

EXHIBIT LIST FOR CUP 2023-012 Gravis Law/Miguel's Venue

Hearings Examiner Staff Memo Exhibit List -October 20, 2023 hearing		
HEM 1.1	Staff Memo	October 13, 2023
HEM 1.2	Vicinity map	September 27, 2023
HEM 1.3	Determination of Non-Significance for EA 2023-002	January 27, 2023
HEM 1.4	Notice of Open Hearing	October 4, 2023
APPLICATION MATERIALS		
HEM 1.5	Application (incomplete)	May 26, 2023
HEM 1.6	Written Determination of Incompleteness	June 1, 2023
HEM 1.7	Site Plan	August 1, 2023
HEM 1.8	Application (complete)	August 1, 2023
HEM 1.9	Traffic Impact Analysis	August 1, 2023
HEM 1.10	Written Determination of Completeness	August 17, 2023
HEM 1.11	Agency review request	August 22, 2023
HEM 1.12	Gravis Law answers via email	October 2, 2023
HEM 1.13	Gravis Law Sign answers via email	October 3, 2023
AGENCY COMMENTS		
HEM 1.14	Comment from Benton County Code CUP 2023-001	January 31, 2023
HEM 1.15	Comment from Kennewick Irrigation District	August 23, 2023
HEM 1.16	Comment from Benton County Building Department	August 24, 2023
HEM 1.17	Comment from Benton County Public Works	August 24, 2023
HEM 1.18	Comment from Department of Ecology	September 21, 2023
HEM 1.19	Comment from Benton County Code Enforcement	September 21, 2023
HEM 1.20	Comment from Benton County Fire Marshal	October 11, 2023
HEM 1.21	Comment from Benton County Sheriff's Office	October 11, 2023
HEM 1.22	Comment from Benton County Code Enforcement	October 12, 2023
PUBLIC COMMENTS		
HEM 1.23	Comment from Melissa Erler	October 10, 2023
HEM 1.24	Comment from Susan Lopez	October 10, 2023
HEM 1.25	Comment from Catherine & Joseph Salomone	October 10, 2023
HEM 1.26	Comment from Bruce O'Brien	October 12, 2023
Exhibits Submitted During Hearing or while record remained open		
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		



STAFF REPORT TO THE BENTON COUNTY HEARINGS EXAMINER

**Miguel's Venue
Reception Facility**

HEM 1.1

FILE NO: CUP 2023-012

HEARING DATE: October 20, 2023

APPLICANT: Joshua Bam for Gravis Law
503 Knight Street, Suite A
Richland, WA 99352

OWNER: Jessica Morales
3909 Equinox Ct,
Pasco, WA 99301

LOCATION: General Location:
The project is located in the Finley area of unincorporated Benton County, approximately 1 mile east of the intersection of Oak Street and Game Farm Road, across from Santiago Country View Estates Mobile Home Park.

Situs Address: 201005 E Game Farm Rd, Kennewick, WA.

Abbreviated Legal: Section 29, Township 8N, Range 30E, W.M., Lot 1 of Short Plat 3728.

Parcel Number: 129801013728001

PROPERTY SIZE: Approximately 5.33 acres

AREA TO BE USED: Approximately 2.5 acres

LAND USE: Residential

ZONING: Rural Lands Five Acre District (RL-5)

**COMPREHENSIVE
PLAN DESIGNATION:** Rural Remote

RECOMMENDATION:

The Planning Division is not providing a recommendation for this application. Should the application be approved, the Planning Division has provided twenty-three (23) Findings of Fact and seventeen (17) Conditions of Approval outlined in this Staff Report.

APPLICATION DESCRIPTION:

The applicant is requesting a Conditional Use Permit to operate a reception facility in the Rural Lands Five Acre Zoning District (HEM 1.8). This reception facility is proposed to have a capacity of up to 150 attendees for several types of events including but not limited to weddings and birthday parties. A maximum of 12 events per month are proposed to take place year-round.

Events are proposed to be held indoors only with live bands, DJs, digital, natural and/or amplified sound contained within a proposed 5,334 square foot enclosed reception facility structure (HEM 1.12). Events shall begin at or after 10:00 a.m. and conclude at or before 10:00 p.m. The applicants have planted trees around the proposed reception facility in order to reduce the sound from traveling to nearby residences as well as to reduce the visibility of the facility.

Events are to be catered with pre-cooked meals and pre-packaged food only with no meal preparation to take place onsite. Catering services will provide and serve alcohol, though Miguel's Venue may apply for its own liquor licensing through the Washington State Liquor and Cannabis Board at a later time. Events with greater than 50 guests will be provided with security and traffic management.

The property is approximately 5 acres in size with an existing residence in the northeast corner of the property. Approximately 2.5 acres of the property is proposed to be used for the reception facility which shall include a sign not to exceed 4 feet by 4 feet (HEM 1.13), a 125-space parking area located in the northwest quarter and proposed 5,334 square foot reception facility structure located in the southwest quarter. The 125-space parking lot has undergone the required SEPA Environmental Checklist review process and was issued a Determination of Non-Significance on February 27, 2023.

The property is currently surrounded by agricultural and residential uses including a high-density residential development across Game Farm Road. The properties to the south and east are currently vacant however are being marketed as residential in use with future dwellings anticipated to be constructed. The applicant is proposing to live onsite in the existing residence.

Application submittal and notification dates are described below:

1. The application for CUP 2023-012 was submitted to the Benton County Planning Division on May 26, 2023. (HEM 1.5)
2. The application for CUP 2023-012 was declared incomplete for processing on June 1, 2023. (HEM 1.6)
3. An updated application and the requested Traffic Impact Analysis was submitted to the Benton County Planning Division on August 1, 2023. (HEM 1.8, HEM 1.9)
4. The application for CUP 2023-001 was declared complete for processing on August 17, 2023. (HEM 1.10)
5. The application documents for CUP 2023-012 were distributed to reviewing agencies on August 22, 2023. (HEM 1.11)
6. A Determination of Non-Significance for EA 2023-002 was issued on January 27, 2023. (HEM 1.3)
7. The Benton County Hearings Examiner Notice of Open Record Hearing was published on October 4, 2023, in the Prosser Record Bulletin. (HEM 1.4)
8. The Notice of Hearing was mailed to property owners of record within 300 feet of the outer

boundaries of the parcel on September 29, 2023.

9. The Open Record Hearing is scheduled for October 20, 2023.

APPLICABLE STANDARDS/ORDINANCES:

1. *Benton County Comprehensive Plan*
3.3.2.3 Rural Land Use Designations

Rural Remote is the predominant rural land use in the County. This land is located mostly between the agricultural lands (GMA Agriculture), Rural Transition, and the UGAs. Rural Remote land use is intended to enhance and preserve the County's rural character, which includes rural open space, low densities, wildlife habitat, public open space for outdoor recreational activities, and rural home sites on which a limited range of agricultural activities may be conducted. Allowable density in Rural Remote land use is 1DU/5acres.

2. *Benton County Code (BCC)*
Title 6 Health, Welfare and Sanitation
Chapter 6.35 Environmental Policy
Section 6.35.055 Flexible Threshold for Categorical Exemptions.

(a) The following exempt levels for minor new construction are established under WAC 197-11-800(1)

(b) based on local conditions:

(4) For parking lots in WAC 197-11-800(1)(b)(iv): Up to forty (40) parking spaces.

3. *Benton County Code (BCC)*
Title 6A Health and Welfare
Chapter 6A.15 Public Nuisance- Noise
Section 6A.15.030 Definitions (b): Plainly Audible

"Plainly audible" means able to be heard, understood or identified.

Section 6A.15.040 Public Nuisance- Noise - Unlawful. It is unlawful for any person to make, continue, or cause to be made or continued or to allow to originate from his or her personal or real property any public nuisance noise which:

(a) is plainly audible within any dwelling unit which is not the source of the sound or is generated within two hundred (200) feet of any dwelling; and,

(b) either annoys, disturbs, injures or endangers the health, comfort, repose, peace or safety of others.

4. *Benton County Code (BCC)*
Title 11 Zoning
Chapter 11.03 Definitions
Section 11.03.010 (149): Reception Facility

"Reception Facility" means a private building with restroom facilities and/or kitchen, and associated grounds used for social, educational, or cultural activities.

5. *Benton County Code (BCC)*

Title 11 Zoning

Chapter 11.11 Rural Lands Five Acre District (RL-5)

Section 11.11.060 Uses Requiring a Conditional Use Permit

(n) Reception facility with a capacity not to exceed two hundred (200) attendees.

6. *Benton County Code (BCC)*

Title 11 Zoning

Chapter 11.50 Variance and Conditional Use

Section 11.50.040 Conditional Use - 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.

Section 11.50.040 (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 to allow the Hearings Examiner to make the conclusions required above, the conditional use application shall be denied.

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.

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.

PUBLIC NOTICE:

1. The public notice requirements for this application as per BCC 11.50.050(b) are as follows:
 - a. The Planning Division shall provide written notification for an open record hearing, subject to the rules and regulations set forth in RCW 36.70. Written notice shall be mailed at least twelve (12) days in advance of the open record hearing to the applicant and the owner of the parcel(s) to which the proposed variance or conditional use permit would apply, and to all owners of real property, as shown in the records of the Benton County Assessor, located within a distance of three hundred (300) feet of any portion of the applicable parcel, provided that if the owner of the parcel for which the proposed variance or conditional use permit is requested owns another parcel or parcels adjacent the parcel at issue, notification shall be mailed to owners of real property located within three hundred (300) feet of any portion of such adjacent parcels as well. Failure to receive the notice shall not invalidate any proceedings or decision in connection with the proposed variance or conditional use permit. Notices addressed to the last known owner of record as shown on the County Assessor's records shall be deemed proper notice to the owner of such property; and,
 - b. By publication of a legal notice in a newspaper of general circulation in the County at least ten (10) days prior to the open record hearing date.

AGENCY COMMENTS:

1. The application documents were distributed to the following reviewing agencies on August 22, 2023, September 20, 2023, and October 2, 2023:
 - a. Benton County Building Division
 - b. Benton County Code Enforcement
 - c. Benton County Fire District #1
 - d. Benton County Fire Marshal
 - e. Benton County Sheriff's Office
 - f. Benton County Public Works Department
 - g. Benton Franklin Health District
 - h. Benton PUD
 - i. Kennewick Irrigation District
 - j. Washington State Liquor and Cannabis Board
 - k. Washington State Department of Ecology
2. The following comment was received from the Benton County Public Works Department on

August 24, 2023: (HEM 1.17)

- a. The parcel in question currently does not have a road approach permit on file. A road approach application is usually required during the construction of a new building, but improvements are decided during the permit review process.
 - b. If the existing approach to the house is going to be used it will need to be permitted and improved to current County standards.
 - c. The existing approach for SHP 3728 will not require improvements but a road approach application will still be required as per short plat note 7.
3. The following comment was received from the Benton County Building Division (HEM 1.16) on August 24, 2023:
- a. On behalf of the Building Division we have no specific issue with the project as proposed as long as the concerns of all Benton County Divisions are met.
 - b. From the perspective of the Building Division we would expect all applicable permits be obtained for the project to include a grading permit and building permit. Fire Marshal approval of any Fire-flow requirement of the Fire Code / IFC would also need to be met.
4. The following comment was received from the Washington State Department of Ecology (HEM 1.18) on September 21, 2023:
- a. In Washington State, prospective water users must obtain authorization from the Department of Ecology before diverting surface water or withdrawing ground water, with one exception. Ground water withdrawals of up to 5,000 gallons per day used for single or group domestic supply, up to 5,000 gallons per day used for industrial purposes, stock watering, and for the irrigation of up to one-half acre of noncommercial lawn and garden are exempt from the permitting process. Water use under the RCW 90.44.050 exemption establishes a water right that is subject to the same privileges, restrictions, laws and regulations as a water right permit or certificate obtained directly from Ecology.
5. The following comment was received from the Benton County Code Enforcement (HEM 1.19) on September 21, 2023:
- a. My comments are the same as last time. I feel the noise from the venue will have a direct impact on those that reside in the manufactured home park. The manufactured home park creates more of an urban type living and not the traditional rural living that normally a wedding event center would not compromise.
 - b. I would also request that this notice be sent to Benton County Sheriff's Department as well as Benton County Fire District 1 for their input, as adding the multitude of events will have a direct impact on their patrol and/or response if an emergency situation arises.
 - c. Are there emergency plans in place by the applicant to control or facilitate emergencies? What impact will this have on 9-1-1 Dispatch which is still operating under staff, will the additional 9-1-1 calls that may facilitate from the venue or neighboring residences.
 - d. There continues to only be one way in and one way out on the roadway, which is already heavily traveled by having the manufactured home park at the very east end of the street.
 - e. The following comment was received from the Benton County Code Enforcement during the review of CUP 2023-001 (HEM 1.14) on January 31, 2023 and again on October 12, 2023 (HEM 1.22):

- i. Although the property is zoned Rural Lands Five Acre District (RL-5), which generally may allow such activities with Hearings Examiner approval, there is a manufactured home park (pre-existing non-conforming use) directly across the street which houses just under 200 manufactured homes. Not only does this park increase the amount of traffic on E. Game Farm Rd, which currently only has one way in and out of this portion of the neighborhood and adding a reception/event type business activity would only increase the amount of traffic which affect those residing in the manufactured home park as well as surrounding single-family dwellings.
- ii. Benton County Public Works is currently in a design phase to add an additional entry/exit road that will service that area; however, the project will probably not start for 1-2 years.
- iii. The other concern is complying with the Public Nuisance Noise Code (Benton County Code Chapter 6A.15)
 - BCC 6A.15.030 Definitions (a) Public Nuisance Noise- means the making, creation or maintenance of excessive, unnecessary or unusually loud noises which are unusual in their time, place, and use, affect and are a detriment to the public health, comfort, convenience, safety, welfare and prosperity of the people of the county. Public nuisance noise shall include continuous or repeated barking from a dog which would otherwise fulfill the definition set forth above.
 - BCC 6A.15.030 Definitions (b) Plainly Audible- means able to be heard, understood or identified.
- iv. Loud music, which meets the definitions above, are not exempt from this ordinance in accordance with Benton County Code 6A.15.050 Exemptions.
- v. I believe there would be an increase in complaints for violating the nuisance noise ordinance since music would be an airborne sound. When airborne sound waves traveling through the air reach a building element such as walls, doors, or windows, they cause vibrations. The vibrations are transmitted through the structure and radiated on the other side. Since the property for this venue request is located to the south of the manufactured home park, which is elevated by the natural topography, it will increase the airborne noise and there will be more “walls, doors, or windows” causing vibrations that increase the noise nuisance resulting in an increase in complaints.
- vi. The manufactured home park makes the setting more of a confined urban area and is not the normal rural areas that are generally seen in the RL-5 District.
- vii. The severity of the penalties for violation the noise nuisance is a \$500.00 infraction for the first offense. If the infraction is found committed, a second offense would result in criminal misdemeanor charges. Misdemeanor’s result in a \$1000.00 fine and/or up to ninety (90) days in jail. And since there is no code or ordinance in place allowing special circumstances or exemptions, I feel approving this “venue” would be placing the owners and/or responsible parties at risk of such penalties which are enforced by the Benton County Sheriff’s Department.

6. The following comment was received from the Benton County Fire Marshal (HEM 1.20) on October 11, 2023:

- a. In review of the proposal for a reception facility the following would be required:

- b. A sprinkler system engineered by a design professional with a monitoring alarm system.
 - c. Exit signs and fire extinguishers per code.
 - d. Firefighting water storage per NFPA 1142 to supply required water for engineered sprinkler system and required water for firefighting. Water can be stored in a compliant tank or pond equipped with a dry hydrant.
 - e. There would need to be fire vehicle or emergency response vehicle access with a turn around. In a worst-case scenario, there would be a mass exodus of vehicles in the designated parking area. This would cause a problem for emergency vehicles to enter and provide services. It would therefore be necessary to have a dedicated access for emergency vehicles. It would need to be located so that patrons, vendors, and others would not be able to access so it cannot be blocked. As a suggestion a fence could be erected to section it off from the parking area. A gate could also be placed at the road with a Knox box that could be accessed only by emergency responders. The road or access would need to comply with Benton County driveway and private road requirements.
7. The following comment was received from the Benton County Sheriff's Office (HEM 1.21) on October 11, 2023:
- a. The Benton County Sheriff's Office has concerns of the Conditional Use Permit regarding an event center located at 201005 E Game Farm Road.
 - b. The location of the facility is adjacent to a residential neighborhood, and has the potential to disrupt the living environment afforded to those who reside at said location.
 - c. The roadway into the location will directly affect those that live in the area and emergency response. This area is a two lane road with only one way in and one way out, single access. The increased traffic will disrupt the area with the potential of 150 guests (vehicles) per event, and up to 12 times per month.
 - d. The Benton County Sheriff's Office has concerns about the increased volume of calls for the location (loud music, traffic complaints, disturbances, medical aide). An event center of this size would require multiple deputies to respond in an emergency and would deplete our presence in the community. The Benton County Sheriff's Office is focused on providing emergency service for the community, and the potential for increased calls will decrease our ability to provide those law enforcement services.

PUBLIC COMMENTS:

The Benton County Planning Division has received numerous phone calls and correspondence from surrounding property owners of whom are concerned about the impacts this proposal will have on their neighborhood. One of the primary concerns is the increase in traffic. Traffic congestion is reportedly already an issue on the rolling two lane road, it is a concern that the addition of this facility will cause a bottle neck of vehicles during peak traffic times. As a result, should an emergency occur while an event is taking place, emergency services are likely to be delayed to the patrons, as well as existing residents.

It has been stated that the majority of the public that will be attending, likely will not be familiar with the area which will increase the potential for accidents. The presence of alcohol may increase the likelihood for physical violence at the event center along with impaired driving. As a result of the potential accidents and need for law enforcement assistance there are concerns that the Sheriff's department may not have enough resources to patrol and enforce violations in this rural area as well as the remainder of their

existing jurisdiction.

With the possibility of events occurring every day/night the residents are concerned that the peacefulness of this rural area will be diminished. This facility will create a large amount of noise that will disrupt the existing quiet nature of the area. In addition to the increase in traffic, violence, and noise the landowners are concerned that this facility will lead to an increase in criminal activity in the form of theft and vandalism, causing undue burden and hardship on the surrounding community.

FINDINGS OF FACT AND CONDITIONS OF APPROVAL:

The following suggested 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 public hearing for this application will need to be considered by the Hearings Examiner and may be added to the Findings of Fact and Conditions of Approval. 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, Planning Staff is providing both findings for denial and approval depending on the decision of the Hearing Examiner.

SUGGESTED FINDINGS OF FACT (DENIAL):

1. The applicant is Joshua Bam of Gravis Law, 503 Knight Street, Suite A, representing Jessica Morales of Miguel's Venue, 3909 Equinox Ct, Pasco, WA 99301.
2. The applicant is requesting a Conditional Use Permit to operate a reception facility in the Rural Lands Five Acre Zoning District.
3. The proposed reception facility is located in the Finley area of unincorporated Benton County, approximately 1 mile east of the intersection of Oak Street and Game Farm Road, at site address 201005 E Game Farm Road. Parcel number 129801013728001.
4. The property is approximately 5 acres in size and residential in nature.
5. Approximately 2.5 acres of the property is proposed to be used for the reception facility.
6. The reception facility proposes to include a sign not to exceed 4 feet by 4 feet, a 0.5-acre parking area located in the northwest quarter of the property, and a 5,334 square foot reception facility structure located in the southwest quarter of the property.
7. The 125-space parking lot has undergone the required SEPA Environmental Checklist review process and was issued a Determination of Non-Significance on February 27, 2023.
8. Events are proposed to be held indoors only with live bands, DJs, digital, natural and/or amplified sound contained within a proposed 5,334 square foot enclosed reception facility structure.
9. Events shall begin at or after 10:00 a.m. and conclude at or before 10:00 p.m.
10. Events are to be catered with pre-cooked meals and pre-packaged food only.
11. The property is currently surrounded by agricultural and residential uses including a high-density residential development across Game Farm Road.

12. The properties to the south and east are currently vacant residential lots.
13. The existing single-family residence onsite shall be occupied by either the owner or a tenant.
14. The proposed reception facility is allowable by Conditional Use Permit if approved by the Benton County Hearings Examiner.
15. The applicant submitted the following materials for the CUP review process on May 26, 2023:
 - a. Benton County Conditional Use Permit Application
 - b. Narrative and Project Variables
 - c. Audio Report
 - d. DOH Group Well Approval
 - e. Benton Franklin Health District Sewage Disposal System Construction Permit
 - f. SEPA Determination
 - g. Site plan
16. The applicant submitted an updated application and a Traffic Impact Analysis on August 1, 2023.
17. A DNS was issued by Benton County associated with this application on February 27, 2023.
18. There are designated critical areas of steep slopes and erosion on this property. A critical area report is required for all non-exempt activities that occur within designated critical areas.
19. Public notice requirements have been met for CUP 2023-012.
20. Comments were received from the public and the following agencies:
 - a. Benton County Building Division
 - b. Benton County Code Enforcement
 - c. Benton County Fire Marshal
 - d. Benton County Sheriff's Office
 - e. Benton County Public Works Department
 - f. Washington State Department of Ecology
21. The application for CUP 2023-012 does not meet the intent and standards of the Benton County Comprehensive Plan.
 - a. The property is located on lands designated Rural Remote in the Benton County Comprehensive Plan's Land Use Designations Map (Figure 5, Benton County Comprehensive Plan Appendix A).
 - b. A reception facility at this location does not assist in enhancing and preserving the County's rural character, which includes rural open space, low densities, wildlife habitat, public open space for outdoor recreational activities, and rural home sites on which a limited range of agricultural activities may be conducted.
22. The application for CUP 2023-012 does not meet the definition, requirements, and standards of the Benton County Code, Title 11 (Zoning).
 - a. The property is zoned Rural Lands Five Acre District (RL-5).
 - b. A reception facility at this location does not further, enhance, and preserve Benton County's rural character, which includes rural open space, low densities, wildlife habitat, public open space for outdoor recreational activities, and rural homesites on which a limited range of agricultural activities may be conducted.
23. The application for CUP 2023-012 does not meet the requirements of Section 11.50.040 (d) Conditional Use - Permit Granted or Denied.
 - a. The proposed reception facility is not compatible with other uses in the surrounding area.

SUGGESTED FINDINGS OF FACT (APPROVAL):

1. The applicant is Joshua Bam of Gravis Law, 503 Knight Street, Suite A, representing Jessica Morales of Miguel's Venue, 3909 Equinox Ct, Pasco, WA 99301.
2. The applicant is requesting a Conditional Use Permit to operate a reception facility in the Rural Lands Five Acre Zoning District.
3. The proposed reception facility is located in the Finley area of unincorporated Benton County, approximately 1 mile east of the intersection of Oak Street and Game Farm Road, at site address 201005 E Game Farm Road. Parcel number 129801013728001.
4. The property is approximately 5 acres in size and residential in nature.
5. Approximately 2.5 acres of the property is proposed to be used for the reception facility.
6. The reception facility proposes to include a sign not to exceed 4 feet by 4 feet, a 125 space parking area located in the northwest quarter of the property, and a 5,334 square foot reception facility structure located in the southwest quarter of the property.
7. The 125-space parking lot has undergone the required SEPA Environmental Checklist review process and was issued a Determination of Non-Significance on February 27, 2023.
8. Events are proposed to be held indoors only with live bands, DJs, digital, natural and/or amplified sound contained within a proposed 5,334 square foot enclosed reception facility structure.
9. Events shall begin at or after 10:00 a.m. and conclude at or before 10:00 p.m.
10. Events are to be catered with pre-cooked meals and pre-packaged food only.
11. The property is currently surrounded by agricultural and residential uses including a high-density residential development across Game Farm Road.
12. The properties to the south and east are currently vacant residential lots.
13. The existing single-family residence onsite shall be occupied by either the owner or a tenant.
14. The proposed reception facility is allowable by Conditional Use Permit if approved by the Benton County Hearings Examiner.
15. The applicant submitted the following materials for the CUP review process on May 26, 2023:
 - a. Benton County Conditional Use Permit Application
 - b. Narrative and Project Variables
 - c. Audio Report
 - d. DOH Group Well Approval
 - e. Benton Franklin Health District Sewage Disposal System Construction Permit
 - f. SEPA Determination
 - g. Site plan
16. The applicant submitted a Traffic Impact Analysis on August 1, 2023.
17. A DNS was issued by Benton County associated with this application on February 27, 2023.
18. There are designated critical areas of steep slopes and erosion on this property. A critical area report is required for all non-exempt activities that occur within designated critical areas.

19. Public notice requirements have been met for CUP 2023-012.
20. Comments were received from the public and the following agencies:
 - a. Benton County Building Division
 - b. Benton County Code Enforcement
 - c. Benton County Fire Marshal
 - d. Benton County Sheriff's Office
 - e. Benton County Public Works Department
 - f. Washington State Department of Ecology
21. The application for CUP 2023-012 does meet the intent and standards of the Benton County Comprehensive Plan.
22. The application for CUP 2023-012 does meet the definition, requirements, and standards of the Benton County Code, Title 11 (Zoning).
23. The application for CUP 2023-012 does meet the requirements of Section 11.50.040 (d) Conditional Use - Permit Granted or Denied.

SUGGESTED CONDITIONS OF APPROVAL:

1. The ongoing activities on the site shall comply with the submitted site plan(s) and materials submitted for this application including but not limited to:
 - a. Benton County Conditional Use Permit Application
 - b. SEPA Checklist
 - c. Business proposal
 - d. Benton Franklin Health District Sewage Disposal System Construction Permit
 - e. Proposed site plans
2. Use shall be limited to a reception facility with a capacity not to exceed one hundred and fifty (150) attendees.
3. Applicant is subject to Benton County Code Section 6A.15 Public Nuisance Noise.
4. The reception facility events, and any associated amplified music shall only be permitted within a sound proofed enclosed building. No events or related activities shall take place outdoors. The applicant shall continue to meet such requirements while Conditional Use Permit CUP 2023-012 is in effect.
5. The owners/operators shall provide an emergency response and fire lane approved by the Benton County Fire Marshal. If the existing 40-foot access easement is to be utilized as an emergency response and fire lane it must include a minimum of one approved turnout and be unobstructed at all times during an event at the facility. The design is to be coordinated and approved by the Benton County Fire Marshal and Benton County Fire District #1. The applicants shall continue to meet all such requirements while Conditional Use Permit CUP 2023-012 is in effect.
6. Curbing, fencing, or other permanent barrier shall be placed and maintained between the 40-foot access easement and parking area so as to prevent attendees of the reception facility from utilizing this access easement while allowing for the passage of emergency vehicles.
7. The rules and regulations of the Washington State Liquor and Cannabis Board must be followed at all times. Appropriate permits or licenses must be obtained for any alcohol consumption on the premises. The owners/operators shall continue to meet all such requirements while

Conditional Use Permit CUP 2023-012 is in effect.

8. The owners/operators must provide the Benton County Planning Division with a copy of their liquor license for the reception facility should they obtain one.
9. Owners/operators must develop and maintain a garbage cleanup and disposal plan. All waste created in association with the business as a result of this conditional use permit must be disposed of off-site in a timely manner and in compliance with all local, state and/or federal regulations. The applicant shall continue to meet all such requirements while Conditional Use Permit CUP 2023-012 is in effect.
10. Owners/operators or tenant must reside in or otherwise maintain the existing residence in a condition of good repair. The existing residence shall not be used in connection with any activities under this cup. If at any time the residence is intended to be used in association with the reception facility, Conditional Use Permit 2023-012 must be amended.
11. If at any time the vegetative buffer around the reception area dies or otherwise no longer provides an adequate sound and/or visual barrier, it shall be replanted or otherwise replaced within one year of death, disease, or damage.
12. New construction at the site requires review by the County Building Division and a determination shall be made if permits and/or engineered designs are required.
13. Owners/operators shall be responsible to obtain and comply with any applicable federal, state, and local laws, and must obtain all necessary permits and approvals prior to operation.
14. Future construction or activities associated with this business operation require review under the Benton County Zoning Ordinance. Applicants shall contact the Planning Division prior to any construction or changes in activities on site.
15. The project facility shall follow the rules and regulations of the Benton-Franklin Health District at all times, including standards for drinking water, on-site sewage systems, and BFHD standards.
16. A Group A water system shall be approved by the Washington State Department of Health prior to the Conditional Use Permit issuance and maintained for the life of CUP 2023-012.
17. 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.

TIME TO COMPLETE CONDITIONS OF APPROVAL:

The applicant shall have one year to meet the Conditions of Approval.

If the conditions of approval have not been met and the Planning Division does not issue the Conditional Use Permit within one (1) year from the date of this decision, the Hearings Examiner may declare it 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.

TRANSFERABILITY:

This Conditional Use Permit is not transferrable by a holder. If a new property owner wishes to operate a reception facility, they must apply for a new Conditional Use Permit.

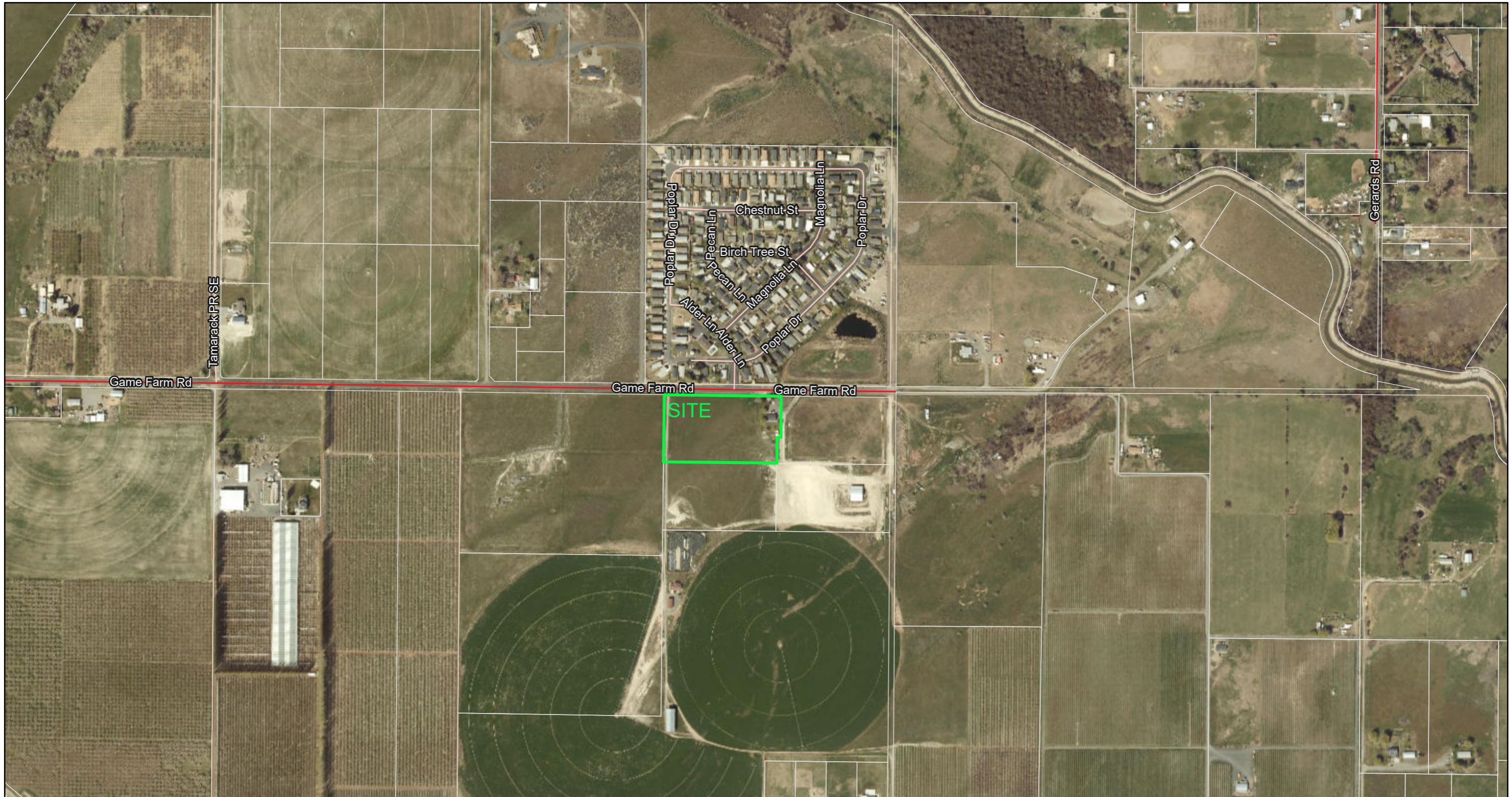
VIOLATIONS OF CONDITIONS OF APPROVAL:

The Applicant shall continue to meet all conditions of this Conditional Use Permit while CUP 2023-012 is in effect.

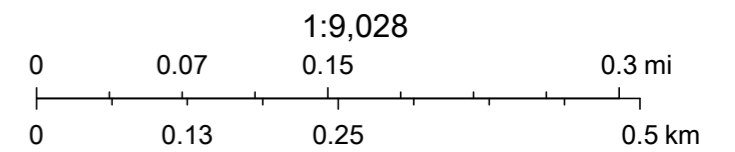
Any violation of the conditions of approval will be processed in accordance with BCC Title 11, Chapter 11.43 Administration and Disposition of Infractions. If the Conditional Use Permit has been issued and violations exist, the Hearings Examiner may revoke the permit after an open record hearing with notice as set forth in BCC 11.50.050(b), as amended. This condition does not foreclose the County's use of other enforcement mechanisms.

CUP 2023-012 Gravis Law/Miguel's Event Venue

HEM 1.2



9/27/2023, 1:01:21 PM



Benton County WA, Geophex Surveys Ltd., Maxar

Community Development Department

Prosser Office: 620 Market Street, 1st Floor
Kennewick Office: 102206 East Wisner Parkway
www.co.benton.wa.us



Planning Division

(509) 786-5612
P.O. Box 910, Prosser, WA 99350
planning.department@co.benton.wa.us

HEM 1.3

Notice of Application (Optional DNS Process)

Benton County has received a permit application for the following project:

An outdoor reception facility (event center) with permanently affixed restroom accommodations, and a 125-space parking area. Events held on-site shall not exceed two hundred (200) attendees and will be limited to conditions determined through the Conditional Use Permit process.

Project Location:

The project is in unincorporated Benton County, generally located in the Finely area, approximately 1 mile east of the intersection of Oak Street and Game Farm Road, across from Santiago County View Estates Mobile Home Park, at site address 201005 E Game Farm Road, Kennewick, WA. The parcel is legal described as Lot 1 of Short Plat 3728 in Section 29, Township 08 North, Range 30 East, W. M., parcel number 129801013728001.

Agency Contact:

Michelle L. Cooke, Planning Manager, Benton County Planning Division
Planning.Department@co.benton.wa.us
Phone Number: (509) 786-5612

Project Applicant:

Jessica Morales
3909 Equinox Ct.
Pasco, WA. 99301

Agency File Number:

EA 2023-002

<u>Date of permit application:</u>	January 12, 2023
<u>Date of determination of completeness:</u>	January 20, 2023
<u>Date of Notice of Application:</u>	January 27, 2023
<u>Notice of Application Publication Date:</u>	February 1, 2023
<u>Comment due date:</u>	14 days after date of publication

SEPA Environmental Review: The Benton County Planning Division has reviewed the proposed project for probable adverse environmental impacts and expects to issue a Determination of Non-Significance (DNS) or Mitigated Determination of Non-Significance (MDNS). The proposal may include mitigation measures under applicable codes, and the project review process may incorporate or require mitigation measures regardless of whether an EIS is prepared. The optional DNS process in WAC 197-11-355 is being used. This may be your only opportunity to comment on the environmental impacts of the proposed project.

Agencies, tribes, and the public are encouraged to review and comment on the proposed project and its probable environmental impacts. Comments must be submitted by the due date noted above (14 days from date of publication) to the Benton County Planning Division, P.O. Box 910 Prosser, WA 99350. 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.

This project does require an open record hearing before the Benton County Hearings Examiner. A copy of the subsequent threshold determination and any other information concerning this action may be obtained by contacting the Benton County Planning Division at P.O. Box 910, Prosser, WA, or (509) 786-5612.

Preliminary Development Regulations and Existing Environmental Documents: To evaluate the impacts of the proposed project, the following may be used for mitigation, consistency, and the development of findings and conclusions:

Regulations of Benton County including the Benton County Comprehensive Plan, BCC Title 3 Building, Fire, and Road Standards, BCC Title 6.35 SEPA, BCC Title 11 Zoning, and BCC Title 15 Critical Area Ordinance;

Regulations of the Washington State Department of Fish and Wildlife, Washington State Department of Ecology, and Washington State Department of Natural Resources;

Regulations of the Benton-Franklin Health District; and SEPA Environmental Checklist; and

Other required agency evaluations, approvals, permits, and mitigation as necessary.

Required Permits:

Benton County Building/Grading Permit. Other forms, reports, or approvals as necessary.

Required Studies:

None known.

Dated at Kennewick, Washington on this 27th day of January 2023.



A handwritten signature in blue ink, appearing to read "Michelle Cooke".

Michelle Cooke, Planning Manager
Community Development Department



HEM 1.4

NOTICE OF OPEN RECORD HEARINGS

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

NOTICE IS FURTHER GIVEN that said the Benton County Hearings Examiner will hold an open record public hearing for each of the below stated applications **on October 20, 2023** at 10 a.m. in the Planning Hearing Room, First Floor Courthouse, 620 Market Street, Prosser WA 99350. The hearings will be held in-person and virtually/telephonically via Webex. To find information on attendance & testimony options, directions to the meeting room and to review documentation for the application, please visit <https://tinyurl.com/BCpublicnotice>.

VARIANCE PERMIT – VAR 2023-005 The applicant Ryan Hone is proposing to install flood venting rather than elevating an accessory structure (shop) as it has already been constructed at 113520 N Harrington Rd, West Richland, WA 99353 and is 8 inches short of the 1 foot regulatory flood elevation. Parcel# 1-0407-401-2831-002.

CONDITIONAL USE PERMIT – CUP-2023-012 The applicant Gravis Law (Joshua Bam) on behalf of Miguel's Venue is proposing to utilize a portion of the 5-acre residential property for a reception facility at 201005 E Game Farm Rd, Kennewick, WA 99337. There are proposed to be up to 12 events a month with a maximum of 150 attendees. Parcel # 1-2980-101-3728-001.

Anyone may participate in the hearings and present testimony or comments on an application. Persons may appear in person or virtually/telephonically during the hearing or provide written testimony to the Hearings Examiner (care of the Planning Division) on or before the date of the hearing. Written comments can be emailed to planning.department@co.benton.wa.us, dropped off or mailed to the Planning Division office at the Public Services Building 102206 E. Wiser Parkway, Kennewick. Any information submitted to Benton County is subject to the public records disclosure laws for the State of Washington (RCW Chapter 42.17) and all other laws that may require the release of the documents to the public.

If you wish to provide testimony during the hearing (in person or virtually), we ask that you inform the Planning Division before the meeting. You can do that by filling out a Request to Testify form at <https://tinyurl.com/testifyform> or by contacting our office to be added to the list. **You must submit a request for each hearing in which you**

wish to participate. We ask that participants who will be attending virtually please limit background noise and/or mute their line to prevent interruptions during the meeting.

If you have questions regarding any of the actions before the Hearings Examiner or the hearing process, please contact the Planning Division at (509) 786-5612, Planning.department@co.benton.wa.us, 102206 E. Wiser Parkway, Kennewick, WA 99338.

Dated this 29th day of September 2023.

PUBLICATION DATE: October 4, 2023

SUSAN E. DRUMMOND
Benton County Hearings Examiner

MICHELLE L. MERCER, Planning Manager
Community Development Department

Planning Department

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



www.co.benton.wa.us
planning.department@co.benton.wa.us
Prosser Office: 620 Market Street, 1st Floor
Kennewick Office: 102206 East Wisner Parkway

CONDITIONAL USE PERMIT APPLICATION

HEM 1.5

RECEIVED

File No. CUP 2023-012

MAY 26 2023

**Benton County
Planning Division**

APPLICANT INFORMATION

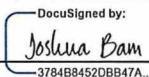
Please check the box indicating primary contact person for this application

Name of Applicant/Agent: Joshua Bam, Gravis Law PLLC

Mailing Address: 503 Knight Street, Suite A City: Richland State: WA ZIP: 99352

Phone #1: 509-380-9048 Phone #2: _____

Email Address(es): joshua@gravislaw.com

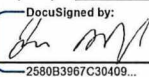
Signature:  Date: 5/22/2023
DocuSigned by:
3784B8452DBB47A...

Name of Property Owner(s) (if different): Jessica Morales

Mailing Address: 3909 Equinox Court City: Pasco State: WA ZIP: 99301

Phone #1: 509-531-3844 Phone #2: _____

Email Address(es): jessicam327@hotmail.com

Signature:  Date: 5/18/2023
DocuSigned by:
2580B3967C30409...

Signature: _____ Date: _____

**If there are additional owners please copy this section, sign, and attach to the application*

If the property is owned by a corporation, trust, partnership or LLC please complete the entity signature block below showing that the person signing has the authority to sign on behalf of the company.

ENTITY SIGNATURE BLOCK

Applicant/Legal Owner name: _____

Officer name: _____ Title: _____

Signature: _____ Date: _____

THE ABOVE SIGNED OFFICER OF (name of entity) _____ WARRANTS AND REPRESENTS THAT ALL NECESSARY LEGAL AND CORPORATE ACTIONS HAVE BEEN DULY UNDERTAKEN TO PERMIT (name of applicant) _____ TO SUBMIT THIS APPLICATION AND THAT THE ABOVE SIGNED OFFICER HAS BEEN DULY AUTHORIZED AND INSTRUCTED TO EXECUTE THIS APPLICATION.

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.

Conditional Use Permit Application – Applicant’s Narrative and Supplementary Information

Prepared for:

Gravis Law
c/o Joshua Bam
503 Knight Street, Suite A
Richland, WA 99352

On behalf of:

Miguel’s Event Venue
c/o Jessica Morales
3909 Equinox Court
Pasco, WA 99301

RECEIVED

MAY 26 2023

Benton County
Planning Division

Subject Property Address: 200105 East Game Farm Road
Kennewick, WA 99337
Parcel No: 1-2980-101-3728-101

BACKGROUND

Jessica Morales is the owner of real property in Benton County, WA as above addressed and referenced, which is subject to the Conditional Use Application process as established by the County. The property is zoned Rural Lands Five Acre District (RL-5), has a Land Use Designation of Rural Remote, and is approximately 5.33 acres in size. Ms. Morales seeks to continue the single-family residential use located on the Northeast portion of the property and utilize the remaining land for a Reception facility with a capacity not to exceed two hundred (200) attendees (Benton County Code 11.11.060(n)).

This is the second application for the proposed conditional use permit approval and seeks to clarify several components of the first application that were made without professional counsel. Notably, without prior knowledge of the importance of supplying objective evidence required of a quasi-judicial process, Ms. Morales was inappropriately advised by the county to apply for the highest and greatest intensity possible for her proposed use despite her preference for a more reserved scale.

PROPOSED CONDITIONS OF APPROVAL (APPLICANT)

- 1) Operation
 - a) Venue operation April through October each year.
 - b) Maximum of 12 receptions per month.
 - c) Amplified sound and/or unamplified music to begin no earlier than 10:00 a.m. and cease no later than 10:00 p.m.
 - d) Applicant will develop and maintain a garbage cleanup and disposal plan.
 - e) A maximum of **100-150 attendees per event**; noting that the applicant is open and willing to consider a maximum under 100 attendees based upon the findings of the County and Hearings Examiner. Respectfully, applicant requests consideration of a reduction in attendee count prior to outright recommendation of denial.
- 2) Facilities
 - a) All receptions will occur outdoors.

- b) Utilization of no more than 2.5 acres of the subject parcel for the conditional use of 'Reception Facility,' and retainage of the remainder of the property to continue by-right permitted uses.
 - c) A structure no more than 400 square feet will be constructed for storage, a sanitary cleaning station with hot and cold running water, and a single-use restroom.
 - d) No reception activities will occur within the residential use, which will continue to be used solely as a residence.
 - e) An access easement and designated emergency vehicle turnaround are provided per Benton County Short Plat No. 3728 to the subject parcel (Lot 1) as well as to the parcel behind it (Lot 3). This document is filed under Benton County Auditors File No. 2022-004392. This access will be provided signage 'Private Access' and additional signage to indicate 'Emergency Access – Stopping, Standing or Blocking Prohibited.' Primary attendee access will be maintained adjacent to residential home for access to the parking and reception areas, and to maintain free and clear access for emergency vehicles to the subject parcel and Lot 3 to the South. Additional emergency vehicle turnarounds may be provided as conditioned or required by Benton County public safety.
 - f) Applicant will provide during each reception as needed a mobile sanitary dual-restroom facility adjacent to the event that arrives supplied with ample freshwater and wastewater holding capacity. No 'black' water from the mobile unit will be dumped on site and will be professionally disposed of by the associated vendor.
- 3) The following permits will be sought or obtained prior to reception activities commencing:
- a) Grading, land development and building permits.
 - b) State of Washington Department of Health Water System Permit (Approved).
 - c) Sewage Disposal System Construction Permit (Approved).
 - d) Sign permit (installed outside County right-of-way)
 - e) Road approach permit as required.

APPLICANT'S RESPONSE TO BENTON COUNTY CODE SECTION 11.50.040 (D)

Benton County Code dictates that a conditional use permit will be granted 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.

The subject site is located in semi-rural Benton County, approximately 1.5 miles 'as the crow flies' and 2.0 miles by public road from City of Kennewick Municipal Limits and portions of the County's Urban Growth Area. The property is 5.33 acres and is zoned Rural Lands Five Acre District (RL-5) and is (measured by closest neighboring points between parcel boundaries) approximately 375 feet from a swath of land (425 +/- acres) zoned as Growth Management Area Agricultural (GMA-AG).

Major surrounding land uses include a 136 acre cherry and apple orchard to the West, a modular home community to the North, and agricultural uses to the East and South.

The following are offered to demonstrate compatibility with other nearby uses:

- The following uses are **permitted-by-right** without exclusion or limitation to their intensity that may generate an equal or greater frequency or occasion for noise, odors, or outdoor activity:
 - Agricultural uses
 - Agricultural stand
 - Nursery/greenhouse
 - Wineries/Breweries/Distilleries (limitation of 3,000 square feet for structures, no limit on outdoor seating, entertaining, etc.)
 - Church (limitation of 3,000 square feet for structures, no limit on outdoor seating, entertaining, etc.)
- The following uses are **currently operating** without exclusion or limitation to their intensity that may generate an equal or greater frequency or occasion for noise, odors or outdoor activity:
 - Cherry Ridge Farms (136 acres, cherry and apple orchard)
 - Schmelzer Farms (175 acres)
 - Desert Oak Cherries (102 acres, cherry orchard)

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;

The subject property and associated proposed conditional use of **Reception Facility** is no more intensive than the surrounding land uses permitted by right, and in many regards satisfy the Benton County Comprehensive Land Use Plan's Goals and Policies in seeking an adequate transition from the intensity of adjacent agricultural uses and rural residential uses. Seen below, the following elements of the subject property are shown in context of how they support selected relevant elements of the comprehensive plan's Goals and Policies.

>>>QUOTATION OF BENTON COUNTY COMPREHENSIVE PLAN HIGHLIGHTED IN YELLOW<<<

>>>QUOTATION OF BENTON COUNTY CODE HIGHLIGHTED IN GREEN<<<

- Benton County Comprehensive Plan, Land Use Goal 1: Ensure that land uses are compatible with surrounding uses that maintain public health, safety, and general welfare.
 - Policy 1: Maintain a mix of land uses that supports the character of each rural community.

- The subject property serves ideally as a buffer from the intensive agricultural operations concentrated in the 'GMA-AG' land use and the increasingly lower densities of rural residential located within the 'Rural Remote' land use.
- Located less than 1.5 miles (as the crow flies) from the City of Kennewick's municipal boundaries and several portions of the Urban Growth Area, the property is within a reasonable distance of several urbanized elements of the wider community. The proposed Reception Facility is ideally situated as a prime example of a conditional use; not so typically remote as many of the uses in the surrounding zoning district, and likewise surrounded by several similar generators of noise, odors and outside activity of the adjoining 'GMA-AG' land use.

○ Policy 3: Maximize the opportunities for compatible development within land use designations to serve a multitude of compatible uses and activities.

- Provided that there is a preexisting non-conforming use (modular home community) directly to the North, the area already contains a higher density of comingled uses that are otherwise atypical of the 'Rural Remote' land use. This would continue the trend of creating conforming uses that more fully align with the character of the surrounding area.
- As demonstrated in Exhibit A to this application cherry growing is the most prolific adjoining commercial activity, which has a growing, picking, and operational season aligned with the proposed use. Without specificity to any one operation, the typical growing season is most precarious during early spring as colder nights turn into much warmer days – condensation built up overnight on the cherries surface can shock or cause the cherry to split, requiring intensive drying operations to protect the crop. Cherry drying is most commonly performed with helicopters, which can be seen in the photos attached to the exhibit operating in the immediate area. This activity must occur early in the morning, in most cases at time far earlier than that of the proposed use.
- In comparison to the adjoining uses, a Reception Facility would be considered business/commercial activity, specifically exempted as 'sounds originating from harvesting, farming, ranching, agriculture, industrial or commercial activities' (Benton County Code Section 6A.15.050(g)).
- As demonstrated in the proposed conditions for the venue's operation, activities are designated to begin and end within the time frames permitted as an exemption for 'sounds created by unamplified human voices from 6:00 a.m. to 10:00 p.m.' (Benton County Code Section 6A.15.050(p)).
- Exhibit B to this application provides audio decibel level check at several intervals away from the amplified audio source level with most readings taken at no more than 5 feet from the 'receiving' adjacent properties. Without any grading or barriers erected to dampen the noise emanating from the audio source the readings at the receiving properties were between 51-53db. This was compared to level checks in the area with people speaking (67-74db) and vehicles going by (69-84db) to compare to ambient sound. Grading of the property and the designed setback from existing residential uses would further dampen any noises emanating from the use, which is already well below typical

ambient noise. As additional clarification, Riverside Audio notes that the following factors were considered in their review:

- The source audio device, a Bose Lpro16 amplified audio system has a 180 degree wide projection with very little loss or degradation across its projection range. This represents extremely high quality equipment that has a more robust dispersal of sound than most of the equipment utilized by consumers and professionals. Most commonly utilized equipment is going to have a narrower and shorter ability to project sound over most areas.
- The source audio device was amplified to 92 db at the source that resulted in a receiving property sound level of 51-53 db – lower than that of people speaking or cars driving by directly adjacent to the receiving property.
- The source audio device was amplified for 60 seconds so that the reading at the receiving property line was increased from 51-53 db up to 70 db without any known complaints.
- Testing performed at the source audio device and the receiving properties are believe to be Class A EDNA.

○ Policy 4: Establish regulations for site planning and design to avoid or reduce potential impacts associated with "land use incompatibility" of proposed non-farm developments on parcels adjacent to lands designated GMA Agriculture, Rural Resource, or adjacent to lands being farmed commercially within other rural designations.

- A compatible conditional use serves as an appropriate instrument to transition from areas where more intensive activities are permitted-by-right to areas where less intensive activities are permitted-by-right. This is perhaps the most appropriate application of a conditional use and assists in providing a special degree of control that buffers generally conflicting uses.
- The Reception Facility is an ideal permitted conditional use provided that its commercial activities do not create an environmental hazard to farming activities and serve to showcase and appreciate the surrounding agritourism.
- The conditions placed upon this application are a clear method to establish appropriate regulations for the site design, and all efforts have been made to provide a Reception Facility that provides transitional mitigation of otherwise more intensive land use. We believe effective conditions have been suggested by the applicant; however, the applicant remains open to additional conditions that aid in meeting the intent of Goals and Policies.

● Section 11.03.010 (57)

- "Conditional Use Permit" means a permit which is granted for a conditional use. The term "conditional use" means a use subject to specified conditions which may be permitted in one (1) or more classifications as defined by this title but which use, because of characteristics peculiar to it, or because of size, technological processes or type of equipment, or because of the exact location with reference to surroundings, streets and existing improvements or demands upon public facilities, or impacts to ground or surface water requires a special degree of control to

make such uses consistent with and compatible to other existing or permissible uses in the same zone or zones, and to assure that such use shall not be adverse to the public interest.

- 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;

Benton County routinely provides updated traffic counts at specific junctions and routes throughout the County. Data points relevant to the subject property and this application were recorded and published in 2019, 2020, 2021, and 2022 – excerpts of those traffic counts on Benton County’s GIS Web Portal are provided as screenshots attached as Exhibit C.

- 2019 Traffic Counts were taken on East Game Farm Road approximately 350’ West of the Subject Property and showed an **Average Daily Traffic Volume of 1,153.**
- 2020 Traffic Counts were taken on East Game Farm Road approximately 350’ West of the Subject Property and showed an **Average Daily Traffic Volume of 1,303.**
- 2021 Traffic Counts were taken on East Game Farm Road at the intersection with South Oak Street (nearest major intersection) and showed an **Average Daily Traffic Volume of 1,561.**
- 2022 Traffic Counts were taken on East Game Farm Road at the intersection with South Oak Street (nearest major intersection) and showed an **Average Daily Traffic Volume of 1,851.**
- Recorded speeds throughout each traffic count **averaged 45 MPH.**

As a conditional use with a defined maximum quota of participants at any given time, the traffic generated to/from the use is limited to the proposed 100-150 attendees and further restricted by ordinance to 200 attendees maximum regardless of conditions created. The Institute of Traffic Engineers (ITE) Trip Generation Guide does not include a land use category specifically for wedding/event venues that this Reception Facility would fall under, and we must therefore look to standard methodology available. The following is calculated as a result of typical formula to render trip generation rates:

- A reception is a single event at a pre-established time and place, all traffic will be generated by guests and vendor/caterers.
- At a maximum capacity of 150 we can assume on average that 10% will be vendor/caterers (15 people) and the remaining 90% will be guests (135 people).
- It would be unusual for guests to travel separately, and most will arrive as couples or families – with an average of 2.25 people per vehicle the Trip Generation Multiplier for the Reception Facility’s capacity is 0.5.
- This would add an average of 75 trips each way, for a total of 150 trips added per event (maximum of 12 per month as suggested by conditions).

- With an averaged Average Daily Traffic Volume of 1,461 across the four measurement sites, adding 150 trips in a single day would increase the total volume by 10%.
- With an average of 14.6% increase in traffic volume year-to-year (not associated with any use) across the count sites, the additional generation would be less than the entire natural growth in traffic year-over-year and account for a daily average increase that is both static and anticipated on fewer than 23% of the days in a year.

An access easement and designated emergency vehicle turnaround are provided per Benton County **Short Plat No. 3728** to the subject parcel (Lot 1) as well as to the parcel behind it (Lot 3). This document is filed under **Benton County Auditors File No. 2022-004392**. This access will have signage 'Private Access' and additional signage to indicate 'Emergency Access – Stopping, Standing or Blocking Prohibited.' Primary attendee access will be maintained adjacent to residential home for access to the parking and reception areas, and to maintain free and clear access for emergency vehicles to the subject parcel and Lot 3 to the South. Additional emergency vehicle turnarounds may be provided as conditioned or required by Benton County public safety.

- This methodology permits primary access in an emergency response scenario to the point closest to the primary access road of South Oak Street and would ensure that those potentially evacuating do not intersect with the emergency response traffic. We believe this is a more appropriate scenario than the one previously presented and ensures that vehicular egress pathways do not intersect ingress pathways at potential choke points.

It was previously suggested that inebriated patrons would create disoriented conflicts with regular traffic on this relatively calm rural road. As demonstrated in the traffic data this road sees fairly regular and consistent traffic volume comparable to other areas with similar levels of agricultural and commercial activity.

- In contrast to the residential uses throughout the area, this commercial activity will be licensed by the Washington State Liquor and Cannabis Board.
- Only licensed commercial caterers and their individually licensed servers will be permitted to provide alcohol to attendees.
- Overservice is strictly enforced upon all licensees, and overservice would result in fines and/or temporary license suspension. Repeated violations such as overservice would cause a revocation of licensure, which would be significantly impactful to the proposed use and not a reasonable risk to undertake.

- 4) Will be supported by adequate service facilities and would not adversely affect public services to the surrounding area; and

- The project received Department of Health approval for a Group A Transient Non-Community (TNC) water system, this approval was granted on April 24, 2023 with Permit No. 22-1106 (Exhibit D).
- The project received Benton-Franklin Health District approval for a Sewage Disposal System Construction permit on January 6, 2023 with Permit No. 16679 (Exhibit E).

- The total traffic volume and requisite per-event impact examined more fully in Conclusion Exhibit 3 (above) depicts relatively little overall impact on Average Daily Traffic (ADT), which should be well within the existing capacity of the roads serving the site.

- 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.

The scale of the development and screening vegetation proposed is consistent with the scale of the adjoining agricultural uses, and of much lower impervious density than that of the existing non-conforming uses surrounding the subject property. The applicant proposes to use the same wind/noise screening vegetation as is utilized on numerous surrounding properties, and the elevation proposed for the final graded site would similarly screen adjoining uses from potentially unusual visual or audible elements. Many of the existing permitted uses surrounding the site are also permitted by-right on the subject property, and would have the same or similar scale and design to the proposed use.

APPLICANT'S RESPONSE TO AGENCY COMMENTS FROM PRIOR APPLICATION

BENTON COUNTY CODE ENFORCEMENT COMMENT – HEM 1.17

TRAFFIC

The proposed use has demonstrated a relatively small increase in traffic through the Institute for Traffic Engineers (ITE) methodology, which in totality pertain to less than 22% of the days in an entire year. The average natural growth in traffic volume for the area is several times greater than the impact of the proposed use overall. It has been noted that the County plans to address a solution for the growing traffic volume on the publicly maintained East Game Farm Road in the next few years, which should address more significant overall traffic volumes. The volumes contemplated by this request are relatively insignificant as proposed, and the conditions proposed to meant to further align capacity with perceived increases.

PUBLIC NUISANCE / NOISE ORDINANCE

The comment provides the County's codified definition for 'Public Nuisance Noise,' and notes that 'loud music' is not exempt from this ordinance. The proposed use, a commercial activity, is specifically exempt per Benton County Code Section 6A.15.050(g); this can be compared to the several hundred acres of cherry orchard operations permitted by-right less than 375' away from the subject property that are similarly exempt. Those activities permitted by-right are by contrast not limited by specific conditions in their frequency or volume.

More detail can be found above in Conclusion Exhibit 2 (above); however, it is worth noting that the primary mode of entertainment will be unamplified human voices, which are also categorically exempt within the conditioned hours of operation.

OTHER

Additional comments received are by admission of the respondent their 'belief' or 'feeling,' and while justified for validation are countered elsewhere in this application and/or are subjective in their interpretation.

BENTON COUNTY PUBLIC WORKS DEPARTMENT – HEM 1.20

Applicant concurs with the comments received and will move forward as directed.

Although not necessary for confirmation during the conditional use approval process, the applicant requests clarity if a road approach permit will be necessary if utilizing the (1) existing approach to the residence AND (2) the approach designated in the 40' access easement on Short Plat 3728.

The Fire Marshall did not express any fire concerns with the proposed site plan or vegetation, and applicant's current and proposed vegetation does not differ significantly from the vegetation located on surrounding properties.

BENTON COUNTY FIRE MARSHALL – HEM 1.18

Applicant concurs with the comments expressed by the Fire Marshall and offers the attached site plan and proposed description of traffic mitigation and emergency access as demonstrated in Applicants Response to Benton County Code Section 11.50.040(d) Conclusion Exhibit 3.

BENTON FRANKLIN HEALTH DISTRICT – HEM 1.16

Group A Water System has been approved, water rights ascertained, and reduction in attendee count has been reduced through proposed conditions.

APPLICANT'S RESPONSE TO PUBLIC COMMENTS FROM PRIOR APPLICATION

Applicant reserves the right through the quasi-judicial hearing process to allow the offered evidence to support the findings and conclusions of the Hearings Examiner, and refrains from specifically responding to the views or opinions presented. Notably, the applicant and their representatives have presented evidence of compatibility throughout this application that would dispel many subjective assumptions.

EXHIBIT A – CHERRY ORCHARDS

The aerial map below shows the subject property with a blue outline, which is very near to several properties that are in the GMA-AG zoning district and contain cherry orchards and associated operations. Additional lands surrounding the property are owned in common with those used for Cherry Orchards; however, it can't be determined through county records or visual observation that those are actively being used for Cherry Orchards.

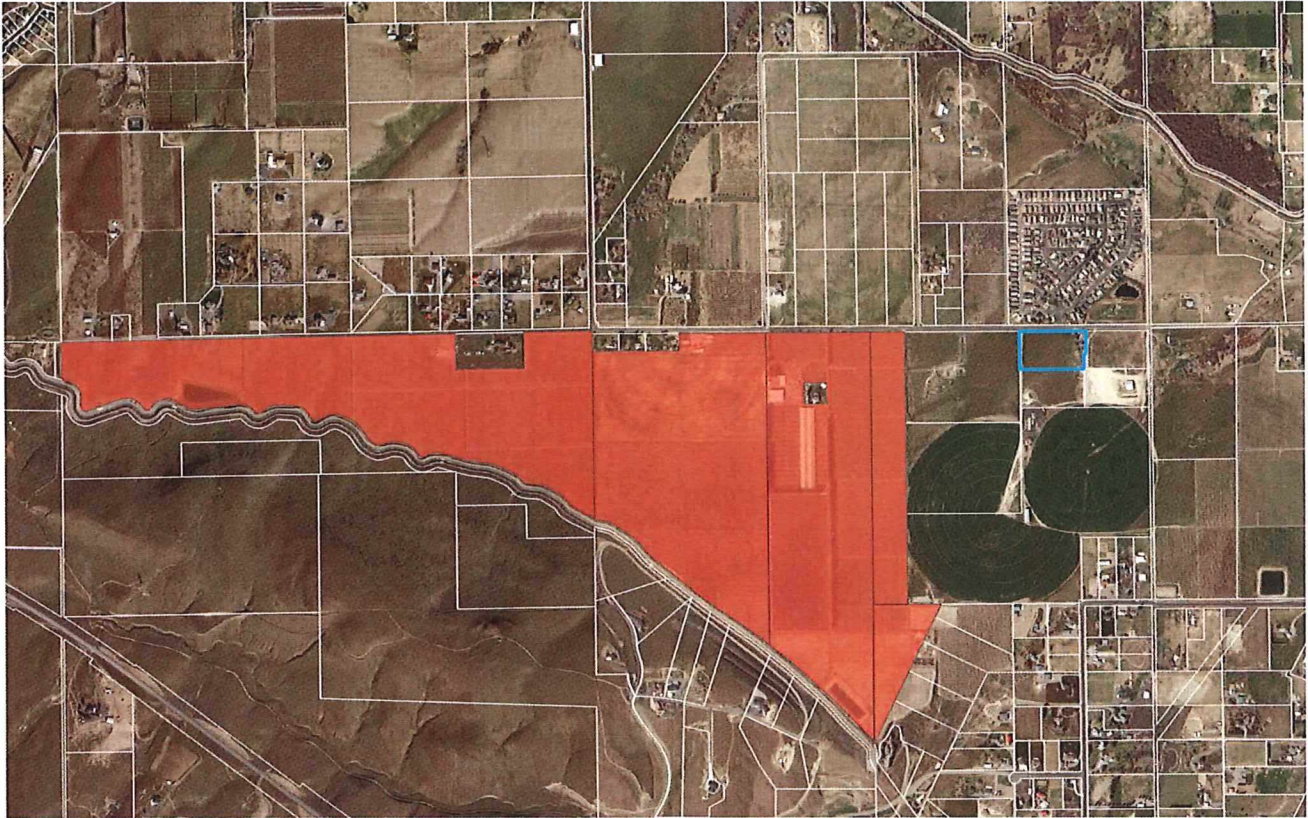


EXHIBIT A – PHOTOS FROM DEPICTED ORCHARDS RUNNING HELICOPTER-BASED DRYING



*Images above sourced from owner/user submitted photos for Cherry Ridge Farm's own business listing pages

RECEIVED

MAY 26 2023

Benton County
Planning Division

Wednesday, May 17, 2023 at 11:52:21 Pacific Daylight Time

EXHIBIT B

RECEIVED

MAY 26 2023

**Benton County
Planning Division**

Sent from my iPhone

Begin forwarded message:

From: Riverside Dave <dave@riversidedave.com>
Date: March 11, 2023 at 12:18:31 AM PST
To: jessicam327@hotmail.com
Subject: DB level check at 201005 E Game Farm Rd, Kennewick, WA 99337

Hello Jessica,

Thank you for choosing Riverside Audio Visual for your audio level check needs. The following is our report for the proposed event site at 201005 E Game Farm Rd, Kennewick, WA 99337.

Date of check: March 10th, 2023

Time of check: 10:30am- 12:30 pm

Equipment used: Bose Lpro16 amplified audio system, recorded audio source, sound level meter set to A weighting

Conditions: clear sky, slight breeze, temperature below 52 degrees F

Receiving property line testing location: at Game Farm rd between the receiving property boundary and the street side, approximately five (5) feet away from receiving property boundaries

Environment: both 201005 E Game Farm Rd, Kennewick, WA 99337 and receiving properties are believed to be Class A EDNA

Population saturation of the area: low density and sparse

Receiving property readings ->

Background sound level: 40db and below

db read with people speaking: 67db-74db

db read range of cars driving by: 69db-84db

db at receiving property with amplified audio source: 51-53db

NOTES: Audio source level at the proposed site was 51db-53db with music programming being played through amplified sound system. The db reading at the amplified music source (within 5 feet) was 92db.

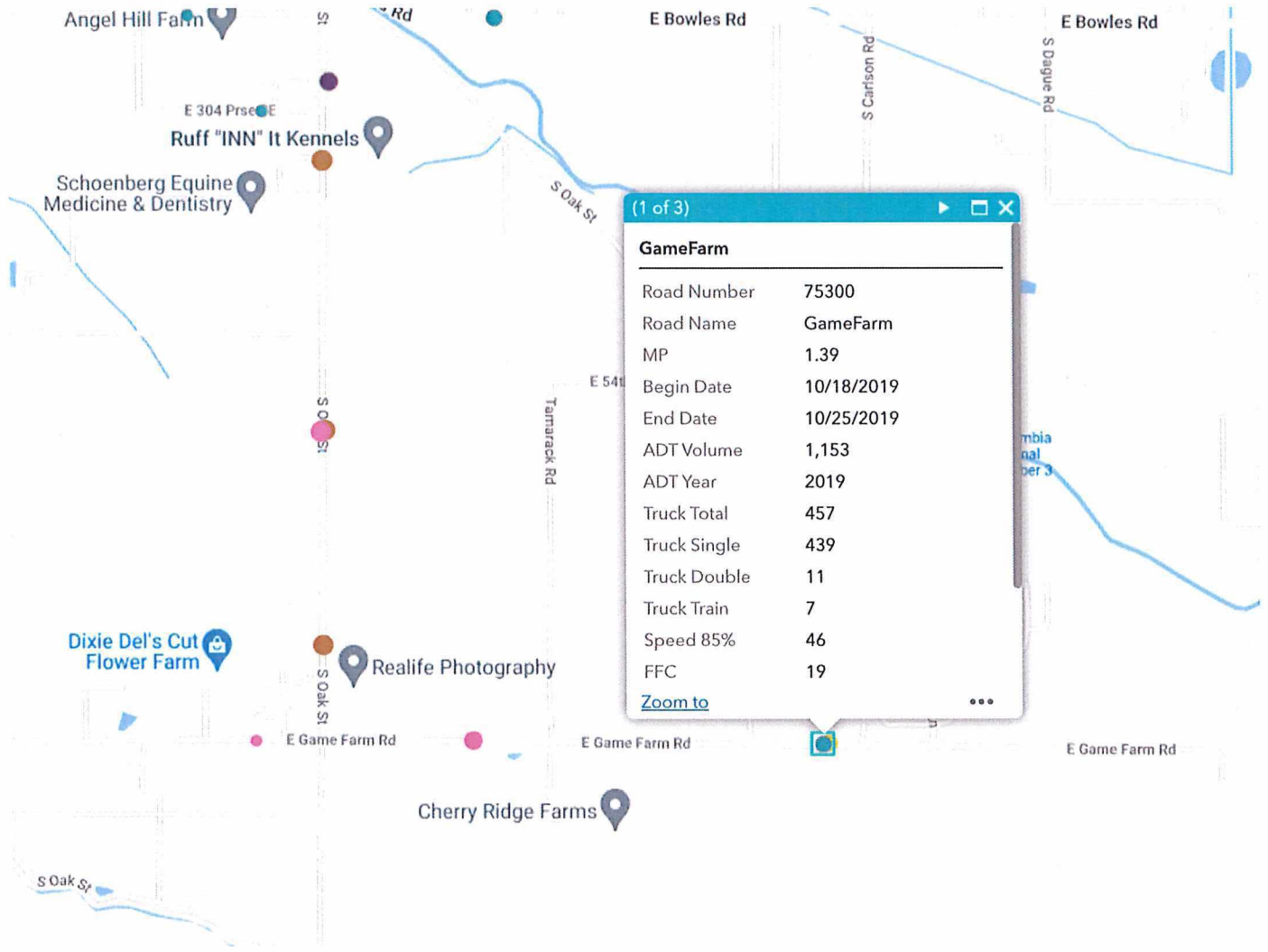
Audio source was pointed diagonally from the SW corner of the property to the NE corner of the property. Did not observe anyone walking, walking dogs, bicycling, or outside of their homes or vehicles during testing time. Increased amplified noise source to 70db at receiving property boundary for sixty (60) seconds without any known complaints. Increased the noise during testing to 70db to check the environments ability to deflect and absorb sound, found little degradation currently.

Thank you again, and if you have any questions or concerns please dont hesitate to call or text 509-727-

7878.

Riverside Dave
Riverside AV
509-727-7878

EXHIBIT C – TRAFFIC COUNTS

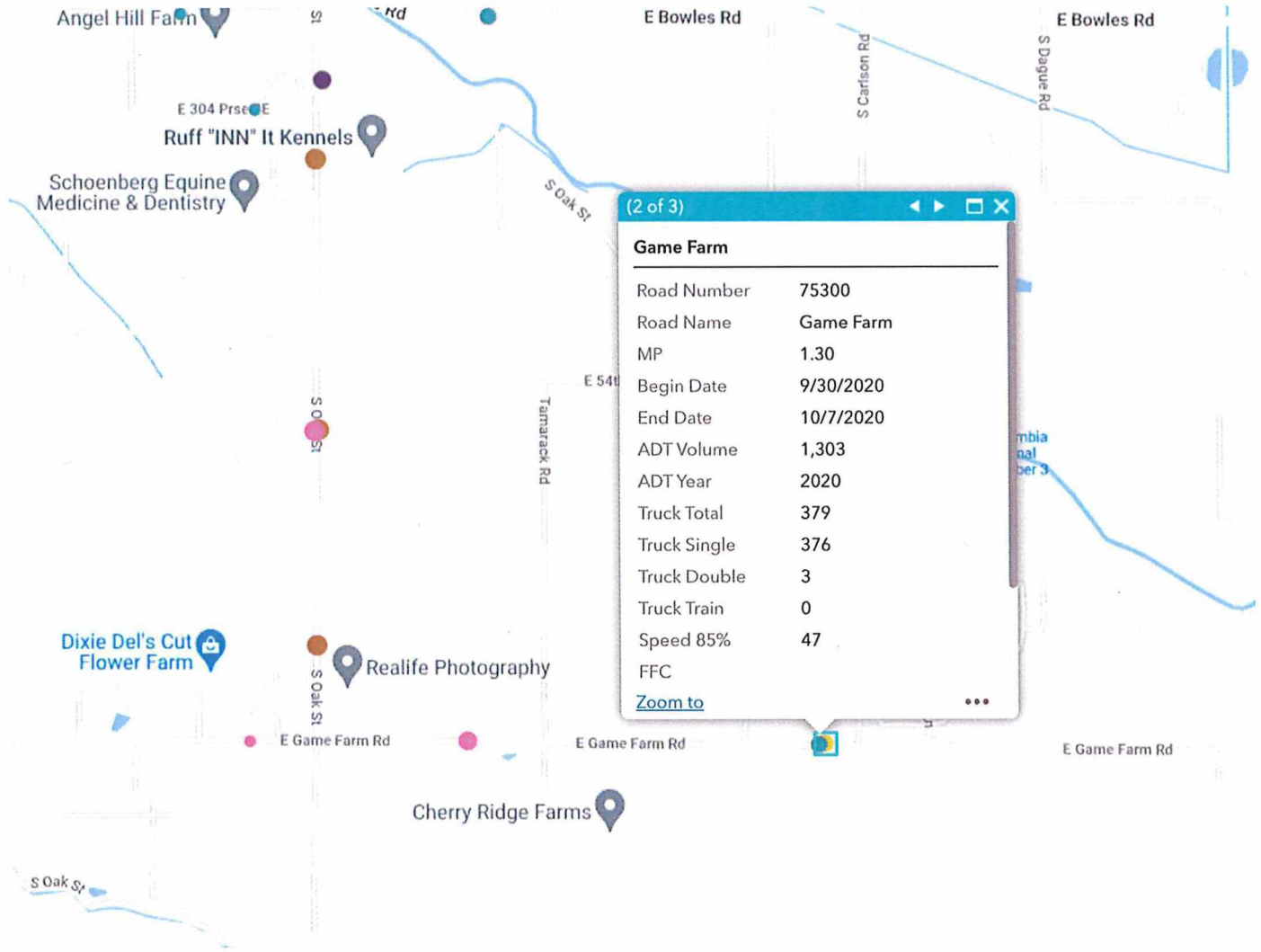


RECEIVED

MAY 26 2023

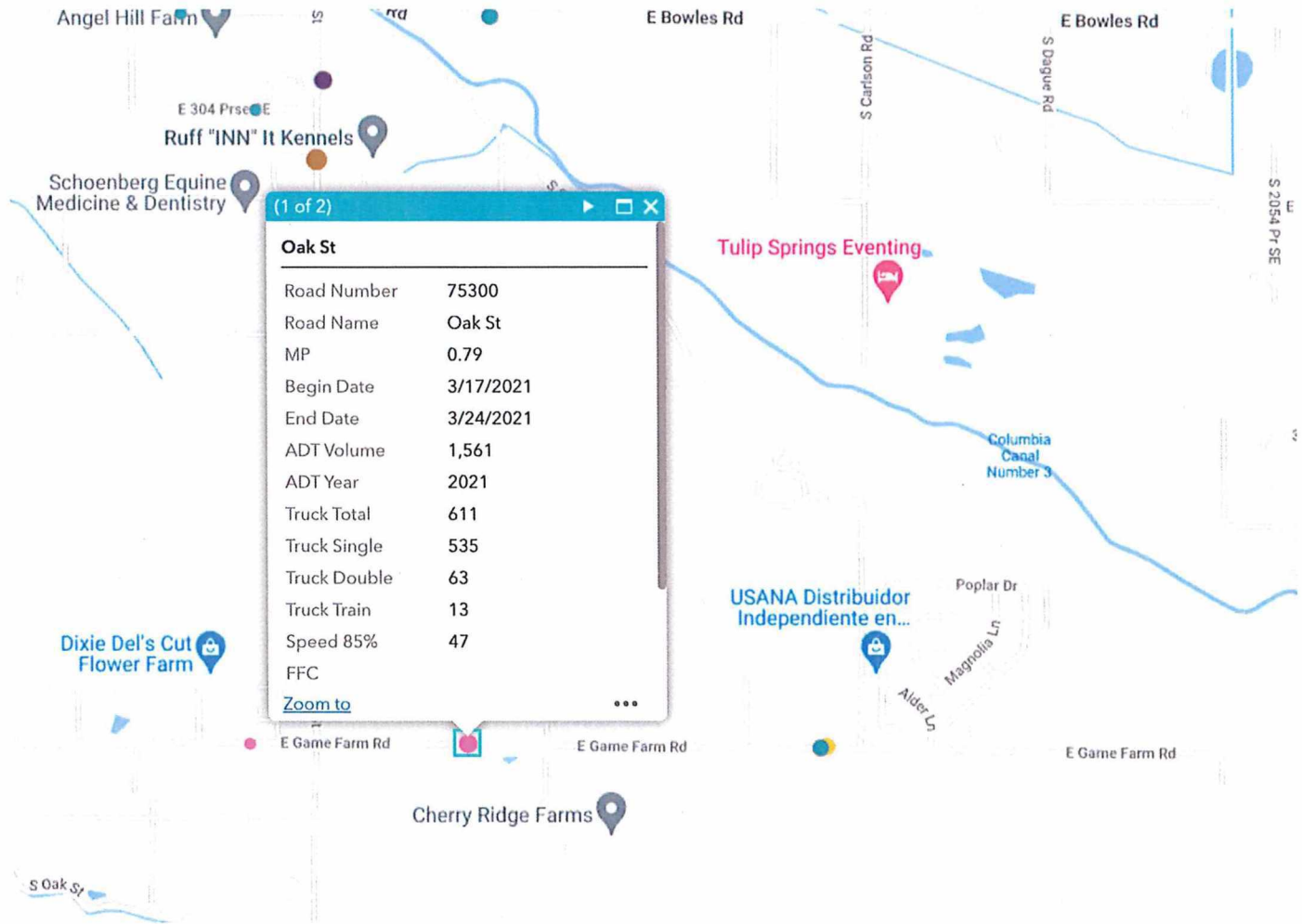
**Benton County
Planning Division**

EXHIBIT C CONTINUED – TRAFFIC COUNTS



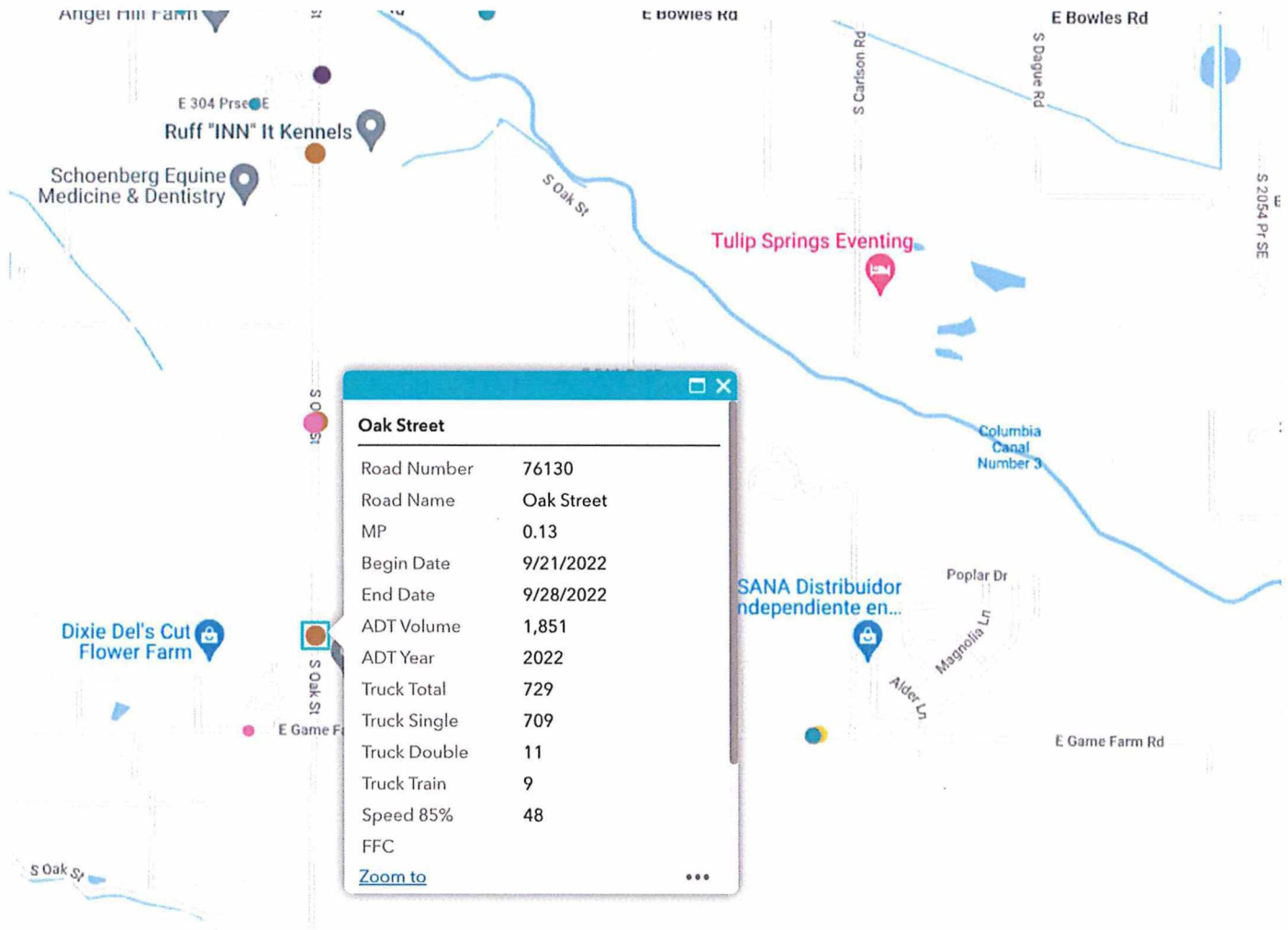
RECEIVED
MAY 26 2023
Benton County
Planning Division

EXHIBIT C CONTINUED – TRAFFIC COUNTS



RECEIVED
MAY 26 2023
Benton County
Planning Division

EXHIBIT C CONTINUED – TRAFFIC COUNTS



RECEIVED
MAY 26 2023
Benton County
Planning Division

Community Development Department

Prosser Office: 620 Market Street, 1st Floor
Kennewick Office: 102206 East Wiser Parkway
www.co.benton.wa.us



Planning Division

(509) 786-5612
P.O. Box 910, Prosser, WA 99350
planning.department@co.benton.wa.us

HEM 1.6

June 1, 2023

Gravis Law
C/O Joshua Bam
503 Knight Street, Suite A
Richland, WA 99352

Via email: Joshua@gravislaw.com

RE: Written Determination of Incomplete Application

Dear Applicant,

This office is in receipt of your Conditional Use Permit application request for a reception facility with a capacity not to exceed two hundred (200) attendees in unincorporated Benton County, Washington.

On April 3, 2023, the Benton County Hearings Examiner denied the previous application for this reception facility. The Hearings Examiner concluded that the proposed use is inconsistent with the Conditional Use Permit criteria based on findings including, but not limited to, traffic impact concerns regarding limited access, street width, and lack of sidewalks.

Upon reviewing your recent application, this office has determined that the application is incomplete as more information is needed. At this time, the item below will need to be submitted to our office for your application to be deemed complete as the Planning Director has requested the following supplemental information/special study per BCC 17.10.090(b)(5):

1. The Benton County Planning Director is requiring a Transportation Impact Analysis (TIA) to be conducted prior to the start of the review process.

Our office will retain your application materials for ninety (90) days from the date of this letter to allow you the necessary time to submit the required materials. Once you have submitted the above information and documents in response to this letter, we will either issue a written determination of completeness or identify if any additional information is still needed in order for your application to be determined complete for regulatory purposes and/or processing.

If you have any questions regarding this matter, please do not hesitate to contact our office.

Sincerely,

A handwritten signature in blue ink, appearing to read "Michelle L. Cooke", is written over a horizontal line.

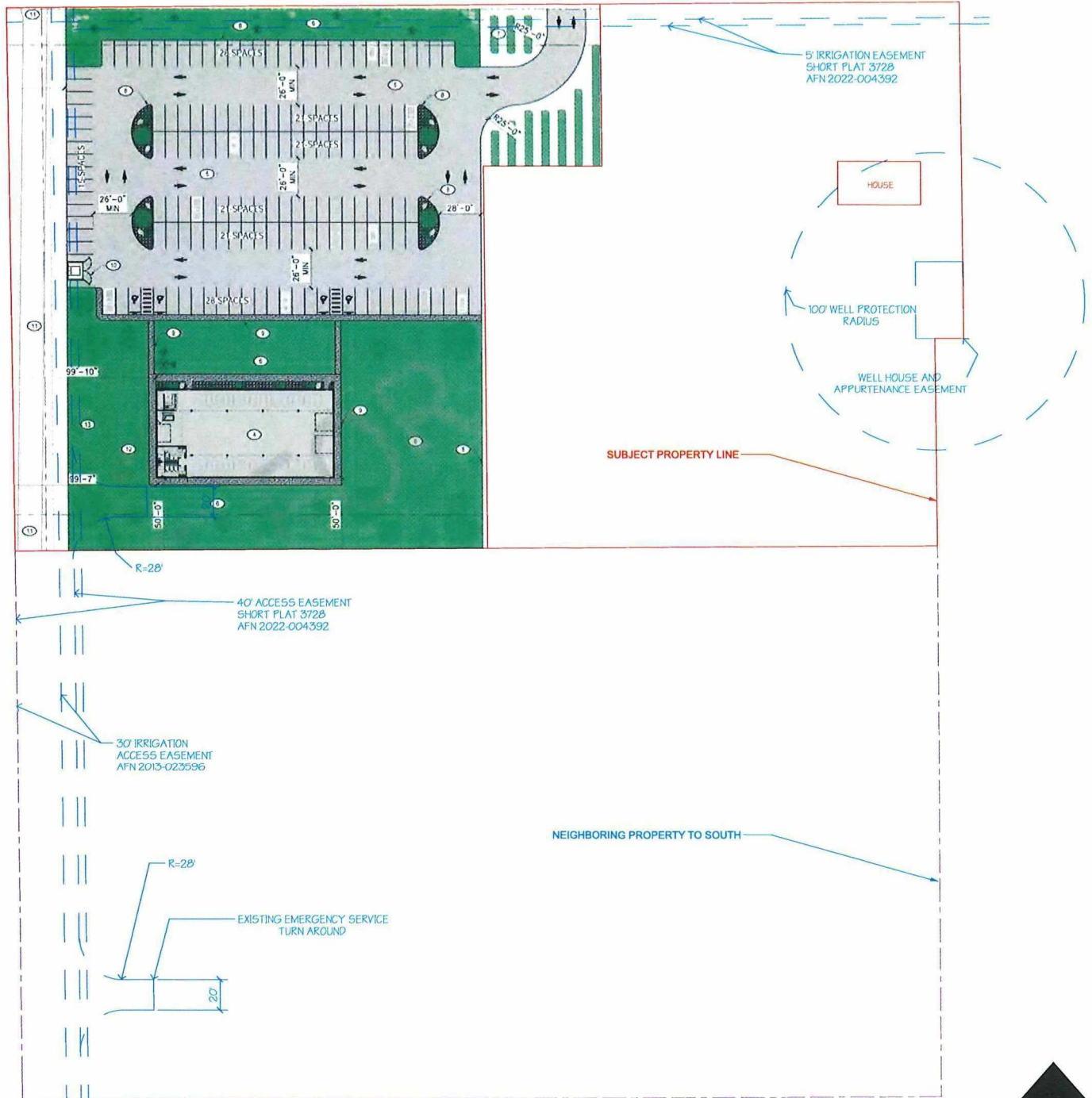
Michelle L. Cooke
Benton County Community Development Department
Planning Manager

CC: Jessica Morales, Jessicam327@hotmail.com

EXHIBIT G

SITE PLAN

HEM 1.7



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



www.co.benton.wa.us
planning.department@co.benton.wa.us
Prosser Office: 620 Market Street, 1st Floor
Kennewick Office: 102206 East Wisner Parkway

CONDITIONAL USE PERMIT APPLICATION

HEM 1.8
RECEIVED

File No. _____

AUG 01 2023

Benton County
Planning Division

APPLICANT INFORMATION

Please check the box indicating primary contact person for this application

Name of Applicant/Agent: Joshua Bam, Gravis Law PLLC

Mailing Address: 503 Knight Street, Suite A City: Richland State: WA ZIP: 99352

Phone #1: 509-380-9048 Phone #2: _____

Email Address(es): joshua@gravislaw.com

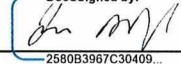
Signature:  Date: _____

Name of Property Owner(s) (if different): Jessica Morales

Mailing Address: 3909 Equinox Court City: Pasco State: WA ZIP: 99301

Phone #1: 509-531-3844 Phone #2: _____

Email Address(es): jessicam327@hotmail.com

Signature:  Date: 8/1/2023

Signature: _____ Date: _____

**If there are additional owners please copy this section, sign, and attach to the application*

If the property is owned by a corporation, trust, partnership or LLC please complete the entity signature block below showing that the person signing has the authority to sign on behalf of the company.

ENTITY SIGNATURE BLOCK

Applicant/Legal Owner name: _____

Officer name: _____ Title: _____

Signature: _____ Date: _____

THE ABOVE SIGNED OFFICER OF (name of entity) _____ WARRANTS AND REPRESENTS THAT ALL NECESSARY LEGAL AND CORPORATE ACTIONS HAVE BEEN DULY UNDERTAKEN TO PERMIT (name of applicant) _____ TO SUBMIT THIS APPLICATION AND THAT THE ABOVE SIGNED OFFICER HAS BEEN DULY AUTHORIZED AND INSTRUCTED TO EXECUTE THIS APPLICATION.

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.

Conditional Use Permit Application – Applicant’s Narrative and Supplementary Information

RECEIVED

AUG 01 2023

Benton County
Planning Division

Prepared for:
Gravis Law
c/o Joshua Bam
503 Knight Street, Suite A
Richland, WA 99352

On behalf of:
Miguel’s Event Venue
c/o Jessica Morales
3909 Equinox Court
Pasco, WA 99301

Subject Property Address: 200105 East Game Farm Road
Kennewick, WA 99337

Parcel No: 1-2980-101-3728-101

Revised July 28, 2023

BACKGROUND

Jessica Morales is a Hispanic female and the owner of real property in Benton County, WA as above addressed and referenced, which is subject to the Conditional Use Application process as established by the County. The property is zoned Rural Lands Five Acre District (RL-5), has a Land Use Designation of Rural Remote, and is approximately 5.33 acres in size. Ms. Morales seeks to continue the single-family residential use located on the Northeast portion of the property and utilize the remaining land for a Reception facility with a capacity not to exceed two hundred (200) attendees (Benton County Code 11.11.060(n)).

This is the second application for the proposed conditional use permit approval and seeks to clarify several components of the first application that were made without professional counsel on advise by the county. Notably, without prior knowledge of the importance of supplying objective evidence required of a quasi-judicial process, Ms. Morales was inappropriately advised by the county to apply for the highest and greatest intensity possible for her proposed use despite her preference for a more reserved scale.

PROPOSED CONDITIONS OF APPROVAL AND OTHER PROJECT VARIABLES (APPLICANT)

- 1) Operation
 - a) Events permitted year-round.
 - b) Maximum of 12 events per month.
 - c) Events to occur primarily within the proposed structure.
 - d) Events must be contractually obligated (between host and client) to begin at or after 10:00 a.m. and conclude at or before 10:00 p.m.
 - e) Only unamplified sound permitted outdoors. Amplified sound and music to occur entirely within an enclosed structure dedicated to the events.
 - f) Applicant will develop and maintain a garbage cleanup and disposal plan.
 - g) A maximum of **150 person(s) on site per event**; noting that the applicant is seeking this initial reduction from the code-limitation of 200; however, elects to defer further reduction to the advice and agreement of County

Staff and the Hearings Examiner based upon their expert opinion of a cap that would most appropriately mitigate concerns. Respectfully, applicant requests consideration of a reduction in attendee count prior to outright recommendation of denial.

2) Facilities

- a) Events to occur primarily within the proposed structure.
- b) Utilization of no more than 2.5 acres of the subject parcel for the conditional use of '**Reception Facility**,' and retainage of the remainder of the property to continue by-right permitted uses (including the residential home).
- c) A structure approximately 5,334 square feet in size constructed for events.
- d) No reception activities will occur within the residential use, which will continue to be used solely as a residence.
- e) Emergency access as predefined by the access easement and designated emergency vehicle turnaround, which are provided per Benton County **Short Plat No. 3728** to the subject parcel (Lot 1) as well as to the parcel behind it (Lot 3). This document is filed under **Benton County Auditors File No. 2022-004392**. This access will be provided signage 'Private Access' and additional signage to indicate 'Emergency Access – Stopping, Standing or Blocking Prohibited.' Primary attendee access will be maintained adjacent to residential home for access to the parking and reception areas, and to maintain free and clear access for emergency vehicles to the subject parcel and Lot 3 to the South. Additional emergency vehicle turnarounds may be provided as conditioned or required by Benton County public safety.

3) The following permits will be sought or obtained prior to reception activities commencing:

- a) Grading, land development and building permits.
- b) State of Washington Department of Health Water System Permit (Approved).
- c) Sewage Disposal System Construction Permit (Approved).
- d) Sign permit (to be installed outside County right-of-way).
- e) Road approach permit as required.

APPLICANT'S RESPONSE TO BENTON COUNTY CODE SECTION 11.50.040 (D)

Benton County Code dictates that a conditional use permit will be granted 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.

The subject site is located in semi-rural Benton County, approximately 1.5 miles 'as the crow flies' and 2.0 miles by public road from City of Kennewick Municipal Limits and portions of the Urban Growth Area. The property is 5.33 acres and is zoned Rural Lands Five Acre District (RL-5) and is (measured by closest neighboring points between parcel boundaries) approximately 375 feet from a swath of land (425 +/- acres) zoned as Growth Management Area Agricultural (GMA-AG).

Major surrounding land uses include a 136 acre cherry and apple orchard to the West, a modular home community to the North, and agricultural uses to the East and South.

The following are offered to demonstrate compatibility with other nearby uses:

- The following uses are **permitted-by-right** without exclusion or limitation to their intensity that may generate an equal or greater frequency for occasion for noise, odors, or outdoor activity:
 - Agricultural uses
 - Agricultural stand
 - Nursery/greenhouse
 - Wineries/Breweries/Distilleries (limitation of 3,000 square feet for structures, no limit on outdoor seating, entertaining, etc.)
 - Church (limitation of 3,500 square feet for structures, no limit on outdoor seating, entertaining, etc.)
- The following uses are **currently operating** without exclusion or limitation to their intensity that may generate an equal or greater frequency or occasion for noise, odors or outdoor activity:
 - Cherry Ridge Farms (136 acres, cherry and apple orchard)
 - Schmelzer Farms (175 acres)
 - Desert Oak Cherries (102 acres, cherry orchard)

- 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;

The subject property and associated proposed conditional use of **Reception Facility** is no more intensive than the surrounding land uses permitted by right, and in many regards satisfy the Benton County Comprehensive Land Use Plan's Goals and Policies in seeking an adequate transition from the intensity of adjacent agricultural uses and

rural residential uses. Seen below, the following elements of the subject property are shown in context of how they support selected relevant elements of the comprehensive plan's Goals and Policies.

>>>QUOTATION OF BENTON COUNTY COMPREHENSIVE PLAN HIGHLIGHTED IN YELLOW<<<

>>>QUOTATION OF BENTON COUNTY CODE HIGHLIGHTED IN GREEN<<<

- Benton County Comprehensive Plan, Land Use Goal 1: Ensure that land uses are compatible with surrounding uses that maintain public health, safety, and general welfare.
 - Policy 1: Maintain a mix of land uses that supports the character of each rural community.
 - The subject property serves ideally as a buffer from the intensive agricultural operations concentrated in the 'GMA-AG' land use and the increasingly lower densities of rural residential located within the 'Rural Remote' land use.
 - Located less than 1.5 miles (as the crow flies) from the City of Kennewick's municipal boundaries and several portions of the Urban Growth Area, the property is within a reasonable distance of several urbanized elements of the wider community. The proposed Reception Facility is ideally situated as a prime example of a conditional use; not so typically remote as many of the uses in the surrounding zoning district, and likewise surrounded by several similar generators of noise, odors and outside activity of the adjoining 'GMA-AG' land use.
 - Policy 3: Maximize the opportunities for compatible development within land use designations to serve a multitude of compatible uses and activities.
 - Provided that there is a preexisting non-conforming use (modular home community) directly to the North, the area already contains a higher density of comingled uses that are otherwise atypical of the 'Rural Remote' land use. This proposal would support the creation of conforming uses that more fully align with the character of the surrounding area.
 - As demonstrated in Exhibit A to this application cherry growing is the most prolific adjoining commercial activity, which has a growing, picking, and operational season that is aligned with the busier season for the proposed use. Without specificity to any one operation, the typical growing season is most precarious during early spring as colder nights turn into much warmer days – condensation built up overnight on the cherries surface can shock or cause the cherry to split, requiring intensive drying operations to protect the crop. Cherry drying is most commonly performed with helicopters, which can be seen in the photos attached to the exhibit operating in the immediate area. This activity must occur early in the morning, in most cases at time far earlier than that of the proposed use.

- In comparison to the adjoining uses, a Reception Facility would be considered business/commercial activity, specifically exempted as **'sounds originating from harvesting, farming, ranching, agriculture, industrial or commercial activities'** (**Benton County Code Section 6A.15.050(g)**).
- As demonstrated in the proposed conditions for the venue's operation, activities are designated to begin and end within the time frames permitted as an exemption for **'sounds created by unamplified human voices from 6:00 a.m. to 10:00 p.m.'** (**Benton County Code Section 6A.15.050(p)**). Further, the proposed use is now planned to be conducted primarily within an enclosed structure.
- The following information related to amplified audio is largely irrelevant due to a change in the application proposing that all reception activities occur indoors; however, for the purposes of comparison, the following demonstrates that auditory conflict with the adjoining uses is expected to be negligible.

Exhibit B to this application provides audio decibel level check at several intervals away from the amplified audio source level with most readings taken at no more than 5 feet from the 'receiving' adjacent properties. Without any grading or barriers erected to dampen the noise emanating from the audio source the readings at the receiving properties were between 51-53db. This was compared to level checks in the area with people speaking (67-74db) and vehicles going by (69-84db) to compare to ambient sound. Grading of the property and the designed setback from existing residential uses would further dampen any noises emanating from the use, which is already well below typical ambient noise. As additional clarification, Riverside Audio notes that the following factors were considered in their review:

- The source audio device, a Bose Lpro16 amplified audio system has a 180 degree wide projection with very little loss or degradation across its projection range. This represents extremely high quality equipment that has a more robust dispersal of sound than most of the equipment utilized by consumers and professionals. Most commonly utilized equipment is going to have a narrower and shorter ability to project sound over most areas.
- The source audio device was amplified to 92 db at the source that resulted in a receiving property sound level of 51-53 db – lower than that of people speaking or cars driving by directly adjacent to the receiving property.
- The source audio device was amplified for 60 seconds so that the reading at the receiving property line was increased from 51-53 db up to 70 db without any known complaints.

- Testing performed at the source audio device and the receiving properties are believe to be Class A EDNA.

○ Policy 4: Establish regulations for site planning and design to avoid or reduce potential impacts associated with "land use incompatibility" of proposed non-farm developments on parcels adjacent to lands designated GMA Agriculture, Rural Resource, or adjacent to lands being farmed commercially within other rural designations.

- A compatible conditional use serves as an appropriate instrument to transition from areas where more intensive activities are permitted-by-right to areas where less intensive activities are permitted-by-right. This is perhaps the most appropriate application of a conditional use and assists in providing a special degree of control that buffers generally conflicting uses.
- The Reception Facility is an ideal permitted conditional use provided that its commercial activities do not create an environmental hazard to farming activities and serve to showcase and appreciate the surrounding agritourism.
- The conditions placed upon this application are a clear method to establish appropriate regulations for the site design, and all efforts have been made to provide a Reception Facility that provides transitional mitigation of otherwise more intensive land use. We believe effective conditions have been suggested by the applicant; however, the applicant remains open to additional conditions that aid in meeting the intent of Goals and Policies.
- In the prior application for this proposal, there was community concern that attendees may be opposed to the odors and noise of the existing commercial agricultural operations nearby, this concern is further mitigated by the relocation of all reception activities indoors.

• Section 11.03.010 (57)

- "Conditional Use Permit" means a permit which is granted for a conditional use. The term "conditional use" means a use subject to specified conditions **which may be permitted in one (1) or more classifications as defined by this title but which use, because of characteristics peculiar to it, or because of size, technological processes or type of equipment, or because of the exact location with reference to surroundings, streets and existing improvements or demands upon public facilities, or impacts to ground or surface water requires a special degree of control to make such uses consistent with and compatible to other existing or permissible uses in the same zone or zones, and to assure that such use shall not be adverse to the public interest.**

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;

Traffic Impact Analysis

Data for traffic impact has been removed from this section and addressed in the attached Traffic Impact Analysis provided as Exhibit H.

Emergency Response Mitigation

An access easement and designated emergency vehicle turnaround are provided per Benton County **Short Plat No. 3728** to the subject parcel (Lot 1) as well as to the parcel behind it (Lot 3). This document is filed under **Benton County Auditors File No. 2022-004392**. This access will have signage 'Private Access' and additional signage to indicate 'Emergency Access – Stopping, Standing or Blocking Prohibited.' Primary attendee access will be maintained adjacent to residential home for access to the parking and reception areas, and to maintain free and clear access for emergency vehicles to the subject parcel and Lot 3 to the South. Additional emergency vehicle turnarounds may be provided as conditioned or required by Benton County public safety.

- This methodology permits primary access in an emergency response scenario to the point closest to the primary access road of South Oak Street and would ensure that those potentially evacuating do not intersect with the emergency response traffic. We believe this is a more appropriate scenario than the one previously presented and ensures that vehicular egress pathways do not intersect ingress pathways at potential choke points.

Alcohol Service Mitigation

It was previously suggested that inebriated patrons would create disoriented conflicts with regular traffic on this relatively calm rural road. As demonstrated in the traffic data this road sees fairly regular and consistent traffic volume comparable to other areas with similar levels of agricultural and commercial activity.

- In contrast to the residential uses throughout the area, this commercial activity will be licensed by the Washington State Liquor and Cannabis Board.
- Only licensed commercial caterers and their individually licensed servers will be permitted to provide alcohol to attendees.
- Overservice is strictly enforced upon all licensees, and overservice would result in fines and/or temporary license suspension. Repeated violations such as overservice would cause a revocation of licensure, which would be significantly impactful to the proposed use and not a reasonable risk to undertake.

- 4) Will be supported by adequate service facilities and would not adversely affect public services to the surrounding area; and

- The project received Department of Health approval for a Group A Transient Non-Community (TNC) water system, this approval was granted on April 24, 2023 with Permit No. 22-1106 (Exhibit D).

Conditional Use Permit Application – Applicant’s Narrative and Supplementary Information

RECEIVED

AUG 01 2023

Benton County
Planning Division

Prepared for:
Gravis Law
c/o Joshua Bam
503 Knight Street, Suite A
Richland, WA 99352

On behalf of:
Miguel’s Event Venue
c/o Jessica Morales
3909 Equinox Court
Pasco, WA 99301

Subject Property Address: 200105 East Game Farm Road
Kennewick, WA 99337

Parcel No: 1-2980-101-3728-101

Revised July 28, 2023

BACKGROUND

Jessica Morales is a Hispanic female and the owner of real property in Benton County, WA as above addressed and referenced, which is subject to the Conditional Use Application process as established by the County. The property is zoned Rural Lands Five Acre District (RL-5), has a Land Use Designation of Rural Remote, and is approximately 5.33 acres in size. Ms. Morales seeks to continue the single-family residential use located on the Northeast portion of the property and utilize the remaining land for a Reception facility with a capacity not to exceed two hundred (200) attendees (Benton County Code 11.11.060(n)).

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 - d) Events must be contractually obligated (between host and client) to begin at or after 10:00 a.m. and conclude at or before 10:00 p.m.
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 - f) Applicant will develop and maintain a garbage cleanup and disposal plan.
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Staff and the Hearings Examiner based upon their expert opinion of a cap that would most appropriately mitigate concerns. Respectfully, applicant requests consideration of a reduction in attendee count prior to outright recommendation of denial.

2) Facilities

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- b) Utilization of no more than 2.5 acres of the subject parcel for the conditional use of '**Reception Facility**,' and retainage of the remainder of the property to continue by-right permitted uses (including the residential home).
- c) A structure approximately 5,334 square feet in size constructed for events.
- d) No reception activities will occur within the residential use, which will continue to be used solely as a residence.
- e) Emergency access as predefined by the access easement and designated emergency vehicle turnaround, which are provided per Benton County **Short Plat No. 3728** to the subject parcel (Lot 1) as well as to the parcel behind it (Lot 3). This document is filed under **Benton County Auditors File No. 2022-004392**. This access will be provided signage 'Private Access' and additional signage to indicate 'Emergency Access – Stopping, Standing or Blocking Prohibited.' Primary attendee access will be maintained adjacent to residential home for access to the parking and reception areas, and to maintain free and clear access for emergency vehicles to the subject parcel and Lot 3 to the South. Additional emergency vehicle turnarounds may be provided as conditioned or required by Benton County public safety.

3) The following permits will be sought or obtained prior to reception activities commencing:

- a) Grading, land development and building permits.
- b) State of Washington Department of Health Water System Permit (Approved).
- c) Sewage Disposal System Construction Permit (Approved).
- d) Sign permit (to be installed outside County right-of-way).
- e) Road approach permit as required.

APPLICANT'S RESPONSE TO BENTON COUNTY CODE SECTION 11.50.040 (D)

Benton County Code dictates that a conditional use permit will be granted 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.

The subject site is located in semi-rural Benton County, approximately 1.5 miles 'as the crow flies' and 2.0 miles by public road from City of Kennewick Municipal Limits and portions of the Urban Growth Area. The property is 5.33 acres and is zoned Rural Lands Five Acre District (RL-5) and is (measured by closest neighboring points between parcel boundaries) approximately 375 feet from a swath of land (425 +/- acres) zoned as Growth Management Area Agricultural (GMA-AG).

Major surrounding land uses include a 136 acre cherry and apple orchard to the West, a modular home community to the North, and agricultural uses to the East and South.

The following are offered to demonstrate compatibility with other nearby uses:

- The following uses are **permitted-by-right** without exclusion or limitation to their intensity that may generate an equal or greater frequency for occasion for noise, odors, or outdoor activity:
 - Agricultural uses
 - Agricultural stand
 - Nursery/greenhouse
 - Wineries/Breweries/Distilleries (limitation of 3,000 square feet for structures, no limit on outdoor seating, entertaining, etc.)
 - Church (limitation of 3,500 square feet for structures, no limit on outdoor seating, entertaining, etc.)
- The following uses are **currently operating** without exclusion or limitation to their intensity that may generate an equal or greater frequency or occasion for noise, odors or outdoor activity:
 - Cherry Ridge Farms (136 acres, cherry and apple orchard)
 - Schmelzer Farms (175 acres)
 - Desert Oak Cherries (102 acres, cherry orchard)

- 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;

The subject property and associated proposed conditional use of **Reception Facility** is no more intensive than the surrounding land uses permitted by right, and in many regards satisfy the Benton County Comprehensive Land Use Plan's Goals and Policies in seeking an adequate transition from the intensity of adjacent agricultural uses and

rural residential uses. Seen below, the following elements of the subject property are shown in context of how they support selected relevant elements of the comprehensive plan's Goals and Policies.

>>>QUOTATION OF BENTON COUNTY COMPREHENSIVE PLAN HIGHLIGHTED IN YELLOW<<<

>>>QUOTATION OF BENTON COUNTY CODE HIGHLIGHTED IN GREEN<<<

- Benton County Comprehensive Plan, Land Use Goal 1: Ensure that land uses are compatible with surrounding uses that maintain public health, safety, and general welfare.
 - Policy 1: Maintain a mix of land uses that supports the character of each rural community.
 - The subject property serves ideally as a buffer from the intensive agricultural operations concentrated in the 'GMA-AG' land use and the increasingly lower densities of rural residential located within the 'Rural Remote' land use.
 - Located less than 1.5 miles (as the crow flies) from the City of Kennewick's municipal boundaries and several portions of the Urban Growth Area, the property is within a reasonable distance of several urbanized elements of the wider community. The proposed Reception Facility is ideally situated as a prime example of a conditional use; not so typically remote as many of the uses in the surrounding zoning district, and likewise surrounded by several similar generators of noise, odors and outside activity of the adjoining 'GMA-AG' land use.
 - Policy 3: Maximize the opportunities for compatible development within land use designations to serve a multitude of compatible uses and activities.
 - Provided that there is a preexisting non-conforming use (modular home community) directly to the North, the area already contains a higher density of comingled uses that are otherwise atypical of the 'Rural Remote' land use. This proposal would support the creation of conforming uses that more fully align with the character of the surrounding area.
 - As demonstrated in Exhibit A to this application cherry growing is the most prolific adjoining commercial activity, which has a growing, picking, and operational season that is aligned with the busier season for the proposed use. Without specificity to any one operation, the typical growing season is most precarious during early spring as colder nights turn into much warmer days – condensation built up overnight on the cherries surface can shock or cause the cherry to split, requiring intensive drying operations to protect the crop. Cherry drying is most commonly performed with helicopters, which can be seen in the photos attached to the exhibit operating in the immediate area. This activity must occur early in the morning, in most cases at time far earlier than that of the proposed use.

- In comparison to the adjoining uses, a Reception Facility would be considered business/commercial activity, specifically exempted as **'sounds originating from harvesting, farming, ranching, agriculture, industrial or commercial activities'** (**Benton County Code Section 6A.15.050(g)**).
- As demonstrated in the proposed conditions for the venue's operation, activities are designated to begin and end within the time frames permitted as an exemption for **'sounds created by unamplified human voices from 6:00 a.m. to 10:00 p.m.'** (**Benton County Code Section 6A.15.050(p)**). Further, the proposed use is now planned to be conducted primarily within an enclosed structure.
- The following information related to amplified audio is largely irrelevant due to a change in the application proposing that all reception activities occur indoors; however, for the purposes of comparison, the following demonstrates that auditory conflict with the adjoining uses is expected to be negligible.

Exhibit B to this application provides audio decibel level check at several intervals away from the amplified audio source level with most readings taken at no more than 5 feet from the 'receiving' adjacent properties. Without any grading or barriers erected to dampen the noise emanating from the audio source the readings at the receiving properties were between 51-53db. This was compared to level checks in the area with people speaking (67-74db) and vehicles going by (69-84db) to compare to ambient sound. Grading of the property and the designed setback from existing residential uses would further dampen any noises emanating from the use, which is already well below typical ambient noise. As additional clarification, Riverside Audio notes that the following factors were considered in their review:

- The source audio device, a Bose Lpro16 amplified audio system has a 180 degree wide projection with very little loss or degradation across its projection range. This represents extremely high quality equipment that has a more robust dispersal of sound than most of the equipment utilized by consumers and professionals. Most commonly utilized equipment is going to have a narrower and shorter ability to project sound over most areas.
- The source audio device was amplified to 92 db at the source that resulted in a receiving property sound level of 51-53 db – lower than that of people speaking or cars driving by directly adjacent to the receiving property.
- The source audio device was amplified for 60 seconds so that the reading at the receiving property line was increased from 51-53 db up to 70 db without any known complaints.

- Testing performed at the source audio device and the receiving properties are believe to be Class A EDNA.

- Policy 4: Establish regulations for site planning and design to avoid or reduce potential impacts associated with "land use incompatibility" of proposed non-farm developments on parcels adjacent to lands designated GMA Agriculture, Rural Resource, or adjacent to lands being farmed commercially within other rural designations.

- A compatible conditional use serves as an appropriate instrument to transition from areas where more intensive activities are permitted-by-right to areas where less intensive activities are permitted-by-right. This is perhaps the most appropriate application of a conditional use and assists in providing a special degree of control that buffers generally conflicting uses.
- The Reception Facility is an ideal permitted conditional use provided that its commercial activities do not create an environmental hazard to farming activities and serve to showcase and appreciate the surrounding agritourism.
- The conditions placed upon this application are a clear method to establish appropriate regulations for the site design, and all efforts have been made to provide a Reception Facility that provides transitional mitigation of otherwise more intensive land use. We believe effective conditions have been suggested by the applicant; however, the applicant remains open to additional conditions that aid in meeting the intent of Goals and Policies.
- In the prior application for this proposal, there was community concern that attendees may be opposed to the odors and noise of the existing commercial agricultural operations nearby, this concern is further mitigated by the relocation of all reception activities indoors.

- Section 11.03.010 (57)

- "Conditional Use Permit" means a permit which is granted for a conditional use. The term "conditional use" means a use subject to specified conditions **which may be permitted in one (1) or more classifications as defined by this title but which use, because of characteristics peculiar to it, or because of size, technological processes or type of equipment, or because of the exact location with reference to surroundings, streets and existing improvements or demands upon public facilities, or impacts to ground or surface water requires a special degree of control to make such uses consistent with and compatible to other existing or permissible uses in the same zone or zones, and to assure that such use shall not be adverse to the public interest.**

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;

Traffic Impact Analysis

Data for traffic impact has been removed from this section and addressed in the attached Traffic Impact Analysis provided as Exhibit H.

Emergency Response Mitigation

An access easement and designated emergency vehicle turnaround are provided per Benton County **Short Plat No. 3728** to the subject parcel (Lot 1) as well as to the parcel behind it (Lot 3). This document is filed under **Benton County Auditors File No. 2022-004392**. This access will have signage 'Private Access' and additional signage to indicate 'Emergency Access – Stopping, Standing or Blocking Prohibited.' Primary attendee access will be maintained adjacent to residential home for access to the parking and reception areas, and to maintain free and clear access for emergency vehicles to the subject parcel and Lot 3 to the South. Additional emergency vehicle turnarounds may be provided as conditioned or required by Benton County public safety.

- This methodology permits primary access in an emergency response scenario to the point closest to the primary access road of South Oak Street and would ensure that those potentially evacuating do not intersect with the emergency response traffic. We believe this is a more appropriate scenario than the one previously presented and ensures that vehicular egress pathways do not intersect ingress pathways at potential choke points.

Alcohol Service Mitigation

It was previously suggested that inebriated patrons would create disoriented conflicts with regular traffic on this relatively calm rural road. As demonstrated in the traffic data this road sees fairly regular and consistent traffic volume comparable to other areas with similar levels of agricultural and commercial activity.

- In contrast to the residential uses throughout the area, this commercial activity will be licensed by the Washington State Liquor and Cannabis Board.
- Only licensed commercial caterers and their individually licensed servers will be permitted to provide alcohol to attendees.
- Overservice is strictly enforced upon all licensees, and overservice would result in fines and/or temporary license suspension. Repeated violations such as overservice would cause a revocation of licensure, which would be significantly impactful to the proposed use and not a reasonable risk to undertake.

- 4) Will be supported by adequate service facilities and would not adversely affect public services to the surrounding area; and

- The project received Department of Health approval for a Group A Transient Non-Community (TNC) water system, this approval was granted on April 24, 2023 with Permit No. 22-1106 (Exhibit D).

- The project received Benton-Franklin Health District approval for a Sewage Disposal System Construction permit on January 6, 2023 with Permit No. 16679 (Exhibit E).
- The total traffic volume and requisite per-event impact examined more fully in Conclusion Exhibit 3 (above) and Exhibit H depict relatively little overall impact on Average Daily Traffic (ADT), which should be well within the existing capacity of the roads serving the site.

- 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.

The scale of the development and screening vegetation proposed is consistent with the scale of the adjoining agricultural uses, and of much lower impervious density than that of the existing non-conforming uses surrounding the subject property. The applicant proposes to use the same wind/noise screening vegetation as is utilized on numerous surrounding properties, and the elevation proposed for the final graded site would similarly screen adjoining uses from potentially unusual visual or audible elements. Many of the existing permitted uses surrounding the site are also permitted by-right on the subject property, and would have the same or similar scale and design to the proposed use.

APPLICANT'S RESPONSE TO AGENCY COMMENTS FROM PRIOR APPLICATION

BENTON COUNTY CODE ENFORCEMENT COMMENT – HEM 1.17

TRAFFIC

The proposed use has demonstrated a relatively small increase in traffic through the Institute for Traffic Engineers (ITE) methodology, which in totality pertain to less than 20% of the days in an entire year. The average natural growth in traffic volume for the area is several times greater than the impact of the proposed use overall. It has been noted that the County plans to address a solution for the growing traffic volume on the publicly maintained East Game Farm Road in the next few years, which should address more significant overall traffic volumes. The volumes contemplated by this request are relatively insignificant as proposed, and the conditions proposed are meant to further align capacity with perceived increases.

PUBLIC NUISANCE / NOISE ORDINANCE

The comment provides the County's codified definition for 'Public Nuisance Noise,' and notes that 'loud music' is not exempt from this ordinance. The proposed use, a commercial activity, is specifically exempt per Benton County Code Section 6A.15.050(g); this can be compared to the several hundred acres of cherry orchard operations permitted by-

right less than 375' away from the subject property that are similarly exempt. Those activities permitted by-right are by contrast not limited by specific conditions in their frequency or volume.

More detail can be found above in Conclusion Exhibit 2 (above); however, it is worth noting that the primary mode of entertainment will be unamplified human voices, which are also categorically exempt within the conditioned hours of operation.

OTHER

Additional comments received are by admission of the respondent their 'belief' or 'feeling,' and while justified for validation are countered elsewhere in this application and/or are subjective in their interpretation.

BENTON COUNTY PUBLIC WORKS DEPARTMENT – HEM 1.20

Applicant concurs with the comments received and will move forward as directed.

Although not necessary for confirmation during the conditional use approval process, the applicant requests clarity if a road approach permit will be necessary if utilizing the (1) existing approach to the residence AND (2) the approach designated in the 40' access easement on Short Plat 3728.

The Fire Marshall did not express any fire concerns with the proposed site plan or vegetation, and applicant's current and proposed vegetation does not differ significantly from the vegetation located on surrounding properties.

BENTON COUNTY FIRE MARSHALL – HEM 1.18

Applicant concurs with the comments expressed by the Fire Marshall and offers the attached site plan and proposed description of traffic mitigation and emergency access as demonstrated in Applicants Response to Benton County Code Section 11.50.040(d) Conclusion Exhibit 3.

BENTON FRANKLIN HEALTH DISTRICT – HEM 1.16

Group A Water System has been approved, water rights ascertained, and reduction in attendee count has been addressed through proposed conditions.

APPLICANT'S RESPONSE TO PUBLIC COMMENTS FROM PRIOR APPLICATION

Applicant reserves the right through the quasi-judicial hearing process to allow the offered evidence to support the findings and conclusions of the Hearings Examiner, and refrains from specifically responding to the views or opinions presented. Notably, the applicant and their representatives have presented evidence of compatibility throughout this application that would dispel many subjective assumptions.

EXHIBIT A – CHERRY ORCHARDS

The aerial map below shows the subject property with a blue outline, which is very near to several properties that are in the GMA-AG zoning district and contain cherry orchards and associated operations. Additional lands surrounding the property are owned in common with those used for Cherry Orchards; however, it can't be determined through county records or visual observation that those are actively being used for Cherry Orchards.

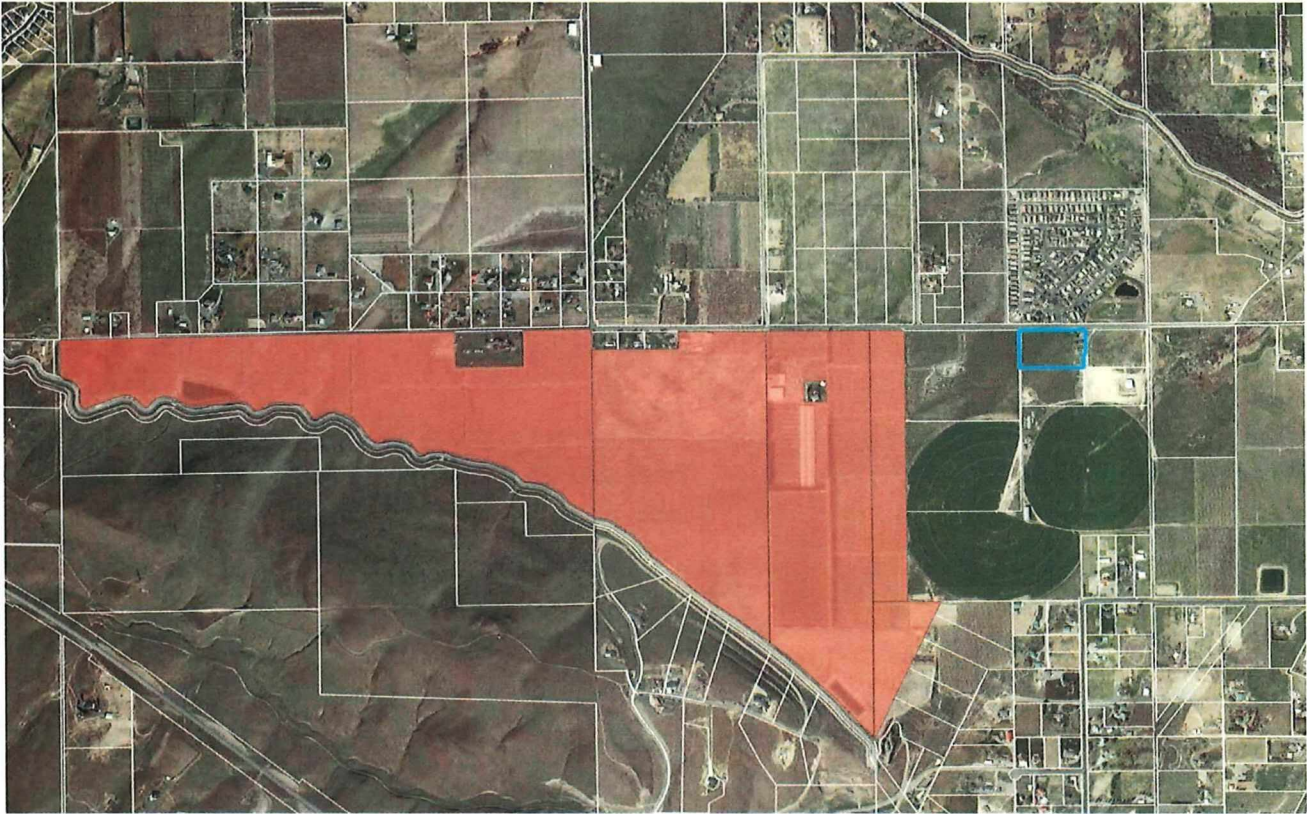


EXHIBIT A – PHOTOS FROM DEPICTED ORCHARDS RUNNING HELICOPTER-BASED DRYING



*Images above sourced from owner/user submitted photos for Cherry Ridge Farm's own business listing pages.

Exhibit B

Sent from my iPhone

Begin forwarded message:

From: Riverside Dave <dave@riversidedave.com>
Date: March 11, 2023 at 12:18:31 AM PST
To: jessicam327@hotmail.com
Subject: DB level check at 201005 E Game Farm Rd, Kennewick, WA 99337

Hello Jessica,

Thank you for choosing Riverside Audio Visual for your audio level check needs. The following is our report for the proposed event site at 201005 E Game Farm Rd, Kennewick, WA 99337.

Date of check: March 10th, 2023

Time of check: 10:30am- 12:30 pm

Equipment used: Bose Lpro16 amplified audio system, recorded audio source, sound level meter set to A weighting

Conditions: clear sky, slight breeze, temperature below 52 degrees F

Receiving property line testing location: at Game Farm rd between the receiving property boundary and the street side, approximately five (5) feet away from receiving property boundaries

Environment: both 201005 E Game Farm Rd, Kennewick, WA 99337 and receiving properties are believed to be Class A EDNA

Population saturation of the area: low density and sparse

Receiving property readings ->

Background sound level: 40db and below

db read with people speaking: 67db-74db

db read range of cars driving by: 69db-84db

db at receiving property with amplified audio source: 51-53db

NOTES: Audio source level at the proposed site was 51db-53db with music programming being played through amplified sound system. The db reading at the amplified music source (within 5 feet) was 92db.

Audio source was pointed diagonally from the SW corner of the property to the NE corner of the property. Did not observe anyone walking, walking dogs, bicycling, or outside of their homes or vehicles during testing time. Increased amplified noise source to 70db at receiving property boundary for sixty (60) seconds without any known complaints. Increased the noise during testing to 70db to check the environments ability to deflect and absorb sound, found little degradation currently.

Thank you again, and if you have any questions or concerns please dont hesitate to call or text 509-727-

Exhibit C Removed, Replaced as Exhibit H(a).



Exhibit D

STATE OF WASHINGTON
DEPARTMENT OF HEALTH
EASTERN DRINKING WATER REGIONAL OPERATIONS
16201 E Indiana Avenue, Suite 1500, Spokane Valley, Washington 99216-2830
(509) 329-2100 • 711 Washington Relay Service

April 24, 2023

Jessica Morales
Miguels Venue
3909 Equinox Ct
Pasco, WA 99301

Subject: Miguel's Venue Water System, ID # AE164, Benton County
Group ATNC; DOH Project # 22-1106; APPROVAL

Dear Ms. Morales:

The Group A Transient Non-Community (TNC) packet for the above project received in this office November 10, 2022, together with updates on November 15, 2022, and January 12, 2023, has been reviewed and, in accordance with the provisions of WAC 246-290, is hereby APPROVED.

As required in WAC 246-290-040 – Within sixty days following the completion of, and prior to the use of, the above project or portions thereof, the attached Construction Completion Report must be completed by a professional engineer and returned to this department.

WAC 246-290-120 provides if the certification of construction completion has not been submitted within two years of the date of this letter, this approval will become null and void unless you act at that time to arrange for an extension of the approval period in the manner prescribed.

WAC 246-290-990 authorizes a schedule of fees to be implemented for review of planning, engineering, and construction documents. The Department of Health's (DOH) total cost to review the TNC Packet is \$1,124.00 and invoice # 50492 was emailed to you on January 10, 2023. This invoice is now past due. Please remit payment at your earliest convenience. The past due invoice is enclosed.

Based upon the information submitted, upon receipt of the completed construction completion report form (see enclosed) the number of approved connections will be two (2).

Please note that the water system is expected to permit additional new connections in a manner consistent with this project or your approved water system plan, or both, so that physical capacity and water rights are not exceeded.

Jessica Morales

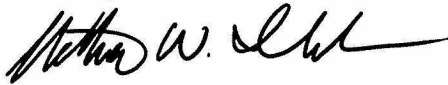
April 24, 2023

Page 2

DOH Disclaimer: The department's approval of your water system TNC Packet does not confer or guarantee any right to a specific quantity of water. The approved number of service connections is based on your representation of available water quantity. If the Washington Department of Ecology, a local planning agency, or other authority responsible for determining water rights and water system adequacy determines that you have use of less water than you represented, the number of approved connections may be reduced commensurate with the actual amount of water and your legal right to use it.

If you have any questions, please feel free to contact me at (509) 329-2124.

Sincerely,



Nathan Ikehara, PE
Regional Engineer
Office of Drinking Water
Division of Environmental Public Health

Enclosures: Invoice # 50492 (Past Due)
Construction Completion Report

cc: Benton-Franklin Health District
Allan Evans, PE, AE Consulting
Katrina McLaughlin, DOH Compliance Program Manager
Arnica Briody, DOH WFI & ERO Data Manager

Exhibit E



BENTON-FRANKLIN HEALTH DISTRICT
7102 W OKANOGAN PLACE
KENNEWICK, WA 99336

Sewage Disposal System Construction
Permit

Owner: Morales, Jessica
3909 Equinox Ct
Pasco, WA
99301

Permit Number: 26679
Date Permit Issued: January 06, 2023
Date Permit Expires: January 06, 2024
County: Benton

Location Information

Property Address 201005 E Game Farm Rd **Subdivision/Legal:** Short Plat #3728
City: Kennewick **Block:**
Parcel Number: 1-2980-101-3728-001 **Lot:** 1

This system shall be installed by a licensed installer and be inspected and approved by the Benton-Franklin Health District before being covered. This permit shall expire one year from the date of issuance.

This permit has been issued based upon presently known site conditions and the information contained on the permit application. Any construction taking place on said property must be as indicated on the permit or revocation of this permit may result. This permit is subject to all applicable zoning laws and it is the permittee's responsibility to comply with said laws prior to system installation. All construction taking place shall be in compliance with Benton-Franklin Health District Rules and Regulations No. 2.

General Information

Type of Structure: Non-Residential **Number of Employees:** 50
Designed by: PE **Number of Patrons:** 250
Type of System: Pressure Distribution **Average Daily Flow:** 1012.5
Treatment Level: C **Maximum Daily Flow:** 1350

Pretreatment Information

Septic Tank Size: 4500 gal.
Outlet Baffle Filter: Yes
Treatment Type: Sand- Lined Trench
Pump Chamber Size: 3000 gal.
Dose Volume: 169 gal.
Reserve Volume: 1013 gal.

Drainfield Information

Drainfield Size: 3375 sq ft
Drainlines length: 80 feet
Drainlines number: 20
Maximum Trench Depth: 33 inches
Aggregate Depth: 9 inches
Distribution: Pressure Central manifold

Conditions

- Follow approved plot plan, maintain all setbacks.
- This is for the wedding venue that will be placed on the property, the home that already exists has its own septic system.
- Maintain 100' minimum from subsurface sewage disposal system to all wells.
- Maintain 100' minimum from septic tank to all wells.
- Maintain positive drainage away from the drainfield.
- Divert roof drains and surface water from drainfield area.
- Drainfield lines may be shifted slightly to follow the contours of the slope.
- All components of the sewage system must be installed in accordance with the engineers plans stamped approved by the Benton-Franklin Health District.
- All components of the sewage disposal pressure distribution system must be installed according to the Engineer's Plans, submitted to this office, meeting Benton-Franklin District Health Department Rules and Regulations No. 2, Recommended Standards and Guidance for Sand Lined Trench Systems , Recommended Standards and Guidance for Pressure Distribution. Other requirements may be deemed necessary by this office for approval as the construction project warrants.
- The Design Engineer is responsible for all final inspections, written certifications of construction, and as-built drawings of the system installation. Final construction as-built drawings must be submitted to this office prior to final approval of the system.
- A representative from the Benton-Franklin District Health Department must observe and approve the pressure testing of the drainlines prior to the backfilling. The pressure test requires the laterals to have the orifices in the 12 o'clock position. The orifices shall not be restricted or blocked during the pressure testing.
- The Design Engineer is responsible for drafting an Operations and Maintenance Manual for the system. This office must receive and approve a copy of the manual prior to final approval.
- Approval of the system plans, requirements for site modification, and permit issuance is not to be construed as permission by this department to trespass or alter neighboring properties.
- At such time as a failure to the system occurs, all sewage generating activities must cease until such time as appropriate repairs can be made (i.e. additional site modifications and/or installation of the replacement area.)
- The pump chamber must conform to Benton-Franklin District Health Department "Standards for Construction and Design". The property owner/permittee, contractor and/or installer are responsible for contacting Labor and Industries for all electrical /safety code requirements and inspections within their jurisdiction.
- The sewage disposal system must be installed by a septic installer licensed within the Benton-Franklin Health District.
- The system must be pressure tested with potable water.
- Prior to final approval of this sewage system the proposed public water supply serving this property shall be approved for use consistent with WAC 246-290/291 and/or Benton Franklin District Board of Health Rules and Regulations No. 7.

This permit to install an on-site sewage system is granted in accordance with Benton-Franklin District Board of Health Rules and Regulations No. 2.


Rebecca Warrington
Environmental Health Specialist

Amy Person M.D.
District Health Officer

Community Development Department

Prosser Office: 620 Market Street, 1st Floor
Kennewick Office: 102206 East Wiser Parkway
www.co.benton.wa.us



Planning Division

(509) 786-5612
P.O. Box 910, Prosser, WA 99350
planning.department@co.benton.wa.us

Exhibit F

**Determination of Non-Significance
(Optional Method)**

Proponent: Jessica Morales

File No. EA 2023-002

Project Description: An outdoor reception facility (event center) with permanently affixed restroom accommodations, and a 125-space parking area. Events held on-site shall not exceed two hundred (200) attendees and will be limited to conditions determined through the Conditional Use Permit process.

Project Location: The project is in unincorporated Benton County, generally located in the Finely area, approximately 1 mile east of the intersection of Oak Street and Game Farm Road, across from Santiago County View Estates Mobile Home Park, at site address 201005 E Game Farm Road, Kennewick, WA. The parcel is legally described as Lot 1 of Short Plat 3728 in Section 29, Township 08 North, Range 30 East, W. M., parcel number 129801013728001.

Jurisdiction: Benton County, Washington

Lead Agency: Benton County Planning Division

Threshold Determination: The lead agency for this proposal has determined that it will 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). The decision was made after review of a completed environmental checklist, comments received from various agencies and other information on file with the lead agency. This information is available to the public on request.

This DNS is issued after using the optional DNS process in WAC 197-11-355. There is no further comment period on the DNS.

Administrative appeals of threshold determinations of non-significance (DNS) are not allowed.

SEPA Responsible Official: Michelle L. Cooke

Position/Title: Planning Division Manager

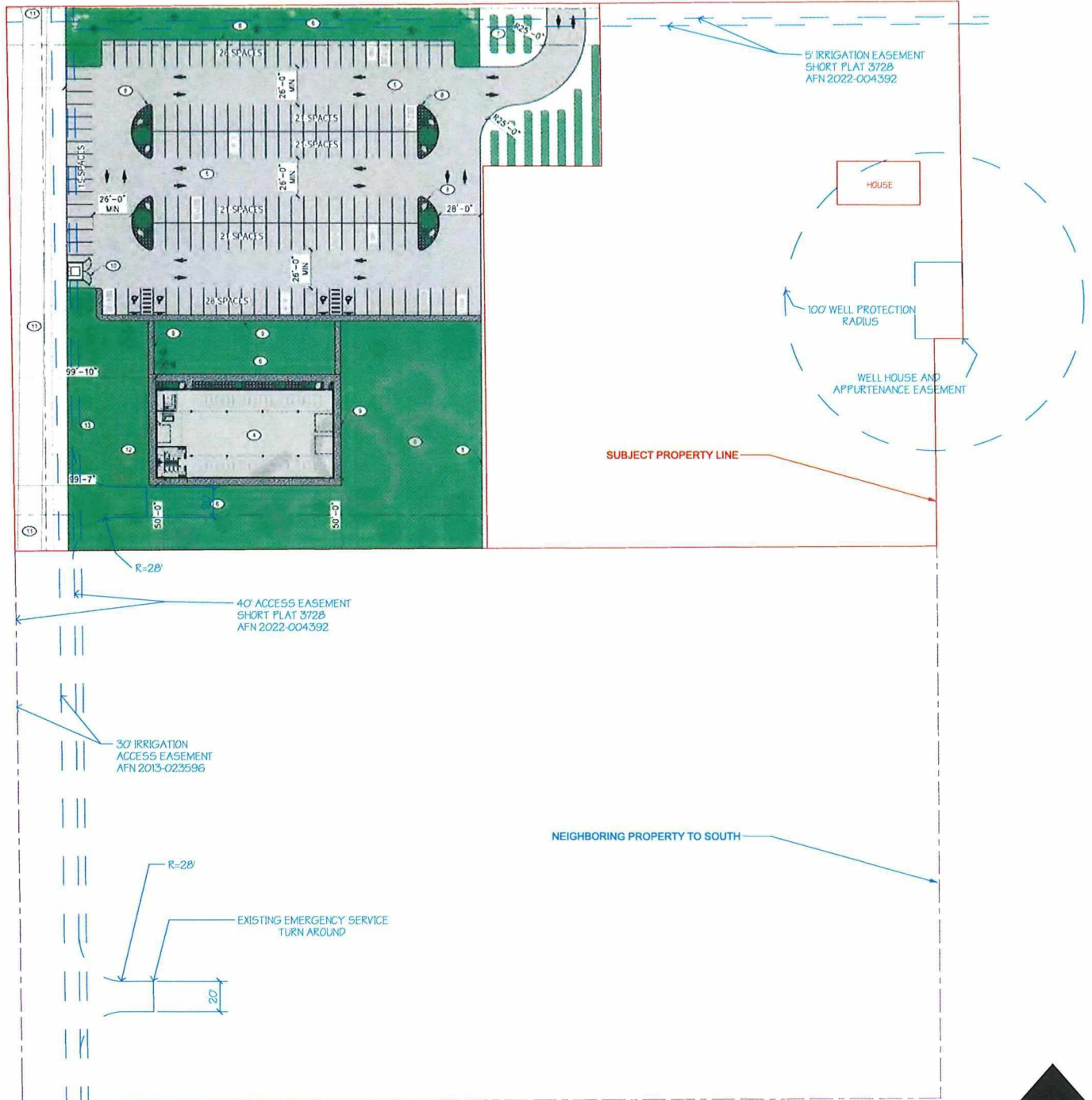
Address: P.O. Box 910, Prosser WA 99350

Date: February 27, 2023

Michelle L. Cooke, Planning Division Manager
Benton County Community Development Department

EXHIBIT G

SITE PLAN



A S Klein Engineering, PLLC
2 Rose Ct.
Pasco, WA 99301

Phone: 509.380.5995
Email: inquiries@asklein.com
www.asklein.com

Memorandum



HEM 1.9

**EXHIBIT H
SUPPLEMENTAL**

To: Miles Thomas
Locus Project Management

FROM: Andrew Klein, P.E.
A S Klein Engineering, PLLC

DATE: July 28, 2023

SUBJECT: ENGINEERING REVIEW OF MIGUEL'S VENUE TRAFFIC IMPACT ANALYSIS

Our firm's services were retained to review the traffic impact analysis for Miguel's Venue that was prepared by Locus Project Management, dated July 20, 2023. Miguel's event venue is a proposed reception facility to be located on East Game Farm Road in Benton County with an address of 200105 East Game Farm Road, Kennewick, WA 99337. The conclusion that the operation of Miguel's Venue will have a 10% impact on traffic during peak hours on 36 days in the year, and a 2% overall impact on traffic overall, is conservatively calculated.

It is my professional opinion that the traffic impact analysis for Miguel's Venue detailed in this memorandum was performed in conformance with accepted engineering practices.

Please feel free to contact me with any questions.

Andrew S. Klein
Fire Protection Engineer | Chemical Engineer
President, A S Klein Engineering, PLLC
509-380-5995, *direct*
443-207-2739, *mobile*
andrew@asklein.com, *email*



Professional Certification. I hereby certify that this document was prepared and approved by me, and that I am a duly licensed professional engineer under the laws of the State of Washington, registered as qualified in Fire Protection Engineering and Chemical Engineering. License No.: 47831. Expiration Date: January 12, 2024.

Exhibit H

MIGUEL'S VENUE

BENTON COUNTY, WA

Traffic Impact Analysis
July 20, 2023

Prepared For
Miguels Venue
c/o Jessica Morales
3909 Equinox Court
Pasco, WA 99301

Project Location
201005 East Game Farm Road
Kennewick, WA 99336
Parcel No. 1-2980-101-3728-101

Prepared by
Locus Project Management

Background.....	3
Notes regarding Prior Application	3
Hearing Examiners Findings	3
State Environmental Policy Act (SEPA) Findings	4
Project approach	5
Description of Existing Road, Pedestrian, and Transportation Facilities	6
East Game Farm Road	6
South Oak Street	6
Intersection with Major Urban Collectors	7
Existing Conditions Data Collection	7
Proposed Project’s Impact Assessment.....	8
Proposed and Recommended Impact Mitigation Measures	11
Mitigation of General Traffic Impact.....	11
Exhibit A – Traffic Counts.....	12
East Game Farm Road Adjacent to Subject Property - 2019.....	12
East Game Farm Road Adjacent to Subject Property - 2020.....	13
East Game Farm Road 350’ From 201005 Property - 2021.....	14
South Oak Street 500’ North of East Game Farm Road - 2022	15
South Oak Street 2,250 Feet North of East Game Farm Road - 2021	16
South Oak Street 2,250 Feet North of East Game Farm Road - 2022	17
South Oak Street 2,250 Feet North of East Game Farm Road - 2023	18

BACKGROUND

Miguel's Event Venue is a proposed reception facility to be located on East Game Farm Road in Benton County with an address of 200105 East Game Farm Road, Kennewick, WA 99337. The subject property has a Benton County Parcel Number of 1-2980-101-3728-101. The project was submitted to Benton County as a proposed conditional use permitted in the Rural Land Five Acre District (RL-5) with a Land Use Designation of Rural Remote on a property approximately 5.33 acres in size.

A prior conditional use application was submitted, which resulted in the Benton County Hearings Examiner releasing their Findings of Fact, Conclusions of Law and Decision on that application on April 3, 2023. Subsequently, the project was revised and resubmitted to Benton County as a new conditional use application and a response received June 2, 2023 indicating that due to the findings of the prior application that the Benton County Planning Director would be requiring a Transportation Impact Analysis prior to reviewing the application for completeness.

NOTES REGARDING PRIOR APPLICATION

HEARING EXAMINERS FINDINGS

In a previous application, the County's Hearing's Examiner determined based on the limited evidence available¹, that:

*"Granting the CUP would 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. Given the limited access, street width, and lack of sidewalks, impacts are inconsistent with the nature of the surrounding uses."*²

Further, this conclusion is based upon cited Findings of Fact including:

- A presumption that there would be an "...addition of 125 trips to E Game Farm Road per event..."³
- Stated potential impact on agricultural uses, based upon the submitted public comment of a local farmer indicating that [farming] activities "[are] not going to make people having a wedding very happy."⁴
- Stated potential that "...regular influx of this level of traffic along with its usual uses, including tractor equipment usage presents an irreconcilable conflicts"⁵
- Note that "Flaggers and prohibitions for on-street parking would assist but not resolve the issue due to the proposal's high volume."⁶
- Concern as to how alcohol would influence traffic impacts.⁷

¹ Applicant was not advised prior to hearing of the importance of supplying objective evidence required of a quasi-judicial process

² Decision on CUP 2023-001, Page 6 of 9, Item 2.4 Conclusions of Law, Quotation of Examiners Conclusions as related to pedestrian and vehicular traffic generation.

³ Decision on CUP 2023-001, Page 4 of 9, Item 1.12 Transportation Impacts, Partial Quotation of Examiners Findings of Fact

⁴ Decision on CUP 2023-001, Page 4 of 9, Item 1.12 Transportation Impacts, Partial Quotation of Public Comment

⁵ Decision on CUP 2023-001, Page 5 of 9, Item 1.12 Transportation Impact, Partial Quotation of Examiners Findings of Fact

⁶ Same as Note 3

⁷ Same as Note 3

We intend to fully address these concerns to the extent that they directly relate to traffic impact and/or conflict.

STATE ENVIRONMENTAL POLICY ACT (SEPA) FINDINGS

On February 27, 2023 Benton County's 'SEPA Responsible Official' Michelle L. Cooke issued a **Determination of Non-Significance** for an outdoor reception facility (event center) with permanently affixed restroom accommodations, and a 125-space parking area, which further denoted that events held on-site shall not exceed two hundred (200) attendees and will be limited to conditions determined through the Conditional Use Permit Process.

While the application has changed to incorporate the construction of an indoor venue, the traffic demand requirements have not increased, and are suggested to be capped at one-hundred-fifty (150) attendees.

Among many other environmental factors, the following factors are considered by the Optional Method for SEPA review and were inclusive of the subsequent Determination of Non-Significance. Of note, decisions are made after a review of (1) a completed environmental checklist, (2) comments received from various agencies and other information on file with the lead agency. In this case, comments were received from the public regarding their assumptions of traffic impact and comments from Benton County agencies and regional partners indicating what efforts would need to be undertaken to resolve any traffic impact conflicts.

Part of the requirement in issuing a Determination of Non-Significance is to evaluate Environmental Checklist **Section 14. Transportation**, and to determine if any further significant actions may result comparing the responses to known environmental conditions. The criteria regarding transportation to be considered (which were already considered by the county and a Determination of Non-Significance issued) for a determination of non-significance include:

- a. Identify public streets and highways serving the site or affected geographic area and describe proposed access to the existing street system. Show on site plans, if any.
- b. Is the site or affected geographic area currently served by public transit? If so, generally describe. If not, what is the approximate distance to the nearest transit stop?
- c. Will the proposal require any new or improvements to existing roads, streets, pedestrian, bicycle, or state transportation facilities, not including driveways? If so, generally describe (indicate whether public or private).
- d. Will the project or proposal use (or occur in the immediate vicinity of) water, rail, or air transportation? If so, generally describe.
- e. How many vehicular trips per day would be generated by the completed project or proposal? If known, indicate when peak volumes would occur and what percentage of the volume would be trucks (such as commercial and nonpassenger vehicles). What data or transportation models were used to make these estimates?
- f. Will the proposal interfere with, affect, or be affected by the movement of agricultural and forest products on roads or streets in the area? If so, generally describe.
- g. Proposed measures to reduce or control transportation impacts, if any.

PROJECT APPROACH

In assessing this project for a traffic impact analysis, we understand that the proposed use is limited by fixed prevailing factors, which together allow for an agreeable and known quantity of additional trips to be generated throughout the year. Therefore, the specific scope and approach used to evaluate the traffic impact are limited based on two factors:

- The inherent limitation of the use as conditionally permitted in the RL-5 zoning district as a “Reception facility with a capacity not to exceed two hundred (200) attendees” (Benton County Code 11.11.060(n)).
- The opportunity afforded by the Conditional Use process to artificially implement more restrictive limitations, where mutually agreeable, meant to mitigate the intensity of a permitted use where it is otherwise not permitted by-right.

To analyze the relative impact of the proposal, the conditions at the outset of this analysis are based upon the assumption that the applicant be required to:

- Cap combined attendee and on-site staff support at one-hundred-fifty (150) people at any single event.
- Hold no more than twelve (12) events each month.
- Proactively implement reconfiguration of primary visitor access to limit traffic conflict and increase visibility of all road users.
- Provide emergency access along a preexisting access easement (Short Plat 3728) and dedicate a emergency vehicle turnaround easement.
- Reinforce that the venue:
 - a. Is a private reception facility for which only invited guests to scheduled events are permitted to legally consume within the facility.
 - b. That the business will hold appropriate licensing and adequate liability insurance as is required for activities licensed by the Washington State Liquor and Cannabis Board.
 - c. Maintain strict adherence to the laws and requirements of the Washington State Liquor and Cannabis Board in precluding overservice or overconsumption.

The following tasks will be utilized to determine the relative impact of additional traffic created by the proposal:

- Description of Existing Road, Pedestrian, and Transportation Facilities
- Existing Conditions and Data Collection
- Proposed Project’s Impact Assessment
- Proposed and Recommended Impact Mitigation Measures

DESCRIPTION OF EXISTING ROAD, PEDESTRIAN, AND TRANSPORTATION FACILITIES

The following description is limited from the subject parcel to the nearest intersection of two Urban Major Collector streets – the intersection of E Bowles Road and S Oak Street. The rough area assessed is depicted on the attached map and available to-scale as requested.



The subject parcel for the proposed reception facility is located at 200105 East Game Farm Road, which is a Benton County designated Paved Urban Local Access.

EAST GAME FARM ROAD

This portion of East Game Farm Road runs one mile each way from its intersection with South Oak Street. This portion of the road is a two-lane paved urban local access road, with a speed limit of 35 miles-per-hour end-to-end. The subject property is approximately 0.87 miles East of the intersection with S Oak Street, which is the single point of access to this portion of East Game Farm Road from the nearest Major Urban Collector. Both ends of this road dead end into unpaved private dirt access roads or driveways to private residences and businesses.

SOUTH OAK STREET

This portion of South Oak Street runs 1.12 miles from its intersection with East Game Farm Road to its intersection with East Bowles Road. Along this distance it is designated a two-lane paved urban local access road, with a speed limit of 40 miles-per-hour. It provides the primary access from the property on East Game Farm Road to the nearest Major Urban Collector (the designation of South Oak Street and East Bowles Road both become Urban Major Collectors North and

East of their intersection). There is a stop sign traveling South towards the intersection with East Game Farm Road, and a stop sign traveling North towards the intersection with East Bowles Road.

INTERSECTION WITH MAJOR URBAN COLLECTORS

It appears that a partially paved but undesignated right hand turn from Oak Street to travel eastbound on East Bowles Road has been utilized for several years. There is no stop sign to continue onto South Oak Street coming from the remainder of South Oak Street or East Bowles Road traveling towards the subject property.

EXISTING CONDITIONS DATA COLLECTION

Benton County routinely provides updated traffic counts at specific junctions and routes throughout the County. Data points relevant to the subject property and this application were recorded and published – excerpts of those traffic counts on Benton County’s GIS Web Portal are provided as screenshots attached as Exhibit A.

Time Period	2019 ADT	2020 ADT	2021 ADT	2022 ADT	2023 ADT
East Game Farm Road Adjacent to 201005 E Game Farm Road	1,153	1,303 + 13% from 2019			
East Game Farm Road 350’ West of 200105 E Game Farm			1,561		
South Oak Street 500’ North of East Game Farm Road				1,851	
South Oak Street 2,250 Feet North of East Game Farm Road			1,831	1,849 + 1% from 2021	1,964 + 6% from 2022

PROPOSED PROJECT'S IMPACT ASSESSMENT

As a conditional use with a defined maximum quota of participants at any given time, the traffic generated to/from the use is limited to the proposed 150 attendees and further restricted by ordinance to 200 attendees maximum regardless of conditions created. The Institute of Traffic Engineers (ITE) Trip Generation Guide does not include a land use category specifically for wedding/event venues that this Reception Facility would fall under, and we must therefore look to standard methodology available.

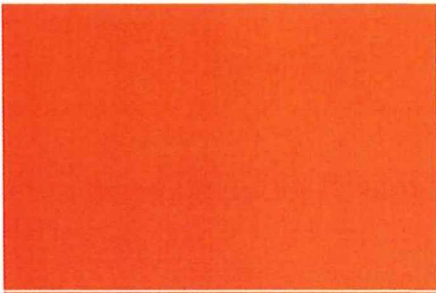
Transportation Engineer, Mike Spack, has provided an often cited assessment titled, Estimating Trip Generation and Distribution for a Wedding Venue.⁸ The assessment is provided explicitly because of the lack of a defined land use category for a wedding venue, and demonstrates a replicable standard methodology to project the trip generation rates and trip distribution assumptions. This assessment is cited as recently as July 9, 2021 where it was used in a staff report by the Southwest Regional Planning Commission (Keene, NH) to detail event traffic flows similar to the proposal in this traffic impact analysis.

The following is calculated as a result of typical formula to render trip generation rates:

- A reception is a single event at a pre-established time and place, all traffic will be generated by guests and vendor/caterers.
- The maximum attendee count is fixed at 150 per the currently recommended agreeable conditions for issuance of the conditional use permit.
- It would be unusual for guests to travel separately, and most will arrive as couples or families – with an average of 2.25 people per vehicle the Trip Generation Multiplier for the Reception Facility's capacity is 0.50 (actually .45, but rounded up to account for more likely scenario).
- This would add an average of 75 trips each way, for a total of 150 trips added per event (maximum of 12 per month as suggested by conditions).
- Additional factors that limit trip generation during peak hours:
 - By nature of a reception venue, ordinary events are not scheduled for weekday early mornings and therefore avoid creating a statistically significant weekday AM Peak Hour conflict.
 - Most events will begin and end outside of typical weekday peak hour traffic as events will be scheduled where and when people are most naturally available – weekends and evenings.
 - With a maximum of 12 events per month or 144 per year the events will only be scheduled on 39% of the days each year.
 - Even if the maximum number of trips were generated, the likelihood of those trips occurring during a peak hour traffic event would likely occur on fewer than 25% of scheduled events, which account for fewer than 10% of the days in a year.

⁸ <http://www.mikeontraffic.com/estimating-trip-generation-distribution-wedding-venue/>

PM Peak Hour Trip Quantities	Proposed Reception Venue
ITE Code	No applicable code; utilizing general ITE example provided by Spack Consulting.
Units	Number of Attendees
Quantity	150 (Maximum Permitted)
Trip Generation Multiplier	<ul style="list-style-type: none"> 150 People / 2.25 People Per Vehicle Average= 67 Trips (One Way Rounded Up) $67/150= 0.45$ While the multiplier should be 0.45 for a conservative estimate of 2.25 people-per-vehicle, we opt to round up for a more conservative assumption that there will most-likely be two people per vehicle. <p>Final Trip Generation Multiplier Used: 0.50</p>
Total Possible Trips In or Out Per Event	$(150 \text{ Attendees}) \times (0.50 \text{ TGM}) = 75 \text{ Trips In or Out}$
Trip Reduction Multipliers	Provided the type of business, there are not anticipated to be any pass-by, diverted, or internal specific trip reduction multipliers.
Percent Enter or Exit at AM Peak Hour (6 a.m. to 9 a.m.)	<p>Of total attendees, although an event may begin at 10a or later it is assumed that a percentage of the host/guest count will arrive earlier for setup. We've assumed 10% of the reception attendees would be associated with early setup that may result in a AM Peak Hour Trip.</p> <p>Due to the nature of the restricted event hours we do not anticipate that there will be a statistically significant number of exits from the site during any AM Peak Hours.</p> <p>$10\% \text{ of } 75 = 8 \text{ AM Peak Hours Trips In}$</p>
Percent Enter or Exit at PM Peak Hour (4 p.m. to 7 p.m.)	<p>Events can occur at many scheduled start and end times – the most likely being weekends or weekday afternoons after the work day has concluded. Based on similar businesses we can expect a maximum of 25% of the total number of scheduled events may begin at or near the weekday PM Peak Hour.</p> <p>Due to the nature of the restricted event hours we do not expect there to be an opportunity where the venue will ever impact the PM Peak Hour with both entrances and exits from the property.</p> <p>$100\% \text{ of } 75 = 75 \text{ PM Peak Hour Trips In (or) Out}$</p> <p>With a total of 144 events permitted per year, we can expect on 36 days there may be an additional 75 trips to the site during the PM Peak Hour. The creation of 75 PM Peak Hour Trips would occur on fewer than 10% of the days per year.</p> <p>If we average all available average daily traffic counts for the past 5 years across several points along the approach from the closest Urban Major Collector, we see an average daily traffic volume of 1,644 vehicles.</p>



According to data from WSDOT’s 2022 Design Hour Report, which studied traffic by hour at 153 different locations throughout the state, peak-hour traffic occurs between 2:00 and 6:00 pm, which accounts for 42 – 46% of the total traffic. Taking the midpoint, during the peak 4 hours, the approach can expect 723 vehicles. Traffic from Miguel’s Venue will result in a 10% increase in traffic during peak hours on 36 days in the year.

Cumulative Impact

With a fixed maximum number of 150 trips in (and) out for an event we may see up to a 10% increase in average daily traffic volume. However, that increase is assuming that traffic is added to the total average per year, which cannot occur for this proposed venue as its limited to a maximum of 144 days of events per year. Using the conservative assumptions in this analysis, less than a 2% increase in average daily traffic volume will occur.

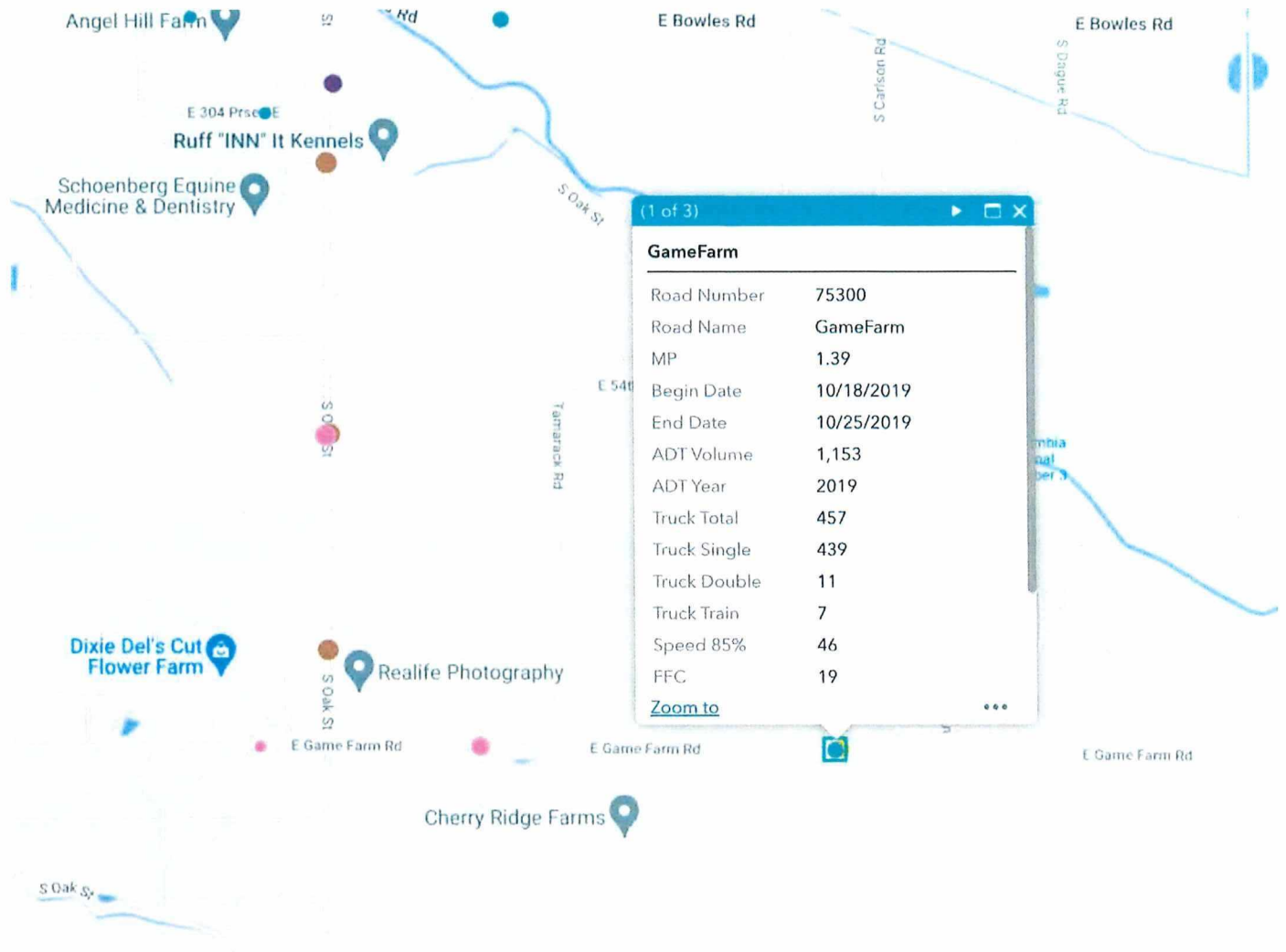
PROPOSED AND RECOMMENDED IMPACT MITIGATION MEASURES

MITIGATION OF GENERAL TRAFFIC IMPACT

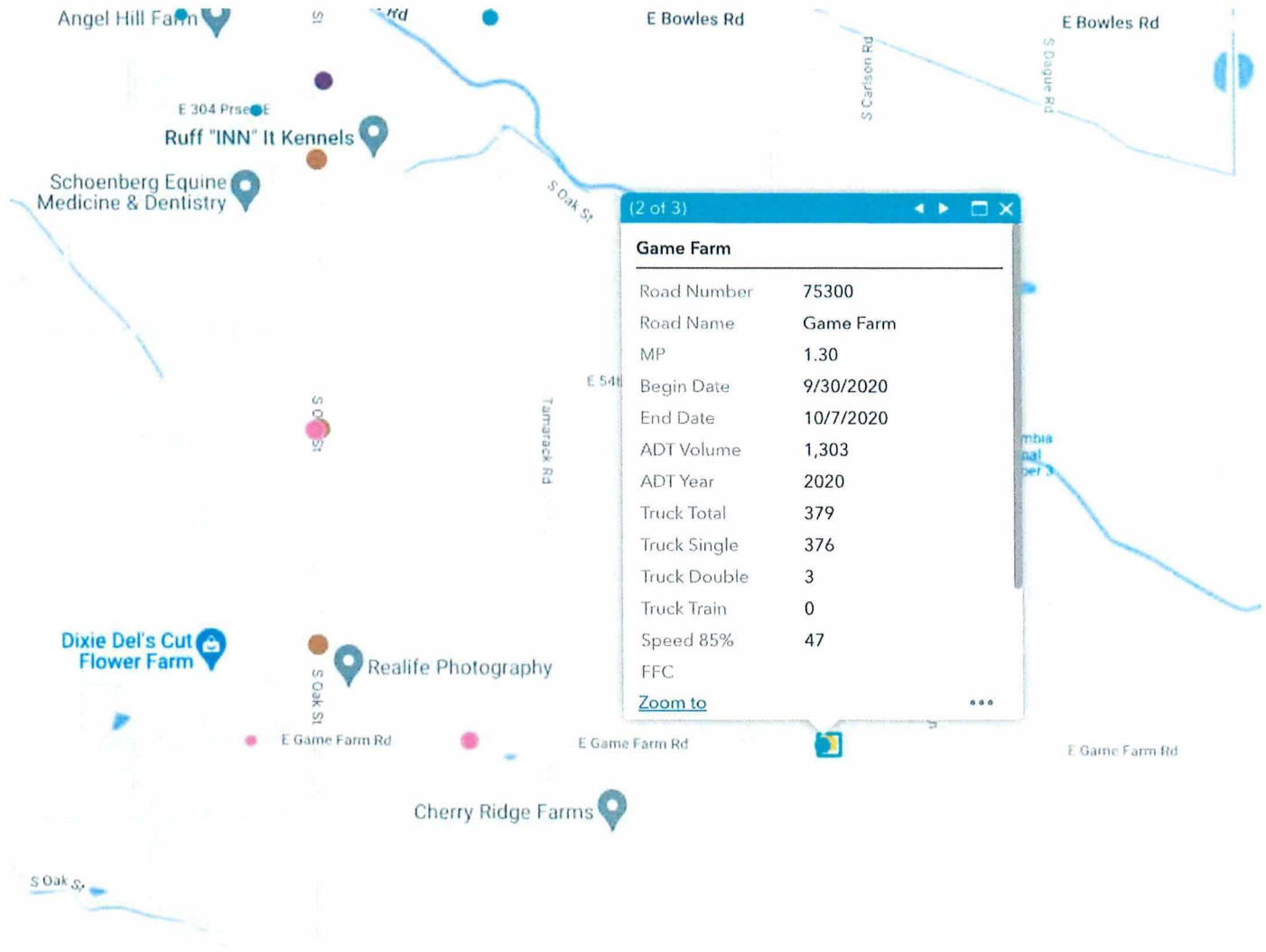
- If permitted, the conditional use requirements provide for a codified limit in traffic generation to serving no more than 200 attendees per event.
- Through the applicants combined suggestion of a maximum of 150 attendees, limit of 144 events per year (12 per month), and hours of operation limited to 10a to 10p the traffic impact would be appropriately constrained provided the semi-rural nature of the road network serving the area.
- Sidewalks and alternative transport facilities were not contemplated in this overall analysis; however, the semi-rural nature of the venue would not typically encourage walking or use of alternative transit to or from the property. All guests will be invited to pre-scheduled and organized events at the facility – sidewalks to other outright permitted uses, even those with more likely walkable pass-by traffic, do not appear to be a requirement.

EXHIBIT H(A) – TRAFFIC COUNTS

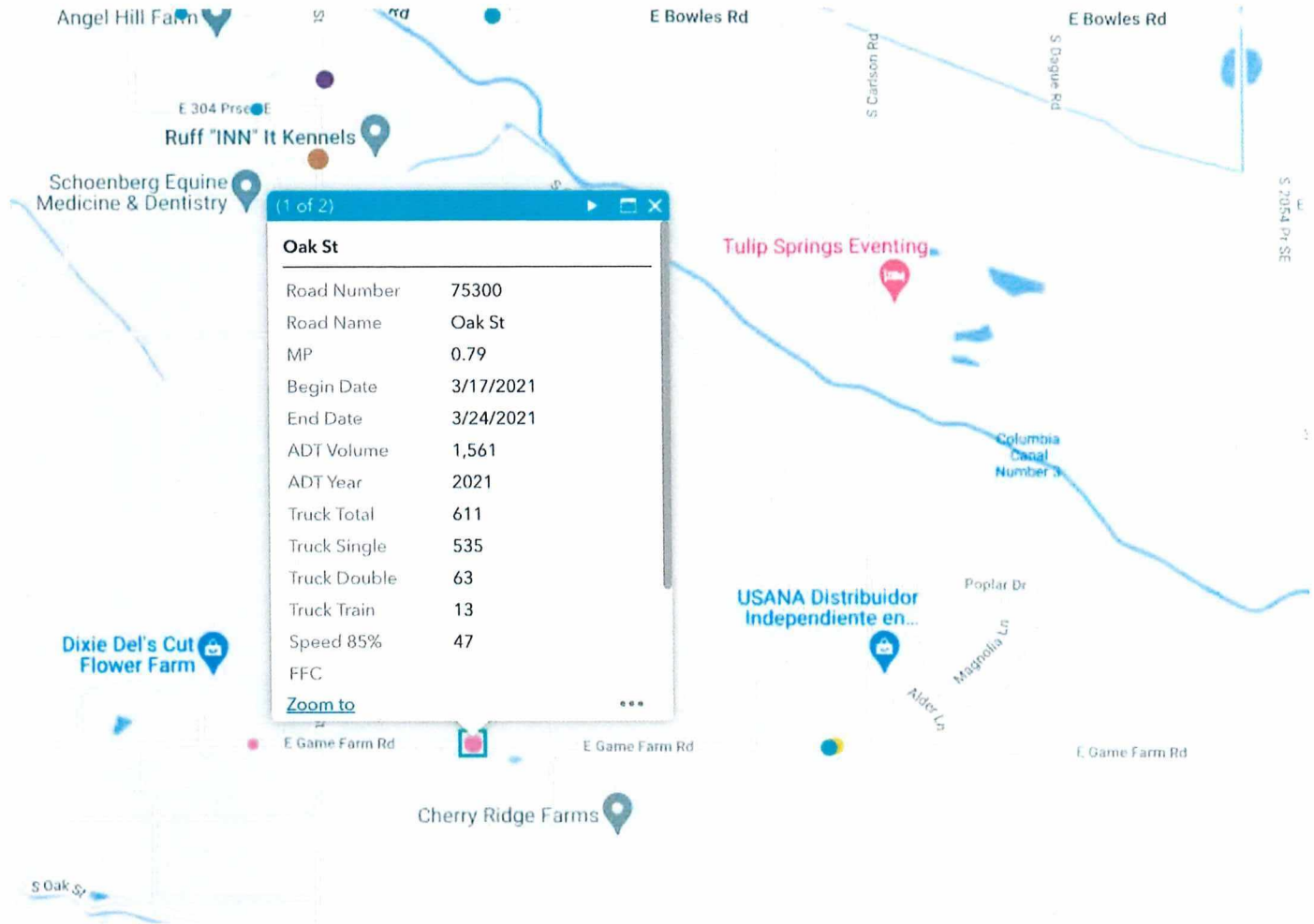
EAST GAME FARM ROAD ADJACENT TO SUBJECT PROPERTY - 2019



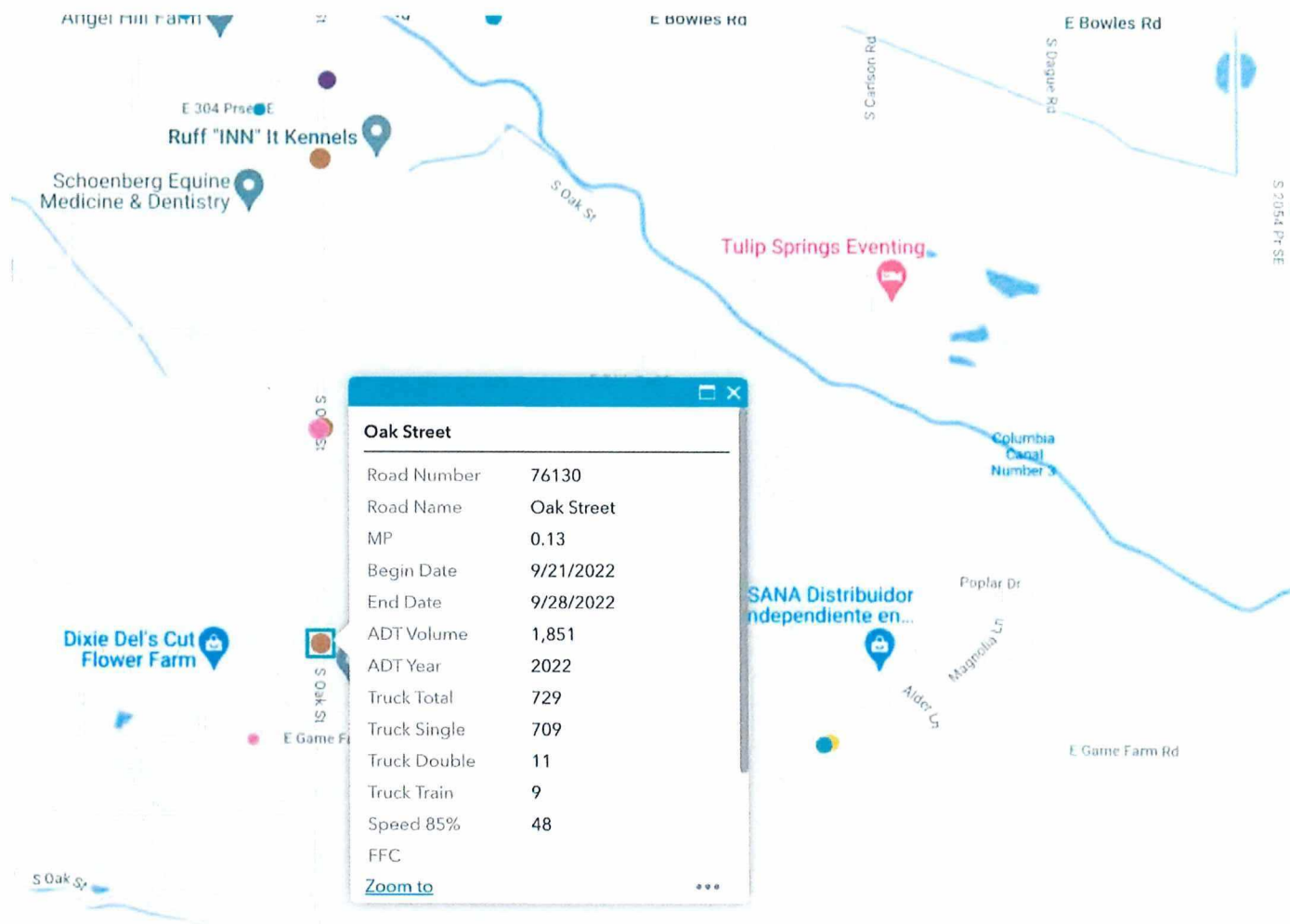
EAST GAME FARM ROAD ADJACENT TO SUBJECT PROPERTY - 2020



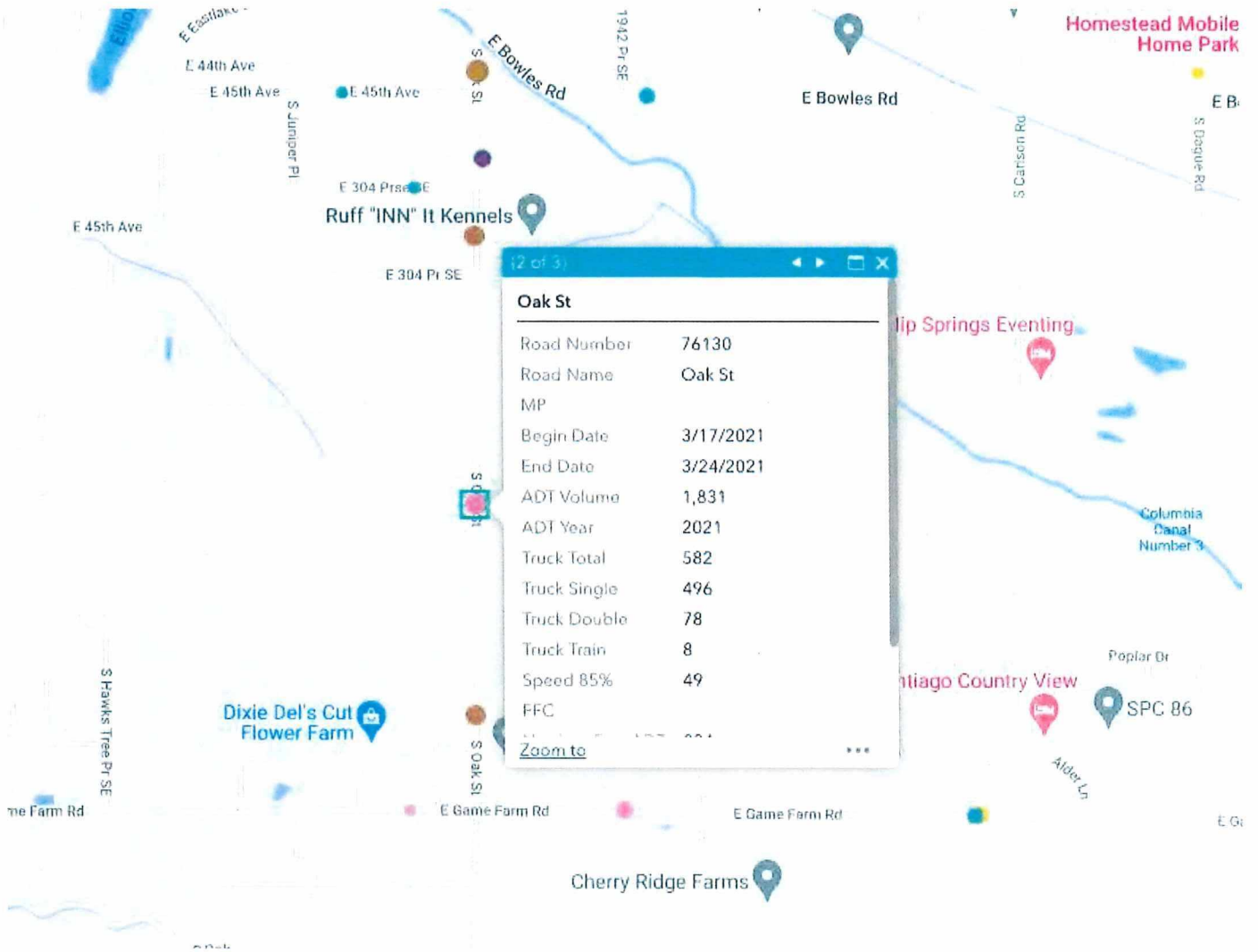
EAST GAME FARM ROAD 350' FROM 201005 PROPERTY - 2021



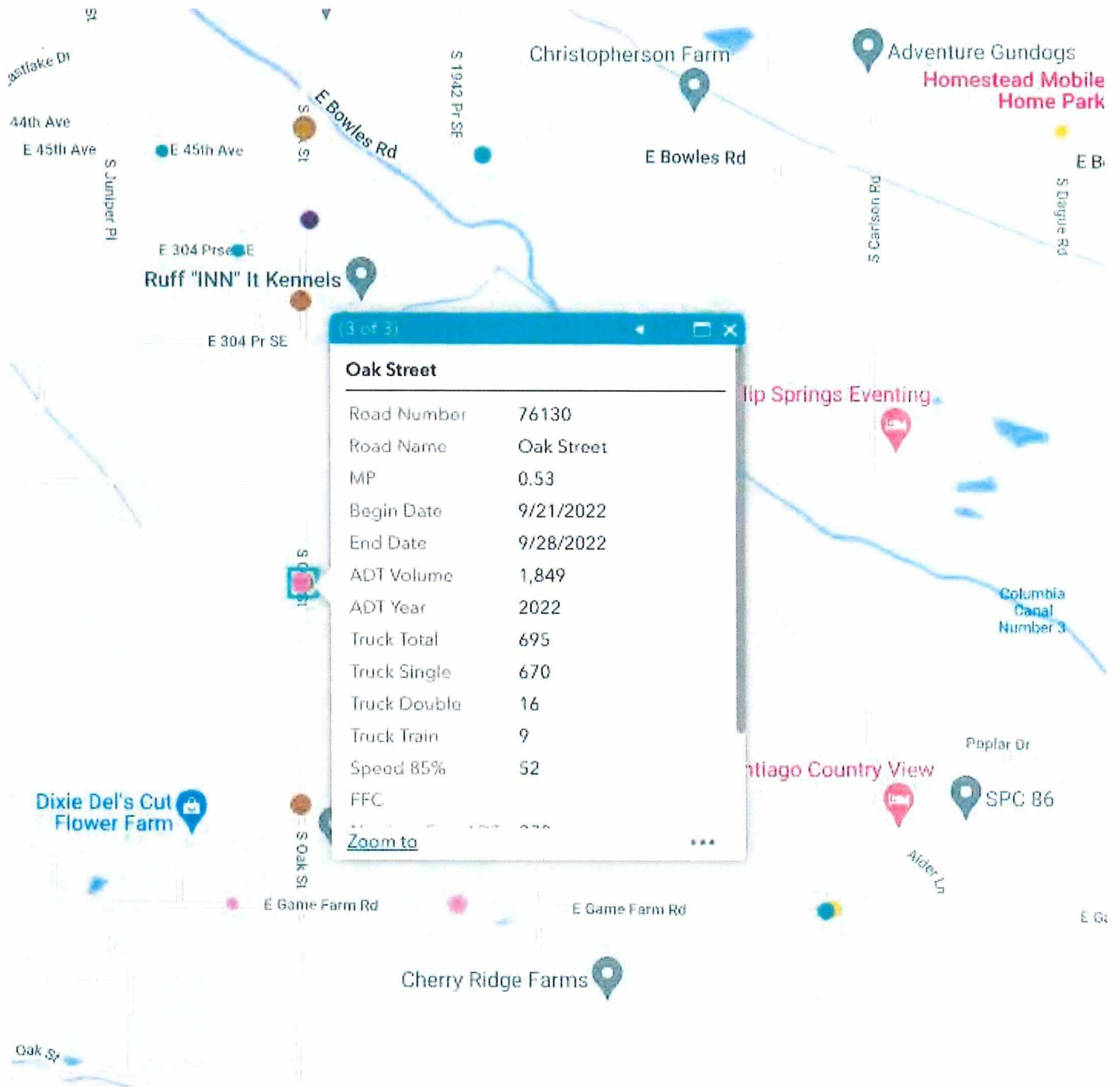
SOUTH OAK STREET 500' NORTH OF EAST GAME FARM ROAD - 2022



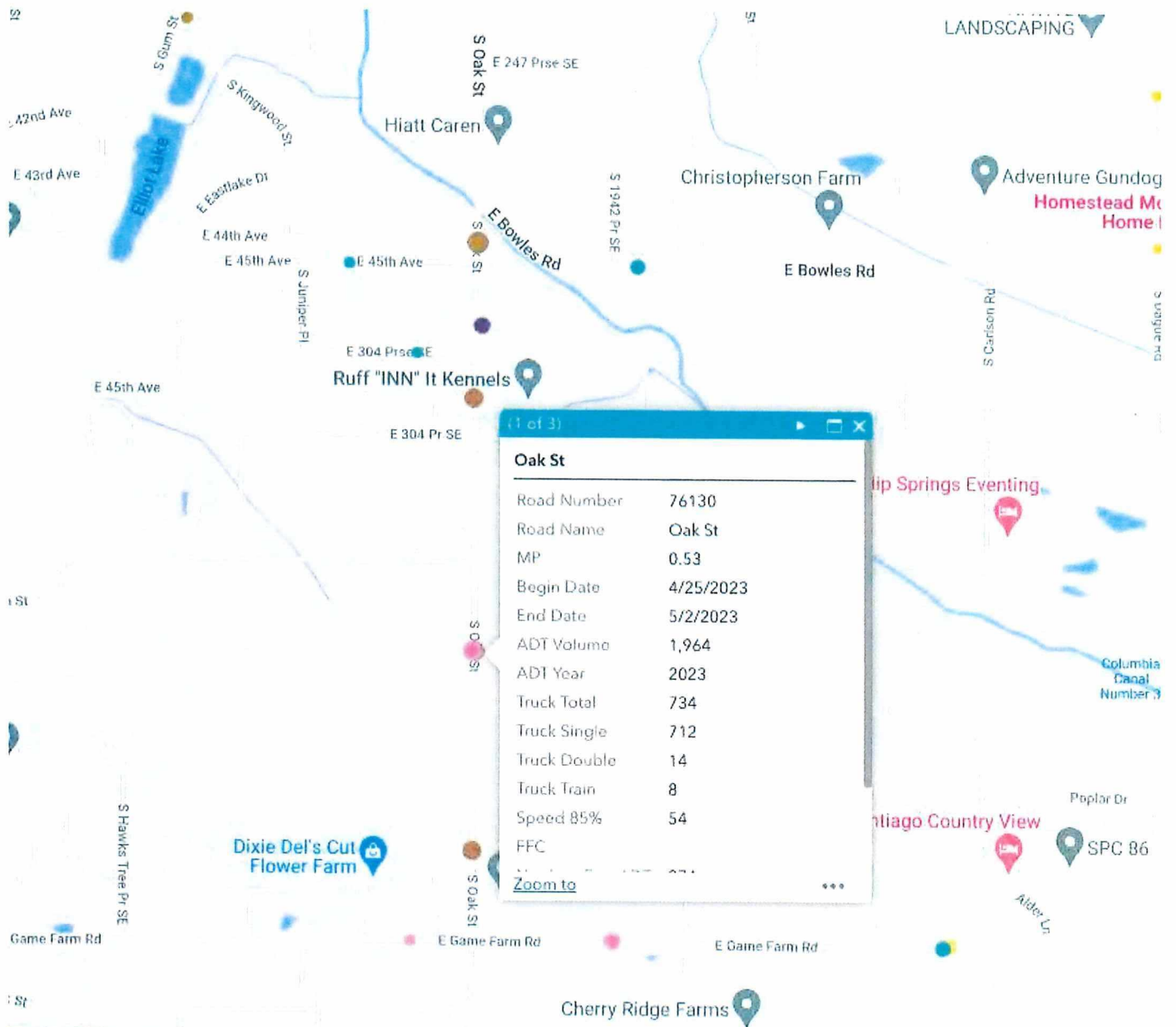
SOUTH OAK STREET 2,250 FEET NORTH OF EAST GAME FARM ROAD - 2021



SOUTH OAK STREET 2,250 FEET NORTH OF EAST GAME FARM ROAD - 2022



SOUTH OAK STREET 2,250 FEET NORTH OF EAST GAME FARM ROAD - 2023



Community Development Department

Prosser Office: 620 Market Street, 1st Floor
Kennewick Office: 102206 East Wiser Parkway
www.co.benton.wa.us



Planning Division

(509) 786-5612
P.O. Box 910, Prosser, WA 99350
planning.department@co.benton.wa.us

August 17, 2023

HEM 1.10

Gravis Law
C/O Joshua Bam
503 Knight Street, Suite A
Richland, WA 99352

Via email: Joshua@gravislaw.com

RE: Written Determination of Complete Application

Dear Applicant,

This office is in receipt of your Conditional Use Permit application request for a reception facility with a capacity not to exceed two hundred (200) attendees in unincorporated Benton County, Washington.

On April 3, 2023, the Benton County Hearings Examiner denied the previous application for this reception facility. The Hearings Examiner concluded that the proposed use is inconsistent with the Conditional Use Permit criteria based on findings including, but not limited to, traffic impact concerns regarding limited access, street width, and lack of sidewalks.

Upon reviewing your recent application and supplemental materials, this office has determined that the required materials have been submitted and the application is complete, file number CUP 2023-012 has been assigned and the review process will now begin.

During the review and comment period, more clarification or information may be needed from you. If additional information is required, it will need to be submitted to our office before we can make a final determination

If you have any questions regarding this matter, please do not hesitate to contact our office.

Sincerely,

A handwritten signature in black ink that reads "Andrea S. Watts".

Andrea S. Watts
Benton County Community Development Department – Planning Division
Senior Planner

CC: Jessica Morales, Jessicam327@hotmail.com

Community Development Department

Prosser Office: 620 Market Street, 1st Floor
Kennewick Office: 102206 East Wiser Parkway
www.co.benton.wa.us



Planning Division

(509) 786-5612
P.O. Box 910, Prosser, WA 99350
planning.department@co.benton.wa.us

HEM 1.11

August 22, 2023

Benton County Public Works Department
Benton-Franklin Health District
Benton County Fire District #1
Benton County Building Division
Benton County Fire Marshal
Benton County Code Enforcement
Benton PUD
Kennewick Irrigation District
Washington State Liquor and Cannabis Board

RE: Agency review of a Conditional Use Permit Application
File #: CUP 2023-012
Parcel #: 1-2980-101-3728-001
Applicant: **Gravis Law/Joshua Bam for Miguel's Venue/Jessica Morales**

Attached is a Conditional Use Permit – for a Reception Facility for your agency's review.

The applicant is proposing to utilize a portion of the 5-acre residential property for a reception facility. The events are proposed to take place April through October with up to 12 events per month and a maximum of 150 attendees.

This proposal is the second CUP application for this project, the first application was circulated earlier this year and denied due to concerns regarding the impact of the proposal. This second and revised application is intended to modify and clarify certain components of the first application including size and impact of the project.

PLEASE SUBMIT YOUR COMMENTS to planning.department@co.benton.wa.us by **September 6, 2023**. Please reference file number **CUP 2023-012** in all correspondence.

If you have any questions or need more time to review the application, please contact the Planning Division at (509)786-5612 or to the email above.

Thank you,
Benton County Planning Division



Andrea Watts

Senior Planner

Benton County Community Development Department - Planning Division

Andrea.watts@co.benton.wa.us

(509) 786-5612

From: Joshua Bam <joshua@gravislaw.com>

Sent: Monday, October 2, 2023 10:57 AM

To: Andrea Watts <Andrea.Watts@co.benton.wa.us>; Jessica Morales <jessicam327@hotmail.com>

Cc: Miles Thomas <miles@locuspm.com>; Marissa Pyfrom <MPyfrom@gravislaw.com>

Subject: [EXTERNAL] RE: CUP 2023-012 Miguels Venue

EXTERNAL EMAIL WARNING!!!: 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.

Hi Andrea,

Thank you for the message. Are answers are below in **bold**.

- 1) Reapplication states events to be held all year- where the last application stated April-October. Has the plan indeed changed to have the events all year?
 - a. **Because the event venue now includes an indoor space to better align with Benton County code, events will be held all year.**
- 2) What type of music is proposed? (Last application said DJ only)
 - a. **Live, DJ, digital, natural and/or amplified music may be used indoors at the event venue.**
- 3) Is security still proposed to be provided during events?
 - a. **For events of over 50 guests, security and traffic management will be provided during events.**
- 4) What food services will be provided?
- a. **Catered food services will bring food in, serve food, and clear food out in compliance with Benton county health guidelines.**
- 5) What kind of alcohol will be supplied/allowed?
 - a. **Catering services will provide and serve alcohol, though Miguel's Venue may apply for its own liquor licensing in the future in compliance with WSLCB regulation.**
- 6) What types of signage will there be? -
 - a. **Stone face monument sign with the name, illuminated from the top down to control glare, compliant with Benton County sign code.**

Also, do you happen to have a date for the hearing yet?

Thank you Andrea.

Gravis Law

Joshua Bam

Senior Attorney, Principal

Business Law

C: 206.650.5376

GravisLaw.com

Andrea Watts

HEM 1.13

From: Joshua Bam <joshua@gravislaw.com>
Sent: Tuesday, October 3, 2023 8:47 AM
To: Andrea Watts; Jessica Morales
Cc: Miles Thomas; Marissa Pyfrom
Subject: RE: [EXTERNAL] RE: CUP 2023-012 Miguels Venue

Thank you Andrea.

Were all the notices sent to the same landowners as last time?

Also, the sign will not exceed 4ft X 4ft.

Thanks again.



Joshua Bam

Senior Attorney, Principal

Business Law

C: 206.650.5376

GravisLaw.com

[Click Here to Book a Meeting with Josh](#)

NOTICE: This email (including any attachments) is covered by the Electronic Communications Privacy Act (ECPA), 18 U.S.C., Sec. 2510 - 2522, is confidential and privileged. This email is solely for the personal and confidential use of the recipient(s) named above. Receipt by anyone other than the individual recipient(s) is NOT a waiver of attorney-client privilege. Any violation of the ECPA is subject to the penalties stated therein. If you have received this message in error, please notify me immediately by reply e-mail at joshua@gravislaw.com and immediately delete the original message.

From: Andrea Watts <Andrea.Watts@co.benton.wa.us>

Sent: Monday, October 2, 2023 11:40 AM

To: Joshua Bam <joshua@gravislaw.com>; Jessica Morales <jessicam327@hotmail.com>

Cc: Miles Thomas <miles@locuspm.com>; Marissa Pyfrom <MPyfrom@gravislaw.com>

Subject: RE: [EXTERNAL] RE: CUP 2023-012 Miguels Venue

Good morning,

Thank you for providing these responses.

The hearing is set for October 20, 2023 with the legal notice being published in the Prosser Record Bulletin October 4th. The landowner notifications were sent out last Friday September 29th.

Do you have an idea of the dimensions of the sign? Or at least a “not to exceed” size?

Regards,

OCT 12 2023

Nikki Relyea

From: Dale Wilson
Sent: Tuesday, January 31, 2023 7:53 AM
To: Andrea Watts
Subject: RE: CUP 2023-001 and EA 2023-002 Miguels Venue with Parking area Agency Review Request

Benton County
Planning Division

HEM 1.14

Code Enforcement’s Response to the application of an “event center/reception venue”

Although the property is zoned in the Rural Lands Five Acre District (RL-5), which generally may allow such activities with Hearings Examiner approval, there is a manufactured home park (pre-existing non-conforming use) directly across the street which houses just under 200 manufactured homes. Not only does this park increase the amount of traffic on E. Game Farm Rd, which currently only has one way in and out of this portion of the neighborhood, and adding a reception/event type business activity would only increase the amount of traffic which affect those residing in the manufactured home park as well as surrounding single-family dwellings.

Benton County Public Works is currently in a design phase to add an additional entry/exit road that will service that area, however the project will probably not start for 1-2 years.

The other concern is complying with the Public Nuisance Noise Code (Benton County Code Chapter 6A.15)

BCC 6A.15.030 Definitions (a) Public Nuisance Noise- *means the making, creation or maintenance of excessive, unnecessary or unusually loud noises which are unusual in their time, place, and use, affect and are a detriment to the public health, comfort, convenience, safety, welfare and prosperity of the people of the county. Public nuisance noise shall include continuous or repeated barking from a dog which would otherwise fulfill the definition set forth above.*

BCC 6A.15.030 Definitions (b) Plainly Audible- *means able to be heard, understood or identified.*
[Ord. 292 (1996) ' 3]

Loud music, which meets the definitions above, are not exempt from this ordinance in accordance with **Benton County Code 6A.15.050 Exemptions.**

I believe there would be an increase in complaints for violating the nuisance noise ordinance since music would be an airborne sound. When airborne sound waves traveling through the air reach a building element such as walls, doors, or windows, they cause vibrations. The vibrations are transmitted through the structure and radiated on the other side. Since the property for this venue request is located to the south of the manufactured home park, which is elevated by the natural topography, it will increase the airborne noise and there will be more “walls, doors, or windows” causing vibrations that increase the noise nuisance resulting in an increase in complaints.

The Manufactured home park makes the setting more of a confined urban area and is not the normal rural areas that are generally seen in the RL-5 District.

The severity of the penalties for violation the noise nuisance is a \$500.00 infraction for the first offense. If the infraction is found committed, a second offense would result in criminal misdemeanor charges. Misdemeanor’s result in a \$1000.00 fine and/or up to ninety (90) days in jail. And since there is no code or ordinance in place allowing special circumstances or exemptions, I feel approving this “venue” would be placing the owners and/or responsible parties at risk of such penalties which are enforced by the Benton County Sheriff’s Department.

Nikki Relyea

From: Chris Sittman <CSittman@kid.org>
Sent: Wednesday, August 23, 2023 1:48 PM
To: Planning Department
Subject: [EXTERNAL] RE: CUP 2023-012 Miguel's Venue Re-App Agency Review

HEM 1.15

EXTERNAL EMAIL WARNING!!!: 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.

KID has no comments.

Chris D. Sittman
Engineering Dept./CAD Specialist
Kennewick Irrigation District
2015 S. Ely St.
Kennewick, WA 99337
Desk: 509-460-5435
Cell: 509-873-1123

From: Planning Department <Planning.Department@co.benton.wa.us>
Sent: Tuesday, August 22, 2023 10:00 AM
Subject: CUP 2023-012 Miguel's Venue Re-App Agency Review

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

Good morning,

Attached is a Conditional Use Permit – for a Reception Facility for your agency’s review.

The applicant is proposing to utilize a portion of the 5-acre residential property for a reception facility. The events are proposed to take place April through October with up to 12 events per month and a maximum of 150 attendees.

This proposal is the second CUP application for this project, the first application was circulated earlier this year and denied due to concerns regarding the impact of the proposal. This second and revised application is intended to modify and clarify certain components of the first application including size and impact of the project.

PLEASE SUBMIT YOUR COMMENTS to planning.department@co.benton.wa.us by **September 6, 2023**. Please reference file number CUP 2023-012 in all correspondence.

If you have any questions or need more time to review the application, please contact the Planning Division at (509)786-5612 or to the email above.

Regards,

Nikki Relyea

HEM 1.16

From: Brian Bell
Sent: Thursday, August 24, 2023 7:58 AM
To: Planning Department
Cc: Gary Tiplady
Subject: RE: CUP 2023-012 Miguel's Venue Re-App Agency Review

Thank you.

On behalf of the Building Division we have no specific issue with the project as proposed as long as the concerns of all Benton County Divisions are met.

From the perspective of the Building Division we would expect all applicable permits be obtained for the project to include a grading permit and building permit. Fire Marshal approval of any Fire-flow requirement of the Fire Code / IFC would also need to be met. Comment in this area may be forthcoming from our Fire Marshal (out of the office this week).

J. Brian Bell
Assistant Manager
Benton County Building Division
(509) 735-3500



From: Planning Department <Planning.Department@co.benton.wa.us>
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Regards,

Nikki Relyea

HEM 1.17

From: Cristina Woods
Sent: Thursday, August 24, 2023 9:14 AM
To: Planning Department
Subject: RE: CUP 2023-012 Miguel's Venue Re-App Agency Review

Good morning

Public Works has no comments, other than responding to their request for the road approach requirements clarification.

HEM 1.20

Clarification on road approach requirements, page 9 of 10.

The parcel in question currently does not have a road approach permit on file.

A road approach application is usually required during the construction of a new building, but improvements are decided during the permit review process.

If the existing approach to the house is going to be used it will need to be permitted and improved to current County standards.

The existing approach for SHP 3728 will not require improvements but a road approach application will still be required as per short plat note 7.

Thank you



Cristina Woods, PE • *Civil Engineer I*
Benton County Public Works
102206 Wiser Parkway , Kennewick WA, 99338
cristina.woods@co.benton.wa.us
(509) 786-5611

From: Planning Department <Planning.Department@co.benton.wa.us>
Sent: Tuesday, August 22, 2023 10:00 AM
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From: ECY RE CRO SEPA Coordinator <crosepa@ecy.wa.gov>
Sent: Thursday, September 21, 2023 11:54 AM
To: Planning Department
Cc: Kossik, Christopher (ECY)
Subject: [EXTERNAL] RE: 202304035 - Sent to Chris K for review FW: CUP 2023-012 Miguel's Venue Re-App Agency Review

EXTERNAL EMAIL WARNING!!!: 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.

Hi Andrea,

Thank you for reaching out to the Department of Ecology. I asked our Water Resources program to take another look at CUP 2023-012 and they provided the following response.

Groundwater Exempt Uses

In Washington State, prospective water users must obtain authorization from the Department of Ecology before diverting surface water or withdrawing ground water, with one exception. Ground water withdrawals of up to 5,000 gallons per day used for single or group domestic supply, up to 5,000 gallons per day used for industrial purposes, stock watering, and for the irrigation of up to one-half acre of non-commercial lawn and garden are exempt from the permitting process. Water use under the RCW 90.44.050 exemption establishes a water right that is subject to the same privileges, restrictions, laws and regulations as a water right permit or certificate obtained directly from Ecology.

For questions about this comment, please contact Christopher Kossik, Central's Water Resources Program at (509) 379-1826.

Thank you,

Joy Espinoza

SEPA / ERTS Coordinator
Department of Ecology – Central Region
Ph: 509.379.3967 | Email: joy.espinoza@ecy.wa.gov

From: Planning Department <Planning.Department@co.benton.wa.us>
Sent: Wednesday, September 20, 2023 11:44 AM
To: ECY RE CRO SEPA Coordinator <crosepa@ecy.wa.gov>
Subject: 202304035 - Sent to Chris K for review FW: CUP 2023-012 Miguel's Venue Re-App Agency Review

Hello,

I am following up on a recent agency review request for an event center re-application. It was my understanding that the applicant may have had some water right restrictions during the first review period so I wanted to confirm if there are indeed any water restrictions for this property. Please let me know if you have questions or comments!



Andrea Watts

Senior Planner

Benton County Community Development Department - Planning Division

Andrea.watts@co.benton.wa.us

(509) 786-5612

From: Dale Wilson <Dale.Wilson@co.benton.wa.us>

Sent: Thursday, September 21, 2023 8:24 AM

To: Planning Department <Planning.Department@co.benton.wa.us>; Code Enforcement <code.enforcement@co.benton.wa.us>; Gary Tiplady <Gary.Tiplady@co.benton.wa.us>

Subject: RE: CUP 2023-012 Miguel's Venue Re-App Agency Review

My comments are the same as last time. I feel the noise from the venue will have a direct impact on those that reside in the manufactured home park. The manufactured home park creates more of an urban type living and not the traditional rural living that normally a wedding event center would not compromise.

I would also request that this notice be sent to Benton County Sheriff's Department as well as Benton County Fire District 1 for their input, as adding the multitude of events will have a direct impact on their patrol and/or response if an emergency situation arises. Are there emergency plans in place by the applicant to control or facilitate emergencies? What impact will this have on 9-1-1 Dispatch which is still operating under staff, will the additional 9-1-1 calls that may facilitate from the venue or neighboring residences.

There continues to only be one way in and one way out on the roadway, which is already heavily traveled by having the manufactured home park at the very east end of the street.



Dale Wilson

Code Enforcement Supervisor

Benton County Washington

(509) 222-2301

Code.Enforcement@co.benton.wa.us

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

Sent: Wednesday, September 20, 2023 3:08 PM

To: Code Enforcement <code.enforcement@co.benton.wa.us>; Dale Wilson <Dale.Wilson@co.benton.wa.us>; Gary Tiplady <Gary.Tiplady@co.benton.wa.us>

Subject: FW: CUP 2023-012 Miguel's Venue Re-App Agency Review

Just following up on this agency review for Miguel's Venue. Any comments?



Fire Marshal Comments

HEM 1.20

Date: October 11, 2023

**Address: 201005 E Game Farm Rd.
Kennewick, WA. 99337**

Tax Parcel#: 129801013728001

Permit # CUP 2023-012

Re: Miguel's Venue

In Review of the proposal for a reception facility the following would be required regarding the above CUP:

A sprinkler system engineered by a design professional with a monitoring alarm system

Exit signs and fire extinguishers per code

Firefighting water storage per NFPA 1142 to supply required water for engineered sprinkler system and required water for firefighting. Water can be stored in a compliant tank or pond equipped with a dry hydrant.

There would need to be fire vehicle or emergency response vehicle access with a turn around. In a worst-case scenario, there would be a mass exodus of vehicles in the designated parking area. This would cause a problem for emergency vehicles to enter and provide services. It would therefore be necessary to have a dedicated access for emergency vehicles. It would need to be located so that patrons, vendors, and others would not be able to access so it cannot be blocked. As a suggestion a fence could be erected to section it off from the parking area. A gate could also be placed at the road with a Knox box that could be accessed only by emergency responders. The road or access would need to comply with Benton County driveway and private road requirements.

Gary Tiplady
Benton County Fire Marshal
Building Inspector II
509-735-3500
Gary.Tiplady@co.benton.wa.us

Andrea Watts

HEM 1.21

From: Mathew Clarke
Sent: Wednesday, October 11, 2023 1:08 PM
To: Andrea Watts
Subject: RE: CUP 2023-012 Miguel's Venue Re-App Agency Review

Andrea,

The Benton County Sheriff's Office has concerns of the Conditional Use Permit regarding an event center located at 201005 E Game Farm Road.

The location of the facility is adjacent to a residential neighborhood, and has the potential to disrupt the living environment afforded to those who reside at said location.

The roadway into the location will directly affect those that live in the area and emergency response. This area is a two lane road with only one way in and one way out, single access. The increased traffic will disrupt the area with the potential of 150 guests (vehicles) per event, and up to 12 times per month.

The Benton County Sheriff's Office has concerns about the increased volume of calls for the location (loud music, traffic complaints, disturbances, medical aide). An event center of this size would require multiple deputies to respond in an emergency and would deplete our presence in the community. The Benton County Sheriff's Office is focused on providing emergency service for the community, and the potential for increased calls will decrease our ability to provide those law enforcement services.

Thank you,

Mat



MAT CLARKE

Patrol Commander
Benton County Sheriff's Office
7122 W. Okanogan Place, Bldg. A
Kennewick, Washington 99336
509-735-6555

From: Andrea Watts <Andrea.Watts@co.benton.wa.us>
Sent: Monday, October 2, 2023 15:08
To: Mathew Clarke <Mathew.Clarke@co.benton.wa.us>
Subject: CUP 2023-012 Miguel's Venue Re-App Agency Review

Nikki Relyea

HEM 1.22

From: Dale Wilson
Sent: Thursday, October 12, 2023 9:34 AM
To: Andrea Watts
Cc: Planning Department
Subject: RE: CUP 2023-012 Miguel's Venue Re-App Agency Review
Attachments: RE: CUP 2023-001 and EA 2023-002 Miguels Venue with Parking area Agency Review Request



Dale Wilson
Code Enforcement Supervisor
Benton County Washington
(509) 222-2301
Code.Enforcement@co.benton.wa.us

From: Andrea Watts <Andrea.Watts@co.benton.wa.us>
Sent: Wednesday, October 11, 2023 3:00 PM
To: Dale Wilson <Dale.Wilson@co.benton.wa.us>
Cc: Planning Department <Planning.Department@co.benton.wa.us>
Subject: RE: CUP 2023-012 Miguel's Venue Re-App Agency Review

Hello Dale,

In you comment you made note of your comment from the previous CUP application. Would you please reply to this email with a copy of the comment you are referencing?

Regards,

OCT 12 2023

Nikki Relyea

From: Dale Wilson
Sent: Tuesday, January 31, 2023 7:53 AM
To: Andrea Watts
Subject: RE: CUP 2023-001 and EA 2023-002 Miguels Venue with Parking area Agency Review Request

Benton County
Planning Division

Code Enforcement's Response to the application of an "event center/reception venue"

Although the property is zoned in the Rural Lands Five Acre District (RL-5), which generally may allow such activities with Hearings Examiner approval, there is a manufactured home park (pre-existing non-conforming use) directly across the street which houses just under 200 manufactured homes. Not only does this park increase the amount of traffic on E. Game Farm Rd, which currently only has one way in and out of this portion of the neighborhood, and adding a reception/event type business activity would only increase the amount of traffic which affect those residing in the manufactured home park as well as surrounding single-family dwellings.

Benton County Public Works is currently in a design phase to add an additional entry/exit road that will service that area, however the project will probably not start for 1-2 years.

The other concern is complying with the Public Nuisance Noise Code (Benton County Code Chapter 6A.15)

BCC 6A.15.030 Definitions (a) Public Nuisance Noise- *means the making, creation or maintenance of excessive, unnecessary or unusually loud noises which are unusual in their time, place, and use, affect and are a detriment to the public health, comfort, convenience, safety, welfare and prosperity of the people of the county. Public nuisance noise shall include continuous or repeated barking from a dog which would otherwise fulfill the definition set forth above.*

BCC 6A.15.030 Definitions (b) Plainly Audible- *means able to be heard, understood or identified.*
 [Ord. 292 (1996) ' 3]

Loud music, which meets the definitions above, are not exempt from this ordinance in accordance with **Benton County Code 6A.15.050 Exemptions.**

I believe there would be an increase in complaints for violating the nuisance noise ordinance since music would be an airborne sound. When airborne sound waves traveling through the air reach a building element such as walls, doors, or windows, they cause vibrations. The vibrations are transmitted through the structure and radiated on the other side. Since the property for this venue request is located to the south of the manufactured home park, which is elevated by the natural topography, it will increase the airborne noise and there will be more "walls, doors, or windows" causing vibrations that increase the noise nuisance resulting in an increase in complaints.

The Manufactured home park makes the setting more of a confined urban area and is not the normal rural areas that are generally seen in the RL-5 District.

The severity of the penalties for violation the noise nuisance is a \$500.00 infraction for the first offense. If the infraction is found committed, a second offense would result in criminal misdemeanor charges. Misdemeanor's result in a \$1000.00 fine and/or up to ninety (90) days in jail. And since there is no code or ordinance in place allowing special circumstances or exemptions, I feel approving this "venue" would be placing the owners and/or responsible parties at risk of such penalties which are enforced by the Benton County Sheriff's Department.

Nikki Relyea

From: Jjemle 24 <melissaerler@gmail.com>
Sent: Tuesday, October 10, 2023 3:37 PM
To: Planning Department
Subject: [EXTERNAL] CUP 2023-012

HEM 1.23

EXTERNAL EMAIL WARNING!!!: 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.

To whom this may concern my name is Melissa Lynn Erler. My address is 200802 space 105 Kennewick, WA 99337.

To whom it may concern again my name is Melissa Erler my husband, James , my father-in-law, Joseph Erler who is 83 years old. My son Joshua who is 17 my daughter Jennessa, who is 14 and my youngest son Benjamin will be nine in December. The area that you were talking about I see is not a very good idea. The reasoning behind it is there at Santiago community Estates. It's already congested with the mobile home community. Traffic is still a problem in and out and now we're going to add up to 150 attendees in there. The road is still not good for travel people speeding through there. I see nothing but accidents coming out of this, I don't know how we're going to get cars in and out of there in a safe area. I'm concerned about the noise I have a brain tumor and dealing with that and also my son Benjamin with his autism, the noise and all of that it's bad enough when the fair is going, let alone having this area. Please look at the outlining of getting in and out of that road the roads like I said on a daily basis is a problem even when you go the other direction on that road on the farm going towards the other parcels that parcel numbers are referring to is 004 and on the other side that's going to the other direction people come out of their speeding at full speed coming out of Santiago you would have to address that With cars coming in and out of there the safety of the kids that's not an area that they would go to. I could see them going down but that's up in a community area but like I said, my main concern is even during the cherry season. It's very hard to get in and out and even when you get off of his game and you go down the other direction to get off the road. It is still a problem with car accidents. I really only think the best way to fix it would be that the county would have to come out and Fix the road I just don't see that as a good area it's it's so congested up there and I add 150 more cars up to 12 events a month that's not an area that I think would work. I also believe with all that congested, and all of that, it would ended up losing money out of the home value that we spent all that money to And what about the safety of people coming up there as it is patrol from the city it's hard not even a City the county it takes 5 to 10 minutes and what if we have some type of a vent up there I'm concerned about the safety. This just is not a good idea unless you live up there you wouldn't understand it , I would be there at the meeting but like I just said I had a brain tumor taken out two weeks ago and I'm not in the right mind to be up there talking but I would really appreciate that. You guys look into this I know my words are not good and all that because I just had a tumor but I am concerned for my kids, the safety, the cars it's just not a good idea and normally I am a person to understand that and I've always you know for it but I don't see this as being a good idea . Thank you again for your consideration.

Melissa Erler

From: Susan Lopez <susanlopez1021@yahoo.com>
Sent: Tuesday, October 10, 2023 4:23 PM
To: Planning Department
Subject: [EXTERNAL] CUP 2023-012

EXTERNAL EMAIL WARNING!!!: 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.

I would like to state that the site they propose would disrupt the residents life with loud music, drunk people driving on dark two lane country road that have rolling hills. The Santiago Country view manufactured home park has only one entrance that would be blocked by the event centers traffic. This event centers traffic would keep residents from Santiago and surrounding homes from gaining access to their homes. 2.5 acres is a very small amount of land to set up a reception facility that would hold 150 people but of course who will keep track of the amount of people who would actually attend the events? Alcohol will be sold there inviting the occupants of the facility upon leaving to drive drunk. Apparently the proprietors upon getting a lawyer to force their will upon a quiet rural residential area is how they demand to get there way. I extremely oppose this event.

Nikki Relyea

From: Authenticators Rus <authenticatorsrus@gmail.com>
Sent: Tuesday, October 10, 2023 4:41 PM
To: Planning Department
Subject: [EXTERNAL] Gravis Law Joshua Bam for Miguel's Venue

HEM 1.25

Follow Up Flag: Follow up
Flag Status: Flagged

EXTERNAL EMAIL WARNING!!!: 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.

Hello; We live right across the road from where this 'party place' will be set up, and we think it's a **BAD IDEA!** This is a totally rural out in the country peaceful place to live and we don't need something like this **CHANGING** that! Not to mention the crime it may very well incur! Most crooks don't know about this nice hideaway area, but now they will?? **NO THANK YOU!** Kindly consider **NOT** allowing this permit.

Sincerely;

Catherine & Joseph Salomone
200802 E. Game Farm Rd
Kennewick, WA., 99337

Nikki Relyea

From: Bruce OBrien <rotorooter.bobrien@gmail.com>
Sent: Thursday, October 12, 2023 10:06 AM
To: Planning Department
Subject: [EXTERNAL] CUP 2023-012

HEM 1.26

EXTERNAL EMAIL WARNING!!!: 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.

I am against the proposed use of this property. I am a resident of Santiago Countryview Estates. It is a community of 250 homes, the vast majority of which are occupied. As Game Farm Road and Oak are narrow two lane roads and the intersection of Oak and Bowles is a very limited exit, adding 75+ cars will greatly impact access to our community. In the event of an emergency, first responders could be delayed as well. Please do not allow any use of this property that will increase traffic to this very limited roadway.