

Benton County Board of Adjustment  
Planning Annex – 7 p.m. May 5, 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 Bestebeur  
Bob Page

Planning Staff: Present  
Michael E. Shuttleworth, Planning Manager  
Clark A. Posey – Senior Planner – Current  
Carel Hiatt - Recorder

**MOTION:** It was moved and seconded that the April 7, 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.

**NOTE:** The Board members were asked by the Planner and each responded with a "No" that they did not have a personal Conflict of Interest with any of the actions presented to the Board of Adjustment tonight, except the Chairman did with SP 10-20 and would step down on this action.

**NOTE:** The Chairman did reclude himself from the decision making process for Unfinished Business: SP 10-20 – David/Charlotte Schlotfeldt. The action was a continuation from the April 7, 2011 Board of Adjustment Hearing. The Chairman disclosed at the April 7, 2011 hearing that he did know the applicants and would step down if requested. Objection was voiced from the audience at that time, so the Chairman did step down and left the hearing room on this action that was heard on April 7 and May 5, 2011.

**NOTE:** The Chairman turned the Board of Adjustment hearing over to Vice-Chairman Dean Burows. Mr. Burows closed the public hearing as the continuation on SP 10-20 was for decision making only not for the taking of new testimony as the hearing was closed at the April 7, 2011 Board of Adjustment Hearing.

**NOTE:** Let it be known for the record that the Chairman Brent Chigbrow has left the hearing room while the Board discusses and makes a decision on this action

**UNFINISHED BUSINESS:**

**SPECIAL USE PERMIT – SP 10-20 – DAVID/CHARLOTTE SCHLOTFELDT**

Special Use Permit for a project that involves the development of a recreational vehicle park for up to 182 RV sites, 12 tenting/cabin sites, two mini-storage buildings and a petting zoo. The

site is located on Lot 1 of short Plat 3292 in Section 11, Township 8 North, Range 28 East, W.M. Applicants: David/Charlotte Schlotfeldt – 520 Rome Court – Richland, WA 99352.

Mr. Page: The parcel of ground is it currently covered under irrigation rights.

Mr. Shuttleworth: Unknown, however, in the application it was proposed to be part of the Wiser Water Company. Wiser Water Company does have irrigation and domestic water rights.

Mr. Page addressed the usage of irrigation and potable water being different.

Mr. Shuttleworth replied that new wells have been drilled, same water and depth.

Mr. Burows recalls from the April 7, 2011 hearing that the applicant had testified that they did have permission from the Department of Ecology to transfer water rights. He also asked the Planner that would not the petition for a petting zoo come under a separate application.

Mr. Shuttleworth replied it would depend on what types of animals would be in the zoo. The animals proposed by the applicant would be allowed in an Agricultural or Light Industrial Zone.

Mr. Burows stated no condition has been set yet by the Board as to the types of animals allowed at the petting zoo.

Mr. Burows also questioned whether or not the LOSS had been approved.

Mr. Shuttleworth was not aware of the approval as of yet. He continued to state that the action would be conditioned and that the applicant would have to come into compliance with the Washington State Department of Ecology and Benton Franklin Health District with regards to water rights and the system.

Mr. Burows felt that the cabins are actually park trailers and would not be allowed under this special use permit.

Mr. Page noted BOAH 1.19 item 7 Recreational Vehicles.

Mr. Burows commented that a park trailer typically is over eight feet wide, which would require a width permit to go down the highway, so it would be hard to determine that it would be an RV unit if a special use permit were required.

Mr. Bestebreuer discussed replacing fencing with landscaping vegetation.

Mr. Shuttleworth replied that it would be acceptable to replace fencing with landscaping vegetation as long as it was well maintained.

Mr. Burows replied that he would have an issue with landscaping vs. fencing due to the fact that children reside in the immediate area and this RV Park would present a curiosity. He would like to have the fencing condition remain.

Mr. Shuttleworth replied that the intent was to have the applicants provide fencing and landscaping to block the view of the RVs. In addition, the Board could condition the special use permit that the applicants submit a landscaping plan to the Planning Staff and Board for approval.

Mr. Burows asked under the current zoning classification motels, hotels, grocery stores are permitted. Testimony was given with regards to a lot of transient people coming and going, however, a grocery store could potentially create more traffic than an RV Park.

Mr. Shuttleworth replied that a grocery store would generate more vehicular trips per day than an RV Park.

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Mr. Bestebreuer addressed Condition No. 7 with regards to the septic system and the Washington State Department of Health.

Mr. Burows expressed a concern with regards to the request for campfire pits. Condition of approval was not to endanger public safety and he had issue with campfire pits in the area. The Board could condition that the campfire pits be replaced with gas fire pits only.

Mr. Everett asked Mr. Shuttleworth to explain the limit of 12 and 14 months stay.

Mr. Shuttleworth explained that the City of Richland allows for the stay of RVs 12 months in a 14-month period.

Mr. Bestebreuer replied that currently the permit would be for 120 days only.

Mr. Shuttleworth replied that 120 days was consistent with the City of Kennewick.

Mr. Bestebreuer asked if a person stayed at the site for 120 days and then left for a few days or week would they be allowed to stay another 120 days.

Mr. Shuttleworth replied that the Board could condition that the RV be removed for a week and then allowed to return to the site.

Mr. Page stated that testimony had been given with regards to children residing in the RV Park and attending the elementary school.

Mr. Shuttleworth replied that would be up to the school. Benton County does have a Temporary Dwelling application of which was explained. He continued to state that the RV Park was temporary in nature not for permanent residency. No comments had been received from the Kennewick School District.

Mr. Burows reiterated that the fencing and landscaping would be in conjunction with each other.

Mr. Bestebreuer stated that the landscaping plan would need to be approved by the Planning Staff.

Mr. Burows expressed no approval for the petting zoo, park trailers were never cabins, wood burning an issue – gas fire pits would be better and 120 days was an acceptable staying period in the RV Park.

Mr. Everett felt that 180 days would be an adequate amount of time if a person were residing in the RV Park while constructing a residence.

Mr. Bestebreuer agreed that six months was adequate. Condition No. 11 is changed from three wood burning pits to three gas fire pits only.

**MOTION:** Mr. Bestebreuer made a motion which was seconded by Mr. Page that the Board of Adjustment, pursuant to the aforementioned controlling factors, finds that the application of Dave/Charlotte Schlotfeldt – SP 10-20 be approved with the following revisions: (1) Condition No. 11 that there be only three gas fire pits be allowed at the RV Park, (2) Condition No. 12 that a landscape plan be approved by the Benton County Planning Department to include a combination of fencing and landscaping (3) Condition No. 14 that no recreational vehicle shall remain in the RV Park for more than 180 days in any calendar year, (4) Condition No. 17 that the approval of this SP 10-20 does not approve the site to be used for cabins, (5) Condition No. 20 that a petting zoo is not approved for this RV Park 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. Four – Yes

**NOTE:** Chairman Brent Chigbrow was re-established on the Board for the remainder of the Board of Adjustment Hearing.

The Chairman opened the public portion of the hearing.

**NEW BUSINESS:**

**SPECIAL USE PERMIT – SP 11-04** - The applicant is requesting a special use permit for the operation of a second hand store to be operated out of three storage buildings currently located on site. Location: 19106 N Hinzerling Road – Prosser, WA 99330 on Lot 2 of Short Plat 1951 in Section 26, Township 9 North, Range 24 East, W.M. Applicant: Clayton L. Jones – 19106 N Hinzerling Road – Prosser, WA 99350.

Benton County Planner Clark Posey summarized SP 11-04 for the Board and entered into the record all exhibits contained in Exhibit E. He continued by stating that this was a Code Enforcement Action. The applicant had been steadily working on cleaning up the site. A site visit was conducted on May 5, 2011 and considerable improvement had been noted by the Planning Department.

**APPLICANT TESTIMONY:**

**CLAYTON JONES – 19106 N HINZERLING ROAD – PROSSER, WA 99350** stated that he was working on cleaning up the site and would like to continue to operate his second hand store from this proposed location. The applicant stated that he had obtained a license from the State and did not realize he needed one also from Benton County.

Mr. Bestebreuer asked the applicant to describe some of the items for resale and the length of stay per item on site.

Mr. Jones gave some examples of products, such as washers, dryers, small household items, dressers, etc. He bids on storage facilities and then resale's the products at this location.

Mr. Bestebreuer asked the applicant if the Sheriff had ever been to his site due to complaints.

Mr. Jones replied that no complaints or visits from the Sheriff's office had been conducted or filed. He did store products outside with no fencing that has yet to be rectified.

Mr. Page addressing removal of trash and unusable products on site.

Mr. Jones replied that he did have a dumpster on site and had been working diligently on cleaning up the site.

Mr. Chigbrow addressed traffic.

Mr. Jones replied that traffic could be 100 to 150 people per day over the three days that his business was open. He does have adequate parking available. He will disallow parking on the road. He does not want signage as word of mouth or Internet did the advertising.

Mr. Page asked about buildings.

Mr. Jones would be constructing a 40-foot x 80-foot shed and products would be stored inside the shed.

Mr. Burows asked about access and safety vehicles.

Mr. Jones replied that he had three accesses to the site and enough room for emergency vehicles. He will construct the approaches according to the Benton County Public Works requirements.

Mr. Burows asked the applicant if he had any questions with regards to the conditions of approval.

Mr. Jones replied that the conditions were adequate and he had already satisfied most of the conditions of approval. Code Enforcement may even come out and look at the site to access his progress.

**PROPONENT TESTIMONY: NONE.**

**OPPONENT TESTIMONY:**

Charles Evans – P O Box 5036 – Benton City, WA 99320 wanted to know if the applicant had been required to close his business until all the conditions had been satisfied by Benton County Code Enforcement.

Mr. Burows and Mr. Chigbrow stated that Code Enforcement should have closed the business during this period of time.

**APPLICANT REBUTTAL: NONE**

Chairman closed the public portion of the hearing.

**MOTION:** Mr. Bestebreuer made a motion which was seconded by Mr. Chigbrow that the Board of Adjustment, pursuant to the aforementioned controlling factors, finds that the application of Clayton Jones – SP 11-04 should be approved with the conditions as outlined in the staff report dated, April 22, 2011 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. Five – Yes

Chairman opened the public portion of the hearing. Benton County Planner Clark Posey summarized SP 11-05 for the Board and entered into the record all exhibits contained in Exhibit E. He continued by stating that this was a Code Enforcement Action.

**SPECIAL USE PERMIT – SP 11-05** -The applicant is requesting a special use permit for the operation of a general repair facility to include the sale of materials as required by the business, such as mobile equipment, auto repair and other equipment to be conducted inside a temporary structure of 1,456 sq. feet. The site is located at 108 Acord Road, Benton City in Section 36, Township 10 North, Range 26 East, W.M. Applicant: Rattlesnake Mountain Enterprises, Inc. 108 Acord Road – Benton City, WA 99320.

**APPLICANT TESTIMONY:**

**CHARLES EVANS – RATTLESNAKE MOUNTAIN ENTERPRISES, INC. 108 ACORD ROAD – BENTON CITY, WA 99320** – stated that he had been in operation since 1998. He had a state license, but was unaware of the need for a license from Benton County. He stated that in 2008 he had contacted and received no assistance from the Benton County Sheriff's office with regards to the removal of junked vehicles on site. He anticipates the removal of all the junked vehicles by the end of June. Twenty-five vehicles have already been removed from the property. He received a letter from the Benton County Code Enforcement Officer and has closed his business until such time as he comes into compliance. He would install fencing if required according to the requirements of Benton County.

Mr. Burows noted that the application was for an auto repair business not a junkyard as depicted.

Mr. Evans responded that he was trying to remove the junked vehicles, but it was difficult without the Benton County Sheriff's Office assistance.

Mr. Page asked the applicant about how many vehicles were on site currently and how many were personal vehicles. Mr. Evans responded about forty and 10 to 15 were his vehicles.

Mr. Page asked how many vehicles were abandoned. Mr. Evans replied about twenty-five and twenty-one of those would be disposed of by the end of June.

Mr. Everett asked if he was receiving cooperation from the Benton County Sheriff's Office at the current time. Mr. Evans replied that he was working in cooperation with the Sheriff's office presently.

Mr. Chigbrow asked the applicant if he had read and understood the twelve conditions of approval affixed to his special use permit. The applicant replied that he had and most were tolerable.

Mr. Evans stated that he had contacted the Benton County Public Works Department with regards to fencing requirements and visibility.

Mr. Burows read Condition No. 1, which states that the applicant cannot operate his business until such time as all the conditions of approval have been satisfied. The applicant replied that he understood Condition No. 1.

Mr. Bestebreuer noted Condition No. 7, which states 5 customer vehicles and the applicant would like to change the number to 10. The applicant replied he would like the 10 vehicles after he had disposed of the abandoned, junked vehicles currently located on site.

Mr. Burows asked the applicant about the length of stay on site for the repair of the vehicle.

Mr. Evans stated he would like to request 180 days and if longer the vehicles would be located behind the fencing.

Mr. Posey stated that the Board could limit the number of cars allowed on site at one time to ten only.

Mr. Page asked the applicant how long would it take for him to come into compliance of only having ten vehicles on site. The applicant replied about 120 days from the time he completes his cleanup, which would be by the end of June.

Mr. Chigbrow stated that would be about November. The applicant concurred and stated again that he was unaware that a permit was needed to operate the auto repair business.

**PROPONENT TESTIMONY:**

**HAROLD MASON – 210 MASON PR NE – BENTON CITY, WA 99320** stated that he was a hulk hauler until about 2.5 years ago, but due to the lack of cooperation with the Sheriff's office he went out of business. He was in support of the applicant's auto repair business and realizes the difficulties the applicant is facing with regards to disposing of the wrecked or abandoned vehicles.

**WARREN ZESIGER – 2709 FRONTIER PR NE – P O BOX 895 – BENTON CITY, WA 99320** – reiterated prior testimony with regards to non-cooperation of the Sheriff's office with regards to hulk vehicles. He was in support of the applicant's auto repair business.

**OPPONENT TESTIMONY: NONE**

**APPLICANT REBUTTAL: NONE**

**MOTION:** Mr. Burows made a motion, which was seconded by Mr. Bestebreuer that the Board of Adjustment, pursuant to the aforementioned controlling factors, finds that, the application of Charles Evans – Rattlesnake Mountain Enterprises, Inc. SP 11-05 should be approved with the conditions as outlined in the staff report dated, April 22, 2011 with the following modifications: (1) Condition No. 7 that there be only ten (10) customer vehicles under repair parked outside. The vehicles parked outside shall be placed in an enclosure. The enclosure shall be at least a 6-foot high site-obscuring fence. The fenced area shall not be located between the existing single-family dwelling and Acord Road. That all vehicles be tagged with the date it was received and the stay be no longer then 180 days. (2) Condition No. 6 be modified that the Best Management Plan be submitted to the Benton County Planning Department, prior to the permit being issued 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. Five – Yes

**RECONSIDERATION OF THE MARCH 3, 2011 - BOARD OF ADJUSTMENT DECISION TO DENY SP 10-16 – MATT BAKER:**

Mr. Shuttleworth, Planning Manager Benton County Planning Department, informed the Board of Adjustment members that according to Benton County Code which allows for reconsideration only if the Board decides to agree. The Benton County Board of Adjustment on March 3, 2011 made a decision to deny this Special Use Permit – SP 10-16. Benton County Code states that if a written request is received from the applicants stating the reasoning for a request for reconsideration it is at the discretion of the Board of Adjustment to re-open the hearing, if they so decide as long as the written findings have not been adopted. In this particular case the written findings had not been adopted at the time of receipt of the reconsideration letter, which would have been March 31, 2011. This is not a public hearing, there will not be any testimony taken, this is strictly up to the Board to decide based on the letter submitted by the applicants whether the Board would like to reconsider this application and decision. If the Board does decide to reconsider this decision then it would be continued to the next Board of Adjustment meeting. Everyone who spoke, submitted testimony, was in attendance at the hearing would be notified in addition to publishing the reconsideration in the newspaper.

The Chairman asked Mr. Shuttleworth if anything had changed that would affect the decision made by the Board of Adjustment. Mr. Shuttleworth replied nothing, except for the letter of reconsideration from the applicant that the Board members received.

Mr. Chigbrow stated that the Board's decision was made due to a safety issue. The road leading into the place was one way in and one way out. He continued to express concern of a potential accident that might occur on that road whether it is from the wedding chapel or from the neighbors that reside in the area due to the amount of vehicles, traffic congestion and problems for safety vehicles entering and exiting the area.

Mr. Burows agreed with the Chairman.

The Chairman feels that nothing has changed with regards to the Board's decision on this action.

Mr. Burows concurred that without any changes being presented to the Board, he was not willing to change his vote.

Mr. Bestebreuer concurred, but he does make a point in here that a church can generate a 1000 trips. There is no way a church that size could operate on this parcel of property anyway or a school, elementary school on this site; so comparing that would not be justification to reopen the public hearing either. He would not alter his original decision on this action.

Mr. Page questioned whether 75 vehicles or 150 trips per wedding event would be considered an excessive amount.

Mr. Bestebreuer felt that it was for the road being only one-way in and out. If it was a through road that then would be taken into consideration, but nothing in the letter justifies that, and that is what he based his decision upon.

Mr. Everett stated that his decision was based on the same comments previously noted by the other Board members. He stated previously that if there was a bridge across the Yakima River in the general vicinity and tying over to 240 then it would be reviewed in a totally different light.

Concern over the private gravel road was an issue even though the applicant did some volunteer maintenance and grading of the road it was still a gravel road accessing a venue with a lot of vehicles coming in a relatively short period of time. He appreciated the comparison with schools, churches, warehouses, golf courses, but those types of uses occurring at the end of a dead end county road would be unlikely.

**MOTION:** Mr. Bestebreur moved and seconded by Mr. Chigbrow that the Board of Adjustment would not grant the applicants request for a reconsideration of the March 3, 2011 decision by the Board of Adjustment to deny Matt/Whitney Baker's special use permit – SP 10-16 for the operation of an event center. Motion carried. (Yes – 5)

The Chairman adjourned the Benton County Board of Adjustment Hearing at 8:46 p.m.



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BRENT CHIGBROW, CHAIRMAN  
BENTON COUNTY BOARD OF ADJUSTMENT



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DEAN BUROWS, VICE-CHAIRMAN  
BENTON COUNTY BOARD OF ADJUSTMENT

RECORDER: CAREL HIATT