

**BENTON COUNTY BOARD OF ADJUSTMENT
SEPTEMBER 2, 2010 - 7 P.M. – PUBLIC HEARING
PLANNING ANNEX – 1002 DUDLEY AVENUE
PROSSER, WA 99350**

The Chairman opened the public portion of the hearing at 7:00 p.m.

NOTE: The minutes are a summary of 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.

ROLL CALL:

PRESENT:

Brent Chigbrow
Bob Page
Glenn Bestebreuer

ABSENT:

Herb Everett

PLANNING STAFF

Clark Posey, Senior Planner
Carel Hiatt, Recorder

MOTION: Mr. Bestebreuer made a motion and seconded by Mr. Page that the minutes from the Board of Adjustment hearings dated July 1, 2010 and August 5, 2010 be approved as written. Motion carried.

CONSENT AGENDA:

SP 08-14 – WALTER BEAR

CUP 07-07 – KEITH/TERRY BURKHART

SP 08-14 – WALTER BEAR:

Mr. Burows asked the Planner to outline the progress to date with regards to Mr. Bear. The Planner informed the Board that a conference call was to be conducted today regarding the court's decision on this action. The applicant stated that he would contact the Planning Department regarding this conference call.

CUP 07-07 – KEITH/TERRY BURKHART:

Mr. Burows asked the Planner why was it taking the applicants an unduly amount of time to complete the conditions of approval affixed to this special use permit as it was permitted in 2007. The Planner informed the Board that the applicants were in attendance and he would let them respond.

Mr. Burkhart 28501 Bert James Road – Prosser, WA 99350: He informed the Board that the building plans were just submitted to the building department, which were now undergoing plan review. He continued by stating that the bakery required additional permits to be obtained from the Benton Franklin Health District. The Health District did approve the septic system two months ago. The applicant did not want to proceed with the building plans until approval had been obtained from the Health District.

The Chairman asked the applicant how much longer would it take to complete the project. The applicant replied a year extension would be satisfactory as he was now committed financially to this project even in light of the economic situation.

MOTION: Mr. Bestebreuer made a motion and seconded by Mr. Page to grant on year extension request for: (1) SP 08-14 Walter Bear and (2) CUP 07-07 – Keith/Terry Burkhart. Motion carried.

**UNFINISHED BUSINESS:
SP 10-09 – PAT/KORENE REDMAN**

The Chairman asked the Planner to give a summarization of this special use permit to date. The Planner summarized said action, read into the record BOAH 2.2 – BFHD comment letter dated September 2, 2010.

APPLICANT TESTIMONY:

Patrick Redman – 191520 E 47th Avenue – Kennewick, WA 99337, stated that the bathroom was finished on August 31, 2010. All the conditions imposed by the Benton Franklin Health District had been satisfied including the septic system. The only clearance he was awaiting now was approval from the Washington State Department of Health with regards to his water system. He did not know how long that would take with the State to obtain approval.

The Chairman asked the applicant if he was close to obtaining approval from the State.

The applicant responded that all the paperwork had been submitted to the State for approval, but he did not have a clue as to how long that would take with them.

Mr. Burows asked if the applicant felt that the approval would be reached by December 1, 2010. The applicant replied that he did not know, but would hope to be completed before December 1.

The Chairman informed the applicant that the Board would extend this application to December 2, 2010, but if approval from the State had been reached prior to that date he was to inform the Benton County Planning Department to be placed on the Board of Adjustment agenda for decision-making.

MOTION: Mr. Burows made a motion, which was seconded by Mr. Chigbrow that the Board of Adjustment would table this SP 10-09 action until the December 2, 2010 Board of Adjustment Hearing, which hopefully would give the Washington State Department of Health an adequate amount of time to complete an inspection on the applicant's water system. Motion carried.

SPECIAL USE PERMIT – SP 10-13 - operation of a mechanical repair business to include vehicles, boats, ATVs, etc. The site is located at 5601 W Lattin Road – West Richland in portion of the Northwest Quarter of the Northeast Quarter of the Northeast Quarter of the Southwest Quarter of Section 18, Township 9 North, Range 28 East, W.M., lying North of the Kennewick Irrigation Canal Right of Way and South of Keene Road. Applicant: Mariya Tarasyuk – 5601 W Lattin Road – West Richland, WA 99353

The Chairman asked the Planner to summarize said action for the Board. The Planner entered into the record by reference Exhibit Nos. BOAH2.1 to BOAH 2.5. The Planner read into the record BOAH2.1.

Chairman: Mr. Planner did you receive anything, but the letter that was in here from the applicant.

Mr. Planner: No.

Chairman: Is the applicant in the audience, please.

APPLICANT TESTIMONY:

Vladimir Tarasyuk – 5601 W Lattin Road – West Richland, WA 99352 and his interpreter Victor Grenchur – he did not give his name or address.

Chairman: Okay, give us some kind of how – what type of progress you have made so far.

Mr. Tarasyuk: I put in fence inaudible.

Mr. Grenchur: Would you like to see pictures of the site?

Chairman: You will need to submit them to the Planner.

Mr. Planner: They will need to stay with us.

Mr. Grenchur/Mr. Tarasyuk: Okay. They submitted 10 pictures BOAH3.1 to 3.10.

Mr. Chairman: Mr. Planner do you have a list of the items that were asked besides the size of the building, plot plans, was there anything else requested of the applicant. Was it the seven items were they the only things requested?

Mr. Planner: Yes.

Mr. Chairman: One of the items that was requested was a building built to include the lift. That was one of the main items that we talked about 60 days ago. I am seeing in this letter Exhibit No. BOAH2.3 Number 4 states: "In the future I want to build a bigger shop and garage, I am not able to build one over the hoist lift at this time, but I did put a fence around my business. " That was one of the main items that the Board was requesting that a building be constructed around that hoist, so the people did not have to see it when they drove by.

Mr. Grenchur: Can you give us a code as to how far it is supposed to be away from their homes.

Mr. Burows: Well, actually that is up to you to determine. You need to bring to us the information about how you are going to complete your project. We can then determine after you bring that information to us whether or not it meets the requirements of what we need you to do. The building department would work with you on that structure. That would have been item number 5 on the request and your return letter states, "The existing building will be included into the addition for the lift-hoist." The Board was looking for a set of blueprints either engineered or rough drawn which would state we are bringing these type of trusses up to the existing building to the support the walls and how you were going to put it in there. We do not have that piece. I guess the alternative maybe would be to the conditions of approval that the Board just did away with the hoist until you could do that. If you cannot do the building then for safety purposes may be the hoist wouldn't be allowed. That is a maybe.

Interpreter: Okay for example, if he would just like to leave this lift okay, how soon do you need an answer back on main walls?

Mr. Burows: September 2, 2010 was when we requested.

Interpreter: He has no idea how soon he could be done with the main walls, okay. The problem is he has not enough square footage, okay to the road. One of the problems he would have to decide what he would need to do right now or he would just have to cover the lift and build a lift roof or he would just have to build a new shop.

Mr. Burows: I cannot answer you. I do not think that we are here to answer that question for you. We asked for a plan on what you would do with the lift mainly to cover the concerns of safety on the lift. However, that was prior to you having the fence up, now you have a fence up and a totally enclosed facility that is lockable. If there is not enough room on the front of that lot to build then one might consider moving the hoist to the back of the lot.

Interpreter: We talked to him about it and probably what he would have to do right is cover/build a main wall. His budget not enough to just builds a new one or construct.

Mr. Burows: I can appreciate budget concerns, but that is just not something that the Board can take into consideration here. That would be something you would need to take into consideration at the time you make the application.

Interpreter: Okay.

Mr. Chigbrow: Do we have a location of a bathroom inside the shop? We have that. We have the location of the septic system.

Mr. Planner: Is there a separate septic system for the shop?

Mr. Vladimir: The same.

Mr. Planner: The shop and the house are going into the same septic system.

Mr. Vladimir: Yes.

Mr. Planner: That may be a problem also. The health district has not approved that.

Interpreter: I think so. We already checked the septic close to the garage supposed to be separate. We will check with the Health District.

Mr. Vladimir: I will enclose the hoist as soon as possible.

Mr. Burows: The main concern the neighbors had the last time they were at the Board meeting was the safety concern with regards to children being around that lift. Now, your neighbor has a lift in his front yard that kind of does away with that safety concern a bit, I would think.

Mr. Chairman: The picture of the hoist is located where?

Mr. Vladimir: Couple of houses away from his residence.

Mr. Bestebreuer: Could you outline the area on the aerial?

Mr. Vladimir did not know the exact location on the aerial.

Mr. Chairman: He was out in that area and did see the hoist at this residence, so that blows the safety portion of this application. The Chairman asked the Planner to outline where are the City of West Richland's boundaries were located on the aerial.

Mr. Page: Mr. Planner if there was a concern about safety on the lift, the question would be if there was a vehicle on that lift and the owners were not present, I could understand the concern. If a vehicle was on the lift, he felt that the owner would be present, so what would be the safety concern. He questioned the safety concern over this lift.

Mr. Chairman: A site-obscuring fence was built around – how long before this fence is completely finished.

Mr. Vladimir: Responded that he was awaiting a gate. He would have this completed within a couple of days.

Mr. Burows: Had the health district inspect the bathroom located in the shop.

Interpreter: Not really, he was not done with the bathroom – he was not using it. The applicant was done with the water and everything done. He will contact the Health District for an inspection. The bathroom was present when he purchased the property.

Mr. Chairman: The Health District and Building Department would need to come and do an inspection.

Mr. Vladimir: Okay.

Mr. Bestebreur: Unable to utilize the hoist until it is enclosed in the building.

Mr. Vladimir: Okay.

Mr. Burows: How far from the front of your garage to the center of the road?

Mr. Vladimir: About 100 feet or less.

Mr. Burows: That would probably suffice for you being able to build an addition over the top of the hoist.

Mr. Chairman: Move the hoist around to the backside of the shop and not worry about it.

Mr. Burows: Concern over safety goes away seeing the fencing was installed and the applicant will be on site when something was on the hoist, applicant supervising and main worker. His concern was when no one was around, like the picture of the neighbor's hoist. Enclosing the hoist takes care of the safety concern. The visual piece for the neighbor's of the hoist, but if relocated on the backside of the building would not be seen by the neighbors.

OPPONENT TESTIMONY:

Gary Worrell – 3902 S Highlands Blvd. West Richland, WA 99352 – lived diagonally to the applicant. He outlined his residence on the aerial provided. He was happy to have the applicant as a neighbor, but did not want a mechanical business in this residential neighborhood. He addressed concern over safety issues for the area and children, long hours of operation, vehicles parked outside of the building to be worked on. He felt that the applicant

should relocate his business to a commercial area. He moved to the area five years ago. A boat repair business was in operation at this site then, but it was very small. Prior business had no traffic coming and going, no stored overnight vehicles or any noise after 5 p.m. and he was not working seven days a week. He would like to have the Board deny this special use permit for a mechanical repair business.

Mr. Chairman: The Board would base their decision on testimony presented and code rights. The use for which the applicant is applying is an allowed use in the county by special use permit.

Mr. Page: Concern was expressed over safety on the road from this business only or from future development projected and on-going in the general area.

Mr. Worrell: Primarily increase in residential development, but this business would only increase the amount of traffic being generated in the immediate vicinity of Lattin Road. He continued to state that he feels that the operation of the business at this site was not utilizing the land to its full potential.

Mr. Burows: Operation of a mechanical repair business of bringing in an average of 5 to 6 cars per day would be worse than the expansion of the residential development in the area which would generate more vehicle trips per day than the applicant's business.

Mr. Worrell: Would like this area to remain residential not commercial.

Phil Gehner – 7008 Glenbrook Loop – West Richland, WA – residence was located north of the applicant's site. His back porch faces the applicant's shop. The applicant's shop was 10 to 15 feet higher than his back porch. Concerns expressed over property values, quality of life and safety concerns for residents and children. The applicant's business was the only commercial business in the immediate area and felt that he should relocate to a commercial area.

Mr. Page: Mr. Gehner how long have you lived in this area and were you aware of the applicant's business, prior to you purchasing your residence?

Mr. Gehner: Approximately 1 to 1.5 years. He was aware that there was a boat repair business in operation at this site, but was not aware by the realtor or friends that this was a commercial business. If the applicant does end up obtaining a commercial business it would have an impact on the immediate area.

Mr. Bestebreuer: Mr. Gehner stated that he knew it was a boat repair business, but he did not know that it was a commercial repair business. Mr. Gehner could you explain that more in detail – because if it was a repair business then it was a commercial business.

Mr. Gehner: There was no business license that he was aware of when he asked his realtor prior to purchasing his current residence.

Mr. Bestebreuer: Did you specifically ask the realtor if that was a business.

Mr. Gehner: Yes, I asked if it was a commercial business. He would like to preserve the quality of life currently existing in the residential area with no commercial businesses.

APPLICANT REBUTTAL:

Vladimir Tarasyuk and Victor Grenchur - Interpreter – Chris Lucas' wife runs a day care out of their residence. She runs a business of children and I run a business with vehicles. They make traffic also – run daycare. No working seven days a week only 8 to 5 p.m. five days a week.

Mr. Bestebreur: The property is zoned Agriculture not rezoned to Commercial District.

The Planner stated that if the applicant decides to sell his property the new owner may or may not be allowed to continue the commercial business operation at this site.

The Chairman closed the public portion of the hearing.

Mr. Burows: The applicant is making an attempt to do the right thing with the conditions at hand and some changes with regards to the hoist. Amend the conditions to state that 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 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 then the current eve height of the existing building in order to make it compatible with the surrounding buildings in the area.

Mr. Page: Hoist relocated to the back of the shop, fenced and locked should eliminate the safety concern.

Mr. Bestebreur: Modify Condition No. 10 that the hoist be moved to the back of the building, fenced and locked. Condition No. 7 with regards to number of employees is limited to two.

Mr. Burows: Applicant stated he would like no more then two employees and if the business grows to more then two employees, then the applicant should look for another location for the operating of this business. Limit the applicant's business, but do not take away the right from the owner to make a living from this site as well.

Mr. Chigbrow: The applicant's business would not generate any more traffic then residential traffic currently existing in the immediate vicinity.

Mr. Burows: He agreed that the applicant's business would not generate a large volume of traffic.

MOTION: Mr. Bestebreur made a motion which was seconded by Mr. Burows that the Board of Adjustment, pursuant to the aforementioned controlling factors, finds that the application of Mariya Tarasyuk Special Use Permit – SP 10-13 should be **approved with the conditions as outlined in the staff report dated, June 16, 2010 and with the following amendment to Condition No. 7 to change the number of employees from “4” to “2”, modify Condition No. 10 to state: That 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 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 then the current eve height of the existing building in order to make it compatible with the surrounding buildings in the area and add Condition No. 15: That the**

special permit for the operation of a business to repair motor vehicles, include boats, ATV's etc. cannot be transferable 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.

VARIANCE REQUEST – VAR 10-02 – the applicant is requesting a variance from BCC 11.12.040 for a four-foot reduction from the required 10-foot side yard setback and a variance from BCC 11.12.050 for a 21-foot reduction from the required 25-foot back yard setback. The site is located at 1244 N Neel Loop on Lot 40 of Lampson Homesites in Section 34, Township 9 North, Range 29 East, W.M. The written date of completeness on this action was July 12, 2010. Applicant: Darrell/Jo Lea Nickerson – 1244 N Neel Loop, Kennewick, WA 99337.

The Planner informed the Board that the applicant had written in a request that this action to continued to the October 7, 2010 Board of Adjustment hearing.

MOTION: Mr. Bestebreur moved and seconded by Mr. Page that the applicant's request to have this action continued to the October 7, 2010 Board of Adjustment Hearing – 7 p.m. – Planning Annex – 1002 Dudley Avenue, Prosser be granted. Motion carried.

SPECIAL USE PERMIT – SP 10-14 – the applicant is a requesting a special use permit for the addition of a tasting room for Kitzke Cellars, LLC. The site is located at 72308 E 260 PR NE – Richland on Lot 2 of Short Plat 1619 in Section 20, Township 9 North, Range 28 East, W.M. The written date of completeness on this action was July 7, 2010. Applicant: Paul/Vickie Kitzke – 72308 E 260 PR NE – Richland, WA 99352

The Planner informed the Board members that per their request from the September 2, 2010 Board of Adjustment Hearing he did contact the Benton County Prosecuting Attorney's office with regards to liability issues pertaining to private road. The PA's office informed the Planning Department that the county had no jurisdiction in this matter and that the applicant would need to contact his/her attorney.

Mr. Chairman: At the August 5, 2010 hearing the Board had instructed the applicant to discuss this tasting room proposal with the surrounding property owners.

APPLICANT TESTIMONY:

Vickie Kitzke – 72308 E 260 PR SE – Richland, WA 99352 stated that they had made attempts to discuss this matter with the neighbor. The applicant submitted in pictures one through nine, which are noted as Exhibit No. BOAH 2.1. Pictures three and four show the amount of gravel on the private road. Pictures 6 and 7 show the rock driveway of which would not be in the pathway that any of them would drive, perhaps four wheelers may bother this area. Two closest neighbors have a grape orchard and they also grow and crush grapes. The processing, bottling, barrels etc. were at the location in Grandview. The only thing they were seeking at this site was a tasting room. The Kitzke's house was built in 1976 and Mr. Lewis' house was built in 1991. Exhibit No. BOAH 2.4 shows the 1989 easement of their home and width. Exhibit No. BOAH 2.5 – receipt for paving the road May 7, 2001. Mr. Kitzke explained the breakdown of costs involved for the paving of the private road. No buses will frequent their tasting room. Hours of operation Friday to Sunday – closed winter hours and would like to be open for special events throughout the year – perhaps 3-4 per year and open for a three-day weekend. Proposals: (1) that the Kitzke Cellars would spray the drive a couple of times per

year for weeds, (2) Friday to Saturday 11-6, Sunday 11-5, (3) open by appointment for private parties and distributors, (4) request to participate in special events 4-5 times per year (5) be allowed to be open for three day weekends and (6) closed winter hours and major holidays. Ms. Kitzke changed the wording of "proposal" to "requesting".

PROPONENT TESTIMONY:

James Jamison – 72307 3 266 PR NE – Richland, WA 99352 was in favor of this application. Mr. Jamison read into the record his testimony – Exhibit No. BOAH 2.4. He initialed his residence on the aerial with a red marker. He grows wine grapes on his site and manages a couple of other properties in the immediate vicinity.

OPPONENT TESTIMONY:

Steve Lewis – 72309 E 260 PR NE – Richland, WA 99352 was totally against this alcoholic business for the following reasons: traffic concern, selling of alcohol, concern over hours of operation, how will this business affect his family and his investments with regards to the easement and his property, children's safety, easement for residential uses not commercial ventures, no lighting on the private road, the easement was very narrow – how will commercial vehicles be able to navigate on this road. Adamantly, opposed to the operating of an alcoholic business being conducted in this residential/agriculturally related area. The applicant's hours of operation would be on the weekends, which would disrupt his private time with his family. Statement for the record: The easement is for residential and agricultural use only and not retail or commercial.

Mr. Burows stated that the area was zoned Agriculture, which would allow the applicant to operate a winery on site to include the crushing/bottling and selling of products seeing as he grows the grapes on site without presenting to the Board of Adjustment for a special use permit. The reasoning for the applicant presenting tonight was that he produces the wine at a different location and wants to just operate the tasting room from his residence.

Mr. Lewis: Mr. Ostler was not notified and he shares this access easement.

Mr. Planner: Mr. Ostler was listed as one of the 300' property owners, so he would have received notification.

Mr. Bestebreuer: If a fruit stand was constructed there would not be an issue, correct, the biggest concern was the selling of alcohol, correct.

Mr. Lewis: Correct alcohol, and outside traffic coming into the area of which the surrounding property owners have no control.

Mr. Burows: A fruit stand would have the same issues, such as traffic, parking, etc, without the selling of alcohol.

Mr. Chigbrow: He read into the record the requirements from the Benton Franklin Health District – Exhibit No. BOA 1.12.

APPLICANT REBUTTAL:

Vickie Kitzke – 72308 E 260 PR NE – Richland, WA 99352 replied people coming to this site would not be drunk. Processing of the wine would be done in Grandview. Parking space is available – permits have not been applied for as of yet as they were awaiting approval from the Benton County Board of Adjustment. No buses would be allowed on site.

Mr. Burows: Ms. Kitzke has you read the conditions of approval. She replied that she had and understood Condition No. 1.

Mr. Bestebreur: What are the insurance requirements for serving alcohol?

Mr. Kitzke: Insurance requirements were discussed.

Mr. Page: What is the amount of wine served per taste?

Ms. Kitzke: By law you cannot serve more than two ounces, she pours only one ounce per taste. Tasting is just what it states "taste" not drinking.

James Jamison – 72307 3 266 PR NE – Richland, WA 99352 stated he has a similar easement off of PR 266, which he shares with five other residents. During the middle of June he runs a U-pick operation for 7 to 14 days generating an average of 40 to 100 cars per day with no traffic problem. His short plat shows a 15-foot access easement on either side of property with no limitation, excluding retail sales, etc.

Steve Lewis - 72309 E 260 PR NE – Richland, WA 99352 – it was his understanding of the laws of access that it remains what it was sold as under the zoning. The Board will actually be changing my easement or the easement on my property with the zone change. I want you to recall or to think about the impact of that on my property.

Mr. Chigbrow: The Board is not are not changing the zoning and this type of use would be allowed by a special use permit in the Agricultural Zoning District.

Mr. Lewis: Okay, all right, I will say then that it comes with all the responsibilities to me as a land user and owner there with a zone change. All the liabilities, all the issues, etc., so even though this is a permit you are putting me in a situation of having retails and commercial activity on a private road and it is a huge impact to my life.

HEARING CLOSED:

Mr. Bestebreur: If the applicant grew grapes on site and had a production facility, bottled, processed and would be able to sell the product and this action would not be presented to the Board of Adjustment for review and approval, correct.

Mr. Planner: Correct.

Mr. Burows: If I heard correctly, the grapes grown on the applicant's site are currently utilized for wine production. Mr. Burows does not have an issue with this special use permit.

Mr. Kitzke: Stated that was correct.

Mr. Chigbrow: He does not have an issue with the amount of alcohol to be served at wine tasting causing a problem.

Mr. Bestebreur: The only thing unique about this situation is the easement, which is shared with four other property owners.

Mr. Burows: Traffic in the vicinity could be worse if the applicant did operate a winery from this site.

Mr. Chigbrow: He had not heard anything that states that this application does not meet the conditions. However, it does not meet the conditions on a personal level. If the applicant does not abide by the conditions of approval, then the options would be to inform Benton County Code Enforcement.

MOTION: Mr. Bestebreur 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 Paul/Vickie Kitzke Special Use Permit – SP 10-14 should be **approved with the conditions as outlined in the staff report dated, July 23, 2010 and amend Condition No. 16 The presence of customers/clients at the site of the Special Permit for a Home Occupation for on site sales shall be limited to Friday, Saturday, 11 a.m. to 6 p.m. and Sunday between the hours 12:00 p.m. to 5:00 p.m. and by special appoint, open for a three day weekend, and along with 4-5 events per year, Add Condition No. 17 – No tour buses would be allowed to frequent the site and Add Condition No. 18 – The applicant will provide for at least ten parking spaces. The access to the property is through a fire access road and should not allow for parking on it** 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.

NEW BUSINESS:

SPECIAL USE PERMIT – SP 10-12/EA 10-22 – The applicant is requesting a special use permit for a project that involves the storage and repair of heavy construction equipment and trucks. The repair work will be done in an existing 3600 square foot shop, 1300 square foot welding shop and an existing 1728 square foot manufactured home to be utilized as an office. The site is located at 1115 S Clodfelter Road – Kennewick on Lot 2 of Short Plat 2849 in the Northeast Quarter of Section 12, Township 8 North, Range 28 East, W.M. The written date of completeness on this action was July 15, 2010. Applicant: Apollo, Inc. ATTN: Kevin Burke – 1133 W Columbia Drive – Kennewick, WA 99336

NOTE: The Chairman Brent Chigbrow stepped down on this action as his company does business with Apollo, Inc.

NOTE: The Vice-Chairman – Dean Burows also informed the Board and members of the audience that he also does business with the applicant. However, this association with the applicant would not affect his judgment in rendering a decision on this special use permit. In addition, if the Vice-Chairman stepped down then there would not be a quorum and this action could not be heard tonight. Hearing no objections from the Board or the audience this action would be heard by the Board of Adjustment tonight.

The Vice-Chairman opened the public portion of this hearing item. The Planner outlined the site on the aerial provided and entered into the record Exhibit Nos. BOA 1.1 to 1.21. The Planner informed the Board that they would need to make a motion to null and void SP 08-05 – Kim VonOelhoffen as he was the previous owner of the property and was going to construct mini-storage units on site, but has since sold the property to the current owner of which SP 10-12 will now be operating a construction and repair business on site.

MOTION: Mr. Bestebreuer moved and seconded by Mr. Burows that the Board of Adjustment declare SP 08-05 null and void as the prior applicant was no longer pursuing this special use permit and was also no longer the owner of said property. Motion carried.

APPLICANT TESTIMONY:

Apollo, Inc. Kevin Burke – 1133 W Columbia Drive – Kennewick, WA 99336 outlined his proposal to the Board for the storage and repair of heavy construction equipment and trucks. Repair work would be done in the existing 3600 square foot shop, 1300 square foot welding shop and utilize the existing 1728 square feet for an office.

Mr. Burows: Define construction materials.

Mr. Burke: Pipe form systems, two mobile offices and no stockpiling of rock. The applicant continued to state that the buffer zone for the Amon Wasteway of 70 feet and would be maintained per the requirements of the Bureau of Reclamation.

Mr. Page asked if the 70-foot buffer was staked.

Mr. Burke replied that stakes were noted and no stock piling of any equipment would be allowed within the 70-foot buffer zone.

The Planner noted a correction to Condition No. 8 that the Exhibit No. should be BOA 1.4 not BOA 1.14

Mr. Bestebreuer asked about timeline for fencing installation and read into the record Condition No. 1.

Mr. Burke replied that some of the fencing was stockpiled already on site and estimates have been given with regards to the remaining materials and timeline.

PROPONENT/OPPONENT TESTIMONY: None.

HEARING CLOSED.

Correction the property owners name is Bruce Ratchford not Bryce Ratchford.

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 Apollo, Inc. Special Use Permit – SP 10-12 should be **approved with the conditions as outlined in the staff report dated, August 23, 2010** 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:

The Planner informed the Board that Mr. Mike Johnson was about 70% complete with his conditions of approval as imposed by the Board. The Board reminded the Planner that the applicant was given only 90 days.

The Vice-Chairman adjourned the Board of Adjustment Hearing at 10:00 p.m.

BENTON COUNTY BOARD OF ADJUSTMENT



BRENT CHIGBROW, CHAIRMAN



DEAN BUROWS, VICE-CHAIRMAN

RECORDER: Carel Hiatt