

Commissioners Minutes

June 17, 2024 – 1:30 p.m. to 2:58 p.m.

CONTINUATION OF PUBLIC HEARING: APPEAL BY DANNY AND DEBRA CARDOZA OF THE P&Z COMMISSION'S APPROVAL OF CASE NO. CU2022-0036, A CONFINED ANIMAL FEEDING OPERATION FOR AK FEEDERS, LLC, CASE NO. CU2022-0036-APL

Commissioners Brad Holton, Zach Brooks, and Leslie Van Beek

Assistant DSD Director Jay Gibbons

DSD Associate Planner Debbie Root

Deputy PA Laura Keys

DSD Director Sabrina Minshall

Constituent Services Director Aaron Williams

Other interested citizens

Deputy Clerk Monica Reeves



CONTINUATION OF PUBLIC HEARING: APPEAL BY DANNY AND DEBRA CARDOZA OF THE P&Z COMMISSION'S APPROVAL OF CASE NO. CU2022-0036, A CONFINED ANIMAL FEEDING OPERATION FOR AK FEEDERS, LLC, CASE NO. CU2022-0036-APL

The Board met today at 1:30 p.m. for a continued public hearing in the matter of the appeal by Danny and Debra Cardoza of the P&Z Commission's approval of Case No. CU2022-0036, a confined animal feeding operation (CAFO) for AK Feeders, LLC, Case No. CU2022-0026-APL. Present were: Commissioners Brad Holton, Zach Brooks, and Leslie Van Beek, Assistant DSD Director Jay Gibbons, DSD Associate Planner Debbie Root, Deputy PA Laura Keys, DSD Director Sabrina Minshall, Constituent Services Director Aaron Williams, other interested citizens, and Deputy Clerk Monica Reeves. The Board conducted a public hearing on May 30, 2024, and subsequently continued the hearing to today for deliberation. DSD staff provided the Board with the CAFO criteria for approval and development standards, as well as the proposed conditions as approved by the P&Z Commission. (Both documents are on file with this day's minute entry.) As part of the Board's deliberation, Commissioner Van Beek had questions regarding condition #11 which states "*The applicant shall not discharge CAFO process water or stormwater from the feedlot and/or settling lagoons to the Allen Drain or the Snake River. Comply with ISDA rules and regulations.*" She is concerned about the water quality of the Snake River and mitigation efforts/assurances to those people who have wells. Commissioner Brooks said he has to rely on the subject matter experts who deal with nutrient management plans. Commissioner Holton is not aware specifically about all the standards the agencies will have upon them, but he is generally aware that they will have to operate within them. Commissioner Van Beek wants to make sure the Board mitigates concerns that groundwater is not impacted by the discharge of an event, and she wants clarification on what is allowed to enter into that drain. Principal Planner Root said the Allen Drain traverses many properties, and AK Feeders is not the only entity that may discharge pollutants to the drain. There

is an 8,000-head dairy nearby. Discussion ensued regarding water quality testing upstream and downstream, the design review of lagoons, and the potential for imposing additional conditions. The Board reviewed the C.U.P. criteria and concurred with the conclusions in the draft FCO's for nos. 1, 2, 3, 4, 5, 6, 7 & 8. Discussion ensued as part of the review. There was also a review of the findings of the CAFO criteria. Commissioner Brooks made a motion to deny the appeal and uphold the decision of the P&Z Commission for Case No. CU2022-0036. The motion was seconded by Commissioner Holton. The motion carried unanimously. The findings will be signed at a later date. Upon the motion of Commissioner Brooks and the second by Commissioner Van Beek, the Board voted unanimously to adjourn. The hearing concluded at 2:58 p.m. An audio recording is on file in the Commissioners' Office.

Confined Animal Feeding Operation

08-01-03: PURPOSE:

The purpose of this article is to provide for the orderly placement and regulation of CAFOs in Canyon County, and to require all CAFOs operating in Canyon County to obtain all required permits and be in compliance with all applicable federal and state environmental standards, and to be sited, where appropriate, within the A (agricultural), IP (industrial park), M-1 (light industrial), or M-2 (heavy industrial) zones, and meet certain development standards. (Ord. 07-002, 1-18-2007)

ANIMAL NUMBERS: The minimum number of animals at the facility for the facility to be defined as a CAFO:

- (3) One thousand (1,000) cattle or other mature dairy cows or veal calves. Cattle includes, but is not limited to, heifers, steers, bulls and cow/calf pairs;

CAFO:

- (1) Confined animal feeding operation, also referred to as "concentrated animal feeding operation", means a facility where all the following conditions are met:
 - A. Animals have been, are, or will be stabled or confined and fed or maintained for a total of ninety (90) consecutive days, or more in any twelve (12) month period; and
 - B. Crops, vegetation, forage growth or postharvest residues are not sustained in the normal growing season over any portion of the facility; and
 - C. The facility is designed to confine or actually does confine the minimum of animal numbers as listed in the "animal numbers" definition provided herein.



Canyon County Code: CUP & CAFO Criteria

CCZO §07-06-07– Conditional Use Permit Criteria

1. Is the proposed use permitted in the zone by conditional use permit?
2. What is the nature of the request?
3. Is the proposed use consistent with the comprehensive plan?
4. Will the proposed use be injurious to other property in the immediate vicinity and/or negatively change the essential character of the area?
5. Will adequate water, sewer, irrigation, drainage and stormwater drainage facilities, and utility systems be provided to accommodate the use?
6. Does legal access to the subject property for the development exist or will it exist at the time of development?
7. Will there be undue interference with existing or future traffic patterns?
8. Will essential services be provided to accommodate the use including, but not limited to, school facilities, police and fire protection, emergency medical services, irrigation facilities, and will the services be negatively impacted by such use or require additional public funding in order to meet the needs created by the requested use? (Ord. 16-001, 1-8-2016)



AK FEEDERS: CAFO CRITERIA

08-01-11: CRITERIA FOR APPROVAL AND DEVELOPMENT STANDARDS FOR NEW FACILITIES:

- (1) Prior to approval of a CAFO siting permit for a new CAFO, and after public hearing, the commission shall find that the proposed new CAFO meets the following requirements:

A. General Requirements:

1. The new CAFO shall be within an area zoned A (agricultural), M-1 (light industrial), M-2 (heavy industrial) or IP (industrial park), where appropriate.
2. The new CAFO shall comply with and not be in violation of any federal, state or local laws or regulatory requirements.
3. An applicant shall not begin construction of a new CAFO prior to approval of the CAFO siting permit.
4. A new CAFO shall comply with IDAPA rules governing dead animal disposal.

B. Animal Waste: (Regulated by ISDA, IDEQ, IDWR)

1. The new CAFO shall comply with the terms of its nutrient management plan for land application.
2. The new CAFO shall be in compliance with all applicable environmental regulations and requirements.
3. All new lagoons shall be constructed in accordance with state and federal regulations.



AK FEEDERS: Criteria

- C. **Site Setbacks:** An expansion of an existing CAFO, other than a simple expansion of the number of animals, shall comply with the following site setbacks. If the expansion requires a change in only one or more of the following, the particular item shall comply with the particular setback listed below. The site shall not be required to meet new setback requirements unless the requested expansion requires a change in that particular item. For example, if there is no change in the size or location of the ensilage process, an operator need not bring that particular use into conformance with the requirements of subsection C2 of this section regarding setback from an existing residence.
1. The locating of animal waste systems, corrals, wells and septic systems shall conform to all applicable rules, regulations and specifications as required by those regulatory agencies with CAFO oversight.
 2. Any feed product resulting from the ensilage process shall be located at least three hundred fifty feet (350') from any existing residence not belonging to the owner or operator of the CAFO, unless the other owner gives written consent to a shorter distance.
 3. All agricultural buildings, feed bunks, feed racks, corrals, feed storage areas, or other improvements shall be set back a minimum of fifty feet (50') from the public rights of way.
 4. Lights shall be placed and shielded to direct the light source down and inside the property lines of the new CAFO. All direct glare from the CAFO lights shall be contained within the CAFO facility area.



AK FEEDERS: Criteria

Section C continued

5. No new CAFO shall be approved unless the following questions are answered to the satisfaction of the commission or board:
 - (A) Whether the proposed facility will be injurious to or negatively change the essential character of the vicinity.
 - (B) Whether the proposed facility would cause adverse damage, hazard and nuisance to persons or property within the vicinity.
 - (C) Whether studies should be ordered at the CAFO applicant's expense to aid the commission/board in determining what additional conditions should be imposed as a condition of approval to mitigate adverse damage, hazard and nuisance effects.
6. The animal waste system shall not be located or operated closer than five hundred feet (500') from an existing residence belonging to someone other than the applicant, or be located and/or operated closer than one hundred feet (100') from the property lines, unless the other owner gives written consent to a shorter distance.
7. No animal waste system shall be located and/or operated closer than one hundred feet (100') from a domestic or irrigation well.
8. No animal waste system shall be located closer than one hundred feet (100') from a public right of way.
9. The setbacks contained herein shall not apply to land application.

- D. Exemption To Subsection (1)C Site Setbacks: Certain land parcels may not be conducive to setback requirements due to unique locations, demographics and technology. Where appropriate, the commission may grant an applicant a variance to setback requirements pursuant to section [07-08-01](#) (variance) of this code. If this setback includes animal waste systems, the systems shall meet all state and federal regulations and be approved by the regulatory agency exercising authority. (Ord. 07-002, 1-18-2007)



AK FEEDERS:

08-01-14: GRANT OR DENIAL OF CAFO SITING PERMIT:

- (1) If the commission finds that the applicant has carried the burden of persuasion that the proposed expanding or **new CAFO complies with the criteria set forth in this article**, the commission shall grant the CAFO siting permit requested. The CAFO siting permit shall be in the form of findings of fact, conclusions of law and order. If the commission does not find that the applicant has shown that the proposed expanding or new CAFO meets the criteria set forth herein, the commission shall deny the CAFO siting permit in writing setting forth reasons for the denial and the relevant law relied upon and action that may be taken by the applicant to attempt to obtain a conditional use permit. In making such decision, the commission may use information and consider recommendations received from the state of Idaho CAFO advisory team or any other similar group.
- (2) Construction of the new or expanding CAFO must commence within three (3) years of the issuance of the CAFO siting permit and be completed within five (5) years of the same date.





BOARD OF CANYON COUNTY COMMISSIONERS
FINDINGS OF FACT, CONCLUSION OF LAW AND ORDER

In the matter of the application of:
[CAFO-AK FEEDERS, LLC] – [Case #CU2022-0036]
[CU2022-0036-APL]

PROPOSED
CONDITIONS AS
APPROVED BY
PLANNING AND
ZONING COMMISSION

Conditions of Approval

1. The development shall comply with all applicable federal, state, and county laws, ordinances, rules, and regulations that pertain to the subject property and the proposed use. Including but not limited to:
 - a. Compliance with Idaho State Department of Agriculture
 - b. Compliance with Idaho Department of Environmental Quality
 - c. Compliance with Idaho Environmental Protection Agency
 - d. Compliance with Idaho Department of Water Resources
2. Pursuant to Canyon County Code Chapter 8, CAFO Regulations, §08-01-14: Construction of the new or expanding CAFO must commence within three (3) years of the issuance of the CAFO siting permit and be completed within five (5) years of the same date. If construction has not commenced within three (3) years and/or completed within five (5) years from the date the CAFO siting permit was approved, the permit holder may request an extension. Application for extension must be filed at least sixty (60) days prior to the expiration of the three (3) year or five (5) year period. 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. The applicant bears the burden of persuasion on an extension request.
3. The development shall comply with all site setbacks as provided in the County CAFO Ordinance (Canyon County Code Section 08-01-012(1)C), as follows:
 - a. The locating of animal waste systems, corrals, wells, and septic systems shall conform to all applicable rules, regulations and specifications as required by those regulatory agencies with CAFO oversight.
 - b. Any feed product resulting from the ensilage process shall be located at least three hundred fifty feet (350') from any existing residence not belonging to the owner or operator of the CAFO, unless the other owner gives written consent to a shorter distance.
 - c. All agricultural buildings, feed bunks, feed racks, corrals, feed storage areas, or other improvements shall be set back a minimum of fifty feet (50') from the public rights of way.
 - d. The animal waste system shall not be located closer than five hundred feet (500') from an existing residence belonging to someone other than the applicant, or be located and/or operated closer than one hundred feet (100') from the property lines, unless the other owner gives written consent to a shorter distance.
 - e. No animal waste system shall be located closer than one hundred feet (100') from a domestic or irrigation well. *Definition of animal waste system: structure or system that provides for the collection, treatment, or storage of animal waste, including composting.*
 - f. No animal waste system shall be located closer than one hundred feet (100') from a public right of way.

- g. The setbacks contained herein shall not apply to land application (except as provided for parcel R37348 specifically). *Land application is the spreading on or incorporation of liquid or solid waste into the soil mantle primarily for beneficial purposes.*
4. Prior to commencement of operation expansion, the feedlot shall be developed in substantial conformance the site plan dated 4-24-23 (Exhibit 3 and Attached hereto as Attachment A). If the site plan needs to be adjusted to meet the setback requirements of the CAFO ordinance, then a revised site plan meeting the setback requirement the other conditions contained herein shall be submitted to the Development Services Department prior to commencement of construction of the proposed improvements on the site. The facility shall be constructed in substantial conformance with and in conformance with all setback requirements for a CAFO facility as required in CCZO §08-01-11(1) C. *Note: Feedlot receiving and processing pens are noted to be reconfigured.*
 5. Prior to expansion, lagoons shall be lined and constructed in accordance with state and federal regulations.
 6. Two existing feedlot pens (*constructed in or around September 2022*) adjacent to Stateline Road shall be reconfigured to meet the required 50 foot setback from the public right of way and as shown on the CAFO site plan dated 4-24-23 from AGPRO in compliance with CCZO §08-01-012(1)C. (attached hereto as Attachment A) The identified pens must be reconfigured prior to the applicant expanding the current cattle numbers to accommodate the CAFO permit. The applicant shall provide proof of the reconfiguration and compliance with the CAFO setbacks to Development Services Department in the form of pictures and/or setback inspection before CAFO operations (>1000 head of cattle in feedlot) begin.
 7. The applicant shall comply with applicable Golden Gate Highway District No. 3 access requirements. The applicant shall obtain a permit prior to expansion of the existing feedlot facility. The applicant shall provide proof of compliance by providing Development Services with an approved highway district permit for improvements. (Exhibit 18)
 8. Lighting (existing and new) shall be placed and shielded to direct the light source down and inside the property lines of the new CAFO. All direct glare from the CAFO lights shall be contained within the CAFO facility area. CAFO facility lighting shall be utilized only on an as needed basis after dusk at the facility. Existing night sensor, photoelectric/photo cell light(s) typical for residential/farm/barnyard lighting may remain on throughout the night. Existing lighting must be shielded to direct the light down and inside the property.
 9. The feedlot, waste systems, and support facility (barnyard) shall be kept weed free and/or maintained in compliance with CCCO Chapter 2 Article 1: Public Nuisances.
 10. The applicant shall not impede or disrupt existing irrigation structures, i.e. drains, laterals, supply ditches, on and adjacent to the subject property.
 11. The applicant shall not discharge CAFO process water or stormwater from the feedlot and/or settling lagoons to the Allen Drain or the Snake River. Comply with ISDA rules and regulations.
 12. The operator shall process and dispose of waste in a manner consistent with the requirements of the Nutrient Management Plan for AK Feeders as approved and regulated by the Idaho State Department of Agriculture.
 13. The operator shall not land apply nutrients within 300 feet of parcel R37348 (two acres) at site address 31252 Peckham Road, Wilder, Idaho.
 14. The operator shall not place a composting facility or stage/stockpile nutrients within 500 feet of any existing residential parcel [R37351, R37351011, R37351010, R37350] along/near the southern boundary (Peckham Road) of subject property R37348010 (163.23 acres) inclusive of residential parcel R37348.
 15. The CAFO shall comply with the odor, waste, dust, and pest best management practices in compliance with the approved nutrient management plan and shall be consistent with Idaho Department of Environmental Quality (DEQ) and Idaho State Department of Agriculture (ISDA) requirements.
 16. Signage shall meet CCZO §07-10-13 requirements, and shall not exceed 32 sq. feet as proposed by the applicant unless an additional sign permit is applied for and approved by the Director.

17. The feedlot operation shall not exceed the maximum 3700 head of cattle at any given point in time within the feedlot facility without applying for and receiving approval through an amended or new conditional use permit.
18. The CAFO shall comply with the nutrient management plan as approved by the Idaho State Department of Agriculture.
19. Dust shall be controlled per applicable federal, state, and county laws, ordinances, rules, and regulations that pertain to operations including but not limited to nuisance regulations (CCCO Chapter 2 Article 1: Public Nuisances) and shall be consistent with Idaho Department of Environmental Quality (DEQ) and Idaho State Department of Agriculture (ISDA) requirements
20. The CAFO shall also comply with Idaho State Department of Agriculture rules regarding dead animal disposal.
21. The facility shall comply with the recommendations in the Mitigation section of the CAFO Siting Team report, to minimize potential water source contamination (Exhibit 8 and attached hereto as Attachment B).
22. The CAFO shall comply with stock water and/or commercial water right requirements (Idaho Department of Water Resources).
23. All employee, delivery-including cattle trucks, facility-related parking of vehicles shall be onsite--not in the public right-of-way and/or along the shoulders of State Line Road in the vicinity of the facility.
24. Comply with all Fire District requirements by State adopted IFC and as evidenced by review and approval documentation prior to issuance of a certificate of occupancy.
25. The Applicant shall submit a copy of the annual inspection report provided by the Idaho State Department of Agriculture to the Development Services Department (DSD) commencing December 31, 2023. Each annual inspection report shall be submitted to DSD no later than December 31st of each calendar year unless the report is received by the Applicant after that date in which case the report shall be submitted to DSD within ten business days of its receipt.