



COUNTY OF ELBERT

PLANNING DEPARTMENT

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September 4, 2014
For the Planning Commissioners meeting of
September 11, 2014

TO: ELBERT COUNTY PLANNING COMMISSIONERS

FROM: CAROLYN PARKINSON, PLANNER II

RE: SU-14-0014 PETRI/GUSTAFSEN KENNEL - A REQUEST FOR A SPECIAL USE REVIEW FOR A PRIVATE RESCUE KENNEL FACILITY ON AN 80+ ACRE PARCEL, ZONED A (AGRICULTURAL), LOCATED IN A PORTION OF SECTION 8, TOWNSHIP 9 SOUTH, RANGE 64 WEST IN ELBERT COUNTY.

APPLICANT AND REPRESENTATIVE: LISA PETRI AND KYLE GUSTAFSEN

REPRESENTATIVE: TOM MARONEY

SUMMARY OF REQUEST:

The applicants are requesting approval for a Special Use Permit to operate a private/commercial dog kennel, located at 4703 County Road 114, in southwest Elbert County, near the intersection of Private Rd 114 and County Road 17-21. The applicants currently foster and place dogs and cats for multiple animal welfare organizations. They wish to expand their rescue efforts and are proposing a state of the art facility that will house up to 30 dogs and 20 cats. The zoning regulations allow for a private or commercial kennel in the A (Agricultural) zoning classification as a Use by Special Review. Approval of this request will expand the applicant's ability to foster homeless dogs and cats until adoptive families can be found for them.

This kennel is not a boarding facility and will not be open to the public. All visitors will be by appointment only. The applicants will live on site. Lisa Petri will run the facility full time, with the possibility of hired help and volunteers. The facility is privately funded. There will be no signage, billboard type advertisement or additional exterior light beyond what a barn or residence might have.

The applicants have access to low cost and volunteer veterinary care. All animals are spay/neutered, dewormed and vaccinated. No dog aggressive dogs will be accepted and no animals with serious biting histories will be accepted.

The applicant's narrative states that the Dumb Friends League has agreed to provide shelter to all of the animals housed at the facility in the event the facility must close for any reason. Staff has not, however, received confirmation of this. A letter confirming a commitment from Dumb Friends League will be a condition of approval.

The applicants have indicated in their narrative that waste will be picked up daily and disposed of on a weekly basis. A service agreement will be required between a Waste disposal service and the applicants for the weekly removal of waste. This will be a condition of approval.

PERTINENT DATA:

Site Description – The property in question consists of 80+ acres. Both the proposed and existing driveways access off of County Road 114. This parcel is adjacent to properties zoned A, ranging in size from 35 to more than 800 acres. This parcel is near the intersection of County Rd 17-21 and Private Rd 114. Currently, the only improvement on the property is a large barn. There is some topography on the property. The proposed location for the kennel is north of center along the eastern boundary. The proposed location of the kennel is adjacent to a large existing berm that provides significant buffer to the south. The kennel is proposed to have a new well. That well must be permitted for commercial use. Provision of an approved well permit that includes commercial use will be a condition of approval.

Floodplain- According to the flood plain maps on file with the Elbert County Planning Department, no portion of this site falls within the 100 year flood plain.

Existing Zoning – A (Agricultural)

Proposed Zoning – No change in zoning is being proposed.

Surrounding Land Use and Zoning – All adjacent parcels to the site are zoned A (Agricultural) with appropriate use.

BACKGROUND:

A pre-submittal meeting was held on this application on August 13, 2013. A community meeting was held on October 16, 2013. Approx. 30 people attended. The application for this proposal was received on May 8, 2014. Following review, the application was deemed to be complete and referrals were sent out on May 29, 2014. During review, staff recommended that the applicant address noise concerns via a noise study. The applicant has submitted an Acoustical Analysis with regards to noise. This analysis has been included in your packets. Additionally, there are state statutes regarding allowable noise levels.

The applicants currently foster and place dogs and cats for many animal welfare organizations including the Colorado Humane Society and the Dumb Friends League. The Colorado Animal Welfare League is the owner of most of the dogs and cats fostered by the applicants. CAWL is a registered 501C and both applicants sit on the Board of Directors for the organization. The organization has received large grants from both Petsmart Charities and Animal Assistance Fund. The applicants have stated that the organization is fiscally conservative and has operated within budget since inception in 2009. The applicants have a long and varied history of volunteer activity that also includes the Saddle Up Foundation and the Denver Rescue Mission.

The applicants currently hold PACFA license # PL00143G. This license is for fostering of animals only. A new PACFA License will be required for the kennel facility. Provision of an approved kennel facility license will be a condition of approval.

EVALUATION:

Part II, Section 17, C – Procedures of the Elbert County Zoning Regulations specifies that an application for a Special Use Review must be evaluated by the appropriate referral agencies. The Planning Department identified sixteen (16) agencies to evaluate and comment on this application. The following is a summarization of their responses; complete responses were included in the commissioner's packets.

Intermountain Rural Electric Association- IREA required a 15 ft easement for existing facilities. The easement has been executed. IREA has indicated that they have no more objections.

Elizabeth Fire District – Have no objections. However, should this SU ever expand to include retail open to the public, building and site plans must be submitted to the Elizabeth Fire Department, prior to construction. A Knox key lock needs to be installed at the gate to the driveway for fire department access. These items will be a condition of approval.

Colorado Department of Agriculture-Animal Industry Division – The proposed structure requires the applicant to obtain a license as an animal shelter. This licensure requires that an isolation area be a component of the facility. The applicant has subsequently added an isolation area to the facility plans that were included in your packets.

Colorado Division of Water Resources- CDWR considers a kennel that includes full or part time employees to be commercial. This proposed kennel fits that description and is therefore considered commercial by CDWR. This designation will require the applicant to obtain a well permit for commercial use. The decree associated with the property allows for commercial use of the Denver aquifer. Provision of an approved commercial well permit for CDS files will be made a condition of approval.

Kiowa Conservation District – No objections to this proposal

Colorado Division of Wildlife – No objections to this proposal

Elbert County Assessor – No objections to this proposal- The property will be accessed accordingly

Elbert County Public Works – The proposed location of the driveway is not acceptable to EC Road and Bridge. EC Engineering has met with the applicant to establish alternative locations. An amended exhibit, showing an approved driveway location, has been submitted and will be reviewed by EC Road & Bridge prior to recordation. Approval of the location will be a condition of approval.

Elbert County Assessors Office – No objection to this proposal

Elbert County Engineer – No objection to this proposal

Elbert County Treasurer Office – No objection to this proposal

Elbert County Building Department – No objection to this proposal

Elbert County Mapper – No objection to this proposal

Town of Elizabeth – No objections to this proposal

Elbert County Environmental Health – No objections to this proposal

Elbert County Sheriffs Office – No objections to this proposal

In addition to agency referrals, adjacent parcels within 1420 feet were notified of the application and proposal. In response, staff received a petition that includes 16 signatories in opposition to the proposal. Staff also received a letter of concern from an adjacent property owner that contained 8 questions or concerns. Staff responded to the questions and concerns with information included in the submittal as well as additional information provided by the applicant. Both the petition and the questions/concerns letter and responses have been included in your packets

FINDINGS:

Approval of this proposal requires compliance with the following standards for approval:

1. *Whether the proposed Special Use complies with the requirements of the Elbert County Master Plan, Elbert County Zoning Regulations, and Elbert County Subdivision Regulations* - The Master Plan does not include discussion on Special Uses. However, the Master Plan does assert that its implementation is to be guided and regulated by the Zoning Regulations and Subdivision Regulations. Being a permitted use by special review, this proposal, if approved, will comply with the zoning regulations. The applicants will be required to comply with Part II, Section 20, B, C, and D (12) of the Elbert County Zoning Regulations, as it pertains to off-street parking. Staff is recommending 8 parking spaces, two for the applicants, three for employees, and three for visitors. The visitor spaces were calculated as follows; The applicants have stated a traffic load of fifteen (15) additional trips per day related to the kennel. After deducting ten (10) trips per day for the applicants and three employee's, five (5) additional trips would equate to two to three (2-3) visitor spaces. Addition of the required parking to the exhibit will be a condition of approval. The applicants for this proposal have also complied with the general provisions for Special Use Applications as defined in Part II, Section 17, B, including all provisions for public notice. No provision of the Subdivision Regulations is applicable to the present case.
2. *Whether the proposed Special Use is in harmony and compatible with the surrounding area and neighborhood* - This proposal is for a use identified as being permitted through the Special Use Review process for A (Agricultural) zoned property. All adjacent parcels are zoned A (Agricultural) and there is no indication in the referral responses that the proposed activity will result in negative impacts to the surrounding area.

3. *Whether the proposed Special Use will adversely impact the provision of public services* –There is no indication that this special use will adversely impact the provision of public services.
4. *Whether the proposed Special Use will adversely impact the environment* – There is no indication that this special use should adversely impact the environment.
5. *Whether the proposed Special Use will create traffic congestion or burden the existing road system* – The submitted traffic letter indicates 15 additional trips per day for the kennel facility. No referral agency has stated that this increase will create traffic congestion or burden the existing road system. Public access for the purposes of adopting animals is restricted to appointment only and therefore is controlled and limited.
6. *Whether the proposed Special Use will be adequately landscaped, buffered, and screened* –The plan exhibit submitted for the application does not include a landscape plan; however; the selected location of the kennel takes advantage of an existing berm that should provide some buffer to the south and west. The applicant has also added notes to the exhibit indicating the addition of a new berm and trees to buffer the facility.
7. *Whether the proposed Special Use Review will not otherwise be detrimental to the health, safety, or welfare of the present or future inhabitants of Elbert County* –This proposal, with the appropriate conditions of approval, will not be detrimental to the health, safety or welfare of County residents. The parcel is zoned Agriculture and is surrounded by agricultural properties. The required site plan review will address the facility itself, access, circulation, and buffering considerations appropriate to the use, the location, and the size of the parcel.

RECOMMENDATION:

Recommend approval of SU 14-0014 Gustafsen/Petri Kennel, with the following conditions of approval:

1. The applicants will submit a letter of agreement from the Dumb Friends League to provide shelter to all of the animals housed at the facility in the event the facility must close for any reason. This letter to be in the CDS file prior to recordation.
2. The applicants will be submit an approved PACFA license for the proposed facility prior to operation of the facility. A copy of the approved license will be submitted to CDS for inclusion in the CDS file.
3. The applicant will add the following note to the exhibit;
 - a) Should this Special Use ever expand to include retail open to the public, building and site plans must be submitted to the Elizabeth Fire Department, prior to construction.
4. A knox key lock needs to be installed at the gate to the driveway for fire department

access. A letter of agreement from Elizabeth Fire District will be submitted to CDS for inclusion in the CDS file prior to recordation.

5. The applicants will provide an approved well permit that includes commercial use for inclusion in the CDS file.
6. The driveway location shown on the is subject to approval by Elbert County Road and Bridge prior to recordation.
7. The applicants will pay, to Elbert County, impact fee's in accordance with the current fee schedule for the proposed non-residential development, per resolution 04-01, Section 5b.
8. No more than sixty (30) dogs and twenty (20) cats will be maintained on the property at any given time.
9. The applicants will remove the solid waste from the individual kennel facility on a daily basis and from the facility on a weekly basis.
10. The applicants will reseed any areas disturbed due to the construction and operation of the kennel.
11. No dogs will run freely without supervision inside or outside of the kennel facility to ensure the safety and welfare of the public and other animals.
12. If fifteen (15) or more signed complaints are lodged within a single year, the special use will be reviewed by the County.
13. The existing site will be required to provide 8 off-street parking spaces as per Part II, Section 20, D, 12 of the Elbert County Zoning Regulations. These spaces must be added to the exhibit prior to recordation.
14. The Special Use will be recorded with the Elbert County Clerk and Recorder within 90 days of Board of County Commissioners' approval.
15. The requested Special Use will not become effective until all conditions are met, fees paid and documents recorded.
16. Adopt the findings enumerated herein.

Respectfully Submitted,

Carolyn Parkinson
Planner I

