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DATE: October 3, 2018

MEETING DATE: October 15, 2018

TO: BENTON COUNTY HEARINGS EXAMINER

FROM: CLARK A. POSEY, ASSISTANT PLANNING MANAGER 
BENTON COUNTY PLANNING DEPARTMENT

RE: CONDITIONAL USE PERMIT – CUP 2017-004

APPLICANT: Trish Trickit/DBA:The Pit Bull Pen
22206 Kennedy Road
Benton City, WA 99320

PROPERTY OWNERS: Nancy Kay Strom & Jesse Greenough
4209 S. Cascade St
Kennewick, WA 99337

EXTENSION REQUEST FOR ADDITIONAL TIME TO FINISH PROJECT

The applicant was approved for a Conditional Use Permit for the operation of commercial kennel for the boarding and keeping of up to ten (10) dogs at a time on site. Attached is a letter from Ms. Trickit that describes the progress to date and the reason why an extension is being requested. Below are the Findings of Fact and the Conditions of Approval for the Conditional Use Permit approved by the Benton County Hearings Examiner.

ORIGINAL FINDINGS OF FACT

1. The applicant is Trish Trickit, whose address is 22206 E. Kennedy Road, Benton City, WA 99320. The owner of the property is Nancy Strom whose address is 4209 Cascade Street Kennewick, WA 99337
2. The applicant is requesting approval of a Conditional Use Permit for the operation of a commercial kennel for boarding up to ten (10) adult dogs six (6) months of age or older on a 2.50-acre parcel of land. Applicant states the existing building will conform to the kennel conditions used by Benton County and the State of Washington under RCW 16.52.310. The applicant states the hours of operation will be Sunday through Saturday 12 p.m. to 6 p.m. and on-call as needed.
3. Conditional Use Permit CUP 2017-004 was submitted to Benton County on June 13, 2017, and declared complete on June 14, 2017.
4. The notice for the Benton County Hearing Examiner Open Record Hearing was published on August 7, 2017 in the Tri-City Herald and mailed to property owners of record within 300 feet of the outer boundaries of the parcel. The Open Record Hearing is scheduled for August 21, 2017.
5. Conditional Use Permit CUP 2017-004 is categorically exempt from the requirements of the Washington State Environmental Policy Act, under WAC 197-11-800(13).

6. The site is currently developed with a single-family dwelling and outbuildings. The surrounding properties are developed in both residential and agricultural purposes.
7. The site and surrounding properties are zoned Rural Lands 5.
8. The Benton County Comprehensive Plan designated the site and surrounding areas as Rural Lands 5.
9. The Benton County Department of Public Works requires that the approach onto Kennedy Rd be paved in strict compliance with the standards and specifications established by the Benton County Engineer and under Benton County Resolution 2017-304.
10. The applicant did not address in their application how waste from the animals would be handled. Any waste must be disposed of in accordance with state and local laws.
11. Typically, the Hearings Examiner has approved Conditional Use Permit applications for dog kennels when the animals are housed in indoor kennels to minimize noise and with proper ventilation. The housing of dogs inside a residence is not permissible due to sanitary purposes.
12. The Benton-Franklin Health District made the following comments on July 11, 2017:
 - “1. The animal waste generated by the kennels must be directed to a disposal component that has been permitted and approved by the Department of Ecology.
 2. The well serving this property must be upgraded to a Public Water Supply. In 2010 Ms. Trickit applied for the application to upgrade the single family well to a 2-Unit Group B Public Water Supply. The process was nearly 100% completed, however one deficiency was not resolved and after a matter of time the application was dead-filed. Prior to the well-being approved as a 2-Unit Group B Public Water Supply, the following items must be completed:
 - A current Bacteriological and Nitrate test must be submitted to this office, and both tests must come back satisfactory.
 - The final deficiency must be corrected. Currently the septic tank serving the mobile home is within the 100’ radius of the proposed public water supply. Ms. Trickit has two options that she may choose from to resolve this matter and correct the deficiency:
 - The septic tank must be moved so that it is outside of the well’s 100’ sanitary control area. In addition, the septic tank inlet line must be sleeved from where it exits the mobile home through the 100’ sanitary control area.
 - A licensed Hydrogeologist or Engineer would be hired to provide technical justification to this department supporting a decrease in the size of the sanitary control area (Decreasing the sanitary control area to the point whereby the existing septic tank would no longer be within the sanitary control area). The justification must address geological and hydrogeological data, well construction details, and other relevant factors necessary to provide adequate sanitary control.”
13. The Kennewick Irrigation District, Benton PUD and Benton County Fire Marshal all responded to a request for agency review with no comments.
14. The applicant has requested one 2’ x 2’, 5-foot-tall sign on the property.

15. The proposed use would not materially endanger the health, safety, and welfare of the surrounding community to an extent greater than that associated with any other permitted uses in the Rural Lands 5 zoning district such as schools, churches, libraries, community club houses, stills, packaging sheds and five borders and/or lodgers in any one family dwelling unit.
16. The proposed use as shown in the application would not cause the pedestrian and vehicular traffic associated with the use to conflict with existing and anticipated traffic in the neighborhood to an extent greater than that associated with any other permitted uses in the Rural Lands 5 zoning district such as schools, churches, libraries, community club houses, stills, packaging sheds and five borders and/or lodgers in any one family dwelling unit.
17. The proposed use as shown in the application would be supported by adequate service facilities, if the conditions as requested by the Planning Staff were required. The proposed use would not adversely affect public services to the surrounding area. There is no evidence to support that the site would not be adversely affected. The residence on site is served by existing necessary services.
18. The Benton County Building Department stated that any new structures or fencing greater than 7 feet in height require a building permit.

ORIGINAL CONDITIONS OF APPROVAL

1. Applicant shall not conduct any of the activities within the scope of Conditional Use Permit 2017-004 until the applicant is in compliance with all the conditions set forth herein. The applicant shall notify the Benton County Planning Department in writing when the conditions set forth herein have been completed. The Planning Department shall not issue the Conditional Use Permit until those conditions have been met.
2. If the conditions of approval have not been met and the Planning Department does not issue the Conditional Use Permit within one (1) year from the time the Hearings Examiner conditionally approved this permit, the Hearing Examiner may declare its approval null and void at a regular Hearing Examiners meeting. Prior to doing so, the applicant shall be notified in writing at the applicant's last known address at least twelve (12) days in advance of the upcoming Hearings Examiner meeting.
3. That the applicant continues to meet the requirements sent from the Benton-Franklin Health District to the Benton County Planning Department as outlined in the July 8, 2017, letter. If employees are hired, additional Health District requirements will have to be met. The applicant shall continue to meet all such requirements while Conditional Use Permit CUP 2017-004 is in effect.
4. The requested Conditional Use Permit would be granted for the keeping of up to ten (10) dogs (6 months and older) on site. The applicant shall continue to meet all such requirements while Conditional Use Permit CUP 2017-004 is in effect.
5. That the dogs be kept in a kennel that is indoors with insulated walls and ceiling and sheetrock interior and concrete flooring for sanitation, to minimize noise and to keep proper ventilation, i.e. heated in the winter and air conditioned in the summer. The housing of dogs inside a residence is not permissible due to sanitary conditions. The applicant shall continue to meet all such requirements while Conditional Use Permit CUP 2017-004 is in effect.
6. That the property owner and/or the proprietor(s) of the business shall comply with all requirements of the Benton County Building Department, the Benton County Fire Marshal, the

Benton-Franklin Health Department, and all other local, state and federal regulations pertinent to the Conditional Use Permit pursued. The requirements of or permission granted by the Hearings Examiner shall not be construed as an exemption from such regulations. The applicant shall continue to meet all such requirements while Conditional Use Permit CUP 2017-004 is in effect.

7. A fence must be constructed around the outside kennels that will house the dogs. The height of the fence shall be a minimum of four (4) feet for small dogs and six (6) feet for large dogs and shall be maintained in good repair for segregation and separation of the dogs. The applicant shall continue to meet all such requirements while Conditional Use Permit CUP 2017-004 is in effect.

8. That any waste created as a result of the Conditional Use Permit must be disposed of in compliance with all local, state and/or federal regulations. Applicant must adequately collect and treat all of the waste generated by the animals contained on the property. The applicant shall continue to meet all such requirements while Conditional Use Permit CUP 2017-004 is in effect.

9. As requested in the application, the proposed kennel would not have any non-resident employees and one sign of 2' x 2' and 5' tall that will be used to identify the property as a kennel. The applicant shall continue to meet all such requirements while Conditional Use Permit CUP 2017-004 is in effect.

10. If all conditions of approval are not met within one (1) year of the date of approval, a limit of three (3) dogs will be the maximum number of animals approved to be living on site.

11. If this permit is approved meeting all conditions, a total of ten (10) dogs will be the maximum allowed to live on this parcel. If additional animals are requested then a new Conditional Use Permit would be required. If the applicant is found to be housing more than ten (10) dogs, this Conditional Use Permit will be terminated under Benton County Code 11.52.089(e).

12. The applicants shall meet and continue to meet all requirements of RCW 16.52.310 (as listed below) while Conditional Use Permit CUP 2017-004 is in effect.

“(1) A person may not own, possess, control, or otherwise have charge or custody of more than fifty dogs with intact sexual organs over the age of six months at any time.

(2) Any person who owns, possesses, controls, or otherwise has charge or custody of more than ten dogs with intact sexual organs over the age of six months and keeps the dogs in an enclosure for the majority of the day must at a minimum:

(a) Provide space to allow each dog to turn about freely, to stand, sit, and lie down. The dog must be able to lie down while fully extended without the dog's head, tail, legs, face, or feet touching any side of an enclosure and without touching any other dog in the enclosure when all dogs are lying down simultaneously. The interior height of the enclosure must be at least six inches higher than the head of the tallest dog in the enclosure when it is in a normal standing position. Each enclosure must be at least three times the length and width of the longest dog in the enclosure, from tip of nose to base of tail and shoulder blade to shoulder blade.

(b) Provide each dog that is over the age of four months with a minimum of one exercise period during each day for a total of not less than one hour of exercise during such day. Such exercise must include either leash walking or giving the dog access to an enclosure at least four times the size of the minimum allowable enclosure specified in (a) of this subsection allowing the dog free mobility for the entire exercise period, but may not include use of a cat mill, jenny mill, slat mill, or similar device, unless prescribed by a doctor of veterinary medicine. The exercise

requirements in this subsection do not apply to a dog certified by a doctor of veterinary medicine as being medically precluded from exercise.

- (c) Maintain adequate housing facilities and primary enclosures that meet the following requirements at a minimum:
 - (i) Housing facilities and primary enclosures must be kept in a sanitary condition. Housing facilities where dogs are kept must be sufficiently ventilated at all times to minimize odors, drafts, ammonia levels, and to prevent moisture condensation. Housing facilities must have a means of fire suppression, such as functioning fire extinguishers, on the premises and must have sufficient lighting to allow for observation of the dogs at any time of day or night;
 - (ii) Housing facilities must enable all dogs to remain dry and clean;
 - (iii) Housing facilities must provide shelter and protection from extreme temperatures and weather conditions that may be uncomfortable or hazardous to the dogs;
 - (iv) Housing facilities must provide sufficient shade to shelter all the dogs housed in the primary enclosure at one time;
 - (v) A primary enclosure must have floors that are constructed in a manner that protects the dogs' feet and legs from injury;
 - (vi) Primary enclosures must be placed no higher than forty-two inches above the floor and may not be placed over or stacked on top of another cage or primary enclosure;
 - (vii) Feces, hair, dirt, debris, and food waste must be removed from primary enclosures at least daily or more often if necessary to prevent accumulation and to reduce disease hazards, insects, pests, and odors; and
 - (viii) All dogs in the same enclosure at the same time must be compatible, as determined by observation. Animals with a vicious or aggressive disposition must never be placed in an enclosure with another animal, except for breeding purposes. Breeding females in heat may not be in the same enclosure at the same time with sexually mature males, except for breeding purposes. Breeding females and their litters may not be in the same enclosure at the same time with other adult dogs. Puppies under twelve weeks may not be in the same enclosure at the same time with other adult dogs, other than the dam or foster dam unless under immediate supervision.
 - (d) Provide dogs with easy and convenient access to adequate amounts of clean food and water. Food and water receptacles must be regularly cleaned and sanitized. All enclosures must contain potable water that is not frozen, is substantially free from debris, and is readily accessible to all dogs in the enclosure at all times.
 - (e) Provide veterinary care without delay when necessary. A dog may not be bred if a veterinarian determines that the animal is unfit for breeding purposes. Only dogs between the ages of twelve months and eight years of age may be used for breeding. Animals requiring euthanasia must be euthanized only by a licensed veterinarian.
- (3) A person who violates subsection (1) or (2) of this section is guilty of a gross misdemeanor."

13. This Conditional Use Permit may not be transferred by a holder. If a new property owner wishes to have a commercial kennel, a new Conditional Use Permit application must be applied for and approved by the Benton County Hearing Examiner.

The Planning Department would support a one-year extension of this Conditional Use Permit.

Benton County Planning Department

RE: CUP 2017-004 Status Update

August 6, 2018

Dear hearings examiner,

I am requesting a 1 year extension on obtaining my permit. I am working very hard to complete the requirements and making progress. I lost about 6 months because of a broken leg and would very much appreciate having the extra time.

Fencing is almost completed and we'll be fixing up the building next. I am confident the project will be completed before another year passes but in the event something else happens like a broken leg there will still be sufficient to complete the project.

Thank you for your time,

Trish TrickiT

April Brown

From: The Pit Bull Pen <thepitbullpen@gmail.com>
Sent: Monday, August 06, 2018 10:06 PM
To: Planning Department
Subject: Re: CUP 2017-004 status update
Attachments: cup 2017 04 extension.docx

Extension request :)

The Pit Bull Pen
(509) 588-9993
www.thepitbullpen.org

On Tue, Jul 24, 2018 at 2:05 PM, Planning Department <Planning.Department@co.benton.wa.us> wrote:

Trish,

Thanks for chatting with me today about your Conditional Use Permit for your pit bull rescue business. As we discussed, you have not completed the conditions in the Decision issued on August 31, 2017 and will need an extension from the Hearings Examiner in order to complete them.

To that end, please send me information about the current status of your operation, what conditions have been completed and what conditions are left and how long you'll need to complete those conditions. I have attached the decision to this email for your easy reference. If you have any questions, please feel free to call our office or use this email to contact us.



Thank you!

April Brown,

Office Assistant III

Benton County Planning Department

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Website

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