



PLANNING AND ZONING COMMISSION
FINDINGS OF FACT, CONCLUSION OF LAW AND ORDER

In the matter of the application of:

Harris – Case # CU2023-0027

The Canyon County Planning and Zoning Commission considers the following:

- 1) Conditional Use Permit for a dog kennel on parcel R37812011, approximately 2.61 acres, in an “A” (Agricultural) zone. The proposed kennel will allow a maximum of 40 dogs (above the age of three (3) months) on the property.
- 2) The subject property is located at 13979 Hollow Rd. Caldwell, Idaho (Parcel Number R37812011) also referenced as a portion of the NW quarter of Section 11, T5N R3W BM, Canyon County, Idaho.

Summary of the Record

1. The record is comprised of the following: Staff Report, exhibits, and documents in Case File CU2023-0027.
 - A. The record includes all testimony, the staff report, exhibits, and documents in Case File CU2023-0027.

Applicable Law

1. The following laws and ordinances apply to this decision: Canyon County Code §01-17 (Land Use/Land Division Hearing Procedures), Canyon County Code §07-05 (Notice, Hearing and Appeal Procedures), Canyon County Code §07-07 (Conditional Use Permits), Canyon County Code §07-02-03 (Definitions), Canyon County Code §07-10-27 (Land Use Regulations (Matrix)), Idaho Code §67-6512 (Special Use Permits, Conditions, and Procedures), and Canyon County Code §03-05-09 (Kennel Licensing).
 - a. Notice of the public hearing was provided pursuant to CCZO §07-05-01, Idaho Code §67-6509 and 67-6512.
 - b. A special use permit may be granted to an applicant if the proposed use is conditionally permitted by the terms of the ordinance, subject to conditions pursuant to specific provisions of the ordinance, subject to the ability of political subdivisions, including school districts, to provide services for the proposed use, and when it is not in conflict with the plan. Idaho Code §67-6512.
 - c. Every use which requires the granting of a conditional use permit is declared to possess characteristics which require review and appraisal by the commission to determine whether or not the use would cause any damage, hazard, nuisance, or other detriment to persons or property in the vicinity. *See* CCZO §07-07-01.
 - d. Upon the granting of a special use permit, conditions may be attached to a special use permit including, but not limited to, those: (1) Minimizing adverse impact on other development; (2) Controlling the sequence and timing of development; (3) Controlling the duration of development; (4) Assuring that development is maintained properly; (5) Designating the exact location and nature of development; (6) Requiring the provision for on-site or off-site public facilities or services; (7) Requiring more restrictive standards than those generally required in an ordinance; (8) Requiring mitigation of effects of the proposed development upon service delivery by any political subdivision, including school districts, providing services within the planning jurisdiction. *See* Idaho Code §67-6512, CCZO §07-07-17, and 07-07-19.
2. The commission shall have those powers and perform those duties assigned by the board that are provided for in the local land use planning act, Idaho Code, title 67, chapter 65, and county ordinances. CCZO §07-03-01, 07-07-01.

3. There are no mandates in the Local Planning Act as to when conditional permits may or may not be granted, aside from non-compliance with the community master plan. I.C. § 67-6512. Chambers v. Kootenai Cnty. Bd. of Comm'rs, 125 Idaho 115, 117, 867 P.2d 989, 991 (1994).
4. The burden of persuasion is upon the applicant to prove that all criteria are satisfied. CCZO §07-05-03.
5. Idaho Code §67-6535(2) requires the following: The approval or denial of any application required or authorized pursuant to this chapter shall be in writing and accompanied by a reasoned statement that explains the criteria and standards considered relevant, states the relevant contested facts relied upon, and explains the rationale for the decision based on the applicable provisions of the comprehensive plan, relevant ordinance and statutory provisions, pertinent constitutional principles and factual information contained in the record.
6. The County's hearing procedures adopted per Idaho Code §67-6534 require that final decisions be in the form of written findings, conclusions, and orders. CCZO 07-05-03(1)(I).

The application CU2023-0027 was presented at a public hearing before the Canyon County Planning and Zoning Commission on October 17, 2024. Having considered all the written and documentary evidence, the record, the staff report, oral testimony, and other evidence provided, including the conditions of approval and project plans, the Canyon County Planning and Zoning Commission decide as follows:

CONDITIONAL USE PERMIT HEARING CRITERIA – CCZO §07-07-05

1. Is the proposed use permitted in the zone by conditional use permit?

Conclusion: The proposed use is permitted in the “A” (Agricultural) zone by Conditional Use Permit (CUP).

Findings: (1) The subject property, parcel R37812011, containing approximately 2.61 acres is zoned “A” (Agricultural). **See Exhibit 2.a of the staff report.**

- (2) Kennels are defined as “Any portion of land, or any building, structure, enclosure or premises on the same or adjacent parcel, 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 of this code.” (CCCO §07-02-03)
- (3) CCCO §07-10-27 Land Use Regulation (Matrix) provides for kennels by a conditional use permit in the agricultural zone.
- (4) Applicant submitted the conditional use permit application on December 29, 2023.
- (5) Evidence includes the application, supporting materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CU2023-0027.

2. What is the nature of the request?

Conclusion: The applicants, Laura and Rick Harris, are requesting a conditional use permit for a kennel on a parcel zoned “A” (Agricultural). The request is for a maximum of 40 dogs (above the age of three months) to breed, groom, and sell on-site. The purpose of the request is to have dog training and breeding on-site for a maximum of 40 dogs mainly for ongoing care, training, and management related to the dogs.

Findings: (1) A conditional use permit was submitted on December 29, 2023. The site plan was submitted on July 1, 2024, and the hours of operation plan was submitted on July 18, 2024. Additional information was received on October 7, and December 4, 2024. **See Exhibit A of the staff report.**

- (2) The applicant is requesting to use parcel R37812011 for a kennel to breed, groom, and maintain 40 dogs (above the age of three months). **See Exhibit A of the staff report.**
- (3) The operation plan states that there will not be standards of operations as the dog kennel will also be the applicant's residence. Potential collaborators and clients are welcome to the

property for services or viewing with an appointment. Most meetings are completed off-site to keep the environment stable and clean for the dogs. The applicant claims that there are only a couple of visits per month on-site that are by appointment only. **See Exhibit A 1.e of the staff report.** According to the land use worksheet, the applicant will have 1-2 employees. **See Exhibit A 1. D of the staff report.**

- (4) Evidence includes the application, supporting materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CU2023-0027.

3. Is the proposed use consistent with the comprehensive plan?

Conclusion: The request is consistent with the 2030 Canyon County Comprehensive Plan.

Findings: (1) The 2030 Comprehensive Plan designates the future land use of the parcel as “agriculture”. **See Exhibit B 2.m of the staff report.**

- (2) The request adequately addresses impacts such as noise and dogs running at large and demonstrate there will be adequate facilities to maintain forty (40) dogs (above the age of three (3) months) on site which aligns with the 2030 comprehensive plan. **See Exhibit B 2.m of the staff report.**

- (3) The applicant has provided information on how impacts will be mitigated. Through mitigations and conditions, the proposed use aligns with the following goals, action plans, and policies of the comprehensive plan:

Property Rights Policies and Goals

- G1.01.00: *Protect the integrity of individual property rights while safeguarding public health, safety, and welfare.*
- A1.01.00a: *Require properties to conform to the zoning code before receiving additional zoning approvals.*
- A1.01.00b: *Canyon County will take appropriate measures to enforce all nuisance ordinances to protect the quality of life and private property rights.*

Land Use and Community Design

- G4.02.00: *Ensure that growth maintains and enhances the unique character throughout the county.*
- P4.02.01: *Consider site capability and characteristics when determining the appropriate location and intensities of various land uses.*
- P4.03.03: *Recognize that each land use application is unique and that agricultural and non-agricultural uses may be compatible and co-exist in the same area and in some instances may require conditions of approval to promote compatibility.*

- (4) Evidence includes the application, supporting materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CU2023-0027.

- (5) Evidence includes associated findings and evidence supported in Items 4 and 8.

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 is not injurious and will not negatively change the essential characteristics of the surrounding area as conditioned.

Findings: (1) The property is located in an “A” (Agricultural) zone. The character of the area is primarily large agricultural parcels in agricultural use. The adjacent primary zone and use is Agricultural.

See Exhibit C of the staff report. There are approximately five residences within the 600-foot radius of the subject property. **See Exhibit B 2.f of the staff report.**

- (2) To the southwest of the property there was a conditional rezone application submitted in 2021, to conditionally rezone approximately 55 acres of a 120-acre parcel from "A" Agricultural to "CR-RR" (Condition Rezone-Rural Residential). The request included a development agreement restricting development to a maximum of 15 residential lots. The request was denied in 2022 (CR2021-0008). **See Exhibit B2.1 of the staff report.**
- (3) On April 5, 2023, an initial site inspection was completed by Code Enforcement and the site was being monitored. On September 22, 2023, the applicant received the first citation from Animal Control. On October 5, 2023, a notice of violation was sent to the applicants from Development Services Code Enforcement (CDEF2023-0261). On October 16, 2023, Animal Control issued a second citation. Canyon County Code Enforcement was called out to the site for running a dog kennel without a conditional use permit. On November 29, 2023, a final notice of violation was sent to the applicant from Code Enforcement. **See Exhibit B2.i-k of the staff report.**
- (4) On December 29, 2023, the conditional use permit application was submitted. The application did not provide information on how impacts can be mitigated. It is unclear if all 40 dogs will be on-site at any given time. According to the email correspondence on October 7, 2024, there will be 40 dogs above the age of three (3) months. The applicant states the dogs are placed in the garage or outside runs with shade (unenclosed). However, there is no information regarding the number of dogs that can safely live in the existing garage, if the outside runs will have enclosures, and if the enclosures will be soundproofed to reduce noise. **See Exhibits A1.e and 1.b of the staff report.**
- (5) Notice of the public hearing was provided per CCZO §07-05-01. Affected agencies were noticed on August 1, 2024. Newspaper notice was published on September 17, 2024. Property owners within 600' were notified by mail on September 11, 2024. Full political notice was provided on September 11, 2024. The property was posted on September 13, 2024.
 - a. On October 7, 2024, there was a letter of opposition submitted from a neighbor stating that the impacts of the operation are larger than what is presented. Claiming that there are fifty (50) plus dogs that "bark, howl and carry on twenty-four hours of the day." The barking is not part of the agricultural characteristics of the area. **See Exhibit E5.a of the staff report.**
- (6) Evidence includes the application, supporting materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CU2023-0027.
- (7) Evidence includes associated findings and evidence supported in Item 8.

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

Conclusion: Adequate facilities and systems exist and can accommodate the use.

Findings: (1) The application for the kennel proposes an individual septic. **See Exhibit 1.d of the staff report.**

- (2) The applicant uses well irrigation as a source of surface water. In addition, the applicant uses an individual domestic well for water. **See Exhibit A1.d of the staff report.**
- (3) The parcel is not in a drain district, it's not anticipated that drainage will need to be accommodated for the proposed use. **See Exhibit B2.a of the staff report.**
- (4) It's not anticipated that stormwater drainage facilities will need to be accommodated for the proposed use.

- (5) There are adequate utility systems to service the home and the dog kennel as the current use is in operation. An agency notice was sent out to Idaho Power, Century Link, and Intermountain Gas, on August 1, 2024. No comments were received.
- (6) Notice of the public hearing was provided per CCZO §07-05-01. Affected agencies were noticed on August 1, 2024. Newspaper notice was published on September 17, 2024. Property owners within 600' were notified by mail on September 11, 2024. Full political notice was provided on September 11, 2024. The property was posted on September 13, 2024. **See Exhibit 4 of the staff report.**
 - a. Southwest District Health (SWDH) states that the applicant had a pre-development meeting with SWDH on December 19, 2023. Agency notice was sent out on August 1, 2024, and on August 26, 2024, Southwest District Health commented that the kennel would require hair traps/floor drains with effluent filters in the septic tank to an adequately sized septic system to accommodate the use of a kennel. **See Exhibit 4.e of the staff report.**
- (7) Evidence includes the application, supporting materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CU2023-0027.

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

Conclusion: The subject property does have legal access to the property and will exist at the time of approval.

- Findings:**
- (1) The property has frontage along Hollow Rd. a public road with one approach that curves into a circular driveway.
 - (2) Notice of the public hearing was provided per CCZO §07-05-01. Affected agencies were noticed on August 1, 2024. Newspaper notice was published on September 17, 2024. Property owners within 600' were notified by mail on September 11, 2024. Full political notice was provided on September 11, 2024. The property was posted on September 13, 2024.
 - a. Highway District No. 4 commented on August 27, 2024, that the existing approach is suitable for the proposed conditional use. **See Exhibit 4.f of the staff report.**
 - b. Idaho Transportation Department (ITD) reviewed the application proposal and had no comment/ concern. **See Exhibit 4.c of the staff report.**
 - (3) Evidence includes the application, supporting materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CU2023-0027.

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

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

- Findings:**
- (1) There will be minimal client contact onsite as appointments are generally scheduled in a neutral location in Middleton, Nampa, or Boise. **See Exhibit 1.c of the staff report.**
 - (2) Notice of the public hearing was provided per CCZO §07-05-01. Affected agencies were noticed on August 1, 2024. Newspaper notice was published on September 17, 2024. Property owners within 600' were notified by mail on September 11, 2024. Full political notice was provided on September 11, 2024. The property was posted on September 13, 2024.
 - a. Highway District No. 4 (HD4) reviewed the application proposal and provided comments that there does not appear to be impacts on the transportation systems. **See Exhibit 4.f of the staff report.** HD4 has the right to assess transportation impact fees and vehicles generated by the conditional use permit in the future and if warranted apply mitigation requirements.

b. Idaho Transportation Department (ITD) reviewed the application proposal and had no comment/ concern. **See Exhibit 4.c of the staff report.**

(3) Evidence includes the application, supporting materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CU2023-0027.

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. Essential services are not anticipated to be negatively impacted by the request.

- Findings:**
- (1) The proposed kennel is not anticipated to impact schools, or fire districts as there is not expected to be a significantly increased need for additional police, fire, or ambulance response to the facility.
 - (2) Through mitigation the proposed use is not anticipated to impact Animal Control (Canyon County Sherriff's Department). Animal Control department has been on site on multiple occasions to address kennel violations. **See Exhibit B2.i-k of the staff report.** Impacts such as noise and dogs running at large is anticipated to be minimized through conditions of approval.
 - (3) Notice of the public hearing was provided per CCZO §07-05-01. Affected agencies were noticed on August 1, 2024. Newspaper notice was published on September 17, 2024. Property owners within 600' were notified by mail on September 11, 2024. Full political notice was provided on September 11, 2024. The property was posted on September 13, 2024.
 - (4) Evidence includes the application, supporting materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CU2023-0027.
 - (5) Evidence includes associated findings and evidence supported in Items 4.

Order

Based upon the Findings of Fact, Conclusions of Law and Order contained herein, the Planning and Zoning Commission **approves** Case # CU2023-0027, a conditional use permit of a kennel subject to the following conditions as enumerated:

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. The area shall have a minimum six-foot wire fence on the east, south, and west sides of the property, to minimize loud, frequent, or habitual barking and dogs running at large. Fencing compliance shall be submitted to DSD no later than 90 days after June 1, 2025.
3. Dogs shall not trespass onto adjacent parcels. A fence shall be installed to ensure trespassing does not occur. Evidence shall be submitted to DSD no later than 90 days after June 1, 2025.
4. The area site and fencing shall be maintained and kept in good repair. The area and surrounding fence line shall be kept weed-free and/or maintained with weeds being 6" in height or less.
5. The dog kennel and property shall be maintained in a clean and sanitary condition.
6. The applicant shall not impede, disrupt, or otherwise disrupt the adjacent properties. All structures shall comply with Canyon County Code of Ordinance (CCCO) setback requirements §07-10-21

7. 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 at the Landfill per disposal requirements or another approved means of waste disposal.
8. Pursuant to Southwest District Health any additional septic tank shall have hair traps/floor drains with effluent filters. The required improvement must be completed no later than 90 days after installation. Evidence shall be written approval by Southwest District Health. Evidence shall be submitted to DSD.
9. The proposed development shall be in general conformance with the applicant's site plan and Letter of Intent (**Exhibit A 1.b and 1.c**) subject to the following conditions:
 - a. The number of canines on the premises shall not exceed 40 dogs at any one time, above the age of three (3) months.
 - b. The hours of viewing and pick-up shall be between 9 a.m. to 8 p.m. daily, to mitigate noise.
 - c. All habitual barking sounds must cease by 10 PM by putting the dogs to sleep completely indoors in an enclosed kennel. Enclosed kennels must be soundproofed to reduce noise impacts at night. Bark collars shall be used to mitigate habitual barking.
10. This conditional use permit must follow land use time limitation as stated in CCCO 07-07-23: "When a conditional use permit is granted, the land use or construction of its facility proposed in the application must have commenced within three (3) years of the date of the final decision by the presiding party or a court of appropriate jurisdiction. The improvements for the approved use must be completed within five (5) years of the same date.
11. The conditional use permit shall be limited to parcel R37812011. This permit is not transferable to any other property or individual and is not valid for any business or use other than that specifically approved by the Planning and Zoning Commission.

DATED this 16 day of January, 2025



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

[Signature]
Robert Sturgill, Chairman

State of Idaho)

SS

County of Canyon County)

On this 16th day of January, in the year 2024, before me Jennifer D Almeida a notary public, personally appeared Robert Sturgill, 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: Jennifer D Almeida
My Commission Expires: 4/7/28