

THE FOLLOWING MEMOS HAVE
BEEN SCANNED WITHOUT EXHIBITS
FOR THE HEARINGS TO BE
CONDUCTED BY THE BENTON
COUNTY BOARD OF ADJUSTMENT
ON SEPTEMBER 2, 2010 AT 7 P.M. –
PLANNING ANNEX – 1002 DUDLEY
AVENUE – PROSSER, WA

IF YOU WISH TO OBTAIN A
COMPLETE PACKET INCLUDING THE
EXHIBITS PLEASE CONTACT THE
BENTON COUNTY PLANNING
DEPARTMENT AT 736-3086 –
TRI-CITIES OR 786-5612 – PROSSER
OR EMAIL TO
planning.department@co.benton.wa.us

CONSENT AGENDA ITEMS:

**SP 08-14
WALTER BEAR
EXTENSION REQUEST**

**CUP 07-07
KEITH/TERRY BURKHART
EXTENSION REQUEST**

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: AUGUST 18, 2009

TO: BENTON COUNTY BOARD OF ADJUSTMENT

FROM: BENTON COUNTY PLANNING DEPARTMENT

RE: EXTENSION FOR SP 08-14 – WALTER BEAR

The Benton County Board of Adjustment on December 4, 2008 conducted a public hearing on Special Use Permit – SP 08-14 for the operation of a trucking/excavating business. The project location is 45309 S 2066 PR SE, Kennewick on Lot 2 of Short Plat 2907 in Section 28, Township 8 North, Range 30 East, W.M. Upon hearing testimony presented both for and against this proposal, the Board of Adjustment made a motion to approve the special use permit with 13 conditions of approval.

The Benton County Auditor's Office on January 26, 2009 receipted in an appeal on this action filed by Sperline/Telquist/Ziobro/Reakes, PLLC – attorneys on behalf of the surrounding property owners.

Seeing as this action is being tied up in court, the applicant has not been able to move forward on completing Condition No. 12, which was to have been completed within six months of approval by the Board. The remaining conditions of approval were granted a one-year timeframe.

The applicant presented a letter to the Benton County Planning Department on June 15, 2009 seeking an extension of time to meet the conditions of approval imposed by the Board of Adjustment. The applicant presents again to the Board of Adjustment another extension request letter dated August 16, 2010.

The Benton County Board of Adjustment will need to make a motion with regards to the applicant's extension request.

Enclosure
Extension letter

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: AUGUST 18, 2010

TO: BENTON COUNTY BOARD OF ADJUSTMENT

FROM: BENTON COUNTY PLANNING DEPARTMENT

RE: CONDITIONAL USE PERMIT - CUP 07-07 – KEITH/TERRY BURKHART
EXTENSION REQUEST

The Benton County Board of Adjustment on August 2, 2007 conducted a public hearing with regards to the operation of a retail quilting business that would include merchandising of quilting products, selling of antiques, garden decor and conducting of classes. The site is located in the Northeast, Quarter of the Northeast Quarter of Section 20, Township 8 North, Range 25 East, W.M. on the West side of Bert James Road approximately 5,600 feet South of the intersection of Bert James Road and SR 221. The Board of Adjustment approved such action with eight conditions to be approved within a year's timeframe.

This action was presented to the Board of Adjustment again on September 4, 2008 and September 3, 2009 requesting an extension of which was granted by motion for one year. The applicant presents again at this hearing seeking another extension request. As you can see from the applicant's enclosed letter dated August 15, 2010, progress is being made on this conditional use permit.

The Benton County Board of Adjustment will need to make a motion whether or not to grant the applicant another extension request.

Attachment
August 15, 2010 letter

SPECIAL USE PERMIT

SP 10-09

PAT/KORENE REDMAN

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: AUGUST 18, 2010

TO: BENTON COUNTY BOARD OF ADJUSTMENT

FROM: BENTON COUNTY PLANNING DEPARTMENT

RE: SPECIAL USE PERMIT – SP 10-09 – PAT/KORENE REDMAN

The Benton County Board of Adjustment Hearing conducted on July 1, 2010 continued again this special use permit from the June 3, 2010 hearing in order to give the applicant time to work with the Benton Franklin Health District with regards to satisfying their requirements of approval.

The Senior Planner – Clark Posey communicated with the Benton Franklin Health District on August 17, 2010 and was informed that the applicant had contacted them. The applicant has almost completed the installation of the required septic system and was working on completing the water system.

The applicant had not contacted the Benton County Planning Department as of the date of this memo. It is anticipated that the applicant will be present at the hearing on September 2, 2010 and outline to the Board of Adjustment his progress.

SPECIAL USE PERMIT

SP 10-13

MARIYA TARASYUK

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: AUGUST 25, 2010

TO: BENTON COUNTY BOARD OF ADJUSTMENT

FROM: BENTON COUNTY PLANNING DEPARTMENT

RE: SPECIAL USE PERMIT – SP 09-07
APPLICANTS: VLADIMIR/MARIYA TARASYUK

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The Benton County Board of Adjustment on July 1, 2010 conducted a public hearing on the above noted special use permit. The Board heard testimony from the applicant and those in opposition to this business for the operating of a mechanical repair business. The site is located at 5601 W Lattin Road in the northwest Quarter of the Northeast Quarter in the Northeast Quarter of the Southwest Quarter of Section 18, Township 9 North, Range 28 East, W.M.

The Board made a motion to table this action for 60 days in order to allow the applicants time to work with the Planning Department and submit the following information on a revised plot plan for review by the Board at the September 2, 2010 hearing.

1. The size of the existing building
2. Show on the plot plan areas to be fenced
3. Write a business plan for the mechanical repair operation
4. Hoist enclosure plan
5. State whether or not the existing building will be included into the addition for the lift – hoist
6. Location of the septic system
7. Location of the bathrooms inside the shop building

The Benton County Planning Department wrote the enclosed letter dated July 16, 2010 to the applicant outlining the above. The Benton County Planning Department on August 20, 2010 received the enclosed documents from the applicant addressing the July 16, 2010 letter from the Benton County Planning Department.

Enclosures:

- BOAH2.1 Memo dated August 25, 2010
- BOAH2.2 Letter dated July 16, 2010 from the Benton County Planning Department
- BOAH2.3 Seven documents received from the applicant on August 20, 2010
- BOAH2.4 Pictures of the site taken August 24, 2010 by Planning Staff

VARIANCE REQUEST

VAR 10-02
DARRELL/JOLEA NICKERSON

THE APPLICANT IS REQUESTING
THAT THIS ACTION BE CONTINUED
TO OCTOBER 7, 2010

SPECIAL USE PERMIT

SP 10-14

PAUL/VICKIE KITZKE

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: AUGUST 5, 2010

MEETING DATE: AUGUST 5, 2010

TO: BENTON COUNTY BOARD OF ADJUSTMENT

FROM: BENTON COUNTY PLANNING DEPARTMENT

RE: SPECIAL PERMIT APPLICATION – SP 10-14
HOME OCCUPATION WITH ON-SITE SALES

**APPLICANTS/
OWNERS:** PAUL & VICKIE KITZKE, 72308 E. 260 PR NE. RICHLAND,
WA 99352

SPECIFIC REQUEST: The applicant, Paul & Vickie Kitzke, is requesting a Special Permit for a Home Occupation for on-site sales, for a wine tasting room and office for Kitzke Cellars.

The following are attached to BOA 1.1:

- BOA 1.1: Staff Report dated July 23, 2010.
- BOA 1.2: SP 10-14 Application.
- BOA 1.3: Access Road Map
- BOA 1.4: Vicinity Map
- BOA 1.5: Floor Plan showing proposed tasting room location
- BOA 1.6: Site Plan dated July 7, 2010
- BOA 1.7: Notice of Open Record hearing published on July 22, 2010
- BOA 1.8: Comments dated July 7, 2010 from Benton County Building Dept.
- BOA 1.9: Comments dated July 12, 2010 from the City of Richland
- BOA 1.10: Comments dated July 7, 2010 from Benton County Fire Marshal
- BOA 1.11: Comments dated July 15, 2010 from Benton County Public Works
- BOA 1.12: Comments dated July 13, 2010 from Benton Franklin Health District
- BOA 1.13: Sections 11.16.010 of the Benton County Code
- BOA 1.14: Aerial of the applicant's site submitted by the applicant.
- BOA 1.15: Site photos taken by planning staff on July 14, 2010.
- BOA 1.16: Aerial Photo of the site taken in 2008.

BACKGROUND:

Site Location: The site is located at 72308 E. 260 PR NE, Richland, WA on Lot 2 of Short Plat 1619 in Section 20, Township 9 North, Range 28 East, W.M.

Land Use: The site is currently developed with a single-family dwelling, attached garage and a detached shop. The surrounding properties are developed with single-family dwellings or are undeveloped.

Zoning: The site and surrounding properties are zoned Agriculture. Parcels located immediately east of Dallas Road are within the City of Richland; areas to the West are Agriculture.

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

State Environmental Policy Act: Categorically exempt.

APPLICABLE DEVELOPMENT REGULATIONS:

1. The Benton County Code Section 11.16.010(a) (In the Agricultural Zoning District) states that: "Any use permitted in the residential district."
2. The Benton County Code Section 11.08.010(l) (In the Residential Zoning District) states: (l) 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." Subsection (7) under this section states: " (7) Limited home occupation type activity involving the display and sale of products on the premises."
3. The Benton County Code Section 11.08.010(e) (In the Residential Zoning District) states the following for home occupations:
 - (e) Home Occupations in a residence or an attached garage as set forth in BCC 11.08.010(e)(1).
 - (1) Except those home occupations identified in BCC 11.08.010(e)(2), all home occupations which meet the following criteria are allowed upon issuance of a home occupation permit by the Benton County Planning and Building Department:
 - (a) There must be a residence on site, and the proprietor of the home occupation business must reside in that residence.
 - (b) No more than two (2) non-resident persons, whether they work on site or not, may be employed by or be partners in the home occupation business.
 - (c) There shall be no exterior indication of a home occupation or variation from the residential character of the premises other than those allowed by BCC 11.08.010(e)(1)(e) and BCC 11.08.010(e)(1)(g).
 - (d) The total area for all home occupation businesses located on a parcel, including all storage spaces, shall not occupy more than the lesser of: (i) thirty (30) percent of the residence's floor area and any attached garage; or (ii) six hundred (600) square feet.
 - (e) No more than one (1) non-illuminating sign, with a maximum area of four (4) square feet, shall be permitted in connection with the home occupation.
 - (f) No materials or equipment shall be used in a manner detrimental to the residential use of surrounding properties because of vibration, noise, light, dust, smoke, odor, interference with radio or television reception or other factors.
 - (g) Only one (1) vehicle marked to identify the home occupation is allowed to be stored outside of any structure at any one time. No other on-site, outside storage of vehicles, equipment, and/or supplies is allowed in connection with a home occupation. This prohibition shall preclude storage of building materials and equipment such as, but not limited to: lumber, plasterboard, pipe, paint, and heavy equipment.
 - (h) A home occupation permit issued to one person shall not be transferable to any other person; nor shall a home occupation permit be valid at any other address other than the one appearing on the permit.
 - (i) Once the home occupation permit is issued, the Benton County Fire Marshal

may require that the home occupation business be placed on the Fire Marshal's Annual Inspection List.

- (2) The following types of home occupations are not allowed under any circumstances:
- (a) on-site display and/or on-site sale of materials or products, unless a special permit under BCC 11.08.010(l)(7) is granted;
 - (b) Auto, truck, and heavy equipment repair, body work, or painting;
 - (c) Cabinetwork and mill work;
 - (d) Commercial Kennel;
 - (e) Veterinary clinic or hospital;
 - (f) Painting of vehicles, trailers or boats;
 - (g) Large appliance repair -- including but not limited to: stoves, refrigerators, washers and dryers;
 - (h) Machine and sheetmetal shops.

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 BCC 11.52.089.

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 Special Permit for a Home Occupation for On Site Sales application shall be denied."

FINDINGS OF FACT:

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

1. The applicants/properties owner is Paul & Vickie Kitzke, 72308 E. 260 PR NE Richland, WA 99352.
2. The applicant is requesting approval of a Special Permit for a Home Occupation for on site sales for a tasting room, storage and office space.
3. The application for SP 10-14 was submitted to Benton County on July 6, 2010 and declared complete on July 7, 2010.
4. Special Permit 10-14 did not require that a Notice of Application be published.
5. The notice for the Benton County Board of Adjustment Open Record Hearing for application SP 10-14 was published on July 22, 2010, 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 August 5, 2010.
6. Special Permit Application SP 10-14 is categorically exempt from the requirements of the Washington State Environmental Policy Act.
7. The Benton County Comprehensive Plan designated the site and surrounding areas as "Urban Growth Area". Parcels immediately to the east of Dallas Road are within the City of Richland. This application is within the City of Richland Urban Growth Area and the application was sent to the City of Richland. The City of Richland responded with a no comment response letter.
8. The existing building is 2583 plus the garage of 550 square feet. The application

provides that the business activity will only use 352 feet of the total 550 square feet of the attached garage. This would be within the square footage allowed for a home occupation. The building was originally permitted as a residential garage. A change of use and a building permit and inspection for the changes to the original residential garage must be obtained from the Benton County Building Department.

9. The application lists that there will be 10 parking spaces for the home occupation. The applicant will need to show where the parking will be provided. Also at least one of the parking space must be paved and meet the handicapped parking standards. Parking will not be allowed on the fire access road (driveway).
10. The Benton-Franklin Health District commented (BOA 1.12) that they had no objections provided that:
 - The dwelling and business are each served by an approved public water supply in accordance with WAC 246-291.
 - The dwelling and business are each 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.
 - The lot must meet minimum land area requirements as specified in Benton-Franklin District Board of Health rules and Regulations No. 2.
11. The Benton County Department of Public Works provided that the existing approach to Dallas Road is paved to 96-05 standards.
12. The proposed use 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 Agriculture 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.
13. The surrounding area is not completely developed but the proposed use as shown in the application should not hinder or discourage the development of permitted uses on neighboring properties in this Agriculture zoning district as a result of this special permit.
14. Based on the application and the information presented by the applicant, it appears that this application would comply with the criteria addressed above and contain in Benton Code Section 11.08.010(e).

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 10-14, 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. Applicant shall not conduct any of the activities within the scope of Special Permit 10-14 until the applicant is in compliance with all conditions set forth herein. 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 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 for a home occupation for on site sales within one (1) year from the time the Board of Adjustment conditionally approved the special permit, 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 applicants obtain appropriate building permits to change the occupancy, if needed of the existing garage to be used for the business activity. Applicants must submit written documentation that all the required permits and approvals have been obtained from the Benton County Building Office. The applicants shall continue to occupy the on-site single family dwelling while Special Permit SP 10-14 is in effect.
4. The Special Permit for a Home Occupation for on site sales must be conducted within the dwelling and/or attached garage on subject property, and the proprietor of the home occupation business must reside in the residence located on site with the home occupation business.

5. There shall be no exterior indication of a home occupation or variation from the residential character of the premises other than those allowed in items 7,9 & 10 of this permit.
6. The total area for Special Permit for a Home Occupation for on site sales located on the parcel, including all storage spaces, shall not occupy more than the lesser of (1) thirty (30) percent of the residence's floor area and any attached garage; or (2) six hundred (600) square feet.
7. That the applicants comply with all requirements included in the Benton Franklin Health District letter dated July13, 2010 (BOA 1.12). The applicants shall continue to meet all such requirements while Special Permit SP 10-14 is in effect.
8. That the applicants provide at least 10 parking spaces and must show them on a site plan. At least one of the parking spaces must meet the requirements for handicap parking. The applicants shall continue to meet all such requirements while Special Permit SP 10-14 is in effect.
9. There must be a residence on site, and at least one (1) of the proprietors of the business must be the owner or lessee of the property where the business and the residence are located and must reside in said residence. If the applicant no longer resides in the existing home, the activity must be discontinued. The applicants shall continue to meet all such requirements while Special Permit SP 10-14 is in effect.
10. That no (0) non-resident persons, work on site, at the request of the applicants. The applicants shall continue to meet all such requirements while Special Permit SP 10-14 is in effect.
11. That no more than one (1) non-illuminating sign, as requested by the applicants with a maximum area of four (4) square feet each, shall be permitted in connection with the Special Permit for a Home Occupation for On Site Sales The posting of such signs is limited to the parcel on which the approved detached accessory building is located. On street (inside the road right-of-way) sign posting, which interferes with the line-of-site for road intersections, are prohibited. The applicants shall continue to meet all such requirements while Special Permit SP 10-14 is in effect.
12. That not more than one (1) vehicle marked to identify the business may be on the parcel at any one time. No other on-site outside storage of vehicles, equipment and/or supplies is allowed in connection with the activity. This prohibition applies to, but is not limited to: lumber, plasterboard, pipe, paint, inoperable vehicles, and heavy equipment that are related to the business. The applicants shall continue to meet all such requirements while Special Permit SP 10-14 is in effect.
13. 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 District Health Department, and all other local, state and federal regulations pertinent to the business activity 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 10-14 is in effect.

14. A Special Permit for a Home Occupation for on site sales permit issued to one person shall not be transferable to any other person; nor shall a home occupation permit be valid at any other address other than the one appearing on the permit.
15. That any waste created as a result of the Special Permit for a Home Occupation for on site sales must be disposed of off-site in compliance with all local, state and/or federal regulations.
16. The presence of customers/clients at the site of the Special Permit for a Home Occupation for on site sales shall be limited to Friday, Saturday, and Sunday between the hours 12:00 p.m. to 5:00 p.m. as stated in the application, by appointment only. The applicants shall continue to meet all such requirements while Special Permit SP 10-14 is in effect.

SPECIAL USE PERMIT

SP 10-12
APOLLO, INC.

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: AUGUST 23, 2010

MEETING DATE: SEPTEMBER 2, 2010

TO: BENTON COUNTY BOARD OF ADJUSTMENT

FROM: BENTON COUNTY PLANNING DEPARTMENT

RE: SPECIAL PERMIT APPLICATION – SP 10-12

APPLICANT: APOLLO, INC.
C/O KEVIN BURK
1133 W. COLUMBIA DRIVE
KENNEWICK, WA 99336

PROPERTY OWNERS: BRYCE RATCHFORD
P.O. BOX 7287
KENNEWICK, WA 99336

SPECIFIC REQUEST: The applicant, Apollo, Inc. is requesting a special use permit to park equipment, and perform on going maintenance and repair of their personal equipment of trucks and trailers to include welding, tire repair and other maintenance as needed on an 8.12-acre parcel.

BACKGROUND:

Site Location: The site is located at 1115 Clodfelter Road, Kennewick on Lot 2 of Short Plat 2849 in the Northeast Quarter of the Northeast Quarter Section 12, Township 8 North, Range 28 East, W.M.

Land Use: The site is currently developed with a pre-existing 3600 sq. ft. shop, 1727 sq. ft. mobile home used for office space and 1300 sq. ft. welding shop. The surrounding properties are developed with an agricultural chemical distribution warehouse, landscape rock product business, electrical service company and an excavating business.

Zoning: The site and surrounding properties are zoned Unclassified.

Benton County Comprehensive Plan Designation: Site and surrounding areas are "Urban Growth Area".

State Environmental Policy Act: EA 10-22 was reviewed under the requirements of the State Environmental Policy Act WAC 197-11-355. A Determination of Non-Significance was issued for this application on August 9, 2010. Environmental Impact Statement is not required.

APPLICABLE DEVELOPMENT REGULATIONS:

1. The Benton County Code Section 11.48.010(h) (In the Unclassified Zoning District) states that: "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.

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 BCC 11.52.089.

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 owner is Bryce Ratchford. P.O. BOX 7287, KENNEWICK, WA 99336.
2. The applicant, Apollo, Inc is requesting a special use permit to park equipment, and perform on going maintenance and repair of their personal equipment of trucks and trailers to include welding, tire repair and other maintenance as needed on an 8.12 -acre parcel.
3. The application for SP 10-12 was submitted to Benton County on May 7, 2010 and declared incomplete for processing on May 13, 2010. The applicant was resubmitted again on July 13, 2010 and determined complete for processing on July 15, 2010.
4. A Notice of Application for SP 10-12/EA 10-22 was published on July 22, 2010 and a Determination of Non-Significance was issued on August 9, 2010.
5. The notice for the Benton County Board of Adjustment Open Record Hearing for application SP 10-12 was published on August 19, 2010, 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 September 2, 2010.
6. State Environmental Policy Act: SP 10-12/EA 10-22 was reviewed under the requirements of the State Environmental Policy Act per the requirements of WAC 197-11-355. A Determination of Non-Significance was issued for this application on August 9, 2010. Environmental Impact Statement is not required. The Notice of Application was published on July 22, 2010 with notice to surrounding property owners and reviewing agencies mailed out on July 19, 2010.
7. The site is zoned Unclassified and the Benton County Comprehensive Plan designated the site and surrounding areas as “Urban Growth Area”.
8. The application was routed for review to the Benton County Department of Public Works, Benton County Health District, Benton County Fire District #1, Benton County Building Department. Benton County Fire Marshal, Benton Clean Air Authority, City of Kennewick.

9. The parcel consists of an existing shop that is approximately 3600 square foot, a mobile home of 1728 sq. ft. that will be used for an office and a welding shop that is approximately 1300 square feet.
10. Prior to Apollo occupying this parcel the eastern part of this property was previously approved for a special permit for a mini storage unit facility.
11. A Spill Prevention, Control and Countermeasures Plan have been submitted with the application for this Special Use Permit.
12. Repair businesses that have a large number of vehicles on-site needing repairs can begin to look like a junkyard. A large number of vehicles located around the accessory building and elsewhere on the property could give the appearance of a junkyard. A junkyard and a large amount of traffic could have a negative effect on neighboring residences.
13. The Benton County Fire Marshal requires that there be no spray painting unless previously approved.

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 10-12, 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. Applicant shall not conduct any of the activities within the scope of Special Permit SP 10-12 until the applicant is in compliance with all conditions set forth herein. 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 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 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 provides written verification to the Benton County Planning Department that they have obtained the necessary permits from the Benton County Building Department for using the existing building as a shop for a repair business. The applicant shall continue to meet all such requirements while Special Permit SP 10-12 is in effect.
4. That the applicant complies with all requirements included in the Benton Franklin Health District letter dated June 24, 2010. The applicant shall continue to meet all such requirements while Special Permit SP 10-12 is in effect.
5. That the applicant provides adequate off-street parking and presents that plan to the Benton County Planning Department. The applicant shall continue to meet this requirement while Special Permit SP 10-12 is in effect.
6. That the applicant prepare and implement a Best Management Practices (BMP's) plan for the proper handling of used oil, solvents and other hazardous materials. The plan is to be approved by the Benton-Franklin Health District. The applicant must provide written verification to the Benton County Planning Department that they have received the approval of the Benton-Franklin Health District. The applicant shall continue to meet all such requirements while Special Permit SP 10-12 is in effect.
7. That the applicant refrains from any spray-painting unless prior approval is granted by the Benton County Fire Marshal. The applicant shall continue to meet all such requirements while Special Permit SP 10-12 is in effect.
8. The right-of-way of the Amon Wasteway affecting parcel #1-2288-101-2849-002 is 70 feet from the centerline of the current physical location of the Amon Wasteway. In this 70 foot of the right-of-way, the only earthen material allowed would be non-permanent surface material that can be driven on, for example gravel. This easement cannot be blocked at any time for any reason. Rocks, storage of equipment, or any other structures are not allowed in the easement. At any time upon inspection by KID or Reclamation, any

unauthorized material in the easement will removed at your expense. The applicant shall continue to meet all such requirements while Special Permit SP 10-12 is in effect.

9. Fencing will be required as noted on the applicant's site plan BOA 1.14.