



*Planning and Zoning Staff Report for
Grant Settle Conditional Use Permit - PH2018-8*

Hearing Date: March 15, 2018

Development Services Department

<p><u>Owner/Applicant:</u> Grant Settle</p> <p><u>Staff:</u> Dan Lister, (208) 455-5959 dlistler@canyonco.org</p> <p><u>Tax ID:</u> R28536011</p> <p><u>Current Zone:</u> “A” (Agricultural)</p> <p><u>2020 Comprehensive Plan:</u> Agricultural</p> <p><u>Lot Size:</u> 5.045 acres</p> <p><u>Current Uses:</u> Residential</p> <p><u>Applicable Canyon County Regulations:</u> CCZO §03-05-09, §07-02-03, §07-07-05, §07-10-27</p> <p><u>Notification</u></p> <ul style="list-style-type: none">• 2/23/2018 & 3/7/2018 - Property Owners• 2/27/2018 - Publication• 1/30/2018 - Agencies• 3/5/2018 - Posting <p><u>Exhibits:</u></p> <ol style="list-style-type: none">1. FCOs;2. Applicant’s Letter of Intent/Land Use Worksheet;3. Site Plan;4. Applicant’s Website Introduction Page;5. Site Visit photos6. Small Aerial;7. Vicinity Map;8. Subdivision Map & Report;9. Zoning & Classification Map;10. Dairy, Feedlot, Gravel Pits Map;11. Case Map;12. Prime Farmlands Map;13. Nampa Highway District;14. Idaho Dept. of Environmental Quality;15. Idaho Transportation Department; and16. Large Aerial	<p><u>Request</u></p> <p>The applicant, Grant Settle, requests a Conditional Use Permit to allow a dog kennel for up to 20 dogs on tax parcel R28536011. The property is located at 9903 Viewpoint Drive, Melba, Idaho; also known as the NW Quarter of Section 21, Township 1N, Range 2W, BM, Canyon County.</p> <p><u>Background</u></p> <p>The subject parcel was created by land division (LS2002-149) in 1998. The existing dwelling was constructed in 2005 (BP2005-1033). There is a move-on accessory structure (over 200 square feet) with no building permit.</p> <p><u>Analysis</u></p> <p><u>CCZO §07-02-03: Definitions</u></p> <p>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 Section 03-05-09 (Animal Control Regulations) of the Canyon County Code.</p> <p>Pursuant to §03-05-09 of the Canyon County Code, the owner must obtain a kennel license. Currently, Canyon County Animal Control does not have a kennel license program. However, requirements such as a 600 foot property owner notification, 150 foot buffer between the kennels and nearest neighboring dwelling and noise reduction conditions still must be met.</p> <p>The subject property is zoned “A” (Agricultural). Pursuant to CCZO §07-10-27, a kennel is allowed in “A” Zoning Districts subject to an approved Conditional Use Permit.</p> <p>The parcel is located within an “A” (Agricultural) Zoning District (Exhibit 9). The surrounding properties are similar in size (5 acre parcels or larger) and use (residential uses with some agricultural uses). The subject parcel and surrounding properties are built on a hillside that slopes north toward Melmont Road (Exhibit 5). Other than the surrounding properties, the average parcel size in the general vicinity are 40 acres. The subject parcel is approximately 1,300 south of an active feedlot. The area does not have any subdivisions.</p> <p>As stated in the applicant’s letter of intent (Exhibit 2), the request is to construct a dog kennel/training facility (approximately 1,800 square feet, 20 foot ceiling height) to house up to 20 retrievers. The retrievers are trained to be hunting companions (Exhibit 4). Noise from dogs will be minimized by bark collars and boarding in-doors.</p> <p>The applicant is consistent with §03-05-09(2)B of the Canyon County Code which states:</p>
--	---

“Location: No kennel shall be established within one hundred fifty feet (150’) of any dwelling house other than that of the kennel owner; provided, however, that a kennel license may be issued to establish a kennel within one hundred fifty feet (150’) of a dwelling house other than that of the kennel owner upon consent of all property owners within three hundred feet (300’) of the kennel.”

The location of the existing dwelling and proposed dog kennel facility are over 150 feet from all dwellings located on adjacent parcels.

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 allows kennels in “A” Zoning Districts subject to an approved Condition Use Permit.

B. What is the nature of the request?

The applicant is requesting a conditional use permit to allow a dog kennel for up to 20 dogs on tax parcel R28536011 (Exhibit 2, 3 & 4).

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.”*

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

The area is zoned “agricultural”. The general area is surrounded by agricultural uses, setting and character, including associated noises, smells and use of agricultural equipment. The existing dwelling and proposed dog kennel structure are similar to structures found within the general vicinity. Therefore, as conditioned, the dog kennel uses will not negatively change the essential character of the area.

The use has the potential to impact adjacent neighbors due to dog barking, dogs running at large and dog waste on the subject property. However, the letter of the intent provided by the applicant demonstrates that the property and dogs will be maintained and noise impacts will be reduced by use of bark collars and indoor boarding. As conditioned (see Exhibit 1 for conditions of approval), the use will not be injurious to other property in the immediate vicinity.

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

The proposed kennel does not create potential impacts to adequate water, sewer, irrigation, drainage and storm water drainage facilities. Idaho Department of Environmental Quality provide a summary of potential requirements if the use/development meet air quality, water, wastewater, drainage and contamination requirements (Exhibit 14). Upon review, the use does not create an air quality, water, wastewater, drainage or water contamination impact. The project is conditioned to maintain the property and dog facility in a clean and sanitary condition. Disposal of waste is required to be maintained in a manner that does not contribute to potential environmental and water contamination in and around the subject property.

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 from Viewpoint Drive, a paved private road. The requested use does not change or impact the legal access. Nampa Highway District has no objections (Exhibit 13). Idaho Transportation Department (ITD) has no objections (Exhibit 15).

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

The proposed request does not increase existing or future traffic patterns (Exhibit 13 & 15).

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 found that this request does not affect essential services.

Comments

Public Comments

No comments were received.

Agency Comments: The following agencies were notified January 30, 2018. The checked boxes indicate agencies that responded by letter. All written comments are attached as exhibits.

Idaho Power	Southwest District Health	<input checked="" type="checkbox"/>	Nampa Highway District	CC Assessor's Office
Sheriff	Intermountain Gas		Dept. of Water Resources	County Weed & Gopher
Ambulance	Boise Project Board of Control		Melba Fire District	<input checked="" type="checkbox"/> Dept. of Enviro. Quality
Century Link	Melba School District		County Animal Control	Dept. Fish & Game
<input checked="" type="checkbox"/> ITD				

Decision Options

- The Planning and Zoning Commission may approve the conditional use permit, all or in part, 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.

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 and 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

PH2018-8 – Grant Settle Conditional Use Permit

Findings of Fact

1. The applicant is requesting a dog kennel conditional use permit to board 20 dogs (Exhibit 2 & 3).
2. The property is zoned “A” Agricultural. The subject parcel, R28536011, is approximately 5 acres (Exhibit 9).
3. There is currently a dwelling (BP2005-1033) and illegal move-on accessory structures on the subject property.
4. The property is not located within a city impact area.
5. The property is not located in a mapped floodplain.
6. The property has adequate access from a paved private road, Viewpoint Drive.
7. The property is located within the Melba Fire Protection District.
8. The applicant was noticed in accordance with Canyon County Code §07-05-01 & §03-05-09. Property owners were noticed on February 23, 2018 and March 7, 2018. Agencies were noticed on January 30, 2018. Notice was published on February 27, 2018. Notice was posted on March 5, 2018.
9. All record herein consists of exhibits provided in the public hearing staff report, any late exhibits provided during the public hearing on March 15, 2018 and all information in case file PH2018-8.

Conclusions of Law

For case file PH2018-8, the Planning and Zoning Commission finds and concludes the following regarding the Standards of Review for Conditional Use Permit (07-07-05).

1. 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 allows kennels in “A” Zoning Districts subject to an approved Condition Use Permit.

2. What is the nature of the request?

The applicant is requesting a conditional use permit to allow a dog kennel for up to 20 dogs on tax parcel R28536011 (Exhibit 2, 3 & 4).

3. 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.”

4. 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 area is zoned “agricultural”. The general area is surrounded by agricultural uses, setting and character, including associated noises, smells and use of agricultural equipment. The existing dwelling and proposed dog kennel structure are similar to structures found within the general vicinity. Therefore, as conditioned, the dog kennel uses will not negatively change the essential character of the area.

The use has the potential to impact adjacent neighbors due to dog barking, dogs running at large and dog waste on the subject property. However, the letter of the intent provided by the applicant demonstrates that the property and dogs will be maintained and noise impacts will be reduced by use of bark collars and indoor boarding. As conditioned, the use will not be injurious to other property in the immediate vicinity.

5. 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 exist on the property and will not be impacted by the use.

Finding: The use will not impact existing water, sewer, irrigation, drainage and storm water drainage facilities. Idaho Department of Environmental Quality provide a summary of potential requirements if the use/development meet air quality, water, wastewater, drainage and contamination requirements (Exhibit 14). Upon review, the use does not create an air quality, water, wastewater, drainage or water contamination impact. The project is conditioned to maintain the property and dog facility in a clean and sanitary condition. Disposal of waste is required to be maintained in a manner that does not contribute to potential environmental and water contamination in and around the subject property.

6. 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 from Viewpoint Drive, a paved private road.

Finding: The requested use does not change or impact the legal access. Nampa Highway District has no objections (Exhibit 13). Idaho Transportation Department (ITD) has no objections (Exhibit 15).

7. 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 change or impact the existing or future traffic patterns.

8. 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 kennel will not significantly affect essential services nor will it negatively impact them.

Conditions of Approval

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 which include the following:
 - a. Compliance with Canyon County Public Safety Ordinance Article 5 Animal Control Regulations:
 1. Minimize loud, frequent or habitual barking by use of bark collars and indoor boarding.
 2. The dog kennel and property shall be maintained in a clean and sanitary condition. 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.

- b. A building permit shall be obtained for the proposed dog kennel structure. The structure shall meet all required property line setbacks (30 feet from the front, 20 feet from the rear and 10 feet from the sides).
 - c. Prior to housing 20 dogs on the property, a building permit shall be obtained for the move-on accessory structure currently on the property or evidence shall be submitted to DSD that the structure has been removed.
3. The number of canines on the premises shall not exceed 20.
 4. All fencing around the kennel area(s) and property shall be constructed and maintained to ensure that dogs do not run at large or leave the subject property.
 5. This permit shall be granted only to the applicant/owner. The use shall expire upon change of ownership.

Order

Based upon the Findings of Fact, Conclusions of Law and Conditions of Approval contained herein the Planning and Zoning Commission **approves** Case #PH2018-8, a request for a Conditional Use Permit to allow a dog kennel for up to 20 dogs on tax parcel R28536011. The property is located at 9903 Viewpoint Drive, Melba, Idaho; also known as the NW Quarter of Section 21, Township 1N, Range 2W, BM, Canyon County.

APPROVED this _____ day of _____, 2018.

**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 2018, 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: _____