



Planning and Zoning Staff Report
Gyro Engineering Corp. – CU2018-0016

Hearing Date: November 15, 2018

Development Services Department

<p><u>Applicant/Owner:</u> Alan Mowry, Gyro Engineering Corp.</p> <p><u>Staff:</u> Dan Lister, Planner II</p> <p><u>Tax ID:</u> R33590012D</p> <p><u>Current Zone:</u> “A” (Agriculture)</p> <p><u>2020 Comprehensive Plan:</u> Agricultural</p> <p><u>Lot Size:</u> 15.14ac</p> <p><u>Current Uses:</u> Residential/Agricultural</p> <p><u>Applicable Zoning Regulations:</u> CCZO §07-02-03, 07-07-05, §07-10-27</p> <p><u>Notification:</u></p> <ul style="list-style-type: none">• 10/3/2018: Agencies• 10/18/2018: Property Owners• 10/28/2018: Publication• 11/6/2018: Posting <p><u>Exhibits:</u></p> <ol style="list-style-type: none">1) FCOs2) Project Information:<ol style="list-style-type: none">a) Letter of Intentb) Site Planc) Land Use Worksheetd) Neighborhood Meeting Signup Sheet3) Maps<ol style="list-style-type: none">a) Small Air Photob) Vicinityc) Contourd) Zoning & Classificatione) Future Land Usef) Subdivision and Reportg) Soilsh) Farmland & Reporti) Floodplain FIRMette4) Agency Comments<ol style="list-style-type: none">a) Golden Gate Highway Districtb) Idaho Transportation Department (ITD)5) Large Aerial	<p><u>Request</u></p> <p>The applicant is requesting a conditional use permit to allow a ham radio station. The facility includes two towers with mast not exceeding 82 feet in height, two vertical antennas not exceeding 66 feet in height and three wire antennas not to exceed 35 feet in height. The property is located at 20228 Sunny Slope Road, Caldwell; also referenced as parcel R33590012D, the NE Quarter of Section 34, Township 3N, Range 4W; Canyon County, Idaho.</p> <p><u>Background</u></p> <p>The 15.14 acre parcel was created through an approved land division application (AD2015-91). The parcel has an approved single family dwelling with attached garage (BP2016-659).</p> <p><u>Analysis</u></p> <p><u>Condition Use Permit Hearing Criteria (CCZO §07-07-05)</u></p> <p>The conditional use requested must be consistent with the following hearing criteria:</p> <ol style="list-style-type: none">1. Is the proposed use permitted in the zone by conditional use permit? <u>§07-02-03 Definitions:</u> “<i>Telecommunications Facility: Public or private cellphone, broadcast, communication or wireless internet towers and associated facilities.</i>” Ham radio, also known as amateur radio, allows an individual to engage in two-way personal communications with other individuals on radio frequencies assigned to by the Federal Communications Commission (FCC). <u>§07-10-27 Land Use Matrix:</u> A telecommunications facility is allowed by Conditional Use Permit in the “A” (Agricultural) zone.2. What is the nature of the request? The request is to allow a ham radio station at 20228 Sunny Slope Road, Caldwell (Parcel R33590012D). Pursuant to the applicant’s letter of intent (Exhibit 2a), the facility includes two towers with mast not exceeding 82 feet in height, two vertical antennas not exceeding 66 feet in height and three wire antennas not to exceed 35 feet in height.3. Is the proposed use consistent with the Comprehensive Plan? The use is consistent with the 2020 Canyon County Comprehensive Plan. The use is consistent with the following policies:<ul style="list-style-type: none">• <u>Section 1 - Property Rights Policy No. 1:</u> “<i>No person shall be deprived of private property without due process of law</i>”.• <u>Public Services, Facilities and Utilities Policy No. 3-</u> “<i>Encourage the establishment of new development to be located within the boundaries of a rural fire protection district.</i>”
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4. Will the proposed use be injurious to other properties in the immediate vicinity and/or negatively change the essential character of the area?

The majority of the surrounding area is agricultural. Within 600 feet of the subject property is a total of four dwellings, two of which are owned by the applicant. The nearest subdivision (Hagen's Mobile Estates) is approximately 4,000 feet east of the property (Exhibit 3f). The subject property is surrounded by farmlands to the north, south and east with an average lot size of 29 acres (Exhibit 3g & 3h). On the west, the parcel borders the Snake River where portions of the property near the river are within a mapped floodplain (Exhibit 3i). The parcel is over 5,000 feet south of the designated scenic by-way. Due to distance and topography, the use will not impact views from the scenic by-way.

Pursuant to the applicant's letter of intent (Exhibit 2a), the applicant reached out to neighbors regarding the use and believes, due to distance and topography, the use will not impact the neighbor's viewshed or impact the enjoyment of their properties. The applicant will locate the towers and antennas outside of the mapped floodplain. The emissions from the use will be well below FCC emissions thresholds. The FCC (Federal Communications Commission) were notified on October 3, 2018. No comments were received. Pursuant to FCC requirements, the operator must be licensed and the station must meet all applicable FCC operation standards.

5. Will adequate water, sewer, irrigation, drainage and stormwater drainage facilities, and utility systems be provided to accommodate the use?

The proposed use does not require connection to water, wastewater or drainage facilities. Related towers and antennas use will not be located in areas that would impact existing well, septic systems or irrigation easements on the property. The property has underground utilities to power the use. Southwest District Health, Idaho Department of Water Resources, Idaho Power and Wilder Irrigation District were notified on October 3, 2018. No comments were received.

6. Does legal access to the subject property for the development exist or will it exist at the time of development?

The property has access from Sunny Slope Road, a principal arterial. The ham radio station will not increase use of the existing access or generate traffic. Golden Gate Highway District, Idaho Transportation Department (ITD) and COMPASS (Community Planning Association of Southwest Idaho) were notified. Golden Gate Highway District (Exhibit 4a) and ITD (Exhibit 4b) did not find an impact to access or traffic.

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

The property has access from Sunny Slope Road, a principal arterial. The use is for the owner's personal use and will not generate traffic. Golden Gate Highway District (Exhibit 4a) and ITD (Exhibit 4b) did not find an impact to access or traffic.

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?

The use is not anticipated to impact existing essential services established for the property or surrounding area. The use is considered a benefit to the community providing an alternative communication source for emergency response. Canyon County Sheriff, Canyon County Ambulance, Marsing Ambulance, Marsing School District, Marsing Fire District, and Intermountain Gas Company were notified on October 3, 2018. No comments were received.

Comments

Public Comments

The applicant notified property owners within 600 feet for a neighborhood meeting on March 28, 2018 (Exhibit 2d). Property owners within 300 feet of the subject parcel boundaries were notified on October 18, 2018. No comments were received.

Agency Comments

Affected agencies were notified on October 3, 2018. The following agency responded:

- Golden Gate Highway District (Exhibit 4a)
- ITD (Exhibit 4b)

Decision Options

- The Planning and Zoning Commission may **approve** the conditional use permit as conditioned and/or amended;
- The Planning and Zoning Commission may **deny** the conditional use permit 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 recommends that the Planning and Zoning Commission **approve** this application subject to the conditions of approval as provided in the findings of fact, conclusions of law and order (Exhibit 1).

Canyon County Planning and Zoning Commission

Gyro Engineering Corp. – CU2018-0016

Development Services Department

November 15, 2018



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

Findings of Fact

1. The applicant, Alan Mowry of Gyro Engineering Corp., is requesting a conditional use permit to allow a ham radio station on tax parcel R33590012D (Exhibit 2a). The facility includes two towers with mast not exceeding 82 feet in height, two vertical antennas not exceeding 66 feet in height and three wire antennas not to exceed 35 feet in height. The property is located at 20228 Sunny Slope Road, Caldwell; also referenced as the NE Quarter of Section 34, Township 3N, Range 4W; Canyon County, Idaho.
2. The subject The 15.14 acre parcel was created through an approved land division application (AD2015-91). The parcel is developed with a single family dwelling and attached garage (BP2016-659).
3. A portion of the parcel is located within a mapped floodplain (FIRM Panel No. 16027C0350F, Exhibit 3i).
4. The Canyon County Comprehensive Plan Future Land Use designation is “Agricultural” (Exhibit 3e).
5. The subject property is not located within a City Impact Area.
6. A neighborhood meeting was noticed to property owners within 600 feet of the subject parcel boundaries. The meeting was conducted on March 28, 2018 (Exhibit 2d).
7. Notice of the public hearing was provided in accordance with CCZO §07-05-01. Agency notice was provided on October 3, 2018. Newspaper notice was provided on October 28, 2018. Property owners within 300’ were notified by mail on October 18, 2018, and the property was posted on November 6, 2018.
8. The record includes all exhibits in the public hearing staff report, testimony and exhibits provided at the Planning and Zoning Commission hearing on November 15, 2018, and all information within case file CU2018-0016.

Conclusions of Law

For this request, 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 subject property is zoned agricultural. A telecommunications facility is allowed by conditional use permit (CUP) in the agricultural zone (CCZO §07-10-27).

Finding: The subject property is zoned “A” (Agricultural, 40 acre minimum lot size). Therefore, the use is permitted subject to an approved conditional use permit. The applicant submitted an application on September 26, 2018.

2. What is the nature of the request?

The applicant is requesting a conditional use permit to allow a ham radio station on tax parcel R33590012D. The facility includes two towers with mast not exceeding 82 feet in height, two vertical antennas not exceeding 66 feet in height and three wire antennas not to exceed 35 feet in height.

3. Is the proposed use consistent with the Comprehensive Plan?

Conclusion: The proposed use is consistent with multiple goals and policies of the 2020 Canyon County Comprehensive Plan.

Finding: The proposed use is consistent with multiple goals and policies of the Comprehensive Plan including but not limited to:

- Section 1 - Property Rights Policy No. 1 - *“No person shall be deprived of private property*

without due process of law”.

- Property owners were notified. No comments were received.
- Public Services, Facilities and Utilities Policy No. 3- *“Encourage the establishment of new development to be located within the boundaries of a rural fire protection district.”*
- The property is located within the Marsing Fire District.

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 properties or property owners in the immediate vicinity. The proposed use will not change the essential character of the area.

Finding: The area is zoned for agricultural uses (Exhibit 3d). Within 600 feet of the subject property is a total of four dwellings, two of which are owned by the applicant. The nearest subdivision (Hagen’s Mobile Estates) is approximately 4,000 feet east of the property (Exhibit 3f). The subject property is surrounded by farmlands to the north, south and east with an average lot size of 29 acres (Exhibit 3g & 3h). On the west, the parcel borders the Snake River where portions of the property near the river are within a mapped floodplain (Exhibit 3i). The proposed use will not be located within the area identified as mapped floodplain. The parcel is over 5,000 feet south of the designated scenic by-way. Due to distance and topography, the use will not impact views from neighbors or from the scenic by-way.

Pursuant to the applicant’s letter of intent (Exhibit 2a), emissions from the use will be well below FCC emissions thresholds. The FCC (Federal Communications Commission) were notified on October 3, 2018. No comments were received. Pursuant to FCC requirements, the operator must be licensed and the station must meet all applicable FCC operation standards. Therefore, the use will not be injurious to other properties or impact the character of the area.

5. Will adequate water, sewer, irrigation, drainage and stormwater drainage facilities, and utility systems be provided to accommodate the use?

Conclusion: The unmanned telecommunications tower does not require water, sewer, irrigation, or drainage facilities.

Finding: The unmanned facility does not require water or wastewater services or connection to existing drainage or irrigation. The use will be powered by underground utilities that currently exist on the property. Southwest District Health, Idaho Department of Water Resources, Wilder Irrigation District and Idaho Power were notified on October 3, 2018. No comments were received.

6. Does legal access to the subject property for the development exist or will it exist at the time of development?

Conclusion: Legal access exists to the subject property.

Finding: The property has existing access from Sunny Slope Road, a principal arterial. The ham radio station is for personal use and will not increase the current use of access. Golden Gate Highway District, Idaho Transportation Department (ITD) and COMPASS (Community Planning Association of Southwest Idaho) were notified. Golden Gate Highway District (Exhibit 4a) and ITD (Exhibit 4b) does not oppose the use.

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: The property has access from Sunny Slope Road, a principal arterial. The ham radio station is for personal use and will not generate traffic. Golden Gate Highway District (Exhibit 4a) and ITD (Exhibit 4b) does not oppose the use.

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 to accommodate the use.

Finding: The use is not anticipated to impact existing essential services. The use is considered a benefit to the community providing an alternative communication source for emergency response. Canyon County Sheriff, Canyon County Ambulance, Marsing Ambulance, Marsing School District, Marsing Fire District and Intermountain Gas Company were notified on October 3, 2018. No comments were received.

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.
2. A building permit is required for construction of the towers, vertical antennas and wire antennas.
3. The ham radio station shall be in substantial conformance with the site plan (Exhibit 2b) with the following restrictions:
 - a. All towers, vertical antennas and wire antennas shall be located outside of the mapped floodplain (Zone A).
 - b. All towers, vertical antennas and wire antennas shall not be located in areas that would impact the existing well or septic system.
 - c. Additional towers, vertical antennas and wire antennas shall not be allowed unless modification to this conditional use permit is approved first.
 - d. The applicant shall not impede, disrupt, or otherwise disturb the existing irrigation structures on and adjacent to the subject property.
 - e. This permit shall be granted only to the applicant/owner, Alan Mowry of Gyro Engineering Corp. The use shall expire upon change of ownership.

Order

Based upon the Findings of Fact, Conclusions of Law, Conditions of Approval and Order contained herein, the Planning and Zoning Commission **approves** Case # CU2018-0016, to allow the installation and operation of a ham radio station on parcel R33590012D.

APPROVED this _____ day of _____, 2018.

PLANNING AND ZONING COMMISSION
CANYON COUNTY, IDAHO

Richard Hall, Chairman

State of Idaho)

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County of Canyon County)

On this _____ day of _____, in the year 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: _____