



**Planning and Zoning Staff Report for  
Nathan & Stephanie Piercey, CU-PH2017-44**

Hearing Date: August 3, 2017

Development Services Department

<p><b><u>Applicant:</u></b> Nathan &amp; Stephanie Piercey</p> <p><b><u>Staff:</u></b> Kyle McCormick, 455-5958 <a href="mailto:kmccormick@canyonco.org">kmccormick@canyonco.org</a></p> <p><b><u>Tax ID:</u></b> R33213</p> <p><b><u>Current Zone:</u></b> "A" (Agricultural)</p> <p><b><u>Comprehensive Plan:</u></b> 2020 Canyon County Comprehensive Plan</p> <p><b><u>Lot Size/Project Area:</u></b> Approximately 10 acres</p> <p><b><u>Current Uses:</u></b> Irrigated pasture and rural residential</p> <p><b><u>Applicable Zoning Land Use Regulations:</u></b> CCZO §07-07-05, §07-10-27</p> <p><b><u>Notification</u></b></p> <ul style="list-style-type: none"> <li>• July 12, 2017- Publication</li> <li>• July 5, 2017- Mailing</li> <li>• July 27, 2017- Posting</li> </ul> <p><b><u>Exhibits:</u></b></p> <ol style="list-style-type: none"> <li>1. FCCO's</li> <li>2. Small Aerial</li> <li>3. Applicant Letter of Intent</li> <li>3A: Land Use Worksheet</li> <li>4. Site Plan</li> <li>5. Golden Gate Highway District</li> <li>6. Southwest District Health</li> <li>7. Idaho Department of Environmental Quality</li> <li>8. Site Photos</li> <li>9. AD2014-62 approval documents</li> <li>10. Dairy, Feedlot, Gravel Pits</li> <li>11. Zoning &amp; Classification Map</li> <li>12. Subdivision Map</li> <li>13. 2020 Canyon County Future Land Use Map</li> <li>14. Large Aerial</li> </ol>	<p><b><u>Request</u></b> Nathan &amp; Stephanie Piercey have requested a Conditional Use Permit for a dog kennel for up to 35 dogs on approximately 3.4 acres located at 17491 Van Slyke Road, Wilder, Idaho.</p> <p><b><u>Background</u></b> The subject property is currently zoned "A" (Agricultural). A kennel is allowed through conditional use approval in an "A" (Agricultural) zone subject to conditions. Conformance with the Canyon County Public Safety Ordinance Chapter 3, Article 5 (Animal Control Regulations) is also required. The subject parcel was approved through an administrative land division and relocation of permits (AD2014-62, Exhibit 9). The subject parcel has access to a 60' wide ingress/egress easement.</p> <p><b><u>Analysis</u></b> CCZO 16-001 §07-02-03: Definitions: Kennel: Any portion of land, or any building, structure, enclosure or premises on the same or adjacent parcels, in which canines are housed, groomed, bred, boarded, trained, or sold, in which a total of six (6) or more dogs, three (3) months of age or over are kept or maintained in conformance with CCZO Section 03-05-09.</p> <p>A kennel is an allowed use with a conditional use permit in the "A" (Agricultural) zone per CCZO §07-10-27. The subject property is zoned "A" (Agricultural). There are no residences other than that of the property owner/applicant within 650 feet of the proposed kennel. There are (2) two subdivisions within a mile (Exhibit 12) of the proposed kennel that have remained mostly undeveloped. There is little to no evidence that suggest there is a trend toward residential in this area.</p> <p>The subject property currently contains the applicant's residence (Exhibit 2). A portion of the property is in agricultural production and will continue to be used as pasture (Exhibit 4). The applicant has proposed a 3 phase plan for implementation the dog kennel if approved (Exhibit 3).</p> <p>Phase 1 of the kennel proposed by the applicant will be construction of canine breeding buildings #1 &amp; #2 on the applicants site plan (Exhibit 4). Phase 1 will also consist of landscaping and fencing of the kennel yard and the installation of dog runs in the buildings. Fencing proposed is 4' tall horse fencing with vegetation barrier for sight and noise barriers (Exhibit 3, Letter of Intent, Page 1). By the end of phase 1 there are to be at most 18 dogs.</p> <p>Proposed hours of operation for the kennel are Monday- Sunday 8 AM to 7 PM. The applicant is proposing that infrastructure such as the septic, permanent water and electricity is to be added on the second phase. During the second phase, the first two buildings are to be insulated for sound. The second phase will also include adding another building with insulation, electricity and hooked up to the septic system for more breeding canines.</p>
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The third phase and final phase will be to add a fourth building intended for whelping dames and their subsequent litters (See Letter of Intent and Site Plan, Exhibit 3 & 4). The airing yard is to be used for housing and exercise of breeding canines prior to sale.

This will be a private breeding facility. The applicant intends to primarily sell the dogs through private treaty and deliver them to the customers. There is no intent to have customers come to the facility or her private residence. In the future the applicants has proposed that they will have 1-2 employees (Exhibit 3).

The applicant is proposing all types of dogs both large and small that will not be a threat to the livestock in the area. The dogs will be maintained indoors and in fenced areas. Fencing and landscaping is proposed as part of the phasing plan. The applicant has proposed 4' high horse electric fences. The dogs will be fitted with bark collars and the yard will be regularly cleaned of feces. There are no residential dwellings in the near vicinity of the facility.

### **Conditional Use Permit Criteria**

Standard of Review for Conditional Use Permit (07-07-05)

#### **A. Is the proposed use permitted in the zone by conditional use permit?**

Canyon County Zoning Ordinance §07-10-27 provides opportunity for the proposed use as a conditional use permit.

#### **B. What is the nature of the request?**

The applicant is requesting a conditional use permit for a kennel (private breeding facility) on approximately 3.4 acres. The kennel is proposed to have a maximum of 35 dogs (Exhibits 3, Letter of Intent).

#### **C. Is the proposed use consistent with the Comprehensive Plan?**

The use is consistent with the following Canyon County Comprehensive Plan policies:

- Property Rights Policy No. 1- *“No person shall be deprived of private property without due process of law.”*
- Property Rights Policy No. 11- *“Property owners shall not use their property in a manner that negatively impacts upon the surrounding neighbors or neighborhoods.”*
- Economic Development Policy No. 6- *“Encourage commercial and residential development in a controlled, planned, and constructive manner, which will enhance, not destroy, the existing lifestyle and environmental beauty of Canyon County.”* The proposed use of a kennel will not destroy the existing lifestyle of the surrounding areas, and conditions of approval for noise and sight obstruction will be mitigated through conditions of approval.

#### **D. Will the proposed use be injurious to other property in the immediate vicinity and/or negatively change the essential character of the area?**

No, a kennel in this low density location would not be injurious to other properties in the vicinity nor will it negatively change the essential character of the area. The primary use of the surrounding properties is agricultural. There is the potential for increased nuisance noise by the dogs at and surrounding the facility as a result of increased canine capacity. However, the nearest residence is more than 650 feet from the Piercey residence and proposed kennel facility. Additionally, staff is recommending that the Planning and Zoning Commission add conditions of approval that the applicant sound proof the structure with appropriate insulation, place bark collars on canines if and when residential parcels become closer to the property and install 4' fencing.

#### **E. Will adequate water, sewer, irrigation, drainage and storm water drainage facilities, and utility systems be provided to accommodate the use;**

Staff has not found that there will be issues with the proposed kennel in regards to adequate water, sewer, irrigation, drainage and storm water drainage facilities. The applicant will be required to meet the requirements of Southwest District Health for the kennel use (Exhibit 6). Staff is recommending that the applicant obtain a septic permit at the time of building permit applications for Phase 1 structures.

**F. Does legal access to the subject property for the development exist or will it exist at the time of final plat;**  
Access currently exists to the residence on this property from Van Slyke Road via a 60 ft ingress/egress easement (See AD2014-62 Record of Survey, Exhibit 62). The Golden Gate Hwy District will require the applicant to obtain a commercial approach permit at the time of development of Phase 1 (Exhibit 5). Staff recommends adding a condition of approval that at the time of application for a building permit for the first structure the applicant provide Canyon County with a copy of the approach permit.

**G. Will there be undue interference with existing or future traffic patterns?**

The proposed request will not significantly increase the existing or future traffic patterns. The public will not come to the site for viewing of dogs. All dogs will be delivered to the public, therefore traffic impacts will be minimal to none.

**H. Will essential services be provided to accommodate the use including, but not limited to, school facilities, police and fire protection, emergency medical services, irrigation facilities, and will the services be negatively impacted by such use or require additional public funding in order to meet the needs created by the requested use?**

Staff has not found that this request will affect essential services nor will it negatively impact them.

### **Comprehensive Plan**

This request is generally consistent with the Canyon County 2020 Comprehensive Plan see criteria review "C" above.

### **Comments**

#### **Public Comments**

At the time this report was completed Staff had not received any public comments regarding the proposed dog kennel.

#### **County Agency Comments**

Staff informed applicable agencies of the proposal and the responses are attached as exhibits.

### **Alternatives**

- The Planning and Zoning Commission may approve the conditional use permit, all or in part, for a maximum 35 dog kennel as conditioned and/or amended;
- The Planning and Zoning Commission may deny the conditional use request and direct staff to make findings of fact to support this decision; or
- The Planning and Zoning Commission may continue the discussion and request additional information on specific items.

### **Significant Impacts**

The proposed kennel is to be a private dog breeding operation with very limited or no onsite customer visits. Staff did not identify significant impacts for the proposed dog breeding operation kennel. Impacts could be more significant if the operation were closer to residential subdivisions. Staff recommends that the conditional use kennel permit for the kennel operation terminate with change in ownership of the property.

### **Recommendation**

Staff recommends the Planning and Zoning Commission open a public hearing and discuss the proposed Conditional Use Permit. Staff is recommending approval of the request for a 35 dog kennel for a dog breeding operation and has provided findings of fact, conclusions of law and conditions of approval for the Planning and Zoning Commission's consideration found in Exhibit 1.



**Findings of Fact, Conclusions of Law, Conditions of Approval and Order**

CU-PH2017-44 Nathan and Stephanie Pierce Dog Kennel

**Findings of Fact**

1. The applicant is requesting a kennel permit for a private dog breeding operation.
2. The applicant is requesting a maximum limit of 35 canines (Exhibit 3A).
3. The property is zoned “A” Agricultural.
4. There is currently a residence on the subject property (Exhibit 2).
5. The property is not located within an impact area.
6. The property has adequate access to a public road; Van Slyke Road.
7. The property is located within the Homedale Fire Protection District.

**Conclusions of Law**

For case file CU-PH2017-44 the Planning and Zoning Commission finds and concludes the following regarding the Standards of Review for Conditional Use Permit (07-07-05).

• **Is the proposed use permitted in the zone by conditional use permit?**

Conclusion: The proposed use is permitted in the zone by conditional use permit.

Finding: Canyon County Zoning Ordinance §07-10-27 provides opportunity for the proposed use as a conditional use permit.

• **What is the nature of the request?**

The applicant is requesting a conditional use permit for a kennel to operate a private small dog breeding facility for a maximum of 35 dogs.

• **Is the proposed use consistent with the Comprehensive Plan?**

Conclusion: The proposed use is consistent with the Comprehensive Plan.

Finding: The use is consistent with the Canyon County Comprehensive Plan, Section 1. Property Rights

- Property Rights Policy No. 1- *“No person shall be deprived of private property without due process of law.”*
- Property Rights Policy No. 11- *“Property owners shall not use their property in a manner that negatively impacts upon the surrounding neighbors or neighborhoods.”*
- Economic Development Policy No. 6- *“Encourage commercial and residential development in a controlled, planned, and constructive manner, which will enhance, not destroy, the existing lifestyle and environmental beauty*

of Canyon County.” The proposed use of a kennel will not destroy the existing lifestyle of the surrounding areas, and conditions of approval for noise and sight obstruction will be mitigated through conditions of approval.

- **Will the proposed use be injurious to other property in the immediate vicinity and/or negatively change the essential character of the area?**

Conclusion: The proposed use will not be injurious to other property in the immediate vicinity and will not negatively change the essential character of the area.

Finding: The Commission finds a kennel in this low density location would not be injurious to other properties in the vicinity nor will it negatively change the essential character of the area. The primary use of the surrounding properties is agricultural. There is the potential for increased nuisance noise by the dogs at and surrounding the facility as a result of increased canine capacity. However, the nearest residence is more than 650 feet from the Piercey residence and proposed kennel facility. Conditions of approval will adequately mitigate noise nuisance from the proposed kennel.

- **Will adequate water, sewer, irrigation, drainage and storm water drainage facilities, and utility systems be provided to accommodate the use;**

Conclusion: Adequate facilities for sewer, irrigation, drainage and storm water drainage facilities, and utility systems will be required at the time of development.

Finding: The Commission has not found that there will be issues with the proposed kennel in regards to adequate water, sewer, irrigation, drainage and storm water drainage facilities. The applicant is required to meet all requirement of Southwest District Health (Condition #7 &8).

- **Does legal access to the subject property for the development exist or will it exist at the time of final plat;**

Conclusion: Legal access exists for the subject property to Van Slyke Road.

Finding: Access exists to the current residence on the subject property. The Golden Gate Highway District indicated that approach permits will be required (Condition #9).

- **Will there be undue interference with existing or future traffic patterns?**

Conclusion: There will not be undue interference with existing or future traffic patterns.

Finding: This request will not significantly increase the existing or future traffic patterns.

- **Will essential services be provided to accommodate the use including, but not limited to, school facilities, police and fire protection, emergency medical services, irrigation facilities, and will the services be negatively impacted by such use or require additional public funding in order to meet the needs created by the requested use?**

Conclusion: Essential services will be provided and this application will not negatively impact existing services or require additional public funding.

Finding: The request for a private kennel in a rural area and will not significantly affect essential services nor will it negatively impact them.

## Conditions of Approval

### **General**

1. The development shall comply with all applicable federal, state, and county laws, ordinances, rules and regulations that pertain to the subject property and the proposed use including:
  - a. Compliance with Canyon County Public Safety Ordinance Article 5 Animal Control Regulations.
  - b. Building permits for all new structures are required in conformance with agency requirements.
2. The dog kennel shall be in substantial conformance with the applicant's site plan (Exhibit 4).
3. The dog kennel shall be in substantial conformance with the applicants phasing plan for phases 1-3 (Exhibit 3).
4. The number of canines on the premises shall not exceed 35.
5. Hours of operation shall be limited to Monday-Sunday 8 AM to 7 PM.
6. This permit shall expire with a change in ownership of the 3.4 acre subject property, R33213, currently owned by Nathan & Stephanie Piercey.

### **Waste Water and Septic**

7. The operator shall obtain all appropriate permits from Southwest District Health upon application for a building permit for the first structure. Applicant must provide a copy of permits at the time of building permit application for building #1.
8. The operator shall dispose of waste in a manner that does not contribute to potential environmental and water contamination in and around the subject property. Canine waste shall be disposed of at a regular frequency to the Landfill in accordance with disposal requirements or another approved means of waste disposal.

### **Access**

9. Approach permits shall be obtained from Golden Gate Hwy District upon application for the building permit for the first structure.

### **Fencing**

10. The kennel yard as depicted in the applicants site plan (Exhibit 4) shall be enclosed with an electric fence of adequate height (minimum 4 foot high) to ensure that dogs do not run at large or leave the subject property.
  - a. The applicant shall submit a fencing plan upon application for a building permit for the first structure.
  - b. Evidence of completion of fencing plan shall be submitted to Canyon County DSD upon building permit application for Phase 2 (building #3) (See Letter of Intent, Exhibit 3)

### **Noise Mitigation**

11. Bark collars shall be required if complaints arise from surrounding property owners for all dogs when outside of the canine housing buildings.
12. Structures must be built with adequate insulation for climate control and noise reduction. Insulation must be included on structural plans and included on the application for the dog breeding structures.

Order

Based upon the Findings of Fact, Conclusions of Law and Conditions of Approval contained herein the Planning and Zoning Commission **approves** Case # CU-PH2016-44, a request for a Conditional Use Permit for a kennel to operate a private dog breeding facility with up to 35 dogs in an "A" (Agricultural) zone on approximately 3.4 acres located at 17491 Van Slyke Road, Wilder, Idaho.

**APPROVED** this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

**PLANNING AND ZONING COMMISSION  
CANYON COUNTY, IDAHO**

\_\_\_\_\_  
Chairman, Richard Hall

State of Idaho )

SS

County of Canyon County )

On this \_\_\_\_\_ day of \_\_\_\_\_, in the year of 2017, before me \_\_\_\_\_, a notary public, personally appeared \_\_\_\_\_, personally known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he (she) executed the same.

Notary: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_