20 year line and we go through the process of amending it every 5 years because every 5 years the State Office of Financial Management sends us new growth projections for the next 20 year cycle and at that point the County sits down with the City and determines how those growth projections are going to allocated to each city. Then there is an fairly involved process and each City determines whether it needs additional land based on that process. It is a 20 year boundary based on a five year projection and it does not make any sense to biannually review it, that's not growth management, that is moving the UGA by an ad hoc process.

TESTIMONY: John Ziobro, 1333 Col. Park Trail, Richland WA 99352, stated that he had written a letter on behalf of Mr. Wisser. Mr. Ziobro explained the process that Mr. Wisser went through to apply thru the City of Richland. He noted that the City had made a decision to approve his application but unfortunately without a Capital Facility plan. Mr. Ziobro noted that he was mentioning this to demonstrate that if you don't have a timely application it is fairly punitive by waiting another 5 years. He stated that his recommendation was for the Planning Commission to consider the possibility that there needs to be an alternative because you do have a validation process. You have a City Planning Commission and Council who inventoried their needs for growth and they make a recommendation for UGA expansion. You are not catering to the whim of an individual property owner who is trying to do something for themselves you are doing something because the City is also making a recommendation that it is the City's interest.

Jon Lindeman asked if the cities were allowed to take water and sewer outside of the UGA boundary? Mr. Ziobro noted that there were court cases that said you could not extend services outside of the UGA. Mike Shuttleworth stated that there were isolated cases that if you have a master plan in an industrial area or a master plan resort they can service those areas but none other or if there was an emergency. Other than that there are no provisions it says that urban services must stay in the urban areas. Mr. Ziobro noted that was correct and that there were court cases especially for sewer services that they could not go outside of their service boundaries.

Gene Johnson noted that it did not seem unreasonable to require 5 years when you are talking about some of these big developments that are being put together.

The public portion of the hearing was closed.

MOTION NO.5

It was moved by Gene Johnson and seconded by Faye Nelson to approve the Ordinance Amendment relating to growth management, setting procedures and standards for amendments to the Comprehensive Plan, adding a new chapter to Title 16 of the Benton County Code as presented by staff with the changes to SECTION 8(b) and (c) changing the word will to shall.

<u>Vote:</u>	4-3
Yes:	Eugene Johnson Lloyd Coughlin Faye Nelson Jon Lindeman
No:	Martin Sheeran James Wetzel James Willard
Abstained:	None
Absent:	None

The motion passed.

PLANNING DEPARTMENT REPORTS AND DISCUSSION:

Planning staff handed out copies of the Benton County Engineers 6 Year Road Plan to the Planning Commission for their review.

The meeting was adjourned at 10:20 p.m.


JON LINDEMAN, Chairman
BENTON COUNTY PLANNING COMMISSION

Planning Commission Exhibit List for SUB 07-03

Exhibits 1-53 attached to Staff Memo dated April 9, 2008

- Exhibit 1: Staff Memo dated April 9, 2008
- Exhibit 2: SUB 07-03 Preliminary Plat Application.
- Exhibit 3: Preliminary review of development drainage system designs.
- Exhibit 4: Notice of Application published August 6, 2007.
- Exhibit 5: Notice of Open Record Hearing, published April 3, 2008.
- Exhibit 6: Environmental checklist.
- Exhibit 7: Environmental Determination for SUB 07-03 dated February 20, 2008.
- Exhibit 8: Letter from Benton County Planning to the applicant requesting additional information dated August 30, 2007.
- Exhibit 9: Water availability Study completed by Waterman Consulting dated November 9, 2007.
- Exhibit 10: A report on a buffer zone needed for setback from agricultural spraying completed by Allan S. Felsot, Professor, Washington State University dated February 10, 2008.
- Exhibit 11: Letter from Wes Hodges to Mike Shuttleworth dated February 11, 2008.
- Exhibit 12: Comments from Benton County Department of Public Works dated August 9, 2007.
- Exhibit 13: Comments from Yakima County Public Service Department dated August 17, 2007.
- Exhibit 14: Comments from Yakima County Public Service Department dated March 5, 2008.
- Exhibit 15: Comments from Benton-Franklin Health District dated August 30, 2007.
- Exhibit 16: Comments from Benton-Franklin Health District dated February 22, 2008.
- Exhibit 17: Comments from Southeast Communications Center dated August 3, 2007.
- Exhibit 18: Comments from Washington State Department of Ecology dated August 14, 2007.
- Exhibit 19: Comments from Washington State Department of Ecology dated March 5, 2008.
- Exhibit 20: Comments from Benton County Fire Marshal dated August 8, 2007.
- Exhibit 21: Comments from Benton County Assessor's Office dated August 2, 2007.
- Exhibit 22: Comments from Washington State Department of Archaeology & Historic Preservation dated March 4, 2008.
- Exhibit 23: Comments from Sunnyside Valley Irrigation District dated August 9,

- 2007.
- Exhibit 24: FEMA Flood Insurance Rate Map 530237 0480 B (Floodplain map).
Exhibit 25: FEMA Flood Insurance Rate Map 530237 0480 B (Floodway map).
Exhibit 26: Letter from John Tanasci to Benton County Planning dated August 17, 2007.
Exhibit 27: Letter from Romona K. Jermain to Benton County Planning dated August 17, 2007.
Exhibit 28: Letter from Joseph L. Rumney to Benton County Planning dated August 14, 2007.
Exhibit 29: Letter from John Tanasci to Benton County Planning dated March 5, 2008.
Exhibit 30: Letter from Benton County Planning to John Tanasci dated March 12, 2008.
Exhibit 31: Letter from Jim Pinson to Benton County Planning dated March 6, 2008.
Exhibit 32: Letter from Benton County Planning to Jim Pinson dated March 12, 2008.
Exhibit 33: Letter from Alfredo Gonzalez to Benton County Planning dated March 5, 2008.
Exhibit 34: Letter from Benton County Planning to Alfredo Gonzalez dated March 12, 2008.
Exhibit 35: Letter from Steve and Karin Taylor to Benton County Planning dated March 5, 2008.
Exhibit 36: Letter from Benton County Planning to Steve and Karin Taylor dated March 12, 2008.
Exhibit 37: Letter from Tomas Gonzalez to Benton County Planning dated March 5, 2008.
Exhibit 38: Letter from Benton County Planning to Tomas Gonzalez dated March 12, 2008.
Exhibit 39: Letter from Merlin Elliott to Benton County Planning dated March 5, 2008.
Exhibit 40: Letter from Benton County Planning to Merlin Elliott dated March 12, 2008.
Exhibit 41: Letter from Joseph L. Rumney to Benton County Planning dated February 28, 2008.
Exhibit 42: Letter from Benton County Planning to Joseph L. Rumney dated March 12, 2008.
Exhibit 43: Letter from Ramona Jermain to Benton County Planning dated March 4, 2008.
Exhibit 44: Letter from Benton County Planning to Ramona Jermain dated March 12, 2008.
Exhibit 45: Letter from Alan & Paula Sorensen to Benton County Planning dated March 5, 2008.
Exhibit 46: Letter from Benton County Planning to Alan Sorensen dated March

13, 2008.

- Exhibit 47: Letter from Steve Taylor to Benton County Planning.
- Exhibit 48: Yakima County's Agricultural Zoning District.
- Exhibit 49: Yakima County's Valley Rural Zoning District.
- Exhibit 50: Pages 5-8 through 5-15 of the Benton County Comprehensive Plan.
- Exhibit 51: Land Use Map 4.1, Page 4-50 of the Benton County Comprehensive Plan.
- Exhibit 52: Aerial Photo of the Site.
- Exhibit 53: Preliminary Plat map for Rivers Edge Estates.

Exhibits 54- 56 received and entered into the record at the Planning Commission public hearing on April 15, 2008.

- Exhibit 54: Packet of Photos labeled River Edge Estates submitted by Mr. Hodges
- Exhibit 55: Copy of Plat Map mounted on Foam Board submitted by Mr. Hodges. (too large to put in file)
- Exhibit 56: The Yakima Herald Republic Newspaper from March 30th, 2008 re: Pesticide Drift submitted by Mr. Tomas Gonzalez.
- Exhibit 57: Aerial Photo labeled by property owners at the public hearing. (too large to put in file)

Benton County Planning Department

Planning Annex, P.O. Box 910, 1002 Dudley Avenue, Prosser WA 99350, Phone: (509) 786-5612 or (509) 736-3086, Fax (509) 786-5629

DATE: April 9, 2008
TO: BENTON COUNTY PLANNING COMMISSION
FROM: BENTON COUNTY PLANNING DEPARTMENT
RE: PRELIMINARY PLAT APPLICATION SUB 07-03 -RIVERS EDGE ESTATES.
APPLICANT: WES HODGES, 12301 S. 538 PR SW, PROSSER, WA 99350.
OWNERS: WES HODGES AND GARY CHRISTENSEN, 12301 S. 538 PR SW, PROSSER, WA 99350.

File No. SUB 07-03
Date 6-12-08
Staff Exhibit No. A
Pro. Exhibit No. _____
Opp. Exhibit No. _____
Received by djh

File No. SUB 07-03
Date 8-9-08
Exhibit No. 1
Received by djh

SPECIFIC REQUEST:

The applicants are requesting preliminary plat approval to subdivide approximately 50.90 acres into 20 single-family residential lots with an average lot size of 2.27 acres and a minimum lot size of 1.49 acres.

EXHIBITS:

The following exhibits are attached to this report:

- Exhibit 1: Staff Memo dated April 9, 2008
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 - Exhibit 51: Land Use Map 4.1, Page 4-50 of the Benton County Comprehensive Plan.
 - Exhibit 52: Aerial Photo of the Site.
 - Exhibit 53: Preliminary Plat map for Rivers Edge Estates.

LEGAL NOTICES PUBLISHED:

The notice of application required by BCC 17.10.100 on the Preliminary Plat of Rivers Edge Estates, was published in the Tri-City Herald on August 6, 2007. The notice was also sent to the property owners within 300 feet of the boundaries of the property for this application on August 1, 2007. The legal notice required by BCC 9.08.032, for the Planning Commission's Open Record Hearing on the Preliminary Plat of Rivers Edge Estates, was published in the Tri-City Herald on April 3, 2008. The legal notice was also sent to the property owners within 300 feet of the boundaries of the property for this application on March 28, 2008.

LOCATION:

The subject property is located at the intersection of South County Line Road and North River Road on the South side of North River Road in the Northwest Quarter of Section 7, Township 8 North, Range 24 East W.M.

LAND USE:

The subject property is currently undeveloped. The surrounding parcels are developed with single-family dwellings and agricultural uses.

ZONING:

The on-site and surround zoning designation within Benton County is Unclassified. The property to the West that is in Yakima County and North of the Yakima River is zoned Agricultural. The property south of the Yakima River in Yakima County is zoned Valley Rural. See exhibitss

COMPREHENSIVE PLAN:

The Benton County Comprehensive Plan designated the site for the proposed preliminary plat and most of the surrounding properties in Benton County as Rural Lands 2.5 at the time of application. The designations were changed to Rural Lands 5 after September 1, 2007. The properties west and north of the Yakima River in Yakima County are designated in the Yakima County Comprehensive Plan as Agricultural.

TABLE 1

Direction	Land Use	Zoning	Comprehensive Plan
North	Agricultural and Residential	Unclassified	Urban Growth Area
Northwest	Agricultural and Residential	Agricultural – Yakima County	Agricultural – Yakima County
West	Agricultural and Residential	Agricultural – Yakima County	Agricultural – Yakima County

Southwest	Vacant and Residential	Valley Rural– Yakima County	Mountain Rural– Yakima County
South	Agricultural and Residential	Unclassified	Rural Lands 1 DU/ 2.5 acres (*)
Southeast	Agricultural and Residential	Unclassified	Rural Lands 1 DU/ 2.5 acres (*)
East	Agricultural	Unclassified	Rural Lands 1 DU/ 2.5 acres (*)
Northeast	Agricultural and Residential	Unclassified	Rural Lands 1 DU/ 2.5 acres (*)

() At time this application was deemed complete for processing, the surrounding areas were designated Rural Lands 2.5. On September 1, 2007 those designation changed to Rural Lands 5.*

PUBLIC SERVICE:

Domestic water service will be provided by on-site wells. Sewer service is to be provided by on-site septic systems approved by the Benton Franklin Heath District for each lot.

STATE ENVIRONMENTAL POLICY ACT:

The Preliminary Plat of Rivers Edge Estates has been reviewed under the requirements of the State Environmental Policy Act, as amended and a Mitigated Determination of Non-Significance (MDNS) was issued on February 20, 2008. Copies of the Environmental Checklist, the Determination of Non-Significance, and the comments received from reviewing agencies are attached to this memorandum. The mitigations measures are as follows:

- (1) The following note to be placed on the final plat: "Prior to the granting of a Building or factory Assembled Structure (FAS) Permit for each lot by the county, the applicant for a building or FAS permit must comply with RCW 90.44.050 regarding public water. The applicant for a Building or FAS permit must demonstrate that potable water is legally available by presenting: (a) evidence of a valid water right permit form the Washington State Department of Ecology for the proposed well for each lot; (b) a water well report filed and received by the Washington State Department of Ecology for an exempted well that complies with the 5,000 gallon per day exemption described in RCW 90.44.050; or (c) a written approval of the Washington State Department of Health Group A or Group B water supply system has been installed and is available for providing potable water to the lot.
- (2) That a 50 foot setback between the property line boundaries of the existing agricultural operations on the West and East side of the proposed plat and all residential structures and swimming pools within the proposed development be provided. The following note be placed on the final plat: "All residential structures and swimming pools shall be fifty (50) from the East property line of Lots 13,14, and 16 through 20 and the West property line of Lots 1 through 5 and 7"

APPLICABLE DEVELOPMENT REGULATIONS:

1. Benton County Code Section 9.08.014 provides:

"PLANNING COMMISSION. No plat shall be presented for filling until it has been reviewed and received recommendation for preliminary and final approval by the Benton County Planning Commission. The Benton County Planning Commission may recommend the denial of any plat which does not adequately plan for and provide adequate provisions for public health, safety and general welfare or any plat in which it finds the public use and interest will not be served."

2. Benton County Code Section 9.08.050 provides design and construction standards for preliminary plats.

9.08.050 DESIGN AND CONSTRUCTION STANDARDS – GENERAL LAYOUT DESIGN STANDARDS.

- (a) Arrangement of arterial streets in the subdivision shall conform to the Comprehensive Plan as adopted by the County Planning Commission and the Board of County Commissioners.
- (b) Street shall continue as an extension of existing streets unless good site planning dictates a different solution. Street patterns shall take into consideration access needed to develop adjacent properties presently unsubdivided. Sketches of a proposed street system for adjoining properties may be required if owned by the subdivider or if the arrangement of the large tracts make it necessary to provide future access through the property under consideration.
- (c) Access streets shall be planned so as to discourage through traffic and to conveniently channel traffic onto primary and secondary arterial.
- (d) When a tract is subdivided into larger than normal lots or parcels, such parcels shall be so arranged as to permit the logical resubdivision and opening of future streets with provision for adequate utility connections for such resubdivisions.
- (e) When dead-end streets are created by the development of a portion of a larger plat or because of the desirability of continuing a street into a presently unplatted parcel, not presently owned by the applicant, a temporary turnaround shall be provided unless the county engineer's office recommends against provision of such turnaround. If such a turnaround includes some private property, such turnaround right-of-way shall be protected by an easement until such time as the street is extended and the need for turnaround has ceased to exist.
- (f) Cul-de-sacs will be permitted where topography or other conditions justify their use. They should not exceed three hundred (300) feet but will be permitted up to five hundred (500) feet in length. Cul-de-sacs exceeding 500 feet may be approved if conditions warrant the need and are documented by the Planning Commission. Every cul-de-sac shall have a

turnaround at its closed end with a minimum outside diameter of the right-of-way one hundred (100) feet.

- (g) Street names shall be assigned to conform to existing streets on the same or similar alignment. New street names shall not be so similar to existing street names as may cause confusion.
- (h) Streets shall be laid out so as to intersect as nearly as possible at right angles EXCEPT where topography or other conditions justify variations. The minimum angles of intersection of streets shall be seventy-five (75) degrees, unless specifically waived by the county engineer.
- (i) Street jogs with centerline offsets of less than one hundred twenty-five (125) feet shall not be permitted unless specifically approved by the county engineer.
- (j) Wherever the proposed subdivision contains or is adjacent to a railroad right-of-way or the right-of-way of a limited access highway, freeway, or primary arterial, provision may be required for a marginal or frontal access street at a distance appropriate to the proposed use of land between the right-of-way and the marginal access street. Such distance shall be determined with due consideration to future grade separations and for required lot depths.
- (k) Corner lots in residential areas shall be ten (10) percent wider than minimum lot widths to allow for adequate setback of a building from both streets.
- (l) Sidelines of lots shall be approximately at right angles to the street in front or radial to curved street lines.
- (m) Lots with double frontage shall be avoided wherever possible.
- (n) All lots shall front on a dedicated street other than an alley.
- (o) In developments where individual sewage disposal systems are to be used, the size of the lots shall be subject to the approval of the County Health Officer.
- (p) Drainage easements for storm sewers or open channel ditches may be required where it is not feasible to carry storm drainage under the streets or right-of-way. Open channel easements may be required where there is evidence of a present or future natural drainage pattern which may carry water at such time as the general water table of the area is raised, or increased runoff will result from altered land use.

3. RCW 58.17.110 provides the following for the County to use when determining to approve or disapprove a proposed subdivision:

"RCW 58.17.110 Approval or disapproval of subdivision and dedication--Factors to be considered--Conditions for approval--Finding--Release from damages.

(1) The city, town, or county legislative body shall inquire into the public use and interest proposed to be served by the establishment of the subdivision and dedication. It shall determine: (a) If appropriate provisions are made for, but not limited to, the public health, safety, and general welfare, for open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and school grounds, and shall consider all relevant facts including sidewalks and other planning features that assure safe walking conditions for students who walk to and from school; and (b) whether the public interest will be served by the subdivision and dedication.

(2) A proposed subdivision and dedication shall not be approved unless the city, town, or county legislative body makes written findings that: (a) appropriate provisions are made for the public health, safety, and general welfare, for open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and school grounds, and shall consider all relevant facts including sidewalks and other planning features that assure safe walking conditions for students who walk to and from school; and (b) whether the public interest will be served by the subdivision and dedication. If it finds that the proposed subdivision and dedication make such appropriate provisions and that the public use and interest will be served, then the legislative body shall approve the proposed subdivision and dedication. Dedication of land to any public body, provision of public improvement to serve the subdivision, and/or impact fees imposed under RCW 82.02.050 through RCW 82.02.090 may be required as a condition of subdivision approval. Dedication shall be clearly shown on the final plat. No dedication, provision of public improvements, or impact fee imposed under RCW 82.02.050 through RCW 82.02.090 shall be allowed that constitutes an unconstitutional taking of private property. The legislative body shall not as a condition of the approval of any subdivision require a release from damage to be procured from other property owners."

STAFF'S FINDINGS OF FACT:

Based on the application and information received as of the date of this memo, the planning staff makes the following findings:

1. The applicant for SUB 07-03 is Wes Hodges, 12301 S. 538 PR SW, Prosser, WA 99350. The property owners are Wes Hodges and Gary Christensen.
2. Preliminary Plat Application SUB 07-03 is requesting preliminary plat approval to subdivide approximately 50.90 acres into 20 single-family residential lots with an average lot size of 2.27 acres and a minimum lot size of 1.49 acres.

3. The subject property is located at the intersection of South County Line Road and North River Road on the South side of North River Road in the Northwest Quarter of Section 7, Township 8 North, Range 2 East W.M.
4. Preliminary Plat Application SUB 07-03 was submitted on July 26, 2007 and determined to be a complete application on July 31, 2007. The Notice of Application required by BCC 17.10.100 was published on August 6, 2007 and sent to the property owners with 300 feet of the proposed plat on August 1, 2007.
5. The affected agencies review letter was sent on August 1, 2007. The comments of those agencies that responded are attached to this staff memo.
6. The notice for the Benton County Planning Commission's Open Record Hearing for application SUB 07-03 was published on April 3, 2008 in the Tri-City Herald and mailed to property owners of record within 300 feet of the outer boundaries of the parcel on March 28, 2008. The Open Record Hearing is scheduled for Tuesday, April 15, 2008.
7. The Preliminary Plat of Rivers Edge Estates has been reviewed under the requirements of the State Environmental Policy Act, as amended and a Mitigated Determination of Non-Significance (MDNS) was issued on February 20, 2008. Copies of the Environmental Checklist, the Determination of Non-Significance, and the comments received from reviewing agencies are attached to this memorandum. The mitigations measures are as follows:
 - (1) The following note to be placed on the final plat: "Prior to the granting of a Building or factory Assembled Structure (FAS) Permit for each lot by the county, the applicant for a building or FAS permit must comply with RCW 90.44.050 regarding public water. The applicant for a Building or FAS permit must demonstrate that potable water is legally available by presenting: (a) evidence of a valid water right permit form the Washington State Department of Ecology for the proposed well for each lot; (b) a water well report filed and received by the Washington State Department of Ecology for an exempted well that complies with the 5,000 gallon per day exemption described in RCW 90.44.050; or (c) a written approval of the Washington State Department of Health Group A or Group B water supply system has been installed and is available for providing potable water to the lot.
 - (2) That a 50 foot setback between the property line boundaries of the existing agricultural operations on the West and East side of the proposed plat and all residential structures and swimming pools within the proposed development be provided. The following note be placed on the final plat: "All residential structures and swimming pools shall be fifty (50) from the East property line of Lots 13,14, and 16 through 20 and the West property line of Lots 1 through 5 and 7."
8. The property is zoned Unclassified, which requires a minimum lot area of ten thousand (10,000) square feet and an average lot width of not less than ninety (90) feet. The lots

proposed in the Preliminary Plat of Rivers Edge Estates comply with the minimum lot area and lot width for the Unclassified Zoning District. Residential dwellings are allowed uses in the Unclassified Zoning District.

9. The Benton County Comprehensive Plan designates this area as Rural Lands 2.5, providing a density of one dwelling unit per 2.5 acres. The proposed preliminary plat has a minimum lot area of 2.27 acres and a density of one dwelling unit per 2.545 acres. This development is consistent with the density contained in the Benton County Comprehensive Plan. As noted above the density for this area change on September 1, 2007 to Rural Lands 5. However this plat is being reviewed under the comprehensive plan designation of Rural Lands 2.5 as that was the designation when the preliminary plat was deemed a complete application.
10. The Benton County Comprehensive Plan provides that those lands designated as Rural Lands on the land use map within the comprehensive plan are those lands designated for "residential" as the principal use of the property and which are located outside of an Urban Growth Area. The intent of the Rural Lands is to enable rural residential living, consistent with the historic custom and cultural of the lifestyle within the county. Generally these are areas within which the predominant land use is not large scale commercial agricultural, though isolated commercial farms may exist within rural residential areas and almost always abuts them and serves as an employment base. According to the Comprehensive Plan the primary purposes of the Rural Land use category are:
 - To accommodate demands of non-farm families and hobby farmers for rural living;
 - To provide buffers between urban and agricultural uses; and where there are appropriate land forms, e.g., ridges, mountains, and rivers and floodplains, between urban areas;
 - To conserve lands potentially suitable for future inclusion into Urban Growth Areas (in those areas so identified) in close proximity to urban areas and services.
11. The Benton County Comprehensive Plan does not address the arrangement of arterial streets for the proposed subdivision. This proposal will not create a new arterial street. (BCC 9.08.050 (a))
12. The streets within the proposed subdivision will be new county roads. Currently the site is accessed through North River Road that is a County Road. The proposed new road will intersect with North River Road. The Benton County Department of Public Works has commented that the curve near the intersection of Paige Lane and River Edge Drive with a 150-foot radius needs to be at least 330 feet.
13. The proposed street layout within the development directs traffic to North River Road that will be the main accesses to the site. (BCC 9.08.050 (c))
14. All the lots within the proposed development are normal size for a development with a density of one dwelling unit per 2.5 acres. (BCC 9.08.050 (d))

15. The Benton County Department of Public Works must approve proposed street names within the proposed plat. The proposed street names have been reviewed by the Benton County Department of Public Works and Southeast Communication Center and they did not have a concern with the proposed names. (BCC 9.08.050 (g))
16. The roads within the proposed plat are laid out so that they will intersect at right angles. (BCC 9.08.050 (h))
17. The proposed development is not adjacent to highway or railroad right-of-way. No access from Lot 20 will be allowed onto North River Road. (BCC 9.08.050 (j))
18. All corner lots within the proposed plat are ten (10) percent wider than minimum lot widths to allow for adequate setback of a building from both streets. (BCC 9.08.050 (k))
19. The sidelines of lots within the proposed plat are approximately at right angles to the street in front or radial to curved street lines. (BCC 9.08.050 (l))
20. Some of the lots within the proposed subdivision will have double frontage. Those lots on the north side of the proposed plat will have double frontage, however, access will not be allowed onto North River Road, other than the one that currently exists. (BCC 9.08.050 (m))
21. All lots within the proposed development front onto a proposed dedicated street.
22. The applicant has proposed that the preliminary plat be served by on site septic systems. The Benton-Franklin Health District (BFHD) reviewed the proposed plat and provided a letter to the Benton County Planning Department. The letter stated that the BFHD found that it generally meets their requirements for plats utilizing on-site septic systems and public water supplies, provided the applicants comply with
23. The applicant submitted a preliminary drainage system design that was reviewed by the Benton County Department of Public Works. The Benton County Department of Public Works will also review the storm drainage issue during the their review of the proposed plans for the construction of the proposed county roads. (BCC 9.08.050 (p))
24. The proposed preliminary plat will add new roads to the County road system. The Benton County Department of Public Works has reviewed the proposed location of the road.
25. The Ben Franklin Transit did not comment on transit service for the proposed development. The proposed plat and surrounding area is not served by public transit.
26. One finding that must be made to approve this application is that adequate provisions for potable water supply have been made. The application for the Preliminary Plat of River Edge Estates shows the proposed lots within the plat will be served by individual wells. The Washington State Department of Ecology stated in their letter dated August 14, 2007:

"In Washington State, prospective water users must obtain authorization from the Department of Ecology before diverting surface water or withdrawing ground water, with one exception. Ground water withdrawals of up to 5,000 gallons per day used for single or group domestic supply, including industrial purposes, stock watering or for the irrigation of up to one-half acre of lawn and garden are exempt from the permitting process. Water use under RCW 90.44.050 exemption establishes a water right permit that is subject to the same privileges, restrictions, laws and regulations as a water right permit or certificate obtained directly from Ecology.

On March 28, 2002 the Washington State Supreme Court ruled that the RCW 90.44.050 permit exemption does not apply where a developer of a residential subdivision proposes multiple wells to serve each lot in the development if in combination, the withdrawal will exceed the exemption criteria.

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 your area becomes limited, your use could be curtailed by those with senior water rights.

This project will exceed 5,000 gallons per day (gpd) and therefore need to apply for a water right permit through the Department of Ecology.

Ecology encourages the project proponents contact Ecology. Ecology can provide assistance in determining the water supply need for this project and provide the project proponent with options in which to obtain an issued water right."

During the review of this proposed plat the Planning Commission must determine if there is evidence submitted to determine that, regardless of the legal requirements, there is physically available sufficient water in quantity and quality to support the proposed uses. As of the writing of this staff report, the applicant has not presented information that there is or is not physically available sufficient water in quantity and quality to support the proposed uses.

Exhibit 9 of this memo is a report from the applicant's consultant, Water Man Consulting, that discusses the water availability for the proposed subdivision.

If information is presented at the public hearing that is sufficient for the Planning Commission to determine that there is physically available sufficient water in quantity and quality to support the proposed uses, the Planning Department recommends that the Planning Commission find that adequate provisions have been made for potable water supply, provided, that prior to the granting of a Building or Factory Assembled Structure Permit for each lot by the County, the applicant for a building or FAS permit must comply with RCW 90.44.050 regarding public ground water. The applicant for a Building or FAS Permit must demonstrate that potable water is legally available by presenting: (a) evidence of a valid water right permit from the Washington State Department of Ecology

for the proposed wells for each lot; (b) a water well report filed and received by Washington State Department of Ecology for an exempted well that complies with the 5,000 gallon per day exemption described in RCW 90.44.050; or (c) a written approval of the Washington State Department of Health that a Group A or Group B public water supply system has been installed and is available for providing potable water to the lot.

27. The proposed plat is within the Prosser School District. The preliminary plat does not show sidewalks or locations for bus stops. The school district did not provide comments on this proposal as to whether there are adequate provisions to assure safe walking conditions for students who walk to and from school or waiting for school buses.
28. A portion of the proposed development is within a flood control zone as outlined on the Federal Emergency Management Agency Flood Insurance Rate Map 530237 0480 B with an effective date of July 19, 1982. Approximately the first 100 feet of the site that is adjacent to the Yakima River is designated as floodway and the first approximately 200 feet is shown as floodplain. Benton County Code Section 3.26.090 states the following related to floodway:

"3.26.090 FLOODWAYS. Located within areas of special flood hazards are floodways, including but not limited to designated floodways on the Flood Insurance Rate Map (FIRM) and/or the Flood Boundary-Floodway Map (FBFM) of a flood insurance study for the area. Since a floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

- (a) Encroachments are prohibited, including: fill, new construction, substantial improvements, and other development unless, certification by a registered professional engineer is provided. Such certification must demonstrate through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels during the occurrence of the base flood discharge.
- (b) If BCC 3.26.090(a) is satisfied, all new construction and substantial improvements shall comply with flood hazard reduction provisions set forth herein.
- (b) Construction or reconstruction of residential structures are prohibited except for: (1) repairs, reconstruction, or improvements to a structure which do not increase the ground floor area; and, (2) repairs, reconstruction, or improvements to a structure the cost of which (a) does not exceed fifty percent of the market value of the structure either before the repair, reconstruction, or improvement is started, or (b) does not exceed fifty percent of the market value of the structure before damage occurs (if the structure is damaged and is being restored). The cost of the minimum necessary work done on structures mandated by a local code enforcement official to gain compliance with existing health, sanitary, or safety codes and of work

on structures listed on the National Register of Historic Places maintained by the National Park Service or the State Register of Historic Places maintained by the Washington State Office of Archaeology and Historic Preservation is allowed and shall not be included in costs of repairs, reconstruction, or improvements under this section BCC 3.26.090(c)(2).

Section 3.26.080(a) of the Benton County Code states:

3.26.080 SPECIFIC STANDARDS - CONSTRUCTION AND DEVELOPMENT. The following provisions are required in all areas of special flood hazards where base flood elevation data has been provided as set forth herein:

(a) Residential Construction.

(1) New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to one foot or more above base flood elevation.

(2) Fully enclosed areas below the lowest floor that are subject to flooding are prohibited or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. Designs for meeting this requirement must either be certified by a registered professional engineer or must meet or exceed the following minimum criteria:

(i) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.

(ii) The bottom of all openings shall be no higher than one foot above grade.

(iii) Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

29. Benton County Code Title 15 defines the Yakima River as a critical area. Benton County Code Section 15.20.040 provides for a buffer of 100 feet from the Yakima River. Benton County Code Section 15.10.030 provides the following definition for buffer:

"Buffer" means a designated area used to separate incompatible uses or protect resources or development (also known as a "setback"). Buffers are generally undeveloped areas. There are different types of buffers for different purposes:

(a) buffers which protect sensitive natural resources (critical areas) from the adverse impacts of development are generally undeveloped open space which are ecologically part of the protected resource;

(b) buffers which protect the integrity of development from certain natural hazards such as slope instability, floods or fire prone areas, are building setbacks which avoid the hazardous condition;

(c) buffers to separate incompatible uses, such as residential from industrial, airports, or certain activities common to commercial agriculture, are generally open or sparsely populated.

30. The proposed development is located within the Sunnyside Valley Irrigation District. The comments from the Irrigation District are in Exhibit No. 23.
31. The Washington State Department of Archaeology and Historic Preservation commented that there are three recorded archaeological sites within one mile of the site and they recommend that a archaeological survey be completed for the site before any ground disturbing activities occur on the site. Most of the site has been farmed in the past. Only the first approximately 100 feet off the Yakima River has not been farmed. Based on the requirements of the Benton County Critical Areas Ordinance and the location of the floodway and flood plain a setback of a 100 feet from the south property line /rivers edge should be placed on the face of the plat.
32. If Rivers Edge Drive is extended to the west into Yakima County it would run into an existing house. It would also direct the headlights of persons driving on the road onto the existing house. The road should be altered so that if it is extended, the existing house would not be in its path.
33. As stated above, the preliminary plat is on the County Line between Benton County and Yakima County. The properties in Yakima County next to the plat are zoned Agricultural with a minimum lot size of 40 acres. The letter from Yakima County dated March 5, 2008, stated that they require a 150-foot setback from agricultural operations. Several land owners commented on setbacks from agricultural operations. Allan Felsot, a professor at Washington State University, completed a study of the impacts of agricultural spraying in the area. Based on his research, he suggests that a maximum distance of fifty (50) feet between a residence and vineyard would conservatively meet the standard of reasonable certainty on no harm. If a 150 foot setback was required the lots located adjacent to the west property line are large enough to accommodate the setback.

DISPOSITION OF THE APPLICANT'S REQUEST:

A proposed subdivision and dedication shall not be approved unless the County makes written findings that: (a) appropriate provisions are made for the public health, safety, and general welfare, for open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and school grounds, and shall consider all relevant facts including sidewalks and other planning features that assure safe walking conditions for students who walk to and from school; and (b) whether the public interest will be served by the subdivision and dedication. If it finds that the proposed subdivision and dedication make such appropriate provisions and that the public use and interest will be served, then the legislative body shall approve the proposed subdivision and dedication.

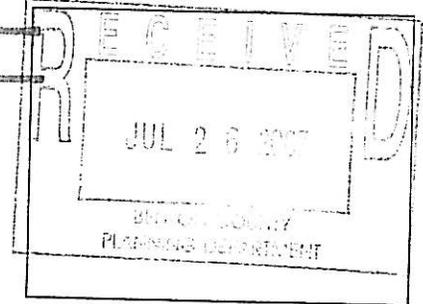
If the Preliminary Plat of Rivers Edge Estates were approved, this office would recommend that the following conditions be attached to such an approval.

1. That all lots in the final plat meet the design standards for final plat approval as specified in Benton County Code 9.08 as amended, and meet all of the zoning requirements as specified in BCC Title No. 11, as amended.
2. That the final plat be reviewed and approved in writing by the Benton Franklin Health District prior to sending the final plat to the Planning Commission for signature. If any specific statements or set aside areas are requested by the Benton Franklin Health District these must be shown on the final plat as per their requirements. Each lot must contain a minimum usable land area of ½ of an acre, after easements and encumbrances placed on the plat are subtracted. The conditions as outlined in the August 30, 2007 Benton Franklin Health District letter must be complied with.
3. The location and size of all irrigation and utility easements necessary for electric power, telephone service, water, sewer and cable T.V. be coordinated with the proper utilities and/or reviewing agencies and shown on the final plat. The developer will need to open the utility trenches, including road crossings, based on individual utility requirements and specifications.
4. That all requirements necessary for storm drainage are provided, including any easements necessary for compliance with the Benton County Hydrology Manual. All natural drains are to be kept open and protected by the dedication of a drainage easement or the Benton County Department of Public Works must approve a pipe drainage plan. The applicant complies with the comments provided in the Department of Public Works' letter dated August 22, 2007 and February 12, 2007.
5. Contour lines shall be shown on the final plat or on a separate sheet at a maximum of 5' intervals.
6. That the following notes be placed on the final plat:
 - No direct access from Lot 20 to North River Road will be allowed.
 - Prior to the granting of a Building or Factory Assembled Structure (FAS) Permit for each lot by the County, the applicant for a building or FAS permit must comply with RCW 90.44.050 regarding public ground water. The applicant for a Building or FAS Permit must demonstrate that potable water is legally available by presenting: (a) evidence of a valid water right permit from the Washington State Department of Ecology for the proposed wells for each lot; (b) a water well report filed and received by Washington State Department of Ecology for an exempted well that complies with the 5,000 gallon per day exemption described in RCW 90.44.050; or (c) a written approval of the Washington State Department of Health that a Group A or Group B public water supply system has been installed and is available for providing potable water to the lot.
 - Address numbers [noted in brackets] are subject to change until the exact location of the dwelling and access onto the plat is determined.

- It is expressly declared and understood that Benton County has no duty, obligation or responsibility for the construction, upkeep, maintenance or repair of storm drainage facilities or drainage easements located outside of the County road right of way.
 - All drainage easements, canals, or other waterways that are crossed by an approved access easement or driveway shall be traversed by a bridge or culvert that is designed by a licensed Washington State Engineer to meet a ten year storm water runoff and having a minimum driving surface of twenty feet. Please contact the Benton County Planning and Building Department for further information.
 - The minimum permitted setback distance for all structures, from all lot lines, is twenty-five (25) feet unless greater distances are required by County regulations (i.e. zoning, building, etc.)
 - To protect the health, safety and welfare of persons occupying the proposed lots from potential impacts of existing adjacent high intensity agricultural operations, no residential structures or swimming pools requiring a permit shall not be located any closer then 50 feet from the west property lines of the Lots 1 though 5 and 7 and the east property lines of Lots 13, 14, and 16 through 20. This property lies in the vicinity of parcels used for commercial agricultural purposes. At various times of the day or night, a variety of commercial farming activities including, spraying, operating of heavy farm equipment and dairy operations have traditionally occurred in the area. Noise, odors, insects, attendant with such activities may not be compatible with residential development. Please contact the Benton County Planning Department for further information."
- "
7. That the use of lots 1 through 20 is limited by plat covenant to a single-family dwelling.
 8. That the west end of the proposed Rivers Edge Drive is redesigned so that it is extended it will not be direct into the existing single family dwelling located on the adjacent property.
 9. That the preliminary plat is modified in all necessary respects so that the final plat will reflect the requirements of approval. If the final plat will be in conflict with any of the conditions of approval as adopted by the Planning Commission as a result of the modifications, then the final plat must be reviewed by the Planning Commission at a public meeting for approval prior to sending the final plat to the Board of County Commissioners.

File No. SUB 07-03
Date 4-9-08
Exhibit No. 2
Received by dyn

**BENTON COUNTY PRELIMINARY PLAT
APPLICATION**



File No. SUB 07-03

1. Applicant Name: Was Hooges CID #17578
Applicant Address: 12301 S 1538 P SW. Prosser LA 99350
Telephone number: Home 509-539-6440 Work 509-539-6440
mail comes from To 8836 Gay Blvd 101-B Kennewick 99336
2. Legal Owners Name: Was and Laura Hooges / Gary and Annette Christensen
Legal Owners Address: ^(Hooges) 12301 S. 1538 P. SW. Prosser LA 99350
Telephone number: Home 509-539-6440 Work 509-539-6440
500 BUTTERNUT GRANOVIA WAY 99330 (CHRISTENSEN)
4. Name and address of land surveyor Workley Survey
121 S EM STREET Kennewick WA 99336
Telephone 509-582-6716
5. Name and address of engineer None at this time
Telephone _____
6. Parcel number and Legal description of property included in the preliminary plat: _____
1-0784-200-0001-001 / 1-0784-200-0001-002
PTW Govt. Lot 157 T8 R24, Benton CO
7. **Land Use Information:**
a. Total area involved ~~20.00~~ ~~20.00~~ 50.00
b. Total number of lots 20
c. Smallest lot area 1.49
d. Average lot area 2.27 Density of 2.5
e. Acreage in parks 0
f. Length of public streets 2544
g. Total acreage of public streets 3.54
8. Proposed annexation plans None

9. Plat will be served by:
 Water: Individual Wells X City Water _____
 Name of City Provider _____
 Private Water System _____ Name & Address of Private System _____
 Sewer: Septic Tank X City Sewer _____ Private System _____
 Power: P.U.D. ~~_____~~ R.E.A. X
 Telephone: Verizon Telephone _____ Sprint Telephone X
 Natural Gas: Yes _____ No _____ Name of Utility _____
 Cable T.V. Yes _____ No _____ Name of Utility _____
 Irrigation: Yes X No _____ Name of Utility SUID
 Private Irrigation Lines: Yes _____ No _____

10. School District Prosser
 11. Fire District Prosser Fire District #3
 12. Any other comments or information that is significant _____

13. Will this plat be finalized in phases? Yes _____ No ✓
 14. Comprehensive Plan Designation Rural Lands 2.5
 15. Zoning Designation Unclassified

IF YOU HAVE ANY ADDITIONAL COMMENTS PLEASE ATTACH THEM ON A SEPARATE SHEET OF PAPER.

I hereby state that I/we are the applicant(s) of this application and that the owner of the property hereby approves this application. I/we also certify that the information given in this application is true and complete to the best of my/our knowledge.

Was Hodges
 Applicant's Signature

Was Hodges
 Print Name

7/18/07
 Date

Gary B. Christensen
 Signature of Legal Owners

Gary B. Christensen
 Print Name

5/30/07
 Date

Annette Christensen
Signature of Person with additional
ownership interest

Annette Christensen
Print Name

5-30-07
Date

Wes Hodges
Signature of Person with additional
ownership interest

Wes Hodges
Print Name

7/18/07
Date

Laura Jean Hodges

Laura JEAN Hodges

7/24/07

Any information submitted to the Benton County Planning/Building Department is subject to public records disclosure law for the State of Washington (RCW Chapter 42.17) and all other applicable law that may require the release of the documents to the public.

(ALL persons with an ownership interest in the property on which the land use action is proposed must sign the application other than interests exclusively limited to ownership of the parcel's mineral rights.)

FEE: \$350.00 plus \$10.00 per lot, submitted with the application. Checks are to be made payable to the Benton County Treasurer. **THIS FEE IS NON-REFUNDABLE. THE RECORDING FEE IS \$98.00 PLUS \$1.00 FOR EACH ADDITIONAL PAGE TO BE PAID AT THE TIME OF RECORDING.**

File No. 5UB 07-03
 Date 4-9-08
 Exhibit No. 3
 Received by dh

PRELIMINARY REVIEW OF DEVELOPMENT ~~DRAINAGE SYSTEM~~ DESIGNS

Rivers Edge Estates

(Proposed Development Name) _____

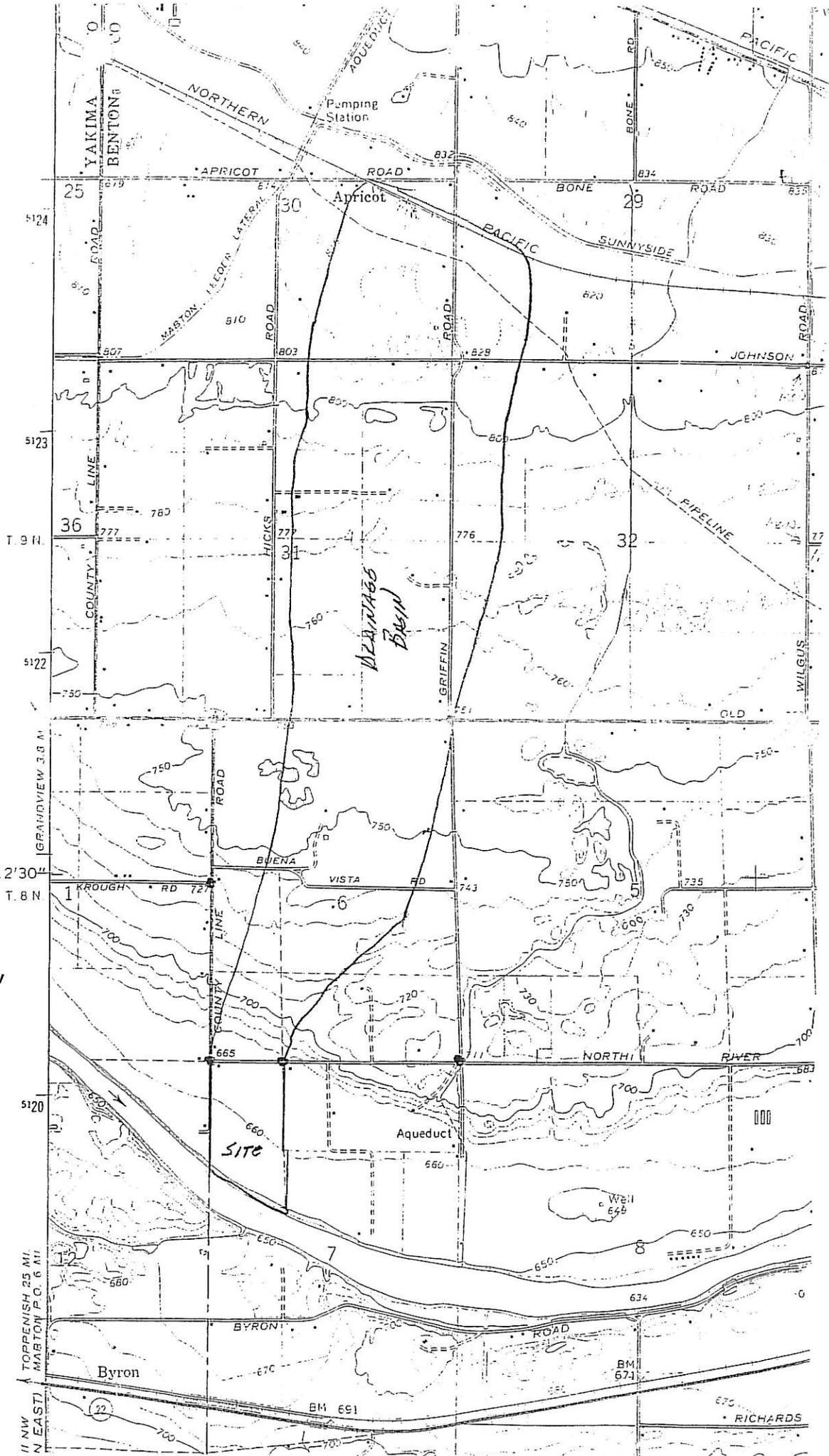
Section 7 Township 8 Range 24

July 16, 2007 Wes Hodges 509-539-6940
 (Submittal Date) (Submitted By) (Phone)

 (Approval Date) (Approved By)

Submittal Content Shown on Topographic Map:

1. Type of Development. Residential
2. Vicinity Map.
3. North Arrow.
4. Scale (reasonable, but never greater than 1:62,500).
5. Contour Interval (reasonable, but never greater than 20').
6. Shows the boundaries of the Total Drainage Basin that the proposed Development is located within.
7. Shows the location and boundaries of the proposed Development.
8. Shows all Throughflow areas tributary to the Development, their entry location, and their conveyance means.
9. Shows all existing ponding areas and drainage channels, either natural or manmade, within the Development boundaries.
10. Shows the proposed Outflow locations from the Development and where each one flows to.
11. Shows the Natural State highwater zone.
12. Shows the Ultimate State highwater zone.
13. Shows, for the Development as a whole, a preliminary Surface Water Runoff Inventory/Balance in tabular form as suggested in Figure 3 on Page 3-2 of the Hydrology Manual.




 1" = 2000'

TOPPENISH 25 MI.
 MAYBTON P.C. 6 MI
 (N EAST)

Benton County Planning/Building Department

Terry A. Marden, Director

PLANNING
Planning Annex
P.O. Box 910, 1002 Dudley Avenue
Prosser WA 99350
Prosser Office: (509) 786-5612
From Tri-Cities: (509) 736-3086
Fax: (509) 786-5629

BUILDING
Kennewick Annex
5600 W. Canal Drive, Suite C 105A
Kennewick WA 99336
Tri-Cities Office: (509) 735-3500
From Prosser: (509) 786-5622
Fax: (509) 736-2732

File No. SUB 07-03
Date 4-9-08
Exhibit No. 4
Received by djh

NOTICE OF APPLICATION

NOTICE IS HEREBY GIVEN that there has been proposed to the Benton County Planning Department, an application (File No. SUB 07-03/EA 07-56) dated July 26, 2007 for the preliminary plat of Rivers Edge Estates consisting of 20 lots on 50 acres by: Wes Hodges, 12301 S. 1538 PR SW, Prosser WA 99350. The date of the written determination of completeness on this action is July 31, 2007. The site is located at the intersection of S. Lower County Line Road and North River Road on the South side of North River Road in the Northwest Quarter of Section 7, Township 8 North, Range 24 East, W.M.

NOTICE IS GIVEN that the Planning Department will review the application and a public hearing will be scheduled at a later date. When a public hearing is scheduled, property owners within 300 feet of the boundaries of the project action will receive a public hearing notice. All concerned persons will have fourteen (14) days from the date of publication of this notice to comment in writing on this action. Please comment to Benton County Planning Department, P.O. Box 910, Prosser WA 99350.

NOTICE IS FURTHER GIVEN that said proposal will be reviewed under the requirements of the State Environmental Policy Act, as amended. After the fourteen-day comment period is up a determination will be made on this action, as to the environmental impacts of the proposal.

More information concerning this action can be obtained by contacting Michael Shuttleworth, Senior Planner at the Benton County Planning Dept. P.O. Box 910, Prosser, WA, or by calling Prosser - 786-5612 or Tri-Cities - 736-3086.

Dated at Prosser, Washington on this 1st day of August 2007.



MICHAEL SHUTTLEWORTH, Senior Planner
PLANNING/BUILDING DEPARTMENT

PUBLISH ON: August 6, 2007

Benton County Planning/Building Department

PLANNING
Planning Annex
P.O. Box 910, 1002 Dudley Avenue
Prosser WA 99350
Prosser Office: (509) 786-5612
From Tri-Cities: (509) 736-3086
Fax: (509) 786-5629

File No. SUB 07-03
Date 4-9-08
Exhibit No. 5
Received by djh

BUILDING
Kennewick Annex
5600 W. Canal Drive, Suite C
Kennewick WA 98501
Tri-Cities Office: (509) 735-3500
From Prosser: (509) 786-5622
Fax: (509) 736-2732

NOTICE OF PUBLIC HEARINGS

NOTICE IS GIVEN that the following actions will be considered by the Benton County Planning Commission at public hearings on April 15, 2008, beginning at 7:00 p.m. in the Public Hearing Room, 1002 Dudley Avenue, Prosser WA 99350. All concerned persons may appear and present any support for or objections to the applications or provide written testimony to the Planning Commission in care of the Planning Department by 5 P.M. on April 14, 2007.

Preliminary Plat Request- SUB 07-03 for the preliminary plat of Rivers Edge Estates consisting of 20 lots on 50 acres by: Wes Hodges, 12301 S. 1538 PR SW, Prosser WA 99350. The site is located at the intersection of S. Lower County Line Road and North River Road on the South side of North River Road in the Northwest Quarter of Section 7, Township 8 North, Range 24 East, W.M.

An Ordinance Amendment relating to growth management, setting procedures and standards for amendments to the Comprehensive Plan, adds a new chapter to Title 16 of the Benton County Code. See the attached Summary for a Section-by-Section description of the proposed ordinance amendment. The purpose of this ordinance is to set forth the timing and procedure for requesting and processing amendments to the Benton County Code.

All testimony for or against the above actions will be taken at this time. Based on the testimony presented at the public hearing, the planning commission may or may not, in their recommendation to the Board of County Commissioners; approve, disapprove or modify the preliminary plat, or make changes to the proposed ordinance amendment. All concerned persons may appear and present any support or objections to the proposed amendments. Further information regarding these matters and copies of the proposed ordinance amendment are available from the office of the Benton County Planning Department, Post Office Box 910, Prosser, WA 99350. Telephone: Prosser - (509) 786-5612; Tri-Cities - (509) 736-3086. Copies of the full text will be mailed upon request, at no cost to the public.

NOTICE IS FURTHER GIVEN that said the preliminary plat has been reviewed under the requirements of the State Environmental Policy Act, as amended, along with the Environmental Checklist and other information. A Determination has been made as to the environmental impacts of the proposal and a Determination of Non-Significance has been issued. Accordingly, an Environmental Impact Statement is not required. This determination was made on February 20, 2008. Any comments regarding the determination and the environmental impacts of the proposal can be made at the hearing before the Planning Commission at the time and place indicated above, or be made in writing to the Planning Department by 5 p.m. on April 14, 2008.

Benton County welcomes full participation in public meetings by all citizens. No qualified individual with a disability shall be excluded or denied the benefit of participating in such meetings. If you wish to use auxiliary aids or require assistance to comment at this public meeting, please contact the Benton County Planning Dept. at the above stated phone numbers and/or address at least ten days prior to the date of the meeting to make arrangements for special needs.

DATED this 28th day of March 2008.

JON LINDEMAN, Chairman
BENTON COUNTY PLANNING COMMISSION

MICHAEL SHUTTLEWORTH, Senior Planner
PLANNING/BUILDING DEPARTMENT

PUBLISH: April 3, 2008

ENVIRONMENTAL CHECKLIST

EA
07-50

File No. SUB 07-03
Date 4-9-08
Exhibit No. 10
Received by djn

A. BACKGROUND

1. Name of proposed project, if applicable:

RIVERS EDGE ESTATES

2. Name of applicant:

Wes Hodges

3. Address and phone number of applicant and contact person:

12301 S. 1538 P.C. SW Prosser WA 99350

4. Date checklist prepared: 7/9/07

5. Agency requesting checklist: Benton County

Proposed timing or schedule (including phasing, if applicable):

UPON APPROVALS

7. Do you have any plans for future additions, expansion, or further activity related to or connected with this proposal?

NO

8. List any environmental information you know about that has been prepared, or will be prepared, directly related to this proposal.

NO

9. Do you know whether applications are pending for governmental approvals of other proposals directly affecting the property covered by your proposal? If yes, explain.

NO

10. List any government approvals or permits that will be needed for your proposal, if known.

COUNTY PERMITS

Give brief, complete description of your proposal, including the proposed uses and the size of the project and site. There are several questions later in this checklist that ask you to describe certain aspects of your proposal. You do not need to repeat those answers on this page. (Lead agencies may

modify this form to include additional specific information on project description.)

TO DEVELOP APPROXIMATELY 50 ACRES INTO 20 RESIDENTIAL
LOTS THAT WILL BE APPROXIMATELY 2.5 TOTAL ACRES

12. Location of the proposal. Give sufficient information for a person to understand the precise location of your proposed project, including a street address, if any, and section, township, and range, if known. If a proposal would occur over a range of area, provide the range or boundaries of the site(s). Provide a legal description, site plan, vicinity map, and topographic map, if reasonably available. While you should submit any plans required by the agency, you are not required to duplicate maps or detailed plans submitted with any permit applications related to this checklist. *PROPERTY LOCATED AT THE INTERSECTION OF WEST NORTH RIVER ROAD AND LOWER COUNTY LINE RD IN PROSSER GA*

B. ENVIRONMENTAL ELEMENTS

1. Earth

a. General description of the site (circle one): Flat, rolling, hilly, steep slopes, mountainous, other:

b. What is the steepest slope on the site (approximate percent slope)? *1 to 2 1/2*

c. What general types of soils are found on the site (for example, clay, sand, gravel, peat, muck)? If you know the classification of agricultural soils, specify them and note any prime farmland.
SOIL IS A MIX OF SAND AND GRAVEL

d. Are there surface indications or history of unstable soils in the immediate vicinity? If so, describe.
NO

e. Describe the purpose, type, and approximate quantities of any filling or grading proposed. Indicate source of fill.
STREET GRADING

f. Could erosion occur as a result of clearing, construction, or use? If so, generally describe.
YES MINOR FOR ROADS and WIND

g. About what percent of the site will be covered with impervious surfaces after project construction (for example, asphalt or buildings)?
ABOUT 28%

h. Proposed measures to reduce or control erosion, or other impacts to the earth, if any:
WATER FOR DUST CONTROL

2. Air

a. What types of emissions to the air would result from the proposal (i.e., dust, automobile, odors, industrial, wood smoke) during construction and when the project is completed? If any, generally describe and give approximate quantities if know. *Minor During Construction*

b. Are there any off-site sources of emissions or odor that may affect your proposal? If so, generally describe. *NO*

c. Proposed measures to reduce or control emissions or other impacts to air, if any: *NO*

3. **Water**

a. Surface:

1) Is there any surface water body on or in the immediate vicinity of the site (including year-round and seasonal streams, saltwater, lakes, ponds, wetlands)? If yes, describe type and provide names. If appropriate, state what stream or river it flows into. *Property to the South Yakima River Borders*

2) Will the project require any work over, in, or adjacent to (within 200 feet) the described waters? If yes, please describe and attach available plans. *NO*

3) Estimate the amount of fill and dredge material that would be placed in or removed from surface water, or wetlands, and indicate the area of the site that would be affected. Indicate the source of fill material. *None*

4) Will the proposal require surface water withdrawals or diversions? Give general description, purpose, and approximate quantities if know. *NO*

5) Does the proposal lie within a 100-year floodplain? If so, note location on the site plan. *NO*

6) Does the proposal involve any discharge of waste materials to surface waters? If so, describe the type of waste and anticipated volume of discharge. *NO*

b. Ground:

1) Will ground water be withdrawn, or will water be discharge to ground water? Give general description, purpose, and approximate quantities if know. *yes individual wells for drinking water when someone build a home*

2) Describe waste material that will be discharged into the ground from septic tanks or other sources, if any (for example: Domestic sewage, industrial, containing the following chemicals. . . , agricultural, etc.). Describe the general size of the system, the number of such systems, the number of houses to be served (if applicable), or the number of animals or humans the system(s) are expected to serve.

There will be no materials that will require septic systems approved by the health dept.

c. Water Runoff (including storm water):

1) Describe the source of runoff (including storm water) and method of collection and disposal, if any (include quantities, if known). Where will this water flow? Will this water flow into other waters? If so, describe.

Normal County Road Standards For Drainage

2) Could waste materials enter ground or surface waters? If so, generally describe.

NO

d. Proposed measures to reduce or control surface, ground, and runoff water impacts, if any:

County Standards

4. Plants

a. Circle types of vegetation found on the site: deciduous tree: alder, maple, aspen, other; evergreen tree: fir, cedar, pine, other; shrubs; grass; pasture crop or grain; wet soil plants: cattail, buttercup, bulrush, skunk cabbage, other; water plants: water lily, eelgrass, milfoil, other; other types of vegetation.

Grape Vineyard

b. What kind and amount of vegetation will be removed or altered?

grapes and alfalfa

c. List threatened or endangered species known to be on or near the site.

NO

d. Proposed landscaping, use of native plants, or other measures to preserve or enhance vegetation on the site, if any:

N/A

5. Animals

a. Circle any birds and animals which have been observed on or near the site or are known to be on or near the site: birds: hawk, heron, eagle, songbirds, other

Quail

mammals: deer, bear, elk, beaver, other:

fish: bass, salmon, trout, herring, shellfish, other: Fish in River

b. List any threatened or endangered species known to be on or near the site. None

c. Is the site part of a migration route? If so, explain. Do not know

d. Proposed measures to preserve or enhance wildlife, if any: N/A NO PLANS

6. Energy and Natural Resources

a. What kinds of energy (electric, natural gas, oil, wood stove, solar) will be used to meet the completed project's energy needs? Describe whether it will be used for heating, manufacturing, etc. None

b. Would your project affect the potential use of solar energy by adjacent properties? If so, generally describe. NO

c. What kinds of energy conservation feature are included in the plans of this proposal? List other proposed measures to reduce or control energy impacts, if any: None

7. Environmental Health

a. Are there any environmental health hazards, including exposure to toxic chemicals, risk of fire and explosion, spill, or hazardous waste, that could occur as a result of this proposal? If so, describe. None

1) Describe special emergency services that might be required. None

2) Proposed measures to reduce or control environmental health hazards, if any: None

b. Noise

1) What types of noise exist in the area which may affect your project (for example: traffic, equipment, operation, other)? None

2) What types and levels of noise would be created by or associate with the project on a short-term or a long-term basis (for example: traffic, construction, operation, other)? Indicate what hours noise would come from the site. EXCAVATION OF ROADS AND UTILITIES FROM TRUCKS AND TRACTORS WOULD BE NORMAL HOURS FOR CONTRACTORS PER BENTON COUNTY CODES

3) Proposed measures to reduce or control noise impacts, if any: N/A

8. Land and Shoreline Use

a. What is the current use of the site and adjacent properties?

AGRICULTURE

b. Has the site been used for agriculture? If so, describe.

YES GRASS AND ALFALFA

c. Describe any structures on the site.

1 HOUSE WITH 3 OUTBUILDINGS

d. Will any structures be demolished? If so, what?

NO

e. What is the current zoning classification of the site?

UNCLASSIFIED

f. What is the current comprehensive plan designation for the site?

UNCLASSIFIED

g. If applicable, what is the current shoreline master program designation of the site?

DO NOT KNOW

h. Has any part of the site been classified as an "environmentally sensitive" area? If so, specify.

DO NOT KNOW

i. Approximately how many people would reside or work in the completed project?

60

j. Approximately how many people would the completed project displace? NONE

Proposed measures to avoid or reduce displacement impacts, if any: *N/A*

l. Proposed measures to ensure the proposal is compatible with existing and projected land uses and plans, if any: *Compatible with Benton County Comprehensive Plan*

9. **Housing**

a. Approximately how many units would be provided, if any? Indicate whether high, middle, or low-income housing. *20 homesites middle to high income*

b. Approximately how many units, if any, would be eliminated? Indicate whether high, middle, or low-income housing. *None*

c. Proposed measures to reduce or control housing impacts, if any: *N/A*

10. **Aesthetics**

a. What is the tallest height of any proposed structures(s) not including antennas; what is the principal exterior building material(s) proposed? *2 story wood exterior house and possibly detached garage*

b. What views in the immediate vicinity would be altered or obstructed? *NO*

c. Proposed measures to reduce or control aesthetic impacts, if any: *N/A*

11. **Lights and Glare**

a. What type of light or glare will be the proposal produce? What time of day would it mainly occur? *None*

b. Could light or glare from the finished project be a safety hazard or interfere with views? *NO*

c. What existing off-site sources of light or glare may affect your proposal? *None*

d. Proposed measures to reduce or control light and glare impacts, if any: *N/A*

12. Recreation

a. What designated and informal recreational opportunities are in the immediate vicinity? *none*

b. Would the proposed project displace any existing recreational uses? If so, describe. *NO*

c. Proposed measures to reduce or control impacts or recreation, including recreation opportunities to be provided by the project or applicant, if any: *none*

13. Historic and Cultural Preservation

a. Are there any places or objects listed on, or proposed for, national, state, or local preservation registers known to be on or next to the site? If so, generally describe. *NO*

b. Generally describe any landmarks or evidence of historic, archeological, scientific, or cultural importance known to be on or next to the site. *none*

c. Proposed measures to reduce or control impacts, if any: *N/A*

14. Transportation

a. Identify public streets and highways serving the site, and describe proposed access to the existing street system. Show on site plan, if any. *North River Road serves the*

site and is the major access

b. Is the site currently served by public transit? If not, what is the approximate distance to the nearest transit stop? *Yes*

c. How many parking spaces would the completed project have? How many would the project eliminate?

would not eliminate any

d. Will the proposal require any new roads or streets, or improvements to existing roads or streets, not including driveways? If so, generally describe (indicate whether public or private).

TWO NEW PUBLIC ROADS WOULD BE BUILT TO COUNTY STANDARDS

e. Will the project use (or occur in the immediate vicinity of) water, rail, or air transportation? If so, generally describe.

NO

f. How many vehicular trips per day would be generated by the completed project? If know, indicate when peak volumes would occur.

160

g. Proposed measures to reduce or control transportation impacts, if any:

None

15. Public Services

a. Would the project result in an increased need for public services (for example, fire protection, police protection, health care, schools, etc.)? If so, generally describe.

NO

Proposed measures to reduce or control direct impacts on public services, if any.

None

16. Utilities

a. Circle utilities currently available at the site: electricity, natural gas, water, refuse service, telephone, sanitary sewer, septic system, other.

b. Describe the utilities that are proposed for the project, the utility providing the service, and the general construction activities on the site or in the immediate vicinity which might be needed.

Developer plans to extend electric service to all home sites and any utilities needed for Benton Co.

ESA LISTED SALMONIDS CHECKLIST

The Listed Salmonids Checklist is provided in order that the county may initially identify a project's potential impacts (if any) on salmonids that have been listed as "threatened" or "endangered" under the Federal Endangered Species Act (ESA). A salmonid is any fish species that spends part of its life cycle in the ocean and returns to fresh water. Potential project impacts that may result in a "taking" of listed salmonids must be avoided, or mitigated to insignificant levels. Generally, under ESA, a "taking" is broadly defined as any action that causes the death of, or harm to, the listed species. Such actions include those that affect the environment in ways that interfere with or reduce the level of reproduction of the species.

If ESA listed species are present or ever were present in the watershed where your project will be located, your project has the potential for affecting them, and you need to comply with the ESA. The questions in this section will help determine if the ESA listing will impact your project. The Fish Program Manager at the appropriate Department of Fish and Wildlife (DFW) regional office can provide information for the following two questions. Please contact the Dept. of Fish and Wildlife at 1701 S. 24th, Yakima WA 98902-5720, Phone No. 509-575-2740.

1. Are ESA listed salmonids currently present in the watershed in which your project will be? YES NO
Please Describe.

Salmon in Yakima River

2. Has there ever been an ESA listed salmonid stock present in this watershed? YES NO
Please Describe.

If you answered "yes" to either of the above questions, you should complete the remainder of this checklist.

PROJECT SPECIFIC: The questions in this section are specific to the project and vicinity.

A1. Name of watershed Yakima River

A2. Name of nearest waterbody Yakima River

A3. What is the distance from this project to the nearest body of water? Borders River

Often a buffer between the project and a stream can reduce the chance of a negative impact to fish.

A4. What is the current land use between the project and the potentially affected water body (parking lots, farmland, etc.) Farm Land

A5. Is the project above a:
Natural permanent barrier (waterfall) YES _____ NO
Natural temporary barrier (beaver pond) YES _____ NO
Man-made barrier (culvert, dam) YES _____ NO

Other (explain)

A6 If yes, are there any resident salmonid populations above the blockage? YES _____ NO _____
Don't Know

A7. What percentage of the project will be impervious surface (including pavement & roof area)?
28%

FISH MIGRATION: The following questions will help determine if this project could interfere with migration of adult and juvenile fish. Both increases and decreases in water flows can affect fish migration.

B1. Does the project require the withdrawal of
a. Surface water? Yes _____ No
Amount _____
Name of surface water body _____

b. Ground water? Yes No _____
Amount _____ 20 individual wells
From Where _____
Depth of well _____

B2. Will any water be rerouted? YES _____ NO
If yes, will this require a channel change?

B3. Will there be retention ponds? YES _____ NO
If yes, will this be an infiltration pond or a surface discharge to either a municipal storm water system or a surface water body?

If to a surface water discharge, please give the name of the waterbody.

B4. Will this project require the building of new roads? Increased road mileage may affect the timing of water reaching a stream and may, thus, impact fish habitat.
yes

B5. Are culverts proposed as part of this project?
Yes _____ No

B6. Will topography changes affect the duration/direction of runoff flows?
Yes _____ No

If yes describe the changes.

B7. Will the project involve any reduction of the floodway or floodplain by filling or other partial blockage of flows? Yes No

If yes, how will the loss of flood storage be mitigated by your project?

WATER QUALITY: The following questions will help determine if this project could adversely impact water quality. Such impacts can cause problems for listed species. Water quality can be made worse by runoff from impervious surfaces, altering water temperature, discharging contaminants, etc.

C1. Do you know of any problems with water quality in any of the streams within this watershed?
YES NO

If yes please describe.

C2. Will your project either reduce or increase shade along or over a waterbody?
YES NO Removal of shading vegetation or the building of structures such as docks or floats often result in a change in shade.

Possible that residents might want to clear
Trees or brush when building

C3. Will the project increase nutrient loading or have the potential to increase nutrient loading or contaminants (fertilizers, other waste discharges, or runoff) to the waterbody?
YES NO

C4. Will turbidity be increased because of construction of the project or during operation of the project? In-water or near water work will often increase turbidity.
YES NO

C5. Will your project require long term maintenance, i.e., bridge cleaning, highway salting, chemical sprays for vegetation management, clearing of parking lots?
YES NO

Please Describe.

Vegetation: The following questions are designed to determine if the project will affect riparian vegetation, thereby, adversely impacting salmon.

D1. Will the project involve the removal of any vegetation from the streambanks?
YES NO possible when Building Homes

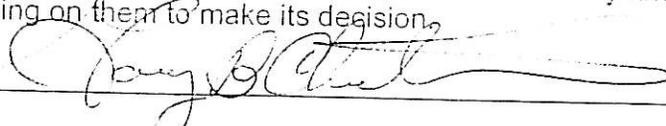
If yes, please describe the existing conditions and the amount and type of vegetation to be removed.

D2. If any vegetation is removed, do you plan to re-plant? YES NO

If yes, what types of plants will you use? Native To The Area Trees and shrubs.

SIGNATURE

The above answers are true and complete to the best of my knowledge. I understand that the lead agency is relying on them to make its decision.

Signature:  Annette Christensen

Print Name: Gary B. Christensen Annette Christensen

Date Submitted: 5/30/07 W's Hodges wes Hodges
Laura Jean Hodges
Laura Jean Hodges

C. SUPPLEMENTAL SHEET FOR NON PROJECT ACTIONS
(do not use this sheet for project actions)

Because these questions are very general, it may be helpful to read them in conjunction with the list of the elements of the environment.

When answering these questions, be aware of the extent the proposal, or the types of activities likely to result from the proposal would affect the item at a greater intensity or at a faster rate than if the proposal were not implemented. Respond briefly and in general terms.

1. How would the proposal be likely to increase discharge to water; emissions to air; production, storage, or release of toxic or hazardous substances; or production of noise?

N/A

Proposed measures to avoid or reduce such increases are:

2. How would the proposal be likely to affect plants, animals, fish or marine life?

Proposed measures to protect or conserve plants, animals, fish or marine life are:

3. How would the proposal be likely to deplete energy or natural resources?

Proposed measures to protect or conserve energy and natural resources are:

4. How would the proposal be likely to use or affect environmentally sensitive areas or areas designated (or eligible or under study) for governmental protection; such as parks, wilderness, wild and scenic rivers, threatened or endangered species habitat, historic or cultural sites, wetlands, flood plains, or prime farmlands?

Proposed measures to protect such resources or to avoid or reduce impacts are:

5. How would the proposal be likely to affect land and shoreline use, including whether it would allow or encourage land or shoreline uses incompatible with existing plans?

Proposed measures to avoid or reduce shoreline and land use impacts are:

6. How would the proposal be likely to increase demands on transportation or public services and utilities?

Proposed measures to reduce or respond to such demands(s) are:

7. Identify, if possible, whether the proposal may conflict with local, state or federal laws or requirements for the protection of the environment

MITIGATED DETERMINATION OF NONSIGNIFICANCE

Description of proposal: Preliminary plat of Rivers Edge Estates consisting of 20 lots on 50 acres.

Proponent Wes Hodges
12301 S 1538 PR SW
Prosser, WA 99350

File No. SUB 07-03
Date 4-9-08
Exhibit No. 7
Received by djh

File No. EA 07-56

Location of proposal: The site is located at the intersection of South County Line Road and North River Road on the South side of North River Road in the Northwest Quarter of Section 7, Township 8 North, Range 24 East, W.M.

Lead agency BENTON COUNTY

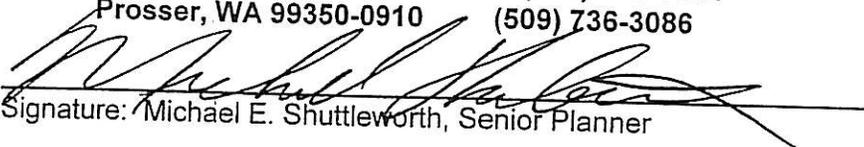
The lead agency for this proposal has determined that it does not have a probable significant adverse impact on the environment. An environmental impact statement (EIS) is not required under RCW 43.21C.030(2)(3), provided that the following measures are taken to mitigate potential adverse impacts. (1) The following note to be placed on the final plat: "Prior to the granting of a Building or Factory Assembled Structure (FAS) Permit for each lot by the county, the applicant for a building or FAS permit must comply with RCW 90.44.050 regarding public ground water. The applicant for a Building or FAS Permit must demonstrate that potable water is legally available by presenting: (a) evidence of a valid water right permit from the Washington State Department of Ecology for the proposed wells for each lot; (b) a water well report filed and received by the Washington State Department of Ecology for an exempted well that complies with the 5,000 gallon per day exemption described in RCW 90.44.050; or (c) a written approval of the Washington State Department of Health Group A or Group B public water supply system has been installed and is available for providing potable water to the lot. (2) That a 50 foot setback between the property line boundaries of the existing agricultural operations on the West and East side of the proposed plat and all residential structures and swimming pools within the proposed development be provided. The following note shall be placed on the final plat: "All residential structures and swimming pools shall be setback fifty (50) feet from the East property lines of Lots 13, 14 and 16 through 20; and the West property lines of Lots 1 through 5 and 7." Substantive authority to require mitigation is derived from WAC 197-11-660, Benton County Code, Chapter 6.35.120. The decision was made after review of a completed environmental checklist and other information on file with the lead agency. This information is available to the public on request.

This mitigated determination of nonsignificance is issued under WAC 197.11.350(3); the lead agency will not act on this proposal for fourteen (14) days from the date below. Comments must be submitted by: **March 6, 2008.**

Responsible Official

TERRY A. MARDEN, Director
Benton County Planning & Building Dept.
Post Office Box 910 PHONE: (509) 786-5612
Prosser, WA 99350-0910 (509) 736-3086

Date February 20, 2008


Signature: Michael E. Shuttleworth, Senior Planner

You may appeal this determination to TERRY A. MARDEN at POST OFFICE BOX 910 – PROSSER, WA 99350, no later than **March 6, 2008** by **Written Notice**. You should be prepared to make specific factual objections. Contact the Benton County Planning Department to read or ask about the procedures for SEPA appeals.

Benton County Planning/Building Department

Terry A. Marden, Director

PLANNING

Planning Annex
P.O. Box 910, 1002 Dudley Avenue
Kennewick, WA 99336
Phone Office: (509) 736-5612
From Tri-Cities: (509) 736-3026
Fax: (509) 736-5629

BUILDING

Kennewick Annex
5600 W. Canal Drive, Suite C 105A
Kennewick, WA 99336
Tri-Cities Office: (509) 736-3500
From Prosser: (509) 736-5621
Fax: (509) 736-2732

File No. SUB 07-03
Date 4-9-08
Exhibit No. 8
Received by djh

August 30, 2007

Wes Hodges
8836 Gage Blvd 101-B.
Kennewick, WA 99336

FILE COPY

RE: Additional information for the environmental review of EA 07-56 and SUB 07-03.

Dear Mr. Hodges:

Benton County Planning is requesting additional information related to the environmental review for your Environmental Checklist EA 07-56, to create 20 lots out of 50 acres. The County has reviewed the environmental checklist, information that you submitted, information submitted by reviewing agencies and comments from surrounding property owners. Upon review of your proposal it has been determined that additional information is needed to address certain potential impacts of the proposal.

1. The impact on existing ground water must be reviewed under SEPA and one of the findings that must be made before a subdivision is approved is that proposed lots are served by adequate means of water supply. The Washington State Department of Ecology (see attached letter) and surrounding property owners have presented concerns that the existing ground water in the area is not adequate to provide for 20 new homes through individual wells. The Department of Ecology has also commented that a water right would be required for your proposed development. You will need to contact Department of Ecology about the water rights. The contact person is in the attached letter.

In order to complete the environmental review and subdivision review, a study will need to be completed by you that addresses the impact on ground water from the proposed 20 individual wells and to determine if there is enough ground water in the area to provide for 20 new individual wells without impacting the existing wells in the area. The study is to be prepared by a professional engineer or other professional that has technical training, experience and demonstrate stature as a qualified professional in that field.

2. The proposed plat is located in an area of agricultural production that includes vineyard and orchards. Such agricultural activities are located adjacent to the west and east of your site. To determine the impact your proposal will have on continued agricultural operations adjacent to you and to determine the impact the agricultural operations will have on the public safety and welfare of the future lot owners, a

study must be completed investigating these issues. In other subdivisions the major issues related to farming operations have been noise and agricultural sprays.

In studies conducted for other subdivisions a distance of at least of between 150 feet to 170 feet from the edge of the property to the residential structures were suggested to satisfactorily reduce the exposure of residents to chemical spray drift.

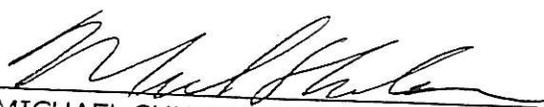
Prior to the initiation of the studies, please provide the résumé of the principal author(s) you select for the study to this office for review. The resume must disclose technical training and experience and demonstrate stature as a qualified professional in that field. To avoid completing a study that does not address an issue adequately, it is strongly advised that the Scope of Work for the study be submitted to this office for review prior to the initiation of any work tasks in the study.

This additional information is to assist in determining the environmental impacts of your proposal. While the additional information is being prepared, the environmental determination and review of your short plat application will be on hold. When the information is completed and submitted to the Benton County Planning Department, the environmental determination can be made and the review of your applications will continue.

If you have any questions about this letter please contact me at (509) 736-3086.

Sincerely,

TERRY A. MARDEN, Director
PLANNING/BUILD DEPT.



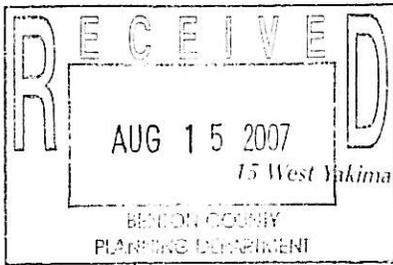
MICHAEL SHUTTLEWORTH
Senior Planner

CC: Department of Ecology

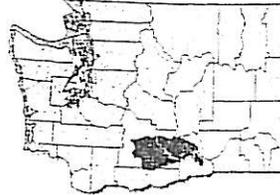


STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

15 West Yakima Avenue, Suite 200 • Yakima, Washington 98902-3452 • (509) 575-2490



August 14, 2007



Your address
is in the
**Lower
Yakima**
watershed

Michael Shuttleworth
Benton County Planning
P.O. Box 910
Prosser, WA 99350

Dear Mr. Shuttleworth:

Thank you for the opportunity to comment on the pre-threshold determination for the Rivers Edge Estates subdivision, proposed by Wes & Laura Jean Hodges and Gary & Annette Christensen [SUB 07-03/EA 07-56]. We have reviewed the environmental checklist and have the following comment.

Water Resources

In Washington State, prospective water users must obtain authorization from the Department of Ecology before diverting surface water or withdrawing ground water, with one exception. Ground water withdrawals of up to 5,000 gallons per day used for single or group domestic supply, industrial purposes, stock watering or for the irrigation of up to one-half acre of lawn and garden are exempt from the permitting process. Water use under the RCW 90.44.050 exemption establishes a water right that is subject to the same privileges, restrictions, laws and regulations as a water right permit or certificate obtained directly from Ecology.

On March 28, 2002 the Washington State Supreme Court ruled that the RCW 90.44.050 permit exemption does not apply where a developer of a residential subdivision proposes multiple wells to serve each lot in the development because in combination, the withdrawal will exceed the exemption criteria.

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 your area becomes limited, your use could be curtailed by those with senior water rights.

Mr. Shuttleworth
August 14, 2007
Page 2 of 2

This project will exceed the 5,000 gallons per day (gpd) and will therefore need to apply for a water right permit through the Department of Ecology.

Ecology encourages the project proponents contact Ecology. Ecology can provide assistance in determining the water supply need for this project and provide the project proponent with options in which to obtain an issued water right. If you have any questions concerning the Water Resources comments, please contact Breean Zimmerman at (509) 454-7647.

Water Quality

Dividing or platting of a piece of property is often the first step in a proposed development. If a subsequent individual or common plan of development exceeds 1 acre of disturbed ground in size an NPDES Construction Stormwater Permit may be required. Ground disturbance includes all utility placements and building or upgrading existing roads. The process requires going through SEPA, developing a stormwater pollution prevention plan, submitting an application and a 30 day public notice process. This may take 45-60 days. A permit and a stormwater plan are required prior to beginning ground-breaking activities. Please contact Cory Hixon with the Department of Ecology, (509) 454-4103, with questions about this permit.

Sincerely,



Gwen Clear
Environmental Review Coordinator
Central Regional Office
(509) 575-2012

RIVERS EDGE ESTATES
Water Availability Report
November 9, 2007

File No. SUB07-03
Date 4-9-08
Exhibit No. 9
Received by djh

I, Thomas R. Buchholtz, being a Professional Agricultural Engineer in the State of Washington, and being the owner/operator of Water Man Consulting an over twenty one years of age and qualified to make the statements provided herein. I recently retired from practicing Agricultural Engineering for the Washington State Department of Natural Resources. I worked for that agency from 1976 to 2007, and from 1981 to 2007 as a Professional Agricultural Engineer. I established Water Man Consulting in 2007. I have dealt with water rights, wells and water issues for over 31 years.

The purpose of this report is to look at the ability to provide water for the 20 lots associated with the Rivers Edge Estates sub-division, and the potential impacts that providing that water may have on adjacent well owners. It is the intention of the developer to sell the 20 individual lots, and to have each of those lot purchasers provide their own culinary water through the drilling of an exempt well, producing 5,000 gallons per day or less.

Utilizing the Washington State Department of Ecology's (DOE) Well Report and Well Log Viewing tool, logs of several adjacent wells have been scrutinized. Those well logs are attached for reference. Additionally, a map from that same DOE web site is attached that shows the general location of adjacent wells.

In looking at those well logs, most of these wells were completed within the unconsolidated sediments, and produce from what appears to be a water table aquifer. One of the adjacent wells penetrated into the very top of the underlying basalts, and as such can effectively be considered as part of the same water table aquifer similar to the other wells. The depths of these wells range from 40' to 220', with static water levels ranging from 16' to 96'. The logs note various estimates of yield ranging from 20 gallons per minute to 110 gallons per minute. These yields far exceed the normal requirements for a well being utilized for domestic requirements under the 5,000 gallons per day exemption. All of these wells were completed by installing unperforated steel casing for their entire depths with the exception of the one well that penetrated the basalts. That well had 20' of open basalt hole. This construction allows for water to enter the well only from the very bottom of the well, making for a low efficiency well. The fact that these wells produce the quantities of water they do, with this type of construction, supports the fact that the aquifer supplying them appears to be highly productive. The sand, gravel and basalt formations that were encountered in all of these adjacent wells lend additional credence to this notion, as saturated gravel formations are normally very good water producers. The one basalt well was located further from the river than the other wells, and yet still had a fairly high static level and yield.

In addition to having high yielding potential due to the make up of the aquifer, ie coarse sand and gravel layer, this aquifer is topographically and physically located where significant recharge will take place. This sub-division is located near the Yakima River. With the Yakima River being the topographic low for a very large area water table movement will naturally be collected in this area. Additionally, several thousand acres of crops are irrigated in the general vicinity of this subdivision. A portion of the irrigation water applied to those crops percolates down to the water table. Since the Yakima River is a low point some of that deep percolated irrigation water finds its way to the water table aquifer that will be utilized by the 20 wells.

When looking at 20 exempt wells pumping at a worst case scenario of each pumping at 5,000 gallons a day for 365 days a year, this is the equivalent of a single well pumping at 70 gallons per minute continuously. In comparison a single center pivot requires 750 gallons per minute. Additionally, the total annual withdrawal of 112 acre-feet of water during a year is the amount of water required to irrigate a 37 acre field in the area. Given the fact that all 20 homes will utilize the wells for culinary use only, this drops the actual use that will take place to below 850 gallons per day, and will not come anywhere close to pumping the authorized 5,000 gallons a day. Thus the effective impacts of these wells will be far below the authorized levels of 20 exempt wells.

In conclusion it is my opinion that after reviewing adjacent well logs, and having a working knowledge of the area, that the overburden water table aquifer, that is anticipated to be utilized by the 20 exempt domestic wells associated with the Rivers Edge Estates sub-division, will have more than adequate capacity to supply those wells. Additionally, it is my opinion that adjacent wells and the Yakima River should be impacted only minimally by these new exempt wells, and certainly well below the levels DOE labels as impairment.

Thomas R. Buchholtz PE
Water Man Consulting



EXPIRES 4/01/08

Benton County, Washington

generated on 11/9/2007 10:02:01 AM PST

Map

Parcel ID	Address	Index Order	Card(s)
107842000001001	176901 W NORTH RIVER RD, PROSSER, WA, 99	Parcel ID	2

Layers 1:46,296

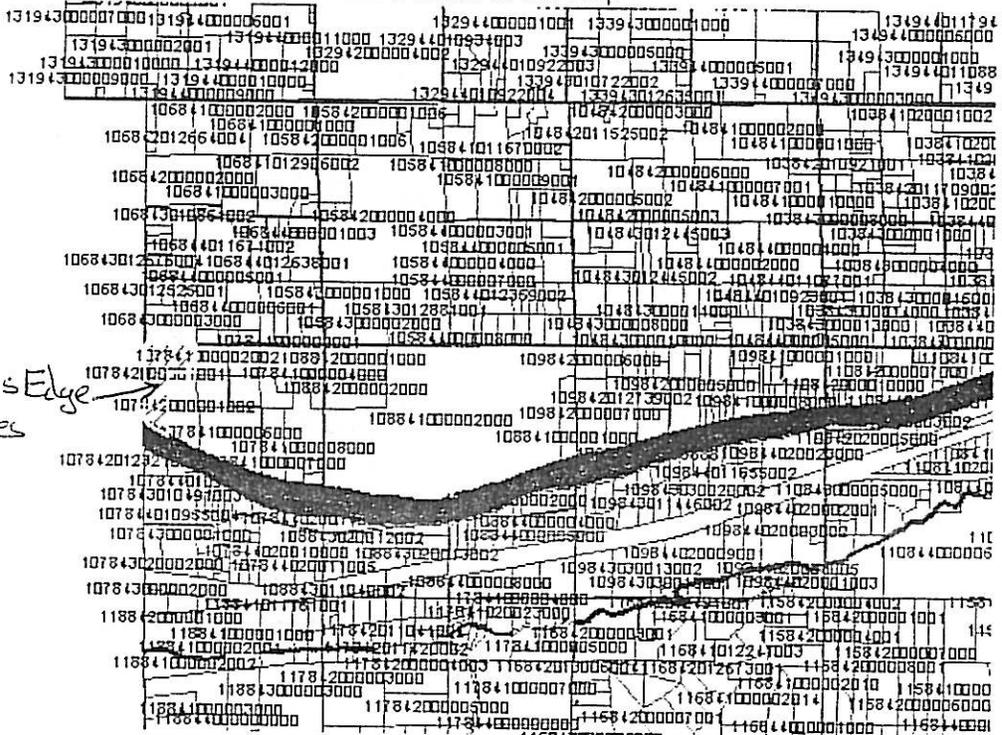
• Note - A parcel will be outlined if found in the map

Layers

- Parcels
- Water
- Sections
- Ditch
- Canal

New Map Search

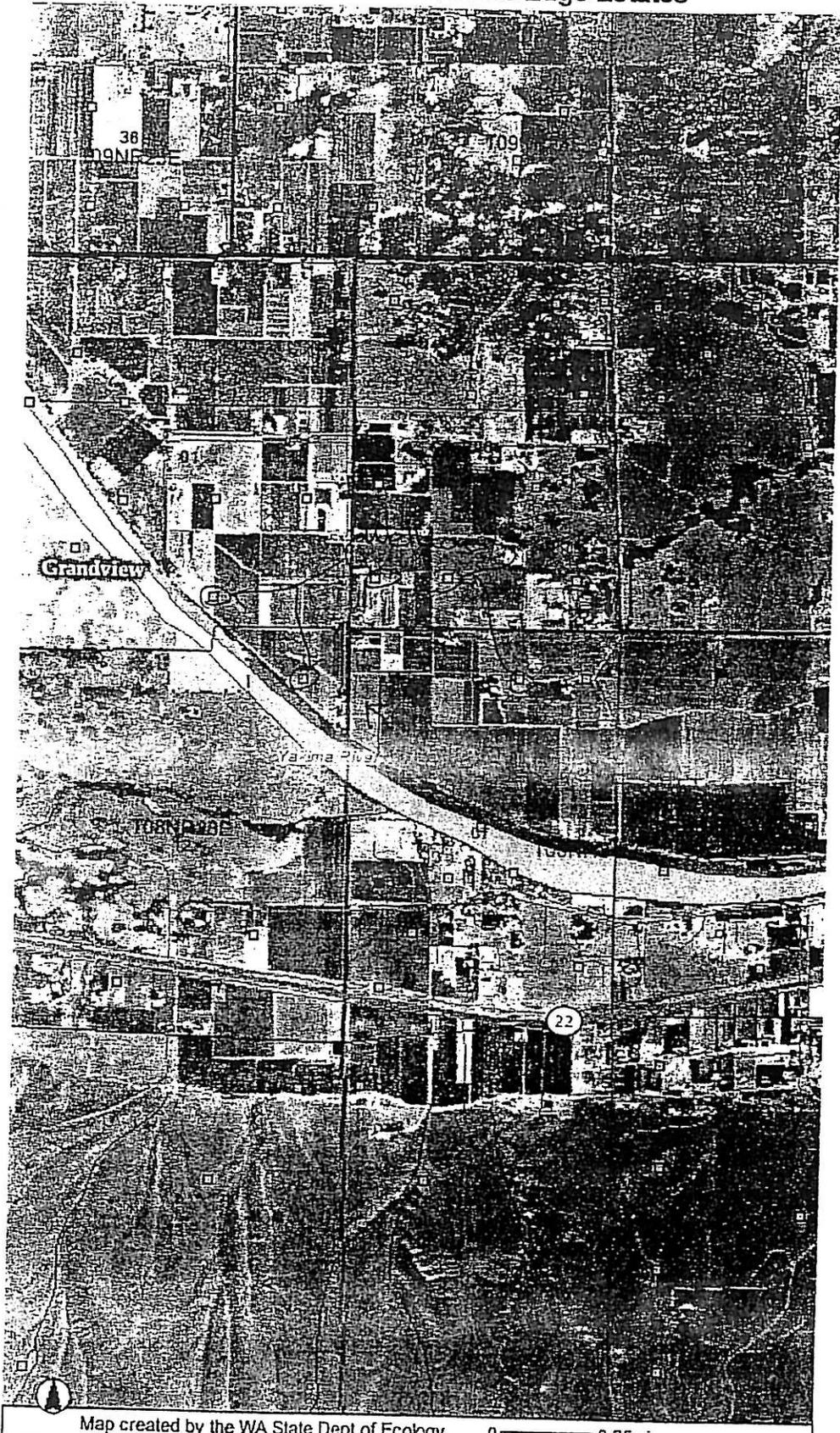
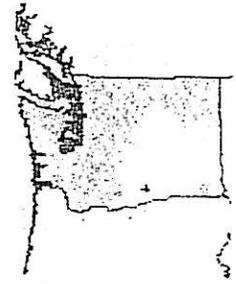
Rivers Edge Estates



User ID : bentonpropertymax

Data updated on 11/7/2007

Rivers Edge Estates



Well Log Locations

- Water Supply
- Resource Protection
- Decommissioned
- Multiple Well Types

Major Roads

- ⚡ State Highway
- ⚡ US Highway
- ⚡ Interstate
- ⚡ Streets

- Sections
- Cities
- Counties

Water Bodies

- Reservoir
- Glacier
- Marsh
- Rock
- Island
- Water
- ⚡ Streams

Map created by the WA State Dept of Ecology

0 ——— 0.25mi

8 N, 24 E 7 S

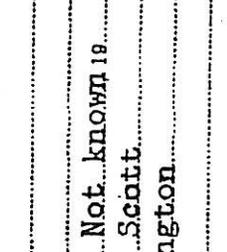
STATE OF WASHINGTON
DEPARTMENT OF CONSERVATION
AND DEVELOPMENT

WELL LOG
Date July 11, 1954
Record by James R. Hollander
Source Driller's record
No. Applica # 3699
Permit # 3513

Location: State of WASHINGTON
County Benton
Area
Map
W 1/2 NW 1/4 NE 1/4 sec. 7, T. 8 N., R. 24 E.

Drilling Co. James R. Hollander
Address Toppenish, Wash.
Method of Drilling Date Not known
Owner E. L. Brindle & Dewey Scott
Address Grandview, Washington
Land surface, datum ft above

Diagram of Section



CONSPICUOUS LAYER	MATERIAL	THICKNESS (feet)	DEPTH (feet)
-------------------	----------	------------------	--------------

(Transcribe driller's terminology literally but paraphrase as necessary, in parentheses, if material water-bearing, so state, and give level if reported. Give depths in feet below land-surface datum unless otherwise indicated. Correlate with stratigraphic column, if feasible. Following log of materials, list all casings, perforations, screens, etc.)

	Top soil	2	2
	Scab rock and boulders	38	40
	Pump test:		
	Dim: 40' x 8"		
	SWL: 16'		
	D.D. 15'		
	Yield 60 g.p.m.		
	Casing: 8" I.D.		
	Shoe: 16' to water		
	24' Depth of water		
	38' depth shoe		
	Perforations: None		
	Pump: 5 h.p. jet		

WATER WELL REPORT

Original & 1st copy Ecology 2nd copy owner 3rd copy driller

Construction/Decommission (circle)

- Construction
 Decommission ORIGINAL CONSTRUCTION Notice

145214 of Intent Number

PROPOSED USE Domestic Industrial Municipal
 DeWater Irrigation Test Well Other

TYPE OF WORK Owner's number of well (if more than one)
 New Well Reconditioned Method Dug Bored Driven
 Deepened Cable Rotary Jetted

DIMENSIONS Diameter of well 6 inches drilled 93 ft
 Depth of completed well 93 ft

CONSTRUCTION DETAILS
 Casing Welded 6 Diam from 72 ft to 93 ft
 Installed Liner installed Diam from ft to ft
 Threaded Diam from ft to ft

Perforations Yes No
 Type of perforator used
 SIZE of perfs in by in and no of perfs from ft to ft

Screens Yes No K Pac Location
 Manufacturer's Name
 Type Model No
 Diam Slot Size from ft to ft
 Diam Slot Size from ft to ft

Gravel/Filter packed Yes No Size of gravel/sand 3/4
 Materials placed from 93 ft to 95 ft

Surface Seal Yes No To what depth? 20 ft
 Materials used in seal Bentonite
 Did any strata contain unusable water? Yes No
 Type of water? Depth of strata
 Method of sealing strata off

PUMP Manufacturer's Name
 Type H P

WATER LEVELS Land surface elevation above mean sea level ft
 Static level 47 ft below top of well Date 10-30-03
 Artesian pressure lbs per square inch Date
 Artesian water is controlled by (cap valve etc)

WELL TESTS Drawdown is amount water level is lowered below static level
 Was a pump test made? Yes No If yes by whom?
 Yield gal/min with ft drawdown after hrs
 Yield gal/min with ft drawdown after hrs
 Yield gal/min with ft drawdown after hrs
 Recovery data (time taken as zero when pump turned off)(water level measured from well top to water level)
 Time Water Level Time Water Level Time Water Level
 Date of test
 Bailor test gal/min with ft drawdown after hrs
 Airtest 20 gal/min with stem set at 91 ft for 1 hrs
 Artesian flow g p m Date
 Temperature of water 57 Was a chemical analysis made? Yes No

CURRENT Notice of Intent No W 164047

Unique Ecology Well ID Tag No AHE-436

Water Right Permit No

Property Owner Name Roger Schuessler P

Well Street Address 721 3- Lower Canyon Blvd

City Prosser County Benton

Location SE 1/4 1/4 SW 1/4 Sec 6 Twn 8N R24 E11N Circle or one WWM

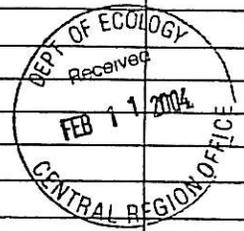
Lat/Long (s t r still) Lat Deg Lat Min/Sec

REQUIRED Long Deg Long Min/Sec

Tax Parcel No 1068-430125 250-02 lot 6

CONSTRUCTION OR DECOMMISSION PROCEDURE
 Formation Describe by color character size of material and structure and the kind and nature of the material in each stratum penetrated with at least one entry for each change of information Indicate all water encountered (USE ADDITIONAL SHEETS IF NECESSARY)

MATERIAL	FROM	TO
Top Soil	0	2
Cobbles & Gravel	2	18
Gravel & Sand	18	53
Sand & Gravel (water)	53	93



Start Date 10-29-03 Completed Date 10-30-03

WELL CONSTRUCTION CERTIFICATION I constructed and/or accept responsibility for construction of this well and its compliance with all Washington well construction standards Materials used and the information reported above are true to my best knowledge and belief

Driller Engineer Trainee Name (Print) Kyle Amos
 Driller/Engineer/Trainee Signature [Signature] Drilling Company Triple A Drilling
 Driller or Trainee License No 1224 Address 785 Teamblood Lane
 City State Zip Bunkan WA

If trainee, licensed driller's Signature and License no

Contractor's Registration No TR190102589 Date 10-30-03

The Department of Ecology does NOT Warranty the Data and/or the Information on this Well Report.

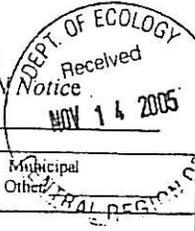
The Department of Ecology does NOT warrant the Data and/or the Information on this Well Report.



WATER WELL REPORT

Original & 1st copy - Ecology, 2nd copy - owner, 3rd copy - driller

Construction/Decommission ("x" in circle)
 Construction 185456
 Decommission ORIGINAL INSTALLATION
 of Intent Number _____



CURRENT Notice of Intent No. W244154
 Unique Ecology Well ID Tag No. AKA 080
 Water Right Permit No. _____
 Property Owner Name Ruben Lopez
 Well Street Address OFF OIE
 City Prosser County Benton 03
 Location SE 1/4-1/4 SW 1/4 Sec 6 Twn 8 R24 EWV or WVM circle one
 Lat/Long (s, t, r) Lat Deg _____ Lat Min/Sec _____
 Still REQUIRED) Long Deg _____ Long Min/Sec 0
 Tax Parcel No. _____

PROPOSED USE: Domestic Industrial Municipal
 DeWater Irrigation Test Well Other

TYPE OF WORK: Owner's number of well (if more than one) _____
 New well Reconditioned Method: Dug Bored Driven
 Deepened Cable Rotary Jetted

DIMENSIONS: Diameter of well 6 inches, drilled 330 ft.
 Depth of completed well 210 ft.

CONSTRUCTION DETAILS
 Casing Welded 6" Diam. from 12 ft. to 200 ft.
 Installed: Liner installed " Diam. from " ft. to " ft.
 Threaded " Diam. from " ft. to " ft.

Perforations: Yes No
 Type of perforator used _____
 SIZE of perfs _____ in. by _____ in. and no. of perfs _____ from _____ ft. to _____ ft.

Screens: Yes No K-Pac Location _____
 Manufacturer's Name _____
 Type _____ Model No. _____
 Diam. _____ Slot size _____ from _____ ft. to _____ ft.
 Diam. _____ Slot size _____ from _____ ft. to _____ ft.

Gravel/Filter packed: Yes No Size of gravel/sand _____
 Materials placed from _____ ft. to _____ ft.

Surface Seal: Yes No To what depth? 30 ft.
 Material used in seal Bentonite
 Did any strata contain unusable water? Yes No
 Type of water? Sandy clays depth of strata 195
 Method of sealing strata off oversize 6" PIPE Drive Shee

PUMP: Manufacturer's Name _____
 Type: _____ H.P. _____

CONSTRUCTION OR DECOMMISSION PROCEDURE
 Formation: Describe by color, character, size of material and structure, and the kind and nature of the material in each stratum penetrated, with at least one entry for each change of information. (USE ADDITIONAL SHEETS IF NECESSARY.)

MATERIAL	FROM	TO
GRAVEL Boulders	0	17
Black Basalt	17	32
Brown Basalt	32	45
Red Basalt	45	48
Black Basalt	48	83
Sandstone	83	100
Tan Clay	100	115
Sandy Clays	115	155
Brown Clay	155	195
Black Basalt	195	202
Black Broken Basalt water	202	215
hard Black Basalt	215	220

WATER LEVELS: Land-surface elevation above mean sea level _____ ft.
 Static level 81 ft. below top of well Date 10-26-05
 Artesian pressure _____ lbs. per square inch Date _____
 Artesian water is controlled by _____ (cap, valve, etc.)

WELL TESTS: Drawdown is amount water level is lowered below static level
 Was a pump test made? Yes No If yes, by whom? _____
 Yield: _____ gal./min. with _____ ft. drawdown after _____ hrs.
 Yield: _____ gal./min. with _____ ft. drawdown after _____ hrs.
 Yield: _____ gal./min. with _____ ft. drawdown after _____ hrs.
 Recovery data (time taken as zero when pump turned off) (water level measured from well top to water level) -
 Time Water Level Time Water Level Time Water Level
 _____ _____ _____ _____ _____ _____
 Date of test _____
 Bailer test _____ gal./min. with _____ ft. drawdown after _____ hrs.
 Airstest 50 gal./min. with stem set at 210 ft. for 1 hrs.
 Artesian flow _____ g.p.m. Date _____
 Temperature of water _____ Was a chemical analysis made? Yes No

Start Date 10-24-05 Completed Date 10-26-05

WELL CONSTRUCTION CERTIFICATION: I constructed and/or accept responsibility for construction of this well, and its compliance with all Washington well construction standards. Materials used and the information reported above are true to my best knowledge and belief.

Driller Engineer Trainee Name (Print) David Cox
 Driller/Engineer/Trainee Signature David Cox
 Driller or trainee License No. 2351
 TRAINEE:
 Driller's Licensed No. _____
 Driller's Signature _____

Drilling Company RWCox Drilling
 Address P.O. Box 5324
 City, State, Zip Benton City Wash 99324
 Contractor's Registration No. RWCox 00225C Date 10-26-05
 Ecology is an Equal Opportunity Employer.

File No. SUB 07-03
Date 4-9-08
Exhibit No. 10
Received by djh

Assessment of a Protective Buffer Zone Width for Proposed Housing Developments
Adjacent to Vineyards in Benton County

Final Draft Prepared February 10, 2008

Allan S. Felsot, Professor
Washington State University, Richland, WA 99352
Email: afelsot@tricity.wsu.edu

Summary

Pest management practices have been well characterized for vineyards in Washington State. Information from grower surveys for pesticide application was used to select appropriate pesticides that a residential bystander may potentially be exposed to if sprays drifted beyond the outermost vine row. Toxicological characteristics of the pesticides were gleaned from EPA databases and combined with simulations of spray drift to estimate potential exposures nearby a vineyard. Pesticide residues corresponding to the EPA-derived acute reference dose (aRfD) were used as the benchmark for determining a protective buffer zone width. Potential exposures beyond this distance would represent a "reasonable certainty of no harm", a safety standard incorporated into the administrative science policy that regulates pesticide use.

Based on its aRfD, chlorpyrifos insecticide would be the "driver" pesticide in dictating an appropriate distance for protecting bystanders from all pesticides. A maximum distance of fifty feet between a residence and the vineyard would conservatively meet the standard of "reasonable certainty of no harm". Because the chlorpyrifos registration for grapes is set to expire in about a year, and all other pesticides used in vineyards are not as hazardous from the perspective of the aRfD, the "safe" buffer zone distance would not be expected to be any greater than 50 feet if pesticide use changes.

Problem Statement

A housing development is being planned for location adjacent to several existing vineyards in Benton County. Mr. Wes Hodges requested assistance in determining an appropriate buffer zone between planned residential housing units and the vineyards. The premise of the buffer zone is that residents would be protected from potential exposure to agricultural pesticide sprays that may be used in the vineyards. A similar assessment was made during 1997 on behalf of the Benton County Planning Commission to delineate an appropriately protective buffer width between a planned housing development and an existing orchard. Since that time, a better spray drift model applicable to vineyards became available for estimating likely distance of drifting pesticide sprays. Furthermore, the nature of specific pesticides used in vineyards has changed to favor materials of comparatively less hazard than a decade ago. Thus, the following assessment has used an available computer model and a published survey of

vineyard pest management practices to estimate a reasonable protective buffer zone width that is based on toxicologically relevant spray drift patterns.

Objectives

The overall objective of this assessment is to estimate the maximum buffer zone width adjacent to vineyards that will ensure a “reasonable certainty of no harm” to pesticide residues that may drift into an adjacent residential development. “Reasonable certainty of no harm” is a safety standard in administrative science policy that the Environmental Protection Agency (EPA) uses to regulate pesticides. The following sub-objectives are necessary to determine a buffer zone width that is sufficiently protective.

- Determine the most likely pest control practices used by modern vineyards, as well as assess likely changes in pesticide use patterns in the future.
- Determine the maximum exposure that corresponds to the EPA’s standard for ensuring a reasonable certainty of no harm (i.e., a “safe” level of exposure).
- Determine the potential deposition of pesticide residues beyond a vineyard during pesticide spraying.
- Determine the distance from the outermost vine row to a residence that is associated with an exposure dose that meets EPA’s safety standard.

Pest Control Practices Characteristic of Modern Vineyards in Washington State

A survey of vineyard pest management practices in Washington State was recently published by Washington State University (Ferguson et al. 2007, see footnote to Table 1). Pesticides were used as the the major control tactic for pest insects, mites, weeds, and plant diseases. However, only ~60% of the total acreage is treated. Most applications (in terms of pounds applied) to vineyards are fungicides (57% of acres) for control of pathogens, followed by herbicides (67% of acres) for weeds, and insecticides/acaricides (57% of acres) for insects and mites. Pertinently, the largest amount of fungicides used in vineyards are forms of sulfur and petroleum distillate derived oils, both of which are approved in certain forms for use in certified organic agriculture. In the WSU survey, nearly four times more acres are treated with a fungicide than with an insecticide. Thus, any vineyard next to a residence is more likely to be treated with a fungicide than with an insecticide.

The applied pesticide active ingredients and product formulations reported in the survey of grape growers in Washington State are listed in Table 1. An estimate of the likelihood that any one product would be used in a vineyard adjacent to a residential development can be deduced from examination of the percentage of growers reporting use. For example, fenprothrin (a pyrethroid insecticide) was used by 37% of responding growers. All other insecticides were used by less than 10% of growers. Among herbicides, glyphosate and paraquat were used by 48% and 26%, respectively, of respondents. Sulfur and petroleum distillate oils (reported as paraffinic oils) dominated fungicide use (~30% of respondents), but at least five synthetic chemical

Table 1. Toxicological parameters of pesticides most commonly used in Washington vineyards ^{1/}

Pesticide	Formulation(s)	Use ^{2/}	% Using	Oral LD50	Dermal LD50	Acute RfD
chlorpyrifos	Lorsban 4E	I	3	223	222	0.005
carbaryl	Sevin	I	6	312	>2000	0.01
dimethoate	Cygon	I	9	387	>2000	0.02
spinosad	Success	I	3	3738	>2000	0.027
fenpropathrin	Danitol 2.4EC	I	37	49	87	0.06
acetamidprid	Assail	I	3	1064	2000	0.1
imidacloprid	Provado 1.6F; Admire 2F	I	8	454	>5000	0.42
bifenazate	Acramite 50WS	A	7	>5000	>5000	0.01
buprofezin	Applaud	A	3	>5000	>2000	0.67
paraquat	Gramoxone	H	26	283	>2000	0.0045
norflurazon	Solicam	H	4	9300	20000	0.02 ^{3/}
oxyfluorfen	Goal	H	6	5000	>5000	0.03 ^{3/}
oryzalin	Surflan	H	10	10000	>2000	0.12 ^{3/}
simazine	various	H	4	>5000	>2000	0.3
glyphosate	Roundup	H	48	>4320	>2000	2
carfentrazone-ethyl	Aim	H	7	>5000	>4000	5
fenarimol	Rubigan EC	F	19	2500	>2000	0.012
cyprodinil	Vanguard	F	10	2796	>2000	0.0375 ^{3/}
triflumizole	Procure 50WS	F	17	1057	5000	0.1
tebuconazole	Elite 45DF	F	6	4700	2000	0.1
fenhexamid	Elevate	F	4	5000	5000	0.17 ^{3/}
quinoxifen	Quintec	F	17	>5000	>2000	0.2 ^{3/}
pyraclostrobin + boscalid	Pristine	F	19	5000	2000	0.3
kresoxim-methyl	Sovran	F	7	5000	2000	0.36 ^{3/}
myclobutanil	Rally 40W	F	14	1600	>5000	0.6
trifloxystrobin	Flint	F	24	>5000	>2000	2.5
paraffinic oil	various	F	29	>5000	>5000	none
sulfur	various	F	30	>5000	>5000	none

1/ Grower use data based on Ferguson et al. 2007 (WSU Extension Bulletin; <http://cru84.cahe.wsu.edu/cgi-bin/pubs/EB2025E.html?id=oizRuM4s>); Toxicological information derived from EPA Pesticide Tolerance Petition documents published in the Federal Register, EPA Pesticide Fact Sheets, and Registration Eligibility Decision Documents available on the EPA website (<http://www.epa.gov/pesticides/reregistration/status.htm>)

2/ Use: I = insecticide; A = acaricide; H = herbicide; F = fungicide

3/ A single exposure (or short term) reference dose was not established because no adverse effects were observed at the highest dose tested, and therefore a toxicological endpoint was not plausibly identified. Thus, the chronic RfD based on a long-term study is shown for comparison among compounds.

fungicides were used by 15-20% of responding growers. In short, the diversity of the most intensely used fungicides was greater than that of the herbicides and insecticides, which seem dominated by reliance mostly on one or two chemicals (Table 1).

Two methods of pesticide application are used in vineyards depending on the pest to be controlled. For plant diseases and insects injuring foliage or berries, pesticides are typically applied using an axial fan airblast sprayer. The spray is atomized under pressure through nozzles and then directed into the canopy via a large volume of forced air. Most growers in the Pacific Northwest (PNW) spray every row on both sides, but two rows can be sprayed as the tractor pulled sprayer moves down the row at a speed of ~2-3 mph. A best management practice to ensure maximum coverage of foliage with minimal loss of spray to drift is to use a tower type sprayer in which the boom is articulated so it can wrap completely around a vine trellis. All of the fungicides and most of the insecticides shown in Table 1 (except chlorpyrifos and fenpropathrin) would be applied by an airblast sprayer or wrap around tower sprayer.

The second common method of pesticide application is the use of a ground boom sprayer that directs the spray to the vine row or just to the base of each vine. The aisle between the rows are not sprayed. All herbicides would be directed to the soil of the row, but paraquat would be directed to the base of each vine for sucker control. Two insecticides, fenpropathrin and chlorpyrifos, are used to control climbing cutworms early in the growing season, so sprays are directed to the base of each vine. After crop year 2008, the chlorpyrifos registration for use in WA grapes is scheduled to be suspended.

Toxicological Parameters and Safe Levels of Exposure

The pesticides used in Washington State vineyards can be compared by examining acute toxicity via ingestion (oral route) and skin exposure (dermal route). Acute toxicity is determined by administering to rodents a range of pesticide dosages calibrated to bracket the median (or 50%) lethal response. Thus, based on the dosage estimated to cause 50% mortality, a single parameter called the LD50 expresses the relative toxicity via oral and dermal exposure. Compounds with higher LD50s than other compounds are comparatively less toxic.

An examination of the LD50s among the various kinds of pesticides in Table 1 shows that fungicides and herbicides are much less toxic than insecticides because most of these types of pesticides have oral and dermal LD50s >1000 mg/kg (milligrams of pesticide per kilogram of body weight). According to EPA's classification scheme for acute toxicity, a pesticide with an oral LD50 above 500 mg/kg and a dermal LD50 above 2000 mg/kg are considered slightly toxic. Any compound with an oral and dermal LD50 above 5000 mg/kg is characterized as practically non-toxic.

Among the insecticides, fenpropathrin would be characterized as highly toxic (LD50s up to 50 mg/kg), whereas carbaryl, chlorpyrifos, dimethoate and imidacloprid would be considered as moderately toxic (LD50s of 50-500 mg/kg) (Table 1). However, note that carbaryl,

dimethoate and imidacloprid have dermal LD50s above 2000 mg/kg, suggesting poor absorption through the skin and rapid metabolism of any penetrated pesticide. Pertinently, few growers (<10%) reported using insecticides other than fenprothrin, suggesting that the probability of bystander exposure to the comparatively most toxic pesticides would likely be minimal.

Although the LD50 parameter is useful for comparing the acute toxicity hazard of different pesticide products as well as providing qualification of one aspect of toxicity (i.e., lethality), a better parameter for determining the likelihood of any adverse effect from pesticide exposure is to use the Reference Dose (RfD). The RfD concept embodies a level of exposure with a reasonable certainty of not causing any harm. The RfD is derived by considering all possible adverse effects observed in tens of different types of toxicity tests. The adverse effect of any kind that occurs at the lowest dosage tested among all tests is chosen as the toxicological endpoint of concern. The dosage not causing this effect in the benchmark toxicity test is defined as the no observable adverse effect level (NOAEL), expressed in units of mg/kg/day. The safe level of exposure corresponding to the standard of "reasonable certainty of no harm" is derived by dividing the NOAEL by a factor of 100 to account for interspecies (rodents to human) and intraspecies (young to old) sensitivities. Thus, EPA policy is to consider any pesticide exposure to be without concern if it corresponds to a dose at least 100 times less than a dose without any adverse effect.

An RfD is developed for two time intervals of exposure--acute and chronic. The acute RfD (aRfD) represents the safe level following a single exposure (typically within a 24 hour timeframe). The aRfD is derived from animal toxicity tests either of a single dose or a short-term dose (typically <30 days of continuous exposure). The chronic RfD (cRfD) represents a safe dose over a lifetime of exposure, which for humans is standardized as 70 years. The cRfD is generally derived from dietary exposures of rodents over two years. The rodents are exposed everyday to the same dose and then examined during and at the end of the experiment for a wide diversity of adverse pathologies and behaviors.

For purposes of interpreting the likely health outcome if a residential bystander is exposed to drifting pesticide from a nearby (or adjacent) agricultural operation, the aRfD is the appropriate benchmark of safety. Most pesticides are applied only once a growing season, and most spraying closest to a residence would occur over a short time interval (perhaps less than an hour). Thereafter, exposure would be nil, especially for the types of pesticides used in vineyards.

In Table 1, pesticides in each use category (i.e., insecticide, herbicide, fungicide) were ordered by magnitude of the aRfD. The pesticide with the lowest aRfD for each type of application method as described above (i.e., airblast or ground boom) becomes the driver for determining a safe exposure level for all other pesticides. In addition to relying on the magnitude of the aRfD, the assessment of safe exposure necessarily had to consider the rate of application (typically expressed as pounds of active ingredient applied per acre, lbs/acre) as well as the likelihood of a grower using the pesticide (based on percent of growers reporting use). Thus, in the following exposure analysis, the likelihood of exposure at any given distance to

pesticide residues above a safe level were determined for the compounds chlorpyrifos, fenpropathrin, and paraquat applied by ground boom sprayer and carbaryl and dimethoate applied by airblast sprayer. With the exception of fenpropathrin, these compounds were determined to have the lowest aRfD as evidenced in Tolerance Petitions submitted to the EPA and published in the Federal Register. Fenpropathrin was included because of its disproportionately high usage among insecticides and its classification as highly toxic by the EPA. Furthermore, fenpropathrin use will be sustained for control of climbing cutworms after the end of the chlorpyrifos registration on grapes.

Estimating the Likely Deposition of Pesticide Residues Resulting from Spray Drift and the Corresponding Residential Exposures

To predict the contribution of spray drift entering aquatic habitats, EPA uses a computer simulation model called AgDRIFT. Because the model predicts downwind deposition of pesticide residues as a proportion of the amount applied to a field, it can be adopted for any type of non-target exposure. AgDRIFT can simulate aerial, ground boom, and airblast spraying. The model can be considered conservative for ground boom spraying in that it assumes a nozzle and boom length significantly longer than would occur in an orchard or vineyard sprayed for weeds. However, the model can be manipulated to simulate a boom height of 2 ft or 4 ft and spraying of up to 20 rows. For each boom height, the spray quality, which is a surrogate measure of particle (or aerosol) median spherical diameter, can be input as a fine or medium coarse spray. The latter is much less prone to drift than a fine spray.

This assessment modeled two ground boom scenarios to capture worst and best case agricultural practices. The worst case was a ground boom set at 4 ft above the ground and a nozzle configuration producing a fine spray. Best agricultural practices were considered a boom height of two feet with nozzles configured for a medium coarse spray. Thus, the worst case scenario would result in maximum off-target drift.

For pesticide application by airblast sprayer, 20 rows were assumed to have been sprayed. AgDRIFT allows drift simulation specifically from a vineyard. The model assumes an axial fan airblast sprayer had been used, which would be the worst case promoting maximal drift. The best case situation, which was modeled but not used in this assessment, assumed the use of a wrap around tower sprayer.

AgDRIFT output displays the proportion of applied spray depositing at a any distance up to 1000 feet from the spray edge, which can be reinterpreted to be the outermost vine row. Multiplying the application rate (transformed from lbs active ingredient per acre to milligrams per square meter, mg/m^2) by the proportion of the spray depositing per distance interval yields a function describing pesticide residue per square meter per foot of distance from the outermost (or first) vine row.

The mass of pesticide possibly landing on a bystander's skin was derived by multiplying the deposited residue (mg/m²) by the 95th percentile body surface area recommended for a 1-2 year old child (0.682 m²) in the EPA Exposure Factors Handbook (<http://www.epa.gov/ncea/efh/>). The resulting mass of pesticide residue was then multiplied by the proportion of body surface accounted for by the most likely exposed parts (66.1% of the total surface is attributed to head, hands, arms, legs, and feet). Dividing the resulting mass of pesticide, corrected for exposed body parts, by the average body weight of a 2 year old child (12.9 kg) yielded the total body dose of a child bystander at distances up to 1000 ft from the first vineyard row. Finally, the corrected exposed body dose was adjusted by the fraction of pesticide capable of penetrating the skin within a 24 h period (Table 2). In risk assessment, only pesticide residues that enter systemic circulation are considered toxicologically relevant.

Determination of Buffer Zone Width Corresponding to the Safe Exposure Dose

The distance from the first vineyard row to a bystander in which the body dose resulting from spray drift would not exceed the aRfD was determined by overlaying a horizontal line extending from the y-axis across the body dose-deposition graphs (Figures 1, 2, 3). Where the horizontal line touched the graph, a perpendicular line was dropped to the x-axis, and the resulting number of feet was interpreted as the distance between the outermost crop row and a bystander that would not exceed the aRfD.

Among all the pesticides analyzed for drift, fenpropathrin resulted in the greatest potential exposure at different distances from the vineyard (Figure 1). Owing to fenpropathrin's comparatively lowest application rate and the highest aRfD, however, its estimated buffer distance for safe exposure was 30 feet (Figure 1, Table 2). Paraquat, carbaryl, and dimethoate were associated with buffer distances of 6, 8, and 4 ft, respectively (Figures 1, 3; Table 2).

Table 2. Application rate, dermal absorption efficiency, and estimated buffer zone to ensure safety for pesticides used in a typical Washington vineyard. 1/

Pesticide	Application Rate (lbs/acre)	Dermal Absorption Efficiency (%)	Estimated Buffer Distance (ft) for "Safe" Exposure
chlorpyrifos	0.75	3	50
fenpropathrin	0.4	33.3	30
paraquat	1	0.3	6
carbaryl	1.25	12.7	8
dimethoate	2	11	4

1/ Estimations of buffer zones based on worst case conditions for sprayer operation, including maximum legal rates of application.

Notably, exposure from drift with an airblast sprayer was significantly less than drift estimated from a ground boom sprayer. This result occurred because AgDRIFT estimates reflected the filtering impact of the grape canopy on mitigating some drift, whereas the ground boom nozzles were not directed into the canopy and thus simulated the spray as more vulnerable to drift. Chlorpyrifos was associated with a maximum buffer distance of 50 ft, an estimate driven largely by the very low aRfD assigned to the insecticide. For contrast to the worst case conditions for ground boom sprayer operation, the best agricultural practices scenario estimated a safe buffer zone distance of 1 ft and 10 ft for paraquat and chlorpyrifos, respectively.

Conclusion

Based on assessment of potential drift of the insecticide chlorpyrifos, the maximum estimated protective buffer width between a vineyard and residence can conservatively be estimated to be no more than 50 ft.

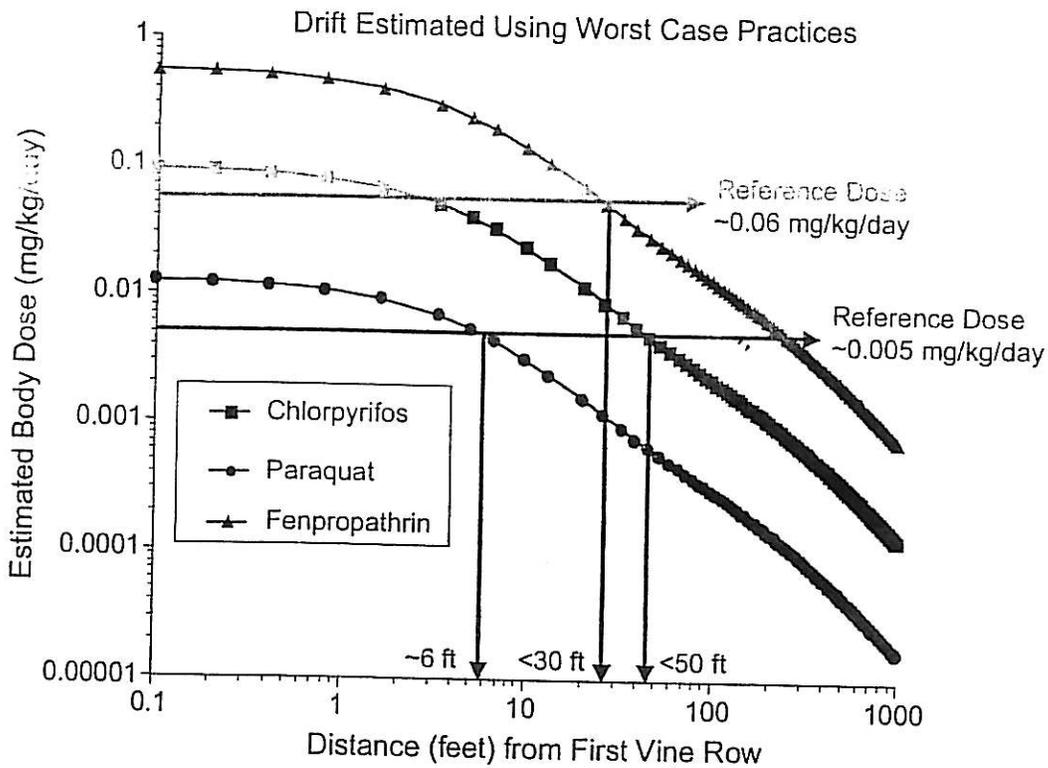


Figure 1. Estimated exposure of bystanders at varying distances from a vine row sprayed with a ground boom sprayer directed to the base of the plant. The modeling scenario assumed worst case conditions for application--a 4 ft high boom and nozzles creating a fine spray. Distances shown near the x-axis represent the distance at which exposure would not exceed the EPA defined acute reference dose.

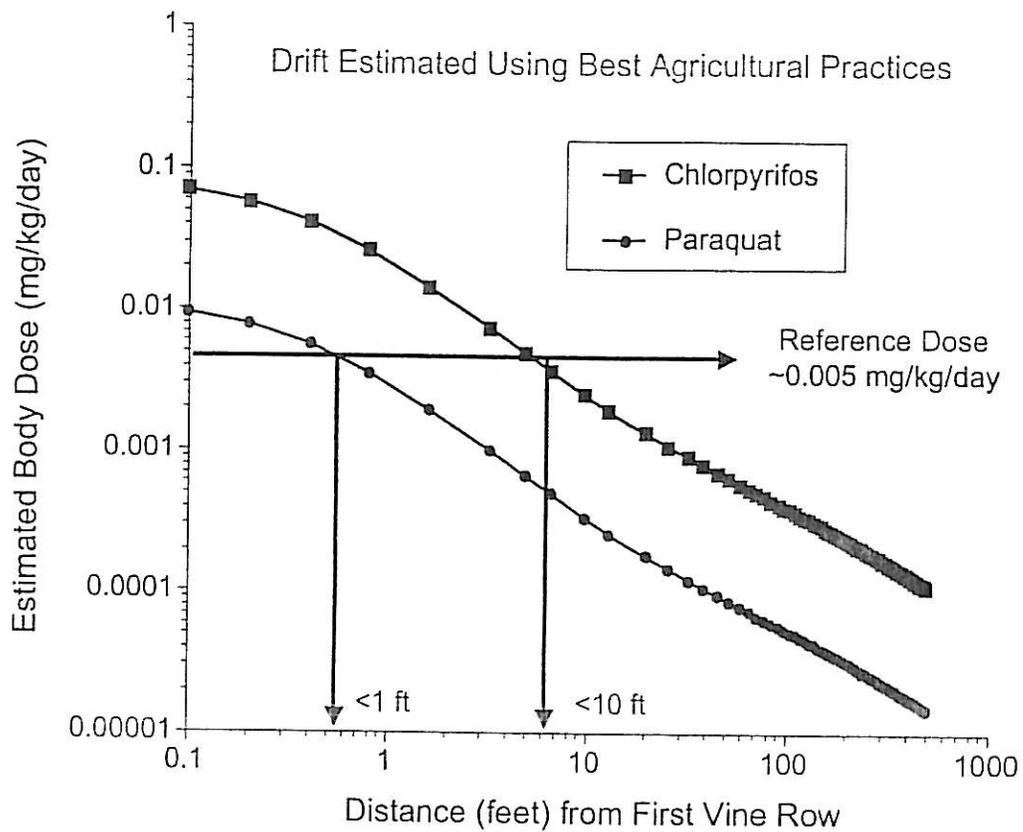


Figure 2. Estimated exposure of bystanders at varying distances from a vine row sprayed with a ground boom sprayer using best agricultural practices. The sprayer directed the spray to the base of each plant, the boom height was 2 ft, and the nozzles created a medium to coarse spray. Distances shown near the x-axis represent the distance at which exposure would not exceed the EPA defined acute reference dose.

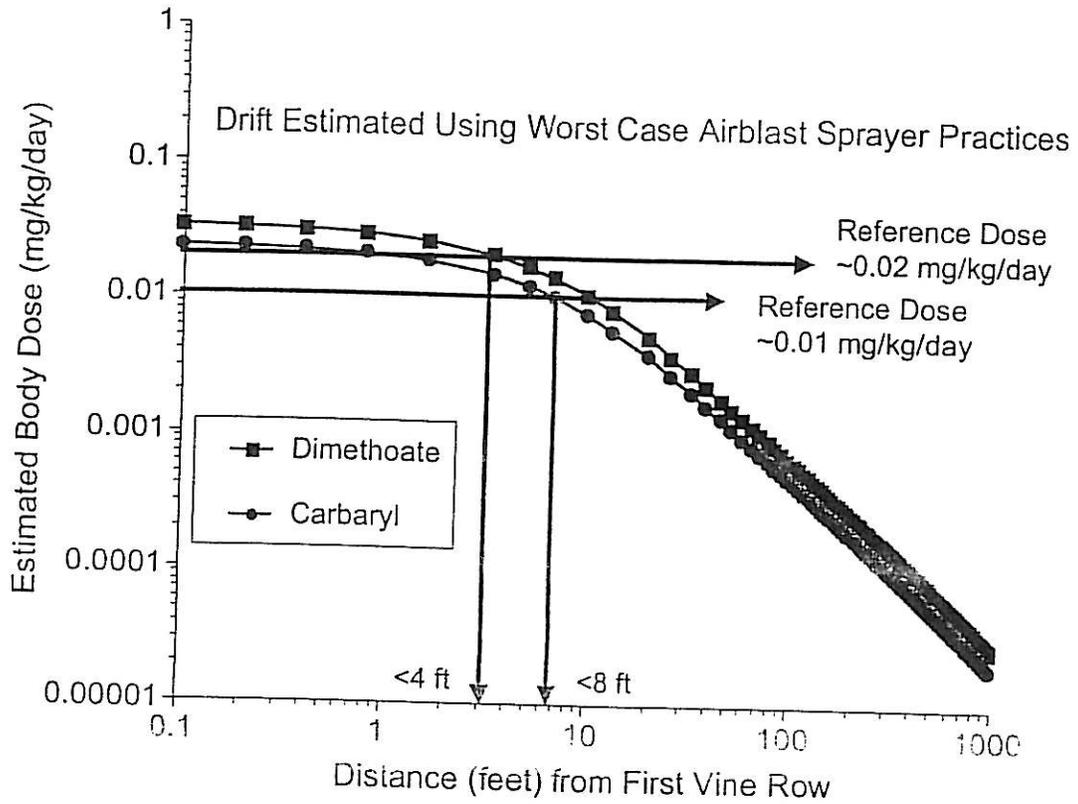


Figure 3. Estimated exposure of bystanders at varying distances from a vine row sprayed with an airblast sprayer under worst case conditions. The sprayer was assumed to be an axial fan model with nozzles directed in a 90 degree arc toward each row. Distances shown near the x-axis represent the distance at which exposure would not exceed the EPA defined acute reference dose.

To Michael Shuttleworth
Benton County Planning

RE: Rivers Edge Estates

Dear Mr. Shuttleworth,

File No. SUB 07-03 February 11, 2008

Date 4-9-08

Exhibit No. 11

Received by ajh



After speaking with you last, I contacted Professor Allan Felsot at the Washington State University regarding the buffer zone requirements. The last several years Benton County has been using a buffer zone requirement based on a study that was done by Professor Felsot. Enclosed you will find his current study based on the chemicals that are permissible today. In his report he states that the buffer zone could be as low as 1-10 foot.

I also contacted a water consultant that did a significant study regarding water availability and to analyze the existing wells. He determined that the proposed lots would use far below maximum allowed.

I am submitting these to you for your review and ask that you recommend approving 20 lots for Rivers Edge Estates with a 50 foot agriculture to residential buffer zone so we can complete the preliminary plat process and if at all possible to get on the March docket for the commissioners hearings.

If you have any questions please give me a call. Please make sure you have my new mailing address of 1191 Plateau Dr. Richland, Wa. 99352

Thank you in advance for you time,

A handwritten signature in cursive script that reads "Wes Hodges".

Wes Hodges
509-539-6940

Ross B. Dunfee, P.E.
Public Works Director / County Engineer
Steven W. Becken
Asst. Director/Asst. County Engineer

Area Code 509
Prosser 786-5611
Tri-Cities 736-3084
Ext. 5664
Fax 786-5627

Benton County

Department of Public Works

Post Office Box 1001 - Courthouse
Prosser, Washington 99350-0954

File No. SUB07-03
Date 4-9-08
Exhibit No. 12
Received by dyn

August 9, 2007

Mr. Michael Shuttleworth, Senior Planner
Benton County Planning & Building Department
P.O. Box 910
Prosser, WA 99350



RE: REVEIW OF PRELIMINARY PLAT
RIVERS EDGE ESTATES
CE 1894 CRP

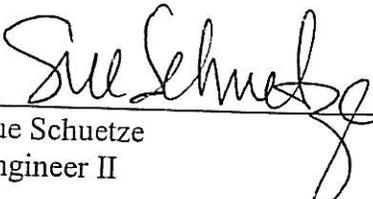
Dear Mr. Shuttleworth:

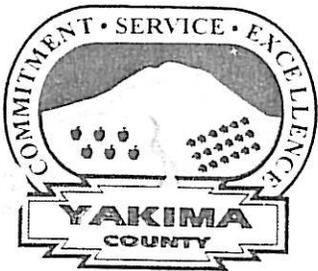
This office has several comments on our review of the Preliminary Plat of Rivers Edge Estates:

1. There is a curve near the intersection of Paige Lane and Rivers Edge Drive that has a 150-foot radius. The radius needs to be at least 300' feet, preferably 400'.
2. There will be no direct access allowed onto North River Road from Lot 20.

If you have any questions, please contact this office.

Sincerely,


Sue Schuetze
Engineer II



Public Services

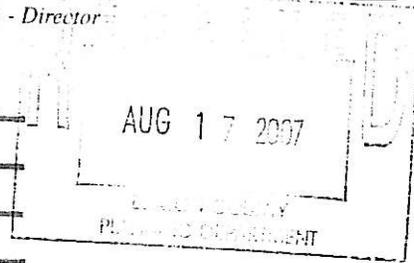
128 North Second Street • Fourth Floor Courthouse • Yakima, Washington 98901
(509) 574-2300 • 1-800-572-7354 • FAX (509) 574-2301 • www.co.yakima.wa.us

VERN M. REDIFER, P.E. - Director

April 17, 2007

Michael Shuttleworth, Senior Planner
Benton County Planning Department
PO Box 910
Prosser, WA 99350

File No. SUB 07-03
Date 4-9-08
Exhibit No. 13
Received by djh



VIA FAX AND MAIL

RE: Comments on River's Edge Estates subdivision (SUB 07-02 / EA 07-56)

Dear Mr. Shuttleworth:

Thank you for the opportunity to review the application materials for the above project. Yakima County has the following comments.

Agricultural Resources

The proposed subdivision is located on the County line. Yakima County has designated the large area of agricultural land on this side of the line as Agricultural Resources of Long Term Commercial Significance. Our agricultural lands are protected by 40 acre minimum lot sizes for new subdivisions, with some minor exceptions. While we do not have a copy of the Benton County comprehensive plan, we had assumed that the area of the subdivision was also designated for agriculture, and that those agricultural lands had similar protections. This appears to not be the case. If small lot rural subdivisions are allowed adjacent to designated agricultural resources of commercial significance, there will be conflicts between the two uses. Such conflicts usually result in farmers being forced to change their practices to appease home owners, which is contrary the Growth Management Act and to Yakima County's comprehensive plan.

If the County approves the application, we recommend that mitigation measures be imposed to require that building envelopes be established on the parcels to place the residences as far away from the agricultural land in Yakima County as possible. Establishing a 5-10 thousand square foot building envelope on the lots should provide adequate space to place homes of varying sizes and shapes in a range of configurations.

Water Supply

In our experience with subdivisions in the rural areas, the Department of Ecology has required that long plats have a single groundwater right for the development and thus a community well. This came out of a State Supreme Court case against the developer Campbell and Gwinn. The subdivision proposes to use presumably exempt individual wells. We suggest that you contact the Department of Ecology regarding the case. (The case name includes the name of the developer.) The gist of the case is that, if the development can't be served by a single exempt well, then a

Floodplains

It would be reasonable to assume that the developer wishes to have homes placed directly on or near the river bank. From the Yakima County floodplain maps, the floodplain should extend 200-250 feet from the river. The floodplain is not shown on the subdivision map, yet homes on those lots could be subject to flood hazards, thus placing the residents in possibly life threatening situations. We would recommend that the floodplain be shown, that plat notes be included to inform people of the hazard, and that plat notes be used to prevent residences from being place in hazards when there are non-hazardous locations that can be used.

Shorelines

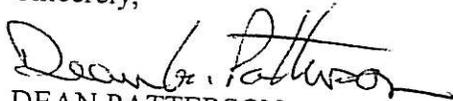
The floodplain boundary also corresponds with or closely parallels the boundary of Shoreline jurisdiction. Subdivision within jurisdiction of the Yakima County SMP require a shoreline permit, however, the notice we received does not include reference to a shoreline permit under Benton County's SMP. Residences greatly increase impacts to streams and wetlands above agricultural uses by increasing daily disturbances from children activities, animal harassment by pets, yard installation adjacent to the water, lawn maintenance (mowing etc.), lawn chemical use, lighting, vehicle movement and noise, etc. Home owners also typically desire to install dikes or fill to prevent natural flooding processes. These issues would normally be addressed in a shoreline permit. If they are not, you may need to address them under your environmental review. A common method to mitigate these increased impacts would be to improve the vegetation (or allow it to improve itself) along the river to provide a buffer from the new uses. A review of air photos in the area shows that riparian vegetation will grow even up a steep and high bank like the one at this location. The farm roads and farm fields are what stop the vegetation from continuing further from the river than it currently does.

Fire Safety

In our experience with subdivisions in the rural areas, we have had to deal with the fire apparatus access issues in the International Fire Code. These come into play for access roads that exceed 300 feet in length. Such issues appear to affect this subdivision, and should be considered.

Thank you for the opportunity to comment on this environmental determination. If you have any questions, please call me at 574-2230.

Sincerely,



DEAN PATTERSON

Planning Division

Environmental and Natural Resources Manager



Public Services

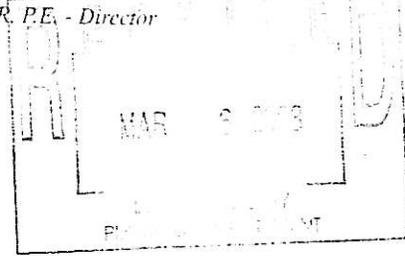
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VERN M. REDIFER, P.E. - Director

March 5, 2008

Michael Shuttleworth, Senior Planner
Benton County Planning Department
PO Box 910
Prosser, WA 99350

File No. SUB 07-03
Date 4-9-08
Exhibit No. 14
Received by djh



VIA FAX AND MAIL

RE: Comments on River's Edge Estates subdivision (SUB 07-02 / EA 07-56)

Dear Mr. Shuttleworth:

Thank you for the opportunity to review the MDNS for the above project. Yakima County has the following comments.

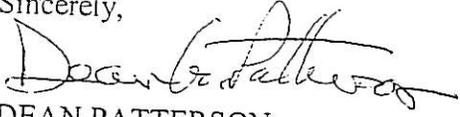
Our previous letter raised a number of issues, and is attached with this letter. The mitigation does not seem to have addressed the concerns; however, we understand that some issues may be handled in the subdivision staff report. We request a copy of the staff report prior to the Hearing, and request to be notified of the hearing date.

We recently received a copy of the Benton County Comprehensive Plan. Pages 5-14 and 5-15 of the Plan indicate that lot sizes should not allowed below 5 acres in size. The lots proposed in this subdivision appear to be averaging less than 2 acres. GMA court cases have found that such densities constitute urban level development, and that rural lands should not fall below 5 acre densities. Given our previously stated concerns about Yakima County's adjacent Agricultural Resources of Long Term Commercial Significance, we would ask that the approved subdivision at least maintain the 5-acre density.

One of our primary concerns dealt with conflicts between Yakima County's Agricultural Resources of Long Term Commercial Significance and the residences in the proposed subdivision. We have already been contacted by adjacent farmers in Yakima County who voiced the same concerns regarding such conflicts. During the County's comprehensive planning efforts we received testimony that residents within 120' of agricultural lands would be affected by spraying activity. Other types of agricultural impacts have similar affected areas. This is the reason Yakima County has a 150' setback from agricultural operations in our zoning ordinance. The lots that are proposed in the subdivision can easily accommodate such a setback and keep the new residents out of harms way. The 50' setback provided in the SEPA mitigation would be of little use in dealing with this matter. The corollary to not having adequate separation is that farmers are pressured to modify or cease their normal farming activities. Farming is important to the Yakima Valley regardless of whether it is on one side of a county line or the other. Please take some minimum protective measures to keep these conflicts from happening.

Thank you for the opportunity to comment on this environmental determination. If you have any questions, please call me at 574-2230.

Sincerely,

A handwritten signature in black ink, appearing to read "Dean Patterson", written over a horizontal line.

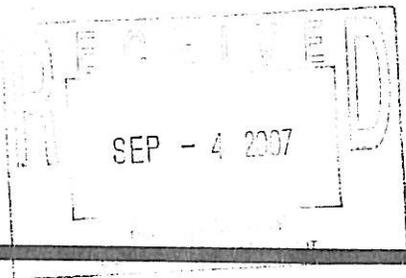
DEAN PATTERSON
Planning Division
Environmental and Natural Resources Manager



Prevent • Promote • Protect
BENTON-FRANKLIN HEALTH DISTRICT

"Always working for a safer and healthier community."

File No. SUB07-03
Date 4-9-08
Exhibit No. 15
Received by djh



August 30, 2007

Michael E. Shuttleworth
Benton County Planning Department
P. O. Box 910
Prosser, WA 99350

RE: Preliminary Plat of River's Edge Estates,
PTN Govt. Lot 1 S7 T8 R24, Benton
County.

Dear Mr. Shuttleworth:

This office has reviewed the above referenced preliminary plat in accordance with our current land development policies and requirements for new subdivisions. Our findings are listed below:

1. There are 20 lots proposed.
2. Proposed land use is for single family residences.
3. The proposed lots are to be served by single family wells.
4. Limited soils testing on the lots has revealed Silt Loam (Type V) or Type 1A (Extremely gravelly) soils in the treatment zone over the entire plat.
5. Slopes over the plat appear to be less than 15%.
6. A drain ditch with surface waters runs along the west side of proposed lot 6.
7. The Yakima River runs along the south boundaries of Lot 6-13.

These findings indicate the above referenced plat may meet our requirements for plats utilizing on-site sewage disposal systems and an approved public water supply, provided:

1. All proposed lots must contain a minimum of 0.5 acres usable land area and 1 acre gross land area. Usable area may not include easements, or area within 100' of approved public water supply wells or surface waters.
2. The following items are placed on the plat:

ENVIRONMENTAL HEALTH

COMMUNITY HEALTH CENTERS

100 N. Fruitland, Suite D
Kennewick, WA 99336
Phone: (509) 586-0673

800 W. Canal Drive
Kennewick, WA 99336
Phone: (509) 582-7761

471 Williams Blvd.
Richland, WA 99354
Phone: (509) 943-2614

800 W. Canal Drive
Kennewick, WA 99336
Phone: (509) 586-0207

412 W. Clark Street
Pasco, WA 99301
Phone: (509) 547-9737

310 7th Street
Prosser, WA 99350
Phone: (509) 786-1633

- a) All wells within 150' of the plat.
- b) Dwelling(s) and permanent structure(s).
- c) The following statements:
 - i) "This plat appears to have suitable conditions for the use of alternative on-site sewage disposal systems. However, because of the testing methods used, we have no way of determining whether each lot can comply with Benton-Franklin Department Rules and Regulations at the time of permit issuance.

Further, be advised this departments' approval of any lot within this plat for the use of on-site sewage disposal systems may be contingent upon that lot passing additional soil inspections/percolation tests, and/or other requirements at a later date."

- ii) "Limited soils testing on lots 1-4 and 16-20 in this subdivision has revealed a Type 1A (Extremely gravelly) soil condition. Any sewage disposal system to be permitted in areas of Type 1A soils may be required to meet Treatment Standard 2. The Benton-Franklin District Health Department should be contacted for further information."

- 3. Each lot must be configured to allow a 100' radius water supply protection zone to fit within the lot lines

or

A 100' protection zone must be established around each existing and proposed well site.
- 4. It is recommended that the entire subdivision be dry-sewered in order to facilitate future connection to a municipal sewer utility
- 5. Prior to issuance of on-site sewage disposal permits, additional test holes may be required to verify acceptable area for initial and replacement sewage disposal system and design criteria such as trench depth on each lot.
- 6. Prior to final approval, this office must be given the opportunity to review the final plat for compliance with Benton-Franklin Health Department Rules and Regulations No. 2, and WAC 246-272, and issue appropriate comments to the Benton County Planning Department.

Michael E. Shuttleworth
August 30, 2007
Page 3

Our general recommendation is based upon present known site conditions and does not guarantee the granting of on-site sewage disposal system permits. Our approval of any lot within this plat may be contingent upon that lot passing additional soil inspections/percolation tests, and/or other requirements at a later date. Should adverse site conditions be revealed at a later date, the Health Department reserves the right to impose restrictions or deny the issuance of any on-site sewage disposal system permits.

The preceding recommendation shall be valid for a period not to exceed 12 months from this date, and will be deemed null and void should this proposal not be developed by May 11, 2008.

If you have any questions, please contact the Kennewick Health office, phone 582-7761, Ext. 266.

Sincerely,

A handwritten signature in cursive script that reads "Jeri L. Randle". The signature is written in dark ink and is positioned above the printed name.

Jeri L. Randle
Environmental Health Specialist II



Prevent • Promote • Protect "Always working for a safer and healthier community."

File No. SUB 07-03
Date 4-9-08
Exhibit No. 10
Received by djh

FEB 25 2008
PLANNING DEPARTMENT

February 22, 2008

Michael E. Shuttleworth, Senior Planner
Benton County Planning Department
P.O. Box 910
Prosser, WA 99350-0910

RE: Determination of Non-Significance
File No. EA 07-56; Hodges

Dear Mr. Shuttleworth:

This office has reviewed the above referenced proposal and has no objections provided:

- 1) All proposed lots will be served by on-site sewage disposal systems that are permitted, installed and approved in accordance with Benton-Franklin District Board of Health Rules and Regulations No.2.
- 2) All proposed lots will be served by an approved public water supply in accordance with WAC 246-290, or individual wells.
- 3) All proposed lots meet minimum gross and usable land area requirements as specified in Benton-Franklin District Board of Health Rules and Regulations No. 2.

If you have any questions, please contact me at the Kennewick Health Office, phone 582-7761, Ext 266.

Sincerely,

Jeri L. Randle
Environmental Health Specialist

ENVIRONMENTAL HEALTH

100 N. Fruitland, Suite D
Kennewick WA 99336
Phone: (509) 586-0673

800 W. Canal Drive
Kennewick, WA 99336
Phone: (509) 582-7761

COMMUNITY HEALTH CENTERS

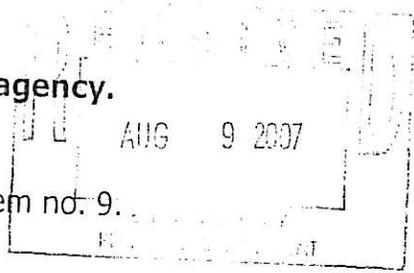
471 Williams Blvd.
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800 W. Canal Drive
Kennewick, WA 99336
Phone: (509) 586-0207

412 W. Clark Street
Pasco, WA 99301
Phone: (509) 547-9737

310 7th Street
Prosser, WA 99350
Phone: (509) 786-1633

Please check each one that you feel is appropriate for your agency.



If you have any comments or objections - please elaborate under item no. 9.

File No. SUB 07-03
Date 4-9-08
Exhibit No. 17
Received by djm

- | | Approval | Object |
|------------------------------------------------|----------|--------|
| 1. Lot size of _____ | _____ | _____ |
| 2. Access (Roads, alleys & other public ways) | _____ | _____ |
| 3. Water Supply | _____ | _____ |
| 4. Sanitary waste disposal systems | _____ | _____ |
| 5. Parks and Playgrounds | _____ | _____ |
| 6. Fire protection facilities | _____ | _____ |
| 7. Drainage and storm water easements | _____ | _____ |
| 8. Utility easements (Phone, water, gas, etc.) | _____ | _____ |

9. PROPOSED STREET NAMES ON 'PRELIMINARY PLAT' OF PAIGE LANE AND RIVERS EDGE DRIVE, ARE NOT IN USE BY ANY OTHER AGENCY/JURISDICTION IN THE GREATER BENTON COUNTY AREA. THEREBY ACCEPTABLE BY SOUTHEAST COMMUNICATIONS CENTER (SE-Comm). See Buak, Project Assistant/SE-Comm 8-02-2007

I certify that the above recommendations are adequate for this agency.

Signature [Handwritten Signature]

Agency Southeast Communications Center

Date August 3, 2007

Project Name Rivers Edge Estates

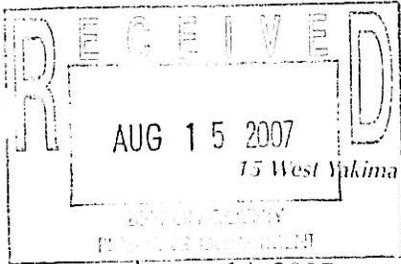
File No. SUB 07-03/EA 07-56



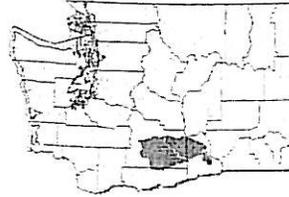
STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

15 West Yakima Avenue, Suite 200 • Yakima, Washington 98902-3452 • (509) 575-2490

File No. SUB 07-03
Date 4-9-03
Exhibit No. 18
Received by djh



August 14, 2007



Your address
is in the
**Lower
Yakima
watershed**

Michael Shuttleworth
Benton County Planning
P.O. Box 910
Prosser, WA 99350

Dear Mr. Shuttleworth:

Thank you for the opportunity to comment on the pre-threshold determination for the Rivers Edge Estates subdivision, proposed by Wes & Laura Jean Hodges and Gary & Annette Christensen [SUB 07-03/EA 07-56]. We have reviewed the environmental checklist and have the following comment.

Water Resources

In Washington State, prospective water users must obtain authorization from the Department of Ecology before diverting surface water or withdrawing ground water, with one exception. Ground water withdrawals of up to 5,000 gallons per day used for single or group domestic supply, industrial purposes, stock watering or for the irrigation of up to one-half acre of lawn and garden are exempt from the permitting process. Water use under the RCW 90.44.050 exemption establishes a water right that is subject to the same privileges, restrictions, laws and regulations as a water right permit or certificate obtained directly from Ecology.

On March 28, 2002 the Washington State Supreme Court ruled that the RCW 90.44.050 permit exemption does not apply where a developer of a residential subdivision proposes multiple wells to serve each lot in the development because in combination, the withdrawal will exceed the exemption criteria.

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 your area becomes limited, your use could be curtailed by those with senior water rights.



Mr. Shuttleworth
August 14, 2007
Page 2 of 2

This project will exceed the 5,000 gallons per day (gpd) and will therefore need to apply for a water right permit through the Department of Ecology.

Ecology encourages the project proponents contact Ecology. Ecology can provide assistance in determining the water supply need for this project and provide the project proponent with options in which to obtain an issued water right. If you have any questions concerning the Water Resources comments, please contact Brean Zimmerman at (509) 454-7647.

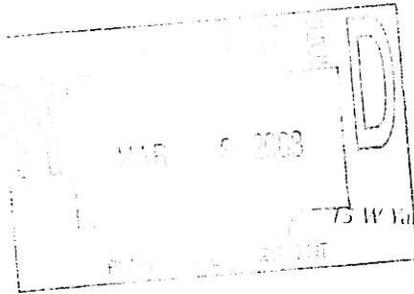
Water Quality

Dividing or platting of a piece of property is often the first step in a proposed development. If a subsequent individual or common plan of development exceeds 1 acre of disturbed ground in size an NPDES Construction Stormwater Permit may be required. Ground disturbance includes all utility placements and building or upgrading existing roads. The process requires going through SEPA, developing a stormwater pollution prevention plan, submitting an application and a 30 day public notice process. This may take 45-60 days. A permit and a stormwater plan are required prior to beginning ground-breaking activities. Please contact Cory Hixon with the Department of Ecology, (509) 454-4103, with questions about this permit.

Sincerely,



Gwen Clear
Environmental Review Coordinator
Central Regional Office
(509) 575-2012



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

75 W Yakima Ave, Ste 200 • Yakima, WA 98902-3452 • (509) 575-2490

File No. SYB07-03
Date 4-9-08
Exhibit No. 19
Received by djh

March 5, 2008



Your address
is in the
**Lower
Yakima
watershed**

Michael Shuttleworth
Benton County Planning
P.O. Box 910
Prosser, WA 99350

Dear Mr. Shuttleworth:

Thank you for the opportunity to comment on the mitigated determination of nonsignificance for the Rivers Edge Estates subdivision of 50 acres into 20 lots, proposed by Wes Hodges [EA 07-56]. We have reviewed the environmental checklist and have the following comments.

Water Resources

The subdivision of this property into 20 lots will most likely result in 20 homes and therefore 20 domestic withdrawals. If it is the intention to provide water through the use of exempt wells for these properties it's important to note that even though the exempt well law authorizes a water use that is exempt from the water right permitting process it is not exempt from the laws and rules that govern water rights.

An exempt well has a priority date of the first beneficial use of water and is junior to all other exempt wells and water rights that have an older priority date. Chapter 173-150 WAC provides for the protection of existing rights against impairment, i.e. interruption or interference in the availability of water, or contamination caused by withdrawal of ground water by a junior water right holder. If an exempt well is found to cause impairment to other exempt wells or water rights senior to it, that exempt well runs the risk of being shut off. During the 2001 and 2005 droughts, water rights with priority dates as old as 1905 were shut off, including the Town of Roslyn's municipal supply.

There is a connection between groundwater and surface water that is referred to as "hydraulic continuity". Since these properties are located just off the bank of the Yakima River it is likely wells drilled will be in hydraulic continuity with the river. The



Mr. Shuttleworth
March 5, 2008
Page 2 of 3

combined withdrawal of the 20 lots within this development will have the potential to cause impairment to existing water users down stream.

Furthermore, the Attorney General's Opinion, (AGO 1997 No. 6) regarding the status of exempt ground water withdrawals, states that a group of wells drilled by the same person or group of persons, at or about the same time, in the same area, for the same purpose or project should be considered a single withdrawal and would not be exempt from the permitting requirement contained in RCW 90.44.050, if the total amount withdrawn for domestic use exceeds 5,000 gallons per day or if a total of more than .5 acre of lawn and garden are irrigated.

The Attorney General's opinion suggests that caution should be used in finding developments to be exempt from needing a water right permit if the possibility exists that the development of the project will result in the ultimate withdrawal of water in excess of 5,000 gallons per day or the irrigation of more that .5 acre of lawn and garden.

In addition, the Mitigated Determination of Nonsignificance (MDNS) for this project lays out three ways in which legal availability of water can be demonstrated. One of the three includes, "a written approval of the Washington State Department of Health (DOH) Group A or Group B public water supply system has been installed and is available for providing potable water to the lot." This option does not demonstrate a legal use of water, but rather a requirement put forth by DOH for water supply systems.

If you have any questions concerning the Water Resources comments, please contact Breean Zimmerman at (509) 454-7647.

Water Quality

Project Greater-Than 1 Acre with Potential to Discharge Off-Site

An NPDES Construction Stormwater General Permit from the Washington State Department of Ecology is required if there is a potential for stormwater discharge from a construction site with more than one acre of disturbed ground. This permit requires that the SEPA checklist fully disclose anticipated activities including building, road construction and utility placements. Obtaining a permit is a minimum of a 38 day process and may take up to 60 days if the original SEPA does not disclose all proposed activities.

The permit requires that Stormwater Pollution Prevention Plan (Erosion Sediment Control Plan) is prepared and implemented for all permitted construction sites. These control measures must be able to prevent soil from being carried into surface water (this

Mr. Shuttleworth
March 5, 2008
Page 3 of 3

includes storm drains) by stormwater runoff. Permit coverage and erosion control measures must be in place prior to any clearing, grading or construction.

More information on the stormwater program may be found on Ecology's stormwater website at: <http://www.ecy.wa.gov/programs/wq/stormwater/construction/>. Please submit an application or contact Bryan Neet at the Dept. of Ecology, (509) 575-2808, with questions about this permit.

Sincerely,



Gwen Clear
Environmental Review Coordinator
Central Regional Office
(509) 575-2012

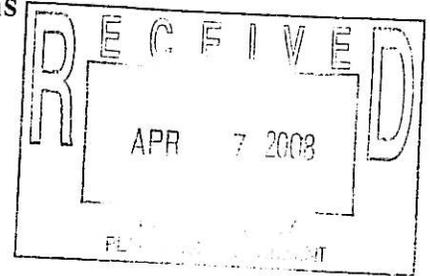
Benton County Fire Marshal's
Review of Proposed Planning Applications

TO: Mike Shuttleworth

SUB: 07-03 & EA 07-56

Date Received 8-2-07 Date Returned 8-8-07

File No. SUB 07-03
Date 4-9-08
Exhibit No. 20
Received by ajh



Applicant's Comments: Wes Hodges, 12301 S. 1538 PR SW Prosser, 539-6940, proposes a 20 lot subdivision with each lot exceeding 1 acre. With the exception of lot 1 all lots are vacant. Lot 1 has an existing house and out buildings.

Fire Marshal's Comments: Mr. Hodges is requested to read item 1 below. If the all roads are not installed initially then temporary approved turnaround are required. The easiest way to do this is to use the T-shaped designed shown on the final page.

Should the private driveway travel distance to a future home for any lot exceed 200', then the below applicable driveway sections will be required. Examples of Approved turnarounds are attached.

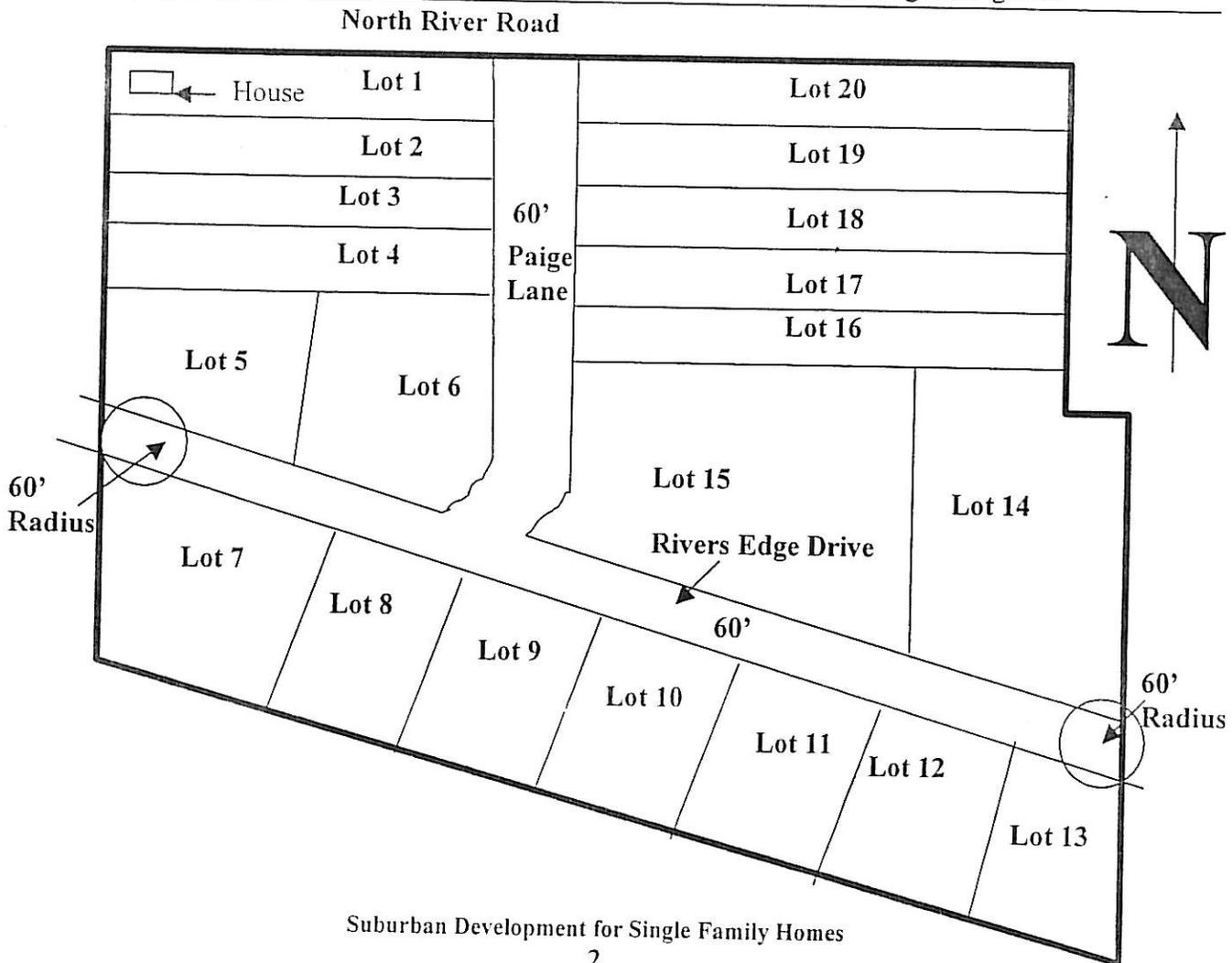
To prevent the requirement of hydrants the lots should have recorded that the minimum set back for all structures, from all lot lines, is twenty-five (25) feet unless greater distances are required by other county regulations (i.e., zoning, building, etc.) and that the lot is for single family or duplex.

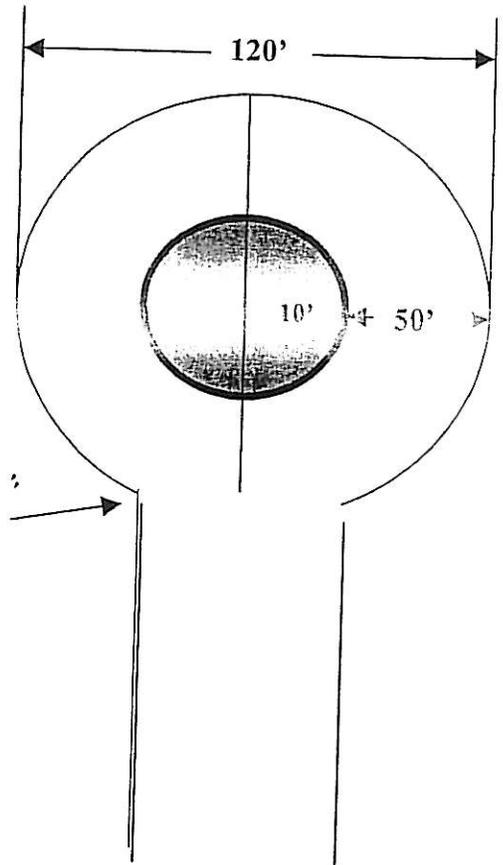
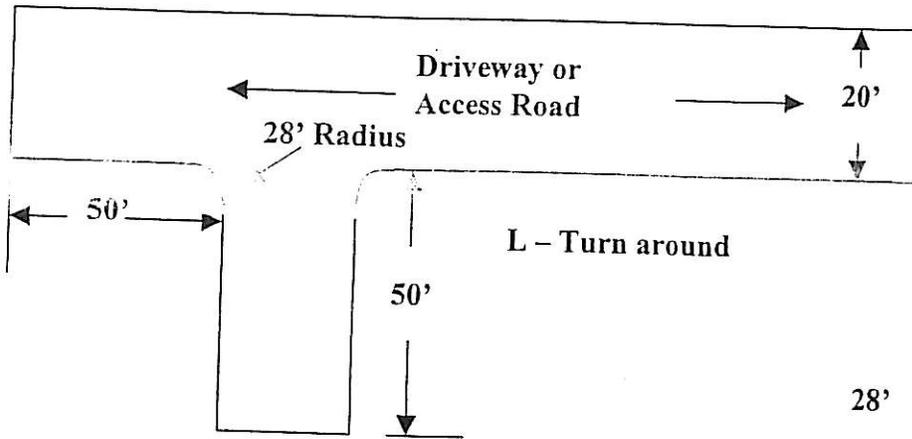
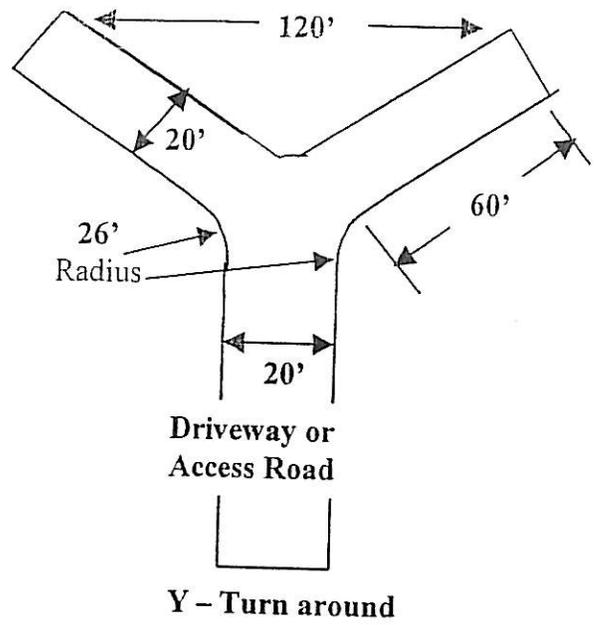
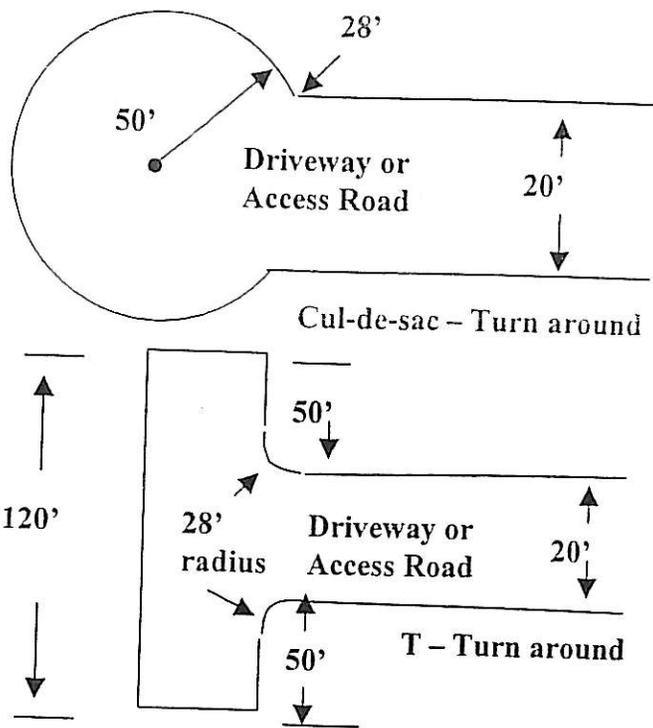
If property is on slopes exceeding 15%, it is important that contact be made with the Fire Marshal before a building permit is applied for. Items 3 & 4 below refer to construction standards for homes on slopes greater than 15%.

Required:

1. Should a proposed access road, lane, street, access easement, or private road exceeding 150 feet not be constructed in its entirety or should a proposed private driveway exceeding 200 feet not be constructed in its entirety, then an approved temporary turnaround shall be installed. When the above is lengthen, a new turnaround shall be installed.
2. The grade of the access road will need to meet the current standards at the time of construction. Currently the standards are as follows:
 - a. Access roads over 150 long and private driveways over 200 feet long with a grade that is less than or equal to 12% are to be finished with two (2) inches of Base Course Crushed Surfacing. The base course (1½" minus) is to be in accordance with the specifications set forth in Standard Specifications for Road, Bridges and Municipal Construction published by the Washington State Department of Transportation.
 - b. Grades between 12% and 15% are to have asphalt surface.
 - c. Graveled roads that have sections of grade that exceeds 12% but is less than 15% require a written waiver request to be filed with the Fire Marshal. A waiver May Be granted permitting the gravel surface. But in no case shall the sections that are between 12% and 15% be greater than 600' in length. A waiver will only be considered if:
 1. A written waiver request is submitted explaining the reasons for requesting the waiver.
 2. The Fire District Chief approves, in writing, the waiver.
 3. As-built drawings of the completed road will be required. A Washington State Registered Surveyor or Civil Engineer can provide the as-builts.

- d. Minimum improved road width is 20 feet for access roads over 150 feet and for private driveways over 200 feet long. Access roads over 150 feet long and private driveways over 200 feet long shall have a cul-de-sac with a minimum improved turning radius of 45 feet. Other turnaround designs that incorporate only one back-up motion are acceptable, but must be approved by the Benton County Fire Marshal prior to construction.
- e. All drainages, creeks, etc shall be traversed by bridges/culverts shall be capable of supporting the imposed weights.
 1. At a minimum the design shall support the weight of a 60,000-pound fire truck.
 2. A letter from a Washington State Registered Civil Engineer stating that the design meets the imposed loads is required. A second letter from a Washington State Registered Civil Engineer stating that the installation meets the designed loads is required.
 3. A sign on each end of the bridge/culvert that states in pounds the load limits is required.
3. Home construction in Benton County is to conform to the IBC and must meet the current standards for fire protection of BCC. Currently the applicable standards are as follows.
 - a. Wood roofs are not allowed.
 - b. When determined by the Fire Marshal, non-combustible siding, skirting and soffit material is required on the down hill side of structures within 30 feet of a 15% or greater grade.
 - c. When determined by the Fire Marshal, all structures within 30 feet of a property line shall have noncombustible siding, soffits, or skirting on the side adjacent to an undeveloped area of natural vegetation that is in excess of 5 contiguous acres.
 4. Decks and porches that are 3 feet or less above grade shall have non-combustible skirting if within 30 feet of adjacent to an undeveloped area of natural vegetation that is in excess of 5 contiguous acres, or on the down hill side of structures within 30 feet of a 15% or greater grade.





Proposed Plat for
RIVERS EDGE ESTATES
SUB 07-56
For 2008/2009 tax year

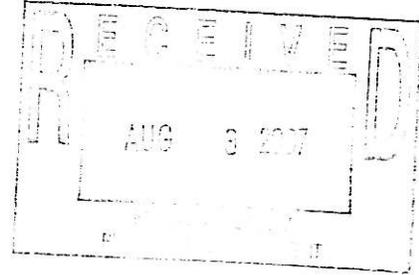
File No. SUB 07-03
Date 4-9-08
Exhibit No. 21
Received by cyh

Date: August 2, 2007

To: Mike Shuttleworth-Planning Department

From: Patty Yahne – Assessor's Office

P.Y.



Comments:

Mike,
The legal description is missing for parcel 1-0784-200-0001-001.

Address's to be added later.



File No. SUB07-03
Date 4-9-08
Exhibit No. 22
Received by djh

STATE OF WASHINGTON

DEPARTMENT OF ARCHAEOLOGY & HISTORIC PRESERVATION

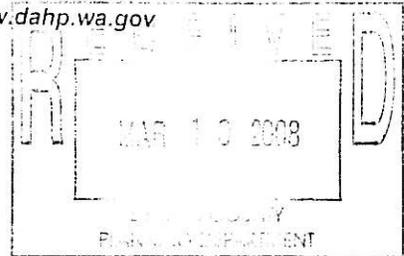
1063 S. Capitol Way, Suite 106 • Olympia, Washington 98501

Mailing address: PO Box 48343 • Olympia, Washington 98504-8343

(360) 586-3065 • Fax Number (360) 586-3067 • Website: www.dahp.wa.gov

March 4, 2008

Mr. Terry Marden, Director
Benton County Planning & Building Dept.
PO Box 910
Prosser, WA 99350-0910



In future correspondence please refer to:

Log: 030408-07-BN

Property: Rivers Edge Estates EA 07-56 Hodges Preliminary Plat 50 acres

Re: Archaeology - Survey Requested

Dear Mr. Marden:

We have reviewed the materials forwarded to our office for the proposed project referenced above. Its location near the Yakima River contributes to the area's potential for archaeological resources. There are also three recorded archaeological sites within one mile of the project area and an additional site within 1.5 miles. Further, the scale of the proposed ground disturbing actions would destroy any archaeological resources present. Identification during construction is not a recommended detection method because inadvertent discoveries often result in costly construction delays and damage to the resource. Therefore, we recommend a professional archaeological survey of the project area be conducted prior to ground disturbing activities. We also recommend consultation with the concerned Tribes' cultural committees and staff regarding cultural resource issues.

If any federal funds or permits are involved Section 106 of the National Historic Preservation Act, as amended, and its implementing regulations, 36CFR800, must be followed. This is a separate process from SEPA and requires formal government-to-government consultation with the affected Tribes and this agency.

These comments are based on the information available at the time of this review and on behalf of the State Historic Preservation Officer. Should additional information become available, our assessment may be revised. Thank you for the opportunity to comment on this project and we look forward to receiving the survey report. Should you have any questions, please feel free to contact me at (360) 586-3088 or Scott.Williams@dahp.wa.gov.

Sincerely,

Scott Williams
Assistant State Archaeologist
(360) 586-3088
scott.williams@dahp.wa.gov

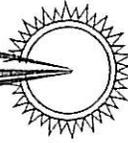
cc: Johnson Meninick, YIN



DEPARTMENT OF ARCHAEOLOGY & HISTORIC PRESERVATION

Protect the Past. Shape the Future.

SUNNYSIDE
VALLEY
IRRIGATION
DISTRICT

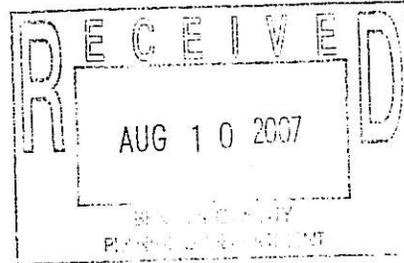


File No. SUB07-03
Date 4-9-08
Exhibit No. 23
Received by cyh

SERVING AGRICULTURE SINCE 1906

August 9, 2007

R. J. Lott, Associate Planner
Benton County Planning/Building Department
Planning Annex
P.O. Box 910
Prosser, WA 99350



Re: Short Plat - ~~SHP 07-03~~ *SUB*

Dear Mr. Lott:

This office has reviewed the proposed project. Sunnyside Valley Irrigation District (SVID) has the following comments:

1. Irrigation distribution facilities and easements must be provided pursuant to RCW 58.17.310
2. All irrigation assessments must be paid in full prior to SVID approval.
3. Access for plats and/or subdivisions will not be allowed on SVID operation and maintenance roads. Buildings and/or obstructions will not be allowed within SVID easements or right-of-way without permits.
4. Storm drainage will not be allowed to discharge into SVID drains without permits.
5. The formation of a Local Improvement District (LID) will need to be completed for the development prior to SVID approval.
6. A pressurized irrigation distributions system to serve all lots within the development will need to be installed prior to SVID approval.
7. Please contact Doug Lindley, P.E. at SVID (509) 837-6980 or lindleyd@svid.org for additional subdivision requirements and fees.

Thank you for the opportunity to comment on this proposed project. If you have any questions, please feel free to call me at 837-6980.

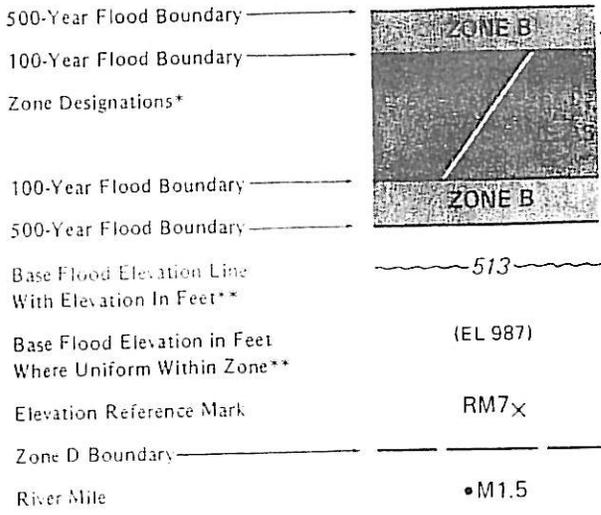
Sincerely,

Doug Lindley, P.E.
Staff Engineer

Enclosure

N:\WORD\SHARE\Engineering Standard Letters\Benton County\Short plat 07-03-Rivers Edge Estates.doc

KEY TO MAP



** Referenced to the National Geodetic Vertical Datum of 1929

***EXPLANATION OF ZONE DESIGNATIONS**

ZONE	EXPLANATION
A	Areas of 100-year flood; base flood elevations and flood hazard factors not determined.
A0	Areas of 100-year shallow flooding where depths are between one (1) and three (3) feet; average depths of inundation are shown, but no flood hazard factors are determined.
AH	Areas of 100-year shallow flooding where depths are between one (1) and three (3) feet; base flood elevations are shown, but no flood hazard factors are determined.
A1-A99	Areas of 100-year flood; base flood elevations and flood hazard factors determined.
A99	Areas of 100-year flood to be protected by flood protection system under construction; base flood elevations and flood hazard factors not determined.
B	Areas between limits of the 100-year flood and 500-year flood; or certain areas subject to 100-year flooding with average depths less than one (1) foot or where the contributing drainage area is less than one square mile; or areas protected by levees from the base flood. (Medium shading)
C	Areas of minimal flooding. (No shading)
D	Areas of undetermined, but possible, flood hazards.
V	Areas of 100-year coastal flood with velocity (wave action); base flood elevations and flood hazard factors not determined.
V1-V30	Areas of 100-year coastal flood with velocity (wave action); base flood elevations and flood hazard factors determined.

NOTES TO USER

Certain areas not in the special flood hazard areas (zones A and V) may be protected by flood control structures.

This map is for flood insurance purposes only; it does not necessarily show all areas subject to flooding in the community or all planimetric features outside special flood hazard areas.

For adjoining map panels, see separately printed Index To Map Panels.

INITIAL IDENTIFICATION:
AUGUST 9, 1977

FLOOD HAZARD BOUNDARY MAP REVISIONS:

Use this map to determine when actuarial rates apply to structures in the zones where elevations or depths have been established.

determine if flood insurance is available in this community, contact your insurance agent, or call the National Flood Insurance Program, at (800) 638-6620.

File No. SUB 07-03
Date 4-9-08
Exhibit No. 24
Received by djh



APPROXIMATE SCALE



NATIONAL FLOOD INSURANCE PROGRAM

**FIRM
FLOOD INSURANCE RATE MAP**

**BENTON COUNTY,
WASHINGTON
(UNINCORPORATED AREAS)**

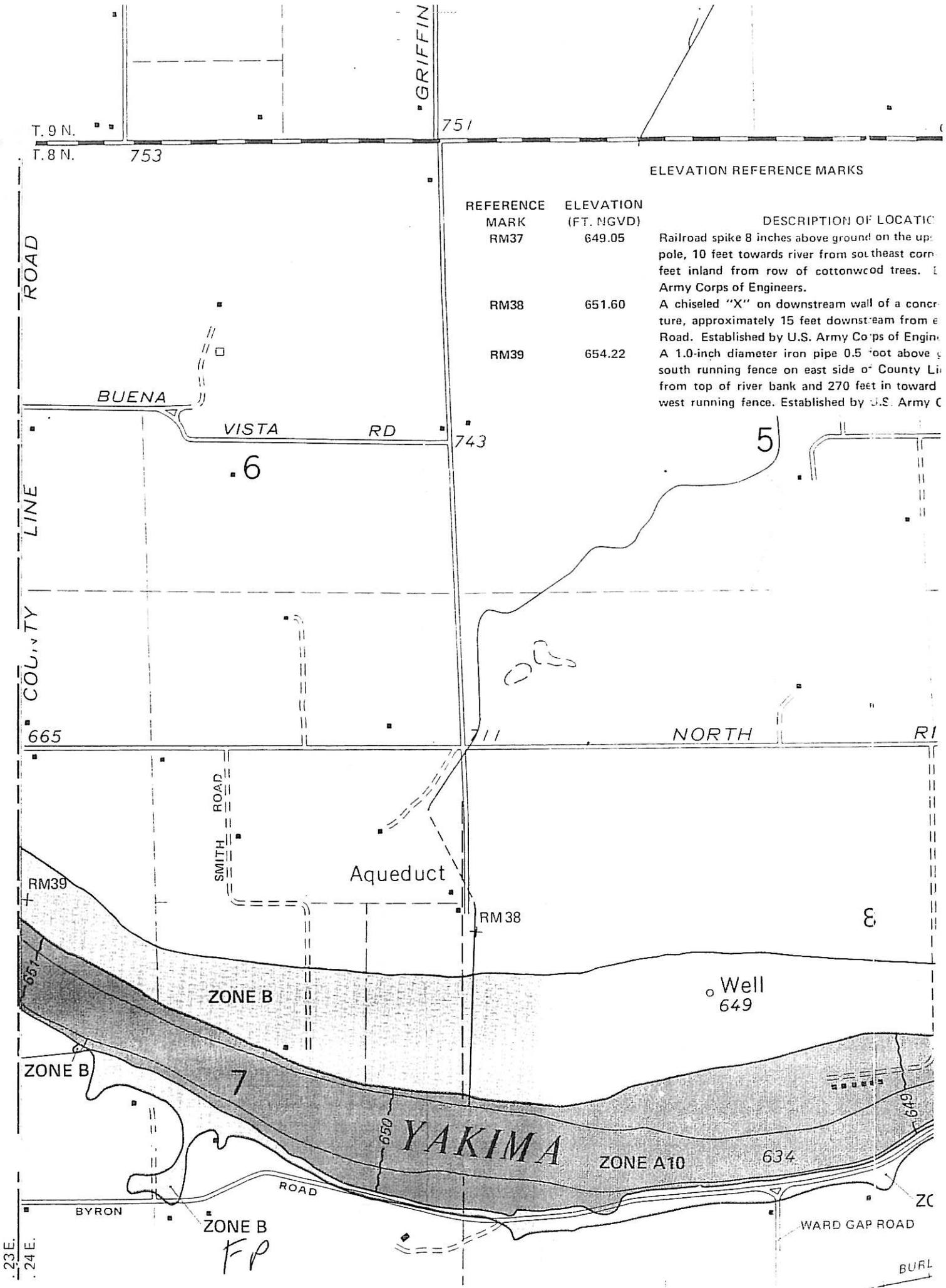
PANEL 480 OF 1075
(SEE MAP INDEX FOR PANELS NOT PRINTED)

COMMUNITY-PANEL NUMBER
530237 0480 B

EFFECTIVE DATE:
JULY 19, 1982



Federal Emergency Management Agency



ELEVATION REFERENCE MARKS

REFERENCE MARK	ELEVATION (FT. NGVD)	DESCRIPTION OF LOCATION
RM37	649.05	Railroad spike 8 inches above ground on the up pole, 10 feet towards river from southeast corner, 10 feet inland from row of cottonwood trees. Established by U.S. Army Corps of Engineers.
RM38	651.60	A chiseled "X" on downstream wall of a concrete structure, approximately 15 feet downstream from the road. Established by U.S. Army Corps of Engineers.
RM39	654.22	A 1.0-inch diameter iron pipe 0.5 foot above ground on south running fence on east side of County Line from top of river bank and 270 feet in toward west running fence. Established by U.S. Army Corps of Engineers.

ROAD
LINE
COUNTY

GRIFFIN

T.9 N.
T.8 N. 753

751

BUENA

VISTA RD 743

.6

5

665

711 NORTH RD

SMITH ROAD

Aqueduct

RM39

RM38

ZONE B

Well 649

ZONE B

7

650 YAKIMA

ZONE A10

634

BYRON

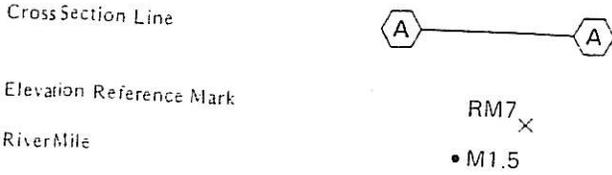
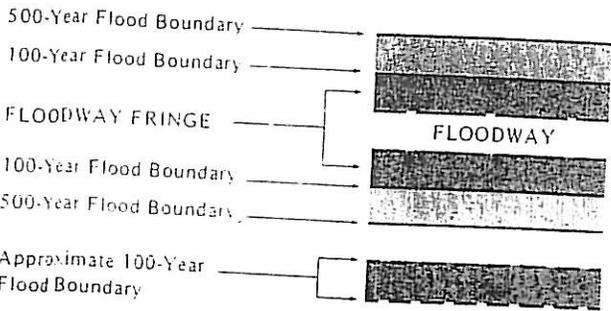
ZONE B FP

WARD GAP ROAD

23 E.
24 E.

BURL

KEY TO MAP



NOTES TO USER

Boundaries of the floodways were computed at cross sections and interpolated between cross sections. The floodways were based on hydraulic considerations with regard to requirements of the Federal Emergency Management Agency.

This map was prepared to facilitate flood plain management activities only; it may not show all special flood hazard areas in the community or all planimetric features outside of the flood plain. Refer to the latest official Flood Insurance Rate Map for any additional areas of special flood hazard.

Floodway widths in some areas may be too narrow to show to scale. Refer to Floodway Width Table where floodway width is shown at 1/20 inch.

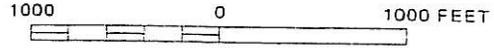
For adjoining map panels, see separately printed Index to Map Panels.

File No. SUB 07-03

Date 4-9-08

Exhibit No. 25
Drawn by dyn

APPROXIMATE SCALE



NATIONAL FLOOD INSURANCE PROGRAM

FLOODWAY FLOOD BOUNDARY AND FLOODWAY MAP

**BENTON COUNTY,
WASHINGTON**
(UNINCORPORATED AREAS)

PANEL 480 OF 1075
(SEE MAP INDEX FOR PANELS NOT PRINTED)

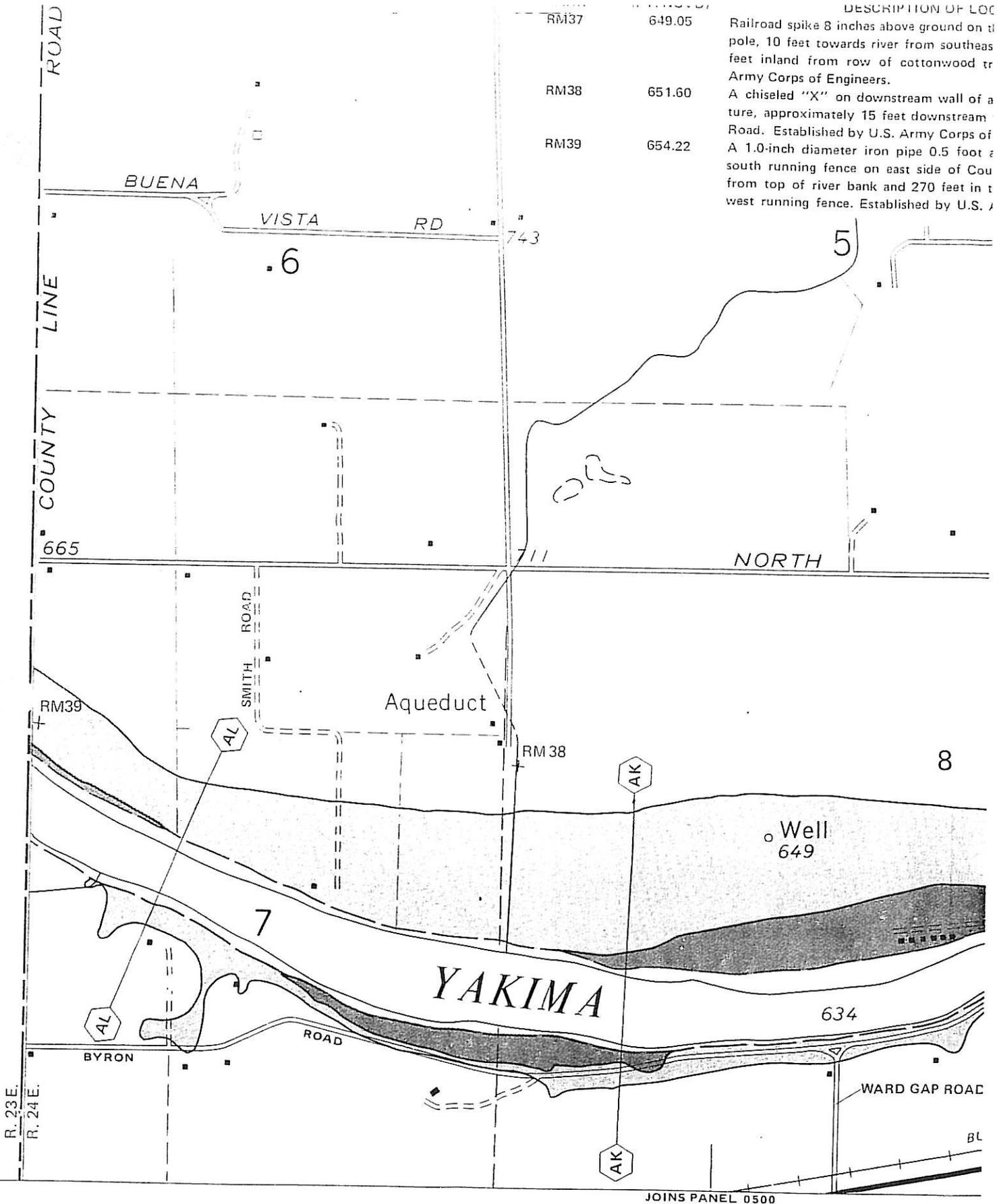
COMMUNITY-PANEL NUMBER
530237 0480

EFFECTIVE DATE:
JULY 19, 1982



Federal Emergency Management Agency

DESCRIPTION OF LOC
 RM37 649.05 Railroad spike 8 inches above ground on ti
 pole, 10 feet towards river from southeas
 feet inland from row of cottonwood tr
 Army Corps of Engineers.
 RM38 651.60 A chiseled "X" on downstream wall of a
 ture, approximately 15 feet downstream
 Road. Established by U.S. Army Corps of
 RM39 654.22 A 1.0-inch diameter iron pipe 0.5 foot e
 south running fence on east side of Cou
 from top of river bank and 270 feet in t
 west running fence. Established by U.S. A



FW

File No. SUB07-03

Date 4-9-08 8-17-07

Exhibit No. 26

Received by *djh* AUG 17 2007

Benton County Planning / Building Dept.
Dear Sirs,

I strongly appose the Planned Building of Twenty houses at North River, and hower County line Road. We already pay to much in taxes for lack of county services and this will make it much worse! Not to mention the increase in traffic, Crime, garbage and noise. This area is strongly a good land and should remain so because we need a good land more than we need houses and increased strain on our infrastructure. I hope the letter will be taken seriously and for face value

Thank You,

John Tawasci

17102" W. North River rd
Prosser, wa
99350
(509) 240-4597

Site location = NW 1/4, Sec. 7, T 8 North, R 24 E, W.M.

Site Location = Intersection of S. Lower County Line Rd.
= North River Rd.

South side of N. River Rd. / NW 1/4 of Section 7,
T 8 N, R 24 E, W. M.

Aug. 17, 2007

Benton County
Planning & Building Dept.

File No.	SUB 07-03
Date	4-9-08
EXHIBIT No.	27
Received by	dyn

Re: Proposed = River Edge Estate

As a neighbor across from this proposed sub-division, I have more than a few concerns about what 20 homes will effect this area. It would seem that an additional 20 septic systems and 20 wells would add an over-load on the land.

The roads are very narrow, so an expected 40 more vehicles could be a danger to us all.

There is wild life habitat along the river which would no doubt be eliminated.

Most of the local area is zoned agriculture, so the necessary controls, such as sprays, windmills and propane stoves in our orchards will bring complaints from new home owners, and the farmers will have their hands tied.

We understand that as of Sept 1, 2007 the lot sizes will change to 5 acres instead of 2 1/2 acres. If we could use that new restriction it would help us all.

Thank You for Accepting
my letter.

509-786-2254

Rossen, Ch. 99350

Russona K. Jernigan
174402 W. North River Rd.

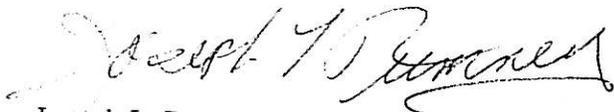
File No. SUB 07-03
Date 4-9-08
Exhibit No. 28
Received by djh

Michael Shuttleworth, Senior Planner
Benton County Planing/Building Department

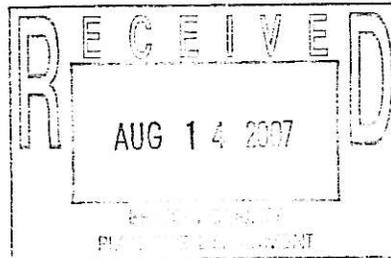
Subject: Rivers Edge Estates (File No. SUB 07-03/EA 07-56)

I would like to comment on the subject planed development. I did not receive a "Notice of Application" of the subject as I live more than 300 feet from the proposed development (I live approximately 700 feet away). I believe that property can be developed and so what I will comment on is the size of the lots. I think that they are too small, some less than 2 acres. This is an agricultural area consisting of small and large farms. The subject location is approximately 5 miles from Grandview or Prosser (approximately half way between them). If it was in the growth boundaries of Prosser or Grandview, it would be more appropriate, Therefor I suggest that 3 acre lots along the river and 5 acre lots inland is more appropriate.

I want to thank you for your consideration and would appreciate any communication in the future concerning this matter.



Joseph L. Rumney
12101 S Smith Rd.
Prosser WA. 99350
Tel. 786-2396



Benton County Comm, 2-4-08

File No. SUB 07-03

Date 4-9-08 MAR 5 2008

Exhibit No. 29

Approved by dyn

EA-07-56

Dear Sirs

The County's Plan to develop this piece of property is unjust and immoral by all standards of law. The greed of Benton Co. is a travesty. The Drawdown of our water supply and ground contaminants that sewer is unacceptable. The County has many ways to make money besides using us as lab rats for a profit for the County. Our County Roads ~~are~~ are already strained from traffic and they can handle no more traffic than is already being used. If you push this development upon us this will force many honest tax payers from the County. The traffic on North River Rd. will go off the chart and the Road will degrade to the point of massive repair.

I am sure that you think I am a nut case but in reality I am a tax payer and a loyal American Citizen and I want what is just for the good of all.

P.S. Please Reconsider your decision to approve this project!

17102 W North River rd
Prosser wa, 99350

Thank You

John Tarasi

Benton County Planning/Building Department

Terry A. Marden, Director

PLANNING
Planning Annex
P.O. Box 910, 1002 Dudley Avenue
Prosser WA 99350
Prosser Office: (509) 786-5612
Tri-Cities: (509) 736-3066
Fax: (509) 786-5629

BUILDING
Kennewick Annex
5600 W. Canal Drive, Suite C 105A
Kennewick WA 99336
Tri-Cities Office: (509) 735-3500
From Prosser: (509) 786-5622
Fax: (509) 736-2732

March 12, 2008

John Tavasci
171102 W. North River Road
Prosser, WA 99350

Dear Mr. Tavasci,

File No. SUB 07-03
Date 4-9-08
Exhibit No. 30
Received by djn

I am writing in response to the letter you submitted to me on March 6, 2008. The Washington State Department of Ecology provided comments that an exempt well has a priority date of first beneficial use of water and is junior to all other exempt wells and water rights that have an older priority date. Chapter 173-150 WAC provides for the protection of existing rights against impairment. If an exempt well is found to cause impairment to other exempt wells or water rights senior to it, that exempt well runs the risk of being shut off. The Benton County Department of Public review the proposed and existing road related to the proposed plat.

The Benton County Planning Commission will consider the proposed preliminary plat at an open record hearing and after considering all testimony presented at the hearing the Planning Commission will make a recommendation to the Board of County Commissioners. The Board of County Commissioners will consider the Planning Commission's recommendation at a closed record meeting and make the final decision on the proposed preliminary plat. All testimony must be presented at the Planning Commission's open record hearing. No additional testimony can be presented during the Board of County Commissioners closed record meeting.

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Your letter will be included with the information presented to the Planning Commission at the open record hearing on the preliminary plat for Rivers Edge Estates. You can submit additional written testimony or oral testimony at the Planning Commission's open record hearing.

If you have any questions regarding this information, please do not hesitate to contact this office.

Sincerely,

TERRY A. MARDEN, Director
PLANNING/BUILD DEPT.



MICHAEL SHUTTLEWORTH
Senior Planner

1220 Lower County Line Road
Prosser Wa 99350

March 6, 2008

Mr Michael E Shuttleworth
Benton County Planning and Building Department
P O Box 910
Prosser Wa 99350

File No. SUB 07-03
Date 4-9-08
Exhibit No. 31
Received by djh

Dear Mr Shuttleworth:

Please accept my objections to the Determination of Nonsignificance in the matter of

Proponent: Wes Hodges

File No: EA 07-58

based on the following specific points:

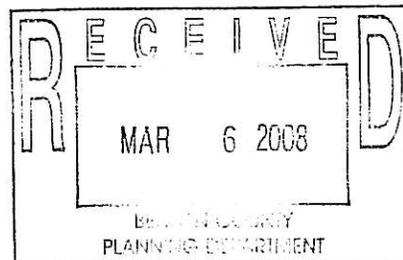
1. There are two, perhaps three, wells currently drawing water from an aquifer under the adjacent properties on the Yakima County side of the proposed development. Adding twenty-two more wells in such a limited area, each capable of drawing up to 5000 gallons a day could very seriously affect the ability of the existing wells to provide adequate water supplies without expensive modification of those wells.

2. A fifty foot setback is not consistent with good farming practices. We work very hard at minimizing the amount of spray drift that we produce, but we are an established farm and have been working this land for over thirty years and know that fifty feet is not an adequate buffer. Winds along the Yakima River have been know to provide eddies and stray winds that are not present 200 or 300 feet north of the river. In addition, Yakima County is a right-to-farm county that has a different set of criteria for agricultural practices.

3. Another, related point which should be considered is the topography of the area in which the development would be sited: the surface drainage of the land runs into the existing grape fields to the east and west. Putting twenty-two houses in the development's area will impact the grapes by having the surface drainage of what amounts to a urban development with its urban contaminants draining onto agricultural land.

Please carefully consider my objections.

Jim Pinson



Benton County Planning/Building Department

Terry A. Marden, Director

PLANNING
Planning Annex
P.O. Box 910, 1002 Dudley Avenue
Prosser, WA 99350
Phone Office: (509) 766-5612
From Tri-Cities: (509) 736-3086
Fax: (509) 766-5629

BUILDING
Kennwick Annex
5600 W. Canal Drive, Suite C 1054
Kennwick, WA 99336
Tri-Cities Office: (509) 736-3500
From Prosser: (509) 766-5622
Fax: (509) 736-2762

March 12, 2008

File No. SUB 07-08
Date 4-9-08
Exhibit No. 32
Received by djh

Jim Pinson
1220 Lower County Line Road
Prosser, WA 99350

Dear Mr. Pinson,

I am writing in response to the letter you submitted to me on March 6, 2008. The Washington State Department of Ecology provided comments that an exempt well has a priority date of first beneficial use of water and is junior to all other exempt wells and water rights that have an older priority date. Chapter 173-150 WAC provides for the protection of existing rights against impairment. If an exempt well is found to cause impairment to other exempt wells or water rights senior to it, that exempt well runs the risk of being shut off. The fifty-foot setback was based on a study completed by Allan S. Felsot a professor at Washington State University. Attached is a copy of his report. Surface water created by the development must be retained on site.

The Benton County Planning Commission will consider the proposed preliminary plat at an open record hearing and after considering all testimony presented at the hearing the Planning Commission will make a recommendation to the Board of County Commissioners. The Board of County Commissioners will consider the Planning Commission's recommendation at a closed record meeting and make the final decision on the proposed preliminary plat. All testimony must be presented at the Planning Commission's open record hearing. No additional testimony can be presented during the Board of County Commissioners closed record meeting.

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Your letter will be included with the information presented to the Planning Commission's at the open record hearing on the preliminary plat for Rivers Edge Estates. You can submit additional written testimony or oral testimony at the Planning Commission's open record hearing.

If you have any questions regarding this information, please do not hesitate to contact this office.

Sincerely,

TERRY A. MARDEN, Director
PLANNING/BUILD DEPT.


MICHAEL SHUTTLEWORTH
Senior Planner

File No. SUB 07-03
Date 4-9-08
Exhibit No. 33
Received by djh

Dear Sirs,

I live across the street from the proposed development. I am concerned about my right to farm the land adjoining the proposed development.

I am concerned about the water level in the area and wonder about his water rights.

I am concerned about the substandard road that is the access to the property and the danger of all the added traffic. It is only 16 feet across in places.

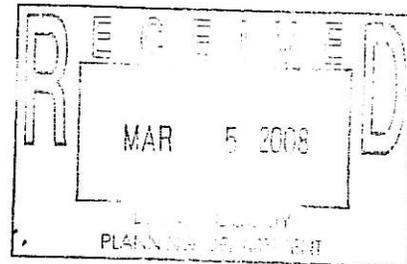
The wild life refuse across the river and the wild life that live on the land presently will be at serious risk.

The law that went into effect in Sept should be grand fathered in. The law was to preserve the farmland by keeping it to 5 acre minimums and this development will destroy farmland.

Very truly yours,

Alfredo Gonzalez

Alfredo Gonzalez 3/5/08



Benton County Planning/Building Department

Terry A. Marden, Director

PLANNING
Planning Annex
P.O. Box 810, 1002 Dudley Avenue
Prosser, WA 99350
Phone: Office (509) 736-5612
From Tri-Cities: (509) 736-3086
Fax: (509) 736-5629

BUILDING
Kennewick Annex
5600 W. Canal Drive, Suite C 105A
Kennewick WA 99336
Tri-Cities Office: (509) 735-3500
From Prosser: (509) 736-5622
Fax: (509) 736-2732

March 12, 2008

File No. SUB 07-03
Date 4-9-08
Exhibit No. 34
Received by djm

Alfredo Gonzalez
901 S. Lower County Line
Prosser, WA 99350

Dear Mr. Gonzalez,

I am writing in response to the letter you submitted to me on March 5, 2008. The Washington State Department of Ecology provided comments that an exempt well has a priority date of first beneficial use of water and is junior to all other exempt wells and water rights that have an older priority date. Chapter 173-150 WAC provides for the protection of existing rights against impairment. If an exempt well is found to cause impairment to other exempt wells or water rights senior to it, that exempt well runs the risk of being shut off. The Benton County Department of Public review the proposed and existing road related to the proposed plat. The preliminary plat of Rivers Edge Estates was submitted to Benton County in August 2007 prior to the density changing from 1 dwelling unit per 2.5 acres to 1 dwelling unit per 5 acres.

The Benton County Planning Commission will consider the proposed preliminary plat at an open record hearing and after considering all testimony presented at the hearing the Planning Commission will make a recommendation to the Board of County Commissioners. The Board of County Commissioners will consider the Planning Commission's recommendation at a closed record meeting and make the final decision on the proposed preliminary plat. All testimony must be presented at the Planning Commission's open record hearing. No additional testimony can be presented during the Board of County Commissioners closed record meeting.

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Your letter will be included with the information presented to the Planning Commission at the open record hearing on the preliminary plat for Rivers Edge Estates. You can submit additional written testimony or oral testimony at the Planning Commission's open record hearing.

If you have any questions regarding this information, please do not hesitate to contact this office.

Sincerely,

TERRY A. MARDEN, Director
PLANNING/BUILD DEPT.



MICHAEL SHUTTLEWORTH
Senior Planner

File No. SUB 07-03
Date 4-9-08
Exhibit No. 35
Received by djn

To whom it may concern,

We have leased the ground that is in question and work the farm for three years and have lived next door for 27 years. In our care and before us Pete Mikkelsen's care the grapes were well maintained and blended well in the neighborhood as on all sides is farming. My concern has been since Wes H. took over the vineyard has been let go and now plans to destroy this vineyard.

The law that went into effect in Sept. should be adhered to in this situation. Five acres should be the minimum for each of the plots. Wes H. is trying to put as many houses as humanly possible for his own personal gain.

The wild animals that roam on this property will vanish. The beaver, raccoon, deer, coyotes, porcupines, ducks, geese, and owls, are all at risk. A wild life refuse is right across the Yakima River from this property call Byron Ponds.

One of the main access roads is not up to standard leading to the property. When two cars pass at 320 Lower County Line the width of the road is only 16 feet, on a blind hill, with the added traffic that is very unsafe and not up to code for access.

Another concern is the well situation. Wes H. plans to drill 22 wells and when my well is dry who is going to pay for my well to be drilled again. Why isn't he putting in a community well or is he jumping thought some loop hole for water rights.

We are also concerned about the right to farm our property while using chemicals and farm machinery so close to this development.

Very truly yours,

Steve Taylor
Karin Taylor

Steve and Karin Taylor



Benton County Planning/Building Department

Terry A. Marden, Director

PLANNING
Planning Annex
P.O. Box 910, 1002 Dudley Avenue
Prosser, WA 99350
Phone Office: (509) 786-5612
From Tri-Cities: (509) 736-3036
Fax: (509) 736-5629

BUILDING
Kennebec Annex
5600 W. Canal Drive, Suite C 105A
Kennebec WA 99335
Tri-Cities Office: (509) 735-3500
From Prosser: (509) 786-5622
Fax: (509) 736-2732

March 12, 2008

File No. SUB07-03
Date 4-9-08
Exhibit No. 30
Received by djh

Steve & Karin Taylor
1170. Lower County Line RD
Prosser, WA 99350

Dear Mr. & Mrs. Taylor,

I am writing in response to the letter you submitted to me on March 5, 2008. The Washington State Department of Ecology provided comments that an exempt well has a priority date of first beneficial use of water and is junior to all other exempt wells and water rights that have an older priority date. Chapter 173-150 WAC provides for the protection of existing rights against impairment. If an exempt well is found to cause impairment to other exempt wells or water rights senior to it, that exempt well runs the risk of being shut off. The Benton County Department of Public review the proposed and existing road related to the proposed plat. The preliminary plat of Rivers Edge Estates was submitted to Benton County in August 2007 prior to the density changing from 1 dwelling unit per 2.5 acres to 1 dwelling unit per 5 acres.

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If you have any questions regarding this information, please do not hesitate to contact this office.

Sincerely,

TERRY A. MARDEN, Director
PLANNING/BUILD DEPT.



MICHAEL SHUTTLEWORTH
Senior Planner

File No. SUB 07-03
Date 4-9-08 March 4, 2008
Exhibit No. 37
Prepared by djh

To whom it may concern: we moved to our property 174901 W. North River Rd. Prosser WA, 99350 in October of 2006 we were looking for property to buy for well over a year, we were very picky and could not find anything suitable, something quiet, private and with not a whole lot of commotions going on. We finally came across a small house with a little over 9 acres, very peaceful and serene and were willing to pay more than the price range we wanted to be in. We felt this property was well worth the extra spendeature because of the few neighbors ,very little traffic and it was low key. We have tried to raise a family of 5 in the city atmosphere and knew this country life would be a very good change. We were constantly having to deal with people complaining about too many cars, loud kids, unruly neighbors and neighbor kids and seemed very chaotic so moving to the country was a very promising change.

In August of 2007 less than one year of purchasing the property we were dealt a heart wrenching blow, someone was looking into buying the adjoining 50 acres to not only purchase but to develop the property. After further investigation we found that someone wanted to put upwards of 20 properties on the 50 acres, we were dumbfounded and did not think that was even possible on 50 acres needless to say we were in shock. The dream of owning a country like setting is rapidly diminishing. It is one thing to purchase 50 acres and put 5-6 houses but its another thing to purchase the 50 acres and put 20 houses. I find it hard to believe that you can develop that many properties on that little amount of space and not have an effect on everything and everyone around you. On any given day I can count the cars going by our house on one hand, If this development is allowed to go through I can only imagine the traffic to multiply by at least 3 fold. in turn each new house I am sure would have to have its own well which I would believe could possibly have an effect on the already existing properties, furthermore each and every new property would have to have its own septic tank/service. Would this have an effect on the surrounding wells, water tables and possibly even the river? Are the roads that lead to the development in question capable of handling that kind of traffic? I feel there is a whole list of unanswered questions brought on by the contemplation of this development, and would like the opportunity to address these unforeseen issues.

We are afraid if this new development goes through it will not be long before we are faced with the same issues being dealt with in the city, too much traffic, too much noise, to many people in one confined space, how long before people start complaining about us having too many cars too many dogs too many cats, unruly horses, smelly cattle and the list goes on . Even as I watch our dreams dwindle away I cant help but feel sorry for the surrounding home owners who have raised their families, farmed their land and lived in their homes for countless years. I understand that we need to move forward and allow for progress but in my opinion this is rape and a gross mis-use of Americas farm land. I have received only one letter in August of 2007 and have been told their has been other letters and/or mailings but have not received them. Is there a reason and if so can someone explain.



Sincerely Tomas D. Gonzalez Jr. and family

Benton County Planning/Buildi. Department

Terry A. Marden, Director

PLANNING
Planning Annex
P.O. Box 810, 1002 Dudley Avenue
Prosser, WA 99350
Office: (509) 786-5612
Tri-Cities: (509) 736-3086
Fax: (509) 786-5629

BUILDING
Kennwick Annex
5600 W. Canal Drive, Suite C 1054
Kennwick, WA 99336
Tri-Cities Office: (509) 735-3500
From Prosser: (509) 786-5622
Fax: (509) 736-2732

March 13, 2008

Tomas D. Gonzalez
174901 W. North River Rd
Prosser, WA 99350

File No. SUB 07-03
Date 4-9-08
Exhibit No. 38
Received by djh

Dear Mr. Gonzalez,

I am writing in response to the letter you submitted to me on March 5, 2008. The Washington State Department of Ecology provided comments that an exempt well has a priority date of first beneficial use of water and is junior to all other exempt wells and water rights that have an older priority date. Chapter 173-150 WAC provides for the protection of existing rights against impairment. If an exempt well is found to cause impairment to other exempt wells or water rights senior to it, that exempt well runs the risk of being shut off. The Benton County Department of Public review the proposed and existing road related to the proposed plat. The preliminary plat of Rivers Edge Estates was submitted to Benton County in August 2007 prior to the density changing from 1 dwelling unit per 2.5 acres to 1 dwelling unit per 5 acres.

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If you have any questions regarding this information, please do not hesitate to contact this office.

Sincerely,

TERRY A. MARDEN, Director
PLANNING/BUILD DEPT.



MICHAEL SHUTTLEWORTH
Senior Planner

File No. SUB 07-03
Date 4-9-08
Exhibit No. 39
Received by djn

Dear Sirs,

I live across the street from the proposed development. I am concerned about my right to farm the land adjoining the proposed development.

I am concerned about the water level in the area and wonder about his water rights.

I am concerned about the substandard road that is the access to the property and the danger of all the added traffic. It is only 16 feet across in places.

The wild life refuge across the river and the wild life that live on the land presently will be at serious risk.

The law that went into effect in Sept should be grand fathered in. The law was to preserve the farmland by keeping it to 5 acre minimums and this development will destroy farmland.

Very truly yours,

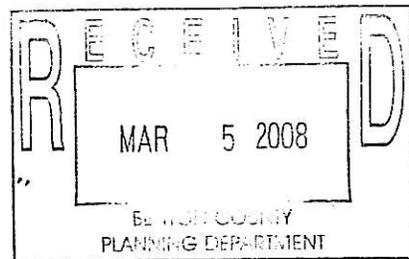
Merlin Elliott

3-5-08

Merlin Elliott
950 Lower County Line Rd
Pasco wa 99350

Karen Taylor
1170 Lower County Line Rd
Pasco wa 99350

Al Gonzales



Benton County Planning/Building Department

Terry A. Marden, Director

PLANNING
Planning Annex
P.O. Box 910, 1002 Dudley Avenue
Prosser WA 99350
Prosser Office: (509) 766-5612
Tri-Cities: (509) 736-3086
509) 766-5629

BUILDING
Kennewick Annex
5600 W. Canal Drive, Suite C, 1054
Kennewick WA 99336
Tri-Cities Office: (509) 736-3600
From Prosser: (509) 766-5622
Fax: (509) 736-2732

March 13, 2008

File No. SUB07-03
Date 4-9-08
Serial No. 40
Received by djn

Merlin Elliott
950 Lower County Line Road
Prosser, WA 99350

Dear Mr. Elliott,

I am writing in response to the letter you submitted to me on March 5, 2008. The Washington State Department of Ecology provided comments that an exempt well has a priority date of first beneficial use of water and is junior to all other exempt wells and water rights that have an older priority date. Chapter 173-150 WAC provides for the protection of existing rights against impairment. If an exempt well is found to cause impairment to other exempt wells or water rights senior to it, that exempt well runs the risk of being shut off. The Benton County Department of Public review the proposed and existing road related to the proposed plat. The preliminary plat of Rivers Edge Estates was submitted to Benton County in August 2007 prior to the density changing from 1 dwelling unit per 2.5 acres to 1 dwelling unit per 5 acres.

The Benton County Planning Commission will consider the proposed preliminary plat at an open record hearing and after considering all testimony presented at the hearing the Planning Commission will make a recommendation to the Board of County Commissioners. The Board of County Commissioners will consider the Planning Commission's recommendation at a closed record meeting and make the final decision on the proposed preliminary plat. All testimony must be presented at the Planning Commission's open record hearing. No additional testimony can be presented during the Board of County Commissioners closed record meeting.

The Benton County Planning Commission will consider the preliminary plat of Rivers Edge Estates on April 15, 2008 at 7:00 p.m. in the Benton County Planning Annex, 1002 Dudley Avenue, Prosser Washington. A copy of the open record hearing notice will be mailed to you about 10 days prior to the hearing date.

Your letter will be included with the information presented to the Planning Commission at the open record hearing on the preliminary plat for Rivers Edge Estates. You can submit additional written testimony or oral testimony at the Planning Commission's open record hearing.

If you have any questions regarding this information, please do not hesitate to contact this office.

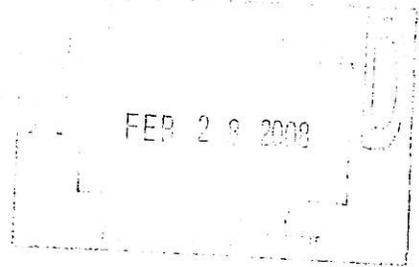
Sincerely,

TERRY A. MARDEN, Director
PLANNING/BUILD DEPT.



MICHAEL SHUTTLEWORTH
Senior Planner

File No. SUB 07-03
Date 4-9-08
Exhibit No. 41
Received by dyh



Terry A. Marden, Director
Benton County Planing & Building Dept.

2/25/08

Subject; Rivers Edge Estates (File No. EA 07-56)

Attachment; Response to same subject-Aug. 13, 2007.

Additional comments to the attachment are as follows;

All lots should be two acres plus at a minimum especially along the river or as previously stated 3 acres along the river and 5 acres inland. It is noted that there are four lots along the river and two lots inland that are less than 2 acres.

Is there adequate room on the river lots for wells and septic tanks? Can the 100-foot radius well protection zone overlap for wells? If not how would they be installed on the river lots?

Has the Benton Franklin Health District commented on the small lots along the river?

Do these small lots adhere to the planing departments zoning for this area or will this set a president?

Thanking you in advance for your consideration on these comments.

Joseph L. Rumney
12101 S. Smith rd.
Prosser WA. 99350

File No. SUB07-03
Date 4-9-08
Submit No. 41
Submitted by dyn



Michael Shuttleworth, Senior Planner
Benton County Planing/Building Department

8/13/07

Subject: Rivers Edge Estates (File No. SUB 07-03/EA 07-56)

I would like to comment on the subject planed development. I did not receive a "Notice of Application" of the subject as I live more than 300 feet from the proposed development (I live approximately 700 feet away). I believe that property can be developed and so what I will comment on is the size of the lots. I think that they are too small, some less than 2 acres. This is an agricultural area consisting of small and large farms. The subject location is approximately 5 miles from Grandview or Prosser (approximately half way between them). If it was in the growth boundaries of Prosser or Grandview, it would be more appropriate, Therefor I suggest that 3 acre lots along the river and 5 acre lots inland is more appropriate.

I want to thank you for your consideration and would appreciate any communication in the future concerning this matter.

Copy

Joseph L. Rumney
12101 S Smith Rd.
Prosser WA. 99350
Tel. 786-2396

Benton County Planning/Building Department

Terry A. Marden, Director

PLANNING
Planning Annex
P.O. Box 910, 1002 Dudley Avenue
Prosser WA 99350
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BUILDING
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5600 W. Canal Drive, Suite C 1
Kennewick WA 98541
Tri-Cities Office: (509) 735-3000
From Prosser: (509) 786-5622
Fax: (509) 736-2732

March 13, 2008

Joseph L. Rumney
12101 S. Smith Road
Prosser, WA 99350

SUB 0703
4-9-08
District No. 42
Received by dyn

Dear Mr. Rumney,

I am writing in response to the letters you submitted to me on February 28, 2008. The preliminary plat of Rivers Edge Estates was submitted to Benton County in August 2007 prior to the density changing from 1 dwelling unit per 2.5 acres to 1 dwelling unit per 5 acres. The density would allow lots under 2 acres provide there is adequate area on the lot for onsite well and septic system. Attached is a copy of the comments provided by the Benton Franklin Health District.

The Benton County Planning Commission will consider the proposed preliminary plat at an open record hearing and after considering all testimony presented at the hearing the Planning Commission will make a recommendation to the Board of County Commissioners. The Board of County Commissioners will consider the Planning Commission's recommendation at a closed record meeting and make the final decision on the proposed preliminary plat. All testimony must be presented at the Planning Commission's open record hearing. No additional testimony can be presented during the Board of County Commissioners closed record meeting.

The Benton County Planning Commission will consider the preliminary plat of Rivers Edge Estates on April 15, 2008 at 7:00 p.m. in the Benton County Planning Annex, 1002 Dudley Avenue, Prosser Washington. A copy of the open record hearing notice will be mailed to you about 10 days prior to the hearing date.

Your letters will be included with the information presented to the Planning Commission at the open record hearing on the preliminary plat for Rivers Edge Estates. You can submit additional written testimony or oral testimony at the Planning Commission's open record hearing.

If you have any questions regarding this information, please do not hesitate to contact this office.

Sincerely,

TERRY A. MARDEN, Director
PLANNING/BUILD DEPT.



MICHAEL SHUTTLEWORTH
Senior Planner

March 4, 2008

SUB 07-03

4-9-08

43

djh



Benton County
Planning & Building Dept.
Prosser, Wa. 99358
Terry A. Marden, Director

Please consider the pleas of the residents
of this area of Site # EA-07-56
Location = Intersection of S. County Line Rd. &
North River Rd. on the South Side of N. River Rd
in the NW 1/4 of Section 7, Township 5 North
Range 24 East, W.M.

I do not believe the ROAD system is
capable of handling so much traffic from an est.
20 houses in this area, let even a doubt be for the
fire protection for our homes. Is The County Ready
to be Sued for Fire Protection?

This is basically a "Dead End Road", but
remember it curves from South to East - or reversed
drastically. Two Homes are in jeopardy of
those missing the turn.

I am still hopeful that I might convince the
board that "5 acre" parcels are much easily
accepted into our homesite overview.

I also believe that 20 houses and 20 septic
tanks so close to the river with our known water
table cannot be acceptable.

Please + Thank You for
checking your dots on the
eyes & crossing the toes -

We Love Our Community.

174402 W. N. River Rd.

Ramon + Yvonne

Benton County Planning/Building Department

Terry A. Marden, Director

PLANNING
Planning Annex
P.O. Box 910, 1002 Dudley Avenue
Prosser WA 99350
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Tri-Cities: (509) 736-3086
Fax: (509) 736-5629

BUILDING
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5600 W. Canal Drive, Suite C 105A
Kennewick WA 99336
Tri-Cities Office: (509) 736-3500
From Prosser: (509) 736-5622
Fax: (509) 736-2732

March 13, 2008

File No. SUB07-03
Date 4-9-08
Exhibit No. 44-
Received by djn

Ramona Jermain
174402 W North River Rd
Prosser, WA 99350

Dear Mr. Jermain,

I am writing in response to the letters you submitted to me on March 5, 2008. The preliminary plat of Rivers Edge Estates was submitted to Benton County in August 2007 prior to the density changing from 1 dwelling unit per 2.5 acres to 1 dwelling unit per 5 acres. Your site and the site for the preliminary plat are located within the boundaries of Benton County Fire District #3. A copy of the preliminary plat was sent to them, however they did not provide comments on the proposal. The proposed road system for the preliminary plat and the surrounding road were reviewed by the Benton County Department of Public Works.

The Benton County Planning Commission will consider the proposed preliminary plat at an open record hearing and after considering all testimony presented at the hearing the Planning Commission will make a recommendation to the Board of County Commissioners. The Board of County Commissioners will consider the Planning Commission's recommendation at a closed record meeting and make the final decision on the proposed preliminary plat. All testimony must be presented at the Planning Commission's open record hearing. No additional testimony can be presented during the Board of County Commissioners closed record meeting.

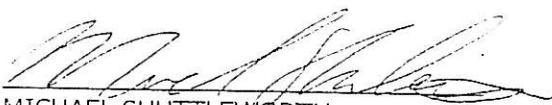
The Benton County Planning Commission will consider the preliminary plat of Rivers Edge Estates on April 15, 2008 at 7:00 p.m. in the Benton County Planning Annex, 1002 Dudley Avenue, Prosser Washington. A copy of the open record hearing notice will be mailed to you about 10 days prior to the hearing date.

Your letters will be included with the information presented to the Planning Commission at the open record hearing on the preliminary plat for Rivers Edge Estates. You can submit additional written testimony or oral testimony at the Planning Commission's open record hearing.

If you have any questions regarding this information, please do not hesitate to contact this office.

Sincerely,

TERRY A. MARDEN, Director
PLANNING/BUILD DEPT.


MICHAEL SHUTTLEWORTH
Senior Planner

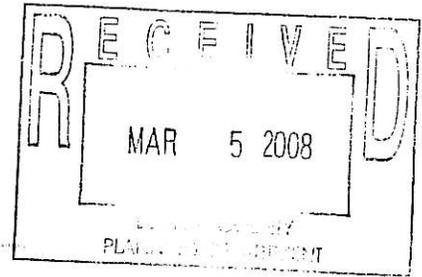
March 5, 2008

Terry A. Marden, Director
Benton County Planning & Building Dept.

Subject: Rivers Edge Estates
File No. EA 07-56

Mr. Marden:

File No. SUB0703
Date 4-9-08
Committee No. 45
Received by djm



As adjacent property owners to the proposed Rivers Edge Development, we wish to appeal the decision to allow the development to proceed as approved. We have concerns regarding the environmental impact of this project, as well, as concerns regarding the placing of 20 homes in the heart of a predominately rural area.

Regarding the environmental side of the issue, with so many lots, and many of them less than 5 acres, is there adequate area in each lot and between lots for septic and well water safety/health issues? Is it prudent to cram 20 homes in a rural cluster development, while neighboring Yakima County has more stringent regulations, and even Benton County has recently reevaluated lot size to 5 acres? What will the impact be on river use and shore line integrity?

The impact of this volume of new homes would directly impact our ability and freedom to farm as usual. Within the last few years we have seen a dramatic increase in vandalism, theft, and trespassing in our fields. More people would only exacerbate these problems. And as urban dwellers move to rural areas they bring misconceptions and ideas about farming with them, often complaining about dust, farm use sprays, noise and so on. Having a 50 foot setback from property lines is virtually pointless when addressing these concerns.

Our intent is not throttle the development. We realize many people have a desire to live in the country and especially along a river front. We only ask that you reconsider the number of homes, and reduce that number to a more realistic manageable number and lot size, i.e. 5 acres.

Sincerely,

A handwritten signature in cursive script that reads "Alan Sorensen".

Alan and Paula Sorensen
Sorensen Farms

Benton County Planning/Building Department

Terry A. Marden, Director

PLANNING
Planning Annex
P.O. Box 310, 1002 Dudley Avenue
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Kennewick WA 99336
Tri-Cities Office: (509) 736-3500
From Prosser: (509) 786-5622
Fax: (509) 736-2732

March 13, 2008

Alan Sorensen
2991 OIE Highway
Prosser, WA 99350

Dear Mr. Sorensen,

File No. SUB 07-03
Date 4-9-08
Exhibit No. 46
Received by dyn

I am writing in response to the letters you submitted to me on March 5, 2008. The preliminary plat of Rivers Edge Estates was submitted to Benton County in August 2007 prior to the density changing from 1 dwelling unit per 2.5 acres to 1 dwelling unit per 5 acres. The Benton Franklin Health District reviewed the proposed plat and attached is a copy of the comments provided by them.

Benton County Critical area ordinance will require that all the residential structure be at least 100 feet from the shoreline of the Yakima River. The fifty-foot setback for residential structures from the east and west property lines was based on a study created by Allan Felsot a professor at Washington State University. A copy of the report is attached to this letter.

The Benton County Planning Commission will consider the proposed preliminary plat at an open record hearing and after considering all testimony presented at the hearing the Planning Commission will make a recommendation to the Board of County Commissioners. The Board of County Commissioners will consider the Planning Commission's recommendation at a closed record meeting and make the final decision on the proposed preliminary plat. All testimony must be presented at the Planning Commission's open record hearing. No additional testimony can be presented during the Board of County Commissioners closed record meeting.

The Benton County Planning Commission will consider the preliminary plat of Rivers Edge Estates on April 15, 2008 at 7:00 p.m. in the Benton County Planning Annex, 1002 Dudley Avenue, Prosser Washington. A copy of the open record hearing notice will be mailed to you about 10 days prior to the hearing date.

Your letters will be included with the information presented to the Planning Commission at the open record hearing on the preliminary plat for Rivers Edge Estates. You can submit additional written testimony or oral testimony at the Planning Commission's open record hearing.

If you have any questions regarding this information, please do not hesitate to contact this office.

Sincerely,

TERRY A. MARDEN, Director
PLANNING/BUILD DEPT.



MICHAEL SHUTTLEWORTH
Senior Planner

DEAR SIRS

It has come to my attention, since my previous letter that I have another concern. I was told by a reliable source that there has been buried on the property asbestos. Another reliable source suggested that bottles and jars of excess pesticides and weed killers were buried in the old mint still pits. I am concerned that the disturbing of this hazardous waste will not only contaminate the ground and air on the property, but surrounding properties. I would like this information to be investigated.

Thank you, Steve Taylor

Steve Taylor

File No. SUB 0703
Date 4-9-08
Exhibit No. 47
Received by dfh

**Chapter 15.21
AGRICULTURE (AG) ZONING DISTRICT**

File No. SUB 07-03
 Date 4-9-08
 Exhibit No. 48
 Received by djh

Sections:

- 15.21.010 Purpose.
15.21.020 Type I Permitted, Type II Administrative and Type III Conditional Uses.
15.21.040 Lot Size.
15.21.045 Clustering of Existing Lots Permitted.
15.21.050 Small Lot Provisions.
15.21.105 Special Exception Lot Provisions.
15.21.120 Review Criteria for Especially Sensitive Land Uses.

15.21.010 Purpose.

The agriculture (AG) zoning district is intended to preserve and maintain areas for the continued practice of agriculture and to permit only those new uses that are compatible with agricultural activities.

The specific intent of this zoning district is to:

- (1) Implement the Comprehensive Plan which calls for the preservation of agricultural lands;
 - (2) Provide a zoning district to protect, stabilize and enhance the land base devoted to, or important for, the long-term commercial production of agricultural goods in Yakima County and to protect the best agricultural areas from conflicting uses and influences;
 - (3) Establish Type I permitted, accessory and Type II or III conditional uses which are compatible with the intent to protect agricultural lands of long-term commercial significance;
 - (4) Provide siting criteria, special setbacks, buffering standards and other measures to adequately notify and separate residential and other especially sensitive land uses from the common, customary, accepted or innovative/new technology land management practices;
 - (5) Establish and maintain a large minimum lot size for agricultural uses, procedures for parcel reconfiguration and other measures to allow flexibility in the use of agricultural lands, consistent with the purpose of the Comprehensive Plan;
 - (6) Limit the creation of small lots;
 - (7) Allow farmers and ranchers the opportunity to separate an existing residence from the balance of their agricultural property.
 - (8) Provide a positive criterion for the assessor to consider in establishing land assessments.
- (Ord. 1-2000 § 1 (Exh. A (part)), 2000).

15.21.020 Type I Permitted, Type II Administrative and Type III Conditional Uses.

Type I permitted, Type II administrative and Type III conditional uses, as listed in Chapter 15.18.
 (Ord. 1-2000 § 1 (Exh. A (part)), 2000).

15.21.040 Lot Size.

The minimum lot size in this zoning district shall be forty acres or one quarter-quarter section, including public right-of-way, except for lots created under the provisions of Sections 15.21.045, 15.21.050 and 15.21.105.

(Ord. 1-2000 § 1 (Exh. A (part)), 2000).

15.21.045 Clustering of Existing Lots Permitted.

Clustering of existing lots may be permitted through joint Type I and short subdivision exemption review for up to four clustered lots and a balance within a property or contiguous properties. A joint Type II and short subdivision exemption review process shall be used when the cumulative number of clustered lots within a property or contiguous properties exceeds four. Minor boundary line adjustments not involving clustering are not subject to the clustering provisions of this title.

The cluster shall be required to meet adopted development standards and the following:

- (1) Clustering of existing lots to locations within a property or contiguous properties may be permitted to minimize adverse effects on agriculture, using lot size(s) of one to three acres for all but the large remaining lot, except the reviewing official may authorize a larger lot size in order to: meet health requirements, follow physical features that act as obstacles to farming, meet special set-backs or encompass existing improvements, as outlined in Section 15.21.050(1). Any lot that is allowed to be greater than 3.0 acres in size shall be considered a small lot and not capable of being further subdivided while zoned AG. A covenant

indicating this restriction shall be recorded whenever a larger lot size is granted.

(2) For an existing lot to be eligible to be relocated into a cluster, it must first be considered a buildable lot. The number of lots may not be increased through this process.

(3) Clustering shall be done in such a manner as to ensure that the proposed development will not adversely impact agricultural activities on the balance of the property or on adjoining and nearby AG-zoned lands.

(4) The cluster should generally include common access and internal roadways, and shared or community wells using the water system operation, management and ownership parameters set forth in comprehensive plan policy.

(5) Where possible, the cluster should be configured to include:

(a) Use of physical features including rock outcrops, ravines or deep draws, irrigation canals, and critical areas to effectively separate the cluster from active farm or forest operations;

(b) Location in close proximity to other compatible uses, dwellings and small lots.

(c) Use of predominantly nonagricultural soils;

(d) Use of nonirrigable areas of the property;

(6) The large remaining lot shall not be further divided while it remains AG zoned land. A covenant documenting the restriction(s) shall be recorded in a form acceptable to the county.

(Ord. 3-2003 § 2, 2003: Ord. 15-2002 § 6 2002: Ord. 1-2000 § 1 (Exh. A (part)), 2000).

15.21.050 Small Lot Provisions.

(1) Lots in the AG zoning district that are greater than three acres may be subdivided to create one small lot around an existing residence; provided that it has been at least fifteen years since the lot was last divided, and it has contained a lawfully existing residence for at least the last five years, subject to the following:

(a) The small lot shall be one to three acres in size, except the reviewing official may authorize a larger lot size when:

(i) The Yakima Health District determines that a larger area is necessary for the inclusion of approved water supply and sewage disposal systems within the lot; or

(ii) A Type II administrative exemption from the subdivision code is granted to allow the lot to be greater than three acres in size. Such exemptions may be granted if the logical division to create the lot follows a physical feature which acts as a bona fide, practical obstacle to normal and necessary farming practices, or when a larger lot size is necessary to encompass existing related uses or structures in immediate proximity; or

(iii) A reduction in the special agricultural setback required under Section 15.20.085 is not approvable, thus necessitating a larger lot size.

(b) The balance of the parent lot shall be at least one acre and capable of meeting all setbacks and other applicable requirements, with the assumption that at some time it will contain a single-family residence.

(c) Any small lot that is allowed to be greater than 3.0 acres in size shall still be considered a small lot and is not capable of being further subdivided under this section. A covenant indicating this restriction shall be recorded whenever a larger lot size is granted.

(d) In cases where a lot contains more than one legally placed dwelling unit, any subdivision thereof shall correct any nonconformity to the maximum extent possible.

(e) When a subdivision of a lot involves a structure nonconforming by virtue of bulk or dimension, the subdivision shall not increase the degree of nonconformity.

(2) When there exists a lot that is three acres or smaller in size, and it has contained two legal dwellings of significant value since before October 1, 1974, the property may be divided to separate the two dwellings onto individual lots, provided that all other applicable requirements are met.

(3) When there exists a lot greater than 3.0 acres that has contained two legal dwellings of significant value since before October 1, 1974, then a second small lot, in addition to the small lot of subsection (1) above, may be created around the second dwelling subject to the criteria of subsection (1a-1e) above (Ord. 15-2002 § 7, 2002: Ord. 1-2000 § 1 (Exh. A (part)), 2000).

15.21.105 Special Exception Lot Provisions.

(1) Purpose. In addition to the small lot provisions of Section 15.21.050, one special exception lot may be granted through the Type II review process in those limited situations when the property is greater than 3.0 acres, contains land that is unusable for agricultural purposes and establishment of a residence on that land will not affect neighboring agricultural operations, according to the following review criteria:

(a) The applicant shall submit documentation from a qualified third party (e.g. Natural Resource Conservation Service, WSU Cooperative Extension Service, agricultural consultants, Department of Agriculture) that the proposed lot is located on land that is generally unsuitable for agricultural uses and activities, given the type of agricultural activities in the area;

(b) In areas where irrigated agriculture is typical, the proposed lot is located in an area without irrigation water, as demonstrated by the unavailability of irrigation shares or rights, and the documented

inability to acquire or to use them.

(c) The proposal will not adversely impact, or interfere with accepted farm practices on adjacent or nearby agricultural operations, given the type of agriculture that is in the area and its relative susceptibility to nuisance complaints due to accepted farm operations and management practices;

(d) Use of mitigation measures to effectively reduce the potential for land use conflicts and separate the site from active agricultural operations, such as: landscape buffers; special setbacks; screening; site design using physical features such as rock outcrops, ravines, roads, irrigation canals or critical areas; or proximity to established dwellings, small lots or other nonagricultural buildings;

(2) The special exception process may only be used in those situations where other viable alternatives, such as the boundary line adjustment (SSE) or clustering process, are not available to accomplish the objective.

(3) The special exception process shall not be used to create lots for accessory apartments, temporary mobile or manufactured homes and park models, or accessory farm dwellings.

(4) If a special exception lot is granted, it shall be one to three acres in size, except the reviewing official may authorize a larger lot size in order to: meet health requirements, follow physical features that act as obstacles to farming, or encompass existing improvements, as outlined in Section 15.21.050(1).

(5) No lot that is granted a special exception shall be further divided for 10 years.

(6) All special exception lots shall be subject to the agricultural setbacks of Section 15.20.085. Adjustment of these setbacks shall not be permitted when creating a special exception lot that does not contain a residence.

(Ord. 3-2003 § 1, 2003; Ord. 15-2002 §§ 3, 8, 2002; Ord. 1-2000 § 1 (Exh. A (part)), 2000).

15.21.120 Review Criteria for Especially Sensitive Land Uses.

Proposals for especially sensitive land uses, as defined in Section 15.08.240, other than the first dwelling to be located on a lot, shall be reviewed according to the criteria of Section 15.21.105(1)(c) and (d) above. In addition, the use should generally be located on the least productive portion of the property.
(Ord. 1-2000 § 1 (Exh. A (part)), 2000).

TOC < >

County Website: www.co.yakima.wa.us (<http://www.co.yakima.wa.us/>)

Code Publishing Company
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Voice: (206) 527-6831
Fax: (206) 527-8411
Email: codepublishing@qwest.net
(<mailto:codepublishing@qwest.net>)

Chapter 15.24
VALLEY RURAL (VR) ZONING DISTRICT

File No. SUB07-03
Date 4-9-08
Exhibit No. 49
Received by ajh

Sections:

- 15.24.010 Purpose.
15.24.020 Type I Permitted, Type II Administrative and Type III Conditional Uses.
15.24.030 Lot Size and Density.
15.24.035 Clustering of Lots Permitted.

15.24.010 Purpose.

The valley rural (VR) zoning district is intended to protect and maintain the openness and rural character of outlying areas of the county in the lower Wenas, and the valley floors of the lower Ahtanum, Naches and Yakima Valleys. The valley rural zoning district implements the Rural Self-sufficient comprehensive plan goals and policies related to protecting the environment and providing adequate facilities and services commensurate with the density of development. The VR zoning district is generally found at the periphery of urban growth areas and the rural transitional zoning district separating designated resource lands and the remote and developmentally constrained lands. This zoning district is characterized by a wide mixture of parcel sizes and land uses including semi-arid range lands, large and small-scale commercial agriculture, part-time farms, isolated and scattered very low-density commuter residential development.

The specific intent of this zoning district is to:

- (1) Provide protection for the county's unique resources and land base, while maintaining rural character through the use of large lot sizes, flexible lot sizing and encouraging clustered development;
 - (2) Minimize scattered rural development into outlying areas resulting in excessive requirements and public service costs for the county;
 - (3) Establish minimum development standards that will assure a continuation of the open and rural character of the zoning district and to permit only those uses, and activities that are compatible with this rural character;
 - (4) Minimize conflicts with adjoining or nearby resource land uses through buffers and special setbacks that will permit farm, forestry and mineral resource uses to continue.
 - (5) Provide density incentives to encourage development where fire protection services and hard-surfaced county roads or state routes are available.
- (Ord. 1-2000 § 1 (Exh. A (part)), 2000).

15.24.020 Type I Permitted, Type II Administrative and Type III Conditional Uses.

Type I permitted, Type II administrative and Type III conditional uses, as listed in Chapter 15.18.
(Ord. 1-2000 § 1 (Exh. A (part)), 2000).

15.24.030 Lot Size and Density.

Lot size may vary depending on water availability, soil suitability for septic systems, access conditions and proximity to fire stations in each area as follows:

- (1) Where property is outside of a fire district, more than 5 road miles from a year-round responding fire station or not served by a county-maintained hard-surfaced road, maximum density for new development in the valley rural zoning district shall be four units per quarter/quarter section (e.g. 10-acre average), with no lot being less than five acres. Lots not meeting the criteria in subsection 2 shall not be further divided below the ten-acre average as calculated from the original parent lot.
- (2) Where the lots of the land division will have access (either directly or via a road meeting the requirements of Chapter 14.52) to a publicly maintained hard-surfaced roadway, or other hard-surfaced roadway determined to be acceptable by the reviewing official, a maximum density of one unit per 5 acres is permitted, provided that the new development is within a fire district and not more than 5 road miles from a year-round responding fire station. A lot size of 3.0 acres or less is considered clustering and subject to Section 15.24.035.
- (3) The acreage of a lot that has existed since May 21, 1997 may be multiplied by a factor of 1.15 to determine whether or not it qualifies for a single division consistent with the minimum lot size of this district.
- (4) If a valley rural property has been divided after May 20, 1997, the lot size and density calculations shall be based on the size of the original parent lot – meaning that all lots of the land division shall be included in the calculation. [Example: A 40 acre lot is divided into seven 1 acre lots and a large lot of 33 acres. The maximum number of lots have been created (8 lots, meeting 5-acre average criteria). The 33-acre lot cannot

be further divided while zoned valley rural.] Provided, that a lot created on or before February 8, 2000 pursuant to a preliminary short plat authorization dated on or before May 20, 1997 may be considered an original parent lot for the purposes of this subsection.
(Ord. 2-2004 § 1, 2004: Ord. 15-2002 §§ 5, 13, 2002: Ord. 1-2000 § 1 (Exh. A (part)), 2000).

15.24.035 Clustering of Lots Permitted.

In areas meeting the five acre average criteria, clustering of existing or proposed lots shall be encouraged to permit development that more effectively uses the site and to reduce infrastructure and service costs.

- (1) Clustering of proposed new lots is subject to the appropriate subdivision process.
 - (2) Clustering of existing lots may be permitted through joint Type I and short subdivision exemption review for up to two clustered lots and a balance within a property of contiguous properties. A joint Type II and short subdivision exemption review process shall be used when the cumulative number of clustered lots within a property or contiguous properties exceeds two. Any lot to be reconfigured must first be considered a buildable lot, and the number of lots may not be increased. Minor boundary line adjustments not involving clustering are not subject to the clustering provisions of this title.
 - (3) The following requirements shall apply when clustering existing lots or proposed new lots:
 - (a) The cluster shall be required to meet adopted development standards.
 - (b) The clustered lots shall range from one to three acres in size, except the reviewing authority may authorize a larger lot size in order: meet health requirements, follow physical features that act as natural obstacles as stated in (e)(i) below, meet special setbacks, or encompass existing improvements.
 - (c) Clustering shall ensure that the proposed development will not adversely impact agriculture, mining or forest use on adjoining and nearby AG, MIN or FW-zoned lands.
 - (d) The cluster should generally include common access and internal roadways, and shared or community wells using the water system operation, management and ownership parameters set forth in comprehensive plan policy.
 - (e) Where possible, the cluster should be configured to include:
 - (i) Use of physical features including rock outcrops, ravines or deep draws, irrigation canals, and critical areas to effectively separate the cluster from active farm, mining or forest operations;
 - (ii) Location in close proximity to other compatible uses, dwellings and small lots.
 - (f) The large remaining lot shall not be further divided while it remains VR zoned land; provided that if there is unused density remaining from the creation of the cluster, additional lots may be created up to the maximum density authorized for the parent lot(s). A covenant documenting the restriction(s) shall be recorded in a form acceptable to the county.
- (Ord. 15-2002 § 11, 2002: Ord. 1-2000 § 1 (Exh. A (part)), 2000).

TOC < >

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farmlands to the maximum extent possible.

Action: That only compatible land uses should be established adjacent to agriculture to minimize potential problems caused by incompatible land use activity.

PROVIDE HOUSING IN OUR ESTABLISHED COMMUNITIES

GOAL: Plan for a diversity of living and working situations that will provide residents with an opportunity to make economic and lifestyle choices.

Action: Create a stable, balanced community economic situation by promoting industries that are diverse, agriculturally based and that process what we produce.

GOAL: Expand employment opportunities.

Action: In 1998, with the Port of Kennewick, Plymouth residents, and the U.S. Army Corps, define uses, and develop a Specific Plan for the island at Plymouth.

Action: Prior to development of the Industrial designated area west of Plymouth, extending from the RR tracks in the south to SR-14 in the north, a site plan with operational standards, open space setbacks, and visual screening to mitigate impacts and be compatible with the downwind residential community shall be prepared and approved

with public involvement.

Action: Enlarge the potentially develop-able area adjacent to the west of Paterson.

Action: Zone area between SR-14 and the railroad tracks industrial.

OUR FUTURE (Our kids)

GOAL: Create a "whole life" living area that allows peace and quiet, preserves the farm heritage and rural character and accommodates children, wage earning families and retired people.

GOAL: Keep Paterson like it is with little growth.

GOAL: Grow slowly and in a manner which preserves the existing rural community and lifestyle.

Action: Maintain Paterson as a great place for kids to grow and keep it safe for them.*

A WATER AND SEWER SYSTEM IN OUR ESTABLISHED COMMUNITIES

GOAL: Achieve a household water and sewer system that is affordable yet is not based on densities which change the rural character.

Action: Complete a water and sewer study.*

**RURAL PLANNING AREA
PROSSER-WHITSTRAN**

**Location and Geographic Setting
The Prosser-Whitstran Rural Planning**

Area lies within the southwestern corner of the Rattlesnake Planning Region.

Outstanding geographic features of the Prosser-Whitstran Rural Planning Area are: the Yakima River, as it cuts through the lower valley; the elevated slope of irrigated croplands on the "Roza" as it rises up the southern flank of Rattlesnake Mountain to the north; and the textured slumps and hummocks of the north face of the Horse Heaven Hills, which rise abruptly from the south bank of the river.

History²

The early Indian inhabitants of the Prosser-Whitstran area lived along the Yakima River. In the early spring they camped along both sides of the river near "The Falls" awaiting the salmon run. Prosser's first citizen, Colonel Prosser, staked a claim along its banks in 1882.

It was in 1881 when James Kinney camped overnight below Prosser. Upon awakening the next morning he found his horses had strayed and followed their tracks which led up the hillside and over into an upland plain. There he found his runaway horses cropping the succulent bunch grass. "Surely this is Horse Heaven," he said to himself. Others tried to call the district "Columbia Plains", but Mr. Kinney's name stuck, and that is how

the name Horse Heaven came to be. In 1884, "Prosser Falls" as Prosser was originally called, boasted a general store, two saloons, one restaurant, and a livery barn. At the same time one-mile west of Prosser Falls other settlers were venturing to start a town. They called it Kinneyville, which had a hotel, several saloons, two restaurants, and one residence. This area was eventually absorbed by Prosser. Prosser Falls was given a Post Office that spring, but because there were so many "falls" in the state, "Falls" was dropped to prevent further confusion.

In the winter of 1884-85 the original townsite of Prosser was platted. Nelson Rich (who was the namesake for the City of Richland) ran the first store. His residence, which was a mansion in its day, was sited on what is now the Benton County Courthouse Square. Mr. Rich was a contractor and builder, and was an honored citizen who served the community as school director, postmaster, and state representative for the district. Mr. Rich made the first addition to the original townsite of Prosser. He platted the section of Court, Market, and Main Streets by compass and not by the railroad (as many cities did at the time), so the streets run north and south and the avenues east and west. Construction of the Northern Pacific Railroad did not get underway until the mid 1870's. The track between Spokane and Ainsworth (Pasco) was completed in 1880, and during the summer and fall of 1884, the railroad made its way through Prosser and the Yakima Valley. During the early 80's

² Based on information from "Benton County a Glimpse of the Past", Benton County Historical and Pioneer Association 1967, and "Prosser the Hometown", by Pearl Mahoney, 1950.

many pioneer families filed claims along the route of the Northern Pacific Railroad line up the valley, sheltering themselves in tents, shacks, and covered wagons.

Development of the railroad construction camps was soon followed by new schools. The Prosser School District, established on February 2, 1884, has the distinction of being the oldest school district in what is now Benton County.

In the late 1880's, Lewis Heinzerling arrived in what was then Prosser Falls. Impressed with the opportunities the area offered, especially the river, the falls, and the potential water power it could produce, he envisioned a flour mill at a particular spot on the river bank and spoke of his aspirations to Colonel Prosser. On Heinzerling's behalf, Prosser negotiated with the chief of the Indian tribe then camped along the river for permission to build the mill. Mr. Heinzerling brought his family and a number of neighbors from Missouri in the spring of 1887 to assist in building the mill.

Mr. Heinzerling was also a bridge builder. The original bridge across the Yakima River leading to the Rattlesnake Hills was his creation, as well as the original Sixth Street Bridge also over the Yakima, built in 1906.

The first of two public roads in what is today Benton County was authorized by the Territorial Legislature in 1882. The first was a short stretch of road on

the north bank of the Yakima River across from Prosser. The second started at the ferry landing opposite Wallula, running through the Hover-Finley area, then west past Coyote Springs, then up and across the Horse Heaven plateau and down to Prosser. Five miles of this road falls within the present State Route 221 and the County Well Road, and a short expanse remains as the Locust Grove Road.

Shortly after Washington became a state in 1889, people in southeastern Yakima County began to complain about the distance they had to travel to Yakima City to transact business. It was in 1901 when talk began of the formation of a new county, naming Prosser as the county seat. Then State Representative Nelson Rich was instrumental in passing a measure in the state legislature in 1905 that created the new unit of government that is Benton County.

Prosser's roots are deeply embedded in agriculture. Much of the success in agriculture is due to the harnessing of water and applying it to the fertile soil: "irrigation". As early as 1889, Northern Pacific Railroad completed a study in connection with the Sunnyside canal. In 1908, the government began to show interest in the project, and in 1916, the Northern Pacific Railroad made another survey on the present location, but due to WWI nothing came of the activity.

Then in 1919, landowners formed a district and immediately entered into

a contract with the government for canal surveys, and contracting for water in 1921. Six years later, a joint economic study was prepared at a cost of \$10,000 which was shared equally by the landowners and the government. The study justified the project, and the storage dam at Cle Elem was promoted. Actual work was finally underway in 1936 for 99 miles of canal, serving 46,000 gravity acres called the Roza Canal. Today the Roza District is one of the most productive farming areas in the State of Washington.

Custom & Culture

The custom and culture within the Prosser-Whitstran Rural Area is predominantly agricultural based. It revolves around the agricultural products grown on the "Horseheaven Hills" to the south and the "Roza" to the north.

Upon a base of agricultural land and a water supply from the Yakima River, the residents of the Prosser-Whitstran Rural Area, and those of the City of Prosser itself have historically nurtured an economy primarily associated with agriculture related industry, a public and private service sector, and a retail sector. A relatively new opportunity established upon agriculture is the cultivation of tourism related to the growing local and regional wine making and specialty crop industries. Another opportunity, unrelated to agriculture, is the City's expansion of the highway service industry at the Gap Road interchange with I-82.

The **Roza** is among the most productive irrigated areas in the 600,000 acre Yakima Valley irrigation project. Crop production is diverse and focused on the specialty markets. Farmed holdings range from those with thousands of acres to those of less than a hundred. Farmers target a global market with products including wine grapes, wine, juice grapes, mint, numerous types of apples, hops, cherries, currants, apricots, pears, some forage crops, livestock, and dairy products.

The **Horse Heaven Hills** contain approximately 500,000 acres. It is almost entirely put to cultivated agricultural use, with steep and marginal soils in rangeland. Dryland wheat is the predominant crop, with some barley production. On its southern slope, above the Columbia River, production of irrigated crops is expanding by virtue of access to the river as a water source. Crops include: wine grapes, corn, potatoes, carrots, onions, apples, and irrigated wheat.

Area residents are employed in local agricultural industries which store, process, package and market products such as wine, juices, corn, potatoes, and orchard fruits.

Also serving the agricultural industry are the WSU Cooperative Extension, the U.S. Department of Agriculture's Natural Resources Conservation Service, and Agricultural Service Center, all located within Prosser. Five miles north of Prosser, on the Roza, is the Washington State University's

Irrigated Agriculture Research and Extension Service (IAREC), where state and federal agencies and local farmers jointly research problems associated with irrigated agriculture.

A significant number of residents residing in the Prosser-Whitstran rural community are engaged in public service employment and activities. Many of these employees are from local families who either own or have spouses working in agriculture. The City of Prosser, County government, IAREC, the Prosser School District's Elementary, Middle and High Schools, Prosser Library, Benton County Historical Museum, and the Prosser Memorial Hospital provide employment, public service and support.

The City of Prosser, which is the **County Seat**, has a population of approximately 5,000. It has a defined business and retail center anchored by banking, insurance and real estate services, and city and county administrative centers. Within the city is a range of retail/service enterprises including law offices, pharmaceuticals, auto re-upholstery, printing, barbershop, child care, veterinary services, computer sales, auto dealerships and parts stores, groceries, restaurants, plant nursery, feed and grain, farm supplies, and arts and crafts stores. The City has a full interchange with I-82, and through the 1980s to the present, a complex of highway service businesses providing an expanding range of fast food, lodging, recreation and truck services.

<p>Top 4 Issues/Desired Improvements Road improvements More sheriff protection Ordinance to cleanup trash Control/Restrict growth Prosser-Whitstran Survey Respondents</p>

Major and minor centers of farmer interaction within the Planning Area are at meetings such as those of the Cattleman's Association, Association of Wheat Growers, and the Farm Bureau. On a more routine basis, local meeting places at Prosser locations include the Buena-Vista and Horse Heaven Granges, the Barn Restaurant on Wine Country Road, and Northwoods Restaurant at the I-82 Interchange.

Demographics

The Prosser-Whitstran Rural Planning Area has a current population in the unincorporated area of approximately 4,216, who occupy 1,573 residential dwelling units. The average residential density is one dwelling unit per 16.5 acres.

Infrastructure

The principal infrastructure within the Prosser-Whitstran Rural Planning Area is found within the City of Prosser, which has the full range of municipal services and infrastructure for a municipality of its size.

The Prosser School District provides facilities for students K-12. The school facilities include a high school, middle school, and three elementary schools (one of which is located in Whitstran

for students K-5). The student enrollment for the 2004-05 school year was 2,836.

Outside of the city, infrastructure consists primarily of the county road network, which serves the rural and agricultural community, the irrigation facilities of the Roza and Sunnyside Valley Irrigation Districts, and the IAREC facility.

Existing Land Use

The predominate land uses within this rural planning area are:

- the rich and diversified irrigated crop cover on the Roza and river terraces overlooking the Yakima River;
- areas of low density rural residential development and small farmed lots located generally to the west and north of Prosser on lands having soils which range from rich and deep to marginal or poor relative to agricultural purposes;
- the City of Prosser, which is the Benton County Seat located adjacent the Yakima River;
- the complex of agricultural related storage, processing and value added industries within and adjacent to the city;
- the regional transportation corridor, which parallels the river and contains I-82 and the Burlington Northern Railroad; and,
- the small community of Whitstran with a cluster of homes, the Whitstran Elementary School, and a

small store are located several miles to the north and east of Prosser.

Outside of the City of Prosser, the land uses within the Prosser-Whitstran rural community are either commercial agriculture, or low density rural residential, depending upon any given area's suitability for commercially viable farming. Areas with poor or marginal agricultural suitability are either used for livestock grazing and/or housing. There is pressure in the Prosser-Whitstran Rural Area to convert suitable farming ground to residential housing. In some measure this is because a significant amount of acreage has constraints to both agriculture and housing use due to poor soil drainage characteristics.

The Rural Planning Area of Prosser-Whitstran encompasses approximately 23,357 acres, or thirteen percent of the Rattlesnake Planning Region. There is roughly 22,577 acres designated for rural residential land use.

Preferred Land Use Plan

The Preferred Land Use Plan Maps drafted by the Prosser-Whitstran Rural Planning Advisory Committee was adopted in 1996, and updated in 2006. The following are allocations of the principal land uses:

PROSSER-WHITSTRAN PREFERRED LAND USE	
<u>Land Use</u>	<u>Acres</u>
Residential	22,577
Commercial	193
Industrial	587

The Land Use Map for Prosser-Whitstran is shown in the Land Use Element, Chapter 4, Map 4.1.

PROSSER-WHITSTRAN RURAL AREA VISION, GOALS AND ACTIONS

The Prosser-Whitstran Citizen's Rural Planning Advisory Committee has identified the following "Vision":

"The Prosser-Whitstran area is an area of balanced employment opportunity, with a full spectrum of housing, offering rural freedom and opportunity, with good neighbors and good living while containing rural growth to preserve natural spaces for use and enjoyment."
Prosser-Whitstran Rural Committee

The Committee has identified the following The Citizen's Rural Planning Advisory Planning Goals and Actions:

Note: Where an asterisk* appears, the action should be driven by the citizens committee.

RURAL FREEDOM AND OPPORTUNITY

GOAL: Preserve rural freedom, opportunity and property rights and values.

Action: Control trespassing on private property.*

CONTAINED RURAL GROWTH

GOAL: Contain rural growth in order to preserve farmland.

Action: Enlarge existing city limits to accommodate growth.

Action: Include a provision in the development regulations that allows cluster development as a tool to preserve farmlands.

GOAL: Preserve and improve the

existing visual/auditory character of the area.

Action: Support a county ordinance to clean up trash and junk.*

Action: Lower nuisance noise.

Action: Enlarge the existing ordinance's dog control zone to include the Prosser-Whitstran Planning area.

GOAL: To provide adequate, convenient roads that safely handle anticipated traffic.

Action: Provide adequate road maintenance.

Action: Control traffic and speeding.

FULL SPECTRUM HOUSING

GOAL: Plan for a diversity of living and working situations that will provide residents with an opportunity to make economic and lifestyle choices.

Action: Allow 50, 20, 10, 5, acre lots in rural areas.

Action: Improve housing standards.

BALANCED EMPLOYMENT OPPORTUNITY

GOAL: Create a stable, balanced community economic situation by promoting industries that are diverse, agriculturally based and that process what we produce.

Action: Agricultural related industry permitted in lands designated for agriculture.

GOAL: Promote and protect winery tourism.

Action: Farmlands and commercial areas to include wineries.

GOOD NEIGHBORS/GOOD LIVING

GOAL: Create a "whole life" living area that allows peace and quiet, preserves the farm heritage and rural

character and accommodates children, wage earning families and retired people.

*Action: Maintain the Prosser rural areas character and lifestyle by allowing 2-5 acre rural densities.***

**In 2007, the Board of County Commissioners generally rejected designations of less than the RL 5 as inconsistent with the GMA.

NATURAL SPACES USE AND RECREATION

GOAL: Preserve open spaces in order to protect wildlife habitats, the river, the desert, wetlands, wildlife and to provide clean air, water, sky.

Action: Provide access to public natural areas.

GOAL: Plan for a system of recreational opportunities (trails, parks, boating, hot air balloons, etc.) that connect communities and allow public access yet provide protection for the environment.

Action: Establish a low maintenance bike and walking path with resting areas, with a horse trail alongside, using the abandoned railroad line.

Action: Designate public recreational facilities and identify source of public and private funds for their acquisition, construction, and maintenance.

THE BENTON CITY-KIONA RURAL PLANNING AREA

Location And Geographical Setting

The Benton City-Kiona Rural Planning Area lies within the eastern portion of the Rattlesnake Planning Region. The

Planning Area includes the rural area surrounding the City of Benton City.

The lands within the Planning Area form a remarkable landscape, the principal features of which are basaltic uplifts rising from a point where the Yakima River makes a "hair-pin" turn to the north from its 200 miles long downstream direction of southeasterly.

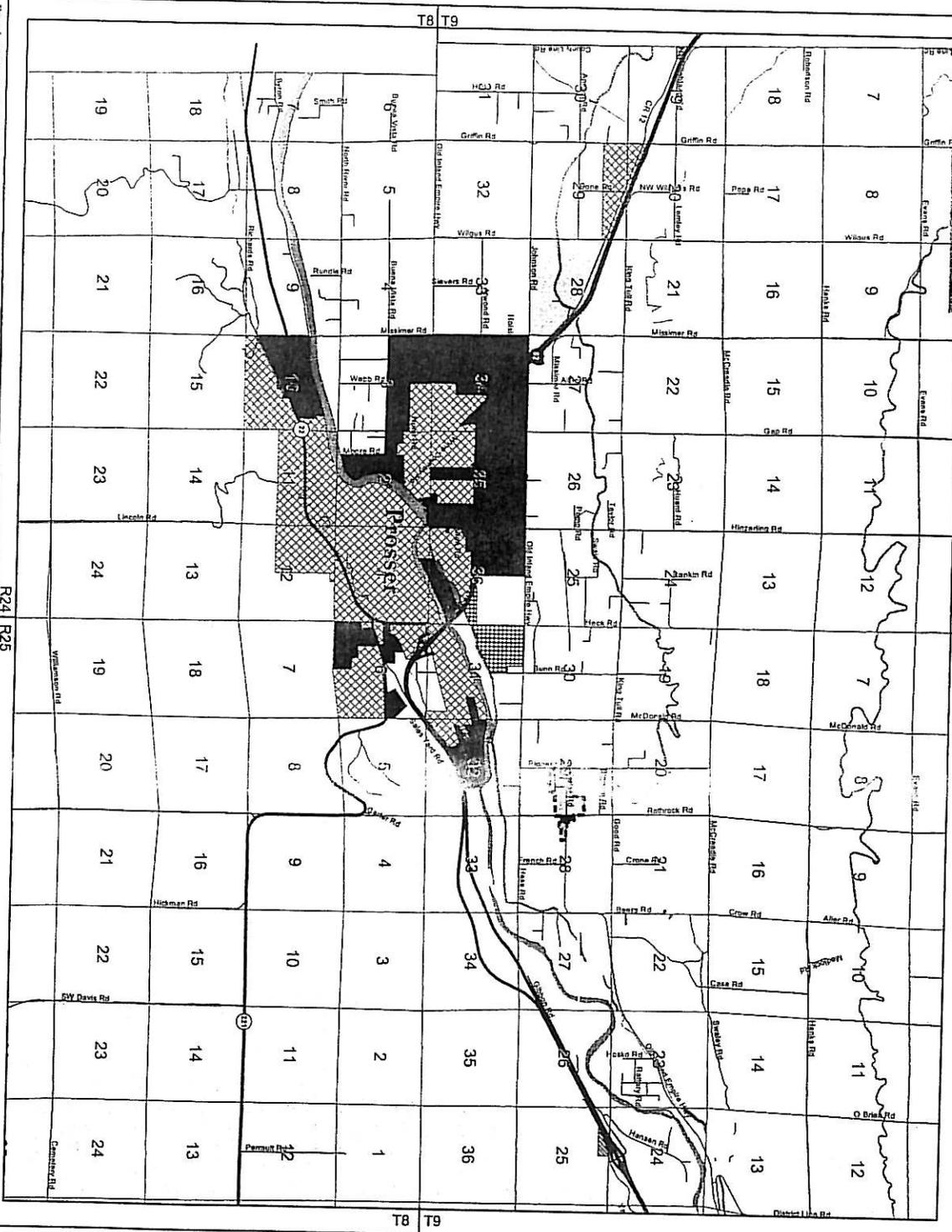
To the east and south of the Yakima's hair pin turn rise Goose Hill, Badger and Candy mountains; to the southwest rise the escarpments of the Horse Heaven Hills; and to the northeast, Red Mountain rises sharply. To the northwest the long flank of Rattlesnake Mountain reaches across the Roza down to the Yakima River; the City of Benton City rests on this flank. Across the River from the city to the south is the small residential cluster of Kiona. Kiona lies below the Horse Heaven Hills escarpments at the point where they turn south down Badger Canyon. In prehistoric times the Yakima River flowed through the canyon on its way to the Columbia River.

History³

In 1882, an early pioneer, Billy Kelso, filed a claim on land in the Horse Heaven Hills above Kiona, and initiated an operation that grew into a large wheat ranch. In 1883 a small railroad camp sprung-up where Kiona is today. People were filing claims as fast as they could along the route of the Northern Pacific's line up the valley and also on the Horse Heaven

³ Based on the information from "Benton County a Glimpse of the Past", Benton County Historical and Pioneer Association 1967.

Received by *ayh*



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R24 R25

RENTON COUNTY
State of Washington

LAND USE MAP 4.1

PROSSER-WHITSTRAN PLANNING AREA

Adopted by Resolution #07-767
Dated October 22, 2007

Legend

- CITY LIMITS
- URBAN GROWTH AREA
- COMMUNITY CENTER
- RURAL LANDS 1
- RURAL LANDS 5
- COMMUNITY COMMERCIAL
- INTERCHANGE COMMERCIAL
- GENERAL COMMERCIAL
- LIGHT INDUSTRIAL
- HEAVY INDUSTRIAL
- GMA AG

0 1 2 Miles

TON COUNTY
PLANNING
DEPARTMENT



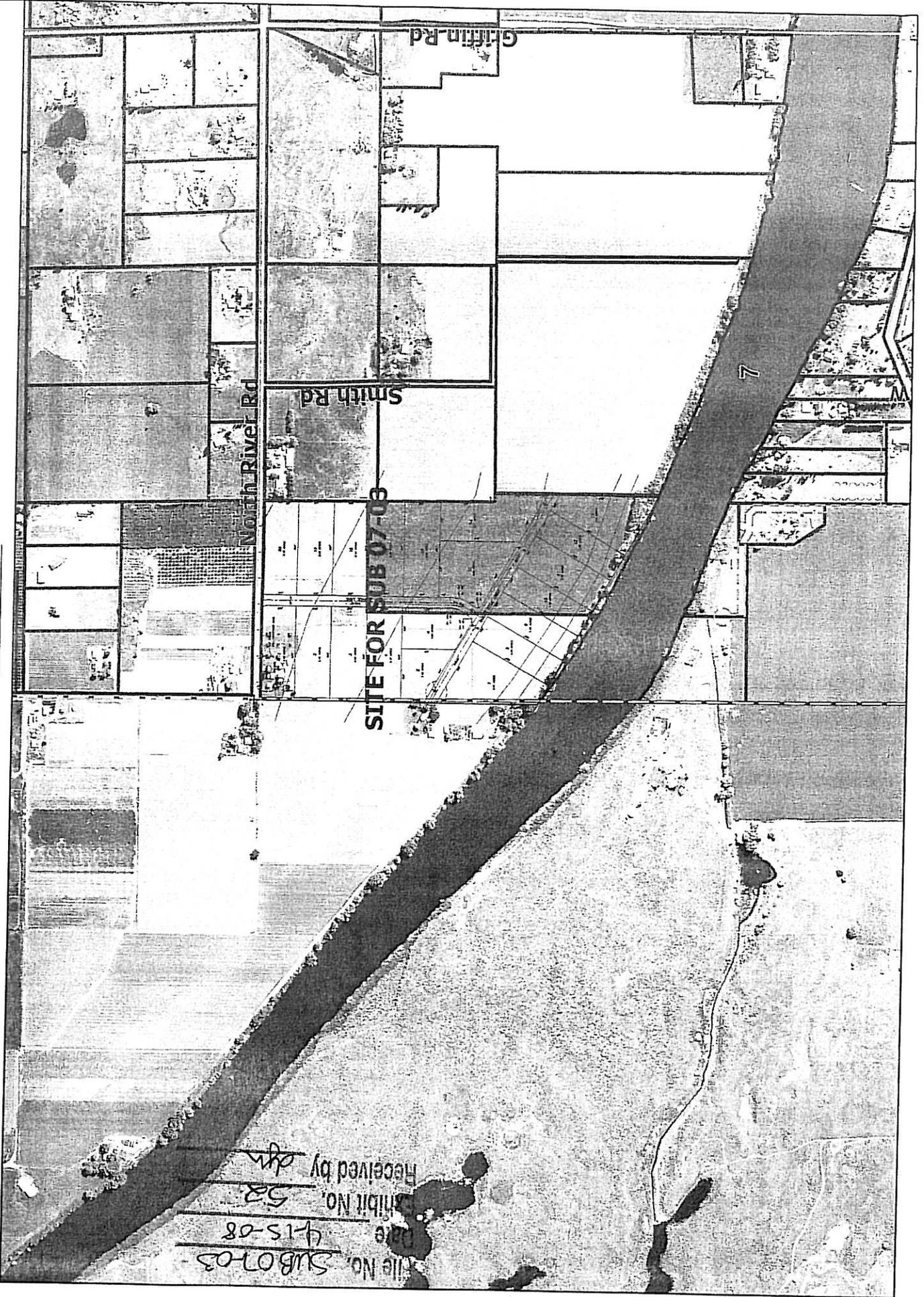
PRELIMINARY PLAT SUB 07-03
RIVERS EDGE ESTATES
Scale: N/A
Date Printed: 4/01/08

DATE _____

EXHIBIT No. _____

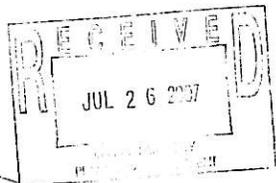
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File No. SUB07-03
Date 4-15-08
Exhibit No. 52
Received by *[Signature]*

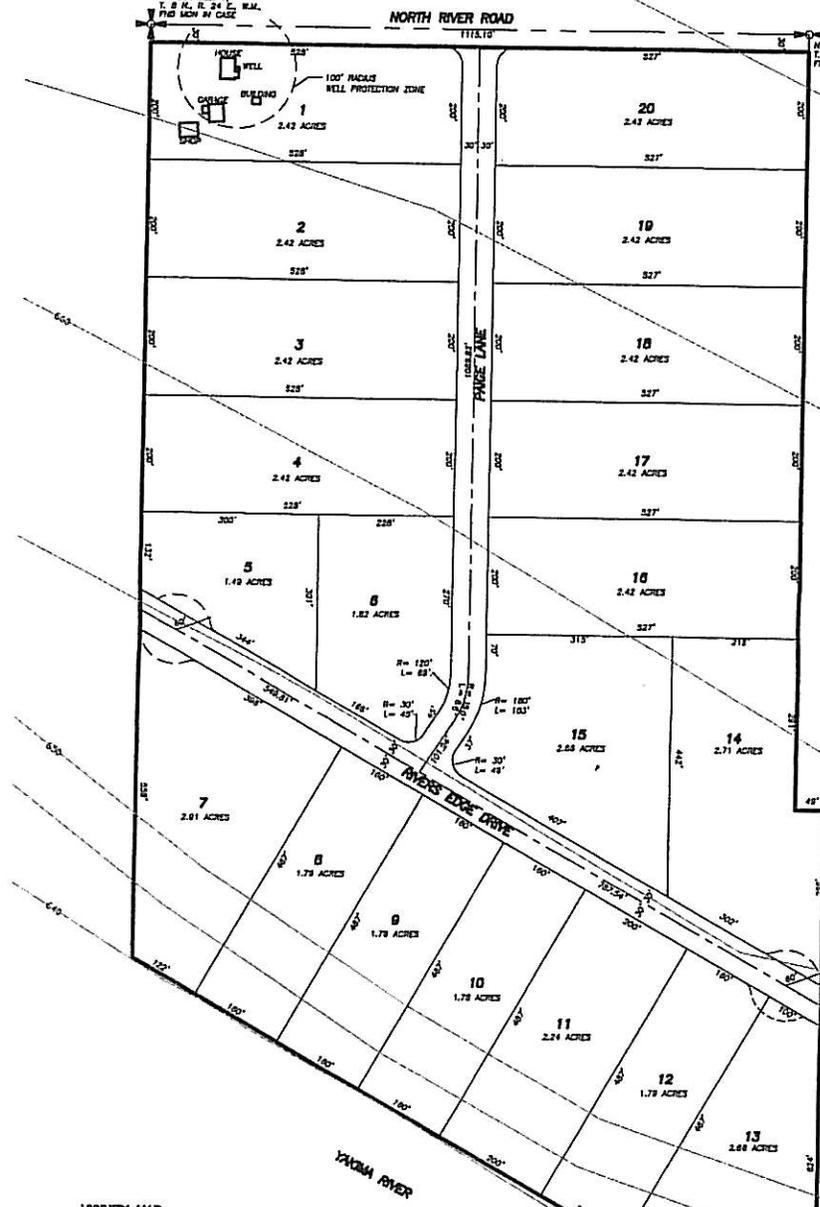
**PRELIMINARY PLAT
RIVERS EDGE ESTATES**
N1/4 SECTION 7 T. 8N. R. 24 E. W.M.
BENTON COUNTY, WASHINGTON



DESCRIPTION

THAT PORTION OF GOVERNMENT LOT 1, SECTION 7, TOWNSHIP 8 NORTH, RANGE 24 EAST, W.M., RECORDS OF BENTON COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:
 COMMENCING AT THE NORTHEAST CORNER OF SAID GOVERNMENT LOT 1 (NORTH 1/4 CORNER) THENCE SOUTH 02°25' EAST ALONG THE EAST LINE THEREOF 308.28 FEET TO THE TRUE POINT OF BEGINNING; THENCE SOUTH 07°15' WEST 818.33 FEET; THENCE SOUTH 07°15' EAST 1316.83 FEET TO THE NORTH BANK OF THE YAGMA RIVER; THENCE SOUTHWESTERLY ALONG SAID NORTH BANK TO ITS INTERSECTION WITH THE EAST LINE OF SAID GOVERNMENT LOT 1; THENCE NORTH 02°25' WEST ALONG SAID EAST LINE TO THE TRUE POINT OF BEGINNING;
 ALSO
 THAT PORTION OF GOVERNMENT LOT 3 OF SECTION 7, TOWNSHIP 8 NORTH, RANGE 24 EAST, W.M., BENTON COUNTY WASHINGTON LYING WESTERLY OF A LINE DESCRIBED AS FOLLOWS:
 COMMENCING AT THE NORTHWEST CORNER OF SAID GOVERNMENT LOT 3; THENCE NORTH 05°45' EAST ALONG THE NORTH LINE THEREOF 48.30 FEET TO THE TRUE POINT OF BEGINNING OF THE HEREIN DESCRIBED LAND; THENCE SOUTH 05°45' EAST 827.28 FEET TO THE NORTH BANK OF THE YAGMA RIVER AND THE TERMINUS OF THE HEREIN DESCRIBED LINE;

N1/4 COR. SEC. 7, T. 8 N., R. 24 E., W.M., 7 PLO MON IN CASE
 NORTH RIVER ROAD 1175.10'
 N1/4 COR. SEC. 7, T. 8 N., R. 24 E., W.M., 7 PLO MON IN CASE



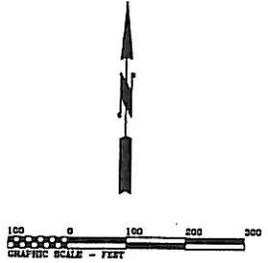
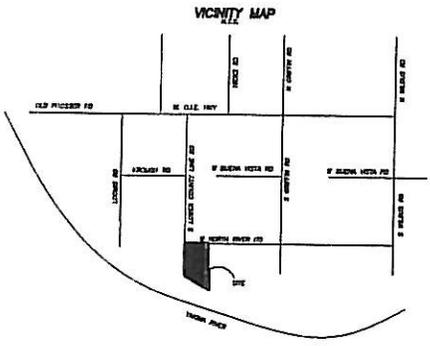
LAND USE DATA

TOTAL AREA	50.80 AC
I.F. STREETS	3710 FT.
AREA IN STREETS	4.31 AC
NET ACRES	46.49
NUMBER OF LOTS	20
AVERAGE LOT SIZE	2.54 AC
LARGEST LOT	2.81 AC
SMALLEST LOT	1.49 AC
WATER & SEWER	WELL AND SEPTIC
IRRIGATION	SLANTYBEND VALLEY IRRIGATION
POWER	BENTON P&A
TELEPHONE	SPRINT
COLE	LL&L M&H
GAS	NONE

OWNER
 GARY CHRISTENSEN
 507 BLUTHORN
 CUMMINGS, WA 98830
 509-582-4250

DEVELOPER/OWNER
 WES FRODGS
 12201 S 1530 PINE
 PROSSER, WA 98120
 206-537-8540

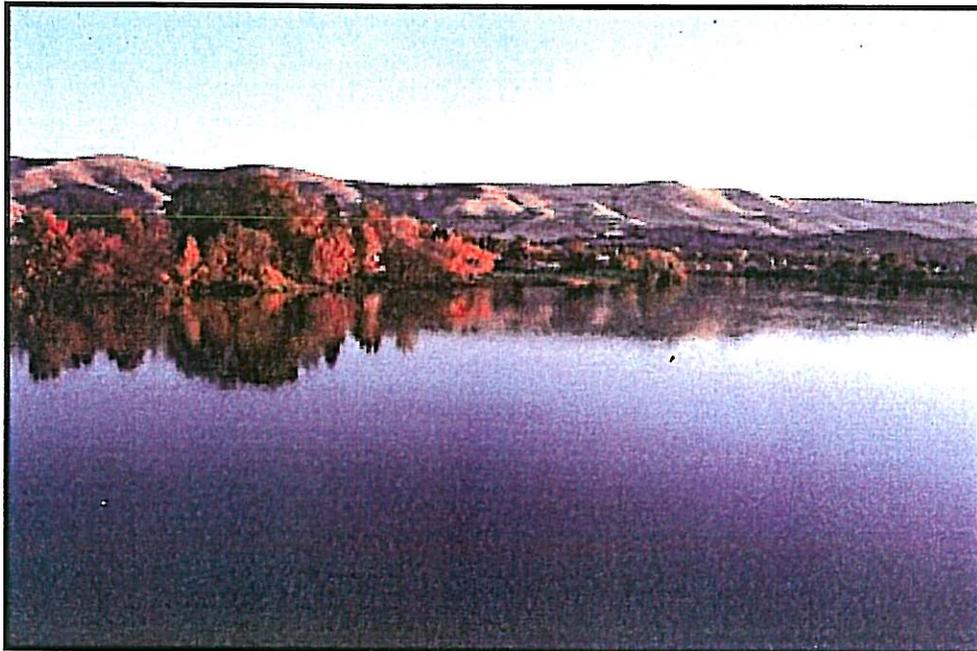
SURVEYOR
 WOLLEY SURVEYING SERVICE, INC. P.S.
 P.O. BOX 8132
 151 E. 11TH STREET
 KENNEWICK, WASHINGTON 98334
 206-582-8718

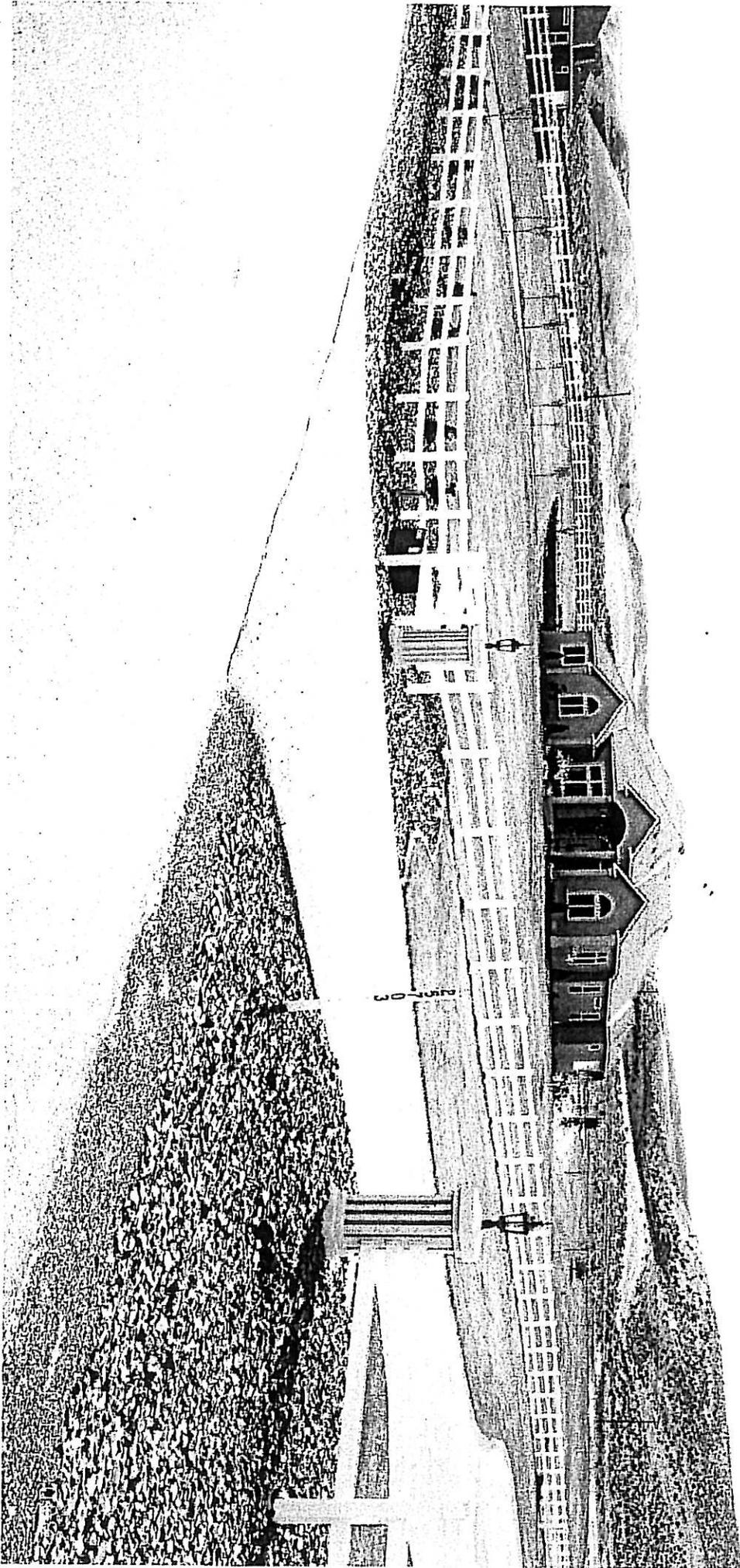


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RIVERS EDGE ESTATES

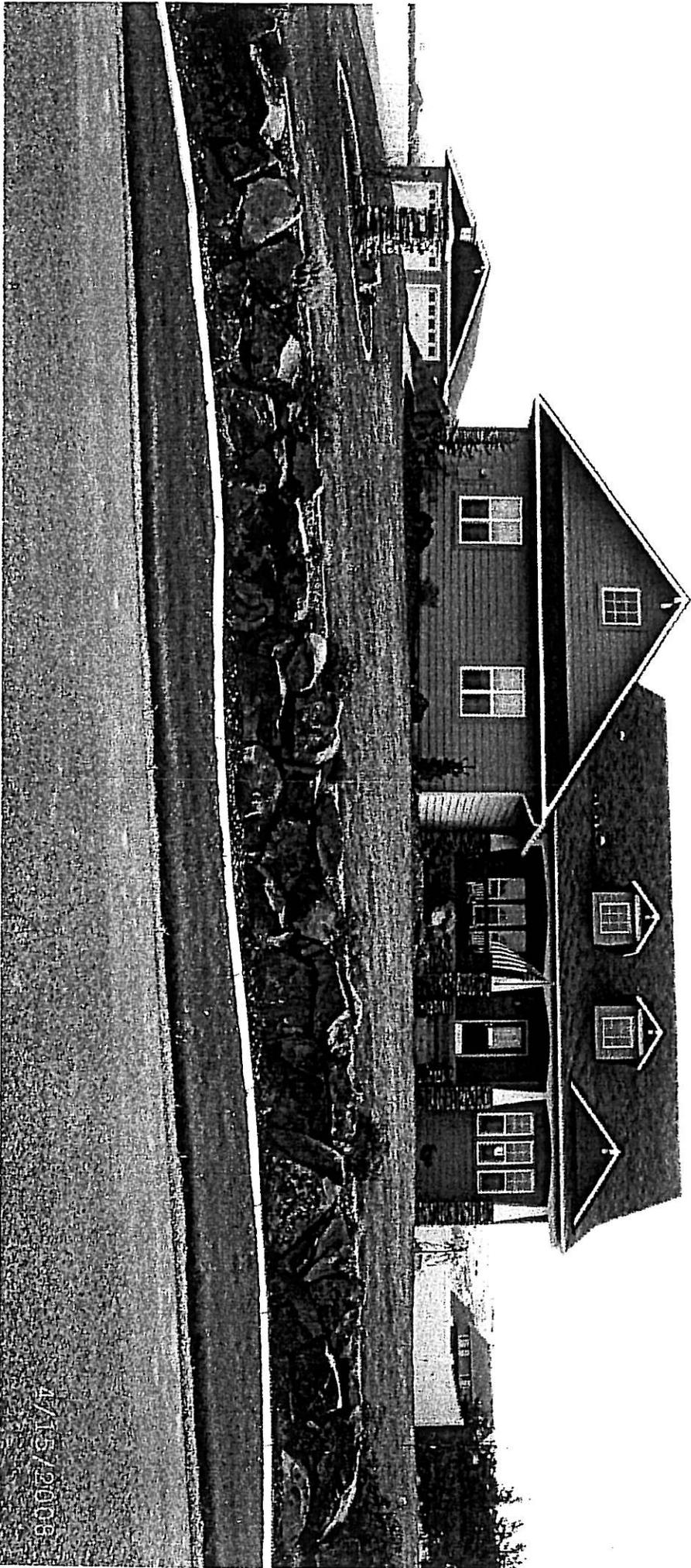
File No. SUB 07-03
Date 4-15-08
Exhibit No. 54
Received by djh







6692/5174



4/15/2008



Legislature pitches in

Fenske acknowledges that growers are wary of the study. But he said including them on his technical advisory committee has helped. For example, Jay Brunner, director of the influential Washington State University Tree Fruit Research and Extension Center, has agreed to be an adviser.

"There was apprehension about air monitoring and I can understand that," Fenske said. "So having people that growers know and trust review what we're doing has helped avoid that acrimony."

Legislators were well aware of the conflict's political implications. When they appropriated \$538,000 in 2007 for the air-monitoring study, they also agreed to spend \$550,000 for agriculture to find ways to phase out or reduce the amount of certain pesticides used on fruit trees. The Tree Fruit Research Commission in Wenatchee is leading that study, called the pest management transition project.

After first closing its meetings to groups like the Farm Workers Pesticide Project, the tree fruit research commission agreed to let them sit in, although they have no formal say in the process.

Chemical banned indoors

Chlorpyrifos — pronounced klor-PIE-raf-us — is the first pesticide being measured by UW scientists this season. It's widely used by apple growers in the spring to protect trees before they bud.

Until 2002, the chemical was used in pet collars, and as Dursban, the brand name of the residential version of the pesticide, it was the preferred bug killer in schools, apartments, hospitals and nursing homes. But in the 1990s, evidence began to mount regarding the chemical's adverse effects on prenatal and children's health.

Facing regulatory action from the U.S. Environmental Protection Agency, Dow Chemical in 2001 withdrew Dursban from retail shelves. EPA subsequently banned its use as an indoor insecticide.

In 2006, the link between Dursban and developmental problems in babies and toddlers was established. Public health researchers at Columbia University found that children exposed before birth to the chemical had significantly poorer mental and motor development by age 3 and were at increased risk for behavior problems.

But for apple trees and consumers who like perfect-looking fruit, Lorsban, as the agricultural brand is called, has been indispensable. Without Lorsban, cutworms and leafrollers will chomp through the first, second and even third round of buds. Although the buds may still produce a shoot, it won't bear much, if any, fruit.

"It really helps set the tone for a good growing season," said Keith Mathews, executive director of the Yakima Valley Growers-Shippers Association.

Since the mid-1990s, as the EPA has been moving to more closely regulate pesticides, the tree-fruit industry's use of Lorsban and three other common chemicals has dropped nearly 50 percent, according to the Tree Fruit Research Commission.

McPerson said more growers are choosing alter-

ing pheromones to disrupt bugs from mating and multiplying. Pheromones are chemical signals between species that stimulate certain behaviors.

Studies consider exposure

In the field, if a worker is accidentally overexposed to Lorsban, the effects are well documented. Symptoms range from dizziness to difficulty breathing and even paralysis as the chemical depresses certain enzymes necessary for everything from proper breathing to muscle coordination.

But the risks of chronic, low-level exposure haven't been definitively studied. Dansereau, the farm-worker advocate, said results from the air-monitoring study could contribute to what she calls "a substantial body of research" regarding the long-term health risks of all organophosphates, the class of pesticides that includes Lorsban and a more toxic product called Guthion.

A 2004 study in Hood River by Oregon Health & Science University found that Latino children of agricultural workers didn't perform as well on certain brain-function tests as children not living in agricultural areas.

Another OHSU study two years later found a similar correlation among adult Latino farm workers and exposure to organophosphates, including Guthion, which kills the dreaded codling moth. Compared with Latinos who hadn't worked in agriculture, the farm workers came up short on tests of motor speed, coordination, ability to sustain attention and how fast they could turn instructions into certain behaviors.

Neither study was definitive. But the 2006 researchers, which included the University of Pennsylvania, concluded: "These findings add to an increasing body of evidence of the association between low levels of pesticide exposure and deficits in neurobehavioral performance."

That's exactly the kind of statement that worries growers. Mathews, of the Growers-Shippers Association, said each incremental study seems to elevate the risk of pesticide exposure beyond what science has already established as safe. Just because something is measurable, he said, doesn't mean it's a health threat.

"These studies feed on each other and unfortunately become the new standard," said Mathews.

Dansereau, who would like to see the air-monitoring study continue next year, said pesticide regulations should be based on science: "But how can it be based on science if we don't even track it in the air?"

The results of the air-monitoring study will be presented to the 2009 Legislature. Fenske has cautioned that whatever the numbers show, they won't be definitive.

"This is a pilot program," he said.

Jim Hazen, executive director of the Washington State Horticultural Association in Wenatchee, said the preliminary and limited nature of the study means its supporters will want it funded for the 2009 growing season.

"I fully expect Mr. Fenske and others will be back before the Legislature saying they need more money," he said.

Loah Beth Ward can be reached at 577-7626 or lward@yakimaherald.com.

ATTN

Continued from Page 1A

transition in 2008.

In January 2007, President Bush said Iraqi forces would take charge in all 18 Iraqi provinces by November. Four months past that deadline, they control only nine.

Responsibility for these ever-unfulfilled goals lies in Washington, contends retired Maj. Gen. Paul D. Eaton, who preceded Petraeus as chief trainer in Iraq.

"We continue to fail to properly resource and build the very force that will enable a responsible drawdown of our forces," Eaton told The Associated Press.

Retired Gen. Barry R. McCaffrey, a West Point professor and frequent Iraq visitor, also sees insufficient "energy" in the U.S. effort.

"Even now, there is no Iraqi air force; there's no national military medical system; there's no

current chief trainer counterparts that his Multi-National Security Transition Command-Iraq has made "huge progress in many areas, quality and quantity."

"But we're not free of difficulties," Lt. Gen. James Dubik told reporters March 4.

A look back by the AP, as the Iraq conflict enters its sixth year, finds the \$22 billion training effort has been a story of uncertain steps and policy reversals, corruption, questionable numbers and distrust, ending with an Iraqi military with narrow capabilities and years more "standing up" ahead.

The first reversal came even before the 2003 U.S. invasion, when the Pentagon discarded prewar plans that called for restructuring the 400,000-man Saddam Hussein-era army into a postwar force of 150,000 to 200,000.

Instead, U.S. occupation chief Lt. Paul Bremer ordered the old army disbanded, and the Bush

— an "interim" force. The makeshift plan envisioned putting one 700-man battalion at a time through a nine-week training course — a rate that would have produced a mere 8,000 troops over two years.

Eaton persuaded Defense Department officials to raise that target to 40,000 troops by late 2004 even that was a "patently inadequate force," says Ali Allawi, later Iraq's defense minister.

Dubik is troubled by a shortage of midlevel Iraqi officers. The Pentagon's March report says this shortage "will take years to close."

It looks like years, not months, be the measure of progress. After half-decade of war, Dubik says Iraq defense officials don't expect to take over internal security until as late as 2012, and won't be able to defend Iraq's borders until 2018.

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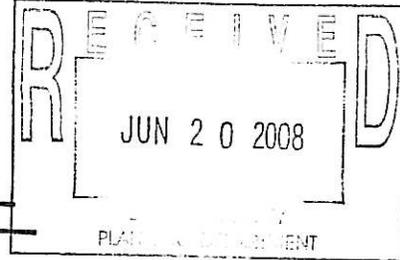
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June 20, 2008

Benton County Planning Department
Planning Annex, PO Box 910, 1002 Dudley Avenue
Prosser WA. 99350
Attention Michael Shuttleworth



RE: KATHRYN HEIGHTS - SUB 07-10

File No. SUB07-10
Date 6-20-08
Staff Exhibit No. B
Pro. Exhibit No. _____
Opp. Exhibit No. _____
Received by djh

Good Afternoon Mike

I was going through the Consent agenda that was sent down for our review, I had noticed that under the Conditions of Approval, Item 6 that the roads within the proposed plat include the construction of a 5 foot sidewalk with curbs and gutters on each side of the road. I do not recall this as a requirement, but more as a recommendation from the Planning Commission and that the developer would not be in opposition to constructing a sidewalk. There was various times during the hearing that this was brought up so we picked up a copy of the recorded proceedings so I could go through the transcript here are the excerpts;

7:19:19 I had stated that there was no opposition to sidewalks if that was what the County would like to see the developer has no problem putting the sidewalks in

7:41:49 Requiring the sidewalks out there will keep the storm water off the well site

7:43:35 Question: When we say sidewalks, I presume when we are talking about with curb and gutter, sidewalks not swales and ditches. No. No whatever the County asks for 5 foot sidewalk,

7:49:44 Planning Commission finding of Facts: sidewalks and so on are planned and will be installed

7:52:04 Planning Commission finds of fact: before we leave that subject by us saying there is adequate provisions does that mean there will be sidewalks, that is what we are recommending and that the applicants representative has stated that they would be installed and have no problem putting in sidewalks.

7:52:35 Planning Commission finds of fact: Drainage ways, the curb and gutter will channel the drainage and the testimonies has a Manhole to drain to. I have a question: Is the developer going to put in the curb and gutter. Answer: Whatever the county is going to require, once we create a barrier we will have to deal the storm water and it will be dealt with and we met all Benton County requirements. The well has to be protected from any drain water so that probably includes the whole subdivision. That alone would require the curb and gutter to channel the water away from the well. I am not sure about the

curbs and gutters. The sidewalks are required because the high school will be kids, people walking to and from, so public safety was another part of it, but I don't know curbs whatever the county requires. Well county normally requires a paved surface and a drainage ditch, however most time we do not require sidewalks but in this case given the closeness to the school and the amount of students that will be coming out of this subdivision and walking to school we are recommending sidewalk it is up to the Planning Commission if they want to go ahead and recommend curb and gutter to match with the sidewalk as opposed to a sidewalk adjacent to the road. That was one of the reason that I asked if they were going to have curb and gutter verses swale and sidewalk. I did pose the question to Benton City Engineer weather they, because the situation with Richland and Kennewick as part of using their public sewer and water system they require to put in curb and gutter to their standards, he wasn't sure that City does require that.

7:55:10 Question: So is the applicant will to put in curb and gutter or; Answer: Again I am sure the applicant will do whatever Benton County requires and out the details and make the public health and safety is taken care of.

Planning Commissioner: And I say I am talking about my personal experience and in fact whatever the county requires is what should and will happen. Do we have testimony that a least in front of the well site is that curb and gutter will probably be required that the water system is not impacted by drainage from the road.

7:56:23 Does the city have the same requirements as the county for sidewalks. Answer Mike Shuttleworth: I believe they do have a 5 foot sidewalk requirement and they also require curb and gutters and street lights,

7:57:02 Planning Commissioner: Curbs and Gutters supports, well, drainage ways will be built to county standards, which would include the dialogue on curbs, the commission can recommend that.

7:59:30 Planning Commissioner: We recommend curb and gutters for drainage ways.

From the above excerpts from the testimony which states that Benton City does not require any conditions for hookup and the recommendations from the Planning Commission, the applicant feels that the curb and gutter was a recommendation and not a requirement and asks that Item 6 be reworded to the following "That roads within the proposed plat include the construction of a 5 foot sidewalk and that a curb be placed in front of the well site to divert the storm runoff. The design and location of the sidewalk and drainage system to be approved by Benton County Department of Public Works." I thank you for allowing this recommendation and look forward to discussing this with you further.

CC: RJ Lott

Sincerely



Peter Kowatsch PLS

Survey Manager/ Associate



10:25

AGENDA ITEM MTG. DATE: June 23, 2008 SUBJECT: Preliminary Plat of Kathryn Heights- SUB 07-10 MEMO DATE: June 13, 2008 Prepared By: Michael Shuttleworth	TYPE OF ACTION NEEDED Execute Contract Pass Resolution X Pass Ordinance Pass Motion X Other	Consent Agenda Closed Record Hearing X Public Meeting 1st Discussion 2nd Discussion Other
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BACKGROUND INFORMATION

On May 20, 2008, the Benton County Planning Commission conducted an open record hearing on the proposed preliminary plat of Kathryn Heights – SUB 07-10. This subdivision consists of 21.28 acres to be divided into 43 single-family lots. After closing the Open Record Hearings and discussing the proposed plat, the Planning Commission made a recommendation to approve the preliminary plat of Kathryn Heights as presented with conditions. The Planning Commission’s record and recommendation for SUB 07-10 is being submitted for your review and decision. The Board has set a public meeting for June 23, 2008 at 10:25 a.m. to review the record and recommendation of the Planning Commission.

The Board of County Commissioners must make a final decision on the preliminary plat application based on the Planning Commission’s Open Record Hearing. The Board may not hold its own Open Record Hearing if the Planning Commission held an Open Record Hearing. In this case, the Planning Commission held an Open Record Hearing on May 20, 2008 and therefore, the Board of County Commissioners cannot consider any testimony other than that testimony that was presented to the Planning Commission at their Open Record Hearings. The only information the Board can consider is the clarification of statements made at the Open Record Hearing with reference to testimony and information submitted to the Planning Commission in their record prepared for this preliminary plat application. Attached for the Board’s review is a copy of the tapes and all information presented at the Planning Commission Open Record Hearings. Also attached is the signed Recommendation, Findings and Conclusion of the Planning Commission Open Record Hearings.

SUMMARY

The Benton County Planning Commission has completed the open record hearing for the preliminary plat application of Kathryn Heights – SUB 07-10. The Board of County Commissioners will consider the preliminary plat and recommendation of the Planning Commission at a public meeting on June 23, 2008.

RECOMMENDATION

After closing the Open Record Hearing and discussing the issue, the Planning Commission voted to recommend approval of the preliminary plat as presented with conditions. After reviewing the information presented at the public meeting, the Planning staff recommends that the Board adopt the Planning Commission’s recommendation, Findings and Conclusions (**See attached**) and approve the proposed preliminary plat.

FISCAL IMPACT

none.

MOTION

If the Board agrees with the Planning Commission and Planning Department, the Board can adopt the Planning Commission recommendation, Findings and Conclusions as their own and approve the preliminary plat of Kathryn Heights – SUB 07-10 with conditions.

If however, the Board disagrees with the Planning Commission and Planning Department’s recommendation then the Board will have to complete your own Findings and either approve the plat with additional conditions or deny the plat. If based on the Planning Commission’s record, you wish to complete your own findings; the Planning Department could draft the Boards findings and conclusions for the Board’s approval.

RECOMMENDATION OF THE
BENTON COUNTY PLANNING COMMISSION

RE: Preliminary Plat of approximately
21.28 acres into 43 lots on Lot 2 of
Short Plat 2724 in Section 12, Township
9 North, Range 26 East, W.M.

File No. SUB 07-10
RECOMMENDATION, FINDINGS OF FACT
AND CONCLUSIONS

RECOMMENDATION

SUB 07-10: A proposal by Jamie Weber to subdivide approximately 21.28 acres into 43 residential lots with an average lot size of 17,200 square feet and a minimum lot size of 11,226 squarefeet on Lot 2 of Short Plat 2724 in the Southeast Quarter of Section 12, Township 9 North, Range 26 East, W.M. is hereby recommended to be APPROVED WITH CONDITIONS. This action is based upon the following findings pursuant to RCW 58.17.110.

LEGAL DESCRIPTION

The area covered by the proposed preliminary plat is generally described as that portion of Section 12, Township 9 North, Range 26 East, W.M. located on Lot 2 of Short Plat 2724 located West of Highland Drive, South of Rainy Lane, South of the South end of Thunder Road and West of the West end of Sandy Lane.

RESOLUTION

WHEREAS, the Legal notification pursuant to the Benton County Code, Title 9, Chapter 9.08 was given Thursday, May 8, 2008; and,

WHEREAS, public notice procedures, pursuant to RCW 58.17.080 and 58.17.090, were carried out including: notice to affected jurisdictions, (February 6, 2008); publication of legal notices in the Tri-City Herald (May 8, 2008); adjacent landowners (April 30, 2008); and,

WHEREAS, the public hearing was held on May 20, 2008 at 7:00 p.m., in the Planning Annex, 1002 Dudley Avenue, Prosser, WA 99350; and,

WHEREAS, the following members were present: Eugene Johnson, Jon Lindeman, James Wetzel, Faye Nelson, Lloyd Coughlin, and Martin Sheeran,

WHEREAS, the Planning Commission considered all testimony and, after questions to those giving testimony, closed the public hearing; and,

WHEREAS, the Planning Commission at an open record public hearing held on May 20, 2008, considered the evidence submitted and voted six in favor with one absent to recommend **approval with conditions** of the proposal; and,

HEREAS, the Planning Commission is entering it's written findings, conclusions and recommendations concerning this matter, and is forwarding the same to the Board of County Commissioners.

FINDINGS AND CONCLUSIONS

- A. A majority of the Planning Commission members find that adequate provisions have been made for the Public Health and Safety based on the following facts:**
1. The conditions as outlined in the staff report provide adequate provisions for Public Health and Safety.
 2. The Department of Health will have to approve the water system.
 3. Sewer will be provided by the City of Benton City.
 4. Sidewalks will be put in the subdivision to ensure safe walking areas.
 5. A 150-foot buffer from agricultural uses will be needed and a statement regarding the agricultural uses is to be placed on the plat.
 6. Adequate fire flow are required and the Benton County Fire Marshal must approve the system prior to final plat approval
- B. A majority of the Planning Commission members find that adequate provisions have been made for open spaces based on the following facts:**
1. That the proposed Preliminary Plat of Kathryn Heights does not contain land to be designated for open space and a park.
 2. That the Benton County Code does not require open space dedications for this type of preliminary plat.
- C. A majority of the Planning Commission members find that adequate provisions have been made for drainage ways based on the following facts:**
1. Pursuant to the Planning Staff memo dated May 15, 2008, the Benton County Dept. of Public Works will review the proposed plat to insure that it meets the requirements of the Benton County Hydrology Manual.
 2. All natural drains are to be kept open and protected by the dedication of a drainage easement or the Benton County Dept. of Public Works must approve a pipe drainage plan.
 3. Testimony was provided regarding the protection of the wellhead and that curbs and gutters would need to be installed to protect the wellhead from water runoff.
 4. Testimony was also provided that there was a manhole available to hook drainage pipes up to for drainage of water runoff.
- D. A majority of the Planning Commission members find that adequate provisions have been made for streets or roads, alleys, and other public ways based on the following facts:**
1. All lots within the proposed development will front onto a dedicated street.
 2. All roads must be constructed or bonded prior to the final plat hearing.
 3. The proposed preliminary plat must meet the requirements of the Benton County Dept. of Public Works.
 4. The Benton County Department of Public Works must approve proposed street names within the proposed plat.
 5. The development of this proposal will complete the existing road plans for this area.
 6. The road abutting Lots 41, 42, and 43 would need to be reconfigured in order to have adequate area to place a dwelling on the sites and meet the zoning code setback requirements and the wetland setback.
 7. The site is located in the Urban Growth Area for the City of Benton City.
- E. A majority of the Planning Commission members find that adequate provisions have been made for transit stops based the following facts:**

1. The proposed plat does not have a location for a public transit stop and no evidence was presented that a transit stop is required.
2. The proposed plat and surrounding area is not served by public transit.

F. A majority of the Planning Commission members find that adequate provisions have been made for potable water supplies based on the following facts:

1. Water will be provided by the Oasis Water Corp., a private system.
2. Proof of potable water must be provided before building permits will be issued for lots within the subdivision.
3. Written verification from the Washington State Dept. of Health that the Oasis Water Corporation System is in compliance must be made prior to final plat approval.
4. A green operating permit for the Oasis Water Corporation must be obtained from the Dept. of Health prior to final plat approval.

G. A majority of the Planning Commission members find that adequate provisions have been made for sanitary wastes based on the following facts:

1. The plat proposes to utilize city sewer services.
2. Written verification from the City of Benton City that the required improvements have been made to serve the plat with City sewer services is to be received prior to final plat approval.

H. A majority of the Planning Commission members find that appropriate provisions have been made for parks, recreation, and playgrounds based on the following facts:

1. The proposed plat does not provide for parks or recreation opportunities.
2. That no evidence was presented that park, recreation or playground areas are needed or required.

I. A majority of the Planning Commission members find that appropriate provisions have been made for schools and school grounds and for sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school based on the following facts:

1. The proposed development is within 1400 feet of a school and most children will be walking to and from school.
2. The City of Benton City does require sidewalks as part of development within City Limits and since this area is within the UGA and borders city limits five foot sidewalks are required for those walking to and from school and the design and location of the sidewalks is to be approved by the Benton County Dept. of Public Works.
3. In order to protect against drainage runoff, curbs and gutters alongside the sidewalks must be installed.
4. Prior to final plat approval written approval by the Kiona Benton School District must be provided.

J. A majority of the Planning Commission members conclude that the requirements of the State Environmental Policy Act have been met based on the following:

1. An Environmental Checklist was submitted and the Planning Department issued a Determination of Non Significance on April 3, 2008.
2. A wetland Delineation Report was submitted for those areas around lots 28 through 43 and a 50-foot setback from the wetland area is deemed necessary

K. A majority of the Planning Commission members find that the proposed use is in conformance with the intent of the Comprehensive Plan based on the following facts:

1. The preliminary plat is located with the Agricultural Zoning District and is located within the

Urban Growth Area for Benton City. The plat meets the intent of the Comprehensive Plan.

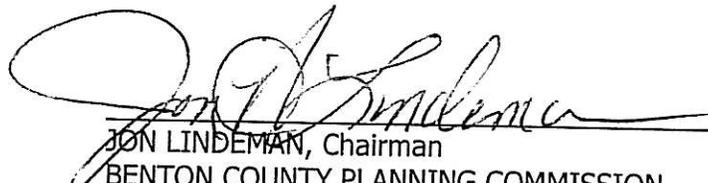
L. A majority of the Planning Commission members find that the proposed plat is consistent with the applicable zoning requirements of the Benton County Code, Title 11, based on the following facts:

1. The Planning Commission incorporates by reference and adopts the Planning Department's Findings of Fact as set forth in its May 15, 2008 memo, except to the extent any such findings are inconsistent with any of the Planning Commission findings stated above.
2. This proposal is allowed within the Agricultural Zoning District.

M. The Commission has considered the physical characteristics of the proposed subdivision site and finds that the proposed plat is not situated in a flood control zone.

A majority of the Planning Commission members conclude, based on the foregoing findings that the public interest will be served by the subdivision and dedication.

THEREFORE BE IT RESOLVED BY THE BENTON COUNTY PLANNING COMMISSION, through its chairman as authorized by motion of the Board, adopts these findings and conclusions with respect to File No. SUB 07-10, the preliminary plat of Kathryn Heights, proposed by Jamie Weber and such plat is hereby recommended to the Board of County Commissioners for APPROVAL WITH CONDITIONS (attached).


JON LINDEMAN, Chairman
BENTON COUNTY PLANNING COMMISSION

6/5/08
Date

CONDITIONS OF APPROVAL - SUB 07-10

1. That all lots in the final plat meet the design standards for final plat approval as specified in Benton County Code 9.08 as amended, and meet all of the zoning requirements as specified in BCC Title No. 11, as amended.
2. Prior to setting the date for final approval, the applicant provides written verification from the City of Benton City that the required improvements have been so that the plat is served by City's sewer system.
3. The location and size of all irrigation and utility easements necessary for electric power, telephone service, water, sewer and cable T.V. be coordinated with the proper utilities and/or reviewing agencies and shown on the final plat. The developer will need to open the utility trenches, including road crossings, based on individual utility requirements and specifications.
4. That all requirements necessary for storm drainage are provided, including any easements necessary for compliance with the Benton County Hydrology Manual. All natural drains are to be kept open and protected by the dedication of a drainage easement or the Benton County Department of Public Works must approve a pipe drainage plan.
5. The applicant shall provide irrigation improvements and easements as required by the Benton Irrigation District.
6. Provisions shall be made to ensure safe walking and/or waiting areas for students who will walk to and from school and for bus turn out areas. Written approval by the Kiona Benton School District must be provided to the planning department prior to setting the meeting date for the final plat. That roads within the proposed plat include the construction of a 5-foot wide sidewalk with curbs and gutters on each side of the road. The design and location of the sidewalks, curbs and gutters to be approved by the Benton County Department of Public Works.
7. Contour lines shall be shown on the final plat or on a separate sheet at a maximum of 5' intervals.
8. The final plat must include an approval and signature block for the irrigation district, reading as follows:

IRRIGATION APPROVAL

The property described herein is located wholly within the boundaries of the _____ Irrigation District. I hereby certify assessments have been paid through _____, that property has been provided with irrigation water right-of-way for each parcel of land, and that all irrigation easements are hereby approved. I further certify that all other irrigation district requirements of RCW 58.17.310 have been satisfied.

IRRIGATION DISTRICT

TITLE

DATE

That the wetland line and the 50-foot setback is shown on the final plat. Lots 41, 42, and 43 are redesigned so that there is adequate area to place a dwelling on the sites and meet the zoning code setback requirements and the wetland setback.

10. That the Planning Department receives written verification from the Benton County Fire Marshal indicating that the required fire flow and adequate fire protection system have been installed and are functioning as per the requirements of BCC. If this is not accomplished a statement will need to be placed on the final plat indicating that: "No building permit shall be issued until the roads are constructed to at least subgrade standards." All roads must be constructed or bonded prior to the final plat being submitted for final plat approval.

11. That the 150 setback for residential structures and swimming pools from the existing orchard located on Lot 38 be shown on the final plat and the following statement must appear on the final plat:

"To protect the health, safety and welfare of persons occupying the proposed lots from potential impacts of existing adjacent high intensity agricultural operations, no residential structures or swimming pools requiring a permit shall be located any closer than 150 feet from the south property lines of the lot 38.

"This property lies in the vicinity of parcels used for commercial agricultural purposes. At various times of the day or night, a variety of commercial farming activities including, spraying, operating of heavy farm equipment and dairy operations have traditionally occurred in the area. Noise, odors, insects, attendant with such activities may not be compatible with residential development. Please contact the Benton County Planning Department for further information."

12. Prior to setting the date for final approval, the applicant provides written verification from the Washington State Department of Health that the required improvements have been made to the Oasis Water Corporation System and the system is in compliance with current state standards. Also the applicant must provide written verification from Washington State Department of Health that required improvements have been installed and inspected to provide water service to the proposed lots. A Green Operating Permit must be obtained from the Department of Health and provided to the Planning Department prior to final plat approval.

13. That any pipelines within the areas proposed for dedication of road right of way be upgraded to meet the Benton County Department of Public Works standards for pipelines located in road right of way. That the owners of the easement vacate the waterline easements located within the proposed road right of way.

14. The final plat shall not label the lots as duplex lots.

15. That the preliminary plat is modified in all necessary respects so that the final plat will reflect the requirements of approval. If the final plat will be in conflict with any of the conditions of approval as adopted by the Planning Commission as a result of the modifications, then the final plat must be reviewed by the Planning Commission at a public meeting for approval prior to sending the final plat to the Board of County Commissioners.

Benton County Planning Department

Planning Annex, P.O. Box 910, 1002 Dudley Avenue, Prosser WA 99350, Phone: (509) 786-5612 or (509) 736-3086, Fax (509) 786-5629

File No. SUB 07-10
Date 5-15-08
Exhibit No. 1
Received by djh

DATE: MAY 15, 2008
TO: BENTON COUNTY PLANNING COMMISSION
FROM: BENTON COUNTY PLANNING DEPARTMENT
RE: PRELIMINARY PLAT APPLICATION SUB 07-10 - KATHRYN HEIGHTS
APPLICANT: JAMIE WEBER, 2839 W. KENNEWICK AVENUE # 181, KENNEWICK, WA 99336.

SPECIFIC REQUEST:

The applicant is requesting preliminary plat approval to subdivide approximately 21.28 acres into 43 lots with an average lot size of 17,200 square feet and a minimum lot size of 11,226 square feet.

EXHIBITS:

The following exhibits are attached to this report:

- Exhibit 1: Staff Memo dated May 15, 2008
- Exhibit 2: SUB 07-10 Preliminary Plat Application.
- Exhibit 3: Preliminary review of development drainage system designs.
- Exhibit 4: Preliminary plat review sheet.
- Exhibit 5: Notice of Application published February 8, 2008.
- Exhibit 6: Notice of Open Record Hearing, published Thursday, May 8, 2008.
- Exhibit 7: Environmental Checklist.
- Exhibit 8: Environmental Determination for SUB 07-10 dated April 3, 2008.
- Exhibit 9: Wetland Delineation Report for the site, completed by Biology, Soil & Water Inc..
- Exhibit 10: Comments from Oasis Water System dated November 15, 2007.
- Exhibit 11: Comments from Oasis Water System dated February 21, 2008.
- Exhibit 12: Comments from Washington State Department of Health dated March 27, 2008.
- Exhibit 13: Comments from Washington State Department of Health dated May 13, 2008.
- Exhibit 14: Letter from the City of Benton City to the applicant dated October 5, 2007.
- Exhibit 15: Comments from Benton-Franklin Health District dated February 8, 2008.
- Exhibit 16: Comments from Benton-Franklin Health District dated April 15, 2008.
- Exhibit 17: Comments from Washington State Department of Ecology dated February 19, 2008.
- Exhibit 18: Comments from Washington State Department of Ecology dated February 21, 2008.
- Exhibit 19: Comments from Benton County Fire Marshal dated February 21, 2008.
- Exhibit 20: Comments from Benton County Department of Public Works dated February 20, 2008.

- Exhibit 21: Comments from Southeast Communications Center dated February 13, 2008.
- Exhibit 22: Comments from Washington State Department of Archaeology & Historic Preservation dated February 20, 2008.
- Exhibit 23: Comments from Benton County Assessor's Office dated February 13, 2008.
- Exhibit 24: Comments from Leonard F. Banas dated February 9, 2008.
- Exhibit 25: Copy of Short Plat 2724
- Exhibit 26: Copy of the Plat of Breez'n in Estates No. 3
- Exhibit 27: Pages 4-15 to 4-24 of the Benton County Comprehensive Plan.
- Exhibit 28: Pages 5-15 to 5-22 of the Benton County Comprehensive Plan.
- Exhibit 29: Land Use Map 4.2, Page 4-51 of the Benton County Comprehensive Plan.
- Exhibit 30: Aerial Photo of the Site taken in 2004.
- Exhibit 31: Preliminary Plat map for Kathryn Heights.
- Exhibit 32: Large wall aerial photo of the site taken in 2004 (too large to attach).

LEGAL NOTICE PUBLISHED:

The legal notice required by BCC 9.08.032, for the Planning Commission's Open Record Hearing on the Preliminary Plat of Kathryn Heights, was published in the Tri-City Herald on May 8, 2008. The legal notice was also sent to the property owners within 300 feet of the boundaries of the property in this application on April 30, 2008.

LOCATION:

The subject property is located West of Highland Drive, South of Rainy Lane, South of the South end of Thunder Road, and West of the West end of Sandy Lane, on Lot 2 of Short Plat 2724, in the Southeast Quarter of Section 12, Township 9 North, Range 26 East, W.M.

LAND USE:

The subject property is currently undeveloped. The parcels located to the North are developed with single-family dwellings on lots less than 1 acre. The areas to the east and south are developed with residential and agricultural uses. The areas to the west are developed with agricultural uses.

ZONING:

The on-site and surround zoning is Agricultural.

COMPREHENSIVE PLAN:

The Benton County Comprehensive Plan designates the site for the proposed preliminary plat and most of the surrounding areas as Urban Growth Area for the City of Benton City. See the attached Comprehensive Plan Map.

TABLE 1

Direction	Land Use	Zoning	Comprehensive Plan
North	Residential	Agricultural	Urban Growth Area 6 DU/ acre
Northwest	Residential	Agricultural	Rural Residential 5 DU/ acre
West	Agricultural	Agricultural	Rural Residential 5 DU/ acre
Southwest	Agricultural	Agricultural	Rural Residential 5 DU/ acre
South	Residential	Agricultural	Urban Growth Area 6 DU/ acre
Southeast	Residential	Agricultural	Urban Growth Area 6 DU/ acre

East	Residential	Agricultural	Urban Growth Area 6 DU/ acre
Northeast	Residential	Agricultural	Urban Growth Area 6 DU/ acre

STATE ENVIRONMENTAL POLICY ACT:

The Preliminary Plat of Kathryn Heights has been reviewed under the requirements of the State Environmental Policy Act, as amended and a Determination of Non-Significance (MDNS) was issued on April 3, 2008. Copies of the Environmental Checklist, the Determination of Non-Significance, and the comments received from reviewing agencies are attached to this memorandum.

APPLICABLE DEVELOPMENT REGULATIONS:

1. Benton County Code Section 9.08.014 provides:
 "PLANNING COMMISSION. No plat shall be presented for filing until it has been reviewed and received recommendation for preliminary and final approval by the Benton County Planning Commission. The Benton County Planning Commission may recommend the denial of any plat which does not adequately plan for and provide adequate provisions for public health, safety and general welfare or any plat in which it finds the public use and interest will not be served."

2. Benton County Code Section 9.08.050 provides design and construction standards for preliminary plats.

9.08.050 DESIGN AND CONSTRUCTION STANDARDS – GENERAL LAYOUT DESIGN STANDARDS.

- (a) Arrangement of arterial streets in the subdivision shall conform to the Comprehensive Plan as adopted by the County Planning Commission and the Board of County Commissioners.

- (b) Street shall continue as an extension of existing streets unless good site planning dictates a different solution. Street patterns shall take into consideration access needed to develop adjacent properties presently unsubdivided. Sketches of a proposed street system for adjoining properties may be required if owned by the subdivider or if the arrangement of the large tracts make it necessary to provide future access through the property under consideration.

- (c) Access streets shall be planned so as to discourage through traffic and to conveniently channel traffic onto primary and secondary arterial.

- (d) When a tract is subdivided into larger than normal lots or parcels, such parcels shall be so arranged as to permit the logical resubdivision and opening of future streets with provision for adequate utility connections for such resubdivisions.

- (e) When dead-end streets are created by the development of a portion of a larger plat or because of the desirability of continuing a street into a presently unplatted parcel, not presently owned by the applicant, a temporary turnaround shall be

provided unless the county engineer's office recommends against provision of such turnaround. If such a turnaround includes some private property, such turnaround right-of-way shall be protected by an easement until such time as the street is extended and the need for turnaround has ceased to exist.

- (f) Cul-de-sacs will be permitted where topography or other conditions justify their use. They should not exceed three hundred (300) feet but will be permitted up to five hundred (500) feet in length. Cul-de-sacs exceeding 500 feet may be approved if conditions warrant the need and are documented by the Planning Commission. Every cul-de-sac shall have a turnaround at its closed end with a minimum outside diameter of the right-of-way one hundred (100) feet.
- (g) Street names shall be assigned to conform to existing streets on the same or similar alignment. New street names shall not be so similar to existing street names as may cause confusion.
- (h) Streets shall be laid out so as to intersect as nearly as possible at right angles EXCEPT where topography or other conditions justify variations. The minimum angles of intersection of streets shall be seventy-five (75) degrees, unless specifically waived by the county engineer.
- (i) Street jogs with centerline offsets of less than one hundred twenty-five (125) feet shall not be permitted unless specifically approved by the county engineer.
- (j) Wherever the proposed subdivision contains or is adjacent to a railroad right-of-way or the right-of-way of a limited access highway, freeway, or primary arterial, provision may be required for a marginal or frontal access street at a distance appropriate to the proposed use of land between the right-of-way and the marginal access street. Such distance shall be determined with due consideration to future grade separations and for required lot depths.
- (k) Corner lots in residential areas shall be ten (10) percent wider than minimum lot widths to allow for adequate setback of a building from both streets.
- (l) Sidelines of lots shall be approximately at right angles to the street in front or radial to curved street lines.
- (m) Lots with double frontage shall be avoided wherever possible.
- (n) All lots shall front on a dedicated street other than an alley.
- (o) In developments where individual sewage disposal systems are to be used, the size of the lots shall be subject to the approval of the County Health Officer.
- (p) Drainage easements for storm sewers or open channel ditches may be required where it is not feasible to carry storm drainage under the streets or right-of-way. Open channel easements may be required where there is evidence of a present or future natural drainage pattern which may carry water at such time as the general water table of the area is raised, or increased runoff will result from

altered land use.

3. RCW 58.17.110 provides the following for the County to use when determining to approve or disapprove a proposed subdivision:

"RCW 58.17.110 Approval or disapproval of subdivision and dedication--Factors to be considered--Conditions for approval--Finding--Release from damages.

(1)The city, town, or county legislative body shall inquire into the public use and interest proposed to be served by the establishment of the subdivision and dedication. It shall determine: (a) If appropriate provisions are made for, but not limited to, the public health, safety, and general welfare, for open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and school grounds, and shall consider all relevant facts including sidewalks and other planning features that assure safe walking conditions for students who walk to and from school; and (b) whether the public interest will be served by the subdivision and dedication.

(2) A proposed subdivision and dedication shall not be approved unless the city, town, or county legislative body makes written findings that: (a) appropriate provisions are made for the public health, safety, and general welfare, for open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and school grounds, and shall consider all relevant facts including sidewalks and other planning features that assure safe walking conditions for students who walk to and from school; and (b) whether the public interest will be served by the subdivision and dedication. If it finds that the proposed subdivision and dedication make such appropriate provisions and that the public use and interest will be served, then the legislative body shall approve the proposed subdivision and dedication. Dedication of land to any public body, provision of public improvement to serve the subdivision, and/or impact fees imposed under RCW 82.02.050 through RCW 82.02.090 may be required as a condition of subdivision approval. Dedication shall be clearly shown on the final plat. No dedication, provision of public improvements, or impact fee imposed under RCW 82.02.050 through RCW 82.02.090 shall be allowed that constitutes an unconstitutional taking of private property. The legislative body shall not as a condition of the approval of any subdivision require a release from damage to be procured from other property owners."

STAFF'S FINDINGS OF FACT:

Based on the application and information received as of the date of this memo, the planning staff makes the following findings:

1. The applicant for SUB 07-10 is Jamie Weber, 2839 W. Kennewick Ave. # 181,

Kennewick, WA 99336. The property owners are Tract A Development Inc, 229 N. Fruitland, Kennewick, WA 99336.

2. Preliminary Plat Application SUB 07-10 is requesting preliminary plat approval to subdivide 21.28 acres into 43 lots with an average lot size of 17,200 square feet and a minimum lot size of 11,226 square feet.
3. The subject property is located West of Highland Drive, South of Rainy Lane, South of the South end of Thunder Road, and West of the West end of Sandy Lane, on Lot 2 of Short Plat 2724, in the Southeast Quarter of Section 12, Township 9 North, Range 26 East, W.M.
4. Preliminary Plat Application SUB 07-10 was determined to be a complete application on February 4, 2008. The Notice of Application required by BCC 17.10.100 was published on February 8, 2008 and sent to the property owners with 300 feet of the proposed plat on February 5, 2008.
5. The affected agencies review letter was sent on February 5, 2008. The comments of those agencies that responded are attached to this staff memo.
6. The notice for the Benton County Planning Commission's Open Record Hearing for application SUB 07-10 was published on May 8, 2008 in the Tri-City Herald and mailed to property owners of record within 300 feet of the outer boundaries of the parcel on April 30, 2008. The Open Record Hearing is scheduled for Tuesday, May 20, 2008.
7. The Preliminary Plat of Kathryn Heights has been reviewed under the requirements of the State Environmental Policy Act and a Determination of Non-Significance (MDNS) was issued on April 3, 2008.
8. The property is zoned Agricultural, which requires a minimum lot area of ten thousand (10,000) square feet and an average lot width of not less than ninety (90) feet. The lots proposed in the Preliminary Plat of Kathryn Heights comply with the minimum lot area and lot width for the Agricultural Zoning District. Residential dwellings are allowed uses in the Agricultural Zoning District.
9. The Benton County Comprehensive Plan designates this area as Urban Growth Area, providing a density of one to six dwelling units per acre. The proposed preliminary plat has an average lot area of 17,200 square feet and a density of one dwelling unit per 1/2 acres. This development is consistent with the density contained in the Benton County Comprehensive Plan.
10. The Benton County Comprehensive Plan does not address the arrangement of arterial streets for the proposed subdivision. (BCC 9.08.050 (a))
11. The streets within the proposed subdivision are extensions of existing streets. The proposed preliminary plat provides for extension of a proposed road into the area north of the site. (BCC 9.08.050 (b))
12. The proposed preliminary plat will provide a connection through the proposed plat, from

Thunder Road to Highland Road. (BCC 9.08.050 (c))

13. The lots within the proposed preliminary plat will not be larger than normal lots or parcels within the Agricultural Zoning District utilizing a public water supply and on-site septic systems. (BCC 9.08.050 (d))
14. There are no temporary cul-de-sacs proposed within the preliminary plat (BCC 9.08.050 (e))
15. There is no cul-de-sac proposed within the development. BCC 9.08.050 (f).
16. The Benton County Department of Public Works must approve proposed street names within the proposed plat. The proposed streets are extensions of existing county roads and are proposed to use the same names as the existing roads. (BCC 9.08.050 (g))
17. The roads within the proposed plat are laid out so that they will intersect as nearly as possible at right angles. (BCC 9.08.050 (h))
18. There are no street jogs with centerline offsets of less than one hundred twenty-five (125) feet within the proposed plat. (BCC 9.08.050 (i))
19. The proposed development is not adjacent to a railroad right-of-way or the right-of-way of a limited access highway, freeway, or primary arterial. (BCC 9.08.050 (j))
20. The corner lots within the proposed plat are ten (10) percent wider than minimum lot widths to allow for adequate setback of a building from both streets. (BCC 9.08.050 (k))
21. The sidelines of lots within the proposed plat are approximately at right angles to the street in front or radial to curved street lines. (BCC 9.08.050 (l))
22. None of the lots within the proposed subdivision will have double frontage. (BCC 9.08.050 (m))
23. All lots within the proposed development front onto a dedicated street. (BCC 9.08.050 (n))

The applicant has proposed that the preliminary plat be served by the City of Benton City sewer system. (BCC 9.08.050 (o))

24. The Benton County Department of Public Works will review the storm drainage issue during the their review of the proposed plans for the construction of the proposed county roads. (BCC 9.08.050 (p))
25. The proposed Preliminary Plat of Kathryn Heights does not contain land to be designated for open space. The Benton County Code does not require open space dedications for this type of preliminary plat.
26. The proposed preliminary plat will add new roads to the County road system. The Benton County Department of Public Works has reviewed the proposed location of the

roads.

27. The Ben Franklin Transit did not comment on transit service for the proposed development. The proposed plat and surrounding area is not served by public transit. The closest Ben Franklin Transit stop is located on Highland Drive approximately 1/2 mile east of the site.
28. One finding that must be made to approve this application is that adequate provisions for potable water supply have been made. The application for the Preliminary Plat of Kathryn Heights shows that Oasis Water System will supply water supply for the proposed lots. The Washington State Department of Health commented that the water system is considered in default for a loan from the Drinking Water State Revolving Fund and may not be allowed additional connections.

The Oasis Water Corporation commented that they had available 62 new connections and the proposal would require 83 connections. To accommodate the addition connection it would require an amendment to the water system plan. They stated that they have adequate water rights and capacity within the existing storage and pumping system to made the amendment.

During the review of this proposed plat the Planning Commission should make a determination whether there is evidence submitted to determine that, regardless of the legal requirements, there is physically available sufficient potable water in quantity and quality to support the proposed uses. As of the writing of this staff report, the applicant has not presented information that there is or is not physically available sufficient potable water in quantity and quality to support the proposed uses. The Washington State Department of Health has commented that the existing water system may not able to serve the proposed lots.

29. The proposed plat does not provide for parks or recreation opportunities.
30. The proposed plat is within the Kiona-Benton School District. The proposed development is located within 1,400 feet of a school. The Kiona Benton High School is located Northeast of the site. The preliminary plat does not show sidewalks or locations for bus stops. Since this plat is within 1,400 feet of a public school, most students will walk to and from school. The school district did not provide comments on this proposal as to whether there are adequate provisions to assure safe walking conditions for students who walk to and from school or waiting for school buses. The proposed plat does not include provisions for sidewalks. The City of Benton City does require sidewalks as part developments in the city. The Planning Department recommends that a five (5) foot sidewalk be required on each side of the proposed streets.
31. The proposed development is not within a flood control zone as outlined on the Federal Emergency Management Agency Flood Insurance Rate Map 530237 0420 B with an effective date of July 19, 1982.
32. The proposed development is located within the Benton Irrigation District. The district submitted comments on the proposed plat. The district did not comment on the proposed plat.

33. The Benton County Fire Marshall reviewed the proposed plat and stated the proposed development will be required to provide required fire flows. The requirements of the Fire Marshal are prior to plat approval, a letter from the water purveyor stating its willingness and ability to provide 500 gpm for 30 minutes at 40psi static pressure and 20psi residual, at normal peak instantaneous demands, is to be sent to the Benton County Fire Marshal.

- Prior to final plat approval, a copy of the water system plans shall be stamped by a Washington State registered engineer, and shall be signed by the water purveyor, shall be given to the Benton County Fire Marshal, and DSHS.
- The approved water system shall be installed prior to final plat approval, or a statement shall be placed on the plat indicating no building or mobile home permit will be issued until the water system is installed, operating and approved.
- The installation of the water system must be installed under the supervision of a WA. State Registered Engineer, and the engineer shall send a letter to the Benton County Fire Marshal certifying in writing that the system was installed in accordance to the approved design.
- Water main requirements are:
 - a. Hydrants are to be operable prior to building permits being issued.
 - b. Minimum main size for circulating (grid or Loop systems) shall be 6".
 - c. Dead-end mains longer than 300 feet to the last hydrant shall be 8". If shorter than 300 feet, 6" are permitted.
 - d. Hydrant leads more than 50 feet shall be 8". If shorter than 50 feet, 6" is permitted.
 - e. Hydrants shall conform to current A.W.W.A. specifications. There shall be one 4 1/2" NST pumper port, two 2/12" NST hose port, and a 1-1/2" pentagon operating nut.
 - f. A storz adapter for the steamer port that meets Benton County Fire District 2's requirements is required for all hydrants. Contact Captain Lance Howell at 588-3212 for their requirements, also see attached Fire Marshal Policy on Storz adapters.
 - g. There shall be an auxiliary gate valve installed to permit repair and replacement of hydrants without disrupting water service.
 - h. Hydrant shall stand plumb, and the lowest outlet shall be between 18" and 24" above the finished grade.
 - i. Pumper port is to face the street.
 - j. Hydrants are not to be obstructed, and shall be accessible to the fire department.
 - k. Hydrants subject to vehicle damage shall be adequately protected.

- I. Hydrant locations will be determined by the Benton County Fire Marshal. General spacing is 600' as measured by a fire truck laying the fire hose.

34. Located directly south of the Southwest portion of the proposed subdivision is an operating orchard. In two previous subdivisions and one planned development that involved a proposed development next to an operating orchard, the Planning Commission recommended and the Board of County Commission approved a setback of one hundred fifty (150) feet to one-hundred seventy (170) feet for all residential structures including swimming pools. The applicant has placed a 150-foot orchard setback on the face of the preliminary plat adjacent to the orchard. The following conditions of approval were placed on the approval of other subdivision that were located next to active farming and orchard operations:

"This property lies in the vicinity of parcels used for commercial agricultural purposes. At various times of the day or night, a variety of commercial farming activities such as: Noise, odors, flies, sprays, etc. may occur that are not be compatible with residential development. Please contact the Benton County Planning Department for further information."

That a statement be placed on the final plat notifying purchases of the lots within the subdivision indicating that the County has adopted BCC 14.01, Right to Farm Ordinance, which effects future homeowner's rights if any potential conflicts between agricultural and residential activities arise.

To protect the health, safety and welfare of persons occupying the proposed lots from potential impacts of existing adjacent high intensity agricultural operations, no residential structures or swimming pools requiring a permit shall be located any closer then 150 feet from the property lines.

35. The following note and statement are on the face of the plat of Breez'n Estates No. 3 and Short Plat 2724: "100' no construction zone". Located along the west property lines of the proposed plat is an existing creek. Benton County Code Section 15.20 provides for impacts on creeks. Section 15.20 provides for a 50-foot buffer for creeks. Buffers are defined in BCC 15.10.030(9) as:

"Buffer" means a designated area used to separate incompatible uses or protect resources or development (also known as a "setback"). Buffers are generally undeveloped areas. There are different types of buffers for different purposes:

- (a) Buffers which protect sensitive natural resources (critical areas) from adverse impacts of development are generally undeveloped open space which are ecologically part of the protected resource;
- (b) buffers which protect the integrity of development from certain natural hazards such as slope instability, floods or fire

prone areas, are building setbacks which avoid the hazardous condition;

(c) buffers to separate incompatible uses, such as residential from industrial, airports, or certain activities common to commercial agriculture, are generally open or sparsely populated.

Attached to this memo is a wetland study for the area around the proposed lots 38 through 43. Based on the required front yard setbacks and the wetland setback as shown on the plat map, it appears that there is not enough area on lots 41, 42, and 43 to construct a dwelling.

36. The applicant is proposing that the City of Benton City will provide the sewer services for the plat. Attached to this memo is a letter from the City.
37. The proposed preliminary plat shows that 40 of the lots will be used for duplexes. The site is currently zoned Agricultural and under BCC 11.16.010 a two family dwelling is allowed use in the Agricultural Zoning District. BCC 11.12.010 provides the following standards for lot where duplexes are constructed: "

"BUILDING SITE. (a) Single family dwellings, manufactured home (mobile home), or two-family dwelling. No single family dwellings, manufactured home or two-family dwellings shall hereinafter be erected upon any lot or plot having an area of less than ten thousand (10,000) square feet nor an average width of less than ninety (90) feet, provided, that nothing in this chapter shall prevent the erection of one (1) one-family dwelling or manufactured home upon any lot or plot of record at the time of adoption of this chapter and of separate and distinct ownership from any property."

The proposed lots comply with the above noted requirements. However of the final plat they should not be labeled as lots for duplexes or single family dwellings.

38. The Washington State Department of Archaeology & Historic Preservation commented that a Archaeological survey should be completed on the site. However after a conversation with planning staff that the site was already disturbed, the Department did not see a need for the study.

DISPOSITION OF THE APPLICANT'S REQUEST:

A proposed subdivision and dedication shall not be approved unless the County makes written findings that: (a) appropriate provisions are made for the public health, safety, and general welfare, for open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and school grounds, and shall consider all relevant facts including sidewalks and other planning features that assure safe walking conditions for students who walk to and from school; and (b) whether the public interest will be served by the subdivision and dedication. If it finds that the proposed subdivision and dedication make such appropriate provisions and that the public use and interest will be served, then the legislative body shall approve the

proposed subdivision and dedication.

If the Preliminary Plat of Kathryn Heights were approved, this office would recommend that the following conditions be attached to such an approval.

1. That all lots in the final plat meet the design standards for final plat approval as specified in Benton County Code 9.08 as amended, and meet all of the zoning requirements as specified in BCC Title No. 11, as amended.
2. Prior to setting the date for final approval, the applicant provides written verification from the City of Benton City that the required improvements have been so that the plat is served by City's sewer system.
3. The location and size of all irrigation and utility easements necessary for electric power, telephone service, water, sewer and cable T.V. be coordinated with the proper utilities and/or reviewing agencies and shown on the final plat. The developer will need to open the utility trenches, including road crossings, based on individual utility requirements and specifications.
4. That all requirements necessary for storm drainage are provided, including any easements necessary for compliance with the Benton County Hydrology Manual. All natural drains are to be kept open and protected by the dedication of a drainage easement or the Benton County Department of Public Works must approve a pipe drainage plan.
5. The applicant shall provide irrigation improvements and easements as required by the Benton Irrigation District.
6. Provisions shall be made to assure safe walking and/or waiting areas for students who will walk to and from school and for bus turn out areas. Written approval by the Koina Benton School District must be provided to the planning department prior to setting the meeting date for the final plat. That roads within the proposed plat include the construction of a 5-foot wide sidewalk on each side of the road. The design and location of the sidewalks to be approved by the Benton County Department of Public Works.
7. Contour lines shall be shown on the final plat or on a separate sheet at a maximum of 5' intervals.
8. The final plat must include an approval and signature block for the irrigation district, reading as follows:

IRRIGATION APPROVAL

The property described herein is located wholly within the boundaries of the _____ Irrigation District. I hereby certify assessments have been paid through _____, that property has been provided with irrigation water right-of-way for each parcel of land, and that all irrigation easements are hereby approved. I further certify that all other irrigation district requirements of RCW 58.17.310

have been satisfied.

IRRIGATION DISTRICT	TITLE	DATE
---------------------	-------	------

9. That the wetland line and the 50-foot setback is shown on the final plat. Lots 41, 42, and 43 are redesigned so that there is adequate area to place a dwelling on the sites and meet the zoning code setback requirements and the wetland setback.
10. That the Planning Department receives written verification from the Benton County Fire Marshal indicating that the required fire flow and adequate fire protection system have been installed and are functioning as per the requirements of BCC. If this is not accomplished a statement will need to be placed on the final plat indicating that: "No building permit shall be issued until the roads are constructed to at least subgrade standards." All roads must be constructed or bonded prior to the final plat being submitted for final plat approval.
11. That the 150 setback for residential structures and swimming pools from the existing orchard located on Lot 38 be shown on the final plat and the following statement must appear on the final plat:

"To protect the health, safety and welfare of persons occupying the proposed lots from potential impacts of existing adjacent high intensity agricultural operations, no residential structures or swimming pools requiring a permit shall be located any closer than 150 feet from the south property lines of the lot 38.

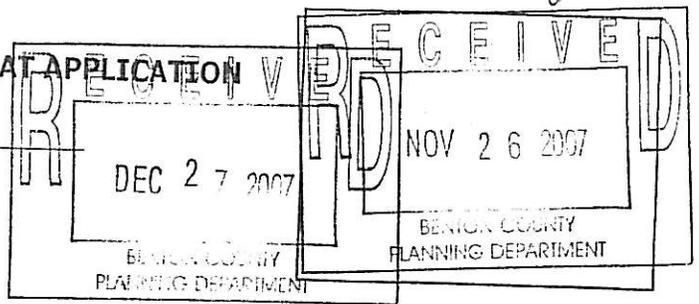
"This property lies in the vicinity of parcels used for commercial agricultural purposes. At various times of the day or night, a variety of commercial farming activities including, spraying, operating of heavy farm equipment and dairy operations have traditionally occurred in the area. Noise, odors, insects, attendant with such activities may not be compatible with residential development. Please contact the Benton County Planning Department for further information."
12. Prior to setting the date for final approval, the applicant provides written verification from the Washington State Department of Health that the required improvements have been made to the Oasis Water Corporation System have been made to bring the system in compliance with current state standards. Also the applicant must provide written verification from Washington State Department of Health that required improvements have been installed and inspected to provide water service to the proposed lots.
13. That any pipelines within the areas proposed for dedication of road right of way be upgraded to meet the Benton County Department of Public Works standards for pipelines located in road right of way. That the owners of the easement vacate the waterline easements located within the proposed road right of way.
14. The final plat shall not label the lots as duplex lots.

15. That the preliminary plat is modified in all necessary respects so that the final plat will reflect the requirements of approval. If the final plat will be in conflict with any of the conditions of approval as adopted by the Planning Commission as a result of the modifications, then the final plat must be reviewed by the Planning Commission at a public meeting for approval prior to sending the final plat to the Board of County Commission.

File No. SUB 07-10
Date 5-15-08
Exhibit No. 2
Received by djh

BENTON COUNTY PRELIMINARY PLAT APPLICATION

File No. SUB 07-10



1. Applicant Name: Jamie Weber CID # 19359 - All American Const. Co.
Applicant Address: 2839 W. Kennewick Ave #181, Kennewick, WA 99336
Telephone number: Home (509) 531-3286 Work _____

2. Legal Owners Name: Tract A Development
Legal Owners Address: 229 N. Fruitland St. - Kennewick, WA 99336
Telephone number: Home (509) 521-0061 Work _____

4. Name and address of land surveyor Mackay & Sposito, Inc.
3614 W. Kennewick Ave, Suite 220
Telephone (509) 374-4248

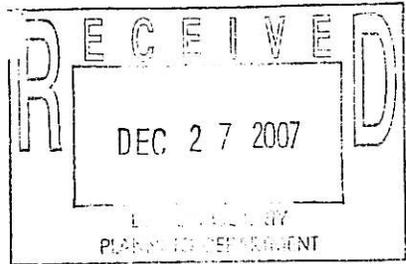
5. Name and address of engineer Same as surveyor

Telephone _____

6. Parcel number and Legal description of property included in the preliminary plat: _____
112964012724002 - Lot 2 of SP #2724

7. **Land Use Information:**
 - a. Total area involved 21.28 Ac.
 - b. Total number of lots 43
 - c. Smallest lot area 11,226 s.f.
 - d. Average lot area 17,200 s.f.
 - e. Acreage in parks N/A
 - f. Length of public streets 2,870±
 - g. Total acreage of public streets 4.30 Ac.

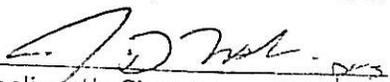
8. Proposed annexation plans None



9. Plat will be served by:
Water: Individual Wells _____ City Water _____
Name of City Provider _____
Private Water System X Name & Address of Private System _____
Oasis Water Corporation
Sewer: Septic Tank _____ City Sewer X Private System _____
Power: P.U.D. X R.E.A. _____
Telephone: Verizon Telephone X Sprint Telephone _____
Natural Gas: Yes _____ No X Name of Utility _____
Cable T.V. Yes _____ No X Name of Utility _____
Irrigation: Yes _____ No X Name of Utility _____
Private Irrigation Lines: Yes _____ No X
10. School District Kiona Benton
11. Fire District Benton County Fire District 2
12. Any other comments or information that is significant Project will be served with proposed pump station that will pump through proposed transmission line to nearest Benton City sanitary manhole.
13. Will this plat be finalized in phases? Yes _____ No X
14. Comprehensive Plan Designation Urban Growth Area
15. Zoning Designation Agriculture

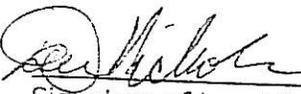
IF YOU HAVE ANY ADDITIONAL COMMENTS PLEASE ATTACH THEM ON A SEPARATE SHEET OF PAPER.

I hereby state that I/we are the applicant(s) of this application and that the owner of the property hereby approves this application. I/we also certify that the information given in this application is true and complete to the best of my/our knowledge.


Applicant's Signature

James Leber
Print Name

12/27/07
Date


Signature of Legal Owners

Dale Nichols
Print Name

12-27-07
Date

Kathryn E Kaser
Signature of Person with additional
ownership interest *Sec 17 area*

KATHRYN E KASER
Print Name

1-29-08
Date

Signature of Person with additional
ownership interest

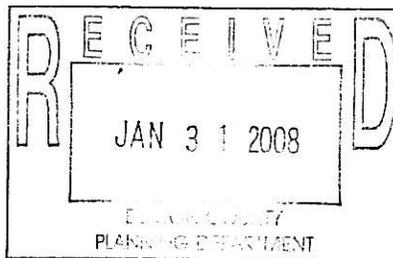
Print Name

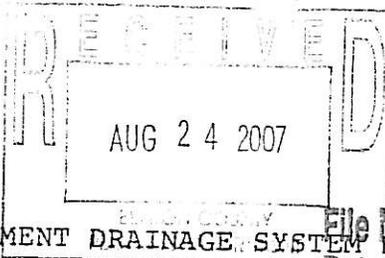
Date

Any information submitted to the Benton County Planning/Building Department is subject to public records disclosure law for the State of Washington (RCW Chapter 42.17) and all other applicable law that may require the release of the documents to the public.

(ALL persons with an ownership interest in the property on which the land use action is proposed must sign the application other than interests exclusively limited to ownership of the parcel's mineral rights.)

FEE: \$350.00 plus \$10.00 per lot, submitted with the application. Checks are to be made payable to the Benton County Treasurer. **THIS FEE IS NON-REFUNDABLE. THE RECORDING FEE IS TO BE PAID AT THE TIME OF RECORDING.**





PRELIMINARY REVIEW OF DEVELOPMENT DRAINAGE SYSTEM DESIGNS

File No. SUB 07-10
Date 5-15-08
Exhibit No. 3
Received by dyh

Kathryn Heights
(Proposed Development Name)

Section 12 Township 9 Range 26

(Submittal Date) _____ (Submitted By) _____ (Phone) _____

(Approval Date) _____ (Approved By) _____

Submittal Content Shown on Topographic Map:

- 1. Type of Development.
- 2. Vicinity Map.
- 3. North Arrow.
- 4. Scale (reasonable, but never greater than 1:62,500).
- 5. Contour Interval (reasonable, but never greater than 20').
- 6. Shows the boundaries of the Total Drainage Basin that the proposed Development is located within.
- 7. Shows the location and boundaries of the proposed Development.
- 8. Shows all Throughflow areas tributary to the Development, their entry location, and their conveyance means.
- 9. Shows all existing ponding areas and drainage channels, either natural or manmade, within the Development boundaries.
- 10. Shows the proposed Outflow locations from the Development and where each one flows to.
- N/A 11. Shows the Natural State highwater zone.
- N/A 12. Shows the Ultimate State highwater zone.
- 13. Shows, for the Development as a whole, a preliminary Surface Water Inventory/Balance in tabular form as suggested in Figure 3 on Page 3-2 of the Hydrology Manual.

**Benton County Development
Preliminary Drainage System Design Review**

For

Kathryn Heights

Section 12, Township 9, Range 26 E, Benton County, Washington

Owner:

Tract "A" Development, Inc.

Developer:

All American Construction, Corp.

• **General Overview**

The approximate 21 acre site is located on the west side of Highland Road approximately 500 feet north of Old Inland Empire Highway in the south half of Section 12, Township 9, Range 26 in Benton County, Washington. The site is located immediately south of the plat of Breez'n in Estates No. 3.

The proposal for this project is to create a 50 lot (13 single-family and 37 duplex) subdivision with a proposed density of 2.4 lots per acre.

• **Natural State**

The existing topography of the site falls in a southwesterly direction at slopes between 1 and 3 percent. The site lies within two drainage basins; the first consists of sub-basins A, B, & C and falls toward Old Inland Empire Highway. The second basin consists of Basin D which falls toward a riparian wetland associated with an un-named tributary of the Yakima River.

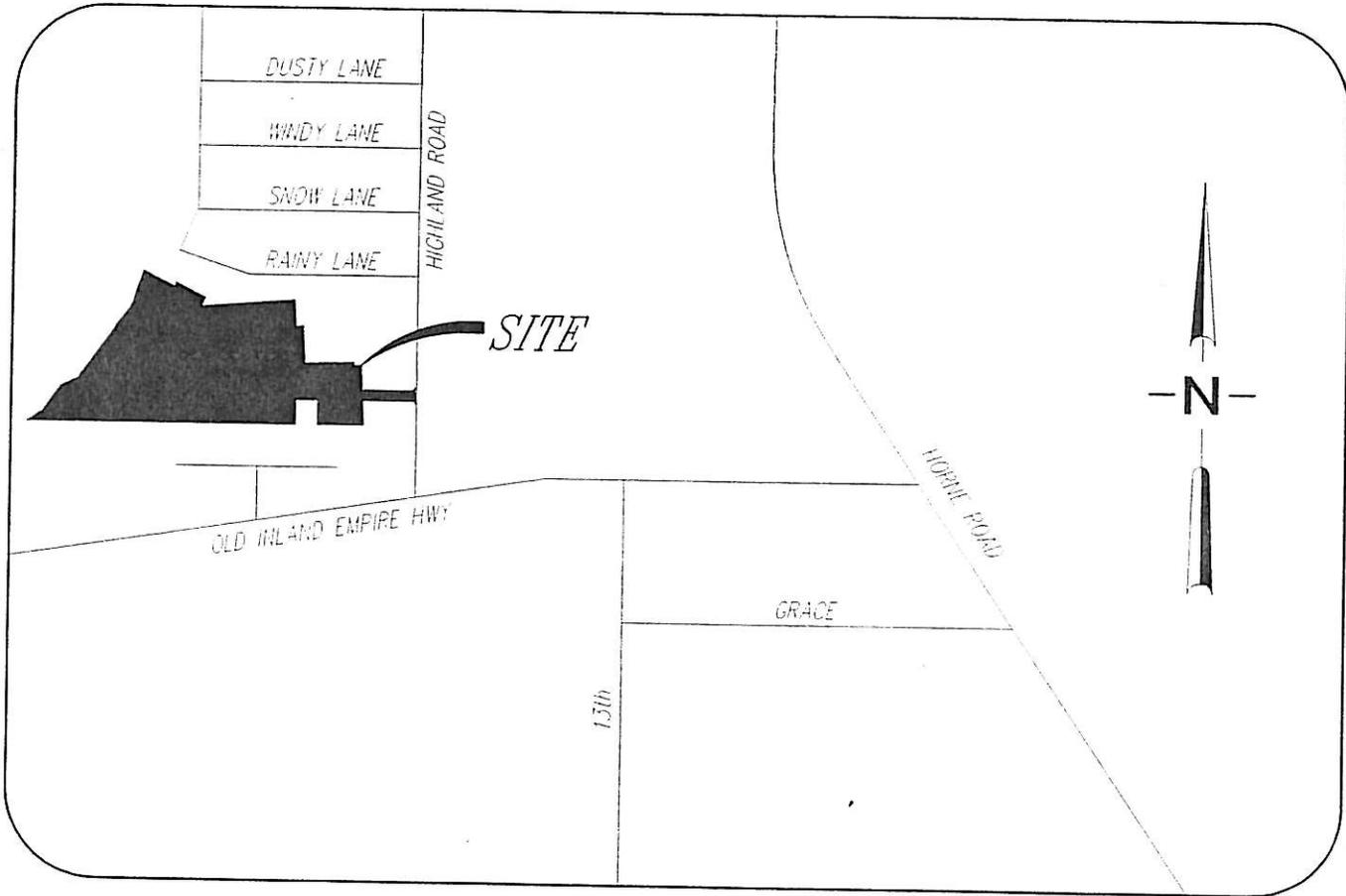
• **Ultimate State**

East Basin:

Basin A is currently developed with single-family residences on approximately 1-acre lots. Because of the large areas of pervious surfaces common with 1-acre lots and high percolation rates in the area, storm water runoff from this basin is minimal. Basin B consists of the east half of the proposed development. As stated above the proposed density for this project is 2.4 lots per acre, which will also contain large areas of pervious surfaces. Additionally, infiltration drywells will be used to percolate storm water runoff generated from this basin. Basin C is currently developed with single-family residences. Storm water runoff characteristics are similar to Basin A.

West Basin:

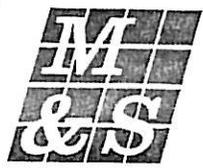
Basin D consists of the west half of the proposed development. Natural terrain isolates this basin from any throughflow generated offsite. As with Basin B, infiltration dry wells will be used to percolate storm water runoff generated from this basin.



VICINITY MAP

NO SCALE

M & S DWG FT 4272 Pre Drainage Figures

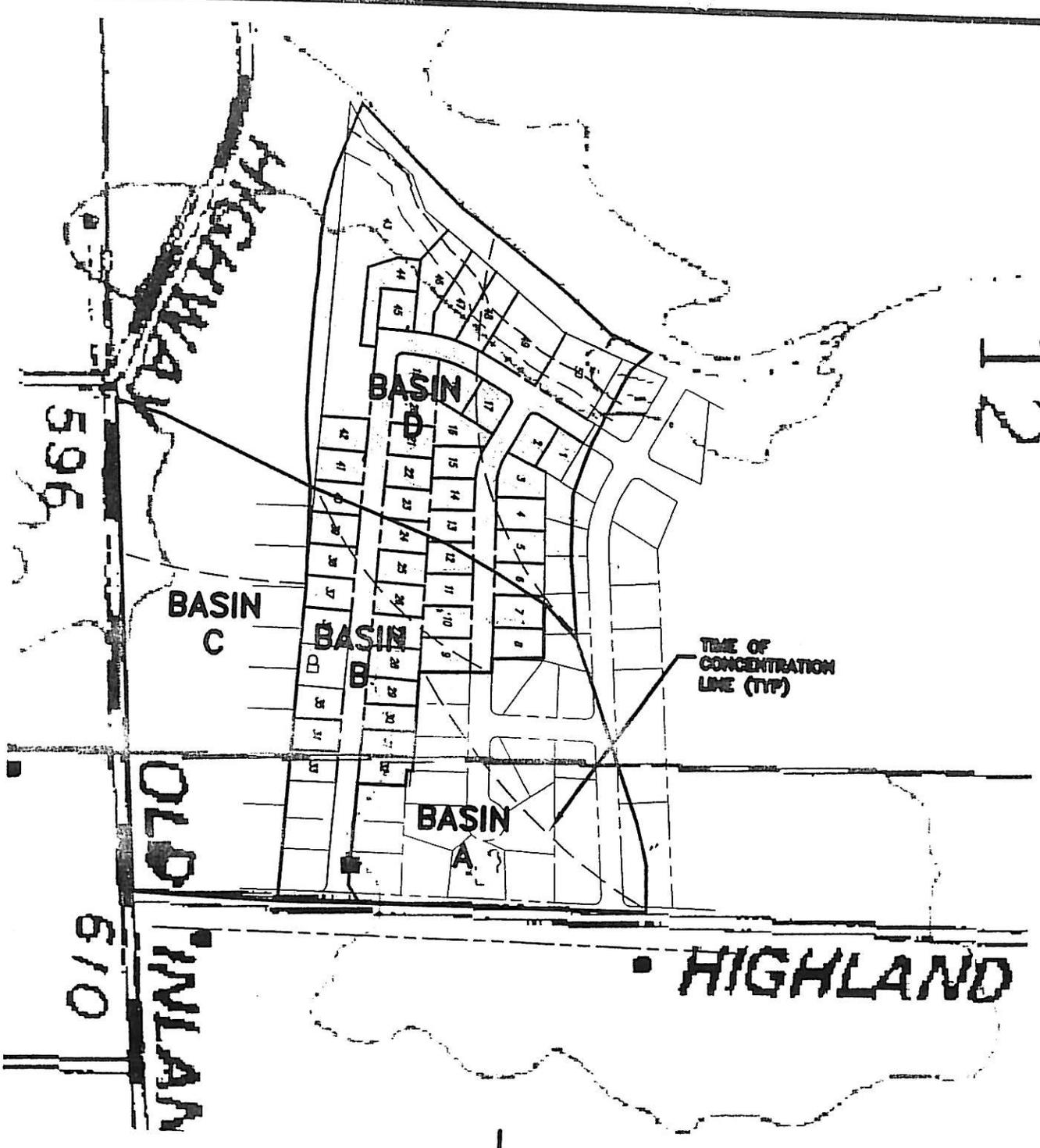


KATHRYN HEIGHTS
 VICINITY MAP

Figure Number	Ex. 1
Date	8-08-07
Job Number	14272

M & S DWG FILE: 14272 Pre Drainage Figures

12



Scale: 1" = 400



KATHRYN HEIGHTS
BASIN MAP

Figure Number
Ex. 1

Date
8-08-07

Job Number
14272

Benton County Planning/Building Department

Terry A. Marden, Director

PLANNING
Planning Annex
P.O. Box 910, 1002 Dudley Avenue
Prosser WA 99350
Phone: (509) 786-5612
Faxes: (509) 736-3086
Fax: (509) 786-5629

BUILDING
Kennewick Annex
5600 W. Canal Drive, Suite C 105A
Kennewick WA 99336
Tri-Cities Office: (509) 735-3500
From Prosser: (509) 786-5622
Fax: (509) 736-2732

PRELIMINARY PLAT REVIEW

File No. SUB 07-10
Date 5-15-08
Exhibit No. 4
Received by djh

February 5, 2008

FILE NO. **SUB 07-10/EA 07-94**

PLAT NAME: **Kathryn Heights**

Benton County Building Office
School District No. 52
Benton Co. PUD
Benton Irrigation District
Benton County Parks Department
Benton Clean Air Authority
Benton Franklin Health District
Verizon Telephone
Benton County Assessors Office
Department of Transportation
Oasis Water Corporation

Fire District No. 2
Natural Resources Conservation Service
U.S. Postal Service
Mosquito Control District
Wash. St. Dept. of Health
Benton County Public Works
Ben Franklin Transit
Benton County Fire Marshal
Dept. of Ecology
Southeast Communications Center

The accompanying project permit application for the subdivision of Kathryn Heights for a 43 lot subdivision located in Section 12, Township 9 North, Range 26 East, W.M. has been presented to the Benton County Planning Department for analysis and review. An Open Record Hearing before the Planning Commission on this project will be scheduled at a later date.

Please submit comments on the preliminary plans or on the space provided on the attached sheet to this office by **FEBRUARY 21, 2008**. Failure to report by then shall be interpreted to indicate that the proposed subdivision will not adversely affect the agency or utility involved; therefore, your prompt reply is essential to properly develop Benton County.

Utility companies have received only one copy of this project for their files. Please review and comment on general problems that should be identified at the preliminary plan stage. Utility design and easements will be considered after the planning commission has given the preliminary plan approval.

If you have any questions concerning this matter, please don't hesitate to call this office.

Sincerely,


MICHAEL SHUTTLEWORTH,
Senior Planner

Enclosure

Benton County Planning/Building Department

Terry A. Marden, Director

PLANNING
Planning Annex
P.O. Box 910, 1002 Dudley Avenue
Prosser WA 99350
Prosser Office: (509) 786-5612
From Tri-Cities: (509) 736-3086
Fax: (509) 786-5629

BUILDING
Kennewick Annex
5600 W. Canal Drive, Suite C 105A
Kennewick WA 99338
Tri-Cities Office: (509) 735-3555
From Prosser: (509) 786-5612
Fax: (509) 736-2732

File No. SUB 07-10
Date 5-15-08
Exhibit No. 5
Received by djh

NOTICE OF APPLICATION

NOTICE IS HEREBY GIVEN that there has been proposed to the Benton County Planning Department, an application (File No. SUB 07-10/EA 07-94) dated January 31, 2008 for the preliminary plat of Kathryn Heights consisting of 43 lots on 21.28 acres with the smallest lots area of 11,226 square feet and an average lot area of 17,200 square feet by: Jamie Weber, 2839 W. Kennewick Avenue #181, Kennewick WA 99336. The date of the written determination of completeness on this action is February 4, 2008. The site is located East of Highland Road and South of Rainy Lane on Lot 2 of Short Plat 2724 in the South Half of Section 12, Township 9 North, Range 26, East, W.M.

NOTICE IS GIVEN that the Planning Department will review the application and a public hearing will be scheduled at a later date. When a public hearing is scheduled, property owners within 300 feet of the boundaries of the project action will receive a public hearing notice. All concerned persons will have fourteen (14) days from the date of publication of this notice to comment in writing on this action. Please comment to Benton County Planning Department, P.O. Box 910, Prosser WA 99350.

NOTICE IS FURTHER GIVEN that said proposal will be reviewed under the requirements of the State Environmental Policy Act, as amended. After the fourteen-day comment period is up a determination will be made on this action, as to the environmental impacts of the proposal.

More information concerning this action can be obtained by contacting Michael Shuttleworth, Senior Planner at the Benton County Planning Dept. P.O. Box 910, Prosser, WA, or by calling Prosser - 786-5612 or Tri-Cities - 736-3086.

Dated at Prosser, Washington on this 5th day of February 2008.



MICHAEL SHUTTLEWORTH, Senior Planner
PLANNING/BUILDING DEPARTMENT

PUBLISH ON: Friday, February 8, 2008

Benton County Planning Department

Planning Annex, P.O. Box 910, 1002 Dudley Avenue, Prosser WA 99350, Phone: (509) 786-5612 or (509) 736-3086, Fax (509) 786-5629

File No. 543 07-10
Date 5-15-08
Exhibit No. 6
Received by djh

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that there has been proposed to the Planning Commission of Benton County, Washington, an application for preliminary plat of Kathryn Heights consisting of 43 lots on 21.28 acres with the smallest lot area of 11,226 square feet and an average lot area of 17,200 square feet by: Jamie Weber, 2839 W. Kennewick Avenue #181, Kennewick WA 99336. The site is located East of Highland Road and South of Rainy Lane on Lot 2 of Short Plat 2724 in the South Half of Section 12, Township 9 North, Range 26, East, W.M.

NOTICE IS FURTHER GIVEN that said application will be considered by the Planning Commission of Benton County, Washington, at a public hearing on May 20, 2008 at the hour of 7:00 p.m. in the Hearing Room, Benton County Planning Annex, 1002 Dudley Avenue, Prosser, WA 99350. It is suggested that if you plan on attending the hearing that you call the Benton County Planning Department by 4 p.m. the afternoon of the hearing to confirm that the hearing will be conducted as scheduled.

NOTICE IS FURTHER GIVEN that said proposal has been reviewed under the requirements of the State Environmental Policy Act, as amended, along with the Environmental Checklist and other information. An environmental determination has been made as to the environmental impacts of the proposal and a Mitigated Determination of Non-Significance has been issued. Accordingly, an Environmental Impact Statement is not required. This determination was made on April 3, 2008. Any comments regarding the determination and the environmental impacts of the proposal can be made at the hearing before the Planning Commission at the time and place indicated above, or be made in writing to the Planning Department by 5 p.m. on May 19, 2008.

At this hearing, the Planning Commission may recommend approval, conditional approval, or disapproval of the application to the Benton County Board of Commissioners. All parties concerned may appear and present any support or objections for the application. Information concerning the application can be obtained at the Benton County Planning Department, P.O. Box 910, 1002 Dudley Avenue, Prosser, Washington 99350 or by calling 736-3086 (Tri-Cities) or 786-5612 (Prosser).

Benton County welcomes full participation in public meetings by all citizens. No qualified individual with a disability shall be excluded or denied the benefit of participating in such meetings. If you wish to use auxiliary aids or require assistance to comment at this public meeting, please contact the Benton County Planning Department at the above stated phone numbers and/or address at least ten days prior to the date of the meeting to make arrangements for special needs.

DATED at Prosser, Washington on this 30th day of April 2008.

JON LINDEMAN, Chairman
BENTON COUNTY PLANNING COMMISSION


MICHAEL SHUTTLEWORTH, Interim Planning Manager
BENTON COUNTY PLANNING/BUILDING DEPT.

PUBLISH: May 8, 2008

File No. SUB 07-10
Date 5-15-08
Exhibit No. 7
Received by djh

ENVIRONMENTAL CHECKLIST
A. BACKGROUND

1. Name of proposed project, if applicable:

Kathryn Heights

*EA
07-94*

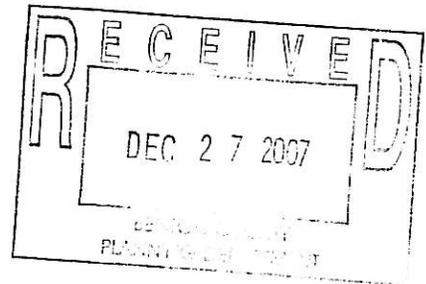


2. Name of applicant:

Tract "A" Development, Inc.

3. Address and phone number of applicant and contact person:

*Jamie Weber
2839 W. Kennewick Avenue #181
Kennewick, WA 99336
509 531-3286*



4. Date checklist prepared:

9/26/07

5. Agency requesting checklist:

Benton County Planning Department

6. Proposed timing or schedule (including phasing, if applicable):

24 months

7. Do you have any plans for future additions, expansion, or further activity related to or connected with this proposal?

No

8. List any environmental information you know about that has been prepared, or will be prepared, directly related to this proposal.

Wetland Delineation prepared by Biology Soil & Water, Inc.

9. Do you know whether applications are pending for governmental approvals of other proposals directly affecting the property covered by your proposal? If yes, explain.

No

10. List any government approvals or permits that will be needed for your proposal, if known.

Preliminary Plat Approval, Construction Permit, Final Plat Approval.

11. Give brief, complete description of your proposal, including the proposed uses and the size of the project and site. There are several questions later in this checklist that ask you to describe certain aspects of your proposal. You do not need to repeat those answers on this page. (Lead agencies may modify this form to include additional specific information on project description.)

Subdivide 20 acres into 43 single family lots – Preliminary Plat of Kathryn Heights

12. Location of the proposal. Give sufficient information for a person to understand the precise location of your proposed project, including a street address, if any, and section, township, and range, if known. If a proposal would occur over a range of area, provide the range or boundaries of the site(s). Provide a legal description, site plan, vicinity map, and topographic map, if reasonably available. While you should submit any plans required by the agency, you are not required to duplicate maps or detailed plans submitted with any permit applications related to this checklist.

Parcel # 1-1296-401-2724-002

Approximately 600 feet north of "Old Inland Empire Highway" west of Highland Road

B. ENVIRONMENTAL ELEMENTS

1. Earth

a. General description of the site (circle one): Flat, rolling, hilly, steep slopes, mountainous, other:

Rolling slopes with some isolated areas of steep slopes

b. What is the steepest slope on the site (approximate percent slope)?

20%

c. What general types of soils are found on the site (for example, clay, sand, gravel, peat, muck)? If you know the classification of agricultural soils, specify them and note any prime farmland.

Sand

d. Are there surface indications or history of unstable soils in the immediate vicinity? If so, describe.

No

e. Describe the purpose, type, and approximate quantities of any filling or grading proposed. Indicate source of fill.

Minimal grading will occur to prepare building pads and driveway/parking. No offsite fill/cut is expected for this project.

f. Could erosion occur as a result of clearing, construction, or use? If so, generally describe.

Yes, erosion could occur, mainly in the form of dust blow-off or silt transfer.

g. About what percent of the site will be covered with impervious surfaces after project construction (for example, asphalt or buildings)?

Approximately 35% of the proposed site will be covered with impervious surface after full build-out of the project.

h. Proposed measures to reduce or control erosion, or other impacts to the earth, if any:

An erosion control plan, utilizing dust control and erosion control BMPs, will be in place prior to and during construction activities on the site.

2. Air

a. What types of emissions to the air would result from the proposal (i.e., dust, automobile, odors, industrial, wood smoke) during construction and when the project is completed? If any, generally describe and give approximate quantities if know.

Dust will be generated during construction, as will emissions from construction vehicles and equipment. After project completion, automobile emissions can be expected.

b. Are there any off-site sources of emissions or odor that may affect your proposal? If so, generally describe.

None known

c. Proposed measures to reduce or control emissions or other impacts to air, if any:

All equipment used during construction will meet applicable emissions standards. The site may be sprinkled if necessary during construction to combat dust blow-off.

3. Water

a. Surface:

1) Is there any surface water body on or in the immediate vicinity of the site (including year-round and seasonal streams, saltwater, lakes, ponds, wetlands)? If yes, describe type and provide names. If appropriate, state what stream or river it flows into.

Un-named irrigation drainage (Category 3)

2) Will the project require any work over, in, or adjacent to (within 200 feet) the described waters? If yes, please describe and attach available plans.

Homes may be placed within 200' of the wetland boundary but no work is proposed within 50'

3) Estimate the amount of fill and dredge material that would be placed in or removed from surface water, or wetlands, and indicate the area of the site that would be affected. Indicate the source of fill material.

None

4) Will the proposal require surface water withdrawals or diversions? Give general description, purpose, and approximate quantities if know.

No

5) Does the proposal lie within a 100-year floodplain? If so, note location on the site plan.

No

6) Does the proposal involve any discharge of waste materials to surface waters? If so, describe the type of waste and anticipated volume of discharge.

No

b. Ground:

1) Will ground water be withdrawn, or will water be discharge to ground water? Give general description. purpose, and approximate quantities if know.

Yes, stormwater runoff will be infiltrated on site, which could potentially mix with ground water.

2) Describe waster material that will be discharged into the 'ground from septic tanks or other sources, if any (for example: Domestic sewage, industrial, containing the following chemicals. . . , agricultural, etc.). Describe the general size of the system, the number of such systems, the number of houses to be served (if applicable), or the number of animals or humans the system(s) are expected to serve.

Not applicable.

c. Water Runoff (including storm water):

1) Describe the source of runoff (including storm water) and method of collection and disposal, if any (include quantities, if known). Where will this water flow? Will this water flow into other waters? If so, describe.

The source of runoff are the existing and future buildings, driveways, roads, and walkways. Runoff will be collected and routed to infiltration ponds, trenches, or drywells.

2) Could waste materials enter ground or surface waters? If so, generally describe.

No.

d. Proposed measures to reduce or control surface, ground, and runoff water impacts, if any:

Stormwater facilities will meet applicable City standards. During construction BMP's such as silt fences and straw bales will be used to prevent sediment laden waters from entering the drainage system.

4. Plants

a. Circle types of vegetation found on the site: deciduous tree: alder, maple, aspen, other; evergreen tree: fir, cedar, pine, other; shrubs; grass; pasture' crop or grain; wet soil plants: cattail, buttercup, bulrush, skunk cabbage, other; water plants: water lily, eelgrass, milfoil, other; other types of vegetation.

b. What kind and amount of vegetation will be removed or altered?

Minimal shrubs and grass

c. List threatened or endangered species known to be on or near the site.

None known

d. Proposed landscaping, use of native plants, or other measures to preserve or enhance vegetation on the site, if any:

The new lots will be landscaped per county code

5. Animals

a. Circle any birds and animals which have been observed on or near the site or are known to be on or near the site: birds: hawk, heron, eagle, songbirds, other: mammals: deer, bear, elk, beaver, other: rabbits and rodents fish: bass, salmon, trout, herring, shellfish, other: _____

b. List any threatened or endangered species known to be on or near the site.

None known

c. Is the site part of a migration route? If so, explain.

The site is not known to be part of any specific migration route, although the entire region is part of the Pacific Flyway.

d. Proposed measures to preserve or enhance wildlife, if any:

The introduction of professional landscaping will enhance wildlife that is adapted to the urban environment.

6. Energy and Natural Resources

a. What kinds of energy (electric, natural gas, oil, wood stove, solar) will be used to meet the completed project's energy needs? Describe whether it will be used for heating,

manufacturing, etc.

Residential electric

b. Would your project affect the potential use of solar energy by adjacent properties? If so, generally describe.

No

c. What kinds of energy conservation feature are included in the plans of this proposal?

Future buildings will utilize required energy conservation measures per uniform building code.

List other proposed measures to reduce or control energy impacts, if any:

7. Environmental Health

a. Are there any environmental health hazards, including exposure to toxic chemicals, risk of fire and explosion, spill, or hazardous waste, that could occur as a result of this proposal? If so, describe.

Potential hazards are limited to those typical of a residential development.

1) Describe special emergency services that might be required.

Typical residential emergencies.

2) Proposed measures to reduce or control environmental health hazards, if any:

Those required by city code

b. Noise

1) What types of noise exist in the area which may affect your project (for example: traffic, equipment, operation, other)?

Noise from nearby streets could affect the project, although traffic is light.

2) What types and levels of noise would be created by or associate with the project on a short-term or a long-term basis (for example: traffic, construction, operation, other)? Indicate what hours noise would come from the site.

In the short-term, noise from construction vehicles and equipment can be anticipated. In the long-term, noise from vehicles of the residents.

3) Proposed measures to reduce or control noise impacts, if any:

Most activities will occur during daylight hours only, which should reduce impacts to nearby residences during the evening.

8. Land and Shoreline Use

a. What is the current use of the site and adjacent properties?

Residential and orchard

b. Has the site been used for agriculture? If so, describe.

No

c. Describe any structures on the site.

There are currently no structures on this site.

d. Will any structures be demolished? If so, what?

No

e. What is the current zoning classification of the site?

Agriculture

f. What is the current comprehensive plan designation for the site?

Urban Growth Area

g. If applicable, what is the current shoreline master program designation of the site?

N/A

h. Has any part of the site been classified as an "environmentally sensitive" area? If so, specify.

There is a category 3 stream/wetland that runs along the west boundary of this site.

i. Approximately how many people would reside or work in the completed project?

*40 Duplex plus 3 single family = 83 units
2.5 people per unit = 208 people*

j. Approximately how many people would the completed project displace?

None

k. Proposed measures to avoid or reduce displacement impacts, if any:

N/A

I. Proposed measures to ensure the proposal is compatible with existing and projected land uses and plans, if any:

This project is consistent with Benton Country's Comprehensive Plan

9. Housing

a. Approximately how many units would be provided, if any? Indicate whether high, middle, or low-income housing.

83 low-middle income

b. Approximately how many units, if any, would be eliminated? Indicate whether high, middle, or low-income housing.

None

c. Proposed measures to reduce or control housing impacts, if any:

N/A

10. Aesthetics

a. What is the tallest height of any proposed structures(s) not including antennas; what is the principal exterior building material(s) proposed?

15'

b. What views in the immediate vicinity would be altered or obstructed?

None

c. Proposed measures to reduce or control aesthetic impacts, if any:

Typical residential landscaping as required by county code.

11. Lights and Glare

a. What type of light or glare will be the proposal produce? What time of day would it mainly occur?

There will be some additional light from the residences, but it will be typical for the area.

b. Could light or glare from the finished project be a safety hazard or interfere with views?

No.

c. What existing off-site sources of light or glare may affect your proposal?

- No off-site light sources are expected to impact the proposal.***
- d. Proposed measures to reduce or control light and glare impacts, if any:

N/A

12. Recreation

- a. What designated and informal recreational opportunities are in the immediate vicinity?

None

- b. Would the proposed project displace any existing recreational uses? If so, describe.

No

- c. Proposed measures to reduce or control impacts or recreation, including recreation opportunities to be provided by the project or applicant, if any:

None

13. Historic and Cultural Preservation

- a. Are there any places or objects listed on, or proposed for, national, state, or local preservation registers known to be on or next to the site? If so, generally describe.

No

- b. Generally describe any landmarks or evidence of historic, archeological, scientific, or cultural importance known to be on or next to the site.

No such landmarks or evidence exist.

- c. Proposed measures to reduce or control impacts, if any:

None proposed. If any archaeological artifacts are discovered during construction, the proper officials will be notified.

14. Transportation

- a. Identify public streets and highways serving the site, and describe proposed access to the existing street system. Show on site plan, if any.

This site will be served by private or public streets

- b. Is the site currently served by public transit? If not, what is the approximate distance to the nearest transit stop?

No, ¼ mile

- c. How many parking spaces would the completed project have? How many would the project eliminate?

Two off-street per unit (83 X 2 = 164)

d. Will the proposal require any new roads or streets, or improvements to existing roads or streets, not including driveways? If so, generally describe (indicate whether public or private).

New private or public roads need to be built.

e. Will the project use (or occur in the immediate vicinity of) water, rail, or air transportation? If so, generally describe.

No

f. How many vehicular trips per day would be generated by the completed project? If know, indicate when peak volumes would occur.

9.6 trips/day/unit (9.6 X 83 = 797)

g. Proposed measures to reduce or control transportation impacts, if any:

None

15. Public Services

a. Would the project result in an increased need for public services (for example, fire protection, police protection, health care, schools, etc.)? If so, generally describe.

The project will result in a slightly increased need for public services, but those that are typical for residential developments: fire protection, police protection, health care and schools.

b. Proposed measures to reduce or control direct impacts on public services, if any.

None

16. Utilities

a. Circle utilities currently available at the site: electricity, natural gas, water, refuse service, telephone, sanitary sewer, septic system, other.

Sanitary sewer will be pumped through a proposed force main to the nearest Benton City sewer manhole.

b. Describe the utilities that are proposed for the project, the utility providing the service, and the general construction activities on the site or in the immediate vicinity which might be needed.

<i>Oasis water</i>	<i>Already installed to each site</i>
<i>Electricity</i>	<i>PUD to be installed underground</i>
<i>Telephone</i>	<i>To be installed underground</i>
<i>Sewer</i>	<i>See item "a" above</i>

ESA LISTED SALMONIDS CHECKLIST

The Listed Salmonids Checklist is provided in order that the county may initially identify a project's potential impacts (if any) on salmonids that have been listed as "threatened" or "endangered" under the Federal Endangered Species Act (ESA). A salmonid is any fish species that spends part of its life cycle in the ocean and returns to fresh water. Potential project impacts that may result in a "taking" of listed salmonids must be avoided, or mitigated to insignificant levels. Generally, under ESA, a "taking" is broadly defined as any action that causes the death of, or harm to, the listed species. Such actions include those that affect the environmental in ways that interfere with or reduce the level of reproduction of the species.

If ESA listed species are present or ever were present in the watershed where your project will be located, your project has the potential for affecting them, and you need

to comply with the ESA. The questions in this section will help determine if the ESA listing will impact your project. The Fish Program Manager at the appropriate Department of Fish and Wildlife (DFW) regional office can provide information for the following two questions. Please contact the Dept. of Fish and Wildlife at 1701 S. 24th, Yakima WA 98902-5720, Phone No. 509-575-2740.

1. Are ESA listed salmonids currently present in the watershed in which your project will be? YES ___ NO X

Please Describe.

2. Has there ever been an ESA listed salmonid stock present in this watershed?

YES ___ NO X

Please Describe.

If you answered "yes" to either of the above questions, you should complete the remainder of this checklist.

PROJECT SPECIFIC: The questions in this section are specific to the project and vicinity.

A1. Name of watershed _____

A2. Name of nearest waterbody _____

A3. What is the distance from this project to the nearest body of water? _____

Often a buffer between the project and a stream can reduce the chance of a negative impact to fish.

A4. What is the current land use between the project and the potentially affected water body (parking lots, farmland, etc.)

A5. Is the project above a:

Natural permanent barrier (waterfall) YES ___ NO ___

Natural temporary barrier (beaver pond) YES ___ NO ___

Man-made barrier (culvert, dam) YES ___ NO ___

Other (explain)

A6 If yes, are there any resident salmonid populations above the blockage? YES ___
NO ___ Don't Know ___

A7. What percentage of the project will be impervious surface (including pavement & roof area)?

FISH MIGRATION: The following questions will help determine if this project could interfere with migration of adult and juvenile fish. Both increases and decreases in water flows can affect fish migration.

B1. Does the project require the withdrawal of

a. Surface water? Yes _____ No _____

Amount _____

Name of surface water body _____

b. Ground water? Yes _____ No _____

Amount _____

From Where _____

Depth of well _____

B2. Will any water be rerouted? YES _____ NO _____
If yes, will this require a channel change?

B3. Will there be retention ponds? YES _____ NO _____

If yes, will this be an infiltration pond or a surface discharge to either a municipal storm water system or a surface water body?

If to a surface water discharge, please give the name of the waterbody.

B4. Will this project require the building of new roads? Increased road mileage may affect the timing of water reaching a stream and may, thus, impact fish habitat.

B5. Are culverts proposed as part of this project? _____

Yes _____ No _____

B6. Will topography changes affect the duration/direction of runoff flows?

Yes _____ No _____

If yes describe the changes.

B7. Will the project involve any reduction of the floodway or floodplain by filling or other partial blockage of flows? Yes _____ No _____

If yes, how will the loss of flood storage be mitigated by your project?

WATER QUALITY: The following questions will help determine if this project could adversely impact water quality. Such impacts can cause problems for listed species. Water quality can be made worse by runoff from impervious surfaces, altering water temperature, discharging contaminants, etc.

C1. Do you know of any problems with water quality in any of the streams within this watershed? YES _____ NO _____

If yes please describe.

C2. Will your project either reduce or increase shade along or over a waterbody?

YES _____ NO _____ Removal of shading vegetation or the building of structures such as docks or floats often result in a change in shade.

C3. Will the project increase nutrient loading or have the potential to increase nutrient loading or contaminants (fertilizers, other waste discharges, or runoff) to the waterbody?
YES ___ NO ___

C4. Will turbidity be increased because of construction of the project or during operation of the project? In-water or near water work will often increase turbidity.
YES ___ NO ___

C5. Will your project require long term maintenance, i.e., bridge cleaning, highway salting, chemical sprays for vegetation management, clearing of parking lots?
YES ___ NO ___
Please Describe.

Vegetation: The following questions are designed to determine if the project will affect riparian vegetation, thereby, adversely impacting salmon.

D1. Will the project involve the removal of any vegetation from the stream banks?
YES ___ NO ___

If yes, please describe the existing conditions and the amount and type of vegetation to be removed.

D2. If any vegetation is removed, do you plan to re-plant? YES ___ NO ___
If yes, what types of plants will you use?

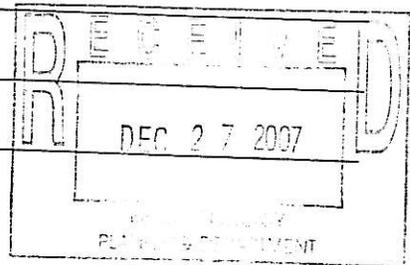
SIGNATURE

The above answers are true and complete to the best of my knowledge. I understand that the lead agency is relying on them to make its decision.

Signature: [Handwritten Signature]

Print Name- Jens Weber

Date Submitted: 12/20/07



**C. SUPPLEMENTAL SHEET FOR NON PROJECT ACTIONS
(do not use this sheet for project actions)**

Because these questions are very general, it may be helpful to read them in conjunction with the list of the elements of the environment.

When answering these questions, be aware of the extent the proposal, or the types of activities likely to result from the proposal would affect the item at a greater intensity or at a faster rate than if the proposal were not implemented. Respond briefly and in general terms.

1. How would the proposal be likely to increase discharge to water; emissions to air; production, storage, or release of toxic or hazardous substances; or production of noise?

Proposed measures to avoid or reduce such increases are:

2. How would the proposal be likely to affect plants, animals, fish or marine life? Proposed measures to protect or conserve plants, animals, fish or marine life are:

3. How would the proposal be likely to deplete energy or natural resources? Proposed measures to protect or conserve energy and natural resources are:

4. How would the proposal be likely to use or affect environmentally sensitive areas or areas designated (or eligible or under study) for governmental protection; such as parks, wilderness, wild and scenic rivers, threatened or endangered species habitat, historic or cultural sites, wetlands, flood plains, or prime farmlands?

Proposed measures to protect such resources or to avoid or reduce impacts are:

5. How would the proposal be likely to affect land and shoreline use, including whether it would allow or encourage land or shoreline uses incompatible with existing plans?

Proposed measures to avoid or reduce shoreline and land use impacts are:

6. How would the proposal be likely to increase demands on transportation or public services and utilities?

Proposed measures to reduce or respond to such demands(s) are:

7. Identify, if possible, whether the proposal may conflict with local, state or federal laws or requirements for the protection of the environment

DETERMINATION OF NONSIGNIFICANCE

File No. SUB 07-10
Date 5-15-08
Exhibit No. 8
Received by djh

Description of proposal: The preliminary plat of Kathryn Heights consisting of 43 lots on 21.28 acres with the smallest lot area of 11,226 square feet and an average lot area of 17,200 square feet.

Proponent Jamie Weber
2839 W. Kennewick Avenue #181
Kennewick WA 99336

File No. **EA 07-94**

Location of proposal, including street address, if any: The site is located East of Highland Road and South of Rainy Lane on Lot 2 of Short Plat 2724 in the South Half of Section 12, Township 9 North, Range 26 East, W.M.

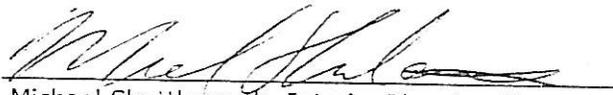
Lead agency **BENTON COUNTY**

The lead agency for this proposal has determined that it does not have a probable significant adverse impact on the environment. An environmental impact statement (EIS) is not required under RCW 43.21C.030(2)(c). This decision was made after review of a completed environmental checklist and other information on file with the lead agency. This information is available to the public on request.

This DNS is issued under 197-11-340(2); the lead agency will not act on this proposal for 14 days from the date below. Comments must be submitted by April 17, 2008

Responsible Official **Benton County Planning Dept.**
Post Office Box 910 PHONE: (509) 786-5612
Prosser, WA 99350-0910 (509) 736-3086

Date **April 3, 2008**

Signature 
Michael Shuttleworth, Interim Planning Manager

THERE IS NO AGENCY APPEAL.

DISTRIBUTION:

- Applicant
- News Media (Encl. map or plot plan)
- Benton County Building Office
- Department of Natural Resources-Olympia
- Department of Natural Resources -Ellensburg
- Benton Clean Air Authority
- Bureau of Reclamation
- Benton County Public Works
- City of Benton City
- Benton-Franklin Dist. Health Department
- Benton Irrigation District
- Department of Transportation
- Washington State Department of Health
- Department of Ecology - Olympia Yakima
- Fire District 2
- Fire Marshal
- Oasis Water Corporation
- Bureau of Land Management
- Department of Fish and Wildlife
- Dept. of Archaeology & Historic Preservation
- Futurewise

WETLAND DELINEATION REPORT

for the
BENTON CITY PROPERTY
located in
Section 12, T9N, R26E
Benton County, WA
June 15, 2007

File No. SUB 07-10
Date 5-15-08
Exhibit No. 9
Received by djh

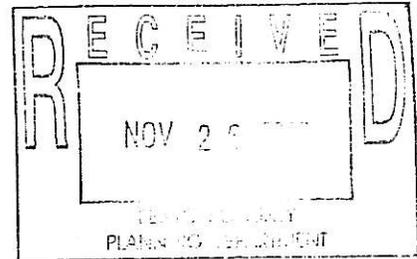


Biology
Soil &
Water, Inc.

WETLAND DELINEATION REPORT

for the

BENTON CITY PROPERTY



site located in
Section 12, T9N, R26E
Benton County, WA

Retained by

MacKay & Sposito, Inc.
Contact Person: Tim Nessinger
3321 W. Kennewick Avenue, Suite 220
Kennewick, WA 99336
Phone: (509) 374-4248
Fax (509) 374-4267

Investigated by

Biology Soil & Water, Inc.
Contact Person: Larry Dawes
W. 725 Chelan
Spokane, WA 99205
Phone (509) 327-2684
Fax (509) 327-4742

1.0 INTRODUCTION

Biology Soil & Water, Inc. (BSW) was retained by James Weber to investigate wetlands and riparian areas at a proposed development site located on the North side of Old Inland Empire Highway in Section 12, T9N, R26E, Benton City, WA (Figures 1 & 2). The purpose of the site investigation was to delineate wetlands and riparian areas so the proposed development can avoid the associated buffers. Larry Dawes, BSW principal biologist, investigated the property on June 15, 2007 and delineated the Ordinary High Water Mark (OHWM) of an unnamed stream. A 50-foot buffer is applied to the stream and extends landward (east) onto the subject property from the OHWM of the stream (Figure 3). BSW also delineated a small Category 3 Wetland on the east side of the stream. A 50-foot buffer is applied to the wetland and extends landward (east) from the wetland. The wetland and OHWM boundary flag locations were surveyed and plotted on the Wetland and Test Hole Location Map included in this report (Figure 3). BSW also investigated the remainder of the site for potential wetlands and Critical Areas but none were identified. BSW respectfully submits this wetland delineation report to Benton County for review and comment.

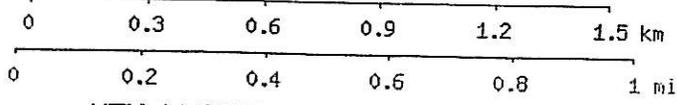
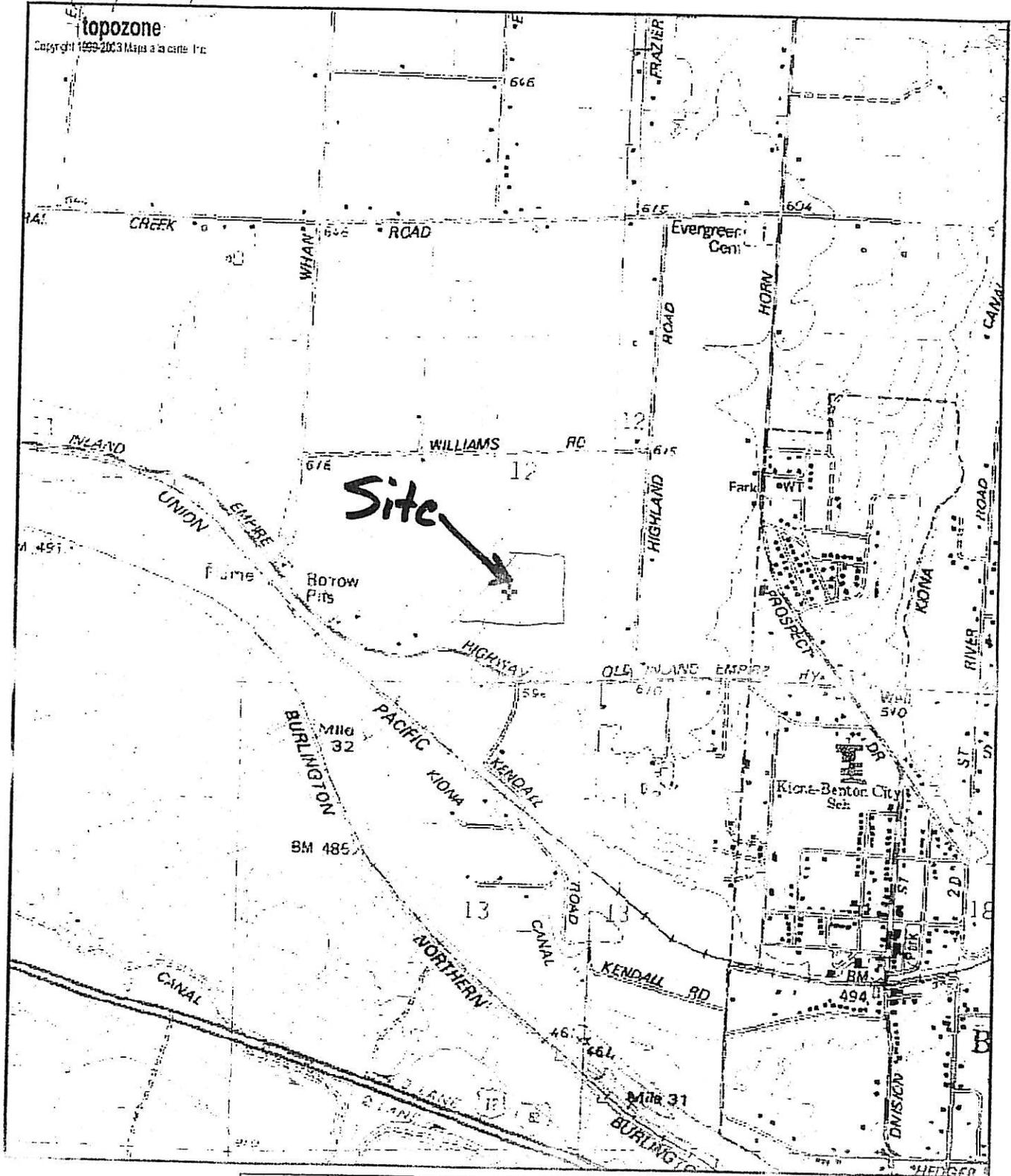
2.0 SITE DESCRIPTION

The site generally slopes west toward the stream and south to toward the Old Inland Empire Highway. The stream meanders on and off of the subject property and generally defines the west property line of the site. Dense stands of cattails and bulrush define the stream channel. The stream bank is vegetated with patches of willow and blackberry that transition into Red-osier dogwood, nettles, and canarygrass at the upland edge. The vegetative community in the adjacent upland is dominated by tall sage, bulbous bluegrass, and cheatgrass. Much of the site has been subjected to significant historical disturbance. The vegetative community in disturbed areas is dominated by knapweed, morning glory, and tumble mustard. Adjacent land uses include residential development to the east and north, pasture land to the west, and orchards to the south.

3.0 METHODS

The Federal Manual for the Delineation of Jurisdictional Wetlands, (Corp of Engineers, 1987) and the Washington State Wetlands Identification and Delineation Manual (Department of Ecology Publication #96-94, March 1997) were used as guidelines and references for the wetland investigation. The routine determination procedures from these references were followed in the field investigation. These procedures require a positive indicator for the three lines of evidence used to make a wetland determination: hydrophytic vegetation (Appendix 1), hydric soils (Appendix 2), and hydrology (Appendix 3).

Figure 1

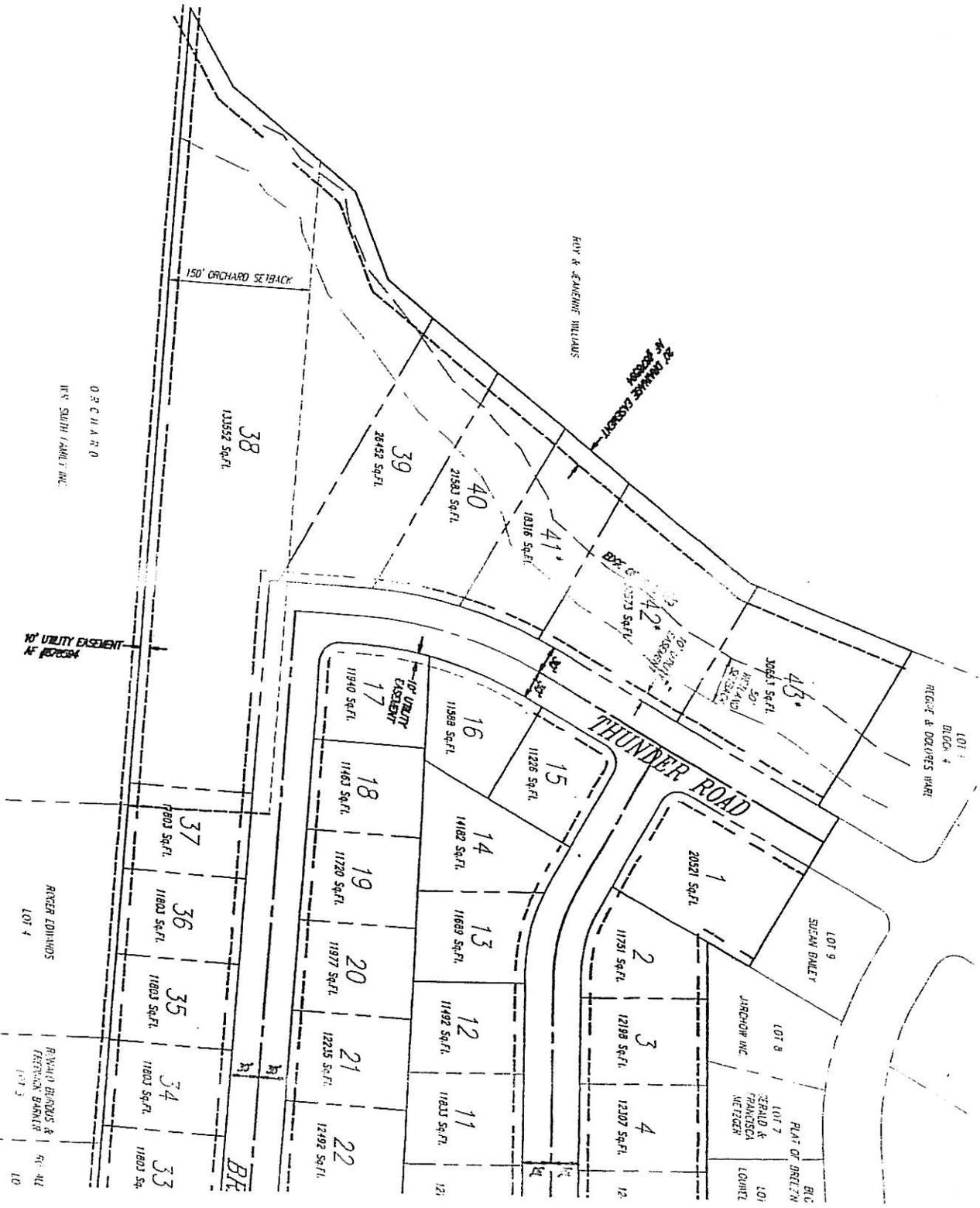


UTM 11 307041E 5127399N (NAD27)
 USGS Corral Canyon (WA) Quadrangle
 Projection is UTM Zone 11 NAD83 Datum

Figure 2



Figure 2



3.1 VEGETATION

The investigator performed vegetation plot sampling along the moisture gradient to insure that all vegetative communities were represented and to help identify the wetland border. When possible, each plant was identified to species using the taxonomic keys in *Flora of The Pacific Northwest* (Hitchcock and Cronquist, 1994). All members of each vegetative community were recorded on a numbered field data sheet (Appendix 4).

The relative percentage of cover of each vegetative species was recorded on the field sheet to quantify dominant plant species and characterize the tree, shrub, and herbaceous vegetative communities within each plot. The indicator status (Appendix 1) of each species was recorded and a wetland determination for the vegetation criteria was made on the data sheet. The vegetative plots coincide with test hole locations.

3.2 HYDRIC SOILS

Numerous test holes were explored on the site. Data from two representative holes were documented on field sheets. The approximate location of the test hole was plotted with a dot and the test hole number on the Wetland and Test Hole Location Map of the project area. Test holes were excavated with a spade to a minimum depth of 20 inches where possible. Soils were characterized with the help of Muncel Soil Color Charts (Kollmorgen, 1992). The soils were examined in the upper part of the soil profile for hydric soil indicators (Appendix 2) including: hydrogen sulfide gas, rizospheres, gleyed soil, aquic moisture regime, chroma of 2 accompanied by distinct or prominent mottles, or chroma of 1 accompanied by a depleted soil matrix. Soils with some of these characteristics were found on the site.

3.3 HYDROLOGY

The investigator relied on strong field evidence of wetland hydrology to make the wetland boundary determination. This field evidence was in the form of: soils with a chroma of 2 accompanied by redoximorphic features; soil properties; drainage patterns; water marks; professional interpretation of the effects of hydrology on site soil chemistry and vegetative communities (Appendix 4); and the topography or elevational contours of the landscape relative to the water table.

3.4 ORDINARY HIGH WATER MARK DELINEATION

The process of delineating the annual high water line of a riparian channel is somewhat different than the process of delineating a wetland. Hydrophytic vegetation, hydric soils, water marks, alluvium, and drift lines are all evaluated in determining the annual high water line. The Federal Manual for the Delineation of Jurisdictional Wetlands, (Corp of Engineers, 1987) and the Washington State Wetlands Identification and Delineation Manual (Department of Ecology Publication #96-94, March 1997) were used as guidelines and references for the investigation.

The investigators evaluated vegetation along the moisture gradient to help identify the riparian zone of influence. The relative percentage of cover of each vegetative species was estimated in the field to quantify dominant plant species, characterize the tree, shrub, and herbaceous vegetative communities, and identify the zone of influence. When possible, each plant was identified to species using the taxonomic keys in *Flora of the Pacific Northwest* (Hitchcock and Cronquist, 1994).

4.0 DATA SUMMARY

4.1 VEGETATION

The following tables summarize vegetative species observed on the site:

Table 1. Plant species identified on the site that are not indicators of wetlands.

Common Name	Indicator Status	Scientific Name
Herbs:		
yarrow	FACU	<i>Achillea millefolium</i>
spotted knapweed	NI	<i>Centaurea maculosa</i>
bull Thistle	FACU	<i>Cersium vulgare</i>
willow weed	NI	<i>Epilobium watsonii</i>
northern buckwheat	NI	<i>Eriogonum compositum</i>
toadflax	NI	<i>Linaria dalmatica</i>
prickly lettuce	FACU	<i>Lactuca serriola</i>
dalmatian toadflax *	NI	<i>Linaria dalmatica</i>
tumble mustard	FACU-	<i>Sisymbrium altissimum</i>
yellow salsify	NI	<i>Tragopogon dubius</i>
mullein	NI	<i>Verbascum thapsus</i>
Wetland Herbs		
showy milkweed	FAC+	<i>Asclepias speciosa</i>
poison hemlock	FAC+	<i>Conium maculatum</i>
scouring-rush	FACW	<i>Equisetum hyemale</i>
mint	FACW	<i>Mentha piperita</i>
bulrush	FACW	<i>Scirpus acutus</i>
tail	FACW	<i>Typha latifolia</i>
netles	FAC+	<i>Urtica dioica</i>
Grasses:		
quack grass	FAC-	<i>Agropyron repens</i>
bluebunch wheatgrass	UPL	<i>Agropyron spicatum</i>
basin wild rye	FAC	<i>Elymus cinereus</i>
Idaho fescue	NI	<i>Fescuta idahoensis</i>
canary grass	FACW	<i>Phalaris arundinacea</i>
Sandberg bluegrass	NI	<i>Poa secunda</i>
Bottlebrush squirreltail	FACU-	<i>Sitanion hystrix</i>
Needle-and-thread	NI	<i>Stipa comata</i>
Shrubs:		
big sagebrush	NI	<i>Artemisia tridentata</i>
wild rose	FACU	<i>Rosa woodsii</i>
blackberry	NI	<i>Rubrus sp.</i>
willow	FAC	<i>Salix spp.</i>

FAC+ = More frequently found in wetlands

FAC- = Less frequently found in wetlands

4.2 Soils

Sheet #21 of the USDA Soil Conservation Service (SCS), Benton County Area Soil Survey Report dated July 1971 (Figure 4: USDA-SCS Soil Survey Map) is used as a reference for the soils information at the site. However, due to the scale of the soil maps, the soil information is only helpful for general planning purposes. The soil survey information is not detailed enough for the identification of Hydric soils in all areas. In fact, some of the areas where hydric soils are found are too small to be delineated at the scale of the soil maps. Even if they were identified on the maps, the exact location of the hydric soil boundary must be delineated in the field and surveyed to identify the position and size of the wetland. According to the SCS Soil Survey Maps, the soils mapped and named at this site are:

- WdA - Warden silt loam, 0 to 2 % slopes
- WdB - Warden silt loam, 2 to 5 % slopes
- WdC - Warden silt loam, 5 to 8 % slopes

The Warden series soils are well drained, medium textured soils on uplands developed under bunchgrasses in a mantle of windblown deposits over reworked lacustrine material. The surface layer is dark brown or dark grayish brown silt loam or sandy loam about 9 inches thick. The subsoil is a dark grayish-brown silt or sandy loam that grades into calcareous silt loam at depths greater than 19 inches.

Typically the wetland surface soils on the site are dark brown sandy loam 10YR 4/2 a depth of 16-18 inches. The top six inches of soil has a dense mass of fine roots. From 8-11 inches there are many small faint mottles. From 11-16 inches there are large common distinct 10YR 3/6 mottles.

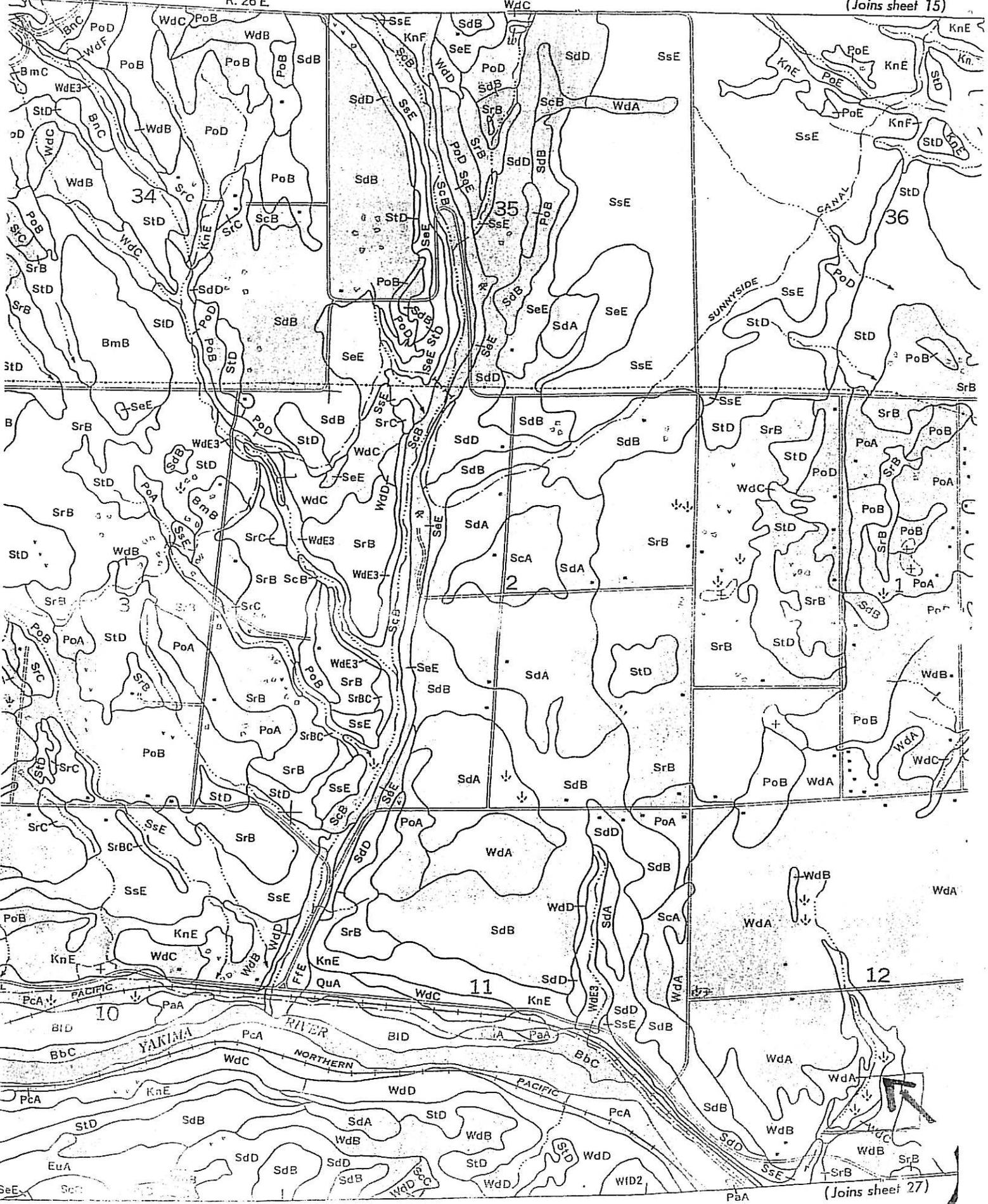
In upland landscape positions, the surface soils are typically 10YR 3/2 fine sandy loams in the top eight inches over 10Yr 4/2 fine sandy loam subsoils to a depth of 16-18 inches.

4.3 HYDROLOGY

When the wetlands were delineated in June 15, 2007, soil saturation was an indicator for the wetland hydrologic criteria due to the steady input of irrigation water. The investigator relied on strong collaborating field evidence of wetland hydrology to make the wetland boundary determination. This field evidence was primarily in the form of: water marks, drainage patterns, soils with a chroma of 2 accompanied by a depleted soil matrix; mottles, soil properties; and professional interpretation of the effects of hydrology on site soil chemistry and vegetative communities (Appendix 4).

5.0 RATIONALE FOR WETLAND AND OHWM DETERMINATIONS

The wetland boundary and stream Ordinary High Water Mark were both delineated in the field. A 50-foot buffer is assigned to both the stream and to the wetland. The delineated slope wetland is identified by pink flags with the words WETLAND BOUNDARY printed in large black letters. The OHWM was delineated with orange flagging material with the words RIPARIAN MANAGEMENT ZONE printed on the flags in large black letters. The wetland and OHWM flags were surveyed in the field.



Site

Although the stream does meander onto the subject property in some locations, most of the actual stream channel occurs on adjacent property to the west along most of the property line. However, the 50-foot riparian buffer extends onto the subject property. The wetland parallels the stream and does occur on the subject property so the 50-foot wetland buffer extends landward (east) farther onto the subject property than the riparian buffer. Where both a riparian buffer and a wetland buffer apply to the subject property, the most restrictive buffer boundary was plotted on the attached site plan map. The buffer that extends further landward (east) is shown on the map.

5.1: WETLAND DELINEATION

A wetland determination is based on the presence or absence of hydric soils, hydrophytic vegetation, and wetland hydrology. Numerous test holes were excavated on the site. Representative test holes were marked with a wooden stake. The soils were examined in the upper part of the soil profile for hydric soil indicators including: hydrogen sulfide gas, rizospheres, gleyed soil, aquic moisture regime, chroma of 2 accompanied by distinct or prominent mottles, or chroma of 1 accompanied by a depleted soil matrix. Soils with some of these characteristics were found on the site.

At locations inside the wetland, the surface soils are typically 10yr 4/2 sandy loams with mottles in the upper 16 inches of the soil profile. Soils in upland landscape positions are 10YR3/2 fine sandy loam and support a distinctly upland plant community dominated by tall sage and bunchgrasses. The upland/wetland edge is well defined by a distinct change in the vegetative community.

5.2: OHWM DELINEATION

BSW followed the well-defined methodology for delineating the OHWM of a stream and preparing a Riparian Delineation Report. High water effects on vegetation, alluvium in soils, water marks on woody vegetation, and drift lines are all evaluated in determining the OHWM. The OHWM is defined as the process of ascertaining where the presence and action of waters are so common and usual, and so long continued in **NORMAL** years, as to mark on the soil a character distinct from that of the abutting upland in respect to vegetation.

An OHWM delineation is based on evidence of high water during a normal year. The investigator relied on strong field evidence of wetland hydrology to make the riparian boundary determination. This field evidence was in the form of: soils with a chroma of 2 accompanied by redoximorphic features; soil properties; drainage patterns; water marks; professional interpretation of the effects of hydrology on site soil chemistry and vegetative communities; and the topography or elevational contours of the landscape relative to the stream channel.

In some areas a well-defined vertical channel bank forms a distinct high water line. In other areas within the zone of stream influence the channel is wider and less well defined so flood deposited alluvium, topographic contours, and vegetative communities defined the OHWM of the stream channel.

6.0 CRITICAL AREAS, CATEGORIES, AND BUFFERS

<u>Type</u>	<u>Category</u>	<u>Buffer Width</u>
Wetland	Category 3	50 feet
Riparian Area	Creek	50 feet

*Wetland and Stream categories were determined with the assistance of the Benton County Code Title 15; Protection of Critical Areas and Resources and *Washington State Wetlands Rating System for Eastern Washington* (DOE, revised Aug 2004).

7.0 LIMITATIONS

Work for this report was prepared in accordance with generally accepted professional practices for the nature and condition at the time the work was performed. These results may not reflect conditions at locations that were not sampled. This report is not intended to represent a legal opinion. Specifically, there is no positive or negative recommendation towards the purchase, sale, lease, or construction on the subject property. No warrant, expressed or implied, is made.

 6-15-07
Larry Dawes, MS Date
BSW Principal Biologist

REFERENCES CITED

Corp of Engineers Wetlands Delineation Manual. Technical Report Y-87-1, US Army Engineer Waterways Experiment Station, Vicksburg, Miss. January 1987.

Federal Manual for Identifying and Delineating Jurisdictional Wetlands: U.S. Department of the Interior - Fish and Wildlife Service. January, 1989.

Hitchcock, C.J and A. Cronquist. 1994. *Flora of the Pacific Northwest*. University of Washington Press, Seattle, WA.

Hydric Soils of the State of Washington. 1988.

U.S. Department of Agriculture (USDA) Soil Conservation Service (SCS), Benton County WA Soil Survey, 1971.

U.S. Department of Agriculture (USDA) Natural Resource Conservation Service (NRCS), *Field Indicators of Hydric Soils in the United States*, Version 3.2, July, 1996.

Reed, Porter B. *National List of Species that Occur in Wetlands*: U.S. Department of the Interior - Fish and Wildlife Service. January 1988 and 1995 update.

Munsell Soil Color Charts. Kollmorgen Corp. Baltimore. 1992.

Washington State Wetlands Identification Manual. DOE March 1997.

APPENDIX 1

HYDROPHYTIC VEGETATION

Definition of indicator status: One of the categories (e.g. OBL) that describes the estimated probability of a plant species occurring in wetlands.

INDICATOR CATEGORIES (Reed, 1988 and 1993)

Obligate Wetland (OBL). Occur almost always (estimated probability >99%) under natural conditions.

Facultative Wetland (FACW). Usually occur in wetlands (estimated probably 67%-99%), but occasionally found in nonwetlands.

Facultative (FAC). Equally likely to occur in wetlands or nonwetlands (estimated probability 34%-66%).

Facultative Upland (FACU). Usually occur in nonwetlands (estimated probability 67%-99%), but occasionally found in wetlands (estimated probability 1-33%).

Obligate Upland (UPL). Occur in wetlands in another region, but occur almost always (estimated probability >99%) under natural conditions in nonwetlands in the region specified. If a species does not occur in wetlands in any region, it is not on the National List.

APPENDIX 2

HYDROLOGY

A site must be "inundated or saturated at least 5% (consecutive days) of the growing season in most years" or "saturated for >12.5% of the growing season" in order to satisfy the criteria for wetland hydrology. Growing season is defined as "the average (5 out of 10 years) number of consecutive days that the air temperature is at least 28 F" (Corp of Engineers, 1987).

Free oxygen must be available to the roots of many plants during the growing season. When soils are completely water-saturated, anaerobic or low oxygen conditions exist where microbial respiration products like chemically reduced forms of iron, manganese, and sulfur ions abound in concentrations that are lethal to many plant species. Hydrophytes have adaptations for coping with these conditions while other species have varying degrees of tolerance. The dynamic nature of wetland hydrology and differences among species in recruitment requirements along the moisture gradient also contribute to differences in species distribution in the wetland.

APPENDIX 3

HYDRIC SOILS

"A hydric soil is a soil that formed under conditions of saturation, flooding, or ponding long enough during the growing season to develop anaerobic conditions in the upper part. Hydric soils that occur in areas having positive indicators of hydrophytic vegetation and wetland hydrology are wetland soils.

Mineral hydric soils are those periodically saturated for sufficient duration to produce chemical and physical properties associated with a reducing environment. They are usually gray and/or mottled immediately below the surface horizon or they have thick, dark-colored surface layers overlying gray or mottled subsurface horizons. Mineral soils will either be gleyed or will have contrasting mottles and/or low chroma matrix" (USDA, 1997).

- a) "All Histosols except Folists; or
- b) Soils in Aquic suborders, great groups, or subgroups, Albolls suborder, Aquisalids, Pachic subgroups, or Cumulic subgroups that are:
 - 1) Somewhat poorly drained with a water table equal to 0.0 ft. during the growing season, or
 - 2) Poorly drained or very poorly drained and have either:
 - a) A water table equal to 0.0 feet during the growing season if textures are coarse sand, or fine sand in all layers within 20 inches, or for other soils
 - b) A water table that is at less than or equal to 0.5 feet from the surface during the growing season if permeability is equal to or greater than 6.0 inches per hour in all layers within 20 inches, or
 - c) The water table is at less than or equal to 1.0 feet from the surface during the growing season if permeability is less than 6.0 inches per hour in any layer within 20 inches, or
- c) Soils that are frequently ponded for long or very long duration during the growing season; or
- d) Soils that are frequently flooded for long duration or very long duration during the growing season."

APPENDIX 4

DATA FORM I - ROUTINE WETLAND DETERMINATION SHEETS

DATA FORM I: ROUTINE WETLAND DETERMINATION

Test hole # 1 (IN)

Associated with Wetland # 1 Project/site Section 12, T9N, R26 of Benton County Date 6/15/07

Investigator: Larry Dawes Normal environmental conditions? yes no Has site been significantly disturbed? yes no Explain: _____

VEGETATION*****

Veg Strat	Common Name	Scientific name	Ind Stat	% rel Cover	percent dominants
<u>H</u>	<u>horse tail</u>	<u>Equisetum hyemale</u>	<u>FACW</u>	<u>40</u>	
	<u>Showy milkweed</u>	<u>Asclepias speciosa</u>	<u>FACT</u>	<u>5</u>	
	<u>hemlock</u>	<u>Conium maculatum</u>	<u>FACT</u>	<u>5</u>	
	<u>cattail</u>	<u>Typha latifolia</u>	<u>FACW</u>	<u>5</u>	} <u>60</u>
	<u>bulrush</u>	<u>Scirpus acutus</u>	<u>FACW</u>	<u>5</u>	
	<u>quack grass</u>	<u>Agropyron repens</u>	<u>FAC-</u>	<u>40</u>	
	<u>Willow</u>	<u>Salix sp</u>	<u>FAC+</u>	<u>60</u>	} <u>60</u>
	<u>blackberry</u>	<u>Rubrus sp</u>	<u>NT</u>	<u>40</u>	

Percentage of dominant species OBL, FACW, & FAC tree NA shrub 60 herb 60
 Percent total dominants: 60 Hydrophytic vegetation present? yes no

Comments:

HYDROLOGY*** Is it in the growing season? yes no Wetland type: Slope Depth of inundation NA
 Depth to free water in test hole NA Depth to saturated soil 16" Local soil survey Water stained leaves
 FAC neutral Water marks Drift lines Drainage patterns Sediment deposits

Oxidized root channels <12 inches Is wetland hydrology present? yes no

Comments:

SOILS***

Horizon	Depth (inches)	Matrix Color	Mottle Color	Mottle Abundance	Texture, Moisture
<u>A</u>	<u>0-8</u>	<u>10YR 4/2</u>			<u>SyLm</u>
<u>B₁</u>	<u>8-11</u>	<u>10YR 4/2</u>	<u>many fine faint mottles</u>		<u>SyLm</u>
<u>B₂</u>	<u>11-16</u>	<u>10YR 4/2</u>	<u>10YR 3/6</u>	<u>Large, Common</u>	<u>Distinct mottles SyLm</u>

Hydric soil indicators:

Histisol Histic epipedon Sulfidic odor Concretions Aquic moisture regime
 Gleyed or low chroma colors Reducing conditions High organic content in surface layer of sandy soils
 Organic streaking in sandy soils Listed on local hydric soils list Listed on national hydric soils list
 Redoximorphic features Other (Explain)

Hydric soils present? yes no **Comments:**

WETLAND DETERMINATION:

Hydrophytic vegetation present? yes no Rationale: _____
 Wetland hydrology present? yes no _____
 Hydric soils present? yes no _____
 Is the sampling point in a wetland? yes no _____



Oasis Water Corp.

File No. SUB 07-10
Date 5-15-08
Exhibit No. 10
Received by djh

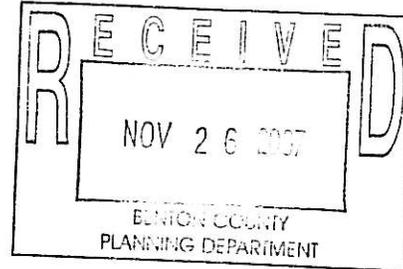
OASIS WATER CORPORATION

PO Box 4766, Pasco WA 99302

(509) 492-4050

11/15/07

Jamie Weber
3121 N Commercial Ave.
Pasco WA 99301



Dear Mr. Weber:

Thank you for your interest in connecting to the Oasis Water System. I understand you need to address the availability of water service with the County Planning Department for processing a plat application.

Although the Oasis System has sufficient water rights and available connections, it is still operating under a red tag permit. We are working with the Washington Utility and Transportation Commission and the Department of Health Office of Drinking Water to meet their requirements. We are hoping to have this situation addressed by late January 2008.

When the system is again operating with a green permit, we will be glad to have your development connected to our system.

If you have any further questions, please do not hesitate to give me a call at 492-4050.

Sincerely,



Paul Christensen, President

Oasis Water System



Oasis Water Corp.

OASIS WATER CORPORATION

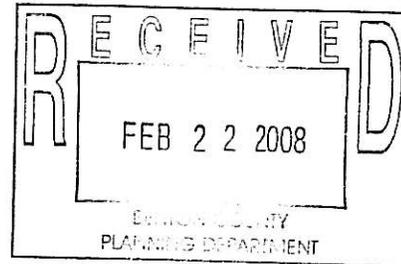
PO Box 4766, Pasco WA 99302

(509) 492-4050

File No. SUB 07-10
 Date 5-15-08
 Exhibit No. 11
 Received by dyh

February 21, 2008

Michael Shuttleworth, Senior Planner
 Benton County Planning Department
 PO Box 910
 Prosser, WA 99350



RE: Kathryn Heights Plat
 File No. SUB 07-10/EA 07-94

Dear Mr. Shuttleworth,

The following conditions need to be considered in the review and approval of the referenced plat.

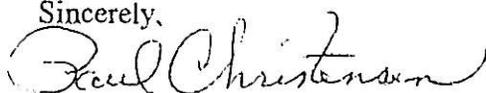
1. Oasis Water System is currently petitioning for a Facilities Charge and a SRF Loan Surcharge to its tariff. The connection of the lots will be subject to the new rates, including Facilities Charge and the SRF Loan Surcharge in addition to the existing Connection Fee and the standard monthly water usage billing. No new connections can be approved until the Department of Health gives the water system a green operating permit. The above mentioned petition is the first step in that process. The petition is scheduled to be heard by the Washington Utility and Transportation Commission on February 28th. Then the system must complete two more processes before the Department of Health will consider the system viable again, at which time the operating permit will be restored to a green status. There is no indication of when that will occur, but hopefully it will occur this spring.
2. Oasis Water System currently has 168 customers with an approved Water System Plan allowing 230 residential connections. At this time we have available the allowance of 62 new connections. The proposed plan will require 83 new connections. To accommodate this additional usage will require an amendment to the Water System Plan. The system has adequate water rights and capacity within the storage and pumping facility to make this amendment. Should the development be platted as a phased development, we could accommodate a proportionate number within the initial phase. A restriction of development of the later phase would be subject to the Water System Plan approval.

Kathryn Heights Plat
February 21, 2008
Page 2

3. The proposed development will require the extension of the roadway through the well protection area. This portion of roadway will need to have roadway drainage directed away from this area.

We look forward to the addition of these lots to our system. We will begin the process of amending the Water System Plan immediately to accommodate this size of development. If you have any questions, please give me a call.

Sincerely,

A handwritten signature in cursive script that reads "Paul Christensen".

Paul Christensen, President

From: "Cervantes, Andres (DOH)" <Andres.Cervantes@DOH.WA.GOV>
To: "Mike Shuttleworth" <mike_shuttleworth@co.benton.wa.us>
Date: 3/27/2008 6:32:49 PM
Subject: RE: Oasis Water System

File No. SUB 07-10
Date 5-15-08
Exhibit No. 12
Received by cyh

Hi Mike,

They are still red and it is my understanding the development (Katherine Heights) will take all of their remaining services, and then some.

I won't be back in the office for another week- but if I get into the office some time next week I'll update you if a change has occurred.

We just have not seen the financial report requested in the SDO (State Departmental Order).

From: Mike Shuttleworth [mailto:mike_shuttleworth@co.benton.wa.us]
Sent: Wed 3/26/2008 10:36 AM
To: Cervantes, Andres (DOH)
Subject: Oasis Water System

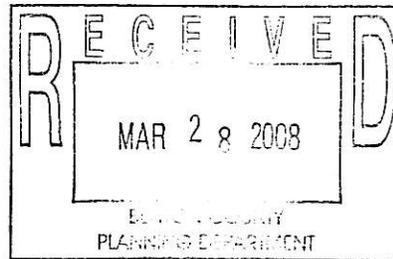
Andres,

Can you give me an update on the current operating level for the Oasis Water System in the Benton City Area? Benton County has a subdivision application pending that will be using the water system. The last contact I had provided that the Oasis Water System was not allow to have any new connections until loan issues were resolved.

Have the issues been resolved and can new connects be approved?

Thank-you for your help with this application.

Michael Shuttleworth
Benton County Planning Department
P.O. Box 910
Prosser, WA 99350
Tel (509) 786-5612
Fax (509) 786-5629



From: "Cervantes, Andres (DOH)" <Andres.Cervantes@DOH.WA.GOV>
To: "Mike Shuttleworth" <mike_shuttleworth@co.benton.wa.us>
Date: 5/13/2008 6:35:48 PM
Subject: RE: Oasis Water Corporation, ID 19069T, Benton County

File No. SUB07-10
Date 5-15-08
Exhibit No. 13
Received by djh

Mike,

They still have a red operating permit. However, they have resolved their issues with the UTC and should be able to turn back to green once they send us a copy of the financials provided to the UTC.

From: Mike Shuttleworth [mailto:mike_shuttleworth@co.benton.wa.us]
Sent: Tue 5/13/2008 10:33 AM
To: Cervantes, Andres (DOH)
Subject: Oasis Water Corporation, ID 19069T, Benton County

Andres,

Can you give me an update on the current operating level for the Oasis Water System in the Benton City Area? Benton County has a subdivision application pending that will be using the water system. The last contact I had provided that the Oasis Water System was not allow to have any new connections until loan issues were resolved.

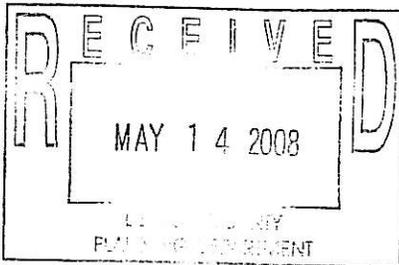
Have the issues been resolved and can new connects be approved?

I last received an e-mail from you on March 27, 2008, and in that e-mail you provided that the they were still designated red.

I am writing the staff report to our Planning Commission and want to make sure I have the most up to date information. Thank-you for your help with this project.

Mike

Michael Shuttleworth
Benton County Planning Department
P.O. Box 910
Prosser, WA 99350
Tel (509) 786-5612
Fax (509) 786-5629

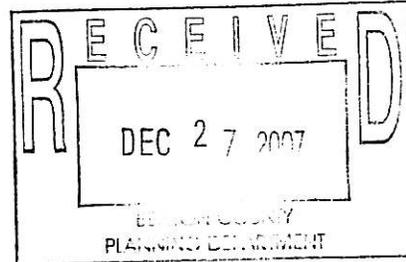


File No. SUB 07-10
Date 5-15-08
Exhibit No. 14
Received by dwb

CITY OF BENTON CITY
OFFICE OF THE CITY CLERK-TREASURER

P.O. Box 70, * Benton City * Washington 99320 * (509) 588-3322 * cclerk@owt.com

October 5, 2007



Jamie Weber
3321 Kennewick Avenue, Suite 220
Kennewick WA, 99336

Mr. Weber,

I forwarded your last e-mail to the City Engineer, Bob Spink; to reconfirm his opinion that our city sewer system was capable of handling the additional load produced by the proposed Kathryn Heights project.

He assured me that this additional influent would be no problem for our sewer plant/delivery system to process and we all welcome any new growth in the area. The only thing he wished to have clarified was that the high point -where gravity flow would begin- was probably further West of 13th and Hazel (two blocks?). He would prefer that gravity flow begin at the furthest possible point, enabling more residents or new development to connect to the new main lines once the city takes ownership.

Feel free to contact me if you need any additional information.

Sincerely,

Ron Baumgartner, Benton City Maintenance Supervisor

A handwritten signature in black ink, appearing to read "Ron Baumgartner".



Prevent • Promote • Protect "Always working for a safer and healthier community."

File No. SUB 0710
Date 5-15-08
Exhibit No. 15
Received by clh

7102 W. Okanogan Place • Kennewick, WA 99336 • Phone: (509) 460-4200

April 15, 2008

Michael E. Shuttleworth, Interim Planning Manager
Benton County Planning Department
P.O. Box 910
Prosser, WA 99350-0910

RE: Determination of Non-Significance
File No. EA 07-94; Kathryn Heights

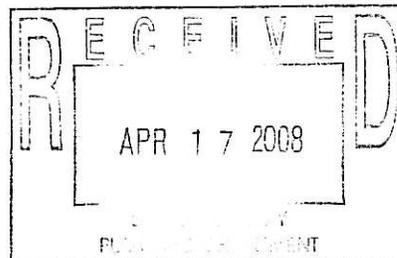
Dear Mr. Shuttleworth:

This office has reviewed the above referenced proposal and has no objections to the zoning change provided all development is served by a public water supply approved by Washington State Department of Health for the additional connections, and City of Benton City Sanitary Sewer.

If you have any questions, please contact me at the Kennewick Environmental Health Office, phone (509) 460-4317.

Sincerely,

Jeri L. Randle
Environmental Health Specialist



ENVIRONMENTAL HEALTH

COMMUNITY HEALTH CENTERS

7102 W. Okanogan Place
Kennewick, WA 99336
Phone: (509) 460-4200

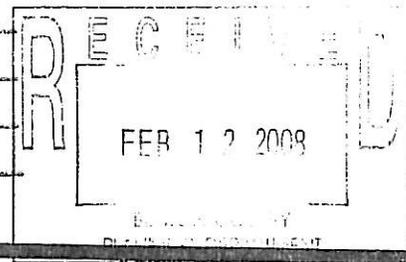
412 W. Clark Street
Fasco, WA 99301
Phone: (509) 547-9737

310 7th Street
Prosser, WA 99350
Phone: (509) 786-1633

7102 W. Okanogan Place
Kennewick, WA 99336
Phone: (509) 460-4200



File No. SUB 07-10
Date 5-15-08
Exhibit No. 16
Received by djh



February 8, 2008

Michael E. Shuttleworth, Senior Planner
Benton County Planning Department
P.O Box 910
Prosser, WA 99350-0910

RE: Determination of Non-Significance
File No. EA 07-94 and Preliminary Plat
Review SUB 07-10; Kathryn Heights

Dear Mr. Shuttleworth:

This office has reviewed the above referenced proposal and has no objections to the proposal provided:

- 1) All proposed lots will be served by City of Benton City sanitary sewer.
- 2) All proposed lots will be served by an approved public water supply in accordance with WAC 246-290. It should be noted that the Oasis Water Corporation which is designated to serve these lots currently has a **RED** Operating Permit, meaning the system is considered **INADEQUATE**. The Washington State Department of Health Drinking Water Program should be contacted for further information.

If you have any questions, please contact me at the Kennewick Health Office, phone 582-7761, Ext 266.

Sincerely,

Jeri L. Randle
Environmental Health Specialist

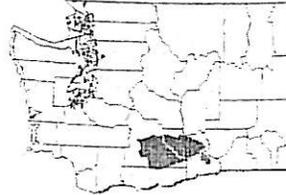


File No. SUB 07-10
 Date 5-15-08
 Exhibit No. 17
 Received by djh

STATE OF WASHINGTON
 DEPARTMENT OF ECOLOGY

15 W Yakima Ave, Ste 200 • Yakima, WA 98902-3452 • (509) 575-2490

February 19, 2008



Your address is in the **Lower Yakima** watershed

Michael Shuttleworth
 Benton County Planning
 P.O. Box 910
 Prosser, WA 99350

Dear Mr. Shuttleworth:

Thank you for the opportunity to comment on the pre-threshold determination for the Kathryn Heights subdivision of 21.28 acres into 43 lots, proposed by Jamie Weber of All American Construction Company [SUB 07-10/EA 07-94]. We have reviewed the environmental checklist and have the following comment.

Water Resources

The water purveyor is responsible for ensuring that the proposed use(s) are within the limitations of its water rights. If the proposal's actions are different than the existing water right (source, purpose, the place of use, or period of use), then it is subject to approval from the Department of Ecology pursuant to Sections 90.03.380 RCW and 90.44.100 RCW.

If you have any questions concerning the Water Resources comments, please contact Breean Zimmerman at (509) 454-7647.

Water Quality

Project Greater-Than 1 Acre with Potential to Discharge Off-Site

An NPDES Construction Stormwater General Permit from the Washington State Department of Ecology is required if there is a potential for stormwater discharge from a construction site with more than one acre of disturbed ground. This permit requires that the SEPA checklist fully disclose anticipated activities including building, road construction and utility placements. Obtaining a permit is a minimum of a 38 day process and may take up to 60 days if the original SEPA does not disclose all proposed activities.

Mr. Shuttleworth
February 19, 2008
Page 2 of 2

The permit requires that Stormwater Pollution Prevention Plan (Erosion Sediment Control Plan) is prepared and implemented for all permitted construction sites. These control measures must be able to prevent soil from being carried into surface water (this includes storm drains) by stormwater runoff. Permit coverage and erosion control measures must be in place prior to any clearing, grading or construction.

More information on the stormwater program may be found on Ecology's stormwater website at: <http://www.ecy.wa.gov/programs/wq/stormwater/construction/> . Please submit an application or contact Bryan Neet at the Dept. of Ecology, (509) 575-2808, with questions about this permit.

Sincerely,



Gwen Clear
Environmental Review Coordinator
Central Regional Office
(509) 575-2012

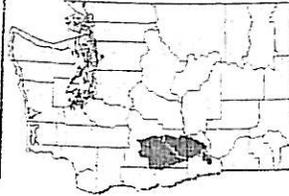


STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

15 W Yakima Ave, Ste 200 • Yakima, WA 98902-3452 • (509) 575-2490

File No. SUB 07-10
Date 5-15-08
Exhibit No. 18
Received by dyb

February 21, 2008



Your address
is in the
**Lower
Yakima**
watershed

Michael Shuttleworth
Benton County Planning
P.O. Box 910
Prosser, WA 99350

Dear Mr. Shuttleworth:

Thank you for the opportunity to comment on the pre-threshold determination for the Kathryn Heights subdivision of 21.28 acres into 43 lots, proposed by Jamie Weber of All American Construction Company [SUB 07-10/EA 07-94]. We have reviewed the environmental checklist and have the following additional comments.

Shorelands/Environmental Assistance

Ecology's synthesis of Best Available Science regarding wetland buffers would describe a 50-foot buffer between high intensity development and category III wetlands as being inadequate in most cases.

Lots 41, 42 and 43 do not appear to have adequate buildable lot space so that 50-foot buffers can remain intact during construction. The lots are also located on a slope which empties into the wetland/stream complex area. Level vegetated buffers of 50 feet are the *minimum* needed to keep 60 percent of moving pollutants from entering water. On a slope, in order to protect wetland and stream corridors from pollution (in a residential setting, usually in the form of herbicides applied to lawns), buffers need to be *increased* to achieve the same level of protection. Residential development is considered high intensity use when deciding how large buffers should be in order to protect wetland functions.

Copies of the rating sheets used by the applicant to conclude that the wetland is a Category III wetland were not provided with the SEPA documents. The Washington State Wetland Rating System for Eastern Washington (May 2004) provides a methodology to rate wetlands based on their functions. Presumably, this is the document that was used to rate the wetland. If the wetland has a moderate level of function with

Mr. Shuttleworth
February 21, 2008
Page 2 of 2

respect to wetland habitat (20 to 28 points), buffers around the wetlands from residential development are recommended to be 150 feet; if the wetland has a low level of function with respect to wetland habitat (less than 20 points) buffers around the wetlands from residential development are recommended to be 80 feet.

This is a large site and there are options that the developer could use to retain the same number of lots, yet still provide space in each lot for adequate buffers. Some suggestions would include: 1) changing the location of Thunder Road slightly and moving it to the east, making each of the lots to the east slightly narrower. If each lot width was decreased by 5 feet, then there would be 35 more feet available for lots 41, 42, and 43; 2) getting an exemption from the 150-foot agriculture setback and putting three lots on the flatter east portion of that area, while setting aside lots 41, 42, and 43 as open space.

If mitigation measures are applied to lower the impacts of the residential developments, then the buffers could be decreased from what Ecology has recommended above. Some examples of such measures would include directing lights away from wetland areas, providing requirements via covenants that no herbicides/pesticides would be used within 150 feet of the wetland area, or route all new untreated stormwater away from wetlands while assuring that the wetland hydrology is not altered, etc.

For a complete list of measures that could be used to mitigate for small buffer size, please see Ecology's synthesis of Best Available Science, Volume 2 in appendix 8-D entitled "Guidance on widths of buffers and ratios for compensatory mitigation for use with the eastern Washington rating system".

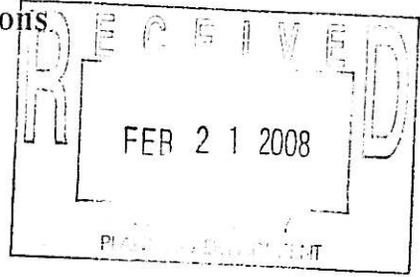
Please contact Cathy Reed at (509) 575-2616 if you have any questions about these wetland comments.

Sincerely,



Gwen Clear
Environmental Review Coordinator
Central Regional Office
(509) 575-2012

Benton County Fire Marshal's
Review of Proposed Planning Applications



By: Mike Shuttleworth

File No. SUB 07-10

Date 5-15-08

Exhibit No. 19

Received by djh

SUB: 07-10 & EA 07-94

Date Received 2-07-08 Date Returned 2-21-08

Applicant's Comments: Jamie Weber, 2839 W. Kennewick, 531-3286 proposes to add 21.28 acres – Kathryn Heights - (41 lots) to Breezin Estate

Fire Marshal's Comments: Seven new hydrants are required and have been placed on page 4 of this report. The locations can be moved to accommodate other utilities. To use these existing hydrants at their present location will require Mr. Weber to place them on the submitted plat for this office to review and approve

Required: For Single Family Development

Unless the proposed project meets the following requirements BCC 3.18.025 (a), (b), & (c), the subdivision will be required to provide fire hydrants and must meet other sections of BCC 3.18.030.

(a) Low Density Exemption - Divisions of land which satisfy all the following requirements:

- (1) Each lot created is at least one (1) gross acre or more in area; and
- (2) The minimum permitted setback distance for all structures, from all lot lines, is twenty-five (25) feet unless greater distances are required by other county regulations (i.e., zoning, building, etc.); and
- (3) The use of each lot created is limited by county regulations or plat covenant to a single family dwelling, duplex or other use which is not multi-family, commercial or industrial.

(b) Rural Areas.

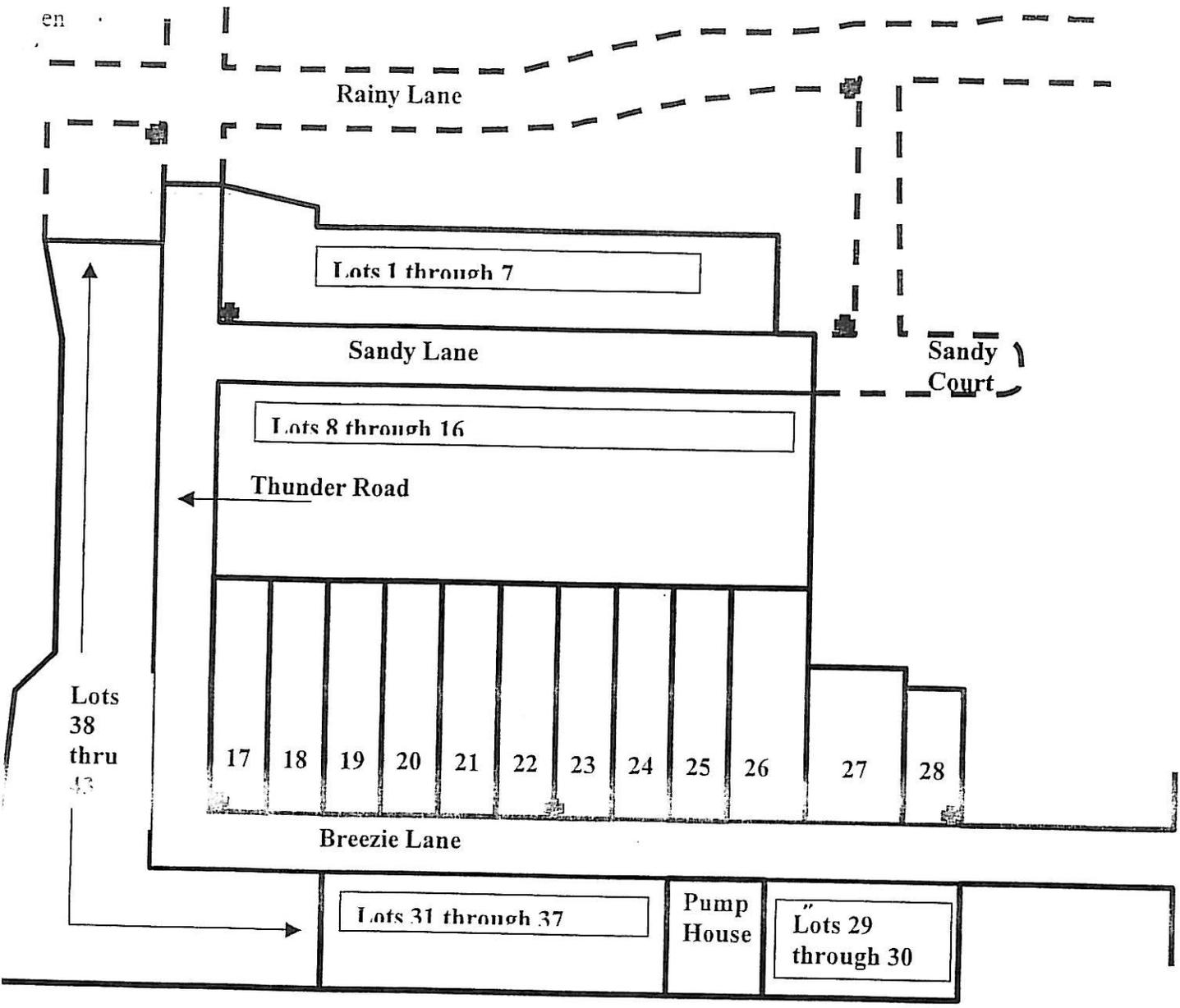
(c) Existing lots of record as of March 26, 1981.

BCC 3.18.030

1. Prior to preliminary plat approval, a letter from the water purveyor stating its willingness and ability to provide 500 gpm for 30 minutes at 40 psi static pressure and 20 psi residual, at normal peak instantaneous demands, is to be sent to the Benton County Fire Marshal.
2. 3.18.028 EXEMPTION TO MINIMUM WATER FLOWS FOR SUBDIVISIONS.
 - a) Proposed single family residential subdivisions and short subdivisions that will not be served with a water system with water flows adequate to provide the minimum water flow for fire purposes required by BCC 3.18.039(a) may be approved by the County if each single family residence will be served by fire hydrants with at least two hundred fifty (250) gallons of water per minute for thirty (30) minutes at twenty (20) psi residual pressure. Provided, no such approval may be granted unless all structures erected or installed on such lots are provided with:
 - (1) Fire sprinkler systems conforming to the National Fire Protection Association Pamphlet No. 13D, Sprinkler Systems for One and Two Family Dwellings and Mobile Homes; and
 - (2) Minimum setbacks from property lines of at least twenty-five (25) feet.
 - b) With respect to subdivisions approved under this section, all required water mains and fire hydrants shall be installed in accordance with the requirements
 - a) Proposed single family residential subdivisions and short subdivisions that will not be served with a water system with water flows adequate to provide the minimum water flow for fire purposes required by BCC 3.18.039(a) may be approved by the County if each

3. Prior to final plat approval, a copy of the water system plans shall be stamped by a Wa. State registered engineer, and shall be signed by the water purveyor, shall be given to the Benton County Fire Marshal, and DSHS.
1. The approved water system shall be installed prior to final plat approval, or a statement shall be placed on the plat indicating no building or mobile home permit will be issued until the water system is installed, operating and approved.
2. The installation of the water system must be installed under the supervision of a WA. State Registered Engineer, and the engineer shall send a letter to the Benton County Fire Marshal certifying in writing that the system was installed in accordance to the approved design.
3. Water main requirements are:
 - a. Hydrants are to be operable prior to building permits being issued.
 - b. Minimum main size for circulating (grid or Loop systems) shall be 6".
 - c. Dead-end mains longer than 300 feet to the last hydrant shall be 8". If shorter than 300 feet, 6" are permitted.
 - d. Hydrant leads more than 50 feet shall be 8". If shorter than 50 feet, 6" is permitted.
 - e. Hydrants shall conform to current A.W.W.A. specifications. There shall be one 4 1/2" NST pumper port, two 2/12" NST hose port, and a 1-1/2" pentagon operating nut.
 - f. A storz adapter, for the steamer port, shall be installed in accordance to attached Fire Marshal Storz Policy.
 - g. There shall be an auxiliary gate valve installed to permit repair and replacement of hydrants without disrupting water service.
 - h. Hydrant shall stand plumb, and the lowest outlet shall be between 18" and 24" above the finished grade.
 - i. Pumper port is to face the street.
 - j. Hydrants are not to be obstructed, and shall be accessible to the fire department.
 - k. Hydrants subject to vehicle damage shall be adequately protected.
 - l. Hydrant locations will be determined by the Benton County Fire Marshal. General spacing is 600' as measured by a fire truck laying the fire hose.
4. Road design shall comply with Benton County requirements for Suburban Developments.
5. Fire Marshal's requirements for roads:
 - a. All developments shall be served by one route having a maximum grade of 12% if a graveled road, and if paved, the grade may be between 12% and 15%.
 - b. Interior roads having a maximum grade of 12% may be a graveled road, and if paved, the grade shall not exceed 15%.
 - c. Developments with more than 50 lots shall have two entry streets.
 - d. Residential developments exceeding 16 dwelling units whose lots are less than 1 acre, and are served by a single access road longer than 600 feet shall have a second entry.
 - e. All drainages, creeks, etc shall be crossed by bridges/culverts that shall be capable of supporting the imposed weights, and the culvert shall be designed to handle a 25-year storm event. At a minimum, the design shall support the weight of a fire truck. A letter stating that the bridge/culvert design meets the imposed load, and that the culvert meets the 25-year storm event requirements must be submitted by a Registered Washington State Civil Engineer.
 - f. Cul-de-sacs/Turnarounds
 1. Shall not exceed 600 feet. unless approved.

2. Shall have a turning radius of 50'. The turning radius shall be improved for 45'.
 3. See attached policy on other approved turnarounds
 - g. Private Driveways over 200 feet long
 1. May be graveled up to a maximum grade of 12%, and if paved, the grade shall not exceed 15%.
 2. Approved turnarounds required.
 - h. Graveled Roads
 1. Roads over 150' long and private driveways over 200 feet long with a grade that is less than or equal to 12% are to be finished with 2" of compacted gravel. Minimum gravel size is 5/8 minus crushed rock, but it is recommended to use 1" or 1 1/2" crushed rock. This creates a better roadbed, and the rock will not be lost in the sand as quickly as it would be with 5/8's.
 2. Approved turnarounds required.
6. Home construction in Benton County is to conform to the UBC and must meet the current standards for fire protection within Benton count at the time of construction. Currently the applicable standards are as follows:
- a. Wood roofs are not allowed.
 - b. When determined by the Fire Marshal, non-combustible siding, skirting and soffit material is required on the down hill side of structures within 30 feet of a 15% or greater grade.
 - c. When determined by the Fire Marshal, all structures within 30 feet of the property line shall have non-combustible siding, soffits, or skirting on the side adjacent to an undeveloped area of natural vegetation that is in excess of five contiguous acres.
 - d. Decks and porches that are 3 feet or less above grade shall have non-combustible skirting if within 30 feet of adjacent undeveloped areas of natural vegetation that is in excess of five contiguous acres, or on the down hill side of structures within 30 feet of a 15% or greater grade.



☒ Seven new hydrants are required. The locations can be moved to accommodate other utilities.

There are three existing hydrants within this phase that may be used. To use these existing hydrants at their present location will require Mr. Weber to place them on the submitted plat for this office to review and approve.

Ross B. Dunfee, P.E.
Public Works Director / County Engineer
Steven W. Becken
Asst. Director / Asst. County Engineer

Area Code 509
Prosser 786-5611
Tri-Cities 736-3084
Ext. 5664
Fax 786-5627

Benton County

Department of Public Works

Post Office Box 1001 - Courthouse
Prosser, Washington 99350-0954

File No. SUB 07-10
Date 5-15-08
Exhibit No. 20
Received by djh

February 20, 2008

Mr. Terry Marden, Planning Director
Benton County Planning & Building Department
P.O. Box 910
Prosser, WA 99350

RE: PRELIMINARY PLAT REVIEW
KATHRYN HEIGHTS
PRELIMINARY SUB 7-10



Dear Mr. Marden:

This office has one comment on our review of the preliminary plat SUB 7-10 for Kathryn Heights:

1. The 170' radius on Sandy Lane must be a minimum of 400'.

If you have any questions, please contact this office.

Sincerely,

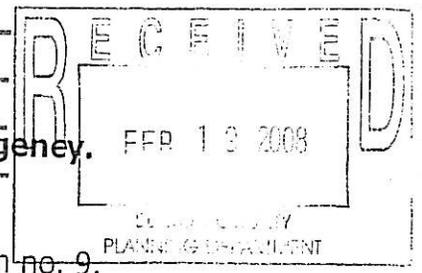

Sue Schuetze
Engineer II

File No. SUB 07-10

Date 5-15-08

Exhibit No. 21

Approved by [Signature]



Please check each one that you feel is appropriate for your agency.

If you have any comments or objections - please elaborate under item no. 9.

	Approval	Object
1. Lot size of _____	_____	_____
2. Access (Roads, alleys & other public ways)	* ✓	_____
3. Water Supply	_____	_____
4. Sanitary waste disposal systems	_____	_____
5. Parks and Playgrounds	_____	_____
6. Fire protection facilities	_____	_____
7. Drainage and storm water easements	_____	_____
8. Utility easements (Phone, water, gas, etc.)	_____	_____

* - ROADS ARE EXTENSIONS OF EXISTING ROADS; THUS ROAD NAMES: THUNDER RD. SANDY LN & W. BREEZIE LN ARE ALREADY IN USE.

See Book 2-12-08
SC-COMM PROJECT ASSISTANT

I certify that the above recommendations are adequate for this agency.

Signature [Signature]

Agency Southeast Communications Center

Date 2-13-08

Project Name Kathryn Heights

File No. SUB 07-10/EA 07-94



File No. SUB 07-10
Date 5-15-08
Exhibit No. 22
Received by djh

STATE OF WASHINGTON

DEPARTMENT OF ARCHAEOLOGY & HISTORIC PRESERVATION

1063 S. Capitol Way, Suite 106 • Olympia, Washington 98501
Mailing address: PO Box 48343 • Olympia, Washington 98504-8343
(360) 586-3065 • Fax Number (360) 586-3067 • Website: www.dahp.wa.gov

February 20, 2008

Mr. Michael Shuttleworth
Senior Planner
Benton County Planning/Building Department
PO Box 910
Prosser, WA 99350

In future correspondence please refer to:
Log: 022008-24-BN
Property: Kathryn Heights SUB 07-10, EA 07-94
Re: Archaeology - Survey Requested

Dear Mr. Shuttleworth:

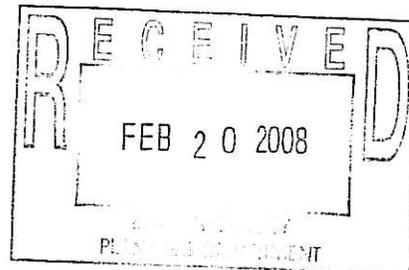
We have reviewed the materials forwarded to our office for the proposed project referenced above. There is a recorded site less than a mile to the west of the project area, and given the parcel's proximity to the river and a creek drainage the area has the potential for archaeological resources. Further, the scale of the proposed ground disturbing actions would destroy any archaeological resources present. Identification during construction is not a recommended detection method because inadvertent discoveries often result in costly construction delays for the applicant and damage to the resource. Therefore, we recommend a professional archaeological survey of the project area be conducted prior to ground disturbing activities. We also recommend consultation with the concerned Tribes' cultural committees and staff regarding cultural resource issues.

These comments are based on the information available at the time of this review and on behalf of the State Historic Preservation Officer. Should additional information become available, our assessment may be revised. Thank you for the opportunity to comment on this project and we look forward to receiving the survey report. Should you have any questions, please feel free to contact me at (360) 586-3088 or Scott.Williams@dahp.wa.gov.

Sincerely,

Scott Williams
Assistant State Archaeologist
(360) 586-3088
scott.williams@dahp.wa.gov

CC: Catherine Dickson, CTUIR
Johnson Meninick, YIN



**Proposed Plat for
Kathryn Heights
SUB 07-10/EA 07-94**

For 2008/2009 tax year

File No. SUB07-10
Date 5-15-08
Exhibit No. 23
Received by djh

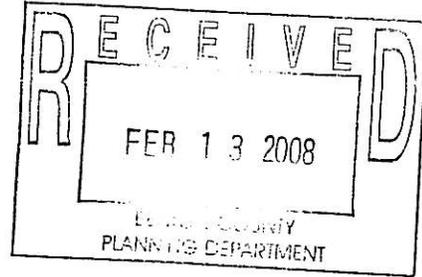
Date: February 13, 2008

To: Mike Shuttleworth-Planning Department

From: Patty Yahne - Assessor's Office

Re: Parcels 1-1296-401-2724-002-all

P.Y.



Comments: Not Approved

1. Dimensions are rounded off; they will need to be exact on the Final Plat. Verified by County Engineer, Bryan Thorpe.

2. Addresses for lots to be added later.

Prof. Leonard F. Banas

3202 W Sandy Lane
Benton City, WA 99320-4603
Professor of Law & Science

Doctor of Jurisprudence

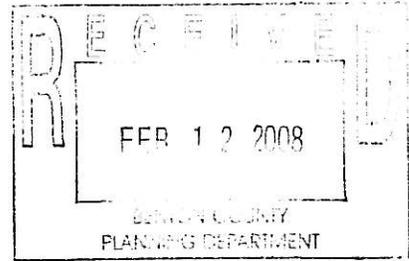
Telephone: 509-588-4615
Cell: 253-709-3042

E-mail: Lawmanlfb@aol.com

February 9, 2008

VIA: US Mail

Re: File No. SUB 07-10/EA 07-94; Kathryn Heights



Benton County Planning Department
C/O: Michael Shuttleworth, Senior Planner
P.O. Box 910
Prosser, WA 99350

File No. SUB 07-10
Date 5-15-08
Exhibit No. 24
Received by djh

Dear Mr. Shuttleworth:

My wife Virginia and I would like to formally register our vote against the above named Kathryn Heights Housing Development Project. After conducting extensive research and careful consideration of the development proposal, we must strongly decline any support of this project predicated on the following information and considerations.

The proposal states that there is 21.28 acres in consideration, and it further states that the 21 acres will be subdivided into 43 lots, with 40 of the lots being committed for duplex homes.

This project directly impacts our property negatively as it will abut our western property line. While we would prefer to leave this area undeveloped, we also realize that this is impractical and developers are interested in profiting from their investments.

However, we find the prospect of duplex housing on small ¼ acre lots as being inadequate and unfair to families with children, and detrimental to the existing home owners. After the contractors are finished constructing the duplex houses, they must include some sort of parking for the families, most of whom have more than one vehicle today. Thus, it is also fair to surmise that each duplex may easily require parking for 4 or more vehicles, plus they also need space for young children to play.

Moreover, according to the latest demographics for the Benton City area, the average family size is 2.9 people per family, and may be somewhat higher for those involved in the agricultural businesses. The demographics also show that the percentage of family households for this community is 73.9 percent. Thus, simple math tells us that 83 new family residences will be built to house 6,133.7 people. We believe that this number of people living in this congested area will negatively impact the entire community while straining our current level of services.

We have been previously informed that our supply of fresh water would not be adequate to handle such a large influx of people. Even with the solution that was posited, which advocates bringing in a second water source, for services, individual use, fire suppression as with the Red Mountain Fire this past summer, and other needs will put a strain on the resources available.

Next would be the question of sewage. Is each of these duplex units going to have an individual septic system installed or are they going to use several community septic systems? This could potentially cause contamination to our existing well water system that we now have. Would

Prof. Leonard F. Banas

3202 W Sandy Lane
Benton City, WA 99320-4603
Professor of Law & Science

Doctor of Jurisprudence

Telephone: 509-588-4615
Cell: 253-709-3042
E-mail: Lawmanlfb@aol.com

that then mean that we would have to switch over to some other source that we would have to pay for, and without having a choice?

How will irrigation water for lawns and other uses be handled? How is this situation going to be resolved? Most of the homeowners who live around here do not have irrigation services, but they must pay the annual fee anyway. Why? Are the contractors going to install irrigation systems for 43 additional properties and have those who are still doing without, continue to pay for the water that they do not get to use?

The houses on the west side of the boundary and on the south side of the boundary will butt up against orchards. Beginning in the spring and throughout the summer, these producers spray their trees with pesticides, fertilizers and other chemicals. We can smell them when the wind blows east as we usually get it here. Who is going to be responsible for the illnesses that the seniors, children and others may suffer from these necessary spraying, and the close proximity to these orchards, or are we going to tell the farmers that they must stop producing their crops?

While we have not directly been affected with power shortages we have had flickering service at times during high peak usage. What will happen when we add another 83 households to this service? There is also the consideration for other services that may be negatively impacted by this influx of families in this area.

We are also concerned with the loss of our view, our quietude, a potential for an increase in crime, and trespass which will stretch our limited police coverage. While they have done an outstanding job thus far, their numbers are limited. We will also see a jump in traffic by 26 fold. That means our gravel road will probably have to be paved. Who will pay for this? Not us, as we are the only house that is on the gravel road in our section which abuts Lot # 7 of the plan.

While we do not want the area to be developed at all, we do understand that our wish is an ideal scenario, and the reality is that it must happen sometime. Whereas, we were made aware of this when we bought our house and property 11 months ago, we were told that single family homes were planned, which would likely increase our own property value. However, with duplex housing, we see that it is being designed for low income buyers, and that will decrease our property value along with those of our neighbors in the immediate vicinity, and to the immediate north of the boundary line for these homes. Many of us currently living here are retirees and living on fixed incomes, and we cannot afford to subsidize the development of low income housing.

We therefore vote vary strongly against this development plan, and we ask that the EPA, also vote against it...

Sincerely,

Prof. Leonard F. Banas

**State Office Of Financial Management
Projects Population Growth**

Under the Growth Management Act, the State Office Of Financial Management (OFM) has the responsibility to project population growth rates for local GMA planning purposes. OFM projections are the basis upon which cities and counties work to identify the amounts and locations of rural land which will be needed for conversion to urban use as urban growth occurs.

The OFM projections are forwarded to each county, which in consultation with the cities within the county must apportion the projections amongst the cities, and to itself (i.e., the county). See Appendix 4-1 for Benton County population growth and 20 year projection. County Wide Planning Policy #2 provides direction for how the county and cities must accomplish this apportionment (see adopted County Wide Planning Policies, Appendix 4-2). In 2002, the county and cities agreed that, for current land use planning purposes, OFM projected population growth would be apportioned to each of the jurisdictions as follows:

Benton City	02
Kennewick	38
Prosser	03
Richland	28
West Richland	06

In order to set aside or designate lands necessary for future population growth (beyond those undeveloped lands already within city boundaries) GMA requires that counties designate "Urban Growth Areas" (UGAs) outside of but adjacent to the corporate boundary of each city. The identification of the amounts of land to be converted to urban uses, and its locations within UGAs has important economic implications to both cities and counties.

Urban Growth Areas (UGAs)

The phenomenon of the enlargement and expansion of city boundaries into rural county lands will continue with the growth of population. GMA endeavors to set standards and mechanisms whereby legitimate needs for new urban lands are met consistent with the protection of rural communities and resource lands (agricultural mineral, and forestlands).

UGA's are the land areas that though not currently within a city's corporate limits, are designated by the county for conversion to urban use and administrative authority in the normal process of urban growth. Cities can neither annex lands, nor generally extend municipal services to lands outside of UGAs. UGAs should be large enough to accommodate a 20

Jurisdiction % of total¹

Benton Co. Unincorporated	23
---------------------------	----

¹ The above percentages should be revised regularly to reflect the most recent growth characteristics. For example, the 1990's have shown that the small cities within the county, and the unincorporated areas have experienced a greater accumulation of overall population growth than indicated above.

years urban growth projection.

The size of a UGAs is not determined solely by projected rates of population growth. Other considerations such as a city's need for commercial and industrial zoned lands to meet the economic goals and objectives identified in its Comprehensive Plan may also be factors in the placement of land within UGAs.

Counties Have The Responsibility To Designate Urban Growth Areas

GMA gives counties the responsibility to select by designation, which lands are suitable for conversion to urban uses by including them in UGAs. In so doing, a county also decides which lands it considers not suitable for conversion to urban uses by excluding them from the UGA. Lands may be considered not suitable because of their agricultural or other resources value or constraints, including their value to local residents as unique low density rural communities.

It is also the responsibility of each county to periodically review the land use demands for urbanization and where necessary to meet those demands, to designate additional rural lands for inclusion into UGAs. This must be accomplished by amending both the County and City Plans after public participation and hearings. In applying its responsibility to designate and subsequently enlarge UGAs, the county must be receptive to needs identified by each cities' Comprehensive Plan, and must

consult with each city to assure that not only are the City's land use objectives considered, but that a city's proposal to expand its UGA includes the information that is required by the GMA and to prepare the necessary analyses of the proposal. Such information includes:

- 1) Per County-wide Planning Policy (CWPP) #3 (w/attachment A), and #4, the identification of additional land and service capacity needs to meet the official 20 year OFM population growth projection;
- 2) Per CWPP#5, for any area proposed for inclusion within a UGA, a six year capital facilities plan for water, sewer, roads, parks, and utilities (when provided by local government e.g. electrical service) that identifies the necessary infrastructure upgrades and additions to capital infrastructure, the sources and timing of necessary new supply/capacity; the impacts on LOS; and the funding sources for new infrastructure and upgrades of existing infrastructure;
- 3) An open space plan of linked and functional open space; said space can and should be an integration of undevelopable areas (e.g., steep slopes), green infrastructure spaces (e.g., natural drainages, utility corridors, buffers and setbacks from natural resource lands and critical areas, bikeways and paths);
- 4) land use maps with acreages per land use designation and a

minimum average residential density of six units per acre; and,

- 5) a SEPA review.

The adoption of UGAs, and the designation of land uses and intensities within them is of critical importance to cities and public utilities, which use them to plan, to capitalize and construct service infrastructure, and to purchase lands and pursue economic plans. The Urban Growth Areas for the Cities in Benton County are shown as Figures 4-1 through 4-5.

Joint Planning Within Urban Growth Areas

Unless annexed, lands within UGAs remain under county land use and regulatory authority. This leaves open the possibility that while these lands remain unincorporated they may be put to land uses or land use patterns which render it difficult or impossible for cities to annex them for "build-out" as the city Plan intends. Where this occurs, the function of the UGA as a mechanism to plan and capitalize new infrastructure is undermined.

The legislature recognized that such situations would undo at a very basic level, the local ability to manage growth by deliberately preparing the way for it within UGAs. Therefore, GMA requires that the Comprehensive Plans of a city and county be consistent and that cities and counties jointly prepare development standards for lands within UGAs. Joint development standards are incorporated into the County's subdivision and short plat

ordinances and an Urban Growth Area Residential District (UGAR) has been created for the un-annexed portions of UGAs.

Notwithstanding exceptions that may be specifically noted, Benton County recognizes primacy of its cities' land use designations for un-annexed lands within UGAs and will work with each city to adopt standards that ensure the cost effective and smooth realization of the cities' urban design for such areas. **Figures 4-8 through 4-12** at the end of this Chapter present the county's land use designations for within the Urban Growth Areas of Each City.

Random Expansions of Urban Boundaries Can be Costly To The Rural Economy and Character

The annexation of land by cities can only occur with the accompanying loss of unincorporated lands within a county. Historically, the annexation process has been unplanned and haphazard. In the wake of urban expansion and low density sprawl it has been routine for agricultural lands valuable to the local economy to be converted to, or compromised by urban uses which could have been located on other lands not suitable for agriculture.

In addition to the loss of agricultural productivity, unique rural communities have disappeared under urbanization that in itself is less than functional because it must "fit around" established rural land use patterns. When this occurs municipalities,

utilities, and special service districts must overextend their capabilities for the construction and operation of capital facilities into areas not yet "ripe", or even unsuitable for urban development. Less than efficient transportation, utility, and service delivery systems add to public and long-term consumer costs for essential services in such areas.

Countywide Planning Policies Influence the Rate and Location for Expanding UGA's

Benton County and the five cities within it have jointly adopted a set of Countywide Planning Policies (CWPPs are shown in appendices), which form the framework for the preparation, implementation, and amendment of their Comprehensive Plans in a manner which provides for integration and consistency where necessary.

Included within the CWPPs are a uniform methodology for the county and cities to calculate the amounts of additional land needed by cities to accommodate the population growth projections provided by the State Office of Financial Management. Other CWPPs establish standards for selecting additional lands to be included within the UGAs, and for joint county/city planning on un-annexed lands within UGAs.

The Process of Urban Expansion Outward Into Rural County Lands

Of primary importance to the initial establishment and future expansion of Urban Growth Areas into unincorporated areas is the projected

need for additional lands in relation to the existing available supply of undeveloped land already inside an Urban Growth Area of a city. Equally important is the maintenance of low enough densities outside the UGA to enable logical and cost effective expansion of the UGA in the distant future (30-70 years).

Within the County Plan, **five principle factors** apply to future interrelations between the cities, and between the cities and the county relative to the build-out of and expansion of Urban Growth Areas. Each of these factors is discussed below.

1. Total Vacant Land Within Benton County's Metropolitan Planning Area

The cities of West Richland, Richland, and Kennewick are contiguous and within one Urban Growth Area. Historically, each has aggressively pursued annexation of unincorporated lands, largely in response to land speculations driven by the extreme boom and bust cycles of Hanford program activities. Between the time of the adoption of the County's 1985 Comp Plan and the adoption of its 1998 GMA Comprehensive Plan, 18,107 acres were annexed while each of these cities still had over half its incorporated acreage still undeveloped. In many instances these annexations have generated persistent conflicts between City administrations and rural community residents, and between urban development and commercial

agriculture.

The legacy of these cities' historic pattern of annexations was that within their contiguous boundaries there were in 1998 numerous islands of unincorporated residents, and thousands of acres of vacant incorporated land designated for residential use. Kennewick alone had 6,000 vacant or undeveloped acres designated for relatively low density residential use (4Du/acre); West Richland had 13,641 acres, some actually designated for rural densities (1-2 Du/acre) and lower; Richland had 1,356 acres.

Even at the relatively low residential densities that each of these cities prefers, there was sufficient land within the West Richland, Richland and Kennewick UGA to support an urban population of several hundred thousand people. In recognition of this, the City of Richland had placed significant lands within its Urban Growth Area adjacent to the Hanford Nuclear reservation (where such adjacency carries with it unique land use and development considerations relating to the legacy of Hanford operations) into a designation called "Urban Reserve" after having annexed over a thousand acres. The adoption of the County's 1998 GMA Comprehensive Plan, and the adoption of each of the cities' plans, require that the expansion of urbanization, with its conversion of rural lands to urban uses be an orderly cost-efficient process, based on

population projections, protection of rural neighborhoods and natural resource lands. Though there are no local studies to affirm it, there is evidence that the UGA process has influenced a reduction of urban sprawl, the annexation of unincorporated islands with the cities, and greater cost effectiveness for development within UGAs.

2. Urban Densities Within Cities and Their Urban Growth Areas

In response to market demands, the fluid development of urban densities within UGAs is essential if the UGA is to function as intended, i.e., as a tool to achieve cost effective provision of urban services, and to protect agricultural lands and the rural community outside of the UGAs. To achieve this, densities within the UGAs should be high enough (e.g. average 6 dwelling units/acre).

Low densities within UGA's will influence developers and land speculators to continuously seek out large tracts of lower cost and unencumbered acreage, preferably in single (or uncomplicated) ownership, in order to achieve the economies of scale they seek in response to market demand. Consequently, unless UGAs require at least an average minimum density within them, or there is a minimum average urban density "city-wide" wherein less than 5Du/acre density in the UGA is offset by higher densities, in the urban core for example, the paradox of looking beyond the Urban

Growth Area for new "urban" land will continue. The issue between the County and Cities of identifying minimum required average densities for within cities is an emerging one, simply because UGAs cannot expand perpetually over the landscape without limitation. Relative to long term stability and sustainability, the GMA gives to natural resource lands, and rural lands and communities, a status equal to that of urban cities, and requires their protection.

3. Objective Criteria For Determining When, and How Much To Expand UGAs

Policies 3 & 4 of the Countywide Planning Policies (CWPP's) sets forth uniform criteria and methodology for calculating the amounts of land necessary in a UGA to accommodate projected population growth. The policies reflect methodologies identified in current planning literature (as well as recent GMA Regional Hearings Board decisions) for identifying the appropriate size of Urban Growth Areas relative to population projections. Other CWPPs direct how locations of new urban growth areas are to be selected to avoid rural communities and agricultural lands.

4. Densities and Site Designs That Reserve Rural Lands Outside of UGAs For Future Urbanization

The Land Use Map of the county Comprehensive Plan designates rural densities outside UGAs. Densities are "average" rather than "minimum lot"

size. Implementing ordinances will encourage Planned Unit Developments (PUDs) and "clustered" housing with reserved open space upon which urban densities can be constructed, when such lands are ultimately included with a UGA.

5. Joint Development Standards Within Urban Growth Areas

If UGA's are to function as the land resource for urban growth, then impediments to development within them must be minimized and incentives maximized; development must occur almost fluidly. For this to occur, the following conditions are needed:

- densities must be high enough to attract builders who would otherwise look elsewhere;
- planning, design and aesthetics must assure marketability;
- transportation planning and construction must be timely, with adequate rights-of way and efficiency in moving traffic;
- interim developments under county standards must not prejudice cost effective realization of designated urban densities;
- infrastructure must provide adequate service levels; and,
- the landowners and residents within the UGA must support, not resist annexation and urbanization.

"Joint Development Standards" (JDS) for development within Urban Growth Areas will be adopted by the county in cooperation with the cities. These should enable Urban Growth Areas to urbanize fluidly, and in so doing;

reduce the pressure to locate urban developments in rural and agricultural areas prematurely.

Population Projections For Benton County

The latest population projections from OFM, using the "high" series estimates, indicate that Benton County can expect a population increase of 67,008 over the next 20 years. This will result in a year 2025 population of 225,108 which is an increase of 33 percent over the current population of 158,100.²

Estimated Lands Needed To Accommodate Rural Population growth

Approximately 23 percent of the total county population, or 36,075 people (2005 OFM), reside in the unincorporated area of Benton County. The number of rural residents in 2005 shows an increase of 8 percent since 2000.

Projected Growth of New Residents in the Rural Areas

Based upon historical growth rates within the unincorporated area, it is estimated that 18,606 additional people, will seek housing in unincorporated areas of the county between now and the year 2025. This growth represents a 52 percent increase over the current rural population. Should this growth materialize the rural population would be 54,681 people, roughly equal to the City of Kennewick in 2000. A rural population of 54,681 people in year 2025 would closely maintain the

current rural population as 24 percent of the projected countywide total.

New Housing Units Needed for Projected Rural Population Growth

At an estimated 2.68 persons per household, an increase of 18,606 people in rural Benton County would require up to 6,943 new homes in the next 20 years.

Table 4.1, shows that the "Rural Lands" designations (i.e. lands outside of UGAs and the Agricultural District), of the Land use Map are sufficient to accommodate 9,712 additional dwelling units, almost one and a half times the projected rural demand. The Table shows that if the additional densities that can be achieved in the Agricultural District are added to those within the Rural lands, 40,713 new dwelling units could be built. This number exceeds the projected demands by almost six (6) times.

Additional Land Needed For Projected New Rural Population Housing Needs

There are currently 77,968 acres designated for new Rural Residential density within the five Rural Planning Areas of Benton County (outside of Hanford and the agricultural district).

As a means of estimating land needs for the 6,943 new projected households: if ten (10) percent of the need were satisfied on lands with one acre density, and ninety (90) percent by lands with 5 ac. density, an additional 38,188 acres would be needed. This is approximately 49 percent of the available land supply

² 2005 OFM Estimate

within the Rural Lands designations. It is five (5) percent of the Rural and Agricultural lands base combined.

TABLE 4.1 CAPACITY OF LAND USE PLAN MAP TO ACCOMMODATE NEW DWELLING UNITS IN COMPARISON WITH PROJECTED 20 YEAR DEMAND FOR UNITS

Rural Planning Area	Residential Acres ³	No. of DUs Possible In Each Density Category (e.g. 1Du/1Du/5 ac.) ⁴			Minus existing DUs	Total New DUs Available	Projected Demand For New DUs
		1-3Du/ac & 1 Du/ac	1Du/5ac	1Du/20 ac			
Prosser/ Whitstran	22,577	64	4,503	---	1,573	2,994	---
BentonCity/ Kiona	18,451	---	3,690	---	1,590	2,100	---
Richland/ W Richland	22,504	1,058	4,289	---	1,601	3,746	---
Kennewick/ Finley	13,354	567	2,270	91	2,526	402	---
Paterson/ Plymouth	516	108/63	83	---	47	207	---
	566	267	95	---	99	263	---
SUB-TOTAL	77,968	2,127	14,930	91	7,436	9,712	6,943
Agricultural District	643,432	---	---	32,172	1,171	31,001	---
TOTAL	721,400	2,127	14,930	32,263	8,607	40,713	6,943

Combined, the Agricultural and Rural Residential Designations have unused density exceeding almost six times the projected 20 year demand for new rural households. At full build-out to Plan densities, a population of

approximately 112,820 in the unincorporated County would be approximately 3 times the current population.

In 2007, the County Board of

³ Does not include UGA's

⁴ Lot size is not determined by the "density" requirements. Lots can be as large as there is sufficient land for, or as small as meets the standards for on-site waste disposal and minimum road frontage. Density merely means how many units are allowed per given acreage.

Commissioners implemented a significant reduction in the total potential residential density that could be accommodated within the County's Rural Lands (RL) designations. This reduction was accomplished by amending the County Land Use Maps (4.0, 4.1, 4.2, 4.3, 4.4, 4.5, and 4.6) to eliminate all of the acres designated Rural Lands RL2.5 in the 1998 plan. The eliminated RL 2.5 land was re-designated as RL 5 (1Du/5 acres). The effect is to reduce the potential rural residential density by half on approximately 58,000 acres of unincorporated lands. Table 4.1A. shows the reduction in the RL 2.5 acreage, with the corresponding increase in the RL 5 acreage.

**4.1A RURAL LANDS ACREAGE/DENSITIES
PRE AND POST 2006**

Rural Lands Density Dus/Acre	Designated Acres	
	1998 Plan	2006 Plan
3 DU's/aAcre	325	314
1 Du/acre	3,158	1,185
1 Du/2.5 acres	58,622	0
1Du/5 acres	17,965	74,655
1Du/20acres	0	1,814
Totals	80,070	77,968

Differences between 1998 totals & 2006 totals is the result of more accurate G.I.S. calculations

In the 1998 Comprehensive Plan, Paterson and Plymouth, as well as the small rural villages of Whitstran in west County and Finley in southeast County were designated as "Community Core" areas (now called Community Centers) to reflect a localized pattern of residences on less than 5 acre lots

and small-scale local commercial service areas consisting variously of grocery, service stations, eateries, taverns, post offices, auto repair, etc., that served not only the Community Centers but also the surrounding rural population (see Chapter 5, Rural Element for descriptions of these rural "centers"). To reflect generally these land use patterns, densities and activities that existed in these communities at the time, the Citizen Advisory Committees for the 1998 Comprehensive Plan determined that the areas of these properties be designated as 1-3Du/acre density. Community Centers are seen as the equivalent of "limited areas of more intensive rural development" authorized by RCW36.70A.070 (5)(d). The size of the Community Centers in Paterson, Plymouth and Finley are 36, 89, and 189 acres, respectively. Also considered the equivalent of limited areas of more intense rural development are several pre-existing urban/suburban areas designated Rural lands one acre (RL-1) that are dispersed in several locations throughout the County.

Because of the location of these areas and/or the united opposition of their residents against inclusion within a UGA, they were given a density in 1998 that reflected the trend within them relative to the discernable boundaries of their built environments and were consigned to infill. Characteristics of these areas are: that they are small and discrete; most share a boundary with city limits or a

UGA, or are within a "Community Center", (i.e. Whitstran); they are adjacent to major travel corridors (e.g. State routes); the predominant parcel size is smaller than what is interpreted as "rural" under GMA; the culture is one of "neighborhood" or landowner association; potential infill would not negatively impact adjacent rural lands; and they are not contiguous with (except in Paterson), nor would they negatively impact designated agricultural lands if they in-filled to the one acre density. Though different in culture and land use mix than the Community Centers, these areas are appropriately considered equivalent to limited areas of more intensive rural development enabled by RCW36.70A.070 (5)(d). The RL-1 location and size of these areas as revised in 2007 are listed below:

- Paterson, 63 acres Located within the Paterson Community Center.
- Prosser/Whitstran, 64 acres located within in the Whitstran Center.
- Richland/West Richland, 1059 acres in three locations that are essentially unincorporated islands as follows:
 - 1) Rancho Reata: a 722 acre 20 year old subdivision, near fully-developed to an average parcel size of approximately 1.25 acres;
 - 2) River View neighborhood: 243 acres with average parcel size of 1.36 acres along the Yakima in West Richland,

developed to approximately 1 acre lots;

- 3) Valley View neighborhood: 93 acres with average parcel size of 1.53 acres on the Yakima River shoreline

COUNTY PLANNING REGIONS

There are five geographic **Planning Regions** within Benton County. Each is configured according to geographic and land use characteristics. Each Region contains at least one smaller Rural Planning Area. With the exception of the Horseheaven Hills Region all contain some urban (city and UGA) areas. **Table 4.2** presents the acreages, by land use designation, within the Planning Regions. The Regions and their Rural Planning Areas are described below. The Regions are shown on map **Figure 4-6** and Planning Areas on map **Figure 4-7**.

Rattlesnake Mountain Region

Prosser/Whitstran Rural Planning Area
Benton City/Kiona Rural Planning Area

Horse Heaven Hills Region

Paterson/Plymouth Rural Planning Area

Red Mountain Region

Richland /West Richland Planning Area

Finley Region

Kennewick/Finley Planning Area

Hanford Region

Vernita Terrace Planning Area
Columbia Horn Planning Area
Southern Plain Planning Area
200 Areas Planning Area

character and accommodates children, wage earning families and retired people.

*Action: Maintain the Prosser rural areas character and lifestyle by allowing 2-5 acre rural densities.***

**In 2007, the Board of County Commissioners generally rejected designations of less than the RL 5 as inconsistent with the GMA.

NATURAL SPACES USE AND RECREATION

GOAL: Preserve open spaces in order to protect wildlife habitats, the river, the desert, wetlands, wildlife and to provide clean air, water, sky.

Action: Provide access to public natural areas.

GOAL: Plan for a system of recreational opportunities (trails, parks, boating, hot air balloons, etc.) that connect communities and allow public access yet provide protection for the environment.

Action: Establish a low maintenance bike and walking path with resting areas, with a horse trail alongside, using the abandoned railroad line.

Action: Designate public recreational facilities and identify source of public and private funds for their acquisition, construction, and maintenance.

THE BENTON CITY-KIONA RURAL PLANNING AREA

Location And Geographical Setting

The Benton City-Kiona Rural Planning Area lies within the eastern portion of the Rattlesnake Planning Region. The

Planning Area includes the rural area surrounding the City of Benton City.

The lands within the Planning Area form a remarkable landscape, the principal features of which are basaltic uplifts rising from a point where the Yakima River makes a "hair-pin" turn to the north from its 200 miles long downstream direction of southeasterly.

To the east and south of the Yakima's hair pin turn rise Goose Hill, Badger and Candy mountains; to the southwest rise the escarpments of the Horse Heaven Hills; and to the northeast, Red Mountain rises sharply. To the northwest the long flank of Rattlesnake Mountain reaches across the Roza down to the Yakima River; the City of Benton City rests on this flank. Across the River from the city to the south is the small residential cluster of Kiona. Kiona lies below the Horse Heaven Hills escarpments at the point where they turn south down Badger Canyon. In prehistoric times the Yakima River flowed through the canyon on its way to the Columbia River.

History³

In 1882, an early pioneer, Billy Kelso, filed a claim on land in the Horse Heaven Hills above Kiona, and initiated an operation that grew into a large wheat ranch. In 1883 a small railroad camp sprung-up where Kiona is today. People were filing claims as fast as they could along the route of the Northern Pacific's line up the valley and also on the Horse Heaven

³ Based on the information from "Benton County a Glimpse of the Past", Benton County Historical and Pioneer Association 1967.

Hills plateau. Many of these "homesteaders" were men working in the railroad construction camps.

The town of **Kiona** was the original settlement on lands overlooking the bend in the Yakima River.

In 1885, a school was opened in Kiona for the four children of William Neil, the rail line section foreman. The first teacher was Miss Libbie Ketcham, who with her sister Olive began a grocery store. About that time, a townsite was laid out by Billy Kelso and his brother Clint. The Kelso brothers later married the Ketcham sisters and the grocery store was expanded into the Kelso Brothers General Merchandise Store. At that time a post office and a large wooden hotel were built in Kiona.

Land speculation schemes triggered by representatives of rival railroads are recorded in **Benton City** history. Kiona, a Northern Pacific (NP) town, had been the civic center since 1884, but the N.P. also owned a township of land in the plateau north of the river that had never been put on the market. The name of "Benton Highlands" became attached to this township. Sometime in the early 1890s, the N.P. constructed a canal and a pumping plant on the river to pump water to apple and pear orchards in the highlands. This later became a part of a 2,000-acre tract acquired by Calhoun, Denny, and Ewing of Seattle. The land was divided into 10-acre lots and sold to people of all walks of life from Seattle, the Bremerton Shipyards, and other West Coast cities.

A glowing picture of rural life was painted to the prospective buyers by

these real estate operators, "Retire for life to watch the apples grow". The new purchasers, many from the city, soon learned that there was a lot more to fruit growing than simply "watching the apples grow," and it was harder work than many had ever done.

In 1909, a 48-room Benton City Hotel was erected at a cost of \$35,000. In the spring of 1910, there were persistent rumors of a town being built; orders for nursery stock were pouring in, and the new townsite set to fruit. In 1911, W.A. Dudley became the owner and publisher of the Benton City News at Benton City.

Mr. Robert Strahorn, a promoter of the North Coast Railway, arrived in the hopes of developing a rail route that would bring Spokane and Walla Walla closer to Portland, Tacoma and Seattle. The North Coast Railway Depot was built (at a location just south of the present day US Bank in Benton City), and a large turntable was built about a quarter of a mile east of the depot. By the time Benton City came into being, the Harriman Lines in the Northwest and the North Coast Railway was consolidated as the Oregon-Washington Railroad and Navigation Company; but the link from Benton City to Spokane was never built. The train depot was later dismantled with its pieces stored, and then lost track of. All that remained was the track through town, which ceased being used in 1994, and was removed entirely in 1995.

Custom and Culture

The custom and culture of the Benton City-Kiona Rural Planning Area,

though historically rooted in agriculture, has been also influenced by non-farm characteristics in recent decades. This is largely as a result of the close proximity of the Planning Area to Hanford Site and the Tri-Cities metropolitan area.

Prior to the establishment of the Hanford Nuclear Reservation, the custom and culture of the Planning Area was orchard, forage crops, asparagus, concord grapes and livestock production.

However, for the last 50 years, employment and the use of land and resources within the Planning Area have been influenced strongly by Hanford Site programs. Employment statistics for the City of Benton City indicate that on a per capita basis, the population within the Planning Area has the highest percentage of Hanford dependent employment countywide.

During the Hanford era, the Planning Area has been populated by many non-farming households seeking quick housing to meet transitory labor opportunities, or seeking to support a "rural lifestyle" through employment at Hanford.

With the economic cycles driven by Hanford, platting and breaking down of acreage for sale as smaller residential lots has in itself become a means of livelihood for individuals living both within and outside of the Planning Area. These speculative actions were most prevalent during the 1970s, 80s and early 90s, and were driven by Hanford Site projects such as the Washington Public Power Supply System (WPPSS) nuclear power plant

constructions, then the federally sponsored Basalt Waste Isolation Project (BWIP), and most recently, the Hanford Clean-up Project.

Successive years of these activities have influenced a contemporary custom and culture which deviates from the traditional one of long term reliance on commercial farms as the principal means of financial support.

Within the last half decade however, as the certainty of sustained Hanford program levels ebbs and flows, the custom and culture of the Planning Area may be reinvigorating its agricultural roots. Landowners and users within the Planning Area appear to be thinking and acting "agriculture." In large measure the focus is on specialty crops such as cherries, apples, and wine grapes. Urban encroachment on agricultural land is actually being opposed by some orchardists.

New plantings for agricultural production are evident on the landscape. Prime soils and microclimates to the west and north of Benton City early provide cherry crops for the affluent California and Japan markets. Soil, slope, and rainfall conditions on Red Mountain across the Yakima River to the east of the city are favorable for the growing of red wine grapes of sufficient quality that an application for designation as a special wine growing "Appellation" has been made to the federal government as new vineyards are planted. There are new orchard plantings on Goose Hill lands leased from the Department of Natural Resources. Orchard plantings and circle irrigation is expanding from the

north end of Badger Canyon southerly to the Badger Interchange.

The City of Benton City within its means, is the nucleus of the Planning Area. It has approximately 2,840 residents within its corporate limits. Many of the rural residents utilize the services available within the city.

The Kiona-Benton (Ki-Be) Elementary and High Schools, along with the many churches in the city, are the major centers of social and cultural inter-action. There are two restaurants which serve as informal meeting places for area farmers and rural residents. Commercial, retail and other private sector services in the city which include: banking, grocery, restaurants, child care, farm supply, two gasoline-convenience stations, auto repair, beauty salon, mercantile store, tannery, hardware, and a U.S. Post Office.

Just outside the city, to the north, is the Benton Junior Fair & Rodeo grounds, owned by a private non-profit association which hosts numerous events through the year, including a family rodeo event in August as part of the City's annual Benton City Daze celebration.

Kiona is a residential cluster overlooking the City of Benton City from the high ground on the south terrace of the river. All physical signs of its origin as the first town at the bend in the River have vanished to the casual observer. The population is less than 100. There are no commercial, private sector service or retail amenities, nor are there public services located within Kiona. Residents rely on services in Benton

City for their routine needs, or those within the Tri-Cities. Kiona is within the City of Benton City's Urban Growth Area.

Top 5 Issues/Desired Improvements

- Road improvements
- Enforce zoning restrictions
- Ordinance to cleanup trash
- Protect right to farm
- More police protection

Benton City-Kiona Survey Respondents

Demographics

The population on unincorporated lands designated as "Rural" (i.e., does not include lands zoned Agriculture), within the Planning Area is currently estimated at 4,261 persons, residing in 1,590 households, at a density of one dwelling unit per 15 acres. This density is low, evidencing the fact that the predominant land use within the rural designation is agriculture. A significant portion of this acreage has development constraints related to topography, flood areas, or availability of potable water resources. The single family housing type is predominantly mobile or manufactured home (58%).

Infrastructure

With the exception of county roads serving the rural and farming areas, principal infrastructure within the Planning Area is provided by the City of Benton City, the Ki-Be School District, and the Washington State Department of Transportation (WSDOT).

Municipal Services The city provides municipal water and sewer services, a

city street network, and has two small public parks; one with tennis courts across from the elementary school, and one behind City Hall with benches, tables and a concession stand.

School Facilities There are approximately 1,653 students within the Ki-Be School District, which has Elementary, Middle and High School facilities located within the city limits. The Ki-Be School District provides the aforementioned grades in facilities off of Horn Road (SR 225). The elementary and middle schools are at a location separate from the high school.

Major Transportation WSDOT provides and maintains a Park-and-Ride lot at the full interchange of State Highway 225 and I-82. This interchange serves as the main entrance to the city. A bridge on SR-225, adjacent to the interchange, carries traffic over the Yakima and north through the city. North of the city, SR-225 converges with, and parallels the river on its west bank, all the way to SR-240 on the Hanford Reservation's southern boundary. Horn Rapids Park is a county park located on the river. The Park extends along approximately seven miles of river frontage to the intersection of SR-225 and SR-240. The park does not have infrastructure or facilities at this time.

Principal county roads in the Planning Area are: Lower River Road, which extends through the city's north boundary and parallels the west side of the Yakima River to converge with SR-225 just upstream of the Horn Rapids County Park; Old Inland Empire Highway, which parallels the north

side of the Yakima River extending westerly from SR-225 in Benton City to Whitstran and Prosser; SR-224 a western route from the I-82 Interchange with SR-225 to West Richland, and Badger Canyon Road, which extends south from I-82 through Kiona and Badger Canyon to the cities of Richland and Kennewick.

Existing Land Use

The Benton City-Kiona Rural Planning Area has a total of 23,708 acres (37 sq. mi.) which represents twelve percent of the land use in the Rattlesnake Planning Region. The predominate land use is agriculture (88%). However, within that category approximately 55% is rangeland or undeveloped and only about 20% is irrigated agriculture.

Within the Planning Area, lands currently designated for unincorporated rural residential use total 18,451 acres, and range in density from one dwelling unit per acre to one per five acres. Acreage within the City of Benton City and its Urban Growth Area total 1,949 acres. Land use within the city is characterized by low-density residential development located around a defined urban center.

The Preferred Land Use Plan

The Preferred Land Use Plan Map drafted for the Rural Area by the Benton City-Kiona Rural Planning Advisory Committee was adopted in 1996 and updated in 2006. The following are allocations of the principal land uses:

BENTON CITY-KIONA PREFERRED LAND USE

Land Use	Acres
Residential	18,451
Commercial	0
Industrial (light)	24
Public	5,233

The Land Use Map for Benton City-Kiona is shown in the Land Use Element, Chapter 4, Map 4.2.

**BENTON CITY-KIONA RURAL AREA
VISION, GOALS, AND ACTIONS**

The **Benton City-Kiona** Citizens Rural Planning Advisory Committee has identified the following "Vision":

"The Benton City-Kiona Rural Planning Area is a friendly, cooperative rural living area with green fields surrounded by preserved pristine environments, spare time recreation areas and a community of involved citizens with civic pride."

Benton City-Kiona Rural Committee

The Citizens Rural Planning Advisory Committee has identified the following Planning Goals and Actions:

Note: Where an asterisk* appears, the action should be driven by the citizens committee.

GREEN FIELDS

GOAL: Preserve rural and agricultural living.

Action: Maintain rural residential densities.

GOAL: That the rural and agricultural character of the Benton City-Kiona rural planning area be maintained and protected.

Action: That non-agricultural related industry be located on sites

unsuitable for food production and in areas where access problems will be at a minimum.

Action: In the event of a conflict between residential uses and the normal agricultural activities of a preexisting agricultural use, county support should be in favor of the agricultural use to the extent practicable.

GOAL: Expand employment opportunities.

Action: Create a stable, balanced community economic situation by promoting non-polluting industries that are diverse, agriculturally based, and that process what we produce.

GOAL: Preserve the natural beauty and character of the Benton City-Kiona rural area.

Action: Designate low density living areas (2, 2.5, 5, & 10 acres) which provide for small scale agricultural use**.

Action: Include a provision in the Rural Lands Element of the Comprehensive Plan that encourages cluster development and provides open space.

Action: The inclusion of landscaping techniques into the County's Administrative Design Manual that includes various low maintenance desert landscaping and lists trees and vegetation which is adaptable to the County's arid climate.

**In 2007, the Board of County Commissioners generally rejected designations of less than the RL 5 as inconsistent with the GMA.

SPARE TIME RECREATION

GOAL: Preserve and enhance the area's regional parks and natural areas that provide a variety of outdoor recreational activities.

Action: That excess county land should be traded or sold to acquire additional parklands or to provide necessary maintenance or improvements to the county's existing parks.

Action: That state park enhancement programs and grants be utilized to leverage private donations to support and maintain park projects.

Action: Enforce litter laws and keep parks clean.

GOAL: Plan for a system of recreational opportunities (trails, parks, boating, etc.), that connect communities and allow public access yet provide protection for the environment.

Action: That county parks and recreation programs be coordinated with those of the city to avoid duplication of services.

Action: Acquire the abandoned Union Pacific Railroad Property for use as a pedestrian, equestrian and bike path.

CIVIC PRIDE

GOAL: To assure residents will live in areas that are clean, quiet, and non-polluted.

Action: County Commissioners enact and enforce an

ordinance to clean-up trash and hulk vehicles and equipment.

Action: Prohibit the burning of household garbage.

Action: Designate a county dump (landfill) and recycling center.

Action: Yard lights should be shielded or directed in a way as not to cause a nuisance.

FRIENDLY, COOPERATIVE RURAL LIVING

GOAL: Create a "whole life" living area that allows peace and quiet, preserves the farm heritage and rural character and nurtures children, families and retired people.

INVOLVEMENT

GOAL: Preserve rural freedom, opportunity, property rights, and values.

GOAL: To continue a citizen involvement program that insures the opportunity for full citizen participation in public decision-making.

Action: That citizens be provided with information through mailing lists and the news media to allow maximum citizen involvement during the land use decision-making process.

PRESERVE PRISTINE ENVIRONMENT

GOAL: Recognize and protect the Yakima River as a wonderful and important resource.

Action: Protect the banks and undergrowth of the river.

Action: Stop industrial and

agricultural pollution of the river.

Action: Keep cattle off the river, except for designated water sources.

Action: Conserve water, use new techniques to irrigate.

Action: Keep density to rural standards.

GOAL: Preserve the river in order to protect wildlife habitats, the river, the desert, wetlands, wildlife and to provide clean air, water, sky.

Action: Protect and enhance riparian corridors.

GOAL: Protect the desert environment.

Action: Keep off-road recreational vehicles off shrub steppe habitats.

Action: Designate significant shrub steppe areas and protect them by performance standards.

THE RICHLAND-WEST RICHLAND RURAL PLANNING AREA

Location And Geographical Setting

The Richland-West Richland Rural Planning Area lies within the Red Mountain Planning Region, which is the most intensely populated region of the county.

The Planning Area contains the cities of West Richland, Richland and areas of southwest Kennewick. Due to the size of the urban boundaries in this Planning Area, and their less than coherent configuration, the rural lands are scattered enclaves of unincorporated lands whose residents

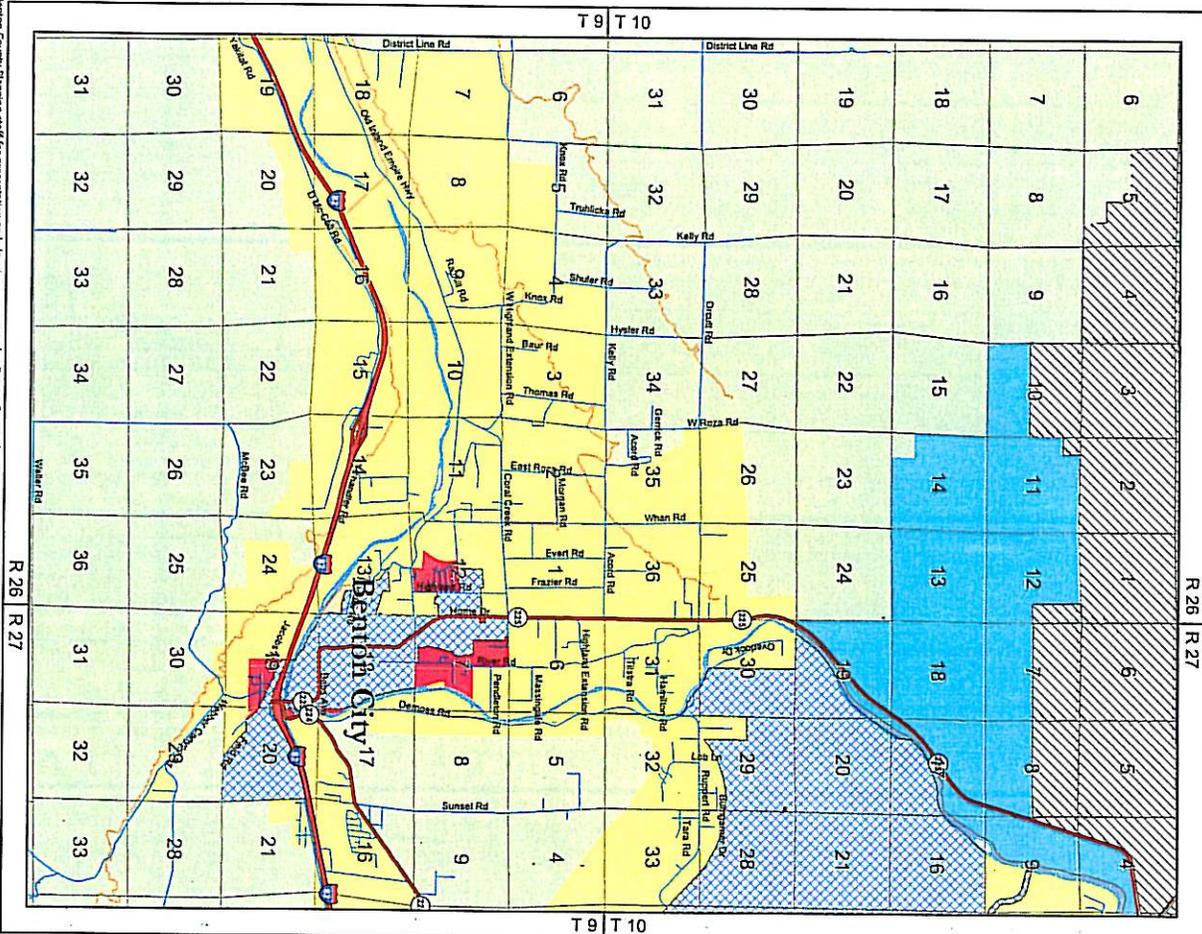
live in relative geographic isolation from those in other unincorporated areas.

The lands and terrain within the Richland-West Richland Rural Planning Area are varied and rich in natural features, wildlife, and beauty. The Yakima River is a primary feature which flows through the Planning Area. Visually, the river is a green ribbon starkly contrasted against a horizon of golden desert, textured by plays of light and sky. The river lays below a pattern of basaltic uplifts known as Rattlesnake, Badger, Candy and Red Mountains, Thompson and Goose Hills, and the north face of the Horse Heaven Hills as it slumps and fans downward to the ancient river bed of Badger Canyon.

At Horn Rapids on the Yakima River, the relatively thin riparian corridor characteristic of the river's upper reaches within Benton County gives a last concession to the encroaching desert sage and bunch grass, then expands into a wide complex of floodways and floodplains overlain by a weave of remnant meanders, wetlands, and riparian thickets. These characteristics remain and expand in width through the Barker Ranch and West Richland area, thinning somewhat at the Van Giesen Bridge in West Richland, but persist all the way downstream to enlarge again before spreading massively as an alluvial delta into the Columbia River. The delta is a complex of channels, islands, wetland/riparian areas and open waters periodically turned to mud flats by the rise and fall of the McNary Dam pool. This complex extends all the way downriver to the area known as "the wye."

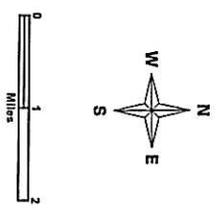
File No. SUB 07-10
 Date 5-15-08
 Exhibit No. 29
 Received by djh

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BENTON COUNTY
 State of Washington
LAND USE MAP 4.2
BENTON CITY-KIONA
PLANNING AREA
 Adopted by Resolution # 07-767
 Dated October 22, 2007

- Legend**
- CITY LIMITS
 - URBAN GROWTH AREA
 - RURAL LANDS 5
 - LIGHT INDUSTRIAL
 - GMA AG
 - PUBLIC
 - HANFORD



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File No. SUB 07-10
Date 5-13-08
Exhibit No. 30
Received by djh



10:35 R
BE
CO

BENTON COUNTY PARK BOARD
7122 W. Okanogan Place, Bldg. A
Kennewick, WA 99336

Bert Lake, Chair
Skip Gest, Vice-Chair
Hank Sauer, Secretary-Treasurer
Glynn Wheeler, Emeritus Member

Donna Raines, Member
Rick Kilgore, Member
Kathye Kilgore, Member
Marilyn Hyde, Member

June 19, 2008

Board of Benton County Commissioners
P.O. Box 190
Prosser, WA 99350

Re: Proposed Reduction in Transfer from Current Expense to Park Development Fund

Dear Board of Commissioners:

This letter is in response to the proposed elimination of the transfer of funds the Park Board be aware of at its regular meeting that was held on June 10, 2008.

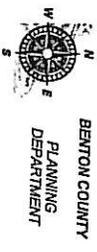
We are opposed to any reduction in funding for the following reasons:

1. If changes are made to the present resolution while in good economic conditions difference may never be made up during negative economic conditions. This will place objectives and goals of the fund at a perilous disadvantage.
2. If changes are approved, it will set a dangerous precedence for the entire budget process.
3. The current resolution was established to create a constant funding source for capital improvements within the county parks and other commissioner priorities. These funds are set to also assist with any future matching funds for possible grants. This fund, as of late, has been used in place of grant funding that we cannot receive or do not receive because the state of Washington requires a working Comprehensive Plan.
4. The present capital budget is for \$910,000 and the proposed change would reduce the budget fund to \$550,000. We are at this time processing the Park long term Comprehensive Plan which is presently in the County Planning Department and will then be forwarded to you for your approval. This plan, with input from the public, outlines additional capital projects that will need to be addressed in the future.
5. The county's park needs and the quality of life issues will continue to grow as the population increases. These points have and will continue to have a major economic impact on our area.

In summary, we as a Board are deeply concerned about any reduction in the budget threshold.

Sincerely,
Bert Lake

Bert Lake, Chair
Benton County Park Board
On behalf of Skip Gest, Marilyn Hyde, Kathye Kilgore, Rick Kilgore, Donna Raines, & Hank Sauer



BENTON COUNTY
PLANNING
DEPARTMENT
PRELIMINARY PLAT 07-10
KATHRYN HEIGHTS
Scale: N/A
Date Printed: 5/13/08

DATE _____
EXHIBIT No. _____

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RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF COUNTY BUDGETS RE: SUPPLEMENTAL APPROPRIATION TO THE 2008 CURRENT EXPENSE FUND NO. 0000-101, NON-DEPARTMENTAL 115, BUDGET IN THE AMOUNT OF \$4,295,717

WHEREAS, the Commissioners' Office has requested a supplemental appropriation to the Current Expense Fund No. 0000-101, Non-Departmental 115, budget in the amount of \$4,295,717; and said supplement is for cash carry forward amounts to be used as follows: \$521,014 as paydown of bond debt; \$250,000 transferred to Economic Development Fund; and \$3,524,703 transferred to Capital Acquisition; and,

WHEREAS, a public hearing was held on Monday, June 23, 2008, at 10:35 AM at which time the public was given an opportunity to speak in favor or in opposition to the proposed supplement; and,

WHEREAS, the Board finds said supplement to be in the best interest of the citizens of Benton County; **NOW THEREFORE,**

BE IT RESOLVED, by the Board of Benton County Commissioners that a supplemental appropriation to the 2008 Current Expense Fund No. 0000-101, Non-Departmental 115, budget in the amount of \$4,295,717 be approved per the attached request.

Dated this day of, 2008

Chairman of the Board

Chairman Pro-Tem

Member

Constituting the Board of County
Commissioners of Benton County,
Washington

Attest:
Clerk of the Board

10:45 am

Continued Franchise Discussion
Comnr Bowman



June 11, 2008

10:55

*Board of Health
Budget Committee Meeting Agenda*

- 1) Budget
 - a) Current Revenue & Expense Reports through April
 - b) Projected Revenue and Expenditures through December
 - c) 2008 Budget Revision
- 2) WSALPHO funding Strategies
- 3) Policy Discussion
 - a) Fees
 - b) Budget

**Benton-Franklin Health District
2008 Revenue Budget, Revision No. 1**

Revenue Account Number	<u>Item</u>	2008 Adopted <u>Budget</u>	2008 Budget <u>Rev. No. 1</u>	Amount of <u>Change</u>
292.70	Unencumbered Balance Forward	1,002,996.00	735,666.00	-267,330.00
333.10.52	WIC - Farmers Market	603.00	603.00	0.00
333.10.57	WIC	650,263.00	650,263.00	0.00
333.10.57	WIC Breastfeeding	10,250.00	10,250.00	0.00
333.10.57	WIC Food Stamp Nutrition Education	27,371.00	27,371.00	0.00
333.66.48	EHP Drinking Water	12,500.00	12,500.00	0.00
333.91.16	TB Control	0.00	0.00	0.00
333.91.36	EMS - Injury Prevention	9,900.00	9,900.00	0.00
333.92.68	Immunization	70,700.00	70,700.00	0.00
333.92.83	PHEPR	509,316.00	509,316.00	0.00
333.92.83	PHEPR Focus A Special Projects	0.00	0.00	0.00
333.92.83	PHEPR Pandemic Influenza	83,700.00	83,700.00	0.00
333.92.83	Bioterrorism/Focus F	0.00	0.00	0.00
333.92.83	Bioterrorism/Hospital HRSA	50,000.00	50,000.00	0.00
333.93.40	HIV/AIDS	82,029.00	82,029.00	0.00
333.95.75	Infant/Toddler Initiative	45,085.00	45,085.00	0.00
333.97.78.70	Administrative Match	180,000.00	180,000.00	0.00
333.97.78.9	Targeted Intensive Case Management	437,376.00	437,376.00	0.00
333.99.17	Ryan White Title II Care Services	87,911.00	87,911.00	0.00
333.99.77	STD Epidemiology	0.00	0.00	0.00
333.99.87	Refugee Health	85,000.00	85,000.00	0.00
333.99.91	Preventative Health/Mat. & Inf.	0.00	0.00	0.00
333.99.94	MIH/CAH/CSHCN	233,599.00	233,599.00	0.00
334.03.10	Solid Waste	55,000.00	55,000.00	0.00
334.03.12	Site Hazards Assessment	30,500.00	30,500.00	0.00
334.04.64.2	Child Protective Services	55,554.00	55,554.00	0.00
334.04.64.3	Passport Program	61,600.00	61,600.00	0.00
334.04.64.4	Alternative Response System	41,352.00	41,352.00	0.00
334.04.91	PHEPR Pandemic Influenza	0.00	0.00	0.00
334.04.91	EHP Drinking Water Group Systems	20,000.00	20,000.00	0.00
334.04.92	Local Capacity Funding	264,906.00	264,906.00	0.00
334.04.92	Local Capacity HAS	0.00	0.00	0.00
334.04.93	Group A Sanitary Surveys	4,500.00	4,500.00	0.00
334.04.93	Public Health Funding	323,238.00	323,238.00	0.00
334.04.96	HIV/AIDS Regional Allocation	123,104.00	123,104.00	0.00
334.04.97	Oral Health	33,048.00	33,048.00	0.00
334.04.98	Multi-State Learning Collaborative	0.00	0.00	0.00
334.04.98	Electronic Death Records System	30,000.00	30,000.00	0.00
Subtotal - State and Federal Grants		3,618,405.00	3,618,405.00	0.00
336.04.23	Local Government Assistance	1,165,612.00	1,165,612.00	0.00
338.40	TB Support: Benton County	46,875.00	46,875.00	0.00
	Franklin County	15,625.00	15,625.00	0.00
Subtotal - Tuberculosis Support		62,500.00	62,500.00	0.00

**Benton-Franklin Health District
2008 Revenue Budget, Revision No. 1**

Revenue Account Number	<u>Item</u>	2008 Adopted Budget	2008 Budget Rev. No. 1	Amount of Change
338.40	Interlocal Governmental Support			
	Benton County	317,586.00	599,179.00	281,593.00
	Franklin County	201,665.00	242,635.00	40,970.00
	Benton City	0.00	0.00	0.00
	Connell	0.00	0.00	0.00
	Kahlotus	0.00	0.00	0.00
	Kennewick	0.00	0.00	0.00
	Mesa	0.00	0.00	0.00
	Pasco	0.00	0.00	0.00
	Prosser	0.00	0.00	0.00
	Richland	0.00	0.00	0.00
	West Richland	0.00	0.00	0.00
	Subtotal - Interlocal Governmental Support	519,251.00	841,814.00	322,563.00
	Title XIX fee for service			
338.97.78.1	Maternity Case Management	28,472.00	28,472.00	0.00
338.97.78.2	Maternity Support Services	364,566.00	378,966.00	14,400.00
338.97.78.4	Workfirst - Public Health Part. CSHCN	3,000.00	3,000.00	0.00
338.97.78.8	HIV/AIDS Case Management	5,000.00	5,000.00	0.00
	Subtotal - Title XIX fee for service	401,038.00	415,438.00	14,400.00
	Preventive Health Fees			
346.20	ECEAP	22,800.00	22,800.00	0.00
346.21	Daycare Consulting	4,000.00	4,000.00	0.00
346.22	Nursing Consulting Services	10,920.00	10,920.00	0.00
346.23	Clinic Immunizations	317,880.00	317,880.00	0.00
346.24	Influenza Immunizations	336,000.00	336,000.00	0.00
346.25	Overseas Immunizations	114,625.00	114,625.00	0.00
346.26	STD Clinic Services	4,800.00	4,800.00	0.00
346.27	TB Skin Tests	28,627.00	28,627.00	0.00
346.28	Rabies Treatment	6,176.00	6,176.00	0.00
346.29	Aids Education/Conference Fees	5,000.00	5,000.00	0.00
346.30	Dental Fees	0.00	0.00	0.00
	Subtotal - Preventive Health Fees	850,828.00	850,828.00	0.00
	Environmental Health Fees			
321.11	Food Worker Permits	76,000.00	76,000.00	0.00
321.22	Food Service Operating Permits	335,500.00	335,500.00	0.00
321.23	Solid Waste Fees - Permits	18,375.00	18,375.00	0.00
321.24	Public Pool Operating Permits	54,000.00	54,000.00	0.00
322.11	Liquid Waste Disposal	275,000.00	275,000.00	0.00
346.52	Community Water Systems	4,000.00	4,000.00	0.00
346.56	Food Service/Plan Review	13,000.00	13,000.00	0.00
346.58	School Plan Reviews	400.00	400.00	0.00
	Subtotal - Environmental Health Fees	776,275.00	776,275.00	0.00

**Benton-Franklin Health District
2008 Revenue Budget, Revision No. 1**

<u>Revenue Account Number</u>	<u>Item</u>	<u>2008 Adopted Budget</u>	<u>2008 Budget Rev. No. 1</u>	<u>Amount of Change</u>
	Other Health Fees			
346.71	Vital Records	321,366.00	321,366.00	0.00
347.72	Water Laboratory Tests	178,200.00	178,200.00	0.00
Subtotal - Other Health Fees		499,566.00	499,566.00	0.00
	Miscellaneous Revenue			
361.00	Investment Interest	20,000.00	20,000.00	0.00
367.00	Donations	10,500.00	10,500.00	0.00
367.03	Washington Dental Service Foundation	0.00	0.00	0.00
367.04	March of Dimes Grant	0.00	0.00	0.00
367.06	Community Network Grants	0.00	0.00	0.00
369.10	Other Miscellaneous Revenue	-4,000.00	-4,000.00	0.00
369.10	Insurance Settlements	0.00	0.00	0.00
380.00.20	Contingency Reserve	0.00	0.00	0.00
380.00.30	Capital Vehicle Reserve	0.00	0.00	0.00
380.10	Refunds of Expenses	10,000.00	10,000.00	0.00
380.11	Canceled Warrants/Adjustments	500.00	500.00	0.00
Subtotal - Miscellaneous Revenue		37,000.00	37,000.00	0.00
395.10	Proceeds from Sale of Capital Assets	700,000.00	700,000.00	0.00
Subtotal - Sale of Capital Equipment		700,000.00	700,000.00	0.00
TOTAL REVENUE		9,633,471.00	9,703,104.00	69,633.00

Increases - Revision includes: \$267,330 decrease in the cash balance forward.

\$322,563 increase in county contributions

\$14,400 increase in Medicaid fee for services due to an increase in Public Health Nurse's home visits which will be made possible by implementing the new medical charting system.

**Benton-Franklin Health District
2008 Expenditure Budget, Revision No. 1**

Expenditure Account Number	Item	2008 Adopted Budget	2008 Budget Rev. No. 1	<i>Expenditure Difference</i>
1101	Salaries	5,304,192.07	5,333,740.07	29,548.00
2101	Industrial Insurance	21,609.00	21,807.00	198.00
2102	FICA	328,896.37	330,729.37	1,833.00
2103	FICA/Medicare	77,412.21	77,841.21	429.00
2104	Retirement	379,009.85	381,143.85	2,134.00
2105	Unemployment	30,000.00	30,000.00	0.00
2106	VEBA	51,058.35	51,354.35	296.00
2107	Medical Insurance	463,666.36	464,426.36	760.00
2108	Employee Assistance	4,989.20	5,024.20	35.00
Subtotal - Salaries & Benefits		6,660,833.41	6,696,066.41	35,233.00
3101	Office Supplies	59,386.00	59,386.00	0.00
3102	Printed Forms	34,006.00	34,006.00	0.00
3103	Building Maintenance Supplies	6,000.00	6,000.00	0.00
3104	Books and Periodicals	9,779.00	9,779.00	0.00
3105	Laboratory Supplies	39,750.00	39,750.00	0.00
3106	Drugs	375,247.00	375,247.00	0.00
3107	Clinic Supplies	60,000.00	60,000.00	0.00
3107A	Protective Clothing	750.00	750.00	0.00
3501	Operating Equipment	141,535.59	144,535.59	3,000.00
3502	Computer Equip. Replacement	33,200.00	33,200.00	0.00
Subtotal - Supplies & Equipment		759,653.59	762,653.59	3,000.00
4101	Professional/Medical Services	107,100.00	107,100.00	0.00
4101A	A & E Construction Doc.	0.00	0.00	0.00
4102	Computer Services	31,575.00	31,575.00	0.00
4104	Legal Services	12,000.00	12,000.00	0.00
4105	Labor Negotiations	20,000.00	20,000.00	0.00
4106	Movers	30,714.00	30,714.00	0.00
4107	Custodian	24,066.00	24,066.00	0.00
4108	Auditor's Fee	18,000.00	18,000.00	0.00
4109	Bureau of Vital Statistics	153,000.00	153,000.00	0.00
4201	Telephone	93,890.00	95,290.00	1,400.00
4201A	Scan Charges	10,000.00	10,000.00	0.00
4202	Postage	31,790.00	31,790.00	0.00
4301	Travel	40,000.00	40,000.00	0.00
4302	Mileage	70,000.00	70,000.00	0.00
4401	Advertising	13,872.00	13,872.00	0.00
4501	Space Rent	334,190.00	334,190.00	0.00
4502	Equipment Rental	43,800.00	43,800.00	0.00
4601	Insurance	90,663.00	90,663.00	0.00
4701	Public Utilities	21,247.00	21,247.00	0.00
4702	Maintenance & Operations - BC	250,000.00	250,000.00	0.00
4703	Hazardous Waste Disposal	350.00	350.00	0.00
4801	Vehicle Repair & Maintenance	16,000.00	16,000.00	0.00
4802	Equipment Repair & Maintenance	52,179.00	52,179.00	0.00

Benton-Franklin Health District
2008 Expenditure Budget, Revision No. 1

Expenditure Account Number	<u>Item</u>	2008 Adopted Budget	2008 Budget Rev. No. 1	<i>Expenditure Difference</i>
4803	Building Repair and Maintenance	50,000.00	50,000.00	0.00
4901	Association Dues	20,366.00	20,366.00	0.00
4902	Registration Fees	28,067.00	28,067.00	0.00
4903	Staff Training	25,200.00	25,200.00	0.00
4904	Refunds-general	5,000.00	5,000.00	0.00
4905	Refunds-Environmental Health	7,450.00	7,450.00	0.00
4906	Refunds - Nursing	7,800.00	7,800.00	0.00
4907	TICM Discretionary Fund	20,000.00	20,000.00	0.00
4908	Bank Service Charges	1,400.00	1,400.00	0.00
4909	DSHS Verification	4,015.00	4,015.00	0.00
Subtotal - Other Services & Charges		1,633,734.00	1,635,134.00	1,400.00
5100	Intergovernmental Payments	500,000.00	500,000.00	0.00
6401	Capital Equipment	11,000.00	41,000.00	30,000.00
6401A	Computerized Billing System	0.00	0.00	0.00
6401B	Accounting System	0.00	0.00	0.00
6401C	Medical Records System	0.00	0.00	0.00
6401D	Office Furniture	0.00	0.00	0.00
6402	Capital Vehicles	0.00	0.00	0.00
6601	Capitalized Rentals	68,250.00	68,250.00	0.00
Subtotal - Capital Items		79,250.00	109,250.00	30,000.00
TOTAL EXPENDITURES		9,633,471.00	9,703,104.00	69,633.00

Increases - Revision includes:

1 Public Health Nurse which will allow the Health District to meet the performance measures as continue to receive 5930 funding.

Purchase of a medical charting system. Expenses include \$30,000 for the 1st year Payment, \$3,000 for the purchase of wireless network cards and \$1,400 for Broadband connectivity fees.

Counties 2008 Assessment

Per Capita Support Assessment

Government Unit	Population			Total Assessment Amount	Current Assessment Amount	Increased Assessment Amount
	Population	% of Total				
Benton County	36,195	16.1010%	\$ -	646,054	364,461	281,593
Benton City	2,840	1.2633%	\$ -			
Kennewick	61,770	27.4778%	\$ -			
Prosser	5,045	2.2442%	\$ -			
Richland	44,230	19.6753%	\$ -			
West Richland	10,520	4.6797%	\$ -			
Total	160,600	71.4413%	\$ 4.02			
Franklin County	12,730	5.6628%	\$ -	258,260	217,290	40,970
Connell	3,200	1.4235%	\$ -			
Kahlotus	220	0.0979%	\$ -			
Mesa	440	0.1957%	\$ -			
Pasco	47,610	21.1788%	\$ -			
Total	64,200	28.5587%	\$ 4.02			
Grand Total	224,800	100.0000%		904,314	581,751	322,563

Population estimates for cities and counties from the Office of Financial Management, April 2007

* Redistribution of Total Amount

** **NOTE:** \$51,149 of Benton County's increase are a result of updating the per capita formula.

11:10

From: Ryan Brown
To: BENITZ, BOWMAN, OLIVER & SPARKS
Date: 6/16/2008 3:28:54 PM
Subject: Fwd: RE: Panesko Appeal

Gentlemen:

I will be on your agenda next Monday (6/23) for a brief discussion to confirm your position on the issue described in the attached emails. Consider this your backup information for that agenda item. I will try to get the precise dollar amount at issue to you before that meeting. If you have any questions, please call.

Ryan

Ryan K. Brown, Chief Deputy (Civil)
Benton County Prosecuting Attorney's Office
Phone: (509) 735-3591
Fax: (509) 222-3705

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>>> "Loren Combs" <ldc@vsilawgroup.com> 6/16/2008 11:25 AM >>>

I was waiting to hear back from you and the city on the costs issue. The orders are significantly different, as in one there I a stipulation of no appeal, and the other has all of the judgment info.

I am offsite right now, but when I get back to the office this afternoon I will send you the "no appeal" option. If I get Mr. Panesko's signature on the "no appeal" order and your client objects to waiving the statutory costs, which are about \$300, I will pay their share of the costs out of my own pocket.

Loren Combs
VSI Law Group PLLC
3600 Port of Tacoma Road
Suite 311
Tacoma, WA 98424
253.922.5464

-----Original Message-----

From: Ryan Brown <ryan_brown@co.benton.wa.us>
Sent: Monday, June 16, 2008 11:15 AM
To: Loren Combs <ldc@vsilawgroup.com>
Cc: Greg Amann <gfa@vsilawgroup.com>
Subject: Re: Panesko Appeal

Loren,

Have you sent me a proposed order? I have not seen one. As for agreeing to forego statutory fees and costs, I will need to confirm with my client but I don't anticipate a problem with that. Let me know when you have a proposed order for me to review. I will meet with my client on 6/23 (that's the next time the Board meets).

-over-

Ryan

Ryan K. Brown, Chief Deputy (Civil)
Benton County Prosecuting Attorney's Office
Phone: (509) 735-3591
Fax: (509) 222-3705

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>>> "Loren Combs" <ldc@vsilawgroup.com> 6/11/2008 5:49 PM >>>
I just spoke with Vince Panesko. He has agreed that he will not appeal the order. I agreed that we would not ask for statutory attorneys fees and costs (it was only a few hundred bucks), so, unless you have an objection I will modify the order to add a stipulation that there will be no appeal and no award of statutory costs and attorneys fees.

Loren Combs

VSI Law Group, PLLC

3600 Port of Tacoma Rd., Suite 311

Tacoma, WA 98424

Phone: 253-922-5464

Cell: 253-468-8567

Fax: 253-922-5848

ldc@vsilawgroup.com

CC: Marilu Flores; Shannon Slaght

11:15

Attention: Benton County Commissioners

Request for Signature Approval for Transitional Housing, Operating Rents (THOR) Expansion Funds

In 2007, the application for Lead Agency for THOR, Emergency Shelter Assistance Program (ESAP), and Emergency Shelter Grant (ESG) required county approval and sign-off. Both Benton and Franklin Counties, during the month of March 2007 designated Benton Franklin Community Action Committee (BFCAC) as their Lead Agency, contracting directly with CTED for the provision of program services under these grants.

BFCAC wishes to apply for the THOR Expansion funds. There is \$26,340 available for Benton County and projected to serve 4 to 6 clients. This funding would allow BFCAC to serve the harder to serve clients with rent and intensified case management services.

All THOR lead agencies applying for funds must obtain approval from the county (ies) in which the proposed activities will be located, certifying that the application is consistent with the local Ten-Year Plan and thereby approving the application for submission. If an applicant will operate programs in multiple counties then a certification must be signed by each county.

Intent to Apply – Due July 3, 2008

Complete form E by indicating whether or not your agency, as the THOR lead agency, intends to apply for supplemental funds. If an agency (ies) does not apply, funds will be redistributed.

Both the lead agency's authorized signatory and the County's authorized official must sign off on the Intent to Apply form. See attached form.

Applications are due to CTED no later than 5 pm on August 8, 2008

Background:

Codification of the THOR program and appropriation of supplemental funding for program expansion occurred during the 2008 legislative session. The legislation, ESSB 5959, expands eligibility for the program to include homeless individuals and families without children, as well as harder-to-serve populations including:

- Families with children who are receiving services under chapter 13.34 RCW (families involved with the child welfare system);
- Individuals or families with an adult member who has a mental health or chemical dependency disorder;
- Individuals or families with an adult member who is an offender released from confinement within the past eighteen months.

Funding is available for rent assistance, program costs (including case management), and administration, and may not be used for the operations costs of transitional housing facilities. All funds will be distributed by formula to existing THOR lead agencies only. This is a non-competitive application process, however all contractors must meet threshold requirements. The program year for expansion funding will be September 1, 2008 through September 30, 2009.

Sincerely yours,

Judith A. Gidley, Executive Director
Benton Franklin Community Action Committee

FORM E
Consistency with Local Ten-Year Plan

Obtain approval for your proposed expansion program and the submission of this application from the authorized official in the county (ies) in which the activities will be located. If program services will be located in two or more counties, a certification must be signed by each county.

If you are unable to obtain the necessary signature(s) by the application due date, an email confirmation (please attach) from the authorizing official will suffice until the signature(s) is available. Amendments will not be executed until certification is complete.

THOR Lead Agency	Benton Franklin Community Action Committee
Program	Transitional Housing, Operating and Rent (THOR) Program Expansion
County	Benton

I certify that this program as described is consistent with the local Ten-Year Plan and hereby approve this application for submission to the state of Washington for Transitional Housing, Operating and Rent (THOR) Program expansion funding.

Authorized Official from County Government	
Claude L. Oliver	Benton County Commission, Chairman
Name (typed or printed)	Title
Authorized Signature	Date

11:25

**BENTON COUNTY
DISTRICT COURT**

RECEIVED

JUN 18 2008

BENTON COUNTY
COMMISSIONERS

Memo

To: Marilu Flores
From: Jacki Lahtinen, Administrator
Date: 6/17/2008
Re: Commissioners agenda

We would like to request a 15-minute discussion with the commissioner's on the June 23rd agenda. Judge Ingvalson would like to discuss changing our court commissioner positions to elected judicial positions.