TO: ELBERT COUNTY PLANNING COMMISSION

FROM: CORY MILLER, AICP, PRINCIPAL PLANNER (BASELINE CORP.)
APPROVED: KYLE FENNER, DIRECTOR OF CDS

RE: SU-16-0019 LION’S GATE ANIMAL SANCTUARY
USE BY SPECIAL REVIEW FOR THE CONSTRUCTION AND OPERATION OF AN EXOTIC ANIMAL SANCTUARY ON PROPERTY LOCATED IN A PORTION OF SECTION 18, TOWNSHIP 9 SOUTH, RANGE 64 WEST OF THE 6TH P.M.

APPLICANT: H. JOAN LAUB
3641 COUNTY ROAD 106
ELIZABETH, CO 80107

REPRESENTATIVES: H. JOAN LAUB, PETER WINNEY

SUMMARY OF REQUEST:

The applicant is requesting a Use by Special Review (SUR) to permit the construction of an animal sanctuary in western Elbert County. The sanctuary will house an assortment of exotic animals that have been rescued from neglect, abuse, abandonment, and displacement. The applicant currently operates an existing facility located approximately 17 miles west of Agate. The existing facility was constructed in 1993 but due to flooding issues in recent years the applicant desires to relocate the animals to the subject parcel pending the approval of a Use by Special Review (SUR). The subject parcel is located at 3641 County Road 106, Elizabeth, CO 80107. The applicants operate the facility as a 501(c)(3) non-profit corporation and are regulated through Colorado Parks and Wildlife (please see attached permits).
Below is a list of animals currently under the care of the existing Lion’s Gate Sanctuary:

- Three African Lions (*Panthera Leo*)
- Five Tigers (*Panthera Tigris*)
- Five Black Bears (*Ursus Americanus*)
- One Wolf Hybrid (not regulated by Colorado Parks and Wildlife – considered domestic species in Colorado)

These animals have been classified as elderly and will live out the remainder of their lives within the sanctuary. It has been indicated by the applicant that all of the cats have been declawed and all males have been neutered. There is no intention to add additional animals to the new facility and any desire by the applicant to do so will require an amendment to the SUR - if approved.
The facility directors reside in the single-family residence on site; the facility is not open to the public. An existing barn is located on the subject parcel as well as an existing enclosure that was previously constructed when the site was considered for the sanctuary’s location. This existing enclosure is not presently in use.

If approved, the applicant will construct six enclosures approximately 60 ft. by 40 ft. and one enclosure measuring 70 ft. by 220 ft. These constructions will be added to the existing enclosure (85’ by 80’) for a total of eight (8) enclosures. The enclosures will be constructed of nine-gauge chain link fencing approximately 10 feet in height with a barb wire cantilever on the top; two 16 gauge electrified wires will be located above the chain link wall. The fence will be embedded into a concrete footing that will extend 12 inches into the ground. A second security fence will surround all enclosures of the same make and construction mentioned above (see SUR site plan).

An existing barn (4,000 sq ft) will provide heated storage for the facilities medical supplies, animal food, and water supply. All waste from the animals on site will be collected, placed in heavy duty plastic bags, and disposed of in an on-site dumpster to be collected on a weekly basis by local waste management. Water for the animals will be procured from McDonald Farms Enterprises, Inc. in the future. The facility will require approximately 1,500 gallons per month. Water will be delivered approximately once-monthly. The only additional truck traffic that would be required by the facility is the seldom visitation by a veterinary physician or one of the facility’s trained volunteers on an as needed basis. The applicant has suggested that volunteers visit the site at most, once a month in the summer season.

Water and sewer for the residence is provided via the on-site well and septic system. There will be no additional permanent employees associated with the site that would require an expansion of these services.

Please see the applicant’s narrative for more detailed information regarding the applicant’s operations.

PERTINENT DATA:

Site Description – The site is located in west Elbert County, about 3.8 miles North West of the Elbert settlement on an agricultural parcel (Parcel 9418300071) approximately 43.3 acres in total area. The site currently contains an existing residence, barn (4,000 sq ft), and one existing animal enclosure. The property is located on Judge Adams Road approximately 1.2 miles north of the intersection of Judge Adams Road and County Road 106.

Topography – The site is characterized by a mixture of rolling hills with wooded-rock outcropping to the northeast of the existing residence. The topography slopes to the center of property from both the west and east with a low point at the parcel’s center.
Floodplain – The 100 year flood plain exists at the center of the parcel but the proposed enclosure improvements are located to the east and outside the existing floodplain limits. The proposed enclosure sits about 10 feet higher in elevation than the limits of the flood plain.

100 YEAR FLOOD PLAIN
(SOURCE: FEMA)

Existing Zoning – A (Agriculture)

Proposed Zoning – No change, only a Use by Special Review permit process.

Surrounding Land Use and Zoning –
- North: A - Agriculture / Rangeland
- South: RA & A - Agriculture / Rangeland / Residential
- East: A - Agriculture / Rangeland
- West: A - Agriculture / Rangeland

**EVALUATION: BACKGROUND:** The application for this proposal was received during October of 2016. The application was deemed complete upon the initial submittal and was sent on referral Wednesday October 12, 2016. Upon first referral review the applicant was required to make substantial changes to the submittal items, specifically the SUR site plan document. Additional comments were offered by the Colorado Division of Water Resources in regards the applicant’s well. The new application was re-submitted and deemed ready for hearings before the Planning Commission and Board of County Commissioners on December 28, 2016.

Planning Commission date is: February 14, 2017
Board of County Commissioner’s date is: March 8, 2017
Part II, Section 17, C, 3 of Elbert County Zoning Regulations requires that Community & Development Services receive comments from the appropriate referral agencies to evaluate requests for a Special Use. Failure of a referral agency to submit comments in writing shall constitute approval by that agency. Following is a summary of comments received. Copies of each comment are attached.

Elbert County Assessor’s Office: No response.

Elbert County Mapper: No comments.

Elbert County Clerk and Recorder: No response.

Elbert County Building Department: No comments.

Elbert County Health and Human Services: The department only has concerns if they proposed to add more septic systems….NO porta potties.

Elbert County Engineering (Baseline Engineering): Pre-application concerns were that a floodplain exists on the property of the proposed relocated facility. The exhibit lacked information to determine if the site was located at a sufficient elevation above the floodplain to insure the proposed location was not going to experience flooding.

All application documents were looked over. The Site Plan and Compound, Pg. 1 and 2 of the SUR were reviewed for information requested from the Pre-app. The exhibits prepared by Adam Messing show elevations of the enclosures to be 10-ft to 12-ft above the limits of the 100 year floodplain elevation. This elevation difference satisfies my concerns.

Elbert County Public Works: No response.

Elbert County Office of Emergency Management: No response.

Elbert County Sheriff’s Office: No response.

Elbert County Treasurer’s Office: No response.

Elbert School District 200: No response.

Elizabeth Fire Protection District:
- The facility shall not be publically accessed. The building housing animals shall be classified as a Class 1 facility and the classification of animals shall be Category A in accordance with NFPA 150.
- Any new buildings on the property need to be submitted to this office for review.
- Fire department access shall be maintained to all animal housing facilities.
- The fire department will require a site plan of the property outlining access, animal housing cages, and floor plan of all buildings.
- Stalls, cages, and enclosure requirements shall be based on established standards for the specific animal and facility type.
- Structural design criteria for walls and fence assemblies providing animal containment shall be designed to withstand the horizontal forces exerted by the animal occupants.
- A manual fire alarm system is required in all buildings. In lieu of a manual fire alarm system, the disaster/emergency plan shall include procedures for contacting the fire department in emergency situations. If cell service is not available another means of communication shall be required.
- Disaster/emergency management programs shall be developed in accordance with NFPA 1600 and shall include the procedures for reporting emergencies, the occupant and staff response to emergencies, the design and conduct of disaster/emergency drills, the type and coverage of building fire protection systems, and the other items required by the AHJ.
- In all Class 1 animal housing facilities, animal handlers, employees, and supervisory personal shall hold disaster/emergency drills once annually.
- For animal housing facilities with fuel-burning appliances or equipment, carbon monoxide detection is required.
- Extinguishers in accordance shall have a minimum 2-A:10-B C rating and shall be not more than 50 ft. (15.2m) travel distance from any point within the animal housing facility.
- Livestock areas not typically occupied by humans shall have a minimum 2-A:10:B:C extinguisher located at each exit.
- All employees of Class 1 animal housing facilities shall be annually instructed in the use of portable fire extinguishers. The fire department can provide this training free of charge.
- A plan review of $64.00 is due upon receipt of invoice.

Kiowa Conservation District: No response.

Intermountain Rural Electric Association: The Association has existing overhead electric facilities on the subject property. The Association will maintain these existing utility easements and facilities unless otherwise requested by the applicant to modify them under the Association’s current extension policies.

The Association will require that all structures and landscaping maintain adequate clearances to the existing electric facilities and allow for the Association to access the existing overhead electric facilities for maintenance purposes.

Elizabeth Consolidated School District #C-1: No response.

Elizabeth Parks and Recreation District: No response.

United States Fish and Wildlife: No Response.

Colorado Division of Water Resources:
The applicant is requesting a site specific development plan and use by special review permit for a wildlife sanctuary on a 45 acre parcel; this sanctuary currently exists at another location and is being moved. The sanctuary is a private facility with no public access and no on-site staff other than the two residents that reside on the property. The Special Use Permit application indicates that there may be up to 18 animals on site. The proposed water supply for the facility is an existing well operating under permit no. 244939 and septic system.

Well permit no. 244939 was issued on October 15, 2002 pursuant to Section 37-92-602(3)(b)(II)(A), Colorado Revised Statutes as the only well on a tract of land of 43.3 acres described as a portion of the S ½ of the SW ¼ of the SE ¼ and the S ½ of the SE ¼ of the SW ¼, Sec. 18, Twp. 9 South, Rng. 64 West of the 6th P.M. The uses of the well are limited to ordinary household purposes inside three single family dwellings, the watering of poultry, domestic animals and livestock on a farm or ranch and the irrigation of not more than one acre of home gardens and lawns. The well was constructed into the non-tributary Upper Dawson aquifer on July 30, 2004.

The definition of domestic animals as used in Section 37-92-602, C.R.S. is generally considered to include horses, cattle, sheep, mules, asses, swine, goats, and pets. A similar animal that is livestock on a farm or ranch is generally considered to be an animal that is used for breeding, profit, or consumption. In Colorado a wild animal is generally not considered to fit the definition of a domestic animal or livestock. Further, permit no. 244939 does not allow for the use of water in pools or ponds. Therefore, as permitted under well permit no. 244939, the existing well would not be allowed for use at the animal sanctuary.

Prior to use of the existing well for the animal sanctuary, the applicant must obtain a plan for augmentation that has been decreed by the Water Court and a new well permit pursuant to said augmentation plan or else obtain a non-exempt well permit for a nontributary aquifer available underlying the 45-acre parcel and construct a new well pursuant to said permit.

**Colorado Parks and Wildlife:** No response.

**Elbert County Community & Development Services:**

Planners and engineers from Baseline reviewed the submittal on behalf of CDS and made redlined comments on the SUR exhibit to ensure that it meets the standards of the Zoning Regulation and that is accurately portrays the proposal. All comments and edits have been addressed by the applicant.

**COMMUNITY MEETING:**

A community meeting was hosted by the applicant on June 27, 2016 at the Russell Gates Mercantile Building in Elbert. Several of the property owner’s neighbors were in attendance. Some participants were in support of the facility and others were not. Concerns included: safety, the total number of animals, the risk of escape, and the
overall incompatibility with the surrounding land uses. Some guests were concerned as to whether or not the proposed uses would increase the amount of traffic on the access road (Judge Adams Rd.) and if the use would adversely affect property values.

The applicant was in attendance to answer questions and has provided direct response to concerns in the attached narrative.

LETTERS OF SUPPORT:
10 letters of support have been submitted to the county in favor of the relocation. Zero (0) letters of opposition were submitted to speak against the approval of the facility. Please find the attached letters of support.

In addition, a petition has been submitted by the applicant in support of the project. This item was provided to the Planning Commission digitally.

EVALUATION:

Approval of this proposal requires compliance with the Elbert County Master Plan, Zoning Regulations, and Subdivision Regulations. Staff comments are underlined to differentiate the comments from the Code/Section reference.

Zoning Regulations
Part II, Section 17, B., 7: The following criteria shall be considered by the Planning Commission and the Board of County Commissioners in reviewing all Special Use Review applications:

a. Whether the proposed Special Use complies with the requirements of the Elbert County Master Plan:
   1. Master Plan – The Master Plan does not include discussion about Special Uses nor Exotic Animals. According to Master Plan policies, any new development will be required to meet all County development standards and regulations.

   2. Zoning Regulations - This proposal is located within an Agriculture zoning Designation (A), and is subject to Uses Permitted by Special Review. This includes the following evaluation of the proposal’s compliance with the specified standards of approval.

   3. Subdivision Regulations – This proposal is not subject to subdivision regulations in an Agriculture zoned area.

b. Whether the proposed Special Use is in harmony and compatible with the surrounding area and neighborhood.
   This proposed Special Use is located in an Agriculture zoned area. The Special Use is deemed to be in harmony and compatible with the surrounding area as long it meets all the zoning criteria of Uses Permitted by Special Review as expressed in this section. The current parcel already houses an animal
enclosure and the proposed improvements would be centered around this existing structure.

c. **Whether the proposed Special Use will adversely impact the provision of public services.**
   The proposed facility is not open to the public. No public services are required.

d. **Whether the proposed Special Use will adversely impact the environment.**
   The environmental impact is anticipated to be minimal. The engineering review did not produce erosion, sedimentation, runoff or loss of ground cover concerns. The proposed enclosures are open-air with the natural terrain preserved. The amount of impervious materials is very minimal.

e. **Whether the proposed Special Use will increase traffic congestion or burden the existing road system.**
   The traffic associated with the proposed use will be limited to one (1) weekly visit by local sanitation services, and one (1) monthly visitation by McDonald's Farms in association with water delivery. It is possible that a volunteer might access the site once monthly during the summer months. The facility is not open to the public and there are no additional employees other than the facility directors.

f. **Whether the proposed Special Use will be adequately landscaped, buffered and screened.**
   Screening is adequately provided by natural vegetation to the north, east, and southwest on the property. There is a significant distance between the subject improvements and nearest households. Polyethylene shade cloth will be inserted in the perimeter fencing to provide additional screening on the outer fence.

g. **Whether the proposed Special Use will not otherwise be detrimental to the health, safety or welfare of the present or future inhabitants of Elbert County.**
   No concerns about health, safety, or welfare of present or future inhabitants of Elbert County were expressed by any referral agencies or Staff. As indicated by the applicant the animals are considered elderly and will live out the remainder of their natural lives on the property. Most of the larger animals are de-clawed and the proposed double-fence enclosure system will sufficiently prevent any animals from escaping.

**FINDINGS & RECOMMENDATION:**

Staff recommends that the Planning Commission find that:

1. The proposal in general conformance with the Elbert County Master Plan; and
2. The proposal meets the criteria for approval in the Elbert County Zoning Regulations; and
3. The Elbert County Subdivision Regulations are not applicable to this project; and
4. The proposed land use is compatible with existing and allowable land uses in the surrounding area; and
5. The proposed land uses will not result in significant impact to the health, safety, and welfare of the residents and landowners of the surrounding area.

AND

Because this application has met the criteria set forth in the Elbert County Zoning Regulations and as we understand it that there are no objections from other governing bodies, the recommendation of Community & Development Services is to approve **SU-16-0019 LION’S GATE ANIMAL SANCTUARY. USE BY SPECIAL REVIEW FOR THE CONSTRUCTION AND OPERATION OF AN EXOTIC ANIMAL SANCTUARY ON PROPERTY LOCATED IN A PORTION OF SECTION 18, TOWNSHIP 9 SOUTH, RANGE 64 WEST OF THE 6TH P.M.** subject to the following conditions:

1. The applicant will be required to remove the Public Hearing sign within seven (7) days of a decision by the Board of County Commissioners. A letter to that effect will be placed in the Community & Development Services project file, prior to recording of the Special Use.

2. The Special Use will not become effective until all fees are paid, conditions of approval are met, and documents recorded.

3. Recordation of all appropriate documentation to occur within 180 days of Board of County Commissioners’ approval.

4. The existing well shall not be used for providing water to the animals contained within the facility.

5. A signed contract between McDonalds Farms Enterprises Inc. and Lion’s Gate Sanctuary must be submitted to Elbert County in advance of a Special Use Certificate being issued to the applicant as a proof of water procurement. Sensitive information may be redacted as necessary.

6. All requirements outlined in the letter from Elizabeth Fire Marshall Kara Gerczynski shall be satisfied as a condition of approval, specially a more specific emergency management plan. The applicant shall work with Marshall Gerczynski to draft the plan to the Elizabeth Fire Protection District’s satisfaction.

7. The Findings enumerated in the Staff Report shall be incorporated in this approval of case number SU-16-0019.

8. Building Permits will need to be processed for the installation of the proposed enclosures.

Respectfully submitted to and on behalf of Elbert County,
Cory Miller, AICP  
Principal Planner  
Baseline Corporation  
Contract Planner for Elbert County  

CC. Kyle Fenner, Director of Community and Development Services