

THE FOLLOWING MEMOS HAVE BEEN
SCANNED WITHOUT EXHIBITS FOR THE
HEARINGS TO BE CONDUCTED BY THE
BENTON COUNTY BOARD OF ADJUSTMENT
THURSDAY, SEPTEMBER 1, 2011 7 P.M.
BENTON COUNTY PLANNING ANNEX –
1002 DUDLEY AVENUE – PROSSER, WA

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

NULL/VOID:

SP 10-13 – MARIYA TARASYUK

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: AUGUST 18, 2011

TO: BENTON COUNTY BOARD OF ADJUSTMENT
MEETING DATE: SEPTEMBER 1, 2011

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

RE: SPECIAL USE PERMIT SP 10-13
APPLICANT: MARIYA TARASYUK
PARCEL NUMBER: 1-1898-300-0002-001

The Benton County Planning Department conducted an open record hearing on July 1, 2010 and continued said action for decision making on September 2, 2010 for the operation of a business activity to repair motor vehicles, including boats, ATV's and etc. The site is located at 5601 W Lattin Road - West Richland, WA in Section 18, Township 9 North, Range 28 East, W.M.

BCC 11.52.089(d) states "If such specified conditions have not been met and the Planning Department does not issue the variance or conditional use/special permit within one (1) year from the time the Board of Adjustment conditionally approved the variance or conditional use/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. If the Board of Adjustment finds that the conditions have not been met, it shall adopt a written decision and findings of fact to support that decision."

The special use permit SP 10-13 was approved with 15 conditions (listed below) to have been completed within one year. The Benton County Planning Department has conducted several site visits over the year and observed that the conditions of approval have not been satisfied.

The Board approved the special use permit with the following conditions to have been accomplished within a one-year timeframe: The following are the listed conditions set by the Benton County Board of Adjustment for the Auto Repair business for motor vehicles, including boats, ATV's etc.

1. Applicant shall not conduct any of the activities within the scope of Special Permit 10-13 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.

PLANNING DEPARTMENT COMMENTS: The applicant has continued to conduct activities on site without having completed the conditions of approval imposed by the Board of Adjustment.

2. The conditions of approval have not been met and the Planning Department does not issue the special permit within one (1) year from the time the Board of Adjustment conditionally approved the special permit, the Board of Adjustment may declare it's 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.

PLANNING DEPARTMENT COMMENTS: Letters to the applicant dated March 10, 2011 and July 20, 2011.

3. The business activity, including all storage space, shall not occupy more than eighteen hundred (1800) square feet of total floor area within a detached accessory building. Only one (1) approved detached accessory building on a parcel may be used for the business activities. The applicant shall continue to meet all such requirements while Special Permit SP 10-13 is in effect. Non-permitted storage containers are not allowed.

PLANNING DEPARTMENT COMMENTS: Majority of the applicant's business is conducted outside of the detached accessory building.

4. 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 Special Permit SP 10-13 is in effect.

PLANNING DEPARTMENT COMMENTS: The applicant has yet to submit documentation that the applicant has complied with these agencies requirements.

5. The requested special permit shall not be granted for the keeping of more than one (1) vehicle advertising the business on the site at any time. The applicant shall continue to meet all such requirements while Special Permit SP 10-13 is in effect.
6. That the Special Permit for a vehicle repair shop repairing motor vehicles, boats, ATV's etc, would be permitted between the hours of 8:00 a.m. and 5:00 p.m. Monday thru Friday. The applicant shall continue to meet all such requirements while Special Permit SP 10-13 is in effect.

PLANNING DEPARTMENT COMMENTS: The applicant has not adhered to the agreed hours of operation.

7. That no more than two (2) non-resident persons, whether they work on site or not, may be employed by or be partners in the business. The applicant shall continue to meet all such requirements while Special Permit SP 10-13 is in effect.
8. That any waste created in association with the business as a result of this special 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 Special Permit SP 10-13 is in effect.

PLANNING DEPARTMENT COMMENTS: The applicant testified at the Board of Adjustment Hearing on July 1, 2010 that a company would come and pick up the liquid waste from the applicant's site.

9. That 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 the street (inside the road right-of-way) sign posting which interferes with the line-of-site for road intersections, are prohibited. The applicant shall continue to meet all such requirements while Special Permit SP 10-13 is in effect.

10. If the applicant retains the lift on the front side of the building then it must be enclosed within the existing shop building for safety concerns and esthetics of the neighborhood. If, however, the applicant decides to move the hoist to the back of the shop it will need to be enclosed within a six foot high security locked fence until such time as it is incorporated into the shop. Construction of the new facility to house the hoist can not be higher than the current eve height of the existing building in order to make it compatible with the surrounding buildings in the area. The applicant shall continue to meet all such requirements while Special Permit SP 10-13 is in effect.

PLANNING DEPARTMENT COMMENTS: No attempt has been made to enclose or move the automotive lift that is being used in the front of the building. The applicant has even used a forklift to lift a motor home to work on, out in front of his business and in the road right of way.

11. Any used fluid and oil collected in waste containers and must be picked up by a third party oil company. The applicant shall continue to meet this requirement while Special Permit 10-13 is in effect.

PLANNING DEPARTMENT COMMENTS: The applicant testified at the Board of Adjustment Hearing on July 1, 2010 that a company would come and pick up the liquid waste from the applicant's site.

12. The requirements of the Benton-Franklin Health District must be met prior to issuance of a special use permit. The applicant shall continue to meet all such requirements while Special Permit 10-13 is in effect.

PLANNING DEPARTMENT COMMENTS: The applicant has not submitted documentation to the Benton County Planning Department that they are in compliance with the Benton Franklin Health District.

13. No overnight outside parking of customers' vehicles is allowed, without a site-obscuring fence for storage. Storage areas with hulk and non-operable vehicles are prohibited outside of this fenced area. The applicant shall continue to meet all such requirements while Special Permit 10-13 is in effect.

PLANNING DEPARTMENT COMMENTS: Applicant has had vehicles constantly parked overnight at the business since the permit was preliminary approved. Vehicles have been left in the road right of way for several days at a time.

14. Welding and painting are not approved as part of this Business Use Activity.

15. The special permit SP 10-13 for the operation of a mechanical repair business is non-transferable to anyone other than the current applicant.

The Benton County Planning Department informed the applicant by letter on March 10, 2011, that a site visit was conducted October of 2010 and this visit confirmed that the applicant was in violation of Condition No. 1 without first satisfying the conditions of approval imposed by the Benton County Board of Adjustment. The Benton County Planning Department on July 20, 2011 informed the applicant again by letter with regards to the violation of Condition No. 1 and that the special use permit would be placed on the Board of Adjustment's agenda for a null and void status.

The Benton County Planning Department took the attached pictures on June 29, 2011 and August 11, 2011, which shows that the applicant is still in violation of Condition Nos. 1, 2, 3, 6, 10 and 13.

The Benton County Planning Department as of the date of this memo has not received any communication from the applicant with regards to the violation of the conditions of approval and continues to operate.

Attachments:

1. Letter to Vladimir/Mariya Tarasyuk from the Benton County Plan. Dept. dated March 10, 2011
2. Letter to Vladimir/Mariya Tarasyuk from the Benton County Plan. Dept. dated July 20, 2011
3. Pictures of the site taken by Benton County Planning – June 29, 2011 and August 11, 2011
4. Pictures taken August 1, 2011.

Cc: Benton County Code Enforcement

CONSENT AGENDA ITEMS:

SP 10-12 – APOLLO, INC.

SP 10-05 – TRISH TRICKETT

CUP 07-07 – KEITH/TERRY BURKHART

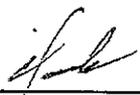
SP 07-18 – STEVE WESTERMEYER

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: AUGUST 18, 2011

TO: BENTON COUNTY BOARD OF ADJUSTMENT

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

RE: EXTENSION REQUEST
SPECIAL USE PERMIT – SP 10-12
APPLICANT: APOLLO, INC. C/O KEVIN BURKE

The Benton County Board of Adjustment on September 2, 2010 conducted a public hearing and approved special use permit – SP 10-12 for the request to park equipment and perform on going maintenance and repair of the applicant's personal equipment of trucks and trailers to include welding, tire repair and other maintenance as needed on an 8.12 acre parcel. The site is located at 1115 Clodfelter Road, Kennewick on Lot 2 of Short Plat 2849 in the Northeast Quarter of the Northeast Quarter of Section 12, Township 8 North, Range 28 East, W.M.

Enclosed is a letter from the Benton County Planning Department to the applicant outlining the conditions of approval to be completed. In addition, a site visit was conducted on July 29, 2011 and it was noted that equipment was parked within the setback of the Amon Waste Way. Pictures taken July 29, 2011 are enclosed showing equipment parked within the right of way. The Planning Department conducted another site visit on August 15, 2011 of which pictures are attached showing the removal of equipment from the right of way of the Amon Wasteway.

The applicant submitted a letter, which is enclosed, dated August 9, 2011 requesting a six month extension in order to satisfy the conditions of approval on this special use permit.

The Benton County Board of Adjustment will need to make a motion with regards to the applicant requesting an extension on this special use permit.

Enclosures:

- July 29, 2011 letter to the applicant from the Benton County Planning Department
- August 9, 2011 extension letter request submitted by the Applicant
- July 26, 2011 pictures of the site taken by the Benton County Planning Department
- August 15, 2011 pictures of the site taken by the Benton County Planning Department

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: AUGUST 15, 2011

TO: BENTON COUNTY BOARD OF ADJUSTMENT

HEARING DATE: SEPTEMBER 1, 2011

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

RE: EXTENSION REQUEST FOR SP 10-05 —
APPLICANT: TRISH TRICKIT

The Board of Adjustment on May 13, 2010 conducted a public hearing and approved the Special Use Permit –SP 10-05 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. The Benton County Board of Adjustment then on July 7, 2011 reviewed under Consent Agenda Items Special Use Permit SP 10-05 for a one-year extension request for the completion of the conditions of approval.

The legal owners name for the special use permit has changed since May 13, 2010, but the applicant's name remains the same. Upon reviewing this ownership change, the Board made a motion to instruct the Planning Department to write a letter to the applicant requesting that the new legal owner sign the application and return that document to the Board for review, prior to the consideration of an extension on this special use permit.

Enclosure:

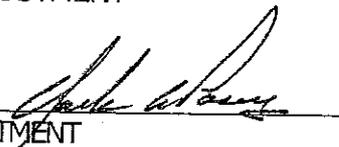
1. Letter dated July 25, 2011 to the applicant from the Benton County Planning Dept.
2. Special Use Permit Application

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: AUGUST 22, 2011

TO: BENTON COUNTY BOARD OF ADJUSTMENT

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

RE: CONDITIONAL USE PERMIT - CUP 07-07 - EXTENSION REQUEST
APPLICANT: KEITH/TERRY BURKHART

The Benton County Board of Adjustment on August 2, 2007 conducted a public hearing with regards to the operation of a retail quilting business that would include merchandising of quilting products, selling of antiques, garden decor and conducting of classes. The site is located in the Northeast, Quarter of the Northeast Quarter of Section 20, Township 8 North, Range 25 East, W.M. on the West side of Bert James Road approximately 5,600 feet South of the intersection of Bert James Road and SR 221. The Board of Adjustment approved such action with eight conditions to be approved within a year's timeframe.

This action was presented to the Board of Adjustment again on September 4, 2008, September 3, 2009 and September 2, 2010 requesting an extension of which was granted by motion for one year. The applicant presents again at this hearing seeking another extension request. As you can see from the applicant's enclosed letter dated August 19, 2011, progress is being made on this conditional use permit.

The Benton County Planning Department conducted a site visit on August 15, 2011 of which pictures are attached.

The Benton County Board of Adjustment will need to make a motion whether or not to grant the applicant another extension request.

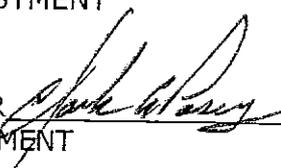
Attachment
August 19, 2011 letter
Pictures August 15, 2011

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: AUGUST 22, 2011

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 and 2010. The applicant presents again on September 1, 2011 requesting another extension. The applicant is currently installing the fencing and has completed all of the remaining conditions of approval affixed to this special use permit. However, the applicant stated that he will be phasing the project and has yet to provide information as to the number of units that will be included in the phasing along with the amount of time needed to complete the four phases.

Attached is a letter from the Benton County Planning Department to the applicant dated July 15, 2011, email from the applicant dated August 20, 2011, a response from the Benton County Planning Department dated August 22, 2011 and pictures taken of the site on July 5, 2011.

The Benton County Planning Department recommends that the Board of Adjustment review this application with regards to a phasing plan, extension request to complete the remaining four phases and allow the Planning Department to issue a permit for Phase One that is currently completed.

Attachments:

- 1) July 15, 2011 letter from the Planning Department to the applicant
- 2) Email from Steve Westermeyer – August 20, 2011
- 3) Response to the applicant from the Planning Department – August 22, 2011
- 4) Pictures of the site taken by the Planning Department on July 5, 2011

UNFINISHED BUSINESS:

VAR 11-02 – TROY L. SIMMS

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

BOAH 2.1

DATE: AUGUST 15, 2011

TO: BENTON COUNTY BOARD OF ADJUSTMENT

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

RE: VARIANCE REQUEST – VAR 11-02
APPLICANT: TROY L. SIMMS

The Benton County Board of Adjustment on July 7, 2011 conducted a public hearing with regards to a Variance Request – VAR 11-02. Seeing as the applicant was not in attendance the Board made a motion to continue the hearing to September 1, 2011 with instructions given to the Planning Department to write a letter to the applicant.

Attached is a letter from the Planning Department to the applicant dated July 14, 2011 informing him that the Board had continued the hearing on the Variance Request until September 1, 2011 in order to allow the applicant time to address the concerns of the Benton Franklin Health District.

The Benton County Planning Department has received no correspondence or communication from the applicant to date with regards to his variance request.

The Benton County Planning Department did contact the Benton Franklin Health District on August 15, 2011 and they also have not communicated with the applicant.

The applicant was informed in the July 14, 2011 letter from the Benton County Planning Department that if no communication were received from him by September 1, 2011 then this action would be presented to the Board of Adjustment for a null and void status.

Enclosure:

Letter dated July 14, 2011

NEW BUSINESS:

**SP 11-07 – JOHN R. ELLIOTT
DBA J AND J AUTOMOTIVE
REPAIR**

**EXHIBITS
BOARD OF ADJUSTMENT
HEARING DATE – SEPTEMBER 1, 2011
RE: SPECIAL USE PERMIT – SP 11-07 – JOHN R. ELLIOTT**

EXHIBIT SHEET	E-1	BOA EXHIBIT LIST	DATE
BOAR 1	BOAR 1.1	SP 11-07 APPLICATION	AUGUST 5, 2011
	BOAR 1.2	ADDENDUM 1	
	BOAR 1.3	ADDENDUM 2	
	BOAR 1.4	ADDENDUM 3	
	BOAR 1.5	ADDENDUM 4	
	BOAR 1.6	ADDENDUM 5-1	
	BOAR 1.7	ADDENDUM 5-2	
	BOAR 1.8	ADDENDUM 6	
BOAM 1	BOAM 1.1	MEMO	AUGUST 22, 2011
	BOAM 1.2	SITE MAP	
	BOAM 1.3	NOTICE OF HEARING	AUGUST 10, 2011
	BOAM 1.4	FIRE MARSHAL	JUNE 8, 2011
	BOAM 1.5	BUILDING DEPT.	AUGUST 10, 2011
	BOAM 1.6	BENTON PUD	AUGUST 10, 2011
	BOAM 1.7	DEPT. OF ECOLOGY	AUGUST 15, 2011
	BOAM 1.8	PUBLIC WORKS DEPT.	AUGUST 16, 2011
	BOAM 1.9	BFHD	AUGUST 17, 2011
	BOAM 1.10	SITE PICTURES (3)	AUGUST 11, 2011
	BOAM 1.11	AERIAL OF SITE	2008
BOAH 1	EXHIBITS PRESENTED AT THE SEPTEMBER 1, 2011 BOA HEARING		

EXHIBIT SHEET – E-1 – Exhibit listing
 BOAR – Board of Adjustment Record
 BOAM – Board of Adjustment Memo
 BOAH 1 – Exhibits received at the September 1, 2011 BOA Hearing

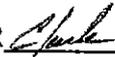
Benton County Planning Department

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: AUGUST 22, 2011

MEETING DATE: SEPTEMBER 1, 2011

TO: BENTON COUNTY BOARD OF ADJUSTMENT

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

RE: SPECIAL PERMIT APPLICATION – SP 11-07

APPLICANT: JOHN R. ELLIOTT
DBA AS J&J AUTO REPAIR
198305 E. 7th AVENUE
KENNEWICK, WA 99337

PROPERTY OWNERS: JOHN R. AND AMANDA M. ELLIOTT
198305 E 7th AVENUE
KENNEWICK, WA 99337

SPECIFIC REQUEST:

The applicant, John R. Elliott, is requesting approval of Special Permit Application SP 11- 07 to operate an automotive repair shop of 35'x35' (1225 square feet) in an existing 120' x 60' detached accessory building on a 2.19-acre parcel.

BACKGROUND:

The site is located at 198305 E 7th Avenue Kennewick, WA 99337 in the Chicago Ten-Acre Tracts Subdivision in the Northeast Quarter of the Southwest Quarter of the Southeast Quarter of Section 5, Township 8 North, Range 30 East, W.M.

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

Zoning: The site and surrounding properties are zoned Unclassified.

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

Washington State Environmental Policy Act: Categorically exempt.

APPLICABLE DEVELOPMENT REGULATIONS:

1. The Benton County Code Section 11.48.010(g) (In the Unclassified Zoning District) states that: "All other uses of property not otherwise prohibited by laws of Benton County or the State of Washington, in addition to those listed below, may be allowed only by special permit

issued by the Benton County Board of Adjustment after notice and public hearing as provided in BCC 11.52.090."

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 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.

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:

When the Board of Adjustment makes a decision to either approve or deny this proposal, the Board shall include in written 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 applicant John R. Elliott, 198305 E 7th Avenue Kennewick, WA 99337 is requesting approval of Special Permit Application SP 11-05 to operate an auto repair shop in an existing accessory building. The applicant is proposing to utilize 35'x35' of an existing 120'x60' detached building.
2. The property owners are John R. and Amanda M. Elliott 198305 E 7th Avenue Kennewick, WA 99337
3. The site is currently developed with a single-family dwelling and several accessory buildings with the surrounding area being developed with a mixture of residences and agriculture uses.
4. Special Permit Application SP 11-07 was submitted to the Benton County Planning Department on August 5, 2011 and was determined a complete application for processing on August 5, 2011.
5. Special Permit Application SP 11-07 did not require the publication of a Notice of Application.
6. The application was routed for review to: Benton County Department of Public Works, Benton Franklin Health Department, Benton County Fire District No. 1, Benton County Building Office, Benton County Fire Marshall, Benton Clean Air Authority, Benton PUD, Frontier Telephone Company, Washington State Department of Health and the Washington State Department of Ecology.
7. Special Permit Application SP 11-07 is categorically exempt from the requirements of the Washington State Environmental Policy Act.
8. The notice for the Benton County Board of Adjustment Open Record Hearing for application SP 11-07 was published on August 18, 2011 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 September 1, 2011.
9. The site and surrounding properties are zoned Unclassified.
10. The Benton County Comprehensive Plan designates the site as "Rural Lands 5".
11. Benton County Building Office commented that a building permit is required for the construction or any change of use for any existing building.

12. As per the Benton County Department of Public Works commented that the road approach to the site would need to be paved to the Benton County Standard 96-05 for a business. Currently, the access approach is gravel.

13. The Benton County Fire Marshall had the following comments: (1) I have inspected Mr. Elliott's building, and found that the primary use of the building is for the storage of personal automobiles, and the business area encompasses only approximately 1,225 sq. ft. The remaining floor area is already completely filled with personal storage. (2) In talking to Mr. Elliott, the fire flow requirements were discussed. Namely, Mr. Elliott was informed that as long as the business area does not cover more than 2,500 sq.ft. then the fire flow requirements are not applicable. (3) Should the future business area exceed 2,500 sq.ft, then on site fire protection water would be required. During our discussion, Mr. Elliott showed me a creek that flowed year around. I explained the creek would not be adequate to meet the fire flow requirements. (4) No requirements at this time.

14. The Benton Franklin Health Department commented that the proposal must comply with the following: (1) The dwelling and business are served by an approved public water supply. (2) The dwelling and business are each served by an on-site sewage disposal system that is permitted, inspected and approved in accordance with Benton Franklin District Board of Health Rules and Regulations No. 2. (3) The lot meets minimum usable land area requirements for the proposed use. **NOTE: The above requirements may be waived provided the owner submits information indicating that no employees are stationed at the site.**

15. The applicant has requested hours of operation be Monday thru Friday 9:00 a.m. to 5:00 p.m. The Planning Department would recommend that the operation be limited to the days and hours requested.

16. Auto repair businesses that have a large number of vehicles on site needing repair can begin to look like a junkyard. A large number of vehicles located around the accessory building and elsewhere on the property could give the appearance of a junkyard. A junkyard and a large amount of traffic could have a negative effect on future residential development. During the site visit there was an excess of twenty vehicles on the site. The application is for auto repair not auto storage.

The Benton County Code Section 11.04.020(26) provides the following definition for an "Auto Wrecking Yard":

"Auto Wrecking or Junk Yards; Rubbish Dumps" means a lot, parcel of land or structure, or part thereof, larger than 200 square feet, used for storage, keeping or abandonment of junk, including waste paper, rags, scrap metal, scrap lumber, or discarded material; or used for the collecting, dismantling, storage, salvaging or sale of parts of machinery or vehicles not in operable condition; provided that this definition shall not be deemed to include lots used for the outdoor display and sale of used vehicles in operable condition; nor shall it include that part of a farm used for the storage of agricultural machinery kept for salvage by the owner for his own use, and not for sale, on farms having an area of not less than forty (40) acres."

17. The Department of Ecology in their August 15, 2011 letter had the following comments that the applicant must comply with WAC 173.303.

18. The applicant is requesting a 4'x8' sign to be placed on the accessory building. During the site visit it was noted that there were two 4'x8' signs on the site with one being on the accessory building and one on a small shed adjacent to the accessory building. Because this is a rural area the Planning Department is concerned that the two advertisement signs may impact the rural consistency of the 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 Special Permit Application 11-07, 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. Applicant shall not conduct any of the activities within the scope of Special Permit 11-07 until the applicant is in compliance with the conditions set forth herein. The applicant shall notify the Benton County Planning Department in writing when the Condition Nos. 4, 6, 8 and 9 sets 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 special 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. Special Permit for the operation of the automotive repair business shall not exceed 35'x35' (1225 square foot) portion of the existing 120'x60' building as shown in the site plan submitted by the applicant.

4. That the applicant be the only one employed at this site for the operation of the business. If the applicant in the future has employees then the applicant will need to contact the Benton Franklin Health District with regards to their rules and regulations. The applicant shall meet all such requirements while Special Permit SP 11-07 is in effect.

5. That any waste created in association with the business as a result of this special 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 Special Permit SP 11-07 is in effect.

6. That no more than one (1) non-illuminating signs, with a maximum area of 32 square feet, shall be permitted in connection with the business activity. The posting of such signs shall be allowed on the approved detached accessory building and all other advertisement signs will need to be removed. The applicant shall continue to meet all such requirements while Special Permit SP 11-07 is in effect.

7. Any used vehicle fluids, solvents and oils must be collected in waste containers and picked up by a third party oil company. In addition any air conditioning or recharging refrigerants must be recaptured in accordance with State and Federal regulations. That the applicant prepare and implement a Best Management Practices (BMP's) plan for the proper handling of used oil, solvents and other hazardous materials. The applicant shall continue to meet this requirement while Special Permit 11-07 is in effect.

8. No overnight outside parking of customers' vehicles is allowed, without a site-obscuring fence for storage. Storage areas with hulk and non-operable vehicles are prohibited outside of this fenced area. That there only be ten (10) vehicles parked outside of the business at one time and all other vehicles are to be removed from the site. The applicant shall continue to meet all such requirements while Special Permit SP 11-07 is in effect.

9. Hours of operation shall be Monday thru Friday 9:00 a.m. until 5:00 p.m. The applicant shall continue to meet all such requirements while Special Permit SP 11-07 is in effect.

10. No welding or painting will be permitted on site at any given time. The applicant shall continue to meet all such requirements while Special Permit SP 11-07 is in effect.