

**BOARD OF
ADJUSTMENT
PACKETS
FOR
DECEMBER 3, 2009**

**SPECIAL USE
PERMIT
SP 05-33
TIM COLE**

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: NOVEMBER 23, 2009

TO: BENTON COUNTY BOARD OF ADJUSTMENT

FROM: BENTON COUNTY PLANNING DEPARTMENT

RE: SPECIAL USE PERMIT – SP 05-33 – TIM COLE

The Benton County Board of Adjustment on February 2, 2006 conditionally approved a special use permit for the construction of two mini-storage units on a 3.75-acre site. The project location is North of the intersection of SR 397 and S Yew Street, South of 10th Avenue in the Southeast Quarter of Section 7, Township 8 North, Range 30 East, and W.M. Today the applicant has completed Phase I – 80'x87' building and Phase II added 145' onto the existing 80'x87' building thereby making the storage unit 80'x238'.

The Benton County Planning Department on November 6, 2009 mailed a letter to the applicant informing him that this action would be placed on the December 3, 2009 Board of Adjustment agenda for either an extension or null and void status.

The applicant returned a letter to the Benton County Planning Department on November 11, 2009 stating that he would like to request a two year extension for the completion of Phase III – mini-storage building size of 80'x308'. The applicant's letter is attached to this memo.

The Benton County Planning Department does not have a problem with the Board granting a two-year extension with regards to the completion of Phase III.

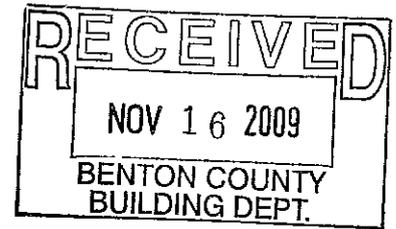
Enclosures

November 11, 2009 applicant letter

Vicinity Map

Plot Plan

YEW STREET STORAGE



November 11, 2009

Benton County
Planning Department
5600 W. Canal Drive
Suite C 105A
Kennewick, WA 99336
509.735.3500
509.736.2732

RECEIVED

NOV 17 2009

**Benton County
Planning Department**

RE: Special Use Permit # SP 5-33 Extension request

Dear Carel Hiatt/Mike Shuttleworth,

We would like to ask for a two year extension of our Special User Permit for the property located at 8106 S. Yew Street Kennewick, WA 99337

We are in the process of gaining funding to help improve the property.

Please contact me if you have further questions at 509.521.4759.

Thank you,

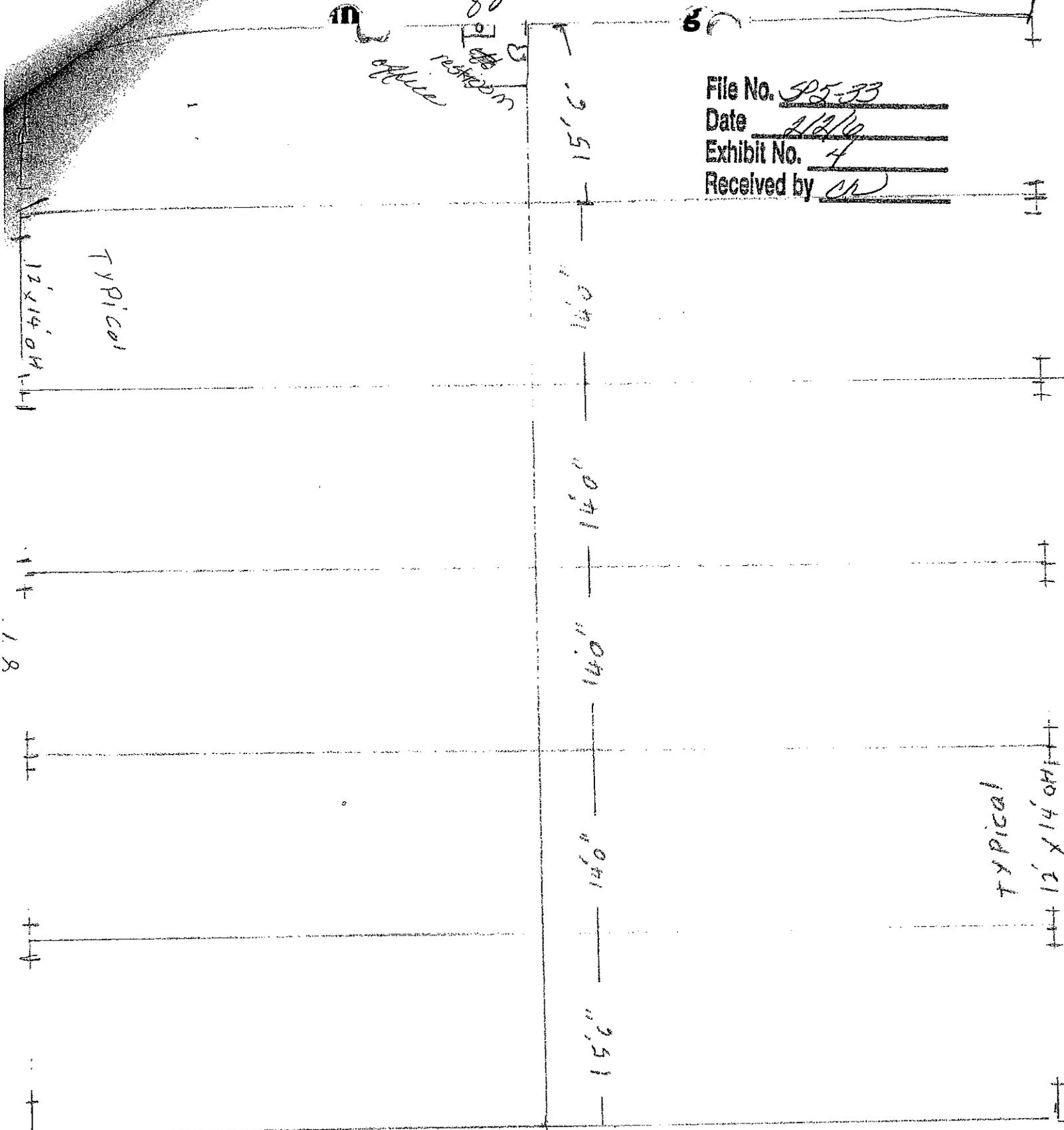
A handwritten signature in black ink, appearing to read "Tim Cole".

Tim Cole
Owner

929 Aaron Drive
Richland, WA 99352
509.585.2485 (office) or 509.521.4759 (Tim Cole Cell)

80
Office
restroom

File No. SP5-33
Date 2/2/49
Exhibit No. 4
Received by CR

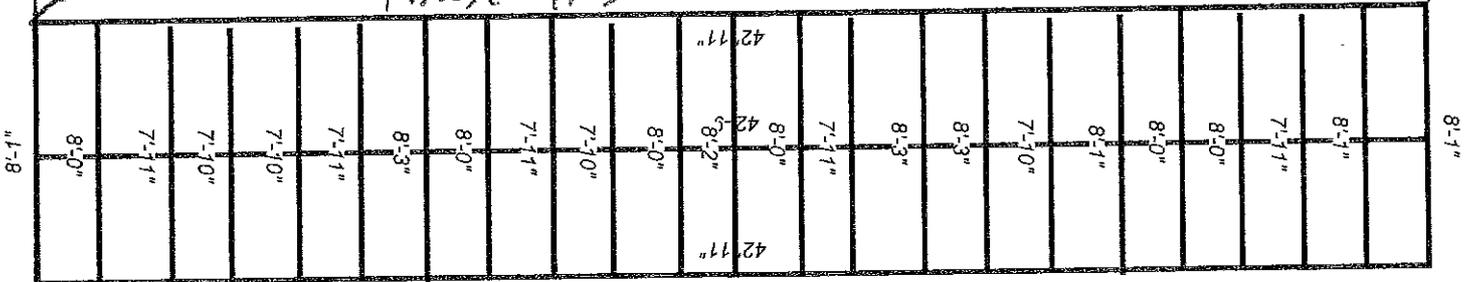


Phase #2 All Buildings Typical

E 10th AVE

60'

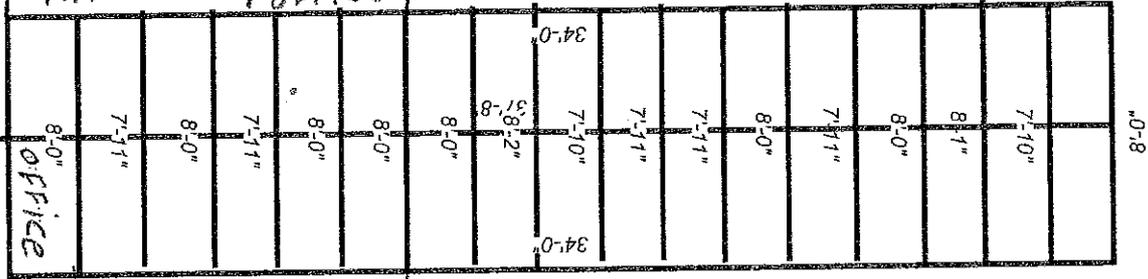
Phase #3 - 44 UNITS



60'

Phase #1-11 UNITS
OFFICE

Phase #2 - 22 - UNITS



OFFICE

HANDICAP

ACCESS

CHEMICAL DRIVE



**SPECIAL USE
PERMIT**

SP 08-12

**JEFFREY/YVETTE
FITZJARRALD**

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: NOVEMBER 23, 2009

TO: BENTON COUNTY BOARD OF ADJUSTMENT

FROM: BENTON COUNTY PLANNING DEPARTMENT

RE: SPECIAL USE PERMIT – SP 08-12 – JEFFREY/YVETTE FITZJARRALD

The Benton County Board of Adjustment on October 2, 2008 conditionally approved a special use permit for the operation of a dog kennel. The project location is 27601 N Crosby Road, South of the intersection of Crosby Road and McCreddie Road in Section 19, Township 9 North, Range 25 East, W.M. To date the applicant has prepared the kennel site and submitted drawings to an engineering firm.

The Benton County Planning Department on November 9, 2009 mailed a letter to the applicant informing him that this action would be placed on the December 3, 2009 Board of Adjustment agenda for either an extension or null and void status.

The applicant returned a letter to the Benton County Planning Department on November 18, 2009 stating that he would like to request an extension as they were planning on satisfying the conditions of approval, but the construction plans are still at the engineer's office.

The Benton County Planning Department does not have a problem with the Board granting a one-year extension with regards to the completion of this special use permit.

Enclosures

November 18, 2009 applicant letter
Vicinity Map
Plot Plan



RECEIVED

11-18-09

NOV 18 2009

Benton County Planning Department
1002 Dudley Ave. Prosser, WA 99350

Benton County
Planning Department

To whom it may concern;

We are still working on building the kennel, however, we, at first, mistakenly assumed it was a matter of simply erecting a building.

We have subsequently realized there's a lot of planning that goes into this process, including hiring an engineer to help put together and approve our plans of the building. This process has become painstakingly slow, due in part to our financial constraints (rescue doesn't generate a lot of income).

At this moment we have made the following progress:

- 1) Had the building site prepared and laser leveled and gravel put down so all we have to do is pour a foundation and erect the building.
- 2) Have plans right now at the engineer's office and have materials lined up to be shipped, at cost of shipping only.

The main delay at this point is getting plans from the engineer's office so we can just start laying the concrete for the pad.

Their information is W.E.B Engineering, Ltd., Consulting Civil Engineers, 140 W. Kellogg Rd., Bellingham, WA 96226; 360.671.7002 (phone contact), if you'd like to verify they are working on the plans. The job number is 09200.

We apologize for the delays on our end – but once again, we did not realize the amount of planning this project would entail.

If it were a matter of just raising a building we'd be done by now.

We will keep you apprised of all developments at your request,

Sincerely,



Jeffrey & Yvette Fitzjarrald

A PAW UP Rescue

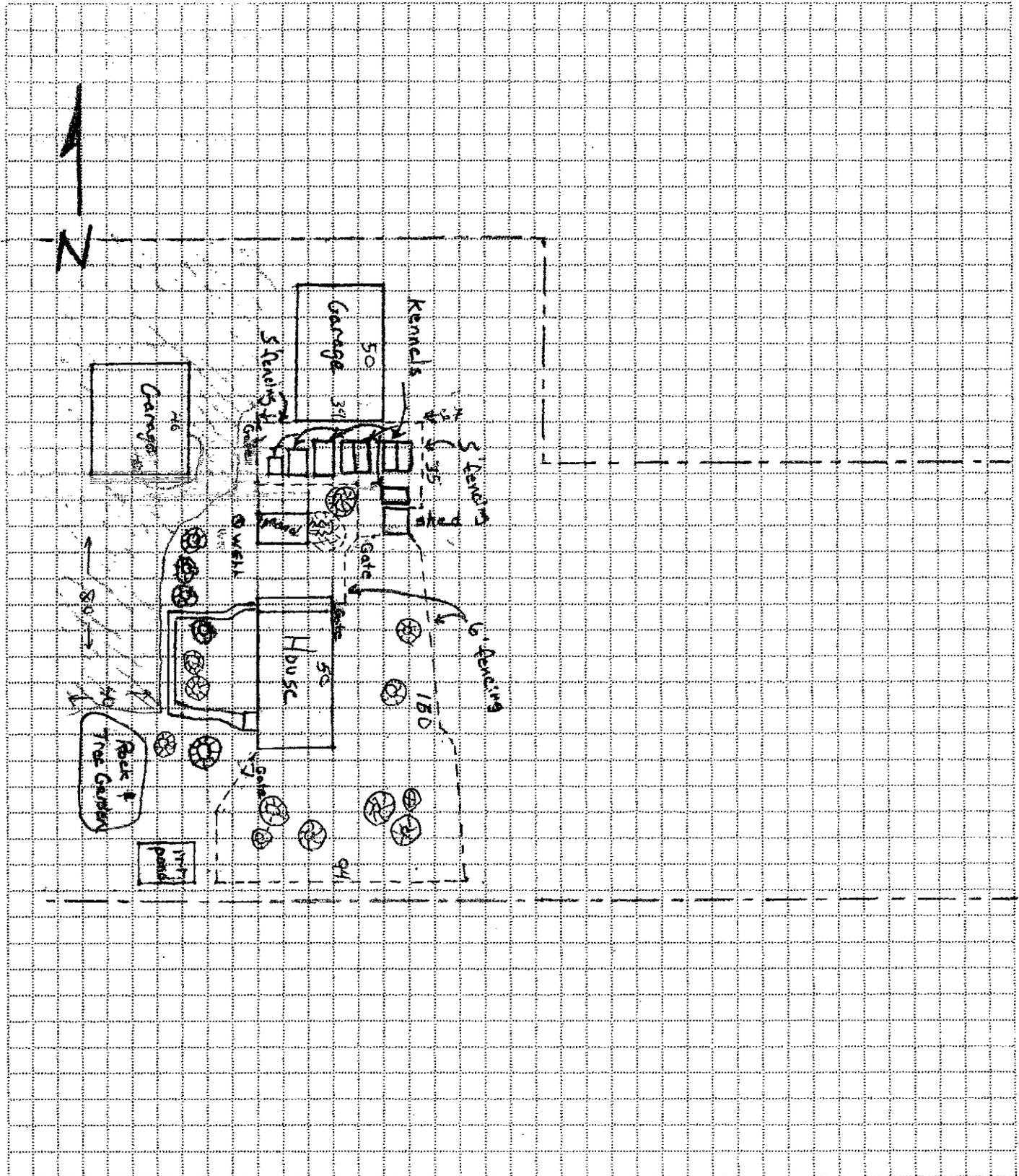
509.832.2666

SITE PLAN FOR 'A Paw Up' Rescue, 27601 N. Crosby Rd.

Scale 1" = 50' or 1" = 100'

Please specify

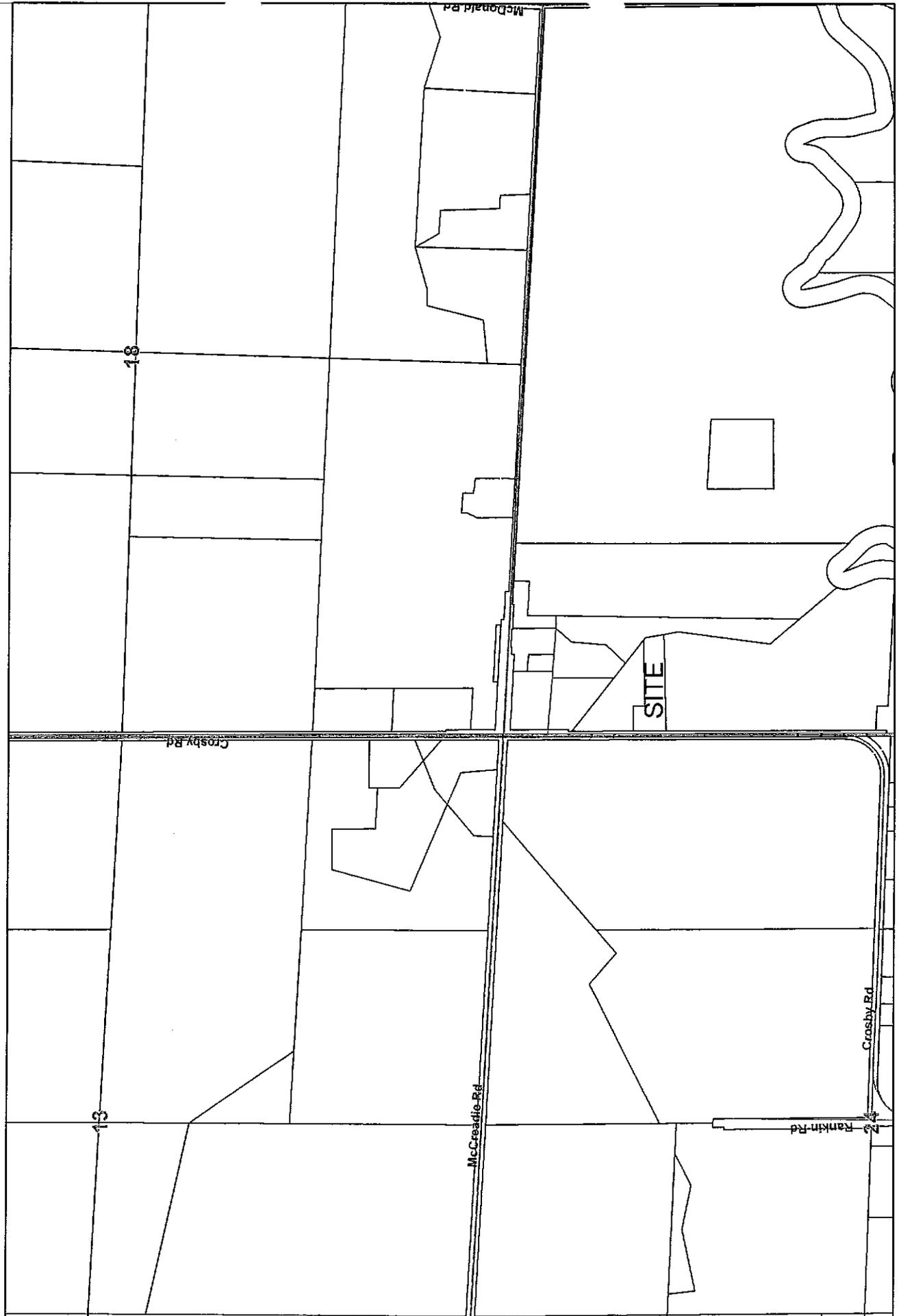
PLEASE INDICATE NORTH



BENTON COUNTY
GEOGRAPHIC
INFORMATION
SYSTEMS
DEPARTMENT



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**VARIANCE
REQUEST
VAR 09-04
DAVID R. SCOTT**

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

MEMO DATE: NOVEMBER 23, 2009

CONTINUED HEARING DATE: DECEMBER 3, 2009

TO: BENTON COUNTY BOARD OF ADJUSTMENT

FROM: BENTON COUNTY PLANNING DEPARTMENT

RE: VARIANCE APPLICATION – VAR 09-04

**APPLICANT/
PROPERTY OWNER:** DAVID R. SCOTT
2647 KATIE ROAD
KENNEWICK, WA 99337

SPECIFIC REQUEST: The applicant is requesting a variance to BCC 11.16.040 (a) for a five (5) foot reduction of the required, ten (10) foot side yard setback for the construction of a 10'x34' carport addition to existing shop.

BACKGROUND:

Site Location: The site is located at 2647 Katie Road, Kennewick, WA 99337, Reata Heights, Lot 11 in the Northeast Quarter of Section 2, Township 8 North, Range 28 E.W.M.

CONTINUED HEARING:

The Benton County Board of Adjustment conducted a public hearing on the above noted variance request. The Board heard testimony presented by the applicant, reviewed documentation presented by the Benton County Planning Department for the Board's review with regards to this action. The Board was concerned over the Benton Franklin Health District's letter dated September 9, 2009 – Exhibit No. 5 in which the Health District stated that: 1. If this is the current location of the shop, onsite sewage replacement area is inadequate for the three-bedroom home, and 2. Driveway placement to the shop appears to be less than the required 10 foot setback from the existing drainfield."

The Board made a motion to continue this action until the next regularly scheduled hearing to be conducted on December 3, 2009, Planning Annex – 1002 Dudley Avenue – Prosser, WA 99350 at 7 p.m. in order to allow the applicant time to met with the Benton Franklin Health District.

The Benton County Planning Department contacted the Benton Franklin Health District on November 11, 2009 to see if the applicant had discussed the situation with them. Mr. Rick Dawson from the Benton Franklin Health District stated that the applicant had not contacted them as of November 18, 2009.

No communication has been received from the applicant as of the date of this memo with regards to any communication with the Benton Franklin Health District.

Carel Hiatt - RE: VAR 09-04 David Scott

From: "Rick Dawson" <Rickd@bfhd.wa.gov>
To: "Carel Hiatt" <carel_hiatt@co.benton.wa.us>
Date: 11/18/2009 1:16 PM
Subject: RE: VAR 09-04 David Scott

I do not believe he has made contact here.

RECEIVED

NOV 18 2009

**Benton County
Planning Department**

James R. (Rick) Dawson

Supervisor

Land Use, Sewage and Water Section

Benton-Franklin Health District

7102 W. Okanogan Place

Kennewick, WA 99336

509-460-4313

From: Carel Hiatt [mailto:carel_hiatt@co.benton.wa.us]
Sent: Wednesday, November 18, 2009 1:07 PM
To: Rick Dawson
Subject: VAR 09-04 David Scott

Rick, has Mr. David Scott contacted the Benton Franklin Health District with regards to the comments made by the Health District on September 9, 2009 with regards to his variance request. The Board of Adjustment continued said action for one month in order to give Mr. Scott time to contact the Health District regarding comments. Let me know if you would, thanks.

Carel Hiatt
Office Manager
Benton County Planning Department
P O Box 910
1002 Dudley Avenue
Prosser, WA 99350
Tel: 509-786-5612
Fax: 509-786-5629
Email: carel.hiatt@co.benton.wa.us

**VARIANCE REQUEST
VAR 09-08**

**CHRISTOPHER/MONICA
BURROWS**

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. VAR 09-08
Date 11-19-2009
Exhibit No. 1
Received by ch

MEMO DATE: NOVEMBER 19, 2009
HEARING DATE: DECEMBER 3, 2009
TO: BENTON COUNTY BOARD OF ADJUSTMENT
FROM: BENTON COUNTY PLANNING DEPARTMENT
RE: VARIANCE APPLICATION – VAR 09-08

APPLICANT

PROPERTY OWNERS: CHRISTOPHER & MONICA BURROWS
3105 W. CANYON LAKES DRIVE
KENNEWICK WA 99337

SPECIFIC REQUEST: The applicant is requesting a variance to BCC 11.08.040(a) for a 4-foot reduction from the required side yard setback of 10 feet thus leaving a side yard setback of 6 feet. The variance would allow for the construction of a 35x35 foot garage on the Southeast corner of the existing house.

EXHIBITS:

- Exhibit No. 1: Staff memo dated November 19, 2009.
- Exhibit No. 2: VAR 09-08 Application
- Exhibit No. 3: Attachment 1 – October 26, 2009
- Exhibit No. 4: Site plan
- Exhibit No. 5: Site Plan
- Exhibit No. 6: Vicinity Map
- Exhibit No. 7: Notice of Open Record Hearing, published November 19, 2009.
- Exhibit No. 8: Comments from Benton County Building Dept. dated November 2, 2009
- Exhibit No. 9: Comments from Verizon Phone Company dated November 2, 2009
- Exhibit No. 10: Comments from Benton Franklin Health District November 3, 2009.
- Exhibit No. 11: Comments from City of Kennewick dated November 4, 2009.
- Exhibit No. 12: Comments from Benton County Fire Marshal dated November 9, 2009.
- Exhibit No. 13: Comments from Benton County Public Works Dept November 12, 2009
- Exhibit No. 14: Photos taken by the BC Planning Department November 18, 2009
- Exhibit No. 15: Aerial photos of the proposed site taken in 2008.

BACKGROUND:

Site Location: The site is located at 4914 W. Yellowstone Ave, Kennewick WA 99350 in the Northwest Quarter of the Southwest Quarter of Section 28, Township 9 North, Range 29 East W.M.

Land Use: The surrounding land uses are developed as single-family residential homes.

Zoning: Site and surrounding areas: Residential.

Comprehensive Plan Designation: Urban Growth Area, for the City of Kennewick.

APPLICABLE DEVELOPMENT REGULATIONS:

1. The Revised Code of Washington RCW 36.70.810, requires that the following findings be made prior to the granting of the variance and the applicant should be prepared to demonstrate before the Board of Adjustment that such findings exist.
 - a. Variances granted shall be subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant of special privilege inconsistent with the limitations on the other properties in the vicinity and the zone in which the property is situated.
 - b. That strict application of the Zoning Ordinance is found to deprive subject property of rights and privileges enjoyed by other properties in the vicinity and under identical zoning classification because of special circumstances applicable to subject property including size, shape, topography, location or surroundings
 - c. That the granting of the variance will not be materially detrimental to the public welfare or injurious to property or improvements in the vicinity and zone in which the subject property is situated.
2. **Benton County Code Section 11.52.088(b) states:**

"Variance—General Standards. The variance application process allows the Board of Adjustment in specific cases, as provided in RCW 36.70.810, to grant a variance to the provisions of this title when it can be demonstrated that such variance is in harmony with the general purpose and intent of this title and is accordance with the requirements of this section. However, the Board of Adjustment shall not grant variances to land uses or density requirements."
3. **Benton County Code Section 11.52.088(e) provides:**

"Variance—Permit Granted. (1) A variance shall be granted only if the Board of Adjustment concludes that based on its findings and the conditions imposed, if any, that:

 - (i) granting of the proposed variance will not permit a use that is not classified as an allowable or conditional use in the zoning district wherein the use would be located;
 - (ii) special circumstances such as lot size, slope, topography or necessary size or shape of the building prevent compliance with the applicable property development standards;
 - (iii) due to special circumstances applicable to the subject property, strict application of the zoning district property development standards would deprive the subject property of rights and privileges enjoyed by other properties in the vicinity and under the same zoning district classification;
 - (iv) the problem sought to be addressed by the variance is related to the physical features of the particular property or building and would exist regardless of the identity of the owner;
 - (v) the problem sought to be addressed is not common for other properties in the surrounding area;

- (vi) the variance would not be materially detrimental to public welfare or injurious to the property or improvements in the vicinity under the same zoning classification;
 - (vii) the variance will not adversely affect the health or safety or persons residing or working in the neighborhood in which the variance is being requested; and,
 - (viii) the variance would not deny the preservation and enjoyment of substantial property rights of those owning property in the vicinity.
- (4) The Board of Adjustment may grant a variance subject to specified conditions designed to ensure that the purpose and intent of this title and the Comprehensive Plan will not be violated; provided, the specified conditions are needed to make the conclusions required by subsection (e)(1) above.

(5) **BCC 11.08.040 Side Yard Setback Requirements:**

(a) **There shall be a side yard of at least ten (10) feet on each side of any dwelling, multiple family dwelling, or accessory structure**, provided that on a corner lot the side yard on the street side shall be at least fifty-five (55) feet from the centerline of any city, county, or state road right-of-way sixty (60) feet or less in width. If the right-of-way width exceeds sixty (60) feet, the setback shall be at least twenty-five (25) feet from the property line.

(b) No building shall be hereafter erected or altered so that any portion thereof shall be nearer to the side lot line than the distance indicated by the width of the required side yard, EXCEPT:

(1) Eaves, cornices, belt courses, and similar ornamentations may extend over a side yard for a distance of not more than two (2) feet.

(2) Platforms, terraces, and steps, not over forty-two (42) inches in height may extend into the side yard.

(3) Fireplaces may extend into a side yard a distance of not more than eighteen (18) inches.

(c) There shall be a side yard setback of not less than twenty-five (25) feet from any access and/or combined access and utility easement adjacent to or within the property.

FINDINGS OF FACT:

If the Board of Adjustment makes a decision to either approve or deny this proposal, the Board shall include in a written record of the case the findings of fact upon which the action is based. The following is information compiled by the Planning Staff as of the date of this memo. The following should be considered by the Board of Adjustment and may be used in the Board's findings of fact for this proposal.

1. The property owner/applicants are Christopher & Monica Burrows 3105 Canyon Lakes Drive, Kennewick WA 99337

2. The applicant is requesting a variance to BCC 11.08.040(a) for a four-foot reduction from the required side yard set back of 10 feet leaving a side yard setback of 6 feet. The applicant would like to construct a 35X35 foot garage attached to the Southeast corner of the house.
3. The site is located at 4914 W. Yellowstone Ave Kennewick WA 99337 in the Park View Acres No.1 Lot 10 Section 28, Township 9 North, Range 29 East W.M. and consists of 23,900 Square Feet.
4. The application for VAR 09-08 was submitted to Benton County Planning Department on October 28, 2009 and was determined a complete application for processing on November 2, 2009.
5. The proposed variance application did not require that a Notice of Application be published.
6. The notice for the Benton County Board of Adjustment Open Record Hearing for application VAR 09-08 was published on November 19, 2009, in the Tri-City Herald and mailed to property owners of record within 300 feet of the outer boundaries of the parcel. The Open Record Hearing is scheduled for December 3, 2009.
7. The Benton County Public Works Department, Benton County Fire Marshal, and the Benton County Building Department did not have any specific requirements for this variance application.
8. The Residential Zoning District BCC 11.08.010(c) allows for the construction of accessory buildings commonly appurtenant to site built homes, manufactured homes, or factory-assembled structures.
9. The applicant is asking for a variance to the east property line, which encroaches onto the desired location of the garage they wish to construct. The property adjacent to this property to the east is undeveloped.
10. A reduction in the side yard setback of four feet would provide room for the construction of the garage addition. and allow the applicant to build a 3-car garage, comparable to other houses in the surrounding neighborhood.
11. The variance of four feet would not affect the public or the surrounding properties, as well as the health and safety of workers and neighbors. The location of the building site is in a residential neighborhood. The variance of four feet would be consistent with the residences in the surrounding residential Urban Growth Area.
12. This site is in the City of Kennewick's UGA. The City of Kennewick in its comprehensive Plan shows this area as Low Density Residential. In the Kennewick Municipal Code under Low Density Residential the required side yard setback is 5 feet, so this requested variance would be consistent with the City of Kennewick's proposed zoning for the area

13. The Benton Franklin District Health Department had the following comments
 - 1) The dwelling is served by an approved public water supply in accordance with WAC 246-290.
 - 2) The dwelling is served by an on-site sewage disposal system that is permitted, installed and approved in accordance with Benton-Franklin District Board of Health Rules and Regulations No 2.garage
 - 3) The garage must meet setback requirements from the existing sewage disposal system and the 100% replacement area
14. Residences located within this zoning area have been granted the same consideration that the owner/applicant is seeking. The applicant's request is not an uncommon given the lot width of applicant's site. Regardless of who the owner is additional footage would be needed by any owner to be able to construct the garage as requested by the applicants.
15. Question 7 of the application asks if there are special circumstances such as lot size, slope, topography or necessary size or shape of the building, which prevents compliance with the zoning ordinance. The applicant answered that the lot width of this parcel is the reason for the variance request.
16. Question 8 of the application asks if strict application of the zoning ordinance deprives subject property of rights and privileges enjoyed by other properties in the vicinity and under the same zoning classification. The applicant's response was that many residences on this portion of Yellowstone Street enjoy a three-car garage. The Kennewick City limits are 200 feet from this property. A variance would not be needed if the property were in the city limits
17. No information has been presented that the placement of the structure in the location as shown on the site plan would adversely affect the health or safety or persons residing or working in the neighborhood in which the variance is being requested.
18. No information has been presented that the placement of the structure in the location as shown on the site plan would deny the preservation and enjoyment of the substantial property rights of those owning property in the vicinity.

DISPOSITION OF THE APPLICANT'S REQUEST:

A variance shall be granted only if the Board of Adjustment concludes that based on its findings and the conditions imposed, if any, that:

- (i) granting of the proposed variance will not permit a use that is not classified as an allowable or conditional use in the zoning district wherein the use would be located;
- (ii) special circumstances such as lot size, slope, topography or necessary size or shape of the building prevent compliance with the applicable property development standards;
- (iii) due to special circumstances applicable to the subject property, strict application of the zoning district property development standards would deprive the subject property of rights and privileges enjoyed by other properties in the vicinity and

- under the same zoning district classification;
- (iv) the problem sought to be addressed by the variance is related to the physical features of the particular property or building and would exist regardless of the identity of the owner;
- (v) the problem sought to be addressed is not common for other properties in the surrounding area;
- (vi) the variance would not be materially detrimental to public welfare or injurious to the property or improvements in the vicinity under the same zoning classification;
- (vii) the variance will not adversely affect the health or safety of persons residing or working in the neighborhood in which the variance is being requested; and,
- (viii) the variance would not deny the preservation and enjoyment of substantial property rights of those owning property in the vicinity.

CONDITIONS:

The Board of Adjustment may grant a variance subject to specified conditions designed to ensure that the purpose and intent of this title and the Comprehensive Plan will not be violated; provided, the specified conditions are needed to make the conclusions required by subsection above.

1. Any conditions imposed by the Board of Adjustment shall be completed prior to the Planning Department issuing the variance. The applicant shall notify the Benton County Planning Department in writing when the conditions set forth herein have been completed. The Planning Department shall not issue the variance until those conditions have been met. The variance shall not become effective until issued by the Planning Department.
2. If the conditions of approval have not been met and the Planning Department does not issue the variance within one (1) year from the time the Board of Adjustment conditionally approved the variance, the Board of Adjustment may declare its approval null and void at a regular Board of Adjustment meeting. Prior to doing so, the applicant shall be notified in writing at the applicant's last known address at least twelve (12) days in advance of the upcoming Board of Adjustment meeting.
3. The variance is limited to a four-foot reduction of the required 10-foot side yard setback for the construction project.
4. That the applicant obtains a building/placement permit from the Benton County Building Office for the building and it comply with all building and fire codes of Benton County.
5. That a Washington State licensed surveyor marks the edge of the existing access easements prior to the submitting of a building permit to the Building Office. The site plan must show the location of the easements and the building.

File No. VAR 09-08

Date 11-19-2009

Exhibit No. 2

Received by CD

**BENTON COUNTY PLANNING DEPARTMENT
VARIANCE APPLICATION**

FILE NO. 09-08

RECEIVED

OCT 28 2009

Benton County
Planning Department

1. Name and address of applicant: CHRISTOPHER & MONICA BURROW
3105 W CANYON LAKES DR. KENNEWICK WA 99337
Phone number: Home: 509-585-1319 Work: 509-948-3908
2. Legal owners name and address: AS ABOVE R-UGA

Phone number: Home _____ Work _____
3. Legal description or Parcel Number of property for which permit is for: ID# 128994020000010
PARKVIEW ACRES NO. 1, LOT 10
4914 W. YELLOWSTONE AVE. KENNEWICK
4. Section of the zoning ordinance under which it is claimed that a variance should be granted. (To be completed by the Planning Department). Residential
County UGA.
5. A variance is being requested for the purpose of Building a garage.
AN addition TO THE home.
6. What is the minimum variance that will alleviate hardship? 4 Feet Side Yard
7. Are there special circumstances such as lot size, slope, topography or necessary size or shape of the building which prevent compliance with the zoning ordinance? If so, explain:
Yes - See attachment #1
8. Does strict application of the zoning ordinance deprive subject property of rights and privileges enjoyed by other properties in the vicinity and under the same zoning classification? If so, explain:
Yes - MANY Houses ON THIS PORTION OF YELLOWSTONE STREET ENJOY A 3 car garage. THE KENNEWICK city limits are 200 Feet From This Property. A Variance would NOT be Need if Property were in Kennewick City limits.
9. The applicant shall attach a site plan of the property, drawn to a scale of one inch equals fifty feet (1"=50') unless otherwise specifically approved by the Planning Department,

showing the following information.

PLEASE NOTE: See attached "sample" site plan.

- A. Dimensions of the property.
- B. Location and size of the proposed use, complete with distances between buildings and all property lines.
- C. Location and size of existing improvements, complete with distances, buildings and all property lines.
- D. All streets, roads, easements, and rights-of-way located on or adjacent to this property. (Label structures and roadways)

10. Zoning classification of property involved: Residential

11. Total acreage - lot size involved: 0.549 acres

COMMENTS OR PERTINENT INFORMATION:

I certify that the information given above is true and complete.

Signature Block for individuals only.

<u>[Signature]</u>	<u>C. Burrows / M. Burrows</u>	<u>10/26/09</u>
Applicant's Signature	Print Name	Date

<u>[Signature]</u>	<u>C. Burrows / M. Burrows</u>	<u>10/26/09</u>
Signature of Legal Owners	Print Name	Date

_____	_____	_____
Signature of Person with additional ownership interest	Print Name	Date

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.

If the applicant is a corporation / partnership / LLC etc. please use the following signature block.

_____	_____	_____
Applicant's Name	Print Name & Title	Date

Applicant's Signature: _____
(Signature)

FOR OFFICIAL USE ONLY:	
CRITICAL AREA REVIEW COMPLETED BY <u>RJL</u>	ON <u>10/29/09</u>
APPLICATION APPROVED FOR PROCESSING BY <u>[Signature]</u>	ON <u>10/29/09</u>

Attachment 1

File No. VAE 09-08
Date 11-19-2009
Exhibit No. 3
Received by CD

October 26, 2009

Board of Adjustment
Benton County

Dear Board Members,

My wife and I are requesting a variance to building code of Benton County for the purpose of building a garage. We have just purchased this property and are planning to make several upgrades. Replacing a carport with a 3 car garage is one of them, and the only one that will require a variance. I apologize for having to make this request after tearing down the carport. It was not done intentionally. Until the property was recently surveyed, after we purchased the property, it appeared the plot line was further to the East, as the bushes and yard had grown that way. We have stopped our project awaiting your decision.

The variance we are requesting is a 4 foot encroachment, into the 10 foot side yard requirement, on the east side of the lot. The reason dates back to the original placement of the house. Due to the topography and shape of the lot the house was built in a location to take advantage of the view. The property slopes from the southeast to the northwest, with the largest elevation change occurring in the center of the property. This resulted in the house being placed 10 feet from the east property line, which is a side yard location.

My wife and I intend to make many upgrades to this house, a substantial investment. One of the upgrades is the addition on a 3 car garage. Something normally found in a house of this size and with the upgrades we intend to do. Many houses on this portion of Yellowstone Ave. have this feature already. So we are not asking for something out of the ordinary.

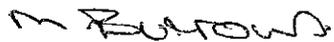
We have contacted the owners of the property within the 300 foot requirement and have not received anything other than a positive acceptance and I have letters from the owner of the lots on both sides of us to that effect, which I can make available to the Board.

The subdivision in which this property is located is bordered by the City of Kennewick. I would anticipate it will be annexed in the future. If that annexation had already occurred, I would not have to apply for a variance, as my addition would be outside of the 5 foot side yard requirement Kennewick has. So by granting this adjustment it will not violate any possible future zone restrictions that exist now. I know that the City of Kennewick and Benton County are two total separate jurisdictions. I just want to point out their does not seem to be any future problems with granting our request.

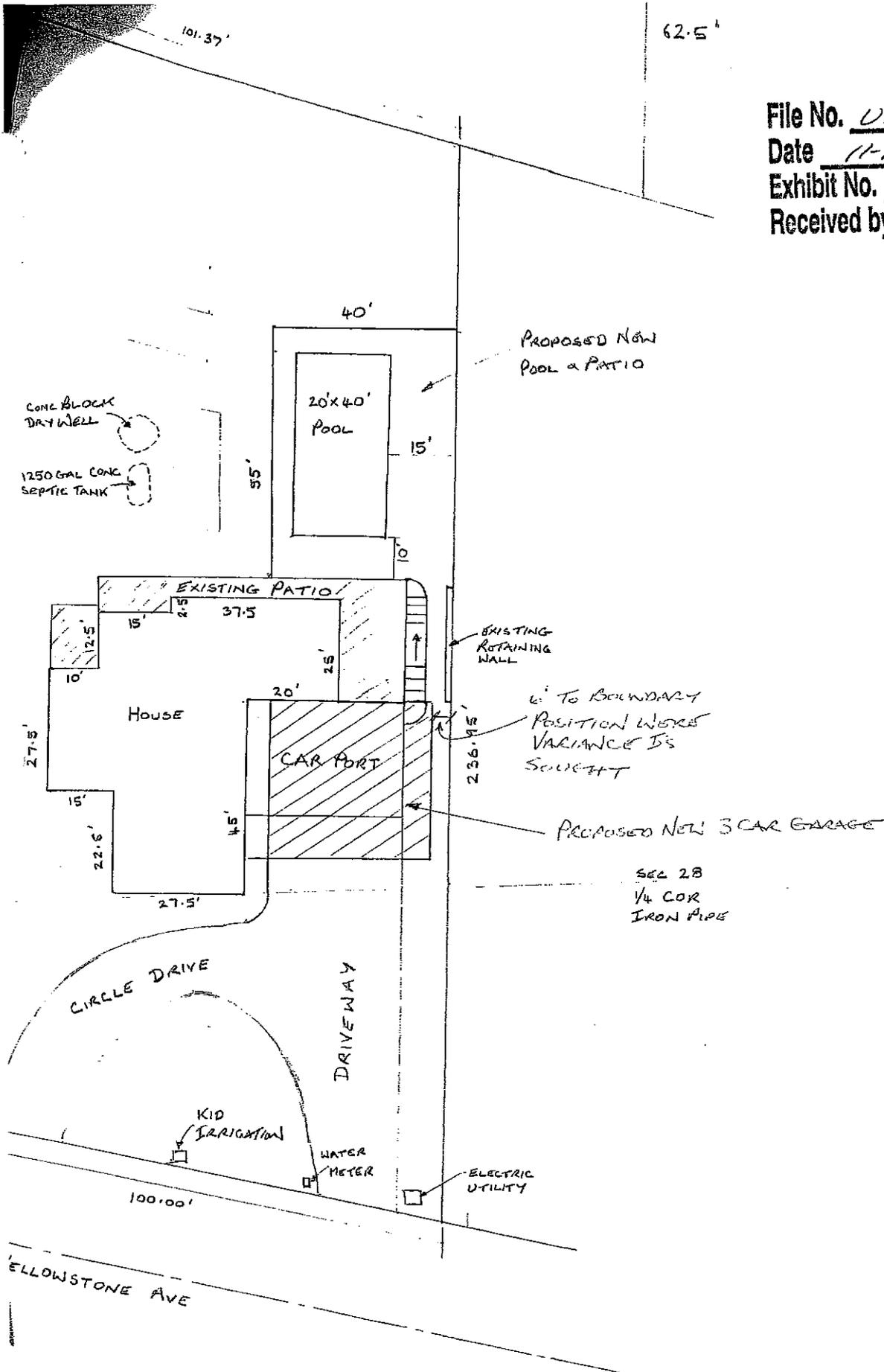
In closing I would like to sum up the points for approving our request for a 4 foot variance to the 10 foot side yard restriction. It will not be injurious to any property owners in the vicinity. It is needed to build a 3 car garage, which is an amenity that many homes have, located on this

portion of Yellowstone. The design of the house and topography of the lot required the placement of the house in its present location. Due to the design of the house the most practical location for the garage is where the carport was located. And we do apologize for having to ask for this variance after work has begun. We understand this is not the way to do things. Due to the yard spreading to the vacant lot to the east, we did not realize the property line was so close to the house until the results of the survey were observed. Please take all of this into consideration and grant our variance request.

Sincerely,
Monica & Chris Burrows

A handwritten signature in cursive script, appearing to read "Chris Burrows".A handwritten signature in cursive script, appearing to read "Monica Burrows".

File No. VAR 09-08
 Date 11-19-2009
 Exhibit No. 4
 Received by CD

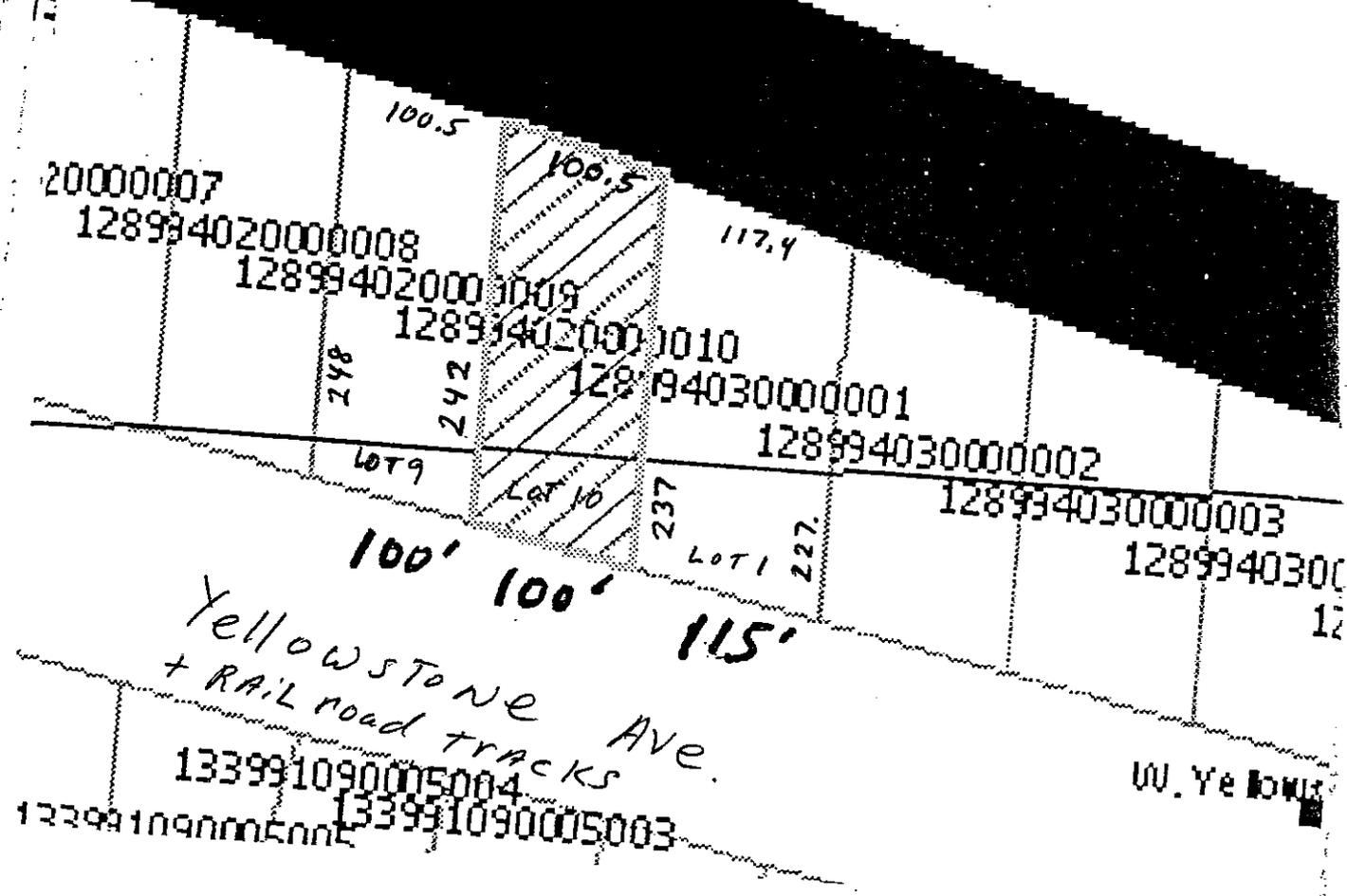


SEC 28
 1/4 COR
 IRON PIPE

W. YELLOWSTONE AVE - SHOWING PROPOSED POOL LOCATION

N ↑

File No. 0A209-08
Date 11-19-2009
Exhibit No. 5
Received by CV





VAR 09-08

SITE

Benton County does not warrant, guarantee, or accept any liability for accuracy, precision or completeness of any information shown hereon or for any inferences made therefrom. Any use made of this information is solely at the risk of the user. Benton County makes no warranty, expressed or implied, and any oral or written statement by any employee of Benton County or agents thereof to the contrary is void and of no effect. The information shown herein is a preliminary product of the Benton County Geographic Information System, and is prepared for presentation purposes only.

W Yellowstone Ave

W Tucannon Ave

W Skagit Ave

W Skagit Ave

W Rio Grande Ave

N Williams St

N Arthur St

N Arthur Pl

1st St

land St

File No. VAR 09-08
Date 11-19-2009
Exhibit No. 6
Received by CD

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. UAB 09-08
Date 11-19-2009
Exhibit No. 7
Received by EW

NOTICE OF OPEN RECORD HEARINGS

NOTICE IS HEREBY GIVEN that the following applications have been proposed to the Benton County Board of Adjustment, Benton County, Washington.

VARIANCE REQUEST – VAR 09-08 – The applicant is requesting a variance from BCC 11.08.040(a) for a reduction of four feet from the required 10-foot side yard setback for the addition of a garage onto the existing residence. Location: 4914 W Yellowstone Avenue on Lot 10 of Parkview Acres No. 1 in Section 28, Township 9 North, Range 29 East, W.M. Applicants: Christopher/Monica Burrows – 3105 W Canyon Lakes Drive – Kennewick, WA 99337

VARIANCE REQUEST – VAR 09-09 – The applicant is requesting a variance from BCC 11.60.040(c) for a reduction of 15 feet from the required 25-foot front yard setback from any access easement for the construction of a 20-foot by 20-foot hay barn. Location: 17805 S 2085 PR SE in the East Half of the Northwest Quarter of the Northeast Quarter of Section 16, Township 8 North, Range 30 East, W.M. Applicant: Keith Marks – 17805 S 2085 PR SE – Kennewick, WA 99336

SPECIAL USE PERMIT – SP 09-09 – The applicant is seeking a special use permit for the operation of a home-based breeding kennel for the keeping of up to ten adult dogs. Location: 8229 West 10th Avenue on Lot 3 of Short Plat 2864 in Section 7, Township 8 North, Range 29 East, W.M. Applicants: Terry/Gayla Davis – 8229 West 10th Avenue – Kennewick, WA 99336

NOTICE IS GIVEN that said applications will be considered by the Board of Adjustment of Benton County, Washington at public hearings conducted on Thursday, December 3, 2009 beginning at the hour of 7 p.m. in the Hearing Room - Benton County Planning Department, 1002 Dudley, Prosser, WA 99350. All concerned persons may appear and present any support for or objections to the applications or provide written testimony to the Board of Adjustment in care of the planning department on or before the date of the hearings. More information concerning these actions can be obtained by contacting Clark A. Posey, Senior Planner at the Benton County Planning Department, 1002 Dudley Avenue, P O Box 910, Prosser, WA 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 required 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. It is suggested that if you plan on attending the hearing that you call the Benton County Planning Department the afternoon of the hearing by 4 p.m. to confirm that the hearing will be conducted as scheduled.

Dated at Prosser, Washington on this 16th day of November, 2009.

BRENT CHIGBROW, Chairman
BENTON COUNTY BOARD OF ADJUSTMENT


CLARK A. POSEY – SENIOR PLANNER
BENTON COUNTY PLANNING DEPARTMENT

PUBLISH: Thursday, November 19, 2009

From: Steve Brown
To: Carel Hiatt
Date: 11/2/2009 4:48 PM
Subject: Re: VAR 09-08 - Burrows;

File No. VAR 09-08
Date 11-19-2009
Exhibit No. 8
Received by CH

Yes, was referring to var. I'll get what you want one of these times.....

>>> Carel Hiatt 11/2/2009 3:35 PM >>>
Is a building permit required for the garage addition onto the residence?

>>> Steve Brown 11/2/2009 3:28 PM >>>
No comments- SB

>>> Carel Hiatt 11/2/2009 1:56 PM >>>
VAR 09-08 - Burrows;

Carel Hiatt
Office Manager
Benton County Planning Department
P O Box 910
1002 Dudley Avenue
Prosser, WA 99350
Tel: 509-786-5612
Fax: 509-786-5629
Email: carel.hiatt@co.benton.wa.us

RECEIVED

NOV - 3 2009

**Benton County
Planning Department**

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. VAR 09-08
Date 11-19-2009
Exhibit No. 9
Received by CD

DATE: NOVEMBER 2, 2009

TO: BENTON COUNTY ENGINEER
BENTON COUNTY BUILDING DEPARTMENT
BENTON FRANKLIN DISTRICT HEALTH DEPARTMENT
BENTON COUNTY FIRE DISTRICT NO. 1
BENTON COUNTY FIRE MARSHAL
CITY OF KENNEWICK
VERIZON TELEPHONE COMPANY

FROM: BENTON COUNTY PLANNING DEPARTMENT
CLARK A. POSEY, SENIOR PLANNER

RE: VARIANCE REQUEST - VAR 09-08 - BURROWS

Attached is a copy of a variance request. You will be receiving a legal notification of such a hearing before the Board of Adjustment at a later date.

PLEASE SUBMIT YOUR COMMENTS BELOW WITHIN SEVEN DAYS OF THE ABOVE NOTED DATE OR YOU CAN EMAIL YOUR COMMENTS TO planning.department@co.benton.wa.us

NO COMMENT

MARCIA MATSON
CONTRACT ENGINEER
VERIZON

RECEIVED

NOV 12 2009

Benton County
Planning Department



File No. VA09-08
 Date 11-19-2009
 Exhibit No. 10
 Received by LD

RECEIVED

NOV - 3 2009

Benton County
Planning Department

November 2, 2009

Clark A. Posey, Senior Planner
 Benton County Planning and Building Department
 P. O. Box 910
 Prosser, WA 99350

RE: Variance Application VAR 09-08 Burrows

Dear Mr. Posey:

This office has reviewed the above referenced proposal and has no objections provided:

- 1) The dwelling is served by an approved public water supply in accordance with WAC 246-290.
- 2) The dwelling is served by an on-site sewage disposal system that is permitted, installed and approved in accordance with Benton-Franklin District Board of Health Rules and Regulations No. 2.
- 3) The garage must meet setback requirements from the existing sewage disposal system and 100% replacement area.

If you have any questions, please contact me at the Kennewick Health office, phone (509) 460-4317.

Sincerely,

Jeri L. Randle
 Environmental Health Specialist II

Carel Hiatt - FW: VAR 09-08 - Burrows;

From: "Wes Romine" <Wes.Romine@ci.kennewick.wa.us>
To: <carel_hiatt@co.benton.wa.us>
Date: 11/4/2009 7:40 AM
Subject: FW: VAR 09-08 - Burrows;
CC: "Ferdouse Oneza" <Ferdouse.Oneza@ci.kennewick.wa.us>
Attachments: VAR 09-08 - Burrows.pdf

File No. VAR 09-08
Date 11-19-2009
Exhibit No. 11
Received by CD

Carel,

The City of Kennewick has no problems with the requested side yard variance.

Wes Romine
Development Services Manager
City of Kennewick
210 W. 6th Avenue
Kennewick, WA 99336

(509) 585-4558

RECEIVED

NOV - 4 2009

**Benton County
Planning Department**

From: Terri Wright
Sent: Monday, November 02, 2009 2:01 PM
To: Wes Romine
Subject: FW: VAR 09-08 - Burrows;

From: Carel Hiatt [mailto:carel_hiatt@co.benton.wa.us]
Sent: Monday, November 02, 2009 1:56 PM
To: Scott Parco; FIRE DISTRICT NO. 1; Benton-Franklin Dist. Health Dept.; Terri Wright; Ken Williams; Lyle Cornish; Michelle Johnson; Rick Hall; Rod Worthington; Steve Brown; Tomi Chalk
Subject: VAR 09-08 - Burrows;

VAR 09-08 - Burrows;

**Benton County Fire Marshal's
Review of Proposed Planning Applications**

TO: Clark Posey

File No. VAR 09-08

Date 11-19-2009

Exhibit No. 12

Received by CD

Variation Request 09-08

Date Received 11-2-09 Date Returned 11-9-09

Applicants Comments: Christopher and Monica Burrows, 3105 W. Canyon Lakes Dr. Kennewick, 585, 1319, proposes a 4 foot yard set back for 4914 W. Yellowstone Ave. Kennewick to build a garage.

Fire Marshal's Comments:

None

Required:

Must comply to IBC.

RECEIVED

NOV - 9 2009

Benton County
Planning Department

From: Clark Posey
To: Hiatt, Carel
Date: 11/12/2009 3:15 PM
Subject: Fwd: VAR 09-08 Burrows

File No. VAR 09-08
Date 11-19-2009
Exhibit No. 13
Received by CD

Clark A. Posey, Sr Planner
Benton County
Prosser, WA 99350
PH # 509-786-5612
Fax # 509-786-5629

>>> Sue Schuetze 11/12/2009 3:06 PM >>>
We have no comments

Sue Schuetze, Engineer II
Benton County Public Works
P. O. Box 1001
Prosser, WA 99350
509.786.5611 office
509.786.5627 FAX

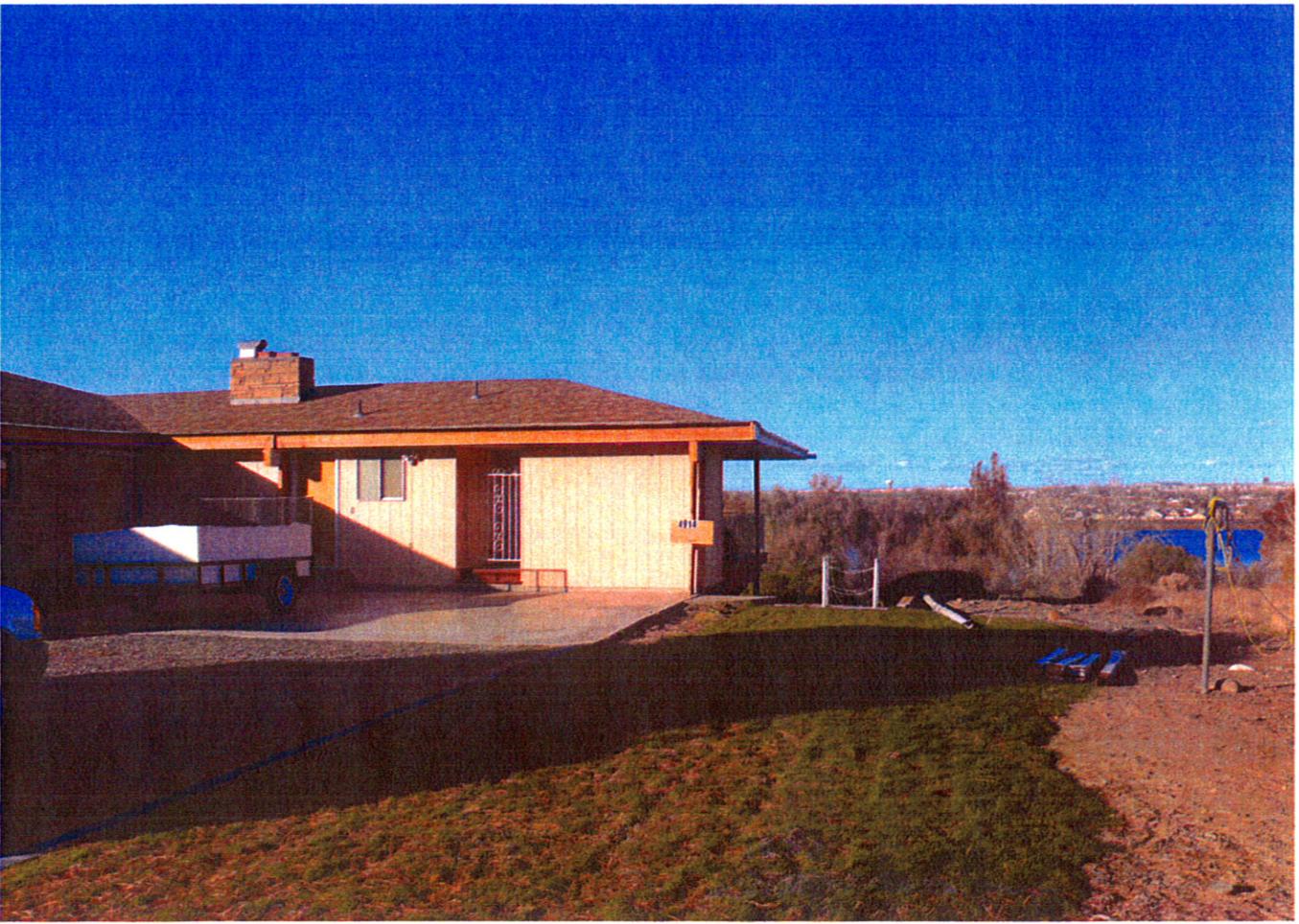
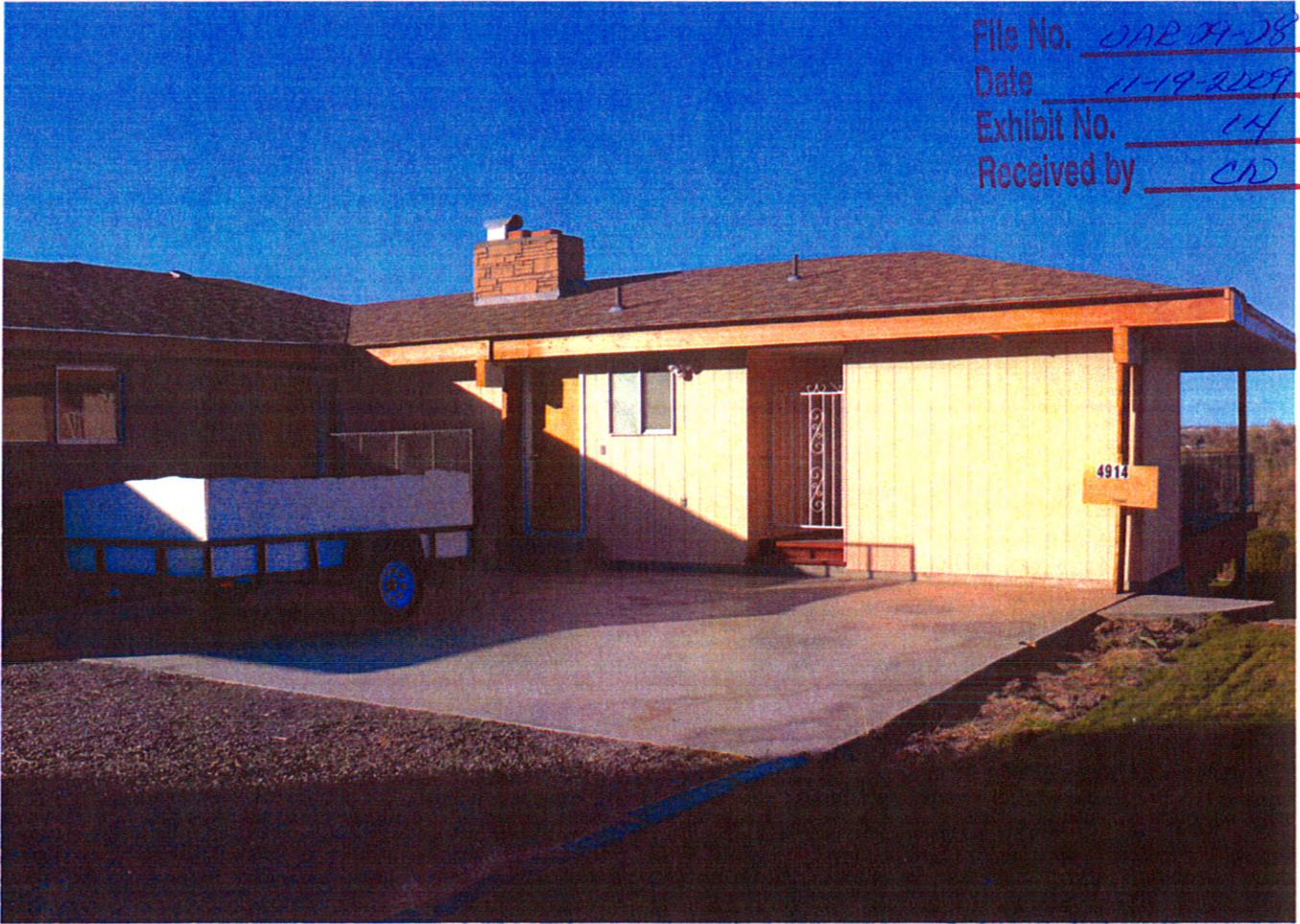
RECEIVED

NOV 12 2009

Benton County
Planning Department

11/18/09
Clark

File No. 0AR 21-28
Date 11-19-2009
Exhibit No. 14
Received by CD



11/18/09
Clark





BENTON COUNTY
PLANNING
DEPARTMENT

File No. 0A209-08
Date 11-19-09
Exhibit No. 15
Received by CR

VAR 09-08

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W Yellowstone Ave

SITE

VARIANCE
REQUEST
VAR 09-09
KEITH MARKS

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

MEMO DATE: NOVEMBER 19, 2009
HEARING DATE: DECEMBER 3, 2009
TO: BENTON COUNTY BOARD OF ADJUSTMENT
FROM: BENTON COUNTY PLANNING DEPARTMENT
RE: VARIANCE APPLICATION – VAR 09-09

File No. VAR 09-09
Date 11-19-2009
Exhibit No. 1
Received by ch

APPLICANT/
PROPERTY OWNER: KEITH MARKS, 17805 S. 2085 PRSE. KENNEWICK, WA 99336.

SPECIFIC REQUEST: The applicant, Keith Marks, is requesting approval of Variance Application VAR 09-09 for a variance to BCC 11.60.040(c) for a fifteen (15) foot reduction from the required twenty-five (25) foot side yard setback from an access easement for a 20-foot by 20-foot accessory building.

EXHIBITS:

- Exhibit No. 1: Staff Memo dated November 19, 2009
- Exhibit No. 2: VAR 09-09 Application
- Exhibit No. 3: Site plan.
- Exhibit No. 4: Vicinity Map
- Exhibit No. 5: Notice of Open Record Hearing, published November 19, 2009.
- Exhibit No. 6: Comments from Benton County Dept of Public Works -November 18, 2009.
- Exhibit No. 7: Comments from Benton County Fire Marshal - November 15, 2009.
- Exhibit No. 8: Comments from Benton County Building Department - November 13, 2009.
- Exhibit No. 9: Comments from Kennewick Irrigation District - November 12, 2009.
- Exhibit No. 10 Photos of the site taken November 18, 2009
- Exhibit No. 11: Aerial Photo of the site taken in 2008.

BACKGROUND:

Site Location: The site is located at 17805 S. 2085 PRSE on the North 400 feet of the West 200 feet of the East One/Half of the Northwest Quarter of the Northeast Quarter, in Section 16, Township 8 North, Range 30 East W.M.

Land Use: The site and surrounding properties are developed with single-family dwellings and agricultural uses.

Zoning: The site and surrounding areas are zoned Rural Estates.

Comprehensive Plan: The Benton County Comprehensive Plan designated the site and surrounding areas as "Rural Lands – 5".

State Environmental Policy Act: Categorically exempt from the requirements of the Washington State Environmental Policy Act as outlined in WAC 197-11-800(6)(b).

APPLICABLE DEVELOPMENT REGULATIONS:

1. The Revised Code of Washington RCW 36.70.810, requires that the following findings be made prior to the granting of the variance and the applicant should be prepared to demonstrate before the Board of Adjustment that such findings exist.
 - a. Variances granted shall be subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant of special privilege inconsistent with the limitations on the other properties in the vicinity and the zone in which the property is situated.
 - b. That strict application of the Zoning Ordinance is found to deprive subject property of rights and privileges enjoyed by other properties in the vicinity and under identical zoning classification because of special circumstances applicable to subject property including size, shape, topography, location or surroundings
 - c. That the granting of the variance will not be materially detrimental to the public welfare or injurious to property or improvements in the vicinity and zone in which the subject property is situated.

2. Benton County Code Section 11.52.088(b) states:

"Variance—General Standards. The variance application process allows the Board of Adjustment in specific cases, as provided in RCW 36.70.810, to grant a variance to the provisions of this title when it can be demonstrated that such variance is in harmony with the general purpose and intent of this title and is accordance with the requirements of this section. However, the Board of Adjustment shall not grant variances to land uses or density requirements."

3. Benton County Code Section 11.52.088(e) provides:

"Variance—Permit Granted. (1) A variance shall be granted only if the Board of Adjustment concludes that based on its findings and the conditions imposed, if any, that:

 - (i) granting of the proposed variance will not permit a use that is not classified as an allowable or conditional use in the zoning district wherein the use would be located;
 - (ii) special circumstances such as lot size, slope, topography or necessary size or shape of the building prevent compliance with the applicable property development standards;
 - (iii) due to special circumstances applicable to the subject property, strict application of the zoning district property development standards would deprive the subject property of rights and privileges enjoyed by other properties in the vicinity and under the same zoning district classification;
 - (iv) the problem sought to be addressed by the variance is related to the physical features of the particular property or building and would exist regardless of the identity of the owner;

- (v) the problem sought to be addressed is not common for other properties in the surrounding area;
 - (vi) the variance would not be materially detrimental to public welfare or injurious to the property or improvements in the vicinity under the same zoning classification;
 - (vii) the variance will not adversely affect the health or safety or persons residing or working in the neighborhood in which the variance is being requested; and,
 - (viii) the variance would not deny the preservation and enjoyment of substantial property rights of those owning property in the vicinity.
- (2) The Board of Adjustment may grant a variance subject to specified conditions designed to ensure that the purpose and intent of this title and the Comprehensive Plan will not be violated; provided, the specified conditions are needed to make the conclusions required by subsection (e)(1) above.
4. Benton County Code Section 11.60.040 of the Benton County Code provides:
11.60.040 SIDE YARD. (a) There shall be a side yard of at least ten (10) feet on each side of any dwelling, multiple family dwelling, manufactured home (mobile home) or accessory structure, provided that on a corner lot the side yard on the street side shall be at least fifty-five (55) feet from the centerline of any city, county, or state road right-of-way sixty (60) feet or less in width. If the right-of-way width exceeds sixty (60) feet, the setback then shall be at least twenty-five (25) feet from the property line.
- (b) No building shall be hereafter erected or altered so that any portion thereof shall be nearer to the side lot line than the distance indicated by the width of the required side yard, EXCEPT:
- (1) Eaves, cornices, belt courses, and similar ornamentations may extend over a side yard for a distance of not more than two (2) feet.
 - (2) Platforms, terraces, and steps, not over forty-two (42) inches in height may extend into the side yard.
 - (3) Fireplaces may extend into a side yard a distance of not more than eighteen (18) inches.
- (c) There shall be a side yard setback of at least twenty-five (25) feet from any access and/or combined access and utility easement adjacent to or within the property.

FINDINGS OF FACT:

If the Board of Adjustment makes a decision to either approve or deny this proposal, the Board shall include in a written record of the case the findings of fact upon which the action is based. The following is information compiled by the Planning Staff as of the date of this memo. The following should be considered by the Board of Adjustment and may be used in the Boards findings of fact for this proposal.

1. The applicant/property owner for VAR 09-09 is Keith Marks, 17805 S. 2085 PR SE. Kennewick, WA 99336.
2. The applicant, Keith Marks, is requesting approval of Variance Application VAR 09-09 for a variance to BCC 11.60.040 for a fifteen (15) foot reduction from the required twenty-five (25) foot side yard setback from an access easement for a 20-foot by 20-foot accessory building
3. The site is located at 17805 S. 2085 PRSE on the North 400 feet of the West 200 feet of the East One/Half of the Northwest Quarter of the Northeast Quarter, in Section 16, Township 8 North, Range 30 East W.M.
4. The application for VAR 09-09 was submitted to Benton County on November 10, 2009 and was determined a complete application for processing on November 12, 2009.
5. The proposed variance application did not require that a Notice of Application be published.
6. The notice for the Benton County Board of Adjustment Open Record Hearing for application VAR 09-09 was published on November 19, 2009 in the Tri-City Herald and mailed to property owners of record within 300 feet of the outer boundaries of the parcel. The Open Record Hearing is scheduled for December 3, 2009.
7. The property and surrounding properties are zoned Rural Estates.
8. The Benton County Comprehensive Plan designated the site and surrounding areas as "Rural Lands – 5".
9. The accessory building is an allowed use in the Rural Estates Zoning District. The accessory building was constructed on site, however, no building permit had been issued by the Benton County Building Department for this accessory building.
10. The existing dwelling is a 1981 doublewide manufactured home and is served by an on-site septic system and well. It appears from the site visit and the aerial photo that the existing manufactured home does not meet the required setback requirements from the access easement.
11. Question 7 of the application asks if there are special circumstances such as lot size, slope, topography or necessary size or shape of the building, which prevents compliance with the zoning ordinance. The applicant answered "None". The site plan presented by the applicant only shows the house and a 20 by 20 foot building. It does not show the other buildings located on the site or the location of the septic system. The site is flat, with several accessory buildings that meet the setback requirements. Based on the information presented by the applicant, there appears to be no special circumstances that would prohibit the applicant from building a 20' by 20' accessory building and meeting the required setbacks.
12. Question 8 of the application asks if strict application of the zoning ordinance deprives

subject property of rights and privileges enjoyed by other properties in the vicinity and under the same zoning classification. The applicant's answer is: There are many examples of a 10' side yard." The side yard setback in the Rural Estates Zoning District is 10 feet; however, when the side yard is next to an access easement that setback is 25 feet from the edge of the access easement. It appears that buildings on the lots to the south of the applicant's site meet the 25-foot setback from the access easement.

13. The applicant has not identified a problem to be addressed by this variance application.
14. No information has been presented that the placement of the structure in the location as shown on the site plan would be materially detrimental to public welfare or injurious to the property or improvements in the vicinity under the same zoning classification. However, the location could impact the widening of the access easement in the future if it is needed.
15. No information has been presented that the placement of the structure in the location as shown on the site plan would adversely affect the health or safety of persons residing or working in the neighborhood in which the variance is being requested. However, the location could impact the widening of the access easement in the future if it is needed.
16. No information has been presented that the placement of the structure in the location as shown on the site plan would deny the preservation and enjoyment of substantial property rights of those owning property in the vicinity.

DISPOSITION OF THE APPLICANT'S REQUEST:

A variance shall be granted only if the Board of Adjustment concludes that based on its findings and the conditions imposed, if any, that:

- (i) granting of the proposed variance will not permit a use that is not classified as an allowable or conditional use in the zoning district wherein the use would be located;
- (ii) special circumstances such as lot size, slope, topography or necessary size or shape of the building prevent compliance with the applicable property development standards;
- (iii) due to special circumstances applicable to the subject property, strict application of the zoning district property development standards would deprive the subject property of rights and privileges enjoyed by other properties in the vicinity and under the same zoning district classification;
- (iv) the problem sought to be addressed by the variance is related to the physical features of the particular property or building and would exist regardless of the identity of the owner;
- (v) the problem sought to be addressed is not common for other properties in the surrounding area;
- (vi) the variance would not be materially detrimental to public welfare or injurious to the property or improvements in the vicinity under the same zoning classification;
- (vii) the variance will not adversely affect the health or safety of persons residing or working in the neighborhood in which the variance is being requested; and,
- (viii) the variance would not deny the preservation and enjoyment of substantial property rights of those owning property in the vicinity.

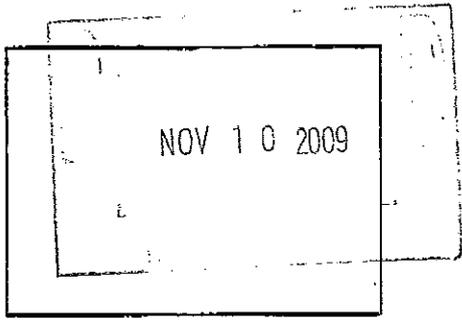
CONCLUSION:

The Board of Adjustment may grant a variance subject to specified conditions designed to ensure that the purpose and intent of this title and the Comprehensive Plan will not be violated; provided, the specified conditions are needed to make the conclusions required by subsection above.

This staff memo does not include information received after the date of this memo or at the open record hearing. Based on the information received as of the date of this memo, the planning staff recommends that the Variance Application VAR 09-09 be denied base on the fact that the there is adequate area on the lot to construct the accessory building without encroaching onto the required setbacks. If the Board of Adjustment decides to approve Variance Application VAR 09-09, the following are suggested conditions recommended by the Planning Department:

1. Conditions 3, and 4 imposed by the Board of Adjustment must be met prior to issuance of this variance. The applicant shall notify the Benton County Planning Department in writing when the conditions set forth herein have been completed. The Planning Department shall not issue the variance permit until those conditions have been met. The variance shall not become effective until issued by the Planning Department.
2. If the conditions of approval have not been met and the Planning Department does not issue the variance within one (1) year from the time the Board of Adjustment conditionally approved the variance, the Board of Adjustment may declare its approval null and void at a regular Board of Adjustment meeting. Prior to doing so, the applicant shall be notified in writing at the applicant's last known address at least twelve (12) days in advance of the upcoming Board of Adjustment meeting.
3. That the applicant obtains a building/placement permit from the Benton County Building Dept. for the building and it complys with all building and fire codes of Benton County.
4. That a Washington State licensed surveyor marks the edge of the existing access easements prior to the submitting of a building permit to the Building Office. The site plan must show the location of the easements and the building.

File No. VAR 09-09
Date 11-19-2009
Exhibit No. 2
Received by CD



**BENTON COUNTY PLANNING DEPARTMENT
VARIANCE APPLICATION**

FILE NO. VAR 09-09

1. Name and address of applicant: Keith Marks
17805 S. 2085 PRSE, Kennewick, WA
Phone number: Home: 582-9396 Work: N/A

2. Legal owners name and address: Judith Lange, 621 Washington St.,
Kennewick WA, 99336, Keith Marks, 17805 S. 2085 PRSE,
Kennewick, WA
Phone number: Home: Judith 619-0200 Work: Keith 582-9396
1-1680-100-0005-000

3. Legal description or Parcel Number of property for which permit is for: Section 16
Township 8 North range 30: The North 450 Feet of the
West 200 feet of the east 1/2 of the NW 1/4, of the
NE 1/4.

4. Section of the zoning ordinance under which it is claimed that a variance should be granted. (To be completed by the Planning Department). _____

5. A variance is being requested for the purpose of allowing a 20' v 20'
bay barn to be 10' from the ~~property line~~ instead
of 25' easement

6. What is the minimum variance that will alleviate hardship? 15'

7. Are there special circumstances such as lot size, slope, topography or necessary size or shape of the building which prevent compliance with the zoning ordinance? If so, explain:
NONE

8. Does strict application of the zoning ordinance deprive subject property of rights and privileges enjoyed by other properties in the vicinity and under the same zoning classification? If so, explain:
There are many examples of a 10' side
yard.

9. The applicant shall attach a site plan of the property, drawn to a scale of one inch equals fifty feet (1"=50') unless otherwise specifically approved by the Planning Department,

The above signed officer of _____ warrants and represents that all necessary legal and corporate actions have been duly undertaken to permit _____ (name of entity) to submit this application and that the above signed officer has been duly authorized and instructed to execute this application.

Any information submitted to the Benton County Planning 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.

NOTE: THE VARIANCE REQUEST FEE OF \$250.00 MUST BE SUBMITTED WITH THE APPLICATION. THIS FEE IS NON-REFUNDABLE. PLEASE MAKE THE CHECK PAYABLE TO THE BENTON COUNTY TREASURER. THERE ARE NO GUARANTEES THAT YOUR APPLICATION WILL BE APPROVED.

11/13/08

FOR OFFICIAL USE ONLY:

CRITICAL AREA REVIEW COMPLETED
BY ESR ON 11/12/09

APPLICATION APPROVED FOR PROCESSING
BY RJL ON 11/12/09

File No. VAE 09-09

Date 11/19/2009

Exhibit No. 3

Received by CD

SITE PLAN FOR _____

Scale 1" = 50' or 1" = 100'

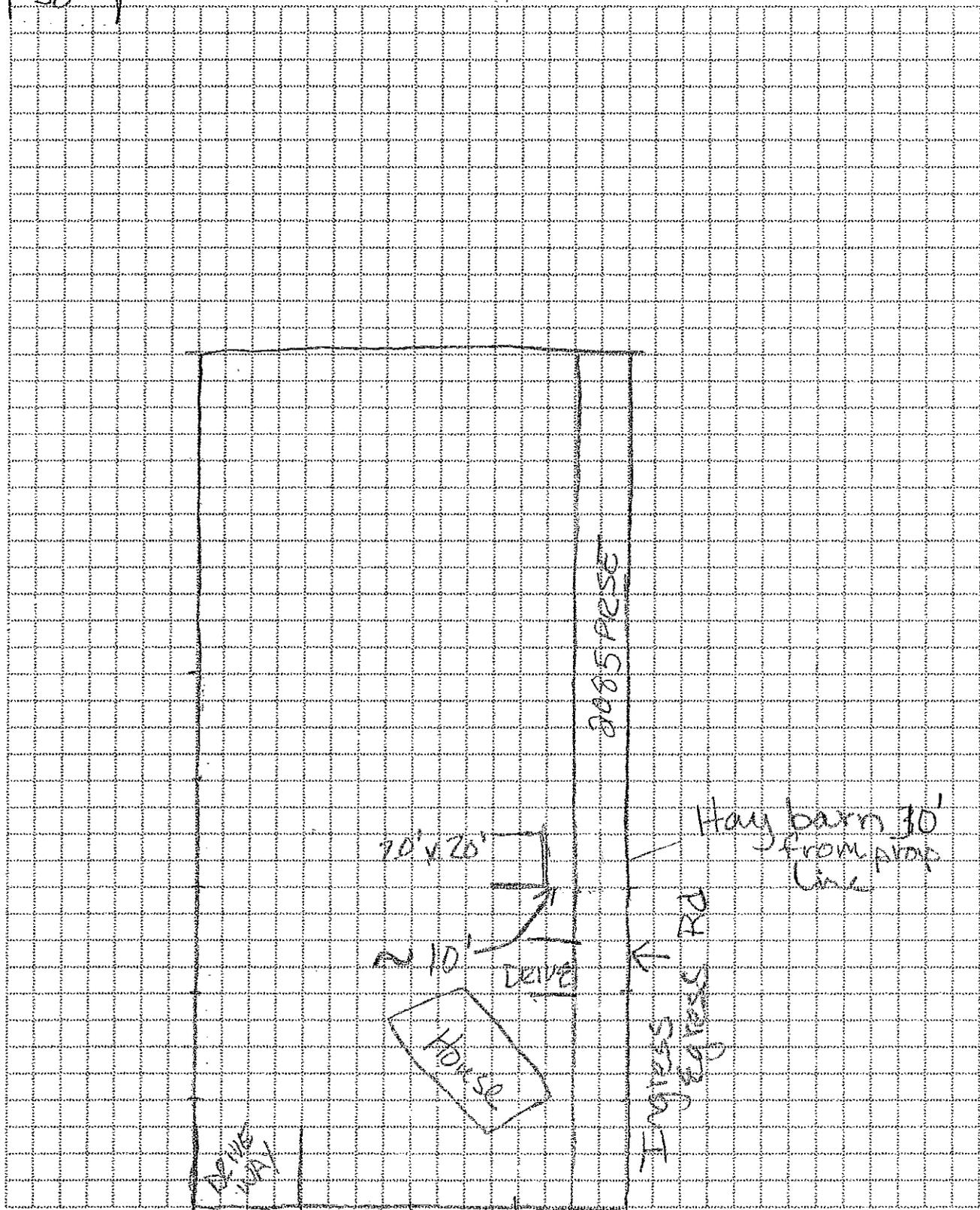
Please specify

PLEASE INDICATE NORTH

50'

400'

N ↑



Bryson
Brown R.

Benton County does not warrant, guarantee, or accept any liability for accuracy, precision or completeness of any information shown herein or for any inferences made therefrom. Any use made of this information is solely at the risk of the user. Benton County makes no warranty, expressed or implied, and any oral or written statement by any employee of Benton County or agents thereof to the contrary is void and ultra vires. The information shown herein is a preliminary product of the Benton County Geographic Information Systems, and is prepared for presentation purposes only.



File No. VAR 09-09
 Date 11-19-2009
 Exhibit No. 4
 Received by ch

193 PR SE

2093 PR SE

SITE

2085 PR SE

2079 PR SE

Bryson-Brewn-Rd



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. VAR 09-09
Date 11-19-2009
Exhibit No. 5
Received by CH

NOTICE OF OPEN RECORD HEARINGS

NOTICE IS HEREBY GIVEN that the following applications have been proposed to the Benton County Board of Adjustment, Benton County, Washington.

VARIANCE REQUEST – VAR 09-08 – The applicant is requesting a variance from BCC 11.08.040(a) for a reduction of four feet from the required 10-foot side yard setback for the addition of a garage onto the existing residence. Location: 4914 W Yellowstone Avenue on Lot 10 of Parkview Acres No. 1 in Section 28, Township 9 North, Range 29 East, W.M. Applicants: Christopher/Monica Burrows – 3105 W Canyon Lakes Drive – Kennewick, WA 99337

VARIANCE REQUEST – VAR 09-09 – The applicant is requesting a variance from BCC 11.60.040(c) for a reduction of 15 feet from the required 25-foot front yard setback from any access easement for the construction of a 20-foot by 20-foot hay barn. Location: 17805 S 2085 PR SE in the East Half of the Northwest Quarter of the Northeast Quarter of Section 16, Township 8 North, Range 30 East, W.M. Applicant: Keith Marks – 17805 S 2085 PR SE – Kennewick, WA 99336

SPECIAL USE PERMIT – SP 09-09 – The applicant is seeking a special use permit for the operation of a home-based breeding kennel for the keeping of up to ten adult dogs. Location: 8229 West 10th Avenue on Lot 3 of Short Plat 2864 in Section 7, Township 8 North, Range 29 East, W.M. Applicants: Terry/Gayla Davis – 8229 West 10th Avenue – Kennewick, WA 99336

NOTICE IS GIVEN that said applications will be considered by the Board of Adjustment of Benton County, Washington at public hearings conducted on Thursday, December 3, 2009 beginning at the hour of 7 p.m. in the Hearing Room - Benton County Planning Department, 1002 Dudley, Prosser, WA 99350. All concerned persons may appear and present any support for or objections to the applications or provide written testimony to the Board of Adjustment in care of the planning department on or before the date of the hearings. More information concerning these actions can be obtained by contacting Clark A. Posey, Senior Planner at the Benton County Planning Department, 1002 Dudley Avenue, P O Box 910, Prosser, WA 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 required 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. It is suggested that if you plan on attending the hearing that you call the Benton County Planning Department the afternoon of the hearing by 4 p.m. to confirm that the hearing will be conducted as scheduled.

Dated at Prosser, Washington on this 16th day of November, 2009.

BRENT CHIGBROW, Chairman
BENTON COUNTY BOARD OF ADJUSTMENT



CLARK A. POSEY – SENIOR PLANNER
BENTON COUNTY PLANNING DEPARTMENT

PUBLISH: Thursday, November 19, 2009

From: Sue Schuetze
To: Clark Posey
Date: 11/18/2009 11:55 AM
Subject: VAR 09-09 MARKS

File No. VAR 09-09
Date 11-19-2009
Exhibit No. 6
Received by CH

RECEIVED

NOV 18 2009

**Benton County
Planning Department**

We have no comments on this application.

Sue Schuetze, Engineer II
Benton County Public Works
P. O. Box 1001
Prosser, WA 99350
509.786.5611 office
509.786.5627 FAX

**Benton County Fire Marshal's
Review of Proposed Planning Applications**

TO: Mike Shuttleworth

File No. VAR 09-09

Date 11-19-2009

Exhibit No. 7

Received by CH

Variance Application VAR 09-09

Date Received 11-12-09 Date Returned 11-15-09

Applicants Comments: Keith Marks, 17805 S. 2085 PR SE, Kennewick, 582-9396, proposes a 10' set back to build a hay barn.

Fire Marshal's Comments:

Required:

Must meet IBC requirements.

RECEIVED

NOV 16 2009

**Benton County
Planning Department**

From: Steve Brown
To: Carel Hiatt
Date: 11/13/2009 7:17 AM
Subject: Re: VAR 09-09 Marks;

RECEIVED

NOV 12 2009

**Benton County
Planning Department**

Permit Req -SB

>>> Carel Hiatt 11/12/2009 4:00 PM >>>
VAR 09-09 Marks; Please review and comment, thank you.

Carel Hiatt
Office Manager
Benton County Planning Department
P O Box 910
1002 Dudley Avenue
Prosser, WA 99350
Tel: 509-786-5612
Fax: 509-786-5629
Email: carel.hiatt@co.benton.wa.us

File No. VAR 09-09
Date 11-19-2009
Exhibit No. 8
Received by ch

Carel Hiatt - RE: VAR 09-09 Marks;

From: "Jason McShane" <JMcShane@kid.org>
To: "Carel Hiatt" <carel_hiatt@co.benton.wa.us>
Date: 11/12/2009 4:29 PM
Subject: RE: VAR 09-09 Marks;

File No. VAR 09-09
Date 11-19-2009
Exhibit No. 9
Received by ch

Carel,

Thanks for the opportunity to comment on this review. The application is outside our District Boundaries.

Thanks,

Jason McShane

From: Carel Hiatt [mailto:carel_hiatt@co.benton.wa.us]
Sent: Thursday, November 12, 2009 4:01 PM
To: Scott Parco; FIRE DISTRICT NO. 1; Benton-Franklin Dist. Health Dept.; Ken Williams; Lyle Cornish; Michelle Johnson; Rick Hall; Rod Worthington; Steve Brown; Tomi Chalk; Jason McShane
Subject: VAR 09-09 Marks;

VAR 09-09 Marks; Please review and comment, thank you.

Carel Hiatt
Office Manager
Benton County Planning Department
P O Box 910
1002 Dudley Avenue
Prosser, WA 99350
Tel: 509-786-5612
Fax: 509-786-5629
Email: carel.hiatt@co.benton.wa.us

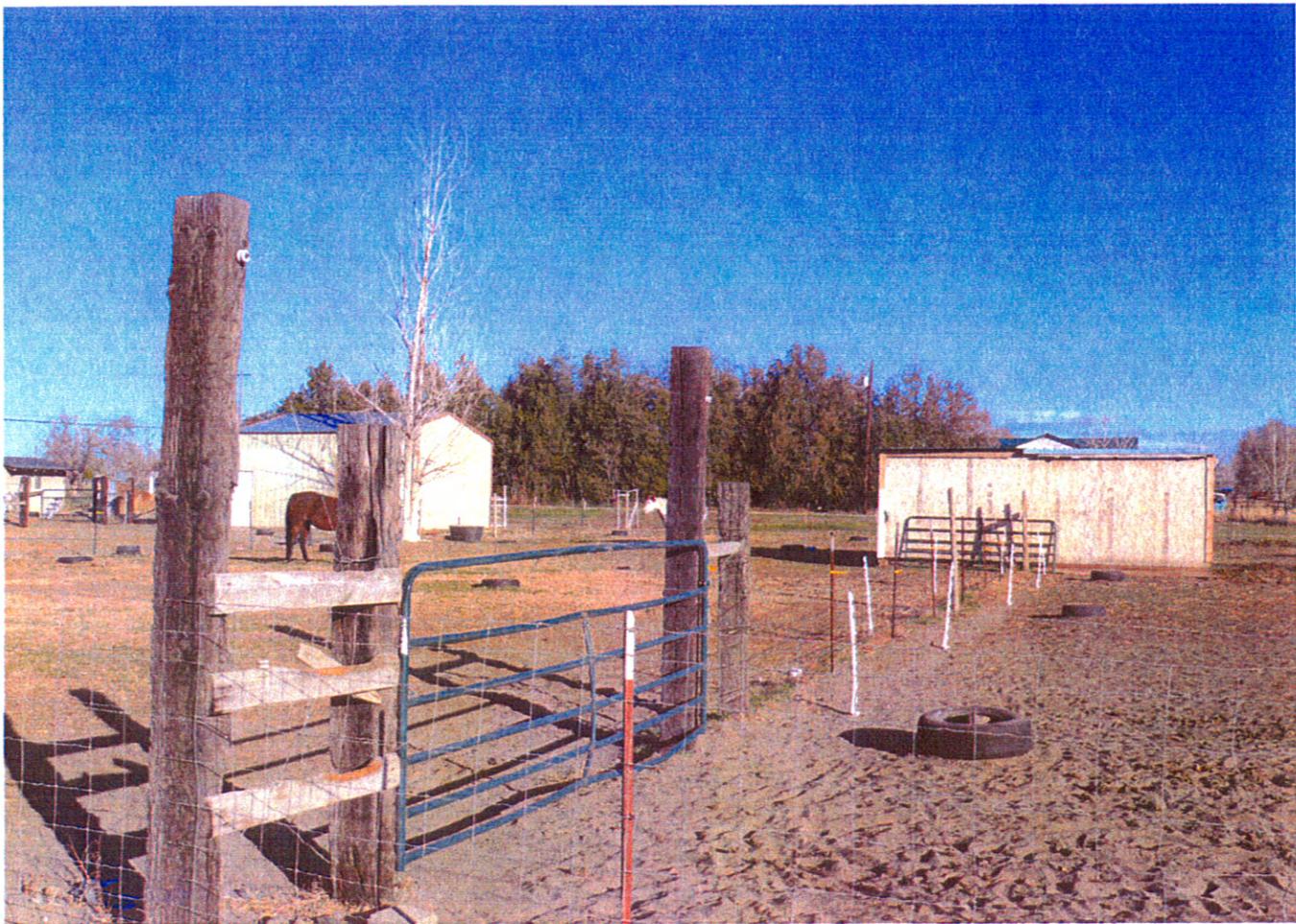
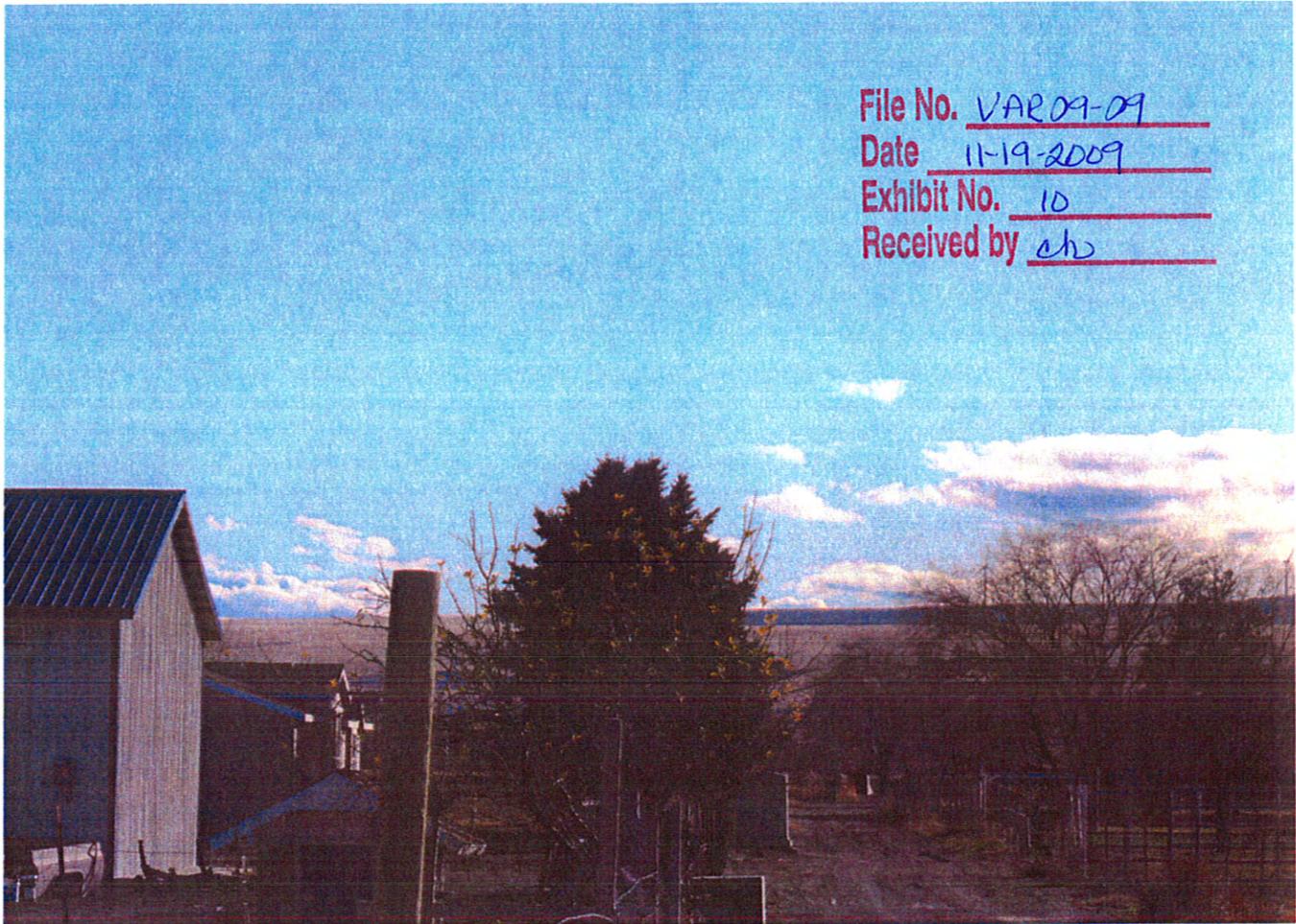
RECEIVED

NOV 12 2009

**Benton County
Planning Department**

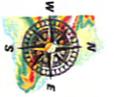
11/18/09

File No. VAR09-09
Date 11-19-2009
Exhibit No. 10
Received by ch









BENTON COUNTY
PLANNING
DEPARTMENT

SECTION 16 TOWNSHIP 8 NORTH, RANGE 30 EAST
VARIANCE APPLICATION 09-09
PRINTED 11/17/09

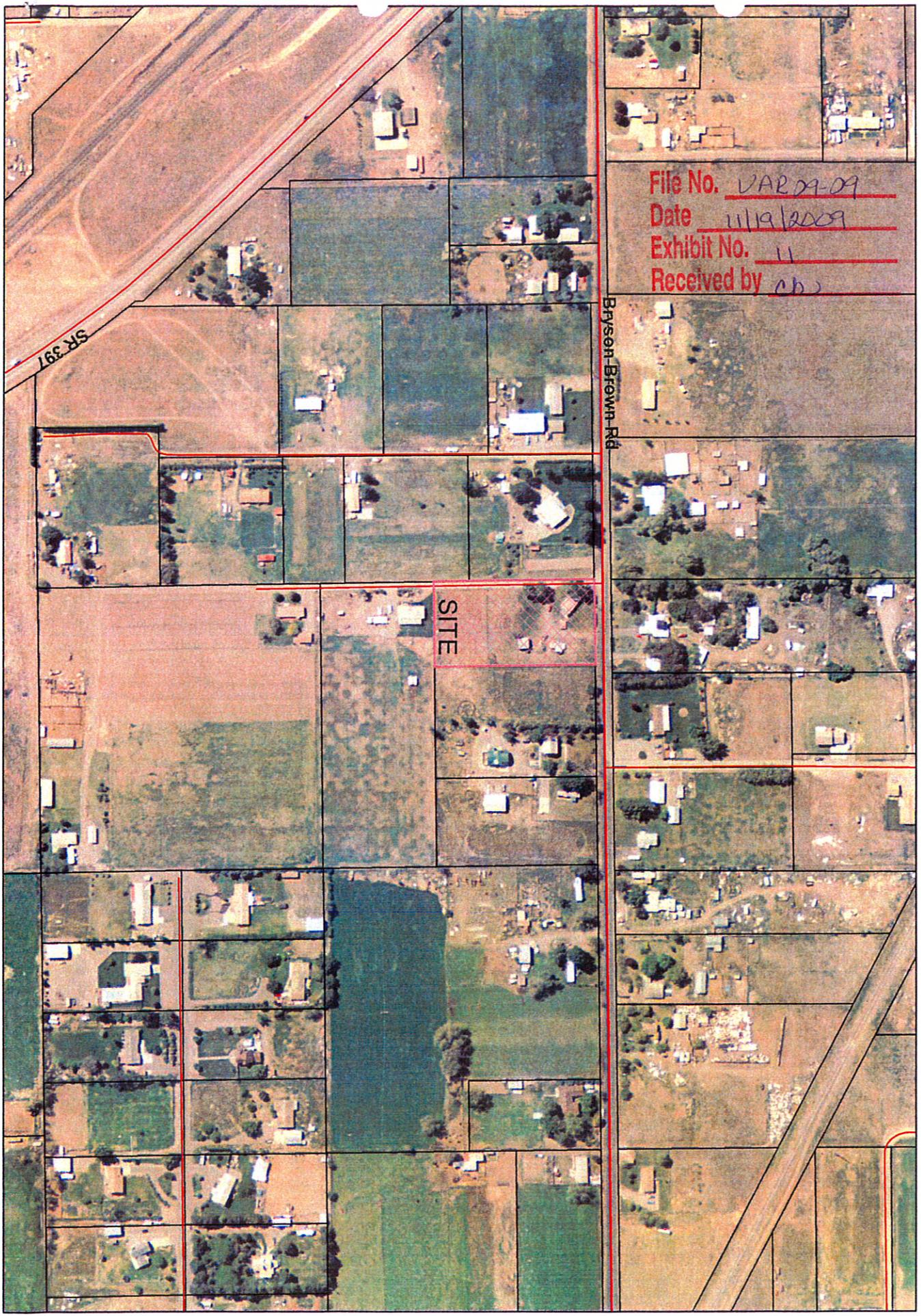
Benton County does not warrant, guarantee, or accept any liability for accuracy, precision or completeness of any information shown hereon. Any use of the information shown hereon is at the user's risk. Benton County is not responsible for any errors or omissions, and any real estate statement by any person or persons in Benton County or agents thereof, contrary to the information shown hereon is void and ultra vires. The information shown hereon is a preliminary product of the Benton County Geographic Information Systems, and is prepared for presentation purposes only.

File No. VAR09-09
Date 11/19/2009
Exhibit No. 11
Received by cb

Bryson Brown Rd

SITE

SR 397



**SPECIAL USE
PERMIT
SP 09-09
TERRY/GAYLA
DAVIS**

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

MEMO DATE: NOVEMBER 19, 2009
MEETING DATE: DECEMBER 3, 2009
TO: BENTON COUNTY BOARD OF ADJUSTMENT
FROM: BENTON COUNTY PLANNING DEPARTMENT
RE: SPECIAL PERMIT APPLICATION – SP 09-09

File No. SP09-09
Date 11/19/09
Exhibit No. 1
Received by ch

APPLICANTS/

PROPERTY OWNERS: TERRY & GAYLA DAVIS, 8229 W. 10th AVE. KENNEWICK, WA 99336

SPECIFIC REQUEST: The applicants, Terry & Gayla Davis, are requesting a special use permit for the operation of commercial dog kennel for the keeping of up to 10 dogs that are older than six months in age.

EXHIBITS:

Exhibit No. 1: Staff Report dated November 19, 2009
Exhibit No. 2: SP 09-09 application and attachments including pictures, contracts, etc.
Exhibit No. 3: Site plan
Exhibit No. 4: Vicinity Map
Exhibit No. 5: Notice of Open Record Hearing, published November 19, 2009.
Exhibit No. 6: Comments from Benton County Dept. Public Works- November 19, 2009.
Exhibit No. 7: Comments from Kennewick Irrigation District- November 9, 2009.
Exhibit No. 8: Comments from Benton County Fire Marshal- November 9, 2009.
Exhibit No. 9: Comments from Benton County Building Department- November 3, 2009.
Exhibit No. 10: Comments from City of Kennewick- November 19, 2009.
Exhibit No. 11: Comments from the Benton Franklin Health District – November 10, 2009
Exhibit No. 12: Section 11.48.010 of the Benton County Code.
Exhibit No. 13: Site photos taken by planning staff on November 18, 2009.
Exhibit No. 14: Aerial Photo of the site taken in 2008.

BACKGROUND:

Site Location: The site is located on a developed site off of 10th Ave., West of the intersection of 10th Ave. and Columbia Center Blvd. in Section 7, Township 8 North, Range 29 East, W.M.

Land Use: The site is currently developed with a single-family dwelling and one detached outbuilding. The surrounding properties are developed for residential and agricultural purposes. The nearest residences are located approximately 150 feet to the west and east.

Zoning: The site and surrounding properties are zoned Unclassified. Parcels north of 10th Ave. are within the City of Kennewick.

Comprehensive Plan Designation: Site and surrounding areas are designated "Urban Growth Area". Parcels to the north of 10th Ave. are within the City of Kennewick.

State Environmental Policy Act: This application is categorically exempt from the requirements of the Washington State Environmental Policy Act, under WAC 197-11-800(13).

APPLICABLE DEVELOPMENT REGULATIONS:

1. The Benton County Code Section 11.48.010(h) (In the Unclassified Zoning District) states that: "Any of the following uses may be allowed by special permit issued by the Benton County Board of Adjustment after notice and public hearing as provided in BCC 11.52.090."

2. Benton County Code Section 11.52.090(a) states:

"Conditional Use/Special Permit-General Standards. The conditional use/special permit application process allows the Board of Adjustment to review the location and design of certain proposed uses, the configuration of improvements, and the potential impacts on the surrounding area. The application process also allows the Board of Adjustment to ensure development in each zoning district protects the integrity of that district. The notice, hearing, decision and enforcement procedures are as set forth herein and in Section 2.

Certain uses are classified as conditional uses/special uses because of their unusual nature, infrequent occurrence, special requirements, or potentially significant impacts to the environment, public infrastructure or adjacent properties, and/or possible safety hazards and other similar reasons.

Once granted, a conditional use/special permit may be transferred by a holder thereof after written notice to the Board of Adjustment; provided the use and location must remain the same and the transferee must continue to comply with the conditions of the permit and, if applicable, the requirements set forth in BCC 11.52.070.

3. Benton County Code Section 11.52.090(d) states:

"Conditional Use/Special Permit—Permit Granted or Denied. A conditional use/special permit shall be granted only if the Board of Adjustment can make findings of fact based on the evidence presented sufficient to allow the Board of Adjustment to conclude that, as conditioned, the proposed use:

- (1) is compatible with other uses in the surrounding area or is no more incompatible than are any other outright permitted uses in the applicable zoning district;
- (2) will not materially endanger the health, safety, and welfare of the surrounding community to an extent greater than that associated with any other permitted uses in the applicable zoning district;
- (3) would not cause the pedestrian and vehicular traffic associated with the use to conflict with existing and anticipated traffic in the neighborhood to an extent greater than that associated with any other permitted uses in the applicable zoning district;

- (4) will be supported by adequate service facilities and would not adversely affect public services to the surrounding area;
- (5) would not hinder or discourage the development of permitted uses on neighboring properties in the applicable zoning district as a result of the location, size or height of the buildings, structures, walls, or required fences or screening vegetation to a greater extent than other permitted uses in the applicable zoning district; and

If reasonable conditions cannot be imposed so as to allow the Board of Adjustment to make the conclusions required above, the conditional use/special permit application shall be denied."

FINDINGS OF FACT:

Based on the application and information received the planning staff makes the following findings.

1. The applicants/property owners are Terry & Gayla Davis, 8229 W. 10th Ave., Kennewick, WA 99336.
2. The applicants are requesting approval of a Special Permit Application for the operation of a commercial dog kennel for up to 10 adult dogs on a 0.85-acre parcel.
3. The application for SP 09-09 was submitted to Benton County on October 29, 2009, and declared complete on November 3, 2009.
4. Special Permit 09-09 did not require that a Notice of Application be published.
5. The notice for the Benton County Board of Adjustment Open Record Hearing was published on November 19, 2009, in the Tri-City Herald and mailed to property owners of record within 300 feet of the outer boundaries of the parcel. The Open Record Hearing is scheduled for December 3, 2009.
6. Special Permit Application SP 09-09 is categorically exempt from the requirements of the Washington State Environmental Policy Act, under WAC 197-11-800(13).
7. The site is currently developed with a single-family dwelling and one outbuilding. The surrounding properties are developed for residential and agricultural purposes. The nearest residences are located approximately 150 feet to the west and east.
8. The site and surrounding properties are zoned Unclassified. Parcels north of 10th Ave. are within the City of Kennewick.
9. The Benton County Comprehensive Plan designated the site and surrounding areas as "Urban Growth Area". Parcels to the north of 10th Ave. are within the City of Kennewick.
10. The Benton County Department of Public Works, Benton County Building Department,

Benton County Fire Marshal and Kennewick Irrigation District do not have any requirements for this application.

11. This application was routed to, but had no comments from: Benton County Fire District #1, Benton Clean Air Authority, Washington State Department of Health, Benton County Code Enforcement Officer, Washington State Department of Ecology, Benton PUD, and Verizon.
12. Typically, the Board of Adjustment has approved special permit applications for dog kennels when the animals are housed in kennels indoors with sheetrock siding to minimize noise and with proper ventilation. The housing of dogs inside of residences is not permissible due to sanitary purposes.
13. The applicants have stated in their application that they do intend to have no more than 10 adult dogs.
14. The applicants did not address in their application how waste from the animals would be handled. Any waste must be disposed of according to state and local laws.
15. The special permit application does not request any signs, nor on-site employees and that there would be no business hours.
16. The City of Kennewick commented that kennels are not permitted in residential zoning within city limits, however an additional animal permit can be granted if the applicant can meet certain criteria regarding odors, noise, acceptable standards of animal care and prevention of roaming animals.
17. No comments have been received from property owners within 300 feet of the perimeter of the lot for which the permit is being requested.
18. The proposed use would not materially endanger the health, safety, and welfare of the surrounding community to an extent greater than that associated with any other permitted uses in the Unclassified zoning districts such as schools, churches, libraries, community club houses, stills, packaging sheds and five borders and/or lodgers in any one family dwelling unit. There is no testimony that this application would be detrimental.
19. The proposed use as shown in the application would not cause the pedestrian and vehicular traffic associated with the use to conflict with existing and anticipated traffic in the neighborhood to an extent greater than that associated with any other permitted uses in the Unclassified zoning districts such as schools, churches, libraries, community club houses, stills, packaging sheds and five borders and/or lodgers in any one family dwelling unit. Seeing as the kennel facility will not be open to the public there should not be any additional traffic.
20. The proposed use as shown in the application would be supported by adequate service facilities, if the conditions as requested by the Planning Staff were required. The proposed use would not adversely affect public services to the surrounding area. There is no evidence to support that the site would not be adversely affected. The residence on site is served by all the necessary services.

21. The surrounding area is not completely developed however, the proposed use as shown in the application is unlikely to hinder or discourage the development of permitted uses on neighboring properties in the Unclassified Zoning District as a result of the location of the dog kennel if the conditions as requested by the Planning Staff were required.
22. The Benton Franklin Health District had the following comments:
This office has reviewed the referenced proposal and has no objections provided:
 1. The dwelling will be served by an on-site sewage disposal system that is permitted, installed and approved in accordance with the Benton Franklin District Board of Health Rules and Regulations No. 2.
 2. The system currently in use is designed to accommodate a three-bedroom dwelling and is not to be used for washing dogs.
 3. The Washington State Department of Ecology should be contacted regarding disposal of dog waste, including hair from washings, which must not be discharged into the sewage disposal system.

DISPOSITION OF THE APPLICANT'S REQUEST:

A conditional use/special permit shall be granted only if the Board of Adjustment can make findings of fact based on the evidence presented sufficient to allow the Board of Adjustment to conclude that, as conditioned, the proposed use:

- (1) is compatible with other uses in the surrounding area or is no more incompatible than are any other outright permitted uses in the applicable zoning district;**
- (2) will not materially endanger the health, safety, and welfare of the surrounding community to an extent greater than that associated with any other permitted uses in the applicable zoning district;**
- (3) would not cause the pedestrian and vehicular traffic associated with the use to conflict with existing and anticipated traffic in the neighborhood to an extent greater than that associated with any other permitted uses in the applicable zoning district;**
- (4) will be supported by adequate service facilities and would not adversely affect public services to the surrounding area;**
- (5) would not hinder or discourage the development of permitted uses on neighboring properties in the applicable zoning district as a result of the location, size or height of the buildings, structures, walls, or required fences or screening vegetation to a greater extent than other permitted uses in the applicable zoning district; and**

CONDITIONS OF APPROVAL:

If the Board of Adjustment decides to approve Special Permit Application 09-09, based on the information presented at the public hearing and after making such findings that support that decision, the Planning Department recommends that the following conditions be included:

1. Applicants shall not conduct any of the activities within the scope of Special Permit 09-09 until they are in compliance with all the conditions set forth herein. The applicants shall notify the Benton County Planning Department in writing when the conditions set forth herein have been completed. The Planning Department shall not issue the special permit until those conditions have been met. The special permit shall not become effective until issued by the Planning Department.
2. If the conditions of approval have not been met and the Planning Department does not issue the special permit within one (1) year from the time the Board of Adjustment conditionally approved the special permit, the Board of Adjustment may declare it's approval null and void at a regular Board of Adjustment meeting. Prior to doing so, the applicants shall be notified in writing at the applicant's last known address at least twelve (12) days in advance of the upcoming Board of Adjustment meeting.
3. That the applicants continue to meet the requirements sent from the Benton-Franklin Health District to the Benton County Planning Department as outlined in the November 10, 2009 letter. The applicants are to provide the Planning Department written verification that all of the Health District's requirements have been met. The applicants shall continue to meet all such requirements while Special Permit SP 09-09 is in effect.
4. The requested special permit shall not be granted for the keeping of more than 10 dogs (6 months and older) on the site. The applicants shall continue to meet all such requirements while Special Permit SP 09-09 is in effect.
5. That between the hours of 9 p.m. and 7 a.m. the dogs be kept in a kennel that is indoors with insulated walls and ceiling and sheetrock interior to minimize noise and with proper ventilation. The housing of dogs inside a residence is not permissible due to sanitary conditions. The applicants shall continue to meet all such requirements while Special Permit SP 09-09 is in effect.
6. That the property owner and the proprietor(s) of the business shall comply with all requirements of the Benton County Building Department, the Benton County Fire Marshal, the Benton-Franklin Health Department, and all other local, state and federal regulations pertinent to the special permit pursued. The requirements of or permission granted by the Board of Adjustment shall not be construed as an exemption from such regulations. The applicants shall continue to meet all such requirements while Special Permit SP 09-09 is in effect.
7. That any waste created as a result of the special permit must be disposed of off-site in compliance with all local, state and/or federal regulations. The applicants shall continue to meet all such requirements while Special Permit SP 09-09 is in effect.
8. To comply with the City of Kennewick's standards for an additional animal permit, the yard for which the dogs are located must be enclosed with a six-foot high fence that is resistant to tunneling. The applicants shall continue to meet all such requirements while Special Permit SP 09-09 is in effect.
9. As requested in the application, the proposed kennel by the applicants does not have any non-resident employees and that no signs are to be used to identify the kennel. The

applicants shall continue to meet all such requirements while Special Permit SP 09-09 is in effect.

10. That the applicant obtains a building permit from the Benton County Building Department for the construction of a kennel facility.

BENTON COUNTY PLANNING DEPARTMENT
CONDITIONAL USE/SPECIAL PERMIT APPLICATION

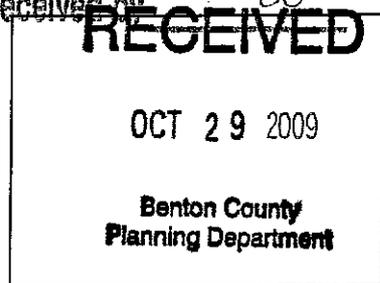
FILE NO. SP09-09

File No. SP09-09

Date 11/19/09

Exhibit No. 2

Received by CB



27110

1. Applicant Name Terry & Gayla Davis
Applicant Address: 8229 W 10th Ave
Kennewick WA 99336
Telephone number: Home 509.539.1619 Work 509.372.4612

2. Legal owners name: Same
Legal Owners address: Same
Telephone number: Home Same Work Same

3. Parcel Number or Legal description of property for which permit is for: Lot 3, Short Plat #2864
Auditor's Recording #2005-010211 107891012864003 .85 AC

4. If you are amending a previous conditional use/special use permit - please list the file number(s):
N/A

5. The Conditional Use/Special Permit is requested to conduct the following use: **Please be as specific and detailed as possible. Use additional paper if necessary.** Operation of a home-based Breeding Kennel (See Attached)

6. The property will be served by:
WATER: Well X Private System X City System _____
SEWER: Septic Tank X City Sewer _____
POWER: PUD X REA _____
PHONE: Yes X No _____ Name of Utility Verizon
GAS: Yes _____ No X Name of Utility _____
CABLE: Yes _____ No X Name of Utility _____
IRRIGATION: Yes X No _____ Name of Utility KID
PRIVATE IRR. Yes _____ No X

7. Total acres of property: 0.85 Zoning Classification of Property: _____
Comprehensive Plan Designation _____

8. Describe existing structures and/or uses currently existing on your property, such as well, septic residential dwelling, garage, etc.: Septic, residential dwelling with attached garage 12'X10' out building (Dog House) and Kennel Runs

9. Describe existing structures and present land uses in the surrounding area of your property: Residential structure as well as out building for agriculture and keeping animals (horses, chickens, cattle); Orchards & ~~Land~~ Vineyards

10. Please answer the following questions. **PLEASE BE SPECIFIC - USE ADDITIONAL PAPER IF NECESSARY.**
a. Is there a residence on site? Yes X No _____
b. Does at least one of the proprietors of the business own or lease the property where the business and the residence are located? Yes X No _____
c. Does at least one of the proprietors live in said residence? Yes X No _____
d. List the number of non-resident employees. 0
e. What is the **total** square footage of the detached building to be used for the business? 120 sq'ft'
f. What is the **total** square footage that will be used for the business activity? 579
g. Is only one detached building to be used for the business activity? Yes X No _____
h. Are any signs going to be used with the business activity? Yes _____ No X

If Yes, give the number, height and sizes of the sign(s) include a drawing of the sign to be used.

- I. State the number of vehicles marked to identify the business to be stored on site. One 14' utility trailer may be mrked in the future (see attached)
- j. List the number of off street parking spots 0
- k. What County Road does the site access off of? West 10th Ave
- L. List the preferred office hours for the presence of customer/clients and non-resident employees. Days of the week as a breeding kennel we have no Hours of Operation specific office hours (see attached)

- 11. Applicant shall attach a site plan of the property, drawn to a scale of one inch equals fifty feet (1"=50') or one inch equal 100 feet (1"=100') unless otherwise specifically approved by the Planning Department, showing the following information.
 - A. Dimensions of the property.
 - B. Location and size of the proposed use, number of parking spaces, etc., complete with distances between buildings and all property lines.
 - C. Location and size of existing structures, complete with distances, buildings and all property lines.
 - D. All streets, roads, easements, and rights-of-way located on or adjacent to this property. (Label structures and roadways)
 - E. Label and Show a floor plan for the structure to be used for the Business Activity.

COMMENTS OR PERTINENT INFORMATION:
(See Attached)

I certify that the information given above is true and complete.

Signature Block for individuals only.

<u>Terry L. Davis</u> Applicant's Signature	<u>Terry L. Davis</u> Print Name	<u>10/27/09</u> Date
<u>Terry L. & Gayla R. Davis</u> Signature of Legal Owners	<u>Terry L. & Gayla R. Davis</u> Print Name	<u>10/27/09</u> Date
<u>Gayla R. Davis</u> Signature of Person with additional ownership interest	<u>Gayla R. Davis</u> Print Name	<u>10/27/09</u> Date

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.

If the applicant is a corporation/partnership/LLC etc. please use the following signature block.

Applicant: _____

By: _____ (print name) _____ (Title)

FOR OFFICIAL USE ONLY:

CRITICAL AREA REVIEW COMPLETED
BY [Signature] ON 10/30/09

APPLICATION APPROVED FOR PROCESSING
BY [Signature] ON 10/30/09

Signature: _____
(Signature) (Title)

The above signed officer of _____ warrants and represents that all necessary legal and corporate actions have been duly undertaken to permit _____ (name of entity) to submit this application and that the above signed officer has been duly authorized and instructed to execute this application.

(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.)

Any information submitted to the Benton County Planning 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.

NOTE: THE CONDITIONAL USE/SPECIAL PERMIT APPLICATION FEE OF \$250.00 and THE \$100.00 APPLICANT FEE FOR THE SEPA CHECKLIST, IF REQUIRED, MUST BE SUBMITTED WITH THE APPLICATION. THESE FEES ARE NON-REFUNDABLE. PLEASE MAKE YOUR CHECK PAYABLE TO THE BENTON COUNTY TREASURER. THERE ARE NO GUARANTEES THAT YOUR APPLICATION WILL BE APPROVED.

3/13/09

RECEIVED

Benton County Planning Department
Conditional Use/Special Permit Application
Supplemental Info

OCT 29 2009

Benton County
Planning Department

Additional information for items 5, 8, & 10 as well as other pertinent information:

This Conditional Use/Special Permit has been submitted to gain approval for housing up to 10 adult dogs (Bearded Collies) at our residence at 8229 W. 10th Ave., Kennewick, Washington. Normally we will house 7 to 8 Bearded Collies maximum but request approval for up to 10 for the following reason. We sell all our puppies with the general term and condition for Pet/Companion Puppy Sales that states "If at any time the Buyer is unable to keep or care for the puppy/dog, it must be returned to the Seller. The puppy/dog may not be transferred or sold by the Buyer without the expressed written consent of the Seller. The puppy/dog will be returned with all AKC papers and medical records." The underlined section is stricken from the Show/Breeding Quality Prospect Puppy contract. Although we have never had a dog returned we would need the capability to take one back should the need arise. Dogs returned would be placed in a new home as soon as possible. Copies of our standard contracts are enclosed.

We are a small, home-based, breeding kennel and have been training, showing and breeding Bearded Collies for 8 years. Our kennel name is Hillndell Bearded Collies, which is utilized in the registration of all our dogs with the American Kennel Club (AKC). It is important to note that we are a "breeding kennel" versus a "boarding kennel." We only house our own dogs and do not board any dogs for others at any time, nor do we have any employees.

This October we purchased the home at 8229 W. 10th Ave., Kennewick which is in Benton County. Up until that time we had resided in Richland, Washington. As stated earlier we are a small breeding kennel and currently have 6 Bearded Collies (4 female and 2 male) and are currently looking for a home for the youngest male. Additional information regarding Hillndell Bearded Collies and each of the Beardies currently residing with us can be found on our web page at hillndellbeardedcollies.com. We average one breeding approximately every two and one half years and over the eight years we have been breeding Bearded Collies we have had three litters (a total of 8 puppies). Our two oldest girls have been retired and will no longer be utilized for breeding. Our next oldest girl is 2 years old and has not yet received her AKC championship. We do not anticipate breeding her for approximately 2 years. The other female is our newest puppy and just turned 6 months. Information on all but the puppy is also enclosed.

Our Bearded Collies are first our pets and companions, secondly show dogs and thirdly breeding stock. We, like all responsible breeders, strive to produce high quality, healthy puppies with excellent temperament, soundness and correct breed type. We are members in good standing with both the Bearded Collie Club of America (BCCA) and the Northwest Bearded Collie Club of Puget Sound and adhere to the BCCA Code of Ethics (enclosed). We do not sell puppies to pet stores, wholesale dealers, contest sponsors or any buyer who we feel will not properly care for the dog. Both the Dam and Sires of our litters have obtained their AKC championship and have undergone health checks to include x-rays for hip-dysphasia and checked for eye and/or thyroid problems. Whether a show prospect or a family pet we strive to ensure our puppies and the owner are well-matched and will be happy with each other for years to come. As mentioned

before, all puppies are sold by private written contract. Our puppies are registered with the American Kennel Club and Registration Papers are supplied to new owners along with a copy of the pedigree, veterinary records, vaccination schedule, feeding instructions and information on the breed and raising a puppy.

The residence at 8229 W. 10th Ave., Kennewick was the only structure on the 0.85 acre lot when we purchased the home in October of this year. Since that time we have erected a 6 foot cedar privacy fence with 10 inch concrete mow strips around the entire back yard and constructed a small (12' x 10') outbuilding which provides for two separate rooms (dog houses) with approximately 9' x 24' attached runs also with 10" mow strips. This structure is the only detached building to be used for our breeding kennel. All other functions of our breeding kennel are completed within the residence. One 11x17 room is utilized as a grooming room and when necessary as a whelping room. Also, a second utility room in the basement of the home (9x17) will be utilized for bathing the dogs and the den (10x12) on the main floor of the home will be utilized for file storage and conducting all contractual business for the kennel. These rooms along with the aforementioned outbuilding equates to a total of 579 sq ft of space to be utilized for Hillndell Bearded Collies.

As mentioned earlier we do not board dogs for others and therefore visitors to the residents is limited to times when we have a litter and during that timeframe we may average two to four potential clients visiting to view puppies. We therefore have no specific "office hours." Some puppies may be purchased by owners all across the country and Canada and are often driven to a point to meet the new owners or flown to their new home and therefore they never visit the residence. That said there is ample parking space for 3 or more vehicles in the front of the residence which is situated well off the main street (see plot plan).

Regarding signage for Hillndell Bearded Collies no signs will be utilized with the business activity; however, we do own a 14' white utility trailer which is used to carry dog crates and other equipment to dog shows. In the future we may have our logo (see example below) placed on the side of the trailer with contact information. This trailer will be stored at the residence, well off the main street and will not be visible from the main street.

*Hillndell
Bearded Collies*

Kennewick, WA
(509) 539-1619
www.HillndellBeardedCollies.com



To recap, we are a small home-based Breeding Kennel which we do for the love of the breed. Should this request not be approved we will be forced to find new homes for three of our current Beardies and cease our breeding program so as to be compliant with Benton County ordinances. The outbuilding and kennels would still be utilized to safely house our remaining three Beardies.



Hillndell Bearded Collies
Pet/Companion Puppy Sales Contract



This agreement is made and entered into this ____ day of ____, 20__ by and between Hillndell Bearded Collies (Seller) located at 206 Cullum Ave., Richland, WA 99352, phone number (509) 943-2076 and ____ (Buyer) located at ____, phone number () ____-____, for the purpose of setting forth the terms and conditions of purchase by the Buyer of a ____ with white markings Female, Male purebred pet/companion quality Bearded Collie, whelp # ____ from the litter whelped on ____, ____, 20__ out of:

SIRE: ____

AKC# ____ OFA-hips: ____

DAM: ____

AKC# ____ OFA-hips: ____

For \$____, the Seller agrees to sell and the Buyer agrees to purchase the pet/companion puppy from the litter described above as an Outright Purchase/Ownership Co-Ownership and subject to the following terms and conditions.

Hereinafter referred to as “puppy/dog” has been sold to Buyer by Seller as a “pet/companion” quality Bearded Collie. Pet/companion quality is defined as a puppy/dog that has a disqualifying fault or other shortcoming that precludes conformation showing and/or breeding. Said fault does not prevent the puppy/dog from living an otherwise normal and healthy life nor preclude it from participation in other performance events such as Obedience, Agility, Herding or other such events. Seller warrants that the above described puppy/dog is a purebred Bearded Collie registerable with the American Kennel Club.

WARRANTY OF HEALTH AND TEMPERMENT TERMS AND CONDITIONS

- 1) Seller warrants that puppy/dog is in good health and has received appropriate medical inoculations, worming and care. Seller will provide Buyer with a medical chart detailing treatment puppy/dog has received under Seller's care, and any future care Seller feels is essential to puppy/dog's well being.
- 2) Seller warrants that puppy/dog is in good health at the time Buyer assumes custody. Buyer agrees to have the puppy/dog examined by a licensed Veterinarian within 72

Hillndell Bearded Collies
Pet/Companion Puppy Sales Contract

hours (not including weekends and holidays) of receipt of the puppy/dog. If, as a result of the examination, the Veterinarian determines that the puppy/dog is not in good health then the Buyer shall elect to keep the puppy/dog or return the puppy/dog to the Seller for a refund. If the Buyer elects to return the puppy/dog, Buyer, shall within 10 days after the date of the signing of this contract, send to Seller by certified mail a written Veterinarian's certificate stating that the puppy/dog was in ill health when examined. Upon receipt by Seller of said certificate, Buyer shall be obligated to return the puppy/dog to Seller at Buyers expense. Upon receipt of the puppy/dog, the Seller shall be obligated to refund 100% of purchase price (\$_____) of the puppy/dog, and further performance under this contract shall be null and void. All action taken to return the puppy/dog shall be done with the best interest of the puppy/dog in mind.

- 3) The Buyer agrees to maintain the puppy/dog's health with yearly veterinary checkups and vaccinations as specified by their veterinarian, a good quality diet, adequate exercise and most importantly affection.
- 4) The Buyer agrees to contact the Seller immediately if any questions or concerns arise about the puppy/dog, such as housing, diet, health or training. The Buyer agrees to keep the Seller informed of any treatment as it occurs. This provides the Breeder/Seller with an opportunity to follow-up on puppies and gives important feedback and information on the health of our Beardies for future generations.
- 5) Should the puppy/dog become ill or unsound all costs of treatment will be the responsibility of the Buyer.
- 6) The Buyer agrees that the puppy/dog will reside at the home of the Buyer, have access to a fenced yard, not be chained or tethered, not be allowed to roam free or be carried loose in an open pickup truck bed, and will be provided with proper housing.
- 7) The Buyer agrees to obtain and bare the costs for OFA hip certification as soon as possible after the puppy/dog reaches 24 months of age. This assists the breeder/Seller's breeding program continue to provide the healthiest and soundest Beardies possible. The Buyer's understanding and acceptance of this condition is signified here by his/her initials: _____
- 8) Seller strongly recommends and the Buyer agrees to provide appropriate training and provide proper socialization opportunities for puppy/dog.
- 9) Seller shall not be held responsible for acts of puppy/dog, which are due to Buyers negligence.

Hillndell Bearded Collies
Pet/Companion Puppy Sales Contract

GENERAL TERMS AND CONDITIONS

- 1) If at any time the Buyer is unable to keep or care for the puppy/dog, it must be returned to the Seller. The puppy/dog may not be transferred or sold by the Buyer without the expressed written consent of the Seller. The puppy/dog will be returned with all AKC papers and medical records. The Buyer's understanding and acceptance of this condition is signified here by his/her initials: _____
- 2) The Seller will endeavor to place any returned puppy/dog as advantageously as possible. If a purchase price is obtained for the puppy/dog, it will be refunded to the original Buyer, less any costs of placement. If the puppy/dog is placed free of charge, no money will be returned to the original Buyer. No veterinary or other costs of keeping the puppy/dog, or any other costs incurred by the Buyer resulting from his/her ownership of the puppy/dog, will be paid by the Seller to the original Buyer of the puppy/dog under any circumstances.
- 3) The Buyer agrees to spay neuter the puppy/dog within three months of purchase or by 12 months of age and provide to the Seller veterinarian confirmation of this procedure. The Buyer's understanding and agreement that the puppy/dog is not intended for breeding; is being sold on limited registration, which prohibits breeding and AKC registering of offspring; and confirmation of the spay neuter procedure must be provided to the Seller is signified by his/her initials: _____.
- 4) The kennel prefix or suffix "Hillndell" must be used in the AKC registered name of the puppy/dog and no other prefix or suffix may be utilized without the expressed written consent of the Breeder/Seller. The registered name must be agreed upon by both the Breeder/Seller and Buyer and will not be changed for any reason, throughout the puppy/dog's life. The Buyer's understanding and acceptance of this condition is signified here by his/her initials: _____
- 5) AKC Registration papers have been provided with the final sale or will be provided to the Buyer immediately upon receipt from the AKC if they are still being processed.
- 6) Buyer agrees that he/she is not acting as an agent in the purchase of this puppy/dog and that Buyer will not sell or otherwise provide this puppy/dog to any agent, pet store, wholesale outlet, raffle or auction, or guard dog business at any time.
- 7) The Buyer agrees to allow the Seller access to the puppy/dog, and to the premises where it is kept, to evaluate the condition therein.
- 8) If at any time the Seller finds that the puppy/dog is being kept, treated or allowed to behave in a manner not acceptable to him/her, the Buyer agrees to surrender the puppy/dog and all of its registration documents, with ownership transfer properly signed, to the Seller.

Hillndell Bearded Collies
Pet/Companion Puppy Sales Contract

- 9) The Buyer agrees to notify the Breeder/Seller of any changes of address during the puppy/dogs lifetime.
- 10) Buyer and Seller agree that this Contract/Agreement will be governed by the laws of the State of Washington and may not be altered, modified or rescinded unless agreed to in writing by Buyer and Seller.

The undersigned agree to uphold all terms and conditions of this Contract. No other warranties or guarantees, expressed or implied, are made under this contract except as stated above. If either party is forced to take legal action to enforce any part of this contract, action shall be in the county of the Breeder's residence.

Buyer: _____

Signature: _____ Date: _____

Buyer: _____

Signature: _____ Date: _____

Seller: Terry L. Davis, Hillndell Bearded Collies

Signature: _____ Date: _____

Seller: Gayla R. Davis, Hillndell Bearded Collies

Signature: _____ Date: _____



Hillndell Bearded Collies
Show/Breeding Quality Prospect Puppy
Sales Contract



This agreement is made and entered into this ____ day of ____, 20____ by and between Hillndell Bearded Collies (Seller) located at 206 Cullum Ave., Richland, WA 99352, phone number (509) 943-2076 and ____ (Buyer) located at ____, phone number () ____ - ____, for the purpose of setting forth the terms and conditions of purchase by the Buyer of a ____ with white markings Female, Male purebred show/breeding quality Bearded Collie, whelp # ____ from the litter whelped on ____, ____, 20____ out of:

SIRE: ____

AKC# ____ OFA-hips: ____

DAM: ____

AKC# ____ OFA-hips: ____

For \$____, the Seller agrees to sell and the Buyer agrees to purchase the show/breeding quality puppy from the litter described above as an Outright Purchase/Ownership Co-Ownership and subject to the following terms and conditions.

BREED/SHOW PROSPECT TERMS AND CONDITIONS

Hereinafter referred to as "puppy/dog" has been sold to Buyer by Seller as "breed/show prospect". Breed/show prospect shall be understood to mean that no disqualifying faults as defined in the Bearded Collie of America standard are evident at time of sale and further that no genetic disorders are immediately apparent.

- 1) Should Puppy develop any disqualifying faults as defined in the Standard, or be diagnosed with any genetically derived medical disorder which is confirmed by two unassociated veterinarians, thereby causing Buyer and Seller to agree that Puppy cannot ethically be bred, Seller will, upon provision of veterinary reports and, where applicable, Orthopedic Foundation for Animals (OFA) report, or Canine Eye Registration Foundation (CERF) certification, provide Buyer with one of the following options.
 - a) Should Buyer choose to keep Puppy and accept refund, Seller will refund \$____ of the purchase price of \$____. Puppy must be spayed or neutered before refund check will be issued, and Buyer's veterinarian of choice must provide spay/neuter certificate to Seller.

Hillndell Bearded Collies

Show/Breeding Quality Prospect Puppy Sales Contract

- b) Should Buyer choose to relinquish ownership of Puppy to Seller, Seller will refund purchase price less any shipping or miscellaneous charges necessary for transportation of Puppy to Seller.
 - c) Should Buyer choose to keep Puppy and accept a replacement breed quality puppy, Buyer must pay pet price (\$_____) and any shipping or miscellaneous charges associated with transport of replacement puppy. Upon receipt of spay/neuter certificate and \$_____ Seller will provide a replacement breed quality puppy as soon as such a puppy is available to Seller.
- 2) Buyer agrees that puppy/dog shall not be used for breeding purposes until the puppy/dog has received the following certifications:
 - a. Orthopedic Foundation for Animals (OFA) Certification of hips has been received.
 - b. OFA thyroid normal certification.
 - c. The Canine Eye Registration Foundation (CERF) within 12 months of planned breeding.
 - 3) This puppy/dog is sold with the strong desire that the dog be shown in conformation if he/she develops true to the standard of the breed. The benefits of obedience training have been emphasized and competitive obedience and/or the participation in other performance competitions is encouraged.
 - 4) Seller in no way guarantees that this puppy/dog shall win in conformation and/or performance events.
 - 5) Buyer acknowledges that special coat care, conditioning, training and feeding are necessary to produce a competitive Bearded Collie in conformation and performance events. This care and training is acknowledged by the Buyer to be his/her responsibility.
 - 6) Seller agrees to provide advice and information on showing and grooming to the best of their ability, to help the Buyer present the puppy/dog to its best potential.

WARRANTY OF HEALTH AND TEMPERMENT TERMS AND CONDITIONS

- 1) Seller warrants that puppy/dog is in good health and has received appropriate medical inoculations, worming and care. Seller will provide Buyer with a medical chart detailing treatment puppy/dog has received under Seller's care, and any future care Seller feels is essential to puppy/dog's well being.
- 2) Seller warrants that puppy/dog is free of life threatening diseases or disabilities for 72 hours after delivery to Buyer. Should life threatening diseases or disabilities be discovered by Buyer within 72 hours after receipt of puppy/dog, and certified to in writing to Seller by Buyer's veterinarian, Seller will provide Buyer with a replacement breed quality puppy as soon as such a puppy is available to Seller, or refund 100% of purchase price (\$_____). No veterinary or shipping costs will be reimbursed by the Seller. Seller strongly recommends that Buyer have puppy/dog examined by a licensed veterinarian of Buyers choice within 72 hours of receipt of puppy/dog.
- 3) The Buyer agrees to maintain the puppy/dog's health with yearly veterinary checkups and vaccinations as specified by their veterinarian, a good quality diet, adequate exercise and most importantly affection.

Hillndell Bearded Collies
Show/Breeding Quality Prospect Puppy Sales Contract

- 4) The Buyer agrees to contact the Seller immediately if any questions or concerns arise about the puppy/dog, such as housing, diet, health or training. The Buyer agrees to keep the Seller informed of any treatment as it occurs. This provides the Breeder/Seller with an opportunity to follow-up on puppies and gives important feedback and information on the health of our Beardies for future generations.
- 5) Should the puppy/dog become ill or unsound all costs of treatment will be the responsibility of the Buyer.
- 6) The Buyer agrees that the puppy/dog will not be allowed to roam free or be carried loose in an open pickup truck bed.
- 7) Seller strongly recommends and the Buyer agrees to provide appropriate training and provide proper socialization opportunities for puppy/dog.
- 8) Seller shall not be held responsible for acts of puppy/dog, which are due to Buyers negligence.

GENERAL TERMS AND CONDITIONS

- 1) If at any time the Buyer is unable to keep or care for the puppy/dog, it must be returned to the Seller. The puppy/dog may not be transferred or sold by the Buyer. The puppy/dog will be returned with all AKC papers and medical records. The Buyer's understanding and acceptance of this condition is signified here by his/her initials: _____
- 2) The Seller will endeavor to place any returned puppy/dog as advantageously as possible. If a purchase price is obtained for the puppy/dog, it will be refunded to the original Buyer, less any costs of placement. If the puppy/dog is placed free of charge, no money will be returned to the original Buyer. No veterinary or other costs of keeping the puppy/dog, or any other costs incurred by the Buyer resulting from his/her ownership of the puppy/dog, will be paid by the Seller to the original Buyer of the puppy/dog under any circumstances.
- 3) The Buyer hereby signifies by his/her initials _____ that he/she has read and understands the Code of Ethics of the Bearded Collie Club of America, and further agrees to abide by the articles set forth in the Code with respect to the breed/show prospect puppy/dog throughout the puppy/dog's life.
- 4) The kennel prefix or suffix "Hillndell" must be used in the AKC registered name of the puppy/dog and no other prefix or suffix may be utilized without the expressed written consent of the Breeder/Seller. The registered name must be agreed upon by both the Breeder/Seller and Buyer and will not be changed for any reason, throughout the puppy/dog's life. The Buyer's understanding and acceptance of this condition is signified here by his/her initials: _____
- 5) AKC Registration papers have been provided with the final sale or will be provided to the Buyer immediately upon receipt from the AKC if they are still being processed.
- 6) Buyer agrees that any dog / bitch being bred to this Bearded Collie shall be approved by the seller. All breedings must be done by contract, and any dog/bitch bred to this Bearded Collie must have received the following certifications:
 - a. Orthopedic Foundation for Animals (OFA) Certification of hips of good or better.
 - b. OFA thyroid "normal" certification.

Hillndell Bearded Collies
Show/Breeding Quality Prospect Puppy Sales Contract

- c. The Canine Eye Registration Foundation (CERF) "clear" certification within 12 months of planned breeding.
- 7) Buyer agrees that he/she is not acting as an agent in the purchase of this puppy/dog and that Buyer will not sell or otherwise provide this puppy/dog to any agent, pet store, wholesale outlet, raffle or auction, or guard dog business at any time.
 - 8) The Buyer agrees to allow the Seller access to the puppy/dog, and to the premises where it is kept, to evaluate the condition therein.
 - 9) If at any time the Seller finds that the puppy/dog is being kept, treated or allowed to behave in a manner not acceptable to him/her, the Buyer agrees to surrender the puppy/dog and all of its registration documents, with ownership transfer properly signed, to the Seller.
 - 10) The Buyer agrees to notify the Breeder/Seller of any changes of address during the puppy/dogs lifetime.
 - 11) Buyer and Seller agree that this Agreement will be governed by the laws of the State of Washington and may not be altered, modified or rescinded unless agreed to in writing by Buyer and Seller.

The undersigned agree to uphold all terms and conditions of this Contract. No other warranties or guarantees, expressed or implied, are made under this contract except as stated above. If either party is forced to take legal action to enforce any part of this contract, action shall be in the county of the Breeder's residence.

Buyer: _____

Signature: _____ Date: _____

Buyer: _____

Signature: _____ Date: _____

Seller: Terry L. Davis, Hillndell Bearded Collies

Signature: _____ Date: _____

Seller: Gayla R. Davis, Hillndell Bearded Collies

Signature: _____ Date: _____



Bearded Collie Club of America



[Organization](#) [About Beardies](#) [Articles](#) [National Specialty](#) [Regional Clubs](#) [Everything Bearded](#) [Rescue](#) [Health](#)

Bearded Collie Club of America Code of Ethics

The Bearded Collie Club of America, in order to protect, preserve and promote the advancement and proper breeding and showing of the Bearded Collie, as well as ethical practices, does hereby set forth this Code of Ethics.

1.) All members shall maintain the best possible standards of health and care of their dogs and shall sell only those who are in good health and condition at the time of delivery. The breeder shall keep and pass on to the buyer accurate health, breeding and registration records at the time of the sale.

2.) Registration with the American Kennel Club is the responsibility of the breeder. It is recommended that all terms of agreement pertaining to sales, leasing, whelping and breeding of dogs be recorded in writing.

3.) Bearded Collies shall not be sold to pet shops, wholesale dealers, contest sponsors or to any buyer who the breeder feels will not properly care for the dog.

4.) All advertising shall be of an honest and forthright nature.

5.) Good sportsmanship shall be advanced by members at all times.

6.) All members shall endeavor to help acquaint the public as to the Standard of the Breed as adopted by the Bearded Collie Club of America and approved by the American Kennel Club.

7.) Members shall be held responsible for instructions to handlers and groomers as to the proper grooming of the Bearded Collie so as to conform to the Standard of the Breed.

8.) Disciplinary action against any member for alleged misconduct prejudicial to the best interest of the Club or the Breed may be taken by the BCCA.



I see what you are up to.

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Daphne

Pentangle's Baby Mine

Born: July 9, 2001

Bred by: Dr. Deb Thomas, DVM

Sire: Ch. Britannia Bobby Dazzler, NAJ, OA

Dam: Ch. Pentangle's Kiss Me Now,

Daphne came to live with us in September of 2001 and together we learned the art of caring for, training, grooming, and showing Bearded Collies. Over the next three years we attend more classes than we could count, we read dozens of books (well Gayla and I read the books although at times we think life could have been much simpler if Daphne had read them also), and of course we sought the advise of Dr. Deb Thomas, DVM and the many Bearded Collie loving friends we met and came to love along the way. And then at the Portland Show, January 21, 2005, Daphne earned here AKC Championship, taking Winners Bitch for that elusive second major. What a thrill it was. Daphne was not only our first Bearded Collie but the first dog we had shown to its championship.



On June 8, 2007 Daphne presented us with the first full Hillndell litter. Sired by BISS Am., Can., Intl., Ch. Britannia Blockbuster (Royce), there were three beautiful black girls, two gorgeous black boys and one handsome brown boy (see our Puppy Page as well as Deb's and Billy's pages).



Daphne at 4 Months



Daphne at Rest 2002



Daphne at Seattle Kennel Club Show 2003



Daphne at NWBCCPS Specialty 2004



Daphne with Two of Her Pups - July 2007

Gwen

Pentangle's Fair Gwendolyn

Bred by Dr. Melinda Cummings DVM and Dr. Deb Thomas DVM

Sire: Ch. Sunriver Stand And Deliver

Dam: Ch. Pentangle's A Kiss For Luck

Along the way to Daphne's championship we were blessed with our second Beardie, Gwen, Pentangle's Fair Gwendolyn. Bred by Dr. Melinda Cummings DVM and Dr. Deb Thomas DVM, Gwen came to live with us in April of 2003. Gwen, a beautiful brown girl and beneficiary of the training Daphne had given us, began her show career with a



bang earning her first points at nine months by taking Winners Bitch, Best of Winners, and Best of Breed over specials for a three point major. Gwen earned her second major just five months later again being awarded Winners Bitch, Best of Winners, and Best of Breed over specials by breeder judge Leslie Belfit. Gwen was also awarded Best of Opposite in Puppy Sweeps at the 2004 Northwest Bearded Collie Club of Puget Sound Specialty. At the 2004 BCCA Nationals Gwen was awarded second in the 16 – 20 Month Puppy

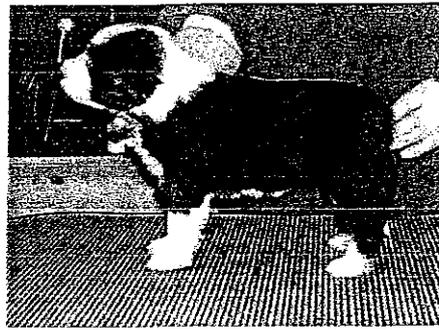
Sweeps class as well as a first in the American Bred class. On her way to her AKC Championship Gwen earned a total of six Best of Breed placements.

On February 23, 2007 Gwen blessed us with the very first Hillndell litter, all be it a litter of one. That one puppy, Hillndell's Marvelous Debut, was sired by Can./Am.Ch. Pattishawl Causin Applause, RN, NA, HC, CGC, TDI and is living up to his name as an absolutely Marvelous boy. You can learn more about Marv by visiting his page.

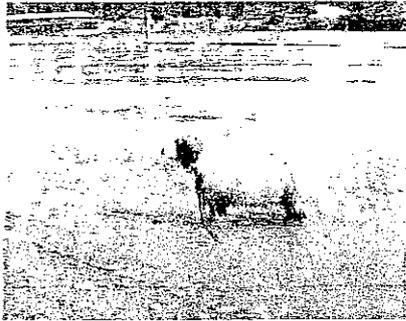




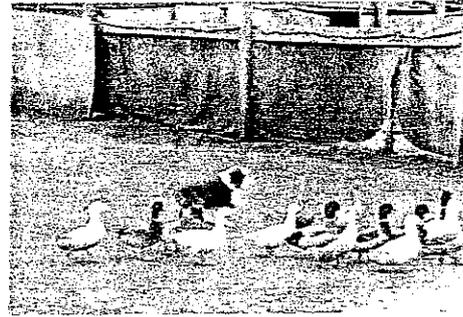
Gwen's First Photo



Gwen at 4 Weeks



Cooling down in the Spokane River
September 2003



Herding Ducks at 8 Weeks



Best Opposite Sex in Puppy Sweeps 2004 NWBCCPS Specialty



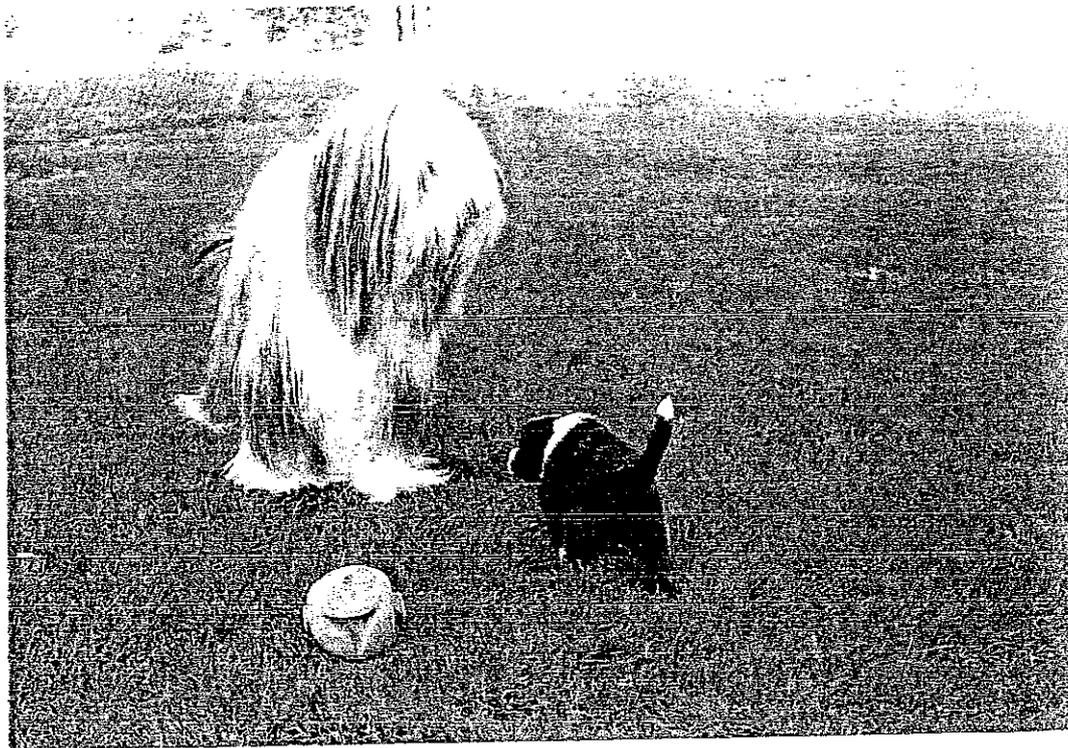
2nd Place 16 to 20 Month Puppy Sweeps
2004 BCCA National Specialty



Best of Breed – 2007 Seattle Kennel Club Show



Group Ring, Seattle Kennel Club Show 2007



Gwen with her pup Mary – March 2007

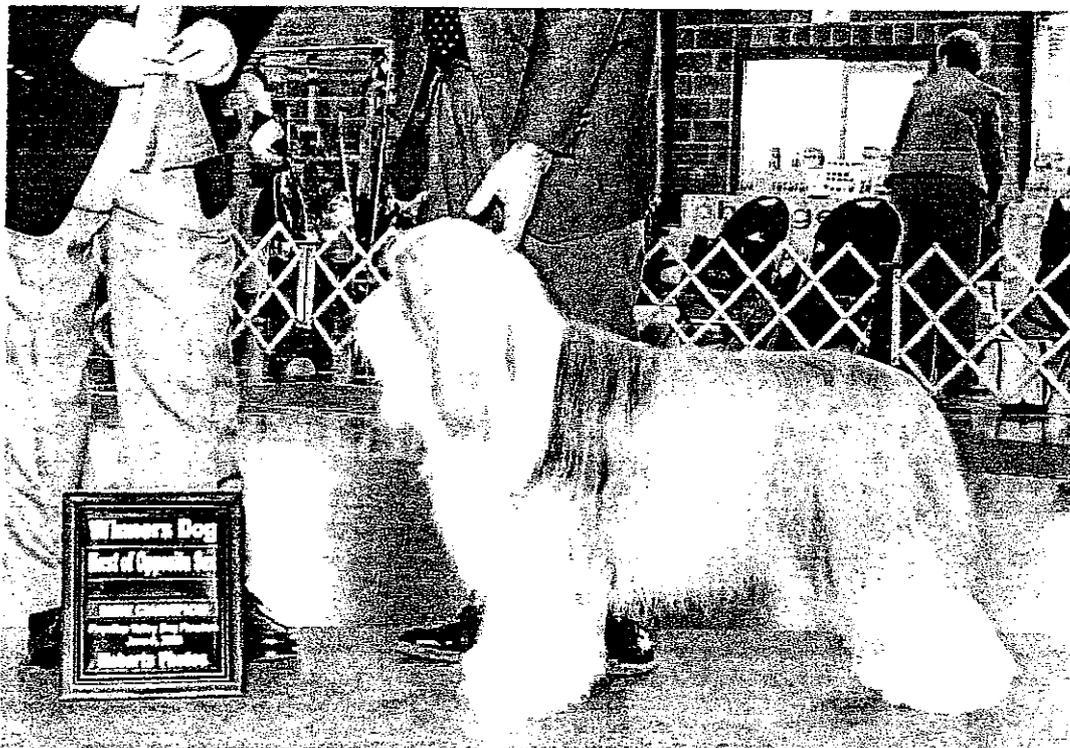
Marv

Ch. Hillndell's Marvelous Debut

Sire: Can./Am. Ch. Partishawl Causin Applause RN NA HC CGC TDF

Dam: Ch. Pentangle's Fair Gwendolyn

Marv becomes the first Hillndell Champion. On Saturday, June 6, 2009, at 27 months of age, Marv took Winners Dog and Best of Opposite Sex at the Puyallup Valley Dog Fanciers show in Puyallup, Washington to capture his AKC Championship. We are of course very proud of Marv and all his accomplishments through very limited showing. Read more about Marv below:



Marvelous Marv weighing in at 14oz. was born February 23, 2007 via cesarean section. Being a singleton Marv's life has been a challenge from the beginning but one that he has met with a strong, determined mindset.

He first had to win the affection of his mother who, due to some complications immediately following the cesarean section, did not want to care for him, attributing the pain she experienced to him. But thanks to a bumble bee and his determination he prevailed. That's right a bumble bee. At the end of the



first week at home we noticed Gwen licking and cuddling the small stuffed toy we had introduced as a substitute sibling. So after allowing this to continue for a couple of days we began removing the bee for increasingly longer periods of time over the next two days. Soon Gwen began to assume her motherly duties and had completely taken over all care for him by the end of the second day.

Marv's show career has not been such a struggle. His first time in the ring, at nine months of age, was at our home town show where he was awarded Winners Dog, Best of Winners and Best of Opposite over champions. During limited showing over the next year Marv earned both a three and four point major and 14 of his championship points, all out of the Bred By class, to include two more Winners Dog, Best of Winners and Best of Opposite over champions. Also during that time he was awarded Reserve Winners Dog at the Northwest Bearded Collie Club of Puget Sound Specialty.



Then it was off for the first appearance of Hillndell Bearded Collie's at a BCCA Nationals and what a first it was. At the Nationals Marv was awarded 1st place in Bred by Exhibitor Dogs by breeder judge Wendy Hines. Wendy had this to say about Marv, *"Soundly made typical brown. Good head and typical expression, super pigmentation. Liked his overall type and balance. Moved soundly and with drive."*

Deb

Hillndell's Debutant

Born June 8, 2007

Sire: Am./Can./Int. Ch. Britannia Blockbuster

Dam: Ch. Pentangle's Baby Mine

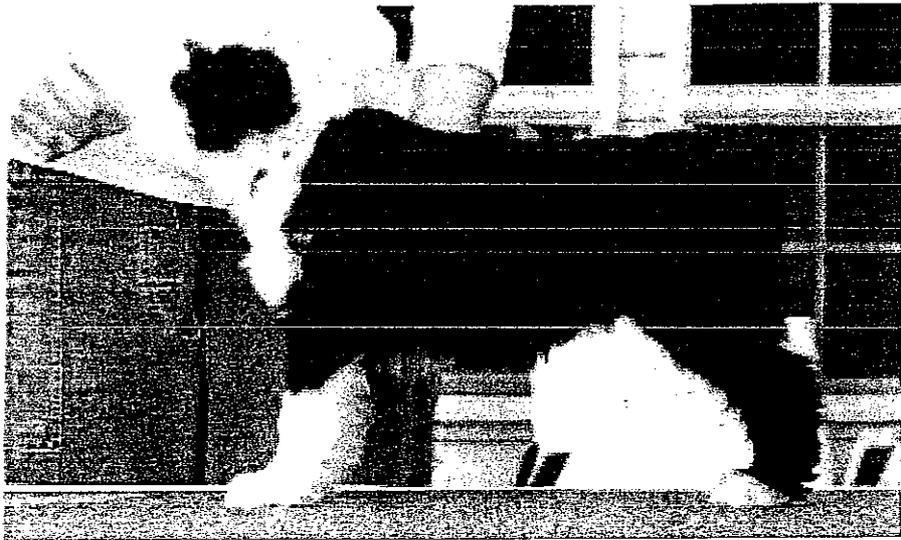


Deb, like her mother, is a more petite girl and is maturing very slowly, but that has not slowed her down completely.

Although, in limited showing, she has not yet earned any championship points she has made a pretty big splash. A true natural in the ring Deb has earned a 1st place from the Bred by Exhibitor class in nearly every show she has been in and at the 2008 BCCA Nationals she was awarded a 4th place out of the Bred By

Exhibitor class by breeder judge Wendy Hines, Rams Grove Bearded Collies, UK. She was also awarded Best of Opposite in Puppy Sweeps at the 2008 Northwest Bearded Collie Club of Puget Sound Specialty by breeder judge Kathleen Pavlich, Chantilly Bearded Collies. Here's what Kathy had to say about Deb. *"Elegant young girl in a rough coat stage. Caught my eye with her fluid movement the minute she came in the ring. Angles all there and in the right places. Lovely body length nice short loin and correct croup."*

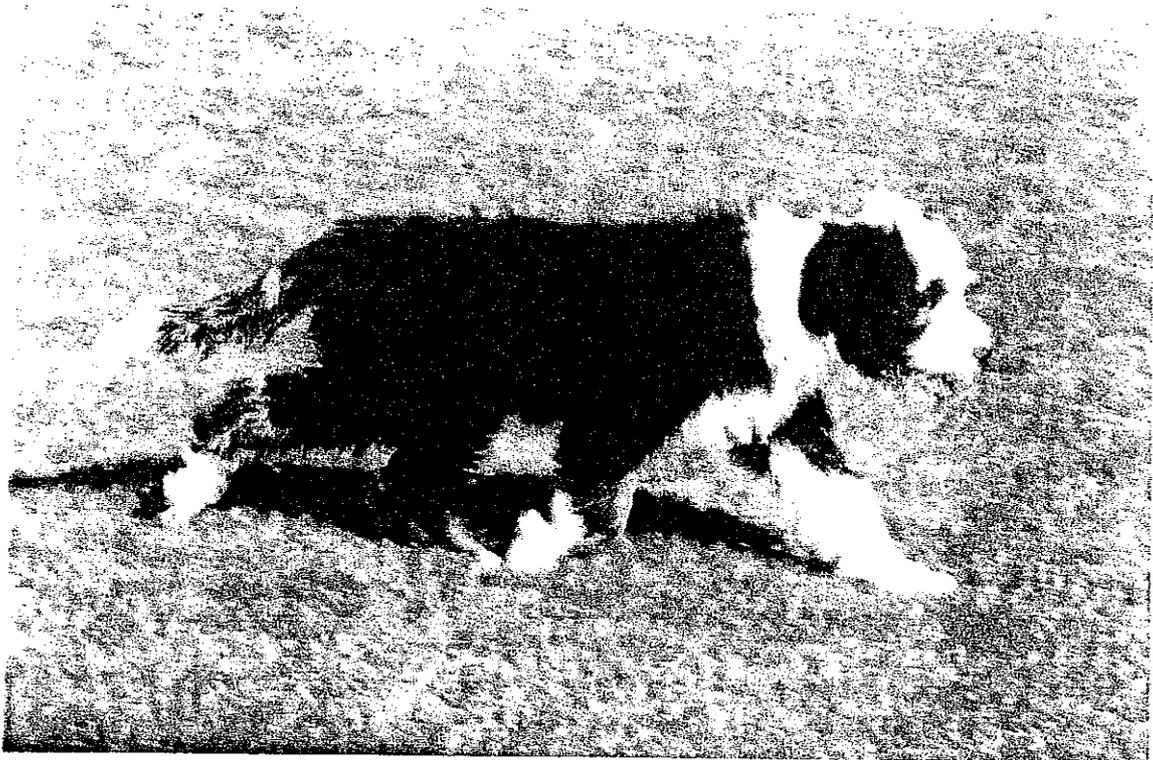
Please come back and watch Deb's progression.



Deb at 8 Weeks



Deb at 3 Months



Deb Moving - 3 Months



Deb at 7 Months - Loving the Snow



Deb on Sheep at 4 Months



Best of Opposite in Puppy Sweeps – NWBBCPS 2008 Specialty

Billy

Hillndell's Conqueror

Born June 8, 2007

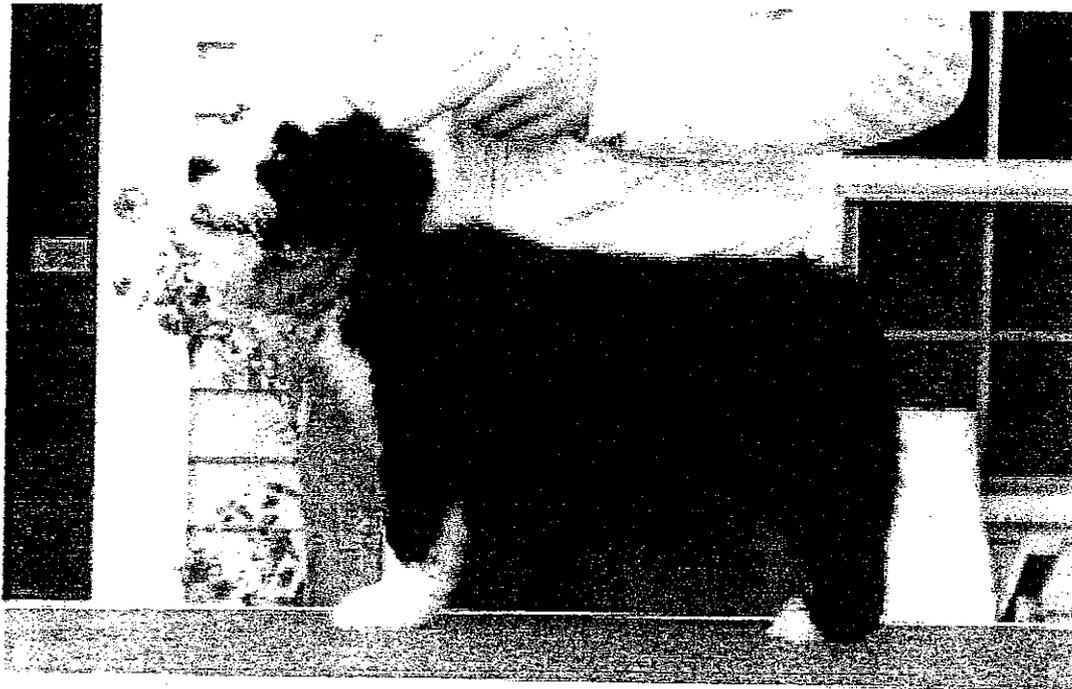
Sire: Am./Can./Int. Ch. Britannia Blockbuster

Dam: Ch. Pentangle's Baby Mine

If the Beardie is the bouncing, fun loving, clown of the Herding Group then Billy is a master Beardie, full of life, and himself. Billy has not yet settled down enough to make it around the show ring on all fours and trying to jump on and kiss the judge or any other handlers in the ring. A beautiful boy with more coat than we know what to do with, Billy's time will come eventually.



Please come and visit Billy's page often and see how he is progressing.



Billy at 8 Weeks



Billy at 7 Months – Loving the Snow



Billy on Sheep at 4 Months

SITE PLAN FOR 8229 W. 10TH KERN,

Scale 1" = 50' or ~~1" = 100'~~

Please specify

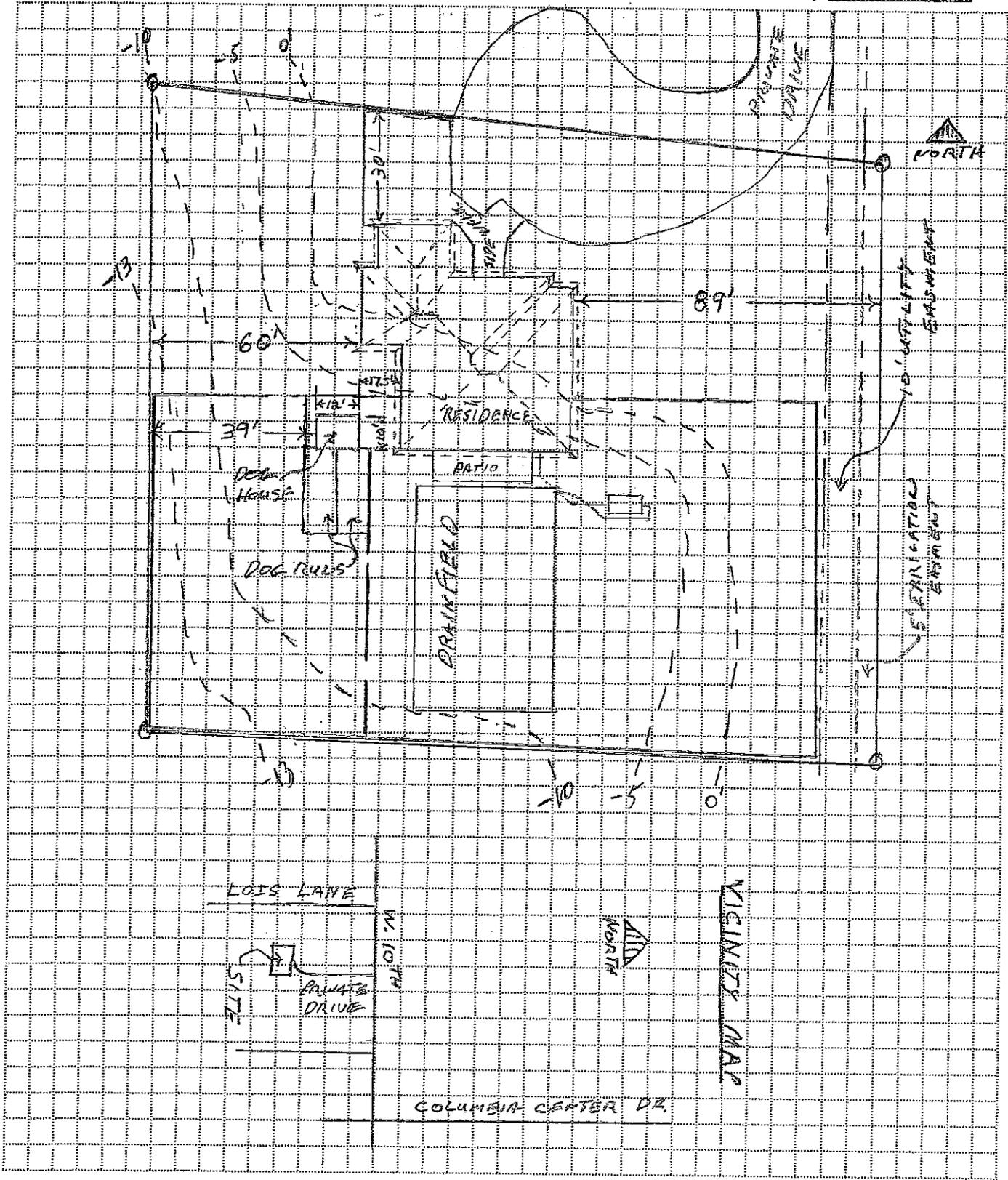
PLEASE INDICATE NORTH

File No. SP09-09

Date 11/19/2009

Exhibit No. 3

Received by CH





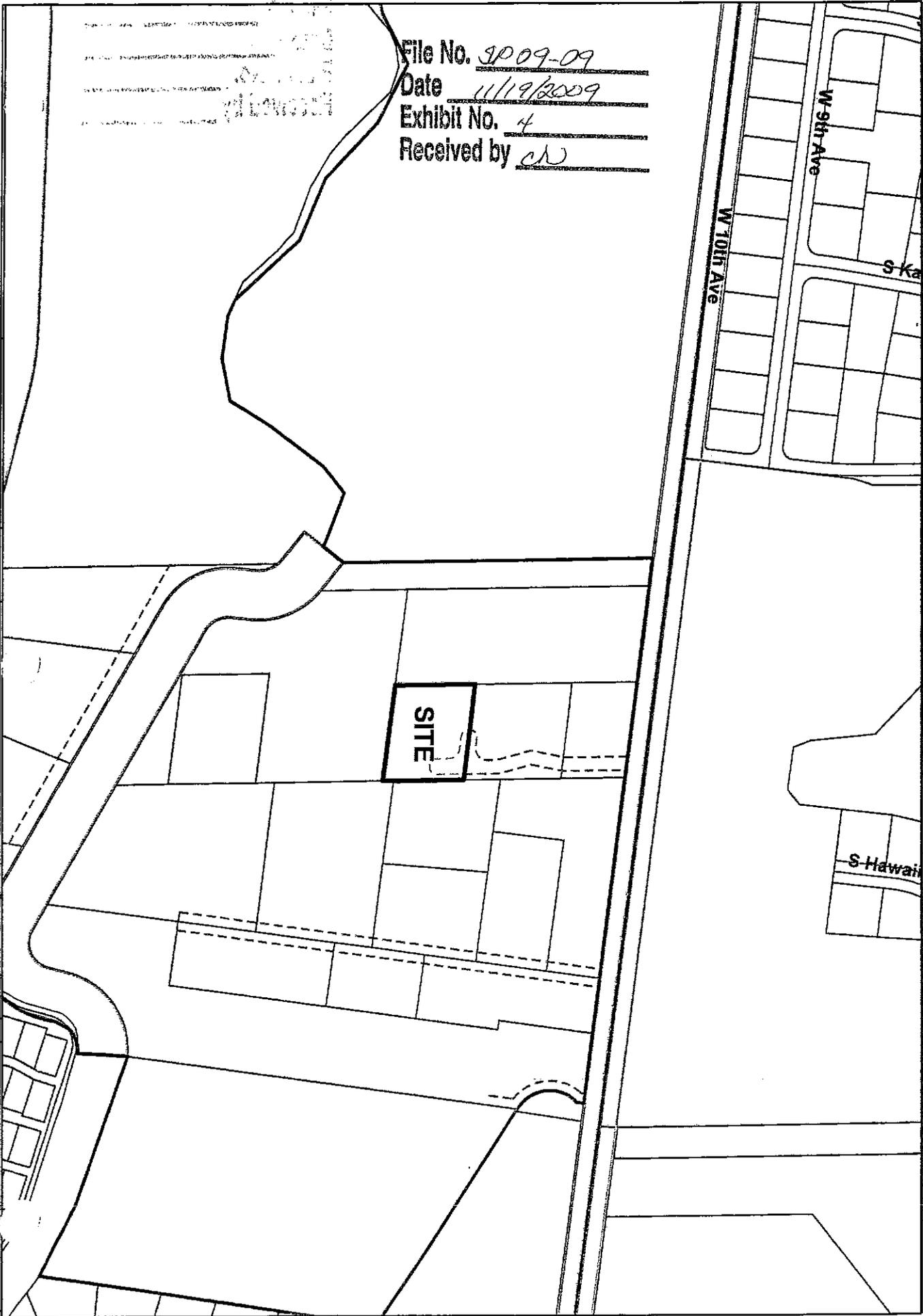
BENTON COUNTY
PLANNING
DEPARTMENT

SP 09-00

SECTION 07 TOWNSHIP 8 NORTH, RANGE 29 EAST
TERRY & GAYLA DAVIS SP 09-00
PRINTED 10/30/09

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File No. SP09-09
Date 11/19/2009
Exhibit No. 4
Received by cn



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. _____
Date 11-19-09
Exhibit No. 5
Received by CB

NOTICE OF OPEN RECORD HEARINGS

NOTICE IS HEREBY GIVEN that the following applications have been proposed to the Benton County Board of Adjustment, Benton County, Washington.

VARIANCE REQUEST – VAR 09-08 – The applicant is requesting a variance from BCC 11.08.040(a) for a reduction of four feet from the required 10-foot side yard setback for the addition of a garage onto the existing residence. Location: 4914 W Yellowstone Avenue on Lot 10 of Parkview Acres No. 1 in Section 28, Township 9 North, Range 29 East, W.M. Applicants: Christopher/Monica Burrows – 3105 W Canyon Lakes Drive – Kennewick, WA 99337

VARIANCE REQUEST – VAR 09-09 – The applicant is requesting a variance from BCC 11.60.040(c) for a reduction of 15 feet from the required 25-foot front yard setback from any access easement for the construction of a 20-foot by 20-foot hay barn. Location: 17805 S 2085 PR SE in the East Half of the Northwest Quarter of the Northeast Quarter of Section 16, Township 8 North, Range 30 East, W.M. Applicant: Keith Marks – 17805 S 2085 PR SE – Kennewick, WA 99336

SPECIAL USE PERMIT – SP 09-09 – The applicant is seeking a special use permit for the operation of a home-based breeding kennel for the keeping of up to ten adult dogs. Location: 8229 West 10th Avenue on Lot 3 of Short Plat 2864 in Section 7, Township 8 North, Range 29 East, W.M. Applicants: Terry/Gayla Davis – 8229 West 10th Avenue – Kennewick, WA 99336

NOTICE IS GIVEN that said applications will be considered by the Board of Adjustment of Benton County, Washington at public hearings conducted on Thursday, December 3, 2009 beginning at the hour of 7 p.m. in the Hearing Room - Benton County Planning Department, 1002 Dudley, Prosser, WA 99350. All concerned persons may appear and present any support for or objections to the applications or provide written testimony to the Board of Adjustment in care of the planning department on or before the date of the hearings. More information concerning these actions can be obtained by contacting Clark A. Posey, Senior Planner at the Benton County Planning Department, 1002 Dudley Avenue, P O Box 910, Prosser, WA 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 required 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. It is suggested that if you plan on attending the hearing that you call the Benton County Planning Department the afternoon of the hearing by 4 p.m. to confirm that the hearing will be conducted as scheduled.

Dated at Prosser, Washington on this 16th day of November, 2009.

BRENT CHIGBROW, Chairman
BENTON COUNTY BOARD OF ADJUSTMENT


CLARK A. POSEY – SENIOR PLANNER
BENTON COUNTY PLANNING DEPARTMENT

PUBLISH: Thursday, November 19, 2009

File No. SP09-09
Date 11-19-2009
Exhibit No. 6
Received by CL

From: Sue Schuetze
To: RJ Lott
Date: 11/19/2009 9:42:15 AM
Subject: Re: Special Permit 09-09

We have no comments on this application as the right of way of West 10th Avenue is within the city limits of Kennewick.

Sue Schuetze, Engineer II
Benton County Public Works
P. O. Box 1001
Prosser, WA 99350
509.786.5611 office
509.786.5627 FAX

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NOV 19 2009

**Benton County
Planning Department**

>>> RJ Lott 11/19/2009 9:19 AM >>>
Sue,
Please see the attachment, five pages.
Thank you!
RJ

>>> Sue Schuetze 11/19/2009 9:13 AM >>>
Could you e-mail that to me, I don't have it on my list.

Sue Schuetze, Engineer II
Benton County Public Works
P. O. Box 1001
Prosser, WA 99350
509.786.5611 office
509.786.5627 FAX

>>> RJ Lott 11/19/2009 9:03 AM >>>
Sue,

Does Public Works have any comments for Special Permit 09-09? This is for a dog kennel that is off of 10th Ave.
Thanks.
RJ

CC: Malcolm Bowie; Norm Childress; Steve Becken

Planning Department - special use permit 09-09 - Terry/Gayla Davis

From: "Robert Schunk" <RSchunk@kid.org>
To: <planning.department@co.benton.wa.us>
Date: 11/9/2009 11:57 AM
Subject: special use permit 09-09 - Terry/Gayla Davis

File No. SP 09-09
Date 11-19-09
Exhibit No. 7
Received by ch

Kennewick Irrigation District has no comment regarding the subject special use permit.

Rob Schunk, Engineering
KENNEWICK IRRIGATION DISTRICT
12 W. Kennewick Ave.
Kennewick WA 99336
Phone: 509.586.9111 ext. 108
Fax: 509.586.7663
Email: rschunk@kid.org
Web: www.kid.org

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**Benton County
Planning Department**

**Benton County Fire Marshal's
Review of Proposed Planning Applications**

TO: Clark A. Posey

File No. SP 09-09
Date 11-19-09
Exhibit No. 8
Received by ck

Special Use Permit 09-09

Date Received 11-2-09 Date Returned 11-09-09

Applicant's Comments: Terry and Gayla Davis, 8229 W. 10th Ave, Kennewick, 539-1619, proposes to house up to 10 adult dogs at their residence.

Fire Marshal's Comments:

None

Required:

None

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NOV - 9 2009

Benton County
Planning Department

From: Steve Brown
To: Carel Hiatt
Date: 11/3/2009 7:30 AM
Subject: Re: SP 09-09 TERRY GAYLA DAVIS;

File No. SP09-09
Date 11/19/2009
Exhibit No. 9
Received by CH

No permit required unless new structures are constructed - SB

>>> Carel Hiatt 11/2/2009 4:52 PM >>>
SP 09-09 TERRY GAYLA DAVIS; PLEASE REVIEW AND SUBMIT COMMENTS, THANK YOU

Carel Hiatt
Office Manager
Benton County Planning Department
P O Box 910
1002 Dudley Avenue
Prosser, WA 99350
Tel: 509-786-5612
Fax: 509-786-5629
Email: carel.hiatt@co.benton.wa.us

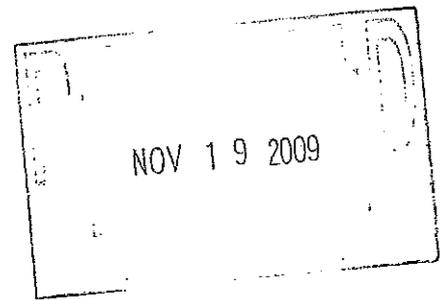
Carel Hiatt
Office Manager
Benton County Planning Department
P O Box 910
1002 Dudley Avenue
Prosser, WA 99350
Tel: 509-786-5612
Fax: 509-786-5629
Email: carel.hiatt@co.benton.wa.us

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NOV - 3 2009

**Benton County
Planning Department**

From: "Wes Romine" <Wes.Romine@ci.kennewick.wa.us>
To: RJ.Lott@co.benton.wa.us
Date: 11/19/2009 1:44:47 PM
Subject: FW: Special Permit 09-09



RJ,

This property is within the City of Kennewick urban growth area. "Kennels" are not permitted in residential zones in the City of Kennewick, however an additional animal permit can be granted if it can be demonstrated that the following conditions can be satisfied:

File No. SP09-09
Date 11-19-2009
Exhibit No. 10
Received by CH

18.42.080: Additional Animals: The Director may permit additional animals in any "R" district for noncommercial purposes under this section.

(1) Notice will be given to all abutting property owners who will have 15 days to comment on the application.

(2) The Director will take action after the comment period and may, depending on public comment, increase the allowable number of animals if he finds:

(a) All cages, pens, runs and similar structures can be constructed in accord with Chapter 18.66 (building permits may be required);

(b) Odors and smells can be contained in accord with Section 9.52.060 (noise);

(c) The facilities must be in accord with accepted standards of animal care; and

(d) The facilities must not allow animals to roam or fly to adjacent properties.

(3) The Director will impose such conditions upon the permit as may be necessary and will require that all cages, pens, runs and other structures be maintained in a safe and sanitary condition, free from odors and smells and of such structural soundness that animals will, under normal circumstances, be unable to escape. A yard enclosed by a fence at least six feet in height and resistant to tunneling will normally be considered proper enclosure for dogs. The facilities must be maintained and constructed so as to protect animals from injury and illness. Facilities must regularly be cleaned, food supplied, bedding changed and waste disposed of so as to maintain the premises in a clean and sanitary condition free from insects, rodents, weather and odors at all times. Structures must be constructed so as to protect all animals from the elements. There must be facilities for appropriate exercise, movement and sleeping. There must be adequate drainage to prevent the ponding of water and mud. Manure, excreta and other animal waste and carcasses must be disposed of in a sanitary fashion. Conditions may be imposed which will result in the construction of easily maintainable, sanitary facilities. (Ord. 4029 Sec. 2, 2002; Ord. 3828 Sec. 1, 1999; Ord. 3789 Sec. 1, (part), 1998; Ord. 3779 Sec. 1 (part), 1998; Ord. 3133 Sec. 1, 1988; Ord. 3105 Sec. 5, 1987; Ord. 3099 Sec. 1 (part), 1987; Ord. 3001 Sec. 29 (part), 1986)

If the neighbors have been notified and the permit is conditioned so the applicant(s) are required to comply with the above conditions I don't have a problem with issuing the conditional use permit. I think at a minimum they need to demonstrate that they can control odors, noise, acceptable standards of animal care and keep the dogs from roaming to adjacent properties.

Thanks for the chance to comment.

Wes Romine
Development Services Manager
City of Kennewick
210 W. 6th Avenue
Kennewick, WA 99336
(509) 585-4558

From: RJ Lott [mailto:RJ.Lott@co.benton.wa.us]
Sent: Thursday, November 19, 2009 9:22 AM
To: Wes Romine
Subject: Special Permit 09-09

Wes,

I do not have any comments from the City of Kennewick regarding a proposed Special Permit off of 10th Ave. I have attached a copy of the application (five pages). If you could take a moment and let me know if you have any concerns, I would greatly appreciate it!

Thank you.

R.J. Lott
Benton County
Associate Planner



Prevent • Promote • Protect "Always working for a safer and healthier community."

BENTON-FRANKLIN HEALTH DISTRICT

File No. SP09-09
Date 11-19-2009
Exhibit No. 11
Received by CD

7102 W. Okanogan Place • Kennewick, WA 99336 • Phone: (509) 460-4200

November 10, 2009

Clark A. Posey, Senior Planner
Benton County Planning Department
P.O. Box 910
Prosser, WA 99350

RE: Special Use Permit Application
SP 09-09; Terry/Gayla Davis

Dear Mr. Posey:

This office has reviewed the above referenced proposal and has no objections provided:

1. The dwelling will be served by on-site sewage disposal system that is permitted, installed and approved in accordance with Benton-Franklin District Board of Health Rules and Regulations No. 2.
2. The system currently in use is designed to accommodate a 3 bedroom dwelling and is not to be used for washing dogs.
3. The Washington Department of Ecology should be contacted regarding disposal of dog waste, including hair from washings, which must not be discharged to the sewage disposal system.

If you have any questions, please contact me at the Kennewick Health Office, phone 460-4318.

Sincerely,

JoDee A. Peyton
Environmental Health Specialist II

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NOV 20 2009

Benton County
Planning Department

CHAPTER 11.48

UNCLASSIFIED DISTRICT (U)

File No. SP09-09Date 11-19-09Exhibit No. 12Received by CD

SECTIONS:

11.48.010	Permissible Use of Buildings
11.48.020	Building Site
11.48.030	Front Yard
11.48.040	Side Yard
11.48.050	Rear Yard

11.48.010 PERMISSIBLE USE OF BUILDINGS. In the unclassified district, no buildings or premises shall be used nor shall any building or structure be hereafter erected, except for one or more of the following uses:

- (a) Any use permitted outright in the agricultural district.
- (b) Manufactured home (mobile home) on individual lot.
- (c) All current and energy related uses on the Hanford site shall be permitted.
- (d) Two, three and four manufactured (mobile) homes on an individual lot; provided, the use is approved pursuant to BCC 11.52.065.
- (e) Offsite hazardous waste treatment and storage facilities may be allowed by special permit issued by the Benton County Board of Adjustment after notice and public hearing as provided in BCC 11.52.090, provided that such facilities must comply with the state siting criteria adopted in accordance with RCW 70.105.210.
- (f) Communication facilities; provided, the use complies with and is approved pursuant to the provisions of Chapter 11.65 BCC or is exempt therefrom pursuant to BCC 11.65.030 (b), BCC 11.65.030 (c), BCC 11.65.030 (d), or BCC 11.65.030 (e).

(g) Any of the following uses may be allowed; provided, the use is approved pursuant to BCC 11.52.067:

- (1) Adult family homes.
- (2) Mini-day care homes/centers.
- (3) Family day care homes.

(h) All other uses of property not otherwise prohibited by laws of Benton County or the State of Washington, in addition to those listed below, may be allowed only by special permit issued by the Benton County Board of Adjustment after notice and public hearing as provided in BCC 11.52.090.

- (1) Day care centers.
- (2) Day care homes.
- (3) Residential care facilities.

[Ord. 62 (1960) § 1; Ord. 123 (1977) § 6; Ord. 135 (1979) § 2; Ord. 167 (1983) § 11; Ord. 222 (1988) § 6; Ord. 235 (1991) § 8; Ord. 371 (2001) § 11]

11.48.020 BUILDING SITE. No site area is required except that all single family dwellings, manufactured (mobile) homes, multiple family dwellings, manufactured (mobile) home parks and recreational vehicle parks, when permitted, shall conform to the building site regulations required for such buildings in the suburban district and/or chapter 3.22 BCC (manufactured home park ordinance) or the recreational vehicle park ordinance.

[Ord. 62 (1960) § 1; Ord. 110 (1975) § 2; Ord. 135 (1979) § 3; Ord. 167 (1983) § 12]

[NOTE: Chapter 11.48 BCC is continued on the following page.]



File No. SP09-09

Date 11-19-09

Exhibit No. 13

Received by CR

