

**THE FOLLOWING MEMOS HAVE BEEN
SCANNED WITHOUT EXHIBITS FOR
THE HEARING TO BE CONDUCTED BY
THE BOARD OF ADJUSTMENT.**

**ON
THURSDAY
AUGUST 1, 2013 AT 7 P.M.**

**NOTE THE ADDRESS:
BENTON COUNTY PLANNING
DEPARTMENT – PLANNING ANNEX
1002 DUDLEY AVENUE – PROSSER
IF YOU WISH TO OBTAIN A COMPLETE
PACKET INCLUDING THE EXHIBITS
PLEASE CONTACT THE
BENTON COUNTY PLANNING
DEPARTMENT - 736-3086/TRI-CITIES
OR
786-5612/PROSSER
OR EMAIL AT
PLANNING.DEPARTMENT@CO.BENTON.WA.US**

**CONDITIONAL USE
PERMIT**

CUP 13-07

APPLICANT:

CHRIS UPCHURCH

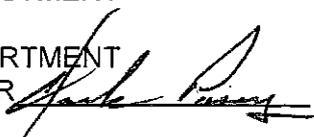
Benton County Planning Department

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: JULY 18, 2013

MEETING DATE: AUGUST 1, 2013

TO: BENTON COUNTY BOARD OF ADJUSTMENT

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

RE: CONDITIONAL USE PERMIT APPLICATION – CUP 13-07

APPLICANTS/ OWNER: CHRIS UPCHURCH
32901 VINEYARD VIEW, PR NE.
BENTON CITY, WA. 99320

SPECIFIC REQUEST:

The applicant, Chris Upchurch, is requesting a Conditional Use Permit for a private wine production operation with office, and with a living space for the owner's use when on site. The construction of a winery over 3000 square feet requires a Conditional Use Permit.

BACKGROUND:

Site Location: The site is located at 32901 Vineyard View PR NE, Benton City, WA 99320 in the Northeast Quarter of the Southwest Quarter of the Southeast Quarter of Section 17, Township 9 North, Range 27 East, W.M. Lot 4, Short Plat 2663 - 18.42 acres.

Land Use: The site is currently developed as a vineyard. The surrounding properties are developed with single-family dwellings or are undeveloped. A vineyard is growing on this property.

Zoning: The site and surrounding properties are Rural Lands 5. Under Benton County Code BCC 11.16A.050(j) a winery of over 3000 square feet may be allowed by an approved Conditional Use Permit.

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

State Environmental Policy Act: This action is categorically exempt.

11.16A.050 USES REQUIRING A CONDITIONAL USE PERMIT. The following uses may be permitted on a single parcel of record within the Rural Lands Five District (RL-5) if a conditional use permit is issued by the Board of Adjustment after notice and a public hearing as provided by BCC 11.52.090(j) - Wineries in excess of 3000 square feet.

- (a) A school.
- (b) A community clubhouse, grange hall, senior center and/or other non-profit organizational hall.
- (c) A storage yard owned and operated by a utility.

- (d) A sand or gravel pit, stone quarry and similar use for the development of natural resources extracted on-site.
- (e) A Bed and Breakfast Establishment.
- (f) Kennel, commercial.
- (g) Home occupation involving the display and/or sale of products on the premises; provided, a home occupation permit is also required under BCC 11.16A.090 through BCC 11.16A.120.
- (h) On-site hazardous waste treatment and/or hazardous waste storage facilities as an accessory use to an allowed or conditionally permitted use; provided, that such facilities must comply with the state siting criteria adopted in RCW 70.105.210.
- (i) Child Day Care Facility Type B, subject to the provisions of BCC 11.52.068.
- (j) Wineries/Breweries not otherwise allowed under BCC 11.16A.030.**
- (k) Cemetery, columbarium, and/or mausoleum.
- (l) Sewage treatment facility for industrial and/or domestic waste.
- (m) Rodeo facilities.
- (n) Agricultural Related Industry for the processing of agricultural products.
- (o) Reception facility with a capacity not to exceed two hundred (200) attendees.
- (p) A Park.
- (q) A golf course.
- (r) Recreational Vehicle Park.
- (s) A public transit center.
- (t) Airport/Heliport.
- (u) Agricultural market.
- (v) Church, if not otherwise allowed under BCC 11.16A.030.

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 permit 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 Chris Upchurch, 32901 Vineyard View PR NE, Benton City, WA 99320.
2. The site is located at 32901 Vineyard View PR NE, Benton City, WA 99320 in the Northeast Quarter of the Southwest Quarter of the Southeast Quarter of Section 17, Township 9 North, Range 27 East, W.M. Lot 4, Short Plat 2663 - 18.42 acres.
3. The application for CUP 13-07 was submitted to Benton County on June 28, 2013 and declared complete on June 28, 2013.
4. Conditional Use Permit CUP 13-07 did not require that a Notice of Application be published.
5. The notice for the Benton County Board of Adjustment Open Record Hearing for application CUP 13-07 was published on July 18, 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 August 1, 2013.
6. Conditional Use Permit Application CUP 13-07 is categorically exempt from the requirements of the Washington State Environmental Policy Act.

7. The Washington State Department of Transportation provided that the existing approach to Vineyard View PR NE onto SR 224 is a Class 3 managed access facility with a posted speed limit of 55 miles per hour. Currently, access to the site is via a permitted approach at milepost 1.07(right). However, because the intended use is commercial in nature, the permit must be updated. The proponent must contact Mark Kaiser of the WSDOT South Central Region to upgrade this permit.
8. The Benton-Franklin Health District commented (BOA 1.12) that they had no objections provided that:
 - The site is served by an approved public water supply in accordance with WAC 246-291.
 - The site is served by an on-site sewage disposal system that is permitted, installed and approved in accordance with Benton Franklin District Health Rules and Regulations No. 2.
9. The applicant is requesting 10 parking spaces.
10. The proposed use would not cause the pedestrian and vehicular traffic associated with the use to conflict with existing and anticipated traffic in the neighborhood to an extent greater than that associated with any other permitted uses in the Agriculture zoning districts such as schools, churches, libraries, community club houses, stills, packaging sheds and five borders and/or lodgers in any one family dwelling unit.
11. The surrounding area is not completely developed but the proposed use as shown in the application should not hinder or discourage the development of permitted uses on neighboring properties in this Agriculture zoning district as a result of this special permit.

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 13-07, 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. The applicant shall not conduct any of the activities within the scope of Conditional Use Permit CUP 13-07 until the applicant is in compliance with all conditions set forth herein. The applicant shall notify the Benton County Planning Department in writing when the conditions set forth herein have been completed. The Planning Department shall not issue the 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 this 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 obtains the appropriate building permits. The applicant must submit written documentation that all the required permits and approvals have been obtained from the Benton County Building Office. The applicant shall meet this requirement for any additional buildings that may take place on site while Conditional Use Permit CUP 13-07 is in effect.
4. That the applicant complies with all requirements included in the Benton Franklin Health District letter dated July 22, 2013. The applicant shall continue to meet all such requirements while Conditional Use Permit 13-07 is in effect.
5. That the applicant provides on his building site plan the area where parking will be designated. If this action becomes a commercial operation with on-site customers and tasting room at least one parking stall must be constructed to meet current ADA (Americans with Disabilities Act) standards for parking. The applicant shall continue to meet all such parking requirements while Conditional Use Permit CUP 13-07 is in effect.
6. The Washington State Department of Transportation (WSDOT) provided that the existing approach to Vineyard View PR NE onto SR 224 is a Class 3 managed access facility with a posted speed limit of 55 miles per hour. Currently, access to the site is via a permitted approach at milepost 1.07(right). However, because the intended use is commercial in nature, the permit must be updated. The proponent must contact Mark Kaiser of the WSDOT South Central Region to upgrade this permit.

7. That no more than one (1) non-illuminating sign, with a maximum area of four (4) square feet each, shall be permitted in connection with the Conditional Use Permit. The applicant shall continue to meet all such requirements while Conditional Permit CUP 13-07 is in effect.
8. That not more than two (3) vehicles marked to identify the business may be on the parcel at any one time. No other on-site outside storage of vehicles, equipment and/or supplies is allowed in connection with the activity. This prohibition applies to, but is not limited to: lumber, plasterboard, pipe, paint, inoperable vehicles, and heavy equipment that are related to the business. The applicant shall continue to meet all such requirements while Conditional Use Permit CUP 13-07 is in effect.
9. The property owner and the proprietor(s) of the business shall comply with all requirements of the Benton County Building Department, the Benton County Fire Marshal, the Benton-Franklin District Health Department, and all other local, state and federal regulations pertinent to the business activity pursued. The requirements of or permission granted by the Board of Adjustment shall not be construed as an exemption from such regulations. The applicant shall continue to meet all such requirements while Conditional Use Permit CUP 13-07 is in effect.
10. That any waste created as a result of this Conditional Use Permit must be disposed of off-site in compliance with all local, state and/or federal regulations in a timely manner.

**CONDITIONAL USE
PERMIT**

CUP 13-08

APPLICANT:

JAMES HUTCHENS

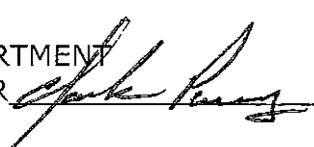
Benton County Planning Department

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: JULY 18, 2013

MEETING DATE: AUGUST 1, 2013

TO: BENTON COUNTY BOARD OF ADJUSTMENT

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

RE: CONDITIONAL USE PERMIT APPLICATION – CUP 13-08

APPLICANT: JAMES HUTCHENS
213412 EAST STATE RT. 397
KENNEWICK, WA 99337

PROPERTY OWNERS: JAMES/CHRISTINE HUTCHENS
213412 EAST STATE ROUTE 397
KENNEWICK, WA 99337

SPECIFIC REQUEST:

The applicant is requesting approval of a Conditional Use Permit for the operation of a mobile sharpening business; in conjunction with his mobile business. The applicant will warehouse and store saleable merchandise and operate equipment for sharpening on his property in a 320 square foot accessory building.

BACKGROUND:

Site Location: Southwest Quarter of the Southwest Quarter North of SR 397 in Section 15, Township 8 North, Range 30 East, W.M. Lot 1 of Short Plat 1430 on 213412 East State Route 397, 3.63 acres.

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

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

Comprehensive Plan: The Benton County Comprehensive Plan designated the site and surrounding areas to the North of SR 397 as Rural Lands 5, and the area South of SR 397 being General Commercial.

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 applicant James Hutchens is requesting approval of a Conditional Use Permit for the operation of a mobile sharpening business; in conjunction with his mobile business the applicant will warehouse and store saleable merchandise and operate equipment for sharpening on his property in a 320 square foot accessory building.
2. Location: Southwest Quarter of the Southwest Quarter North of SR 397 in Section 15, Township 8 North, Range 30 East, W.M. Lot 1 of Short Plat 1430 on 213412 East State Route 397, 3.63 acres.
3. The application for CUP 13-08 was submitted to Benton County on July 5, 2013 and was deemed complete for processing on July 8, 2013.
4. The notice for the Benton County Board of Adjustment Open Record Hearing for application CUP 13-08 was published on July 18, 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 August 1, 2013.
5. Conditional Use Permit Application CUP 13-08 is categorically exempt from the requirements of the Washington State Environmental Policy Act.
6. The site is currently developed with a single-family residence with outbuildings.
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. The zone across from this property on SR 397 is zoned General Commercial.
9. The Benton-Franklin Health District had no comment.
10. The Benton County Fire Marshal had no comment.
11. Benton County Building Department commented that Building Permits will be required if any buildings are to be constructed.

12. The Washington State Department of Transportation stated that an Encroachment Permit would need to be obtained for a commercial access onto SR 397.

13. The applicant has requested that the business hours of the mobile operation will be Monday thru Saturday, 8:00 a.m. to 5:00 p.m. and by appointment.

14. One sign of 2' X 2' is being requested by the applicant. Placement of any sign may not be placed within the right-of-way or SR 397.

15. The applicant applied for a Home Occupation on April 13, 2013 which was approved by the Benton County Planning Department on April 18, 2013 for a mobile sharpening business.

16. The applicant will be storing equipment for the mobile sharpening business in a detached building, thereby necessitating the need for a conditional use 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 13-08, 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 CUP 13-08 until the applicant is in compliance with the following conditions. 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. For zoning restrictions, any business activity must be contained to the areas located within the site plan submitted with application. If nonresident employees are hired the applicant will need to comply with the Benton Franklin Health District codes and regulations. The applicant shall continue to meet all such requirements while Conditional Use Permit CUP 13-08 is in effect.

4. No parking within any part of the state right of way of SR 397 will be allowed. The applicant shall continue to meet all such requirements while Conditional Use Permit CUP 13-08 is in effect.

5. That the presence of customers/clients and non-resident employees at the storage building shall be limited to Monday through Saturday between the hours of 8:00 a.m. to 5:00 p.m. and by appointment. The applicant shall continue to meet all such requirements while Conditional Use Permit CUP 13-08 is in effect.

6. An Encroachment Permit from the Washington State Department of Transportation will need to be obtained for a commercial access approach onto SR 397.

7. 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.

8. 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.

9. 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 13-08 is in effect.