



**Planning and Zoning Staff Report for
Beukelman – CU2019-0002**

Hearing Date: March 21, 2019

Development Services Department

<p>Owner: Erin & Ellis Beukelman</p> <p>Applicant: Brindee Collins, Vial Fotheringham LLP</p> <p>Staff: Dan Lister, Planner II</p> <p>Tax ID: R36416-010A</p> <p>Current Zone: “A” (Agricultural)</p> <p>Future Land Use Designation: Agricultural</p> <p>Impact Area: Greenleaf</p> <p>Parcel Size: 3.62ac</p> <p>Current Uses: Residential</p> <p>Applicable Zoning Land Use Regulations: §07-02-03, §07-05, §07-07, §07-10-27</p> <p>Notification</p> <ul style="list-style-type: none"> - Neighborhood Meeting: 10/29/2018 - Agency: 1/15/2019 - City of Greenleaf: 1/15/2019 - Property Owners: 2/28/2019 - Legal: 2/27/2019 - Posting: 3/7/2019 <p>Exhibits:</p> <ol style="list-style-type: none"> 1. FCOs 2. Applicant Letter of Intent/Site Plan 3. Neighborhood Sign-up Sheet 4. Maps <ol style="list-style-type: none"> a. Small Air Photo b. Vicinity c. Zoning d. Subdivision and Lot Report e. Soil Map and Report f. Future Land Use g. Dairy, Feedlots & Gravel Pits 5. Agency Comments: <ol style="list-style-type: none"> a. ITD b. Canyon Highway District c. Idaho Dept. of Water Resources - Flood 6. Public Comments: <ol style="list-style-type: none"> a. Brad Benke (support) b. Tanya Robinson (opposed) c. Jessica Suits (opposed) d. Ryan Robinson (opposed) 	<p>Request</p> <p>The property owners, Erin and Ellis Beukelman, represented by Brindee Collins of Vial Fotheringham LLP, is requesting a conditional use permit to allow a small animal facility on less than five (5) acres to keep up to 24 horses on parcel R36416-010A. The property is located at 19012 Upper Pleasant Ridge Road, Caldwell; as referenced as the SE ¼ of Section 26, Township 4N, Range 4W, Canyon County, Idaho.</p> <p>Background</p> <p>The 3.62 acre property is zoned “A” (Agricultural). The parcel was created through land division in 1999 (LS2004-371). The parcel currently has a single-family dwelling and accessory structures including stables and arena.</p> <p>In 2018, a notice of violation was issued to the property owners due to the small animal facility use being established on the subject parcel without approval (CDEF2018-0098).</p> <p>Conditional Use Permit Criteria</p> <p>Standard of Review for Conditional Use Permit (§07-07-05)</p> <p>A. Is the proposed use permitted in the zone by conditional use permit?</p> <p>CCZO §07-02-03: Definitions: Animal Facilities (Small): <i>“A facility of more than one up to four (4) animal units per acre of land devoted to the animals' care.”</i></p> <p>A small animal facility on less than five (5) acres is allowed in the “A” (Agricultural) zone subject to a conditional use permit (CCZO §07-10-27).</p> <p>B. What is the nature of the request?</p> <p>Pursuant to Exhibit 2, the applicant is requesting the conditional use permit to allow up to four (4) animal units per acre devotes to the animals care for the keeping and training of horses. The property currently devotes three (3) acres to care for horse. The request will allow up to 24 horses to be keep on the subject parcel. The use is not intended to allow boarding or commercial uses. The facility will be maintained so not to impact surrounding neighbors.</p> <p>C. Is the proposed use consistent with the Comprehensive Plan?</p> <p>The parcel is designated as “agricultural” in the 2020 Canyon Count Comprehensive Plan. The designation is described as an area of ‘productive irrigated croplands, grazing lands, feedlots, dairies, seed production, as well as rangeland and ground of lesser agricultural value.’</p> <p>The use is consistent with the following Canyon County Comprehensive Plan goals & policies:</p> <ul style="list-style-type: none"> • Property Rights Policy No.1: <i>“No person shall be deprived of private property without due process of law.”</i> • Property Rights Policy No. 9: <i>“Property owners shall be responsible for maintaining their property in the best possible condition as circumstances allow.”</i>
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<p>7. Manure Stockpiling Setbacks (Dept. of Ag)</p> <p>8. Best Management Practices for Nutrient Management in the State of Idaho (Dept. of Ag.)</p>	<ul style="list-style-type: none"> • Property Rights Policy No. 11: <i>“Property owners shall not use their property in a manner that negatively impacts the surrounding neighbors or neighborhoods.”</i> • Natural Resources Policy #3/Agriculture Policy No. 3: <i>“Protect agricultural activities from land use conflicts or undue interference created by existing or proposed residential, commercial or industrial development.”</i> <p>D. Will the proposed use be injurious to other property in the immediate vicinity and/or negatively change the essential character of the area?</p> <p>The property and surrounding properties are zoned “A” (Agricultural). The 3.62 acre parcel is surrounded by residential uses, existing pasture used for horses and row crop production. Therefore, the request is not out of character. A letter of support was received supporting the use and its consistency with the agricultural setting (Brad Benke, Exhibit 6a).</p> <p>Equestrian uses are not defined as an agricultural use in the Canyon County Code or as defined in the Comprehensive Plan. However, the equestrian use is an allowed use within the agricultural zoning district and found compatible with similar uses that qualify as agricultural, such as the keeping of livestock. Therefore, the proposed use does not impact the protection of agricultural activities.</p> <p>The following three letters of opposition were submitted expressing concerns regarding the use:</p> <p>1) <u>Tanya Robinson, 19098 Upper Pleasant Ridge Road (Exhibit 6b)</u>:</p> <ol style="list-style-type: none"> a. The use will allow commercial training and boarding on the property. The use requires employees. The use as a public training facility will add vehicular trips and more traffic on Upper Pleasant Ridge Road. <ol style="list-style-type: none"> i. Canyon County Zoning Ordinance does not prohibit the small animal facility use from being used for training purposes. Such use is considered accessory to the main use. The code (CCZO§07-10-27) requires an additional conditional use permit if the use includes a commercial arena which is defined as: <i>“facility, whether private or public, indoor or outdoor, the primary purpose of which is to exhibit animals or hold events such as rodeos, horse events or cattle auctions or exhibits, and for which a fee is charged to participants and an admission charge is paid by the public”</i> (CCZO§07-02-03). ii. Upon review by Canyon Highway District (Exhibit 5b), the use, including any associated boarding and training uses, is not anticipated to generate traffic that would impact existing and future traffic patterns. b. The use does not provide enough space and facilities to support 24 horses. There is currently not enough pens for 24 horses. The site only has 16 horse pens. c. The site is currently unmaintained (muddy, smells and flies). 24 horses would increase the impact. The manure stockpiled on the property is located 200 feet from nearby homes. The manure is
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used to fertilize the one acre of pasture once a year. The amount of manure left over stays stockpiled and is never removed.

i. Pursuant to IDAPA Section 02.04.31, manure stockpiles without a nutrient management plan shall be at least 300 feet from a non-responsible party's dwelling; 500 feet from hospital, church or school; 100 feet from domestic and irrigation well; 100 feet from surface waters of the State; and 50 feet from a public highway

d. Unsure the horses are properly vaccinated.

e. Canyon County doesn't consider horses and horse related activities as agricultural. Therefore, the use does not support agricultural uses and should not exceed the allotted animal unit numbers allowed without a conditional permit.

2) Ryan Robinson, 19098 Upper Pleasant Ridge Road (Exhibit 6d): The opposition letter concurs with Tanya Robinson's concerns (Exhibit 6b), but also expresses concerns about the animal's welfare and the inadequate fencing to maintain the animals on the property.

3) Jessica Suits, 19082 Upper Pleasant Ridge Road (Exhibit 6c): The opposition letter expresses concerns regarding impacts to property value due to flies, disease and manure generated on the property due to 24 horses.

The following condition (Exhibit 1, Condition #4) has been applied to mitigate impacts regarding manure management: "Within 180 days from the date of this permit, a manure management plan shall be submitted demonstrating the manure stockpile meets the minimum requirements of IDAPA Section 02.04.31 (Rules Governing the Stockpiling of Agricultural Waste). All manure shall be removed from the property except the minimum amount necessary to fertilize the one acre pasture on the parcel. If the manure management cannot meet the requirements of IDAPA Section 02.04.31, a nutrient management plan prepared by a certified planner approved by the Idaho Department of Agriculture must be completed and reviewed for approval by Idaho Department of Agriculture."

As conditioned, the use will remain in character with the area and not create a negative impact to the surrounding neighbors.

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

Based on the site plan provided by the applicant, the use will not impact existing well, irrigation or septic systems. Southwest District Health, Department of Agriculture and Pioneer Irrigation District were notified on January 15, 2019. No response received.

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

Access currently exists to the property from Upper Pleasant Ridge Road, a collector road. The use will utilize the existing access. Upon review by Canyon Highway District (Exhibit 5b), an approach permit will be required (Exhibit 1, Condition #6).

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

Access currently exists from Upper Pleasant Ridge Road, a collector road. The use does not propose any alteration to the existing access. Upon review by Canyon Highway District (Exhibit 5b), the use, including associated boarding and training uses, is not anticipated to generate traffic that would impact existing and future traffic patterns. However, the use will require an approach permit from Canyon Highway District. The use does not impact highway within Idaho Transportation Department (ITD) jurisdiction; and therefore ITD does not oppose the request (Exhibit 5a).

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?

The use is not anticipated to effect essential services. The use will be located on a parcel with an existing residential dwelling and horse uses. The parcel is located within a designated agricultural area with similar uses. On January 15, 2019, Canyon County Ambulance District, Vallivue School District, Pioneer Irrigation District, Caldwell Fire District and Canyon County Sheriff were notified of the request and did not respond.

Comments

Public Comments

At the time this report, three opposition letters and one letter of support was submitted

- 1) Brad Benke, 19222 Upper Pleasant Ridge Road (Exhibit 6a): Support
- 2) Tanya Robinson, 19098 Upper Pleasant Ridge Road (Exhibit 6b): Opposed
- 3) Ryan Robinson, 19098 Upper Pleasant Ridge Road (Exhibit 6d): Opposed
- 4) Jessica Suits, 19082 Upper Pleasant Ridge Road (Exhibit 6c): Opposed

County Agency Comments

Staff informed applicable agencies of the proposal and the responses are attached (Exhibit 5).

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 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 have 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

Beukelman – Small Animal Facility (CU2019-0002)

Findings of Fact

1. The property owners, Erin and Ellis Beukelman, represented by Brindee Collins of Vial Fotheringham LLP, is requesting a conditional use permit to allow a small animal facility on less than five (5) acres to keep up to 24 horses on parcel R36416-010A. The property is located at 19012 Upper Pleasant Ridge Road, Caldwell; as referenced as the SE ¼ of Section 26, Township 4N, Range 4W, Canyon County, Idaho.
2. In 2018, a notice of violation was issued to the property owners due to the small animal facility use being established on the subject parcel without approval (CDEF2018-0098).
3. The subject property is designated as “Agricultural” on the 2020 Canyon County Future Land Use Map.
4. The neighborhood meeting was held on October 29, 2018 in accordance with CCZO §07-01-15.
5. Notice of the public hearing was provided in accordance with CCZO §07-05-01. Agency and City of Greenleaf notice was provided on January 15, 2019. Property owners within 300’ were notified by mail on February 28, 2019. Newspaper notice was provided on February 27, 2019 and the property was posted on or before March 7, 2019.

Conclusions of Law

For case file CU2019-0002, the Planning and Zoning Commission finds and concludes the following regarding the Standards of Review for Conditional Use Permit (07-07-05).

A. 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 through the conditional use permit application process.

B. What is the nature of the request?

Pursuant to the applicant’s letter of intent (Exhibit 2), the applicant is requesting the conditional use permit to allow up to four (4) animal units per acre devotes to the animals care for the keeping and training of horses. The property currently devotes three (3) acres to the care of horses. The request will allow up to 24 horses to be kept on the subject parcel. The facility will be maintained so not to impact surrounding neighbors.

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

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

Findings: The parcel is designated as “agricultural” in the 2020 Canyon Count Comprehensive Plan. The designation is described as an area of ‘productive irrigated croplands, grazing lands, feedlots, dairies, seed production, as well as rangeland and ground of lesser agricultural value.’”

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

- Property Rights Policy No.1: “No person shall be deprived of private property without due process of law.”
 - Neighborhood meeting was completed consistent with CCZO §07-01-15. The Planning and Zoning Commissioners hearing was noticed consistent with CCZO §07-05-01.
- Property Rights Policy No. 9: “Property owners shall be responsible for maintaining their property in the best possible condition as circumstances allow.”
 - The letter of intent submitted by the applicant demonstrates the use will be maintained to not impact the adjacent neighbors. Conditions No. 3 and 4 require a manure management plan and to complete with

public nuisance regulation within the Canyon County Code. The conditions ensure the use will be well maintained.

- Property Rights Policy No. 11: *“Property owners shall not use their property in a manner that negatively impacts the surrounding neighbors or neighborhoods.”*
 - The use is similar to the agricultural and equestrian uses within the surrounding area. As conditioned, the use will not negatively impact the surrounding neighbors.
- Natural Resources Policy #3/Agriculture Policy No. 3: *“Protect agricultural activities from land use conflicts or undue interference created by existing or proposed residential, commercial or industrial development.”*
 - Equestrian uses are not defined as an agricultural use in the Canyon County Code or defined in the Comprehensive Plan. However, the equestrian use is an allowed use within the agricultural zoning district and found compatible with similar uses that qualify as agricultural, such as the keeping of livestock. Therefore, the proposed use does not impact the protection of agricultural activities.

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

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

Finding: The property and surrounding properties are zoned “A” (Agricultural). The 3.62 acre parcel is surrounded by residential uses, existing pasture used for horses and row crop production. Therefore, the request is not out of character. A letter of support was received supporting the use and its consistency with the agricultural setting (Brad Benke, Exhibit 6a).

The following three letters of opposition were submitted expressing concerns regarding the use:

1) Tanya Robinson, 19098 Upper Pleasant Ridge Road (Exhibit 6b):

- a. The use will allow commercial training and boarding on the property. The use requires employees. The use as a public training facility will add vehicular trips and more traffic on Upper Pleasant Ridge Road.
 - i. Canyon County Zoning Ordinance does not prohibit the small animal facility use from being used for training purposes. Such use is considered accessory to the main use. The code (CCZO§07-10-27) requires an additional conditional use permit if the use includes a commercial arena which is defined as: *“facility, whether private or public, indoor or outdoor, the primary purpose of which is to exhibit animals or hold events such as rodeos, horse events or cattle auctions or exhibits, and for which a fee is charged to participants and an admission charge is paid by the public”* (CCZO§07-02-03).
 - ii. Upon review by Canyon Highway District (Exhibit 5b), the use, including any associated boarding and training uses, is not anticipated to generate traffic that would impact existing and future traffic patterns.
- b. The use does not provide enough space and facilities to support 24 horses. There is currently not enough pens for 24 horses. The site only has 16 horse pens.
- c. The site is currently unmaintained (muddy, smells and flies). 24 horses would increase the impact. The manure stockpiled on the property is located 200 feet from nearby homes. The manure is used to fertilize the one acre of pasture once a year. The amount of manure left over stays stockpiled and is never removed.
 - i. Pursuant to IDAPA Section 02.04.31, manure stockpiles without a nutrient management plan shall be at least 300 feet from a non-responsible party’s dwelling; 500 feet from hospital, church or school; 100 feet from domestic and irrigation well; 100 feet from surface waters of the State; and 50 feet from a public highway
- d. Unsure the horses are properly vaccinated.
- e. Canyon County doesn’t consider horses and horse related activities as agricultural. Therefore, the use does not support agricultural uses and should not exceed the allotted animal unit numbers allowed without a conditional permit.

- 2) Ryan Robinson, 19098 Upper Pleasant Ridge Road (Exhibit 6d): The opposition letter concurs with Tanya Robinson's concerns (Exhibit 6b), but also expresses concerns about the animal's welfare and the inadequate fencing to maintain the animals on the property.
- 3) Jessica Suits, 19082 Upper Pleasant Ridge Road (Exhibit 6c): The opposition letter expresses concerns regarding impacts to property value due to flies, disease and manure generated on the property due to 24 horses.

The following condition (Condition #4) has been applied to mitigate impacts regarding manure management: *"Within 180 days from the date this permit is approved, a manure management plan shall be submitted demonstrating the manure stockpile meets the minimum requirements of IDAPA Section 02.04.31 (Rules Governing the Stockpiling of Agricultural Waste). All manure shall be removed from the property except the minimum amount necessary to fertilize the one acre pasture on the parcel. If the manure management cannot meet the requirements of IDAPA Section 02.04.31, a nutrient management plan prepared by a certified planner approved by the Idaho Department of Agriculture must be completed and reviewed for approval by Idaho Department of Agriculture."*

As conditioned, the use will remain consistent with the surrounding character and not pose an impact to the surrounding neighbors.

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

Conclusion: The use will not impact existing utility systems.

Finding: Based on the site plan provided by the applicant, the use will not impact existing well, irrigation or septic systems. Southwest District Health, Department of Agriculture and Pioneer Irrigation District were notified on January 15, 2019. No response received.

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

Conclusion: Legal access exists for the subject property. An approach permit will be required.

Finding: Access currently exists to the property from Upper Pleasant Ridge Road, a collector road. The use will utilize the existing access. Upon review by Canyon Highway District (Exhibit 5b), an approach permit will be required (see condition #6).

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

Conclusion: The use is not anticipated to create undue interference with existing or future traffic patterns.

Finding: Access currently exists from Upper Pleasant Ridge Road, a collector road. The use will continue to use the existing access. Upon review by Canyon Highway District (Exhibit 5b), the use, including associated boarding and training uses, is not anticipated to generate traffic that would impact existing and future traffic patterns. However, the use will require an approach permit. The use does not impact highway within the jurisdiction of Idaho Transportation Department (ITD); and therefore ITD does not oppose the request (Exhibit 5a).

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?

Conclusion: Essential services currently accommodate the existing uses. The use is not anticipated to negatively affect essential services.

Finding: The use is not anticipated to affect essential services. The use is located on a parcel with an existing residential dwelling and horse uses. The parcel is located within a designated agricultural area with similar uses. On January 15, 2019, Canyon County Ambulance District, Vallivue School District, Pioneer Irrigation District, Caldwell Fire District and Canyon County Sheriff were notified of the request and did not respond.

Order

Based upon the Findings of Fact, Conclusions of Law and Conditions of Approval contained herein, the Planning and Zoning Commission **approves** Case # CU2019-0002 for a Conditional Use Permit to operate a small animal facility on parcel R36416010A subject to the following conditions of approval:

1. The development shall comply with all applicable federal, state, and county laws, ordinances, rules and regulations that pertain to the property.
2. The small animal facility shall not exceed 24 horses. No other animal unit types as listed in CCZO Section 07-02-03 are allowed. A modification to this permit is required to include other animal types.
3. The property shall be well maintained and remain compliant with Chapter 2, Article 1 of the Canyon County Code (Public Nuisance).
4. Within 180 days from the date this permit is approved, a manure management plan shall be submitted demonstrating the manure stockpile meets the minimum requirements of IDAPA Section 02.04.31 (Rules Governing the Stockpiling of Agricultural Waste). All manure shall be removed from the property except the minimum amount necessary to fertilize the one acre pasture on the parcel. If the manure management cannot meet the requirements of IDAPA Section 02.04.31, a nutrient management plan prepared by a certified planner approved by the Idaho Department of Agriculture must be completed and reviewed for approval by Idaho Department of Agriculture.
5. The small animal facility use shall be granted to the applicant/owner, Erin and Ellis Beukelman. The use shall expire upon change of ownership.
6. Within 180 days from the date this permit is approved, the applicant shall obtain an approach permit from Canyon Highway District #4. All applicable requirements of the approach permit shall be completed.

APPROVED this _____ day of _____, 2019.

**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 2019, 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: _____