

BENTON COUNTY BOARD OF ADJUSTMENT HEARING
FEBRUARY 3, 2011 – 7 P.M. PLANNING ANNEX
1002 DUDLEY AVENUE
PROSSER, WA 99350

Mr. Chigbrow Brent Chigbrow opened the public portion of the hearing.

Roll Call:

Present: Brent Chigbrow, Robert Page, Glenn Bestebreuer and Herb Everett
Absent: Dean Burows

Staff: Clark A. Posey – Senior Planner – Current
Carel Hiatt - Recorder

MOTION: It was moved and seconded that the December 2, 2010 Board of Adjustment minutes be approved as written. Motion carried.

NOTE: The Board of Adjustment minutes are a summary of the testimony presented at the hearing, not a verbatim transcript.

NOTE: All persons present that wished to testify on any actions presented to the Board of Adjustment tonight had been sworn in.

NOTE: Mr. Posey informed the Board of Adjustment members that the minutes of the January 6, 2011 Board hearing could not be approved tonight as the Vice-Chairman Dean Burows was not in attendance and the Chairman Brent Chigbrow was not in attendance at the January 6, 2011 hearing.

NEW BUSINESS:

VARIANCE REQUEST - VAR 11-01 - The applicant is requesting a variance from BCC 11.48.010 of 17 feet from the required 25 foot rear yard setback, variance from BCC 11.48.030((c) of 15 feet from the required 25 foot setback and variance from BCC 11.48.040 of 8 feet from the required 10 foot side yard setback for the construction of a 20 foot by 20 foot block building to house the pump and associated equipment. The site is located in Section 13, Township 9 North, Range 25 East, W.M. Applicant: Benton Irrigation District - P O Box 626 - Benton City, WA 99320.

Mr. Chigbrow opened the public portion of the hearing. Mr. Posey summarized the Variance Request – VAR 11-01, outlined the area on BOAH 1.1 – Large aerial of the site and entered into the record Exhibit Nos. BOAR 1.1 and 1.2, BOAM 1.1 to BOAM 1.9 and E-1.

APPLICANT TESTIMONY:

ED HIBBARD – 1235 8th Street – Baker, Oregon representing Benton Irrigation District. Benton Irrigation District was requesting a variance for the installation of a pump station.

Mr. Chigbrow asked what was located in the surrounding area. The applicant replied that the area was undeveloped with a residence being located north across Chaffee Road.

PROPONENT TESTIMONY/APPLICANT REBUTTAL: None.

Mr. Chigbrow closed the public portion of the hearing for any further testimony on this action.

MOTION: Mr. Bestebreuer made a motion and seconded by Mr. Everett that the Board of Adjustment, pursuant to the aforementioned controlling factors, finds that the application of Benton Irrigation District VAR 11-01 should be **approved with the conditions as outlined in the staff report dated, January 25, 2011** and that the Chairman, in conjunction with the Secretary of the Board of Adjustment, prepare and adopt written findings and conclusions that articulate and are consistent with the findings, conclusions and/or decisions made by the Board of Adjustment tonight. Motion carried.

SPECIAL USE PERMIT - SP 11-01 - The applicant is requesting a special use permit for the construction and operation of a 1200 square foot building to house four mini-storage units and a 3000 square foot building to house 10 mini-storage units. The application was deemed complete for processing on January 10, 2011. The site is located in a portion of the Southwest Quarter of the Northwest Quarter and a portion of the West Half of the West Half of the Southeast Quarter of the Northwest Quarter in Section 31, Township 9 North, Range 24 East, W.M. Applicant: Bruce/Diane Etzel - 4902 North Hicks Road - Grandview, WA 98930.

Mr. Chigbrow opened the public portion of the hearing. Mr. Posey outlined the area on BOAH 1.1 and entered into the record Exhibits E-1, BOAR 1.1 to 1.4, BOAM 1.1 to 1.10 and BOAH 1.1.

APPLICANT TESTIMONY:

BRUCE ETZEL – 4902 Hicks Road – Grandview, WA 98930 stated that he was revising his original request to the following: Phase One – four storage units with the building being 1200 square feet and Phase Two - four storage units with the building being 1200 square feet for a total of 2400 square feet. He would like to retain the 14 outside parking areas for RV's or boats. He anticipated completion of Phase One and Phase Two by 2013.

Mr. Chigbrow asked the applicant about signage, fencing, security, lighting and access. The applicant replied that if signage would be allowed then a 4-foot by 4-foot sign would be adequate. The area would be fenced including the outside storage area, lighting would be projected downward, and security would be by motion detectors and an alarm system would be installed. The applicant's residence was also located on the same lot as the proposed mini-storage units. The applicant continued to state that there was adequate access to the site for emergency vehicles. Advertisement would be done by word of mouth.

Mr. Everett noted concerns over the construction of mini-storage units in a rural area with regards to policing the area and for fire protection. He felt it was not an appropriate use in a rural environment.

Mr. Bestebrier stated that the applicant had testified that his residence would be on the same lot as the storage unit. In addition, the applicant would only be requesting eight units with 14 outside storage parking areas.

The applicant stated that no businesses would be allowed to operate out of the storage units.

Mr. Chigbrow closed the public portion of the hearing for any additional testimony on this action.

MOTION: Mr. Bestebrier made a motion and seconded by Mr. Everett that the Board of Adjustment, pursuant to the aforementioned controlling factors, finds that the application of Bruce/Diane Etzel SP 11-01 should be **approved with the conditions as outlined in the staff report dated, January 25, 2011 with the added conditions (10) that signage be allowed with approval from the Benton County Planning Department, (11) installation of a six foot high fence be installed around the units and (12) that the special use permit be amended to allow for only eight units totaling 2400 square feet with four units being constructed in Phase One and four units to be constructed in Phase Two** and that the Chairman, in conjunction with the Secretary of the Board of Adjustment, prepare and adopt written findings and conclusions that articulate and are consistent with the findings, conclusions and/or decisions made by the Board of Adjustment tonight. Motion carried.

SPECIAL USE PERMIT - SP 10-16/EA 10-27 - The applicant is requesting a special use permit to operate a wedding/reception/event facility on a five acre parcel with parking for up to 300 vehicles. The application was deemed complete for processing on September 16, 2010. The site is located at 113618 N Harrington Road on Lot 1 of Short Plat 1763 in Section 4, Township 10 North, Range 27 East, W.M. Applicant: Matt Baker - 113618 N Harrington Road - West Richland, WA 99353.

Mr. Chigbrow opened the public portion of the hearing. Mr. Posey summarized said action to the Board, outlined the site on the BOAH 1.41, entered into the record the following exhibits: E-1, BOAR 1.1 to 1.4, BOAM 1.1 to 1.51, BOAH 1.1 to 1.40 and Planning Department Maps BOAH 1.41 Site map, BOAH 1.42 – Site map showing roads, BOAH 1.43 – Larger scale site map, BOAH 1.44 – Aerial of the site taken on September 20, 1991 map number 576.

Mr. Chigbrow informed the audience that due to the volume of those in attendance testimony would be limited. In addition, the Board would not address covenants as that was a civil matter and property devaluation would not be discussed unless documentation was presented from a realtor or banker. Knowing that conditions were affixed to this special use permit, which would need to be fulfilled prior to operating their project or business. The conditions generally include health, fire, alcohol – which would not be enforced by the Board. No discussion will be permitted with regards to

road maintenance per the neighborhood association. The Board of Adjustment has no jurisdiction with regards to private road maintenance as that would be the responsibility of the Homeowner's Association.

APPLICANT TESTIMONY:

MATT BAKER – 113618 N Harrington Road – West Richland, WA 99353

stated that he would like to have an event center to hold weddings and family reunions during the months of June to October and only on Fridays and Saturdays from noon to 10 p.m. He presented some pictures of his property BOAH 1.45 to BOAH 1.52. The applicant's property was five acres in size, 730 feet long from the front of his property down to the river. He had build a gazebo 120 feet back from the high water mark, which was 100 feet as required. He had a restroom that was 20 x 20 and some dressing rooms in there. He has a large water feature pond in between those two. All of his events take place within that gazebo and within 100 feet of that gazebo. He showed some distances on the maps provided – BOAH 1.41, pointed out his property, Harrington Road and where it turns into a gravel road. He keeps the road graveled, maintained up to fire code utilizing his 35-horse kubota tractor to his residence. The rest of the road has never been maintained and it looks terrible. He maintained the gravel road prior to holding events.

Mr. Chigbrow: How long have you been doing these events?

Mr. Baker: He started doing them last year without realizing that he need to obtain a special use permit. He obtained his business license last year along with the appropriate insurances. He does require applicants to obtain a one million dollar liability insurance policy for the one-day event, a 500-dollar non-refundable damage deposit and a banquet license to allow for beer and wine to be served, but no hard liquor. He does not allow any live music. All the music during the events would be conducted within the gazebo along with permitted dancing.

He presented pictures of the gazebo BOAH 1.53 to 1.54, which was three sided and open towards the river. The speakers were projected towards the river. Located right across the river from the applicant's residence was the Horn Rapids Park. The following was pointed out on BOAH 1.41: location of the shooting range and Horn Rapids Park.

Mr. Everett: Is the shooting range located on the west side of the road?

Mr. Baker noted the shooting range on – BOAH 1.41 and from his residence he could hear the shooting competition, which does not bother him. The applicant marked his residence on BOAH 1.41 and pointed out his closest neighbor's residence – Mr. Green. He continued to point out the entrance area to his residence, parking area, vineyard and trees. Due to the vegetation on site it would not be apparent that an event was taking place. He did have parking for 300 vehicles. He was approved for 200 people from the Benton Franklin Health District, which would be about 50 to 75 cars only. Event goers come for the wedding ceremony, reception and then most are vacating his residence by 8 p.m. with a few staying and dancing until 10 p.m. He owns a 14-yard dump trailer for garbage. He had 15 garbage cans located on site. He owns all the tables and chairs, so no delivery trucks. He stated that his closets neighbor Mr. Green was 489 feet from the

business activity. Mr. Trease was 609 feet from the applicant's site and the Trease's rental was 900 feet. He was closer to the park than he was to his neighbor. The gun range on their Master Plan they had plans for improvement by adding more lights and RV's of which he supports. Horn Rapids Park hosts a variety of functions throughout the year with amplified music and loudspeakers.

Mr. Everett: How far would you estimate the gun range would be from your property?

Mr. Baker replied ½ mile to 5 miles. He submitted some pictures of the graveled road on his Kubota tractor BOAH 1.55 and BOAH 1.56. He admitted to having a couple of weddings last year that were loud. He allowed people to put their speakers on the river and point back South. He made them turn it down and would not make that same mistake. He did hold an event on site last year, which was a fundraiser, and the live country music was a bit loud; but the function concluded at 9:30 p.m. He would have more parking attendants in future events to assist people in locating his residence and not end up getting lost and bothering his neighbors. The applicant showed the Board on BOAH 1.41 where Darrel Sunday's residence was located.

Mr. Bestebreur: Do you have any signage up currently?

Mr. Baker: Not currently, but if approved he install a temporary 2 x 3 foot sign on the edge of the private road by his residence. A permanent sign would hang off of his log entryway that would meet the sign standards.

Mr. Chigbrow: What about security?

Mr. Baker replied that so he has not had to deal with that type of experience. He or fellow co-workers who were medically trained would always be on site when an event was taking place. He does not allow any hard alcohol at these events only beer and wine. It is not a big party, the people come get married, dance and leave. He had a 20-foot wide opening gate at the entrance to his property.

Mr. Chigbrow: How many residences are in your development?

Mr. Baker replied that there were eleven homes in the development currently. Three of the eleven are supportive of his event center. He stated that at 10 p.m. people exit his residence no later. He does all the set-up, take down and garbage detail. The day after the event he would canvass the area for trash, beer cans, etc.

Mr. Everett: How many weddings have you had at this site?

Mr. Baker: He did eight business weddings last year.

Mr. Everett: Eight weddings were the total events held at this site.

Mr. Baker: He replied that a total of 13 weddings were held at this site, but eight of those were business weddings. He stated he had never had an issue with weddings on site ever.

Mr. Bestebreur: Do you know of any phone calls being made to the Benton County Sheriff for any issues?

Mr. Baker: No.

Mr. Bestebreur: Regarding the security mentioned are any of these people trained.

Mr. Baker: Fellow fire fighters.

Mr. Bestebreur: Crowd management training.

Mr. Baker: No. The applicant had submitted pictures showing of his residence and had installed sixteen security cameras on site.

Mr. Chigbrow: The reasoning for you being before the Board tonight due to Benton County Code Enforcement action.

Mr. Baker: No. He was contacted last year by the Code Enforcement Officer who asked if he had obtained a special use permit for the conducting of events on site. His response was for what and then the Code Enforcement Officer proceeded to inform Mr. Baker that a special use permit would need to be obtained by Benton County in order to conduct special events on site. He then contacted the Benton County Planning Department to begin the special use permit application process. He was licensed with the State and had developed a web page.

Mr. Chigbrow asked about the existing buildings on site and how many of them had been issued a building permit.

Mr. Baker replied that he had recently obtained building permits for all the existing structures.

Mr. Chigbrow asked the applicant how recent were the building permits for these structures.

Mr. Baker submitted for permits last summer. He continued to state that the gazebo did not require a permit as it was 120 square feet, but last year he built a shed roof off to the back and side, which then required a permit. He thought that if the structure was 400 sq. ft or less then a permit would not be required, such was the restroom/changing building. However, he discovered that the restroom/changing area would also require a permit.

Mr. Chigbrow asked the applicant what would happen if the Board did not approve the special use permit for the event center with regards to the existing structures on site. The applicant replied that he would continue with obtaining permits from the Benton County Building Department.

Mr. Baker submitted seven additional pictures with descriptions on the back into the record of neighboring properties and how the properties had been cleared right down to the water. BOAH 1.57 to BOAH 1.63, a picture of his gate to his property BOAH 1.64, pictures of neighbor's gates down to the water BOAH 1.65 to BOAH 1.67 and his property when the Yakima River was 2.5 feet above flood stage BOAH 1.68 and BOAH 1.69.

Mr. Page asked the size of the addition constructed onto the gazebo. The applicant replied that it was 20x30 or 20x40.

Mr. Baker stated that he would place signage where the pavement ends advertising his residence to assist people, so that they would not get lost and disturb the neighbors.

Mr. Chigbrow asked the applicant to outline on BOAH 1.41 aerial where the pavement ends.

Mr. Baker: Darrel Sunday's residence was probably 150 feet off the road to the south. The applicant's residence would be the first house to travel by and Darrel Sunday's driveway comes off of the paved road, right where the pavement stops. He showed the Board properties with no residences.

Mr. Baker submitted a receipt showing that he had paid for gravel to maintain the road BOAH 1.70 dated January 7, 2010 from American Rock Products, pictures BOAH 1.71 to BOAH 1.76 – pictures of area properties and relationship to the river, Lewis and Clark Ranch – Master Plan Map BOAH 1.77. Asking for Friday and Saturday 50-75 vehicles, June to October and most of the people objecting to this special use permit reside over two to three miles away from his residence. He located the residences on aerial map BOAH 1.41.

Mr. Page asked the applicant what types of equipment would be utilized for projecting the music, such as amplified or DJ.

Mr. Baker replied that the pictures submitted show the gazebo and types of equipment being utilized. He explained to the Board the music equipment and how it was utilized even with a live DJ. He had contacted the Benton County Public Works Department and was informed that Harrington Road was designed for 3500/5000 cars per day.

Mr. Page asked the applicant if he had received any complaints from the Sheriff's office with regards to noise/music disturbance. During the 13 weddings were there any registered accidents or DWI. The applicant replied not to his knowledge. The applicant tries to run a professional business.

Mr. Bestebreuer asked the applicant if he would be accepting of 200 people and 75 cars. The applicant replied that the approved septic permit from the Benton Franklin Health District was permitted for only 200 people, no more.

Mr. Baker submitted in BOAH 1.78 – Fifty Caliber Shooters Association 2011 Match Schedule, BOAH 1.79 – TCSA Events Calendar for January 2011, BOAH 1.80 Rattlesnake

Shooting Facility Master Plan July 2009, BOAH 1.81 – The Dust Doctor, Corp. BOAH 1.82 – Benton County GIS Map Site Map Showing Residences, BOAH 1.83 – Benton County GIS Map Showing Residences Larger Scale, BOAH 1.84 Figure #1 – Noise Contours.

PROPONENT TESTIMONY:

JOHN ZIBRO – 1333 Columbia Park Trail, Suite 110 - Richland, WA 99352 was representing Mr/Mrs. Baker. He continued to state as a preliminary comment he attends a lot of conditional use permit hearings and appreciates citizen involvement and advocacy. The applicant would only be required to meet the County's criteria for permit approval. The conditional use permits exist because municipalities recognize that there are some uses that are beneficial to the community, but they might not be desirable to those that are most close to it. We have a process where you identify those uses in your comprehensive plan and code along with the criteria for evaluating, if necessary mitigation measures so that you can protect the interests of the homeowners. There are cases from City of Pasco that went to the State Supreme Court, City of Kennewick went to the Court of Appeals, but they all stand for general proposition which states that community displeasure and lack of popularity are not a basis to condition or deny a permit. In those cases you had a group home in the City of Pasco and the residents stated that this was a group home for troubled kids and would cause crime, create traffic and it will reduce property values. The City of Kennewick you had the Department of Corrections wanting to put a halfway house and the people voiced the same concerns. Both times the Courts stated that these generalized fears while valid are not a basis to deny a permit. If you have a halfway house in Kennewick and a group home in the City of Pasco that does merit denial in the eyes of the court, but here we are talking about a wedding facility. Most people associate weddings with a positive outcome and event. We ask that when you entertain comments from the neighbors that you ask for objective evidence of impacts as we feel those have been addressed. We largely concur with the staff report. The Board may have in their packet a report that was generated by HDR Engineers. He discussed decibel volumes during the day and night. He talked about #17, 21 and 23 in the findings of fact, which discuss amplified music that could impact outside uses. The request was simple you have data from an engineer which states it would not be an impact; we feel that should be stricken. Condition No. 6 states that no outside amplified music would be allowed; we feel this should be stricken. Condition No. 12 states that the site is not to be used for music, concert or amplified musical events, we feel the Board should strike amplified musical events. The applicant was not intending to have concerts on site. We ask that the Board follow the staff report with the noted changes expressed.

WES GREEN – 113520 N Harrington Road – West Richland, WA 99353, was the applicant's next-door neighbor. He has never had a complaint about the applicant's noise, it has not bothered him, 10 p.m. everything stops and people leave. He had a nice secure area. He had never ever seen any litter after any of the applicant's events. No problem with the applicant's guests or disturbances. The applicant had taken a raw piece of land and made the property beautiful. The applicant had not only enhanced his property, but Mr. Green's as well. He feels fortunate to have Matt Baker and his family as neighbors. Mr. Green marked his residence on BOAH 1.41I.

M.R. BAKER – 113611 N 302 PR NE West Richland, WA 99353 – was the applicant's father. He assisted his son sometimes at the events. The site was always cleaned up after an event, music not a problem and people left at 10 p.m. He was building a residence close to his son's property. He marked his residence on BOAH 1.41.

OPPONENT TESTIMONY

CARL GRANDO – 43503 E Anaconda Ct, West Richland, WA 99353 resides about a mile from the applicant and stated that everything discussed tonight demonstrates non-compliance with Agricultural zoning, not to mention the covenants. He opposes this special use permit due to the following: safety, compliance with Title 11, the event facility comes close even with conditions to meeting Title 11.52.090(d). He would ask the Board to consider those very carefully with regards to decision making on this action. He has lived in this area for 36 years. We have enjoyed that area primarily for what Agricultural zoning offers. The quality of living was very important to him. Agricultural Zoning protects the money he had invested in his residence and protects the type of living that he wants. He was not interested in city life. He does not enjoy the lights, congestion, traffic, noise that come with city living; that is why he chose to live in an agricultural area. He could not understand how a relative newcomer could sign papers to purchase the land recognizing that Agricultural Zoning was in place, covenants were in place and now has chosen to renege on that original agreement that he had made with the rest of the neighbors in the area. Two other concerns were the length of time the applicant had there as compared to other folks who want the area to remain as it is and other one was that contrary to what the applicant stated, he has already accumulated six citations due to being out of compliance with the zoning. It was not for just one occasion it was for repeated occasions, so the applicant knew that he was in violation. He felt that granting the applicant a permit to continue operating in an area that had been zoned for long time agriculture should not reward kind of behavior. Mr. Grando submitted written testimony BOAH 1.85. Mr. Grando's residence not listed on BOAH 1.41.

Mr. Bestebreuer asked whom did the applicant receive the six citations from. Mr. Grando replied from Jackie McWherter – Code Enforcement Officer.

Mr. Grando stated that his family liked the area, as it currently exists, the way it was intended to be and the way it has been in the agricultural zoning district as established many years ago. He asked the Board to leave the area as it currently exists.

Mr. Chigbrow asked Mr. Grando how long had he known that the applicant was conducting a wedding event center on his property. Mr. Grando replied about nine months to a year ago. He continued to state that his residence was only one mile from the applicant's site not three to four miles.

Mr. Chigbrow asked Mr. Grando if he was bothered by the music. Mr. Grando stated he was bothered by the music, traffic and by people knocking on his door that were lost and trying to find the applicant's residence.

HAROLD TREASE – 113412 Harrington Road, West Richland, residence was next to Wes Green's residence. Mr. Trease marked his residence on BOAH 1.41. He was the second closest residence to the applicant and about 550 feet from the gazebo. He had complaints over noise, music; authorities had been called with regards to noise.

Mr. Bestebreuer asked what authorities. Mr. Trease responded by stating that a County Sheriff did come out.

Mr. Chigbrow asked if the Sheriff came to the applicant's residence or Mr. Trease's residence.

Mr. Trease stated that the Sheriff came to their residence and then went down to the applicant's residence. The call to the Sheriff's office was on another matter not connected to a wedding event. He was part of the Architectural Control Committee for the Homeowner's Association, so was the applicant. The applicant should have been aware of building permit requirements. Flood plain issue, the applicant two years ago brought in 40 to 50 truckloads of dirt onto his site. He objected to noise, alcohol and wedding quests seeking directions to the applicant's site.

Mr. Chigbrow: It was stated that you – Mr. Trease – were on the architectural committee, so when a neighbor comes to your board and states that he would want to build something and at that time as the committee do you inform the person that a building permit would need to be obtained. Mr. Tease responded that would be asked if a building permit had been obtained.

Mr. Bestebreuer asked if the committee checks to see if a building permit had been obtain. Mr. Trease responded that it is asked but not checked.

RO VINSON – 111205 N 302 PR NE, West Richland, WA 9353 marked her residence on BOAH 1.41. She stated that the music could be heard at her residence. We are here because Code Enforcement cited the applicant for violations for running a business illegally. He had stated previously on the bathroom facility of 400 square feet that he did not think a permit would be required because he thought it was 400 square feet, when the regulations changed last July when it was actually 200 square feet. Unfortunately, he had already built and finished his building. Secondly, she had submitted an extensive document that should be in the Board's file dated January 31, 2011. In reference to that, she would like to mention the road maintenance agreement not as to who would be responsible or how it will be maintained, except that it is a private road. We have a legally recorded document with the County that states all the people that live out there jointly own the road and that we are individually responsible for the road, which brings up liability issues. If the County permits a business that can only be accessed by a private road then liability issues would be raised for everyone that owns that road in the neighborhood if there would be an accident. Potentially could increase liability for the county, we understand the county does not maintain the private road, but the fact that the road was the only access to get to this business. If the County does in fact give the authority for the business to be operated and there is an accident the County could also be liable. Two issues with regards to the Planning

Department's submissions to the County tonight and one of them was the Environmental Checklist, which was given a Determination of Non-Significance under the SEPA rules of the State. The Environmental Checklist was one not complete and two had inaccurate answers on it along with incomplete information. The applicant or checklist was filled out as though the applicant was going forward right now with the project. The applicant was doing this paperwork after the fact application, so where he answered would fill be brought in "No", will buildings be built "No", that is because the applicant has already done them all without the proper permits being obtained and applications in place. I submit to you under the SEPA rules that DNS should be withdrawn and the application should be resubmitted. She had discussed this with Washington State Department of Fish/Wildlife and State Ecology, State Endangered Species and they state that had they known that fill had already been brought in, buildings built in the floodway without permits, they would have had greater concern then expressed. Lastly, was the Planning Department's report to the Board stating that they believe that this falls within the category of a summer resort or dance hall provision under BCC 11.16.010(o)(4). This application does not meet that definition of summer resorts. This action falls under BCC Section 11.16.010(17) in which only one detached building would be allowed in addition to his residence. The applicant had two detached buildings, the gazebo and bathrooms of which both needed a permit. Concern over fill issue and under BCC Chapter 3.26 the property was in a flood plain. The area was in a Critical Area and Resource due to the 100-year flood plain. The area does require that certain engineering reports be submitted, prior to adding fill to the area. The applicant brought in many trucks of fill to the site.

LARRY MCCULLOCH – 11418 N Harrington Road – West Richland, WA 99353 and his wife live in the Bend in the River area. He marked BOAH 1.41 showing his residence. He opposed the event center due to the following: event site not compatible with the surrounding area, the area was an agricultural area, single family residences, quiet, peaceful, no onsite commercial businesses, traffic was a huge issue on the private road, dust issue, even 100 cars too much, music amplified and PA system can be heard a distance away, concern over emergency response being over 30 minutes, alcohol, had called for emergency response on other issues and no response due to man power issues, has had people end up in his driveway being either lost or drunk, permits on structures are they all permitted currently, concern over a large amount of fill being brought onto the property, could this business be expanded to more then the requested two days a week and who would police this area.

Mr. Chigbrow replied that if this action were to be approved and if violations occurred it would be a Code Enforcement and/or Sheriff issue.

Mr. Bestebreur asked how much noise did he hear from the gun range. Mr. McCulloch replied mainly on Wednesday nights, weekends and lighting. He knew about the gun range prior to purchasing his property, but was unaware of the wedding event business.

KEITH BUTVILES – 106605 N Harrington Rd. – West Richland, WA 99353 marked his residence on BOAH 1.41. He opposed the applicant's business due to the following issues: single road one way in and one way out, wedding event center all cars go by his residence, no sidewalks, traffic extremely noticeable when the

applicant was having a wedding which was a huge safety issue, road needs street lights, road had a dangerous sharp curve BOAH 1.86 AND 1.87 - pictures.

NANCY MCLEOD – 106402 N Harrington Road – West Richland, WA 99353 resides directly across the street from Keith Butviles. She marked her residence on BOAH 1.41. She was in opposition to this special use permit due to the following: public safety, traffic, potential for a lot of drunk drivers, beer is alcohol, small two lane road, concern over wildlife being affected by this business. Ms. McLeod submitted pictures BOAH 1.88 to 1.100, Petition Sheet BOAH 1.101, Benton County Property Report – BOAH 1.102.

Mr. Chigbrow asked about one of the pictures showing where a vehicle took out vegetation was that done before or after an event on the applicant's site. Ms. McLeod stated that it appeared after one of the events. It was her understanding that it was due to a person coming from one of the events afterwards.

ROBERT TAYLOR – 113525 N Harrington Road – West Richland, WA 99353 marked his residence on BOAH 1.41. Expressed opposition due to concern over children's safety on the road, music, traffic from the events, SEPA document had some inadequacies, animals, birds not noted on the SEPA document, and this business would greatly affect the area and lifestyle of surrounding residents. Discussed Horn Rapids Park and Comprehensive Plan Designation.

TOM SHEA – 102005 N Harrington Road, West Richland, WA 99353, stated that Harrington Road heading into West Richland was the only road and everyone for seven miles from the applicant's site would be affected by the business. Submitted in Petition BOAH 1.103. 285 signatures submitted on petitions representing 181 households along the Harrington corridor in opposition to this proposal. The proposal was a commercial enterprise and he would like the area to remain agricultural in nature. He then discussed covenants. He did not hear any music, but objected to the beer cans, traffic and speeding.

FRIEDA MALLOY – 104601 Horn Rapids Drive – West Richland, WA 99353 resides about a mile away from the site. Petition submitted – 53 more signatures BOAH 1.104 (she had also faxed this in earlier to the Benton County Planning Department) She opposes this proposal due to alcohol, beer cans, traffic, and no lights on the road or sidewalks.

JOHN TREADWELL – 113422 N Harrington Road – West Richland, WA 99353 marked his residence on BOAH 1.41. He opposed the proposal due to the following: upset over music, wants area to remain country not commercial and due to the remote location of the area emergency/sheriff response is slow. The applicant knew about the restrictions and will probably not abide by the conditions of approval affixed to his special use permit. Reducing the number of vehicles from 300 to 75 was even too many. He built his residence over 16 years ago.

SAM SORENSON – 113415 Harrington Road – West Richland, WA 99353 marked his residence on BOAH 1.41. Lived in this area for about 12 years, property values of a great concern due to this commercial business, noise problem from events, traffic an issue, as people do not stay on the road.

RON STEVENS – 98902 N Harrington Road – West Richland, WA 99353 lived in the area since 1984. Expressed concern over traffic, does not want commercial business on this road.

JOHN WILLIAMS – 112710 N Harrington PR NE – West Richland, WA 99353 pointed out his residence on BOAH 1.41. Voiced objection with regards to noise, traffic, fire issues regarding the road access being only one way in and one way out.

VIRGINIA JANIN – 93702 N Harrington Road – West Richland, WA 99353 concerns expressed over road being a dead end, area rural in nature, increase in traffic since events have been conducted on the applicant's site was horrendous, beer bottle, cigarette butts-fire potential, no street lights on road. Lived in area for over 11 years. Her residence was not depicted on BOAH 1.41.

JEFF COLLINS – 45204 E Shannon Lane, West Richland, WA 99353, and his wife have lived in the area for over 34 years. He and his wife are opposed to this action due to litter, drunk drivers and increase in traffic.

Mr. Chigbrow informed the audience that the Board would continue to hear this action until about 10:30 p.m. He continued to state that a decision would not be reached tonight due to the amount of written and verbal testimony presented.

JOHN KEAVENEY 91806 N Harrington Road – West Richland, WA 99353 residence was three miles from the event center, but expressed concern over increase in traffic on road, children's safety and would like to retain the rural setting of this area without a commercial venture.

RALPH RUSSELL – 87401 Harrington Road – West Richland, WA 99353, opposes this venture due to traffic, residence not noted on BOAH 1.41. Department of Ecology's letter identified as BOAM1.6, which strongly suggests that mitigation measures for storm water be considered because there are impacts that threaten endangered species. (Upon review of BOAM1.6 the comments from the Department of Ecology do not pertain to this action, but for EA 10-40/SP 10-20).

JOSEPH JUDY – 107308 N Harrington Road – West Richland, WA 99353 stated he was a property owner who helped canvas the area with regards to getting the petitions signed. Those signing the petition looked at the criteria contained in BCC 11.52.010(d) remarked that the proposed business does not fit any of these. It is not compatible with other uses in the area, does endanger health, safety and welfare with the volume of people going out to the site, being a one lane road in a small community, it would definitely cause vehicle and pedestrian traffic associated with it, and it would definitely hinder or discourage development of permitted uses on the neighboring properties once it was up and running. It was quite remarkable last summer when

those events did take place and we noticed them immediately. It did not take any special attention; it was immediately obvious by the traffic and the people going back and forth and congestion being caused. The events were smaller whether you have 50 cars or 100 cars, 200 cars it will have an immediate impact. The other concern affecting many people living in the area and one of the reasons they signed the petition was the fact that people will be drinking alcohol and will be driving back on that road. This would definitely increase the danger not only to them but also to all the residents in the immediate vicinity who may be on the road at the same time.

CAROL ALDERMAN – 45205 E ALDERBROOK CT. WEST RICHLAND, WA 99353 stated her residence was located off of the map. Expressed concerns over safety on the road, increase in traffic which passes her residence, debris, bottles, children's safety and does not want signage put in her area advertising the event center.

MIKE FLODITY – 91804 N Harrington Road – West Richland, WA 99353 resides about three miles from the site. He was also a small business owner and could not understand why the applicant did not obtain the necessary permits, prior to operating his business. Noted an increase in traffic on this road last summer when the applicant started conducting weddings. He was opposed to the applicant's request.

JOHN BAYS – 105505 N Harrington Road – West Richland, WA 99353 felt that the applicant should have obtained the necessary permits to begin with. His residence was not depicted on BOAH 1.41. The applicant's web page talked about eleven years of planning to develop this facility. Improvements being made to the property gradually could then increase the number of vehicles from 75.

COURTNEY HANN – 104007 N Harrington Road – West Richland, WA 99353 – has lived in the area for 40 years. He noticed a huge increase in traffic, voiced concern over the flood plain area and contamination to the river. Submitted in a letter from the Department of the Army dated May 15, 1991 address to Courtney Hann –**BOAH 1.105**

HARRY ROSSI – 94602 N Harrington Road – West Richland, WA 99353 resides 3.2 miles south of this proposal. He does not have a problem with the music, but has issue with the increase in traffic seeing as the road was very narrow, children safety, pedestrian safety, and this proposal will impact the surrounding area.

APPLICANT REBUTTAL:

MATT BAKER – 113618 N Harrington Road, West Richland, WA 99353, stated that a Homeowners meeting had not been conducted to enforce the covenants for over five or six years out there. Half of the people that are talking about covenants are in violation of the covenants and he had documented that. He was aware that some people had passed his place and turned around. He would address that issue with parking attendants. He would have two people out there with signage to direct traffic so that they would not get lost. He addressed the issue with regards to 400 square feet not requiring a permit. Construction of the gazebo originally did not require a permit, but the addition changed the size and a permit was required. He contacted the Planning

Department and was informed that he could not construct any structure within 100 feet of the ordinary high water mark and so he did not. He informed the Board about what other residents had done to their property down by the river frontage. Boy Scout Jamboree had about 1000 kids at the three-day event. He would only have 75 cars and not 300. He has a keg at the events not beer cans, so the cans are not coming from his events. Mention was made of Terra Blanca conducting weddings on site of which they are in violation and have been cited. He irrigates his property. The wedding events are concluded at 10 p.m.

JOHN ZIOBRO – 1333 Columbia Park Trail, Ste 110, had two points to make one being the metric for traffic is in the Board's use criteria in that the use will not cause the pedestrian or vehicular traffic associated with the use to conflict with existing and anticipated traffic associated with any other permitted uses in the applicable zoning district. If a school or a golf course were located in this area a CUP hearing would not be conducted. People drink on the golf course like they do at weddings. The metric needs to be followed and there comments and fears are irrelevant. He addressed noise issues. Benton County Code says it has to be a nuisance that creates the creation or maintenance of excessive unnecessary or unusually loud noises, nobody testified to that. The Board needs to strike the condition relating to amplify music, as there was no basis to have that condition.

Mr. Chigbrow closed the public portion of the hearing disallowing any more public testimony to be presented on this action – SP 10-16.

MOTION: Mr. Everett made a motion to continue Special Use Permit – SP 10-16 to the next regularly scheduled Board of Adjustment Hearing to be conducted on Thursday, March 3, 2011 at 7 p.m. Planning Annex – 1002 Dudley Avenue – Prosser, WA 99350 and to disallow for the taking of any additional testimony seconded by Mr. Page. Motion carried.

Mr. Chigbrow again informed the audience that no new testimony would be allowed at the March 3, 2011 Board of Adjustment Hearing.

Mr. Chigbrow adjourned the hearing at 10:41 p.m.

BENTON COUNTY BOARD OF ADJUSTMENT



BRENT CHIGBROW, MR. CHIGBROW

RECORDER: Carel Hiatt