



*Planning and Zoning Staff Report for  
Ekard Conditional Use Permit – CU2018-0002*

Hearing Date: May 3, 2018

Development Services Department

<p><b><u>Owner/Applicant:</u></b> James &amp; Kerri Ekard</p> <p><b><u>Staff:</u></b> Dan Lister, (208) 455-5959 <a href="mailto:dlist@canyonco.org">dlist@canyonco.org</a></p> <p><b><u>Tax ID:</u></b> R28516010</p> <p><b><u>Current Zone:</u></b> “A” (Agricultural)</p> <p><b><u>2020 Comprehensive Plan:</u></b> Agricultural</p> <p><b><u>Lot Size:</u></b> 15.65 acres</p> <p><b><u>Current Uses:</u></b> Residential</p> <p><b><u>Applicable Canyon County Regulations:</u></b> CCZO §03-05-09, §07-02-03, §07-07-05, §07-10-27</p> <p><b><u>Notification</u></b></p> <ul style="list-style-type: none"><li>• 4/11/2018 - Property Owners</li><li>• 4/11/2018 - Publication</li><li>• 3/23/2018 - Agencies</li><li>• 4/24/2018 - Posting</li></ul> <p><b><u>Exhibits:</u></b></p> <ol style="list-style-type: none"><li>1. FCO;</li><li>2. Applicant’s Letter of Intent/Land Use Worksheet and Site Plan;</li><li>3. Maps<ol style="list-style-type: none"><li>a) Small Aerial;</li><li>b) Vicinity Map;</li><li>c) Subdivision &amp; Report;</li><li>d) Zoning;</li><li>e) Dairy, Feedlot &amp; Gravel Pits;</li><li>f) Future Land Use</li><li>g) Farmland; and</li><li>h) Contours</li></ol></li><li>4. Agency Comments<ol style="list-style-type: none"><li>a) Nampa Highway District; and</li><li>b) Idaho Transportation Department (two comment letters)</li></ol></li><li>5. Large Aerial</li></ol>	<p><b><u>Request</u></b></p> <p>The applicants, James &amp; Kerri Ekard, are requesting a Conditional Use Permit to allow a commercial dog kennel for up to 25 dogs on tax parcel R28516010. The property is located at 3023 HWY 45, Melba; also known as the SE Quarter of Section 16, Township 1N, Range 2W; Canyon County, Idaho.</p> <p><b><u>Background</u></b></p> <p>The subject parcel was created by land division (LS2002-142) in 1997. The parcel currently contains a dwelling and detached garage.</p> <p><b><u>Analysis</u></b></p> <p><b><u>CCZO §07-02-03: Definitions</u></b></p> <p><b>Kennel:</b> 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>Majority of the surrounding area is zoned “Agricultural”. Parcel R28506010 (3028 HWY 45, Melba), adjacent to the subject parcel, is zoned “C-1” (Neighborhood Commercial). There are no subdivisions within the vicinity. The parcel is not located within a mapped floodplain. The parcel is not located within a City Impact Area. <i>See Exhibit 3 for related maps.</i></p> <p>As stated in the applicant’s letter of intent (Exhibit 2), the request is to install a commercial dog kennel to house up to 25 dogs. Hours of operation would be 8:30am to 12:00pm and 3:30pm to 5:30pm, Monday through Friday, and 8:30-10:30, Saturdays. An existing shop structure will be utilized and added onto to create the dog kennel facility. A six foot solid vinyl fence will enclose the kennel area.</p> <p>The applicant is consistent with §03-05-09(2)B of the Canyon County Code which states: <i>“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 on 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.”</i> Based on the site plan provided (Exhibit 2), the location of the existing dwellings to the proposed dog kennel facility are over 150 feet.</p>
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## **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 commercial dog kennel for up to 25 dogs on tax parcel R28516010 (Exhibit 2).

**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. Therefore, as conditioned, the dog kennel use will not 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, pursuant to Exhibit 2, the applicant demonstrates that the property and dogs will be adequately maintained and noise impacts will be reduced by indoor boarding and fencing of the kennel area. As conditioned (see Exhibit 1 for conditions of approval), the use will not be injurious to other properties 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. 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 HWY 45, a state highway. ITD (Idaho Transportation Department) requests that the applicant obtain a right-of-way encroachment permit prior to the commencement of use and associated building permit issuance (Exhibit 4c).

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

Upon review by ITD (Exhibit 4c), the request is not anticipated to impact existing or future traffic patterns.

**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 March 23, 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-Kuna Irrigation Dist.		Melba Fire District	Dept. of Enviro. Quality
Century Link	Melba School District		County Animal Control	Dept. Fish & Game
<input checked="" type="checkbox"/> ITD	Melba Quick Response			

**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**

CU2018-0002 – James & Kerri Ekard Dog Kennel Conditional Use Permit

### **Findings of Fact**

1. The applicant is requesting a conditional use permit to allow a commercial dog kennel to board 25 dogs (Exhibit 2).
2. The property is zoned “A” Agricultural. The subject parcel, R28516010, is approximately 15.65 acres.
3. The property is not located within a city impact area.
4. The property is not located in a mapped floodplain.
5. The property has existing access from HWY 45, a state highway.
6. The property is located within the Melba Fire Protection District.
7. The applicant was noticed in accordance with Canyon County Code §07-05-01 & §03-05-09. Property owners were noticed on April 11, 2018. Agencies were noticed on March 23, 2018. Notice was published on April 11, 2018. Notice was posted on April 24, 2018.
8. All record herein consists of exhibits provided in the public hearing staff report, any late exhibits provided during the public hearing on May 3, 2018 and all information in case file CU2018-0002.

### **Conclusions of Law**

For case file CU2018-0002, 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 commercial dog kennel for up to 25 dogs on tax parcel R28516010 (Exhibit 2).

#### **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. Therefore, as

conditioned, the dog kennel use will not 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, pursuant to Exhibit 2, the applicant demonstrates that the property and dogs will be adequately maintained and noise impacts will be reduced by indoor boarding and fencing of the kennel area. As conditioned (see Exhibit 1 for conditions of approval), the use will not be injurious to other properties 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. 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 Highway 45, a state highway.

Finding: Idaho Transportation Department (ITD) requests that a right-of-way encroachment permit be submitted and approved prior to the commencement of use and associated building permit issuance.

**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 is not anticipated to impact 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 indoor boarding and fenced kennel area.
    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. Signage shall comply with §07-10-13 of the Canyon County Zoning Ordinance.

3. Prior to commencement of use and issuance of associated building permits, a Right-of-Way Encroachment permit shall be obtained from ITD.
4. The use kennel structures and kennel location shall be insubstantial compliance with the applicant's letter of intent and site plan (Exhibit 2, as attached).
5. The number of canines on the premises shall not exceed 25.
6. 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.
7. 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 #CU2018-0002, a request for a Conditional Use Permit to allow a dog kennel for up to 25 dogs on tax parcel R28516010. The property is located at 3023 Highway 45, Melba; also known as the SE Quarter of Section 16, Township 1N, Range 2W; Canyon County, Idaho.

**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: \_\_\_\_\_