

Memo

To: Planning and Zoning Commission
From: Jennifer Kharri, Planning Director
Cc: Anne Rice
Date: 9/25/23
Re: Rice Kennel Special Use Permit #SUP 21-001 Compliance Review

Commissioners,

The subject item is on your October 10, 2023 agenda. The purpose of the public hearing is a compliance check on the Special Use Permit that was conditionally approved for a kennel on 5/17/21. Notice was sent to property owners within 300 feet of the site regarding the SUP review to let them know that they can submit comments in writing and attend the public hearing.

Over the last year, there have been three written complaints with evidence of barking submitted via recordings. The applicant hasn't adhered to the conditions of the SUP, which is the reason for the public hearing.

GCC 11-7-10 allows the Planning and Zoning Commission to revoke a SUP or allow a specific period of time for correction of the conditions when brought forth a violation.

Application Summary / Background

- ❑ SUP #21-001 was approved on 5/17/21 permitting a kennel (see attached application for more information). The application was filed following the complaint regarding barking dogs that the Code Enforcement Officer received.
- ❑ The Commission held a public hearing, as a condition of approval, on 5/9/22 to verify compliance of the SUP with the conditions of approval. The SUP was found to be in compliance and the Commission added a couple new conditions of approval.
- ❑ Five complaints have been filed since the issuance of the SUP. See attached to the Code Enforcement Officer Memorandum for record.
- ❑ The applicant was sent two letters regarding the complaints, with no response. See attached to the Code Enforcement Officer Memorandum for record.

Attached to this memo are the following:

- SUP application (describing the use) and the 5/17/21 minutes (**Exhibit A**)
- Zoning Commission's 2021 written decision for the SUP (with conditions of approval) (**Exhibit B**)
- Zoning Commission's 2022 written decision for the SUP compliance review (with conditions of approval) (**Exhibit C**)
- Minutes from the 5/9/22 public hearing (**Exhibit D**)
- Code Enforcement Officer Memorandum for record with copies of the complaints received (**Exhibit E**)
- Written comments submitted for the SUP review. (**Exhibit F**)

After hearing from the applicant and public testimony, the Commission can make a motion to keep the SUP as is, can modify the conditions of approval as needed or the SUP can be revoked if there is sufficient evidence in the record to do so. If the Commission decides to revoke the SUP, staff recommends that there be clear guidance and a timeframe given for moving the dogs elsewhere.



EXHIBIT A

MASTER PUBLIC HEARING APPLICATION

GEM COUNTY DEVELOPMENT SERVICES

109 South McKinley, Emmett, Idaho 83617 www.gemcounty.org phone: (208) 365-5144

TYPE OF APPLICATION: (PLEASE CHECK ALL THAT APPLY.)

- | | | |
|--|--|--|
| <input type="checkbox"/> APPEAL | <input type="checkbox"/> PLANNED UNIT DEVELOPMENT | <input type="checkbox"/> SUBDIVISION, MINOR |
| <input type="checkbox"/> COMPREHENSIVE PLAN | <input type="checkbox"/> PLANNED COMMUNITY | <input type="checkbox"/> SUBDIVISION, COMBINED |
| <input type="checkbox"/> TEXT AMENDMENT | <input type="checkbox"/> REZONE | <input type="checkbox"/> SUBDIVISION, MODIFICATION |
| <input type="checkbox"/> COMPREHENSIVE PLAN | <input checked="" type="checkbox"/> SPECIAL USE PERMIT | <input type="checkbox"/> VACATION |
| <input type="checkbox"/> MAP AMENDMENT | <input type="checkbox"/> SPECIAL USE PERMIT (MINERAL EXTRACTION) | <input type="checkbox"/> VARIANCE |
| <input type="checkbox"/> DESIGN REVIEW | <input type="checkbox"/> SUBDIVISION, PRELIMINARY | <input type="checkbox"/> ZONING TEXT AMENDMENT |
| <input type="checkbox"/> DEVELOPMENT AGREEMENT | <input type="checkbox"/> SUBDIVISION, FINAL | |

PROJECT NAME: Dog Kennel

SITE INFORMATION:

(This information can be found on the Assessor's property information assessment sheet.)

Quarter: _____ Section: _____ Township: _____ Range: _____ Total Acres: 10

Subdivision Name (if applicable): _____

Site Address: 3131 Fuller Rd Lot: _____ Block: _____

City: Emmett

Tax Parcel Number(s): _____ Current Zoning: _____ Current Land Use: _____

PROPERTY OWNER:

Name: SUZANNE L. McCracken

APPLICANT:

Name: Anne Rice

Address: 1899 N. WILMINGTON DR

Address: 3131 Fuller Rd

City: BOISE State: ID Zip: 83724 City: Emmett State: ID Zip: 83617

Telephone: 208 559-2316 Fax: N/A

Telephone: 208 509-7768 Fax: _____
Email: plahornustang lady@gmail.com

I consent to this application and allow Development Services staff to enter the property for site inspections related to this application.

I certify this information is correct to the best of my knowledge.

Suzanne L. McCracken
Signature: (Owner)

Anne Rice 3/7/21
Date Signature: (Applicant) Date

NOTE: THIS APPLICATION MUST BE SUBMITTED WITH THE APPLICABLE CHECKLIST (S).

SUP 21-601

File No.:	Received By: <u>MB</u>	OFFICE USE ONLY	Date: <u>3/8/21</u>	Fee: <u>250.00</u>	Receipt No: <u>896197</u>
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SPECIAL USE PERMIT SUBMITTALS AND CHECKLIST

(Not a business license or building permit)

GEM COUNTY DEVELOPMENT SERVICES

109 South McKinley, Emmett, Idaho 83617 www.gemcounty.org
phone: (208) 365-5144

DESCRIPTION OF EXISTING USE:

most
Dogs are house dogs.
They are chihuahuas and do not live outside.
There are 4 bear hunting dogs that have kennels
on the West side of my house. Also two bloodhounds that
live in the house. Or are in the fenced yard -

DESCRIPTION OF PROPOSED SPECIAL USE: (Attach other sheets if necessary):

*dogs DO NOT
Run loose
unless someone
is supervising*

Submittal Requirements:

FEE: Category 1: All residential uses (e.g. daycare): \$250.00
Category 2: Commercial and industrial uses (up to 5 acres): \$325.00
Category 3: Commercial and industrial uses (greater than 5 acres): \$450.00

LEGAL DESCRIPTION: A metes and bounds description or lot and block reference of proposed property.

SITE PLAN: A plan of the proposed site for the special use showing the location of all buildings, parking and loading area, traffic access and traffic circulation, open spaces, landscaping, refuse and service areas, utilities, signs and yards.

LANDSCAPE PLAN as per Gem County Zoning Ordinance; Chapter 6; Section 6-6; Subsection C-1-C.
(Please see attached Landscape Plan Checklist)

PROOF OF OWNERSHIP OR VALID OPTION HOLDER: Attach a copy of your property deed, option agreement, quit claim deed, or title report with a complete legal description.

PLAT MAP: show property under consideration and surrounding properties.

AERIAL PHOTO: Show property under consideration and surrounding properties

(THE ABOVE ITEMS WILL BE PROVIDED BY THE DEVELOPMENT SERVICE OFFICE)

LETTER OF INTENT: A narrative statement addressing the following nine standards:

GENERAL STANDARDS APPLICABLE TO ALL SPECIAL USES:



GEM COUNTY DEVELOPMENT SERVICES DEPARTMENT

109 S. MCKINLEY AVENUE EMMETT, IDAHO 83617

OFFICE OF THE ADMINISTRATOR
PLANNING & ZONING

PHONE: (208) 365-5144

WEB PAGE: GEMCOUNTY.ORG

STAFF REPORT

DESCRIPTION: SPECIAL USE PERMIT APPLICATION – KENNEL

FILE NUMBER: SUP #21-001

ZONING COMMISSION HEARING DATE: MAY 17, 2021, 6:00PM

APPLICANT: ANNE RICE
3131 FULLER ROAD
EMMETT, ID 83617

PROPERTY OWNER: GARY L AND SUZANNE L. McCracken

SUBJECT PROPERTY: 3131 FULLER ROAD, IN T 07N, R 01W, SECTION 34

STAFF PLANNER: JENNIFER KHARRL

1. APPLICATION SUMMARY

The applicant, Anne Rice, on property owned by Gary and Suzanne McCracken, is requesting approval of a Special Use Permit (SUP) to allow a personal kennel to house more than 4 dogs on property she rents. The kennel is proposed at 3131 Fuller Road and is located in the A-2, Rural Transitional Agriculture zone (5-acre minimum). The subject property consists of approximately 10 acres. The application states that there are house dogs and hunting dogs that live in outdoor kennels.

“Kennel” is listed as a “Special Use Permit” in the A-2 zone per Gem County Code (GCC) 11-5-5, Zoning Matrix. The term “kennel” is defined below in Section 6 of this report. The property lies within the “County Residential Area, Priority Growth Area #1” land designation of the Future Land Use Map. This designation does allow for kennels if a Special Use Permit is approved.

Note of Clarification: Gem County Code does not authorize or regulate the issuance of an actual kennel “license,” as some communities do. It only authorizes a kennel permit. The difference is that the latter is a land use application and pertains to how the land is used versus how the kennel itself is managed and/or operated. Gem County is not staffed, trained or equipped to inspect kennels for animal or public health issues. As such, the focus of the public hearing should be on the use of said property, including impacts such as traffic, noise, odor, lights and similar types of neighbor compatibility issues.

2. APPLICATION & PROPERTY FACTS

A. Site Address/Location:

The property is located at 3131 Fuller Road. The property is located in a portion of Section 34, T 07N, R 01W.

B. Current Owner(s): Gary L and Suzanne L McCracken
1899 Wilmington Drive
Boise, ID 83704

C. Applicant(s): Anne Rice

D. Present Zoning: A-2, Rural Transitional Agriculture

E. Present Comprehensive Plan Designation: County Residential Area, Priority Growth Area #1

F. Property Size: Approx. 10.0 acres

3. APPLICATION PROCESS FACTS

A. Application Submittal:

The application for this item was received and deemed complete by the Development Services Department on March 18, 2021.

B. Notice of Public Hearing:

Notice of Public Hearing on the application for the Gem County Zoning Commission was published in accordance with requirements of Title 67, Chapter 65, Idaho Code and Gem County Code 11-15-5 on April 28, 2021. Notice of this public hearing was mailed to property owners within 300 feet of the subject property in accordance with the requirements of Title 67, Chapter 65, Idaho Code and Gem County Code 11-7-6 on April 22, 2021. The physical property was posted for the public hearing on April 26, 2021. Requests for all impact agencies' reviews were mailed on April 22, 2021.

C. Relevant Ordinances and Required Actions:

The subject application constitutes a Special Use as determined by Gem County Code (GCC). By reason of the provisions of the GCC Title 11, Chapter 15, a public hearing is required before the Zoning Commission on this matter.

D. History of Previous Actions on Property: Gem County Code Enforcement Officer received a complaint about the barking dogs.

E. Companion Applications: None.

4. LAND USE

A. Existing Land Use(s): Single-family dwelling with outbuildings and pasture.

B. Description of Character of Surrounding Area: Pastureland, rural single-family dwellings.

C. Adjacent Comprehensive Plan, Zoning and Land Use:

	COMP PLAN DESIGNATION	ZONING DESIGNATION	LAND USE
North of site	County Residential Area, Priority Growth Area #1	A-2, Rural Transitional Agriculture	Rural Residential, Pastureland
South of site	County Residential Area, Priority Growth Area #1	A-2, Rural Transitional Agriculture	Rural Residential, Pastureland
East of site	County Residential Area, Priority Growth Area #1	A-2, Rural Transitional Agriculture	Rural Residential, Pastureland
West of site	County Residential Area, Priority Growth Area #1	A-2, Rural Transitional Agriculture	Rural Residential, Pastureland

D. Existing Site Characteristics:

The property is relatively flat and contains a single-family dwelling and outbuildings.

E. Physical Constraints and Opportunities:

1. Wastewater & Domestic Water: Currently, the property has an individual domestic well and septic system for the home. The application states that the dog waste is currently disposed of in a compost bin with some of it taken to the dump.
2. Topography: Flat.
3. Floodplain: FEMA Community panel number 160127-0270 A, Zone C: areas of minimal flooding.
4. Hazards: Staff is not aware of any existing or potential hazards on the property. The applicant should disclose any known hazards on the property at the public hearing.

F. Special Use Information: A Special Use Permit application is required for kennels in the A-2 zone. *(There is no difference between private and commercial kennels in the matrix – a permit is required either way.)*

G. Building Setback Information. Any new structures over 120 square feet in size would have to receive a building permit and comply with setbacks in effect at the time.

H. Streets and/or Access Information: Vehicular access to the property is taken directly off of Fuller Road. No modifications to the vehicular access/approach are proposed.

5. COMPREHENSIVE PLAN POLICIES & GOALS [Staff comments and analysis are shown in *italics*.]

The Comprehensive Plan **Future Land Use Map** identifies the subject property as County Residential Area, Priority Growth Area 1.

The Comprehensive Plan defines the “County Residential Area, Priority Growth Area 1” category (in **Chapter 12**) as follows:

“This is a special land use designation immediately adjacent to the City of Emmett and Area of City Impact.

The County Residential Area is set aside for primarily residential development. The Priority Growth Area 1 allows densities at one (1) unit per acre, as the Zoning and Subdivision Ordinances allow. The long term vision for this planning area is to maintain the uniquely rural character and to preserve non-conforming uses.”

This property is located in an A-2 zone and within the County Residential Area, Priority Growth Area 1 designation of the Future Land Use Map. The proposed kennel is only allowed in the existing zone (A-2) if the Commission grants a SUP.

Natural Resources and Hazardous Areas – Chapter 6

Policy 6.11 – Prevent contamination of groundwater from sewage and wastewater through appropriate treatment and by enforcing regulations.

While Gem County does not have any direct authority or ordinance pertaining to groundwater or drinking water, this Comp Plan policy should be taken into consideration when reviewing this application. Specifically, will the ditches and drinking water well be adequately protected from dog feces? These basic public health concerns are valid concerns for the Commission. If justified by facts and deemed necessary, the Commission may solicit input from IDEQ and SWDH. Unless additional information is presented during the public hearing, staff does not anticipate any groundwater or irrigation water contamination concerns since the application states that the kennel will utilize the septic system for waste management.

6. ZONING ORDINANCE [Staff comments and analysis are shown in *italics*.]

- A. Schedule of Zoning Regulations: Gem County Code 11-5-5, Zoning Matrix, permits a Kennel with a Special Use Permit in the A-2 zone.
- B. Purpose Statement of Zone: Gem County Code 11-4-2.A. lists the purpose of the A-2, Rural Transitional Agricultural, zone as follows: “Lands lying within those unincorporated portions of Gem County that are likely to undergo a more intensive urban development. The regulations governing this zone are designed to protect agricultural pursuits and provide guidelines for conversion to suburban development.”

The Commission must find that the proposed use is consistent with the purpose of the zone. Kennels are listed as a permitted use with a Special Use Permit.

Other: The following sections of the Zoning Ordinance directly and/or indirectly address the application:

- **11-2-2, Definitions: Kennel:** A premises where more than four (4) dogs, six (6) months or older, are raised, kept, housed, boarded, trained or bred. This definition does not apply to livestock working dogs in an agricultural zone.
The applicant is proposing more than 4 dogs to be kept at any one time on the same property, which qualifies as a kennel per this definition.
- **11-6-5.C. Animal Clinic, Animal hospital, Veterinary Office and Kennel:** Will be located at least three hundred feet (300') from any residence, including motels and hotels, except for an owner's residence. The Administrator may modify these requirements if the animals are completely housed in soundproof structures that completely screen them from view of the abutting residential property.

Staff's interpretation of this ordinance section is to prohibit animal clinics, vets and kennels within 300 feet of any residence that is not owned by the owner of the animals in the kennel. Without knowing exactly where the kennel areas are, it appears based on aerial photos that the dogs are kept approximately 300' feet from the property line to the east therefore meeting this requirement.

7. REQUIRED FINDINGS & STAFF ANALYSIS [Staff comments and analysis are shown in *italics*.]

- A. Will in fact, constitute a special use as established on the Official Schedule of District Regulations for the zoning district involved;

Staff finds that the proposed kennel lies within the A-2, Rural Transitional Agriculture zone. Gem County Code 11-5-5, Zoning Matrix does allow kennels within the A-2 zone and is, therefore, found to constitute a special use as established on the Official Schedule of District Regulations.

- B. Will be harmonious with and in accordance with the general objectives or with any specific objective of the Comprehensive Plan and/or the Zoning Ordinance;

Staff finds that the proposed use, if operated according to the proposed conditions of approval, will be in accordance with the objectives and policies of the "County Residential Area, Priority Growth Area #1" designation on the Future Land Use Map of the Comprehensive Plan, as outlined in Section 5 of this report.

- C. Will be designed, constructed, operated and maintained to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such use will not change the essential character of the same area;

Staff finds the existing character of the area is rural with agricultural uses, with scattered single-family residential and agricultural uses in the vicinity. The intended character of the area (as defined in Chapter 12 of the Comprehensive Plan) is an area set aside for primarily residential development and to maintain the uniquely rural character and to preserve non-conforming uses.

The ability to own and raise animals and even some level of animal noise such as barking is to be expected in these rural parts of the county and does not change its essential character. Some barking or other animal or agricultural type sounds have been determined acceptable by the Commission in the past and do not change the essential character of the rural area. Only excessive, persistent barking would be deemed a nuisance and out of character for the agricultural character of this area. For this reason, staff finds some special conditions are necessary in order to protect the character of the area.

In 2012, Gem County Board of Commissioners did amend the Gem County Code to specify that "excessive, continuous or untimely barking or noise, during the hours of ten o'clock (10:00) P.M. to seven o'clock (7:00) A.M." is now prohibited. The Sheriff's Office responds to complaints that fall within this timeframe. Outside of these night hours, the barking or animal noise must reach a level of actual public nuisance before any regulatory action would be taken.

Staff finds that determining what is "harmonious" in a particular neighborhood relies strongly on the residents of that neighborhood. As such, the Commission should review this finding after hearing from both existing residents and the applicants and their plans to address any compatibility concerns.

- D. Will not be hazardous or disturbing to existing or future neighboring uses;

No written comments were submitted by neighbors in response to the public notice for this application – either in favor or opposed. Staff finds that the proposed use should not be hazardous or disturbing to neighboring uses except for the potential for excessive barking. This is an issue that the Commission can address through conditions of approval, i.e., bark collars or soundproof housing. If it is not complied with and a disturbance is created, the condition would allow for enforcement or permit modification, such as reducing the number of dogs, constructing soundproof housing, revoking the permit or other methods of controlling the noise.

- E. Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer and schools; or that the persons or agencies responsible for the establishments of the proposed use shall be able to provide adequately any such services;

Staff finds that the proposed use could be adequately served by the Gem County Sheriff's Department, Mosquito Abatement, Emmett Sanitation and Gem Rural Fire District #1. There were no public service provider comments were received. The Commission should refer to any comments submitted from impact agencies during the course of the open public hearing.

- F. Will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community;

The proposed use is not expected to create excessive costs on any public facility with the addition of a personal dog kennel to what is existing on the property. The applicant is responsible for paying any improvement costs that may be associated with the kennel in the future. There are no anticipated negative impacts on the public road system, EMS or school district. If operated in accordance with county and health department regulations, it should not be detrimental to the economic welfare of the community.

- G. Will not involve uses, activities, processes, materials, equipment and conditions or operation that will be detrimental to any persons, property or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors;

As noted in finding D above, the main foreseeable detriment to the general welfare could be excessive barking if there were more than 4 dogs outside of the kennel or house at any one time, depending upon the type of breed.

Staff finds that determining what is "detriment" in a particular neighborhood relies strongly on the residents of that neighborhood. As such, the Commission should review this finding after hearing from both existing residents and the applicants and their plans to address any such concerns.

- H. Will have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding public thoroughfares;

There should be no new vehicular access points created with this project and none are proposed. The existing driveway is found to be adequate for the proposed kennel. Excessive traffic is not anticipated for a personal kennel.

- I. Will not result in the destruction, loss or damage of a natural, scenic or historic feature of major importance.

Staff finds that the application would not result in the destruction, loss or damage of a natural, scenic or historic feature of major importance.

8. IMPACT AGENCIES NOTIFIED

Gem County Road Department
Gem County Mapping
Southwest District Health Department

Gem County Sheriff
Idaho Department of Water Resources
Gem County Fire District #1
Idaho Transportation Department

9. STAFF RECOMMENDATION

The Commission must consider the evidence and testimony presented during the public hearing prior to rendering its decision concerning this application. Staff recommends approval of the application with the Site Specific Conditions of Approval attached in Exhibit A.

EXHIBIT A

SITE SPECIFIC CONDITIONS OF APPROVAL

RICE KENNEL

FILE #SUP-21-001

1. This permit is subject to an annual review by the Development Services Department.
2. The permit is non-transferable to another property and is only valid at 3131 Fuller Road.
3. No more than 10 dogs (**to be determined at the public hearing since there wasn't a number mentioned in the application**), six (6) months or older (in addition to those owned by the property owner), that are raised, kept, housed or boarded, are permitted on the property at any given time.
4. Uses associated with the kennel shall not generate a noise level to cause a disturbance to surrounding residents. Any persistent noise nuisance may be cause for reducing the maximum number of allowed dogs or revoking the permit. Bark collars or other barking or noise restraints shall be utilized and kept in good working order to comply with this condition during the training sessions.
5. The owner shall have a continuing obligation to maintain adequate housekeeping and sanitation practices and remain in compliance with all current public health guidelines designed to prevent the creation of a public nuisance and to reduce to a minimum the factors of noise and odor.

GCC 11-7-11: LAND USE TIME LIMITATIONS:

- (1) Commencement: When a special use permit is granted, the land use or construction of its facility proposed in the application must have commenced within one (1) year of the date of the final decision by the Commission, or the Board or a court of appropriate jurisdiction (if appealed) and completed within two (2) years of the same date. Upon expiration of the use or the approval of that use as provided by this section, the applicant can seek approval of the use only by filing a new initial application for review by the Commission.
- (2) Expiration: After the one (1) year period has expired, if any person, including staff or member of the Commission, files a written notice presenting sufficient evidence, as determined by the Administrator, to establish that the land use or construction of its facility provided for in the special use permit, has not commenced, or after the two (2) year period that said use has been abandoned or has ended, the Commission may find that the use has not been implemented or has been abandoned or has ended. If so, the Commission shall set aside the prior approval and order the property to revert to its prior status. An aggrieved person may appeal any Commission decision made under this section to the Board pursuant to Chapter 11-7-9 of this chapter.

GCC 11-7-12: REQUEST FOR EXTENSION:

- (1) Request: An applicant may request extension of the time period provided by this section by filing an application for extension with the Administrator. Such application must be filed at least sixty (60) calendar days prior to expiration of the one (1) year period for commencement of the land use or sixty (60) calendar days prior to the expiration of the two (2) year period for completion of the project. The matter shall be heard at a public hearing before the Commission or the Board, whichever made the final decision, in accordance with the notice and hearing procedures of this chapter. If the application is not timely filed, it shall be denied. A renewal extension,

if granted, may be limited to three hundred sixty five (365) calendar days, which shall commence at the expiration of either period.

- (2) Decision: The Commission or the Board may extend the commencement period or the completion period as provided above upon proof of good cause by the applicant. The burden of proof as to the showing of good cause for the extension shall be on the applicant, and good cause shall be determined at the discretion of the Commission or the Board.

Untitled Map

Write a description for your map.

3131

← Kennel

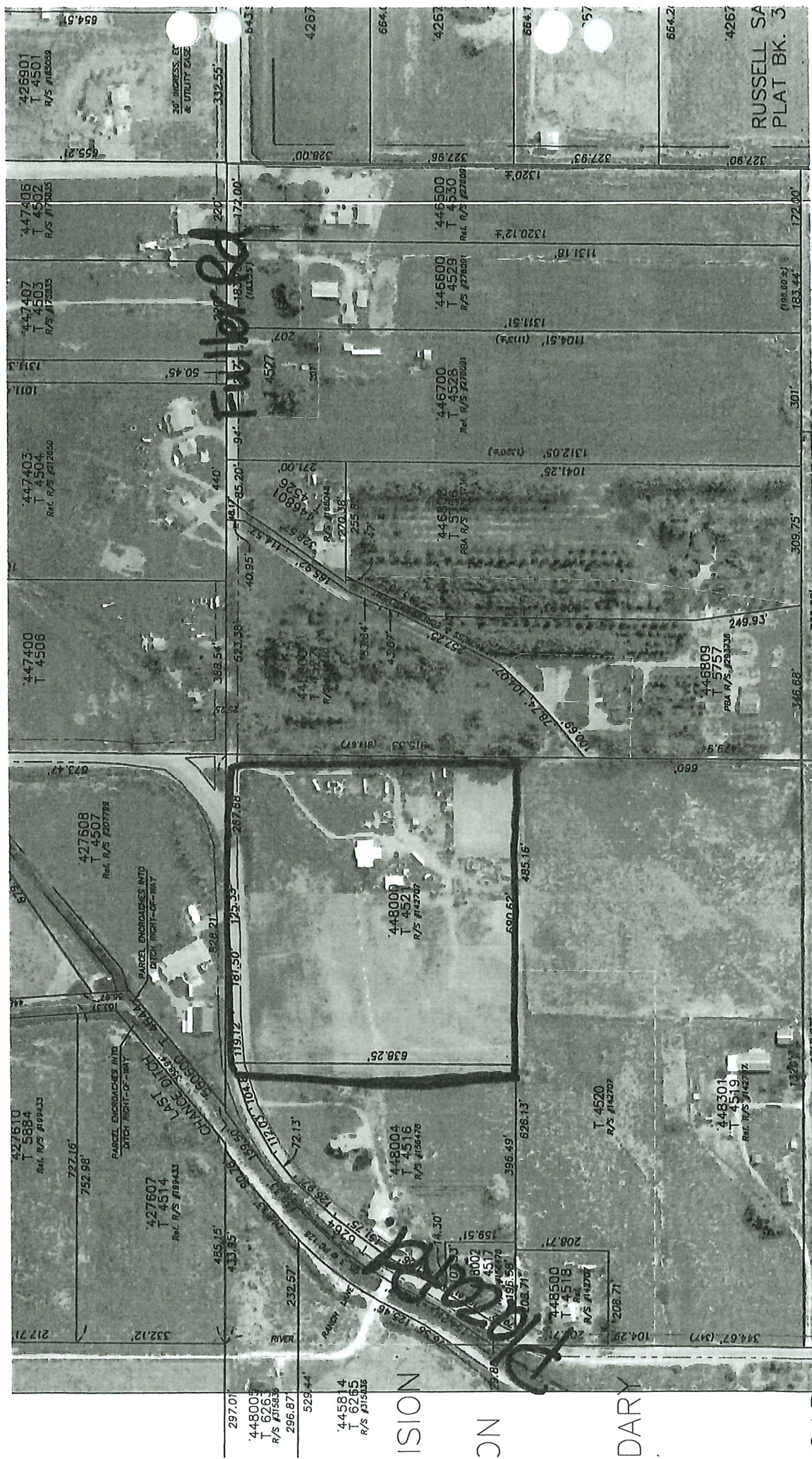
← Kennel

Legend

Google Earth

200 ft





SUMMARY MINUTES
GEM COUNTY ZONING COMMISSION
GEM COUNTY COURTHOUSE
May 17, 2021

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2. SPECIAL USE PERMIT #SUP-21-001 – ANNE RICE – DOG KENNEL AT 3131 FULLER ROAD.

APPLICANT:

Anne Rice - 3131 Fuller Road

She explained this is her second time applying for a kennel permit and was told she did not need one, due to the fact the dogs she owns are for personal use. She explained past issues with neighbors' complaints. She has dogs for pleasure, hunting, and search recovery dogs. The property is 10.3 acres.

Chairman **Eichelberger** –

Asked how many total acres the parcel consist of.

FAVOR:

Rich Rice – 3131 Fuller Road

Separated, divorce in process. The dogs are brought in at night after 10 pm, with the exception of the four dogs that are right outside the house. This is agricultural zoned land.

Tamera Miller – 4881 Cascade Road

Horses are boarded there, trains out of the facility. If constant barking were an issue, she would not be able to train there. She has taken her personal dogs out there and there never has been an issue.

Rob Cook – 215 W. 1st Street

Has boarded horses at this location in the past multiple times. He gave an example of being on the premises and not being able to hear the dogs. There are many trees on the property that can help absorb the noise. He explained the hound dogs will bark during the day if there is someone coming down the drive. Those dogs specifically brought in at night.

NEUTRAL:

NONE.

OPPOSED:

Jordan Alvis – 3135 Fuller Road

Submitted letter, feels it is affecting the way he enjoys his property. Lives to the east of the proposed kennel. Has received advice from sheriff's department/code enforcement. Has submitted video of the barking. It is late at night, early in the morning. Has to have music and cannot have guests over and outside without barking.

Chairman **Eichelberger** - letter reference barking/ howling

Janice Lopez - 2733 River Ranch Lane

SUMMARY MINUTES
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GEM COUNTY COURTHOUSE
May 17, 2021

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To the west of the site, small home, converted the front part of her property to a RV turnaround. Has family that come to visit that will stay. Late night barking. Has to advise guests to close the windows. The dogs barking is very loud. You can hear it all the way down to the river. Gave example of family friends camping on the river. Sounds to be like large dogs barking. The barking has reduced since the notice has gone out for the public hearing.

APPLICANT REBUTTAL:

Explained the letter submitted by Jordan. Does not feel he is factual. The one dog he has video of, is not on the property anymore. Gave example of the shots fired at the dog. Read email from the Moyers. Verified the email was sent into the record. Explained what dogs sleep in her home and neighbors that have dogs, hounds specifically. Feels this is a target for harassment. She has tried to apply in the past; she was told she did not need one. She would like to be able to keep the amount of dogs that are there now. She does not plan to obtain any new dogs.

Chairman **Eichelberger** closed the public hearing.

COMMISSION DISCUSSION:

Multiple neighbors have submitted letters of concern. Asked for clarification of a kennel permit, restrictions allowed for the applicant. The commission reviewed the findings and the conditions of the staff report. Clarified with the property owner, all 19 dogs are hers. This is an allowed use within the A-2 zone.

Director **Kharri** -

Explained conditions can be specific to the amount of dogs. If the amount is set, and the property owner exceeds it, they would become in violation to the permit. She told the commission a larger amount is common on personal kennels.

Commissioner **Vickery** made a motion to **approve #SUP-21-001 with the change to condition #3, setting a limit of 19 adult dogs, and condition #1, adding a public hearing annual review.** Commissioner **Jones** seconded the motion.

Vote: Unanimous.



EXHIBIT B

ZONING COMMISSION
Rice Special Use Permit, SUP-21-001

FINDINGS, CONCLUSIONS, CONDITIONS, ORDER

Findings of Fact

1. The applicant, Anne Rice, on property owned by Suzanne McCracken, sought approval of a Special Use Permit to allow a personal kennel to train and house more the four (4) dogs on her property that is zoned A-2, Rural Transitional Agriculture.
2. The property is located at 3131 Fuller Road and identified in Township 7 North, Range 1 West, Section 34, of the Boise Meridian, Gem County Idaho.
3. The subject property consists of approximately 10 acres in size and lies fully within the County Residential Area, Priority Growth Area #1, as designated on the Future Land Use Map in the Comprehensive Plan.
4. The record includes all testimony, application materials, the staff report, exhibits and documents in Special Use Permit file #SUP-21-001.
5. Notice of the public hearing was provided in accordance with requirements of Title 67, Chapter 65, Idaho Code and Gem County Code 11-15-5.
6. The Zoning Commission held a public hearing on May 17, 2021. The applicant testified in favor along with three members of the public and two members of the public testified in opposition.
7. The Zoning Commission voted unanimously to approve the Special Use Permit with conditions.

Conclusions of Law

The Zoning Commission has the authority to hear this request and shall either approve, conditionally approve or disapprove the application as presented. The public notice requirements were met and the hearing was conducted within the guidelines of applicable Idaho Code and County ordinances. Pursuant to section 11-7-3 of the Gem County Code (Zoning Ordinance related to Special Use Permits), the Commission finds adequate evidence of each of the General Standards for Special Use #SUP-21-001, as follows:

- A. Will in fact, constitute a special use as established on the Official Schedule of District Regulations for the zoning district involved;

The Commission finds that the proposed kennel lies within the A-2, Rural Transitional Agriculture zone. Gem County Code 11-5-5, Zoning Matrix does allow kennels within the A-2 zone and is, therefore, found to constitute a special use as established on the Official Schedule of District Regulations.

Will be harmonious with and in accordance with the general objectives or with any specific objective of the Comprehensive Plan and/or the Zoning Ordinance;

The Commission finds that the proposed use, if operated according to the proposed conditions of approval, will be in accordance with the objectives and policies of the "County Residential Area, Priority Growth Area #1" designation on the Future Land Use Map of the Comprehensive Plan, as outlined in Section 5 of the accompanying staff report.

- B. Will be designed, constructed, operated and maintained to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such use will not change the essential character of the same area;

The Commission finds the existing character of the area is rural with agricultural uses, with scattered single-family residential and agricultural uses in the vicinity. The intended character of the area (as defined in Chapter 12 of the Comprehensive Plan) is an area set aside for primarily residential development and to maintain the uniquely rural character and to preserve non-conforming uses.

The ability to own and raise animals and even some level of animal noise such as barking is to be expected in these rural parts of the county and does not change its essential character. Some barking or other animal or agricultural type sounds have been determined acceptable by the Commission in the past and do not change the essential character of the rural area. Only excessive, persistent barking would be deemed a nuisance and out of character for the agricultural character of this area. For this reason, the Commission finds some special conditions are necessary in order to protect the character of the area.

In 2012, Gem County Board of Commissioners did amend the Gem County Code to specify that "excessive, continuous or untimely barking or noise, during the hours of ten o'clock (10:00) P.M. to seven o'clock (7:00) A.M." is now prohibited. The Sheriff's Office responds to complaints that fall within this timeframe. Outside of these night hours, the barking or animal noise must reach a level of actual public nuisance before any regulatory action would be taken.

The Commission finds that determining what is "harmonious" in a particular neighborhood relies strongly on the residents of that neighborhood. As such, the Commission finds some special conditions are necessary in order to be harmonious.

- C. Will not be hazardous or disturbing to existing or future neighboring uses;

Two written comments were submitted by neighbors in response to the public notice for this application – in opposition. The Commission finds that the proposed use should not be hazardous or disturbing to neighboring uses except for the potential for excessive barking. This is an issue that the Commission addressed through conditions of approval, i.e., bark collars. If it is not complied with and a disturbance is created, the condition would allow for enforcement or permit modification, such as reducing the number of dogs, constructing soundproof housing, revoking the permit or other methods of controlling the noise.

- D. Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer and schools; or that the persons or agencies responsible for the establishments of the proposed use shall be able to provide adequately any such services;

Commission finds that the proposed use could be adequately served by the Gem County Sheriff's Department, Mosquito Abatement, Emmett Sanitation and Gem Rural Fire District #1. There were no public service provider comments were received.

- E. Will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community;

The proposed use is not expected to create excessive costs on any public facility with the addition of a personal dog kennel to what is existing on the property. The applicant is responsible for paying any improvement costs that may be associated with the kennel in the future. There are no anticipated

negative impacts on the public road system, EMS or school district. If operated in accordance with county and health department regulations, it should not be detrimental to the economic welfare of the community.

- F. Will not involve uses, activities, processes, materials, equipment and conditions or operation that will be detrimental to any persons, property or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors;

As noted in finding D above, the main foreseeable detriment to the general welfare could be excessive barking if there were more than 4 dogs outside of the kennel at any one time, depending upon the type of breed.

The Commission finds that determining what is "detriment" in a particular neighborhood relies strongly on the residents of that neighborhood. As such, the Commission finds some special conditions are necessary in order to not be detrimental.

- G. Will have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding public thoroughfares;

There should be no new vehicular access points created with this project and none are proposed. The existing driveway is found to be adequate for the proposed kennel. Excessive traffic is not anticipated for a personal kennel.

- H. Will not result in the destruction, loss or damage of a natural, scenic or historic feature of major importance.

The Commission finds that the application would not result in the destruction, loss or damage of a natural, scenic or historic feature of major importance. There are no known historical structures in the area.

Order

Based upon the Findings of Fact, Conclusions of Law contained herein for Special Use Permit # SUP-21-001, the Zoning Commission hereby approves the special use permit request subject to the site-specific conditions attached hereto and incorporated herein as Exhibit A.

Notice to Applicant

In accordance with Idaho Code Section 67-6535(3), the applicant in this case has the right to request a regulatory takings analysis pursuant to Idaho Code Section 67-8003.

Option to Appeal

In accordance with Gem County Code, Section 11-13-1.B, any person having an interest in real property adversely affected by the Commission's decision has the right to file an Appeal of the Commission decision to the Board of County Commissioners. You must appeal the written decision within twenty (20) days from its rendering. Said appeal must follow the procedures outlined in Section B.1 of the Gem County Code 11-13-1.

DATED this 20th day of May, 2021.

On behalf of the Gem County Zoning Commission:

Jennifer Kharl
Jennifer Kharl, Planning Director

CERTIFICATE OF SERVICE

I hereby certify that on this 20th day of May, 2021, I served a true and correct copy of the foregoing DECISION AND ORDER FOR APPROVAL #SUP-21-001 upon

NAME Anne Rice
ADDRESS 3131 Fuller Road
Emmett, ID 83617

By depositing a copy thereof in the United States mail, with first class postage prepaid.

L. Olson

Lisa Olson, Planning and Building Assistant

EXHIBIT A

SITE SPECIFIC CONDITIONS OF APPROVAL Rice Kennel SUP #21-001

1. This permit is subject to a review by the Zoning Commission in 1 year from the date of permit issuance. A public hearing will be held to determine compliance of the permit in May 2021.
2. The permit is non-transferable to another property and is only valid at 3131 Fuller Road.
3. No more than 19 dogs, six (6) months or older, that are raised, kept, housed or boarded, are permitted on the property at any given time.
4. Uses associated with the kennel shall not generate a noise level to cause a disturbance to surrounding residents. Any persistent noise nuisance may be cause for reducing the maximum number of allowed dogs or revoking the permit. Bark collars or other barking or noise restraints shall be utilized and kept in good working order to comply with this condition during the training sessions.
5. The owner shall have a continuing obligation to maintain adequate housekeeping and sanitation practices and remain in compliance with all current public health guidelines designed to prevent the creation of a public nuisance and to reduce to a minimum the factors of noise and odor.

GCC 11-7-11: LAND USE TIME LIMITATIONS:

- (1) Commencement: When a special use permit is granted, the land use or construction of its facility proposed in the application must have commenced within one (1) year of the date of the final decision by the Commission, or the Board or a court of appropriate jurisdiction (if appealed) and completed within two (2) years of the same date. Upon expiration of the use or the approval of that use as provided by this section, the applicant can seek approval of the use only by filing a new initial application for review by the Commission.
- (2) Expiration: After the one (1) year period has expired, if any person, including staff or member of the Commission, files a written notice presenting sufficient evidence, as determined by the Administrator, to establish that the land use or construction of its facility provided for in the special use permit, has not commenced, or after the two (2) year period that said use has been abandoned or has ended, the Commission may find that the use has not been implemented or has been abandoned or has ended. If so, the Commission shall set aside the prior approval and order the property to revert to its prior status. An aggrieved person may appeal any Commission decision made under this section to the Board pursuant to Chapter 11-7-9 of this chapter.

GCC 11-7-12: REQUEST FOR EXTENSION:

- (1) Request: An applicant may request extension of the time period provided by this section by filing an application for extension with the Administrator. Such application must be filed at least sixty (60) calendar days prior to expiration of the one (1) year period for commencement of the land use or sixty (60) calendar days prior to the expiration of the two (2) year period for completion of the project. The matter shall be heard at a public hearing before the Commission or the Board, whichever made the final decision, in accordance with the notice and hearing procedures of this chapter. If the application is not timely filed, it

shall be denied. A renewal extension, if granted, may be limited to three hundred sixty five (365) calendar days, which shall commence at the expiration of either period.

- (2) Decision: The Commission or the Board may extend the commencement period or the completion period as provided above upon proof of good cause by the applicant. The burden of proof as to the showing of good cause for the extension shall be on the applicant, and good cause shall be determined at the discretion of the Commission or the Board.



EXHIBIT C

BEFORE THE ZONING COMMISSION

GEM COUNTY, IDAHO

In Re:)	ORDER AMENDING
ANNE RICE KENNEL)	CONDITIONS OF APPROVAL
SPECIAL USE PERMIT #21-001)	

I.

SUMMARY OF DECISION

This matter came before the Gem County Zoning Commission on May 9, 2022 for a public hearing to review the conditions of approval for Special Use Permit #21-001 based on condition of approval #1 requiring a public hearing 1 year after issuance to review conformance of the permit. One member of the public testified in opposition and submitted videos showing the dogs barking and the applicant testified in favor.

The Gem County Zoning Commission voted unanimously to keep the Special Use Permit as it is found to be in conformance and amend the conditions of approval, as set forth in **Exhibit A Amended Conditions of Approval**, attached hereto and incorporated herein. Pursuant to vote of the Zoning Commission, **Exhibit A** shows the amendments as follows: the conditions no longer required or altered are indicated by the strikethrough text and the conditions added are underlined.

Commission Vote

Motion: Approve

Commissioner Jones	<u>Yea</u>
Commissioner Vickery	<u>Yea</u>
<u>In case of tie vote</u>	
Chairman Eichelberger	<u>N/A</u>

II.
Order

IT IS NOW THEREFORE HEREBY ORDERED that the SPECIAL USE PERMIT APPLICATION NUMBER 21-001 is APPROVED AND FOUND TO BE IN COMFORMANCE with the amended conditions, attached hereto as **Exhibit A** and subject to the summary of decision, set forth above.

III.

Notice to Applicant

In accordance with Idaho Code Section 67-6535(c), the applicant in this case has the right to request a regulatory takings analysis pursuant to Idaho Code Section 67-8003.

IV.

Option to Appeal

In accordance with Gem County Code, Section 11-13-1.B, any person having an interest in real property adversely affected by the Commission's decision has the right to file an Appeal of the Commission decision to the Board of County Commissioners. An appeal of the written decision must be filed with the County Clerk within twenty (20) days from its rendering. Said application for appeal must follow the procedures outlined in Section B.1 of GCC 11-13-1.

On behalf of the Gem County Zoning Commission:



(Jennifer Kharl, Planning Director)

IT IS NOW THEREFORE HEREBY ORDERED that the Conditions of Approval for Special Use Permit 21-001 are amended as referenced above.

DATED this 17 day of May, 2022.

CERTIFICATE OF SERVICE

I hereby certify that on this 17 day of May, 2022, I served a true and correct copy of the foregoing DECISION AND ORDER upon

Name Anne Rice

Address 3131 Fuller Rd
Emmett, ID 83617

by depositing a copy thereof in the United States mail, with first class postage prepaid.

Stephanie Cray

Stephanie Crays, Development Services Coordinator

Amended Site Specific Conditions of Approval

1. This permit is subject to a review by the Zoning Commission in 1 year from the date of permit issuance. ~~A public hearing will be held to determine compliance of the permit in May 2021.~~
2. The permit is non-transferable to another property and is only valid at 3131 Fuller Road.
3. No more than 19 dogs, not to be replaced when leave, six (6) months or older, that are raised, kept, housed or boarded, are permitted on the property at any given time.
4. Uses associated with the kennel shall not generate a noise level to cause a disturbance to surrounding residents. Any persistent noise nuisance may be cause for reducing the maximum number of allowed dogs or revoking the permit. ~~Bark collars or other barking or noise restraints shall be utilized and kept in good working order to comply with this condition during the training sessions. If additional issues arise, additional response shall be required.~~
5. The owner shall have a continuing obligation to maintain adequate housekeeping and sanitation practices and remain in compliance with all current public health guidelines designed to prevent the creation of a public nuisance and to reduce to a minimum the factors of noise and odor.
6. To the best of the applicant's ability, construct a sound proof building within 4 months to be used as a feeding shed for the hound dogs for feeding times.

GCC 11-7-11: LAND USE TIME LIMITATIONS: (1) Commencement: When a special use permit is granted, the land use or construction of its facility proposed in the application must have commenced within one (1) year of the date of the final decision by the Commission, or the Board or a court of appropriate jurisdiction (if appealed) and completed within two (2) years of the same date. Upon expiration of the use or the approval of that use as provided by this section, the applicant can seek approval of the use only by filing a new initial application for review by the Commission.

- (2) Expiration: After the one (1) year period has expired, if any person, including staff or member of the Commission, files a written notice presenting sufficient evidence, as determined by the Administrator, to establish that the land use or construction of its facility provided for in the special use permit, has not commenced, or after the two (2) year period that said use has been abandoned or has ended, the Commission may find that the use has not been implemented or has been abandoned or has ended. If so, the Commission shall set aside the prior approval and order the property to revert to its prior status. An aggrieved person may appeal any Commission decision made under this section to the Board pursuant to Chapter 11-7-9 of this chapter.

GCC 11-7-12: REQUEST FOR EXTENSION:

- (1) Request: An applicant may request extension of the time period provided by this section by filing an application for extension with the Administrator. Such application must be filed at least sixty (60) calendar days prior to expiration of the one (1) year period for commencement of the land use or sixty (60) calendar days prior to the expiration of the two (2) year period for completion of the project. The matter shall be heard at a public hearing before the Commission or the Board, whichever made the final decision, in accordance with the notice and hearing procedures of this chapter. If the application is not timely filed, it shall be denied. A renewal extension, if granted, may be limited to three hundred sixty five (365) calendar days, which shall commence at the expiration of either period.
- (2) Decision: The Commission or the Board may extend the commencement period or the completion period as provided above upon proof of good cause by the applicant. The burden of proof as to the showing of good cause for the extension shall be on the applicant, and good cause shall be determined at the discretion of the Commission or the Board.

Page #2

PUBLIC HEARING – ACTION ITEMS

ACTION ITEM # 1

SPECIAL USE PERMIT REVIEW FOR #SUP-21-001-ANNE RICE-ONE YEAR REVIEW OF DOG KENNEL PERMIT AT 3131 FULLER ROAD.

Director Kharri- Special Use Permit Review approved in May of 2021, one of those conditions was to have a review a year later. In that year the office has received three complaints of dogs barking. With this review zoning commission can leave this Special Use Permit as is or they can modify the condition or revoke the permit.

Applicant:

Rob Cook- 3131 Fuller Road, Idaho-He now is married to Anne Rice. They are outside and the dogs are not an issue. They have seen the videos of the opposed neighbor, the hounds were barking because they heard noise of him videoing also could have been during feeding time. They also submitted a video and it is not loud, and when they do bark they go out and quiet them down and take care of the barking. Bark collars are not an issue with hounds that does not work, hounds are trained up in the mountains. They are aware that if the dogs are barking they make every attempt to quiet the dogs.

Favor: None

Neutral: None

Opposed:

Jordan Alvis-(online) 3135 Fuller Road, Emmett, Idaho. Submitted a letter, and a video. He lives to the east of the kennel. Would like the conditions changed, the dogs are allowed to bark fifteen hours a day. They would like to recommend bark collars and/or sound proof kennels. They have received advice from sheriff's department/code enforcement. They listened to a video online of the applicants also. Opposed to the current conditions, nineteen dogs is a lot of dogs to have.

Rob Cook- The dogs are not allowed to bark. That does not happen, the dogs light up when it is feeding time and the time stamp on that video is feeding time.

Chairman **Eichelberger** closed public hearing 6:32pm

Commission Discussion

SUMMARY MINUTES
GEM COUNTY ZONING COMMISSION
GEM COUNTY COURTHOUSE
May 9, 2022

Page #3

Commissioner **Vickery** they want the permit to stay in place, but it needs to be worded so that they can protect the neighbors, but also it would be hard to rewrite this, they are not licensed dog handlers.

Commissioner **Jones** they suggested the collars and sound proof structure not sure what else they can do.

Chairman **Eichelberger** hound dogs can make constant noise, all dogs can. Nineteen dogs is a lot of dogs. When it's feeding time the dogs do make noise. When people pull up dogs bark to let them know someone is on your property.

Commissioner **Vickery** condition one should be rephrased to not require revisiting the permit, but should allow it. Condition three no more than nineteen dogs, maybe ask to lower the amount of dogs, condition four ask the applicant, sound proof structure. They could add a condition.

Chairman **Eichelberger** good fences make good neighbors. A structure will help the noise.

Rob Cook they would look at steps to be taken. They could build a structure that could help diminish the noise, they would need to be given some time to build this. If a dog passes they don't plan to replace dog. They would need a least 90 days to do the structure. They are asking that if a complaint is given that they be notified.

Commissioner **Vickery** move that they keep in place SUP #21-001 with the alterations conditions 1. Remove 2nd half. 3. No more than 19 dogs and to not be replaced. 4. No bark collars. 6. Construct a sound proof building within 4 months.

Commissioner **Jones** Seconded the motion.

Vote: Unanimous



EXHIBIT E

GEM COUNTY DEVELOPMENT SERVICES DEPARTMENT
109 S. MCKINLEY AVENUE EMMETT, IDAHO 83617
OFFICE OF THE ADMINISTRATOR
CODE ENFORCEMENT

Phone: 208-365-5144

Web Page: www.gemcounty.org

September 25, 2023

MEMORANDUM FOR RECORD

Re: Rice kennel SUP #21-001

This permit was approved for 3131 Fuller Road. Since it's implementation there has been frequent verbal and written complaints about the failure to control the at all hours barking coming from the property.

There has been no apparent effort on the permit holder's part to manage or curtail the issue of barking in the ensuing time since the permit was issued. Multiple site visits during this period have not shown any changes to mitigate the issue. The construction of a sound proofing structure was never accomplished as noted in the existing permit conditions.

I have been advised that the Sheriff Department has been called out on several occasions for barking after 10:00 pm and other issues with the property residents.

It is my considered opinion that this permit be revoked and direction given to bring the property into compliance per County Ordinance (No more than 4 dogs over the age of 6 months).

Should the permit be allowed to stay in force, more specific requirements must be implemented to provide for compliance and valid enforcement to be possible.

A handwritten signature in black ink that reads "Larry D Robertson".

Larry D Robertson
Code Enforcement Officer
lrobertson@co.gem.id.us
208-477-2214

ADVANCED SEARCH RESULTS

Selected	Case Number ⬆	Case Date ⬆	Parcel ⬆	Property Address ⬆	Owner ⬆	Complainant Name ⬆	Complainant Address ⬆	Com P
<input type="checkbox"/>	391	04/27/2023	RP07N01W343600	3131 FULLER RD	MCCRACKEN GARY L	Janine Strauss	3165 Fuller Rd	
<input type="checkbox"/>	390	05/04/2023	RP07N01W343600	3131 FULLER RD	MCCRACKEN GARY L	Leland F Gotcher Jr	2751 N Plaza rd	2080 1665
<input type="checkbox"/>	384	04/24/2023	RP07N01W343600	3131 FULLER RD	MCCRACKEN GARY L	Jordan Alvis	3151 Fuller Rd	2080-0193
<input type="checkbox"/>	351	09/20/2021	RP07N01W343600	3131 FULLER RD	MCCRACKEN GARY L	Janine Strauss	3165 Fuller Rd.	2080
<input type="checkbox"/>	350	09/13/2021	RP07N01W343600	3131 FULLER RD	MCCRACKEN GARY L	Jordan Alvis	3151 Fuller Rd.	2080
<input type="checkbox"/>	318	08/28/2020	RP07N01W343600	3131 FULLER RD	MCCRACKEN GARY L	Jordan Alvis	3151 Fuller Rd.	2080

1
Records 1

Larry Robertson

From: JAlvisllc <jalvisllc@gmail.com>
Sent: Monday, September 25, 2023 12:06 PM
To: Larry Robertson
Subject: Re: Rice Kennel Permit
Attachments: image001.jpg

Thank you for the update. Received the notice and will write a letter and be at the hearing. Hopefully a better outcome will be a result. The following day(11th) I will be appearing in county court over Ann Rices husband coming to my house to fight over this permit and dog problem. He would not leave and was sighted for trespassing. Accounts videoed. Its a real problem with the dogs but they are now having issue controlling themselves regarding this issue.

On Mon, Sep 11, 2023 at 11:45 AM Larry Robertson <lrobertson@co.gem.id.us> wrote:

Jordan, just to advise you, it has taken a while, but they are scheduled to have a hearing on their permit with the P&Z Commission on Oct 10th at 6:00 pm in the courthouse. You will be receiving formal notice through the mail. Larry

Larry D Robertson



Gem County

Code Enforcement Officer & ADA Coordinator

208-477-2214

Radio – PZ 100

GEM COUNTY CONFIDENTIALITY DISCLAIMER: *This message (including any attachments) may be privileged, confidential and/or protected from disclosure under applicable law. It is intended only for the use of the individual or entity above-named. You are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you are not the intended recipient please notify the sender by reply email and immediately delete this email.*

GEM COUNTY
SHERIFF'S DEPT.

No 19335

IDAHO UNIFORM CITATION

IN THE DISTRICT COURT OF THE 3RD JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF GEM
STATE OF IDAHO

COMPLAINT AND SUMMONS

vs.

- ☒ Infraction Citation
OR
☐ Misdemeanor Citation
☐ Accident Involved
☐ Commercial Vehicle Driven by this Driver
☐ Traffic Safety Education

19335

No

T Rice
Last Name

Annette
First Name

e
Middle Initial

IPUC # _____ USDOT TK Census # _____

☐ Operator ☐ Class A ☐ Class B ☐ Class C ☒ Class D ☐ Other _____

☐ GVWR 26001 + ☐ 16 + Persons ☐ Placard Hazardous Materials DR# _____

Home Address 3131 Fuller Rd Emmett Id 83617

Business Address _____ Ph # _____

THE UNDERSIGNED OFFICER (PARTY) HEREBY CERTIFIES AND SAYS:

I certify I have reasonable grounds, and believe the above-named Defendant,

☒ DL or SS# ZA1027294 State Id Sex: ☐ M ☒ F

Height 5'03 Wt. 130 Hair Red Eyes Haz DOB 6/20/1974

Veh. Lic.# _____ State _____ Yr. of Vehicle _____ Make _____

Model _____ Color _____

Did commit the following act(s) on June 21, 20 23 at 11:00 o'clock P M.

M.I. Vio. #1 1 Dog Nuisances - County Code 5-5-7 Code Section

Vio. #2 Code Section

FIRST Location 3131 Fuller Rd Emmett Id 83617
Hwy. _____ Mp. _____ GEM County, Idaho.

Date 6/21/23 Officer/Party [Signature] Serial #/Address _____ Dept. _____

Date 6/21/23 Witnessing Officer Cpl. J. Gibson Serial #/Address 288 Dept. BCSO

THE STATE OF IDAHO TO THE ABOVE NAMED DEFENDANT:

LAST You are hereby summoned to appear before the Clerk of the Magistrate's Court of the
District Court of GEM County, EMMETT, Idaho,
located at 415 EAST MAIN on or after June 23 20 23
but on or before July 7th, 20 23, at 4:00 o'clock P M.

I acknowledge receipt of this summons and I promise to appear at the time indicated.

[Signature]
Defendant's Signature

I hereby certify service upon the defendant personally on June 21, 20 23

Cpl. J. Gibson # 288
Officer

NOTICE: See reverse side of your copy for PENALTY and COMPLIANCE instructions.



Case #: 384

Case Date: 04/24/23

Complainant Jordan Alvis
Name:

Complainant 3151 Fuller Rd
Address:

Complainant 208-365-0193
Phone:

Complaint Violation of Special use Permit SUP-21-001. Kennel Permit violation of barking dogs and
Reported: kennel requirements per permit not being adhered to. Directed by County Zoning Commission to file complaint for enforcement and recording. Video evidence of violations being sent to code enforcement VIA email as per request of county admin.

Close Date:

Status: Pending

Description: Violation of Special use Permit SUP-21-001. Kennel Permit violation of barking dogs and kennel requirements per permit not being adhered to. Directed by County Zoning Commission to file complaint for enforcement and recording. Video evidence of violations being sent to code enforcement VIA email as per request of county admin.

Status:

Assigned To: Larry D Robertson

Property

Parcel #	Address	Legal Description	Owner Name	Owner Phone	Zoning
RP07N01W343600	3131 FULLER RD	07N 01W SEC 34 TAX4521	MCCRACKEN GARY L		

Violations

Date	Violation	Description	Notes	Status
04/24/2023	Permit Violation			Pending

Notes

Date	Note	Created By:
2023-05-18	Site visit, no one home, no evidence of a kennel structure.	Larry Robertson

Uploaded Files

Date	File Name
04/24/2023	
04/24/2023	
04/24/2023	

Larry Robertson

From: JAlvisllc <jalvisllc@gmail.com>
Sent: Sunday, April 23, 2023 8:41 PM
To: Larry Robertson
Subject: #614744012 - Permit Violation - Video #1of3
Attachments: IMG_0422.mov

See attachment for video. Email will only allow one video per email. Currently have over 100 since January 1st but more available from the last year. A larger group of videos will be sent through GoogleDocs.

Larry Robertson

From: JAlvisllc <jalvisllc@gmail.com>
Sent: Sunday, April 23, 2023 10:09 PM
To: Larry Robertson
Subject: #614744012-Permit Violation-Video 2of3
Attachments: 1489.mp4

See attachment for video. Email will only allow one video per email. Currently have over 100 since January 1st but more available from the last year. A larger group of videos will be sent through GoogleDocs.

Larry Robertson

From: JAlvisllc <jalvisllc@gmail.com>
Sent: Sunday, April 23, 2023 10:30 PM
To: Larry Robertson
Subject: #64744012-Permit Violation-Video 3of3
Attachments: 1581.mp4

See attachment for video. Email will only allow one video per email. Currently have over 100 since January 1st but more available from the last year. A larger group of videos will be sent through GoogleDocs.



Case #: 391

Case Date: 04/27/23

Complainant Janine Strauss

Name:

Complainant 3165 Fuller Rd

Address:

Complainant

Phone:

Complaint

Reported:

Close Date:

Status: Pending

Description: Dog Kennel permit is allowing dogs to bark and be kept outside of kennel location. Barking is loud and for long periods of time. Often all day and hours at a time.

Status:

Assigned To: Larry D Robertson

Property

Parcel #	Address	Legal Description	Owner Name	Owner Phone	Zoning
RP07N01W343600	3131 FULLER RD	07N 01W SEC 34 TAX4521	MCCRACKEN GARY L		

Violations

Date	Violation	Description	Notes	Status
09/25/2023	Permit Violation			Pending



Case #: 390

Case Date: 05/04/23

Complainant Leland F Gotcher Jr
Name:

Complainant 2751 N Plaza rd
Address:

Complainant 208 631-1665
Phone:

Complaint
Reported:

Close Date:

Status: Pending

Description: Dogs bark almost every time is walk out in my yard. This is a very large nuisance. I can't carry out a conversion while out in my front yard.

Status:

Assigned To: Larry D Robertson

Property

Parcel #	Address	Legal Description	Owner Name	Owner Phone	Zoning
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Violations

Date	Violation	Description	Notes	Status
09/25/2023	Permit Violation			Pending



GEM COUNTY DEVELOPMENT SERVICES DEPARTMENT

109 S. MCKINLEY AVENUE EMMETT, IDAHO 83617

**OFFICE OF THE ADMINISTRATOR
CODE ENFORCEMENT**

Phone: 208-365-5144

Web Page: www.gemcounty.org

July 3, 2023

Anne Rice
3131 Fuller Road
Emmett, ID 83617

Subject: SUP #21-001 re: Noise complaints

This office continues to receive complaints regarding excessive barking at all hours.

On May 17, 2022, SUP #21-001 was approved with amendments from the original SUP #21-001, dated May 20th, 2021. Item 4 of the amended conditions states that "If additional issues arise, additional response shall be required." And item 6 required the construction of a sound proof building within 4 months to be used as a feeding shed.

As a result of the ongoing issue of noise (barking), the issued Special Use Permit is under review by this office. Your response is requested within 10 days for inclusion in our review. Development Services may determine that the matter requires Zoning Commission review and may set the matter before that Commission. Should that occur, you will be notified of the date and time for review. Any and all information you have to assist in the review is appreciated and will be included in the file for your special use permit.

Should you have any questions, please contact this office.

A handwritten signature in black ink, reading "Larry D Robertson".

Larry D Robertson
Code Enforcement Officer
lrobertson@co.gem.id.us

CC: Planning Director
File

Amended Site Specific Conditions of Approval

1. This permit is subject to a review by the Zoning Commission in 1 year from the date of permit issuance. ~~A public hearing will be held to determine compliance of the permit in May 2021.~~
2. The permit is non-transferable to another property and is only valid at 3131 Fuller Road.
3. No more than 19 dogs, not to be replaced when leave, six (6) months or older, that are raised, kept, housed or boarded, are permitted on the property at any given time.
4. Uses associated with the kennel shall not generate a noise level to cause a disturbance to surrounding residents. Any persistent noise nuisance may be cause for reducing the maximum number of allowed dogs or revoking the permit. Bark collars or other barking or noise restraints shall be utilized and kept in good working order to comply with this condition during the training sessions. If additional issues arise, additional response shall be required.
5. The owner shall have a continuing obligation to maintain adequate housekeeping and sanitation practices and remain in compliance with all current public health guidelines designed to prevent the creation of a public nuisance and to reduce to a minimum the factors of noise and odor.
6. To the best of the applicant's ability, construct a sound proof building within 4 months to be used as a feeding shed for the hound dogs for feeding times.

GCC 11-7-11: LAND USE TIME LIMITATIONS: (1) Commencement: When a special use permit is granted, the land use or construction of its facility proposed in the application must have commenced within one (1) year of the date of the final decision by the Commission, or the Board or a court of appropriate jurisdiction (if appealed) and completed within two (2) years of the same date. Upon expiration of the use or the approval of that use as provided by this section, the applicant can seek approval of the use only by filing a new initial application for review by the Commission.

- (2) Expiration: After the one (1) year period has expired, if any person, including staff or member of the Commission, files a written notice presenting sufficient evidence, as determined by the Administrator, to establish that the land use or construction of its facility provided for in the special use permit, has not commenced, or after the two (2) year period that said use has been abandoned or has ended, the Commission may find that the use has not been implemented or has been abandoned or has ended. If so, the Commission shall set aside the prior approval and order the property to revert to its prior status. An aggrieved person may appeal any Commission decision made under this section to the Board pursuant to Chapter 11-7-9 of this chapter.

GCC 11-7-12: REQUEST FOR EXTENSION:

- (1) Request: An applicant may request extension of the time period provided by this section by filing an application for extension with the Administrator. Such application must be filed at least sixty (60) calendar days prior to expiration of the one (1) year period for commencement of the land use or sixty (60) calendar days prior to the expiration of the two (2) year period for completion of the project. The matter shall be heard at a public hearing before the Commission or the Board, whichever made the final decision, in accordance with the notice and hearing procedures of this chapter. If the application is not timely filed, it shall be denied. A renewal extension, if granted, may be limited to three hundred sixty five (365) calendar days, which shall commence at the expiration of either period.
- (2) Decision: The Commission or the Board may extend the commencement period or the completion period as provided above upon proof of good cause by the applicant. The burden of proof as to the showing of good cause for the extension shall be on the applicant, and good cause shall be determined at the discretion of the Commission or the Board.



GEM COUNTY DEVELOPMENT SERVICES DEPARTMENT
109 S. MCKINLEY AVENUE EMMETT, IDAHO 83617
OFFICE OF THE ADMINISTRATOR
CODE ENFORCEMENT

Phone: 208-365-5144

Web Page: www.gemcounty.org

May 16, 2023

Anne Rice
3131 Fuller Road
Emmett, ID 83617

Subject: Non-adherence to stipulations of SUP#21-001

This office has received complaints from multiple residents for excessive barking at all hours, especially during late evening hours. Refer to Item 4 in the Site Specific Conditions in your Special Use Permit.

Additionally, we have recorded evidence of this being the case on numerous occasions.

This is a clear violation of the stipulation in the permit that was approved. Further such occurrences will put your permit in jeopardy of being revised/revoked.

Should you have any questions, please contact this office.

A handwritten signature in black ink, reading "Larry D. Robertson".

Larry D Robertson
Code Enforcement Officer
lrobertson@co.gem.id.us

CC: Planning Director
File



Case #: 318

Case Date: 08/28/20

Complainant Jordan Alvis

Name:

Complainant 3151 Fuller Rd.

Address:

Complainant 2085594962

Phone:

Complaint Aware of 12 Adult dogs. 3 hounds, 1 Boxer, 6 Chihuahuas, and 2 mutts. Barking at all hours.

Reported: Sheriff has been called out twice for County Violations of barking and filed Nuisance complaint as requested by Sheriff. 'Dogs at large' at times but not had Sheriff ticket but have Video of violations. See the following link for videos:

https://www.youtube.com/channel/UC5SyyVq_Vi5JUutqdl3Zouw/videos?view_as=subscriber

Close Date:

Status: Closed

Description: Aware of 12 Adult dogs. 3 hounds, 1 Boxer, 6 Chihuahuas, and 2 mutts. Barking at all hours. Sheriff has been called out twice for County Violations of barking and filed Nuisance complaint as requested by Sheriff. 'Dogs at large' at times but not had Sheriff ticket but have Video of violations. See the following link for videos:

https://www.youtube.com/channel/UC5SyyVq_Vi5JUutqdl3Zouw/videos?view_as=subscriber

Status:

Assigned To: Larry D Robertson

Property

Parcel #	Address	Legal Description	Owner Name	Owner Phone	Zoning
RP07N01W343600	3131 FULLER RD	07N 01W SEC 34 TAX4521	MCCRACKEN GARY L		

Violations

Date	Violation	Description	Notes	Status
08/28/2020	Animals - More than 4 dogs over 6 months old			Closed

Notes

Date	Note	Created By:
2021-05-13	Kennel permit in process for public hearing.	Larry Robertson
2020-11-24	Left voicemail to have application in first of next week, or a citation will be issued.	Larry Robertson
2020-09-09	Spoke with Anne Rice (tenant), will submit application for kennel within 30 days - 208-509-7768	Larry Robertson
2020-08-28	See the following link for videos: https://www.youtube.com/channel/UC5SyyVq_Vi5JUutqdl3Zouw/videos?view_as=subscriber	Larry Robertson



Case #: 350

Case Date: 09/13/21

Complainant Jordan Alvis
Name:

Complainant 3151 Fuller Rd.
Address:

Complainant 2085594962
Phone:

Complaint
Reported:

Close Date:

Status: Closed

Description: Permit #SUP-21-001. See Section "C" in permit for requirements regarding complaint. Videos to validate complaint will be emailed to the following: Lrobertson@gem.id.us. Dogs are barking loudly and excessively. Bark collars and sounds proof kennels not in use. Barking can be loudly heard within home and dogs are left outside to bark at will. Dogs have been left to bark as late as 11:30 at night and for hours at time. Tennant has not made changes as per zoning commissions requirements to permit issued May 20th 2021. Several hundred videos available for review since issuing of permit but will send sampling to email mentioned. Barking Nuisance occurs daily.

Status:

Assigned To: Larry D Robertson

Property

Parcel #	Address	Legal Description	Owner Name	Owner Phone	Zoning
RP07N01W343600	3131 FULLER RD	07N 01W SEC 34 TAX4521	MCCRACKEN GARY L		

Violations

Date	Violation	Description	Notes	Status
09/13/2021	Permit Violation			Open

Uploaded Files

Date	File Name
09/13/2021	



Case #: 351

Case Date: 09/20/21

Complainant Janine Strauss

Name:

Complainant 3165 Fuller Rd.

Address:

Complainant 2088606097

Phone:

Complaint Dogs barking

Reported:

Close Date:

Status: Closed

Description: Dogs barking loudly and for hours at a time. Kennel permit was to require bark collars and sound proof kennel which are not being used. Barking late into night and cannot be outside or have windows open. Dogs can be heard when left indoors and is a nuisance.

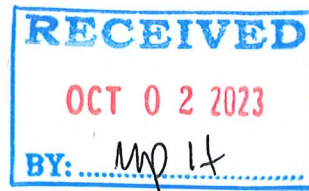
Status:

Assigned To: Larry D Robertson

Property

Parcel #	Address	Legal Description	Owner Name	Owner Phone	Zoning
RP07N01W343600	3131 FULLER RD	07N 01W SEC 34 TAX4521	MCCRACKEN GARY L		

EXHIBIT F



October 1, 2023

To whom it may concern:

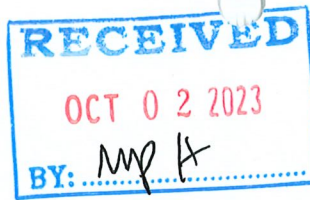
I live at 3165 Fuller Rd and adjacent to this property with a kennel permit for Anne Rice. It appears that the only time these dogs are not a nuisance is shortly after the counties involvement but with time things return to being disruptive.

Odd that this process is so long and no measures are working. Can the commission review what is affective in similar cases? Does the Code enforcement officer have recommendation? This is many years and all one wishes is to have peace, both inside and outside the home.

Please to the benefit of those living here take appropriate measures.

Thank you,

Janine Strauss



Monday Oct 2, 2023

Gem County Development Services Department
109 S. McKinley Avenue
Emmett, ID 83617

Zoning Commission:

In regards to Public Notice for Suzanne McCrackens tenant Anne Rice, permit SUP-21-602.

It is now over 3 years since the counties involvement in this kennel permit. With regret the results have not changed. Dogs are left to bark as have been described and documented to this zoning department both by neighbors and Code Enforcement. You can review these accounts from the past 2 public hearings, letters, code complaints, Code Enforcement, Gem County Sheriff Department, and videos submitted over the last 3 years.

The county has allotted the applicant an unorthodox series of opportunities to remedy these complaints. Allowed 9 months to apply for permit, Non enforceable limits to permit for the first year, dogs added to permit from 7 to 19 during first public hearing, additional public hearing at years end, provided out of turn time to comment in hearings, allowed to participate in deciding a solution with commissioners during second hearing, and many more. Now a 3rd public hearing. If this commission were to review other permits none of these actions would be seen.

To what purpose and function is this process? Why does this commission choose to ignore the recommendations of the neighbors who are affected?

As I and others have recommended sound proof kennels (not sound quiet), less dogs on permit, and bark collars are needed. Although little value are such things without allowing enforceable measures with code enforcement. Writing the permit in contrast to the commissions vote as has been done in the past and/or waiting another year to make changes is a disservice to this community and erodes trust in such authorities.

It is a thankless and difficult job the commission under takes but it is not a forced position. Please fulfill the duty of service you have stepped into and address this with certainty.

Sincerely,

Jordan Alvis
3151 Fuller Rd,
Emmett, ID 83617



GEM COUNTY DEVELOPMENT SERVICES DEPARTMENT

109 S. MCKINLEY AVENUE EMMETT, IDAHO 83617

OFFICE OF THE ADMINISTRATOR
PLANNING & ZONING

PHONE (208) 365-5144

WEB PAGE WWW.GEMCOUNTY.ORG

September 14, 2023

Anne Rice
3131 Fuller Road
Emmett, Idaho 83617

Dear Ms. Rice,

Your Special Use Permit compliance review, has been scheduled for a public hearing before the Gem County Planning and Zoning Commission in the County Courthouse, located at 415 E. Main Street, at **6:00 P.M. on Tuesday, October 10, 2023**. The Planning and Zoning Commission will be determining if your Special Use Permit is in compliance with the six conditions of approval they tied to your permit.

You or your representative must be present at the public hearing (**in person**) to make a presentation to the Planning and Zoning Commission. If you have any further questions, please contact this office.

Sincerely,

A handwritten signature in cursive script that reads "Stephanie Crays".

Stephanie Crays
Development Services Coordinator

Cc: Suzanne L. McCracken

emailed - 9-15-23



**TRANSMITTALS TO AGENCIES FOR COMMENTS ON
DEVELOPMENT PROJECTS AND LAND USE CHANGES WITH GEM COUNTY**

To insure that your comments and recommendations will be considered by
the **Gem County Zoning Commission** please submit your
comments and recommendations to Gem County Development Services Office located at 109 S McKinley.

Attn: Stephanie Crays Development Services Coordinator , by: **October 2, 2023 by noon**

Transmittal Date: September 14, 2023

Hearing Date: October 10, 2023

Application Type:

Special Use Permit Compliance Review

Applicants Name:

Anne Rice

Location/Address of Property or Project:

3131 Fuller Road

<input checked="" type="checkbox"/> Gem County Road Department	<input type="checkbox"/> Qwest
<input type="checkbox"/> Gem County Mosquito Abatement	<input type="checkbox"/> Idaho Power Co.
<input type="checkbox"/> Gem County School District #221	<input type="checkbox"/> Digline
<input type="checkbox"/> Gem County Assessor	<input type="checkbox"/> Emmett Irrigation District
<input checked="" type="checkbox"/> Gem County Mapper	<input type="checkbox"/> Federal Aviation Administration
<input checked="" type="checkbox"/> Gem County Sheriff	<input type="checkbox"/> Cable One
<input type="checkbox"/> Gem County Treasurer	<input type="checkbox"/> Idaho Department of Environmental Quality
<input type="checkbox"/> Environmental Protection Agency	<input type="checkbox"/> Idaho Department of Water Resources
<input type="checkbox"/> Emmett Post Office	<input type="checkbox"/> Bureau of Reclamation
<input type="checkbox"/> Southwest District Health	<input type="checkbox"/> Idaho State Department of Agriculture
<input type="checkbox"/> Letha Sewer District	<input checked="" type="checkbox"/> Idaho Department of Transportation
<input type="checkbox"/> Squaw Creek Soil Conservation	<input checked="" type="checkbox"/> Gem County Rural Fire District #1
<input type="checkbox"/> Intermountain Gas Company	<input type="checkbox"/> Last Chance Ditch
<input type="checkbox"/> Army Corps of Engineers	<input type="checkbox"/> Gem County Drainage District #1
<input type="checkbox"/> Gem County Engineer and Surveyor	<input type="checkbox"/> Middleton Fire Protection District
<input type="checkbox"/> Black Canyon Canal	<input type="checkbox"/> City of Emmett

The application is provided as a courtesy to your agency and we encourage your review and comments on the proposed project.
If we do not receive a response by the above date, your agency will be entered into the record as "NO COMMENT"



GEM COUNTY DEVELOPMENT SERVICES DEPARTMENT

109 S. MCKINLEY AVENUE EMMETT, IDAHO 83617

OFFICE OF THE ADMINISTRATOR

PLANNING & ZONING

PHONE (208) 365-5144

WEB PAGE WWW.GEMCOUNTY.ORG

September 14, 2023

To Whom It May Concern:

The Gem County Planning and Zoning Commission will hold a public hearing in the Gem County Courthouse, located at 415 E. Main Street, in addition to Zoom for a compliance review of Special Use Permit #21-001, on **Tuesday, October 10, 2023 at 6:00 P.M.** The Planning and Zoning Commission approved the Special Use Permit, for Anne Rice on May 17, 2021 to allow the dog kennel with six condition of approval.

The property is located at 3131 Fuller Road. T 07N, R 01W, Section 34.

The legal description and complete file is available to view by request. Please contact via email (scrays@co.gem.id.us) or by phone 208-365-5144.

Written correspondence is highly recommended and must be submitted to the Development Services Office (109 South McKinley Ave., Emmett, ID) no later than 12:00 P.M. October 2, 2023. We have a mail slot in our door for convenience or you can send an email to the address above. Written correspondence will be given to the Zoning Commission for consideration and is the best way to share your comments and concerns.

As a courtesy we are notifying you of this application. You are invited to attend this public hearing in person, virtually or by phone to express any opinions you may have. A time limit of three (3) minutes shall be observed for oral comments.

Sincerely,

A handwritten signature in cursive script that reads "Stephanie Crays".

Stephanie Crays
Development Services Coordinator



GEM COUNTY DEVELOPMENT SERVICES DEPARTMENT

109 S. MCKINLEY AVENUE EMMETT, IDAHO 83617

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Sincerely,

A handwritten signature in cursive script that reads "Stephanie Crays".

Stephanie Crays
Development Services Coordinator

CERTIFICATE OF MAILING

I hereby certify that on the 14 day of September 2023, I served a true and correct copy of the foregoing upon:

PROPERTY OWNER LIST WITHIN 300 FEET

Rice

T 07N, R 01W, Section 34

Richard Hall
2550N. Plaza Road
Emmett, ID 83617

Laurie Moyer
3483 Fuller Road
Emmett, ID 83617

Lila Jorgensen
2899 N. Plaza Road
Emmett, ID 83617

Janine Strauss
3165 Fuller Road
Emmett, ID 83617

Jordan Alvis
3151 Fuller Road
Emmett, ID 83617

Janice Lopez
2733 N. River Ranch Lane
Emmett, ID 83617

Larry Degrange
2505 N. Plaza Road
Emmett, ID 83617

Gary McCracken
1899 Eilmington Dr
Boise, ID 83704

Novitas
PO Box 580
Emmett, ID 83617

Jeremiah Vickery
2775 River Ranch Ln
Emmett, ID 83617

Brenda Curtis
2592 N. Plaza Road
Emmett, ID 83617

Christopher Brazil
2830 Chuckwagon LN
Emmett, ID 83617

Chinnock Living Trust
1648 N. Plaza Road
Emmett, ID 83617

Jeremy Roethle
5458 N. Vercelli Way
Meridian, ID 83646

Berniece Moore
3205 Fuller Road
Emmett, ID 83617

Dwayne Lee
3177 Fuller Road
Emmett, ID 83617

Kermit Zahm
3150 Fuller Road
Emmett, ID 83617

Marie Hawkins
3110 Fuller Road
Emmett, ID 83617

Leland Gotcher Jr
2751 N Plaza Road
Emmett, ID 83617

By depositing a copy thereof in the United States mail, with first class postage prepaid.



Stephanie Crays
Development Services Coordinator

Larry Robertson

From: JAlvisllc <jalvisllc@gmail.com>
Sent: Monday, April 24, 2023 7:29 PM
To: Larry Robertson
Subject: Re: #64744012-Permit Violation-Video 3of3

If you review the meeting the commission said that the Sheriff would be called after 10pm at night and to make a complaint to Code Enforcement during all other hours. This was by design a form of accountability. In addition the permit and meeting said the dogs were to have built enclosure so as to not see out and that is not in compliance. The commissions made it clear that code enforcement was to have authority to require needed measures to enforce out of control barking.

If the permit is for the second time omitting what was discussed and voted in the meeting its in the best interest of the County to correct such errors.

On Mon, Apr 24, 2023 at 2:14 PM Larry Robertson <lrobertson@co.gem.id.us> wrote:

We are conducting a review of the permit and will determine if another hearing is justified/allowed. I found out that the Sheriff Department has a rule for late night barking dogs that I suggest you contact them about.

Larry D Robertson



Gem County

Code Enforcement Officer & ADA Coordinator

208-477-2214

Radio – PZ 100

From: JAlvisllc <jalvisllc@gmail.com>
Sent: Sunday, April 23, 2023 10:30 PM
To: Larry Robertson <lrobertson@co.gem.id.us>
Subject: #64744012-Permit Violation-Video 3of3

See attachment for video. Email will only allow one video per email. Currently have over 100 since January 1st but more available from the last year. A larger group of videos will be sent through GoogleDocs.

GEM COUNTY CONFIDENTIALITY DISCLAIMER: *This message (including any attachments) may be privileged, confidential and/or protected from disclosure under applicable law. It is intended only for the use of the individual or entity above-named. You are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you are not the intended recipient please notify the sender by reply email and immediately delete this email.*

Amended Site Specific Conditions of Approval

1. This permit is subject to a review by the Zoning Commission in 1 year from the date of permit issuance. ~~A public hearing will be held to determine compliance of the permit in May 2021.~~
2. The permit is non-transferable to another property and is only valid at 3131 Fuller Road.
3. No more than 19 dogs, not to be replaced when leave, six (6) months or older, that are raised, kept, housed or boarded, are permitted on the property at any given time.
4. Uses associated with the kennel shall not generate a noise level to cause a disturbance to surrounding residents. Any persistent noise nuisance may be cause for reducing the maximum number of allowed dogs or revoking the permit. Bark collars or other barking or noise restraints shall be utilized and kept in good working order to comply with this condition during the training sessions. If additional issues arise, additional response shall be required.
5. The owner shall have a continuing obligation to maintain adequate housekeeping and sanitation practices and remain in compliance with all current public health guidelines designed to prevent the creation of a public nuisance and to reduce to a minimum the factors of noise and odor.
6. To the best of the applicant's ability, construct a sound proof building within 4 months to be used as a feeding shed for the hound dogs for feeding times.

GCC 11-7-11: LAND USE TIME LIMITATIONS: (1) Commencement: When a special use permit is granted, the land use or construction of its facility proposed in the application must have commenced within one (1) year of the date of the final decision by the Commission, or the Board or a court of appropriate jurisdiction (if appealed) and completed within two (2) years of the same date. Upon expiration of the use or the approval of that use as provided by this section, the applicant can seek approval of the use only by filing a new initial application for review by the Commission.

- (2) Expiration: After the one (1) year period has expired, if any person, including staff or member of the Commission, files a written notice presenting sufficient evidence, as determined by the Administrator, to establish that the land use or construction of its facility provided for in the special use permit, has not commenced, or after the two (2) year period that said use has been abandoned or has ended, the Commission may find that the use has not been implemented or has been abandoned or has ended. If so, the Commission shall set aside the prior approval and order the property to revert to its prior status. An aggrieved person may appeal any Commission decision made under this section to the Board pursuant to Chapter 11-7-9 of this chapter.

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- (1) Request: An applicant may request extension of the time period provided by this section by filing an application for extension with the Administrator. Such application must be filed at least sixty (60) calendar days prior to expiration of the one (1) year period for commencement of the land use or sixty (60) calendar days prior to the expiration of the two (2) year period for completion of the project. The matter shall be heard at a public hearing before the Commission or the Board, whichever made the final decision, in accordance with the notice and hearing procedures of this chapter. If the application is not timely filed, it shall be denied. A renewal extension, if granted, may be limited to three hundred sixty five (365) calendar days, which shall commence at the expiration of either period.
- (2) Decision: The Commission or the Board may extend the commencement period or the completion period as provided above upon proof of good cause by the applicant. The burden of proof as to the showing of good cause for the extension shall be on the applicant, and good cause shall be determined at the discretion of the Commission or the Board.

EXHIBIT A

SITE SPECIFIC CONDITIONS OF APPROVAL Rice Kennel SUP #21-001

1. This permit is subject to a review by the Zoning Commission in 1 year from the date of permit issuance. A public hearing will be held to determine compliance of the permit in May 2021.
2. The permit is non-transferable to another property and is only valid at 3131 Fuller Road.
3. No more than 19 dogs, six (6) months or older, that are raised, kept, housed or boarded, are permitted on the property at any given time.
4. Uses associated with the kennel shall not generate a noise level to cause a disturbance to surrounding residents. Any persistent noise nuisance may be cause for reducing the maximum number of allowed dogs or revoking the permit. Bark collars or other barking or noise restraints shall be utilized and kept in good working order to comply with this condition during the training sessions.
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GCC 11-7-11: LAND USE TIME LIMITATIONS:

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5-5-7: DOG NUISANCES:

A. It shall be unlawful for any person who owns, keeps, harbors, or possesses a dog to allow it to become a nuisance to others by any of the following:

1. Excessive, continuous or untimely barking or noise, during the hours of ten o'clock (10:00) P.M. to seven o'clock (7:00) A.M. (Ord. 2012-02, 1-3-2012)

5-5-8: UNIFORM SUMMONS; PROSECUTION:

A. Violation: Unless specifically provided otherwise, a violation of this chapter shall be an infraction. However, individuals charged with a third and/or subsequent violation(s) of this chapter other than section [5-5-4](#), "Dogs At Large", of this chapter, may be charged with a misdemeanor.

B. Citation: The Idaho uniform citation shall be used by the sheriff or the sheriff's designee in the enforcement of this chapter. (Ord. 2012-02, 1-3-2012)

Larry Robertson

From: Gem County <wo@iworq.net>
Sent: Thursday, May 4, 2023 1:17 AM
To: Larry Robertson
Subject: Request #617778217 created through portal

Request #617778217 was created through the online portal.

Complainant Name: Leland F Gotcher Jr

Violation Type: Permit Violation

Complaint: Dogs bark almost every time is walk out in my yard. This is a very large nuisance. I can't carry out a conversion while out in my front yard.

Address in Violation: 3131 Fuller rd.

Complainant Address: 2751 N Plaza rd

Complaint City, State, Zip: Emmett Idaho 83716

Complainant Phone Number: 208 631-1665

Complainant Email Address: Lfgotcher@gmail.com

Click [Here](#) to open Request # 617778217

You are receiving this email because you are marked in the list "Email Options - Request Applications" in the Portal Setup Tab.

Larry Robertson

From: Gem County <wo@iworq.net>
Sent: Thursday, April 27, 2023 11:27 AM
To: Larry Robertson
Subject: Request #616140721 created through portal

Request #616140721 was created through the online portal.

Complainant Name: Janine Strauss

Violation Type: Permit Violation

Complaint: Dog Kennel permit is allowing dogs to bark and be kept outside of kennel location. Barking is loud and for long periods of time. Often all day and hours at a time.

Address in Violation: 3131 Fuller Rd

Complainant Address: 3165 Fuller Rd

Complaint City, State, Zip: Emmett, Idaho 83617

Complainant Phone Number:

Complainant Email Address: iandjstrauss@gmail.com

Click [Here](#) to open Request # 616140721

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SUMMARY MINUTES
GEM COUNTY ZONING COMMISSION
GEM COUNTY COURTHOUSE
May 9, 2022

Page #1

NOTE: AN AUDIO RECORDING OF THE FULL PROCEEDINGS IS AVAILABLE THROUGH THE DEVELOPMENT SERVICES DEPARTMENT. THE EXHIBITS LISTED HEREIN CAN BE FOUND IN THE RESPECTIVE FILES AT DEVELOPMENT SERVICES DEPARTMENT.

MEMBERS PRESENT: Dan Eichelberger, Debra Jones and Justin Vickery.

MEMBERS ABSENT: None.

OTHERS PRESENT: Planning Director – Jennifer Kharri, Associate Planner – Michelle Barron (Moderator), Development Services Coordinator – Stephanie Crays, Road and Bridge Director-Neal Capps.

6:11 P.M.

REGULAR MEETING

1. **CALL TO ORDER:** Chairman **Eichelberger** opened the virtual public meeting at 6:06 PM. via Zoom, held in the Commissioner Chambers.
2. **ROLL CALL:** Dan Eichelberger- present, Debra Jones – present, Justin Vickery– present.
3. **REVIEW AGENDA:** Commission reviewed the agenda as written.
4. **APPROVAL OF MINUTES of April 11, 2022**
Commissioner **Jones** approved the minutes as written.
Commissioner **Vickery** seconded the motion.
Vote: Unanimous.

PUBLIC HEARING – ACTION ITEMS

ACTION ITEM # 1

SPECIAL USE PERMIT REVIEW FOR #SUP-21-001-ANNE RICE-ONE YEAR REVIEW OF DOG KENNEL PERMIT AT 3131 FULLER ROAD.

Director Kharri- Special Use Permit Review approved in May of 2021, one of those conditions was to have a review a year later. In that year the office has received three complaints of dogs barking. With this review zoning commission can leave this Special Use Permit as is or they can modify the condition or revoke the permit.



GEM COUNTY DEVELOPMENT SERVICES DEPARTMENT

109 S. MCKINLEY AVENUE EMMETT, IDAHO 83617

OFFICE OF THE ADMINISTRATOR

CODE ENFORCEMENT

Phone: 208-365-5144

Web Page: www.gemcounty.org

May 16, 2023

Anne Rice
3131 Fuller Road
Emmett, ID 83617

Subject: Non-adherence to stipulations of SUP#21-001

This office has received complaints from multiple residents for excessive barking at all hours, especially during late evening hours. Refer to Item 4 in the Site Specific Conditions in your Special Use Permit.

Additionally, we have recorded evidence of this being the case on numerous occasions.

This is a clear violation of the stipulation in the permit that was approved. Further such occurrences will put your permit in jeopardy of being revised/revoked.

Should you have any questions, please contact this office.

A handwritten signature in black ink, reading "Larry D Robertson".

Larry D Robertson
Code Enforcement Officer
lrobertson@co.gem.id.us

CC: Planning Director
File



GEM COUNTY DEVELOPMENT SERVICES DEPARTMENT
109 S. MCKINLEY AVENUE EMMETT, IDAHO 83617
OFFICE OF THE ADMINISTRATOR
CODE ENFORCEMENT

Phone: 208-365-5144

Web Page: www.gemcounty.org

July 3, 2023

Anne Rice
3131 Fuller Road
Emmett, ID 83617

Subject: SUP #21-001 re: Noise complaints

This office continues to receive complaints regarding excessive barking at all hours.

On May 17, 2022, SUP #21-001 was approved with amendments from the original SUP #21-001, dated May 20th, 2021. Item 4 of the amended conditions states that "If additional issues arise, additional response shall be required." And item 6 required the construction of a sound proof building within 4 months to be used as a feeding shed.

As a result of the ongoing issue of noise (barking), the issued Special Use Permit is under review by this office. Your response is requested within 10 days for inclusion in our review. Development Services may determine that the matter requires Zoning Commission review and may set the matter before that Commission. Should that occur, you will be notified of the date and time for review. Any and all information you have to assist in the review is appreciated and will be included in the file for your special use permit.

Should you have any questions, please contact this office.

A handwritten signature in black ink, reading "Larry D Robertson".

Larry D Robertson
Code Enforcement Officer
lrobertson@co.gem.id.us

CC: Planning Director
File



Case #: 384

Case Date: 04/24/23

Complainant Jordan Alvis

Name:

Complainant 3151 Fuller Rd

Address:

Complainant 208-365-0193

Phone:

Complaint Violation of Special use Permit SUP-21-001. Kennel Permit violation of barking dogs and

Reported: kennel requirements per permit not being adhered to. Directed by County Zoning Commission to file complaint for enforcement and recording. Video evidence of violations being sent to code enforcement VIA email as per request of county admin.

Close Date:

Status: Open

Description: Violation of Special use Permit SUP-21-001. Kennel Permit violation of barking dogs and kennel requirements per permit not being adhered to. Directed by County Zoning Commission to file complaint for enforcement and recording. Video evidence of violations being sent to code enforcement VIA email as per request of county admin.

Status:

Assigned To: Larry D Robertson

Property

Parcel #	Address	Legal Description	Owner Name	Owner Phone	Zoning
RP07N01W343600	3131 FULLER RD	07N 01W SEC 34 TAX4521	MCCRACKEN GARY L		

Violations

Date	Violation	Description	Notes	Status
04/24/2023	Permit Violation			Open

Uploaded Files

Date	File Name
04/24/2023	.mov
04/24/2023	.MP4
04/24/2023	.MP4

Larry Robertson

From: Gem County <wo@iworq.net>
Sent: Friday, April 21, 2023 2:08 PM
To: Larry Robertson
Subject: Request #614744012 created through portal

Request #614744012 was created through the online portal.

Complainant Name: Jordan Alvis

Violation Type: Permit Violation

Complaint: Violation of Special use Permit SUP-21-001. Kennel Permit violation of barking dogs and kennel requirements per permit not being adhered to. Directed by County Zoning Commission to file complaint for enforcement and recording. Video evidence of violations being sent to code enforcement VIA email as per request of county admin.

Address in Violation: 3131 Fuller Rd

Complainant Address: 3151 Fuller Rd

Complaint City, State, Zip: Emmett, Idaho 83617

Complainant Phone Number: 208-365-0193

Complainant Email Address: jalvisllc@gmail.com

Click [Here](#) to open Request # 614744012

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Request #: 616140721

Request Date: 04/27/23 11:27

Complainant Name: Janine Strauss

Violation Type: Permit Violation

Complaint: Dog Kennel permit is allowing dogs to bark and be kept outside of kennel location. Barking is loud and for long periods of time. Often all day and hours at a time.

Address in Violation: 3131 Fuller Rd

Complainant Address: 3165 Fuller Rd

Complaint City, State, Zip: Emmett, Idaho 83617

Complainant Phone Number:

Complainant Email Address: iandjstrauss@gmail.com

Status: Open



Request #: 617778217

Request Date: 05/04/23 01:16

Complainant Name: Leland F Gotcher Jr

Violation Type: Permit Violation

Complaint: Dogs bark almost every time is walk out in my yard. This is a very large nuisance. I can't carry out a conversion while out in my front yard.

Address in Violation: 3131 Fuller rd.

Complainant Address: 2751 N Plaza rd

Complaint City, State, Zip: Emmett Idaho 83716

Complainant Phone Number: 208 631-1665

Complainant Email Address: Lfgotcher@gmail.com

Status: Open