



PLANNING COMMISSION STAFF REPORT

PLANNING COMMISSION HEARING DECEMBER 15, 2004
Agenda Item #6

Project # 04-026

Request: Appeal of the Community Services Director's determination on a proposed amendment to Use Permit #99-07 requiring that a new use permit be filed. The proposed amendment is a modification to a previously approved commercial dog boarding and dog breeding operation. Assessor's Parcel No. 35-040-033

Location: 5425 Pleasant Grove Road, Pleasant Grove

Planner: Steve Geiger, Associate Planner

Zoning Code Designation: AG (General Agricultural)

General Plan Designation: AG-80 (Agriculture, 80 acre minimum)

Applicant & Owner: Brian Foran

Staff Recommendation

Staff is recommending the Planning Commission deny the appeal and uphold the decision of the Community Services Director to require that the applicant submit a new use permit application for the proposed dog rescue and commercial boarding facility.

Project Description

The applicant is proposing an amendment to the previous use permit approval to allow for a dog rescue program and a commercial boarding kennel. The dog rescue program proposes to house up to 29 dogs at one time while the boarding kennel proposes to house up to 20 dogs, for a total of 49 dogs. The number of vehicles coming to the property for the dog rescue program will not exceed one per day and typically will not exceed three per week. The number of vehicles coming to the property for commercial dog boarding is projected to not exceed five per day throughout most of the year. During holiday periods, customer visits are expected to increase to no more than ten per day. For more information on the proposal, please see the supplemental information provided by the applicant and included as Attachment C.

Staff notes that the action to be taken by the Commission is not whether to approve or deny the project. Rather, the Commission needs to determine whether the proposed amendment is minor in nature and therefore able to be reviewed and approved by staff only (without a public hearing) or if it represents a major change and therefore requires that a new use permit application be filed.

Setting

The subject property is 45.23 acres in size and is located in an area devoted to agricultural uses. The property is developed with a single-family residence, a detached carport, a barn, outdoor dog runs, and other accessory structures. To the north are agricultural parcels with residences. To the east is a large agricultural parcel that appears to be used for field crops. To the south is an agricultural parcel with a residence. To the west is a large agricultural parcel that appears to be used for row crops.

	Land Use	Zoning Designation	General Plan Designation
Site	Single-family residence, barn, accessory buildings	AG	AG-80
North	Agricultural, residence	AG	AG-80
East	Field crops, agricultural	AG	AG-80
South	Agricultural, residence	AG	AG-80
West	Field crops, agricultural	AG	AG-80

Previous Actions/History

On June 2, 1999, the Planning Commission approved Use Permit #99-07 filed by the previous owners to allow a dog breeding kennel on the subject property. According to the staff report for the use permit, the maximum number of dogs on-site at any one time was proposed to be 30 (including puppies). It appears, however, that after the staff report was prepared, there was a clarification submitted by the applicant with regard to the number of dogs that would be kept at the facility. Based on the Planning Commission meeting minutes, staff noted that the maximum number of dogs proposed on site at one time was revised to be “49 rather than 30 as stated in the staff report.” According to the meeting minutes, the 49 dogs would consist of 30 puppies and 19 breeding dogs (See Attachment D).

On December 15, 2000, the Community Services Director approved Use Permit Amendment #00-11, which allowed the previous owners of the property the opportunity to board dogs at the kennel in addition to the existing breeding activities. According to the amendment approval letter, it was understood that the terms of the existing use permit allowed for a maximum of 30 dogs to be bred and raised at the facility (See Attachment E). This number of dogs was confirmed by a December 6, 2000 letter signed by the previous owner (See Attachment F). Under the amendment proposed, the total number of dogs was not to be increased because a portion of the permitted animals would now be “boarded” animals rather than dogs bred and raised on site. The approved amendment also acknowledged that the estimated quantity of traffic

generated at the facility as a result of the amendment would be a maximum of five vehicles per week.

The current owner has apparently owned the property since July 2003. He submitted a letter to the Planning Division on July 10, 2003, requesting information on the process for obtaining a "kennel license" to allow for a German Shepherd rescue program and a commercial boarding kennel. Planning staff responded with a letter which stated his proposal constituted a change to the type of kennel approved and that a use permit amendment was required.

In October 2003, the Planning Division received a complaint from Sutter County Animal Control that a dog kennel was being operated on the property. A second letter was subsequently sent to the owner on October 10, 2003, which stated that based on the extent of the changes from the previous approval, either an amendment to the existing use permit or a new use permit would be required. Another complaint was received from Animal Control in May of 2004 and on May 21, Planning sent a third letter to the owner indicating the need to receive approval of a use permit amendment or new use permit for the proposed use.

On June 30, 2004, staff received the applicant's use permit amendment application to allow for the proposed dog rescue and commercial boarding kennel operation. The Planning Division reviewed the application, determined the request to be a major change from the previous use permit and therefore, determined that a new use permit is required. The Planning Division's determination is included in the September 9, 2004, letter that is included as Attachment G. The applicant submitted a letter appealing the Director's decision, dated September 27, 2004, which is included as Attachment H. The request is therefore being forwarded to the Planning Commission for review.

Analysis

Section 1500-8226 of the Sutter County Zoning Code addresses amendments to use permits. This section states that upon receipt of a completed use permit amendment application, "the Community Services Director shall determine the degree of review required for the proposal based upon the nature, character and intensity of the proposed change." This section further states, "If the proposed change is determined to be minor in nature, consistent with the character of the existing use and not a significant increase in intensity of the use of the site (e.g. expansion of existing use with a less than 10% increase in floor area or parking demand) the amendment may be reviewed and approved, approved with conditions or denied by the Community Services Director." This section also states that the determination of the Community Services Director may be appealed to the Planning Commission. If the proposed change is determined to be a major change (e.g. change in use or expansion equal to or greater than 10% increase in floor area or parking demand), the Zoning Code states that a new use permit is required and is to be referred to the Planning Commission for consideration at a noticed public hearing.

As discussed in the "Previous Actions/History" section above, the Planning Division reviewed the amendment request and determined the proposal to be a major change

from the previous approval, which requires that a new use permit be filed. The following information, referred to in the September 9, 2004 letter (Attachment G) supports this determination:

1. The staff report for the originally approved use permit (Use Permit #99-07), which allowed for the operation of a dog breeding kennel on the subject property, stated that the maximum number of dogs proposed to be on site would be 30 (including puppies). The Planning Division acknowledges that there is some confusion in the record since the Planning Commission meeting minutes reference a revision to the project to allow a total of 49 dogs (30 puppies and 19 breeding dogs) (See Attachment D).

The Planning Division believes the maximum number of dogs proposed was clarified to be 30 by reference in the approval letter of Use Permit Amendment #00-11, which followed the approval of Use Permit #99-07 and allowed for commercial boarding in conjunction with the breeding operation (Attachment E). This number is also confirmed by the letter signed and submitted by the previous owners (Attachment F).

2. The proposed amendment to the use permit requests approval of a dog rescue program and a commercial boarding kennel. The dog rescue program proposes to house up to 29 dogs at one time while the boarding kennel proposes to house up to 20 dogs, for a total of 49 dogs. Staff views this proposed increase in the number of dogs (63%) to be significant. In addition, the proposed commercial boarding kennel will result in up to five vehicles coming to the site per day (35 per week) during most of the year and up to ten vehicles per day during holiday periods. The previous use permit amendment stated that the estimated quantity of traffic generated at the facility would be a maximum of five vehicles per week. This is considered a significant increase in traffic to the site and based on the December 15, 2000 letter from the Planning Division, requires that a new use permit be applied for and approved by the Planning Commission.
3. The kennel breeding operation proposed by the previous owners under Use Permit #99-07 was to be conducted within the existing 1,440 square foot barn located west of the residence and within the kennel runs located between the house and barn building. The applicant's current amendment proposal involves housing dogs in the "north fenced yard behind the residence", "the fenced yard adjacent to and to the south of the residence", and "the fenced yard directly behind (west of) the kennel building." The applicant has not delineated these areas on the site plan submitted with this application. These areas are also not delineated on the previously approved site plan and, based on the staff report, were apparently not contemplated for use under the existing use permit. The Planning Division views these new areas as an expansion, or intensification of the use, therefore requiring that a new use permit be filed.
4. Noise from barking dogs is a primary concern with regard to dog boarding facilities. In the Planning Commission meeting minutes during consideration of Use Permit #99-07, the previous owners were asked what measures would be

taken to mitigate noise. According to the minutes (Attachment D), the owners indicated that “the dogs are kept inside and they have bark collars.” As stated in item #3 above, the current owner is proposing to keep dogs in outdoor areas that were not considered under the original use permit and not evaluated with regard to potential noise impacts on neighboring properties.

Summary

Based on the proposed increase in the number of dogs to be kept at the facility, the proposed increase in traffic coming to the site, the use of new outdoor areas on the property to keep dogs, and the potential for noise impacts on neighboring properties due to dogs kept outside, the Planning Division has determined that the proposed amendment constitutes a major change from the previous use permit and therefore, a new use permit should be required. By requiring a new use permit, a revised environmental analysis can be completed to identify potential impacts from the project and a public hearing before the Planning Commission with notification of surrounding property owners can be held.

Recommended Finding

Based upon information contained in this staff report and/or testimony received at the public hearing, staff recommends the following finding:

Use Permit

The Planning Commission has determined the proposed amendment to be a major change (e.g. change in use or expansion equal to or greater than 10% increase in floor area or parking demand) to the previously approved use permit and therefore, a new use permit application is required to be filed and heard by the Planning Commission at a noticed public hearing.

Recommended Action

Should the Planning Commission agree with staff’s recommendation, the following motion would be appropriate:

1. “I move that the Planning Commission deny the appeal and uphold the Community Services Director’s determination to require that a new use permit application be filed for the applicant’s proposed use and that it be heard by the Planning Commission at a noticed public hearing.

Attachments

- A. Study Sketch
- B. Site Plan
- C. Supplemental information for the proposed amendment provided by applicant
- D. Project description from UP #99-07 staff report & June 2, 1999 Planning Commission meeting minutes

- E. Use Permit #00-11 approval letter dated December 15, 2000
- F. December 6, 2000 letter from previous owners (confirming # of dogs & traffic generated by the facility)
- G. September 9, 2004, letter from the Planning Division with determination that proposal is considered a major change and requires a new use permit
- H. Applicant's appeal letter, dated September 27, 2004

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