

THE FOLLOWING MEMO HAS BEEN
SCANNED WITHOUT EXHIBITS FOR THE
HEARING TO BE CONDUCTED BY THE
BENTON COUNTY

BOARD OF ADJUSTMENT

THURSDAY, FEBRUARY 7, 2013 - 7 P.M.
BENTON COUNTY 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
BY CALLING 736-3086 FROM TRI-CITIES
OR 786-5612 FROM PROSSER
OR EMAIL TO
PLANNING.DEPARTMENT@CO.BENTON.WA.US

**EXHIBIT LIST FOR CUP 13-01
FRANCISCO/ANGELA CONTRERAS
CONTRERAS LAWN SERVICE**

BOARD OF ADJUSTMENT STAFF MEMO EXHIBIT LIST			
BOAM 1 INCLUDES	EXHIBIT #	DOCUMENT NAME	DATE
	BOAM 1.1	Staff Memo	January 18, 2013
	BOAM 1.2	Notice of Open Record Hearing	January 8, 2013
	BOAM 1.3	Benton Franklin Health District comments	January 8, 2013
	BOAM 1.4	Benton PUD comments	January 8, 2013
	BOAM 1.5	Benton County Fire Marshall comments	January 10, 2013
	BOAM 1.6	Benton Co. Public Works comments	January 16, 2013
	BOAM 1.7	Site map	
	BOAM 1.8	Aerial map	
BOARD OF ADJUSTMENT – APPLICATION EXHIBIT LIST			
BOAR 1 INCLUDES	EXHIBIT #	DOCUMENT NAME	DATE
	BOAR 1.1	Conditional Use Permit – 3 pages	December 27, 2012
	BOAR 1.2	Dept. L/I License	11/4/05 to 3/19/2014
	BOAR 1.3	Plot Plan	
BOARD OF ADJUSTMENT HEARING FEBRUARY 7, 20132			
BOAH 1 INCLUDES	EXHIBIT #	DOCUMENT NAME	DATE

EXHIBIT SHEET – E-1 – Exhibit listing
 BOAR – Board of Adjustment Record Exhibits
 BOAM – Board of Adjustment Memo Exhibits
 BOAH 1 - Documents submitted during the hearing

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: JANUARY 18, 2013
MEETING DATE: FEBRUARY 7 2013
TO: BENTON COUNTY BOARD OF ADJUSTMENT
FROM: BENTON COUNTY PLANNING DEPARTMENT
RE: CONDITIONAL USE PERMIT APPLICATION – CUP 13-01

APPLICANTS

PROPERTY OWNERS: FRANCISCO & ANGELA CONTRERAS
18304 S. MYRTLE STREET
KENNEWICK, WA 99337

SPECIFIC REQUEST: The applicants are requesting approval of a Conditional Use Permit for the operation of a mobile lawn care business to be conducted off site.

BACKGROUND:

Site Location: The site is located at 18304 S. Myrtle Street Kennewick, WA 99337 in the Northwest Quarter of the Northeast Quarter of the Northeast Quarter of Section 18, Township 8 North, Range 30 East, W.M. Parcel # 1-1880-102-0001-003

Land Use: The site is currently developed with a single-family dwelling and several accessory buildings with the surrounding area a mixture of residential dwellings and agricultural uses.

Zoning: The site and surrounding properties are zoned Rural Lands 5.

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

Washington State Environmental Policy Act: Categorically exempt.

APPLICABLE DEVELOPMENT REGULATIONS:

The Benton County Code Section 11.16A.06 (In the Rural Lands 5 District) states that: "Any use not authorized or approved pursuant to BCC 11.16A.030, .040, and .050 is prohibited by laws of Benton County or the State of Washington,

1. **BCC 11.16A.050 (w).** Business Activities that are compatible with the principal uses and purpose of the underlying zone and the surrounding land uses may be conducted from an approved accessory building detached from all dwelling units if the following criteria as well as any other conditions required by the Board of Adjustment are satisfied BCC 11.16A.050(w).

(1) 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.

(2) No more than four (4) non-resident persons, whether they work on site or not, may be employed by or be partners in the business.

(3) The business activity, including all storage space, shall not occupy more than eighteen hundred (1800) square feet of total floor area within the detached accessory building.

(4) Only one (1) approved detached accessory building on a parcel may be used for business activities. If more than one (1) business will be conducted within an approved detached accessory building, then a separate application must be submitted for each business activity, provided that the total area used by all business activities shall not exceed that permitted by BCC 11.16A.050(w)(3).

(5) No more than two (2) non-illuminating signs, with a maximum area of four (4) square feet each, shall be permitted in connection with the business activity. 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 and sign posting which interferes with the line-of-site for road intersections are prohibited.

(6) Not more than three (3) vehicles marked to identify the business may be on the parcel at any one time. No other on- 11-17.01F (BCC

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 applicants/owners of the property are Francisco & Angela Contreras. 18304 S Myrtle Street, Kennewick, WA. 99337. The site located in the Northwest Quarter of the Northeast Quarter of the Northeast Quarter of Section 18, Township 8 North, Range 30 East, W.M.

2. The applicant is requesting approval of a Conditional Use Permit Application for the operation of an off-site mobile lawn care service. The lot size is .50 Acre
3. The application for CUP 13-01 was submitted to Benton County on December 28, 2012 and was deemed complete for processing on January 4, 2013.
4. The notice for the Benton County Board of Adjustment Open Record Hearing for application CUP 13-01 was published on January 17, 2013 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 February 7, 2013.
5. Conditional Use Permit Application CUP 13-01 is categorically exempt from the requirements of the Washington State Environmental Policy Act.
6. The site is currently developed with a single-family residence and outbuildings on the property.
7. The Benton County Comprehensive Plan designates the site and surrounding areas as "Rural Lands 5".
8. The surrounding areas have been developed with residential structures and agricultural uses so the proposed use as shown in the application would not hinder or discourage the development of permitted uses on neighboring properties in the Rural Lands 5 Zone
9. The Benton-Franklin Health District has commented, "It should be stressed that the property where the lawn maintenance trucks are kept shall not be used as a solid waste facility for yard waste and that long-term (greater than one week) storage of yard waste in vehicles or storage containers shall NOT be allowed."
10. The Benton County Fire Marshal had no comment.
11. Benton County Building Department commented, Building Permits will be required if any additional buildings are to be constructed.
12. The Benton County Public Works Department stated that an Encroachment Permit would need to be obtained for access onto Myrtle Street meeting County Standard Plan 96-05.
13. The applicant has requested that the business hours of operation be Monday thru Friday, 7:00 a.m. to 3:30 p.m. We suggest hours of 7:00 a.m. until 5:00. p.m.
14. No signage is being requested for this business activity.

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:

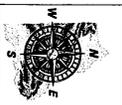
- (1) is compatible with other uses in the surrounding area or is no more incompatible than are any other outright permitted uses in the applicable zoning district;
- (2) will not materially endanger the health, safety, and welfare of the surrounding community to an extent greater than that associated 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 Conditional Use Permit Application 13-01, 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 Conditional Use Permit 13-01 until the applicants are in compliance with the following conditions. 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 conditional use permit until those conditions have been met. The conditional use 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 conditional use 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 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. For zoning restrictions, all of the business activities must be contained to the areas located within the site plan submitted with application.
4. If nonresident employees are hired the applicants will need to comply with the Benton Franklin Health District codes and regulations and any changes or modifications to the original application submitted plan must be approved by the Health District and verification provided to the Benton County Planning Department. The applicants shall continue to meet all such requirements while Conditional Use Permit CUP 13-01 is in effect.
5. No parking within any part of the county right of way of Myrtle Street will be allowed. The applicants shall continue to meet all such requirements while Conditional Use Permit CUP 13-01 is in effect.
6. That the presence of customers/clients and non-resident employees at the business activity shall be limited to Monday through Friday between the hours of 7:00 a.m. to 5:00 p.m. and by appointment. The applicants shall continue to meet all such requirements while Conditional Use Permit CUP 13-01 is in effect.
7. The applicants must apply for an approach permit for this business with the Benton County Public Works Department. The approach must be built to the Benton County Standard Plan 96-05.
9. That the property owner and the proprietor(s) of the business shall comply with all the 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 conditional use permit. The requirements of or permission granted by the Board of Adjustment shall not be construed as an exemption from such regulations.
10. The Benton County Planning Department, Benton County Building Department, the Benton County Fire Marshal and the Benton-Franklin District Health District must approve any changes or modifications to the original submitted application.
11. That any waste created in association with the business as a result of this conditional use permit must be disposed of off-site in a timely manor and in compliance with all local, state and/or federal regulations. The applicant shall continue to meet all such requirements while Conditional Use Permit CUP 13-01 is in effect.



Benton County
Planning
Department

SECTION 18 TOWNSHIP 8 NORTH RANGE 30 EAST W.M.
CONDITIONAL USE PERMIT # CUP 13-01
FRANCISCO CONTRERAS/ CONTRERAS LAWN SERVICE
MAP PRINTED: JANUARY 3, 2013

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E 27th Ave

1884 PR

SITE

S Myrtle St

