

**EXHIBIT LIST FOR CUP 2017-008  
Pronghorn LLC - NULL AND VOID REQUEST**

<b>Hearings Examiner Staff Memo Exhibit List - March 17, 2023 hearing</b>		
HEM 1.1	Staff Memo	February 28, 2023
HEM 1.2	Letter to Applicant re: Possible Null and Void of Application	January 26, 2023
HEM 1.3	Letter to Applicant re: conditoins of approval	January 10, 2023
HEM 1.4	Email from Mike Johnson	January 28, 2019
HEM 1.5	Letter to Application regarding condtions of approval	December 20, 2018
HEM 1.6	Email to Mike Johnson regarding update on application status	September 1, 2019
HEM 1.7	Hearings Examiner Decision	November 27, 2017
HEM 1.8	CUP 2017-008 Staff Memo	November 20, 2017
<b>Exhibits Submitted <span style="color: red;">During Hearing</span> or while record remained open</b>		
HEH 1.1		
HEH 1.2		
HEH 1.3		
HEH 1.4		
HEH 1.5		
HEH 1.6		
HEH 1.7		
HEH 1.8		
HEH 1.9		
HEH 1.10		



**HEM 1.1**

**STAFF REPORT TO THE  
BENTON COUNTY HEARINGS EXAMINER  
REQUEST FOR NULL AND VOID**

**FILE NO:** CUP 2017-008

**HEARING DATE:** March 17, 2023

**APPLICANT/ OWNER:** Pronghorn, LLC  
1505 N. Miller St. Ste 260  
Wenatchee, WA 98801

**LOCATION:** The most easterly portion of E. Cochran Road and S. Piert Road, Kennewick, WA, in the Southeast Quarter of the Northeast Quarter, and the Northeast Quarter of the Southeast Quarter, all in Section 23, Township 8 North, Range 30 East, W.M.  
Parcel Numbers: 123801011656003, 123804000002000, 123804000001000, 123801011656001

**PROPERTY SIZE:** 74.26 Combined

**LAND USE:** Industrial

**ZONING:** Heavy Industrial

**COMPREHENSIVE  
PLAN DESIGNATION:** Rural Industrial

**APPLICATION HISTORY AND NULL AND VOID REQUEST:**

Pronghorn, LLC originally applied to operate a commercial concrete and asphalt batch plant on the following parcels: 123801011656003, 123804000002000, 123804000001000, 123801011656001. On November 27, 2017, the Benton County Hearings Examiner conditionally approved the Conditional Use Permit giving Pronghorn LLC one year to meet the Conditions of Approval. On December 20, 2018, this office sent a letter requesting an update on the status of the project to Pronghorn LLC. No response was received.

In January 2019, a phone call was placed and a subsequent email was sent to the Planning Division stating that the applicant would like to move forward with issuance of the CUP. On September 24, 2019, the applicant was asked to supply confirmation of compliance with the individual conditions of approval and supply documentation as needed. Since that time, Pronghorn LLC has not met the Conditions of Approval and has not responded to the Planning Division's attempts to make contact with the applicant to verify progress.

Due to the lack of progress and updates from the applicant, this office recommends a revocation of the conditions for CUP 2017-008, hereby declaring the application null and void.

Attached is the Decision and history for this Conditional Use Permit file.



**HEM 1.2**

January 26, 2023

Mike Johnson  
Pronghorn, LLC.  
1505 N Miller Street, Suite 260  
Wenatchee, WA 98801

Via Certified U.S. Mail

RE: Conditional Use Permit  
File# CUP 2017-008

Dear Mr. Johnson,

As you were aware, on November 20, 2017, the Benton County Hearings Examiner conducted a public hearing on your Conditional Use Permit application to construct and operate commercial concrete and asphalt batch plants on the following parcels: 123804000002000, 123804000001000, 123801011656001 and 123801011656003. On November 27, 2017, the Hearings Examiner conditionally approved your request and listed 15 Conditions of Approval that needed to be completed within one year of the approval to receive a Conditional Use Permit.

On December 20, 2018, this office sent a letter requesting an update on the status of your project. We did not receive a response. In January 2019 you spoke with staff about the Conditional Use Permit. You followed up on your conversation with an email stating you would like to move forward with issuance of the CUP. On September 24, 2019, you were asked to supply confirmation of compliance with the individual conditions of approval and supply documentation as needed.

After receiving no further communication from you regarding your project, this office sent yet another letter requesting a status update on January 10, 2020. We have yet to receive a response.

Due to the lack of progress and updates from you, it is assumed that you are no longer trying to pursue a Conditional Use Permit. We will be placing this permit on the next Hearings Examiner agenda scheduled for March 17, 2023, and recommending that your permit be declared null and void.

If your Conditional Use Permit is deemed null and void, you will not be allowed to conduct any business activities on the site(s) until a Conditional Use Permit is granted after re-applying and going through the review and hearing process. Business activities that take place without an approved Conditional Use Permit would be considered a violation of the Benton County Code and you may be subject to a \$500 per day civil penalty. Any violations of the Benton County Code would be fully enforceable by Benton County Code Enforcement.

If you have questions about this letter, you are welcome to contact our office at (509) 786-5612 or at [planning.department@co.benton.wa.us](mailto:planning.department@co.benton.wa.us).

Sincerely,

Michelle Cooke, Planning Manager  
Benton County Community Development Department

**Planning Department**

(509) 786-5612  
P.O. Box 910  
Prosser, WA 99350

[www.co.benton.wa.us](http://www.co.benton.wa.us)[planning.department@co.benton.wa.us](mailto:planning.department@co.benton.wa.us)**Prosser Office:** 620 Market Street, 1<sup>st</sup> Floor**Kennewick Office:** 102206 East Wiser Parkway

January 10, 2020

Pronghorn LLC  
ATTN: Mike Johnson  
1505 N. Miller Street, Suite 260  
Wenatchee, WA 98801

Via US Mail and  
Email to [michaelj@jmacresources.com](mailto:michaelj@jmacresources.com)

RE: Conditional Use Permit  
CUP 2017-008

Dear Mr. Johnson,

On November 20, 2017, the Benton County Hearings Examiner conducted a public hearing on your Conditional Use Permit application to construct and operate commercial concrete and asphalt batch plants on the following parcels: 123804000002000, 123804000001000, 123801011656001 and 123801011656003. On November 27, 2017 the Hearings Examiner conditionally approved your request and listed 15 Conditions of Approval that needed to be completed within one year of the approval in order to receive a Conditional Use Permit. I have attached that Decision to this letter.

On December 20, 2018 this office sent a letter requesting an update on the status of your project. We did not receive a response. In January, 2019 you spoke with staff about the Conditional Use Permit. You followed up on your conversation with an email which stated that you had met the Conditions of Approval and would like to move forward with issuance of the CUP. On September 24, 2019 you were asked to supply confirmation of compliance with the individual conditions of approval and supply documentation as needed. We have not heard from your office since then.

If you have satisfied the Conditions of Approval, you are required to inform the Benton County Planning Department in writing and attach any permits or other documentation of compliance. If you are still working on fulfilling the Conditions, you will need to provide this office with a request for an extension that outlines your progress to date and the Conditions that still need to be satisfied.

If the Benton County Planning Department does not receive an extension request or confirmation that you have satisfied the Conditions of Approval, then it will be assumed that you are no longer trying to fulfill the Conditions and no longer wish to have a Conditional Use Permit. If that is the case, we will send you notice when we place your application on the Hearings Examiner's next agenda for a Null and Void determination.

If you have questions about this letter or the attached Decision, please contact this office at your earliest convenience.

Sincerely,

Greg J. Wendt, Planning Manager  
Benton County Planning Department

**April Brown**

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**From:** Michael Johnson <michaelj@jmacresources.com>  
**Sent:** Monday, January 28, 2019 1:11 PM  
**To:** Planning Department  
**Subject:** Re: CUP 2017-008  
**Attachments:** image002.png

Apparently then, both of us are happy now.

Perfect for a hectic, crazy Monday...

Thanks,

Mike

Mike Johnson

JMAC Resources  
701-339-6643

On Mon, Jan 28, 2019, 1:07 PM Planning Department <[Planning.Department@co.benton.wa.us](mailto:Planning.Department@co.benton.wa.us)> wrote:

Mike,

No problems at all. 😊 As long as I know things are happening, I'm happy waiting.



Thank you!

**April Brown,**

Office Assistant III

Benton County Planning Department

PO Box 910 Prosser WA 99350

(509) 786-5612

[Website](#)

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**From:** Michael Johnson <[michaelj@jmacresources.com](mailto:michaelj@jmacresources.com)>  
**Sent:** Monday, January 28, 2019 12:38 PM  
**To:** Planning Department <[Planning.Department@co.benton.wa.us](mailto:Planning.Department@co.benton.wa.us)>  
**Subject:** RE: CUP 2017-008

April,

I finally have this in the hands of our guy who moved the previous provisional CUP through on our behalf.

I'm looking for a response shortly.

I apologize for the delay – and confusion.

Mike

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**From:** Planning Department [mailto:[Planning.Department@co.benton.wa.us](mailto:Planning.Department@co.benton.wa.us)]  
**Sent:** Friday, January 18, 2019 4:44 PM  
**To:** Michael Johnson  
**Subject:** RE: CUP 2017-008

Mike,

Thanks for getting back to me. I will tell you, there's been some confusion around here because I thought you were talking about another JMAC project (the Christensen pit) when we talked on the phone and I was like "what else could they have to do?" 😊 Luckily, right before I got your email, I figured it out.

So, I pulled the two pages from the decision that lists out the Conditions of Approval that needed to be met. If you could please go through that and just email me specific answers to the items I've highlighted, that should cover all of my bases and make sure we're not missing anything. If you didn't need to do something required (like get building

permits because you didn't build anything) then just say that in reference to the item number. That way, if I ever go back to the file, I'll know we got all our answers and documentation before we issued the permit.

Once I have that information, I will pass it on to Clark for review and approval of issuing the permit. Hopefully I can get the permit back to you within a day or two of that confirmation.



Obviously, if you have ANY questions, we are happy to help. Have a great weekend!

[April Brown,](#)

Office Assistant III

Benton County Planning Department

PO Box 910 Prosser WA 99350

(509) 786-5612

[Website](#)

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**From:** Michael Johnson <[michaelj@jmacresources.com](mailto:michaelj@jmacresources.com)>

**Sent:** Friday, January 18, 2019 1:48 PM

**To:** Planning Department <[Planning.Department@co.benton.wa.us](mailto:Planning.Department@co.benton.wa.us)>

**Subject:** CUP 2017-008

Good Afternoon April,

Thank you for your time yesterday to discuss our CUP, #2017-008.

I've learned that we have met the 15 Conditions of Approval and would like to move forward with issuance of the CUP.

We are also considering other options for the property as well that we believe will be to the benefit of the county. We look forward to potentially making these presentations in the future.

Please let me know if you require more information.

Mike

**Mike Johnson**

w: (509) 423-7494

c: (701) 339-6643



**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

December 20, 2018

Pronghorn LLC  
ATTN: Jon McCreary  
1505 N. Miller Street, Suite 260  
Wenatchee, WA 98801

RE: Conditional Use Permit  
CUP 2017-008

Dear Mr. McCreary,

On November 20, 2017, the Benton County Hearings Examiner conducted a public hearing on your Conditional Use Permit application to construct and operate commercial concrete and asphalt batch plants on the following parcels: 123804000002000, 123804000001000, 123801011656001 and 123801011656003. On November 27, 2017 the Hearings Examiner conditionally approved your request and listed 15 Conditions of Approval that needed to be completed within one year of the approval in order to receive a Conditional Use Permit. I have attached that Decision to this letter.

If you have satisfied the Conditions of Approval, you are required to inform the Benton County Planning Department in writing and attach any permits or other documentation of compliance. If you are still working on fulfilling the Conditions, you will need to provide this office with a request for an extension that outlines your progress to date and the Conditions that still need to be satisfied. The extension letter will need to reach the Benton County Planning Department by January 14, 2019 and will then be placed on the next regularly scheduled Hearings Examiner agenda.

If the Benton County Planning Department does not receive an extension request or confirmation that you have satisfied the Conditions of Approval by the date above, then it will be assumed that you are no longer trying to fulfill the Conditions and no longer wish to have a Conditional Use Permit. If we have not heard from you, your application will be placed on the Hearings Examiner's next agenda to be declared Null and Void.

If you have questions about this letter or the attached Decision, please contact this office at your earliest convenience.

Sincerely,

Clark A. Posey, Assistant Planning Manager  
Benton County Planning Department

**April Brown**

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**From:** Michael Johnson <michaelj@jmacresources.com>  
**Sent:** Wednesday, September 25, 2019 6:14 AM  
**To:** Planning Department  
**Subject:** [EXTERNAL] RE: Pronghorn Conditional Use Permit

**CAUTION:** This email originated from outside of Benton County. Do not click links or open attachments unless you recognize the sender and know the content is safe.

No worries April.

We will pull some thoughts together.

Mike

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**From:** Planning Department [mailto:[Planning.Department@co.benton.wa.us](mailto:Planning.Department@co.benton.wa.us)]  
**Sent:** Tuesday, September 24, 2019 4:56 PM  
**To:** Michael Johnson  
**Subject:** Pronghorn Conditional Use Permit

Mr. Johnson,

I told you about a month ago I would send the attached information so you could give us an update on status and then, apparently, I completely forgot.

When you have time (we are not scheduled to have another hearing until November, so I just need the information before Nov 1<sup>st</sup>) could you please update us on the status of the CUP and the work being done by Pronghorn? I have attached the original decision from 2017 so you can look through the conditions of approval. Once I have the update from you, we will put it before the Hearings Examiner at our next hearing for her to determine if you should receive another extension.

If you have any questions, you are more than welcome to call or email our office.

Thank you!



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

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**BENTON COUNTY HEARINGS EXAMINER  
FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION**

**In the Matter of Request CUP 2017-008  
November 27, 2017**

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**1. FINDINGS OF FACT**

**1.1 Proposal/Project Description.** The Applicant, Pronghorn LLC, requested a conditional use permit (CUP 2017-008) to construct and operate commercial concrete and asphalt batch plants, to process and store aggregate products, and to crush and process asphalt and recycled concrete. The Applicant, property owners, and project location are as follows:

**Applicant:** Pronghorn LLC, 1505 N. Miller Street, Suite 260, Wenatchee, WA 98801

**Property Owner:** Jon McCreary, 1505 N. Miller Street, Suite 260, Wenatchee, WA 98801

**Site Location:** The most easterly portion of E. Cochran Road and S. Piert Road, Kennewick, WA, in the Southeast Quarter of the Northeast Quarter, and the Northeast Quarter of the Southeast Quarter, all in Section 23, Township 8 North, Range 30 East, W.M. (Assessor's Parcel Nos. 1-2380-400-0002-000, 1-2380-400-0001-000, 1-2380-101-1656-001, and 1-2380-101-1656-003).

**1.2 Administrative Record.** The Hearings Examiner reviewed the following exhibits, which include documents from the Applicant, Planning Department staff, and various agencies. All exhibits were admitted.

Date	Document Description
	Agenda
	Planning Department Memo to Hearings Examiner, with Exhibits HEM 1.1-1.7 and HER 1.1.
October 27, 2017	• HEM 1.1 Staff Report
September 19, 2017	• HEM 1.2 Site Maps
October 11, 2017	• HEM 1.3 Benton County Fire Marshal Comments
September 12, 2107	• HEM 1.4 Washington State Dept. of Transportation Comments
September 13, 2017	• HEM 1.5 Benton Franklin Health District Comments
October 30, 2017	• HEM 1.6 Notice of Open Record Hearing
September 19, 2017	• HEM 1.7 DNS, SEPA Checklist and SEPA Comments
October 3, 2017	
October 11, 2017	
October 12, 2017	
September 19, 2017	• HER 1.1 Application and Supporting Documents

Notes --

HEM: Hearings Examiner Memo Exhibits

HER: Hearings Examiner Record Exhibits

**1.3 Public Notice.** The Planning Department sent the notice of application out for agency review and mailed it to property owners of record within 300 feet of the parcel's outer boundaries on September 25, 2017. The Department published notice for the public hearing in the Tri-City Herald on September 29, 2017.<sup>1</sup> No notice concerns were raised.

**1.4 Hearing.** The Hearings Examiner considered the Applicant's request at an open record public hearing on November 20, 2017. The Planning Department summarized the proposal, which the Applicant further described in sworn testimony. The Applicant addressed questions from both the Hearings Examiner and the Planning Department, and confirmed there were no concerns with complying with the proposed conditions, including two conditions on signage and transportation, which were discussed at the hearing.

**1.5 Agency Comment.** As more fully addressed below, several government agencies submitted written comment identifying various regulatory requirements. No objections or concerns with the Applicant's ability to address these comments were raised at the hearing.

**1.6 Zoning/Plan Designations.** The site's zoning is Heavy Industrial. The proposed use can only be authorized via conditional use permit.<sup>2</sup> In addition to requirements specific to the Heavy Industrial Zone, procedures and criteria for reviewing a CUP, and requiring Hearings Examiner approval of same, are located at BCC 11.52.089 and .090.

**1.7 State Environmental Policy Act, Ch. 43.21C RCW.** The County Planning Department reviewed Project application materials, including the SEPA Environmental Checklist, through SEPA, and issued a Determination of Non-Significance.<sup>3</sup> The SEPA Checklist addressed stormwater management, noting that earthen berms and vegetated swales would be used to control erosion. No appeals were filed.

**1.8 Site and Surrounding Land Uses.** The four adjoining vacant lots totaling 34.66 acres have been in agricultural production. Surrounding land uses include industrial, several chemical fertilizer manufacturers, and a railway line. To the east is the Columbia River; to the north, an irrigation canal. Relevant setbacks are complied with, and the project is outside Shoreline Management Act jurisdiction. Portions of the northeast boundary are within the Moderate-High Soil Liquefaction designation zone and a small area in the northwest corner is within a Designated Wellhead Protection Zone. The project is proposed for location outside these critical areas. The project will include about 14,000 square feet of detached buildings, including an office trailer and shop.

**1.9 Benton Franklin Health District Comments.** The Benton Franklin Health District stated it had no objections, provided:

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<sup>1</sup> Ex. HEM 1.6 and Staff Report.

<sup>2</sup> BCC 11.34.050(c), (d), and (e).

<sup>3</sup> Ex. HEM 1.7 (DNS, SEPA Checklist, and SEPA Comments) and Staff Report.

- 1) The business is served by an approved public water supply in accordance with WAC 246-290.
- 2) The business is served by an on-site sewage disposal system that is permitted, installed and approved in accordance with Benton-Franklin District Board of Health Rules and Regulations No. 2 for the intended use.
- 3) The on-site sewage disposal system and drainfield replacement area are protected against having vehicles driving over it or parking on it.<sup>4</sup>

#### **1.10 Benton County Fire Marshal Comments.**

1. Any underground propane piping will be required to be inspected.
2. Building permit is required for the installation of LPG equipment.
3. The capacity of the LPG container(s) is required.
4. Should the total of a single container or the sum of all containers exceed 4,000 gallons fire protection shall be provided in accordance to NFPA 58.
5. Portable fire extinguishers shall be required per NFPA 58.
6. A site plan showing the distances from the LPG container(s) to buildings and property lines is required.
7. A radius of 10' from any LPG container shall be maintained weed free.
8. LPG container(s) shall be protected from vehicle damage.
9. MSD Sheets are required for any chemical stored on the properties.
10. Buildings over 2,500 sq.ft requires on site fire flow water. The exact amount will be determined when the building permit(s) are applied for.<sup>5</sup>

#### **1.11 Washington State Department of Transportation (WSDOT) Comments.**

- The proposed project is near State Route 397 (SR 397), a Class 3 managed access facility, with a posted speed limit of 50 miles per hour. Access to the highway is available at the Piert Rd., Cochran Rd., and Bowles Rd. intersections.
- All loads transported on WSDOT rights-of-way must be within the legal size and load limits or have a valid oversize and/or overweight permit.
- It is the applicant's responsibility to keep and maintain SR 397 free of debris.<sup>6</sup>

**1.12 Benton Clean Air Agency Comments.** Benton Clean Air Agency commented that a Notice of Construction along with other documents and fees must be completed and submitted to it prior to operation.<sup>7</sup>

**1.13 Signage.** The Applicant stated at the hearing that it is proposing signage which would not exceed about four feet by four feet. A condition addressing sign size and lighting was discussed, and the Applicant had no concerns with same.

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<sup>4</sup> Ex. HEM 1.5.

<sup>5</sup> Ex. HEM 1.3.

<sup>6</sup> Ex. HEM 1.4.

<sup>7</sup> Staff Report.

**1.14 Transportation.** About 20 to 30 non-resident employees will commute to the site, and about 20 to 30 business vehicles are expected to be stored on site. The SEPA Checklist estimated about 80 truck trips per day, primarily between 6:00 a.m. and 3:00 p.m. The influx of employees and truck traffic does increase impacts on the transportation system. While located along a designated truck route, given the number of additional vehicles, particularly heavier trucks, attention to care of the right-of-way, truck routing, and transportation issues should be monitored as the site is built out. The Applicant did not have concerns at the hearing with a condition addressing this issue.

**1.15 Hours of Operation.** The Applicant proposed business hours of operation of 5:00 a.m. to 7:00 p.m. Monday through Saturday.

**1.16 Noise.** The project will comply with all noise requirements and the crusher will not operate on weekends. The Applicant further described the site plan at the hearing. The main use is centered on the property to avoid the critical areas at the site's two upper corners, and will be located behind berms around the property, which will also serve to attenuate noise. The Applicant testified that the berms will comply with DNR requirements limiting height to 30 feet, and will be set back a minimum of fifteen feet from the property line.

**1.17 Odor.** No significant odors are expected during construction and operations.

**1.18 Aesthetics.** The proposed heavy industrial use is typical for the area and its appearance will be similar to that of other such gravel/asphalt operations. The Applicant is proposing limited signage to identify the use, and so will not add to visual clutter within the area.

**1.19 Water Supply and Septic System.** The project will comply with all local and state requirements. The SEPA Checklist identified well permit G4-14875CL up to 5,000 gallons per day. A septic system will be installed for the office, which will need to support on average six office workers, four plant operators, and 12 truck drivers.

**1.20 Energy.** If feasible, the project will tie into a natural gas line. Otherwise, two 1,000-gallon propane tanks are proposed.

**1.21 Health, Safety and Welfare.** As mitigated, the proposed use would 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 Heavy Industrial District. The potential impacts associated with the proposal and which may be a concern to neighboring uses, such as noise, aesthetics, and transportation, are addressed above, and conditions have been proposed to address those impacts. The Applicant addressed these concerns in the application materials and through testimony at the hearing, and raised no concerns with the conditions outlined in the staff report and discussed at the hearing to mitigate these impacts.

**1.22 Permitted Uses.** As mitigated, the proposed use as shown in the application and as further described at the hearing would not hinder or discourage the development of permitted uses on neighboring properties, which are largely in industrial use.

## 2. CONCLUSIONS OF LAW

**2.1** The Heavy Industrial Zoning District authorizes CUPs for aggregate crushing and storage, and asphalt and concrete batch plants if specified CUP criteria are met.<sup>8</sup> The proposal is within the HI zone, and meets the County's CUP criteria.<sup>9</sup>

**2.2** A CUP "shall be granted only" if the Hearings Examiner "can make findings of fact based on the evidence presented sufficient to allow" the 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.<sup>10</sup>

"It is the applicant's burden to present sufficient evidence to allow the above conclusions to be made."<sup>11</sup>

**2.3** As mitigated, the Examiner concludes the proposed use is consistent with these criteria. The CUP proposal does not create incompatibilities with other uses in the surrounding area. There was no evidence presented that any outright permitted use would be as incompatible with existing uses in the surrounding area as the proposed use, as mitigated. The proposed use is

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<sup>8</sup> BCC 11.34.050 (c), (d), and (e).

<sup>9</sup> Consistent with BCC 11.34.050, as the use is proposed for location on four assessor parcel numbers, a condition has been added prohibiting the lots from being separately transferred without the CUP being voided.

<sup>10</sup> BCC 11.52.090(d).

<sup>11</sup> *Id.*

consistent with the area's industrial nature. As detailed above, nearby uses include chemical fertilizer manufacturers and a railway line. The evidence supports a finding that with mitigation, the proposal is compatible with surrounding uses and those permitted outright by the zoning code.

**2.4** The requested CUP, as conditioned, would 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. Public agency comment addressed how the existing regulatory structure would require mitigation to address impacts to air and water resources, along with other basic health and safety requirements. Comment addressed fire prevention and management, and Ecology's SEPA comment details its various permitting requirements, including Sand and Gravel General Permit coverage, and noting stormwater management Best Management Practices. There will be an increase in truck traffic, as detailed in the Application and SEPA Checklist, and further addressed in the finding below. Truck transport is generally consistent with transportation activities and uses within the area, although mitigation is required to address the level of truck traffic, to support the findings in this paragraph, and to protect against roadway congestion and to protect County right-of-way from damage other than normal wear and tear.

**2.5** If conditioned, granting the CUP is not expected to 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 other permitted uses. The proposal (as described in the application) includes at least 40 parking spaces for employees and customers. Truck trips, particularly at full build out, and when combined with other industrial uses within the area, present concerns for road wear and tear and raise potential congestion issues. However, if the Applicant complies with and addresses weight and routing restrictions as addressed in the condition discussed at the hearing, and is fully responsible for impacts it creates beyond normal wear and tear, then the proposed use should not present a conflict with traffic to a greater extent than that associated with other permitted uses.

**2.6** As mitigated, the CUP would be supported by adequate service facilities and would not adversely affect public services to the surrounding area. Compliance with all Benton Franklin Health District requirements is a required condition to ensure applicable health code requirements are adequately addressed. The Applicant is required to comply with all applicable Building Department and Fire Code requirements.

**2.7** As mitigated, granting the CUP would not hinder or discourage the development of permitted uses on neighboring properties in the applicable zoning district to a greater extent than other permitted uses in the applicable zoning district. No evidence was presented indicating that, as mitigated, there would be a significant impact on neighboring properties or that the use would hinder development of authorized uses in the area.

**2.8** As detailed above, and with the conditions imposed, which are necessary to make the findings in Section 1, the Applicant has addressed all CUP criteria. In summary, the proposed use is compatible with the principal uses and purpose of the Heavy Industrial Zoning District and surrounding land uses. Signage, parking to accommodate visitors, hours of

operation, transportation, and other impacted areas are addressed through CUP conditions. The use will comply with all applicable code requirements and the Applicant has proposed mitigation to ensure the use remains compatible with existing and future uses in the area.

### DECISION

The Hearings Examiner, pursuant to the above Findings of Fact and Conclusions of Law, approves Pronghorn LLC's requested CUP to authorize the installation and operation of commercial concrete and asphalt batch plants and processing and storing aggregate products on site, in addition to crushing and processing of asphalt and recycled concrete, provided the conditions set forth below are met:

1. The Applicant shall not conduct any of the activities within the scope of CUP 2017-008 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 CUP until those conditions have been met. The CUP 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 CUP within one (1) year from the time the Hearings Examiner conditionally approved this permit, the Hearings Examiner may declare this approval null and void. 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. The Applicant shall obtain the appropriate building permits. The Applicant must submit written documentation to the Planning Department that all the required permits and approvals have been obtained from the Benton County Building Department. The Applicant shall meet this requirement for any additional buildings that may be constructed on site.

4. The Applicant shall comply with all Benton Franklin Health District requirements and provide proof of such compliance to the Planning Department.

5. The Applicant shall provide a dust control plan as required under WAC 173-400-040(9)(a) which is approved by the Benton Clean Air Agency, and shall provide a copy of the plan to the Planning Department.

6. The Applicant shall comply with the Fire Marshal's requirements for a fire flow analysis using NFPA 1142 and provide proof of such compliance to the Planning Department.

7. The Applicant shall comply with all Washington Department of Ecology requirements and provide proof of such compliance to the Planning Department.

8. The Applicant shall comply with all Benton PUD requirements regarding easements for all primary underground or overhead line extensions and provide proof of such compliance to the Planning Department.

9. The presence of customers/clients and employees shall be limited to Monday through Saturday, between the hours of 5:00 a.m. and 7:00 p.m., as stated in the application. No weekend operation of crusher will be allowed.

10. 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 Health District, and all other local, state and federal regulations pertinent to the business activity pursued. The requirements of, or permission granted by, the Hearings Examiner shall not be construed as an exemption from such regulations.

11. Any waste created as a result of this CUP must be disposed of off-site in compliance with all local, state and/or federal regulations in a timely manner. Once the use terminates, the site shall be cleaned up and remediated consistent with all applicable local, state, and federal requirements.

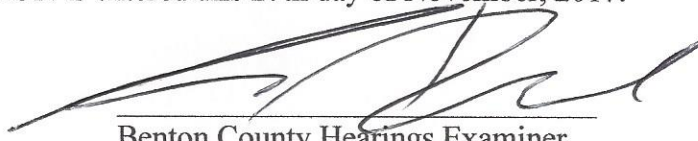
12. No more than one sign (approximately 4 ft. by 4 ft.) shall be permitted in connection with the use. Sign illumination shall be only by hooded directional lighting so that only the sign surface is illuminated. The posting of the sign is limited to the parcel on which the use is located. On-street (inside the road right-of-way) sign posting is prohibited, and no sign outside of a road right-of-way may interfere with the line of sight for road intersection. A signage plan shall be submitted to and approved by the Planning Department before signage construction commences to ensure consistency with the CUP and other relevant County requirements.

13. During build out and project operations, the Applicant will comply with all federal, state and County road and right-of-way requirements, including all applicable weight and routing restrictions. The Applicant shall construct and maintain its private/internal roadways in a manner adequate to support the level of traffic accessing the site. Other than normal wear and tear, project construction and operations shall not damage County right-of-way, and the Applicant shall be fully responsible for any such damage. The County Public Works Department may require submission of a truck routing and management plan, to be approved by the Department, with proof of same being provided to the Planning Department. Such a plan shall be updated as necessary to reflect new road issues or changing truck trip levels.

14. The four lots the CUP authorizes this use on shall not be separately transferred or sold unless the use is terminated and the site remediated consistent with applicable requirements, and the CUP is then voided.

15. The Applicant shall continue to meet all Conditions while CUP 2017-008 is in effect.

THIS DECISION is entered this 27th day of November, 2017.

A handwritten signature in black ink, appearing to read 'Susan Elizabeth Drummond', written over a horizontal line.

Benton County Hearings Examiner  
Susan Elizabeth Drummond

**EXHIBIT LIST FOR CUP 2017-008 (Pronghorn, LLC)**

			<b>DATED</b>
<b>Hearing Examiner Application Exhibit List</b>			
<b>HER 1</b>	HER 1.1	Application and supporting documents	September 19, 2017
Includes:	HER 1.2		
	HER 1.3		
	HER 1.4		
<b>Hearings Examiner Staff Memo Exhibit List - 11/20/17</b>			
<b>HEM 1</b>	HEM 1.1	Staff Report	October 27, 2017
Includes:	HEM 1.2	Site Maps	September 19, 2017
	HEM 1.3	Comments from Ken Williams, Benton County Fire Marshal	October 11, 2017
	HEM 1.4	Comments from Paul Gonseth at WA State Dept. of Transportation	September 12, 2017
	HEM 1.5	Comments from JoDee Peyton at Benton Franklin Health District	September 13, 2017
	HEM 1.6	Notice of Open Record Hearings	October 30, 2017
	HEM 1.7		
	HEM 1.8		
	HEM 1.9		
	HEM 1.10		
<b>Hearings Examiner Staff Hearing Exhibit List - 11/20/17</b>			
<b>HEH 1</b>	HEH 1.1		
Includes:	HEH 1.2		
	HEH 1.3		
<b>Hearings Examiner Staff Continued Hearing Memo Exhibit List - DATE</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**

# 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

## HEM 1.1

### STAFF REPORT TO HEARINGS EXAMINER

**MEMO DATE:** OCTOBER 27, 2017  
**HEARING DATE:** NOVEMBER 20, 2017  
**TO:** BENTON COUNTY HEARINGS EXAMINER  
**FROM:** CLARK POSEY  
ASSISTANT PLANNING MANAGER \_\_\_\_\_  
BENTON COUNTY PLANNING DEPARTMENT  
**RE:** CONDITIONAL USE PERMIT - CUP 2017-008  
**APPLICANT:** PRONGHORN LLC  
1505 N. Miller ST Suite 260  
Wenatchee, WA 98801  
**OWNER:** JON McCREARY  
1505 N. Miller ST Suite 260  
Wenatchee, WA 98801

#### SPECIFIC REQUEST

The applicant/owner is requesting a Conditional Use Permit to allow for a concrete batch plant to operate in the Heavy Industrial zoning district. If approved under BCC 11.34.050(b), the CUP would allow the applicant to install and operate a commercial concrete batch plant and the ability to process and store aggregate products on site in addition to crushing and processing of asphalt and recycled concrete.

#### PROJECT CHRONOLOGY

The Conditional Use Permit application was submitted to the Planning Department on September 19, 2017 and was determined to be complete September 25, 2017 at which time a letter of completion was sent to the applicant. The Conditional Use application was sent out for Agency Review and mailed to property owners of record within 300 feet of the outer boundaries of the parcel on September 25, 2017. Notice of Open Record Hearing was published on September 29, 2017 in the Tri-City Herald. The Open Record Hearing is scheduled for November 20, 2017.

#### SITE DESCRIPTION

The subject property is being proposed on vacant industrial land that has been in AG Production and is located at the most easterly portion of E Cochran Road and S. Piert RD, Kennewick, WA on four adjoining lots containing a combined 34.66 acres.

The properties are in the Southeast quarter of the Northeast Quarter, and the Northeast of the Southeast Quarter all in Section 23, Township 8 North, Range 30 East, W.M. On the following parcel Numbers: 1-2380-400-0002-000, 1-2380-400-0001-000, 1-2380-101-1656-001, and 1-2380-101-1656-003. The following critical areas have been identified on the site: portions of the northeast boundary lie within the Moderate-High Soil Liquefaction designation zone and a small area in the northwest corner is within a Designated Wellhead Protection Zone.

## SURROUNDING ZONING & LAND USE

The subject property is in the Heavy Industrial Zoning District. The surrounding land uses include industrial, several chemical fertilizer manufacturers, a railway line, The Comprehensive Plan designates the site as Heavy Industrial. The surrounding areas are zoned Heavy Industrial.

The operation of a concrete and asphalt batch plant would not hinder or discourage the development of outright permitted uses on neighboring properties in the Heavy Industrial Zoning District because of the location, size, noise or dust of the proposed use.

## STATE ENVIRONMENTAL POLICY ACT:

A SEPA Environmental checklist EA 2017-015 was submitted on September 19, 2017 and has been reviewed under the requirements of the State Environmental Policy Act and a Determination of Non-Significance was issued on October 16, 2017. The Environmental Checklist, the Determination of Non-Significance and the comments received from reviewing agencies are attached to this memorandum.

### **I. APPLICABLE DEVELOPMENT REGULATIONS**

*Benton County Code (BCC) 11.34.050 Uses Requiring a Conditional Use Permit.* The following uses may be permitted on a single parcel of record within the Heavy Industrial District (HI) if a conditional use permit is issued by the Hearings Examiner after notice and a public hearing as provided by BCC 11.52.090.

- (e) Concrete plant.

Benton County Code 11.52.090(a) states "*Conditional Use/Special Permit General Standards.* The conditional use/special 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 11.52.089.

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 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 BCC 11.52.070."

### **III. DECISION CRITERIA**

Benton County Code 11.52.090(d) states: "*Conditional Use/Special Permit—Permit Granted or Denied.* A conditional use/special 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.”

If reasonable conditions cannot be imposed so as to allow the Hearings Examiner to make the conclusions required above, the Conditional Use Permit shall be denied.

#### **IV. FINDINGS OF FACT**

Based on the application and information received, the planning staff makes the following findings.

1. The applicant and property owner is Pronghorn LLC. c/o Jon McCleary, 1505 N. Miller ST Suite 260 Wenatchee, WA 98801.
2. The subject property is located on vacant industrial land that has been in AG Production and is located at the most easterly end of E Cochran Road west of S. Piert RD. in Kennewick, WA on four adjoining lots containing a combined 34.66 acres.
3. The applicant has applied for a Conditional Use Permit to install and operate a commercial concrete and asphalt batch plant with the ability to process and store associated aggregate products on site. Crushing and processing of asphalt and recycled concrete will take place on site.
4. The subject property is zoned Heavy Industrial. The proposed use is consistent with the Heavy Industrial designation within the Benton County Code 11.34.
5. The following critical areas have been identified on the site: portions of the northeast boundary lie within the Moderate-High Soil Liquefaction designation zone and a small area in the northwest corner is within a Designated Wellhead Protection Zone.
6. The applicant stated the hours of operation will be Monday through Saturday with hours of operation from 7:00 a.m. to 5:00 p.m.
7. The SEPA application for EA 2017-015 was submitted to Benton County on September 25, 2017 with a DNS issued on October 16, 2017.
8. The Conditional Use Permit application was submitted to the Planning Department on September 19, 2017 and was determined to be complete September 25, 2017 at which time a letter of completion was sent to the applicant. The Conditional Use application was sent out for Agency Review and mailed to property owners of record within 300 feet of the outer boundaries of the parcel on September 25, 2017. Notice of Open Record Hearing was scheduled for November 20, 2017.
9. The Benton County Fire Marshal's comments are attached to this document.

10. Comments received and from the Washington State Department of transportation are attached to this memo.
11. Benton PUD submitted their comments and they are attached to this memo.
12. Benton Clean Air Agency commented that a Notice of Construction along with other documents and fees must be completed and submitted to them prior to operation.
13. Benton Franklin Health District commented that additional permitting may be required.
14. 20 to 30 non-resident employees are expected to be employed and 20-30 business vehicles are expected to be stored on site.
15. Signs have been requested but, at the time of this memo no size has been determined.

#### **V. SUGGESTED CONDITIONS OF APPROVAL**

If the Hearings Examiner decides to approve Conditional Use Permit CUP # 2017-008 then the Planning Department suggest the following conditions be added to the approval of this CUP:

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. That the applicant obtains the appropriate building permits. The applicant must submit written documentation to the Planning Department that all the required permits and approvals have been obtained from the Benton County Building Department. The applicant shall meet this requirement for any additional buildings that may be constructed on site while Conditional Use Permit - CUP 2017-008 is in effect.
4. That the applicant complies with all Benton Franklin Health District requirements while Conditional Use Permit - CUP 2017-008 is in effect and provide proof of such compliance to the Planning Department.
5. The applicant provides a dust control plan as required under WAC 173-400-040(9)(a) which is approved by the Benton Clean Air Authority and provide a copy of said plan to the Planning Department. The applicant shall continue to meet all such requirements while Conditional Use Permit - CUP 2017-008 is in effect.

6. That the applicant complies with the Fire Marshall's requirements for a fire flow analysis using NFPA 1142 and provide proof of such compliance to the Planning Department. The applicant shall continue to meet all such requirements while Conditional Use Permit - CUP 2017-008 is in effect.
7. That the applicant complies with all Washington Department of Ecology requirements and provide proof of such compliance to the Planning Department. The applicant shall continue to meet all such requirements while Conditional Use Permit - CUP 2017-008 is in effect.
8. That the applicant complies with the Benton PUD requirements regarding easements for all primary underground or overhead line extensions and provide proof of such compliance to the Planning Department. The applicant shall continue to meet all such requirements while Conditional Use Permit - CUP 2017-008 is in effect.
9. That the presence of customers/clients and employees shall be limited to Monday through Saturday between the hours of 7:00 a.m. and 5:00 p.m. as stated in the application. No weekend operation of crusher will be allowed. The applicant shall continue to meet all such requirements while Conditional Use Permit - CUP 2017-008 is in effect.
10. 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 Health District, and all other local, state and federal regulations pertinent to the business activity pursued. The requirements of, or permission granted by, the Hearings Examiner shall not be construed as an exemption from such regulations. The applicant shall continue to meet all such requirements while Conditional Use Permit - CUP 2017-008 is in effect.
11. That any waste created because of this Conditional Use Permit, must be disposed of off-site in compliance with all local, state and/or federal regulations in a timely manner.
12. Conditions may be altered, added or deleted by the Hearings Examiner when deciding on this permit after the required open public hearing.



**BENTON COUNTY PLANNING DEPARTMENT  
 CONDITIONAL USE APPLICATION  
 FILE NO. CUP 2017-008  
 See also EA 2017-015**



**HER 1.1**

1. Applicant Name PRODIGY HOLD, LLL  
 Applicant Address: 1505 N. MILLER ST. STE. 260  
WENATCHEE, WA 98801  
 Telephone number: Home 509-423-7494 Work 701-580-4667

2. Legal owners name: Jon McCreary 11.34.050 (c)(d)  
 Legal Owners address: 1505 N. MILLER ST. STE. 260  
WENATCHEE, WA 98801  
 Telephone number: Home 509-423-7494 Work 701-580-4667

If you wish to be contacted by email please list your email address:  
DEAN@JMACRESOURCES.COM  
DeanG@JmacResources.com

3. Parcel Number or Legal description of property for which permit is for:  
123801011656003, 123804000002000, 123804000001000, 123801011656001

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

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.**  
OPERATE CONCRETE AND ASPHALT BATCH PLANTS AND STOCKPILE  
CRUSHED AND WASHED AGGREGATES, CRUSHING AND PROCESSING  
REGULATED CONCRETE AND ASPHALT

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

7. Total acres of property: 34.66 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.: WATER WELL AND PUMP - NO  
STRUTURES OR DWELLING OR STRUCTURE

9. Describe existing structures and present land uses in the surrounding area of your property:  
LIGHT INDUSTRIAL - FERTILIZER PLANT AND RAIL CAR REPAIR  
FARMING

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

- a. Is there a residence on site? Yes \_\_\_\_\_ No X
- 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 X
- c. Does at least one of the proprietors live in said residence? Yes \_\_\_\_\_ No X
- d. List the number of non-resident employees. 20-30
- e. What is the **total** square footage of the detached building to be used for the business? 14,000
- f. What is the **total** square footage that will be used for the business activity?  
1,509,789
- g. Is only one detached building to be used for the business activity? Yes \_\_\_\_\_  
No X
- h. Are any signs going to be used with the business activity? Yes X 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.  
20 TO 30
- j. List the number of off street parking spots 40 PLUS
- k. What County Road does the site access off of? SOUTH PIERT ROAD
- L. List the preferred office hours for the presence of customer/clients and non-resident employees. Days of the week MONDAY THRU SATURDAY  
Hours of Operation 5 AM TO 7 PM

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:

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**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 \_\_\_\_\_ Print Name \_\_\_\_\_ Date \_\_\_\_\_

Signature of Legal Owners \_\_\_\_\_ Print Name \_\_\_\_\_ 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: PROLOGHORN, LLC

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

Signature: Jon McCraway \_\_\_\_\_ owner  
(Signature) (Title)

The above signed officer of PROLOGHORN, LLC (name of entity) warrants and represents that all necessary legal and corporate actions have been duly undertaken to permit DEAD GILL 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:**

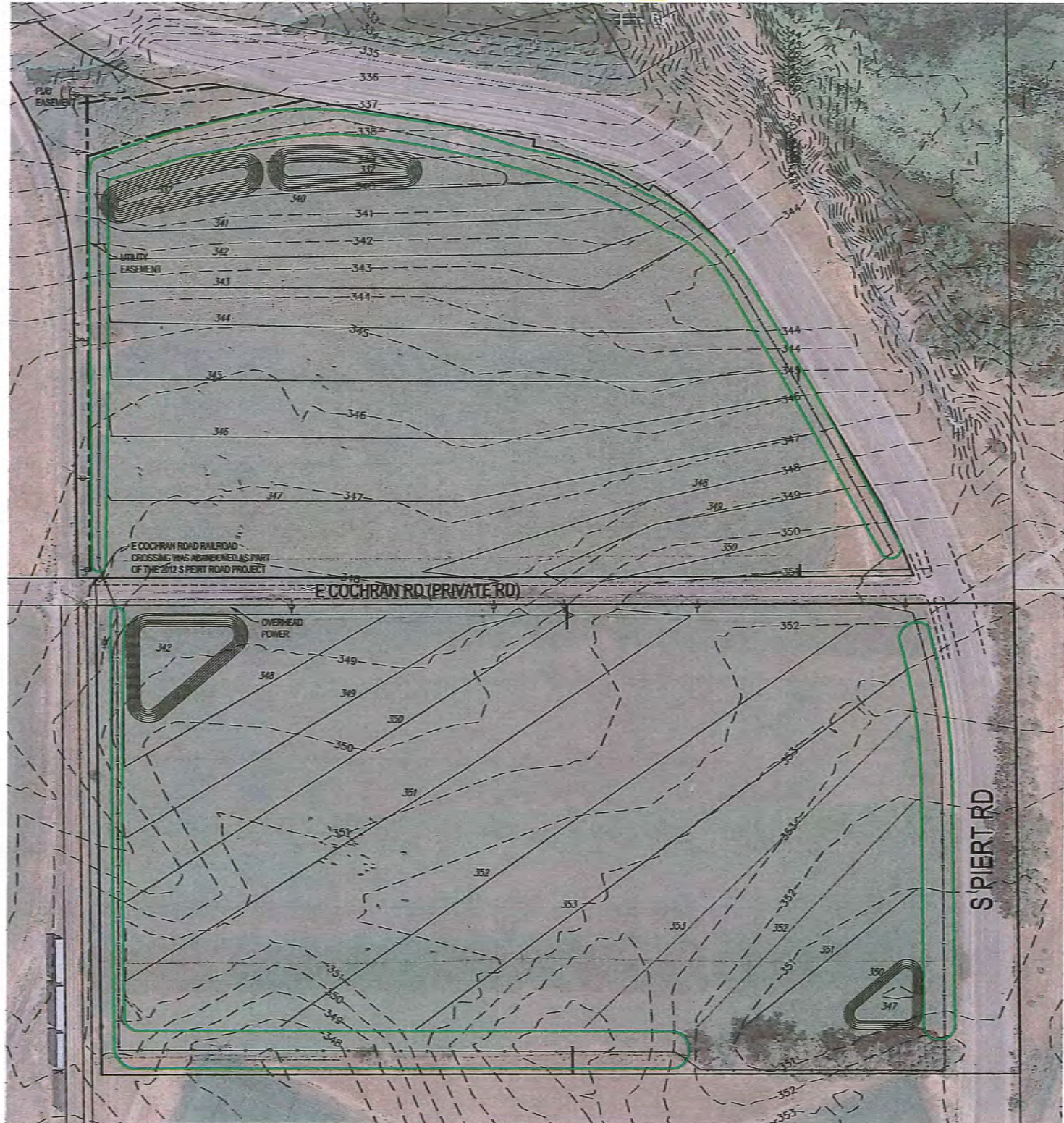
Critical Area Review Completed by: Josh Passey on 9/22/2017.

Application approved for processing by Josh Passey on 9/22/2017.

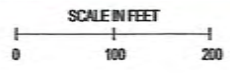
Zoning Heavy Industrial Comp Plan Designation \_\_\_\_\_.



CURRENT



Proposed



Jun 28, 2017 2:36:13pm - User: dmsj  
X:\V\15\15012.DWG



S PIERT ROAD PIT SECTION 23 - T8N - R30E BENTON COUNTY, WA		FIG No: <b>FIG-A</b>
<b>SITE PLAN</b>		SHEET No: <b>1 OF 1</b>

**Benton County Fire Marshal's Comments**  
**Planning Department's Referral Forms**

**TO: Clark Posey, Assistant Planning Manager**  
**EA 17-015 & Conditional Use Permit Reviewed 17-008**

**Date Received 9-27-17**



**Date Returned 10-10-17**

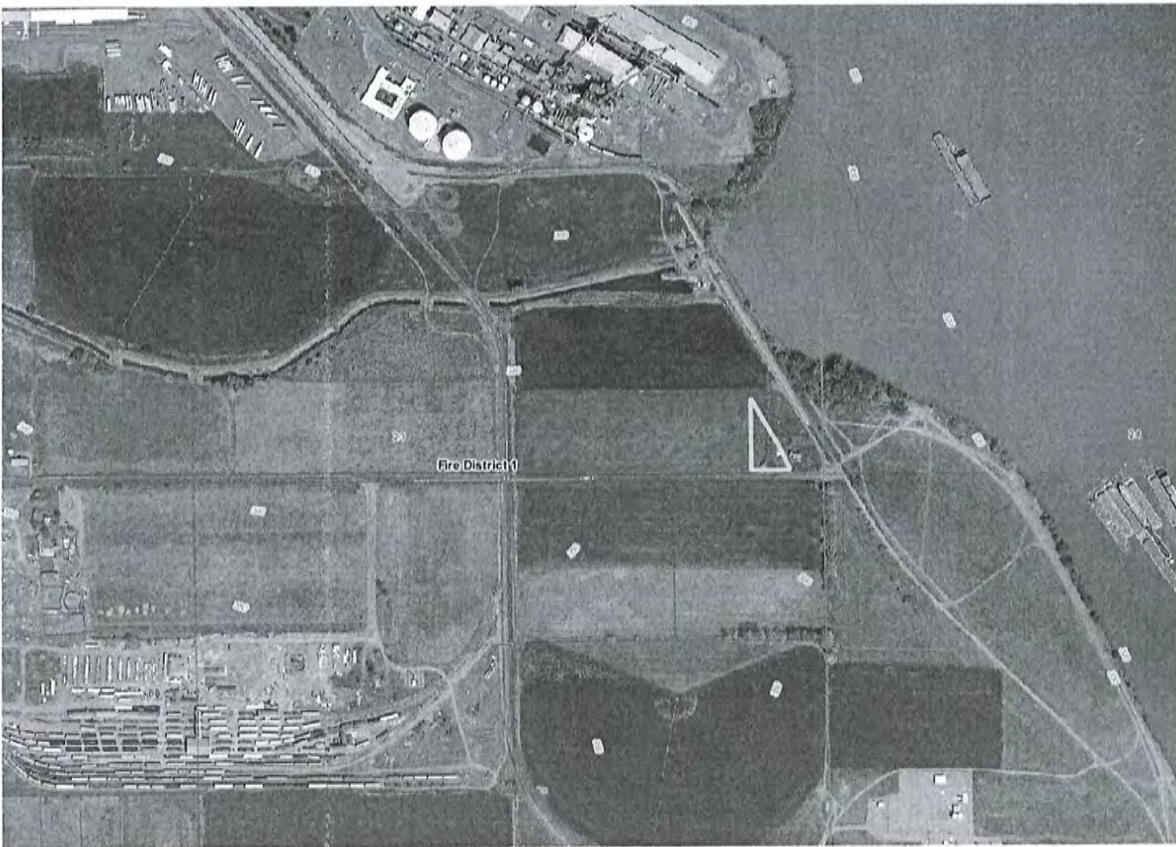
**HEM 1.3**

**Applicant's Comments:** Pronghorn, LLC, 1505 N. Miller St. Suite 260, Wenatchee, WA. 98801 509-580-4667 [Deang@jmacresources.com](mailto:Deang@jmacresources.com) proposes to operate a new concrete and asphalt batch plants and store aggregates on parcels 1238-010-1656-003, 1238-040-0000-2-000, 1238-040-0001-000 & 1238-010-1656-001.

**Fire Marshal's Comments:**

1. Any underground propane piping will be required to be inspected.
2. Building permit is required for the installation of LPG equipment.
3. The capacity of the LPG container(s) is required.
4. Should the total of a single container or the sum of all containers exceed 4,000 gallons fire protection shall be provided in accordance to NFPA 58.
5. Portable fire extinguishers shall be required per NFPA 58.
6. A site plan showing the distances from the LPG container(s) to buildings and property lines is required.
7. A radius of 10' from any LPG container shall be maintained weed free.
8. LPG container(s) shall be protected from vehicle damage.
9. MSD Sheets are required for any chemical stored on the properties.
10. Buildings over 2,500 sq.ft requires on site fire flow water. The exact amount will be determined when the building permit(s) are applied for.







South Central Region  
2809 Rudkin Road  
Union Gap, WA 98903-1648  
509-577-1600 / FAX: 509-577-1003  
TTY: 1-800-833-6388  
www.wsdot.wa.gov

October 9, 2017



**HEM 1.4**

Benton County Planning Department  
PO Box 910  
Prosser, WA 99350

Attention: Clark Posey – Assistant Planning Manager

Subject EA 2017-015/CUP 2017-008 Pronghorn LLC  
SR 397 vicinity, milepost 11.08, 12.79 and 13.46 right

We have reviewed the proposed project and have the following comment.

- The proposed project is near State Route 397 (SR 397), a Class 3 managed access facility, with a posted speed limit of 50 miles per hour. Access to the highway is available at the Piert Rd., Cochran Rd., and Bowles Rd. intersections.
- All loads transported on WSDOT rights-of-way must be within the legal size and load limits or have a valid oversize and/or overweight permit.
- It is the applicant's responsibility to keep and maintain SR 397 free of debris.

Thank you for the opportunity to review and comment on this proposal. If you have any questions regarding our comment, please contact Jacob Prilucik at (509) 577-1635.

Sincerely,

Paul Gonseth, P.E.  
Planning Engineer

PG: jjp/mnk

cc: File # 3, SR 397  
Kara Shute, Area 3 Maintenance Superintendent

April Brown

**From:** JoDee Peyton <Jodeer@bfhd.wa.gov>  
**Sent:** Friday, October 20, 2017 8:18 AM  
**To:** Planning Department  
**Subject:** RE: CUP 2017-008/EA 2017-015 (Pronghorn LLC) Agency review request

This office has reviewed the above referenced proposal and has no objections provided:

- 1) The business is served by an approved public water supply in accordance with WAC 246-290.
- 2) The business is served by an on-site sewage disposal system that is permitted, installed and approved in accordance with Benton-Franklin District Board of Health Rules and Regulations No. 2 for the intended use.
- 3) The on-site sewage disposal system and drainfield replacement area are protected against having vehicles driving over it or parking on it.

Please feel free to contact me with any concerns or questions.

**JoDee A. Peyton, EHS II, RS**  
Environmental Health Specialist/Educator  
Land Use, Sewage and Water Section

**Benton-Franklin Health District**  
7102 W. Okanogan Place,  
Kennewick, WA 99336  
p: 509.460.4318  
[www.bfhd.wa.gov](http://www.bfhd.wa.gov) [jodeer@bfhd.wa.gov](mailto:jodeer@bfhd.wa.gov)



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**From:** Rick Dawson  
**Sent:** Wednesday, September 27, 2017 2:23 PM  
**To:** JoDee Peyton  
**Subject:** FW: CUP 2017-008/EA 2017-015 (Pronghorn LLC) Agency review request

**James R.(Rick) Dawson**  
Sr. Manager – Surveillance & Investigation

**Benton-Franklin Health District**  
7102 W. Okanogan Place,  
Kennewick, WA 99336  
p: 509.460.4313  
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[www.bfhd.wa.gov](http://www.bfhd.wa.gov) [rickd@bfhd.wa.gov](mailto:rickd@bfhd.wa.gov)



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**From:** Planning Department [<mailto:Planning.Department@co.benton.wa.us>]

**Sent:** Wednesday, September 27, 2017 9:16 AM

**To:** Charles Smith; Tavis Hatfield; Rick Dawson; Fire District #1 - Billie ; Fire District #1 - Staff; Dale Wilson; Columbia Irrigation District; Ken Williams; Michelle Johnson; Rod Worthington; Steve Brown; Tomi Chalk; Troy Taylor; Benton PUD - Chad Brooks; Benton PUD - Roxanne Weller ; Benton PUD - Shanna Everson; Benton PUD Bob Roe; Benton PUD Dave Smith; Benton PUD Jeff Vosahlo; Benton PUD-Mike Irving

**Subject:** CUP 2017-008/EA 2017-015 (Pronghorn LLC) Agency review request

Attached is a Conditional Use Permit request for comments as well as an Environmental Checklist for review and comment (from the same applicant).

Please review the attachments and send us your **comments by October 11, 2017 on both** the CUP application and any possible environmental impact concerns for the proposed uses.

If you have any questions, 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 or 509-736-3086  
Fax: 509-786-5629

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# 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

## DETERMINATION OF NONSIGNIFICANCE

**File Number: EA 2017-015**

**Description of proposal:** Operation of concrete and asphalt batch plants, as well as stockpiling crushed and washed aggregates, and crushing/processing recycled concrete and asphalt.

**Proponent:** Pronghorn, LLC

**Location:** The site is located on four lots lying West of Piert Road, intersected by East Cochran Road in Section 23, Township 8 North, Range 30, W.M.


Lead agency **BENTON COUNTY**

The lead agency for this proposal has determined that it does not have a probable significant adverse impact on the environment. An environmental impact statement (EIS) is not required under RCW 43.21C.030(2)(c). This decision was made after review of a completed environmental checklist and other information on file with the lead agency. This information is available to the public on request.

### THERE IS NO COMMENT PERIOD FOR THIS DNS DETERMINATION

**Responsible Official:** Jerrod MacPherson  
**Position/Title:** Planning Manager  
**Address:** P.O. Box 910, Prosser WA 99350  
**Email:** [planning.department@co.benton.wa.us](mailto:planning.department@co.benton.wa.us)  
**Phone/Fax:** (509)786-5612/(509) 786-5629

Date: 10/16/2017

Signature:   
Clark A. Posey, Assistant Planning Manager

### THERE IS NO AGENCY APPEAL

#### DISTRIBUTION:

Applicant	Department of Transportation
News Media	Washington State Department of Health
Benton County Building Department	Department of Ecology (Olympia)
Dept. of Natural Resources (Olympia)	Department of Ecology (Yakima)
Dept. of Natural Resources (Ellensburg)	Fire District #1
Benton Clean Air Authority	Benton County Fire Marshal
Bureau of Reclamation	Bureau of Land Management
Benton County Roads Department	Washington State Department of Fish and Wildlife
Benton Franklin Health District	Department of Archaeology & Historic Preservation
Columbia Irrigation District	Futurewise
Yakama Indian Nation	Confederated Tribes of the Umatilla Indian Reservation
Army Corps of Engineers	Burlington Northern Santa Fe Railroad

# 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

## NOTICE OF OPEN RECORD HEARINGS

## HEM 1.6

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

**CUP 2017-007** – The applicants are proposing to operate a daytime dog play center and overnight kennel (by appointment only) on 2.5 acres in RL-5 zone. The date of the written determination of completeness on this action is September 8, 2017. The site is located at 3505 N. Goose Gap PR NE Benton City in Section 31, Township 09 North, Range 28 East, W.M. Applicants: Ed & Kaye McClellan


**CUP 2017-008 (EA 2017-015)** – The applicants are proposing to operate concrete and asphalt batch plants, stockpile crushed and washed aggregates and crush/process recycled concrete and asphalt. The date of the written determination of completeness on this action is September 25, 2017. The site is located on four parcels lying West of Piert Road, intersected by East Cochran Road in Section 23, Township 8 North, Range 30, W.M. Applicant: Pronghorn, LLC.

**NOTICE IS GIVEN** that said application(s) will be considered by the Benton County Hearings Examiner at the public hearing(s) on Monday, November 20, 2017 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(s) or provide written testimony to the Hearings Examiner in care of the Planning Department on or before the date of the hearing(s). 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 736-3086 (Tri-Cities) or 786-5612 (Prosser). 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 Accommodation Request Form 48 hours prior to the date of the meeting. The form is located on the Benton County website which is [www.co.benton.wa.us](http://www.co.benton.wa.us) under the Personnel Department or contact the Benton County Planning Department at the numbers noted above for assistance.

Date: October 30, 2017

SUSAN E. DRUMMOND  
Benton County Hearings Examiner

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

PUBLISH: Monday, November 6, 2017

EA 2017-015 (Pronghorn LLC)



September 19, 2017

CURRENT

Proposed



Jan 26, 2017 2:30:10pm - User: gmsj  
X:\INLET\INLET.DWG



S PIERT ROAD PIT SECTION 23 - T8N - R30E BENTON COUNTY, WA		FIG No: FIG-A
SITE PLAN		SHEET No: 1 of 1