

DUE TO THE VOLUME OF THE BOARD OF ADJUSTMENT MEETING PACKET, THE MEMOS HAVE BEEN SCANNED WITHOUT EXHIBITS.

IF YOU WISH TO OBTAIN A COMPLETE PACKET INCLUDING THE EXHIBITS PLEASE CONTACT THE BENTON COUNTY PLANNING DEPARTMENT BY CALLING 736-3086 TRI-CITIES, 786-5612 – PROSSER OR BY EMAIL TO: PLANNING.DEPARTMENT@CO.BENTON.WA.US

SPECIAL USE PERMIT

SP 10-05

APPLICANT:

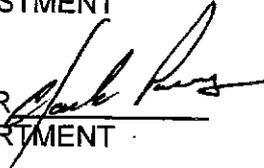
TRISH TRICKETT

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: OCTOBER 12, 2012

TO: BENTON COUNTY BOARD OF ADJUSTMENT

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

RE: EXTENSION REQUEST – SP 10-05 – TRISH TRICKETT

The Benton County Board of Adjustment at an Open Record Hearing conducted on May 13, 2010, approved with conditions a request for the operation of a customization and restoration business of old cars to include the sale of aftermarket accessories. The site is located at 22206 E Kennedy Road – Benton City on Lot 4 of Short Plat 2653 in Section 16, Township 9 North, Range 27 East, W.M.

Attached is an extension request received October 12, 2012 from the applicant for another year extension in order to satisfy the conditions of approval affixed to her special use permit.

The Board of Adjustment will need to make a decision as to whether or not the extension request will be granted.

Enclosure:

Letter received October 12, 2012

SPECIAL USE PERMIT

SP 07-18

APPLICANT:

STEVE WESTERMAYER

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: OCTOBER 25, 2012

TO: BENTON COUNTY BOARD OF ADJUSTMENT

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

RE: EXTENSION REQUEST FOR SP 07-18 — STEVE WESTERMEYER

The Benton County Board of Adjustment on May 1, 2008 approved a special use permit — SP 07-18 for the construction and operation of 286 mini-storage units on a 35-acre site. The site is located North of Interstate 82 in the Northwest Quarter of the Northwest Quarter of Section 11, Township 8 North, Range 28 East, W.M. The special use permit was approved with conditions to be satisfied within a one-year timeframe.

The applicant was granted an extension in 2009, 2010 and 2011. The applicant presents again on October 24, 2012 requesting another extension. The applicant has installed the fencing, and has completed the conditions of approval affixed to this special use permit. The applicant at the October 6, 2011 informed the Board with regards to the phasing of this project.

Attached is a letter from the Benton County Planning Department to the applicant dated October 9, 2012 with a response email enclosed from the applicant dated October 24, 2012.

The Benton County Planning Department recommends that the Board of Adjustment review this application with regards to the granting of another extension request.

Attachments:

- 1) October 9, 2012
- 2) Email from the applicant dated October 9, 2012

SPECIAL USE PERMIT

SP 05-21

APPLICANT:

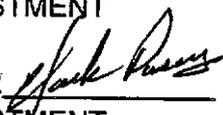
ALBERTO BENAVIDES

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: OCTOBER 12, 2012

TO: BENTON COUNTY BOARD OF ADJUSTMENT

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

MEETING DATE: NOVEMBER 1, 2012

RE: NULL AND VOID – SP 5-21 – ALBERTO BENAVIDES
OPERATION OF A BODY SHOP

The Benton County Board of Adjustment at an Open Record Hearing conducted on September 1, 2005 reviewed and approved a special use permit for the operation of an auto body business. The site is located at 205607 E Schuster Road in the Southwest Quarter of Section 9, Township 8 North, Range 30 East, W.M. The applicant had applied for and received extensions on this application in 2007, 2008 and 2009. The extension that was granted in 2009 was to allow the applicant time to pave the approach as required by the Benton County Public Works Department, which to date still has not been completed.

The Benton County Planning Department conducted a site visit on August 24, 2010, pictures attached, which shows overflow parking in front parking area as there is no room behind the fenced area for the business. It was noted on the site visit that there must have been fifty plus cars and parts for cars located on site.

Condition No. 7 states: "That all inoperable vehicles, not being repairs, be removed from the property within 30 days after the appeal period has expired and that there only are five (5) customer vehicles or vehicles under repair parked outside. The vehicles parked outside shall be placed in an enclosure. The enclosure shall be at least 6-foot high site obscuring fence. The fenced area shall not be located between the existing single-family dwelling and Schuster Road. The applicant shall continue to meet all such requirements while Special Use Permit – SP 05-21 is in effect." **The applicant is in violation of this condition as there were more than five vehicles noted on site during the site visit conducted on August 24, 2010.**

The applicant was sent a letter on August 24, 2012 which is attached to this memo, informing him that the required conditions of approval, especially Condition No. 8 with regards to paving the approach per the requirements of the Benton County Public Works Department had yet to be satisfied. In addition, the applicant was also informed again that he was in violation of Condition No. 7 as noted above. The August 24, 2012 letter was sent certified and return unclaimed on September 14, 2012 to the Benton County Planning Department.

The August 24, 2012 letter stated that the applicant would have 30 days from the date of the letter to complete the conditions of approval or the permit would be placed on the October 4, 2012 Board of Adjustment agenda for a null and void status.

This action will be placed on the November 1, 2012 Board of Adjustment agenda for a null and void status as the October 4, 2012 hearing was canceled.

Enclosures:

Pictures dated August 24, 2010 taken by the Benton County Planning Department

Findings of Fact dated October 6, 2005

Site map

Letter dated August 24, 2012 to the applicant from the Benton County Planning Department

**CONDITIONAL USE
PERMIT**

CUP 12-05

APPLICANT:

SHELLEY WEBER

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: September 26, 2012

TO: Benton County Board of Adjustment

FROM: Clark A. Posey, Senior Planner 
Benton County Planning Department

RE: Continuation Hearing on Conditional Use Permit – CUP 12-05
Applicant: Shelley Weber

The Benton County Board of Adjustment on Thursday, September 6, 2012 conducted a public hearing in which Conditional Use Permit – CUP 12-05 was heard. The conditional use permit was for the operation of a retail animal feed store and sale of miscellaneous merchandise. The site is located at 10613 S 2058 PR SE – Kennewick in the Northeast Quarter of the Northwest Quarter of Section 9, Township 8 North, Range 30 East, W.M. on Lot 3 of Short Plat 441.

The Board reviewed all written and oral testimony both for and against this action. The Board then made a motion to continue this action to the next regularly scheduled hearing – October 4, 2012 – 7 p.m. Planning Annex – 1002 Dudley Avenue as additional information was being requested from the applicant pertaining to the private road of 2058 PR SE, prior to the Board reaching a decision.

The Benton County Planning Department on September 14, 2012 (BOAH 2.2) wrote a letter to the applicant outlining the information requested by the Board at the September 4, 2012 hearing, which is as follows:

- (1) a copy of the road maintenance agreement,
- (2) road width determination
- (3) contact Columbia Irrigation District comments on the abandoned manhole located within the street,
- (4) contact the Public Works Department as to whether or not a stop sign would be required on the road.

Enclosed please find documentation provided by the applicant addressing the Board' request for additional information:

- (1) Letter from the applicant dated September 19, 2012 – BOAH 2.3
- (2) Letter from the Benton County Planning Department dated September 14, 2012 - BOAH 2.4
- (3) Road maintenance agreement dated June 21, 2004 – BOAH 2.5
- (4) Email to Columbia Irrigation District from Shelley Weber dated September 10, 2012 – BOAH 2.6
- (5) Letter from Columbia Irrigation District dated September 11, 2012 – BOAH 2.7
- (6) Email from Sue Schuetze – Public Works Department to Clark Posey, Senior Planner – Benton County Planning Department dated September 11, 2012 – BOAH 2.8

Attachments

**CONDITIONAL USE
PERMIT**

CUP 12-06

APPLICANT:

A.J. STILL

**EXHIBIT LIST FOR CUP 12-06
A.J. STILL – STATEWIDE DEVELOPMENT, LLC**

BOARD OF ADJUSTMENT STAFF MEMO EXHIBIT LIST			
BOAM 1 INCLUDES	EXHIBIT #	DOCUMENT NAME	DATE
	BOAM 1.1	Staff memo	October 16, 2012
	BOAM 1.2	Notice of Open Record Hearing	October 11, 2012
	BOAM 1.3	Site Plan	
	BOAM 1.4	Aerial of the site	
	BOAM 1.5	Picture of the site	October 18, 2012
	BOAM 1.6	Picture of the site	October 18, 2012
	BOAM 1.7	Picture of the site	October 18, 2012
	BOAM 1.8	Environmental Checklist	
	BOAM 1.9	Notice of Application	August 31, 2012
	BOAM 1.10	Determination of Non-Significance	September 27, 2012
	BOAM 1.11	Sunnyside Valley Irrigation District letter	September 5, 2012
	BOAM 1.12	Benton County Fire Marshall	September 5, 2012
	BOAM 1.13	Benton County Building Department	September 6, 2012
	BOAM 1.14	Benton PUD	September 10, 2012
	BOAM 1.15	Benton Franklin Health District	September 10, 2012
	BOAM 1.16	Benton County Public Works	September 11, 2012
	BOAM 1.17	Department of Ecology letter	September 17, 2012
	BOAM 1.18	Benton County Public Works	October 2, 2012
	BOAM 1.19	Northwest Pipeline	October 22, 2012
	BOAM 1.20	Letter from the applicant	November 18, 2010
	BOAM 1.21	Letter to Charles Morrow from Benton County	May 9, 1995
	BOAM 1.22	Conditional Use Permit – CUP 02-10	September 26, 2002
BOARD OF ADJUSTMENT – APPLICATION EXHIBIT LIST			
BOAR 1 INCLUDES	EXHIBIT #	DOCUMENT NAME	DATE
	BOAR 1.1	Application	August 22, 2012
	BOAR 1.2	Plot Plan	
	BOAR 1.3		
	BOAR 1.4		
BOARD OF ADJUSTMENT HEARING NOVEMBER 1, 2012			
BOAH 1 INCLUDES	EXHIBIT #	DOCUMENT NAME	DATE
	BOAH 1.1		

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: OCTOBER 16, 2012

MEETING DATE: NOVEMBER 1, 2012

TO: BENTON COUNTY BOARD OF ADJUSTMENT

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

RE: CONDITIONAL USE PERMIT CUP 12-06 / EA 12-20

APPLICANT: A.J STILL

PROPERTY OWNER: 273 S. COUNTY LINE ROAD
GRANDVIEW, WA 98930

PROPERTY OWNER: STATEWIDE DEVELOPMENT, LLC
273 S COUNTY LINE ROAD
GRANDVIEW, WA 98930

SPECIFIC REQUEST: The applicant is requesting approval to amend SP 02-10 for additional construction and operation of two 40 x 100 ft. buildings, two 40 x 90 ft., buildings and one 20 x 100 ft. mini-storage building where an existing facility of storage buildings is already in operation. The site is a 4.09 acre parcel located on County Line Road and South of King Tull Road.

This is a pre-existing Special Use Permit which was originally approved with a Phase 4. The original applicant did not complete the fourth phase, but the new owners would like to now and have submitted this new conditional use permit application. Applicant is requesting approval of the addition that was originally approved as Phase 4 of Special Permit 95-14. This final phase declared Null and Void in 1998 as the original applicant was given three years to complete this last phase, (4) and did not.

The new owners purchased the property in 2001, and are now asking for the board to re-approve this phase (phase 4) that was not constructed by the previous owner.

BACKGROUND:

Site Location: The site is located at 273 S County Line RD Grandview, WA 98930, in that portion of the West Half of the Northwest Quarter of Section 30, Township 9 North, Range 24 East, W.M.

Land Use: The site is currently developed with a residential structure with the existing storage buildings.

Zoning: The site and properties are zoned GMA Agriculture, with the area to the West being

October 16, 2012

Page 1 of 6

Staff Report CUP 12-06 - Still

located in Yakima County.

Comprehensive Plan: The Benton County Comprehensive Plan has designated the site as "Growth Management Act Agriculture".

State Environmental Policy Act: A Determination of NonSignificance was issued on September

APPLICABLE DEVELOPMENT REGULATIONS

GMA Agriculture District

11.18.050(2)(4) Allowable Uses. Except as set forth in BCC 11.18.060 and BCC 11.18.070, only the following uses are determined consistent with the purpose of this chapter and are allowable uses in the GMA AG District.

The following is the allowable use for this agricultural application.

11.18.050(2) Accessory buildings, uses and structures appurtenant to the conduct of the agricultural use and customarily provided in conjunction with an agricultural operation

11.18.050(4) Agricultural buildings: as defined under 11.04 BCC "Agricultural Building means A structure designed and constructed to store farm implements or machinery or hay grain or poultry livestock fruit and other agricultural products. The structure shall not be used for human habitation.

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."

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 applicant is A.J Still 273 S County Line Road – Grandview, WA 98930 with the business being listed under Statewide Development LLC.
2. The applicant is requesting a conditional use permit for the construction and addition of 5 additional mini-storage units and outside storage. The site is a 4.09 - acre parcel located on the West Half of the Northwest Quarter of Section 30, Township 9 North, Range 24 East, W.M. The original Special Permit was approved in 1995 under Special Permit 95-14.
3. The application for CUP 12-06 was submitted to the Benton County Planning Department on August 22, 2012 and deemed complete on August 22, 2012.
4. The notice for the Benton County Board of Adjustment Open Record Hearing for application CUP 12-06 was published on October 16, 2012. 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 November 1, 2012.
5. Conditional Use Permit Application CUP 12-06 was reviewed under the requirements of the Washington State Environmental Policy Act. A Determination of Non-Significance

(DNS) was issued on September 21, 2012, in relation to the environmental impacts of the proposed facility.

6. The site for expansion is currently a bare and covered with gravel.
7. The Benton County Comprehensive Plan designated the site and surrounding areas as "Growth Management Act Agriculture" (GMA AG). The adjoining site is currently developed containing existing storage units. The area West of this property is in Yakima County and therefore in the Yakima County zoning designation.
8. The Benton County Fire Marshal's comments of September 5, 2012 state that a water supply was previously established under SP 02-10 and is adequate for this developmental site.
10. Benton County Building Department will require building permits for any new construction of buildings that may be proposed.
11. The applicant has requested established hours of operation. 7:30 a.m. to 7:30 p.m. seven days a week.
12. The Conditional Use Permit application did mention the use of outdoor lighting, as on the original permit, any security lighting must be of a low intensity, shielded and directed away from surrounding properties, to minimize glare and protect the night time aesthetics of the area.
13. The Benton County Public Work's Department will require that the applicant obtain an encroachment permit and pave per BCC Standards 96-05. This requirement was completed on August 22, 2003 - Encroachment Permit Number 2003-325.
14. An onsite visit on October 18, 2012 with Vic Smith, of Williams Pipeline verified that the setback from the underground pipeline is 20 ft. and that proposed construction will not encroach into the setback area.

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 12-06, 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) That conditional use permit CUP 12-06 is for the construction of two 40X100 ft. buildings, two 40X90 ft. buildings both being closed storage with a garage door or man door and one 20X100 ft. open storage building (constructed like an equipment type shed). The applicant must 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 for the expansion of the storage unit facility 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 conditional use 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) The applicant shall gravel and maintain all parking and driving surfaces with at least two (2) inches of compacted gravel. The driving surface may be covered in asphalt or concrete cement. The driving area shall be at least 20 ft. in width. The applicant shall continue to meet all such requirements while conditional use permit CUP 12-06 is in effect.
- 4) That the applicant continue to be in compliance with the Health District's requirements as outlined in their letter dated September 10, 2012. The applicant shall continue to meet all such requirements while conditional use permit CUP 12-06 is in effect.
- 5) No outside storage will be allowed within the fenced storage area. The applicant shall continue to meet all such requirements while conditional use permit CUP 12-06 is in effect.
- 6) That all new construction must maintain the appropriate setbacks from property lines.
- 7) Applicant must direct security lighting in a downward direction and contain light "spillage" to restrict glare onto adjacent residential properties. The applicant shall continue to meet

all such requirements while conditional use permit CUP 12-06 is in effect.

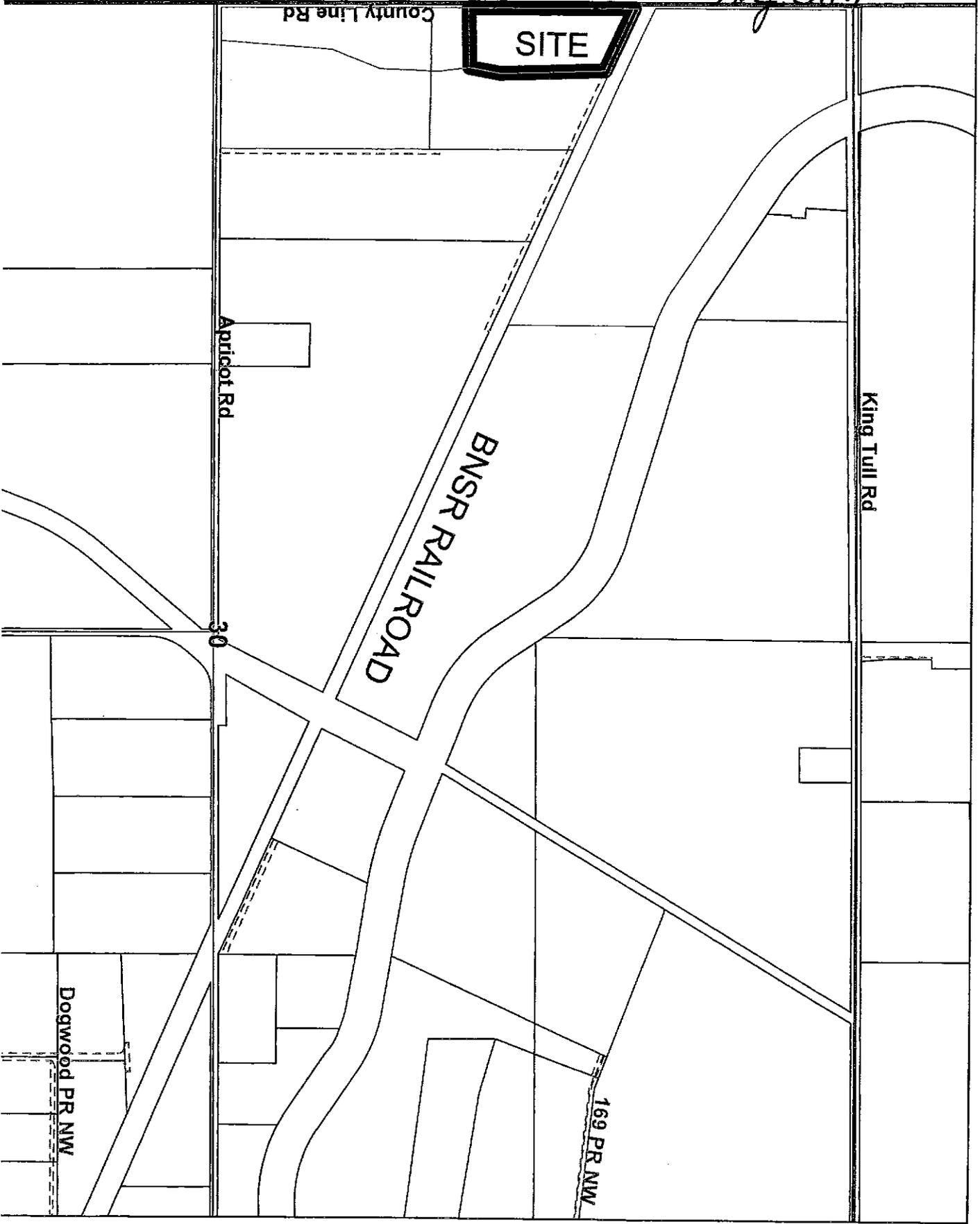
8. An approved fence must be constructed and maintained around the storage unit facility at all times. The fencing and gates of the facility must continue to be kept in good repair. The applicant shall continue to meet all such requirements while conditional use permit CUP 12-06 is in effect.
9. The applicant must identify and mark the easement for the underground natural gas pipeline. Construction will not be allowed of any buildings within this easement. The applicant must call for a pipeline locate prior to any site prep or foundation work on the most Northerly building to be constructed adjoining the underground Northwest Gas pipeline and existing railroad right-of-way. The applicant shall continue to meet all such requirements while conditional use permit CUP 12-06 is in effect.
10. That the presence of customers/clients and non-resident employees at the activity shall be limited to the hours between 7:30 a.m. to 7:30 p.m. as stated in the application. The applicant shall continue to meet all such requirements while conditional use permit CUP 12-06 is in effect.
11. That any waste created as a result of the special permit must be disposed of off-site in compliance with all local, state and/or federal regulations. The applicant shall continue to meet all such requirements while conditional use permit CUP 12-06 is in effect.
12. That any additional activity not related to this conditional use permit is not permitted and is hereby not allowed. No individual business activities will be permitted within any individual storage unit in the new addition or the existing facility. The applicant shall continue to meet all such requirements while conditional use permit CUP 12-06 is in effect.
13. That the property owner and the proprietor(s) of the business shall comply with all requirements of the Benton County Building Department, the Benton County Fire Marshal, the Benton-Franklin District Health Department, Benton County Public Works Department, Washington State Department of Ecology and all other local, state and federal regulations pertinent to the conditional use permit pursued. The requirements of or permission granted by the Board of Adjustment shall not be construed as an exemption from such regulations. The applicant shall continue to meet all such requirements while conditional use permit CUP 12-06 is in effect.



Benton County
Planning
Department

YAKIMA COUNTY

CUP 12-06
A.J. Still

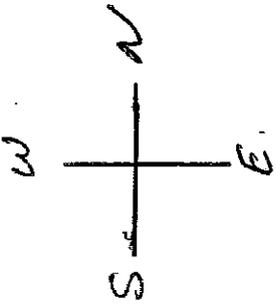


SECTION 30, TOWNSHIP 9 NORTH, RANGE 24 EAST, W.M.
CONDITIONAL USE PERMIT CUP 12-06 & EA 12-20
A.J. STILL /STATELINE DEVELOPMENT LLC
MAP PRINTED: AUGUST 31, 2012

Benton County does not warrant, guarantee, or accept liability for accuracy, precision, or completeness of any information shown herein or for any reference made herein. Any use made of this information is solely at the risk of the user. Benton County makes no warranty, representation, or guarantee of any kind, and the user assumes all responsibility for any use of this information. This map is a product of the Benton County Geographic Information System, and is prepared for presentation purposes only.

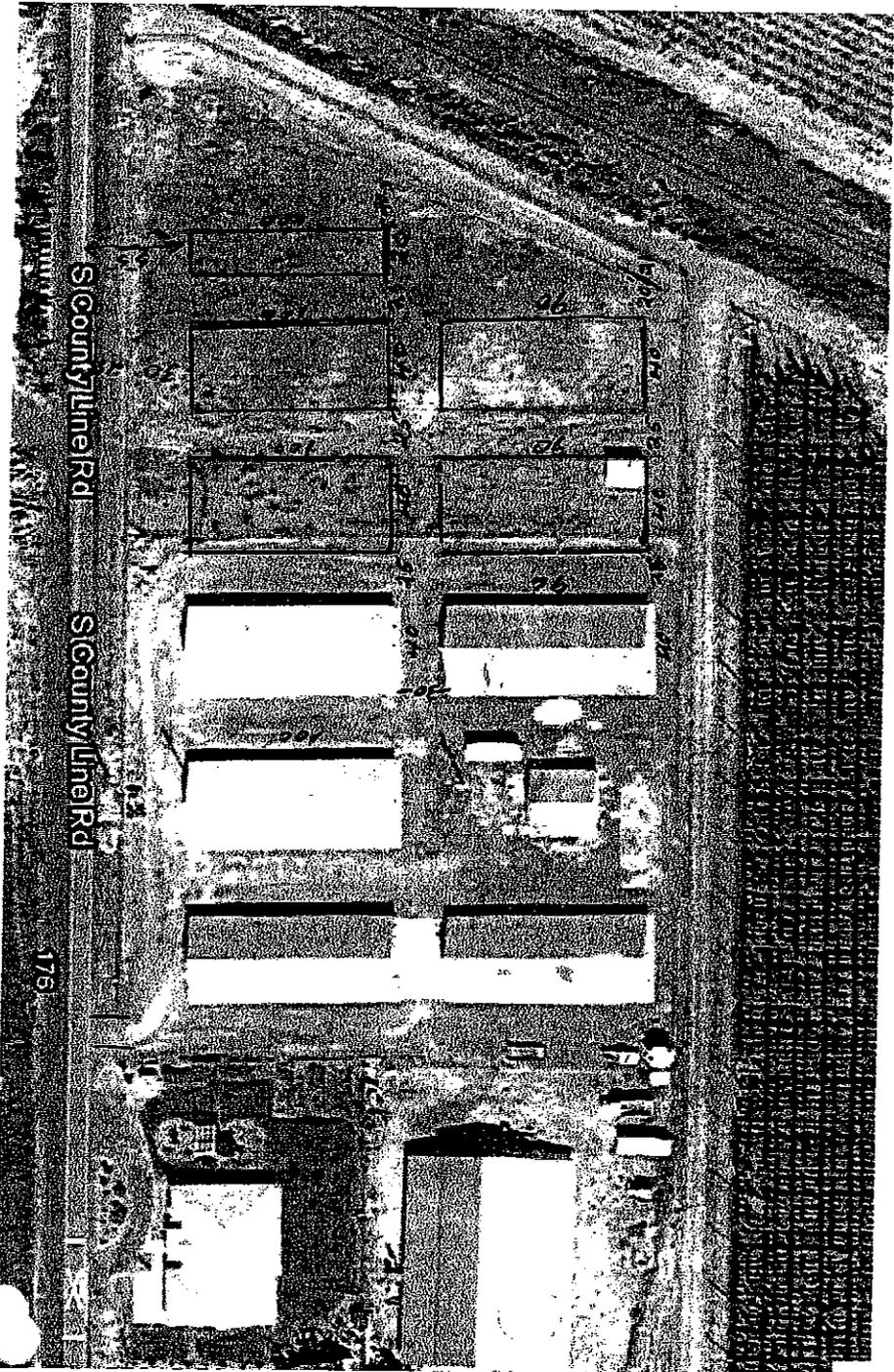
CUP 12-06
A.Q. Still

KING TOLL
PLEASANT AVE.



Site Plan

Driveway access



**CONDITIONAL USE
PERMIT**

CUP 12-08

APPLICANT:

CLAIRE CHRISTENSEN

**EXHIBIT LIST FOR CUP 12-08
CLAIRE CHRISTENSEN**

BOARD OF ADJUSTMENT STAFF MEMO EXHIBIT LIST			
BOAM 1 INCLUDES	EXHIBIT #	DOCUMENT NAME	DATE
	BOAM 1.1	Staff memo	October 19, 2012
	BOAM 1.2	Notice of Open Record Hearing	October 11, 2012
	BOAM 1.3	Vicinity Map	
	BOAM 1.4	Aerial of the site	
	BOAM 1.5	Picture of the site	October 18, 2012
	BOAM 1.6	Picture of the site	October 18, 2012
	BOAM 1.7	Benton County Building Department	October 5, 2012
	BOAM 1.8	Benton PUD	October 8, 2012
	BOAM 1.9	Benton Franklin Health District	October 8, 2012
	BOAM 1.10	Benton County Public Works	October 12, 2012
BOARD OF ADJUSTMENT - APPLICATION EXHIBIT LIST			
BOAR 1 INCLUDES	EXHIBIT #	DOCUMENT NAME	DATE
	BOAR 1.1	Application	October 2, 2012
	BOAR 1.2	Additional Information from applicant	
	BOAR 1.3	Plot Plan	
	BOAR 1.4		
BOARD OF ADJUSTMENT HEARING NOVEMBER 1, 2012			
BOAH 1 INCLUDES	EXHIBIT #	DOCUMENT NAME	DATE
	BOAH 1.1		

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: OCTOBER 19, 2012

MEETING DATE: NOVEMBER 1, 2012

TO: BENTON COUNTY BOARD OF ADJUSTMENT

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

RE: CONDITIONAL USE PERMIT APPLICATION – CUP 12-08

**APPLICANT/
PROPERTY OWNER:** CLAIRE CHRISTENSEN
55603 N. FRAZIER RD
BENTON CITY, WA 99320

SPECIFIC REQUEST: The applicant is requesting a conditional use permit for the operation of commercial kennel for the keeping of five (5) dogs not for breeding or retail, but as personal pets only.

BACKGROUND:

Site Location: The site is located on a developed site being Lot 1 of Short Plat 122 in Section 1, Township 9 North, Range 26 East, W.M.

Land Use: The site is currently developed with a single-family dwelling and outbuildings. The surrounding properties are developed with like uses.

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

Comprehensive Plan Designation: "Rural Lands 5".

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

APPLICABLE DEVELOPMENT REGULATIONS:

The Benton County Code Section 11.16A.050 (f) (In the Rural Lands 5 Zoning District) states that: "A Commercial Kennel may be allowed on a single parcel of record by conditional use permit issued by the Benton County Board of Adjustment after notice and public hearing as provided in BCC 11.52.090."

Benton County Code Section 11.52.090(a) states:

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

The notice, hearing, decision and enforcement procedures are as set forth herein and in Section 2.

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

This conditional use permit may not be transferred by a holder. If a new property owner wishes to have a Commercial Kennel a new permit application must be applied for and approved by the Board of Adjustment.

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 applicant/property owner is Claire Christensen, 55603 N. Frazier Rd Benton City, WA 99320.
2. The applicant is requesting approval of a Conditional Use Permit for the operation of a commercial kennel for up to five (5) adult dogs six months of age or older on a 1.25-acre parcel of land. The dogs are to be kept as personal pets, not for the purpose of breeding or retail sale.
3. Conditional Use Permit CUP 12-08 was submitted to Benton County on October 2, 2012, and declared complete for processing on October 3, 2012.
4. The notice for the Benton County Board of Adjustment Open Record Hearing was published on October 16, 2012, 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 November 1, 2012.
5. Conditional Use Permit CUP 12-08 is categorically exempt from the requirements of the Washington State Environmental Policy Act, under WAC 197-11-800(13).
6. The site is currently developed with a single-family dwelling. The surrounding properties are developed in both residential and agricultural purposes.
7. The site and surrounding properties are zoned Rural Lands 5.
8. The Benton County Comprehensive Plan designated the site and surrounding areas as "Rural Lands 5".
9. The Benton County Department of Public Works requires that the approach onto Frazier Rd. will have to be paved to 96-05 standards if the kennel becomes a commercial operation.
10. The Benton-Franklin Health District requires the following: "That any waste created as a result of the conditional use permit must be disposed of in compliance with all local, state and/or federal regulations. Applicant must adequately collect and treat all of the waste generated by the animals and remove it from the property. Due to the lack of any non-residential employees this office will not require upgrades to the single family well and on-site septic system. Prior to such time that the applicant decides to hire non-residential employees she will be required to have the well upgraded to a public water supply and have the adequacy of the existing septic system evaluated for the additional gallons per day. The applicant must have a disposal system that has been permitted, inspected and approved by the Department of Ecology for the waste that will be produced from the dog kennels."
11. The Washington State Department of Ecology has commented that an on-site disposal of commercial wastes and wastewaters are illegal unless specifically approved by the

Department of Ecology. This does include wastewaters sent to septic systems.

12. Typically, the Board of Adjustment has approved conditional use permit applications for dog kennels when the animals are housed in kennels indoors to minimize noise and with proper ventilation. For sanitary purposes, the housing of dogs inside of residences is not permissible.
13. The applicant did not address in her application how waste from the animals would be handled. Any waste must be disposed of in accordance with state and local laws.
14. The conditional use permit application does not request any signage on the property, and will have no non-resident employees.
15. The proposed use would not materially endanger the health, safety, and welfare of the surrounding community to an extent greater than that associated with any other permitted uses in the Rural Lands 5 zoning district such as schools, churches, libraries, community club houses, stills, packaging sheds and five borders and/or lodgers in any one family dwelling unit.
16. The proposed use as shown in the application would not cause the pedestrian and vehicular traffic associated with the use to conflict with existing and anticipated traffic in the neighborhood to an extent greater than that associated with any other permitted uses in the Rural Lands 5 zoning district such as schools, churches, libraries, community club houses, stills, packaging sheds and five borders and/or lodgers in any one family dwelling unit.
17. The proposed use as shown in the application would be supported by adequate service facilities, if the conditions as requested by the Planning Staff were required. The proposed use would not adversely affect public services to the surrounding area. There is no evidence to support that the site would not be adversely affected. The residence on site is served by all the necessary services.
18. The Benton County Building Department stated that any new structures or fencing over 6 feet requires a permit.

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 12-08, 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 Conditional Use Permit 12-08 until the applicant is in compliance with all the 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 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 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 continues to meet the requirements sent from the Benton-Franklin Health District to the Benton County Planning Department as outlined in the October 8, 2012 letter. If employees are hired, additional Health District requirements will have to be met. The applicant shall continue to meet all such requirements while Conditional Use Permit CUP 12-08 is in effect.
4. If the commercial sale of dogs becomes a normal activity on this parcel, the applicant must provide written verification from the Benton County Public Works Department that the approach onto Frazier Rd. has been constructed to 96-05 standards. The applicant shall continue to meet all such requirements while Conditional Use Permit CUP 12-08 is in effect.
5. The requested conditional use permit shall not be granted for the keeping of more than five (5) dogs (6 months and older) on the site. The applicant shall continue to meet all such requirements while Conditional Use Permit CUP 12-08 is in effect.

6. That the dogs be kept in a kennel that is indoors with insulated walls and ceiling and sheetrock interior and concrete flooring for sanitation to minimize noise and to keep proper ventilation, i.e. heated in the winter and air conditioned in the summer. The housing of dogs inside a residence is not permissible due to sanitary conditions. The applicant shall continue to meet all such requirements while Conditional Use Permit CUP 12-08 is in effect.
7. That the property owner and the proprietor(s) of the business shall comply with all requirements of the Benton County Building Department, the Benton County Fire Marshal, the Benton-Franklin Health Department, and all other local, state and federal regulations pertinent to the conditional use permit pursued. The requirements of or permission granted by the Board of Adjustment shall not be construed as an exemption from such regulations. The applicant shall continue to meet all such requirements while Conditional Use Permit CUP 12-08 is in effect.
8. A fence must be constructed around the kennels that will house the dogs. Height of fence shall be a minimum of four (4) feet for small dogs and six (6) feet for large dogs and shall be maintained in good repair for segregation and separation of the dogs. The applicant shall continue to meet all such requirements while Conditional Use Permit CUP 12-08 is in effect.
9. That any waste created as a result of the conditional use permit must be disposed of in compliance with all local, state and/or federal regulations. Applicant must adequately collect and treat all of the waste generated by the animals contained on the property. The applicant shall continue to meet all such requirements while Conditional Use Permit CUP 12-08 is in effect.
10. As requested in the application, the proposed kennel by the applicant will not have any non-resident employees and no signs will be used to identify the property as a kennel. The applicant shall continue to meet all such requirements while Conditional Use Permit CUP 12-08 is in effect.
11. If all conditions of approval are not met within one (1) year of the date of approval, a limit of three (3) dogs will be the maximum of animals approved to be living on site. Once a dog is gone, no replacement animal would be allowed to take its place.
12. If this permit is approved and meets all of the Board of Adjustment conditions, a total of five (5) dogs will be the maximum allowed to live on this parcel. If additional animals are requested, a new conditional use permit would be required. If the applicant is found to be housing more than five (5) dogs this conditional use permit will be terminated. Benton County Code 11.52.089(e) Permit Violations and Penalties-Permit Revocation.
13. This conditional use permit may not be transferred by a holder. If a new property owner wishes to have a Commercial Kennel a new conditional use permit application must be applied for and approved by the Board of Adjustment.



Benton County
Planning
Department

RL 5

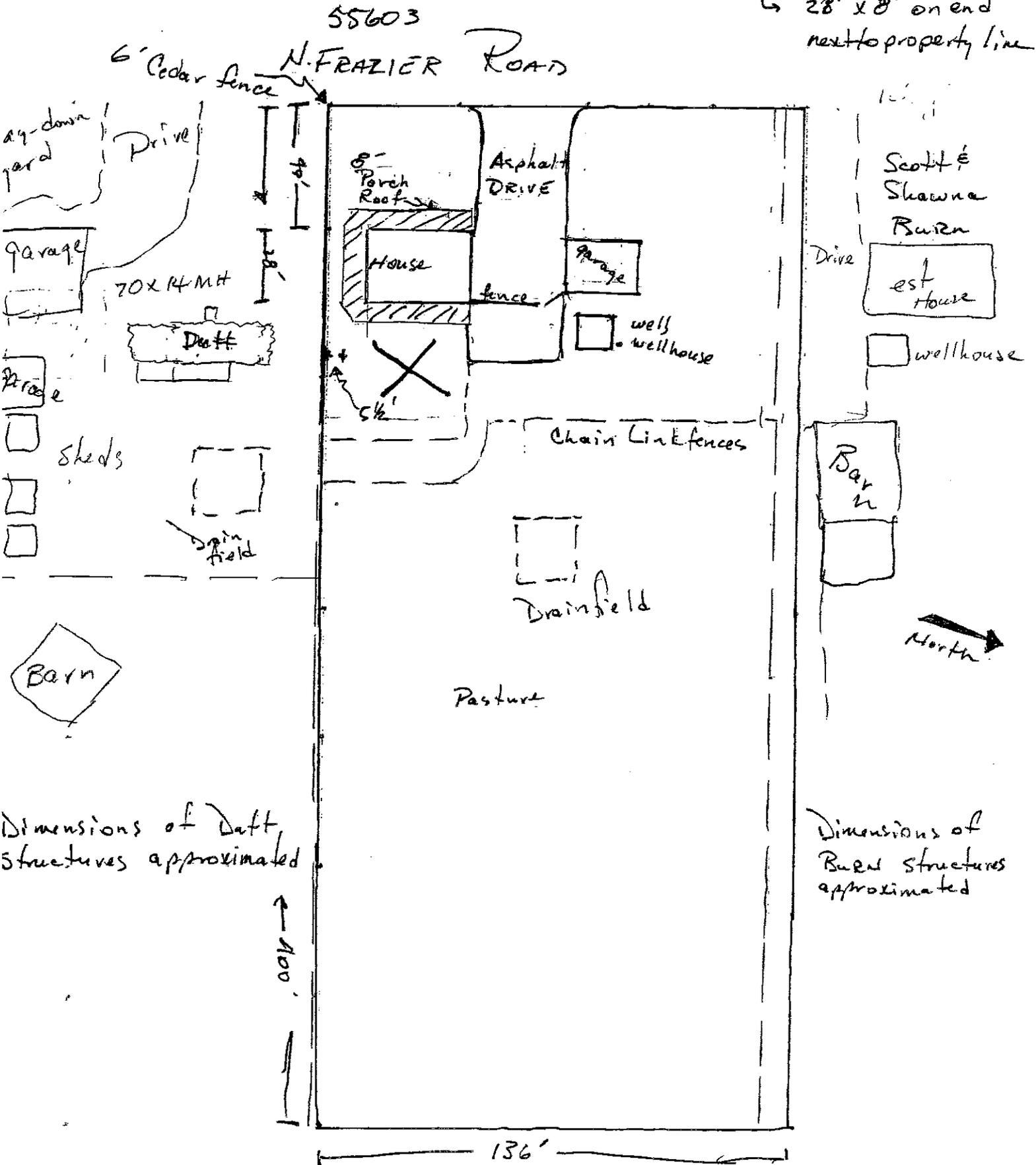
SECTION 1, TOWNSHIP 9 NORTH, RANGE 26 EAST, W.M.
CONDITIONAL USE PERMIT CUP # 12-08
CLAIRE CHRISTENSEN
MAP PRINTED: OCTOBER 3, 2012

Benton County does not warrant, guarantee, or accept liability for accuracy, precision, or completeness of any information shown herein or for any reference made herein. Any use made of this information is solely at the risk of the user. Benton County makes no warranty, express or implied, and any use of such information is solely at the user's risk. This information is a product of the Benton County Geographic Information Systems and is prepared for presentation purposes only.



Scale - 1 square = 12 1/2 ft

property size 136' x 400'
House 49' x 28'
Porch Roof 49' x 8'
↳ front & back
↳ 28' x 8' on end
next to property line



Dimensions of Duff structures approximated

Dimensions of Buren structures approximated

**CONDITIONAL USE
PERMIT**

CUP 12-09

APPLICANT:

DAN DUTT

**EXHIBIT LIST FOR CUP 12-09
DAN DUTT**

BOARD OF ADJUSTMENT STAFF MEMO EXHIBIT LIST			
BOAM 1 INCLUDES	EXHIBIT #	DOCUMENT NAME	DATE
	BOAM 1.1	Staff memo	October 19, 2012
	BOAM 1.2	Notice of Open Record Hearing	October 11, 2012
	BOAM 1.3	Vicinity Map	
	BOAM 1.4	Aerial of the site	
	BOAM 1.5	Picture of the site	October 18, 2012
	BOAM 1.6	Picture of the site	October 18, 2012
	BOAM 1.7	Benton County Fire Marshall	October 5, 2012
	BOAM 1.8	Benton Franklin Health District	October 8, 2012
	BOAM 1.9	Benton County Building Department	October 8, 2012
	BOAM 1.10	Benton County Public Works	October 12, 2012
BOARD OF ADJUSTMENT - APPLICATION EXHIBIT LIST			
BOAR 1 INCLUDES	EXHIBIT #	DOCUMENT NAME	DATE
	BOAR 1.1	Application	October 5, 2012
	BOAR 1.2	Plot Plan	
	BOAR 1.3		
	BOAR 1.4		
BOARD OF ADJUSTMENT HEARING NOVEMBER 1, 2012			
BOAH 1 INCLUDES	EXHIBIT #	DOCUMENT NAME	DATE
	BOAH 1.1		

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: OCTOBER 19, 2012

MEETING DATE: NOVEMBER 1, 2012

TO: BENTON COUNTY BOARD OF ADJUSTMENT

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

RE: CONDITIONAL USE PERMIT APPLICATION – CUP 12-09

**APPLICANT/
PROPERTY OWNER:** DON DUTT
55403 N. FRAZIER RD
BENTON CITY, WA 99320

SPECIFIC REQUEST: The applicant is requesting a conditional use permit for the operation of commercial kennel for the keeping of eight (8) dogs not for breeding or retail, but as personal pets only.

BACKGROUND:

Site Location: The site is located on a developed site being Lot 2 of Short Plat 122 of Section 1, Township 9 North, Range 26 East, W.M., 55403 N Frazier Road, Benton City.

Land Use: The site is currently developed with a single-family dwelling and outbuildings. The surrounding properties are developed with like uses.

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

Comprehensive Plan Designation: "Rural Lands 5".

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

APPLICABLE DEVELOPMENT REGULATIONS:

The Benton County Code Section 11.16A.050 (f) (In the Rural Lands 5 Zoning District) states that: "A Commercial Kennel may be allowed on a single parcel of record by conditional use permit issued by the Benton County Board of Adjustment after notice and public hearing as provided in BCC 11.52.090."

Benton County Code Section 11.52.090(a) states:

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

The notice, hearing, decision and enforcement procedures are as set forth herein and in Section 2.

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

This conditional use permit may not be transferred by a holder. If a new property owner wishes to have a Commercial Kennel a new permit application must be applied for and approved by the Board of Adjustment.

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 applicant/property owner is Don Dutt, 55403 N. Frazier RD Benton City, WA 99320 is requesting a conditional use permit for the operation of commercial kennel for the keeping of eight (8) dogs not for breeding or retail, but as personal pets only.
2. The applicant is requesting approval of a Conditional Use Permit for the operation of a commercial kennel for up to eight (8) adult dogs six (6) months of age or older on a 1.25-acre parcel of land. The dogs are kept as personal pets, not for the purposes of breeding or retail sale.
3. Conditional Use Permit CUP 12-09 was submitted to Benton County on October 5, 2012, and declared complete on October 5, 2012.
4. The notice for the Benton County Board of Adjustment Open Record Hearing was published on October 16, 2012, 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 November 1, 2012.
5. Conditional Use Permit CUP 12-09 is categorically exempt from the requirements of the Washington State Environmental Policy Act, under WAC 197-11-800(13).
6. The site is currently developed with a single-family dwelling and outbuildings. The surrounding properties are developed in both residential and agricultural purposes.
7. The site and surrounding properties are zoned Rural Lands 5.
8. The Benton County Comprehensive Plan designated the site and surrounding areas as "Rural Lands 5".
9. The Benton County Department of Public Works requires that the approach onto Frazier Rd. will have to be paved to 96-05 standards if the kennel becomes a commercial operation.
10. The Benton-Franklin Health District requires the following: That any waste created as a result of the conditional use permit must be disposed of in compliance with all local, state and/or federal regulations. Applicant must adequately collect and treat all of the waste generated by the animals and removed from the property. The applicant must have a disposal system that has been permitted, inspected and approved by the Department of Ecology for the waste that will be produced from the dog kennels. Due to the lack of non-residential employees this office will not require upgrades to the single family well and on-site septic system. Prior to such time that that the applicant decides to hire non-residential employees he will be required to have the well upgraded to a public water supply and have the adequacy of the existing septic system evaluated for the additional gallons per day.

11. The Washington State Department of Ecology has commented that an on-site disposal of commercial wastes and wastewaters are illegal unless specifically approved by the Department of Ecology. This does include wastewaters sent to septic systems.
12. Typically, the Board of Adjustment has approved conditional use permit applications for dog kennels when the animals are housed in kennels indoors to minimize noise and with proper ventilation. The housing of dogs inside of a residence is not permissible due to sanitary purposes.
13. The applicant did not address in their application how waste from the animals would be handled. Any waste must be disposed of in accordance with state and local laws.
14. The conditional use permit application does not request any signage on the property, and will have no non-resident employees.
15. The proposed use would not materially endanger the health, safety, and welfare of the surrounding community to an extent greater than that associated with any other permitted uses in the Rural Lands 5 zoning district such as schools, churches, libraries, community club houses, stills, packaging sheds and five borders and/or lodgers in any one family dwelling unit.
16. The proposed use as shown in the application would not cause the pedestrian and vehicular traffic associated with the use to conflict with existing and anticipated traffic in the neighborhood to an extent greater than that associated with any other permitted uses in the Rural Lands 5 zoning district such as schools, churches, libraries, community club houses, stills, packaging sheds and five borders and/or lodgers in any one family dwelling unit.
17. The proposed use as shown in the application would be supported by adequate service facilities, if the conditions as requested by the Planning Staff were required. The proposed use would not adversely affect public services to the surrounding area. There is no evidence to support that the site would not be adversely affected. The residence on site is served by all the necessary services.
18. The Benton County Building Department stated that any new structures or fencing greater than 6 feet in height require a building permit.

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:

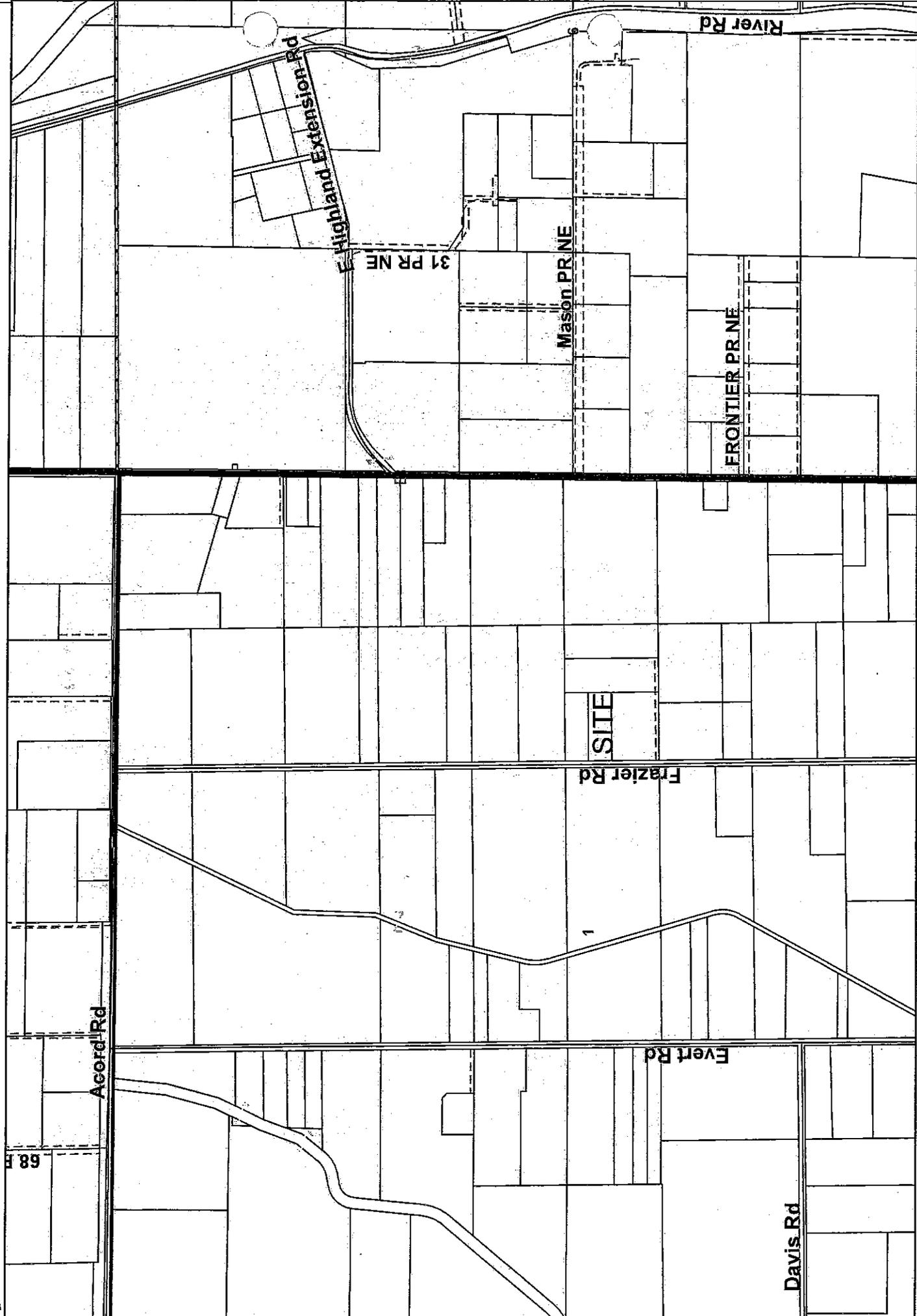
If the Board of Adjustment decides to approve Conditional Use Permit Application CUP 12-09, based on the information presented at the public hearing and after making such findings that support that decision, the Planning Department recommends that the following conditions be included:

1. Applicant shall not conduct any of the activities within the scope of Conditional Use Permit 12-09 until the applicant is in compliance with all the 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 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 conditional use 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 continues to meet the requirements sent from the Benton-Franklin Health District to the Benton County Planning Department as outlined in the October 8, 2012, letter. If employees are hired, additional Health District requirements will have to be met. The applicant shall continue to meet all such requirements while Conditional Use Permit CUP 12-09 is in effect.
4. If the commercial sale of dogs becomes a normal activity on this parcel, the applicant must provide written verification from the Benton County Public Works Department that the approach onto Frazier Rd. has been constructed to 96-05 standards. The applicant shall continue to meet all such requirements while Conditional Use Permit CUP 12-09 is in effect.
5. The requested conditional use permit shall not be granted for the keeping of more than eight (8) dogs (6 months and older) on the site. The applicant shall continue to meet all such requirements while Conditional Use Permit CUP 12-09 is in effect.

6. That the dogs be kept in a kennel that is indoors with insulated walls and ceiling and sheetrock interior and concrete flooring for sanitation to minimize noise and to keep proper ventilation, i.e. heated in the winter and air conditioned in the summer. The housing of dogs inside a residence is not permissible due to sanitary conditions. The applicant shall continue to meet all such requirements while Conditional Use Permit CUP 12-09 is in effect.
7. That the property owner and the proprietor(s) of the business shall comply with all requirements of the Benton County Building Department, the Benton County Fire Marshal, the Benton-Franklin Health Department, and all other local, state and federal regulations pertinent to the conditional use permit pursued. The requirements of or permission granted by the Board of Adjustment shall not be construed as an exemption from such regulations. The applicant shall continue to meet all such requirements while Conditional Use Permit CUP 12-09 is in effect.
8. A fence must be constructed around the kennels that will house the dogs. Height of fence shall be a minimum of four (4) feet for small dogs and six (6) feet for large dogs and shall be maintained in good repair for segregation and separation of the dogs. The applicant shall continue to meet all such requirements while Conditional Use Permit CUP 12-09 is in effect.
9. That any waste created as a result of the conditional use permit must be disposed of in compliance with all local, state and/or federal regulations. Applicant must adequately collect and treat all of the waste generated by the animals contained on the property. The applicant shall continue to meet all such requirements while Conditional Use Permit CUP 12-09 is in effect.
10. As requested in the application, the proposed kennel by the applicant will not have any non-resident employees and no signs will be used to identify the property as a kennel. The applicant shall continue to meet all such requirements while Conditional Use Permit CUP 12-09 is in effect.
11. If all conditions of approval are not met within one (1) year of the date of approval, a limit of three (3) dogs will be the maximum number of animals approved to be living on site. Once a dog is gone, no replacement animal would be allowed to take its place.
12. If this permit is approved meeting all conditions, a total of eight (8) dogs will be the maximum allowed to live on this parcel. If additional animals are requested, a new conditional use permit would be required. If the applicant is found to be housing more than eight (8) dogs this conditional use permit will be terminated. Benton County Code 11.52.089(e) Permit Violations and Penalties-Permit Revocation.
13. This conditional use permit may not be transferred by a holder. If a new property owner wishes to have a Commercial Kennel a new conditional use permit application must be applied for and approved by the Board of Adjustment.



Benton County does not warrant, guarantee, or accept liability for accuracy, precision or completeness of any information shown herein or for any inferences made herefrom. Any use of the information shown herein is at the user's sole risk. Benton County makes no warranty, expressed or implied, about the accuracy or completeness of the information shown herein or any information derived therefrom. The information shown herein is a product of the Benton County Geographic Information Systems, and is prepared for preliminary purposes only.

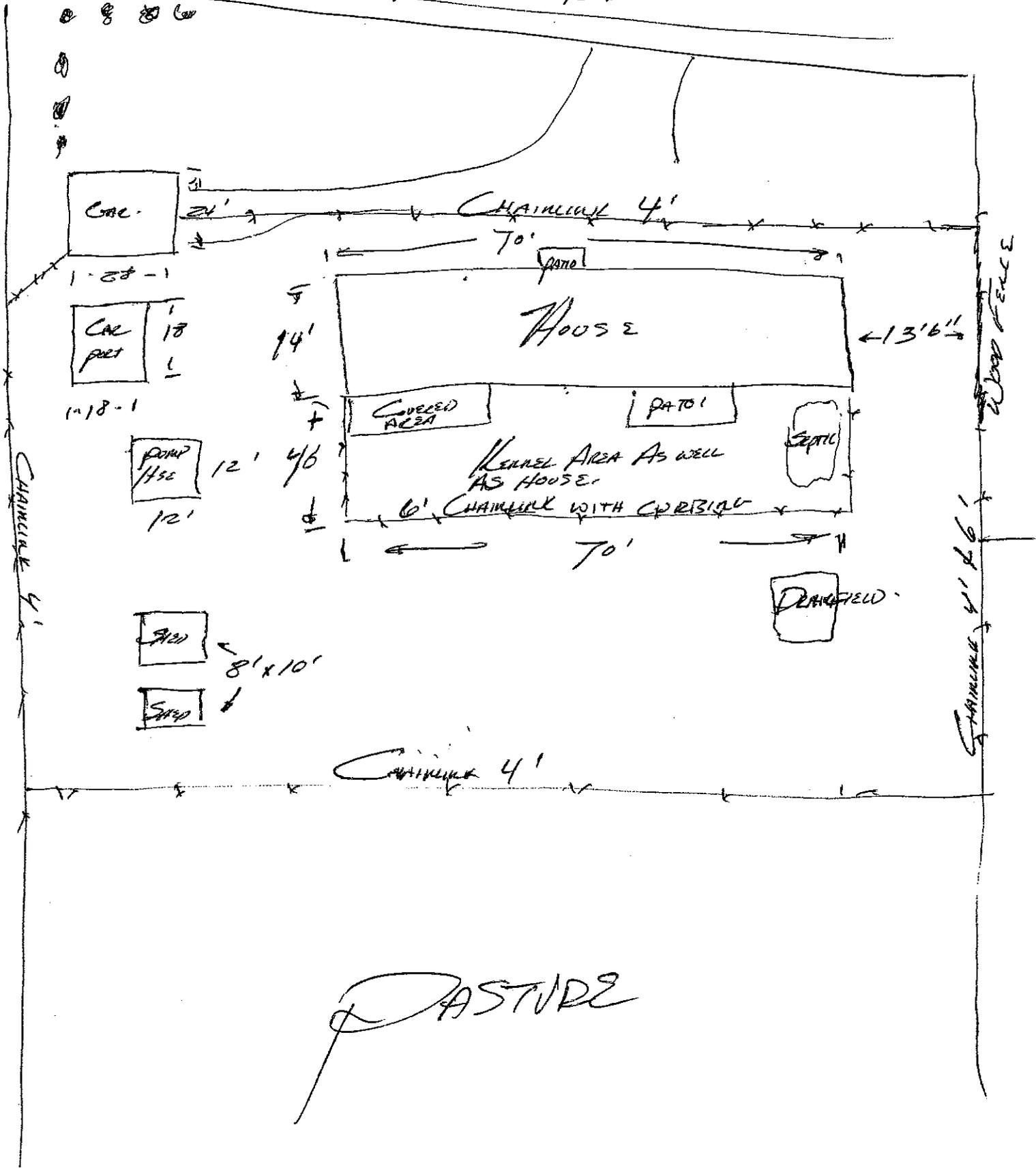


68 R

10' UTILITY EASEMENT
4, 5 E, 4 W.

FRAZIER RD

N →



CHAINLINK 4'

PASTURE

VARIANCE REQUEST

VAR 12-06

APPLICANT:

HOMER MORELAND

**EXHIBIT LIST FOR VAR 12-06
 APPLICANTS: HOMER/DAWN MOORELAND**

BOARD OF ADJUSTMENT STAFF MEMO EXHIBIT LIST			
BOAM 1 INCLUDES	EXHIBIT #	DOCUMENT NAME	DATE
	BOAM 1.1	Staff Memo	October 19, 2012
	BOAM 1.2	Notice of Open Record Hearing	October 11, 2012
	BOAM 1.3	Fire Marshall comments	October 16, 2012
	BOAM 1.4	Site Map	
	BOAM 1.5	Aerial of the Site	
BOARD OF ADJUSTMENT - APPLICATION EXHIBIT LIST			
BOAR 1 INCLUDES	EXHIBIT #	DOCUMENT NAME	DATE
	BOAR 1.1	Variance Application	October 8, 2012
	BOAR 1.2	Release/Quit Claim of Easement Interest	February 6, 2007
	BOAR 1.3	Site Map	
	BOAR 1.4	Plot Plan	
BOARD OF ADJUSTMENT HEARING NOVEMBER 1, 2012			
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

DATE: OCTOBER 19, 2012
TO: BENTON COUNTY BOARD OF ADJUSTMENT
FROM: CLARK A. POSEY, SENIOR PLANNER 
BENTON COUNTY PLANNING DEPARTMENT
RE: VARIANCE APPLICATION – VAR 12-06

**APPLICANTS/
PROPERTY OWNERS:** HOMER & DAWN MOORELAND
P.O. BOX 295
PLYMOUTH, WA 99346

SPECIFIC REQUEST: The applicant, Homer Mooreland is requesting a variance from BCC 11.52.060(3) to allow access to a single parcel of land on a 2.63-acre site that does not have a perpetual, non-exclusive access easement. Access across the Corps of Engineers property is needed for an ingress and egress right of way.

BACKGROUND:

Site Location: The site is located south of Christy Road, adjoining the south side of Lot 2 and west property line of Lot 3 in the Southwest corner of a newly created Short Plat 3076. This short plat does not give access to Mr. Mooreland's parcel and is the reason this access easement from the Corps of Engineers is requested. The property lies in Section 12, Township 5 North, Range 27 East, W.M.

Land Use: The site and surrounding properties are single family homes and pasture uses.

Zoning: The site and surrounding areas are zoned Rural Lands 5 and Light Industrial.

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

State Environmental Policy Act: Variance Application 12-06 is categorically exempt from the requirements of the Washington State Environmental Policy Act as outlined in WAC 197-11-800(6)(b).

APPLICABLE DEVELOPMENT REGULATIONS:

1. The Revised Code of Washington RCW 36.70.810, requires that the following findings are made prior to the granting of the variance and the applicant should be prepared to demonstrate before the Board of Adjustment that such findings exist.
 - a. Variances granted shall be subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant of special privilege inconsistent with the limitations on the other properties in the vicinity and the zone in which the property is situated.

10-19-2012 – VAR 12-06

- b. That strict application of the Zoning Ordinance is found to deprive subject property of rights and privileges enjoyed by other properties in the vicinity and under identical zoning classification because of special circumstances applicable to subject property including size, shape, topography, location or surroundings
 - c. That the granting of the variance will not be materially detrimental to the public welfare or injurious to property or improvements in the vicinity and zone in which the subject property is situated.
2. Benton County Code Section 11.52.088(b) states:
Variance—General Standards, The variance application process allows the Board of Adjustment in specific cases, as provided in RCW 36.70.810, to grant a variance to the provisions of this title when it can be demonstrated that such variance is in harmony with the general purpose and intent of this title and is accordance with the requirements of this section. However, the Board of Adjustment shall not grant variances to land uses or density requirements."
3. Benton County Code Section 11.52.088(e) provides:
Variance—Permit Granted. (1) A variance shall be granted only if the Board of Adjustment concludes that based on its findings and the conditions imposed, if any, that:
- (i) granting of the proposed variance will not permit a use that is not classified as an allowable or conditional use in the zoning district wherein the use would be located;
 - (ii) special circumstances such as lot size, slope, topography or necessary size or shape of the building prevent compliance with the applicable property development standards;
 - (iii) due to special circumstances applicable to the subject property, strict application of the zoning district property development standards would deprive the subject property of rights and privileges enjoyed by other properties in the vicinity and under the same zoning district classification;
 - (iv) the problem sought to be addressed by the variance is related to the physical features of the particular property or building and would exist regardless of the identity of the owner;
 - (v) the problem sought to be addressed is not common for other properties in the surrounding area;
 - (vi) the variance would not be materially detrimental to public welfare or injurious to the property or improvements in the vicinity under the same zoning classification;
 - (vii) the variance will not adversely affect the health or safety or persons residing or working in the neighborhood in which the variance is being

requested; and,

(viii) the variance would not deny the preservation and enjoyment of substantial property rights of those owning property in the vicinity.

(2) The Board of Adjustment may grant a variance subject to specified conditions designed to ensure that the purpose and intent of this title and the Comprehensive Plan will not be violated; provided, the specified conditions are needed to make the conclusions required by subsection (e)(1) above.

4. Benton County Code Section 11.52.060 of the Benton County Code provides:

ACCESS TO PUBLIC ROADS, (a) Every single-family dwelling, manufactured home, or multi-family dwelling constructed on or placed upon property after May 10, 1976, shall be constructed on or placed upon a property which fronts upon and has direct access to a county road, state highway or city street, except the following:

(1) Dwelling placed in a planned development in accordance with the provisions of Chapter 11.20 BCC.

(2) Manufactured homes placed in an approved manufactured home park, pursuant to Chapter 3.22 (Manufactured Home Park Ordinance).

(3) Dwellings to be located on property for which there is a non-exclusive and perpetual easement or right of way for ingress and egress recorded in the Benton County Auditor's office. Said easement or right-of-way shall be continuous from the boundary of the property on which the dwelling is to be located to a county road, state highway, or city street and shall serve only one dwelling unit per individual piece of property. All applicants for building permits issued under the authority of this subsection shall sign an affidavit stating that the responsibility for construction and maintenance of this easement shall be vested with the property owner and not Benton County.

(4) A manufactured home located on property that proposes to provide access across state or federally owned property and for which there is a non-perpetual easement, lease, or right of way for ingress and egress across the state or the federally owned property, recorded in the Benton County Auditor's office. That portion of the access easement crossing property not owned by the state or federal government shall comply with BCC 11.52.060(a)(3) above. Said easements or right of ways shall be continuous from the boundary of the property on which the manufactured home is to be located to a county road, state highway, or city street and shall serve only one dwelling unit per individual piece of property. The placement permit for the manufactured home shall be valid for no longer than the duration of the non-perpetual easement, lease, or right-of-way obtained over the state or federally owned property, and the manufactured home must be removed thereafter. All applicants for placement permit issued under the authority of this subsection shall sign and record an affidavit stating that the responsibility for construction and

maintenance of the easement shall be vested with the property owner and not Benton County.

Prior to recording of any transfer of ownership of property being served by an access easement per 11.52.060(a)(4), a new easement must be granted to the new owner by the appropriate state or federal agency and recorded per BCC 11.52.060(a)(4).

(5) Dwellings placed on a lot in an approved short plat; or

(6) Dwellings placed on property for which a special permit or variance from these requirements has been granted.

(b) Any person submitting an application for a building permit to construct a dwelling on property which is exempt from the access requirement by BCC 11.52.060(a)(3) or an application for a placement permit to locate a manufactured home on property exempt from the access requirement by BCC 11.52.060(a)(4) shall also submit a copy of the recorded easement or right-of-way agreement to the Benton County Building Official.

(c) A county road shall mean a road which is on the county road system as shown by the county engineer's maps and is maintained by Benton County. Roads included in an accepted plat, filed with the County Auditor, for which construction provisions have been made shall also constitute county roads.

(d) Except in planned developments established in accordance with Chapter 11.20 BCC, short plat lots which obtain access via access easements, manufactured home parks established in accordance with Chapter 3.22 BCC, recreational vehicle parks or when multiple detached dwellings are approved in accordance with BCC 11.52.065, no other dwelling shall be located between a single family dwelling, manufactured home or multiple family dwelling and the street, road, or highway upon which it fronts."

FINDINGS OF FACT:

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

1. The applicants/owners for VAR 12-06 are Homer & Dawn Mooreland. P.O. BOX 295 Plymouth, WA 99346
2. VAR 12-06 is for a variance from BCC 11.52.060(3) to allow access to a single parcel on a 2.63-acre site without having a perpetual, non-exclusive access easement and must use an Army Corps of Engineers property for ingress and egress to their property. Access will allow the applicants to be able to construct a single family dwelling on a 2.63-acre site without having a perpetual, non-exclusive access easement across the Army Corps property.

3. The site is located south of Christy Road, adjoining the south side lot 2 and west property line of lot 3 in the Southwest corner of a newly created Short Plat 3076. This short plat does not give access to Mr. Mooreland's parcel and is the reason this access easement from the Corps of Engineers is requested. The property lies in Section 12, Township 5 North, Range 27 East W.M.
4. The application for VAR 12-06 was submitted to Benton County on September 14, 2012 and was determined a complete application for processing on October 10, 2012.
5. The proposed variance application did not require that a Notice of Application be published.
6. The notice for the Benton County Board of Adjustment Open Record Hearing for application VAR 12-06 was published on Thursday, October 16, 2012 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 November 1, 2012.
7. The property is zoned Rural Lands 5.
8. The Benton County Comprehensive Plan designated the site and surrounding areas as Rural Lands 5 and Light Industrial District Zoning.
9. A single-family dwelling is an allowed use in the Rural Lands 5 Zoning District.
10. The property in this application does not have a required perpetual non-exclusive access easement. The applicant must cross an Army Corps of Engineer parcel to access the property. The applicant must obtain an agreement with the Army Corps of Engineers for this access.
11. The gravel road between Christy Rd and Mr. Mooreland's property is currently being maintained by Mr. Mooreland.
12. The applicants will need to review the attached Benton County Fire Marshal's comments noted in the October 16, 2012 letter.

DISPOSITION OF THE APPLICANT'S REQUEST:

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

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

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

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

CONDITIONS

This staff memo does not include information received after the date of this memo or at the open record hearing. Based on the information received as of the date of this memo, if the Board of Adjustment decides to approve Variance Request VAR 12-06 then the following are suggested conditions that the Planning Department recommends at this time:

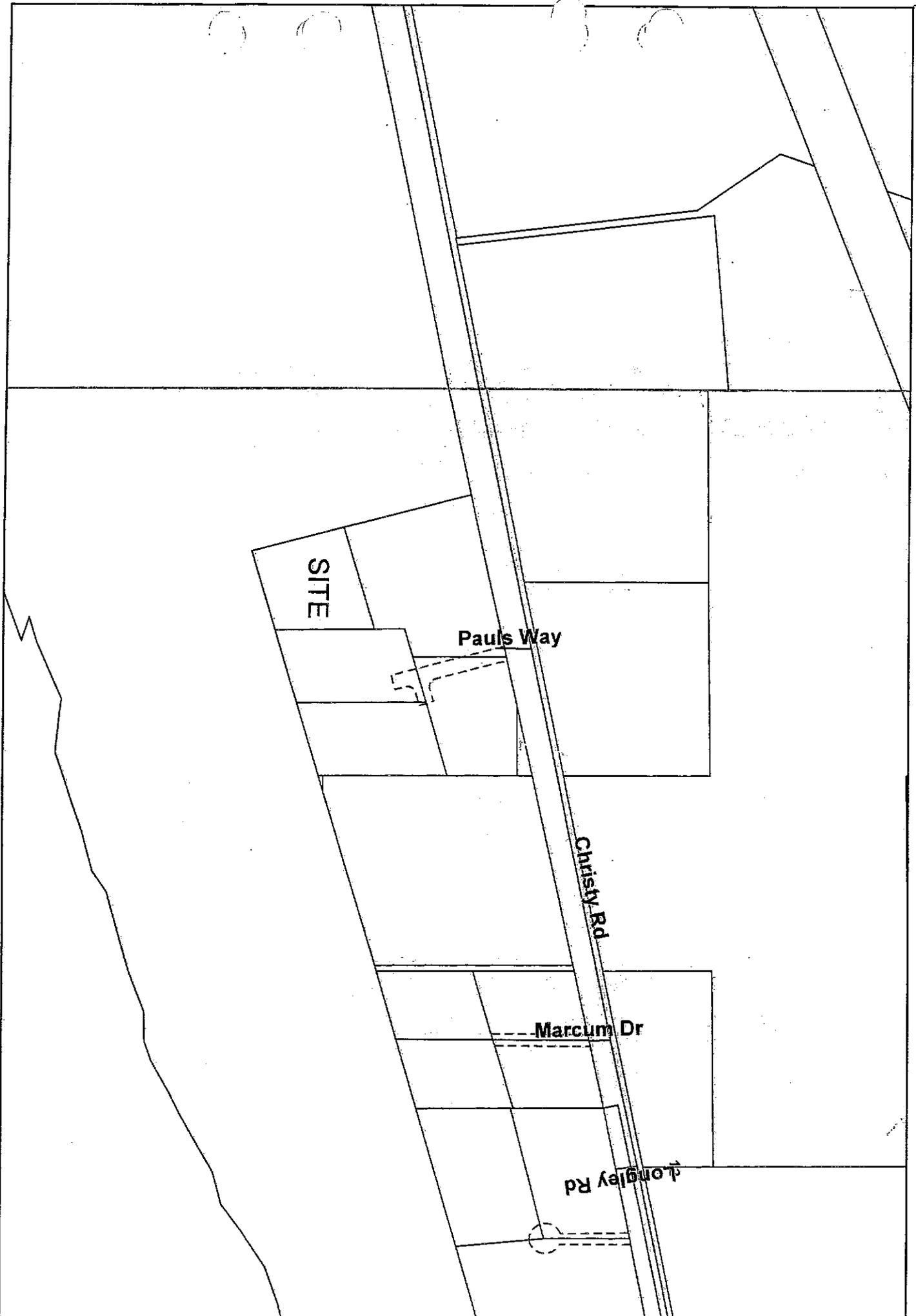
1. Conditions 3 and 4 imposed by the Board of Adjustment must be met prior to issuance of this variance. The applicants shall notify the Benton County Planning Department in writing when the conditions set forth herein have been completed. The Planning Department shall not issue the variance permit until those conditions have been met. The variance shall not become effective until issued by the Planning Department.
2. If the conditions of approval have not been met and the Planning Department does not issue the variance within one (1) year from the time the Board of Adjustment conditionally approved the variance, the Board of Adjustment may declare its approval null and void at a regular Board of Adjustment meeting. Prior to doing so, the applicants shall be notified in writing at the applicants' last known address at least twelve (12) days in advance of the upcoming Board of Adjustment meeting.
3. The applicants will need to obtain a building/placement permit from the Benton County Building Office for the single-family dwelling.
4. That the applicants provide written proof to the Building Department that they have obtained a non-exclusive and perpetual easement or right of way from the Army Corps of Engineers property. This condition must be completed before a building/placement permit from the Benton County Building Office for the single-family dwelling will be issued. The applicants shall continue to meet all such requirements while variance VAR 12-06 is in effect.
5. The applicants must inform any potential purchaser of their property that the Army Corps

of Engineers permit may be revoked at any time and that this property does not have a non-exclusive and perpetual easement or right of way for ingress and egress from the Benton County right of way from Christy Rd to the applicants' property.

6. This variance is granted only for the purpose of placing a single-family dwelling or factory assembled structure (FAS) on the above described property. This variance is not approved for the purpose of short platting or subdividing the property or for a commercial operation or business.
7. The applicants will need to abide by the requirements imposed by the Benton County Fire Marshal as established in the comment letter submitted regarding the driveway, approved turnouts, turnout locations and the turnaround at the residence.



VAR 12-06 **Moreland**



Benton County does not warrant, guarantee, or accept liability for accuracy, precision or completeness of any information shown herein or for any inferences made therefrom. Any use of this information is at the user's sole risk. Benton County, Planning Department of Benton County or anyone thereof is not responsible for any use or other action taken by any person in reliance on a product of the Benton County Geographic Information System, and is prohibited for publication purposes only.

