

EXHIBIT LIST FOR VAR 2017-001 (Lindstrom)

			DATED
Hearing Examiner Application Exhibit List			
HER 1	HER 1.1	Application and Supporting Documents	April 3, 2017
Includes:	HER 1.2		
	HER 1.3		
	HER 1.4		
Hearings Examiner Staff Memo Exhibit List - June 19, 2017			
HEM 1	HEM 1.1	Staff Memo	May 12, 2017
Includes:	HEM 1.2	Site and Vicinity maps	April 5, 2017
	HEM 1.3	Comments from Kennewick Irrigation District	April 19, 2017
	HEM 1.4	Notice of Open Record Hearings	May 24, 2017
	HEM 1.5		
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Hearings Examiner Hearing Exhibit List - June 19, 2017			
HEH 1	HEH 1.1		
Includes:	HEH 1.2		
	HEH 1.3		
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	HEH 1.8		

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

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

Benton County Planning Department

Planning Annex, P.O. Box 910, 1002 Dudley Avenue, Prosser WA 99350, Phone: (509) 786-5612 or (509) 736-3086, Fax (509) 786-5629

HEM 1.1

MEMO DATE: May 12, 2017

HEARING DATE: JUNE 19, 2017

TO: BENTON COUNTY HEARINGS EXAMINER

FROM: CLARK A. POSEY,
ASSISTANT PLANNING MANAGER 
BENTON COUNTY PLANNING DEPT.

RE: VARIANCE APPLICATION – VAR 2017-001

**APPLICANTS/
PROPERTY OWNERS:** TANNER AND DESIREE LINDSTROM
28292 S. 944 PR SE
KENNEWICK, WA 99337

SPECIFIC REQUEST

The applicants/owners are requesting a variance to BCC 11.16A.080(2), which is a setback of twenty five (25) feet from the rear property line for a residence. The variance would allow the applicants/owners to build their new house with the home facing 944 PR SE. This would leave a 14 ft. setback from the rear property line instead of the required twenty five (25) feet. This variance would use eleven (11) ft. and leave fourteen (14) feet as a setback. The parcel is located in the Rural Lands 5 Zoning District. This was originally the side setback for their house and met the required setback. The front of the house now faces east so the side yard is now the back of the residence and therefore the garage will be 11' (feet) from the property line. Accessory buildings are allowed to be at this setback but, because the garage is attached to the house the variance is needed. The remainder of the house has the required 25 ft. setback.

BACKGROUND

Site Location: The site is located at 28292 S. 944 PR SE. Kennewick, WA 99337 on Lot 1 of Short Plat # 3181 in Section 22, Township 8 North, Range 28 East, W.M. lot is 2.14 Acres.

Land Use: The surrounding land uses are developed as Rural Lands 5. Residential single family dwellings on large lots and small agricultural acreages are the main activities within this area.

Zoning & Comprehensive Plan Designation: Site and surrounding areas: Rural Lands 5.

APPLICABLE DEVELOPMENT REGULATIONS

1. The Revised Code of Washington RCW 36.70.810, requires that the following findings be made prior to the granting of the variance and the applicant should be prepared to demonstrate before the Hearings Examiner that such findings exist.
 - a. Variances granted shall be subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant of special privilege inconsistent with the limitations on the other properties in the vicinity and the zone in which the property is situated.

- b. That strict application of the Zoning Ordinance is found to deprive subject property of rights and privileges enjoyed by other properties in the vicinity and under identical zoning classification because of special circumstances applicable to subject property including size, shape, topography, location or surroundings
- c. That the granting of the variance will not be materially detrimental to the public welfare or injurious to property or improvements in the vicinity and zone in which the subject property is situated.

2. **Benton County Code Section 11.52.088(b) states:**

"Variance-General Standards. The variance application process allows the Hearings Examiner in specific cases, as provided in RCW 36.70.810, to grant a variance to the provisions of this title when it can be demonstrated that such variance is in harmony with the general purpose and intent of this title and is accordance with the requirements of this section. However, the Hearings Examiner shall not grant variances to land uses or density requirements."

3. **Benton County Code Section 11.52.088(e) provides:**

"Variance—Permit Granted. (1) A variance shall be granted only if the Hearings Examiner concludes that based on its findings and the conditions imposed, if any, that:

- (i) granting of the proposed variance will not permit a use that is not classified as an allowable or conditional use in the zoning district wherein the use would be located;
- (ii) special circumstances such as lot size, slope, topography or necessary size or shape of the building prevent compliance with the applicable property development standards;
- (iii) due to special circumstances applicable to the subject property, strict application of the zoning district property development standards would deprive the subject property of rights and privileges enjoyed by other properties in the vicinity and under the same zoning district classification;
- (iv) the problem sought to be addressed by the variance is related to the physical features of the particular property or building and would exist regardless of the identity of the owner;
- (v) the problem sought to be addressed is not common for other properties in the surrounding area;
- (vi) the variance would not be materially detrimental to public welfare or injurious to the property or improvements in the vicinity under the same zoning classification;
- (vii) the variance will not adversely affect the health or safety or persons residing or working in the neighborhood in which the variance is being requested; and,
- (viii) the variance would not deny the preservation and enjoyment of substantial property rights of those owning property in the vicinity.

4. The Hearings Examiner may grant a variance subject to specified conditions designed to ensure that the purpose and intent of this title and the Comprehensive Plan will not be violated; provided, the specified conditions are needed to make the conclusions required by subsection (e)(1) above.

5. BCC 11.16A.080 – Property Development Standards –Setback Requirements. All lands, structures, and uses in the Rural Lands Five Acre District (RL-5) shall meet the following setback requirements, and if applicable, the setback requirements set forth in Title 15 BCC (Protection of Critical Areas and Resources).

(a) Setback Requirements. The following minimum setbacks shall apply:

(1) Each dwelling unit, accessory building, and accessory use on a parcel shall have a setback of fifty-five (55) feet from the centerline of any public road right-of-way or twenty-five (25) feet from the property line bordering any public road right-of-way, whichever is greater; and a setback of twenty-five (25) feet from the closest edge of any legally-established boundary line of a private access easement.

(2) Each dwelling unit shall have a setback of twenty-five (25) feet from the rear parcel lines.

(3) Each accessory building and accessory use shall have a setback of ten (10) feet from all alleys and the rear parcel lines.

(4) Each dwelling unit, accessory building, and accessory use on a parcel shall have a setback of ten (10) feet from the side parcel lines.

(5) All shelters, coops, or other structures used for the habitation of livestock shall have a setback of at least thirty (30) feet from every property line of the parcel on which it is located, unless a greater setback is otherwise required under Benton County Code.

(6) All dwelling units and swimming pools shall have a setback of one hundred fifty (150) feet from any parcel located partially or wholly within the Growth Management Agricultural Act District (GMAAD) and from any adjacent orchard, hop field or vineyard (or combination thereof) of ten (10) acres or more on one parcel or on contiguous parcels under common ownership.

(7) Cornices, eaves, belt courses, sills, fireplace chimneys, and open, unenclosed stairways or balconies not covered by a roof or canopy may extend or project from a building three (3) feet into any required setback area; provided, none of these architectural features may be located within any easements.

(8) Ground floor uncovered, unenclosed porches, platforms, or landings may extend or project from a building six (6) feet into the setback area but no closer than five (5) feet to any parcel line; provided, none of these architectural features may be located within any easements.

(b) Any additional setbacks required pursuant to Chapter 3.18 BCC shall apply.

DISPOSITION OF THE APPLICANT'S REQUEST

A variance shall be granted only if the Hearings Examiner concludes that based on its findings and the conditions imposed, if any, that:

- (i) granting of the proposed variance will not permit a use that is not classified as an allowable or conditional use in the zoning district wherein the use would be located;**
- (ii) special circumstances such as lot size, slope, topography or necessary size or shape of the building prevent compliance with the applicable property development standards;**
- (iii) due to special circumstances applicable to the subject property, strict application of the zoning district property development standards would deprive the subject property of rights and privileges enjoyed by other properties in the vicinity and under the same zoning district classification;**
- (iv) the problem sought to be addressed by the variance is related to the physical features of the particular property or building and would exist regardless of the identity of the owner;**
- (v) the problem sought to be addressed is not common for other properties in the surrounding area;**
- (vi) the variance would not be materially detrimental to public welfare or injurious to the property or improvements in the vicinity under the same zoning classification;**
- (vii) the variance will not adversely affect the health or safety or persons residing or working in the neighborhood in which the variance is being requested; and,**
- (viii) the variance would not deny the preservation and enjoyment of substantial property rights of those owning property in the vicinity.**

FINDINGS OF FACT

The following findings of fact and comments were received as of the date of this memo being April 18, 2017. Any comments received after the completion of this staff memo or obtained during the advertised public hearing of VAR 2017-001 may be addressed by the Hearings Examiner and added or deleted from this list of conditions. The Hearings Examiner may decide to adopt these findings as their own or amend these Findings of Fact and listed conditions after the comment period of the open public hearing.

1. The property owners/applicants are Tanner and Desiree Lindstrom – P.O. Box 903, Richland, WA 99352.
2. The applicants are requesting approval for a variance to BCC 11.16A.080(2) to construct the attached garage 11 feet from the back property line the garage will be attached to the new residential house being constructed. The residential house setback is 25' (ft). Only the garage will need this variance, the house will meet county setbacks.
3. The site is located at 28292 S. 944 PR SE. Kennewick on Lot 1 of short Plat 3181 in Section 22, Township 8 North, Range 28 East, W.M.
4. The application for VAR 2017-001 was submitted to the Benton County Planning Department on April 3, 2017 with an incomplete letter being sent on April 6, 2017. The applicants resubmitted with the necessary documentation on April 14, 2017 and was determined a complete application for processing on April 14, 2017.

5. The proposed variance application did not require that a Notice of Application be published.
6. The notice for the Benton County Hearings Examiner Open Record Hearing for application VAR 2017-001 was published on June 1, 2017, in the Tri-City Herald and mailed to property owners of record within 300 feet of the outer boundaries of the parcel. The Open Record Hearing is scheduled for June 19, 2017.
7. Benton PUD had no comments or concerns regarding this request.
8. Benton County Public Works did not have any comments on this variance request.
9. Special circumstances such as lot size, slope, topography or necessary size or shape of the building are preventing compliance with the applicable property development standards in the Rural Lands 5 Zoning District.
10. The strict application of the zoning district property development standards would not deprive the subject property of rights and privileges enjoyed by other properties in the vicinity and under the same zoning district classification.
11. The problem sought to be addressed by the variance is not related to the physical features of the particular property or building and would exist regardless of the identity of the owner;
12. It must be shown that a material hardship unwarranted within the intent of this Code will exist if the variance is not granted, and that the hardship cannot be remedied by other means. The hardship demonstrated must not be self-created and must relate to the land itself and not to problems personal to the applicants. The variance permitted shall be the minimum variance which will mitigate the hardship.

CONDITIONS

The Hearings Examiner may grant a variance subject to specified conditions designed to ensure that the purpose and intent of this title and the Comprehensive Plan will not be violated; provided, the specified conditions are needed to make the conclusions required by the subsection above.

If the Hearings Examiner decides to approve Variance Request VAR 2017-001 then the following are suggested conditions recommended by the Planning Department:

1. Any conditions imposed by the Hearings Examiner shall be completed prior to the Planning Department issuing the variance. The applicant shall notify the Benton County Planning Department in writing when the conditions set forth herein have been completed. The Planning Department shall not issue the variance until those conditions have been met. The variance shall not become effective until issued by the Planning Department.
2. If the conditions of approval have not been met and the Planning Department does not issue the variance within one (1) year from the time the Hearings Examiner conditionally approved the variance, the Hearings Examiner may declare its approval null and void at a regular Hearings Examiner meeting. Prior to doing so, the applicant shall be notified in writing at the applicant's last known address at least twelve (12) days in advance of the upcoming Hearings Examiner meeting.

3. The applicants will need to submit a copy of the approved building permit from the Benton County Building Department for the addition to the existing residential structure.
4. The applicants for Variance VAR 2017-001 must have a Washington State Licensed Surveyor mark the property line adjacent to the location of the proposed building prior to the inspection by the Building Department.
5. If the variance is approved, the variance would be 11' (feet) leaving a 14' (foot) setback to the property line.
6. If the variance application is denied the building must be constructed to conform to BCC 11.16A.080(a) and meet the required setback of 25' (feet).

BENTON COUNTY PLANNING DEPARTMENT
VARIANCE APPLICATION

FILE NO. VAR 2017-001



- 1. Name and address of applicant: Tanner & Desiree Lindstrom
PO Box 903 Richland, WA 99352
Phone number: Home: 509-551-2491 Work: _____

If you wish to be contacted via email please list your email address: desiree@columbianwaterplumbing.com

- 2. Legal owners name and address: same

Phone number: Home _____ Work _____

- 3. Legal description or Parcel Number of property for which permit is for: _____
122882013181010

- 4. Section of the zoning ordinance under which it is claimed that a variance should be granted. (To be completed by the Planning Department). _____

- 5. A variance is being requested for the purpose of Access to original driveway does not have a proper turn around for fire truck emergency.

- 6. What is the minimum variance that will alleviate hardship? _____

- 7. Are there special circumstances such as lot size, slope, topography or necessary size or shape of the building which prevent compliance with the zoning ordinance? If so, explain:
YES, House fits property w/ original driveway, which is not easily accessible by emergency trucks. Does not have proper turn-around - this will give address of Road 944 PRSE and not be required to use the back Fire Lane as driveway.

- 8. Does strict application of the zoning ordinance deprive subject property of rights and privileges enjoyed by other properties in the vicinity and under the same zoning classification? If so, explain:
N/A

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

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


11. Zoning classification of property involved: S13 S13 Rural Residential

12. Total acreage - lot size involved: 2.14 Acres

COMMENTS OR PERTINENT INFORMATION:

Signature Block for individuals only.

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



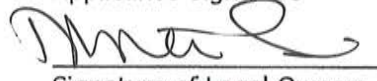
Applicant's Signature

Desiree Lindstrom

Print Name

2/5/17

Date



Signature of Legal Owners

Desiree Lindstrom

Print Name

2/5/17

Date



Signature of Person with additional ownership interest

Tanner Lindstrom

Print Name

3/28/17

Date

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

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

Applicant's or Legal Owner's Name



Print Name & Title

Date

Applicant's or Legal Owners Signature: _____ / _____
(Signature) (Title)

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

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.

NOTE: THE VARIANCE REQUEST FEE OF \$630.00 MUST BE SUBMITTED WITH THE APPLICATION. THIS FEE IS NON-REFUNDABLE. PLEASE MAKE THE CHECK PAYABLE TO THE BENTON COUNTY TREASURER. THERE ARE NO GUARANTEES THAT YOUR APPLICATION WILL BE APPROVED.

FOR OFFICIAL USE ONLY:

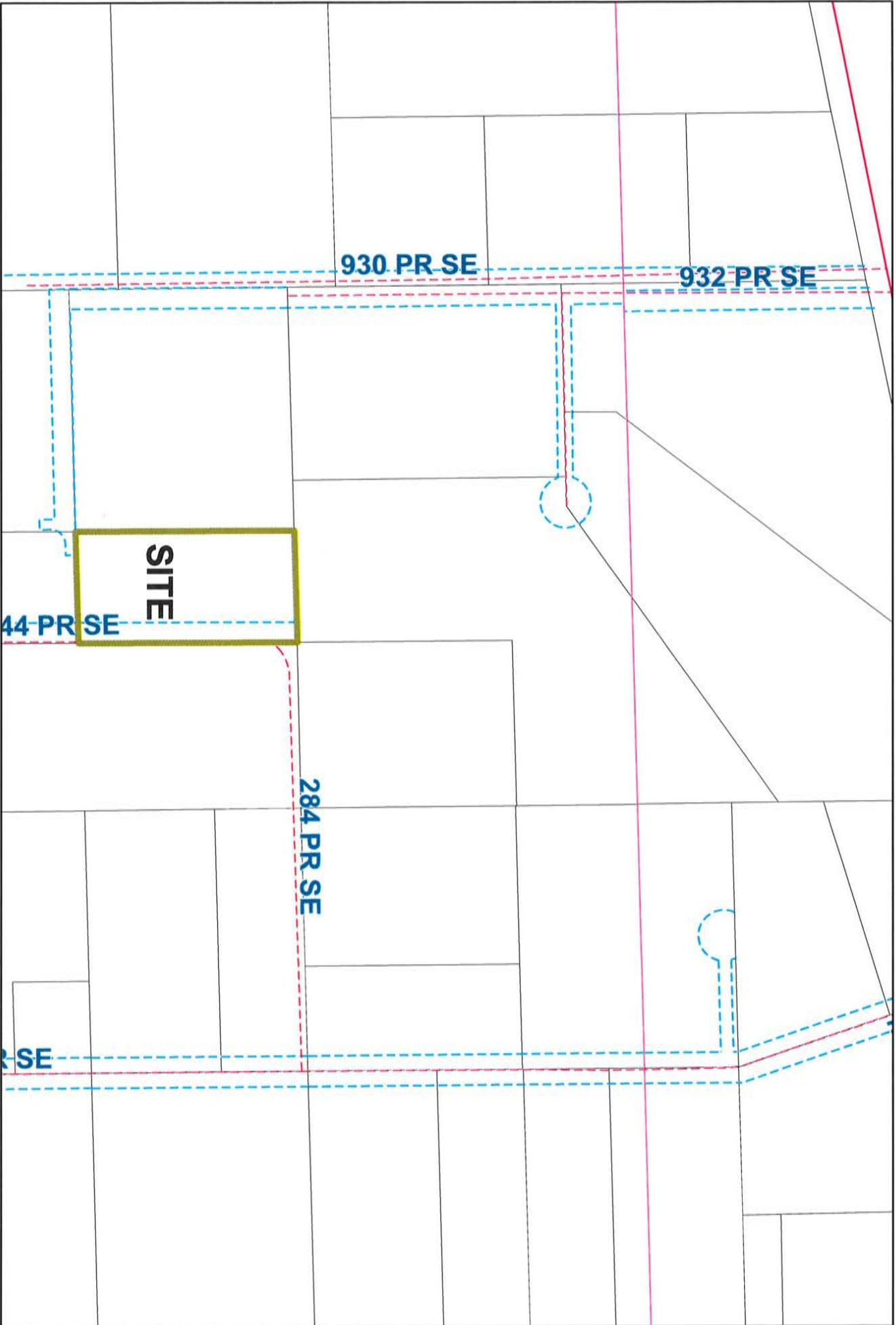
Critical Area Review Completed by *Spide Perry* on *4/15/2017*
Application approved for processing by *Spide Perry* on *4/15/2017*
Zoning *RL-5* Comp Plan designation _____



SECTION 22, TOWNSHIP 8 NORTH, RANGE 28 E W.M
PARCEL # 1-2288-201-3181-010 VAR # 2017-001
OWNER: TANNER & DESIREE LINDSTROM VAR # 2017-001
ZONING: RL 5 MAP PRINTED: APRIL 5, 2017

HEM 1.2

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A

April Brown

From: Rebecca Hiles <rhiles@kid.org>
Sent: Wednesday, April 19, 2017 7:11 AM
To: Planning Department
Subject: RE: Agency review request (VAR 2017-001)

Ms. Brown,

KID has no comments regarding VAR 2017-001.

Rebecca S. Hiles, E.I.T.
Staff Engineer

Kennewick Irrigation District
2015 S. Ely Street
Kennewick, WA 99337
509-460-5442 [phone]
<mailto:rhiles@kid.org>



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From: Ben Woodard
Sent: Friday, April 07, 2017 3:32 PM
To: Rebecca Hiles <rhiles@kid.org>
Subject: FW: Agency review request (VAR 2017-001)

From: Planning Department [<mailto:Planning.Department@co.benton.wa.us>]
Sent: Friday, April 07, 2017 3:30 PM
To: Tavis Hatfield <Tavis.Hatfield@co.benton.wa.us>; Benton-Franklin Health District <rickd@bfhd.wa.gov>; Fire District #1-Billie <billie@bentonone.org>; Fire District #1-Staff <staff@bentonone.org>; Ben Woodard <BWoodard@kid.org>; Seth Defoe <SDefoe@kid.org>; Dale Wilson <Dale.Wilson@co.benton.wa.us>; Ken Williams <Ken.Williams@co.benton.wa.us>; Michelle Johnson <Michelle.Johnson@co.benton.wa.us>; Rod Worthington <Rod.Worthington@co.benton.wa.us>; Steve Brown <Steve.Brown@co.benton.wa.us>; Tomi Chalk <Tomi.Chalk@co.benton.wa.us>; Troy Taylor <Troy.Taylor@co.benton.wa.us>; Benton PUD - Chad Brooks <brooksc@bentonpud.org>; Benton PUD - Roxanne Weller <weller@bentonpud.org>; Benton PUD - Shanna Everson <eversons@bentonpud.org>; Benton PUD Bob Roe <roer@bentonpud.org>; Benton PUD Dave Smith <smithd@bentonpud.org>; Benton PUD Jeff Vosahlo <vosahloj@bentonpud.org>; Benton PUD-Mike Irving

<irvingm@bentonpud.org>

Subject: Agency review request (VAR 2017-001)

Attached please find a Variance review request with the application and site plan.

If you need any more information, please feel free to contact our office.

Thank you!

April Brown

Office Assistant III

Benton County Planning Department

PO Box 910

Prosser WA 99350

509-786-5612 or 509-736-3086

Fax: 509-786-5629

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Benton County Planning Department

Planning Annex, P.O. Box 910, 1002 Dudley Avenue, Prosser WA 99350, Phone: (509) 786-5612 or (509) 736-3086, Fax (509) 786-5629

NOTICE OF OPEN RECORD HEARINGS

HEM 1.4

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

VAR 2017-001- The applicants are requesting a variance to reduce the required 25 foot rear yard setback to 14 feet. The date of the written determination of completeness on this action is April 6, 2017. The site is located at 93159 E Badger Rd Kennewick, WA 99338, in Section 22, Township 8 North, Range 28 East, W.M. Applicants: Tanner & Desiree Lindstrom.

CUP 2017-003 (EA 2017-004) – The applicants are proposing to operate a veal calf operation wherein up to 250 calves per week are delivered to the site from surrounding dairies and 40 to 80 calves at a time are kept onsite for 3-5 days and then are loaded in trailers for shipment. The date of the written determination of completeness on this action is April 3, 2017. The site is located in Prosser, on the South side of Lemley Road, West of Wilgus in Section 20, Township 9 North, Range 24, W.M. Applicants: Teresa Garcia and Sergio Gonzalez.

VAR 2017-002- The applicants are requesting a 20 foot variance to the required 25 foot setback from the rear yard setback on the northern boundary of lot 3 of Short Plat 3278 allowing a structure to be within 5 feet of the property line. The date of the written determination of completeness on this action is May 8, 2017. The site is located at 105106 Wisner Parkway, Kennewick, WA 99338, in Section 11, Township 8 North, Range 28 East, W.M. Applicant: Jay Brantingham.

NOTICE IS GIVEN that said applications will be considered by the Benton County Hearings Examiner at the public hearings on Monday, June 19, 2017 at 10:00 a.m. in the Planning Annex Hearing Room, 1002 Dudley Avenue, Prosser WA 99350. All concerned persons may appear and present any support for or objections to the applications or provide written testimony to the Hearings Examiner in care of the Planning Department on or before the date of the hearings. More information concerning these actions can be obtained by contacting Clark A. Posey, Assistant Planning Manager at the Benton County Planning Department, 1002 Dudley Avenue, P O Box 910, Prosser, WA 99350 or by calling 736-3086 (Tri-Cities) or 786-5612 (Prosser). Any information submitted to Benton County is subject to the public records disclosure law for the State of Washington (RCW Chapter 42.17) and all other applicable law that may require the release of the documents to the public. It is suggested that if you plan on attending the hearing that you call the Benton County Planning Department by 8:30 a.m. the morning of the hearing to confirm that the hearing will be conducted as scheduled.

It is Benton County's policy that no qualified individual with a disability shall, by reason of such disability be excluded from participation in or be denied the benefits of its services, programs, or activities or be subjected to discrimination. If you wish to use auxiliary aids or require assistance to comment at this public meeting, please download and submit the Accommodation Request Form 48 hours prior to the date of the meeting. The form is located on the Benton County website which is www.co.benton.wa.us under the Personnel Department or contact the Benton County Planning Department at the numbers noted above for assistance.

Dated: May 24, 2017

SUSAN E. DRUMMOND
Benton County Hearings Examiner
CLARK A. POSEY, Assistant Planning Manager
Benton County Planning Department



Publish: June 1, 2017