

Benton County Board of Adjustment
Planning Annex – 7 p.m. March 3, 2011
1002 Dudley Avenue - Prosser, WA 99350

Mr. Chigbrow opened the public portion of the hearing.

Members Roll Call: Present:
Brent Chigbrow
Dean Burows
Herb Everett
Glenn Bestebreur
Bob Page

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

MOTION: It was moved and seconded that the January 6 and February 3, 2011 Board of Adjustment minutes be approved as written. Motion carried.

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

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

**CONSENT AGENDA ITEM:
SPECIAL USE PERMIT – SP 08-12 – JEFFREY/YVETTE FITZGARRALD**

MOTION: Mr. Burows made a motion, which was seconded by Mr. Everett that the extension request for special use permit SP 08-12 should be denied due to the following findings: (1) two extensions had been granted with no obvious progress to date, (2) site visit conducted by the Planning Department noted that the dogs were residing inside the residence which violates condition no. 6, (3) more than three dogs noted on site and (4) the applicant was operating a dog kennel without a special use permit having been issued which violates condition no. 1. Motion carried.

NEW BUSINESS:

SPECIAL USE PERMIT – SP 11-03 – The applicant is requesting a special use permit for “glamping” which is the placement of three tents 18 feet x 20 feet on site for guests to stay. Each tent would be equipped with power and running water and would have all the amenities of a hotel room. Location: 158442 Sonova Road Paterson, WA 99345 in the East Half of the Southeast Quarter of the Southeast Quarter of Section 29, Township 5 North, Range 24 East, W.M. Applicant: Alexandria Nicole Cellars – 2880 Lee Road, Ste C – Prosser, WA 99350.

The Chairman opened the public portion of the hearing and asked for the Planner to give a brief overview of the special use permit request. The Planner – Mr. Posey – summarized said action, outlined the area on the aerial provided BOAH 1.1 and then entered into the record the following exhibits: Exhibit E, BOAR 1.1 to 1.6, and BOAM 1.1 to BOAM 1.10.

APPLICANT TESTIMONY: JARED BOYLE – 158422 WEST SONOVA ROAD – PROSSER, WA 99350 stated that he was applying for a special use permit for “glamping” which is glorified camping. He proceeded to inform the Board that the housing consisted of hunting tents with all the amenities, such as hot/cold running water, electricity, showers, and bathroom facilities, air conditioning. Glamping was part of marketing program – tourism based. The tents would be located on his property.

Mr. Bestebreur asked the applicant to explain the difference between yurts and glamping. The applicant replied that yurts are more rustic and glamping is more glorified.

Mr. Chigbrow asked the applicant when would the “glamping” facility be in operation. The applicant replied from May to October.

Mr. Chigbrow asked the applicant if he had read the conditions of approval affixed to the special use permit. The applicant replied he had and they were acceptable. He had conferred with the Fire Marshal and Benton Franklin Health District.

Mr. Burows read Condition No. 1 which states: “Applicant shall not conduct any of the activities within the scope of Special Permit 11-03 until they are in compliance with all the conditions set forth herein. The applicant shall notify the Benton County Planning Department in writing when the conditions have been completed and 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.” The applicant understood and would abide by condition no. 1.

The applicant asked the Board if he could change the hours of operation and be closed on Tuesday and Wednesday. He would also like to have five tents not three as requested.

The Chairman asked about signage. The applicant replied he would want directional signage to the “glamping” site.

The Chairman asked about waste disposal. The applicant replied he has employees who do housekeeping and utilizes his onsite production dumpsters. He continued to state that he resides on site, so would not want the area to be unkempt.

PROPONENT TESTIMONY: NONE.
OPPONENT TESTIMONY: NONE

The Chairman closed the public portion of the hearing.

MOTION: Mr. Bestebreur moved and seconded by Mr. Page that the Board of Adjustment, pursuant to the aforementioned controlling factors, finds that the application of Alexandria Nicole Cellars SP 11-03 should be **approved with the conditions as outlined in the staff report dated, February 18, 2011 with the following amendments to (1) Condition No. 3 – modified to allow for five 18’x20’ tents with decks instead of three, (2) Condition No. 5 – modified the days of operation from Friday to Sunday to seven days a week and (3) Condition No. 6 – the applicant shall be limited to a total of five tents for the purpose of overnight rental, glamping on the property at any time or five recreational vehicles sites are permitted with the maximum being five total rental facilities be they either RV sites or tents** and that the Chairman, in conjunction with the Secretary of the Board of Adjustment, prepare and adopt written findings and conclusions that articulate and are

consistent with the findings, conclusions and/or decisions made by the Board of Adjustment tonight. Motion carried.

**UNFINISHED BUSINESS:
SPECIAL USE PERMIT – SP 10-16/EA 10-27 – MATT BAKER**

Chairman informed the Board of Adjustment members that the Special Use Permit – SP 10-16 was a continuation from the February 3, 2011 hearing. He asked if the Board members had a chance to review all the documentation that was presented at the February 3, 2011 hearing.

The Board members stated that they had.

The Chairman asked if the Board had any comments on any of the documentation.

Mr. Burows stated that he recognized the petitions from the folks who were against this action. He would have to go on the record to state that a Treasurer or anybody here does not verify them, so he will take them for the word that it is. They are not a factual piece until it has been verified. Unfortunately or fortunately we have to make decisions on conditions that are there, but not all the public will. I am a bit concerned that the applicant may not have presented enough evidence to show that he can meet all the conditions. That is his burden of proof.

Chairman: The conditions of approval do they address those conditions Mr. Burows.

Mr. Burows: Well, I think that we can massage them a bit. I am concerned about the roadway. I think that it is a safety concern.

Mr. Page: Along with that I believe the County had investigated the roadway and stated that it was ample and designed for 3500 cars a day.

Mr. Burows: That is the truth, but at the same time if you go through the testimony that was given, there have been accidents. Even though it was designed for 3500 cars a day the road wear and tear may be sufficient, but when we add an activity that may or may not be conducive to drunk driving we have to take that into consideration as well. If there are hairpin corners on that road that cannot be negotiated that is an issue.

Mr. Page: Going back to the same thing the speed limit is 35 mph and in places they have posted caution signs for turns of which those conditions whether or not there is a venue out there. The other thing was no testimony was presented that any accidents out there were caused by anybody coming from this venue.

Mr. Burows disagreed as testimony was presented on the S curve that someone did go through the gate and it was in the general southeastern direction, which would be a vehicle coming from the event. If we are adding to the percentage of times that somebody can have an accident on that road and in the given location I would say it is fortunate that Kadlec has a helicopter.

Mr. Page stated that condition would exist whether or not the venue was there or not.

Mr. Burows replied correct, but additional people would not exist.

Mr. Page: The applicant had originally requested I believe it was up to 150 vehicles. He stated that he could get by with no more than 75 vehicles due to the total number of people attending an event would be limited to 200.

Mr. Burows replied that the application requested 300 cars and it was agreed in testimony to go to 75. Three hundred cars would be an immense amount, such as a football game.

Mr. Page noted on some of the previous testimony about 600 round trips per event, which was an exaggeration. The speed limits out there are going to exist with or without the venue.

Mr. Burows stated that the only thing again and it is one of the Board's conditions is will this have an impact on public safety greater than anything else that is going on out there. At the time this is the only additional piece going on out there, so there could be; but I have not heard any professional testimony presented. I do think that we have seen a road counter or the actual traffic that has gone on out there, so everything that was testified was hearsay without the actual count; but summarizing you could have an additional impact from the activity greater than what would be there.

Mr. Page noted the Master Plan for the Lewis/Clark Ranch, but this is tentative.

Mr. Burows replied that the wording is "tentatively". He had not heard that this proposal was approved.

Mr. Page stated that it was in the Master Plan.

Mr. Burows felt that the noise was not an issue with him with regards to this venue. His issue was more with the road. The Lewis and Clark Ranch has been submitted, but the question to the planner was had it been approved for development.

The Planner replied that he had not knowledge with regards to the Lewis/Clark Ranch proposal.

Mr. Bestebeur asked the Planner about the county's responsibility of maintenance on a private road. Would this be the responsibility of the HomeOwner's Association? The Planner responded that the County has no responsibility with regards to maintaining a private road.

Mr. Burows noted then that the County has no ability to enforce the speed limit on the road either.

Mr. Planner replied that to be correct.

Mr. Page noted that the applicant was maintaining the private road from the asphalt to his property.

Mr. Bestebeur stated that when the applicant was operating his venue it was at the same time when property owners were not at work. Concern over the road going to the site being just a one-way dead end road. He noted concern over the number of cars, 100, going down this dead end road on a Friday or Saturday night.

Mr. Burows: Granting of the special use permit would or would not cause pedestrian or vehicular traffic associated with the use be of conflict with what was already existing in the

immediate area. He felt that the granting of this commercial business would create an impact to the property and residents in the immediate vicinity due to the road being a dead end road.

Mr. Chigbrow stated that if the applicant had children and conducted a wedding or event on site it would be an allowed use even with 500 guests and cars as long as he was not charging a fee, as that would change it to a commercial business.

Mr. Burows replied that the difference between private venue vs a commercial venue had to do with fees being charged. Voiced safety concerns with the provision of alcohol at these commercial events.

Mr. Chigbrow voiced concern in the fact that the applicant was operating without obtaining the necessary permits to begin with and was now before this Board requesting approval.

Mr. Everett concurred with the comments raised with regards to the road being a dead end, applicant obtaining permits after the fact, riverfront property issues with regards to it being in a flood way.

Mr. Burows addressed the liability issue with regards to HomeOwner's Association and all residents on the private road being responsible with regards to an accident that might occur due to the commercial business in operation on a private road.

Mr. Bestebreur noted that the applicant had obtained liability insurance, but would that cover other residents on that road if an accident did occur.

Mr. Burows replied that it would be common ground and everybody on that road would be liable. He could not base his decision with regards to the special use permit on the liability issue of the road.

Mr. Page stated that the applicant did testify that the applicant maintained the private road to his residence.

Mr. Chigbrow stated that the applicant informed the Board that he would widen that portion of the road to his property. It was asked of the Planner how wide was this private road. The Planner replied approximately 40 feet.

Mr. Burows expressed concern with regards to pedestrians and emergency services to the area due to the increased traffic, dead end road and Harrington Road. He apologized, as he had to listen to the audio transcripts of the hearing and read the documents. Concern over an accident occurring and assess of emergency vehicles to the site or being able to reach the accident if it occurred on the road due to the increased traffic.

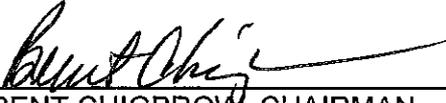
Mr. Chigbrow stated his two concerns with regards to this action were (1) major traffic concern to and from the venue and (2) that the applicant did not obtain the necessary permits prior to operating the business.

MOTION: Mr. Burows made a motion and Mr. Chigbrow seconded it that the Board of Adjustment, pursuant to the aforementioned controlling factors, finds that the application of Matt Baker SP 10-16 should be denied based on the following: (1) it does not meet the special conditions G,H, and I and seeing as this action cannot meet all the requirements as noted in the findings of fact it should be denied and that the Chairman, in conjunction with the Secretary of

the Board of Adjustment, prepare and adopt written findings and conclusions that articulate and are consistent with the findings, conclusions and/or decisions made by the Board of Adjustment tonight. Motion carried

PLANNING DEPARTMENT REPORTS AND DISCUSSION: NONE.

The Chairman adjourned the Board of Adjustment Hearing at 8:11 p.m.



BRENT CHIGBROW, CHAIRMAN
BENTON COUNTY BOARD OF ADJUSTMENT

Recorder – Carel Hiatt