

**EXHIBIT LIST FOR CUP 2018-010  
Juan Rojas**

			<b>DATE</b>
<b>Hearing Examiner Application Exhibit List</b>			
<b>HER 1</b>	HER 1.1	Application and supporting documents (8 pages)	November 14, 2018
Includes:	HER 1.2		
	HER 1.3		
	HER 1.4		
<b>Hearings Examiner Staff Memo Exhibit List - February 11, 2019</b>			
<b>HEM 1</b>	HEM 1.1	Staff Memo	
Includes:	HEM 1.2	Email comments from Shawn Brown at BF Health District	August 10, 2018
	HEM 1.3	Email comments from Dale Wilson, Benton County Code Enf.	December 6, 2018
	HEM 1.4	Comments from Benton County Public Works Department	December 7, 2018
	HEM 1.5	Comments from Benton County Fire Marshal (5 pages)	December 7, 2018
	HEM 1.6	Notice of Open Record Hearing	January 25, 2019
	HEM 1.7		
	HEM 1.8		
	HEM 1.9		
	HEM 1.10		
<b>Hearings Examiner Staff Hearing Exhibit List - February 11, 2019</b>			
<b>HEH 1</b>	HEH 1.1		
Includes:	HEH 1.2		
	HEH 1.3		
<b>Hearings Examiner Staff Continued Hearing Memo Exhibit List</b>			
<b>HECH 2</b>	HECH 2.1		
Includes:	HECH 2.2		
	HECH 2.3		
	HECH 2.4		
	HECH 2.5		

**The Exhibit Numbers are found in the Top Right Hand Corner of each document.**

**HER = Hearings Examiner Record Exhibits  
HEM = Hearings Examiner Memo Exhibits  
HEH = Exhibits submitted during Hearing  
HECH = Exhibits submitted during a continued hearing**



**STAFF REPORT TO THE  
BENTON COUNTY HEARINGS EXAMINER**

**HEM 1.1**

**FILE NO:** CUP 2018-010 (Detached Accessory Dwelling Unit)

**MEMO DATE:** February 5, 2019

**HEARING DATE:** February 11, 2019

**APPLICANT:** Juan Rojas, 153110 W Johnson Road, Prosser, WA

**OWNER:** Juan Rojas, 153110 W Johnson Road, Prosser, WA

**LOCATION:** The property is located south and west of I-82, east of Wilgus Road, west of Missimer Road, along the north side of W Johnson Road at site address 153110 West Johnson Road in Prosser (Parcel Number 128944013474001)

**PROPERTY SIZE:** 5.89 acres

**AREA TO BE USED:** 800 square feet

**LAND USE:** Residential

**COMPREHENSIVE PLAN DESIGNATION:** Rural Remote

**ZONING:** Rural Lands 5 (RL-5)

**SUGGESTED STAFF RECOMMENDATION:** The Planning Department recommends approval of the application request, subject to the Findings of Fact and Conditions of Approval outlined in this Staff Report.

**APPLICATION DESCRIPTION:**

Juan Rojas is requesting an approval to convert an 800 square foot accessory dwelling unit (ADU) within an existing 1,200 square foot craft room/storage accessory building at site address 153110 West Johnson Road in unincorporated Benton County.

The proposed detached ADU is to be located on property that is approximately 5.89 acres in size and is zoned Rural Lands 5. As proposed, the detached ADU will be accessory to an owner occupied single-family home, will be limited to 800 square feet in size, and contain no more than one (1) bedroom as directed in the Benton County Code.

The 1,200 square foot building was constructed in 1980. It was permitted as an accessory building for the use of crafts and storage. The building consists of 3 levels, main level is equipment/storage, the second level contains a living area and kitchen of 400 sq. ft. and the upper level being approximately 350 sq. ft. includes a bedroom area and ¾ bathroom. The top two levels have been constructed, modified, or converted to dwelling unit space

without the issuance of building permit(s). The County Code Enforcement Officer has discussed the violation with the applicant, with the result of said conversation being that proper planning, building, and health permits must be obtained.

**PUBLIC NOTICE:**

1. The application for CUP 2018-010 was submitted to the Benton County Planning Department on November 14, 2018;
2. The application was declared complete for processing and routing for comments by reviewing agencies on December 5, 2018;
3. The Benton County Hearings Examiner Notice of Open Record Hearing for application CUP 2018-010 was published on January 30, 2019 in the Tri-City Herald;
4. The Notice was mailed to property owners of record within 300 feet of the outer boundaries of the parcel on January 30, 2019;
5. The Open Record Hearing is scheduled for February 11, 2019.

**APPLICABLE STANDARDS/ORDINANCES:**

1. *Revised Code of Washington*  
RCW 36.70A.390, Accessory Apartments  
Any local government, as defined in RCW 43.63A.215, that is planning under this chapter shall comply with RCW 43.63A.215(3).

RCW 43.63A.215(3)

Unless provided otherwise by the legislature, by December 31, 1994, local governments shall incorporate in their development regulations, zoning regulations, or official controls the recommendations contained in subsection (1) of this section. The accessory apartment provisions shall be part of the local government's development regulation, zoning regulation, or official control. To allow local flexibility, the recommendations shall be subject to such regulations, conditions, procedures, and limitations as determined by the local legislative authority.

2. *Benton County Comprehensive Plan*  
Section 2.7 Housing  
HE Goal 1: Provide for a variety of residential uses and densities consistent with the rural character and lifestyles and a choice of housing types for people of all income levels.

Policy 7: Consider accessory dwelling units as an affordable housing option and look for flexible and innovative ways of integrating accessory dwelling units into single family residential zones.

Section 6.4.2 Housing Types

Accessory Dwelling Units. The zoning code permits the establishment of additional living quarters within single family residences to permit persons who, due to a disability or an infirmity, require the assistance of friends, relatives, or a professional nurse to remain in their home and for persons related to the occupant. These units help meet the needs of the disabled, infirm, or elderly in need of assisted care and are currently allowed by ordinance in all residential zones and the agricultural zoning district of Benton County.

3. *Benton County Code (BCC)*

Title 11 Zoning

Chapter 11.03 Definitions

Section 11.03.010 (2) "Accessory Dwelling Unit"

"Accessory Dwelling Unit" an additional room or set of rooms located within a single-family structure and designed, arranged, occupied or intended to be occupied by not more than one (1) household as living accommodations independent from any other household and not exceeding 800 square feet in area.

4. *Benton County Code (BCC)*

Title 11 Zoning

Chapter 11.42 General Provisions

Section 11.42.020 Accessory Dwelling Units (ADU).

- (a) All accessory dwelling units authorized herein shall meet the following minimum criteria:
- (1) One (1) accessory dwelling unit is allowed per parcel/lot.
  - (2) A single-family dwelling must be located on the parcel/lot where the accessory dwelling unit is to be located.
  - (3) The accessory dwelling unit shall not exceed 40% of the total square footage of the single-family home or 800 square feet in size, whichever is smallest.
  - (4) The accessory dwelling unit shall consist of no more than one (1) bedroom.
  - (5) The accessory dwelling unit shall provide two (2) off-street parking spots.
  - (6) An accessory dwelling unit shall be constructed on the site and permanently affixed to the ground by footings and foundation. A recreational vehicle (RV), mobile home, manufactured home, or factory assembled structure is not to be permitted as an accessory dwelling unit.
  - (7) The accessory dwelling unit is not allowed on a lot/parcel that has a duplex, multi-family dwelling, a temporary dwelling permit (see BCC 11.42.110), a multiple detached dwelling permit (see BCC 11.42.080) or two (2) or more single-family dwellings.
  - (8) The accessory dwelling unit is not allowed to be used in the operation of a home occupation.
  - (9) The accessory dwelling unit shall both meet and comply with Benton Franklin Health District standards.
  - (10) The accessory dwelling unit shall meet and comply with Benton County Fire Marshal requirements for access.
  - (11) The accessory dwelling unit may be permitted as either a ground floor or 2<sup>nd</sup> floor unit.;
  - (12) Either the accessory dwelling unit or the single-family dwelling shall be occupied by a landowner(s) as his/her primary residence. The landowner shall maintain residency at least six (6) months out of the year and at no time receive rent for, or otherwise allow to occupy the landowner(s) unit when absent the rest of the year.
  - (13) If the accessory dwelling unit is connected to the single-family dwelling through a breezeway or similar means, the accessory dwelling unit shall be considered detached and compliance with subsection (c) below is required.
  - (14) The accessory dwelling unit shall comply with the applicable building, fire, critical area, shoreline, and zoning requirements of Title 3, 11, and 15 of Benton County Code.
  - (15) The accessory unit shall not be considered as a dwelling unit when calculating density.
- (c) An accessory dwelling unit detached from the single-family dwelling shall comply with the following:
- (1) All detached accessory dwelling units require approval of a conditional use permit (see BCC 11.50).
  - (2) A detached accessory dwelling unit shall comply with the following minimum design standards.

- (i) The detached accessory dwelling unit may be constructed within an existing outbuilding or be a stand along structure, where the dwelling unit does not share a common wall with the primary single-family dwelling. If the accessory dwelling unit is connected to the single-family dwelling through a breezeway or similar means, the accessory dwelling unit shall be considered detached.
  - (ii) An outside entrance to the accessory dwelling unit is required and be placed at the side or rear of the building, when possible, to maintain appearance and character of an accessory use.
- (d) The applicant shall record the permit issued for the accessory dwelling unit with the Benton County Auditor's Office. The recording fee shall be paid by the applicant for the accessory dwelling unit. The permit shall include a statement that the accessory dwelling may not be sold as a separate residence until such time as the accessory dwelling is located as the sole residence on a legally subdivided parcel.

5. Benton County Code (BCC),  
Title 11 Zoning  
Chapter 11.50 Variance and Conditional Use  
Section 11.50.040 Conditional Use - General Standards

- “(a) Conditional Use Permit-General Standards. The conditional use permit application process allows the Hearings Examiner 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 Hearings Examiner to ensure that development in each zoning district protects the integrity of that district. The notice, hearing, decision and enforcement procedures are as set forth herein and in BCC 11.50.050.

Certain uses are classified as conditional 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 permit may be transferred by a holder thereof after written notice to the Hearings Examiner; 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 Chapter 11.51 BCC.”

6. Benton County Code (BCC),  
Title 11 Zoning  
Chapter 11.50 Variance and Conditional Use  
Section 11.50.040 Conditional Use – Permit Granted or Denied

- (d) “Conditional Use - Permit Granted or Denied. A conditional use permit shall be granted only if the Hearings Examiner can make findings of fact based on the evidence presented sufficient to allow the Hearings Examiner 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; and
- (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.

It is the applicant's burden to present sufficient evidence to allow the above conclusions to be made. If such evidence is not presented or all necessary reasonable conditions are not identified by the applicant so as to allow the Hearings Examiner to make the conclusions required above, the conditional use application shall be denied."

#### **AGENCY COMMENTS:**

1. Benton County Public Works Department: "The applicant shall apply for a road approach from the Benton County Public Works Department. The applicant shall pave the Road approach for the access onto the County road. This shall be paved to the County R-4 Standard."
2. Benton Franklin Health District no comments received after application was submitted.
3. Benton County Fire Marshal had no comments.
4. Sunnyside Valley Irrigation District did not comment.
5. Benton County Building Department: After a walk-through with Planning and Code Enforcement, it was determined that a Special Inspection will be required.
6. Benton County Code Enforcement: All proper Planning, Building and Health District inspections and permits must be completed and/or obtained.
7. Benton County Planning Department: The following are general comments and discussion points from the Planning Department:
  - a. Juan Rojas is requesting an approval to convert 800 square feet of an existing 1,200 square foot craft room/storage accessory building into an accessory dwelling unit (ADU) at 153110 West Johnson Road in unincorporated Benton County;
  - b. The proposed detached ADU is to be located on property that is approximately 5.89 acres in size and is zoned Rural Lands 5 in an existing residential structure. As proposed, the detached ADU will be accessory to an owner occupied single-family home, will be limited to 800 square feet in size, and contain no more than one (1) bedroom as directed in the Benton County Code.
  - c. The 1,200 square foot building was constructed in 1980. It was permitted as an accessory building for the use of crafts and storage. The building consists of 3 levels: the main level contains an equipment/storage room, the second level is approximately 400 sq. ft. and contains the living area and kitchen, and the upper level is approximately 350 sq. ft. in size and has 1 bedroom and a  $\frac{3}{4}$  bath. The top two levels have been constructed, modified, or converted to dwelling unit space

without the issuance of building permit(s). The County Code Enforcement Officer has discussed the violation with the applicant, with the result of said conversation being that proper planning, building, and health permits be obtained.

- d. Surrounding Land Uses: Similar in nature to the applicant's property, the surrounding lands involve scattered single-family homes, open spaces, pastures, and rural land use activities. Surrounding lands are zoned RL-5 with a Comprehensive Plan designation of Rural Remote.
- e. SEPA: A proposal for a single ADU is exempt from a State Environmental Policy Act checklist and review.
- f. The Benton County Code (BCC), Title 11 (Zoning), Section 11.42.020 provides two (2) permitting options as it relates to ADU's in unincorporated Benton County.
  - (i). Locate the ADU within or attached to an existing single-family home. This option is subject to planning administrator review and approval; or
  - (ii). Locate the ADU within a detached structure. This option requires the review and approval of a conditional use permit.
- g. BCC 11.42.020 (c)(2)(i) states: (i) The detached accessory dwelling unit may be constructed within an existing outbuilding or be a stand along structure, where the dwelling unit does not share a common wall with the primary single-family dwelling. If the accessory dwelling unit is connected to the single-family dwelling through a breezeway or similar means, the accessory dwelling unit shall be considered detached.
- h. BCC 11.42.020(c)(2)(ii) states: "an outside entrance to the accessory dwelling unit is required and be placed at the side or rear of the building, when possible, to maintain appearance and character of an accessory use." In this case, the detached ADU is converting an existing structure, with pre-established door locations, and the detached ADU is setback approximately 600 feet from W. Johnson Road. While the County prefers a detached ADU to maintain the appearance of an accessory use, in this case the building cannot be viewed from W. Johnson Road and the structure/door locations were constructed in 1980. The County believes the current door layout of the structure is adequate for its location and situation, subject to compliance with the findings of fact and conditions of approval.
- i. Locating an ADU within or attached to an existing home for use by an elderly family member or similar has been an allowed use (refer to BCC 11.42.020 (a) (b) (4)) in Benton County's residential zoning districts for many years, subject to an administrative review process. In 2018, as part of Benton County's Periodic Update of its Comprehensive Plan and Development Regulations, the County amended the zoning code to additionally provide a 'detached ADU' option, subject to approval of a conditional use permit (refer to BCC 11.42.020 (c)). The BCC, as it relates to a detached ADU, does not state any restrictions regarding the occupancy of the unit. BCC 11.42.020 (a) (12) states 'either the accessory dwelling unit or the single-family dwelling shall be occupied by a landowner(s) as his/her primary residence. The landowner shall maintain residency at least six (6) months out of the year and at no time receive rent for, or otherwise allow to occupy the landowner(s) unit when absent the rest of the year'.
- j. In addition to considering the impacts of the proposed use, the Hearings Examiner must also consider any evidence presented regarding any similar impacts of uses allowed outright in this zone, and if such evidence is received, compare those impacts to those of the proposed use.
- k. If negative impacts are identified, the Hearings Examiner must try to identify reasonable

conditions that would mitigate those impacts sufficiently to allow the Hearings Examiner to make the findings necessary to grant the permit. The applicants may be asked to identify reasonable conditions, but the Hearings Examiner may independently identify conditions. Further, an applicants' disagreement with a particular condition should not dissuade the Hearings Examiner from granting the permit with such condition(s), as opposed to outright denial, if the Hearings Examiner is able to conclude that the condition(s) is/are reasonable in their judgment.

**PLANNING DEPARTMENT**  
**FINDINGS OF FACT AND CONDITIONS OF APPROVAL:**

The following Findings of Fact and Conditions of Approval are based on comments received up to the date of this staff memo. Any comments received after the completion of this staff memo or submitted during the advertised public hearing for CUP 2018-010 will need to be considered by the Hearings Examiner and may be added to the Findings of Fact and Conditions of Approval as set forth below. The Hearings Examiner may decide to adopt these as their own or amend/add to these Findings of Fact and Conditions of Approval after holding the open public hearing.

Based on the information received to date, the Planning Staff recommends approval with the following findings of fact and conditions of approval:

***Findings of Fact:***

1. Juan Rojas is requesting an approval to convert 800 square feet of an existing 1,200 square foot craft room/storage accessory building into an accessory dwelling unit (ADU) at 153110 West Johnson Road in unincorporated Benton County. Only 800 sq. ft. can be used for the ADU.
2. The application for CUP 2018-010 was submitted to Benton County Planning Department on November 14, 2018. The application was declared complete for processing on December 5, 2018. The agency review letter was sent to agencies on December 6, 2018.
3. The Benton County Hearings Examiner Notice of Open Record Hearing for application CUP 2018-010 was published on January 30, 2019 in the Tri-City Herald and mailed to property owners of record within 300 feet of the outer boundaries of the parcel on January 30, 2019. The Open Record Hearing is scheduled for February 11, 2019.
4. The property is located south and west of I-82, east of Wilgus Road, west of Missimer Road, along the north side of W Johnson Road at site address 153110 West Johnson Road in Prosser (Parcel Number 1-2894-401-3474-001).
5. The proposed detached ADU is allowable by Conditional Use Permit if approved by the Benton County Hearings Examiner.
6. The proposed detached ADU is to be located on property that is approximately 5.89 acres in size, has a zoning designation of Rural Lands 5, and comprehensive plan designation of Rural Remote. Similar in nature to the applicant's property, the surrounding lands involve scattered single-family homes, open spaces, pastures, and rural land use activities. Surrounding lands are also zoned RL-5 with a Comprehensive Plan designation of Rural Remote.
7. The proposed detached ADU will be accessory to an owner-occupied single-family home, will be limited to 800 square feet in size, and contain no more than one (1) bedroom as directed in the Benton County Code.

8. The 1,200 square foot building was constructed in 1980. It was permitted as an accessory building for the use of crafts and storage. The building consists of 3 levels, the main level is an equipment/storage room, the second level is approximately 400 sq. ft. of kitchen and living area, and the upper level being approximately 350 sq. ft. in size and has 1 bedroom and a  $\frac{3}{4}$  bath. The top two levels have been constructed, modified, or converted to dwelling unit space without the issuance of building permit(s). The County Code Enforcement Officer has discussed the violation with the applicant, with the result of said conversation being that proper planning, building, and health permits be obtained. The 1,200 square foot building was constructed in 1980. It was permitted as an accessory building for the use of crafts and storage.
9. The County finds the detached ADU complies with Benton County Building Department standards, subject to condition of approval #3.
10. The application for CUP 2018-010 is consistent with the Growth Management Act, RCW 36.70A, including RCW 36.70A.390.
11. The application for CUP 2018-010 is consistent with RCW 43.63A.215 (3) Accessory apartments.
12. The application for CUP 2018-010 is consistent with the goals and policies of the Benton County Comprehensive Plan.
13. The application for CUP 2018-010 is consistent with the requirements included in the Benton County Zoning Code.
14. The application for CUP 2018-010 is consistent with the requirements in Benton County Code (BCC), Title 11 (Zoning), Chapter 11.42 General Provisions, Section 11.42.020, which provides two (2) permitting options as it relates to ADU's in unincorporated Benton County.
  - a. Locate the ADU within or attached to an existing single-family home. This option is subject to planning administrator review and approval; or
  - b. Locate the ADU within a detached structure. This option requires the review and approval of a conditional use permit.
15. The application for CUP 2018-010 is consistent with the requirements in Benton County Code (BCC), Title 11 Zoning, Chapter 11.42 General Provisions, Section(s) 11.42.020 (a) Accessory Dwelling Units (ADU), including the following:
  - a. One (1) accessory dwelling unit is allowed per parcel/lot.
    - (i). The County finds one (1) detached ADU is proposed for the subject property.
  - b. A single-family dwelling must be located on the parcel/lot where the accessory dwelling unit is to be located.
    - (i). The County finds a single-family dwelling is located on the parcel/lot where the detached ADU is to be located.
  - c. The accessory dwelling unit shall not exceed 40% of the total square footage of the single-family home or 800 square feet in size, whichever is smallest.
    - (i). The County finds the single-family home is approximately 2,940 square feet in size. 40% of 2,940 square feet is 1,176 square feet. With this, the detached ADU shall be no greater in size than 800 square feet. The applicant is proposing 800 square feet in the application request.

- d. The accessory dwelling unit shall consist of no more than one (1) bedroom.
  - (i). The County finds the detached ADU will have one (1) bedroom.
- e. The accessory dwelling unit shall provide two (2) off-street parking spots.
  - (i). The County finds the applicant is proposing two (2) parking spots to serve the detached ADU.
- f. An accessory dwelling unit shall be constructed on the site and permanently affixed to the ground by footings and foundation. A recreational vehicle (RV), mobile home, manufactured home, or factory assembled structure is not to be permitted as an accessory dwelling unit.
  - (i). The County finds the detached ADU is to be constructed within an existing site-built structure. The structure was permitted by the Building Department in 1980 as a storage/craft room.
- g. The accessory dwelling unit is not allowed on a lot/parcel that has a duplex, multi-family dwelling, a temporary dwelling permit (see BCC 11.42.110), a multiple detached dwelling permit (see BCC 11.42.080) or two (2) or more single-family dwellings.
  - (i). The County finds the lot/parcel is improved with a home and detached accessory building. No additional dwelling units or housing exist or are proposed.
- h. The accessory dwelling unit is not allowed to be used in the operation of a home occupation.
  - (i). The County finds that a home occupation is not planned or proposed to be operated in the detached ADU.
- i. The accessory dwelling unit shall both meet and comply with Benton Franklin Health District standards.
  - (i). The County finds the detached ADU must comply with BFHD standards as per the Conditions of Approval.
- j. The accessory dwelling unit shall meet and comply with Benton County Fire Marshal requirements for access.
  - (i). The County finds the detached ADU complies with Fire Marshal standards.
- k. The accessory dwelling unit may be permitted as either a ground floor or 2<sup>nd</sup> floor unit.
  - (i). The County finds the detached ADU consists of two (2) stories, the second floor is approximately 400 square feet and the third floor is approximately 350 square feet. The entire building consists of three (3) stories, but one floor is not included in the ADU.
- l. Either the accessory dwelling unit or the single-family dwelling shall be occupied by the landowner(s) as their primary residence. The landowner shall maintain residency in the primary house at least six (6) months out of the year and at no time receive rent for, or otherwise allow anyone to occupy the landowner(s) unit when absent the rest of the year.
  - (i). The County finds the owner of the property resides in the single-family dwelling as their primary residence.
- m. If the accessory dwelling unit is connected to the single-family dwelling through a breezeway or similar means, the accessory dwelling unit shall be considered detached and compliance with subsection (c) below is required.
  - (i). The County finds this standard is not applicable to the submitted application.

- n. The accessory dwelling unit shall comply with the applicable building, fire, critical area, shoreline, and zoning requirements of Title 3, 11, and 15 of the Benton County Code.
  - (i). The County finds the detached ADU complies with building department requirements, fire marshal requirements, and that the detached ADU complies with Benton County critical area, shoreline master program, and zoning regulations.
  
- 16. The application for CUP 2018-010 is consistent with requirements in Benton County Code (BCC), Title 11 (Zoning), Chapter 11.42 General Provisions, Section 11.42.020 (c)(2)(i) which states a detached ADU may be constructed within an existing outbuilding or be a stand alone structure, where the dwelling unit does not share a common wall with the primary single-family dwelling.
  - a. The County finds the proposed detached ADU will be located within an existing accessory structure and does not share a common wall with the single-family home.
  
- 17. The application for CUP 2018-010 is consistent with requirements in Benton County Code (BCC), Title 11 (Zoning), Chapter 11.42 General Provisions, Section 11.42.020(c)(2)(ii) which states ‘that an outside entrance to the accessory dwelling unit is required and be placed at the side or rear of the building, when possible, to maintain appearance and character of an accessory use’.
  - a. The County finds the detached ADU is to be constructed into an existing structure that has pre-established door locations. Additionally, the detached ADU is setback approximately 600 feet from W. Johnson Road. The building cannot be viewed from W Johnson Road and the structure/door locations were constructed in 1980. The County believes the current door layout of the structure is adequate for its location and situation, subject to compliance with the findings of fact and conditions of approval.
  
- 18. The application is consistent with requirements in Benton County Code (BCC), Title 11 Zoning, Chapter 11.42 General Provisions, Section(s) 11.42.020 (d) which states the “the applicant shall record the permit issued for the accessory dwelling unit with the Benton County Auditor's Office. The recording fee shall be paid by the applicant for the accessory dwelling unit. The permit shall include a statement that the accessory dwelling may not be sold as a separate residence until such time as the accessory dwelling is located as the sole residence on a legally subdivided parcel”.
  - a. The County will provide the applicant an ADU permit to be signed, notarized and recorded by the applicant with the Benton County Auditor’s Office.
  
- 19. The application is consistent with the requirements in Benton County Code (BCC), Title 11 (Zoning), Chapter 11.50.040 (d) which state the findings of fact a hearings examiner must make in order to grant the request. The County finds:
  - a. The proposed detached ADU is compatible with other uses in the surrounding area and is no more incompatible than are any other outright permitted uses in the applicable zoning district;
  - b. The proposed detached ADU 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;
  - c. The proposed detached ADU's pedestrian and vehicular traffic will not 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;
  - d. The proposed detached ADU will be supported by adequate service facilities and would not adversely affect public services to the surrounding area; and
  - e. The proposed detached ADU will 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.

**Conditions of Approval:**

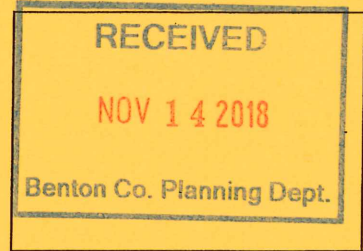
1. Any conditions imposed by the Hearings Examiner shall be completed prior to the Planning Department issuing the Conditional Use Permit. The applicant shall notify the Benton County Planning Department in writing when the conditions set forth herein have been completed. The Planning Department shall not issue the Conditional Use Permit until those conditions have been met. The Conditional Use Permit shall not become effective until issued by the Planning Department.
2. If the conditions of approval have not been met and the Planning Department does not issue the Conditional Use Permit within one (1) year from the time the Hearings Examiner conditionally approved the Conditional Use Permit, the Hearings Examiner may declare its approval null and void at a regular Hearings Examiner 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 Hearings Examiner meeting.
3. All required development permits shall be obtained prior to occupancy of the detached ADU. This includes approval of permits required by the following, as applicable:
  - a. Benton County Building Department;
  - b. Benton County Fire Marshal; and
  - c. Benton Franklin Health District.
4. Either the detached ADU or the single-family dwelling shall be occupied by a landowner(s) as his/her primary residence. The landowner shall maintain residency at least six (6) months out of the year and at no time receive rent for, or otherwise allow to occupy the landowner(s) unit when absent the rest of the year.
5. One (1) ADU is allowed per parcel/lot.
6. The detached ADU shall not exceed 800 square feet in size.
7. The detached ADU shall not have more than one (1) bedroom.
8. The detached ADU shall be occupied by not more than one (1) household as living accommodations.
9. The detached ADU is not allowed to be used in the operation of a home occupation.
10. The detached ADU must be located on the same lot as a single-family dwelling.
11. Two (2) off street parking spaces shall be provided to serve the detached ADU.
12. A duplex, multi-family dwelling, a temporary dwelling permit, a multiple detached dwelling permit, or two (2) or more single-family dwellings is not to be permitted on a lot/parcel with an ADU.
13. The approved detached ADU is to be located in the top two (2) floors (800 square feet total only), of an accessory building which is approximately 1,200 square feet in size. The 1<sup>st</sup> or bottom floor of the accessory building shall not be used as a dwelling unit or a part of a dwelling unit.
14. The applicant shall apply for a road approach permit from the Benton County Public Works Department and the applicant shall pave the road approach for access onto the county road to the County R-4 Standard. Re: Benton County Public Works comment letter 12/7/2018.
15. If renovations or additions are proposed to the 800 square foot accessory structure being used for the

ADU, the plans must be reviewed and approved, if applicable, by Benton County Planning and Building Departments.

16. The County will provide an ADU permit to the applicant. The applicant shall sign, notarize, and record the ADU permit with the Benton County Auditor's Office. The recording fee shall be paid by the applicant. The permit will include a statement that the accessory dwelling may not be sold as a separate residence until such time as the accessory dwelling is located as the sole residence on a legally subdivided parcel.
17. Any violation of the conditions of approval will be processed in accordance with BCC Title 11, Chapter 11.43 Administration and Disposition of Infractions. If the conditional use permit has been issued and violations exist, the Hearings Examiner may revoke the permit after an open record hearing with notice as set forth in BCC 11.50.050(b), as amended.
18. Conditions of this permit may be altered, added or deleted by the Hearings Examiner when deciding on the approval of this permit, after conclusion of the public hearing.

HER 1.1

BENTON COUNTY PLANNING DEPARTMENT  
CONDITIONAL USE APPLICATION  
FILE NO. CUP 2018-010



1. Applicant Name: Juan Rojas  
Applicant Address: 153110 SW Johnson Rd.  
Prosser WA 99350  
Telephone number: Home 509 391-8857 Work 509 882-0848

2. Legal owners name: Same  
Legal Owners address: \_\_\_\_\_  
Telephone number: Home \_\_\_\_\_ Work \_\_\_\_\_

If you wish to be contacted by email please list your email address:  
hrelite.truckingacademy@gmail.com

3. Parcel Number or Legal description of property for which permit is for:  
128944013474001

4. If you are amending a previous conditional use/special use permit please list the file number(s):  
\_\_\_\_\_

5. The Conditional Use Permit is requested to conduct the following use: **Please be as specific and detailed as possible. Use additional paper if necessary.**  
Would like to make building into mother / father in law home.  
Building permit # 32863

6. The property will be served by:  
WATER: Well  Private System \_\_\_\_\_ City System \_\_\_\_\_  
SEWER: Septic Tank  City Sewer \_\_\_\_\_  
POWER: PUD  REA \_\_\_\_\_  
PHONE: Yes \_\_\_\_\_ No  Name of Utility \_\_\_\_\_  
GAS: Yes \_\_\_\_\_ No  Name of Utility \_\_\_\_\_  
CABLE: Yes \_\_\_\_\_ No  Name of Utility \_\_\_\_\_  
IRRIGATION: Yes \_\_\_\_\_ No  Name of Utility \_\_\_\_\_  
PRIVATE IRR. Yes \_\_\_\_\_ No

7. Total acres of property: 589 Zoning Classification of Property: \_\_\_\_\_  
Comprehensive Plan Designation \_\_\_\_\_

8. Describe existing structures and/or uses currently existing on your property, such as well, septic residential dwelling, garage, etc.: Residential home with well, septic, 2 car garage

9. Describe existing structures and present land uses in the surrounding area of your property:  
pasture ; residential

10. Please answer the following questions. **PLEASE BE SPECIFIC - USE ADDITIONAL PAPER IF NECESSARY.**

- a. Is there a residence on site? Yes  No
- b. Does at least one of the proprietors of the business own or lease the property where the business and the residence are located? Yes  No
- c. Does at least one of the proprietors live in said residence? Yes  No
- d. List the number of non-resident employees. 0
- e. What is the **total** square footage of the detached building to be used for the business? 750
- f. What is the **total** square footage that will be used for the business activity?  
0
- g. Is only one detached building to be used for the business activity? Yes   
No
- h. Are any signs going to be used with the business activity? Yes  No   
If yes, give the number, height and sizes of the sign(s) include a drawing of the sign to be used. \_\_\_\_\_
- i. State the number of vehicles marked to identify the business to be stored on site.  
0
- j. List the number of off street parking spots 0
- k. What County Road does the site access off of? Johnson
- l. List the preferred office hours for the presence of customer/clients and non-resident employees. Days of the week 0  
Hours of Operation 0

11. Applicant shall attach a site plan of the property, drawn to a scale of one inch equals fifty feet (1"=50') or one inch equal 100 feet (1"=100') unless otherwise specifically approved by the Planning Department, showing the following information.

- A. Dimensions of the property.
- B. Location and size of the proposed use, number of parking spaces, etc., complete with distances between buildings and all property lines.
- C. Location and size of existing structures, complete with distances, buildings and all property lines.
- D. All streets, roads, easements, and rights-of-way located on or adjacent to this property. (Label structures and roadways)
- E. Label and Show a floor plan for the structure to be used for the Business Activity.


COMMENTS OR PERTINENT INFORMATION:

not a business - it will be a mother/father in law home.

**Any information submitted to the Benton County Planning Department is subject to public records disclosure law for the State of Washington (RCW Chapter 42.17) and all other applicable law that may require the release of the documents to the public.**


**Signature Block for individuals only.**

I certify that the information given above is true and complete.

  
Applicant's Signature

Juan Rojas  
Print Name

10-19-18  
Date

  
Signature of Legal Owners

Juan Rojas  
Print Name

10-19-18  
Date

\_\_\_\_\_  
Signature of Person with additional ownership interest

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Date

**If the applicant or legal owner is a corporation/partnership/LLC etc. please use the following signature block. Please copy this page if there is more than one corporation/partnership/LLC signature required.**

Applicant or Legal Owner: \_\_\_\_\_

By: \_\_\_\_\_  
(print name) (Title)

Signature: \_\_\_\_\_  
(Signature) (Title)

The above signed officer of \_\_\_\_\_ (name of entity) warrants and represents that all necessary legal and corporate actions have been duly undertaken to permit \_\_\_\_\_ to submit this application and that the above signed officer has been duly authorized and instructed to execute this application.

**(ALL persons with an ownership interest in the property on which the land use action is proposed must sign the application other than interests exclusively limited to ownership of the parcel's mineral rights.)**

**Note:** The Conditional Use/Special Permit Application fee of \$630.00 and the \$300.00 applicant fee for the SEPA checklist, if required, must be submitted with the application. These fees are non-refundable. Please make your check payable to the Benton County Treasurer. There are no guarantees that your application will be approved.

**FOR OFFICIAL USE ONLY:**  
Critical Area Review Completed by: \_\_\_\_\_ on \_\_\_\_\_.  
Application approved for processing by \_\_\_\_\_ on \_\_\_\_\_.  
Zoning \_\_\_\_\_ Comp Plan Designation \_\_\_\_\_.



HREliteTruckingAcademy <hrelitetruckingacademy@gmail.com>

### Rojas Conditional Use Permit Application

1 message

Planning Department <Planning.Department@co.benton.wa.us>

Thu, Nov 15, 2018 at 9:36 AM

To: "HREliteTruckingAcademy@gmail.com" <HREliteTruckingAcademy@gmail.com>

Mr. Rojas

Thank you for bringing in your Conditional use permit application yesterday. After reviewing the application and drawings, our Planning Manager had a couple follow up questions.

- 1. What is the square footage of the main home. *2,360*
- 2. What is the square footage of the entire building where the accessory dwelling unit is? *750*
- 3. What is the square footage of just the accessory dwelling unit? *400*
- 4. If the accessory building is larger than the ADU, what is the rest of the building used for? *storage*

If you have any questions or if you need any help, please feel free to contact our office.



Thank you!

April Brown,  
 Office Assistant III  
 Benton County Planning Department  
 PO Box 910 Prosser WA 99350  
 (509) 786-5612  
 Website

NOTICE OF PUBLIC DISCLOSURE: This e-mail account is public domain. Any correspondence from or to this email account may be a public record. Accordingly, this email, in whole or in part, may be subject to disclosure pursuant to RCW 42.56, regardless of any claim of confidentiality or privilege asserted by an external party.

# Benton County Property Search

## Property Search Results > 307378 ROJAS JUAN & LAURA for Year 2018 - 2019

### Property

#### Account

Property ID:	307378	Legal Description:	SECTION 28, TOWNSHIP 9 NORTH, RANGE 24 EAST, QUARTER SE: SHORT PLAT #3474, LOT 1. RECORDED IN VOLUME 1 OF SHORT PLATS AT PAGE 3474, RECORDS OF BENTON COUNTY, WASHINGTON. (AF#2015-036176, 12/09/2015)
Parcel # / Geo ID:	128944013474001	Agent Code:	
Type:	Real		
Tax Area:	1613 - 1613	Land Use Code	18
Open Space:	N	DFL	N
Historic Property:	N	Remodel Property:	N
Multi-Family Redevelopment:	N		
Township:	09	Section:	28
Range:	24	Legal Acres:	5.8900

#### Location

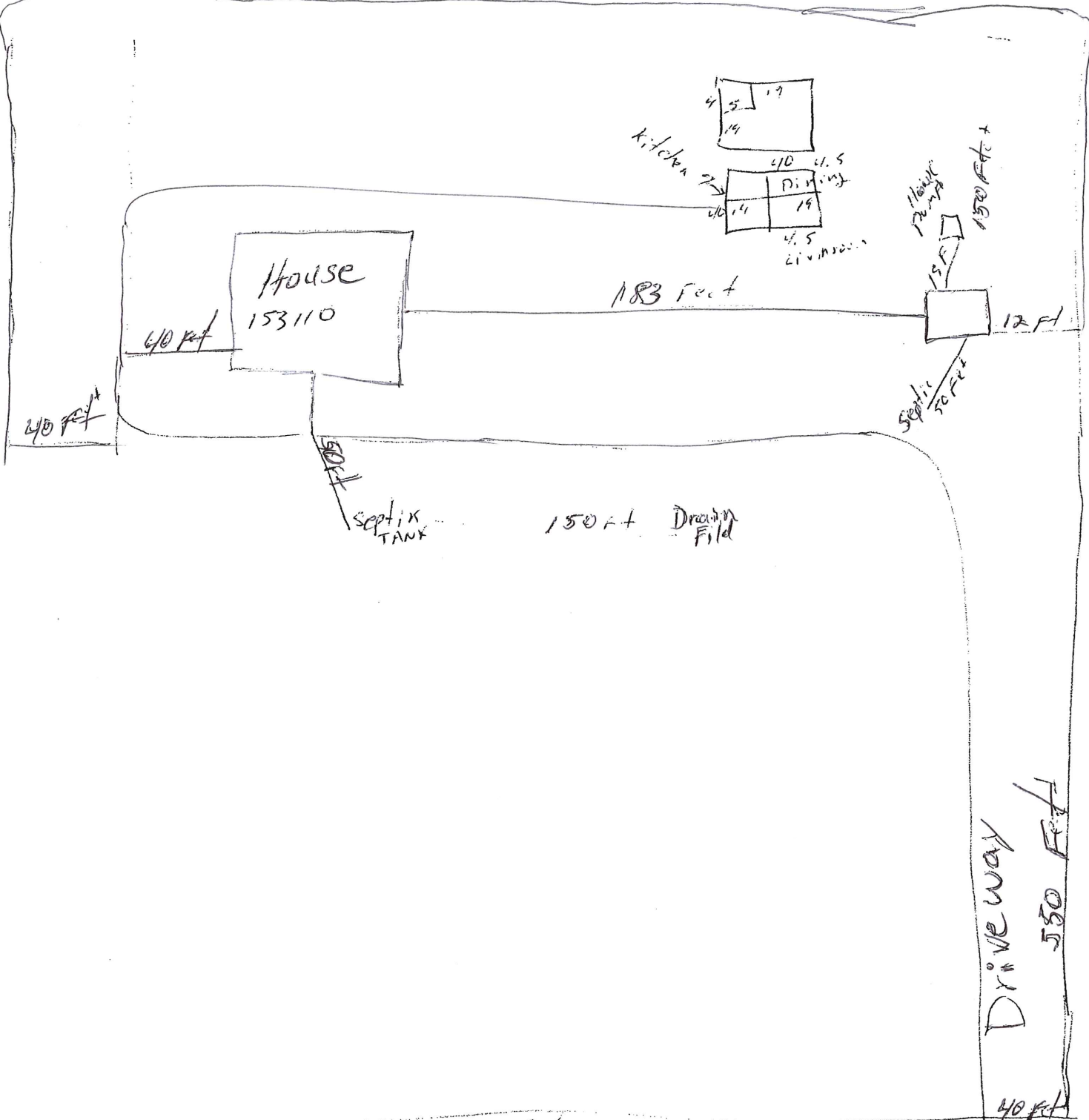
Address:	153110 W JOHNSON RD PROSSER, WA 99350	Mapsc0:	
Neighborhood:	143677 Prosser - One Story	Map ID:	
Neighborhood CD:	143677 100		

#### Owner

Name:	ROJAS JUAN & LAURA	Owner ID:	421486
Mailing Address:	153110 W JOHNSON RD PROSSER, WA 99350	% Ownership:	100.0000000000%
		Exemptions:	

### Pay Tax Due

Select the appropriate checkbox next to the year to be paid. Multiple years may be selected.



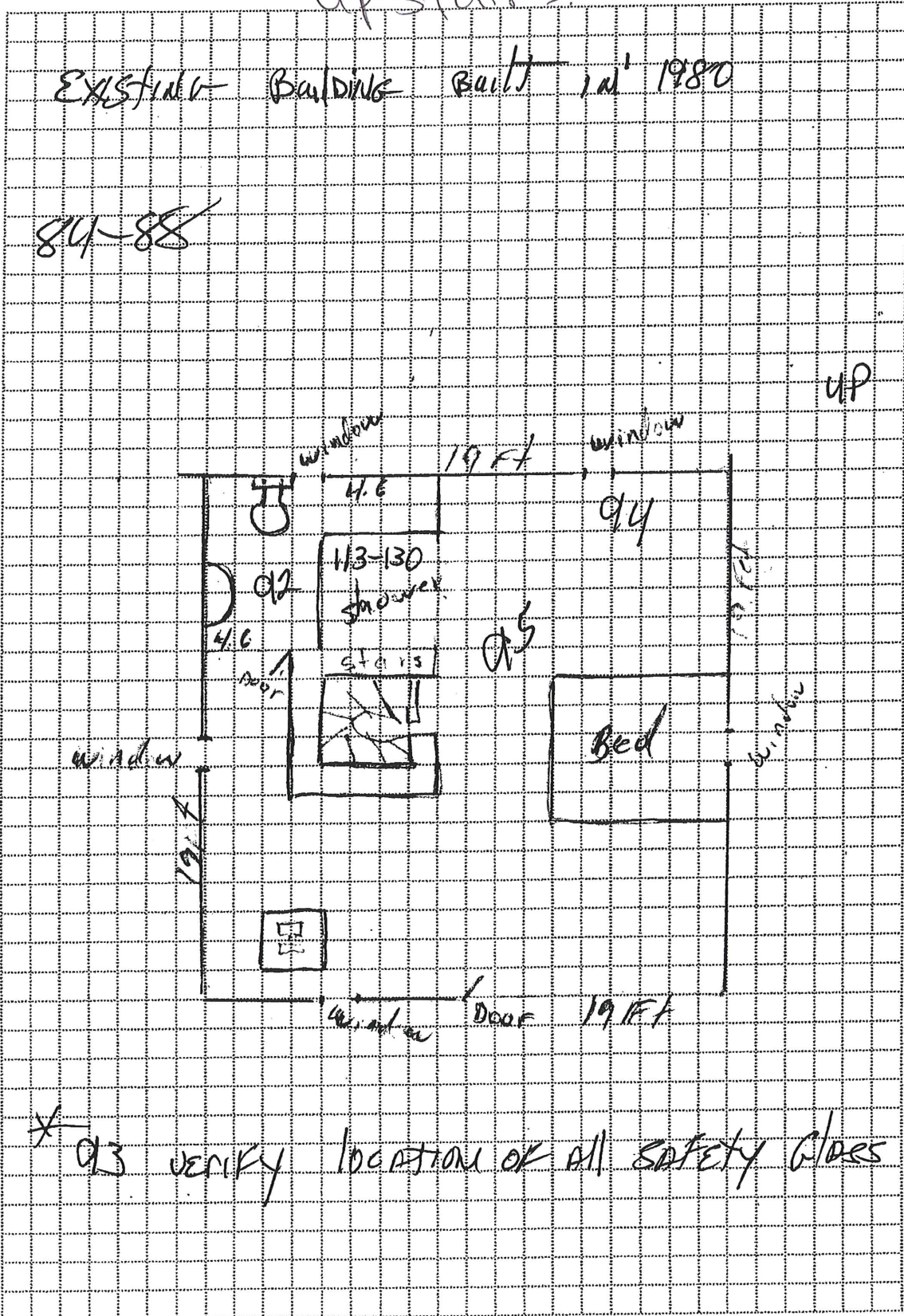
W Johnson Rd 99350

Rojas

STRUCTURE TYPE - DRA
APPLICATION # - 328123
PARCEL # - 12894-401-3474-001
ZONE -
*REQUIRED SETBACKS*
FRONT -
SIDE -
SIDE -
REAR -
OTHER -
OTHER -
*PLEASE CALL 735-3500 IF QUESTIONS*

SITE PLAN FOR \_\_\_\_\_  
Scale 1" = 50' or 1" = 100'  
Please specify

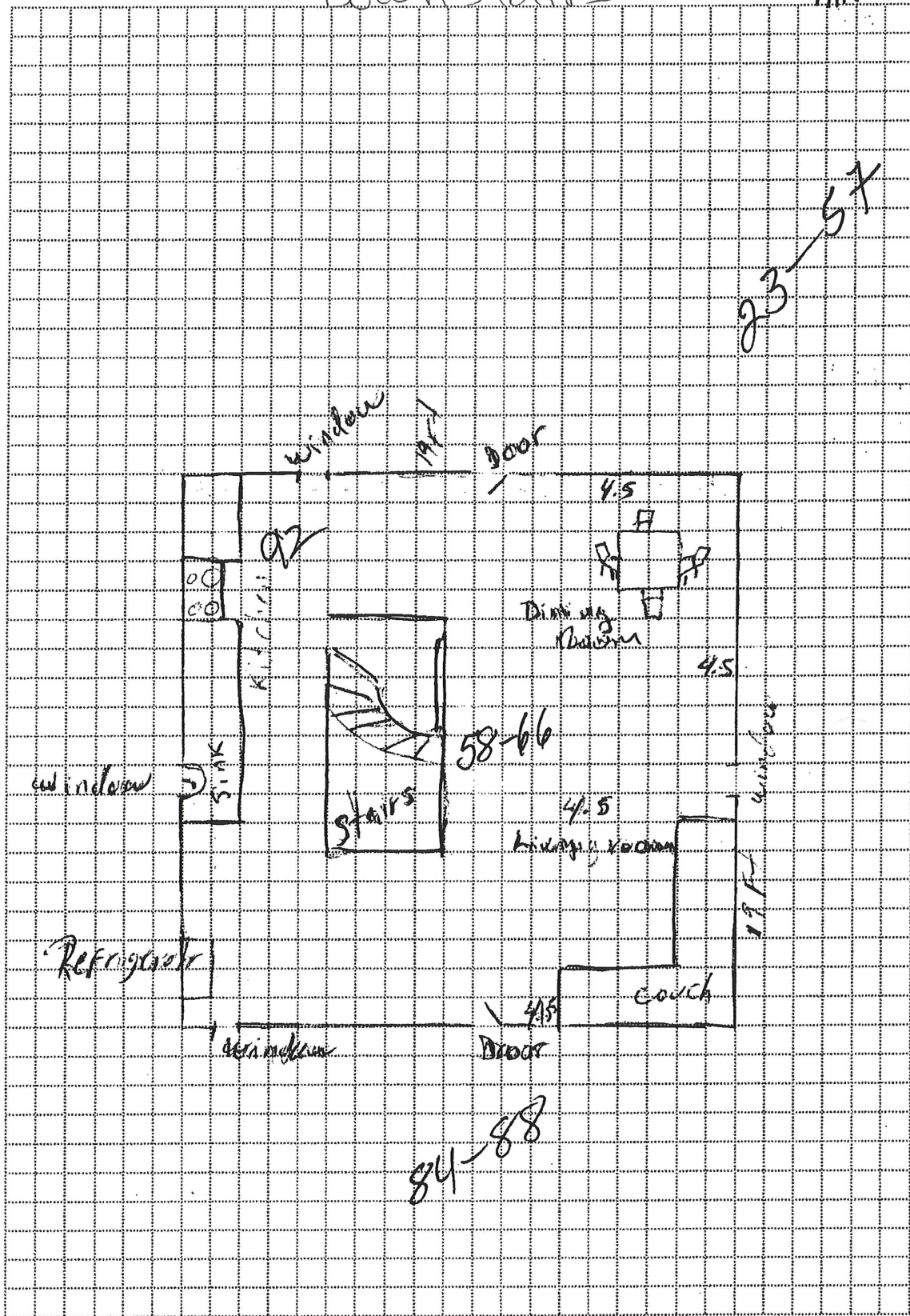
PLEASE INDICATE NORTH  
Upstairs



SITE PLAN FOR \_\_\_\_\_  
Scale 1" = 50' or 1" = 100'  
Please specify

PLEASE INDICATE NORTH  
Down stairs

MAIN



CE 18-08-123

HEM 1.2

Dale Wilson

---

**From:** Shawn Brown <shawnb@bfhd.wa.gov>  
**Sent:** Friday, August 10, 2018 5:25 PM  
**To:** Dale Wilson  
**Subject:** 153110 W Johnson Road in Prosser - Non-Permitted 2nd Dwelling  
**Attachments:** 2nd Dwelling 153110 W Johnson Road (5).jpg; 2nd Dwelling 153110 W Johnson Road (1).jpg; 2nd Dwelling 153110 W Johnson Road (3).jpg

Hey Dale:

I visited this site today and took some pictures. There is a new home on the property that was permitted and approved in 2015. However the owner has also been constructing a 2nd Dwelling on the property (Which appears to now be finished, or close to), and I'm not sure if he converted a Shed-type Building into this House or if he started from scratch. This structure is located at the far NE corner of the property. It is tucked away under some trees so it is difficult to see the structure from the road. **\*\*See attached pictures of Building\*\*** There were construction materials around this new Building. According to our records, an MDD Permit has not been issued for this property, nor has the current owner applied for any septic permits for this building. The complainant believes that there is an old septic system that they connected this home too. Even if our Departments did allow the 2<sup>nd</sup> Dwelling (which won't happen) the owner would still have to at least apply for an Existing Septic Evaluation to connect to the existing septic system and receive approval before they would receive a Building Permit to start on the construction of this Building. And I don't see any record of any applications having been submitted.

I took the pictures from the driveway of the neighbor that lives directly to the East of this property (153108 Johnson Road I believe). If you need any other info please let me know. As always thanks Dale, I appreciate it and hope you have a great weekend.



**Shawn Brown RS**  
Environmental Health Specialist II  
Benton-Franklin Health District  
7102 W. Okanogan Place,  
Kennewick, WA 99336  
p: 509.460.4320  
[www.bfhd.wa.gov](http://www.bfhd.wa.gov) [ShawnB@bfhd.wa.gov](mailto:ShawnB@bfhd.wa.gov)  
Follow us on  

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**IMPORTANT:** Email coming and going from our agency is not protected, thus client information can not be shared in this format. Please use voicemail or fax for client communication. The contents of this email and any attachments are confidential. They are intended for the named recipient(s) only. If you have received this email in error, please notify the system manager or the sender immediately and do not disclose the contents to anyone or make copies thereof.

**April Brown**



**From:** Dale Wilson  
**Sent:** Thursday, December 06, 2018 3:39 PM  
**To:** Planning Department  
**Subject:** RE: Conditional Use Permit Application (CUP 2018-022 Rojas)

I believe Mr. Rojas has not satisfied Code Enforcement as there appears to have been non-permitted construction and alterations that have not been addressed. Mr. Rojas was supposed to contact me to set up an appointment so I could address the violations with him.

I would recommend to hold the permit until there is an inspection by Code Enforcement, as I believe the structure is already being occupied and possibly by more than one family.



Dale Wilson, Code Enforcement Officer  
Benton County Washington  
(509) 222-2301

---

**From:** Planning Department  
**Sent:** Thursday, December 06, 2018 1:29 PM  
**To:** Benton Franklin Health District - Rick Dawson <rickd@bfhd.wa.gov>; Fire District #3 - Seth <SJohnson@westbentonfirerescue.org>; Sunnyside Valley Irrigation District - Rigo Diosdado <diosdador@svid.org>; Dale Wilson <Dale.Wilson@co.benton.wa.us>; Jenelle Schadler <Jenelle.Schadler@co.benton.wa.us>; Ken Williams <Ken.Williams@co.benton.wa.us>; Michelle Johnson <Michelle.Johnson@co.benton.wa.us>; Rod Worthington <Rod.Worthington@co.benton.wa.us>; Steve Brown <Steve.Brown@co.benton.wa.us>; Troy Taylor <Troy.Taylor@co.benton.wa.us>; Tavis Hatfield <Tavis.Hatfield@co.benton.wa.us>; Benton PUD - Brenda Webb <webbb@bentonpud.org>; Benton PUD - Chad Brooks <brooksc@bentonpud.org>; Benton PUD - Roxanne Weller <wellerr@bentonpud.org>; Benton PUD - Shanna Everson <eversons@bentonpud.org>; Benton PUD - Tina Archey <archeyt@bentonpud.org>; Benton PUD Jeff Vosahlo <vosahloj@bentonpud.org>; Benton PUD-Mike Irving <irvingm@bentonpud.org>  
**Subject:** Conditional Use Permit Application (CUP 2018-022 Rojas)

Attached is an application and supplemental information for a detached accessory dwelling unit for your review. Please have all comments back to our office no later than December 14<sup>th</sup>, 2018.

FYI:

This is a new type of CUP and this is our first application for it so I thought I would send the rules for ADU's. These are not online yet due to the delay in codification. Attached ADU's will be a new application type (we're still working on that) and Detached ADU's will be subject to a Conditional Use Permit with an addendum (which I'm still working on the final version of).

If you have any questions about this application or the ADU rules, please feel free to contact our office.

Thank you!



April Brown,



December 7, 2018

**HEM 1.4**

TO: PLANNING DEPARTMENT

FROM: BENTON COUNTY PUBLIC WORKS DEPARTMENT

Re: CUP- 2018-010



The Benton County Road department has the following comments for CUP-2018-010.

- The applicant shall apply for a road approach from the Benton County Public Works Department.
- The applicant shall pave the Road approach for the access onto the county road. This shall be paved to the County R-4 Standard.

**Benton County Fire Marshal's  
Review of Proposed Planning Applications**

**TO: BC Planning Department**

**CUP 18-010**

**Date Received 12-7-18 Date Returned 12-7-18**

**Comments:** Juan Rojas, 153110 W. Johnson Rd. Prosser, 391-8857 proposes to place a second home on parcel 1-2894-401-3474-001

**Fire Marshal's Comments: NONE**



**HEM 1.5**

**Building Department/Fire Marshal**  
5600 W Canal Dr., Ste. C Box 105-A  
Kennewick, WA 99336  
Phone (509) 735-3500 Fax (509) 736-2732  
From Prosser 786-5622



**Steve Brown,  
Manager**

**Building Site Plan 18-32863 Rojas**

**Date Received 11-8-18**

**Date Returned 11-9-18**

**Comments:** 1-2894-401-3474-001 (REMODEL)

**Requirements: None**

The proposed project is exempt from driveway requirements due to the following checked reasons, and as such, Benton County Code 3.18.045 is not applicable as per Benton County Code 3.18.020.

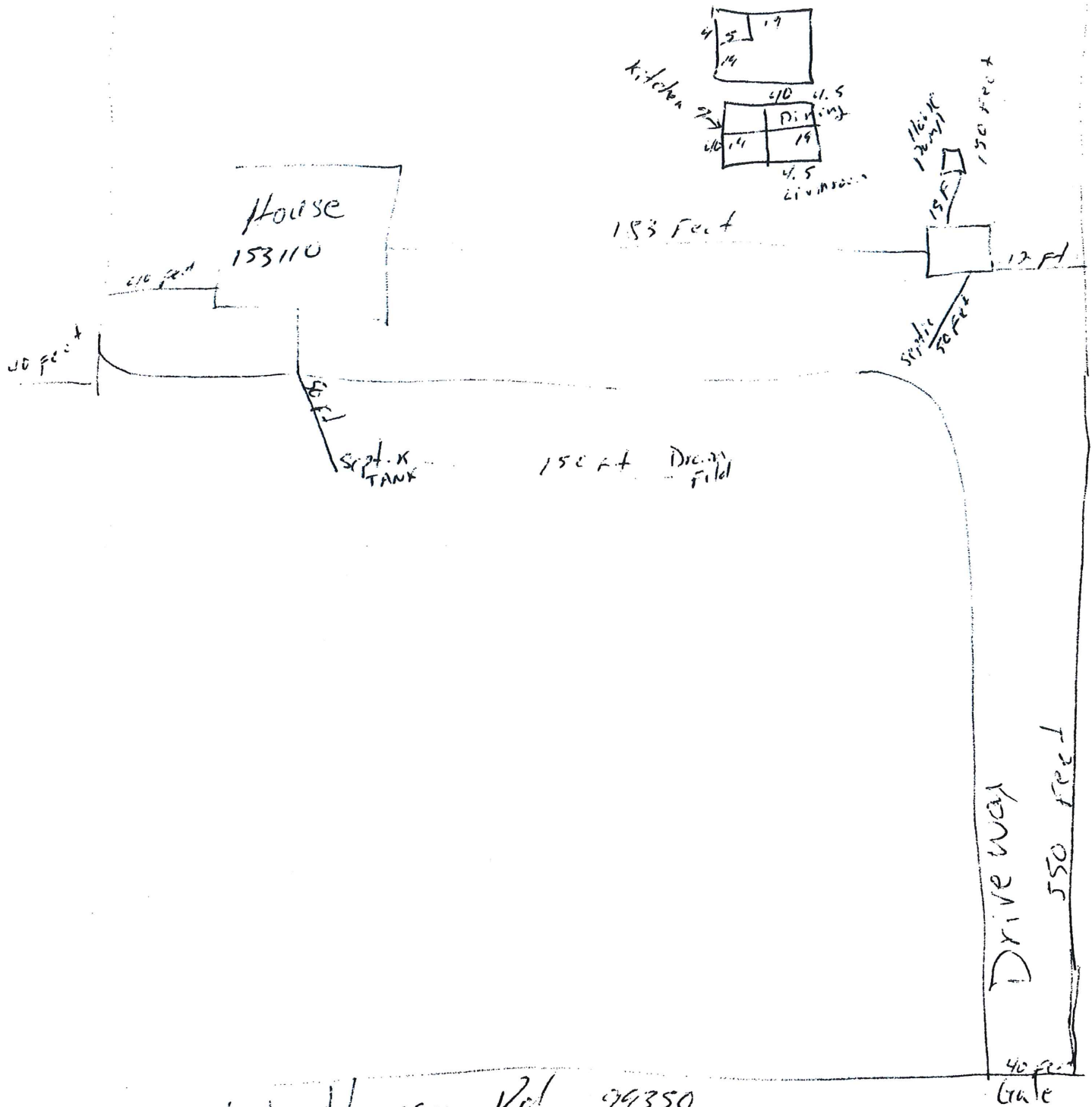
Benton County Code 3.18.025 (j) exempts additions to homes from 3.18.045 requirements.

Existing driveway is adequate.

Is not a commercial building or industrial building over 2500 sq.ft.

**A home whose driveway is less than 200 feet long from a road or easement are not required to meet BCC 3.18.045.**

The submitted site plan shows the home to be less than 200 feet from an approved road.



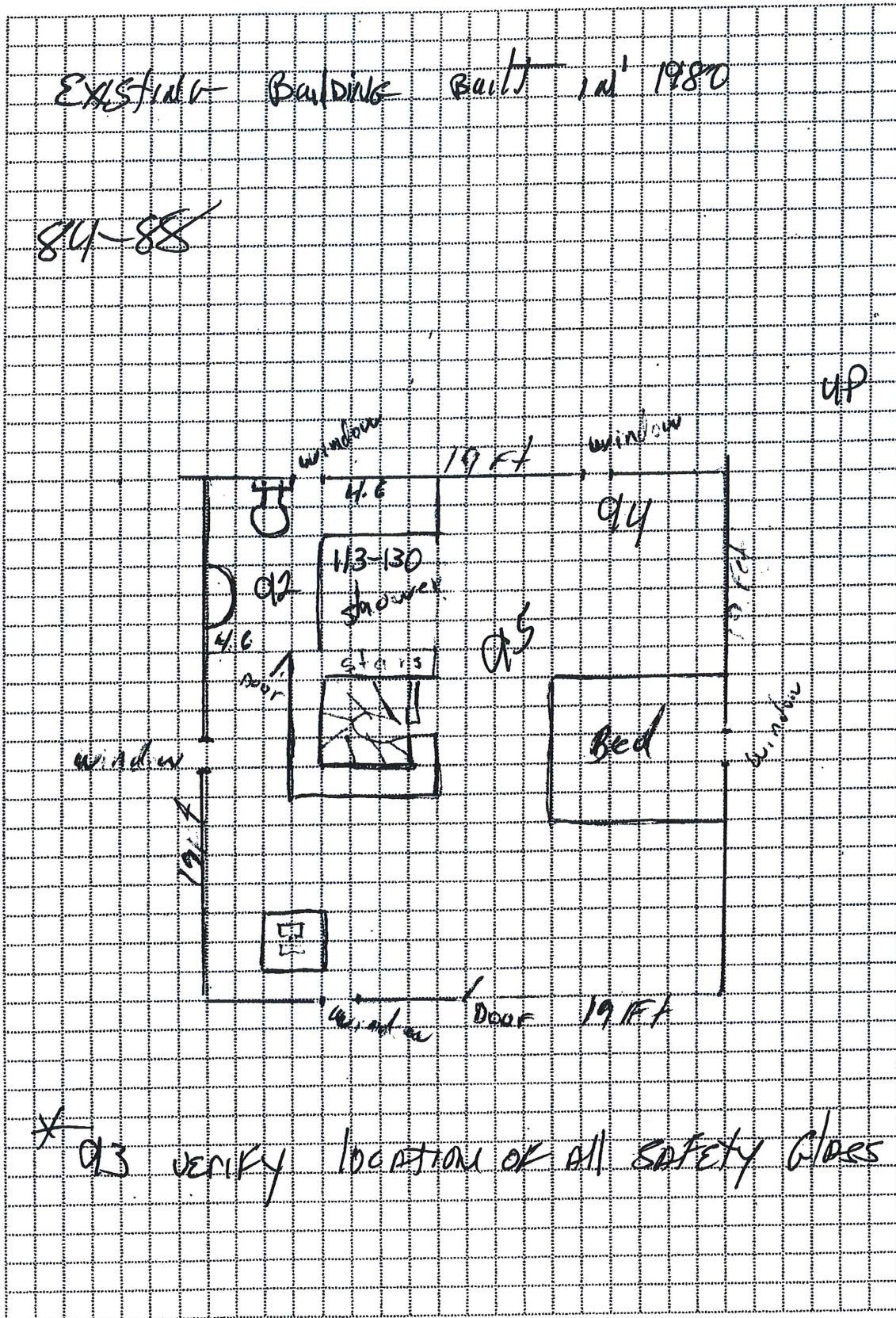
W Harrison Rd 99350

Rojas

STRUCTURE TYPE - DRA
APPLICATION # - 32813
PARCEL # - 1-2894-4A1-3-174-001
ZONE -
*REQUIRED SETBACKS*
FRONT -
SIDE -
SIDE -
REAR -
OTHER -
OTHER -
*PLEASE CALL 735-3500 IF QUESTIONS*

SITE PLAN FOR \_\_\_\_\_  
Scale 1" = 50' or 1" = 100'  
Please specify

PLEASE INDICATE NORTH

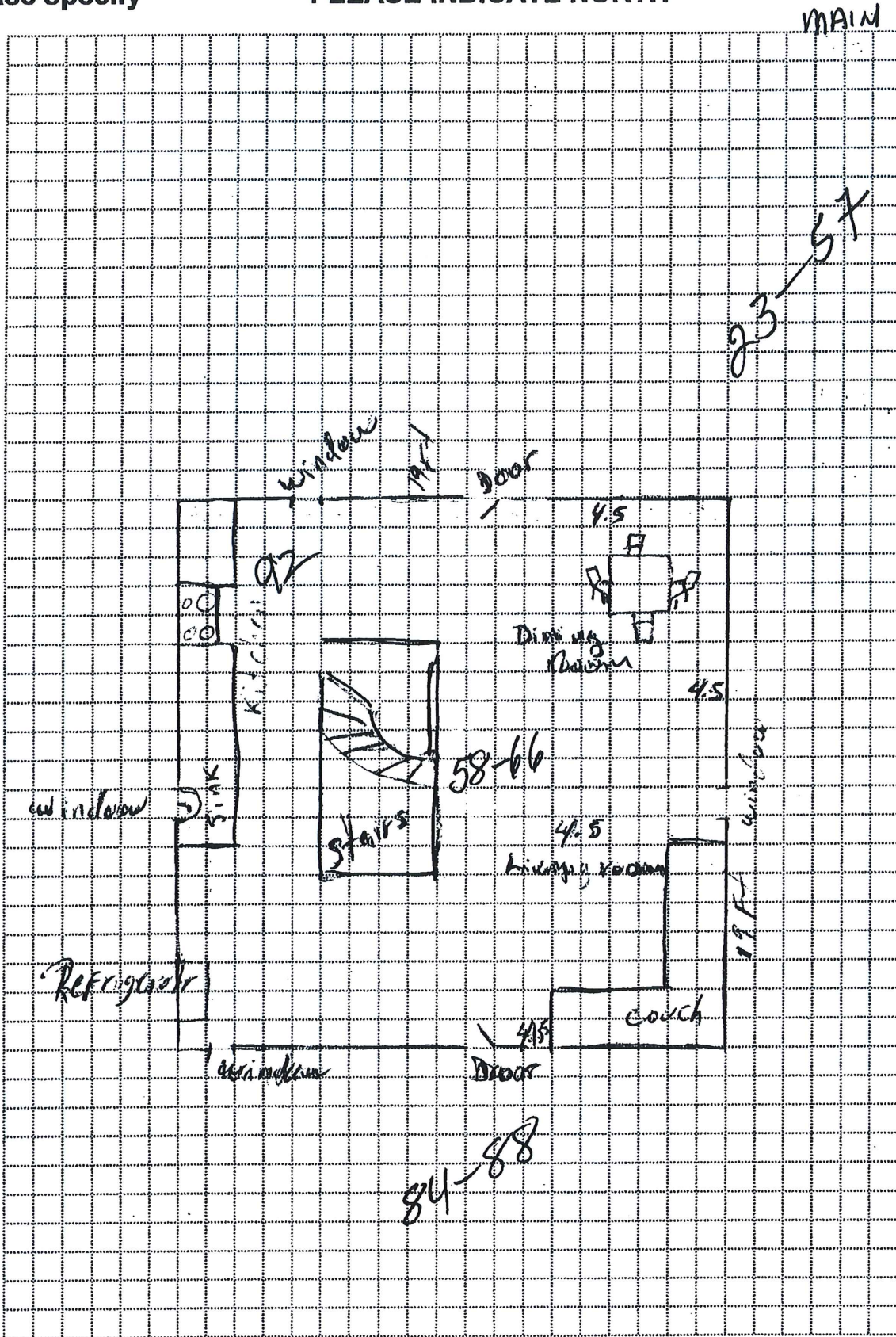


SITE PLAN FOR \_\_\_\_\_

Scale 1" = 50' or 1" = 100'

Please specify

PLEASE INDICATE NORTH



Planning Department  
P.O. Box 910  
1002 Dudley Avenue  
Prosser, WA 99350



Phone (509) 786-5612  
Fax (509) 786-5629  
planning.department@co.benton.wa.us  
co.benton.wa.us

## NOTICE OF OPEN RECORD HEARING

## HEM 1.6

**NOTICE IS HEREBY GIVEN** that the following application has been proposed to the Benton County Hearings Examiner, Benton County, Washington.

**CUP 2018-010** – The applicants are proposing to convert an existing accessory building into a detached Accessory Dwelling unit. As proposed, and required by BCC 11.42.020, the ADU will consist of no more than one bedroom and be no greater than 800 square feet in size. The date of the written determination of completeness on this action is December 5, 2018. The site is located at 153110 West Johnson Road in Prosser, Section 28, Township 09 North, Range 24 East, W.M. The applicant is Juan Rojas.

**NOTICE IS GIVEN** that said application will be considered by the Benton County Hearings Examiner at the public hearing on Monday, February 11, 2019 at 10:00 a.m. in the Planning Annex Hearing Room, 1002 Dudley Avenue, Prosser WA 99350. All concerned persons may appear and present any support for or objections to the application or provide written testimony to the Hearings Examiner in care of the Planning Department on or before the date of the hearing. More information concerning these actions can be obtained by contacting Clark A. Posey, Assistant Planning Manager at the Benton County Planning Department, 1002 Dudley Avenue, P.O. Box 910, Prosser, WA 99350 or by calling (509) 786-5612. Any information submitted to Benton County is subject to the public records disclosure law for the State of Washington (RCW Chapter 42.17) and all other applicable law that may require the release of the documents to the public. It is suggested that if you plan on attending the hearing that you call the Benton County Planning Department by 8:30 a.m. the morning of the hearing to confirm that the hearing will be conducted as scheduled.

It is Benton County's policy that no qualified individual with a disability shall, by reason of such disability be excluded from participation in or be denied the benefits of its services, programs, or activities or be subjected to discrimination. If you wish to use auxiliary aids or require assistance to comment at this public meeting, please download and submit the Request for Reasonable Accommodation Form 48 hours prior to the date of the meeting. The form is located on the Benton County website (<https://tinyurl.com/RRForm>) or you may contact the Benton County Planning Department for assistance.

January 25, 2019

SUSAN E. DRUMMOND  
Benton County Hearings Examiner

CLARK A. POSEY, Assistant Planning Manager   
Benton County Planning Department

PUBLISH: January 30, 2019

